

MAINE STATE LEGISLATURE

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

VOLUME V

SECOND REGULAR SESSION
March 20, 1990 to April 14, 1990
Index

HOUSE & SENATE LEGISLATIVE SENTIMENTS
December 7, 1988 to April 14, 1990

ONE HUNDRED AND FOURTEENTH MAINE LEGISLATURE
SECOND REGULAR SESSION
39th Legislative Day
Monday, March 26, 1990

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

Prayer by Father Gilbert Patenaude of Augusta, (retired).

National Anthem by the Wiscasset High School Band. The Journal of Friday, March 23, 1990, was read and approved.

Quorum call was held.

PAPERS FROM THE SENATE

The following Communication:

Maine State Senate
 Augusta, Maine 04333

March 23, 1990

Honorable Edwin H. Pert

Clerk of the House

State House Station 2

Augusta, Maine 04333

Dear Clerk Pert:

Please be advised that the Senate today Adhered to its former action whereby it referred to the Committee on Legal Affairs Bill "An Act to Amend the Solid Waste Landfill Remediation and Closure Laws Administered by the Department of Environmental Protection" (Emergency) (H.P. 1712) (L.D. 2363).

Sincerely,

S/Joy J. O'Brien

Secretary of the Senate

Was read and ordered placed on file.

PETITIONS, BILLS AND RESOLVES
REQUIRING REFERENCE

The following Bill and Resolve were received and, upon the recommendation of the Committee on Reference of Bills, were referred to the following Committees, Ordered Printed and Sent up for Concurrence:

TABLED PENDING RULING FROM CHAIR

Bill "An Act Concerning the Use of Live Animals in Games" (H.P. 1781) (L.D. 2450) (Presented by Representative HEPBURN of Skowhegan) (Cosponsored by Senator MATTHEWS of Kennebec) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27.)

(The Committee on Legal Affairs had been suggested.)

The SPEAKER: The Chair recognizes the Representative from Palmyra, Representative Tardy.

Representative TARDY: Mr. Speaker, I would inquire if L.D. 2450 is properly before the body pursuant to Joint Rule 37?

Subsequently, the Bill was tabled by the Speaker pending a ruling from the Chair.

Legal Affairs

Resolve, Authorizing Rommy Haines to Present a Claim for 3rd-party Damages to a Board of Arbitration a 2nd Time (H.P. 1780) (L.D. 2449) (Presented by Representative MAHANY of Easton) (Cosponsored by Representative LISNIK of Presque Isle, Representative MCGOWAN of Canaan and Senator PEARSON of Penobscot) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27.)

Ordered Printed.

Sent up for Concurrence.

ORDERS

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

ORDERED, that Representative Patricia M. Stevens of Bangor be excused March 12, 13, 14, 15 and 16 for personal reasons.

AND BE IT FURTHER ORDERED, that Representative Linwood M. Higgins of Scarborough be excused March 15 and 16 for personal reasons.

AND BE IT FURTHER ORDERED, that Representative Anne M. Larrivee of Gorham be excused March 19 and 27 for personal reasons.

AND BE IT FURTHER ORDERED, that Representative M. Ida Luther of Mexico be excused March 20 for the duration of her illness.

AND BE IT FURTHER ORDERED, that Representative Christopher S. Gurney of Portland be excused March 20 for personal reasons.

AND BE IT FURTHER ORDERED, that Representative George A. Townsend of Eastport be excused March 23 for legislative business.

AND BE IT FURTHER ORDERED, that Representative Virginia Constantine of Bar Harbor be excused March 26 for personal reasons.

Was read and passed.

REPORTS OF COMMITTEES

Unanimous Leave to Withdraw

Representative MANNING from the Committee on Human Resources on Bill "An Act to Modify the Procedure for Establishing the Hospital Development Account Credit" (H.P. 1760) (L.D. 2425) reporting "Leave to Withdraw"

Representative TRACY from the Committee on Banking and Insurance on Bill "An Act Concerning Discontinuance and Replacement of Group Accident and Health Insurance" (H.P. 1427) (L.D. 1979) reporting "Leave to Withdraw"

Representative FARNSWORTH from the Committee on Judiciary on Bill "An Act Regarding Liability for Nuclear Waste" (H.P. 1714) (L.D. 2367) reporting "Leave to Withdraw"

Representative PEDERSON from the Committee on Human Resources on Bill "An Act to Extend the Certificate of Need Program to All Major Medical Equipment, Raise the Threshold for Review of Certain Projects and Improve Access to Care in Nonhospital Settings" (H.P. 1765) (L.D. 2433) reporting "Leave to Withdraw"

Representative DELLERT from the Committee on Human Resources on Bill "An Act Relating to the ASPIRE Program" (H.P. 1555) (L.D. 2155) reporting "Leave to Withdraw"

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

Divided Report

Later Today Assigned

Majority Report of the Committee on Legal Affairs reporting "Ought Not to Pass" on Bill "An Act to Authorize the Maine State Lottery to Enter into an Agreement with Other States to Join the Multi-State Lottery Association, Known as Lotto America, for the Purpose of Operating a Joint Lottery" (H.P. 1711) (L.D. 2362)

Signed:

Senator:

Representatives:

MATTHEWS of Kennebec
 PRIEST of Brunswick
 BEGLEY of Waldoboro
 LAPOINTE of Auburn
 JALBERT of Lisbon
 PAUL of Sanford

PLOURDE of Biddeford
LAWRENCE of Kittery

Minority Report of the same Committee reporting "Ought to Pass" as amended by Committee Amendment "A" (H-972) on same Bill.

Signed:

Senators: BALDACCI of Penobscot
DILLENBACK of Cumberland
Representatives: MURPHY of Berwick
STEVENS of Sabattus
TUPPER of Orrington

Reports were read.

Representative Priest of Brunswick moved that the House accept the Majority "Ought Not to Pass" Report.

On further motion of the same Representative, tabled pending his motion that the House accept the Majority "Ought Not to Pass" Report and later today assigned.

CONSENT CALENDAR

First Day

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

(S.P. 818) (L.D. 2094) Bill "An Act to Amend Vital Statistics Provisions Pertaining to Adoptions" Committee on Judiciary reporting "Ought to Pass" as amended by Committee Amendment "A" (S-602)

(H.P. 1243) (L.D. 1734) Bill "An Act to Increase Various License and Registration Fees of the Department of Agriculture, Food and Rural Resources" Committee on Agriculture reporting "Ought to Pass" as amended by Committee Amendment "A" (H-975)

(H.P. 1358) (L.D. 1875) Bill "An Act to Repeal Hospital Assessments Used to Fund State Programs" Committee on Human Resources reporting "Ought to Pass" as amended by Committee Amendment "A" (H-976)

(H.P. 1689) (L.D. 2339) Resolve, Providing for a Study of the Establishment of a Testing Program for the Purity of Agricultural Food Products Committee on Agriculture reporting "Ought to Pass" as amended by Committee Amendment "A" (H-977)

(H.P. 1600) (L.D. 2224) Bill "An Act to Provide Private Remedies for Elderly Consumers Injured by Unfair Insurance Trade Practices" Committee on Banking and Insurance reporting "Ought to Pass" as amended by Committee Amendment "A" (H-979)

(H.P. 1425) (L.D. 1977) Bill "An Act to Extend and Amend the Authorization for the Maine High-Risk Insurance Organization" (EMERGENCY) Committee on Banking and Insurance reporting "Ought to Pass" as amended by Committee Amendment "A" (H-980)

There being no objections, the above items were ordered to appear on the Consent Calendar of Tuesday, March 27, 1990, under the listing of Second Day.

(H.P. 1613) (L.D. 2230) Bill "An Act to Clarify the Negotiability of Sabbatical Leave Agreements" Committee on Labor reporting "Ought to Pass" as amended by Committee Amendment "A" (H-981)

On motion of Representative McCormick of Rockport, was removed from the Consent Calendar, First Day.

Subsequently, the Committee Report was read and accepted, the Bill read once.

Committee Amendment "A" (H-981) was read by the Clerk and adopted and the Bill assigned for second reading Tuesday, March 27, 1990.

(H.P. 1592) (L.D. 2205) Bill "An Act to Allow Towns to Lay Pipes Under Railroad Tracks" Committee on Utilities reporting "Ought to Pass" as amended by Committee Amendment "A" (H-982)

(H.P. 1409) (L.D. 1957) Bill "An Act to Clarify the Laws Governing Prelitigation Screening Panels" (EMERGENCY) Committee on Judiciary reporting "Ought to Pass" as amended by Committee Amendment "A" (H-984)

(H.P. 1336) (L.D. 1853) Bill "An Act to Facilitate the Admission and Treatment of Involuntary Patients by Community-based Mental Health Institutions" Committee on Human Resources reporting "Ought to Pass" as amended by Committee Amendment "A" (H-986)

There being no objections, the above items were ordered to appear on the Consent Calendar of Tuesday, March 27, 1990, under the listing of Second Day.

CONSENT CALENDAR

Second Day

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

(S.P. 894) (L.D. 2276) Bill "An Act to Amend the Natural Resources Protection Act" (EMERGENCY) (C. "A" S-594)

On motion of Representative Michaud of East Millinocket, was removed from the Consent Calendar, Second Day.

Subsequently, the Committee Report was read and accepted, the Bill read once.

Committee Amendment "A" (S-594) was read by the Clerk.

On motion of Representative Michaud of East Millinocket, tabled pending adoption of Committee Amendment "A" (S-594) and later today assigned.

(H.P. 1645) (L.D. 2278) Bill "An Act to Amend the Definition of Public Way" (C. "A" H-971)

(H.P. 1639) (L.D. 2272) Bill "An Act to Clarify Eligibility Requirements for the Open Space Land Program" (C. "A" H-973)

(H.P. 1692) (L.D. 2342) Bill "An Act to Promote Equity of Opportunity for Women in Administrative Positions in the Public School System" (C. "A" H-974)

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

PASSED TO BE ENGROSSED

As Amended

Bill "An Act to Amend the Financial Responsibility Law Pertaining to Motor Vehicles" (S.P. 849) (L.D. 2178) (S. "A" S-598 to C. "A" S-588)

Bill "An Act Relating to Services to Infants and Young Children, Ages 0 through 5, Who Are Handicapped or at Risk for Developmental Delay" (S.P. 805) (L.D. 2068) (S. "A" S-595 to C. "A" S-592)

Bill "An Act Concerning the Use of Funds Raised by Organizations Operating Games of Chance or Beano" (EMERGENCY) (S.P. 937) (L.D. 2372) (S. "A" S-596 and S. "B" S-597)

Bill "An Act Concerning the Collection of Inspection Fees for Overboard Discharge" (H.P. 1740) (L.D. 2404) (H. "A" H-983 to C. "A" H-962)

Were reported by the Committee on Bills in the Second Reading, read the second time, the Senate Papers were Passed to be Engrossed as Amended in concurrence and the House Paper was Passed to be Engrossed as Amended and sent up for concurrence.

**ORDERS OF THE DAY
TABLED AND TODAY ASSIGNED**

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

Joint Order - relative to amending Joint Rule 38 (S.P. 979)

- In Senate, Read and Passed.

TABLED - March 23, 1990 by Representative RUHLIN of Brewer.

PENDING - Passage in concurrence.

Pursuant to the Constitution of the State of Maine, Section 8, Part I of Article V, a two-thirds vote being necessary, a total was taken. 105 voted in favor of same and 1 against, the Joint Order was passed in concurrence.

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

Bill "An Act to Repeal the Homestead Exemption" (EMERGENCY) (S.P. 829) (L.D. 2137)

TABLED - March 23, 1990 by Representative GWADOSKY of Fairfield.

PENDING - Passage to be Engrossed.

On motion of Representative Cashman of Old Town, retabled pending passage to be engrossed and later today assigned.

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

Bill "An Act Relating to Pharmacy Services to Nursing Home Residents" (S.P. 886) (L.D. 2262) (H. "A" H-969 to C. "A" S-586)

TABLED - March 23, 1990 by Representative MANNING of Portland.

PENDING - Passage to be Engrossed.

On motion of Representative Manning of Portland, retabled pending passage to be engrossed and later today assigned.

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

Resolve, Establishing the Commission to Assess the Impact of Increased State Spending on the University of Maine System (EMERGENCY) (H.P. 1637) (L.D. 2270) (C. "A" H-928)

TABLED - March 23, 1990 by Representative GWADOSKY of Fairfield.

PENDING - Final Passage.

On motion of Representative Gwadosky of Fairfield, retabled pending final passage and later today assigned.

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

An Act to Establish the Department of Families and Children (H.P. 1199) (L.D. 1666) (C. "C" H-820)

TABLED - March 23, 1990 by Representative GWADOSKY of Fairfield.

PENDING - Passage to be Enacted.

On motion of Representative Gwadosky of Fairfield, retabled pending passage to be enacted and later today assigned.

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

An Act to Limit the Role of Rating Organizations in Property and Casualty Rate Making (H.P. 1627) (L.D. 2249) (C. "A" H-905)

TABLED - March 23, 1990 by Representative GWADOSKY of Fairfield.

PENDING - Passage to be Enacted.

On motion of Representative Gwadosky of Fairfield, retabled pending passage to be enacted and later today assigned.

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

An Act Concerning Public Utilities (S.P. 761) (L.D. 1986) (S. "A" S-574 to C. "A" S-561)

TABLED - March 23, 1990 by Representative GWADOSKY of Fairfield.

PENDING - Passage to be Enacted.

Representative Kilkelly of Wiscasset moved that the rules be suspended for the purpose of reconsideration.

Representative Clark of Millinocket objected and requested a division.

The SPEAKER: The Chair will order a vote. The pending question before the House is the motion of Representative Kilkelly of Wiscasset that the rules be suspended for the purpose of reconsideration. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

Representative Clark of Millinocket requested a roll call.

The SPEAKER: A roll call has been requested. For the Chair to order a roll call, it must have the expressed desire of more than one-fifth of the members present and voting. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken and more than one-fifth of the members present and voting having expressed a desire for a roll call, a roll call was ordered.

The SPEAKER: The pending question before the House is the motion of Representative Kilkelly of Wiscasset that the rules be suspended for the purpose of reconsideration. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 195

YEA - Aliberti, Anthony, Begley, Bell, Boutilier, Brewer, Butland, Cahill, M.; Carroll, D.; Carter, Cashman, Cathcart, Chonko, Clark, M.; Cote, Crowley, Daggett, DiPietro, Dutremble, L.; Erwin, P.; Farnsworth, Farnum, Graham, Gurney, Gwadosky, Hale, Handy, Heeschen, Hickey, Hoglund, Holt, Hutchins, Ketover, Kilkelly, LaPointe, Larrivee, Lawrence, Luther, Manning, Marsh, McSweeney, Melendy, Michaud, Mills, Mitchell, Murphy, Nadeau, G. R.; O'Dea, O'Gara, Oliver, Paradis, J.; Paradis, P.; Pineau, Plourde, Priest, Rolde, Rotondi, Sheltra, Simpson, Swazey.

NAY - Aikman, Anderson, Ault, Bailey, Carroll, J.; Clark, H.; Coles, Dellert, Dexter, Donald, Dore, Farren, Foss, Foster, Garland, Gould, R. A.; Greenlaw, Hastings, Hepburn, Hichborn, Higgins, Hussey, Jacques, Jalbert, Joseph, Lebowitz, Libby, Lord, MacBride, Macomber, Marsano, Martin, H.; McCormick, McGowan, McHenry, McPherson, Merrill, Moholland, Norton, Nutting, Paradis, E.; Parent, Pederson, Pendleton, Pines, Pouliot, Rand, Reed, Richard, Richards, Ridley, Rydell, Seavey, Small, Smith, Stevens, A.; Stevenson, Strout, B.; Strout, D.; Tammara, Tardy, Telow, Townsend, Tracy, Tupper, Walker, Wentworth, Whitcomb.

ABSENT - Adams, Allen, Burke, Conley, Constantine, Curran, Duffy, Hanley, Jackson, Lisnik,

Look, Mahany, Marston, Mayo, McKeen, Nadeau, G. G.; Paul, Ruhlín, Sherburne, Skoglund, Stevens, P.; Webster, M.; The Speaker.

Yes, 60; No, 68; Absent, 23; Paired, 0; Excused, 0.

60 having voted in the affirmative and 68 in the negative with 23 being absent, the motion did not prevail.

The SPEAKER: The Chair recognizes the Representative from Wiscasset, Representative Kilkelly.

Representative KILKELLY: Mr. Speaker, Ladies and Gentlemen of the House: I would ask for a roll call on enactment.

My concern about L.D. 1986 comes from a great concern I have about the erosion of local control. As I read the bill as it has come from the committee, one of the things that we are doing is trying to fix something that isn't broken and that is something that always concerns me.

As it stands now, when the utility company wants to put a power line through your town or my town, the Public Utilities Commission can request that they go to the town first and deal with the local ordinances, the local zoning boards, the planning commissions or the Public Utilities Commission can make an enactment of the Certificate of Need prior to them doing that. The bill has come out of committee requesting that they would always go to the PUC first. Now that may be fine in some of the larger communities where folks have plenty of lawyers and the resources available to deal with some of these issues, but in some of the smaller communities, I think it really throws the balance off considerably. I think it really is a concern when the utility company can come into a small community and go before the local planning board and say, "Not only do we want to put a power line through your town but we have prior approval of a certificate of need from the Public Utilities Commission." The balance is very, very delicate anyway and this will throw that balance right out the window.

One of the situations that I have lived with for the last two years, which is somewhat related to this, has to do with mobile home parks. We very carefully said to communities through comprehensive planning legislation, we think you need to make plans about the future of your communities. We think that you are the ones that know best what is going on in your area and what ought to be happening. In the case of mobile home parks though, that is not the case. I have heard that for two years from the people in my area.

What we are saying here is, communities we think there ought to be a lot of local control, we think you ought to have an opportunity to deal with the planning in your community except when it comes to utility lines.

When you vote on this bill you need to think about what you are going to say when you go back to your communities. You are either going to go back to them and say, "Yes, we have taken away the ability that you have to deal with the power companies on a more equal playing field when they come to you and want to put a power line through your town." If you vote in support of this bill, that is just you will be doing.

The reason that I cannot, in good conscience, vote for this is because I don't feel that it is appropriate to take away the ability of the local communities to deal with that on face value prior to the company going to the Public Utilities Commission.

When you vote, I would ask you not to vote for enactment of this bill.

The SPEAKER: The Chair recognizes the Representative from Millinocket, Representative Clark.

Representative CLARK: Mr. Speaker, Ladies and Gentlemen of the House: I would be remiss this morning if I didn't tell you that we had a long session in our committee going over this bill and spent a lot of time on it. As you know, it has been tabled for the last week or so in order to work out a problem that the good Representative from Wiscasset, Representative Kilkelly had, but apparently that has not been accomplished and that is where we are today.

When we had this bill in our committee, we had a number of people come and testify in favor of the bill.

L.D. 1986 provides for more (let me say more) local control for this bill. It has been supported by the full committee of the Utilities, it has been supported by the Public Advocate and it has also been supported by the Regulatory Commission and also by MMA. MMA assured us that there is no problem with this bill. They came back to us two or three times. I think they went to the good Representative, Kilkelly also and told her that she didn't have anything to worry about. I would be the first to stand up this morning and tell you, if we were going to take less control away from municipalities, I would be up fighting for it. But the way we heard it in committee, that this is not going to be so.

When you vote this morning, I would ask for your support.

The SPEAKER: A roll call has been requested. For the Chair to order a roll call, it must have the expressed desire of more than one-fifth of the members present and voting. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken and more than one-fifth of the members present and voting having expressed a desire for a roll call, a roll call was ordered.

The SPEAKER: The Chair recognizes the Representative from Wiscasset, Representative Kilkelly.

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

I would like to pose a question to Representative Adams on the committee. It is my understanding that Representative Adams was responsible for negotiating some of the compromise and I think it might be interesting to share that with this body.

The SPEAKER: The Representative from Wiscasset, Representative Kilkelly, has posed a question through the Chair to the Representative from Portland, Representative Adams, who may respond if he so desires.

The Chair recognizes that Representative.

Representative ADAMS: Mr. Speaker, Men and Women of the House: I would echo what was said by our House Chair just one moment ago. Rarely do utility bills receive debate upon the floor. We worked very hard in committee to try to hammer out those things that we think best to enter into public policy through debate. In committee and here on the floor, as originally written, L.D. 1986, which you can see in your folders, was given a long and very hard look by the committee. The compromise that resulted offered three points: (1) that an electrical utility requesting an upgrade of a power line would have to notify the municipality at the same time it notified the Public Utilities Commission and we unanimously felt that that was good; (2) the fact that the notice would be entered into law, which it wasn't, we thought that was good and (3) rulemaking authority had been granted to the Public Utilities Commission to set the criteria by which exemptions would or

would not be granted. That last point has been amended out by the other body and what remains before you today is the unanimous committee report on the previous two points.

We felt that by and large it was the duty, I believe, of the legislature to make sure that the smallest person in line, that is of course our towns, were given adequate protection in what could be a long and cumbersome and often a very heavily weighted process. I would say that would sum the two points that remain upon the table at this moment.

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

Representative PARADIS: Mr. Speaker, Members of the House: As has been mentioned, this was a unanimous committee report on the committee amendment which dealt with the bill that had originally practically giving the power of veto to the communities over transmission lines which might transcend their communities. We have made provisions in the amended version of the bill for public notice for the communities participation. The participating part is an equal partner in the discussions with the utilities without hamstringing the utilities before they commence such negotiations.

I certainly hope that you would pass or approve of the enactment this morning and go along with the bill.

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

Representative HOLT: Mr. Speaker, Ladies and Gentlemen of the House: I simply wish to say for the Record that there was a great deal of anguish within the committee about this bill. Many of us really felt that the situation as it existed was fine, that it gave a great protection to the localities in the face of oftentimes rather relentless and very powerful corporation interests.

I must say that the effort in the committee, as far as lobbyists go, was mainly of corporate and large and powerful interests. I felt uneasy about going with the committee on this bill and, at times, I think we are afraid, perhaps too afraid, of sending out divided reports. My feeling was that we were, again, eroding local control and I voted for this reluctantly. I feel that Representative Kilkelly of Wiscasset has done an excellent job of researching and we should have given her more attention for her amendments seemed excellent to me on behalf of our communities.

The SPEAKER: The Chair recognizes the Representative from Sanford, Representative Hale.

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

The notice of public hearing -- is that on the state level only and have the local ordinances been bypassed for a state hearing only prior to the local hearings of the municipalities that don't have that privilege anymore to this unanimous compromise?

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

The Chair recognizes the Representative from Millinocket, Representative Clark.

Representative CLARK: Mr. Speaker, Ladies and Gentlemen of the House: I hope that I can answer your question. I think Representative Adams can answer it because we charged him with working with the steering committee and he came back with the report. It is my understanding from MMA that we didn't delete anything, that the municipalities are going to be just as active in this as they were before. If I thought they wouldn't be, I wouldn't be here today. MMA assured us that the municipalities

would be very well represented and I think that is going to take care of the problem.

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

ROLL CALL NO. 196

YEA - Adams, Aikman, Aliberti, Anderson, Anthony, Ault, Bailey, Begley, Bell, Boutilier, Butland, Cahill, M.; Carroll, J.; Carter, Cashman, Clark, H.; Coles, Cote, Crowley, Daggett, Dellert, Dexter, DiPietro, Donald, Erwin, P.; Farnum, Farren, Foss, Foster, Garland, Gould, R. A.; Graham, Greenlaw, Gurney, Gwadosky, Hale, Handy, Hastings, Heeschen, Hepburn, Hichborn, Hickey, Higgins, Hussey, Hutchins, Jacques, Jalbert, Joseph, Ketover, Larrivee, Lebowitz, Libby, Lisnik, Lord, MacBride, Macomber, Manning, Marsano, Marsh, Martin, H.; McCormick, McGowan, McHenry, McPherson, McSweeney, Melendy, Merrill, Michaud, Mitchell, Moholland, Murphy, Nadeau, G. R.; Norton, Nutting, O'Dea, O'Gara, Oliver, Paradis, E.; Paradis, P.; Parent, Pederson, Pendleton, Pines, Pouliot, Priest, Rand, Reed, Richard, Richards, Ridley, Rolde, Rotondi, Seavey, Skoglund, Small, Smith, Stevens, A.; Stevens, P.; Stevenson, Strout, B.; Strout, D.; Swazey, Tamaro, Tardy, Telow, Townsend, Tracy, Tupper, Walker, Wentworth, Whitcomb.

NAY - Brewer, Burke, Cathcart, Chonko, Clark, M.; Dore, Dutremble, L.; Farnsworth, Hoglund, Holt, Kilkelly, LaPointe, Lawrence, Luther, Mills, Paradis, J.; Pineau, Plourde, Rydell, Sheltra, Simpson.

ABSENT - Allen, Carroll, D.; Conley, Constantine, Curran, Duffy, Hanley, Jackson, Look, Mahany, Marston, Mayo, McKeen, Nadeau, G. G.; Paul, Ruhlin, Sherburne, Webster, M.; The Speaker.

Yes, 111; No, 21; Absent, 19; Paired, 0; Excused, 0.

111 having voted in the affirmative and 21 in the negative with 19 being absent, the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

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

An Act to Establish Licensing Requirements and a Cooperative Monitoring Program for Mahogany Quahogs (H.P. 1541) (L.D. 2126) (C. "A" H-874)

TABLED - March 23, 1990 by Representative GWADOSKY of Fairfield.

PENDING - Passage to be Enacted.

On motion of Representative Gwadosky of Fairfield, retabled pending passage to be enacted and later today assigned.

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

An Act to Provide for the 1990 and 1991 Allocations of the State Ceiling on Private Activity Bonds (EMERGENCY) (H.P. 1642) (L.D. 2275) (C. "A" H-902)

TABLED - March 23, 1990 by Representative GWADOSKY of Fairfield.

PENDING - Passage to be Enacted.

On motion of Representative Gwadosky of Fairfield, retabled pending passage to be enacted and later today assigned.

(At Ease)

The House was called to order by the Speaker.

BILL HELD

Expression of Legislative Sentiment recognizing Representative and Mrs. Crowley, Sr., of Stockton Springs. (HLS 1224)

- In House, Passed.

HELD at the request of Representative GWADOSKY of Fairfield.

On motion of Representative Gwadosky of Fairfield, the House reconsidered its action whereby HLS 1224 was passed.

The SPEAKER: The Chair recognizes the Representative from Madison, Representative Richard.

Representative RICHARD: Mr. Speaker, would it be appropriate to have the Clerk read this Legislative Sentiment?

The SPEAKER: Absolutely.

Subsequently, the Legislative Sentiment was read in its entirety by the Clerk.

The SPEAKER: The Chair recognizes the Representative from Madison, Representative Richard.

Representative RICHARD: Mr. Speaker, Ladies and Gentlemen of the House: Even though September is a ways off and we will not be in session at that time, friends of Mr. and Mrs. Crowley wanted to be sure that this Legislative Sentiment was presented so that all of us here in this body could pay recognition and respect to both Mr. and Mrs. Crowley. It is my understanding that Mrs. Crowley is here today.

The SPEAKER: The Chair recognizes the Representative from Stockton Springs, Representative Crowley.

Representative CROWLEY: Mr. Speaker, Ladies and Gentlemen of the House: I want to thank, I think, my good friend Representative Alex Richard and the three co-conspirators of this Legislative Sentiment. For ten years I have been avoiding having anyone announce my birthday or any anniversaries and I slipped on this one I guess.

Someone said they were amazed that anyone could be married that long to the same person and there are two really basic reasons for that happening. The first one was that, a few years ago, Esther told me that I could leave any time I wanted but if I left, I would have to take the 10 children. I am sure she meant that.

The second reason is that she and I have been best friends for 50 strong years and I thank the good Lord for that. (applause) As you probably know, we have both been here for 10 years observing and meeting with the legislators, staff and so forth and everyone that we have met here for the 10 years, we like and we respect. It has been a real great pleasure for us and we thank you, we love you, and may God hold you all in the palm of his hands. Thank you. (applause)

Subsequently, the Legislative Sentiment was passed and sent up for concurrence.

(At Ease)

The House was called to order by the Speaker.

The Chair laid before the House the following matter: Bill "An Act to Repeal the Homestead Exemption" (EMERGENCY) (S.P. 829) (L.D. 2137) which was tabled earlier in the day and later today assigned pending passage to be engrossed.

Representative Cashman of Old Town offered House Amendment "A" (H-988) and moved its adoption.

House Amendment "A" (H-988) was read by the Clerk and adopted.

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

The Chair laid before the House the following matter: An Act to Limit the Role of Rating Organizations in Property and Casualty Rate Making (H.P. 1627) (L.D. 2249) (C. "A" H-905) which was tabled earlier in the day and later today assigned pending passage to be enacted.

Subsequently, the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

The Chair laid before the House the following matter: An Act to Establish Licensing Requirements and a Cooperative Monitoring Program for Mahogany Quahogs (H.P. 1541) (L.D. 2126) (C. "A" H-874) which was tabled earlier in the day and later today assigned pending passage to be enacted.

On motion of Representative Mitchell of Freeport, under suspension of the rules, the House reconsidered its action whereby L.D. 2126 was passed to be engrossed.

On further motion of the same Representative, under suspension of the rules, the House reconsidered its action whereby Committee Amendment "A" (H-874) was adopted.

The same Representative offered House Amendment "A" (H-989) to Committee Amendment "A" (H-874) and moved its adoption.

House Amendment "A" (H-989) to Committee Amendment "A" (H-874) was read by the Clerk and adopted.

Committee Amendment "A" as amended by House Amendment "A" thereto was adopted.

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

The Chair laid before the House the following matter: (S.P. 894) (L.D. 2276) Bill "An Act to Amend the Natural Resources Protection Act" (EMERGENCY) (C. "A" S-594) which was tabled earlier in the day and later today assigned pending adoption of Committee Amendment "A" (S-594).

Representative Michaud of East Millinocket offered House Amendment "A" (H-987) to Committee Amendment "A" (S-594) and moved its adoption.

House Amendment "A" (H-987) to Committee Amendment "A" (S-594) was read by the Clerk and adopted.

Committee Amendment "A" as amended by House Amendment "A" thereto was adopted and the Bill assigned for second reading Tuesday, March 27, 1990.

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

REPORTS OF COMMITTEES

Divided Report

Majority Report of the Committee on Human Resources reporting "Ought Not to Pass" on Bill "An Act to Amend the Laws Pertaining to Preadmission Assessment" (H.P. 1652) (L.D. 2285)

Signed:

Senators:

TITCOMB of Cumberland

GAUVREAU of Androscoggin

Representatives:

MANNING of Portland

PEDERSON of Bangor
 BURKE of Vassalboro
 CATHCART of Orono
 CLARK of Brunswick
 BOUTILIER of Lewiston
 ROLDE of York

Minority Report of the same Committee reporting "Ought to Pass" as amended by Committee Amendment "A" (H-985) on same Bill.

Signed:
 Senator: RANDALL of Washington
 Representatives: DELLERT of Gardiner
 HEPBURN of Skowhegan
 PENDLETON of Scarborough

Reports were read.

Representative Manning of Portland moved that the House accept the Majority "Ought Not to Pass" Report. Representative Marsano of Belfast requested a roll call.

The SPEAKER: A roll call has been requested. For the Chair to order a roll call, it must have the expressed desire of more than one-fifth of the members present and voting. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken and more than one-fifth of the members present and voting having expressed a desire for a roll call, a roll call was ordered.

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

Representative BOUTILIER: Mr. Speaker, Ladies and Gentlemen of the House: Just so no one is voting on this and not realizing what you are doing, we have two reports in front of us. One is "Ought Not to Pass" and the other one "Ought to Pass" would set up a preadmission screening process for patient's going into ICF units. One of the reasons for not wanting it to pass at this time is that, if we set up a preadmission screening for individuals going to get health care, we should do that for every individual, whether they are a private pay person or whether they are public pay. Someone who is inappropriately placed in a health care facility is inappropriate regardless of the method of their payment. The state has tried to say that we are only going to preadmission screen for those individuals who are on the public dole and that to me is not appropriate. I think a number of the other committee members felt the same or had other opinions and they can express those if they want to.

If you have so many available and we do have a restricted group of beds in the state to provide health care, that you need to make sure that those people in those beds are appropriately placed. Whether they are paying with their own dollars or taxpayers dollars, that bed is still inappropriately used if they are in that facility and not at the level of care that they need to be, whether it is home care up through the continual care through acute care -- if they are at the nursing home level and they shouldn't be there and would be better served at the home care level, they need to be at that level, regardless of the method of payment. That is the reason, I think, that the committee voted to sign not to pass this bill.

I urge you to vote with my Chair and vote the "Ought Not to Pass" Report.

The SPEAKER: The pending question before the House is the motion of the Representative from Portland, Representative Manning, that the House accept the Majority "Ought Not to Pass" Report. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 197

YEA - Adams, Aliberti, Anderson, Anthony, Ault, Bailey, Bell, Boutilier, Brewer, Burke, Butland, Cahill, M.; Carroll, D.; Carroll, J.; Carter, Cashman, Cathcart, Chonko, Clark, H.; Clark, M.; Coles, Conley, Cote, Crowley, Curran, Daggett, DiPietro, Donald, Dore, Erwin, P.; Farnsworth, Farnum, Foss, Foster, Garland, Gould, R. A.; Graham, Greenlaw, Gwadosky, Hale, Handy, Heeschen, Hichborn, Hickey, Higgins, Hoglund, Holt, Hussey, Jacques, Jalbert, Joseph, Kilkelly, Larrivee, Lawrence, Lebowitz, Lisnik, Lord, Luther, MacBride, Macomber, Manning, Martin, H.; McGowan, McHenry, McKeen, McPherson, McSweeney, Merrill, Michaud, Mills, Moholland, Murphy, Nadeau, G. R.; Norton, Nutting, O'Dea, O'Gara, Oliver, Paradis, E.; Paradis, J.; Paradis, P.; Pederson, Pineau, Plourde, Pouliot, Rand, Reed, Richard, Ridley, Rolde, Rotondi, Ruhlin, Rydell, Seavey, Sheltra, Simpson, Skoglund, Small, Smith, Stevens, P.; Strout, D.; Swazey, Tammaro, Tardy, Telow, Townsend, Tracy, Tupper, Walker, Wentworth.

NAY - Aikman, Begley, Dellert, Dexter, Farren, Hanley, Hastings, Hepburn, Hutchins, Libby, Marsano, Marsh, McCormick, Parent, Pendleton, Pines, Richards, Stevens, A.; Stevenson, Strout, B.; Whitcomb.

ABSENT - Allen, Constantine, Duffy, Dutremble, L.; Gurney, Jackson, Ketover, LaPointe, Look, Mahany, Marston, Mayo, Melendy, Mitchell, Nadeau, G. G.; Paul, Priest, Sherburne, Webster, M.; The Speaker.

Yes, 110; No, 21; Absent, 20; Paired, 0; Excused, 0.

110 having voted in the affirmative and 21 in the negative with 20 being absent, the Majority "Ought Not to Pass" Report was accepted. Sent up for concurrence.

The Chair laid before the House the following matter: Bill "An Act Relating to Pharmacy Services to Nursing Home Residents" (S.P. 886) (L.D. 2262) (H. "A" H-969 to C. "A" S-586) which was tabled earlier in the day and later today assigned pending passage to be engrossed.

Subsequently, the Bill was passed to be engrossed as amended by Committee Amendment (S-586) as amended by House Amendment "A" (H-969) thereto in non-concurrence and sent up for concurrence.

(At Ease)

The House was called to order by the Speaker.

On motion of Representative Boutilier of Lewiston, the House reconsidered its action whereby (H.P. 1692) (L.D. 2342) Bill "An Act to Promote Equity of Opportunity for Women in Administrative Positions in the Public School System" (C. "A" H-974) was passed to be engrossed.

On motion of the same Representative, the House reconsidered its action whereby Committee Amendment "A" (H-974) was adopted.

On motion of the same Representative, tabled pending adoption of Committee Amendment "A" and specially assigned for Tuesday, March 27, 1990.

The Chair laid before the House the following matter: Resolve, Establishing the Commission to Assess the Impact of Increased State Spending on the University of Maine System (EMERGENCY) (H.P. 1637)

(L.D. 2270) (C. "A" H-928) which was tabled earlier in the day and later today assigned pending final passage.

On motion of Representative Crowley of Stockton Springs, under suspension of the rules, the House reconsidered its action whereby L.D. 2270 was passed to be engrossed.

On motion of the same Representative, under suspension of the rules, the House reconsidered its action whereby Committee Amendment "A" (H-928) was adopted.

The same Representative offered House Amendment "A" (H-998) to Committee Amendment "A" (H-928) and moved its adoption.

House Amendment "A" (H-998) to Committee Amendment "A" (H-928) was read by the Clerk and adopted.

Committee Amendment "A" as amended by House Amendment "A" thereto was adopted.

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

On motion of Representative Cote of Auburn,
Adjourned until Tuesday, March 27, 1990, at nine o'clock in the morning.

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

In Senate Chamber
Monday
March 26, 1990

Senate called to Order by the President.

Prayer by the Honorable Nancy Randall Clark of Cumberland County.

HONORABLE NANCY RANDALL CLARK: Let us be in a spirit of prayer.

Almighty Father, with great gentleness and care, You call us to be Your people and to do Your work. Be here with us today, for we are gathered in this Senate Chamber asking for Your grace and support in all that we do. Grant us Your love which transforms our lives in hope. Be with each of us this day, we pray. Amen.

Reading of the Journal of Friday, March 23, 1990.

PAPERS FROM THE HOUSE
Non-concurrent Matter

JOINT ORDER - relative to the Joint Standing Committee on Judiciary reporting out a bill, "An Act to Amend the Maine Criminal Code Regarding Drugs."

H.P. 1769

In House, March 16, 1990, READ and PASSED.

In Senate, March 16, 1990, READ and INDEFINITELY POSTPONED in NON-CONCURRENCE.

Comes from the House, that Body INSISTED.

The Senate RECEDED and CONCURRED.

House Papers

Bill "An Act to Establish an Air Quality Increment Standard for Nitrogen Oxides"

H.P. 1778 L.D. 2445

Resolve, Authorizing the Conveyance of Certain Public Lands and the Settlement of a Boundary Line Dispute Involving Public Lands

H.P. 1779 L.D. 2446

Come from the House referred to the Committee on ENERGY AND NATURAL RESOURCES and ORDERED PRINTED.

Which were referred to the Committee on ENERGY AND NATURAL RESOURCES and ORDERED PRINTED, in concurrence.

COMMUNICATIONS

The Following Communication: S.P. 982
114TH MAINE LEGISLATURE
March 23, 1990

Senator Stephen C. Estes
Rep. Nathaniel J. Crowley, Sr.
Chairpersons
Joint Standing Committee on Education
114th Legislature
Augusta, Maine 04333
Dear Chairs:

Please be advised that Governor John R. McKernan, Jr. has nominated Fred Kahl of Arrowsic for reappointment, James W. Donovan of Scarborough and Richard H. Campbell of Brewer for appointment to the Board of Trustees, Maine Vocational Technical Institutes.

Pursuant to Title 20-A, MRSA Section 12705, these nominations will require review by the Joint Standing Committee on Education and confirmation by the Senate.