

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

***One Hundred and Eleventh
Legislature***

OF THE

STATE OF MAINE

Volume I

FIRST REGULAR SESSION

December 1, 1982 to May 13, 1983

STATE OF MAINE
One Hundred and Eleventh Legislature
First Regular Session
JOURNAL OF THE SENATE
February 18, 1983
Senate called to order by the President.

Prayer by Father John Bellefontaine of Sacred Heart Catholic Church of Hallowell.

FATHER BELLEFONTAINE: O'God, Divine Ruler, in the order of Your universe, in the balance of nature, in the growth of a human person, we see Your goodness, Your wisdom, Your values, set down in law. May the efforts of our Senators, this year, reflect Your goodness, Your wisdom, Your values.

Give to them steadfast hearts that they may faithfully serve our people. Grant to them enduring hearts that they may meet the challenges, the heavy challenges of '83 with success.

Above all, O'Lord, endow them with upright hearts that they may seek justice, and not political expediency, as they conduct the affairs of our government. Under their leadership may our beloved State continue in prosperity and peace.

We ask these blessings, O'Lord, for our Senators with confidence and humility, through Your Divine Son, Jesus Christ, our Lord. Amen.

Reading of the Journal of yesterday.

**Papers from the House
House Papers**

BILL, "An Act to Clarify the Law Regarding Repayment of State Capitation Payment for Postgraduate Education in Medicine." (H. P. 594) (L. D. 738)

Reference to the Committee on Education suggested.

Comes from the House referred to the Committee on Appropriations and Financial Affairs and Ordered Printed.

Which was referred to the Committee on Appropriations and Financial Affairs and Ordered Printed in concurrence.

BILL, "An Act to Designate the Division of Eye Care as the Local Educational Agency under the Special Education Laws." (H. P. 595) (L. D. 739)

Comes from the House, referred to the Committee on Education and Ordered Printed.

Which was referred to the Committee on Education and Ordered Printed in concurrence.

BILL, "An Act Concerning the Agricultural Usage of Tannery Sludge." (H. P. 596) (L. D. 740)

Comes from the House, referred to the Committee on Energy and Natural Resources and Ordered Printed in concurrence.

Which was referred to the Committee on Energy and Natural Resources and Ordered Printed, in concurrence.

BILL, "An Act to Prohibit Smoking in Indoor Public Waiting Areas." (H. P. 597) (L. D. 741)

Comes from the House, referred to the Committee on Health and Institutional Services and Ordered Printed.

Which was referred to the Committee on Health and Institutional Services and Ordered Printed in concurrence.

BILL, "An Act to Amend the Termination of Parental Rights Act." (H. P. 591) (L. D. 735)

BILL, "An Act to Protect Employees from Reprisal who Report or Refuse to Commit Illegal Acts." (H. P. 592) (L. D. 736)

Come from the House, referred to the Committee on Judiciary and Ordered Printed in concurrence.

Which were referred to the Committee on Judiciary and Ordered Printed, in concurrence.

BILL, "An Act to Allow a Refund of Sales Tax on Depreciable Machinery and Equipment used in Aquaculture." (H. P. 593) (L. D. 737)

Come 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.

Communications

The following Communication:
State of Maine

**Department of the Attorney General
State House Station 6
Augusta, Maine 04333**

February 16, 1983

Joy J. O'Brien
Secretary of the Senate
State House Station #3
Augusta, Maine 04333
Dear Joy:

Enclosed please find a copy of a digest of all Opinions of the Attorney General which have been issued by my office for the period April 1, 1982 through December 31, 1982. As you may recall, the first installment of this service was issued in April of 1982, and covered all Opinions issued from January 1 through March 31. At that time, I indicated that it was my intention to provide further summaries on a quarterly basis. It appears, however, that the purposes of instituting this service would be equally well served by providing it on a semi-annual basis. Accordingly, I delayed issuing the enclosed summary until the end of 1982, with the intention of providing further summaries at the end of June and December for each succeeding year.

As I indicated at the time of the distribution of the first summary, if you or anyone else wishes to have a copy of any Opinion listed in the digest, you should write our Opinion Clerk, Elaine Chase, at the Office of the Attorney General, State House, Augusta, Maine 04333 or call her at 289-3661. You need only specify the Opinion number, and she will be happy to send you a copy.

I remain anxious to know of any way in which you think our office can further improve the distribution of this material. In any event, I hope that you find it helpful.

Sincerely,
S/JAMES S. TIERNEY
Attorney General

Which was Read and with accompanying papers, Ordered Placed On File.

The Following Communication:
**State of Maine
Senate Chamber
Augusta, Maine 04333**

February 17, 1983

The Honorable Gerard P. Conley
President of the Senate of Maine
State House
Augusta, Maine 04333
Dear President Conley:

In accordance with 3 M.R.S.A., Chapter 6, Section 151, and with Joint Rule 38 of the 111th Maine Legislature, the Joint Standing Committee on Legal Affairs has had under consideration the nomination of James V. Gibbons as a member of the Maine State Liquor Commission.

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

YEAS: Senators 3
Representatives 8

NAYS: 0

ABSENT: 2 (Rep. Dillenback of Cumberland; Rep. Dudley of Enfield)

Eleven members of the Committee having voted in the affirmative and none in the negative, it was the vote of the Committee that the nomination of James V. Gibbons as a member

of the Maine State Liquor Commission be confirmed.

Sincerely,
S/RICHARD R. CHARETTE,
Senate Chairman
S/HAROLD R. COX,
House Chairman

Which was Read.

Senate at Ease

The Senate called to order by the President.

On motion by Senator Pray of Penobscot, The Joint Standing Committee on Legal Affairs' Recommendation that the nomination of James V. Gibbons be confirmed, was Tabled until later in today's session, pending Consideration.

Senate Papers

BILL, "An Act to Require Oil Dealers to Adjust Contract Prices for Budget Customers when Cash Retail Prices are Reduced." (S. P. 269) (Presented by Senator MINKOWSKY of Androscoggin.) (Cosponsors: Senator HAYES of Penobscot, Representative MELENDY of Rockland and Representative CONNOLLY of Portland.)

Which was referred to the Committee on Business Legislation and Ordered Printed.
Sent down for concurrence.

BILL, "An Act to Enable School Districts to Develop and Administer an Orderly Procedure for Filling Vacancies and Laying Off Teachers." (S. P. 270) (Presented by Senator PRAY of Penobscot.)

Which was referred to the Committee on Education and Ordered Printed.
Sent down for concurrence.

BILL, "An Act to Abolish County Subsidies to the Superior Court System." (S. P. 271) (Presented by Senator COLLINS of Knox.)

Reference to the Committee on Judiciary suggested.

On motion by Senator Pray of Penobscot referred to the Committee on Appropriations and Financial Affairs and Ordered Printed.
Sent down for concurrence.

**Committee Reports
House**

Ought Not to Pass

The following Ought Not to Pass reports shall be placed in the legislative files without further action pursuant to Rule 15 of the Joint Rules:

BILL, "An Act to Permit Signs for Seasonal Lobster Pounds under the Maine Traveler Information Services' Law." (H. P. 34) (L. D. 39)

BILL, "An Act Concerning the Location of Directional Signs under the Maine Traveler Information Services' Law." (H. P. 50) (L. D. 55)

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:

BILL, "An Act to Clarify the Role of the Actuary in the Retirement System." (H. P. 286) (L. D. 345)

Change of Reference

The Committee on Business Legislation on BILL, "An Act Concerning Continuing Education for Physicians." (H. P. 470) (L. D. 570) Reported that the same be referred to the Committee on Health and Institutional Services.

Comes from the House with the Report Read and Accepted and the bill referred to the Committee on Health and Institutional Services.

Which Report was Read and Accepted in concurrence, and the bill referred to the Com-

mittee on Health and Institutional Services in concurrence.

Ought to Pass — As Amended

The Committee on Public Utilities on BILL, "An Act Relating to the Fuel Adjustment Clause of Natural Gas Utilities." (H. P. 46) (L. D. 51) Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-12).

Comes from the House, the Report Read and Accepted and the Bill Passed to be Engrossed as Amended by Committee Amendment "A" (H-12).

Which Report was Read and Accepted, in concurrence, and the Bill Read Once. Committee Amendment "A" was Read and Adopted, in concurrence. The Bill, as amended, Tomorrow Assigned for Second Reading.

Ought to Pass in New Draft

The Committee on Transportation on BILL, "An Act to Clarify the Determination of Axles on Motor Farm Trucks." (H. P. 85) (L. D. 94) Reported that the same Ought to Pass in New Draft under same title. (H. P. 620) (L. D. 746)

Comes from the House, the Report Read and Accepted and the Bill, in New Draft, Passed to be Engrossed.

Which Report was Read and Accepted in concurrence. The Bill, in New Draft Read Once and Tomorrow Assigned for Second Reading.

Ought to Pass in New Draft Under New Title

The Committee on Transportation on BILL, "An Act to Permit the Use of Illuminated Advertising Devices on Motor Vehicles." (H. P. 67) (L. D. 73) Reported that the same Ought to Pass in New Draft under New Title, BILL, "An Act to Permit the Use of Illuminated Signs on Motor Trucks, Semitrailers and Truck Tractors." (H. P. 621) (L. D. 747)

Comes from the House, the Report Read and Accepted and the Bill, in New Draft under New Title, Passed to be Engrossed.

Which Report was Read and Accepted in concurrence. The Bill, in New Draft, under New Title Read Once and Tomorrow Assigned for Second Reading.

The Committee on Education on BILL, "An Act to Penalize Administrative Units for Employing Noncertified Teachers." (Emergency) (H. P. 218) (L. D. 266) Reported that the same Ought to Pass in New Draft under New Title, BILL, "An Act to Apply Uniform Penalties for Local School Administrative Units that Employ Uncertified Personnel." (H. P. 644) (L. D. 772)

Comes from the House, the Report Read and Accepted and the Bill, in New Draft under New Title, Passed to be Engrossed.

Which Report was Read and Accepted in concurrence. The Bill, in New Draft under New Title Read Once and Tomorrow Assigned for Second Reading.

Divided Report

The Majority of the Committee on Labor on BILL, "An Act to Insure Prompt Answers to Petitions Filed by Employees." (H. P. 328) (L. D. 387)

Reported that the same Ought to Pass.

Signed:

Sensors:

HAYES of Penobscot
DUTREMBLE of York

Representatives:

NORTON of Biddeford
SWAZEY of Bucksport
TUTTLE of Sanford
BEAULIEU of Portland
GAUVREAU of Lewiston
TAMMARO of Baileyville

The Minority of the same committee on the same subject matter Reported that the same Ought Not to Pass.

Signed:

Sensor:

SEWALL of Lincoln
Representatives:

WILLEY of Hampden
LEWIS of Auburn
ZIRNKILTON of Mount Desert
BONNEY of Falmouth

Comes from the House with Majority Report Read and Accepted and the bill Passed to be Engrossed.

Which Reports were Read and the Majority Ought to Pass Report of the Committee Accepted, in concurrence. The Bill Read Once and Tomorrow Assigned for Second Reading.

Senate

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:

BILL, "An Act to Set Off Part of Township A, Range 7 W.E.L.S. and Township 1, Range 7 W.E.L.S. in the County of Penobscot, and Annex the Same to the Town of Millinocket." (S. P. 59) (L. D. 166)

Ought to Pass

Senator CHARETTE for the Committee on Business Legislation on BILL, "An Act to Clarify Provisions of the Maine Banking Act." (S. P. 136) (L. D. 428) Reported that the same Ought to Pass.

Which Report was Read and Accepted. The Bill Read Once, and Tomorrow Assigned for Second Reading

Ought to Pass — As Amended

Senator BUSTIN for the Committee on Health and Institutional Services on BILL, "An Act to Clarify the "Hearing Ear" Dog Law." (S. P. 43) (L. D. 101) Reported that the same Ought to Pass as Amended by Committee Amendment "A" (S-8).

Which Report was Read and Accepted. The Bill Read Once. Committee Amendment "A" (S-8) was Read and Adopted. The Bill, as amended, Tomorrow Assigned for Second Reading.

Ought to Pass in New Draft

Senator NAJARIAN for the Committee on Appropriations and Financial Affairs on BILL, "An Act Making Additional Appropriations from the General Fund for the Current Fiscal Year Ending June 30, 1983 and Changing Certain Provisions of the Law Necessary to the Proper Operations of State Government." (Emergency) (S. P. 101) (L. D. 233) Reported that the same Ought to Pass in New Draft under same title. (S. P. 265) (L. D. 774)

Which Report was Read.

The PRESIDENT: The Chair recognizes the Senator from Knox, Senator Collins.

Senator COLLINS: Mr. President, I pose a question through the Chair hopefully to be answered by a member of the Appropriations Committee.

I recall that in December we passed Orders to add to our legislative staff two attorneys who would advise the Democratic leadership.

I looked at the budget and noted that the legislative account had been increased by some \$350,000 and I did not find a breakdown with respect to compensating these attorneys. Is it true that these two new attorneys that advise the leadership are being paid at the rate of \$60,000 a year?

The PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Najarian.

Senator NAJARIAN: Mr. President, Men and Women of the Senate, the \$60,000 figure is incorrect, it is at the rate of \$15,000 per each legal counsel.

The PRESIDENT: The Chair recognizes the Senator from Knox, Senator Collins.

SENATOR COLLINS: Mr. President, may I further inquire whether the \$15,000 per lawyer rate is a half-time rate or a full-time rate? I am

rather interested in knowing the implications for my profession.

The PRESIDENT: The Senator from Knox, Senator Collins poses a question through the Chair to any member of the Appropriations Committee who would so wish to respond.

The Chair recognizes the Senator from Cumberland, Senator Najarian.

Senator NAJARIAN: Mr. President, Men and Women of the Senate we merely appropriated \$15,000 for the year, for each one, whether that is for a half year or full salary I do not know.

The Ought to Pass, in New Draft, Report of the Committee Accepted. The Bill, in New Draft, Read Once. Under Suspension of the Rules, the Bill Read a Second Time and Passed to be Engrossed.

Sent down for concurrence.

Second Readers

House

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

BILL, "An Act to Establish the Uniform Determination of Death Act." (H. P. 38) (L. D. 43)

BILL, "An Act to Amend the Banking Code Regarding Demand Deposit Powers of Thrift Institutions." (Emergency) (H. P. 294) (L. D. 353)

BILL, "An Act to Amend the Transit District Enabling Act." (H. P. 619) (L. D. 745)

Which were Read a Second Time, and Passed to be Engrossed in concurrence.

House — As Amended

BILL, "An Act Relating to the Limitations on Amounts for School Construction Projects or Minor Capital Outlay Projects." (H. P. 300) (L. D. 359)

Which was Read a Second Time and Passed to be Engrossed as Amended in concurrence.

Senate

BILL, "An Act Concerning Local Leeway Under the School Finance Law." (S. P. 264) (L. D. 773)

Which was Read a Second Time and Passed to be Engrossed.

Sent down for concurrence.

Enactors

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

An Act to Clarify the Time during which a Utility is Restricted from Filing a Rate Case under the Public Utility Law. (H. P. 183) (L. D. 212)

An Act to Provide for Identification on Denures. (H. P. 377) (L. D. 460)

An Act Relating to a Fund for Ferry Replacement at Frye Island. (S. P. 57) (L. D. 164)

An Act to Clarify the Authority of Municipal Officers to Charge Interest on Delinquent Sewer Accounts. (S. P. 95) (L. D. 226)

Which were Passed to be Enacted and having been signed by the President, was by the Secretary presented to the Governor for his approval.

The PRESIDENT: The Chair recognizes the Senator from Androscoggin, Senator Trafton.

Senator TRAFTON: Mr. President, is the Senate in possession of H.P. 437, L. D. 530?

The PRESIDENT: The Chair would respond in the affirmative.

L. D. 530, BILL, "An Act Providing for an Additional District Court Judge within the Judicial Division of Southern Androscoggin County." (H. P. 437) (L. D. 530) having been held at the request of the Senator.

The Chair recognizes the same Senator.

Senator TRAFTON: Mr. President, I now move that the Senate reconsider its action of February 17th, whereby this Bill was Passed to be Engrossed, in non-concurrence.

On motion by Senator Carpenter of Aroostook, Tabled for 1 Legislative Day, pending the motion by the Senator from Androscoggin, Sen-

ator Trafton.

(Off Record Remarks)

On motion by Senator Carpenter of Aroostook, Recessed until the sound of the bell.

Recess

After Recess

The Senate called to order by the President.

(Off Record Remarks)

Orders Of The Day

The PRESIDENT: The Chair would direct the Senate's attention to the Joint Standing Committee on Legal Affairs' Recommendation that the nomination of James V. Gibbons be confirmed, tabled earlier in the day, on motion by Senator Pray of Penobscot, pending Consideration.

The PRESIDENT: The pending question before the Senate is: Shall the recommendation of the Committee on Legal Affairs be overridden: In accordance with 3 M.R.S.A., Chapter 6, section 151 and with Joint Rule 38 of the 111th Legislature, the vote will be taken by the yeas and nays. A vote of Yes will be in favor of overriding the recommendation of the Committee. A vote of No will be in favor of sustaining the recommendation of the Committee.

Is the Senate ready for the question?

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

YEA—None.

NAY—Baldacci, Brown, Bustin, Carpenter, Charette, Clark, Collins, Danton, Diamond, Durtremble, Erwin, Gill, Hayes, Hichens, McBreairty, Minkowsky, Najarian, Pearson, Perkins, Pray, Redmond, Sewall, Shute, Teague, Trafton, Twitchell, Usher, Violette, Wood, The President—Gerard P. Conley.

ABSENT—Dow, Emerson, Kany.

No Senators having voted in the affirmative and 30 Senators in the negative, with 3 Senators being absent, and No being less than two-thirds of the membership present, it is the vote of the Senate that the Committee's recommendation be accepted. The Nomination of James V. Gibbons is confirmed.

The Secretary was directed to inform the Speaker of the House.

Out of Order and Under Suspension of the Rules, the Senate voted to consider the following:

Communication

The Following Communication:

State of Maine

House of Representatives

Augusta 04333

February 17, 1983

Honorable Joy J. O'Brien
Secretary of the Senate
111th Legislature
Augusta, Maine 04333
Dear Madam O'Brien:

The House voted today to Adhere to its former action whereby it Failed to Engross Bill "An Act to Permit Bowling Alleys to Sell Spirituous, Vinous and Malt Liquor" (H. P. 178) (L. D. 207)

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 voted to consider the following:

Paper From The House

Joint Order

The following Joint Order: (H. P. 654)

ORDERED, the Senate concurring that when the House and Senate adjourn, they adjourn to Tuesday, February 22, 1983, at nine o'clock in

the morning.

Comes from the House Read and Passed.

Which was Read and Passed, in concurrence.

The Adjournment Order having been Read and Passed, in concurrence, on motion by Senator Carpenter of Aroostook, Adjourned until Tuesday, February 22, 1983 at nine o'clock in the morning.