

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
46th Legislative Day
Tuesday, May 4, 1993

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

Prayer by Pastor Warner A. Howard, North Nobleboro Baptist Church.

The Journal of Monday, May 3, 1993, was read and approved.

SENATE PAPERS

Bill "An Act Concerning the Eligibility of Children of Disabled Veterans to Obtain Education Benefits" (S.P. 444) (L.D. 1411)

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

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

Bill "An Act to Clarify the Extent of Insurable Interests" (S.P. 448) (L.D. 1415)

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

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

Bill "An Act to Amend Certain Corporate Laws" (S.P. 455) (L.D. 1422)

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

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

Bill "An Act to Amend the Laws Governing the Maine Arts Commission" (S.P. 445) (L.D. 1412)

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 Amend the Laws Governing the Committee to Advise the Department of Human Services on AIDS" (S.P. 451) (L.D. 1418)

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

Was referred to the Committee on **Human**

Resources in concurrence.

Bill "An Act to Abolish Secrecy in the Courts on Matters of Public Health or Safety" (S.P. 439) (L.D. 1369)

Bill "An Act to Create a Noneconomic Damages Award Act" (S.P. 446) (L.D. 1413)

Bill "An Act to Modify the Legal Doctrine of Joint and Several Liability" (S.P. 447) (L.D. 1414)

Bill "An Act Concerning the Terminally Ill" (S.P. 453) (L.D. 1420)

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 Implement the Recommendations of the Special Commission on Governmental Restructuring Pertaining to the Judicial Branch" (S.P. 441) (L.D. 1371)

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

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

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

Bill "An Act to Provide for Special Liquor Licenses" (S.P. 442) (L.D. 1372)

Bill "An Act Concerning the Out-of-State Purchase of Alcoholic Beverages for Noncommercial Uses" (S.P. 443) (L.D. 1410)

Bill "An Act to Amend the Laws Concerning Emergency 911" (S.P. 452) (L.D. 1419)

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

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

Bill "An Act to Amend the Laws Governing the Hancock County Budget Advisory Committee" (S.P. 449) (L.D. 1416)

Bill "An Act to Separate Cushings Island in Casco Bay from the City of Portland and to Create the Cushings Island Village Corporation as Part of the Town of Long Island" (S.P. 454) (L.D. 1421)

Came from the Senate, referred to the Committee

on State and Local Government and Ordered Printed.

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

Bill "An Act to Establish an Alternate Elderly Low Cost Drug Program" (S.P. 440) (L.D. 1370)

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

Was referred to the Committee on Taxation in concurrence.

Bill "An Act Allowing the Town of Pittsfield to Obtain Water from the Town of Burnham" (S.P. 450) (L.D. 1417)

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

Was referred to the Committee on Utilities in concurrence.

Ought to Pass as Amended

Report of the Committee on Judiciary reporting "Ought to Pass" as Amended by Committee Amendment "A" (S-89) on Bill "An Act to Amend the Statutory Provisions Governing the Time and Method of Paying Restitution" (S.P. 176) (L.D. 590)

Came from the Senate, with the report read and accepted and the Bill Passed to be Engrossed as amended by Committee Amendment "A" (S-89).

Report was read and accepted, the Bill read once. Committee Amendment "A" (S-89) was read by the Clerk and adopted and the Bill assigned for second reading Thursday, May 6, 1993.

Ought to Pass as Amended

Report of the Committee on Banking and Insurance reporting "Ought to Pass" as Amended by Committee Amendment "A" (S-93) on 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, with the report read and accepted and the Bill Passed to be Engrossed as amended by Committee Amendment "A" (S-93).

Report was read and accepted, the Bill read once. Committee Amendment "A" (S-93) was read by the Clerk and adopted and the Bill assigned for second reading Thursday, May 6, 1993.

Divided Report

Later Today Assigned

Majority Report of the Committee on Labor reporting "Ought to Pass" as amended by Committee Amendment "A" (S-104) on Bill "An Act to Promote Equity in Wages and Benefits in Public Contracts with Private Contractors" (S.P. 142) (L.D. 433)

Signed:

Senators: HANDY of Androscoggin
LUTHER of Oxford

Representatives: SULLIVAN of Bangor
CHASE of China
COFFMAN of Old Town
RUHLIN of Brewer
CLEMENT of Clinton
ST. ONGE of Greene

Minority Report of the same Committee reporting "Ought Not to Pass" on same Bill.

Signed:

Senator: BEGLEY of Lincoln

Representatives: AIKMAN of Poland
LINDAHL of Northport
CARR of Sanford
LIBBY of Buxton

Came from the Senate with the Minority "Ought Not to Pass" Report read and accepted.

Reports were read.

Representative Ruhlin of Brewer moved that the House accept the Majority "Ought to Pass" Report.

On motion of the same Representative, tabled pending his motion that the House accept the Majority "Ought to Pass" Report and later today assigned.

Divided Report

Majority Report of the Committee on Fisheries and Wildlife reporting "Ought to Pass" as amended by Committee Amendment "A" (S-87) on Bill "An Act Regarding the Baiting of Animals" (S.P. 260) (L.D. 798)

Signed:

Senators: LUTHER of Oxford
HALL of Piscataquis

Representatives: FAREN of Cherryfield
GREENLAW of Standish
JACQUES of Waterville
NICKERSON of Turner
ROTONDI of Athens
SWAZEY of Bucksport
TRACY of Rome

Minority Report of the same Committee reporting

"Ought Not to Pass" on same Bill.

Signed:

Representatives: CLARK of Millinocket
HEINO of Boothbay

Came from the Senate with the Majority "Ought to Pass" as amended Report read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (S-87)

Reports were read.

On motion of Representative Rotondi of Athens, the Majority "Ought to Pass" Report was accepted, the bill read once.

Committee Amendment "A" (S-87) was read by the Clerk and adopted and the Bill assigned for second reading Thursday, May 6, 1993.

Non-Concurrent Matter

Bill "An Act to Require Written Reason for Discharge, Demotion or Discipline" (S.P. 106) (L.D. 309) on which the Minority "Ought Not to Pass" Report of the Committee on Labor was read and accepted in the House on April 29, 1993.

Came from the Senate with that Body having insisted on its previous action whereby the Majority "Ought to Pass" as amended Report of the Committee on Labor was read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (S-79) and asked for a Committee of Conference in non-concurrence.

On motion of Representative Ruhlman of Brewer, the House voted to Insist and join in a Committee of Conference.

At this point, the Speaker appointed the Representative from East Millinocket, Representative Michaud, to act as Speaker pro tem.

The House was called to order by the Speaker pro tem.

**PETITIONS, BILLS AND RESOLVES
REQUIRING REFERENCE**

The following Bills, Resolve 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:

Business Legislation

Bill "An Act to Amend the Laws Governing Vending Machine Sales of Cigarettes" (H.P. 1060) (L.D. 1428) (Presented by Representative ROWE of Portland)

(Cosponsored by Representatives: AHEARNE of Madawaska, CHASE of China, DRISCOLL of Calais, FAIRCLOTH of Bangor, HEESCHEN of Wilton, JOHNSON of South Portland, KNEELAND of Easton, PLOWMAN of Hampden, RICHARDSON of Portland, ROBICHAUD of Caribou, TOWNSEND of Portland, Senator: LAWRENCE of York)

Ordered Printed.
Sent up for Concurrence.

Energy and Natural Resources

Bill "An Act to Improve Markets for Chlorine-free Paper Products" (H.P. 1063) (L.D. 1431) (Presented by Representative YOUNG of Limestone) (Cosponsored by Representative LEMKE of Westbrook and Representatives: ADAMS of Portland, ANDERSON of Woodland, BENNETT of Norway, BOWERS of Washington, BRENNAN of Portland, BRUNO of Raymond, CAMPBELL of Holden, CARLETON of Wells, CARON of Biddeford, CARROLL of Gray, COLES of Harpswell, DEXTER of Kingfield, FARNSWORTH of Hallowell, FITZPATRICK of Durham, GEAN of Alfred, GRAY of Sedgwick, GWADOSKY of Fairfield, HOLT of Bath, JACQUES of Waterville, JOSEPH of Waterville, KERR of Old Orchard Beach, KETTERER of Madison, KILKELLY of Wiscasset, KNEELAND of Easton, KONTOS of Windham, KUTASI of Bridgton, LIBBY of Buxton, LORD of Waterboro, MARSH of West Gardiner, MICHAEL of Auburn, MITCHELL of Vassalboro, MITCHELL of Freeport, NADEAU of Saco, PARADIS of Augusta, PFEIFFER of Brunswick, POULIOT of Lewiston, RAND of Portland, RICHARDSON of Portland, SIMONEAU of Thomaston, STEVENS of Orono, STROUT of Corinth, TOWNSEND of Portland, TRACY of Rome, TREAT of Gardiner, TUFTS of Stockton Springs, WENTWORTH of Arundel, Senators: BUTLAND of Cumberland, CONLEY of Cumberland, TITCOMB of Cumberland)

Ordered Printed.
Sent up for Concurrence.

Legal Affairs

Bill "An Act Limiting Fees Charged to Serve Court Documents" (H.P. 1058) (L.D. 1426) (Presented by Representative STEVENS of Orono)

Bill "An Act to Allow Political Parties to Determine the Method of Nominating Candidates" (H.P. 1064) (L.D. 1432) (Presented by Representative MICHAEL of Auburn) (Cosponsored by Representative: KUTASI of Bridgton)

Bill "An Act to Provide for Public Finance in State Elections" (H.P. 1065) (L.D. 1433) (Presented by Speaker MARTIN of Eagle Lake) (Cosponsored by Representative MARSH of West Gardiner and Senator: DUTREMBLE of York)

Ordered Printed.
Sent up for Concurrence.

State and Local Government

Bill "An Act to Create the Commission to Establish a Comprehensive Policy Concerning Political Activity by Members of Various Boards and Commissions" (EMERGENCY) (H.P. 1059) (L.D. 1427) (Presented by Representative JOSEPH of Waterville) (Cosponsored by Representative: BENNETT of Norway) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27.)

Resolve, to Establish a Commission to Study the Size of the Legislature (EMERGENCY) (H.P. 1061) (L.D. 1429) (Presented by Representative JOSEPH of Waterville)

Ordered Printed.
Sent up for Concurrence.

Taxation

RESOLUTION, Proposing an Amendment to the Constitution of Maine to Freeze the Property Taxes of Citizens Aged 65 and Older under Certain Circumstances (H.P. 1062) (L.D. 1430) (Presented by Representative MITCHELL of Freeport) (Cosponsored by Senator: VOSE of Washington)

Ordered Printed.
Sent up for Concurrence.

ORDERS

On motion of Representative MICHAEL of Auburn, the following Joint Resolution: (H.P. 1066) (Cosponsored by Representatives: AHEARNE of Madawaska, BENNETT of Norway, BOWERS of Washington, CAMERON of Rumford, DONNELLY of Presque Isle, FITZPATRICK of Durham, GOULD of Greenville, GRAY of Sedgwick, GWADOSKY of Fairfield, HOGLUND of Portland, HUSSEY of Milo, JOY of Island Falls, KUTASI of Bridgton, LEMKE of Westbrook, LEMONT of Kittery, LINDAHL of Northport, PARADIS of Augusta, TRACY of Rome, TRUE of Fryeburg, TUFTS of Stockton Springs, WHITCOMB of Waldo, WINN of Glenburn, YOUNG of Limestone, Senators: BALDACCI of Penobscot, CAREY of Kennebec, HANDY of Androscoggin, LUTHER of Oxford, SUMMERS of Cumberland, TITCOMB of Cumberland) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 35)

JOINT RESOLUTION MEMORIALIZING THE CONGRESS OF THE UNITED STATES TO REVOKE ITS CONGRESSIONAL PAYRAISE, ROLLBACK ITS SALARIES TO THE 1989 LEVEL AND REPEAL THE AUTOMATIC COST-OF-LIVING ALLOWANCE

WE, your Memorialists, the Members of the One Hundred and Sixteenth Legislature of the State of Maine, now assembled in the First Regular Session, most respectfully present and petition the Congress of the United States, as follows:

WHEREAS, Congress was originally envisioned as a legislative body designed to serve the public; and

WHEREAS, members of Congress now have salaries

greater than the amount of income received by 99% of the American people; and

WHEREAS, Congress is in danger of becoming an institution of the elite and the privileged; and

WHEREAS, members of Congress now receive automatic pay increases that occur without vote; and

WHEREAS, President Clinton is asking all Americans to join in a united economic sacrifice for the benefit of the republic; and

WHEREAS, the State Legislature may serve petitions upon Congress to encourage its deliberations; now, therefore, be it

RESOLVED: That We, your Memorialists, respectfully recommend and urge the Congress of the United States to rollback its congressional salary to the 1989 level of \$89,500; and be it further

RESOLVED: That the Congress of the United States is hereby petitioned to repeal its automatic annual cost-of-living adjustments; and be it further

RESOLVED: That We further commend the United States Senate for banning honoraria and petition it to continue that prohibition; and be it further

RESOLVED: That suitable copies of this Memorial, duly authenticated by the Secretary of State, be transmitted to the President of the Senate and the Speaker of the House of Representatives of the Congress of the United States and to each Member of the Maine Congressional Delegation.

Was read and adopted and sent up for concurrence.

REPORTS OF COMMITTEES

Ought to Pass as Amended

Representative COTE from the Committee on Judiciary on Bill "An Act Regarding Judicial Branch Publications" (H.P. 596) (L.D. 811) reporting "Ought to Pass" as amended by Committee Amendment "A" (H-233)

Report was read and accepted, the bill read once. Committee Amendment "A" (H-233) was read by the Clerk and adopted and the bill assigned for second reading Thursday, May 6, 1993.

Divided Report

Tabled and Assigned

Majority Report of the Committee on Aging, Retirement and Veterans reporting "Ought to Pass" as amended by Committee Amendment "A" (H-220) on Bill "An Act to Extend the Retirement Incentive Option for Two Years" (H.P. 462) (L.D. 599)

Signed:

Senators: TITCOMB of Cumberland
McCORMICK of Kennebec

assigned.

Representatives: CATHCART of Orono
WENTWORTH of Arundel
HATCH of Skowhegan
JOY of Island Falls
QUINT of Paris
TUFTS of Stockton Springs

Minority Report of the same Committee reporting "Ought Not to Pass" on same Bill.

Signed:

Senator: WEBSTER of Franklin

Representatives: JALBERT of Lisbon
BARTH of Bethel
VIGUE of Winslow

Reports were read.

On motion of Representative Gwadosky of Fairfield, tabled pending acceptance of either report and specially assigned for Thursday, May 6, 1993.

Divided Report

Later Today Assigned

Majority Report of the Committee on Legal Affairs reporting "Ought to Pass" on Bill "An Act to Prohibit Public Housing Authorities from Regulating Firearm Possession by Residents" (H.P. 259) (L.D. 337)

Signed:

Senators: CAREY of Kennebec
HALL of Piscataquis

Representatives: BOWERS of Washington
STEVENS of Sabattus
BENNETT of Norway
NASH of Camden
GAMACHE of Lewiston

Minority Report of the same Committee reporting "Ought Not to Pass" on same Bill.

Signed:

Senator: HANDY of Androscoggin

Representatives: LEMKE of Westbrook
ROBICHAUD of Caribou
TRUE of Fryeburg
MICHAEL of Auburn
DAGGETT of Augusta

Reports were read.

Representative Daggett of Augusta moved that the House accept the Minority "Ought Not to Pass" Report.

On further motion of the same Representative, tabled pending her motion that the House accept the Minority "Ought Not to Pass" Report and later today

CONSENT CALENDAR

First Day

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

(S.P. 114) (L.D. 315) Bill "An Act to Protect the Future of the United States Naval Shipyard at Kittery" (EMERGENCY) Committee on Housing and Economic Development reporting "Ought to Pass" as amended by Committee Amendment "A" (S-90)

(S.P. 287) (L.D. 857) Bill "An Act Requiring School Suspension or Expulsion in Cases Involving Dangerous or Concealed Weapons" Committee on Education reporting "Ought to Pass" as amended by Committee Amendment "A" (S-86)

(S.P. 337) (L.D. 1011) Bill "An Act to Amend the Medicare Supplement Insurance Regulatory Program" (EMERGENCY) Committee on Banking and Insurance reporting "Ought to Pass"

(H.P. 593) (L.D. 808) Bill "An Act to Eliminate the Automatic Issuance of Conditional Withholding Orders" Committee on Judiciary reporting "Ought to Pass" as amended by Committee Amendment "A" (H-234)

(H.P. 827) (L.D. 1113) Resolve, to Extend the Commission to Study the Feasibility of a Capital Cultural Center and to Establish an Advisory Committee to the Commission (EMERGENCY) Committee on Education reporting "Ought to Pass"

(H.P. 694) (L.D. 935) Bill "An Act Concerning Suspension of Registrations under the Operating-under-the-influence Laws" Committee on Legal Affairs reporting "Ought to Pass"

There being no objections, the above items were ordered to appear on the Consent Calendar of Thursday, May 6, 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:

(H.P. 191) (L.D. 254) Bill "An Act to Extend the Operating Deadline for Municipal Solid Waste Landfills" (EMERGENCY) (C. "A" H-217)

(H.P. 388) (L.D. 501) Bill "An Act to Correct Errors and Inconsistencies in the Growth Management Laws" (C. "A" H-218)

(H.P. 632) (L.D. 863) Resolve, to Establish a Land Swap in Carrabassett Valley

(H.P. 971) (L.D. 1302) Bill "An Act to Implement the Provision of Services Pursuant to the Augusta Mental Health Institute Consent Decree"

(H.P. 511) (L.D. 669) Bill "An Act to Reapportion Maine School Administrative District No. 72" (EMERGENCY)

(H.P. 184) (L.D. 236) Bill "An Act to Permit Children 5 Years of Age to Enter Grade One" (C. "A" H-221)

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

(H.P. 421) (L.D. 540) Bill "An Act Regarding the Use of Natural Gas in Motor Vehicles" (C. "A" H-222)

On motion of Representative Clark of Millinocket, was removed from the Consent Calendar, Second Day.

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

Committee Amendment "A" (H-222) was read by the Clerk and adopted and the Bill assigned for second reading Thursday, May 6, 1993.

(H.P. 500) (L.D. 658) Bill "An Act Related to Hook-up Fees for New Installations of Electric Heat" (C. "A" H-223)

(H.P. 685) (L.D. 926) Bill "An Act to Allow Disclosure of Residential Electrical Costs" (C. "A" H-224)

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

(H.P. 745) (L.D. 1012) Bill "An Act to Amend the Waldoboro Utility District Charter" (C. "A" H-225)

On motion of Representative Clark of Millinocket, was removed from the Consent Calendar, Second Day.

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

Committee Amendment "A" (H-225) was read by the Clerk and adopted and the Bill assigned for second reading Thursday, May 6, 1993.

(H.P. 786) (L.D. 1059) Bill "An Act to Establish the Public Advocate Regulatory Fund Assessment for the Next Biennium" (EMERGENCY) (C. "A" H-226)

(H.P. 577) (L.D. 781) Bill "An Act to Introduce Greater Efficiency in the Provision of Certain State Services" (EMERGENCY) (C. "A" H-227)

(H.P. 487) (L.D. 645) Resolve, to Reduce the

Administrative Costs of State Government (EMERGENCY) (C. "A" H-228)

(H.P. 562) (L.D. 759) Resolve, Authorizing the Merger of MCD Residential Care, Inc., a Maine For-profit Corporation, with Medical Care Development, Inc., a Nonprofit Corporation (C. "A" H-229)

(H.P. 527) (L.D. 711) Resolve, Concerning a Special Revenue Account for Emergency Medical Services (C. "A" H-230)

(H.P. 531) (L.D. 715) Bill "An Act to Foster the Bringing Together of Venture Capital and Innovative Business Ideas" (EMERGENCY) (C. "A" H-231)

(H.P. 407) (L.D. 520) Bill "An Act to Amend the Maine Housing Authorities Act" (C. "A" H-232)

(S.P. 41) (L.D. 53) Bill "An Act to Improve Access to Maine's Veterans' Homes" (EMERGENCY) (C. "A" S-84)

(S.P. 175) (L.D. 589) Bill "An Act to Continue Certain Provisions of the Seed Certification Laws That Encourage the Development of New Varieties" (C. "A" S-85)

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 Papers were Passed to be Engrossed as Amended and sent up for concurrence.

PASSED TO BE ENGROSSED

As Amended

Bill "An Act Concerning Mooring Permits" (H.P. 469) (L.D. 606) (C. "A" H-219)

Bill "An Act to Establish Maximum Interest Rates for Automobile Financing" (H.P. 656) (L.D. 894) (C. "A" H-212)

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

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

On motion of Representative SMALL of Bath, the following Joint Resolution: (H.P. 1067) (Cosponsored by Representative: HOLT of Bath, Senator: CAHILL of Sagadahoc)

**JOINT RESOLUTION COMMEMORATING BATH
AS ONE OF THE BEST SMALL TOWNS IN AMERICA**

WHEREAS, Bath is a charming and historic small town located in the scenic county of Sagadahoc; and

WHEREAS, Bath has had a colorful and interesting history. Settled in 1664, Bath is believed to have

received its name in honor of Bath in Somersetshire, England. It has the distinction of being the first town to be incorporated in the District of Maine under the new Massachusetts Constitution of 1780. For more than two centuries, shipbuilding has been an integral facet of the life of the community. In 1743, the first large vessel, a schooner, was built in Bath by Jonathan Philbrick and his sons. The industrious and talented citizens of Bath have continued the shipbuilding tradition to the present day and now Bath enjoys worldwide recognition as a major shipbuilding center; and

WHEREAS, Bath is an ideal example of America's distinctive "small town," one of the enduring bedrock institutions of this country. A small town is considered by many to be the best environment to live, work, play and actively participate in the democratic process; and

WHEREAS, Norman Crampton, in his nationwide guide entitled "The 100 Best Small Towns in America," identified Bath and gave it a rank of 32nd in the country. This remarkable tribute to Bath is given for several reasons. There is a strong and growing economic base, in particular, Bath Iron Works and the tourist industry; a wide variety of educational opportunities; proximity to beautiful scenic areas, including a number of State parks; access to nearby urban areas; access to high-quality health care; a high per-capita income; extensive local recreation activities; and a low crime rate; and

WHEREAS, these attributes and the significant cultural contributions Bath makes in several capacities, including the Maine Maritime Museum and the Center for Performing Arts at the Chocolate Church, contribute to make Bath an ideal place to live; now, therefore, be it

RESOLVED: That We, the Members of the One Hundred and Sixteenth Legislature, now assembled in the First Regular Session, take this special opportunity to recognize the City of Bath and congratulate the inhabitants of the City of Bath for receiving this remarkable commendation and extend to each our sincere hopes and best wishes for continued achievement as one of the best small towns in America; and be it further

RESOLVED: That suitable copies of this resolution, duly authenticated by the Secretary of State, be transmitted to the citizens and municipal officers of this proud city in honor of the occasion.

Was read and adopted and sent up for concurrence.

At this point, Speaker Martin resumed the Chair.

The House was called to order by the Speaker.

ENACTOR

Emergency Measure

(Failed Enactment)

An Act to Exempt Employees of the Public Utilities Commission from Furlough and Shutdown Days (S.P. 119) (L.D. 357) (C. "A" S-70)

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

The SPEAKER: The Chair recognizes the Representative from Poland, Representative Aikman.

Representative AIKMAN: Mr. Speaker, Ladies and Gentlemen of the House: This bill offers an exemption to the Public Utilities staff and exempts them from furlough and shutdown days.

I would like to pose a question through the Chair, please. I am assuming that this bill would extend the exemption and furlough days beyond June 30th?

The SPEAKER: The Chair would advise the members of the House that the matter will be negotiated between the employees and the employer. That means the Governor.

The Chair recognizes the Representative from Poland, Representative Aikman.

Representative AIKMAN: Mr. Speaker, Ladies and Gentlemen of the House: So, it is safe to assume that as of June 30th, there will be renegotiations of the Maine State Employees Association with the contract to the state employees. I think this is a fairness issue and I would ask that you oppose the emergency enactment and vote against the enactment of furlough days exempting the PUC from furlough and shutdown days.

The SPEAKER: The Chair recognizes the Representative from Millinocket, Representative Clark.

Representative CLARK: Mr. Speaker, Ladies and Gentlemen of the House: The explanation given by the Speaker to the Representative was correct, it will be negotiated in June.

The Public Advocate came into our hearing and testified that he was very much in favor of this bill. MSEA came in, they said they were very much in favor of this bill. We were led to believe by the Governor's Office that they would sign this bill if they got this bill.

So, I hope when you vote today, you will be voting in favor of this bill. I think it will be doing justice for the people out there in putting them back to work. It could save the ratepayers of the state a lot of money if we get some of these people back to work.

Representative Aikman of Poland requested a roll call vote.

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

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

The Chair recognizes the Representative from Old Town, Representative Coffman.

Representative COFFMAN: Mr. Speaker, Ladies and Gentlemen of the House: I was one of two people that voted against this bill. I just want to share my reason with you. I think we would be setting a

precedent here, a bad precedent. I realize that the people at the PUC are valued, their work needs to be done. I, myself, live in an area that isn't being serviced by the PUC at the present moment. They are so caught up in rate filings with the CMP that they have neglected Bangor-Hydro, so we have been put on the back burner for several months.

I, as much as anybody in here, would like to see the PUC do their work, but I also am aware of state employees who would also like to do their work and that work in many instances isn't being done. I think that the precedent here — well, one of the arguments I have heard is, yes, the PUC people are paid by our surcharge on electrical rates so the consumer pays for the services of the PUC members. I also realize that state workers are paid by taxes but I also further realize that the people who pay those taxes and the people who pay those electrical rates are those same people, myself included. So, I can't see the differentiation on that point, that we should be treating those employees of the state differently.

So, I would ask that you vote this down.

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

Representative ADAMS: Mr. Speaker, Men and Women of the House: I am a bit surprised at some of these questions that are popping up now on the floor as opposed to the committee hearing where we worked on this quite exhaustively. Rarely will you hear Divided Reports or even much debate out of the Utilities Committee because of the nature of the work we do and the arcane language and all the difficult things we have to deal with regarding utilities in the State of Maine. This one was not so difficult to us when it came to us. The MSEA indeed did support the bill and the Governor's Office indicated that they too would support the bill if we made certain changes which are in the document that is in front of you now.

It would be useful for you all to understand that your tax dollars do not go to support the Public Utilities Commission. That Commission is supported by an assessment upon all the utilities of the State of Maine, great or small, water or electric, gas, it doesn't matter, that money goes into a pool, that pool is divided out and that is the pool of money that is used to pay the employees that do the regulating of all those utilities. It is set up on a separate line. If they don't work, the utilities don't get regulated and you and I keep on paying. That is why we put this bill together, to exempt these few employees so that they may do the work that you and I want to see done and for that very special reason is why the MSEA agreed to support it.

I would point out to you that, though the whole State of Maine runs on about \$1.5 billion a year, the utilities of the State of Maine take in about \$1.5 billion a year. Also, it is one of the heaviest burdens that we carry in the state, equal entirely to the burden of all the rest of the state's obligation in taxes. Therefore, if we can save a few pennies here and there by giving people the right to work when they need to work to do the job we are paying them to do, we are better off. I urge your support of the bill before you now.

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

ROLL CALL NO. 69

YEA - Adams, Ahearne, Aliberti, Beam, Bowers, Brennan, Cameron, Carroll, Cashman, Cathcart, Chase, Chonko, Clark, Cloutier, Coles, Constantine, Cote, Daggett, DiPietro, Donnelly, Dore, Driscoll, Dutremble, L.; Erwin, Faircloth, Farnsworth, Farnum, Fitzpatrick, Gamache, Gean, Gould, R. A.; Hale, Hatch, Heeschen, Hichborn, Hoglund, Holt, Hussey, Jacques, Johnson, Joseph, Kerr, Kontos, Larrivee, Lemke, Lipman, Look, Martin, H.; Melendy, Michael, Michaud, Mitchell, E.; Mitchell, J.; Morrison, Nadeau, Nash, Norton, O'Gara, Paradis, P.; Pfeiffer, Pineau, Pinette, Plourde, Poulin, Pouliot, Rand, Richardson, Ricker, Rotondi, Rowe, Ruhlin, Rydell, Saint Onge, Saxl, Skoglund, Stevens, K.; Strout, Sullivan, Swazey, Townsend, E.; Townsend, G.; Townsend, L.; Tracy, Treat, Vigue, Walker, Wentworth, Winn, Young, The Speaker.

NAY - Aikman, Anderson, Ault, Bailey, R.; Barth, Bennett, Bruno, Campbell, Caron, Carr, Clukey, Coffman, Cross, Dexter, Farren, Gray, Greenlaw, Gwadosky, Heino, Hillock, Joy, Kneeland, Kutasi, Lemont, Libby Jack, Libby James, Lindahl, Lord, MacBride, Marshall, Murphy, Nickerson, Ott, Pendexter, Pendleton, Plowman, Quint, Reed, G.; Reed, W.; Robichaud, Simoneau, Small, Spear, Stevens, A.; Taylor, Thompson, True, Tufts, Whitcomb, Zirkilton.

ABSENT - Bailey, H.; Carleton, Clement, Foss, Jalbert, Ketterer, Kilkelly, Marsh, Oliver, Simonds, Tardy.

Yes, 90; No, 50; Absent, 11; Paired, 0; Excused, 0.

90 having voted in the affirmative and 50 in the negative with 11 being absent, L.D. 357 failed of enactment. Sent up for concurrence.

PASSED TO BE ENACTED**Emergency Measure**

An Act to Amend the Maine Nuclear Emergency Planning Act (S.P. 152) (L.D. 484) (C. "A" S-68)

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. 122 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 Conform the Maine Tax Laws for 1992 with the United States Internal Revenue Code (S.P. 173) (L.D. 587)

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. 115 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 Define Farmers' Market (H.P. 265) (L.D. 343) (C. "A" H-168)

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. 120 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 Allow Service of Protective Orders on Sunday (H.P. 367) (L.D. 470) (C. "A" H-156)

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. 118 voted in favor of the same and 1 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 Facilitate the Conduct of Business of the Maine Technical College System (H.P. 508) (L.D. 666) (C. "A" H-164)

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. 119 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.

FINALLY PASSED

Emergency Measure

Resolve, Approving the 1993 Draft and Arrangement of the Constitution of Maine Made by the Chief Justice of the Supreme Judicial Court and Providing for its Publication and Distribution (H.P. 726) (L.D. 985) (C. "A" H-166)

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. 122 voted in favor of the same and 1 against and accordingly the Resolve was finally passed, signed by the Speaker and sent to the Senate.

PASSED TO BE ENACTED

An Act to Improve Access to Dental Services (S.P. 85) (L.D. 198) (C. "A" S-83)

An Act to Prohibit the Display of Social Security Numbers on Credit Cards, Customer Service Cards and Debit Cards (S.P. 242) (L.D. 735) (C. "A" S-78)

An Act to Increase the Effectiveness of Child Support Enforcement (H.P. 108) (L.D. 150) (C. "A" H-144)

An Act to Change the Scallop Harvesting Season (H.P. 117) (L.D. 158) (C. "A" H-146)

An Act Concerning Court Approval of Minor Settlements (H.P. 205) (L.D. 267) (C. "A" H-155)

An Act Related to Common Nuisances (H.P. 273) (L.D. 351) (C. "A" H-163)

An Act to Require Judges to Consider the Desirability of Financial Forfeitures (H.P. 379) (L.D. 492) (C. "A" H-157)

An Act to Continue the Maine Dairy Farm Stabilization Act (H.P. 381) (L.D. 494) (C. "A" H-169)

An Act Relating to the Theft of Utility Services (H.P. 427) (L.D. 546) (C. "A" H-158)

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.

PASSED TO BE ENACTED

An Act to Authorize Modifications to Tolls on the Maine Turnpike (H.P. 582) (L.D. 786)

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

The SPEAKER: The Chair recognizes the Representative from Buxton, Representative Libby.

Representative LIBBY: Mr. Speaker, Men and Women of the House: This bill is regarding the new system that will go into effect with the Maine Turnpike Authority regarding toll collections. Believe it or not, there are a lot of people out there in Maine that do not like the idea of going through the toll barriers at 20 miles an hour with a gadget in their car.

I really object to this, there could be substantial capital investment to a project like this and I would like us to consider it further.

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

Representative O'GARA: Mr. Speaker, Men and Women of the House: I must inform the Representative

this has nothing to do at all with the proposed system in the future. This has to do with the opportunity for the Turnpike in the future — it just gives them the opportunity at other areas on the Turnpike where it might be feasible to go to the barrier system or to adjust the fares or to adjust the system, but I must say to the House this has nothing whatsoever to do with the proposal.

Representative Libby of Buxton requested a roll call vote.

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

A vote of the House was taken and less than one-fifth of the members present and voting having expressed a desire for a roll call, a roll call was not ordered.

Subsequently, the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

PASSED TO BE ENACTED

An Act to Establish the Town Line between Vassalboro and China (H.P. 634) (L.D. 865) (C. "A" H-165)

An Act to Modify Public Utilities Commission Practice and Rules of Evidence (S.P. 202) (L.D. 638) (C. "A" S-69)

An Act to Require That Purchasers of Used Cars Be Informed Whether the Cars Were the Subjects of Lemon Law Decisions (S.P. 223) (L.D. 694) (C. "A" S-67)

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

ENACTOR

Tabled and Assigned

An Act to Regulate Home Repair by Transient Contractors (S.P. 228) (L.D. 699) (C. "A" S-72)

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

On motion of Representative Coffman of Old Town, tabled pending passage to be enacted and specially assigned for Thursday, May 6, 1993.

FINALLY PASSED

Resolve, Authorizing the State Tax Assessor to Convey the Interest of the State in Certain Real Estate in the Unorganized Territory (S.P. 183) (L.D. 597) (C. "A" S-82)

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

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

SENATE PAPER

The following Joint Resolution: (S.P. 459)

JOINT RESOLUTION RECOGNIZING THE HONORABLE PAUL A. MACDONALD ON THE OCCASION OF HIS RETIREMENT FROM JUDICIAL SERVICE

WHEREAS, the Honorable Paul A. MacDonald, of Woolwich, is an outstanding citizen and a dedicated public servant whose reputation for honesty, fairness and efficiency is widely known throughout his community and State; and

WHEREAS, his excellent reputation afforded him with ever-widening opportunities for public service, including 17 years as Deputy Secretary of State, 20 years as Secretary of State and nearly 3 decades of judicial service; and

WHEREAS, the dedication of the West Bath District Court building in Paul A. MacDonald's honor on May 7, 1993, in the year of his retirement from judicial service, is a fitting tribute to his years of service to the citizens of the State of Maine; now, therefore, be it

RESOLVED: That We, the Members of the 116th Legislature of the State of Maine, now assembled, in the First Regular Session, take this opportunity to commend the Honorable Paul A. MacDonald on behalf of the people of the State for his years of distinguished service; and be it further

RESOLVED: That suitable copies of this resolution, duly authenticated by the Secretary of State, be presented to the Honorable Paul A. MacDonald in token of our thanks and best wishes for the future.

Came from the Senate, read and adopted.

Was read and adopted in concurrence.

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

SENATE PAPER

Ought to Pass as Amended

Report of the Committee on Labor reporting "Ought to Pass" as Amended by Committee Amendment "A" (S-108) on Bill "An Act Concerning Independent Contractors under the Workers' Compensation Laws" (EMERGENCY) (S.P. 389) (L.D. 1184)

Came from the Senate, with the report read and accepted and the Bill Passed to be Engrossed as amended by Committee Amendment "A" (S-108).

Report was read and accepted, the Bill read once.

Committee Amendment "A" (S-108) was read by the Clerk and adopted.

Under suspension of the rules, the Bill was read a second time, passed to be engrossed as amended by Committee Amendment "A" (S-108) in concurrence.

By unanimous consent, was ordered sent forthwith to Engrossing.

ORDERS OF THE DAY

UNFINISHED BUSINESS

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

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

HOUSE DIVIDED REPORT - Majority (9) "Ought Not to Pass" - Minority (4) "Ought to Pass" as amended by Committee Amendment "A" (H-215) - Committee on Aging, Retirement and Veterans on Bill "An Act to Amend the Laws Related to the Maine State Retirement System" (H.P. 227) (L.D. 295)
 TABLED - May 3, 1993 (Till Later Today) by Representative PARADIS of Augusta.
 PENDING - Acceptance of Either Report.

The SPEAKER: The Chair recognizes the Representative from Arundel, Representative Wentworth.

Representative WENTWORTH: Mr. Speaker, I move that the House accept the Minority "Ought to Pass" Report.

Mr. Speaker, Men and Women of the House: This bill would change the vesting period for all state employees. Right now, state employees vest after ten years of service with the state and this would move it to five years.

As you can see, it is a Divided Report. There was some feeling on the Committee that this was maybe a little bit of a hasty move. However, I think it is important to point out that Maine, with a ten year vesting period, actually is above the average nationally and that many, many states have a five year vesting period or less. There are, I believe, a few states that automatically vest when you come into employment.

There is a fiscal note on the bill but I would point out it only says that there may be some minor cost in the future. The reason why there is an extensive cost for this is quite complicated and probably best could be explained by the actuary of our system, but I don't think we have time for that. I would ask that we trust the fiscal note and assume that by going to a five year vesting period instead of a ten year vesting period, we are not going to affect what employees do with what decisions they make. All we will affect is the time at which in their employment they become vested and get a guarantee of certain rights to retirement.

The issue will be raised probably by the folks who are in opposition to this, that this may impact on the budget decisions that we have made. I would point out that, right now, the Superior Court has

ruled that the employees who have not yet vested in the system, essentially have the same rights to a pension as those who have vested. If the Law Court overturns that decision and decides that in fact the legislature has the right to change retirement benefits for employees who are not yet vested, we would still have the power in the budget bill to make the changes that have been proposed by the Aging Committee and will be considered by the Appropriations Committee and those changes would go into effect before this vesting period change would go into effect if we adopt it.

Consequently, changing the vesting to five years would not have an impact on the budget decisions that we have made or the changes to retirement benefits that we will make in the budget, if the Aging Committee's recommendations are adopted.

So, it will not have an impact on current budget deliberations. What it will do is give more assurance to state employees who have seen their retirement system benefits eroding, being changed constantly, threatened constantly by Legislative and Executive Branch actions and it is one small thing we can do for state employees that will give them more security in their employment in the state by assuring that they will have a right, a vested right, to their employment at an earlier time than is now the case, at five years rather than ten years. We are not jumping into new ground here. As I said before, there are many states that do have a five year or shorter vesting period. There are few states that have a longer vesting period but we are above the national average.

I would encourage you to support the Minority "Ought to Pass" Report.

The SPEAKER: The Chair recognizes the Representative from Winslow, Representative Vigue.

Representative VIGUE: Mr. Speaker, Ladies and Gentlemen of the House: I would urge you to oppose the pending motion. We have created numerous problems over the years by being more lenient than we should have with the system that presently is underfunded to the tune of \$1.8 billion.

If we keep handing out benefits - changing the vesting period from ten years to five years will increase the cost to the system, there is no other way. It will make people - put them more in control of the total retirement system. What is happening right now, we are in the courts trying to correct past legislation and the court decision came down - we had a decision come down last week that we now must find \$35 million from last year because of a court decision. We now have to appeal it to Superior Court and we are presently thinking of giving more to the system. I think the time has come where we have to start holding back. Going from a ten year vesting to a five year vesting will create additional problems to the system.

I would urge you to oppose the pending motion and be a little more fiscally conservative, something we can probably afford to do is probably what we should do. I would urge you to oppose the pending motion.

The SPEAKER: The Chair recognizes the Representative from Windham, Representative Kontos.

Representative KONTOS: Mr. Speaker, Men and Women of the House: If you will notice the original bill, this is the bill I and several others sponsored, in large part at the request of teachers who raised the question in my district about their vesting period and wondered what could be done.

The origin of the bill is that I went to the MTA, asked them about the vesting period, they gave me a lot of information and that happened two years ago. This summer we talked again and on their behalf, I sponsored this legislation.

In large part, as I told the committee when I presented the bill, this kind of an issue of what date people are vested represents to me a kind of analogy with church when you are confirmed, nothing particularly different happens except that you feel validated within a group of people that you associate with. The interesting thing, and the piece of information that people seem not willing to believe, is that the actuarial reports from the Retirement System as they were presented to me before I sponsored the bill, and as I represented to the committee, indicated that changing the vesting period is revenue neutral. I repeat, revenue neutral. So, the kinds of fears that people will try to suggest to you are not supported by the data. I wouldn't have sponsored a bill if I thought it was going to create additional problems for the funding of the Retirement System. What this does is help with the gesture of good will from my point of view to the state workers and particularly from where I sat, the teachers in the system who look for a vesting period as a period of validation, of credibility, that they are considered legitimate members of the professional group to which they belong.

There will be additional arguments that this is going to hurt the system. I suggest to you that you listen to Representative Wentworth's remarks, follow his light and understand that it is revenue neutral. I know it sounds hard to believe. I questioned it myself but here is why — anecdotally, regardless of the vesting period, whether it is five years or ten, people will leave the system for whatever reason, they leave state work, they leave education and they take their money out because at the time it is more important for them to invest it in their first house or college expenses or whatever it might be. Regardless of the period at the point of time at which someone is vested, those changes in the system seem to balance each other out. I didn't make that up, that came from the retirement people who are the professional actuaries that study this kind of information. For that reason, I believe in it strongly, I know there are a lot of implications but I suggest to you those are political implications, not practical ones. I hope you follow the light of Representative Wentworth and me and support the Minority "Ought to Pass" Report.

The SPEAKER: The Chair recognizes the Representative from Bethel, Representative Barth.

Representative BARTH: Mr. Speaker, Ladies and Gentlemen of the House: I hope that you will not accept the Minority "Ought to Pass" Report but will vote against it so we can go with the majority of the committee which was the "Ought Not to Pass" Report.

If you pass this, you are saying or sending a message to state workers, teachers, etcetera, that you are vested at five years. But in the scenario that Representative Wentworth outlined, if the courts decide in the state's favor and the budget then causes these people who, by passage of this bill, think they have five year vesting and all of a sudden everybody with less than ten years is zonked with some additional costs, I think that is sending to them a mixed message. On one hand, we are saying we are going to vest you at five years and on the other

hand, we are going to take that right away from you by passing the budget.

If anyone is starting out, whether it be teaching or state government, I think certainly we all want the best people possible and we want them to continue in a career path for an extended period of time. So, as far as I am concerned, I see no problem whether it is five year vesting, ten year vesting, fifteen year vesting, twenty for that matter, if we want good people and we want them to stay on, the vesting period year is inconsequential and a young person starting out doesn't even think of that.

I hope that you will defeat the "Ought to Pass" motion.

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

Representative DIPIETRO: Mr. Speaker, Men and Women of the House: May I pose a question, please?

Mr. Speaker, this says teachers and state employees. Are the members of the municipalities under this retirement system also?

The SPEAKER: Representative DiPietro of South Portland has posed a question through the Chair to any member who may respond if they so desire.

The Chair recognizes the Representative from Arundel, Representative Wentworth.

Representative WENTWORTH: Mr. Speaker, Men and Women of the House: The participating local districts which cover any municipality that opts to enter into an agreement with this system are not affected by this change. The state does not have — we probably do have the power to mandate what the local plan looks like but it has not been a tradition of this legislature to mandate what the local plan looks like. Instead, we offer the options and the local plans adopt those as they see fit. In this case, it would only apply, it would only be a mandate to state employees and teachers that the vesting period be reduced from ten years to five years.

The SPEAKER: The Chair recognizes the Representative from Biddeford, Representative Plourde.

Representative PLOURDE: Mr. Speaker, I would like to pose a question through the Chair.

Representative Wentworth, let's take the scenario today that I am a state employee and I have seven years vested in the retirement system — if we pass this particular bill, which would give five years, what would it do to that individual? If the present system was enforced and that same person left the system, what would happen to the remaining three years of money that was put into the system?

The SPEAKER: Representative Plourde of Biddeford has posed a question through the Chair to any member who may respond if they so desire.

The Chair recognizes the Representative from Arundel, Representative Wentworth.

Representative WENTWORTH: Mr. Speaker, Men and Women of the House: I don't understand the second part of the question. As far as the first part, if a person had seven years of credible service and we pass this, when it goes into effect 90 days after the session ends, they would in effect be vested, if they had more than five years.

The SPEAKER: The Chair recognizes the Representative from Biddeford, Representative Plourde.

Representative PLOURDE: Mr. Speaker, Men and Women of the House: To follow up on the second question, just to clarify what I meant. Presently, if someone was in a ten year vesting and they left,

having seven years, what would happen? Let's say it is 70 percent — what would happen to the remaining 30 percent on the vesting portion? In other words, we have a ten year, which would give you 100 percent vesting and would come out to approximately ten percent each year vesting rights, what would happen to the contribution of the employee — that 30 percent that he contributed? Would that stay in the system?

The SPEAKER: Representative Plourde of Biddeford has posed a question through the Chair to any member who may respond if they so desire.

The Chair recognizes the Representative from Arundel, Representative Wentworth.

Representative WENTWORTH: Mr. Speaker, Men and Women of the House: The way the vesting works is there is no percentage allocation for a year of service, you don't get ten percent vesting, you have to work a full ten years to become vested. It basically gives you full force of law to entitlement to your benefit, your retirement benefit. If you only work seven years, you would not be vested under the ten year vesting system. Your contributions that you have made for those seven years, you could withdraw from the system, your own contributions. The employer contribution, however, remains in the system. You could then, if you decided later in your employment career to come back to state service and you had withdrawn, you could buy back that time, that seven years that you were in the system. It would be very expensive, depending on when you came back. You could buy back that time so you would then again have credit for that seven years. If you decided to stop employment after seven years in the system and you did not withdraw from the system and then later came back to state service or as a teacher, you would pick up with seven years of credit at the time you come back and you could start adding on then. If we go to this five year vesting and you are in for seven years, you are vested no matter what, you can still withdraw your contribution if you choose. However, you would be vested after five years.

The SPEAKER: The Chair recognizes the Representative from Paris, Representative Quint.

Representative QUINT: Mr. Speaker, Members of the House: I take exception with the fact that we do not have time to research or understand the cost. There are going to be some costs here. If an employee or teacher leaves the State of Maine employment now after seven years, true, they can take their money with them that they have put in, their share. The employers share remains in the system. We presently have an unfunded liability of \$1.8 billion. This amount of money that stays in the system, if the employee takes their share, can go toward making up that unfunded liability and does now. If they become vested at five years and leave after the fifth year, that money stays in the system for their retirement, so there is a cost.

Another thing I want to mention is that the courts now are deciding issues and it is under appeal, issues pertaining to the vesting of employees. I think that this is poor timing to change the vesting from ten to five years when it is in the courts at this time.

I do encourage you to vote no on the Minority "Ought to Pass" Report.

The SPEAKER: The Chair recognizes the Representative from Arundel, Representative Wentworth.

Representative WENTWORTH: Mr. Speaker, Men and

Women of the House: It is true, there is a case pending — well, it will be appealed to the Law Court, that was decided in Superior Court. However, that should have absolutely no bearing on this issue. We can change the vesting period from ten to five years and, regardless of what the outcome is in the court case, that decision would stand if the legislature chooses to do it. If the court decides in favor of the employees, then this really is not as necessary. If the court decides in favor of the state or the employer, then what we have offered employees is security of their pension at five years rather than ten years.

There are 19 states that do this currently in the U.S., there are a number of states with four year vesting and a number with immediate vesting and the rest usually have either eight or ten years. It is a wide variety.

The cost issue is for all intents and purposes irrelevant. Five year vesting versus ten year vesting is not going to change many employees habits in terms of taking their money out of the system or not. People who withdraw their money right now with less than ten years service can still do that under the five year vesting, they can withdraw their own contribution. They likely will continue to maintain that same pattern. The only thing that five year vesting does is for those people who wish to stay in state service, it guarantees a shorter time of service necessary to be guaranteed their pension rights. I think that is something that we can offer state employees and teachers at this time that is a benefit to them without a cost to the state, which can be determined and that the retirement system is concerned about. And, in this time when we have constantly slapped our state employees and our teachers in the face, particularly in respect to their retirement benefits, I think this is one of the few steps we can take that will assure some kind of benefit to them that doesn't affect this state negatively. I hope you will support the Minority Report.

The SPEAKER: The Chair recognizes the Representative from Winslow, Representative Vigue.

Representative VIGUE: Mr. Speaker, Ladies and Gentlemen of the House: If the situation is as simple as stated by the Representative from Arundel, why is he so concerned with the passage of this bill?

Presently we are just coming out of the courts with a decision that was made against vesting for seven years. Last year, what we did was affect the people who had less than seven years of service with the state. The decision has now come down that we can't do a thing really as far as changing the benefits with these people that have vested seven years. This year, we are going to deal with seven to ten and with the decision we can't deal with the seven to ten. What we are going to do is effectively take away the effectiveness that we might have with the new employees. If this be the case, why don't we do it the way California does, as soon as you hire someone, effectively they are vested from the date of hiring. I don't think this is necessary to keep our workers, our employees. I would urge you to oppose the motion on the floor.

The SPEAKER: The Chair recognizes the Representative from Windham, Representative Kontos.

Representative KONTOS: Mr. Speaker, Men and Women of the House: Please remember what we are telling you as being true. I know people continue to

raise issues and I submit to you those are red herrings.

We have played with the retirement system as a budgetary matter for the three years that I have been here. It has been unkind, unfair and may in fact have been unlawful. What we are looking at here is an opportunity to support the very people that we have been knocking around in this budget process.

Secondly, one of the things that I learned from the retirement system was that a vesting period of five years anecdotically, they can't support this with actuarial data, but anecdotically, people that are vested at five years are more likely to leave their money in the system because it is not a very large amount. So, the kind of argument you have heard from the Representative from South Paris and the Representative from Winslow seem not to be supported by the people who studied this issue. I submit to you their argument is a political one rather than a practical one. I urge you again to support the Minority "Ought to Pass" Report.

The SPEAKER: The Chair recognizes the Representative from Scarborough, Representative Pendleton.

Representative PENDLETON: Mr. Speaker, I would like pose a question through the Chair.

I was wondering, are state legislators going to be involved in this situation? In other words, I know now that we have to serve ten terms in order to be vested, does this mean that now we will be serving five terms and be vested and then will we be part of that system?

The SPEAKER: Representative Pendleton of Scarborough has posed a question through the Chair to any member who may respond if they so desire.

The Chair recognizes the Representative from Windham, Representative Kontos.

Representative KONTOS: Mr. Speaker, Men and Women of the House: In answer to the Representative's question, if she looks at the bill, it continues to say there is no change, there's no amendments, five full terms as a legislator, that was not amended from the statutory language that currently exists, so there is no change in the way this affects legislative contributions.

The SPEAKER: The Chair will order a vote. The pending question before the House is the motion of Representative Wentworth of Arundel that the House accept the Minority "Ought to Pass" Report. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

Representative Wentworth of Arundel requested a roll call vote.

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

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

The SPEAKER: The pending question before the House is the motion of Representative Wentworth of Arundel that the House accept the Minority "Ought to Pass" Report. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 70

YEA - Adams, Ahearne, Beam, Bowers, Brennan, Carroll, Cashman, Cathcart, Chase, Chonko, Clark, Cloutier, Coles, Constantine, Cote, Daggett, Driscoll, Faircloth, Farnsworth, Fitzpatrick, Gamache, Gean, Gwadosky, Heeschen, Hichborn, Hoglund, Holt, Hussey, Johnson, Joseph, Kontos, Larrivee, Lemke, Martin, H.; Melendy, Michael, Michaud, Mitchell, E.; Mitchell, J.; Morrison, Nadeau, Norton, O'Gara, Paradis, P.; Pfeiffer, Pineau, Pinette, Poulin, Rand, Richardson, Ricker, Rotondi, Rowe, Ruhlin, Rydell, Saint Onge, Saxl, Skoglund, Stevens, K.; Sullivan, Swazey, Townsend, E.; Townsend, G.; Townsend, L.; Tracy, Treat, Tufts, Walker, Wentworth, Winn, The Speaker.

NAY - Aikman, Aliberti, Anderson, Ault, Bailey, R.; Barth, Bennett, Bruno, Cameron, Campbell, Carleton, Caron, Carr, Clukey, Coffman, Cross, Dexter, DiPietro, Donnelly, Dore, Dutremble, L.; Erwin, Farnum, Farren, Foss, Gould, R. A.; Gray, Greenlaw, Hale, Hatch, Heino, Jacques, Joy, Kerr, Ketterer, Kneeland, Kutasi, Lemont, Libby Jack, Libby James, Lindahl, Lipman, Look, Lord, MacBride, Marsh, Marshall, Murphy, Nash, Nickerson, Ott, Pendexter, Pendleton, Plourde, Plowman, Pouliot, Quint, Reed, G.; Reed, W.; Robichaud, Simoneau, Small, Spear, Stevens, A.; Strout, Taylor, Thompson, True, Vigue, Whitcomb, Young, Zirnkilton.

ABSENT - Bailey, H.; Clement, Hillock, Jalbert, Kilkelly, Oliver, Simonds, Tardy.

Yes, 71; No, 72; Absent, 8; Paired, 0; Excused, 0.

71 having voted in the affirmative and 72 in the negative with 8 being absent, the motion did not prevail.

On motion of Representative Carr of Sanford, the Majority "Ought Not to Pass" Report was accepted and sent up for concurrence.

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

PASSED TO BE ENACTED

Emergency Measure

An Act Concerning Independent Contractors and the Responsibilities of Landowners under the Workers' Compensation Laws (S.P. 389) (L.D. 1184) (C. "A" S-108)

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.

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

The Chair laid before the House the following matter: Majority Report (8) of the Committee on Labor reporting "Ought to Pass" as amended by Committee Amendment "A" (S-104) on Bill "An Act to Promote Equity in Wages and Benefits in Public Contracts with Private Contractors" (S.P. 142) (L.D.

433) and Minority Report (5) of the same Committee reporting "Ought Not to Pass" on same Bill (Came from the Senate with the Minority "Ought Not to Pass" Report read and accepted) which was tabled earlier in the day and later today assigned pending the motion of Representative Ruhlin of Brewer that the House accept the Majority "Ought to Pass" Report.

At this point, the Speaker appointed the Representative from East Millinocket, Representative Michaud to act as Speaker pro tem.

The House was called to order by the Speaker pro tem.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Brewer, Representative Ruhlin.

Representative RUHLIN: Mr. Speaker, Ladies and Gentlemen of the House: This particular piece of legislation, which the Labor Committee worked on quite extensively and did do some modifications, is an attempt to make sure that in the State of Maine we have a level playing field. Some of the problems have been that some people look at privatization as union-busting or an organized labor-busting tactic. This particular bill does not address itself fully to privatization nor do I want to start into the pro's and con's of privatization this morning.

What this particular piece of legislation attempts to do is protect the collective bargaining process whereby if it becomes a policy decision of this state to hire out or privatize the services or any services, that that privatization shall pay an equal amount to what the state employees were paying so that you cannot use a lower amount, if you will, to short-circuit the collective bargaining process. For this, I was very pleased to sign on with the Majority "Ought to Pass" Report to protect the labor peace within the state and to protect the collective bargaining process.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Poland, Representative Aikman.

Representative AIKMAN: Mr. Speaker, Men and Women of the House: I urge you to vote against the pending motion of "Ought to Pass" and request, Mr. Speaker, a roll call.

This bill would require private contractors who provide personnel to perform services previously performed by state personnel to adhere to the specific wage and benefit guidelines. This would make it more costly to privatize since one of the strengths of privatization is that it allows market forces to dictate wage and benefit levels, the same forces that determine the wage and benefit levels throughout society. Where does the presumption come from that the state is paying an appropriate wage and the private sector an inappropriate wage? This bill would require the smallest of contracts to meet the prevailing wage requirements potentially affecting over 1,300 contracts per year.

There is a potential increased cost to state government. Requirements which control or restrict competitive bidders from providing services to the government under the same circumstances that those

services are provided to the private sector eliminates competitors or sharply increases their bid cost. For example, a contractor may not be providing the prevailing wage and/or benefits to employees working on private sector contracts but would be required to change pay and benefit status for some employees to compete on state contracts. Through procurement laws, the state would be controlling employment and compensation decisions of the private enterprise and at a cost paid through a more costly state contract.

Ladies and gentlemen, remember that requiring private contractors to adhere to the wage and benefit guidelines when contracting with the state will increase the cost of contracts to all state departments and agencies who access these services. This is not the time for Maine to be passing laws to make it more difficult to do business in the state.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Northport, Representative Lindahl.

Representative LINDAHL: Mr. Speaker, Ladies and Gentlemen of the House: This bill does affect approximately 1,300 contracts within the State of Maine. It is going to make it a less of a chance of downsizing government. There is another position added in the Department of Labor for a statistician to take care of this information, so I would just like you to take those things into consideration.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Brewer, Representative Ruhlin.

Representative RUHLIN: Mr. Speaker, Ladies and Gentlemen of the House: I just want to correct some information that has been imparted. This bill does have a fiscal note. That fiscal note does not call for the addition of any additional staff in the State of Maine at the Department of Labor or anywhere else. It does make reference to categorize these jobs through the Bureau of Human Resources in the Department of Labor but it does not in fact add any new employees to the State of Maine.

Also, what I would like to clarify is that this bill has been amended so that it will impact only on existing jobs. So, we are talking about jobs that are now state held jobs. It does not impact in its present form into the future.

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

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

The SPEAKER PRO TEM: The pending question before the House is the motion of Representative Ruhlin of Brewer that the House accept the Majority "Ought to Pass" Report. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 71

YEA - Adams, Ahearne, Aliberti, Beam, Bowers, Brennan, Cameron, Caron, Carroll, Cashman, Cathcart, Chase, Chonko, Clark, Cloutier, Coles, Cote, Daggett, DiPietro, Dore, Driscoll, Dutremble, L.; Erwin, Faircloth, Farnsworth, Fitzpatrick, Gamache, Gean, Gould, R. A.; Hale, Hatch, Heeschen, Hichborn, Hogle, Holt, Hussey, Jacques, Johnson, Joseph, Kerr, Ketterer, Kontos, Larrivee, Lemke, Martin, H.;

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Michael, Michaud, Mitchell, E.; Mitchell, J.; Morrison, Nadeau, Norton, O'Gara, Paradis, P.; Pfeiffer, Pineau, Pinette, Poulin, Pouliot, Rand, Richardson, Ricker, Rotondi, Rowe, Ruhlin, Rydell, Saint Onge, Saxl, Skoglund, Stevens, K.; Strout, Sullivan, Swazey, Townsend, E.; Townsend, L.; Tracy, Treat, Walker, Wentworth, Winn.

NAY - Aikman, Anderson, Ault, Bailey, R.; Barth, Bennett, Bruno, Campbell, Carleton, Carr, Clukey, Constantine, Cross, Dexter, Donnelly, Farnum, Farren, Foss, Gray, Greenlaw, Heino, Joy, Kneeland, Kutasi, Lemont, Libby Jack, Libby James, Lindahl, Lipman, Look, Lord, MacBride, Marsh, Marshall, Murphy, Nash, Nickerson, Ott, Pendexter, Pendleton, Plowman, Quint, Reed, G.; Reed, W.; Robichaud, Simoneau, Small, Spear, Stevens, A.; Taylor, Thompson, True, Tufts, Vigue, Whitcomb, Young, Zirnkilton.

ABSENT - Bailey, H.; Clement, Coffman, Gwadosky, Hillock, Jalbert, Kilkelly, Melendy, Oliver, Plourde, Simonds, Tardy, Townsend, G.; The Speaker.

Yes, 80; No, 57; Absent, 14; Paired, 0; Excused, 0.

80 having voted in the affirmative and 57 in the negative with 14 being absent, the Majority "Ought to Pass" Report was accepted, the Bill read once.

Committee Amendment "A" (S-104) was read by the Clerk and adopted and the Bill assigned for Second Reading Thursday, May 6, 1993.

(Off Record Remarks)

On motion of Representative Michaud of East Millinocket,

Adjourned at 12:04 p.m. until Thursday, May 6, 1993, at ten o'clock in the morning in memory of Representative Kilkelly's son, Jeffery W. Fortier of Wiscasset.
