

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

One Hundred And Fourteenth Legislature

OF THE

State Of Maine

VOLUME II

FIRST REGULAR SESSION

May 10, 1989 to June 14, 1989

ONE HUNDRED AND FOURTEENTH MAINE LEGISLATURE
FIRST REGULAR SESSION
60th Legislative Day
Thursday, May 11, 1989

Emergency
An Act Making Appropriations for Temporary
Additional Staff to the Maine Arts Commission for the
Percent for Art Program

H.P. 343 L.D. 462
(C "A" H-125)

On motion by Senator PEARSON of Penobscot, placed
on the SPECIAL APPROPRIATIONS TABLE, pending
ENACTMENT.

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

Prayer by Reverend James O'Brien, South Parish
Congregational Church, Augusta.

The Journal of Wednesday, May 10, 1989, was read
and approved.

Quorum call was held.

Off Record Remarks

ORDERS OF THE DAY

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

Emergency
An Act Relating to Tax Exemptions

S.P. 236 L.D. 566
(C "A" S-67)

Tabled - May 9, 1989, by Senator CLARK of
Cumberland.

Pending - ENACTMENT

(In Senate, May 2, 1989, PASSED TO BE ENGROSSED
AS AMENDED BY COMMITTEE AMENDMENT "A" (S-67), in
concurrence.)

(In House, May 8, 1989, PASSED TO BE ENACTED.)

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

PAPERS FROM THE SENATE

The following Communication:

Maine State Senate
Augusta, Maine 04333

May 10, 1989

The Honorable John L. Martin

Speaker of the House

114th Legislature

Augusta, Maine 04333

Dear Speaker Martin:

In accordance with Joint Rule 38, please be
advised that the Senate today confirmed, upon the
recommendation of the Joint Standing Committee on
Agriculture, the Governor's nominations of Dwight L.
Tripp, Jr. of Auburn for appointment, Cheryl Kelley
of St. Francis and Dr. Russell Pinfold of Brunswick
for reappointment to the Animal Welfare Board.

Dwight L. Tripp, Jr. is replacing Jesse Harriman.

Sincerely,

S/Joy J. O'Brien

Secretary of the Senate

Was read and ordered placed on file.

Off Record Remarks

On motion by Senator GAUVREAU of Androscoggin,
ADJOURNED until Thursday, May 11, 1989, at 9:00 in
the morning.

The following Joint Resolution: (S.P. 575)
JOINT RESOLUTION COMMEMORATING THE BICENTENNIAL
OF THE FRENCH REVOLUTION

WHEREAS, the citizens of Maine recognize and
value the State's historical and cultural ties with
France and distinguished French citizens, from Samuel
de Champlain to Marguerite Yourcenar; and

WHEREAS, the descendants of France, who came to
the State via Quebec and Acadia, constitute an
important part of Maine's unique identity; and

WHEREAS, the government of France served as
midwife at the birth of American democracy; and

WHEREAS, the Universal Declaration of the Rights
of Man together with the Bill of Rights continue to
shine as twin beacons of liberty, 2 centuries after
they were written; and

WHEREAS, the Republic of France is celebrating
the bicentennial of the French Revolution in 1989 and
Maine is being honored by a historic visit from the
Honorable President of France, Francois Mitterand;
now, therefore, be it

RESOLVED: That We, the Members of the One Hundred
and Fourteenth Legislature now assembled in the First
Regular Session, join with President Mitterand and
the citizens of France in celebrating the ideals of
"Liberte, Egalite et Fraternite" and encourage the
people of Maine to commemorate the bicentennial of
the French Revolution, and the democratic traditions
which it fostered; and be it further

RESOLVED: That suitable copies of this
resolution, duly authenticated by the Secretary of
State, be transmitted forthwith to President
Mitterand, with the warmest regards from our people.

Came from the Senate, read and adopted.

Was read.

The SPEAKER: The Chair recognizes the Representative from Frenchville, Representative Paradis.

Representative PARADIS: Monsieur le President, Membres de la Chambre: I rise this morning to celebrate this Resolution in the name of the French speaking Mainers. We are delighted President Mitterand is coming to our shores in Maine and we want to let him know about our presence. His wife is a Nadeau, you will be pleased to know, and that is one of the reasons we have many Nadeau's in the St. John Valley and we would like to have him come up. Merci beaucoup.

Subsequently, was adopted in concurrence.

Bill "An Act to Make Interim Adjustments and Establish a Prospective Reimbursement System for Boarding Care Facilities Serving Persons with Mental Retardation" (S.P. 570) (L.D. 1598)

Bill "An Act to Establish and Maintain a Comprehensive School Health Education Demonstration Program" (S.P. 571) (L.D. 1599)

Resolve, to Establish Dental Health Resource Referral Network Projects in Underserved Communities (S.P. 568) (L.D. 1596)

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

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

Bill "An Act to Amend the Snowmobile Registration Laws" (S.P. 564) (L.D. 1592)

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 Initiate Therapeutic Group Homes" (EMERGENCY) (S.P. 573) (L.D. 1601)

Resolve, Creating a Commission to Study Employee and Family Health Care (S.P. 567) (L.D. 1595)

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

Were referred to the Committee on Human Resources in concurrence.

Bill "An Act to Ban the Use of Tape Recorders for Reporting Work Delinquency" (S.P. 565) (L.D. 1593)

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

Was referred to the Committee on Labor in concurrence.

Bill "An Act Forming the Maine Society on Science and Technology" (S.P. 572) (L.D. 1600)

Bill "An Act to Promote the Image of Nursing in Maine" (S.P. 574) (L.D. 1602)

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

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

Resolve, to Study Sidewalk Repair and Maintenance (S.P. 566) (L.D. 1594)

Resolve, that the Deadline for the Revision of the State's Motor Vehicle Laws be Extended (EMERGENCY) (S.P. 569) (L.D. 1597)

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

Were referred to the Committee on Transportation in concurrence.

Unanimous Ought Not To Pass

Report of the Committee on Energy and Natural Resources reporting "Ought Not to Pass" on Bill "An Act to Establish a Seabrook Station Nuclear Emergency Planning Fund" (EMERGENCY) (S.P. 127) (L.D. 212)

Report of the Committee on Energy and Natural Resources reporting "Ought Not to Pass" on Bill "An Act to Regulate Incineration Plants" (S.P. 182) (L.D. 339)

Report of the Committee on Energy and Natural Resources reporting "Ought Not to Pass" on 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 Lincolnville and the County of Penobscot (S.P. 386) (L.D. 1031)

Report of the Committee on Legal Affairs reporting "Ought Not to Pass" on Bill "An Act Concerning Removal and Replacement of Candidates on Election Ballots" (S.P. 207) (L.D. 485)

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

Non-Concurrent Matter

Bill "An Act to Increase the Department of Human Services Reimbursement Beds for the Sanford Area" (H.P. 1131) (L.D. 1574) which was referred to the Committee on Human Resources in the House on May 9, 1989.

Came from the Senate referred to the Committee on Appropriations and Financial Affairs 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:

Appropriations and Financial Affairs

Bill "An Act to Increase the Office of Advocacy" (H.P. 1177) (L.D. 1632) (Presented by Representative CLARK of Brunswick) (Cosponsored by Representative ROLDE of York, Representative PENDLETON of Scarborough and Senator GAUVREAU of Androscoggin) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27.)

Bill "An Act to Establish a Recognition Awards Program to Promote Child Care Services" (H.P. 1178) (L.D. 1633) (Presented by Representative HANDY of Lewiston) (Cosponsored by Senator TITCOMB of Cumberland, Representative AULT of Wayne and Representative CLARK of Brunswick)

Bill "An Act to Provide Funding for and to Amend Laws Governing the Maine Human Services Council" (EMERGENCY) (H.P. 1185) (L.D. 1640) (Presented by Representative CARROLL of Gray) (Cosponsored by Senator GAUVREAU of Androscoggin)

Resolve, to Create a Demonstration Project to Provide Self-employment Opportunities for Participants of the Additional Support for People in Retraining and Education Program (H.P. 1182) (L.D. 1637) (Presented by Representative KILKELLY of Wiscasset) (Cosponsored by Senator HOLLOWAY of

Lincoln, Senator DUTREMBLE of York and Representative MARSANO of Belfast)

Ordered Printed.

Sent up for Concurrence.

Energy and Natural Resources

Bill "An Act to Revise the Asbestos Certification Law" (H.P. 1179) (L.D. 1634) (Presented by Representative MICHAUD of East Millinocket) (Cosponsored by Representative COLES of Harpswell, Representative JACQUES of Waterville and Senator KANY of Kennebec)

(The Committee on Business Legislation had been suggested.)

On motion of Representative Allen of Washington, was referred to the Committee on Energy and Natural Resources, ordered printed and sent up for concurrence.

Judiciary

Bill "An Act Relating to Surrogate Parenting" (H.P. 1181) (L.D. 1636) (Presented by Representative DORE of Auburn) (Cosponsored by Representative RYDELL of Brunswick, Representative COTE of Auburn and Representative PARADIS of Frenchville)

Bill "An Act to Amend the Laws Relating to Ethics in Government" (H.P. 1184) (L.D. 1639) (Presented by Speaker MARTIN of Eagle Lake) (Cosponsored by Senator GAUVREAU of Androscoggin and Representative SIMPSON of Casco)

Ordered Printed.

Sent up for Concurrence.

On motion of Representative Joseph of Waterville, the House reconsidered its action whereby Bill "An Act to Amend the Laws Relating to Ethics in Government" (H.P. 1184) (L.D. 1639) was referred to the Committee on Judiciary.

On further motion of the same Representative, tabled pending reference and later today assigned.

State and Local Government

Bill "An Act to Reduce the Number of Full-time Legislative Staff Employees" (H.P. 1180) (L.D. 1635) (Presented by Representative HANLEY of Paris) (Cosponsored by Senator WEBSTER of Franklin, Representative McCORMICK of Rockport and Representative HEPBURN of Skowhegan)

Ordered Printed.

Sent up for Concurrence.

Transportation

Bill "An Act to Provide Funds for Preparation and Training of Class I and Class II Drivers" (EMERGENCY) (H.P. 1183) (L.D. 1638) (Presented by Representative CURRAN of Westbrook) (Cosponsored by Senator COLLINS of Aroostook, Senator ANDREWS of Cumberland and Representative KILKELLY of Wiscasset) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27.)

Ordered Printed.

Sent up for Concurrence.

Reported Pursuant to Public Law

Representative LAPOINTE from the Subcommittee on Rehabilitation, pursuant to Public Law 1987, chapter 779 ask leave to submit its findings and to report that the accompanying Bill "An Act to Strengthen an

Injured Employee's Right to Rehabilitation and to Improve the Workers' Compensation Rehabilitation System" (H.P. 1176) (L.D. 1630) be referred to the Joint Standing Committee on Labor for Public Hearing and printed pursuant to Joint Rule 18.

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

REPORTS OF COMMITTEES

Unanimous Ought Not to Pass

Representative LAWRENCE from the Committee on Legal Affairs on Bill "An Act Concerning Motor Vehicle Licenses for Certain Drug and Alcohol Offenders" (H.P. 543) (L.D. 740) reporting "Ought Not to Pass"

Representative MITCHELL from the Committee on Marine Resources on Bill "An Act to Prevent the Destruction of Lobster Gear" (H.P. 863) (L.D. 1202) reporting "Ought Not to Pass" (Representative MARSH of West Gardiner - of the House - Abstained)

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

Unanimous Leave to Withdraw

Representative SWAZEY from the Committee on Taxation on Bill "An Act to Repeal the Municipal Service Charge Limitation for Subsidized Housing Exempt from Taxation" (H.P. 834) (L.D. 1166) reporting "Leave to Withdraw"

Representative SWAZEY from the Committee on Taxation on Bill "An Act to Amend the Assessing Procedure" (H.P. 845) (L.D. 1177) reporting "Leave to Withdraw"

Representative CASHMAN from the Committee on Taxation on Bill "An Act to Establish a Local Option Municipal Income Tax Surcharge on Residents and a Municipal Earnings Tax on Nonresidents" (H.P. 1010) (L.D. 1408) reporting "Leave to Withdraw"

Representative PARADIS from the Committee on Judiciary on Bill "An Act to Assure that Probation Does Not Lessen Consecutive Terms of Imprisonment" (H.P. 867) (L.D. 1206) reporting "Leave to Withdraw"

Representative CARTER from the Committee on Appropriations and Financial Affairs on Bill "An Act to Appropriate Current Fiscal Year Funds for Telecommunication Services Provided to Deaf and Hearing Impaired Persons" (EMERGENCY) (H.P. 283) (L.D. 395) reporting "Leave to Withdraw"

Representative MANNING from the Committee on Human Resources on Bill "An Act to More Effectively Recover Money Fraudulently Obtained from Public Assistance" (H.P. 98) (L.D. 133) reporting "Leave to Withdraw"

Representative LAWRENCE from the Committee on Legal Affairs on Bill "An Act to Change the Definition of Blood-alcohol Level" (H.P. 188) (L.D. 253) reporting "Leave to Withdraw"

Representative LAWRENCE from the Committee on Legal Affairs on Bill "An Act to Clarify the Absentee Ballot Application Procedure" (H.P. 127) (L.D. 171) reporting "Leave to Withdraw"

Representative LAWRENCE from the Committee on Legal Affairs on Resolve, Authorizing Christine R. Tufts, formerly Christine Willey, to Maintain an Action Against the State, York County and Town of Kennebunk (H.P. 648) (L.D. 882) 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 State and Local Government reporting "Ought Not to Pass" on RESOLUTION, Proposing An Amendment to the Constitution of Maine to Allow for the Popular Initiation of Amendments to the Maine Constitution (H.P. 590) (L.D. 808)

Signed:

Senators: CARPENTER of York
BERUBE of Androscoggin
ESTY of Cumberland

Representatives:

WENTWORTH of Wells
HEESCHEN of Wilton
LARRIVEE of Gorham
McCORMICK of Rockport
JOSEPH of Waterville
DAGGETT of Augusta
ROTONDI of Athens

Minority Report of the same Committee reporting "Ought to Pass" as amended by Committee Amendment "A" (H-169) on same Bill.

Signed:

Representatives: BEGLEY of Waldoboro
HANLEY of Paris

Reports were read.

Representative Joseph of Waterville moved that the House accept the Majority "Ought Not to Pass" Report.

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

CONSENT CALENDAR

First Day

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

(H.P. 843) (L.D. 1175) Bill "An Act to Describe the Division of Southern Cumberland of the 9th Maine District Court" Committee on Judiciary reporting "Ought to Pass" as amended by Committee Amendment "A" (H-171)

(S.P. 298) (L.D. 796) Bill "An Act to Remove the Present Dollar Limit on Funeral, Cremation and Burial Expenses Relative to Restitution by Criminal Offenders" Committee on Legal Affairs reporting "Ought to Pass" as amended by Committee Amendment "A" (S-95)

(S.P. 362) (L.D. 979) Bill "An Act to Fund Rural Outreach Programs, Community Response Programs and Minimum Standard Requirements for Providers of Family Crisis Services Statewide" Committee on Appropriations and Financial Affairs reporting "Ought to Pass" as amended by Committee Amendment "A" (S-93)

(S.P. 390) (L.D. 1035) Bill "An Act Providing for Amendments to the Adaptive Equipment Loan Program" (EMERGENCY) Committee on Appropriations and Financial Affairs reporting "Ought to Pass" as amended by Committee Amendment "A" (S-94)

(H.P. 552) (L.D. 749) Bill "An Act to Protect the Identity of Complainants Concerning Health Care Facilities and Providers and Certain Financial Information for the Maine Managed Care Insurance Plan Demonstration" Committee on Human Resources reporting "Ought to Pass" as amended by Committee Amendment "A" (H-172)

(H.P. 290) (L.D. 402) Bill "An Act to Allow 2 or More Municipalities to Form a Regional Planning Commission" Committee on State and Local Government

reporting "Ought to Pass" as amended by Committee Amendment "A" (H-173)

(H.P. 289) (L.D. 401) Bill "An Act to Eliminate the Requirement that Counties Provide Facilities and Equipment to State Courts" Committee on State and Local Government reporting "Ought to Pass" as amended by Committee Amendment "A" (H-174)

There being no objections, the above items were ordered to appear on the Consent Calendar of Friday, May 12, 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. 323) (L.D. 439) Bill "An Act to Eliminate the Barrel as the Unit Measure of Buyers and Sellers of Potatoes"

(H.P. 419) (L.D. 584) Bill "An Act to Make Allocations for the Administrative Expenses of the Bureau of Lottery, Department of Finance, for the Fiscal Years Ending June 30, 1990, and June 30, 1991" (EMERGENCY) (C. "A" H-158)

(H.P. 628) (L.D. 851) Bill "An Act to Provide Computer Technology to the Division of Eye Care" (C. "A" H-159)

(H.P. 721) (L.D. 990) Bill "An Act to Ensure Representation on the Committee to Advise the Department of Human Services on AIDS" (C. "A" H-160)

(H.P. 898) (L.D. 1255) Bill "An Act to Create a Full-time Motor Vehicle Office in the Town of Sanford"

(S.P. 99) (L.D. 118) Bill "An Act to Amend the Law Concerning Insurance Cancellation Control" (C. "A" S-92)

(S.P. 175) (L.D. 332) Bill "An Act Concerning Amendments to the Community Industrial Buildings Programs" (C. "A" S-89)

(S.P. 456) (L.D. 1241) Resolve, to Study the Development of a System of Ecological Reserves in the State (C. "A" S-91)

(H.P. 676) (L.D. 925) Bill "An Act to Clarify the Laws Relating to Marriage" (C. "A" H-162)

(H.P. 486) (L.D. 666) Bill "An Act Concerning Teacher Employment" (C. "A" H-163)

(H.P. 903) (L.D. 1260) Bill "An Act Relating to the Disclosure of Information Concerning Used Motor Vehicles at the Time of Sale or Transfer" (C. "A" H-165)

(H.P. 78) (L.D. 109) Resolve, Establishing the Commission to Study the Regulation of Welders (C. "A" H-166)

(H.P. 699) (L.D. 951) Bill "An Act to Amend the Boundary Line Between the Towns of Albion and Benton"

(H.P. 572) (L.D. 776) Bill "An Act to Clarify the Common Boundary of the Town of Cape Elizabeth and the Town of Scarborough"

(H.P. 223) (L.D. 303) Bill "An Act to Establish a Process for the Deorganization of Municipalities and Plantations" (EMERGENCY) (C. "A" H-167)

(H.P. 594) (L.D. 812) Bill "An Act to Establish the Boundary Line between the Town of Falmouth and the City of Westbrook" (C. "A" H-168)

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

PASSED TO BE ENGROSSED

As Amended

Bill "An Act Relating to Driver Education Courses" (EMERGENCY) (S.P. 214) (L.D. 530) (C. "A" S-90 and S. "A" S-100)

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

SECOND READER

Later Today Assigned

Resolve, Requiring the Department of Educational and Cultural Services to Study Textbooks in Schools and School Libraries of the State (EMERGENCY) (H.P. 358) (L.D. 478) (C. "A" H-164)

Was reported by the Committee on Bills in the Second Reading and read the second time.

On motion of Representative Skoglund of St. George, tabled pending passage to be engrossed and later today assigned.

PASSED TO BE ENACTED

Emergency Measure

An Act to Provide for the 1989 Allocations of the State Ceiling on Private Activity Bonds (S.P. 336) (L.D. 897) (C. "A" S-83)

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. 109 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 Fund 2 Legislative Studies and to Extend the State Compensation Commission's Interim Reporting Date (S.P. 529) (L.D. 1463)

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. 108 voted in favor of the same and 11 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 Changes to the Human Resource Development Council in Order to Conform with the United States Economic Dislocation and Worker Adjustment Assistance Act of 1988 (S.P. 101) (L.D. 120) (C. "A" S-84)

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. 110 voted in favor of the same and 6 against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

ENACTOR

Tabled and Assigned

An Act to Require Parental Consent to a Minor's Abortion (H.P. 457) (L.D. 622) (C. "A" H-127)

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

On motion of Representative Gwadlosky of Fairfield, tabled pending passage to be enacted and specially assigned for Friday, May 12, 1989.

PASSED TO BE ENACTED

An Act to Amend Certain Provisions of the Maine Bail Code (S.P. 426) (L.D. 1137)

An Act Concerning Transportation Expenses for Former AMHI Patients (S.P. 246) (L.D. 576) (S. "A" S-75 to C. "A" S-62)

An Act to Provide Complimentary Muzzle-loading Hunting Licenses to Resident Disabled War Veterans (S.P. 231) (L.D. 561) (C. "A" S-81)

An Act Concerning Game Wardens' Authority to Stop and Search Vehicles (H.P. 433) (L.D. 598) (C. "A" H-137)

An Act to Implement the Aroostook Band of Micmacs Settlement Act (S.P. 152) (L.D. 272) (H. "A" H-154 to C. "A" S-53)

An Act to Provide for Division of Omitted Marital Property (H.P. 312) (L.D. 426) (H. "A" H-152 to H. "A" H-119)

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.

ENACTOR

Later Today Assigned

An Act to Increase the Age Limit for Child Support (H.P. 119) (L.D. 156) (C. "A" H-139)

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

On motion of Representative Allen of Washington, tabled pending passage to be enacted and later today assigned.

PASSED TO BE ENACTED

An Act to Clarify Terminology Used in Laws Related to Historic Sites under the Jurisdiction of the Bureau of Parks and Recreation (S.P. 476) (L.D. 1274)

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 to Authorize the Department of Corrections to Establish a Solid Waste Recycling Program (H.P. 603) (L.D. 827) (S. "A" S-86)

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

The SPEAKER: The Chair recognizes the Representative from Saco, Representative Nadeau.

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

My only concern with this is how it might be affecting private enterprises within the State of Maine. If somebody could clarify this for me, I would appreciate it.

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

The Chair recognizes the Representative from Winslow, Representative Carter.

Representative CARTER: Mr. Speaker, Ladies and Gentlemen of the House: In answer to Representative Nadeau's question, at the moment I am not aware of any private enterprise that is in the recycling program other than the Bottle Redemption Bill. All

this is is a feasibility study. It does not put them into business.

Subsequently, was passed to be enacted, signed by the Speaker and sent to the Senate.

FINALLY PASSED

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 and H. "A" H-155)

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

**ORDERS OF THE DAY
UNFINISHED BUSINESS**

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

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

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 8, 1989 (Till Later Today) by Representative GWADOSKY of Fairfield.

PENDING - Acceptance of Either Report.

On motion of Representative Gwadosky of Fairfield, retabled pending acceptance of either report and specially assigned for Friday, May 12, 1989.

The Chair laid before the House the second item of Unfinished Business:

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 8, 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 specially assigned for Friday, May 12, 1989.

TABLED AND TODAY ASSIGNED

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

HOUSE ORDER relative to Propounding Questions to the Justices of the Supreme Judicial Court.

TABLED - May 10, 1989 by Speaker MARTIN of Eagle Lake.

PENDING - Passage.

On motion of Representative Gwadosky of Fairfield, retabled pending passage and specially assigned for Friday, May 12, 1989.

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

Bill "An Act to Establish Utility Rights in Certain Easements" (H.P. 24) (L.D. 19) (C. "A" H-157)

TABLED - May 10, 1989 by Representative MARSANO of Belfast.

PENDING - Passage to be Engrossed.

The SPEAKER: The Chair recognizes the Representative from Belfast, Representative Marsano.

Representative MARSANO: Mr. Speaker, Ladies and Gentlemen of the House: I would move that L.D. 19 and all its accompanying papers be indefinitely postponed.

When the vote is taken, I would ask for a Division.

I am in a curious position here this morning with respect to this bill primarily because I had the good fortune to chair the committee which was a study committee created by the 113th Legislature which studied this matter at some length. This matter was introduced last year, it went to the Utilities Committee, was referred to the Joint Standing Committee on Judiciary, was sent to the floor, was returned to the Judiciary Committee and the original bill was withdrawn in the Judiciary Committee and a study committee was created. I had the good fortune to work with the Representative from Augusta, Representative Paradis, who presented the original legislative document, No. 19 to the House.

I want to tell you briefly why I thought it was a good bill. We met and reviewed much law, had a very interesting time studying this and, at one point, I took the matter to the Title Standards Committee of the Maine State Bar Association. That is a committee which deals with legal questions that are insignificant to most people but important to some of us. When we went to the session, the chairman of that committee, a good real estate lawyer from Portland, looked at me and said about the preliminary draft, "I have to tell you that I have reviewed this draft and this is a product that I do not think the legislature was capable of producing." I was proud to be a member of the House and proud to be a legislator that had been involved in that study committee because I thought we had created an instrument that was significant and would be helpful to the people of Maine.

When Representative Paradis's committee acting as the Joint Committee on Judiciary and as the Joint Committee on Utilities first heard this, I felt that there would be no problem with this bill being passed. When L. D. 19 was presented, I thought it was a good law and I was wrong. I made some mistakes which happen around here when you are new and don't understand how difficult it can be to get legislation passed. I made a mistake and I regret it. I wish I had had the understanding that I needed to in order to make certain things happen but it was impossible.

In any event, the bill has been kicked around (and I use that term advisably) in the legislature as people have tried to decide what to do with that bill. What happened finally was there was an attempt at a consensus and it has come up in a unanimous "Ought to Pass" Report from the committee. I have great respect for the committee but I think that we should have no law with respect to this position which is the reason that I seek not to amend in some way to have the bill come back. But, because I think it is time for us to sit back and hope that the issue subsides to a point where perhaps we can reflect upon it differently in the future, and more importantly because I feel as though not only will House Amendment 157, which is the unanimous report, not help, I think it would hurt.

I want to take just a few minutes to explain to some of you how the legal system works and I realize that you are not particularly interested in that. But, what happens is that in many instances, only one party is involved in an instrument, a deed, and that party is usually the seller. First of all, the seller usually has a lawyer. The seller owns property and the seller is selling property and the seller is in a position to strike the best part of

the bargain if the buyer is not represented. I would like to hope that if both parties are represented, the bill would not be necessary under any circumstances. My concern is for the buyer of real estate who is not represented and is usually making his first real estate purchase and is usually unsophisticated and is using most of his money to acquire a piece of this earth. I have always believed that ownership of real estate is one of the fundamental bulwarks upon which this country is based. Because I do not want to see the buyer increasingly disadvantaged, I hope you will reject everything that is now before you and leave the law in the status in which it presently is. I do not believe that this legislation moves Maine forward in terms of helping people, I do not think that this bill is good for the people of Maine and I hope that you will reject it when the Division is recorded.

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

Representative PARADIS: Mr. Speaker, Ladies and Gentlemen of the House: I hope that you will oppose the motion of my good friend from Belfast, Representative Marsano, vote against his motion so that we can enact what is essentially House Amendment 157 which is the bill presently before this body.

I agree with everything that the Representative has mentioned. He has never once misled this body in any debate that he has ever participated in and he hasn't done so this morning. I not only concur with what he has said, I agree with the problems that exist out there in the law but that is the reason I support the bill.

Briefly, a little history. This bill came from the 113th Legislature, it was heard before the Joint Committee on Utilities, was referred to the Joint Committee on Judiciary -- we conducted a workshop on the bill and asked the council to hold the bill over. A subcommittee was formed with members of the Utilities Committee and members of the Judiciary Committee, which the distinguished Assistant Minority Leader chaired. That subcommittee of which I was a member. Representative Vose, Representative Weymouth, Senator Erwin -- we conducted three hearings on the bill, reported the bill out, which both the Utilities Committee and the Judiciary Committee of this Legislature heard on March 4, (I believe). Then the bill was submitted in draft form from our committee to the Utilities Committee and back and forth and was narrowed down. What the Representative said about the original bill is absolutely correct, it was an all encompassing bill and it sought to take a complete look at the entire process. But certain people objected, mainly paper companies who own extensive land in this state, as we all know. Because of all of the easements they presently have and rights and so on, they felt that to do it retroactively would create more havoc than they could undertake at this time. So, we looked at it prospectively and the bill deals with only January 1, 1990 and thence forward, so that any of these easements and real estate transfers that are done after January 1, 1990 ought to spell out positively what rights are going to exist in that deed and, if they are not in that deed, then they are not understood to be available.

Right now, there is a very little on the books that deals with this type of registration. What this bill does is fill that void. It is a very modest attempt. I think that is perhaps where my friend, the Representative from Belfast, is coming from by seeing it as a modest attempt that it isn't an all encompassing solution to those utility easements that now exist. To do so would have been an impossible

task for the committee to undertake, and for that matter, for any committee to undertake. What we are trying to do is correct a problem that exists now, that those who do have these transfers next year and thence forward, will not have to go through what certain private citizens go through now when they try to install a telephone. I believe it was a telephone line that was tried to be installed in Pembroke that led to this particular bill which the Representative from Eastport, Representative Vose, had sponsored last year. That is the reason we got the bill. He has worked on this with our committees on Utilities and Judiciary quite diligently. Mr. Vose has attended every work session and approves of this amendment wholeheartedly. And, if he were a member of this body, he would certainly be on his feet this morning.

I would hope that you would vote against that motion. We have put a lot of work into this bill. The Committee on Utilities, if I may take the liberty to say, has put a lot of work into this bill and it will help remedy a situation that now exists where there is very little law. I think this is needed and is an improvement on the present situation. So, please, my colleagues, vote against the motion so that we can enact this bill.

The SPEAKER: The Chair recognizes the Representative from Princeton, Representative Moholland.

Representative MOHOLLAND: Mr. Speaker, Ladies and Gentlemen of the House: When this bill first came out, it was my bill for one constituent in Pembroke and Mr. Vose co-signed it. Fortunately, both committees worked real hard. I attended some of those workshops and fortunately enough for my constituent, there was a possible way for him to come around the back way to get his telephone hooked up. He had a home in behind a piece of land that he could not get through, he had children, a family and in case of sickness, he had to have that telephone. I believe this bill in its present posture would be very good for people in the State of Maine that live in those places. I hope that you do go along with Representative Paradis.

The SPEAKER: The Chair recognizes the Representative from Lisbon, Representative Jalbert.

Representative JALBERT: Mr. Speaker, Ladies and Gentlemen of the House: I have to convey the same sentiment as my good friend, the Representative from Belfast, and I hate to disagree with my other good friend from Augusta, but this is a bad bill. If you look at it, it says in there, "October, 1, 1989, they have to explicitly state that the utility has a right over your property." It says, "any easement which has not been specifically stated in any deed or transfer", unless you specifically say it that we accept and do not allow transfer of the easement to this utility over your property, "it is implied that there is one." Many people would buy the property which has transferred hands four or five times in the last 30 years. No one is in a position to tell if there has been any easement of any kind either through written or implied easements over your property. It is almost an impossibility to determine when you do a title on property for transfer exactly how many easements have been acquired over that property. Furthermore, it tells in there, "an implication as if there is a right of way, there is an implication of an easement." What you are doing here, you are playing into the hands of the utilities. You are saying, poor old Mrs. Jones who is 85 years old and that property has been in the family for 30 or 40 years, when she sells it, she has to warrant that there are no encumbrances against it

except the ones she states and, if they find out later because of the covenant or warranty, she then must come back and defend that warrant, that covenant. I ask, don't tie down the property so that there is an implication that when you sell a piece of real estate unless you specifically except those out there that you know of or the ones that you may not know of that you will be saddling the next person with an easement that they knew nothing about. I would ask that you go along with the motion of the Representative from Belfast to indefinitely postpone.

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

Representative PARADIS: Mr. Speaker, Men and Women of the House: I must correct the previous speaker because I believe that the Representative from Lisbon has been referring to the bill, L.D. 19, and not the Committee Amendment which takes every concern of which the good Representative has just mentioned, every one of those concerns and answers them. The example that he gave is absolutely correct, what this does is do the reverse, that unless that gentle lady gives that right, it is assumed not to exist. The burden is then on the person who has bought the property and that right to prove that the lady did in fact give it to him. We answered and we agreed with those types of sentiments that were expressed to us, that is the reason the amendment is the bill before us and not L.D. 19.

After hours of work sessions and hearings, we came to the same conclusion which the good gentleman just expressed that that was the essential reason that the original bill was wrong, maybe that is the reason that the real estate and title section of the Bar endorsed the original bill and not the amendment. But I am here to debate the amendment, which is the bill. This is not a lawyers amendment, it may have been a lawyers bill but it is not a lawyers amendment.

So, I would hope that you would concur with the gentleman from Lisbon in his desire to make right a situation that is bad, that you would vote against the motion of the gentleman from Belfast and enact this amendment because that is the problem that we are facing today.

The SPEAKER: The Chair recognizes the Representative from Belfast, Representative Marsano.

Representative MARSANO: Mr. Speaker, Men and Women of the House: Whether this is a lawyers bill or not is really irrelevant. The person that introduced L.D. 19 into the House was the Representative from Augusta, Representative Paradis, and at the time he shared my views about that bill as he well knows. We agreed on it as a result of the study.

I rise not for that purpose but to point out how confusing this issue is simply by addressing the matter which Representative Moholland addressed. Remember, he indicated to you that this bill had its genesis in a person who wanted to put a telephone line over a right-of-way and he thought that was a good idea and the right-of-way was not clear and that was true. It didn't say you could put a telephone line in and it didn't say you couldn't, it didn't say anything. That is what happens with a lot of easements.

What will happen if this bill passes, and Representative Moholland's next person comes along, there will be no question but that he will not be able to put a telephone line in and that is the problem that I seek to have you prevent by leaving the law as it is, by not changing it to the disadvantage of that person who bought down a country road thinking that he had rights and found out after

the fact that he did not have rights. We are better off leaving this system as it is rather than putting this in to work for the disadvantage of the very person whom Representative Moholland would help. The bill is very complicated, even though it sounds simple, because easements are appurtenances to estates (I realize that when I start talking like that I sound like a lawyer and that does nobody any good). This is something which you should vote on carefully and you should indefinitely postpone this because no law is better than the one that they are asking you to make, the law of Maine.

The SPEAKER: The Chair will order a vote. The pending question before the House is the motion of Representative Marsano of Belfast that L.D. 19 and all accompanying papers be indefinitely postponed. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

45 having voted in the affirmative and 65 in the negative, the motion to indefinitely postpone did not prevail.

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

Committee Amendment "A" (H-157) was read by the Clerk and adopted.

Under suspension of the rules, the Bill was read a second time, passed to be engrossed as amended and sent up for concurrence.

The Chair laid before the House the third Tabled and Today assigned matter:

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) (C. "A" H-126 and S. "A" S-88)
TABLED - May 10, 1989 by Representative MICHAUD of East Millinocket.

PENDING - Passage to be Enacted.

This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 110 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.

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

An Act to Clarify Laws Pertaining to the Enforcement of Forestry Fire Control Laws (H.P. 88) (L.D. 123) (C. "B" H-135)
TABLED - May 10, 1989 by Representative MICHAUD of East Millinocket.

PENDING - Passage to be Enacted.

On motion of Representative Michaud of East Millinocket, retabled pending passage to be enacted and specially assigned for Friday, May 12, 1989.

The Chair laid before the House the following matter: Bill "An Act to Amend the Laws Relating to Ethics in Government" (H.P. 1184) (L.D. 1639) (the Committee on Judiciary was suggested) which was tabled earlier in the day and later today assigned pending reference.

Subsequently, was referred to the Committee on State and Local Government, ordered printed and sent up for concurrence.

The Chair laid before the House the following matter: Majority Report of the Committee on State

and Local Government reporting "Ought Not to Pass" on RESOLUTION, Proposing An Amendment to the Constitution of Maine to Allow for the Popular Initiation of Amendments to the Maine Constitution (H.P. 590) (L.D. 808) and Minority Report of the same Committee reporting "Ought to Pass" as amended by Committee Amendment "A" (H-169) on same Bill which was tabled earlier in the day and later today assigned pending the motion of Representative Joseph of Waterville that the House accept the Majority "Ought Not to Pass" Report.

Subsequently, the Majority "Ought Not to Pass" Report was accepted. Sent up for concurrence.

(At Ease)

The House was called to order by the Speaker.

(Off Record Remarks)

At this point the Speaker appointed the Representative from East Millinocket, Representative Michaud, to serve as Speaker pro tem for Friday, May 12, 1989.

On motion of Representative Chonko of Topsham, Adjourned until Friday, May 12, 1989, at nine o'clock in the morning.

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

In Senate Chamber
Thursday
May 11, 1989

Senate called to Order by the President.

Prayer by Pastor Bruce Meyer of the Prince of Peace Lutheran Church in Augusta.

PASTOR MEYER: "The earth is the Lord's and the fullness thereof, the world and those who dwell therein..."

Almighty God, to Whom we all belong, we humble ourselves before You at the beginning of this day, mindful that we draw life and breath from You and that what we experience in each day, that is truly good and right and satisfying, has its source in You. Thank You for the love that created us, and the grace that sustains us. Lord, as we go about the work set before us this day, grant us the grace of respect for one another, and with it, the spirit of doing together, what we cannot do separately, for the sake of others. Thank You for calling us to be leaders of Your people. But keep us mindful, O Lord, that rightful leaders are always servants of Your saving and redeeming purposes. As we come to the end of this day, may we hear You say, well done, good and faithful servant. Amen.

Reading of the Journal of Yesterday.

Off Record Remarks

PAPERS FROM THE HOUSE
Non-concurrent Matter

Bill "An Act to Improve the Sardine Inspection and Grading Programs"

S.P. 562 L.D. 1565

In Senate, May 9, 1989, referred to the Committee on AGRICULTURE and ORDERED PRINTED.

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

The Senate RECEDED and CONCURRED.

House Papers

Bill "An Act to Amend the Agricultural Marketing and Bargaining Law"

H.P. 1170 L.D. 1624

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

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

Bill "An Act to Establish a Residential Program for Adolescent Substance Abusers at Saint Mary's Hospital in Lewiston, Maine"

H.P. 1150 L.D. 1604

Bill "An Act to Appropriate Funds for a Demonstration Project for the Benefit of Alzheimer's Disease Victims"

H.P. 1160 L.D. 1614

Bill "An Act to Authorize a General Fund Bond Issue in the Amount of \$10,000,000 to Provide Funds for the Municipal Capital Investment Fund"

H.P. 1166 L.D. 1620