

# MAINE STATE LEGISLATURE

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**LEGISLATIVE RECORD**

OF THE

**One Hundred And Sixteenth Legislature**

OF THE

**State Of Maine**

**VOLUME V**

**SECOND REGULAR SESSION**

**House of Representatives**  
January 5, 1994 to April 14, 1994

ONE HUNDRED AND SIXTEENTH MAINE LEGISLATURE  
SECOND REGULAR SESSION  
14th Legislative Day  
Tuesday, February 15, 1994

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

Prayer by Reverend Paul Plante, St. John's Church, Winslow.

Pledge of Allegiance.

The Journal of Thursday, February 10, 1994 was read and approved.

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**SENATE PAPERS**

The following Communication:

Maine State Senate  
Augusta, Maine 04333

February 10, 1994

The Honorable Dan A. Gwadosky  
Speaker of the House  
116th Legislature  
Augusta, Maine 04333

Dear Speaker Gwadosky:

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

Upon the recommendation of the Joint Standing Committee on Labor:

Gwendolyn Gatcomb of Winthrop for reappointment to the Maine Labor Relations Board.

George W. Lambertson of Readfield for reappointment to the Maine Labor Relations Board.

Wayne W. Whitney of Brunswick for reappointment to the Maine Labor Relations Board.

Sincerely,

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

Was read and ordered placed on file.

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The following Communication:

Maine State Senate  
Augusta, Maine 04333

February 10, 1994

The Honorable Dan A. Gwadosky  
Speaker of the House  
116th Legislature  
Augusta, Maine 04333

Dear Speaker Gwadosky:

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

Upon the recommendation of the Joint Standing Committee on Energy and Natural Resources:

Robert C. Hazelwood of Grand Lake Stream for reappointment to the Land Use Regulation Commission.

Steven O. Mason of Greenville for appointment to the Land Use Regulation Commission.

Steven O. Mason is replacing Chuck Gadzik.

Marilyn Tourtelotte of Guilford for appointment to the Land Use Regulation Commission.

Marilyn Tourtelotte is replacing Linda Alverson.

Sincerely,

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

Was read and ordered placed on file.

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**COMMUNICATIONS**

The following Communication:

116TH MAINE LEGISLATURE

February 3, 1994

J. Michael Orenduff, Chancellor  
University of Maine System  
107 Maine Avenue  
Bangor, Maine 04401-1805

Dear Chancellor Orenduff:

Pursuant to 20-A M.R.S.A., Section 10902-B, we are pleased to invite you to address a Joint Session of the 116th Maine Legislature on Friday, February 18, 1994 at 10:30 in the morning, on the State of the University of Maine System and any other matters which you may care to bring to our attention.

We look forward to seeing you then. Best wishes.

Sincerely,

S/Dennis L. Dutremble      S/Dan A. Gwadosky  
President of the Senate      Speaker of the House

Was read and ordered placed on file.

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The following Communication:

UNIVERSITY OF MAINE SYSTEM  
107 MAINE AVENUE  
BANGOR, MAINE 04401-4380

February 14, 1994

The Honorable Dennis L. Dutremble  
President of the Senate  
The Honorable Dan A. Gwadosky  
Speaker of the House  
State House  
Augusta, ME 04333

Dear President Dutremble and Speaker Gwadosky:

I am most pleased to accept your invitation to address a Joint Session of the 116th Maine Legislature on Friday, February 18, 1994, and look forward to the opportunity to report on the State of the University of Maine System.

Sincerely,

S/J. Michael Orenduff  
Chancellor

Was read and ordered placed on file.

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The following Communication:

PUBLIC UTILITIES COMMISSION  
STATE HOUSE STATION 18  
AUGUSTA, MAINE 04333-0018

February 3, 1994

The Honorable Dan A. Gwadosky  
Speaker of the House  
State House Station #2  
Augusta, Maine 04333

Dear Speaker Gwadosky:

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

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

Sincerely,

S/Charles A. Jacobs  
Administrative Director

Was read and with accompanying report ordered placed on file.

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The following Communication:

STATE OF MAINE  
OFFICE OF THE GOVERNOR  
AUGUSTA, MAINE 04333

MEMORANDUM

TO: SENATE CHAIR

HOUSE CHAIR  
and MEMBERS OF THE JOINT STANDING COMMITTEE  
ON BANKING & INSURANCE

FROM: S/GOVERNOR JOHN R. MCKERNAN, JR.

SUBJECT: REAPPOINTMENT OF THE PUBLIC MEMBER OF THE  
BOARD OF DIRECTORS OF THE MAINE EMPLOYERS'  
MUTUAL INSURANCE COMPANY

DATE: February 10, 1994

Pursuant to P.L. 1992, Ch. 885, I am submitting for your review and approval one reappointment to serve as the public member of the new Maine Employers' Mutual Insurance Company. As stated in the law, the Joint Standing Committee on Banking and Insurance has 15 days from the date of this notice to review this appointment and I look forward to your timely action on this important matter.

It is my pleasure to present to the committee the following nomination:

Harvey Picker of Camden

As you can see from the attached resume, this nominee is an accomplished professional who is already well known to Committee members. He is interested in serving on this group again and is willing to make the personal and professional sacrifice needed.

I recommend this appointee to you highly and hope the Committee will look favorably upon this nominee. I look forward to receiving the Committee's timely response.

Was read and with accompanying papers ordered placed on file.

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The following Communication:

116TH MAINE LEGISLATURE

February 10, 1994

Daniel E. Wathen, Chief Justice  
Kennebec County Court  
95 State St.  
Augusta, Maine 04330

Dear Chief Justice Wathen:

Thank you for rescheduling your address on the State of the Judiciary to Thursday, February 24, 1994, at 10:15 in the morning.

We apologize for any inconvenience this may have caused you.

We look forward to seeing you on Thursday, February 24, 1994 at 10:15 in the morning.

Sincerely,

S/Dennis L. Dutremble  
President of the Senate

S/Dan A. Gwadosky  
Speaker of the House

Was read and ordered placed on file.

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**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:

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**Agriculture**

Bill "An Act to Require Licenses and Fees for BST Manufacturers and Dealers" (EMERGENCY) (H.P. 1384) (L.D. 1883) (Presented by Representative SPEAR of Nobleboro) (Cosponsored by Representatives: AULT of Wayne, BAILEY of Farmington, BARTH of Bethel, BIRNEY of Paris, CAMERON of Rumford, CLEMENT of Clinton, CROSS of Dover-Foxcroft, DEXTER of Kingfield, HEESCHEN of Wilton, HEINO of Boothbay, HUSSEY of Milo, JOY of Island Falls, KILKELLY of Wiscasset, KNEELAND of Easton, LARRIVEE of Gorham, LORD of Waterboro, MARSHALL of Eliot, NASH of Camden, SIMONDS of Cape Elizabeth, ST. ONGE of Greene, TARDY of Palmyra, TRUE of Fryeburg, Senators: GOULD of Waldo, TITCOMB of Cumberland, WEBSTER of Franklin) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27.)

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**Appropriations and Financial Affairs**

Bill "An Act to Authorize a General Fund Bond Issue in the Amount of \$14,000,000 to Construct Environmental Protection Facilities and to Investigate, Abate, Clean up and Mitigate Threats to the Public Health and Environment from Uncontrolled Hazardous Substances Sites" (H.P. 1392) (L.D. 1890) (Presented by Representative ANDERSON of Woodland) (Cosponsored by Representative: GOULD of Greenville) (Governor's Bill)

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**Education**

Bill "An Act to Allow the Heartwood School of Art to Grant an Associate of Arts Degree" (H.P. 1382) (L.D. 1881) (Presented by Representative WENTWORTH of Kennebunkport) (Cosponsored by Representatives: LIBBY of Kennebunk, MITCHELL of Vassalboro, STEVENS of Orono, Senators: DUTREMBLE of York, O'DEA of Penobscot) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27.)

Bill "An Act to Establish the Maine Commission on National Service" (H.P. 1391) (L.D. 1889) (Presented by Representative MITCHELL of Vassalboro) (Cosponsored by Senator: O'DEA of Penobscot) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 26.)

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**Energy and Natural Resources**

Bill "An Act to Ensure Proper Funding of the Department of Environmental Protection" (H.P. 1385) (L.D. 1884) (Presented by Representative MARSH of West Gardiner) (Submitted by the Department of Environmental Protection pursuant to Joint Rule 24.)

Bill "An Act to Expedite Oil Spill Response Activities" (H.P. 1390) (L.D. 1888) (Presented by Representative JACQUES of Waterville) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27.)

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**Human Resources**

Bill "An Act to Clarify and Expand the Driver Education and Evaluation Programs in the State" (H.P. 1381) (L.D. 1868) (Presented by Representative PENDEXTER of Scarborough) (Cosponsored by Representatives: BRUNO of Raymond, PLOWMAN of Hampden, Senators: BUSTIN of Kennebec, FOSTER of Hancock) (Submitted by the Office of Substance Abuse pursuant to Joint Rule 24.)

Resolve, to Establish Minimum Standards for Adult and Family Shelters in the State (H.P. 1383) (L.D. 1882) (Presented by Representative GEAN of Alfred) (Cosponsored by Representatives: BRUNO of Raymond, REED of Falmouth, Senator: ESTY of Cumberland) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27.)

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**Human Resources**

Bill "An Act to Enable Parents to Retain Custody in Voluntary Placements" (H.P. 1377) (L.D. 1864) (Presented by Representative FITZPATRICK of Durham) (Cosponsored by Representatives: BRENNAN of Portland, BRUNO of Raymond, DORE of Auburn, GEAN of Alfred, ST. ONGE of Greene) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 26.)

Reference to the Committee on Judiciary suggested.

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

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**Legal Affairs**

Bill "An Act to Reform Financing of Referendum Questions" (H.P. 1378) (L.D. 1865) (Presented by Representative MORRISON of Bangor) (Cosponsored by Representatives: ADAMS of Portland, CASHMAN of Old Town, CLARK of Millinocket, DONNELLY of Presque Isle, ERWIN of Rumford, GEAN of Alfred, GOULD of Greenville, GWADOSKY of Fairfield, HICHBORN of LaGrange, JACQUES of Waterville, JOSEPH of Waterville, KONTOS of Windham, MARTIN of Eagle Lake, PARADIS of Augusta, POULIOT of Lewiston, SULLIVAN of Bangor, Senators: HANDY of Androscoggin, VOSE of Washington) (Approved for introduction by a majority

of the Legislative Council pursuant to Joint Rule 27.)

**State and Local Government**

Bill "An Act to Amend the Charter of the Northport Village Corporation" (EMERGENCY) (H.P. 1379) (L.D. 1866) (Presented by Representative LINDAHL of Northport) (Cosponsored by Senator GOULD of Waldo) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27.)

Bill "An Act to Correct Certain Inconsistencies in the Laws Relating to the Commission on Governmental Ethics and Election Practices" (H.P. 1380) (L.D. 1867) (Presented by Representative FARNSWORTH of Hallowell) (Cosponsored by Senator BUSTIN of Kennebec and Representatives: DAGGETT of Augusta, KILKELLY of Wiscasset) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 26.)

**Reported Pursuant to Public Law**

Representative MITCHELL for the Maine Sardine Council, pursuant to Public Law 1993, chapter 413, section 5 ask leave to submit its findings and to report that the accompanying Bill "An Act to Implement the Recommendations of the Maine Sardine Council" (EMERGENCY) (H.P. 1386) (L.D. 1885) be referred to the Joint Standing Committee on **Marine Resources** for Public Hearing and printed pursuant to Joint Rule 20.

Report was read and accepted, and the Bill referred to the Committee on **Marine Resources**, ordered printed and sent up for concurrence.

**Reported Pursuant to Resolve**

Representative NADEAU for the Commission to Study the Statutory Procedures for Local Property Tax Abatement Appeals, pursuant to Resolve 1993, chapter 41 ask leave to submit its findings and to report that the accompanying Bill "An Act to Implement the Recommendations of the Commission to Study the Statutory Procedures for Local Property Tax Abatement" (H.P. 1387) (L.D. 1886) be referred to the Joint Standing Committee on **Taxation** for Public Hearing and printed pursuant to Joint Rule 20.

Report was read and accepted, and the Bill referred to the Committee on **Taxation**, ordered printed and sent up for concurrence.

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

**ORDERS**

On motion of Representative CARLETON of Wells, the following Order:

ORDERED, that House Rule 52 be amended to read:

52. The rules of parliamentary practice comprised in ~~Reed's Mason's Rules, or any other standard authority,~~ shall govern the House in all cases in which they are applicable, and in which they are not inconsistent with the standing rules and orders of the House, and the joint rules of the Senate and House of Representatives. In the event that Mason's Rules do not cover the parliamentary practice in question, then Reed's Rules govern. If neither Mason's Rules or Reed's Rules cover the parliamentary practice in question, the rules of any other standard authority may be applied.

Was read and tabled one legislative day pursuant to House Rule 54.

On motion of Representative FARREN of Cherryfield, the following Joint Resolution: (H.P. 1389) (Cosponsors: Representatives: CONSTANTINE of Bar Harbor, HEINO of Boothbay, LEMONT of Kittery, LOOK of Jonesboro, SKOGLUND of St. George, TOWNSEND of Eastport, Senators: GOULD of Waldo, PINGREE of Knox, VOSE of Washington) (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 EXTEND THE MAINE TERRITORIAL SEA LIMITS FROM 3 MILES TO 12 MILES

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

WHEREAS, the current territorial sea limit for the State of Maine is 3 miles; and

WHEREAS, waters within the 3-mile territorial sea limit are regulated by the State of Maine with respect to marine fisheries and the waters outside the 3-mile territorial sea limit are not within the jurisdiction of the State; and

WHEREAS, the United States Government has extended territorial limits to 12 miles for purposes other than marine fisheries; now, therefore, be it

RESOLVED: That We, your Memorialists, respectfully recommend and urge the Congress of the United States to extend the territorial sea limit of the State of Maine from 3 miles to 12 miles for the purposes of marine fisheries so that the State of Maine can more effectively manage its marine fisheries resources; and be it further

RESOLVED: That suitable copies of this Memorial, duly authenticated by the Secretary of State, be transmitted to the Honorable William J. Clinton, President of the United States, 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.

On motion of Representative JACQUES of Waterville, tabled pending adoption and specially assigned for Friday, February 18, 1994.

On motion of Representative PARADIS of Augusta, the following Joint Order: (H.P. 1393)

ORDERED, the Senate concurring, that the Joint Standing Committee on State and Local Government report out a resolve directing an appropriate gift to be presented to the U.S.S. Maine at its launching ceremony to occur in the Summer of 1994.

Was read and passed and sent up for concurrence.

### REPORTS OF COMMITTEES

#### Ought to Pass as Amended

Representative HEINO from the Committee on **Marine Resources** on Bill "An Act to Prohibit Dragging in Waters within the Area of an Aquacultural Lease" (H.P. 1204) (L.D. 1612) reporting "**Ought to Pass**" as amended by Committee Amendment "A" (H-735)

Report was read and accepted. The bill read once. Committee Amendment "A" (H-735) was read by the Clerk and adopted and the bill assigned for second reading Friday, February 18, 1994.

#### Ought to Pass Pursuant to Joint Order (H.P. 1344)

Representative JOSEPH from the Committee on **State & Local Government** on Resolve, for Laying of the County Taxes and Authorizing Expenditures of Piscataquis County for the Year 1994 (EMERGENCY) (H.P. 1388) (L.D. 1887) reporting "**Ought to Pass**" Pursuant to Joint Order (H.P. 1344)

Report was read and accepted. The Resolve read once.

Under suspension of the rules, the Resolve was given its second reading without reference to the Committee on **Bills in the Second Reading**.

Under further suspension of the rules, the Resolve was passed to be engrossed 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:

(S.P. 565) (L.D. 1600) Bill "An Act to Amend the Liquor Laws Pertaining to the Delivery of Beer and Wine" Committee on **Legal Affairs** reporting "**Ought to Pass**"

(S.P. 577) (L.D. 1621) Bill "An Act to Protect Utility Consumers from Bearing Responsibility for Utility Mismanagement" Committee on **Utilities** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (S-392)

(H.P. 1081) (L.D. 1447) Bill "An Act to Conform Maine Income Tax Laws and Rules to the Internal Revenue Code" Committee on **Taxation** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (H-733)

(H.P. 1196) (L.D. 1604) Bill "An Act to Clarify the Status of the Maine Indian Tribal-State Commission" Committee on **Judiciary** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (H-729)

(H.P. 1220) (L.D. 1639) Bill "An Act to Enhance Assessment and Collection Powers of the Boothbay Harbor Sewer District" (EMERGENCY) Committee on **Utilities** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (H-732)

(H.P. 1257) (L.D. 1684) Bill "An Act to Amend the Charter of the Brewer Water District" Committee on **Utilities** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (H-731)

(H.P. 1264) (L.D. 1691) Bill "An Act to Implement the Technical and Environmental Assistance Program" Committee on **Energy & Natural Resources** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (H-734)

There being no objections, the above items were ordered to appear on the Consent Calendar of Friday, February 18, 1994 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. 342) (L.D. 445) Bill "An Act to Ensure the Proper Installation of Manufactured Homes" (C. "A" H-728)

(H.P. 1178) (L.D. 1569) Bill "An Act to Amend the Maine Banking Code to Clarify the Definition of Limited-time and Seasonal Branches and to Provide a Definition of In-school Branches" (C. "A" H-725)

(H.P. 1206) (L.D. 1614) Bill "An Act to Amend the Workers' Compensation Laws By Allowing Guarantors of Self-Insurers to Utilize Approved Letters of Credit" (C. "A" H-726)

(H.P. 1234) (L.D. 1661) Resolve, to Direct the Department of Inland Fisheries and Wildlife to Simplify Fishing Rules (EMERGENCY) (C. "A" H-727)

(H.P. 1276) (L.D. 1724) Resolve, to Promote Consumer Choice and Quality Competition in Supported Living Arrangements (C. "A" H-724)

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.

**BILLS IN THE SECOND READING**

**As Amended**

Bill "An Act Concerning the Hauling of Mobile Homes on the Roads and Highways of the State" (S.P. 564) (L.D. 1599) (C. "A" S-389)

Bill "An Act Concerning the Mahogany Quahog Tax" (S.P. 571) (L.D. 1619) (C. "A" S-388)

Were reported by the Committee on Bills in the Second Reading, read the second time, the Senate Papers were Passed to be Engrossed as Amended in concurrence.

Resolve, Authorizing the Direct Purchase of the Desk, Chair and Credenza Used by John L. Martin as Speaker of the House of Representatives (S.P. 677) (L.D. 1857)

Was reported by the Committee on Bills in the Second Reading, read the second time.

On motion of Representative CHONKO of Topsham, was set aside.

The same Representative presented House Amendment "A" (H-737), which was read by the Clerk and adopted.

The Resolve was passed to be engrossed as amended by House Amendment "A" (H-737) and sent up for concurrence.

Bill "An Act to Exempt Employees of the Public Utilities Commission from Furlough and Shutdown Days" (EMERGENCY) (S.P. 119) (L.D. 357) (C. "B" S-390)

Was reported by the Committee on Bills in the Second Reading, read the second time.

On motion of Representative AIKMAN of Poland, was set aside.

The same Representative requested a roll call on passage to be engrossed.

More than one-fifth of the members present expressed a desire for a roll call which was ordered.

The SPEAKER: The pending question before the House is passage to be engrossed. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 240

YEA - Adams, Ahearne, Beam, Bowers, Brennan, Carroll, Cashman, Chase, Chonko, Clark, Cloutier, Coles, Constantine, Cote, Daggett, Donnelly, Dore, Driscoll, Erwin, Faircloth, Farnsworth, Fitzpatrick, Gean, Hale, Hatch, Heeschen, Hichborn, Hoglund, Holt, Hussey, Jacques, Jalbert, Johnson, Joseph, Kerr, Ketterer, Kilkelly, Kontos, Larrivee, Lipman, Martin, J.; Melendy, Michael, Michaud, Mitchell, E.; Morrison, Nadeau, Norton, O'Gara, Oliver, Paradis, P.; Pfeiffer, Pinette, Poulin, Pouliot, Rand, Richardson, Ricker, Rotondi, Rowe, Ruhlin, Rydell, Saxl, Simonds, Skoglund, Stevens, K.; Sullivan, Swazey, Townsend, E.; Townsend, G.; Townsend, L.; Tracy, Treat, Walker, Wentworth, Winn, The Speaker.

NAY - Aikman, Aliberti, Anderson, Ault, Bailey, H.; Bailey, R.; Barth, Bennett, Birney, Bruno, Cameron, Campbell, Carleton, Caron, Carr, Clukey, Coffman, Cross, Dexter, Dipietro, Dutremble, L.; Farnum, Farren, Gamache, Gray, Greenlaw, Heino, Joy, Kneeland, Kutasi, Lemont, Libby Jack, Lindahl, Look, Lord, MacBride, Marsh, Marshall, Murphy, Nash, Nickerson, Ott, Pendexter, Pendleton, Plourde, Plowman, Reed, G.; Reed, W.; Robichaud, Simoneau, Small, Spear, Stevens, A.; Strout, Tardy, Taylor, Thompson, True, Tufts, Vigue, Whitcomb, Young, Zirnkilton.

ABSENT - Cathcart, Clement, Foss, Gould, R. A.; Hillock, Lemke, Libby James, Martin, H.; Mitchell, J.; Pineau, Saint Onge.

Yes, 77; No, 63; Absent, 11; Paired, 0; Excused, 0.

77 having voted in the affirmative and 63 in the negative with 11 absent, the Bill was passed to be engrossed and sent up for concurrence.

**TABLED AND TODAY ASSIGNED**

The Chair laid before the House the following items which were Tabled and Today Assigned:

HOUSE DIVIDED REPORT - Majority (9) "Ought Not to Pass" - Minority (4) "Ought to Pass" as amended by Committee Amendment "A" (H-718) - Committee on Energy and Natural Resources on Bill "An Act to Supplement Environmental Enforcement" (H.P. 731) (L.D. 990)  
 TABLED - February 10, 1994 by Representative JACQUES of Waterville.

PENDING - Motion of same Representative to accept the Majority "Ought Not to Pass" Report.

The SPEAKER: The Chair recognizes the Representative from Harpswell, Representative Coles.

Representative COLES: Mr. Speaker, Ladies and Gentlemen of the House: I rise to urge you to vote against the Majority "Ought Not to Pass" Report.

I would like to call your attention to a piece of material on your desks which I wrote to explain the bill. L.D. 990, the so-called Citizens' Suit Bill, does just what its title says. It supplements the normal environmental enforcement by allowing a citizen to bring suit to correct a violation of our environmental laws when, and only when, the responsible authorities are unresponsive to a complaint. It does not overlap, duplicate, or in any other way parallel normal enforcement activities. It simply provides recourse for correction of environmental law violations when a proper enforcing authority fails to respond to a citizen's complaint.



The only remedy allowed is injunctive relief, that is ending the violation, or declaratory relief, that is the judge declaring that a violation has occurred and referring it to the proper enforcement authority.

A citizen bringing a suit cannot profit in any way other than by seeing the violation corrected.

L.D. 990 is a modest proposal, not a radical proposal. It addresses, unfortunately, only two common situations where the authorities charged with enforcing state and local laws are unable or unwilling to do so. It provides recourse for ordinary citizens in such cases where no recourse now exists. It will encourage respect for environmental laws by those who now abuse them because they expect no consequences from that abuse. It has been drafted to prevent abuse of its intent and avoid unnecessary or wrongful litigation. Experience with Citizens' Suit provisions in federal law and the laws of several other states suggest very strongly that such laws are not abused, that in fact they are used only very sparingly.

L.D. 990 is also needed because with the budget we passed last year, a substantial portion of the funding for enforcement of our environmental and land use laws were cut. It was explicitly stated during the course of the budget process that minor complaints from citizens would no longer be acted upon because we cut the people who would do that. Since we have not been able to provide adequate resources for enforcement of our laws, should we not provide for alternative enforcement procedures that may be undertaken at no expense to the taxpayer? If government will not enforce the law, should not citizens have a right to do so?

Please reject the pending motion and support the Minority Report.

The Chair ordered a division on the motion to accept the Majority "Ought Not to Pass" Report.

A vote of the House was taken.

Representative COLES of Harpswell requested a roll call on the motion to accept the Majority "Ought Not to Pass" Report.

More than one-fifth of the members present expressed a desire for a roll call which was ordered.

The SPEAKER: The pending question before the House is the motion of Representative Jacques of Waterville that the House accept the Majority "Ought Not to Pass" Report. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 241

YEA - Ahearne, Aikman, Aliberti, Anderson, Ault, Bailey, H.; Bailey, R.; Barth, Bennett, Birney, Bruno, Cameron, Campbell, Carleton, Caron, Carr, Cashman, Clark, Cloutier, Clukey, Coffman, Constantine, Cote, Cross, Dexter, Dipietro, Donnelly, Driscoll, Dutremble, L.; Erwin, Farnum, Farren, Gamache, Gould, R. A.; Gray, Greenlaw, Hale, Hatch, Heino, Hichborn, Hussey, Jacques, Jalbert, Joseph, Joy, Kerr, Ketterer, Kilkelly, Kneeland, Kutasi, Larrivee, Lemont, Libby Jack, Lindahl, Lipman, Look, Lord, MacBride, Marshall, Melendy, Morrison, Murphy, Nadeau, Nash, Nickerson, Norton, O'Gara, Ott, Paradis, P.; Pendexter, Pendleton, Plourde, Plowman, Poulin, Pouliot, Reed, G.; Reed, W.; Ricker, Robichaud, Rotondi, Ruhlin, Saint Onge, Simoneau, Skoglund, Small, Spear, Stevens, A.; Strout, Sullivan, Tardy, Taylor, Thompson, Townsend, G.; True, Tufts, Vigue, Whitcomb, Winn, Young, Zirnkilton.

NAY - Adams, Beam, Bowers, Brennan, Carroll, Chase, Chonko, Coles, Daggett, Dore, Faircloth, Farnsworth, Fitzpatrick, Gean, Heeschen, Hoglund, Holt, Johnson, Kontos, Marsh, Martin, J.; Michael, Michaud, Mitchell, E.; Oliver, Pfeiffer, Pinette, Rand, Richardson, Rowe, Rydell, Saxl, Simonds, Stevens, K.; Swazey, Townsend, E.; Townsend, L.; Tracy, Treat, Walker, Wentworth.

ABSENT - Cathcart, Clement, Foss, Hillock, Lemke, Libby James, Martin, H.; Mitchell, J.; Pineau, The Speaker.

Yes, 100; No, 41; Absent, 10; Paired, 0; Excused, 0.

100 having voted in the affirmative and 41 in the negative with 10 absent, the Majority "Ought Not to Pass" Report was accepted and sent up for concurrence.

HOUSE ORDER - Relative to amending House Rule 52. In House, Read on January 25, 1994.

TABLED - February 10, 1994 by Representative JACQUES of Waterville.

PENDING - Passage. (2/3 Vote Required)

On motion of Representative JACQUES of Waterville, tabled pending passage and specially assigned for Friday, February 18, 1994.

HOUSE ORDER - Relative to amending House Rule 23. In House, Read on January 5, 1994.

TABLED - February 10, 1994 by Representative JACQUES of Waterville.

PENDING - Passage. (2/3 Vote Required)

On motion of Representative JACQUES of Waterville, tabled pending passage and specially assigned for Friday, February 18, 1994.

The following items were taken up out of order by unanimous consent:

SENATE PAPERS

Bill "An Act to Allow the Sale of Irradiated Food in Maine" (S.P. 684) (L.D. 1870)

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

Was referred to the Committee on Agriculture in concurrence.

Bill "An Act to Authorize the Artisans School to Grant Degrees" (S.P. 691) (L.D. 1877)

Resolve, to Exempt School Administrative District No. 62 from Repayment of a School Subsidy Overpayment (S.P. 683) (L.D. 1869)

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

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

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**SENATE PAPERS**

Bill "An Act Concerning Municipally Owned and Operated Solid Waste Incinerators" (S.P. 690) (L.D. 1876)

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.

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Bill "An Act to Authorize and Regulate the Integrated Delivery of Services by the Licensed Acute Care Hospitals in the City of Portland" (EMERGENCY) (S.P. 689) (L.D. 1875)

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

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

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Bill "An Act to Improve Methods of Dispute Resolution of the Maine Human Rights Commission" (S.P. 692) (L.D. 1878)

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

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

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**SENATE PAPERS**

Bill "An Act Concerning the Importation of Salmon" (S.P. 685) (L.D. 1871)

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

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

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Bill "An Act to Change the Selection Process for the State Auditor and More Closely Align the Work of the Joint Standing Committee on Audit and Program Review with the Work of the State Auditor" (S.P. 694) (L.D. 1880) (Governor's Bill)

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.

**SENATE PAPERS**

Bill "An Act to Make Allocations from the Maine Turnpike Authority Funds to the Maine Turnpike Authority for the Fiscal Year Ending December 31, 1995" (S.P. 686) (L.D. 1872)

Bill "An Act to Facilitate Collection of Tolls on the Maine Turnpike" (S.P. 687) (L.D. 1873)

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

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

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Bill "An Act to Reduce the Cost of Electricity and to Provide for Market Competition in the Production and Sales of Electricity" (S.P. 688) (L.D. 1874)

Bill "An Act to Enhance the Effectiveness of the Office of the Public Advocate" (S.P. 693) (L.D. 1879)

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

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

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At this point, pursuant to House Rule 1, the Chair would like to announce the following changes in Committee Appointments:

Representative CARR of Sanford is appointed to the Joint Standing Committee on **Human Resources**, replacing Representative BEAM of Lewiston.

Representative BEAM of Lewiston is appointed to the Joint Select Committee on **Corrections**, replacing Representative GEAN of Alfred.

Representative MARTIN of Eagle Lake is appointed Chair of the Joint Standing Committee on **Energy and Natural Resources**, replacing Representative JACQUES of Waterville.

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On motion of Representative DiPIETRO of South Portland, adjourned at 5:20 p.m., until 10:00 a.m., Friday, February 18, 1994.