

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD
OF THE
One Hundred And Fourteenth Legislature
OF THE
State Of Maine

VOLUME IV

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August 21, 1989 to August 22, 1989
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ONE HUNDRED AND FOURTEENTH MAINE LEGISLATURE

SECOND REGULAR SESSION

20th Legislative Day

Tuesday, February 20, 1990

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

Prayer by Reverend James Flye, United Baptist Church, Island Falls.

National Anthem by the Maine Maritime Academy Band, Castine.

The Journal of Friday, February 16, 1990, was read and approved.

Quorum call was held.

At this point, a message came from the Senate, borne by Senator CLARK of that Body, proposing a Joint Convention to be held in the Hall of the House at 9:30 a.m. for the purpose of extending to the Chief Justice Vincent L. McKusick and members of the Judiciary, an invitation to attend and to make such communication as they may be pleased to make.

Thereupon, the House voted to concur in the proposal for a Joint Convention to be held at 9:30 a.m. and the Speaker appointed Representative GWADOSKY of Fairfield to convey this message to the Senate.

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

PAPERS FROM THE SENATE

Unanimous Ought Not To Pass

Report of the Committee on Fisheries and Wildlife reporting "Ought Not to Pass" on Bill "An Act to Reduce Hunting Related Accidents" (S.P. 840) (L.D. 2159)

Report of the Committee on State and Local Government reporting "Ought Not to Pass" on RESOLUTION, Proposing an Amendment to the Constitution of Maine to Provide Property Tax Relief for Marine-related Industries (S.P. 793) (L.D. 2044)

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 Appropriations and Financial Affairs reporting "Leave to Withdraw" on Bill "An Act to Maintain Appropriate Residential Care to Clients of Pineland Center" (EMERGENCY) (S.P. 867) (L.D. 2217)

Report of the Committee on Appropriations and Financial Affairs reporting "Leave to Withdraw" on Bill "An Act to Make Additional Allocations from the Public Utilities Commission Regulatory Fund for the Fiscal Year Ending June 30, 1990" (EMERGENCY) (S.P. 875) (L.D. 2237)

Report of the Committee on Taxation reporting "Leave to Withdraw" on Bill "An Act to Exempt Chambers of Commerce from the Use Tax on Items Distributed to the Public Free of Charge" (S.P. 763) (L.D. 1988)

Report of the Committee on Taxation reporting "Leave to Withdraw" on Bill "An Act to Create Equity in the State Revenue Sharing and Education Subsidy Programs" (S.P. 853) (L.D. 2187)

Report of the Committee on Utilities reporting "Leave to Withdraw" on Bill "An Act Relating to Interest Rate Swap Transactions by Public Utilities" (S.P. 755) (L.D. 1980)

Report of the Committee on Banking and Insurance reporting "Leave to Withdraw" on Bill "An Act to Amend the Mutual Holding Company Law" (S.P. 710) (L.D. 1887)

Report of the Committee on Banking and Insurance reporting "Leave to Withdraw" on Bill "An Act to Promote Consumer Choice in Automobile Insurance" (S.P. 799) (L.D. 2047)

Report of the Committee on Human Resources reporting "Leave to Withdraw" on Bill "An Act Relating to Contract Services" (EMERGENCY) (S.P. 722) (L.D. 1897)

Report of the Committee on Transportation reporting "Leave to Withdraw" on Bill "An Act Concerning the Motor Carrier Representative Agents" (S.P. 764) (L.D. 1989)

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 Banking and Insurance reporting "Ought to Pass" as Amended by Committee Amendment "A" (S-498) on Bill "An Act Authorizing Further Assessments for Public Advocate Participation in Workers' Compensation Insurance Rate Proceedings" (EMERGENCY) (S.P. 802) (L.D. 2050)

Came from the Senate, with the report read and accepted and the Bill Passed to be Engrossed as amended by Committee Amendment "A" (S-498) as amended by Senate Amendment "A" (S-511) thereto.

Report was read and accepted, the bill read once. Committee Amendment "A" (S-498) was read by the Clerk.

Senate Amendment "A" (S-511) to Committee Amendment "A" (S-498) 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 Friday, February 23, 1990.

Non-Concurrent Matter

An Act Related to the State Board of Substance Abuse Counselors (EMERGENCY) (S.P. 699) (L.D. 1837) (C. "A" S-483) which was passed to be enacted in the House on February 12, 1990.

Came from the Senate passed to be engrossed as amended by Committee Amendment "A" (S-483) and Senate Amendment "A" (S-506) in non-concurrence.

The House voted to recede and concur.

**PETITIONS, BILLS AND RESOLVES
REQUIRING REFERENCE**

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

Education

Bill "An Act to Provide Greater Opportunities for Orphans and Foster Children" (H.P. 1685) (L.D. 2333) (Presented by Representative DEXTER of Kingfield) (Cosponsored by Senator BERUBE of Androscoggin, Representative FOSS of Yarmouth and Representative RIDLEY of Shapleigh) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27.)

Ordered Printed.
Sent up for Concurrence.

Energy and Natural Resources

Resolve, Authorizing the State to Release Its Interest in Certain Real Property in Richmond, Maine (H.P. 1686) (L.D. 2334) (Presented by Representative STEVENS of Sabattus) (Cosponsored by Senator CAHILL of Sagadahoc, Senator MATTHEWS of Kennebec and Representative PRIEST of Brunswick) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27.)

Ordered Printed.
Sent up for Concurrence.

Judiciary

Bill "An Act to Amend the Drug Laws Pertaining to Lysergic Acid Diethylamide" (H.P. 1687) (L.D. 2335) (Presented by Representative RICHARDS of Hampden) (Cosponsored by Representative MACOMBER of South Portland, Representative DELLERT of Gardiner and Representative COTE of Auburn)

Ordered Printed.
Sent up for Concurrence.

ORDERS

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

ORDERED, that Representative Bradford E. Boutilier of Lewiston be excused February 7 for health reasons.

AND BE IT FURTHER ORDERED, that Representative Theone F. Look of Jonesboro be excused February 7 and 12 for personal reasons.

AND BE IT FURTHER ORDERED, that Representative Cushman D. Anthony of South Portland be excused February 14 for personal reasons.

AND BE IT FURTHER ORDERED, that Representative Peter G. Hastings of Fryeburg be excused February 14 for personal reasons.

AND BE IT FURTHER ORDERED, that Representative William B. O'Gara of Westbrook be excused February 14 to 16 for personal reasons.

AND BE IT FURTHER ORDERED, that Representative Mary R. Cathcart of Orono be excused February 15, 16 and 26 for personal reasons.

AND BE IT FURTHER ORDERED, that Representative Maria Glen Holt of Bath be excused February 16 for legislative business.

AND BE IT FURTHER ORDERED, that Representative Omar P. Norton of Winthrop be excused February 22 and 23 for personal reasons.

Was read and passed.

REPORTS OF COMMITTEES

Unanimous Ought Not to Pass

Representative ROTONDI from the Committee on Fisheries and Wildlife on Bill "An Act to Ensure Equal Access for Commercial Outfitters to Maine's Natural River Resources" (H.P. 1429) (L.D. 1998) reporting "Ought Not to Pass"

Representative GRAHAM from the Committee on Business Legislation on Bill "An Act to Require That Pharmacists Dispense Generic Drugs When Allowed by the Physician" (H.P. 1498) (L.D. 2075) 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 MANNING from the Committee on Human Resources on Bill "An Act to Remove Barriers to the Location of Family Day Care Homes in Areas Zoned for Residential Use" (H.P. 1597) (L.D. 2209) reporting "Leave to Withdraw"

Representative GRAHAM from the Committee on Business Legislation on Bill "An Act to Allow the Issuance of a Temporary License in Case of the Death of a Real Estate Broker" (H.P. 1529) (L.D. 2114) reporting "Leave to Withdraw"

Representative LIBBY from the Committee on Business Legislation on Bill "An Act to Require Home Radon Testing Prior to Sale" (H.P. 1531) (L.D. 2116) 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 Fisheries and Wildlife reporting "Ought to Pass" on Bill "An Act to Provide More Equitable Hunting and Trapping Opportunity for Maine Sportsmen" (H.P. 1576) (L.D. 2183)

Signed:

Senators:

ERWIN of Oxford

GOULD of Waldo

ESTY of Cumberland

Representatives:

FARREN of Cherryfield

CARROLL of Southwest Harbor

WALKER of Norway

TRACY of Rome

CLARK of Millinocket

GREENLAW of Standish

DUFFY of Bangor

JACQUES of Waterville

ROTONDI of Athens

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

Signed:

Representative: SMITH of Island Falls

Reports were read.

The SPEAKER: The Chair recognizes the Representative from Island Falls, Representative Smith.

Representative SMITH: Mr. Speaker, under Joint Rule 37, is this matter properly before the body?

The SPEAKER: In reference to the request of Representative Smith of Island Falls regarding Joint Rule 37, the Chair would rule that the matter is not properly before the body. The Chair would also rule that as a Department bill, the only way that it could return in this session would be if it were a gubernatorial bill.

CONSENT CALENDAR

First Day

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

(S.P. 844) (L.D. 2163) Bill "An Act to Amend the Laws Relating to the Maine Insurance Guaranty Association and the Maine Life and Health Insurance Guaranty Association" Committee on Banking and Insurance reporting "Ought to Pass"

(S.P. 791) (L.D. 2042) Bill "An Act to Allow Inclusion of Nonagricultural Products in the Quality Program" Committee on Agriculture reporting "Ought to Pass" as amended by Committee Amendment "A" (S-502)

(S.P. 841) (L.D. 2160) Resolve, to Study Threats to Maine Lakes (EMERGENCY) Committee on Energy and Natural Resources reporting "Ought to Pass" as amended by Committee Amendment "A" (S-503)

(S.P. 842) (L.D. 2161) Bill "An Act Concerning the Driving of Deer" Committee on Fisheries and Wildlife reporting "Ought to Pass" as amended by Committee Amendment "A" (S-501)

(S.P. 714) (L.D. 1891) Bill "An Act to Amend the Maine Severance Pay Laws" Committee on Labor reporting "Ought to Pass" as amended by Committee Amendment "A" (S-500)

(S.P. 845) (L.D. 2164) Resolve, to Require the Office of Comprehensive Land Use Planning to Study Municipal Implementation of Manufactured Housing Laws Committee on Legal Affairs reporting "Ought to Pass" as amended by Committee Amendment "A" (S-499)

(S.P. 717) (L.D. 1892) Bill "An Act to Amend the Definition of Dealer Under the Used Car Information Laws" Committee on Business Legislation reporting "Ought to Pass" as amended by Committee Amendment "A" (S-505)

(H.P. 1630) (L.D. 2257) Bill "An Act to Amend the Law Concerning the Hunting of Coyote" Committee on Fisheries and Wildlife reporting "Ought to Pass"

(H.P. 1318) (L.D. 1820) Bill "An Act Regarding the Availability of Insurance Information" Committee on Banking and Insurance reporting "Ought to Pass" as amended by Committee Amendment "A" (H-800)

(H.P. 1329) (L.D. 1846) Bill "An Act to Provide for Increased Penalties for Land Use Violations within Certain Resource Protection Zones" Committee on Energy and Natural Resources reporting "Ought to Pass" as amended by Committee Amendment "A" (H-803)

There being no objections, the above items were ordered to appear on the Consent Calendar of Friday, February 23, 1990, 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. 815) (L.D. 2079) Bill "An Act Regarding Evisions from Mobile Home Parks"

(S.P. 787) (L.D. 2033) Bill "An Act to Allow State Employees and Teachers to Buy Back Time Spent as Peace Corps Volunteers" (S. "A" S-496)

(S.P. 783) (L.D. 2024) Bill "An Act to Clarify and Expand the Provisions of the Law Creating the Jail Industries Authority" (C. "A" S-495)

(H.P. 1385) (L.D. 1915) Bill "An Act to Repeal the Prohibition on Phantom House Lot Valuation"

(H.P. 1519) (L.D. 2104) Bill "An Act Concerning Operation of All-terrain Vehicles" (C. "A" H-792)

(H.P. 1412) (L.D. 1964) Bill "An Act to Amend the Educational Qualifications for Licensure as a Social Worker" (C. "A" H-794)

(H.P. 1346) (L.D. 1863) Bill "An Act to Amend the Laws Relating to the Purchase of Military Service Credits by Members of the Maine State Retirement System" (C. "A" H-796)

(H.P. 1492) (L.D. 2065) Bill "An Act Concerning Warranty Rights of Mobile Home Owners" (C. "A" H-797)

(H.P. 1391) (L.D. 1921) Bill "An Act to Prevent Overutilization of Forest Resources" (C. "A" H-798)

(H.P. 1503) (L.D. 2083) Bill "An Act to Exempt Residential Developments from Noise Control Provisions" (C. "A" H-799)

(H.P. 1365) (L.D. 1882) Bill "An Act Relating to Prearranged Funerals or Burial Plans"

(H.P. 1625) (L.D. 2247) Bill "An Act to Clarify the Law Governing the Aroostook County Finance Committee" (EMERGENCY)

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

PASSED TO BE ENGROSSED

As Amended

Bill "An Act to Enhance Enforcement of the Driving Under the Influence of Alcohol and Drug Laws" (H.P. 814) (L.D. 1126) (H. "A" H-801 to C. "A" H-775)

Bill "An Act to Amend the Laws Implementing, Administering and Enforcing the United States Emergency Planning and Community Right-to-Know Act of 1986" (EMERGENCY) (S.P. 780) (L.D. 2021) (C. "A" S-489)

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

PASSED TO BE ENACTED

Emergency Measure

An Act to Amend the Guaranty Association Law to Provide a More Equitable Special Assessment (H.P. 1403) (L.D. 1939)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 109 voted in favor of the same and none against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

PASSED TO BE ENACTED

Emergency Measure

An Act to Amend Laws Regulating the Sardine Industry by Enhancing Export Opportunities (H.P. 1447) (L.D. 2016)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 114 voted in favor of the same and none against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

PASSED TO BE ENACTED

Emergency Measure

An Act to Provide for Expedited Merger, Consolidation or Acquisition of Credit Unions (H.P. 1461) (L.D. 2038)

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

PASSED TO BE ENACTED

An Act Relating to Seat Belts and Child Safety Seats for Children under 4 Years of Age (S.P. 852) (L.D. 2186)

An Act to Reform the Juvenile Criminal Justice System (S.P. 541) (L.D. 1512) (H. "A" H-772 to C. "A" S-479)

An Act to Amend the Employee Suggestion Awards System (S.P. 744) (L.D. 1948)

An Act to Enable the Department of Marine Resources to Issue Identification Tags for Lobster Gear (S.P. 762) (L.D. 1987) (H. "A" H-760 to C. "A" S-486)

An Act to Clarify the Rule-making Authority of the Maine Historic Preservation Commission (S.P. 798) (L.D. 2046) (C. "A" S-491)

An Act to Prevent Retaliatory Evictions of Mobile Park Tenants (S.P. 814) (L.D. 2078)

An Act to Provide for Wider Production of Certain Deer for Food (S.P. 881) (L.D. 2251)

An Act to Amend the Zoning Laws to Extend the Time for Filing a Variance in the Registry of Deeds (H.P. 1322) (L.D. 1824)

An Act to Amend the Berwick Sewer District Charter (H.P. 1334) (L.D. 1851)

An Act to Ensure That Residents of Long-term Care Facilities Are Provided with Information about the Services of the Long-term Care Ombudsman Program (H.P. 1399) (L.D. 1935) (C. "A" H-753)

An Act to Codify the Creation of the Bureau of Safety and Change Its Name to the Bureau of Highway Safety (H.P. 1424) (L.D. 1976)

An Act to Establish Coastal Watershed Districts (H.P. 1438) (L.D. 2008) (C. "A" H-751)

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, To Extend the Rights of All Mentally Retarded Persons (H.P. 1469) (L.D. 2054) (C. "A" H-755)

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

At this point, the Senate entered the Hall of the House and a Joint Convention was formed.

In Convention

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

On motion of Senator CLARK of Cumberland, it was ORDERED, that a Committee be appointed to wait upon the Honorable Vincent L. McKusick, Chief Justice of the Supreme Judicial Court and the members of the Judiciary to inform them that the two branches of the Legislature were in Convention assembled ready to make such communication as pleases them.

The Chairman appointed:

Senators:	HOBBS of York GAUVREAU of Androscoggin HOLLOWAY of Lincoln
Representatives:	PARADIS of Augusta COTE of Lewiston CONLEY of Portland STEVENS of Bangor ANTHONY of So. Portland FARNSWORTH of Hallowell MacBRIDE of Presque Isle HANLEY of Paris HASTINGS of Fryeburg RICHARDS of Hampden

Senator HOBBS, for the Committee, subsequently reported that the Committee had delivered the message with which it was charged and that the Honorable Chief Justice and members of the Judiciary were pleased to say that they would forthwith attend the Convention.

At this point, the Honorable Chief Justice of the Supreme Judicial Court, Vincent L. McKusick and members of the Judiciary entered the Convention Hall amid the applause of the Convention, the audience rising.

At this point, the Chairman introduced the members of the Associated Justices of the Supreme Judicial Court, the Honorable David G. Roberts; the Honorable Daniel E. Wathen; the Honorable Caroline Glassman; the Honorable Robert W. Clifford; the Honorable D. Brock Hornby, and the Honorable Samuel W. Collins.

The Chairman also welcomed the Chief Justice of the Superior Court, the Honorable Morton A. Brody; Chief Judge of the District Court, the Honorable Alan C. Pease; the Deputy Chief Judge of the District Court, the Honorable Peter J. Goranites and Chief Judge of the Administrative Court, the Honorable Dana A. Cleaves.

The Honorable Chief Justice of the Supreme Judicial Court, Vincent L. McKusick, then addressed the Convention as follows:

Mr. President, Mr. Speaker, distinguished members of the 114th Legislature, my fellow judges, ladies and gentlemen:

I come to this podium for the 12th time to report to you on the "State of the Judiciary." I come at a time when you are wrestling with money problems caused by a slowing economy. We who work in the courts know that we must do what we can to help you in resolving that problem. It is times like these when the 3 C's of communication, cooperation, and comity among the three great branches are more important than ever. In a moment, I will have something to say about budget matters, but my first obligation to you is to report on how the Maine courts are doing -- where we've been in the last year and where we should be going.

The State of the Judiciary is sound. We are fulfilling our role as the backbone of a democratic society by ensuring the rule of law. In the most elementary terms, an effective judiciary ensures that those who do violence against society can be prosecuted and punished; that a forum is available to resolve disputes among private citizens so that resort to lawlessness is avoided; and that elected and appointed boards and officials, whether state regulatory agencies, local zoning boards, police officers or others, are held to the rule of law by judicial review of their actions. In addition to those basic functions of the judiciary, we in Maine have in recent decades turned time and again to the judicial branch for help in addressing emerging public needs. Let me tick off some of the many areas in which the Legislature has added to the responsibilities of the courts: Fighting drunk driving, consumer protection, creation of strict product liability, protection against discrimination, protection of children and spouses from abuse and neglect, protection of harassment, environmental protection and regulation of land use, protection of our institutionalized citizens, control of health

care costs, and the list goes on and on. In each case, the courts become involved as a result of the Legislature's creation of a new criminal offense or a new civil cause of action or a new right to judicial review of administrative action, or some combination of the three. In the last session alone, 40 new laws increased access to the courts, each of them represents the application of a judicial solution to a problem of society. The Maine judiciary is performing well its steadily increasing role in society. At the same time, we do it with a remarkable small judiciary. Maine stands 48th or 49th among the states in the number of judges per capita.

In 1989, the workloads of all our courts continued at an all-time high. Filings in the Law Court fell just short of setting a new record; yet the Court again heard and decided that heavy load of appeals with reasonable promptness. I think that no State Supreme Court has a better record for sustained diligence and promptness in handling its case load. Of course there are other measures for the quality of the State Supreme Court but I'll leave those measurements to others.

Our Trial Court last year received more than 340,000 new cases, really an astonishing number to contemplate. The District Court did experience a drop in the number of traffic infractions brought to court but that drop was more than offset by a 6.7 percent increase in all of the rest of its civil and criminal case filings. It is those other cases that take the most time and resources to dispose of and they amounted (in the District Court) to 179,000 new cases last year, up some 12,000 from the year before. The Superior Court also saw a significant increase in cases on both sides, criminal and civil. The criminal filings in the Superior Court went up 13 percent; at the same time, in both courts the cases are becoming more complex and more time-consuming and trying.

In the Superior Court, the prelitigation screening panels for medical malpractice cases continue to produce a success story. In the three years the program has been in operation, about 100 notices of malpractice claims have been filed each year, most with multiple dependents. The screening panels are succeeding in disposing of the great bulk of these cases, thus avoiding suit being brought on those claims.

In 1989, the Court Mediation Service, under its director Jane Oberton, had its busiest year ever, conducting almost 4700 mediations; over 70 percent in domestic relations. The high quality of the Maine Mediation Service has been recognized by the State Justice Institute. The Institute has given us a substantial grant to determine whether mediation can be safely and appropriately used for cases where domestic violence has occurred and, if so, to design a program of special mediation techniques and special mediator training for those cases.

1989 was a year of tremendous growth in our Court Appointed Special Advocates or CASA program. CASA, directed by Mary-Gay Kennedy, provides volunteer guardians ad litem in child protection proceedings. 306 new cases, involving more than one child in many instances, were assigned to CASA volunteers at 16 different court locations across the state. Typically a CASA volunteer, and this is a striking figure, works 10 to 15 hours a month for about 24 months on each case. They stick with the child until the child is out of trouble. At year's end, 195 dedicated and specially trained volunteers were actively representing the needs of children in 527 pending cases. Without these public-spirited

volunteers, the courts would have to appoint lawyers as guardians ad litem for the children. The CASA volunteers are saving the courts money and, at the same time, are rendering an invaluable service to children at risk.

Last summer, the Supreme Judicial Court appointed a blue ribbon committee to review the Maine Code of Judicial Conduct. That Code has been in place since 1974. Colin Hampton, the former Chairman of the Committee on Judicial Responsibility and Disability, chairs the committee and Dean Wroth of the University of Maine Law School serves as consultant. As its first task, the Committee is drafting extensive financial reporting requirements for judges, something you legislators know about. I understand that, in a matter of days, the Committee's draft will be distributed to the public for comment. My Court intends to take prompt action on this matter of financial disclosure by judges.

Last fall, our trial courts put into effect uniform child support guidelines promulgated by the Supreme Judicial Court to meet the federal deadline of October 12, 1989. Pending before you is legislation on the same subject to remove any question of the proper division of responsibility between the legislative and judicial branches.

You also have before you a proposed resolve to support the creation of a Task Force on Gender Bias in the Courts, such as the task forces that now exist in more than half the states. This proposal results from my appointment last summer of an exploratory committee on that subject, co-chaired by Attorney Estelle Lavoie and Superior Court Justice G. Arthur Brennan. Most certainly gender bias has no place whatsoever in the Temple of Justice. All of us who have any responsibility with respect to the courts must be sensitized to guard against gender discrimination of any form or description. I commend that legislation to your favorable consideration.

In 1989, the Judicial Department's Education Committee, headed by my colleague Justice Hornby, developed an arrangement with the University of Maine Law School for the expanded and more effective use of our own in-state resources for continuing training for our judges. The arrangement recognizes that the law is becoming more complex and that continuing judicial education is essential to make best use of our Department's most valuable resource -- our judges. Professor Zarr at the Law School has already produced two excellent programs for all of us judges and has started a library of video and other judicial education materials. The current budget strictures have forced us to cut the program back to a mere holding position, but in the long haul, it will be false economy not to make use of our resources right here at home in keeping our judges informed and productive.

All the promise of the Maine Court Facilities Authority that I reported to you last year is coming true. The addition to the Cumberland County Courthouse, financed in part by the Authority, is now well into construction and will be open by July 1 next year. The need to rebid that project turned out to be a blessing in disguise; the redesigned building has an additional large courtroom and is more functional and efficient, and still the second time around came in within budget. The Authority is now working on the bond issue to construct the new District Court building in West Bath (which will consolidate the Bath and Brunswick courts) and the District Court building in Presque Isle. That bond issue will also fund planning for court improvements in Dover-Foxcroft, Machias and York County. Under the guidance of the experts in finance and real

estate development who serve on the Authority, we are achieving a more standardized and professional approach to planning court facilities.

I now turn to the budget. We have been working diligently on these matters with Finance Commissioner Millett and your Joint Committee on Appropriations and Financial Affairs. We in the courts have taken up the challenge to control expenses. We now regularly ask ourselves the same question that was asked in the gas rationing days of World War II — some of us can remember those days — we ask, "Is this trip necessary?"

It is very difficult indeed for the courts to make adjustments of the magnitude asked of us. In my appearance before you last year, I identified our number one need to be 50 new people in the clerks' offices at our 49 trial court locations. That need remains unmet. We have always run a tight ship. Now it must be an even tighter ship, but the opportunity for savings in our operational budgets is limited.

In this connection, let me make three points. First, the services rendered by the courts are not discretionary on the part of the courts. Most of what the courts do is mandated by constitution or statute. The discretion to use the courts lies elsewhere. The courts have to take each case that comes in the door and address it fairly, judiciously and promptly. Once the Legislature defines criminal offenses, what comes to court depends upon law enforcement activity and prosecutorial discretion. On the civil side, nearly every session of the Legislature creates new causes of action or new areas of judicial review of governmental action. Discretion rests with the litigants who can obtain on demand the services of the courts. Let me give you one example of how that discretion was exercised under a statute now only two and one-half years old. Pursuant to the Protection from Harassment Act enacted in 1987, a person subjected by another to repeated acts of intimidation may obtain a court protective order. The Act requires the District Court to give clerical assistance to the plaintiffs in preparing the petition and other papers and then requires the court to hold a full hearing within 21 days. In its first full year in effect, this new law produced about 3400 cases; almost as many as were produced that same year by the Protection from Family Abuse statute enacted 8 years earlier. The courts are entirely willing to take on this task — which the figures show is a necessary service for a harmonious society — but my point is that the courts have no discretion in the volume of additional work resulting from an expansion of the litigation rights of our citizens. Another very large item in the courts' budget is made nondiscretionary by the United States and Maine Constitutions which mandate that the State provide counsel to indigent criminal defendants. Over one-eighth of our total appropriation falls into the nondiscretionary line-item for that expense. In sum, the courts have relatively little in discretionary spending to eliminate.

My second point is that the courts are not big spenders. Our gross budget this year is of the order of \$32 million, only 1 percent of the total State budget. Furthermore, on the other side of the revenue-and-expenditure account, the courts collect fines and fees of well over \$22 million. Though the courts don't have any dedicated revenues for their support and we don't seek any, the net burden of the Judicial Department on the public fisc is a relatively small one. I must note also that a curtailment in the operations of the courts can have a counterproductive effect on court revenues.

My third point is this: Our budget problems present a challenge to all of us in State Government. A joint challenge is presented to us in the courts and you in the Legislature to identify and implement all those other savings in court expenditures that can be accomplished only by legislative action. To meet this joint challenge, we look forward to working closely with a special subcommittee of your Appropriations Committee. Let me suggest merely by way of illustration three areas where you might help us in achieving desirable economies and budget control.

First, for two years the Probation and Parole Division of Corrections has conducted an indigency screening program in York and Cumberland Counties. This pilot program, which screens out criminal defendants who do not qualify by indigency for appointment of state-paid counsel, is scheduled next month to be ended by Probation and Parole because of a personnel shortage. Indigency screening more than pays for itself by reducing calls upon the sizeable line item for court-appointed counsel in our court budget. I hope we can find a way to continue and expand that program. The integrity of our court-appointed counsel system is also at stake.

Second, by an historical anomaly the Judicial Department pays the fees for police officers and other prosecution witnesses called to testify in the District Court, even though the Courts have no effective way of monitoring and controlling those expenses. Rationally, these witness fees, substantial in total amount, should be paid from the budgets of the district attorney offices, where those expenses can be monitored and controlled in the same way as all other prosecution expenses. Indeed, the district attorney offices do assume these expenses when the cases get into the Superior Court. Of course, we must work out a way for the district attorneys to have the wherewithal to take over this budget expense.

Third, in a time of fiscal stringency we might well consider consolidation of some of our 50 trial court facilities. Many are part-time courts. Some operate with a judge one day or less a week, yet must be maintained and staffed full-time to receive filings and to process necessary paperwork. The challenge is to carry out these cost-saving consolidations with a minimum of inconvenience to the public.

These three suggestions I submit to you as examples of what we jointly might do to meet the budget challenge. I know there are others. If we take joint action to make improvements in the operations of the courts, we will turn the budget challenge into a budget opportunity for the long pull.

Your Joint Committee on the Judiciary, through a subcommittee, has issued a final report on its Court Jurisdiction Study. I applaud its recommendations for increased liaison between the Legislature and the Judicial Council. The Judicial Council is the body created by statute to "make a continuous study...of the judicial system" of Maine. It was created over 60 years ago. I also believe firmly in the Study's recommendation that our Administrative Court be merged into our basic trial courts — its appellate jurisdiction going to the Superior Court and its licensing jurisdiction to the District Court. Now is the time for that sensible restructuring. By it we will be able to make the best use possible of our judicial resources. We in the courts look forward to implementing the Study's correlative recommendation that we set up a Family and Administrative Law Division for a two-year test at the Portland District Court. Our Chief Administrative Court Judge Dana A.

Cleaves, very experienced in family law matters, will be in charge of that experiment. In organizing that new division and developing its method of operating, Judge Cleaves will have the full support and the personal involvement of myself and the other Chiefs, Pease, Goranites, and Brody. I am delighted that our whole judicial management team of our trial courts is here with us today.

The principal recommendation of the Judiciary Committee's Report, I leave to the last. It recommends the creation of a commission to study the future of Maine's courts. It is timely that we lift our eyes up from our daily chores to look at the horizon ahead of us. Like the rest of the world, Maine is facing a host of demographic, economic, environmental, technological and other societal changes. We must all become futurists to anticipate what new demands the 21st Century — less than a decade away — will make of our courts. I concur that a wide-ranging review of our court system could well be undertaken either by a special commission or by the existing Judicial Council.

We can be proud of our Maine courts. You in the Legislature and we in the Third Branch, year in and year out, in good times and not so good times, have worked together step-by-step to improve our courts — and thereby to improve the quality of justice rendered Maine citizens. We have made steady progress toward our goal — that's the State of Maine way. What I see as I go around the country as President-Elect of the Conference of Chief Justices confirms the high quality of our Maine courts. We must do our best in addressing budget exigencies of the moment to preserve the quality of justice in our beloved State. That is our challenge! Thank you very much for your time and attention. (applause)

The Chief Justice and members of the Judiciary withdrew amid the applause of the Convention, the audience rising.

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

The Senate then retired to its Chamber, amid the applause of the House, the members rising.

In the House

The House was called to order by the Speaker.

**ORDERS OF THE DAY
UNFINISHED BUSINESS**

The following matter, in the consideration of which the House was engaged at the time of adjournment Friday, February 16, 1990, has preference in the Orders of the Day and continues with such preference until disposed of as provided by Rule 24.

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

Senate Legislative Sentiment relative to Richard Mazurek (SLS 398)

— In Senate, read and passed.

TABLED — February 16, 1990 (Till Later Today) by Representative MAYO of Thomaston.

PENDING — Passage.

Subsequently was passed in concurrence.

TABLED AND TODAY ASSIGNED

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

An Act to Coordinate and Consolidate Student Financial Assistance Services under the Finance Authority of Maine (EMERGENCY) (S.P. 865) (L.D. 2216) (C. "A" S-484)

TABLED — February 16, 1990 by Representative GWADOSKY of Fairfield.

PENDING — Passage to be Enacted.

On motion of Representative Gwadosky of Fairfield, retabled pending passage to be enacted and specially assigned for Friday, February 23, 1990.

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

Bill "An Act to Establish a Demonstration Project to Aid Homeless Persons" (S.P. 922) (L.D. 2331)

— In Senate, referred to the Committee on Taxation.

TABLED — February 16, 1990 by Representative GWADOSKY of Fairfield.

PENDING — Reference in concurrence.

Subsequently was referred to the Committee on Taxation in concurrence.

BILL HELD

Bill "An Act Concerning the Travel Information Advisory Council" (H.P. 1512) (L.D. 2092) (H. "A" H-793 to C. "A" H-761)

— In House, passed to be engrossed as amended by Committee Amendment "A" (H-761) as amended by House Amendment "A" (H-793) thereto.

HELD at the Request of Representative GWADOSKY of Fairfield.

On motion of Representative Gwadosky of Fairfield, under suspension of the rules, the House reconsidered its action whereby L.D. 2092 was passed to be engrossed.

On motion of the same Representative, under suspension of the rules, the House reconsidered its action whereby Committee Amendment "A" (H-761) as amended by House Amendment "A" (H-793) was adopted.

On further motion of the same Representative, under suspension of the rules, the House reconsidered its action whereby House Amendment "A" to Committee Amendment "A" was adopted.

On further motion of the same Representative, House Amendment "A" was indefinitely postponed.

On further motion of the same Representative, tabled pending adoption of Committee Amendment and specially assigned for Friday, February 23, 1990.

By unanimous consent, all matters having been acted upon requiring Senate concurrence were ordered sent forthwith to the Senate.

The following items appearing on Supplement No. 1 were taken up out of order by unanimous consent:

PAPERS FROM THE SENATE

The following Joint Order: (S.P. 924)

ORDERED, the House concurring, that when the House and Senate adjourn, they do so until Friday, February 23, 1990, at 12 o'clock in the afternoon.

Came from the Senate, read and passed.

Was read and passed in concurrence.

Reported Pursuant to Resolves

Report of the Blue Ribbon Task Force to Promote Equity of Opportunity for Women in the Public School System, pursuant to Resolves 1989, Chapter 55 ask leave to submit its findings and to report that the accompanying Bill "An Act to Establish Uniform Hiring

Practices for Educational Administrator Positions Requiring Certification" (S.P. 925) (L.D. 2336) be referred to the Joint Standing Committee on Education for public hearing and printed pursuant to Joint Rule 18.

Came from the Senate with the report read and accepted and the bill referred to the Committee on Education and ordered printed.

Report was read and accepted and the bill referred to the Committee on Education and ordered printed in concurrence.

(At Ease)

(Off Record Remarks)

On motion of Representative Melendy of Rockland, Adjourned until Friday, February 23, 1990, at twelve o'clock noon pursuant to Joint Order (S.P. 924)

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

In Senate Chamber
Tuesday
February 20, 1990

Senate called to Order by the President.

Prayer by Major Walter Douglass of the Salvation Army in Augusta.

MAJOR WALTER DOUGLASS: Gracious Lord and Heavenly Father, may this moment be more than a gesture of custom and convention, and make it a real experience for each one in this place as we call upon Thee for guidance and help.

We have felt Thee near and beside us in our respected houses of worship, in the great out-of-doors and by the sea; make us now to feel Thy nearness in the business of the day.

Grant us, we pray, Father, an unprejudiced mind and unbiased understanding of what should be said, passed and done; ears to hear what you have to say above the babbling noise of many voices.

Thou hast said, "It is more blessed to give than to receive." Give us, we pray, Lord, the grace today to think, not of what we can get, but, of what we can give, that a new spirit may come into our work here, with a new vision and a new purpose, that You will delight to bless.

May Thy blessing be upon all gathered here and upon all whose responsibility it is to govern the great State of Maine and our great nation. In Thy name we pray, Amen.

Reading of the Journal of Friday, February 16, 1990.

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

S.P. 924

ORDERED, the House concurring, that when the House and Senate adjourn, they do so until Friday, February 23, 1990, at 12 o'clock in the afternoon. Which was READ and PASSED.

Under suspension of the Rules, ordered sent down forthwith for concurrence.

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

ORDERED, that a message be sent to the House of Representatives proposing a Convention of both Branches in the Hall of the House at 9:30 in the morning, for the purpose of extending to the Honorable Vincent L. McKusick, Chief Justice of the Maine Supreme Judicial Court, and Members of the Judiciary, an invitation to attend the Convention and make such communication as pleases the Chief Justice. Which was READ and PASSED.

The Chair appointed the Senator from Cumberland, Senator CLARK, to deliver the message.

Subsequently, Senator CLARK of Cumberland reported she had delivered the message with which she was charged.

Off Record Remarks
