

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

January, which gave us the statistics we already knew, that probably twenty percent of our kids in schools are using and abusing drugs on a regular basis. I would hope that the Committee on Education, in its efforts to deal with issues as it always does in a fair way and its paramount concerns for the citizens of the state, will look again at the issue of drug abuse among our young kids and give this issue the importance that it needs to have. It is an urgent crisis in our society, I was glad I put the Bill in, and when I saw the statistics, I was really glad I put the Bill in. Unfortunately, nothing will happen this year, but I think this issue deserves to get studied, and looked at, and recommendations for ways to keep kids on a drug free lifestyle. Thank you.

Off Record Remarks

Senator WEBSTER of Franklin was granted unanimous consent to address the Senate off the Record.

On motion by Senator DUTREMBLE of York, ADJOURNED until Monday, June 5, 1989, at 9:00 in the morning.

ONE HUNDRED AND FOURTEENTH MAINE LEGISLATURE
FIRST REGULAR SESSION
76th Legislative Day
Monday, June 5, 1989

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

Prayer by Reverend Nancy Fritz, United Church of Christ, Augusta.

Pledge of Allegiance.

The Journal of Friday, June 2, 1989, was read and approved.

Quorum call was held.

PAPERS FROM THE SENATE

The following Communication:

Maine State Senate
Augusta, Maine 04333

June 2, 1989

The Honorable John L. Martin

Speaker of the House

114th Legislature

Augusta, Maine 04333

Dear Speaker Martin:

In accordance with Joint Rule 38, please be advised that the Senate today confirmed, upon the recommendation of the Joint Standing Committee on State and Local Government, the Governor's nomination of Barbara S. Powers of Cape Elizabeth for appointment to the Civil Service Appeals Board.

Barbara S. Powers is replacing Tobie Nathanson.

Sincerely,

S/Joy J. O'Brien

Secretary of the Senate

Was read and ordered placed on file.

Bill "An Act to Increase the Funds Available to the Mental Health Crisis Intervention Service in York County" (S.P. 622) (L.D. 1719)

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

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

Bill "An Act to Require Proration of Workers' Compensation Rates for Employees Who Perform Work Falling Under More than One Classification" (S.P. 623) (L.D. 1720)

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

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

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

Resolve, Reimbursing Certain Municipalities for Taxes Lost Due to Lands being Classified under the Maine Tree Growth Tax Law (EMERGENCY) (S.P. 624) (L.D. 1721)

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

Was referred to the Committee on Taxation in concurrence.

Unanimous Ought Not To Pass

Report of the Committee on Education reporting "Ought Not to Pass" on Resolve, to Establish a Select Study Commission to Study Educational Voucher Systems (S.P. 492) (L.D. 1334)

Report of the Committee on Education reporting "Ought Not to Pass" on Resolve, to Establish a Commission to Study the Provision of Services by Schools for Students Leaving Substance Abuse Treatment Centers (EMERGENCY) (S.P. 525) (L.D. 1442)

Report of the Committee on Education reporting "Ought Not to Pass" on Resolve, Funding a Bachelors of Science in Nursing Program at the University of Maine at Augusta (S.P. 526) (L.D. 1443)

Report of the Committee on Labor reporting "Ought Not to Pass" on Bill "An Act Regarding Appeals Under the Workers' Compensation Law to Prevent Substantial Injustice to Injured Workers" (S.P. 466) (L.D. 1251)

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

Unanimous Leave to Withdraw

Report of the Committee on Education reporting "Leave to Withdraw" on Bill "An Act to Provide Greater Legislative Oversight of Teacher and Administrative Certification" (S.P. 524) (L.D. 1441)

Report of the Committee on Housing and Economic Development reporting "Leave to Withdraw" on Resolve, to Provide for the Evaluation of Financing Available to Small Businesses for Exporting (S.P. 48) (L.D. 21)

Report of the Committee on Housing and Economic Development reporting "Leave to Withdraw" on Bill "An Act to Assess Product and Technology Development in the State and to Reduce Barriers to Innovations in Technology and Production" (S.P. 57) (L.D. 40)

Report of the Committee on Housing and Economic Development reporting "Leave to Withdraw" on Bill "An Act to Enable Maine to Seize the Opportunities and Meet the Challenges in International Trade" (S.P. 58) (L.D. 41)

Report of the Committee on Housing and Economic Development reporting "Leave to Withdraw" on Bill "An Act to Make More Effective Use of Maine's Public and Private Higher Educational Institutions as Sources of Input for Public Policy" (S.P. 59) (L.D. 42)

Report of the Committee on Human Resources reporting "Leave to Withdraw" on Bill "An Act to Require Nursing Facilities to File Notice of Intent to Withdraw from the Medicaid Program and to Ensure the Continuing Provision of Services to all Residents in the Facility at the Time of Withdrawal" (S.P. 342) (L.D. 912)

Report of the Committee on Human Resources reporting "Leave to Withdraw" on Bill "An Act to Provide for Ladders of Advancement in the Health Care Profession" (S.P. 471) (L.D. 1268)

Report of the Committee on Labor reporting "Leave to Withdraw" on Bill "An Act to Establish a Statewide Contract for Teachers" (S.P. 539) (L.D. 1474)

Report of the Committee on Labor reporting "Leave to Withdraw" on Bill "An Act to Encourage Further Negotiations in Labor Disputes" (S.P. 542) (L.D. 1513)

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

Ought to Pass as Amended

Report of the Committee on State and Local Government reporting "Ought to Pass" as Amended by Committee Amendment "A" (S-180) on Bill "An Act Making Changes to the Composition of the Governor's Advisory Council on Alcoholism" (S.P. 506) (L.D. 1394)

Came from the Senate, with the report read and accepted and the Bill Passed to be Engrossed as amended by Committee Amendment "A" (S-180) as amended by Senate Amendment "A" (S-200) thereto.

Report was read and accepted, the Bill read once. Committee Amendment "A" (S-180) was read by the Clerk.

Senate Amendment "A" (S-200) to Committee Amendment "A" (S-180) was read by the Clerk and adopted.

Committee Amendment "A" as amended by Senate Amendment "A" thereto was adopted and the Bill assigned for second reading Tuesday, June 6, 1989.

Non-Concurrent Matter

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) which was passed to be engrossed in the House on June 1, 1989.

Came from the Senate passed to be engrossed as amended by Senate Amendment "A" (S-208) in non-concurrence.

The House voted to recede and concur.

Non-Concurrent Matter

Resolve, Authorizing the Conveyance of Certain Public Lands (H.P. 1213) (L.D. 1685) which was passed to be engrossed in the House on June 1, 1989.

Came from the Senate passed to be engrossed as amended by Senate Amendment "A" (S-207) in non-concurrence.

The House voted to recede and concur.

Non-Concurrent Matter

Bill "An Act to Clarify Provisions of the Subdivision Law" (H.P. 1159) (L.D. 1613) which was passed to be engrossed as amended by Committee Amendment "A" (H-314) in the House on May 31, 1989.

Came from the Senate passed to be engrossed as amended by Committee Amendment "A" (H-314) and Senate Amendment "A" (S-205) in non-concurrence.

The House voted to recede and concur.

Non-Concurrent Matter

Bill "An Act to Revise the Asbestos Certification Law" (H.P. 1179) (L.D. 1634) which was passed to be engrossed as amended by Committee Amendment "A" (H-300) in the House on May 30, 1989.

Came from the Senate passed to be engrossed as amended by Committee Amendment "A" (H-300) as amended by Senate Amendment "A" (S-196) thereto in non-concurrence.

The House voted to recede and concur.

Non-Concurrent Matter

Bill "An Act to Clarify How State Reimbursement to Counties for Housing State Prisoners May Be Spent" (H.P. 324) (L.D. 440) on which the Report of the Committee on State and Local Government that the Bill be referred to the Joint Select Committee on Corrections was read and accepted and the Bill referred to the Joint Select Committee on Corrections in the House on May 18, 1989.

Came from the Senate with the Bill and accompanying papers indefinitely postponed in non-concurrence.

The House voted to recede and concur.

Non-Concurrent Matter

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

285) which was passed to be engrossed as amended by Committee Amendment "A" (H-259) in the House on May 24, 1989.

Came from the Senate passed to be engrossed as amended by Committee Amendment "A" (H-259) and Senate Amendment "A" (S-197) in non-concurrence.

The House voted to recede and concur.

Non-Concurrent Matter

An Act to Make Allocations from the Maine Nuclear Emergency Planning Fund for the Fiscal Years Ending June 30, 1990, and June 30, 1991 (EMERGENCY) (H.P. 365) (L.D. 496) (C. "A" H-126 and S. "A" S-88) which was passed to be enacted in the House on May 11, 1989.

Came from the Senate passed to be engrossed as amended by Committee Amendment "A" (H-126) and Senate Amendments "A" (S-88) and "E" (S-201) in non-concurrence.

On motion of Representative Gwadosky of Fairfield, tabled pending further consideration and later today assigned.

COMMUNICATIONS

The following Communication: (S.P. 625)
114TH MAINE LEGISLATURE
June 1, 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 Virginia S. Spiller of York for appointment as a member of the State Board of Education.

Pursuant to Title 20, M.R.S.A. Section 51, this nomination 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: (S.P. 626)
114TH MAINE LEGISLATURE
June 1, 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 Sally G. Vamvakias of Falmouth, Ralph Hodgkins, Jr. of Auburn and Duane "Buzz" Fitzgerald of Bath for appointments to the University of Maine Board of Trustees.

Pursuant to Title 26, M.R.S.A. Section 1022, 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.

ORDERS

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

ORDERED, that Representative Dana C. Hanley of Paris be excused May 30 for personal reasons.

AND BE IT FURTHER ORDERED, that Representative Wendy L. Ault of Wayne be excused May 31 for personal reasons.

AND BE IT FURTHER ORDERED, that Representative Alexander Richard of Madison be excused June 1 for legislative business.

AND BE IT FURTHER ORDERED, that Representative Clyde A. Hichborn of LaGrange be excused June 2 for personal reasons.

AND BE IT FURTHER ORDERED, that Representative Elden McKeen of Windham be excused June 2 for personal reasons.

AND BE IT FURTHER ORDERED, that Representative George A. Townsend of Eastport be excused June 6 and 7 for legislative business.

Was read and passed.

REPORTS OF COMMITTEES

Unanimous Ought Not to Pass

Representative LISNIK from the Committee on Appropriations and Financial Affairs on Bill "An Act to Construct 2 Small Dams on Rocky Lake in Whiting, Maine" (H.P. 383) (L.D. 514) reporting "Ought Not to Pass"

Representative HIGGINS from the Committee on Appropriations and Financial Affairs on Bill "An Act to Require the State to Assume Financial Responsibility for All Public Assistance Programs" (H.P. 448) (L.D. 613) reporting "Ought Not to Pass"

Representative HIGGINS from the Committee on Appropriations and Financial Affairs on Bill "An Act to Provide Grants to School Administrative Units" (H.P. 518) (L.D. 703) reporting "Ought Not to Pass"

Representative CARTER from the Committee on Appropriations and Financial Affairs on Bill "An Act to Provide Funds for Start-up of School-based Health Centers and Creation of the Position of Educational Specialist II" (H.P. 672) (L.D. 921) reporting "Ought Not to Pass"

Representative CHONKO from the Committee on Appropriations and Financial Affairs on Bill "An Act to Provide Support for Community-based Residential Hospice Services" (H.P. 893) (L.D. 1237) reporting "Ought Not to Pass"

Representative CHONKO from the Committee on Appropriations and Financial Affairs on Bill "An Act to Create a Vocational-Technical Institute in York County" (H.P. 959) (L.D. 1337) reporting "Ought Not to Pass"

Representative CARTER from the Committee on Appropriations and Financial Affairs on Bill "An Act to Provide Additional Resources for School Nutrition Education" (H.P. 977) (L.D. 1355) reporting "Ought Not to Pass"

Representative CARTER from the Committee on Appropriations and Financial Affairs on Bill "An Act to Support a Chemicals in the Environment Information Center at the University of Maine at Orono" (H.P. 1037) (L.D. 1448) reporting "Ought Not to Pass"

Representative LISNIK from the Committee on Appropriations and Financial Affairs on Bill "An Act

to Appropriate Funds for Independent Congregate Meals" (H.P. 1074) (L.D. 1496) reporting "Ought Not to Pass"

Representative CARTER from the Committee on Appropriations and Financial Affairs on Bill "An Act to Improve Staff Support for the Land for Maine's Future Board" (H.P. 1102) (L.D. 1535) reporting "Ought Not to Pass"

Representative CARTER from the Committee on Appropriations and Financial Affairs on Bill "An Act to Respond to the Shortage of Family Nurse Practitioners and Physician Assistants by Making Funds Available for a Loan Forgiveness Program" (H.P. 1121) (L.D. 1553) reporting "Ought Not to Pass"

Representative HIGGINS from the Committee on Appropriations and Financial Affairs on Bill "An Act to Demonstrate Primary Prevention through Youth and Elderly Community Services" (H.P. 1207) (L.D. 1679) reporting "Ought Not to Pass"

Representative CROWLEY from the Committee on Education on Resolve, to Establish the Commission to Study Alternative Education (H.P. 1051) (L.D. 1462) reporting "Ought Not to Pass"

Representative SEAVEY from the Committee on Taxation on Bill "An Act to Facilitate State Income Tax Withholding from Ordered Civil Service Annuities" (H.P. 838) (L.D. 1170) reporting "Ought Not to Pass"

Representative SWAZEY from the Committee on Taxation on Bill "An Act to Prevent Double Taxation on Motor Vehicles" (H.P. 1017) (L.D. 1418) 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 CROWLEY from the Committee on Education on Bill "An Act to Assist Local Educational Authorities in Replacing Unsafe School Buses" (H.P. 346) (L.D. 465) reporting "Leave to Withdraw"

Representative CONLEY from the Committee on Judiciary on Bill "An Act Relating to Surrogate Parenting" (H.P. 1181) (L.D. 1636) reporting "Leave to Withdraw"

Representative DORE from the Committee on Taxation on RESOLUTION, Proposing an Amendment to the Constitution of Maine to Provide that Maximum Valuations be Established for Residential, Current Use and Undeveloped Real Estate Based on a Replacement Cost Less Depreciation Method of Assessment (H.P. 986) (L.D. 1364) reporting "Leave to Withdraw"

Representative SWAZEY from the Committee on Taxation on Bill "An Act Concerning the State Valuation Procedure" (H.P. 1080) (L.D. 1502) reporting "Leave to Withdraw"

Representative DiPIETRO from the Committee on Taxation on Bill "An Act Creating a Homestead Tax Exemption for Maine Residents" (H.P. 982) (L.D. 1360) reporting "Leave to Withdraw"

Representative DEXTER from the Committee on Energy and Natural Resources on Bill "An Act to Ensure that Radioactive Air Emission Standards Are Adequate to Protect the Public Health and Safety" (H.P. 1050) (L.D. 1461) reporting "Leave to Withdraw"

Representative SEAVEY from the Committee on Taxation on Bill "An Act to Provide a More Accurate Basis for Excise Tax" (H.P. 779) (L.D. 1091) reporting "Leave to Withdraw"

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

Divided Report

Majority Report of the Committee on Aging, Retirement and Veterans reporting "Ought to Pass" as amended by Committee Amendment "A" (H-372) on Bill "An Act to Fund the Maine State Retirement System for Certain Employees Previously Covered by the County Retirement System" (H.P. 1062) (L.D. 1484)

Signed:

Senators: TITCOMB of Cumberland
CLARK of Cumberland
CAHILL of Sagadahoc

Representatives: HICKEY of Augusta
McSWEENEY of Old Orchard Beach
RICHARD of Madison
JALBERT of Lisbon
DUTREMBLE of Biddeford
DELLERT of Gardiner
STEVENSON of Unity
AULT of Wayne

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

Signed:

Representatives: BREWER of Boothbay Harbor
MERRILL of Dover-Foxcroft

Reports were read.

On motion of Representative Hickey of Augusta, the House accepted the Majority "Ought to Pass" Report, the Bill read once.

Committee Amendment "A" (H-372) was read by the Clerk and adopted and the Bill assigned for second reading Tuesday, June 6, 1989.

CONSENT CALENDAR

First Day

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

(H.P. 184) (L.D. 249) Bill "An Act to Impose a Tax on Capital Gains from Speculative Land Sales" Committee on Taxation reporting "Ought to Pass" as amended by Committee Amendment "A" (H-382)

(H.P. 1112) (L.D. 1545) Bill "An Act to Establish Municipal Cost Components for Services to be Rendered in Fiscal Year 1989-90" (EMERGENCY) Committee on Taxation reporting "Ought to Pass" as amended by Committee Amendment "A" (H-381)

(H.P. 1135) (L.D. 1578) Bill "An Act Concerning School Social Workers" Committee on Judiciary reporting "Ought to Pass"

(H.P. 1083) (L.D. 1505) Bill "An Act to Amend the Maine Tort Claims Act" Committee on Judiciary reporting "Ought to Pass"

(S.P. 421) (L.D. 1132) Bill "An Act to Amend the Time within which a Juvenile Detention Hearing Must Be Held" Committee on Judiciary reporting "Ought to Pass"

(S.P. 314) (L.D. 819) Bill "An Act to Provide Public Access to Records and Proceedings of Local and County Government Associations" Committee on Judiciary reporting "Ought to Pass" as amended by Committee Amendment "A" (S-187)

(S.P. 493) (L.D. 1367) Bill "An Act to Equalize State Retiree Health Benefits" Committee on Aging, Retirement and Veterans reporting "Ought to Pass" as amended by Committee Amendment "A" (S-186)

(H.P. 114) (L.D. 151) Bill "An Act Making Unified Appropriations and Allocations for the Expenditures of State Government and Highway Funds Law Necessary to the Proper Operations of State Government for the Fiscal Years Ending June 30, 1990 and June 30, 1991" (EMERGENCY) Committee on Transportation reporting

"Ought to Pass" as amended by Committee Amendment "A" (H-384)

(H.P. 953) (L.D. 1321) Bill "An Act to Facilitate the Establishment and Enforcement of Child Support and Health Insurance Obligations and to Clarify the Law Concerning the Modification of Child Support Orders" Committee on Judiciary reporting "Ought to Pass" as amended by Committee Amendment "A" (H-385)

(H.P. 950) (L.D. 1318) Resolve, to Establish a Commission to Study Town Supervision of Private Roads (EMERGENCY) Committee on Transportation reporting "Ought to Pass" as amended by Committee Amendment "A" (H-386)

There being no objections, the above items were ordered to appear on the Consent Calendar of Tuesday, June 6, 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. 118) (L.D. 184) Bill "An Act Clarifying Intoxication Under the Workers' Compensation Law" (C. "A" S-182)

On motion of Representative Gwadosky of Fairfield, was removed from the Consent Calendar, Second Day.

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

Committee Amendment "A" (S-182) was read by the Clerk and adopted and the Bill assigned for second reading Tuesday, June 6, 1989.

(S.P. 251) (L.D. 641) Bill "An Act to Implement Civil Penalties for Passing Worthless Instruments" (C. "A" S-172)

(S.P. 297) (L.D. 795) Bill "An Act to Amend the Wrongful Death Laws to Encompass Associated Claims" (C. "A" S-176)

(S.P. 340) (L.D. 901) Bill "An Act to Require Labeling of Produce Treated with Post-harvest Treatments" (C. "A" S-173)

(S.P. 389) (L.D. 1034) Resolve, to Establish a Blue Ribbon Task Force to Promote Equity of Opportunity for Women in the Public School System (EMERGENCY) (C. "A" S-175)

(S.P. 402) (L.D. 1046) Bill "An Act to Reduce the Quantities of Cocaine and Heroin Necessary to Allow a Presumption of Trafficking" (C. "A" S-183)

(S.P. 450) (L.D. 1212) Bill "An Act to Increase Educational Opportunities for Economically and Educationally Disadvantaged Residents" (C. "A" S-174)

(S.P. 465) (L.D. 1250) Bill "An Act Relating to Licensing of State Social Workers" (C. "A" S-178)

(S.P. 496) (L.D. 1370) Resolve, to Study the Feasibility of Establishing a Piscataqua River Basin Compact between Maine and New Hampshire (EMERGENCY) (C. "A" S-185)

(S.P. 516) (L.D. 1412) Resolve, Concerning Grant of Easement (EMERGENCY) (C. "A" S-181)

(S.P. 528) (L.D. 1445) Bill "An Act to Amend the Charter of the Rangeley Water District" (C. "A" S-179)

(H.P. 1106) (L.D. 1539) Bill "An Act to Amend the Law Relating to Court Security"

(H.P. 1186) (L.D. 1653) Bill "An Act to Amend the Antitrust Laws to Permit Suits by Indirect Purchasers"

(H.P. 973) (L.D. 1351) Bill "An Act Amending the Maine Board of Oil and Solid Fuel Dealers Law" (C. "A" H-370)

(H.P. 809) (L.D. 1121) Bill "An Act to Create a Hazardous Highway Spills Fund" (C. "A" H-371)

(H.P. 978) (L.D. 1356) Bill "An Act to Authorize County Commissioners to Provide Additional Facilities for Prisoners" (EMERGENCY) (C. "A" H-373)

(H.P. 614) (L.D. 837) Bill "An Act to Create a Northeast Interstate Dairy Compact" (C. "A" H-374)

(H.P. 202) (L.D. 282) Bill "An Act to Eliminate the Statute of Limitations in Child Molestation or Incest Cases" (C. "A" H-375)

(H.P. 428) (L.D. 593) Bill "An Act to Require a Hearing to Cancel Policies Issued under an Assigned Risk Plan" (C. "A" H-376)

(H.P. 765) (L.D. 1069) Bill "An Act Relating to Motor Vehicle Insurance Surcharges Due to License Suspension" (C. "A" H-377)

(H.P. 503) (L.D. 683) Bill "An Act to Prohibit Motor Vehicle Insurers from Adjusting Personal Insurance Rates of Public Works Employees Involved in Collisions" (C. "A" H-378)

(H.P. 668) (L.D. 910) Bill "An Act to Amend the Law Relating to Submerged Land" (C. "A" H-379)

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

PASSED TO BE ENGROSSED

As Amended

Bill "An Act to Allow a Student an Option in Biological Dissection" (H.P. 253) (L.D. 365) (H. "A" H-383 to C. "A" H-334)

Was reported by the Committee on Bills in the Second Reading, read the second time, Passed to be Engrossed as Amended, and sent up for concurrence.

At this point, a message came from the Senate, borne by Senator DUTREMBLE of that Body, proposing a Joint Convention to be held in front of the State House at 10:30 a.m. to celebrate the 160th anniversary of the laying of the cornerstone of the State House.

Thereupon, the House voted to concur in the proposal for a Joint Convention to be held at 10:30 a.m. and the Speaker appointed Representative MAYO of Thomaston to convey this message to the Senate.

Subsequently, Representative MAYO of Thomaston reported that he had delivered the message with which he was charged.

ENACTOR

Tabled and Assigned

An Act to Provide Dealership Protection to Farm Equipment and Machinery (S.P. 358) (L.D. 959) (C. "A" S-137 and S. "A" S-168)

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

On motion of Representative Gwadosky of Fairfield, tabled pending passage to be enacted and specially assigned for Tuesday, June 6, 1989.

ORDERS OF THE DAY

TABLED AND TODAY ASSIGNED

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

SENATE DIVIDED REPORT - Majority (10) "Ought to Pass" as amended by Committee Amendment "A" (S-184) - Minority (3) "Ought Not to Pass" - Committee on Human Resources on Bill "An Act to Establish the Medicaid Advisory Committee on Mental Health" (S.P. 467) (L.D. 1252)

- In Senate, Majority "Ought to Pass" as amended Report read and accepted and Bill passed to be Engrossed as Amended by Committee Amendment "A" (S-184)

TABLED - June 2, 1989 by Representative MANNING of Portland.

PENDING - Motion of same Representative to accept the Majority "Ought to Pass" as amended Report.

Subsequently, the Majority "Ought to Pass" Report was accepted, the Bill read once.

Committee Amendment "A" (S-184) was read by the Clerk.

On motion of Representative Manning of Portland, tabled pending adoption of Committee Amendment "A" and specially assigned for Tuesday, June 6, 1989.

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

Bill "An Act to Require Administrators of Boarding Care Facilities to Obtain Continuing Education" (H.P. 914) (L.D. 1280)

- In House, Majority "Ought to Pass" as amended Report of the Committee on Human Resources read and accepted and Bill passed to be Engrossed as Amended by Committee Amendment "A" (H-309) on May 31, 1989.

- In Senate, Bill and accompanying papers indefinitely postponed in non-concurrence.

TABLED - June 2, 1989 by Representative MANNING of Portland.

PENDING - Further Consideration.

On motion of Representative Manning of Portland, the House voted to Adhere. Sent up for concurrence.

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

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)

- In House, Passed to be Engrossed as Amended by House Amendment "A" (H-279) on May 26, 1989.

- In Senate, Passed to be Engrossed as Amended by House Amendment "A" (H-279) as Amended by Senate Amendment "A" (S-191) thereto in non-concurrence.

TABLED - June 2, 1989 by Representative MAYO of Thomaston.

PENDING - Further Consideration.

On motion of Representative Mahany of Easton, the House voted to Insist. Sent up for concurrence.

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

Expression of Legislative Sentiment recognizing Danny Raymond (HLS 567)

TABLED - June 2, 1989 by Representative GWADOSKY of Fairfield.

PENDING - Passage.

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

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

Expression of Legislative Sentiment recognizing Leonard Daigneault (HLS 568)

TABLED - June 2, 1989 by Representative GWADOSKY of Fairfield.

PENDING - Passage.

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

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

HOUSE DIVIDED REPORT - Majority (9) "Ought to Pass" as amended by Committee Amendment "A" (H-353) - Minority (4) "Ought Not to Pass" - Committee on Labor on Bill "An Act Concerning Unemployment Benefits for Lockouts" (H.P. 456) (L.D. 621)

TABLED - June 2, 1989 by Representative MCHENRY of Madawaska.

PENDING - Motion of same Representative to accept the Majority "Ought to Pass" as amended Report.

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

Representative REED: Mr. Speaker, Men and Women of the House: I think we are all familiar with the symbol of justice, that very dignified statue with a blindfold and a set of scales in one hand. The blindfold is symbolic of our need to avoid being influenced by what may appear to be true and the scales represents the need to objectively weigh the evidence to arrive at a fair determination based on only the true facts. Today I would ask you to apply that symbolic blindfold, use your wisdom and sound judgment to honestly and objectively evaluate the facts of this issue.

I will submit to you that L.D. 621 is an attempt to slip just a few extra grains of sands on one side of that set of scales that the justice holds so as to tilt them in contradiction to the facts.

First, I would like to call your attention to the Statement of Facts, which I suggest might more correctly be called the Statement of Opinion in this particular instance and I will quote from that statement as follows: "Since the Unemployment Compensation Law was intended to provide benefits to employees who are unemployed through no fault of their own and who are willing to work, these persons should be allowed to receive unemployment benefits if they are prevented from working solely due to an employer initiated lockout." On first reading, this sentence has a certain appealing ring to it. Sounds fair to me, you might say, but in reality, it is a bit of camouflage.

You may remember I spoke to you a few weeks ago about camouflage but on the number of votes that that got, perhaps you don't remember so I want to tell you that camouflage is something that tries to make a matter appear to be other than that what it is. I would submit to you that L.D. 621's Statement of Fact is just a bit of camouflage. In fact, the standard cited in the Statement of Fact of L.D. 621 is the standard utilized by the Department of Labor when an employee voluntarily leaves the job with good cause but not from his conduct. This is not the standard that is applied in a labor dispute. All state laws reflect the principle of neutrality when looking at disqualifications for unemployment due to a labor dispute. Allowing the payment of benefits during lockout would move Maine's unemployment system from a position of neutrality to one that favors labor. Maybe so, you might feel, after all a lockout just isn't fair and we ought to pass this bill anyway --- the truth of the matter is, a lockout is not an unfair labor practice.

In 1965, the United States Supreme Court, the highest court in this land, ruled that lockouts are

not unfair labor practices. The court reasoned that if employees can withhold their services in support of their bargaining position, employers then have an equal right to withhold employment. A quote from a Supreme Court decision in American Shipbuilding Company vs. NLRB, the prime site in this particular matter goes as follows: "The right to bargain collectively does not entail the right to insist that one's position be free from economic disadvantage." The court went on to state and I quote: "There is nothing in the statute which would imply that the right to strike carries with it the right to exclusively determine the timing and duration of all work stoppages."

As our friends in the legal profession might say, "Now we can stipulate to these two facts." One, it is a legal act for employees to withhold their services during a labor dispute and two, it is a legal act for employers to deny employment during that same labor dispute. These two rights balance each other since in both instances, there is economic disadvantage to both parties. The employees receive no wages and the employer receives no profit from the enterprise. In a somewhat less legalistic terms, the court has said, you can't have your cake and eat it too. L.D. 621 proposes to allow labor to do just that.

It is also critical for you to realize that strikes and lockouts are treated equally under present Maine law in a very important and sensitive situation, that of the use of replacement workers. In either case, strike or lockout, if an employer returns to substantial normal operations through the use of replacement workers, the employees who are involved in the labor dispute are entitled to receive benefits. This has been done in Maine and would be done again should the same situation arise. Therefore, there is no justification to treat strikes and lockouts differently for the purposes of payment or denial of benefits.

In summary, I would ask you to weigh these facts in making your decision on this matter. Is there a significant problem in this state that this bill seeks to address? The answer, I would submit, is no. There have been only two lockouts in Maine in the last 8 years, both involved a single employer, one lasted two weeks and one, only 4 days.

Does this bill seek an advantageous position for a possible change in tactics for future labor disputes? Possibly.

Finally, is it sound public policy to utilize funds that are derived from a tax on all Maine employers to subsidize collective bargaining position of the employees of a single employer? I would submit that the answer is, absolutely not. Therefore, I would ask that you defeat the pending motion and Mr. Speaker, I respectfully request, when the vote is taken, it be taken by the yeas and nays.

The SPEAKER: The Chair recognizes the Representative from Madawaska, Representative McHenry.

Representative MCHENRY: Mr. Speaker, Ladies and Gentlemen of the House: I will try to explain this very briefly to you.

Let's take three different companies called A, B, and C. A company wishes to negotiate with their people, they go through the negotiation of their contract and they are still negotiating. Nothing happens. B company is negotiating with the employees, the employees decide they want to go on strike — they go out on strike and they receive strike benefits. There are some people who do not vote for a strike but they must go out and they will receive strike benefits. C company is negotiating with a union and they lock them out. The union

employees do not wish to go on strike, they wish to continue the contract, they wish to try to come to an understanding but the company says, no, you're out. Those people, ladies and gentlemen, receive no strike benefits and they receive no unemployment benefits, they receive nothing. How can you call that "having your cake and eating it too?" They want to work, the criteria for unemployment is "able and available for work" and they are able and available for work but they do not qualify for unemployment and it is not fair at all.

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

Representative CLARK: Mr. Speaker, Ladies and Gentlemen of the House: I found it difficult to sit in my seat and listen to Representative Reed speak about lockouts. It was mentioned earlier about snow jobs in June, I think we just got one. I think the good Representative should realize what happens in the workplace and perhaps he should get out in the workplace and see what happens when you have negotiations and a lockout.

I was active in a strike in 1978 with an employer I worked for in Millinocket — you might know, there were 13 locals involved in that employment and the trade locals elected to go on strike and the UPIU elected to go to work — by electing to go to work, they still could not go to work, they were locked out. They were not entitled to any unemployment benefits.

The only thing we are asking with this bill is, if you are locked out, that you do get unemployment benefits. You talk about the pendulum going towards management, I think we need to bring it back in focus and look at the workers today too. None of these workers today want to be locked out, they all want to work. I think a lot are working for less. So, when you do vote today, vote with the good Representative from Madawaska.

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

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

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

ROLL CALL NO. 55

YEA - Aliberti, Allen, Bell, Boutilier, Carroll, D.; Carter, Cathcart, Chonko, Clark, H.; Clark, M.; Conley, Cote, Crowley, Curran, Daggett, Dipietro, Dore, Erwin, P.; Farnsworth, Gould, R. A.; Graham, Greenlaw, Gwadosky, Hale, Handy, Heeschen, Hichborn, Hickey, Hoglund, Holt, Hussey, Jacques, Jalbert, Joseph, Ketover, Kilkelly, LaPointe, Larrivee, Lawrence, Lisnik, Luther, Macomber, Mahany, Manning, Marston, Martin, H.; Mayo, McGowan, McHenry, McKeen, McPherson, McSweeney, Michaud, Mills, Mitchell, Moholland, Nadeau, G. G.; Nadeau, G. R.; Nutting, O'Dea, O'Gara, Oliver, Paradis, E.; Paradis, J.; Paradis, P.; Parent, Paul, Pederson, Pineau, Plourde, Pouliot, Priest, Rand, Richard, Ridley, Rolde, Rotondi, Rydell, Sheltra, Simpson, Skoglund, Smith, Stevens, P.; Strout, D.; Swazey, Tammaro, Telow, Townsend, Tracy, Walker, The Speaker.

NAY - Aikman, Anderson, Ault, Bailey, Begley, Brewer, Butland, Carroll, J.; Dexter, Donald, Farnum, Farren, Foss, Foster, Garland, Hanley, Hastings,

Hepburn, Hutchins, Jackson, Lebowitz, Libby, Look, Lord, MacBride, Marsano, Marsh, McCormick, Merrill, Murphy, Norton, Pendleton, Pines, Reed, Richards, Seavey, Sherburne, Small, Stevens, A.; Stevenson, Strout, B.; Tardy, Tupper, Webster, M.; Wentworth, Whitcomb.

ABSENT - Adams, Anthony, Burke, Cashman, Coles, Constantine, Dellert, Duffy, Dutremble, L.; Gurney, Higgins, Melendy, Ruhlin.

Yes, 91; No, 46; Absent, 13; Vacant, 1; Paired, 0; Excused, 0.

91 having voted in the affirmative and 46 in the negative with 13 being absent and 1 vacant, the Majority "Ought to Pass" Report was accepted, the Bill read once.

Committee Amendment "A" (H-353) was read by the Clerk and adopted and the Bill assigned for second reading Tuesday, June 6, 1989.

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

An Act to Amend the Acupuncturist Licensing Law (EMERGENCY) (S.P. 327) (L.D. 864) (C. "A" S-150)

TABLED - June 2, 1989 by Representative GWADOSKY of Fairfield.

PENDING - Passage to be Enacted.

This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 127 voted in favor of same and none against, and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

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

An Act Relating to the Director of the Bureau of Health (S.P. 379) (L.D. 1015) (S. "A" S-155 to C. "A" S-146)

TABLED - June 2, 1989 by Representative JOSEPH of Waterville.

PENDING - Passage to be Enacted.

On motion of Representative Joseph of Waterville, retabled pending passage to be enacted and specially assigned for Tuesday, June 6, 1989.

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

An Act Relating to Smoking in Nursing Homes and Boarding Care Facilities (H.P. 920) (L.D. 1286) (C. "A" H-288)

TABLED - June 2, 1989 by Representative MANNING of Portland.

PENDING - Passage to be Enacted.

On motion of Representative Manning of Portland, retabled pending passage to be enacted and specially assigned for Tuesday, June 6, 1989.

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

An Act to Clarify Procedural Aspects of the Forcible Entry and Detainer Law (H.P. 446) (L.D. 611) (C. "A" H-265)

TABLED - June 2, 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 Tuesday, June 6, 1989.

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

Bill "An Act Relating to the Maine Commission on Mental Health" (EMERGENCY) (S.P. 408) (L.D. 1074)

- In Senate, Passed to be Engrossed as amended by Committee Amendment "A" (S-166).

TABLED - June 2, 1989 by Representative MANNING of Portland.

PENDING - Adoption of Committee Amendment "A" (S-166).

Representative Manning of Portland offered House Amendment "A" (H-387) to Committee Amendment "A" (S-166) and moved its adoption.

House Amendment "A" (H-387) to Committee Amendment "A" (S-166) was read by the Clerk and adopted.

Committee Amendment "A" as amended by House Amendment "A" thereto was adopted and the Bill assigned for second reading Tuesday, June 6, 1989.

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

Bill "An Act to Improve Compliance with Truck Weight Limits" (H.P. 36) (L.D. 36) (C. "A" H-277)

- In Senate, Passed to be Engrossed as Amended by Committee Amendment "A" (H-277) as amended by Senate Amendment "A" (S-169) thereto in non-concurrence on May 26, 1989.

TABLED - June 2, 1989 by Representative GWADOSKY of Fairfield.

PENDING - Motion to Recede and Concur.

On motion of Representative Gwadosky of Fairfield, retabled pending motion to recede and concur and specially assigned for Tuesday, June 6, 1989.

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

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

- In House, Passed to be Engrossed as Amended by Committee Amendment "A" (H-234) as amended by House Amendment "A" (H-282) thereto on May 26, 1989.

- In Senate, failing of passage to be engrossed in non-concurrence.

TABLED - June 2, 1989 by Representative PRIEST of Brunswick.

PENDING - Further consideration.

On motion of Representative Priest of Brunswick, the House voted to Insist. Sent up for concurrence.

BILL HELD

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

- In Senate, Passed to be engrossed as amended by Committee Amendment "A" (H-190) as amended by Senate Amendments "B" (S-167) and "C" (S-177) thereto in non-concurrence.

- In House, House Receded and Concurred.

HELD at the Request of Representative GWADOSKY of Fairfield.

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

Representative GWADOSKY: Mr. Speaker, is the House in possession of L.D. 1055?

The SPEAKER: The Chair would answer in the affirmative, having been held at the Representative's request.

On motion of Representative Gwadosky of Fairfield, the House reconsidered its action whereby the House voted to recede and concur.

Representative Manning of Portland withdrew his motion to recede and concur.

On motion of Representative Gwadosky of Fairfield, the House voted to recede.

On further motion of the same Representative, Senate Amendment "B" to Committee Amendment "A" was indefinitely postponed.

Subsequently, the Bill was passed to be engrossed as amended by Committee Amendment "A" and Senate Amendment "C" in non-concurrence and sent up for concurrence.

(At Ease)

The House was called to order by the Speaker.

The Chair laid before the House the following matter: Expression of Legislative Sentiment recognizing Danny Raymond (HLS 567) which was tabled earlier in the day and later today assigned pending passage.

Subsequently was passed. Sent up for concurrence.

The Chair laid before the House the following matter: Expression of Legislative Sentiment recognizing Leonard Daigneault (HLS 568) which was tabled earlier in the day and later today assigned pending passage.

Subsequently was passed. Sent up for concurrence.

At this point, the Speaker appointed Representative Michaud of East Millinocket to act as Speaker pro tem.

(At Ease to Gong)

STATE HOUSE DAY

Called to order by the Speaker pro tem.

At this point, the Senate arrived and a Joint Convention was formed.

IN CONVENTION

The President pro tem, Senator BUSTIN, called the Joint Convention to order.

On motion of Representative CLARK of Cumberland, it was

ORDERED, that a Committee be appointed to wait upon the Constitutional Officers, members of the Capitol Commission, the Augusta City Council and Kennebec County Commissioners to attend the Convention for the purpose of celebrating the 160th Anniversary of the laying of the Cornerstone.

Was passed.

The Chair appointed:

- Senators: BERUBE of Androscoggin
ESTY of Cumberland
CARPENTER of York
- Representatives: JOSEPH of Waterville

- ROTONDI of Athens
- DAGGETT of Augusta
- HEESCHEN of Wilton
- LARRIVEE of Gorham
- WENTWORTH of Wells
- BEGLEY of Waldoboro
- HANLEY of Paris
- McCORMICK of Rockport

Senator BERUBE, for the Committee, subsequently reported that the Committee had discharged the duty assigned it, and reported that the Constitutional Officers, Members of the State Capitol Commission, Members of the Augusta City Council, and Kennebec County Commissioners would attend forthwith.

Whereupon, the Constitutional Officers, Members of the State Capitol Commission, Members of the Augusta City Council and Kennebec County Commissioners arrived at the Joint Convention amid prolonged applause, the audience rising.

At this point, the Sergeants-at-Arms escorted the Speaker of the House and the President of the Senate to the rostrum.

The President of the Senate, Charles P. Pray, in the Chair.

Called to order by the Chairman.

At this point, the Color Guard posted the colors.

National Anthem by the Gray-New Gloucester High School Band, under the direction of Donald H. Hamalainen.

At this point, the Chair noted the presence of Governor Enoch Lincoln. (State Representative Herbert C. Adams of Portland)

On motion of Senator CLARK of Cumberland, it was ORDERED, that a Committee be appointed to wait upon the Governor, John R. McKernan, Jr., Chief Justice Vincent L. McKusick, Mayor William Burney, Grand Master of the Masons, John Anagnostis, Governor Enoch Lincoln and Chairman of the State Capital Commission, Earle Shettleworth to extend to them an invitation to attend the Joint Convention.

Was passed.

The Chairman appointed:

- Senators: CLARK OF Cumberland
WEBSTER of Franklin
CAHILL of Sagadahoc
- Representatives: GWADOSKY of Fairfield
MAYO of Thomaston
WEBSTER of Cape Elizabeth
MARSANO of Belfast

Senator CLARK, for the Committee, subsequently reported that the Committee had discharged the duty assigned it and reported that Governor John R. McKernan, Jr., Chief Justice Vincent McKusick, Mayor William Burney, the Honorable John Anagnostis, Grand Master, Grand Lodge of Maine, Governor Enoch Lincoln and Earle Shettleworth, Chair of the State Capitol Commission would attend forthwith.

Whereupon, Governor John R. McKernan, Jr., Chief Justice Vincent McKusick, Mayor William Burney, the Honorable John Anagnostis, Grand Master, Grand Lodge of Maine, Governor Enoch Lincoln and Earle Shettleworth, Chair of the State Capitol Commission arrived and were escorted to their seats, amid prolong applause, the audience rising.

Senator CLARK of Cumberland presented the following Joint Resolution (S.P. 621):
 State of Maine
 In the Year of Our Lord Nineteen Hundred and Eighty-Nine

JOINT RESOLUTION IN HONOR OF THE 160TH ANNIVERSARY OF THE MAINE STATE HOUSE

Whereas, the cornerstone of Maine's most public building was laid on July 4, 1829, in Augusta on the crest of Weston's Hill; and

Whereas, this "House for Legislatures" was designed by Charles Bulfinch, one of the first and most influential architects in American history; and

Whereas, the distinctive architecture of the State House served as a standard for monumental public buildings in the new nation; and

Whereas, the graceful walls of native granite form a tangible symbol of achievement, a monument to a thinly settled people who committed themselves beyond their means for the benefit of future generations; and

Whereas, that event was a proud moment in Maine History, one which gives "Value to the present hour and its duty;" now, therefore, be it

Resolved: That We, the Members of the 114th Legislature now assembled in the First Regular Session, take this special opportunity to recognize our priceless heritage and, with appropriate ceremony, to rededicate a cornerstone to this beloved place; and be it further

Resolved: That suitable copies of this Joint Resolution, duly authenticated by the Secretary of State, be placed within our permanent journals to record and dignify this event and be encapsulated beneath the stone for our children to find 40 years hereafter.

Was read by the Clerk of the House and adopted.

The Chairman: At this time, the Chair would request that the Speaker of the House, the Honorable John L. Martin, preside at the rostrum for the purpose of offering remarks and introducing our guest speakers here today.

The SPEAKER: Thank you Mr. President, we are honored to have three distinguished guests participating with us in today's ceremonies. Before I introduce them, I would like to share a few thoughts with you in terms of this occasion today.

It really is an honor to take part in the celebration of the 160th anniversary of the Maine State House. Those of us who work in the State House or live near it often take for granted the beauty of this structure and the surrounding grounds.

When the leaders of Maine government decided to construct a Capitol and designated the city of Augusta to serve as its host community, it is difficult, especially nowadays, for many of us to imagine the squabbling and parochial bickering that took place. Portland wanted the State House located in southern Maine, Bangor wanted the Capitol closer

to northern Maine, (and some of us might agree) Thomaston and Rockland wanted it near the coast but it was, however, decided that Augusta would be selected as the Capitol of Maine. Each community wanted the State House located in their home town. To have your city serve as the State Capitol was indeed an honor, as it should be now. The city of Augusta and all the people of Maine can take pride in this facility. The State House and the surrounding complex, however, is more than a source of pride for the city and the state, it is a symbol of American democracy.

As Representative Rufus Choate once wrote, "We have built no national temple but the Capitol, we consult no common oracle but the Constitution." The vision to further develop this State House facility will serve not only Maine people but preserving and protecting our State Capitol will enhance the character of the city of Augusta and promote Maine's State Capitol as one of the finest in the country. It is our duty to preserve for future generations this symbol of American democracy. Let us not take it for granted. We should rejoice in the beauty of the entire State House complex.

Today we will be holding a hearing on a bill which will deal with the planning purposes of both the city of Augusta and for the state, not for the short term but for the long term. Planning for the future presents an opportunity and a challenge for us all, one that I know we can meet and one which I know the legislature is committed to meet as well.

It is my distinct pleasure now to introduce to you the Honorable Mayor of the city of Augusta, William D. Burney, Jr.

Mayor BURNEY: Governor McKernan, former Governor Enoch Lincoln, Speaker Martin, President Pray, Chief Justice McKusick, Grand Master Anagnostis, Members of the Augusta City Council, Distinguished Podium Guests, Members of the House and Senate of the 114th Maine Legislature:

It is truly an honor to address this Joint Convention of the legislature to commemorate the 160th anniversary of the laying of the cornerstone with this our State House.

The pomp and circumstance of this morning's carriage procession is not unlike the one that took place 160 years ago. The historical accuracy with which this event has been recreated, even down to the schedule of fireworks for this evening, is due in very large part to the research and organization of David Silsby. I think he should be recognized for that. (applause)

One distinction between the 1829 parade and today's is, back then, their public works department did have a mechanical street sweeper on call to clean up the horse trails. I think even if we had needed it this morning though, it would have been the guys with the brooms and shovels who would have gotten the call.

In researching the establishment of Augusta as the seat of Maine government, I found that the legislature of that day, around 1821, was faced with the challenge of locating the seat in an area which was centrally located because the travel and costs to Portland were beginning to mount. The location needed to be secure from invasion and the land needed to be free. More on that in a moment. There was early consideration of Hallowell by an appointed committee, which also looked at Portland, Brunswick, Augusta, Waterville, Belfast and Wiscasset. The committee selected Augusta and called for the first meeting of the legislature to be held here in January of 1827. However, little progress was made on site selection until 1827. There were Resolves

introduced, amended, referred to committee, defeated, passed etcetera. Part of the problem was, in the sentiment of one Representative, he didn't want to come up to the question of that permanent seat of government because the treasury was empty and, since the boundary of the state was not settled, they could not tell where the seat would be. However, men of greater vision prevailed, such as the Representative from Bath, who characterized Augusta as a place that was central as to territory, population and representation. It was a place where the public records and public offices might be kept in security in case of wars. It was a place where the business of legislation might be carried on with less embarrassment and more purity than in a large town. How right he was, don't you think?

That legislature set 1832 as the date for Augusta to become the permanent seat in Maine government. Then in 1829, the cornerstone was laid with great ceremony. Following the ceremony, there was great entertainment and a Major Augustus Davezac of Louisiana, a personal friend of President Andrew Jackson spoke these words, "This day, sir, an auspicious day to lay the foundation of good work, you have laid the cornerstone of the Capitol of Maine and though no material omen struck the eye or ear of the assembled multitude, nor no eagle soared on the site in happy augury of rising empire, those no lightning layered through the dark cloud, though no thunder proclaimed the approving will of heaven, yet the mediating mind might, like the oracle of old, without fear of being contradicted by coming days read in the firm and resolved aspect of man of mature years and in the ardent and enthusiastic eyes of youth, the glad assurance that the frontiers of Maine will never receive before the footsteps of an invader and that her youth in the defense of their native land, never can be conquered." How true these words as well.

In closing, I would just like to say that the citizens of Augusta are proud to be the permanent seat of Maine State government. Also this legislature, this executive branch and this judicial branch, along with the citizenry of Augusta and the State of Maine should stand at a historical crossroad. From this vantage point, we have benefit of hindsight but the challenge before us is to have the same vision as our ancestors because our state government must be expanded.

A bill has been introduced to begin planning for this. I support the bill, not in its entirety, but in its concept. I don't believe the land will be free this time but neither is the treasury empty. (applause)

Only seldom in history do men and women of leadership have an opportunity to shape the future for generations to come. This is such an opportunity. As we celebrate our heritage and our history, I challenge each and every one of us to play a part in shaping the future of the State of Maine. (applause)

The Speaker: Thank you Bill, we are very pleased to have you with us today as well as all the members of the Augusta City Council and I would like them to stand and accept the greetings of the House and Senate members. (applause)

We recognize the personal interest in leadership that you have assumed in the discussions over the last few months and we hope that this marks the beginning of a commitment on all of our parts for the future of the Capitol city.

The presence of our next honored guest is of a real special significance today -- 160 years after the cornerstone for the Capitol was dedicated, a

special commission, The Supreme Court Judicial Plan and Design Commission, is in the process of developing recommendations for the location and design of a Supreme Judicial Court building in the city of Augusta. This marks the first time since Maine became a state (and I might point out, the last state in the nation) that the Judicial Branch of government would have a permanent full-time presence in the State Capitol. It seems fitting, therefore, on this day of vision to welcome the Honorable Vincent L. McKusick, Chief Justice of the Supreme Judicial Court of Maine.

Chief Justice MCKUSICK: Mr. Speaker, Governor McKernan, the former and late Governor Enoch Lincoln, Mr. President, Mr. Mayor, Grand Master, Members of the 114th Legislature, Ladies and Gentlemen:

As the Speaker has indicated, both I as Chief Justice and the Judicial Branch, have reason to be particularly proud to participate here this morning. In 1829, the Judicial Branch and my predecessor, Chief Justice Prentiss Mellen, had no part in the original cornerstone laying. In the construction of this State House, the Judiciary was the absent and forgotten Third Branch. Pointedly, the plaque of the 1829 cornerstone recited that the State House is "For the Accommodation of the Legislative and Executive Branches of Government."

My presence here today represents the change in the responsibilities of the Supreme Judicial Court in the last 160 years. In 1829, the Court's work was focused almost exclusively on the counties. The Supreme Judicial Court was both the state's only trial court of general jurisdiction and, at the same time, its highest appellate court. Every year, all three justices of the Court, or a majority of them, held at least one term of court in each of the then 10 counties, both to conduct trials and to hear whatever appeals were ready to be heard. The Court had no management responsibilities for a unified, statewide court system funded at the state level. As near as I can determine, on the day in 1829 when the State House cornerstone was laid, Chief Justice Mellen and both of his colleagues were in Machias finishing up a week's term of court for Washington County.

Times have changed. The Court's responsibilities in managing the statewide court system now require, as they did not in 1829, frequent interaction and coordination with the Legislative and Executive Branches. Furthermore, the people of Maine amended their Constitution in 1913 -- it is amazing it came as late as that -- to declare Augusta to be the seat of government of this state. I am confident that on the 200th anniversary of the laying of the cornerstone of the State House, the appropriate presence of the Judicial Branch at the seat of government will be symbolized by something beyond the participation of the Chief Justice in the celebratory proceedings. Surely by 2029, a suitable building housing the Supreme Judicial Court will take its proper place here in sight of the splendid State House and the lovely Blaine House. Then all three coordinate and co-equal branches will be headquartered here at the seat of government of the State of Maine.

Thank you all for inviting me to come up this morning from Portland to the seat of government to share in this splendid occasion. (applause)

The SPEAKER: Thank you Mr. Chief Justice, we have gotten the message, loud and clear.

The next speaker has had the privilege of serving in two legislative buildings designed by Charles Bulfinch, our own State House as a legislator and now as Governor and, of course, as a member of the United

States House of Representatives in the U.S. Capitol building.

I know that we share a commitment to maintain and restore the most public building in Maine. I present to you now, the Honorable John R. McKernan, Jr., Governor of the State of Maine.

Governor MCKERNAN: Mr. President, Mr. Speaker, Members of the 114th Legislature, Mr. Mayor and Members of the Augusta City Council, Grand Marshall Anagnostis, Chief Justice McKusick, Governor Lincoln:

I have to say what a pleasure it is for me to be able to participate in this Joint Convention. I should also point out that, looking at this august body, you have never looked better.

I also want to thank Dave Silsby and the Capitol Planning Commission for organizing today's commemoration and for reminding all of us of the beauty and the importance of this building and of this site. I would be lying if I said that this elevated spot, as Governor Enoch Lincoln once described it, was chosen merely for its grand view and setting because it was not. As most of the subsequent decisions that have been made from this spot, politics truly played a role.

Mayor Burney — I don't know how to break this to you but you may have gathered from the Speaker's remarks, Augusta was chosen, not so much as the most popular choice for the Capitol as it was for being the least objectionable, but as anyone who has ever stood on these steps looking out across the Kennebec River or turning to look up at the beautiful building behind me, can well attest the choice was obviously the correct one. This was and remains a majestic spot, worthy of the important work that is conducted upon it.

I hope the good governor of 1829, Governor Lincoln, won't consider it plagiarism if I borrow a line from him but there was a very real sense, when the project was conceived, that those involved were engaged, as then Governor Lincoln said, "in founding great establishments more for the benefit of their descendants than of themselves."

All of us who are here today, representing the people of this state and all of those school children who run through this building from morning until night, are indebted to those founders. Because of what they gave us, we are the proud inhabitants of a building of simple grandeur, one that reflects good Maine values, that takes seriously the people's right to govern themselves, and that welcomes into its halls people from all over the state and all walks of life.

Of course, while the State House has long stood as a proud symbol of self-governance and the rule of law, the mortals who have inhabited it have not always been so noble and upright. There was the time fifty years after the laying of the cornerstone that armed political opponents of James G. Blaine occupied the building. One insurgent even climbed to the top of the dome and shot at the occupant of the house across the street. As we draw to the close of a long and sometimes acrimonious session, I wanted to remind the legislature of that incident and say that in 1989, that might be viewed as a little extreme.

As we approach the end of another session of the legislature, I might also add that it is probably a good thing to step outside as we have today and get some fresh air and remind ourselves of why we are here. There is, I think, no better reminder of the importance of our work and of our responsibility to those who will follow than this building. It has stood here, proudly and majestically, for decades. It is our duty to ensure that it continues to shine — as a symbol and as architecture — for our

children and our children's children. Thank you very much. (applause)

The SPEAKER: Thank you Governor and I can assure you that we will restrict our comments or remarks to verbal comments rather than shooting from the top of the State House.

Now it is my pleasure to present to you for his comments, the Senator from Penobscot, Senator Pray.

Senator PRAY: Mr. Speaker, Governor McKernan, Chief Justice McKusick, Mayor Burney, Grand Master Anagnostis, Members of the Legislature:

As has already been pointed out today, that today's ceremony is not only a tribute to our past but a commitment to our future as well, to our future and to Maine's future.

This legislature has two bills it is considering this session whose intent is to weave the past into our future. Both of these bills are an outgrowth of the early work of the State Capitol Commission and received the unanimous endorsement of the Legislative Council. The first of these bills would strengthen the connection between the State House and Capital Park by putting them under the same jurisdiction. This not only carries out the intent of our forefathers, but strengthens our opportunity for extending their vision.

The second bill, which I believe is actually being heard today, would establish a special commission to oversee the development of a new Master Plan for the Capitol Area — a plan to replace one that is now 20 years old.

This is part of the challenge that the Speaker referred to earlier and it will take commitment and give and take from all parties to successfully engage in this very important understanding.

Planning for the future with vision requires, not only the commitment of the governments involved, but of business and of the citizens of Maine.

Finally, I would like to recognize many individuals and organizations who have contributed to today's ceremony and, in particular to one person, who more than any other has helped us understand the vision and its importance, David Silsby. David's efforts, with the support of the State Capitol Commission, have helped us all recreate a proud moment in Maine's history including his endless determination to have the leaders of all 3 branches of state government and the Mayor of the city of Augusta ride in the procession to the State House this morning of which the Governor, the Speaker and I have never been closer before in a carriage built for two. As a matter of fact, a few matters of the state were settled.

To all those individuals and organizations who have contributed their time and talents to this occasion, we say thank you, and to David, we extend a special tribute for reminding us that our vision must be creative and shared.....and proud. (applause)

At this point, Earle Shettleworth, Chair of the State Capitol Commission presented the Time Capsule.

Mr. SHETTLEWORTH: Governor McKernan, Mr. Speaker, Mr. President, Chief Justice McKusick, Mayor Burney, Grand Master Anagnostis, Members of the 114th Legislature, Guests:

As Chairman of the State Capitol Commission, it is my pleasure today to present to all of us this gift for the future, the Time Capsule, which will be encased on the Capitol grounds and which will be opened 40 years from now.

There are many gifts to the future that are in this capsule but no more precious are those than the over 100 essays that were submitted to Education

Commissioner Bither from the school children of Maine and before we turn over the capsule to the dignitaries, I want to just read to you two of those essays.

The first is from Ryan Smith, age 10, third grade, MSAD #1 in Presque Isle. "My State: There are lots of things I like about my state. For one thing, I like the natural beauty of Maine, the trees, the birds, sunsets, wildflowers, sparkling waters and things like that. I am proud that we are called the Pine Tree State and I hope it will always be true. Up in Aroostook County, we have fiddleheads and potatoes -- down state, there is Baxter State Park and Acadia National Park. Near the oceans, there is lobster.

I hate to say it but there are a few things I do not like about Maine, we are starting to cut down many trees. Also, our roads are full of pot holes. I hope we can fix bad things about Maine and also try to maintain the good things because I love Maine." (applause)

On the other end of our educational spectrum from Lynn Marion Curtis of Orono High School. "As I view the State House from a distance, I have a profound feeling of pride in Maine. When I journey through its halls, I feel a strong sense of history from years past, the portraits of former Governors, the civil war battle flags and the many statues and monuments that tie the past into the future of our state. To me, the State House means freedom of ideas. Every day legislators meet there to design the future of our state and every day school children are allowed to roam the halls freely and see how the process of government really works.

As we near the 21st Century, the children of today will become the leaders of tomorrow and many of them will take their place in a coveted seat of the Maine State House as a legislator. They will use ideas based upon their first impressions as children at the State House. As long as the State House continues to welcome these leaders of the future and encourages their dreams and aspirations, the future of Maine is secure."

At this point, the Grand Master, Grand Lodge of Maine, John Anagnostis, stepped forward to receive the Time Capsule.

Grand Master ANAGNOSTIS: Governor McKernan, Distinguished State, County and City Officials, the Most Worshipful Past Grand Masters of the Grand Lodge of Maine and the Grand Lodge Officers, Brethren, Friends and Guests:

It is indeed a pleasure and an honor for me and the Masons of Maine to be a part of the reenactment of the cornerstone laying of 1829. Beyond that, it is an important time in the history of our state, not only for us, but also for the generations to come. In today's fast moving society, we tend to forget the importance of our past. We certainly have all heard platitudes about this importance of history and if there are young people present, they may give a nod of agreement and go on their merry way. However, an occasion like this can give real significance to the understanding of how our Capitol building came into being. We can witness the important event and realize that all this truly happened 160 years ago.

There were some important concerns that are interesting because they show that the citizens of Maine, 160 years ago, were just as upset about costs then as we are today. Some of that information taken from the Maine State Archives reveals some interesting points -- for example, former Governor William King was the Commissioner of Public Buildings

in 1829. As I am sure you know, Governor William King was the first Governor of the State of Maine and he was also the first Grand Master of Masons in Maine. At the time he was Commissioner of Public Buildings, he received a letter from Governor Enoch Lincoln suggesting that solidity, strength and permanency are better than elegance, that convenience is worth more than splendor and that utility ought to be the arbiter of taste. The Honorable William King originally estimated the cost of the State House building to be \$80,000 plus \$5,500 for an attic story to a dome. Problems surfaced, cost overruns were distressing -- Mr. William Clark took over as Commissioner of Public Buildings from Commissioner William King in 1930 and Mr. Clark suggested, in the straightforward, bluntness of the day, that Governor King was in no small part responsible for the problems.

Later, there was another matter of contention between King and Clark. King apparently authorized a reduction in the diameter of 8 Doric columns forming a front colonnade of the State House from 3 feet at the base to 2 feet, 10 inches. Mr. Clark wrote the architect, Charles Bulfinch, that he naturally was not in favor of the change. Another exchange of letters occurred and so it went. Finally, this beautiful structure was completed and today we see it with its Doric columns and some necessary changes in additions. Were it not for this event, much of this information perhaps would not have come to life.

We, as free Masons, took an important part then as we do today. As I stated previously, Governor William King was a Mason and First Grand Master of Masons. At the time of the cornerstone laying, Samuel C. Fessenden was the Grand Master of Masons and performed the cornerstone laying ceremonies as you will witness them at two o'clock this afternoon.

Another interesting fact about Samuel Fessenden is that he was an alumnus of Dartmouth College and a student of Daniel Webster. Our present Governor, the Honorable John R. McKernan, Jr. is also a Dartmouth alumnus. At the time of the cornerstone laying, Andrew Jackson was President of the United States and also Grand Master of Masons in Tennessee.

As you can see, we have a proud heritage in this state and we, the Masons of Maine, are grateful for the invitation to participate in this historic event. Thank you very much. (applause)

At this point, the Sergeants-at-Arms escorted all dignitaries to the Capitol and the Color Guard retired the Colors.

The Gray-New Gloucester Band then played "Stars and Stripes Forever."

At this point, there was a 21 gun salute.

The purpose for which the Joint Convention was assembled having been accomplished, the Chairman declared the same dissolved.

(Off Record Remarks)

Called to order by the Speaker.

On motion of Representative Gwadosky of Fairfield,

Adjourned until Tuesday, June 6, 1989, at twelve o'clock noon.

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

In Senate Chamber
Monday
June 5, 1989

Senate called to Order by the President.

Prayer by Thomas Longstaff, Professor of Religion at Colby College in Waterville.

THOMAS LONGSTAFF: Be still and know that I am God. Nearly three thousand years ago, an inspired poet in Israel wrote this line which has become a familiar one to many people in every century since. At the beginning of this legislative day, let us pause for just a moment to know the presence of the transcendent and to listen to the words of a more modern poet, an anonymous voice from the African continent. Let us pray.

Almighty God, awesome wisdom of sunshine and rain, may peace govern the earth, may the gourd cup agree with the vessel, may their heads agree and every ill word be driven out into the wilderness into the virgin forest. Be present at this gathering, let Your fullness shine in this place. May Your presence be a blessing to the deliberations here today, to the ideals, dreams, visions, and especially to those who exercise the functions of government in the affairs of women and men. By Your blessing may they contribute powerfully to the well-being of all people. Amen.

Reading of the Journal of Friday, June 2, 1989.

Out of order and under suspension of the Rules, on motion by Senator DUTREMBLE of York, the following Senate Order:

ORDERED, that a message be sent to the House of Representatives proposing a Convention of both Branches in the front of the State House at 10:30 this morning, to Celebrate the 160th anniversary of the laying of the cornerstone of the State House.

Which was READ and PASSED.

The Chair appointed the Senator from York, Senator DUTREMBLE, to deliver the message. The Sergeant-At-Arms escorted the Senator to the House of Representatives.

Subsequently, Senator DUTREMBLE of York reported he had delivered the message with which he was charged.

Off Record Remarks

PAPERS FROM THE HOUSE
Non-concurrent Matter

Bill "An Act to Create the Individual Income Tax Windfall Fund" (Emergency)

S.P. 306 L.D. 805
(C "A" S-128)

In Senate, May 22, 1989, PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-128).

Comes from the House PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-128) AS AMENDED BY HOUSE AMENDMENT "A" (H-369), thereto in NON-CONCURRENCE.

The Senate RECEDED and CONCURRED.