

MAINE STATE LEGISLATURE

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

VOLUME IV

FIRST SPECIAL SESSION
August 21, 1989 to August 22, 1989
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FIRST CONFIRMATION SESSION
October 30, 1989
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SECOND CONFIRMATION SESSION
December 12, 1989
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SECOND REGULAR SESSION
January 3, 1990 to March 19, 1990

**ONE HUNDRED AND FOURTEENTH MAINE LEGISLATURE
SECOND REGULAR SESSION
24th Legislative Day
Thursday, March 1, 1990**

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

Prayer by Representative Paradis of Frenchville.

The Journal of Tuesday, February 27, 1990, was read and approved.

Quorum call was held.

PAPERS FROM THE SENATE

Unanimous Leave to Withdraw

Report of the Committee on Education reporting "Leave to Withdraw" on Bill "An Act to Rehabilitate Public School Facilities Necessitated by the Removal of Hazardous Materials" (S.P. 878) (L.D. 2245)

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

Divided Report

Majority Report of the Committee on Business Legislation reporting "Ought to Pass" as amended by Committee Amendment "A" (S-529) on Bill "An Act to Improve Credit Reporting" (S.P. 767) (L.D. 1992)

Signed:

Senator: WHITMORE of Androscoggin

Representatives: MARSTON of Oakland

LIBBY of Kennebunk

ALLEN of Washington

STEVENS of Sabattus

CONSTANTINE of Bar Harbor

REED of Falmouth

TELOW of Lewiston

GRAHAM of Houlton

GURNEY of Portland

SHELTRA of Biddeford

Minority Report of the same Committee reporting "Ought to Pass" as amended by Committee Amendment "B" (S-530) on same Bill.

Signed:

Senators: BALDACCI of Penobscot

HOBBS of York

Came from the Senate with the Minority "Ought to Pass" as amended by Committee Amendment "B" (S-530) Report read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "B" (S-530).

Reports were read.

On motion of Representative Allen of Washington, the Majority "Ought to Pass" Report was accepted in non-concurrence, the Bill read once.

Committee Amendment "A" (H-S-529) was read and adopted and the Bill assigned for second reading Friday, March 2, 1990.

Non-Concurrent Matter

Bill "An Act Amending the Licensure Requirements for Plumbers" (S.P. 615) (L.D. 1710) on which the Minority "Ought Not to Pass" Report of the Committee on Business Legislation was read and accepted in the House on February 26, 1990.

Came from the Senate with that Body having insisted on its former action whereby the Majority "Ought to Pass" as amended Report of the Committee on Business Legislation was read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (S-513) in non-concurrence.

On motion of Representative Allen of Washington, the House voted to Adhere.

Non-Concurrent Matter

Bill "An Act Concerning the Travel Information Advisory Council" (H.P. 1512) (L.D. 2092) which was passed to be engrossed as amended by Committee Amendment "A" (H-761) as amended by House Amendment "B" (H-805) thereto in the House on February 23, 1990.

Came from the Senate passed to be engrossed as amended by Committee Amendment "A" (H-761) in non-concurrence.

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

On further motion of the same Representative, tabled pending further consideration and specially assigned for Friday, March 2, 1990.

Non-Concurrent Matter

An Act to Reform the Juvenile Criminal Justice System (S.P. 541) (L.D. 1512) (H. "A" H-772 to C. "A" S-479) which was passed to be enacted in the House on February 20, 1990.

Came from the Senate passed to be engrossed as amended by Committee Amendment "A" (S-479) in non-concurrence.

The House voted to recede and concur.

COMMUNICATIONS

The following Communication: (S.P. 936)

114TH MAINE LEGISLATURE

February 26, 1990

Senator Barry J. Hobbins

Rep. Patrick E. Paradis

Chairpersons

Joint Standing Committee on Judiciary

114th Legislature

Augusta, Maine 04333

Dear Chairs:

Please be advised that Governor John R. McKernan, Jr. has nominated James E. Smith of North Whitefield for reappointment as a member of the Workers' Compensation Commission.

Pursuant to Title 39, MRSA Section 91, this nomination will require review by the Joint Standing Committee on Judiciary and confirmation by the Senate.

Please be advised that Governor John R. McKernan, Jr. has nominated Honorable Bernard M. Devine of Falmouth for appointment as Active Retired Judge of the Maine District Court.

Pursuant to Title 4, MRSA Section 157, this nomination will require review by the Joint Standing Committee on Judiciary 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 Judiciary.

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

The following Communication:

STATE OF MAINE

ONE HUNDRED AND FOURTEENTH LEGISLATURE
COMMITTEE ON APPROPRIATIONS AND FINANCIAL AFFAIRS

February 15, 1990

The Honorable John L. Martin

Speaker of the House

114th State Legislature

State House

Augusta, Maine 04333
Dear Speaker Martin:

Please find enclosed the final report of the Joint Standing Committee on Appropriations and Financial Affairs studying the manner in which new and expanded services for federal and "dedicated" funds should be presented to the Legislature and the manner in which financial orders are currently used during the legislative session. Legislation to implement our statutory recommendations has been submitted to the Revisor of Statutes.

The Appropriations Committee has fulfilled its obligations as directed by Public Law 1989, c. 501, Part P, section 46. We would be pleased to answer any questions you may have regarding our recommendations.

Respectfully submitted,
S/Michael D. Pearson S/Donald V. Carter
Senate Chair House Chair

Was read and with accompanying report ordered placed on file.

The following Communication:
DEPARTMENT OF LABOR
State House Station 54
Augusta, Maine 04333
February 27, 1990

The Honorable John L. Martin
Speaker of the House
Maine House of Representatives
State House Station #2
Augusta, Maine 04333
Dear Speaker Martin:

I am pleased to submit the Department of Labor's annual report on the Dislocated Worker Benefits (DWB) Program for 1989, in accordance with 26 MRSA section 1196, subsection 2.

If you have any questions or comments about this report, please do not hesitate to contact me.

Sincerely,
S/James H. McGowan
Acting Commissioner

Was read and with accompanying report ordered placed on file.

The following Communication:
MAINE COMMISSION ON MENTAL HEALTH
STATE HOUSE STATION 153
AUGUSTA, MAINE 04333
February 23, 1990

Honorable John L. Martin
Speaker of the House
State House Station 2
Augusta, Maine 04333
Dear Speaker Martin:

The Maine Commission on Mental Health is pleased to present you with its first annual report, prepared pursuant to 34-B M.R.S.A. 3903.

As required by statute, this provides an update on the process of developing standards of care for Maine's mental health system as well as a report on the enforcement of existing standards.

Of greatest importance to the Commission is the executive summary, which contains the Commission's recommendations for directions in which we feel the system should be headed and priorities for service development and related actions. These emphasize the need to effect a shift in emphasis in our system, stressing the development of a network of community services and a reduction of our institutional population.

We hope that you will find this helpful in your consideration of mental health policy. We would be pleased to discuss this further if you wish.

Thank you.

Sincerely,
S/Reid S. Scher
Executive Director

Was read and with accompanying report ordered placed on file.

The following Communication:
STATE OF MAINE
EXECUTIVE DEPARTMENT
STATE PLANNING OFFICE
State House Station 38
Augusta, ME 04333
February 28, 1990

Representative John L. Martin
Speaker of the House
Office of the Speaker
State House Station 2
Augusta, ME 04333
Dear Speaker Martin:

Pursuant to 5 MRSA chapter 353, Section 6206-E, please find attached the Biennial Report of the Land for Maine's Future Board to the Joint Standing Committee on Energy and Natural Resources.

As you review the report, I believe you will find it to be a complete and thorough summary of the Board's acquisitions, its process and the expenditures from the bond fund.

Since the report was finalized for publication, the Board has voted to obligate \$380,000 to purchase the development rights to the Alice Wheeler Farm, a 306-acre working dairy farm within one half mile of Merrymeeting Bay in the towns of Richmond and Bowdoinham. This landmark involvement of the State in farmland preservation represents the ninth property to be acquired by the Board.

The Board believes the report is evidence of its success in meeting the legislative mandate of acquiring natural lands of state significance on behalf of the people of Maine.

Sincerely,
S/Richard H. Silkman, Chair
Land for Maine's Future Board

Was read and with accompanying report referred to the Committee on Energy and Natural Resources.

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:

Banking and Insurance

Bill "An Act to Strengthen Oversight of Medical Malpractice Insurance and Stabilize Premiums" (H.P. 1730) (L.D. 2389) (Presented by Representative RYDELL of Brunswick) (Cosponsored by Representative PARADIS of Augusta, Representative MARSANO of Belfast and Senator GAUVREAU of Androscoggin) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27.)

Ordered Printed.
Sent up for Concurrence.

Education

Bill "An Act to Institute the National Assessment of Educational Progress Program in Maine Schools"

(H.P. 1722) (L.D. 2381) (Presented by Representative FOSS of Yarmouth) (Cosponsored by Representative AULT of Wayne, Representative NORTON of Winthrop and Senator CARPENTER of York)

Ordered Printed.
Sent up for Concurrence.

Energy and Natural Resources

Bill "An Act to Amend the State's Hazardous Materials and Underground Tank Installer Laws" (EMERGENCY) (H.P. 1729) (L.D. 2388) (Presented by Representative DEXTER of Kingfield) (Cosponsored by Representative MICHAUD of East Millinocket) (Submitted by the Department of Environmental Protection pursuant to Joint Rule 24.)

Ordered Printed.
Sent up for Concurrence.

Housing and Economic Development

Bill "An Act to Establish the International Commerce Council" (H.P. 1726) (L.D. 2385) (Presented by Representative BAILEY of Farmington) (Cosponsored by Representative PINES of Limestone, Senator PERKINS of Hancock and Representative MICHAUD of East Millinocket)

Ordered Printed.
Sent up for Concurrence.

Judiciary

Bill "An Act to Amend the Scheduled Drug Laws" (H.P. 1720) (L.D. 2376) (Presented by Representative BAILEY of Farmington) (Cosponsored by Representative HANLEY of Paris and Senator MATTHEWS of Kennebec)

Bill "An Act to Reduce the Use of Marijuana and to Make Related Amendments to the Drug Laws" (H.P. 1721) (L.D. 2377) (Presented by Representative RICHARDS of Hampden) (Cosponsored by Representative HEPBURN of Skowhegan, Senator LUDWIG of Aroostook and Representative COTE of Auburn)

Bill "An Act to Provide for Immediate Income Withholding and Periodic Review and Adjustment of Child Support Awards in Support Enforcement Cases of the Department of Human Services, to Provide an Expedited Process for the Commencement of Paternity Actions and to Provide for a Trial Preference for Paternity Actions" (H.P. 1732) (L.D. 2391) (Presented by Representative DELLERT of Gardiner) (Cosponsored by Representative HASTINGS of Fryeburg, Representative RIDLEY of Shapleigh and Senator DUTREMBLE of York) (Submitted by the Department of Human Services pursuant to Joint Rule 24.)

Ordered Printed.
Sent up for Concurrence.

State and Local Government

Bill "An Act to Amend the Cumberland County Capital Improvement Bonds Act of 1989" (EMERGENCY) (H.P. 1727) (L.D. 2386) (Presented by Representative MANNING of Portland) (Cosponsored by Representative CURRAN of Westbrook and Senator ESTY of Cumberland) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27.)

Bill "An Act to Form a County Corrections Department for Cumberland County" (H.P. 1728) (L.D. 2387) (Presented by Representative MANNING of Portland) (Cosponsored by Representative CURRAN of Westbrook, Representative ANTHONY of South Portland and Representative STROUT of Windham) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27.)

Bill "An Act to Deorganize the Plantation of Prentiss in Penobscot County" (EMERGENCY) (H.P. 1723) (L.D. 2382) (Presented by Representative CAHILL of Mattawamkeag) (Cosponsored by Senator LUDWIG of Aroostook) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27.)

Ordered Printed.
Sent up for Concurrence.

**PASSED TO BE ENGROSSED
WITHOUT REFERENCE TO COMMITTEE**

Resolve, Authorizing the Kennebec County Commissioners to Issue Bonds in the Amount of \$650,000 for the Renovation of the Hill House County Building in Augusta (EMERGENCY) (H.P. 1719) (L.D. 2375) (Presented by Representative JOSEPH of Waterville) (Cosponsored by Representative NORTON of Winthrop, Senator BUSTIN of Kennebec and Senator WEYMOUTH of Kennebec) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27.)

(The Committee on State and Local Government had been suggested.)

On motion of Representative Joseph of Waterville, under suspension of the rules, without reference to any committee, the Resolve was read twice, passed to be engrossed and sent up for concurrence.

Taxation

Bill "An Act to Provide Tax Amnesty and Necessary Administrative Support to the Bureau of Taxation" (H.P. 1731) (L.D. 2390) (Presented by Representative WHITCOMB of Waldo) (Cosponsored by Senator EMERSON of Penobscot and Representative HEPBURN of Skowhegan)

Ordered Printed.
Sent up for Concurrence.

Transportation

Bill "An Act to Amend the State Railroad Preservation and Assistance Act" (EMERGENCY) (H.P. 1724) (L.D. 2383) (Presented by Representative MELENDY of Rockland) (Cosponsored by Senator CAHILL of Sagadahoc, Senator HOLLOWAY of Lincoln and Representative CHONKO of Topsham) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 26.)

Ordered Printed.
Sent up for Concurrence.

Reported Pursuant to Statutes

Representative JACQUES for the Committee on Fisheries and Wildlife, pursuant to Maine Revised Statutes, Title 12, section 7035, subsection 4, paragraph B ask leave to submit its findings and to report that the accompanying Bill "An Act to Reimburse the Department of Inland Fisheries and Wildlife for Search and Rescue Operations" (H.P. 1725) (L.D. 2384) be referred to the Joint Standing Committee on Appropriations and Financial Affairs for Public Hearing and printed pursuant to Joint Rule 18.

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

ORDERS

On motion of Representative BOUTILIER of Lewiston, the following Joint Resolution: (H.P. 1733) (Cosponsors: Representative ERWIN of Rumford,

Representative PARADIS of Old Town and Senator ERWIN of Oxford

JOINT RESOLUTION MEMORIALIZING THE
PRESIDENT AND THE CONGRESS OF THE UNITED STATES
TO RECOGNIZE THE ACHIEVEMENTS OF WOMEN
IN COMBAT POSITIONS

WE, your Memorialists, the Members of the One Hundred and Fourteenth Legislature of the State of Maine, now assembled in the Second Regular Session, most respectfully present and petition the President and the Congress of the United States as follows:

WHEREAS, the 225,000 women serving in the Armed Forces of the United States comprise almost 11% of the total strength of the armed services; and

WHEREAS, the women who are now serving in the armed forces have sought and received assignments that are likely to expose many of them to hostile fire, such as serving in the military police and as helicopter pilots; and

WHEREAS, 771 female soldiers joined in the invasion of Panama and many of them participated in combat operations distinguishing themselves with valor; and

WHEREAS, many of the women carried full combat gear and participated in active engagement with Panamanian Defense Forces, but are nonetheless not entitled to receive a Combat Infantryman Badge because of Army regulations that limit the badge only to certain types of units; and

WHEREAS, it is equitable to ensure that when women soldiers are exposed to the same risks as their male counterparts they will receive the appropriate honors and credit; now, therefore, be it

RESOLVED: That We, your Memorialists, respectfully recommend and urge the President and the Congress of the United States to direct the Department of Defense to change Army regulations so as to ensure that a Combat Participation Badge is available to all who face hostile fire, regardless of unit designation, and to take other action necessary in order that the women who distinguished themselves in the invasion of Panama are recognized with all appropriate honors; and be it further

RESOLVED: That suitable copies of this Memorial, duly authenticated by the Secretary of State, be transmitted to the Honorable George H.W. Bush, President of the United States, to the President of the Senate and the Speaker of the House of Representatives of the Congress of the United States and to each Member of the Maine Congressional Delegation.

Was read and adopted and sent up for concurrence.

SPECIAL SENTIMENT CALENDAR

In accordance with House Rule 56 and Joint Rule 34, the following item:

In Memory of:

Ethel M. Baker, of Orrington, our well respected colleague and community leader, who served as a member of the House of Representatives during the 99th, 100th, 102nd, 103rd, 104th, 105th and 106th Legislatures. A woman well-known as a caring and dedicated citizen who took an active role in civic affairs and who provided sound leadership to the State of Maine; (HLS 1111) by Representative TUPPER of Orrington. (Cosponsors: Representative STROUT of Corinth, Senator BOST of Penobscot, Speaker MARTIN of Eagle Lake)

On motion of Representative Tupper of Orrington, was removed from the Special Sentiment Calendar.

Was read.

The SPEAKER: The Chair recognizes the Representative from Orrington, Representative Tupper.

Representative TUPPER: Mr. Speaker, Ladies and Gentlemen of the House: I would like to say a few remarks in honor Ethel M. Baker, late of Orrington. Ethel Baker and I were very good friends, I have known her for over 20 years and she welcomed me to the town of Orrington with open arms and she also taught me quite a bit.

Ethel was a member of the House for fourteen years representing Orrington, Holden, Clifton and Eddington. As I said before, she was Chair of the House Legal Affairs Committee in the 103rd and the 104th Legislatures. She was the first person who was not an attorney to serve as head of the House Judiciary Committee in the 106th Legislature.

She was known for her never ending concern for the environment and was one of the lawmakers sponsoring landmark legislation to restrict billboards and junkyards along Maine's highways. She was also a sponsor of Maine's first returnable bottle bill.

Representative Baker was widely known and highly regarded as a civic leader in her home town of Orrington, having served 21 years as Town Clerk and 12 years on the Orrington School Board. She served as class president of the Orrington Garden Club where she was a member for over 50 years.

Ethel M. Baker's unique record of public service and dedication merits a special gratitude of her colleagues and of the citizens of this state. Therefore be it resolved that we pause in a moment of understanding and prayer and request that when the legislature adjourns this day that we do so in honor of Representative Baker and that suitable copies of this Resolution in memoriam be prepared and presented to Alan Baker and to the members of the Baker family as an expression of our esteem.

Was adopted and sent up for concurrence.

REPORTS OF COMMITTEES

Unanimous Leave to Withdraw

Representative OLIVER from the Committee on Education on Resolve, to Create the Task Force on Life-long Learning and Educational Choice (H.P. 1681) (L.D. 2327) reporting "Leave to Withdraw"

Representative McKEEN from the Committee on Labor on Bill "An Act to Limit Apportionment of Workers' Compensation Liability" (H.P. 1354) (L.D. 1871) reporting "Leave to Withdraw"

Representative ALLEN from the Committee on Business Legislation on Bill "An Act Concerning the Application of Licensure Requirements for Counseling Professionals" (H.P. 1520) (L.D. 2105) 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 State and Local Government reporting "Ought to Pass" as amended by Committee Amendment "C" (H-820) on Bill "An Act to Establish the Department of Child and Family Services" (Emergency) (H.P. 1199) (L.D. 1666)

Signed:

Senator:

Representatives:

ESTY of Cumberland
JOSEPH of Waterville
DAGGETT of Augusta
CAHILL of Mattawamkeag
HEESCHEN of Wilton
ROTONDI of Athens
LARRIVEE of Gorham

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

Signed:

Senators: BERUBE of Androscoggin
CARPENTER of York
Representatives: WENTWORTH of Wells
CURRAN of Westbrook
BEGLEY of Waldoboro
McCORMICK of Rockport

Reports were read.

The SPEAKER: The Chair recognizes the Representative from Waterville, Representative Joseph.

Representative JOSEPH: Mr. Speaker, Men and Women of the House: I move that the House accept the Majority "Ought to Pass" Report.

This piece of legislation, L.D. 1666 as amended by House Amendment "C" (H-820), is a hold over bill, which we voted on on June 19, 1989. This amendment actually has changed the implementation date and has a negative fiscal note and a savings to Maine state government of \$390,000.

This piece of legislation was drafted after a report of the Audit Committee in 1984 that in fact recommended that we have a Department of Children and Family Services. What we have to ask ourselves today is, are we helping Maine families as effectively as we possibly can? We must ask ourselves, are we utilizing tax dollars as efficiently as we can? Are we producing savings for Maine taxpayers? With those questions uppermost on our minds, as we look at the services provided to our children today, I believe that we can do a better job.

This piece of legislation was voted on by a vote of 106 to 31 on the first roll call on June 19, 1989 and I ask for your continued support of the Majority Report.

The SPEAKER: The Chair recognizes the Representative from Westbrook, Representative Curran.

Representative CURRAN: Mr. Speaker, Ladies and Gentlemen of the House: In spite of what you just heard, I hope that you reject this bill and reject the entire concept of a separate department until we have had time to examine it further and to determine for ourselves that it is the right thing to do. As it is now, it looks good on the surface but it really is a dangerous, unwieldy, expensive and ineffective bundle of worms. It would, indeed, be a step backward instead of a step forward. It would shut out the selection of alternatives that would better accomplish what is so badly needed.

We have had no meaningful analysis or management study of any kind that justifies the promise of eliminating positions. In fact, we seem to be steaming full steam ahead while the resolve to create a blue ribbon commission to study it lies idle and undone. Why are we doing this before we even put the blue ribbon commission to work on it?

There is no provision in this bill before us for that all important, single point of access for children with multiple problems. The services for children would be isolated from services from their parents with via wide arrange of problems, which reflect directly or at least indirectly upon the problems of the children.

A year or so ago, I went to a meeting in Portland by special invitation with Representative Rand and Representative Pendleton, with case workers who work directly with the problems of hard-core children. I tell you, I never saw such a burned out lot, I couldn't have imagined (on my own) the horror stories that those caseworkers told us that night about the hopelessness of so many children in our Maine society. I can't express to you adequately as I tried to convey to my wife when I got home that night

and to Representative Pendleton how deeply affected I was. The next morning before many people were stirring around this place, I was in the Governor's Office to see what could be put in a legislative package to help these children at risk. I am telling you all of this so that you will know for sure that I am not insensitive to this. But this is not the bill for it, I promise you. It is premature, it is incomplete, it would be ineffective for what we need to do. It has a long, long start up time with a cost of at least \$1.5 million before it helps one kid.

We heard nothing in the testimony before the Committee, even with repeated probing, to convince us or that would have convinced you, that money could be saved with this scheme. To the contrary, you can expect enormous costs for staff, space, communications, data systems and basic facilities. It doesn't address the whole family, it doesn't permit consideration of overall and related problems of the parents and foster parents of those children, most of which are more profound and contributory to lasting problems than the manifestations of the children themselves. It is simply not an adequate vehicle for what is needed to save these lives that we are talking about.

This proposal has the trappings of motherhood and apple pie, it sounds good to say "Department of Families and Children" but don't be taken in by it, we can do better than this.

The SPEAKER: The Chair recognizes the Representative from Rumford, Representative Erwin.

Representative ERWIN: Mr. Speaker, Ladies and Gentlemen of the House: I urge you to support the Majority "Ought to Pass" Report. We need to streamline state agencies that serve children. Troubled families need help that is unified and simply organized to address the serious and multiple problems. Creating a unified Department of Families and Children will offer more practical and realistic caring. These services now are operated by five separate state agencies.

On the Audit and Program Review Committee, we have studied child welfare services for many years and we have, unanimously, supported the concept that you have before you today.

I would like to mention too that our Governor, in 1986, stated that the creation of a Department of Families and Children would be one goal of his administration.

I urge you to support this bill.

The SPEAKER: The Chair recognizes the Representative from Waldoboro, Representative Begley.

Representative BEGLEY: Mr. Speaker, Men and Women of the House: I would like to point out to this body that two legislative study commissions since 1984 dealing with the needs of children have decided not to recommend a separate department for children. I believe that the goals of all of us concerned about these issues are laudable and similar — to deliver services to children quickly and efficiently, to coordinate services for an individual family, to channel available funds into direct services and to trim administrative costs whenever possible. Many caring people have dedicated their lives to working with families and children in this state. If the time has come to refurbish the glue or restitch the seams of the fabric that holds these services together, let's do it but I submit to you that this bill before us is a much bigger bolt of cloth than we need at this time.

Those of you who will join us today in voting against this bill, rest assured that we can still hold our heads high and shout to the mountain tops. We love children, we respond to grieving families who

cries for help, we support the efficient delivery of services for children. Again I repeat, I believe this is a bigger bolt of cloth than we need at this time and in closing, I encourage you to vote against this particular bill.

The SPEAKER: The Chair recognizes the Representative from Augusta, Representative Daggett.

Representative DAGGETT: Mr. Speaker, Ladies and Gentlemen of the House: I would like to move the discussion for a moment away from the more emotional direction that its taken as far as our concern for children and our concern for families because I am sure that all of us are very concerned about this aspect of life in Maine.

I would like to speak briefly as to the reasons why we structure things the way we do. One of the reasons why we set up a structure is because it indicates a certain emphasis and the current structure that we have has children being dealt with according to the kind of problem which they have, whether it is a corrections problem or a human service problem or a mental health or mental retardation problem and I think we are looking at the analogy that I would like to use as one of dealing with a Rummy hand. Sometimes when we are organizing our hand, we have it set with three 3's and three 8's and we may have a run and there comes a point at which we begin to want to place a different emphasis on our hand and we have to kind of change a run and make it into a threesome. We have to rearrange that because we are looking at a very different emphasis and I think that is what we are looking at here.

Times change and as we see problems with families and children, we need to look at the structure of state government so that it really begins to address those needs. There are a number of indications that children are slipping through the cracks, they don't fit neatly into a corrections problem or a mental health and mental retardation problem or a human services problem -- an agency cannot pick them up because they don't neatly fit into one. We have children at risk that have some pretty general problems that don't fit into these things. One unified agency that protects and supports families and children and looks to that special issue is what we are looking at here, not dividing up little pieces of a problem but trying to deal with keeping families together and support for a circumstance that doesn't have to fall apart before we can deal with it. That is the basic issue that this bill will address.

There has been a lot of effort spent on this and I know that we can always say that we need more knowledge, we need to study it more, and it is always a risk to change to something a little different. There is a lot of comfort in staying with what we have been doing, we know that has a certain degree of effectiveness but I don't think we would be hearing so much about the problems of families and children and having special task forces for children at risk if this wasn't a serious problem in the nation and right here in Maine.

There are problems always when you are dealing with structure in trying to get things organized so they fit neatly but we can't always have things divided into their neat little pieces, the part that does this, the corrections part, the part that does that, the Human Services part, etc..

There is another analogy about having the cow and you can't have the back end in the barn and the front end in the field, it begins to tear the cow apart and I think that is what we are doing with this, we are beginning to tear the families apart, trying to put one piece of the family in one place and another piece in another. If you feel that families need to

be protected, if you feel that the children need to be supported and if you feel that this is in the public's interest to do this, I don't think it would be easy for you to vote against the Majority Report.

The SPEAKER: The Chair recognizes the Representative from Thomaston, Representative Mayo.

Representative MAYO: Mr. Speaker, Ladies and Gentlemen of the House: I hesitate rising this morning because this is an emotional issue, it is an emotional one for me and my family. I will try very hard to keep to the facts but I can't help but think of my own brother, Michael, who was a child protective worker for many years within the Department of Human Services and the nights that he would come home from work totally frustrated with the system, having children who were in desperate need of state assistance, not getting those services because of the bureaucratic mess that existed. Michael brought many of these children to our home at holiday times, Thanksgiving and Christmas, and we shared our Christmas and Thanksgiving dinners with them because we as a family felt very strongly that we should do all we could to support both Michael in his very needed work but also to help children who needed a family when they didn't have one.

It is a very emotional issue. I heard someone here today on the floor of the House suggest that we wait and we study some more. I suggest to you that the time for waiting and the time for studying is over, the time for action is now. I heard someone here on the floor of this House refer to this bill as an unwieldy bundle of worms and I consider to myself what an accurate description of the central office of the Department of Human Services. The Department of Human Services intervened and rejected the response by its own fair hearing officer in the case of the city of Rockland in a General Assistance case and reversed that decision, forcing the city of Rockland into litigation, expensive litigation. I wonder what the real issue is here today and why there is opposition to this bill and I think it has something to do with the fact that the bureaucrats might be eliminated by it in the central office, high-paid bureaucrats that drive around in their expensive automobiles throughout the parking lot here around the State House.

I live, as you know, in a town that takes the burden of the failures of society, those children who grow up who have problems and end up in the institution that is located in my town. I have said since I came to the legislature that if we could spend more at the early stages of an individual's life here in the state, where they get into trouble, we would spend less once they become an adult and go to those institutions.

I urge this body to accept the Majority Report of this committee, we cannot wait any longer, it is time to act.

The SPEAKER: The Chair recognizes the Representative from Gardiner, Representative Dellert.

Representative DELLERT: Mr. Speaker, Men and Women of the House: I urge you to not accept the Majority Report and accept the Minority Report. Some programs as required in this bill, such as maternal and child health, cannot be moved out of its current department under both federal law and regulations. Some of the positions suggested for deappropriation are funded under federal match; hence the money cannot be used for other purposes and would be lost to the state and no General Fund savings realized. By placing into statute qualifications to serve as a commissioner creates a precedent not found anywhere else in state government. It clearly has been the Executive Branch's prerogative in determining its

choice of commissioner prior to legislative confirmation. This bill violates Executive authority by placing in statute qualifications with all three requiring the approval of an outside third party.

Finally, throughout the bill there is frequent referral to extremely vague terms, human development, in attempting to define the mission of the Department. The makeup and mission of any bureaucracy must be very specific and I hope you will vote against the Majority Report and accept the Minority Report.

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

Representative WENTWORTH: Mr. Speaker, Members of the House: When you vote against this bill, do not feel that you are deserting children, there are already two better ways to provide this help. There is the blue ribbon study already passed and at present on the desk's of Local and County Government called an Office of Children's Bill.

When the vote is taken, I ask for a roll call, please.

The SPEAKER: The Chair recognizes the Representative from Auburn, Representative Dore.

Representative DORE: Mr. Speaker, Ladies and Gentlemen of the House: I want to address this bill because a couple of nights ago I attended a legislative night put on by Advocates for Children and I am happy to say that friends and colleagues of mine from both sides of the aisle were at that meeting with me. It was the Advocate for Children as a local organization in Lewiston and Auburn that is concerned about the needs of children being met.

A great deal of the evening was spent discussing the inadequate shelters, that there were not enough beds, that it was very typical for the mission of the shelter to last only 21 days and on the 22nd day, the child had to leave, that there wasn't treatment available to shelters because they couldn't offer competitive salaries for therapists. They talked about inappropriate or no foster care placement available, especially in the Lewiston-Auburn area, they talked about inadequate medical treatment for children and, again, they talked about the community mental health agency that has a 15 week waiting list for children who are troubled.

Right before Christmas, myself and three other legislators were there at a session put on in the Appropriations Room by the Coalition for Maine's Children and the focus of that session was on how to get more federal Medicaid dollars.

The discussion was about the fact that many other states get a lot more federal dollars to address the needs of the children and primarily they get that because they have a system plan from beginning to end. They don't have a bunch of different bureaucracies with files on one child -- they have one central system with files on any child and his family. After that discussion on how to get more federal Medicaid dollars, and clearly in Maine with the current financial crisis we are in, we are going to need a lot more federal assistance. I contacted MCSL and I have been collecting literature from the states that utilize federal Medicaid dollars a lot more and I will provide that literature to any member of this body who is interested.

The legislation in other states looks very similar to the legislation that Representative Joseph is proposing today. The focus in other states who utilize more federal money is on developing a system, a central system, to assist children and families at risk and then you can start drawing down Medicaid dollars when they are at risk and not after the crisis has blown up in our faces. We haven't got the

money to address most of the concerns in the CHIN Report of two years ago and it is not available to us this year. The only way in which we are going to be able to address some of the grave needs the children have today in health care, in treatment for juvenile justice and in mental health needs for our children and in the foster care needs of our children is if we can get more federal money.

So, I would suggest to you as I have suggested to Representative Joseph her bill is practically a model of legislation that is used by states that are accessing a lot more federal dollars than Maine is. For that reason, I hope that you will support this bill.

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

Representative KETOVER: Mr. Speaker, Ladies and Gentlemen of the House: I serve on the Audit and Program Review Committee and one thing I have learned being a legislator is that, when we do bills for children, it is for the best interest of the child. That is the bottom line, the best interest of the child, that is what this is all about.

Since I have been a legislator back in 1980, we have been dealing with child abuse and neglect. The Audit and Program Review Committee has been reviewing that for over four years now. We have seen and heard all of those horror stories that a Representative mentioned today. They are real, they actually happened and these children are vulnerable. Our society has changed so drastically over the last 20 years, more divorces, more things than we have ever heard about. Who ever heard about child abuse -- when you spank a child today, that is considered child abuse. Those things are happening, they are real and they have caused many problems.

Because of the bureaucracy that these problems have developed into, we have problems with the families and the children. They have to face all these departments, they tend to hang up in those bureaucracies and they take a long time to decide and who gets hurt? The child. Is that in the best interest of the child? I say not. I think it is time that we do put in a Department of Children -- I heard that this bill could be dangerous -- this bill isn't dangerous, this is probably the best thing that we could do for those children. I don't think that this is something that we should put on the back burner, I don't think that this is something we should take sides on. I am on that Audit and Program Review Committee, we are a bipartisan committee, I never heard anyone saying anything about it not being a Department of Children. We all seemed to have supported that idea. I think this is the time -- as they say, everything is in the timing -- well, this is the time. We will save money because, in the long run, these kids will not end up in juvenile corrections, they will not end up in mental institutions -- look at the savings we will have there.

I would urge you to please support this Department of Children because I think it is the time.

The SPEAKER: The Chair recognizes the Representative from Gray, Representative Carroll.

Representative CARROLL: Mr. Speaker, Men and Women of the House: It is interesting as we listen to this debate in a time of shortfall. If we could consolidate government services, it seems to me to make good economic sense and, in this case, good human sense.

Presently, the five departments that deal with families and children have over 1100 employees and a budget of \$116 million. Of that, 168 of those employees and \$10 million do nothing but

administrative service. It would seem to me that if we could consolidate that down and realize a possible \$100,000 savings in FY90, a couple \$100,000 in FY91, that makes good sense, especially if those services could be delivered at the same time. That is consolidation that's unification, that's streamlining of government.

When you heard about space and about employees that are already there -- they already have the phones, desks, data, and computers -- when you look at those departments that deal with families and children and we have four departments that currently contract with the same community agencies to purchase residential care and treatment services, that doesn't make sense. Four major departments using four separate contracts with four separate budget factors, four separate audits -- that is overlapping of administrative services, that is expensive administrative services, that is administrative services that can only be matched 50/50 with the federal government instead of 3 to 1 with the federal government if it was programmed residential services. The idea that we may lose federal drawdown money for Medicaid isn't totally accurate. We actually may be able to realize more if we can use some of these state dollars for programs and services rather than administrative costs. Is there a savings? Yes, clearly there is. Over the biennium, possibly up to \$390,000 and it seems to me to only make sense in this time to consolidate government, streamline government and to draw down in one area all the services we can that helps families and children. We have been looking at that and clearly we all know that the Department of Human Services is looking at trying to draw down \$9.6 million more of federal Medicaid match for programs and services for families and children. Wouldn't it make sense and wouldn't it be nice if one department of state government could be the agency that we would have to turn to to try down that federal money and realize more programs and more services for those children who haven't been able to get those services because they haven't had the funds?

Finally, regardless of what the study since 1984 has said, times change and it is time now to act. It is time now to provide those services for those that are in need and the time is today, the time is with this vote and I would urge you to support the Majority Report.

The SPEAKER: The Chair recognizes the Representative from Westbrook, Representative Curran.

Representative CURRAN: Mr. Speaker, Men and Women of the House: That all sounds fine but I think one thing is being proved here this morning with so many different opinions on this matter that there really is no real understanding of what is happening.

From our discussions in the committee and the testimony in the committee, it seems apparent to me that services will be disrupted for at least two years while we hire a commissioner and while we try to create a bureaucracy that is going to cost us plenty of money. You can't fund a new bureaucracy with savings from other departments, it just can't be done. This bill tries to rearrange what really amounts to being sandpiles and completely ignores these enormous costs that I have been trying to bring to your attention and which others have been trying to minimize.

I wish to tell you again in a different way and to reemphasize it -- that the development of this particular piece of legislation was carried out in isolation. It has benefited from none of the multitude of standing advisory committees on children and family issues that we have at our disposal.

Clearly, we all want the most effective delivery system available for delivering services to children but I tell you that creating more bureaucracy does not do this. This bill eliminates positions in the areas of services for children which must be filled. In one case for an example -- a bureau director is proposed to be eliminated and the bureau has 500 staff and serves thousands of children at risk.

Finally, I wish to bring to your attention that, throughout this bill, there is frequent referral to the extremely vague term "human development" in attempting to define the mission of this proposed department. We all know that the makeup and mission of any new bureaucracy must be specific so I say to you again that this is premature, not effective, not what we want and won't serve our purposes. We have got to do better than this and I urge you to vote against this department bill although I am generally in favor of a good, strong, effective department bill.

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

Representative ANTHONY: Mr. Speaker, Ladies and Gentlemen of the House: I rise in support of this bill. Most of you know that I spent my professional life from the period of 1981 to 1988 as an Advocate for Improved Services for Children dealing with child abuse, teen pregnancy, mental health needs of children and a variety of other needs. I became convinced, in the course of that work, that one of the biggest problems is we try to address parts of kids rather than meeting the needs of kids as kids. We will never succeed as long as we continue to look at this or that aspect of the child rather than what does this child need, providing one case manager, not numerous case managers. That is what this bill does, it brings together all the various aspects that we presently have in place dealing with issues of children and puts it in one department where it can get one administration, one case manager per child or per family and can unify all that we already are doing into one place. That is why I support this bill.

It has been said that we need to examine it further. I am involved as a board member of the Coalition for Maine's Children and they sponsored a forum in the late fall that brought to Maine a woman who is a high-level administrator of the Delaware Department of Children. In fact, she confessed when she spoke that when she had been in one of the existing Bureau's of Children in one of the existing departments prior to that time, she had been opposed to the development of a Department of Children in Delaware. She thought it was a bad idea but it passed and she got involved with it and helped to put it together and she had become convinced that it, not only was good, but it was far better than what they had before by bringing together those components. She also pointed out that one of the things it allowed was for the first time the state of Delaware to look at the prevention of various ills. If we are trying to do something constantly to remedy problems, it is time we got to some of the prevention of some of those problems as well. I suggest that this bill, based on the Delaware experience, is a way to move in that direction.

I suggest to you that we don't need to examine it further and, if you are really concerned that we need to go slowly about this, I call your attention to the bill itself -- this bill calls for the development of an initial plan and legislation proposing implementation which would be submitted on February 1 of next year. If, in the development of that plan, it becomes clear that we are going in the wrong

direction, then there is plenty of opportunity in the next legislative session to make adjustments. You can't sit down and take a plain piece of paper and draw up something, you have to work at it, it is a process, it is a growth process and this bill provides for that. The new Department of Children would not become fully operational until July 1 of 1991 under this bill. So, if you are concerned that we need to go slowly, this bill calls for that.

One final point that I would like to make — I am concerned that the proponents and opponents of this bill seems to be following on partisan lines and that distresses me greatly. This is not a partisan issue, it is just not a partisan issue, it may be that the votes will fall somewhat along partisan lines but they shouldn't and they needn't. There is nothing partisan about this issue. In fact, it is fascinating to me that the gentleman on the second floor who now opposes this supported the idea when he was running for office as Governor. Interestingly enough, if you go back before that, you will find that the previous Governor, the Democratic Governor, Governor Brennan, opposed the implementation of a Department of Children while he was Governor but prior to his election, supported the idea. There is a habit of human beings to start thinking in the way that you do things and start thinking in the categories that exist in place and it is easy to start thinking, after you become elected to Governorship, that the way we are doing things can be slightly adjusted and it makes sense. It is easy to lose sight of the big picture. The big picture is best seen from somebody who does not have a departmental commissioner or the like.

I believe the reluctance of the gentleman on the second floor to support this is not due to any partisan nature of this issue, but rather due to the fact you start thinking in certain categories that this is the way, the way we are doing things is good — everybody does that and I have no fault of that character. I do that myself but it is time we step back and say, "Wait a minute, we need a more dramatic change than just trying constantly to improve the basic structure that we have." This is an area where, ultimately, when all is said and done, there is only one way that we will start meeting the needs of the children as children and that is to have a separate department that takes care of all of their needs in one place. That is the only way we will get to improve in any significant manner addressing the needs of children.

So, I ask you not to view this as a partisan issue, not to view this as an issue of what does my party leader suggest that I do on this, but rather to look at the issue for what it is. The issue is how best to improve the services that can be provided to children and I suggest to you that the way to do it is to pass this bill, get on with the planning process for bringing this about, making the adjustments as that planning process goes forward, and then we will see true progress in this area.

The SPEAKER: The Chair recognizes the Representative from Bath, Representative Small.

Representative SMALL: Mr. Speaker, Ladies and Gentlemen of the House: If I thought this bill or I was convinced that this bill today, by creating a new department, would do everything that the proponents have said it would do, I would vote for it in a minute. But I think there's a number of problems with this. One is the cost or actually the lack of cost of which I am highly suspect of. I think this legislature, at least I have learned from past sessions, is notorious for passing bills one session and having to come back and fund them the next

session. We say it won't cost anything or it will only cost this and then we find out next session that we either have to put in the funding or lose the program. I just don't want to see that happening with children's services.

I also have a problem with the fact that, even though this won't go on line until 1991, we have a plan that we are going to implement and I think by having a plan that that rules out other options. I don't know whether you are aware of this or not but, last session, our Committee on Education, we passed out a bill, my bill — I must take credit for — which provided three pilot sites for community-based at risk children programs. In my town, it was a proposal because they found that, yes, we were not treating the child as a whole child and there were a multitude of problems within each department. We were oftentimes — Corrections was not talking with Mental Health and they were not talking with Human Services and what our community has come up with is a coordinator who works with the schools to look at the problems of children and the parents. Very few children come up with problems on their own, it is generally as a result of their home environment or perhaps it is a condition that has happened since their birth but I don't believe you can treat a child without also looking at the home environment. So what we have done in our area is come up with a program that has a coordinator that enlists the aid of all these different agencies in the state and tries to correct all the problems of that child and again works with the family. I think, by coming up with the department to do this, we again are going to be that one step away. I believe that this needs to be more of a community oriented program, working with the existing agencies in the state. By adopting this plan, I feel that my idea and the way my town has been going, will not be the focus of attention but just creating another bureaucracy to do what some people feel is not already being done by the state.

I do want to call your attention to the fact that there is a proposal, I believe sitting in Appropriations now — which came out of Education and it was a blue ribbon commission and it says, "The Commission shall thoroughly review the delegation of authority regarding services for children and their families to various agencies of state government and the actual provisions of those services. The Commission shall evaluate the effectiveness of the programs as currently provided, the efficiency with which the services are provided within the current structure and the degree of public confusion caused by the current structure. The purpose of the Commission is to study a range of options for more effectively providing services to children and families and to make recommendations to the legislature and to the Governor for any necessary changes. As part of the evaluation, the Commission shall hold four public meetings at various locations around the state."

I really think this is the more prudent way to go because, hopefully, it will better assess the cost and, ladies and gentlemen of the House, I don't believe any of us can really believe that creating a new department will not create a great deal more cost. Again, if you could convince me that it wouldn't, I would go along with it but I have been here 12 years and I have yet to see a case like that happen. So, I hope that you take the prudent and responsible course and postpone this bill until we have had a chance to have the Commission look at this proposal.

The SPEAKER: The Chair recognizes the Representative from Lewiston, Representative Handy.

Representative HANDY: Mr. Speaker, Members of the House: I would like to respond to the comments of the good gentlewoman from Bath. She mentioned a piece of legislation with which I found myself intimately involved. As a Chair of the Special Commission on Early Childhood Development Education -- that was the legislation that came out of that group and the reason that legislation came out from that group in order to form the Commission to, again, study this issue, was because of two reasons: primarily one was far beyond our abilities, given our time frame, to actually establish that Department of Children legislation. Given that, we opted for this. Unbeknownst to us, through the good offices and dedication of Representative Joseph and numerous other individuals representing various organizations of children, people from various agencies of government, crafted a piece of legislation where we can implement the Department of Children now. I might point out that that bill, which is sitting on the Appropriations Table, carries a \$60,000 price tag for a consultant and I would much rather see \$42,000, the price tag on this legislation, for a Commissioner for this department to be spent where it is going to immediately and directly affect children.

Another issue that Representative Small mentioned was the pilot program currently ongoing in her community. Another very, very telling point that Representative Small made was, in order to address the needs of a child, one has to consider the child's whole environment. The methodology used in her home town was that they had to bring in all the agencies -- now doesn't that just say it all? Had to bring all the agencies. I submit to you that it is time to start building bridges that children and families can walk over instead of bureaucracies that children and families continue have to find themselves battling.

For some reason, the opponents of this legislation seem to think that you build bureaucracy by eliminating bureaucracy. You know George Orwell, I guess was right, this is the 90's, the decade of double speak. Since when is a deficit on the plus side? This bill eliminates four departments and one agency who currently service children and puts it altogether so we don't have to go out and form an integral departmental coordinating committee to coordinate between one agency and another. We get rid of those turf battles that we all are very familiar with.

How many people here have heard of the Head Start Program? I would be willing to bet that over half of you think that that's an educational program that is administered through the Department of Education -- well, it is not, it is a program that is administered by the Department of Human Services, a program that is primarily educational in nature.

I think we pointed out quite clearly in this debate, and I haven't heard so many opinions, I have heard two, people who are against for some unknown reasons which haven't really been made clear other than they want to study it some more, and the other side of the issue where people who are genuinely concerned with consolidating and unifying those governmental resources that are dedicated to families and children. I can't think of a better reason to bring together those services than for children and families and I hope that you will support this legislation.

The SPEAKER: The Chair recognizes the Representative from Yarmouth, Representative Foss.

Representative FOSS: Mr. Speaker, Men and Women of the House: This legislature and the Governor have made and will continue to make a serious commitment to the issues of children as recent studies have

shown. We all agree that there is a need for a single voice to advocate for children and to ensure that there is coordination among the many programs serving children. How we create that single voice is at issue today.

The bill before you, L.D. 1666, creates a whole new Department of Children, a whole new bureaucratic structure that will remove various functions from several departments and combine them into one department.

Another bill, L.D. 2369, which will be heard by State and Local Government, would create an Office of Children to achieve that single voice without dismantling current programs.

For a moment I would like to look at the current system and how it ranks nationally. Two recent studies show Maine is in the top ten, nationally, on the issues of children. The Children's Defense Fund Report of 1990 ranks Maine second, second only behind Vermont, in the country. The 1990 Casey Foundation ranks Maine ninth in the country, based on ten indicators and those indicators include percent of birth with no prenatal care, infant mortality rate, percent of low birth weight babies, benefits as a percent of poverty, percent of children in poverty, percent not graduating from high school, educational expenditures per student, teenage unemployment rates, percent of birth to teenage mothers and juvenile incarceration rate. Maine is doing very well but I think we all agree we could do better if we had a single powerful voice to continue to speak for children. In my opinion, we do not need more bureaucracy. In fact, a review of five other states, Connecticut, Delaware, (which was mentioned recently) Illinois, Montana and Rhode Island, all with Departments of Children who rank lower than Maine does in these two recent studies.

There is one other point I would like to make. Somehow we are creating a whole new department in this bill without any new money. In fact, it proposes a negative fiscal note from how we are saving money with this bill.

I suggest to you that we heard similar arguments in 1986 when the VTI's were separated from the Department of Education. When that separation occurred, the ultimate cost of new administrative duties in the VTI's amounted to \$1.5 million the next year. It seems to me only commonsensical that with the loss of economies at scale, higher administrative costs will occur.

Phantom misleading cuts and shifts in the bill before you create an illusion. Let me give you some specific examples of the problems with this negative fiscal note. L.D. 1666 proposes to move the Maternal and Child Health Program and the WIC Program from the Department of Human Services into a new Department of Children. In fact, federal law requires that these block grants be housed in a state health agency. By moving them out of that agency, we stand to lose \$10 to \$13 million in federal funds, which would need to be made up with state dollars.

Secondly, this bill proposes that Child Development Services, currently housed in the Department of Education, be transferred to the new department. Again, federal law requires that this program be housed in the Special Ed Division Department.

Third, L.D. 1666 deappropriates two positions that do not even exist.

The bottom line is that this bill creates a whole state bureaucracy under the false premise that it will not cost money. I hope that this legislature will decide that, if we can spend more money on children and we have made a major commitment in the

past, it will be used for direct services for kids, not on bureaucratic machinery. The children of this state, especially those in need, deserve a non-partisan, soundly funded plan. I urge you to vote "Ought Not to Pass" on this bill so we can look at less costly, more effective alternatives.

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

Representative GWADOSKY: Mr. Speaker, Ladies and Gentlemen of the House: I have listened with some amusement as Representative Foss and Small have discussed the concerns for the fiscal impact on this legislation that is now before us and I would suggest that, if there are members of this body who are concerned about the fiscal impact of this particular legislation, that they would be equally concerned about the fiscal impact on where we have been in the state of Maine for the last several years by our lack of Department of Children and Family Services.

I draw your attention to a report that recently came out and was put together by a variety of people and this was a report dealing with the use of Medicaid funds for Child and Family Service Programs within the state of Maine and it clearly states that Maine is not currently maximizing its ability to track federal funds because of the fragmented delivery of services we have within Child and Family Services. Specifically in 1986, Congress broadened the interpretation of the type of programs that could be eligible for Medicaid funding that was available since 1987. This report indicates that the state of Maine has lost \$5 to \$10 million a year for the last three years. Why has that happened? The report will indicate quite clearly that there is an absence of coordinated planning for the use of federal funds. The complexity of federal funding programs and a limited understanding of the possible uses within the various departments and organizations, an unwillingness, if not an inability by some of these state agencies to integrate their programs to serve similar client populations and, ironically, turf battles among various lead agencies.

Let me give you a specific example -- the Bureau of Children with Special Needs within the Department of Mental Health had pushed aggressively to get the federal funds for coordinated services for children. It went through a variety of steps necessary to adopt the rules and procedures required by the federal government, sent that proposal to the then Bureau of Medical Services only to have the Division of Maternal and Child Health within DHS oppose the proposal because they felt they should be the lead agency. With that type of discrepancy going on across the board, with that type of fragmentation going on, it is clear to see why a Department of Children and Family Services makes great sense and will, indeed, save the state a great deal of money.

The SPEAKER: The Chair recognizes the Representative from Auburn, Representative Dore.

Representative DORE: Mr. Speaker, Men and Women of the House: I have been going to these meetings to talk about children in crisis for a very long time now and I see many of you at these meetings. The answer we keep giving people is the same, we can do a little more but we can't do much more because we don't any money in the state of Maine.

South Carolina, New York, Arkansas, Massachusetts, Vermont, Washington, Colorado, Wisconsin all have passed enabling legislation and the legislation is basically for a single unified system. The reason they have done it since 1986 is exactly as the House Majority stated. They have done it because they get more federal money. Now I

understand the federal money comes out of all our pockets but right now that federal money that is coming out of all our pockets is going to Washington, Massachusetts, Vermont, Arkansas, New York, South Carolina, Colorado, and Wisconsin. I am tired of it and I think we ought to take care of the children of Maine and go after those federal Medicaid dollars. The way to go after those federal Medicaid dollars is to come up with a single unit system such as L.D. 1666. I think since 1986, if these other states have found the time and the dedication to put into testing such enabling legislation, that any more time we spend is just wasting the time of these children.

I hope that you will pass the legislation so we could develop a department and access more federal Medicaid dollars.

The SPEAKER: The Chair recognizes the Representative from Winthrop, Representative Norton.

Representative NORTON: Mr. Speaker, Ladies and Gentlemen of the House: This question is indeed a laudable concept. I am going to refer first, however, to an editorial that appeared in the Portland Press Herald, February 28th, large print says: "Kids Flash a Partisan Approach Isn't Good Enough." I am going to read just a brief part to tell you how I feel about this situation. It says, "A legislative proposal to establish a State Department of Child and Family Services has much to recommend it. What it does not have in its corner this year is timing." It goes on to talk about the concept, its application, its potential and its questions.

As I said, what we are debating here today is a laudable concept. However, it is being proposed without sufficient study and planning. Part of the money that would be needed to fund this has already been cut in an effort to reduce the budget.

Another thing, the last time I saw an effort in this direction happen, it was in drug abuse and we consolidated all services in the state under one agency and it was at that time that one agency told me, we did not have a drug problem in the schools. So I am just saying to create such an agency does not guarantee you delivery. The way I see this right now, it should have a real in-depth study on how to do it, not whether we ought to do it, but how to do it and how to do it well. I see an interruption in services at best, I see a loss in services at worse, but I see definitely a multi-million dollar expenditure necessary to deliver the services we continue to talk about. Therefore, on what I call the "spur of the moment," I cannot in conscience join in a battle which would lead to laudable outcomes but an irresponsible route toward them.

I hope that you will vote against this legislation.

The SPEAKER: The Chair recognizes the Representative from Hampden, Representative Richards.

Representative RICHARDS: Mr. Speaker, Ladies and Gentlemen of the House: First of all, I would like to say that I am not rising in a partisan fashion, this is an issue that I am very concerned about because I am directly involved with representing children in my capacity as a lawyer. I have seen first-hand the services that have been given our children and families for reunification and rehabilitation. I don't think there is anybody in this House that does not recognize that the core of this state and the integrity of this state rests within its families and providing for those families.

One of the things that I think is missing is that, if we look at the state's institutions and the state of that state institution that we have built over a civil decade, if we look back at the past 15

years and how much money we have invested in that institution toward technology, I think we would be appalled. There are desks, there are phones, but I haven't seen too many computers that directly relate to direct services.

I went to the Department of Human Services about two months ago and I don't know how many of you realize that the amount of work being cranked out of there, paperwork wise, is being done on IBM typewriters, not PC's, not word processors, typewriters. I think we have to look at the efficiency of the dollar of the services coming out of that dollar and realize that technology is an essential key to delivering those services, longevity for those services in the long-term, not just directly one year into the next year having a fiscal note going directly to those services without asking the essential question, "How much money is going to technology?"

One of our corporate leaders in this nation, back in 1981, introduced the PC Computer, it had not been on the market at that time -- his statement, "You can't afford the technology now but if you don't have it in five years, you are going to be out of business." He was right. In 1986, that same person made the statement about fax machines, you can't afford the technology but if you don't have it, you are going to be out of business in five years. Again, in 1990, he was right. His next prediction is dealing with services for typing, keyboarding, which is drastically different in the United States from Europe, that if you don't adopt that technology, in five years, you are going to be out of business. That is yet to come, maybe it is five, maybe it is seven.

I think if you look at the state of the institution, we look at how we can better deal with that institution, that we as lawmakers are responsible when we see that fiscal note and ask that question, "How much of this is going toward technology? How can we make that institution more efficient?" That would be the key in delivering services that are so needed by children.

For that reason and only that reason and the fact that I think we have the structure to work within, that we look to the whole picture and not build bureaucracies and not take down bureaucracies but make bureaucracies more efficient, I will not be supporting this piece of legislation.

The SPEAKER: The Chair recognizes the Representative from Winslow, Representative Carter.

Representative CARTER: Mr. Speaker, Ladies and Gentlemen of the House: I rise this morning in support of this piece of legislation, not only because I am a cosponsor, but because I firmly believe that we should do everything we can in our power to assist, help, and nurture our most precious resource in the state of Maine, our children.

We have heard discussions this morning from various corners and I, too, hope that it will not develop into a partisan squabble because it certainly is not within that realm. We have heard discussions about building bureaucracies, tearing bureaucracies apart, future costs, non-delivery of service -- you know, our system of government is famous for dealing with symptoms and never dealing with the cause. We are famous for that and I guess that's the way the system is structured. We have a golden opportunity here this morning to structure an organization that will provide an advocacy for our children, not the dissected system that we now have in force.

We in Appropriations see agency after agency, department after department, come before us and plead for more money. This session, for example, we have

22 bills that deal with Human Services, fourteen of those bills deal directly with services for children. In many cases, the departments or agencies involved appear to be in a turf battle as to who should get those funds, who should be dealing with that particular issue. The end result is that, instead of potential future bureaucratic costs, we get into an area that we refer to as "cost avoidance" if it is done properly.

Let me give you an example -- if we are successful in preventing five youngsters through proper services provided when they need them, at the critical time of their life, we could very well avoid the future costs of as much as \$320,000 per year. That is the cost of housing individuals in institutions. I ask you, which is the most sensible thing to do? Continue to squabble and let it develop into a partisanship issue or do what is right and proper and pass this bill, set this department on its course and provide the services that we should for the children of this state, our most precious resource?

I would urge you to join me and support this bill.

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

Representative RYDELL: Mr. Speaker, Men and Women of the House: I believe this bill is vital for the future of families and children in need in our state.

Let me give you some examples of our current situation. There was a child in crisis (and we have them all over our state) who is currently living in his or her own home but for reasons of that crisis, a report is made to the Department of Human Services, child protective services, DHS, after investigation, makes a decision that it is necessary to remove the child and place the child in a foster home. Now DHS can do that, it has jurisdiction over foster care in our state and it can take this action unilaterally. But what if, as in many, many cases of children in foster care, the child has special needs, is developmentally delayed, handicapped, that child needs other services, but where are these located? Perhaps in the Bureau of Children with Special Needs, which deals with young developmentally, disabled children. They may have expertise, they may have services in a different department. I can tell you from first-hand experience that, very often, this expertise, these services, don't reach the children in foster care. What if the child is developmentally disabled and mentally retarded? Mental retardation services are in the Bureau of Mental Retardation and I can tell you again that many children in foster care do not receive the services that they need from this Bureau of Mental Retardation or the Bureau of Children with Special Needs. What if the child could remain in his or her own home with appropriate services that aren't available in the Department of Human Services where the report was made and where a case worker has been assigned? I can tell you from years of experience in working with families of developmentally disabled children that if, in fact, the report comes to the Department of Human Services, it may not move to the Department of Mental Health and Mental Retardation. If it does, there is a significant delay.

Last year, I sponsored a bill to provide respite care and family support services to families of developmentally disabled and severely handicapped children so they could continue to care for their children in their own home. This bill was supported by the Developmentally Disability Council, it was supported by the various bureaus in the Department of Mental Health and Mental Retardation. I went to the

Department of Human Services and I asked the support from that department because I said, we need to help prevent children from needing to be removed from their own homes. I felt that the Department of Human Services ought to be interested in that bill. I asked for assistance in getting passage and funding for that bill — the answer I received was, "That's not in my department. Those children are in the jurisdiction of another department." That department and that bureau director did not testify in support of this bill, did not help with the passage of this bill. This legislature, upon the recommendation of the Appropriations Committee, did provide a good deal of funding for that bill and held the bill over for perhaps more funding this year. But how could that be true that a department that is charged with child welfare wouldn't be interested in the passage of the bill that is specifically designed to promote child and family welfare, to assist parents who are caring for some of the most difficult children in our state in their own homes? Because they are the natural parents, they are not entitled to the assistance of the Department of Human Services? It doesn't make any sense to me and I don't think it should make any sense to you.

I think we need to put all of these services in the same department so that all parents and all children in need can receive the services that they need. I submit to you, men and women of the House, that until we create a unified system of services, children and families will continue to be denied the comprehensive services they need.

I continue to work on a voluntary basis with families of children with severe needs. One of the reasons I continue to do this is families in sheer exasperation with trying to find their way through the maze of state services, state departments, state bureaus and state divisions get totally frustrated and exasperated and they call me in desperation. They call me two, three, four and five times a month, different families.

Time and time again, we find that legislation for children, which really crosses departmental lines, doesn't receive cross-departmental support. Time and again, we find the children who need services that cross departmental lines, don't receive those services because of our current bureaucratic system. It permits these children to fall between the cracks, to not really fall into the jurisdiction of any one place.

When a bureaucracy becomes outdated and outmoded and no longer serves the people that it is supposed to service, we have a responsibility to change that bureaucracy. That is what we are trying to do here today, not create an additional bureaucracy, but change the current bureaucracy.

Let me give you an example of two families that I am currently working with. One family has a very, very severely physically and mentally handicapped child who is ten years old. She has developed mentally at about the 18 month stage. Her mother has reached the point where she is not able, physically or emotionally, to care for this child without significant support. The child does receive special education so she is out of the home during the day time hours on school days. There is now a program for some Saturday respite but this mother needs nights...complete with sleep. She needs one night uninterrupted, which she hasn't had for a very long time. She falls within the jurisdiction of the Department of Mental Health and Mental Retardation but they don't have any facilities for overnight respite. They don't have anyone they can send into the home to provide overnight respite. She doesn't

fall within the Department of Human Services because she is the natural parent, she doesn't want to give up her child, she wants to place her child for short-term placement now and again so she can continue to care for her child and still continue to lead a fairly normal life and care for her other child who is not handicapped. The result is that no one is accepting responsibility to help this family. The case management service that she receives through the Department of Mental Health and Mental Retardation have told her that they don't have the services she needs in that department and they don't know where they could go find the service.

I am also working with a family that has a 16 year old with severe seizure disorders. There have never been conclusive tests as to whether or not he is retarded so the Bureau of Mental Retardation has never been involved. He is too old for the Bureau of Children with Special Needs, he is too young for Child Services. He is just a little bit into the guidelines of several bureaus but doesn't fit completely into any. As a result, his parents were left on their own and they appealed to me for help because their son has now been placed in a hospital in Virginia and this state has spent over \$90,000 since last July on this child. Last night I called a psychologist from Massachusetts and asked him to help us devise a program so that we could bring this child back home, which is where his parents want him to be.

I submit to you that we can't afford to spend another \$90,000 in the next 8 months. This child could be living in Maine. He functions in my house when he is home, he functions in many public places and, in a meeting with the Commissioner of Education last spring, he said to her at the end of the meeting, "Please help me, I have not received much education, I haven't received much help, I am getting older, I want education, I want to be helped." We have a responsibility to this child and to these parents.

There has to be a central location where parents from the time their children are identified as having some type of special need or where they feel they ought to be identified can go and receive coordinated help, some place that can take responsibility for these children, that can recognize that these children with needs cannot be broken down into separate and distinct parts, that most children with special needs cannot be labeled or placed into categories because, if one category is appropriate today, another one will be appropriate in two months or perhaps six months. Their needs are complex, they don't remain static and they require a concentration of many different kinds of expertise but they require some place where this is going to be coordinated. These children cannot wait any longer. Yes, Maine has done a fairly decent job on an aggregate level.

The reports that Representative Foss mentioned, I think we should be proud in the aggregate. These reports are based on statistics, they are based on the situation of individual children.

Today as we vote on L.D. 1666, we should be voting on individual children, the individual children in our state who are waiting to be served, who are inadequately served, whose families are confused, they need this Department of Families and Children. I ask for your support on this bill.

The SPEAKER: The Chair recognizes the Representative from Waterville, Representative Joseph.

Representative JOSEPH: Mr. Speaker, Men and Women of the House: I rise now to answer and respond to some of the issues you have heard about and to help clarify those issues.

First of all, I would like to agree with everyone, that this is not a partisan issue, that all of us are concerned about children and all of us would like to be doing a better job. It is my belief that it is time to consider a new approach if we agree that something needs to be done.

Like Governor McKernan's timely and prudent call last year for one-stop shopping for educational loans and grants, we are essentially proposing one-stop caring for our children and their families. I believe that it can be done with existing resources. We have heard from previous speakers that \$117 million are being spent in four different departments and one division of state government. We have heard that the transition time is too lengthy, that it is not well thought through -- this transition clause was drafted after a successful model during Governor Curtis's administration. There was a major reorganization of state government and this transition clause reflects that process. It worked then; I believe it can work now. If you remember at that time with a democratic Governor and a Republican legislature, everyone agreed. This department will be on line July 1, 1991.

In this transition process, there are the normal checks and balances that need to occur in a responsible government. The plan that will be developed by the Joint Select Committee and the Commissioner will have to be approved by the legislature and the Governor. We need to look at the presently fragmented, disjointed and scattered services in this particularly bureaucratic system.

I ask you again as we are going to vote on this issue the four department commissioners and those representing the Division of Community Services can adequately reflect the needs of children and families when, collectively, they are only talking about 6.9 percent of their combined budgets. Therefore, we now have a team in place, 1107 and a half employees. We have \$117 million presently but these services are scattered, these services are disjointed, there is a bureaucracy there that children have to face day in and day out and dysfunctional families need to put up with. We believe this piece of legislation will be helping families more effectively. We do believe and we see hard figures that say we will produce a savings for Maine taxpayers now and in the future.

I also believe that we must realize that government is not an entity unto itself. Government serves the people that you and I represent. Until we change our approach, children and families are underserved.

I urge you to vote for the Majority "Ought to Pass" Report.

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 Representative Joseph of Waterville that the House accept the Majority "Ought to Pass" Report. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 172

YEA - Adams, Aliberti, Allen, Anthony, Bell, Boutillier, Burke, Cahill, M.; Carroll, D.; Carter, Cashman, Cathcart, Chonko, Clark, H.; Clark, M.; Coles, Constantine, Cote, Crowley, Daggett, Dipietro, Dore, Dutremble, L.; Erwin, P.; Farnsworth, Graham,

Gurney, Gwadosky, Hale, Handy, Heeschen, Hichborn, Hickey, Hoglund, Holt, Jacques, Jalbert, Joseph, Ketover, Kilkelly, Lawrence, Lisnik, Luther, Macomber, Mahany, Manning, Martin, H.; Mayo, McHenry, McKeen, McSweeney, Melendy, Michaud, Mills, Moholland, Nadeau, G. G.; Nadeau, G. R.; Nutting, O'Dea, O'Gara, Oliver, Paradis, J.; Paradis, P.; Paul, Pederson, Pineau, Plourde, Pouliot, Priest, Rand, Richard, Ridley, Rolde, Rotondi, Ruhlin, Rydell, Sheltra, Simpson, Skoglund, Smith, Stevens, P.; Strout, D.; Swazey, Tammaro, Tardy, Telow, Townsend, Tracy, Walker, The Speaker.

NAY - Aikman, Anderson, Ault, Bailey, Begley, Brewer, Butland, Carroll, J.; Curran, Dellert, Dexter, Donald, Farnum, Farren, Foss, Foster, Garland, Gould, R. A.; Greenlaw, Hanley, Hastings, Higgins, Hussey, Hutchins, Lebowitz, Libby, Look, Lord, MacBride, Marsano, Marsh, McPherson, Merrill, Murphy, Norton, Paradis, E.; Parent, Pendleton, Pines, Reed, Richards, Seavey, Small, Stevens, A.; Stevenson, Strout, B.; Tupper, Webster, M.; Wentworth.

ABSENT - Conley, Duffy, Hepburn, Jackson, LaPointe, Larrivee, Marston, McCormick, McGowan, Mitchell, Sherburne, Whitcomb.

Yes, 90; No, 49; Absent, 12; Paired, 0; Excused, 0.

90 having voted in the affirmative and 49 in the negative with 12 being absent, the Majority "Ought to Pass" Report was accepted, the Bill read once.

Committee Amendment "C" (H-820) was read by the Clerk and adopted and the Bill assigned for second reading Friday, March 2, 1990.

CONSENT CALENDAR

First Day

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

(S.P. 738) (L.D. 1942) Bill "An Act to Clarify the Definition of Employer Under the Workers' Compensation Laws" Committee on Labor reporting "Ought to Pass" as amended by Committee Amendment "A" (S-526)

(S.P. 771) (L.D. 1996) Bill "An Act to Make Certain Housekeeping Changes to Various Punishment Sections of the Maine Criminal Code" Committee on Judiciary reporting "Ought to Pass" as amended by Committee Amendment "A" (S-527)

(H.P. 1421) (L.D. 1973) Bill "An Act to Protect Consumer Privacy by Regulating Automated Telephone Solicitations" Committee on Business Legislation reporting "Ought to Pass" as amended by Committee Amendment "A" (H-835)

(H.P. 1626) (L.D. 2248) Bill "An Act to Discourage Public Competition with Private Enterprise" Committee on State and Local Government reporting "Ought to Pass" as amended by Committee Amendment "A" (H-832)

(H.P. 1388) (L.D. 1918) Bill "An Act to Amend the Laws Affecting the Operations of the Bureau of Corporations, Elections and Commissions" Committee on State and Local Government reporting "Ought to Pass" as amended by Committee Amendment "A" (H-833)

(H.P. 1250) (L.D. 1748) Bill "An Act to Amend the Procedure for Approval of the Lincoln County Budget" Committee on State and Local Government reporting "Ought to Pass"

(H.P. 1535) (L.D. 2120) Bill "An Act to Amend the Operating-under-the-influence Laws" Committee on Legal Affairs reporting "Ought to Pass" as amended by Committee Amendment "A" (H-834)

There being no objections, the above items were ordered to appear on the Consent Calendar of Friday, March 2, 1990, under the listing of Second Day.

(H.P. 1383) (L.D. 1914) Bill "An Act to Further Facilitate the Conversion of the Records of the Maine State Retirement System to an Automated System" Committee on Aging, Retirement and Veterans reporting "Ought to Pass" as amended by Committee Amendment "A" (H-838)

On motion of Representative Hickey of Augusta, was removed from the Consent Calendar, First Day.

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

Committee Amendment "A" (H-838) was read by the Clerk.

Representative Hickey of Augusta offered House Amendment "A" (H-850) to Committee Amendment "A" (H-838) and moved its adoption.

House Amendment "A" (H-850) to Committee Amendment "A" (H-838) 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 Friday, March 2, 1990.

(H.P. 1417) (L.D. 1969) Resolve, to Require a Comprehensive Study to Equalize Maine State Retired Teachers Health Insurance Premium Payments (EMERGENCY) Committee on Aging, Retirement and Veterans reporting "Ought to Pass" as amended by Committee Amendment "A" (H-839)

(H.P. 1507) (L.D. 2087) Bill "An Act to Enforce Reasonable Use of Sirens on Emergency Vehicles" Committee on Transportation reporting "Ought to Pass" as amended by Committee Amendment "A" (H-837)

(H.P. 1504) (L.D. 2084) Bill "An Act to Strengthen Drug Abuse Treatment for Children of School Age" Committee on Education reporting "Ought to Pass" as amended by Committee Amendment "A" (H-840)

(H.P. 1617) (L.D. 2239) Bill "An Act to Provide Greater Compliance with General Assistance Laws" Committee on Human Resources reporting "Ought to Pass" as amended by Committee Amendment "A" (H-841)

(H.P. 1610) (L.D. 2226) Bill "An Act to Amend the Laws Governing the Military and Naval Children's Home" Committee on Human Resources reporting "Ought to Pass" as amended by Committee Amendment "A" (H-842)

(H.P. 1357) (L.D. 1874) Bill "An Act to Correct the Subdivision Laws" Committee on Energy and Natural Resources reporting "Ought to Pass" as amended by Committee Amendment "A" (H-843)

(H.P. 1654) (L.D. 2290) Bill "An Act to Aid in the Enforcement of Crimes Relating to Forest Fire Control" Committee on Energy and Natural Resources reporting "Ought to Pass" as amended by Committee Amendment "A" (H-844)

(H.P. 1423) (L.D. 1975) Bill "An Act to Protect Consumers Against Unsolicited Telefacsimile Transmissions" Committee on Business Legislation reporting "Ought to Pass" as amended by Committee Amendment "A" (H-845)

(H.P. 1453) (L.D. 2027) Bill "An Act Concerning Trafficking in Prison Contraband" Committee on Judiciary reporting "Ought to Pass" as amended by Committee Amendment "A" (H-846)

(H.P. 1001) (L.D. 1390) Bill "An Act to Ensure that Child Support Payments Benefit the Family" Committee on Judiciary reporting "Ought to Pass" as amended by Committee Amendment "A" (H-847)

(H.P. 1382) (L.D. 1913) Bill "An Act to Make Improvements in the Operation of the Judicial

Department of the State" Committee on Judiciary reporting "Ought to Pass" as amended by Committee Amendment "A" (H-848)

There being no objections, the above items were ordered to appear on the Consent Calendar of Friday, March 2, 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. 743) (L.D. 1947) Bill "An Act Related to Overcompensation" (C. "A" S-524)

(S.P. 750) (L.D. 1958) Bill "An Act to Remove Notarization from the Voter Registration Application Process" (C. "A" S-522)

(S.P. 759) (L.D. 1984) Bill "An Act to Require the State to Pay a Portion of Retired State Employees' Medicare Costs" (C. "A" S-516)

(S.P. 821) (L.D. 2097) Bill "An Act to Clarify Definitions and Provisions of Marine Resources Laws" (C. "A" S-517)

(S.P. 846) (L.D. 2176) Bill "An Act to Require Prior Notice of the Sale of Gas Stations" (C. "A" S-518)

(S.P. 869) (L.D. 2229) Bill "An Act to Exempt Certain Persons from the Payment of Interest on Excess Retirement Benefits" (C. "A" S-520)

(H.P. 1360) (L.D. 1877) Bill "An Act to Amend the Maine Human Rights Act to Prohibit Educational Discrimination on the Basis of National Origin" (C. "A" H-825)

(H.P. 1377) (L.D. 1908) Bill "An Act to Amend the Law Governing Family Medical Leave" (C. "A" H-821)

(H.P. 1509) (L.D. 2089) Bill "An Act to Expand and Extend the Maine Managed Care Insurance Plan Demonstration Project" (EMERGENCY) (C. "A" H-823)

(H.P. 1367) (L.D. 1884) Bill "An Act to Improve Maine Occupational Safety and Health Provisions" (C. "A" H-826)

(H.P. 1665) (L.D. 2305) Bill "An Act Allowing the Yarmouth Water District to Acquire the Assets and Liabilities of the North Yarmouth Water District" (EMERGENCY)

(H.P. 1574) (L.D. 2181) Bill "An Act to Amend the Maine Agricultural Marketing and Bargaining Act of 1973" (C. "A" H-828)

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

(H.P. 744) (L.D. 1027) Bill "An Act to Require the Department of Human Services to Set Child Welfare Fee-for-service Rates Based on Yearly Negotiations with Private Nonprofit Community Residential Treatment Providers" (C. "B" H-829)

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 "B" (H-829) was read by the Clerk and adopted and the Bill assigned for second reading Friday, March 2, 1990.

(H.P. 1521) (L.D. 2106) Bill "An Act to Amend the Laws Concerning the Department of Human Services to

Increase the Maximum Allowable Fine to \$50,000" (C. "A" H-830)

(H.P. 1609) (L.D. 2225) Bill "An Act Concerning Investigation of Allegations by the Office of Advocacy"

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

(H.P. 1398) (L.D. 1934) Bill "An Act to Provide Access to Preventive Dental Care Services to Adults Eligible for Medicaid" (C. "A" H-831)

On motion of Representative Manning of Portland, was removed from the Consent Calendar, Second Day.

Subsequently, the Committee Report was read.

On further motion of the same Representative, tabled pending acceptance of the Committee Report and specially assigned for Friday, March 2, 1990.

PASSED TO BE ENGROSSED
As Amended

Bill "An Act to Amend and Reauthorize the Percent for Art Act" (S.P. 834) (L.D. 2142) (C. "A" S-521 and S. "A" S-528)

Was reported by the Committee on Bills in the Second Reading, read the second time, the Senate Paper was Passed to be Engrossed as Amended in concurrence.

Bill "An Act to Return Certain Positions within the Department of Mental Health and Mental Retardation to Classified Service under the Civil Service Law and to Establish Uniform Pay Schedules" (H.P. 1380) (L.D. 1911) (C. "A" H-819)

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

On motion of Representative Tammaro of Baileyville, the House reconsidered its action whereby Committee Amendment "A" (H-819) was adopted.

The same Representative offered House Amendment "A" (H-849) to Committee Amendment "A" (H-819) and moved its adoption.

House Amendment "A" (H-849) to Committee Amendment "A" (H-819) was read by the Clerk and adopted.

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

The Bill was passed to be engrossed as amended by Committee Amendment "A" (H-819) as amended by House Amendment "A" (H-849) thereto and sent up for concurrence.

Bill "An Act Regarding Written Notice to Employees of Layoff or Termination" (H.P. 1577) (L.D. 2184) (C. "A" H-827)

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

The SPEAKER: The Chair recognizes the Representative from Belfast, Representative Marsano.

Representative MARSANO: Mr. Speaker, Men and Women of the House: I am not speaking today as a leader of the Republican party in this House in any fashion, I speak for myself.

When the vote is taken, I would request a roll call.

I would like to say that the original bill on this matter relates to a case from the Law Court of the Supreme Court of Maine, Larrabee vs. Penobscot Frozen Foods, Inc., a case in which I was involved.

That also is not the reason for my speaking against this bill this morning.

The problem that I have with this bill is Section I which provides that any employer must give written notice of termination to the employee and I think that is too broad. I think there are many employer/employee situations in this state in which a written notice of termination is not required. The reason that I have difficulty with that is because of the provisions of Section 4 of the bill which provides that, in the event that there is a failure to give that written termination, a person may then go to court and the court must impose a \$50 to \$500 charge against the employer who fails to give that written notification.

The other unfortunate part of that is that fees for an attorney is payable as a result of that court action. The person who is terminated gets the money and the lawyer gets some money for bringing the case. The problem with this sort of case is that it usually is part of a larger action and would result in some large attorneys fees and this is the kind of bill, which in the long run, will embarrass both the legislature and lawyers. Lawyers are required to represent clients and when they are entitled to be paid by the other party, they seek to receive those kinds of sums of compensation and they will get them, as they should if you pass this bill. So, this bill essentially would, with respect to those two points, I think does our Maine society no good.

I spoke with the drafter of this legislation, my colleague from Milo, Representative Hussey, and he and I agree on a large number of the points that are included here. I have never had any problem with the fact that an employee who does not know why he was terminated has the right to ask for and receive written notification of why he was terminated -- it makes sense to me and always has that that be a law of Maine.

This bill will not change it, although it will mean that a person has private right of action and those provisions in Section 4, which I just directed your attention, will apply. However, because the employer at that point has written notice of what he is required to do, that seems fair to me. It is within the parameters of the Larrabee case and I have no objection to it. However, I cannot believe that this legislature will impose upon a one-man operation who has one employee and who becomes dissatisfied with that employee and tells him to go down the road, the further requirement that he explain that that man is fired or that he faces a \$50 to \$500 fine plus attorneys fees. Because of that, I ask you to vote against this this morning.

I apologize to the Labor Committee who I am sure worked hard on it but I think they made a mistake and I hope that this House will reject this bill.

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

Representative McHENRY: Mr. Speaker, Ladies and Gentlemen of the House: This bill is a unanimous "Ought to Pass" from the Committee on Labor and we do not hit that unanimous report very often but this year we have been fortunate, we have been working cooperatively.

I would point out to the good gentleman that this bill is only requiring that when you lay off an employee that you tear a piece of paper and say you are laid off or you are terminated. That's all so that that employee can qualify for his unemployment. Present law says "An employee may request written reason why he or she has been laid off." That's the present law today but in our bill it says, "Within 15 days and if they do not comply within 15 days, the

employer does not have to give written reason why that employee has been laid off whereas today, two years down the road, that employee may request written reason why he or she has been laid off and the employer must give that written reason. So if anything, it is helpful to small business, not harmful.

It is a good bill, there is no reason why a one or two man operation cannot give that employee a little scrap of paper with the reason why he or she has been terminated or laid off. That's all. The reason this bill is before us is because there is an employee that has been told by his employer that he was laid off, not terminated, laid off. He then went through the process of trying to get his unemployment (and it is a slow process, it took like two weeks) and then when the Unemployment Bureau asked the employer, the employer said, "No, he is not laid off, he is terminated." So now that employee has to start all over again. It isn't fair and all we are asking is to take a scrap piece of paper and tell the person, you are laid off or terminated, that's all. It is not complicated, it isn't all that bad. I don't know of any employer in this state that wouldn't be willing to do it but they have all this smoke screen and red herrings trying to say that we are anti-small business -- if anything, this bill is good for small business.

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

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

My question is this, as I understand it, this bill would in fact clear up some of the misunderstandings perhaps, but if that employer does not give that slip of paper inadvertently because of misunderstanding of the law that that is required, would that set in motion the possibility of a cause of action with the damages that are set forth?

The Representative from South Portland, Representative Anthony, has posed a question through the Chair to any member of the Committee who may respond if they so desire.

The Chair recognizes the Representative from Belfast, Representative Marsano.

Representative MARSANO: Mr. Speaker, Ladies and Gentlemen of the House: I cannot imagine that that would not immediately entitle the person to between \$50 and \$500 the way that this bill is written. The money would go to the person who was not given the written information.

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

Representative ANTHONY: Mr. Speaker, I would like to pose another question through the Chair.

If it is true that an inadvertent failure to give a slip of paper showing that the person is terminated would trigger a possibility of a cause of action of a \$50 to \$500 penalty -- what efforts will be undertaken to make sure that all employers in the state understand that obligation and potential penalties that might fall if you don't fulfill that? Is there any proposal that the Department of Labor has or the like that will make sure that all employers understand that new obligation?

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

The Chair recognizes the Representative from Madawaska, Representative McHenry.

Representative McHENRY: Mr. Speaker, Ladies and Gentlemen of the House: Every employer in the state receives from the Bureau of Labor all information pertaining to unemployment, lay-offs, workers' compensation, everything from each department concerning these things.

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

Representative ANTHONY: Mr. Speaker, Ladies and Gentlemen of the House: I am an employer so I do understand that I get a series of forms with a very carefully compact list of all the various regulations that are attached in regard to those but I do have a great deal of concern that if we pass this bill that it adds a very significant new, simple enough to comply with, potentially new obligation that if I terminate one of my employees, if I fail to write out a slip of paper you are terminated, that that subjects me to potential financial obligation. It seems to me that the potential repercussions are very severe and I guess I believe that I can't support this proposal as it is posed here.

I do like the idea and I think that, avoiding the sort of problem that the Labor Committee obviously dealt with, namely having somebody who has been laid off and then go to an unemployment hearing and the employer switched on them. I've done some unemployment compensation hearings and I do know that employers do (sometimes) all sorts of devious things. I think that is an appropriate goal but to subject all small business people in this state to this new requirement without making a special effort, a very bold-faced single notice of a new responsibility that would be attached to the next time they get forms, I don't think I can support that without a very clear indication that there be a special effort in that regard.

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 passage to be engrossed. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 173

YEA - Adams, Aliberti, Bell, Boutilier, Butland, Cahill, M.; Carroll, D.; Cathcart, Chonko, Clark, H.; Clark, M.; Crowley, Daggett, Dore, Dutremble, L.; Erwin, P.; Farnsworth, Gould, R. A.; Graham, Gurney, Gwadosky, Hale, Handy, Heeschen, Hichborn, Hoglund, Hussey, Jacques, Jalbert, Joseph, Lawrence, Luther, Mahany, Manning, Martin, H.; Mayo, McHenry, McKeen, McSweeney, Melendy, Michaud, Mills, Nadeau, G. R.; O'Dea, Oliver, Paradis, J.; Paradis, P.; Paul, Pederson, Pineau, Priest, Rand, Reed, Richard, Rolde, Rotondi, Ruhlin, Rydell, Sheltra, Simpson, Swazey, Tamaro, Tardy, Townsend, Tracy, Walker.

NAY - Aikman, Allen, Anderson, Anthony, Ault, Bailey, Begley, Brewer, Burke, Carroll, J.; Carter, Cashman, Coles, Constantine, Cote, Curran, Dellert, Dexter, DiPietro, Donald, Farnum, Farren, Foss, Foster, Garland, Greenlaw, Hanley, Hastings, Hickey, Higgins, Hutchins, Ketover, Kilkelly, Lebowitz, Libby, Lisnik, Look, Lord, MacBride, Macomber, Marsano, Marsh, McPherson, Merrill, Moholland, Murphy, Nadeau, G. G.; Norton, Nutting, O'Gara, Paradis, E.; Parent, Pendleton, Pines, Plourde, Pouliot, Richards, Ridley, Seavey, Skoglund, Small,

Smith, Stevens, A.; Stevens, P.; Stevenson, Strout, B.; Strout, D.; Telow, Tupper, Webster, M.; Wentworth, Whitcomb.

ABSENT - Conley, Duffy, Hepburn, Holt, Jackson, LaPointe, Larrivee, Marston, McCormick, McGowan, Mitchell, Sherburne, The Speaker.

Yes, 66; No, 72; Absent, 13; Paired, 0; Excused, 0.

66 having voted in the affirmative and 72 in the negative with 13 being absent, the Bill failed of passage to be engrossed as amended. Sent up for concurrence.

PASSED TO BE ENACTED
Emergency Measure

An Act Authorizing Further Assessments for Public Advocate Participation in Workers' Compensation Insurance Rate Proceedings (S.P. 802) (L.D. 2050) (S. "A" S-511 to C. "A" S-498)

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. 123 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 Create the Maine Family Development Foundation (H.P. 1226) (L.D. 1698) (C. "B" H-787)

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 Regarding Growth Management (H.P. 1505) (L.D. 2085) (C. "A" H-790)

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. 117 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 Encourage Farming in Maine (H.P. 1593) (L.D. 2206) (C. "A" H-779)

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.

FINALLY PASSED
Emergency Measure

Resolve, to Study Threats to Maine Lakes (S.P. 841) (L.D. 2160) (C. "A" S-503)

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. 124 voted in favor of the same and none against and accordingly the Resolve was finally passed, signed by the Speaker and sent to the Senate.

FINALLY PASSED
Emergency Measure

Resolve, that the Timetable for the Revision of the State's Motor Vehicle Laws be Extended (H.P. 1688) (L.D. 2338)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 120 voted in favor of the same and none against and accordingly the Resolve was finally passed, signed by the Speaker and sent to the Senate.

PASSED TO BE ENACTED

An Act to Amend the Maine Severance Pay Laws (S.P. 714) (L.D. 1891) (C. "A" S-500)

An Act to Allow Inclusion of Nonagricultural Products in the Quality Program (S.P. 791) (L.D. 2042) (C. "A" S-502)

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

ENACTOR

Tabled and Assigned

An Act Concerning the Driving of Deer or Moose (S.P. 842) (L.D. 2161) (C. "A" S-501)

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

The SPEAKER: The Chair recognizes the Representative from Waterville, Representative Jacques.

Representative JACQUES: Mr. Speaker, Ladies and Gentlemen of the House: This bill has been flagged down by Jon Hull. There is a technical change that has to be done. It is not going to be an addition of any new words or anything like that, we just got the cart before the horse so I would appreciate it if somebody would table this for one day while Mr. Hull drafts the technical amendment.

On motion of Representative Clark of Millinocket, tabled pending passage to be enacted and specially assigned for Friday, March 2, 1990.

PASSED TO BE ENACTED

An Act to Amend the Laws Relating to the Maine Insurance Guaranty Association and the Maine Life and Health Insurance Guaranty Association (S.P. 844) (L.D. 2163)

An Act Concerning Burials in the Maine Veterans' Memorial Cemetery (H.P. 1314) (L.D. 1816) (H. "A" H-789)

An Act to Increase Death Benefits under the Workers' Compensation Act (H.P. 1363) (L.D. 1880) (C. "A" H-786)

An Act Regarding Continuing Education for Administrators of Boarding Homes (H.P. 1374) (L.D. 1905) (C. "A" H-784)

An Act to Allow Medical Testing without Physician Referral (H.P. 1395) (L.D. 1925) (C. "A" H-785)

An Act to Clarify the Term of Certificates of Authorization under the Workers' Compensation Act (H.P. 1420) (L.D. 1972) (C. "A" H-777)

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

ENACTOR

Tabled and Assigned

An Act to Limit the Effect of Collateral Estoppel on Unemployment Insurance Decisions (H.P. 1471) (L.D. 2056) (C. "A" H-778)

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 Friday, March 2, 1990.

PASSED TO BE ENACTED

An Act to Require Telecommunications Services in Public Places for Hearing Impaired Persons (H.P. 1490) (L.D. 2063) (C. "A" H-783)

An Act to Clarify Mobile Home Tenants' Rights (H.P. 1499) (L.D. 2076) (C. "A" H-776)

An Act Prohibiting Membership in a Trade or Similar Association from Being a Condition for Licensing or Certifying a Producer's Food as Natural or Organic (H.P. 1522) (L.D. 2107) (C. "A" H-780)

An Act to Regulate Food Salvage Operations (H.P. 1536) (L.D. 2121) (S. "A" S-515 to C. "A" H-767)

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 Require the Office of Comprehensive Land Use Planning to Study Municipal Implementation of Manufactured Housing Laws (S.P. 845) (L.D. 2164) (C. "A" S-499)

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 Ease)

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 February 27, 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 DIVIDED REPORT - Majority (9) "Ought to Pass" as amended by Committee Amendment "A" (S-523) - Minority (3) "Ought Not to Pass" - Committee on Agriculture on Bill "An Act to Ensure the Independence of the Animal Welfare Board" (S.P. 691) (L.D. 1830)

- In Senate, Majority "Ought to Pass" as amended Report was read and accepted and Bill passed to be Engrossed as Amended by Committee Amendment "A" (S-523)

TABLED - February 27, 1990 by Representative GWADOSKY of Fairfield.

PENDING - Acceptance of Either Report.

The SPEAKER: The Chair recognizes the Representative from Palmyra, Representative Tardy.

Representative TARDY: Mr. Speaker, Ladies and Gentlemen of the House: I move that the House accept the Majority "Ought to Pass" Report.

This particular piece of legislation accomplishes two things which I think are very important. First, it does sever the umbilical cord between the Animal Welfare Board and the Department of Agriculture, thus bringing into line with the intent of the legislature when the Board was created in 1983. There is at least one member still on the Agriculture Committee who served in 1983 and his name is on the Majority "Ought to Pass" Report. The Speaker of the House, obviously here in 1983, was also a cosponsor of the bill. The Department is now supportive of the bill as amended and if you have been receiving calls recently from farmers expressing their concern, I suspect it is because the Farm Bureau has not had time to communicate with its membership of the recent amendment to the bill.

Perhaps when the Board was formed, the agricultural community received some sense of security in knowing that the Board was created independent within the Department of Agriculture. I submit that that was probably a false security and that the real security came within the legislative composition of the Animal Welfare Board. Four members from the agricultural community, four members representing various humane societies, one veterinarian, and the Commissioner of the Department of Agriculture as an ex officio, non-voting member, all of these individuals subject to review by the Joint Standing Committee on Agriculture in confirmation.

Why would we want to change something that worked very well for the last seven years? I suspect it goes back to a question of priorities in the last budget process. The Animal Welfare Board with three full-time humane agents and 11 part-timers responded to over 6600 complaints, six of them involving commercial agriculture. Their number one priority was to add an additional full-time agent and this was included in the department's budget. Then lo and behold, the budget, the revenue estimates, began to yo-yo and the department's had to prioritize their new funding requests and, lo and behold, the humane agents came out 57 out of 60 in the department's priorities. So you can see the frustration that was felt by the Animal Welfare Board.

The other thing that this bill does is it gives the farmers, the agriculturists, greater protection than they have had heretofore.

The Executive Director of the Animal Welfare Board in the future will be subject to the confirmation process as are all of the board members. In addition, we have inserted language that allows the Commissioner of the Department of Agriculture to assume responsibility for the investigation of any complaint involving commercial agriculture, harness racing, horse pulling, etc., and report back to the Board with regards to acceptable husbandry practices. To me, this is of paramount importance for the farmers of the state of Maine so our way of life is not threatened by somebody coming in and telling us that we are not farming in an acceptable manner.

What am I talking about? Let me give you a couple of examples. Johnny on his 10th birthday was given a small paint pony by his parents, Apache. Johnny and Apache were inseparable, they made a very attractive pair, the Apache had nothing but tender loving care and this went on for two or three years and then came a change over Johnny. He started taking showers every morning before he went to school and combing his hair, then his mother noticed that he

refused to wear T-shirts and the final straw was that Dad caught him sneaking off to school wearing boat shoes without stockings. He had found something to replace Apache. Now Apache stands in the shed, never exercised, intermittently fed and he has plenty of water in front of him because the bucket has been frozen over since Monday. Ladies and gentlemen, I submit there a lot of ponies out there, a lot of animals that probably haven't had a drink of water since Monday and that is the concern of the Animal Welfare Board. That is what they take care of, that is what they do, that is what they do best.

When somebody calls up and says, "Farmer Ridley from Shapleigh had 18 Herefords and they were standing out in that driving snowstorm with their backs to the wind, not knowing that they've got a warm barn with plenty of bedding that they could go to if they only would -- that is a husbandry practice.

When they call up and complain that the poultry farmer should only have three chickens in a cage because they would be more comfortable than having five to a cage -- that's a husbandry practice.

When they complain that the dairy farmer should not be able to continue propagating those little brown cows because their eyes bulge out, their foreheads are short and dented in and their milk runs to butterfat which isn't good for you -- that's a husbandry practice. That is where the Commissioner of Agriculture needs to have the input and that is where this legislation gives him the input and that is important to the future of farming in the state of Maine.

People have talked about the cost of this transition and I submit to you that the fiscal note was negligible and that probably any increase costs could be borne by less than one-half of the Governor's weekly salary.

I urge you to support the Majority Report.

The SPEAKER: The Chair recognizes the Representative from Waldo, Representative Whitcomb.

Representative WHITCOMB: Mr. Speaker, Ladies and Gentlemen of the House: I don't rise to the occasion to challenge the Governor's salary, I simply want to debate the merits of this bill and encourage you to vote against the motion before you.

I do this for any number of reasons. I would like to discuss with you for a minute about the many people that came before the committee opposing this piece of legislation, many and a wide variety of individuals who are concerned about animal welfare. They weren't just farmers, they were people with humane society interests, people involved in many aspects of animal care. I will list a few of the organizations who were there and remained opposed to this change in law. They were from the Farm Bureau organization, they were from the association who is responsible to the people who pull horses and oxen at the fairs in the state, they were people from the Maine Federation of Humane Societies, they were people from the Maine Association of Agricultural Fairs and there were people from the Animal Welfare Board.

This bill is a very interesting piece of legislation. This law improves nothing. It may in fact make government less responsive to the people of Maine.

I have provided for your interest, if it hasn't already met its fate, pieces of material for those of you who may be interested in reading a little more of someone else's opinion on this subject. One was from the Maine State Grange, who remains opposed to this piece of legislation with its various amendments. A letter that goes into more detail is from an individual that many people in the Augusta area

should know, a veterinarian, Dr. Langdon Davis, who was involved even before there was an Animal Welfare Board. It is a two page letter -- at the top of it it talks about the Pine Tree Veterinary Hospital of which he is a part. It goes into a good deal of history which may be of interest to you if you are searching the depths of your soul on how to vote on this issue but I will try to capsule on a couple of points from the second page. In the first sentence it says: "When this Division was founded, we were a leader in the nation for this type of arrangement having responsibility for humane care of animals as a total state responsibility and employee function was a new concept." He goes on to explain how this very, very respected member of the veterinarian profession, not only in this state, but in the nation was met by people in the same profession around the nation and envious of the arrangement we had and still have in the state of Maine. I ask you to also go into the point that this veterinarian makes, "As for the proposed legislation, it appears to plow an err in furrow in the field of government administration by setting up a division as a free-standing law enforcement agency functioning with no direct accountability to an established government agency except the legislature." Then if you care to read on, in summation this veterinarian in a letter to the committee that I am reading to you says, "The Division has functioned reasonably well through the years. It has not performed perfectly." I challenge anyone to show us a government operation that has, those are my words, not his. "But as a fledgling division, it has done admirably, it has raised humane animal care consciousness in our state to notable heights."

In urging this body to reject the effort before us, I want to call to your attention the fact that this law is here for some rather minor, minor concerns. We have, what most people would consider in the realm of their responsibility, some mere personnel disagreements that brought this issue to the front. If the legislature is to react in this manner when there are squabbles between division heads and a chairman of a department, or between secretaries and the commissioner of a department, by taking the agency out of control, we are setting a very bad precedent.

The Chairman of the Committee asked the rhetorical question, "Why do we want to change?" I think before you vote for this piece of legislation, you as individuals in this body need to have a great deal more information in order to answer that question to your satisfaction to make the change. There is not sufficient reason to change a system we have now that is, in the words of one professional, the envy of the nation merely to answer to petty personnel squabbles.

I urge this body to reject the motion before us.

The SPEAKER: The Chair recognizes the Representative from Benton, Representative Parent.

Representative PARENT: Mr. Speaker, Members of the House: I am the member which Representative Tardy referred to who was on the committee back in 1983 when the Animal Welfare Board was first created and I have a long-standing interest on this topic.

This bill, and I emphasize this revised version of the bill, does have widespread support. It has the support of the Department of Agriculture, the Animal Welfare Board and by the way, has good farmer representation on it, it does have the support of the large majority of the Agriculture Committee and again emphasizing the amended version, it is my feeling as best as I can ascertain that the fair people, many

harness racing people, and a significant number of farmers, support the amended version.

I would like to point to a few provisions of this bill which I think explains this support. First of all, the makeup of the board, the way it was originally made up in 1983 and which has I think functioned very well and has a lot of support, is in no way changed by this bill. The makeup of the board remains exactly the same as it was formed back in 1983.

Secondly, for the first time, the Director of the Animal Welfare Board, will be subjected to the approval of the Agriculture Committee and confirmation by the Senate. This is something that the farmers wanted and this is something that they are getting under this amended version. I think most important, the section which deals with harness racing and pulling at fair events and commercial farmers, is extremely important. It states that if any complaints deals with harness racing, pulling events or commercial farmers, that the board is required to report the complaint to the Department of Agriculture who will then proceed to investigate and resolve the complaint. I think that that is extremely important and explains a lot of the support that this revised version is getting.

To get to what I think is the main point of this bill (and I hope it doesn't get lost) is to give the Animal Welfare Board more control over its budget and its personnel so that it can focus attention and resources on the protection of family pets throughout the state, hundreds and thousands of them -- racoons, pet skunks, cobras, exotic birds, cats and dogs, name them -- over 90 percent of the complaints that come before the board are complaints that deal with family pets and not with commercial farmers. I can think of at least four former commissioners, going back to the late Joe Williams, including Stu Smith, Commissioner Gottscholk and the present commissioner who attempted to separate the functions of the Department and the Animal Welfare Board. The Agriculture Department, after all, is primarily concerned with enhancing commercial agriculture. The Animal Welfare Board, on the other hand, is primarily concerned with protecting family pets. It is extremely important to keep that in mind. This bill, I think, comes closer to it than anything we have done in the past. I think it will enable the Department of Agriculture and the Animal Welfare Board to do the job that they are charged to do and will do it better if we pass this bill.

Before I sit down, I would like to comment on the document that Representative Whitcomb quoted and brought your attention to. It was written by Dr. Langdon Davis. I would like to point out that this document was given to us and deals with the original version of the bill and not the amended version. There is enough difference between the two versions to make this document almost worthless or at least we ought to go back to Dr. Langdon Davis and ask him how he feels about the revised version.

As far as the Maine State Grange is concerned, this document is not dated but I suspect that the grange probably feels somewhat different about the revised version also in comparison to the original version. So in view of what I said, I hope that you can support the Majority Report.

The SPEAKER: The Chair recognizes the Representative from Lewiston, Representative Aliberti.

Representative ALIBERTI: Mr. Speaker, Ladies and Gentlemen of the House: I rise before you to make you more knowledgeable on what this bill is and some of the problems that we faced in addressing this bill in committee. I believe I received more constituent

mail on this bill than any time that I have served in this House. I could interpret that as I did initially that there is a pretty strong lobby behind it. I received many letters asking me to support this bill on the basis of loving animals and if I didn't support the bill, it implied that I didn't love animals. So I got a little more involved in this and I tried to address the bill as objectively as possible. I think the Speaker, with all due respect to him, can attest to that in his testimony before our committee. The major question I surfaced to the Honorable Speaker was my concern for checks and balances. What would happen to that if this in fact was taken out of the authority of the Commissioner of Agriculture and his department? I had a great deal of concern here and I think you will find the concerns that addressed the harness racing community and the pulling events that address the interests of the many fairs in this state that all of us have a constituency for -- I think you will find that that was addressed specifically at my concern and my interests.

What prompted me to take a stand to support this bill, when initially I felt the checks and balances were more important to me than anything else, I argued with myself to try to get some answers, and I finally supported the bill on the basis of compromise. There was a great deal of compromise involved in this bill.

A short while ago, there was a great deal of debate in establishing a new part of government addressing a child welfare issue. This objective was to improve the services and I have assurances that this bill will do that. It will improve the services to that dedicated part of life that involves animal welfare.

I ask for your support on this bill. I think that everything that possibly could be done to address the concerns of the bill were addressed. I urge your support for the bill.

The SPEAKER: The Chair recognizes the Representative from Waldo, Representative Whitcomb.

Representative WHITCOMB: Mr. Speaker, Men and Women of the House: In answer to a point that was made by the good Representative from Benton relative to the letter I distributed from the veterinarian -- in speaking to that veterinarian yesterday, he indicated, based on his knowledge of the changes in the bill, his remaining adamant opposition to this legislation.

We hear in this legislation of government benevolence to the agricultural interests in the state, the concern expressed to me by a farmer recently who had heard about this legislation was, "Well, it looks like the golden rule applies here. He who has the gold rules." This piece of legislation is a clear choice between the common people who came before our committee opposing this bill and an individual who has a great deal of influence wanting this legislation to pass.

We are talking about changes to this bill that are superficial. The intent of the law, from its origin to its present day form, is to remove a function from a department that we have created who has a natural responsibility for the care of animals of whatever type in this state. Taxpayers pay veterinarians to be on the staff in that department, it only makes common sense to retain the control of animal welfare (whatever the animals are) housed within that department.

I am sure if we took a poll of state government, every bureau chief could list for you a complaint they have with their superior. That is the origin of this bill and its problems that it seeks to remedy.

I still submit to this body that we do not have cause to change a system that is working reasonably well. I urge rejection of the motion before us.

The SPEAKER: The Chair recognizes the Representative from Lewiston, Representative Aliberti.

Representative ALIBERTI: Mr. Speaker, Men and Women of the House: I kind of take issue with the statement from the legislator that just previously spoke, the Honorable Representative Whitcomb, in his reference to gold -- that bothers me. There may have been some kind of privilege exercised but it is no different than any privileges exercised by any other interested party that contacts you or me on a point of view which they have for legislation.

I would welcome anyone that has that philosophy of gold that accompanies it with a dedicated service of the person that he alluded to. This person has given so much of his life towards this cause. To be sure, he does have the other asset, but I am sure he earned that too. So, I resent the implications that it is a result of this gold that caused this great objection to this bill.

Remember, the Commissioner of Agriculture, that I have a great deal of respect for, convinced me that there was an acceptable compromise and to support the changed version of this bill. That was a moving factor besides my constituency.

The SPEAKER: The Chair recognizes the Representative from Easton, Representative Mahany.

Representative MAHANY: Mr. Speaker, Ladies and Gentlemen of the House: After all is said and done, this bill, as amended, represents an agreement, a compromise between the Department of Agriculture and the Animal Welfare Board. A lot of work went into it on the part of the committee and on the part of the Department of the Animal Welfare Board and it seems reasonable to accept what the two entities of primary concern accepted. So, I urge you to vote for this Majority Report.

The SPEAKER: The Chair recognizes the Representative from Hampden, Representative Richards.

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

I believe that Representative Parent and Representative Whitcomb have answered some of my questions but the one remaining question which I really don't have a definitive answer to is, a letter that was distributed, entitled Maine State Grange-Patrons of Husbandry -- I am interested to know whether they drafted this letter prior to seeing the amendment or with the amendment in mind?

The SPEAKER: Representative Richards of Hampden has posed a question through the Chair to any member who may respond if they so desire.

The Chair recognizes the Representative from Waldo, Representative Whitcomb.

Representative WHITCOMB: Mr. Speaker, Men and Women of the House: In response to the question, this letter was written yesterday after all the amendments had been added, obviously.

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

Representative BURKE: Mr. Speaker, Men and Women of the House: I had a constituent who requested that I pose a question through the Chair. Does this in fact create a new bureaucracy in creating this separate body?

The SPEAKER: Representative Burke of Vassalboro has posed a question through the Chair to any member who may respond.

The Chair recognizes the Representative from Leeds, Representative Nutting.

Representative NUTTING: Mr. Speaker, Ladies and Gentlemen of the House: Yes, I voted against this

bill and I remain against this bill today. This Majority Report does propose to create a new bureaucracy -- specially in this year and in times of budget crisis.

When the bill was presented to our committee, I asked the individual who was really pushing this bill the hardest, "Did he feel that the Board of Animal Welfare would have to pay more rent and more general expenses being located independent from the department?" He said, "Yes, they would have to have a slight increase in how much money they had to spend for rent and general expenses." I asked him where this money was going to come from and his answer was from the dog license money. Now ladies and gentlemen of the House, the reason I voted against this bill is because it is that dog license money and other animal license money that pays for the Humane Agents, both part-time and full-time, to go out into the field and to do their investigative work, to do the 6600 calls that they do a heck of a good job on.

I cannot see where we need to create a new bureaucracy that is going to take money away from funding the humane agents that are actually the nuts and bolts operation of the Animal Welfare Board.

The other reason I voted against it and, from the number of notes I got today, I need to explain this to everybody here. I guess I disagree with everybody who spoke prior to this point as far as why this bill is before us. This bill is before us because the Commissioner of Agriculture (last year) attempted to control the testimony that was going to be given before the Agriculture Committee by Animal Welfare Board members, something the commissioner is prohibited by law from doing. My point is, we need to enforce the law that is already on the books prohibiting any meddling before we need to get mad and run around and create a whole new level of bureaucracy. It is clearly stated that the Commissioner of Agriculture shall not try to influence any board member's testimony or any board vote. Yet, this was not adhered to. We even had the commissioner this year (this year, a year after it) and this is what upsets me the most, attempting to influence testimony given to our committee by a board member of the Board of Pesticide Control. So, one full year has gone by and they are still having to deal with this meddling where it is not supposed to be.

So here again, I will close by saying that, yes, there is a personality conflict involved here but I do not feel that the the precedent needs to be set, if there is a personality conflict, we go run and create a separate bureaucracy. What needs to be done is reeducation of what is allowed and what isn't allowed by the Commissioner of Agriculture.

The SPEAKER: The Chair recognizes the Representative from Hampden, Representative Richards.

Representative RICHARDS: Mr. Speaker, I would like to pose another question through the Chair.

I now know when the letter from the Maine State Grange was written but, again, in the second part of my question I asked with the amendment in mind -- as I read the response and I read the amendment, it appears to me that one of the problems they addressed in their letter in opposition to this has been taken care of in the amendment, so I am a bit confused as to their statement and whether that was written in mind of this amendment?

The SPEAKER: The Chair recognizes the Representative from Benton, Representative Parent.

Representative PARENT: Mr. Speaker, Members of the House: In answer to Representative Burke, this does not enlarge the bureaucracy. It does not create a new agency. Believe me, if it did, I would be

opposed to it. We have one Animal Welfare Board, we are going to have one Animal Welfare Board. It does not add any additional personnel. It simply allows the Animal Welfare Board to have more control over its budget and its personnel. That is the important point to remember about this bill.

The SPEAKER: The Chair recognizes the Representative from Washington, Representative Allen.

Representative ALLEN: Mr. Speaker, Men and Women of the House: As most of you know, I represent a small rural district and a bulk of my constituents are farmers, but my attention was not brought to this bill by my farmers, they did contact me, they didn't like it the way it was drafted and they don't like it now with this amendment.

My attention was brought to this bill by a humane agent in my district who has been very active. She really loves animals and she feels like this is her form of public service so she serves as an animal control officer for one of my towns. The objections that she brought to me are things that I thought were worthy of mentioning. They have been mentioned briefly by one of the opponents of the bill and that is the concern that this is being made into an independent board, that it is being removed from the auspices of a department and set up independently. That raised some concerns in my mind because the committee that I chaired for the past three years oversees numerous boards and it kind of frightens me to think that these boards might have a tiff in the department and decide that they want to go out on their own and become an independent agency. That is rather frightening when you consider that the movement in the past five years by this legislature is not to do that but quite the contrary, to bring some of those independent licensing boards under the umbrella of the Department of Professional and Financial Regulation.

This bill is contrary to what we have been doing legislatively for the past five or six years. So, I had some concerns about that when I read the first line of the bill. Then I worried further, I read the fiscal note and I am not a financial genius and I don't pretend to be one, I see that most of the figures in the fiscal note indicate a wash. That is fine. But the paragraph that bothered me the most was the paragraph that said, it should be understood that senseless legislation would result in the removal of the Animal Welfare Board from the Department of Agriculture, Food and Rural Resources, some additional costs could be incurred by the board for rent. I would suggest that those are going to be substantial costs if you are trying to rent a state office building here in the City of Augusta or the area, as the law requires that you must.

Those monies have got to come from somewhere and if they are not coming from the General Fund, where are they coming from? The only reasonable answer I can get as of right now is, they are going to come from dog licensing fees. You don't have to come from a small town and you don't need to have constituents who particularly like to complain about things to know that one of the taxes and one of the fees that people really dislike paying is their dog license fee. They figure it is their dog, it is on their property, it is on a leash, it is in their yard and why do they have to pay a fee to the town and the state in order to keep this dog? It makes absolutely no sense and it really irritates them. The one thing you can happily say to them is -- but it goes to the care of animals and they kind of say, well okay, six bucks, what the heck!

My concern now is that that money is going to go away from the care of animals and the supervision of

animals and into administrative costs. That doesn't make any sense to me. It certainly isn't going to make any sense to my constituents when I go home and tell them that we have done this. Worst of all, if those funds aren't adequate, we are going to have to raise dog license fees.

In a time of fiscal constraint, we are already going home and telling people, we are going to be cutting programs and that their property taxes are going to go up as a result of General Fund shortfalls -- it is not a real big issue to tell them their dog license fees are also going up but it really irritates me to have to do that. I feel like I am nickle-and-diming them to death as well as whamming them with the property tax.

I guess one of the early lessons I learned when I came here over seven years ago was, if it ain't broke, don't fix it. What is the problem here of reportedly -- I don't know -- there is some form of disagreement between this board and the commissioner and from what I have heard, it is a legitimate beef and it can be corrected. But let me tell you, this goes above and beyond what we need to do to correct this problem.

Another Representative suggested that we ought to accept this because it is a compromise between the board and the department. We don't need to rubber-stamp some compromise between the board and the department if it doesn't make any sense. This is going to cost more money. Forming an independent agency for the care and overlooking of animals is going to cost more money. Mark my word. You don't have to be some kind of financial analyst to be able to figure that out.

I should also mention that we are talking about welfare on the one hand of animals and we are setting up an independent agency to oversee the welfare of animals. We had prolonged debate on the floor of the House this morning on whether that is a good idea for the oversight of children. Here we are with the Majority Report ready to enact a compromise between a department and a board.

Secondly, to my knowledge, we would be establishing a group to oversee this welfare a law enforcement agency that has enforcement powers. All the other law enforcement agencies that I know in state government are underneath the umbrella of an oversight department.

This is a bad idea, it is not going to wham people in the pocketbooks back home, it is going to irritate them. They are not going to like it. There is absolutely no good reason to do it and I would urge this House to reject the Majority Report.

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

Representative PINES: Mr. Speaker, Ladies and Gentlemen of the House: I would like to clarify a statement made previously that the Commissioner of Agriculture interfered in policy in decision making. The interference was always in personnel. He asked for a copy of testimony that was being given. There was absolutely no interference whatsoever in that policy decision by the board.

The SPEAKER: The Chair recognizes the Representative from Fryeburg, Representative Hastings.

Representative HASTINGS: Mr. Speaker, Men and Women of the House: I recognize the sponsors of this bill and certainly those people who are backing this bill as well as those who oppose it. This bill did come up in my district because it is a rural district with many farms. There were many people that did oppose this piece of legislation, most of which now are placated by the amendment that has been crafted through a consensus process between the department

and the Animal Welfare Board. It seems to me that when you can get a consensus on something, it is the way to go. We found this morning that we couldn't get a consensus on something and obviously there was a division. When you have something that makes sense across party lines by responsible people, I suggest we support it.

Representative Martin of Eagle Lake requested a roll call vote.

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 Representative Tardy of Palmyra that the House accept the Majority "Ought to Pass" Report. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 174

YEA - Aliberti, Anderson, Anthony, Bell, Boutilier, Cahill, M.; Carroll, D.; Carter, Cashman, Chonko, Clark, H.; Cote, Crowley, DiPietro, Donald, Dutremble, L.; Erwin, P.; Farren, Foster, Gould, R. A.; Graham, Greenlaw, Gwadosky, Hale, Handy, Hastings, Hickey, Hogle, Hussey, Jacques, Jalbert, Joseph, Ketover, Lawrence, Lebowitz, Lisnik, Lord, Macomber, Mahany, Manning, Marston, Martin, H.; Mayo, McHenry, McPherson, McSweeney, Michaud, Mills, Moholland, Nadeau, G. G.; Nadeau, G. R.; Oliver, Paradis, E.; Paradis, J.; Paradis, P.; Parent, Paul, Pederson, Pineau, Pines, Plourde, Pouliot, Priest, Rand, Richard, Richards, Ridley, Rolde, Rotondi, Ruhlin, Rydell, Stevens, P.; Strout, D.; Swazey, Tammaro, Tardy, Telow, Townsend, Tracy, Walker, Webster, M.; The Speaker.

NAY - Adams, Aikman, Allen, Ault, Bailey, Begley, Brewer, Burke, Butland, Carroll, J.; Cathcart, Clark, M.; Coles, Constantine, Curran, Daggett, Dellert, Dexter, Dore, Farnsworth, Farnum, Foss, Garland, Hanley, Heesch, Hichborn, Higgins, Hutchins, Kilkelly, Libby, Look, Luther, MacBride, Marsano, Marsh, Merrill, Murphy, Norton, Nutting, O'Dea, O'Gara, Pendleton, Reed, Seavey, Simpson, Skoglund, Small, Smith, Stevens, A.; Stevenson, Strout, B.; Tupper, Wentworth, Whitcomb.

ABSENT - Conley, Duffy, Gurney, Hepburn, Holt, Jackson, LaPointe, Larrivee, McCormick, McGowan, McKeen, Melendy, Mitchell, Sheltra, Sherburne.

Yes, 82; No, 54; Absent, 15; Paired, 0; Excused, 0.

82 having voted in the affirmative and 54 in the negative with 15 being absent, the Majority "Ought to Pass" Report was accepted, the Bill read once.

Committee Amendment "A" (S-523) was read by the Clerk and adopted and the Bill assigned for Second Reading Friday, March 2, 1990.

TABLED AND TODAY ASSIGNED

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

An Act Regarding the Maine Technical College System (H.P. 660) (L.D. 902) (C. "A" H-735)

TABLED - February 27, 1990 by Representative GWADOSKY of Fairfield.

PENDING - Reconsideration (Returned by the Governor without his approval)

On motion of Representative Gwadosky of Fairfield, retabled pending Reconsideration (Returned

by the Governor without his approval) and specially assigned for Friday, March 2, 1990.

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

Bill "An Act to Protect Public Health by Prohibiting Smoking on Public Transportation Buses" (EMERGENCY) (H.P. 1462) (L.D. 2039) (C. "A" H-817) TABLED - February 27, 1990 by Representative GWADOSKY of Fairfield.

PENDING - Adoption of House Amendment "A" (H-802)

Representative Pederson of Bangor withdrew House Amendment "A" (H-802).

On motion of Representative Hale of Sanford, under suspension of the rules, the House reconsidered its action whereby Committee Amendment "A" (H-817) was adopted.

The same Representative offered House Amendment "A" (H-836) to Committee Amendment "A" (H-817) and moved its adoption.

House Amendment "A" (H-836) to Committee Amendment "A" (H-817) was read by the Clerk.

The SPEAKER: The Chair recognizes the Representative from Sanford, Representative Hale.

Representative HALE: Mr. Speaker, Ladies and Gentlemen of the House: What this amendment does is to act to protect the public health by requiring proper ventilation on public transportation buses, to establish a smoking section, and to have it clearly posted.

This should not have a fiscal impact on any bus in or out of the state of Maine entering or leaving. Proper maintenance of any motor vehicle assures the public using any type of transportation (motor coach type) that the proper air ventilation is there to take care of any detrimental fumes from a cigarette. I cannot assure that the detrimental fumes on the outside air are taken care of but that is all this amendment does.

I ask you to take into consideration the rights of people who smoke as well as the people who smoke have taken into consideration the non-smoking public rights.

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

Representative MANNING: Mr. Speaker, Men and Women of the House: I move indefinite postponement of House Amendment "A" to Committee Amendment "A."

I am sure that most of you people in the audience and the House have been waiting for this debate for three days now.

Quite frankly, when you look at this amendment, this will be a costly amendment to the people of the state of Maine who use the transportation mode of buses. There are a lot of people who need to use a bus back and forth to work and in their travels from one part of the state to the other and outside of the state.

I don't think the buses that I am familiar with are set up right now to take this into consideration. If this amendment passes, it is going to be costly to put into effect and who is going to pay for it? It certainly is going to be paid for by those people who can't afford to have a car but need to take a bus. I think that is the important issue right now. This will be an increased cost to them.

I don't think I really need to go into the fact of what smoking does on a bus and how it is going to really affect people but I just want to remind everybody that, starting last week, federal law went into effect which said if you were flying on a plane and it is within a six hour period of time, there will be absolutely no smoking. I think that should

apply to the buses, that the smoke would certainly go beyond where the non-smokers are and into the non-smoking section. So, I would hope that we would be able to kill this amendment and pass the original piece of legislation.

The SPEAKER: The Chair will order a vote. The pending question before the House is the motion of Representative Manning of Portland that House Amendment "A" (H-836) to Committee Amendment "A" (H-817) be indefinitely postponed. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

85 having voted in the affirmative and 29 in the negative, the motion did prevail.

Subsequently, Committee Amendment "A" (H-817) was adopted.

On motion of Representative Pederson of Bangor, tabled pending passage to be engrossed and specially assigned for Friday, March 2, 1990.

The Chair laid before the House the third 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 27, 1990 by Representative GWADOSKY of Fairfield.

PENDING - Passage to be Enacted.

Representative Gwadosky of Fairfield moved that L.D. 2216 be tabled Unassigned.

Representative Marsano of Belfast requested a roll call.

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 Representative Gwadosky of Fairfield that L.D. 2216 be tabled Unassigned. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 175

YEA - Adams, Aliberti, Allen, Anthony, Bell, Boutilier, Brewer, Burke, Cahill, M.; Carroll, D.; Carter, Cashman, Cathcart, Clark, H.; Clark, M.; Coles, Constantine, Cote, Crowley, Daggett, DiPietro, Dore, Dutremble, L.; Erwin, P.; Farnsworth, Graham, Gwadosky, Hale, Handy, Heeschen, Hichborn, Hickey, Heglund, Hussey, Jacques, Jalbert, Joseph, Ketover, Kilkelly, Lawrence, Lisnik, Luther, Macomber, Mahany, Manning, Marston, Martin, H.; Mayo, McHenry, McSweeney, Michaud, Mills, Moholland, Nadeau, G. G.; Nadeau, G. R.; O'Dea, Oliver, Paradis, J.; Paradis, P.; Paul, Pederson, Pineau, Plourde, Pouliot, Priest, Rand, Richard, Ridley, Rolde, Rotondi, Rydell, Simpson, Skoglund, Smith, Stevens, P.; Swazey, Tammaro, Tardy, Townsend, Tracy, Walker, The Speaker.

NAY - Aikman, Anderson, Ault, Bailey, Begley, Butland, Carroll, J.; Curran, Dellert, Dexter, Donald, Farnum, Farren, Foss, Foster, Garland, Greenlaw, Hanley, Hastings, Higgins, Hutchins, Lebowitz, Libby, Look, Lord, MacBride, Marsano, Marsh, McPherson, Merrill, Murphy, Norton, Nutting, O'Gara, Paradis, E.; Parent, Pendleton, Pines, Reed, Richards, Seavey, Small, Stevens, A.; Stevenson, Strout, B.; Strout, D.; Telow, Tupper, Webster, M.; Wentworth, Whitcomb.

ABSENT - Chonko, Conley, Duffy, Gould, R. A.; Gurney, Hepburn, Holt, Jackson, LaPointe, Larrivee, McCormick, McGowan, McKeen, Melendy, Mitchell, Ruhlin, Sheltra, Sherburne.

Yes, 82; No, 51; Absent, 18; Paired, 0; Excused, 0.

82 having voted in the affirmative and 51 in the negative with 18 being absent, L.D. 2216 was tabled Unassigned pending passage to be enacted.

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

Bill "An Act to Provide for Increased Penalties for Land Use Violations within Certain Resource Protection Zones" (H.P. 1329) (L.D. 1846) (C. "A" H-803)

TABLED - February 27, 1990 by Representative GWADOSKY of Fairfield.

PENDING - Passage to be Engrossed.

Subsequently, the Bill was passed to be engrossed as amended and sent up for concurrence.

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

Bill "An Act to Improve the Organizational Structure of the Fish and Wildlife Advisory Council" (EMERGENCY) (H.P. 1660) (L.D. 2300) (H. "A" H-818)

TABLED - February 27, 1990 by Representative JACQUES of Waterville.

PENDING - Passage to be Engrossed.

On motion of Representative Jacques of Waterville, retabled pending passage to be engrossed and specially assigned for Friday, March 2, 1990.

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

An Act Related to the State Board of Substance Abuse Counselors (EMERGENCY) (S.P. 699) (L.D. 1837) (C. "A" S-483 and S. "A" S-506)

TABLED - February 27, 1990 by Representative ALLEN of Washington.

PENDING - Passage to be Enacted.

On motion of Representative Allen of Washington, retabled pending passage to be enacted and specially assigned for Friday, March 2, 1990.

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

An Act to Allow State Employees and Teachers to Buy Back Time Spent in Certain Programs (S.P. 787) (L.D. 2033) (C. "A" S-496)

TABLED - February 27, 1990 by Representative HIGGINS of Scarborough.

PENDING - Passage to be Enacted.

Subsequently, 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 Concerning Patient Access to Medical Records (H.P. 1355) (L.D. 1872) (C "A" H-754)

TABLED - February 27, 1990 by Representative CLARK of Brunswick.

PENDING - Passage to be Enacted.

Subsequently, the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

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

PAPERS FROM THE SENATE

Resolve, Concerning Reauthorization of the \$15,000,000 Bond Issue for Sewage Treatment, Water Quality Improvement Facilities and Restoration and Cleanup of Oil Contaminated Ground Water and Well Water (S.P. 941) (L.D. 2379)

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 Amend the Fresh Start Provision of the Workers' Compensation Insurance Laws" (EMERGENCY) (S.P. 940) (L.D. 2378)

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

Was referred to the Committee on Banking and Insurance in concurrence.

Bill "An Act to Encourage Local and Regional Health Planning and Provide Research and Technical Assistance Related to Responsibilities of the Maine Health Policy Advisory Council" (S.P. 938) (L.D. 2373)

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

Was referred to the Committee on Human Resources in concurrence.

Bill "An Act Concerning the Use of Funds Raised by Organizations Operating Games of Chance or Beano" (EMERGENCY) (S.P. 937) (L.D. 2372)

Bill "An Act Regarding the Operation of Bottle Clubs" (EMERGENCY) (S.P. 942) (L.D. 2380)

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

Were referred to the Committee on Legal Affairs in concurrence.

Bill "An Act to Create the Columbia Falls Water District" (EMERGENCY) (S.P. 939) (L.D. 2374)

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

Was referred to the Committee on Utilities in concurrence.

(Off Record Remarks)

On motion of Representative Tupper of Orrington, Adjourned until Friday, March 2, 1990, at twelve o'clock noon in memory of Ethel M. Baker.

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

In Senate Chamber

Thursday

March 1, 1990

Senate called to Order by the President Pro Tem, Senator Thomas R. Perkins of Hancock.

Prayer by Reverend John Anguish of the Church of the Nazarene in Strong.

REVEREND JOHN ANGUISH: Precious Heavenly Father, thank You for the privilege to enter into Your presence. We acknowledge our unworthiness. Only Your grace and mercy give to us such a blessing. We lift our hearts to You in praise.

Heavenly Father, You gave to us the institution of government to help people to live in peace and harmony. We are imperfect people attempting to be obedient to Your divine directive. Father, we fall so short of Your ideal. Help each of us to strive toward that goal and to do our very best.

I pray for these men and women that You have raised up to assume this awesome responsibility. They will make decisions that will affect the lives of the people of this state both now and in the years to come. May their minds and hearts be open to Your leading.

As this Senate begins their labors for today, I pray, O God, that You will bless them with wisdom to consider every point of view, courage to stand up for their own convictions, courage to be honest with themselves and assurance that what is done is good for the whole people of Maine.

Heavenly Father, give these people a good day with You. I pray in the matchless name of Jesus Christ, my Lord and Saviour. Amen.

Off Record Remarks

Reading of the Journal of Tuesday, February 27, 1990.

COMMUNICATIONS

The Following Communication: S.P. 943

114TH MAINE LEGISLATURE

February 27, 1990

Senator Joseph C. Brannigan

Rep. James Mitchell

Chairpersons

Joint Standing Committee on Marine Resources

114th Legislature

Augusta, Maine 04333

Dear Chairs:

Please be advised that Governor John R. McKernan, Jr. has withdrawn his nomination of Lawrence P. Greenlaw, Jr. of Stonington for appointment as a member of the Marine Research Board.

Pursuant to Public Law 1989, Chapter 529, this nomination is currently pending before the Joint Standing Committee on Marine Resources.

Sincerely,

S/Charles P. Pray

President of the Senate

S/John L. Martin

Speaker of the House

Which was READ and REFERRED To the Committee on MARINE RESOURCES.

Sent down for concurrence.