

# 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

Which was READ and referred to the Committee on AGRICULTURE.

Sent down for concurrence.

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Off Record Remarks

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On motion by Senator WEBSTER of Franklin, the Senate RECONSIDERED whereby it FAILED TO FINALLY PASS: Resolve, for Laying of the County Taxes and Authorizing Expenditures of Aroostook County for the Year 1989

H.P. 1194 L.D. 1661

(In House, May 18, 1989, PASSED TO BE ENACTED.)

(In Senate, May 16, 1989, PASSED TO BE ENGROSSED, in concurrence.)

This being an Emergency Measure and having received the affirmative vote of 29 Members of the Senate, with No Senators having voted in negative, and 29 being more than two-thirds of the entire elected Membership of the Senate, was FINALLY PASSED and having been signed by the President, was presented by the Secretary to the Governor for his approval.

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Off Record Remarks

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On motion by Senator BALDACCII of Penobscot, ADJOURNED until Monday, May 22, 1989, at 9:00 in the morning.

ONE HUNDRED AND FOURTEENTH MAINE LEGISLATURE  
FIRST REGULAR SESSION  
67th Legislative Day  
Monday, May 22, 1989

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

Prayer by Reverend John Furey, Abundant Life Church, Augusta.

National Anthem by the Penquis Valley High School Band, Milo.

The Journal of Friday, May 19, 1989, was read and approved.

Quorum call was held.

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PAPERS FROM THE SENATE

Unanimous Ought Not To Pass

Report of the Committee on Appropriations and Financial Affairs reporting "Ought Not to Pass" on Bill "An Act to Fund the Maine School Science and Natural History Enrichment Program" (S.P. 383) (L.D. 1019)

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

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Unanimous Leave to Withdraw

Report of the Committee on Taxation reporting "Leave to Withdraw" on Bill "An Act Regarding Federal Retiree Income Tax" (S.P. 242) (L.D. 572)

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

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Refer to the Committee on Taxation

Report of the Committee on Business Legislation on Bill "An Act to Amend the Law Relating to Automobile Leases" (S.P. 238) (L.D. 568) reporting that it be referred to the Committee on Taxation.

Came from the Senate with the report read and accepted and the Bill referred to the Committee on Taxation.

Report was read and accepted and the Bill referred to the Committee on Taxation in concurrence.

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COMMUNICATIONS

The following Communication: (S.P. 596)

114TH MAINE LEGISLATURE

May 18, 1989

Senator Edgar E. Erwin

Representative Paul F. Jacques

Chairpersons

Joint Standing Committee on Fisheries and Wildlife

114th Legislature

Augusta, Maine 04333

Dear Chairs:

Please be advised that Governor John R. McKernan, Jr. has nominated Ogden E. Small, O.D. of Caribou for reappointment and Eugene L. Churchill of Orland for appointment to the Inland Fisheries and Wildlife Advisory Council.

Pursuant to Title 3, M.R.S.A. Section 151, these nominations will require review by the Joint Standing Committee on Fisheries and Wildlife 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 Fisheries and Wildlife.  
Was Read and Referred to the Committee on Fisheries and Wildlife in concurrence.

The following Communication: (S.P. 597)  
114TH MAINE LEGISLATURE  
May 18, 1989

Senator R. Donald Twitchell  
Representative Robert J. Tardy  
Chairpersons  
Joint Standing Committee on Agriculture  
114th Legislature  
Augusta, Maine 04333

Dear Chairs:

Please be advised that Governor John R. McKernan, Jr. has nominated Stephen A. Briggs of Turner, Matthew Scott of Belgrade, Kathleen F. Gensheimer, M.D. of Bath, Wallace C. Dunham of Orono, William Mook of Damariscotta, Dr. Robert M. Chute of Poland Spring, Christine C. Vito, Ph.D. of Saco and Stellos M. Tavantzis of Orono for appointments to the Commission on Biotechnology and Genetic Engineering.

Pursuant to Title 7, M.R.S.A. Section 231, these nominations will require review by the Joint Standing Committee on Agriculture 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 Agriculture.

Was Read and Referred to the Committee on Agriculture in concurrence.

The following Communication: (S.P. 598)  
114TH MAINE LEGISLATURE  
May 18, 1989

Senator R. Donald Twitchell  
Representative Robert J. Tardy  
Chairpersons  
Joint Standing Committee on Agriculture  
114th Legislature  
Augusta, Maine 04333

Dear Chairs:

Please be advised that Governor John R. McKernan, Jr. has nominated David Maass of Winslow for appointment to the Commission on Biotechnology and Genetic Engineering.

Pursuant to Title 7, M.R.S.A. Section 231, this nomination will require review by the Joint Standing Committee on Agriculture 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 Agriculture.

Was Read and Referred to the Committee on Agriculture in concurrence.

**PETITIONS, BILLS AND RESOLVES  
REQUIRING REFERENCE**

The following Bills and Resolves 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 Demonstrate Primary Prevention through Youth and Elderly Community Services" (H.P. 1207) (L.D. 1679) (Presented by Representative MELENDY of Rockland) (Cosponsored by Representative CARROLL of Gray, Representative CARTER of Winslow 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.

**Energy and Natural Resources**

Resolve, Authorizing and Directing the Bureau of Public Lands to Convey Title to a Certain Parcel of Land in Augusta to the Maine Veterans' Homes Subject to Certain Conditions (H.P. 1212) (L.D. 1684) (Presented by Speaker MARTIN of Eagle Lake) (Cosponsored by Representative HICKEY of Augusta and Senator TITCOMB of Cumberland) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27.)

Resolve, Authorizing the Conveyance of Certain Public Lands (H.P. 1213) (L.D. 1685) (Presented by Representative DEXTER of Kingfield) (Cosponsored by Senator LUDWIG of Aroostook, Representative GOULD of Greenville and President PRAY of Penobscot)

Ordered Printed.  
Sent up for Concurrence.

**Housing and Economic Development**

Resolve, to Protect and Preserve Certain Property in Saco Owned by the Finance Authority of Maine (EMERGENCY) (H.P. 1210) (L.D. 1682) (Presented by Representative GWADOSKY of Fairfield) (Cosponsored by President PRAY of Penobscot, Senator WEBSTER of Franklin and Representative FOSTER of Ellsworth) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27.)

Ordered Printed.  
Sent up for Concurrence.

**Human Resources**

Bill "An Act to Ensure the Continuity of Mental Health Services" (EMERGENCY) (H.P. 1211) (L.D. 1683) (Presented by Representative MOHOLLAND of Princeton) (Cosponsored by Speaker MARTIN of Eagle Lake, President PRAY of Penobscot and Representative LOOK of Jonesboro) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27.)

Ordered Printed.  
Sent up for Concurrence.

**Labor**

Bill "An Act to Eliminate the Dual Minimum Wage Scheme" (H.P. 1208) (L.D. 1680) (Presented by Representative BURKE of Vassalboro) (Cosponsored by Representative PINEAU of Jay, Senator ESTY of Cumberland and Representative RUHLIN of Brewer) (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 to Increase the Borrowing Authority of the Ogunquit Sewer District" (H.P. 1209) (L.D. 1681) (Presented by Representative WENTWORTH of Wells) (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 McSWEENEY of Old Orchard Beach, the following Order:

ORDERED, that Representative Peter J. Manning of Portland be excused May 3, 4 and 5 for legislative business.

AND BE IT FURTHER ORDERED, that Representative Kathryn D. Merrill of Dover-Foxcroft be excused May 5 for personal reasons.

AND BE IT FURTHER ORDERED, that Representative Joseph W. Mayo of Thomaston be excused May 11 and 12 for legislative business.

AND BE IT FURTHER ORDERED, that Representative Charlene B. Rydell of Brunswick be excused May 11 and 12 for legislative business.

AND BE IT FURTHER ORDERED, that Representative Willis A. Lord of Waterboro be excused May 12 and 13 for legislative business.

AND BE IT FURTHER ORDERED, that Representative Christopher S. Gurney of Portland be excused May 15 for personal reasons.

AND BE IT FURTHER ORDERED, that Representative Wendy L. Ault of Wayne be excused May 18 and 19 for legislative business.

AND BE IT FURTHER ORDERED, that Representative George A. Townsend of Eastport be excused May 19 for personal reasons.

AND BE IT FURTHER ORDERED, that Representative Wilfred J. Bell of Caribou be excused May 22 for personal reasons.

Was read and passed.

**REPORTS OF COMMITTEES**

**Unanimous Ought Not to Pass**

Representative PRIEST from the Committee on Legal Affairs on Bill "An Act to Limit Political Action Committee Expenditures in Support of or Opposition to Candidates for Legislative Office" (H.P. 92) (L.D. 127) reporting "Ought Not to Pass"

Representative PRIEST from the Committee on Legal Affairs on Bill "An Act to Limit Spending and Contributions in Campaigns for Governor" (I.B. 2) (L.D. 256) reporting "Ought Not to Pass"

Representative PRIEST from the Committee on Legal Affairs on Bill "An Act to Limit Legislative Campaign Spending" (H.P. 329) (L.D. 448) reporting "Ought Not to Pass"

Representative PRIEST from the Committee on Legal Affairs on Bill "An Act to Provide More Equitable Treatment of Manufactured Housing" (H.P. 485) (L.D. 665) reporting "Ought Not to Pass"

Representative PRIEST from the Committee on Legal Affairs on Bill "An Act to Impose Spending Limits on Legislative Campaigns" (H.P. 577) (L.D. 781) reporting "Ought Not to Pass"

Representative CLARK from the Committee on Fisheries and Wildlife on Bill "An Act Concerning Fishing Regulations in Aroostook County" (H.P. 1005) (L.D. 1403) reporting "Ought Not to Pass"

Representative SMITH from the Committee on Fisheries and Wildlife on Bill "An Act Relating to Doe Hunting Permits" (H.P. 1041) (L.D. 1452) reporting "Ought Not to Pass"

Representative JACQUES from the Committee on Energy and Natural Resources on Bill "An Act to Improve the Management of Solid Waste in Maine" (EMERGENCY) (H.P. 681) (L.D. 932) reporting "Ought Not to Pass"

Representative SIMPSON from the Committee on Energy and Natural Resources on Bill "An Act to Clarify Those Waters of the State That Constitute Outstanding National Resources" (H.P. 892) (L.D. 1236) reporting "Ought Not to Pass"

Representative DUFFY from the Committee on Fisheries and Wildlife on Bill "An Act Relating to Maine Hunting Licenses" (H.P. 1065) (L.D. 1487) reporting "Ought Not to Pass"

Representative JACQUES from the Committee on Energy and Natural Resources on Bill "An Act to Create a Forest Policy, Promote Sound Timber Harvest Practices and Ensure the Future Health and Productivity of the State's Forest" (H.P. 474) (L.D. 639) reporting "Ought Not to Pass"

Representative GRAHAM from the Committee on Business Legislation on Bill "An Act to Prohibit Automated Telephone Solicitation" (H.P. 90) (L.D. 125) reporting "Ought Not to Pass"

Representative PRIEST from the Committee on Legal Affairs on Bill "An Act to Permit Property Managers to Appear on Behalf of Owners of Residential Dwelling Units" (H.P. 562) (L.D. 760) reporting "Ought Not to Pass"

Representative O'DEA from the Committee on Education on Bill "An Act Relating to the Approval of School Administrative District Budgets" (H.P. 133) (L.D. 177) 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 PLOURDE from the Committee on Legal Affairs on Bill "An Act Concerning Payment of Law Enforcement Training Costs" (H.P. 930) (L.D. 1296) reporting "Leave to Withdraw"

Representative WENTWORTH from the Committee on State and Local Government on Bill "An Act to Provide for Biennial Review of the Aroostook County Budget" (H.P. 877) (L.D. 1220) reporting "Leave to Withdraw"

Representative LARRIVEE from the Committee on State and Local Government on Bill "An Act to Expand State Agency Access to Applicant Lists" (H.P. 1006) (L.D. 1404) reporting "Leave to Withdraw"

Representative PLOURDE from the Committee on Legal Affairs on Bill "An Act to Change Certain Criminal Violations to Civil Violations" (H.P. 947) (L.D. 1315) reporting "Leave to Withdraw"

Representative PLOURDE from the Committee on Legal Affairs on Bill "An Act to Make Corrections in the Recodification of the Liquor Laws" (H.P. 42) (L.D. 53) reporting "Leave to Withdraw"

Representative PRIEST from the Committee on Legal Affairs on Bill "An Act to Promote Affordable Housing" (H.P. 521) (L.D. 706) reporting "Leave to Withdraw"

Representative DUFFY from the Committee on Taxation on Bill "An Act to Enable Municipalities to Assess Impact Taxes on Development" (H.P. 510) (L.D. 690) reporting "Leave to Withdraw"

Representative PEDERSON from the Committee on Human Resources on Bill "An Act to Amend the Smoking in Restaurants Law" (H.P. 724) (L.D. 1001) reporting "Leave to Withdraw"

Representative STEVENS from the Committee on Business Legislation on Bill "An Act to Amend the

Automobile Disclosure Laws" (H.P. 480) (L.D. 660) reporting "Leave to Withdraw"

Representative GRAHAM from the Committee on Business Legislation on Bill "An Act to Authorize the Board of Accountancy to Establish Quality Review as a Condition to Practicing Public Accountancy" (H.P. 469) (L.D. 634) reporting "Leave to Withdraw"

Representative PARADIS from the Committee on Judiciary on Bill "An Act to Amend the Law Relating to Obstruction of Public Ways" (H.P. 333) (L.D. 452) reporting "Leave to Withdraw"

Representative PARADIS from the Committee on Judiciary on Bill "An Act Regarding Access to Places of Employment or Public Accommodation" (H.P. 714) (L.D. 975) reporting "Leave to Withdraw"

Representative PARADIS from the Committee on Judiciary on Bill "An Act to Strengthen Grandparent Visitation Rights" (H.P. 311) (L.D. 425) reporting "Leave to Withdraw"

Representative PARADIS from the Committee on Judiciary on Bill "An Act to Increase the Penalties for Drug Offenses Involving Firearms" (H.P. 450) (L.D. 615) reporting "Leave to Withdraw"

Representative RUHLIN from the Committee on Labor on Bill "An Act to Restrict Excessive Work Hours" (H.P. 251) (L.D. 363) reporting "Leave to Withdraw"

Representative PRIEST from the Committee on Legal Affairs on Bill "An Act to Clarify the Landlord's Duty to Mitigate Damages" (H.P. 546) (L.D. 743) reporting "Leave to Withdraw"

Representative O'GARA from the Committee on Education on Bill "An Act to Alter the Method of Approving Equivalent Instruction in Home Schools" (H.P. 77) (L.D. 108) reporting "Leave to Withdraw"

Representative AULT from the Committee on Education on Bill "An Act to Expand and Improve the School Year" (H.P. 22) (L.D. 17) reporting "Leave to Withdraw"

Representative AULT from the Committee on Education on Bill "An Act to Ensure that All Maine Students Leave Secondary School with Basic Literacy Skills" (H.P. 800) (L.D. 1112) reporting "Leave to Withdraw"

Representative KILKELLY from the Committee on Education on Bill "An Act to Revise the Truancy Laws" (H.P. 732) (L.D. 1009) reporting "Leave to Withdraw"

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

**Refer to the Committee on Business Legislation**

Representative MANNING from the Committee on Human Resources on Bill "An Act to Amend the Third-party Prescription Program Act and Provide for Responsible Health Care Decisions" (H.P. 943) (L.D. 1311) reporting that it be referred to the Committee on Business Legislation.

Report was read and accepted and the Bill referred to the Committee on Business Legislation and sent up for concurrence.

**Divided Report**

Majority Report of the Committee on Banking and Insurance reporting "Ought to Pass" on Bill "An Act to Require Mandatory Checking of Motorists' Maintenance of Financial Responsibility" (H.P. 284) (L.D. 396)

Signed:  
Senators: COLLINS of Aroostook  
THERIAULT of Aroostook  
Representatives: JOSEPH of Waterville  
CURRAN of Westbrook

TRACY of Rome  
KETOVER of Portland  
ERWIN of Rumford  
DONALD of Buxton  
GARLAND of Bangor  
RYDELL of Brunswick  
RAND of Portland  
ALLEN of Washington

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

Signed:  
Senator: BUSTIN of Kennebec  
Reports were read.

On motion of Representative Rydell of Brunswick, the Majority "Ought to Pass" Report was accepted, the Bill read once and assigned for second reading Tuesday, May 23, 1989.

**Divided Report**

**Later Today Assigned**

Majority Report of the Committee on Human Resources reporting "Ought to Pass" as amended by Committee Amendment "A" (H-232) on Bill "An Act to Prohibit Smoking in Hospitals" (H.P. 728) (L.D. 1005)

Signed:  
Senator: RANDALL of Washington  
Representatives: MANNING of Portland  
ROLDE of York  
BOUTILIER of Lewiston  
BURKE of Vassalboro  
DELLERT of Gardiner  
HEPBURN of Skowhegan  
PENDLETON of Scarborough

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

Signed:  
Senators: GAUVREAU of Androscoggin  
TITCOMB of Cumberland  
Representatives: PEDERSON of Bangor  
CLARK of Brunswick  
CATHCART of Orono

Reports were read.

Representative Manning of Portland moved that the House accept the Majority "Ought to Pass" Report.

On motion of the same Representative, tabled pending his motion to accept the Majority "Ought 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. 1019) (L.D. 1420) Bill "An Act to Clarify that Municipal Police Officers Need Not Be Residents of the State" (EMERGENCY) Committee on Legal Affairs reporting "Ought to Pass"

(H.P. 653) (L.D. 887) Resolve, to Create the Commission to Study Public Financing of State Elections Committee on Legal Affairs reporting "Ought to Pass"

(H.P. 559) (L.D. 757) Bill "An Act Concerning Withdrawal of Candidates" Committee on Legal Affairs reporting "Ought to Pass" as amended by Committee Amendment "A" (H-234)

(H.P. 544) (L.D. 741) Bill "An Act to Remove the Limitations on Raffles Conducted by Nonprofit Entities" Committee on Legal Affairs reporting "Ought to Pass" as amended by Committee Amendment "A" (H-233)

(H.P. 782) (L.D. 1094) Bill "An Act Providing Conformity with the United States Internal Revenue

Code Under the Maine Income Tax Law for 1988" (EMERGENCY) Committee on Taxation reporting "Ought to Pass"

(H.P. 1039) (L.D. 1450) Bill "An Act Concerning the Location of Lobster Trap Vents" (EMERGENCY) Committee on Marine Resources reporting "Ought to Pass"

(H.P. 33) (L.D. 33) Bill "An Act to Authorize the Bureau of Veterans' Services to Provide Assistance to Vietnam Veterans" Committee on Aging, Retirement and Veterans reporting "Ought to Pass" as amended by Committee Amendment "A" (H-235)

(S.P. 61) (L.D. 44) Bill "An Act to Establish a Supreme Judicial Court Sentence Review Mechanism Relative to Sentences Involving Terms of Imprisonment of One Year or More" Committee on Judiciary reporting "Ought to Pass"

(S.P. 449) (L.D. 1211) Bill "An Act to Maintain Legal Services for Low-income Citizens" (EMERGENCY) Committee on Appropriations and Financial Affairs reporting "Ought to Pass"

(S.P. 311) (L.D. 816) Bill "An Act to Increase Safety on Maine Roads and Protect the General Welfare" Committee on Transportation reporting "Ought to Pass" as amended by Committee Amendment "A" (S-124)

(H.P. 548) (L.D. 745) Bill "An Act to Clarify the Provisions of the Act to Protect Elderly, Infirm Persons from Improvident Transfers of Title to Property" Committee on Judiciary reporting "Ought to Pass"

(H.P. 825) (L.D. 1157) Bill "An Act to Reduce the Quantities of Cocaine and Heroin Necessary to Allow a Presumption of Unlawful Furnishing" Committee on Judiciary reporting "Ought to Pass"

(H.P. 678) (L.D. 929) Bill "An Act to Clarify the Payment of Medical Expenses under the Workers' Compensation Act" Committee on Labor reporting "Ought to Pass" as amended by Committee Amendment "A" (H-239)

(H.P. 702) (L.D. 963) Bill "An Act to Clarify Motor Vehicle Dealership Insurance Coverage Laws" Committee on Business Legislation reporting "Ought to Pass" as amended by Committee Amendment "A" (H-240)

(H.P. 434) (L.D. 599) Bill "An Act Regulating the Sale of Grave Markers by Funeral Establishments" Committee on Business Legislation reporting "Ought to Pass" as amended by Committee Amendment "A" (H-241)

(H.P. 149) (L.D. 201) Bill "An Act Relating to Collision Damage Waivers for Rented Motor Vehicles" Committee on Business Legislation reporting "Ought to Pass" as amended by Committee Amendment "A" (H-242)

(H.P. 54) (L.D. 75) Resolve, Authorizing Lorraine Gray to Bring a Civil Action Against the State of Maine and Individual Past and Present Employees of the Department of Human Services Committee on Legal Affairs reporting "Ought to Pass" as amended by Committee Amendment "A" (H-243)

(H.P. 832) (L.D. 1164) Bill "An Act to Allow the Sale of Alcoholic Beverages in Bowling Centers" Committee on Legal Affairs reporting "Ought to Pass" as amended by Committee Amendment "A" (H-244)

(H.P. 266) (L.D. 378) Resolve, Authorizing Oscar and Wandalyn Rae Thompson to Bring Suit Against the State of Maine Committee on Legal Affairs reporting "Ought to Pass" as amended by Committee Amendment "A" (H-245)

(H.P. 709) (L.D. 970) Bill "An Act Regarding Political Party Enrollment" Committee on Legal Affairs reporting "Ought to Pass" as amended by Committee Amendment "A" (H-246)

(H.P. 228) (L.D. 312) Bill "An Act to Establish Consistent Daily Hours for the Sale of Alcoholic Beverages" Committee on Legal Affairs reporting

"Ought to Pass" as amended by Committee Amendment "A" (H-247)

(H.P. 371) (L.D. 502) Bill "An Act to Increase the Recording Fees for Services Rendered by the County Offices of Registry of Deeds" Committee on State and Local Government reporting "Ought to Pass" as amended by Committee Amendment "A" (H-248)

There being no objections, the above items were ordered to appear on the Consent Calendar of Tuesday, May 23, 1989, under the listing of Second Day.

(H.P. 991) (L.D. 1380) Bill "An Act to Provide for Public Bell Ringing on Veterans Day" Committee on Aging, Retirement and Veterans reporting "Ought to Pass" as amended by Committee Amendment "A" (H-249)

On motion of Representative Jalbert of Lisbon, was removed from Consent Calendar, First Day.

The Committee Report was read and accepted, the Bill read once.

Committee Amendment "A" (H-249) was read by the Clerk.

On motion of Representative Jalbert of Lisbon, tabled pending adoption of Committee Amendment "A" and specially assigned for Tuesday, May 23, 1989.

(H.P. 784) (L.D. 1096) Bill "An Act to Better Incorporate Vocational Education into High School Graduation Requirements" Committee on Education reporting "Ought to Pass"

(H.P. 585) (L.D. 789) Bill "An Act to Create the Youth-at-Risk Alternative Education Program" Committee on Education reporting "Ought to Pass" as amended by Committee Amendment "A" (H-250)

There being no objections, the above items were ordered to appear on the Consent Calendar of Tuesday, May 23, 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. 618) (L.D. 841) Bill "An Act to Include Certain Proprietary Schools in Eligibility Requirements of the Maine Educational Loan Authority's Supplemental Loan Program" (EMERGENCY) (C. "A" H-222)

(H.P. 531) (L.D. 716) Bill "An Act to Make Allocations for the Operating Expenditures of the Intergovernmental Telecommunications Fund, Department of Administration, for the Fiscal Years Ending June 30, 1990, and June 30, 1991" (EMERGENCY) (C. "A" H-223)

(S.P. 62) (L.D. 45) Resolve, to Request the Department of Corrections to Undertake a Probation Systems Management Study (EMERGENCY) (C. "A" S-120)

(S.P. 148) (L.D. 268) Bill "An Act to Amend the School Finance Act to Clarify that Certain Educational Costs Provided to Special Populations are Allowable Special Education Costs" (C. "A" S-122)

(S.P. 158) (L.D. 306) Bill "An Act to Promote Conservation Purchases by Electric Utilities" (C. "A" S-116)

(S.P. 164) (L.D. 321) Bill "An Act to Certify and Register Municipalities under the Site Location of Development Act" (C. "A" S-114)

(S.P. 369) (L.D. 993) Resolve, Directing Various Agencies of State Government to Assess their Policies Regarding Learning Disabilities (C. "A" S-121)

(S.P. 457) (L.D. 1242) Bill "An Act to Amend the Maine Human Rights Act with Regard to Housing

Discrimination against Families with Children" (EMERGENCY) (C. "A" S-115)

(H.P. 921) (L.D. 1287) Bill "An Act to Amend the Law on Home Construction Contracts" (C. "A" H-225)

(H.P. 1018) (L.D. 1419) Bill "An Act to Establish a Technical Services Program in the Local Soil and Water Conservation Districts" (C. "A" H-231)

(H.P. 369) (L.D. 500) Bill "An Act to Amend the Low-level Radioactive Waste Authority Laws" (C. "A" H-230)

(H.P. 755) (L.D. 1059) Bill "An Act to Repair the Chain of Ponds' Dam" (C. "A" H-229)

(H.P. 470) (L.D. 635) Bill "An Act to Make Allocations for Various Funds of the Department of Environmental Protection for the Fiscal Years Ending June 30, 1990 and June 30, 1991" (EMERGENCY) (C. "A" H-228)

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

**PASSED TO BE ENGROSSED  
As Amended**

Bill "An Act to Amend Department of Transportation Statutory Provisions Pursuant to the Surface Transportation and Uniform Relocation Assistance Act of 1987 Enacted by the Congress of the United States" (EMERGENCY) (S.P. 375) (L.D. 999) (C. "A" S-117 and S. "A" S-125)

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**

**Indefinitely Postponed**

Bill "An Act Concerning All-terrain Vehicle Use in State Parks" (H.P. 865) (L.D. 1204) (C. "A" H-227)

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

On motion of Representative Heeschen of Wilton, L.D. 865 and all accompanying papers were indefinitely postponed. Sent up for concurrence.

**PASSED TO BE ENACTED  
Emergency Measure**

An Act to Study the Employment of Minors (H.P. 1117) (L.D. 1550) (H. "A" H-206)

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. 115 voted in favor of the same and none against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

**PASSED TO BE ENACTED**

An Act to Assist Agricultural Producers to Locate and Train Workers (H.P. 468) (L.D. 633)

An Act Relating to Agricultural Awareness (H.P. 213) (L.D. 293) (C. "A" H-185)

An Act Concerning Fishing Licenses for Developmentally Disabled Persons (H.P. 965) (L.D. 1343) (C. "A" H-182)

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.

**ORDERS OF THE DAY**

**TABLED AND TODAY ASSIGNED**

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

HOUSE DIVIDED REPORT - Majority (8) "Ought Not to Pass" - Minority (4) "Ought to Pass" - Committee on State and Local Government on RESOLUTION, Proposing an Amendment to the Constitution of Maine to Provide for 4-Year Terms for Senators and Representatives (H.P. 808) (L.D. 1120)

TABLED - May 19, 1989 by Representative MAHANY of Easton.

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 second tabled and today assigned matter:

Bill "An Act to Amend the Revised Maine Securities Act and Related Statutes" (H.P. 189) (L.D. 254)

TABLED - May 19, 1989 by Representative GWADOSKY of Fairfield.

PENDING - Adoption of Committee Amendment "A" (H-198).

On motion of Representative Rydell of Brunswick, Committee Amendment "A" (H-189) was indefinitely postponed and the Bill assigned for second reading Tuesday, May 23, 1989.

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

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

TABLED - May 19, 1989 by Representative GWADOSKY of Fairfield.

PENDING - Passage to be Enacted.

On motion of Representative Heeschen of Wilton, under suspension of the rules, the House reconsidered its action whereby L.D. 303 was passed to be engrossed.

On further motion of the same Representative, under suspension of the rules, the House reconsidered its action whereby Committee Amendment "A" (H-167) was adopted.

The same Representative offered House Amendment "A" (H-238) to Committee Amendment "A" (H-167) and moved its adoption.

House Amendment "A" (H-238) to Committee Amendment "A" was read by the Clerk.

The SPEAKER: The Chair recognizes the Representative from Wilton, Representative Heeschen.

Representative HEESCHEN: Mr. Speaker, Men and Women of the House: This amendment is a technical amendment that removes the authority of LURC to use the proposed Land Use Regulations to regulate development in areas that were formerly part of a municipality that deorganizes under the bill. The amendment is necessary to avoid potential constitutional problems regarding due process and equal protection. Under the amendment, LURC must adopt a zoning map for the area formerly comprising the now deorganized town within one year and that zoning map will govern all future development within that area.

Subsequently, House Amendment "A" to Committee Amendment "A" was 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.

(Off Record Remarks)

(At Ease to the Gong)

The House was called to order by the Speaker.

The Chair laid before the House the following matter: Majority Report (8) of the Committee on Human Resources reporting "Ought to Pass" as amended by Committee Amendment "A" (H-232) on Bill "An Act to Prohibit Smoking in Hospitals" (H.P. 728) (L.D. 1005) and Minority Report (5) of the same Committee reporting "Ought Not to Pass" on same Bill which was tabled earlier in the day and later today assigned pending the motion of Representative Manning of Portland that the House accept the Majority "Ought to Pass" Report.

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

Representative MANNING: Mr. Speaker, Ladies and Gentlemen of the House: This particular piece of legislation, if enacted, would prohibit smoking in hospitals throughout the State of Maine. There are some hospitals in this state who do have this particular piece on their books now but they are only doing it on a volunteer basis. This piece of legislation would mandate that all hospitals would have to have a "no smoking" area.

Some concerns have been brought up regarding smokers who go into hospitals and, during their course of treatment, they would not be able to smoke. On page two of the amendment you will see there has been an exception written into it that would allow the doctor to write an order indicating that the patient or the resident could smoke. If that particular person needed to smoke and it happened that they were -- as it says, "a patient or resident of a hospital or state institution may smoke in a designated area within the hospital or the state institution if a licensed physician has written an order permitting the patient or resident to smoke." For instance, people who smoke at AMHI, the doctor would allow that person to smoke in a designated area. If it was at St. Mary's in Lewiston, (somebody talked to me earlier about this) it would allow that person to smoke in a designated area if the physician allowed that person to do it. The exception is only with the physician.

The bill would go into effect on November 16, 1989. The reason for that is, the Hospital Association has tried, on a volunteer basis, to get all hospitals to have smoke-free areas by that time. However, the Hospital Association was in favor of this piece of legislation and asked us to put that November 16th date in there. This is probably one of the first times in my recent memory that I have gone along with the hospitals. Many times, as some of the veterans here know, I have not been in favor of a lot of hospital legislation.

I think the reason why the majority passed this piece of legislation is the fact that many people who end up in hospitals end up there because they smoke. The last thing that we want to do is have staff smoking in front of people, staff smoking in areas that could be close to some of these people,

residents or patients smoking next to some of these people. I think it is something that we need to address. The Medicare shortfall that we hear about all the time, a good percentage of those people who are in the hospitals are in there because of diseases that were related to smoking. I think that it is time that we in the state take a hard look at trying to decrease why people end up in hospitals and, when they do go into hospitals, you take a look at hospitals that allow smoking and somebody is going in dying of lung cancer or dying of emphysema or dying of other causes that were related to smoking, I think that is where we should start and, hopefully, you will go along with the Majority Report.

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

Representative CLARK: Mr. Speaker, Ladies and Gentlemen of the House: I would urge you to vote against the Majority Report so we may go on to accept the Minority Report today.

I would like to briefly explain the reasons why I believe this Majority Report is bad policy. I ask you as I talk to think about your own hospital. I also ask you to think about the patients who use that hospital and I ask you to think about the family members who go visit those patients. The debate today should not be whether smoking is bad for your health, because I don't think that there is a single person on the Human Resources Committee who believes that it is. However, the reality is that a number of people do smoke. It has been estimated that approximately 30 percent smoke. The reality is that many of those people, as Representative Manning pointed out, may be ill from diseases caused by smoking. However, the time that they are hospitalized for that may not be the best time to try to deal with that problem.

Representative Manning from Portland told you that this bill will not require that they not smoke. However, let me tell you some other things that may happen -- this bill does not mandate that hospitals have a designated smoking area, it only says "that physicians may determine that patients may smoke." The sponsor of this legislation envisioned that that would be the patient's room at the time the patient was in it.

Think also of patients who are in hospitals for mental illness or a hospital for substance abuse. Even if they are in fact smokers, that is the time to try to deal with their addiction.

Representative Manning has told you that the Hospital Association is in favor of this bill. Of course, they are in favor of this bill. If we mandate that this go into effect, we will pay through direct pass-throughs under our current regulatory system for any changes that the hospital needs to make in order to accommodate this policy. If they do it voluntarily, then they have made that decision as a policy. We do not need to mandate this. This is a very extreme policy. It also does not allow family members to smoke. Again, the debate is not whether that is good or bad. I would ask you to think particularly about our larger hospitals and where the intensive care unit is. At Maine Medical, I can tell you from personal experience that it is in the middle of the building on the fifth floor. You are asking people who are there to leave that area to go outside and smoke at a time that is clearly very stressful to them.

For all those reasons, ladies and gentlemen, I would urge you that this is not a good bill, that there were middle grounds the majority of this committee was not willing to discuss and, therefore, I urge you to vote to "Ought Not to Pass" on this.

The SPEAKER: The Chair recognizes the Representative from Limestone, Representative Pines.

Representative PINES: Mr. Speaker, Ladies and Gentlemen of the House: I am the sponsor of this bill and when I was questioned and Representative Clark asked about where they would smoke, I did not wish to mandate to the hospitals where they would smoke. I allowed that to be a voluntary decision of each hospital. I, therefore, said that I think it would be in their rooms depending on their condition.

The experience I had was with a patient who was not going to live very long -- that patient was in such pain and agony, they could not have been removed from their room so we, therefore, did not mandate the place where they would have the smoking privilege. Eight hospitals now have such a policy mirroring this bill. Others have restricted policy; thus with only a physician's order. Some of those hospitals would add to the eight hospital member of the 45 hospitals we have but because they had restricted areas with a physician's order, they didn't consider themselves smokeless. Some have smoking areas. Many would like it to pass to give support to their administrators but they don't have the desire to cut it out completely. Banned smoking is already in effect in retail stores and in government buildings to protect those who are conducting their daily business.

Ladies and gentlemen of the House: These are sick people, many of them unable to protect themselves. We are talking about health care facilities in a house where people go when they are ill. Of course, there is stress for the visitor. If the visitor has to leave the area to smoke, it is not that difficult for them to go to their car or outside and have their cigarette.

I had personal experiences as I told you. We are not here to just protect our fellow workers and the public, we are here today with a bill that protects those who are ill who cannot protect themselves.

Representative Strout came in this morning and told me he had had phone calls from people saying, "I can't believe you haven't done this before, this would be the first place I would think would do this, a health care facility that most people out there think smoking is already banned.

As a young person having a tonsillectomy, I didn't speak up and tell the nurse every time she came in from having a cigarette, after having had ether, she made me vomit again. How many other people in there who are ill don't realize that there is a problem. Others who testified that day (and no one testified, absolutely no one testified against this bill) said that, during times of stress, the very last thing they were thinking of was a cigarette.

Ladies and gentlemen of the House, I hope that you will support the Majority Report.

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

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

What is the present procedure in hospitals at this time? Could somebody tell us that?

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

The Chair recognizes the Representative from Limestone, Representative Pines.

Representative PINES: Mr. Speaker, Ladies and Gentlemen of the House: There is a great hospital smokeout day goal of November 16, 1989. This is a voluntary program being carried out by the hospitals in the State of Maine. They have offered cessation

smoking classes for their employees who are presently smoking and this bill will be an assistance to them. If the debate goes further, I will explain how this could assist them but the hospitals are trying voluntarily with the Great Smokeout Day, November 16, 1989, to make all hospitals smoke-free.

The SPEAKER: The Chair recognizes the Representative from Bangor, Representative Pederson.

Representative PEDERSON: Mr. Speaker, Ladies and Gentlemen of the House: One of the very bad things that is involved in this bill is that it includes the institutions, our mental institutions, and we have a population probably of 99 percent smokers. It is going to create a very serious problem for these minority people who have problems which is hard for the average person to even comprehend. They are not as educable in this area as we are and some other portions of the population. They have a little bit of a different problem than we do and yet we want to treat them same as we treat everybody else. I think they are a very important exception and should be taken into consideration and that is why I urge you to vote against this bill.

The SPEAKER: The Chair recognizes the Representative from Penobscot, Representative Hutchins.

Representative HUTCHINS: Mr. Speaker, Ladies and Gentlemen of the House: I rise in favor of this today looking at it as more of a protection for those that cannot protect themselves, much like we do with the seatbelt law for children. The point of the cost of the bill being borne by the taxpayers wouldn't be, in most cases, much more than "no smoking" signs. The doctors now prescribe drugs without our help and I believe they probably could also prescribe in this area for those that need the exception.

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

Representative CLARK: Mr. Speaker, Men and Women of the House: I really feel obligated to rise to clarify the point that was just made by the last speaker and that is, he is incorrect, the cost to the taxpayer could be considerably more than the cost of "no smoking" signs. Under our current regulatory system, and I suspect under any system that we may pass in this body in the next six weeks, the cost of health care gets passed on to the consumer. The state goes through the insurance premiums we pay for our employees and because of Medicaid, we do bear a share of the hospital cost and it will be passed on to us through those two mechanisms.

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

Representative MANNING: Mr. Speaker, Ladies and Gentlemen of the House: The point that was just made about direct payments coming from the consumers, I think the veterans in this House remember me sitting here about the last few days of the legislative session last year about one-thirty in the morning arguing about the consumers. I know what this bill will do, I am certainly fighting for the consumers, but I don't think it is going to be that costly. I don't think we are going to be talking that much money.

There is one particular hospital in my community who has constantly criticized the MHCFC statutes that did it voluntarily. They do not allow smoking at all. It is the fifth largest hospital in the State of Maine. I don't think they went to MHCFC and asked to have a designated smoking area nor, if this bill goes through, I don't think they will do that then.

The other thing about the institutions, they can have a designated area at AMHI or at Bangor. Members of my committee were over there a couple of months

ago and right now they have a designated area. They don't smoke in their rooms, they smoke in a designated area. If the physician allows that to happen, they can smoke in a designated area. Those people at AMHI can still smoke.

I think we have put some safeguards in here with the "exceptions." I think if that is the thing people are worried about, they should look at that on the amendment. It allows for designated areas, if the patient get an order from the physician. At AMHI, St. Mary's, St. Joseph's, at CMMC, many of those places could have a designated area if the physician allowed it.

The SPEAKER: The Chair recognizes the Representative from Bangor, Representative Pederson.

Representative PEDERSON: Mr. Speaker, Ladies and Gentlemen of the House: I realize that there is a designated area on this amendment. I also realize that sometimes the designated areas are less than desirable and they sometimes make designated areas so bad that some people might not wish to smoke there. It's almost like a punishment and this is the last thing in the world that I think you want to do with people that are in an institution and that is to create something that is more like a punishment than that small contentment they may get out of life.

The SPEAKER: The Chair recognizes the Representative from Vassalboro, Representative Burke.

Representative BURKE: Mr. Speaker, Ladies and Gentlemen of the House: In response to Representative Pederson's concern that the designated areas in the psychiatric areas of hospitals or psychiatric hospitals would not create a nice ambiance for the patients, the psychiatric institutions currently have designated areas, patients are not allowed to smoke in their rooms and not allowed to have matches in their rooms for very obvious reasons. In many instances, the psychiatric institutions make a decided attempt to control the amount that the patients are smoking anyway because there is often a tendency to chain smoke, which is bad on many levels.

The other thing I would like to present is the fact that people keep saying that, under a lot of stress, people should be allowed to smoke and when a loved one is in the hospital, it is a very stressful time and you shouldn't expect them to have to leave the area and leave the hospital or go outside the hospital to smoke -- I would like to submit to you that many people use alcohol as a stress release when they are under a lot of tension but we do not ask hospitals to create an area where people can go and drink. I think to create an area where people can go and smoke is a very similar circumstance. We need to make it a very decided policy that, if a patient within the hospital is addicted, the doctor can leave an order that the patient can go and smoke in a designated area, but that other people entering the hospital, both workers and visitors, should not be allowed to smoke.

The SPEAKER: The Chair recognizes the Representative from Orono, Representative Cathcart.

Representative CATHCART: Mr. Speaker, Ladies and Gentlemen of the House: I urge you to vote against the Majority Report. I would just remind the members that the way the law is now, hospitals are free to pass a "no smoking" policy and I believe Representative Pines said that 8 of our hospitals have done so and I applaud that effort. However, we have a large variety of hospitals in the state and I would prefer to see it left where the hospital boards and administrators can make their own decisions about a smoking policy.

The SPEAKER: The Chair recognizes the Representative from Stockton Springs, Representative Crowley.

Representative CROWLEY: Mr. Speaker, Ladies and Gentlemen of the House: I have voted for every single, I think, smoking restriction bill that we have had until this one. As I listen to the debate, we do have smoke-free nursing rooms, we do have smoke-free hospitals and we do it through local control and every one of these boards have doctors on that hospital board. Today, I am going to vote to leave them alone and let them handle this on a local basis.

The SPEAKER: The Chair recognizes the Representative from Limestone, Representative Pines.

Representative PINES: Mr. Speaker, Ladies and Gentlemen of the House: I urge you to vote for the Majority Report. This morning I called my own local hospital, I didn't ask to speak to the non-smoker, I asked to speak to the smoker and he said, "If this bill doesn't pass, the smokers win, but I lose personally because I will continue to smoke. I will no longer have the desire to go the cessation classes."

So I urge you, along with the committee members, to vote for the Majority Report.

The SPEAKER: The Chair will order a vote. The pending question before the House is the motion of the Representative from Portland, Representative Manning, 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.

71 having voted in the affirmative and 55 in the native, the Majority "Ought to Pass" Report was accepted, the Bill read once.

Committee Amendment "A" (H-232) was read by the Clerk and adopted and the Bill assigned for second reading Tuesday, May 23, 1989.

(Off Record Remarks)

On motion of Representative Ridley of Shapleigh, Adjourned until Tuesday, May 23, 1989, at twelve o'clock noon.