

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

***One Hundred and Twelfth
Legislature***

OF THE

STATE OF MAINE

Volume II

FIRST REGULAR SESSION

December 5, 1984 - June 20, 1985

INDEX

FIRST CONFIRMATION SESSION

August 29, 1985

INDEX

SECOND CONFIRMATION SESSION

October 11, 1985

INDEX

FIRST SPECIAL SESSION

November 13, 1985

INDEX

PAPERS FROM THE HOUSE**Non-concurrent Matter**

Bill "An Act to Implement Recognition Grants for Teachers, Establish a Minimum Salary for Teachers and Provide Money for School Administrative Units to Operate Preschool Programs for Handicapped Children" (H.P. 1088) (L.D. 1581)

In House May 24, 1985, referred to the Committee on **EDUCATION** and **ORDERED PRINTED**.

In Senate May 28, 1985, **PASSED TO BE ENGROSSED**, without Reference to a Committee, in **NON-CONCURRENCE**.

Comes from the House that Body **ADHERED**.

The Senate **RECEDED** and **CONCURRED**.

Non-concurrent Matter

Bill "An Act to Implement Teacher Recognition Grants, Establish a Summer Grants Program for Teachers and Establish a Minimum Salary for 1986-87" (H.P. 1089) (L.D. 1582)

In House May 24, 1985, referred to the Committee on **EDUCATION** and **ORDERED PRINTED**.

In Senate May 28, 1985, **PASSED TO BE ENGROSSED**, without Reference to a Committee, in **NON-CONCURRENCE**.

Comes from the House that Body **ADHERED**.

The Senate **RECEDED** and **CONCURRED**.

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

PAPERS FROM THE HOUSE**Non-concurrent Matter**

Resolve. Creating a Joint Select Committee on Economic Development. (Emergency) (H.P. 74) (L.D. 95) (S. "A" S-277 to C. "A" H-344)

In Senate June 12, 1985, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE "A" (H-344) AS AMENDED BY SENATE AMENDMENT "A" (S-277)**, thereto in **NON-CONCURRENCE**.

Comes from the House **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE "A" (H-344) AS AMENDED BY SENATE AMENDMENT "A" (S-277) AND HOUSE AMENDMENT "B" (H-412)**, thereto in **NON-CONCURRENCE**.

The Senate **RECEDED** and **CONCURRED**.

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

ENACTORS

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

Emergency

An Act Concerning Access to Medical Records by Prosecutors. (S.P. 566) (L.D. 1494) (C. "A" S-280)

In House June 14, 1985, **PASSED TO BE ENACTED**.

This being an Emergency Measure and having received the affirmative vote of 23 Members of the Senate, with No Senators having voted in the negative and 23 being less than two-thirds of the entire elected membership, **FAILS OF PASSAGE TO BE ENACTED**.

(See Action Later Today)

Senate At Ease

Senate called to Order by the President.

On motion by Senator **CLARK** of Cumberland, under suspension of the Rules, the Senate **RECONSIDERED** its action whereby it **FAILED TO ENACT**:

Emergency

An Act Concerning Access to Medical Records by Prosecutors. (S.P. 566) (L.D. 1494) (C. "A" S-280)

(In House June 14, 1985, **PASSED TO BE ENACTED**)

This being an Emergency Measure and having received the affirmative vote of 26

Members of the Senate, with No Senators having voted in the negative and 26 being more than two-thirds of the entire elected membership, was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

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

COMMITTEE REPORTS**House****Ought to Pass As Amended**

The Committee on **TAXATION** on Bill "An Act Relating to Taxation of Aircraft" (Emergency) (H.P. 671) (L.D. 954)

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-419)**.

Comes from the House, with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-419)**.

Which Report was **READ** and **ACCEPTED**, in concurrence.

The Bill **READ ONCE**.

Committee Amendment "A" (H-419) **READ** and **ACCEPTED**, in concurrence.

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

The Committee on **TRANSPORTATION** on Bill "An Act to Provide for Cost Sharing for Maintenance of Railroad Grade and Highway Bridge Crossings and the Allocation and Appropriation of Funds for Transportation Purposes" (H.P. 1138) (L.D. 1644)

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-418)**.

Comes from the House, with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-418)**.

Which Report was **READ** and **ACCEPTED**, in concurrence.

The Bill **READ ONCE**.

Committee Amendment "A" (H-418) **READ** and **ADOPTED**, in concurrence.

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

Senate At Ease

Senate called to Order by the President.

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

ENACTORS

The Committee on **Engrossed Bills** reported as truly and strictly engrossed the following: An Act Concerning Incarcerated Prisoners and the Employment Security Law. (H.P. 822) (L.D. 1163) (C. "A" H-403)

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

Senator **TUTTLE:** Mr. President and members of the Senate, I would move Indefinite Postponement of this Bill and all accompanying papers and would speak to my motion.

It came to my attention that there has been a recent decision on this issue that requires that this Bill no longer be before the Legislature. The original Bill, which is what the Committee worked on, has been totally changed by the recent House amendment that has been offered to the Bill.

Because the Chair of the Committee is not here I would also make a motion that this be tabled 1 Legislative Day pending the motion to Indefinitely Postpone so that he might have a chance to look at the Bill.

THE PRESIDENT: The Chair would advise the Senator that the tabling motion is not proper.

On motion by Senator **TUTTLE** of York, Bill

and Accompanying Papers were **INDEFINITELY POSTPONED**.

(See Action Later Today)

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

PAPERS FROM THE HOUSE**Non-concurrent Matter**

Bill "An Act to Require Parental Consent in the Case of Minors' Abortions" (H.P. 298) (L.D. 387)

In House June 13, 1985, Report **B OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "B" (H-409) READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "B" (H-409)**.

In Senate June 14, 1985, Report **A OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-408) READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-408) IN NON-CONCURRENCE**.

Comes from the House that Body **INSISTED**.

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

Senator **CARPENTER:** Mr. President and Ladies and Gentlemen of the Senate, (beginning of remarks inaudible) . . . and I think that you probably can see or can recall from the debate that we've already had in this Chamber as to what the process has been here, now we're faced with the motion from the other Body to Insist, that they have Insisted, which implies that there is some room for negotiation, so room for maneuvering.

Let me say as somebody who has always been on the other side and who the inclination was at the beginning of this whole process to be there and let me assure you that if there ever was a middle ground it is embodied in what this Chamber accepted a few minutes ago. It seems to me to be totally futile to go with an Insist motion and therefore, Mr. President, I would move that the Senate Adhere.

THE PRESIDENT: The Senator from Aroostook, Senator **CARPENTER**, moves that the Senate **ADHERED**.

The Chair recognizes the Senator from Oxford, Senator **Twitchell**.

Senator **TWITCHELL:** I move that we **RECEDE** and **CONCUR** with the House and I ask for a Roll Call.

THE PRESIDENT: The Senator from Oxford, Senator **TWITCHELL**, moves that the Senate **RECEDE** and **CONCUR**. A Roll Call has been requested. Under the Constitution, in order for the Chair to order a Roll Call it requires the affirmative vote of at least one-fifth of those Senators present and voting.

Will all those Senators in favor of ordering a Roll Call, please rise in their places and remain standing until counted.

Obviously more than one-fifth having arisen, a Roll Call is in order.

The Chair recognizes the Senator from Aroostook, Senator **Carpenter**.

Senator **CARPENTER:** Mr. President, this is such an important issue that I don't want anybody to be confused because of the procedure. I want to make sure that we're all up front so that if you agree with the position of myself, the position that this Body took about an hour ago you will be voting **NO** on the pending motion. If in fact you agree with the position of the other Body you will be voting yes on the pending motion to Recede and Concur.

Senator **CHALMERS** of Knox who would have voted **Nay** requested and received permission to pair her vote with Senator **DUTREMBLE** of York who would have voted **Yea**.

Senator **STOVER** of Sagadahoc who would have voted **Yea** requested and received permission to pair his vote with Senator **BALDACCI** of Penobscot who would have voted **Nay**.

Senator **McBREAIRTY** of Aroostook who

would have voted Yea requested and received permission to pair his vote with Senator **VIOLETTE** of Aroostook who would have voted Nay.

Senator **TWITCHELL** of Oxford who would have voted Yea requested and received permission to pair his vote with Senator **BROWN** of Washington who would have voted Nay.

Senator **WEBSTER** of Franklin who would have voted Yea requested and received permission to pair his vote with Senator **GAUVREAU** of Androscoggin who would have voted Nay.

Senator **PERKINS** of Hancock who would have voted Nay requested and received permission to pair his vote with Senator **HICHENS** of York who would have voted Yea.

Senator **SHUTE** of Waldo who would have voted Yea requested and received permission to pair his vote with Senator **TRAFTON** of Androscoggin who would have voted Nay.

THE PRESIDENT: The pending question before the Senate is the motion of the Senator from Oxford, Senator **TWITCHELL**, that the Senate **RECEDE** and **CONCUR**. A Roll Call has been ordered.

A Yes vote will be in favor of the motion of the Senator from Oxford, Senator **TWITCHELL**, to **RECEDE** and **CONCUR**.

A No vote will be opposed.

The Doorkeepers will secure the Chamber. The Secretary will call the Roll.

ROLL CALL

YEAS:—Senators, Berube, Diamond, Erwin, Matthews, Pearson, Tuttle

NAYS:—Senators, Andrews, Black, Bustin, Carpenter, Clark, Danton, Dow, Emerson, Gill, Kany, Maybury, Najarian, Sewall, Usher, The President—Charles P. Pray

ABSENT:—Senators None

6 Senators being voted in the affirmative and 15 Senators having voted in the negative, with 14 Senators Pairing their votes and No Senators being absent, the motion of the Senator from Oxford, Senator **TWITCHELL**, to **RECEDE** and **CONCUR**, **FAILS**.

On motion by Senator **CARPENTER** of Aroostook, the Senate **ADHERED**.

Sent down for concurrence.

Senator **WEBSTER** of Franklin moved that the Senate **RECONSIDER** its action whereby it **INDEFINITELY POSTPONED**:

An Act Concerning Incarcerated Prisoners and the Employment Security Law. (H.P. 822) (L.D. 1163) (C. "A" H-403)

(In House June 14, 1985, **PASSED TO BE ENACTED**.)

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

Senator **MATTHEWS:** Mr. President, I don't seem to have the supplement on my desk. Could someone explain the Bill please.

THE PRESIDENT: The Senator from Kennebec, Senator Matthews, has posed a question through the Chair to any Senator who may respond if they so desire.

The Chair recognizes the Senator from Franklin, Senator Webster.

Senator **WEBSTER:** Mr. President and Ladies and Gentlemen of the Senate. A few minutes ago we voted to Indefinitely Postpone a motion made by Senator Tuttle from York, a measure which in my opinion was a reasonable piece of legislation. As a matter of fact, at one time I had even considered cosponsoring it except that Senator Dutremble who is not here at this moment, was a sponsor of, so I felt that in his wisdom being the Chairman of Labor, that I would let him sponsor it rather than myself.

Let me just read to you what the Bill does as amended. It says, I'll read the Statement of Fact: "This amendment disqualifies an unemployment claimant if he is discharged from work because he has been convicted of a criminal offense and subsequently incarcerated causing him to miss at least two days of work." This Bill is a result of an in-

dividual who was thrown in jail for committing a crime and the unemployment board ruled that he was eligible for unemployment because he couldn't work. I mean, that's crazy! It is the most ludicrous proposal I've ever heard of. This is a reasonable proposal and I think we made a mistake when we Indefinitely Postponed it and I would ask you to Reconsider so we could pass this Bill into law.

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

Senator **TUTTLE:** Mr. President and Members of the Senate. The initial Bill which is what Senator Webster read and the amendment that was adopted really drastically changed the bill.

I think the proper motion before us now might be to table this 1 Legislative Day so that the Senator from York, Senator Dutremble, might look at the bill. That was my original motion when I did make the motion to Indefinitely Postpone it.

It is my understanding that there is at present a court decision pertaining to this issue making this Bill no longer necessary. It is because of that that I made the motion and I would, if the Senator would withdraw his motion then I would make the motion to table for 1 Legislative Day.

Off Record Remarks

Senate At Ease

Senate called to Order by the President.

On motion by Senator **CLARK** of Cumberland, Tabled until Later in Today's Session, pending the motion of Senator **WEBSTER** of Franklin to **RECONSIDER** whereby the Bill and Accompanying Papers were **INDEFINITELY POSTPONED**.

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

COMMUNICATIONS

The Following Communication:

STATE OF MAINE HOUSE OF REPRESENTATIVES AUGUSTA 04333

June 14, 1985

Honorable Joy J. O'Brien
Secretary of the Senate
112th Legislature
Augusta, Maine 04333
Dear Madam Secretary:

The Speaker appointed the following conferees to the Committee of Conference on the disagreeing action of the two branches of the Legislature on Bill "An Act to Prohibit Consumption of Alcoholic Beverages within 15 Feet of a Public Way" (H.P. 529) (L.D. 749):

Representative ALLEN of Washington
Representative MANNING of Portland
Representative LEBOWITZ of Bangor

Sincerely,
S/ EDWIN H. PERT
Clerk of the House

Which was **READ** and **ORDERED PLACED ON FILE**.

The Following Communication: STATE OF MAINE HOUSE OF REPRESENTATIVES AUGUSTA 04333

June 14, 1985

Honorable Joy J. O'Brien
Secretary of the Senate
112th Legislature
Augusta, Maine 04333
Dear Madam Secretary:

The Speaker appointed the following conferees to the Committee of Conference on the disagreeing action of the two branches of the Legislature on Bill "An Act Concerning Nomination Petitions for Unenrolled Candidates" (H.P. 1063) (L.D. 1542):

Representative DUFFY of Bangor
Representative SWAZEY of Bucksport

Representative CAHILL of Woolwich

Sincerely,
S/ EDWIN H. PERT
Clerk of the House

Which was **READ** and **ORDERED PLACED ON FILE**.

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

COMMITTEE REPORTS

House Ought to Pass

The Committee on **BUSINESS AND COMMERCE** on Bill "An Act Relating to Shares of Stock of Asti-Kim Corporation" (Emergency) (H.P. 1144) (L.D. 1651)

Reported that the same **Ought to Pass**. Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED**.

Which Report was **READ** and **ACCEPTED**, in concurrence.

The Bill **READ ONCE**.

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

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

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

PAPERS FROM THE HOUSE

Joint Order

The following Joint Order: (H.P. 1146)
ORDERED, the Senate concurring, that Bill "AN ACT to Establish a Maine-New Hampshire Boundary Commission" (H.P. 1049) (L.D. 1525), be recalled from the Governor's desk to the House.

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

ENACTORS

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

An Act to Amend the Maine Certificate of Need Act to Clarify the Provision to Mutually Extend the Review Period for Certificate of Need Review and to Make the Reconsideration Hearing Optional and Establish a Time Limit for Decisions After a Reconsideration Hearing. (S.P. 214) (L.D. 572) (C. "A" S-270)

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

ORDERS OF THE DAY

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

An Act to Amend the Maine Certificate of Need Act to Correct Inconsistencies Related to Other Statutory Provisions and to Ensure Cost-effective Development of Services Requiring Acquisition of Major Medical Equipment. (S.P. 461) (L.D. 1264) (C. "A" S-274)

Tabled—June 14, 1985, by Senator **VIOLETTE** of Aroostook.

Pending—**PASSAGE TO BE ENACTED**. (In House June 14, 1985, **PASSED TO BE ENACTED**.)

(In Senate June 10, 1985, **PASSED TO BE ENGROSSED AS AMENDED**.)

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 **PEARSON** 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: