

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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SECOND REGULAR SESSION

House of Representatives

January 8, 1992 to March 9, 1992

ONE HUNDRED AND FIFTEENTH MAINE LEGISLATURE
SECOND REGULAR SESSION
17th Legislative Day
Thursday, February 27, 1992

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

Prayer by Reverend Nathan Seckinger, Bethel Alliance Church.

The Journal of Tuesday, February 25, 1992, was read and approved.

SENATE PAPERS

Unanimous Ought Not To Pass

Report of the Committee on Legal Affairs reporting "Ought Not to Pass" on Resolve, Authorizing Zelma Rudge to Sue the State (S.P. 802) (L.D. 2001)

Report of the Committee on Taxation reporting "Ought Not to Pass" on Bill "An Act to Amend the Laws Related to Property Tax Abatements" (S.P. 864) (L.D. 2208)

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

Non-Concurrent Matter

Bill "An Act to Amend the Laws Governing Placement of Insurance in the Surplus Lines Market" (EMERGENCY) (H.P. 1473) (L.D. 2085) which was passed to be engrossed as amended by Committee Amendment "A" (H-922) in the House on February 18, 1992.

Came from the Senate passed to be engrossed as amended by Committee Amendment "A" (H-922) as amended by Senate Amendment "A" (S-560) thereto in non-concurrence.

The House voted to recede and concur.

**PETITIONS, BILLS AND RESOLVES
REQUIRING REFERENCE**

Reported Pursuant to Public Law 1991, chapter 545

Representative MANNING for the Primary Care Residency Commission, pursuant to Public Law 1991, chapter 545 ask leave to submit its findings and to report that the accompanying Bill "An Act to Encourage Expansion of Certain Residency Programs Related to Primary Care Physicians" (H.P. 1706) (L.D. 2387) be referred to the Joint Standing Committee on Human Resources for public hearing and printed pursuant to Joint Rule 18.

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

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

ORDERS

On motion of Representative MELENDY of Rockland, the following Joint Order: (H.P. 1705)

Ordered, the Senate concurring, that the Joint Standing Committee on Housing and Economic Development report out legislation designed to preserve jobs for Maine citizens and to make capital improvements to transportation and public infrastructure.

Was read and passed and sent up for concurrence.

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

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

On motion of Representative RICHARDSON of Portland, the following Joint Order: (H.P. 1704)

Ordered, the Senate concurring, that Bill, "An Act Authorizing Presidential Primary Elections in the State," H.P. 744, L.D. 1048, and all its accompanying papers be recalled from the legislative files to the House of Representatives.

Was read.

Representative Handy of Lewiston requested a roll call on passage.

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 Richardson.

Representative RICHARDSON: Mr. Speaker, Men and Women of the House: We debated this two weeks ago and of course I would not begin to question the judgment of the House had there not been an intervening event. The intervening event was the caucuses last Sunday. I don't need to tell the members of this House what I said before about the differences between a primary and a caucus in terms of making that fundamental constitutional decision. Caucuses do not have a secret ballot, primaries do. I am sure we all saw the impact of that. Caucuses do not have absentee ballots, primaries do. I am sure we all saw the mandate that would be present on a given Sunday in most of the caucuses — a few Republican ones were held on different days — that you would be present at one point in time to cast your ballot and be there for three hours to be a full part of the party activity with which some citizens

may not feel comfortable.

I don't need to review those facts. I want to make only two points about the caucuses of last Sunday and, hopefully, have you reconsider your perspective on it as we vote to bring this out of the legislative files.

One, in the State of Maine 1.43 percent of the total population participated in the caucuses, 1.43 percent, a little over one percent. In the State of New Hampshire, 31 percent of the total population cast ballots at the primaries, in New Hampshire, 21 times the participation than in the State of Maine. We were 1/21st of New Hampshire in that. That fact alone should tell all of us something about the perspective of Mainers toward caucuses.

One other observation I want to make about this and then I will not repeat any of the other arguments and that is this, some people have wondered whether or not parties might have opinions about the forum that caucuses to select delegates may take place while acknowledging that the people can make the fundamental decision, the constitutional decision of how those delegates be allocated in each of the major parties amongst the presidential candidates. This bill allows that to happen.

The parties have three years to adopt rules sanctioned by state law so that they can go ahead and have caucuses for the purposes of individual delegate selection for state and national conventions. They will leave the constitutional decision, the electoral decision, the basic political decision of the allocation of the delegates to those who vote in a primary as New Hampshire does and as New Hampshire gets 31 percent turnout of its total population, 61 percent of its registered voters but the problem with registered voters, as we all know, is that those percentages are quite complicated. The parties have three years to decide how to do their caucuses.

Furthermore, there are three legislative sessions, two legislatures between now and the effective date of this bill in 1995. There are three sessions in which changes can come back regarding any details that any participants or political parties or others feel need to be made. We have four years to work on that.

I urge you to recall this from the file and I urge you to reflect the perspective that a presidential primary is ultimately more consistent with the democratic constitutional values that are part of our state and our country.

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

Representative STEVENS: Mr. Speaker, Men and Women of the House: Representative Richardson is 100 percent correct but I would like to carry it a little bit further.

With the caucuses, the two parties pay the expenses. With a primary, we will be mandating between \$200,000 and \$300,000 more to our local communities for an election. My thought on this is, if the parties want to kick in \$100,000 apiece for the elections, no problem, but I don't think we should mandate this to our communities.

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

Representative LEMKE: Mr. Speaker, Men and Women of the House: A primary allows for a fuller, more meaningful expression of public opinion than the caucus system. I, therefore, urge that this be recalled from the files.

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

Representative JALBERT: Mr. Speaker, Men and Women of the House: Twice now we have had our colleagues here mention it would have greater participation. That is pure conjecture. I have seen elections and we were lucky to get — and this isn't just a primary election — one percent. There is no guarantee that you will have any further participation considering the attitude that the general public has out there about politicians. In New Hampshire it means absolutely nothing when they go to the convention this summer because nobody is committed.

I am glad that the good Representative from Sabattus brought up the good point regarding expense. I was going to ask the question, what will this cost the taxpayers?

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

Representative RICHARDSON: Mr. Speaker, Men and Women of the House: In response to the question, the fiscal note on this, three bienniums away, is \$200,000. New Hampshire makes money on its primary. I don't think Maine will make money on its primary, I think it will be a wash. Local governments have municipal elections, and although I don't know the details in every community, but if we as a democracy cannot afford to have elections .

The SPEAKER: The Chair recognizes the Representative from Lewiston, Representative Handy.

Representative HANDY: Mr. Speaker, Members of the House: Earlier in my tenure in the Maine House of Representatives, I had occasion to serve on the Joint Standing Committee on Legal Affairs and we had similar legislation proposed to us at that time which I opposed vehemently. I have also served as a member of the Democratic State Committee and in that position opposed going to a primary position. I opposed this bill just a couple of short weeks ago. My feeling in opposing the bill was that we need a mechanism by which we can bill the parties at the local level.

I urged Representative Richardson of Portland to give serious consideration to presenting this Joint Order today to recall this bill because I think given the events of last weekend particularly with respect to the Democratic Caucus, and I know even in my own City of Lewiston in the Republican Caucus, very few people turned out. In a caucus system, if you have very few people turning out, you are not going to build your party, so that kind of puts to rest my earlier argument.

I remember in 1980, we had 4,000 people turn out. That was an anomaly, granted, but ordinarily we have about 1,000 people turn out in Lewiston, maybe 1,500 during a presidential year.

I think the issues that Representative Stevens raised certainly are worthy of consideration. I think we have an opportunity to recall this bill and we can work on those issues. For example, and I am not suggesting that this is necessarily the way we ought to go, but a number of states do have filing fees for presidential candidates in order to place the names on the ballots. That may be one way that we can use to mitigate the costs of a primary election. So, I think there are a number of avenues that we can pursue. I do want to say that I think we do have to have that mechanism by which we can work

to build the local party committees but I think we also have to provide the opportunity for greater public input in this very important process that we are now going through. So, I would hope that you would support the Joint Order to recall L.D. 1048 from the files.

The SPEAKER: A roll call has been ordered. The pending question before the House is passage of Joint Order (H.P. 1704). A two-thirds vote of the members present and voting is required. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 318

YEA - Adams, Anthony, Bell, Boutilier, Cahill, M.; Carroll, D.; Cathcart, Chonko, Clark, H.; Clark, M.; Coles, Cote, Daggett, DiPietro, Gean, Goodridge, Graham, Gurney, Gwadosky, Hale, Handy, Hastings, Hichborn, Hoglund, Holt, Jacques, Joseph, Kerr, Ketover, Kilkelly, Larrivee, Lemke, Lipman, Mahany, Manning, Martin, H.; Mayo, McHenry, Melendy, Michaud, Mitchell, E.; Morrison, Murphy, Nadeau, Nutting, Oliver, Paradis, J.; Paradis, P.; Pfeiffer, Pouliot, Powers, Richards, Richardson, Rydell, Sheltra, Simpson, Skoglund, Stevens, P.; Tracy, Treat, Vigue, Wentworth.

NAY - Aliberti, Anderson, Ault, Bailey, H.; Barth, Butland, Carleton, Carroll, J.; Cashman, Constantine, Crowley, Donnelly, Dutremble, L.; Erwin, Farnum, Farren, Foss, Garland, Gould, R. A.; Gray, Greenlaw, Heeschen, Heino, Hichens, Hussey, Jalbert, Ketterer, Kutasi, Lawrence, Lebowitz, Libby, Look, Lord, Luther, MacBride, Macomber, Marsano, Marsh, McKeen, Merrill, Nash, Norton, O'Gara, Ott, Paul, Pendexter, Pendleton, Pines, Poulin, Rand, Reed, G.; Reed, W.; Ricker, Rotondi, Salisbury, Savage, Small, Spear, Stevens, A.; Stevenson, Strout, Swazey, Tamaro, Tardy, Townsend, Tupper, Waterman, Whitcomb.

ABSENT - Aikman, Bailey, R.; Bennett, Bowers, Dore, Duffy, Duplessis, Farnsworth, Hanley, Hepburn, Kontos, Michael, Mitchell, J.; O'Dea, Parent, Pineau, Plourde, Ruhlman, Saint Onge, Simonds, The Speaker.

Yes, 62; No, 68; Absent, 21; Paired, 0; Excused, 0.

62 having voted in the affirmative and 68 in the negative with 21 absent, the motion did not prevail.

REPORTS OF COMMITTEES

Unanimous Ought Not to Pass

Representative ANTHONY from the Joint Select Committee on Corrections on Bill "An Act Concerning Staffing at Correctional Facilities" (H.P. 1639) (L.D. 2302) reporting "Ought Not to Pass"

Representative CLARK from the Committee on Utilities on Bill "An Act to Establish a Watershed District for Sebago Lake" (H.P. 1653) (L.D. 2316) reporting "Ought Not to Pass"

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

Ought to Pass as Amended

Representative HALE from the Committee on Transportation on Bill "An Act to Repeal the Laws Authorizing Special Veterans License Plates" (EMERGENCY) (H.P. 1437) (L.D. 2049) reporting "Ought to Pass" as amended by Committee Amendment "A" (H-980)

Report was read and accepted, the bill read once. Committee Amendment "A" (H-980) was read by the Clerk and adopted and the bill assigned for second reading Monday, March 2, 1992.

CONSENT CALENDAR

First Day

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

(S.P. 843) (L.D. 2147) Bill "An Act to Prohibit Undocumented Insurance Trade Practices" Committee on Banking and Insurance reporting "Ought to Pass" as amended by Committee Amendment "A" (S-550)

(S.P. 800) (L.D. 1999) Bill "An Act to Clarify the Definition of Resident as it Pertains to Marine Resource Licenses" Committee on Marine Resources reporting "Ought to Pass" as amended by Committee Amendment "A" (S-551)

(S.P. 871) (L.D. 2226) Resolve, to Provide a Special Exemption to the Maine State Prison Advocate for Service Retirement Benefits Committee on Aging, Retirement and Veterans reporting "Ought to Pass" as amended by Committee Amendment "A" (S-553)

(H.P. 1501) (L.D. 2113) Bill "An Act to Clarify and Improve the Regulation of Home Food Service Plans" Committee on Business Legislation reporting "Ought to Pass" as amended by Committee Amendment "A" (H-987)

(H.P. 1517) (L.D. 2129) Bill "An Act to Amend the Maine Insurance Code" Committee on Banking and Insurance reporting "Ought to Pass" as amended by Committee Amendment "A" (H-988)

(H.P. 1490) (L.D. 2102) Bill "An Act to Prohibit Unfair Rating Practices in Small Group Health Insurance" Committee on Banking and Insurance reporting "Ought to Pass"

There being no objections, the above items were ordered to appear on the Consent Calendar of Monday, March 2, 1992, under the listing of Second Day.

At this point, a message came from the Senate, borne by Senator CLARK of Cumberland, proposing a Convention of both branches of the Legislature to be held at 11:00 a.m. in the Hall of the House for the purpose of extending to Chief Justice Vincent McKusick and the Supreme Judicial Court an invitation to attend the Convention and to make such communication as they may be pleased to make.

Thereupon, the House voted to concur in the proposal for a Joint Convention to be held at 11:00 a.m. and the Speaker appointed Representative **GNADOSKY** of Fairfield to convey this message to the Senate.

Subsequently, Representative **GNADOSKY** of Fairfield reported that he had delivered the message with which he was charged.

At this point, the Senate entered the Hall of the House and a Joint Convention was formed.

IN CONVENTION

The President of the Senate, Charles P. Pray, in the Chair.

On motion of Senator **CLARK** of Cumberland, it was

ORDERED, that a Committee be appointed to wait upon the Honorable Vincent L. McKusick, Chief Justice of the Supreme Judicial Court and members of the Judiciary to inform them that the two branches of the Legislature are in Convention assembled ready to receive such communication as pleases them.

The Chairman appointed:

Senators: GAUVREAU of Androscoggin
BERUBE of Androscoggin
HOLLOWAY of Lincoln

Representatives: PARADIS of Augusta
COTE of Auburn
STEVENS of Bangor
ANTHONY OF South Portland
FARNSWORTH of Hallowell
CATHCART of Orono
KETTERER of Madison
HANLEY of Paris
RICHARDS of Hampden
OTT of York

Senator **GAUVREAU**, for the Committee, subsequently reported that the Committee had delivered the message with which it was charged and that the Honorable Chief Justice and members of the Judiciary were pleased to say that they would attend the Convention forthwith.

At this point, the members of the Supreme Judicial Court and members of the Judiciary entered the Convention Hall, amid applause, the audience rising.

Subsequently, the Chairman welcomed the following Associate Justices: the Honorable David Roberts; the Honorable Daniel Wathen; the Honorable Caroline Glassman; the Honorable Robert W. Clifford, the Honorable Samuel W. Collins and Active Retired Justice, the Honorable Elmer H. Violette.

The Chairman also welcomed the Chief Justice of the Superior Court, the Honorable Thomas E. Delahanty II; the Honorable Susan W. Calkins, Chief Judge of

the District Court; Deputy Chief Judge, the Honorable S. Kirk Studstrup and the Honorable Dana A Cleaves, Chief Judge of the Administrative Court.

At this point, the Honorable Chief Justice of the Supreme Judicial Court entered the Hall of the House, amid applause, the audience rising.

The Honorable Chief Justice of the Maine Supreme Judicial Court, Vincent L. McKusick, then addressed the Convention as follows:

Mr. President, Mr. Speaker, Ladies and Gentlemen of the 115th Legislature, my Judicial Colleagues and Friends all: Today, I bring to you of the legislature my last report from the Third Branch of State Government. I first reported from this podium 14 years ago this very morning. From the start, I have emphasized the crucial interdependence of our separate and co-equal branches of government, and have called for the practice between us of the Three C's — communication, cooperation, and comity. For these 14 years, the legislature has worked with us in the Judicial Branch in that spirit and I am grateful for that.

Our society imposes heavy responsibilities — both constitutional and statutory — on the Third Branch. Created by the Maine Constitution, it performs one of the core functions of government, parallel to and at the same level as the indispensable functions of the legislature and the Chief Executive. The courts carry the awesome responsibility of adjudicating criminal charges and on the civil side, the Constitution imposes on the courts the duty of giving "every person, for an injury inflicted on the person or the person's reputation, property or immunities, [a] remedy by due course of law."

Society also imposes awesome responsibilities upon you of the Legislature — responsibilities made more awesome by these tough times. We do meet today in tough times — far the toughest financially in my years in office. I don't have to remind you that we have been contending with revenue shortfalls and budget cuts since at least December 1989 — for over two years — and we now must find ways of closing a revenue shortfall for a fiscal year ending nearly a year and a half into the future. These are tough times for all of us — in the private sector just as much as the public — and we are all in it together. I today repeat the commitment that the Judicial Department has made throughout this fiscal crisis: we commit ourselves to work hard to do our full part in meeting this continuing crisis — to the full extent we can, and still discharge the heavy responsibilities both the Constitution and the statutes impose on us.

The Third Branch is a very small arm of State Government — only some 370 men and women, judges and nonjudges, working all over the state, carrying a workload of more than 300,000 filings a year. We have no way of controlling the volume of cases coming in the courthouse door. Our obligation is to accept whatever cases are filed and to proceed to hear and decide those cases in a fair, impartial and timely fashion. Our gross budget is less than 2 percent of

the state budget. In the last fiscal year, our total expenditures were only about \$31 million, and the courts collected over \$26 million. The courts are a very small net burden on the state's budget.

By objective standards, Maine's court system, even before our current cutbacks, ranked among the most cost-efficient in the country. Maine has a remarkably small judiciary, only 50 judges total even when and if the current vacancies are filled. We have the lowest number of trial judges per capita of any state. The most recent figures available show that the court system costs less per capita in Maine than in all but 8 states of this country; and less per capita than in any of the other states in the Greater Northeast — that is, in any other state this side of North Carolina and Indiana.

Starting from that history of cost efficiency, my fellow workers in the Judicial Department have responded commendably to meet our state's fiscal crisis — and still carry out the courts' heavy responsibilities. They have done their part on two fronts, both on the expenditure side and on the revenue side.

First, in cutting expenditures. We have, for example, along with other layoffs, now eliminated entirely the use of contract temporary employees, 35 in number, which was the only way over the past several years our clerks' offices have been able to cope with our exploding caseloads, and we have accepted, on an emergency basis, the freezing of several judicial vacancies for considerable periods. By this weekend, the Judicial Department will be down six judges from its authorized complement of 50. We are experiencing serious backlogs, particularly in the Superior Court which on Saturday drops to 13 judges from the established 16. That court will be down to the same number of judges it had in 1971 and its workload has doubled in that 20-year period. After tomorrow, the Law Court will be down to five judges, rather than seven, at a time when it is receiving the heaviest number of appeals in its history. We hope a way can be found to fill these judicial vacancies. Among our other cost cuts, we have banned all out-of-state travel at state expense — depriving our judges of essential continuing judicial education at the National Judicial College. These are but some examples of our budget cuts. They're all painful.

On the revenue side, we have also recognized our responsibilities. Under legislative authority, the Supreme Judicial Court has adjusted court fees to the extent we believe appropriate, and the Chief Judge of the District Court has updated the schedule of waiver fines on traffic infractions. The courts have redoubled their efforts in fine collections, something that has always been important for the integrity of the judicial process but becomes even more important now in the budget crisis. The courts expect to collect in fiscal '92, \$28.6 million. That is about 3 times the court revenues of only 10 years ago. These revenues are not dedicated to the courts, and I by no means, suggest that they should be. Nor should one look upon the courts merely as revenue producers that should support themselves. Nonetheless, it is a practical fact that the courts are, I repeat, a very small net burden on the state's budget.

To sum up, in these tough times we in the Third Branch are committed to do our full part. But I must report that we are finding it increasingly difficult

to carry out our constitutional and statutory responsibilities in the face of staff reductions, long-continuing judicial vacancies, and restriction of resources in many other areas. More than ever, in these times the great branches must work together to find every way possible to maintain the quality of justice dispensed by our Maine courts.

Today we meet also at a time of transition for the Maine court system. One Chief Justice leaves, after 14 1/2 years, and a new one will be taking the helm to steer the courts into the next century, indeed the next millennium. It's a proper time for the courts to look both back and ahead.

Looking to the past, I am struck by what our two branches have accomplished in working together year-in and year-out to improve Maine's courts. Let me "tick off" some of those joint accomplishments.

In 1978, under legislative authority, the Supreme Judicial Court set up the Committee on Judicial Responsibility and Disability, the seven-member group including lay persons that investigates complaints against judges.

In 1980, the Probate Code eliminated trial de novo on appeals from the probate courts to the Superior Court. Probate appeals now go directly to the Law Court.

In 1981, the legislature, by the single trial law, eliminated trial de novo in the Superior Court on criminal appeals in cases already tried to judgment in the District Court.

In 1982, by creating the Appellate Division within the Workers' Compensation Commission, you stemmed the growing avalanche of direct appeals from hearing commissioners to the Law Court.

In 1983, you created the office of Chief Justice of the Superior Court, the office now held by Chief Justice Delahanty, with functions comparable to those of the Chief Judge of the District Court, Chief Judge Calkins. By that action and by authorizing me to assign judges to sit in courts other than their own, the legislature has enabled us to move toward a functional and administrative unification of the trial courts.

In 1984, collective bargaining for court employees came through the coordinated action of both the legislature and the Supreme Judicial Court. In the same year, on the recommendation of the State Compensation Commission, the legislature put judges on a five-year schedule of salary adjustments and provided them a modern contributory pension plan to replace the previous pay-as-you-go retirement system.

In 1985, you created the Court Facilities Authority, which, through tax-free revenue bonds, helped finance the Cumberland County Courthouse addition opened last June and is now financing the District Court buildings at West Bath and Presque Isle, both nearing completion. I recommend your increasing the bonding capacity of the Authority so that it may address the urgent court facilities needs of both the District and Superior Courts in York County.

Our court mediation program, started by volunteers the same fall I came on the bench, has always had legislative support, and in 1985, the legislature made mediation mandatory on all issues in divorce cases between couples with minor children. In the same year, the CASA program (court-appointed special advocates) became an established feature of the courts. That program provides volunteer guardians ad litem for children involved in court

proceedings, to take the place of paid court-appointed lawyers. By last count, over 1800 children have had the benefit of the CASA program — at 25 District Court locations around the state. Some 450 trained volunteers have given long-term support to those youngsters at risk.

In 1986, the legislature created the Maine Commission to Commemorate the Bicentennial of the United States Constitution. Culminating with the 200th anniversary of the ratification of the U.S. Bill of Rights last December 15th, the Commission has led the people of Maine in a grand five year celebration of the glories of our constitutional system.

In October 1989, to meet a federal deadline, the Supreme Judicial Court promulgated guidelines for fixing the amount of child support payments, and the legislature the following April followed suit statutory guidelines.

This is a proud record, a record compiled over the years only through the practice of the Three C's between our two great Branches.

To look at the big picture of this 14 1/2 years, I note that annual caseloads of the courts has gone from about 200,000 per year to well over 300,000. This increase has resulted in part from the accelerated trend in these years for us in Maine to turn time and again to the courts to help in addressing emerging public needs. Some of those public needs that the legislature has addressed by adding to the responsibilities of the courts are the following: The battle against drunk driving and drugs, consumer protection, protection from discrimination, protection of children and spouses from abuse, permanency planning for children through termination of parental rights, environmental protection and regulation of land use, and protection of our institutionalized citizens. The courts necessarily become involved when the legislature creates a new criminal offense or a new civil cause of action or a new right to judicial review of administrative action, or some combination of the three. I don't complain about this steady increase in reliance upon the courts to meet public needs; indeed I feel rather proud that the public recognizes the essential role the courts play in our governmental scheme. Nonetheless, adding to the burdens of the courts has obvious implications for the necessary allocations of public resources.

Before I say something about the future of the courts under my successor, let me give you some highlights on court operations in the year just past.

In 1991, the Law Court set new records for both case filings and opinions. New filings numbered 646, almost two and a half times the number of filings 15 years earlier. In 1991, the Law Court also issued a record total of opinions — 392. Along with my colleagues' heavy decisionmaking responsibilities, the Supreme Judicial Court carries an administrative load by serving, in effect, as the "Board of Director" of the Judicial Department. The court sets department policy, makes rules of procedure and evidence for all courts, and superintends the legal profession through the Board of Bar Admissions and the Board of Overseers of the Bar.

On September 1, we started a two-year experiment with permitting television in all trial courts in Portland and in Bangor. Cameras have, of course, been permitted in the Law Court for 10 years.

I turn now to our trial courts. I am grateful

for the strong leadership provided by the Chiefs of our trial courts. They are here with this morning. They, along with State Court Administrator Dana Baggett, make up my Executive Committee. All of them are carrying a much increased burden of administrative and judicial responsibilities during this time of fiscal crisis, reduced staff, and judicial vacancies.

On September 1, Chief Administrative Court Judge Cleaves, with the help of both District and Superior Court judges, started in Cumberland County the Family Court Pilot Project authorized by the legislature. This project gathers together from all courts in Cumberland County divorce and protection from abuse cases, post-divorce motions, and child protection proceedings. Those matters are then handled in a coordinated way by a single small group of trial judges.

With legislative support, we have reinstated an Indigency Screening Program in the District and Superior Courts in four counties, with hope to expand it to other counties. This program checks the financial qualifications of criminal defendants who apply to have counsel appointed for them at state expense.

In 1991, working with the tribal courts of the Penobscot Nation and the Passamaquoddy Tribe, we created the Maine Coordinating Council for State and Tribal Courts, an ongoing body to meet informally from time to time to work out problems of mutual concern between the two court systems.

The most dramatic program change in the courts in the last year is our creation, with legislative authorization, of the District Court Violations Bureau. This centralized bureau, which went into operation on the first of January 1992, processes at the Lewiston District Court all traffic infraction cases from the whole state, numbering about 140,000 annually. The bureau collects all traffic infraction fines, including the waiver fines paid by defendants who do not contest the charge; schedules trials for all defendants who do contest the charge; and suspends drivers' licenses on all who fail to answer. The public gets much better service because no longer does a defendant who contests a traffic ticket need to go to court just to obtain a later trial date, and the defendant who elects not to contest will be told by the police officer the amount of the waiver fine and be provided an envelope to mail in the check. We are making it as easy as possible. Under the leadership of Chief Judge Calkins and her predecessor, Judge Pease, working with a federal grant, the Violations Bureau was set up in record time and at almost no cost to the state.

A year ago, I appointed a Volunteer Business Committee, consisting of three highly respected businessmen, to review the courts' administrative and financial operations. That committee worked very hard and produced its report at the end of March, finding that "administrative activities of the Court System function as well as can be reasonably expected, given the resources available and the growing workloads." They went on to make a number of specific recommendations for improvement of our administrative and financial operations. We have implemented most of those to the extent we are able to do so internally. One of the committee's recommendations was the creation of the central District Court Violations Bureau, already an accomplished fact. Another recommendation, which has

been joined in by the Special Commission on Governmental Restructuring, is the elimination of costly bureaucratic duplication between the Judicial Department and the Executive Branch, a proposal now before this legislature. I strongly urge the adoption of that cost-saving proposal. The Volunteer Business Committee also recommended the designation of a chief operating officer for the judicial system to strengthen and consolidate court management under the direction of the Chief Justice. This strong administrator would act in a capacity similar to that of the chief operating officer of a private corporation, so as to produce better coordination of management and long-range planning in the court system, along with increased accountability. I agree fully with this recommendation, and it is also endorsed by the governmental Restructuring Commission. I have, however, not acted in this matter, believing that a management reorganization of this magnitude is better left to my successor and his colleagues.

In reporting to you last year, I pointed out two challenges that you of the legislature and we of the courts share in these times of fiscal crisis. Our first joint challenge is to maintain, and if possible improve, the quality of service the courts are providing Maine people. Our initiatives during the past year, such as the new central District Court Violations Bureau, show that we have had some success in meeting that first challenge.

We also share a second challenge. It is all too easy when times are tough for us to become absorbed in the crisis of the moment and to give no thought to the future. We face a host of societal changes as we move rapidly toward the next century. Our second challenge is to lift our eyes from our daily chores, however taxing they are, and to look at the far horizon ahead of us. We are meeting that second challenge through the Commission to Study the Future of Maine's Courts. The Futures Commission, created by the legislature two years ago and including in its membership five of your fellow legislators, as well as five judges as advisory members, is funded entirely by grants from the federal government and private foundations. The Commission has organized task forces to study access to justice, court productivity, alternative dispute resolution, and court structure, all looking ahead to the demands on the courts well into the 21st century. A heavily attended two-day symposium in January, run by the Commission and the Maine State Bar Association, considered the pros and cons of a single tier trial court and the feasibility of having a family court in Maine. The Commission has much yet to do, but it has already stirred us all as never before to take a close look at Maine's courts and at the future toward which they should be moving. The Commission has set February 1993 as its deadline for submitting its final report to the legislature and to the Judicial Department.

In concluding my State of the Judiciary Report 14 years ago, I used a quotation from Oliver Wendell Holmes, the poet-physician father of the "Yankee from Olympus." The elder Holmes once said: [T]he great thing in this world is not so much where we stand, as in what direction we are moving. To reach the port of heaven we must sail sometimes with the wind and sometimes against it — but we must sail and not drift, nor lie at anchor.

For the last 14 years, the Maine courts have been

steadily under sail, holding to a course to improve the quality of justice rendered Maine citizens. A new helmsman will shortly take the wheel. My deepest wish for him is that you of the other two great branches work with him in the same spirit of communication, cooperation, and comity that you have so generously shown in your dealings with me.

Ladies and gentlemen of the 115th Legislature, here I am at the end of my final report. Perhaps I can do no better than quote the poet Keats, who wrote in his last letter to a friend: "I can scarcely bid you good-bye, even in a letter, I always make an awkward bow. God Bless you!"

The Chief Justice and members of the Judiciary withdrew amid applause, the audience rising.

The purpose for which the Convention was assembled having been accomplished, the Chairman declared the same dissolved.

The Senate then retired to its Chamber, amid applause of the House, the members rising.

IN THE HOUSE

The House was called to order by the Speaker.

The following Joint Resolution, under suspension of the rules, was taken up out of order by unanimous consent:

ORDERS

On motion of Representative SIMONDS of Cape Elizabeth, the following Joint Resolution: (H.P. 1703) (Cosponsors: Senator GILL of Cumberland, President PRAY of Penobscot, Speaker MARTIN of Eagle Lake, Senator CLARK of Cumberland, Senator WEBSTER of Franklin, Representative GWADOSKY of Fairfield, Representative WHITCOMB of Waldo, Senator DUTREMBLE of York, Senator CAHILL of Sagadahoc, Representative MAYO of Thomaston, Representative MARSANO of Belfast, Senator GAUVREAU of Androscoggin, Representative PARADIS of Augusta, Senator BERUBE of Androscoggin, Senator HOLLOWAY of Lincoln, Representative COTE of Auburn, Representative STEVENS of Bangor, Representative ANTHONY of South Portland, Representative FARNSWORTH of Hallowell, Representative CATHCART of Orono, Representative KETTERER of Madison, Representative HANLEY of Paris, Representative RICHARDS of Hampden, Representative OTT of York, Senator COLLINS of Aroostook, Senator FOSTER of Hancock, Senator PEARSON of Penobscot, Senator TWITCHELL of Oxford, Representative CHONKO of Topsham, Representative DUTREMBLE of Biddeford, Representative GOULD of Greenville, Representative HICHENS of Eliot, Senator KANY of Kennebec, Representative MCHENRY of Madawaska, Representative MITCHELL of Vassalboro, and Representative STROUT of Corinth)

JOINT RESOLUTION RECOGNIZING
THE HONORABLE VINCENT L. MCKUSICK ON THE OCCASION
OF HIS RETIREMENT AS CHIEF JUSTICE OF THE
MAINE SUPREME JUDICIAL COURT

WHEREAS, the successful operation of the courts of our State depends upon the wisdom and integrity of the State's jurists; and

WHEREAS, these qualities are most strongly embodied in the Honorable Vincent L. McKusick, Chief Justice of the Maine Supreme Judicial Court; and

WHEREAS, as the leader of the Judicial Department for nearly 15 years, Chief Justice McKusick has modernized the operation of the State's courts, dramatically improved the appellate process, and improved the ability of the court system to dispense equal justice to the citizens of the State; and

WHEREAS, in addition to his administrative duties, Chief Justice McKusick has authored some 750 opinions and has participated in the decision of more than 4,000 cases during his tenure on the Law Court; and

WHEREAS, the Chief Justice's retirement comes after a long and especially distinguished legal career, which has included coauthorship of Maine Civil Practice and service as President of the Harvard Law Review, as clerk to Chief Judge Learned Hand and Supreme Court Justice Felix Frankfurter and as a member of one of our State's most distinguished law firms; and

WHEREAS, Chief Justice McKusick has earned national recognition as an outstanding jurist, as evidenced by his selection as President of the Conference of Chief Justices, as Chair of the Board of Directors of the National Center for State Courts and as leader of delegations of state and federal judges to both the People's Republic of China and to the former Soviet Union; and

WHEREAS, it is the desire of the members of the Senate and the members of the House of Representatives and the citizens they represent to formally recognize the accomplishments of Chief Justice McKusick on the occasion of his retirement and to express the high esteem and affection in which we hold this outstanding native of Parkman, Maine; now, therefore, be it

RESOLVED: That We, the Members of the 115th Legislature now assembled in the Second Regular Session, take this opportunity to honor Chief Justice Vincent L. McKusick, to recognize his distinguished service to the people of the State of Maine over many years and to offer our best wishes for many happy years in his third legal career; and be it further

RESOLVED: That a suitable copy of this resolution, duly authenticated by the Secretary of State, be presented to Chief Justice Vincent L. McKusick as a tangible token of our high esteem.

Was read.

At this point, Chief Justice Vincent L. McKusick and his wife were recognized by the Speaker and was presented a plaque by Representative Simonds of Cape Elizabeth.

Subsequently, the Joint Resolution was adopted and sent up for concurrence.

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

CONSENT CALENDAR

Second Day

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

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

(S.P. 518) (L.D. 1396) Bill "An Act to Establish the Maine Correctional Institution - Warren" (C. "A" S-549)

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

(H.P. 1606) (L.D. 2268) Bill "An Act Regarding the Time and Temperature Sign Located in Portland" (C. "A" H-951)

On motion of Representative Stevens of Bangor, was removed from the Consent Calendar Second Day.

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

Representative STEVENS: Mr. Speaker, I move the indefinite postponement of L.D. 2268.

Ladies and Gentlemen of the House: I would like you today to be clearly aware of what you are voting for when you vote for this bill or if you vote for this bill. This is going to be the most egregious violation of Maine's historic billboard law that has ever come before the body. For the first time in Maine, if this bill passes, commercial off-premise advertising space can be sold to the highest bidder. It can be sold to the most wealthy business. It can be sold to any business. The control of who buys that space is going to be decided by the Portland community, by I assume, the Portland City Council. Portland is asking us to do three things. They are going to ask us to allow them to sell space, off-premise, and that space is going to violate another premise of our billboard law, it is going to have a flashing sign.

Ladies and gentlemen, people in good faith supported this bill, testified to the committee that this sign could be seen from north and southbound interstate, from the sea, on the ferry and from the air when you fly into Portland, violating the very fundamentals that the billboard law passed, to keep advertising away from the public purview in that manner, to avoid polluting our landscape with paid ads. If we do nothing, Portland can keep their sign. They can keep the time and temperature sign, that is allowable. If you vote against this bill, you are not saying they have to take down their sign. All you are saying is, Portland, if you want

your sign, you are going to have to pay for your sign.

I am sure that there are people in this town who have historic landmarks in their district. We have the Paul Bunyan statute in our town and it is very expensive to maintain — it has to be refiberglassed. Now, what if I said to you, Bangor is kind of poor this year, our budget is tight, our school budget is tight but we want to maintain an historic landmark so we are going to sell advertising. Paul Bunyan holds a peavey in his hand and on that peavey, I want to put "Shop at Bangor Mall." Not only that, I want to have it flashing, but it is going to help me pay for my historic landmark. That is just as valid an argument as you see in this bill today.

I understand there is an Indian statue in Skowhegan, they probably have to refinish that and maintain its upkeep and they are poor, they haven't got any money, the school budget is tight, the municipal budget is tight but they want to preserve their Indian. So, why don't we just have him sling a gun over his shoulder perhaps — I know nothing about guns — but maybe on that gun across that Indian's shoulder, we could put "Buy Remington" or whatever is a brand name for a gun.

Do you understand the problem that we are creating right now if we pass this bill? You are taking this gigantic leap that we have never taken before and saying you are going to be able to sell space. You say, well, it is only four letters. I have to say it is not my creativity that has come up with some of these things. Some of the wonderful suggestions that have been made are "L.L. Bean." Most people don't mind L.L. Bean. How about "UNUM?" UNUM is okay. Let's try some more — how about "Buy Bud?" How about, "Eat Spam?" I am sure the people in this group have thought of a lot of them. How about this one, "Vote Vose?" None of these are mine, I would never think of these, these have been sent to me. How about "Anne Rand?" How about this one, "Vote GOP" or how about my favorite, "More Dems." It is endless, you think four letters is going to hamper anybody with a creative mind? Whose deciding? Not you and me, the Portland City Council. How do they select one more worthy business over another? It is going to be flashing so high, like I said you can see it from land, sea and air.

I urge you please, in all seriousness, don't breach our billboard law any further. When the farmers put up their temporary paper signs to help them sell a few cucumbers, that was one thing, but when you are selling to the most wealthy businesses in the state, it is truly something different.

I urge you to vote indefinite postponement of this bill.

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

Representative MACOMBER: Mr. Speaker, Men and Women of the House: It seems like old times to be debating the gentelady from Bangor on the sign issue. When I went home a year ago, I said I would never get involved in signs again. This is not signs, we are talking about one individual sign.

I sponsored the bill at the request of quite a few in a business group in Portland, including the City Manager, who happens to be a personal friend of mine. I hired him many years ago or helped hire him to be the Assistant City Manager in South Portland. I also had feelings of my own about it.

For many, many years, I was a rural mail carrier, I lived in South Portland, had to be in work in Portland at five o'clock in the morning. Every morning as you went to work and you looked up when you went across the Million Dollar Bridge and you saw the sign that gave the time and temperature, it was sort of like an old friend. It is something that has been there for years and years and years and was part of the landscape. There are thousands of people, as the gentelady from Bangor has stated, who see this sign everyday. If you are coming from the north on 95, you see it, if you are coming from South Portland and Cape Elizabeth across the Million Dollar Bridge, and we had people from Casco Bay Island who testified that it was part of their lifestyle, every morning when they got up, they looked out the window to see what time it was, what the temperature was and things like that. It is the same idea as a landmark, that you might have a clock in your church steeple, a veterans memorial in a park, the Paul Bunyan sign in Bangor or whatever you want to call that.

Let's point out that this is one sign we are talking about that has been in the same location for 28 years. There has never been an objection to that sign. It is a sign that actually performs a public service to all the people in the greater Portland communities.

The way the sign works — the gentelady from Bangor keeps referring to this flashing sign — as far as I know, it has been flashing for 28 years so that is really nothing new. What happens, it shows the time for four seconds, shows the temperature for four seconds, shows the message for four seconds, then it repeats, that is the whole program.

I don't have a lot of little catchy slogans, my mind doesn't operate that well on such things. We have approached a lot of the radio and TV stations — like it would be WPOR, WMTW or whatever it might be, things along that nature. We are not going to advertise something that is in poor taste and I am sure the gentelady from Bangor realizes that too.

When she talks about it being an advantage to some particular business in Portland or something like that, I don't think that really applies here because I have gotten more letters and more calls on this particular bill, I don't think I have had this many calls since I sponsored the last gas tax, and they have been entirely different believe me. The whole thing is, we are not trying to destroy civilization as you know it, we are just trying to keep one sign up here that has been up for 28 years. It means a lot to, not only the City of Portland, let's not say it is a Portland bill, it means a lot to all of us who live in the greater Portland area. I don't think it is too much to ask that we make one exemption for this particular sign.

You talk about other businesses being affected. I have had letters from the Chamber of Commerce, intown business people, the Greater Portland Landmarks, all of them are very much in favor of this particular bill.

I hope you will vote against the motion to indefinitely postpone.

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

Representative HOGGLUND: Mr. Speaker, Men and Women of the House: I am from Portland and I have to tell you that that sign is a unique sign. It sits down in the middle of the City of Portland on top of a building and it has been there for 28 years. It

flashes on the time, the temperature and it used to say "The Bank." Four seconds. I agree with the billboard law that we shouldn't have that but I don't find it a very humorous thing laughing at Portland for having something so unique as this sitting on the building in the middle of town. Yes, you can see it from the highway, yes you can see it from Munjoy Hill in the West End and half of us, when we were children, used that as a time to get home. The Landmarks testified in favor of it. It is not something that is a joke, it is very serious to me, it is part of our city. It is not something that is going to be put up new, it is not going to advertise (I don't believe) anything foolish, although Anne Rand is not foolish, I just want to correct that.

Other than that, please vote in favor of not postponing this.

The SPEAKER: The Chair recognizes the Representative from Lewiston, Representative Boutilier.

Representative BOUTILIER: Mr. Speaker, Men and Women of the House: I will be very brief. I did want to state why I supported this bill. There isn't any Maine native statue in Lewiston or a Paul Bunyan statue or even a time/temperature clock but I do want to say some things about this issue.

We made the language of the amendment, if you look at it, very strict. It is only four seconds, they have to keep the same dimensions of the sign and they have to have the same interval of letters and the maximum amount of letters they can have is four letters for each one. What we have done with this bill is allow for this one unique sign to be located in the City of Portland and we have done it in such a way so other signs aren't going to be created to do the same thing.

There is no doubt that there would be abuse of other types of situations but we have not allowed that to occur. In this case, the sign is of such uniqueness and such landmark status in the City of Portland, as a committee, we felt it was important to let that go forward and I would hope that you would vote against the pending motion.

The SPEAKER: The Chair recognizes the Representative from York, Representative Ott.

Representative OTT: Mr. Speaker, Ladies and Gentlemen of the House: I have to take a breath, I find myself in an unenviable position of being the first speaker following the address of our Chief Justice.

While my comments would probably pale given his stirring address, I do think that this bill is important. If it is passed, I think it has broad and serious ramifications to our billboard law. This bill flies in the face, I think, of the spirit and the attempt of Maine's billboard law. Our legislature, back in the 1970's and 1980's, made a strong stand when it eliminated billboards and provided for the official directional sign used in off-premise advertising situations.

This bill is an attempt to carve out an exception, an exception that would permit the Portland business community to access off-premise advertising signs while the rest of the state would be confined to the present law and the official business directional signs. That doesn't sound fair to me. It certainly gives the Portland business community an advantage over the rest of the state, not to mention what I think would be the more serious consideration and that is, what reaction would the

Outdoor Advertising Association of America have? Wouldn't this bill permit those companies who do national advertising a great opportunity? Instead of local ads that might be used to support the maintenance cost of their temperature sign, which might involve Key Bank, UNUM, as has been suggested by Representative Stevens, what about the national advertising that might be available? One suggested on your green flyer that was placed on your desks this morning was "Buy Coke." I can think of others, "7-Up," "Buy Sony," "Rent Avis," "Fuji," "Ford," "GMC," — the list is endless. I can't believe that there wouldn't be a company of national concern that wouldn't welcome the opportunity to see its logo or its sign, even though it might be limited to four letters at four second intervals to be up in lights, probably the brightest and most intense advertising this side of Broadway.

I have been told that it was about \$12,000 a year to maintain this sign through some community advertising effort and that that would be the mechanism by which this traditional landmark would be continued. I think that outside companies would even up that ante and pay considerably more, maybe increase the wattage, bump it into color so it could be seen from the New Hampshire border to Augusta.

I say that this would give an unfair advantage to those people who would be advertising in Portland and I just mentioned what I thought it would be for national advertisers who might want to use this one sign and be the only company that would be able to advertise in Maine with bright lights.

It would also, I think, be special legislation that might encourage others to next year bring a bill to, let's say in my community, provide for some maintenance costs that we might need to maintain Snowshoe Rock. I know that none of you probably other than those who live in my community may have heard of that. It is a small rock, it has a historical significance to the people of the community of York, it goes back much further than the 28 years that has been alluded to as the life of the temperature sign in Portland. I suggest to you that there would be other significant historic landmarks in this state who might also want to devise methods of maintaining its historical significance.

Why should it not be allowed then to have a bill that would allow me or allow my community to provide the funds necessary for that maintenance to have an advertising sign?

I admire the civic pride and the energy that has rallied the community of Portland in bringing this legislation in an effort to save this sign but I suggest to you that there are other mechanisms. There has to be a better way.

I read in the paper last week I believe about Ogunquit in an effort to try to maintain Marginal Way, which is an historic scenic walkway along the shores of Ogunquit, very important to the economic vitality of that community, but it is going to be maintained, or at least an effort to maintain it is going to be made through voluntary contributions from the business community and the private sector.

In my own town of York last year, we raised over \$50,000, and it may have been more but that is the figure that sticks in my mind, to provide a facility for a comfort station at the Nubble Light, all done through voluntary community, business and private contributions.

I remember, years ago, reading in the paper, this

goes back to the 50's and 60's, when the children in the Boston schools and the kids throughout the Commonwealth of Massachusetts put pennies in a little box to save Old Ironsides, which was a rotting hulk down in the Charleston Naval Shipyard.

I think this is the type of effort that would be necessary to save and restore and continue the life of this time/temperature sign in Portland, rather than to open the door for advertising, which I say, deteriorates current prohibition against that.

I went downstairs to the library earlier this morning and tried to look up the legislative history. It was too long for me to digest. Back in 1977 when the initial legislation came out, it was an 8 to 4 for passage of the bill that I think created the Travelers Information Services Act of Maine. There was page after page of debate, it was long and emotional but the conclusion was passage and it was considered to be a bold step towards preserving the scenic beauty of Maine. That legislator took that step and I think it should continue to push forward and maintain the scenic beauty of Maine.

Ogden Nash in 1937 said, "I think that I shall never see a billboard lovely as a tree; indeed, unless the billboard falls, I will never see a tree at all." Don't let this bill be the beginning of a fall of our Maine billboard law. Please support the pending motion.

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

Representative KETOVER: Mr. Speaker, Ladies and Gentlemen of the House: This is a very, tiny, little sign. It has been there for 28 years. I have been looking at this sign for a long time. Every time that I go downtown, having to go to a meeting, I am always looking for that sign. What time is it? Am I late? Am I on time? It always says I've got enough time, it stretches for some reason. That sign has always been there.

It is funny, nobody complained about it, no one said it was against the billboard law and it also said a bank advertised on this sign — for 28 years. Now all of a sudden, we have this bill here, L.D. 2268 and this bill provides that the time/temperature sign in Portland, it is not saying Ogunquit, it is not saying Bangor, it is not saying Paul Bunyan, it is not saying any other thing — Spam, GOP — it has never said any of those things.

Everybody thinks that Portland has very wealthy businesses in the city but, as you know and I know, we have had some very serious times with our banking industry and that sign was sponsored by a bank. As you know, that bank isn't there anymore. That bank paid for it. We need now to have some sponsors and I have good faith and I have trust in the people who will make that decision to put the correct advertising on this tiny, little sign in the city of Portland. It has been there all this time, there have been no accidents, it has not been obnoxious to look at, it just has little words and time that goes across it. No one has called me to object to it, no one has said that they don't want it and I haven't received millions of letters.

This is a landmark that is very important in the city of Portland, this tiny, little sign, and I would hope that you would not listen to the fancy stories that you are hearing that we will have "Spam" running across it or that we will have "Dems" on there or "GOP" or any other phenomenal things that are very

distasteful to a lot of folks. I think we have great people in the city of Portland who will make excellent decisions. There is no other sign that we are talking about, we are not asking for an onslaught of signs in any other town or any other city. This is just Portland, this already exists, and I would hope that you would go against the indefinite postponement of this bill.

As I said, I have looked at the sign for 28 years and I have never been distracted by looking at it or hit a car, looked at another tree, and I, too, believe that there is nothing more beautiful than a tree or a flower or looking at Deering Oaks as I drive down the street looking at that sign. Those things are very important to me. That historical sign is very important to my citizens and to anyone visiting my city. I think we should make sure that that would be a very beautiful, very effective sign that would not be distasteful. I think that is very important. Portland happens to be a beautiful tourist city, we have many tourists come to our city and I do not believe that they would want to put "Spam" on there or anything else that is distasteful so I would hope that you would stay with us and not vote indefinite postponement.

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

Representative LEMKE: Mr. Speaker, Ladies and Gentlemen of the House: Ever since the Representative from Bangor spoke, I have an image in my mind (and I can't get it out of my mind) of this big sign over the city of Portland flashing four letter words of intervals of every four seconds over the landscape. It is not a pretty image. The sign is part of my consciousness, the sign is part of anybody who has grown up in and around Portland, consciousness. It is highly useful for someone like me who doesn't wear a watch and usually doesn't carry a thermometer with him.

I would like it retained but I do not like the idea of the sign retained giving me messages. I can get those elsewhere.

The good Representative from South Portland said that passage of this bill would not mean "the end of civilization as we know it." In itself, no of course not, but I do think it will contribute in a small and significant way to changing our culture in Maine as we know it.

Today I believe, and I may be wrong and the Representative from Portland can correct me, is Henry Wadsworth Longfellow's birthday, a Portland native. Longfellow had very fond memories of the city by the sea. No one spoke more eloquently about Portland. The sign came later, but if it had existed when Henry Wadsworth Longfellow lived, I am sure it would be something he would too recall fondly as a helpful friend, always there. I doubt he would feel the same about a flashing reminder to "Buy Coke" or in his time frame, "Buy Corn." Henry lived in a period where you didn't need messages to know what to do, that is the period that seems to be passing by.

This bill reflects to me the slow but intrusive commercialization of landmarks, landmarks that transcend soft drinks and hamburgers or whatever. The good Representative from Portland is right, until now, the sign has not given such messages. I think for the sign to now do that as a landmark takes away from, if you can, I will put it that way, its soul. It diminishes its uniqueness. It won't be the same.

I would like us to keep the sign but don't

pervert its reality, don't say that it is the same thing if you do. Do that, it is not worth keeping. I would rather buy a watch and maybe carry a thermometer.

Please vote to indefinitely postpone.

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

Representative HOGLUND: Mr. Speaker, Men and Women of the House: I hate getting up again on this but I have to just make one thing very clear that has been said by my two good Representative to my left and right — it is not a precedent that we are going to be setting in a landmark. That sign has the time, the temperature, "The Bank." The bank has pulled out and cannot continue the maintenance of that sign. What we are asking you to do is to change "The Bank" to something, and believe me, I have faith in my city that it will be very credible whether it will be "The Bank" or "The One" or whatever, it will not be silly. I don't believe my city of Portland will be doing that.

When I explained to you before that it has been there for 28 years, the billboard law passed in 1977, that sign was there prior to that and after that. Unfortunately, our bank has pulled out and now we would like to put something else there to continue that service, the time/the temperature because without that, it will be very drastic. We will lose the maintenance cost and that is what the whole thing is all about. That sign was already on a sixteen foot building in downtown Portland, it is a four by six, you can be anywhere in the city, the throughway goes right through the city so you are going to see it, it is right in the middle of Portland.

Please vote against the motion to indefinitely postpone.

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

Representative TUPPER: Mr. Speaker, Ladies and Gentlemen of the House: I am sorry to go against my hometown of Portland but I can't seem to remember the sign or the bank at that place.

I want to say that the Federated Garden Club of Maine fought long and hard for the billboard law and our efforts were part of a beautification program across our state to deal with our cities, our towns and our highways. If we pass this bill, we will set a precedence that will weaken all the efforts that we people of Maine fought for.

The SPEAKER: The Chair recognizes the Representative from Sanford, Representative Hale.

Representative HALE: Mr. Speaker, Ladies and Gentlemen of the House: I would urge you to vote against the motion on the floor. This is not an exception, this is the route that we take every time that something we feel is in need of correction. The sign in the city of Portland just happens to be in the city of Portland but it certainly is a landmark. Even though I am not a resident of Cumberland County, I certainly do rely on it and I think everyone just automatically looks up it.

Last year, we made exceptions to roadside signs for vegetables etcetera. This is not something that is going to pollute the horizon. This is something that is part of the horizon. I urge you to vote against the pending motion.

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

Representative STEVENS: Mr. Speaker, Men and Women of the House: I apologize for getting up the

second time. I just want to make absolutely clear that Portland will be able to maintain its sign. I am not asking Portland to take down its time and temperature sign. If we do nothing, if we indefinitely postpone this bill, they can still keep their sign. The only thing is that they are going to have to find a way to pay for it.

We had people suggest "Friends of the Sign" and I know many of you have had a playground committee, "Pennies for the Playground" so we can have "Pennies for the Sign." There are many ways to save that sign.

I have to share with you some of the notes that have come to me since this debate. Some of them cannot be shared in a public forum but some of them I think are very useful. When the good Representative Ketover says that the city can be trusted to use appropriate signage, I would pose to the Representative and to anybody else from Portland, what is the standard that will be used? Political speech is highly protected in our society when a sign is for sale to the highest bidder, how do you propose to exclude it? Will there be a committee to decide, will we see "Pres Bush" up there? Will we see "Rolly Ives" up there? Perhaps we will see "Go Jock." If you say that we won't, how do you plan on excluding those messages? Maybe they will use it just for public relations occasionally, maybe during the day if you have a scientist in town, a scientific convention, you can flash "E=MC Square." If a country and western singer is in town at the Civic Center, you might flash "Hee Haw." You could have a bewildering number of messages that will go up there.

Why is it wrong to put "Shop Sam's" on there, is Sam's not a good citizen in our state? Don't they have a right to bid for advertising space? I have heard it said, we wouldn't put "Shop Sam's" up there — I ask, what's wrong with Sam's? Seems like a good citizen to me, why should they be excluded? I can't understand the criteria that will be used. Who gets to put their sign up there? Why are they willing to do it? You know why? Because it is not a little, bitty sign, this sign can be seen from nine nautical miles out to sea, it is a very valuable commercial space. Besides it will be the only one.

Just one more thing — in Bangor recently, Shaw's was taken to court by DOT and told to take down their flashing sign. It was on-premise and they still had to take it down. The city of Augusta asked for a flashing sign for their Civic Center and DOT said to them, you can use the technology of a flashing sign but you cannot have it flash. You can change your message only once a day at midnight. The only reason they let them use the technology is so they wouldn't have to get up on a ladder and change it, so Augusta has been told no, Bangor has been told no and I am sure there are others that have been told that I do not know about. People are right, only Portland is asking for this, only Portland benefits from this but you are putting a huge gap in the law.

I would ask that all of you as you get ready to vote for indefinite postponement, which I urge you to do, to think about what I would flash. I would flash up there (if I could) "A Bad Bill."

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

Representative MANNING: Mr. Speaker, Ladies and Gentlemen of the House: I wasn't going to get up on this and I promised my good friend from South Portland that I wasn't going to get up on this but after twelve years of sitting here, one of the ways I

learned how to kill a bill was to say first that it was a lawyers bill and second it was a Portland bill. I hope we have gone beyond that.

I also hope we start taking a common sense approach in dealing with this legislation. This is common sense.

The good Representative from Bangor led the charge last year against the poor farmers of this state and we allowed the farmers of this state a little leeway so they could sell their products. That was a common sense approach and I hope that this bill is a common sense approach also. Please vote against the indefinite postponement and think about common sense.

Representative Stevens of Bangor requested a roll call.

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

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

The SPEAKER: The pending question before the House is the motion of the Representative from Bangor, Representative Stevens, that L.D. 2268 and all its accompanying papers be indefinitely postponed. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 319

YEA - Aikman, Bailey, H.; Barth, Carleton, Carroll, J.; Cathcart, Clark, M.; Coles, Constantine, Cote, Crowley, Daggett, Donnelly, Duplessis, Farnsworth, Farren, Foss, Garland, Gean, Goodridge, Handy, Hanley, Hastings, Heeschen, Heino, Holt, Joseph, Lawrence, Lemke, Lipman, Luther, Mahany, Marsano, Marsh, Mayo, Mitchell, E.; O'Dea, O'Gara, Ott, Paradis, P.; Pouliot, Powers, Richards, Rydell, Salisbury, Simpson, Skoglund, Stevens, A.; Stevens, P.; Stevenson, Townsend, Treat, Tupper, Vigue, Wentworth, Whitcomb.

NAY - Aliberti, Anderson, Anthony, Ault, Bailey, R.; Bell, Boutilier, Butland, Cahill, M.; Carroll, D.; Chonko, Clark, H.; DiPietro, Dutremble, L.; Erwin, Farnum, Gould, R. A.; Graham, Gray, Greenlaw, Gurney, Gwadosky, Hale, Hichborn, Hichens, Hoglund, Hussey, Jacques, Jalbert, Kerr, Ketover, Ketterer, Kilkelly, Kontos, Kutasi, Larrivee, Lebowitz, Libby, Look, Lord, MacBride, Macomber, Manning, Martin, H.; McHenry, Melendy, Merrill, Michaud, Mitchell, J.; Morrison, Murphy, Nadeau, Nash, Norton, Nutting, Paradis, J.; Pendexter, Pendleton, Pfeiffer, Pineau, Pines, Poulin, Rand, Reed, G.; Reed, W.; Richardson, Ricker, Rotondi, Savage, Sheltra, Small, Spear, Strout, Swazey, Tammaro, Tardy, Tracy, Waterman.

ABSENT - Adams, Bennett, Bowers, Cashman, Dore, Duffy, Hepburn, McKeen, Michael, Oliver, Parent, Paul, Plourde, Ruhlman, Saint Onge, Simonds, The Speaker.

Yes, 56; No, 78; Absent, 17; Paired, 0; Excused, 0.

56 having voted in the affirmative and 78 in the negative with 17 being absent, the motion did not prevail.

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

Committee Amendment "A" (H-951) was read and adopted and the bill assigned for second reading Monday, March 2, 1992.

(H.P. 1479) (L.D. 2091) Bill "An Act to Revise the Charter of the Boothbay Harbor Sewer District" (EMERGENCY) (C. "A" H-953)

(H.P. 1563) (L.D. 2201) Bill "An Act to Strengthen Compliance with Land Use Laws in the Unorganized Territories" (C. "A" H-954)

(H.P. 1455) (L.D. 2067) Bill "An Act to Simplify and Reduce the Cost of State Mapping Efforts" (C. "A" H-955)

(H.P. 1559) (L.D. 2197) Bill "An Act to Improve Disclosures of Automated Teller Machine Transactions" (C. "A" H-958)

(H.P. 1593) (L.D. 2247) Bill "An Act to Create the Waterboro Water District" (EMERGENCY) (C. "A" H-959)

(H.P. 1552) (L.D. 2190) Bill "An Act to Define Conflict of Interest for Probate Judges"

(H.P. 1491) (L.D. 2103) Bill "An Act to Amend the Laws Governing Emergency Medical Technicians" (C. "A" H-961)

(H.P. 1287) (L.D. 1857) Bill "An Act Concerning Authorization to Consent to Powers of Attorney" (C. "A" H-964)

(H.P. 1541) (L.D. 2174) Bill "An Act to Protect School Students from Potential Harm" (C. "A" H-968)

(H.P. 1471) (L.D. 2083) Bill "An Act Concerning the Stocking of Atlantic Salmon in Maine Rivers" (EMERGENCY) (C. "A" H-969)

(H.P. 1532) (L.D. 2163) Bill "An Act to Amend the State's Oil Spill Prevention and Response Provisions" (C. "A" H-971)

(H.P. 1463) (L.D. 2075) Bill "An Act to Prohibit the Dismantling of Products That Contain Hazardous Material near Water Supplies" (C. "A" H-972)

(H.P. 1553) (L.D. 2191) Bill "An Act to Authorize the Construction of Two Veterans' Homes in Eastern and Western Maine" (EMERGENCY) (C. "A" H-973)

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

PASSED TO BE ENGROSSED

As Amended

Bill "An Act to Clarify Permit Provisions for General Commodity Vehicles with a Maximum Gross Weight of 100,000 Pounds" (H.P. 1527) (L.D. 2156) (C.

"A" H-952)

Bill "An Act to Permit the State Lottery Commission to Approve Promotions Involving the Use of Lottery Tickets" (H.P. 1434) (L.D. 2046) (C. "A" H-936)

Bill "An Act to Amend the Maine Health Security Act" (H.P. 1093) (L.D. 1593) (C. "A" H-966)

Bill "An Act to Discourage Illegal Dumping of Waste" (H.P. 1560) (L.D. 2198) (C. "A" H-962)

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

PASSED TO BE ENGROSSED

As Amended

Bill "An Act Creating the Victims' Compensation Board" (H.P. 1265) (L.D. 1834) (H. "A" H-984 to C. "A" H-965)

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

On motion of Representative Tamaro of Baileyville, the House reconsidered its action whereby Committee Amendment "A" (H-965) as amended by House Amendment "A" (H-984) was adopted.

The same Representative offered House Amendment "B" (H-989) to Committee Amendment "A" (H-965) and moved its adoption.

House Amendment "B" (H-989) to Committee Amendment "A" (H-965) was read by the Clerk and adopted.

Committee Amendment "A" (H-965) as amended by House Amendments "A" (H-984) and "B" (H-989) thereto was adopted.

The bill was passed to be engrossed as amended by Committee Amendment "A" (H-965) as amended by House Amendments "A" (H-984) and "B" (H-989) thereto and sent up for concurrence.

PASSED TO BE ENGROSSED

As Amended

Bill "An Act to Amend the Motor Vehicle Salvage Laws" (H.P. 1500) (L.D. 2112) (C. "A" H-928)

Bill "An Act to Prevent Certain Restraint of Trade Practices" (H.P. 1291) (L.D. 1866) (H. "A" H-975 to C. "A" H-919)

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

PASSED TO BE ENACTED

Emergency Measure

An Act to Facilitate the Adoption of a Maine Wellhead Protection Program for the Protection of Public Water System Wellheads (S.P. 447) (L.D. 1191) (C. "A" S-543)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 107 voted in favor of the same and 2 against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

PASSED TO BE ENACTED

Emergency Measure

An Act Regarding the Repayment of Blaine House Scholarships (S.P. 795) (L.D. 1994) (C. "A" S-541)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 108 voted in favor of the same and none against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

PASSED TO BE ENACTED

Emergency Measure

An Act to Amend the Laws Governing Telecommunications Interexchange Carrier Selection (S.P. 797) (L.D. 1996) (C. "A" S-542)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 116 voted in favor of the same and none against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

PASSED TO BE ENACTED

An Act to Provide for Dissolution of a Union School or Withdrawal from a Union School (S.P. 682) (L.D. 1810) (C. "A" S-540)

An Act to Amend the Law Governing the Rumford-Mexico Sewerage District (S.P. 803) (L.D. 2002)

An Act to Amend the Laws Concerning High School Equivalency Certificates (S.P. 828) (L.D. 2132) (C. "A" S-539)

An Act to Repeal a Provision Concerning Low Sulfur Fuel (S.P. 845) (L.D. 2149) (C. "A" S-544)

An Act to Promote Comprehensive and Consistent Statewide Environmental Policy and Regulation (H.P.

892) (L.D. 1289) (C. "A" H-900)

Were reported by the Committee on **Engrossed Bills** as truly and strictly engrossed, passed to be enacted, signed by the Speaker and sent to the Senate.

ENACTOR

Later Today Assigned

An Act Relating to Best Practicable Treatment Determinations in Air Emission Licensing (H.P. 1040) (L.D. 1513) (C. "A" H-907)

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

On motion of Representative Mayo of Thomaston, tabled pending passage to be enacted and later today assigned.

PASSED TO BE ENACTED

An Act Allowing Municipalities to Grant Limited Set-back Variances for Single-family Dwellings (H.P. 1263) (L.D. 1832) (H. "A" H-909 to C. "A" H-901)

An Act to Amend the Charter of the Casco Bay Island Transit District (H.P. 1414) (L.D. 2026) (C. "A" H-908)

Were reported by the Committee on **Engrossed Bills** as truly and strictly engrossed, passed to be enacted, signed by the Speaker and sent to the Senate.

ENACTOR

(Reconsidered)

An Act to Clarify the Subdivision Definition under Maine Land Use Regulation Commission Laws (H.P. 1588) (L.D. 2242) (H. "A" H-913)

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

On motion of Representative Jacques of Waterville, under suspension of the rules, the House reconsidered its action whereby L.D. 2242 was passed to be engrossed.

On further motion of the same Representative, under suspension of the rules, the House reconsidered its action whereby House Amendment "A" (H-913) was adopted.

The same Representative offered House Amendment "A" (H-960) to House Amendment "A" (H-913) and moved its adoption.

House Amendment "A" (H-960) to House Amendment "A" (H-913) was read by the Clerk and adopted.

House Amendment "A" (H-913) as amended by House Amendment "A" (H-960) thereto was adopted.

The bill was passed to be engrossed as amended by House Amendment "A" (H-913) as amended by House Amendment "A" (H-960) thereto in non-concurrence and

sent up for concurrence.

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

**PETITIONS, BILLS AND RESOLVES
REQUIRING REFERENCE**

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

State and Local Government

Bill "An Act to Create an Independent Office of Advocacy for the Purpose of Administrative Efficiency" (H.P. 1709) (L.D. 2390) (Submitted by the Special Commission on Governmental Restructuring pursuant to Public Law 1991, chapter 139.)

Ordered Printed.
Sent up for Concurrence.

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

SENATE PAPERS

Bill "An Act to Rescind Changes in the Driver Education Evaluation Program" (EMERGENCY) (S.P. 931) (L.D. 2386)

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

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

Bill "An Act to Protect Intelligence and Investigative Information in the Custody of the Department of Corrections" (EMERGENCY) (S.P. 927) (L.D. 2383)

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 Amend the Process for Collecting for Costs of Services of the Maine Labor Relations Board, the Panel of Mediators and the State Board of Arbitration and Conciliation" (EMERGENCY) (S.P. 930) (L.D. 2385)

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

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

Bill "An Act to Restructure State Government"

(EMERGENCY) (S.P. 929) (L.D. 2384)

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

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

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

SENATE PAPER

The following Joint Order: (S.P. 932)

ORDERED, the House concurring, that when the House and Senate adjourn, they do so until Monday, March 2, 1992, at three o'clock in the afternoon.

Came from the Senate, read and passed.

Was read and passed in concurrence.

(At Ease to Gong)

The House was called to order by the Speaker.

BILL HELD

Bill "An Act to Facilitate Criminal Enforcement of the Environmental Laws" (H.P. 1129) (L.D. 1654) - In House, Minority "**Ought Not to Pass**" Report of the Committee on **Judiciary** Read and Accepted. HELD at the Request of Representative TRACY of Rome.

Representative Tracy of Rome moved that the House reconsider its action whereby the Minority "Ought Not to Pass" Report was accepted.

On further motion of the same Representative, tabled pending his motion that the House reconsider its action whereby the Minority "Ought Not to Pass" Report was accepted and specially assigned for Monday, March 2, 1992.

The Chair laid before the House the following item: An Act Relating to Best Practicable Treatment Determinations in Air Emission Licensing (H.P. 1040) (L.D. 1513) (C. "A" H-907) which was tabled earlier in the day and later today assigned pending passage to be enacted.

Subsequently, L.D. 1513 was passed to be enacted, signed by the Speaker and sent to the Senate.

On motion of Representative Aliberti of Lewiston, Adjourned at 1:00 p.m. until Monday, March 2, 1992, at three o'clock in the afternoon pursuant to Joint Order (S.P. 932).