

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

To suggest that it is not a legitimate expenditure and that the taxpayers question how we spend our money in this area of the exercise of our offices, I think is specious. This submission of materials prior to our attendance and the submission of our expense forms after our attendance, are all accessible and are matters of public record should any taxpayer seek to review them, as has been the case multiply times within my area of knowledge.

Suffice it to say, that those who choose not to travel choose only to experience the educational opportunities in some respects limited that are afforded within the boundaries of our great state. Again, I would invite all members of this Maine Senate, within the term of your office in the 114th Legislature, to expand your horizons with one or more of these legislative conferences through the usual procedure and or process. Education continues to be exciting. Thank you Mr. President.

THE PRESIDENT: The pending question before the Senate is the motion by Senator BERUBE of Androscoggin, to ACCEPT the Majority OUGHT NOT TO PASS Report, in concurrence.

The Chair ordered a Division.

Will all those Senators in favor of the motion by Senator BERUBE of Androscoggin, to ACCEPT the Majority OUGHT NOT TO PASS Report, please rise in their places and remain standing until counted.

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

26 Senators having voted in the affirmative and 2 Senators having voted in the negative, the motion by Senator BERUBE of Androscoggin, to ACCEPT the Majority OUGHT NOT TO PASS Report, in concurrence, PREVAILED.

On motion by Senator WEBSTER of Franklin, ADJOURNED until Wednesday, May 17, 1989, at 12:00 in the afternoon.

ONE HUNDRED AND FOURTEENTH MAINE LEGISLATURE
FIRST REGULAR SESSION
64th Legislative Day
Wednesday, May 17, 1989

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

Prayer by Monsignor Paul D. Gleason, Saint Patrick's Catholic Church, Lewiston.

The Journal of Tuesday, May 16, 1989, was read and approved.

Quorum call was held.

PAPERS FROM THE SENATE

Bill "An Act to Authorize the Blue Hill School Committee to Enter into Long-term Leases of Land and Buildings for School Purposes" (EMERGENCY) (S.P. 591) (L.D. 1668)

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

(The Committee on Reference of Bills had suggested reference to the Committee on State and Local Government.)

Was referred to the Committee on Education in concurrence.

Bill "An Act to Correct Errors and Inconsistencies in the Laws of Maine" (EMERGENCY) (S.P. 594) (L.D. 1671)

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

Was referred to the Committee on Judiciary in concurrence.

Bill "An Act to Establish a Budget Committee for Kennebec County" (S.P. 592) (L.D. 1669)

Bill "An Act to Establish the Whistleblower Hotline" (S.P. 593) (L.D. 1670)

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.

COMMUNICATIONS

The following Communication:

STATE OF MAINE
OFFICE OF THE GOVERNOR
AUGUSTA, MAINE 04333

May 16, 1989

TO: The Honorable Members of the 114th Maine Legislature:

I am returning, without my signature or approval, H.P. 533 - L.D. 718, "AN ACT to Regain Full Use of Maine's Waters Through the Establishment of Color Standards". This bill, while attempting to further a laudable goal of reducing color in our rivers, nonetheless establishes unacceptably arbitrary standards without any certainty as to their effect. As such, this legislation, as drafted, is premature.

I want to assure you that I am fully committed to completing the process of cleaning up Maine's rivers pursuant to an aggressive schedule. In fact, in January 1988, when I wrote to the Board of Environmental Protection requesting an investigation of the costs and benefits associated with removing color, odor and foam from our rivers, I did so knowing that no other state has adopted legislation to effect similar reductions. Nonetheless, I was then, and continue to be, optimistic that Maine can and will set the example for the rest of the nation.

When we do so, however, it must be the right example, not one that we recognize at the outset may need to be corrected after we ascertain the facts.

Responsible legislation, irrespective of the issue, evolves from a thorough understanding of the relative facts and consequences. This legislation, on the other hand, mandates arbitrary standards without regard to their efficacy or costs, whether economic or social. It mandates the adoption of a specific, statewide color reduction standard without any knowledge of either the actual benefits to be derived therefrom or, equally importantly, the costs of achieving such mandates. That uncertainty has been universally acknowledged. Such a mandate is wholly inconsistent with fair and sound public policy.

This legislation marks a radical departure from the manner pursuant to which our environmental protection program is administered. Our entire water quality classification system necessitates, for instance, the promulgation of rules by the Board of Environmental Protection. Departmental rulemaking also is statutorily sanctioned in other environmental categories, including noise standards, ambient air quality standards as well as solid waste standards.

The Legislature has required the Board of Environmental Protection to adopt appropriate standards in the environmental arena for good reason. They are, in cooperation with departmental staff, the technicians. The rubric that the legislative branch of government is the appropriate forum for setting policy and that the relevant agency within the executive branch administer that policy is well-established. This bill departs radically from that premise. Such a divergence may, at times, be justifiable if and when all of the relevant facts and consequences are known. One cannot argue that this legislation satisfies that prerequisite.

Last fall, I stated that I was committed to submitting legislation to reduce the amount of color, odor and foam in Maine's rivers. I am prepared to take that pledge one step further by promising to submit such legislation no later than the Second Regular Session of the 114th Legislature. My unflinching intention has been to adopt a standard based upon full knowledge of both the beneficial and adverse consequences. Fundamental tenets of fairness necessitate no less. I am confident that the intensive research and reviews to be undertaken in the next six months will be sufficient to provide us with a basis for such action.

If the Legislature deems it more appropriate, I also would be willing to support legislation during this legislative session which would require the Department of Environmental Protection to submit, for approval by the 114th Legislature, regulations to implement the standards proposed by L.D. 718. My endorsement would be predicated upon the condition that, should the facts that are developed indicate a different approach, and should the Department deem it more appropriate, it additionally would be allowed to submit to the Legislature regulations to implement a different standard. I have complete confidence that the Legislature would adopt the proper mandates under those circumstances. Should this proposal be considered acceptable, I and my staff stand ready to work with you to develop legislation immediately.

For the foregoing reasons, I am in opposition to L.D. 718, and respectfully urge you to sustain my veto. Thank you.

Sincerely,
s/John R. McKernan, Jr.
Governor

The accompanying Bill "An Act to Regain Full Use of Maine's Waters Through the Establishment of Color Standards" (H.P. 533) (L.D. 718) (C. "A" H-102).

Was read.

On motion of Representative Gwadosky of Fairfield, tabled pending reconsideration and specially assigned for Thursday, May 18, 1989.

The following Communication: (S.P. 595)
114TH MAINE LEGISLATURE
May 15, 1989

Senator Georgette B. Berube
Representative Ruth Joseph
Chairpersons
Joint Standing Committee on State and Local Government
114th Legislature
Augusta, Maine 04333
Dear Chairs:

Please be advised that Governor John R. McKernan, Jr. has nominated Barbara S. Powers of Cape Elizabeth for appointment to the Civil Service Appeals Board.

Pursuant to Title 5, M.R.S.A. Section 7081, this nomination will require review by the Joint Standing Committee on State and Local Government and confirmation by the Senate.

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

Came from the Senate, Read and Referred to the Committee on State and Local Government.

Was Read and Referred to the Committee on State and Local Government in concurrence.

PETITIONS, BILLS AND RESOLVES
REQUIRING REFERENCE

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

Transportation

Bill "An Act to Amend the Law Governing Abandoned Vehicles" (H.P. 1203) (L.D. 1673) (Presented by Representative LIBBY of Kennebunk) (Cosponsored by Senator PERKINS of Hancock, Senator WHITMORE of Androscoggin and Representative MOHOLLAND of Princeton) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27.)
Ordered Printed.

Sent up for Concurrence.

Utilities

Bill "An Act Concerning Public Water Supplies in the Mid-coast Area" (H.P. 1202) (L.D. 1672) (Presented by Representative MELENDY of Rockland) (Cosponsored by Representative CLARK of Millinocket, Representative ALLEN of Washington and Senator BOST of Penobscot) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27.)

Ordered Printed.

Sent up for Concurrence.

(At Ease)

The House was called to order by the Speaker.

REPORTS OF COMMITTEES

Unanimous Ought Not to Pass

Representative SMITH from the Joint Select Committee on Corrections on Bill "An Act to Establish a Community Penalty Program" (H.P. 382) (L.D. 513) reporting "Ought Not to Pass"

Representative ALLEN from the Committee on Business Legislation on Bill "An Act to Mandate that Ingredients be Listed on Labels of Liquor Bottles Sold at State Liquor Stores" (H.P. 806) (L.D. 1118) reporting "Ought Not to Pass"

Representative SIMPSON from the Committee on Energy and Natural Resources on Bill "An Act to Regulate the Storage, Treatment, Disposal and Transportation of Medical Waste" (H.P. 1071) (L.D. 1493) reporting "Ought Not to Pass"

Representative COLES from the Committee on Energy and Natural Resources on Bill "An Act to Establish Regional State-owned Waste Disposal Facilities" (H.P. 1116) (L.D. 1549) reporting "Ought Not to Pass"

Representative COLES from the Committee on Energy and Natural Resources on Bill "An Act to Mandate Source Separation and Recycling of Solid Waste" (H.P. 1114) (L.D. 1547) reporting "Ought Not to Pass"

Representative COLES from the Committee on Energy and Natural Resources on Bill "An Act Concerning Commercial Landfill Facilities" (H.P. 1107) (L.D. 1540) reporting "Ought Not to Pass"

Representative O'DEA from the Committee on Education on Bill "An Act to Extend the Length of the School Day" (H.P. 437) (L.D. 602) reporting "Ought Not to Pass"

Representative CARTER from the Committee on Appropriations and Financial Affairs on Bill "An Act to Promote Access to, and Security for, Maine's Official Historical Documents" (H.P. 549) (L.D. 746) reporting "Ought Not to Pass"

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

Unanimous Leave to Withdraw

Representative McPHERSON from the Committee on Transportation on Resolve, to Require the Construction of a Pedestrian Walkway over Interstate 295 in Portland (H.P. 940) (L.D. 1308) reporting "Leave to Withdraw"

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

CONSENT CALENDAR

First Day

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

(H.P. 1101) (L.D. 1534) Bill "An Act to Amend the Law Incorporating the Milo Water District" Committee on Utilities reporting "Ought to Pass"

(H.P. 189) (L.D. 254) Bill "An Act to Amend the Revised Maine Securities Act and Related Statutes" Committee on Banking and Insurance reporting "Ought to Pass" as amended by Committee Amendment "A" (H-198)

(H.P. 691) (L.D. 943) Bill "An Act to Provide Needed Services Identified by the Task Force on Incapacitated and Dependent Adults, and Required by the United States Omnibus Budget Reconciliation Act of 1988" Committee on Human Resources reporting "Ought to Pass" as amended by Committee Amendment "A" (H-199)

(H.P. 176) (L.D. 241) Bill "An Act to Prohibit Smoking in Enclosed Areas on Ferries" Committee on

Human Resources reporting "Ought to Pass" as amended by Committee Amendment "A" (H-200)

(H.P. 303) (L.D. 415) Bill "An Act to Amend the Child and Family Services and Child Protection Act and the Law Governing Shelters for Children" Committee on Human Resources reporting "Ought to Pass" as amended by Committee Amendment "A" (H-201)

(H.P. 746) (L.D. 1029) Bill "An Act to Transfer the Licensing Function from the Bureau of Mental Health to the Department of Mental Health and Mental Retardation" Committee on Human Resources reporting "Ought to Pass"

(H.P. 601) (L.D. 825) Bill "An Act Relating to the Sale of Fraternal Life Benefit Certificates and Life Insurance by Funeral Directors and Cemetery Corporations" Committee on Business Legislation reporting "Ought to Pass"

(H.P. 254) (L.D. 366) Bill "An Act to Allow Municipalities to Withhold Business Licenses under Some Circumstances" Committee on State and Local Government reporting "Ought to Pass" as amended by Committee Amendment "A" (H-203)

(H.P. 287) (L.D. 399) Bill "An Act to Require 5 Commissioners in York County" Committee on State and Local Government reporting "Ought to Pass" as amended by Committee Amendment "A" (H-204)

(H.P. 370) (L.D. 501) Bill "An Act to Encourage Development and Use of Private Community Corrections Programs" Joint Select Committee on Corrections reporting "Ought to Pass" as amended by Committee Amendment "A" (H-207)

(H.P. 378) (L.D. 509) Resolve, Authorizing the Supreme Judicial Court Plan and Design Commission to Accept Gifts Committee on State and Local Government reporting "Ought to Pass" as amended by Committee Amendment "A" (H-208)

(H.P. 788) (L.D. 1100) Bill "An Act to Increase the Compensation for Part-time Deputy Sheriffs" Committee on State and Local Government reporting "Ought to Pass" as amended by Committee Amendment "A" (H-209)

There being no objections, the above items were ordered to appear on the Consent Calendar of Thursday, May 18, 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. 113) (L.D. 168) Bill "An Act to Amend the Home Construction Contracts Law"

(S.P. 248) (L.D. 578) Bill "An Act To Provide Respite Care for Care Givers of Diagnosed Victims of Alzheimer's Disease" (C. "A" S-108)

(S.P. 255) (L.D. 645) Bill "An Act to Provide Increased Funding for the Family Planning Association's Basic Clinical and Educational Services" (C. "A" S-106)

(S.P. 333) (L.D. 894) Bill "An Act to Amend the Animal Welfare Laws" (C. "A" S-110)

(S.P. 371) (L.D. 995) Bill "An Act to Fund and Implement Changes in Health Insurance Benefits in Collective Bargaining Agreements with Maine Maritime Academy Employees Represented by the Maine State Employees Association" (EMERGENCY) (C. "A" S-107)

(H.P. 983) (L.D. 1361) Bill "An Act to Amend the Charter of Hebron Academy" (EMERGENCY)

(H.P. 744) (L.D. 1027) Bill "An Act to Require the Department of Human Services to Set Child Welfare Fee-for-service Rates Based on Yearly Negotiations

with Private Nonprofit Community Residential Treatment Providers" (C. "A" H-188)

(H.P. 638) (L.D. 872) Bill "An Act Concerning the Reporting of Alleged Child Abuse" (C. "A" H-189)

(H.P. 751) (L.D. 1055) Bill "An Act to Restrict Smoking in Enclosed Shopping Malls" (C. "A" H-190)

(H.P. 426) (L.D. 591) Bill "An Act to Clarify Parties Which May Petition the Board of Environmental Protection for a Water Level Hearing" (C. "A" H-193)

(H.P. 631) (L.D. 854) Bill "An Act To Amend the Growth Management Laws" (EMERGENCY) (C. "A" H-192)

(H.P. 747) (L.D. 1030) Bill "An Act to Reclassify Surface Waters of the State" (C. "A" H-191)

(H.P. 604) (L.D. 828) Bill "An Act Concerning the Regulatory Authority of the Department of Marine Resources" (C. "A" H-196)

(H.P. 649) (L.D. 883) Bill "An Act to Ensure that the Department of Environmental Protection Receives Adequate Technical Assistance from Natural Resource Review Agencies" (C. "A" H-194)

(H.P. 669) (L.D. 917) Bill "An Act to Require Periodic Reports on the Percentage of the Gasoline Tax That Is Due to Boating Use" (C. "A" H-195)

(H.P. 842) (L.D. 1174) Bill "An Act to Provide Disabled Veterans with Free Drivers' Licenses" (C. "A" H-197)

No objections having been noted at the end of the Second Legislative Day, the Senate Papers were Passed to be Engrossed or 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**

Resolve, Establishing a Commission to Study the Level of Care of Maine's Elderly Citizens (H.P. 550) (L.D. 747) (C. "A" H-183)

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

On motion of Representative Manning of Portland, the House reconsidered its action whereby Committee Amendment "A" (H-183) was adopted.

The same Representative offered House Amendment "A" (H-215) to Committee Amendment "A" (H-183) 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 Resolve 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.

**PASSED TO BE ENACTED
Emergency Measure**

An Act to Study the Employment of Minors (H.P. 1117) (L.D. 1550)

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

On motion of Representative Gwadosky of Fairfield, under suspension of the rules, the House reconsidered its action whereby L.D. 1550 was passed to be engrossed.

The same Representative offered House Amendment "A" (H-206) and moved its adoption.

House Amendment "A" (H-206) was read by the Clerk and adopted.

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

**PASSED TO BE ENACTED
Emergency Measure**

An Act to Extend the Reporting Deadline of the Commission to Implement the Computerization of Criminal History Record Information (S.P. 179) (L.D. 336) (C. "A" S-101)

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

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

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. 111 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.

ENACTOR

Tabled and Assigned

An Act Relating to State Personnel Administration (S.P. 100) (L.D. 119) (C. "A" S-104)

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

On motion of Representative Gwadosky of Fairfield, tabled pending passage to be enacted and specially assigned for Thursday, May 18, 1989.

PASSED TO BE ENACTED

An Act to Meet the Increased Need for Crisis Intervention and Community Education Services Provided by Rape Crisis Centers in Maine (S.P. 292) (L.D. 765) (C. "A" S-97)

An Act to Fund and Implement Reclassifications and Collective Agreements with Maine Maritime Academy Employees Represented by the Maine State Employees Association (S.P. 394) (L.D. 1039)

An Act Relating to Historic and Archaeological Preservation (S.P. 440) (L.D. 1193) (C. "A" S-102)

An Act Concerning the Right to Install Utilities in Certain Easements or Rights-of-Way (H.P. 24) (L.D. 19) (C. "A" H-157)

An Act to Clarify Laws Pertaining to the Enforcement of Forestry Fire Control Laws (H.P. 88) (L.D. 123) (H. "B" H-180 to C. "B" H-135)

An Act Relating to Confidentiality of Investigative Records of Boards and Commissions (H.P. 232) (L.D. 316) (H. "A" H-181 to C. "A" H-51)

An Act to Eliminate the Barrel as the Unit Measure of Buyers and Sellers of Potatoes (H.P. 323) (L.D. 439)

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

Tabled and Assigned

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

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

On motion of Representative Gwadosky of Fairfield, tabled pending passage to be enacted and specially assigned for Thursday, May 18, 1989.

PASSED TO BE ENACTED

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

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

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

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

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

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

Tabled and Assigned

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

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 specially assigned for Thursday, May 18, 1989.

FINALLY PASSED

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

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

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. (Relative to H.P. 271, L.D. 383)

TABLED - May 16, 1989 by Speaker MARTIN of Eagle Lake. PENDING - Passage.

Subsequently, was passed.

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

An Act to Facilitate Treatment of Abused and Neglected Children (H.P. 745) (L.D. 1028) (C. "A" H-138)

TABLED - May 16, 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 Thursday, May 18, 1989.

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

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)

TABLED - May 16, 1989 by Representative GWADOSKY of Fairfield.

PENDING - Passage to be Engrossed.

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

(At Ease)

The House was called to order by the Speaker.

(Off Record Remarks)

On motion of Representative Aikman of Poland, Adjourned until Thursday, May 18, 1989 at nine o'clock in the morning.