

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
April 11, 1983
Senate called to order by the President.

Prayer by Pastor Karen Jordan of the Winthrop Center Friends' Church of Winthrop.

PASTOR JORDAN: Let us begin our prayer with a brief moment of silence. (Silence) Loving and ever present God we pause in Your presence this morning, to thank You for the opportunities we will have today to serve our State, and to ask Your guidance as we begin our work.

Create in each of us a spirit of patience, and perseverance and good will. Give us not only the courage to speak out but also the wisdom to listen to each other and to respond with understanding, so that by talking and working together we may all come closer to the truth.

When we fail to put forth our best efforts forgive us. And when the demands of our service here press upon us, help us to be still, to return to that inter-source of strength and purpose which You have given to us, and then to return to our work with renewed commitment.

We ask that You keep us always mindful of You and of our common goals, and of the people whom we serve. We pray in Your name. Amen.

Reading of the Journal of Friday, April 8, 1983.

**Papers from the House
Non-concurrent Matter**

BILL, "An Act to Require Hospitals to Provide Itemized Bills upon Request" (S. P. 460) (L. D. 1391)

In Senate April 5, 1983 Passed to be Engrossed.

Comes from the House Passed to be Engrossed as Amended by House Amendment "A" (H-120) in non-concurrence.

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

Senator CARPENTER: I move that the Senate Recede and Concur.

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

Senator MINKOWSKY: Mr. President, Members of the Senate, prior to the motion to Recede and Concur with the House, I received some telephone calls on this Bill this past weekend, and I wish that somebody from the Committee on Health and Institutional Services would be a little more specific other than what is in the amendment itself as to what is the necessity to itemize nurses costs in the hospital bills? Also, the second thing if it is this important why wait until July 1, 1985 to implement it?

The question that came up over the weekend was with some people that I spoke to and these were not people, I never received calls from hospitals at all, I want to make that point very clear this morning, on the floor or the Senate.

It has been customary for the hospitals to lump together all of the costs of the patients. I assume that the nurses, professional as they may be, are part of the hospital staff and it just behooves me to wonder why there is such a drive on the part of the Maine Nurses Association to segregate the cost of nursing from the entire bill, since most of the costs are paid by third party or insurance companies? What would they hope to accomplish by this piece of Legislation?

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

Senator BUSTIN: Mr. President and Members of the Senate, I would be glad to answer the good Senator from Androscoggin, Senator

Minkowsky.

The reason that it is so important to nurses is that nursing care is the primary business of the hospital. If patients didn't require nursing care, hospitals would not exist.

Nurses are the major provider of nursing care, yet a charge for nursing service doesn't currently appear on a hospital bill. Nursing presently comes under a broad category of room and board, along with mops, dustpans and food.

Consumers who utilize the same room pay the same price for nursing care regardless of the amount of nursing care he or she receives. All other hospital services and products are identified on the hospital bill, regarding physicians, physical therapy, radiology, anesthesiologist, treatments, drugs and pills. Is nursing no less important?

If hospitals are to contain costs, make decisions regarding budgets and quality assurance it is essential that nursing costs are separate and distance from room and board charges.

This amendment gives hospitals two years to make alterations in accounting procedures to include nursing services. The reason that we are waiting until 1985 is to give them that chance, however, that is just a concession to the hospitals because I firmly believe that they could do it now with little or no additional costs.

I know that you are going to hear that it is going to cost them an amazing amount of money. The fact of the matter is that the columnist that everyone in this room, I think knows, Bill Caldwell, was able to call Miles Memorial Hospital, the Damariscotta Hospital and the Maine Medical Center and get his nursing charges almost immediately broken out, so that he could tell what kind of nursing care he had had. Thank you.

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

Senator MINKOWSKY: When I was on Health and Institutional Service, the Committee on Audit and Program Review, there was a discussion of how many licensed nurses we had in the State of Maine. I made the comment this morning that I thought that there were sixteen thousand, I was corrected to say that there were twelve thousand nurses in the State of Maine, of which twelve hundred belong to the Maine Nurses Association.

I asked, also, if all twelve hundred that belonged to the association were in concurrence with this piece of Legislation? That answer was not really clarified except to say that the Board of Directors of the Maine Nurses Association was in concurrence. I often wonder, exactly, is this truly representative of the Maine Nurses Association, or the twelve thousand licensed nurses in the State of Maine?

It appears to me that there is something more behind this than what meets the eye at the present time, and certainly, I would make the motion to Table for 1 Legislative Day.

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

Senator BUSTIN: I request a Division.
The PRESIDENT: The Chair recognizes the Senator from Androscoggin, Senator Minkowsky.

Senator MINKOWSKY: Mr. President, I debated the Tabling motion so it is out of order.

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

Senator BROWN: I request that this be Tabled 1 Legislative Day.

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

Senator CARPENTER: I request a Division.
The PRESIDENT: A Division has been requested.

Will all those Senators in favor of the motion by the Senator from Washington, Senator Brown, to Table for 1 Legislative Day, please rise in their places to be counted.

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

7 Senators having voted in the affirmative, and 22 Senators having voted in the negative, the motion to Table L. D. 1391, Failed.

On motion by Senator Carpenter of Aroostook, the Senate voted to Recede and Concur with the House.

**Committee Reports
House**

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 Relating to Visitation Rights for Grandparents" (H. P. 143) (L. D. 151)

BILL, "An Act Concerning Visitation Rights for Grandparents of Children Involved in Divorce or Custody Proceedings" (H. P. 176) (L. D. 205)

BILL, "An Act Concerning Grandparents' Visitation Rights" (H. P. 999) (L. D. 1307)

BILL, "An Act to Prevent Contamination of Milk Through the Use of Formaldehyde" (H. P. 290) (L. D. 349)

BILL, "An Act to Require the Inspection of Hospital Pharmacies Prior to Licensure" (H. P. 505) (L. D. 603)

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

Ought to Pass

The Committee on Judiciary on BILL, "An Act to Promote Early Permanency for Children Subject to a Protection Order" (H. P. 892) (L. D. 1157) 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 Judiciary on BILL, "An Act to Improve the Child and Family Services and Child Protection Act" (H. P. 891) (L. D. 1156) 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 Judiciary on BILL, "An Act to Establish Clearer Guidelines for Guardians Ad Litem Appointed under the Child and Family Services and Child Protection Act" (H. P. 889) (L. D. 1154) 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 Business Legislation on BILL, "An Act to Amend the Waiting Period After Promulgation of a Rule by the Bureau of Banking" (H. P. 814) (L. D. 1054) 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.

Ought to Pass — As Amended

The Committee on Judiciary on BILL, "An Act Regarding the Motor Vehicle Offenses of Eluding a Police Officer and Passing a Roadblock" (H. P. 688) (L. D. 868) Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-121).

Comes from the House the Report Read and Accepted and the Bill Passed to be Engrossed as Amended by Committee Amendment "A" (H-121).

Which Report was Read and Accepted in concurrence. The Bill Read Once. Committee Amendment "A" (H-121) was Read and Adopted, in concurrence. The Bill as Amended Tomorrow Assigned for Second Reading.

Ought to Pass in New Draft

The Committee on Labor on BILL, "An Act to Protect Unemployed Workers from the Loss of Unemployment Benefits without the Opportunity for a Fair Hearing" (H. P. 411) (L. D. 494) Reported that the same Ought to Pass in New Draft under same title (H. P. 1089) (L. D. 1416).

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

Which Report was Read and Accepted in concurrence.

Under Suspension of Joint Rule 15, 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 Education on BILL, "An Act Concerning the Hiring of "Clerks-of-the-works" for School Construction Projects" (H. P. 727) (L. D. 936) Reported that the same Ought to Pass in New Draft under New Title, BILL, "An Act Concerning the Hiring of "Clerks-of-the-works" for the Inspection of Public Improvements" (H. P. 1090) (L. D. 1417).

Comes from the House with the Report Read and Accepted and the New Draft Passed to be Engrossed.

Which Report was Read and Accepted in concurrence.

Under Suspension of Joint Rule 15, the Bill, in New Draft under New Title, Read Once and Tomorrow Assigned for Second Reading.

Divided Report

The Majority of the Committee on Fisheries and Wildlife on BILL, "An Act Concerning Registration of Deer in Unorganized Territories" (H. P. 265) (L. D. 325) Reported that the same Ought to Pass in New Draft (H. P. 1074) (L. D. 1406).

Signed:

Senators:

REDMOND of Somerset
DOW of Kennebec
USHER of Cumberland

Representatives:

CONNERS of Franklin
JACQUES of Waterville
GREENLAW of Standish
ERWIN of Rumford
MacEACHERN of Lincoln
CLARK of Millinocket
SMITH of Island Falls
PAUL of Sanford
RODERICK of Oxford

The Minority of the same Committee on the same subject matter.

Reported that the same Ought Not to Pass.

Signed:

Representative:

KELLY of Camden

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

Which Reports were Read and the Majority Ought to Pass, in New Draft, Report of the Committee was Accepted, in concurrence.

Under Suspension of Joint Rule 15, the Bill, in New Draft, Read Once and Tomorrow Assigned for Second Reading.

Senate

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 Concerning the Admissibility of Evidence under the Exclusionary Rule" (S. P. 150) (L. D. 441)

BILL, "An Act Relating to Accounting Procedures for the Early and Periodic, Screening, Diagnosis and Treatment Programs" (S. P. 212) (L. D. 633)

RESOLUTION, Proposing an Amendment to the Constitution of Maine to Permit Municipalities to Exempt Watercraft from Property Taxation. (S. P. 282) (L. D. 847)

Ought to Pass

Senator CLARK for the Committee on Business Legislation on BILL, "An Act to Increase Licensing Fees of Agencies within the Department of Business Regulation" (S. P. 355) (L. D. 1076) 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 TRAFTON for the Committee on Judiciary on BILL, "An Act to Provide Necessary Statutory Changes as a Result of Certain Laws Relating to Juries" (S. P. 148) (L. D. 439) Reported that the same Ought to Pass as Amended by Committee Amendment "A" (S-52).

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

Senator BUSTIN for the Committee on Health and Institutional Services on BILL, "An Act to Improve the Identification of Persons Prescribing Medicines on Hospital Prescription Blanks" (S. P. 307) (L. D. 921) Reported that the same Ought to Pass as Amended by Committee Amendment "A" (S-54).

Which Report was Read and Accepted. The Bill Read Once. Committee Amendment "A" (S-54) was Read and Adopted. The Bill, as Amended, Tomorrow Assigned for Second Reading.

Divided Report

Six members of the Committee on Judiciary on BILL, "An Act to Prohibit the Dissemination of Obscene Material" (S. P. 112) (L. D. 264) Reported in Report "A" that the same Ought to Pass in New Draft under New Title, BILL, "An Act to Amend the Obscenity Laws" (S. P. 477) (L. D. 1438)

Signed:

Senator:

TRAFTON of Androscoggin

Representatives:

FOSTER of Ellsworth
LIVESAY of Brunswick
DRINKWATER of Belfast
HAYDEN of Durham
HOBBINS of Saco

Four members of the same Committee on the same subject matter Reported in Report "B" that the same Ought to Pass.

Signed:

Senator:

COLLINS of Knox

Representatives:

JOYCE of Portland
REEVES of Newport
CARRIER of Westbrook

Three members of the same Committee on the same subject matter Reported in Report "C" that the same Ought Not to Pass.

Signed:

Senator:

VIOLETTE of Aroostook

Representatives:

SOULE of Westport
BENOIT of South Portland

Which Reports were Read.

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

Senator TRAFTON: Mr. President, I move the Acceptance of Committee Report "A".

The PRESIDENT: The Senator from Androscoggin, Senator Trafton moves that the Senate Accept Report "A".

On motion by Senator Pray of Penobscot, Tabled for 1 Legislative Day, pending the motion by the Senator from Androscoggin, Senator Trafton.

Second Readers

House

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

RESOLVE, to Authorize a Pole and Transmission Line Easement on Chokecherry Island and Mattanawcook Island and a Portion of the Penobscot River in the County of Penobscot. (H. P. 562) (L. D. 712)

BILL, "An Act to Protect Underwater Electric Cables and to Increase the Penalties for Violations" (H. P. 1073) (L. D. 1405)

BILL, "An Act to Equitably Share the Cost of Police Training" (H. P. 1075) (L. D. 1407)

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

House — as Amended

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

BILL, "An Act Relating to Mobile Home Parks" (H. P. 571) (L. D. 719)

BILL, "An Act to Define Cider" (H. P. 711) (L. D. 902)

BILL, "An Act Relating to the Capitalization and Board of Directors of the Maine Fidelity Life Insurance Company" (H. P. 260) (L. D. 320)

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

Senate

BILL, "An Act Concerning the Operating after Suspension Law, the Habitual Offender Law and Admission of Identity by the Defendant" (S. P. 290) (L. D. 878)

BILL, "An Act to Provide Confidentiality of Library Records" (S. P. 472) (L. D. 1436)

BILL, "An Act Concerning Penalties for Negotiation a Worthless Instrument" (S. P. 471) (L. D. 1435)

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

Sent down for concurrence.

BILL, "An Act to Reassign Responsibilities Within the Department of Environmental Protection" (S. P. 470) (L. D. 1434)

Which was Read a Second Time.

On motion by Senator Pray of Penobscot, Tabled until later in today's session, pending Passage to be Engrossed.

Senate — as Amended

BILL, "An Act Concerning Dates for Harness Racing" (S. P. 233) (L. D. 675)

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

Sent down for concurrence.

Enactor

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

An Act to Equalize Health Insurance Benefits for Retired State Employees. (S. P. 323) (L. D. 968)

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

Orders of the Day

The President laid before the Senate the first Tabled and specially assigned matter.

An Act Concerning the Guidelines for State Contract Process and Appeal of Decisions. (S. P. 437) (L. D. 1316)

Tabled—April 7, 1983 by Senator Pray of

Penobscot.

Pending—Enactment.

(In House April 6, 1983, Passed to be Enacted)

On motion by Senator Violette of Aroostook the Rules were Suspended.

On further motion by the same Senator, the Senate voted to Reconsider its action whereby L. D. 1316 was Passed to be Engrossed.

The PRESIDENT: The Senator has the floor.

Senator VIOLETTE: I offer Senate Amendment "A" (S-53) and move its Adoption.

The PRESIDENT: The Senator from Aroostook, Senator Violette, offers Senate Amendment "A" (S-53) and moves its Adoption.

The Bill, as amended, Passed to be Engrossed, in non-concurrence.

Sent down for concurrence.

The President laid before the Senate the second Tabled and specially assigned matter.

BILL, "An Act to Conform Maine Garnishment Laws to the United States Code, Title 15, Section 1673, the Federal Consumer Credit Protection Act" (S. P. 110) (L. D. 262)

Tabled—April 7, 1983 by Senator Carpenter of Aroostook.

Pending—Passage to be Engrossed.

(In House, March 22, 1983, Passed to be Engrossed as Amended by Committee Amendment "A" (S-26) and Senate Amendment "A" (S-32) in concurrence)

(In House, March 31, 1983, Passed to be Enacted)

(In Senate, March 31, 1983, Reconsidered Enactment and further reconsidered Engrossment)

On motion by Senator Pray of Penobscot, Recommitted to the Committee on Judiciary, in non-concurrence.

Sent down for concurrence.

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

Senator HICHENS: I'm sorry sir, I spoke very loudly asking to be recognized before.

The PRESIDENT: Apparently, not loud enough, Senator, I'm sorry I did not hear you.

The President laid before the Senate the third Tabled and specially assigned matter.

BILL, "An Act to Amend the Maine Consumer Credit Code" (S. P. 219) (L. D. 656)

Tabled—April 8, 1983 by Senator Carpenter of Aroostook.

Pending—Further Consideration.

(In Senate March 23, 1983, Passed to be Engrossed as Amended by Committee Amendment "A" (S-34))

(In House, Passed to be Engrossed as Amended by Committee Amendment "A" (S-34) as Amended by House Amendment "A" (H-114) thereto in non-concurrence)

(Senate at Ease)

The Senate called to Order by the President.

The PRESIDENT: Is it the pleasure of the Senate to Recede and Concur with the House? It is a vote.

The President laid before the Senate the fourth Tabled and specially assigned matter.

BILL, "An Act to Amend the Authorization for the Community Development Block Grant Program to Include the Development Opportunity Fund" (S. P. 476)

Tabled—April 8, 1983 by Senator Pray of Penobscot.

Pending—Reference.

On motion by Senator Carpenter of Aroostook, Retabled for 1 Legislative Day.

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

Senator CARPENTER: I move that the Senate stand Adjourned until 9 a.m. tomorrow.

The PRESIDENT: The Senator from Aroos-

took, Senator Carpenter, now moves that the Senate stand Adjourned.

The Chair recognizes the Senator from Aroostook Senator Carpenter.

Senator CARPENTER: I request permission to withdraw my motion.

The PRESIDENT: Senator Carpenter of Aroostook, now requests Leave of the Senate to withdraw his motion to Adjourn.

Is it the pleasure of the Senate to grant this leave?

It is a vote.

On motion by Senator Pray of Penobscot, the Senate voted to take from the Table:

BILL, "An Act to Reassign Responsibilities Within the Department of Environmental Protection," (S. P. 470) (L. D. 1434) Tabled earlier in today's session on motion by Senator Pray of Penobscot, pending Passage to be Engrossed.

On motion by Senator Pray of Penobscot, Retabled 1 Legislative Day.

Senator Kany of Kennebec was granted unanimous consent to address the Senate, On the Record.

Senator KANY: Thank you, Mr. President. Mr. President and Members of the Senate, I wanted to give a brief explanation of why our Energy and Natural Resources Committee chose not to accept a bill which was on the agenda last week, which had to do with expanding the open burning at dumps of small communities.

I believe it should go "On the Record" that there are two reasons under Federal Law why we would be violating Federal Law if we did expand that open burning.

First of all, under the Resource Conservation and Recovery Act of 1976, there is a prohibition against open dumps, and an open burning dump is an open dump under that definition.

Secondly, under the Clean Air Act, each state must have a State implementation plan on omission standards in order to meet the ambient air standard. Our State implementation plan was not accepted to even have the statute, which we now have on our Maine books, which allows open burning dumps, for towns smaller than one thousand in population. So, expanding that certainly would not be acceptable as far as our State implementation plan under the Clean Air Act.

If any Members of the Senate have further questions, and/or would like any explanation given directly to their communities, certainly I would be happy to do so, or I'm sure other members of our Committee would be happy to do just that.

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