

MAINE STATE LEGISLATURE

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

VOLUME III

FIRST CONFIRMATION SESSION

August 21, 1987
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FIRST SPECIAL SESSION

October 9, 1987 to October 10, 1987
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SECOND SPECIAL SESSION

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SECOND REGULAR SESSION

January 6, 1988 to March 24, 1988

ONE HUNDRED AND THIRTEENTH MAINE LEGISLATURE
 SECOND REGULAR SESSION
 44th Legislative Day
 Tuesday, March 15, 1988

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

Prayer by Father Marcel Dumoulin, St. Augustine's Catholic Church, Augusta.

The Journal of Monday, March 14, 1988, was read and approved.

Quorum call was held.

SENATE PAPERS

Bill "An Act Relating to the Provisions of the Charter of the Veazie Sewer District" (Emergency) (S.P. 951) (L.D. 2516)

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

Was referred to the Committee on Utilities in concurrence.

Unanimous Leave to Withdraw

Report of the Committee on Business Legislation reporting "Leave to Withdraw" on Bill "An Act Concerning the Labeling of Prescription Drugs" (S.P. 856) (L.D. 2232)

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

Divided Report

Majority Report of the Committee on Legal Affairs reporting "Ought to Pass" as amended by Committee Amendment "A" (S-329) on Bill "An Act to Establish a Presidential Primary in Maine" (S.P. 123) (L.D. 328)

Signed:

Senators:	KANY of Kennebec ESTES of York
Representatives:	PRIEST of Brunswick MARTIN of Van Buren HARPER of Lincoln JALBERT of Lisbon TUPPER of Orrington PERRY of Mexico PAUL of Sanford HICHBORN of LaGrange

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

Signed:

Senator:	DILLENBACK of Cumberland
Representative:	STEVENS of Sabattus (Representative MURPHY of Berwick - of the House - Abstained)

Came from the Senate with the Majority "Ought to Pass" as amended Report read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (S-329)

Reports were read.

Representative Perry of Mexico moved that the House accept the Majority "Ought to Pass" as amended Report in concurrence.

The SPEAKER: The Chair recognizes the Representative from Sabattus, Representative Stevens.

Representative STEVENS: Mr. Speaker, Men and Women of the House: I would like to explain my position on this bill. I kind of feel like the dog that bit the postman for the third time but they were both doing their job.

My reason for not supporting this bill is because it just adds more confusion to the process that we have. It is also going to cost the state about a

quarter of a million dollars by 1992 for elections plus another half a million for Maine municipalities. So, I think before we pass this through in a rush, when it is really nothing we need until 1992, that we ought to give it a lot of consideration.

I would request a roll call.

The SPEAKER: The Chair recognizes the Representative from Kennebunk, Representative Murphy.

Representative MURPHY: Mr. Speaker, Men and Women of the House: As the good gentleman said, I think we are in very much of a rush here. It is my understanding in terms of questions which were posed to the committee, many of those remain unanswered.

We have come through the caucuses in terms of both our parties and I think as individually as the party leaders in our individual districts and towns we have feelings for or against those caucuses but I think questions need to be addressed on when will the caucus be held.

It is my understanding that technically the Democrat and Republican one wouldn't have to be held on the same day. I think there are national rules that would prohibit the Democratic Party from having theirs on the same day as New Hampshire. If this law were in effect, the Democrat primary would have had to be held on the same day as Super Tuesday and if we think that any Maine identity would have emerged out of those Super Tuesday contests, I don't think we would really have our head out of the sand.

Can they be held together? Can they be held separately? Could the Republican's go along and hold their primary on the same day as New Hampshire and siphon off or garner off some of that media support? Are the supporters of the Presidential primary looking at having a regional primary at a time that the advocates of a regional primary in the South are doing everything they can to unravel it as quickly as possible? What impact will it have on the caucus? Will it do away with the caucus? Will it heighten the importance of the caucus? How will we select the delegates? Would this primary be a beauty contest like in Vermont -- it means nothing? Or would we have a list of delegates on the ballot with maybe brackets behind saying who they are supporting or would you have to look at newspaper ads to figure out the slate on that ballot as to who really is who? Or would we go along in terms of having the Secretary of State, (as they do in some states) designate who are real candidates and who aren't and they place them on the ballot? Or would it be open to anyone who is declared for the Presidency, which at the latest count is 142 or 143 candidates? Will we be deceiving the Maine people by saying on a primary day, you can come and make your choice as a party member in terms of who should be the nominee for the personal choice of either Democrat or Republican within the State of Maine and then see a ballot that trails off the voting table down on the floor and outside of the booth with 145 names on that.

I would like to have some response to what are we talking about. How will it be done? Will there be uniformity so we have collective clout in terms of drawing media attention? Or are we just moving something through here saying that it will be better than the caucuses and then, in 1992, find it has no real substance or it will further confuse and anger the party people who would go and vote on that day?

Before we enact this bill, I really would like to have some answers from those of you who are advocates or proponents of this. Obviously, it will draw a broader base of support but will it really meet the goals based upon what we now hope for or is this something that we are just passing off to 1992 that

is going to leave anger, bitterness or maybe not even mean anything in terms of delegates?

I hope that someone could respond to those concerns. If we can address those concerns reasonably, then I would be more than happy to vote for this bill.

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

Representative MAYO: Mr. Speaker, Men and Women of the House: As many of you know, I am an officer of the Democratic State Committee and an ardent supporter of the caucus system in this state. I voted against the primary when the State Committee considered this issue.

My understanding of this legislation is that it is enabling, it allows the parties to decide what they want to do. It simply sets in state statute the means by which a Presidential primary could be carried out, it does not mandate one to the parties in the State of Maine.

Unlike Representative Murphy, I guess I am not as concerned about media attention. All the media attention in the world didn't bring out more people in my mind to the caucuses this past month. I am more concerned about the party structure, the party organizations and I think the best people qualified to make those decisions as to what is appropriate and what is not are the respective state committees of our two parties in Maine.

I would ask this House to support, as someone who is opposed to a primary, this bill. It is enabling legislation and lets the organizations of the parties of Maine make the decisions.

I am sure all the problems that Representative Murphy brought out today can be addressed by those parties collectively and I am sure that everything he talked about can be taken care of.

The SPEAKER: The Chair recognizes the Representative from Lisbon, Representative Jalbert.

Representative JALBERT: Mr. Speaker, Men and Women of the House: As voting in the majority on this bill, I would like to state that this is the very same bill which went through the House and the other body two years ago. It died on the Appropriations Table.

I think we saw in the last caucus that the attendance was shameful on both sides of the aisle. In my town, we had 40 delegates allocated to us because of the heavy vote of a native son of the last gubernatorial election. There were 36 people who showed up. I had to get on the phone and try to get some people down there so we could get enough. We spent about an hour electing a county committee, a local committee, and election clerks. Two or three said, I didn't come here to worry about that, I came here to vote for one man or the other. The interest is gone because people are saying, this is just old time politics, the days of 30 or 40 years ago. When everything was done, as has been said, "in a smoke-filled back room." This is the time when we should turn it back to the people so the average person can get out and vote in the privacy of the polls. That is one thing you don't have at the caucus, the privacy of the polls. They want to be able to get into the polls and vote for the candidate of their party.

I would ask that you vote for the bill.

The SPEAKER: The Chair recognizes the Representative from Sabattus, Representative Stevens.

Representative STEVENS: Mr. Speaker, Men and Women of the House: I feel that the two parties if they want to politic, that is just good government. As the caucuses go now, the parties pay for the caucuses obligations and, if we shift this over, we

are shifting it over onto the taxpayer's expense. There were only 9 percent that went out in the last caucuses of this year. You have to figure that at least 50 percent of the people do not belong to either party so it is a very small percentage to have to pay a million dollars to see if we can get out a few more people.

Over the years, we have been trying to get people out and I think it looks as if we did this time. Just because they do not agree with us doesn't mean that we have to change the system.

The SPEAKER: The Chair recognizes the Representative from Van Buren, Representative Martin.

Representative MARTIN: Mr. Speaker, Men and Women of the House: I am a cosponsor of this bill and my reason for supporting this bill is that I believe that we have to stir up, especially our small towns and plantations, to get them going. I know in my area a lot of small towns and plantations don't even bother having caucuses at all. I believe if there is a voting day and polls are set up, people will go out and vote, just like they do in other elections.

I don't believe that this will eliminate the caucus. We will still have to have the caucus in order to nominate our delegates to the Convention and our county committee and everything else. What I am trying to do is try to stir up the people to get more interest. I am sure if one town is setting up election booths, the next town over is not going to say, we are not going to be bothered, we have more pride than that. You will probably turn out a 100 people rather than having nobody at all.

In my hometown, in the last caucus, we had 14 people. On municipal elections, we can turn out 700 or 800 people. On General Elections, we turn out 1200, 1300 or 1400 people so these people will come out and vote. As Representative Jalbert says, they all believe that this is just a little meeting to decide who is going to the Convention.

I urge you to support this bill.

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

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

The SPEAKER: The Representative may pose his question.

Representative MAYO: Is there a fiscal note on this bill?

The SPEAKER: The Chair would answer in the negative.

Representative MAYO: Thank you, Mr. Speaker. I understood the last session that the fiscal impact of this legislation was \$70,000 -- that was why I had reservations about it. An amendment was offered to charge the parties for the cost of conducting a primary. I have heard figures mentioned of up to a million dollars here this morning and I don't think that that is accurate when it comes to a Presidential primary in Maine. I don't believe the figure of a half a million dollars to the costs on towns is accurate either. I am sure it is much less than that.

I would also point out that the amendment that was offered last time on this bill to allow the parties to pay the cost is something that possibly could be worked out. Many states do that by requiring a filing fee to get your name on the ballot so the parties could recoup that cost. I am not concerned about that.

Again, it is enabling legislation and the parties will make the final decision and I think that is where the final decision belongs.

The SPEAKER: The Chair recognizes the Representative from Biddeford, Representative Racine.

Representative RACINE: Mr. Speaker, Men and Women of the House: I am not going to take sides on this particular issue of whether or not the primary is good or bad or whether it will attract more people than a caucus, I am sure that it would.

However, what I am concerned about is the cost. Here we go again, mandating another cost onto the municipalities. I don't know the figures of \$500,000 -- I don't know how accurate that is but I know one thing, in a discussion with the City Clerk of Biddeford, he estimated that a primary would cost the City of Biddeford anywhere from \$5000 to \$7000. I think if we are going to change that those costs should be borne by the state; therefore, if this is approved this morning and I believe that it will, I will introduce an amendment to the effect that all costs associated with the primary, will be borne by the state. The municipalities will be reimbursed for the costs that they have incurred in order to carry out the intent of the legislature. If we are going to do this, I think we should pay. If we are going to mandate additional costs, we should pay for it, whether it is an election, for education, or whatever. I intend to do that and will do that on the Second Reading.

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

Representative HANDY: Mr. Speaker, Men and Women of the House: I think there are some other very important issues that we have to consider here today. Why do we have caucuses? I think one of the primary reasons we have caucuses is so that those activists of the respective parties who are very much involved in their party, who know the issues and who know the candidates probably better than the general public because of that keen interest that they have, get involved when they go to their caucuses. Granted, that may be considerably fewer than you have in a primary but what is being proposed here is pulling the wool over the public's eyes.

I will read from the Senate Amendment, the section referring to the selection of delegates: "If a party chooses to participate in a Presidential primary election under this Chapter, delegates to the national Presidential nominating conventions shall be selected by the state parties meeting in Convention."

So, what we have here is nothing but a beauty contest, as it stands right now. I heard CBS news correspondent, Bruce Morton, on the radio this morning referring to today's Illinois Primary and particularly the beauty contest and he said, "The beauty contest is meaningless except for propaganda purposes."

So let's not give the illusion to the public that, yes, we are creating a statewide Presidential primary where the vast number of voters will have a voice in who the Presidential nominee will be. What we are effectively doing is saying, yes, you have a voice but it really doesn't count because what really counts is the number of delegates your presidential nominee gets to go to their respective national conventions. That is what really counts so I don't think that we should be spending our time creating nothing but beauty contests and, at the same time, creating an illusion that the public is going to have a voice in the process. They are not.

We have four years before the next presidential election. I think that is ample opportunity for those individuals who support this primary process to sit down and hammer out a process that includes a comprehensive plan for the selection of delegates to the state and national conventions, where the public will have that voice. This doesn't achieve that.

I would hope that you would support the minority of the committee and oppose this piece of legislation.

The SPEAKER: The Chair recognizes the Representative from Lisbon, Representative Jalbert.

Representative JALBERT: Mr. Speaker, Men and Women of the House: I think my good friend, the Representative from Lewiston, Representative Handy, gave out a word which really makes the whole issue. He said, the activists and that is exactly what is wrong with the caucus. The activists come in and take over the caucus. I think we saw that on both sides of the aisle at the last caucus. If you do have an open primary, then everybody has a chance to speak but the activists will take over the caucus and that is exactly what has happened. You have certain groups that walk in and take over and they run the whole thing.

I would ask you again to please vote for the bill as it is now.

The SPEAKER: The Chair recognizes the Representative from Berwick, Representative Murphy.

Representative MURPHY: Mr. Speaker, Men and Women of the House: I agree 100 percent with Representative Handy, there are too many unanswered questions out there. In committee, nobody had any answers to where do we go, once we have the primary? Who selects the delegates? I believe there should be something right now as far as the cost is concerned. The figure tossed around up there was \$110,000. It was also said that that probably was a conservative figure. I would like to know who is going to pay that \$110,000? I don't know as I want it to go back to the taxpayers, maybe the parties should pay for it. I think it was hurried through and I think we have plenty of time to really study this bill and come out and lay down some rules and regulations, if we really want a state primary.

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

Representative ALIBERTI: Mr. Speaker, Men and Women of the House: It could be my age speaking -- what is wrong with a beauty contest? I know that I enjoy them, especially if there is a great deal of merit besides the beauty.

As a major in Social Studies, as a major in Government and my education background, I have found that the government of the people means just that. I never saw such a poor exhibition of a government representation as I did in the caucus this year. As of right now, we still lack delegates that we can send to the State Convention. We are begging for them. Even those that accepted, accepted just to be kind to the process.

As recently as last night, I received a telephone message that two of the people that agreed at that time (we almost forced them to accept their role as a delegate) indicated that they could not attend. I think that could be partially resolved by numbers and, if the primary is going to allow us to have numbers, I certainly hope that you would support that as a mandate that we have as citizens of this country for the premise and the actual stated fact of the government of the people.

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

Representative MANNING: Mr. Speaker, Men and Women of the House: I would like to pose a question through the Chair.

Could anyone actually tell me how delegates to the State Convention are going to be elected and how those delegates are going to be elected to the National Convention by this bill?

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

The Chair recognizes the Representative from Lisbon, Representative Jalbert.

Representative JALBERT: In answer to that, the parties would still determine how they will pick their delegates to the convention through a caucus system.

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

Representative MANNING: Mr. Speaker, Men and Women of the House: Then, my understanding is that we will still have a caucus so what we will have is a beauty contest and then we will have a caucus and the people who were confused before will be even more confused. Maybe I am wrong but it sure sounds that way.

Representative Mayo of Thomaston was granted permission to speak a third time.

Representative MAYO: Mr. Speaker, Men and Women of the House: The concept of a beauty contest is something that I don't particularly care for either, like Representative Aliberti. A primary can be crafted as such that the vote at the primary can dictate how the delegates are apportioned to the National Convention. If a candidate gets 25 percent of the vote in the primary, he can get 25 percent of the delegates. Again, this would be up to the parties to set rules to establish those delegates. I can assure you that if I lose the fight for a primary at the Democratic State Committee, I will be fighting to make sure that it is not a beauty contest.

The SPEAKER: The Chair recognizes the Representative from Biddeford, Representative Sheltra.

Representative SHELTRA: Mr. Speaker, Men and Women of the House: I happen to be chairman of my caucus in my ward and we had 26 people show who were entitled to 14 delegates. When I asked for a show of hands as to who would be interested in becoming a delegate, my goodness, we had to wring some of the people out in order to get them to participate. In addition to that, we had one heck of a time getting alternates. My point is, if you can't get them to show at a caucus, how the heck are you going to get them to show if you break it up into two different segments?

If you are going to have a Presidential primary, you should also have a caucus that same day; otherwise, if you just call for a caucus after a Presidential primary, I don't think you will have anybody showing up.

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 Chair recognizes the Representative from LaGrange, Representative Hichborn.

Representative HICHBORN: Mr. Speaker, Men and Women of the House: It seems to me that this L.D. 328 is a constituent bill. The caucus system is nothing but a party tool. You and I know that.

I am not down here to represent Republicans, I am not down here to represent Democrats, I am not down here to represent just the unenrolled, I am down here to represent everybody. This is a bill which will get everybody to participate in the process.

I can't answer the questions on details that some people have asked for but I am not afraid of my

constituents and I don't think any of us should be. If we are going to have a democracy, we ought to give the people an opportunity to participate.

I hope you will vote in favor of the "Ought to Pass" Report.

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

Representative CURRAN: Mr. Speaker, Men and Women of the House: I don't know what happens in your towns but I hear reports that the process is dying on the vine. If that is true, something should be done about it but I am not so sure that this is the way to do it.

Let me report to you on a couple of experiences that I had with caucuses over the last weekend. I went to the Portland caucus (and I am not a resident of Portland) which had a packed hall. They had a packed hall and I am told that that caucus registered 200 new voters. I don't know that for a fact but that is what I was told.

The night after that, I went to the Westbrook caucus and I guess I could be called what some of you call yourselves, the old liners, because I have been active in Westbrook politics for a long, long time, have gone to all the caucuses and all the city committee meetings, ward meetings and all. So I am an old liner, one of those that the new people, I guess, are so critical of as being hardbacked but, nevertheless, at the Westbrook Republican caucus this year, there were 202 people at the caucus who were eligible to vote. There were 50 new members signed up at that caucus that night. Now, that is not dying on the vine, that is a very vital, vital part of the democratic process. Anybody could have gone to that caucus. The newspapers covered that for weeks at a time, all the caucuses. Every single person within the lines of Westbrook could go to the caucus and, as you can see, the people who were interested, did go. The party was revitalized because of it and, as a follow up of that, and I don't mean to carry this on too far, there were several new members, people who had signed up that night and had come for the first time, who called city hall and said, "Will somebody come around and advise our group about how we can better participate now that we have come and signed up and seen the caucus?"

Last night about nine-thirty, I was sitting in my study and the phone rang. A man called me up who had never participated in politics before but had come to that caucus and said, "Can you get me some nomination papers, I have seen the process, I am excited and I want to go to Augusta." If your towns don't do that, I think it is probably because they are in a cycle. Westbrook has been in that cycle before, the down cycles and the up cycles. I personally don't see anything wrong with the caucus system. I don't see anybody being left out of the caucus system who does not want to be left out.

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

Representative SMITH: Mr. Speaker, Ladies and Gentlemen of the House: I represent small towns and, as Representative Martin has pointed out, many of those small towns do not hold caucuses. I have had calls from constituents from another small town saying, "Why can't I be part of that process?" It is simply because they do not have a chair of either party, they are not involved, so they don't get to vote. They feel they are losing their constitutional rights.

Now, if we do have a caucus, it is true, they can come in and enroll. But, if there is no caucus, they can't get enrolled, they can't get involved. It

seems to me a primary would cover all small towns as well as the cities and that is my concern. As it is now, unless you have a chairman in your town of either party, then you are not going to have a caucus.

A lot of people that I have talked to in these small towns don't want to get involved, they don't want to receive the mailing and usually that mailing is asking for money and they get very upset of constantly receiving letters asking for money. I think the primary process is the best way to go.

The SPEAKER: The Chair recognizes the Representative from Eastport, Representative Vose.

Representative VOSE: Mr. Speaker, Ladies and Gentlemen of the House: Very, very briefly. I think what we have lost in this whole conversation, this whole debate, is the fact that there are a lot of people unable to participate in the caucus due to illness, due to inability to be there that day. We have an absentee ballot that we can sign on other elections and, in this particular case, that particular person is left out of the entire process. It is unfortunate but that is exactly right. Therefore, that is why I am supporting the primary.

The SPEAKER: The pending question before the House is the motion of Representative Perry of Mexico that the House accept the Majority "Ought to Pass" as amended by Committee Amendment "A" (S-329) Report. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 199

YEA - Aliberti, Anthony, Baker, Bost, Brown, Carroll, Carter, Cashman, Chonko, Clark, H.; Coles, Crowley, Diamond, Dore, Duffy, Dutremble, L.; Erwin, P.; Foss, Foster, Garland, Gould, R. A.; Gurney, Gwadosky, Hale, Harper, Hichborn, Hickey, Higgins, Hillock, Hognlund, Holt, Jacques, Jalbert, Joseph, Ketrover, Kilkelly, Kimball, Lacroix, Lawrence, Lisnik, Lord, MacBride, Macomber, Mahany, Manning, Martin, H.; Matthews, K.; Mayo, McGowan, McHenry, McSweeney, Michaud, Mills, Mitchell, Moholland, Nadeau, G. R.; Nutting, Paradis, P.; Parent, Paul, Perry, Pouliot, Reeves, Rice, Richard, Ridley, Rolde, Rydell, Smith, Soucy, Stevens, P.; Strout, D.; Swazey, Tammaro, Tardy, Thistle, Tracy, Tupper, Vose, Walker, Webster, M..

NAY - Allen, Anderson, Begley, Bickford, Bragg, Callahan, Conley, Curran, Daggett, Davis, Dellert, Dexter, Farnum, Farren, Greenlaw, Handy, Hanley, Hepburn, Holloway, Hussey, Jackson, Lebowitz, Look, McPherson, Murphy, E.; Murphy, T.; Nicholson, Norton, O'Gara, Oliver, Paradis, E.; Paradis, J.; Pines, Racine, Rand, Reed, Rotondi, Salsbury, Scarpino, Sheltra, Sherburne, Simpson, Small, Stanley, Stevens, A.; Strout, B.; Taylor, Telow, Wentworth, Weymouth, Whitcomb, Willey, Zirnkilton.

ABSENT - Armstrong, Bailey, Bott, Boutilier, Clark, M.; Cote, Glidden, LaPointe, Marsano, Melendy, Nadeau, G. G.; Priest, Ruhlin, Seavey, Warren, The Speaker.

Yes, 81; No, 53; Absent, 16; Vacant, 1; Paired, 0; Excused, 0.

81 having voted in the affirmative, 53 in the negative, with 16 being absent and one vacant, the Majority "Ought to Pass" as amended Report was accepted and the Bill read once.

Committee Amendment "A" (S-329) was read by the Clerk and adopted and the Bill assigned for second reading Wednesday, March 16, 1988.

Divided Report

Majority Report of the Committee on Transportation reporting "Ought to Pass" on Bill "An

Act Relating to the Weighing of Trucks" (S.P. 819) (L.D. 2139)

Signed:

Senators: THERIAULT of Aroostook
DOW of Kennebec
CAHILL of Sagadahoc

Representatives: MACOMBER of South Portland
McPHERSON of Eliot
POULIOT of Lewiston
SOUCY of Kittery
CALLAHAN of Mechanic Falls
MILLS of Bethel
SALSBURY of Bar Harbor

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

Signed:

Representatives: STROUT of Corinth
MOHOLLAND of Princeton

Came from the Senate with the Majority "Ought to Pass" report read and accepted and the Bill passed to be engrossed.

Reports were read.

On motion of Representative Macomber of South Portland, the House accepted the Majority "Ought to Pass" Report, the Bill read once and assigned for second reading Wednesday, March 16, 1988.

COMMUNICATIONS

The following Communication: (H.P. 1849)

COMMISSION TO STUDY THE USE OF INVOLUNTARY SERVICES FOR SUBSTANCE ABUSERS

March 15, 1988

The Honorable John L. Martin, Vice-Chairman
Legislative Council
State House Station 2
Augusta, ME 04333

Dear Speaker Martin:

The Commission to Study the Use of Involuntary Services for Substance Abusers is pleased to submit its final report to the Legislature, pursuant to Resolve 1987, c. 72, as amended by Resolve 1987, c. 78. The report proposes that Maine's existing law which provides for the involuntary commitment of incapacitated alcoholics be revised extensively, and I am hopeful that this issue might be fully addressed by the Second Regular Session of the 113th Legislature.

Sincerely,

s/Stanley J. Evans, M.D.
Chairman

Was read and with accompanying report ordered placed on file and sent up for concurrence.

The following Communication:

STATE OF MAINE
DEPARTMENT OF TRANSPORTATION
STATE HOUSE STATION 16
AUGUSTA, MAINE 04333

March 10, 1988

The Honorable John L. Martin
Speaker of the House
House of Representatives
State House Station 2
Augusta, ME 04333

Dear Speaker Martin:

As chairman, I am pleased to submit a copy of the findings of the Commission engaged by the 113th Legislature to study the resolve entitled "Resolve, to Establish a Commission to Study the Feasibility of Constructing a 4-lane Highway from Interstate 95 to the St. John Valley".

The report, while indicating that a new controlled access highway facility cannot be justified at this time under traditional analysis processes, clearly states the importance of Routes 1 and 11 and indicates the strong need to continue and accelerate the upgrading of these corridors.

I appreciated the opportunity to serve as Chairman of this Commission and express my concerns for the highway system in Aroostook County.

Sincerely,
s/Gregory J. Cyr,
Chairman

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:

Appropriations and Financial Affairs

Bill "An Act to Fund and Implement Collective Bargaining Agreements with Certain Maine Vocational-Technical Institute System Employees Represented by the Maine State Employees Association" (Emergency) (H.P. 1845) (L.D. 2527) (Presented by Representative FOSTER of Ellsworth) (Cosponsors: Representative LISNIK of Presque Isle, Senators EMERSON of Penobscot and BERUBE of Androscoggin)

Ordered Printed.
Sent up for Concurrence.

Judiciary

Bill "An Act Relating to Exceptions to Prevent Escapes and Other Offenses under the Interception of Wire and Oral Communications Law" (H.P. 1846) (L.D. 2528) (Presented by Representative MARSANO of Belfast) (Cosponsors: Senator PERKINS of Hancock, Representatives CARROLL of Gray and MANNING of Portland) (Submitted by the Department of Corrections pursuant to Joint Rule 24)

Ordered Printed.
Sent up for Concurrence.

ORDERS

REPORTS OF COMMITTEES

Unanimous Ought Not to Pass

Representative PRIEST from the Committee on Legal Affairs on RESOLVE, Authorizing Gary Kelly, Daniel Kelly and the Estate of Cynthia Kelly to Sue the State for Compensation for Wrongful Death and Other Injuries Suffered as a Result of a Motor Vehicle Collision (H.P. 1662) (L.D. 2272) reporting "Ought Not to Pass"

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

Unanimous Leave to Withdraw

Representative WARREN from the Committee on Judiciary on Bill "An Act to Amend the Maine Tort Claims Act Regarding Punitive Damages" (H.P. 204) (L.D. 256) reporting "Leave to Withdraw"

Representative BEGLEY from the Committee on Judiciary on Bill "An Act to Create the Litigation Accountability Act" (H.P. 216) (L.D. 268) reporting "Leave to Withdraw"

Representative MacBRIDE from the Committee on Judiciary on Bill "An Act to Broaden Peer Review

Immunity" (H.P. 226) (L.D. 294) reporting "Leave to Withdraw"

Representative COTE from the Committee on Judiciary on Bill "An Act to Authorize the Use of Electronic Recording of Nonjury Superior Court Proceedings" (H.P. 1444) (L.D. 1955) reporting "Leave to Withdraw"

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

Ought to Pass in New Draft

Representative PARADIS from the Committee on Judiciary on Bill "An Act Relating to the Time Limit for Delivering the Warrant or Process by Which a Prisoner is Detained" (H.P. 1492) (L.D. 2042) reporting "Ought to Pass" in New Draft (H.P. 1847) (L.D. 2529)

Report was read and accepted, the New Draft read once and assigned for second reading Wednesday, March 16, 1988.

Ought to Pass in New Draft

Representative GOULD from the Committee on Energy and Natural Resources on Bill "An Act to Ensure the Safe Siting of Gravel Excavation" (Emergency) (H.P. 1559) (L.D. 2123) reporting "Ought to Pass" in New Draft (H.P. 1848) (L.D. 2530)

Report was read and accepted, the New Draft read once and assigned for second reading Wednesday, March 16, 1988.

Ought to Pass in New Draft/New Title

Representative NUTTING from the Committee on Agriculture on Bill "An Act to Conserve Agricultural Production Capability and to Promote Harmony between Agriculture and Adjacent Development" (H.P. 1276) (L.D. 1746) reporting "Ought to Pass" in New Draft under New Title Bill "An Act to Promote Harmony between Agriculture and Adjacent Development and to Protect the Public Health, Safety and General Welfare" (Emergency) (H.P. 1842) (L.D. 2522)

Report was read and accepted, the New Draft read once and assigned for second reading Wednesday, March 16, 1988.

CONSENT CALENDAR

First Day

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

(S.P. 818) (L.D. 2138) Bill "An Act to Provide Additional Appropriations to Continue the Dioxin Study" Committee on Appropriations and Financial Affairs reporting "Ought to Pass"

(S.P. 876) (L.D. 2279) Bill "An Act to Provide Volunteer Literacy Services for Maine Citizens" Committee on Appropriations and Financial Affairs reporting "Ought to Pass" as amended by Committee Amendment "A" (S-330)

(S.P. 837) (L.D. 2174) Bill "An Act to Make Allocations from the Maine Nuclear Emergency Planning Fund for Fiscal Year Ending June 30, 1989" (Emergency) Committee on Appropriations and Financial Affairs reporting "Ought to Pass" as amended by Committee Amendment "A" (S-331)

(S.P. 796) (L.D. 2093) Bill "An Act to Create a Single Point of Contact for the Operators of Commercial Vehicles" Committee on Transportation

reporting "Ought to Pass" as amended by Committee Amendment "A" (S-332)

(S.P. 795) (L.D. 2092) Bill "An Act to Prohibit the Display of Blue Lights on Vehicles Other than those Used by Authorized Law Enforcement Officers and Agencies" Committee on Transportation reporting "Ought to Pass" as amended by Committee Amendment "A" (S-335)

(S.P. 745) (L.D. 2004) Bill "An Act to Make Changes to the Public Utilities Law" Committee on Utilities reporting "Ought to Pass" as amended by Committee Amendment "A" (S-333)

There being no objections, the above items were ordered to appear on the Consent Calendar of Wednesday, March 16, 1988, under the listing of Second Day.

(H.P. 130) (L.D. 159) RESOLVE, Concerning a Proposed Supreme Judicial Court Facility (Emergency) Committee on Appropriations and Financial Affairs reporting "Ought to Pass" as amended by Committee Amendment "A" (H-481)

On motion of Representative Murphy of Kennebunk, was removed from the Consent Calendar, First Day. Committee Report was read.

On motion of Representative Murphy of Kennebunk, tabled pending acceptance of the Committee Report and specially assigned for Wednesday, March 16, 1988.

(H.P. 1726) (L.D. 2369) Bill "An Act to Eliminate the Requirement that the Deputy Adjutant General and the Director of the Military Bureau be the Same Individual" Committee on Aging, Retirement and Veterans reporting "Ought to Pass"

There being no objections, the above item was ordered to appear on the Consent Calendar of Wednesday, March 16, 1988, under the listing of Second Day.

CONSENT CALENDAR
Second Day

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

(H.P. 1609) (L.D. 2200) Bill "An Act to Provide Greater Public Dissemination of Information Concerning Prohibition of Certain Land Usages" (C. "A" H-480)

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

PASSED TO BE ENGROSSED

Bill "An Act to Revise the Definition of Spouse Under the Maine State Retirement System" (H.P. 1834) (L.D. 2511)

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

PASSED TO BE ENGROSSED

Bill "An Act to Increase Work Incentive in the Unemployment Insurance Partial Benefit Structure" (H.P. 1839) (L.D. 2517)

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

The SPEAKER: The Chair recognizes the Representative from Gorham, Representative Hillock.

Representative HILLOCK: Mr. Speaker, Ladies and Gentlemen of the House: I would like to ask a question to the Chair of this committee -- how does this actually apply to legislative members? Is it the intent of this bill to allow legislator's to collect unemployment while they are in legislative session?

The SPEAKER: Representative Hillock of Gorham 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 Mt. Desert, Representative Zirkilton.

Representative ZIRNKILTON: Mr. Speaker, Members of the House: No, it is not the intent of the committee to allow members of the legislature to collect unemployment compensation. As a matter of fact, I believe it is in existing law from actions taken in earlier sessions that that will not be allowed based on legislative service and this does not intend to change that.

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

PASSED TO BE ENGROSSED

Bill "An Act to Amend the Law Concerning Alternate Voting Procedures for School Budget Approval" (Emergency) (H.P. 1840) (L.D. 2518)

Bill "An Act to Provide Immunity from Civil Liability for Certain Emergency Medical Service System Participants" (H.P. 1841) (L.D. 2519)

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

PASSED TO BE ENGROSSED
As Amended

Bill "An Act Concerning Investment of State Funds in Corporations Doing Business in Northern Ireland" (S.P. 757) (L.D. 2008) (C. "A" S-323)

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

Representative Harper of Lincoln offered House Amendment "A" (H-472) and moved its adoption.

House Amendment "A" (H-472) was read by the Clerk. The SPEAKER: The Chair recognizes the Representative from Lincoln, Representative Harper.

Representative HARPER: Mr. Speaker, Ladies and Gentlemen of the House: As a result of the amendment, Section 4 of the bill contained in Committee Amendment "A," -- and I will refresh your mind on that that Committee Amendment "A" removed the requirement for corporations to provide adequate security for the protection of minority workers while traveling to and from work. This part was removed but the bill no longer contains a complete and accurate statement of the so-called MacBride Principles. This amendment removes all references to those Principles while still retaining other operative parts of the bill, including the remaining goals contained in Section 4, which enacts the Maine Revised Statutes, Title 5, Section 1961. This amendment also deletes the provision for the disinvestment of state funds since, as a result of Committee Amendment "A," it will no longer be feasible to determine compliance with the MacBride Principles which we have altered. This is an amendment which should make everybody happy.

The goals of the MacBride Principles can be attained as goals to be worked towards. The disinvestment of state funds is deleted. Compliance with the MacBride Principles cannot be attained since we have already altered those Principles and the

goals we can agree need to be supported as goals. I respectfully urge your support.

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

Representative CURRAN: Mr. Speaker, I move the indefinite postponement of House Amendment "A."

Mr. Speaker, Men and Women of the House: As you can see, this amendment would strip the very substance out of the bill. It would not be the bill at all that the committee heard testimony on, that the committee voted on, or that the committee reported to you on. It leaves nothing and it does nothing but subvert the wishes of so many people who voted for the bill here yesterday. It attempts to divert our attention from the high order of merit of that original bill.

I have been told that even the primary opponent of the bill in the Senate, the person who spoke primarily against it, refused to introduce this amendment because it is so insipid and so neutralizing and so inappropriate to the occasion.

Please vote to indefinitely postpone this amendment.

I request 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 Chair recognizes the Representative from Lisbon, Representative Jalbert.

Representative JALBERT: Mr. Speaker, Ladies and Gentlemen of the House: It was at the insistence of the gentlelady from Lincoln and at the request of a gentlelady from England who represented the British Government that I insisted in committee that the second part of this thing would be deleted. So, it was at the insistence of the people from the British Isles and Northern Ireland because it said in there that the companies would have to furnish security for their employees to and from work. We felt this was part of the constabulary's business and we could not do it. That is the only part of the whole MacBride Principles which has been taken out and has nothing to do with the rest of the Principles.

The SPEAKER: The pending question before the House is the motion of Representative Curran of Westbrook that House Amendment "A" be indefinitely postponed. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 200

YEA - Aliberti, Allen, Anthony, Baker, Bost, Brown, Carroll, Carter, Cashman, Chonko, Clark, H.; Coles, Conley, Crowley, Curran, Daggett, Diamond, Dore, Duffy, Dutremble, L.; Erwin, P.; Gould, R. A.; Gurney, Gwadosky, Hale, Handy, Hichborn, Hickey, Hogleund, Holt, Hussey, Jackson, Jacques, Jalbert, Joseph, Ketover, Kilkelly, Lacroix, Lawrence, Lisnik, Lord, Macomber, Mahany, Manning, Marsano, Martin, H.; Matthews, K.; Mayo, McGowan, McHenry, McPherson, McSweeney, Michaud, Mills, Mitchell, Murphy, E.; Nadeau, G. R.; Nicholson, Nutting, O'Gara, Oliver, Paradis, J.; Paradis, P.; Paul, Perry, Pouliot, Racine, Rand, Reeves, Richard, Ridley, Rolde, Rotondi, Rydell, Scarpino, Sheltra, Simpson, Smith, Soucy, Stevens, P.; Strout, D.; Swazey, Tardy, Telow, Thistle, Tracy, Walker, Willey, The Speaker.

NAY - Anderson, Begley, Bickford, Bragg, Callahan, Davis, Dellert, Dexter, Farnum, Farren, Foss, Foster, Garland, Greenlaw, Hanley, Harper.

Hepburn, Higgins, Hillock, Holloway, Kimball, Lebowitz, Look, MacBride, Moholland, Murphy, T.; Norton, Paradis, E.; Parent, Pines, Reed, Rice, Salisbury, Sherburne, Small, Stanley, Stevens, A.; Strout, B.; Tammara, Taylor, Tupper, Vose, Webster, M.; Wentworth, Weymouth, Whitcomb, Zirkilton.

ABSENT - Armstrong, Bailey, Bott, Boutilier, Clark, M.; Cote, Glidden, LaPointe, Melendy, Nadeau, G. G.; Priest, Ruhlin, Seavey, Warren.

Yes, 89; No, 47; Absent, 14; Vacant, 1; Paired, 0; Excused, 0.

89 having voted in the affirmative, 47 in the negative, with 14 being absent and one vacant, House Amendment "A" was indefinitely postponed.

Representative Harper of Lincoln offered House Amendment "B" (H-473) and moved its adoption.

House Amendment "B" (H-473) was read by the Clerk.

The SPEAKER: The Chair recognizes the Representative from Lincoln, Representative Harper.

Representative HARPER: Mr. Speaker, Ladies and Gentlemen of the House: In view of the fact that, as a result of the amendment in Section 4 of the bill contained in Committee Amendment "A," the bill no longer contains a complete and accurate statement of the so-called MacBride Principles. This amendment removes all reference to those Principles while still retaining all other operative parts of this bill including the remaining goals contained in Section 4 which enacts the Maine Revised Statutes, Title 5, Section 1961.

I respectfully ask that you support this amendment.

Representative Jalbert of Lisbon moved that House Amendment "B" be indefinitely postponed.

Representative Murphy of Kennebunk requested a division on the motion to indefinitely postpone House Amendment "B."

Representative Jalbert of Lisbon 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 Jalbert of Lisbon that House Amendment "B" (H-473) be indefinitely postponed. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 201

YEA - Aliberti, Allen, Anthony, Baker, Bost, Brown, Carroll, Carter, Cashman, Chonko, Clark, H.; Coles, Conley, Crowley, Curran, Daggett, Diamond, Dore, Duffy, Dutremble, L.; Erwin, P.; Gould, R. A.; Gurney, Gwadosky, Hale, Handy, Hichborn, Hickey, Hogleund, Holt, Hussey, Jackson, Jacques, Jalbert, Joseph, Ketover, Kilkelly, Lacroix, Lawrence, Lisnik, Lord, Macomber, Mahany, Manning, Marsano, Martin, H.; Matthews, K.; Mayo, McGowan, McHenry, McPherson, McSweeney, Michaud, Mills, Mitchell, Murphy, E.; Nadeau, G. R.; Nicholson, Nutting, O'Gara, Oliver, Paradis, J.; Paradis, P.; Paul, Perry, Pouliot, Racine, Rand, Reeves, Richard, Ridley, Rolde, Rotondi, Rydell, Scarpino, Sheltra, Simpson, Smith, Soucy, Stevens, P.; Strout, D.; Swazey, Tardy, Telow, Thistle, Tracy, Walker, Willey, The Speaker.

NAY - Anderson, Begley, Bickford, Bragg, Callahan, Davis, Dellert, Dexter, Farren, Foss, Foster, Garland, Greenlaw, Hanley, Harper, Hepburn, Higgins, Hillock, Holloway, Kimball, Lebowitz, Look,

MacBride, Moholland, Murphy, T.; Norton, Paradis, E.; Parent, Pines, Reed, Rice, Salisbury, Sherburne, Small, Stanley, Stevens, A.; Strout, B.; Tamaro, Taylor, Tupper, Webster, M.; Wentworth, Weymouth, Whitcomb.

ABSENT - Armstrong, Bailey, Bott, Boutilier, Clark, M.; Cote, Farnum, Glidden, LaPointe, Melendy, Nadeau, G. G.; Priest, Ruhlin, Seavey, Vose, Warren, Zirkilton.

Yes, 89; No, 44; Absent, 17; Vacant, 1; Paired, 0; Excused, 0.

89 having voted in the affirmative, 44 in the negative, with 17 being absent and one vacant, the motion to indefinitely postpone House Amendment "B" did prevail.

Subsequently, the Bill was passed to be engrossed as amended by Committee Amendment "A" (S-323) in concurrence.

PASSED TO BE ENGROSSED

Bill "An Act Providing Conformity with the United States Revenue Code Under the Maine Income Tax Law for 1987" (Emergency) (S.P. 868) (L.D. 2263) (S. "A" S-334)

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

PASSED TO BE ENACTED

An Act Pertaining to Fire Permit Enforcement (S.P. 865) (L.D. 2254) (H. "A" H-471 to S. "A" S-319)

An Act to Require Dealers in All-Terrain Vehicles to Provide Written Warranties (H.P. 1517) (L.D. 2070) (C. "A" H-466)

An Act to Clarify the Unemployment Compensation Appeals Process (H.P. 1795) (L.D. 2459) (S. "A" S-327)

An Act to Clarify the Access of the Commissioner of Educational and Cultural Services to Employee Records for Certification of Educational Personnel (H.P. 1809) (L.D. 2475)

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.

ORDERS OF THE DAY

TABLED AND TODAY ASSIGNED

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

An Act to Provide a Method for Taxation of Real Property When Owner is Unknown (H.P. 1753) (L.D. 2402) TABLED - March 11, 1988 by Representative SMITH of Island Falls.

PENDING - Motion of same Representative to Reconsider Passage to be Enacted.

Subsequently, Representative Smith of Island Falls withdrew his motion to reconsider passage to be enacted. Sent to the Senate.

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

Bill "An Act to Make the Exemption for Home Knitters from the Unemployment Insurance Tax Retroactive" (H.P. 1832) (L.D. 2509)

(Committee on Labor suggested)

TABLED - March 14, 1988 by Representative NADEAU of Saco.

PENDING - Reference.

Subsequently was referred to the Committee on Labor, ordered printed, and sent up for concurrence.

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

An Act to Permit Sharing of Confidential Information between Criminal Justice Agencies at all Governmental Levels (H.P. 1467) (L.D. 1978)

TABLED - March 14, 1988 by Representative DIAMOND of Bangor.

PENDING - Passage to be Enacted.

On motion of Representative Diamond of Bangor, retabled pending passage to be enacted and specially assigned for Wednesday, March 16, 1988.

(Off Record Remarks)

On motion of Representative Paradis of Augusta, Adjourned until until Wednesday, March 16, 1988, at nine o'clock in the morning.