

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

LEGISLATIVE RECORD - SENATE, APRIL 4, 1988

ABSENT - Aliberti, Brown, Conley, Dexter, Diamond, Ketover, Kimball, Nadeau, G. G.; Small, Stanley, Taylor, Warren, Whitcomb, Zirnkilton.

Yes, 75; No, 61; Absent, 14; Vacant, 1; Paired, 0; Excused, 0.

75 having voted in the affirmative and 61 in the negative with 14 being absent and 1 vacant, the Majority "Ought Not to Pass" Report was accepted. Sent up for concurrence.

(Off Record Remarks)

On motion of Representative Duffy of Bangor, Adjourned until Tuesday, April 5, 1988, at nine o'clock in the morning.

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

In Senate Chamber
Monday
April 4, 1988

Senate called to Order by the President.

Prayer by Father Christian Roy of St. Bernard's Catholic Church in Rockland.

FATHER ROY: Let us bow our heads and once again recognize that we are in the presence of God and that God is always present to us. Oh God our Father, these recent days have reminded us of what wonders You have made possible. It is good for us to remember that the profit Moses who long ago lead the Isrealites out of oppression into savery. Enable these Senators to ever be sensitive to the oppressions of our times and grant them the wisdom to know how to deal with such situations. It is also good for us to remember that Jesus unjustly and cruelly condemned to death, rose from the dead and proved to us that goodness does prevail over evil. May Your holy spirit oh God enable these Senators to know what is good for the people of Maine and to have the courage to pursue these endeavors. All this we ask, recognizing that You have been with us and have blessed us for many years. Amen.

Reading of the Journal of Thursday, March 31, 1988.

Off Record Remarks

COMMUNICATIONS

The Following Communication: S.P. 984
113TH MAINE LEGISLATURE
April 1, 1988

Senator Zachary Matthews
Representative Robert J. Tardy
Chairpersons
Joint Standing Committee on Agriculture
113th Legislature
Augusta, Maine 04333
Dear Chairs:

Please be advised that Governor John R. McKernan, Jr. has nomonated Dr. Katherine O. Musgrave of Orono and Charles F. Davis of South Gouldsboro for appointment to the Maine Milk Commission.

Pursuant to Title 7, M.R.S.A. Section 2952, this nomination will require review by the Joint Standing Committee on Agriculture and confirmation by the Senate.

Sincerely,
S/Charles P. Pray
President of the Senate
S/John L. Martin
Speaker of the House

Which was READ and referred to the Committee on AGRICULTURE.
Sent down for concurrence.

The Following Communication: S.P. 985
113TH MAINE LEGISLATURE
April 1, 1988

Senator Stephen C. Estes
Representative Stephen M. Bost
Chairpersons

Joint Standing Committee on Education
113th Legislature
Augusta, Maine 04333

Dear Chairs:

Please be advised that Governor John R. McKernan, Jr. has nominated Thomas A. Dukes, Jr. of Temple for appointment as the Student Trustee on the University of Maine, Board of Trustees.

Pursuant to Title 26, M.R.S.A. Section 1022, this nomination will require review by the Joint Standing Committee on Education and confirmation by the Senate.

Sincerely,
S/Charles P. Pray
President of the Senate
S/John L. Martin
Speaker of the House

Which was READ and referred to the Committee on EDUCATION.

Sent down for concurrence.

The Following Communication: S.P. 986
113TH MAINE LEGISLATURE
April 1, 1988

Senator Joseph C. Brannigan
Representative Patrick E. Paradis
Chairpersons
Joint Standing Committee on Judiciary
113th Legislature
Augusta, Maine 04333

Dear Chairs:

Please be advised that Governor John R. McKernan, Jr. has nominated Bruce R. Livingston of Hallowell for appointment as a member of the Workers' Compensation Commission.

Pursuant to Title 39, M.R.S.A. Section 91, this nomination will require review by the Joint Standing Committee on Judiciary and confirmation by the Senate.

Sincerely,
S/Charles P. Pray
President of the Senate
S/John L. Martin
Speaker of the House

Which was READ and referred to the Committee on JUDICIARY.

Sent down for concurrence.

COMMITTEE REPORTS
Senate
Ought Not to Pass

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

Resolve, Relating to the Licensure of Foreign-Trained Dentists and the Creation of Specialties within the Dental Profession

S.P. 913 L.D. 2365

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 Establish a Position to Develop Quality Dependent Care Facilities and Sources for the Work Force"

S.P. 867 L.D. 2262

Resolve, to Establish the Commission on State Standards for Personal Service Contracts

S.P. 894 L.D. 2323

Bill "An Act to Regulate the Sale of Potentially Harmful Toys for Children"

S.P. 925 L.D. 2436

Change of Reference

Senator THERIAULT for the Committee on BANKING AND INSURANCE on Bill "An Act to Improve Services for Maine's Elderly"

S.P. 943 L.D. 2490

Reported that the same be REFERRED to the Committee on TAXATION.

Which Report was READ and ACCEPTED.

The Bill REFERRED to the Committee on TAXATION.

Sent down for concurrence.

Ought to Pass

Senator BERUBE for the Committee on APPROPRIATIONS AND FINANCIAL AFFAIRS on Bill "An Act to Assist Homeowners and Businesses to Comply with the Overboard Discharge Law" (Emergency)

S.P. 863 L.D. 2251

Reported that the same Ought to Pass.

Which Report was READ and ACCEPTED.

The Bill READ ONCE.

The Bill LATER TODAY ASSIGNED FOR SECOND READING.

Ought to Pass As Amended

Senator GILL for the Committee on HUMAN RESOURCES on Bill "An Act to Extend Entitlement Programs"

S.P. 794 L.D. 2091

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (S-390).

Which Report was READ and ACCEPTED.

The Bill READ ONCE.

Committee Amendment "A" (S-390) READ and ADOPTED.

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

Senator KERRY for the Committee on HUMAN RESOURCES on Bill "An Act to Amend the Principles of Reimbursement for Nonhealth Employees of Nursing Homes"

S.P. 817 L.D. 2137

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (S-391).

Which Report was READ and ACCEPTED.

The Bill READ ONCE.

Committee Amendment "A" (S-391) READ and ADOPTED.

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

ORDERS OF THE DAY

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

An Act to Continue Professional Forestry Supervision of Biomass Fuel Wood Harvesting Operations
H.P. 1707 L.D. 2344
(C "A" H-526)

Tabled - March 31, 1988, by Senator CLARK of Cumberland.

Pending - ENACTMENT

(In Senate, March 31, 1988, PASSED TO BE ENACTED. Subsequently, RECONSIDERED.)

(In House, March 30, 1988, PASSED TO BE ENACTED.)

(In Senate, March 28, 1988, PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-526), in concurrence.)

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

LEGISLATIVE RECORD - SENATE, APRIL 4, 1988

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

COMMITTEE REPORTS

Senate

Leave to Withdraw

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

Bill "An Act to Clarify and Correct the Motor Vehicle Laws"

S.P. 944 L.D. 2491

Ought to Pass As Amended

Senator TUTTLE for the Committee on STATE AND LOCAL GOVERNMENT on Bill "An Act to Allow Disclosure of Confidential Information Relevant to Personnel and Licensure Actions"

S.P. 844 L.D. 2190

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (S-392).

Which Report was READ and ACCEPTED.

The Bill READ ONCE.

Committee Amendment "A" (S-392) READ and ADOPTED.

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

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

COMMITTEE REPORTS

Senate

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 Providing for a Reason in Notices of Eviction for Cause in Mobile Home Parks"

S.P. 712 L.D. 1942

Bill "An Act Concerning Sale or Removal of Homes from Mobile Home Parks and to Encourage Competition in the Mobile Home Park Industry"

S.P. 731 L.D. 1990

Ought to Pass As Amended

Senator WHITMORE for the Committee on BUSINESS LEGISLATION on Bill "An Act Establishing a Medicare Assignment Program"

S.P. 895 L.D. 2324

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (S-393).

Which Report was READ and ACCEPTED.

The Bill READ ONCE.

Committee Amendment "A" (S-393) READ and ADOPTED.

The Bill as Amended, LATER TODAY 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 MATTHEWS for the Committee on ENERGY AND NATURAL RESOURCES on Bill "An Act to Clarify the Site Location of Development Law"

S.P. 897 L.D. 2326

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (S-394).

Which Report was READ and ACCEPTED.

The Bill READ ONCE.

Committee Amendment "A" (S-394) READ and ADOPTED.

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

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

Senate at Ease

Senate called to order by the President.

Off Record Remarks

On motion by Senator KERRY of York, RECESSED until the sound of the bell.

After Recess

Senate called to order by the President.

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

After Recess

Senate called to order by the President.

Senator GAUVREAU for the Committee on JUDICIARY on Bill "An Act to Clarify the Standard of Proof in Prelitigation Screening Panels" (Emergency)

S.P. 711 L.D. 1941

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (S-395).

Which Report was READ and ACCEPTED.

The Bill READ ONCE.

Committee Amendment "A" (S-395) 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:

COMMITTEE REPORTS

Senate

Leave to Withdraw

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

Bill "An Act to Create Minimum Standards for Licensing Shelters for Homeless People"

S.P. 928 L.D. 2439

Ought to Pass As Amended

Senator ANDREWS for the Committee on LABOR on Bill "An Act to Promote Greater Workplace Safety"

S.P. 936 L.D. 2469

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (S-396).

Which Report was READ and ACCEPTED.

The Bill READ ONCE.

Committee Amendment "A" (S-396) READ and ADOPTED.

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

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

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

COMMITTEE REPORTS

Senate

Ought to Pass As Amended

Senator BUSTIN for the Committee on BANKING AND INSURANCE on Bill "An Act to Authorize the Maine Self-Insurance Guaranty Association to Act as a Statistical Advisory Organization" (Emergency)
S.P. 964 L.D. 2556

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (S-397).
Which Report was READ and ACCEPTED.
The Bill READ ONCE.
Committee Amendment "A" (S-397) 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:
PAPERS FROM THE HOUSE
Pursuant to Resolves
Committee on UTILITIES

The Committee on UTILITIES, pursuant to Resolves 1987, Chapter 52, ask leave to submit its findings and to report that the accompanying Bill "An Act to Establish an Enhanced 9-1-1 System"
H.P. 1911 L.D. 2608

Be referred to the Joint Standing Committee on APPROPRIATIONS AND FINANCIAL AFFAIRS for Public Hearing and printed pursuant to Joint Rule 18.

Comes from the House with the Report READ and ACCEPTED and the Bill referred to the Committee on APPROPRIATIONS AND FINANCIAL AFFAIRS and ORDERED PRINTED, pursuant to Joint Rule 18.

Which Report was READ and ACCEPTED, in concurrence.

The Bill referred to the Committee on APPROPRIATIONS AND FINANCIAL AFFAIRS and ORDERED PRINTED, pursuant to Joint Rule 18, in concurrence.

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

House

Ought Not to Pass

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

Bill "An Act to Amend the Maine Business Corporation Act in Relation to Petitioning the Court for the Removal of Directors"

H.P. 1802 L.D. 2466

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 Provide a More Equitable Distribution of Homemaker Funds"

H.P. 1580 L.D. 2158

Bill "An Act to Regulate the Operation of Roller-Skating Rinks"

H.P. 1645 L.D. 2244

Bill "An Act to Promote Fiscal Responsibility in Androscoggin County Government"

H.P. 1758 L.D. 2407

Bill "An Act to Further Implement Programs and Activities of the Department of Economic and Community Development" (Emergency)

H.P. 1787 L.D. 2448

Bill "An Act to Revise the Certificate of Need Process Dealing with the Purchasing and Delivery of New Medical Services"

H.P. 1825 L.D. 2500

Bill "An Act to Clarify Reporting Requirements Regarding Competency of Health Care Practitioners"
H.P. 1873 L.D. 2565

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

COMMITTEE REPORTS

House

Change of Reference

The Committee on HUMAN RESOURCES on Bill "An Act to Promote More Effective Investigations of Child Abuse Allegations in Out-of-Home Settings"

H.P. 1804 L.D. 2468

Reported that the same be REFERRED to the Committee on AUDIT AND PROGRAM REVIEW.

Comes from the House with the Report READ and ACCEPTED and the Bill REFERRED to the Committee on AUDIT AND PROGRAM REVIEW.

Which Report was READ and ACCEPTED, in concurrence.

The Bill REFERRED to the Committee on AUDIT AND PROGRAM REVIEW, in concurrence.

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

SECOND READERS

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

Senate

Bill "An Act to Assist Homeowners and Businesses to Comply with the Overboard Discharge Law" (Emergency)

S.P. 863 L.D. 2251

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

Sent down for concurrence.

Senate As Amended

Bill "An Act to Extend Entitlement Programs"

S.P. 794 L.D. 2091

(C "A" S-390)

Bill "An Act to Amend the Principles of Reimbursement for Nonhealth Employees of Nursing Homes"

S.P. 817 L.D. 2137

(C "A" S-391)

Bill "An Act to Allow Disclosure of Confidential Information Relevant to Personnel and Licensure Actions"

S.P. 844 L.D. 2190

(C "A" S-392)

Bill "An Act Establishing a Medicare Assignment Program"

S.P. 895 L.D. 2324

(C "A" S-393)

Bill "An Act to Clarify the Site Location of Development Law"

S.P. 897 L.D. 2326

(C "A" S-394)

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

Sent down for concurrence.

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

COMMITTEE REPORTS

Senate

Ought to Pass As Amended

Senator KANY for the Committee on LEGAL AFFAIRS on Bill "An Act to Enhance the Effectiveness of the Operating-Under-the-Influence Laws" (Emergency) S.P. 885 L.D. 2297

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (S-398). Which Report was READ and ACCEPTED. The Bill READ ONCE. Committee Amendment "A" (S-398) 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:

COMMUNICATIONS

The Following Communication:

STATE OF MAINE
HOUSE OF REPRESENTATIVES
AUGUSTA 04333

April 4, 1988

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

The Speaker appointed the following conferees to the Second 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):

Representative GWADOSKY of Fairfield
Representative CROWLEY of Stockton Springs
Representative WILLEY of Hampden
Sincerely,
S/Edwin H. Pert
Clerk of the House

Which was READ and ORDERED PLACED ON FILE.

SENATE PAPERS

Bill "An Act to Create the Maine Educational Loan Authority" (Emergency)

S.P. 988

Presented by Senator CLARK of Cumberland
Cosponsored by: Senator GOULD of Waldo,
Representative GWADOSKY of Fairfield,
Representative DAVIS of Monmouth

Approved for Introduction by a Majority of the Legislative Council pursuant to Joint Rule 27
Which was referred to the Committee on EDUCATION and ORDERED PRINTED.
Sent down for concurrence.

COMMITTEE REPORTS

House

Divided Report

The Majority of the Committee on MARINE RESOURCES on Bill "An Act to Amend the 2-Inch Clam Law"

H.P. 1903 L.D. 2600

Reported that the same Ought Not to Pass.

Signed:

Senators:

TUTTLE of York
ESTES of York

Representatives:

MITCHELL of Freeport
CROWLEY of Stockton Springs
HOLT of Bath
SALSBURY of Bar Harbor
RUHLIN of Brewer
LOOK of Jonesboro

KETOVER of Portland

RICE of Stonington

The Minority of the same Committee on the same subject reported that the same Ought to Pass.

Signed:

Senator:

CAHILL of Sagadahoc

Representatives:

COLES of Harpswell

SCARPINO of St. George

Comes from the House the Majority OUGHT NOT TO PASS Report READ and ACCEPTED.

Which Reports were READ.

Senator TUTTLE of York moved to ACCEPT the Majority OUGHT NOT TO PASS Report, in concurrence.

THE PRESIDENT: The Chair recognizes the Senator from Sagadahoc, Senator Cahill.

Senator CAHILL: Thank you Mr. President. Mr. President, men and women of the Senate. I think each year there is an issue that comes before the Legislature that is both emotional and philosophical in nature and people just kind of wait to have it come to the floor of both Body's. Today, I am sure that issue for most of you is L.D. 2600, "An Act to Amend the 2-Inch Clam Law." So that we are talking not apples and oranges, so that we are talking the same fruit here, we are talking about soft-shelled clams. Soft-shell clams are not mussels, they are the clams that are traditional known on the coast of Maine as steamer clams. That is what we are talking about here today. Historically, the merits of a 2-inch clam law has been debated since 1930 in the Legislature. In 1960, the law was repealed and municipalities were given the authority to place size limitations on soft-shell clams. In 1983, the then good Representative and now the good Senator from Cumberland, Senator Dillenback, sponsored legislation which would again impose the 2-inch minimum restriction. The main reason for the 2-inch clam law then it was said for conservation of a dwindling resource. This law, however, fails as a conservation method and I would like to take a minute to share with you the reasons I believe this.

First of all, research shows that a varying degree of density occurs in clam flats throughout the state of Maine. In some areas, because of over population of the littler clams, many clams never get to be two inches in size. Clams, like carrots in your garden, need to be thinned in order for them to grow larger. Biologists also estimate that the mortality rate of about fifty percent occurs when clam flats are turned over and then the smaller clams, those one and a half inch to two inches are left behind. Half of those clams die anyway. The real issue here is not conservation, ladies and gentlemen, it is marketing. Marketing is generally done by plan, not by law. In order for a potato to be a U.S. grade one potato, it has to be two and a quarter inches. But no one is suggesting a law to make potatoes less than two and a quarter inches illegal. Are we? Of course we aren't. A 2-inch clam law provides an equity to the shuckers. Ted Perkins, a shucker from Harpswell, buys a legal bushel of clams, he picks out the larger clams to shuck them, which leaves him with an illegal product, because there is a ten percent tolerance. So, he has an illegal product. What does he do with it?

I went to the grocery store on Friday and looked in the fish market in the grocery store and looked at the clams that they had to offer. I counted them, the lady thought I was crazy, fifty percent of those clams were illegal. They were below two inches. What do you do? The 2-inch clam law with the ten percent tolerance is difficult if not impossible to

enforce. In order to effectively enforce a law, a warden must count every single clam in a bushel and that takes about forty-five minutes. So, the wardens don't generally go after the diggers, they go after the dealers. Now, at the end of the tide, after the diggers have been out digging their product, they come into the dealer in mass and they sell their product. The dealer does not have time to count every single clam and he just buys the product without really knowing what he is getting. Then he is left with an illegal product.

The 2-inch clam law wastes valuable time and taxpayers money by marketing clams instead of protecting a resource. The report that I am supporting today, which would offer an inch and a half law with a zero percent tolerance, expands the market, thins the clam flats allowing the smaller clams to grow quicker. The zero percent tolerance simplifies enforcement. If a tolerance is in place, diggers are going to stretch the tolerance, they told me this. If there is no tolerance, they are not going to take the chance of being caught with short clams. Finally, and I think the most convincing argument to support this Bill today is that the Department of Marine Resources have not taken an official position on this Bill. If the law truly protected the resource, I believe D.M.R. would be right in their fighting for it and they aren't.

Senator CAHILL of Sagadahoc requested a Division.

THE PRESIDENT: The Chair recognizes the Senator from York, Senator Tuttle.

Senator TUTTLE: Thank you Mr. President. Mr. President, men and women of the Senate. The Joint Standing Committee on Marine Resources was required by Title 12 to do a study on the 2-inch clam law. It reported its findings to the Legislature this Session. The Committee had been reviewing the law for the last several months. We have had three public hearings in Machias, Rockland and in Brunswick and we have received written materials from the Department of Marine Resources and other sources from around the state. The 2-inch clam law was enacted, as the good Senator from Sagadahoc, Senator Cahill, said in 1984 for the purposes of conservation and improving the quality of economic returns of the commercial clam market. Reducing the waste in processing resulting from small clams and improving the interstate marketability of Maine clams in general. The majority of the Committee essentially makes the following findings: The Majority of the Committee finds that, although there remains strong elements of opposition to 2-inch limits, a majority of the clam diggers around the state and dealers and shuckers favor the retention of the law. This is the information we received from the three public hearings. The Majority of the Committee finds the effectiveness of a 2-inch clam law as a conservation measure still unclear. A little research has been done to demonstrate its effectiveness, however, the law has not been in effect for a long enough period for reliable information to be accumulated. Personal accounts of the effectiveness of the law as a conservation measure vary widely as you have heard from the good Senator from Sagadahoc, Senator Cahill. The enormous variety of coastal conditions also contributes to the difficulty in assessing the effectiveness of the law, some areas with colder water, some areas have different regions where they think the clams might not grow as big. Since the 2-inch clam law was enacted, fewer bushels of clams have been harvested annually, however, the value of those bushels have increased at least proportionately to compensate for the reduction in volume. A sufficient majority of clam diggers appeared to favor

the retention of a 2-inch clam law. At every public hearing we held, we took a vote and at least from my opinion, a majority of clam diggers around the state still want to have retention of a 2-inch clam law. It appears that as a result of a 2-inch clam law the size, quality and the interstate marketability of Maine clams has been improved.

On the basis of these findings the majority of the Committee on Marine Resources recommends that the 2-inch clam law be retained and its present form maintained. That is why I support the Majority Ought Not to Pass Report and I hope you will to.

THE PRESIDENT: The pending question before the Senate is the motion of Senator TUTTLE of York, to ACCEPT the Majority OUGHT NOT TO PASS Report, in concurrence.

A Division has been requested.

Will all those Senators in favor of the motion of Senator TUTTLE of York, to ACCEPT the Majority OUGHT NOT TO PASS Report, please rise in their places and remain standing until counted.

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

20 Senators having voted in the affirmative and 11 Senators in the negative, the motion by Senator TUTTLE of York, to ACCEPT the Majority OUGHT NOT TO PASS Report, in concurrence, PREVAILED.

Senate

Ought to Pass As Amended

Senator KANY for the Committee on ECONOMIC DEVELOPMENT on Bill "An Act Providing for the 1988 Amendments to the Maine Housing Authorities Act"

S.P. 841 L.D. 2186

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (S-399).

Which Report was READ and ACCEPTED.

The Bill READ ONCE.

Committee Amendment "A" (S-399) READ and ADOPTED.

The Bill as Amended, TOMORROW ASSIGNED FOR SECOND READING.

Ought to Pass in New Draft

Senator ERWIN for the Committee on UTILITIES on Bill "An Act to Authorize the Creation of the Freeport Water District" (Emergency)

S.P. 873 L.D. 2274

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

S.P. 987 L.D. 2615

Which Report was READ and ACCEPTED.

The Bill in NEW DRAFT READ ONCE.

The Bill in NEW DRAFT TOMORROW ASSIGNED FOR SECOND READING.

Divided Report

The Majority of the Committee on ECONOMIC DEVELOPMENT on Bill "An Act to Enable Additional Agencies to Participate under the Finance Authority of Maine Loan Program"

S.P. 909 L.D. 2364

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (S-400).

Signed:

Senators:

ANDREWS of Cumberland

KANY of Kennebec

DILLENBACK of Cumberland

Representatives:

STANLEY of Cumberland Foreside

CROWLEY of Stockton Springs

LEGISLATIVE RECORD - SENATE, APRIL 4, 1988

MELENDY of Rockland
CARROLL of Gray
MAHANY of Easton
STEVENS of Bangor
BAILEY of Farmington
HICHBORN of LaGrange
PRIEST of Brunswick

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

Signed:

Representative:
ARMSTRONG of Wilton

Which Reports were READ.

The Majority OUGHT TO PASS AS AMENDED Report was ACCEPTED.

The Bill READ ONCE.

Committee Amendment "A" (S-400) READ and ADOPTED.

The Bill as Amended, TOMORROW ASSIGNED FOR SECOND READING.

ENACTORS

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

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)

An Act Directing the Department of Educational and Cultural Services to Study the Issue of Granting Credit for Fee-Based Driver Education Courses
H.P. 1477 L.D. 2012
(C "A" H-549)

An Act to Clarify the Laws Relating to Atlantic Salmon Conservation
H.P. 1567 L.D. 2134
(C "A" H-554)

An Act to Expand and Clarify the Jurisdiction of the Maine State Pilotage Commission
S.P. 821 L.D. 2143
(C "B" S-365)

An Act to Replace the Abandoned Property Law
H.P. 1793 L.D. 2457
(C "A" H-551)

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)

An Act to Extend the Coyote Night Hunting Season
H.P. 1895 L.D. 2590

An Act to Allow the Propagation and Sale of Certain Deer for Food
H.P. 1897 L.D. 2592

An Act to Restrict Smoking in Elementary and Secondary Schools
H.P. 1901 L.D. 2597

An Act to Require Motor Vehicles to Stay in the Right Lane Except for Passing
S.P. 978 L.D. 2599

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 Expand the Membership and Clarify the Role of the Commission on Intergovernmental Relations
S.P. 790 L.D. 2078
(C "A" S-354)

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

An Act Relating to Shellfish Sanitation and Monitoring

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

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

An Act Relating to Coastal Search and Rescue Responsibilities and Creating the Study Commission on Coastal Search and Rescue

S.P. 855 L.D. 2231
(C "A" S-367)

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

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)

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

An Act to Enhance and Clarify the Role of the State Board of Education

H.P. 1756 L.D. 2405
(C "A" H-550)

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

An Act to Create the Maine Student Artist Awards Program

H.P. 1773 L.D. 2426
(S "A" S-371 to C "A" H-540)

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

An Act to Provide a Mechanism for Insurance for Foster Care and Respite Care

H.P. 1821 L.D. 2496
(C "A" H-552)

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

An Act Concerning Law Enforcement Education and Training and Funding for Training

H.P. 1899 L.D. 2594

On motion by Senator BERUBE of Androscoggin, placed on the SPECIAL APPROPRIATIONS TABLE, pending ENACTMENT.

An Act to Amend the Youth Fisheries and Wildlife Conservation Education Program

H.P. 1896 L.D. 2591

On motion by Senator ERWIN of Oxford, placed on the SPECIAL FISHERIES AND WILDLIFE TABLE, pending ENACTMENT.

Resolve
 Resolve, Authorizing the Sale of Certain Public
 Lands

H.P. 1860 L.D. 2546
 (S "A" S-370)

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

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

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

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

Emergency
 An Act Relating to Games of Chance

S.P. 922 L.D. 2413
 (C "A" S-361)

This being an Emergency Measure and having
 received the affirmative vote of 32 Members of the
 Senate, with No Senators having voted in negative,
 and 32 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 Amend the Maine Banking Code

H.P. 1827 L.D. 2503

This being an Emergency Measure and having
 received the affirmative vote of 32 Members of the
 Senate, with No Senators having voted in negative,
 and 32 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 that Places of Public
 Accommodation Install at Least One Standard Bathroom
 Stall in Conformance with the Standards of the
 American National Standards Institute

H.P. 1898 L.D. 2593

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

Senator PEARSON: Thank you Mr. President. I
 would like to pose a question through the Chair.
 What is a standard bathroom stall?

THE PRESIDENT: The Senator from Penobscot,
 Senator Pearson, has posed a question through the
 Chair to any Senator who may care to respond.

The Chair recognizes the Senator from Cumberland,
 Senator Gill.

Senator GILL: Thank you Mr. President. Mr.
 President, men and women of the Senate. To answer
 the good Senator's question there are building code
 standards in regard to the handicapped. This is a
 Bill dealing with a handicap bathroom stall and this
 meets the required standards.

This being an Emergency Measure and having
 received the affirmative vote of 32 Members of the
 Senate, with No Senators having voted in negative,
 and 32 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 Create a Demonstration Project to
 Provide for Ladders of Advancement in the Nursing
 Profession

H.P. 1906 L.D. 2603

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

Emergency Resolve

Resolve, Concerning a Proposed Supreme Judicial
 Court Facility

H.P. 130 L.D. 159
 (S "A" S-374; H "A"
 H-485 to C "A" H-481)

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

Emergency Resolve

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

S.P. 727 L.D. 1986

This being an Emergency Measure and having
 received the affirmative vote of 32 Members of the
 Senate, with No Senators having voted in negative,
 and 32 being more than two-thirds of the entire
 elected Membership of the Senate, was FINALLY PASSED
 and having been signed by the President, was
 presented by the Secretary to the Governor for his
 approval.

Senate at Ease

Senate called to order by the President.

On motion by Senator WEBSTER of Franklin,
 RECESSED until the sound of the bell.

After Recess

Senate called to order by the President.

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

COMMITTEE REPORTS

Senate

Ought to Pass As Amended

Senator KERRY for the Committee on HUMAN
 RESOURCES on Bill "An Act to Require the Department
 of Human Services to Reimburse Home Health Agencies
 for the Reasonable Costs of Recruiting, Training and
 Retaining Qualified Nursing Staff"

S.P. 935 L.D. 2455

Reported that the same Ought to Pass as Amended
 by Committee Amendment "A" (S-401).

Which Report was READ and ACCEPTED.

The Bill READ ONCE.

Committee Amendment "A" (S-401) 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:

COMMITTEE REPORTS

House

Divided Report

The Majority of the Committee on TRANSPORTATION on Bill "An Act to Fund a Supplemental Highway Program and to Establish a Program to Fund the Construction of Extraordinary Bridges" (Emergency) H.P. 1799 L.D. 2463

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-588).

Signed:

Senators:

DOW of Kennebec
THERIAULT of Aroostook
CAHILL of Sagadahoc

Representatives:

POULIOT of Lewiston
SOUCY of Kittery
MACOMBER of South Portland
MCPHERSON of Eliot
CALLAHAN of Mechanic Falls
SALSBURY of Bar Harbor
MOHOLLAND of Princeton
MILLS of Bethel

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

Signed:

Representatives:

REEVES of Pittston
STROUT of Corinth

Comes from the House Bill and Accompanying Papers REFERRED to the Committee on TAXATION.

Which Reports were READ.

The Bill and Accompanying Papers REFERRED to the Committee on TAXATION, in concurrence.

Off Record Remarks

Senator RANDALL of Washington was granted unanimous consent to address the Senate off the Record.

Off Record Remarks

COMMITTEE REPORTS

Senate

Ought to Pass As Amended

Senator ESTES for the Committee on EDUCATION on Bill "An Act to Clarify and Correct Errors and Omissions and to Improve the Laws Relating to Education"

S.P. 947 L.D. 2501

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (S-402).

Which Report was READ and ACCEPTED.

The Bill READ ONCE.

Committee Amendment "A" (S-402) 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:

PAPERS FROM THE HOUSE

Joint Order

The following Joint Order: H.P. 1916

ORDERED, the Senate concurring, that the Joint Standing Committee on Transportation be directed to report out to the House, a bill entitled "AN ACT to

Amend the Motor Vehicle Laws and to Allocate Funds to the Division of Motor Vehicles."

Comes from the House READ and PASSED.

Which was READ and PASSED, in concurrence.

On motion by Senator RANDALL of Washington, ADJOURNED until Tuesday, April 5, 1988, at 9:00 in the morning.