

MAINE STATE LEGISLATURE

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

VOLUME I
FIRST REGULAR SESSION
December 3, 1986 to May 22, 1987

(In Senate, April 7, 1987, READ and PASSED, in concurrence.)
On further motion by same Senator, Tabled 1 Legislative Day, pending PASSAGE.

Senate at Ease
Senate called to order by the President.

On motion by Senator CLARK of Cumberland, RECESSED until 10:45 this morning.
After Recess

Senate called to order by the President.
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.

ORDERS OF THE DAY

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

An Act to Require Greater Specificity in the Annual Reports of the Maine Health Care Finance Commission

S.P. 145 L.D. 399

Tabled - April 7, 1987, by Senator CLARK of Cumberland.

Pending - ENACTMENT
(In House, April 2, 1987, PASSED TO BE ENACTED.)
(In Senate, March 25, 1987, PASSED TO BE ENGROSSED.)

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

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

On further motion by same Senator, Senate Amendment "A" (S-23) READ and ADOPTED.

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

Sent down for concurrence.

Off Record Remarks

Senator KANY of Kennebec was granted unanimous consent to address the Senate off the Record.

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

Off Record Remarks

On motion by Senator EMERSON of Penobscot, ADJOURNED until Wednesday, April 8, 1987, at 9:00 in the morning.

ONE HUNDRED AND THIRTEENTH MAINE LEGISLATURE
FIRST REGULAR SESSION
44th Legislative Day
Wednesday, April 8, 1987

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

Prayer by Reverend Earl Gray, Riverside United Methodist Church, Kezar Falls.

The Journal of Tuesday, April 7, 1987, was read and approved.

Quorum call was held.

SENATE PAPERS

Bill "An Act to Provide Funds to Encourage the Maine Family Farm" (S.P. 368) (L.D. 1109)

Came from the Senate, referred to the Committee on Appropriations and Financial Affairs and Ordered Printed.

Was referred to the Committee on Appropriations and Financial Affairs in concurrence.

Bill "An Act to Authorize Financial Institutions and Credit Unions to Sell Annuities" (S.P. 373) (L.D. 1110)

Bill "An Act Concerning Liability Insurance Coverage for Amusement Devices" (S.P. 374) (L.D. 1111)

Came from the Senate, referred to the Committee on Banking and Insurance and Ordered Printed.

Were referred to the Committee on Banking and Insurance in concurrence.

Unanimous Leave to Withdraw

Report of the Committee on Aging, Retirement and Veterans reporting "Leave to Withdraw" on Bill "An Act Relating to the Purchase of Military Service Time" (S.P. 308) (L.D. 887)

Report of the Committee on Labor reporting "Leave to Withdraw" on Bill "An Act to Extend Medical Benefits to Permanently Laid-off Employees" (S.P. 257) (L.D. 728)

Report of the Committee on Banking and Insurance reporting "Leave to Withdraw" on Bill "An Act to Ensure Access to the Mental Health and Substance Abuse Treatment Systems Through Health Maintenance Organizations" (S.P. 216) (L.D. 583)

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

Ought to Pass in New Draft

Report of the Committee on Appropriations and Financial Affairs on Bill "An Act Making Additional Appropriations from the General Fund and Allocations from Other Funds for the Expenditures of State Government for the Fiscal Year Ending June 30, 1987" (Emergency) (S.P. 200) (L.D. 557) reporting "Ought to Pass" in New Draft (Emergency) (S.P. 372) (L.D. 1107)

Came from the Senate, with the report read and accepted and the New Draft passed to be engrossed.

Report was read and accepted, the New Draft read once.

Under suspension of the rules, the New Draft was read a second time and passed to be engrossed in concurrence.

Non-Concurrent Matter

Bill "An Act to Require Greater Specificity in the Annual Reports of the Maine Health Care Finance

Commission" (S.P. 145) (L.D. 399) which was passed to be engrossed in the House on March 31, 1987.

Came from the Senate passed to be engrossed as amended by Senate Amendment "A" (S-23) in non-concurrence.

The House voted to recede and concur.

COMMUNICATIONS

The following Communication: (S.P. 375)
113th Maine Legislature
April 6, 1987

Senator Ronald E. Usher
Representative Michael H. Michaud
Chairpersons
Joint Standing Committee on Energy & Natural Resources
113th Legislature
Augusta, Maine 04333
Dear Chairs:

Please be advised that Governor John R. McKernan, Jr. has nominated Hervey M. Triplett of Bangor for appointment to the Board of Environmental Protection.

Pursuant to Title 38, M.R.S.A. Section 361, this nomination will require review by the Joint Standing Committee on Energy and Natural Resources and confirmation by the Senate.

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

Came from the Senate, Read and Referred to the Committee on Energy and Natural Resources.

Was Read and Referred to the Committee on Energy and Natural Resources in concurrence.

The following Communication:

STATE OF MAINE
ONE HUNDRED AND THIRTEENTH LEGISLATURE
COMMITTEE ON ENERGY AND NATURAL RESOURCES
April 3, 1987

President Pray
Speaker Martin
State House
Augusta, ME 04333

Dear President Pray and Speaker Martin:

The Joint Standing Committee on Energy and Natural Resources is pleased to submit the three attached bill drafts developed through our study of Solid Waste Management and Disposal Policy in Maine pursuant to Chapter 137 of the Private and Special Laws of 1985. The committee submits these complementary bills as a package for introduction, printing and referral. The text of the committee's study report is being completed by the Office of Policy and Legal Analysis for our approval. It will be sent to you under separate cover. We anticipate that it will be available when the attached bills are printed and distributed.

We hope you find this report a useful tool in our continuing efforts to ensure the provision of environmentally sound solid waste management in Maine.

Sincerely,
s/Sen. Ronald Usher, Chair s/Rep. Michael Michaud,
Chair

Was read and with accompanying papers ordered placed on file.

PETITIONS, BILLS AND RESOLVES
REQUIRING REFERENCE

The following Bills 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:

Appropriations and Financial Affairs

Bill "An Act to Provide Administrative Support Services to the Maine Job-start Loan Program Agencies" (H.P. 850) (L.D. 1144) (Presented by Speaker MARTIN of Eagle Lake) (Cosponsors: Representatives NADEAU of Lewiston, ROLDE of York, and Senator DUTREMBLE of York)

Bill "An Act to Provide Funding for Telephones at Communicare Centers Located in each County" (H.P. 853) (L.D. 1147) (Presented by Representative ALIBERTI of Lewiston) (Cosponsor: Representative JALBERT of Lisbon)

Ordered Printed.
Sent up for Concurrence.

Legal Affairs

Bill "An Act to Give Local Election Wardens Authority to Select Locations where Signatures may be Collected" (H.P. 851) (L.D. 1145) (Presented by Representative WEBSTER of Cape Elizabeth) (Cosponsors: Representatives CASHMAN of Old Town, BEGLEY of Waldoboro, and Senator THERIAULT of Aroostook)

Ordered Printed.
Sent up for Concurrence.

State and Local Government

Bill "An Act Requiring Fiscal Impact Statements Describing the Costs and Benefits Associated with Each Legislative Document and Agency Rule that Affect Political Subdivisions of the State" (H.P. 855) (L.D. 1149) (Presented by Representative WEBSTER of Cape Elizabeth) (Cosponsors: Representatives O'GARA of Westbrook, PARENT of Benton, and Senator GOULD of Waldo)

Ordered Printed.
Sent up for Concurrence.

Transportation

Bill "An Act Concerning Passing a School Bus With Flashing Red Lights" (H.P. 852) (L.D. 1146) (Presented by Representative NORTON of Winthrop) (Cosponsors: Representatives GOULD of Greenville and BAILEY of Farmington)

Ordered Printed.
Sent up for Concurrence.

Utilities

Bill "An Act to Prohibit Initial Service Charges by Public Utilities" (H.P. 854) (L.D. 1148) (Presented by Representative WEBSTER of Cape Elizabeth) (Cosponsors: Representatives CLARK of Millinocket, BRAGG of Sidney, and Senator BALDACCI of Penobscot)

Ordered Printed.
Sent up for Concurrence.

Reported Pursuant to the Resolves

Representative CROWLEY from the Joint Select Committee on Economic Development, pursuant to Resolves 1985, chapters 45 and 53 ask leave to submit its findings and report that the accompanying Bill "An Act to Create the Department of Community and Economic Development and to Establish Consistency among Economic Development Laws" (H.P. 857) (L.D.

1151) be referred to the Joint Standing Committee on Economic Development for Public Hearing and printed pursuant to Joint Rule 18.

Report was read and accepted and the bill referred to the Joint Standing Committee on Economic Development, ordered printed and sent up for concurrence.

ORDERS

On motion of Representative MURPHY of Kennebunk, the following Joint Resolution: (H.P. 859) (Cosponsors: Senator PERKINS of Hancock, President PRAY of Penobscot and Speaker MARTIN of Eagle Lake)

JOINT RESOLUTION IN GRATITUDE TO PRIVATE AND PUBLIC INDIVIDUALS AND ORGANIZATIONS WHO WORKED TO PROTECT LIFE AND PROPERTY FROM THE DEVASTATING FLOOD OF 1987

WHEREAS, the flood of 1987 marks one of the worst natural disasters in a half century of Maine's history; and

WHEREAS, across the State record flood levels were smashed by rampaging waters as Maine's people fought back, refusing to yield a single life; and

WHEREAS, in answer to our Governor's call, the Maine National Guard immediately dedicated its manpower and machinery to this emergency; and

WHEREAS, the Red Cross, true to its image and purpose, responded by providing emergency shelter, food and medical care to those in distress; and

WHEREAS, every level of government, including state, county and local law enforcement and fire and rescue services gave full measure of effort to aid neighbors and community and maintain public safety; and

WHEREAS, there are countless heroic stories to be told of neighbor helping neighbor save life and property from the onrushing water; now, therefore, be it

RESOLVED: That the members of the 113th Legislature of the State of Maine take this opportunity to recognize the Maine National Guard, the Red Cross, Salvation Army, state, county and local employees and the many groups, organizations and individuals who offered so much in the protection of our citizens and prevention of death or serious injury and to express our thanks for outstanding work under hazardous conditions; and be it further

RESOLVED: That a copy of this resolution be prepared and forwarded forthwith to representatives of the organizations and agencies named herein and to the town offices across the State in token of our admiration and gratitude.

Was read.

The SPEAKER: The Chair recognizes the Representative from Kennebunk, Representative Murphy.

Representative MURPHY: Mr. Speaker, Men and Women of the House: This past week, the newspapers, TV, and the halls of this House, have been full of stories of courage, duty, and neighbor helping neighbor. It seems that, at times, nature wants to make us pay a price every decade or so for living in this very special place. The '47 fires, the blizzard and flood tides of '78 come quickly to mind; now joined sadly by the flood of '87.

Many of the scars inflicted upon the land this past week will heal with spring and the passage of time. Most of the buildings will be repaired but the scars, the deep inside pain and hurt, runs much deeper. You and I in this House know that most Mainer's will keep that pain and hurt private, covering it with grave smiles. Spring this year is coming slowly and painfully to Maine. Members of this legislature and citizens of this great state, whether we live in the city or the country, whether

we are a native or from away, we have never been prouder of the new meaning given this week here in Maine to the word neighbor.

Subsequently, was adopted and sent up for concurrence.

REPORTS OF COMMITTEES

Unanimous Ought Not to Pass

Representative CARROLL from the Committee on State and Local Government on Bill "An Act to Allow a County Treasurer to Appoint a Deputy Treasurer" (H.P. 285) (L.D. 368) reporting "Ought Not to Pass"

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

Unanimous Leave to Withdraw

Representative HICKEY from the Committee on Aging, Retirement and Veterans on Bill "An Act to Amend the Maine State Retirement System" (H.P. 672) (L.D. 905) reporting "Leave to Withdraw"

Representative TARDY from the Committee on Agriculture on Bill "An Act to Require Beekeepers to Effectively Protect Hives Placed in Areas with Dense Bear Populations" (H.P. 605) (L.D. 823) reporting "Leave to Withdraw"

Representative DEXTER from the Committee on Energy and Natural Resources on Bill "An Act Relating to Lands within Indian Territory" (H.P. 137) (L.D. 178) reporting "Leave to Withdraw"

Representative RIDLEY from the Committee on Energy and Natural Resources on Bill "An Act Concerning Fees Imposed on the Generation of Hazardous Waste" (H.P. 731) (L.D. 983) reporting "Leave to Withdraw"

Representative BICKFORD from the Committee on State and Local Government on RESOLVE, Concerning State Government Reorganization (H.P. 154) (L.D. 195) reporting "Leave to Withdraw"

Representative BICKFORD from the Committee on State and Local Government on RESOLUTION, Proposing an Amendment to the Constitution of Maine Requiring Candidates for the Maine Legislature to be Residents of the District Which they Seek to Represent by January 1st Preceding the Date of the General Election (H.P. 144) (L.D. 185) reporting "Leave to Withdraw"

Representative BEGLEY from the Committee on Judiciary on Bill "An Act to Require Municipalities to Pay Court Costs and Attorneys Fees in Certain Suits" (H.P. 455) (L.D. 610) reporting "Leave to Withdraw"

Representative MacBRIDE from the Committee on Judiciary on Bill "An Act Relative to Guardian Ad Litem Appointments in Adoption Proceedings" (H.P. 456) (L.D. 611) reporting "Leave to Withdraw"

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

Refer to the Committee on Judiciary

Representative CURRAN from the Committee on Banking and Insurance on Bill "An Act Relating to Liability Insurance for Emergency Medical Service" (H.P. 636) (L.D. 859) reporting that it be referred to the Committee on Judiciary.

Report was read and accepted and the bill referred to the Committee on Judiciary and sent up for concurrence.

Ought to Pass in New Draft

Representative TARDY from the Committee on Agriculture on Bill "An Act to Strengthen the Efforts of the Maine Potato Industry and the Responsibility of the Maine Potato Board to Improve the Quality of Maine Tablestock Potatoes" (H.P. 360) (L.D. 474) reporting "Ought to Pass" in New Draft (H.P. 856) (L.D. 1150)

Report was read and accepted, the New Draft given its first reading and assigned for second reading Thursday, April 9, 1987.

Ought to Pass in New Draft/New Title

Representative WARREN from the Committee on Judiciary on Bill "An Act to Prohibit the Creation of Unlawful Barriers" (H.P. 48) (L.D. 51) reporting "Ought to Pass" in New Draft under New Title Bill "An Act to Require the Marking of Barriers on Certain Public Ways" (H.P. 861) (L.D. 1154)

Report was read and accepted, the New Draft given its first reading and assigned for second reading Thursday, April 9, 1987.

Ought to Pass Pursuant to Joint Order (H.P. 23)

Representative BICKFORD from the Committee on State and Local Government on RESOLVE, for Laying of the County Taxes and Authorizing Expenditures of Franklin County for the Year 1987 (Emergency) (H.P. 858) (L.D. 1152) reporting "Ought to Pass" – Pursuant to Joint Order (H.P. 23)

Report was read and accepted and the Resolve read once.

Under suspension of the rules, the Resolve was read a second time, passed to be engrossed and sent up for concurrence.

Ought to Pass Pursuant to Joint Order (H.P. 23)

Representative CARROLL from the Committee on State and Local Government on RESOLVE, for Laying of the County Taxes and Authorizing Expenditures of Hancock County for the Year 1987 (Emergency) (H.P. 860) (L.D. 1153) reporting "Ought to Pass" – Pursuant to Joint Order (H.P. 23)

Report was read and accepted and the Resolve read once.

Under suspension of the rules, the Resolve was read a second time, passed to be engrossed and sent up for concurrence.

CONSENT CALENDAR

First Day

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

(H.P. 248) (L.D. 321) Bill "An Act to Open Maine Libraries to Modern Information Technology" Committee on Appropriations and Financial Affairs reporting "Ought to Pass"

(H.P. 175) (L.D. 219) Bill "An Act Relating to Major Policy-influencing Positions in State Government" Committee on State and Local Government reporting "Ought to Pass"

(S.P. 154) (L.D. 451) RESOLVE, to Establish a Commission to Study Treatment Protocol for Severely Incompetent Patients (Emergency) Committee on Judiciary reporting "Ought to Pass" as amended by Committee Amendment "A" (S-18)

There being no objections, the above items were ordered to appear on the Consent Calendar of

Thursday, April 9, 1987, 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:

(H.P. 304) (L.D. 390) Bill "An Act to Clarify Enforcement of Insurance Coverage Requirements of the Workers' Compensation Law" (Emergency) (C. "A" H-52) (H.P. 359) (L.D. 462) Bill "An Act to Amend Provisions of the Maine Insurance Code Dealing with Capital and Surplus Requirements of Insurers" (C. "A" H-53)

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

Bill "An Act to Amend Implementation of the International Registration Plan and Apportioned Fees for Certain Commercial Vehicles" (H.P. 820) (L.D. 1108)

Was reported by the Committee on Bills in the Second Reading, read the second time, Passed to be Engrossed and sent up for concurrence.

PASSED TO BE ENGROSSED

As Amended

Bill "An Act to Measure Mileage Payments to Jurors" (S.P. 144) (L.D. 398) (C. "A" S-16)

Was reported by the Committee on Bills in the Second Reading and read a second time.

Representative Paradis of Augusta offered House Amendment "A" (H-54) to Committee Amendment "A" (S-16) and moved its adoption.

House Amendment "A" (H-54) to Committee Amendment "A" was read by the Clerk and adopted, the Bill passed to be engrossed as amended in non-concurrence and sent up for concurrence.

PASSED TO BE ENACTED

Emergency Measure

An Act Concerning Good Time and Meritorious Good Time Relative to Parole Eligibility (H.P. 231) (L.D. 299) (C. "A" H-48)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 113 voted in favor of the same and 1 against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

PASSED TO BE ENACTED

An Act Concerning Notice of Evictions for Cause in Mobile Home Parks (S.P. 59) (L.D. 126) (C. "A" S-15)

An Act to Amend the State Antitrust Laws (H.P. 214) (L.D. 266) (C. "A" H-44)

An Act Relating to Absentee Balloting by Residents of Nursing Homes, Boarding Homes and Congregate Housing Units (H.P. 705) (L.D. 947)

An Act to Provide for the Creation of Liens and Sales on Small Motors (H.P. 768) (L.D. 1031)

An Act Requiring Proper Placement of Motor Vehicle Dealer Plates (H.P. 771) (L.D. 1034)

An Act Relating to Rate-setting Procedures by Municipally-owned Utilities (H.P. 772) (L.D. 1035)

Were reported by the Committee on Engrossed Bills as truly and strictly engrossed, passed to be enacted, signed by the Speaker and sent to the Senate.

On motion of Representative Joseph of Waterville, the House reconsidered its action whereby An Act Relating to Absentee Balloting by Residents of Nursing Homes, Boarding Homes and Congregate Housing Units (H.P. 705) (L.D. 947) was passed to be enacted.

The SPEAKER: The Chair recognizes the Representative from Waterville, Representative Joseph.

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

I wonder what the definition of congregate housing units is in this particular bill? I also would like to ask why is this bill considered necessary and why, in fact, is this bill being acted upon by this group?

The SPEAKER: The Representative from Waterville, Representative Joseph, has posed a series of questions through the Chair to anyone who may respond if they so desire.

The Chair recognizes the Representative from Lewiston, Representative Handy.

Representative HANDY: Mr. Speaker, noticing that the Committee Chair is not here and the prime sponsor of the legislation, I would request that someone might table this.

The SPEAKER: The Chair recognizes the Representative from Orono, Representative Bott.

Representative BOTT: Mr. Speaker, I would request a Division, please.

The SPEAKER: The Chair would ask what he is asking a Division to?

Representative BOTT: The tabling motion.

The SPEAKER: There was no tabling motion. The Chair recognizes the Representative from Bangor, Representative Diamond.

Representative DIAMOND: Mr. Speaker, I move that this item be tabled until later in today's session.

Representative Bott of Orono requested a Division on the tabling motion.

The SPEAKER: The Chair will order a vote. The pending question before the House is the motion of Representative Diamond of Bangor that L.D. 947 be tabled until later in today's session. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

78 having voted in the affirmative and 52 in the negative, the motion did prevail.

ORDERS OF THE DAY

TABLED AND TODAY ASSIGNED

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

Bill "An Act to Increase Educational Opportunity for Economically and Educationally Disadvantaged Residents" (H.P. 847) (L.D. 1138)

(Committee on Appropriations and Financial Affairs suggested)

TABLED - April 7, 1987 by Representative CARTER of Winslow.

PENDING - Reference.

On motion of Representative Carter of Winslow, was referred to the Committee on Education, ordered printed, and sent up for concurrence.

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

An Act to Exempt Municipal Combination Snowplows and Dump Trucks from the Weight Limitations Imposed on Other Highway Vehicles (H.P. 69) (L.D. 72) (C. "A" H-39)

TABLED - April 7, 1987 by Representative HIGGINS of Scarborough.

PENDING - Passage to be Enacted.

On motion of Representative Diamond of Bangor, retabled pending passage to be enacted and specially assigned for Thursday, April 9, 1987.

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

Bill "An Act to Increase the Fees for Examination and Licensure for Chiropractors" (S.P. 96) (L.D. 243) (C. "A" S-8)

TABLED - April 7, 1987 by Representative ALLEN of Washington.

PENDING - Passage to be Engrossed.

On motion of Representative Allen of Washington, under suspension of the rules, the House reconsidered its action whereby Committee Amendment "A" was adopted.

On further motion of the same Representative, Committee Amendment "A" was indefinitely postponed.

The same Representative offered House Amendment "A" (H-55) and moved its adoption.

House Amendment "A" (H-55) 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 fourth tabled and today assigned matter:

Bill "An Act to Amend the Election Laws Regarding Persons Incarcerated in Correctional Facilities" (H.P. 773) (L.D. 1036)

TABLED - April 7, 1987 by Representative DIAMOND of Bangor.

PENDING - Passage to be Engrossed.

On motion of Representative Diamond of Bangor, retabled pending passage to be engrossed and specially assigned for Thursday, April 9, 1987.

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

Bill "An Act to Require that Children Under the Custody of the Department of Human Services be Placed in Homes with Traditional Family Settings" (H.P. 846) (L.D. 1137)

(Committee on Human Resources suggested)

TABLED - April 7, 1987 by Representative MANNING of Portland.

PENDING - Reference.

On motion of Representative Manning of Portland, retabled pending reference and specially assigned for Thursday, April 9, 1987.

(At Ease)

The House was called to order by the Speaker.

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

SENATE PAPER

Bill "An Act Relating to the Debt Limits which may be incurred by a Municipality for Water Programs" (S.P. 378) (L.D. 1143)

Came from the Senate, under suspension of the rules, and without reference to a Committee, the Bill read twice and passed to be engrossed.

Under suspension of the rules and without reference to any committee, the Bill was read twice, passed to be engrossed in concurrence.

By unanimous consent, ordered sent forthwith to Engrossing.

The Chair laid before the House the following matter: An Act Relating to Absentee Balloting by Residents of Nursing Homes, Boarding Homes and Congregate Housing Units (H.P. 705) (L.D. 947) which was tabled earlier in the day and later today assigned pending passage to be enacted.

The SPEAKER: The Chair recognizes the Representative from Waterville, Representative Joseph.

Representative JOSEPH: Mr. Speaker, Men and Women of the House: I have several questions about this bill, L.D. 947. I have strong reservations debating this issue and raising these questions today with the absence of the bill's sponsor, who had a tragedy in her family. I also have strong reservations about dealing with this matter with the Chair of the Legal Affairs Committee not being here presently.

However, if it is the wish of this body, I will continue to raise these questions and hope that someone might answer them. The questions that have been asked of me by city council members in the city of Waterville and by the city clerk, because of the concern of this bill and because, in fact, there are 15 of those people who will be up for re-election in the fall, is: "Why is this bill necessary? What constitutes congregate housing units? What are the numbers of persons that have to be in this particular unit?" I certainly would appreciate an answer to these questions.

The SPEAKER: The Representative from Waterville, Representative Joseph, has posed several questions through the Chair to anyone who may respond if they so desire.

The Chair recognizes the Representative from Mexico, Representative Perry.

Representative PERRY: Mr. Speaker, Ladies and Gentlemen of the House: The definition of congregate housing is in the statutes. Some people are able to move about and some people are not. The reason for this bill is obvious, it will take the candidates out of the election process. It started on a volunteer basis two years ago and it proved very popular among the people in these nursing homes, etc.

This year, the bill was introduced and was a little broader than the experiment that was carried on before. The New Draft requires that a municipal clerk could designate one or more times during a 30 day period before an election for the clerk to be present in licensed nursing homes, licensed boarding homes or certified congregate housing units for the purpose of absentee ballots.

The fact that the clerk goes into those places does not require these people to vote at that time. They may vote absentee by various methods. They may call the clerk for a ballot, they may have a relative bring them a ballot or they may write to the clerk. The bottom line is to keep the candidate out of there.

It has been proven successful in several areas in the past and the people in these homes have responded very well.

We have debated this extensively. It has passed with a ten to one ratio in this House and, as far as I am concerned, I think the bill is ready for enactment.

The SPEAKER: The Chair recognizes the Representative from Waterville, Representative Joseph.

Representative JOSEPH: Mr. Speaker, Men and Women of the House: I want to thank Representative Perry for that answer. However, one of the questions I don't feel was adequately answered. In Waterville there are some units with as few as five people and as many as 100 people -- and are all those units called congregate housing units? I guess -- what is a congregate housing unit as far as numbers are concerned?

Another question that was asked by those persons who will be candidates in the city of Waterville is -- is this any candidate who will be running for office that would be not allowed to vote a person absentee?

The SPEAKER: Representative Joseph of Waterville has posed a series of questions through the Chair to any member who may respond if they so desire.

The Chair recognizes the Representative from Mexico, Representative Perry.

Representative PERRY: Mr. Speaker, Ladies and Gentlemen of the House: Under the law, the candidate may not bring a ballot into these homes. It is quite specific but he may go into those homes when the balloting is taking place, he may go and visit these people before the balloting takes place at any time, but he may not bring the ballot to these people.

The SPEAKER: The Chair recognizes the Representative from Rumford, Representative Erwin.

Representative ERWIN: Mr. Speaker, Ladies and Gentlemen of the House: Representative Perry has not answered the question of -- what is the definition of congregate housing? We would like to know the answer to that.

One comment that was made was, this bill was meant to keep the candidate out of it and that really wasn't in the bill, it was that the candidate could be there and it isn't to keep the candidate out of it.

The SPEAKER: Representative Erwin of Rumford has posed a question through the Chair to any member who may respond if they so desire.

The Chair recognizes the Representative from Mexico, Representative Perry:

Representative PERRY: Mr. Speaker, Ladies and Gentlemen of the House: The definition of congregate housing is not something in my vocabulary. I don't exactly know what it is but it is a housing unit that contains people who may go in and out and also who are confined to that area and receive nursing care in their homes.

Now, the bill does not prevent the candidate from visiting these places. The bill allows the candidate to go in there any time and campaign up to and including the day of the voting. He may be present during the voting period but he may not bring the ballot in there.

The SPEAKER: The Chair recognizes the Representative from Berwick, Representative Murphy.

Representative MURPHY: Mr. Speaker, Ladies and Gentlemen of the House: I believe that the answer to congregate housing is that, when it first started, the federal definition of it was housing for the elderly. I won't say that this is what our statutes say but I believe that is what the federal guidelines were. It has become a generic name now and is used quite loosely.

When this vote is taken, I would like to ask for a roll call on it.

The SPEAKER: The Chair recognizes the Representative from Portland, Representative Manning.

Representative MANNING: Mr. Speaker, Ladies and Gentlemen of the House: I hate to disagree with my colleague from Berwick but congregate housing does not mean that you have simply elderly people. I was fortunate to have the opportunity to work on the first congregate housing in the state of Maine, which was the North School Project in Portland which was converted into congregate housing. Congregate housing could also have somebody as young as 18 or 19 years old in it if they were disabled. Congregate housing is one step away from a nursing home but one step above a home for the elderly. In congregate housing, you will have people who will need some type of nursing care, some type of dietary care, something that will keep them away from the nursing home, but it doesn't necessarily mean it is just for elderly.

I know in that building where I worked, there were six or seven handicap accessible apartments that would mean that anybody who is of any age, I would imagine above probably 18 or 19, would be able to go into a handicap apartment. So, it is a step below a nursing home in some cases and is a step above a home for the elderly in other cases. There are some who are in those homes that could be in a setting that really is a home for the elderly. The state really hasn't gone into congregate housing that much so there are some people in the congregate housing units in Portland, for instance, who probably could be in a home for the elderly.

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

Representative HANDY: Mr. Speaker, Members of the House: I think I have got the final authority on the definition of what congregate housing is. It is in MRSA 22, Section 5152, Subsection 1, "Congregate Housing. Congregate housing means residential housing consisting of private apartments and central dining facilities and within which a congregate housing supportive services program serves functionally impaired elderly occupants who are unable to live independently; yet do not require the constant supervision or intensive health care available at intermediate care or skilled nursing facilities."

The SPEAKER: The Chair recognizes the Representative from Wells, Representative Wentworth.

Representative WENTWORTH: Mr. Speaker, and Members of the House: May I remind you that regardless of where you live, you must first qualify to be eligible for an absentee ballot.

The SPEAKER: The Chair recognizes the Representative from Waterville, Representative Joseph.

Representative JOSEPH: Mr. Speaker, Men and Women of the House: I feel that any candidate on the ballot will not be allowed to vote those persons absentee who do request that privilege.

Another question that was asked of me, if the city clerk is on the ballot, who in fact, would be the person that would vote these persons in the congregate housing?

I am still concerned about congregate housing because the Waterville Housing Authority has several buildings with low income elderly housing units. They are individual apartments and, in many cases, those people are not able to get out to vote on Election Day for different reasons. Would that mean, in fact, that a candidate would not be allowed to go to those places? Thinking specifically of Elm Towers in Waterville.

The SPEAKER: Representative Joseph of Waterville has posed a question through the Chair to any member who may respond if they so desire.

The Chair recognizes the Representative from Mexico, Representative Perry.

Representative PERRY: Mr. Speaker, Ladies and Gentlemen of the House: In answer to Representative Joseph's question, if the city clerk's name is on the ballot, then he may deputize his deputy clerk to do that function.

In regard to low income housing people who require an absentee ballot, there are several ways to get it, except for the candidate to bring it.

The SPEAKER: The Chair recognizes the Representative from Waterville, Representative Joseph.

Representative JOSEPH: Mr. Speaker, Men and Women of the House: I continue to have concerns and questions about this bill and why, in fact, it seems to be necessary for this body to pass a bill or create a statute that, in fact, would not allow those persons who are candidates to provide that public service to those people who wish to vote, who in fact are unable to do so. It has been a practice for many years and there has been no problem. It seems to me that it should continue or we should continue to be allowed to assist these people in their rights and privileges to vote. So, my next question would be, even though I still have concerns about the numbers in the congregate housing, is, why is this bill necessary?

The SPEAKER: Representative Joseph of Waterville has posed a question through the Chair to any member who may respond if they so desire.

The Chair recognizes the Representative from Thomaston, Representative Mayo.

Representative MAYO: Mr. Speaker, Ladies and Gentlemen of the House: I hadn't intended to speak on this issue but since my colleague from Rockland, who sponsored this bill isn't here, I would like to speak on her behalf.

Representative Melendy originally introduced this bill in 1984 because of problems that occurred in her city of Rockland. A candidate for office went out and got hundreds and hundreds of absentee ballots and many people thought it was abusive and Representative Melendy agreed and introduced the legislation. The legislation failed in the last session but the city of Rockland did undertake this on a voluntary basis. It was very successful in Rockland. Many older citizens living in nursing homes found it very nice to be able to step in a voting booth that was set up in their house or nursing home and actually cast their vote -- although it was absentee in a voting booth.

I would also like to point out that one reason why I favor this bill is that there are abuses that go on and I know a constituent of mine, who was in an elderly housing unit elsewhere in the area, although not in my district, very much wanted to remain a citizen of my district because she had lived there all her life, lived in my town all her life and candidates for office came through and told her she had to reregister in that municipality, when she did not, in fact, have to do that. She was a temporary resident there because of her health.

I think it is appropriate to take candidates out of this process and get them out of these nursing homes where people are somewhat under the influence of outsiders. We need to protect our elderly citizens. That is why this bill was introduced and that is why I support it and that is why Representative Melendy supports it.

The SPEAKER: The Chair recognizes the Representative from Orono, Representative Bott.

Representative BOTT: Mr. Speaker, Men and Women of the House: This bill is a result of a unanimous committee report from the very able and very capable

Legal Affairs Committee. It is a bipartisan consensus. It has already had a number of overwhelming majority votes in support of this. It has already received favorable comment from constituents around the state in that we have taken favorable action in this area. It is also a bill that has been thoroughly debated. I hope that we can finally pass this bill today and move on to more pressing issues before us.

The SPEAKER: The Chair recognizes the Representative from Waterville, Representative Joseph.

Representative JOSEPH: Mr. Speaker, Men and Women of the House: With all due respect to the Legal Affairs Committee and the unanimous report, and with great respect to the sponsor of this bill and her motives for putting it in, I feel, and the persons that I represent feel, that this bill is absolutely unnecessary. We see no reason why those persons because they are candidates should be eliminated from the process of assisting those persons who wish to vote, who happen to be in nursing homes and congregate housing units. Those are the most needy persons and the persons who certainly appreciate the fact that that person whose name happens to be on the ballot that particular year, can spend a little time with them and talk with them.

I personally do not wholesale vote nursing homes or congregate housing but I see absolutely no need for this bill. If, in the town or city of Rockland, this is working, fine. If in other communities this is working, fine. Idealistically, it sounds like a good idea. Realistically, I find it very discriminatory. Because of that, I make a motion to indefinitely postpone L.D. 947 and any accompanying papers.

The SPEAKER: The pending question before the House is indefinite postponement of L.D. 947.

The Chair recognizes the Representative from Lewiston, Representative Pouliot.

Representative POULIOT: Mr. Speaker, Ladies and Gentlemen of the House: I don't want to prolong this debate but I would like to read to you a letter from my city clerk. I wanted to work the bill but I thought the progress was going on so well that there was no need to speak on the bill but after hearing the debate this morning I would like to put into the record what he wrote to me. "The City of Lewiston provided assistance to voters at the health care facilities during the last two elections. Assistance was provided at d'Youville Pavilion, a 280 bed nursing care facility, for the June 1986 primary elections. This proved to be very successful at the November 1986 general election and assistance was provided to two additional health care facilities, each having 120 beds.

It is expected that at the upcoming November election we will be providing this service to an additional nursing home having 120 beds and have been requested to provide absentee voting assistance at two congregate housing units, should the law allow. The service will not only eliminate the complaints, voter influence by candidates or their workers, but has restored the dignity to our elderly citizens and made them feel more a part of the election process." He strongly believes that this service should be provided to all elderly housing units, as many of the senior citizens at these facilities are voting by absentee ballot.

The SPEAKER: The Chair recognizes the Representative from Lisbon, Representative Jalbert.

Representative JALBERT: Mr. Speaker, Ladies and Gentlemen of the House: In the last session, the 112th, I was very much opposed to this bill. This year in committee, I was the lone holdout for a long

time. I feel now that there have been many compromises made on this bill. Some of the questions I had on the previous bill in the 112th have been answered. I can live with it, I think it is a good bill, and I would ask that you vote for the bill.

The SPEAKER: The Chair recognizes the Representative from Mexico, Representative Perry.

Representative PERRY: Mr. Speaker, Ladies and Gentlemen of the House: I hope that you oppose the motion and I ask for a division.

The SPEAKER: The Chair recognizes the Representative from Rumford, Representative Erwin.

Representative ERWIN: Mr. Speaker, Ladies and Gentlemen of the House: I agree with my good friend, Representative Joseph of Waterville. Since the 1984 attempted legislation that failed, many, many communities have taken upon themselves to have the voluntary voting in the nursing homes and it happened in Rumford and worked very well. It will continue to happen except that, next election, my town clerks name is going to be on the ballot and she will not be able to conduct those elections. I really believe that this is reactionary legislation and that is the reason it came out unanimous. I would hope you would support Representative Joseph's motion.

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

Representative HOLT: Mr. Speaker, Men and Women of the House: I would like to ask a question.

If this bill passes, will I, as a possible candidate for this seat next time around, be able to take a ballot to my good friend, who lives on Getchell Street in Bath, who is 94, and who I expect will live there as long as she lives -- will I still be able to take a ballot to her?

The SPEAKER: Representative Holt of Bath has posed a question through the Chair to any member who may respond if they so desire.

The Chair recognizes the Representative from Mexico, Representative Perry.

Representative PERRY: Mr. Speaker, Ladies and Gentlemen of the House: You may not, under this law, take a ballot to that person but you may have your friend take a ballot to that person.

The SPEAKER: The Chair recognizes the Representative from Berwick, Representative Murphy.

Representative MURPHY: Mr. Speaker, Men and Women of the House: If her friend lives in a single home and does not live in a nursing home or congregate housing, she can take a ballot to that person. This does not put the candidate out of all absentee ballots. It just puts them out of the nursing homes and the congregate housing.

I would like to add that, in 1984, when this bill came before Legal Affairs Committee, when I first read it, I wasn't that enthused about it either. But Mr. Berube from Lewiston came in and sat down and talked to us and told us how he had done this. I think it convinced us all so we came out of committee at that time with a unanimous bill. I felt that that was very fair and that it let people in these homes have pride and privacy in voting and I still do.

The SPEAKER: The Chair recognizes the Representative from Kennebunk, Representative Murphy.

Representative MURPHY: Mr. Speaker, Men and Women of the House: We have a bipartisan consensus on the committee, which is giving this chamber the opportunity to go clearly on the record, that for candidates in terms of nursing homes and other forms of group homes, within the definition of this law, for candidates there is a clear difference between campaigning, which is still allowed, and voting people absentee.

Mr. Speaker, I would request a roll call.

The SPEAKER: The Chair recognizes the Representative from Island Falls, Representative Smith.

Representative SMITH: Mr. Speaker, Ladies and Gentlemen of the House: If I understand, Representative Murphy said that I may take a ballot to an individual at their home but I cannot take it into a congregate housing unit -- I ask, what is the difference? If I can take it to a lady's home, who is unable to vote by coming out, and I am able to serve her -- why can't I serve the lady in the congregate housing unit? Why the difference?

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 Joseph of Waterville that L.D. 947 be indefinitely postponed. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 18

YEA - Baker, Conley, Connolly, Erwin, P.; Hale, Handy, Holt, Joseph, Ketover, LaPointe, Mahany, McHenry, Michaud, Moholland, Paradis, J.; Smith, Tammaro, Vose.

NAY - Aliberti, Allen, Anderson, Anthony, Armstrong, Bailey, Begley, Bickford, Bost, Bott, Bragg, Brown, Callahan, Carroll, Carter, Chonko, Clark, H.; Clark, M.; Coles, Cote, Crowley, Curran, Davis, Dellert, Dexter, Diamond, Dore, Dutremble, L.; Farnum, Farren, Foster, Garland, Gould, R. A.; Greenlaw, Gurney, Gwadosky, Hanley, Harper, Hepburn, Hichborn, Hickey, Higgins, Hillock, Hogle, Holloway, Hussey, Ingraham, Jackson, Jacques, Jalbert, Kilkelly, Kimball, Lacroix, Lawrence, Lebowitz, Lisnik, Look, Lord, MacBride, Macomber, Manning, Marsano, Martin, H.; Matthews, K.; Mayo, McGowan, McPherson, McSweeney, Mills, Mitchell, Murphy, E.; Murphy, T.; Nadeau, G. G.; Nadeau, G. R.; Nicholson, Norton, Nutting, O'Gara, Paradis, E.; Paradis, P.; Parent, Paul, Perry, Pines, Pouliot, Racine, Rand, Reed, Rice, Richard, Ridley, Rolde, Rotondi, Rydell, Salsbury, Scarpino, Seavey, Sheltra, Sherburne, Simpson, Small, Soucy, Sproul, Stanley, Stevens, A.; Stevenson, Strout, B.; Strout, D.; Swazey, Tardy, Taylor, Telow, Thistle, Tracy, Tupper, Warren, Webster, M.; Wentworth, Weymouth, Whitcomb, Willey, Zirkilton, The Speaker.

ABSENT - Boutilier, Cashman, Duffy, Foss, Melendy, Priest, Reeves, Ruhlman, Stevens, P.; Walker.

Yes, 18; No, 123; Absent, 10; Paired, 0; Excused, 0.

18 having voted in the affirmative and 123 in the negative with 10 absent, the motion did not prevail.

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

Representative ALIBERTI: Mr. Speaker, having voted on the prevailing side, I now move that the House reconsider its action whereby indefinite postponement failed.

A viva voce vote being taken, the motion did not prevail.

Representative Murphy of Berwick withdrew her motion for a roll call on passage to be enacted.

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

(Off Record Remarks)

On motion of Representative Allen of Washington, Adjourned until Thursday, April 9, 1987, at nine o'clock in the morning.