

MAINE STATE LEGISLATURE

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



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

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

VOLUME IV

FIRST SPECIAL SESSION
August 21, 1989 to August 22, 1989
Index

FIRST CONFIRMATION SESSION
October 30, 1989
Index

SECOND CONFIRMATION SESSION
December 12, 1989
Index

SECOND REGULAR SESSION
January 3, 1990 to March 19, 1990

to Provide Assistance to Counties in Developing Community Corrections Programs"

S.P. 277 L.D. 723

Tabled - February 27, 1990, by Senator CLARK of Cumberland.

Pending - ADOPTION of Committee Amendment "B" (S-519)

(In Senate, February 27, 1990, the OUGHT TO PASS AS AMENDED Report READ and ACCEPTED. The Bill READ ONCE. Committee Amendment "B" (S-519) READ.)

On motion by Senator CLARK of Cumberland, Tabled 1 Legislative Day, pending ADOPTION of Committee Amendment "B" (S-519).

Off Record Remarks

Senator GAUVREAU of Androscoggin was granted unanimous consent to address the Senate off the Record.

On motion by Senator CLARK of Cumberland, ADJOURNED until Friday, March 2, 1990, at 12:00 in the afternoon.

ONE HUNDRED AND FOURTEENTH MAINE LEGISLATURE
SECOND REGULAR SESSION
25th Legislative Day
Friday, March 2, 1990

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

Prayer by Reverend James Blanchette, Capehart Community Church, Bangor.

The Journal of Thursday, March 1, 1990, was read and approved.

Quorum call was held.

PAPERS FROM THE SENATE

Unanimous Leave to Withdraw

Report of the Committee on Energy and Natural Resources reporting "Leave to Withdraw" on Resolve, to Create the Maine Commission on Environmental Policy (S.P. 920) (L.D. 2326)

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

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 has withdrawn his nomination of Lawrence P. Greenlaw, Jr.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

Came from the Senate, Read and Referred to the Committee on Marine Resources.

Was Read and Referred to the Committee on Marine Resources in concurrence.

The following Communication:

ADVISORY COMMISSION ON RADIOACTIVE WASTE

STATE HOUSE STATION #120

AUGUSTA, MAINE 04333

March 1, 1990

Hon. John Martin

Speaker of the House

State House Station 2

Augusta, Maine 04333

Dear Speaker Martin:

The accompanying document is the Advisory Commission on Radioactive Waste's annual report for the calendar year 1989. This report is submitted to you in accordance with 38 M.R.S.A. 1453(4), which requires the Advisory Commission to "report to the Governor and the Legislature annually, during the regular legislative session and at other times as necessary."

The Advisory Commission's office is on the ground floor of the Maine State Retirement Building at the corner of Sewall and Capitol streets. The office

telephone number is 289-3059. If no one answers (the staff is mostly part-time), our toll-free telephone number, 1-800-453-4013, is connected to a 24-hour answering machine. You are cordially invited to call whenever you or your constituents need information about radioactive waste management.

Sincerely,
S/Rep. James Mitchell
Chair
Advisory Commission on
Radioactive Waste

Was read and with accompanying report ordered placed on file.

The following Communication:
STATE OF MAINE
DEPARTMENT OF AUDIT
STATE HOUSE STATION 66
AUGUSTA, MAINE 04333

To the President of the Senate and the Speaker of the House of Representatives
We have compiled the accompanying balance sheet of the Unorganized Territory Tax District as of June 30, 1988, and the related statements of revenues, expenditures and changes in fund balance and the supplementary information for the fiscal year then ended, in accordance with standards established by the American Institute of Certified Public Accountants.

As described in Note 1, the financial statements of the Unorganized Territory Tax District are intended to present the financial position and results of operations and changes in fund balance of only that portion of the funds of the State of Maine that is attributable to the transactions of the Unorganized Territory Tax District.

A compilation is limited to presenting in the form of financial statements information that is the representation of management. We have not audited or reviewed the accompanying financial statements and supplementary information and, accordingly, do not express an opinion or any form of assurance on them. We are not independent with respect to the Unorganized Territory Tax District.

S/Rodney L. Scribner, CPA
State Auditor

Was read and with accompanying report ordered placed on file.

**PETITIONS, BILLS AND RESOLVES
REQUIRING REFERENCE**

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

Energy and Natural Resources

Bill "An Act to Clarify the Process by Which the Board of Environmental Protection Regulates the Discharge of Toxic Substances to the State's Surface Waters" (H.P. 1735) (L.D. 2394) (Presented by Representative JACQUES of Waterville) (Cosponsored by Representative MICHAUD of East Millinocket, Representative McGOWAN of Canaan and Senator KANY of Kennebec) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27.)

Bill "An Act Concerning Private Wells Contaminated by Hazardous Substances" (EMERGENCY) (H.P. 1736) (L.D. 2397) (Presented by Representative LORD of Waterboro) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27.)

Ordered Printed.

Sent up for Concurrence.

Legal Affairs

Bill "An Act Concerning the Carrying of Firearms and Firearms Safety Programs" (H.P. 1737) (L.D. 2398) (Presented by Speaker MARTIN of Eagle Lake) (Cosponsored by Senator BRANNIGAN of Cumberland, Senator DILLENBACK of Cumberland and Representative MARSH of West Gardiner) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27.)

Ordered Printed.

Sent up for Concurrence.

Utilities

Bill "An Act to Amend the Charter of the Van Buren Water District" (EMERGENCY) (H.P. 1734) (L.D. 2393) (Presented by Representative MARTIN of Van Buren) (Cosponsored by Speaker MARTIN of Eagle Lake and Senator THERIAULT of Aroostook) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27.)

Ordered Printed.

Sent up for Concurrence.

ORDERS

On motion of Representative KILKELLY of Wiscasset, the following Joint Resolution: (H.P. 1695) (Cosponsors: Representative MICHAUD of East Millinocket, Senator KANY of Kennebec and Senator WEYMOUTH of Kennebec)

JOINT RESOLUTION IN SUPPORT OF EARTH DAY,
APRIL 22, 1990

WHEREAS, the splendid Earth, our home, is small;

and

WHEREAS, our Mother Earth needs thoughtful care;

and

WHEREAS, the citizens of Maine are mindful of the fragile nature of our Earth; and

WHEREAS, it is clear that Maine, whose motto is "Dirigo," must lead in supporting the belief that our Earth needs constant vigilance; and

WHEREAS, the citizens of Maine believe that our Creator endowed humans with the ability to solve problems of any magnitude; and

WHEREAS, the citizens of Maine appreciate the serene beauty that surrounds them; now, therefore, be it

RESOLVED: That we, the Members of the One Hundred and Fourteenth Legislature, now assembled in the Second Regular Session, do hereby pledge on behalf of the citizens of the Great State of Maine, for whom we speak, to support Earth Day, April 22, 1990, and to honor the cause of preservation, conservation and celebration of our beautiful, bountiful Earth.

Was read.

The SPEAKER: The Chair recognizes the Representative from Wiscasset, Representative Kilkelly.

Representative KILKELLY: Mr. Speaker, Men and Women of the House: This year on April 22nd, we will be celebrating Earth Day. The Joint Resolution before you was written by the students of the Whitefield Elementary School and Junior High program. These students are involved in one of the innovative grant programs in which they are going to be studying the environment, economy, geography, history, culture and governance of Maine for six months.

We have been concerned about the aspirations of students and this program is allowing them to have a

better sense of where they can go by understanding where they are beginning. I applaud those students for their active participation in this and look forward to April 22nd when they will be doing more involved with celebrations of the environment. Thank you.

Subsequently, the Joint Resolution was adopted and sent up for concurrence.

By unanimous consent, all matters requiring reference were ordered sent forthwith to the Senate.

REPORTS OF COMMITTEES

Unanimous Ought Not to Pass

Representative TARDY from the Committee on Taxation on RESOLUTION, Proposing an Amendment to the Constitution of Maine to Allow Current Use Valuation for Children's Camps (H.P. 1673) (L.D. 2315) reporting "Ought Not to Pass"

Representative JOSEPH from the Committee on State and Local Government on Bill "An Act to Unencumber Funds for the Piscataquis County Jail" (H.P. 1435) (L.D. 2005) reporting "Ought Not to Pass"

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

Unanimous Leave to Withdraw

Representative PINEAU from the Committee on Labor on Bill "An Act to Establish Uniform Overtime Standards for Public Employees" (H.P. 1368) (L.D. 1885) reporting "Leave to Withdraw"

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

CONSENT CALENDAR

First Day

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

(S.P. 826) (L.D. 2134) Bill "An Act to Change the Name of the Committee for the Interdepartmental Coordination of Services to Children and Families" Committee on Human Resources reporting "Ought to Pass"

(S.P. 833) (L.D. 2141) Bill "An Act to Amend Spinal Screening Laws" Committee on Human Resources reporting "Ought to Pass"

(S.P. 720) (L.D. 1895) Bill "An Act to Expand the Borrowing Power of the Ellsworth School District" Committee on Education reporting "Ought to Pass" as amended by Committee Amendment "A" (S-531)

(S.P. 723) (L.D. 1898) Bill "An Act Related to Smoking in Facilities for the Mentally Ill" (EMERGENCY) Committee on Human Resources reporting "Ought to Pass" as amended by Committee Amendment "A" (S-532)

(S.P. 887) (L.D. 2263) Bill "An Act Related to the Provision of Care for Adults with Long-term Needs" Committee on Human Resources reporting "Ought to Pass" as amended by Committee Amendment "A" (S-533)

(H.P. 1620) (L.D. 2242) Bill "An Act to Implement Changes for the Deferred Collection of Homestead Property Taxes" (EMERGENCY) Committee on Taxation reporting "Ought to Pass"

(H.P. 1457) (L.D. 2031) Bill "An Act to Establish the Wells Reserve Management Authority" Committee on Energy and Natural Resources reporting "Ought to Pass" as amended by Committee Amendment "A" (H-853)

(H.P. 1325) (L.D. 1827) Bill "An Act Regarding Excepted Employees of the Judicial Department" (EMERGENCY) Committee on Appropriations and Financial Affairs reporting "Ought to Pass" as amended by Committee Amendment "A" (H-854)

There being no objections, the above items were ordered to appear on the Consent Calendar of Monday, March 5, 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. 738) (L.D. 1942) Bill "An Act to Clarify the Definition of Employer Under the Workers' Compensation Laws" (C. "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" (C. "A" S-527)

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.

(H.P. 1421) (L.D. 1973) Bill "An Act to Protect Consumer Privacy by Regulating Automated Telephone Solicitations" (C. "A" H-835)

On motion of Representative Tammaro of Baileyville, was removed from the Consent Calendar, Second Day.

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

Committee Amendment "A" (H-835) was read by the Clerk and adopted and the Bill assigned for second reading Monday, March 5, 1990.

(H.P. 1626) (L.D. 2248) Bill "An Act to Discourage Public Competition with Private Enterprise" (C. "A" H-832)

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

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

Committee Amendment "A" (H-832) was read by the Clerk.

Representative Conley of Portland offered House Amendment "A" (H-856) to Committee Amendment "A" (H-832) and moved its adoption.

House Amendment "A" (H-856) to Committee Amendment "A" (H-832) 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 Monday, March 5, 1990.

(H.P. 1388) (L.D. 1918) Bill "An Act to Amend the Laws Affecting the Operations of the Bureau of Corporations, Elections and Commissions" (C. "A" H-833)

(H.P. 1250) (L.D. 1748) Bill "An Act to Amend the Procedure for Approval of the Lincoln County Budget"

(H.P. 1535) (L.D. 2120) Bill "An Act to Amend the Operating-under-the-influence Laws" (C. "A" H-834)

(H.P. 1417) (L.D. 1969) Resolve, to Require a Comprehensive Study to Equalize Maine State Retired Teachers Health Insurance Premium Payments (EMERGENCY) (C. "A" H-839)

(H.P. 1507) (L.D. 2087) Bill "An Act to Enforce Reasonable Use of Sirens on Emergency Vehicles" (C. "A" H-837)

(H.P. 1504) (L.D. 2084) Bill "An Act to Strengthen Drug Abuse Treatment for Children of School Age" (C. "A" H-840)

(H.P. 1617) (L.D. 2239) Bill "An Act to Provide Greater Compliance with General Assistance Laws" (C. "A" H-841)

(H.P. 1610) (L.D. 2226) Bill "An Act to Amend the Laws Governing the Military and Naval Children's Home" (C. "A" H-842)

(H.P. 1357) (L.D. 1874) Bill "An Act to Correct the Subdivision Laws" (C. "A" H-843)

(H.P. 1654) (L.D. 2290) Bill "An Act to Aid in the Enforcement of Crimes Relating to Forest Fire Control" (C. "A" H-844)

(H.P. 1423) (L.D. 1975) Bill "An Act to Protect Consumers Against Unsolicited Telefacsimile Transmissions" (C. "A" H-845)

(H.P. 1453) (L.D. 2027) Bill "An Act Concerning Trafficking in Prison Contraband" (C. "A" H-846)

(H.P. 1001) (L.D. 1390) Bill "An Act to Ensure that Child Support Payments Benefit the Family" (C. "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" (C. "A" H-848)

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.

**PASSED TO BE ENGROSSED
As Amended**

Bill "An Act to Improve Credit Reporting" (S.P. 767) (L.D. 1992) (C. "A" S-529)

Bill "An Act to Establish the Department of Child and Family Services" (EMERGENCY) (H.P. 1199) (L.D. 1666) (C. "C" H-820)

Bill "An Act to Further Facilitate the Conversion of the Records of the Maine State Retirement System to an Automated System" (H.P. 1383) (L.D. 1914) (H. "A" H-850 to C. "A" H-838)

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" (H.P. 744) (L.D. 1027) (C. "B" H-829)

Were reported by the Committee on Bills in the Second Reading, read the second time, the Senate Paper was Passed to be Engrossed as Amended in concurrence and the House Papers were Passed to be Engrossed as Amended and sent up for concurrence.

**PASSED TO BE ENGROSSED
As Amended**

Bill "An Act to Ensure the Independence of the Animal Welfare Board" (S.P. 691) (L.D. 1830) (C. "A" S-523)

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

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

Representative WHITCOMB: Mr. Speaker, Men and Women of the House: I request the yeas and nays on this bill.

Several individuals came up to me after the lengthy debate yesterday and asked if there was a bit of a conflict of interest in this bill and asked me if I beat my cows. I would like to assure this body and on the record that I do not do that. In fact, on our farm and many other farms around the state, the animals which are entrusted to our care, it could be

argued, live better than the people who are foolish enough to spend their lives hauling feed to them.

I am objecting to this piece of legislation for several reasons. Animal care does not improve because of the passage of this piece of legislation. I simply oppose unnecessary tinkering with a program that works exceptionally well.

I fully understand that ten years from now, someone will have the brilliant idea of recombining these two separate animal welfare programs and save the state some money by consolidating state government. I could look the other way and allow another unneeded law go through, if it were not for some of the circumstances that surround the introduction of this piece of legislation.

I, and I think many of you, when we ran for office, pledged to our people that we would represent the interests of our people. To me, this bill is symbolic of some of the worst suspicions of state government. Maine people suspect that, if you have the money to hire the most expensive lobbyist of both political parties and if you are a major political contributor to both political parties, you can get your way in state government. To me, that is what this bill embodies.

It bothers me that we sent forth a piece of legislation out of this body that has the pretext of being a "bought and paid for" government. There are many people who support it and there are some people who have supported this legislation, who in their long and illustrious career in state government, have never before supported a piece of legislation dealing with animal welfare. It bothers me that knowledgeable people on this subject have somehow come up muzzled on this issue even though I know they are opposed to this matter.

As I said yesterday, this issue bothers me greatly, not from the concern about animal welfare, I think you can argue both sides on that, but concern about the state government process. We have all made pledges to our people to uphold their interests and when the people of Maine who are just as much concerned about the welfare of animals, people from humane societies come before a legislative body and say that they are concerned about this issue, they are concerned about one individual being able to influence government too much, I think it is time for us to stand up and say no.

When Harold Pachios caught me out in the hall yesterday, he said, "Boy, why are you fighting this so much?" My response to Mr. Pachios is simply one word, principle.

I urge you to vote against this bill.

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.

The Chair recognizes the Representative from Augusta, Representative Paradis.

Representative PARADIS: Mr. Speaker, I request permission from the Chair to pair my vote with the Representative from Hallowell, Representative Farnsworth. If Representative Farnsworth were here and voting, she would be voting nay and I would be voting yea.

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

Representative MAYO: Mr. Speaker, pursuant to House Rule 7, I request permission to pair my vote with Representative Cashman of Old Town. If he were present and voting, he would be voting nay and I would be voting yea.

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. 176

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

NAY - Adams, Aikman, Allen, Ault, Bailey, Begley, Brewer, Burke, Butland, Cathcart, Clark, M.; Coles, Curran, Daggett, Dellert, Farnum, Foss, Garland, Hanley, Heeschen, Hepburn, Hichborn, Higgins, Hoglund, Holt, Hutchins, Kilkelly, Libby, Look, MacBride, Marsano, Marsh, Merrill, Mills, Murphy, Norton, O'Dea, O'Gara, Pendleton, Reed, Rotondi, Seavey, Simpson, Small, Smith, Stevens, A.; Stevenson, Strout, B.; Tupper, Wentworth, Whitcomb.

ABSENT - Dore, Jackson, LaPointe, McCormick, McGowan, Mitchell, Nutting, Plourde, Sherburne.

PAIRED - Cashman, Farnsworth, Mayo, Paradis, P.
Yes, 87; No, 51; Absent, 9; Paired, 4; Excused, 0.

87 having voted in the affirmative, 51 in the negative, with 9 being absent and 4 having paired, L.D. 1830 was Passed to be Engrossed as Amended in concurrence.

PASSED TO BE ENACTED
Emergency Measure

An Act Relating to the Town of York School District (S.P. 703) (L.D. 1841) (C. "A" S-514)

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. 121 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 Clarify the Law Governing the Aroostook County Finance Committee (H.P. 1625) (L.D. 2247)

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

FINALLY PASSED
Emergency Measure

Resolve, to Approve the Kennebec County Commissioners' Nominations to the Kennebec County Budget Committee (H.P. 1702) (L.D. 2351)

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. 129 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 Clarify Costs Associated with the Purchase of Land by School Administrative Units (S.P. 181) (L.D. 338) (C. "B" S-509)

An Act to Amend the Definition of Dealer Under the Used Car Information Laws (S.P. 717) (L.D. 1892) (H. "A" H-824 to C. "A" S-505)

An Act Concerning the Sale of Land Owned by Consumer-owned Water Utilities (S.P. 757) (L.D. 1982) (C. "A" S-507)

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 Prohibit Motor Vehicle Insurers from Adjusting Personal Insurance Rates of Law Enforcement Officers (S.P. 843) (L.D. 2162)

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 Monday, March 5, 1990.

ENACTOR

Tabled and Assigned

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

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 Monday, March 5, 1990.

PASSED TO BE ENACTED

An Act Regarding the Availability of Insurance Loss Information (H.P. 1318) (L.D. 1820) (C. "A" H-800)

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

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

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

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

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

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

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

An Act Concerning Operation of All-terrain Vehicles (H.P. 1519) (L.D. 2104) (C. "A" H-792)
 An Act to Amend the Law Concerning the Hunting of Coyote (H.P. 1630) (L.D. 2257)

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 Revise the Medical Examiner Act (H.P. 905) (L.D. 1262) (C. "B" H-788)

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 Monday, March 5, 1990.

ORDERS OF THE DAY

TABLED AND TODAY ASSIGNED

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

Bill "An Act Concerning the Travel Information Advisory Council" (H.P. 1512) (L.D. 2092)

- In House, Passed to be Engrossed as amended by Committee Amendment "A" (H-761) as amended by House Amendment "B" (H-805) thereto on February 23, 1990.

- In Senate, Passed to be Engrossed as amended by Committee Amendment "A" (H-761) in non-concurrence.

- In House, House Receded on March 1, 1990.

TABLED - March 1, 1990 by Representative GWADOSKY of Fairfield.

PENDING - Further Action.
 On motion of Representative Gwadosky of Fairfield, House Amendment "B" (H-805) to Committee Amendment "A" (H-761) was indefinitely postponed.

The same Representative offered House Amendment "C" (H-858) to Committee Amendment "A" (H-761) and moved its adoption.

House Amendment "C" (H-858) to Committee Amendment "A" (H-761) was read by the Clerk.

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

Representative GWADOSKY: Mr. Speaker, Ladies and Gentlemen of the House: This is clearly not a bill that will go down in history as one of the most important items we dealt with this session. It is however a bill that I believe could have some impact.

A couple of days ago, this House accepted an amendment that we offered which dealt with the Maine Travel Information Advisory Council. The intention of that amendment was to add two legislators as permanent appointees to that Council. The rationale for that at the time we discussed it was that this particular council was made up of a variety of representatives from lodging, restaurants, garden clubs, agriculture, recreation, environmental organizations and non-profit hospitals. Over the years, we have seen a proliferation of requests from constituents on how the various billboard and official business directional laws are implemented. I have received them, you have received them, and we thought it might be a good policy over the long run to include a couple of legislators on that particular advisory council so they could give the input of their constituents. That is exactly what this amendment would do and I would encourage your support.

Subsequently, House Amendment "C" (H-858) to Committee Amendment "A" (H-761) was adopted.

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

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

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

HOUSE REPORT - "Ought to Pass" - Committee on Human Resources on Bill "An Act to Provide Access to Preventive Dental Care Services to Adults Eligible for Medicaid" (H.P. 1398) (L.D. 1934) (C. "A" H-831) TABLED - March 1, 1990 by Representative MANNING of Portland.

PENDING - Acceptance of the Committee Report.

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

Committee Amendment "A" (H-831) was read by the Clerk and adopted and the Bill assigned for second reading Monday, March 5, 1990.

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

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

TABLED - March 1, 1990 by Representative CLARK of Millinocket.

PENDING - Passage to be Enacted.

On motion of Representative Jacques of Waterville, under suspension of the rules, the House reconsidered its action whereby L.D. 2161 was passed to be engrossed.

On further motion of the same Representative, under suspension of the rules, the House reconsidered its action whereby Committee Amendment "A" (S-501) was adopted.

The same Representative offered House Amendment "A" (H-857) to Committee Amendment "A" (S-501) and moved its adoption.

House Amendment "A" (H-857) to Committee Amendment "A" (S-501) was read by the Clerk and adopted.

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

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

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

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

TABLED - March 1, 1990 by Representative GWADOSKY of Fairfield.

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 fifth tabled and today assigned matter:

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

TABLED - March 1, 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 Monday, March 5, 1990.

The Chair laid before the House the sixth 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 - March 1, 1990 by Representative PEDERSON of Bangor.

PENDING - Passage to be Engrossed.

Representative Pederson of Bangor offered House Amendment "A" (H-802) and moved its adoption.

House Amendment "A" (H-802) was read by the Clerk.

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

Representative MANNING: Mr. Speaker, Ladies and Gentlemen of the House: I move the indefinite postponement of House Amendment "A."

This amendment would have an exception to the bill dealing with smoking on buses to allow the majority of people to vote if they chartered a bus. Many of you, and myself included, have been on chartered buses before and really don't know what is going to happen until we get there. You get there, pay your fee, whether it is going to a Red Sox game or going to Boston for the weekend or something like that, you never really know who is going to be there until you get there. With this exception, you would take a vote. If there are 40 passengers on the bus and 21 decide that they want to smoke, then the rest of the 19 people would have to suffer whether they are going to Portland, Boston, Bangor or whatever. The Committee talked about this and really felt that this was not the way to go, that we should have no smoking at all on these buses.

Just before we came into session today, I had an interesting conversation with the children and the chaperon who brought them up from St. Joseph's. One of the members, Eileen Dawson, one of the Pages here today happened to be one of the young softball players in the Portland area that went all the way to the regionals and the regionals happened to be in New York. Mary Dawson, her mother, was telling me that the children were all complaining -- now this was a chartered bus -- the children were all complaining because their parents were smoking.

If this thing goes into effect, can you imagine the children telling their parents not to smoke and voting against their parents? I don't think that would work. I think there would be some intimidation.

I don't think this is needed. Most of us, as I said before, have taken those chartered buses and they stop quite frequently. Most of us who have gone on the Institute on the Economy bus tours -- the longest one that I can remember was going from Calais to Presque Isle which lasted approximately two and a half hours -- most of the time, there is available time between stops to get out and have a cigarette.

The Committee really didn't think this was needed. I would hope you would go against this amendment.

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

Representative HALE: Mr. Speaker, Ladies and Gentlemen of the House: I would hope you would vote against the pending motion on the floor. This is for chartered buses, it is for organizational outings. I am sure there could be adverse conditions as the good Representative from Portland has stated. We could have 21 of an organization going to some outing and they could say, no, we prefer you do not smoke. That

would be the decision but that should be left up to the people who chartered the buses.

As far as some of the chartered buses that go through the state that we have been on as legislators, there have been very few complaints, one or two. This was before the no-smoking was really as dominant because we have more closet smokers now since this went into effect. People didn't mind if you smoked occasionally and they said nothing. I think organizations, even if it is the trips up north from Calais to Presque Isle or whichever way, that the people that prefer not to be exposed to it, the people that don't smoke but don't have any objections, they can all go on one bus, the other ones can go on the other bus, like Bus A and Bus B. I do hope you vote against the pending motion on the floor.

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

Representative CLARK: Mr. Speaker, Ladies and Gentlemen of the House: I think there is another issue here and that is not just who decides on any particular day on any particular bus trip whether there will be smoking or non-smoking in the bus. The other issue for me in supporting the indefinite postponement is the fact that, if I have chartered a bus or my group has chartered a bus for Monday morning, I have no way of knowing what group has chartered the bus over the weekend. Most of our bus companies do not have the facilities to adequately clean and air the buses for the next day's use after they have been used, so that my group on Monday runs the risk that 38 people smoked on that bus the day before. Even though my group has voted to be a non-smoking group, we are still having to deal with the stale cigarette smoke in the bus. It makes sense to me to say that buses, like airplanes, are no longer an appropriate place to smoke.

Representative Pederson of Bangor requested a roll call vote.

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

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

If we have a bus such as a community bus that leaves from a county and it picks up people along the way, do they have to have a vote every time a new passenger is added or discharged?

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

The Chair recognizes the Representative from Portland, Representative Manning.

Representative MANNING: Mr. Speaker, Ladies and Gentlemen of the House: That is a good question.

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

Representative CONLEY: Mr. Speaker, I would like to pose a question through the Chair to any member who may answer.

Ladies and Gentlemen of the House: Following up on the good Representative from Fryeburg's question, what happens when the bus gets to the state line in New Hampshire and then goes across the state line, do we get to take a vote then?

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

The Chair recognizes the Representative from South Portland, Representative Macomber.

Representative MACOMBER: Mr. Speaker, may I pose a question? My question is, when you go out and rent a piece of equipment, whether it is a bus or anything that it happens to be, do we have the right to place

restrictions on the use of that piece of equipment by whoever rents it?

The SPEAKER: Representative Macomber of South Portland has posed an additional question through the Chair to any member who may respond if they so desire.

The Chair recognizes the Representative from Brunswick, Representative Clark.

Representative CLARK: Mr. Speaker, I am not prepared to answer the latter question but I am prepared to answer the question by Representative Conley of Portland. It is my understanding that currently the states of New Hampshire and Massachusetts have laws prohibiting smoking on buses within their borders.

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

Representative CROWLEY: Mr. Speaker, Ladies and Gentlemen of the House: I don't dare to try to answer any of those questions and I have voted for every smoke-free bill that has come down the pike at my own peril when I get home in the evening.

I seriously question whether we can write a law to govern the conduct of private parties on a private bus. I am not a lawyer but I doubt that this would be a constitutional bill.

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

Representative ANTHONY: Mr. Speaker, Ladies and Gentlemen of the House: While I am not a constitutional lawyer and I don't think I will try to answer that but I do believe that we can set appropriate public health regulations. I would think it would be constitutional but I would caution that I am not a constitutional expert.

However, I am concerned that we in our society have always looked out for the rights of the minority as well as the majority. I am concerned about the bus where the majority wants to smoke but among the minority there may be a couple of people with serious health problems, emphysema or whatever, and it seems to me that it is the concern of the minority that led the FAA to prohibit all smoking on all airplanes regardless of how many people wished to smoke and asked that smoking be terminated for a given length of time. I am hopeful that this House will also respect the legitimate health concerns of the minority members of our society.

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

Representative DIPIETRO: Mr. Speaker, Ladies and Gentlemen of the House: I am a cigar smoker, have been for 25 years. Last fall, we decided to go down and watch the Patriots play football. At that time, we had 40 passengers and all 40 passengers smoked. What do you do when that happens, Representative Manning?

The SPEAKER: Representative DiPietro of South Portland has posed a question through the Chair to Representative Manning of Portland who may respond if he so desires.

The Chair recognizes that Representative.

Representative MANNING: Mr. Speaker, Ladies and Gentlemen of the House: I would like to go back to what Representative Clark has just indicated, that on a Sunday the Representative from South Portland (a good friend of mine) and his 40 friends went down and smoked. A lot of them probably smoked a cigar. The problem is, there are people out there who, quite frankly, get very affected by the smell of that cigar smoke that is still on that bus on Monday and Tuesday. One of the key things in that argument is

the fact that they have no time to clean that bus out or air that bus out.

We talked about whether it is constitutional or not. If it wasn't constitutional, the federal government would not have done it dealing with airplanes. The airplanes, as we all know, go from one state to another state to another state. This is no different than what the federal government is doing (right now) dealing with airplanes with anything under six hours.

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

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

Representative Conley brought up a good question and I would like to see if someone has the answer, do we have any right to regulate interstate transportation and what goes on in that bus when it leaves the state of Maine?

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

The Chair recognizes the Representative from Portland, Representative Manning.

Representative MANNING: Mr. Speaker, Ladies and Gentlemen of the House: As long as it is within the state of Maine, we have the right to do that.

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

Representative HOGLUND: Mr. Speaker, Ladies and Gentlemen of the House: That young woman is my constituent, she is sitting down here as a Page today. I think the thing Representative Clark was trying to say about the next day and people getting sick happened to a girl that was on that bus. When they came home from New York and the people would not stop smoking, it cost that mother \$125 plus medicine for three or four days of her illness because the cigarette smoke got into her system and puffed her eyes up and her lungs. So, I think the kind of thing that you have to think about is the people that do have problems that don't smoke and the things you are going to do to the people.

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 Manning of Portland that House Amendment "A" (H-802) be indefinitely postponed.

The Chair recognizes the Representative from Thomaston, Representative Mayo.

Representative MAYO: Mr. Speaker, pursuant to House Rule 7, I request permission to pair my vote with Representative Cashman of Old Town. If he were present and voting, he would be voting nay and I would be voting yea.

The SPEAKER: The pending question before the House is the motion of Representative Manning of Portland that House Amendment "A" (H-802) be indefinitely postponed. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 177

YE A - Adams, Aikman, Aliberti, Allen, Anderson, Anthony, Ault, Bailey, Bell, Boutillier, Brewer, Burke, Butland, Cahill, M.; Carroll, D.; Carter, Cathcart, Chonko, Clark, H.; Clark, M.; Colles, Constantine, Curran, Daggett, Dexter, Donald, Dore,

Dutremble, L.; Farnum, Foss, Foster, Garland, Graham, Greenlaw, Gwadosky, Handy, Hanley, Hastings, Heesch, Hichborn, Hickey, Higgins, Hoglund, Holt, Hutchins, Joseph, Ketover, Larrivee, Lawrence, Lebowitz, Libby, Lisnik, Look, Lord, Luther, MacBride, Mahany, Manning, Marsano, Marsh, Marston, McPherson, Melendy, Merrill, Mills, Nadeau, G. R.; Nutting, O'Dea, Oliver, Paradis, E.; Paradis, P.; Parent, Pendleton, Pines, Priest, Reed, Richard, Richards, Rolde, Ruhlin, Rydell, Seavey, Sheltra, Simpson, Small, Strout, B.; Swazey, Tardy, Tupper, Webster, M..

NAY - Begley, Carroll, J.; Conley, Cote, Crowley, DiPietro, Duffy, Erwin, P.; Farren, Gould, R. A.; Gurney, Hale, Hepburn, Hussey, Jalbert, Kilkelly, Macomber, Martin, H.; McHenry, McKeen, McSweeney, Michaud, Moholland, Murphy, Nadeau, G. G.; Norton, O'Gara, Paradis, J.; Paul, Pederson, Pineau, Pouliot, Rand, Ridley, Rotondi, Skoglund, Smith, Stevens, A.; Stevenson, Tamaro, Telow, Townsend, Tracy, Walker, Wentworth.

ABSENT - Dellert, Farnsworth, Jackson, Jacques, LaPointe, McCormick, McGowan, Mitchell, Plourde, Sherburne, Stevens, P.; Strout, D.; Whitcomb, The Speaker.

PAIRED - Cashman, Mayo.
Yes, 90; No, 45; Absent, 14; Paired, 2; Excused, 0.

90 having voted in the affirmative, 45 in the negative, with 14 being absent and 2 having paired, the motion to indefinitely postpone House Amendment "A" (H-802) did prevail.

Representative Martin of Van Buren moved that L.D. 2039 and all its accompanying papers be indefinitely postponed.

The SPEAKER: The Chair will order a vote. The pending question before the House is the motion of Representative Martin of Van Buren that L.D. 2039 and all accompanying papers be indefinitely postponed. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

40 having voted in the affirmative and 88 in the negative, the motion did not prevail.

Subsequently, the Bill was passed to be engrossed as amended by Committee Amendment "A" (H-817) and sent up for concurrence.

The Chair laid before the House the seventh 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 - March 1, 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 Monday, March 5, 1990.

The Chair laid before the House the eighth 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 - March 1, 1990 by Representative ALLEN of Washington.

PENDING - Passage to be Enacted.

On motion of Representative Allen of Washington, retabled pending passage to enacted and later today assigned.

BILL HELD

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

- In House, Failed of Passage to be Engrossed. HELD at the request of Representative ALLEN of Washington.

Representative Allen of Washington moved that the House reconsider its action whereby L.D. 2184 failed of passage to be engrossed.

On motion of the same Representative, tabled pending her motion to reconsider and specially assigned for Monday, March 5, 1990.

(At Ease)

The House was called to order by the Speaker.

The Chair laid before the House the following 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) which was tabled earlier in the day and later today assigned pending passage to be enacted.

On motion of Representative Allen of Washington, under suspension of the rules, the House reconsidered its action where L.D. 1837 was passed to be engrossed.

On motion of the same Representative, under suspension of the rules, the House reconsidered its action whereby Committee Amendment "A" (S-483) was adopted.

The same Representative offered House Amendment "A" (H-860) to Committee Amendment "A" (S-483) and moved its adoption.

House Amendment "A" (H-860) to Committee Amendment "A" (S-483) was read by the Clerk and adopted.

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

The Bill was passed to be engrossed as amended by Committee Amendment "A" as amended by House Amendment "A" thereto and Senate Amendment "A" (S-506) in non-concurrence and sent up for concurrence.

The following item appearing on Supplement No. 2 was taken up out of order by unanimous consent:

PAPER FROM THE SENATE

Bill "An Act to Ensure Timely and Equitable Treatment of Discrimination Complaints Made to the Maine Human Rights Commission" (S.P. 948) (L.D. 2399)

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

Was referred to the Committee on Judiciary in concurrence.

(Off Record Remarks)

On motion of Representative Paradis of Frenchville,

Adjourned until Monday, March 5, 1990, at twelve o'clock noon.