

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

One Hundred And Sixteenth Legislature

OF THE

State Of Maine

VOLUME IV

FIRST REGULAR SESSION

Senate

May 19, 1993 to July 14, 1993

FIRST CONFIRMATION SESSION

October 14, 1993

STATE OF MAINE
ONE HUNDRED AND SIXTEENTH LEGISLATURE
FIRST REGULAR SESSION
JOURNAL OF THE SENATE

In Senate Chamber
Tuesday
June 29, 1993

Senate called to Order by the President, Dennis L. Dutremble of York.

Prayer by the Honorable Beverly Miner Bustin of Kennebec.

SENATOR BEVERLY MINER BUSTIN: Let us pray. God we are thankful for every quiet voice that raises itself against the opposition of the majority, not in stormy protest, but simply and quietly, saying the thing it believes, doing the thing it knows to be right. We are thankful for these voices. Give us the grace that in our day we may be, each in our own way, a still small voice of delight. Amen.

Reading of the Journal of Wednesday, June 23, 1993.

SENATE PAPERS

Bill "An Act to Clarify Tax on Intangible Income" (Emergency)

S.P. 540 L.D. 1562

Presented by Senator **SUMMERS** of Cumberland (GOVERNOR'S BILL)
Cosponsored by Senator: **BALDACCI** of Penobscot, Representatives: **SPEAR** of Nobleboro, **TARDY** of Palmyra

Committee on **TAXATION** suggested and **ORDERED PRINTED.**

On motion by Senator **BUSTIN** of Kennebec, Tabled until Later in Today's Session, pending **REFERENCE.**

COMMITTEE REPORTS

Senate

Ought to Pass As Amended

Senator **CAREY** for the Committee on **TAXATION** on Bill "An Act to Provide for Excise Tax Reimbursement to Businesses Engaged in Renting of Private Passenger Motor Vehicles" S.P. 385 L.D. 1166

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-342).**

Which Report was **READ** and **ACCEPTED.**

The Bill **READ ONCE.**

Committee Amendment "A" (S-342) **READ** and **ADOPTED.**

Which was, under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED, As Amended.**

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

Off Record Remarks

On motion by Senator **CAHILL** of Sagadahoc, **RECESSED** until 7:15 this evening.

After Recess

Senate called to order by the President.

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

COMMITTEE REPORTS

Senate

Committee of Conference

The **Committee of Conference** on the disagreeing action between the two branches of the Legislature, on Bill "An Act to Implement the Recommendations of the Special Commission on Electoral Practices"

S.P. 478 L.D. 1477
(S "C" S-296; S "E" S-323; S "F" S-325 to C "A" S-276)

Have had the same under consideration and ask leave to report that:

The Senate **Recede** from **Passage to be Engrossed as Amended** By Committee Amendment "A" (S-276) as Amended by Senate Amendments "C" (S-296); "E" (S-323) and "F" (S-325) thereto. That the Senate **Recede** from **Adoption** of Committee Amendment "A" (S-276) as Amended. That the Senate **Read** House Amendment "B" (H-599) to Committee Amendment "A" (S-276) and **Indefinitely Postpone** the same. That the Senate **Read** House Amendment "C" (H-601) to Committee Amendment "A" (S-276) and **Indefinitely Postpone** the same. That the Senate **Read** House Amendment "D" (H-644) to Committee Amendment "A" (S-276) and **Indefinitely Postpone** the same. That the Senate **Read** House Amendment "E" (H-656) to Committee Amendment "A" (S-276) and **Indefinitely Postpone** the same. That the Senate **Read** House Amendment "F" (H-662) to Committee Amendment "A" (S-276) and **Indefinitely Postpone** the same. That the Senate **Read** House Amendment "H" (H-665) to Committee Amendment "A" (S-276) and **Indefinitely Postpone** the same. That the Senate **Recede** from **Adoption** of Senate Amendment "E" (S-323) to Committee Amendment "A" (S-276) and **Indefinitely Postpone** the same. That the Senate **Recede** from **Adoption** of Senate Amendment "A" (S-276) and **Indefinitely Postpone** the same. That the Senate **Recede** from **Adoption** of Senate Amendment "F" (S-325) to Committee Amendment "A" (S-276) and **Indefinitely Postpone** the same. That the Senate **Recede** from **Adoption** of Committee Amendment "A" (S-276) and **Indefinitely Postpone** the same. That the Senate **Read** and **Adopt** Conference Committee Amendment "A" (S-343) and **Pass the Bill to be Engrossed as Amended by Conference Committee Amendment "A" (S-343) in Non-Concurrence.**

That the House **Recede** and **Concur** with the Senate.

Signed on the part of the Senate:

Senator HANDY of Androscoggin
Senator LAWRENCE of York
Senator CARPENTER of York

Signed on the part of the House:

Representative GWADOSKY of Fairfield
Representative DAGGETT of Augusta
Representative STEVENS of Sabattus

Which Report was **READ** and **ACCEPTED**.

The Senate **RECEDED** from its action whereby the Bill was **PASSED TO BE ENGROSSED AS AMENDED**.

The Senate **RECEDED** from its action whereby it **ADOPTED** Committee Amendment "A" (S-276) As Amended by Senate Amendments "C" (S-296), "E" (S-323) and "F" (S-325) thereto.

House Amendment "B" (H-599) to Committee Amendment "A" (S-276) **READ** and **INDEFINITELY POSTPONED** in **NON-CONCURRENCE**.

House Amendment "C" (H-601) to Committee Amendment "A" (S-276) **READ** and **INDEFINITELY POSTPONED** in **NON-CONCURRENCE**.

House Amendment "D" (H-644) to Committee Amendment "A" (S-276) **READ** and **INDEFINITELY POSTPONED** in **NON-CONCURRENCE**.

House Amendment "E" (H-656) to Committee Amendment "A" (S-276) **READ** and **INDEFINITELY POSTPONED** in **NON-CONCURRENCE**.

House Amendment "F" (H-662) to Committee Amendment "A" (S-276) **READ** and **INDEFINITELY POSTPONED** in **NON-CONCURRENCE**.

House Amendment "H" (H-665) to Committee Amendment "A" (S-276) **READ** and **INDEFINITELY POSTPONED** in **NON-CONCURRENCE**.

The Senate **RECEDED** from its action whereby it **ADOPTED** Senate Amendment "C" (S-296) to Committee Amendment "A" (S-276).

Senate Amendment "C" (S-296) to Committee Amendment "A" (S-276) **INDEFINITELY POSTPONED**.

The Senate **RECEDED** from its action whereby it **ADOPTED** Senate Amendment "E" (S-323) to Committee Amendment "A" (S-276).

Senate Amendment "E" (S-323) to Committee Amendment "A" (S-276) **INDEFINITELY POSTPONED**.

The Senate **RECEDED** from its action whereby it **ADOPTED** Committee Amendment "F" (S-325) to Committee Amendment "A" (S-276).

Senate Amendment "F" (S-325) to Committee Amendment "A" (S-276) **INDEFINITELY POSTPONED** in **NON-CONCURRENCE**.

The Senate **RECEDED** from its action whereby it **ADOPTED** Committee Amendment "A" (S-276).

Committee Amendment "A" (S-276) **INDEFINITELY POSTPONED** in **NON-CONCURRENCE**.

Conference Committee Amendment "A" (S-343) **READ** and **ADOPTED**.

On motion by Senator HANLEY of Oxford, the Senate **RECONSIDERED** its action whereby it **ADOPTED** Conference Committee Amendment "A" (S-343).

THE PRESIDENT: The Chair recognizes the Senator from Oxford, Senator Hanley.

Senator HANLEY: Thank you Mr. President, Ladies and Gentlemen of the Senate. [Due to technical difficulties, all of Senator Hanley's remarks were not recorded.]

THE PRESIDENT: The Senator from Oxford, Senator Hanley has posed a question through the Chair to any Senator who may care to respond. The Chair recognizes the Senator from Androscoggin, Senator Handy.

Senator HANDY: Thank you Mr. President, Ladies and Gentlemen of the Senate. We have done a lot of work in coming to what I believe is truly a compromise on this legislation. There are many components to this legislation and I will try to hit upon the highlights and if the good Senator from Oxford, Senator Hanley, has questions specifically to any concern of his, I would be happy to try to address them. The Conference Committee met several times over the last week to discuss the amendments adopted and defeated in this body and the other body, and took, as its basis, the Committee Amendment from the Committee on Legal Affairs, and adopted, for the most part, those provisions in that Committee

Amendment. This body adopted an amendment that I presented dealing with the disenfranchisement, the loss of one's right to vote for up to three years, that was in the Committee Amendment. This body adopted that, the other body did not. That is essentially where the Conference Committee had a difference of opinion. In the spirit of compromise I adopted the suggestion, and I believe it was of the good Senator from York, Senator Lawrence, that we allow judicial discretion in this matter in that it is in the proposed amendment before you that the judge presiding over such a case of ballot tampering, as it is prescribed in this legislation, would have the judicial discretion to take one's right to vote away from them. I have some problems with that, as I said, in the spirit of compromise we retained that in the legislation.

This also retains the State Police part of this legislation whereby they take possession of contested ballots in the event of a recount. The Conference of Committee report also retains the classes of crimes as recommended by Secretary of State, G. William Diamond's Commission, as well as that that was included in the Committee on Legal Affairs recommendations to increase several classes of crimes from Class C to Class B crimes. That hits upon the highlights of the Committee of Conference Report. If there are specific questions I would be pleased to try and address them. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Oxford, Senator Hanley.

Senator **HANLEY:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I would like to thank the good Senator from Androscoggin, Senator Handy, for running through the highlights of what I believe is a very important piece of legislation for the people of the State of Maine. I do have a question though. One of the larger aspects of this amendment deals with the question of residency and what defines residency. I guess I would pose a few questions to the good Senator from Androscoggin or other members of the Conference Committee. In section 3 of the Bill, 1A sub 1, as far as the following factors that can be used to determine residency. I would like to know whether or not it is the intention of this Committee of Conference and the legislature to give pre-eminence to the first subsection, which is a direct statement of intention by that person, or whether or not we are to gain any insight as to the placement of that as a first factor, rather than using more objective criteria.

THE PRESIDENT: The Senator from Oxford, Senator Hanley, has posed a question through the Chair to any Senator who may care to respond. The Chair recognizes the Senator from York, Senator Lawrence.

Senator **LAWRENCE:** Thank you Mr. President, Ladies and Gentlemen of the Senate. To answer the question, no there is no design within the amendment to give priority to one factor or the other. They were all to be considered equal. Again, this was a compromise in the Committee, between the people who felt intent should be governed and people who felt that other factors should be governed. They all are treated equally. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Oxford, Senator Luther.

Senator **LUTHER:** Thank you Mr. President, Ladies and Gentlemen of the Senate. May I pose a question through the Chair? I want to know in what instance the Class B crime is going to begin. Thank you.

THE PRESIDENT: The Senator from Oxford, Senator Luther, has posed a question through the Chair to any Senator who may care to respond. The Chair recognizes the Senator from York, Senator Lawrence.

Senator **LAWRENCE:** Thank you Mr. President, Ladies and Gentlemen of the Senate. The answer is in the case of ballot tampering, similar to what occurred in the House. Thank you.

Senator **LUTHER** of Oxford requested a Division.

THE PRESIDENT: The pending question before the Senate is **ADOPTION** of Conference Committee Amendment "A" (S-343).

A Division has been requested.

Will all those in favor please rise in their places and remain standing until counted.

Will all those opposed please rise in their places and remain standing until counted.

25 Senators having voted in the affirmative and 5 Senators having voted in the negative, Conference Committee Amendment "A" (S-343), **ADOPTED**.

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

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

ORDERS OF THE DAY

Unfinished Business

The following matters in the consideration of which the Senate was engaged at the time of Adjournment, have preference in the Orders of the Day and continue with such preference until disposed of as provided by Senate Rule 29.

The Chair laid before the Senate the Tabled and Specially Assigned (6/18/93) matter:

Emergency Mandate

An Act Requiring Public Schools to Purchase Insurance through a Competitive Bidding Process
H.P. 1162 L.D. 1560

Tabled - June 15, 1993, by Senator **ESTY** of Cumberland.

Pending - **FURTHER CONSIDERATION**

(In House, June 9, 1993, **PASSED TO BE ENACTED**.)

(In Senate, June 14, 1993, **FAILED ENACTMENT in NON-CONCURRENCE**.)