

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

***One Hundred and Twelfth
Legislature***

OF THE

STATE OF MAINE

Volume I

FIRST REGULAR SESSION

December 5, 1984 - June 20, 1985

STATE OF MAINE
One Hundred and Twelfth Legislature
First Regular Session
JOURNAL OF THE SENATE
In Senate Chamber
Wednesday
May 8, 1985.
Senate called to Order by the President

Prayer by Pastor Charlotte Clark of the North Windsor Baptist Church in Windsor.

PASTOR CLARK: I would like to take the opportunity this morning to say "thank you very much" for your cards, notes, letters and gifts during the last few weeks—that they have been coming, since my husband passed away on March 20th.

Also, I would like to say "thank you," in fact, words can't express just how I feel this morning about the "Joint Resolution." It is a beautiful plaque, and I will cherish it the rest of my life, and I just want to say a big "thank you" to all of you for your support during these hard days that I have been going through.

"Great is the Lord, and greatly to be praised; and His greatness is unsearchable." Psalms 145:3.

Shall we bow our heads in a word of prayer, please? Our Father, this morning we have so much to be thankful for: we thank Thee for this beautiful day that You have given to us; we thank Thee for our health and strength so that we can enjoy this day; we thank Thee, our Father, for the privilege of living in the United States and for our form of Government; we thank Thee for living in this part of the world, the State of Maine.

We pray this morning as our leaders here, the ones with whom we have chosen, as they make decisions here in the Chamber, as they go to their committee rooms, the workshops and the hearing rooms, our Father, we pray that they may seek Thy guidance. We claim the promise this morning that "If any of you lack wisdom, let him ask of God, Who giveth to all men liberally, and upbraideth not." Our Father, when we do lack wisdom, may we be big enough to ask of Thee for help.

Now as we continue to do Thy work today, may what is said and done here in this Chamber, and in these two buildings this day, may be pleasing in Thy sight, and be for the betterment of our State of Maine. For we ask these things in Christ's Name and for His sake only. Amen.

Reading of the Journal of Yesterday.

ORDERS Joint Order

On motion by Senator BALDACCI of Penobscot, (Cosponsors: Representative LEBOWITZ of Bangor, Senator PERKINS of Hancock, and Senator TWITCHELL of Oxford) the following Joint Order: (S.P. 553)

WHEREAS, the operations of the former Center for Being, a South Harpswell clinic, unlawfully defrauded the taxpayers and private insurers of this State of more than \$130,000; and

WHEREAS, the licenses of psychologists and psychiatrists were used without their knowledge and services were billed that had not been performed or were incorrectly performed in this fraud; and

WHEREAS, this was the largest Medicaid fraud in the State's history, but there was no fine or jail time imposed, charges were reduced to misdemeanor and only partial restitutions were made; and

WHEREAS, the State spent hundreds of man-hours to investigate and expose this fraud yet little has come from it, except a strange atmosphere of official silence and indifference; and

WHEREAS, the public has a right to a thorough investigation of this fraud and the State has an obligation to provide one without

further delay; now, therefore, be it

ORDERED, the House concurring, subject to the Legislative Council's review and determinations provided in this Joint Order, that the Joint Standing Committee on Human Resources shall study the subject of the Center for Being Medicaid fraud to determine what revisions should be made in the laws to prevent unqualified people from offering counseling services in the State and to bring the laws in conformity with today's usages and needs; and be it further

ORDERED, that the committee report its findings and recommendations, together with all necessary implementing legislation in accordance with the Joint Rules, to the Legislature at the Second Regular Session of the 112th Legislature; and be it further

ORDERED, that the committee shall establish priorities, objectives and proposed funding to the Legislature this year for its approval before commencing its study, with an effort to ensure that it is either combined with other initiatives similar in scope to avoid duplication and that its purpose is within the best interests of the State; and be it further ORDERED, upon passage in concurrence, that a suitable copy of this Order shall be forwarded to members of the committee.

Which was READ.

On motion by Senator CLARK of Cumberland, Tabled Unassigned, pending PASSAGE.

COMMITTEE REPORTS

Senate

Ought to Pass As Amended

Senator SEWALL for the Committee on JUDICIARY on Bill "An Act to Provide that an Unpermitted Leave from a Court Appearance shall be Classified as an Escape" (S.P. 303) (L.D. 792)

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (S-77)

Which Report was READ and ACCEPTED. The Bill READ ONCE.

Committee Amendment "A" (S-77) was READ and ADOPTED.

The Bill as Amended TOMORROW ASSIGNED FOR SECOND READING.

Ought to Pass in New Draft

Senator EMERSON for the Committee on ENERGY AND NATURAL RESOURCES on Bill "An Act to Establish a Funding Mechanism to Make the Joint Environmental Training Program Self-supporting" (S.P. 459) (L.D. 1262)

Reported that the same Ought to Pass in New Draft under same title (S.P. 552) (L.D. 1470)

Which Report was READ and ACCEPTED. The Bill in NEW DRAFT READ ONCE.

The Bill in NEW DRAFT TOMORROW ASSIGNED FOR SECOND READING.

Ought to Pass in New Draft under New Title

Senator SHUTE for the Committee on MARINE RESOURCES on Bill "An Act Relating to Fishing by Net, Trap or Weir in the Waters of Union River Bay in Hancock County" (S.P. 207) (L.D. 536)

Reported that same Ought to Pass in New Draft under New Title Bill "An Act Relating to Fishing by Net, Trap or Weir in the Waters of Union River Bay and the Lower Union River in Hancock County" (Emergency) (S.P. 551) (L.D. 1469)

Which Report was READ and ACCEPTED. The Bill in NEW DRAFT under NEW TITLE READ ONCE.

The Bill in NEW DRAFT under NEW TITLE TOMORROW ASSIGNED FOR SECOND READING.

SECOND READERS

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

House

Bill "An Act to Permit Limited Operation of Woods Vehicles on State Highways" (H.P. 800) (L.D. 1130)

Bill "An Act to Prohibit Marriage Between Certain Blood Relatives" (H.P. 603) (L.D. 873)

Bill "An Act Requiring Impartial Summaries of Charter Amendments" (H.P. 842) (L.D. 1192)

Bill "An Act to Reallocate Mortgage Insurance Authority from the Mortgage Insurance Program of the Finance Authority of Maine to the Maine Small Business Loan Program" (Emergency) (H.P. 891) (L.D. 1280)

Which were READ A SECOND TIME and PASSED TO BE ENGROSSED, in concurrence.

Bill "An Act to Amend the Law Relating to the Installation of Smoke, Heat or Fire Detection Systems in Certain Hotels" (H.P. 1013) (L.D. 1461)

Which was READ A SECOND TIME.

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

Senator DANTON: Mr. President and Members of the Senate. In reference to L.D. 1461, some years ago we had this Bill here in the Senate, where we allowed for smoke, heat and fire detection systems. I was somewhat concerned about it, but I've spoken to the Senator from Androscoggin, Senator Trafton and he's reassured me. Let me tell you what the Bill originally did.

The Bill originally allowed the State Fire Marshall's Office enforce this law. We amended it years ago in the Senate, to allow local fire departments, our local organized me that all this Bill will do is that the State Fire Marshall's Office will only go into cities and towns where they need assistants to enforce this law.

My prime concern was that I don't want the State Fire Marshall's Office coming to the Legislature next year and saying, "well, you've got the law and now I need twenty people to enforce it."

The Senator has assured me that it's going to be when they request assistance, so therefore, I thought I'd explain my opposition to this Bill.

Which was PASSED TO BE ENGROSSED, in concurrence.

Bill "An Act Prohibiting Bond Issues of Less than \$2,000,000" (H.P. 202) (L.D. 236)

Which was READ A SECOND TIME.

THE PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Andrews.

Senator ANDREWS: Mr. President, Men and Women of the Senate. Its not very often that I stand to oppose or call into question a unanimous committee report, particularly, when I'm on that committee.

Sometimes the bills slip through the process so quickly and go unnoticed, and I confess that that's exactly what happened in this particular instance with L.D. 236 "An Act Prohibiting Bond Issues of Less than \$2,000,000".

I think the intent behind this Legislation insofar as it addresses the general point: that we have to be prudent wherever we decide to borrow money; that we should be using the general fund whenever we can; that it's in the interest of everybody to not pay a pennyworth of interests payments when you don't have. I think everybody agrees with that, and I certainly do.

To establish an arbitrary limit, or a ceiling, or a minimum of two million dollars, I don't think it's wise; I don't think it's prudent; I don't think it's in the interests in the State of Maine.

If there is someone who feels very strongly that a Bond Issue of let's say a million, seven hundred and fifty thousand dollars should be passed and go before the voters, well then perhaps that person can make his or her case before this Chamber and the other Body and be successful. That is exactly what happened

to me two years ago.

There was a Bond Issue that I felt very concerned about, a Bond Issue that would create accessible courthouses around the State of Maine, and that Bond Issue was originally in an omnibus package. It involved everything but the kitchen sink. So I went down to the Appropriations Committee and I requested that that particular Bond Issue for making courthouses accessible for handicapped people be pulled out of that omnibus bond package, and let it go on its own, so that we could make our case to the voters.

The Appropriations Committee listened and they unanimously voted to approve that. It came before this Body; it came before the other Body, and unanimously that Bill was passed out, and it went out on its own as a separate Bond Issue for under two million dollars.

As it turned out, as most of you know, that particular Bond Issue won the strong support of Maine voters, and the Bond Issue that it was once a part of that omnibus bond package went down in defeat. If we didn't have that option, that flexibility of pulling out that Bond Issue and having it go by an item of under two million dollars, then the courthouses of Maine would have remained inaccessible today.

This particular Bond Issue, incidentally, because it is not a constitutional amendment, would be unconstitutional; in that it would not have the effective law on any future Legislatures. You cannot limit a future Legislature the way this Bill does without changing the Constitution. As such, this Bill becomes a guideline. In my view, Ladies and Gentlemen of the Senate, if we want to pass a guideline, perhaps we can pass a resolution. I would be opposed to even that resolution.

To pass a law and put it in the books will have no affect on future Legislatures. I simply don't think makes good government policy. For those two reasons, I ask for a Division and ask that you join me in opposing this measure.

THE PRESIDENT: The Chair recognizes the Senator from Penobscot, Senator Pearson.

Senator **PEARSON:** Mr. President, I sat down so that the Senator from Kennebec, could speak.

THE PRESIDENT: The Senator from Penobscot, Senator Pearson yields the floor to the Senator from Kennebec, Senator Kany.

Senator **KANY:** Mr. President and Senators. I sat down because the good Senator from Penobscot was recognized, but I'm delighted to have the opportunity to speak. I rise as Chairperson of the State Government Committee, which did recommend this Bill to the Legislature unanimously. It is in effect a guideline and not a Constitutional Amendment. If it were a Constitutional Amendment, it would mean that the Legislature would be bound, and would never be able to respond to a positive exception. It is for this reason that the State Government Committee unanimously recommended it in this form, because there are exceptions and we do not really want to bind a future Legislature. Yet, the Committee unanimously agreed that it was policy that should be recommended.

It is interesting to note that Maine is really only one of eleven States in the United States that sends its Bond issues out to its voters. Many states make certain that their Bond Issues are of a large size, primarily because you often can reduce the interest rate that way, and it does not make good economic sense to have multiple small Bond issues.

It is for this reason that we recommend this guideline.

THE PRESIDENT: The Chair recognizes the Senator from Penobscot, Senator Pearson.

Senator **PEARSON:** Mr. President, Men and Women of the Senate. As I was looking over the calendar this morning, I noticed this particular item. I looked the bill up and became concerned. Primarily for the reasons that Senator Andrews from Cumberland is

concerned.

Several years ago and for many years previous to that, and previous to whenever I got into the Legislature, it seemed that all Bond Issues that we sent out to the people contained different items in a lump together and big issues.

We began to realize, at least I did, I think most people have, that the people in the State didn't want that any more. They wanted to be able to pick and choose. Recognizing that fact, as Senator Andrews did, one issue was separated from a large group and it passed, and the large group did not. As he said, his issue was less than two million dollars. The people said "yes" to that and "no" to the rest.

I think what you are doing, you are establishing a guideline in the face of the knowledge that we have, I think we have where the people don't want to do that.

THE PRESIDENT: A Division has been requested.

Will all those Senators in favor of Passage to be Engrossed please rise in their places to be counted.

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

Senator **KANY:** Mr. President I request a Roll Call.

THE PRESIDENT: 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 Members present and voting.

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

Obviously less than one-fifth having arisen a Roll Call is not in order.

The pending question before the Senate is Passage to be Engrossed.

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

Senator **KANY:** Mr. President and Senators. Perhaps we should discuss this a little more. I really didn't want to spend that much time on the floor this morning but I will. Once again I'd like to mention that this is a unanimous committee report.

Senator **PEARSON:** A point of order.

THE PRESIDENT: The Senator may state his point of order.

Senator **PEARSON:** Are we not in the process of voting?

THE PRESIDENT: The Chair would answer that the Senator can discuss the issue until the vote has been taken. Only in a Roll Call can you not interrupt the vote. No one had taken part in the division so the Senator from Kennebec, was properly recognized.

The Senator may continue

Senator **KANY:** In the Committee's deliberations and Senator Andrews, by the way, is a member of our committee, and unfortunately for some reason, he was not able to get any input into this Bill. I'm really sorry. Anyway, the Committee did not make that opportunity available to Senator Andrews and neither Senator Andrews nor I know how that happened; it is just one of those things.

I would like to discuss the Committee's deliberations a little bit with you. It is generally good economic policy, really, not to have unusually large interest rates; obviously, the taxpayers have to pay and ordinarily for smaller amounts with the amount of taxes collected in this State, it would seem appropriate to appropriate generally instead of bonding instead of long-term borrowing. We did talk with Moody's and Standard and Poors on this issue, and it is interesting in that the effect of the Bill would not increase or decrease Maine's bond rating obviously. According to Chris Erwin of Standard and Poors, Maine does have a comparatively low debt, and has been retiring debt at a rate more rapid than other states in the nation. It is interesting to note that Moody's, and Standard and Poors generally,

also, look unfavorably upon very low outstanding debt. You may be interested in that, because often that can mean a State is not properly keeping up its investments in its interest structure.

Standard and Poors and Moody's does look favorably upon efforts to come up with a reasonable financial policy, and this is just one more effort, without literally binding the Maine Legislature or any future Legislature by Constitutional Amendment. It is appropriate to have guidelines. We also will have a guideline which we will be recommending to you all, regarding lumping Bond Issues together. We did not want to tie our hands, but we did want to put on to the statutes the reasonable financial policy, and I hope that you will go along with the unanimous committee report.

I don't think it would really be objectionable to any one. It would not cause any hardship; it is not onerous, and it is reasonable, positive, financial policy, and I ask for your support on this measure.

THE PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Andrews.

Senator **ANDREWS:** Thank you, Mr. President. Mr. President, Men and Women of the State Senate. I simply want to reiterate the points that I made initially. I think the bottomline here is that we all agree that it makes sound economic policy to spend as little money on interests payments as we possibly can. I think we have to keep that in mind, as the Appropriations Committee will, whenever we have Bond Issues before us.

Quite simply, Ladies and Gentlemen of the Senate, this Bill is unnecessary. It's simply, as we heard from Senator Kany, it's a guideline, but a guideline that we are going to put into a statute. A statute that can have no effect, a statute that can be unconstitutional if anybody tried to apply that statute in the future.

As I say, if someone can come before the Appropriations Committee, if they can come before the Senate, and if they can come before the House, and they can make a case that will gather two-thirds of the votes of both Bodies for a Bond Issue under two million dollars then they should have the opportunity to do so, and we should listen to the merits. Of course whenever we're debating any Bond Issue, we have to keep in mind the general economic policies that Senator Kany has pointed out. Let's do that without cluttering up the books with unnecessary legislation like this one. Thank you.

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

Senator **HICHENS:** Mr. President, as a Member of the State Government Committee I would rise in support of the Chairman. I'm not going to add anything to what she has said, because I think she has explained it very fully, but it does seem unreasonable to me to put out the Bond Issues which are under two million dollars, which is a drop in the bucket as far as the State's coffers are concerned. As a family member, a family head, I use to have to consider those things, whether I could really afford something without putting it out and having to pay interest on it. A great many people throughout the State are doing that. They are getting small loans and paying more in interests than what the loan is worth, and I think that that is the same thing the State is going to run.

I think this is a good Bill, and I hope that you vote in favor of it.

THE PRESIDENT: Will all those Senators in favor of **PASSAGE TO BE ENGROSSED**, please rise in their places to be counted.

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

13 Senators having voted in the affirmative, and 17 Senators having voted in the negative, the Bill **FAILED OF PASSAGE TO BE**

ENGROSSED, in **NON-CONCURRENCE**.

Sent down for concurrence.

House As Amended

Bill "An Act Concerning Private School Activity Buses" (H.P. 626) (L.D. 895) (H "A" H-109)

Bill "An Act Limiting the Amount of Insurance Coverage which a Mortgagee can Require a Mortgagor to Carry" (H.P. 869) (L.D. 1226) (C"A" H-112)

Bill "An Act Regarding Official Refusal or Neglect of Duty" (H.P. 195) (L.D. 229) (C"A" H-114)

Bill "An Act to Require Eye Protection for Persons Riding Motorcycles" (H.P. 465) (L.D. 666) (C"A" H-111)

Which were **READ A SECOND TIME** and **PASSED TO BE ENGROSSED, as Amended**, in concurrence.

Off Record Remarks

Senate

Bill "An Act to Clarify Certain Aspects of Mineral Exploration, Development and Disclosure" (S.P. 549) (L.D. 1466)

Which was **READ A SECOND TIME** and **PASSED TO BE ENGROSSED**.
Sent down for concurrence.

ORDERS OF THE DAY

The President laid before the Senate the Tabled and Specially Assigned matter:

An Act to Provide that Cost-of-Living Plans for Retired Persons under the Maine State Retirement System shall Apply to All Participating Local Districts that do not Provide Social Security Benefits for Employees (H.P. 661) (L.D. 944) (S "A" S-68; C "A" H-89)

Tabled - May 7, 1985, by Senator **VIOLETTE** of Aroostook

Pending - **ENACTMENT**

(In House, May 6, 1985, **PASSED TO BE ENACTED**.)

(In Senate, May 2, 1985, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-89) AND SENATE AMENDMENT "A" (S-68)**.)

On motion by Senator **CLARK** of Cumberland, Tabled 1 Legislative Day, pending **ENACTMENT**.

The President laid before the Senate the Tabled and Specially Assigned matter:

Emergency Resolve

Resolve, Pertaining to a State Employee Health Promotion (H.P. 990) (L.D. 1428)

Tabled - May 7, 1985, by Senator **VIOLETTE** of Aroostook.

Pending - **FINAL PASSAGE**

(In House, May 6, 1985, **FINALLY PASSED**.)

(In Senate, May 3, 1985, **PASSED TO BE ENGROSSED**, in concurrence.)

On motion by Senator **CLARK** of Cumberland, Tabled 1 Legislative Day, pending **FINAL PASSAGE**.

Senate at Ease

The Senate called to Order by the President

Off Record Remarks

On motion by Senator **BLACK** of Cumberland,

ADJOURNED until 9 o'clock in the morning.