

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

STATE OF MAINE
ONE HUNDRED AND THIRTEENTH LEGISLATURE
THIRD SPECIAL SESSION
JOURNAL OF THE SENATE

In Senate Chamber
Friday
September 16, 1988

Senate called to Order by the President.

Prayer by Reverend Peter Inchcombe of the First Baptist Church in Hallowell.

REVEREND INCHCOMBE: Please join me in prayer this morning. Our gracious heavenly Father, we gather in the Senate Chamber this morning and we thank You that we are reminded that we are a nation blessed under heaven by God. We thank You that with the apostle Paul of old we can say that we do not come with enticing words or with eloquence of speech, but we come in true humility before God. We ask this morning as the Senate gathers together, for Your wisdom to be showered and ministered upon each one. We recognize that the business and the affairs of our land are in the hands of these that have been placed in office and we ask this morning in the name of Jesus Christ that Your wisdom and Your grace will be made manifest in each and every life gathered together. We do thank You truly that this is the day that You have made and we will rejoice and we will be glad in it. We do pray especially for those perhaps who need a very special touch. We ask oh God that you be gracious and minister to them and bless them and encourage them. We will be careful to recognize that anything and everything that we ask of You this morning we will be careful to thank You for it. In Jesus' name. Amen.

Reading of the Journal of Yesterday.

ORDERS

Joint Resolution

On motion by Senator BALDACCI of Penobscot the following Joint Resolution:

S.P. 1034

JOINT RESOLUTION REQUESTING THE ATTORNEY GENERAL
TO STUDY THE TRADE PRACTICES OF THE
MOTOR FUEL SALES INDUSTRY

WHEREAS, the competitive nature of the sale of motor fuels is in danger due to certain trade practices; and

WHEREAS, a free and open competitive marketplace for the sale of motor fuels is in the best interests of the people of the State; and

WHEREAS, where the potential exists for harm to the competitive nature of this marketplace through the consolidation of competitors; and

WHEREAS, action may need to be taken by the Attorney General to preserve the competitive nature of the sale of motor fuels; now, therefore, be it

RESOLVED: That the Legislature urges the Attorney General to undertake a study of the potential harm to Maine consumers and to the competitive nature of the free-market economy due to the consolidation of competitors in the sale of motor fuel. This study should examine such consolidation and sales practices in light of the Maine Unfair Trade Practices Act and other applicable state and federal antitrust laws; and be it further

RESOLVED: That the Attorney General report his findings and any necessary implementing legislation to the First Regular Session of the 114th Legislature; and be it further

RESOLVED: That a suitable copy of this resolution, duly authenticated by the Secretary of State, be transmitted to the Attorney General.

Which was READ.

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

Senator BALDACCI: Thank you Mr. President. Mr. President, men and women of the Senate. The Committee on Business Legislation received legislation in regards to requesting a study to do this and an appropriation to go along with it. It was the Committee's feeling that the powers already rested within the Attorney General's office and that no more money would be expended. This was an unanimous report by the Committee on Business Legislation. By doing this Joint Resolution we were trying to prioritize, without creating any undue political influence within the Attorney General's office. We were trying to prioritize this type of a study because of the importance of the control of the market shares and the trade practices. Thank you.

Which was ADOPTED.

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

COMMITTEE REPORTS

Senate

Ought to Pass As Amended

Senator PEARSON for the Committee on APPROPRIATIONS AND FINANCIAL AFFAIRS on Bill "An Act to Expedite the Allocation of Solid Waste Management Assistance" (Emergency)

S.P. 1026 L.D. 2682

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (S-555).

Which Report was READ and ACCEPTED.

The Bill READ ONCE.

Committee Amendment "A" (S-555) 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.

ENACTORS

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

Emergency

An Act to Extend the Reporting Date of the Maine Commission to Review Overcrowding at the Augusta Mental Health Institute and the Bangor Mental Health Institute

S.P. 1032 L.D. 2690

On motion by Senator BUSTIN of Kennebec, the Senate RECONSIDERED whereby the Bill was PASSED TO BE ENGROSSED.

On further motion by same Senator, Senate Amendment "A" (S-554) READ.

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

Senator BUSTIN: Thank you Mr. President. Mr. President, men and women of the Senate. This is merely something that has to be done. It is a technical correction and has only to do with the form and not to do with anything substantive.

On further motion by same Senator, Senate Amendment "A" (S-554) ADOPTED.

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

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

ORDERS OF THE DAY

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

NOMINATION - of Roy Hibyan of Yarmouth for appointment to the Board of Trustees, Maine Vocational Technical Institutes.

Tabled - September 15, 1988, by Senator CLARK of Cumberland.

Pending - CONSIDERATION
(In Senate, September 15, 1988, READ and ORDERED PLACED ON FILE.)

THE PRESIDENT: The Joint Standing Committee on EDUCATION has recommended the nomination of Roy Hibyan of Yarmouth, for appointment to the Board of Trustees, Maine Vocational Technical Institutes, be confirmed.

The pending question before the Senate is: "Shall the recommendation of the Committee on EDUCATION be overridden?"

In accordance with 3 M.R.S.A., Chapter 6, Section 151 and with Joint Rule 38 of the 113th Legislature, the vote will be taken by the Yeas and Nays.

A vote of Yes will be in favor of overriding the recommendation of the Committee.

A vote of No will be in favor of sustaining the recommendation of the Committee.

Is the Senate ready for the question?
The Doorkeepers will secure the Chamber.
The Secretary will call the Roll.

ROLL CALL

YEAS: Senators None
NAYS: Senators BALDACCI, BERUBE, BLACK, BRANNIGAN, BRAWN, BUSTIN, CAHILL, CLARK, COLLINS, DILLENBACK, DOW, DUTREMBLE, EMERSON, ERWIN, ESTES, GILL, GOULD, KANY, LUDWIG, MATTHEWS, MAYBURY, PEARSON, PERKINS, RANDALL, SEWALL, THERIAULT, TUTTLE, TWITCHELL, USHER, WEBSTER, WHITMORE, THE PRESIDENT - CHARLES P. PRAY

ABSENT: Senators ANDREWS, GAUVREAU, KERRY
No Senators having voted in the affirmative and 32 Senators having voted in the negative, with 3 Senators being absent, and None being less than two-thirds of the Membership present, it was the vote of the Senate that the Committee's recommendation be ACCEPTED and the nomination of Roy Hibyan, for appointment to the Maine Board of Trustees, Maine Vocational Technical Institutes, was CONFIRMED.

The Secretary has so informed the Speaker of the House.

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

NOMINATION - of Richard C. Kennedy of Nobleboro for appointment to the State Board of Education.

Tabled - September 15, 1988, by Senator CLARK of Cumberland.

Pending - CONSIDERATION
(In Senate, September 15, 1988, READ and ORDERED PLACED ON FILE.)

THE PRESIDENT: The Joint Standing Committee on EDUCATION has recommended the nomination of Richard C. Kennedy of Nobleboro, for appointment to the State Board of Education, be confirmed.

The pending question before the Senate is: "Shall the recommendation of the Committee on EDUCATION be overridden?"

In accordance with 3 M.R.S.A., Chapter 6, Section 151 and with Joint Rule 38 of the 113th Legislature, the vote will be taken by the Yeas and Nays.

A vote of Yes will be in favor of overriding the recommendation of the Committee.

A vote of No will be in favor of sustaining the recommendation of the Committee.

Is the Senate ready for the question?
The Doorkeepers will secure the Chamber.
The Secretary will call the Roll.

ROLL CALL

YEAS: Senators None
NAYS: Senators BALDACCI, BERUBE, BLACK, BRANNIGAN, BRAWN, BUSTIN, CAHILL, CLARK, COLLINS, DILLENBACK, DOW, DUTREMBLE, EMERSON, ERWIN, ESTES, GILL, GOULD, KANY, LUDWIG, MATTHEWS, MAYBURY, PEARSON, PERKINS, RANDALL, SEWALL, THERIAULT, TUTTLE, TWITCHELL, USHER, WEBSTER, WHITMORE, THE PRESIDENT - CHARLES P. PRAY

ABSENT: Senators ANDREWS, GAUVREAU, KERRY
No Senators having voted in the affirmative and 32 Senators having voted in the negative, with 3 Senators being absent, and None being less than two-thirds of the Membership present, it was the vote of the Senate that the Committee's recommendation be ACCEPTED and the nomination of Richard C. Kennedy, for appointment to the State Board of Education, was CONFIRMED.

The Secretary has so informed the Speaker of the House.

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

NOMINATION - of Carol A. Wishcamper of Freeport for appointment to the State Board of Education.

Tabled - September 15, 1988, by Senator CLARK of Cumberland.

Pending - CONSIDERATION
(In Senate, September 15, 1988, READ and ORDERED PLACED ON FILE.)

THE PRESIDENT: The Joint Standing Committee on EDUCATION has recommended the nomination of Carol A. Wishcamper of Freeport, for appointment to the State Board of Education, be confirmed.

The pending question before the Senate is: "Shall the recommendation of the Committee on EDUCATION be overridden?"

In accordance with 3 M.R.S.A., Chapter 6, Section 151 and with Joint Rule 38 of the 113th Legislature, the vote will be taken by the Yeas and Nays.

A vote of Yes will be in favor of overriding the recommendation of the Committee.

A vote of No will be in favor of sustaining the recommendation of the Committee.

Is the Senate ready for the question?
The Doorkeepers will secure the Chamber.
The Secretary will call the Roll.

ROLL CALL

YEAS: Senators None
NAYS: Senators BALDACCI, BERUBE, BLACK, BRANNIGAN, BRAWN, BUSTIN, CAHILL, CLARK, COLLINS, DILLENBACK, DOW, DUTREMBLE, EMERSON, ERWIN, ESTES, GILL, GOULD, KANY, LUDWIG, MATTHEWS, MAYBURY, PEARSON, PERKINS, RANDALL, SEWALL, THERIAULT, TWITCHELL, USHER, WEBSTER, WHITMORE, THE PRESIDENT - CHARLES P. PRAY

ABSENT: Senators ANDREWS, GAUVREAU, KERRY, TUTTLE

No Senators having voted in the affirmative and 31 Senators having voted in the negative, with 4 Senators being absent, and None being less than two-thirds of the Membership present, it was the vote of the Senate that the Committee's recommendation be ACCEPTED and the nomination of Carol A. Wishcamper,

for reappointment to the State Board of Education, was CONFIRMED.

The Secretary has so informed the Speaker of the House.

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

PAPERS FROM THE HOUSE
Joint Resolution

The Following Joint Resolution: H.P. 1995
JOINT RESOLUTION IN SUPPORT OF NATIONAL
POW/MIA RECOGNITION WEEK

WHEREAS, there is a need for greater public awareness of the existence of American military personnel and civilians who are still being held as prisoners or missing in Southeast Asia as a result of the Vietnam War; and

WHEREAS, American servicemen who are Prisoners-of-War or Missing-in-Action served their country with distinction and deserve our deepest gratitude; and

WHEREAS, the families and friends of those who are still missing face the uncertainty of not knowing the fate of their loved ones; and

WHEREAS, although public awareness efforts have been effective in gaining greater support in this country and have helped to set the stage for high-level negotiations with the governments of Vietnam and Laos, there continues to exist the need for increased public awareness of the plight of Prisoners-of-War and Missing-in-Action personnel and for the fullest possible accounting for Americans still being held as prisoners and missing in Southeast Asia; and

WHEREAS, in response to these concerns the United States Congress has designated September 16, 1988 as National POW/MIA Recognition Day and September 11-16, 1988 as National POW/MIA Recognition Week to honor all former United States Prisoners-of-War and all Americans who are still missing and their families; and

WHEREAS, Maine has 18 service men who are still officially listed as POW-MIA's or otherwise unaccounted for; now, therefore, be it

RESOLVED: That We, the Members of the 113th Legislature, now assembled in the Third Special Session, take this opportunity during National POW/MIA Recognition Week to show our support for, and to recognize the bravery of, Americans who are Prisoners-of-War or Missing-in-Action and their families; and be it further

RESOLVED: That suitable copies of this resolution, duly authenticated by the Secretary of State, be transmitted to appropriate State veterans' organizations.

Comes from the House READ and ADOPTED.

Which was READ and ADOPTED, in concurrence.

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

Senator PEARSON: Thank you Mr. President. Mr. President, men and women of the Senate. My town, Old Town, like a number of other places in the state and across this great country of ours had in the Vietnam conflict a man who was and is still listed, as I understand it, as missing in action, Walter Hall. Since that conflict has ceased, both his mother and father have passed away and his family has moved in different directions, although one of his brothers still lives in town. We don't ever suspect that we will see him ever again, but the agony of not knowing what happened and not being able to have the remains

brought home has been something that is very difficult for people in Old Town and particularly in his family to deal with. This Resolution calls on this day in particular to remember those who are missing in action and possibly prisoners of war.

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

Ought to Pass

The Committee on TAXATION on Bill "An Act to Clarify the Maine Jobs and Investment Tax Credit Law" (Emergency)

H.P. 1991 L.D. 2693

Reported that the same Ought to Pass.

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

Which Report was READ and ACCEPTED, in concurrence.

Under suspension of the Rules, the Bill READ TWICE and PASSED TO BE ENGROSSED, in concurrence.

Under suspension of the Rules, sent forthwith to the Engrossing Department.

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

Ought to Pass As Amended

The Committee on AGRICULTURE on Bill "An Act to Provide for Pooling of Certain Over-Order Premiums Under the Maine Milk Pool" (Emergency)

H.P. 1977 L.D. 2675

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-810).

Comes from the House, with the Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-810).

Which Report was READ and ACCEPTED, in concurrence.

The Bill READ ONCE.

Committee Amendment "A" (H-810) READ and ADOPTED, in concurrence.

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

Under suspension of the Rules, sent forthwith to the Engrossing Department.

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

ENACTORS

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

Emergency

An Act to Modify the Radiation Protection Services Statute for Commercial Nuclear Power Facilities in the State

S.P. 1023 L.D. 2679

(C "A" S-553)

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

Off Record Remarks

On motion by Senator GILL of Cumberland, 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 BERUBE for the Committee on APPROPRIATIONS AND FINANCIAL AFFAIRS on Bill "An Act to Make Supplemental Appropriations and Allocations for the Expenditures of State Government and to Change Certain Provisions of the Law Necessary to the Proper Operations of State Government for the Fiscal Year Ending June 30, 1989" (Emergency)

S.P. 1024 L.D. 2680

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (S-556).

Which Report was READ and ACCEPTED.

The Bill READ ONCE.

Committee Amendment "A" (S-556) 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:

PAPERS FROM THE HOUSE

Non-concurrent Matter

Resolve, Creating a Commission to Establish the Valuation of State-Owned Properties (Emergency)

S.P. 1033 L.D. 2697

Committee on STATE AND LOCAL GOVERNMENT suggested and ORDERED PRINTED.

In Senate, September 15, 1988, Under suspension of the Rules, READ TWICE and PASSED TO BE ENGROSSED, without reference to Committee.

Comes from the House under suspension of the Rules, READ TWICE and PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENT "A" (H-812), without reference to Committee in NON-CONCURRENCE.

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

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

COMMITTEE REPORTS

Senate

Divided Report

The Majority of the Committee on FISHERIES AND WILDLIFE on Resolve, Concerning the Special Commission on Boating (Emergency)

S.P. 1019 L.D. 2670

Reported that the same Ought to Pass.

Signed:

Senators:

ERWIN of Oxford
USHER of Cumberland
BRAUN of Knox

Representatives:

CLARK of Millinocket
DUFFY of Bangor
WEYMOUTH of West Gardiner
WALKER of Norway
GREENLAW of Standish
FARREN of Cherryfield
ROTONDI of Athens

JACQUES of Waterville

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

Signed:

Representatives:

SMITH of Island Falls

BROWN of Gorham

Which Reports were READ.

The Majority OUGHT TO PASS Report was ACCEPTED.

Under suspension of the Rules, the Bill READ TWICE and PASSED TO BE ENGROSSED.

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

House

Ought to Pass As Amended

The Committee on JUDICIARY on Bill "An Act to Ensure the Integrity of the Judicial Process under the Bail Law" (Emergency)

H.P. 1984 L.D. 2687

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-809).

Comes from the House, with the Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-809).

Which Report was READ and ACCEPTED, in concurrence.

The Bill READ ONCE.

Committee Amendment "A" (H-809) READ and ADOPTED, in concurrence.

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

Under suspension of the Rules, sent forthwith to the Engrossing Department.

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

COMMITTEE REPORTS

House

Ought to Pass As Amended

The Committee on AGRICULTURE on Bill "An Act Relating to Horse Racing and Racing Facilities"

H.P. 1990 L.D. 2692

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-811).

Comes from the House, with the Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-811)

Which Report was READ and ACCEPTED, in concurrence.

The Bill READ ONCE.

Committee Amendment "A" (H-811) READ and ADOPTED, in concurrence.

Under suspension of the Rules, READ A SECOND TIME.

On motion by Senator COLLINS of Aroostook, Senate Amendment "A" (S-557) READ and ADOPTED.

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

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:

ORDERS

Joint Resolution

On motion by Senator CLARK of Cumberland (Cosponsored by: Representative DIAMOND of Bangor,

Representative RYDELL of Brunswick, Representative FOSS of Yarmouth) (Approved for Introduction by the Legislative Council pursuant to Joint Rule 35) the following Joint Resolution:

S.P. 1035
 JOINT RESOLUTION MEMORIALIZING THE MEMBERS
 OF THE UNITED STATES CONGRESS TO PASS LEGISLATION
 FOR BETTER CHILD CARE SERVICES

We, your Memorialists, the House of Representatives and Senate of the State of Maine of the One Hundred and Thirteenth Legislature, now assembled, most respectfully present and petition the United States Congress, as follows:

WHEREAS, State Government has provided almost 20 years of progressive leadership and commitment of resources to develop child care services in Maine; and

WHEREAS, the lack of good quality, accessible and affordable child care services is still a serious problem facing many thousands of children and families, and employers, all across Maine; and

WHEREAS, successful resolution of the child care crisis requires coordination and collaboration between all levels of government and the private sector; and

WHEREAS, the "Act for Better Child Care Services" is a comprehensive Federal Government proposal to assist states and local communities to make child care more affordable for low-income and moderate-income families, to increase the number of child care facilities and qualified providers available to all families, and to improve the range of options and quality of all child care services; now, therefore, be it

RESOLVED: That We, Your Memorialists, respectfully urge and petition the Members of the United States Congress to pass "AN ACT for Better Child Care Services," S. 1885 - H.R. 3660; and be it further

RESOLVED: That suitable copies of this resolution, duly authenticated by the Secretary of State, be transmitted to the President of the Senate and the Speaker of the House of Representatives in the Congress of the United States and to each Member of the Maine Congressional Delegation.

Which was READ and ADOPTED.

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:

ENACTORS

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

Emergency

An Act to Provide for Pooling of Certain Over-Order Premiums Under the Maine Milk Pool

H.P. 1977 L.D. 2675

(C "A" H-810)

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 Maine Jobs and Investment Tax Credit Law

H.P. 1991 L.D. 2693

This being an Emergency Measure and having received the affirmative vote of 30 Members of the Senate, with No Senators having voted in negative, and 30 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.

Senate at Ease

Senate called to order by the President.

Senator GAUVREAU of Androscoggin was granted unanimous consent to address the Senate on the Record.

Senator GAUVREAU: Thank you Mr. President. Mr. President, men and women of the Senate. I am pleased to be a sponsor of the Joint Resolution in Memoriam of Richard R. Charette. We were all greatly saddened this summer to learn of the untimely passing of Dick Charette, who to many of us was a very good friend and close associate. As you may know, Dick for four years represented the city of Lewiston in the Senate district, which I currently am representing. I came to know him very well. I was a member of the other Body when I first came in and Dick was the Chair of our County Delegation. I think like other delegations occasionally there are local issues which tend to have great debate and emotion and I was always very impressed by the manner which Senator Charette acquitted himself, not only with the delegation but also in the Legislature. I think we came to know him as a man of unquestioned impartiality, fairness and decency. Beyond that he had a special warmth and compassion and he truly enjoyed every aspect of his life. Although it is true that he did die a relatively young man, I think it is fair to say that the years he spent with us, with his family and with his community were very rich, productive and enduring years and I shall long remember him as a good friend and truly a very well respected member of this Chamber. Thank you.

Senator BUSTIN of Kennebec was granted unanimous consent to address the Senate on the Record.

Senator BUSTIN: Thank you Mr. President. Mr. President, men and women of the Senate. I would just like to add my remarks to those of the good Senator from Androscoggin, Senator Gauvreau. As some of you may remember, Senator Charette was my seatmate in my freshman term and it was also his freshman term and we sat in those two seats right there and I found him to be one of the most compassionate, sincere men that I had met. His musical talents, as a lot of us will remember, entertained many of our days here. I have also met his family and he had a very close knit family and I know how hard it has been on them and I just wanted to express my deep regrets that he had to leave us so early. Thank you.

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

PAPERS FROM THE HOUSE

House Papers

Bill "An Act to Amend the Maine Managed Care Insurance Plan Demonstration for Uninsured Individuals"

H.P. 1996 L.D. 2698

Committee on BANKING AND INSURANCE suggested and ORDERED PRINTED.

Comes from the House, under suspension of the Rules, READ TWICE and PASSED TO BE ENGROSSED, without reference to a Committee.

Which was, under suspension of the Rules, READ ONCE, without reference to a Committee.

The Bill LATER TODAY ASSIGNED FOR SECOND READING.

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

COMMITTEE REPORTS

Senate

Divided Report

The Majority of the Committee on STATE AND LOCAL GOVERNMENT on Bill "An Act to Permit the State of Maine to Exercise the Right of Eminent Domain over Certain Lands Located within the Town of Lebanon"

S.P. 1014 L.D. 2659

Reported that the same Ought Not to Pass.

Signed:

Senator:

BALDACCI of Penobscot

Representatives:

ROTONDI of Athens

BICKFORD of Jay

CARROLL of Gray

HUSSEY of Milo

WENTWORTH of Wells

LOOK of Jonesboro

LACROIX of Oakland

ANTHONY of South Portland

STROUT of Windham

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

Signed:

Senator:

TUTTLE of York

Which Reports were READ.

On motion by Senator TUTTLE of York, the Bill and Accompanying Papers RECOMMITTED to the Committee on STATE AND LOCAL GOVERNMENT.

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

House

Divided Report

The Majority of the Committee on APPROPRIATIONS AND FINANCIAL AFFAIRS on Bill "An Act to Provide Funds for Safe Collection and Disposition of Hazardous Household Pesticides" (Emergency)

H.P. 1966 L.D. 2663

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-813).

Signed:

Senators:

PEARSON of Penobscot

EMERSON of Penobscot

Representatives:

HIGGINS of Scarborough

FOSTER of Ellsworth

CHONKO of Topsham

RIDLEY of Shapleigh

NADEAU of Lewiston

LISNIK of Presque Isle

CARTER of Winslow

MCGOWAN of Canaan

DAVIS of Monmouth

FOSS of Yarmouth

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

Signed:

Senator:

BERUBE of Androscoggin

Comes from the House the Majority OUGHT TO PASS AS AMENDED Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-813).

Which Reports were READ.

The Majority OUGHT TO PASS AS AMENDED Report was ACCEPTED, in concurrence.

The Bill READ ONCE.

Committee Amendment "A" (H-813) READ and ADOPTED, in concurrence.

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

Under suspension of the Rules, sent forthwith to the Engrossing Department.

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

COMMITTEE REPORTS

House

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 Increase the Sewerage Facilities Construction General Fund Bond Issue for Individual Pollution Abatement Projects" (Emergency)

H.P. 1992 L.D. 2694

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

ENACTORS

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

Emergency Resolve

Resolve, to Extend the Reporting Date of the Maine Commission to Review Overcrowding at the Augusta Mental Health Institute and the Bangor Mental Health Institute"

S.P. 1032 L.D. 2690

(S "A" S-554)

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

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

ENACTORS

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

Emergency

An Act to Expedite the Allocation of Solid Waste Management Assistance

S.P. 1026 L.D. 2682

(C "A" S-555)

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

On motion by Senator CAHILL of Sagadahoc, 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:

PAPERS FROM THE HOUSE
House Papers

Bill "An Act to Authorize the Department of Mental Health and Mental Retardation to Reimburse Extraordinary Costs for Special Needs" (Emergency)
H.P. 1997 L.D. 2699

Committee on APPROPRIATIONS AND FINANCIAL AFFAIRS suggested and ORDERED PRINTED.

Comes from the House, under suspension of the Rules, READ TWICE and PASSED TO BE ENGROSSED, without reference to a Committee.

Which was, under suspension of the Rules, READ TWICE.

On motion by Senator PEARSON of Penobscot, Senate Amendment "A" (S-560) READ and ADOPTED.

Which was PASSED TO BE ENGROSSED, as Amended, without reference to a Committee, and ORDERED PRINTED in NON-CONCURRENCE.

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:

SECOND READERS

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

House

Bill "An Act to Amend the Maine Managed Care Insurance Plan Demonstration for Uninsured Individuals"

H.P. 1996 L.D. 2698

Which was READ A SECOND TIME.

On motion by Senator THERIAULT of Aroostook, Senate Amendment "A" (S-559) READ and ADOPTED.

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

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 GAUVREAU for the Committee on HUMAN RESOURCES on Bill "An Act to Establish the Board of Overseers of the Augusta and Bangor Mental Health Institutes" (Emergency)

S.P. 1028 L.D. 2685

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (S-558).

Which Report was READ and ACCEPTED.

The Bill READ ONCE.

Committee Amendment "A" (S-558) READ.

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

Senator GAUVREAU: Thank you Mr. President. Mr. President, men and women of the Senate. This matter was the subject of extensive discussion in the Human Resources Committee and I am pleased to report, as you can see, that we have arrived at a unanimous report in this sensitive area. I just wanted to rise at this time to address a technical error in the Bill on page seven of the Committee Amendment, which can be found in sub-section 3902, sub-section 4, on line 2, references made to the Commission and that word should in fact be the Commissioner. That is referring to the Commissioner of the Department of Mental Health and Mental Retardation. That was the sole purpose for which I rise this afternoon. Thank you.

Committee Amendment "A" (S-558) was 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:

ORDERS

Joint Order

On motion by Senator CLARK of Cumberland the following Joint Order: S.P. 1038

ORDERED, the House concurring, that the following specified matters be held over to the next special session of the 113th Legislature:

COMMITTEE BILL
State and Local Government (S.P. 1014) (L.D. 2659)
- AN ACT to Permit the State of Maine to Exercise the Right of Eminent Domain over Certain Lands Located within the Town of Lebanon.

State and Local Government (S.P. 1018) (L.D. 2669)
- AN ACT to Authorize the Annexation of Land Adjacent to the Town of Millinocket.

Which was READ and PASSED.
Sent down for concurrence.

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

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

ORDERS

Joint Resolution

On motion by President PRAY of Penobscot (Cosponsored by: Representative MURPHY of Kennebec, Speaker MARTIN of Eagle Lake, Senator PERKINS of Hancock) the following Joint Resolution:

S.P. 1036

JOINT RESOLUTION IN RECOGNITION OF
DAVID S. SILSBY, REVISOR OF STATUTES

WHEREAS, we acknowledge that "Some men succeed by what they know, some by what they do, and a few by what they are" and we find in our midst a public servant who has fulfilled the measure of each of these; and

WHEREAS, for 23 years our trusted colleague, David Silsby, has written the language of the laws of this State and discharged his duties with objectivity, consistency and eloquence as Director of Legislative Research and as the Revisor of Statutes; and

WHEREAS, David Silsby's experience, courtesy and willingness calls and qualifies him to undertake a new direction of service to the State as Director of the State Capitol Commission; and

WHEREAS, in recalling Emerson's words, we remember "how casually and unobservedly we make our most valued acquaintances," now, therefore, be it

RESOLVED: That We, the Members of the 113th Legislature, now in Third Special Session assembled, do pause in our deliberations to join friends and colleagues in expressing our gratitude and admiration for David Shorey Silsby and to applaud the patience, diligence and decency of this gentle man; and be it further

RESOLVED: That suitable copies of this resolution, duly authenticated by the Secretary of State, be transmitted to David S. Silsby with our warmest esteem and in acknowledgment and appreciation of his many past contributions to the Maine Legislature and to his continuing commitment to his beloved State of Maine.

Which was READ and ADOPTED.

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

House

Ought to Pass As Amended

The Committee on ENERGY AND NATURAL RESOURCES on Bill "An Act to Enhance Land Use Regulation" (Emergency)

H.P. 1981 L.D. 2684

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-814).

Comes from the House, with the Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-814)

Which Report was READ and ACCEPTED, in concurrence.

The Bill READ ONCE.

Committee Amendment "A" (H-814) READ and ADOPTED, in concurrence.

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

Under suspension of the Rules, sent forthwith to the Engrossing Department.

Senate at Ease

Senate called to order by the President.

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

ENACTORS

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

Emergency

An Act to Ensure the Integrity of the Judicial Process under the Bail Law

H.P. 1984 L.D. 2687

(C "A" H-809)

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:

SENATE PAPERS

Resolve, to Direct the Department of Administration to Develop a Cost-Estimate Plan of State-Owned Real Property

S.P. 1037 L.D. 2700

Presented by Senator BUSTIN of Kennebec

Cosponsored by: Representative MAYO of Thomaston, Representative CARROLL of Gray, Representative HICKEY of Augusta

Approved for Introduction by a Majority of the Legislative Council pursuant to Joint Rule 26
Committee on STATE AND LOCAL GOVERNMENT suggested and ORDERED PRINTED.

Which was, under suspension of the Rules, READ ONCE, without reference to a Committee.

The Bill LATER TODAY ASSIGNED FOR SECOND READING.

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

ENACTORS

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

Emergency

An Act to Provide Funds for Safe Collection and Disposition of Obsolete Household Pesticides

H.P. 1966 L.D. 2663

(C "A" H-813)

This being an Emergency Measure and having received the affirmative vote of 30 Members of the Senate, with No Senators having voted in negative, and 30 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:

PAPERS FROM THE HOUSE

House Papers

Bill "An Act Concerning State Contribution to Water Systems" (Emergency)

H.P. 1998 L.D. 2701

Committee on UTILITIES suggested and ORDERED PRINTED.

Comes from the House, under suspension of the Rules, READ TWICE and PASSED TO BE ENGROSSED, without reference to a Committee.

Which was, under suspension of the Rules, READ TWICE and PASSED TO BE ENGROSSED, without reference to a Committee, and ORDERED PRINTED, in concurrence.

Under suspension of the Rules, sent forthwith to the Engrossing Department.

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

COMMITTEE REPORTS

House

Ought to Pass

The Committee on STATE AND LOCAL GOVERNMENT on RESOLUTION, Proposing an Amendment to the Constitution of Maine to Clarify the Original Constitutional Resolution Making the Language of the Constitution Gender-Neutral

H.P. 1993 L.D. 2695

Reported that the same Ought to Pass.

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

Which Report was READ and ACCEPTED, in concurrence.

Under suspension of the Rules, the Bill READ TWICE and PASSED TO BE ENGROSSED, in concurrence.

Under suspension of the Rules, sent forthwith to the Engrossing Department.

Off Record Remarks

On motion by Senator GOULD of Waldo, 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:

ENACTORS

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

Emergency Resolve

Resolve, Concerning the Special Commission on Boating

S.P. 1019 L.D. 2670

This being an Emergency Measure and having received the affirmative vote of 30 Members of the Senate, with No Senators having voted in negative, and 30 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.

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

ENACTORS

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

Emergency

An Act Relating to Horse Racing and Racing Facilities

H.P. 1990 L.D. 2692

(C "A" H-811; S "A" S-557)

This being an Emergency Measure and having received the affirmative vote of 28 Members of the Senate, with No Senators having voted in negative, and 28 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:

ENACTORS

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

Emergency

An Act to Establish the Maine Commission on Mental Health

S.P. 1028 L.D. 2685

(C "A" S-558)

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

Senator GAUVREAU: Thank you Mr. President. Mr. President, men and women of the Senate. Subsequent to the Engrossment of this measure, certain questions arose as to the intent of the Joint Standing Committee on Human Resources with respect to whether the Committee had intended to require the sunset of the Commission on Mental Health. We are now establishing whether to have that Commission go through what has been referred to as a review process which would not entail a full sunset process.

The Human Resources Committee, in recommending the establishment of the Commission on Mental Health, was cognizant of the serious concerns relating to the quality of care administered to residents in our Quick-Care state hospitals. For that end the Committee fashioned the Commission on Mental Health,

which is imbued with the requisite authority to properly supervise the administration of care in our Quick-Care hospitals and an appropriate circumstances recommend to this Legislature as well as to the Governor and the Commissioner of Mental Health and Retardation appropriate reforms and alternative provisions of care.

With respect to the issue on whether the Commission on Mental Health should be sunsetted, it is the intent of the Joint Standing Committee on Human Resources that this Commission should in fact undergo the same type of review and sunset process akin to all other types of independent state agencies in its class. Thank you.

This being an Emergency Measure and having received the affirmative vote of 30 Members of the Senate, with No Senators having voted in negative, and 30 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:

ENACTORS

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

Emergency

An Act to Authorize the Department of Mental Health and Mental Retardation to Reimburse Extraordinary Costs for Special Needs

H.P. 1997 L.D. 2699

(S "A" S-560)

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:

ENACTORS

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

Emergency

An Act to Amend the Maine Managed Care Insurance Plan Demonstration for Uninsured Individuals

H.P. 1996 L.D. 2698

(S "A" S-559)

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:

ENACTORS

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

Constitutional Amendment

RESOLUTION, Proposing an Amendment to the Constitution of Maine to Clarify the Original

Constitutional Resolution Making the Language of the Constitution Gender-Neutral

H.P. 1993 L.D. 2695

This being a Constitutional Amendment and having received the affirmative vote of 31 Members of the Senate, with No Senators having voted in negative, and 31 being more than two-thirds of the Membership present and voting was FINALLY PASSED and having been signed by the President, was presented by the Secretary to the Secretary of State for his approval.

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

ENACTORS

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

Emergency

An Act Concerning State Contribution to Water Systems

H.P. 1998 L.D. 2701

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

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

Resolve, to Direct the Department of Administration to Develop a Cost-Estimate Plan of State-Owned Real Property

S.P. 1037 L.D. 2700

Which was READ A SECOND TIME.

On motion by Senator BUSTIN of Kennebec, Senate Amendment "A" (S-561) READ and ADOPTED.

Which was 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:

ENACTORS

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

Emergency

An Act to Enhance Land Use Regulation

H.P. 1981 L.D. 2684

(C "A" H-814)

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

Senator USHER: Thank you Mr. President. Mr. President, men and women of the Senate. In reference to the term in the Bill two locations of new structure, it was the Committee's intent that the term new structure shall mean buildings constructed after the effective date of this act.

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

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

ENACTORS

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

Emergency

An Act to Make Supplemental Appropriations and Allocations for the Expenditures of State Government and to Change Certain Provisions of the Law Necessary to the Proper Operations of State Government for the Fiscal Year Ending June 30, 1989

S.P. 1024 L.D. 2680

(C "A" S-556)

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

Senate at Ease

Senate called to order by the President.

ORDERS OF THE DAY

On motion by Senator PEARSON of Penobscot, the Senate removed from the SPECIAL APPROPRIATIONS TABLE the following:

Emergency

An Act Making Appropriations for Additional Staff to the Office of Employee Assistants for the Workers' Compensation Commission

H.P. 1965 L.D. 2662

(C "A" H-803)

Tabled - September 15, 1988, by Senator PEARSON of Penobscot.

Pending - ENACTMENT

(In House, September 15, 1988, PASSED TO BE ENACTED.)

(In Senate, September 15, 1988, PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-803), in concurrence.)

This being an Emergency Measure and having received the affirmative vote of 26 Members of the Senate, with No Senators having voted in negative, and 26 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.

On motion by Senator PEARSON of Penobscot, the Senate removed from the SPECIAL APPROPRIATIONS TABLE the following:

Emergency

An Act Relating to Municipal General Obligation Securities

H.P. 1974 L.D. 2672

(C "A" H-804)

Tabled - September 15, 1988, by Senator PEARSON of Penobscot.

Pending - ENACTMENT

(In House, September 15, 1988, PASSED TO BE ENACTED.)

(In Senate, September 15, 1988, PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-804), in concurrence.)

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

On motion by Senator PEARSON of Penobscot, the Senate removed from the SPECIAL APPROPRIATIONS TABLE the following:

Emergency

An Act to Stagger the Filing Dates of Annual Corporation Reports with the Secretary of State

S.P. 1022 L.D. 2678
(C "A" S-552)

Tabled - September 15, 1988, by Senator PEARSON of Penobscot.

Pending - ENACTMENT

(In House, September 15, 1988, PASSED TO BE ENACTED.)

(In Senate, September 15, 1988, PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-552).)

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

On motion by Senator PEARSON of Penobscot, the Senate removed from the SPECIAL APPROPRIATIONS TABLE the following:

Emergency

An Act to Expedite the Allocation of Solid Waste Management Assistance

S.P. 1026 L.D. 2682
(C "A" S-555)

Tabled - September 16, 1988, by Senator PEARSON of Penobscot.

Pending - ENACTMENT

(In House, September 16, 1988, PASSED TO BE ENACTED.)

(In Senate, September 16, 1988, PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-555).)

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

On motion by Senator PEARSON of Penobscot, the Senate removed from the SPECIAL APPROPRIATIONS TABLE the following:

Emergency

An Act to Return Surplus Revenues to the Taxpayers of Maine

H.P. 1983 L.D. 2686

Tabled - September 15, 1988, by Senator PEARSON of Penobscot.

Pending - ENACTMENT

(In House, September 15, 1988, PASSED TO BE ENACTED.)

(In Senate, September 15, 1988, PASSED TO BE ENGROSSED, in concurrence.)

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.

On motion by Senator PEARSON of Penobscot, the Senate removed from the SPECIAL APPROPRIATIONS TABLE the following:

Emergency

Resolve, to Extend the Reporting Date of the Maine Commission to Review Overcrowding at the Augusta Mental Health Institute and the Bangor Mental Health Institute

S.P. 1032 L.D. 2690
(S "A" S-554)

Tabled - September 16, 1988, by Senator PEARSON of Penobscot.

Pending - FINAL PASSAGE

(In House, September 16, 1988, FINALLY PASSED.)

(In Senate, September 16, 1988, PASSED TO BE ENGROSSED AS AMENDED BY SENATE AMENDMENT "A" (S-554).)

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.

Senate at Ease

Senate called to order by the President.

ORDERS OF THE DAY

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

Resolve, Creating a Commission to Establish the Valuation of State-Owned Properties (Emergency)

S.P. 1033 L.D. 2697

Tabled - September 16, 1988, by Senator CLARK of Cumberland.

Pending - FURTHER CONSIDERATION

Committee on STATE AND LOCAL GOVERNMENT suggested and ORDERED PRINTED.

(In Senate, September 15, 1988, under suspension of the Rules, READ TWICE and PASSED TO BE ENGROSSED, without reference to a Committee.)

(In House, September 16, 1988, under suspension of the Rules, READ TWICE and PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENT "A" (H-812), without reference to a Committee in NON-CONCURRENCE.)

On motion by Senator BUSTIN of Kennebec, the Bill and Accompanying Papers INDEFINITELY POSTPONED in NON-CONCURRENCE.

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

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

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

LEGISLATIVE RECORD - SENATE, SEPTEMBER 16, 1988

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

Emergency
Resolve, to Direct the Department of Administration to Develop a Cost-Estimate Plan of State-Owned Real Property

S.P. 1037 L.D. 2700
(S "A" S-561)

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.

At this time, a message was received from the House of Representatives, borne by Representative GWADOSKY of Fairfield, informing the Senate that the House had transacted all business before it and was ready to Adjourn, Without Day.

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

COMMUNICATIONS

The Following Communication:
113TH MAINE LEGISLATURE
September 16, 1988

The Honorable John R. McKernan
Governor
State of Maine
State House
Augusta, Maine 04333
Dear Governor McKernan:

We are writing with regard to Legislative Document 2648, "AN ACT to Return Certain Positions within the Department of Environmental Protection to Classified Service Under the Civil Service Law." We ask that you take action on this bill by either signing it into law or vetoing it.

It is our belief that the legislative process was initially circumvented. The amendment to the appropriations bill that prompted L.D. 2648 has caused a situation in the Department of Environmental Protection unique to all state departments. By politicizing these six division director positions, this amendment has subjected the D.E.P. to political pressures previously unheard of in Maine Government. By holding the bill, you are allowing the situation to continue, tacitly sanctioning this maneuver.

Maine citizens would not condone amending the civil service law in this fashion. If you believe that the citizens of this state agree that the six division directors should not be classified under the civil service law, we urge you to veto our measure. If, however, you agree with the position of the Legislature, we urge you to sign the bill and return the positions to their rightful classified status.

We look forward to your response and are hopeful that you will agree with our position.

Sincerely,

S/Charles P. Pray
Senate President
S/Nancy Randall Clark
Senate Majority Leader
S/Dennis L. Dutremble
Asst. Majority Leader

S/John L. Martin
Speaker of the House
S/John N. Diamond
House Majority Leader
S/Dan A. Gwadosky
Asst. Majority Leader

Which was READ and ORDERED PLACED ON FILE.

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

COMMUNICATIONS

The Following Communication:
STATE OF MAINE
OFFICE OF THE GOVERNOR
AUGUSTA, MAINE 04333

September 16, 1988

The Honorable Charles P. Pray
Senate President
State House
Augusta, Maine 04330
Dear Charlie:

Thank you for your letter regarding L.D. 2648 and your request that I act affirmatively on it. I certainly appreciate your views as to both the legislative history behind this bill as well as the precedent it would set if it becomes law.

I want to assure you that I will give every consideration to your stated concerns, as well as those views expressed by others interested in this issue, prior to taking any action on it.

Thank you again for your letter.

Sincerely,
S/John R. McKernan, Jr.
GOVERNOR

Which was READ and ORDERED PLACED ON FILE.

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

COMMUNICATION

The Following Communication:
STATE OF MAINE
HOUSE OF REPRESENTATIVES
AUGUSTA 04333
September 16, 1988

The Honorable John R. McKernan
Governor
State of Maine
State House
Augusta, Maine 04333
Dear Governor McKernan:

I appreciate your response to the Democratic Leadership letter regarding L.D. 2648. I am, however, a bit confused by the content of your correspondence.

Our letter requested that you act on the bill in question. Since the bill was enacted by the House and the Senate on May 17, 1988, I feel there has been an appropriate amount of time for this issue to be carefully considered.

Perhaps our question should be, are you going to act on this bill? Thank you in advance for your consideration of this request.

Sincerely,
S/John L. Martin
Speaker of the House

Which was READ and ORDERED PLACED ON FILE.

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

COMMUNICATIONS

The Following Communication:
STATE OF MAINE
OFFICE OF THE GOVERNOR
AUGUSTA, MAINE 04333
September 16, 1988

The Honorable John L. Martin
Speaker of the House
State House Station #2
Augusta, Maine 04333
Dear John:

This letter is in response to your two letters this afternoon and evening regarding my intentions with respect to LD 2648. Considering the fact that we have had several discussions in preparation for this Special Session, including frequent discussions during the past two days, I wish you had brought this matter up much earlier so that we were not in a position of debating my intentions on a Friday evening.

Because of the lateness of your request, I am unable to return the bill to you with a formal message on such short notice. However, I can assure you that I do not intend for this bill to become law. In regards to our conversation in my office earlier this evening, I see no need for the Legislature recessing because of this matter since I made a commitment last May to the Executive Director of the Maine State Employees Association that Commissioner Marriott would treat the affected employees as though they were still classified until the 114th Legislature had an opportunity to address the appropriateness of these positions remaining as policy influencing titles.

I assure you that I intend to uphold that agreement; therefore, I see no need to delay adjournment for the purpose of the Legislature coming back later to consider my veto of this bill.

Sincerely,
S/John R. McKernan, Jr.
GOVERNOR

P.S. I also want to assure you that I have no intentions of vetoing any of the bills passed, or now pending passage, during the past two days, subject to review of final language, of course. If any technical problems were discovered, I would call you back in Session for clarification.

Which was READ and ORDERED PLACED ON FILE.

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

September 16, 1988

The Honorable John R. McKernan Jr.
Office of the Governor
State House Station #1
Augusta, Maine 04333
Dear Governor:

As the closing chapter in the debate over the fate of LD 2648, I wish to make note of the fact that this issue is hardly new; particularly since it has been the subject of editorial comment within the past few days. This bill has been on your desk for review and deliberation since May 17, 1988. With the Special Session scheduled so far in advance, it does not seem at all unreasonable that this important issue and your intentions be finally resolved by this Legislature.

Without the necessity of a formal veto, the Legislature is now aware of your intent to utilize a pocket veto of the measure. I am also pleased that your commitment both to the Maine State Employees Association and to the Legislature will now be a matter of record.

However, I am concerned, in light of your assurances to MSEA, with the fact that one of the positions in question has been filled outside the method prescribed for classified positions in State service.

I am pleased that a final accord has been reached on LD 2648 and with your commitment regarding legislation enacted during this Special Session.

Sincerely,
S/John L. Martin
Speaker of the House

Which was READ.

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

Senator CLARK: Thank you Mr. President. Mr. President, men and women of the Senate. We have before us a number of supplements reflecting communications which occurred during the late afternoon and late evening of this day. Perhaps you all remember that during the closing days of the Second Regular Session of the 113th Legislature inserted into the budget document was a provision that declassified six positions within the Department of Environmental Protection. At a subsequent Special Session this Legislature passed L.D. 2648, "AN ACT to Return Certain Positions within the Department of Environmental Protection to Classified Service Under the Civil Service Law." A Bill that we all voted on. As of this date, His Excellency, Governor McKernan, has not taken action on L.D. 2648 and members of Leadership from both sides of the aisle met briefly earlier this evening and discussed whether or not it would be appropriate for this Third Special Session of the 113th Legislature to recess thus providing enough time for the Governor to take action or to veto that same measure.

Clustered among this series of four documents on supplements forty-five through forty-nine is a response from the Governor indicating that in fact if he were to take any action it would be to veto it. It was response to that and the meeting of the collected Leadership of both sides of the aisle that the Republicans caucused and decided that they would be supporting the Governor. So, there is no need at this time for us to recess for in fact if we did and the Governor vetoed this measure, as he has pledged to do, then obviously the Gubernatorial veto would be sustained here in this Chamber. Thus, these documents become part of our record because it indicates what his intentions would have been. The record now states what is obvious as what is the result of a pending veto if we recessed. In addition to all of that, there is the assurance that the Governor has tendered as a post script on this letter of September 16, 1988 on supplement forty-eight, that Governor McKernan has no intentions of vetoing any of the Bills passed during this Third Special Session of the 113th Legislature. So, we will very quickly follow the action of the other Body and rather than recess and wait for a pending veto which would be obviously sustained, because we can count, then we too will adjourn with the assurance that the Governor will not remove those five remaining people in those positions within the Department of Environmental Protection until the 114th Legislature convenes for business, other than organizational purposes, in January of 1989 and at that time this issue, I feel sure, will be readdressed. Thank you Mr. President.

Which was ORDERED PLACED ON FILE.

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

September 16, 1988

Charles P. Pray, President of the Senate
 John L. Martin, Speaker of the House
 State House
 Augusta, Maine 04333

Dear Mr. President and Mr. Speaker:

As you are aware, a complaint has been filed against me with the Commission on Governmental Ethics and Election Practices alleging a conflict of interest because I was compensated for consulting services by the National Education Association in off session periods while a member of the Joint Standing Committee on Education.

The problem I face is not of my own doing, but, rather, it is an institutional problem inherent in a part-time citizen Legislature. I have done absolutely nothing wrong morally, legally, or ethically. I fully disclosed this income according to the letter of the law on the proper forms and reported it for tax purposes on both my federal and state income tax returns. It was never a secret that I performed these services for the NEA and I never tried to hide that fact.

As long as Maine continues its long tradition of a citizen legislature, the potential for conflict will exist for those who serve. I am no more or less in conflict than any other legislator in Augusta who works for a living. However, I have now been singled out by this complaint and public attention has been brought to bear on my particular economic circumstances. Under the current ethics code, which acknowledges the inherent conflict in the institution, only a full-time professional legislator or the very rich would be immune from potential conflict of interest allegations.

"Most Legislators must look to income from private sources, not their public salaries, for their sustenance and support for their families; moreover, they must plan for the day when they must return to private employment, business or their professions."

"The increasing complexity of government at all levels, with broader intervention into private affairs, makes conflicts of interest almost inevitable for all part-time public officials, and particularly for Legislators who must cast their votes on measures affecting the lives of almost every citizen or resident of the State."

These words are not my political rationalization, but rather, they are quoted directly from Title 1, Section 1011 of the Maine Revised Statutes. They were written to acknowledge the institutional hazards confronting the farmers, the health professionals, the attorneys, the teachers, the businesspeople, the insurance agents, and the millworkers who do double duty as the backbone of Maine's citizen legislature. Because of my own painful experience at being singled out as only one of 186 members of the Legislature who could potentially share my misfortune, I urge you, as the presiding officers of both bodies, to act immediately to forestall the repeat of any such episodes in the future.

I call upon you to name a bipartisan blue ribbon panel, made up of citizens whose integrity is above reproach, to advise the Legislature on the sufficiency of the current ethics code and reporting requirements, to recommend appropriate changes after the opportunity for public comment, and to supply individual legislators with more clear guidelines on such issues as employment, committee assignments, and under what circumstances they should refrain from voting or participating in the legislative process.

Absent such firm guidance, other legislators are destined to find themselves in similar unfortunate situations either now or in the future. Please contact me when we may discuss this issue further. I urge your immediate attention.

Sincerely,
 S/Stephen M. Bost
 State Representative

Which was READ and ORDERED PLACED ON FILE.

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

PAPERS FROM THE HOUSE

Joint Resolution

The Following Joint Resolution: H.P. 1999

JOINT RESOLUTION RECOGNIZING

THE LEAGUE OF WOMEN VOTERS OF MAINE

WHEREAS, the League of Women Voters is a nationwide, nonpartisan organization working solely in the public interest; and

WHEREAS, the League encourages citizens to be active in the party of their choice; and

WHEREAS, the Maine chapter of the League has been instrumental in ensuring that the average Maine citizen is kept well-informed of the operation of Maine government; and

WHEREAS, the League has encouraged greater voter participation in the State, through such means as Voter Registration Day, so that Maine citizens may take responsibility for the quality of their lives in the communities in which they live and work; and

WHEREAS, the League of Women Voters of Maine deserves recognition for its outstanding contributions to the citizens of this State; now, therefore, be it

RESOLVED: That We, the Members of the 113th Legislature now assembled in the Third Special Session, take this opportunity to show our appreciation for and recognition of the League of Women Voters of Maine; and be it further

RESOLVED: That suitable copies of this resolution, duly authenticated by the Secretary of State, be transmitted to the League of Women Voters of Maine.

Comes from the House READ and ADOPTED.

Which was READ and ADOPTED, in concurrence.

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

ORDERS

On motion by Senator CLARK of Cumberland the following Order:

ORDERED, that a message be sent to His Excellency, Governor John R. McKernan, Jr., informing him that the Senate has transacted all business which has come before it and is ready to Adjourn Without Day.

Which was READ and PASSED.

The President appointed the Senator from Cumberland, Senator CLARK to deliver the message to His Excellency, the Governor. The Sergeant-At-Arms escorted the Senator to the Governor's office.

Subsequently, the Senator from Cumberland, Senator CLARK reported that she had delivered the message with which she was charged.

On motion by Senator DUTREMBLE of York the following Order:

ORDERED, that a message be sent to the House of Representatives informing that Body that the Senate

has transacted all the business which has come before it and is ready to Adjourn Without Day.

Which was READ and PASSED.

The President appointed the Senator from York, Senator DUTREMBLE to deliver the message. The Sergeant-At-Arms escorted the Senator to the House of Representatives.

Subsequently, the Senator from York, Senator DUTREMBLE reported that he had delivered the message with which he was charged.

Off Record Remarks

On motion by Senator EMERSON of Penobscot, at 10:08 p.m. on Friday, September 16, 1988, in memory of Richard R. Charette, the Honorable CHARLES P. PRAY, PRESIDENT, declared the Third Special Session of the 113th Legislature, ADJOURNED SINE DIE.