

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
25th Legislative Day
Wednesday, March 10, 1993

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

Prayer by Doctor William C. Imes, First Parish Church, United Church of Christ, Brunswick.

The Journal of Tuesday, March 9, 1993, was read and approved.

SENATE PAPERS

Bill "An Act to Clarify Reporting Requirements for Medical Malpractice Carriers to the Bureau of Insurance" (S.P. 267) (L.D. 804)

Bill "An Act to Clarify and Preserve the Public Advocate's Authority to Protect the Rights of Employers Subject to Surcharges for Maine's Workers' Compensation Residual Market Pool" (EMERGENCY) (S.P. 272) (L.D. 836)

Bill "An Act to Change or Clarify Language in the Maine Insurance Code Relative to Procurement of Surplus Lines Insurance and Pertaining to Licensing Procedures in Order to Provide for a More Efficient Regulatory System" (S.P. 273) (L.D. 837)

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 Amend the Provisions Related to the Supervised Community Confinement Program" (S.P. 269) (L.D. 833)

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 Establish a Professional Standards Board for Maine Educators" (S.P. 274) (L.D. 838)

Bill "An Act to Provide for the Efficient Delivery of Educational Services to Children with Special Needs" (S.P. 275) (L.D. 839)

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

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

Bill "An Act to Require Public Notice of Unusual Radioactive Emissions" (S.P. 279) (L.D. 842)

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 Immunity for Private Physicians in Public Hospitals" (S.P. 266) (L.D. 803)

Bill "An Act to Enhance Collection of Child Support" (S.P. 271) (L.D. 835)

Bill "An Act to Protect Maine Businesses and Consumers from Unfair and Deceptive Trade Practices" (S.P. 276) (L.D. 840)

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 Clarify Maine Election Laws" (S.P. 268) (L.D. 805)

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

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

Bill "An Act to Establish the Boundary between the Town of Cornville and the Town of Skowhegan" (S.P. 270) (L.D. 834)

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.

**Reported Pursuant to
Resolves-Committee on Transportation**

Report of the Committee on **Transportation**, pursuant to Resolve 1987, chapter 33 have had the same under consideration and ask leave to submit its findings and to report that the accompanying Bill "An Act to Revise and Recodify the Maine Revised Statutes, Title 29" (S.P. 277) (L.D. 841) be referred to this Committee for public hearing and printed pursuant to Joint Rule 20.

Came from the Senate with the report read and accepted and the bill referred to the Committee on **Transportation** and ordered printed.

Report was read and accepted and the bill referred to the Committee on **Transportation** and ordered printed in concurrence.

Ought to Pass as Amended

Report of the Committee on Judiciary reporting "Ought to Pass" as Amended by Committee Amendment "A" (S-35) on Bill "An Act to Amend the Filing Requirements to Perfect a Security Interest in Consumer Goods" (S.P. 53) (L.D. 74)

Came from the Senate, with the report read and accepted and the Bill Passed to be Engrossed as amended by Committee Amendment "A" (S-35).

Report was read and accepted, the bill read once. Committee Amendment "A" (S-35) was read by the Clerk and adopted and the Bill assigned for second reading Monday, March 15, 1993.

Divided Report

Later Today Assigned

Majority Report of the Committee on Business Legislation reporting "Ought Not to Pass" on Bill "An Act to Establish Hours of Education for the Practice of Public Accountancy" (S.P. 52) (L.D. 73)

Signed:

Representatives: HILLOCK of Gorham
THOMPSON of Lincoln
CLEMENT of Clinton
WINN of Glenburn
HOGLUND of Portland
VIGUE of Winslow
ST. ONGE of Greene
REED of Dexter
CAMERON of Rumford

Minority Report of the same Committee reporting "Ought to Pass" as amended by Committee Amendment "A" (S-33) on same Bill.

Signed:

Senator: MARDEN of Kennebec

Came from the Senate with the Reports read and the Bill and accompanying papers recommitted to the Committee on Business Legislation.

Reports were read.

Representative Høglund of Portland moved that the House accept the Majority "Ought Not to Pass" Report.

The SPEAKER: The Chair recognizes the Representative from Thomaston, Representative Simoneau.

Representative SIMONEAU: Mr. Speaker, Ladies and Gentlemen of the House: You must consider sending this report back to the committee. I am speaking now as a CPA, I know what they are trying to do with that bill, they are trying to add 30 more hours of college level requirements in order to become a CPA. The reason for that is not to give 30 more hours of accounting subjects. Unfortunately in this country, what we are doing is we are turning out technicians.

We are turning out people who can add two and two and always get four but they can't think enough to get a number between three and five. The idea is to have people get additional courses in liberal arts.

I can recall a professor years ago saying to us that you will never be an accountant until you learn to read and understand Shakespeare. What he was saying was that you will never be an accountant until you learn to think. That is the purpose of this bill. Compounding that, you must keep in mind the CPA exam is probably the only exam you take in this nation that is uniform. It is the same exam in all 50 states and given at the same time, the same hours, the same day.

One of the problems we are going to be facing is reciprocity from state to state. Many states are adopting the 150 hour requirement. If we fail to do that, in the long run, that is going to mean that a young person who has passed the exam in the State of Maine, certified in Maine, will not be allowed to move from state to state and be certified in the other states without taking additional courses or being re-examined.

I really hope that you think twice about voting for the "Ought Not to Pass" and that you will return it to the committee because I do believe that the committee will receive additional testimony that may change their thinking.

On motion of Representative Zirnkilton of Mount Desert, tabled pending the motion of Representative Høglund of Portland that the House accept the Majority "Ought Not to Pass" Report and later today assigned.

COMMUNICATIONS

The following Communication: (S.P. 278)

116TH MAINE LEGISLATURE

March 5, 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 nominated Francis C. Marsano of Belfast for appointment as a Justice of the Maine Superior Court.

Pursuant to the Constitution, Article V, Part 1, Section 8, this nomination will require review by the Joint Standing Committee on Judiciary 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 **Judiciary**.

Ordered Printed.
Sent up for Concurrence.

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

Education

The following Communication: (S.P. 280)

116TH MAINE LEGISLATURE

March 8, 1993

Resolve, to Create the Commission on Education Rules (EMERGENCY) (H.P. 629) (L.D. 849) (Presented by Representative COLES of Harpswell) (Cosponsored by Representatives: MITCHELL of Vassalboro, NORTON of Winthrop, Senators: AMERO of Cumberland, O'DEA of Penobscot)

Ordered Printed.
Sent up for Concurrence.

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

Fisheries and Wildlife

Dear Chairs:

Bill "An Act to Amend the Allocation System for Commercial Whitewater Outfitters" (H.P. 630) (L.D. 850) (Presented by Representative CARROLL of Gray)

Please be advised that Governor John R. McKernan, Jr. has nominated Bridget Healy of Freeport for appointment to the Maine Technical College System Board of Trustees.

Ordered Printed.
Sent up for Concurrence.

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

Legal Affairs

Sincerely,

S/Dennis L. Dutremble
President of the Senate

S/John L. Martin
Speaker of the House

Bill "An Act Simplifying Dealer Sale of Firearms" (H.P. 626) (L.D. 846) (Presented by Representative MICHAUD of East Millinocket) (Cosponsored by Representatives: CLARK of Millinocket, MARSH of West Gardiner)

Ordered Printed.
Sent up for Concurrence.

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

State and Local Government

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

Bill "An Act Amending the Maine Administrative Procedure Act Regarding Rulemaking" (H.P. 631) (L.D. 851) (Presented by Representative SKOGLUND of St. George) (Cosponsored by Representatives: BOWERS of Washington, CLOUTIER of South Portland, FARREN of Cherryfield, HOLT of Bath, PENDLETON of Scarborough, TOWNSEND of Eastport, Senator: BEGLEY of Lincoln)

Ordered Printed.
Sent up for Concurrence.

**PETITIONS, BILLS AND RESOLVES
REQUIRING REFERENCE**

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

Banking and Insurance

Bill "An Act to Authorize the Offset of Insurance Premiums" (H.P. 627) (L.D. 847) (Presented by Representative JOSEPH of Waterville) (Cosponsored by Senator: CARPENTER of York)

Bill "An Act to Amend Laws Related to Dependent's Group Life Insurance Coverage" (H.P. 628) (L.D. 848) (Presented by Representative PINEAU of Jay) (Cosponsored by Senators: CAREY of Kennebec, ESTY of Cumberland, KIEFFER of Aroostook)

ORDERS

On motion of Representative RYDELL of Brunswick, the following Joint Resolution: (H.P. 625) (Cosponsors: Representatives ADAMS of Portland, ALIBERTI of Lewiston, BEAM of Lewiston, CHONKO of Topsham, COTE of Auburn, DORE of Auburn, GWADOSKY of Fairfield, HICHBORN of Howland, HOGLUND of Portland, KERR of Old Orchard Beach, LIPMAN of Augusta, MARTIN of Eagle Lake, MICHAUD of East Millinocket, MITCHELL of Vassalboro, PARADIS of Augusta, POULIOT of Lewiston, RAND of Portland, SAXL of Bangor, WALKER of

Blue Hill, ZIRNKILTON of Mount Desert, Senators BUSTIN of Kennebec, CAHILL of Sagadahoc, CARPENTER of York, ESTY of Cumberland, HANDY of Androscoggin, McCORMICK of Kennebec)

JOINT RESOLUTION COMMEMORATING YOM HASHOAH, THE
DAYS OF REMEMBRANCE OF THOSE WHO SUFFERED
AS VICTIMS OF THE HOLOCAUST

WHEREAS, 51 years ago, 6,000,000 Jews were murdered in the Nazi Holocaust as part of a systematic program of genocide and millions of other people suffered as victims of Nazism; and

WHEREAS, April 19th is the 50th anniversary of the Warsaw Ghetto uprising; and

WHEREAS, the people of the State of Maine should always remember the atrocities committed by the Nazis so that such horrors are never repeated; and

WHEREAS, the people of the State of Maine should always remember those who liberated the Nazi concentration camps, some at the cost of their lives and others with lifelong emotional suffering, as holding an honored place in our history; and

WHEREAS, the people of the State of Maine should continually rededicate themselves to the principle of equal justice for all people, remain eternally vigilant against all tyranny and recognize that bigotry provides a breeding ground for tyranny to flourish; and

WHEREAS, April 18, 1993 has been designated internationally as a Day of Remembrance of the Victims of the Nazi Holocaust, known as Yom Hashoah; and

WHEREAS, the national community pursuant to an Act of Congress will be commemorating the week of April 18th to April 25th as the Days of Remembrance of the Victims of the Nazi Holocaust; and

WHEREAS, it is appropriate for the people of the State of Maine to join in this international commemoration; now, therefore, be it

RESOLVED: That We, the Members of the One Hundred and Sixteenth Legislature, now assembled in the First Regular Session, on behalf of the people we represent, pause in solemn memory of the victims of the Nazi Holocaust, and urge one and all to recommit themselves to the lessons of the Nazi Holocaust through this international week of commemoration and express our common desire to continually strive to overcome prejudice and inhumanity through education, vigilance and resistance; and be it further

RESOLVED: That suitable copies of this resolution, duly authenticated by the Secretary of State, be transmitted to the United States Holocaust Memorial Council in Washington, D.C., on behalf of the people of the State of Maine.

Was read.

The SPEAKER: The Chair recognizes the Representative from Brunswick, Representative Rydell.
Representative RYDELL: Mr. Speaker, Men and

Women of the House: We will not be in session during the week of April 18th to the 25th so today marks our annual legislative awareness day sponsored by the Holocaust Human Rights Center of Maine.

Each year we take a little time out of a busy legislative day to pause, reflect and remember the atrocities which were inflicted on people because of their religion. The devastating cruelty and human tragedy of the Nazi Holocaust will always stand as a vivid and living legacy, touching not just those who have personal memories as survivors, but everyone who truly cares about any other human being.

As men and women living without the fear of persecution, we must assume our share of responsibility for teaching tolerance, understanding and love to our children, our colleagues, our fellow citizens.

As citizens of the State of Maine, we have a wonderful resource to lead us in the quest for a just and tolerant world. The Holocaust Human Rights Center of Maine founded in 1985 as a non-profit human rights center is leading the struggle to reduce prejudice and increase tolerance through knowledge and understanding. The center's goal is to teach the lessons which can be learned from the Nazi Holocaust about what can happen when basic human rights are destroyed. Through education, the center works to reduce prejudice and to create an environment to tolerance, acceptance and well-being among all of Maine's people. The Nazi Holocaust Human Rights Center is striving to break through the walls of prejudice, to teach both children and adults to understand and reflect upon past and present injustices. The seeds of such thoughts and actions must be planted today if our society is to reap the benefits tomorrow. Supporting and participating in the work of the center is increasingly essential today in the face of continuing war, famine and human rights violations around the world.

The United States is built on a commitment to the rule of law that is justly enforced as protection for both the individuals and the collective rights of every citizen. Because we are elected officials entrusted by the voters to represent them and ensure their protection, we play a vital role in maintaining and perpetuating that framework. As we look around the world at civil and human rights violations, which stare at us daily out of the TV screens and the pages of every newspaper, we must always remember that the United States provides a steadfast commitment to the rule of law and must stand as a shining example for the rest of the world.

I would ask you to please spend a few moments in the rotunda today, reflect on the meaning of this exhibit and talk with representatives of the center. Perhaps you might even wish to become a member, if you are not already one. As we do this, I believe we will come away with renewed energy and determination to carry the message of tolerance of our fellow men and women, however different they may be from ourselves. The world will be what we make it. Let us pledge to join with the Holocaust Human Rights Center of Maine to make our state a model of equality, fairness and tolerance, to tear down the walls of prejudice and create an environment where we can all live together in mutual respect and understanding.

Subsequently was adopted and sent up for concurrence.

SPECIAL SENTIMENT CALENDAR

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

Recognizing:

Jeff Love, captain of the Winthrop High School Basketball Team who scored his 1,000 career point; (SLS 53)

On motion of Representative Ault of Wayne, was removed from the Special Sentiment Calendar.

Was read and passed and sent up for concurrence.

SPECIAL SENTIMENT CALENDAR

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

Recognizing:

the Winthrop High School Boys Basketball Team, winners of the State Class C Basketball Championship; (SLS 54)

On motion of Representative Ault of Wayne, was removed from the Special Sentiment Calendar.

Was read.

The SPEAKER: The Chair recognizes the Representative from Wayne, Representative Ault.

Representative AULT: Mr. Speaker, Ladies and Gentlemen of the House: I am proud once again this year to recognize the outstanding season of the Winthrop Ramblers Boys basketball team. Unlike last year, I did not need mylanta to make it through the season because, as many of you know, the Ramblers were a powerhouse in Class C and won the state title for the second year in a row.

For the record, the team has now won 30 games in a row.

I would like to acknowledge Coaches Dave Poulin and Tom Tucker, both long time friends of mine, who are also very deserving of this recognition.

Congratulations to the whole team on a job well done.

The SPEAKER: The Chair recognizes the Representative from Winthrop, Representative Norton.

Representative NORTON: Mr. Speaker, Ladies and Gentlemen of the House: Some time ago, when I was out of the chamber, I believe I was challenged by the good Representative from Limestone who offered to wager, I believe, a commodity from Aroostook County. Since I was out of the chamber, I couldn't respond. However, I tell you what, and I am not slighting the Limestone team a bit, but I will tell you what happened in the finals of that tournament — a good, outstanding Limestone basketball team met a great Winthrop team.

I was reminded this year that the first tournament game that I saw was in the 1946-47 basketball year. That was the year that we saw Patten Academy distinguish itself forever in New

England. I have seen schools classified A, B and C; I have seen schools classified as small, medium and large; I have seen schools classified as small, medium, large and double large — no matter what kind of classification that has ever been used, I don't believe that there has been a more outstanding team in the history of this state in its class than Winthrop High School was this year in its class.

I think they have set a high standard, it was a goal of theirs to be so recognized and as a committee of one, I believe they made that goal. I congratulate Dave, Tom and members of that team sincerely. It has been a fine representative for the town of Winthrop and the State of Maine.

The SPEAKER: The Chair recognizes the Representative from Limestone, Representative Young.

Representative YOUNG: Mr. Speaker, Ladies and Gentlemen of the House: On the Record, I am going to have to admit to making a mistake. Please take note because it doesn't happen very often.

First of all, to the Representative from Winthrop, Representative Norton — those potatoes I promised you are going to be special potatoes. My father and I are going to have to grow them this summer so you will have them sometime in October.

Also I want to explain why I made the rather confident bet that I made a couple of weeks ago. The only person I knew from Winthrop was the Representative from Winthrop, Representative Norton, and based on that exposure, I just assumed that they weren't going to be that good, you know. You heard a moment ago, he was talking about 1946 and 1947 and so on — not that you are old or anything — but before I offer my congratulations to these gentlemen, I just want to make one suggestion to the members of the other party that are here today. You heard the Speaker a moment ago talk about people pretending that they are basketball players — I might want to suggest to the members of the other party that you talk to some of these young gentlemen before they get out of here because we are going to be having a basketball game pretty soon and I think they might be a suitable opponent for us Republicans. Maybe you would like to get them to stand in for you.

Finally, let me offer my congratulations on an extraordinary season and also an extraordinary championship game. You are a very, very fine team and very deserving of the honor that has been bestowed on you.

Subsequently was passed and sent up for concurrence.

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

SPECIAL SENTIMENT CALENDAR

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

Recognizing:

the Jonesport-Beals High School Basketball Team, winners of the State Class D Basketball

Championship. This is the 9th gold ball won by this school since the two towns merged their secondary schools. Prior to the merger, Beals High School had won 3 state championships and Jonesport had won at least one; (HLS 159) by Representative LOOK of Jonesboro. (Cosponsors: Representative FARREN of Cherryfield, Senator VOSE of Washington)

On motion of Representative Look of Jonesboro, was removed from the Special Sentiment Calendar.

Was read.

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

Representative LOOK: Mr. Speaker, Ladies and Gentlemen of the House: I want to take this time to congratulate all the teams of the state who have won these state championships and also those who were the runner-ups or the winners of their different divisions. All of them are outstanding players and deserve recognition.

I especially want to give you a little bit of history this morning on my towns of Jonesport and Beals. The history of those two towns begins because they were originally a part of the town of Jonesboro. Then Jonesport became a separate town and since then, Beals became a separate town from Jonesport, but there has been a lingering rivalry between those two towns. They are separated only by the coastal body of water called Moosabec Reach and we jokingly refer to it as their Mason-Dixon line. In spite of this, these two towns separately and collectively have had an outstanding record in the world of basketball. Jonesport High School, as it was, received at least one or two possible state championships or earned it really and Beals itself, the little high school that it was, has earned three state championships. The one I vividly remember was in 1952. Then in 1969, when they merged to become a consolidated school district for their high school level, their secondary level of education for their students, Audi Alley, as we all have read, became their coach. Since that time, the Jonesport-Beals Royals have won 9 state championships under his guidance.

I think this is outstanding and I hope you will join me in wishing them well in the future because by joining together, in spite of their differences of opinion across the Reach, they have brought together an outstanding team and this serves as a good example of what true cooperation can mean among students.

Subsequently was passed and sent up for concurrence.

SPECIAL SENTIMENT CALENDAR

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

Recognizing:

Mary Mitchell Gabriel, of Indian Township, master Indian basket maker and recipient of a fellowship from the 1993 Individual Artist Fellowship program administered by the Maine Arts Commission; (HLS 163) by Representative SOCTOMAH of Passamaquoddy Tribe.

(Cosponsors: Representative BAILEY of Township 27, Senator VOSE of Washington, Senator PEARSON of Penobscot)

On motion of Representative Look of Jonesboro, was removed from the Special Sentiment Calendar:

Was read, passed and sent up for concurrence.

SPECIAL SENTIMENT CALENDAR

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

Recognizing:

Dr. William H. Richards, an Auburn native, Superintendent of School Administrative District 43, who has the distinction of being named Maine's Educational Leader of the Year by the Maine Association for Supervision and Curriculum. Dr. Richards was chosen from 10 finalists for his work on Maine's Common Core of Learning, the restructuring of schools at the state and local levels and his work to establish academic standards for all students in his district; (HLS 160) by Representative ERWIN of Rumford. (Cosponsors: Representative NORTON of Winthrop, Senator LUTHER of Oxford, Representative CAMERON of Rumford)

On motion of Representative Erwin of Rumford, the House reconsidered its action whereby HLS 160 was passed.

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

CONSENT CALENDAR

First Day

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

(H.P. 20) (L.D. 22) Bill "An Act to Permit the Use of All-terrain Vehicles by Law Enforcement Officers" Committee on Transportation reporting "Ought to Pass" as amended by Committee Amendment "A" (H-43)

(H.P. 34) (L.D. 37) Bill "An Act to Amend the Laws Safeguarding Production of Ground Water" Committee on Energy and Natural Resources reporting "Ought to Pass" as amended by Committee Amendment "A" (H-44)

(H.P. 70) (L.D. 100) Bill "An Act to Classify the Medomak River" Committee on Energy and Natural Resources reporting "Ought to Pass" as amended by Committee Amendment "A" (H-45)

(H.P. 351) (L.D. 454) Bill "An Act Authorizing the Kennebec County Commissioners to Issue Bonds in the Amount of \$300,000 for Completion of the Renovation and Expansion of the County Jail Building

in Augusta" (EMERGENCY) Committee on State and Local Government reporting "Ought to Pass"

(H.P. 361) (L.D. 464) Bill "An Act to Amend the Procedure for Settling Disputes on Construction Contract Claims" Committee on State and Local Government reporting "Ought to Pass" as amended by Committee Amendment "A" (H-46)

(H.P. 244) (L.D. 323) Bill "An Act to Continue the Franklin County Budget Committee" Committee on State and Local Government reporting "Ought to Pass" as amended by Committee Amendment "A" (H-47)

(S.P. 76) (L.D. 177) Bill "An Act to Amend Certain Laws Affecting Waste Discharges by Quasi-municipal Agencies" Committee on Energy and Natural Resources reporting "Ought to Pass" as amended by Committee Amendment "A" (S-32)

(S.P. 63) (L.D. 125) Bill "An Act to Prohibit the Board of Land Surveyors from Enacting Continuing Education Rules" Committee on Business Legislation reporting "Ought to Pass" as amended by Committee Amendment "A" (S-34)

(S.P. 38) (L.D. 50) Bill "An Act to Amend the Requirements for Notice of Public Proceedings of the Public Utilities Commission" Committee on Utilities reporting "Ought to Pass" as amended by Committee Amendment "A" (S-36)

There being no objections, the above items were ordered to appear on the Consent Calendar of Monday, March 15, 1993, under the listing of Second Day.

CONSENT CALENDAR

Second Day

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

(S.P. 20) (L.D. 10) Bill "An Act to Clarify the Enforcement Authority of the Maine Sardine Council" (EMERGENCY) (C. "A" S-31)

(S.P. 29) (L.D. 25) Bill "An Act to Clarify Insurance Eligibility" (EMERGENCY) (C. "A" S-29)

(H.P. 111) (L.D. 153) Bill "An Act to Revise the Grandfathering Provisions for Acupuncturists" (C. "A" H-40)

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

(H.P. 18) (L.D. 20) Bill "An Act Regarding Closed Clam Flats" (EMERGENCY) (C. "A" H-41)

On motion of Representative Kontos of Windham, was removed from the Consent Calendar, Second Day.

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

Committee Amendment "A" (H-41) was read by the Clerk.

Representative Kontos of Windham offered House Amendment "A" (H-48) to Committee Amendment "A" (H-41) and moved its adoption.

House Amendment "A" (H-48) to Committee Amendment "A" (H-41) was read by the Clerk and adopted.

Committee Amendment "A" (H-41) as amended by House Amendment "A" (H-48) thereto was adopted and the bill assigned for second reading Monday, March 15, 1993.

(H.P. 364) (L.D. 467) Bill "An Act to Allow Emergency Interruption of Telephone Service for Law Enforcement Purposes" (C. "A" H-42)

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

PASSED TO BE ENACTED

Emergency Measure

An Act to Authorize Financing of Solid Waste Districts on a Per Capita or a State Valuation Basis (H.P. 9) (L.D. 16) (C. "A" H-27)

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. 109 voted in favor of the same and none against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

PASSED TO BE ENACTED

Emergency Measure

An Act to Extend the Reporting Date of the Task Force on Mental Health Education and Licensure (H.P. 241) (L.D. 320)

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. 103 voted in favor of the same and none against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

PASSED TO BE ENACTED

An Act to Authorize the New England School of Broadcasting to Award the Degree of Associate of Science (S.P. 70) (L.D. 132) (C. "A" S-26)

An Act to Expand the Membership of the National

Conference of Commissioners on Uniform State Laws
(H.P. 74) (L.D. 104) (C. "A" H-26)

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

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

SENATE PAPERS

Bill "An Act to Amend the Maine Hunting Laws to Prohibit Discharges of Firearms across Paved Ways" (S.P. 282) (L.D. 853)

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

Was referred to the Committee on Fisheries and Wildlife in concurrence.

Bill "An Act to Ensure the Timely Resolution of Complaints under the Maine Human Rights Act" (S.P. 283) (L.D. 854)

Bill "An Act Concerning Victims of Stalking" (EMERGENCY) (S.P. 284) (L.D. 855)

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 Prohibit Voter Registration on Election Day" (S.P. 281) (L.D. 852)

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

SENATE PAPER

The following Joint Order: (S.P. 285)

ORDERED, the House concurring, that when the House and Senate adjourn, they do so until Monday, March 15, 1993, at four o'clock in the afternoon.

Came from the Senate, read and passed.

Was read and passed in concurrence.

ORDERS OF THE DAY

UNFINISHED BUSINESS

The following matter, in the consideration of which the House was engaged at the time of adjournment yesterday, has preference in the Orders of the Day and continues with such preference until disposed of as provided by Rule 24.

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

Bill "An Act to Amend the Confidentiality Provisions of the Maine Juvenile Code" (EMERGENCY) (S.P. 251) (L.D. 770) (Governor's Bill) TABLED - March 9, 1993 (Till Later Today) by Representative GWADOSKY of Fairfield. PENDING - Passage to be Engrossed.

On motion of Representative Gwadosky of Fairfield, retabled pending passage to be engrossed and specially assigned for Monday, March 15, 1993.

TABLED AND TODAY ASSIGNED

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

HOUSE ORDER relative to Propounding Questions to the Justices of the Supreme Judicial Court. (Relative to I.B. 1, L.D. 751) TABLED - March 9, 1993. (Pursuant to House Rule #40) PENDING - Passage.

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

Representative GWADOSKY: Mr. Speaker, Ladies and Gentlemen of the House: The Order before us is an Order asking the opinion of the Supreme Judicial Court in regard to L.D. 751. Article VI, section 3 of the Constitution provides for the Justices of the Supreme Judicial Court to render their opinion from time to time when so requested by the members of the House and Senate. Many of us believe this is one of those times.

As you know, we are dealing with L.D. 751 which is the citizens initiative to limit terms on all legislators as well as constitutional officers.

The concern has been raised by many people including the Attorney General of this state that there may be some questions of legality regarding this particular measure which in fact would change state statutes dealing with eligibility requirements for legislators heretofore thought to have been the purview of the Constitution which is very specific in terms of the requirements and eligibility of any member as well as the Constitutional Officers.

The three questions - I presented this on Friday but I indicated to Representative Whitcomb I wanted to table it in order to give people an opportunity to read this and if they had suggestions to talk about that. Yesterday it was tabled pursuant to the rules which require any request of the Justices to be tabled.

Let me repeat for the Record the three questions that we would like to ask the Justices for some guidance on these technical matters. Question number

one, "If Legislative Document 751 becomes law, would its limitations on the terms of legislators be valid in light of the lack of those limitations in the Constitution of Maine, Article IV, parts first and second?" Question number two, "If Legislative Document 751 becomes law, would its limitations on the terms of the Secretary of State, Treasurer of State and Attorney General be valid in light of the lack of those limitations in the Constitution of Maine, Article V, parts second and third and Article IX, section eleven?" Finally, question number three, "If the answer to questions one or two is negative, must the initiative nevertheless be submitted in its current form to the voters at a referendum pursuant to the Constitution of Maine, Article IV, part three, section 18?"

Traditionally, when we receive initiated referendums, our options are either to enact them into law or to send them out to referendum. We have no ability to kill these, to make them go away, we have to deal with them when we are provided with initiated referendums.

This is a little bit of a twist because it deals with provisions that many people felt were dealt with in the Constitution and what we are asking today is some clarification, some guidance on these technical matters from the members of the Supreme Judicial Court.

My intention then would be to table L.D. 751 which is next on our calendar unassigned until we are able to get some reference back from the Supreme Judicial Court and then act promptly on that as soon as we hear from the members of the Supreme Judicial Court.

There are many members in this chamber who are ready to vote on this now, I understand that. There are many other pieces of legislation that will have an almost identical effect depending on how they come out of committee. I am sure that the opportunity will be presented. There is a precedent that is potentially being set and it was the concern of many members of this House that there ought to be some sort of clarification as to whether or not we actually have legal standards in moving at this point. This mechanism allows us to get the opinion of the Supreme Judicial Court and then use that knowledge to proceed.

Once again, it is not an attempt to slow down or delay this in any stretch of the imagination, it is simply to discern what the intent of the law is and, once again, to know what our parameters are, what our options may or may not be.

I hope you will support this measure.

Subsequently, the Order was passed.

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

Bill "An Act to Impose Term Limitations on Legislators, Constitutional Officers and the State Auditor" (I.B. 1) (L.D. 751)

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

PENDING - Reference.

On motion of Representative Gwadosky of Fairfield, tabled Unassigned pending reference.

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

HOUSE DIVIDED REPORT - Majority (8) "Ought Not to Pass" - Minority (3) "Ought to Pass" as amended by Committee Amendment "A" (H-34) - Committee on Business Legislation on Bill "An Act to Revise the Reciprocity Provisions for Licensing of Barbers and Cosmetologists" (H.P. 121) (L.D. 162)

TABLED - March 9, 1993 by Representative MURPHY of Berwick.

PENDING - Motion of the same Representative to Reconsider whereby the Majority "Ought Not to Pass" Report was read and accepted.

Subsequently, the House reconsidered its action whereby the Majority "Ought Not to Pass" Report was accepted.

The SPEAKER: The Chair recognizes the Representative from Kittery, Representative Lemont.

Representative LEMONT: Mr. Speaker, Ladies and Gentlemen of the House: As sponsor of L.D. 162, I would like to share with you the reasoning behind this bill.

This bill changes a word, "may" to "shall." Let me read to you now in context how that would read. "The board shall waive the examination and grant a license to any applicant who presents proof of current licensing in another state or other jurisdiction in the United States or another country that maintains professional standards considered by the board to be equivalent to or higher than those set forth by the state."

This bill is not asking to lower standards but simply to recognize licensed barbers and cosmetologists from other states that are already qualified and allow them to work in Maine without going through the examination process. This is already working concerning some states. If you were licensed in Massachusetts, relocate to Maine to work, no examination, license granted. Maine to New Hampshire, no examination, license granted. New Hampshire to Maine, there is where the problem is. One year ago, this was not a problem, but New Hampshire raised their standards and Maine had a problem with that.

As a Representative of a border community, I am only too aware of the problem facing my community. Let me give you one example. I represent a hair salon in my community who six months ago lost a licensed hair cutter. This individual went to New Hampshire, drove to Concord, filled out the necessary paper work, was granted a license and was cutting hair within 24 hours after receiving that license, less than two miles from the hair salon which she left. The hair salon in my community that I just mentioned made every attempt to fill that seat. They hired an individual who started through the licensing process. To this day, the individual is still fighting with the red tape and the bureaucracy here in the State of Maine. This is a serious problem when we are trying to hire people and put people to work in the State of Maine.

I might also add that the individual in question who is fighting the bureaucracy here is a life-long resident of Maine and would like to relocate and work, once again, in the State of Maine. This is the problem this bill addresses.

The SPEAKER: The Chair recognizes the Representative from Berwick, Representative Murphy.

Representative MURPHY: Mr. Speaker, Ladies and Gentlemen of the House: I would like to put a little human being in the place of the person that Representative Lemont spoke about. The girl in question is a constituent who has lived in my town since the day her mother brought her home from the hospital. Her father is a businessman there, he is a contractor. She went through our local school system and graduated from Noble High School. She went to New Hampshire and went to cosmetology school. She served her year that you have to serve in New Hampshire under someone else and then she opened her own shop and ran it for five years. She decided to close that shop and she came back to Maine to get a job. She went to Kittery and got a job. When she found she had to apply for a Maine license — when she applied, they told her that she would have to take the test. She thought that was a little unusual but not too big a problem. They sent her an application, she filled it out and paid \$20, they gave her a temporary permit. Her appointment was February 28th (I believe that is the correct date) to take her test. She had to have a model, which we all know they do. The model that was coming up with her to have her hair cut and done became very ill and that morning and could not come. The girl had to postpone her appointment and they gave her another appointment of April 5th to take her test. This is when the problem really began. They said there was no problem in canceling, they would send her a new application in the mail. They said she was to send it back to them with \$20 and that she would be all set. So, she kept on working and finally she didn't get the application and her temporary permit was expiring so she called the Board of Cosmetologists and they said, "Oh, we put that in the mail." She said, "Well, I haven't received it."

We are talking from Augusta to Berwick, approximately 105 to 110 miles where she lives. Finally she called them back and said, "My permit is running out, what can I do?" They said, "Oh, it is our oversight, we did not put your application in the mail, but you cannot work." So, last week that girl could not work. She had customers but she was denied the right to work because of an error of the Cosmetologists Board here in Augusta.

On Wednesday night, her mother called me. Thursday morning, I called the Cosmetologists Board and I asked them if they would send an application over here to me. I suggested they leave it on my desk, in my post office box, or in the Minority office so that I could hand deliver this application to this young lady on Thursday night and bring it back so on Monday morning of this week at eight o'clock (and I would bring it back with \$20) so she could start working. They said they would try to get it over here to me. I got out of the Taxation Committee at 4:30-4:35 p.m., I came up and couldn't find it. I called them and said, "Well, we don't know, we sent it over." So I said, "What time do you close?" They said, "Five o'clock." I said, "I will try to be there in Gardiner by five o'clock to pick it up. If I don't make it, will you wait for me? I am getting ready to leave, I will leave shortly." The girl said, "I will wait in my car for five minutes after five o'clock." Well, I rushed over there, I made it three minutes of five. I got the application and took it home to her.

In the meantime, she had gone down to the supply place in New Hampshire. She heard about a job opening in Portsmouth so she went down and applied for that. Whether she took the job in New Hampshire, I am not sure, but the idea is that I asked them if they couldn't (over the phone) tell her she could work last week, that I would bring the application up and the money. They said, "No, they could not give her that permission." I feel as though this person is a Maine resident, she wants to work, support herself, pay taxes to the State of Maine and all she asked was the privilege to work. It was their oversight that she lost a week's pay. I don't know about anybody else in here but a week's pay means a lot to most of us. I have certainly been in the same situation that she is in. She needed that week's pay. So, we denied her a week of work because of an oversight in the Board of Cosmetologists.

I feel that things are not being handled right and maybe we ought to look into some of these boards because they are denying people the right to work when, in my opinion, all they had to say was, we will have that application. Needless to say, I have not received the application here yet and that was a week ago tomorrow that I called them (around nine o'clock in the morning) so I don't believe they ever sent it over here. They may have, I can't say for sure.

So, these are the things — we would just like to put a little human feeling into this bill. All we ask is that the Cosmetologists Board have the right when someone comes in here and their qualifications are higher than our requirements, not lower, we are not lowering our standards any. New Hampshire raised theirs to the point where you had to be a high school graduate, for whatever reason, I don't know. I don't think it is all that bad and if Maine doesn't want to do it, that is the choice of this Legislature. But do not deny our Maine citizens the right to work who have got better qualifications than actually what we ask for in this state.

The SPEAKER: The Chair recognizes the Representative from Rumford, Representative Cameron.

Representative CAMERON: Mr. Speaker, Ladies and Gentlemen of the House: As one of those on the Minority Report, I want to add my support to what has been said here already. The thing that made me vote in the Minority on this particular bill was that this is the type of bill that I don't like the way you are playing so I am going to take my ball and go home. That is exactly what the State of Maine has done in this case.

A year ago, if this young lady had applied to work here, it would not have been a problem.

I don't like the message being sent that we don't like higher standards. New Hampshire raised their standards a little higher, we said we don't like the higher standards, so rather than adjusting to a higher standard, we said, you can't work here anymore.

The other thing that bothers me is, as Representative Lemont pointed out, had this young lady come from another state that did not require Maine residents to take a test going there, there never would have been a problem. So, we have a double standard. Depending on the state you come from determines whether or not you have to take a test to work here. What I think that really says is that the test is irrelevant because if it was important, it would be required from every state in the union, not just those who require us to take a test.

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

Representative HOGGLUND: Mr. Speaker, Men and Women of the House: This issue, in all good respect to Representative Murphy, it is a hardship for this particular woman but we did not deny her a license. What we said was she had to do what was expected of every other young man and woman who come out of cosmetology school, you have to take a test and you get licensed. It was as simple as that. It was nothing to do with the standards, the woman was very qualified, over-qualified, but we cannot change the law for one person. Evidently, the Board in miscommunications somewhere along the line where the application was sent out, misplaced or whatever — that did happen. They guarantee that it wouldn't happen again and we have to go on their trust. But, what they did say in this particular case with this woman was, if she appealed it, they were willing to give her a license and let her work in the State of Maine. That is the issue, it is not the standards. We had reciprocity with New Hampshire up until a year ago. New Hampshire raised their standards and their standards are higher than Maine but whether we accept each other's standards or not, it really has to be looked at if we want to change our own education standards in the State of Maine.

So, I would ask you to stay with the Majority "Ought Not to Pass" Report.

The SPEAKER: The Chair will order a vote. The pending question before the House is the motion to accept the Majority "Ought Not to Pass" Report. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

54 having voted in the affirmative and 47 in the negative, the Majority "Ought Not to Pass" Report was accepted. Sent up for concurrence.

The Chair laid before the House the following matter: Majority Report of the Committee on Business Legislation reporting "Ought Not to Pass" on Bill "An Act to Establish Hours of Education for the Practice of Public Accountancy" (S.P. 52) (L.D. 73) and the Minority Report of the same Committee reporting "Ought to Pass" as amended by Committee Amendment "A" (S-33) on same Bill (came from the Senate with the Reports read and the Bill and accompanying papers recommitted to the Committee on Business Legislation) which was tabled earlier in the day and later today assigned pending the motion of the Representative from Portland, Representative Hoglund, that the House accept the Majority "Ought Not to Pass" Report.

Subsequently, the Majority "Ought Not to Pass" Report was accepted in non-concurrence and sent up for concurrence.

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

On motion of Representative HICHBORN of Howland, the following Order:

ORDERED, that Representative Marge L. Kilkelly of H-252

Wiscasset be excused February 25 for health reasons.

AND BE IT FURTHER ORDERED, that Representative Edward L. Pineau of Jay be excused March 11 and 12 for legislative business.

AND BE IT FURTHER ORDERED, that Representative James G. Skoglund of St. George be excused March 2 for health reasons.

AND BE IT FURTHER ORDERED, that Representative Mary E. Sullivan of Bangor be excused March 8 and 9 for personal reasons.

Was read and passed.

(Off Record Remarks)

On motion of Representative Anderson of Woodland, Adjourned at 11:16 a.m. until Monday, March 15, 1993, at four o'clock in the afternoon pursuant to Joint Order (S.P. 285).
