

# MAINE STATE LEGISLATURE

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**LEGISLATIVE RECORD**  
OF THE  
**One Hundred And Seventeenth Legislature**  
OF THE  
**State Of Maine**

**VOLUME I**

**FIRST REGULAR SESSION**

**House of Representatives**  
December 7, 1994 to May 23, 1995

ONE HUNDRED AND SEVENTEENTH MAINE LEGISLATURE  
FIRST REGULAR SESSION  
27th Legislative Day  
Thursday, March 30, 1995

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

Prayer by Father Raymond Lebrun, O.M.I., St. Paul's Center, Augusta.

The Journal of Tuesday, March 28, 1995 was read and approved.

**SENATE PAPERS**

Bill "An Act to Establish a Mobile Home Owners' Bill of Rights" (S.P. 322) (L.D. 903)

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

On motion of Representative NADEAU of Saco, the Bill was referred to the Committee on **Legal and Veterans Affairs** in non-concurrence and sent up for concurrence.

**Divided Report**

Majority Report of the Committee on **Business and Economic Development** reporting **"Ought Not to Pass"** on Bill "An Act to Amend the Laws Governing the Location of Mausoleums and Vaults" (S.P. 153) (L.D. 339)

Signed:

Senators: HARRIMAN of Cumberland

CIANCHETTE of Somerset

Representatives:

ROWE of Portland

BIRNEY of Paris

BRENNAN of Portland

KONTOS of Windham

LIBBY of Kennebunk

POVICH of Ellsworth

REED of Dexter

SIROIS of Caribou

Minority Report of the same Committee reporting **"Ought to Pass"** on same Bill.

Signed:

Senator: GOLDTHWAIT of Hancock

Representatives: CAMERON of Rumford

DAVIDSON of Brunswick

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

Was read.

On motion of Representative ROWE of Portland, the Majority **"Ought Not to Pass"** Report was accepted in concurrence.

**Divided Report**

Majority Report of the Committee on **Marine Resources** reporting **"Ought Not to Pass"** on Bill "An Act to Require a License for Recreational Harvesting of Marine Organisms and for the Operation of Marine Party Boats" (EMERGENCY) (S.P. 158) (L.D. 420)

Signed:

Senators: BUTLAND of Cumberland

GOLDTHWAIT of Hancock

Representatives:

LAYTON of Cherryfield

PINKHAM of Lamoine

VOLENIK of Sedgwick

LOOK of Jonesboro

ETNIER of Harpswell

RICE of South Bristol

**BIGL of Bucksport**

Minority Report of the same Committee reporting **"Ought to Pass"** on same Bill.

Signed:

Representatives: CLOUTIER of South Portland

ADAMS of Portland

BENEDIKT of Brunswick

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

Was read.

Representative CLOUTIER of South Portland moved that the House accept the Minority **"Ought to Pass"** Report.

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

**PETITIONS, BILLS AND RESOLVES REQUIRING REFERENCE**

The following Bills and Resolves 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:

**Agriculture, Conservation and Forestry**

Bill "An Act to Appropriate Funds to the Baxter State Park Authority for Road Maintenance" (H.P. 783) (L.D. 1100) (Presented by Representative CLARK of Millinocket) (Cosponsored by Representative JACQUES of Waterville, Senator HALL of Piscataquis and Representatives: ADAMS of Portland, AHEARNE of Madawaska, CLUKEY of Houlton, GOULD of Greenville, KEANE of Old Town, KNEELAND of Easton, McALEVEY of Waterboro, MORRISON of Bangor, WHEELER of Bridgewater, Senators: BENOIT of Franklin, O'DEA of Penobscot, RUHLIN of Penobscot)

Bill "An Act to Enable Small Farm Owners to Process and Sell Foods They Produce" (H.P. 794) (L.D. 1111) (Presented by Representative HEESCHEN of Wilton) (Cosponsored by Representatives: AHEARNE of Madawaska, BERRY of Livermore, CHARTRAND of Rockland, CHASE of China, CROSS of Dover-Foxcroft, HICHBORN of LaGrange, KILKELLY of Wiscasset, MARSHALL of Eliot, MERES of Norridgewock, NICKERSON of Turner, TYLER of Windham, VOLENIK of Sedgwick, Senators: CASSIDY of Washington, PARADIS of Aroostook)

**Appropriations and Financial Affairs**

Bill "An Act to Authorize a General Fund Bond Issue in the Amount of \$100,000,000 to Encourage the Modernization of Paper Industry Facilities and Equipment" (H.P. 780) (L.D. 1077) (Presented by Representative AHEARNE of Madawaska) (Cosponsored by Representatives: BUNKER of Kossuth Township, CLARK of Millinocket, O'NEAL of Limestone, WHEELER of Bridgewater, Senator: PARADIS of Aroostook)

**Banking and Insurance**

Bill "An Act to Improve Coverage for Women's Health Services" (H.P. 782) (L.D. 1079) (Presented by Representative MITCHELL of Portland) (Cosponsored by Senator McCORMICK of Kennebec and Representatives: BRENNAN of Portland, DAVIDSON of Brunswick, DORE of Auburn, FITZPATRICK of Durham, GERRY of Auburn, LOVETT of Scarborough, MADORE of Augusta, MARVIN of Cape Elizabeth, MITCHELL of Vassalboro, NADEAU of Saco,

PINKHAM of Lamoine, POVICH of Ellsworth, SAXL of Portland, SHIAH of Bowdoinham, STEVENS of Orono, THOMPSON of Naples, WATSON of Farmingdale, WINGLASS of Auburn, Senators: BUSTIN of Kennebec, PARADIS of Aroostook, PINGREE of Knox, RAND of Cumberland)

Bill "An Act to Clarify the Responsibility of an Insurance Agent in the Disclosure of Information" (H.P. 788) (L.D. 1105) (Presented by Representative CAMPBELL of Holden) (Cosponsored by Representative: VIGUE of Winslow, Senator: ABROMSON of Cumberland)

#### **Business and Economic Development**

Bill "An Act to Amend the Structure of the Electricians' Examining Board" (H.P. 787) (L.D. 1104) (Presented by Representative BAILEY of Township 27) (Cosponsored by Representatives: BUNKER of Kossuth Township, DRISCOLL of Calais, MARSHALL of Eliot, Senator: CASSIDY of Washington)

Bill "An Act to Amend the Laws Pertaining to the Duties of Skiers and Tramway Passengers by Defining Inherent Risks" (H.P. 801) (L.D. 1118) (Presented by Representative CAMERON of Rumford) (Cosponsored by Representatives: CAMPBELL of Holden, CROSS of Dover-Foxcroft, DEXTER of Kingfield, DIPIETRO of South Portland, DONNELLY of Presque Isle, FISHER of Brewer, KNEELAND of Easton, LEMONT of Kittery, LIBBY of Kennebunk, REED of Dexter, ROBICHAUD of Caribou, STONE of Bangor, VIGUE of Winslow, WINGLASS of Auburn, WINSOR of Norway, Senators: BEGLEY of Lincoln, CIANCHETTE of Somerset, HANLEY of Oxford, HARRIMAN of Cumberland)

Reference to the Committee on Business and Economic Development was suggested.

On motion of Representative ROWE of Portland, tabled pending reference and later today assigned.

#### **Criminal Justice**

Bill "An Act to Make Possession of Armor-piercing Bullets a Class C Crime" (EMERGENCY) (H.P. 796) (L.D. 1113) (Presented by Representative BAILEY of Township 27) (Cosponsored by Representative: BUNKER of Kossuth Township)

Bill "An Act to Restore State Funding for State Expenses at County Jails" (EMERGENCY) (H.P. 803) (L.D. 1120) (Presented by Representative WHITCOMB of Waldo) (Cosponsored by Representatives: BAILEY of Township 27, BUNKER of Kossuth Township, CLUKEY of Houlton, GOOLEY of Farmington, HEINO of Boothbay, JOY of Crystal, McALEVEY of Waterboro, MURPHY of Berwick, PLOWMAN of Hampden, STEDMAN of Hartland, WHEELER of Bridgewater, Senators: BENOIT of Franklin, HALL of Piscataquis)

#### **Education and Cultural Affairs**

Bill "An Act to Improve the Education of Exceptional Children" (H.P. 800) (L.D. 1117) (Presented by Representative WINN of Glenburn) (Cosponsored by Representatives: ADAMS of Portland, AHEARNE of Madawaska, BARTH of Bethel, BENEDIKT of Brunswick, BIRNEY of Paris, BOUFFARD of Lewiston, BUNKER of Kossuth Township, CAMERON of Rumford, CAMPBELL of Holden, CHARTRAND of Rockland, CHIZMAR of Lisbon, CLARK of Millinocket, CLOUTIER of South Portland, DAGGETT of Augusta, DESMOND of Mapleton, DORE of Auburn, DRISCOLL of Calais, ETNIER of

Harpwell, FITZPATRICK of Durham, GOULD of Greenville, GREEN of Monmouth, GWADOSKY of Fairfield, JACQUES of Waterville, JONES of Bar Harbor, JOSEPH of Waterville, KEANE of Old Town, KILKELLY of Wiscasset, KONTOS of Windham, LANE of Enfield, LEMKE of Westbrook, LIBBY of Kennebunk, LOOK of Jonesboro, McELROY of Unity, MITCHELL of Vassalboro, MURPHY of Berwick, NADEAU of Saco, O'NEAL of Limestone, PERKINS of Penobscot, PLOWMAN of Hampden, POULIOT of Lewiston, REED of Dexter, SAMSON of Jay, SAXL of Bangor, SIMONEAU of Thomaston, STEVENS of Orono, TREAT of Gardiner, TUFTS of Stockton Springs, VIGUE of Winslow, YACKOBITZ of Hermon, Senators: ABROMSON of Cumberland, BUSTIN of Kennebec, CAREY of Kennebec, FAIRCLOTH of Penobscot, FERGUSON of Oxford, HALL of Piscataquis, MILLS of Somerset, O'DEA of Penobscot, PINGREE of Knox, RAND of Cumberland, STEVENS of Androscoggin)

Bill "An Act to Establish the Education Reform Act of 1995" (H.P. 807) (L.D. 1124) (Presented by Representative MITCHELL of Vassalboro) (Cosponsored by Representatives: BENEDIKT of Brunswick, BRENNAN of Portland, CHARTRAND of Rockland, KEANE of Old Town, KERR of Old Orchard Beach, LEMAIRE of Lewiston, MORRISON of Bangor, O'GARA of Westbrook, POVICH of Ellsworth, SIROIS of Caribou, TOWNSEND of Portland, TRUMAN of Biddeford, Senators: CAREY of Kennebec, RUHLIN of Penobscot)

#### **Human Resources**

Bill "An Act to Establish Standards for Preadmission Assessments for Long-term Care Services" (H.P. 804) (L.D. 1121) (Presented by Representative TREAT of Gardiner) (Cosponsored by Representatives: BERRY of Livermore, BRENNAN of Portland, FITZPATRICK of Durham, GREEN of Monmouth, HEESCHEN of Wilton, JOHNSON of South Portland, LUTHER of Mexico, MADORE of Augusta, MITCHELL of Portland, SHIAH of Bowdoinham, VOLENIK of Sedgwick, Senators: PARADIS of Aroostook, RAND of Cumberland)

#### **Inland Fisheries and Wildlife**

Bill "An Act to Exempt Bows from the Firearms Discharge Ordinances" (H.P. 785) (L.D. 1102) (Presented by Representative JACQUES of Waterville) (Cosponsored by Representatives: AHEARNE of Madawaska, BUNKER of Kossuth Township, CHICK of Lebanon, GOULD of Greenville, MORRISON of Bangor, TUFTS of Stockton Springs, TYLER of Windham, UNDERWOOD of Oxford, WATERHOUSE of Bridgton, Senator: CAREY of Kennebec)

Bill "An Act to Authorize a Multi-day Bass Tournament Permit" (H.P. 795) (L.D. 1112) (Presented by Representative TYLER of Windham) (Cosponsored by Representatives: BERRY of Livermore, GATES of Rockport, JACQUES of Waterville, THOMPSON of Naples, TRUE of Fryeburg, WINSOR of Norway)

Bill "An Act to Increase the Formula Used for ATV's and Snowmobile Reimbursement" (H.P. 802) (L.D. 1119) (Presented by Representative CLARK of Millinocket) (Cosponsored by Representative JACQUES of Waterville and Representatives: AHEARNE of Madawaska, BAILEY of Township 27, CLUKEY of Houlton, CROSS of Dover-Foxcroft, DAMREN of Belgrade, DESMOND of Mapleton, DEXTER of Kingfield, DIPIETRO of South Portland, DONNELLY of Presque Isle, DRISCOLL of Calais, GOULD of Greenville, GWADOSKY of Fairfield, HATCH of Skowhegan, KEANE of Old Town, KNEELAND of Tufts, MARTIN of Eagle Lake, MORRISON of Bangor,

O'NEAL of Limestone, POVICH of Ellsworth, REED of Dexter, ROTONDI of Madison, WHEELER of Bridgewater, WINN of Glenburn, YACKOBITZ of Hermon, Senators: BEGLEY of Lincoln, BENOIT of Franklin, CASSIDY of Washington, FERGUSON of Oxford, HALL of Piscataquis, KIEFFER of Aroostook, O'DEA of Penobscot, PARADIS of Aroostook, RAND of Cumberland, RUHLIN of Penobscot, STEVENS of Androscoggin)

#### Legal and Veterans Affairs

Bill "An Act to Limit Contribution of Political Committees and Other Associations in Elections for State Legislators" (H.P. 777) (L.D. 1074) (Presented by Representative DAVIDSON of Brunswick) (Cosponsored by Representatives: AHEARNE of Madawaska, HARTNETT of Freeport, LIBBY of Buxton, TRIPP of Topsham)

Bill "An Act to Clarify the Laws Regarding the Ejection of a Person from a Boardinghouse" (H.P. 779) (L.D. 1076) (Presented by Representative JONES of Bar Harbor)

Bill "An Act to Create a Voluntary Campaign Spending Law" (H.P. 798) (L.D. 1115) (Presented by Representative GERRY of Auburn) (Cosponsored by Representatives: CAMPBELL of Holden, LANE of Enfield, LAYTON of Cherryfield, LEMONT of Kittery, YACKOBITZ of Hermon, Senator: HARRIMAN of Cumberland)

Resolve, Authorizing Glen Greenhalgh to Sue the State of Maine and the Department of Human Services (H.P. 786) (L.D. 1103) (Presented by Representative BAILEY of Township 27) (Cosponsored by Representatives: BUNKER of Kossuth Township, DRISCOLL of Calais, Senator: CASSIDY of Washington)

#### Marine Resources

Bill "An Act to Impose Appropriate Fees and Restrictions to Prevent the Out-of-State Transport of Sea Cucumbers" (H.P. 784) (L.D. 1101) (Presented by Representative POVICH of Ellsworth) (Cosponsored by Representative: JONES of Bar Harbor)

Bill "An Act to Amend the Law Regarding the Possession of Short Lobsters" (H.P. 797) (L.D. 1114) (Presented by Representative PERKINS of Penobscot) (By Request)

Bill "An Act to Establish an Appeals Procedure for Certain Persons Denied Handfishing Urchin Licenses" (H.P. 799) (L.D. 1116) (Presented by Representative TOWNSEND of Portland)

#### Natural Resources

Bill "An Act to Enhance Recycling by Ensuring Raw Materials for Businesses that Recycle and to Fund Household Hazardous Waste Collection Programs" (H.P. 805) (L.D. 1122) (Presented by Representative TREAT of Gardiner) (Cosponsored by Representatives: ADAMS of Portland, BRENNAN of Portland, CHASE of China, DAGGETT of Augusta, GOULD of Greenville, HEESCHEN of Wilton, KILKELLY of Wiscasset, LUTHER of Mexico, MERES of Norridgewock, MITCHELL of Vassalboro, SAMSON of Jay, SAXL of Bangor, SHIAH of Bowdoinham, WATSON of Farmingdale, Senator: RAND of Cumberland)

#### State and Local Government

Bill "An Act to Ensure That Rulemaking by Agencies Does Not Exceed the Intent of Authorizing Legislation" (H.P. 806) (L.D. 1123) (Presented by Representative CAMPBELL of Holden) (Cosponsored by Senator CIANCHETTE

of Somerset and Representatives: AHEARNE of Madawaska, AIKMAN of Poland, AULT of Wayne, BAILEY of Township 27, BARTH of Bethel, BIGL of Bucksport, BIRNEY of Paris, BRENNAN of Portland, BUCK of Yarmouth, BUNKER of Kossuth Township, CAMERON of Rumford, CARLETON of Wells, CHASE of China, CHICK of Lebanon, CHIZMAR of Lisbon, CLARK of Millinocket, CLOUTIER of South Portland, CLUKEY of Houlton, CROSS of Dover-Foxcroft, DAGGETT of Augusta, DAVIDSON of Brunswick, DEXTER of Kingfield, DIPIETRO of South Portland, DONNELLY of Presque Isle, DORE of Auburn, DUNN of Gray, FARNUM of South Berwick, FISHER of Brewer, FITZPATRICK of Durham, GAMACHE of Lewiston, GATES of Rockport, GERRY of Auburn, GOOLEY of Farmington, GOULD of Greenville, GREENLAW of Standish, GUERRETTE of Pittston, GWADOSKY of Fairfield, HARTNETT of Freeport, HATCH of Skowhegan, HICHBORN of LaGrange, JACQUES of Waterville, JONES of Pittsfield, JOSEPH of Waterville, JOY of Crystal, JOYCE of Biddeford, JOYNER of Hollis, KEANE of Old Town, KERR of Old Orchard Beach, KILKELLY of Wiscasset, KNEELAND of Easton, LaFOUNTAIN of Biddeford, LABRECQUE of Gorham, LANE of Enfield, LAYTON of Cherryfield, LEMAIRE of Lewiston, LEMKE of Westbrook, LEMONT of Kittery, LIBBY of Buxton, LINDAHL of Northport, LOOK of Jonesboro, LOVETT of Scarborough, LUMBRA of Bangor, MADORE of Augusta, MARSHALL of Eliot, MARTIN of Eagle Lake, MARVIN of Cape Elizabeth, MAYO of Bath, McALEVEY of Waterboro, McELROY of Unity, MITCHELL of Vassalboro, MORRISON of Bangor, MURPHY of Berwick, NADEAU of Saco, NASS of Acton, NICKERSON of Turner, O'GARA of Westbrook, O'NEAL of Limestone, OTT of York, PEAVEY of Woolwich, PENDLETON of Scarborough, PERKINS of Penobscot, PINKHAM of Lamoine, PLOWMAN of Hampden, POULIN of Oakland, POULIOT of Lewiston, POVICH of Ellsworth, REED of Falmouth, REED of Dexter, RICE of South Bristol, RICHARDSON of Portland, ROSEBUSH of East Millinocket, ROTONDI of Madison, SAVAGE of Union, SIMONEAU of Thomaston, SIROIS of Caribou, SPEAR of Nobleboro, STEDMAN of Hartland, STONE of Bangor, TAYLOR of Cumberland, TRIPP of Topsham, TRUE of Fryeburg, TRUMAN of Biddeford, TUFTS of Stockton Springs, TYLER of Windham, UNDERWOOD of Oxford, VIGUE of Winslow, WATERHOUSE of Bridgton, WHEELER of Bridgewater, WHITCOMB of Waldo, WINN of Glenburn, WINSOR of Norway, YACKOBITZ of Hermon, Senators: BEGLEY of Lincoln, BENOIT of Franklin, BUTLAND of Cumberland, CAREY of Kennebec, CARPENTER of York, CASSIDY of Washington, ESTY of Cumberland, FERGUSON of Oxford, GOLDTHWAIT of Hancock, HALL of Piscataquis, HANLEY of Oxford, HARRIMAN of Cumberland, HATHAWAY of York, KIEFFER of Aroostook, LAWRENCE of York, LORD of York, O'DEA of Penobscot, PARADIS of Aroostook, PENDEXTER of Cumberland, RUHLIN of Penobscot, SMALL of Sagadahoc, STEVENS of Androscoggin)

Bill "An Act to Establish Minimum Qualifications for the Office of Sheriff" (H.P. 790) (L.D. 1107) (Presented by Representative BUNKER of Kossuth Township) (Cosponsored by Representatives: GOOLEY of Farmington, McALEVEY of Waterboro, WHEELER of Bridgewater)

Reference to the Committee on State and Local Government suggested.

On motion of Representative DAGGETT of Augusta, tabled pending reference and later today assigned.

#### Taxation

Bill "An Act to Exempt Goods Sold by Scouting Organizations from the Sales Tax" (H.P. 776) (L.D. 1073) (Presented by Representative SAVAGE of Union) (By Request)

Bill "An Act Eliminating Use of the Property Tax and Increasing the Sales and Cigarette Taxes to Fund Schools" (H.P. 781) (L.D. 1078) (Presented by Representative AHEARNE of Madawaska) (Cosponsored by Representatives: BUNKER of Kossuth Township, JONES of Bar Harbor, VOLENIK of Sedgwick, Senator: PARADIS of Aroostook)

Bill "An Act to Eliminate the Sales Tax Exemption on Fuel and Electricity Used in Manufacturing" (H.P. 791) (L.D. 1108) (Presented by Representative VOLENIK of Sedgwick) (Cosponsored by Representatives: ADAMS of Portland, ETNIER of Harpswell, HATCH of Skowhegan, HEESCHEN of Wilton, JOHNSON of South Portland, LEMAIRE of Lewiston, MITCHELL of Portland, TRUMAN of Biddeford)

Resolve, Authorizing Reimbursement of an Overpayment of Income Taxes (EMERGENCY) (H.P. 789) (L.D. 1106) (Presented by Representative BAILEY of Township 27) (Cosponsored by Representatives: BUNKER of Kossuth Township, DRISCOLL of Calais, Senator: CASSIDY of Washington)

#### Transportation

Bill "An Act to Ensure Confidentiality of Motor Vehicle Records" (H.P. 778) (L.D. 1075) (Presented by Representative HARTNETT of Freeport) (Cosponsored by Representatives: AHEARNE of Madawaska, DAVIDSON of Brunswick, MARVIN of Cape Elizabeth, NASS of Acton, PLOWMAN of Hampden)

Bill "An Act to Allow the Erection of Certain Off-premises Signs Advertising Property" (H.P. 793) (L.D. 1110) (Presented by Representative BARTH of Bethel)

#### Utilities and Energy

Bill "An Act to Modify the Kennebec Water District's Authority to Limit Swimming in a Certain Area on China Lake" (H.P. 792) (L.D. 1109) (Presented by Representative VIGUE of Winslow)

#### Reported Pursuant to Resolve

Representative TREAT for the study group concerning parental rights and responsibilities in cases of domestic abuse pursuant to Resolve 1993, chapter 61 asks leave to submit its findings and to report that the accompanying Bill "An Act to Implement the Recommendations Resulting from the Study Concerning Parental Rights and Responsibilities When Domestic Abuse is Involved" (H.P. 808) (L.D. 1125) be referred to the Joint Standing Committee on Judiciary for Public Hearing and printed pursuant to Joint Rule 20.

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

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

#### ORDERS

On motion of Representative BENEDIKT of Brunswick,

the following Order (H.O. 17)

ORDERED, pursuant to House Rule 1 and House Rule 55, that the member of the Penobscot Nation and the member of the Passamaquoddy Tribe elected to represent their people at the biennial session of the Legislature shall be permitted to sit with joint standing committees as nonvoting members during the committees' deliberations.

Was read.

On motion of Representative JACQUES of Waterville, tabled pending passage and specially assigned for Tuesday, April 4, 1995.

On motion of Representative HICHBORN of LaGrange, the following Order: (H.O. 18)

ORDERED, that Representative Ernest C. Greenlaw of Standish be excused March 23 for personal reasons.

AND BE IT FURTHER ORDERED, that Representative Marge L. Kilkelly of Wiscasset be excused February 7 and 10 for personal reasons.

AND BE IT FURTHER ORDERED, that Representative Elizabeth H. Mitchell of Vassalboro be excused March 30 for personal reasons.

AND BE IT FURTHER ORDERED, that Representative William D. Pinkham of Lamoine be excused March 30 for personal reasons.

AND BE IT FURTHER ORDERED, that Representative Roland B. Samson of Jay be excused March 30 for personal reasons.

Was read and passed.

By unanimous consent, the following letter was taken up out of order:

Maine State Legislature

Augusta, ME 04333

March 29, 1995

Dear 1995 Bangor High School Champs:

We, the Bangor Delegation, present this letter as solemn memorial in recognition of a dramatic and unparalleled record in the history of High School sports.

Today, in part, we honor the 1995 Class A Bangor Boys Swim Team and the 1995 Class A Bangor Girls Swim Team.

These teams achieved the unusual record of dual boys and girls Class A State Championships in 1995. Under the leadership of boys Coach, Phil Emery and girls Coach, Wendy Woodbury.

But today we honor even more than that. Since the inception of girls Class A swimming in 1973 there have been a number of schools in various Class A sports (including Cross-country, skiing, swimming and diving, soccer and basketball) that have achieved dual championships. But no school has achieved more than two Class A dual championships in any Class A sport except Bangor High School.

Under the continuous leadership of Coach Phil Emery, Bangor High School has six dual Class A Championships in swimming, not to mention 14 boys championships and 12 girls championships overall.

Bangor High School Class A Boys and Girls Swim Teams hold a record that is unique and not even approached, in the entire history of Maine High School sports.

The Greeks said that happiness is living life along lines of excellence. The 1995 Bangor High School Boys and Girls team, like the generation of Bangor teams before them, with the help of great

coaching, have done nothing less than embark on a path of true happiness.

s/Senator Sean F. Faircloth  
Representative Jane W. Saxl  
Representative Richard Stone  
Representative Hugh Morrison  
Representative Lisa Lumbr

Was read by the Clerk.

The SPEAKER: The Chair recognizes the Representative from Bangor, Representative Saxl.

Representative SAXL: Mr. Speaker, Men and Women of the House: I just want to take this opportunity to tell you all how proud we are of our boys and girls swim team, who have performed with excellence. We all know what it takes to become the state champ and we are very proud of our Bangor team.

Congratulations to you.

At this point Speaker Gwadosky recognized the members of the Bangor Boys and Girl swim team and their coaches in the gallery. (Applause, the audience rising)

#### REPORTS OF COMMITTEES

##### Ought to Pass as Amended

Representative GAMACHE from the Committee on Legal and Veterans Affairs on Bill "An Act to Allow Wine Tasting in Fine Wine Stores" (H.P. 62) (L.D. 98) reporting "Ought to Pass" as amended by Committee Amendment "A" (H-59)

Report was read and accepted. The Bill read once. Committee Amendment "A" (H-59) was read by the Clerk and adopted and the Bill assigned for second reading Tuesday, April 4, 1995.

##### Ought to Pass as Amended

Representative DORE from the Committee on Taxation on Bill "An Act to Exempt the Custom Sawing of Lumber from the Sales Tax" (H.P. 339) (L.D. 459) reporting "Ought to Pass" as amended by Committee Amendment "A" (H-64)

Report was read and accepted. The Bill read once. Committee Amendment "A" (H-64) was read by the Clerk and adopted and the Bill assigned for second reading Tuesday, April 4, 1995.

##### Divided Report

Majority Report of the Committee on Taxation reporting "Ought Not to Pass" on Bill "An Act to Allow the Judicial Department to Make Payment in Lieu of Property Taxes to Municipalities Where Administrative Offices are Located" (H.P. 92) (L.D. 127)

Signed:

Senators: HATHAWAY of York  
FERGUSON of Oxford  
CAREY of Kennebec  
Representatives: TRIPP of Topsham  
TUTTLE of Sanford  
KEANE of Old Town  
MURPHY of Berwick  
DORE of Auburn  
SPEAR of Nobleboro  
DUNN of Gray  
REED of Falmouth

Minority Report of the same Committee reporting "Ought to Pass" as amended by Committee Amendment "A" (H-49) on same Bill.

Signed:

Representatives: RICHARDSON of Portland-  
GREEN of Monmouth

Was read.

Representative DORE of Auburn moved that the House accept the Majority "Ought Not to Pass" Report.

On further motion of the same Representative, tabled pending her motion to accept the Majority "Ought Not to Pass" Report and later today assigned.

##### Divided Report

Majority Report of the Committee on Banking and Insurance reporting "Ought Not to Pass" on Bill "An Act to Expand the Protection of the Maine Consumer Credit Code" (H.P. 116) (L.D. 151)

Signed:

Senators: ABROMSON of Cumberland  
SMALL of Sagadahoc  
Representatives: CAMPBELL of Holden  
GATES of Rockport  
GUERRETTE of Pittston  
JONES of Pittsfield  
LUMBRA of Bangor  
MAYO of Bath  
VIGUE of Winslow

Minority Report of the same Committee reporting "Ought to Pass" as amended by Committee Amendment "A" (H-58) on same Bill.

Signed:

Senator: MCCORMICK of Kennebec  
Representative: CHASE of China

Was read.

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

##### Divided Report

Majority Report of the Committee on Business and Economic Development reporting "Ought to Pass" as amended by Committee Amendment "A" (H-52) on Bill "An Act to Require that Employees in 24-Hour Convenience Stores Have Access to Telephones and Alarms" (H.P. 127) (L.D. 175)

Signed:

Senator: GOLDTHWAIT of Hancock  
Representatives: ROWE of Portland  
BIRNEY of Paris  
BRENNAN of Portland  
CAMERON of Rumford  
DAVIDSON of Brunswick  
KONTOS of Windham

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

Signed:

Senators: HARRIMAN of Cumberland  
CIANCHETTE of Somerset  
Representatives: LIBBY of Kennebec  
POVICH of Ellsworth  
REED of Dexter  
SIROIS of Caribou

Was read.

Representative ROWE of Portland moved that the House accept the Majority "Ought to Pass" Report.

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

##### Divided Report

Majority Report of the Committee on Labor reporting **"Ought to Pass"** as amended by Committee Amendment "A" (H-51) on Bill "An Act to Amend the Misconduct Provisions of the Unemployment Compensation Law" (H.P. 130) (L.D. 178)

Signed:

Senators: MILLS of Somerset  
RAND of Cumberland

Representatives: HATCH of Skowhegan  
CHASE of China  
LEMAIRE of Lewiston  
SAMSON of Jay  
TUTTLE of Sanford

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

Signed:

Senator: BEGLEY of Lincoln  
Representatives: JOY of Crystal  
JOYCE of Biddeford  
PENDLETON of Scarborough  
STEDMAN of Hartland  
WINSOR of Norway

Was read.

Representative HATCH of Skowhegan 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.

#### Divided Report

Majority Report of the Committee on Marine Resources reporting **"Ought to Pass"** on Bill "An Act Concerning Municipal Shellfish Conservation Program Penalties" (H.P. 194) (L.D. 253)

Signed:

Senators: BUTLAND of Cumberland  
PINGREE of Knox  
GOLDTHWAIT of Hancock  
Representatives: CLOUTIER of South Portland  
ADAMS of Portland  
BENEDIKT of Brunswick  
BIGL of Bucksport  
ETNIER of Harpswell  
LAYTON of Cherryfield  
LOOK of Jonesboro  
PINKHAM of Lamoine  
VOLENIK of Sedgwick

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

Signed:

Representative: RICE of South Bristol

Was read.

On motion of Representative CLOUTIER of South Portland, the Majority **"Ought to Pass"** Report was accepted.

The Bill was read once. The Bill was assigned for second reading Tuesday, April 4, 1995.

#### Divided Report

Majority Report of the Committee on Banking and Insurance reporting **"Ought Not to Pass"** on Bill "An Act to Amend the Law Regarding the Use of Competitive Bidding by a School Board to Purchase Insurance" (H.P. 201) (L.D. 260)

Signed:

Senators: ABROMSON of Cumberland  
SMALL of Sagadahoc  
McCORMICK of Kennebec

Representatives:

VIGUE of Winslow  
GATES of Rockport  
CAMPBELL of Holden  
GUERRETTE of Pittston  
JONES of Pittsfield  
LUMBRA of Bangor  
MAYO of Bath  
MITCHELL of Vassalboro  
SAXL of Portland

Minority Report of the same Committee reporting **"Ought to Pass"** on same Bill.

Signed:

Representative: CHASE of China

Was read.

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

#### Divided Report

Majority Report of the Committee on Agriculture, Conservation and Forestry reporting **"Ought Not to Pass"** on Bill "An Act to Require Labeling on Genetically Engineered Food" (H.P. 220) (L.D. 279)

Signed:

Senators: CASSIDY of Washington  
LORD of York  
PARADIS of Aroostook  
Representatives: KNEELAND of Easton  
SPEAR of Nobleboro  
HICHBORN of LaGrange  
TYLER of Windham  
STROUT of Corinth  
CROSS of Dover-Foxcroft  
DEXTER of Kingfield

Minority Report of the same Committee reporting **"Ought to Pass"** on same Bill.

Signed:

Representatives: KILKELLY of Wiscasset  
AHEARNE of Madawaska  
HEESCHEN of Wilton

Was read.

Representative KILKELLY of Wiscasset moved that the House accept the Minority **"Ought to Pass"** Report.

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

#### Divided Report

Majority Report of the Committee on State and Local Government reporting **"Ought Not to Pass"** on RESOLUTION, Proposing an Amendment to the Constitution of Maine Allowing Maine Citizens to Propose Constitutional Amendments by Initiative (H.P. 227) (L.D. 305)

Signed:

Senators: AMERO of Cumberland  
CARPENTER of York  
LONGLEY of Waldo  
Representatives: DAGGETT of Augusta  
SAXL of Bangor  
ROSEBUSH of East Millinocket  
ROBICHAUD of Caribou  
LANE of Enfield  
SAVAGE of Union  
YACKOBITZ of Hermon

Minority Report of the same Committee reporting **"Ought to Pass"** as amended by Committee Amendment "A" (H-46) on same RESOLUTION.



Signed:  
Representatives: AHEARNE of Madawaska  
LEMKE of Westbrook  
GERRY of Auburn

Was read.

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

On further motion of the same Representative, tabled pending her motion to accept the Majority **"Ought Not to Pass"** Report and later today assigned.

#### Divided Report

Majority Report of the Committee on Labor reporting **"Ought to Pass"** as amended by Committee Amendment "A" (H-50) on Bill "An Act to Allow Contract Employees of the Maine State Ferry Service to Buy Retirement Time" (H.P. 234) (L.D. 314)

Signed:  
Senator: RAND of Cumberland  
Representatives: HATCH of Skowhegan  
CHASE of China  
LEMAIRE of Lewiston  
SAMSON of Jay  
TUTTLE of Sanford  
PENDLETON of Scarborough

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

Signed:  
Senators: BEGLEY of Lincoln  
MILLS of Somerset  
Representatives: JOY of Crystal  
JOYCE of Biddeford  
STEDMAN of Hartland  
WINSOR of Norway

Was read.

Representative HATCH of Skowhegan 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 specially assigned for Tuesday, April 4, 1995.

#### CONSENT CALENDAR

##### First Day

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

(S.P. 205) (L.D. 548) Bill "An Act to Correct Certain Statutory References in the Crime of Negotiating a Worthless Instrument" Committee on Criminal Justice reporting **"Ought to Pass"**

(S.P. 230) (L.D. 596) Bill "An Act to Expand the Uses of the Economic Opportunity Fund" (EMERGENCY) Committee on Business and Economic Development reporting **"Ought to Pass"** as amended by Committee Amendment "A" (S-23)

(H.P. 533) (L.D. 729) Resolve, to Name the Connector Road from Exit 6 of the Maine Turnpike to Route 1 in Scarborough the Dr. Philip Haigis Memorial Parkway Committee on Transportation reporting **"Ought to Pass"**

(H.P. 160) (L.D. 208) Bill "An Act to Simplify the Procedure for Making Anatomical Gifts under the Motor Vehicle Laws" Committee on Transportation reporting **"Ought to Pass"** as amended by Committee Amendment "A" (H-60)

(H.P. 172) (L.D. 220) Resolve, to Reduce the Paperwork Required in the Purchase of a Vehicle

Committee on Transportation reporting **"Ought to Pass"** as amended by Committee Amendment "A" (H-61)

There being no objections, the above items were ordered to appear on the Consent Calendar of Tuesday, April 4, 1995 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. 19) (L.D. 50) Bill "An Act to Repeal the Sunset on the Grandparents Visitation Act"

(S.P. 144) (L.D. 330) Bill "An Act to Allow Liens on Claims Not Sounding in Tort"

(S.P. 151) (L.D. 337) Bill "An Act to Increase the Debt Limit of the Richmond Utilities District" (EMERGENCY) (C. "A" S-22)

(H.P. 151) (L.D. 199) Bill "An Act Concerning the Competitive Bidding Process in Cooperative Projects between the State and the Maine Technical College System"

(H.P. 38) (L.D. 32) Bill "An Act Regarding the Prohibition against Restaurants with Lounges Serving Meals to Unaccompanied Minors after 9 P.M." (C. "A" H-44)

(H.P. 45) (L.D. 39) Bill "An Act to Require an Endorser's Authorization for a Candidate To Use an Endorsement" (C. "A" H-54)

(H.P. 232) (L.D. 312) Bill "An Act to Clarify the Law Relating to the Licensing of Accounting Firms" (C. "A" H-53)

(H.P. 251) (L.D. 353) Bill "An Act to Allow Election Officials to Request Identification from Prospective Voters" (C. "A" H-43)

(H.P. 304) (L.D. 408) Bill "An Act to Exempt Individual Retirement Accounts from Attachment" (C. "A" H-55)

(H.P. 378) (L.D. 513) Bill "An Act to Require That the Dollar Value of the Employee Benefit Package Be Included in All Official Statements Concerning State and Municipal Salaries" (C. "A" H-47)

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

#### BILLS IN THE SECOND READING

##### As Amended

Bill "An Act to Increase the County Share and Change the Name of the Government Operations Surcharge Fund" (H.P. 74) (L.D. 110) (C. "A" H-48)

Bill "An Act to Clarify the Financial Assurance Provisions Applicable to Solid Waste Disposal Facilities" (H.P. 129) (L.D. 177) (C. "A" H-29)

Bill "An Act to Allow Municipalities to Dispose of Abandoned Bicycles" (H.P. 133) (L.D. 181) (C. "A" H-56)

Bill "An Act to Allow Restaurants to Sell Liquor on Sunday Mornings" (H.P. 239) (L.D. 341) (C. "A" H-45)

Bill "An Act to Establish the Maine Commission on Community Service" (H.P. 282) (L.D. 386) (C. "A" H-57)

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

concurrence.

### ENACTORS

#### Emergency Measure

Resolve, to Extend the Deadline to Report for the Commission on the Future of Maine's Paper Industry (S.P. 65) (L.D. 94) (C. "A" S-21)

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. 121 voted in favor of the same and 6 against and accordingly the Resolve was finally passed, signed by the Speaker and sent to the Senate.

An Act to Require State or Independent Fair Hearing Examiners in the Grievance Process of the Department of Mental Health and Mental Retardation (S.P. 28) (L.D. 58) (C. "A" S-20)

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.

### UNFINISHED BUSINESS

The following matters, in the consideration of which the House was engaged at the time of adjournment Tuesday, March 28, 1995, have preference in the Orders of the Day and continue with such preference until disposed of as provided by Rule 24.

HOUSE ORDER - Relative to amending House Rule 7 (H.O. 15)

- In House, Read on March 21, 1995.

TABLED - March 28, 1995 (Till Later Today) by Representative MITCHELL of Vassalboro.

PENDING - Passage. (2/3 Vote Required)

On motion of Representative CARLETON of Wells, tabled pending passage and specially assigned for Tuesday, April 4, 1995.

Bill "An Act to Change the Method of Computing the Hospital Tax" (EMERGENCY) (S.P. 391) (L.D. 1068)

- In Senate, Referred to the Committee on Taxation.

TABLED - March 28, 1995 (Till Later Today) by Representative MITCHELL of Vassalboro.

PENDING - Reference in concurrence.

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

Representative JACQUES: Mr. Speaker, in light of Article 4, Part 3 of Section 9 of the Constitution, is this L.D. properly before this body?

The SPEAKER: In reference to the request by the Representative from Waterville, Representative Jacques, on L.D. 1068, "An Act to Change the Method of Computing the Hospital Tax" Article 4, Part 3rd, Section 9 of the Constitution says that, "Bills, orders or resolutions, may originate in either House, and may be altered, amended or rejected in the other; but all bills for raising of revenue shall originate in the House of Representatives," L.D. 1068 amends Title 36 and assesses a tax on hospitals at six percent of new revenue. This bill is sponsored by a member of the other body and therefore would in fact be in violation of Article 4, Part 3rd, Section 9 of the Constitution of the State of Maine. The Chair would rule that the item is not properly before the

Body at this time.

### BILL HELD

RESOLUTION, Proposing an Amendment to the Constitution of Maine to Provide a Method for Citizen-initiated Recall of Persons Holding Elective Civil Offices (H.P. 77) (L.D. 113)

- In House, Majority "Ought Not to Pass" Report of the Committee on State and Local Government read and accepted.

HELD at the Request of Representative LEMKE of Westbrook.

On motion of Representative LEMKE of Westbrook, the House reconsidered its action whereby the Majority "Ought Not to Pass" Report was accepted.

The SPEAKER: The Chair recognizes the Representative from Westbrook, Representative Lemke.

Representative LEMKE: Mr. Speaker, Men and Women of the House: I urge the House to vote against the Majority "Ought Not to Pass" Report.

I request a division.

Now that I have confused you, I might have a real opportunity of passing this.

Mr. Speaker, I urge opposition, to our previous action for a number of reason. I believe that this legislature should enact a bill allowing recall of State elected officials. There are a number of reasons for this, I have seven. I did not have the wit to think up ten but I do have seven reasons.

Number one, this is a bipartisan bill. It has 15 Democratic cosponsors and six Republican cosponsors. In the past this legislation was defeated or did not get the necessary two-thirds vote for a Constitutional Amendment because it was perceived through a partisan prism. That should not be the case today. The people of the state want to see us show we can vote in a bipartisan manner and this is the opportunity.

Secondly, this is a substantive accountability bill. It definitely is not a feel good bill. To ask you to vote for it might not make you feel good, but I believe it is the right thing to do. Supporting this bill, which means voting against the pending "Ought Not to Pass" motion will show the people of the State of Maine that this Legislature is serious about accountability.

Thirdly, it makes recall applicable to us as well as those on the municipal level. Why is recall okay in your town or city perhaps today but not for us in Augusta? There is no compelling answer. This bill is the right answer.

Fourth, it corrects a major omission in our State Constitution. Recall is not a new innovation or an unproven measure. It was first enacted on the municipal level in 1903 and on the State level in 1908. Most states have it. Why not the State of Maine? Every citizen that I have talked about on this issue, and there has been much discussion of it, was surprised to learn that it is not already in our State Constitution. At the very least, give them a chance to speak on this issue by sending it to referendum.

Number five, this legislation is crafted to preclude, to preclude, frivolous or misguided use of the recall method. It is modeled on states which have stringent rules for requirement for petitions to hold a recall election in the first place and then for the actual recall election. You will not be recalled for how you vote on a particular issue,

whether it be auto emissions or abortion or the lobster license plate. That recall remains where it should be, and that is at the ballot box.

Number six, there is an historical record that proves that recall works. And, as tightly crafted as this bill is, it is not abused. This issue has been around since the beginning of the 20th Century, there is plenty of historical material to back up what I said, but in deference to the members of the House, I won't get into that unless necessary.

Number seven, which I consider probably the clincher, in 1921 a leading advocate of recall was recalled by the State of North Dakota. He was the Attorney General of North Dakota and he was recalled along with the Governor of North Dakota at that time. That Attorney General and that Governor went on to be elected to the Congress to be elected to the U.S. Senate. They went on to secure passage of the one of the key pieces of new deal legislation. It saved hundreds of thousands of family farms from closure. Now, that was the Lemke-Frasier Act. So, now you know the rest of the story. It might be attractive to you that you will have an opportunity to recall me, at least the public might, the bad news is that I might come back. But, all the rest of you would have an opportunity under a well crafted bill.

Therefore, I urge you to vote against the pending motion.

The SPEAKER: The Chair recognizes the Representative from Augusta, Representative Daggett.

Representative DAGGETT: Mr. Speaker, Men and Women of the House: I hope that you will continue to support the Majority "Ought Not to Pass" Report. I think that the accountability for all of us is at the polls.

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

Representative CAMERON: Mr. Speaker, Ladies and Gentlemen of the House: I stood before you on Tuesday and talked about accountability in relation to our constituent service and as you well know I was opposed to that. I think this is the kind of accountability that we can all be proud of if we pass. It is not as, Representative Lemke said, is not a feel good bill. It has some substance to it. It sends a message, I believe, to all the voters of Maine, not just in our individual districts but to all the voters in Maine, that yes, we are willing to be held accountable. It is not, certainly not meant to nit pick on a particular issue.

I received a letter this morning threatening me that if I voted a certain way on a certain bill they would never vote for me again. That is unfortunate that those kinds of things happen. But, this bill does not concentrate on a specific small issue like that, it deals with the larger issue of the kind of misbehavior that we certainly can't accept in our public officials.

Now, I will grant you, in the history of Maine these kinds of things have happened very very rarely. I would hope in the future history of Maine it will continue to be very rare, if nonexistent.

I think as publicly elected officials we should be willing to step up to the bat, step up to the plate and say, yes, I am happy to be held accountable. I understand what it means for the public trust that has been given me and I am more than willing to be held accountable to that trust.

I agree with Representative Daggett that we will be held accountable at the ballot box. That is

certainly true. But, unfortunately there are occasions that come up that we need to be held accountable at a earlier point than at the ballot box.

I think it is important that if these issues do come up that we can be held accountable right then and rather than cast a shadow over the electoral process that takes at the next election.

I would appreciate it if you would vote against the pending motion and defeat the motion.

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

Representative TOWNSEND: Mr. Speaker, I would pose a question to the Chair. Does the Minority Committee Report support an amended version of the bill?

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

The Chair would remind members that the current item before the body is the acceptance of the "Ought Not to Pass" Report and the Chair would encourage members to confine their comments to acceptance of lack of acceptance of the Majority "Ought Not to Pass" Report.

The Chair recognizes the Representative from Portland, Representative Townsend.

Representative TOWNSEND: Mr. Speaker, Men and Women of the House: The reason I rose to ask the question was that I perhaps am misreading the bill as it stands. But, Section 5A, or under line 18, specifies that in order to recall an official those gathering signatures must — the signature must be signed by a number of voters qualified to vote in a recall election of at least 35 percent of the number of votes cast in the preceding Gubernatorial election. That would suggest to me that in, for instance, my small district of 8,800 to 10,000 voters those who wish to recall me would have to gather a number of signatures equal to 35 percent of the number of votes cast in the Gubernatorial election? It does not specify in that district and I am confused about that. Perhaps someone could address it.

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

The Chair recognizes the Representative from Westbrook, Representative Lemke.

Representative LEMKE: Mr. Speaker, Men and Women of the House: In response to the good question from the Representative from Portland, the amendment to this bill does rectify a problem in the original one. Obviously it will be the 35 percent eligible from your particular district and not the Gubernatorial election.

The amendment provides for recall of elected county officials as well as state officials. It clarifies the number of signatures needed to initiate a recall proceeding which addresses the question of Representative Townsend and it adds as is necessary a fiscal note to the Resolution.

The SPEAKER: The Chair recognizes the Representative from Bangor, Representative Saxl.

Representative SAXL: Mr. Speaker, Men and Women of the House: I urge you to uphold the position of the Majority Report. To me this motion for recall is redundant. In the Constitution we already address this question by removal by impeachment and address. And, if you will allow me I will read to you, "Every person holding any civil office under this state may

be removed by impeachment for misdemeanor in office and every person holding any office may be removed by the Governor on address of both branches of the Legislature." It seems to me that we already take care of this. But, the problem, in all likelihood, the process itself to begin and really effect impeachment or recall would not fit in with the time requirements so that an election probably would take care of it and the matter would be taken care of at the ballot box in any case.

So, don't reopen the Constitution for something which is essentially already there by another name.

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

Representative SIMONEAU: Mr. Speaker, Ladies and Gentlemen of the House: I cosponsored this bill with Representative Lemke. I would like to tell you why. I philosophically, I feel that the people of Maine should be given the opportunity from time to time to change their Constitution. Now this isn't a question of whether you are in favor or against recall. Now, in two elections I stuck to two or three basic things that I stood for and one of them was to sponsor legislation that would give the people of Maine a chance to change their Constitution as for the normal running of government. In the last election I had one of three in the state that had two incumbents facing each other because of the new districts. My opponent was dead set against sending this type of legislation out to the people and I am all for it. It became a real issue in the race.

I think that this is basic to our government. The people of Maine cannot change their Constitution unless we give them a chance to do it. This is not a frivolous bill. This is not a frivolous idea. I feel that we should return the trust that they give to us to them. To give them an opportunity to decide if they want to in fact have this as part of the process.

I urge you to follow Representative Lemke's light.

The SPEAKER: The Chair recognizes the Representative from Westbrook, Representative Lemke.

Representative LEMKE: Mr. Speaker, Men and Women of the House: I would like to briefly respond to the issues that were raised by the Representative from Bangor.

Number one, the issue is often raised that time requirements and whether it would be applicable within the time frame we are in the Legislature. The answer is historically is clear, yes, it is applicable and it works in the majority of the states of this country where it is applied.

Secondly, in terms of the issue of impeachment as being an alternative, the fact of the matter is that the impeachment process has been utilized seldom in the State of Maine, seldom. In fact, you can count it on one hand the number of times it has been utilized. One of the major reasons for that is that it is stated so broadly that there has been a tendency to even use it. You might be interested to know that in the State of Maine, unlike in other states, you can impeach a person for no specified activity but simply for a misdemeanor.

Secondly, on this issue, I agree with the Representative from Thomaston, there is a broader issue here. And, the broader issue is whether we give the people, the people directly, the opportunity to deal with us or we keep it linked within the present system, which is as I have just defined, is

not workable. I think this is a basic accountability bill. I also think it democratizes the process. There is absolutely nothing new or innovative about this, it already exists, it already works. The record is that when there are stringent requirements in terms of the petitions necessary, 35 percent of the people who voted in the election, the preceding election for the office, the high level, the high level of threshold requirement precludes, historically precludes, frivolous usage.

Secondly, I would point out in this bill there is an added protection. There have to be statements. There have to be statements of the reason for recall as well as the reasons against it when the recall election is held. It has to be tightly within the areas of basic misconduct to be there, to be on the ballot. This would establish the second highest threshold in the United States. The highest being 40 percent in the state of Kansas. We will be 35 percent. So, I believe that this is a rationally crafted bill based upon historical experience which fixes a major omission in the State Constitution. It will not mean that the minute this is passed hundreds of people are going to be subject to recall. That is not the record in the states where it exists. But, there will be a mechanism, there will be a mechanism if in fact you have those rare occasions where a recall is felt necessary by the people.

So, again, I urge you to vote against the pending motion so that we in this legislature can send a clear message that we stand up for accountability here.

The SPEAKER: The Chair recognizes the Representative from Falmouth, Representative Reed.

Representative REED: Mr. Speaker, I would pose a question through the Chair. A question to either Representative Lemke or anyone else who could answer.

Lines eight through ten of the bill state that a civil office holder is subject to recall by the legal voters of the state or of the political subdivision from which he or she was elected. That language seems to suggest to me that a statewide recall effort might be mounted against a particular district office holder such as a member of this body or the other body. I wonder if that is the intent of the sponsors or if I am misunderstanding the language? I would appreciate a response.

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

The Chair recognizes the Representative from Jonesboro, Representative Look.

Representative LOOK: Mr. Speaker, Men and Women of the House: This is the third time in the years that I have been here that I have debated the recall bill. I hope that you will vote to support the "Ought Not to Pass" position.

There are many instances that over the years we have observed with office holders that perhaps we don't necessarily agree with and we get real upset at perhaps what their performance has been. However, the ballot box is there, it does work. I think in my own experience I have seen about three times, not at the state level, but down at the local levels, and I mean levels (municipal and count) where I personally felt that certain persons should be subject to recall. However, recall was not there and I am glad looking in retrospect that it was not there. The matters have been settled by the ballot box. The issues that came up have been resolved and I think

that this can happen with the individuals using their right of vote to do this.

It is indeed a serious issue. It is an issue that can put a stigma on a person that may never be lifted. They may be found guilty of something that really wasn't as accurate as it was intended to purport. But, let me tell you the most powerful thing we have in our method of government is the individuals right to cast their vote and let's keep that where it belongs.

Many times in a petition people will automatically sign it without being aware of exactly the impact that the wording has. I caution you on this and ask that you continue to support the "Ought Not to Pass" position.

Representative AHEARNE of Madawaska, requested a roll call on the motion to accept the Majority "Ought Not to Pass" Report.

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

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

The SPEAKER: A roll call has been ordered. The pending question before the House is acceptance of the Majority "Ought Not to Pass" Report. Those in favor will vote yes; those opposed will vote no.

#### ROLL CALL NO. 23

YEA - Aikman, Ault, Bailey, Berry, Bigl, Birney, Bouffard, Brennan, Campbell, Carleton, Chase, Chick, Clark, Cloutier, Clukey, Cross, Daggett, Damren, Desmond, Donnelly, Dunn, Fitzpatrick, Gamache, Gieringer, Greenlaw, Guerrette, Hartnett, Heeschen, Heino, Hichborn, Jacques, Jones, K.; Jones, S.; Joseph, Joyce, Joyner, Keane, Kneeland, Kontos, Labrecque, Lane, Lemaire, Lemont, Look, Lovett, Lumbra, Madore, Marshall, Marvin, Mayo, McAlevey, McElroy, Mitchell JE; Morrison, Murphy, Nadeau, Nickerson, O'Gara, O'Neal, Ott, Plowman, Poirier, Pouliot, Reed, G.; Reed, W.; Rice, Richardson, Ricker, Robichaud, Rotondi, Rowe, Savage, Saxl, J.; Saxl, M.; Sirois, Stedman, Stevens, Stone, Strout, Taylor, Thompson, Townsend, True, Truman, Tufts, Tuttle, Tyler, Vigue, Volenik, Waterhouse, Watson, Wheeler, Whitcomb, Winsor, Yackobitz.

NAY - Adams, Ahearne, Barth, Benedikt, Buck, Bunker, Cameron, Chartrand, Chizmar, Davidson, Dexter, Dore, Etnier, Farnum, Fisher, Gates, Gerry, Gooley, Gould, Green, Hatch, Johnson, Joy, Kilkelly, LaFountain, Layton, Lemke, Libby JD; Lindahl, Luther, Martin, Meres, Nass, Pendleton, Perkins, Poulin, Povich, Rosebush, Simoneau, Treat, Tripp, Underwood, Winglass, Winn.

ABSENT - DiPietro, Driscoll, Kerr, Libby JL; Mitchell EH; Peavey, Pinkham, Samson, Shiah, Spear, The Speaker.

Yes, 95; No, 44; Absent, 11; Paired, 0; Excused, 0; Vacant, 1.

95 having voted in the affirmative and 44 in the negative, with 11 being absent and 1 vacant, the Majority "Ought Not to Pass" Report was accepted and sent up on concurrence.

The following items were taken up out of order by

unanimous consent:

#### SENATE PAPERS

The following Joint Order: (S.P. 412)

ORDERED, the House concurring, that when the two branches of the Legislature adjourn this day, the House does so until Tuesday, April 4, 1995, at 9:00 o'clock in the morning and the Senate does so until Tuesday, April 4, 1995, at 9:30 o'clock in the morning.

Came from the Senate, read and passed.

Was read and passed in concurrence.

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

#### SENATE PAPERS

Bill "An Act to Authorize a General Fund Bond Issue in the Amount of \$10,000,000 to Fund Municipal Infrastructure Improvements" (S.P. 406) (L.D. 1094)

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

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

Bill "An Act to Delete the Definition of Tanning Devices from the Laws Regulating the Board of Barbering and Cosmetology" (S.P. 394) (L.D. 1082)

Came from the Senate, referred to the Committee on Business and Economic Development and Ordered Printed.

Was referred to the Committee on Business and Economic Development in concurrence.

Bill "An Act Concerning Concealed Firearms Permits" (S.P. 399) (L.D. 1087)

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

Was referred to the Committee on Criminal Justice in concurrence.

Bill "An Act to Reduce Fishing License Fees for Nonresidents Who Pay Property Taxes" (S.P. 397) (L.D. 1085)

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

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

Bill "An Act Relating to Hospital Medical Records" (S.P. 401) (L.D. 1089)

Resolve, Directing the Attorney General's Office to Review the Current Definition and Judicial Interpretation of Harassment (EMERGENCY) (S.P. 404) (L.D. 1092)

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

Were referred to the Committee on Judiciary in concurrence.

Bill "An Act to Require Reimbursement of Unemployment Benefits by Workers' Compensation Insurers" (S.P. 402) (L.D. 1090)

Came from the Senate, referred to the Committee on

**Labor and Ordered Printed.**

Was referred to the Committee on Labor in concurrence.

Bill "An Act to Allow Part-time Police Officers to Acquire Liquor Licenses" (S.P. 393) (L.D. 1081)

Bill "An Act to Increase the Number of Signatures Necessary for a Candidate to be Listed on a Ballot" (S.P. 403) (L.D. 1091)

Bill "An Act to Voluntarily Limit Campaign Spending" (S.P. 410) (L.D. 1098)

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

Were referred to the Committee on Legal and Veterans Affairs in concurrence.

Resolve, Exempting Michael and Theresa Palumbo of York from Legislation Requiring the Removal of Underground Storage Tanks (S.P. 398) (L.D. 1086)

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

Was referred to the Committee on Natural Resources in concurrence.

Bill "An Act to Amend the Law Governing Municipal Zoning with Respect to Community Living Arrangements" (S.P. 408) (L.D. 1096)

Came from the Senate, referred to the Committee on State and Local Government and Ordered Printed.

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

Bill "An Act to Amend the Law Regarding Tax Exemptions for Water Pollution Control Facilities" (S.P. 392) (L.D. 1080)

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

Was referred to the Committee on Taxation in concurrence.

Bill "An Act to Require Consumer Information on Motorcycle Helmets" (S.P. 400) (L.D. 1088)

Bill "An Act to Allow for Street Legal Sprint Cars" (S.P. 405) (L.D. 1093)

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

Were referred to the Committee on Transportation in concurrence.

Bill "An Act to Combine the Sabattus Water District and the Sabattus Sanitary District" (S.P. 411) (L.D. 1099)

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

Was referred to the Committee on Utilities and Energy in concurrence.

**SENATE PAPERS**

**Reported Pursuant to Resolve**

Report of the Commission on the Future of Maine's Paper Industry pursuant to Resolve 1993, chapter 75 asks leave to submit its findings and to report that the accompanying Bill "An Act to Institute a Yearly

Series Labor-Management Systems Conferences" (S.P. 395) (L.D. 1083) be referred to the Committee on Labor for public hearing and printed pursuant to Joint Rule 20.

Came from the Senate with the report read and accepted and the Bill referred to the Committee on Labor and Ordered Printed.

Report was read and accepted and the Bill referred to the Committee on Labor in concurrence.

**Reported Pursuant to Resolve**

Report of the Commission on the Future of Maine's Paper Industry pursuant to Resolve 1993, chapter 75 asks leave to submit its findings and to report that the accompanying Resolve, to Require Development of Energy Plans (EMERGENCY) (S.P. 396) (L.D. 1084) be referred to the Committee on Utilities and Energy for public hearing and printed pursuant to Joint Rule 20.

Came from the Senate with the report read and accepted and the Bill referred to the Committee on Utilities and Energy and Ordered Printed.

Report was read and accepted and the Bill referred to the Committee on Utilities and Energy in concurrence.

**Reported Pursuant to Resolve**

Report of the Commission on the Future of Maine's Paper Industry pursuant to Resolve 1993, chapter 75 asks leave to submit its findings and to report that the accompanying Resolve, to Establish the Task Force to Study Environmental Regulation (S.P. 409) (L.D. 1097) be referred to the Committee on Natural Resources for public hearing and printed pursuant to Joint Rule 20.

Came from the Senate with the report read and accepted and the Bill referred to the Committee on Natural Resources and Ordered Printed.

Report was read and accepted and the Bill referred to the Committee on Natural Resources in concurrence.

On motion of Representative BUNKER of Kossuth Township, the House adjourned at 12:20 p.m., pursuant to the Joint Order (S.P. 412).