

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
15th Legislative Day
Wednesday, February 10, 1993

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

Prayer by Honorable Anne M. Larrivee, Gorham.
The Journal of Tuesday, February 9, 1993, was read and approved.

SENATE PAPERS

The following Communication:

Maine State Senate
Augusta, Maine 04333

February 9, 1993

The Honorable John L. Martin
Speaker of the House
116th Legislature
Augusta, Maine 04333

Dear Speaker Martin:

In accordance with Joint Rule 38, please be advised that the Senate today confirmed, upon the recommendation of the Joint Standing Committee on Banking and Insurance, William N. Lund of Falmouth for reappointment as Administrator of the Bureau of Consumer Credit Protection.

Sincerely,

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

Was read and ordered placed on file.

The following Communication:

Maine State Senate
Augusta, Maine 04333

February 9, 1993

The Honorable John L. Martin
Speaker of the House
116th Legislature
Augusta, Maine 04333

Dear Speaker Martin:

In accordance with Joint Rule 38, please be advised that the Senate today confirmed the following:

Upon the recommendation of the Joint Standing Committee on Education:

Peter E. Geiger of Lewiston for appointment to the State Board of Education. Peter E. Geiger is replacing Jane Amero.

William J. McKee, Jr. of Kingfield for

appointment to the State Board of Education. William J. McKee, Jr. is replacing Wendell Eaton.

Marjorie M. Medd of Paris for reappointment to the State Board of Education.

Carol D. Stewart of Presque Isle for appointment to the State Board of Education. Carol D. Stewart is replacing Della Shaw.

Sincerely,

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

Was read and ordered placed on file.

Bill "An Act to Allow Retirement Credits for Previous Municipal Employment" (S.P. 134) (L.D. 425)

Bill "An Act to Provide Fully Paid Health Insurance Benefits to Retired Teachers" (S.P. 135) (L.D. 426)

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

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

Bill "An Act Concerning Tax Anticipation Notes for Fiscal Year 1993-94" (EMERGENCY) (S.P. 128) (L.D. 365)

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

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

Bill "An Act Regarding Escrow Accounts of Taxes and Insurance by Mortgagees" (S.P. 122) (L.D. 360)

Bill "An Act Relating to Workers' Compensation Insurance" (S.P. 123) (L.D. 361)

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

Were referred to the Committee on **Banking and Insurance** in concurrence.

Bill "An Act to Provide for the Registration and Licensing of Motor Vehicle Body Shops" (S.P. 125) (L.D. 362)

Bill "An Act to Include Snowmobiles under the Franchise Laws" (S.P. 127) (L.D. 364)

Came from the Senate, referred to the Committee

on **Business Legislation** and Ordered Printed.

Were referred to the Committee on **Business Legislation** in concurrence.

Bill "An Act Concerning Split Sentences" (S.P. 130) (L.D. 421)

Came from the Senate, referred to the **Joint Select Committee on Corrections** and Ordered Printed.

Was referred to the **Joint Select Committee on Corrections** in concurrence.

Bill "An Act to Require the Bureau of General Services to Purchase School Buses in Lots" (S.P. 126) (L.D. 363)

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

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

Bill "An Act Concerning Rules of the Department of Environmental Protection" (S.P. 137) (L.D. 428)

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

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

Bill "An Act to Provide for the 1993 and 1994 Allocations of the State Ceiling on Private Activity Bonds" (EMERGENCY) (S.P. 138) (L.D. 429)

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

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

Bill "An Act to Create an Emergency Services System for Persons with Mental Illness in Kennebec County" (S.P. 131) (L.D. 422)

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 Enact a New Article on Negotiable Instruments in and to Make Necessary Conforming Amendments to the Uniform Commercial Code" (S.P. 129) (L.D. 381)

Bill "An Act to Encourage Good Samaritan Drug and Medical Supply Donations" (S.P. 139) (L.D. 430)

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

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

Bill "An Act to Amend the Liquor Laws Pertaining to the Retail Sale of Wine" (S.P. 120) (L.D. 358)

Bill "An Act to Allow Young People to Accompany Their Parents When Voting" (S.P. 136) (L.D. 427)

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

Were referred to the Committee on **Legal Affairs** in concurrence.

Bill "An Act to Establish Scallop Drag Sizes for Waters within the 3-mile Limit" (S.P. 133) (L.D. 424)

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

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

Bill "An Act to Exempt Employees of the Public Utilities Commission from Furlough and Shutdown Days" (EMERGENCY) (S.P. 119) (L.D. 357)

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

On motion of Representative Clark of Millinocket, was referred to the Committee on **Utilities** in non-concurrence and sent up for concurrence.

Bill "An Act to Establish a Part of the Boundary Between Enfield and Lowell" (S.P. 132) (L.D. 423)

Bill "An Act to Amend the Charter of the Northern Maine Regional Planning Commission" (S.P. 140) (L.D. 431)

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

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

Bill "An Act to Amend the Laws Governing Use of Handicap Placards in Motor Vehicles" (S.P. 121) (L.D. 359)

Came from the Senate, referred to the Committee

on **Transportation** and Ordered Printed.

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

Non-Concurrent Matter

Bill "An Act to Prevent Intoxication-related Injuries, Deaths and Damages" (H.P. 182) (L.D. 234) which was referred to the Committee on **Judiciary** in the House on February 2, 1993.

Came from the Senate referred to the Committee on **Legal Affairs** in non-concurrence.

The House voted to recede and concur.

COMMUNICATIONS

The following Communication:

STATE OF MAINE
HOUSE OF REPRESENTATIVES
SPEAKER'S OFFICE
AUGUSTA, MAINE 04333

February 8, 1993

Hon. Joseph W. Mayo
Clerk of the House
State House Station #2
Augusta, Maine 04333

Dear Clerk Mayo:

This is to notify you that I have today made the following appointments:

Pursuant to my authority under 5 MRSA, Section 19292, I have reappointed Rep. Charlene B. Rydell, of Brunswick, to the Committee to Advise the Department of Human Services on AIDS;

Pursuant to my authority under Chapter 934 of the Public Laws of 1989, I have reappointed Rep. Donald Gean, of Alfred, to the Maine Council on Alcohol and Drug Abuse Prevention and Treatment;

Pursuant to my authority under 3 MRSA, Section 231, I have reappointed Rep. Michael Michaud, of East Millinocket, and Rep. John L. Martin, of Eagle Lake, to the New England and Eastern Canada Legislative Commission;

Pursuant to my authority under Chapter 588 of the Public Laws of 1989, I have reappointed Rep. Charlene Rydell, of Brunswick, to the Maine Health Program Advisory Committee;

Pursuant to my authority under 23 MRSA, Section 4501, I have reappointed Rep. Robert E. Hussey, Jr., of Milo, to the Maine Transportation Capital Improvement Planning Commission;

Pursuant to my authority under 20-A MRSA, Section 652, I have appointed Rep. Elizabeth Mitchell, of

Vassalboro, to the Education Commission of the States.

Sincerely,

S/John L. Martin
Speaker of the House

Was read and ordered placed on file.

The following Communication:

STATE OF MAINE
SUPREME JUDICIAL COURT
AUGUSTA, MAINE 04330

February 8, 1993

The Honorable Dennis L. Dutremble
President of the Senate
116th Maine Legislature
Capitol Building - Third Floor
Augusta, Maine 04333

The Honorable John L. Martin
Speaker of the House
116th Maine Legislature
Capitol Building - Third Floor
Augusta, Maine 04333

Dear President Dutremble and Speaker Martin:

I am pleased to accept your invitation to address a Joint Convention of the House and Senate on Thursday, February 18, 1993 at 10:30 a.m. I look forward to having the opportunity to report on the operation of the third branch of government and to acquaint the Legislature with our current plans.

I will see you on the 18th.

Sincerely yours,

S/Daniel E. Wathen

Was read and ordered placed on file.

The following Communication: (S.P. 124)

116th Maine Legislature

February 4, 1993

Senator John J. O'Dea
Rep. Elizabeth H. Mitchell
Chairpersons
Joint Standing Committee on Education
116th Legislature
Augusta, Maine 04333

Dear Chairs:

Please be advised that Governor John R. McKernan, Jr. has nominated Robert J. Roy of Yarmouth for appointment as the student member, Brian C. Thayer of Manchester for appointment and Edward F. Gorham of Randolph and Roy P. Hibyan of Jonesport for

reappointments as members of the Maine Technical College System Board of Trustees.

Pursuant to Title 20-A, MRSA Section 12705, these nominations will require review by the Joint Standing Committee on Education and confirmation by the Senate.

Sincerely,

S/Dennis L. Dutremble
President of the Senate

S/John L. Martin
Speaker of the House

Came from the Senate, Read and Referred to the Committee on Education.

Was Read and Referred to the Committee on Education in concurrence.

The following Communication: (S.P. 145)

116th Maine Legislature

February 9, 1993

Senator Gerard P. Conley, Jr.
Rep. Constance D. Cote
Chairpersons
Joint Standing Committee on Judiciary
116th Legislature
Augusta, Maine 04333

Dear Chairs:

Please be advised that Governor John R. McKernan, Jr. has withdrawn his nomination of Peter Murray of Portland for appointment as a Justice of the Maine Superior Court.

Pursuant to the Constitution, Article V, Part 1, Section 8, this nomination is currently pending before the Joint Standing Committee on Judiciary.

Sincerely,

S/Dennis L. Dutremble
President of the Senate

S/John L. Martin
Speaker of the House

Came from the Senate, Read and Referred to the Committee on Judiciary.

Was Read and Referred to the Committee on Judiciary in concurrence.

(At Ease to Gong)

The House was called to order by the Speaker.

REPORTS OF COMMITTEES

Ought to Pass as Amended

Representative FOSS from the Committee on Appropriations and Financial Affairs on Bill "An Act to Make Additional Appropriations and Allocations for the Expenditures of State Government for the Fiscal Year Ending June 30, 1993" (EMERGENCY) (H.P. 24) (L.D. 27) (Governor's Bill) reporting "Ought to Pass" as amended by Committee Amendment "A" (H-21)

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

Committee Amendment "A" (H-21) was read by the Clerk.

Representative Tracy of Rome requested a roll call on adoption of Committee Amendment "A" (H-21).

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 adoption of Committee Amendment "A" (H-21). Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 5

YEA - Aikman, Anderson, Ault, Bailey, H.; Bailey, R.; Barth, Bennett, Bruno, Cameron, Campbell, Carleton, Carr, Carroll, Chonko, Clukey, Cross, Dexter, Farnum, Farren, Foss, Greenlaw, Heino, Hichborn, Hillock, Jones, Joy, Kerr, Kneeland, Kutasi, Lindahl, Look, Lord, MacBride, Marshall, Michaud, Murphy, Nash, Nickerson, Ott, Pendexter, Pendleton, Pouliot, Quint, Reed, G.; Reed, W.; Robichaud, Simoneau, Stevens, A.; Taylor, Thompson, Tufts, Whitcomb, Young, Zirnkilton.

NAY - Adams, Ahearne, Aliberti, Beam, Bowers, Brennan, Caron, Cathcart, Chase, Clark, Clement, Cloutier, Coffman, Coles, Constantine, Cote, Daggett, DiPietro, Dore, Driscoll, Erwin, Faircloth, Farnsworth, Fitzpatrick, Gamache, Gean, Gould, R. A.; Gray, Gwadosky, Hale, Hatch, Heeschen, Holt, Hussey, Jacques, Jalbert, Johnson, Joseph, Ketterer, Kilkelly, Kontos, Larrivee, Lemke, Lipman, Martin, H.; Melendy, Michael, Mitchell, E.; Mitchell, J.; Morrison, Nadeau, Norton, O'Gara, Oliver, Paradis, P.; Pfeiffer, Pinette, Plourde, Poulin, Richardson, Ricker, Rotondi, Rowe, Ruhlin, Rydell, Saint Onge, Saxl, Simonds, Skoglund, Stevens, K.; Strout, Sullivan, Tardy, Townsend, E.; Townsend, G.; Tracy, Treat, Vigue, Walker, Wentworth, Winn, The Speaker.

ABSENT - Cashman, Donnelly, Dutremble, L.; Høglund, Lemont, Libby Jack, Libby James, Marsh, Pineau, Plowman, Rand, Small, Spear, Swazey, True.

Yes, 54; No, 82; Absent, 15; Paired, 0; Excused, 0.

54 having voted in the affirmative and 82 in the negative with 15 being absent, the motion to adopt Committee Amendment "A" (H-21) did not prevail.

On motion of Representative Rydell of Brunswick,

having voted on the prevailing side, the House reconsidered its action whereby Committee Amendment "A" (H-21) was not adopted.

On motion of Representative Chonko of Topsham, tabled pending adoption of Committee Amendment "A" (H-21) and specially assigned for Tuesday, February 16, 1993.

ORDERS OF THE DAY

TABLED AND TODAY ASSIGNED

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

HOUSE ORDER - Relative to amending the House Rules by amending House Rule 6 and adding House Rule 6-A.

TABLED - February 9, 1993 (pursuant to House Rule #54)
 PENDING - Passage. (2/3 Vote Required)

The SPEAKER: The Chair recognizes the Representative from Waldo, Representative Whitcomb.

Representative WHITCOMB: Mr. Speaker, Men and Women of the House: We have before us an amendment to the House Rules which I hope will receive the unanimous support of this body. I will try to briefly explain the two provisions of this rule.

The matter is an item that I think would help reestablish some credibility in the elections process that has come to be a point of a great deal of difficulty and, frankly, a cloud over all of us, irregardless of political party. It is a very simple amendment. In fact, it allows the legislature's elections committee to be evenly divided between the political parties and the appointments to be made between the two political parties.

I offer this, following the same example that this body used when it adopted last session the amendment offered by the former Representative of Thomaston, now Clerk of the House, Representative Mayo, when he evenly balanced the Ethics Commission. It follows the example that the people of Maine adopted when they evenly balanced the Redistricting Commission, which is now looking over the apportionment of seats in the legislature.

I think the matter is one of fairness and I would urge the House to adopt it unanimously and follow the same kind of bipartisan spirit that I intend when I support the rule change that the Majority Leader has offered as the next item.

The SPEAKER: The Chair recognizes the Representative from Fairfield, Representative Gwadosky.

Representative GWADOSKY: Mr. Speaker, Ladies and Gentlemen of the House: I would be happy to respond and would urge you in fact to not adopt the proposed rule. I have to be honest with you that just within the last two or three minutes I felt that the Representative from Waldo had told me he was going to table this measure so I hadn't given it a great deal of thought. I intended to table mine and will continue to table mine under the basic premise that I am somewhat concerned about changing (under any circumstance) the rules in the middle of the game here. We have a structure in place and I indicated to many Democrats and Republicans that I had planned

to table my particular Order for a period of time until we have a chance to let this series of ongoing items before the Elections Committee go through before we actually adopted rules in fairness to both Democrats and Republicans.

I guess my concern with this particular thing is twofold. As you may or may not know, the House Committee on Elections has been of this same makeup for somewhere around the last ten years. I have supported areas — in fact I cosponsored the legislation last year dealing with changing the Ethics Commission to make that an equal split in which you have an equal number of Democrats and Republicans and they pick a neutral Chair. I thought that made sense because they in fact are the ones that make recommendations, not only on elections but on a variety of other campaign-related issues that you and I are involved in whenever we run. I thought it was important to send that signal out.

But, with this issue and the equalization of this particular committee, I am a bit surprised that it didn't come up earlier in the process when we were discussing the makeup of committees and what the appropriate makeup is. I am not as concerned about the makeup of this particular committee, I have great confidence in the Democrats and Republicans who are on the House Committee on Elections, but the reality is, ladies and gentlemen of the House, that committee cannot make a final determination. The Constitution clearly states that only the members of this body, acting as a whole, can make the determination as to whether to seat or unseat any member.

The only responsibility that the House Elections Committee has is to make a recommendation to you and I, but you and I have the final say. That is stated in the Constitution and that is why I think that the current makeup is not an issue that we have to deal with at this time. I think it is an attempt perhaps to change the rules in the middle of the game and gives the impression that there is something wrong when in fact I don't think there is. I have great confidence in the members of that committee and I think that they will look at the information that is being provided to them, make a recommendation to us, and then I think we need to fulfill our obligation and make that determination as to whether to seat or not to seat the individuals that may be coming before us.

So once again, I would urge you not to adopt this rule. I don't think it is necessary at this point in time and I think it does have the effect of changing the rules or attempting to change the rules in the middle of the game.

The SPEAKER: The Chair recognizes the Representative from Waldo, Representative Whitcomb.

Representative WHITCOMB: Mr. Speaker, Men and Women of the House: In a quick response to the comments from the Majority Floor Leader, it seems to me that we are going to be facing a number of very serious and very fundamental discussions about our elections process throughout this session.

I regret that I did not think of taking this amendment or even think of the issues at the time the Rules Committee was meeting. I guess I had not been aware or had forgotten the fact that there would be five Democrats and two Republicans on this House Committee. I just think that we are at a critical juncture at this point in time in terms of reforming our process to give the public full confidence that we are approaching these in a fair manner. I think

it is a critical time to make a change and so I would urge adoption of this rule change and request a Division when the vote is taken.

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

Representative JACQUES: Mr. Speaker, Ladies and Gentlemen of the House: I don't want to get into the politics of this whole situation but I would like to point out that the committee has met twice and will be meeting again tomorrow and I don't want anyone to be under the assumption that the House Committee on Elections will be the committee that will be reviewing the electoral process in the State of Maine. I believe that function has now been turned over to the Legal Affairs Committee and, hopefully, they will be doing that with study committees.

All the House Committee on Elections does is look at elections that have been held and make recommendations on who should be seated when there is doubt or a question. That is all. We will not be rewriting the election laws and I just wanted to make that clear to everyone.

The SPEAKER: The Chair will order a vote. The pending question before the House is passage of House Order Relative to amending the House Rules by amending House Rule 6 and adding House Rule 6-A, a two-thirds vote being necessary. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

Representative Whitcomb of Waldo 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 passage of House Order Relative to amending the House Rules by amending House Rule 6 and adding House Rule 6-A, a two-thirds vote being necessary. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 6

YEA - Aikman, Anderson, Ault, Bailey, H.; Bailey, R.; Barth, Bennett, Bruno, Cameron, Campbell, Carleton, Carr, Chase, Clukey, Cross, Dexter, Farnum, Farren, Foss, Greenlaw, Heino, Hillock, Johnson, Jones, Joy, Kneeland, Kutasi, Lindahl, Lipman, Look, Lord, MacBride, Marshall, Michael, Murphy, Nash, Nickerson, Norton, Ott, Pendexter, Pendleton, Quint, Reed, G.; Reed, W.; Robichaud, Rowe, Simoneau, Stevens, A.; Taylor, Thompson, Townsend, E.; Tufts, Whitcomb, Young, Zirnkilton.

NAY - Adams, Ahearne, Aliberti, Beam, Bowers, Brennan, Caron, Carroll, Cathcart, Chonko, Clark, Clement, Cloutier, Coffman, Coles, Constantine, Cote, Daggett, DiPietro, Dore, Driscoll, Erwin, Faircloth, Farnsworth, Fitzpatrick, Gamache, Gean, Gould, R. A.; Gray, Gwadosky, Hale, Hatch, Hichborn, Holt, Hussey, Jacques, Jalbert, Joseph, Kerr, Ketterer, Kilkelly, Kontos, Larrivee, Lemke, Martin, H.; Melendy, Michaud, Mitchell, E.; Mitchell, J.; Morrison, Nadeau, O'Gara, Oliver, Paradis, P.; Pfeiffer, H-142

Pinette, Plourde, Pouliot, Richardson, Ricker, Rotondi, Ruhlin, Rydell, Saint Onge, Saxl, Simonds, Skoglund, Stevens, K.; Sullivan, Tardy, Townsend, G.; Tracy, Treat, Vigue, Walker, Wentworth, Winn, The Speaker.

ABSENT - Cashman, Donnelly, Dutremble, L.; Heeschen, Hoglund, Lemont, Libby Jack, Libby James, Marsh, Pineau, Plowman, Poulin, Rand, Small, Spear, Strout, Swazey, True.

Yes, 55; No, 78; Absent, 18; Paired, 0; Excused, 0.

55 having voted in the affirmative and 78 in the negative with 18 being absent, the motion did not prevail.

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

JOINT ORDER - Relative to amending the Joint Rules by adding a new Joint Rule 12-D (H.P. 256) Read in House February 4, 1993

TABLED - February 9, 1993 by Representative GWADOSKY of Fairfield.

PENDING - Passage. (2/3 Vote Required)

On motion of Representative Gwadosky of Fairfield, retabled pending passage (2/3 Vote Required) and specially assigned for Thursday, February 11, 1993.

(Off Record Remarks)

On motion of Representative Driscoll of Calais, Adjourned at 7:19 p.m. until Thursday, February 11, 1993, at nine o'clock in the morning.