

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

One Hundred And Fourteenth Legislature

OF THE

State Of Maine

VOLUME I

FIRST REGULAR SESSION

December 7, 1988 to May 10, 1989

ERRATA:

**The header on pages 431-437
should read "HOUSE, APRIL 6, 1989"
instead of "HOUSE, APRIL 5, 1989".**

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 to Provide for Rate Adjustments of Consumer-Owned Water Utilities to Reflect Anticipated Construction Costs"

H.P. 199 L.D. 279
(C "A" H-23)

Bill "An Act to Promote Effective Identification of Minors"

H.P. 258 L.D. 370
(C "A" H-24)

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

Senate As Amended

Bill "An Act to Clarify the Functions of Subregistrars"

S.P. 98 L.D. 117
(C "A" S-28)

Bill "An Act to Establish a Maine Self-service Storage Act"

S.P. 174 L.D. 331
(C "A" S-31)

Bill "An Act to Require Pricing Disclosures on Vans and Pickup Trucks"

S.P. 208 L.D. 486
(C "A" S-30)

Which were READ A SECOND TIME and PASSED TO BE ENGROSSED, as Amended.
Sent down 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 Concerning Educational Enhancement"

H.P. 762 L.D. 1066

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

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

ORDERS OF THE DAY

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

Bill "An Act to Provide Reasonable Costs of Wages Paid to Employees of Boarding Care Facilities" (Emergency)

H.P. 725 L.D. 1002

Tabled - April 4, 1989, by Senator CLARK of Cumberland.

Pending - REFERENCE

(In House, April 3, 1989, referred to the Committee on HUMAN RESOURCES and ORDERED PRINTED.)

On motion by Senator PEARSON of Penobscot, referred to the Committee on APPROPRIATIONS AND FINANCIAL AFFAIRS and ORDERED PRINTED in NON-CONCURRENCE.

Sent down for concurrence.

On motion by Senator BALDACCI of Penobscot, ADJOURNED until Thursday, April 6, 1989, at 9:00 in the morning.

ONE HUNDRED AND FOURTEENTH MAINE LEGISLATURE
FIRST REGULAR SESSION
40th Legislative Day
Thursday, April 6, 1989

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

Prayer by Major Walter Douglass, Salvation Army, Augusta.

The Journal of Wednesday, April 5, 1989, was read and approved.

Quorum call was held.

PAPERS FROM THE SENATE

Bill "An Act to Provide Coordinating Services to Emotionally Handicapped Children and Their Families" (S.P. 397) (L.D. 1041)

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

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

Bill "An Act to Simplify Reporting Requirements for Workers' Compensation Insurers and Self-insurers" (S.P. 396) (L.D. 1040)

Bill "An Act to Clarify the Application of Insurance Holding Company Laws to Holding Companies of Domestic Insurers" (S.P. 399) (L.D. 1043)

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

Were referred to the Committee on Banking and Insurance in concurrence.

Bill "An Act to Require Written Repair Invoices" (S.P. 400) (L.D. 1044)

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

Was referred to the Committee on Business Legislation in concurrence.

Bill "An Act to Provide Honorably Discharged Maine Veterans of at Least 62 Years with Special Free Moose Permits" (S.P. 407) (L.D. 1051)

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

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

Bill "An Act to Clarify the Law Governing Prelitigation Screening Panels" (EMERGENCY) (S.P. 398) (L.D. 1042)

Bill "An Act to Reduce the Quantities of Cocaine and Heroin Necessary to Allow a Presumption of Trafficking" (S.P. 402) (L.D. 1046)

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

Were referred to the Committee on Judiciary in concurrence.

Bill "An Act to Allow Notaries Public to Aid Absentee Voters Without a Separate Witness" (S.P. 405) (L.D. 1049)

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

Was referred to the Committee on Legal Affairs in concurrence.

Bill "An Act to Allow the Board of Harbor Commissioners for Portland Harbor to Charge Service Fees" (S.P. 404) (L.D. 1048)

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

Was referred to the Committee on Marine Resources in concurrence.

Bill "An Act to Allow Automatic Teller Machines on the Maine Turnpike" (S.P. 403) (L.D. 1047)

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

Was referred to the Committee on Transportation in concurrence.

Bill "An Act Concerning the Regulation of Cable Television" (S.P. 401) (L.D. 1045)

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

Was referred to the Committee on Utilities in concurrence.

Unanimous Leave to Withdraw

Report of the Committee on Aging, Retirement and Veterans reporting "Leave to Withdraw" on Bill "An Act Concerning Retirement Benefits for Certain Law Enforcement Positions" (S.P. 290) (L.D. 763)

Was placed in the Legislative Files without further action pursuant to Joint Rule 15 in concurrence.

Non-Concurrent Matter

Bill "An Act to Provide Reasonable Costs of Wages Paid to Employees of Boarding Care Facilities" (EMERGENCY) (H.P. 725) (L.D. 1002) which was referred to the Committee on Human Resources in the House on April 3, 1989.

Came from the Senate referred to the Committee on Appropriations and Financial Affairs in non-concurrence.

The House voted to recede and concur.

COMMUNICATIONS

The following Communication: (S.P. 395)

114TH MAINE LEGISLATURE

April 4, 1989

Senator John E. Baldacci
 Representative Carol M. Allen
 Chairpersons
 Joint Standing Committee on Business Legislation
 114th Legislature
 Augusta, Maine 04333
 Dear Chairs:

Please be advised that Governor John R. McKernan, Jr. has nominated Arthur A. Dexter of Newcastle for reappointment to the Maine Real Estate Commission.

Pursuant to Title 32, M.R.S.A. Section 13062, this nomination will require review by the Joint Standing Committee on Business Legislation and confirmation by the Senate.

Sincerely,
 S/Charles P. Pray
 President of the Senate
 S/John L. Martin
 Speaker of the House

Came from the Senate, Read and Referred to the Committee on Business Legislation.

Was Read and Referred to the Committee on Business Legislation in concurrence.

**PETITIONS, BILLS AND RESOLVES
 REQUIRING REFERENCE**

The following Bills were received and, upon the recommendation of the Committee on Reference of Bills, were referred to the following Committees, Ordered Printed and Sent up for Concurrence:

Banking and Insurance

Bill "An Act Relating to Motor Vehicle Insurance Surcharges Due to License Suspension" (H.P. 765) (L.D. 1069) (Presented by Speaker MARTIN of Eagle Lake) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27.)

Later Today Assigned

Bill "An Act to Encourage the Continuation of Obstetrical Services in the Medicaid Program" (H.P. 769) (L.D. 1073) (Presented by Speaker MARTIN of Eagle Lake) (Cosponsored by Representative CARROLL of Gray and Representative CLARK of Brunswick)

(The Committee on Banking and Insurance had been suggested.)

On motion of Representative Rydell of Brunswick, tabled pending reference and later today assigned.

Human Resources

Bill "An Act to Authorize the Department of Human Services to Implement the Provisions of the United States Family Support Act of 1988" (H.P. 767) (L.D. 1071) (Presented by Representative FOSS of Yarmouth) (Cosponsored by Senator CAHILL of Sagadahoc, Senator BRANNIGAN of Cumberland and Representative DAGGETT of Augusta)

Ordered Printed.

Sent up for Concurrence.

Judiciary

Bill "An Act Concerning Liability with Respect to Sports Officials" (H.P. 764) (L.D. 1068) (Presented by Representative HANDY of Lewiston) (Cosponsored by Senator COLLINS of Aroostook, Representative DORE of Auburn and Representative TAMMARO of Baileyville)

Ordered Printed.

Sent up for Concurrence.

Legal Affairs

Bill "An Act Concerning Candidate Deadlines" (H.P. 766) (L.D. 1070) (Presented by Representative NADEAU of Saco) (Cosponsored by Representative MILLS of Bethel, Representative HOGLUND of Portland and Senator MATTHEWS of Kennebec)

Ordered Printed.

Sent up for Concurrence.

Taxation

Bill "An Act Regarding Property Tax Relief" (H.P. 768) (L.D. 1072) (Presented by Representative DUTREMBLE of Biddeford) (Cosponsored by Representative DUFFY of Bangor, Representative RAND of Portland and Senator COLLINS of Aroostook)

Ordered Printed.

Sent up for Concurrence.

REPORTS OF COMMITTEES

Unanimous Ought Not to Pass

Representative CLARK from the Committee on Fisheries and Wildlife on Bill "An Act to Allow

Handicapped Fishers to Use Electric Motors on Restricted Fishing Waters" (H.P. 390) (L.D. 521) reporting "Ought Not to Pass"

Was placed in the Legislative Files without further action pursuant to Joint Rule 15 and sent up for concurrence.

Unanimous Leave to Withdraw

Representative JACQUES from the Committee on Fisheries and Wildlife on Bill "An Act Concerning Snowmobile Registrations" (H.P. 325) (L.D. 441) reporting "Leave to Withdraw"

Representative RYDELL from the Committee on Banking and Insurance on Bill "An Act to Regulate Health Insurance Rates" (H.P. 398) (L.D. 529) reporting "Leave to Withdraw"

Representative COLES from the Committee on Marine Resources on Bill "An Act to Prohibit the Dragging of Scallops in Medomak River until December 1st" (H.P. 321) (L.D. 437) reporting "Leave to Withdraw"

Were placed in the Legislative Files without further action pursuant to Joint Rule 15 and sent up for concurrence.

Divided Report

Majority Report of the Committee on Education reporting "Ought to Pass" as amended by Committee Amendment "A" (H-43) on Bill "An Act Appropriating Funds to the Department of Educational and Cultural Services for Early Childhood Education" (H.P. 23) (L.D. 18)

Signed:

Senators:

BOST of Penobscot
GILL of Cumberland
ESTES of York

Representatives:

PARADIS of Frenchville
NORTON of Winthrop
AULT of Wayne
O'DEA of Orono
OLIVER of Portland
HANDY of Lewiston
CROWLEY of Stockton Springs
SMALL of Bath
KILKELLY of Wiscasset

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

Signed:

Representative: O'GARA of Westbrook
Reports were read.

On motion of Representative Crowley of Stockton Springs, the Majority "Ought to Pass" Report was accepted, the Bill read once.

Committee Amendment "A" was read by the Clerk and adopted and the Bill assigned for second reading Monday, April 10, 1989.

CONSENT CALENDAR

First Day

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

(S.P. 98) (L.D. 117) Bill "An Act to Clarify the Functions of Subregistrars" Committee on Business Legislation reporting "Ought to Pass" as amended by Committee Amendment "A" (S-28)

(S.P. 208) (L.D. 486) Bill "An Act to Require Pricing Disclosures on Vans and Pickup Trucks" Committee on Business Legislation reporting "Ought to Pass" as amended by Committee Amendment "A" (S-30)

(S.P. 174) (L.D. 331) Bill "An Act to Establish a Maine Self-service Storage Act" Committee on

Business Legislation reporting "Ought to Pass" as amended by Committee Amendment "A" (S-31)

(H.P. 396) (L.D. 527) Bill "An Act to Amend and Unify the Residential Energy Efficiency Building Standards" Committee on Energy and Natural Resources reporting "Ought to Pass" as amended by Committee Amendment "A" (H-45)

(H.P. 301) (L.D. 413) Bill "An Act to Regulate Maternal Serum Alpha-fetoprotein Screening Programs" Committee on Human Resources reporting "Ought to Pass"

(H.P. 91) (L.D. 126) Bill "An Act to Make Additional Allocations to the Department of Inland Fisheries and Wildlife for the Fiscal Year Ending June 30, 1989" (EMERGENCY) Committee on Fisheries and Wildlife reporting "Ought to Pass" as amended by Committee Amendment "A" (H-46)

(H.P. 454) (L.D. 619) Bill "An Act Relating to Highway Construction and Maintenance Signs and Advertising Signs" Committee on Transportation reporting "Ought to Pass" as amended by Committee Amendment "A" (H-47)

(H.P. 420) (L.D. 585) Bill "An Act to Change the Dates for Burial Eligibility at the Maine Veterans' Memorial Cemetery" Committee on Aging, Retirement and Veterans reporting "Ought to Pass" as amended by Committee Amendment "A" (H-48)

(H.P. 312) (L.D. 426) Bill "An Act to Provide Access to Retirement Benefits for Former Spouses of Members of the Armed Forces" Committee on Aging, Retirement and Veterans reporting "Ought to Pass" as amended by Committee Amendment "A" (H-49)

(H.P. 286) (L.D. 398) Bill "An Act to Include the Casco Bay Island Transit District under the Risk Management Division" Committee on Banking and Insurance reporting "Ought to Pass" as amended by Committee Amendment "A" (H-50)

There being no objections, the above items were ordered to appear on the Consent Calendar of Monday, April 10, 1989, under the listing of Second Day.

CONSENT CALENDAR

Second Day

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

(H.P. 263) (L.D. 375) Bill "An Act to Provide that Medical Information in the Files of the Maine State Retirement System is not Public Information" (C. "A" H-42)

No objections having been noted at the end of the Second Legislative Day, the House Paper was Passed to be Engrossed as Amended and sent up for concurrence.

(H.P. 104) (L.D. 141) Bill "An Act to Provide Credit for Braille Courses" (C. "A" H-44)

On motion of Representative Tammaro of Baileyville, was removed from the Consent Calendar, Second Day.

Subsequently, the Committee Report was accepted, the Bill read once.

Committee Amendment "A" was read by the Clerk and adopted.

On motion of Representative Tammaro of Baileyville, Committee Amendment "A" was indefinitely postponed.

On further motion of the same Representative, under suspension of the rules, the Bill was read a second time.

The same Representative offered House Amendment "A" (H-52) and moved its adoption.

House Amendment "A" was read by the Clerk and adopted.

The Bill was passed to be engrossed as amended by House Amendment "A" in non-concurrence and sent up for concurrence.

(S.P. 190) (L.D. 417) Bill "An Act to Amend the Medical Health Security Act to Include Podiatrists" (C. "A" S-26)

(H.P. 206) (L.D. 286) Resolve, to Study the Development of a Farmland Preservation Program for Maine (EMERGENCY)

No objections having been noted at the end of the Second Legislative Day, the Senate Paper was Passed to be Engrossed as Amended in concurrence and the House Paper was Passed to be Engrossed and sent up for concurrence.

**PASSED TO BE ENGROSSED
As Amended**

Bill "An Act to Increase the Annual Public Utilities Commission Regulatory Fund Assessment, Establish a Consumer Assistance Specialist Position and Make Certain Other Changes" (EMERGENCY) (S.P. 143) (L.D. 263) (S. "A" S-32 to C. "A" S-27)

Was reported by the Committee on Bills in the Second Reading, read the second time and Passed to be Engrossed as Amended in concurrence.

**PASSED TO BE ENACTED
Emergency Measure**

An Act to Provide for a Carry-over of Funds Appropriated for the Study of Alternative Dispute Resolution in the Superior Court to June 30, 1990 (H.P. 320) (L.D. 436)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 117 voted in favor of the same and none against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

PASSED TO BE ENACTED

An Act Relating to Highway Maintenance Compact Areas (H.P. 410) (L.D. 553)

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

(At Ease to Gong)

The House was called to order by the Speaker.

**ORDERS OF THE DAY
TABLED AND TODAY ASSIGNED**

The Chair laid before the House the first tabled and today assigned matter:

RESOLUTION, Proposing an Amendment to the Constitution of Maine to Change the Terms of Members of the Senate from 2 to 4 Years (S.P. 392) (L.D. 1037) - In Senate, Referred to the Committee on State and Local Government.

TABLED - April 5, 1989 by Representative GWADOSKY of Fairfield.

PENDING - Reference in concurrence.

On motion of Representative Gwadosky of Fairfield, retabled pending reference in concurrence and specially assigned for Monday, April 10, 1989.

The Chair laid before the House the second tabled and today assigned matter:

HOUSE DIVIDED REPORT - Majority (9) "Ought to Pass" - Minority (4) "Ought Not to Pass" - Committee on State and Local Government on Bill "An Act to Return Certain Positions within the Department of Environmental Protection to Classified Service under the Civil Service Law" (H.P. 177) (L.D. 242)

TABLED - April 5, 1989 by Representative GWADOSKY of Fairfield.

PENDING - Acceptance of Either Report.

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

The SPEAKER: The Chair recognizes the Representative from Wells, Representative Wentworth.

Representative WENTWORTH: Mr. Speaker, Members of the House: I would like to say that the signers of the Minority Report of L.D. 242 felt that inasmuch as these positions handled many millions of dollars as well as set policy, they ought to be allowed one session to see how it works.

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

Representative JOSEPH: Mr. Speaker, Men and Women of the House: I want to urge you to vote in favor of this bill. I want to say that the majority of the State and Local Government Committee believe that these positions of Division Directors should be classified. Four members felt that they should not be classified.

I do want to add that 13 people came before this committee representing hundreds of Maine people and they testified in favor of classification of these positions in the Department of Environmental Protection. Only one person testified in opposition of classification of these Division Directors who enforce policy and license. The decision to unclassify these positions was done with no logic whatsoever. These positions are enforcement positions, the policy that is set in statute is what they enforce. The Department develops rules and regulations and the Board of Environmental Protection advises and makes binding decisions to set policies that these Division Directors enforce and implement.

Public service is a public's trust and public service is accountable to the public and to the greater number of people in the State of Maine. We believe that these six enforcement and licensing positions should not be in the position to answer to political whims. We also say that, in this Department, there are 18 Division Directors and I guess the question would be why only these six licensing positions should not be classified.

Representative Gwadosky of Fairfield requested a roll call.

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

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

The SPEAKER: The pending question before the House is the motion of the Representative from Waterville, Representative Joseph, that the House accept the Majority "Ought to Pass" Report. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 3

YEA - Adams, Aliberti, Allen, Anthony, Ault, Bell, Boutilier, Brewer, Burke, Butland, Cahill, T.; Carroll, D.; Carroll, J.; Carter, Cashman, Cathcart, Chonko, Clark, H.; Clark, M.; Coles, Constantine, Cote, Crowley, Daggett, Dellert, Dipietro, Dore, Duffy, Dutremble, L.; Farnsworth, Farren, Foster, Gould, R. A.; Graham, Greenlaw, Gurney, Gwadosky, Hale, Handy, Heesch, Hichborn, Hickey, Hoglund, Holt, Hussey, Jacques, Jalbert, Joseph, Ketover, Kilkelly, LaPointe, Larrivee, Lawrence, Libby, Lisnik, Luther, Macomber, Mahany, Manning, Marston, Martin, H.; Mayo, McGowan, McHenry, McKeen, McSweeney, Melendy, Michaud, Mills, Mitchell, Moholland, Murphy, Nadeau, G. R.; Norton, Nutting, O'Dea, O'Gara, Oliver, Paradis, E.; Paradis, P.; Paul, Pederson, Pendleton, Pineau, Plourde, Pouliot, Rand, Richard, Ridley, Rolde, Rotondi, Ruhlin, Rydell, Sheltra, Simpson, Smith, Stevens, A.; Strout, D.; Swazey, Tamaro, Tardy, Telow, Townsend, Tracy, Tupper, Walker, The Speaker.

NAY - Aikman, Anderson, Begley, Curran, Donald, Farnum, Foss, Garland, Hanley, Hepburn, Higgins, Hutchins, Jackson, Lebowitz, Look, Lord, MacBride, Marsano, McCormick, McPherson, Merrill, Parent, Pines, Reed, Richards, Seavey, Sherburne, Small, Stevenson, Strout, B.; Webster, M.; Wentworth.

ABSENT - Bailey, Conley, Dexter, Erwin, P.; Hastings, Marsh, Nadeau, G. G.; Paradis, J.; Priest, Skoglund, Stevens, P.; Whitcomb.

Yes, 107; No, 32; Absent, 12; Paired, 0; Excused, 0.

107 having voted in the affirmative and 32 in the negative with 12 being absent, the Majority "Ought to Pass" Report was accepted, the Bill read once and assigned for second reading Monday, April 10, 1989.

The Chair laid before the House the third tabled and today assigned matter:

SENATE REPORT - "Ought to Pass" as amended by Committee Amendment "A" (S-23) - Committee on Transportation on Bill "An Act to Make Minor Changes in the Motor Vehicle Laws" (S.P. 75) (L.D. 65)

TABLED - April 5, 1989 by Representative GWADOSKY of Fairfield.

PENDING - Acceptance of Committee Report.

Subsequently, the Committee Report was accepted, the Bill read once.

Committee Amendment "A" was read by the Clerk.

Representative Moholland of Princeton offered House Amendment "A" (H-53) to Committee Amendment "A" (S-23) and moved its adoption.

House Amendment "A" to Committee Amendment "A" was read by the Clerk and adopted.

Senate Amendment "A" (S-29) to Committee Amendment "A" was read by the Clerk and adopted.

Committee Amendment "A" as amended by House Amendment "A" and Senate Amendment "A" thereto was adopted.

The Bill was assigned for second reading Monday, April 10, 1989.

The Chair laid before the House the fourth tabled and today assigned matter:

Bill "An Act to Annex Township 4, Range 3 WELS to the Town of Island Falls" (H.P. 164) (L.D. 229)

- In House, Bill and Accompanying Papers Recommended to the Committee on State and Local Government on March 30, 1989.

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

TABLED - April 5, 1989 by Representative GWADOSKY of Fairfield.

PENDING - Motion of Representative SMITH of Island Falls to Recede.

On motion of Representative Gwadosky of Fairfield, retabled pending the motion of Representative Smith of Island Falls that the House recede and specially assigned for Monday, April 10, 1989.

The Chair laid before the House the fifth tabled and today assigned matter:

HOUSE DIVIDED REPORT - Majority (11) "Ought Not to Pass" - Minority (2) "Ought to Pass" as amended by Committee Amendment "A" (H-32) - Committee on Appropriations and Financial Affairs on RESOLUTION, Proposing an Amendment to the Constitution of Maine to Allow the Governor to Veto Items Contained in Bills Appropriating Money and Retaining the Power in the Legislature to Override those Line Item Vetoes (H.P. 10) (L.D. 4)

TABLED - April 5, 1989 by Representative GWADOSKY of Fairfield.

PENDING - Acceptance of Either Report.

Representative Carter of Winslow moved that the House accept the Majority "Ought Not to Pass" Report.

The SPEAKER: The Chair recognizes the Representative from Rockport, Representative McCormick.

Representative MCCORMICK: Mr. Speaker, Ladies and Gentlemen of the House: I would ask you to vote against the "Ought Not to Pass" motion. As some of you are already aware, my bill L.D. 4 is a Resolution proposing an amendment to the Constitution of Maine to allow the Governor to veto items contained in bills appropriating money but retaining the power in the legislature to override those line item vetoes.

This bill was recommended to the legislature in 1963 by an impartial commission to study Maine's Constitution. It was the number one item in their recommendations. Every Governor since 1963 has supported the line item veto. Even our Speaker backed the bill at one time. Forty-three other states in the United States have line item veto. A few of them have had some problems because their constitutional amendments gave the Governor too much authority over a bill. To my knowledge, no state has repealed it and it tends to prevent pork barrel items.

By allowing this proposed amendment to be voted on by the citizens of our state, we will be guaranteeing them the basic right of the people's choice. Many of my constituents requested that I propose this bill and many more have called with their support since it was introduced. This should not be a partisan issue, it should be an issue that we are proud to present to the people of the State of Maine and let them decide. I believe this is the 11th time that a line item veto has come before this body. It has been presented by both parties and defeated at one time or another by both parties. It is time that we let the people decide this issue.

I urge to vote against this motion. Mr. Speaker, when the vote is taken, I request a roll call.

The SPEAKER: The Chair recognizes the Representative from Winslow, Representative Carter.

Representative CARTER: Mr. Speaker, Ladies and Gentlemen of the House: The item that we have before us, as you have heard the previous speaker tell us, it is indeed an old chestnut, one that keeps coming back, term after term. It doesn't make any difference who is in control but, strangely enough, when some of the members that graduate from the House of Representatives to the second floor, they seem to

change their position. Once they are on the second floor, it is quite the vogue to support line item vetoes but when they are in these chambers and truly want to represent their constituents, they follow the normal democratic and representative thing to do and vote against the line item veto.

The line item veto is, quite frankly, an interference in the authority of the representatives of the people. Those of you that have served here before and are serving here now are well aware of the fact that we operate under three equal branches of government, separate but equal. The legislative body has the authority to set policy; the executive branch has the authority to carry out those policies and the judicial branch has the authority to interpret the policies that comes out of this body.

Any change in its structure will change the balance of power. As a matter of fact, if this item passes, it would give the Governor, regardless of who he is, Democrat or Republican, undue influence over the legislative-making authority of this body.

You know, as Representatives of the people, you have to pay close attention to your constituents. It doesn't take too many of you to alienate before you are voted out of office. You represent slightly over 6,000, the Governor on the other hand, represents 1.2 million and he has to alienate quite a few people before he is voted out of office. Quite frankly, the only thing that I can see coming out of a line item veto would be the long arm of the Governor reaching into the policy-making body, this House and the other body, and tell some of you, "If you don't support my program, this line is coming out of the budget" and it may very well affect your backyard. Do we want the Governor to have that kind of authority, that kind of power to upset the balance?

The previous speaker also alluded to the fact that 43 states have granted their Governor the line item veto. I did some quick checking and memory searching and found that many of those states that have the line item veto are in trouble financially. They have deficits. There are seven states who do not have the line item veto. Let me read them to you: Indiana, Maine, Nevada, New Hampshire, Rhode Island and Vermont. The only one that has financial problems is New Hampshire and you all know why.

This bill is absolutely not necessary. The system is not broke and there is no need to fix it.

I would urge you to follow my light and vote "Ought Not to Pass."

The SPEAKER: The Chair recognizes the Representative from Skowhegan, Representative Hepburn.

Representative HEPBURN: Mr. Speaker, Members of the House: Just a couple of points I would like to make here that haven't been made. I think the most important thing to keep in mind is that, when the founding fathers were looking at the Constitution, they didn't really have any clue as to the way our budget making process would work as it does today.

The reality of it is for those of us who have been here a few times, we know what it is like and, for those of you who haven't had the opportunity to live through the last few days of a session, you will see (with great anticipation, I am sure) us getting the budget from the Appropriations Committee, it lands on our desk, we usually have to wait for it to be printed, it is late at night, there's almost never time to even thumb through it before it is time to vote. It gets rammed through usually under the hammer and occasionally there are a few words said. It is a massive document and we put tremendous faith into the Appropriations Committee to put into that budget what is right.

I think they are a tremendously hardworking committee and very dedicated legislators. This is nothing against them -- the only problem is that, just like us, they have a district to represent and they have a very, very special interest, just like I have a special interest. My special interest is District 100 which is in Skowhegan, and even though they are a very hardworking committee, there are 13 special interests on that committee and they look out for their own districts. There is only one individual in state government in Maine who is elected by all voters statewide and that individual is the Governor. For that reason, if for no other reason, it is very important that we allow that person a look at the budgets that go through this state and look at the individual lines rather than taking the whole package on an up or down deal.

I would urge you to vote against the pending motion and give the Governor of the State of Maine what 43 other Governor's in this nation have, a line item veto.

The SPEAKER: The Chair recognizes the Representative from Sanford, Representative Hale.

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

Does the Governor have a chance to go through the budget? It was my understanding that he has the opportunity to submit a budget for consideration. I think the Representative that just spoke mentioned that he didn't have a chance to look it over.

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

The Chair recognizes the Representative from Presque Isle, Representative Lisnik.

Representative LISNIK: Mr. Speaker, Ladies and Gentlemen of the House: The Governor, obviously, has an opportunity to see the budget all along the process. His staff is working closely with our staff and with the Appropriations Committee. There are always threats to the committee that if a certain item is in the budget or if a certain item is not in the budget, that there may be a veto of the entire budget. I guess that is the ultimate threat.

As far as special interests, you are absolutely right, there are 13 members and 13 members, not only have their own interests at heart, they have the state's interests at heart. They have other legislators who have good ideas, good bills that need funding and they have their interests at heart as well. I assume that the Governor has their interests at heart too.

I would like to read a couple of things from legislating via veto that was in the state legislature in January of 1989. Wisconsin is usually the benchmark for the line item veto for whatever the reason and it says, "Looking at 542 item vetoes exercised by Wisconsin Governor's during 1975 through 1985, a University of Wisconsin political scientist, James Goseline -- they were used primarily as a tool of policy-making and partisan advantage rather than fiscal restraint." He goes on to say, "The real stimulus for the line item veto probably has more to do with the ascendancy of the legislative bodies as state fiscal policy-makers. Most state legislatures now have the resources to challenge the Governor on nearly every issue related to budget and taxation. In short, state legislature's now have the staff and the information to carry out fully their constitutional roles in the appropriations process, which is a co-equal role with the governorship." I think that is what we have to keep in mind here.

What we are talking about is really a balance. The Governor has certain prerogatives and the legislature has certain prerogatives.

As I said in caucus, the ultimate fiscal responsibility that the Governor has is his ability to control the revenue figures. We have no control over that. When we are putting together the budget, we can only respond to the figures that the Governor gives us.

Last year, there were certain things that we wanted to do that we were unable to do because, in the final analysis, the figures were not there. We walked away and a month later, the figures were there. That is how a Governor can control legislative spending or gubernatorial spending. I think that the checks and balances are there. As my good friend from Winslow said, "If it ain't broke, don't fix it."

The SPEAKER: The Chair recognizes the Representative from Sanford, Representative Hale.

Representative HALE: Mr. Speaker, Ladies and Gentlemen of the House: I would like to respond to the good Representative from Skowhegan. I, too, have been here a few times.

I, too, have had to vote against my Governor's line item veto. I firmly believe that we have a responsibility as legislators and this power must not be usurped by the executive branch. I would even go further and say that I wouldn't even give it to the President of the United States.

We are elected to do a job. It may be unpleasant at times, we don't like it, but we have to do it. We will take the responsibility, not pass it on to someone else and not allow them to usurp the power of the Constitution -- that the people of the State of Maine have designated that we, as legislators, must take.

I urge you to vote with the majority.

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

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

The SPEAKER: The pending question before the House is the motion of the Representative from Winslow, Representative Carter, that the House accept the Majority "Ought Not to Pass" Report. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 4

YEA - Adams, Aliberti, Allen, Anthony, Bell, Boutilier, Brewer, Burke, Cahill, T.; Carroll, D.; Carter, Cashman, Cathcart, Chonko, Clark, H.; Clark, M.; Coles, Constantine, Cote, Crowley, Daggett, Dipietro, Dore, Duffy, Dutremble, L.; Farnsworth, Foss, Foster, Gould, R. A.; Graham, Gurney, Gwadosky, Hale, Handy, Heeschen, Hichborn, Hickey, Hoglund, Holt, Hussey, Jacques, Jalbert, Joseph, Ketover, Kilkelly, LaPointe, Larrivee, Lawrence, Lisnik, Look, Lord, Luther, Macomber, Mahany, Manning, Marston, Martin, H.; Mayo, McGowan, McHenry, McKee, McSweeney, Melendy, Michaud, Mills, Mitchell, Moholland, Murphy, Nadeau, G. R.; Nutting, O'Dea, O'Gara, Oliver, Paradis, E.; Paradis, J.; Paradis, P.; Paul, Pederson, Pineau, Plourde, Pouliot, Rand, Richard, Ridley, Rolde, Rotondi, Ruhlin, Rydell, Sheltra, Simpson, Smith, Strout, D.; Swazey, Tammaro, Tardy, Telow, Townsend, Tracy, Walker, The Speaker.

NAY - Aikman, Anderson, Ault, Begley, Butland, Carroll, J.; Curran, Dellert, Dexter, Donald, Farnum, Farren, Garland, Greenlaw, Hanley, Hepburn, Higgins,

Hutchins, Jackson, Lebowitz, Libby, MacBride, Marsano, McCormick, McPherson, Merrill, Norton, Parent, Pendleton, Pines, Reed, Richards, Seavey, Sherburne, Small, Stevens, A.; Stevenson, Strout, B.; Tupper, Webster, M.; Wentworth.

ABSENT - Bailey, Conley, Erwin, P.; Hastings, Marsh, Nadeau, G. G.; Priest, Skoglund, Stevens, P.; Whitcomb.

Yes, 100; No, 41; Absent, 10; Paired, 0; Excused, 0.

100 having voted in the affirmative and 41 in the negative with 10 being absent, the Majority "Ought Not to Pass" Report was accepted. Sent up for concurrence.

The Chair laid before the House the sixth tabled and today assigned matter:

Bill "An Act to Expand the Types of Medication Included in the Elderly Low-cost Drug Program" (H.P. 229) (L.D. 313)

TABLED - April 5, 1989 by Representative GWADOSKY of Fairfield.

PENDING - Passage to be Engrossed.

On motion of Representative Gwadosky of Fairfield, retabled pending passage to be engrossed and specially assigned for Monday, April 10, 1989.

The Chair laid before the House the following item: Bill "An Act to Encourage the Continuation of Obstetrical Services in the Medicaid Program" (H.P. 769) (L.D. 1073) which was tabled earlier in the day and later today assigned pending reference.

(The Committee on Banking and Insurance had been suggested.)

On motion of Representative Rydell of Brunswick, was referred to the Committee on Banking and Insurance, ordered printed and sent up for concurrence.

On motion of Representative Gwadosky of Fairfield, the House reconsidered its action whereby (H.P. 104) (L.D. 141) Bill "An Act to Provide Credit for Braille Courses" (H "A" H-52) was passed to be engrossed.

On further motion of the same Representative, the House reconsidered its action whereby House Amendment "A" (H-52) was adopted.

On further motion of the same Representative, House Amendment "A" was indefinitely postponed.

On further motion of the same Representative, the House reconsidered its action whereby Committee Amendment "A" (H-44) was indefinitely postponed.

Subsequently, Committee Amendment "A" (H-44) was adopted and the Bill passed to be engrossed as amended by Committee Amendment "A" and sent up for concurrence.

(At Ease)

The House was called to order by the Speaker.

The following item appearing on Supplement No. 1 was taken up out of order by unanimous consent:

PAPER FROM THE SENATE

The following Joint Order: (S.P. 415)

ORDERED, the House concurring, that when the House and Senate adjourn, they do so until Monday, April 10, 1989, at 9 o'clock in the morning.

Came from the Senate, read and passed.
Was read and passed in concurrence.

(Off Record Remarks)

On motion of Representative Nadeau of Saco,
Adjourned until Monday, April 10, 1989, at nine
o'clock in the morning pursuant to Joint Order (S.P.
415).

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

In Senate Chamber
Thursday
April 6, 1989

Senate called to Order by the Secretary, Joy J.
O'Brien.

The Secretary requested the Sergeant-At-Arms to
escort the Senator from Kennebec, Senator BUSTIN to
the Rostrum where she assumed the duties as President
Pro Tem.

Senate called to order by the President Pro Tem.

Prayer by Reverend Grace Bartlett of the Hodgdon
Methodist Church in Houlton.

REVEREND BARTLETT: Let us be in the spirit of
prayer. Almighty and most gentle God, we ask Your
presence with these men and women here gathered out
of concern for Your people and Your land and Your
creation here within the State of Maine. We ask that
You abide with them this day. Give them
compassionate hearts and wisdom and courage to speak
the words that need to be spoken. To discern Your
will, even amidst the commotion and the busyness of
this day. Grant them courage in this day to be, for
Your people, a light in the darkness. This we pray
in Jesus' name. Amen.

Reading of the Journal of Yesterday.

Out of order and under suspension of the Rules,
on motion by Senator DUTREMBLE of York, the following
Joint Order:

S.P. 415

ORDERED, the House concurring, that when the
House and Senate adjourn, they do so until Monday,
April 10, 1989, at 9 o'clock in the morning.

Which was READ and PASSED.

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

PAPERS FROM THE HOUSE
Non-concurrent Matter

Resolve, Authorizing the Director of Parks and
Recreation to Convey the Interest of the State in
Certain Parcels of Real Property in the Town of
Lincolntown and the County of Penobscot

S.P. 386 L.D. 1031

In Senate, April 4, 1989, referred to the
Committee on STATE AND LOCAL GOVERNMENT and ORDERED
PRINTED.

Comes from the House referred to the Committee on
ENERGY AND NATURAL RESOURCES and ORDERED PRINTED in
NON-CONCURRENCE.

On motion by Senator CLARK of Cumberland, the
Senate RECEDED and CONCURRED.

House Papers

Bill "An Act to Amend the Budget to Fund a
Position in the Department of Environmental
Protection to Review Hydropower Applications"

H.P. 748 L.D. 1052

Bill "An Act to Repair the Chain of Ponds' Dam"

H.P. 755 L.D. 1059