

# MAINE STATE LEGISLATURE

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# LEGISLATIVE RECORD

OF THE

## **One Hundred And Fifteenth Legislature**

OF THE

## **State Of Maine**

### **VOLUME V**

#### **FIRST SPECIAL SESSION**

July 11, 1991 to July 18, 1991

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#### **FIRST CONFIRMATION SESSION**

October 2, 1991

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#### **SECOND SPECIAL SESSION**

December 18, 1991 to January 7, 1992

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#### **SECOND REGULAR SESSION**

House of Representatives

January 8, 1992 to March 9, 1992

ONE HUNDRED AND FIFTEENTH MAINE LEGISLATURE  
SECOND REGULAR SESSION  
9th Legislative Day  
Thursday, January 30, 1992

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

Prayer by Father Royal J. Parent, Holy Family Parish, Lewiston.

The Journal of Tuesday, January 28, 1992, was read and approved.

SENATE PAPERS

The following Communication:

Maine State Senate  
Augusta, Maine 04333

January 28, 1992

The Honorable John L. Martin  
Speaker of the House  
115th Legislature  
Augusta, Maine 04333

Dear Speaker Martin:

In accordance with Joint Rule 38, please be advised that the Senate today confirmed, upon the recommendation of the Joint Standing Committee on Agriculture, the following:

William H. Mook of Damariscotta for reappointment to the Commission on Biotechnology and Genetic Engineering.

Jeffery O. Smith of Presque Isle for appointment to the Board of Pesticides Control. Jeffery O. Smith is replacing Samuel Niblett.

Sincerely,

S/Joy J. O'Brien  
Secretary of the Senate

Was read and ordered placed on file.

Bill "An Act to Clarify Earnable Compensation for Retirement Purposes" (S.P. 872) (L.D. 2227)

Resolve, to Provide a Special Exemption to the Maine State Prison Advocate for Service Retirement Benefits (S.P. 871) (L.D. 2226)

Came from the Senate, referred to the Committee on Aging, Retirement and Veterans and Ordered Printed.

Were referred to the Committee on Aging, Retirement and Veterans in concurrence.

Bill "An Act to Preserve East-west Railroads" (S.P. 873) (L.D. 2228)

Came from the Senate, referred to the Committee on Appropriations and Financial Affairs and Ordered Printed.

Was referred to the Committee on Appropriations and Financial Affairs in concurrence.

Bill "An Act to Facilitate Self-insurance and Group Self-insurance under the Maine Workers' Compensation Act" (S.P. 877) (L.D. 2238)

Came from the Senate, referred to the Committee on Banking and Insurance and Ordered Printed.

Was referred to the Committee on Banking and Insurance in concurrence.

Bill "An Act Concerning the Degree Granting Authority of Husson College" (S.P. 875) (L.D. 2236)

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

Was referred to the Committee on Education in concurrence.

Bill "An Act to Implement a Comprehensive Ambient Toxics Monitoring Program" (S.P. 876) (L.D. 2237)

Bill "An Act Dealing with the Powers of the Maine Low-level Radioactive Waste Authority" (S.P. 880) (L.D. 2252)

Came from the Senate, referred to the Committee on Energy and Natural Resources and Ordered Printed.

Were referred to the Committee on Energy and Natural Resources in concurrence.

Bill "An Act to Provide for the 1992 and 1993 Allocations of the State Ceiling on Private Activity Bonds" (EMERGENCY) (S.P. 874) (L.D. 2235)

Came from the Senate, referred to the Committee on Housing and Economic Development and Ordered Printed.

(The Committee on Reference of Bills had suggested reference to the Committee on Appropriations and Financial Affairs.)

Was referred to the Committee on Housing and Economic Development in concurrence.

Bill "An Act to Extend Liability Insurance to Specialized Children's Homes" (S.P. 878) (L.D. 2250)

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

On motion of Representative Manning of Portland, was referred to the Committee on **Banking and Insurance** in non-concurrence and sent up for concurrence.

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Bill "An Act to Facilitate Cooperative Agreements among Maine Hospitals" (S.P. 882) (L.D. 2254)

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

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

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Bill "An Act to Clarify the Enrollment Period for the 5-year Medical Liability Demonstration Project" (EMERGENCY) (S.P. 879) (L.D. 2251)

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

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

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Bill "An Act to Provide for the Annual Apportionment of the Kennebec Sanitary Treatment District's Operation Costs on a 3-year Average" (S.P. 881) (L.D. 2253)

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

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

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**Unanimous Ought Not To Pass**

Report of the Committee on **Audit and Program Review** reporting "**Ought Not to Pass**" on Bill "An Act to Require Gender Impact Analysis as Part of All Audit and Program Reviews" (S.P. 626) (L.D. 1630)

Report of the Committee on **Audit and Program Review** reporting "**Ought Not to Pass**" on Bill "An Act to Require the Preparation of Impact Statements" (S.P. 695) (L.D. 1860)

Report of the Committee on **Banking and Insurance** reporting "**Ought Not to Pass**" on Resolve, to Provide Group Insurance Coverage to Maine's Foster Parents (S.P. 92) (L.D. 177)

Report of the Committee on **Judiciary** reporting "**Ought Not to Pass**" on Bill "An Act to Amend Sentences of Imprisonment for Class A Crimes Other Than Murder" (S.P. 421) (L.D. 1133)

Report of the Committee on **Judiciary** reporting "**Ought Not to Pass**" on Bill "An Act to Clarify the Role of Guardians Ad Litem and Visitors in Guardianship and Conservatorship Cases" (S.P. 704) (L.D. 1875)

Report of the Committee on **Taxation** reporting "**Ought Not to Pass**" on RESOLUTION, Proposing an Amendment to the Constitution of Maine to Provide Compensation when State Actions Diminish Property Values (S.P. 664) (L.D. 1740)

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

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**Unanimous Leave to Withdraw**

Report of the Committee on **Judiciary** reporting "**Leave to Withdraw**" on Bill "An Act to Ensure Prompt Referral of Alleged Juvenile Offenders" (S.P. 822) (L.D. 2118)

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

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**Divided Report**

Majority Report of the Committee on **Transportation** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (S-525) on Bill "An Act to Modify Weight Limits for Farm Trucks" (S.P. 189) (L.D. 498)

Signed:

Senators: TWITCHELL of Oxford  
MILLS of Oxford  
GOULD of Waldo

Representatives: STROUT of Corinth  
BOUTILIER of Lewiston  
MARTIN of Van Buren  
TAMMARO of Baileyville  
RICKER of Lewiston  
HALE of Sanford

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

Signed:

Representatives: MACOMBER of South Portland  
HUSSEY of Milo  
SMALL of Bath  
BAILEY of Farmington

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

Reports were read.

Representative Macomber of South Portland moved that the House accept the Minority "Ought Not to Pass" Report in concurrence.

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

Representative MAHANY: Mr. Speaker, Ladies and Gentlemen of the House: I would like to recommend that this House oppose the Minority "Ought Not to

## Pass" Report.

Somebody told me when I told them that I was going to oppose the Minority Report here today that, if I kept it under ten minutes, I would get his vote. Well I don't know, I think I probably could keep it under ten minutes if I try real hard, but I am not a clock-watcher, so prepare yourselves.

First of all, I would like to call to your attention that this bill on the weight limits for four-axle trucks was delayed at the farm truck stop down the hall for about a week in order to make it possible for the sand and gravel trucks to arrive at this particular establishment so as to throw a little sand in your eyes and get your mind set in a negative way before this bill arrived. I would like to congratulate the grand strategists but presently I think we ought to send this bill back agreeing with the Majority Report, just to show the people at the truck stop that we really don't like those tactics.

I think one of the reasons it was delayed was because people feared that you in this House might be of a more sympathetic bent of mind toward farm trucks. I think they were right and rightly so should you be more of a sympathetic bent of mind toward farm trucks in this case. I want to tell you some of the really concrete reasons why.

Before I do that, just to refresh your memory, let me remind you that we are dealing with four-axle, straight-framed trucks here. We are not dealing with trailer trucks or anything like that. The question revolves around the fact that, for many years now, forest products trucks have been permitted to carry 10,000 pounds more on the three rear axles than farm trucks have been allowed to carry, even though they all pay the same fees. So, one group is getting more of a bang for the buck and more for their money than the other group.

Another thing I would like you to keep in mind is that we are talking about 50 farm trucks of this size, we are not talking about a huge number. There certainly are some very big differences between what the farm trucks does performing its functions, this particular farm truck, and what the sand and gravel trucks do and you need to know that. As a matter of fact, it is possible to vote for this bill because you are voting for something different even if you voted against the other bill dealing with the gravel trucks.

For one thing, the sand and gravel trucks make constant, steady trips back and forth between the pit that they are getting their sand and gravel at to the construction site. It is an ongoing, non-stop, all day, back and forth and back and forth situation whereas these farm trucks that we are talking about are used for one purpose only, they haul potatoes from loading sheds to processing plants. Normally, they make one, and at the most, two trips a day. They do that, not everyday, because the processing plants (quite frequently) get enough supply and then the trucks stop hauling for a period of time. This is done, by the way, only between November and early April. Why do I mention that particular time of the year? I mention it because, during that period of time, the roads are frozen. Up where I come from, which is where this bill really pertains to, the ground is frozen under them down about six to eight feet and, during that time of the year, the damage on roads is far, far less.

How do these trucks compare with the forest products trucks that already have the leeway and have

had, I believe, since 1975 to haul 10,000 pounds extra, although it is the same sized truck and everybody is paying the same fee? It is true that the farm trucks are more like the forest products trucks or lumber and logging trucks to the extent that they both haul limited loads in a day. The farm trucks are operating only in the winter months. I am not an expert in the forest product industry but I see quite a few of this particular kind of truck around throughout the year hauling forest products.

Of course, if I make a mistake here in my description, I would expect corrections from those who know better but, as I see it, farm trucks haul for a very limited period of time and the forest products trucks, which gets the break, hauls for a much longer period of time during the year. Once again, there are only 50 of these farm trucks but there is a whole slew of the forest products trucks moving. So to sum up, you are dealing with a limited number as far as the farm trucks are concerned. Their use is very limited, both in terms of what they do and when they do it and how often they do it. So, this farm truck and the farmers that we would like to help out here is really in the broader picture a very light item.

There are other inequities to consider. As I said before, all the fees are the same. Is this fair? I suppose it is constitutional but I wonder. Is this the right thing to do? Remember, the farm truck that is hauling potatoes from St. Agatha to McCain's in Easton does about a three hour round trip and, if that truck can haul 10,000 pounds more, every seven trips, it has made up a trip. It is saving on gasoline or diesel fuel. That is a big item up in the county, for example, because diesel fuel, like all fuel, is a lot more expensive up there than it is in South Portland, Farmington or Augusta. I checked today, it is \$1.19.9 here in Augusta; up in the county, it is at least \$1.31.9, so you've got a 12 cent difference on the gallon. So, for every 10 gallons, you are paying another \$1.00.

Remember too, that over this long period of time, the farm trucks have been paying proportionately more for the upkeep of the roads. However much more gasoline it takes by their being forced to haul fewer pounds to that same degree, they are contributing more to the Highway Fund. They are being asked to pay more than the forest product trucks. You have to multiply the number of years that they have been doing this by the increased cost to them in order to get a fair picture of how their situation compares with the situation of the forest product trucks.

Moreover, a lot of these roads don't even get traveled on because they are posted. What we are talking about here is not I-95 and not any number of roads because they are posted, you can only travel with 20,000 pounds on them, so we are talking about Maine roads mostly and not about the posted roads. I know that the Representative from Farmington gave a lot of details about the wear and tear on the roads that these trucks would cause. I submit to you that, for all of the reasons that I have indicated, they are paying more than their fair share for the upkeep of the roads, number one. Number two, because of the limited time when they are using them, they are not really creating that much damage.

So, I hope that you will consider, no matter what your vote was with respect to increasing the weight limit on the three rear axle for sand and gravel trucks, voting against the present motion so we can

vote for this bill and help the farmers meet their costs.

The SPEAKER: The Chair recognizes the Representative from South Portland, Representative Macomber.

Representative MACOMBER: Mr. Speaker, Men and Women of the House: I will be very brief. There are two things that I want to respond to. One is that Representative Mahany said something about a delay in the bill, the other bill came up first, and the only response I can give you is that both bills were voted out of the committee at the same time. I think if you will look at the bill, the reason there might have been a difference in what day they were heard was one came out of the other body and one came to this body.

She mentioned both bills, the one we did the other day and the one we are doing today. I have here 498 and 309 and those are the two bills that we are talking about in which you voted 116 to 26, I believe, for the Minority Report. I would point out to you if you wanted to take the trouble to look at these, the Statement of Fact is exactly the same. In the 34 lines of the bill, the only difference you will see between the two bills is on line 8. In one place on line 8, it says "farm produce" and in the other bill it says "sand, gravel and stone." That is the only difference. It is exactly the same bill with that exception.

I hope you will maintain the posture that you did the other day and vote to accept the Minority "Ought Not to Pass" Report.

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

Representative MAHANY: Mr. Speaker, Ladies and Gentlemen of the House: The language in the bill might be exactly the same except for that one exception that the Representative from South Portland pointed out, but the fact is the sand and gravel trucks, when they are on the go, they are on the go all the time, non-stop, whereas these farm trucks make one or two trips a day during a limited period of time for a limited number of days during that period of time during a time of the year when the ground is frozen, a time when damage is not really that severe on the roads. These farmers with these trucks have been paying more proportionately. Remember, the forest products trucks have the break, they are paying less proportionately and the farmers aren't a bit richer and they need the break too. It is just a matter of fairness. Of all the three categories, these farm trucks are the trucks that are used the least and that do the least amount of damage for those reasons I have told you.

I personally believe you can vote against increasing the weight limits for sand and gravel trucks and, in good conscience, vote for increasing the weights for farm trucks for the reasons I have outlined.

The SPEAKER: The Chair recognizes the Representative from Caribou, Representative Bell.

Representative BELL: Mr. Speaker, Ladies and Gentlemen of the House: The farmers up in Aroostook County have, for years, hoped that they could get the truck weights up so they could have the weights of what they have been paying for.

The damage being done on our roads up our way is not caused by the farm trucks, it is the trucks that are hauling what you would call wood chips for energy resource. You follow the roads where they come out

of the woods, you can follow them right through and see where all the road damage is. I believe there would be very minimal damage because, as was mentioned, the roads in the county are generally frozen from the time that most of the potatoes are hauled. I would remind you, if you look at the calendar for the day, that the committee voted 9 to 4 in favor so I would urge you to do the same.

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

Representative STROUT: Mr. Speaker, Ladies and Gentlemen of the House: Today, I hope that you listened to the gentlelady from Easton, Representative Mahany. I am not going to go into more details telling you what this bill does because I think she has done a good job.

I do want to go back a few years and tell you where I got my experience about potato haulers in Aroostook County. That came from that gentlelady's father, Representative Luman Mahany, who used to be Chairman of the Agriculture Committee when I first came down here. If that lady today did not speak like that man did years ago on the floor of this House to tell us what we should do with this bill — anyone who was here at that time and anyone who knew that gentleman will tell you everything she said today is right on in regards to the fairness of this issue.

I supported both of the bills in committee because I felt that it was a fairness issue. I do feel, however, that the points that she brought out, the limited number of trucks that are hauling these potatoes in the limited time of year that this has reason to have more support maybe than the other bill did. I do think she is correct in saying that, for the most part, these trucks are hauling over the roads during the frozen time of the year and I think that is where the big issue is. You can't make me believe that these few trucks are going to do that much more damage to the roads than what is being done right now. The other day the lady from Old Town spoke about a pound of forest products weighing the same as a pound of potatoes.

I am going to finish by saying, if you didn't hear the speech today that really brought this issue to my heart, the lady from Easton has done a good job as I have heard her do since I have been here and I think we ought to support her.

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

Representative ANDERSON: Mr. Speaker, Ladies and Gentlemen of the House: As I remember, when the increased weight went on the forest products trucks, it was to do with frozen roads, so if we want to talk about a fairness issue, most of these potato trucks travel on frozen roads. They travel from the storage to the sales and it is done mostly during the winter months. So if we want to talk about a fairness issue, which was brought up the other day, fair would be to give them the same right as the forest products with a very limited amount of trucks. Most of these are used to haul from the valley down in our district. They travel two to three hours on the road. The increased load would help their benefits very much. I guess that's about all I have to say. Thank you.

Representative Macomber of South Portland 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 Chair recognizes the Representative from Portland, Representative Ketover.

Representative KETOVER: Mr. Speaker, Men and Women of the House: I feel terrible rising on this one. I understand the plight of farmers, my family came from farmers. They do haul and have hauled. I feel that this is the same bill that we talked about the other day regarding trucking. I tell you that any heavy weight truck on those secondary roads would result in more impact to those roads. So, if you are willing to put more money into your bridges and more money into those roads, ladies and gentlemen, then I would say vote for this. If you are not, and we don't have the money because no one has told you the costs of the impact here, I haven't heard that yet, then I would not vote for this, not now. We didn't do it the other day so why would you want to vote for it today? Be consistent with your voting.

The Transportation Committee should have done a study on this. I say it again, this has not been done. The highway safety will tell you that the roads and the bridges on those secondary roads — because again, these trucks cannot go on the turnpike, they can only go on those secondary roads and bridges — think of the school bus that is going to be trucking down the road, maybe that bridge could be weak and that bridge could go down with your children. I say they are not protected, they are not built strong and they are dangerous. I am not saying that they are dangerous now but they could be with more impact so I would hope, again, that you would stick with your vote of last time, "Ought Not to Pass."

Representative Mahany of Easton was granted permission to speak a third time.

Representative MAHANY: Mr. Speaker, Ladies and Gentlemen of the House: I just want to say that, with all due respect, I think that Representative Ketover overstated the case grossly. This is in a limited area and we have already explained that it is for a limited period of time, during a definite time of year when the least amount of damage is done to roads. Many of those secondary roads are posted, they can't go on there anyway so I hope you will vote with me on this issue for these 50 trucks and for those few farmers who use those trucks.

The SPEAKER: A roll call has been ordered. The pending question before the House is the motion of the Representative from South Portland, Representative Macomber, that the House accept the Minority "Ought Not to Pass" Report. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 288

YEA - Aikman, Anthony, Ault, Bailey, H.; Bailey, R.; Barth, Bennett, Cahill, M.; Carroll, D.; Carroll, J.; Cashman, Cathcart, Chonko, Clark, H.; Coles, Constantine, Cote, DiPietro, Dutremble, L.; Erwin, Foss, Garland, Gean, Gurney, Gwadosky, Handy, Hanley, Hastings, Heeschen, Heino, Hichborn, Hichens, Jalbert, Joseph, Ketover, Lawrence, Lemke, Libby, Lord, Luther, Macomber, Manning, Marsano, Mayo,

McKeen, Melendy, Michael, Michaud, Mitchell, E.; Mitchell, J.; Morrison, Murphy, Norton, Oliver, Ott, Paradis, P.; Pendexter, Pendleton, Pineau, Plourde, Rand, Reed, G.; Richardson, Ruhlin, Salisbury, Sheltra, Simonds, Simpson, Skoglund, Small, Stevens, A.; Stevens, P.; Stevenson, Swazey, Tracy, Treat, Tupper, Wentworth.

NAY - Adams, Aliberti, Anderson, Bell, Boutilier, Bowers, Butland, Carleton, Clark, M.; Daggett, Donnelly, Dore, Duffy, Duplessis, Farnsworth, Farnum, Farren, Goodridge, Gould, R. A.; Gray, Greenlaw, Hale, Hepburn, Hoglund, Holt, Hussey, Jacques, Kerr, Ketterer, Kilkelly, Kontos, Kutasi, Larrivee, Lebowitz, Lipman, Look, MacBride, Mahany, Marsh, Martin, H.; McHenry, Merrill, Nadeau, Nash, Nutting, O'Dea, O'Gara, Paradis, J.; Parent, Paul, Pfeiffer, Pines, Poulin, Powers, Reed, W.; Richards, Ricker, Rotondi, Rydell, Saint Onge, Savage, Spear, Strout, Tamaro, Tardy, Townsend, Vigue, Waterman, Whitcomb, The Speaker.

ABSENT - Crowley, Graham, Pouliot.

Yes, 78; No, 70; Absent, 3; Paired, 0; Excused, 0.

78 having voted in the affirmative and 70 in the negative with 3 being absent, the Minority "Ought Not to Pass" Report was accepted in concurrence.

COMMUNICATIONS

The following Communication:

STATE OF MAINE  
DEPARTMENT OF FINANCE  
BUREAU OF ACCOUNTS AND CONTROL  
STATE HOUSE STATION 14  
AUGUSTA, MAINE 04333

The Honorable John L. Martin  
Speaker of the House  
115th Legislature

The Honorable Charles P. Pray  
President of the Senate  
115th Legislature

Dear Mr. Speaker and Mr. President:

In accordance with Title 5, Maine Revised Statutes Annotated, Section 1547, the accompanying Financial Report of the State of Maine is submitted for the fiscal year ended June 30, 1991.

The first section of the report consists of the General Purpose Financial Statements for all funds reported in accordance with generally accepted accounting principles. Generally accepted accounting principles for the Governmental Funds uses the modified accrual basis of accounting. Revenues are recognized when they become measurable and available as current assets. Expenditures are generally recognized when the related fund liability is incurred. Exceptions to generally accepted accounting principles in these financial statements include accumulated unpaid vacation and sick leave which has not been recorded, and interest on general long-term debt which is recognized when due.

The second section is reported as it has been in

the past, based upon the budgetary and legal requirements. Please refer to Note 7 of the General Notes to the Financial Statements for the reconciliation of the fund balances between the two sections. Comparative budgetary data and statistical information have also been included in this report to promote a better understanding of the State's finances.

Questions and comments about this report or any phase of State finances are always welcome.

Sincerely,

S/David A. Bourne      S/Victor E. Fleury  
State Controller      Deputy State Controller

Was read and with accompanying report 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 Require the Issuance of Motor Vehicle Insurance Identification Cards" (EMERGENCY) (H.P. 1600) (L.D. 2262) (Presented by Representative MITCHELL of Vassalboro) (Cosponsored by Senator KANY of Kennebec) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27.)

Ordered Printed.  
Sent up for Concurrence.

**Business Legislation**

Bill "An Act to Amend the Laws Governing the Practice of Hairdressing" (EMERGENCY) (H.P. 1604) (L.D. 2266) (Presented by Representative GOODRIDGE of Cornville) (Cosponsored by Representative HOGLUND of Portland) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27.)

Ordered Printed.  
Sent up for Concurrence.

**Judiciary**

Bill "An Act Regarding Parental Rights" (H.P. 1596) (L.D. 2258) (Presented by Representative LAWRENCE of Kittery) (Cosponsored by Representative RICHARDS of Hampden, Representative STEVENS of Bangor and Senator GAUVREAU of Androscoggin) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 26.)

Bill "An Act to Modify the Medical Examiner Act

to Limit Liability of Medical Record Providers" (H.P. 1597) (L.D. 2259) (Presented by Representative PARADIS of Augusta) (Submitted by the Department of the Attorney General pursuant to Joint Rule 24.)

Bill "An Act to Consider All Sources of Income When Issuing Small Claims Judgments" (H.P. 1599) (L.D. 2261) (Presented by Representative WHITCOMB of Waldo) (Cosponsored by Representative LIBBY of Kennebunk) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 26.)

Bill "An Act to Enhance the Operations of the District Court Violations Bureau" (EMERGENCY) (H.P. 1602) (L.D. 2264) (Presented by Representative PARADIS of Augusta) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27.)

Bill "An Act to Establish Consecutive Sentencing and Mandatory Minimum Sentences for Certain Persons Convicted of Gross Sexual Assault" (H.P. 1607) (L.D. 2269) (Presented by Representative OTT of York) (Cosponsored by Representative LAWRENCE of Kittery and Representative HICHENS of Eliot) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 26.)

Ordered Printed.  
Sent up for Concurrence.

**Legal Affairs**

Bill "An Act to Repeal Increases in Concealed Weapons Permit Fees and to Increase the Fees Related to Arbitrations under the Lemon Law" (EMERGENCY) (H.P. 1601) (L.D. 2263) (Presented by Representative PARADIS of Augusta) (Cosponsored by Representative FARNUM of South Berwick, Representative CLARK of Millinocket, Representative MICHAUD of East Millinocket, Senator SUMMERS of Cumberland, Representative ROTONDI of Athens and Representative TOWNSEND of Eastport) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 26.)

Ordered Printed.  
Sent up for Concurrence.

**State and Local Government**

Bill "An Act to Establish a Budget Committee and Process for Cumberland County" (EMERGENCY) (H.P. 1603) (L.D. 2265) (Presented by Representative MITCHELL of Freeport) (Cosponsored by Representative KONTOS of Windham, Representative GREENLAW of Standish and Senator CLARK of Cumberland) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27.)

Bill "An Act to Address Periodic Crises in the Preparation and Mailing of Checks to Clients of the Department of Human Services and to Ensure Priority Payment of Foster Care Expenses" (H.P. 1605) (L.D. 2267) (Presented by Representative MAHANY of Easton)



(Cosponsored by Representative DORE of Auburn)  
(Approved for introduction by a majority of the  
Legislative Council pursuant to Joint Rule 26.)

Ordered Printed.  
Sent up for Concurrence.

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**Taxation**

Bill "An Act Concerning the Registration of Truck Campers" (H.P. 1598) (L.D. 2260) (Presented by Representative BAILEY of Farmington) (Cosponsored by Representative PARADIS of Augusta and Representative POWERS of Coplin Plantation) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 26.)

(The Committee on Reference of Bills had suggested reference to the Committee on Transportation.)

On motion of Representative Macomber of South Portland, was referred to the Committee on Taxation, ordered printed and sent up for concurrence.

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**Transportation**

Bill "An Act Regarding the Time and Temperature Sign Located in Portland" (H.P. 1606) (L.D. 2268) (Presented by Representative MACOMBER of South Portland) (Cosponsored by Representative MANNING of Portland and Senator BRANNIGAN of Cumberland) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 26.)

Ordered Printed.  
Sent up for Concurrence.

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**ORDERS**

On motion of Representative PFEIFFER of Brunswick, the following Joint Resolution: (H.P. 1609) (Cosponsor: Senator CLARK of Cumberland) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 35)

**JOINT RESOLUTION MEMORIALIZING THE  
CONGRESS OF THE UNITED STATES TO CONSTRUCT  
A NATIONAL MEMORIAL HONORING WOMEN IN  
MILITARY SERVICE**

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

WHEREAS, women are an integral and important part of the military; and

WHEREAS, over 1,600,000 women have served in the nation's armed forces; and

WHEREAS, there is a need to honor women for their fine performance in and outstanding contributions to the nation's armed forces throughout history; and

WHEREAS, the Members of the Legislature and the people of the State of Maine have the greatest pride in the women of the United States Armed Forces and support them in their efforts; now, therefore, be it

RESOLVED: That We, your Memorialists, support the Congress of the United States in its efforts to construct a memorial to the women who have served in the United States Armed Forces and respectfully urge and request that the Congress of the United States provide funding for the project; and be it further

RESOLVED: That suitable copies of this Memorial, duly authenticated by the Secretary of State, be transmitted to the Honorable George H. W. Bush, President of the United States; the President of the Senate and the Speaker of the House of Representatives of the Congress of the United States; the Secretary of Defense; the Honorable John R. McKernan, Jr., Governor of the State of Maine; and each member of the Maine Congressional Delegation.

Was read and adopted and sent up for concurrence.

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On motion of Representative REED of Dexter, the following Joint Resolution: (H.P. 1610) (Cosponsors: Senator BALDACCI of Penobscot, Representative TARDY of Palmyra and Representative MERRILL of Dover-Foxcroft) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 35)

**JOINT RESOLUTION MEMORIALIZING THE CONGRESS  
OF THE UNITED STATES TO AMEND THE LAWS GOVERNING  
COMPENSATION FOR SERVICE-CONNECTED DISABILITIES**

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

WHEREAS, there exists a gross inequity in the federal statutes that denies disabled career military retirees the right to receive Veterans Administration disability compensation concurrently with the receipt of earned retirement pay due on the basis of 20 or more years of service in the Armed Forces of the United States; and

WHEREAS, the career military retiree is the only government employee who is now required to waive a portion or all of the retiree's earned retirement pay in order to receive Veterans Administration disability compensation due for loss of earning capacity and for pain and suffering as a result of a service-connected disability; and

WHEREAS, a change in the federal statutes is required to ensure equitable treatment for the many disabled career military retirees who served this country faithfully and with dedication for at least 20 years and now bear the burden of loss of earning capacity and endure pain and suffering as a result of

their service-connected disability; and

WHEREAS, the prevailing idea that military retirement pay is free is false. There is an important contribution to retirement pay that is calculated to reduce military pay by approximately 7% when pay, base and allowance, are computed and approved by Congress; and

WHEREAS, traditionally, a career military retiree receives a lower salary than the retiree's civilian counterpart; now, therefore, be it

RESOLVED: That We, your Memorialists, respectfully recommend and urge the Congress of the United States to amend 38 United States Code, Section 3104(a) to permit veterans with service-connected disabilities and who are retired members of the United States Armed Forces to receive Veterans Administration service-connected disability compensation with earned longevity retirement pay without deduction from either; and be it further

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

Was read and adopted and sent up for concurrence.

**REPORTS OF COMMITTEES**

**Unanimous Leave to Withdraw**

Representative TARDY from the Committee on Agriculture on Bill "An Act Concerning the Shared Use of Crop-handling Equipment by Seed Potato Growers" (H.P. 1432) (L.D. 2044) reporting "Leave to Withdraw"

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

**Ought to Pass as Amended**

**Tabled and Assigned**

Representative CLARK from the Committee on Utilities on Bill "An Act to Regulate Incineration Plants" (H.P. 1059) (L.D. 1548) reporting "Ought to Pass" as amended by Committee Amendment "A" (H-879)

Report was read.

On motion of Representative Clark of Millinocket, tabled pending acceptance of the Committee Report and specially assigned for Tuesday, February 4, 1992.

**Ought to Pass Pursuant to Joint Order (H.P. 1507)**

Representative JOSEPH from the Committee on State and Local Government on Resolve, for Laying of the County Taxes and Authorizing Expenditures of Piscataquis County for the Year 1992 (EMERGENCY) (H.P. 1608) (L.D. 2270) reporting "Ought to Pass" - Pursuant to Joint Order (H.P. 1507)

Report was read and accepted, the Resolve read once.

Under suspension of the rules, the Resolve was read a second time, passed to be engrossed and sent up for concurrence.

**Divided Report**

Majority Report of the Committee on Judiciary reporting "Ought Not to Pass" on Bill "An Act Regarding District Court Location" (H.P. 207) (L.D. 298)

Signed:

Senators: HOLLOWAY of Lincoln  
GAUVREAU of Androscoggin  
BERUBE of Androscoggin

Representatives: PARADIS of Augusta  
FARNSWORTH of Hallowell  
COTE of Auburn  
ANTHONY of South Portland  
RICHARDS of Hampden

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

Signed:

Representatives: KETTERER of Madison  
CATHCART of Orono  
HANLEY of Paris  
OTT of York

Reports were read.

Representative Paradis of Augusta moved that the House accept the Majority "Ought Not to Pass" Report. The SPEAKER: The Chair recognizes the Representative from York, Representative Ott.

Representative OTT: Mr. Speaker, Ladies and Gentlemen of the House: I would like to direct a couple of comments to the Minority Report.

This bill was presented last February and basically it was a simple bill, one that really was administrative in nature but I think it addressed a serious and complex problem that exists in York County with the District Court system. As you may or may not know, there are three District Court locations in York County, one courthouse located in the town of York, one located in the town of Springvale and one located in Biddeford. When this bill was brought to the Judiciary Committee last year, it was for the purpose of relieving some very serious problems that have developed at the Biddeford location.

Among other things, the parking at that facility were inadequate. There were water problems with the physical structure not being weatherproofed and there

were space problems with regard to the work that could be accomplished there. They were so critical that the District Attorney's office is now located outside of the physical structure in a second story business office down the street from the courthouse itself.

When it was presented, this bill was done so for the purpose of trying to eliminate some of its problems by asking this legislative body to transfer the caseload, which was some 4,000 cases, at least estimated to be so, from Kennebunk and Kennebunkport, which would normally have been heard in the Biddeford facility, down to the York location. It was thought that the York location had a facility that was not being used to its maximum capacity and would provide the least amount of inconvenience for those people involved.

Last year the bill got held over for the purpose of allowing the Judiciary to develop some dialogue with the towns that were involved in, I believe, from the Representatives from the York delegation. It came up rather early in this session, as a matter of fact on the Wednesday after the first of the year and was presented to the Judiciary Committee. Present at that hearing were Chief Prescott from the Kennebunkport Police Department, Judge Janelle and (if I recall) Judge Calkins. It was presented, it was discussed and, ultimately, thought it would be passed out on a unanimous report. That didn't occur as a result of subsequent events. It is now before us as a Divided Report.

I wish to state that the purpose of this bill, as indicated, is merely to try and address a serious problem with the court facilities in York County. It is an effort to better the forum for those people who have to go to those courts on a daily and weekly basis. While it is considered as our lower court, it is perhaps one of the most important courts for it is "court of first impression" for most citizens who go there, either as litigants and/or witnesses. It seems to me that it should stand with the same dignity as perhaps some of our Superior Courts and other courts in this country which have an adequate facility for the administration of judicial justice.

This bill then is a modest attempt to advance the administration of justice. Perhaps the words of Chief Justice Warren might explain what I think should be considered by this body in at least recognizing the fact that there is a problem. In speaking at an address concerning the administration of federal courts in 1964, he said, "Our courts must advance with the times. They must adjust to the setting in which they function. They must fashion new tools to repair the dislocations of a changing and increasingly complicated social order. The techniques of a more leisurely past are not adequate to the future or even to the present." I ask that you take that into consideration when voting on this bill, that merely the purpose is to advance a more appropriate way of providing justice to all the citizens in the State of Maine and most particularly in the County of York.

The SPEAKER: The Chair recognizes the Representative from Kennebunk, Representative Libby.

Representative LIBBY: Mr. Speaker, Members of the House: This bill addresses only two towns in the state, Kennebunk, which I represent, and its sister town of Kennebunkport. At present, the District Court is located in Biddeford, seven miles away, and is being used by the police departments of the

Kennebunks.

This bill would force our police departments to use the York District Court, which is located approximately 20 miles away. This change would cause a much greater cost to our towns due to the greater time consumed, greater mileage and undue hardship to witnesses. It also does not take into consideration travel between Kennebunk and York, which in the summertime, can be an adventure in itself. The higher costs would, once again, land on the property tax of the two towns and would certainly defeat this House's goal of property tax relief for our citizens.

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

The SPEAKER: The Chair recognizes the Representative from Madison, Representative Ketterer.

Representative KETTERER: Mr. Speaker, Ladies and Gentlemen of the House: I ask that when the vote is taken, it be taken by the yeas and nays.

It is a rare occasion when I get up and speak at all and it is even rarer perhaps when I have to speak in opposition to the esteemed House Chair of Judiciary from Augusta. As many of you know, I have the utmost respect for our House Chair.

The bill involved on which I am on the Minority Report would transfer 4,000 cases, approximately, from Biddeford to York. The affected towns would be Kennebunk and Kennebunkport. The Biddeford Court is a flea-infested location, where we took testimony in committee that there is raw sewage in the basement where some of the files are stored.

A public hearing was held on February 19, 1991 by the Judiciary Committee. At that time, we took testimony in part from the Chief Judge of the District Court who supported passage of this bill. It was indicated to us through the testimony that the York Court facility is new, clean, doesn't have fleas and is underutilized. There was no significant opposition at the February 19, 1991 hearing before the Committee on Judiciary.

On March 22, 1991, there was a public work session and, again, no significant opposition was heard. Again, the court and its representative was there indicating that the court wanted passage for many of the reasons that Representative Ott mentioned in his presentation.

Because of the press of legislative business, this became a hold over bill approved by the Council and the next time that we saw it in committee was on January 8, 1992, a day I am sure you will remember as the first full working day that year. At that time in the work session, not only the Chief Judge of the District Court but the resident District Court judge, Judge Janelle, came and renewed his request for passage of this bill. At the conclusion of that work session, a vote was called for and taken. The vote was 13 to 0 "Ought to Pass." The jacket was signed by our Chairman and it was sent to the Office of the Clerk of this body.

On January 21, 1992, without a hearing, without a motion to reconsider, that file was added to the day's work back in the Judiciary Committee. No new information was received, no evidence was taken. Without a motion to reconsider, a second substantive vote was taken apparently overruling the effect of the first vote taken and the first jacket signed and submitted. This second substantive vote resulted in eight members changing their vote, which now constitutes the Majority Report.

This body relies heavily on the committee

process, it could not possibly withstand the workload if it tried to proceed on any other basis. We have some 2,000 bills here and we are required to have the committees take evidence, sometimes expert evidence in substantive areas of the law, over which none of us would have a full command. As a result of that committee process, those committees report to us and make recommendations. This body has a right and an obligation to rely heavily on those committee recommendations.

As in the case here, we violate our own rules in this body on many occasions. We violate them with respect to the hours that this body is in session, sometimes until 3:00 a.m.. The Chief Executive of this state, when he comes into this body, we stand up because whether or not you happen to like the Chief Executive or his policies, we respect the office of the Governor of the State of Maine. When you go into court, that second co-equal branch of government, when the judge comes in, you rise because you respect the person that is wearing that robe for the position in government that they have. When members of this body go some place as the third co-equal branch of government, what we get is, "Hey, I've got a bone to pick with you, I've got to talk to you about something." We are not afforded the respect that the other two co-equal branches of government get routinely and demand. It will be hard for us to get respect when we don't respect ourselves. We violate our own rules.

This system by which this bill appears as an 8 to 4 report opposed rather than 13 to 0 in favor exemplifies the way in which this process works. As a freshman and a rank-and-file member of this House, we are frozen out of the decision making. No one contacted me and asked me to change my vote in the committee. The winds of change are blowing in the breeze. This body needs reform of its practices and it needs adherence to its own rules. If we don't change from within, the change will come from without, but the change is going to come. What we do in this body is not as important as how we get to what we do. It is the process that counts and that must have integrity. Frankly, I don't care whether they take that building in Biddeford down brick by brick, carry it to York and rebuild it in York, it doesn't make any difference. If you share my view that we need to follow our own rules, that we need to have a complete committee process and that the process by which a bill becomes a law is in and of itself as important as the bill itself, then please do as I do, vote no.

The SPEAKER: The Chair would advise the members of the House, in reference to the remarks of the Representative from Madison, Representative Ketterer, that this is the first time the Chair has heard any of those comments. However, they have no reference before this body at this time.

If there was a complaint, it should have been made to the Chair prior to this time. The piece of legislation is now before us for action and it will be taken, pure and simple, and final. It is the members of this House that have the control of legislation and not the individual members of the committee or, for that matter, the committee itself. The process by which we proceed is to be done by rules and they are followed by rules. If there was a violation of rules, then it should have been brought to the Chair's attention. The Chair assumed that since it was not, that there was no violation of the

rules. The matter will no longer be discussed by this body, it will be only on whether or not this piece of legislation should pass or fail. Anything unrelated to those questions will not be entertained by the Chair.

The Chair recognizes the Representative from Kennebunk, Representative Libby.

Representative LIBBY: Mr. Speaker, Members of the House: To clarify an item that just came up, the reason the Representative from Kennebunk or Kennebunkport or the Senator of York County were not present at the hearing and workshops is that we were not informed of this.

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

Representative PARADIS: Mr. Speaker, Ladies and Gentlemen of the House: I would like to comment on the good Representative from Kennebunk's remarks for the reason that I signed the "Ought Not to Pass" Report.

When I sign a report out on a bill that deals with something that is very local — in this instance, the location of where the residents of the Kennebunks and Wells are going to go to court, I would like to have the concurrence of the local delegation. The reason the bill was held over from the First Regular Session was to afford an opportunity for the court, who is the real sponsor of the bill, to work with the local delegation from May to January to resolve their differences. That did not occur. The court was not able to resolve the differences with the good Senator from York, Senator Dutremble, nor were they able to resolve differences with the good Representative from Wells, Representative Wentworth or Representative Libby. In fact, I do not know if there were any meetings between the court and our good legislators. It is under that pretense that I believe this bill should not pass at this time. It is going to affect their residents, their constituency and I believe they have a right to work out their differences before something is forced down upon them.

The underlying issue on this bill is a move by the court, which has incidentally, asked that the bill be killed, and Mr. Kelleher had no problems with this bill being removed. They were willing to work at this time with the legislative delegation from York County. The underlying issue is there are problems in the Biddeford District Court Building. It is old. The answer is not to shift the towns to York but to improve the Biddeford District Court location.

There are these plans on the drawing board in the administrative office of the courts that would create either a super new facility in Alfred, the shire town, and not improve Biddeford. Then as an interim step, this burden would be shifted down to York. The York facility which is brand new, by the way, is the most expensive facility that we rent (the people of the State of Maine). It is \$118,000 per year that we pay in rent for that facility. It is the Taj Mahal of any court facility in this state. I don't think that interim answer is acceptable to the York delegation from Wells or your delegation from Kennebunk. I want the court to sit down and work out the differences and have the two Representatives in this body tell me that they accept the solution. Until they do that, the court does not have my vote. I am sorry, so I recommend that the House accept the Majority "Ought Not 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 Augusta, Representative Paradis, 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. 289

YEA - Adams, Aliberti, Anthony, Bailey, R.; Bell, Boutillier, Bowers, Cahill, M.; Carleton, Carroll, D.; Carroll, J.; Cashman, Chonko, Clark, H.; Clark, M.; Coles, Constantine, Cote, Daggett, DiPietro, Dore, Duffy, Dutremble, L.; Erwin, Farnsworth, Farnum, Farren, Gean, Goodridge, Gould, R. A.; Gray, Gurney, Gwadosky, Hale, Handy, Hastings, Heeschen, Heino, Hichborn, Hichens, Hoglund, Holt, Hussey, Jacques, Joseph, Kerr, Ketover, Kontos, Kutasi, Larrivee, Lawrence, Lemke, Libby, Look, Lord, MacBride, Macomber, Mahany, Manning, Marsano, Marsh, Martin, H.; Mayo, McHenry, Melendy, Michael, Michaud, Mitchell, E.; Mitchell, J.; Morrison, Murphy, Nadeau, Nash, O'Dea, O'Gara, Oliver, Paradis, J.; Paradis, P.; Paul, Pendleton, Pfeiffer, Pineau, Plourde, Poulin, Powers, Rand, Reed, W.; Richards, Richardson, Ricker, Rotondi, Ruhlin, Rydell, Saint Onge, Salisbury, Savage, Sheltra, Simonds, Simpson, Skoglund, Spear, Stevens, A.; Stevenson, Swazey, Tracy, Treat, Tupper, Vigue, Waterman, Wentworth, The Speaker.

NAY - Aikman, Anderson, Ault, Bennett, Butland, Cathcart, Donnelly, Duplessis, Foss, Garland, Greenlaw, Hanley, Hepburn, Ketterer, Kilkelly, Lebowitz, Lipman, Luther, Merrill, Norton, Nutting, Ott, Parent, Pendexter, Pines, Reed, G.; Small, Strout, Tammaro, Tardy, Whitcomb.

ABSENT - Bailey, H.; Barth, Crowley, Graham, Jalbert, McKeen, Pouliot, Stevens, P.; Townsend.

Yes, 111; No, 31; Absent, 9; Paired, 0; Excused, 0.

111 having voted in the affirmative and 31 in the negative with 9 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. 656) (L.D. 1732) Bill "An Act to Require Certain Disclosures in Adoptions and to Provide Additional Protective Services for Children" Committee on Judiciary reporting "Ought to Pass" as amended by Committee Amendment "A" (S-526)

(H.P. 1172) (L.D. 1713) Bill "An Act to Safeguard

Money Held for Minors" Committee on Judiciary reporting "Ought to Pass" as amended by Committee Amendment "A" (H-876)

There being no objections, the above items were ordered to appear on the Consent Calendar of Tuesday, February 4, 1992, 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. 688) (L.D. 1829) Bill "An Act to Transfer Responsibility for the Regulation of Home Service Contracts from the Real Estate Commission to the Bureau of Insurance" (C. "A" S-524)

(H.P. 508) (L.D. 702) Bill "An Act Regarding the Relocation of Utility Facilities as a Result of State Highway Construction" (C. "A" H-871)

(H.P. 1235) (L.D. 1799) Bill "An Act to Clarify the Economic Impact Analysis in Administrative Rule-making Procedures" (C. "A" H-873)

(H.P. 1217) (L.D. 1775) Bill "An Act to Prescribe the Duties and Liabilities of Ice-skating Rink Operators and Persons Who Use Ice-skating Rinks" (C. "A" H-874)

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 as Amended and sent up for concurrence.

(H.P. 1492) (L.D. 2104) Bill "An Act to Clarify the Scope of the Laws Governing Administrative Correction of Statutory Errors" (EMERGENCY)

On motion of Representative Paradis of Augusta, was removed from the Consent Calendar, Second Day.

Subsequently, the Committee Report was read and accepted, the Bill read once and assigned for Second Reading Tuesday, February 4, 1992.

(H.P. 1511) (L.D. 2123) Bill "An Act to Authorize Transfer of Venue for Multiple Cases by the Chief Justice of the Superior Court"

(H.P. 1482) (L.D. 2094) Bill "An Act to Establish a Forest Service Bureau in Each Division of the District Court"

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

**ORDERS OF THE DAY**

**UNFINISHED BUSINESS**

The following matters, in the consideration of which the House was engaged at the time of adjournment Tuesday, January 28, 1992, have preference in the Orders of the Day and continue with such preference until disposed of as provided by Rule 24.

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

JOINT ORDER (S.P. 841) Relative to Establishing a Joint Select Committee on Governmental Restructuring. - In Senate, Read and Passed.  
TABLED - January 23, 1992 by Representative MAYO of Thomaston.  
PENDING - Passage in concurrence.

On motion of Representative Gwadovsky of Fairfield, retabled pending passage in concurrence and specially assigned for Tuesday, February 4, 1992.

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

Bill "An Act to Revise the Workers' Compensation Laws" (H.P. 1571) (L.D. 2218)  
(Committee on Banking and Insurance suggested)  
TABLED - January 28, 1992 (Till Later Today) by Representative MITCHELL of Vassalboro.  
PENDING - Reference.

Subsequently, was referred to the Committee on Banking and Insurance, ordered printed and sent up for concurrence.

**TABLED AND TODAY ASSIGNED**

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

Expression of Legislative Sentiment recognizing Michael Thomas Vogt (HLS 826)  
TABLED - January 28, 1992 by Representative GWADOSKY of Fairfield.  
PENDING - Passage.

Subsequently, was read and passed and sent up for concurrence.

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

Expression of Legislative Sentiment recognizing James F. Slocumb (HLS 827)  
TABLED - January 28, 1992 by Representative GWADOSKY of Fairfield.  
PENDING - Passage.

Subsequently, was read and passed and sent up for

concurrence.

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

Expression of Legislative Sentiment relative to the death of Edward P. Cyr (HLS 828)  
TABLED - January 28, 1992 by Representative GWADOSKY of Fairfield.  
PENDING - Adoption.

Was read.

The SPEAKER: The Chair recognizes the Representative from Frenchville, Representative Paradis.

Representative PARADIS: Mr. Speaker, Men and Women of the House: I rise today to briefly pay homage to a man who served for several years in the Maine Legislature. He was from northern Aroostook County and the St. John Valley. He was a good and honest man, "un bon et honrete homme" said the newspaper headlines. He served with honor and distinction, never forgetting who he was and the people he was serving.

"He believed a person could make a difference, things could be changed, progress could be made. On a given problem, he would gather his facts, think it through and decide what the solution should be and rally people to his cause," said Attorney Rudy Pelletier in his eulogy.

"He would have liked that," his wife Jane said of the elected officials who attended his funeral.

Mr. Cyr, a teacher, agronomist, lawmaker, merchant, contractor and builder, public servant, state representative and state senator, visionary, assessor, politician, farmer, friend, father, grandfather and husband, remained involved and interested in the political process to the end.

Mr. Speaker, I request that we adjourn this evening in memory of Edward P. Cyr.

The SPEAKER: The Chair recognizes the Representative from Madawaska, Representative McHenry.

Representative MCHENRY: Mr. Speaker, Ladies and Gentlemen of the House: Ed Cyr was a very, very good friend of mine. He was my mentor. In 1972 when I first came to the House of Representatives, there is one thing that stands out in my mind. He told me, Representative McHenry, there is one thing that you must always remember, "When you give your word, keep your word." I assure you today that there are people who give their word but they forget it. That is one lesson he taught me and he taught me well. He and I tried and worked very hard to get the Dickey-Lincoln through, we tried very hard to Drokacuna in Quebec to become a reality with the idea that, if this were ever to come true, northern Maine would double up, we would become very prosperous but those things were not to be. Maybe in the future, they will be.

Senator Cyr was very eloquent, very intelligent and very honest. He always told people exactly how he felt. I used to say that he was stubborn. He said, "No, I am not stubborn, I am tenacious."

I do hope that when we adjourn that we adjourn in respect to a great, wonderful man who has passed away.

The SPEAKER: The Chair recognizes the Representative from Presque Isle, Representative MacBride.

Representative MACBRIDE: Mr. Speaker, Ladies and Gentlemen of the House: I would just like to tell you that Ed Cyr and his wife Jane spent Thanksgiving at my house this year. He had a wonderful time. He was feeling very, very healthy and very well that day after an operation and he spent a good deal of time talking politics and talking about his years in the legislature. It was a very happy time for him and his wife had a difficult time trying to tear him away to go home. So I would like to pay my respects to him too.

Subsequently was adopted and sent up for concurrence.

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

HOUSE DIVIDED REPORT - Majority (9) "Ought to Pass" as amended by Committee Amendment "A" (H-868) - Minority (4) "Ought Not to Pass" - Committee on State and Local Government on Resolve, to Establish the Commission on Recall (H.P. 1377) (L.D. 1964)  
TABLED - January 28, 1992 by Representative JOSEPH of Waterville.

PENDING - Motion of same Representative to Accept the Majority "Ought to Pass" as amended Report.

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

Representative JOSEPH: Mr. Speaker, Men and Women of the House: I am asking you to support the Majority "Ought to Pass" Report. I want to help you to recall the history of this piece of legislation.

Last year, throughout our process, this body was very supportive of Recall legislation. However, the other body did not see fit to support the recommendations of this House. Therefore, we now submit to you a Resolve that would establish the Commission on Recall. This Resolve would ask for a 12 member Commission that would draft a Resolution to propose an amendment to the Constitution of Maine authorizing the Recall of public elected officials and any other necessary enabling legislation.

This Resolve and this Commission is truly a recommendation that was included in the Committee of Conference Report that actually, again, was defeated by the other body. Today, the policy that you will be asking to vote upon is whether or not you feel that Maine should establish a policy of Recall for its elected public officials which does occur in about 30 states in the United States.

Unlike the editorial director of one of our Maine television stations, I believe this is a good proposal that will require more accountability of its public officials.

This measure is not directed at any politician who currently serves the public in this state and who is a public elected official so I ask for your support of the Majority Report. It was a 9 to 4 report out of the State and Local Government Committee.

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

Representative LOOK: Mr. Speaker, Men and Women of the House: The issue of Recall for public officials in Maine is being mentioned more and more by the general public. The mere fact that it is should tell us that all is not right in this

governmental world.

Recall is a process to allow the removal of elected persons in the office to which they have been elected. The question is, does the accused have the given right to do what is perceived that they did? Is it within the scope of such authority? Also, does this individual using the badge of authority portray the will of the people?

Everyone of us is unacceptable in elected office by someone. Our form of government is based on majority opinions and decisions. If we stray away from this basic premise, we weaken our beliefs and structures. The public is very discerning of its officials and rightly so. From time to time, we hear of officials who are accused of abusive authority or negligence of duty. The question is, if such accusations are true, how disastrous an effect does this have on our system? If so, what can we as a citizenry do about it?

This is where the Recall provision comes into mind. The use of the Recall process must be used wisely and under strict definition. It should not be too easy to accuse a person of malfeasance of office just because one does not agree with that person's philosophy or decisions. I believe that, at some time, every elected person has been perceived in someone's mind as being guilty of poor judgment and should be removed from office but we do not see such instances being brought into the open very much. Why? Because these feelings are the opinion of one or a few. When a blatant incident or series of acts by an official are evident, then the Recall process may be in order. However, the current process proposal before us, I believe, presents several problems. Most importantly, I feel that the failure to not include language in the drafting of the Constitutional Amendment outlining the specific process for Recall does not allow the voters to approve the procedure. The voters should be able to vote for, not only the concept of Recall, but the procedure to be used.

In addition, the current piece of legislation before us does not address the issue of constitutional officers being subject to Recall. I feel strongly that constitutional officers hold positions of great power in this state and should be subject to Recall if they commit acts of malfeasance in office. Committee Amendment "A" does not provide a mechanism for Recall of these officials. Because of those reasons and my opposition to establishing a commission generating costs at a time when we face severe budget constraints, I do not support the Majority Report.

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

Representative RICHARDS: Mr. Speaker, Ladies and Gentlemen of the House: I have had a couple of weeks I guess to relearn and recall somewhat of what I knew about indirect and direct democracy.

I am not rising today in any partisan fashion, I am rising because of concern about this bill. The reason I say I am not rising in partisan fashion is because of the division on a particular bill - it seemed to come out as that and seems to have some partisan nature as we push this bill through the House.

My concern is that this is a very serious piece of legislation. You don't have a bunch of states that are clamoring to adopt Recall laws. There are only 15 states that have adopted Recall legislation

that would Recall state elected officials. I think there have probably been 30 states (maybe closer to 35 states) who have adopted Recall dealing at a local level but there are only 15 states that have adopted this type of legislation that we are entertaining today. In fact, the last state I believe was in 1978 and that was Georgia.

Just a little history on this particular bill. This is nothing new, this goes back to Athens and the Athenian times of the old debate about democracy, pure democracy versus an indirect democracy, forming a Republic, a representation form of government that we have today. If you don't know, the Athenian society fell because of pure democracy. They couldn't, at one point, get things done because everybody wanted to have their hand into what was going on. Every little faction would be questioned, every faction — if they didn't agree with that faction, then you would have somebody else taking over. So, an aberrant portion of our history dealing with pure democracy is looking at South America in the 18th and 19th Century when you had Vega Lopez, so many tyrants coming one after the other to say that we are the voice of the people. That happened for over a Century and a half in just about every one of the countries in South America. I think today we can see where South America is with a host of problems of inflation, with poverty, destitution, a number of things, a resource rich country.

We have the advantage in this country to develop a constitution, have a healthy debate and determine what was best for us as a united nation in this state. What we developed was an indirect, direct form of democracy. We have initiatives, we do have referendum and, in some cases, we have resorted to Recall.

An example I guess in the turn of the Century, one of the first states that developed a Recall was California. California did that for a purpose because, during that period of time, you had sort of an elite society that would take over the control of what was happening in the political arena. As a result of that, corruption was abounding and they adopted a Recall system. It was partially successful but they recognized that you actually needed some better representation of people so people became more active in the political process and they elected people that were honest and that would carry the ball and represent the people like they should.

I am sorry for going on at length but this is how serious I think this piece of legislation is and that before we adopt something like this, we should really think about it. The Declaration of Independence in 1776 states that "governments are instituted among men deriving their just powers from the consent of the governed." That is what has been debated from that day and is debated today dealing with direct versus indirect democracy.

Alexander Hamilton in 1787 stated that "men love power, give all power to the many, they will oppress the few. Give all power to the few, they will oppress the many. Both, therefore, ought to have power that each may defend itself against the other." During that constitutional debate, they dealt with the direct versus indirect democracy, they dealt with referendums, initiatives, Recall, the size of the legislature, whether it should be big or whether it should be small. The wisdom at that time of the size of the legislature said that it should be big because of the structure of the nation at that

time. They also said that Recall is probably the wrong thing to do. Recall is the wrong thing to do because you allow factions to develop in society to always circumvent those that are put into office — I don't like the way you vote so I am going to create a faction of 25 percent or 10 percent or 2 percent of the voters that voted and we are going to get you out of there.

Just think about last session, just think of what we could have done, we would have had a glory day. I had this caricature in my mind — have you ever watched Blondie and see Bumstead when he was fighting with his boss (throws hands around) and you get this big circle? I had that in my mind with what happened last session. What I wouldn't want to have seen last session was us tumbling out the door back into our districts and the same thing happening. That is what you are asking for if you are asking for Recall. Just think of that grapevine that would go out and say, this person over here, a Democrat, or this person over here, Republican, voted for this, we want them out of office. If you don't think that is possible by Recall, you are mistaken. That is very possible and it has happened in other states where Recall has been used in the last couple of years dealing with voting on taxes, reducing the size of state government — that has happened within the last ten years, a Recall election at the expense of county level to have a special election and the cost goes to the taxpayers along with that.

I guess I am not really sure at this point why we are pushing, pushing this legislation through without really, truly thinking about what we are doing, what went on the committee process, what 151 of us in this House understand about this particular bill and its ramifications. Are we going to pass it and find out later on what we have done? That is not the way to do that. We have got to learn what Recall means, we have got to learn how that fits in our structure of democracy direct and indirect.

During that constitutional debate, the way they dealt with Recall as an offset of a term in which a person could serve — in Congress, two years; in the Senate, six years, and the Presidential elections, four years and then you would have to be voted in again. That was the compromise that was fueled during that debate and that is a debate that is still going on today. It is not a Democratic or Republican issue. There are Democrats and Republicans in our U.S. Congress and Senate who believe in having Recall and there are those that don't. I will tell you though that those who believe in Recall are in the minority because they have not, I guess, had that debate to the fruition of where it should be.

Dealing with some of the procedural issues which I think Representative Look has addressed and I guess I will address some of the substantive issues of what we went through to come about to say that this is good public policy. Those questions are, do voters know what they are signing when they sign petitions for perhaps a Recall? Are they true facts or are they political facts? I think history will show you that it is usually those that are purely political, not substantive facts as to why you Recall somebody. You always have the option of impeachment, you have censure by this House or whatever.

Second question — do voters cast an informed vote when the issues are put to them in a Recall election? We hope so and we hope that the political rhetoric is toned down but we know that will not



happen. Does the majority rule come at the expense of minority rights? That is something that we debated last year. What is that balance, that majority versus minority? Are we always going to have that faction out there, that 25 or 10 percent who say, you voted for taxes and for no good reason because this is why you did it. Perhaps you did it for a very good reason but that is not going to get out, you are going to be stuck in a whole debate and justify why and you could be Recalled. So, what are you going to do when you come here and vote? Maybe you won't vote, maybe you won't do anything that is controversial, maybe you won't represent your constituents because somebody is going to have a Recall, somebody is not going to like your vote and they are going to rally up and get you out of here.

What is the influence of those who are willing and able to spend large sums of money to support ballot measures? We all know that special interest groups in the state are better funded than others. Does that give equal advantage during a Recall vote to do that for a special interest reason? No, that is where the democracy breaks down.

What are the assets and liabilities of a Recall election? What is the overall record of a direct democracy in Maine or America? Have we answered those questions? What have we learned about voting in these elections at the state and local levels? Who wins and who loses? What does it all mean? Who pays? What is the cost?

I raised these questions because I think there are a lot of questions that need to be answered before we go ahead and think this is the wise thing to do. We ought to think about it a little bit more. What is incredible to me with this piece of legislation and this is the icing on the cake — that we talk about direct democracy, Recall, and this piece of legislation circumvents what it is intended to do because now, we the indirect body, are going to put it out to a further removed indirect body a commission to say what the voice of the people are and they are going to develop that constitutional amendment. They are going to go through all this mental debate as to whether it is good policy or not and they are going to have us consider that. Boy, if you can't remove that any further, I don't know what you can do. If you want direct democracy, it ought to come here at this body to formulate the issues, discuss the issues, make a determination if what we are doing is right and then we send it out to the voters to make their decision on that issue.

The SPEAKER: The Chair recognizes the Representative from Westbrook, Representative Lemke.

Representative LEMKE: Mr. Speaker, Ladies and Gentlemen of the House: I think there is a great deal of confusion or at least I would sense, if I were a member sitting here, a great deal of confusion at this point exactly what we are dealing with here.

Let me try to clarify, let me try to strip away some of that confusion. The bill before you tonight is not the amendment that you voted on repeatedly and favorably in the last session, L.D. 1758. It is not even the stripped down version of L.D. 1758 as a result of the Joint Conference Committee, which you also voted upon favorably. It is not that bill. I get the impression from listening to the Representative from Jonesboro and the Representative from Hampden that perhaps they are still talking about one or both of those bills. It is not that bill.

The bill before you tonight, voted out by a majority as amended by the State and Local Government Committee, would create a commission with representatives from the legislature, the Governor's office, local officials and the general public and that commission would then deliberate upon any and all of the various concerns. Those concerns have been raised before and they are legitimate and we have talked about them before — that commission would then deliberate upon those or whatever concerns and that commission would then draft an amendment for public Recall that would be submitted to this legislature, the 116th Legislature, and then would be vote upon with whatever statutory language as a result of that commission's work. So, we would still vote upon it, Representative Richards, I am not eliminating that and that is not the intent, we certainly would do that.

I hope that is clear, we are not voting in effect total Recall, folks. We are voting for this Recall Commission.

I want to address a few specific points that the Representative from Jonesboro and the Representative from Hampden made as far as I understand those points. The Representative from Jonesboro seems to be at least more interested in the concept of Recall than she was in the last session when she voted repeatedly against that. One of the points that she made, and my understanding was in the session, that this was one of the two major areas of concern with the actual amendment was that we should not proceed too quickly. The other concern was the precise mechanics, which I think I understand the Representative from Hampden is addressing. I checked the Record to be sure and on June 12, 1991, the Representative from Jonesboro said, (and I don't want to take her out of context, I will quote partially) "I do hesitate to simply pass through every proposed legislation even if the issue involves merit attention. We need to make sure that we are comfortable proposing a change in the basic fabric of our state government because that is what our constitution is." I agree and this Recall Commission will give more than adequate time to give that kind of deliberation.

As far as the comments made by the Representative from Hampden — I am not really able at this point to comment on South American politics or exactly what the position of Blondie was on this issue but, as far as American history is concerned, he is absolutely right, this issue has been around for a long time. In fact, it was discussed at the constitutional convention of 1787. The first Recall on the municipal level was voted in in 1903 and on the state level in 1908. As far as figures are concerned, there are now 15 states which provide for the Recall of all state officials except in some cases, judges. However, 21 states permit Recall of all or most elected officials and 15 more permit local Recalls under certain conditions so you have a majority of states already that have some form of Recall on the books.

I don't want to keep repeating myself even if I am a professor but we did mention last time that the history is that, since 1908 in all of those legislatures and all of those legislators elected, to date I believe only seven have been Recalled. Since that point, only one Governor in 1921 has been Recalled so there is not evidence here that Recall has been used frivolously or capriciously when put

into effect. I believe that is because most of the states that have framed Recall have taken into account the concerns that have been raised here and they have crafted a Recall in such a way that it cannot be misused. I have confidence and I hope the members of this legislature have confidence that the commission that will be created as a result of the bill before you, that those individuals will have the understanding, the depth and the maturity to come up with that kind of Recall amendment. Then it will come back to us and then we may vote on it, vote it up or down.

I sincerely believe that the time is long past for us to quibble back and forth and delay on this issue. I think the people of the State of Maine would like to see us act on this particular issue.

I would like to quote briefly, and I mean briefly, (sometimes when that is said around here, I realize that is not necessarily the case and I am an offender also) in a recent editorial in the Lewiston Sun Journal entitled "Progress on Recall" the following statement, "Regardless of who drafts it, it is important to prevent Recall for frivolous reasons. Recall should be attainable when warranted but they should not create an open season on public officials. Some 35 states have provisions for Recall and they have proven to be useful safety valves. Maine lawmakers should pursue this, it is to their credit if they do." I couldn't agree more with this editorial, I hope that you concur by voting for this bill.

I request the yeas and nays.

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

Representative RICHARDS: Mr. Speaker, Ladies and Gentlemen of the House: Just briefly, we can quibble over facts and figures but, as I understand it, there are 21 states that have adopted local elected officials and about 15 states for state elected officials have adopted this. We would be the first in the Northeastern states to adopt this kind of legislation.

The editorial is good but I don't know what that represents as far as a constituency, many editorials are good. I think Recall is something that is good to talk about. I think this body first has to decide whether it is a good idea and before we plow into the fact that it is a good idea, sending it out to a commission to draft the language and spend money, then have it come back to us to vote on, I think we have to run it through the committee process and thoroughly analyze the issue of Recall so that we all have a full understanding of exactly what we are doing. I don't think we ought to put laws on the books first and find out what we have done later and then go back and try to change it, make exemptions and so forth. Given the fact that it has been used sparingly, I don't see what the present need for this piece of legislation is and why we wouldn't need more time to debate the issue.

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

Representative ADAMS: Mr. Speaker, Men and Women of the House: Well, I know when the hour is late and the sky is dark and supper is getting cold, we often tend then to start to cast our votes on any given issue judging on the basis of which side of the aisle the proponents and opponents rise.

I really think there is something to what Representative Lemke, the good Representative from

Westbrook, has said. It should be of appeal to all of us on both sides of the aisle, especially in these times when, as never before, all government and all of us little parts of government that try to makes it wheels work, are under the public microscope, or more I should say, on the public grill.

Clearly, we serve at the gift of the people, we are proud of the work we do, I don't think we should worry about standing up to public scrutiny, whether you call that scrutiny election day or you call it town meeting or you call it Recall. The least thing we can do, on behalf of that public, it seems to me is to keep the idea alive and give it a full and fair hearing in the commission where it will be taken out of the arena where either party, either side of the aisle, or anyone is going to be afraid, first and foremost, that the other side is out to get them.

I have some examples why. In the real world, I should tell you, that I write for a newspaper. Unlike Representative Lemke who is a college professor, both of us bear the burden of being trained. I, too, went back and looked into the Record and Representative Richards, my dear friend from the town of Hampden, I would say that we don't have very much to worry about. Indeed, since Recall was first created as a state institution in 1908 up in one of the Pacific northwest states, and all that time since, hunt as I could, I could find that only 7 state legislators in the entire United States in all that time, had faced any Recall successfully and been removed from office. Only one Governor had ever been Recalled, the Governor of North Dakota in 1921, and Representative Richards why I think we should all take heart, the first state attorney general who was ever Recalled under a state provision for Recall, was also in North Dakota, also in the year 1921 and also happened to be named, honest to God, William Lemke. I rest my case, we are in no danger.

Men and women of the House, I urge you to vote for the good Representative's proposal.

The SPEAKER: The Chair recognizes the Representative from Paris, Representative Hanley.

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

To the Chairwoman of the Committee on State and Local Government, a question regarding the commission that would be established in this bill — first, what is the makeup of that commission? How is it constituted and what is going to be the cost to the people of the State of Maine? Why are we establishing a commission to do this at further expense rather than having the committee of jurisdiction, your own committee, take this process on itself?

The SPEAKER: The Representative from Paris, Representative Hanley, has posed a series of questions through the Chair to Representative Joseph of Waterville who may respond if she so desires.

The Chair recognizes that Representative.

Representative JOSEPH: Mr. Speaker, Ladies and Gentlemen of the House: I would be happy to respond to the good Representative's questions.

The commission would be comprised of three Senators, at least one of whom would be a member of the Minority Party, three members of the House of Representatives, at least one of whom must be a member of the Minority Party, one representative of the Governor's office, two representatives of county government and three members of the general public. The charge of the commission's legislation that would

come back to us to approve or disapprove would be a description of the proposed Recall process, the reasons that Recall may be initiated and definition of terms used in that legislation.

The fiscal note on the Committee Amendment, Committee Amendment "A", is \$3,300 to provide funds to the Commission on Recall for expenses of commission members and miscellaneous commission expenses.

The proposal was basically to include all parties in the process that would be interested and actually could be involved in Recall in the future and, with this inclusion of all members, including the Executive Branch of government and members of both bodies and the county government and the general public, felt that it would be a broader viewpoint and a broader recommendation to this body in the form of legislation.

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 Chair recognizes the Representative from Presque Isle, Representative MacBride.

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

To the Chairman of the State and Local Government Committee — according to the constitution, the Reapportionment Commission that deals with that requires that there be an equal number from both parties, seven Republicans and seven Democrats. Then they select a neutral chair and I wonder when you were considering the makeup of your commission for Recall if you considered that makeup for this commission?

The SPEAKER: The Representative from Presque Isle, Representative MacBride, has posed a question through the Chair to Representative Joseph of Waterville who may respond if she so desires.

The Chair recognizes that Representative.

Representative JOSEPH: Mr. Speaker, Men and Women of the House: The makeup is as I just stated and there was no consideration to do it any differently, if that is the response to your question.

The SPEAKER: The pending question before the House is the motion of the Representative from Waterville, Representative Joseph, that the House accept the Majority "Ought to Pass" Report. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 290

YEA - Adams, Aliberti, Anthony, Bell, Boutilier, Butland, Cahill, M.; Carleton, Carroll, D.; Cashman, Cathcart, Chonko, Clark, H.; Clark, M.; Coles, Cote, Daggett, Dore, Duffy, Erwin, Farnsworth, Gean, Goodridge, Gray, Gurney, Gwadosky, Hale, Handy, Heeschen, Hichborn, Hogle, Holt, Jacques, Joseph, Kerr, Ketover, Ketterer, Kilkelly, Kontos, Kutasi, Larrivee, Lawrence, Lemke, Luther, Macomber, Mahany, Manning, Marsh, Martin, H.; Mayo, McHenry, McKeen, Melendy, Michael, Michaud, Mitchell, J.; Morrison, Nadeau, Nutting, O'Dea, O'Gara, Oliver, Paradis, J.; Paradis, P.; Paul, Pfeiffer, Pineau, Plourde, Poulin,

Powers, Rand, Reed, G.; Richardson, Ricker, Rotondi, Ruhlin, Rydell, Saint Onge, Sheltra, Simonds, Simpson, Skoglund, Small, Stevens, P.; Swazey, Tracy, Treat, Vigue, Waterman, Wentworth, The Speaker.

NAY - Aikman, Ault, Bailey, H.; Bailey, R.; Bennett, Bowers, Carroll, J.; Constantine, Donnelly, Duplessis, Dutremble, L.; Farnum, Farren, Foss, Garland, Greenlaw, Hanley, Hastings, Heino, Hepburn, Hichens, Lebowitz, Libby, Look, Lord, MacBride, Marsano, Merrill, Murphy, Nash, Ott, Parent, Pendexter, Pendleton, Pines, Reed, W.; Richards, Salisbury, Savage, Spear, Stevens, A.; Stevenson, Tammaro, Tardy, Tupper, Whitcomb.

ABSENT - Anderson, Barth, Crowley, DiPietro, Gould, R. A.; Graham, Hussey, Jalbert, Lipman, Mitchell, E.; Norton, Pouliot, Strout, Townsend.

Yes, 91; No, 46; Absent, 14; Paired, 0; Excused, 0.

91 having voted in the affirmative and 46 in the negative with 14 being absent, the Majority "Ought to Pass" Report was accepted, the Resolve read once.

Committee Amendment "A" (H-868) was read by the Clerk and adopted and the Resolve assigned for second reading Tuesday, February 4, 1991.

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. 887)

ORDERED, the House concurring, that when the House and Senate adjourn, they do so until Tuesday, February 4, 1992, at four o'clock in the afternoon.

Came from the Senate, read and passed.

Was read and passed in concurrence.

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

SENATE PAPERS

Bill "An Act Regarding the Terminally Ill" (S.P. 885) (L.D. 2257)

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 to Clarify Certain Classifications under the Prevailing Wage Laws" (S.P. 883) (L.D. 2255)

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 Regarding Dragging for Scallops in the Swan's Island Cable Area" (EMERGENCY) (S.P. 886) (L.D. 2271)

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

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

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Bill "An Act Regarding County Contingent Account Limits" (S.P. 884) (L.D. 2256)

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

Representative Manning of Portland moved that L.D. 2256 be tabled one legislative day.

Subsequently, Representative Manning of Portland withdrew his motion.

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

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

**SENATE PAPER**

**Refer to the Committee on Appropriations and Financial Affairs**

Report of the Committee on **Judiciary** on Bill "An Act to Amend the Laws Concerning the Maine Court Facilities Authority" (S.P. 831) (L.D. 2135) reporting that it be referred to the Committee on **Appropriations and Financial Affairs**.

Came from the Senate with the report read and accepted and the bill referred to the Committee on **Appropriations and Financial Affairs**.

Report was read and accepted and the bill referred to the Committee on **Appropriations and Financial Affairs** in concurrence.

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The following item appearing on Supplement No. 4 was taken up out of order by unanimous consent:

**SENATE PAPER**

**Non-Concurrent Matter**

Bill "An Act Relating to Medicare Assignment" (H.P. 1580) (L.D. 2230) which was referred to the Committee on **Human Resources** in the House on January 28, 1992.

Came from the Senate referred to the Committee on **Business Legislation** in non-concurrence.

On motion of Representative Manning of Portland, tabled pending further consideration and specially assigned for Tuesday, February 4, 1992.

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The following item appearing on Supplement No. 5 was taken up out of order by unanimous consent:

**SENATE PAPER**

Resolve, to Revise the Charter of the Van Buren Hospital District (EMERGENCY) (S.P. 858) (L.D. 2182)

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

On motion of Representative Manning of Portland, was referred to the Committee on **Human Resources** in non-concurrence and sent up for concurrence.

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(Off Record Remarks)

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On motion of Representative McHenry of Madawaska, adjourned at 6:40 p.m. until Tuesday, February 4, 1992, at four o'clock in the afternoon pursuant to Joint Order (S.P. 887) in memory of Edward P. Cyr. a former member of the Maine Legislature.

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