

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

LEGISLATIVE RECORD

OF THE

One Hundred And Fifteenth Legislature

OF THE

State Of Maine

VOLUME III

FIRST REGULAR SESSION

Senate

December 5, 1990 to May 20, 1991

STATE OF MAINE
ONE HUNDRED AND FIFTEENTH LEGISLATURE
FIRST REGULAR SESSION
JOURNAL OF THE SENATE

In Senate Chamber
Thursday
February 28, 1991

Senate called to Order by the President.

Prayer by The Honorable Nancy Randall Clark of Cumberland.

SENATOR NANCY RANDALL CLARK: Let us be in a spirit of prayer. Into the light of Your presence this morning, we bring ourselves and the symbols of all that we have. Grant us Thy grace, bless our dear friend, David Silsby, who leaves state service today with our gratitude, a sense of fulfillment, pride, and recognized achievement. And, yes, with eager anticipation of the opportunities afforded by his retirement. Use us, Lord, and our resources to kindle Your flame of love throughout our state, the Persian Gulf and our world. Amen.

Reading of the Journal of Wednesday, February 27, 1991.

COMMUNICATIONS

The Following Communication: S.P. 332

115TH LEGISLATURE

February 27, 1991

Senator N. Paul Gauvreau
Rep. Patrick E. Paradis
Chairpersons
Joint Standing Committee on Judiciary
115th Legislature
Augusta, Maine 04333

Dear Chairs:

Please be advised that Governor John R. McKernan, Jr. has nominated the following:

The Honorable Clifford O'Rourke of Camden for appointment as Active Retired Judge of the Maine District Court.

The Honorable F. Davis Clark of Dover-Foxcroft for reappointment as Active Retired Judge of the Maine District Court.

The Honorable Courtland Perry, II of Augusta for reappointment as Judge of the Maine District Court, District VI.

The Honorable Ronald A. Daigle of Fort Kent for reappointment as Judge of the Maine District Court, District I.

The Honorable Michael N. Westcott of Damariscotta for appointment as Judge of the Maine District Court, District VI.

Pursuant to Title 4, MRSA Section 157, these nominations will require review by the Joint Standing Committee on Judiciary and confirmation by the Senate.

The Honorable Ian MacInnes of Bangor for reappointment as Active Retired Justice of the Superior Court.

The Honorable Thomas E. Delahanty, II of Lewiston for reappointment as Justice of the Maine Superior Court.

The Honorable Paul T. Pierson of Caribou for reappointment as Justice of the Maine Superior Court.

Pursuant to Title 7, MRSA Section 1, these nominations will require review by the Joint Standing Committee on Judiciary and confirmation by the Senate.

Sincerely,

S/Charles P. Pray
President of the Senate

S/John L. Martin
Speaker of the House

Which was READ and referred to the Committee on JUDICIARY.

Sent down for concurrence.

The Following Communication:

STATE OF MAINE
DEPARTMENT OF HUMAN SERVICES
AUGUSTA, MAINE 04333

February 25, 1991

Honorable Charles P. Pray
President of the Senate
State House Station 3
Augusta, Maine 04333

Dear President Pray:

Pursuant to my authority under Chapter 831 of the Public Laws of 1990, I am pleased to submit the final report of the Advisory Committee to the Board of Substance Abuse Counselors.

Sincerely,
S/Sylvia Lund
Chair

Which was **READ** and with Accompanying Papers
ORDERED PLACED ON FILE.

SENATE PAPERS

Bill "An Act to Provide for Notice of Termination
of an Insurance Agency Appointment"
S.P. 324 L.D. 880

Presented by Senator **THERIAULT** of Aroostook
Cosponsored by Senator **COLLINS** of Aroostook and
Representative **RAND** of Portland

Which was referred to the Committee on **BANKING
AND INSURANCE** and **ORDERED PRINTED.**

Sent down for concurrence.

Bill "An Act to Establish a Northern Maine
Regional Juvenile Detention Facility"
S.P. 329 L.D. 885

Presented by Senator **GILL** of Cumberland
Cosponsored by Senator **BUSTIN** of Kennebec,
Representative **PENDLETON** of Scarborough and
Representative **BAILEY** of Farmington
Submitted by the Department of Corrections
pursuant to Joint Rule 24.

Which was referred to the Joint Select Committee
on **CORRECTIONS** and **ORDERED PRINTED.**

Sent down for concurrence.

Bill "An Act to Amend the University of Maine
System Charter"
S.P. 325 L.D. 881

Presented by Senator **BOST** of Penobscot
Cosponsored by Representative **O'DEA** of Orono and
Representative **CATHCART** of Orono

Bill "An Act to Amend the Laws Concerning
Certification of Educational Personnel"
S.P. 326 L.D. 882

Presented by Senator **ESTES** of York
Cosponsored by Representative **CROWLEY** of Stockton
Springs, Representative **NORTON** of Winthrop and
Representative **CAHILL** of Mattawamkeag

Bill "An Act to Establish a Budget Authority
within School Administrative Districts"
S.P. 330 L.D. 886

Presented by Senator **CAHILL** of Sagadahoc

Which were referred to the Committee on **EDUCATION**
and **ORDERED PRINTED.**

Sent down for concurrence.

Bill "An Act to Prevent Multiple Assessments of
Patients at the Augusta Mental Health Institute"
S.P. 323 L.D. 879

Presented by Senator **GILL** of Cumberland
Cosponsored by Senator **BRANNIGAN** of Cumberland,
Representative **DAGGETT** of Augusta and
Representative **PENDLETON** of Scarborough
Submitted by the Department of Mental Health and
Mental Retardation pursuant to Joint Rule 24.

Resolve, to Establish a Respite Care
Demonstration Project
S.P. 327 L.D. 883

Presented by Senator **CLARK** of Cumberland
Cosponsored by Senator **BRANNIGAN** of Cumberland
and Representative **MANNING** of Portland

Which were referred to the Committee on **HUMAN
RESOURCES** and **ORDERED PRINTED.**

Sent down for concurrence.

Bill "An Act to Protect Access to Medicare,
Medicaid and Social Security Benefits and Maintain
Insurance Premiums"
S.P. 328 L.D. 884

Presented by Senator **VOSE** of Washington
Cosponsored by Representative **TREAT** of Gardiner,
Representative **STEVENS** of Bangor and
Representative **LAWRENCE** of Kittery

Committee on **JUDICIARY** suggested and **ORDERED
PRINTED.**

Senator **CLARK** of Cumberland moved to refer the
Bill to Committee on **BANKING AND INSURANCE.**

Subsequently, the same Senator requested and
received leave of the Senate to withdraw her motion.

Which was referred to the Committee on **JUDICIARY** and **ORDERED PRINTED**.

Sent down for concurrence.

Senate at Ease

Senate called to order by the President.

Bill "An Act to Strengthen Municipal Borrowing Alternatives"

S.P. 331 L.D. 887

Presented by President **PRAY** of Penobscot
Cosponsored by Senator **KANY** of Kennebec,
Representative **CLARK** of Millinocket and
Representative **MICHAUD** of East Millinocket

Committee on **STATE AND LOCAL GOVERNMENT** suggested and **ORDERED PRINTED**.

On motion by Senator **CLARK** of Cumberland, Tabled Unassigned, pending **REFERENCE**.

Off Record Remarks

COMMITTEE REPORTS

Senate

Ought Not to Pass

The following **Ought Not to Pass** Report shall be placed in the Legislative Files without further action pursuant to Rule 15 of the Joint Rules:

Reported by Senator **BALDACCI** for the Committee on **BUSINESS LEGISLATION** Bill "An Act to Ensure Access to Boards of Directors"

S.P. 38 L.D. 60

Leave to Withdraw

The following **Leave to Withdraw** Report shall be placed in the Legislative Files without further action pursuant to Rule 15 of the Joint Rules:

Reported by Senator **KANY** for the Committee on **BANKING AND INSURANCE** Bill "An Act to Freeze the Interest on Credit Cards"

S.P. 26 L.D. 36

Ought to Pass

Senator **MCCORMICK** for the Committee on **AGING, RETIREMENT AND VETERANS** on Bill "An Act to Amend the Retirement Laws"

S.P. 24 L.D. 34

Reported that the same **Ought to Pass**.

Which Report was **READ** and **ACCEPTED**.

The Bill **READ ONCE**.

The Bill **TOMORROW ASSIGNED FOR SECOND READING**.

SECOND READERS

The Committee on **Bills in the Second Reading** reported the following:

House

Bill "An Act to Authorize Certified Reserve Officers to Enforce Motor Vehicle Registration Laws"
H.P. 65 L.D. 93

Bill "An Act to Continue Milk Pool Payments to Dairy Farmers Affected by the Newport Plant Closure" (Emergency)

H.P. 130 L.D. 186

Which were **READ A SECOND TIME** and **PASSED TO BE ENGROSSED**, in concurrence.

Out of order and under suspension of the Rules, the Senate considered the following:

PAPERS FROM THE HOUSE

House Papers

Bill "An Act Concerning the Restraint of Dogs That Pose a Public Risk"

H.P. 604 L.D. 864

Comes from the House referred to the Committee on **AGRICULTURE** and **ORDERED PRINTED**.

Which was referred to the Committee on **AGRICULTURE** and **ORDERED PRINTED**, in concurrence.

Bill "An Act to Promote Health Insurance for Workers in Health Care Facilities and Hospitals"
H.P. 599 L.D. 859

Bill "An Act to Repeal the Restriction on Investments in Loans Secured by First Mortgages on Real Estate by State-chartered Credit Unions"
H.P. 601 L.D. 861

Bill "An Act to Establish a Competitive Workers' Compensation Fund"
H.P. 616 L.D. 876

Come from the House referred to the Committee on **BANKING AND INSURANCE** and **ORDERED PRINTED**.

Which were referred to the Committee on **BANKING AND INSURANCE** and **ORDERED PRINTED**, in concurrence.

Bill "An Act to Amend the Warranty and Disclosure Requirements Applicable to Certain Sellers of Repossessed Vehicles"
H.P. 600 L.D. 860

Come from the House referred to the Committee on **BUSINESS LEGISLATION** and **ORDERED PRINTED**.

Which was referred to the Committee on **BUSINESS LEGISLATION** and **ORDERED PRINTED**, in concurrence.

Bill "An Act to Develop Integrated, Long-range, Ecologically Sound State Energy and Transportation Policies"
H.P. 606 L.D. 866

Bill "An Act to Clarify the Definition of Subdivision in the Site Location of Development Laws"
H.P. 609 L.D. 869

Come from the House referred to the Committee on **ENERGY AND NATURAL RESOURCES** and **ORDERED PRINTED**.

Which were referred to the Committee on **ENERGY AND NATURAL RESOURCES** and **ORDERED PRINTED**, in concurrence.

Bill "An Act Regarding Deer Hunting"
H.P. 608 L.D. 868

Come from the House referred to the Committee on **FISHERIES AND WILDLIFE** and **ORDERED PRINTED**.

Which was referred to the Committee on **FISHERIES AND WILDLIFE** and **ORDERED PRINTED**, in concurrence.

Bill "An Act to Amend the Maine Housing Authorities Act and the Affordable Housing Partnership Act of 1989"
H.P. 612 L.D. 872

Come from the House referred to the Committee on **HOUSING AND ECONOMIC DEVELOPMENT** and **ORDERED PRINTED**.

Which was referred to the Committee on **HOUSING AND ECONOMIC DEVELOPMENT** and **ORDERED PRINTED**, in concurrence.

Bill "An Act to Increase Availability of Family Preservation Services to Vulnerable Families" (Emergency)
H.P. 610 L.D. 870

Bill "An Act to Establish Coordination Services for People Who have Sustained Traumatic Brain Injury"
H.P. 613 L.D. 873

Come from the House referred to the Committee on **HUMAN RESOURCES** and **ORDERED PRINTED**.

Which were referred to the Committee on **HUMAN RESOURCES** and **ORDERED PRINTED**, in concurrence.

Bill "An Act to Clarify the Laws Governing Prelitigation Screening Panels" (Emergency)
H.P. 605 L.D. 865

Come from the House referred to the Committee on **JUDICIARY** and **ORDERED PRINTED**.

Which was referred to the Committee on **JUDICIARY** and **ORDERED PRINTED**, in concurrence.

Bill "An Act Concerning the Judicial Review of Children in Custody of the Department of Human Services"
H.P. 614 L.D. 874

Committee on **HUMAN RESOURCES** suggested and **ORDERED PRINTED**.

Come from the House referred to the Committee on **JUDICIARY** and **ORDERED PRINTED**.

Which was referred to the Committee on **JUDICIARY** and **ORDERED PRINTED**, in concurrence.

Bill "An Act Relating to Notice of Injury for Purposes of Workers' Compensation and Occupational Disease Claims"
H.P. 611 L.D. 871

Bill "An Act to Prevent Striking Workers from Being Permanently Replaced by Strikebreakers"
H.P. 615 L.D. 875

Come from the House referred to the Committee on **LABOR** and **ORDERED PRINTED**.

Which were referred to the Committee on **LABOR** and **ORDERED PRINTED**, in concurrence.

Bill "An Act to Require Interest on Tenant Security Deposits and to Provide Funds for Affordable Housing"
H.P. 607 L.D. 867

Comes from the House referred to the Committee on **LEGAL AFFAIRS** and **ORDERED PRINTED**.

Which was referred to the Committee on **LEGAL AFFAIRS** and **ORDERED PRINTED**, in concurrence.

Bill "An Act to Encourage the Development of Air Transportation Service to Small Communities"
H.P. 602 L.D. 862

Bill "An Act to Increase the Number of Members of the Maine Turnpike Authority"
H.P. 603 L.D. 863

Come from the House referred to the Committee on **TRANSPORTATION** and **ORDERED PRINTED**.

Which were referred to the Committee on **TRANSPORTATION** and **ORDERED PRINTED**, in concurrence.

COMMITTEE REPORTS

House

Ought Not to Pass

The following **Ought Not to Pass** Report shall be placed in the Legislative Files without further action pursuant to Rule 15 of the Joint Rules:

From the Committee on **TRANSPORTATION** Bill "An Act to Reduce Roadway Debris Hazards"
H.P. 31 L.D. 41

Change of Reference

The Committee on **BANKING AND INSURANCE** on Bill "An Act Concerning Consent to Dental Care"
H.P. 60 L.D. 88

Reported that the same be **REFERRED** to the Committee on **JUDICIARY**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **REFERRED** to the Committee on **JUDICIARY**.

Which Report was **READ** and **ACCEPTED**, in concurrence.

The Bill **REFERRED** to the Committee on **JUDICIARY**, in concurrence.

ORDERS OF THE DAY

The Chair laid before the Senate the Tabled and Specially Assigned matter:

Bill "An Act to Ensure Adequate Resources for Energy Assistance Programs for Low-income Households" (Emergency)
S.P. 319 L.D. 857

Tabled - February 27, 1991, by Senator **CLARK** of Cumberland.

Pending - **REFERENCE**

(Committee on **ENERGY AND NATURAL RESOURCES** suggested and **ORDERED PRINTED**.)

On motion by Senator **CLARK** of Cumberland, referred to the Committee on **UTILITIES** and **ORDERED PRINTED**.

Sent down for concurrence.

On motion by Senator **CLARK** of Cumberland, the Senate removed from the Unassigned Table the following:

JOINT RESOLUTION - Supporting the Men and Women of Our Armed Forces
H.P. 455

Tabled - February 21, 1991, by Senator **CLARK** of Cumberland.

Pending - **ADOPTION**

(In Senate, February 14, 1991, **READ**.)

(In House, February 13, 1991, **READ** and **ADOPTED**.)

Which was **ADOPTED**, in concurrence.

Senate at Ease

Senate called to order by the President.

Off Record Remarks

Senator **WEBSTER** of Franklin was granted unanimous consent to address the Senate off the Record.

Senator **CLARK** of Cumberland was granted unanimous consent to address the Senate off the Record.

Under suspension of the Rules, all matters thus acted upon were ordered sent down forthwith for concurrence.

On motion by Senator **DUTREMBLE** of York, **RECESSED** until the sound of the bell.

After Recess

Senate called to order by the President.

Out of order and under suspension of the Rules, the Senate considered the following:

COMMITTEE REPORTS

Senate

Leave to Withdraw

The following **Leave to Withdraw** Report shall be placed in the Legislative Files without further action pursuant to Rule 15 of the Joint Rules:

Senator **CONLEY** for the Committee on **HUMAN RESOURCES** on Bill "An Act Regarding the Availability of Counseling Services in York County"

S.P. 155 L.D. 367

Ought to Pass As Amended

Senator **GOULD** for the Committee on **TRANSPORTATION** on Bill "An Act to Authorize Flag Plates on Motor Vehicles"

S.P. 93 L.D. 178

Reported that the same **Ought to Pass as Amended** by **Committee Amendment "A"** (S-24).

Which Report was **READ** and **ACCEPTED**.

The Bill **READ ONCE**.

Committee Amendment "A" (S-24) **READ** and **ADOPTED**.

Which was, under suspension of the Rules, **READ A SECOND TIME**, and **PASSED TO BE ENGROSSED**, as **Amended**.

Under suspension of the Rules, ordered sent down forthwith for concurrence.

Out of order and under suspension of the Rules, the Senate considered the following:

PAPERS FROM THE HOUSE

House Papers

Bill "An Act to Amend the Maine Judicial Retirement System Laws"

H.P. 631 L.D. 901

Comes from the House referred to the Committee on **AGING, RETIREMENT AND VETERANS** and **ORDERED PRINTED**.

Which was referred to the Committee on **AGING, RETIREMENT AND VETERANS** and **ORDERED PRINTED**, in concurrence.

Bill "An Act to Prevent Damage to Agricultural Crops, Beehives and Livestock Caused by Wildlife and to Compensate Agricultural Producers for Losses"
H.P. 637 L.D. 907

Comes from the House referred to the Committee on **AGRICULTURE** and **ORDERED PRINTED**.

Which was referred to the Committee on **AGRICULTURE** and **ORDERED PRINTED**, in concurrence.

Bill "An Act to Cover Replacement Vehicle Costs"
H.P. 629 L.D. 899

Bill "An Act to Change the Membership Requirements of the Board of Registration in Medicine"
H.P. 633 L.D. 903

Come from the House referred to the Committee on **BUSINESS LEGISLATION** and **ORDERED PRINTED**.

Which were referred to the Committee on **BUSINESS LEGISLATION** and **ORDERED PRINTED**, in concurrence.

Bill "An Act Concerning Home Schooling"
H.P. 618 L.D. 888

Bill "An Act Regarding Eligibility for Participation in Extracurricular Activities"
H.P. 634 L.D. 904

Come from the House referred to the Committee on **EDUCATION** and **ORDERED PRINTED**.

Which were referred to the Committee on **EDUCATION** and **ORDERED PRINTED**, in concurrence.

Bill "An Act to Allow Certain Lime Quarries to Be Used for Nontoxic Disposal Sites"
H.P. 624 L.D. 894

Bill "An Act to Compensate Landowners for Property Value Losses Due to Wetlands Regulation"
H.P. 626 L.D. 896

Come from the House referred to the Committee on **ENERGY AND NATURAL RESOURCES** and **ORDERED PRINTED**.

Which were referred to the Committee on **ENERGY AND NATURAL RESOURCES** and **ORDERED PRINTED**, in concurrence.

Bill "An Act to Amend the Rules Dealing with Laundering Services for Cloth Diapers Used by Day Care Centers"
H.P. 619 L.D. 889

Bill "An Act to Require the Department of Human Services to Have a Regular Presence in Every County of the State"
H.P. 620 L.D. 890

Bill "An Act to Provide Funds for the Mid-State United Cerebral Palsy Center"
H.P. 622 L.D. 892

Bill "An Act Concerning Availability of Income Between Spouses in the Determination of Medicaid Eligibility for Care at the Nursing Home Level"
H.P. 625 L.D. 895

Bill "An Act to Establish a Prospective Reimbursement System for Residential Care Facilities"
H.P. 630 L.D. 900

Come from the House referred to the Committee on **HUMAN RESOURCES** and **ORDERED PRINTED**.

Which were referred to the Committee on **HUMAN RESOURCES** and **ORDERED PRINTED**, in concurrence.

Bill "An Act to Clarify the Obligation of District Attorneys to Pay for Physical Examinations of Certain Crime Victims"
H.P. 621 L.D. 891

Come from the House referred to the Committee on **JUDICIARY** and **ORDERED PRINTED**.

Which was referred to the Committee on **JUDICIARY** and **ORDERED PRINTED**, in concurrence.

Bill "An Act to Increase Penalties for Child Labor Law Violations"
H.P. 635 L.D. 905

Come from the House referred to the Committee on **LABOR** and **ORDERED PRINTED**.

Which was referred to the Committee on **LABOR** and **ORDERED PRINTED**, in concurrence.

Bill "An Act to Provide Funds for the Purchase of a Fire Truck"

H.P. 628 L.D. 898

Comes from the House referred to the Committee on **STATE AND LOCAL GOVERNMENT** and **ORDERED PRINTED**.

Which was referred to the Committee on **STATE AND LOCAL GOVERNMENT** and **ORDERED PRINTED**, in concurrence.

Bill "An Act to Increase the Proportion of the Real Estate Transfer Tax for Counties"

H.P. 627 L.D. 897

Comes from the House referred to the Committee on **TAXATION** and **ORDERED PRINTED**.

Which was referred to the Committee on **TAXATION** and **ORDERED PRINTED**, in concurrence.

Bill "An Act to Amend Certain Commercial Motor Vehicle Laws"

H.P. 636 L.D. 906

Comes from the House referred to the Committee on **TRANSPORTATION** and **ORDERED PRINTED**.

Which was referred to the Committee on **TRANSPORTATION** and **ORDERED PRINTED**, in concurrence.

Bill "An Act Concerning Utility Projects in an Existing Right-of-Way"

H.P. 623 L.D. 893

Comes from the House referred to the Committee on **UTILITIES** and **ORDERED PRINTED**.

Which was referred to the Committee on **UTILITIES** and **ORDERED PRINTED**, in concurrence.

COMMITTEE REPORTS

House

Ought Not to Pass

The following **Ought Not to Pass** Reports shall be placed in the Legislative Files without further action pursuant to Rule 15 of the Joint Rules:

From the Committee on **AGRICULTURE** Resolve, Directing the Department of Agriculture, Food and Rural Resources to Establish Accurate and Verifiable Standards of Measurement for Fuel Wood (Emergency)
H.P. 40 L.D. 56

From the Committee on **AGRICULTURE** Bill "An Act to Amend the Laws Governing Superintendents of Pulling Events" (Emergency)
H.P. 137 L.D. 197

From the Committee on **BANKING AND INSURANCE** Bill "An Act Establishing a Procedure for Calculating Actual Cash Value under Automobile Insurance Physical Damage Coverage in the Event of Total Loss"
H.P. 138 L.D. 198

From the Committee on **BUSINESS LEGISLATION** Bill "An Act to Expand the Lemon Law to Include Recreational Vehicles"
H.P. 18 L.D. 21

Leave to Withdraw

The following **Leave to Withdraw** Reports shall be placed in the Legislative Files without further action pursuant to Rule 15 of the Joint Rules:

From the Committee on **AGING, RETIREMENT AND VETERANS** Bill "An Act Concerning Retirement Benefits for Retired Veterans"
H.P. 35 L.D. 49

From the Committee on **AGING, RETIREMENT AND VETERANS** Bill "An Act to Change the Time Required for Purchase of Armed Forces Service Credit"
H.P. 96 L.D. 137

From the Committee on **FISHERIES AND WILDLIFE** Bill "An Act to Amend the Laws Regarding Archery Hunting Licenses"
H.P. 296 L.D. 417

From the Committee on **JUDICIARY** Bill "An Act to Amend the Penalty Provisions for Theft of Motor Vehicles"
H.P. 115 L.D. 160

From the Committee on **JUDICIARY** Bill "An Act Regarding Court Security in Cumberland County" (Emergency)
H.P. 177 L.D. 262

On motion by Senator **THERIAULT** of Aroostook, **RECESSED** until 9:00 p.m. this evening.

After Recess

Senate called to order by the President.

Out of order and under suspension of the Rules, the Senate considered the following:

PAPERS FROM THE HOUSE

Non-concurrent Matter

Bill "An Act to Make Supplemental Appropriations and Allocations for the Expenditures of State Government for the Fiscal Year Ending June 30, 1991 and to Change Certain Provisions of the Law" (Emergency)

H.P. 192 L.D. 274
(S "I" S-21)

In House, February 7, 1991, **PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENTS "A" (H-11), "B" (H-12), "C" (H-13), "D" (H-14) AND "F" (H-16).**

In Senate, February 26, 1991, **PASSED TO BE ENGROSSED AS AMENDED BY SENATE AMENDMENT "I" (S-21) in NON-CONCURRENCE.**

Comes from the House **PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENT "H" (H-20) AS AMENDED BY HOUSE AMENDMENT "A" (H-21) thereto, in NON-CONCURRENCE.**

The Chair moved that the Senate **RECEDE** and **CONCUR.**

On motion by Senator **CAHILL** of Sagadahoc, supported by a Division of one-fifth of the members present and voting, a Roll Call was ordered.

THE PRESIDENT: The Chair recognizes the Senator from York, Senator Dutremble.

Senator **DUTREMBLE:** Thank you Mr. President. Ladies and Gentlemen of the Senate. I understand that we are about to vote on the Budget as Amended by so many Amendments. I understand that this latest Amendment came out of a Committee of a whole that included eight Democrats and five Republicans. I would like to know the reasons for not supporting this Bill as it is Amended.

THE PRESIDENT: The Senator from York, Senator Dutremble has posed a question through the Chair to anyone who would care to respond. The Chair recognizes the Senator from York, Senator Dutremble.

Senator **DUTREMBLE:** Thank you Mr. President. After spending a couple of months as a Legislator working on this issue, I would think that somebody

should be able to get up and explain to us why this Amendment is unacceptable, when the balance of the state depends on the vote we are about to take.

THE PRESIDENT: The Chair recognizes the Senator from York, Senator Dutremble.

Senator **DUTREMBLE:** Thank you Mr. President. For the third time, I would pose a question through the Chair. Would somebody please explain to the people of the state, why they find this Bill unacceptable as it is Amended.

THE PRESIDENT: The Senator from York, Senator Dutremble, posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Senator from Hancock, Senator Foster.

Senator **FOSTER:** Thank you Mr. President. I don't know who is voting for or against it, so I don't know what to say. But, I pose the same question. Tell me why we should vote for it?

THE PRESIDENT: The Senator from Hancock, Senator Foster, has posed a question through the Chair to anyone who may care to answer. The Chair recognizes the Senator from York, Senator Dutremble.

Senator **DUTREMBLE:** Thank you Mr. President. Ladies and Gentlemen of the Senate. I find it difficult to be able to answer this question because we are not supposed to refer to actions in the other Body.

THE PRESIDENT: The Chair would advise the Senator that the Amendment that is before us was not created in the other Body, but only offered in the other Body.

Senator **DUTREMBLE:** Thank you Mr. President. I think we all understand that time and time again we have tried to resolve the issue of the Budget that is before us, and we have had several groups who have tried to negotiate a compromise so that we could get out of the current mess that we are in and finally pass a Budget so that we can continue the operations of the State of Maine. I must add, that the latest negotiations on this was over the weekend, when the Speaker, the President of the Senate, the Governor, and I believe the House and Senate Chairs, and leaders of the Appropriations Committee, were involved in trying to come up with some resolutions to this Budget. Again, this was unsuccessful.

When it appeared in the other Body for a vote, frustration expressed by many people in the Legislature lead to the formation of a Committee as a whole, including both Democrats and Republicans. They came out with a unanimous Committee Report. For the first time, we have seen negotiations where Democrats and Republicans have agreed. I, for one, have known and talked to a lot of Legislators of both Parties who have said, "If we could get a group together where both sides agree, than we could move on." That is pretty much what happened. Many of the issues that couldn't be resolved, have been resolved. Not resolved in the way I would have liked in some cases, but resolved in the way I did like in other cases. I am sure that applies to a lot of you, also. We have the opportunity here to finally get this thing passed and out of our way. That is why I am supporting it.

THE PRESIDENT: The Chair recognizes the Senator from Penobscot, Senator Bost.

Senator **BOST:** Thank you Mr. President. Ladies and Gentlemen of the Senate. I stand before you this evening somewhat frustrated, because I do not believe that the question that was posed by the Senator from York, Senator Dutremble, was answered. I would like an answer.

THE PRESIDENT: The Senator from Penobscot, Senator Bost, has posed a question through the Chair to anyone who would care to answer. The Chair recognizes the Senator from Hancock, Senator Foster.

Senator **FOSTER:** Thank you Mr. President. Ladies and Gentlemen of the Senate. I say the same thing, if you want to sell me an Amendment, prove it. Tell me how great it is. I will listen! I don't know how anyone's voting. I have never heard a question asked like that in my life!

THE PRESIDENT: The Chair recognizes the Senator from Penobscot, Senator Bost.

Senator **BOST:** Thank you Mr. President. Ladies and Gentlemen of the Senate. I obviously rise this evening to support this Amendment. I have a few remarks I would like to share with members of this Body. I have been relatively quiet in the previous debate on the Budget, but I feel, perhaps, a few words might be appropriate.

I have been literally astonished by this process. In my brief nine years here in Augusta, I have never witnessed such an utter lack of negotiating in good faith. Such lack of candor from particular participants in the process. Such flagrant disregard for the people impacted by our decisions, or lack thereof. To have been a member of the Appropriations Committee, as the Senator from Hancock, Senator Foster, has been throughout this ordeal, must surely have been an excruciating process and exercise in frustration. To have been a participant in one of the many negotiating teams created over the last several weeks, must have been a painful experience as well. As one who was not involved in either of these two settings, left only to sort out the bits and pieces as they filtered out from behind closed doors, I can tell you it has been nothing short of ridiculous. And if those of us that spend our time working our days here, in the State House, presumably within the legislative process have felt this way, imagine for a moment, and I am certain that each one of you has, what it must be like to view this as a citizen of Maine. There glimpse of the State Budget deliberations has been encapsulated in the media with references to "clash of the Titans", or "Who will ultimately control this state", or my personal favorite, "It's the Legislature's fault".

How quickly many have forgotten how we have arrived at this crossroads. The magazine State Policy reports in its January 1991 issue what I believe summed it up best, and I would like to quote from that. "If there were an award for lack of candor over state finances during the 1990 Campaign, it would probably go to Maine. The McKernan revenue estimates were construed so that poor performance was predicted from the time before the election, with a dramatic jump thereafter, so poor performance before

the election could be viewed as consistent with projections. Following the election, the Governor announced that events beyond his control had undercut his projections. Maine is now trying to close a one hundred and sixty million dollar gap between revenues and expenses, which may prove to be the biggest percentage adjustment to make to achieve a Budget balance of any state in the nation." This from a nonpartisan national publication.

Now certainly, there are to be lessons learned from that experience, notably, that the best projections often are the most conservative projections, and ones based on some assemblage of reality. But beyond the obvious lessons, there is one common denominator from this Senator's view point between that bit of mismanagement and our current impasse. Lack of candor, and the willingness on the part of certain parties to place political expediency above the welfare of the people of Maine. As much as I have attempted, and I truly have, to place last fall in perspective, to let bygones be bygones, and focus on getting through this Budget once and for all, I keep being reminded of the fact that although we are now several months beyond the disclosure of the shortfall, the strategy that was followed to keep the shortfall from public view, is the very same strategy, ladies and gentlemen, being used to prevent us from reaching a bipartisan agreement tonight. And why not! The players are all the same, and the message is the same. I for one, am tired of it. I am tired of trying to explain to my constituents why some people who profess to have the best interest of the state in mind, cannot now, and will not move off dead center.

When the Senate negotiators sat down in prolonged fashion to iron out an agreement, the rug was continually pulled from beneath the feet of some members of the other Party by an Executive Branch manipulating the process. For the Governor understands all too well, that to reach an accord denies him an opportunity to bash the Majority Party. Some of us on the outside have attempted, and I stress attempted, to offer constructive options, only to be rebuffed. Then the Governor, within the context of another round of negotiations, announced with great fanfare his withdrawal from the process. A true act of statesmanship. Acting on the advice from presumably from someone, no one knows for certain who that is, that he should not be a part of the solution, rather he should serve as facilitator between the two Parties. Very convenient, for a facilitator can come and go as they please, leaving the two Parties to toil away, not knowing at any given time whether their compromise will be acceptable to the Governor, or not. The landscape moves as we speak!

That is not how I was taught government operates. Then we move to the Adhoc Committee, the compromise from which we are now about to vote on. That was made up of people, who in my estimation, had no particular ax to grind other than to hopefully arrive at a resolution that eluded everyone before them. And that they did, unanimously. I sat in the back of the Taxation Committee Room, yesterday, as the final vote was taken, and there was time out for a couple of Legislators on the Panel to get some last minute clarification before they voted, and then the vote. Now, nobody liked everything that had been included in the accord, but then they say, that is

often the essence of true compromise. At that point, much to my amazement, I left for home thinking that things were going well. I reported to my wife, "I think the Legislature is finally beginning to focus. I think, finally, I will be able to tell you when I am going to be in Augusta, and when I will be able to be home again. I think finally, we are about to see some order to the process". Huh! Then I picked up the paper. And one by one, members of that team began peeling off. Not everybody! There were exceptions. But the important point, is that the integrity of the process, the integrity of the package dissolved. And tonight, while the Governor is out of state, we here are left to move this Budget through the process and on, I believe, to its inevitable failure. And I think that is a very sad, sad, sad fact.

I was told that the Governor tonight made a phone call to a State House Reporter, to tell him that he was still willing to negotiate. Now that brought a momentary flicker of hope. I thought, maybe we will see something this evening. Maybe we will get back together. Huh! That was quickly dashed, ladies and gentlemen, when I learned that the Governor had not bothered to call any member of the Majority Leadership in this Senate to convey that same message. I find that appalling. These are the kind of bizarre games that are being played to this very moment. It is time that it stopped. It is time that we act responsibly. It is time that we come together and pass this Budget.

THE PRESIDENT: The Chair recognizes the Senator from Androscoggin, Senator Cleveland.

Senator **CLEVELAND:** Thank you Mr. President. Ladies and Gentlemen of the Senate. I rise this evening to support this Budget Amendment, and I rise to ask each one of you to look in your own conscience, to look at what has been done, and to ask yourselves if this proposal before you this evening is reasonable. This is a compromise that does not meet all of our objectives, but in the true spirit of compromise, it tries to meet all of them.

I think that part of the issue here has been numbers, but I think the wrong numbers. The numbers that we have really been talking about are not the hundred and seventy million dollar deficit. That really is not the number. I believe if that was the number, and we have all come to a relative agreement, each with a little different path, but we each have come to a balanced agreement on that, the real number is a much smaller number. The number that we really have been focusing on is the number twenty-four here in the Senate, and a hundred and one in the House. That is the real number, because that's what needed to get a two-thirds to pass this emergency measure.

Now some have said that the Majority Party can't govern. Some have said that the Legislature can't govern. But the reality is, that the Majority Party does not have twenty-four votes, we all know that. We don't have it in the other Body, and we all know that. We also know that the Governor has a Veto, and that if we strongly believe in a proposal, we need twenty-four again. That is the real number. That is the real number that the Appropriations Committee worked diligently to find a unanimous Report for, because they knew that would lend to our credibility to finding that number, and they did a valiant job.

That is the number that the leadership tried to find, and worked diligently for on both sides of the aisle. We came very close to it. That is the number the Governor decided he would become involved again and we tried to reach. And that is the number that the final Adhoc Committee tried to reach and did get unanimity on, although, the Governor once again decided that that was not acceptable.

That is what we are talking about. What we are talking about here, is that it requires all of us who were elected to represent our constituents back home to make a decision. No one group of us will solve this alone, and we knew that. But we also have known that after four tries and coming as close as we have, that the reason that we haven't come to agreement, in my mind, is not because of the hundred and seventy million dollar deficit, we came too close for that. If there was a real desire to reach agreement, I assure you that would have been done. There are other reasons, there are other agendas unspoken that have prevented us from reaching that conclusion. I have no doubt about that.

Now I have been somewhat dismayed, because when I first stood here in December, and I stood here with all of you, I was extraordinarily proud to be here. I looked at each one of you, and I saw bright, capable people wanting to serve. And I said, "How lucky I am to be with such a distinguished group of Maine citizens. How lucky and honored I am to stand here and deal with the issues of the people." And it is going to be this same group that will either decide that we will find that compromise or we will not. No one else will. I think that we can do that, and I also think that I have supported each effort, all four, to go forth. I have given direction to my leadership to compromise, to give in, to make further cuts, to find ways that we can find common ground, and I have supported that each and every time because I felt it was the appropriate thing to do. But, I also feel that we have tried every best effort.

If there is a true desire to solve this, that we can do it, than we can do it tonight. We have before us a Budget that has come very close to being accepted. If we really want it, we can adopt it. And I would focus you back to the number twenty-four, and add those numbers after we have taken the Yeas and the Nays, and I tell you I will stand and vote in favor, because I believe it is time we report back to our constituency, that two months is long enough. We need to tell them our own reasons why we were unable to find that compromise if that's what the result is. We need to tell our own constituency, was I fair? Did I compromise enough? Was I being unresponsive to my constituency? If that is the case, I will stand and be judged by them, and I hope all of you will stand and be judged by your own constituency, that you cast your vote in the way that you felt was in their best interest. It is time we reported back to our constituency, that no longer will they see this Legislature graveling with this issue week after week, but they will see that we will stand and we will take a vote, and we will be counted, and we will stand for what we believe in in this Document. It will either be something that we feel is fair, and if we do not, than it will be our responsibility to explain to the public why it was not, and why we must therefore not have a Budget. Thank you Mr. President.

THE PRESIDENT: The Chair recognizes the Senator from Kennebec, Senator Kany.

Senator **KANY:** Thank you Mr. President. Ladies and Gentlemen of the Senate. I would like to suggest another reason for voting in favor of this particular compromise tonight, on February 28th. Tomorrow is March 1st, and then Saturday is March 2nd, the first Saturday in March. I would just like to remind the members of the Senate that this is the beginning of town meetings. I have three town meetings from the three of my eight towns in my district, this Saturday. And although I believe that the compromise is not perfect, it is not what I would have written if I could dictate what the Supplementary Budget would be, but it certainly is a reasonable compromise. The people of Maine expect us to take action so that they can go forward with their plans. The towns are waiting on us. The school districts are waiting upon us. I urge you to keep that in mind as you vote this evening. If for some reason this compromise is just too terrible for any single one of you to adopt or approve, I urge you to rise now and offer that alternative which is acceptable to you. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Sagadahoc, Senator Cahill.

Senator **CAHILL:** Thank you Mr. President. Ladies and Gentlemen of the Senate. Just briefly, I was looking at the Boston Globe today, and on the front page, one of the articles said, "Weld unveils Budget and issues challenge, as he unveiled a thirteen point seven billion dollar Budget for the next fiscal year". Then it went on to talk about how Governor Weld was going to balance the Budget in Massachusetts. "To balance the Budget, the Weld plan relies heavily on the sale of state property, the refinancing of the state debt, cut backs in the Welfare Programs and Education, slashing local aid by two hundred and seventy million dollars, charging state workers more for their health insurance premiums, wiping out the Universal Health Care Law, and eliminating seven thousand five hundred and ninety-three jobs. We have got to reduce the size of the 'Beast'", Weld said.

Well, fortunately, ladies and gentlemen, here in Maine our annual Budget is not thirteen point seven billion dollars. But if we don't begin to control our annual Budget, it is going to be, and our tax base simply cannot afford that kind of spending. Therefore, ladies and gentlemen, I am voting against this proposal very reluctantly, because I would like to have a compromise as bad as anyone in this Senate. But I am voting against this proposal today, because it does not go far enough to controlling the monster that eventually eats Maine.

THE PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Brannigan.

Senator **BRANNIGAN:** Thank you Mr. President. Ladies and Gentlemen of the Senate. I don't think this state government is a beast, or a monster. The work of state government is much different than that. I think the Senator from Sagadahoc, Senator Cahill, may not be totally adopting the words of people from Massachusetts, but if there is a beast, let it be, but ours is not! The work of our government is to take care of people when no one else

will take care of them. It feeds, if you wish, the towns and cities of this state so that they can educate. It feeds the people who need education in the higher institutions of higher education. I am very disturbed by that kind of language, I can't believe that the people here would think that state government is a beast or a monster. If that is the way that we are going to enter the real, serious problems that we are going to face once we get by this Supplemental Emergency Budget that should have been taken care of long ago, if that is the way people are going to face it, then I think we are in for terrible times. The people of this state are in for terrible times if their representatives think that their state government is beastly and monstrous. Thank you very much.

THE PRESIDENT: The Chair recognizes the Senator from Kennebec, Senator Matthews.

Senator **MATTHEWS:** Thank you Mr. President. Ladies and Gentlemen of the Senate. Living only a half an hour from the State House has its advantages, I guess, sometimes. Before I headed back down to the State House this evening, I was with my wife and my four little ones, got a little bit of their supper on my glasses, came in blind as a bat.

But I got a phone call about eight o'clock from a lady who has known me all of my life and a good friend. She was in tears on the telephone, ladies and gentlemen of the Senate, crying on the phone, because her son is a member of the Maine Health Program. The Program that some in this Chamber had wanted to trod out as part of the Budget cutting. Talk about balancing the Budget on the backs of the poor! She said, "Why, why would members of the Legislature want to balance the Budget on the backs of the poor, the working poor?" I told her not all the members of the Legislature want to balance the Budget on the backs of the working poor. Some in this Chamber and in the other Chamber have drawn a line in the sand, so to speak, in Augusta, and Democrats have said, "No! You are not going to balance the Budget on the backs of the working poor of the State of Maine!" And she said, "Can't people understand, can't people in Augusta understand the suffering, the people trying to balance the Budget, their own budgets at home?"

Pay for the good things that the good Senator from Cumberland, Senator Brannigan, talked about, educating their young kids. Paying insured's? Do we cut the Budget on their backs? No, we don't! And we don't take away a commitment to those people! I told her on the telephone, that this still young lad of thirty-five, who has grown up in Vassalboro with small town roots, proud to be from Maine, proud to be a Democrat, would tell her story to my fellow colleagues of the Maine Senate. Her real story! Eleven thousand people are affected by the Maine Health Program. Add the families, add the friends, talk about what that issue really, truly means to people! Access to health care. It is a reality. It is a basic right! And I told her that I would share that with my colleagues who I have a lot of faith in on both sides of the aisle.

Just steer clear of partisan politics and do the right thing! We have done it before, we can do it again! Our allegiance is not to any leader. Our allegiance is to the people who elected us, and those

that suffer. So I share that story with you before we vote tonight. Let's pass this Budget! Let's keep our commitment to those who are the working poor! Let's really talk about access to health care and preserve it, and fight for it later on and enhance it. Thank you Mr. President.

THE PRESIDENT: The pending question before the Senate is the motion to **RECEDE** and **CONCUR** to **PASSAGE TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENT "H" (H-20) AS AMENDED BY HOUSE AMENDMENT "A" (H-21)** thereto.

A vote of Yes will be in favor of **RECEDING** and **CONCURRING** to **PASSAGE TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENT "H" (H-20) AS AMENDED BY HOUSE AMENDMENT "A" (H-21)** thereto.

A vote of No will be opposed.

Is the Senate ready for the question?

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEAS: Senators **BERUBE, BOST, BRANNIGAN, BUSTIN, CLARK, CLEVELAND, CONLEY, DUTREMBLE, ESTES, ESTY, GAUVREAU, KANY, MATTHEWS, MCCORMICK, MILLS, PEARSON, THERIAULT, TITCOMB, VOSE,** THE PRESIDENT - CHARLES P. PRAY

NAYS: Senators **BRAWN, CAHILL, CARPENTER, EMERSON, FOSTER, GILL, GOULD, HOLLOWAY, LUDWIG, RICH, SUMMERS, WEBSTER**

ABSENT: Senators **BALDACCI, COLLINS, TWITCHELL**

20 Senators having voted in the affirmative and 12 Senators having voted in the negative, with 3 Senators being absent, the motion to **RECEDE** and **CONCUR** to **PASSAGE TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENT "H" (H-20) AS AMENDED BY HOUSE AMENDMENT "A" (H-21)** thereto, **PREVAILED.**

Under suspension of the Rules, ordered sent forthwith to the Engrossing Department.

Out of order and under suspension of the Rules the Senate considered the following:

ENACTORS

The Committee on **Engrossed Bills** reported as truly and strictly engrossed the following:

Emergency

An Act to Authorize Flag Plates on Motor Vehicles
S.P. 93 L.D. 178
(C "A" S-24)

This being an Emergency Measure and having received the affirmative vote of 30 Members of the Senate, with No Senators having voted in negative, and 30 being more than two-thirds of the entire elected Membership of the Senate, was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

On motion by Senator **MILLS** of Oxford, **RECESSED** until the sound of the bell.

After Recess

Senate called to order by the President.

Out of order and under suspension of the Rules, the Senate considered the following:

ORDERS

Joint Order

On motion by Senator **DUTREMBLE** of York the following Joint Order:
S.P. 338

ORDERED, the House concurring, that when the House and Senate adjourn, they do so until the call of the President of the Senate and the Speaker of the House, respectively, when there is need to conduct legislative business.

Which was **READ** and **PASSED.**

Under suspension of the Rules, ordered sent down forthwith for concurrence.

Out of order and under suspension of the Rules, the Senate considered the following:

ENACTORS

The Committee on **Engrossed Bills** reported as truly and strictly engrossed the following:

Emergency

An Act to Make Supplemental Appropriations and Allocations for the Expenditures of State Government for the Fiscal Year Ending June 30, 1991 and to Change Certain Provisions of the Law

H.P. 192 L.D. 274
(H "A" H-21 to H
"H" H-20)

Comes from the House **FAILING OF ENACTMENT**.

This being an Emergency Measure and having received the affirmative vote of 20 Members of the Senate, with 12 Senators having voted in negative, and 20 being less than two-thirds of the entire elected Membership of the Senate, this Bill **FAILED ENACTMENT**.

Off Record Remarks

The **ADJOURNMENT ORDER** having been returned from the House **READ** and **PASSED**, in concurrence, on motion by Senator **CONLEY** of Cumberland, **ADJOURNED** until the call of the President of the Senate and the Speaker of the House, respectively, when there is need to conduct legislative business.