

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

One Hundred And Fourteenth Legislature

OF THE

State Of Maine

VOLUME I

FIRST REGULAR SESSION

December 7, 1988 to May 10, 1989

records by scoring 2,306 points, that is an all-time state record. (applause, members rising)

(Off Record Remarks)

On motion of Representative Carter of Winslow, Adjourned until Wednesday, April 12, 1989, at twelve o'clock noon.

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

In Senate Chamber
Tuesday
April 11, 1989

Senate called to Order by the President.

Prayer by Reverend Jeffrey Symnykwiz of the First Universalist Church in Rockland.

REVEREND SYMYNKWIZ: O Thou eternal Spirit of righteousness, Who fills the whole universe with a golden glow of truth and love, be with us now, we pray, at this chosen hour. We invoke Thy grace and Thy wisdom upon all whose task it is to serve our communities, our state, our nation, and our world.

Kindle within the hearts of all of us an intense passion for social justice. Bless those who will not be content so long as some have too little while others have too much. Inspire those who labor that all women and men may receive a just reward for the work they do. Empower those whose care it is that the workless and the destitute, the homeless and the outcast, the poor and the needy, the sick and the afflicted, should be remembered not just in our prayers, but in our deeds as well. Deliver us, we pray, from the withering blight of selfishness and allow us to reflect in our own brotherhood and sisterhood together Your transcending and transforming power of love and justice.

Help us, Spirit of righteousness, to see beyond the confusion and the turmoil of our time and to catch a glimpse of the new age that yet can be. Help us, we pray, to clear away those things which bind us to the errors of the past, and to do that which we must do, each in our own way, to bring about a world of peace and justice for all human kind. Amen.

Reading of the Journal of Yesterday.

Senate at Ease
Senate called to order by the President.

Off Record Remarks

PAPERS FROM THE HOUSE
Non-concurrent Matter

Bill "An Act to Make Minor Changes in the Motor Vehicle Laws"

S.P. 75 L.D. 65
(S "A" S-29 to C "A"
S-23)

In Senate, April 3, 1989, PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-23) AS AMENDED BY SENATE AMENDMENT "A" (S-29) thereto.

Comes from the House PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-23) AS AMENDED BY SENATE AMENDMENT "A" (S-29) AND HOUSE AMENDMENT "A" (H-53), thereto, in NON-CONCURRENCE.

On motion by Senator CLARK of Cumberland, the Senate RECEDED and CONCURRED.

Non-concurrent Matter
Bill "An Act Concerning Agricultural Road Signs"
H.P. 576 L.D. 780

Committee on BUSINESS LEGISLATION suggested and ORDERED PRINTED.

In House, March 15, 1989, referred to the Committee on AGRICULTURE and ORDERED PRINTED.

In Senate, March 16, 1989, referred to the Committee on BUSINESS LEGISLATION and ORDERED PRINTED in NON-CONCURRENCE.

In House, March 20, 1989, that Body INSISTED.

In Senate, April 6, 1989, RECEDED and referred to the Committee on HUMAN RESOURCES and ORDERED PRINTED in NON-CONCURRENCE.

Comes from the House, that Body INSISTED.

On motion by Senator CLARK of Cumberland, the Senate INSISTED.

The Secretary has notified the Speaker of the House.

Non-concurrent Matter

Bill "An Act to Establish a Demonstration Project in York County to Provide a System of Resources for Children in Need"

H.P. 695 L.D. 947

Committee on APPROPRIATIONS AND FINANCIAL AFFAIRS suggested and ORDERED PRINTED.

In House, March 28, 1989, referred to the Committee on HUMAN RESOURCES and ORDERED PRINTED.

In Senate, April 3, 1989, referred to the Committee on APPROPRIATIONS AND FINANCIAL AFFAIRS and ORDERED PRINTED in NON-CONCURRENCE.

In House, April 4, 1989, that Body INSISTED.

In Senate, April 6, 1989, RECEDED and referred to the Committee on AGING, RETIREMENT AND VETERANS and ORDERED PRINTED in NON-CONCURRENCE.

Comes from the House, that Body INSISTED.

On motion by Senator CLARK of Cumberland, Tabled Unassigned, pending FURTHER CONSIDERATION.

House Papers

Bill "An Act to Regulate Out-of-state Mail Order Pharmacies to Ensure the Safety of Prescription Drugs"

H.P. 771 L.D. 1083

Comes from the House referred to the Committee on BUSINESS LEGISLATION and ORDERED PRINTED.

Which was referred to the Committee on BUSINESS LEGISLATION and ORDERED PRINTED, in concurrence.

Bill "An Act to Consolidate the Township of Misery-Sapling Gore into Adjoining Townships"

H.P. 772 L.D. 1084

Bill "An Act to Make Changes in the Law Relating to Quasi-municipal Charter Changes"

H.P. 773 L.D. 1085

Come from the House referred to the Committee on STATE AND LOCAL GOVERNMENT and ORDERED PRINTED.

Which were referred to the Committee on STATE AND LOCAL GOVERNMENT and ORDERED PRINTED, in concurrence.

Bill "An Act To Make Benefits Under the Household Tax and Rent Refund Program More Accessible" (Emergency)

H.P. 775 L.D. 1087

Bill "An Act to Provide Comprehensive Property Tax Relief"

H.P. 776 L.D. 1088

Come from the House referred to the Committee on TAXATION and ORDERED PRINTED.

Which were referred to the Committee on TAXATION and ORDERED PRINTED, in concurrence.

Bill "An Act Concerning the Regulatory Treatment of Consumer-owned Electric Utilities" (Emergency)
H.P. 774 L.D. 1086

Comes from the House referred to the Committee on UTILITIES and ORDERED PRINTED.

Which was referred to the Committee on UTILITIES and ORDERED PRINTED, in concurrence.

COMMUNICATIONS

The Following Communication:

STATE OF MAINE

DEPARTMENT OF TRANSPORTATION

STATE HOUSE STATION 16

AUGUSTA, MAINE 04333

April 6, 1989

The Honorable Charles P. Pray

President of the Senate

State House Station 3

Augusta, Maine 04333

Dear President Pray:

It is my pleasure to enclose herewith a copy of the 1989 Highway Cost Allocation Study requested under legislation enacted last session. It updates and expands a similar study done in 1982.

Expressed in a most basic way, the Highway Cost Allocation Study is an effort to compare the revenues collected from various groups of highway users against the construction and maintenance costs created by those users. While it identifies groups which may be paying more or less than their fair share, the Study is not intended to provide specific solutions or to generate additional revenues. It is a revenue-neutral attempt to identify inequities between the revenues collected from highway users and their cost responsibilities.

In methodology, the Study looked at the present, made some reasoned projections for the future, exposed problems in the current system, and expressed concerns, but left the refining of Legislation to address those problems and concerns as a topic for discussion and resolution between the Department and the Legislature.

The updated Study uses 1986-87 as a base year and concludes that, at that time, four axle single unit trucks and six axle combination trucks paid less than their fair share of highway and bridge expenditures. It also concludes that in 1986-87 passenger cars, light trucks, and other types of straight and semi-trailer trucks were paying at least their fair share of the cost of building and maintaining Maine's highways and bridges.

In looking forward to 1990-91, the Study finds that, if no adjustments are enacted between now and then, all single unit trucks and the six axle combination truck will be paying less than their fair share, while the other vehicle groups will be paying at least their fair share of highway and bridge expenditures.

The Study also contains eight specific recommendations:

1. Consider legislation which would help vehicle groups pay a fairer share of their highway expenditures.
2. Consider, in conjunction with the possible adjustments referred to in Recommendation #1, adjustments to the fuel decal fee to more properly reflect only administrative expenses.
3. Improve motor vehicle data collection through combined computerization of registration, permit and title files for commercial vehicles by vehicle class.

4. Regulate lift-axles through increased enforcement, automated equipment and self-steering axles.
5. Study the need for increased fuel tax auditing and enforcement.
6. Conduct periodic future cost allocation studies to track equity among highway users.
7. Continue study of weight-distance taxation as a possible means of improving future highway equity.
8. Apply Operating Authority Fund revenues to size and weight enforcement troopers now funded from the dedicated highway fund and study possible adjustments or alternatives to the Operating Authority Program.

The Study also suggests a number of funding options which might be considered. They were included for illustrative purposes only and certainly do not reflect a recommendation or endorsement by the Department. We feel it is most important that recommendations for equity adjustments be made cooperatively between the Department and the Legislature.

In that spirit, we look forward to addressing any questions or concerns you may have regarding the Study contents or findings. We also welcome the opportunity to work with you in developing and analyzing possible adjustments to improve equity among highway user groups.

Sincerely,
S/Dana F. Connors
Commissioner

Maine Department of Transportation
Which was READ and with Accompanying Papers
ORDERED PLACED ON FILE.

Off Record Remarks

SENATE PAPERS

Bill "An Act to Appropriate Funds for the Home-based Care Program"

S.P. 417 L.D. 1128

Presented by Senator BALDACCI of Penobscot
Cosponsored by Representative DUFFY of Bangor
Bill "An Act to Continue Pregnancy-related Services"

S.P. 425 L.D. 1136

Presented by Senator BERUBE of Androscoggin
Cosponsored by Representative PARADIS of Augusta,
Representative McGOWAN of Canaan and Senator
MATTHEWS of Kennebec
Which were referred to the Committee on
APPROPRIATIONS AND FINANCIAL AFFAIRS and ORDERED
PRINTED.

Sent down for concurrence.

Bill "An Act Relating to Lines of Insurance and Licenses for Workers' Compensation Insurers"

S.P. 418 L.D. 1129

Presented by Senator BUSTIN of Kennebec
Cosponsored by President PRAY of Penobscot,
Representative RAND of Portland and
Representative JOSEPH of Waterville
Bill "An Act Regulating Unfair Claims Practices"

S.P. 423 L.D. 1134

Presented by Senator BUSTIN of Kennebec
Cosponsored by Representative PINEAU of Jay,
Representative McKEEN of Windham and
Representative CLARK of Millinocket

Which were referred to the Committee on BANKING AND INSURANCE and ORDERED PRINTED.
Sent down for concurrence.

Bill "An Act to Prohibit Injurious Hazing of Public School Students"

S.P. 420 L.D. 1131

Presented by Senator BALDACCI of Penobscot
Cosponsored by Senator BOST of Penobscot,
Representative LEBOWITZ of Bangor and Senator
GILL of Cumberland
Which was referred to the Committee on EDUCATION and ORDERED PRINTED.
Sent down for concurrence.

Bill "An Act to Improve Individualized Treatment and Planning Procedures for Long-term Care Clients"

S.P. 430 L.D. 1141

Presented by Senator BUSTIN of Kennebec
Cosponsored by Representative BURKE of Vassalboro, Representative MELENDY of Rockland and Senator TITCOMB of Cumberland
Which was referred to the Committee on HUMAN RESOURCES and ORDERED PRINTED.
Sent down for concurrence.

Bill "An Act to Amend the Time within which a Juvenile Detention Hearing Must Be Held"

S.P. 421 L.D. 1132

Presented by Senator HOBBS of York
Cosponsored by Representative PARADIS of Augusta,
Representative CLARK of Millinocket and
Representative BOUTILIER of Lewiston
Bill "An Act to Require a County Jailer to Return List of Prisoners"

S.P. 422 L.D. 1133

Presented by Senator HOBBS of York
Bill "An Act to Amend Certain Provisions of the Maine Bail Code"

S.P. 426 L.D. 1137

Presented by Senator BRANNIGAN of Cumberland
Cosponsored by Representative PARADIS of Augusta,
Representative STEVENS of Bangor and
Representative LAPOINTE of Auburn
Which were referred to the Committee on JUDICIARY and ORDERED PRINTED.
Sent down for concurrence.

Bill "An Act to Amend the Lottery Laws"

S.P. 427 L.D. 1138

Presented by Senator DILLENBACK of Cumberland
Cosponsored by Representative TUPPER of Orrington, Representative STEVENS of Sabattus and Representative JALBERT of Lisbon
Submitted by the Department of Finance pursuant to Joint Rule 24.

Bill "An Act Concerning Law Enforcement Training"

S.P. 431 L.D. 1142

Presented by Senator KANY of Kennebec
Cosponsored by Representative PRIEST of Brunswick, Representative STEVENS of Sabattus and Representative TUPPER of Orrington
Submitted by the Department of Public Safety pursuant to Joint Rule 24.
Which were referred to the Committee on LEGAL AFFAIRS and ORDERED PRINTED.
Sent down for concurrence.

Bill "An Act Dealing with Removal of Dislodged

Lobster Gear"

S.P. 419 L.D. 1130

Presented by Senator ESTES of York
 Cosponsored by Representative REED of Falmouth
 and Representative SKOGLUND of St George
 Which was referred to the Committee on MARINE
 RESOURCES and ORDERED PRINTED.
 Sent down for concurrence.

Bill "An Act Relating to Taxation of Printing
 Services"

S.P. 424 L.D. 1135

Presented by Senator KANY of Kennebec
 Cosponsored by Representative JOSEPH of
 Waterville, Speaker MARTIN of Eagle Lake and
 Representative McGOWAN of Canaan
 Bill "An Act to Freeze Property Taxes of People
 Over the Age of 65"

S.P. 429 L.D. 1140

Presented by Senator BALDACCI of Penobscot
 Cosponsored by Representative LEBOWITZ of Bangor
 and Representative DUFFY of Bangor
 Which were referred to the Committee on TAXATION
 and ORDERED PRINTED.
 Sent down for concurrence.

Bill "An Act to Authorize the Placement of a
 Directional Sign on Interstate 95 for Unity College"

S.P. 428 L.D. 1139

Presented by Senator GOULD of Waldo
 Cosponsored by Representative STEVENSON of Unity,
 Senator TWITCHELL of Oxford and Representative
 MACOMBER of South Portland
 Approved for introduction by a majority of the
 Legislative Council pursuant to Joint Rule 27.
 Which was referred to the Committee on
 TRANSPORTATION and ORDERED PRINTED.
 Sent down for concurrence.

Off Record Remarks

COMMITTEE REPORTS

House

Ought Not to Pass

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

The Committee on FISHERIES AND WILDLIFE on Bill
 "An Act to Increase the Number of Moose Hunting
 Permits"

H.P. 70 L.D. 101

The Committee on FISHERIES AND WILDLIFE on Bill
 "An Act to Make Complimentary Doe Permits Available
 to Residents over 70 Years of Age who have a
 Complimentary Hunting License"

H.P. 96 L.D. 131

The Committee on FISHERIES AND WILDLIFE on Bill
 "An Act Concerning the Trapping of Beaver"

H.P. 120 L.D. 157

The Committee on FISHERIES AND WILDLIFE on Bill
 "An Act Concerning the Fishing of Smelt"

H.P. 161 L.D. 226

The Committee on FISHERIES AND WILDLIFE on Bill
 "An Act Concerning the Number of Deer which May Be
 Taken under the Hunting Laws"

H.P. 268 L.D. 380

The Committee on FISHERIES AND WILDLIFE on Bill
 "An Act Regarding Hunting on Private Property"

H.P. 392 L.D. 523

The Committee on TAXATION on Bill "An Act to

Provide Reimbursement to Municipalities with
 State-owned Properties"

H.P. 94 L.D. 129

Leave to Withdraw

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

The Committee on AGING, RETIREMENT AND VETERANS
 on Bill "An Act to Allow Teachers to Obtain
 Retirement Benefits at 55 Years of Age if They Have
 30 Years of Service"

H.P. 340 L.D. 459

The Committee on AGRICULTURE on Bill "An Act to
 Protect Working Farms"

H.P. 442 L.D. 607

The Committee on BUSINESS LEGISLATION on Bill "An
 Act Relating to the Registration of Dairy Crates"

H.P. 326 L.D. 442

The Committee on BUSINESS LEGISLATION on Bill "An
 Act to Inform Consumers of Credit Rating Information"

H.P. 375 L.D. 506

The Committee on BUSINESS LEGISLATION on Bill "An
 Act to Regulate Charges for Liquid Propane"

H.P. 421 L.D. 586

The Committee on ENERGY AND NATURAL RESOURCES on
 Bill "An Act to Protect Naturally Occurring
 Landmarks"

H.P. 617 L.D. 840

The Committee on STATE AND LOCAL GOVERNMENT on
 Bill "An Act to Ensure the Appropriate Use of Gifts
 to the State"

H.P. 356 L.D. 476

The Committee on TAXATION on Bill "An Act
 Concerning Trade-in Equipment"

H.P. 138 L.D. 190

The Committee on TAXATION on Bill "An Act to
 Permit Municipalities to Have the Option of a Local
 Sales Tax"

H.P. 143 L.D. 195

Ought to Pass

The Committee on HUMAN RESOURCES on Bill "An Act
 to Regulate Maternal Serum Alpha-fetoprotein
 Screening Programs"

H.P. 301 L.D. 413

Reported that the same Ought to Pass.
 Comes from the House with the Report READ and
 ACCEPTED and the Bill PASSED TO BE ENGROSSED.

Which Report was READ and ACCEPTED, in
 concurrence.

The Bill READ ONCE.

The Bill TOMORROW ASSIGNED FOR SECOND READING.

Ought to Pass As Amended

The Committee on AGING, RETIREMENT AND VETERANS
 on Bill "An Act to Provide Access to Retirement
 Benefits for Former Spouses of Members of the Armed
 Forces"

H.P. 312 L.D. 426

Reported that the same Ought to Pass as Amended
 by Committee Amendment "A" (H-49).

Comes from the House, with the Report READ and
 ACCEPTED and the Bill PASSED TO BE ENGROSSED AS
 AMENDED BY COMMITTEE AMENDMENT "A" (H-49).

Which Report was READ and ACCEPTED, in
 concurrence.

The Bill READ ONCE.

Committee Amendment "A" (H-49) READ and ADOPTED,
 in concurrence.

The Bill as Amended, TOMORROW ASSIGNED FOR SECOND

READING.

The Committee on AGING, RETIREMENT AND VETERANS on Bill "An Act to Change the Dates for Burial Eligibility at the Maine Veterans' Memorial Cemetery" H.P. 420 L.D. 585

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-48).

Comes from the House, with the Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-48).

Which Report was READ and ACCEPTED, in concurrence.

The Bill READ ONCE.

Committee Amendment "A" (H-48) READ and ADOPTED, in concurrence.

The Bill as Amended, TOMORROW ASSIGNED FOR SECOND READING.

The Committee on BANKING AND INSURANCE on Bill "An Act to Include the Casco Bay Island Transit District under the Risk Management Division" H.P. 286 L.D. 398

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-50).

Comes from the House, with the Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-50).

Which Report was READ and ACCEPTED, in concurrence.

The Bill READ ONCE.

Committee Amendment "A" (H-50) READ and ADOPTED, in concurrence.

The Bill as Amended, TOMORROW ASSIGNED FOR SECOND READING.

The Committee on FISHERIES AND WILDLIFE on Bill "An Act to Make Additional Allocations to the Department of Inland Fisheries and Wildlife for the Fiscal Year Ending June 30, 1989" (Emergency) H.P. 91 L.D. 126

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-46).

Comes from the House, with the Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-46).

Which Report was READ and ACCEPTED, in concurrence.

The Bill READ ONCE.

Committee Amendment "A" (H-46) READ and ADOPTED, in concurrence.

The Bill as Amended, TOMORROW ASSIGNED FOR SECOND READING.

The Committee on TRANSPORTATION on Bill "An Act Relating to Highway Construction and Maintenance Signs and Advertising Signs" H.P. 454 L.D. 619

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-47).

Comes from the House, with the Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-47).

Which Report was READ and ACCEPTED, in concurrence.

The Bill READ ONCE.

Committee Amendment "A" (H-47) READ and ADOPTED, in concurrence.

The Bill as Amended, TOMORROW ASSIGNED FOR SECOND READING.

Divided Report

The Majority of the Committee on EDUCATION on Bill "An Act Appropriating Funds to the Department of Educational and Cultural Services for Early Childhood Education" H.P. 23 L.D. 18

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-43).

Signed:

Senators:

ESTES of York
BOST of Penobscot
GILL of Cumberland

Representatives:

PARADIS of Frenchville
NORTON of Winthrop
AULT of Wayne
O'DEA of Orono
OLIVER of Portland
HANDY of Lewiston
CROWLEY of Stockton Springs
SMALL of Bath
KILKELLY of Wiscasset

The Minority of the same Committee on the same subject reported that the same Ought Not to Pass.

Signed:

Representative:

O'GARA of Westbrook

Comes from the House the Majority OUGHT TO PASS AS AMENDED Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-43).

Which Reports were READ.

On motion by Senator ESTES of York, the Majority OUGHT TO PASS AS AMENDED Report was ACCEPTED, in concurrence.

The Bill READ ONCE.

Committee Amendment "A" (H-43) READ and ADOPTED, in concurrence.

The Bill as Amended, TOMORROW ASSIGNED FOR SECOND READING.

Divided Report

The Majority of the Committee on STATE AND LOCAL GOVERNMENT on Bill "An Act to Return Certain Positions within the Department of Environmental Protection to Classified Service under the Civil Service Law" H.P. 177 L.D. 242

Reported that the same Ought to Pass.

Signed:

Senators:

BERUBE of Androscoggin
ESTY of Cumberland
CARPENTER of York

Representatives:

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

The Minority of the same Committee on the same subject reported that the same Ought Not to Pass.

Signed:

Representatives:

BEGLEY of Waldoboro
WENTWORTH of Wells
MCCORMICK of Rockport
HANLEY of Paris

Comes from the House the Majority OUGHT TO PASS

Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED.

Which Reports were READ.

On motion by Senator BERUBE of Androscoggin, the Majority OUGHT TO PASS Report was ACCEPTED, in concurrence.

The Bill READ ONCE.

THE PRESIDENT: The Chair recognizes the Senator from Penobscot, Senator Pearson.

Senator PEARSON: Thank you Mr. President. Mr. President, men and women of the Senate. I am aware of what is going to happen here on this and I would like to make a few comments on this particular Bill, since I am interested in what it does. There is a philosophical disagreement among people and I can see both sides of it very well and I can understand how anybody can vote on either side, also.

The question that is involved in here is that there are five or six positions in the Department of Environmental Protection which are the highest level positions there are next to the Commissioner. There is a difference of opinion amongst people as to whether those people should be responsible to the Commissioner or whether they should be civil servants, as we use the term. Over the years, since I have been here and a lot of other people have had experienced the same thing, there have been complaints that the Department of Environmental Protection has not been responsive. Frankly, I have had that same experience myself for a number of different reasons.

Before our Committee on Appropriations, we had a number of instances of people coming in and saying to us that they didn't do what they asked them to do, they wouldn't call back when we asked them to call back, they weren't responsive on this and they weren't responsive on that and so we began to search around and ask why is it that this is happening. Well, we had a study that we commissioned that cost us a lot of money and we had a lot of thoughts and I don't think there is any one solution to the problem. One of the things that we became convinced about at the time, and other people obviously have a different point of view, is that the people that work directly under the Commissioner ought to work at his will, to be responsible to him directly. The theory is that if he is responsible to him directly that they will carry out the law and the wishes of the Commissioner and the Administration in a much more efficient manner. I suppose you could say because there is some fear that if they don't do a good job that their job will be gone. The other side of that coin is, of course, you can say that nobody should have to fear for their job in carrying out the law, if you give them a specific thing to do and they shouldn't have to quake every time Senator so and so or Representative so and so or Governor so and so calls them. So, I can understand both of those sides.

What happened from my point of view is that we tried the other way where they were civil servants and stayed in position all the time and without being appointed positions and it didn't seem to work that well. All the people that I know that work as Bureau Heads and Department Heads in Augusta, in this Administration and in the previous Administration, told me over and over again, "how do you expect me to really carry out my job if I can't have the people that I believe in working with me?" I must say that it makes a certain amount of sense to me. Some of the people that have been chosen are not the people that I would have chosen, but with regard to the Governor's Cabinet, for example, I think what you do when you say the Governor gets elected and really is entitled to having people in the top Cabinet

positions that he wants, excluding the fact that they might be felons or something like that. We almost automatically always give the Governor the people that he wants to have. Why wouldn't we do the same for the Commissioner of Environmental Protection? If you were running a business anywhere in the State, Caribou Maine let's say, and it is the lumber business, wouldn't you want to be able to pick the ones that were running that business under you? I submit that you probably would. Actually, that might not be a good example because I suppose when you have a couple of sons who you pick automatically and in that case it is good ones, but the principle is that I think you should have people working for you that you feel comfortable with. Obviously, people are going to disagree with that and I have taken that other argument before, too, and I understand it. I think those top policy positions immediately under the Commissioner ought to be appointed by the Governor through his Commissioner.

THE PRESIDENT: The Chair recognizes the Senator from Kennebec, Senator Kany.

Senator KANY: Thank you Mr. President. Mr. President, men and women of the Senate. Just for the Record I wanted to point out that the positions that we are talking about here are not those that are directly under the Commissioner of the Department of Environmental Protection at all. Those would be Bureau Directors. These positions are not, they are divisions within a Bureau, so it is a lower level than the good Senator from Penobscot, Senator Pearson was talking about. They are often very technical people, they may oversee a number of others, but clearly, you are talking about engineers and other professionals and, in my opinion, they are very properly classified employees and should be away from the policy making positions. Clearly, the Legislative Branch is the policy making branch of State government and of course your Commissioners do deal greatly with the public, they have to implement our policy and provide leadership in so doing, but these people, although they are professionals and have a great deal of responsibility, are not those as so described earlier.

THE PRESIDENT: The Chair recognizes the Senator from Androscoggin, Senator Berube.

Senator BERUBE: Thank you Mr. President. Mr. President, men and women of the Senate. I have not been batting well in the past two or three weeks because somehow the Senator from Penobscot, a person who I learned to respect a great deal when I served with him under his chairmanship in Appropriations, seems to be on the opposite side of what I favor lately, hopefully he will see the light. At any rate I would like to correct an inaccurate statement that was made, maybe he is unaware, and I think the Senator from Kennebec corrected it. Indeed, the Bureau Chief is the one closest to the Commissioner, the Division Directors are not. It is a trickle down type of responsibility.

Last year there were six of these Division Director positions which became unclassified and there are eighteen of those in D.E.P. and the question was, in the minds of the Committee, why zero in on just simply six people when there are approximately eighteen. It was a good hearing, we had a wonderful work session and one thing that was brought out was the fact that these Division Directors deal in enforcement procedures and because it is enforcement, they should be as apolitical as possible and so I just wanted to point that out. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Penobscot, Senator Pearson.

Senator PEARSON: Thank you Mr. President. Mr. President, men and women of the Senate. After you have been here for a long time you still make mistakes, I still forgot that prayer from the other day and I should have listened to it. Please remember this, I think the good Senator from Androscoggin is correct.

The Bill TOMORROW ASSIGNED FOR SECOND READING.

Senate

Ought to Pass As Amended

Senator WHITMORE for the Committee on BUSINESS LEGISLATION on Bill "An Act to Amend the Occupational License Disqualification Law"

S.P. 233 L.D. 563

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (S-38).

Which Report was READ and ACCEPTED.

The Bill READ ONCE.

Committee Amendment "A" (S-38) READ and ADOPTED.

The Bill as Amended, TOMORROW ASSIGNED FOR SECOND READING.

SECOND READERS

The Committee on Bills in the Second Reading reported the following:

House

Resolve, to Study the Development of a Farmland Preservation Program for Maine (Emergency)

H.P. 206 L.D. 286

Which was READ A SECOND TIME and PASSED TO BE ENGROSSED, in concurrence.

House As Amended

Bill "An Act to Provide Credit for Braille Courses"

H.P. 104 L.D. 141

(C "A" H-44)

Bill "An Act to Provide that Medical Information in the Files of the Maine State Retirement System is not Public Information"

H.P. 263 L.D. 375

(C "A" H-42)

Which were READ A SECOND TIME and PASSED TO BE ENGROSSED, as Amended, in concurrence.

Senate As Amended

Bill "An Act to Ensure Coordinated Investigations of Complaints Regarding Special Education"

S.P. 117 L.D. 183

(C "A" S-36)

Bill "An Act Concerning Seafood Market Development"

S.P. 140 L.D. 260

(C "A" S-34)

Bill "An Act to Prohibit Persons Who have Violated the Animal Cruelty Laws from Participating in Pulling Events"

S.P. 167 L.D. 324

(C "A" S-35)

Bill "An Act to Make Technical Changes to Provisions Related to the Probation and Parole and Intensive Supervision Program Functions"

S.P. 223 L.D. 539

(C "A" S-37)

Which were READ A SECOND TIME and PASSED TO BE ENGROSSED, as Amended.

Sent down for concurrence.

Off Record Remarks

ENACTORS

The Committee on Engrossed Bills reported as truly and strictly engrossed the following:

An Act to Provide for Rate Adjustments of Consumer-Owned Water Utilities to Reflect Anticipated Construction Costs

H.P. 199 L.D. 279

(C "A" H-23)

An Act to Promote Effective Identification of Minors

H.P. 258 L.D. 370

(C "A" H-24)

Which were PASSED TO BE ENACTED and having been signed by the President, were presented by the Secretary to the Governor for his approval.

Emergency

An Act to Provide Lifetime License Plates to Margaret Chase Smith and Edmund S. Muskie

S.P. 128 L.D. 213

(C "A" S-25)

This being an Emergency Measure and having received the affirmative vote of 31 Members of the Senate, with No Senators having voted in negative, and 31 being more than two-thirds of the entire elected Membership of the Senate, was PASSED TO BE ENACTED and having been signed by the President, was presented by the Secretary to the Governor for his approval.

Emergency

An Act to Improve Ferry Service to Matinicus Isle

S.P. 166 L.D. 323

(C "A" S-24)

On motion by Senator PEARSON of Penobscot, placed on the SPECIAL APPROPRIATIONS TABLE, pending ENACTMENT.

ORDERS OF THE DAY

On motion by Senator ERWIN of Oxford, the Senate removed from the SPECIAL FISHERIES AND WILDLIFE TABLE the following matter:

An Act to Amend the Laws Relating to Licensed Maine Guides

H.P. 20 L.D. 15

Tabled - April 4, 1989, by Senator CLARK of Cumberland.

Pending - ENACTMENT

(In House, April 3, 1989, PASSED TO BE ENACTED.)

(In Senate, March 29, 1989, PASSED TO BE ENGROSSED, in concurrence.)

Which was PASSED TO BE ENACTED and having been signed by the President, was presented by the Secretary to the Governor for his approval.

On motion by Senator ERWIN of Oxford, the Senate removed from the SPECIAL FISHERIES AND WILDLIFE TABLE the following matter:

An Act to Authorize Issuance of Complimentary Hunting, Trapping and Fishing Licenses for Residents 70 Years of Age at Any Time During the Calendar Year in Which They Attain the Age of 70

H.P. 288 L.D. 400

(C "A" H-20)

Tabled - April 6, 1989, by Senator CLARK of Cumberland.

Pending - ENACTMENT

(In House, April 5, 1989, PASSED TO BE ENACTED.)
(In Senate, April 3, 1989, PASSED TO BE ENGROSSED
AS AMENDED BY COMMITTEE AMENDMENT "A" (H-20), in
concurrence.)

Which was PASSED TO BE ENACTED and having been
signed by the President, was presented by the
Secretary to the Governor for his approval.

Out of order and under suspension of the Rules,
the Senate considered the following:

ORDERS

Joint Order

On motion by Senator PEARSON of Penobscot the
following Joint Order:

S.P. 433

ORDERED, the House concurring, that the Joint
Standing Committee on Appropriations and Financial
Affairs report out to the Senate such legislation as
it sees fit to fund interim studies approved by law
or by the Legislative Council.

Which was READ and PASSED.

Sent down for concurrence.

Off Record Remarks

On motion by Senator GILL of Cumberland,
ADJOURNED until Wednesday, April 12, 1989, at 12:00
in the afternoon.

ONE HUNDRED AND FOURTEENTH MAINE LEGISLATURE
FIRST REGULAR SESSION
43rd Legislative Day
Wednesday, April 12, 1989

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

Prayer by Father Valmont Gilbert, St. Bridget's
Catholic Church, North Vassalboro.

The Journal of Tuesday, April 11, 1989, was read
and approved.

Quorum call was held.

PAPERS FROM THE SENATE

The following Communication:

Maine State Senate
Augusta, Maine 04333

April 11, 1989

Honorable Edwin H. Pert
Clerk of the House
State House Station 2
Augusta, Maine 04333

Dear Clerk Pert:

Please be advised that the Senate today Insisted
to its former action whereby it referred to the
Committee on Human Resources in non-concurrence, Bill
"An Act Concerning Agricultural Road Signs" (H.P.
576) (L.D. 780).

Sincerely,

S/Joy J. O'Brien

Secretary of the Senate

Was read and ordered placed on file.

The following Joint Order: (S.P. 433)

ORDERED, the House concurring, that the Joint
Standing Committee on Appropriations and Financial
Affairs report out to the Senate such legislation as
it sees fit to fund interim studies approved by law
or by the Legislative Council.

Came from the Senate, read and passed.

Was read and passed in concurrence.

Bill "An Act to Appropriate Funds for the
Home-based Care Program" (S.P. 417) (L.D. 1128)

Bill "An Act to Continue Pregnancy-related
Services" (S.P. 425) (L.D. 1136)

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

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

Bill "An Act Relating to Lines of Insurance and
Licenses for Workers' Compensation Insurers" (S.P.
418) (L.D. 1129)

Bill "An Act Regulating Unfair Claims Practices"
(S.P. 423) (L.D. 1134)

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

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

Bill "An Act to Prohibit Injurious Hazing of
Public School Students" (S.P. 420) (L.D. 1131)

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

Was referred to the Committee on Education in
concurrence.