

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

**ONE HUNDRED AND FOURTEENTH MAINE LEGISLATURE
FIRST REGULAR SESSION
57th Legislative Day
Monday, May 8, 1989**

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

Prayer by Reverend William R. Heinrich, Jr., First Congregational Church of Kittery at Kittery Point.

National Anthem by Narraguagus High School Band, Harrington.

The Journal of Friday, May 5, 1989, was read and approved.

Quorum call was held.

PAPERS FROM THE SENATE

Unanimous Leave to Withdraw

Report of the Committee on Legal Affairs reporting "Leave to Withdraw" on Bill "An Act to Equalize Liquor Prices" (S.P. 91) (L.D. 96)

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

Refer to the Committee on Judiciary

Later Today Assigned

Report of the Committee on Appropriations and Financial Affairs on Bill "An Act to Provide for Alternative Site Programs for Operating-under-the-influence Offenders" (S.P. 212) (L.D. 490) reporting that it be referred to the Committee on Judiciary.

Came from the Senate with the report read and accepted and the bill referred to the Committee on Judiciary.

Report was read.

On motion of Representative Gwadovsky of Fairfield, tabled pending reference and later today assigned.

Ought to Pass Pursuant to Joint Order (S.P. 433)

Report of the Committee on Appropriations and Financial Affairs reporting "Ought to Pass" Pursuant to Joint Order (S.P. 433) on Bill "An Act to Fund 2 Legislative Studies and to Extend the State Compensation Commission's Interim Reporting Date" (EMERGENCY) (S.P. 529) (L.D. 1463)

Came from the Senate, with the report read and accepted and the bill passed to be engrossed.

Report was read and accepted, the Bill read once and assigned for second reading Tuesday, May 9, 1989.

Divided Report

Later Today Assigned

Majority Report of the Committee on Labor reporting "Ought to Pass" as amended by Committee Amendment "A" (S-84) on Bill "An Act to Make Changes to the Human Resource Development Council in Order to Conform with the United States Economic Dislocation and Worker Adjustment Assistance Act of 1988" (Emergency) (S.P. 101) (L.D. 120)

Signed:

Senators: ESTY of Cumberland
MATTHEWS of Kennebec
Representatives: RAND of Portland
LUTHER of Mexico
TAMMARO of Baileyville
PINEAU of Jay
RUHLIN of Brewer
McHENRY of Madawaska

McKEEN of Windham

Minority Report of the same Committee reporting "Ought to Pass" as amended by Committee Amendment "B" (S-85) on same Bill.

Signed:

Senator: WHITMORE of Androscoggin
Representatives: McCORMICK of Rockport
BUTLAND of Cumberland
REED of Falmouth

Came from the Senate with the Majority "Ought to Pass" as amended Report read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (S-84).

Reports were read.

Representative McHenry of Madawaska moved that the House accept the Majority "Ought to Pass" Report.

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

Divided Report

Later Today Assigned

Majority Report of the Committee on Fisheries and Wildlife reporting "Ought to Pass" as amended by Committee Amendment "A" (S-82) on Bill "An Act Concerning Bear Hunting with Dogs" (S.P. 211) (L.D. 489)

Signed:

Senators: ERWIN of Oxford
GOULD of Waldo
Representatives: ROTONDI of Athens
DUFFY of Bangor
JACQUES of Waterville
WALKER of Norway
TRACY of Rome
GREENLAW of Standish
FARREN of Cherryfield
CARROLL of Southwest Harbor

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

Signed:

Representative: SMITH of Island Falls

Came from the Senate with the Majority "Ought to Pass" as amended Report read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (S-82).

Reports were read.

Representative Smith of Island Falls moved that the House accept the Minority "Ought Not to Pass" Report.

On motion of Representative Gwadovsky of Fairfield, tabled pending the motion of Representative Smith of Island Falls that the House accept the Minority "Ought Not to Pass" Report and later today assigned.

Non-Concurrent Matter

Bill "An Act to Make Allocations from the Maine Nuclear Emergency Planning Fund for the Fiscal Years Ending June 30, 1990, and June 30, 1991" (EMERGENCY) (H.P. 365) (L.D. 496) which was passed to be engrossed as amended by Committee Amendment "A" (H-126) in the House on May 3, 1989.

Came from the Senate passed to be engrossed as amended by Committee Amendment "A" (H-126) and Senate Amendment "A" (S-88) in non-concurrence.

The House voted to recede and concur.

**PETITIONS, BILLS AND RESOLVES
REQUIRING REFERENCE**

The following Bills and Resolve 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:

Aging, Retirement and Veterans

Bill "An Act Concerning Teacher Retirement Laws" (H.P. 1093) (L.D. 1526) (Presented by Representative STEVENS of Sabattus) (Cosponsored by Representative JALBERT of Lisbon) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27.)

Ordered Printed.
Sent up for Concurrence.

Later Today Assigned

Bill "An Act to Respond to the Shortage of Family Nurse Practitioners and Physician Assistants by Making Funds Available for a Loan Forgiveness Program" (H.P. 1121) (L.D. 1553) (Presented by Representative CLARK of Brunswick) (Cosponsored by Senator GAUVREAU of Androscoggin and Representative PENDLETON of Scarborough)

(The Committee on Appropriations and Financial Affairs had been suggested.)

On motion of Representative Carter of Winslow, tabled pending reference and later today assigned.

Appropriations and Financial Affairs

Bill "An Act to Utilize French Heritage in Maine and to Create the Francophone Center" (H.P. 1120) (L.D. 1552) (Presented by Representative ROLDE of York) (Cosponsored by Representative PARADIS of Frenchville, Representative PARADIS of Old Town and Senator PEARSON of Penobscot)

Bill "An Act to Establish a Line Item Budget for the Maine Agricultural Experiment Station and the Cooperative Extension Service" (H.P. 1119) (L.D. 1551) (Presented by Representative TARDY of Palmyra)

Bill "An Act to Establish a Commission on State Finance" (EMERGENCY) (H.P. 1113) (L.D. 1546) (Presented by Representative CARTER of Winslow) (Cosponsored by Representative McGOWAN of Canaan, Representative POULIOT of Lewiston and Senator PEARSON of Penobscot) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27.)

Ordered Printed.
Sent up for Concurrence.

Taxation

Bill "An Act to Establish Municipal Cost Components for Services to be Rendered in Fiscal Year 1989-90" (EMERGENCY) (H.P. 1112) (L.D. 1545) (Presented by Representative CASHMAN of Old Town) (Cosponsored by Senator ANDREWS of Cumberland, Senator EMERSON of Penobscot and Representative JACKSON of Harrison) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27.)

(The Committee on Appropriations and Financial Affairs had been suggested.)

On motion of Representative Carter of Winslow, was referred to the Committee on Taxation, ordered printed and sent up for concurrence.

Appropriations and Financial Affairs

Bill "An Act to Improve Staff Support for the Land for Maine's Future Board" (H.P. 1102) (L.D. 1535) (Presented by Representative SIMPSON of Casco)

(Cosponsored by Representative McGOWAN of Canaan, Representative JACQUES of Waterville and Senator PEARSON of Penobscot)

Ordered Printed.
Sent up for Concurrence.

Later Today Assigned

Resolve, to Create a Pilot Program to Provide the Driver Education and Evaluation Program to Persons Incarcerated for Driving under the Influence of Drugs or Alcohol (H.P. 1090) (L.D. 1523) (Presented by Representative MANNING of Portland)

(The Committee on Appropriations and Financial Affairs had been suggested.)

On motion of Representative Carter of Winslow, tabled pending reference and later today assigned.

Education

Bill "An Act to Require Preadmission and Post-Graduation Assessment Exams for University of Maine System Students" (H.P. 1099) (L.D. 1532) (Presented by Representative FOSS of Yarmouth) (Cosponsored by Representative SMALL of Bath, Representative CROWLEY of Stockton Springs and Senator GILL of Cumberland)

Ordered Printed.
Sent up for Concurrence.

Energy and Natural Resources

Bill "An Act Concerning Commercial Landfill Facilities" (H.P. 1107) (L.D. 1540) (Presented by Representative HANLEY of Paris) (Cosponsored by Senator LUDWIG of Aroostook, Representative SIMPSON of Casco and Representative DEXTER of Kingfield)

Bill "An Act to Establish Regional State-owned Waste Disposal Facilities" (H.P. 1116) (L.D. 1549) (Presented by Representative TOWNSEND of Eastport) (Cosponsored by Representative MOHOLLAND of Princeton)

Bill "An Act to Create the Maine Solid Waste Authority" (H.P. 1115) (L.D. 1548) (Presented by Representative COLES of Harpswell) (Cosponsored by Representative RIDLEY of Shapleigh, Representative GOULD of Greenville and Representative CARTER of Winslow)

Bill "An Act to Mandate Source Separation and Recycling of Solid Waste" (H.P. 1114) (L.D. 1547) (Presented by Representative MURPHY of Berwick)

Bill "An Act to Amend the Open Space Laws" (H.P. 1110) (L.D. 1543) (Presented by Representative COLES of Harpswell) (Cosponsored by Representative TARDY of Palmyra, Representative LORD of Waterboro and Senator ANDREWS of Cumberland)

Bill "An Act Concerning Emergency Disposal of Animal Carcasses at Commercial Landfills" (H.P. 1098) (L.D. 1531) (Presented by Representative DAGGETT of Augusta) (Cosponsored by Representative ANDERSON of Woodland, Representative AULT of Wayne and Senator LUDWIG of Aroostook)

Ordered Printed.
Sent up for Concurrence.

Human Resources

Bill "An Act to Revise the Communicable Disease Law" (H.P. 1122) (L.D. 1554) (Presented by Representative PENDLETON of Scarborough) (Cosponsored by Senator GILL of Cumberland, Representative RYDELL of Brunswick and Senator HOBBS of York) (Submitted by the Department of Human Services pursuant to Joint Rule 24.)

Bill "An Act to Impose a 90-day Residency Requirement for Receipt of General Assistance" (H.P. 1105) (L.D. 1538) (Presented by Representative SHELTRA of Biddeford)
 Ordered Printed.
 Sent up for Concurrence.

Judiciary

Bill "An Act Concerning Offenses Against Public Order" (H.P. 1109) (L.D. 1542) (Presented by Representative MANNING of Portland)

Bill "An Act Regarding Resisting Arrest or Detention" (H.P. 1091) (L.D. 1524) (Presented by Representative MURPHY of Berwick)

Bill "An Act Relating to HIV Test Results of Foster Children" (H.P. 1096) (L.D. 1529) (Presented by Representative AIKMAN of Poland) (Cosponsored by Representative PARADIS of Frenchville, Representative LEBOWITZ of Bangor and Senator CAHILL of Sagadahoc)

Bill "An Act to Prohibit the Use of State Funds to Subsidize the Implementation of Alternative Sentencing Options" (H.P. 1104) (L.D. 1537) (Presented by Representative FOSS of Yarmouth) (Cosponsored by Representative WEBSTER of Cape Elizabeth, Representative MARSANO of Belfast and Representative BUTLAND of Cumberland)

Bill "An Act to Amend the Law Relating to Court Security" (H.P. 1106) (L.D. 1539) (Presented by Representative PARADIS of Augusta) (Cosponsored by Representative HANLEY of Paris)

Ordered Printed.
 Sent up for Concurrence.

Labor

Bill "An Act to Allow Employers to Collect a Service Charge for Debt Collection from Employees" (H.P. 1103) (L.D. 1536) (Presented by Representative SMITH of Island Falls) (Cosponsored by Representative ALLEN of Washington, Representative MELENDY of Rockland and Representative GRAHAM of Houlton)

Ordered Printed.
 Sent up for Concurrence.

Judiciary

Bill "An Act to Increase the Penalty for Destruction of Law Enforcement Canines" (H.P. 1092) (L.D. 1525) (Presented by Representative PARADIS of Augusta) (Cosponsored by Representative JACQUES of Waterville, Representative MARSH of West Gardiner and Representative PAUL of Sanford) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27.)

Bill "An Act Regulating Disclosure Procedures in Small Claims Actions" (H.P. 1094) (L.D. 1527) (Presented by Representative RICHARD of Madison) (Cosponsored by Representative PAUL of Sanford)

(The Committee on Legal Affairs had been suggested.)

On motion of Representative Priest of Brunswick, were referred to the Committee on Judiciary, ordered printed and sent up for concurrence.

State and Local Government

Bill "An Act to Clarify the Maine Municipal Bond Bank's and the Maine Public Utility Financing Bank's Ability to Hold, Own and Sell Real and Personal Property" (EMERGENCY) (H.P. 1097) (L.D. 1530) (Presented by Representative JOSEPH of Waterville) (Cosponsored by Representative CARROLL of Gray, Senator KANY of Kennebec and Representative DAGGETT

of Augusta) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27.)
 Ordered Printed.
 Sent up for Concurrence.

Taxation

Bill "An Act Concerning an Occupancy Fee" (H.P. 1111) (L.D. 1544) (Presented by Representative HOGGLUND of Portland) (Cosponsored by Representative NADEAU of Saco, Representative RAND of Portland and Representative DORE of Auburn)

Bill "An Act Concerning Employment Status Relating to Income Tax and Unemployment Compensation Laws" (H.P. 1100) (L.D. 1533) (Presented by Representative LEBOWITZ of Bangor) (Cosponsored by Senator COLLINS of Aroostook, Representative DiPIETRO of South Portland and Representative REED of Falmouth)

Ordered Printed.
 Sent up for Concurrence.

Transportation

Bill "An Act to Require Foreign Recreational Vehicles to Purchase a Fuel Use Decal" (H.P. 1108) (L.D. 1541) (Presented by Representative ROLDE of York)

Resolve, to Establish as a Demonstration Project Recreational Vehicle Dumping Stations (H.P. 1095) (L.D. 1528) (Presented by Representative MITCHELL of Freeport) (Cosponsored by Senator CLARK of Cumberland and Representative MILLS of Bethel)

Ordered Printed.
 Sent up for Concurrence.

Utilities

Bill "An Act to Amend the Charter of the New Sharon Water District" (EMERGENCY) (H.P. 1089) (L.D. 1511) (Presented by Representative BAILEY of Farmington) (Cosponsored by Senator WEBSTER of Franklin) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27.)

Bill "An Act to Amend the Law Incorporating the Milo Water District" (H.P. 1101) (L.D. 1534) (Presented by Representative HUSSEY of Milo) (Cosponsored by President PRAY of Penobscot) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27.)

Ordered Printed.
 Sent up for Concurrence.

ORDERS

On motion of Representative MICHAUD of East Millinocket, the following Joint Resolution: (H.P. 1123) (Cosponsors: Representative JOSEPH of Waterville, Senator BERUBE of Androscoggin and Senator PEARSON of Penobscot)

**JOINT RESOLUTION IN MEMORY OF
 THOMAS A. CAHILL**

Whereas, shock and sadness filled our chambers on May 4, 1989, when we received news of the untimely passing of Thomas A. Cahill, the Representative from Mattawamkeag; and

Whereas, Representative Thomas A. Cahill was a respected teacher of history and government at Schenck High School; and

Whereas, Thomas A. Cahill was dedicated to the well-being of his constituents and the cause of good government, having served his community as a selectman, member of the school board, planning board member and was currently serving in his first term as

a member of the House of Representatives of the Maine Legislature; and

Whereas, he also served as a negotiator for the local teachers' union and a coordinator of the alcohol and drug abuse program in East Millinocket schools, activities which remind us of his generous nature and service to his neighbors; now, therefore, be it

Resolved: That, We the Members of the One Hundred Fourteenth Legislature of the State of Maine now assembled in the First Regular Session, pause to inscribe this token of our sympathy and condolence to all who share the loss of our colleague and respectfully request that, when the Legislature adjourns this date, it do so in honor and lasting tribute to the memory of Representative Thomas A. Cahill; and be it further

Resolved: That this resolution in memory of our friend be entered into our permanent journals and a copy, duly attested by the Secretary of State, be presented to his devoted family.

Was read.

The SPEAKER: The Chair recognizes the Representative from East Millinocket, Representative Michaud.

Representative MICHAUD: Mr. Speaker, Ladies and Gentlemen of the House: May 4th was a very sad day for myself and many members of this body and especially members who had known Tom. I am very fortunate because I had Tom as a teacher as did one member of the chamber staff.

For those of you who did not know Tom, he was a very sincere, warmhearted and kind individual. He was a father and a good husband to his family. For those of you who went to the wake and funeral, you could see how close that family is. That is what family is all about.

Above and beyond that, Tom was also very active in his community and in East Millinocket. As you can see by the Resolution, he was involved in a lot of community affairs. He loved children, he loved students.

Before Tom ran for the legislature, I talked with him several times and his major concern was that he hated to leave Schenck High School to come down here because he loved the children up there so much. He wanted to still be able to help out. He made the choice to run for the legislature because he figured he could still continue his work. Tom was always willing to help out.

As many of you know, with the public hearings and work sessions that we all get tied up now and then in our legislative work -- to tell you what type of person Tom was, a bunch of students came down to visit the State House and they wanted to visit the museum, we had a public hearing that I needed to be at so I asked Tom what he was doing. He said, "nothing" so I asked him if he would mind taking the students over to the museum to show them around. He said, "Sure, no problem." As it turned out, the next day I had another bunch of students who came down and Senator Kany was unable to be around so I had to run the work session. I saw Tom and I said, "Tom, what are you doing today?" He said, "Nothing." I said, "I've got a bunch of students. Would you want to take them over to the museum?" He said, "Sure, no problem." He never hesitated because he loved the students.

The following week, lo and behold, a third time I said, "Tom, what are you doing today?" He said, "Look Michaud, what time do you want me to take the students over to the museum?" He was always there willing to help out.

He certainly will be missed. He has touched a lot of lives up in the Mattawamkeag, Medway, East Millinocket area so I do hope that you will adopt this Resolution.

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

Representative JOSEPH: Men and Women of the House: Tom Cahill, Representative Hill of District 133, Lincoln, Mattawamkeag, Winn, Kingman Township, Drew, Macahoc, Prentiss and Webster Plantations -- besides being a member of this distinguished body, the Maine House of Representatives, Tom was a member of the Joint Standing Committee on State and Local Government. In his brief tenure as a member of the State and Local Government Committee, he became and was a very respected member of that committee. His responses were thoughtful, he was inquisitive with a mischievous half smile that hinted of a tongue-in-cheek inquiry. He had a sparkle in his eyes and they reflected his increasing enjoyment of his role on this committee and as a State Representative.

We will miss him. Tom was a special person, a gentle man whom all of us had hoped to know better. Our condolences to his wife Connie and to their seven children, sons and daughters. Our thoughts and prayers are with them in their grief and their lives.

Subsequently, was adopted and sent up for concurrence.

By unanimous consent, ordered sent forthwith to the Senate.

On motion of Representative HUSSEY of Milo, the following Joint Order: (H.P. 1118)

Ordered, the Senate concurring, that Bill, "An Act to Allow Raffling of Livestock by Charitable Organizations for Charitable Purposes," H.P. 200, L.D. 280, and all its accompanying papers, be recalled from the Governor's desk to the House.

Was read and passed and sent up for concurrence.

By unanimous consent, was ordered sent forthwith to the Senate.

On motion of Representative McSWEENEY of Old Orchard Beach, the following Order:

ORDERED, that Representative Joseph W. Mayo of Thomaston be excused April 25 for health reasons.

AND BE IT FURTHER ORDERED, that Representative Margaret Pruitt Clark of Brunswick be excused May 1 for health reasons.

AND BE IT FURTHER ORDERED, that Representative Carol M. Allen of Washington be excused May 2 for health reasons.

AND BE IT FURTHER ORDERED, that Representative Robert J. Tardy of Palmyra be excused May 3, 4 and 5 for personal reasons.

AND BE IT FURTHER ORDERED, that Representative Linwood M. Higgins of Scarborough be excused May 4 and 5 for personal reasons.

AND BE IT FURTHER ORDERED, that Representative Cushman D. Anthony of South Portland be excused May 5 for personal reasons.

AND BE IT FURTHER ORDERED, that Representative Elden McKeen of Windham be excused May 5 for personal reasons.

AND BE IT FURTHER ORDERED, that Representative Susan J. Pines of Limestone be excused May 5 for personal reasons.

AND BE IT FURTHER ORDERED, that Representative Jack L. Libby of Kennebunk be excused May 11 and 12 for legislative business.

AND BE IT FURTHER ORDERED, that Representative Eugene J. Paradis of Old Town be excused May 11 and 12 for legislative business.
Was read and passed.

SPECIAL SENTIMENT CALENDAR

In accordance with House Rule 56 and Joint Rule 34, the following item:
Recognizing:

the First Congregational Church, of Kittery Point, and in extending our best wishes on the occasion of its 275th anniversary; (HLS 406) by Representative LAWRENCE of Kittery. (Cosponsors: Representative ROLDE of York, Senator ESTES of York, Representative McPHERSON of Eliot)

On motion of Representative Lawrence of Kittery, was removed from the Special Sentiment Calendar.

Was read.

The SPEAKER: The Chair recognizes the Representative from Kittery, Representative Lawrence.

Representative LAWRENCE: Mr. Speaker, Men and Women of the House: I ask today that we recognize an important part of the history of our state and nation. Two hundred and seventy-five years ago, a small group of Kittery residents incorporated a church under Massachusetts law. Today it is the oldest religious structure in this state. I have been inside this church and it is a marvelous and beautiful work of Americana. There are two elegant pew boxes set off to each side. These belong to the Pepperell family who had built a fortune in the shipping industry. Sir William Pepperell, one of Maine's first heroes, was knighted by the King of England for defeating the French at the Battle of Louisburg. This Church was also where William Whipple was baptized. William Whipple would grow up to sign the Declaration of Independence. Ironically, Sir William Pepperell would side with the King and his family's fortune would be lost to him forever.

This important piece of our history has not become a lifeless museum but remains a living and breathing institution.

I ask today that we recognize the First Congregational Church of Kittery at Kittery Point for 275 years of keeping their faith alive.

Subsequently, was passed and sent up for concurrence.

REPORTS OF COMMITTEES

Unanimous Leave to Withdraw

Representative ALLEN from the Committee on Banking and Insurance on Bill "An Act to Encourage the Continuation of Obstetrical Services in the Medicaid Program" (H.P. 769) (L.D. 1073) reporting "Leave to Withdraw"

Representative FARNSWORTH from the Committee on Judiciary on Bill "An Act to Criminalize Sexual Abuse of Patients by Psychiatrists and Psychologists" (H.P. 818) (L.D. 1146) reporting "Leave to Withdraw"

Representative CLARK from the Committee on Utilities on Bill "An Act to Govern the Formation of Water Districts" (H.P. 955) (L.D. 1323) reporting "Leave to Withdraw"

Representative KETOVER from the Committee on Banking and Insurance on Bill "An Act to Amend the Standard Fire Insurance Policy" (H.P. 901) (L.D. 1258) reporting "Leave to Withdraw"

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

Ought to Pass in New Draft/New Title

Representative McHENRY from the Committee on Labor on Bill "An Act to Allow Minors Under 16 to Work in Hotels" (H.P. 259) (L.D. 371) reporting "Ought to Pass" in New Draft under New Title Bill "An Act to Study the Employment of Minors" (EMERGENCY) (H.P. 1117) (L.D. 1550)

Report was read and accepted, the New Draft read once and assigned for second reading Tuesday, May 9, 1989.

Divided Report

Majority Report of the Committee on Utilities reporting "Ought to Pass" as amended by Committee Amendment "A" (H-144) on Bill "An Act to Give Deaf, Hearing Impaired and Speech Impaired Persons the Same Rights of Communication by Telephone as Those Given to Persons Without Such Impairments" (H.P. 640) (L.D. 874)

Signed:

Senators:

BOST of Penobscot

PRAY of Penobscot

CARPENTER of York

Representatives:

CLARK of Millinocket

RICHARD of Madison

HOLT of Bath

HANDY of Lewiston

PAUL of Sanford

ADAMS of Portland

MARSH of West Gardiner

Minority Report of the same Committee reporting "Ought to Pass" as amended by Committee Amendment "B" (H-145) on same Bill.

Signed:

Representatives:

PARADIS of Old Town

STROUT of Windham

AIKMAN of Poland

Reports were read.

On motion of Representative Clark of Millinocket, the House accepted the Majority "Ought to Pass" Report.

On motion of Representative Paradis of Old Town, the House reconsidered its action whereby the Majority "Ought to Pass" Report was accepted.

The SPEAKER: The Chair recognizes the Representative from Old Town, Representative Paradis.

Representative PARADIS: Mr. Speaker, Members of the House: I oppose the motion that is before us at this time and I hope that you would reject this motion so that we could go on to accept Committee Report "B." There is no dispute within the committee for the passage of this bill with the exception of the method to fund it.

The purpose of the bill is to continue the program of which a portion is now funded through the rate base and executed by the members of the Ingraham Volunteers. Now, because of the failure of the volunteer program, in order to produce sufficient people to continue the program, that is the reason that we must find and make provision for the hearing impaired in our community in order to continue to receive the service. The reason that I oppose this and we have submitted the Minority Report for your consideration is, when we get down to the method of funding, this study will be placed into the rate base in its entirety. Those of us who have been here on the floor for more than one session know that study committees look and seek for clues as to how funding will be carried out in order to execute a program.

This bill promises, when it does come on line, to be a very expensive item. Currently, our phone bills is carrying within the rate base some very heavy items and the promise of some very heavy ones to

come. We have universal telephone service which is an expensive item, we have the emergency phone system of 911 which will place an additional 35 cents per month onto our phone bill.

This bill for the hearing impaired, if allowed to go into the rate base, is sufficiently expensive to call for approximately a 30 cent hike per subscriber into our bill.

I have no doubt as to the success of this bill if it is presented on the Appropriations Table for funding in competition with any other bill which will arrive for consideration this session. I am certain it is very worthwhile and very necessary that we continue the service, especially to our hearing impaired community.

I would encourage your rejection and I would hope you would join me today in rejecting the motion which is before us so we can go on to accept Committee Report B.

Mr. Speaker, when the vote is taken, I request a roll call.

The SPEAKER: The Chair recognizes the Representative from Millinocket, Representative Clark.

Representative CLARK: Mr. Speaker, Men and Women of the House: The bill came out of committee with some mixed reservations, but the committee worked out the bill. The good Representative from Old Town has given you a version of the bill. There are two different reports.

The Majority Report, the entirety of the bill, is almost identical to Amendment "B" except for one thing and that is the funding part of it. The funding part of it, we believe as a majority of the committee, ought to be funded by the ratepayers themselves. We are asking about \$45,000 for the study. That breaks down to approximately eight cents per person for this study, a one-shot time for eight cents. We are not asking for too much for the hearing impaired or the speech impaired except to give them the same rights as you and I have when we pick up the telephone. That is one reason why we elected to go with the study and one reason why I ask you members of the House today to vote in favor of the Majority Report.

The SPEAKER: The Chair recognizes the Representative from Poland, Representative Aikman.

Representative AIKMAN: Mr. Speaker, Ladies and Gentlemen of the House: We feel very strongly on the Minority Report that this study be funded through the General Fund and not be passed on to ratepayers. We have families, young and old, who are having trouble meeting their financial responsibilities now. If we increase their phone bills even more, their problems will be worse. There are more ratepayers in Maine than there are income tax payers. In other words, there are Maine people who need to use their phones but do not pay any income taxes. It is more fair then to charge the General Fund than the rate base. I urge you to support the Minority Report.

The SPEAKER: The Chair recognizes the Representative from South Portland, Representative Anthony.

Representative ANTHONY: Mr. Speaker, Members of the House: This is my bill, which is why I stand. The cost of this study would be eight cents, once. Every ratepayer in the State of Maine would have to pay eight cents (one time) in order to have this study be done if funded through the rate base.

If it is not done through the rate base, then there would be an additional delay until the end of the session and until bills become law after the end of the session. By doing it this way, we can have this study commence right away and give adequate time to have an effective study of how best to fund a

comprehensive vocal relay system for this state. I ask you to go with the Majority Report.

The SPEAKER: The Chair recognizes the Representative from Windham, Representative Strout.

Representative STROUT: Mr. Speaker, Men and Women of the House: I agree that we should give the hearing impaired the rights of communication but I disagree with the way that it would be funded. It should not go on the telephone rate base. I have never seen a reduction in the telephone rate base once any increase was put on. I believe it should be funded from the General Fund. I would ask your support for the Minority Report.

The SPEAKER: The Chair recognizes the Representative from Millinocket, Representative Clark.

Representative CLARK: Mr. Speaker, Men and Women of the House: I want to emphasize, it is only going to be an eight cent shot just one time. It is not going to stay on the rate base. Eight cents, just one time. I ask for your support.

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 Representative Clark of Millinocket that the House accept the Majority "Ought to Pass" Report. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 21

YEA - Adams, Allen, Anthony, Burke, Carroll, D.; Carroll, J.; Carter, Cathcart, Chonko, Clark, H.; Clark, M.; Coles, Constantine, Cote, Crowley, Daggett, Dipietro, Dore, Dutremble, L.; Erwin, P.; Farnsworth, Foster, Gould, R. A.; Graham, Gurney, Gwadosky, Handy, Hastings, Heeschen, Hoglund, Holt, Hussey, Jacques, Joseph, Ketover, Kilkelly, LaPointe, Larrivee, Lawrence, Lisnik, Luther, Macomber, Manning, Marsh, Martin, H.; Mayo, McGowan, McHenry, McKeen, McSweeney, Melendy, Michaud, Mills, Mitchell, Moholland, Nadeau, G. R.; O'Dea, O'Gara, Oliver, Paradis, J.; Paradis, P.; Paul, Pederson, Pineau, Plourde, Priest, Rand, Richard, Richards, Ridley, Rolde, Rydell, Seavey, Sheltra, Simpson, Skoglund, Smith, Swazey, Tammara, Townsend, Tracy, Walker, The Speaker.

NAY - Aikman, Aliberti, Anderson, Ault, Bailey, Begley, Bell, Brewer, Butland, Curran, Dellert, Dexter, Donald, Farnum, Farren, Foss, Garland, Greenlaw, Hepburn, Hichborn, Hickey, Higgins, Hutchins, Jackson, Jalbert, Lebowitz, Libby, Look, Lord, MacBride, Marsano, McCormick, McPherson, Merrill, Murphy, Norton, Paradis, E.; Parent, Pines, Reed, Sherburne, Small, Stevens, A.; Stevenson, Strout, B.; Strout, D.; Telow, Tupper, Webster, M.; Wentworth.

ABSENT - Boutilier, Cashman, Conley, Duffy, Hale, Hanley, Mahany, Marston, Nadeau, G. G.; Nutting, Pendleton, Pouliot, Rotondi, Ruhlin, Stevens, P.; Tardy, Whitcomb.

Yes, 83; No, 50; Absent, 17; Vacant, 1; Paired, 0; Excused, 0.

83 having voted in the affirmative, 50 in the negative, with 17 being absent and 1 vacant, the Majority "Ought to Pass" Report was accepted, the Bill read once.

Committee Amendment "A" (H-144) was read by the Clerk and adopted and the Bill assigned for second reading, Tuesday, May, 9, 1989.

CONSENT CALENDAR

First Day

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

(H.P. 579) (L.D. 783) Bill "An Act to Increase Fees for Bail Commissioners" Committee on Judiciary reporting "Ought to Pass"

(H.P. 718) (L.D. 987) Bill "An Act to Amend the Laws Relating to AIDS and Communicable Diseases to Remove the Sunset Provision for Health Care Facility Employees and Applicants for Employment" Committee on Human Resources reporting "Ought to Pass"

(H.P. 692) (L.D. 944) Bill "An Act to Increase Protection for Clients of the Department of Mental Health and Mental Retardation" Committee on Human Resources reporting "Ought to Pass" as amended by Committee Amendment "A" (H-148)

(S.P. 426) (L.D. 1137) Bill "An Act to Amend Certain Provisions of the Maine Bail Code" Committee on Judiciary reporting "Ought to Pass"

(S.P. 476) (L.D. 1274) Bill "An Act to Clarify Terminology Used in Laws Related to Historic Sites under the Jurisdiction of the Bureau of Parks and Recreation" Committee on Energy and Natural Resources reporting "Ought to Pass"

(S.P. 231) (L.D. 561) Bill "An Act to Provide Complimentary Muzzle-loading Hunting Licenses to Resident Disabled War Veterans" Committee on Fisheries and Wildlife reporting "Ought to Pass" as amended by Committee Amendment "A" (S-81)

(S.P. 336) (L.D. 897) Bill "An Act to Provide for the 1989 Allocations of the State Ceiling on Private Activity Bonds" (EMERGENCY) Committee on Housing and Economic Development reporting "Ought to Pass" as amended by Committee Amendment "A" (S-83)

There being no objections, the above items were ordered to appear on the Consent Calendar of Tuesday, May 9, 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:

(S.P. 275) (L.D. 721) Bill "An Act to Amend the Protection From Harassment Laws"

(S.P. 422) (L.D. 1133) Bill "An Act to Require a County Jailer to Return List of Prisoners"

(H.P. 538) (L.D. 735) Bill "An Act to Improve the Cost-of-living Adjustment Under the Maine State Retirement System" (C. "A" H-140)

(H.P. 805) (L.D. 1117) Bill "An Act to Increase Family Support Services to Maine Families Who Choose to Care for Their Developmentally Disabled Children at Home"

(H.P. 280) (L.D. 392) Bill "An Act to Increase Displaced Homemakers Program Funding to Continue Rural Outreach, Employment and Training and Support Services for Maine Displaced Homemakers"

(H.P. 498) (L.D. 678) Bill "An Act to Fund Repairs for Damage to the Hartland Dam" (C. "A" H-142)

(H.P. 534) (L.D. 731) Bill "An Act to Amend the Definition of Employer to Include Governmental Entities" (C. "A" H-143)

(H.P. 472) (L.D. 637) Bill "An Act to Improve Personnel Supervision in the Bureau of Intergovernmental Drug Enforcement" (C. "A" H-147)

No objections having been noted at the end of the Second Legislative Day, the Senate Papers were Passed

to be Engrossed in concurrence and the House Papers were Passed to be Engrossed or Passed to be Engrossed as Amended and sent up for concurrence.

(H.P. 257) (L.D. 369) Bill "An Act to Amend the Special Warehouse Storage Facilities Provision" (C. "A" H-146)

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

Report was read and accepted, the Bill read once. Committee Amendment "A" (H-146) was read by the Clerk.

Representative Tammaro of Baileyville offered House Amendment "A" (H-151) to Committee Amendment "A" (H-146) and moved its adoption.

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

Committee Amendment "A" as amended by House Amendment "A" thereto was adopted and the Bill assigned for second reading Tuesday, May 9, 1989.

PASSED TO BE ENACTED

Emergency Measure

An Act Relating to Tax Exemptions (S.P. 236) (L.D. 566) (C. "A" S-67)

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. 125 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

Emergency Measure

An Act Concerning the Inspection of Dams (S.P. 331) (L.D. 868) (C. "A" S-70)

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. 122 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

Emergency Measure

An Act to Make Allocations from the Public Utilities Commission Regulatory Fund and the Public Utilities Reimbursement Fund for the Fiscal Years Ending June 30, 1990, and June 30, 1991 (H.P. 366) (L.D. 497) (C. "A" H-116)

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. 125 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

Emergency Measure

An Act to Prohibit Persons Who have Violated the Animal Cruelty Laws from Participating in Pulling Events (S.P. 167) (L.D. 324) (C. "A" S-35 and H. "B" H-136)

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. 123 voted in favor of the same and 1 against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

PASSED TO BE ENACTED
Emergency Measure

Resolve, to Redesign the Structure of the Board of Environmental Protection (S.P. 276) (L.D. 722) (C. "A" S-71)

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. 123 voted in favor of the same and none against and accordingly the Resolve was finally passed, signed by the Speaker and sent to the Senate.

PASSED TO BE ENACTED

An Act Concerning The Passamaquoddy Tribal Court (H.P. 651) (L.D. 885) (C. "A" H-118)

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.

PASSED TO BE ENACTED

An Act Regarding Free-lance Cosmetologists and Barbers (H.P. 639) (L.D. 873) (C. "A" H-115)

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

The SPEAKER: The Chair recognizes the Representative from Island Falls, Representative Smith.

Representative SMITH: Mr. Speaker, Ladies and Gentlemen of the House: While most professions are being upgraded and protected, this one would allow cosmetologists and barbers to become street vendors. I must oppose this bill.

When a person opens up a barber shop or beauty shop, the first thing they have to have is an inspection, not after they open up but before they open up. This bill would allow anyone to take their tools, put them in a briefcase, without any markings on that briefcase, and go anywhere they wish to give a service. Can you imagine a barber or beautician inspector standing out in front of this building checking all the briefcases for tools to see if they were sanitary? It would be impossible. The requirement in this bill is for those briefcases or satchels or whatever they carry to be marked. Therefore, there is no way it can be inspected at a moment's notice.

When a shop is inspected, an inspector comes around without notice and if he catches you out of line, you will either be closed or if it isn't too bad, he will let you continue. This bill will not allow for anything like that. For that reason, I must vote against this bill and I would ask for a roll call.

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

Representative GURNEY: Mr. Speaker, Men and Women of the House: At first this bill was called "An Act Relating to Traveling Barbers." It was a bill that was introduced several sessions ago. In its present form, all this bill will do is allow a free-lance cosmetologist or barber to cut hair in a personal business. The Board of Cosmetology and Barbers accepted this bill and they will establish

rules for the sanitary requirements for the people who will be cutting the hair.

I ask you to oppose this motion.

The SPEAKER: The Chair recognizes the Representative Jalbert.

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

If we turn this down, what effect would it have on beauticians that have to go to nursing homes to take care of the little old ladies? And what about the time when they get a call from the funeral director?

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

The Chair recognizes the Representative from Portland, Representative Gurney.

Representative GURNEY: Mr. Speaker, Men and Women of the House: In response to the Representative's question, presently beauticians and barbers are allowed to cut hair in residences, nursing homes, motel rooms (of all things) and in hospitals.

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 passage to be enacted. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 22

YEA - Adams, Aikman, Aliberti, Allen, Anthony, Ault, Begley, Brewer, Burke, Butland, Carroll, D.; Carroll, J.; Carter, Cathcart, Clark, H.; Clark, M.; Coles, Constantine, Crowley, Curran, Daggett, Dellert, Dipietro, Donald, Dore, Dutremble, L.; Erwin, P.; Farnsworth, Farnum, Foss, Foster, Garland, Gould, R. A.; Graham, Greenlaw, Gurney, Gwadosky, Hale, Hastings, Heeschen, Hepburn, Hichborn, Hickey, Higgins, Hoglund, Holt, Hutchins, Jacques, Jalbert, Joseph, Ketover, Kilkelly, Larrivee, Lawrence, Libby, Lisnik, Look, Lord, Luther, MacBride, Manning, Marsano, Marsh, Mayo, McGowan, McHenry, McKeen, McSweeney, Michaud, Mills, Mitchell, Murphy, Nadeau, G. R.; Norton, O'Dea, O'Gara, Oliver, Paradis, E.; Paradis, J.; Paradis, P.; Parent, Paul, Pederson, Pineau, Pines, Plourde, Priest, Rand, Reed, Richard, Ridley, Rydell, Seavey, Sheltra, Simpson, Skoglund, Small, Stevens, A.; Stevenson, Strout, B.; Strout, D.; Telow, Tracy, Tupper, Webster, M.; Wentworth, Whitcomb.

NAY - Anderson, Bailey, Bell, Chonko, Farren, Handy, Hussey, LaPointe, Lebowitz, Macomber, Martin, H.; McCormick, McPherson, Melendy, Merrill, Moholland, Richards, Rolde, Sherburne, Smith, Swazey, Tammaro, Townsend, Walker.

ABSENT - Boutillier, Cashman, Conley, Cote, Dexter, Duffy, Hanley, Jackson, Mahany, Marston, Nadeau, G. G.; Nutting, Pendleton, Pouliot, Rotondi, Ruhlin, Stevens, P.; Tardy, The Speaker.

Yes, 107; No, 24; Absent, 19; Vacant, 1; Paired, 0; Excused, 0.

107 having voted in the affirmative, 24 in the negative, with 19 being absent and 1 vacant, the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

PASSED TO BE ENACTED

An Act to Strengthen the Licensing Requirements for Foresters (H.P. 584) (L.D. 788) (C. "A" H-114)

An Act Relating to Contracts Administered by the Department of Transportation (S.P. 247) (L.D. 577) (C. "A" S-68)

An Act to Clarify Election Law Procedures (H.P. 401) (L.D. 545) (C. "A" H-122)

An Act to Fund the Maine Hospice Council (H.P. 646) (L.D. 880) (C. "A" H-121)

An Act to Establish a Statewide Program of Community-based Heart Attack and Stroke Prevention Programs (H.P. 708) (L.D. 969) (C. "A" H-117)

An Act to Establish Rules for the Use of Dynamite and Explosives (H.P. 134) (L.D. 178) (C. "A" H-123)

An Act to Improve the Accountability and Allocation of Funds for Community-purchased Services (H.P. 316) (L.D. 432) (C. "A" H-120)

An Act to Provide Coverage for Chiropractic Services Under Hospital Service Plans, Medical Service Plans and Insurance Policies (S.P. 254) (L.D. 644)

An Act to Clarify the Establishment of Air Quality Standards and Emission Standards (H.P. 665) (L.D. 907) (C. "A" H-124)

An Act Regulating Activities Adjacent to Great Ponds (S.P. 304) (L.D. 802) (C. "A" S-72)

Were 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)

The House was called to order by the Speaker.

On motion of Representative Clark of Millinocket, the House reconsidered its action whereby Bill "An Act to Amend the Charter of the New Sharon Water District" (EMERGENCY) (H.P. 1089) (L.D. 1511) was referred to the Committee on Utilities.

Under suspension of the rules, without reference to any committee, the Bill was read twice, passed to be engrossed and sent up for concurrence.

By unanimous consent, was ordered sent forthwith to the Senate.

(At Ease)

The House was called to order by the Speaker.

ORDERS OF THE DAY UNFINISHED BUSINESS

The following matter, in the consideration of which the House was engaged at the time of adjournment Friday, May 5, 1989, has preference in the Orders of the Day and continues with such preference until disposed of as provided by Rule 24.

The Chair laid before the House the first matter of Unfinished Business:

An Act to Clarify Maintenance of Private Roads and Ways by Municipalities (H.P. 271) (L.D. 383) (C. "A" H-84)

TABLED - May 5, 1989 (Till Later Today) by Representative JOSEPH of Waterville.
PENDING - Passage to be Enacted.

On motion of Representative Gwadosky of Fairfield, tabled Unassigned pending passage to be enacted.

TABLED AND TODAY ASSIGNED

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

An Act to Implement the Aroostook Band of Micmacs Settlement Act (S.P. 152) (L.D. 272) (C. "A" S-53)
TABLED - May 5, 1989 by Representative GWADOSKY of Fairfield.

PENDING - Passage to be Enacted.

On motion of Representative Gwadosky of Fairfield, retabled pending passage to be enacted and later today assigned.

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

Resolve, Authorizing the Transfer of State Interest in a Parcel of Real Estate to Arthur A. Tukey and Louise H. Tukey (H.P. 589) (L.D. 803) (C. "A" H-97)

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

PENDING - Final Passage.

On motion of Representative Gwadosky of Fairfield, retabled pending final passage and later today assigned.

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

HOUSE DIVIDED REPORT - Majority (9) "Ought Not to Pass" - Minority (3) "Ought to Pass" - Committee on State and Local Government on Bill "An Act to Reduce the Expense of the Legislative Process by Shortening the Length of Legislative Sessions" (H.P. 317) (L.D. 433)

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

PENDING - Acceptance of Either Report.

On motion of Representative Gwadosky of Fairfield, retabled pending acceptance of either report and later today assigned.

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

An Act to Provide for Division of Omitted Marital Property (H.P. 312) (L.D. 426) (H. "A" H-119)

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

PENDING - Passage to be Enacted.

On motion of Representative Anthony of South Portland, under suspension of the rules, the House reconsidered its action whereby L.D. 426 was passed to be engrossed.

On further motion of the same Representative, under suspension of the rules, the House reconsidered its action whereby House Amendment "A" (H-119) was adopted.

The same Representative offered House Amendment "A" (H-152) to House Amendment "A" (H-119) and moved its adoption.

House Amendment "A" (H-152) to House Amendment "A" (H-119) was read by the Clerk and adopted.

House Amendment "A" as amended by House Amendment "A" thereto was adopted.

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

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

An Act Relating to Confidentiality of Investigative Records of Boards and Commissions (H.P. 232) (L.D. 316) (S. "A" S-51 to C. "A" H-51) TABLED - May 5, 1989 by Representative GWADOSKY of Fairfield.

PENDING - Passage to be Enacted.

On motion of Representative Gwadosky of Fairfield, retabled pending passage to be enacted and later today assigned.

(At Ease)

The House was called to order by the Speaker.

The Chair laid before the House the following item: Report of the Committee on Appropriations and Financial Affairs on Bill "An Act to Provide for Alternative Site Programs for Operating-under-the-influence Offenders" (S.P. 212) (L.D. 490) (Came from the Senate with the report read and accepted and the bill referred to the Committee on Judiciary) which was tabled earlier in the day and later today assigned pending reference.

On motion of Representative Carter of Winslow, was referred to the Committee on Appropriations and Financial Affairs in non-concurrence and sent up for concurrence.

The Chair laid before the House the following matter: Majority Report of the Committee on Labor reporting "Ought to Pass" as amended by Committee Amendment "A" (S-84) on Bill "An Act to Make Changes to the Human Resource Development Council in Order to Conform with the United States Economic Dislocation and Worker Adjustment Assistance Act of 1988" (Emergency) (S.P. 101) (L.D. 120) and Minority Report of the same Committee reporting "Ought to Pass" as amended by Committee Amendment "B" (S-85) on same Bill (Came from the Senate with the Majority "Ought to Pass" as amended Report read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (S-84) which was tabled earlier in the day and later today assigned pending the motion of Representative McHenry of Madawaska that the House accept the Majority "Ought to Pass" Report.

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

Representative REED: Mr. Speaker, Ladies and Gentlemen of the House: I think all of us probably at one time or another have seen some military clothing or hunting equipment that is painted with a random pattern of colors and shapes. This superficial treatment is called camouflage and it has one purpose and one purpose only and that is to make things appear to be something other than what they are. I make this brief analogy only because I am concerned that you may have heard some camouflage around the issue before us here. I ask your indulgence for just a moment so we can take the camouflage off and see this issue for exactly what it is.

This division of opinion is not about the need to reconstitute the Human Resources Development Council -- that is clearly obvious in that there are two "Ought to Pass" Reports. That is not the issue here, neither is this division of opinion about the need to protect and preserve the substantial funds that come to workers in the State of Maine who need those funds because they have been displaced, dislocated and need to be retrained. There is no division of opinion in

the Labor Committee on this either. That is not the issue.

The sole issue in this Divided Report is the clear, and in my opinion, very correct division of authority between the Executive, Legislative and Judicial branches of government. These three co-equal branches with separate and discreet powers maintain the balance in equality in the way our government works and that division must not be upset.

The issue here is the clearly defined authority of the Chief Executive of this state to determine the composition of the Human Resources Development Council. I would like to quote to you for just a moment from a letter to Commissioner Fitzsimmons from the Regional Administrator of the U.S. Department of Labor speaking precisely on points to this question and the quote is, "In section 122a, subsection 2, the act states that the state council shall be appointed by the Governor who shall designate one non-governmental member thereof to be the chairperson." It goes on to state that "The Governor shall ensure that membership of the State Council reasonably represent the population of the state." Very clear, I think. The intent here is for the Chief Executive to constitute the council within certain guidelines. Those guidelines are adhered to by both reports, they have been adhered to by the Chief Executive in the present council constituted by executive order and it is the intent to continue that adherence.

Why do we have the two Divided Reports then? Because it is clear that the constitution of this council is the prerogative of the Chief Executive. This Chief Executive or some Chief Executive to follow, that is not important -- what is important is the prerogative of the Chief Executive to constitute the council.

Our legislature frequently establishes commissions and studies as it correctly has the authority to do and it establishes the membership thereof. What do you think the reaction would be if we created a study and the judicial authorities said, no, we are not going to go along with that constitution, we want you to make a different membership. It would rise, I think, from the legislature a righteous howl of indignation and rightly so because that is legislative prerogative. This issue is executive prerogative. Why is this divided, is it a huge earthshaking issue? No, probably not. It is a small change, it just blurs the line a little bit but, ladies and gentlemen, a journey of a thousand miles begins with a first step and this is a first step in the wrong direction.

I ask that you defeat the Majority Report, that we may go on to accept the Minority Report and Mr. Speaker, I respectfully request a Division.

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

A vote of the House was taken.

64 having voted in the affirmative and 44 in the negative, the Majority "Ought to Pass" Report was accepted, the Bill read once.

Committee Amendment "A" (S-84) was read by the Clerk and adopted and the Bill assigned for second reading Tuesday, May 9, 1989.

The Chair laid before the House the following matter: Majority Report of the Committee on Fisheries and Wildlife reporting "Ought to Pass" as

amended by Committee Amendment "A" (S-82) on Bill "An Act Concerning Bear Hunting with Dogs" (S.P. 211) (L.D. 489) and Minority Report of the same Committee reporting "Ought Not to Pass" on same Bill (Came from the Senate with the Majority "Ought to Pass" as amended Report read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (S-82) which was tabled earlier in the day and later today assigned pending the motion of Representative Smith of Island Falls that the House accept the Minority "Ought Not to Pass" Report.

Subsequently, the Minority "Ought Not to Pass" Report was accepted in non-concurrence and sent up for concurrence.

The Chair laid before the House the following matter: Bill "An Act to Respond to the Shortage of Family Nurse Practitioners and Physician Assistants by Making Funds Available for a Loan Forgiveness Program" (H.P. 1121) (L.D. 1553) which was tabled earlier in the day and later today assigned pending reference.

On motion of Representative Carter of Winslow, was referred to the Committee on Appropriations and Financial Affairs, ordered printed and sent up for concurrence.

The Chair laid before the House the following matter: Resolve, to Create a Pilot Program to Provide the Driver Education and Evaluation Program to Persons Incarcerated for Driving under the Influence of Drugs or Alcohol (H.P. 1090) (L.D. 1523) which was tabled earlier in the day and later today assigned pending reference.

On motion of Representative Carter of Winslow, was referred to the Committee on Appropriations and Financial Affairs, ordered printed and sent up for concurrence.

(At Ease)

The House was called to order by the Speaker.

The Chair laid before the House the following matter: Resolve, Authorizing the Transfer of State Interest in a Parcel of Real Estate to Arthur A. Tukey and Louise H. Tukey (H.P. 589) (L.D. 803) (C. "A" H-97) which was tabled earlier in the day and later today assigned pending final passage.

On motion of Representative Joseph of Waterville, under suspension of the rules, the House reconsidered its action whereby L.D. 803 was passed to be engrossed.

The same Representative offered House Amendment "A" (H-155) and moved its adoption.

House Amendment "A" (H-155) was read by the Clerk and adopted.

The Bill was passed to be engrossed as amended by Committee Amendment "A" (H-97) and House Amendment "A" (H-155) and sent up for concurrence.

The Chair laid before the House the following matter: An Act to Implement the Aroostook Band of Micmacs Settlement Act (S.P. 152) (L.D. 272) (C. "A" S-53) which was tabled earlier in the day and later today assigned pending passage to be enacted.

On motion of Representative Paradis of Augusta, under suspension of the rules, the House reconsidered

its action whereby L.D. 272 was passed to be engrossed.

On motion of the same Representative, under suspension of the rules, the House reconsidered its action whereby Committee Amendment (S-53) was adopted.

The same Representative offered House Amendment "A" (H-154) to Committee Amendment "A" (S-53) and moved its adoption.

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

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

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

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

**PASSED TO BE ENACTED
Emergency Measure**

An Act to Amend the Charter of the New Sharon Water District (H.P. 1089) (L.D. 1511)

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. 112 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.

By unanimous consent, ordered sent forthwith to the Senate.

On motion of Representative Gwadosky of Fairfield, the following was removed from the Tabled and Unassigned matters:

Bill "An Act Dealing with Coastal Search and Rescue" (H.P. 35) (L.D. 35) (Committee on Appropriations and Financial Affairs suggested)

TABLED - February 7, 1989 by Representative GWADOSKY of Fairfield.

PENDING - Reference.

The SPEAKER: The Chair recognizes the Representative from Fairfield, Representative Gwadosky.

Representative GWADOSKY: Mr. Speaker, Ladies and Gentlemen of the House: I move that this bill and all its accompanying papers be indefinitely postponed.

This particular bill came from the Study Commission on Coastal Search and Rescue and it was felt earlier this session that the information in the bill was spread over several committees in terms of jurisdiction and the decision was made to split this up so that each appropriate committee could deal with the appropriate section. The final result is that this bill is no longer necessary.

Subsequently, L.D. 35 was indefinitely postponed and sent up for concurrence.

(Off Record Remarks)

On motion of Representative Hussey of Milo, Adjourned until Tuesday, May 9, 1989, at twelve o'clock noon.