

# MAINE STATE LEGISLATURE

The following document is provided by the  
**LAW AND LEGISLATIVE DIGITAL LIBRARY**  
at the Maine State Law and Legislative Reference Library  
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied  
(searchable text may contain some errors and/or omissions)

**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

several people making the disturbance, and then the citizens would see the police leave without making arrests. The Bill would have eliminated a cause of frustration perceived as the inability of the police to protect the peace of the neighborhood.

The Judiciary Committee heard the testimony and we realize, as a Committee, that the police are in a difficult situation. The problem, however, is not the law but how the law is apparently being applied. We believe that the application, by the courts and district attorneys, in Cumberland County in particular, is inconsistent with legislative intent.

The courts and prosecutors are apparently reading the decision in State v. John W., 418 A2d 1097 (Me. 1980), which interprets subsection 2 of the disorderly conduct statute, to govern the application of subsection 1. We believe that such a reading is inconsistent with not only the legislative intent underlying the disorderly conduct statute, but it is contrary to the plain meaning of the wording of subsection 1 as well.

State v. John W., in interpreting subsection 2 of the statute, also known as the "fighting words" prohibition, provides that a police officer's threshold of being incited to breach the peace by mere words must be higher than that of an ordinary citizen. Or, put another way, a law enforcement officer has to tolerate a lot more verbal abuse than anyone else; it's the nature of the job, and it is tied to all our rights to free speech and to verbally protest arrest.

This interpretation of subsection 2, we believe is a proper application of the language of subsection 2 and the understanding of the legislative intent underlying it. The Law Court did not, however, have the opportunity in State v. John W. to review subsection 1, which prohibits intentionally making loud and unreasonable noises which annoy others.

Although it is not our role as Legislators to interpret the law, we can read the law and its face and make this unique position of explaining the law regarding the legislative intent. The Judiciary Committee reviewed the law and the Law Court's decision and has determined that subsection 1 of Title 17-A, section 501 is properly written in its current form to carry out the legislative intent to provide the police with a mechanism to stop disruptions of peaceful neighborhoods without the enforcement being an additional disruption.

We therefore ask that the courts and prosecutors take this opportunity to review their application of the statute and case law, and help the police and the citizens of this State to maintain the peaceful neighborhoods the law was enacted to protect. Thank you very much.

On motion by Senator HOBBS of York, ADJOURNED until Wednesday, May 24, 1989, at 12:00 in the afternoon.

**ONE HUNDRED AND FOURTEENTH MAINE LEGISLATURE  
FIRST REGULAR SESSION  
69th Legislative Day  
Wednesday, May 24, 1989**

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

Prayer by Senator Nancy Randall Clark of Cumberland.

The Journal of Tuesday, May 23, 1989, was read and approved.

Quorum call was held.

**PAPERS FROM THE SENATE**

Bill "An Act to Amend Maine's Unclaimed Property Act" (S.P. 602) (L.D. 1688)

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

(The Committee on Reference of Bills had suggested reference to the Committee on Legal Affairs.)

Was referred to the Committee on Legal Affairs in non-concurrence and sent up for concurrence.

On motion of Representative Martin of Eagle Lake, the House reconsidered its action whereby L.D. 1688 was referred to the Committee on Legal Affairs in non-concurrence.

Subsequently, was referred to the Committee on Business Legislation in concurrence.

**Unanimous Leave to Withdraw**

Report of the Committee on Appropriations and Financial Affairs reporting "Leave to Withdraw" on Bill "An Act to Establish a Pilot Program to Promote Literacy in Maine Correctional Facilities" (S.P. 360) (L.D. 961)

Report of the Committee on Banking and Insurance reporting "Leave to Withdraw" on Resolve, to Establish the Commission to Study a Workers' Compensation State Fund (S.P. 89) (L.D. 94)

Report of the Committee on Banking and Insurance reporting "Leave to Withdraw" on Bill "An Act Concerning Health Care Insurance" (S.P. 194) (L.D. 431)

Report of the Committee on Banking and Insurance reporting "Leave to Withdraw" on Bill "An Act to Provide for the Social and Financial Assessment of Proposed Mandatory Health Insurance Benefits" (S.P. 253) (L.D. 643)

Report of the Committee on Banking and Insurance reporting "Leave to Withdraw" on Resolve, to Study the Impact of Expanding Licensure of Additional Groups of Health Care Professionals on Health Insurance Costs (EMERGENCY) (S.P. 261) (L.D. 651)

Report of the Committee on Banking and Insurance reporting "Leave to Withdraw" on Bill "An Act to Clarify the Reporting Requirements for Workers' Compensation Insurers" (S.P. 280) (L.D. 726)

Report of the Committee on Banking and Insurance reporting "Leave to Withdraw" on Bill "An Act to Amend the Insurance Law Relating to the Type of Coverage Provided by Insurance Carriers" (S.P. 296) (L.D. 794)

Report of the Committee on Banking and Insurance reporting "Leave to Withdraw" on Bill "An Act Relating to Optometric Services" (S.P. 322) (L.D. 859)

Report of the Committee on Banking and Insurance reporting "Leave to Withdraw" on Bill "An Act to Establish a Patient Compensation Fund" (S.P. 352) (L.D. 953)

Report of the Committee on Banking and Insurance reporting "Leave to Withdraw" on Bill "An Act Related to Improving Access to Long-term Health Care Insurance" (S.P. 367) (L.D. 984)

Report of the Committee on Banking and Insurance reporting "Leave to Withdraw" on Bill "An Act to Register 3rd-party Medical Reimbursement Review Entities" (S.P. 374) (L.D. 998)

Report of the Committee on Banking and Insurance reporting "Leave to Withdraw" on Bill "An Act to Require All Major Health Care Insurers Doing Business in Maine to Reimburse for Routine Physical Examinations and Screenings" (S.P. 411) (L.D. 1077)

Report of the Committee on Banking and Insurance reporting "Leave to Withdraw" on Bill "An Act Relating to Lines of Insurance and Licenses for Workers' Compensation Insurers" (S.P. 418) (L.D. 1129)

Report of the Committee on Banking and Insurance reporting "Leave to Withdraw" on Bill "An Act Regulating Unfair Claims Practices" (S.P. 423) (L.D. 1134)

Report of the Joint Select Committee on Corrections reporting "Leave to Withdraw" on Bill "An Act to Provide for the State Administration and Operation of the Androscoggin County Jail" (S.P. 160) (L.D. 308)

Report of the Joint Select Committee on Corrections reporting "Leave to Withdraw" on Bill "An Act to Clarify the Law Governing the Transfer of County Jail Prisoners" (S.P. 364) (L.D. 981)

Report of the Committee on Education reporting "Leave to Withdraw" on Bill "An Act to Fund the Cost of the Salaries for Professionals in New or Expanded Special Education or Gifted and Talented Programs on a One-year Basis" (Emergency) (S.P. 81) (L.D. 82)

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

**Non-Concurrent Matter**

Bill "An Act to Prevent Discrimination" (H.P. 413) (L.D. 556) on which the Majority "Ought to Pass" as amended Report of the Committee on Judiciary was read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (H-211) in the House on May 19, 1989.

Came from the Senate with the Minority "Ought Not to Pass" Report of the Committee on Judiciary read and accepted in non-concurrence.

On motion of Representative Gwadosky of Fairfield, tabled pending further consideration and specially assigned for Thursday, May 25, 1989.

**COMMUNICATIONS**

The following Communication: (S.P. 603)  
114TH MAINE LEGISLATURE  
May 22, 1989

Senator Raynold Theriault  
Representative Charlene B. Rydell  
Chairpersons  
Joint Standing Committee on Banking and Insurance  
114th Legislature  
Augusta, Maine 04333  
Dear Chairs:

Please be advised that Governor John R. McKernan, Jr. has nominated H. Donald DeMatteis of Litchfield for reappointment as the Superintendent of the Maine Bureau of Banking.

Pursuant to Title 9B, M.R.S.A. Section 211, this nomination will require review by the Joint Standing Committee on Banking and Insurance 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 Banking and Insurance.

Was Read and Referred to the Committee on Banking and Insurance in concurrence.

The following Communication: (S.P. 604)  
114TH MAINE LEGISLATURE  
May 22, 1989

Senator Stephen C. Estes  
Representative Nathaniel J. Crowley, Sr.  
Chairpersons  
Joint Standing Committee on Education  
114th Legislature  
Augusta, Maine 04333  
Dear Chairs:

Please be advised that Governor John R. McKernan, Jr. has nominated Malcolm C. Cianchette of Hartland for reappointment and Robert L. Hinckley of Manset and Warren C. Cook of Freeman Township for appointments to the Maine Maritime Academy Board of Trustees.

Pursuant to P.L. 1975, Chapter 771, Section 428, these nominations will require review by the Joint Standing Committee on Education 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 Education.

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

The following Communication:  
STATE OF MAINE  
DEPARTMENT OF STATE  
STATE HOUSE STATION 101  
AUGUSTA, MAINE  
DIVISION OF PUBLIC ADMINISTRATION  
May 23, 1989

To Edwin H. Pert, Clerk  
House of Representatives  
One Hundred and Fourteenth Legislature  
In compliance with 3 MRSA section 2, as amended, notification is hereby given of the following vacancy in the House of Representatives.

Thomas A. Cahill, Mattawamkeag - District 133  
The Governor has set the date of June 15, 1989 in which to hold the special election to fill the vacancy.

Respectfully,  
s/Gary Cooper, Assistant  
Deputy Secretary of State

Was read and ordered placed on file.

**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:

**Appropriations and Financial Affairs**  
Bill "An Act to Fund and Implement Collective Bargaining Agreements with Certain Maine

Vocational-Technical Institute System Employees Represented by the Maine Teachers Association" (EMERGENCY) (H.P. 1222) (L.D. 1694) (Presented by Representative HIGGINS of Scarborough) (Cosponsored by Senator PEARSON of Penobscot, Representative CARTER of Winslow and Senator PERKINS of Hancock)

Bill "An Act to Create the Maine Family Development Foundation" (EMERGENCY) (H.P. 1226) (L.D. 1698) (Presented by Representative ROLDE of York) (Cosponsored by President PRAY of Penobscot, Speaker MARTIN of Eagle Lake and Senator BERUBE of Androscoggin) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27.)

Ordered Printed.  
Sent up for Concurrence.

#### Education

Bill "An Act to Establish the School Finance Act of 1989" (H.P. 1220) (L.D. 1692) (Presented by Representative BREWER of Boothbay Harbor) (Cosponsored by Senator CLARK of Cumberland, Representative ROLDE of York and Representative ADAMS of Portland) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27.)

Ordered Printed.  
Sent up for Concurrence.

#### Fisheries and Wildlife

Bill "An Act Relating to Hunting and Fishing Licenses" (H.P. 1221) (L.D. 1693) (Presented by Representative FARNSWORTH of Hallowell) (Cosponsored by Representative JACQUES of Waterville and Senator ERWIN of Oxford) (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 Establish a Program to Prevent Spousal Impoverishment" (EMERGENCY) (H.P. 1224) (L.D. 1696) (Presented by Speaker MARTIN of Eagle Lake) (Cosponsored by Senator CLARK of Cumberland, Representative MELENDY of Rockland and Representative COTE of Auburn) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27.)

Ordered Printed.  
Sent up for Concurrence.

#### Legal Affairs

Bill "An Act to Protect Tenant's Rights by Authorizing Municipalities to Escrow Certain Funds under the General Assistance Laws" (H.P. 1225) (L.D. 1697) (Presented by Representative ADAMS of Portland) (Cosponsored by Representative PLOURDE of Biddeford, Representative BELL of Caribou and Representative HANDY of Lewiston) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27.)

Ordered Printed.  
Sent up for Concurrence.

#### Transportation

Bill "An Act to Authorize Department of Transportation Bond Issues in the Amount of \$21,000,000 to Match Available Federal Funds for Highway, State and Local Bridges, Harbor and Airport

Improvements" (H.P. 1223) (L.D. 1695) (Presented by Representative McPHERSON of Eliot) (Cosponsored by Senator GOULD of Waldo, Representative MACOMBER of South Portland and Senator TWITCHELL of Oxford)

Ordered Printed.  
Sent up for Concurrence.

#### Reported Pursuant to Statutes

Representative JACQUES from the Joint Standing Committee on Fisheries and Wildlife, pursuant to the Maine Revised Statutes, Title 12, section 7035, subsection 4, paragraph B ask leave to submit its findings and to report that the accompanying Bill "An Act to Reimburse the Department of Inland Fisheries and Wildlife for Search and Rescue Operations" (H.P. 1219) (L.D. 1691) be referred to the Joint Standing Committee on Appropriations and Financial Affairs for Public Hearing and printed pursuant to Joint Rule 18.

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

#### Reported Pursuant to Statutes

Representative ROLDE from the Joint Standing Committee on Audit and Program Review, pursuant to the Maine Revised Statutes, Title 3, Chapter 23 ask leave to submit its findings and to report that the accompanying Bill "An Act Relating to Periodic Justification of Programs of State Government under the Maine Sunset Laws" (EMERGENCY) (H.P. 1218) (L.D. 1690) be referred to the Joint Standing Committee on Audit and Program Review for Public Hearing and printed pursuant to Joint Rule 18.

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

#### Reported Pursuant to Statutes

Representative ROLDE from the Joint Standing Committee on Audit and Program Review, pursuant to the Maine Revised Statutes, Title 3, Chapter 23 ask leave to submit its findings and to report that the accompanying Bill "An Act Relating to Periodic Justification of Departments and Agencies of State Government under the Maine Sunset Laws" (EMERGENCY) (H.P. 1217) (L.D. 1689) be referred to the Joint Standing Committee on Audit and Program Review for Public Hearing and printed pursuant to Joint Rule 18.

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

#### REPORTS OF COMMITTEES

##### Unanimous Leave to Withdraw

Representative MANNING from the Committee on Human Resources on Bill "An Act to Impose a 90-day Residency Requirement for Receipt of General Assistance" (H.P. 1105) (L.D. 1538) reporting "Leave to Withdraw"

Representative DORE from the Committee on Taxation on Bill "An Act to Eliminate Tax Increases Attributable to the 1988 Maine Individual Income Tax Law" (EMERGENCY) (H.P. 931) (L.D. 1297) reporting "Leave to Withdraw"

Representative SWAZEY from the Committee on Taxation on Resolve, Creating a Commission to Study Commodity Taxes on Farmers (EMERGENCY) (H.P. 1081) (L.D. 1503) reporting "Leave to Withdraw"

Were 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. 791) (L.D. 1103) Bill "An Act to Strengthen the Law Pertaining to Taking or Defacing Political Campaign Signs" Committee on Legal Affairs reporting "Ought to Pass" as amended by Committee Amendment "A" (H-262)

(H.P. 48) (L.D. 62) Resolve, to Require the Manufactured Housing Board to Develop a Manufactured Housing Installation Standard (EMERGENCY) Committee on Legal Affairs reporting "Ought to Pass" as amended by Committee Amendment "A" (H-263)

(H.P. 908) (L.D. 1271) Bill "An Act to Provide Assistance to Owners of Manufactured Housing" Committee on Legal Affairs reporting "Ought to Pass" as amended by Committee Amendment "A" (H-264)

(H.P. 446) (L.D. 611) Bill "An Act to Clarify Procedural Aspects of the Forcible Entry and Detainer Law" Committee on Judiciary reporting "Ought to Pass" as amended by Committee Amendment "A" (H-265)

(H.P. 739) (L.D. 1022) Bill "An Act to Clarify Provisions of the Natural Resources Protection Act as They Relate to Aquaculture" (EMERGENCY) Committee on Marine Resources reporting "Ought to Pass" as amended by Committee Amendment "A" (H-266)

(H.P. 508) (L.D. 688) Bill "An Act to Increase the Penalty for Theft from a Locked Motor Vehicle" Committee on Judiciary reporting "Ought to Pass" as amended by Committee Amendment "A" (H-267)

(H.P. 391) (L.D. 522) Bill "An Act to Amend Disorderly Conduct Offenses" Committee on Judiciary reporting "Ought to Pass" as amended by Committee Amendment "A" (H-268)

(H.P. 389) (L.D. 520) Bill "An Act to Expand the Jurisdiction of the District Courts to Include Violations within Municipal Harbors and to Impose the Same Penalties for Harbor Violations that Have Been Created for Land Use Violations" Committee on Judiciary reporting "Ought to Pass" as amended by Committee Amendment "A" (H-269)

(H.P. 74) (L.D. 105) Bill "An Act to Curtail Fraud in the Workers' Compensation System" Committee on Labor reporting "Ought to Pass" as amended by Committee Amendment "A" (H-270)

(H.P. 829) (L.D. 1161) Bill "An Act to Make Hydropower Project Operators Financially Responsible for Fish Kills" Committee on Utilities reporting "Ought to Pass" as amended by Committee Amendment "A" (H-272)

(S.P. 186) (L.D. 343) Bill "An Act to Include Sheriffs' Deputies in the Maine Tort Claims Act" Committee on Judiciary reporting "Ought to Pass"

(S.P. 410) (L.D. 1076) Bill "An Act to Create the Local Government Records Board" Committee on State and Local Government reporting "Ought to Pass"

(S.P. 116) (L.D. 182) Bill "An Act to Amend the Schedule of Fees for Permits, Licenses and Certificates Issued by the State Fire Marshal" Committee on Legal Affairs reporting "Ought to Pass" as amended by Committee Amendment "A" (S-133)

(S.P. 294) (L.D. 767) Bill "An Act to Amend the School Finance Act to Include Transportation as a Supportive Service to Special Education for State Agency Clients" Committee on Education reporting "Ought to Pass" as amended by Committee Amendment "A" (S-135)

(S.P. 299) (L.D. 797) Bill "An Act to Impose Civil Penalties for Intentional Violations of the Maine Unfair Trade Practices Act" Committee on Legal Affairs reporting "Ought to Pass" as amended by Committee Amendment "A" (S-129)

(S.P. 361) (L.D. 978) Bill "An Act to Amend the Charter of the Sewer District of the Town of Kennebunk" Committee on Utilities reporting "Ought to Pass" as amended by Committee Amendment "A" (S-132)

(S.P. 400) (L.D. 1044) Bill "An Act to Require Written Repair Invoices" Committee on Business Legislation reporting "Ought to Pass" as amended by Committee Amendment "A" (S-130)

(H.P. 476) (L.D. 656) Bill "An Act to Promote Equity in the Court Adjudication of Alimony Awards" Committee on Judiciary reporting "Ought to Pass" as amended by Committee Amendment "A" (H-276)

(H.P. 36) (L.D. 36) Bill "An Act to Improve Compliance with Truck Weight Limits" Committee on Transportation reporting "Ought to Pass" as amended by Committee Amendment "A" (H-277)

(H.P. 1043) (L.D. 1454) Resolve, to Study and Consolidate the Laws and Rules Regulating Campgrounds Committee on Energy and Natural Resources reporting "Ought to Pass" as amended by Committee Amendment "A" (H-278)

(H.P. 1036) (L.D. 1447) Bill "An Act to Provide Visitation and Custody Rights to Grandparents in Cases other than Divorce" Committee on Judiciary reporting "Ought to Pass"

There being no objections, the above items were ordered to appear on the Consent Calendar of Thursday, May 25, 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. 499) (L.D. 1373) Bill "An Act to Restrict Use of Antifreeze or Other Toxic Agents on Lakes, Ponds and Streams" (C. "A" S-127)

(H.P. 397) (L.D. 528) Bill "An Act to Amend the Animal Welfare Laws" (C. "A" H-251)

(H.P. 918) (L.D. 1284) Bill "An Act to Increase the Penalties for Selling Game and Make Them Uniform" (C. "A" H-252)

(H.P. 874) (L.D. 1217) Bill "An Act to Permit Municipalities to Set Lower Debt Limitations" (C. "A" H-253)

(H.P. 644) (L.D. 878) Bill "An Act to Strengthen the Penalties against Those Who Intentionally Mislabeled Foods as Natural or Organic" (C. "A" H-254)

(H.P. 630) (L.D. 853) Bill "An Act Regarding Dangerous Dogs" (C. "A" H-255)

(H.P. 522) (L.D. 707) Bill "An Act to Make Allocations for the Administrative Expenses of the Bureau of Alcoholic Beverages, Department of Finance, for the Fiscal Years Ending June 30, 1990 and June 30, 1991" (EMERGENCY) (C. "A" H-256)

(H.P. 772) (L.D. 1084) Bill "An Act to Consolidate the Township of Misery-Sapling Gore into Adjoining Townships"

(H.P. 520) (L.D. 705) Bill "An Act Concerning Special Marine Resources Permits" (C. "A" H-258)

(H.P. 205) (L.D. 285) Bill "An Act to Improve Regulatory Oversight of Health Maintenance Organizations" (C. "A" H-259)

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

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

**PASSED TO BE ENGROSSED**

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

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

Representative Tamaro of Baileyville offered House Amendment "A" (H-237) and moved its adoption.

House Amendment "A" (H-237) 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 ENGROSSED  
As Amended**

Bill "An Act to Regulate the Installation of Fire Sprinklers" (S.P. 237) (L.D. 567) (S. "A" S-139 to C. "A" S-126)

Bill "An Act to Authorize the Bureau of Veterans' Services to Provide Assistance to Vietnam Veterans" (H.P. 33) (L.D. 33) (H. "A" H-274 to C. "A" H-235)

Bill "An Act Relating to Collision Damage Waivers for Rented Motor Vehicles" (H.P. 149) (L.D. 201) (C. "A" H-242)

Bill "An Act to Provide for Public Bell Ringing on Veterans Day" (H.P. 991) (L.D. 1380) (C. "A" H-249)

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

**ENACTOR**

**Emergency Measure  
(Reconsidered)**

An Act to Create the Commission to Study the Possibility of Including the Cost of Environmental Impacts in the Least-cost Planning Process of Electrical Utilities and the Public Utilities Commission (S.P. 158) (L.D. 306) (C. "A" S-116)

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

On motion of Representative Clark of Millinocket, under suspension of the rules, the House reconsidered its action whereby L.D. 306 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" (S-116) was adopted.

The same Representative offered House Amendment "A" (H-260) to Committee Amendment "A" (S-116) and moved its adoption.

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

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

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

**PASSED TO BE ENACTED  
Emergency Measure**

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 (S.P. 375) (L.D. 999) (C. "A" S-117 and S. "A" S-125)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 122 voted in favor of the same and none against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

**PASSED TO BE ENACTED  
Emergency Measure**

An Act to Amend the Maine Human Rights Act with Regard to Housing Discrimination against Families with Children (S.P. 457) (L.D. 1242) (C. "A" S-115)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 125 voted in favor of the same and 1 against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

**PASSED TO BE ENACTED  
Emergency Measure**

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

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. 120 voted in favor of the same and 1 against and accordingly the Resolve was finally passed, signed by the Speaker and sent to the Senate.

**PASSED TO BE ENACTED**

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

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

An Act to Prohibit Smoking in Enclosed Areas on Ferries (H.P. 176) (L.D. 241) (C. "A" H-200)

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.

**PASSED TO BE ENACTED**

An Act to Require 5 Commissioners in York County (H.P. 287) (L.D. 399) (C. "A" H-204)

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

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

Representative WENTWORTH: Mr. Speaker, am I in order to move a roll call and speak to my motion at this time?

The SPEAKER: The Chair would answer in the affirmative.

The Representative may proceed.

Representative WENTWORTH: Mr. Speaker, Ladies and Gentlemen of the House: Somehow this got by me and I am greatly opposed to it. It will take five years to implement. It will consist of having two complete new legislators and complete new reapportionment of the area in order to do it. I

think it is too long a process and too much in question.

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

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

The SPEAKER: The Chair recognizes the Representative from Biddeford, Representative Sheltra.

Representative SHELTRA: Mr. Speaker, Ladies and Gentlemen of the House: I was the sponsor of this bill and for the benefit of the new legislators, I would like to inform them that I was county chairman of the budget committee for the 105th and also for the 106th legislatures. In so doing, I learned a lot about county government. Let me tell you that I certainly believe in having five commissioners.

I don't think there is any problem with having the five commissioners because everybody went on board but the problem was, when would it be implemented? In order to pacify Representative Wentworth, I went with this method. I was going to make it sooner but she said this would pose too much of a problem at that point in time. Consequently, in order to please Representative Wentworth, I went to a reapportionment situation where it would take a little longer but I figured the reapportionment would be coming up soon enough that we would have ample time to study a valid apportionment.

In addition to this, we have had problems as you probably have all heard. This present tenure with our commissioners, there have been accusations made about commingling of funds and what not. I think that this is the proper route for us to go. Our population has nearly doubled, it went from 100,000 to 160,000 and I think that we really need this bill. I think it will solve a lot of our problems.

I will tell you frankly (having been county treasure for four years) what happens with a three man commission is you have the predominant character of the three, he imposes his will on a second member and then the third member might as well sit out the session because he has little to say and consequently, you have a dictatorial form of county government. I know it, I have lived it and I have tried to correct it. I think this is the best route to go. I hope that you do vote against this postponement measure.

The SPEAKER: The Chair recognizes the Representative from Waterboro, Representative Lord.

Representative LORD: Mr. Speaker, My Learned Colleagues: I signed on as the cosponsor of this bill. I live up in the northern part of the county and the way it is proportioned now, the northern part of the county does not have a county commissioner, and because of the population the way it is distributed, it doesn't appear that we are ever going to have one.

Because of the feelings of the people up in the northern part of the county and the rural areas, I signed on. It isn't very often I disagree with the good gentle lady from Wells but I have to disagree on this one.

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

Representative WENTWORTH: Mr. Speaker, Men and Women of the House: I just want to compliment Representative Sheltra, he did do everything possible to try to get me to agree with it. I just don't agree with it. Every county has three, if you can't

get along with three, five is worse, so I ask you to vote against this bill.

The SPEAKER: A roll call has been ordered. The pending question before the House is passage to be enacted. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 43

YEA - Adams, Aliberti, Allen, Anderson, Anthony, Begley, Bell, Boutilier, Burke, Carroll, D.; Carter, Cathcart, Chonko, Clark, H.; Clark, M.; Coles, Conley, Cote, Crowley, Daggett, Dexter, Dipietro, Donald, Dore, Duffy, Dutremble, L.; Erwin, P.; Farnsworth, Farnum, Farren, Gould, R. A.; Graham, Gurney, Gwadosky, Hale, Handy, Hastings, Heeschen, Hickey, Hoglund, Holt, Hussey, Jackson, Jacques, Jalbert, Joseph, Ketover, Kilkelly, LaPointe, Larrivee, Lawrence, Lebowitz, Lisnik, Lord, Macomber, Mahany, Manning, Marston, Martin, H.; Mayo, McGowan, McHenry, McKeen, McSweeney, Melendy, Michaud, Mills, Mitchell, Moholland, Murphy, Nadeau, G. G.; Nadeau, G. R.; Nutting, O'Dea, O'Gara, Oliver, Paradis, J.; Paradis, P.; Paul, Pederson, Pendleton, Pineau, Plourde, Pouliot, Priest, Rand, Richard, Ridley, Rolde, Rotondi, Ruhlin, Rydell, Sheltra, Skoglund, Smith, Stevens, A.; Stevens, P.; Swazey, Tamaro, Telow, Townsend, Tracy, Walker.

NAY - Aikman, Ault, Bailey, Brewer, Butland, Curran, Dellert, Foss, Foster, Garland, Greenlaw, Hanley, Hepburn, Hichborn, Libby, Look, Luther, MacBride, Marsano, Marsh, McCormick, McPherson, Merrill, Norton, Paradis, E.; Parent, Pines, Reed, Richards, Seavey, Sherburne, Small, Stevenson, Strout, B.; Strout, D.; Tupper, Webster, M.; Wentworth.

ABSENT - Carroll, J.; Cashman, Constantine, Higgins, Hutchins, Simpson, Tardy, Whitcomb, The Speaker.

Yes, 103; No, 38; Absent, 9; Vacant, 1; Paired, 0; Excused, 0.

103 having voted in the affirmative, 38 in the negative with 9 being absent and 1 vacant, the Bill was passed to be enacted signed by the Speaker and sent to the Senate.

PASSED TO BE ENACTED

An Act to Encourage Development and Use of Community Corrections Programs (H.P. 370) (L.D. 501) (C. "A" H-207)

An Act to Authorize the Maine Court Facilities Authority to Accept Gifts and Contributions (H.P. 378) (L.D. 509) (C. "A" H-208)

An Act Relating to the Sale of Fraternal Life Benefit Certificates and Life Insurance by Funeral Directors and Cemetery Corporations (H.P. 601) (L.D. 825)

An Act to Clarify the Laws Relating to Marriage (H.P. 676) (L.D. 925) (C. "A" H-162 and H. "A" H-224)

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 1987 (H.P. 691) (L.D. 943) (C. "A" H-199)

An Act to Transfer the Licensing Function from the Bureau of Mental Health to the Department of Mental Health and Mental Retardation (H.P. 746) (L.D. 1029)

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

An Act to Increase the Compensation for Part-time Deputy Sheriffs (H.P. 788) (L.D. 1100) (C. "A" H-209)

An Act to Amend the Law Incorporating the Milo Water District (H.P. 1101) (L.D. 1534)



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.

**FINALLY PASSED**

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

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:

An Act to Facilitate the Disclosure of Information in Medical Support Recoupment and Child Support Cases (S.P. 330) (L.D. 867) (C. "A" S-103)

TABLED - May 23, 1989 (Till Later Today) by Representative MANNING of Portland.

PENDING - Passage to be Enacted.

On motion of Representative Manning of Portland, under suspension of the rules, the House reconsidered its action whereby L.D. 867 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" (S-103) was adopted.

The same Representative offered House Amendment "A" (H-257) to Committee Amendment "A" (S-103) and moved its adoption.

House Amendment "A" (H-257) to Committee Amendment "A" (S-103) was read by the Clerk and adopted.

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

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

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

SENATE DIVIDED REPORT - Majority (9) "Ought to Pass" as amended by Committee Amendment "A" (S-128) - Minority (4) "Ought Not to Pass" - Committee on Taxation on Bill "An Act to Create the Individual Income Tax Windfall Fund" (EMERGENCY) (S.P. 306) (L.D. 805)

- In Senate, Majority "Ought to Pass" as amended Report read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (S-128).

TABLED - May 23, 1989 (Till Later Today) by Representative GWADOSKY of Fairfield.

PENDING - Motion of Representative CASHMAN of Old Town to accept the Majority "Ought to Pass" as amended Report. (Roll Call Ordered).

On motion of Representative Gwadosky of Fairfield, retabled pending the Motion of Representative CASHMAN of Old Town to accept the Majority "Ought to Pass" as amended Report. (Roll Call Ordered).

**TABLED AND TODAY ASSIGNED**

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

SENATE DIVIDED REPORT - Majority (12) "Ought Not to Pass" - Minority (1) "Ought to Pass" as amended by Committee Amendment "A" (S-131) - Committee on Business Legislation on Bill "An Act to Limit the Sunday Closing Law" (S.P. 436) (L.D. 1153)

- In Senate, Majority "Ought Not to Pass" Report read and accepted.

TABLED - May 23, 1989 by Representative ALLEN of Washington.

PENDING - Motion of same Representative to accept the Majority "Ought Not to Pass" Report.

On motion of Representative Allen of Washington, retabled pending the motion of the same Representative to accept the Majority "Ought Not to Pass" Report and specially assigned for Thursday, May 25, 1989.

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

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

- In House, Passed to be Engrossed as amended by Committee Amendment "A" (H-190) on May 17, 1989.

- In Senate, Bill and accompanying papers recommitted to the Committee on Human Resources in non-concurrence.

TABLED - May 23, 1989 by Representative MANNING of Portland.

PENDING - Further Consideration.

On motion of Representative Manning of Portland, the House voted to Insist.

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

Bill "An Act Concerning Withdrawal of Candidates" (H.P. 559) (L.D. 757)

TABLED - May 23, 1989 by Representative PRIEST of Brunswick.

PENDING - Adoption of Committee Amendment "A" (H-234).

On motion of Representative Priest of Brunswick, retabled pending adoption of Committee Amendment "A" (H-234) and specially assigned for Thursday, May 25, 1989.

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

Resolve, Establishing a Commission to Study the Level of Services for Maine's Elderly Citizens (EMERGENCY) (H.P. 550) (L.D. 747) (H. "A" H-215 to C. "A" H-183)

TABLED - May 23, 1989 by Representative MAYO of Thomaston.

PENDING - Final Passage.

On motion of Representative Gwadosky of Fairfield, retabled pending final passage and specially assigned for Thursday, May 25, 1989.

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

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

TABLED - May 23, 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 25, 1989.

The Chair laid before the House the sixth 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 23, 1989 by Representative GWADOSKY of Fairfield.

PENDING - Acceptance of Either Report.

On motion of Representative Gwadosky of Fairfield, retabled pending acceptance of either report and specially assigned for Thursday, May 25, 1989.

(At Ease)

The House was called to order by the Speaker.

(Off Record Remarks)

On motion of Representative Carroll of Gray, Adjourned until Thursday, May 25, 1989, at 8:15 in the morning.

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

In Senate Chamber  
Wednesday  
May 24, 1989

Senate called to Order by the President.

Prayer by Reverend Richard Honaker of the Church of Christ in Augusta.

REVEREND HONAKER: Let us pray. Our eternal Father in heaven, we come before Your throne this day recognizing that from everlasting to everlasting You are God and that before You the generations of men rise and fade away. We give thanks to You for every good and perfect gift that You have bestowed upon us, because of Your great love for us. We are indeed grateful for Your creation, for this world in which we live, for the United States of America, and for the great State of Maine.

Father, today we would ask that You bless this Senate. Help these servants of the people, that they might have the wisdom to know what is right, that they might have the courage and support of the people to do what is right in Your eyes.

Father, this day we would pray for grace, kindness, and a spirit of charity to prevail in these moments. May Your name be glorified, may peace prevail.

Father, we pray that You would continue to bless the United States of America, the State of Maine, and this Senate. Through Christ Jesus our Lord. Amen.

Reading of the Journal of Yesterday.

Off Record Remarks

COMMITTEE REPORTS

Senate

Ought Not to Pass

The following Ought Not to Pass Reports shall be placed in the Legislative Files without further action pursuant to Rule 15 of the Joint Rules:

Senator BERUBE for the Committee on STATE AND LOCAL GOVERNMENT on Bill "An Act to Create a Statewide Uniform Salary and Uniform Qualifications for Sheriffs"

S.P. 303 L.D. 801

Senator BERUBE for the Committee on STATE AND LOCAL GOVERNMENT on Bill "An Act to Revise Compensation for Members of the Maine Human Rights Commission"

S.P. 355 L.D. 956

Senator BERUBE for the Committee on STATE AND LOCAL GOVERNMENT on RESOLUTION, Proposing an Amendment to the Constitution of Maine to Change the Terms of Members of the Senate from 2 to 4 Years

S.P. 392 L.D. 1037

Leave to Withdraw

The following Leave to Withdraw Reports shall be placed in the Legislative Files without further action pursuant to Rule 15 of the Joint Rules:

Senator GAUVREAU for the Committee on HUMAN RESOURCES on Resolve, to Provide Certified Nursing Assistant Training at the Central Maine Vocational-Technical Institute

S.P. 343 L.D. 913