

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

One Hundred And Fifteenth Legislature

OF THE

State Of Maine

VOLUME VI

SECOND REGULAR SESSION

House of Representatives
March 10, 1992 to March 31, 1992

Senate
January 8, 1992 to March 9, 1992

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

In Senate Chamber

Thursday

February 27, 1992

Senate called to Order by the President.

Prayer by Pastor Dan Bowers of the Hope Baptist Church in Manchester.

PASTOR DAN BOWERS: I thought you might be interested in what the Apostle Paul said to Timothy in 1st Timothy 2. He said, "I exhort that prayer be offered up for all men, especially for those who are in authority. That we made lead a quiet and peaceful life in all Godliness and Holiness. This is good and acceptable in the sight of God our Saviour who would have all men be saved and come to the knowledge of truth. With this in mind let's pray together.

Heavenly Father, we come this morning in response to this express exhortation from your servant to pray for those who are in authority. We do pray for this Body, the Senate of the State of Maine. You have placed these men and women in positions of authority, positions of trust, and leadership of this State. It is our prayer, Oh God, you would lead, guide, and through this Body work your will for this State. We pray not only for the Senate but for the House as they are meeting, for our Governor, and also for our President today. We pray that your will might be done on earth as it is in heaven. We ask this in Jesus name, Amen.

Reading of the Journal of Tuesday, February 25, 1992.

Out of order and under suspension of the Rules, on motion by Senator **CLARK** of Cumberland, the following Joint Order:

S.P. 932

ORDERED, the House concurring that when the House and Senate adjourn, they do so until Monday, March 2, 1992, at three o'clock in the afternoon.

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, on motion by Senator **CLARK** of Cumberland, the following Senate Order:

ORDERED, that a message be sent to the House of Representatives proposing a Convention of both Branches in the Hall of the House at 11:00 in the morning, for the purpose of extending to the Honorable Vincent L. McKusick, Chief Justice of the Maine Supreme Judicial Court, and Members of the Judiciary, an invitation to attend the Convention and make such communication as pleases the Chief Justice.

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

The Chair appointed the Senator from Cumberland, Senator **CLARK**, to deliver the message. The Sergeant-At-Arms escorted the Senator to the House of Representatives.

Subsequently, Senator **CLARK** of Cumberland reported that she had delivered the message with which she was charged.

PAPERS FROM THE HOUSE
Non-concurrent Matter

HOUSE REPORTS - from the Committee on **BANKING & INSURANCE** on Bill "An Act to Ensure Complete Recovery for Injuries to Children"

H.P. 1551 L.D. 2189

Majority - Ought to Pass as Amended by Committee Amendment "A" (H-906).

Minority - Ought Not to Pass.

In House, February 18, 1992, the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-906)**.

In Senate, February 20, 1992, the Minority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED** in **NON-CONCURRENCE**.

Comes from the House, that Body **ADHERED**.

Senator **KANY** of Kennebec moved that the Senate **ADHERE**.

On motion by Senator **CONLEY** of Cumberland, Tabled until Later in Today's Session, pending the motion by Senator **KANY** of Kennebec that the Senate **ADHERE**.

House Papers

Bill "An Act to Eliminate Mandatory Minimum Sentences"

H.P. 1698 L.D. 2378

Reference to the Joint Select Committee on **CORRECTIONS** suggested and **ORDERED PRINTED**.

Comes from the House referred to the Committee on **JUDICIARY**.

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

Bill "An Act to Establish the Non-traditional Occupation Act for Women"

H.P. 1701 L.D. 2381

Comes 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 Create a Somerset County Budget Committee"

H.P. 1702 L.D. 2382

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

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

Bill "An Act to Amend and Clarify the Law Enabling State Tax Increment Financing"

H.P. 1697 L.D. 2377

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.

Resolve, to Stop the Full Expansion of Route 201 Pending the Completion of a Regional Traffic Study (Emergency)

H.P. 1700 L.D. 2380

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 to Amend the Fuel Use Tax to Provide Regulatory Oversight of Over-the-road Transportation of Hazardous Materials"

H.P. 1694 L.D. 2374

Committee on **ENERGY & NATURAL RESOURCES** suggested and **ORDERED PRINTED**.

Comes from the House referred to the Committee on **TRANSPORTATION**.

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

COMMUNICATIONS

The Following Communication:

.P. 928

115TH MAINE LEGISLATURE

February 25, 1992

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 Denise D. Whitley of Farmington for appointment to the Maine Human Rights Commission.

Pursuant to Title 5, MRSA Section 4561, this nomination 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.

SENATE PAPERS

Bill "An Act to Rescind Changes in the Driver Education Evaluation Program" (Emergency)

S.P. 931 L.D. 2386

Presented by Senator **CONLEY** of Cumberland
Cosponsored by Senator **GILL** of Cumberland,
Senator **BERUBE** of Androscoggin and Representative
TARDY of Palmyra

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27.

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

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

Bill "An Act to Protect Intelligence and Investigative Information in the Custody of the Department of Corrections" (Emergency)

S.P. 927 L.D. 2383

Presented by Senator **GILL** of Cumberland (GOVERNOR'S BILL)

Cosponsored by Representative **MANNING** of Portland, Representative **HANLEY** of Paris and Senator **BUSTIN** of Kennebec

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

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

Bill "An Act to Amend the Process for Collecting for Costs of Services of the Maine Labor Relations Board, the Panel of Mediators and the State Board of Arbitration and Conciliation" (Emergency)

S.P. 930 L.D. 2385

Presented by Senator **ESTY** of Cumberland
Cosponsored by Senator **CONLEY** of Cumberland,
Representative **LIPMAN** of Augusta and
Representative **REED** of Falmouth

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27.

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

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

Bill "An Act to Restructure State Government" (Emergency)

S.P. 929 L.D. 2384

Presented by President **PRAY** of Penobscot
Cosponsored by Representative **KERR** of Old Orchard Beach, Representative **MORRISON** of Bangor and Senator **BOST** of Penobscot

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 26.

Which was referred to the Committee on **STATE & LOCAL GOVERNMENT** and **ORDERED PRINTED**.

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

Under suspension of the Rules, Communication ordered sent down forthwith for 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 **ENERGY & NATURAL RESOURCES** Bill "An Act to Amend the Definition of "Freshwater Wetlands" for Purposes of Development Laws"

H.P. 1615 L.D. 2276

From the Committee on **HUMAN RESOURCES** Bill "An Act to Fund the Crisis and Counseling Center's Residential Care Unit" (Emergency)

H.P. 1523 L.D. 2152

From the Committee on **HUMAN RESOURCES** Bill "An Act to Restore Home Health and Community Care Funding"

H.P. 1525 L.D. 2154

From the Committee on **JUDICIARY** Bill "An Act to Clarify the Obligations of Emergency Medical Personnel"

H.P. 1418 L.D. 2030

Ought to Pass As Amended

The Committee on **AGRICULTURE** on Bill "An Act to Allow the Maine Harness Racing Community to Adopt a Controlled Medication Program" (Emergency)

H.P. 1475 L.D. 2087

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-950)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-950)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-950) **READ** and **ADOPTED**, in concurrence.

The Bill as **Amended, TOMORROW ASSIGNED FOR SECOND READING**.

The Committee on **AGRICULTURE** on Bill "An Act to Permit Pari-mutual Pools"

H.P. 1549 L.D. 2187

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-948)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-948) AND HOUSE AMENDMENT "A" (H-978)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-948) **READ** and **ADOPTED**, in concurrence.

House Amendment "A" (H-978) **READ** and **ADOPTED**, in concurrence.

The Bill as **Amended, TOMORROW ASSIGNED FOR SECOND READING**.

The Committee on **BANKING & INSURANCE** on Bill "An Act to Amend the Maine High-Risk Insurance Organization Laws"

H.P. 1417 L.D. 2029

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-940)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-940)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-940) **READ** and **ADOPTED**, in concurrence.

The Bill as **Amended, TOMORROW ASSIGNED FOR SECOND READING**.

The Committee on **BANKING & INSURANCE** on Bill "An Act Regarding Loans to Stockholders, Directors, Corporators or Officers of Financial Institutions"

H.P. 1493 L.D. 2105

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-938)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-938)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-938) **READ** and **ADOPTED**, in concurrence.

The Bill as **Amended, TOMORROW ASSIGNED FOR SECOND READING**.

At this point, a message was received from the House of Representatives, borne by Representative GWADOSKY of Fairfield, informing the Senate that the House of Representatives concurred with the proposition for a Joint Convention, to be held in the Hall of the House, at 11:00 o'clock, for the purpose of extending to Chief Justice Vincent L. McKusick an invitation to attend the Joint Convention and make such communication as pleases him.

The Committee on **BANKING & INSURANCE** on Bill "An Act to Repeal the Laws Creating the Mandated Benefits Advisory Commission"

H.P. 1504 L.D. 2117

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-941)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-941)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-941) **READ** and **ADOPTED**, in concurrence.

The Bill as **Amended, TOMORROW ASSIGNED FOR SECOND READING**.

The Committee on **BANKING & INSURANCE** on Bill "An Act to Amend the Laws Concerning Continuity of Health Insurance"

H.P. 1565 L.D. 2203

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-937)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-937)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-937) **READ** and **ADOPTED**, in concurrence.

The Bill as **Amended, TOMORROW ASSIGNED FOR SECOND READING**.

The Committee on **LEGAL AFFAIRS** on Bill "An Act to Amend the Financial Responsibility Laws"

H.P. 1462 L.D. 2074

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-949)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-949)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-949) **READ** and **ADOPTED**, in concurrence.

The Bill as **Amended, TOMORROW ASSIGNED FOR SECOND READING**.

The Committee on **MARINE RESOURCES** on Bill "An Act to Allow Transfer of Commercial Moorings"

H.P. 1450 L.D. 2062

Reported that the same **Ought to Pass as Amended** by **Committee Amendment "A" (H-946)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-946)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-946) **READ** and **ADOPTED**, in concurrence.

The Bill as **Amended, TOMORROW ASSIGNED FOR SECOND READING**.

The Committee on **MARINE RESOURCES** on Bill "An Act to Provide an Exemption to the Sunday Fishing Ban When a Storm Advisory or Storm Warning Is in Effect"

H.P. 1452 L.D. 2064

Reported that the same **Ought to Pass as Amended** by **Committee Amendment "A" (H-947)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-947)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-947) **READ** and **ADOPTED**, in concurrence.

The Bill as **Amended, TOMORROW ASSIGNED FOR SECOND READING**.

At this point, the Senate retired to the Hall of the House, where a Joint Convention was formed.

**AFTER CONVENTION
IN SENATE**

Senate called to order by the President.

The Committee on **TRANSPORTATION** on Bill "An Act to Amend the Motor Vehicle Laws"

H.P. 1526 L.D. 2155

Reported that the same **Ought to Pass as Amended** by **Committee Amendment "A" (H-943)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-943)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-943) **READ** and **ADOPTED**, in concurrence.

The Bill as **Amended, TOMORROW ASSIGNED FOR SECOND READING**.

The Committee on **TRANSPORTATION** on Bill "An Act to Amend the Laws Governing the State Claims Commission"

H.P. 1570 L.D. 2212

Reported that the same **Ought to Pass as Amended** by **Committee Amendment "A" (H-942)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-942)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-942) **READ** and **ADOPTED**, in concurrence.

The Bill as **Amended, TOMORROW ASSIGNED FOR SECOND READING**.

The Committee on **UTILITIES** on Bill "An Act to Require Reporting of Daily Routine Releases of Radioactive Materials"

H.P. 1447 L.D. 2059

Reported that the same **Ought to Pass as Amended** by **Committee Amendment "A" (H-939)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-939)**.

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

The Bill **READ ONCE**.

Committee Amendment "A" (H-939) **READ** and **ADOPTED**, in concurrence.

The Bill as **Amended, TOMORROW ASSIGNED FOR SECOND READING**.

Divided Report

The Majority of the Committee on **APPROPRIATIONS & FINANCIAL AFFAIRS** on Bill "An Act Making Supplemental Appropriations for Fiscal Year 1991-92" (Emergency)

H.P. 1699 L.D. 2379

Reported that the same **Ought to Pass**, pursuant to Joint Order H.P. 1636.

Signed:

Senators:

BRANNIGAN of Cumberland

PEARSON of Penobscot

Representatives:

CARROLL of Gray

RYDELL of Brunswick

POULIOT of Lewiston

PARADIS of Frenchville

MICHAUD of East Millinocket

HICHBORN of Howland

CHONKO of Topsham

The Minority of the same Committee on the same subject reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-970)**.

Signed:

Senator:

FOSTER of Hancock

Representatives:

FOSS of Yarmouth

REED of Falmouth

MACBRIDE of Presque Isle

Comes from the House with the Majority **UGHT TO PASS** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENT "B" (H-981)**.

Which Reports were **READ**.

On motion by Senator **BRANNIGAN** of Cumberland, Tabled until Later in Today's Session, pending **ACCEPTANCE OF EITHER REPORT**.

Divided Report

Nine Members of the Committee on **AGING, RETIREMENT & VETERANS** on Bill "An Act to Establish the Maine Volunteer Firefighters Retirement System" (Emergency)

H.P. 926 L.D. 1323

Report in Report A that the same **Ought Not to Pass.**

Signed:

Senator:

WEBSTER of Franklin

Representatives:

JALBERT of Lisbon

HANDY of Lewiston

AULT of Wayne

WENTWORTH of Arundel

MERRILL of Dover-Foxcroft

STEVENSON of Unity

DUTREMBLE of Biddeford

MICHAEL of Auburn

Three Members of the Same Committee on the same subject report in Report B that the same **Ought to Pass as Amended by Committee Amendment "A" (H-935).**

Signed:

Senators:

MCCORMICK of Kennebec

CLARK of Cumberland

Representative:

O'DEA of Orono

One Member of the Same Committee on the same subject reported in Report C that the same **Ought to Pass.**

Signed:

Representative:

HEINO of Boothbay

Comes from the House with Report A, **OUGHT NOT TO PASS READ and ACCEPTED.**

Which Reports were **READ.**

On motion by Senator **MCCORMICK** of Kennebec, the Senate **ACCEPTED** Report B **OUGHT TO PASS AS AMENDED** in **NON-CONCURRENCE.**

The Bill **READ ONCE.**

Committee Amendment "A" (H-935) **READ** and **ADOPTED** in **NON-CONCURRENCE.**

The Bill as **Amended, TOMORROW ASSIGNED FOR SECOND READING.**

Senate

Ought to Pass

Senator **CLEVELAND** for the Committee on **UTILITIES** on Bill "An Act Regarding the Charter for Kennebunk, Kennebunkport and Wells Water District"

S.P. 920 L.D. 2359

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 As Amended

Bill "An Act Concerning Prevailing Wages Established by the Department of Labor"

H.P. 471 L.D. 665

(H "A" H-934 to C "A" H-898)

Bill "An Act to Authorize the Public Utilities Commission to Regulate Rates for Cable Television"

H.P. 1018 L.D. 1491

(C "A" H-902)

Bill "An Act to Establish a Trauma Advisory Committee and a Voluntary Trauma Reporting System"

H.P. 1233 L.D. 1797

(C "A" H-915)

Bill "An Act Concerning Railroad Personnel"

H.P. 1309 L.D. 1891

(C "B" H-931)

RESOLUTION, Proposing an Amendment to the Constitution of Maine to Clarify Succession to the Positions of Treasurer of State and Secretary of State

H.P. 1478 L.D. 2090

(C "A" H-932)

Bill "An Act Regarding the Parking Violations that Occur on State Controlled Property within the Capitol Area"

H.P. 1509 L.D. 2121

(C "A" H-933)

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

Senate As Amended

Bill "An Act to Amend the Laws Relating to Certification to Promote the Issuance of Professional Certificates to Experienced Out-of-state Teachers"

S.P. 801 L.D. 2000

(C "A" S-558)

Bill "An Act to Divert Juvenile Offenders from Secure Detention"

S.P. 805 L.D. 2004

(C "A" S-556)

Bill "An Act to Establish the School Construction Debt Service Limit for Fiscal Year 1994-95"

S.P. 821 L.D. 2115

(C "A" S-557)

Which were **READ A SECOND TIME** and **PASSED TO BE ENGROSSED, As Amended.**

Sent down for concurrence.

ENACTORS

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

An Act to Provide Equitable Insurance Reimbursement for Acupuncture Services Provided by Licensed Acupuncturists

H.P. 683 L.D. 982

(C "A" H-878)

An Act to Protect Telephone Customer Privacy

H.P. 1118 L.D. 1643

(H "A" H-912)

An Act to Clarify the Laws Related to Credit Cards

H.P. 1410 L.D. 2022

(C "A" H-895)

An Act to Achieve Parity between the Authority of Loan Officers of State-chartered Credit Unions and the Authority of Loan Officers of Federally Chartered Credit Unions

H.P. 1441 L.D. 2053

(C "A" H-896)

An Act to Continue Modified Rate Regulation for Small Consumer-owned Electric Utilities

S.P. 851 L.D. 2164

An Act to Authorize Forest Rangers to Enforce the Rules and Laws Pertaining to the Bureau of Public Lands

S.P. 852 L.D. 2165
(C "A" S-538)

An Act to Amend the Mars Hill Utility District
S.P. 870 L.D. 2217

Which were **PASSED TO BE ENACTED** and having been signed by the President, were presented by the Secretary to the Governor for his approval.

An Act to Provide Equitable Insurance Coverage for Mental Illness

H.P. 1064 L.D. 1553
(C "A" H-883)

On motion by Senator **BRANNIGAN** of Cumberland, placed on the **SPECIAL APPROPRIATIONS TABLE**, pending **ENACTMENT**.

Emergency

An Act to Facilitate Prompt Child Support Payments from the Department of Human Services

H.P. 1054 L.D. 1543
(C "A" H-892)

On motion by Senator **CLARK** of Cumberland, Tabled 1 Legislative Day, pending **ENACTMENT**.

Emergency

An Act to Replace Criminal Penalties with Civil Penalties for Violations of Weights and Measures Laws

H.P. 1483 L.D. 2095
(C "A" H-893)

This being an Emergency Measure and having received the affirmative vote of 30 Members of the Senate, with No Senators having voted in the 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.

Emergency

An Act to Clarify the Zoning Provisions Administered by the Maine Land Use Regulation Commission

H.P. 1589 L.D. 2243

This being an Emergency Measure and having received the affirmative vote of 30 Members of the Senate, with No Senators having voted in the 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.

ORDERS OF THE DAY

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

Bill "An Act to Regulate Incineration Plants"
H.P. 1059 L.D. 1548
(C "A" H-879)

Tabled - February 25, 1992, by Senator **CLARK** of Cumberland.

Pending - **PASSAGE TO BE ENGROSSED AS AMENDED**, in concurrence

(In Senate, February 25, 1992, **READ A SECOND TIME**.)

(In House, February 6, 1992, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-879)**.)

On motion by Senator **CLEVELAND** of Androscoggin, the Senate **SUSPENDED THE RULES**.

On further motion by same Senator, the Senate **RECONSIDERED** its action whereby it **ADOPTED** Committee Amendment "A" (H-879), in concurrence.

On further motion by same Senator, Senate Amendment "A" (S-562) to Committee Amendment "A" (H-879) **READ**.

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

Senator **CLEVELAND**: Thank you Mr. President. Ladies and Gentlemen of the Senate. I would like to speak to my motion. The amendment does two things. One it allows 90 days rather than 60 days for the incineration facilities to submit the required reports and gives them a little more time to get the audited returns for their financial statements. They felt a little more comfortable with additional time and I have no objection to that. Secondly, the amendment clarifies that in the listing of the tipping fees to be reported by the incinerators, it differentiates into two classes, a municipal class of tipping fees and a commercial class of tipping fees. It allows that the commercial class of tipping fees may be reported by categories rather than individual customers. That is to protect the privacy of those individual customers rather than identifying them by name. It also gives some protection of predatory competitors knowing the exact prices of particular customers but it still provides the useful information for the agency. I hope the Senate would support the amendment. Thank you.

Senate Amendment "A" (S-562) to Committee Amendment "A" (H-879) **ADOPTED**.

Committee Amendment "A" (H-879) as Amended by Senate Amendment "A" (S-562) thereto, **ADOPTED** in **NON-CONCURRENCE**.

Which was **PASSED TO BE ENGROSSED**, As Amended in **NON-CONCURRENCE**.

Sent down for concurrence.

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

An Act to Prescribe the Duties and Liabilities of Ice-skating Rink Operators and Persons Who Use Ice-skating Rinks

H.P. 1217 L.D. 1775
(C "A" H-874)

Tabled - February 25, 1992, by Senator **CLARK** of Cumberland.

Pending - **ENACTMENT**

(In Senate, February 6, 1992, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-874)**, in concurrence.)

(In House, February 18, 1992, **PASSED TO BE ENACTED**.)

On motion by Senator **CLARK** of Cumberland, Tabled until Later in Today's Session, pending **ENACTMENT**.

Off Record Remarks

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

PAPERS FROM THE HOUSE

Joint Resolution

The Following Joint Resolution: H.P. 1703

**JOINT RESOLUTION RECOGNIZING
THE HONORABLE VINCENT L. MCKUSICK ON THE OCCASION
OF HIS RETIREMENT AS CHIEF JUSTICE OF THE
MAINE SUPREME JUDICIAL COURT**

WHEREAS, the successful operation of the courts of our State depends upon the wisdom and integrity of the State's jurists; and

WHEREAS, these qualities are most strongly embodied in the Honorable Vincent L. McKusick, Chief Justice of the Maine Supreme Judicial Court; and

WHEREAS, as the leader of the Judicial Department for nearly 15 years, Chief Justice McKusick has modernized the operation of the State's courts, dramatically improved the appellate process, and improved the ability of the court system to dispense equal justice to the citizens of the State; and

WHEREAS, in addition to his administrative duties, Chief Justice McKusick has authored some 750 opinions and has participated in the decision of more than 4,000 cases during his tenure on the Law Court; and

WHEREAS, the Chief Justice's retirement comes after a long and especially distinguished legal career, which has included co-authorship of Maine Civil Practice and service as President of the Harvard Law Review, as clerk to Chief Judge Learned Hand and Supreme Court Justice Felix Frankfurter and as a member of one of our State's most distinguished law firms; and

WHEREAS, Chief Justice McKusick has earned national recognition as an outstanding jurist, as evidenced by his selection as President of the Conference of Chief Justices, as Chair of the Board of Directors of the National Center for State Courts and as leader of delegations of state and federal judges to both the People's Republic of China and to the former Soviet Union; and

WHEREAS, it is the desire of the members of the Senate and the members of the House of Representatives and the citizens they represent to formally recognize the accomplishments of Chief Justice McKusick on the occasion of his retirement and to express the high esteem and affection in which we hold this outstanding native of Parkman, Maine; now, therefore, be it

RESOLVED: That We, the Members of the 115th Legislature now assembled in the Second Regular Session, take this opportunity to honor Chief Justice Vincent L. McKusick, to recognize his distinguished service to the people of the State of Maine over many years and to offer our best wishes for many happy years in his third legal career; and be it further

RESOLVED: That a suitable copy of this resolution, duly authenticated by the Secretary of State, be presented to Chief Justice Vincent L. McKusick as a tangible token of our high esteem.

Comes from the House **READ** and **ADOPTED**.

Which was **READ**.

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

Senator **GAUVREAU:** Thank you Mr. President. Ladies and Gentlemen of the Senate. I rise today in support of the Joint Resolution before the Body and have some comments for our consideration prior to voting on the Resolution before us. As you know this

is the last day that Chief Justice McKusick will preside as the Chief Judicial Officer in our State Court System. He has established a legacy for the men and women who will come after him which will be most difficult, in fact, to replicate. Justice McKusick is a very special individual and I think the warmth of his personality, the extent of his fairness, and sense of commitment to his State go beyond those of us who have occasion to make our livelihood in the law. All those in public service, in fact, those of us in the State of Maine appreciate the contributions which he has rendered to the cause of justice in our society. If I can beg your indulgence for just a few moments, I would like to take this opportunity to briefly summarize the contributions which Justice McKusick has made to our citizens, not only during his 14 1/2 year tenure on our highest court but also his career as a practicing attorney.

I believe the Joint Resolution briefly summarized the major achievements in Justice McKusick's career. I think it bears repeating some of his most significant achievements during his academic and professional career. Justice McKusick had the honor and privilege of growing up in a family whose father served with distinction in the State Senate. He and his twin brother were co-valedictorians in their high school class. Justice McKusick then went on to college and graduated, in fact, from Bates College in my community of Lewiston in three years. He then pursued his career further graduating from MIT receiving not only a Bachelors but also a Masters Degree. He then went on to receive his Law Degree from the Harvard Law School and while at Harvard he had the distinct honor as serving as President of the Harvard Law Review. If that were not enough, he then went on to commence his formal career as an attorney serving at a clerk position for the Honorable Learned Han on the second Circuit Court of Appeals and he kept off his clerkship by then going to the U.S. Supreme Court where he had the honor of serving as the Clerk for the Honorable Felix Frankfurter, an Associated Justice of the U.S. Supreme Court. In these days where those of us in public service are constantly under some criticism, I think some people have questioned the efficacy of public service or the role of public service in our lives, it is important to pause for a moment and consider Justice McKusick's rich contribution to our system of justice.

As was noted in a recent article in the Maine Law Review, Justice McKusick practiced a methodology of Judicial Dispute Resolution which is known as Law As Integrity. I think it does bear, at this point, some consideration to what Justice McKusick has offered to us in terms of his Dispute Resolution Methodology. Under the doctrine of Justice As Integrity, the court looks to relevant precedence, be they Statutory precedence or Common Law just made precedence, in trying to reach an appropriate decision to a case before the court. What is unique about this methodology is the court is not bound to a rigid mechanistic application to apply a precedence in the case at hand, which might produce an unjust result. The Court searches out the guiding principles under penning prior precedence, extrapolates those principles and then applies them in the case at hand. In so doing it attempts to craft a system of jurisprudence which strikes an appropriate balance between justice and fairness. Concepts which are equally held in high esteem in our society. For

example some judges have practiced a system known as Judicial Restraint where a court carefully considers the guiding principles on prior decisions where the case before it is not easily encompassed by prior precedence, some courts apply a style of Judicial Pragmatism where they bring to the bench their own particular precepts of justice and society. It seems what Justice McKusick has done, in his style, is bring to our System of Justice not only the basis for a overarching comprehensive system of jurisprudence but also his best major contribution is to rekindle and restore, in those of us who practice law and those of us involved in public policy, a true respect for our system of jurisprudence in the State of Maine. Ultimately the court obviously exercises judicial power via the Constitutional framing in which we operate. The judicial power is vested in our Judiciary and we as a Legislative Body can authorize the courts to extend their decision making processes as we have done. What I think is most significant is that Justice McKusick has also imbued our system with a sense of underlying fairness. Ultimately, we as a society operate under a shared system of morals and values in guiding legal precedence. What Justice McKusick has done in the course of his 14 1/2 years and the 700 + decisions he has offered, he has brought to our system of law profound respect, not only by those who practice the law but those in society at large. He has taught us that in trying to resolve difficult cases, to reach out not only for the prior common or Statutory precedence but also to search out carefully and honestly what the true values, principles were that supported earlier decisions by our courts, to try to craft fair decisions in the future which bear frailty to those values and principles upon which our society was constituted. Justice McKusick, as I mentioned earlier, has set a standard of personal performance which is difficult if not impossible to attain for those of us in the law who come after him. We are profoundly indebted to his enduring sense of civility, hard work, graciousness, as well as his clear, keen, legal intellect. As we have endured the difficult trevails of Legislative policy articulation in the past several months, I wonder if we might not take appropriate heed of Justice McKusick's three "C's", communication, cooperation, and commonalty. I think if we did take those three "C's" to heart it would ease our Legislative burden. Thank you Mr. President.

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

Senator GILL: Thank you Mr. President. Ladies and Gentlemen of the Senate. I rise this noon to add my accolades to the Chief Justice since he resides in one of the communities I represent. I know the President and I argue constantly about where the Chief Justice really belongs. He has lived in one of my communities for a long time. That community is very proud of him. He has achieved so much in his lifetime that he is an example for every young person in the State of Maine to follow. I hope sometime there is a book written about the lives of the McKusicks because I think the family growing up in the community they grew up in and being able to achieve what that they have will serve many for years to come as an example to follow. We have heard quite a bit about the three "C's" and I have three "H's". He is the most honorable person that we have seen come forth for a long time. We hold him with high

esteem and with all these things he still maintains humility.

I have a little story about campaigning. In Cape Elizabeth, one campaigns at the dump as you go along. As I was campaigning at the dump one day, this pick up truck pulled up and was about to leave the rubbish off and I was handing brochures out. This head popped out of the window and said "Hello Barbara." I didn't recognize him because I don't usually see him in a pork pie hat with a dog sitting beside him, taking rubbish to the dump. That has always struck me because people don't expect people like Chief Justice McKusick to do ordinary everyday things like we all do and I appreciate that. I wish you well. This was your retiring speech and it is also my last time in hearing you. The two of us from Cape Elizabeth go by the way and good luck in the future. Thank you.

THE PRESIDENT: The Chair is pleased to congratulate the Chief Justice on a fine career. The fiber of his character comes from the roots of an individual. The Chair wants to, on behalf of all the members of this Senate, the Legislature and all the people of the State of Maine, wish the McKusicks many years of happiness on their retirement from the bench. We know he won't be retiring from public service. Thank you very much.

CHIEF JUSTICE MCKUSICK: I do thank you very much indeed, particularly you people who are under such pressure at the present time, to take time out today to adopt this Resolution and hear the good Senator from Androscoggin, Senator Gauvreau. I do appreciate this very much, indeed. I feel I do have very heavy roots in Parnham. You can take the boy out of Parkman but you can't take Parkman out of the boy. Actually my legal residence has been longer in Cape Elizabeth slightly. Parkman was my legal residence until 1952 and that would be 31 years. I guess I have been in Cape Elizabeth for 38 years or something of that sort. It is a close tie. Thank you very much, indeed. I am particularly pleased that Nancy and at least two of our four children could be here today with their families, my nephew Mark Storms and his two children. This is great for the family. We appreciate it very much and we thank you an awful lot.

Which was **ADOPTED**, in concurrence.

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

PAPERS FROM THE HOUSE

Joint Order

The following Joint Order:

H

.P. 1705

ORDERED, the Senate concurring, that the Joint Standing Committee on Housing and Economic Development report out legislation designed to preserve jobs for Maine citizens and to make capital improvements to transportation and public infrastructure.

Comes from the House **READ** and **PASSED**.

Which was **READ** and **PASSED**, in concurrence.

Off Record Remarks

Senate at Ease
Senate called to order by the President.

**ORDERS OF THE DAY
HELD BILL**

THE PRESIDENT: The Chair recognizes the Senator Waldo, Senator Gould.

Senator **GOULD:** Mr. President, is the Senate in possession of L.D. 890?

THE PRESIDENT: The Chair would answer in the affirmative, the Bill having been held at the Senator's request.

On motion by Senator **GOULD** of Waldo, the Senate **SUSPENDED THE RULES.**

On further motion by same Senator the Senate **RECONSIDERED** its actions whereby it **PASSED TO BE ENACTED:**

An Act to Enable the Department of Human Services to Have a Presence in Every County through Enhanced Administrative Flexibility

H.P. 620 L.D. 890
(C "A" H-884)

(In Senate, February 25, 1992, **PASSED TO BE ENACTED**, in concurrence.)

On motion by Senator **GOULD** of Waldo, Tabled 1 Legislative Day, pending **ENACTMENT.**

On motion by Senator **GAUVREAU** of Androscoggin, **RECESSED** until 12:45 in the afternoon.

After Recess

Senate called to order by the President.

ORDERS OF THE DAY

The Chair laid before the Senate the Tabled and Today assigned matter:

HOUSE REPORTS - from the Committee on **BANKING & INSURANCE** on Bill "An Act to Ensure Complete Recovery for Injuries to Children"

H.P. 1551 L.D. 2189

Majority - **Ought To Pass as Amended by Committee Amendment "A" (H-906).**

Minority - **Ought Not to Pass.**

Tabled - February 27, 1992, by Senator **CONLEY** of Cumberland.

Pending - Motion by Senator **KANY** of Kennebec to **ADHERE.**

(In House, February 18, 1992, the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-906).**)

(In Senate, February 20, 1992, the Minority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED** in **NON-CONCURRENCE.**)

(In House, February 25, 1992, **ADHERED.**)

On motion by Senator **CONLEY** of Cumberland, Tabled until Later in Today's Session, pending the motion by Senator **KANY** of Kennebec that the Senate **ADHERE.**

The Chair laid before the Senate the Tabled and Later Today Assigned matter:

HOUSE REPORTS - from the Committee on **APPROPRIATIONS & FINANCIAL AFFAIRS** on Bill "An Act Making Supplemental Appropriations for Fiscal Year 1991-92" (Emergency)

H.P. 1699 L.D. 2379

Majority - **Ought To Pass**, pursuant to Joint Order H.P. 1636.

Minority - **Ought To Pass as Amended by Committee Amendment "A" (H-970).**

Tabled - February 27, 1992, by Senator **BRANNIGAN** of Cumberland.

Pending - ACCEPTANCE OF EITHER REPORT

(In Senate, February 27, 1992, Reports **READ.**)

(In House, February 25, 1992, the Majority **OUGHT TO PASS** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENT "B" (H-981).**)

On motion by Senator **BRANNIGAN** of Cumberland, the Senate **ACCEPTED** the Majority **OUGHT TO PASS** Report, in concurrence.

The Bill **READ ONCE.**

House Amendment "B" (H-981) **READ.**

On motion by Senator **BRANNIGAN** of Cumberland, Tabled 1 Legislative Day, pending **ADOPTION** of House Amendment "B" (H-981), in concurrence.

The Chair laid before the Senate the Tabled and Later Today Assigned matter:

Bill "An Act to Prescribe the Duties and Liabilities of Ice-skating Rink Operators and Persons Who Use Ice-skating Rinks"

H.P. 1217 L.D. 1775

Tabled - February 27, 1992, by Senator **CLARK** of Cumberland.

Pending - **ENACTMENT**

(In Senate, February 6, 1992, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-874)**, in concurrence.)

(In House, February 18, 1992, **PASSED TO BE ENACTED.**)

Which was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

The Chair laid before the Senate the Tabled and Later Today Assigned matter:

HOUSE REPORTS - from the Committee on **BANKING & INSURANCE** on Bill "An Act to Ensure Complete Recovery for Injuries to Children"

H.P. 1551 L.D. 2189

Majority - **Ought To Pass As Amended by Committee Amendment "A" (H-906).**

Minority - **Ought Not to Pass.**

Tabled - February 27, 1992 by Senator **CONLEY** of Cumberland.

Pending - Motion by Senator **KANY** of Kennebec to **ADHERE.**

(In House, February 18, 1992, the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-906).**)

(In Senate, February 20, 1992, the Minority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED** in **NON-CONCURRENCE.**)

(In House, February 25, 1992, **ADHERED.**)

THE PRESIDENT: The pending question before the Senate is the motion by Senator **KANY** of Kennebec that the Senate **ADHERE.**

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

Senator **CONLEY:** Thank you Mr. President. Ladies and Gentlemen of the Senate. In reference to the good Senator from Kennebec, Senator Kany's motion that we adhere, I would ask the Body that they take into consideration a couple of points. We debated this measure for a short period the other night and I believe on Division the Senator from Kennebec, Senator Kany's position was adopted by a margin of 14-10. This Bill, which I am a cosponsor of, is not

a partisan issue. It was divided down non party lines. It is a Bill that offers this Body a chance to examine some philosophical reasons, one side or the other, why you may vote for it. As a cosponsor of the Bill, which I would ask you to give your approval to, I can assure you if it is to eventually be passed, like my picture it will not anywhere on my campaign literature this coming fall. I would say to the Body that it is a minor matter but it is an important matter. As the good Senator from Kennebec, Senator Kany noted there is only one company in the State which even is affected by this Legislation. Simply put, I would say to the Body, if you do not pass this Bill to become law, what could happen is a child who is traveling with his or her parents is paralyzed or hurt in anyway and that parent is covered by a policy, this child will get only his or her medical bills paid. The pain and suffering this child would be subjected to and the lifelong pain and suffering which he or she may be subjected to will not be compensated for in any fashion. I do not believe that is fair. That is why I offered to go on as a cosponsor with this Bill. This is why I believe it is necessary. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Knox, Senator Brawn.

Senator **BRANN:** Thank you Mr. President. Ladies and Gentlemen of the Senate. I hope you will stay with what we did the other day. I feel we did debate the issue fairly the other day. What this action boils down to is that children will be able to sue their parents. I, for one, do not think that is philosophically correct. I hope you will stay with the position you had before and you will vote to adhere to this Bill. Thank you.

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

Senator **KANY:** Thank you Mr. President. Ladies and Gentlemen of the Senate. For those of you who were not here during the debate the other evening, we spoke about this Bill and the fact that last year a Bill had been brought to the Banking & Insurance Committee and we spent a great deal of time on the issue. At that time a number of insurance companies had family exclusions, in which someone could not recover anything from their parents through their insurance. We rectified that situation. We went along with prohibiting family exclusions for economic damages. Anything with a price tag, medical payments and other services rendered that have a dollar sign attached. We allow recovery of those now under the law and we prohibit excluding recovery for economic damages just because somebody's parent was driving. This Bill is different. This Bill would allow recovery of non economic damages from a parent and that is pain and suffering and things that are not necessarily quantifiable or do not have a dollar sign attached. In the view of Senator Brawn of Knox, myself, and the Senate the other evening, we believe that it is not in the consumers best interest to encourage that type of suit. It would be allowed but not encouraged because it makes the premiums go up for everybody. We don't think we should encourage this large suits without any ceiling whatsoever for noneconomic damages. All consumers, perhaps purchasing insurance through that company would be paying higher premiums just because there might be some huge suit that would be forthcoming on noneconomic damages. That is why I along with the good Senator from Knox, Senator Brawn hope you will adhere. Thank you.

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

Senator **MCCORMICK:** Thank you Mr. President. Ladies and Gentlemen of the Senate. I think there is a couple of issues here. One of them is clear to me and one of them is confusing. The one that is clear to me, is that the whole issue of noneconomic damages is important for children. That I have grasped in this very complex Bill. In other words, we must allow children to recover for noneconomic damages or else they do not get their fair due since they have not gone through school and are not employed. Judges are not able to put a price tag, as crass as that might seem, on their pain and suffering and on their injury. This Bill would correct that. The part that is confusing, and I would ask the good Senator from Cumberland, Senator Conley to speak to, is that we have heard a lot about how this Bill allows children to sue their parents. I think that strikes a nervous cord in people in a natural way. This Bill is about insurance coverage and I would like you to speak to the intersection of how the Bill is worded about what insurance companies can and can not do and what kind of coverage is excluded. I would also like you to speak to this whole issue that has been brought up, whether it be a red herring or not, of children being able to sue their parents. Thank you.

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

Senator **CONLEY:** Thank you Mr. President. Ladies and Gentlemen of the Senate. I thank the good Senator from Kennebec, Senator McCormick for posing her question. I will do the best I can to answer it. I have not served on the Banking & Insurance Committee but I am aware of their hard work in removing the exclusion provision in Maine Law which prohibited anyone within a family from suing each other if they were involved in an accident. That exclusion really brought a lot of harm to people and the very people you wouldn't want to harm, family members. Somebody within a family makes a mistake, gets into a serious automobile accident and a family member who was injured in that accident and wasn't driving was left without anything. All they would get would be their medical bills paid if the provision in the policy covered medical bills for them. Any other damages they suffered they would get not return or compensation for because of the very reason that they are related to the person. If they were not related to the person they could file a claim against that person.

The Banking & Insurance Committee went about remedying that wrong and fixed it, basically speaking. What they did last year, which was not considered, deals with children, which is what this Bill would do. It would allow children to be compensated for damages other than economic losses. An adult can show they have certain economic damages by way of showing their lost work time. Children can't show anything like that and yet they are the ones, because they are young, would have to go on longer on this planet and suffer longer without being compensated. This Bill would make sure they would be able to present a claim for those types of damages. It is difficult to explain this Bill. If you have every looked at your insurance policy and tried to figure out what you are and are not covered for, even though you purchased it, you have to go to a lawyer to get him or her to explain it to you. As I put people gradually to sleep in here, I can only say to

you that this is a Bill which deals in children's rights and will help children recover what is their due if they are injured by one of their parents. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Knox, Senator Brawn.

Senator **BRAWN:** Thank you Mr. President. Ladies and Gentlemen of the Senate. Not to belabor the issue, because all of us care about children, but the good Senator from Cumberland, Senator Conley just said to you that we did fix it. We did deal with this last time. I just want to make the point it is already being taken care of. This isn't necessary but if you vote to do this your premiums will go up. Thank you.

THE PRESIDENT: The pending question before the Senate is the motion by Senator **KANY** of Kennebec that the Senate **ADHERE**.

The Chair ordered a Division.

Will all those in favor please rise in their places and remain standing until counted.

Will all those opposed please rise in their places and remain standing until counted.

19 Senators having voted in the affirmative and 11 Senators having voted in the negative, on motion by Senator **KANY** of Kennebec, the Senate **ADHERED**.

The Secretary has so informed the Speaker of the House.

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

HOUSE REPORTS - from the Committee on **TAXATION** on Bill "An Act to Promote Motor Vehicle Fuel Efficiency" H.P. 1168 L.D. 1709

Majority - **Ought Not to Pass**

Minority - **Ought to Pass as Amended by Committee Amendment "A" (H-885)**

Tabled - February 25, 1992, by Senator **CLARK** of Cumberland.

Pending - Motion by Senator **TITCOMB** of Cumberland to **RECONSIDER ACCEPTANCE** of the Majority **OUGHT NOT TO PASS** Report, in concurrence

(In Senate, February 20, 1992, Majority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**, in concurrence.)

(In House, February 18, 1992, Majority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**.)

On motion by Senator **TITCOMB** of Cumberland, the Senate **RECONSIDERED** its action whereby it **ACCEPTED** the Majority **OUGHT NOT TO PASS** Report, in concurrence.

THE PRESIDENT: The pending question before the Senate is the motion by Senator **BOST** of Penobscot that the Senate **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, in concurrence.

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

Senator **TITCOMB:** Thank you Mr. President. Ladies and Gentlemen of the Senate. I stand today to request that you reconsider your previous support of the Majority Ought Not To Pass Report from the Taxation Committee, fully acknowledging that L.D. 1709 An Act To Promote Motor Vehicle Fuel efficiency came under the Taxation Committee with a 2-10 vote. For some the time wasn't right and I do understand their perspective in these very difficult times. I must speak to you on what factors would make the time right and read them into the record. Is it that today asthma is the fastest growing cause of death among children, doubling in the last decade. Hydrocarbons and nitrogen oxides come first and

foremost from automobiles leading to growing and health threatening ozone alerts all over the State of Maine and the Country and what ultimately results in global warming. Some people shrug it off. This climate change, that some people who like warmer climates, think it will be wonderful. Unfortunately it will threaten our existence, our coastlines, forests and our environment. Is it speculation? Fact - for over 100 years of recorded temperature, the warmest 7 years recorded were the in the last decade. Maine's transportation and fuel use alone grew 40% during the 1980's. We are in trouble and even if the time is not exactly right, the time to make changes in how we do business as creatures of this planet earth is here. We have had our wake up calls. I don't know how many of them we need to acknowledge we have a problem in many areas. We have a hole in our protective atmosphere right over Maine. Our oceans are rising and anyone who has ever visited our shoreline, especially in the last several years, will acknowledge that is true. Our air is no longer safe, especially for our elderly and our children, on many days to breathe. An 18 mile per gallon automobile emits 58 tons of CO2 over its lifetime. A 27.5 mile per gallon automobile emits half that much. Half that much isn't good but it is one of those realities we are learning to deal with. The book "The End of Nature" by Bill McGiven reminds us that the average American car, the cars some of us drive, release their own weight in carbon into the air every year. Under LD 1709 a rebate would be given to purchases of new automobiles that get good gas mileage. Those who purchase new high gas users would pay a fee. If you purchase a new gas guzzler, you not only contribute a much greater portion of dangerous pollutants in everyone's air, you also contribute a greater portion of fees into a fund that sends rebate dollars to those who purchase new automobiles that use less gas. The vote is 11-2 Ought Not To Pass, I support the Minority Report, not because I feel it is perfect timing but it is the right thing to do. It is urgent that we do it now. We need to begin to make some of these very difficult decisions, not when it is easier but while we have the time to preserve what we have not yet destroyed. I urge you to reconsider your previous support of the Majority Report and to stand in support of the Minority Report on the Division. Thank you.

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

Senator **BOST:** Thank you Mr. President. Ladies and Gentlemen of the Senate. As the good Senator from Cumberland, Senator Titcomb has indicated this is a 11-2 Majority Ought Not To Pass Report from the Committee on Taxation. A position that is held by all three Senators that serve on that Committee. No one doubts the motivation of those who have been advocating for passage of this Legislation. In economically stable times perhaps this concept would be more realistic. However, as we all realize, this is not the case. We are currently emeshed in a Fiscal crisis. We have to see Legislation, such as this as far as I am concerned, within that context.

Let me briefly outline what the very significant problems with the Bill, from my perspective are, and perhaps other Committee members can add to the list if I have left anything out. First, in the Bill there is not methodology for collecting fees on vehicles that are purchased out of state to be registered in Maine. I don't know what the figure is

but I am told that it is significant. Secondly, the Bureau of Taxation has testified that there would be an increased Audit responsibility that the Bureau would be forced to incur which translates into that Bureau reshuffling its existing priorities as well as additional paperwork, time, and obviously money. Third, there is an up front appropriation of \$500,000 in this Fiscal Year. The Committee asked for a break down of this Fiscal note and we were told \$250,000 would be earmarked for administration and \$250,000 would be earmarked for the development of software and monitoring at the Bureau of Taxation. Obviously the first question that we must ask is where we would hope to find \$500,000? The proponents claim that this would be revenue neutral, in that gas gussler fees would offset this eventually. However, that is predicated on collecting that money within a six month time frame. As we are aware auto sales are down in this State as well as in this Region and not the least of which nationally. As far as we were concerned because of that fact the schedule for repayment, in order to make this Legislation revenue neutral, would be unrealistic at best. If we were not to offset the \$500,000 appropriation, I would ask where that money would come from?

Fourth, large families will be hit disproportionately with gas gussler fees on vehicles they may need for family use. I am not standing here advocating, simply because you have a large family that you go out and buy a car that is not fuel efficient. Excuse me Mr. President. I can't hear myself think.

THE PRESIDENT: The Chair would ask that Senators who wish to carry on conversations, please carry them on outside the Chamber. The Chair apologizes to the Senator. The Senator may proceed.

Senator **BOST:** Thank you Mr. President. As I was saying it is obviously not the intent of the Committee, nor my intent to advocate for large families to go out and buy vehicles simply because they have a large family, which are not fuel efficient. The reality is that most of the vehicles on the market which can facilitate a large family are not fuel efficient. It would seem to me that if we pass this Bill, we are placing a hardship on individuals and families who are already having difficulty making ends meet. Fifth, commercial vehicles for some reason, are exempt from this Bill. This Bill states "The purpose is to encourage the purchase of fuel efficient vehicles". Some of the worst perpetuators, and I would assume the advocates of this measure would agree, are commercial units. In the end would we not be applying a dual standard here? Lastly, the issue of a new tax. We might refer to it technically as a fee but it will be interpreted by the consumer as a tax. Make no mistake about that. The Minority Report was offered to essentially overcome bad tax policy in the original Bill. The Bill as originally presented to the Committee imposed a floating sales tax rate between 0% and 10% based on fuel economy data. Clearly a tax policy nightmare. Although it has been revised to some extent to read fees instead of taxes, it remains a financial burden to consumers. For those and many other reasons I would urge this Body to concur with the other body and accept the 11-2 Majority Ought Not To Pass Report. Thank you.

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

Senator **MCCORMICK:** Thank you Mr. President. Ladies and Gentlemen of the Senate. I have heard one of the criticisms of this Bill is that it is going to hurt the Maine Auto Dealers. I want to tell you about my trials and tribulations in replacing my dearly beloved truck, Jamie, who is now thirteen and falling apart, with a new car. I took to the road the other day, President's Day, just like thousands of other Mainards. I went to three auto dealers in Augusta to look at cars. I had done my homework. I had a copy of Consumer Reports, the Kennebec Journal article about the new Civics, and I was ready to look around. I identified three criteria for this car that I would purchase. Since I don't want to have to give up Jamie, I decided I needed to have a car this time. I would keep Jamie as sort of a farm truck. I wanted this car to be made in America. That is very difficult. I wanted this car to have good gas mileage. Thirdly, I wanted it to be well designed. I went armed with all this data and I went to the Dodge Dealer, Ford Dealer, and I went to the Honda Dealer. What did I find? I can buy a car made in this Country, it might have an American logo on it but it is not made in this Country, with the gas mileage I want. I simply can't. The Honda Civic VX, fantastically newly designed aerodynamic, shaved mileage points off by taking the strips off the side, it gets 55 miles per gallon and is one of the few Hondas that is not made in this Country. It is made in Japan. I am at a complete impasse, I can not find a car that meets my three criteria and I pose to you I am not the only consumer in this Country in that position. I would like this Bill to be passed as I wanted it passed twenty years ago by our Congress. I wanted it passed everytime they considered such a Bill to put an average goal or requirement of miles per gallon on American car dealers so they could start to have economic incentive to compete with engineering, research and development that is going on in Japan, Korea, and Germany. We do not have that to date. This Congress in this Country has yet to do that. You might say this is a national issue. It sure is but the reason it is landing here, in California, and other states is for twenty years our Congress has failed to set a mileage per gallon goal for American cars. Here we have LD 1709 in front of the Maine Legislature. It is our chance to help consumers like me be able to buy American cars that get good gas mileage. I am not concerned with my rebate. I do not want my \$200.00 if I buy an Escort. What I want is for GM, Ford, and the Car Industry in this Country to get the message that they need to start putting r and d into gas mileage. They need to start raising gas mileages of their fleets. You can best bet that if this passes the California Legislature and is signed by the Governor and it passed the Maine Legislature and is signed by the Governor, the Car Industry will start to design and give us the kind of cars that we can afford and will be able to compete with the incredibly wonderful engineering we are getting across the Pacific Ocean. That is my tale of woe and I wish you would keep it in mind when you vote on this Bill. One last small point to correct the good Senator from Penobscot, Senator Bost. Large family vehicles such as Dodge Caravans are not subject to the fee. Although I do appreciate his concern under LD 1709 there will be no fee charged to this vehicles. I do see the disparity that he brought up about commercial vehicles. The longest voyage has to start with the first step.

Let's start with average sized cars. We have eliminated large family vehicles and commercial vehicles. This Bill is aimed at the cars that most of us might drive. Whenever we are ready or someone has the key or technology, or figured out the process of determining a good miles per gallon for commercial or diesel trucks, then we can add that to this Bill. I think we should add that to this Bill. Let's start now not only so American consumers can begin to get the kind of products and buy the kind of products from American Auto Makers that we can buy from foreign auto makers. Let's begin to clean up the air in Gardiner, Maine which is one of the places in this State where the ozone levels are way out of wack, way to high regularly. I, too, urge you to defeat the pending Ought Not To Pass motion so we can get on and finally after twenty years put this Country on the map, not only for economic competitiveness but also to preserve our environment. Thank you.

THE PRESIDENT: The pending question before the Senate is the motion by Senator **BOST** of Penobscot that the Senate **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, in concurrence.

The Chair ordered a Division.

Will all those in favor please rise in their places and remain standing until counted.

Will all those opposed please rise in their places and remain standing until counted.

17 Senators having voted in the affirmative and 11 Senators having voted in the negative, the motion by Senator **BOST** of Penobscot that the Senate **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, in concurrence, **PREVAILED**.

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

Bill "An Act to Provide More Effective Recovery of Child Support"

H.P. 1222 L.D. 1780
(C "A" H-899)

Tabled - February 25, 1992, by Senator **CLARK** of Cumberland.

Pending - **PASSAGE TO BE ENGROSSED AS AMENDED**, in concurrence

(In Senate, February 20, 1992, **READ A SECOND TIME**.)

(In House, February 13, 1992, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-899)**.)

Which was **PASSED TO BE ENGROSSED As Amended**, in concurrence.

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

SENATE REPORTS - from the Committee on **STATE & LOCAL GOVERNMENT** on Bill "An Act to Create a State Municipalities Investment Pool"

S.P. 516 L.D. 1377

Majority - **Ought to Pass as Amended by Committee Amendment "A" (S-528)**

Minority - **Ought Not to Pass**

Tabled - February 25, 1992 by Senator **CLARK** of Cumberland.

Pending - Motion by same Senator to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report (Roll Call Ordered)

(In Senate, January 28, 1992, Motion to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report **FAILED**. Subsequently, motion to **ACCEPT** the Minority **OUGHT NOT TO PASS** Report **FAILED**.)

THE PRESIDENT: The pending question before the Senate is the motion by Senator **CLARK** of Cumberland, that the Senate **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report.

A vote of Yes will be in favor of the motion by Senator **CLARK** of Cumberland, that the Senate **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report.

A vote of No will be opposed.

Is the Senate ready for the question?

Senator **CAHILL** of Sagadahoc who would have voted **NAY** requested and received Leave of the Senate to pair her vote with Senator **DUTREMBLE** of York who would have voted **YEA**.

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEAS: Senators **BALDACCI, BERUBE, BOST, BUSTIN, CLARK, CLEVELAND, CONLEY, ESTES, ESTY, GAUVREAU, GILL, KANY, MATTHEWS, MCCORMICK, TITCOMB, THE PRESIDENT - CHARLES P. PRAY**

NAYS: Senators **BRANNIGAN, BRAWN, CARPENTER, COLLINS, EMERSON, FOSTER, GOULD, LUDWIG, MILLS, PEARSON, SUMMERS, THERIAULT, TWITCHELL, WEBSTER**

PAIRED: Senators **CAHILL, DUTREMBLE**

ABSENT: Senators **HOLLOWAY, RICH, VOSE**

16 Senators having voted in the affirmative and 14 Senators having voted in the negative, with 2 Senators having paired their votes and 3 Senators being absent, the motion by Senator **CLARK** of Cumberland, that the Senate **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, **PREVAILED**.

The Bill **READ ONCE**.

Committee Amendment "A" (S-528) **READ** and **ADOPTED**.

The Bill as **Amended**, **TOMORROW ASSIGNED FOR SECOND READING**.

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

PAPERS FROM THE HOUSE

Pursuant to Public Law

PRIMARY CARE RESIDENCY COMMISSION

The **PRIMARY CARE RESIDENCY COMMISSION**, pursuant to Public Law 1991, chapter 545, ask leave to submit its findings and to report that the accompanying Bill "An Act to Encourage Expansion of Certain Residency Programs Related to Primary Care Physicians"

H.P. 1706 L.D. 2387

Be referred to the Committee on **HUMAN RESOURCES** for Public Hearing and printed pursuant to Joint Rule 18.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill referred to the Committee on **HUMAN RESOURCES** and **ORDERED PRINTED**, pursuant to Joint Rule 18.

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

Which was **REFERRED** to the Committee on **HUMAN RESOURCES** and **ORDERED PRINTED**, pursuant to Joint Rule 18, in concurrence.

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

Senator **MATTHEWS** of Kennebec was granted unanimous consent to address the Senate off the Record.

Senate at Ease
Senate called to order by the President.

Off Record Remarks

The **ADJOURNMENT ORDER** having been returned from the House **READ** and **PASSED**, in concurrence, on motion by Senator **GILL** of Cumberland, **ADJOURNED** until Monday, March 2, 1992, at 3:00 in the afternoon.