

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

Index

SECOND CONFIRMATION SESSION

May 13, 1988

Index

THIRD CONFIRMATION SESSION

June 15, 1988

Index

THIRD SPECIAL SESSION

September 15, 1988 to September 16, 1988

Index

FOURTH CONFIRMATION SESSION

November 14, 1988

Index

FOURTH SPECIAL SESSION

November 28, 1988

Index

HOUSE & SENATE LEGISLATIVE SENTIMENTS

December 3, 1986 to December 6, 1988

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

In Senate Chamber
Tuesday
March 29, 1988

Senate called to Order by the President.

Prayer by Reverend Gregory Randall of the Trinity Assembly of God in Gray.

REVEREND RANDALL: Let us pray. God of our Fathers, their stay in trouble, their strength in conflict, their guide and deep resources, we come to You. Be to us what our fathers have said You were to them, a fortress, a high tower, a refuge in the day of trouble. We, too, are tossed about by the uncertainties of life and the uncertainties of fate. We need security. We long for peace. We want to find the things that endure. We need strength greater than our own.

Our fathers have said that You were to them a pillar of cloud by day and of fire by night, that You did lead them, Your word a lamp unto their feet and a light unto their path. Be that to us. We, too, are pilgrims and pioneers still launching out in stormy seas for lands unknown. Each day is an adventure. Oh God of the pilgrims and pioneers, lead us in paths of righteousness for Your name's sake.

Our fathers have said concerning You that You were to them the captain of the well-fought fight, that You, the Lord of hosts, and did gird them with the armor of the Lord and arm them with the sword of the Spirit. Be that to us. We, too, must fight. Contentions rise up within us, and adverse circumstances rear themselves hostilely against us, and we need the courage that our fathers knew. Be to us the captain of the host.

Our fathers said You were their friend, the unseen companion of their pilgrimage, in whom with utter trust they could confide. Be that to us. We, too, need friendship. God of our fathers, we pray to You today for this state that the fathers founded. We thank You for the heritage that has come down to us, bought by other toil and other tears than our own; we thank You for the great character, that has been woven into the fabric of this state. For great leaders who in crucial times You have lifted up to direct our paths. Help us today with vivid vision to see the heroes of old who feared Your name. Steady our hands to grasp the torch of this states righteousness, which they have bequeathed to us. Make stable and wise our minds to understand this high entrustment.

To You we give praise and honor and make intercession. In Jesus Christ's name in whom we find eternal life we pray. Amen.

Reading of the Journal of Yesterday.

PAPERS FROM THE HOUSE
Non-concurrent Matter

Bill "An Act to Promote Solid Waste Research"
H.P. 1652 L.D. 2260
(C "A" H-492)

In Senate, March 21, 1988, PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-492), in concurrence.

Comes from the House PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-492) AS AMENDED

BY HOUSE AMENDMENT "A" (H-545), thereto in NON-CONCURRENCE.
The Senate RECEDED and CONCURRED.

Non-concurrent Matter

Bill "An Act to Require Testing for Dioxin and Toxic Metals at Energy Recovery Facilities"

S.P. 907 L.D. 2362

In Senate, March 21, 1988, PASSED TO BE ENGROSSED. Comes from the House PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENT "B" (H-537) in NON-CONCURRENCE.

The Senate RECEDED and CONCURRED.

Non-concurrent Matter

Bill "An Act to Revise the Solid Waste Law"

H.P. 1725 L.D. 2368

In Senate, March 23, 1988, PASSED TO BE ENGROSSED, in concurrence.

Comes from the House PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENT "A" (H-544) in NON-CONCURRENCE.

Senator WEBSTER of Franklin moved to ADHERE.

THE PRESIDENT: The Chair recognizes the Senator from Washington, Senator Randall.

Senator RANDALL: Thank you Mr. President, men and women of the Senate. I expressed concern over this proposed amendment this morning because it makes retroactive the provision of this Bill which impacts on statutes that our county commissioners in Washington an ordinance which they have already passed. Thank you.

Senator CLARK of Cumberland moved to RECEDE and CONCUR.

THE PRESIDENT: The Chair recognizes the Senator from Franklin, Senator Webster.

Senator WEBSTER: Thank you Mr. President, men and women of the Senate. This amendment is a retroactive amendment which, in my opinion, would be negative. We have allowed county commissioners to set policy, now we are taking away policy that may have already been set by the county commissioners in this state and it seems to me that this is inappropriate. I would ask you to vote against this amendment so that we could adhere. Thank you.

Senator WEBSTER of Franklin requested a Division.

THE PRESIDENT: The pending motion before the Senate is the motion of Senator CLARK of Cumberland that the Senate RECEDE and CONCUR.

A Division has been requested.

Will all those Senators in favor of the motion to RECEDE and CONCUR, please rise in their places and remain standing until counted.

Will all those opposed please rise in their places and remain standing until counted.

22 Senators having voted in the affirmative and 9 Senators having voted in the negative, the motion by Senator CLARK of Cumberland to RECEDE and CONCUR, PREVAILED.

Non-concurrent Matter

Bill "An Act Concerning High Speed Chases"

H.P. 1864 L.D. 2552

In Senate, March 22, 1988, PASSED TO BE ENGROSSED, in concurrence.

Comes from the House PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENT "A" (H-542) in NON-CONCURRENCE.

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

COMMUNICATIONS

The Following Communication:
 COMMITTEE ON AUDIT AND PROGRAM REVIEW
 STATE HOUSE STATION 5
 AUGUSTA, MAINE 04333

Honorable Charles P. Pray, Chair
 Honorable John L. Martin, Vice-Chair
 Legislative Council
 113th Legislature
 Augusta, Maine 04333
 Dear Senator Charles Pray and Representative John Martin;

Pursuant to 3 MRSA, Chapter 23, we are pleased to transmit the Committee's 1987 - 1988 report to you on:
 Maine Conservation School;
 DEP - Underground Petroleum Storage Tanks;
 DOT - Eminent Domain/Sale of Surplus Property;
 Alcohol and Drug Abuse Planning Committee;
 Board of Examiners of Psychologists;
 Electricians' Examiners Board;
 Maine Occupational Information Coordinating Committee;
 State Board of Social Worker Licensure; and
 Maine Uniform Accounting and Auditing Practices Act.

In addition to the diligent work of the Committee members, we would like to particularly thank the adjunct members who served on our subcommittees from other Joint Standing Committees; their expertise enriched and strengthened the review process.

These recommendations will now be subject to Public Hearing. We urge the full Legislature to consider our proposals carefully and we invite questions, comments and input regarding any part of this report.

Sincerely,

S/Beverly M. Bustin S/Neil Rolde
 Senate Chair House Chair

Which was READ and with Accompanying Papers
 ORDERED PLACED ON FILE.

ORDERS

Joint Resolution

On motion by Senator CLARK of Cumberland (Cosponsored by: President PRAY of Penobscot, Representative MACBRIDE of Presque Isle, Representative DAGGETT of Augusta) the following Joint Resolution:

S.P. 976

JOINT RESOLUTION IN RECOGNITION OF MAINE'S TRAVEL AND TOURISM INDUSTRY

WHEREAS, "the benefits of travel are many; the freshness it brings to the heart; the delight of beholding new cities; the meeting of unknown friends;" and

WHEREAS, with its geographical breadth and diversity, vacationland proudly offers those and countless other benefits to all who choose the great escape and pathway from the stresses of our mundane worlds; and

WHEREAS, Maine's travel and tourism industry is the State's 2nd largest industry and makes substantial contributions to the economic welfare of the State, providing nearly 2 billion dollars to the Maine economy in 1987; and

WHEREAS, the diversified nature of the tourism industry in Maine enhances the state economy and the well-being of the people of Maine and all who visit the State; and

WHEREAS, since the travel and tourism industry attracts more people to Maine, which in turn will yield greater revenue to the General Fund through

increased tax revenues and employment for the people of Maine, promoting tourism is, in fact, an investment in Maine's future; now, therefore, be it

RESOLVED: That we, the Members of the 113th Legislature of the State of Maine, now assembled in the Second Regular Session, take this opportunity to acknowledge the many outstanding accomplishments of those in the State's travel and tourism industry and express to them on this particular day a full measure of our gratitude and appreciation for their outstanding contribution to the well-being of this State; and be it further

RESOLVED: That suitable copies of this resolution, duly authenticated by the Secretary of State, be transmitted to the Maine Tourism Commission in honor of this special occasion.

Which was READ and ADOPTED.

Under suspension of the Rules, ordered sent down forthwith for concurrence.

COMMITTEE REPORTS

House

Leave to Withdraw

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

Bill "An Act to Define the Financial Relationship of the Maine Potato Board and the Department of Agriculture, Food and Rural Resources"

H.P. 1761 L.D. 2414

Resolve, to Release State Claims to Certain Land Abutting the Bath Road in Brunswick

H.P. 1770 L.D. 2423

Ought to Pass

The Committee on ENERGY AND NATURAL RESOURCES on Resolve, Authorizing the Sale of Certain Public Lands
 H.P. 1860 L.D. 2546

Reported that the same Ought to Pass.

Comes from the House with the Report READ and ACCEPTED and the Resolve PASSED TO BE ENGROSSED.

Which Report was READ and ACCEPTED, in concurrence.

The Resolve READ ONCE.

The Resolve LATER TODAY ASSIGNED FOR SECOND READING.

The Committee on JUDICIARY on 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

Reported that the same Ought to Pass.

Comes from the House with the Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENT "A" (H-543).

Which Report was READ and ACCEPTED, in concurrence.

House Amendment "A" (H-543) READ and ADOPTED, in concurrence.

The Bill as Amended, LATER TODAY ASSIGNED FOR SECOND READING.

Ought to Pass As Amended

The Committee on EDUCATION on Bill "An Act to Provide for the Education of Students Residing in Long-Term Drug Treatment Centers" (Emergency)

H.P. 1700 L.D. 2333

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-538).

Comes from the House, with the Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-538).

Which Report was READ and ACCEPTED, in concurrence.

The Bill READ ONCE.

Committee Amendment "A" (H-538) READ and ADOPTED, in concurrence.

The Bill as Amended, LATER TODAY ASSIGNED FOR SECOND READING.

The Committee on EDUCATION on Bill "An Act to Implement the Recommendations of the Special Commission to Study Teacher Training in the University of Maine System"

H.P. 1739 L.D. 2385

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-539).

Comes from the House, with the Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-539).

Which Report was READ and ACCEPTED, in concurrence.

The Bill READ ONCE.

Committee Amendment "A" (H-539) READ and ADOPTED, in concurrence.

The Bill as Amended, LATER TODAY ASSIGNED FOR SECOND READING.

The Committee on EDUCATION on Bill "An Act to Create the Maine Student Artist Awards Program"

H.P. 1773 L.D. 2426

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-540).

Comes from the House, with the Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-540).

Which Report was READ and ACCEPTED, in concurrence.

The Bill READ ONCE.

Committee Amendment "A" (H-540) READ and ADOPTED, in concurrence.

The Bill as Amended, LATER TODAY ASSIGNED FOR SECOND READING.

The Committee on MARINE RESOURCES on Bill "An Act Relating to Shellfish Sanitation and Monitoring"

H.P. 1599 L.D. 2188

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-541).

Comes from the House, with the Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-541).

Which Report was READ and ACCEPTED, in concurrence.

The Bill READ ONCE.

Committee Amendment "A" (H-541) READ and ADOPTED, in concurrence.

The Bill as Amended, LATER TODAY ASSIGNED FOR SECOND READING.

The Committee on UTILITIES on Bill "An Act to Revise the Charter of the Brunswick Sewer District" (Emergency)

H.P. 1837 L.D. 2514

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-536).

Comes from the House, with the Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-536).

Which Report was READ and ACCEPTED, in concurrence.

The Bill READ ONCE.

Committee Amendment "A" (H-536) READ and ADOPTED, in concurrence.

Under suspension of the Rules, READ A SECOND TIME and PASSED TO BE ENGROSSED, as Amended, in concurrence.

SECOND READERS

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

House

Bill "An Act to Amend the Cosmetology Laws"

H.P. 1759 L.D. 2408

Bill "An Act to Encourage and Monitor the Use of New Potato Varieties"

H.P. 1893 L.D. 2586

Resolve, to Study the Need to Increase the Supply of Reimbursable Mental Health Professionals

H.P. 1894 L.D. 2588

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

Bill "An Act to Promote Equity in Determining Medicaid Eligibility for Institutionalized Care"

H.P. 313 L.D. 412

Which was READ A SECOND TIME.

On motion by Senator CLARK of Cumberland, Tabled until Later in Today's Session, pending PASSAGE TO BE ENGROSSED, in concurrence.

House As Amended

Bill "An Act to Permit the Department of Transportation to Exempt Certain Railroad Crossings from Requirements to Stop"

H.P. 1624 L.D. 2219

(C "A" H-530)

Bill "An Act to Regulate the Hiring of School Bus Drivers"

H.P. 1812 L.D. 2480

(C "A" H-534)

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

Bill "An Act to Amend the Endangered Species Act"

H.P. 1875 L.D. 2567

(H "A" H-528)

Which was READ A SECOND TIME.

On motion by Senator BRAWN of Knox, Tabled until Later in Today's Session, pending PASSAGE TO BE ENGROSSED AS AMENDED, in concurrence.

Senate

Bill "An Act to Ensure Confidential and Reliable Substance Abuse Testing of Employees and Applicants"

S.P. 975 L.D. 2589

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

Sent down for concurrence.

Senate As Amended

Bill "An Act Amending the Workers' Compensation Laws Exempting Design Professionals from General Civil Liability for Injuries on Construction Projects"

S.P. 238 L.D. 657

(C "B" S-362)

Which was READ A SECOND TIME and PASSED TO BE ENGROSSED, as Amended.
Sent down for concurrence.

Bill "An Act to Enhance Outdoor Recreation Opportunities"

S.P. 889 L.D. 2301
(C "A" S-363)

Which was READ A SECOND TIME.
On motion by Senator CLARK of Cumberland, Tabled until Later in Today's Session, pending PASSAGE TO BE ENGROSSED AS AMENDED.

Off Record Remarks

ORDERS OF THE DAY

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

HOUSE REPORT - from the Committee on ENERGY AND NATURAL RESOURCES on Bill "An Act to Ensure Local Participation on the Radiological Emergency Preparedness Committee"

H.P. 1706 L.D. 2343

Report - Ought to Pass As Amended by Committee Amendment "A" (H-532)

Tabled - March 28, 1988, by Senator USHER of Cumberland.

Pending - ACCEPTANCE OF THE REPORT
(In Senate, March 28, 1988, Report READ.)

(In House, March 28, 1988, PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-532).)

Which Report was ACCEPTED, in concurrence.
The Bill READ ONCE.

Committee Amendment "A" READ and ADOPTED, in concurrence.

Senate at Ease

Senate called to order by the President.

On motion by Senator USHER of Cumberland, the Senate RECONSIDERED its action whereby it ADOPTED Committee Amendment "A" (H-532), in concurrence.

On further motion by same Senator, Tabled until Later in Today's Session, pending ADOPTION of Committee Amendment "A" (H-532), in concurrence.

Off Record Remarks

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

Emergency
An Act Relating to Horse Racing and Racing Facilities

H.P. 1781 L.D. 2434

Tabled - March 28, 1988, by Senator PEARSON of Penobscot.

Pending - ENACTMENT
(In House, March 28, 1988, PASSED TO BE ENACTED.)

(In Senate, March 24, 1988, PASSED TO BE ENGROSSED, in concurrence.)

On motion by Senator CLARK of Cumberland, Tabled until Later in Today's Session, pending ENACTMENT.

Senate at Ease

Senate called to order by the President.

ORDERS OF THE DAY

The Chair removed from the Tabled and Later Today Assigned matter:

Bill, "An Act to Amend the Endangered Species Act"
H.P. 1875 L.D. 2567
(H "A" H-528)

Tabled - March 29, 1988, by Senator BRAUN of Knox.
Pending - PASSAGE TO BE ENGROSSED AS AMENDED, in concurrence.

(In Senate, March 29, 1988, READ A SECOND TIME.)

(In House, March 28, 1988, PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENT "A" (H-528).)

On motion by Senator BRAUN of Knox, Senate Amendment "A" (S-364) READ.

Senator BRAUN: Thank you Mr. President. Mr. President, men and women of the Senate. As you saw yesterday, I signed on with the Majority Ought to Pass Report of this "Act to Amend the Endangered Species Act." I want to state publicly that I am very much in favor of endangered species legislation. I spoke last year in favor of the endangered species act which we passed. I am first Vice-President of the MFWC which is part of GFWC which was over three thousand members and has as its national product preservation of endangered species. We are at a critical time in history where we must address environmental issues and we are. This Act to Amend the Endangered Species Act, L.D. 2567 is a very complex Bill. We worked on this Bill for many hours. We heard much debate. We changed a lot of it and did come up with a New Draft and a Divided Report. At this point of voting majority or minority I felt reservations on both sides. The Minority Report only gives the injunctive judicial enforcement, which by the way is the reason we were told this Bill is here this year - the Bill we passed last year could not be enforced so we needed this judicial enforcement. The Majority Report has two other parts - one of which my amendment strikes.

In the Majority Report part one - habitat is the part - to identify critical habitat for endangered species. This is an ongoing project on which much work has already been done. It is a necessary part, I believe. The Commissioner of Fisheries and Wildlife, Bill Vail, may by rule develop guidelines for the protection of species designated as endangered or threatened. Before I cast my vote, I observed the Fisheries and Wildlife map which pinpointed areas that are the habitat of endangered species. In my district, the island of Vinalhaven has several eagle nests. So, I called the town manager and a couple of other influential people on Vinalhaven and asked their input. I told them about my reservations to landowners who in the future may not be able to build on land they own if it harbors and endangered species habitat. With some reservation, they urged me to vote 'with the eagles' which I've done.

However, I've felt uncomfortable with section two all along. Section two gives state agencies or municipal governments authority not to permit license, fund or carry out projects that will significantly alter the habitat identified and violate protection guidelines. The Commissioner would make such information available to all other state agencies and municipal governments for the purposes of review.

State agencies and municipal government may grant a variance from this section provided that Commissioner of Fisheries and Wildlife certifies that the proposed action would not pose a significant risk to any population of endangered or threatened species within the state and a public hearing is held on the

proposed action. Applications pending at the time of adoption of habitats and guidelines would be governed by these provisions. This amendment simply deletes section two, which should be under growth management, of this Bill. Part one, habitat and part three judicial enforcement will remain intact. The reason I ask your support in accepting this amendment is that section two is too narrow a review. It's biological only, I believe it could pit economic development against the environmentalist. I am in favor of maintaining our environment, it is a plank that I campaigned on.

However, a balance between exploitation and conservation must be achieved if we are to retain the long term values of the wildlife resource. I believe strongly that we must strike a balance between our environment and economic development. We have another resource, our children, who go away to college and don't return to Maine because there are no good jobs. We must work to provide good jobs. We must work together and look at the whole picture here. Permits to landowners can be denied solely on the basis of biological consideration while ignoring social economic aspects of projects. I believe section two should be addressed in our growth management committee and be under the DEP review.

Men and women of the Senate, I don't rise often as you are well aware, but I ask your support on this amendment and passage of the Bill. Our Fisheries and Wildlife Department is concerned with development and conservation, we all are too. This is one of the most critical issues we face. Let's protect our endangered species, I want to. But, let's also allow people, landowners, to be able to use their land. Let's work together to move Maine forward with common sense. Preservation of our natural resources is essential. I believe we can work together to provide room for both man and animal. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Oxford, Senator Erwin.

Senator ERWIN: Thank you Mr. President, men and women of the Senate. Under the present laws and regulations that we have, you cannot shoot an eagle, you cannot kill any of the endangered species. Let's discuss and focus on the eagle, because that seems to have been what in Committee was the most talked about topic and in talking to people outside of the Committee, it was one of the most talked about subjects. Under the present rules and laws, you cannot shoot the eagle and as was expressed in other sections of this building, you couldn't climb the tree and grab the eagle by his head and wring his neck. In other words, you can't kill the animal, but you can cut the tree down.

Section 2 does not prohibit a farmer from cutting his hay and bailing it. It does not prohibit a farmer from raising corn if that is what he raises in his field where there might be a tree with an eagle. It would prohibit the farmer under due process from selling off and subdividing which is what is happening increasingly more and more as the group marches up our beautiful state. It would prohibit the land being sold, sewerage lines, water lines, acreages of black top, perhaps a Howard Johnson's, McDonalds, it would prohibit that type of development. If you remove Section 2, you are removing the authority given to the commission to make available information to the state and municipal governments and agencies. The Commissioner of Inland Fisheries and Wildlife can certify under the variance that the proposed action would not propose a significant risk to any population of endangered species within the state. The Commissioner could have a public hearing on this proposed action and a

variance could be granted. Ladies and gentlemen, do you want to wait until someone, some developer has gone through all the expense of trying to get a project approved and then suddenly, someone in some section of state government, or some section of municipal government minds that there is an eagle nest out there and he has gone through all this expense of trying to get his application approved and suddenly it is not approved. This is what the intent of this Bill is trying to prevent. It is also to try to preserve some of our wildlife for our children and our children's children.

We have had much discussion in this Chamber over the years on the march up through our state that developers are making. How long are we going to wait before we do something to preserve some of the things that are endangered and will be endangered more if we allow this progress to continue? I urge you to join with me in defeating this amendment. Thank you.

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

Senator BALDACCI: Thank you Mr. President and members of the Senate. This Bill hasn't received as much impassioned pleas as an earlier piece of legislation in regards to growth and development and management, but this Bill is probably one of the more important ones that is going to control growth in development in most of Maine. We all remember the work in regards to the big hydro electric project in Northern and Eastern Maine, but I think in all honesty that we are the conservators of this complex world in which we live in and it is very important that we be good trustees of the land. I think that this is a good Bill, as it is now without the amendment that is being proposed by the good Senator from Knox, Senator Brawn, because in fact by having this endangered species list of the bald eagle and of the hump back whale and the fin back whale, you are in fact preserving a part of Maine that cannot be developed because of those endangered species. I think this is an area which people in the State of Maine ought to be working on because you are in fact going to prevent development and growth in preserving these natural habitats where these endangered species have prospered.

I would hope that the Senate would defeat the amendment and maintain the Majority Report.

THE PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Dillenback.

Senator DILLENBACK: Thank you Mr. President, ladies and gentlemen of the Senate. I am going to vote for this Bill with the amendment. Can you imagine some developer in any area of the state having a small bird land in his field or in the area that he is trying to develop and the community immediately says oh no, you can't do it. We are all in favor of the bald eagle, the peregrine falcon, the golden eagle, the piping plover, the least tern, the sedge wren, the grasshopper sparrow. How would you like to have a grasshopper sparrow land in a field that you are all ready to develop. I don't think that is the point. The right whale, the humpback whale, the finback whale, the sperm whale, the sei whale, the leatherback turtle, the atlantic ridley turtle, the box turtle, the black racer, and then we have those that are threatened also. I don't know what some of these are and perhaps my dog has killed several of these.

I think the important thing is to study this a little further and give us time to protect the locations that we really want to protect which is the bald eagle and the falcon and some of these others. Just because a little bird lands in my field, I don't want the Town of Cumberland to say I am sorry, you

can't do anything with that field. So lets protect this amendment until we come up with something more practical. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Lincoln, Senator Sewall.

Senator SEWALL: Thank you Mr. President, members of the Senate. I guess I am a little discouraged when every piece of legislation we have that comes before us we talk about development. There are some people who just buy a two acre lot and want to build a house on it and they are not developers, they are Maine citizens, they are our sons and daughters who are growing up and are building their first home.

The problem I have with this, and I think the reason the good Senator from Knox was trying to amend this out and we discussed it in caucus, is tax ramifications. Say I buy a minimum acre or two acre lot to build my house and I pay for it and buy the land and I get my building permits and I am all set and I am not a developer with multi-millions, I am someone living on \$15,000 per year and have bought this land and saved up and I am starting to build my house. Then we find that a grasshopper sparrow is living there and they say well sorry, you can't build on this lot. What then happens to the valuation of my property the taxation? I have already spent the money, I have borrowed it and I have spent it on this lot to build my little home and suddenly, maybe the neighbor decides they don't want another house there, what happens then? Is my land very saleable because no one else can build on it either, am I stuck with it, am I still taxed at highest and best use for that piece of property? I can go and try to get a variance, I can do all that sort of thing, but I might not get it. Then what happens? It seems to me that in some of these cases for instances, with some animals they say well not only that, but if it is in this area we really need this as a breeding ground so you really need five or six acres. So they find the breeding ground on my two acres, do they also say to my neighbors, well you can't do anything either, but you go right ahead and continue to pay your taxes because it is still highest and best use.

I just think there are a tremendous amount of problems with this section and while I applaud the rest of the Bill, I think that this needs some more work until we can address those questions.

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

Senator PEARSON: Thank you Mr. President, men and women of the Senate. I think that there has to some degree been a bit of hyperbole engaged in this debate. I don't think anybody is talking about bird that lands in the field. I do think that we are talking about endangered species that might live in a place as was referred to by the Senator from Lincoln, Senator Sewall.

I would suggest to the good Senator from Lincoln, Senator Sewall, who raised the question about taxes and the loss of an investment, two things. One, that she serves on the Committee on Taxation and that I would believe that it wouldn't be taxed at the highest and best use and if that were the case, it seems to me that there should be some tax benefit to a person who has that kind of property and that might be dealt with in that particular committee. But what bothers me most of all is that it seems like debates on these kinds of subjects all come down to the common denominator of money. How much is there in it for me, without any regard to what there is going to be in it for the future of the state and the future of the species. Money isn't everything people, it just can't be everything in our lives. If money becomes the overriding consideration of everything we

do, we are a society that is in deep, deep trouble. How much money you can turn on the investment you have without any regard to people around you or to species that are going to go extinct, never to be seen again by kind again. What is more important? Money sometimes becomes the overriding factor for all too many people. We all need it. We all have to make a living. But it can't be the only thing that we ever think about. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Usher.

Senator USHER: Thank you Mr. President, men and women of the Senate. First of all, I would like to say that this Bill was presented in the last week of February and it was in Committee for some four weeks. In response to the good Senator from Knox, Senator Brawn, she had plenty of time to make her decision in regards to how the bill came out of Committee. There was heavy attendance on both sides at all the Committee hearings. It was a matter of great concern to large land owners, developers and people from Maine Audubon interested in protecting our species. I have to make comments in regards to the good Senator from Penobscot, Senator Baldacci, in that he hit the nail right on the head when he said this is part of growth management. One of the major issues before the Legislature this year is growth management. We are talking about endangered species. We might as well put the lands of Maine on endangered species the way things are going. We have to stop somewhere and have a little protection. If we don't protect the habitat for our animals, there won't be any animals. We have seen this with our deer herd, those who were here back in 1978 and 1979, will recall that we have had a very depleted deer herd and we have to have good management to restore it and part of it was due to the habitat. A great concern was brought on by the sportsmen and they have worked out a good system and we have brought back our deer herd. That is a good example of protecting our animals in the State of Maine. We are not talking about many areas in the State of Maine. There are ninety nesting pairs of bald eagles which involves a hundred and fifty-two historic sites. There are seven areas where falcons nest. There is one nesting pair of gold eagles and they use some ten different sites. There are eighty-nine pairs of Least Terns and they are in six different areas and the grasshopper sparrow is in three different areas. This will give the Commissioner of Fisheries and Wildlife the tools to work with. The present law is not adequate. The Commissioner was at all the hearings, the Administration is well aware of this legislation and in agreement and the Attorney General was present at the hearings. All these three people agreed with the present bill. If you adopt this amendment, it will gut the Bill. Thank you.

Senator USHER of Cumberland moved the INDEFINITE POSTPONEMENT of Senate Amendment "A" (S-364).

THE PRESIDENT: The Chair will order a Division.

Will all those Senators in favor of the motion to INDEFINITELY POSTPONE Senate Amendment "A" (S-364), please rise in their places and remain standing until counted.

Will all those opposed please rise in their places and remain standing until counted.

19 Senators having voted in the affirmative and 15 Senators having voted in the negative, the motion by Senator USHER of Cumberland, to INDEFINITELY POSTPONE Senate Amendment "A" (S-364), PREVAILED.

Which was PASSED TO BE ENGROSSED AS AMENDED, in concurrence.

Off Record Remarks

Senator USHER of Cumberland was granted unanimous consent to address the Senate off the Record.

Senator PEARSON of Penobscot was granted unanimous consent to address the Senate off the Record.

Off Record Remarks

Under suspension of the Rules, all matters thus acted upon ordered sent down forthwith for concurrence.

Off Record Remarks

Senator BALDACCI of Penobscot was granted unanimous consent to address the Senate off the Record.

Off Record Remarks

On motion by Senator BALDACCI of Penobscot, RECESSED until 5:00 this evening.

After Recess
Senate called to order by the President.

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

PAPERS FROM THE HOUSE
Non-concurrent Matter

Bill "An Act to Appropriate Funds for Replacement of Real Estate Tax Validation Machines in County Registries of Deeds"

H.P. 1638 L.D. 2237
(C "A" H-476)

In Senate, March 16, 1988, PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-476), in concurrence.

Comes from the House Bill and Accompanying Papers RECOMMENDED to the Committee on APPROPRIATIONS AND FINANCIAL AFFAIRS in NON-CONCURRENCE.

The Senate RECEDED and CONCURRED.

Non-concurrent Matter

Bill "An Act to Reform the Pharmacy Laws" (Emergency)

S.P. 963 L.D. 2555
(S "A" S-349)

In Senate, March 22, 1988, PASSED TO BE ENGROSSED AS AMENDED BY SENATE AMENDMENT "A" (S-349).

Comes from the House PASSED TO BE ENGROSSED AS AMENDED BY SENATE AMENDMENT "A" (S-349) AND HOUSE AMENDMENT "A" (H-546) in NON-CONCURRENCE.

On motion by Senator CLARK of Cumberland, Tabled 1 Legislative Day, pending FURTHER CONSIDERATION.

COMMUNICATIONS

The Following Communication:
STATE OF MAINE
HOUSE OF REPRESENTATIVES
AUGUSTA 04333

March 29, 1988

Honorable Joy J. O'Brien
Secretary of the Senate
113th Legislature
Augusta, Maine 04333
Dear Madam Secretary:

The House voted today to adhere to its former action whereby it accepted the Majority "Ought Not to Pass" Report of the Committee on Transportation on RESOLVE, Establishing the Commission to Study Secondary Transportation Corridors in Maine (S.P. 816) (L.D. 2136).

Sincerely,
S/Edwin H. Pert
Clerk of the House

Which was READ and ORDERED PLACED ON FILE.

COMMITTEE REPORTS

House

Ought to Pass As Amended

The Committee on APPROPRIATIONS AND FINANCIAL AFFAIRS on Resolve, Concerning a Proposed Supreme Judicial Court Facility (Emergency)

H.P. 130 L.D. 159

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-481).

Comes from the House, with the Report READ and ACCEPTED and the Resolve PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-481) AS AMENDED BY HOUSE AMENDMENT "A" (H-485), thereto.

Which Report was READ and ACCEPTED, in concurrence.

The Resolve READ ONCE.

Committee Amendment "A" (H-481) READ.

House Amendment "A" (H-485) to Committee Amendment "A" (H-481) READ and ADOPTED, in concurrence.

Committee Amendment "A" (H-481) as Amended by House Amendment "A" (H-485) thereto, ADOPTED, in concurrence.

Under suspension of the Rules, READ A SECOND TIME and PASSED TO BE ENGROSSED, as Amended, in concurrence.

Senate

Ought to Pass As Amended

Senator BRANNIGAN for the Committee on BUSINESS LEGISLATION on Bill "An Act to Expand and Clarify the Jurisdiction of the Maine State Pilotage Commission"

S.P. 821 L.D. 2143

Reported that the same Ought to Pass as Amended by Committee Amendment "B" (S-365).

Which Report was READ and ACCEPTED.

The Bill READ ONCE.

Committee Amendment "B" (S-365) READ and ADOPTED.

Under suspension of the Rules, READ A SECOND TIME and PASSED TO BE ENGROSSED, as Amended.

Sent down for concurrence.

SECOND READERS

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

House

Resolve, Authorizing the Sale of Certain Public Lands

H.P. 1860 L.D. 2546

Which was READ A SECOND TIME.

On motion by Senator CLARK of Cumberland, Tabled 1 Legislative Day, pending PASSED TO BE ENGROSSED, in concurrence.

House As Amended

Bill "An Act Relating to Shellfish Sanitation and Monitoring"

H.P. 1599 L.D. 2188
(C "A" H-541)

Bill "An Act to Provide for the Education of Students Residing in Long-Term Drug Treatment Centers" (Emergency)

H.P. 1700 L.D. 2333
(C "A" H-538)

Bill "An Act to Implement the Recommendations of the Special Commission to Study Teacher Training in the University of Maine System"

H.P. 1739 L.D. 2385
(C "A" H-539)

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
(H "A" H-543)

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

Bill "An Act to Create the Maine Student Artist Awards Program"

H.P. 1773 L.D. 2426
(C "A" H-540)

Which was READ A SECOND TIME.

On motion by Senator CLARK of Cumberland, Tabled 1 Legislative Day, pending PASSAGE TO BE ENGROSSED AS AMENDED, in concurrence.

ENACTORS

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

An Act to Amend the Rules of Construction to Permit Use of Gender-Neutral Language in Maine Statutes

H.P. 1449 L.D. 1960
(C "A" H-515)

An Act to Correct Inconsistencies in the Publication of Legal Notices

S.P. 864 L.D. 2252
(H "A" H-522 to C "A" S-350)

An Act to Create a Uniform School Unit Budgeting Process

H.P. 1740 L.D. 2386
(C "A" H-517)

An Act to Add a Hemophiliac to the Committee to Advise the Department of Human Services on AIDS

H.P. 1771 L.D. 2424
(C "A" H-514)

An Act to Provide a Special Exemption to Bangor Pre-Release Center Employees for Service Retirement Benefits

S.P. 926 L.D. 2437

An Act to Make Certain Personnel Records Maintained by the Bureau of Human Resources Available to the Bureau of Employee Relations

S.P. 972 L.D. 2581

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

An Act to Provide for a State Trademark for Maine Products

H.P. 1880 L.D. 2572

On motion by Senator CLARK of Cumberland, placed on the SPECIAL APPROPRIATIONS TABLE, pending ENACTMENT.

An Act to Increase the Minimum Wage

H.P. 1887 L.D. 2582

On motion by Senator CLARK of Cumberland, placed on the SPECIAL APPROPRIATIONS TABLE, pending ENACTMENT.

Emergency

An Act Relating to Sentences with Intensive Supervision

S.P. 728 L.D. 1987
(C "A" S-353)

This being an Emergency Measure and having received the affirmative vote of 29 Members of the Senate, with No Senators having voted in negative, and 29 being more than two-thirds of the entire elected Membership of the Senate, was PASSED TO BE ENACTED and having been signed by the President, was presented by the Secretary to the Governor for his approval.

Emergency

An Act to Clarify the Status of Police Officers Assigned to the Bureau of Intergovernmental Drug Enforcement and to Add a District Attorney to the Bureau's Policy Board

S.P. 832 L.D. 2166
(S "B" S-357; S "A" S-343; C "A" S-340)

This being an Emergency Measure and having received the affirmative vote of 29 Members of the Senate, with No Senators having voted in negative, and 29 being more than two-thirds of the entire elected Membership of the Senate, was PASSED TO BE ENACTED and having been signed by the President, was presented by the Secretary to the Governor for his approval.

Emergency

An Act to Provide for Allocations of the State Ceiling on Private Activity Bonds

S.P. 910 L.D. 2376

This being an Emergency Measure and having received the affirmative vote of 29 Members of the Senate, with No Senators having voted in negative, and 29 being more than two-thirds of the entire elected Membership of the Senate, was PASSED TO BE ENACTED and having been signed by the President, was presented by the Secretary to the Governor for his approval.

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

COMMITTEE REPORTS

Senate

Ought to Pass in New Draft

Senator BERUBE for the Committee on AGING, RETIREMENT AND VETERANS on Bill "An Act to Provide for Payment of Contributions by Employers Under the Maine State Retirement System"

S.P. 887 L.D. 2299

Reported that the same Ought to Pass in New Draft under same title.

S.P. 977 L.D. 2595

Which Report was READ and ACCEPTED.

Under suspension of the Rules, the Bill in NEW DRAFT READ TWICE and PASSED TO BE ENGROSSED.
Sent down for concurrence.

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

COMMITTEE REPORTS

Senate

Ought to Pass

Senator PEARSON for the Committee on APPROPRIATIONS AND FINANCIAL AFFAIRS on Resolve, Authorizing the Commissioner of Administration to Implement the Final Plan for Expenditure of the \$6,000,000 Bond Issue to Identify and Correct Asbestos Problems in State Facilities (Emergency)
S.P. 727 L.D. 1986

Reported that the same Ought to Pass.
Which Report was READ and ACCEPTED.
The Resolve READ ONCE.
The Resolve TOMORROW ASSIGNED FOR SECOND READING.

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

COMMITTEE REPORTS

Senate

Ought to Pass As Amended

Senator TUTTLE for the Committee on MARINE RESOURCES on Bill "An Act Expanding the Role of the Bureau of Marine Patrol"
S.P. 855 L.D. 2231

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (S-367).
Which Report was READ and ACCEPTED.
The Bill READ ONCE.
Committee Amendment "A" (S-367) READ and ADOPTED.
The Bill as Amended, TOMORROW ASSIGNED FOR SECOND READING.

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

Divided Report

The Majority of the Committee on TRANSPORTATION on Bill "An Act to Require Commercial Trucks to Stay in the Right Lane Except for Passing"
S.P. 850 L.D. 2216

Reported that the same Ought Not to Pass.
Signed:

Representatives:

SOUCY of Kittery
CALLAHAN of Mechanic Falls
MOHOLLAND of Princeton
STROUT of Corinth
POULIOT of Lewiston
SALSBURY of Bar Harbor
MCPHERSON of Eliot

The Minority of the same Committee on the same subject reported that the same Ought to Pass in New Draft under New Title Bill "An Act to Require Motor Vehicles to Stay in the Right Lane Except for Passing"
S.P. 978 L.D. 2599

Signed:

Senators:

DOW of Kennebec
THERIAULT of Aroostook
CAHILL of Sagadahoc

Representatives:

REEVES of Pittston
MILLS of Bethel
MACOMBER of South Portland

Which Reports were READ.

On motion by Senator DOW of Kennebec, the Minority OUGHT TO PASS IN NEW DRAFT under NEW TITLE Report was ACCEPTED.

Under suspension of the Rules, the Bill in NEW DRAFT under NEW TITLE READ TWICE and PASSED TO BE ENGROSSED.

Sent down for concurrence.

ORDERS OF THE DAY

The Chair laid before the Senate the Tabled and Later Today Assigned matter:

Bill "An Act to Promote Equity in Determining Medicaid Eligibility for Institutionalized Care"

H.P. 313 L.D. 412

Tabled - March 29, 1988, by Senator CLARK of Cumberland.

Pending - PASSAGE TO BE ENGROSSED

(In Senate, March 29, 1988, READ A SECOND TIME.)

(In House, March 28, 1988, PASSED TO BE ENGROSSED.)

On motion by Senator CLARK of Cumberland, Tabled Unassigned, pending PASSAGE TO BE ENGROSSED, in concurrence.

The Chair laid before the Senate the Tabled and Later Today Assigned matter:

Bill "An Act to Enhance Outdoor Recreation Opportunities"

S.P. 889 L.D. 2301

(C "A" S-363)

Tabled - March 29, 1988, by Senator CLARK of Cumberland.

Pending - PASSAGE TO BE ENGROSSED AS AMENDED

(In Senate, March 29, 1988, READ A SECOND TIME.)

On motion by Senator CLARK of Cumberland, Tabled 1 Legislative Day, pending PASSAGE TO BE ENGROSSED AS AMENDED.

The Chair laid before the Senate the Tabled and Later Today Assigned matter:

Bill "An Act to Ensure Local Participation on the Radiological Emergency Preparedness Committee"

H.P. 1706 L.D. 2343

Tabled - March 29, 1988, by Senator USHER of Cumberland.

Pending - ADOPTION OF COMMITTEE AMENDMENT "A" (H-532), in concurrence

(In Senate, March 29, Committee Amendment "A" (H-532) READ and ADOPTED, in concurrence. Subsequently, RECONSIDERED ADOPTION of Committee Amendment "A" (H-532).)

(In House, March 28, 1988, PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-532).)

Senate at Ease

Senate called to order by the President.

On motion by Senator USHER of Cumberland, Committee Amendment "A" (H-532) INDEFINITELY POSTPONED IN NON-CONCURRENCE.

Under suspension of the Rules, the Bill READ A SECOND TIME.

On motion by Senator USHER of Cumberland, Senate Amendment "A" (S-368) READ and ADOPTED.

Which was PASSED TO BE ENGROSSED, as Amended in NON-CONCURRENCE.

Sent down for concurrence.

The Chair laid before the Senate the Tabled and Later Today Assigned matter:

Emergency
An Act Relating to Horse Racing and Racing Facilities

H.P. 1781 L.D. 2434

Tabled - March 29, 1988, by Senator CLARK of Cumberland.

Pending - ENACTMENT
(In House, March 28, 1988, PASSED TO BE ENACTED.)
(In Senate, March 24, 1988, PASSED TO BE ENGROSSED, in concurrence.)

On motion by Senator CLARK of Cumberland, placed on the SPECIAL APPROPRIATIONS TABLE, pending ENACTMENT.

Off Record Remarks

On motion by Senator PERKINS of Hancock, ADJOURNED until Wednesday, March 30, 1988, at 8:30 in the morning.

ONE HUNDRED AND THIRTEENTH MAINE LEGISLATURE
SECOND REGULAR SESSION
55th Legislative Day
Wednesday, March 30, 1988

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

Prayer by Reverend John Neff, Pleasant Street United Methodist Church, Waterville.

The Journal of Tuesday, March 29, 1988, was read and approved.

Quorum call was held.

Committee of Conference

Report of the Committee of Conference on the disagreeing action of the two branches of the Legislature on: Bill "An Act to Establish the Strategic Training for Accelerated Reemployment Program" (Emergency) (S.P. 946) (L.D. 2494) have had the same under consideration and ask leave to report: That they are unable to agree.

(Signed) Representative McHENRY of Madawaska, Representative RAND of Portland, and Representative WILLEY of Hampden - of the House.

Senator PRAY of Penobscot, Senator DUTREMBLE of York, and Senator PERKINS of Hancock - of the Senate. Report was read.

On motion of Representative Gwadosky of Fairfield, the Committee of Conference Report was rejected.

On further motion of the same Representative, the House Insisted and asked for a second Committee of Conference. Sent up for concurrence.

SENATE PAPERS

Ought to Pass in New Draft

Report of the Committee on Aging, Retirement and Veterans on Bill "An Act to Provide for Payment of Contributions by Employers Under the Maine State Retirement System" (S.P. 887) (L.D. 2299) reporting "Ought to Pass" in New Draft (S.P. 977) (L.D. 2595)

Came from the Senate, with the report read and accepted and the New Draft passed to be engrossed.

Report was read and accepted, the New Draft read once.

Under suspension of the rules, the New Draft was read a second time, passed to be engrossed in concurrence.

Divided Report

Majority Report of the Committee on Transportation reporting "Ought Not to Pass" on Bill "An Act to Require Commercial Trucks to Stay in the Right Lane Except for Passing" (S.P. 850) (L.D. 2216)

Signed:

Representatives: SOUCY of Kittery
CALLAHAN of Mechanic Falls
MOHOLLAND of Princeton
STROUT of Corinth
POULIOT of Lewiston
SALSBURY of Bar Harbor
McPHERSON of Eliot

Minority Report of the same Committee reporting "Ought to Pass" in New Draft under New Title Bill "An Act to Require Motor Vehicles to Stay in the Right Lane Except for Passing" (S.P. 978) (L.D. 2599) on same Bill.

Signed:

Senators: THERIAULT of Aroostook
CAHILL of Sagadahoc
DOW of Kennebec

Representatives: REEVES of Pittston