

# 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  
 17th Legislative Day  
 Thursday, February 24, 1994

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

Prayer by Honorable Frank H. Farren, Jr., Cherryfield.

The Journal of yesterday was read and approved.

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**SENATE PAPERS**

**Ought to Pass as Amended**

Report of the Committee on **Marine Resources** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (S-410) on Bill "An Act Concerning Commercial Fishing Licenses" (S.P. 572) (L.D. 1618)

Came from the Senate, with the report read and accepted and the Bill Passed to be Engrossed as amended by Committee Amendment "A" (S-410).

Report was read and accepted. The Bill read once. Committee Amendment "A" (S-410) was read by the Clerk and adopted and the Bill assigned for second reading Tuesday, March 1, 1994.

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**PETITIONS, BILLS AND RESOLVES REQUIRING REFERENCE**

The following Bills and Resolutions 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:

Bill "An Act Concerning the University of Maine System Scholarship Fund" (EMERGENCY) (H.P. 1421) (L.D. 1935) (Presented by Representative STEVENS of Orono) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27.)

Reference to the Committee on **Education** suggested and ordered printed.

On motion of Representative O'GARA of Westbrook, tabled pending reference and specially assigned for Tuesday, March 1, 1994.

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**Judiciary**

Bill "An Act to Limit the Use of Force against Law Enforcement Officers Engaged in Searches or Seizures" (EMERGENCY) (H.P. 1420) (L.D. 1934) (Presented by Representative PLOWMAN of Hampden) (Cosponsored by Representatives: AULT of Wayne, BAILEY of Township 27, BENNETT of Norway, CLUKEY of Houlton, CROSS of Dover-Foxcroft, DONNELLY of Presque Isle, GREENLAW of Standish, LIBBY of Kennebunk, LINDAHL of Northport,

MARSH of West Gardiner, PENDEXTER of Scarborough, TUFTS of Stockton Springs) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27.)

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**Legal Affairs**

Bill "An Act to Promote Integrity in the Citizens Petition Process" (H.P. 1417) (L.D. 1931) (Presented by Representative KILKELLY of Wiscasset) (Cosponsored by Representative ADAMS of Portland, Senator HANDY of Androscoggin and Representatives: AHEARNE of Madawaska, ANDERSON of Woodland, AULT of Wayne, CARROLL of Gray, CATHCART of Orono, CHONKO of Topsham, CLOUTIER of South Portland, COFFMAN of Old Town, CONSTANTINE of Bar Harbor, DAGGETT of Augusta, DEXTER of Kingfield, DORE of Auburn, DRISCOLL of Calais, DUTREMBLE of Biddeford, ERWIN of Rumford, FAIRCLOTH of Bangor, FARNSWORTH of Hallowell, FITZPATRICK of Durham, GOULD of Greenville, GWADOSKY of Fairfield, HOGGLUND of Portland, HOLT of Bath, HUSSEY of Milo, JACQUES of Waterville, JALBERT of Lisbon, JOSEPH of Waterville, JOY of Island Falls, KERR of Old Orchard Beach, KNEELAND of Easton, KONTOS of Windham, LARRIVEE of Gorham, LEMKE of Westbrook, LIBBY of Buxton, LINDAHL of Northport, LOOK of Jonesboro, LORD of Waterboro, MacBRIDE of Presque Isle, MARSH of West Gardiner, MARTIN of Eagle Lake, MELENDY of Rockland, MICHAUD of East Millinocket, MORRISON of Bangor, MURPHY of Berwick, O'GARA of Westbrook, PARADIS of Augusta, PENDELTON of Scarborough, PFEIFFER of Brunswick, PLOURDE of Biddeford, PLOWMAN of Hampden, POULIN of Oakland, RAND of Portland, REED of Falmouth, REED of Dexter, ROTONDI of Athens, ROWE of Portland, SAXL of Bangor, SKOGLUND of St. George, SMALL of Bath, SPEAR of Nobleboro, STEVENS of Sabattus, TOWNSEND of Portland, TOWNSEND of Canaan, TUFTS of Stockton Springs, WALKER of Blue Hill, Senators: BEGLEY of Lincoln, BERUBE of Androscoggin, CARPENTER of York, DUTREMBLE of York, ESTY of Cumberland, GOULD of Waldo, LUDWIG of Aroostook, PARADIS of Aroostook) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27.)

Bill "An Act to Reestablish a Mechanism for Review of Disputed Elections" (H.P. 1418) (L.D. 1932) (Presented by Representative WHITCOMB of Waldo) (Cosponsored by Representatives: BENNETT of Norway, ROBICHAUD of Caribou, STEVENS of Sabattus, TRUE of Fryeburg, Senator: HALL of Piscataquis) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 26.)

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**State and Local Government**

RESOLUTION, Proposing An Amendment to the Constitution of Maine to Provide for the Election of a Lieutenant Governor and to Provide for Succession to the Office of Governor (H.P. 1422) (L.D. 1936) (Presented by Representative LEMKE of Westbrook) (Cosponsored by Senator HANDY of Androscoggin and Representatives: AHEARNE of Madawaska, BENNETT of Norway, CARLETON of Wells, CARROLL of Gray, CLARK of Millinocket, COFFMAN of Old Town, DEXTER of Kingfield, GOULD of Greenville, JACQUES of

Waterville, KILKELLY of Wiscasset, LIBBY of Kennebunk, MARTIN of Eagle Lake, MORRISON of Bangor, PARADIS of Augusta, REED of Dexter, TRACY of Rome, TUFTS of Stockton Springs) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27.)

RESOLUTION, Proposing an Amendment to the Constitution of Maine to Reduce the Size of the Maine Legislature (H.P. 1419) (L.D. 1933) (Presented by Representative LIPMAN of Augusta) (Cosponsored by Representatives: BENNETT of Norway, BRUNO of Raymond, DiPIETRO of South Portland, FAIRCLOTH of Bangor, PLOURDE of Biddeford, SMALL of Bath, STEVENS of Sabattus, TAYLOR of Cumberland, Senators: AMERO of Cumberland, BUTLAND of Cumberland, CAHILL of Sagadahoc, CARPENTER of York, GOULD of Waldo, HANLEY of Oxford, SUMMERS of Cumberland) (Governor's Bill)

Reference to the Committee on **State & Local Government** suggested.

The SPEAKER: The Chair recognizes the Representative from Waterville, Representative Joseph. Representative JOSEPH: Mr. Speaker, do the provisions of Joint Rule #37 apply to L.D. 1933?

The SPEAKER: This item will be tabled pending a ruling of the Chair.

Subsequently, the Resolution was tabled by the Speaker pending a ruling from the Chair.

#### Taxation

Bill "An Act to Provide Incentives for Businesses to Create Jobs in the State" (H.P. 1423) (L.D. 1937) (Presented by Representative WHITCOMB of Waldo) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 26.)

#### ORDERS

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

ORDERED, that Representative Leslie Kutasi, Jr. of Bridgton be excused February 18 for personal reasons.

AND BE IT FURTHER ORDERED, that Representative Sumner H. Lipman of Augusta be excused February 23 for personal reasons.

AND BE IT FURTHER ORDERED, that Representative Roy I. Nickerson of Turner be excused February 24 and 25 for personal reasons.

AND BE IT FURTHER ORDERED, that Representative Omar P. Norton of Winthrop be excused February 23 and 24 for personal reasons.

Was read and passed.

By unanimous consent, all reference matters requiring Senate concurrence were ordered sent forthwith.

#### REPORTS OF COMMITTEES

##### Divided Report

Majority Report of the Committee on **State & Local Government** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (H-754) on Bill "An Act to Create a Body Politic and Corporate by the Name of Great Diamond Island Village Corporation" (H.P. 1056) (L.D. 1408)

Signed:

Senator: BERUBE of Androscoggin

Representatives: JOSEPH of Waterville  
KILKELLY of Wiscasset  
GRAY of Sedgwick  
AHEARNE of Madawaska  
LOOK of Jonesboro  
BENNETT of Norway  
YOUNG of Limestone

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

Signed:

Senators: ESTY of Cumberland  
BUTLAND of Cumberland

Representatives: DUTREMBLE of Biddeford  
ROWE of Portland  
WALKER of Blue Hill

Reports were read.

Representative JOSEPH of Waterville moved that the House accept the Majority "**Ought to Pass**" Report.

On further motion of the same Representative, tabled pending her motion to accept the Majority "**Ought to Pass**" Report and later today assigned.

#### CONSENT CALENDAR

##### First Day

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

(S.P. 581) (L.D. 1625) Bill "An Act to Clarify Certain Marine Resource Definitions" Committee on **Marine Resources** reporting "**Ought to Pass**"

(S.P. 557) (L.D. 1593) Bill "An Act to Amend the Conditions of Probation" **Joint Select Committee on Corrections** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (S-408)

(S.P. 566) (L.D. 1601) Bill "An Act to Ensure That State Water Utility Rules Are Consistent with Federal

Requirements" Committee on **Utilities** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (S-407)

(S.P. 600) (L.D. 1698) Bill "An Act to Eliminate the Maine School Building Authority" Committee on **Education** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (S-406)

(H.P. 1331) (L.D. 1794) Bill "An Act to Provide Adequate Staffing for the Board of Osteopathic Examination and Registration" Committee on **Audit & Program Review** reporting "**Ought to Pass**"

(H.P. 1367) (L.D. 1850) Bill "An Act to Improve the License Renewal Procedure for the Board of Registration in Medicine" (EMERGENCY) Committee on **Audit & Program Review** reporting "**Ought to Pass**"

There being no objections, the above items were ordered to appear on the Consent Calendar of Tuesday, March 1, 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:

(S.P. 548) (L.D. 1573) Bill "An Act Governing Special Purpose Investment Subsidiaries" (C. "A" S-403)

(S.P. 550) (L.D. 1574) Bill "An Act to Ensure Appropriate Resource and Referral Services for Families Needing Child Care" (EMERGENCY) (C. "A" S-396)

(S.P. 579) (L.D. 1623) Bill "An Act to Amend the Credit Reporting Laws" (C. "A" S-400)

(S.P. 588) (L.D. 1648) Bill "An Act to Amend Conditions of the Supervised Community Confinement Program" (C. "A" S-405)

(S.P. 589) (L.D. 1649) Bill "An Act to Promote Equitable Penalties for Unlicensed Consumer Lending" (C. "A" S-401)

(S.P. 604) (L.D. 1702) Bill "An Act to Conform the Maine Tax Laws for 1993 With the United States Internal Revenue Code" (EMERGENCY) (C. "A" S-404)

(H.P. 1237) (L.D. 1664) Bill "An Act to Increase the Debt Limit for the Richmond Utilities District" (EMERGENCY) (C. "A" H-753)

(H.P. 1241) (L.D. 1668) Bill "An Act to Ensure Accessibility to Mental Retardation Services for Persons Who are Deaf or Hard of Hearing" (C. "A" H-750)

(H.P. 1335) (L.D. 1798) Bill "An Act to Clarify the Laws Relating to Permits to Carry Concealed Firearms" (EMERGENCY) (C. "A" H-755)

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.

(S.P. 563) (L.D. 1598) Bill "An Act to Protect Cable Television Consumers from Excessive Late Fees" (C. "A" S-398)

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

Report was read and accepted. The Bill read once. Committee Amendment "A" (S-398) was read by the Clerk and adopted. The Bill assigned for second reading Tuesday, March 1, 1994.

**BILLS IN THE SECOND READING**

**As Amended**

Bill "An Act to Amend the Structure of Veterans' Services" (S.P. 583) (L.D. 1627) (C. "A" S-397 and S. "A" S-411)

Bill "An Act to Authorize the Towns of Appleton, Camden, Hope, Lincolnville and Rockport to Form a Community School District" (EMERGENCY) (H.P. 1221) (L.D. 1640) (H. "A" H-752 to C. "A" H-740)

Bill "An Act to Protect Consumers in Loan Broker Transactions" (S.P. 610) (L.D. 1708) (C. "A" S-402)

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 and the House Paper was Passed to be Engrossed as Amended and sent up for concurrence.

**ENACTORS**

**Emergency Measure**

An Act to Make Additional Allocations from the Public Utilities Commission Regulatory Fund for the Fiscal Years Ending June 30, 1994 and June 30, 1995 (H.P. 1181) (L.D. 1579) (C. "A" H-717)

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. 105 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.

**Emergency Mandate**

An Act to Amend the Waldoboro Utility District Charter (H.P. 1268) (L.D. 1695) (C. "A" H-722)

Was reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. In accordance with the provisions of Section 21 of Article IX of the Constitution, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 109 voted in favor of the same and 1 against, and accordingly the Mandate was passed to be enacted, signed by the Speaker and sent to the Senate.

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An Act Regarding Records of Notaries Public (H.P. 592) (L.D. 807) (C. "A" H-720)

An Act to Amend the Liquor Laws Pertaining to the Delivery of Beer and Wine (S.P. 565) (L.D. 1600)

An Act to Protect Utility Consumers from Bearing Responsibility for Utility Mismanagement (S.P. 577) (L.D. 1621) (C. "A" S-392)

An Act Concerning the Identification of Shellfish (H.P. 1226) (L.D. 1645) (C. "A" H-723)

An Act to Amend the Charter of Kents Hill School (H.P. 1246) (L.D. 1673) (C. "A" H-721)

Resolve, Regarding the Sale of State-owned Property (H.P. 1192) (L.D. 1589) (C. "A" H-719)

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) (H. "A" H-737)

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

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An Act to Repeal Sanctions against Businesses Doing Business in South Africa (H.P. 1290) (L.D. 1738)

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

On motion of Representative JOSEPH of Waterville, was set aside.

On further motion of the same Representative, tabled pending passage to be enacted and specially assigned for Tuesday, March 1, 1994.

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**TABLED AND TODAY ASSIGNED**

The Chair laid before the House the following item which was Tabled and Today Assigned:

An Act to Allow Nonresidents to Possess Antique License Plates (H.P. 1177) (L.D. 1568) (C. "A" H-716)  
**TABLED** - February 23, 1994 by Representative PARADIS of Augusta.  
**PENDING** - Passage to be Enacted.

On motion of Representative PARADIS of Augusta, tabled pending passage to be enacted and specially assigned for Tuesday, March 1, 1994.

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**BILL HELD**

Bill "An Act to Apportion Districts for the Election of County Commissioners" (H.P. 1285) (L.D. 1733) (C. "A" H-741)  
 - In House, Passed to be Engrossed as amended by Committee Amendment "A" (H-741)  
**HELD** at the Request of Representative AHEARNE of Madawaska.

On motion of Representative AHEARNE of Madawaska, the House reconsidered its action whereby L.D. 1733 was passed to be engrossed as amended by Committee Amendment "A" (H-741).

Report was read and accepted. Bill read once. Committee Amendment "A" (H-741) was read by the Clerk.

Representative AHEARNE of Madawaska presented House Amendment "A" (H-758) to Committee Amendment "A" (H-741) which was read by the Clerk and adopted.

Committee Amendment "A" (H-741) as amended by House Amendment "A" (H-758) thereto was adopted.

Bill assigned for second reading Tuesday, March 1, 1994.

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

**ORDERS**

On motion of Representative PLOWMAN of Hampden, the following Joint Resolution: (H.P. 1424) (Cosponsored by Senator CIANCHETTE of Somerset)

**JOINT RESOLUTION COMMEMORATING THE 200TH ANNIVERSARY OF THE INCORPORATION OF THE TOWN OF HAMPDEN**

WHEREAS, the Town of Hampden, Maine was incorporated by the Commonwealth of Massachusetts on February 24, 1794 and the town will celebrate its bicentennial on February 24, 1994; and

WHEREAS, the first person to settle in what is now Hampden, Maine was Benjamin Wheeler who canoed there from Durham, New Hampshire in 1767; and

WHEREAS, Benjamin Wheeler built a gristmill and sawmill on the Sowadabscook Stream and the area was then called Wheelersborough Plantation or Wheeler's Mills or Sowadabscook Plantation; and

WHEREAS, in 1774 a petition was sent to Boston to name the settlement Wheelersborough Plantation, the first settlement above the mouth of the Penobscot River from Fort Pownal, and in 1777 another petition was raised to name it Wheelersborough; and

WHEREAS, incorporation was passed on February 24, 1794 as the Town of Hampden; and

WHEREAS, the Town of Hampden has been home to such Maine notables as Hannibal Hamlin, vice-president to Abraham Lincoln; Dorothea Dix, humorist and reformer;

and Martin Kinsley, a Congressman involved in the debate of the Missouri Compromise of 1820; now, therefore, be it

RESOLVED: That We, the Members of the 116th Legislature of the State of Maine now assembled in the Second Regular Session join in the commemoration of the bicentennial celebration of the Town of Hampden and extend our best wishes for good health and continued success to the inhabitants; and be it further

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

Was read and adopted and sent up for concurrence. Ordered sent forthwith.

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At this point, a message came from the Senate, borne by Senator **BUSTIN** of that Body, proposing a Joint Convention of both Branches to be held in the Hall of the House at 10:15 in the morning for the purpose of extending to the Honorable Daniel E. Wathen, Chief Justice of the Maine Supreme Judicial Court, and Members of the Judiciary, an invitation to attend the Convention and to make such communication as pleases the Chief Justice.

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Thereupon, the House voted to concur in the proposal for a Joint Convention to be held at 10:15 in the morning and the Speaker appointed Representative **JACQUES** of Waterville to convey this message to the Senate.

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Subsequently, Representative **JACQUES** of Waterville reported that he had delivered the message with which he was charged.

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

**SENATE PAPERS**

The following Joint Order: (S.P. 723)

ORDERED, the House concurring, that when the House and Senate adjourn, they do so until Tuesday, March 1, 1994, at nine o'clock in the morning.

Came from the Senate, read and passed.

Read and passed in concurrence.

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**SENATE PAPERS**

Bill "An Act to Authorize a General Fund Bond Issue in the Amount of \$10,000,000 to Expand and

Improve the State's Distance Learning Infrastructure" (S.P. 717) (L.D. 1939) (Governor's Bill)

Bill "An Act to Authorize a General Fund Bond Issue in the Amount of \$10,299,667 to Improve the Academic Facilities of the University of Maine System" (S.P. 718) (L.D. 1940) (Governor's Bill)

Bill "An Act to Make Additions to the Department of Corrections Budget" (EMERGENCY) (S.P. 719) (L.D. 1941)

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

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

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**SENATE PAPERS**

Bill "An Act to Permit Short-term Health Insurance Policies" (S.P. 716) (L.D. 1938) (Governor's Bill)

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.

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Bill "An Act to Clarify and Make Technical Changes to Various Professional Licensing Board Laws" (S.P. 720) (L.D. 1942) (Governor's Bill)

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

On motion of Representative **JACQUES** of Waterville, tabled pending reference in concurrence and later today assigned.

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

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**IN CONVENTION**

The President of the Senate, **DENNIS L. DUTREMBLE**, in the Chair.

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

ORDERED, that a Committee be appointed to wait upon the Honorable Daniel E. Wathen, Chief Justice of the Maine Supreme Judicial Court and invite him to attend the Convention and make such communication as pleases him.

The Order was read and passed.

The Chairman appointed:

Senators:

CONLEY of Cumberland  
 BERUBE of Androscoggin  
 HANLEY of Oxford

Representatives:

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

Subsequently, Senator **CONLEY** of Cumberland, for the Committee, reported that the Committee had discharged the duty with which it was assigned and that the Honorable **DANIEL E. WATHEN**, Chief Justice of the Maine Supreme Judicial Court and members of the Judiciary would attend forthwith.

Whereupon, the Chair welcomed the members of the Maine Supreme Judicial Court: the Honorable David D. **Roberts**; the Honorable Caroline D. **Glassman**; the Honorable Robert W. **Clifford**; the Honorable Samuel W. **Collins**; the Honorable Paul L. **Rudman**; the Honorable Howard H. **DANA, Jr.**

The Maine Superior Court: the Honorable Thomas E. **DELAHANTY, II**, Chief Justice; the Honorable Margaret J. **KRAVCHUK**; the Honorable Carl O. **BRADFORD**; and the Honorable Kermit V. **Lipez**.

Members of the Maine District Court: Chief Judge, the Honorable Susan W. **CALKINS**; the Honorable Ronald A. **DAIGLE** and the Honorable Ronald E. **HUMPHREY**.

At this point, Chief Justice **DANIEL E. WATHEN** entered the Convention Hall, amid prolonged applause, the audience rising.

The Chief Justice then addressed the Convention as follows:

Mr. President, Mr. Speaker, Members of the Legislature, and Friends: It is an honor for me to stand here today (I hope that I never get over the excitement that I feel each time that I come here) with colleagues from all three courts and to describe for this legislature the state of the judicial branch of Maine's government.

This is a time of financial difficulty for nearly everyone and that is certainly true for those who deal with the court system. In January, we wrote to all suppliers, landlords, witnesses, jurors, mediators, court officers, attorneys, counties, and municipalities informing them that we are unable to pay our bills and asking them to be patient until a supplemental appropriation is enacted. Fortunately, the full impact of that announcement has not yet been

felt because the Bureau of the Budget advanced some funds from the fourth quarter.

But make no mistake about it, we are putting a lot of strain on the system. Let me give you just one example. Just last week, a jury gave up their jobs to sit for a week and a half in a homicide trial. After eighteen hours of deliberation over two days, fatigued and stressed, they returned a verdict. I guarantee you, no citizen is ever asked to do a tougher job. We repay that exemplary display of civic responsibility by asking them to wait to be paid a juror's fee of ten dollars a day, plus mileage. In case you are wondering, we aren't paying judges mileage either. I just want to make that clear.

Our fellow citizens have responded well, however, and some have managed a little humor. A fellow who supplies fuel oil to one of our court buildings wrote and said we didn't need to worry about his patience because we hadn't paid him since last fall and he had stuck with us anyway. He said he appreciated our letter and asked if we would show it to one particular executive agency because he said they didn't even know how to spell the word "patience." (I won't mention the name of the agency, but I think its initials are DEP or something like that).

Our situation reminds me of the story about a farmer up in Aroostook who won the Maine Lottery for two million dollars. When the television crews rushed out to interview him in his fields, they asked what he was going to do with his winnings. He said: "I am going to keep right on farming until I run out of money." Well, we don't like to leave jurors and others unpaid, but we have little choice, we have to keep right on running the courts.

When I spoke on this same occasion last year, I attempted to describe the delay and the expense that confronts too many people when they turn to the Maine courts for protection. I contrasted our current situation with the vision set forth in our Constitution where "right and justice are administered freely and without denial, promptly and without delay."

I explained some of the fundamental causes of delay and suggested to you that by any comparative standard, the Maine court system, although highly efficient and productive, is seriously understaffed at all levels. For example, it has the fewest number of trial judges per capita in the country. We handle roughly 300,000 cases a year and this small group that came in here today represents nearly one-third of the entire judiciary of the State of Maine.

When compared with either the national average or our New England neighbors, even in the best of times, courts in Maine are underfunded by at least one-third. We get a lot of court services for our money in Maine, and by any standard, the system produces a high level of revenues, \$22.7 million last year. Even in providing counsel to indigent people involved in child protection and criminal cases, we have one of the most cost-effective systems in the country, spending about half of what our neighboring states spend, and yet year after year, we underfund this account. I repeat all of these negatives only to assure you that the fundamental facts I reported to you last year have neither changed nor improved.

We do also have some structural problems, but I am happy to say that L.D. 1354 is working its way through the Judiciary Committee under the watchful eyes of Senator Conley and Representative Cote and it



takes care of all the organizational problems that I am aware of and I urge you to support it.

On top of these chronic funding problems, we have the additional underfunding of at least \$5 million in the current year, and at least that much, if not more in the next year. Our judges are among the very few, if not the only state employees, who have been without any wage adjustment since July of 1991. I cannot explain that.

Assuming, however, that the underfunding for the biennium is fully met, and I know that you are working on this and I commend you for your hard work on this issue, but I want you to remember that assuming that we get by this current hurdle, we are only talking about surviving and keeping the courthouse door from slamming shut. We will still be struggling to provide a first-class court system with a third-class budget. Judge Learned Hand, one of the most eminent jurists of this century, warned, "There is only one thing that a democracy cannot do and that is to ration justice." Two years ago, the rioters in Los Angeles echoed the same warning when they chanted, "No justice, no peace."

We know all too well that we are rationing justice today in Maine. A family who loses a loved one to a criminal act should not have to wait eighteen months after trial for a final appeal to be scheduled because we were forced to cut back on court reporters. We must stop budgeting at a level that produces a crisis every six months and undermines any opportunity to better serve our citizens. Justice is crucial to the people of Maine and history and events in the rest of the world remind us that it hangs precariously by a very slender thread.

Despite the difficulties of the last year, we haven't thrown up our hands and accepted a deterioration in service. That isn't the Maine way. We've kept right on working. Among the first things our ancestors did when they settled Maine was to build a courthouse. At a gut level, we share their belief that courts are vital and it is interesting that even today there is a powerful reaction when anyone suggest that a courthouse anywhere should be closed.

We have to remember, however, that the building alone means nothing. It is the access to the services that are housed in that building that must be kept open to your neighbors and mine, whether they are rich or poor. The rights declared in these legislative halls will be of little value if Maine people are without the means to effectively enforce them.

Today, I have placed on your desks the Annual Report of the Judicial Branch for fiscal 1993. I commend the full report to your attention and I hope that it will really assist you in judging our performance. I would like to give you one example of the time and the study we have devoted in the last year to reforming the court system and responding more effectively to people who need help and protection.

There are no problems in Maine more serious and faster growing than family violence and child abuse. Unfortunately, court procedures failed to keep pace. For example, ten or eleven years ago, with only 1500 petitions filed annually under the newly enacted Protection From Abuse Act, district courts handled those cases during breaks in the regular schedule. This was just a little extra duty. Uniform

procedures were never established and each court handled the cases as best they could.

Last year, we had 5,500 petitions for protection from abuse, more than 200 cases per judge, and the numbers continue to rise. Domestic cases of all types, from divorce, to child support, to paternity, to the termination of parental rights (the most serious case), now total 15,000 cases per year — such cases constitute the fastest growing part of the work of the District Court and generate the greatest amount of paperwork.

Petitions for protection from abuse are particularly time consuming and difficult to handle. They usually involve multiple petitions, multiple hearings, and a ton of essential paperwork for the clerk's office. No filing fee is charged, no revenue is generated. The spouse or child is usually unrepresented, terrified, and sometimes urgently in need of help after being sent from the police, to DHS, to a shelter, and then to the court. Judges and clerks drop their scheduled cases and delay other litigants in order to fill out the paperwork, process the request, and issue an order that hopefully will ensure that person's safety.

This is not an easy job and the absence of the uniform system made the job harder. Last year, Chief Judge Calkins and a team made up of shelter advocates, clerks, security officers, and judges redesigned the procedure and produced a detailed, step-by-step manual for judges and clerks, forms, courtroom protocol, and a plain-english pamphlet that is given to the people who are requesting help.

Everyone knows that a manual alone is not enough, we have to deal with attitudes. Through a series of regional meetings, every person who works in the courts was instructed on the new procedures and acquainted with the dynamics of family violence. Why do people act the way they do? Why is it easy for an outside observer to misunderstand?

Last fall, judges joined with DHS caseworkers and others for a two-day conference on family violence and child abuse that could only be described as unprecedented. The conference included national and local experts and it ended with two young women who described the legal process they had endured in order to be rescued from homes filled with physical and sexual abuse.

No one at that conference will ever question the need for comprehending the full tragedy of family violence and the importance of the work you have entrusted to judges, court staff, and others. I am bold enough to predict that if you ask any knowledgeable observer, they will tell you that the service the courts provide to battered wives and abused children today has improved, and that reasonable prospects exist for further improvement.

In my own judgment, this is the best piece of work we have ever done in matching court procedure to the needs of the people we serve and it suggests what is possible in other areas. Years ago, a good judge was justifiably disciplined for succumbing to exasperation and asking a battered wife seeking a protective order, "What do you expect me to do, you married the guy?" Today, I think you would hear a judge ask, "What else is there I can do in this order to make you safer?"

We have come a long way, and we are all indebted to the team that worked on the different aspects of this project. Similar projects are underway throughout the court system; a project to coordinate

family court matters in three separate courts in York County, a single judge assignment project in Superior Court in Cumberland and Somerset Counties, a committee to plan and implement the increased use of alternative dispute resolution, a gender bias task force, a committee to explore a nonadversarial forum to more effectively address the needs of children at risk, and a team to assist us in reaching out to fully include people with disabilities as employees, jurors, witnesses, and litigants.

We have conducted focus groups with all segments of the public. We encourage peer visitation between judges. This fall we invited about thirty of the members of this Legislature to spend a day on the bench with a local judge. Many of you were able to accept our invitation. Representative Saxl sat through an entire jury trial with Justice Kravchuk, Senator Harriman attended a sentencing with Justice Saufley, Representative Paradis sat through a morning of petitions for protection from abuse with Judge Studstrup, and some of you visited your former colleague Justice Marsano. (Just in case you are wondering, he is working out fine, ever since he spent that night in the bathroom.)

The media suspected that we were trying to acquaint the legislators with the reality of a modern court and that's absolutely true. But such visits also serve to remind the judges in a very meaningful way that they are accountable to and supported by the people and you who represent them. When your session ends, we will continue that program, and we hope to offer everyone an opportunity to visit at some time in the future.

These are a few of our projects, and I could speak at length on all of them, but I will rely on the report that I have given you. The common element in all that we do is to open the courthouse door a little wider. We particularly appreciate the efforts of the Maine Bar Foundation, the Volunteer Lawyer's Project, Pine Tree Legal Assistance, Legal Services for the Elderly, the Rural Access Project, and Senator Muskie and his Commission for the Study of the Legal Needs of Maine's Poor. These folks bring legal services to Maine's poor, but they need help.

Here in Maine we are fortunate that we still have the most important ingredient for improving and reforming the court system — judges and staff who care and who see faces across the bench rather than numbers. But there are two critical areas where we need to invest: technology and training.

Judges and staff have to be freed from the drudgery of multiple entry paperwork and given the time to serve the people who need help and to plan for improvements. Technological competence has escaped us so far, primarily because we have never been given a chance. I made this same plea last year and you responded last July by appropriating a capital budget of \$500,000 as a first step. This important appropriation came on the heels of three very slim years. In reliance on that budget, we realigned our staff without adding any new positions and began a planning process for automating the courts.

Now, eight months later, our allotment is gone and we are confronted with the prospect of using \$360,000 of those funds to make up for the underfunding in indigent legal services. We have to do this, but I think we should recognize that we have done it for the last three years and more of the same is proposed for FY '95.

If we are ever to significantly improve the service we offer the people you represent, we need technology. To obtain it, we need a modest annual capital account to supplement grants and other funds. When we were asked by this Legislature last spring to re-apportion the House, Senate and congressional districts, and required to complete the job within sixty days, you loaned us a computer. Maybe you wish you hadn't, but you did, and with it we got the job done on time. Without it, we never would have done it. We need that same capacity to better serve the people of Maine in their courts.

As just one glaring example of our technological deficit, we are the only state court system in the U.S. that does not have automated legal research in at least one form. Remember the \$10 juror fee I mentioned at the beginning? With existing technology and a staff, we could design a jury system for our high volume courts that would automatically summons more jurors to "one day or one trial" and actually reduce jury costs while producing happier jurors.

We know how to improve, but the court system is a complex \$30 million business, stretched thin over 50 branch locations scattered throughout Maine and we are expected to run it like a Mom and Pop store. Even though Mom and Pop are still with us, we need to invest in an improved future.

Next, training. The sensitive, considerate and knowledgeable judges and court staff that Maine people deserve and expect are made, they are not born. In a world of instant communication and analysis, courts deal with complex problems and difficult relationships in the full glare of publicity. Authority alone is no longer enough. If we seek acceptance from the litigants and the public, the authority must be seen to be competently and fairly exercised.

Judges require orientation, training, and continuing judicial education. More than one-half of our judges have never attended any training course at the National Judicial College. It is ironic that I serve on the Board of Directors of that institution and yet we have been unable to send a judge there because our budget has made no provision for education for several years. We must start working on that deficit in the very near future.

I don't want to leave you with the impression that we have ignored judicial education completely, because on the homefront we have made some progress. We have an Education Committee made up of judges who work with our training officer and they have mastered the art of leveraging grants and scholarships to produce a superb program of in-state instruction. The family violence conference that I mentioned is but one example. Nonetheless, we are 49th among the states in the resources we devote to judicial education and training. We must provide a quality educational opportunity for each person who assumes office as a judge in Maine. Similarly, we must provide the training that our court staff requires and we are actively developing a program in that regard.

Twenty-five years ago, judges assumed office in their late 50's, served twelve to fifteen years and retired at 70. I have now been a judge for nearly sixteen years, I know I don't look it but I am 54 years old. It is conceivable that I could serve 16 more years. (That is not a threat, but just a possibility.) Judges today are appointed at even

younger ages and will serve for longer periods of time.

Judges and court staff are like everyone else, they need training and technological support, and occasionally they need a pat on the back and a little encouragement.

The judiciary is a small but very critical cog in the balancing mechanism within Maine's government. Consider our relations with the criminal justice system alone. It is estimated that Maine spent 210 million dollars on criminal justice in 1990. About 45 percent of that sum was spent on police protection, 5 percent for prosecution expense, less than 2 percent for indigent legal services, 35 percent for corrections, and less than 8 percent for courts.

I couldn't guess how many millions we impact on the civil side. Just this week, the Superior Court in Augusta is dealing with school funding, AMHI, and fresh start litigation under the workers' compensation system. In the Law Court alone, more than one-half of our civil cases, or one-third of our total filings, involve a public agency such as a municipality, DHS, DEP or PUC. Beyond all of that, we have workers' compensation cases and the responsibility for fairly resolving disputes between plain old people and businesses, some rich and some poor. With chronically reduced resources, it is difficult to meet the needs of all, but we must.

I have focused exclusively on the responsibilities of the courts under the law and the resources that are needed. Rejecting the wisdom of the day, I have not given you a formula for downsizing the court system and there is a good reason. With the exception of the Constitution, we enforce only those rights that this Legislature creates. We take an oath to uphold all of the law, for all of the people, that is our job.

If, for example, as a state we can no longer afford our present method of protecting victims of family violence, then this Legislature is free to downsize by repealing the right and withdrawing the responsibility from the courts. That is your prerogative. But until that happens, we in the judiciary cannot be asked to accomplish the same end indirectly by ignoring our responsibility and degrading court services. As long as the responsibility exists, like the farmer who won the Lottery, we must continue discharging our responsibility until we run out of money.

My request is simple, let the resources match the responsibility. Trial judges make difficult decisions involving potentially serious consequences hundreds of times every week. You have selected these women and men to serve as judges, not because they are perfect, but because they are fair, considerate and knowledgeable. They have a difficult job.

Several years ago during a recess in a trial, a Superior Court judge held a routine hearing to consider a requested change in the treatment plan of a person committed to a mental institution. The hospital staff asked that the patient be allowed four hours of unsupervised time while at the hospital and weekend visits at home with his family. Most of the attention at the hearing focused on the weekend visits and the possibility that the patient might not take his medication. After carefully listening to the only medical testimony that was offered, the judge approved the change with certain conditions.

Usually things turn out okay, but human behavior remains a mystery, and risk assessment is not an exact science. A year or so later and without warning, the patient killed an innocent and unsuspecting young person, not during an unmedicated weekend visit, but rather during the four hours of unsupervised time. No one has all the answers, I certainly don't, but I do know that the judge continues to wonder about it and that he feels his responsibility keenly, because I was that judge.

It is my task today to convince you that we owe it to everyone and particularly the innocent who deserve protection to provide the resources that the job fairly requires. I only hope that I have given you something to think about.

Let me close by speaking directly to the Representative from Easton, my hometown, and say, "When you go home today Dick, don't forget to take my mother with you." Thank you very much. Thank you ladies and gentlemen. (Applause, the audience rising)

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At the conclusion of the Chief Justice's address, the Chief Justice withdrew amid applause, the audience rising.

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The purpose for which the Joint Convention was formed having been accomplished, the Chair declared the same dissolved.

The Senate then retired to its Chamber, amid the applause of the House, the members rising.

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The House was called to order by the Speaker.

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The Chair laid before the House the following items which were tabled earlier in today's session:

House Divided Report - Majority (8) "Ought to Pass" as amended by Committee Amendment "A" (H-754) - Minority (5) "Ought Not to Pass" - Committee on State and Local Government on Bill "An Act to Create a Body Politic and Corporate by the Name of Great Diamond Village Corporation" (H.P. 1056) (L.D. 1408) which was tabled by Representative JOSEPH of Waterville pending her motion to accept the Majority "Ought to Pass" Report.

The SPEAKER: The Chair recognizes the Representative from Waterville, Representative Joseph. Representative JOSEPH: Mr. Speaker, Ladies and Gentlemen of the House: Our vote today and our decision today on the public policy decision will be whether or not to allow three islands to have a referendum vote in order to join the town of Long Island.

In your calendar today, the title of the bill is "An Act to Create a Body Politic and Corporate by the Name of Great Diamond Village Corporation." However, the committee amendment and the new title is "An Act to Allow Certain Islands to Join the Town of Long Island."

The State and Local Government Committee listened to a great deal of testimony as we have in the past.

The public policy decision, as I have just said, is that the Maine State Legislature, the Maine House of Representatives, will decide to grant permission or not for the legal residents of Cushing Island, Great Diamond Island and Little Diamond Island with an the ability to vote on secession from the city of Portland.

Secession is not a new or an unusual action. People should not be alarmed by being asked to vote on a referendum that has been requested of us to grant. These people are seeking self-determination, independence and ability to govern themselves.

In the past many years, there have been at least 12 different secessions as well as others but the major ones are, as we all know — those of us who have served in the previous legislatures, Long Island seceded from Portland in 1993; Ogunquit seceded from Wells July 1, 1980; Beals seceded from Jonesport, April 7, 1925; Stonington from Deer Isle in February of 1897; Cape Elizabeth separated from South Portland on March 15, 1895; Deering separated from Westbrook on February 16, 1871 and Veazie separated from Bangor on March 26, 1853; Yarmouth seceded from North Yarmouth on August 8, 1849; Acton separated from Shapleigh on March 6, 1830; Cumberland separated from North Yarmouth on March 19, 1821 and Harrington, which is now Augusta, separated from Hallowell on February 20, 1797; Portland separated from Falmouth on July 4, 1796, so what these islands have asked us to do is to give them an opportunity to have a referendum vote to secede from the city of Portland. Our government is to determine whether or not they shall vote.

I need to make it clear that all other details of concern, that I am sure most of you have heard, are beomg and will be decided in an arbitration process between the host community and the seceding community if the vote is a favorable vote.

I would urge you to give these three small islands the opportunity to govern themselves. All of us agree that democracy is not easy, it will be difficult, but it is their wish and they have come to ask us for that permission. It is their request and I would urge you to vote for the Majority "Ought to Pass" Report as amended.

When the vote is taken, Mr. Speaker, I would ask for the yeas and nays.

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

Representative ROWE: Mr. Speaker, Fellow Members of the House: I rise today to speak in opposition to the pending motion to pass L.D. 1408 as amended. This bill, if passed into law, will allow the town of Long Island to annex part of Portland, specifically three small islands, Great Diamond, Little Diamond and Cushing Islands.

These islands lie in Casco Bay, just off the Portland peninsula. These islands have been an important part to the city of Portland for more than 200 years. The three islands are not distinct year-round neighborhood communities. Great Diamond has only about 30 year-round residents; the other two islands have only a couple of year-round residents each. For the most part, Cushing and Little Diamond are seasonal summer colonies.

As you know, the city of Portland has a high property tax rate. Presently it is about \$25 per \$100,000 value. The recent property re-evaluation has triggered a secession movement among certain

Portland communities. These islands are not the only communities.

Island property owners have pitched testimony to members of the State and Local Government Committee designed to elicit sympathy. They have tried to paint a David and Goliath picture with mainland Portland being Goliath. That is not true. Property taxes paid by island property owners do indeed exceed the direct services that they receive. However, that is true for all property taxpayers in the city of Portland. Government is not a fee for services operation. As long as municipalities are forced to rely heavily upon the property tax revenues, there will always be tax inequity.

In Portland, 54 cents of every property tax dollar goes to fund education so, therefore, property owners with no school-age children could argue that they receive no tax benefit from schools. They could also argue that they receive no direct benefit from city dollars to go to General Assistance, subsidized housing, and the upkeep of infrastructure that supports businesses. We know that they do receive benefits from these expenditures, just as the island property owners do.

My fellow Representatives, this is not a story about a David and Goliath, far from it. In our society, those with wealth have the responsibility to help pay for services that benefit all people, not just themselves. To allow these islands to leave Portland will place a heavier and unfair tax burden on the remaining property owners.

I strongly believe that we should be moving in the opposite direction, toward working together to deliver services on a regional basis, rather than reducing government to the smallest size possible.

During the 115th Legislature, Long Island, which was then a part of Portland, petitioned the legislature for the right to secede from Portland. The 115th passed a bill and, as of last July the 1st, Long Island became a town. Now only nine months after becoming a town, Long Island wants the legislature to let it increase its tax base by annexing other parts of Portland, namely these three small islands. If this bill passes, each of the three islands can vote to secede. Then Long Island can vote to annex them. The voters of mainland Portland will have no say whatsoever in this matter.

Certainly this troubles me and it is part of why I oppose this bill. I raised these issues during committee deliberations, but there is a larger reason that I raised this issue in the committee too, and that is because we are dealing with this bill on an ad hoc basis. No standards or criteria exist, at least in statute and I haven't found them anywhere else, to help guide us in this decision making. I find that unacceptable and I hope you do too.

Although this bill may look to many of you like a Portland issue, it is not, the bill has statewide implications. There are would-be secessionists in many communities across Maine that are watching this bill with great interest. Our vote here today will weigh heavily on their future actions.

Please don't misunderstand, there may be some secession bills that deserve passage, I am simply saying that before we review and take action on any secession bill, including this one, we should first adopt guidelines and criteria by which to evaluate such bills.

Before Long Island seceded last year, as Representative Joseph indicated, there had only been

one example of a community seceding since 1925 and that was Ogunquit from Wells — that was in 1980. Times have changed. Today, because of the property tax burden, many communities across the state are considering secession. For that reason, I believe we cannot continue to consider these bills on an ad hoc basis. To do so poses a risk that decisions may be made in an arbitrary and capricious manner. Decisions may be based in large part on emotions. They may be based on anecdotal testimony designed to elicit sympathy.

I believe that the people of Maine deserve a process that treats all secession bills in a fair manner, in a uniform manner, and in a deliberate manner.

Decisions respecting secession should be based on well established criteria. Certainly the resulting impact on taxation should be considered but that should be only one of many factors.

You should know that many states have established processes and decision making criteria and have put these in statutes. Many states have set up commissions, some refer to them as boundary commissions, that actually review the secession requests. In many states there are petitions, both in the community wishing to secede and in the larger community. That's the first step and if both communities agree, then it is a pretty smooth road to secession. If they don't agree, there is a review by a boundary commission and there is an appeal procedure from that commission's determination, either to the legislature or the courts. A boundary commission doesn't have to be a statewide commission; indeed in many states it is a county commission or a regional commission. I think our committee needs to look at this and I think you do too.

The point I am making and the question should be, should someone from Aroostook County be making decisions about secession in Cumberland County? Should people in Cumberland County be making decisions about secession in Aroostook or Washington Counties? Maybe we should, but I think we need to look at that and maybe we ought to have that further looked at on a regional basis and have that decision or that body brought to this body.

Our committee, the State and Local Government Committee, will soon begin looking at these issues and working on establishing a process and guidelines by which to evaluate secession bills. In fact, I believe we are going to start on it next week.

The guidelines will not only include a defined process for dealing with these bills but will also, hopefully, include substantive criteria to assist the decision making. The committee plans to elicit input from sources that we feel can provide valuable, objective perspective from organizations such as Maine Municipal Association. We haven't heard from Maine Municipal Association and in all likelihood we won't hear until we have no bills before this body because they certainly feel there is a problem for testifying on their live bills.

Obviously, some members of the committee think it is okay to pass this bill out before we establish a process and guidelines and obtain your approval for that process and guidelines. I am not one of them.

Let me ask you — how would you feel if a group of property owners from your hometown wanted to secede and the remaining residents of your town had no say in the matter? Wouldn't you at least want to assure that your town and the would-be secessionists receive

the same treatment as all other towns in the state? Wouldn't you at least want to know that the committee had considered the bill according to uniform standards of criteria that you had a hand at crafting? That is all I am asking. After all, we have statutory processes and factors set up that deal with the organization of municipalities, Title 38 of Maine Statutes, dealing with the dissolution of school administrative districts, Title 28, and withdrawal of municipalities from the school administrative district — it is also in 20A — we have thought these through, we have set up processes, we put criteria into statute. We haven't done that for the separation of communities.

In conclusion, let me just say that I believe this is one of the most important bills that you will vote on this session. If we vote to allow secession, we will permanently change the face of local government in Portland and send a strong message to the communities considering secession across the state. If, like me, you have any doubts at all about the wisdom of this bill at this time, I suggest you oppose the bill.

I thank you and I ask you to join me in defeating the pending motion.

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

Representative JOSEPH: Mr. Speaker, Ladies and Gentlemen of the House: I rise to clarify some comments made by our colleague on the State and Local Government Committee using the words of annex and annexation and Long Island annexing these small islands. That is not a correct characterization of what has been requested.

What has been requested — the three islands, Little Diamond, Great Diamond and Cushing Island have requested the opportunity to have a referendum vote to join the town of Long Island. I believe this was done and earlier there were three bills before the State and Local Government Committee.

As I have already told you, there was a title change in the bill we are dealing with today, but throughout the summer and fall, those islands and the city of Portland worked with the legislative staff analysts of the State and Local Government Committee. Although the city of Portland does object to this particular referendum vote, and I certainly can understand that, they did help us to draft and craft the piece of legislation that you will be voting on today. So, Long Island did not request annexation of the three islands.

We have heard that the testimony before the committee was designed for sympathy of the State and Local Government Committee. I find that surprising and, to me, it is a criticism of the committee and the committee process.

We have been working on a standard and criteria bill, the staff has been working diligently and we have, as a group, been involved in the creation of the town of Long Island and we have worked with the city of Portland and Long Island, as well as all the others I just mentioned so that we do believe now we can draft guidelines and criteria for a process such as past State and Local Government Committees had done when they developed a process of deorganization. We talked about making these decisions on a regional basis — well, in Maine, we do have regional government, we have government called county government and if the legislature does agree, we could strengthen county government and

diminish the strength of municipal government but I don't think MMA would agree to that and I probably would not support that because county government, as you know, is supported with all of your property taxes in an assessment from that county government. If there is a solution, we would welcome that solution. I know that in the course of history, these are sensitive subjects when groups ask to secede from a main government (spelled main), I always kind of humorously think what would have happened if the 13 colonies requested secession from Great Britain.

The SPEAKER: The Chair recognizes the Representative from Brunswick, Representative Pfeiffer.

Representative PFEIFFER: Mr. Speaker, Fellow Members of the House: For the last 30 years, my husband and I have had a summer cottage in Washington County. It is one of a group of about 20 cottages at the end of a point sticking out into Pleasant Bay. It belongs to the town of Harrington. All but one of these cottages is owned by people who do not live in Harrington. Last fall, our property taxes went up several hundred percent. The immediate action of some of our friends and neighbors on this point was to suggest that we incorporate as the town of Ripley Neck and to secede from the town of Harrington.

If this bill goes through and if the referendum succeeds, there is no doubt that there will be moves like this up and down the coast of Maine to the detriment of all the towns that rely for their tax base on seasonal cottages.

I would urge you not to support this bill.

The SPEAKER: The Chair recognizes the Representative from Blue Hill, Representative Walker.

Representative WALKER: Mr. Speaker, Colleagues in the House: Many of you may remember I have simple system of classifying bills, there are good bills and there are bad bills. This bill, L.D. 1480, the bill we are debating today, is a good bill, a very good bill.

This bill protects very well the people who are promoting it and pushing for its passage. For that very reason, I urge you to vote against it.

The islanders wish us to see them as poor little islands against the great might of the mainland. They wish us to see a fight against the Maine traditional way of life, a fight against big government and a fight against unfair taxation. We must vote against this very good bill in order to help the mainland and we must vote against this bill to fight for the true traditional way of life in Maine.

Traditional Mainers will always lend a helping hand. We have built and supported schools because we know that education is important. We have built hospitals and supported them by taxes to take care of our ill and less fortunate citizens. Most importantly, traditional Mainers shared their land with others for hunting and fishing and access to the water. Well, the islanders don't want to help us educate our children so all of our futures are more secure. They don't want to help us take care of our sick and those less fortunate and, most of all, they don't want to share their beaches and docks and harbors with any of the likes of us. Please remember, a great percentage of the homes on these islands are second homes, vacation homes — these island homes, these second homes are minutes from the conveniences of first-rate hospitals, schools,

universities and libraries, the airport and stores, conveniences the islanders use but don't wish to support. Some of the islands are closer to the mainland than they are actually to Long Island. Yet, the islanders do pay high taxes, but wouldn't you if your home and land were worth a lot of money, an awful lot of money? Taxes are not fees for services, as Representative Rowe reminded you, they are based on land values and these islands have some of the most valuable real estate in Maine.

What I worry about most if this bill passes is the precedent it would set. Many of Maine's real traditional communities, from which most of us come, have no tax base except real estate, no businesses except for a general store and certainly no industry. What our true, traditional communities on the coast, on the lakes, on the ponds and in the mountains have is some of the most beautiful land in Maine, land that has been bought up and built up and closed off to the rest of us by people in and out of state for second homes. If these havens' second homes are allowed to secede by our actions today, allowed to secede to form elitist communities with no responsibilities to the greater community, we will be doing the citizens of the State of Maine, our children and our grandchildren, a great disservice.

I urge you to vote no.

The SPEAKER: The Chair recognizes the Representative from Wiscasset, Representative Kilkelly.

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

What percentage of Portland's property tax base is represented by Great Diamond, Little Diamond, and Cushing Islands?

The SPEAKER: The Representative from Wiscasset, Representative Kilkelly, has posed a question through the Chair to anyone who may respond if they so desire.

The Chair recognizes the Representative from Portland, Representative Richardson.

Representative RICHARDSON: Mr. Speaker, Ladies and Gentlemen of the House: The property value of those three small islands is \$32 million. I am sorry that I do not know the total valuation in the city of Portland but it is \$32 million.

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

Representative RAND: Mr. Speaker, Ladies and Gentlemen of the House: I would urge you to vote against L.D. 1408.

If you remember back to the Long Island vote, there were not many complaints from the city of Portland about the secession of Long Island. The simple reason for that is, when you are talking about islands in Casco Bay, you are talking about uniquely different individual and different communities. There is no way that you can compare Cushing Island, Great Diamond Island or Little Diamond Island with the character and the population and makeup of an island such as Long Island. Peaks Island is entirely different from all the rest of these islands.

I would like to get back to something that Representative Joseph took exception to, a statement by Representative Rowe, that this is not an annexation bill. The truth is that it is a combination of a secession and annexation bill. It would be totally impossible for these islands to be on their own and form their own town — money-wise they just couldn't do it. In order for this legislation to work, the annexation part of it is of

vital importance and Long Island will indeed have to vote to accept or reject these islands.

The different characters of the islands plays a very important part in this legislation. One thing for the good members of this body to bear in mind is that if the islands do secede from the city of Portland, the city of Portland then becomes eligible for over a quarter of a million dollars more in school subsidy from the state. That also represents an increase to the Portland taxpayers, the people on the mainland and Peaks Island who are left with the city of Portland, an increase of \$184,000 that we will have to make up in our property taxes.

Now, please consider your own towns and cities when you are thinking about this legislation. Right now Portland has one of the highest property taxes in the state. To have to look at the majority of the people, over 60,000 people, who by the way have no vote, and tell them that by this legislation and by this secession vote, their taxes have to be increased to make up a \$184,000 deficit, is a pretty difficult thing to do.

I would ask you to please vote against L.D. 1408 and I hope that some of the remarks that were made by Representative Rowe have made as much sense to you as they have to me. We need some type of process to look at secession. We need to have some criteria by which residents are able to judge whether they are truly being treated unfairly by the larger entity or not. The secession movement is spreading, not only in the State of Maine, but throughout this nation. Times are difficult but they are difficult to all of us. It is not a time to circle the wagons and protect our own little entities, it is time for all of us to work together to solve the economic problems that we face.

I would like you to just look at the year-round population of these particular three islands, it's about 34 people. Look at the summer population, it's about 600. Look at where they come from. Out of 325 property owners, 146 receive their tax bills out of state. Only 35 receive their tax bills on the island. Look at the combined property wealth of the 87 people who live in Portland and have a summer place on the island. From Great Diamond Island, the highest combined value is over \$600,000; the lowest is \$145,000, almost \$146,000. The average is approximately \$280,000. For Cushing Island, the highest combined value is almost \$473,000 and the lowest is about \$175,000; the average \$285,000. For Little Diamond, the highest combined value is \$431,000 and the lowest is \$181,000; the average is almost \$300,000. I ask you please to look at this piece of legislation differently than the Long Island secession bill. It is different, the makeup and the character of the islands are entirely different and I urge you to please, for the good of all of the city of Portland and possibly for your own good when secession comes knocking on your door, reject L.D. 1408.

The SPEAKER: The Chair recognizes the Representative from Norway, Representative Bennett.

Representative BENNETT: Mr. Speaker, Friends and Colleagues of the House: I speak in support of the Committee Report today. I would like to address my remarks around three words. Those three words are population, property and paternalism.

First - population: In previous debate over the last year, I have heard the criticism that only about 35 people or 35 voters may be making a decision in

this case. Are we to determine public policy in this area based on the numbers of voters or citizens involved? It is not the small population of the islands that is the real problem or the real concern, it is rather the proportionately large population of Portland to those islands. I would submit that if Portland were only a town of 200 rather than 60,000 or what have you, the small number of islanders wouldn't be as great an issue. Should we penalize these island people because they are dwarfed as a proportion of Portland's population? I think not.

The second issue — property or more directly put, money. The word I have heard bandied about in this debate, not here in the chamber today, but over the last year, is the word "greed." Let me assure you that the motivation for reduced property taxes by the islanders is no greater than the motivation of Portland to keep those precious revenues. Like it or not, money and taxes are a strong basis of governmental accountability. It has been that way for centuries. Indeed, it was primary to the American Colonies' secession movement against Great Britain in the 1770's. Governmental accountability, not greed, is the money issue here.

The third word — paternalism: I know this view isn't shared by all the proponents but there is an element in this debate of a paternalistic line of thinking. It is best summed up, I think, by a city councillor who testified last year at this bill's public hearing and he said that these islands are "too small" to govern themselves in the modern way. Well, there are many small municipalities in this state, most in rural, isolated areas, as these islands are isolated in many respects, and those communities govern themselves very well.

I am sure that these islands, linked with Long Island, will do fine as well.

Let me close with a thought, a different kind of thought. In committee I asked the Mayor of Portland what it is to be a community. I asked this because I kept hearing the words "municipality and community" used almost interchangeably and I knew that Mayor Pringle is a bright and thoughtful person. She is well respected by folks on both sides of this issue and she gave a thoughtful answer. She defined community as a group of people committed to the whole. Now we agree on that point, although we travel in different conclusions with respect to this bill. I believe that a sense of community does spring from the individual members of the community. Why not let the members of the island decide if they are committed to the whole of the Portland community?

I urge you to support the Committee Report.

The SPEAKER: The Chair recognizes the Representative from Nobleboro, Representative Spear.

Representative SPEAR: Mr. Speaker, Ladies and Gentlemen of the House: A lot of material has been passed around on this issue and one of them is the editorial from the Portland Press Herald and its heading says, "If Great Diamond, Little Diamond and Cushing Islands Leave, What is Next?" I being a Representative from the midcoast area, that is an issue that very well concerns me. We have a number of islands up and down the coast and I can see very well that they will be asking for a similar procedure to secede because a lot of them do pay high taxes.

Whether they are year-round or seasonal, residents knew when they purchased this property that it was high-priced and they would have to be paying the taxes. If you look at all your real estate

advertisements today, the prices are high. The poor people who purchase the properties know they are getting into these tax situations but that is their choice, it is a way of living that they chose when they purchased these properties. There is a lot of concern that they don't receive services but if they try to provide the services themselves for the emergency medical services, firefighting, trash pickups, it will not be as inexpensive as they might think.

Another item that I have noticed here I really do not think is fair is the voting procedure when only one side gets to vote on this issue. If these people, especially the residents of these islands, are not concerned, they have the right to get into the town government, city government, and run for these offices. They are residents, they have the right to do that, they have a voice in the government but I really do believe that the main reason these people are concerned is taxes. But, once again, I emphasize that they made that choice to live there and have these properties and, therefore, they have to contribute their fair share, their fair market share. Therefore, being concerned of the precedent that it will set up and down the coast of Maine, I urge everybody to oppose the pending motion.

The SPEAKER: The Chair recognizes the Representative from Wiscasset, Representative Kilkelly.

Representative KILKELLY: Mr. Speaker, Men and Women of the House: I stand in strong support of the motion before you and the bill before you.

To me it has become very much of a rural and urban issue as opposed to a taxation issue. I think we need to be very careful about labeling it just as a taxation issue.

When I posed a question earlier about what percentage of the tax base these islands represent, what we are hearing is a lot of innuendo about the devastating impact that the loss of this revenue is going to have on the city of Portland. The city of Portland is going to be crippled by the loss of these islands. We are talking about less than one-half of one percent, I think that is really important to remember, less than one-half of one percent. Yes, it is a lot of money, but it is also coming out of a large pot of money so I don't think it is really that much of an impact. We are looking at \$5, maybe \$10 per \$100,000 of valuation that that impact represents.

The town of Long Island that has been created has not seen a significant decrease in property taxes because they have had to maintain their government and there is obviously a cost to doing that. So, it is not a move in which it is just an absolute piece of cake being given to a group of people. What it is an opportunity for people who live in certain areas, in this case islands, to determine which form of government is in fact most appropriate for them and that's where it comes to me to be a rural and urban issue.

If you live in a very small community, would you be interested in having a city council who was located in a different area from you making the decisions for your community? I think we need to be very concerned, those of us who represent small towns, about the fact that maybe this will go in the opposite direction, maybe we will take lots of small towns and put them altogether for reasons of efficiency and economy and lose the character of those small towns in the process. I am more

concerned about what we are going to lose if we don't accept the concept that people have a right to make the decision about how they wish to be governed. At what point do we allow the people to be disenfranchised? Do we say, well, there is only 7 people, that is not enough or there is only 40 people, that's not enough — gee, maybe 350 isn't enough — how many of you represent towns that have 350 people or 700 people? Maybe that's not really enough to make it efficient so we shouldn't allow those people to make decisions about how they are going to be governed either.

What this bill does is to allow for an opportunity for the people on these islands to determine what their future is going to be. Back in 1897, there was an Act in the legislature, an Act enabling the annexation of Deering to Portland. In 1899, after the process was completed, Deering was in fact annexed to the city of Portland. In 1903, there was a bill before the legislature, an enabling Act for the annexation of the city of South Portland to Portland. In 1907, that was repealed. This does not have to be a determining factor. Our vote today does not say to the islands, "you must" — our vote says you have an opportunity, you can make a choice. The people in South Portland decided they wanted to remain South Portland and that was fine. If the people of the islands determine that they want to stay a part of the city of Portland, that's fine, but they ought to have an opportunity to make that decision and that's all this legislation does is present them with that opportunity. We are watching a time in this world of major transition, we are looking at people all over the world making decisions about how they want to be governed. We are seeing a microcosm of that in this bill, a group of people who have determined that being part of a city is not in their best interest, that being part of a smaller town may be. There are people on the islands, very well-intentioned people, who feel differently about that and thank God they do feel differently and thank God there are people in here who feel differently about it and we can talk about it because that's what we treasure within this system.

This bill is about our ability to govern ourselves and our ability to be comfortable enough in that to allow other folks to make that decision also.

I would urge your support of this bill.

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

Representative OLIVER: Mr. Speaker, Ladies and Gentlemen of the House: This debate is interesting and it is very difficult to stand up and not be redundant so I will try the best I can. I think you have heard some very good and intelligent arguments.

I want to remind you that living in the city of Portland during the 80's we had the funny money come up and people were buying property that we could not understand, something that went for \$37,000 was going for \$100,000 and then went for \$125,000. Some of these people moved up and into neighborhoods. I remember one neighborhood they moved into, it was next to a working waterfront, my neighborhood. It wasn't long before we had a petition that they didn't like the noise on the working waterfront. Then we had people move into the neighborhood under the airplanes but they didn't like that and they have pressured the city council that they would like the airport moved. Now my neighborhood and the people I associate with have problems with city councils like



all people. We can complain about snow removal, we can complain about property taxes, but we know that we have a way to address those, we can run for city council, we can form citizen petitions to effect public policy, we can get on the various tax forces that decide policy. I have never heard of the indigenous residents who are living there say that they were going to separate from Portland, we are going to see a legislative committee and get a vote and move on. So, I think we have to evaluate this in the real context — as people move into areas where airplanes fly over and they complain about the airplanes and people move in next to working waterfronts and complain about the working waterfronts, a lot of people went to our islands. Immediately, they saw the beauty of Portland, the beauty of the islands, the sense of the rural nature of the islands and yet they enjoy all the infrastructure of the mainland, the transportation, the police, the social services and the planning department and the assessments so it is all there. You can live in the city and you can have a rural paradise and gain all the access to all services a municipality can supply.

This is fairness, we all have to pay our share. This comes to the fact that some people move in and figured out fast that we don't want to pay the social service cost, we don't want to pay the remedial education costs, we want to use Portland, but we don't want to pay the cost of maintaining those roads. I think we have to bring it down to where it is, that these are people who are very fortunate to live in the more rural part of Portland and yet enjoy all those things that urban municipalities supply. All we ask is that our history stay intact, that 200 years on Maine means a lot and because of the deep recession and a few numbers of people who have signed a petition and brought it to the legislature, that we would break off part of that 200 year tradition history.

I know my family has enjoyed walking around these islands in Portland for over 30 years. They are lovely islands but when people tell me they have some inconveniences because of services, that was part of the trade-off for living on an island. Naturally transportation is more difficult, naturally in a storm it is tough to get the fireboat or the medical rescue boat out, but it is very important to know that the islands are not separate, that not only the islanders sit on all the Portland committees but also all the web of social services and planning boards, zoning boards, H-CD monies that go out to the islands, they are all interwoven. They have always been. There is no way that the islands themselves are going to be able to supply all the necessary services so what we are asking here is for everyone to pay their share. I pay my taxes in Portland and to answer Representative Kilkelly, who I admire very much, when she says that it is a matter of votes, it doesn't matter how many people vote — if 27 people vote, which could be a majority in this vote, they should have the chance to dismember Portland. I say that all those people in a democracy who are directly affected by the decision should have a place to vote, that is the real question. So, it is a matter of a vote but it is a matter that my family, who feels part of that long tradition of those islands belonging to Portland, also have the chance to vote.

I don't think it does come down to the impact on Portland, I think this is a virus that could spread,

it could have a tremendous impact and instability on all our towns. We are Maine, we are not California. We have a sense of history and we have a sense of proportion. We have a sense of our land and we buy into the common good that we all share. For us to break off into selfish little units because we don't want to pay our fair share of those costs is wrong. It is not in the Maine tradition. I was glad to hear that this committee is developing a process and that is the Maine tradition that is rational, that is fair and reasonable, that it is a statewide process, so that when circumstances come up that there is a process that we have all bought into. But the ad hoc nature of a few people voting on dismembering part of a city is not the Maine way so I urge you to defeat this legislation, but also in the longer and greater picture, to support legislation that will design fair and rational processes.

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

Representative LOOK: Mr. Speaker, Ladies and Gentlemen of the House: I, too, was on the State and Local Government Committee and supported this measure of these islands to secede. Secession is not new. We can't remember back but we are the product of the secession of the western hemisphere from England. Also, another thing in history — Massachusetts was a colony and Maine was part of that colony and it became the territory that we now know as our Maine. It was the county of York under the Commonwealth of Massachusetts and in 1820 they wanted to become a state so we became a state. From that area, the different counties were determined. Maine was once part of two counties, it originally was York, then it became two counties and the eastern county was Lincoln. Lincoln was split up and became Washington and Aroostook and parts of Hancock and Penobscot so this is not new.

Why did these things happen? Because the people wanted independence, that's what we fought the Revolution for. Fortunately, our Revolution stopped within our boundaries at the Civil War.

We are now conducting our differences in the method that we are taking. Several towns have seceded. In my own town, which was originally Plantation 22, it later became the town of Jonesboro spelled Jonesborough, we now stop it with the boro, but in that time, the town of Jonesport seceded, the town of Rogue Bluffs seceded and since then, the Island of Beals has seceded from Jonesport. This is not new, this is just the residents, the people who live in those areas who want to govern themselves.

I ask you to consider this, where would civilization be if it wasn't the right of people to want to be independent?

At the time we had the hearings in the city of Portland, the statement was made, and you have heard it today, that Long Island was too small to be a town. At that time, I reminded that person that I represented a town that was far smaller than those islands. I have a town in my district called Centerville and in the last few years there was an article in one of the prominent magazines that they had 21 residents, they are still an incorporated town and I have not heard a word that they are not happy with this incorporation. Therefore, I ask you to consider, seriously, the desire of people on the islands. I assure you that in these deliberations we have asked for and are urging, and I am sure in the arbitration agreements which will come forth, that

all of the problems that are foreseeable at this time are going to be very carefully evaluated and addressed. Therefore, I am asking you to give these people their chance to be as independent as they would like to be.

On motion of Representative Jacques of Waterville, tabled pending the motion of Representative Joseph of Waterville to accept the Majority "Ought to Pass" Report and specially assigned for Tuesday, March 1, 1994. (Roll Call Requested)

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Bill "An Act to Clarify and Make Technical Changes to Various Professional Licensing Board Laws" (S.P. 720) (L.D. 1942) (Governor's Bill) which was tabled by Representative JACQUES of Waterville pending reference in concurrence.

Subsequently, the Bill was referred to the Committee on **Business Legislation** in concurrence. Ordered sent forthwith.

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On motion of Representative SWAZEY of Bucksport, adjourned at 12:05 p.m., pursuant to the Joint Order (S.P. 723).