

# 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  
 Augusta, Maine  
 March 1, 1983  
 Senate called to order by the President.

Prayer by Mr. Paul Cates of the Friends Meeting House of East Vassalboro.

MR. CATES: Let us join together in prayer. Dear God, we ask Your blessing this day upon the work of the Maine State Senate. We have chosen the Members of this Body from among our most public spirited citizens; and yet, we recognize that even the best of us are subject to human frailty. And thus, we ask Your presence throughout this session, so that this Maine Senate and the House of Representatives, may achieve for the citizens of Maine the best that is humanly possible, and with Your help, even a little more.

We ask it on behalf of all the people of this great State of Maine. Amen.

Reading of the Journal of yesterday.

**Papers from the House  
 House Papers**

RESOLVE, Authorizing the Department of Educational and Cultural Services to Charge Indirect Costs of Administration to Non-General Fund Accounts and to Expend such Collections for Administrative Supports. (Submitted by the Department of Educational and Cultural Services pursuant to Joint Rule 24.) (H. P. 668) (L. D. 851)

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 Create the Maine Lemon Law." (H. P. 665) (L. D. 848)

BILL, "An Act to Strengthen the Enforcement of the Collection Agency Law." (Submitted by the Department of Business Regulations pursuant to Joint Rule 24.) (H. P. 666) (L. D. 849)

Come from the House, referred to the Committee on Business Legislation and Ordered Printed.

Which were referred to the Committee on Business Legislation and Ordered Printed in concurrence.

**(Off Record Remarks)**

BILL, "An Act Concerning Calvary Hill Christian School of Wilton, Maine." (H. P. 667) (L. D. 850)

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 to Include 3-wheeled Vehicles in the Law Governing Snowmobiles." (H. P. 669) (L. D. 852)

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

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

BILL, "An Act to Designate an Elvis Presley Day." (H. P. 670) (L. D. 853)

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

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

rence.

BILL, "An Act Concerning the Financial Responsibility of the County for Medical Expenses of Prisoners." (H. P. 671) (L. D. 854)

BILL, "An Act Concerning the Compensation of County Personnel Board Members." (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27.) (H. P. 672) (L. D. 855)

Comes from the House, referred to the Committee on Local and County Government and Ordered Printed.

Which were referred to the Committee on Local and County Government and Ordered Printed in concurrence.

BILL, "An Act to Enforce Closed Periods of Lobster Fishing." (H. P. 673) (L. D. 856)

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

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

BILL, "An Act to Provide for the Funding of Consumer Intervention Before the Public Utilities Commission." (H. P. 674) (L. D. 857)

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

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

BILL, "An Act to Provide for Simplified and Uniform Taxation of Watercraft." (H. P. 675) (L. D. 858)

BILL, "An Act Relating to the Adjustment to the Penalty for Withdrawal from Current Use Tax Laws." (H. P. 676) (L. D. 859)

BILL, "An Act to Clarify the Status of Disabled Persons under the Elderly Homeholders Tax and Rent Refund Act." (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27.) (H. P. 677) (L. D. 860)

BILL, "An Act to Provide for a Local Excise Tax on Watercraft." (H. P. 678) (L. D. 861)

RESOLUTION, Proposing an Amendment to the Constitution of Maine to Provide that the State may Enact Property Tax Exemptions not Subject to Fifty Percent Reimbursement so long as the Exempt Property is Subject to an Excise Tax and Municipalities Receive the Excise Tax Revenues. (H. P. 679) (L. D. 862)

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

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

**Senate Papers**

BILL, "An Act Appropriating Funds for Independent Living Services for the Disabled." (S. P. 316) (Presented by Senator GILL of Cumberland) (Cosponsors: Senator BUSTIN of Kennebec, Senator DIAMOND of Cumberland and Representative KELLEHER of Bangor)

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

Sent down for concurrence.

BILL, "An Act to Decrease Exemptions in Child Support and Alimony Cases." (S. P. 317) (Presented by Senator DOW of Kennebec)

Which was referred to the Committee on Judiciary and Ordered Printed.

Sent down for concurrence.

BILL, "An Act to Amend the Provisions for Telecommunication Services to the Hearing Impaired." (S. P. 318) (Presented by Senator GILL of Cumberland) (Cosponsors: Representative BRODEUR of Auburn, Representative CONNOLLY of Portland and Representative KELLEHER of Bangor)

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

**Order  
 Joint Order**

On motion by Senator KANY of Kennebec, the following Joint Order: (S. P. 319) (Cosponsor: Representative CONARY of Oakland)

WHEREAS, the Belgrade Lakes region is one of the most beautiful and popular recreation areas in the State; and

WHEREAS, in the heart of this region lies the Town of Oakland; and

WHEREAS, on March 1, 1883, the people of the Town of West Waterville adopted the new name of Oakland for their town at a special town meeting; and

WHEREAS, on March 9, 1883, the Maine House of Representatives approved the adoption of the name; and

WHEREAS, on the following day, March 10, 1883, the Maine Senate and the Governor similarly approved the new name for the town; and

WHEREAS, March 10, 1983, is the ONE HUNDRED ANNIVERSARY of the adoption of this new name of the Town of Oakland; now, therefore, be it

ORDERED, the House concurring, that we, the Members of the First Regular Session of the One Hundred and Eleventh Legislature now assembled, extend our heartiest congratulations and best wishes to the citizens of Oakland on the historical and memorable occasion of its centennial anniversary; and be it further

ORDERED, upon passage, that a copy of this Order duly attested and bearing the great seal of the State of Maine, be immediately transmitted to the citizens of Oakland in token of the sentiment expressed herein.

Which was Read and Passed.  
 Sent down for concurrence.

**Committee Reports  
 House  
 Leave to Withdraw**

The following Leave to Withdraw reports shall be placed in the legislative files without further action pursuant to Rule 15 of the Joint Rules:

BILL, "An Act to Change the Date of the Primary Election." (H. P. 459) (L. D. 561)

BILL, "An Act Concerning the Arrangement of Names on Primary and General Election Ballots." (H. P. 10) (L. D. 6)

BILL, "An Act Concerning the Sardine Tax." (H. P. 161) (L. D. 185)

BILL, "An Act to Prevent Combining More Than One Bond Issue Item in a Single Bond Issue Bill." (H. P. 508) (L. D. 606)

**Ought to Pass**

The Committee on Local and County Government on BILL, "An Act to Amend the Biannual Meetings Between County and Municipal Law Enforcement Officers." (H. P. 487) (L. D. 584) 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 and Tomorrow Assigned for Second Reading.

The Committee on Education on BILL, "An Act to Amend Special Education Statutes Related to Complaint Procedures." (H. P. 520) (L. D. 645) Reported that the same Ought to Pass.

Comes from the House, the Bill and accompanying papers Recommended to the Committee on Education.

Which Report was Read and Accepted and the Bill and Accompanying Papers were recommended to the Committee on Education in concurrence.

**Divided Report**

The Majority of the Committee on Health

and Institutional Services on BILL, "An Act to Require the Use of Generic Drugs in the Low-Cost Drug Program for the Elderly." (H. P. 157) (L. D. 182) Reported that the same Ought Not to Pass.

Signed:  
Senator:

GILL of Cumberland

Representatives:

BRODEUR of Auburn  
SEAVEY of Kennebunkport  
PINES of Limestone  
MAYBURY of Brewer  
RICHARD of Madison  
CARROLL of Gray  
NELSON of Portland  
WEBSTER of Farmington

The Minority of the Same Committee on the same subject matter Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-23).

Signed:  
Senators:

BUSTIN of Kennebec  
CARPENTER of Aroostook

Representatives:

MELENDY of Rockland  
MANNING of Portland

Come from the House, the Majority Report Read and Accepted.

Which Reports were Read.

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

Senator BUSTIN: I move that the Senate Accept the Minority Ought to Pass Report.

The PRESIDENT: The Senator from Kennebec, Senator Bustin, moves that the Senate Accept the Minority Ought to Pass Report of the Committee.

The Chair recognizes the Senator from Cumberland, Senator Gill.

Senator GILL: I would urge that the Senate Accept the Majority Ought Not to Pass Report. This Committee, the Health and Institutional Committee, heard no documented need for this particular vehicle.

The Department of Human Services has rules and regulations, in place, and I would like to quote from them. They require that generic drugs must be dispensed when their generic substitution box is not checked and those drugs are there Generically. The Department of Human Services will not pay a pharmacist for producing other than generic drugs when their generic equivalent is there, so there was no need.

The sponsor of the Bill has had some problems with a particular pharmacist, who refuses to carry generic drugs. That is a particular problem with that particular pharmacist.

We did bring the Department of Human Services in, the people who deal with the reimbursement situation with generic drugs, and there was no documented need at all for this. The rules and regulations take care of it effectively, and that's why that the Majority of the Committee signed the Report Ought Not to Pass.

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

Senator CARPENTER: Mr. President, Ladies and Gentlemen of the Senate, I would concur with some of what the good Senator from Cumberland, Senator Gill had to say. However, I don't think I could go along with the idea that this is just an isolated incident involving one of the sponsors of the Bill. I'm the cosponsor of the Bill, because I was concerned, became concerned, that there were situations where generics were not being dispensed in programs that the State was providing.

This Bill goes one step further, as Amended, it does not mandate that in all cases the generics be offered, because we recognize that pharmacists are professionals. We didn't want to tie their hands, so we backed away from that and the language in the Amendment, which is H-23, the language in there is essentially the

language that is now in the regulation.

I guess maybe, what we have here is a philosophical question of whether we are going to allow bureaucratic policy to dictate the way that the Generic Drug Program operates, or whether we're going to allow Legislative policy to do that.

It's our opinion that there are instances, they may not be widespread, there are instances where the intent of the Legislature is not being followed. This is going one step further in saying, okay, if the generic is available, if the same mode and type of delivery is available, then you should dispense the generic. I think there is a need, it may not be a large and overwhelming need, but I think that there is a need, and I hope that the Committee will Accept the pending motion. Thank you. The motion to Accept the Minority Ought to Pass Report.

The PRESIDENT: The Chair recognizes the Senator from Washington, Senator Brown.

Senator BROWN: Thank you, Mr. President. Ladies and Gentlemen of the Senate, I have some direct interest and concern over this particular piece of legislation and did a little bit of research with the local pharmacist in my own town. It was my understanding in talking with him that there was absolutely no need whatsoever for this particular piece of legislation, and furthermore, I think that even the Pharmaceutical Association has not supported the legislation, and that the Department already does, in fact, do all the things that this Bill is supposed to do. So, I would urge that you Accept the Majority Ought Not to Pass. Thank you, Mr. President.

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

Senator GILL: May I just add to the Senator's information that we did ask the Department people to come back—we asked them to do an audit of various drug stores as they licensed them, and if they found that there was some abuse to come back and we would be glad to have this legislation again in another Legislature. As of this point, there was no documentation and there was just absolutely no need, as we saw it, for the Bill.

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

Senator CARPENTER: Mr. President, Ladies and Gentlemen of the Senate, just to clarify two quick points. One, if there was absolutely no documentation, absolutely no showing of need, then why do we have this Department of Human Services running around the State, now investigating? That's my first point.

My second point is, in response to the good Senator from Washington, Senator Brown, it may be the strongest testimony yet as to the worthiness of this Bill, is the fact that the Pharmaceutical Association is opposed to it. Thank you.

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

Senator BUSTIN: I concur with Senator Carpenter, and I believe that Senator Brown's testimony is the best one in support of this Bill.

If the Department had been keeping track of things they would have been able,—the Bill would not have appeared before my committee. We worked out this solution with the Pharmaceutical Association, and they concur that this may be the best way. They would rather see it not in law. How many times have we heard that? Of course, nobody wants to see anything in law. That this will make everybody pay attention to what should be done and it does cost the State a lot less to have those generic drugs (passed over the counter), prescribed.

One of the reasons I feel that they aren't doing that is because they may have something going with a drug company; they don't want to handle the generic drug. They may not be able to get other drugs if they are not dealing with a particular company. So, it's better for them if they just handle one line. That doesn't help the

consumer and it doesn't help the State of Maine.

I urge passage of the Minority Ought to Pass Report.

The PRESIDENT: The Chair recognizes the Senator from Washington, Senator Brown.

Senator BROWN: Thank you, Mr. President. Ladies and Gentlemen, I stand corrected on the very important testimony that I gave awhile ago, in that the Pharmaceutical Association do not, rather they do, excuse me, they do support this Legislation. So, I suppose the strength of my earlier statements have completely been removed, and again, I, still, am convinced there is no need for this Legislation. Thank you, Mr. President.

The PRESIDENT: The pending question before the Senate is the motion by the Senator from Kennebec, Senator Bustin that the Senate Accepted the Minority Ought to Pass, as amended, Report of the Committee.

Will all those Senators in favor of Accepting the Minority Ought to Pass, as amended, Report of the Committee, please say "Yes."

Will all those Senators opposed, please say "No."

A Viva Voce Vote was had.

The Chair being in doubt ordered a Division.

Will all those Senators in favor of Accepting the Minority Ought to Pass, as Amended, Report of the Committee, please rise in their places to be counted.

Will all those Senators opposed, please rise in their places to be counted.

19 Senators having voted in the affirmative and 9 Senators having voted in the negative, the motion to Accept the Minority Ought to Pass Report, in non-concurrence, Prevailed.

The Bill Read Once.

Committee Amendment "A" (H-23) was Read and Adopted, in non-concurrence.

The Bill, as amended, Tomorrow Assigned for Second Reading.

#### Senate

##### Ought Not to Pass

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

BILL, "An Act to Require Wholesale Malt Liquor Prices to Remain in effect for 90 days." (S. P. 79) (L. D. 190)

##### Leave to Withdraw

The following Leave to Withdraw reports shall be placed in the legislative files without further action pursuant to Rule 15 of the Joint Rules:

BILL, "An Act to Increase the Supervised Loan Threshold and to Conform Maine Consumer Credit Laws to Federal Laws." (S. P. 77) (L. D. 188)

BILL, "An Act to Allow Evidence and Testimony from Vocational Experts." (S. P. 156) (L. D. 445)

BILL, "An Act to Provide Adequate Notice of Job Referrals in the Unemployment Insurance Program." (S. P. 158) (L. D. 447)

#### Second Readers House

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

BILL, "An Act to Clarify the Application of Ordinary Death Benefits to Participating Local Districts." (H. P. 371) (L. D. 454)

BILL, "An Act to Clarify the Law Relating to Employees of Local Districts Who may Withdraw from the Maine State Retirement System." (H. P. 372) (L. D. 455)

BILL, "An Act to Ratify Dedication of Fort Sumner Park in the City of Portland." (H. P. 274) (L. D. 334)

BILL, "An Act to Prohibit Possession of Lobsters by Scallop Boats." (H. P. 276) (L. D. 336)

BILL, "An Act Relating to Ownership of Stock in Maine Financial Institutions." (H. P. 682) (L. D. 838)

BILL, "An Act to Amend the Banking Code Regarding Loans to Directors of Financial Institutions." (H. P. 683) (L. D. 839)

BILL, "An Act to Require Printed or Type-written Names to Accompany Signatures on Documents Filed in the Registry of Deeds." (H. P. 692) (L. D. 863)

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

#### House — As Amended

BILL, "An Act Regarding Premium Discounts for Workers' Compensation Insurance of Small Businesses." (H. P. 110) (L. D. 117)

BILL, "An Act to Amend the Banking Code Regarding Minimum Amount Entitled to Interest." (H. P. 155) (L. D. 180)

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

#### Senate

BILL, "An Act to Require Training for Certain Part-time Law Enforcement Officers." (S. P. 295) (L. D. 881)

Which was Read a Second Time.

The PRESIDENT: The Chair recognizes the Senator from York, Senator Danton.

Senator DANTON: Mr. President, I offer Senate Amendment "A" to L. D. 881 and move its Adoption.

The PRESIDENT: The Senator from York, Senator Danton offers Senate Amendment "A" (S-12) to L. D. 881 and moves its Adoption.

Senate Amendment "A" (S-12) was Read and Adopted.

The Bill, as Amended, Passed to be Engrossed.

Sent down for concurrence.

#### Senate — As Amended

BILL, "An Act to Amend the Banking Code Regarding the Trust Powers of Thrift Institutions." (S. P. 105) (L. D. 237)

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

Sent down for concurrence.

#### Enactors

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

An Act to Eliminate the Requirement that Persons Over 75 Years of Age Take Periodic Driving Tests. (H. P. 19) (L. D. 15)

An Act for the Repeal of Obsolete Provisions of the Retirement Allowance Adjustment Fund. (H. P. 287) (L. D. 346)

An Act to Amend the Provision Relating to the Notification of Participating Districts about Changes in Statutes. (H. P. 289) (L. D. 348)

An Act to Clarify Provisions of the Maine Banking Act. (S. P. 136) (L. D. 428)

An Act to Clarify the "Hearing Ear" Dog Law. (S. P. 43) (L. D. 101)

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

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

On motion by Senator Najarian of Cumberland, placed on the Special Appropriations Table, pending Enactment.

#### Emergency

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. (S. P. 265) (L. D. 774)

Coming from the House, Failing of Passage to be Enacted.

This being an emergency measure and having received the affirmative votes of 30 Members of the Senate, with No Senators having voted in the negative, was Passed to be

Enacted, and was signed by the President.

The PRESIDENT: Is it now the pleasure of the Senate that under Suspension of the Rules that this Bill be sent forthwith to the other body?

The Chair recognizes the Senator from Knox, Senator Collins.

Senator COLLINS: I object, to Suspension of the Rules.

The PRESIDENT: The Chair hears objection.

The Chair recognizes the Senator from Penobscot, Senator Pray.

Senator PRAY: I move the Rules be Suspended.

The PRESIDENT: The Senator from Penobscot, Senator Pray now moves that the Rules be Suspended.

The Chair recognizes the Senator from Knox, Senator Collins.

Senator COLLINS: I would request a Division.

The PRESIDENT: A Division has been requested.

Will all those Senators in favor of Suspending the Rules, please rise in their places to be counted.

Will all those Senators opposed, please rise in their places to be counted.

22 Senators having voted in the affirmative, and 6 Senators having voted in the negative the Rules are Suspended.

The PRESIDENT: The Chair recognizes the Senator from Penobscot, Senator Pray.

Senator PRAY: I move that L. D. 774 be sent forthwith to the House.

The PRESIDENT: The Senator from Penobscot, Senator Pray moves that S. P. 265, L. D. 774 be sent forthwith to the House.

The Chair recognizes the Senator from Knox, Senator Collins.

Senator COLLINS: I request a Division.

The PRESIDENT: A Division has been requested.

Will all those Senators in favor of L. D. 774 being sent forthwith to the House, please rise in their places to be counted.

Will all those Senators opposed, please rise in their places to be counted.

23 Senators having voted in the affirmative and 6 Senators in the negative, L. D. 774 was sent forthwith to the House.

The PRESIDENT: The Chair recognizes the Senator from Penobscot, Senator Pray.

Senator PRAY: A Parliamentary Inquiry? I note on the calendar that there are two Item 86's so I refer to the later which was L. D. 774, would the Secretary share with my short memory the vote on the Emergency Eactor, of that proposal? L. D. 774, what the actual vote was?

The Secretary reported the vote as 29 Senators having voted in the affirmative, and No Senators in the negative.

The PRESIDENT: The Chair was in error it was 29 instead of 30.

#### Orders of the Day

The President laid before the Senate the Tabled and specially assigned matter:

BILL, "An Act to Undedicate Funds Received from Public Reserved Lands." (S. P. 297)

Tabled—February 28, 1983 by Senator PRAY of Penobscot

Pending—Reference

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

Sent down for concurrence.

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. 720)

##### Joint Resolution in Honor Of Ernest C. Marriner,

#### Dean Emeritus of Colby College

WHEREAS, in the death of Ernest C. Marriner, Dean Emeritus of Colby College, on February 7, 1983, at Waterville, the people of Maine have lost a distinguished scholar, educator, public servant and respected citizen; and

WHEREAS, the dedicated services which Dean Marriner rendered to Colby College, to its officers, faculty and students; to the many historical and civic organizations and activities in which he actively participated, encouraged and supported; to the public with which he shared his great wealth of information on Maine life and institutions through his many publications and broadcasts; and to the State Board of Education and the Archives Advisory Board, were unfailingly characterized by his gracious manner, his humanity, his exceptional intellect and his strong personality; and

WHEREAS, his perspective, courage and insight into the needs and aspirations of the people and institutions of Maine will be greatly missed by those who were privileged to know him; now, therefore, be it

RESOLVED: That We, the members of the 111th Legislature, pause in our deliberations to acknowledge and recognize the lasting contributions which Dean Marriner has made to his native State; and express the deep affection and respect which we as representatives of the people of Maine share with the citizens of Maine for his memory; and be it further

RESOLVED: That an engrossed copy of this resolution be immediately transmitted to his bereaved family in testimony of the sympathy and compassion which we share with them in their loss.

Comes from the House Read and Adopted.

Which was Read and Adopted, in concurrence.

#### (Off Record Remarks)

Senator Carpenter of Aroostook was granted unanimous consent to address the Senate, Off the Record.

On motion by Senator Carpenter of Aroostook, Adjourned until 9 o'clock tomorrow morning.