

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
19th Legislative Day
Thursday, February 18, 1993

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

Prayer by Reverend Jean P. Bass, West Parish Congregational Church, Bethel.

The Journal of Wednesday, February 17, 1993, was read and approved.

At this point, the Speaker announced the presence in the Hall of the House of Representative-elect TOWNSEND from Canaan. The Speaker appointed the following Representatives to escort the Representative-elect to the Office of the Governor to take and subscribe the oath necessary to qualify her for the discharge of her official duties:

Representative GWADOSKY of Fairfield
Representative HATCH of Skowhegan
Representative KETTERER of Madison
Representative PARADIS of Augusta
Representative TOWNSEND of Portland
Representative ROTONDI of Athens

Subsequently, Representative Gwadosky reported that the necessary oath had been taken by the Representative to qualify her to enter upon her official duties.

At this point, the Speaker announced that Representative QUINT would be assigned seat 85 and Representative TOWNSEND of Canaan would be assigned seat 6.

At this point, a message came from the Senate, borne by Senator BUSTIN of that Body, proposing a Joint Convention to be held in the Hall of the House at 10:30 a.m. for the purpose of extending to the Honorable Daniel E. Wathen, Chief Justice of the Maine Supreme Judicial Court, and Members of the Judiciary an invitation to attend the Convention and to make such communication as pleases the Chief Justice.

Thereupon, the House voted to concur in the proposal for a Joint Convention to be held at 10:30 a.m. and the Speaker appointed Representative GWADOSKY of Fairfield to convey this message to the Senate.

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

SENATE PAPERS

Bill "An Act Concerning the Degree-granting Authority of Husson College" (S.P. 161) (L.D. 526)

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

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

Bill "An Act to Eliminate the Necessity to License Gravel Pits" (S.P. 162) (L.D. 527)

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 Amend the Laws Concerning Immunity from Civil Liability" (S.P. 163) (L.D. 528)

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 Circuit Breaker Program" (S.P. 160) (L.D. 525)

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

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

Non-Concurrent Matter

Bill "An Act to Centralize Licensing for Retail Businesses" (H.P. 399) (L.D. 512) which was referred to the Committee on **Business Legislation** in the House on February 16, 1993.

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

On motion of Representative Hوجلund of Portland, tabled pending further consideration and later today assigned.

Non-Concurrent Matter

Bill "An Act to Repeal the Requirement for Registration of Truck Campers" (H.P. 377) (L.D. 490) which was referred to the Committee on **Transportation** in the House on February 16, 1993.

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

The House voted to recede and concur.

**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:

Education

Bill "An Act to Establish a School Choice Program" (H.P. 434) (L.D. 553) (Presented by Representative STEVENS of Sabattus) (Cosponsored by Representative STEVENS of Sabattus, Senator GOULD of Waldo and Representatives: COFFMAN of Old Town, LIBBY of Kennebunk, MICHAEL of Auburn, Senator: AMERO of Cumberland)

Ordered Printed.
Sent up for Concurrence.

Energy and Natural Resources

Bill "An Act to Correct Inconsistencies in the Shoreland Zoning Laws" (H.P. 428) (L.D. 547) (Presented by Representative DEXTER of Kingfield) (Cosponsored by Representative: GOULD of Greenville, Senator: LUDWIG of Aroostook) (Submitted by the Department of Environmental Protection pursuant to Joint Rule 24.)

Bill "An Act Concerning Local Participation in Decisions Concerning Low-level Radioactive Waste Sites Proposed to Be Located in Unorganized Territory" (H.P. 431) (L.D. 550) (Presented by Representative CLARK of Millinocket) (Cosponsored by Senator PEARSON of Penobscot and Representatives: HUSSEY of Milo, MICHAUD of East Millinocket, THOMPSON of Lincoln, Senator: HALL of Piscataquis)

Bill "An Act to Establish Mediation to More Efficiently and Fairly Enforce the State's Environmental Laws" (H.P. 435) (L.D. 554) (Presented by Representative MELENDY of Rockland) (Cosponsored by Representatives: ADAMS of Portland, AHEARNE of Madawaska, AIKMAN of Poland, ALIBERTI of Lewiston, ANDERSON of Woodland, BAILEY of Township 27, BAILEY of Farmington, BARTH of Bethel, BEAM of Lewiston, BOWERS of Washington, BRENNAN of Portland, CARROLL of Gray, CATHCART of Orono, CLARK of Millinocket, CLOUTIER of South Portland, CLUKEY of Houlton, COFFMAN of Old Town, COLES of Harpswell, CONSTANTINE of Bar Harbor, COTE of Auburn, DiPIETRO of South Portland, DONNELLY of Presque Isle, DORE of Auburn, DRISCOLL of Calais, DUTREMBLE of Biddeford, ERWIN of Rumford, FAIRCLOTH of Bangor, FARNUM of South Berwick, FARREN of Cherryfield, FITZPATRICK of Durham, FOSS of Yarmouth, GEAN of Alfred, GOULD of Greenville, GRAY of Sedgwick, HALE of Sanford, HATCH of Skowhegan, HEINO of Boothbay, HICHBORN of Howland,

HOGLUND of Portland, HUSSEY of Milo, JACQUES of Waterville, JALBERT of Lisbon, JOHNSON of South Portland, JONES of Pittsfield, JOSEPH of Waterville, KETTERER of Madison, KILKELLY of Wiscasset, KNEELAND of Easton, KONTOS of Windham, KUTASI of Bridgton, LARRIVEE of Gorham, LEMKE of Westbrook, LIBBY of Buxton, LIPMAN of Augusta, LOOK of Jonesboro, LORD of Waterboro, MARTIN of Van Buren, MICHAEL of Auburn, MICHAUD of East Millinocket, MITCHELL of Vassalboro, MITCHELL of Freeport, MORRISON of Bangor, MURPHY of Berwick, NADEAU of Saco, NASH of Camden, NORTON of Winthrop, O'GARA of Westbrook, OLIVER of Portland, PARADIS of Augusta, PFEIFFER of Brunswick, PINEAU of Jay, PINETTE of Fort Kent, PLOURDE of Biddeford, POULIN of Oakland, POULIOT of Lewiston, QUINT of Paris, REED of Dexter, RICHARDSON of Portland, RICKER of Lewiston, ROBICHAUD of Caribou, ROTONDI of Athens, ROWE of Portland, RUHLIN of Brewer, SAXL of Bangor, SIMONDS of Cape Elizabeth, SIMONEAU of Thomaston, SKOGLUND of St. George, SPEAR of Nobleboro, ST. ONGE of Greene, STEVENS of Orono, STEVENS of Sabattus, STROUT of Corinth, SULLIVAN of Bangor, SWAZEY of Bucksport, TARDY of Palmyra, THOMPSON of Lincoln, TOWNSEND of Eastport, TRACY of Rome, TUFTS of Stockton Springs, VIGUE of Winslow, YOUNG of Limestone, Senators: BALDACCI of Penobscot, BEGLEY of Lincoln, BUSTIN of Kennebec, CAREY of Kennebec, CARPENTER of York, CONLEY of Cumberland, DUTREMBLE of York, FOSTER of Hancock, GOULD of Waldo, LAWRENCE of York, LUDWIG of Aroostook, O'DEA of Penobscot, PARADIS of Aroostook, PINGREE of Knox, SUMMERS of Cumberland, TITCOMB of Cumberland, VOSE of Washington, WEBSTER of Franklin)

Ordered Printed.
Sent up for Concurrence.

Human Resources

Bill "An Act to Limit Administrative Costs in Contracted Services" (EMERGENCY) (H.P. 436) (L.D. 555) (Presented by Representative GEAN of Alfred) (Cosponsored by Representative: MARTIN of Eagle Lake)

Ordered Printed.
Sent up for Concurrence.

Judiciary

Bill "An Act Relating to the Theft of Utility Services" (H.P. 427) (L.D. 546) (Presented by Representative KETTERER of Madison) (Cosponsored by Representative: PLOWMAN of Hampden, Senator: BALDACCI of Penobscot)

Ordered Printed.
Sent up for Concurrence.

Labor

Bill "An Act to Amend the Labor Laws for Minors" (H.P. 426) (L.D. 545) (Presented by Representative CHASE of China) (Cosponsored by Representatives: CLEMENT of Clinton, JOSEPH of Waterville, WALKER of

Blue Hill)

Ordered Printed.
Sent up for Concurrence.

State and Local Government

RESOLUTION, Proposing an Amendment to the Constitution of Maine to Reduce the Size of the Legislature (H.P. 432) (L.D. 551) (Presented by Representative LIPMAN of Augusta) (Cosponsored by Representatives: BENNETT of Norway, BRUNO of Raymond, CARLETON of Wells, FOSS of Yarmouth, GREENLAW of Standish, HEINO of Boothbay, JONES of Pittsfield, KUTASI of Bridgton, LEMONT of Kittery, LINDAHL of Northport, OTT of York, PENDEXTER of Scarborough, PENDLETON of Scarborough, PLOWMAN of Hampden, REED of Falmouth, SIMONEAU of Thomaston, SPEAR of Nobleboro, TAYLOR of Cumberland, TRUE of Fryeburg, Senators: AMERO of Cumberland, BUTLAND of Cumberland, CARPENTER of York, SUMMERS of Cumberland)

Ordered Printed.
Sent up for Concurrence.

Taxation

Bill "An Act to Reduce the Number of Sales Tax Exemptions" (H.P. 429) (L.D. 548) (Presented by Representative DORE of Auburn)

Bill "An Act to Revise the Boat Excise Tax Law" (H.P. 430) (L.D. 549) (Presented by Representative HEINO of Boothbay) (Cosponsored by Representatives: FARRIN of Cherryfield, LOOK of Jonesboro, SPEAR of Nobleboro, Senator: VOSE of Washington)

Ordered Printed.
Sent up for Concurrence.

Transportation

Bill "An Act to Amend the Laws Pertaining to the Inspection and Registration of Automobiles" (H.P. 433) (L.D. 552) (Presented by Representative VIGUE of Winslow) (Cosponsored by Representative TARDY of Palmyra, Senator LUTHER of Oxford and Representatives: ALIBERTI of Lewiston, AULT of Wayne, COFFMAN of Old Town, DiPIETRO of South Portland, DUTREMBLE of Biddeford, FARNUM of South Berwick, HATCH of Skowhegan, HEINO of Boothbay, HICHBORN of Howland, JALBERT of Lisbon, JOSEPH of Waterville, KUTASI of Bridgton, MURPHY of Berwick, REED of Dexter, SPEAR of Nobleboro, Senator: BALDACCI of Penobscot)

Ordered Printed.
Sent up for Concurrence.

ORDERS

On motion of Representative HICHBORN of Howland,

the following Order:

ORDERED, that Representative Harry W. Bailey of Township 27 be excused February 16 and 17 for personal reasons.

AND BE IT FURTHER ORDERED, that Representative Richard H. Campbell of Holden be excused February 18 and 19 for personal reasons.

AND BE IT FURTHER ORDERED, that Representative Omar P. Norton of Winthrop be excused February 13 to 21 for personal reasons.

Was read and passed.

SPECIAL SENTIMENT CALENDAR

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

In Memory of:

Sheilia Frances Esty, devoted wife of Donald Esty, Sr. and beloved mother of five sons, Donald, Jr., Michael, Joseph, John and Chris, and two daughters, Cathleen and Melissa. Sheilia, coming from a large family herself, was also the proud grandmother of 14 grandchildren. Sheilia was a long time political activist and enjoyed the theater but was at her happiest doing things for and with her family. She will be missed by all who knew her; (HLS 130) by Representative O'GARA of Westbrook. (Cosponsors: Representative LEMKE of Westbrook, Representative LARRIVEE of Gorham, Senator DUTREMBLE of York, Representative PINEAU of Jay, Speaker MARTIN of Eagle Lake)

On motion of Representative O'Gara of Westbrook, was removed from the Special Sentiment Calendar.

Was read.

The SPEAKER: The Chair recognizes the Representative from Westbrook, Representative O'Gara.

Representative O'GARA: Mr. Speaker, Men and Women of the House: Just a brief word about a very young, old friend. I grew up with Sheilia and her brothers and sisters and went to school with members of her family. In fact, her father was the scout master of the scout troop that I belonged to in those days and I have watched her own family grow up.

Sheilia was, as I suggested in the sentiment, a woman who thrived on being a wife, mother and grandmother. Although she was active in other things, especially local politics, it will be the memory of her making her family the focus of her being that shall remain with me.

Subsequently, was adopted and sent up for concurrence.

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

SENATE PAPER

The following Joint Order: (S.P. 171)

ORDERED, the House concurring, that when the House and Senate adjourn, they do so until Tuesday, February 23, 1993, at ten o'clock in the morning.

Came from the Senate, read and passed.

Was read and passed in concurrence.

By unanimous consent, all matters having been acted upon requiring Senate concurrence were ordered sent forthwith to the Senate.

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

In Convention

The President of the Senate, Dennis L. Dutremble, in the Chair.

On motion of Senator **BUSTIN** of Kennebec, it was

ORDERED, that a Committee be appointed to wait upon the Honorable Daniel E. Wathen, Chief Justice of the Supreme Judicial Court and the Justices of the Supreme Judicial Court to inform them that the two branches of the Legislature were in Convention assembled ready to receive such communication as the Chief Justice may be pleased to make.

The Chairman appointed:

Senators:

CONLEY of Cumberland
BERUBE of Androscoggin
HANLEY of Oxford

Representatives:

COTE of Auburn
FARNSWORTH of Hallowell
CATHCART of Orono
KETTERER of Madison
CARON of Biddeford
FAIRCLOTH of Bangor
SAXL of Bangor
OTT of York
LIPMAN of Augusta
PLOWMAN of Hampden

Senator **CONLEY**, for the Committee, subsequently reported that the Committee had delivered the message with which it was charged and that the Honorable Chief Justice and Associate Justices of the Supreme Judicial Court were pleased to say that they would forthwith attend the Convention.

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

The Chairman introduced the members of the Supreme Judicial Court:

Associate Justice David G. Roberts
Associate Justice Robert W. Clifford
Associate Justice Samuel W. Collins, Jr.
Associate Justice Paul L. Rudman

From the Superior Court:

Chief Justice Thomas E. Delahanty II
Justice Stephen Perkins
Justice Nancy Mills.

From the District Court:

Chief Judge Susan W. Calkins
Judge Ellen Gorman

The Honorable Chief Justice of the Supreme Judicial Court, Daniel E. Wathen, addressed the Convention as follows:

Mr. President, Mr. Speaker, Members of the Legislature and friends: It is certainly an honor for me to address the 116th Maine Legislature on behalf of the Judicial Branch of Maine's government. With me today are nine of my colleagues — there were supposed to be ten but one is at a juvenile hearing down the road — from the Supreme, Superior and District Courts. Along with 35 other judges, who I might add are all working this morning, they are responsible for justly resolving the 300,000+ disputes that are filed each year in Maine's courts.

You can imagine that as boy from the County, I feel privileged to stand before you here today. I hope you will allow me a little personal aside. There is one person here today from my hometown of Easton, other than my mother, who I must mention because he constantly claims to have indirectly influenced my decision to stay in school and become a lawyer and a judge. When I was 19 years old, I dropped out of college and worked on Mr. Kneeland's farm. It is reported by my co-worker on that occasion, your colleague from Easton, Representative Richard Kneeland, that one day as I stood shoveling some organic material under the cow stalls, I looked heavenward above the spreader and remarked, "There must be a better way to make a living." Well, I did return to school and here I am and all I can say Dick is that, even though the circumstances have changed and the tools are a little different, it is good to work with you again. (applause)

I add, it is also a pleasure to have this opportunity to work with you women and men of the 116th Maine Legislature.

Today I want to report on the cause of justice, but to do it primarily from the perspective of the approximately 500,000 people who each year turn to the courts expecting prompt and effective protection for their legal rights.

When I became Chief Justice eleven months ago, I visited every one of the 50 courthouses in Maine. I

went in the front door and tried to look at the court through the eyes of a member of the public. In Lewiston, I was so successful that the Clerk wouldn't even let me in to see the judge.

My visits confirmed what I knew, there are problems. The courts of Maine are seriously stressed. And, most importantly, the needs of the citizens have been delayed.

I placed on your desks this morning a list, collected at random, of the types of civil and criminal cases most recently filed in each of those 50 court locations. If you and I had the ability to look in on all the courts this morning, this is a snapshot of the newest piece of business you would see in each court.

I show you this so that we can think about the people behind each case. Each individual is vitally concerned either about their person, their property, or their family. Some cases disturb only the parties, while others disturb the entire community and sometimes the state.

When you consider that 300,000 of these new cases are filed each year, it is clear that the needs of the Judicial Branch must be measured by the needs of the people who turn to the courts for help.

If you ask the average citizen of Maine, as I have, what is wrong with the judicial system, you will be told "it takes too long and it costs too much." Although justice requires unhurried deliberations, the citizen knows the problem: there is far too much delay and delay contributes to the cost of litigation.

We have known for a long time that delay denies justice. The Magna Carta written in 1215 provides "to no one will we delay right or justice." In 1792, Daniel Davis, a leader of the effort to separate Maine from Massachusetts, filed a report urging separation and listed delay in the Massachusetts' court as one of the principal reasons.

Finally, article I, sec. 19 of the Constitution of Maine that became effective in 1820 echoes the promise exacted from the sovereign in the Magna Carta and proclaims that "right and justice shall be administered freely and without denial, promptly and without delay." The courts are ultimately responsible for ensuring compliance with that mandate.

The snapshot I have provided you is a troubling picture in this regard. The first column under the Superior Court contains my estimate of the average length of time it will take that case to be tried if a jury trial is requested. The second column contains accepted national standards for timely case processing promulgated by the National Center for State Courts and the U.S. Department of Justice.

Bear in mind that for the most part our court system is unautomated and the information I have provided does not include the District Court where things proceed more expeditiously, but believe me, unacceptable delay occurs throughout the system.

Confronted with the need for increased judicial services, we in Maine have chosen to delay, ration, and postpone right and justice. A person bringing a civil jury action here in Augusta, for example, not only faces filing fees of \$400, but approximately three years of delay in the Superior Court. The average OUI case here in Augusta requires 491 days to be tried by a jury.

Right and justice are not commodities to be paid for by the user and denied to those without funds, rationed in scarce times and offered freely only if

and when financially convenient. Such a view is at odds with our constitution and defies common understanding of the critical importance of prompt, accessible, and effective justice to the people of Maine.

The citizen's perception of the courts is undermined by the expense and delay and a loss of respect is certain unless it is corrected. Justice postponed is constitutionally unacceptable to us, to you, and to the people that we serve.

Consider the consequences of unnecessarily extending an abusive family relationship by even six months or delaying for several years the receipt of compensation for disabling personal injuries. You and your constituents know that delay imposes great human and financial costs.

Why do we have such delays? The answer is simple, the court system is seriously understaffed, underfunded, and enmeshed in unnecessary and wasteful administrative complexity. Maine's financial condition in the last two years did not cause this condition, but it certainly caught our attention by emphasizing dramatically the necessity for change.

In a recent report, a national committee on "funding the justice system" identified seventeen events or crisis points that indicate serious stress in a state court system. According to their report, Maine has experienced at least ten of those crisis points, with seven of those occurring in the last year. They include such things as budget cuts, lay-offs, furloughs, shutdown of civil cases, increased filing fees, increased fines, inadequate resources for indigent defense, imbalanced resources, cut in juror compensation, and judicial vacancies used for cost containment.

These events suggest crisis because as I suggested, they reflect a view of justice as a commodity or a service to be offered freely only when financially convenient. The only crisis points identified by the committee that we have yet to experience are intergovernmental litigation concerning court funding, early release from prisons as a result of overcrowding, and the shutdown of courthouses.

Beyond the explanation offered by the committee report, there are other obvious reasons for unacceptable delay in Maine's courts. When fully staffed at 50, Maine has the fewest trial judges per capita of any state in the nation and yet we have operated with up to five vacancies for approximately a year and a half. For example, we have had a vacancy in the Superior Court in Augusta for nearly two years. The judges we do have, however, move more cases than the national average.

With a total nonjudicial staff of 339, we have fewer people today than we had in 1986. To give you some basis for comparison, our new State Court Administrator had a staff of 290 in just the Family Court of Delaware, a smaller court than our District Court with a more limited jurisdiction in a smaller state with a much smaller population.

How do other states offer more judges and larger staffs? They spend more. According to figures published by the U.S. Department of Justice, in 1990 the expenditure per capita in Maine for court services was \$18.99 while the national average was \$31.18. Neighboring Vermont spent \$27.54, New Hampshire \$29.72, and Massachusetts \$35.73. If our budget was increased by one-third, we would still not reach the national average.

Now, my purpose this morning isn't to paint a negative picture, nor am I here today to plead for significant increases in funding. I understand the budget realities and believe me I am not discouraged. I am pleased with the progress we are making and I am proud of the performance of our judges and staff.

But an honest assessment of the state of the judiciary must begin with the hard fact that there are serious underlying causes for delay and lack of service. We can do a better job of managing judicial resources and we are and we will, but lasting and meaningful improvement is possible only if we resist the temptation to accept easy solutions that address appearance but ignore substance.

To use a farm expression, don't think you can fix the court system by tinkering with it. Its been tinkered too much already.

In our initial response to the budget crisis, we in the judiciary contributed to our current situation. Too readily we offered up court locations, judicial vacancies, judicial education, and staff. Fortunately, the Legislature rejected court closings, and I certainly urge you to assist us in championing the need to maintain and improve our present system of convenient and accessible local courts.

I am pleased to say that several months ago we reordered our affairs so that all our judicial vacancies could be filled within our existing budget, and we look forward to the day in the near future when we are back at full strength. We must promptly address the fact that 40 percent of our judges have not received basic judicial training at the National Judicial College.

In these difficult times, we are challenged to change and improve for the future. What should our courts look like? My thoughts have evolved from three sources: my own work and travels, a comprehensive management survey conducted on a volunteer basis by the Portland consulting firm of Barton & Gingold, and the hard work of the members of the Commission on the Future of Maine's Courts established by this Legislature. Their final report will be delivered in early March.

Let me offer a brief sketch of what I see before us: first we must reaffirm the status of the judiciary as a co-equal branch of government with constitutional responsibilities to Maine's citizens separate from the responsibilities of the Executive and the Legislative branches.

Next, judges, as one commentator remarked, must understand that like the rest of government, they are accountable to the people. They must become comfortable with technology, appreciate the benefits of negotiations, and be willing to spend time and effort in planning.

Courts must be accessible to every individual and particularly to those who are without the means to be represented. Our civil procedures must adapt to those who represent themselves. Proceedings must be marked by respect, efficiency, fairness, and equality of consideration.

The internal structure and management of the court system must reflect the very same values. The administrative structure must be clear, democratic, participative and open. Communications, both internal and external, must be open and frank. We must achieve and maintain competence in the use of available technology. In all of our efforts we must

focus on gathering the actual needs of the public, stating those needs effectively, as I am attempting to do here today, and meeting them. In broad strokes, that is my view of the future.

Let me briefly report on some modest progress. We have selected a new State Court Administrator to serve as the chief operating officer of the courts. Ted Glessner has the management style I have described and has a proven record of accomplishment in administering the family courts of Delaware. We expect good things.

We have improved and opened internal communications, clarified management structure, and with the assistance of volunteers from Bath Iron Works, UNUM, and the University of Southern Maine, we have made significant progress in changing our system of management.

So far we have done this without spending money. We expect a grant in early March, but with it or without it, we are committed to creating a single coordinated system that focuses on meeting the needs of the public and values its strongest asset: the people who do the work in our courthouses.

I am also proud to report that we have a task force of judges, staff, and volunteers studying the adequacy of the services we offer to people with disabilities, and we just recently created a 13-member Commission on Gender, Justice, and the Courts, which under the leadership of Professor Colleen Khoury from the University of Maine School of Law, will address the issue of gender bias and other minority concerns in all aspects of our court operations.

Despite our progress, we have a long way to go in improving the services we offer the people in Maine. How can this Legislature help?

First and foremost, we need a degree of independence from the fiscal regulation imposed by the executive agencies. I do not want to overstate our case for we receive cooperation from the Legislature, its staff, and the Bureau of the Budget. The present system works but, as the Special Commission on Governmental Restructuring recognized two years ago, it is time consuming and duplicative.

We have resubmitted the proposal of the Commission as it pertains to the judiciary and we would urge that you consider it favorably. Essentially that legislation enhances the authority of the State Court Administrator, calls for submission of the judicial budget directly to the Legislature with recommendations from the Governor, requires a long-range planning process, and eliminates duplication. You may recall that the Commission bill was passed by the 115th Maine Legislature but was vetoed for reasons unrelated to the judicial provisions.

Next we need enough breathing space and the resources to permit us to plan and install a modern information network. Despite past efforts, only the criminal and traffic infraction docket in the District Court is computerized. Except for financial reporting, the rest of the court system remains unautomated. Computer software is now available off the shelf that would appear to satisfy most of our needs.

In my judgment, no single project will improve the level of service we offer the public more than state-of-the-art technology. The impressive performance of the District Court Violations Bureau attests to that fact. We are in the planning stage

and exploring the availability of grants and federal funds.

We have a very small computer staff, however, consisting of only five people. At some point, we will need more staff. Even now, this project will limit their ability to answer data requests and provide modifications to our existing system. You cannot imagine how much time and effort is involved each time this Legislature adds a new surcharge or special fund to criminal fines, for example.

In short, we need a breathing spell to plan, select, finance, and install a modern system that meets our needs for flexibility, information and efficiency. We are not seeking additional funding at this point.

Next, we require legislative recognition of the fact that certain expenditures included in our budget, major expenditures, are mandated by both the state and federal constitutions. I refer principally, although not exclusively, to that item in the judicial budget that bears the misleading caption "court appointed counsel."

This category of expense would be more accurately described as "legal services for indigent persons involved in child protection, mental health, and criminal cases." This account is not confined to providing defense counsel for indigents charged with crime. Mental health and child protective cases alone account for nearly 50 percent of the indigent funds expended in the District Court and more than 25 percent of the total of all expenditures throughout the system.

The significance of that fact is not well understood. Witness that within the past year the Department of Human Services added 25 child protection workers and yet no additional funds were appropriated for the legal or judicial services that will necessarily result from their increased efforts to protect our children. In fact, such filings increased 16 percent this year. Indigent legal expenses are unavoidable unless the State abandons its responsibilities to prosecute crime and protect children and the mentally ill.

In recent years, particularly since 1989, in good times and bad, the Legislature has only partially funded this account in the General Budget and then has made an emergency supplemental appropriation during the last half of each fiscal year. This two-step process is time-consuming but more importantly it has resulted in chronic underfunding. Despite a supplemental appropriation in each year, more than one million dollars of unpaid legal expense has been permitted to accumulate since 1989 and is carried from year to year.

The figures for the current year demonstrate the point. In fiscal '92, we paid out a total of \$4.56 million for indigent legal services and carried more than \$1 million into the current year, and yet the initial appropriation for this year was \$4.25 million. At this point, I must commend Senator Pearson, Representative Chonko and every member of the Committee on Appropriations for their leadership in connection with the emergency appropriation that was enacted here yesterday. Without that appropriation, all funds would have been exhausted before we reached the fourth quarter and the system of justice would have been seriously jeopardized. You all have lifted a great burden from our shoulders and we thank you. There should be some smiles from my colleagues at this point.

Indigent legal expense will always be a troublesome expenditure and many have wondered if there is a better way. Let me state my views clearly. In my judgment, the existing system is the most inexpensive method for the State to discharge its constitutional responsibilities and an authoritative study, the only study, suggests that the quality of the representation provided is at least equal to that received by clients who retain their own counsel.

The existing system, however, imposes a heavy administrative burden on the court. Believe me, we are willing to consider any other reasonable method. The State could employ full-time public defenders, for example. I know that would result in significantly higher expenditures.

The per capita expenditure in Maine for court-appointed counsel in criminal cases is currently less than \$3.00 while the United States Department of Justice reports that the national average is \$5.37, New Hampshire spends \$6.53, Vermont \$6.63 and Massachusetts \$8.62.

The lawyers in Maine provide a valuable public service at very favorable rates. Until we change the system, the state should willingly honor its obligations and fund this account fully.

The two-step budget process I have just described is not confined to expenditures for legal services for indigents. In every year that I can recall, we have required emergency supplemental appropriations for routine operating expenses that were projected and known at the beginning of the budget cycle.

The Judicial Branch has been criticized for its lack of short and long term planning. The connection between budget uncertainty and planning is obvious. We never know until just before the fourth quarter of each fiscal year what our final budget will be. Such a process provides no opportunity for planning.

We understand the fiscal reality and believe me we appreciate the cooperation we receive no matter how late in the year it comes, but the entire judicial budget is less than 2 percent of the total state budget and our revenues nearly match those expenditures. We neither break nor make the state's budget. The net burden is minor, we could serve the people better if we had a greater degree of budget certainty.

Finally, I must report that we need to begin the process now to plan the replacement of District Courthouses in Skowhegan and Biddeford. Skowhegan's courtroom is located on a second floor in rented space and is inadequate, as all who have entered will attest. Biddeford, the second busiest District Court in the State of Maine, is housed in less than 4500 square feet — I was going to check it but I suspect that it is about the size of half of this chamber. It is so crowded it defies description.

Someone asked Yogi Berra about a restaurant where the baseball players hung out and he said, "Oh, that place is so crowded, no one goes there anymore", that is the Biddeford District Court. If you want a better description of it than that, I refer you to any one of your colleagues from York County. We realize that building funds are out of reach at the moment, but now is the time to plan and invest for the future.

The late Louie Jalbert who graced these chambers for so many years is quoted as saying that "the only one who enjoys a speech is the guy giving it," and so it should come as no surprise to you that I have

enjoyed this opportunity to talk with you and indirectly to talk to the people of Maine.

I have emphasized the fact that we have separate powers, and we do, but I want to close by assuring you that we enjoy a unity of purpose and concern. We are all accountable to the women, the men, and the children of Maine.

In recognition of the fact that we are engaged in the common task of governing, I would respectfully offer the suggestion that the leaders of the three branches of government should meet openly and informally, perhaps once every year or two, and talk about the problems that confront us all.

You would be surprised how much wisdom and experience my colleagues possess, and I know the same is true for those of you who serve in these legislative halls and the executive offices.

If, in our separate spheres, we are to govern wisely in these challenging times, the people of Maine deserve all that we collectively have to offer.

Thank you very much.

The Chief Justice and Associate Justices of the Supreme Judicial Court withdrew amid the applause of the Convention, 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 item appearing on Supplement No. 4 was taken up out of order by unanimous consent:

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

Bill "An Act to Amend the Laws Concerning Reapportionment" (EMERGENCY) (H.P. 437) (L.D. 563) (Presented by Speaker MARTIN of Eagle Lake) (Cosponsored by Representative: MICHAUD of East Millinocket, Senator: HANLEY of Oxford) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27.)

(The Committee on State and Local Government was suggested.)

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

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

The following items appearing on Supplement No. 2

were taken up out of order by unanimous consent:

SENATE PAPERS

Bill "An Act to Establish Greater Consistency among Federal and State Environmental Regulations" (S.P. 164) (L.D. 556)

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 Probation Periods to Facilitate Payment of Restitution" (S.P. 168) (L.D. 560)

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

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

Bill "An Act to Clarify the Laws Concerning Beano and Bingo" (S.P. 169) (L.D. 561)

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

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

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

SENATE PAPERS

Bill "An Act to Amend the Laws Concerning Transfers of Commercial Moorings" (S.P. 166) (L.D. 558)

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 Impose Term Limits on Presiding Officers of the Legislature" (S.P. 167) (L.D. 559)

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.

Bill "An Act to Further Define the Just Value of Residential Property" (S.P. 165) (L.D. 557)

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

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

The following item appearing on Supplement No. 6 was taken up out of order by unanimous consent:

SENATE PAPER

Bill "An Act to Reestablish the Maine Committee on Aging" (S.P. 170) (L.D. 562)

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

(The Committee on Reference of Bills had suggested reference to the Committee on **Aging, Retirement and Veterans.**)

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

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

PASSED TO BE ENACTED

Emergency Measure

An Act to Amend the Laws Concerning Reapportionment (H.P. 437) (L.D. 563)

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. 132 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.

(Off Record Remarks)

On motion of Representative Strout of Corinth, Adjourned at 11:42 a.m. in memory of Sheila Frances Esty, until Tuesday, February 23, 1993 at ten o'clock in the morning pursuant to Joint Order (S.P. 171).
