

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
21st Legislative Day
Friday, March 4, 1994

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

Prayer by Reverend Calvin O. Dame, Unitarian Universalist Community Church, Augusta.

The Journal of yesterday was read and approved.

SENATE PAPERS

Bill "An Act to Establish the Maine School of Science and Mathematics and the Task Force on the Maine School of Visual and Performing Arts" (S.P. 733) (L.D. 1958) (Governor's Bill)

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

Was referred to the Committee on Education in concurrence.

Ought to Pass as Amended

Report of the Committee on Energy and Natural Resources reporting "Ought to Pass" as amended by Committee Amendment "A" (S-409) on Bill "An Act to Identify Laboratories Subject to the Laboratory Certification Program" (EMERGENCY) (S.P. 481) (L.D. 1479)

Came from the Senate, with the report read and accepted and the Bill Passed to be Engrossed as amended by Committee Amendment "A" (S-409) as amended by Senate Amendment "B" (S-425) thereto.

Report was read and accepted. The Bill read once. Committee Amendment "A" (S-409) was read by the Clerk. Senate Amendment "B" (S-425) to Committee Amendment "A" (S-409) was read by the Clerk and adopted. Committee Amendment "A" (S-409) as amended by Senate Amendment "B" (S-425) thereto was adopted and the Bill assigned for second reading Tuesday, March 8, 1994.

Non-Concurrent Matter

Bill "An Act to Provide Funding to Support Maine Energy Policy" (H.P. 1432) (L.D. 1957) which was referred to the Committee on Taxation in the House on March 1, 1994.

Came from the Senate indefinitely postponed in non-concurrence.

The House voted to Recede and Concur.

COMMUNICATIONS

The following Communication: (S.P. 735)

116th Maine Legislature

March 2, 1994

Senator Rochelle Pingree
Rep. Rita B. Melendy
Chairpersons
Joint Standing Committee on Housing and Economic Development
116th Legislature
Augusta, Maine 04333

Dear Chairs:

Please be advised that Governor John R. McKernan, Jr. has nominated David Lakari of Portland for appointment to the Maine State Housing Authority.

Pursuant to Title 30A, MRSA Section 4723, this nomination will require review by the Joint Standing Committee on Housing and Economic Development and confirmation by the Senate.

Sincerely,

S/Dennis L. Dutremble
President of the Senate

S/Dan A. Gwadosky
Speaker of the House

Came from the Senate, Read and Referred to the Committee on Housing and Economic Development.

Was Read and Referred to the Committee on Housing and Economic Development in concurrence.

PETITIONS, BILLS AND RESOLVES REQUIRING REFERENCE

The following Bills 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:

Judiciary

Bill "An Act to Amend the Probate Code to Provide Greater Due Processing in Guardianship and Conservatorship Cases" (H.P. 1441) (L.D. 1967) (Presented by Representative COTE of Auburn) (Submitted by the Department of the Attorney General pursuant to Joint Rule 24.)

State and Local Government

Bill "An Act to Create the Blaine House Commission" (H.P. 1440) (L.D. 1966) (Presented by Representative WHITCOMB of Waldo) (Cosponsored by President DUTREMBLE of York and Representatives: GWADOSKY of Fairfield, JACQUES of Waterville, PARADIS of Augusta, ZIRNKILTON of Mount Desert, Senators:

BUSTIN of Kennebec, CAHILL of Sagadahoc, CARPENTER of York, ESTY of Cumberland) (Governor's Bill)

STEVENS of Sabattus
ROBICHAUD of Caribou
DAGGETT of Augusta
NASH of Camden

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

Minority Report of the same Committee reporting "Ought to Pass" as amended by Committee Amendment "A" (H-783) on same Bill.

ORDERS

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

ORDERED, that Representative James S. Bowers of Washington be excused March 1 for personal reasons.

AND BE IT FURTHER ORDERED, that Representative Herbert E. Clark of Millinocket be excused March 2 and 3 for legislative business.

AND BE IT FURTHER ORDERED, that Representative Arthur H. Clement of Clinton be excused March 1 for personal reasons.

AND BE IT FURTHER ORDERED, that Representative William Lemke of Westbrook be excused February 23 and 24 for health reasons.

AND BE IT FURTHER ORDERED, that Representative Sumner H. Lipman of Augusta be excused February 24 for personal reasons.

AND BE IT FURTHER ORDERED, that Representative G. Steven Rowe of Portland be excused February 18 for personal reasons.

AND BE IT FURTHER ORDERED, that Representative Richard N. Simoneau of Thomaston be excused February 24 for personal reasons.

AND BE IT FURTHER ORDERED, that Representative Robert W. Spear of Nobleboro be excused February 23 for personal reasons.

AND BE IT FURTHER ORDERED, that Representative Paul R. Young of Limestone be excused March 3 for personal reasons and March 4 for legislative business.

Was read and passed.

REPORTS OF COMMITTEES

Divided Report

Majority Report of the Committee on Legal Affairs reporting "Ought Not to Pass" on Bill "An Act Related to Third Parties" (H.P. 552) (L.D. 748)

Signed:

Senators: CAREY of Kennebec
HANDY of Androscoggin
HALL of Piscataquis

Representatives: TRUE of Fryeburg
GAMACHE of Lewiston

Signed:

Representatives: BENNETT of Norway
BOWERS of Washington
MICHAEL of Auburn
LEMKE of Westbrook

Reports were read.

Representative DAGGETT of Augusta moved that the House accept the Majority "Ought Not to Pass" Report.

The SPEAKER: The Chair recognizes the Representative from Wilton, Representative Heesch.

Representative HEESCHEN: Mr. Speaker, Members of the House: I urge you to oppose the "Ought Not to Pass" Report so that we may go on to adopt the Minority "Ought to Pass" Report.

When I submitted this bill last year, I thought a long time about this. You may be wondering what it is all about. You should be receiving a yellow sheet on your desk now that gives a little bit of the information about this bill. I submitted the bill, I didn't seek cosponsors because I didn't want to put anyone on the spot because we are dealing with third parties and I know that is a touchy subject.

What I would like to do is describe to you the process now for new parties to become official and take part in our system, then describe to you the system that I proposed in this bill and then I will discuss why I submitted the legislation.

If you want to follow along with me, at the bottom of the yellow sheet there are a couple of flow charts, the top flow chart describes the current process of organizing a third party or a new party around a candidate. It starts with a petition, someone runs as an Independent. At this time, they don't even have to be thinking about doing a party, it may not even have occurred to them but they run in the next statewide General Election either for Governor or for President. If in that election they get 5 percent or more of the overall votes cast for either Governor or President, they may consent to having a party organized around that candidacy.

Four years ago, we did experience an Independent candidate, Andrew Adam, running statewide for Governor. He received 9.8 percent of the vote. When he first ran, I doubt if any of us thought that he was going to establish a party. My guess is that establishing a party was the furthest thing from his mind. After he received that 9.8 percent, many people realized — look, here is a candidate who got more than the required 5 percent who might throw his support to us to organize a party. There were all kinds of rumors. I heard that the Green Party was courting Andrew Adams and I can't remember right now what other parties, but as it turned out, he finally threw his lot in with the Libertarians. So, at that point, the Libertarian Party was then entitled to run in the next election, the next General Election, and through a petition and primary process entitled to enroll voters in their party. They

could, at that time in 1992, have run a candidate by petition and primary the way Democrats do, the way Republicans do, in every single partisan race in the state, 151 House seats, 35 Senate seats. They only ran two candidates in state races. They felt they had trouble registering people as Libertarians to sign their petitions.

Well, if you follow through the logical conclusion of this, on the right hand side of my flow chart in the dashed box, they go through the convention and primary, go through the General Election and then the question is, do they still have for either the President or the Governor 5 percent or more of the vote? Well, the answer for the Libertarians was no, their candidate for President, Andre Marrou, got less than one percent of the vote in Maine. So, the Libertarians as an official party were at that time thrown off the rolls and were required to go back to the beginning if they wanted to organize around a candidate and run a petition and get someone to run and so forth. If they had, if Andre Marrou had gotten 5 percent of the vote, then the Libertarians would still be on as a party. Actually they can still register now because they refiled and they are trying to build a party again.

The proposed process is described in the bottom series — I believe it reflects more how parties are best organized. It also provides information at every stage of the way so that people understand what is actually happening.

What it does is start at a legislative district, we start the process with someone who is not enrolled as a Democrat, not enrolled as a Republican, taking out a petition to run as a candidate. But in this instance, in order to actually form the party this way, they declared their intent with the Secretary of State's Office at the time they take out their nominating petitions, their petition has the intended party designation on the petition, so when they go and gather signatures that people know, well yes, we are not only thinking of supporting this person, but they have a party that they are allied with and they want to establish here. That Independent with the designation runs in the General Election that year with the intended party designation on the ballot.

If in that General Election that individual gets 15 percent or more of the votes cast in that election for State Representative, then in the next election cycle, the party in that district and other districts with similarly designated parties, assuming that they all got 15 percent or more of the vote, can then go through a nominating process similar to what Democrats do and Republicans do now — a nominating petition, go out and enroll voters in the party. They will need to have a convention that takes into account the districts and the counties in which they are active. They go through the primary and in the next General Election the question again is — well, did this individual get 15 percent or more in that district election? If the answer is no, they are back to the beginning of this stage. If the answer is yes, they can continue in the next two year cycle as a party that is established.

Now the 15 percent figure — I looked at that for quite some time and I looked at the results of the last General Election and, in the 14 races for the House where more than two candidates were listed, there were 7 races in which an individual received more than 15 percent of the vote. So, this figure is achievable but it is not necessarily easy, you are

not going to have a great number of candidates or more candidates than we do now trying to do this and getting qualified. It does take some work.

The reason that I came to this and the conclusion that we ought to at least discuss this is that in the last election when I was campaigning and meeting people, early on people were very excited because Ross Perot was in the race, they weren't necessarily supporting Perot but they thought it was great that there was someone other than just the Democrat and the Republican running.

I think people got somewhat disillusioned when the first debate happened, I got all kinds of negative comments. That indicated to me that to some extent people would like to have more local control. They felt that the presidential stuff was just out of their hands. I believe the voters are demanding honest dialogue, they are demanding choices. Our current system, as I have noted here, forces the top down party organization. You have got to run a presidential candidate or you have got to run a gubernatorial candidate. It is almost impossible to qualify and remain qualified because Andrew Adams got 9.8 percent but the next two years down the road the Libertarians' presidential candidate came nowhere near 5 percent. Likewise, Ross Perot got around 30 percent of the vote here but it is questionable whether this year a United We Stand or other related party candidate would be able to get the 5 percent it needs to qualify.

I think this process results in some cynicism among voters. Really, it looks like this system is set up so that new parties simply cannot qualify and remain qualified.

The advantages of the process proposed in L.D. 748 is that it is a grass roots process. It is going to help reconnect people to the process at a level where they feel they can make a difference. This bill would allow new parties to demonstrate their abilities, strengths and support at a local level before being forced to run statewide, very much prematurely probably.

It is at a level where people know who people are so you can assess whether this individual fairly represents what they purport to represent. Since the party designation will be identified throughout the organizing process you don't have the great unknown of — well, this person is running as an Independent but what does this person really think, what's this person's affiliations?

I also note that if the party is successful, and by successful I mean successful in qualifying at the 15 percent level as a official party, it may qualify to run candidates in other state races as a candidate. Probably none of us have the original bill on our desk but that information is in there of how that works.

In conclusion, I suggest that this is something, with all due respect to people who are supporting improving or increasing access to the legislative process, be it term limits or the changing the size of the legislature, I suggest that this process has much greater potential of being able to involve people, citizens, in the political process in party organization and get them interested in working for and serving their neighbors and friends through this process. I think this is something that we should give a try.

I would again urge your support and your vote to defeat the "Ought Not to Pass" Report.

The SPEAKER: The Chair recognizes the Representative from Washington, Representative Bowers. Representative BOWERS: Mr. Speaker, Men and Women of the House: The Legal Affairs Committee worked real hard on this bill. We went through the whole bill and saw the pitfalls, made some technical corrections and I think we came up with a pretty good bill.

I would encourage you to vote against the Majority Report so that we can vote to pass this with the Minority Report. This allows third parties or fourth parties or fifth parties to grow from the grass roots level, from the local legislative district with very little money. Right now, a party has to go with an Independent candidate or somebody who has declared and who has a lot of money. I think this is a pro-democracy type of bill and I encourage you to vote against the Majority Report.

Mr. Speaker, I request the yeas and nays.

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

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

The SPEAKER: The Chair recognizes the Representative from Wilton, Representative Heesch.

Representative HEESCHEN: Mr. Speaker, Members of the House: I neglected in my previous statement to acknowledge the hard work and cooperation of the Legal Affairs Committee. I want to extend my appreciation to all members of that committee who participated in the hearing and the work sessions, because whether the members of the committee were in favor of this bill or not in favor of this bill, I thought we got a lot of good questions and a lot of good dialogue here. I really appreciate that.

The SPEAKER: The Chair recognizes the Representative from Auburn, Representative Michael.

Representative MICHAEL: Mr. Speaker, Ladies and Gentlemen of the House: I really hope that we decline to accept the motion and instead pass this bill. It really is a very good bill and it is interesting how it was drafted. It is, of course, a bill which allows some decency to minority groups who wish to participate in the democratic process. We had on the subcommittee that helped draft this bill and voted out the committee report, the Treasurer of the Democratic Party, Representative Bowers, you had the vice-chair of the Republican Party who is Representative Bennett and so all interests were represented, if you will. As I said, it is a matter of decency, what kind of people are we that we are so afraid of these little dinky minority groups that we need to squash them and prevent them from participating in democracy? The founding fathers who wrote the constitution never dreamed that we would do those kinds of things, in fact, they never mentioned political parties at all and the laws we have passed over the years for political parties were ideas that we have invented and they have largely, sometimes, been used to squash other people's ideas. Everyone has a right to the freedom of assembly and, if we do not pass this bill, we will continue to thwart people's right to assemble.

We have nothing to fear from these groups. I certainly don't fear a Green person or a Libertarian or a whatever putting together some candidates and

running whoever they want to run, that is their right and I hope that we give them that right. It is a matter of decency.

The SPEAKER: A roll call has been ordered. The pending question before the House is the motion of Representative Daggett of Augusta, 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. 248

YEA - Ahearne, Aikman, Aliberti, Ault, Bailey, H.; Bailey, R.; Barth, Campbell, Carleton, Caron, Carr, Carroll, Chonko, Clark, Clement, Cloutier, Clukey, Coles, Cote, Cross, Daggett, Dexter, DiPietro, Driscoll, Dutremble, L.; Erwin, Faircloth, Farnum, Farren, Gamache, Greenlaw, Hatch, Heino, Hussey, Jacques, Joseph, Joy, Kerr, Ketterer, Kneeland, Larrivee, Libby Jack, Libby James, Look, Lord, Marsh, Marshall, Melendy, Michaud, Mitchell, E.; Mitchell, J.; Morrison, Murphy, Nadeau, Nickerson, Norton, O'Gara, Oliver, Ott, Paradis, P.; Pendexter, Pineau, Plourde, Poulin, Rand, Reed, W.; Ricker, Rotondi, Ruhlin, Rydell, Saint Onge, Saxl, Simoneau, Small, Spear, Stevens, A.; Strout, Sullivan, Taylor, Thompson, Townsend, G.; Townsend, L.; True, Tufts, Vigue, Walker, Zirnkilton.

NAY - Adams, Bennett, Birney, Bowers, Brennan, Chase, Coffman, Dore, Fitzpatrick, Gould, R. A.; Gray, Heesch, Kilkelly, Kontos, Lemke, Lindahl, Lipman, Michael, Pfeiffer, Pinette, Richardson, Rowe, Simonds, Skoglund, Stevens, K.; Swazey, Tracy, Treat, Wentworth, Whitcomb, Winn.

ABSENT - Anderson, Beam, Bruno, Cameron, Cashman, Cathcart, Constantine, Donnelly, Farnsworth, Foss, Gean, Hale, Hichborn, Hillock, Hogle, Hogg, Holt, Jalbert, Johnson, Kutasi, Lemont, MacBride, Martin, H.; Martin, J.; Nash, Pendleton, Plowman, Pouliot, Reed, G.; Robichaud, Tardy, Townsend, E.; Young, The Speaker.

Yes, 87; No, 31; Absent, 33; Paired, 0; Excused, 0.

87 having voted in the affirmative and 31 in the negative, with 33 being absent, the Majority "Ought Not to Pass" Report was accepted 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. 552) (L.D. 1576) Bill "An Act to Make Modifications to Economic Development Activities" (EMERGENCY) Committee on Housing & Economic Development reporting "Ought to Pass" as amended by Committee Amendment "A" (S-422)

(S.P. 678) (L.D. 1858) Bill "An Act to Streamline the Department of Transportation's Permitting Procedure for Aboveground Facilities" Committee on Transportation reporting "Ought to Pass" as amended by Committee Amendment "A" (S-421)

(H.P. 1382) (L.D. 1881) Bill "An Act to Allow the

Heartwood School of Art to Grant an Associate of Arts Degree" Committee on Education reporting "Ought to Pass"

(H.P. 635) (L.D. 866) Bill "An Act to Allow the State to Enter into an Agreement with the State of South Carolina Concerning the Disposal of Low-level Radioactive Waste" (EMERGENCY) Committee on Energy & Natural Resources reporting "Ought to Pass" as amended by Committee Amendment "A" (H-786)

(H.P. 1267) (L.D. 1694) Bill "An Act to Clarify Permitting Requirements for Cranberry Growing Operations" Committee on Energy & Natural Resources reporting "Ought to Pass" as amended by Committee Amendment "A" (H-789)

(H.P. 1308) (L.D. 1763) Bill "An Act to Provide Enhanced Enforcement Powers in the Maine Banking Laws" (EMERGENCY) Committee on Banking & Insurance reporting "Ought to Pass" as amended by Committee Amendment "A" (H-790)

(H.P. 1357) (L.D. 1832) Resolve, to Conduct a Study on Improving Access to the Maine Technical College System Committee on Education reporting "Ought to Pass" as amended by Committee Amendment "A" (H-788)

There being no objections, the above items were ordered to appear on the Consent Calendar of Tuesday, March 8, 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. 644) (L.D. 1803) Bill "An Act to Allow the Dissolution of the Maine Capital Corporation"

(S.P. 659) (L.D. 1827) Bill "An Act Concerning Authorization to Grow Certain Marine Species in Aquaculture"

(S.P. 553) (L.D. 1577) Bill "An Act Regarding the Custody of Remains of Deceased Persons" (C. "A" S-417)

(S.P. 618) (L.D. 1720) Bill "An Act to Encourage Innovation and Competitiveness by Electric Utilities" (C. "A" S-415)

(S.P. 637) (L.D. 1771) Bill "An Act to Establish Terms of Appointments for Members of the Maine Education and Training Export Partnership" (C. "A" S-418)

(H.P. 1265) (L.D. 1692) Bill "An Act to Clarify the Certification Procedures of the Maine Criminal Justice Academy" (C. "A" H-784)

(H.P. 1280) (L.D. 1728) Bill "An Act to Establish Retirement Equity for Full-time Adult Education Teachers" (C. "A" H-782)

No objections having been noted at the end of the Second Legislative Day, the Senate Papers were Passed to be Engrossed or 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. 551) (L.D. 1575) Bill "An Act to Amend Certain Provisions of Law Pertaining to Brewers' Licenses" (C. "A" S-416)

On motion of Representative DAGGETT of Augusta, was removed from Second Day Consent Calendar.

Report was read and accepted. The Bill read once. Committee Amendment "A" (S-416) was read by the Clerk and adopted. The Bill assigned for second reading Tuesday, March 8, 1994.

(S.P. 646) (L.D. 1805) Bill "An Act to Make Certain Revisions to the Maine Emergency Medical Services Act of 1982" (C. "A" S-420)

On motion of Representative CARROLL of Gray, was removed from Second Day Consent Calendar.

Report was read and accepted. The Bill read once. Committee Amendment "A" (S-420) was read by the Clerk and adopted. The Bill assigned for second reading Tuesday, March 8, 1994.

BILLS IN THE SECOND READING

As Amended

Bill "An Act to Establish the Lobster Promotion Council as a Public Instrumentality" (EMERGENCY) (H.P. 1199) (L.D. 1607) (C. "A" H-774)

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

On motion of Representative KONTOS of Windham, the House reconsidered its action whereby Committee Amendment "A" (H-774) was adopted.

The same Representative presented House Amendment "A" (H-795) to Committee Amendment "A" (H-774) which was read by the Clerk and adopted.

Committee Amendment "A" (H-774) as amended by House Amendment "A" (H-795) thereto was adopted.

The Bill was passed to be engrossed as amended by Committee Amendment "A" (H-774) as amended by House Amendment "A" (H-795) thereto and sent up for concurrence.

ENACTORS

Emergency Mandate

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

to C. "A" H-740)

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

On motion of Representative MITCHELL of Vassalboro, under suspension of the rules, the House reconsidered its action whereby L.D. 1640 was passed to be engrossed.

The same Representative presented House Amendment "A" (H-800) which was read by the Clerk.

The SPEAKER: The Chair recognizes the Representative from Vassalboro, Representative Mitchell.

Representative MITCHELL: Mr. Speaker, Men and Women of the House: By way of explanation, the legislation authorizes the exploration of a formation of a Community School District by the towns mentioned in the title. The towns have to explore that and vote on it but in our initial crafting of the bill there was a mistake made in how they would share the cost. The amendment corrects the mistake in cost allocation. It also adds some language which is typical of transitional language when you go from one type of school district to another. It has the support of all the towns involved.

Subsequently, House Amendment "A" (H-800) was adopted.

The Bill was passed to be engrossed as amended by Committee Amendment "A" (H-740) as amended by House Amendment "A" (H-752) thereto and House Amendment "A" (H-800) in non-concurrence and sent up for concurrence.

An Act to Amend the Conditions of Probation (S.P. 557) (L.D. 1593) (C. "A" S-408)

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

By unanimous consent, H.P. 1221, L.D. 1640 and S.P. 557, L.D. 1593 were ordered sent forthwith.

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-773) - Committee on **State and Local Government** on RESOLUTION, Pursuant to Article IV, Part Third, Section 15 of the Constitution of Maine Calling a Constitutional Convention to Propose Amendments to the Constitution (H.P. 873) (L.D. 1187)

TABLED - March 3, 1994 by Representative AHEARNE of Madawaska.

PENDING - Motion of same Representative to accept the Minority **"Ought to Pass"** as amended Report.

On motion of Representative JOSEPH of Waterville, tabled pending the motion of Representative AHEARNE

of Madawaska to accept the Minority **"Ought to Pass"** as amended Report and specially assigned for Tuesday, March 8, 1994.

HOUSE REPORT - **"Ought to Pass"** as amended by Committee Amendment "A" (H-785) - Committee on **Judiciary** on Bill "An Act to Legalize Marijuana for Medicinal Purposes" (H.P. 1116) (L.D. 1511)

TABLED - March 3, 1994 by Representative LARRIVEE of Gorham.

PENDING - Acceptance of the Committee Report. (Roll Call Requested)

On motion of Representative COTE of Auburn, the Bill was recommitted to the Committee on **Judiciary**, and sent up for concurrence.

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

TABLED - March 3, 1994 by Representative ADAMS of Portland.

PENDING - Motion of same Representative to Reconsider Passage to be Enacted.

On motion of Representative JOSEPH of Waterville, tabled pending the motion of Representative ADAMS of Portland to reconsider passage to be enacted and specially assigned for Tuesday, March 8, 1994.

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

SENATE PAPERS

The following Joint Order: (S.P. 738)

ORDERED, the House concurring, that when the House and Senate adjourn, they do so until Tuesday, March 8, 1994, at nine o'clock in the morning.

Came from the Senate, read and passed.

Was read and passed in concurrence.

ENACTORS

Emergency Measure

An Act to Eliminate Seasonal Liquor Stores (H.P. 738) (L.D. 996) (H. "A" H-756 to C. "A" H-747)

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

Representative GREENLAW of Standish requested a roll call on passage to be enacted.

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

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

The SPEAKER: The Chair recognizes the Representative from Standish, Representative Greenlaw.

Representative GREENLAW: Mr. Speaker, Ladies and Gentlemen of the House: In my district in Standish is Sebago Lake and out in Sebago Lake is an island. After they have the second or third frost, there is no way to get to the island, the ferry stops, you can't walk on the thin ice and there is no room to land a helicopter apparently. This restaurant closes and I believe that there are many other restaurants like this. So, we are going to give these people the privilege of \$2,000 for operating in the months that you cannot even get to their business.

The SPEAKER: The Chair recognizes the Representative from Saco, Representative Nadeau.

Representative NADEAU: Mr. Speaker, Men and Women of the House: I would like to pose a question through the Chair. The question would be, are there seasonal drivers licenses currently issued in the State of Maine?

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

The Chair recognizes the Representative from Sabattus, Representative Stevens.

Representative STEVENS: Mr. Speaker, Men and Women of the House: This bill is seasonal liquor stores, not restaurants. We have 11 seasonal stores in the state. When we started closing the stores that the state had and put in agency stores, these stores were overlooked as far as having an opportunity to be full-time stores. When you have got a seasonal store that is only open six or eight months out of the year, the alcohol has to come back to the state, a check is cut back to the dealer and so forth. We thought it would be a good time to give the 11 stores an opportunity to have a full-time license if they wanted it.

The SPEAKER: A roll call has been ordered. The pending question before the House is passage to be enacted. This being an emergency measure, a two-thirds vote is necessary. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 249

YEA - Adams, Ahearne, Aikman, Ault, Bailey, H.; Bailey, R.; Barth, Bennett, Bowers, Brennan, Campbell, Carleton, Caron, Carr, Carroll, Chase, Chonko, Clark, Clement, Cloutier, Clukey, Coles, Cote, Cross, Daggett, Dexter, DiPietro, Dore, Driscoll, Dutremble, L.; Erwin, Faircloth, Farren, Fitzpatrick, Gamache, Gould, R. A.; Gray, Hatch, Heino, Hussey, Jacques, Joseph, Kerr, Ketterer, Kilkelly, Kneeland, Kontos, Larrivee, Lemke, Libby Jack, Libby James, Lindahl, Lipman, Look, Marsh, Marshall, Melendy, Michael, Michaud, Mitchell, E.; Mitchell, J.; Morrison, Murphy, Nadeau, Nash, Norton, O'Gara, Oliver, Paradis, P.; Pendexter, Pfeiffer, Plourde, Poulin, Pouliot, Reed, W.; Richardson, Ricker, Rowe, Ruhlin, Saint Onge, Saxl, Simonds, Simoneau, Skoglund, Small, Spear, Stevens, A.; Stevens, K.; Strout, Sullivan, Swazey, Taylor, Thompson, Townsend, L.; Tracy, Treat, True, Tufts, Vigue, Walker, Wentworth, Whitcomb, Winn, Zirnkilton.

NAY - Aliberti, Birney, Coffman, Farnum, Greenlaw, Joy, Nickerson, Rotondi.

ABSENT - Anderson, Beam, Bruno, Cameron, Cashman, Cathcart, Constantine, Donnelly, Farnsworth, Foss, Gean, Hale, Heesch, Hichborn, Hillock, Hoglund, Holt, Jalbert, Johnson, Kutasi, Lemont, Lord, MacBride, Martin, H.; Martin, J.; Ott, Pendleton, Pineau, Pinette, Plowman, Rand, Reed, G.; Robichaud, Rydell, Tardy, Townsend, E.; Townsend, G.; Young, The Speaker.

Yes, 104; No, 8; Absent, 39; Paired, 0; Excused, 0.

104 having voted in the affirmative and 8 in the negative, the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

Emergency Measure

An Act to Correct an Error in the Sand Dune Laws (H.P. 1260) (L.D. 1687) (C. "A" H-744)

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

The SPEAKER: The Chair recognizes the Representative from Bath, Representative Small.

Representative SMALL: Mr. Speaker, Ladies and Gentlemen of the House: I just hate to show my ignorance of some of the environmental laws but I was reading this one and had some difficulty in understanding exactly what this legislation does. It talks about requiring a permit for proposed development on sand dune areas where private property is subject to flood damage and then it talks about what could happen in the next 100 years for shoreline changes. So, all I am looking for is an explanation to explain exactly what this bill does and to define the back sand dunes, what this entails, how do you define those and then what sort of activity requires a permit? Are we talking about building a condominium or are we talking about someone putting on a back porch or adding a tool shed?

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

The Chair recognizes the Representative from Harpswell, Representative Coles.

Representative COLES: Mr. Speaker, Men and Women of the House: Representative Small presents a challenge because it was heard in committee and dealt with quite awhile ago, but I will work to try to recollect what the reason is and I will try to explain it. Last year, the legislature made a major change to the site location development law, generally intended to reduce the amount of state permitting activity and increase the exemptions. In doing so, we created an exemption for construction or alterations which means if you are adding a room or deck or something like that on back dune areas before the rules to replace that previous requirement for a permit was a permit by rule which is an extremely simple process, were ready. It was an inadvertent mistake we made last year and what this does is restore the requirement or rather strengthen — limit the exemptions for approximately one year until those rules allowing the such construction or alteration to go ahead under a permit by rule process are ready and then it repeats the language and the whole exemption all together. It would be replaced by a permit by rule procedure. Does that help the Representative from Bath?

Subsequently, this being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 104 voted in favor of the same and 0 against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

Emergency Measure

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

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. 101 voted in favor of the same and 0 against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

Emergency Measure

An Act to Improve the License Renewal Procedure for the Board of Registration in Medicine (H.P. 1367) (L.D. 1850)

Was reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 103 voted in favor of the same and 0 against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

Emergency Mandate

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

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. 101 voted in favor of the same and 2 against, and accordingly the Mandate was passed to be enacted, signed by the Speaker and sent to the Senate.

An Act to Establish a Pilot Project to Mediate Certain Environmental Disputes (H.P. 435) (L.D. 554) (C. "A" H-745)

An Act to Improve the Efficiency of Rate Processing by Consumer-owned Electric Utilities (S.P. 559) (L.D. 1595) (C. "A" S-414)

An Act to Amend the Motor Vehicle Laws (H.P. 1200) (L.D. 1608) (C. "A" H-749)

An Act Concerning Business Directional Signs on

Certain Controlled Access Highways (H.P. 1205) (L.D. 1613) (C. "A" H-748)

An Act to Amend the Community Correction Law (H.P. 1213) (L.D. 1632) (C. "A" H-738)

An Act to Clarify the Method for Calculating Inmate Good Time (S.P. 597) (L.D. 1656) (C. "A" S-413)

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

An Act to Exempt Eye Banks from Sales Tax (H.P. 1247) (L.D. 1674) (C. "A" H-739)

An Act to Promote Child Safety (H.P. 1248) (L.D. 1675) (C. "A" H-736)

An Act to Revise the Execution of Certain Mandatory Consecutive Sentences (S.P. 608) (L.D. 1706) (C. "A" S-412)

An Act to Change Statutory References to the Maine Teachers Association to the Maine Education Association (H.P. 1288) (L.D. 1736) (C. "A" H-742)

An Act to Provide Adequate Staffing for the Board of Osteopathic Examination and Registration (H.P. 1331) (L.D. 1794)

Resolve, to Designate Route 196 through Lisbon in Memory of Staff Sergeant Thomas Field (H.P. 1317) (L.D. 1779) (C. "A" H-743)

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.

An Act to Amend the Classification of Part of the Presumpscot River (H.P. 1289) (L.D. 1737) (C. "A" H-746)

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

On motion of Representative COLES of Harpswell was set aside.

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

Representative COLES: Mr. Speaker, Men and Women of the House: This is a unanimous committee report and I am not arguing against it, I am merely rising to put a few comments on Record.

The bill proposed to change the classification of a section of the Presumpscot River from D to A. Many Windham citizens and citizens of Gorham on the other side of the river supported that proposal. The Windham Town Council, the Windham Chamber of Commerce, the Windham Economic Development Corporation opposed that proposal and in fact they compromised.

My comments pertain to the reasons why the Town Council and the Chamber of Commerce and the Economic Development Corporation of Windham opposed the proposal. They were afraid that in 15 or 20 years that, because of the pace of the development in North

Windham, it would threaten the quality of the groundwater upon which that section of Windham depends for drinking water, that they would have to build a sewage treatment plant which would need to discharge into the river. In other words, they are in the process of fouling their own nest and at some point it will become so foul that it will have to begin to foul up the Presumpscot River. Now, the solution to their problem is not to hold the river open for discharge of sewage, the solution to their problem is to regulate the development in that area so they do not end up contaminating their own drinking water.

Because the Representative from Gorham agreed to this compromise, I did not carry this any further but I wanted to put on the Record in the hopes that it might prove useful to some future legislature the fact that the town of Windham has a very poor reason for opposing this bill and for opposing the upgrading of this vital recreational resource to a Class A status.

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

CONSENT CALENDAR

First Day

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

(H.P. 847) (L.D. 1152) Bill "An Act to Clarify the Authority of the Department of Transportation to Determine Condition of Property Prior to Acquiring" (EMERGENCY) (Governor's Bill) Committee on Transportation reporting "Ought to Pass" as amended by Committee Amendment "A" (H-791)

(H.P. 1284) (L.D. 1732) Bill "An Act to Establish a System of Performance-based Agreements for the Provision of Certain Social Services" Committee on Human Resources reporting "Ought to Pass" as amended by Committee Amendment "A" (H-794)

(H.P. 1350) (L.D. 1816) Bill "An Act to Provide an Appropriation for a Federally Funded Hazard Mitigation Program within the Maine Emergency Management Agency" (EMERGENCY) Committee on Appropriations & Financial Affairs reporting "Ought to Pass" as amended by Committee Amendment "A" (H-792)

There being no objections, the above items were ordered to appear on the Consent Calendar of Tuesday, March 8, 1994 under the listing of Second Day.

On motion of Representative STEVENS of Orono, adjourned at 3:25 p.m., pursuant to the Joint Order (S.P. 738).