

# MAINE STATE LEGISLATURE

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# **LEGISLATIVE RECORD**

OF THE

**One Hundred And Thirteenth Legislature**

OF THE

**State Of Maine**

## **VOLUME IV**

### **SECOND REGULAR SESSION**

March 25, 1988 to May 5, 1988

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### **HOUSE & SENATE LEGISLATIVE SENTIMENTS**

December 3, 1986 to December 6, 1988

**ONE HUNDRED AND THIRTEENTH MAINE LEGISLATURE**  
**SECOND REGULAR SESSION**  
**72nd Legislative Day**  
**Thursday, May 5, 1988**

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

Prayer by Reverend Bruce W. Meyer, Prince of Peace Lutheran Church, Augusta.

The Journal of Wednesday, May 4, 1988, was read and accepted.

PETITIONS, BILLS AND RESOLVES  
REQUIRING REFERENCE

Bill "An Act to Clarify the Lobbyist Disclosure Law" (H.P. 1961) (L.D. 2656) (Presented by Representative CARROLL of Gray) (Cosponsors: Representatives THISTLE of Dover-Foxcroft, STANLEY of Cumberland and Senator COLLINS of Aroostook) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27)

Under suspension of the rules, without reference to any committee, the Bill was read once and assigned for second reading later in today's session.

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

PASSED TO BE ENACTED  
Emergency Measure

An Act Correcting Additional Errors and Inconsistencies in the Laws of Maine (H.P. 1962) (L.D. 2657)

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

PASSED TO BE ENACTED

An Act to Reimburse the Department of Inland Fisheries and Wildlife for Search and Rescue Operations (H.P. 1949) (L.D. 2642) (C. "A" H-795)

Was 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  
Later Today Assigned

An Act to Clarify the Application of the Resource Protection Law and the Site Location Law (H.P. 1957) (L.D. 2651) (H. "A" H-794)

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

On motion of Representative Michaud of East Millinocket, tabled pending passage to be enacted and later today assigned.

The following items were taken up out of order by unanimous consent:

ORDERS

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

ORDERED, that Representative Vinton T. Ridley of Shapleigh be excused May 4 and 5 for health reasons.

AND BE IT FURTHER ORDERED, that Representative Jo Anne D. Lapointe of Auburn be excused May 5 for personal reasons.

AND BE IT FURTHER ORDERED, that Representative Harriet A. Ketover of Portland be excused May 5 for personal reasons.

Was read and passed.

PASSED TO BE ENACTED  
Emergency Measure

An Act to Make Necessary Changes to Implement Comprehensive Land Use Planning (H.P. 1950) (L.D. 2643) (S. "A" S-547)

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

PASSED TO BE ENACTED

An Act to Return Certain Positions within the Department of Environmental Protection to Classified Service under the Civil Service Law (S.P. 1009) (L.D. 2648)

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

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

Representative MURPHY: Mr. Speaker, Men and Women of the House: The other evening we had discussed the budget process in terms of that document that moved through both bodies and was signed into law. Also, there was some discussion last evening in terms of the effectiveness of the DEP and how the Appropriations Committee had looked into that department, not only in terms of the study and funding of that study but in terms of making that department operate more efficiently and to be more responsive to the Maine people and had come forth with that recommendation concerning those six positions. I would urge the members of the House today as this is before us at enactment, to vote no and support the committee process.

Mr. Speaker, 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 Gray, Representative Carroll.

Representative CARROLL: Mr. Speaker, Ladies and Gentlemen of the House: We did talk about this issue last night. We had a couple of votes on it. I would ask you to support this bill in its enactment.

The major question here is whether these positions are in fact major policy influencing positions or are they plain mid-management people? Again, the committee process, I have no problem with. I understand the give and the take of the process. I appreciate the give and the take in the process but we are talking here about six out of somewhere around 18 division heads. I think that establishes some inconsistency in policy in state government. Again, there are no other departments in state government that we have declassified division heads. I would encourage the House to pass this bill and send it on its way so we can get on with the business.

The SPEAKER: The Chair recognizes the Representative from Waterboro, Representative Lord.

Representative LORD: Mr. Speaker, Ladies and Gentlemen of the House: Last winter, the Energy and Natural Resources Committee spent a good deal of time with Dean Marriott going over the department down there and the complaints that we had heard. I am sure that all of us in this House have had many constituent complaints. We have tried to come up with something that would work, that the work would be done quicker. We have all heard of the Pete Mowich report. We have raised fees. I don't care if you put 50 men over there or 100 men, if you can't get the work done, then nothing is going to be accomplished. To me, these bureau chiefs are nothing more than foremen on a job. If you have a foreman on a job and he has a crew underneath him and the work isn't done, somebody has got to be responsible for the work being done.

Now, one way is for the bureau chief to motivate his people to do the work or replace the bureau chief. I think that we have come to a situation here where something will have to be done and I think this is just a tool for the commissioner over there to use if it is necessary. I think that these six chiefs are really where most of the problems are. For that reason, I would urge you to vote against this and let's get the job done and give the commissioner over there the tool that he needs to be sure to get the job done.

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

Representative CARTER: Mr. Speaker, Ladies and Gentlemen of the House: Let me restate briefly that what this bill purports to do is allow a seven-headed dragon to run around. If any of you have ever tried to control a dragon with seven heads, I would like to know how you succeeded. This is nothing more than good government legislation. It is not precedent setting, it has been done before in other departments and I would hope that you would vote against enactment of this bill.

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

Representative GWADOSKY: Mr. Speaker, Ladies and Gentlemen of the House: Very, very briefly, speaking as an individual legislator, I have had the good fortune of chairing the State Government Committee like Representative Carroll. I think I have probably been involved in as many policy influencing pieces of legislation as any other member of this legislature. Throughout the years, we have tried to create some consistency in terms of what our policy would be in terms of unclassifying positions.

Keep in mind that when we talk about classified and unclassified positions, when you unclassify positions in this instance, for example in the Department of Environmental Protection, you say that those positions serve at the pleasure of the commissioner. Now, I think Representative Carroll has reiterated correctly so that throughout state government we have gone down to the level of bureau chiefs and unclassified in many areas where the legislature saw fit. In this particular instance, where the suggestion is being made that we go down to the division level, that is a major change in policy, it is a major difference and I fully appreciate the concerns in the Department of Environmental Protection, I appreciate the desire of this Governor to be able to go in there and kick out six members if they see fit and put in six more people to serve at their pleasure. But I think if there is an issue of accountability, if there is an issue of

reorganization, that needs to be addressed before a substantive committee.

I know Appropriations spent time on this. My preference I think would have been to have this type of legislation go to State Government Committee because they deal with this type of thing day in and day out.

I think it is a major change and despite the process, this thing needs to have an open hearing, it needs to have a public hearing where all the people can be brought in and where we can reasonably discuss this issue.

I would certainly hope that you support this bill.

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

Representative ANTHONY: Mr. Speaker, Ladies and Gentlemen of the House: This bill, as far as I am concerned, deeply involves the process that we follow here in this legislative assembly. The process, from my point of view, requires to work properly, a public hearing every time, unless there is some absolutely essential crisis that requires that there be no public hearing.

When we adjourned ten days ago, we had three different items within the Appropriations Bill that never went to public hearing, that were all substantive. I believe that is wrong, simply wrong. We ended up debating one of those on the floor of the House at the tail end of the session, that item dealt with clam diggers and the permit process. That bill also had never had a public hearing and we never got to hear the people involved directly. All we heard was third-hand reports of what those people said to other legislators.

I think we have in this body, unfortunately, come to the point where we do not give adequate recognition of the importance of the public hearing. The public hearing is the crucible of ideas. This bill here restores the status quo prior to the Appropriations Bill process that never had that public hearing. I don't care personally whether this is a good idea or bad idea, the point for me is, we have to be taking control of the process and getting back to the public hearing as a crucial and vital part of that process. This bill, therefore, deserves support because it does restore the status quo prior to the Appropriations Bill which made substantive changes without that sort of public hearing.

I would be voting the same way if it was something I cared about or something I didn't tend to agree with in terms of policy change. The point is, policy changes need to have public hearings. It is that simple. This bill will restore the way things were and next session we can have the proposal to declassify and have it go to a public hearing and bring in the public that have input into this process, give them an opportunity to challenge the ideas that are being put forth in this body. Give them an opportunity to testify about them, give them an opportunity to present the arguments pro and con and then we can reach our decision and that decision will be more sound, more rationally based.

That process is not only important in terms of what comes out of here as being good ideas or bad ideas, it also goes very much to the heart of the degree to which this body is given public recognition as a proper entity. That is where we get our authenticity, through the presentation of those ideas through the public process. When we start to short-cut that process, as we have done frequently over the past two or three weeks, frequently, all too frequently, then we start to lose our authenticity as a body and start to lose the respect of, not only the

newspaper editors, but also the public at large. It seems to me that we have to be working in every way we can to restore ourselves to following that normal procedure of having all substantive ideas, all public policies issues go to a public hearing. That way we will restore the credibility of this body and ultimately, I believe, we will be doing it for a valid purpose and that is, it is only through the public hearing process that the ideas get adequately and soundly tested. I urge you to support this bill for that reason.

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

Representative JALBERT: Mr. Speaker, Ladies and Gentlemen of the House: I think there have been some good arguments given on both sides. I hate to disagree with my good friend from Waterboro, but I am afraid that this is just a foot in the door in an attempt to tamper with the Civil Service System or the Classified System we have in the State of Maine.

The purpose of setting up the classified system years ago was to prevent the so-called hiring of political cronies and people subject to the whims and fancy of the commissioners.

There has been an attempt in the last four years that I have been here, at least three or four times, to declassify state employees. I was one for 30 years and you had a certain amount of protection if you were classified. You could do your job and not have to worry about political pressure. Maybe there are some problems in the DEP and I would agree that there are. But let's not use this as an attempt to put the foot in the door to do away with classified service in the State of Maine.

They say these people should be at the whim of the commissioner. There is a big difference in pay scales between someone in private industry and someone in state service. You know the reason many state employees stay on is because of the fact that they are classified, they have a certain amount of protection and that they do have fringe benefits. But, if you turn around and you expect that you are going to get people from private industry to come to work for the state and to have no job security at the pay scale that they are giving compared to private industry, you will never get them, you will never get the people to come. There is a big difference if you go work for some big corporation -- you might get a bonus but there is none of that for the state. Maybe there are problems but I think that before we start declassifying employees, we should think twice and as the gentleman from South Portland said, let's have a proper hearing and give them a fair chance. I would ask that you support the bill.

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

Representative CARTER: Mr. Speaker, Ladies and Gentlemen of the House: The good gentleman from South Portland, Representative Anthony, suggested that we hold public hearings on any piece of legislation that has substantive changes in it. I would like to call his attention to the fact that there are 12 bills before us that we just acted upon, not one of them has had a public hearing. There is nothing in the statutes that require that the legislature hold a public hearing, we do this for the convenience of the public. So let's not hang our hat on the fact that the bill has not had a public hearing. Good government is good government, no matter which way you approach it. I hope you vote against this bill.

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

Representative CURRAN: Mr. Speaker, Men and Women of the House: I will be very brief because I know everyone wants to get home. I want to point out and emphasize that I agree emphatically with the comments from the Representative from South Portland, he is absolutely correct about that. I think in addition to being a convenience to the public, I think it is necessary for us to know what we are voting on and how we are drawing our conclusions.

All that having been said, I do wish to urge everyone to vote against this bill. I think we have evidence enough without the public testimony. We have the testimony of the Commissioner himself that he can't serve the purposes of the department without the authority and without the ability to control the people under him. The people are running the division. He can't do that. We ourselves are all witness to that.

In my district, for instance, it is almost -- well I am sorry I don't mean to use terms that in themselves aren't appropriate but it is almost laughable in some cases, back in my district, where phone calls don't get answered, letters don't get answered, things don't get done that should be done. All the evidence is clear enough, clear enough. Although I agree that the principle is a true one, public hearings are essential. In a sense, we have had public hearing on this because we are witness to it ourselves. So, I am going to vote against this bill. I hope everyone in the House does.

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

Representative NORTON: Mr. Speaker, Ladies and Gentlemen of the House: I was going to sit idly by and let this go.

In 1964, I was a superintendent of schools in Hartland, Maine, five small towns. We struggled with our work. I worked hard there as I have tried to work in every job that I ever had. We formed, in that period, SAD #48 the ninth largest school administrative district in this state. It included Newport and Corinna. Along with those five towns, or most of them, two of them went with another district, that is immaterial -- I am building up to something that relates to this subject. During the time that I worked as a superintendent of schools, I gained such a high regard for the Department of Education, its commissioner, its deputy, several other of these so-called policy influencing positions, that I elected to take a 50 percent salary cut to join the Department of Education as the bureau chief of the the Bureau of Elementary Education as it was called in those days. I chose to leave the field in order to work with Commissioner Bill Logan, Deputy Commissioner Kermit Nickerson, Assistant Commissioner Asa Gordon, Dr. Keith Crocket who was in charge of school construction, Hayden Anderson in charge of teacher education, and some other people in other positions. Folks, these were nationally known people. I felt so strongly, I gave up half my salary to do in internship, what I considered an internship, under them. I feel I benefited immeasurably from that, decided not to use that as a stepping stone to further education to the level of a doctorate maybe or to some other job somewhere else, which I had fledging fantasies about. Instead of that, I dedicated my professional life to improving the quality of education here in Maine. I became one of those policy influences. Shame on me if I had not. What are we paying people for if not to give their opinions? However, I want to say right behind my opinion was my loyalty. I think your friends step up and tell you when you are wrong and I don't think

today your friends dare to step up and tell you when you are wrong.

I feel strongly about this. I was affected by it. You may say well, you were too close to the situation. Remember my former remarks, I joined state government out of a respect for career professionals who I revered and who made national marks. I am telling you the present system needs a look at. We are seeing symptoms of what is wrong, we are not seeing those causal factors. Not only has unclassified service gone too far down in the organizations, I think too far down is one step beyond a commissioner. I don't think you have to hire the person to command their loyalty or demand their work.

One little aside and I mean this as levity and not anything in a personal nature, but I do know how you kill a seven-headed dragon, you get him in the heart, he has only got one.

The SPEAKER: The Chair recognizes the Representative from Ellsworth, Representative Foster.

Representative FOSTER: Mr. Speaker, Men and Women of the House: I resent the fact that people say we did not have a public hearing. We have a public hearing every single day that we are here if you serve on Appropriations. We had the budget in front of us and we listened to all the problems of the DEP.

On a Friday afternoon, a day like this, we were told to meet on the Pete Mowich study and we went. I didn't see many there but we listened. Out of that, we started a revamp of the one organization that gives all of you problems and will continue to give you all problems because there is going to be an increase in fees. There are going to be problems with the DEP and because of that, we hired 30 new people. 30 new people in the budget to the tune of hundreds of thousands of dollars. During that discussion, we found that there was one stumbling block that would be left. At an open hearing and not in the darkness of night or on a Saturday or a Sunday, but many days during these many days that we have been here, we have talked about the problem and how would we overcome. Ladies and gentlemen of the House, we tried to make it so that your constituents and mine will have better access to the DEP, that the job will be done and that is what we did. I really think that we did the right thing. Time will tell.

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

Representative JACQUES: Mr. Speaker, Men and Women of the House: I have heard a lot of discussion here about the process. I don't think we should worry about the process too much. The process has been mutilated to the point, in the last couple of weeks down here, where it is irrecognizable to the people who wrote the statutes by which we operate.

There is probably no one in this House that has any more frustration dealing with DEP than I do, having served on that committee for ten years. The last year and a half has been the most frustrating, no question about it. I remember very clearly when we were asked to declassify the bureau chiefs that that would solve all the problems. We declassified them and they are all still there. If they were a stumbling block, they weren't much of a block because they are still there.

I have real mixed emotions about doing this because if this works, then I think we should declassify from the top all the way down to the bottom. If that is the only way you can get state government to respond to the people, then declassify them all.

I get ten times as many complaints about game wardens in this state than I do DEP. So, imagine the complaints you get about DEP and you multiply ten times and that is the problem that I deal with almost on a weekly basis dealing with game wardens who have no respect for the people. They treat everybody like they are criminals, everybody like they are law breakers and there is no way to deal with that.

So, if this works, then maybe we will declassify all those fellows and then maybe I can get some responsive government and all the stumbling blocks will be out of the way.

The question I have in my mind and nobody has answered it yet is, if this doesn't work and we have agreed to hire 54 new people in DEP, according to Pete Mowich and we have taken some fees and we have raised them by 400, 500 and 600 percent because they told us that would help solve the problem -- if we declassify these people and it doesn't solve the problem, what are we going to do next, declassify some more down below that?

I think at the public hearing I basically laid it on the line with the commissioner, we have raised your fees, we have hired your 54 people, we have declassified your bureau chiefs and from this date forward, if the job isn't done, then either you should quit or we should fire you, but we should replace the commissioner. I think that is the bottom line, he is a foreman all right, he is the top foreman. Those five or six foremen underneath him right now can go at his whim and will.

So, I guess we are going to add another layer underneath that that can go at his whim and will, maybe it will work, maybe it won't but what happens if it doesn't? I don't want anybody to think that if they vote against this bill and allow this to go on that they are going to be solving DEP's problems. I have been here ten years, the problems have gotten worse instead of better. Every time they came to us and said we need this to solve this problem, we did it. The problems are still there and they are getting worse. So, whether or not declassifying is going to help or not, I don't know. But, what happens if it doesn't? That is the question I want to leave with this House.

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

Representative HOLT: Mr. Speaker, Ladies and Gentlemen of the House: I think our basic problem with this question which crept upon us or at least me overnight is protection of the environment in an age of such an environmental crisis that we may never be able to catch up. The DEP's major problem as I can see clearly is lack of resources necessary to deal with the problem that has gotten out of bounds of human control. I have a lot of people in my district living on the coast and up the Kennebec River as we do, worried almost sick about environmental pollution. I get requests to call the DEP almost every day. I hear short tempers and distress over there and it is well understood by me.

What I am concerned about here is what I hear from my constituents all too often. They worry that already people who are appointed by politicians and (I speak of them with reverence because I know how hard we work) they want to know why so many people are appointed to protect our environment who are from industry that has shown very little regard in the past for the environment and also very little technical and disciplined information that comes only from studying the basic biological problems that we face. They want to know, for instance, why there are so many people in the Energy and Natural Resources Committee that come from the paper industry. That

is, I think, a question I have heard about Mr. Marriott himself, though I respect him greatly. My concern is that we are going to further politicize the process of trying to put a finger in this dam that is about to break. I think we should hold the line until we can carefully look this problem over and listen further to what we need to do. Thank God we have been able to give the DEP more worker bees, they need that. But, please don't let us let this opportunity slip through our fingers to protect the environment from political pressure.

The SPEAKER: A roll call has been ordered. The pending question before the House is passage to be enacted.

The Chair recognizes the Representative from Lewiston, Representative Pouliot.

Representative POULIOT: Mr. Speaker, I wish to pair my vote with Representative Lisnik of Presque Isle. If he were present and voting, he would be voting no; I would be voting yes.

The SPEAKER: The pending question before the House is passage to be enacted. Those in favor of that motion will vote yes; those opposed will vote no.

ROLL CALL NO. 301

YEA - Allen, Anthony, Baker, Bost, Brown, Carroll, Clark, H.; Clark, M.; Coles, Conley, Cote, Crowley, Daggett, Dellert, Diamond, Dore, Erwin, P.; Gould, R. A.; Greenlaw, Gwadosky, Hale, Handy, Hichborn, Hickey, Hogleund, Holloway, Holt, Hussey, Jacques, Jalbert, Joseph, Kilkelly, Look, Macomber, Manning, Martin, H.; Mayo, McHenry, McSweeney, Melendy, Michaud, Mills, Mitchell, Moholland, Nadeau, G. R.; Norton, Nutting, O'Gara, Oliver, Paradis, J.; Paul, Perry, Priest, Rand, Richard, Rolde, Rotondi, Ruhlin, Rydell, Scarpino, Sheltra, Smith, Soucy, Stevens, A.; Stevens, P.; Strout, D.; Tammaro, Tardy, Thistle, Tracy, Vose, Walker.

NAY - Aliberti, Anderson, Armstrong, Bailey, Begley, Bickford, Bragg, Carter, Cashman, Chonko, Curran, Dexter, Farnum, Farren, Foss, Foster, Garland, Hanley, Harper, Hepburn, Jackson, Lawrence, Lebowitz, Lord, MacBride, Matthews, K.; McGowan, Murphy, E.; Murphy, T.; Nicholson, Paradis, E.; Parent, Pines, Reed, Rice, Salsbury, Seavey, Sherburne, Strout, B.; Taylor, Telow, Tupper, Webster, M.; Wentworth, Whitcomb, Willey, Zirnkilton.

ABSENT - Bott, Boutilier, Callahan, Davis, Duffy, Dutremble, L.; Glidden, Gurney, Higgins, Hillock, Ketover, Kimball, Lacroix, LaPointe, Mahany, Marsano, McPherson, Nadeau, G. G.; Paradis, P.; Racine, Reeves, Ridley, Simpson, Small, Stanley, Stevenson, M.; Swazey, Warren, Weymouth, The Speaker.

PAIRED - Lisnik, Pouliot.

Yes, 72; No, 47; Absent, 30; Paired, 2; Excused, 0.

72 having voted in the affirmative and 47 in the negative with 30 being absent and two having paired, the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

(At Ease)

The House was called to order by the Speaker.

The following item appearing on Supplement No. 3 was taken up out of order by unanimous consent:

ORDERS

On motion of Representative CARTER of Winslow, the following Joint Order: (H.P. 1963)

Ordered, the Senate concurring, that Bill, "AN ACT Concerning Intermediate Care Facilities for the

Mentally Retarded," H.P. 1960, L.D. 2655, and all its accompanying papers, be recalled from the Governor's desk to the House.

Was read and passed and sent up for concurrence.

By unanimous consent, was ordered sent forthwith to the Senate.

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

PASSED TO BE ENGROSSED

As Amended

Bill "An Act to Clarify the Lobbyist Disclosure Law" (H.P. 1961) (L.D. 2656)

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

Representative Carroll of Gray offered House Amendment "A" (H-796) and moved its adoption.

House Amendment "A" (H-796) was read by the Clerk.

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

Representative CARROLL: Mr. Speaker, Ladies and Gentlemen of the House: This amendment clarifies the amendment that was on the Appropriations Act of 1988 in the disclosure of lobbying information. The original bill asked you to disclose information for funding and sources that you got beyond those of lobbying. For example, if a lobbying firm did extensive non-legislative work for their clients, they would have been required to report those fees. This bill makes it so they would report only that compensation for actual lobbying. It also clarifies the definition of lobbying so that information and work done before a legislative committee is now included in that reporting requirement.

I urge the adoption of this amendment.

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

Representative MURPHY: Mr. Speaker, Men and Women of the House: I think this legislature can be very proud in terms of last week, the sunshine that we let in to the lobbying process in terms of how records are kept and what type of accounting is made. I want to make sure that through this amendment that we don't weaken our very positive accomplishment in terms of last week. I think I have a series of questions to the good chairman of the committee.

Does this amendment strengthen or weaken what we accomplished last week? And, given certain increasing examples or activities connected with lobbying such as mailing out to an association or client list, does that fall under the reporting category? Calling clients to ask them to call legislators showing grass roots support? Sending out legislative bulletins? We know what it is like to wait for the sound of the bell and wait here in the chamber or wait out in the hall -- when a lobbyist is here dealing with an issue and he or she is waiting for the process to begin again or for a bill to come up before a hearing, that time spent (I assume the clock is running) who is getting billed for that running clock and will it show in this reporting process?

The SPEAKER: Representative Murphy of Kennebunk has posed a series of questions through the Chair to Representative Carroll of Gray who may respond if he so desires.

The Chair recognizes that Representative.

Representative CARROLL: Mr. Speaker, Men and Women of the House: This amendment, this bill, will in fact strengthen what we have done for lobbyists. And, yes, any communications directly with any official in the legislature for the purpose of



influencing legislative action will be disclosed. So, the wait time, the mailing time, if it is directly influencing legislative action will have to be reported. That will strengthen the lobbying laws and the reporting requirements.

Subsequently, House Amendment "A" (H-796) was adopted.

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

The Chair laid before the House the following matter: An Act to Clarify the Application of the Resource Protection Law and the Site Location Law (H.P. 1957) (L.D. 2651) (H. "A" H-794) which was tabled earlier in the day and later today assigned pending passage to be enacted.

On motion of Representative of Representative Michaud of East Millinocket, the House reconsidered its action whereby L.D. 2651 was passed to be engrossed.

On further motion of the same Representative, the House reconsidered its action whereby House Amendment "A" (H-794) was adopted.

The same Representative offered House Amendment "A" (H-799) to House Amendment "A" (H-794) and moved its adoption.

House Amendment "A" (H-799) to House Amendment "A" (H-794) was read by the Clerk and adopted.

House Amendment "A" (H-794) as amended by House Amendment "A" (H-799) thereto was adopted.

The Bill was passed to be engrossed as amended by House Amendment "A" (H-794) as amended by House Amendment "A" (H-799) thereto in non-concurrence and sent up for concurrence.

(Off Record Remarks)

(At Ease)

The House was called to order by the Speaker.

The following item appearing on Supplement No. 4 was taken up out of order by unanimous consent:

ORDERS OF THE DAY  
BILL RECALLED FROM GOVERNOR

(Pursuant to Joint Order - House Paper 1963)

An Act Concerning Intermediate Care Facilities for the Mentally Retarded (H.P. 1960) (L.D. 2655)

- In House, Passed to be Enacted on May 4, 1988.

- In Senate, Passed to be Enacted on May 4, 1988.

On motion of Representative Carter of Winslow, under suspension of the rules, the House reconsidered its action whereby L.D. 2655 was passed to be enacted.

On further motion of the same Representative, under suspension of the rules, the House reconsidered its action whereby the Bill was passed to be engrossed.

The same Representative offered House Amendment "A" (H-797) and moved its adoption.

House Amendment "A" (H-797) was read by the Clerk and adopted.

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

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

The following item appearing on Supplement No. 8 was taken up out of order by unanimous consent:

SENATE PAPER

Non-Concurrent Matter

Bill "An Act to Clarify the Sales Tax Exemption on Scheduled Airlines" (H.P. 1946) (L.D. 2641) which was passed to be engrossed as amended by House Amendment "B" (H-793) in the House on May 4, 1988.

Came from the Senate passed to be engrossed as amended by Senate Amendment "B" (S-549) in non-concurrence.

The SPEAKER: The Chair recognizes the Representative from Old Town, Representative Cashman.

Representative CASHMAN: Mr. Speaker, Men and Women of the House: I move that the House recede and concur.

This is the bill that we voted on yesterday and I think this bill got a very strong vote on the first reading and then the bill was amended as House members will recall. The amendment caused some concern. It caused some concern in the other body as well.

As I stated yesterday when we debated this original amendment, there were mixed feelings in the committee as to whether or not this bill in fact needed a fiscal note. The fiscal note has been placed on the bill to satisfy the concerns of some who feel that it needs one.

What this amendment does is rightfully identify the money and require that an adjustment be made from whatever existing surplus there is as of July 1st to reimburse the General Fund for any loss in revenue. It satisfies the concerns of some that it have a fiscal note, it does it without touching the Rainy Day Fund or the language in the Rainy Day Fund. I think it is superior to the House Amendment that we put on it yesterday, even though I sponsored that amendment. I think that the House should recede and concur.

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

Representative MURPHY: Mr. Speaker, Men and Women of the House: Last evening in terms of my comments for support was for the process that had been refined in terms of establishing a note as well as an obligation on our part to pay for the cost of that note but was opposed to the Rainy Day Fund. I feel that the amendment that has just been offered is a more straightforward and honest approach.

I think out of the debate that has occurred over the last few days and in the closing days before we recessed was that the majority of the members in this House want to keep Maine jobs in Bangor and that we recognize this firm as a good corporate citizen, Maine corporate citizen. As a member of the House in 1984, I clearly agree with the gentleman from Old Town that I clearly remember what we were doing. The problem has been now because of the process of being able to pay for it, so I agree with the good gentleman from Old Town that this is a far better amendment, while I was opposed to the Rainy Day Amendment, I can support this and would urge members of this House to support the amendment that has been offered.

Representative Nadeau of Saco 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 Chair recognizes the Representative from Monmouth, Representative Davis.

Representative DAVIS: Mr. Speaker, Ladies and Gentlemen of the House: I am afraid I am going to have to disagree with my good leader on this. I would define this as phantom financing. I am not sure that our friendly interstate banker would go along with something like this. It just seems to me that we don't know that it is going to be there but we hope so. You know, I haven't run into a lender who does business on that basis but apparently that is the way we have chosen to do it.

I would just like to add one more thing, I am not against Bar Harbor Airlines. I stood here and pled their case last time and understand that even though they handle a lot of money, they don't make a lot of money. They probably do need a subsidy but this type of subsidy and our interference with the process just goes against my grain. So, I just hope you will vote against the pending motion.

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

Representative MACOMBER: Mr. Speaker, Ladies and Gentlemen of the House: I will be very brief. This morning I was reading in the Portland Press Herald, there were statements by the Speaker, the Governor, Representative Murphy, all the rest of them, that said, any surplus that accrues in the next few months would be used to relieve property taxes. I was very pleased to hear that. Now, I wonder if the priority has changed, are we going to talk about bailing out Bar Harbor before we do property tax relief?

The SPEAKER: The pending question before the House is the motion of Representative Cashman of Old Town that the House recede and concur.

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 Lisnik of Presque Isle. If he were present and voting, he would be voting yea; I would be voting nay.

The SPEAKER: The Chair recognizes the Representative from Rockland, Representative Melendy.

Representative MELENDY: Mr. Speaker, I request permission to pair my vote with Representative Stevens of Bangor. If she were present and voting, she would be voting yea; I would be voting nay.

The SPEAKER: The pending question before the House is the motion of Representative Cahsman of Old Town that the House recede and concur. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 302

YEA - Aliberti, Anderson, Armstrong, Bickford, Bost, Boutilier, Carter, Cashman, Chonko, Conley, Cote, Crowley, Curran, Daggett, Dexter, Diamond, Erwin, P.; Farnum, Farren, Garland, Gould, R. A.; Greenlaw, Gwadosky, Hale, Hepburn, Hichborn, Hickey, Jackson, Jacques, Jalbert, Joseph, Lawrence, Lebowitz, Lord, MacBride, Martin, H.; Matthews, K.; McGowan, Michaud, Moholland, Murphy, E.; Murphy, T.; Nadeau, G. G.; Nicholson, Norton, O'Gara, Paradis, E.; Paradis, J.; Paradis, P.; Parent, Paul, Pines, Priest, Rice, Richard, Ruhlin, Salsbury, Seavey, Sherburne, Stevens, A.; Strout, B.; Tamaro, Tardy, Telow, Thistle, Vose, Walker, Wentworth, Whitcomb, Zirkilton, The Speaker.

NAY - Anthony, Bailey, Baker, Begley, Bragg, Brown, Clark, H.; Coles, Davis, Dellert, Dore, Foss,

Foster, Handy, Hanley, Harper, Hoglund, Holloway, Holt, Hussey, Kilkelly, Look, Macomber, Manning, McHenry, McSweeney, Mills, Mitchell, Nadeau, G. R.; Nutting, Oliver, Perry, Rand, Reed, Reeves, Rolde, Rotondi, Rydell, Sheltra, Simpson, Small, Smith, Soucy, Strout, D.; Taylor, Tracy, Tupper, Webster, M..

ABSENT - Allen, Bott, Callahan, Carroll, Clark, M.; Duffy, Dutremble, L.; Glidden, Gurney, Higgins, Hillock, Ketover, Kimball, Lacroix, LaPointe, Mahany, Marsano, McPherson, Pouliot, Racine, Ridley, Scarpino, Stanley, Stevenson, M.; Swazey, Warren, Weymouth, Willey.

PAIRED - Lisnik, Mayo, Melendy, Stevens, P..  
Yes, 71; No, 48; Absent, 28; Paired, 4; Excused, 0.

71 having voted in the affirmative, 48 in the negative with 28 being absent and 4 having paired, the motion to recede and concur did prevail.

The following item appearing on Supplement No. 11 was taken up out of order by unanimous consent:

PASSED TO BE ENACTED

An Act to Clarify the Sales Tax Exemption on Scheduled Airlines (H.P. 1946) (L.D. 2641) (S. "B" S-549)

Was 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.

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

The following item appearing on Supplement No. 9 was taken up out of order by unanimous consent:

SENATE PAPER

Bill "An Act to Improve the Outdoor Recreation Opportunities for the People of the State of Maine" (S.P. 1013) (L.D. 2658)

Came from the Senate under suspension of the rules and without reference to a Committee, the Bill read twice and passed to be engrossed.

(The Committee on Reference of Bills had suggested reference to the Committee on Energy and Natural Resources.)

Under suspension of the rules and without reference to any committee, the bill was read twice and passed to be engrossed in concurrence.

(Off Record Remarks)

(At Ease)

The House was called to order by the Speaker.

The following item appearing on Supplement No. 10 was taken up out of order by unanimous consent:

SENATE PAPER

Non-Concurrent Matter

Bill "An Act to Amend the Education Laws" (H.P. 1959) (L.D. 2654) on which the House insisted on its former action whereby the Bill was passed to be engrossed in the House on May 4, 1988.

Came from the Senate passed to be engrossed as amended by Senate Amendment "A" (S-550) in non-concurrence.

The House voted to recede and concur.

(At Ease)

The following item appearing on Supplement No. 5 was taken up out of order by unanimous consent:

PASSED TO BE ENACTED

An Act to Clarify the Application of the Resource Protection Law and the Site Location Law (H.P. 1957) (L.D. 2651) (H. "A" H-799 to H. "A" H-794)

Was 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.

The following item appearing on Supplement No. 6 was taken up out of order by unanimous consent:

PASSED TO BE ENACTED

An Act to Clarify the Lobbyist Disclosure Law (H.P. 1961) (L.D. 2656) (H. "A" H-796)

Was 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.

The following item appearing on Supplement No. 12 was taken up out of order by unanimous consent:

PASSED TO BE ENACTED

An Act to Improve the Outdoor Recreation Opportunities for the People of the State of Maine (S.P. 1013) (L.D. 2658)

Was 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.

At this point, the Chair asked the following individuals to go to the rostrum, Representative Gwadosky of Fairfield, Representative Diamond of Bangor, Representative Michaud of East Millinocket, Representative Zirnkilton of Mt. Desert, and Representative Joseph of Waterville.

The SPEAKER: From time to time in the course of the session, the Speaker needs to do certain things, i.e., take a break from some of the debate, some of which drags a little longer than I would like and some of you might like but that is your right to speak. From time to time, we do use individuals to serve as Speaker pro tem. On the item that I am going to give them, it will say four years, because two years ago, I did not give one, so it will cover both.

What I am presenting to these individuals is a gavel, on it is written the name of the Speaker pro tem and the dates served in that capacity.

First of all, I would like to give one to a person who is leaving but served many, many years, not only when he was the Majority Floor Leader, but before that as well, John Diamond. On it is written, "The Honorable John N. Diamond, Speaker pro tem, 1987-1988." (applause)

To Dan Gwadosky, which says 1987-1988. (applause)

This one goes to Mike Michaud who has had to endure more of the debate probably than anyone else here in the course of the session. Congratulations, Mike. (applause)

This one is to Ruth Joseph and on it it says, "The Honorable Ruth Joseph, Speaker pro tem, January 26, 1988." (applause)

Finally, to the person who is going to New York. We are sorry to see you go, I mean that sincerely even though there is always the eternal hope that the Democrats might pick up the seat. This one says, "Steve Zirnkilton, Speaker pro tem, March 16, 1988." Congratulations and thank you Steve. (applause).

The House was called to order by the Speaker.

The following item appearing on Supplement No. 7 was taken up out of order by unanimous consent:

PASSED TO BE ENACTED

An Act Concerning Intermediate Care Facilities for the Mentally Retarded (H.P. 1960) (L.D. 2655) (H. "A" H-797)

Was 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.

The following item appearing on Supplement No. 13 was taken up out of order by unanimous consent:

PASSED TO BE ENACTED

An Act to Amend the Education Laws (H.P. 1959) (L.D. 2654) (S. "A" S-550)

Was 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.

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

At this point, a message came from the Senate borne by Senator Dutremble, informing the House that the Senate had transacted all business before it and was ready to adjourn without day.

The Speaker appointed Representative DIAMOND of Bangor on the part of the House to inform the Senate that the House had transacted all business before it and was ready to adjourn without day.

Subsequently, Representative DIAMOND reported that he had delivered the message with which he was charged.

The Chair appointed the following members on the part of the House to wait upon His Excellency, Governor John R. McKernan, Jr., and inform him that the House had transacted all business before it and was ready to receive any communication that he may be pleased to make.

Representative CASHMAN of Old Town

Representative MAYO of Thomaston

Representative SWAZEY of Bucksport

Representative NADEAU of Saco

Representative DUFFY of Bangor

Representative DORE of Auburn

Representative JACKSON of Harrison

Representative ZIRNKILTON of Mount Desert

Representative SEAVEY of Kennebunkport

Representative WHITCOMB of Waldo

Subsequently, the Committee reported that they had delivered the message with which they were charged.

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

The Chair recognizes the Representative from Wells, Representative WENTWORTH.

Representative WENTWORTH: Mr. Speaker and Members of the House, I move the House stand adjourned sine die.

The SPEAKER: Representative Wentworth of Wells, moves that the House adjourn sine die. Is this the pleasure of the House?

The motion prevailed at 12:42 p.m., Eastern Daylight Savings Time, May 5, 1988 and the Speaker declared the House adjourned without day.

In Senate Chamber  
Thursday  
May 5, 1988

Senate called to Order by the President.

Prayer by the Honorable Zachary E. Matthews of Kennebec.

SENATOR MATTHEWS: Members of the Senate, ladies and gentlemen. Today may we pray. Dear Lord, bless this assembly of Your Senators that are here to do Thy will. Give us the strength dear Lord to realize that with all the problems that we see each and every day in this Chamber, that there are those that suffer much more greatly than we. I think dear Lord of those suffering in communist countries of Poland and Afghanistan where freedom is only a dream. Dear Lord make us realize that only through Your grace and through Your love are we free. Amen.

Reading of the Journal of Yesterday.

PAPERS FROM THE HOUSE  
Non-concurrent Matter

Bill "An Act to Amend the Education Laws"  
H.P. 1959 L.D. 2654

Committee on EDUCATION suggested and ORDERED PRINTED.

In House, May 4, 1988, PASSED TO BE ENGROSSED, without reference to a Committee.

In Senate, May 4, 1988, FAILED OF PASSAGE TO BE ENGROSSED in NON-CONCURRENCE.

Comes from the House, that Body INSISTED.

Senator KANY of Kennebec moved to RECEDE and CONCUR.

On motion by Senator COLLINS of Aroostook, Tabled until Later in Today's Session, pending the motion of Senator KANY of Kennebec, to RECEDE and CONCUR.

Senate at Ease

Senate called to order by the President.

The President requested the Sergeant-At-Arms escort the Senator from Cumberland, Senator USHER, to the Rostrum where he assumed the duties as President Pro Tem.

The President then took a seat on the floor of the Senate.

The Senate called to order by the President Pro Tem.

ORDERS OF THE DAY

The Chair laid before the Senate the Tabled and Specially Assigned matter:

Bill "An Act to Clarify the Sales Tax Exemption on Scheduled Airlines"

H.P. 1946 L.D. 2641

Tabled - May 4, 1988, by Senator DUTREMBLE of York.

Pending - ADOPTION OF HOUSE AMENDMENT "B" (H-793), in concurrence

(In House, May 4, 1988, PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENT "B" (H-793).)

(In Senate, May 4, 1988, House Amendment "B" (H-793) READ. Subsequently, motion to INDEFINITELY POSTPONE House Amendment "B" (H-793) FAILED.)