

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

One Hundred And Sixteenth Legislature

OF THE

State Of Maine

VOLUME I

FIRST REGULAR SESSION

House of Representatives
December 2, 1992 to May 13, 1993

ONE HUNDRED AND SIXTEENTH MAINE LEGISLATURE
FIRST REGULAR SESSION
12th Legislative Day
Tuesday, February 2, 1993

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

Prayer by Reverend Philip Shearman, First Parish Congregational Church, Gorham.

Pledge of Allegiance.

The Journal of Thursday, January 28, 1993, was read and approved.

COMMUNICATIONS

The following Communication:

COMMISSION ON GOVERNMENTAL ETHICS
AND ELECTION PRACTICES
STATE HOUSE STATION 101
OFFICE OF THE SECRETARY OF STATE
AUGUSTA, MAINE 04333

January 28, 1993

The Honorable Joseph W. Mayo, Clerk
Maine House of Representatives
State House Station #2
Augusta, Maine 04333

Dear Clerk Mayo:

In accordance with 21-A MRSA 744(3)(A), the Commission on Governmental Ethics and Election Practices herewith submits its findings of fact and opinion relating to the November 3, 1992 election for House of Representatives District #101.

Sincerely,

S/Robert P. McArthur
Chairman

STATE OF MAINE
COMMISSION ON GOVERNMENTAL ETHICS
AND ELECTION PRACTICES

IN RE: APPEAL OF)
LOUISE TOWNSEND) FINDINGS OF FACT
House of Representatives) AND OPINION
District 101)

On January 25, 1993, the Commission on Governmental Ethics and Election Practices ("Commission") held a hearing to consider the election appeal and request for investigation filed by Louise Townsend and by Sumner Jones in House District 101, concerning the general election held on November 3, 1992. The following are the Commission's findings of fact and conclusions of law, and its recommendation concerning the election, pursuant to 21-A M.R.S.A. section 744.

Present at the hearing were the Commission Chairman, Robert P. McArthur, and Commission members

Virginia Chamberlin, Gregory G. Cyr, Joseph B. Ezhaya, Richard G. Morton, Robert E. Tierney, Paul E. Violette, and Peter B. Webster. Commission member Richard L. Trafton joined the hearing after its luncheon break. Also present were the Executive Director of the Commission, Marilyn E. Canavan and Commission counsel, Deputy Attorney General Cabanne Howard. Mrs. Townsend was represented by Benjamin P. Townsend, Esq. and Michael D. Seitzinger, Esq. Mr. Jones was represented by Sumner H. Lipman, Esq.

I. BALLOT COUNT

The parties stipulated, and the Commission finds, that at the election on November 3, 1992 in House District 101, Mrs. Townsend received 2,333 votes and Mr. Jones received 2,329 votes.

II. CHALLENGES TO INDIVIDUAL VOTERS

Mr. Jones introduced evidence that five people voting on November 3, 1992, although registered in one of the constituent towns of House District 101, did not reside in the town in which they were registered, and therefore were improperly allowed to vote. With regard to these allegations, the Commission first considered the contention of Mrs. Townsend that it was without jurisdiction to entertain these challenges on the ground that they were not made at the time of the election, as required by 21-A M.R.S.A. section 673, and therefore were waived pursuant to the decision of the Supreme Judicial Court in Opinion of the Justices, 371 A.2d 616, 621-622 (Me. 1977) (Ault-Davis Election). The Commission defeated two motions to find that Mr. Jones waived these challenges, by 5-3 votes, Commission members Chamberlin, Cyr, Morton, Tierney, and Webster voting against the motions, and Commission members Ezhaya, Trafton, and Violette voting in favor.

The Commission then took up the matter of the residence of the five challenged voters. The Commission found, by a 6-2 vote, that Mr. Paul G. Nelson and Ms. Bonnie J. Smith voted in Canaan, whereas their residence, within the meaning of 21-A M.R.S.A. section 122(1) was in Clinton. The Board further found, by a 6-2 vote, that Mr. Thomas Gordon, Mr. Holmes G. Rice and Mrs. Judith Rice voted in Pittsfield, whereas Mr. Gordon's residence was in Newport and Mr. and Mrs. Rices's residence was in Palmyra. Commission members Chamberlin, Cyr, Morton, Tierney, Trafton, and Webster voted in favor of these determinations; Commission members Ezhaya and Violette voted against.

III. OTHER ISSUES

The Commission heard evidence with regard to the legitimacy of eleven other voters who voted at the election on November 3, 1992 (challenges to five voters were withdrawn by Mr. Jones during the course of the hearing), but did not reach the merits of whether these voters had been properly allowed to vote.

The Commission also received stipulated evidence and heard argument with regard to (1) an alleged discrepancy of nine ballots between the number of ballots issued to the Town of Pittsfield according to

the records of the Secretary of State and the number of ballots reported to be used or spoiled by the Town of Pittsfield election officials and (2) an alleged discrepancy of fifteen ballots between the number of ballots cast in Pittsfield and the number of voters checked off on the town voting list as having voted in the election, but the Commission did not reach the merits of these issues.

The Commission also heard argument as to a request by Mr. Jones to conduct an independent investigation of whether any breach of security occurred with regard to the ballots in the House District 101 election when those ballots were in possession of the Secretary of State during the time of the recount. The Commission first decided to postpone a determination until the conclusion of the hearing on the other issues, by a 5-2 vote, Commission members Chamberlain, Cyr, Ezhaya, Morton and Violette voting for, and Commission members Tierney and Webster against. Later the Commission determined, by a unanimous vote, in view of the disposition of the appeal set forth below not to authorize such an investigation in this case.

IV. RECOMMENDATION

In view of the fact that five voters improperly voted on November 3, 1992 in House District 101, and in view of the fact that this number is greater than the four vote difference which existed between the two candidates, the Commission voted, 7-1, consistent with its decision in In Re Sumner Lipman-Daniel Hickey Election, dated January 9, 1991, to recommend to the Legislature that a new election be held in House District 101. Commission members Chamberlin, Cyr, Morton, Tierney, Trafton, Violette and Webster voted in favor; Commission member Ezhaya voted against the recommendation.

COMMISSION ON GOVERNMENTAL
ETHICS AND ELECTION
PRACTICES

Dated: January 28, 1993 S/ROBERT P. McARTHUR
Chairman

Commission on Governmental Ethics
and Election Practices

From: Joseph B. Ezhaya
Subject: Dissenting Opinion in re Louise Townsend
- Sumner Jones appeal and investigation

This is intended to clarify my vote on the Commission's motion to recommend the holding of a new election in House of Representatives District #101. My opinion is based on law, and discussion and testimony presented at the Commission's January 25, 1993 hearing of this matter.

21-A M.R.S.A. Section 673 sets forth the manner in which challenges of persons to vote at any election must be made, and specifies the circumstances that constitute reason for making such challenge. The statute lists eight (8) such reasons and requires that challenges be made on election

day. Among those subject to challenge are persons who are not qualified to be registered voters because they are not residents of the municipality or appropriate electoral district within the municipality. The Commission used as a basis for its findings the fact that two persons voted in Canaan, whereas their residence was in Clinton, and that three persons voted in Pittsfield, whereas the residence of two was in Palmyra and the one in Newport. Because these voters were not properly challenged on election day, it is my opinion that it is inappropriate, if not outrageous, to overturn this election on the basis of their votes. Furthermore, the irregularity seized upon to overturn the election did not favor one candidate over the other. Elections should be "put to bed" on election day whenever possible.

The most severe recommendation we can make as a Commission is to overturn an election. The only bases for making such recommendation must be circumstances that include individual fraud, and other wrongdoing apart from the circumstances listed in Section 673. The facts in this case simply do not indicate that a new election is warranted. Furthermore, a new election is bound to disenfranchise many of those who voted in the previous election because no special election can duplicate the previous one.

I believe this finding and opinion sets a dangerous precedent. I am of the opinion that unchallenged irregularities occur in every election and that allowing candidates to appeal them after the election will throw all close elections into question. The intent of Section 673 is to prevent just that.

We are a commission whose mission is to "uphold" the law. To ignore Section 673 is to question the very purpose of the commission.

On January 9, 1991, I submitted a statement as part of the Hickey/Lipman opinion, copy attached, that points out flaws in the election system. Those flaws continue to exist. We must do something. I think the Secretary of State's Committee to review the election process should look closely at the reasons why the Commission has recommended "new" elections and do something about it.

S/Joseph B. Ezhaya 1/29/93
Commissioner
Commission on Governmental
Ethics and Election Practices

RE: Hickey/Lipman

COMMISSION ON GOVERNMENTAL ETHICS
AND ELECTION PRACTICES

Separate statement of Commissioner Joseph B. Ezhaya:

This comment is written pursuant to an invitation by the Chair of the Commission, Paul McCann, for members of the Commission to provide their individual views to the Committee on Elections.

As a Commission member who voted with the majority, I concur with the elements of the motion we passed. However, I do want to take this opportunity to emphasize to the Committee the problems with the "System" that the Committee should address that may apply to other communities as well as the municipality of Augusta.

It was clear to me that:

(1) Too many voters left the polling place without voting, because of the amount of time it would take to access a polling machine or booth;

(2) The polls were understaffed and some of the workers needed more training;

(3) The amount of time required to be at the polls produced fatigue in workers and subsequent errors and inefficiencies.

Based on the above, I would suggest to the Committee that they survey the election officials to assess the problems at the polling places statewide during the last election in all the voting districts and develop solutions to those problems so this does not happen again.

January 9, 1991

Was read and referred to the House Committee on Elections.

The following Communication:

COMMISSION ON GOVERNMENTAL ETHICS
AND ELECTION PRACTICES
STATE HOUSE STATION 101
OFFICE OF THE SECRETARY OF STATE
AUGUSTA, MAINE 04333

February 1, 1993

The Honorable Joseph W. Mayo, Clerk
Maine House of Representatives
State House Station #2
Augusta, Maine 04333

Dear Clerk Mayo:

In the recent hearings of the Commission on Governmental Ethics and Election Practices, a concern was raised that the other members of the Commission asked me to pass along to you as an addendum to our reports. In the process of hearing the appeal of the election in House District #101, a representative of the Secretary of State's office informed us that there is no strict control exercised over the number of ballots that are actually delivered to each polling place prior to an election. We were told that the printers send ballots to the polls and that they are directed to send a certain specified number. But no one from the Secretary of State's office, apparently, or at the polling place itself actually counts the number of ballots that are to be used in that particular election.

This lack of control over the actual ballots makes

appeals based on counting discrepancies very difficult to adjudicate. If the actual number of ballots is not known, whether some ballots have been lost or willfully removed is impossible to know. It is the strong belief of the members of the Commission that the integrity of the electoral process that we, among others, are asked to oversee requires much stricter control over the actual numbers of ballots that are to be used in each election.

Sincerely,

S/Robert P. McArthur
Chair

Was read and referred to the House Committee on Elections.

The following Communication:

STATE OF MAINE
Department of Administrative and Financial Services

Interdepartmental Memorandum

January 28, 1993

To: Joseph W. Mayo, Clerk of the House
From: S/John D. LaFaver, State Tax Assessor
Subject: Revenue Report, 1992

Enclosed is the Bureau's annual report which analyses collections over the last year. I thought you might be interested in keeping it handy as a ready resource to assist legislators. I would particularly draw your attention to Appendix B which compares Maine tax burdens with other states.

While we are not routinely sending these to all legislators due to fiscal constraints, I have enough available for any legislators who would like a copy of their own.

Was read and with accompanying report ordered placed on file.

The following Communication:

DEPARTMENT OF CONSERVATION
State House Station 22
Augusta, Maine 04333

29 January 1993

The Honorable John L. Martin
Speaker, Maine House of Representatives
State House
Augusta, Maine 04333

Dear Speaker Martin:

The Bureau of Parks and Recreation, Maine Department of Conservation, is pleased to submit the report on its experience controlling timber

harvesting and herbicide application operations in the Allagash Wilderness Waterway as required by 12 MRSA section 670 subsection 3.

Copies of the report's executive summary are provided to all members of the House of Representatives. One copy of the complete report is provided to you and an additional ten copies of the complete report are available in the clerk's office for those representatives who desire information beyond the executive summary. If additional copies of the complete report are needed, do not hesitate to let me know.

Sincerely,

S/C. Edwin Meadows
Commissioner

Was read and with accompanying report ordered placed on file.

The following Communication:

PUBLIC UTILITIES COMMISSION
242 State Street
State House Station 18
Augusta, Maine 04333-0018

February 1, 1993

Clerk of the House
House of Representatives
State House Station 2
Augusta, ME 04333

Dear Clerk Mayo:

In accordance with Title 35-A of the Maine Statutes, I am enclosing the Annual Report of the Maine Public Utilities Commission.

Please do not hesitate to call if you have any questions regarding the materials contained in the report.

Sincerely,

S/Charles A. Jacobs
Administrative Director

Was read and with accompanying report ordered placed on file.

**PETITIONS, BILLS AND RESOLVES
REQUIRING REFERENCE**

The following Bills and Resolution 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:

Aging, Retirement and Veterans

Bill "An Act to Provide Funds for the Maine

National Guard" (EMERGENCY) (H.P. 170) (L.D. 222) (Presented by Representative TRACY of Rome) (Cosponsored by Representative CARROLL of Gray, Senator TITCOMB of Cumberland and Representatives: ERWIN of Rumford, GOULD of Greenville, GRAY of Sedgwick, HATCH of Skowhegan, HOGLUND of Portland, RAND of Portland, VIGUE of Winslow, Senator: CAREY of Kennebec)

Bill "An Act to Increase the Earnings Cap of a Disability Retirement Benefit" (H.P. 180) (L.D. 232) (Presented by Representative NORTON of Winthrop) (Cosponsored by Representatives: MITCHELL of Vassalboro, O'GARA of Westbrook, OLIVER of Portland, Senator: BRANNIGAN of Cumberland)

Ordered Printed.
Sent up for Concurrence.

Agriculture

Bill "An Act to Exempt Certain Greenhouse and Nursery Owners from Licensing Fees" (H.P. 166) (L.D. 218) (Presented by Representative KETTERER of Madison) (Cosponsored by Representative: TARDY of Palmyra)

Ordered Printed.
Sent up for Concurrence.

Human Resources

Bill "An Act to Restrict Administrative Costs of the Designated Protection and Advocacy Agency" (H.P. 178) (L.D. 230) (Presented by Representative WINN of Glenburn) (Cosponsored by Representative BEAM of Lewiston and Representative: LIBBY of Buxton, Senator: PARADIS of Aroostook)

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

On motion of Representative Chonko of Topsham, was referred to the Committee on Human Resources, ordered printed and sent up for concurrence.

Appropriations and Financial Affairs

Bill "An Act Making Unified Appropriations and Allocations for the Expenditures of State Government, General Fund and Other Funds, and Changing Certain Provisions of the Law Necessary to the Proper Operations of State Government for the Fiscal Years Ending June 30, 1994 and June 30, 1995" (EMERGENCY) (H.P. 215) (L.D. 283) (Presented by Representative FOSS of Yarmouth) (Cosponsored by Representative: CHONKO of Topsham, Senators: FOSTER of Hancock, PEARSON of Penobscot) (Governor's Bill)

Bill "An Act to Make Supplemental Appropriations and Allocations for the Expenditures of State Government and to Change Certain Provisions of the Law Necessary to the Proper Operations of State

Government for the Fiscal Years Ending June 30, 1994 and June 30, 1995" (EMERGENCY) (H.P. 216) (L.D. 284) (Presented by Representative FOSS of Yarmouth) (Cosponsored by Representative: CHONKO of Topsham, Senators: FOSTER of Hancock, PEARSON of Penobscot) (Governor's Bill)

Ordered Printed.
Sent up for Concurrence.

Labor

Bill "An Act to Require Health Insurance for Laborers on Public Works Projects" (H.P. 167) (L.D. 219) (Presented by Representative COFFMAN of Old Town) (Cosponsored by Representatives: CLEMENT of Clinton, MORRISON of Bangor, RAND of Portland, Senators: HANDY of Androscoggin, LUTHER of Oxford)

(The Committee on Reference of Bills had suggested reference to the Committee on **Banking and Insurance.**)

On motion of Representative Pineau of Jay, was referred to the Committee on **Labor**, ordered printed and sent up for concurrence.

Banking and Insurance

Bill "An Act to Require Health Insurance to Pay for Weight-loss Programs" (H.P. 172) (L.D. 224) (Presented by Representative COFFMAN of Old Town) (By Request)

Bill "An Act to Amend the Membership of the State Employee Health Commission" (H.P. 200) (L.D. 262) (Presented by Representative MITCHELL of Vassalboro) (Cosponsored by Representatives: DAGGETT of Augusta, JOSEPH of Waterville, PARADIS of Augusta)

Ordered Printed.
Sent up for Concurrence.

Business Legislation

Bill "An Act to License Flight Nurses within the Emergency Medical Services System" (EMERGENCY) (H.P. 210) (L.D. 272) (Presented by Representative KILKELLY of Wiscasset) (Cosponsored by Senator PARADIS of Aroostook and Representatives: GOULD of Greenville, TREAT of Gardiner)

Ordered Printed.
Sent up for Concurrence.

Joint Select Committee on Corrections

Bill "An Act to Revise the Correctional Facility Board of Visitors Laws" (H.P. 212) (L.D. 274) (Presented by Representative JOHNSON of South Portland) (Cosponsored by Representatives: AHEARNE of Madawaska, CLOUTIER of South Portland, DiPIETRO of

South Portland, HOLT of Bath, LARRIVEE of Gorham, RICHARDSON of Portland, SIMONEAU of Thomaston, TOWNSEND of Portland)

Ordered Printed.
Sent up for Concurrence.

Education

Bill "An Act to Permit Children 5 Years of Age to Enter Grade One" (H.P. 184) (L.D. 236) (Presented by Representative TARDY of Palmyra) (Cosponsored by Senator PARADIS of Aroostook)

Bill "An Act Regarding the Approval of School Warrants by Municipal Officers" (H.P. 185) (L.D. 237) (Presented by Representative MITCHELL of Vassalboro) (Cosponsored by Representatives: AULT of Wayne, KILKELLY of Wiscasset)

Bill "An Act Regarding Career Counseling of High School Students" (H.P. 204) (L.D. 266) (Presented by Representative KUTASI of Bridgton) (Cosponsored by Representatives: BAILEY of Township 27, CARLETON of Wells, HEINO of Boothbay, PLOWMAN of Hampden)

Ordered Printed.
Sent up for Concurrence.

Energy and Natural Resources

Bill "An Act to Amend the Shoreland Zoning Law" (H.P. 168) (L.D. 220) (Presented by Representative LORD of Waterboro) (Cosponsored by Representatives: ALIBERTI of Lewiston, ANDERSON of Woodland, BAILEY of Township 27, GOULD of Greenville, GRAY of Sedgwick, HILLOCK of Gorham, HOGLUND of Portland, KERR of Old Orchard Beach, SPEAR of Nobleboro, Senators: FOSTER of Hancock, TITCOMB of Cumberland)

Bill "An Act Regarding Dam Registration Fees" (H.P. 173) (L.D. 225) (Presented by Representative WENTWORTH of Arundel) (Cosponsored by Representatives: JACQUES of Waterville, LORD of Waterboro, MICHAUD of East Millinocket)

Bill "An Act to Establish Uniform Procedures and Standards for Administrative Consent Agreements" (H.P. 179) (L.D. 231) (Presented by Representative MARSH of West Gardiner) (Cosponsored by Representative: TAYLOR of Cumberland, Senators: CIANCHETTE of Somerset, HALL of Piscataquis)

Bill "An Act to Extend the Operating Deadline for Municipal Solid Waste Landfills" (EMERGENCY) (H.P. 191) (L.D. 254) (Presented by Representative DEXTER of Kingfield) (Cosponsored by Senator FOSTER of Hancock and Representatives: ADAMS of Portland, AIKMAN of Poland, ALIBERTI of Lewiston, ANDERSON of Woodland, AULT of Wayne, BAILEY of Township 27, BAILEY of Farmington, BARTH of Bethel, BENNETT of Norway, BRUNO of Raymond, CAMERON of Rumford, CAMPBELL of Holden, CARLETON of Wells, CARON of Biddeford, CARR of Sanford, CARROLL of Gray, CHONKO of Topsham, CLARK of Millinocket, CLOUTIER of South Portland, CLUKEY of Houlton, COFFMAN of Old Town,

CROSS of Dover-Foxcroft, DiPIETRO of South Portland, DONNELLY of Presque Isle, DRISCOLL of Calais, ERWIN of Rumford, FARNUM of South Berwick, FARREN of Cherryfield, GEAN of Alfred, GOULD of Greenville, HALE of Sanford, HATCH of Skowhegan, HEINO of Boothbay, HICHBORN of Howland, HILLOCK of Gorham, HUSSEY of Milo, JALBERT of Lisbon, JONES of Pittsfield, JOY of Island Falls, KERR of Old Orchard Beach, KETTERER of Madison, KILKELLY of Wiscasset, KNEELAND of Easton, KUTASI of Bridgton, LARRIVEE of Gorham, LEMKE of Westbrook, LEMONT of Kittery, LIBBY of Kennebunk, LIBBY of Buxton, LINDAHL of Northport, LOOK of Jonesboro, LORD of Waterboro, MARSHALL of Eliot, MORRISON of Bangor, MURPHY of Berwick, NASH of Camden, NICKERSON of Turner, NORTON of Winthrop, O'GARA of Westbrook, OTT of York, PENDLETON of Scarborough, PLOWMAN of Hampden, POULIN of Oakland, POULIOT of Lewiston, QUINT of Paris, REED of Falmouth, REED of Dexter, ROTONDI of Athens, SAXL of Bangor, SIMONEAU of Thomaston, SKOGLUND of St. George, SPEAR of Nobleboro, STEVENS of Sabattus, STROUT of Corinth, SULLIVAN of Bangor, TARDY of Palmyra, TAYLOR of Cumberland, THOMPSON of Lincoln, TOWNSEND of Eastport, TRACY of Rome, TRUE of Fryeburg, TUFTS of Stockton Springs, VIGUE of Winslow, WINN of Glenburn, YOUNG of Limestone, Senators: BEGLEY of Lincoln, BERUBE of Androscoggin, BUTLAND of Cumberland, CAHILL of Sagadahoc, CAREY of Kennebec, CIANCHETTE of Somerset, GOULD of Waldo, HALL of Piscataquis, HANLEY of Oxford, HARRIMAN of Cumberland, KIEFFER of Aroostook, MARDEN of Kennebec, PARADIS of Aroostook, SUMMERS of Cumberland, WEBSTER of Franklin)

Bill "An Act to Allow the Use of Advanced Lightweight Beverage Containers" (H.P. 193) (L.D. 256) (Presented by Representative JACQUES of Waterville) (Cosponsored by Representatives: ANDERSON of Woodland, GOULD of Greenville, GWADOSKY of Fairfield, LORD of Waterboro, VIGUE of Winslow, Senators: CAREY of Kennebec, MARDEN of Kennebec)

Bill "An Act to Clarify the Municipal Role in Growth Management" (H.P. 195) (L.D. 258) (Presented by Representative TOWNSEND of Eastport) (Cosponsored by Senator VOSE of Washington and Representative: CLOUTIER of South Portland)

Bill "An Act to Encourage the Recycling of Tires from Municipal Landfills" (H.P. 209) (L.D. 271) (Presented by Representative JACQUES of Waterville) (Cosponsored by Senator BALDACCI of Penobscot and Representatives: PLOWMAN of Hampden, SAXL of Bangor)

Bill "An Act to Repeal Point-of-sale Fees for Future Disposal of Certain Items" (H.P. 214) (L.D. 276) (Presented by Representative KUTASI of Bridgton) (Cosponsored by Representatives: BARTH of Bethel, VIGUE of Winslow, Senator: HANLEY of Oxford)

Ordered Printed.
Sent up for Concurrence.

Housing and Economic Development

Bill "An Act to Amend the Laws Governing the Task Force on Defense Realignment and the Economy" (EMERGENCY) (H.P. 194) (L.D. 257) (Presented by

Representative KONTOS of Windham) (Cosponsored by Representative: SMALL of Bath, Senators: KIEFFER of Aroostook, LAWRENCE of York)

Ordered Printed.
Sent up for Concurrence.

Human Resources

Bill "An Act to Enhance Resources of the Division for the Blind and Visually Impaired" (H.P. 171) (L.D. 223) (Presented by Representative OLIVER of Portland) (Cosponsored by Senator CONLEY of Cumberland and Representatives: FARNSWORTH of Hallowell, GEAN of Alfred, MELENDY of Rockland, MORRISON of Bangor, PFEIFFER of Brunswick, RUHLIN of Brewer, Senator: LAWRENCE of York)

Ordered Printed.
Sent up for Concurrence.

Later Today Assigned

Bill "An Act to Expand the Shelter Operating Subsidy Program" (H.P. 181) (L.D. 233) (Presented by Representative GEAN of Alfred) (Cosponsored by Representative: TREAT of Gardiner, Senator: CONLEY of Cumberland)

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

On motion of Representative Melendy of Rockland, tabled pending reference and later today assigned.

Human Resources

Bill "An Act to Provide Assistance to Homeless Persons with Mental Illness" (EMERGENCY) (H.P. 187) (L.D. 239) (Presented by Representative MORRISON of Bangor) (Cosponsored by Senator BUSTIN of Kennebec and Representatives: ADAMS of Portland, CATHCART of Orono, FARNSWORTH of Hallowell, FITZPATRICK of Durham, GEAN of Alfred, OLIVER of Portland, PINEAU of Jay, RICHARDSON of Portland, SULLIVAN of Bangor, WENTWORTH of Arundel, WINN of Glenburn, Senator: CONLEY of Cumberland)

Bill "An Act to Reduce Hospital Costs" (H.P. 197) (L.D. 259) (Presented by Representative MITCHELL of Freeport)

Bill "An Act to Restore the Availability of Prescription Drugs to Persons With HIV or AIDS" (EMERGENCY) (H.P. 203) (L.D. 265) (Presented by Representative CATHCART of Orono) (Cosponsored by Representatives: CHONKO of Topsham, MITCHELL of Freeport, MORRISON of Bangor, PFEIFFER of Brunswick, RAND of Portland, RYDELL of Brunswick, TREAT of Gardiner, Senator: HANDY of Androscoggin)

Bill "An Act to Facilitate the Transport of Bodies Out of State by Funeral Directors" (H.P. 206) (L.D. 268) (Presented by Representative MURPHY of

Berwick) (Cosponsored by Representatives: LEMONT of Kittery, VIGUE of Winslow, Senator: CARPENTER of York)

Ordered Printed.
Sent up for Concurrence.

Judiciary

Bill "An Act to Clarify the Liability of Fire Chiefs" (H.P. 169) (L.D. 221) (Presented by Representative LORD of Waterboro) (Cosponsored by Representatives: GOULD of Greenville, GREENLAW of Standish, Senators: LAWRENCE of York, TITCOMB of Cumberland)

Bill "An Act to Increase the Days on Which Protective Custody Hearings Are Held" (H.P. 175) (L.D. 227) (Presented by Representative CASHMAN of Old Town) (Cosponsored by Representative DORE of Auburn and Representatives: CATHCART of Orono, COTE of Auburn, FARNSWORTH of Hallowell, PLOWMAN of Hampden, ST. ONGE of Greene, Senators: BERUBE of Androscoggin, HANLEY of Oxford)

Bill "An Act to Prevent Intoxication-related Injuries, Deaths and Damages" (H.P. 182) (L.D. 234) (Presented by Representative CATHCART of Orono) (Cosponsored by Representatives: BOWERS of Washington, COTE of Auburn, DAGGETT of Augusta, KETTERER of Madison, STEVENS of Orono)

Bill "An Act to Change the Statutory Provisions Applying to the Dissemination of the Records and Reports Maintained by the State Police" (H.P. 188) (L.D. 240) (Presented by Representative CLUKEY of Houlton) (Cosponsored by Representatives: CARROLL of Gray, DEXTER of Kingfield, DONNELLY of Presque Isle, JOY of Island Falls, Senator: LUDWIG of Aroostook)

Bill "An Act to Require the Use of Standardized Evidence Kits for Cases of Gross Sexual Assault" (H.P. 198) (L.D. 260) (Presented by Representative PLOWMAN of Hampden) (Cosponsored by Senator SUMMERS of Cumberland and Representatives: AULT of Wayne, BAILEY of Township 27, BENNETT of Norway, DONNELLY of Presque Isle, KILKELLY of Wiscasset, LINDAHL of Northport, PENDEXTER of Scarborough, PENDLETON of Scarborough, Senator: CIANCHETTE of Somerset)

Bill "An Act Protecting the Assets of Persons Accused of Crimes as Needed to Hire Legal Counsel" (H.P. 199) (L.D. 261) (Presented by Representative HOLT of Bath) (Cosponsored by Senator CAREY of Kennebec and Representatives: JOHNSON of South Portland, RICHARDSON of Portland)

Bill "An Act Concerning Court Approval of Minor Settlements" (H.P. 205) (L.D. 267) (Presented by Representative LIPMAN of Augusta) (Cosponsored by Senator: CARPENTER of York)

Ordered Printed.
Sent up for Concurrence.

Labor

Bill "An Act to Clarify an Exemption in the Laws Governing Unemployment Compensation" (H.P. 177) (L.D. 229) (Presented by Representative KUTASI of Bridgton) (Cosponsored by Representatives: BAILEY of Township 27, BENNETT of Norway, CARLETON of Wells, HEINO of Boothbay, PLOURDE of Biddeford, PLOWMAN of Hampden)

Bill "An Act to Conform Maine Law Related to Commission Salespersons with Federal Law" (H.P. 183) (L.D. 235) (Presented by Representative RUHLIN of Brewer) (Cosponsored by Senator HANDY of Androscoggin and Representatives: AIKMAN of Poland, ST. ONGE of Greene)

Ordered Printed.
Sent up for Concurrence.

Legal Affairs

Bill "An Act Concerning Maine Wineries and Microbreweries" (EMERGENCY) (H.P. 190) (L.D. 253) (Presented by Representative CONSTANTINE of Bar Harbor) (Cosponsored by Representatives: HOGLUND of Portland, WENTWORTH of Arundel, Senator: LUTHER of Oxford)

Bill "An Act to Reduce Access by Minors to Alcoholic Beverages in Agency Stores" (H.P. 201) (L.D. 263) (Presented by Representative TREAT of Gardiner) (Cosponsored by Representatives: BOWERS of Washington, DAGGETT of Augusta, LEMKE of Westbrook, POULIN of Oakland, STEVENS of Sabattus, Senator: MCCORMICK of Kennebec)

Bill "An Act to Mandate Suspension of a Minor's Operator's License for Possession of Alcohol in a Motor Vehicle" (H.P. 208) (L.D. 270) (Presented by Representative KERR of Old Orchard Beach) (Cosponsored by Representatives: BENNETT of Norway, DIPIETRO of South Portland, GEAN of Alfred, JOSEPH of Waterville, MacBRIDE of Presque Isle, PENDEXTER of Scarborough, PLOURDE of Biddeford, RYDELL of Brunswick, TARDY of Palmyra, Senators: FOSTER of Hancock, TITCOMB of Cumberland)

Ordered Printed.
Sent up for Concurrence.

Marine Resources

Bill "An Act to Establish Cod Hatcheries" (H.P. 211) (L.D. 273) (Presented by Representative MITCHELL of Freeport)

Ordered Printed.
Sent up for Concurrence.

State and Local Government

Bill "An Act to Allow Game Wardens to Receive Remuneration for Serving in Elected Municipal or County Positions" (H.P. 174) (L.D. 226) (Presented by Representative MARSH of West Gardiner) (Cosponsored

by Representative: JACQUES of Waterville)

Bill "An Act to Amend the Laws Governing Paper Streets" (H.P. 186) (L.D. 238) (Presented by Representative DORE of Auburn) (Cosponsored by Representative: FARNSWORTH of Hallowell)

Later Today Assigned

Bill "An Act Concerning Ice-fishing Shacks" (EMERGENCY) (H.P. 192) (L.D. 255) (Presented by Representative HOLT of Bath) (Cosponsored by Representatives: COLES of Harpswell, STEVENS of Sabattus, Senator: CAHILL of Sagadahoc)

(The Committee on Reference of Bills had suggested reference to the Committee on State and Local Government.)

On motion of Representative Joseph of Waterville, tabled pending reference and later today assigned.

State and Local Government

Bill "An Act to Amend the Employee Suggestion System" (H.P. 213) (L.D. 275) (Presented by Representative VIGUE of Winslow) (Cosponsored by Representative TARDY of Palmyra, Senator CAREY of Kennebec and Representatives: LIBBY of Kennebunk, POULIN of Oakland)

RESOLUTION, Proposing an Amendment to the Constitution of Maine to Protect State Parks (H.P. 176) (L.D. 228) (Presented by Representative MITCHELL of Freeport) (Cosponsored by Representatives: ADAMS of Portland, CHONKO of Topsham, COLES of Harpswell, DAGGETT of Augusta, GOULD of Greenville, GRAY of Sedgwick, HEESCHEN of Wilton, LARRIVÉE of Gorham, LORD of Waterboro, MARSH of West Gardiner, MARTIN of Eagle Lake, MICHAUD of East Millinocket, RAND of Portland, ROWE of Portland, RYDELL of Brunswick, TOWNSEND of Portland, TREAT of Gardiner, Senators: PARADIS of Aroostook, PEARSON of Penobscot, VOSE of Washington)

Ordered Printed.
Sent up for Concurrence.

Taxation

Bill "An Act to Create a Presumption of Domicile for Income Tax Purposes" (H.P. 189) (L.D. 252) (Presented by Representative LEMKE of Westbrook) (Cosponsored by Senator ESTY of Cumberland and Representatives: HALE of Sanford, HATCH of Skowhegan, MARTIN of Van Buren)

Ordered Printed.
Sent up for Concurrence.

Transportation

Bill "An Act Regarding Motorized Wheelchairs" (H.P. 202) (L.D. 264) (Presented by Representative ROTONDI of Athens) (Cosponsored by Representatives: BAILEY of Township 27, DAGGETT of Augusta, Senator: BRANNIGAN of Cumberland)

Bill "An Act to Create A Special License Plate for Blue Knights" (H.P. 207) (L.D. 269) (Presented by Representative MURPHY of Berwick) (Cosponsored by Representative RUHLIN of Brewer, Senator CARPENTER of York and Representatives: FARNUM of South Berwick, HALE of Sanford, LIBBY of Kennebunk, MARSHALL of Eliot, REED of Dexter)

Ordered Printed.
Sent up for Concurrence.

ORDERS

On motion of Representative CHONKO of Topsham, the following Joint Order: (H.P. 196)

Ordered, the Senate concurring, that the Joint Standing Committee on Appropriations and Financial Affairs report out a bill, "An Act to Make Supplemental Appropriations in Fiscal Year 1992-93 to Meet Certain Payrolls," to the House.

Was read and passed and sent up for concurrence.

By unanimous consent, ordered sent forthwith to the Senate.

SPECIAL SENTIMENT CALENDAR

In accordance with House Rule 56 and Joint Rule 34, the following item:

In Memory of:

the Honorable Lucia M. Cormier, whose remarkable career included 12 years in the Maine House of Representatives, representing Rumford. Representative Cormier had the distinction of being the first woman to serve as Floor Leader of the House in 1959. She was a dedicated teacher for many years, active on many boards and respected member of the business community. She completed her career with the appointment by President John F. Kennedy as District Collector of Customs. Her life of devoted service serves as an inspiration and model for us all; (HLS 89) by (Cosponsors: Representative ERWIN of Rumford, Speaker MARTIN of Eagle Lake, Senator LUTHER of Oxford, Representative CAMERON of Rumford)

On motion of Representative Erwin of Rumford, was removed from the Special Sentiment Calendar.

Was read.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Rumford, Representative Erwin.

Representative ERWIN: Mr. Speaker, Ladies and Gentlemen of the House: On Saturday, I attended the funeral of the Honorable Lucia M. Cormier at St. Athanasius and St. John's Church in Rumford. It was

a beautiful and impressive service. Father Robert Lee in his remarks stated that in the more than 8 decades of life with which Lucia Cormier was blessed, she used her talents and gifts and service to her community here in Rumford, to her country, and to her church. He mentioned that 83 years ago right here at Rumford St. John's Church she was brought to the Baptismal font by her Godparents. He also said that through all the years he knew her, she always possessed a deep faith in God, a strong devotion to the Mother of Christ and loyalty to the Catholic Church. For these reasons, in 1971, the late Pope Paul the VI bestowed on her the medal of Papal Honor, Propontifica and Ecclesia for the Holy Father and for the church.

I did not have the privilege of knowing Lucia Cormier, that certainly is my loss. She was an inspiration to all. She was an outstanding, dedicated person who gave her all for her community, her country and her church.

She served in this body for 12 years and had the distinction of being the first woman in either party and in either body of the Legislature to be elected as floor leader in 1959. Her opponent for the floor leader position was the late Representative Louis Jalbert of Lewiston. Miss Cormier was highly respected by all, no matter what the political affiliation. At the time she became floor leader, there were only 11 women in the House and one woman in the other body.

Miss Cormier was a graduate of the College of St. Elizabeth in New Jersey and held a Masters Degree from Columbia University. She came back to her Alma Mater, Stephens High School in Rumford, and taught languages, specializing in French and headed the modern language department there for 14 years.

After serving in the Maine Legislature, she made a bid for the United States Senate in 1960 against popular incumbent, Margaret Chase Smith, in the first senatorial contest between women. As the only woman to challenge Senator Smith, Time Magazine captured the uniqueness of the moment with pictures of both women on its cover.

In his comment on Friday, Davis Rawson stated that two women running for the Senate from the same state was absolutely unheard of then, if not now.

In 1961, President John F. Kennedy appointed her as District Collector of Customs. Since that office opened in 1791, there had been 27 appointees and she was the first woman to occupy that position. She was responsible for a staff of 168 and the inspection of 17 ports. She held that position until her retirement in 1974. On that occasion, an editorial in the Portland paper put it well - "Miss Cormier toiled in the vineyards of Democratic politics at a time when it was clearly not the easy route to political success in Maine. Yet success she achieved in abundance and her victories far outnumbered her defeats. The people in Maine are much in her debt."

This past election year was said to be the year of the woman and as Davis Rawson so aptly put it in his commentary last Friday, "She certainly deserves more than just a brief obituary because she was three decades ahead of her time and she left behind a rich legacy of political service in Maine."

The people in Rumford and indeed the entire State of Maine are better off because she walked our way.

Mr. Speaker, when we adjourn today, I request that we do so in the memory of the Honorable Lucia M. Cormier of Rumford.

Subsequently, HLS 89 was adopted. Sent up for concurrence.

CONSENT CALENDAR

First Day

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

(H.P. 8) (L.D. 15) Bill "An Act to Increase the Debt Limit of the South Berwick Sewer District" (EMERGENCY) Committee on Utilities reporting "Ought to Pass"

There being no objections, the above item was ordered to appear on the Consent Calendar of Thursday, February 4, 1993, under the listing of Second Day.

ORDERS OF THE DAY

BILL HELD

Bill "An Act to Amend the Credit Reporting Laws" (H.P. 131) (L.D. 172)

- In House, Referred to the Committee on Banking and Insurance on January 26, 1993.

- In Senate, Referred to the Committee on Business Legislation in non-concurrence on January 28, 1993.

- In House, House Receded and Concurred. HELD at the request of Representative GWADOSKY of Fairfield.

The SPEAKER PRO TEM: The Chair understands that the Representative from Fairfield, Representative Gwadosky, wishes to take no further action.

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

REPORTS OF COMMITTEES

Ought to Pass Pursuant to Joint Order (H.P. 196)

Representative CHONKO from the Committee on Appropriations and Financial Affairs on Bill "An Act to Make Supplemental Appropriations in Fiscal Year 1992-93 to Meet Certain Payrolls" (EMERGENCY) (H.P. 217) (L.D. 285) reporting "Ought to Pass" - Pursuant to Joint Order (H.P. 196)

Report was read and accepted, the bill read once. Under suspension of the rules, the bill was read a second time.

The SPEAKER PRO TEM: The Chair recognizes the Representative from South Portland, Representative DiPietro.

Representative DIPIETRO: Mr. Speaker, Men and Women of the House: I would like to pose a couple of questions through the Chair.

This bill does not tell us how much money was appropriated and is this the same department we are

appropriating money for that we appropriated money for the first day we came back?

My other question is, how long are we going to have to come up with a supplemental budget for people who have a budget but can't learn to live within it? I feel very sorry for those people who have money coming to them but it is obvious that the administrative people and their supervisors evidently did not put enough money in at the time the budget was appropriated. We are back here now, we will be back here in another three weeks or a month from now appropriating some more money. I just don't think that we should continue to do this because every time a department runs out of money, they come to Appropriations and ask them to give them a supplement. I think it is time we put a stop to it and I will vote no on this bill.

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

The Chair recognizes the Representative from Topsham, Representative Chonko.

Representative CHONKO: Mr. Speaker, Ladies and Gentlemen of the House: As you know, we in Appropriations are still working on the Governor's emergency budget for FY93. Although we are close to reporting that bill out, this bill is needed to fund tomorrow's payroll at AMHI and BMHI. You will find the appropriation less than what we did in L.D. 18 because we are only funding one payroll in this bill, whereas L.D. 18 funded two payrolls. AMHI and BMHI have allotment reserves from the second quarter that can be applied to tomorrow's payroll.

We can hash L.D. 18 all over again — I know a lot of you weren't very happy about it and neither was I, but there was not enough money there to meet those payrolls. There still isn't for the simple reason we do not have that Supplemental Budget out. It is very close to coming out and I would hope that you would support this bill.

Subsequently, L.D. 285, under suspension of the rules, was passed to be engrossed and sent up for concurrence.

By unanimous consent, ordered sent forthwith to the Senate.

On motion of Representative Jacques of Waterville, the House reconsidered its action whereby Bill "An Act to Repeal Point-of-sale Fees for Future Disposal of Certain Items" (H.P. 214) (L.D. 276) was referred to the Committee on Energy and Natural Resources.

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

The Chair laid before the House the following matter: Bill "An Act Concerning Ice-fishing Shacks" (EMERGENCY) (H.P. 192) (L.D. 255) which was tabled earlier in the day and later today assigned pending reference.

On motion of Representative Joseph of Waterville, was referred to the Committee on Marine Resources, ordered printed and sent up for concurrence.

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

PASSED TO BE ENACTED

Emergency Measure

An Act to Make Supplemental Appropriations in Fiscal Year 1992-93 to Meet Certain Payrolls (H.P. 217) (L.D. 285)

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

The SPEAKER PRO TEM: The Chair recognizes the Representative from South Portland, Representative DiPietro.

Representative DIPIETRO: Mr. Speaker, I would like to pose some questions through the Chair.

I asked the question when I got up the first time — how much money was being appropriated and all I got from the Chair of the Appropriations Committee was less than the last time.

Could I possibly find out how much money is being appropriated?

Also, for what length of time is this going to cover the payroll? Are we coming back shortly within the next couple of weeks and do it again?

When we do vote, I would request a roll call.

The SPEAKER PRO TEM: The Representative from South Portland, Representative DiPietro, has posed a series of questions through the Chair to the Representative from Topsham, Representative Chonko, who may respond if she so desires.

The Chair recognizes that Representative.

Representative CHONKO: Mr. Speaker, Ladies and Gentlemen of the House: I am sorry that I didn't answer your figure questions before. The answer is, in this particular bill, it is \$124,224. One payroll is a little over \$300,000. The next one will be implemented in the Supplemental Budget.

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

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

The SPEAKER: The pending question before the House is passage to be enacted. This being an emergency measure, a two-thirds vote of all the members elected to the House is necessary. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 4

YEA - Adams, Ahearne, Aikman, Anderson, Ault, Beam, Bowers, Brennan, Campbell, Carleton, Carr, Carroll, Cashman, Cathcart, Chase, Chonko, Clark, Clement, Cloutier, Coffman, Constantine, Cote, Cross, Daggett, Donnelly, Dore, Driscoll, Erwin, Faircloth, Farnsworth, Farren, Fitzpatrick, Foss, Gamache, Gwadosky, Hale, Hatch, Hichborn, Hoglund, Holt, Hussey, Jacques, Jalbert, Johnson, Jones, Joseph, Joy, Kneeland, Kontos, Kutasi, Larrivee, Lemke, Libby

Jack, Libby James, Lindahl, Lipman, Look, Lord, MacBride, Martin, H.; Melendy, Michael, Michaud, Mitchell, E.; Mitchell, J.; Morrison, Nadeau, Nickerson, Norton, O'Gara, Oliver, Ott, Paradis, P.; Pendexter, Pfeiffer, Pinette, Plourde, Plowman, Poulin, Pouliot, Quint, Rand, Reed, G.; Reed, W.; Richardson, Ricker, Robichaud, Rowe, Ruhlin, Rydell, Saint Onge, Saxl, Simonds, Simoneau, Spear, Stevens, A.; Stevens, K.; Strout, Sullivan, Taylor, Thompson, Townsend, E.; Tracy, Treat, True, Tufts, Walker, Wentworth, Whitcomb, Winn, Young, Zirkilton.

NAY - Aliberti, Bailey, H.; Bailey, R.; Barth, Bennett, Bruno, Caron, Clukey, Coles, Dexter, Dipietro, Dutremble, L.; Farnum, Gean, Gould, R. A.; Gray, Greenlaw, Heino, Lemont, Marshall, Murphy, Nash, Townsend, G.; Vigue.

ABSENT - Cameron, Heeschen, Hillock, Kerr, Ketterer, Kilkelly, Marsh, Pendleton, Pineau, Rotondi, Skoglund, Small, Swazey, Tardy, The Speaker.

Yes, 112; No, 24; Absent, 15; Paired, 0; Excused, 0.

112 having voted in the affirmative and 24 in the negative with 15 being absent, the bill was passed to be enacted, signed by the Speaker pro tem and sent to the Senate.

By unanimous consent, ordered sent forthwith to the Senate.

On motion of Representative Jacques of Waterville, Adjourned at 5:01 p.m. until Thursday, February 4, 1993, at ten o'clock in the morning in memory of Lucia M. Cormier of Rumford, a former member of the House of Representatives.
