

MAINE STATE LEGISLATURE

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

VOLUME IV

FIRST SPECIAL SESSION
August 21, 1989 to August 22, 1989
Index

FIRST CONFIRMATION SESSION
October 30, 1989
Index

SECOND CONFIRMATION SESSION
December 12, 1989
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SECOND REGULAR SESSION
January 3, 1990 to March 19, 1990

Practices for Educational Administrator Positions Requiring Certification" (S.P. 925) (L.D. 2336) be referred to the Joint Standing Committee on Education for public hearing and printed pursuant to Joint Rule 18.

Came from the Senate with the report read and accepted and the bill referred to the Committee on Education and ordered printed.

Report was read and accepted and the bill referred to the Committee on Education and ordered printed in concurrence.

(At Ease)

(Off Record Remarks)

On motion of Representative Melendy of Rockland, Adjourned until Friday, February 23, 1990, at twelve o'clock noon pursuant to Joint Order (S.P. 924)

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

In Senate Chamber
Tuesday
February 20, 1990

Senate called to Order by the President.

Prayer by Major Walter Douglass of the Salvation Army in Augusta.

MAJOR WALTER DOUGLASS: Gracious Lord and Heavenly Father, may this moment be more than a gesture of custom and convention, and make it a real experience for each one in this place as we call upon Thee for guidance and help.

We have felt Thee near and beside us in our respected houses of worship, in the great out-of-doors and by the sea; make us now to feel Thy nearness in the business of the day.

Grant us, we pray, Father, an unprejudiced mind and unbiased understanding of what should be said, passed and done; ears to hear what you have to say above the babbling noise of many voices.

Thou hast said, "It is more blessed to give than to receive." Give us, we pray, Lord, the grace today to think, not of what we can get, but, of what we can give, that a new spirit may come into our work here, with a new vision and a new purpose, that You will delight to bless.

May Thy blessing be upon all gathered here and upon all whose responsibility it is to govern the great State of Maine and our great nation. In Thy name we pray, Amen.

Reading of the Journal of Friday, February 16, 1990.

Out of order and under suspension of the Rules, on motion by Senator DUTREMBLE of York, the following Joint Order:

S.P. 924

ORDERED, the House concurring, that when the House and Senate adjourn, they do so until Friday, February 23, 1990, at 12 o'clock in the afternoon. Which was READ and PASSED.

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

Out of order and under suspension of the Rules, on motion by Senator CLARK of Cumberland, the following Senate Order:

ORDERED, that a message be sent to the House of Representatives proposing a Convention of both Branches in the Hall of the House at 9:30 in the morning, for the purpose of extending to the Honorable Vincent L. McKusick, Chief Justice of the Maine Supreme Judicial Court, and Members of the Judiciary, an invitation to attend the Convention and make such communication as pleases the Chief Justice. Which was READ and PASSED.

The Chair appointed the Senator from Cumberland, Senator CLARK, to deliver the message.

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

Off Record Remarks

COMMUNICATIONS

The Following Communication:
114th MAINE LEGISLATURE

February 5, 1990
The Honorable Vincent L. McKusick
Chief Justice

Maine Supreme Judicial Court
142 Federal Street
Portland, Maine 04101

Dear Mr. Chief Justice:

Despite our previous mutual agreement to forego a report on the State of the Judiciary this year, intervening circumstances have caused us to rethink this decision. In view of the significant revision of state revenue projections and the resulting budget cuts, we believe your address has taken on a new and important significance.

We would, therefore, like to invite you to make an annual report to a Joint Convention of the Legislature on Tuesday, February 20, 1990 at 9:30 a.m. We would also like to invite such other members of the Court and the Judiciary as you may think appropriate and advisable.

Please let us know if this time and date are convenient for you.

Sincerely,

S/Charles P. Pray S/John L. Martin
President of the Senate Speaker of the House
Which was READ and ORDERED PLACED ON FILE.

The Following Communication:
STATE OF MAINE
SUPREME JUDICIAL COURT
PORTLAND, MAINE 04112

February 8, 1990

The Honorable Charles P. Pray
President of the Senate
114th Maine Legislature
State House Station 3
Augusta, Maine 04333

The Honorable John L. Martin
Speaker of the House
114th Maine Legislature
State House Station 2
Augusta, Maine 04333

Dear Mr. President and Mr. Speaker:

I have your invitation of February 5, 1990, to make an annual report to a Joint Convention of the Legislature on Tuesday, February 20, 1990 at 9:30 A.M. I will be there. I entirely agree with you that intervening circumstances suggest that we rethink our earlier decision to forego the report on the State of the Judiciary this year.

As in the past, I will be accompanied by the other members of my court and the Chiefs of our trial courts.

Thank you very much indeed for giving me again the opportunity to speak directly to the entire membership of the Legislature.

With all best wishes.

Sincerely,
S/Vincent L. McKusick

Which was READ and ORDERED PLACED ON FILE.

The Following Communication:
ONE HUNDRED AND FOURTEENTH LEGISLATURE
COMMITTEE ON JUDICIARY

February 16, 1990

The Honorable Charles P. Pray
President of the Senate of Maine
State House
Augusta, Maine 04333

Dear Mr. President:

In accordance with 3 M.R.S.A., Chapter 6, Section 151, and with Joint Rule 38 of the 114th Maine Legislature, the Joint Standing Committee on

Judiciary has had under consideration the nomination of Reginald E. Burleigh of Fort Fairfield, for appointment to the Workers' Compensation Commission.

After public hearing and discussion on this nomination, the Committee proceeded to vote on the motion to recommend to the Senate that this nomination be confirmed. The Committee Clerk called the roll with the following result:

YEAS: Senators 3
 Representatives 10

NAYS: 0
ABSENT: 0

Thirteen members of the Committee having voted in the affirmative and none in the negative, it was the vote of the Committee that the nomination of Reginald E. Burleigh of Fort Fairfield, for appointment to the Workers' Compensation Commission be confirmed.

Sincerely,

S/Senator Barry J. Hobbins S/Rep. Patrick E. Paradis
Senate Chair House Chair

Which was READ and ORDERED PLACED ON FILE.

On motion by Senator DUTREMBLE of York, the Nomination Tabled until Later in Today's Session, pending CONSIDERATION.

SENATE PAPERS

Pursuant to Resolves

BLUE RIBBON TASK FORCE

TO PROMOTE EQUITY OF OPPORTUNITY FOR WOMEN

IN THE PUBLIC SCHOOL SYSTEM

Senator ESTES for the BLUE RIBBON TASK FORCE TO PROMOTE EQUITY OF OPPORTUNITY FOR WOMEN IN THE PUBLIC SCHOOL SYSTEM, pursuant to Resolves 1989, Chapter 55, ask leave to submit its findings and to report that the accompanying Bill "An Act to Establish Uniform Hiring Practices for Educational Administrator Positions Requiring Certification"

S.P. 925 L.D. 2336

Be referred to the Joint Standing Committee on EDUCATION for Public Hearing and printed pursuant to Joint Rule 18.

Which Report was READ and ACCEPTED.

The Bill referred to the Committee on EDUCATION and ORDERED PRINTED, pursuant to Joint Rule 18.

Sent down for concurrence.

COMMITTEE REPORTS

House

Ought Not to Pass

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

The Committee on LEGAL AFFAIRS on Bill "An Act to Prohibit the Breaking of Glass Products in Games of Skill"

H.P. 1517 L.D. 2102

The Committee on TAXATION on Bill "An Act to Exempt Camp Susan Curtis from Sales Tax"

H.P. 1316 L.D. 1818

Leave to Withdraw

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

The Committee on EDUCATION on Bill "An Act to Require School Transportation for High School Students"

H.P. 1605 L.D. 2218

The Committee on LABOR on Bill "An Act Regarding Attorney's Fees in Workers' Compensation Cases"

H.P. 1607 L.D. 2220

The Committee on LEGAL AFFAIRS on Bill "An Act Regarding Mobile Home Park Tenants' Use of the Defense of Breach of the Warranty of Habitability"
H.P. 1559 L.D. 2165

The Committee on LEGAL AFFAIRS on Bill "An Act to Clarify the Status of Permanent Residents in Hotels and Lodging and Rooming Houses"
H.P. 1567 L.D. 2172

The Committee on LEGAL AFFAIRS on Bill "An Act to Improve Drinking Water Quality in Mobile Home Parks"
H.P. 1601 L.D. 2213

The Committee on STATE AND LOCAL GOVERNMENT on Bill "An Act Shifting Financial Responsibility for County District Attorney Offices to the State"
H.P. 1554 L.D. 2154

The Committee on UTILITIES on Bill "An Act to Amend the Charter of the Bangor Water District"
H.P. 1580 L.D. 2189

At this point, a message was received from the House of Representatives, borne by Representative GWADOSKY of Fairfield, informing the Senate that the House of Representatives concurs with the proposition for a Joint Convention, to be held in the Hall of the House at 9:30, for the purpose of extending to the Honorable Vincent L. McKusick, Chief Justice of the Maine Supreme Judicial Court, and Members of the Judiciary, an invitation to attend the Convention and make such communication as pleases the Chief Justice.

Change of Reference

The Committee on LEGAL AFFAIRS on Bill "An Act to Provide for Forfeiture of Weapons Used in Crimes Against Persons"
H.P. 1651 L.D. 2284

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

Comes from the House with the Report READ and ACCEPTED and the Bill REFERRED to the Committee on JUDICIARY.

Which Report was READ and ACCEPTED, in concurrence.

The Bill REFERRED to the Committee on JUDICIARY, in concurrence.

Ought to Pass

The Committee on AGING, RETIREMENT AND VETERANS on Bill "An Act Concerning Burials in the Maine Veterans' Memorial Cemetery"
H.P. 1314 L.D. 1816

Reported that the same Ought to Pass.

Comes from the House with the Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENT "A" (H-789).

Which Report was READ and ACCEPTED, in concurrence.

The Bill READ ONCE.

House Amendment "A" (H-789) READ and ADOPTED, in concurrence.

The Bill as Amended, TOMORROW ASSIGNED FOR SECOND READING.

Ought to Pass As Amended

The Committee on AGRICULTURE on Bill "An Act to Promote the Marketing of Fresh Produce Grown within the State"
H.P. 1460 L.D. 2037

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-773).

Comes from the House, with the Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-773).

Which Report was READ

On motion by Senator CLARK of Cumberland, Tabled Unassigned, pending ACCEPTANCE of the Report.

The Committee on AGRICULTURE on Bill "An Act Prohibiting Membership in a Trade or Similar Association from Being a Condition for Licensing or Certifying a Producer's Food as Natural or Organic"
H.P. 1522 L.D. 2107

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-780).

Comes from the House, with the Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-780).

Which Report was READ and ACCEPTED, in concurrence.

The Bill READ ONCE.

Committee Amendment "A" (H-780) READ and ADOPTED, in concurrence.

The Bill as Amended, TOMORROW ASSIGNED FOR SECOND READING.

The Committee on AGRICULTURE on Bill "An Act to Encourage Farming in Maine" (Emergency)
H.P. 1593 L.D. 2206

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-779).

Comes from the House, with the Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-779).

Which Report was READ and ACCEPTED, in concurrence.

The Bill READ ONCE.

Committee Amendment "A" (H-779) READ and ADOPTED, in concurrence.

The Bill as Amended, TOMORROW ASSIGNED FOR SECOND READING.

The Committee on ENERGY AND NATURAL RESOURCES on Bill "An Act Regarding Growth Management Efforts in Opportunity Zones"
H.P. 1505 L.D. 2085

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-790).

Comes from the House, with the Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-790).

Which Report was READ and ACCEPTED, in concurrence.

The Bill READ ONCE.

Committee Amendment "A" (H-790) READ and ADOPTED, in concurrence.

The Bill as Amended, TOMORROW ASSIGNED FOR SECOND READING.

The Committee on HUMAN RESOURCES on Bill "An Act to Revise the Medical Examiner Act"
H.P. 905 L.D. 1262

Reported that the same Ought to Pass as Amended by Committee Amendment "B" (H-788).

Comes from the House, with the Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "B" (H-788).

Which Report was READ and ACCEPTED, in concurrence.

The Bill READ ONCE.

Committee Amendment "B" (H-788) READ and ADOPTED, in concurrence.

The Bill as Amended, TOMORROW ASSIGNED FOR SECOND READING.

The Committee on HUMAN RESOURCES on Bill "An Act to Create the Maine Family Development Foundation" (Emergency)

H.P. 1226 L.D. 1698

Reported that the same Ought to Pass as Amended by Committee Amendment "B" (H-787).

Comes from the House, with the Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "B" (H-787).

Which Report was READ and ACCEPTED, in concurrence.

The Bill READ ONCE.

Committee Amendment "B" (H-787) READ and ADOPTED, in concurrence.

The Bill as Amended, TOMORROW ASSIGNED FOR SECOND READING.

The Committee on HUMAN RESOURCES on Bill "An Act Regarding Continuing Education for Administrators of Boarding Homes"

H.P. 1374 L.D. 1905

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-784).

Comes from the House, with the Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-784).

Which Report was READ and ACCEPTED, in concurrence.

The Bill READ ONCE.

Committee Amendment "A" (H-784) READ and ADOPTED, in concurrence.

The Bill as Amended, TOMORROW ASSIGNED FOR SECOND READING.

The Committee on HUMAN RESOURCES on Bill "An Act to Allow Medical Testing without Physician Referral"

H.P. 1395 L.D. 1925

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-785).

Comes from the House, with the Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-785).

Which Report was READ and ACCEPTED, in concurrence.

The Bill READ ONCE.

Committee Amendment "A" (H-785) READ and ADOPTED, in concurrence.

The Bill as Amended, TOMORROW ASSIGNED FOR SECOND READING.

The Committee on LABOR on Bill "An Act to Increase Death Benefits under the Workers' Compensation Act"

H.P. 1363 L.D. 1880

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-786).

Comes from the House, with the Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-786).

Which Report was READ and ACCEPTED, in concurrence.

The Bill READ ONCE.

Committee Amendment "A" (H-786) READ and ADOPTED, in concurrence.

The Bill as Amended, TOMORROW ASSIGNED FOR SECOND READING.

The Committee on LABOR on Bill "An Act to Clarify the Term of Certificates of Authorization under the Workers' Compensation Act"

H.P. 1420 L.D. 1972

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-777).

Comes from the House, with the Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-777).

Which Report was READ and ACCEPTED, in concurrence.

The Bill READ ONCE.

Committee Amendment "A" (H-777) READ and ADOPTED, in concurrence.

The Bill as Amended, TOMORROW ASSIGNED FOR SECOND READING.

The Committee on LABOR on Bill "An Act to Limit the Effect of Collateral Estoppel on Unemployment Insurance Decisions"

H.P. 1471 L.D. 2056

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-778).

Comes from the House, with the Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-778).

Which Report was READ and ACCEPTED, in concurrence.

The Bill READ ONCE.

Committee Amendment "A" (H-778) READ and ADOPTED, in concurrence.

The Bill as Amended, TOMORROW ASSIGNED FOR SECOND READING.

The Committee on LEGAL AFFAIRS on Bill "An Act to Clarify Mobile Home Tenants' Rights"

H.P. 1499 L.D. 2076

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-776).

Comes from the House, with the Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-776).

Which Report was READ and ACCEPTED, in concurrence.

The Bill READ ONCE.

Committee Amendment "A" (H-776) READ and ADOPTED, in concurrence.

The Bill as Amended, TOMORROW ASSIGNED FOR SECOND READING.

The Committee on UTILITIES on Bill "An Act to Require Telecommunications Services in Public Places for Hearing Impaired Persons"

H.P. 1490 L.D. 2063

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-783).

Comes from the House, with the Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-783).

Which Report was READ and ACCEPTED, in concurrence.

The Bill READ ONCE.

Committee Amendment "A" (H-783) READ and ADOPTED, in concurrence.

The Bill as Amended, TOMORROW ASSIGNED FOR SECOND READING.

Senate
Divided Report
The Majority of the Committee on BUSINESS
LEGISLATION on Bill "An Act Amending the Licensure
Requirements for Plumbers"

S.P. 615 L.D. 1710
Reported that the same Ought to Pass as Amended
by Committee Amendment "A" (S-513).

Signed:
Senators:
BALDACCI of Penobscot
HOBBINS of York
WHITMORE of Androscoggin

Representatives:
TELOW of Lewiston
STEVENS of Sabattus
REED of Falmouth
SHELTRA of Biddeford
LIBBY of Kennebunk
GURNEY of Portland

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

Signed:
Representatives:
CONSTANTINE of Bar Harbor
GRAHAM of Houlton
ALLEN of Washington
MARSTON of Oakland

Which Reports were READ.
On motion by Senator BALDACCI of Penobscot, the
Majority OUGHT TO PASS AS AMENDED Report was ACCEPTED.
The Bill READ ONCE.
Committee Amendment "A" (S-513) READ and ADOPTED.
The Bill as Amended, TOMORROW ASSIGNED FOR SECOND
READING.

SECOND READERS

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

House
Bill "An Act to Permit the Sale of Consumer
Education Materials by the Attorney General"
H.P. 1568 L.D. 2173
Which was READ A SECOND TIME and PASSED TO BE
ENGROSSED, in concurrence.

House As Amended

Bill "An Act to Improve Indoor Air Quality
Through Accurate Testing and Effective Reduction of
Radon Levels in Buildings"

H.P. 655 L.D. 889
(C "B" H-769)
Bill "An Act to Prohibit the Use of Herbicides in
the Allagash Wilderness Waterway"

H.P. 1327 L.D. 1829
(C "A" H-768)
Bill "An Act Authorizing the Public Advocate to
Initiate Proceedings on Behalf of Utility Consumers"
H.P. 1400 L.D. 1936
(C "A" H-762)

Bill "An Act to Require Notice of Charges for Use
of Telephones Made Available for Public Use"
H.P. 1569 L.D. 2174
(C "A" H-770)

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

Bill "An Act to Regulate Food Salvage Operations"
H.P. 1536 L.D. 2121
(C "A" H-767)

Which was READ A SECOND TIME.

On motion by Senator BUSTIN of Kennebec, Tabled
until Later in Today's Session, pending PASSAGE TO BE
ENGROSSED, As Amended.

At this point, the Senate retired to the Hall of
the House, where a Joint Convention was formed.

AFTER CONVENTION
IN SENATE

Senate called to order by the President.

Senate

Bill "An Act to Prohibit Motor Vehicle Insurers
from Adjusting Personal Insurance Rates of Law
Enforcement Officers"

S.P. 843 L.D. 2162
Which was READ A SECOND TIME and PASSED TO BE
ENGROSSED.
Sent down for concurrence.

Senate As Amended

Bill "An Act to Clarify Costs Associated with the
Purchase of Land by School Administrative Units"

S.P. 181 L.D. 338
(C "B" S-509)
Bill "An Act to Preserve the Natural Values of
Public Water Utility Lands"

S.P. 757 L.D. 1982
(C "A" S-507)
Which were READ A SECOND TIME and PASSED TO BE
ENGROSSED, as Amended.
Sent down for concurrence.

ORDERS OF THE DAY

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

Bill "An Act Concerning Patient Access to Medical
Records"
H.P. 1355 L.D. 1872
(C "A" H-754)

Tabled - February 16, 1990, by Senator CLARK of
Cumberland.
Pending - PASSAGE TO BE ENGROSSED AS AMENDED
(In Senate, February 16, 1990, READ A SECOND
TIME.)

(In House, February 14, 1990, PASSED TO BE
ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A"
(H-754).)
Which was PASSED TO BE ENGROSSED, As Amended, in
concurrence.

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

Bill "An Act to Assure Access to Nutrition
Programs for Kindergarten and Part-day Students"
H.P. 882 L.D. 1226
(H "A" H-745 to C "A"
H-736)

Tabled - February 16, 1990, by Senator CLARK of
Cumberland.
Pending - FURTHER CONSIDERATION

(In Senate, February 5, 1990, PASSED TO BE
ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A"
(H-736) AS AMENDED BY HOUSE AMENDMENT "A" (H-745)
thereto, in concurrence.)

(In House, February 14, 1990, PASSED TO BE
ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A"
(H-736) AS AMENDED BY HOUSE AMENDMENT "B" (H-781)
thereto, in NON-CONCURRENCE.)

On motion by Senator CAHILL of Sagadahoc, the Senate RECEDED from PASSAGE TO BE ENGROSSED, AS AMENDED BY COMMITTEE AMENDMENT "A" (H-736) AS AMENDED BY HOUSE AMENDMENT "A" (H-745) thereto.

On further motion by same Senator, the Senate RECEDED from ADOPTION OF COMMITTEE AMENDMENT "A" (H-736), AS AMENDED BY HOUSE AMENDMENT "A" (H-745) thereto.

On further motion by same Senator, the Senate RECEDED from ADOPTION OF HOUSE AMENDMENT "A" (H-745) TO COMMITTEE AMENDMENT "A" (H-736).

The same Senator moved that HOUSE AMENDMENT "A" (H-745) TO COMMITTEE "A" (H-736) be INDEFINITELY POSTPONED.

Senator ESTES of York requested a Division.

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

Senator CAHILL: Thank you. Mr. President, Men and Women of the Senate, I hope that you will vote against the request for a Division on this legislation so that I might present an amendment. I believe that the work done in the Education Committee and the other Body has gone a long way to help make this legislation a bit more palatable. What it has done, already, regarding the kindergarten breakfast program, is to say that the Legislature has to fund this program to the municipalities, indefinitely.

My concern, however, is that while this Legislature believes that funding of this particular program is a priority, that, perhaps, future Legislatures will not. So my amendment would go one step further to change that "shall" to "may" and make it, what I believe, truly an option that the municipality could choose or not choose to pick up and I do very much appreciate having the opportunity to present my amendment. Thank you.

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

Senator ESTES: Thank you. Mr. President, Men and Women of the Senate, I hope that you will vote against the indefinite postponement of Committee Amendment "A". This bill was a bill that was carried-over by the Education Committee from the First Regular Session.

One of our concerns was the fact that there were forty public schools in Maine having 40% or more enrolled eligible students for free or reduced price meals that were not getting those meals. It represented over a thousand individuals, approximately 260 of those who would be starting their school days, or during their school day would be, at a disadvantage because they did not eat breakfast. This figure of forty public schools was as of December, 1989, and the figure hasn't changed much at all. Superintendents know about the program and that they may be eligible and may get reimbursement.

It is our feeling that schools should be required to participate in the program for a number of reasons. First, it would make available nutritionally adequate breakfasts to kindergarten and part-day students and that's important because the Iowa Breakfast Study showed that children's efficiency and performance decreased when they missed breakfast or ate a nutritionally inadequate one. The saying that you can't teach a hungry child is an accurate statement. The breakfast would simply consist of a milk, a fruit and some type of a bread product.

Secondly, over the next four years there is \$5 million in Federal money that is available for start-up costs for nutritional programs, only if states mandate the creation or expansion of such a program. A "may" will not be a mandate. There is

also over \$83,000 in match money from the Federal government for non-qualifying students to help pay for those meals. I urge you to vote against the pending motion.

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

Senator CAHILL: Thank you. Mr. President, Men and Women of the Senate, just briefly, I don't believe there's anyone in this Body of the Legislature or the other Body of the Legislature that does not understand and realize the value of students having either the nutritional value of either breakfast or lunch served at their school systems.

But I think we have to go beyond that and remember, what I felt was, the overwhelming message at the Maine Municipal Conference meeting that we had. Now I served in that particular conference in infrastructure and roads, but the message, regardless of which area you served in, was the same and it regarded mandates. Now the good gentlemen from York said that this will be partially funded through Federal grants. I think, in either Saturday's or Sunday's newspaper, there was an article saying perhaps these grants would not be forthcoming.

But, getting back to the issue of mandates, I'd like to quote from one of the discussion papers because I think this is what this Legislature and future Legislatures are going to have to deal with. What is a mandate? And in a discussion paper it said,

"Municipal officials recognize that mandates, whether they are federal or state, usually address a legitimate need or problem. Municipal officials, however, object to one level of government passing a law that is expensive to administer and which provides neither adequate funding nor technical assistance, which substitutes its priorities for local priorities. Municipal officials objections to mandates are more than fiscal concerns over the added cost. Mandates require municipalities to substitute the priorities adopted by the local communities with state of federal prerogatives."

I believe that's really what we're discussing here today. My amendment simply would allow that municipality to choose whether or not they participate in this program.

Senate at Ease
Senate called to order by the President.

Senator ESTES of York withdrew his request for a Division.

On motion by Senator CAHILL of Sagadahoc, House Amendment "A" (H-745) to Committee Amendment "A" (H-736) INDEFINITELY POSTPONED.

House Amendment "B" (H-781) to Committee Amendment "A" (H-736) READ.

Senator CAHILL of Sagadahoc moved that House Amendment "B" (H-781) to Committee Amendment "A" (H-736) be INDEFINITELY POSTPONED.

At the request of Senator ESTES of York a Division was had. 8 Senators having voted in the affirmative and 20 Senators having voted in the negative, the motion of Senator CAHILL of Sagadahoc, to INDEFINITELY POSTPONE House Amendment "B" to Committee Amendment "B" (H-781), FAILED.

House Amendment "B" (H-781) to Committee Amendment "A" (H-736) ADOPTED, in concurrence.

On motion by Senator ESTES of York, the Senate CONCURRED.

Off Record Remarks

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

NOMINATION - of Reginald E. Burleigh of Fort Fairfield for appointment to the Workers' Compensation Commission.

Tabled - February 20, 1990, by Senator DUTREMBLE of York.

Pending - CONSIDERATION

(In Senate, February 20, 1990, Communication form the Committee on JUDICIARY READ and ORDERED PLACED ON FILE.)

THE PRESIDENT: The Joint Standing Committee on Judiciary has recommended the nomination of Reginald E. Burleigh of Fort Fairfield be confirmed.

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

In accordance with 3 M.R.S.A., Chapter 6, Section 151 and with Joint Rule 38 of the 114th 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 ANDREWS, BALDACCI, BERUBE, BOST, BRANNIGAN, BRAWN, BUSTIN, CAHILL, CARPENTER, CLARK, COLLINS, DILLENBACK, DUTREMBLE, ERWIN, ESTES, ESTY, GILL, GOULD, HOBBSINS, HOLLOWAY, KANY, LUDWIG, MATTHEWS, PERKINS, RANDALL, THERIAULT, TWITCHELL, WEYMOUTH, THE PRESIDENT - CHARLES P. PRAY

ABSENT: Senators EMERSON, GAUVREAU, PEARSON, TITCOMB, WEBSTER, WHITMORE

No Senators having voted in the affirmative and 29 Senators having voted in the negative, with 6 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 Reginald E. Burleigh, was CONFIRMED.

The Secretary has so informed the Speaker of the House.

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

Bill "An Act to Regulate Food Salvage Operations" H.P. 1536 L.D. 2121 (C "A" H-767)

Tabled - February 20, 1990, by Senator BUSTIN of Kennebec.

Pending - PASSAGE TO BE ENGROSSED AS AMENDED.

(In Senate, February 20, 1990, READ A SECOND TIME.)

(In House, February 14, 1990, PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-767))

On motion by Senator BUSTIN of Kennebec, the Senate SUSPENDED THE RULES.

On further motion by same Senator, the Senate RECONSIDERED whereby it ADOPTED Committee Amendment "A" (H-767).

On further motion by same Senator, Senate Amendment "A" (S-515) to Committee Amendment "A" (H-767) READ and ADOPTED.

Committee Amendment "A" (H-767), as Amended by Senate Amendment "A" (S-515) thereto, ADOPTED in NON-CONCURRENCE.

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

Sent down for concurrence.

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

COMMITTEE REPORTS

Senate

Ought to Pass As Amended

Senator BOST for the Committee on EDUCATION on Bill "An Act Relating to the Town of York School District" (Emergency)

S.P. 703 L.D. 1841

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (S-514).

Which Report was READ and ACCEPTED.

The Bill READ ONCE.

Committee Amendment "A" (S-514) READ and ADOPTED.

The Bill as Amended, TOMORROW ASSIGNED FOR SECOND READING.

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

PAPERS FROM THE HOUSE

House Papers

Bill "An Act to Provide Greater Opportunities for Orphans and Foster Children"

H.P. 1685 L.D. 2333

Comes from the House referred to the Committee on EDUCATION and ORDERED PRINTED.

Which was referred to the Committee on EDUCATION and ORDERED PRINTED, in concurrence.

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

PAPERS FROM THE HOUSE

House Papers

Resolve, Authorizing the State to Release Its Interest in Certain Real Property in Richmond, Maine

H.P. 1686 L.D. 2334

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

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

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 Drug Laws Pertaining to Lysergic Acid Diethylamide"

H.P. 1687 L.D. 2335

Comes from the House referred to the Committee on JUDICIARY and ORDERED PRINTED.

Which was referred to the Committee on JUDICIARY and ORDERED PRINTED, in concurrence.

Off Record Remarks

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

Off Record Remarks

LEGISLATIVE RECORD - HOUSE, FEBRUARY 23, 1990

Senator CAHILL of Sagadahoc was granted unanimous consent to address the Senate off the Record.

The ADJOURNMENT ORDER having been returned from the House READ and PASSED, in concurrence, on motion by Senator ERWIN of Oxford, ADJOURNED until Friday, February 23, 1990, at 12:00 in the afternoon.

ONE HUNDRED AND FOURTEENTH MAINE LEGISLATURE
SECOND REGULAR SESSION
21st Legislative Day
Friday, February 23, 1990

The House met according to adjournment and was called to order by the Speaker.
Prayer by Reverend Douglas Dodson, Free Methodist Church, Gardiner.
The Journal of Tuesday, February 20, 1990, was read and approved.
Quorum call was held.

PAPERS FROM THE SENATE

The following Communication:
Maine State Senate
Augusta, Maine 04333
February 20, 1990

The Honorable John L. Martin
Speaker of the House
114th Legislature
Augusta, Maine 04333

Dear Speaker Martin:

In accordance with Joint Rule 38, please be advised that the Senate today confirmed the following:
Upon the recommendation of the Joint Standing Committee on Judiciary:
Reginald E. Burleigh of Fort Fairfield for appointment as a member of the Workers' Compensation Commission.

Reginald E. Burleigh is replacing David Soucy.

Sincerely,

S/Joy J. O'Brien

Secretary of the Senate

Was read and ordered placed on file.

Non-Concurrent Matter

Bill "An Act to Regulate Food Salvage Operations" (H.P. 1536) (L.D. 2121) which was passed to be engrossed as amended by Committee Amendment "A" (H-767) in the House on February 14, 1990.

Came from the Senate passed to be engrossed as amended by Committee Amendment "A" (H-767) as amended by Senate Amendment "A" (S-515) thereto in non-concurrence.

The House voted to recede and concur.

COMMUNICATIONS

The following Communication:
STATE OF MAINE
MANDATED BENEFITS ADVISORY COMMISSION
February 15, 1990

The Honorable John L. Martin
Speaker of the House
House of Representatives
State House Station 2
Augusta, ME 04333

Dear Speaker Martin:

Pursuant to 24-A M.R.S.A. section 2751, I am pleased to provide you with a Report on Mandated Health Insurance Benefits for Screening Mammography and for Screening PAP Tests.

Copies of the report are also being provided to members of the Senate and to the Governor as required by law.

Respectfully submitted,
S/David R. Clough, Chair
Mandated Benefits
Advisory Commission

Was read and with accompanying report ordered placed on file.