

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

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

place any weight on this claim of a certain amount of harassment. The liquor enforcement people don't operate that way.

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.

Did the brown paper bag have a Maine license on it?

The SPEAKER: The Chair will order a vote. The pending question before the House is the motion of the Representative from Brunswick, Representative Priest, that the House accept the Majority "Ought to Pass" Report. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

66 having voted in the affirmative and 44 in the negative, the Majority "Ought to Pass" Report was accepted, the Bill read once.

Committee Amendment "A" (H-951) was read by the Clerk and adopted.

The Bill assigned for second reading Thursday, March 22, 1990.

(Off Record Remarks)

On motion of Representative Telow of Lewiston, Adjourned until Thursday, March 22, 1990, at eight-thirty in the morning.

In Senate Chamber
Tuesday
March 20, 1990

Senate called to Order by the President.

Prayer by Reverend Calvin Dame of the All Souls Unitarian Church in Augusta.

REVEREND CALVIN DAME: Let us pray. O great and gracious Spirit, known to all ages and all people, called by a thousand names and called by no name at all. We give thanks this day for the great gift of life which is ours, life a gift we did not ask for, life a gift we did not earn, life a mystery beyond our poor powers of apprehension.

May our thankfulness for this gift, and our awe and reverence for this mystery in which we share, issue forth in a dedication to serve life. This day and every day may we work for that which we know to be good, stand firm for that which we know to be right, struggle for those who are oppressed and dispossessed. And strive always to know ourselves and to be counted with those who serve life. Amen.

Reading of the Journal of Monday, March 19, 1990.

Off Record Remarks

PAPERS FROM THE HOUSE
Non-concurrent Matter

Bill "An Act to Promote and Assist Barrier-free Construction in Places of Public Accommodation and Places of Employment"

S.P. 733 L.D. 1932
(H "A" H-907 to C "A"
S-536; S "B" S-568)

In Senate, March 14, 1990, PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-536) AS AMENDED BY HOUSE AMENDMENT "A" (H-907) thereto, AND SENATE AMENDMENT "B" (S-568), in concurrence.

Comes from the House PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-536) AND SENATE AMENDMENT "B" (S-568) in NON-CONCURRENCE.

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

Non-concurrent Matter

Bill "An Act to Regulate the Handling of Manure"

H.P. 1575 L.D. 2182
(C "A" H-910; S "A"
S-565)

In House, March 14, 1990, PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-910).

In Senate, March 15, 1990, PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-910) AND SENATE AMENDMENT "A" (S-565) in NON-CONCURRENCE.

Comes from the House PASSED TO BE ENGROSSED AS AMENDED BY SENATE AMENDMENT "A" (S-565) AS AMENDED BY HOUSE AMENDMENT "A" (H-946) thereto, AND COMMITTEE AMENDMENT "A" (H-910) in NON-CONCURRENCE.

The Senate RECEDED and CONCURRED.

House Papers

Bill "An Act to Establish Municipal Cost Components for Services to be Rendered in Fiscal Year 1990-91" (Emergency)

H.P. 1771 L.D. 2441

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

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

Bill "An Act to Allow the Loan of Automobiles to Municipalities for Law Enforcement Purposes"

H.P. 1770 L.D. 2440

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

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

Joint Order

The following Joint Order: H.P. 1772 ORDERED, the Senate concurring, that the Joint Standing Committee on Appropriations and Financial Affairs report out to the House such legislation as the committee sees fit to make supplemental appropriations and allocations for the expenditures of State Government and to change certain provisions of the law necessary for the proper operation of State Government for the fiscal years ending June 30, 1990, and June 30, 1991.

Comes from the House READ and PASSED. Which was READ and PASSED, in concurrence.

COMMUNICATIONS

The Following Communication: S.P. 975 114TH MAINE LEGISLATURE March 19, 1990

Senator R. Donald Twitchell
Rep. Robert J. Tardy
Chairpersons
Joint Standing Committee on Agriculture
114th Legislature
Augusta, Maine 04333
Dear Chairs:

Please be advised that Governor John R. McKernan, Jr. has nominated Richard H. Storch of Orono for appointment and Dr. Carol A. Eckart of Windsor for reappointment to the Board of Pesticides Control.

Pursuant to Title 22, MRSA Section 1471-B, these nominations will require review by the Joint Standing Committee on Agriculture and confirmation by the Senate.

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

Which was READ and REFERRED To the Committee on AGRICULTURE.
Sent down for concurrence.

The Following Communication:
DEPARTMENT OF LABOR
STATE HOUSE STATION 54
AUGUSTA, MAINE 04333

March 15, 1990

The Honorable Charles P. Pray
President of the Senate
Maine State Senate
State House Station 3
Augusta, Maine 04333
Dear President Pray:

I am pleased to submit the Department of Labor's report on partial benefit payments, in accordance with 1987 PL 636, §2.

If you have any questions or comments about this report, please do not hesitate to contact me.

Sincerely,
S/James H. McGowan
Acting Commissioner

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

ORDERS
Joint Order

On motion by Senator ESTES of York the following Joint Order:

S.P. 974

ORDERED, the House concurring, that the Joint Standing Committee on Education report out a bill, "Resolve, to Encourage the Study of the Nation's Founding and Related Documents by Maine Students."

Which was READ and PASSED.
Sent down for concurrence.

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:

The Committee on STATE AND LOCAL GOVERNMENT on Bill "An Act to Transfer All Functions and Personnel of the Offices of District Attorneys from the Counties to the State"

H.P. 1675 L.D. 2317

Ought to Pass As Amended

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 Years Ending June 30, 1990 and June 30, 1991" (Emergency)

H.P. 1649 L.D. 2282

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-944).

Comes from the House, with the Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-944).

Which Report was READ and ACCEPTED, in concurrence.

The Bill READ ONCE.

Committee Amendment "A" (H-944) READ.

On motion by Senator CLARK of Cumberland, Tabled until Later in Today's Session, pending ADOPTION of Committee Amendment "A" (H-944).

The Committee on BUSINESS LEGISLATION on Bill "An Act Concerning Security Deposits on Propane Gas Deliveries" (Emergency)

H.P. 1684 L.D. 2330

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-933).

Comes from the House, with the Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-933).

Which Report was READ and ACCEPTED, in concurrence.

The Bill READ ONCE.

Committee Amendment "A" (H-933) 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 to Amend the State's Hazardous Waste Laws to Be Consistent with the Federal Hazardous and Solid Waste Laws"

H.P. 1671 L.D. 2313

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-932).

Comes from the House, with the Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-932).

Which Report was READ and ACCEPTED, in concurrence.

The Bill READ ONCE.

Committee Amendment "A" (H-932) READ and ADOPTED, in concurrence.

The Bill as Amended, TOMORROW ASSIGNED FOR SECOND READING.

The Committee on HUMAN RESOURCES on Resolve, to Create a Pilot Project for a Substance Abuse Halfway House for Pregnant Women and Mothers with Young Children

H.P. 1647 L.D. 2280

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-937).

Comes from the House, with the Report READ and ACCEPTED and the Resolve PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-937).

Which Report was READ and ACCEPTED, in concurrence.

The Resolve READ ONCE.

Committee Amendment "A" (H-937) READ and ADOPTED, in concurrence.

The Resolve as Amended, TOMORROW ASSIGNED FOR SECOND READING.

The Committee on UTILITIES on Bill "An Act to Regulate the Process by which Water Utilities Take Land" (Emergency)

H.P. 1663 L.D. 2303

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-934).

Comes from the House, with the Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-934).

Which Report was READ and ACCEPTED, in concurrence.

The Bill READ ONCE.

Committee Amendment "A" (H-934) READ and ADOPTED, in concurrence.

The Bill as Amended, TOMORROW ASSIGNED FOR SECOND READING.

Off Record Remarks

SECOND READERS

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

House As Amended

Bill "An Act to Create an Educational Bonus for Affordable Housing"

H.P. 332 L.D. 451
(H "A" H-939 to C "B" H-908)

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

Senate

Bill "An Act Concerning the Use of Funds Raised by Organizations Operating Games of Chance or Beano" (Emergency)

S.P. 937 L.D. 2372

Which was READ A SECOND TIME.

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

Senate As Amended

Resolve, Creating the Special Commission to Study and Evaluate the Status of Education Reform in Maine (Emergency)

S.P. 561 L.D. 1564

(C "B" S-593)

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

Sent down for concurrence.

ENACTORS

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

An Act Relating to the Child and Family Services and Child Protection Act

S.P. 695 L.D. 1833

An Act to Protect Consumers Against Unsolicited Telefacsimile Transmissions

H.P. 1423 L.D. 1975

(H "A" H-917 to C "A" H-845)

An Act to Allow the State Police to Recover Funds Expended for Presidential Security

S.P. 760 L.D. 1985

(C "A" S-569)

An Act to Strengthen and Fund Organic Food Certification in Maine

H.P. 1437 L.D. 2007

(C "A" H-895)

An Act to Establish the Wells National Estuarine Research Reserve Management Authority

H.P. 1457 L.D. 2031

(H "A" H-918 to C "A" H-853)

An Act to Amend the Laws for the Licensing of Counseling Professionals

S.P. 838 L.D. 2151

An Act to Amend the Laws Governing the Military and Naval Children's Home

H.P. 1610 L.D. 2226

(H "A" H-912; C "A" H-842)

An Act to Amend the Law on Intermediate Sanctions in Long-term Care Facilities

H.P. 1661 L.D. 2301

(C "A" H-897)

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

Resolve

Resolve, Directing the Department of Human Services to Develop a Poison Warning System
S.P. 915 L.D. 2321
(C "A" S-572)

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

Emergency

An Act to Amend Certain Laws Dealing with Motor Vehicle Inspections
S.P. 794 L.D. 2045
(C "A" S-573)

This being an Emergency Measure and having received the affirmative vote of 27 Members of the Senate, with no Senators having voted in negative, and 27 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.

ORDERS OF THE DAY

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

An Act to Ensure the Independence of the Animal Welfare Board

S.P. 691 L.D. 1830
H "C" (H-906); S"A"
(S-564) to C "A" (S-523)

Tabled - March 19, 1990, by Senator PEARSON of Penobscot.

Pending - ENACTMENT

(In House, March 6, 1990, PASSED TO BE ENACTED.)

(In Senate, March 13, 1990, PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-523) AS AMENDED BY SENATE AMENDMENT "A" (S-564) AND HOUSE AMENDMENT "C" (H-906) thereto, in concurrence.)

THE PRESIDENT: The Chair recognizes that same Senator.

Senator PEARSON: Thank you Mr. President. Ladies and Gentlemen of the Senate. It was not supposed to have ever been put on the Special Appropriations Table, I placed it on the Appropriations Table yesterday by mistake. It has no fiscal impact.

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

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

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

Tabled - March 19, 1990, by Senator CLARK of Cumberland.

Pending - ADOPTION of Committee Amendment "A" (S-592)

(In Senate, March 19, 1990, Committee Amendment "A" (S-592) READ.)

On motion by Senator ESTES of York, Senate Amendment "A" (S-595) to Committee Amendment "A" (S-592) READ and ADOPTED.

Committee Amendment "A" (S-592), as Amended by Senate Amendment "A" (S-595) thereto, ADOPTED.

The Bill as Amended, TOMORROW ASSIGNED FOR SECOND READING.

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

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

Tabled - March 19, 1990, by Senator CLARK of Cumberland.

Pending - PASSAGE TO BE ENGROSSED AS AMENDED

(In Senate, March 19, 1990, READ A SECOND TIME.)

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

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

COMMITTEE REPORTS

Senate

Ought to Pass As Amended

Senator LUDWIG for the Committee on ENERGY AND NATURAL RESOURCES on Bill "An Act to Amend the Natural Resources Protection Act" (Emergency)

S.P. 894 L.D. 2276

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (S-594).

Which Report was READ and ACCEPTED.

The Bill READ ONCE.

Committee Amendment "A" (S-594) READ and ADOPTED.

The Bill as Amended, TOMORROW ASSIGNED FOR SECOND READING.

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

PAPERS FROM THE HOUSE

Joint Order

The following Joint Order:

H.P. 1773

ORDERED, the Senate concurring, that the Joint Standing Committee on Housing and Economic Development report out a "RESOLUTION, Proposing an Amendment to the Constitution of Maine to Commit State Support of Affordable Housing" to the House.

Comes from the House, READ and PASSED.

Which was READ.

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

Senator WEBSTER: Thank you Mr. President. Ladies and Gentlemen of the Senate. Could I have the Secretary read the sponsorship of this Bill and this Joint Order, please.

On motion by Senator DUTREMBLE of York, INDEFINITELY POSTPONED, in NON-CONCURRENCE.

(See Action Later Today.)

ORDERS OF THE DAY

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

HOUSE REPORT - from the Committee on ENERGY AND NATURAL RESOURCES on 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

Report - REFER to the Committee on JUDICIARY.

Tabled - March 19, 1990, by Senator CLARK of Cumberland.

Pending - ACCEPTANCE, in concurrence

(In Senate, March 19, 1990, Report READ.)

(In House, March 16, 1990, Report READ and ACCEPTED and the Bill REFERRED to the Committee on JUDICIARY.)

Senate at Ease
Senate called to order by the President.

Which Report was REJECTED.
On motion by Senator CLARK of Cumberland, referred to the Committee on LEGAL AFFAIRS in NON-CONCURRENCE.
Sent down for concurrence.

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

Senator WEBSTER of Franklin was granted unanimous consent to address the Senate off the Record.

On motion by Senator WHITMORE of Androscoggin, RECESSED until the sound of the bell.

After Recess
Senate called to order by the President.

Off Record Remarks

ORDERS OF THE DAY

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

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 Years Ending June 30, 1990 and June 30, 1991" (Emergency)

H.P. 1649 L.D. 2282

Tabled - March 20, 1990, by Senator CLARK of Cumberland.

Pending - ADOPTION of Committee Amendment "A" (H-944).

(In Senate, March 20, 1990, Committee Amendment "A" (H-944) READ.)

(In House, March 19, 1990, PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-944).)

Committee Amendment "A" (H-944) ADOPTED.

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

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

Off Record Remarks

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

Bill "An Act Concerning the Use of Funds Raised by Organizations Operating Games of Chance or Beano" (Emergency)

S.P. 937 L.D. 2372

Tabled - March 20, 1990, by Senator CLARK of Cumberland.

Pending - PASSAGE TO BE ENGROSSED.
(In Senate, March 20, 1990, READ A SECOND TIME.)

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

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

Bill "An Act to Repeal the Homestead Exemption" (Emergency)

S.P. 829 L.D. 2137

Tabled - March 19, 1990, by Senator DUTREMBLE of York.

Pending - Motion of Senator CLARK of Cumberland to RECONSIDER whereby the motion to ADOPT Senate Amendment "A" (S-590) FAILED

(In Senate, March 19, 1990, READ A SECOND TIME. On motion by Senator ANDREWS of Cumberland, Senate Amendment "A" (S-590) READ and FAILED ADOPTION.)

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

Senator CAHILL: Thank you Mr. President. Ladies and Gentlemen of the Senate. I don't intend to debate this issue today, because I think it was fully and well debated yesterday, but I would ask for a Division on the motion to reconsider.

Senator CAHILL of Sagadahoc requested a Division. At the request of Senator KANY of Kennebec, supported by a Division of one-fifth of the members present and voting, a Roll Call was ordered.

THE PRESIDENT: The pending question before the Senate is to RECONSIDER whereby Senate Amendment "A" (S-540) FAILED to be ADOPTED.

A vote of Yes will be in favor of the motion to RECONSIDER whereby Senate Amendment "A" (S-540) FAILED to be ADOPTED.

A vote of No will be opposed.
Is the Senate ready for the question?
The Doorkeepers will secure the Chamber.
The Secretary will call the Roll.

ROLL CALL

YEAS: Senators ANDREWS, BALDACCI, BOST, BRANNIGAN, BUSTIN, CLARK, DUTREMBLE, ERWIN, ESTES, ESTY, GAUVREAU, HOBBS, KANY, MATTHEWS, THERIAULT, TITCOMB, TWITCHELL, THE PRESIDENT - CHARLES P. PRAY

NAYS: Senators BERUBE, BRAWN, CAHILL, CARPENTER, COLLINS, DILLENBACK, EMERSON, GILL, GOULD, HOLLOWAY, LUDWIG, PEARSON, PERKINS, RANDALL, WEBSTER, WEYMOUTH, WHITMORE

ABSENT: Senators None
18 Senators having voted in the affirmative and 17 Senators having voted in the negative, with No Senators being absent, the motion to RECONSIDER whereby Senate Amendment "A" (S-540) FAILED to be ADOPTED, PREVAILED.

On motion by Senator ANDREWS of Cumberland, Senate Amendment "A" (S-540) ADOPTED.

Which was PASSED TO BE ENGROSSED, as Amended.
Sent down for concurrence.

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

Bill "An Act to Amend the Financial Responsibility Law Pertaining to Motor Vehicles"

S.P. 849 L.D. 2178

(C "A" S-588)

Tabled - March 20, 1990, by Senator CLARK of Cumberland.

Pending - PASSAGE TO BE ENGROSSED AS AMENDED
(In Senate, March 19, 1990, READ A SECOND TIME.)

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

Off Record Remarks

On motion by Senator CLARK of Cumberland, the Senate removed from the Unassigned Table the following:

An Act to Amend the Laws Relating to the Maine Insurance Guaranty Association and the Maine Life and Health Insurance Guaranty Association

S.P. 844 L.D. 2163

Tabled - March 5, 1990, By Senator CLARK of Cumberland.

Pending - ENACTMENT

(In Senate, February 16, 1990, PASSED TO BE ENGROSSED.)

(In House, March 1, 1990, PASSED TO BE ENACTED.)

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

On further motion by same Senator, the Senate RECONSIDERED whereby the Bill was PASSED TO BE ENGROSSED.

On further motion by same Senator, Senate Amendment "A" (S-591) READ.

Senator THERIAULT of Aroostook moved the INDEFINITE POSTPONEMENT of Senate Amendment "A" (S-591).

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

Senator BUSTIN: Thank you Mr. President. Ladies and Gentlemen of the Senate. I ask for a Division in the first instance, and the second instance, try to explain to you what this Bill is, because it does become fairly complicated.

What is basically addresses is when an insurance firm goes bankrupt, what do you do to offer relief to those people who already have claims with that insurance company and who would have future claims, and that is really the issue. What we have is two different funds in guaranteed funds, in order to take care of those eventualities. In the past what we have done is keep those funds separated, so that the workers comprehension fund and the health fund is different than the automobile insurance and your homeowner's fund. We have never what you call cross subsidized, except for last year when we were in deep trouble and we were allowed to do cross subsidization.

What we are doing in the Bill itself, it to extend that cross subsidization at 2%. What I am doing in this Amendment is moving that up to 5%, in very simple terms, and I say that with tongue and cheek, what it means it \$10 million dollars. Ten million dollars to one fund or another, so that if you were going to have a failure in the worker's comprehensive insurance item, or a health insurance item, they would have to kick into the guarantee fund up to 5% before your homeowners and your automobile insurance companies would kick in, the difference between the 2% and the 5% is \$10 million dollars, and that is what I am asking. I am saying that they, the ones that have gone under, and the people who are in that market ought to pay that bill before we ask our auto and homeowners policies to pay that bill. I still don't like it even above 5%, but I think 5% is reasonable, and ought to be reached. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Aroostook, Senator Theriault.

Senator THERIAULT: Thank you Mr. President. Ladies and Gentlemen of the Senate. The provisions of this Amendment has been discussed by the Committee several times. First if you remember last spring, we had an emergency Bill before us which had to do with the Guarantee Fund Association, and what had happened was we had this insurance company that went bankrupt,

and that insurance company was responsible to pay the workers comprehension benefits of a 1,000 of Maine's workers, and the fund went broke.

In order to raise the appropriate amount of money, we had to pass this emergency Bill, which allowed the Superintendent of Insurance, to collect an additional assessment of 2% of total premiums receipts in this state. At the time that we passed this Bill, we also put a sunset on it, and in July of this year, unless we pass this Bill, this fund is going to go broke again, and we will have a large number of Maine's workers that are receiving workers comprehension benefits who will no longer receive them.

There are some that argue that the Property and Casualty Fund should not pay for workers comprehension, or that the Life and Health Fund should not pay for workers comprehension, but what is not understood is, the reason for failure of these insurance companies was not due to workers comprehension causes, it was due to many, many other causes.

In Maine we have three separate Funds, we have the Health and Life Fund, and we have the Property and Casualty Fund, and we have also the Workers Compensation Fund. The way that this fund operates it is essentially an insurance company for insurance companies, in case that they go under they will be able to meet their commitments. Some states only have one Fund, in other words, all insurance regardless of what they sell are all grouped into one particular fund. In Maine we decided to do it in three Funds, and in some states, they have no Funds at all of this nature. There are some states where I know that they have pending legislation since 1962, and they still have not done anything with it, and this means that since then they have not really paid the bill that they should have.

The way this works is, every insurance company contributes 2% of their total sales to this particular fund in case of a failure. When an insurance company fails, regardless of which Fund it is in, the Fund will kick in and pay the bill that is owed by that particular company. If that particular Fund that is paying the bill runs out of money, the proposal before you would allow the Superintendent of Insurance to collect an additional 2% to put in the fund that is bankrupt, up to 2%, not necessarily 2%, so that we can continue to pay the bill.

If we do not pass this Bill, this Fund is going to go broke this summer, and we are going to have some serious problems on our hands. So I urge you to Indefinitely Postpone this Amendment. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Aroostook, Senator Collins.

Senator COLLINS: Thank you Mr. President. Ladies and Gentlemen of the Senate. I would urge you to support the Chairman of our Committee and Indefinitely Postpone this measure. It is a dangerous one, it has been well described by the good Senator from Aroostook, Senator Theriault, as to what it does. It is essentially a spill over Fund, and is used only in those rare occasions when the Fund that is associated with the line of insurance has paid its maximum amount. Incidentally, this is really what insurance is all about, it spreads the risk, and it could be not just a workers comprehension company that is in trouble, it could be an automobile insurer that is in difficulty, and this is the vice that comes into play only in those rare occasions when the Guaranty Fund associated with the particular line, reaches its maximum for assessment, and at that point in time, it is imperative that this come into play so that all of the industry may be assessed. I would

urge you to support the motion to Indefinitely Postpone the Amendment. Thank you.

Off Record Remarks

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

Senator BUSTIN: Thank you Mr. President. Ladies and Gentlemen of the Senate. To me this is a public policy issue that has not been decided appropriately.

I could give you the history of how insurance started, I think I have done that before on this floor, was a case of some people who decided it would be a good way to make money by threatening store owners, employers, etcetera, that something bad would happen to their businesses if they did not anti up some money, all of a sudden people decided that maybe that was a good way to run a business, and other people decided that was a good way to protect themselves, and it was called insurance. If you look down in the annals of history on insurance, that is how it happened.

That is almost what it feels like everytime I talk about insurance issues. We are locked into a system of protection, and everybody convinces us that this is way to go, this is the way to pay for our loses. We all buy into it, and the very companies that set up the business, who sell you the premium, and sell you the protection, when they go bust, they come back and say, everybody else has to pay for it, everybody else. In this instance, fine, we have accepted for a long time that everybody else in that particular line should pay for the company that goes out of business, fine, the insurance companies say fine, okay.

That is not what this Bill does, what this Bill does is say, not only those companies who sell workers comprehension, or life insurance, or health insurance, or whatever, need to help out one of their brothers or sisters who get into trouble, but it crosses over, to another segment in the insurance industry, but people who do not sell any of the products of the company who is gone under. In this instance, automobile insurance and homeowners insurance, if you think that getting \$10 million dollars out of an industry is not going to raise your premium, you are sadly mistaken. We have not solved the public policy issue of how we do pay for those. We back off State Funds for workers compensation, we back off of anything that would pay for it on a universal level. We back off from Maine Health Insurance, and what do we do, we put it back on the shoulders of those people who ought to be responsible, and get bought into buying the insurance, protecting themselves, and then get told when we go under, for whatever reasons, you pay again. That is not fair, ladies and gentlemen, that should not happen, send the Banking Insurance Committee a message and tell them to solve the problem better. I would appreciate your not supporting the pending motion.

THE PRESIDENT: The Chair recognizes the Senator from Aroostook, Senator Theriault.

Senator THERIAULT: Thank you Mr. President. Ladies and Gentlemen of the Senate. We have hundreds of companies that sell insurance in Maine, in all lines, and all of the insurance companies did not like this additional assessment, initially when it was presented, but all of them during our deliberation when we had a study this last summer, all of them who attended the public hearing that we held on this particular Bill, agreed in the end, that

it was the responsible and reasonable thing to do to do this, to make sure they themselves in some point in the future might be protected by this particular fund. It was not until the last hour, when this Bill appeared on the Calendar of the Senate, that two insurance companies decided that they were going to try to torpedo this particular Bill with this Amendment.

This particular Amendment was discussed in Committee before it was published to see what the feeling of the Committee would be, and needless to say, the Committee was not very happy to see this particular Amendment because it had been discussed previously, not the Amendment itself, but the principal had been discussed by the Committee, and it had been unanimously rejected by the Committee. What is so interesting is, that those two insurance companies that came around with the objection, are probably the wealthiest insurance companies in the nation. I will give you their names...Allstate and State Farm. Now State Farm has a reserve, right now, of \$50 billion dollars. They are the wealthiest insurance companies in this nation, and they are the ones that are objecting to this particular Guarantee Fund.

We have a good Fund in Maine, it has served a purpose that it was designed for, it did not let us down, and I think we should Indefinitely Postpone this Amendment to make sure that this Fund can continue to do what it was designed to do, and I hope you support me in my motion. Thank you.

Senator BUSTIN of Kennebec requested a Division.

THE PRESIDENT: The pending question before the Senate is the motion by Senator THERIAULT of Aroostook, to INDEFINITELY POSTPONE Senate Amendment "A" (S-591).

At the request of Senator BUSTIN of Kennebec, a Division was had. 25 Senators having voted in the affirmative and 8 Senators having voted in the negative, the motion by Senator THERIAULT of Aroostook, to INDEFINITELY POSTPONE Senate Amendment "A" (S-591), PREVAILED.

Which was PASSED TO BE ENGROSSED, in concurrence.

Which 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 CLARK of Cumberland, the Senate removed from the Unassigned Table the following:

Bill "An Act Concerning the Dismissal of Employees of a Corporation That Has Been the Subject of a Takeover"

S.P. 945 L.D. 2395

Tabled - March 2, 1990, by Senator CLARK of Cumberland.

Pending - REFERENCE

(Committee on LABOR suggested and ORDERED PRINTED.)

Which was referred to the Committee on LABOR and ORDERED PRINTED.

Sent down for concurrence.

On motion by Senator CLARK of Cumberland, the Senate removed from the Unassigned Table the following:

Bill "An Act to Define Severance Pay Liability in Business Combinations" (Emergency)

S.P. 946 L.D. 2396

Tabled - March 2, 1990, by Senator CLARK of Cumberland.

Pending - REFERENCE

(Committee on LABOR suggested and ORDERED PRINTED.)

Which was referred to the Committee on BUSINESS LEGISLATION and ORDERED PRINTED.

Sent down for concurrence.

On motion by Senator CLARK of Cumberland, the Senate removed from the Unassigned Table the following:

Bill "An Act to Establish the Department of Child and Family Services" (Emergency)

H.P. 1199 L.D. 1666
(C "C" H-820)

Tabled - March 9, 1990, by Senator CLARK of Cumberland.

Pending - PASSAGE TO BE ENGROSSED AS AMENDED, in concurrence.

(In Senate, March 9, 1990, READ A SECOND TIME.)

(In House, March 2, 1990, PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "C" (H-820).)

THE PRESIDENT: The President recognizes the Senator from Cumberland, Senator Gill.

Senator GILL: Thank you Mr. President. Ladies and Gentlemen of the Senate. I would ask you to vote against the pending motion, which is Passage to be Engrossed.

This Bill has a lot of interest, and there has been some discussion among various people to see if we could cooperate and come to some agreement on this Bill. But there has been no Amendment that has surfaced, there has been no concrete Draft that I have seen, or that I am aware that other people have seen, and I would have to ask you to vote against this measure. This does set up the Department of Child and Family Services, and we had the debate about whether we do set up, in fact, a Department before we know what should go into that Department.

I link it to building a house, and that after you build a house, trying to decide how many rooms you need, and what the other needs are in the house, you don't do things that way. You make plans prior to setting up a Department, it is a major function, it is a major expense, and no one has been able to convince me that there isn't going to be added expense to this Department. I would still like to approach it in a planning way, so we know exactly what goes in, what the costs are, and what the programs are, and who will serve the needs of those people, what the providers will see as programs needed for children and how we can best serve those needs. So I would ask you to vote against setting up this Department at this point in time.

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

Senator BERUBE: Thank you Mr. President. Ladies and Gentlemen of the Senate. Is it proper at this time to offer an Amendment?

THE PRESIDENT: The Chair would answer in the affirmative.

On motion by Senator BERUBE of Androscoggin, the Senate SUSPENDED THE RULES.

On further motion by same Senator, the Senate RECONSIDERED whereby it ADOPTED Committee Amendment "C" (H-820).

On further motion by same Senator, Senate Amendment "A" (S-538) to Committee Amendment "C" (H-820) READ.

THE PRESIDENT: The President recognizes that same Senator.

Senator BERUBE: Thank you Mr. President. Ladies and Gentlemen of the Senate. Very briefly, the Amendment strikes out reference to the Human Development Commission, and it allows the Governor to

appoint the Commissioner, whoever he or she might be, the same way he does all other Department Heads in the State with the Legislative Committee reviewing it.

Since the Amended Bill calls for state agencies to make available their staff and facilities, as well as, equipment, supplies, during the planning process, there is no need of utilizing the already overburdened resources of that particular Development Commission. Thank you.

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

Senator BUSTIN: Thank you Mr. President. Ladies and Gentlemen of the Senate. I would request a Roll Call. L.D. 1666, "An Act to Establish the Department of Child and Family Services", as redrafted by the State and Local Government Committee, under filing number (H-820), contains many provisions intended to enhance policy making by the Executive and Legislative branches, to improve state services for troubled families and children.

Two of those provisions relate to the Maine Human Development Commission, better known to many of us the former name, the Maine Human Services Council. The State and Local Government Committee Amendment C (H-820), on page two, provides for the Commissioner of the Department and Families and Children to be appointed by the Governor, and to be confirmed by the Legislature. The Amendment provides that when making the nomination, the Governor shall include the Maine Human Development Commission, in much the same way the Governor includes the State Board of Education, when nominating a candidate, for Commissioner of the Department of Educational and Cultural Services. Thus, the selection process involves the Commission Chair, and members with meeting and interviewing candidates. Within ten days of meeting the candidate, the Commission presents to the Governor, its written appraisal of the strengths and weaknesses of a candidate or candidates. Also, on the date the nomination of a candidate is posted, the Commissioner presents to the Legislature its written appraisal of the strengths and weaknesses of the nominee.

Secondly, the State and Local Government Committee Amendment on page nine, provides that the Maine Human Development Commission shall assist the Joint Select Committee on Families and Children, to carry out the purposes of this legislation. The fourteen month transition process leading to implementation of the Department, will require substantial, and well informed deliberations. Deliberations by the Joint Select Committee with the Executive Branch, will relate to programs of five major state agencies, and scores of related parties in the private sector, and will community level groups. Due to the extensive scope and complexity of these patterns, the State and Local Government Committee is proposing to use existing staff resources available at no additional cost through the Maine Human Development Commission. That Commission has a sixteen year body of knowledge expertise and understanding program, serving families and children as administered by the Department of Corrections, Educational and Cultural Services, Human Services, Mental Health, and Mental Retardation, the Division of Community Services, as well as private sector and local programs. Ladies and Gentlemen I urge you to defeat the pending motion.

Senator BUSTIN of Kennebec requested a Roll Call.

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

Senator GILL: Thank you Mr. President. Ladies and Gentlemen of the Senate. I concur with the pending motion to put the selection of the Commissioner in the Executive Branch.

The Executive Branch has the right to choose whoever he or she chooses, to have in a position of this authority. When we get involved in the Maine Development Commission, and what overview they will have, it seems to me that we are interfering with the Executive Branch decision of nomination of a person in the position. I understand in the overall Bill that was drafted and before us, that the Maine Development Commission played an extremely important roll in developing this Bill. If they develop the Bill and they select the person in the way that they developed the Bill, I think that they did it in a vacuum. They didn't include people who are now providing services to children and their families, they did it with a few people who expressed interest in doing something for children, but they didn't include everybody, in fact. I hate to see us put some more authority into a Maine Development Commission, and expand the authority that they have in the state, when it really is getting into the jurisdiction of the Executive Branch when they make decisions. I still don't approve of the Bill as it stands, I think the Amendment improves it somewhat, but we have got a long way to go in trying to determine what we really need in the state for an agency to handle children's services.

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

Senator CLARK: Thank you Mr. President. Ladies and Gentlemen of the Senate. While I regard the remarks of the good Senator from Cumberland, Senator Gill, and my colleague, the good Senator from Androscoggin, Senator Berube, with considerable respect merit, I submit to you that the Amendment before us this morning, does in fact, erode considerably from the main Committee Amendment as reported out by the State and Local Government Committee. The good Senator from Cumberland, Senator Gill, has suggested that she hasn't seen the compromise to which the debate eluded a number of days ago. Frankly, I don't remember how many days ago, it's probably irrelevant. But I have accepted in faith and on trust that compromises will be reached in the unmentionable body, and that the final version of this Bill which will be returned to us in this Chamber, while still containing in large measure the structure as reflected in its current status, it will have, however, some compromises that will be affected. To address the concerns by those who do not support the creation and establishment of a Department of Children and Families, or Child and Family Services.

I do have concern about the Amendment that is being proposed this morning, for I do believe that the Commission that is sought to be eliminated from the pending proposal, has served long and with particular distinction, the services and needs of those that it is authorized to respond to. As a matter of fact, the membership of that Commission reflects the appointments of the Chief Executive. So I in large measure, do not distrust that Commission, nor the job they have performed for almost two decades now.

In conclusion, I guess in order to be a little more precise, rather than speaking in paragraphs, I concur with the remarks as shared with us this morning with the Senator from Kennebec, Senator Bustin, and would urge the members of this Body to defeat this Amendment that has been offered, and send this Bill in its present form over to the other body and see if that which we were promised would be in fact forthcoming. And frankly, I look forward to the events that may result from this action with anticipation.

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

Senator BRANNIGAN: Thank you Mr. President. Ladies and Gentlemen of the Senate. If I am not mistaken, the pending Amendment would in fact kill this Bill, because it will turn a positive fiscal note of \$400,000 in savings that we can spend in this time of need, to a negative fiscal note in which it would cost money and therefore would not pass even if we were to pass the Bill.

It is my understanding that that is the case, and I think we should all know that before we vote. I urge that we defeat this Amendment.

On motion by Senator BUSTIN of Kennebec, supported by one-fifth of the members present and voting, a Roll Call was ordered.

THE PRESIDENT: The pending question before the Senate is the motion of Senator BERUBE of Androscoggin to ADOPT Senate Amendment "A" (S-538) to Committee Amendment "C" (H-820).

A vote of Yes will be in favor of ADOPTION of Senate Amendment "A" (S-538) to Committee Amendment "C" (H-820).

A vote of No will be opposed.

Is the Senate ready for the question?

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEAS: Senators BERUBE, BRAWN, CAHILL, CARPENTER, COLLINS, DILLENBACK, EMERSON, GILL, GOULD, HOLLOWAY, LUDWIG, PERKINS, RANDALL, THERIAULT, WEBSTER, WEYMOUTH, WHITMORE

NAYS: Senators ANDREWS, BALDACCI, BOST, BRANNIGAN, BUSTIN, CLARK, DUTREMBLE, ERWIN, ESTES, ESTY, GAUVREAU, HOBBS, KANY, MATTHEWS, PEARSON, TITCOMB, TWITCHELL, THE PRESIDENT - CHARLES P. PRAY

ABSENT: Senators None

17 Senators having voted in the affirmative and 18 Senators having voted in the negative, with No Senators being absent, the motion of Senator BERUBE of Androscoggin to ADOPT Senate Amendment "A" (S-538) to Committee Amendment "C" (H-820), FAILED.

Committee Amendment "C" (H-820) ADOPTED, in concurrence.

Which was PASSED TO BE ENGROSSED, as Amended, in concurrence.

Senator DUTREMBLE of York, moved the Senate RECONSIDER whereby it INDEFINITELY POSTPONED:

Joint Order - regarding Committee on HOUSING AND ECONOMIC DEVELOPMENT reporting out a "RESOLUTION, Proposing an Amendment to the Constitution of Maine to Commit State Support of Affordable Housing" to the House.

H.P. 1773

(In House, March 20, 1990, READ and PASSED.)

(In Senate, March 20, 1990, READ and INDEFINITELY POSTPONED IN NON-CONCURRENCE.)

On further motion by same Senator, Tabled Unassigned pending motion of same Senator to RECONSIDER INDEFINITE POSTPONEMENT.

Off Record Remarks

Senate at Ease
Senate called to order by the President.

Off Record Remarks

Senator BALDACCI of Penobscot was granted unanimous consent to address the Senate on the Record. Senator BALDACCI: Thank you Mr. President. Ladies and Gentlemen of the Senate. Two items, one the good Senator from Androscoggin, Senator Whitmore and myself, and also the good Senator from York, Senator Hobbins, are members of the Business Legislation Committee, which has got the regulation of counselors that will be coming to the floor hopefully sometime next week, and I have a fact sheet that has been prepared for the Committee members, and if anyone would like a copy of it so they would be able to digress with their own counselors, traditional or nontraditional, they are more than welcome to get a copy from me or one of the Committee members.

The second item, is that I have been reading the "Portland Press Herald", and it caught my attention because it talked about the Fax Bill that the Business Legislation Committee had passed, and something that disturbed me a little bit, was the quote "Here in Maine our isolation has worked to our advantage this time, we have been lucky, as soon as business people in Massachusetts discover we can read and write, they will try to flood our fax machines. We are the perfectly logical next step for massive exploitation of the market."

First of all, the good Representative from Portland should realize that we have been able to read and write for a longer time than he may be aware of, and the other thing is that what we are doing by passing the Fax Bill, or the Automatic Telephone Solicitation Bill, is that it provided for Intra-state, not Inter-state, so that we can still be flooded by the Boston market that has finally figured out that we can read and write. Thank you.

On motion by Senator BALDACCI of Penobscot, under suspension of the Rules, all matters thus acted upon were ordered sent down forthwith for concurrence.

On motion by Senator BALDACCI of Penobscot, 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 reports 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, 1990

H.P. 1649 L.D. 2282

(H "A" H-944)

This being an Emergency Measure and having received the affirmative vote of 27 Members of the Senate, with No Senators having voted in negative, and 27 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 TWITCHELL of Oxford, ADJOURNED until Thursday, March 22, 1990, at 8:30 in the morning.