

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD
OF THE
One Hundred And Sixteenth Legislature
OF THE
State Of Maine

VOLUME VI

SECOND REGULAR SESSION

Senate
January 5, 1994 to April 6, 1994

PAPERS FROM THE HOUSE

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

In Senate Chamber
Friday
March 25, 1994

Non-concurrent Matter

Bill "An Act to Subject Motorists with Prior
Out-of-state Operating-under-the-influence
Convictions to the Sentencing Provisions of the
State's Operating-under-the-influence Laws"
S.P. 669 L.D. 1837
(C "A" S-484)

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

In Senate, March 23, 1994, **PASSED TO BE
ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A"
(S-484).**

Prayer by the Honorable Margaret G. Ludwig of
Aroostook.

Comes from the House **PASSED TO BE ENGROSSED AS
AMENDED BY COMMITTEE AMENDMENT "A" (S-484) AS AMENDED
BY HOUSE AMENDMENT "A" (H-923)** thereto, in
NON-CONCURRENCE.

SENATOR MARGARET G. LUDWIG: Let us be in the
spirit of prayer. From Psalms 117. "Oh praise the
Lord, all ye nations, praise him all ye people. For
his merciful kindness is great toward us and the
truth of the Lord endureth forever. Praise ye the
Lord. Amen.

The Senate **RECEDED** and **CONCURRED.**

COMMITTEE REPORTS

Reading of the Journal of Thursday, March 24, 1994.

House

Ought to Pass As Amended

The Committee on **BANKING & INSURANCE** on Bill
"An Act to Clarify the Opportunity for Small
Employers to Purchase Health Insurance" (Emergency)
H.P. 1405 L.D. 1914

Off Record Remarks

Reported that the same **Ought to Pass as Amended
by Committee Amendment "A" (H-904).**

Out of order and under suspension of the Rules,
on motion by Senator **ESTY** of Cumberland, the
following Senate Order:

Comes from the House with the Report **READ** and
ACCEPTED and the Bill **PASSED TO BE ENGROSSED AS
AMENDED BY COMMITTEE AMENDMENT "A" (H-904).**

ORDERED, that a message be sent to the House of
Representatives proposing a Convention of both
Branches in the Hall of the House at 12:45 in the
afternoon, for the purpose of extending to the
Honorable Edmund S. Muskie, an invitation to attend
the Convention and make such communication as pleases
him.

Which Report was **READ** and **ACCEPTED,** in
concurrence.

Which was **READ** and **PASSED.**

The Bill **READ ONCE.**

The Chair appointed the Senator from Cumberland,
Senator **ESTY,** to deliver the message. The
Sergeant-At-Arms escorted the Senator to the House of
Representatives.

Committee Amendment "A" (H-904) **READ** and
ADOPTED, in concurrence.

Subsequently, Senator **ESTY** of Cumberland
reported he had delivered the message with which he
was charged.

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

The Committee on **BUSINESS LEGISLATION** on Bill
"An Act to Clarify Plumbing Permit Fees" (Emergency)
H.P. 1215 L.D. 1634

Reported that the same **Ought to Pass as Amended
by Committee Amendment "A" (H-876).**

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-876)**.

Which Report was **READ** and **ACCEPTED**, in concurrence.

The Bill **READ ONCE**.

Committee Amendment "A" (H-876) **READ** and **ADOPTED**, in concurrence.

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

The Minority of the same Committee on the same subject reported that the same **Ought Not to Pass**.

Signed:

Senator:
HANDY of Androscoggin

Representatives:
DAGGETT of Augusta
BOWERS of Washington
GAMACHE of Lewiston

Comes from the House with the Minority **UGHT NOT TO PASS** Report **READ** and **ACCEPTED**.

Which Reports were **READ**.

On motion by Senator **CAREY** of Kennebec, the Majority **UGHT TO PASS AS AMENDED** Report **ACCEPTED** in **NON-CONCURRENCE**.

The Bill **READ ONCE**.

Committee Amendment "A" (H-885) **READ** and **ADOPTED**.

Which was, under suspension of the Rules, **READ A SECOND TIME**, and **PASSED TO BE ENGROSSED**, as **Amended** in **NON-CONCURRENCE**.

Sent down for concurrence.

The Committee on **LABOR** on Bill "An Act to Modify the Workers' Compensation Board Assessment" (Emergency)

H.P. 1278 L.D. 1726

Reported that the same **Ought to Pass as Amended** by Committee Amendment "A" (H-903).

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-903)**.

Which Report was **READ** and **ACCEPTED**, in concurrence.

The Bill **READ ONCE**.

Committee Amendment "A" (H-903) **READ** and **ADOPTED**, in concurrence.

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

Under suspension of the Rules, all matters thus acted upon were ordered sent down forthwith for concurrence.

Divided Report

The Majority of the Committee on **LEGAL AFFAIRS** on Bill "An Act to Reestablish a Mechanism for Review of Disputed Elections"

H.P. 1418 L.D. 1932

Reported that the same **Ought to Pass as Amended** by Committee Amendment "A" (H-885).

Signed:

Senators:
HALL of Piscataquis
CAREY of Kennebec

Representatives:
LEMKE of Westbrook
MICHAEL of Auburn
STEVENS of Sabattus
BENNETT of Norway
NASH of Camden
ROBICHAUD of Caribou
TRUE of Fryeburg

SECOND READERS

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

House As Amended

Bill "An Act Concerning Child Sexual Abuse Laws"
H.P. 919 L.D. 1243
(C "A" H-898)

Bill "An Act to Amend the Laws Governing Municipal Elections"
H.P. 1110 L.D. 1506
(C "A" H-901)

Bill "An Act to Amend the Provisions Relating to Mental Examination and Observation of Persons Accused of a Crime"

H.P. 1214 L.D. 1633
(C "A" H-897)

Bill "An Act to Ensure Appropriate and Equitable Penalties for Violation of Electoral Laws"
 H.P. 1311 L.D. 1766
 (C "A" H-830)

Which were **READ A SECOND TIME** and **PASSED TO BE ENGROSSED, As Amended.**

Bill "An Act Relating to Access for People with Disabilities"
 H.P. 1321 L.D. 1783
 (C "A" H-894)

Sent down for concurrence.

Bill "An Act to Amend the Laws Regarding Protective Custody"
 H.P. 1322 L.D. 1784
 (C "A" H-896)

ENACTORS

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

Bill "An Act to Promote the Continued Use of Private Lands for Recreation"
 H.P. 1342 L.D. 1809
 (C "A" H-895)

An Act to Establish a Study Group on Energy and the Environment
 H.P. 278 L.D. 356
 (C "A" H-826)

Bill "An Act to Enable Parents to Retain Custody in Voluntary Placements"
 H.P. 1377 L.D. 1864
 (C "A" H-902)

An Act Concerning Health Insurance
 S.P. 582 L.D. 1626
 (C "A" S-441)

Bill "An Act to Provide Equity in the Laws Concerning Tax Exemptions for Veterans"
 H.P. 1413 L.D. 1923
 (C "A" H-837)

An Act to Provide for Uniform Fees Paid to Registers of Deeds for the Filing of Secured Transactions
 S.P. 660 L.D. 1828
 (C "A" S-458)

Bill "An Act to Continue Election Reform Efforts" (Governor's Bill)
 H.P. 1438 L.D. 1964
 (C "A" H-900)

An Act Authorizing the Commissioner of Inland Fisheries and Wildlife to Award 5 Moose Hunting Permits through Public Auction to Fund Youth Conservation Education Programs (Governor's Bill)
 S.P. 661 L.D. 1829
 (C "A" S-437)

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

An Act to Make Allocations from the Maine Turnpike Authority Funds to the Maine Turnpike Authority for the Fiscal Year Ending December 31, 1995
 S.P. 686 L.D. 1872
 (C "A" S-462)

Senate As Amended

Bill "An Act to Clarify Liquor Licensing Authority"
 S.P. 614 L.D. 1712
 (C "A" S-518)

An Act to Amend the Laws Governing Refuse Disposal Districts
 H.P. 1401 L.D. 1910

Bill "An Act Regarding Maine's Comprehensive Early Intervention System for Infants and Children, Ages Zero to Five" (Emergency)
 S.P. 663 L.D. 1831
 (C "A" S-510)

Which were **PASSED TO BE ENACTED** and having been signed by the President, were presented by the Secretary to the Governor for his approval.

Resolve, Concerning Reauthorization of the \$9,520,000 Bond Issue for Construction and Renovation of Juvenile Correctional Facilities
 S.P. 673 L.D. 1845
 (C "A" S-522)

At this point, a message was received from the House of Representatives, borne by Representative JACQUES of Waterville informing the Senate that the House concurred in the proposition for a Joint Convention, to be held in the Hall of the House, at 12:45 in the afternoon, for the purpose of extending to the Honorable Edmund S. Muskie, an invitation to attend the Convention and make such communication as pleases him.

Bill "An Act to Establish the Maine School of Science and Mathematics and the Task Force on the Maine School of Visual and Performing Arts" (Governor's Bill)
 S.P. 733 L.D. 1958
 (C "A" S-511)

An Act to Reinstate the State Eye Care Program
S.P. 576 L.D. 1620
(C "A" S-477)

On motion by Senator **PEARSON** of Penobscot,
placed on the **SPECIAL APPROPRIATIONS TABLE**, pending
ENACTMENT.

An Act Concerning Level I and Level II
Educational Technicians
H.P. 1212 L.D. 1631
(C "A" H-811)

On motion by Senator **PEARSON** of Penobscot,
placed on the **SPECIAL APPROPRIATIONS TABLE**, pending
ENACTMENT.

Resolve

Resolve, Directing the Bureau of General Services
to Study the Capitol Complex
S.P. 640 L.D. 1774
(C "A" S-467)

On motion by Senator **PEARSON** of Penobscot,
placed on the **SPECIAL APPROPRIATIONS TABLE**, pending
FINAL PASSAGE.

Mandate

An Act to Make Changes to the Public Utilities
Commission Laws
S.P. 574 L.D. 1616
(C "A" S-465)

This being a Mandate and in accordance with the
provisions of Section 21 of Article IX of the
Constitution, and having received the affirmative
vote of 26 Members of the Senate, with No Senators
having voted in the negative, and 26 being more than
two-thirds of the entire elected Membership of the
Senate, was **PASSED TO BE ENACTED** and having been
signed by the President, was presented by the
Secretary to the Governor for his approval.

Mandate

An Act to Reduce the Property Tax Burden in
Androscoggin County
S.P. 641 L.D. 1788
(C "A" S-457)

This being a Mandate and in accordance with the
provisions of Section 21 of Article IX of the
Constitution, and having received the affirmative
vote of 27 Members of the Senate, with No Senators
having voted in the negative, and 27 being more than
two-thirds of the entire elected Membership of the
Senate, was **PASSED TO BE ENACTED** and having been
signed by the President, was presented by the
Secretary to the Governor for his approval.

Emergency

An Act to Clarify the Role and Purpose of the
Maine State Retirement System
S.P. 466 L.D. 1458
(C "A" S-475)

This being an Emergency Measure and having
received the affirmative vote of 27 Members of the
Senate, with No Senators having voted in the
negative, and 27 being more than two-thirds of the
entire elected Membership of the Senate, was **PASSED
TO BE ENACTED** and having been signed by the
President, was presented by the Secretary to the
Governor for his approval.

Emergency

An Act to Modify the Manufacture of Motor Vehicle
Registration Plates
H.P. 1217 L.D. 1636
(C "A" H-819)

On motion by Senator **BRANNIGAN** of Cumberland,
placed on the **SPECIAL HIGHWAY TABLE**, pending
ENACTMENT.

Emergency

An Act to Amend the Charter of the Berwick Sewer
District
H.P. 1360 L.D. 1839
(C "A" H-823; H "A"
H-828)

This being an Emergency Measure and having
received the affirmative vote of 26 Members of the
Senate, with No Senators having voted in the
negative, and 26 being more than two-thirds of the
entire elected Membership of the Senate, was **PASSED
TO BE ENACTED** and having been signed by the
President, was presented by the Secretary to the
Governor for his approval.

Emergency

An Act to Correct the Implementation of Recent Changes to the Retirement Laws

S.P. 698 L.D. 1896
(C "A" S-474)

This being an Emergency Measure and having received the affirmative vote of 24 Members of the Senate, with No Senators having voted in the negative, and 24 being two-thirds of the entire elected Membership of the Senate, was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

Emergency

An Act to Establish a New Valuation on Sears Island

S.P. 703 L.D. 1900
(C "A" S-451)

On motion by Senator **PEARSON** of Penobscot, placed on the **SPECIAL APPROPRIATIONS TABLE**, pending **ENACTMENT**.

Emergency

An Act to Remove the Sunset Provision from the Limitation on Liability for Recycling Activities by Municipalities and Regional Associations

S.P. 712 L.D. 1927

This being an Emergency Measure and having received the affirmative vote of 25 Members of the Senate, with No Senators having voted in the negative, and 25 being more than two-thirds of the entire elected Membership of the Senate, was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

ORDERS OF THE DAY

Unfinished Business

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

The Chair laid before the Senate the Tabled and Later Assigned (3/24/94) matter:

Bill "An Act to Increase the Efficiency of the Appointment Process for Occupational or Professional Regulatory Boards"

S.P. 734 L.D. 1960

Tabled - March 24, 1994, by Senator **ESTY** of Cumberland.

Pending - **PASSAGE TO BE ENGROSSED**

(In Senate, March 24, 1994, Motion to **INDEFINITELY POSTPONE** Bill and Accompanying Papers **FAILED**. **ADOPTION** of Senate Amendment "A" (S-482) **FAILED**.)

On motion by Senator **ESTY** of Cumberland, Tabled 1 Legislative Day, pending **PASSAGE TO BE ENGROSSED**.

The Chair laid before the Senate the Tabled and Later Assigned (3/24/94) matter:

SENATE REPORTS - from the Committee on **JUDICIARY** on Bill "An Act to Establish a Limit on Noneconomic Damages in Medical Malpractice Actions" S.P. 293 L.D. 880

Majority - **Ought Not to Pass**

Minority - **Ought to Pass**

Tabled - March 24, 1994, by Senator **ESTY** of Cumberland.

Pending - **ACCEPTANCE** of the Minority **Ought to Pass** Report

(In Senate, March 23, 1994, **ACCEPTANCE** of the Majority **OUGHT NOT TO PASS** Report **FAILED**.)

On motion by Senator **ESTY** of Cumberland, Tabled 1 Legislative Day, pending **ACCEPTANCE** of the Minority **OUGHT TO PASS** Report.

The Chair laid before the Senate the Tabled and Later Assigned (3/24/94) matter:

Bill "An Act to Prohibit the Use of Gill Nets in the Kennebec and Androscoggin Rivers" (Emergency) S.P. 710 L.D. 1918

Tabled - March 24, 1994, by Senator **ESTY** of Cumberland.

Pending - **ADOPTION** of Committee Amendment "A" (S-470)

(In Senate, March 24, 1994, Committee Amendment "A" (S-470) **READ**.)

On motion by Senator **HARRIMAN** of Cumberland, Senate Amendment "A" (S-525) to Committee Amendment "A" (S-470) **READ**.

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

Senator **HARRIMAN:** Thank you Mr. President, Ladies and Gentlemen of the Senate. Please allow me just a few minutes to talk about this amendment and the implications I think it will have for our State. This is probably one of the few bills that comes through here that will have a significant positive economic impact on the State of Maine. As you may know, in the early 1930's the native striped bass population was essentially wiped out. In 1982 and up until 1989 the Androscoggin and Kennebec rivers were reintroduced with 200,000 young striped bass. By November of last year, through monitoring of the health of the striped bass that were introduced, hundred of five inch long young striped bass were making their way back to the Kennebec and Androscoggin rivers. Striped bass as a sport fishing is rapidly becoming known in Maine as world class angling. Sport fishermen are traveling to this area from all over the country to sport fish for these fish. The commercial impact in the area is felt by local charter captains, local lodging establishments, local restaurants, and other local businesses.. If the growth and the health of the striped bass population continues it is possible to open up the sport fishing season for longer periods of time and indeed, we have tremendous economic opportunity before us without costing the State of Maine any money. The amendment that you have before you changes the existing practices at the mouth of the Kennebec and Androscoggin rivers, which currently fishermen are permitted to gill net. These striped bass that I have just mentioned are going to be large enough now to get caught in those gill nets. The amendment before you is a collaboration of bipartisan support on behalf of the Chairman of the Marine Resources Committee, Senator Vose, Senator Gould, and I appreciate the cooperation that was extended to us from Senator Cahill and Senator Esty. This is an emergency measure, we need a two thirds vote for this to pass because the amendment will no longer allow for gill nets to be anchored on the bottom of the rivers or on the shores. Fishermen who use those estuaries for trapping alewives, or lobster bait would still be able to do it but they would have to use drift nets instead of anchored nets. The other part of the amendment calls for the anglers and the Department to cooperate and coordinate the continued activity in the mouth of the rivers, to continue this impressive and very optimistic activity that is going on. I urge your support. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Sagadahoc, Senator Cahill.

Senator **CAHILL:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I rise to support and I ask you to support this amendment today because it is a compromise that was worked out. I do want to take a couple of minutes and explain why I was so adamantly opposed to the original bill when it hit the floor of the legislature because I think it typifies what is wrong with the regulatory process in the State of Maine. All too often when we pass regulations, when we put regulations on businesses and individuals we do it from the heart, without applying common sense and science to our decision. While I am not one ever to suggest that we should not be passionate in our convictions I believe that when it affects our regulatory climate we have to use common sense and we have to use good science. Frankly ladies and gentlemen I think we do that far too frequently in the State of Maine, whether it is regulating striped bass or regulating whether or not

we clear cut in the northern Maine woods. I was in the legislature when we began the stocking program for striped bass and I supported, passionately supported, the restocking program because I am a striped bass fisherman and I can tell you last year when I was on the Kennebec river because not only do I fish on the Kennebec river, I live on the Kennebec river, when we landed in our boat a striped bass that was 34 inches long I can tell you that there is no greater feeling to any angler than when you do that. I was so proud to be able to release that fish and if that fish had been 36 inches long we would have released it because it is just the thrill and the excitement of seeing such a tremendous animal, that big and that precious and that beautiful that makes the State of Maine a really unique place to live. The problem with this legislation is it didn't take into consideration the other people who earn their livelihood on the Kennebec river, the gill netters. I have a number of fishermen in my district who do gill net and they gill net for bait and pogies and alewives and they make their living doing this. The original bill would have made these individuals, and granted there are not many of them and granted they are leaving the fishing industry in droves right now, but it would have prohibited them from making their living on the Kennebec river as well. I believe that we must look to what we do in this State and the reasons why we are driving people out of business and I think that we should look at the long term impact of that as well. I think we should look at the science involved because there were no indications that this bill was truly necessary, it was emotional. The anglers felt that the striped bass fishermen were being caught up in the gill nets and the fisheries depleted. The fact is that last November the Department of Marine Resources did a count in the Kennebec river and they saw more young striped bass in the river in November than they have seen in all of the previous years that they have been keeping samples. So there really was no scientific evidence that the fisheries were being depleted. You're right, you are absolutely right, there is bound to be some by catch in those gill nets, striped bass by catch in those gill nets but the science did not prove that it was detrimental to the impact, the overall impact, of the striped bass fisheries. This represents a compromise, it says that gill nets will be allowed to continue but they must be floating gill nets, which means that they need to be tended all of the time. Talking to my fishermen, using common sense, I called the fishermen and asked them how many striped bass do you find in a gill net when you drag it, they said maybe five or six, and they release them from the gill net. Because the current method of gill netting in the Kennebec are these drag nets the mortality rate is cut substantially. They figure the mortality rate is less than half, so that is maybe three fish that are being caught in these gill nets. Yet we wanted to pass a law to prohibit gill netting. Frankly, I have lived on the Kennebec river for a long time and we have tremendous problems with the pogie fisheries and the fact that pogies sometimes come up the rivers in such great numbers that they deplete the oxygen supply. These fishermen actually catch pogies in their gill nets for lobster bait, hopefully diminishing the impact of having these pogies come up and dying on our shores. So, I am supporting this and I am sorry to make such a long statement and I'm sorry to be so passionate about this issue but I think the problems that we have in the State is that sometimes we let that passion run away from our common sense and I am glad that we were able to apply a little common sense to this bill today. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Washington, Senator Vose.

Senator **VOSE:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I concur with practically everything that has been said. This is a friendly amendment, we discussed it in Committee. I'm tickled to death that we were able to reach a compromise such as this and I hope everyone will support it. I do have one thing to say. One regret, I only wish that former Representative Donald Carter were here today because that was really his love, the Kennebec river and striped bass. Thank you.

Senate Amendment "A" (S-525) to Committee Amendment "A" (S-470) **ADOPTED.**

Committee Amendment "A" (S-470) as Amended by Senate Amendment "A" (S-525) thereto, **ADOPTED.**

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

Sent down for concurrence.

Under suspension of the Rules, all matters thus acted upon were ordered sent down forthwith for concurrence.

The Chair laid before the Senate the Tabled and Today Assigned matter:

SENATE REPORTS - from the Committee on **LABOR** on Bill "An Act to Extend Penalty Sanctions to Employee Health Benefit Plans"

S.P. 671 L.D. 1843

Majority - **Ought to Pass as Amended by Committee Amendment "A" (S-512)**

Minority - **Ought Not to Pass**

Tabled - March 24, 1994, by Senator **ESTY** of Cumberland.

Pending - **ACCEPTANCE OF EITHER REPORT**

(In Senate, March 24, 1994, Reports **READ.**)

On motion by Senator **ESTY** of Cumberland, Tabled 1 Legislative Day, pending **ACCEPTANCE OF EITHER REPORT.**

The Chair laid before the Senate the Tabled and Today Assigned matter:

SENATE REPORTS - from the Committee on **HUMAN RESOURCES** on Bill "An Act to Strengthen the Coordinated Delivery of Substance Abuse Services in the State"

S.P. 655 L.D. 1824

Majority - **Ought to Pass as Amended by Committee Amendment "A" (S-508)**

Minority - **Ought to Pass as Amended by Committee Amendment "B" (S-509)**

Tabled - March 24, 1994, by Senator **ESTY** of Cumberland.

Pending - **ACCEPTANCE OF EITHER REPORT**

(In Senate, March 24, 1994, Reports **READ.**)

On motion by Senator **ESTY** of Cumberland, Tabled until Later in Today's Session, pending **ACCEPTANCE OF EITHER REPORT.**

Off Record Remarks

The Chair laid before the Senate the Tabled and Today Assigned matter:

Bill "An Act to Define Responsibilities of the Commission on Biotechnology and Genetic Engineering"
H.P. 1015 L.D. 1361
(C "A" H-877)

Tabled - March 24, 1994, by Senator **ESTY** of Cumberland.

Pending - **PASSAGE TO BE ENGROSSED AS AMENDED**, in concurrence

(In Senate, March 24, 1994, **READ A SECOND TIME.**)

(In House, March 23, 1994, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-877).**)

On motion by Senator **ESTY** of Cumberland, Tabled until Later in Today's Session, pending **PASSAGE TO BE ENGROSSED AS AMENDED**, in concurrence.

Off Record Remarks

The Chair laid before the Senate the Tabled and Today Assigned matter:

SENATE REPORT - from the Committee on **TRANSPORTATION** on Bill "An Act to Authorize Department of Transportation Bond Issues in the Amount of \$19,800,000 to Improve Passenger and Freight Rail Facilities and Make Improvements at State and Municipal Transportation Facilities" (Governor's Bill)

S.P. 697 L.D. 1895

Report - Ought to Pass as Amended by Committee Amendment "A" (S-478)

Tabled - March 24, 1994, by Senator ESTY of Cumberland.

Pending - ACCEPTANCE OF REPORT

(In Senate, March 22, 1994, Report READ and ACCEPTED. Subsequently, RECONSIDERED.)

On motion by Senator ESTY of Cumberland, Tabled until Later in Today's Session, pending ACCEPTANCE OF REPORT.

The Chair laid before the Senate the Tabled and Today Assigned matter:

Bill "An Act Related to Periodic Justification of Departments and Agencies of State Government under the Maine Sunset Act" (Emergency)

H.P. 1368 L.D. 1851
(H "A" H-817 to C
"A" H-801)

Tabled - March 24, 1994, by Senator ESTY of Cumberland.

Pending - PASSAGE TO BE ENGROSSED AS AMENDED, in concurrence

(In Senate, March 22, 1994, READ A SECOND TIME.)

(In House, March 9, 1994, PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-801) AS AMENDED BY HOUSE AMENDMENT "A" (H-817) thereto.)

On motion by Senator CLEVELAND of Androscoggin, Senate Amendment "A" (S-506) READ.

THE PRESIDENT: The Chair recognizes the Senator from Androscoggin, Senator Cleveland.

Senator CLEVELAND: Thank you Mr. President, Ladies and Gentlemen of the Senate. Let me just take a moment to explain to the members of the Senate what this amendment is. This amendment came to the Committee on Audit and Program Review after we had reported out the bill that is before you. It came to us from the Board of Osteopathic Licensure and the Attorney General's office. It has been reviewed by the Audit and Program Review Committee and unanimously supported. In essence what the bill does is establish a professional review board for the Board of Osteopathic Licensure. This is a similar board that currently exists under the Board of Registration of Medicine, it is the same kind. Apparently there was an oversight that it wasn't specifically authorized for the Osteopathic doctors as well. What the Board does is provide the process by which doctors who are either addicted to a drug or to alcohol go through a process in which they can deal responsibly with that for the protection of the public as well as for the health of the doctor. It has been used in the Board of Licensure of Medicine, it is the same procedure and the Attorney General felt we ought to make it clearly authorized for this Board to use as well. Thank you.

Senate Amendment "A" (S-506) ADOPTED.

THE PRESIDENT: The Chair recognizes the Senator from Androscoggin, Senator Cleveland.

Senator CLEVELAND: Thank you Mr. President, Ladies and Gentlemen of the Senate. I'd like to take a moment to just talk about the bill to give you a summary of the bill as amended. This represents approximately eight months work from the Audit and Program Review Committee so I would like to take just a minute or two to summarize it for you. It is a fairly lengthy bill and I think a fairly comprehensive piece of work that makes many improvements to our regulatory boards. This bill represents a review of 14 agencies, eight of them are professional regulatory boards and five are commissions or councils. This work was done by the Audit and Program Review Committee between January and July of 1993 at a public hearing and comes before you now for your adoption. You will note that I have distributed for you a summary of the Joint Standing Committee on Audit and Program Review which outlines some of what the recommendations are. They include 119 various recommendations to improve the operation and efficiency of these boards. The boards that were reviewed include the Chiropractic Examination, the Osteopathic Examination and Registration, the Board of Dental Examiners, Nursing Home Administrators, the State Board of Nursing, the State Board of Optometry, the State Board of Registration of Medicine, the Board of Examiners of Podiatrists, the Maine Indian Tribal Trust Commission, the Maine Medical Laboratory Commission, the Governor's Committee on Appointment of People with Disabilities, the Maine Board of Children's Trust Fund and the Maine Development Disabilities Council. Under those recommendations they were grouped in a variety of ways. What we have tried to do is improve the operation of the boards, improving their efficiency and effectiveness, insure that all of the boards were operating within the intent of the legislature, that they had the adequate resources to conduct their activities and correct any deficiencies and lack of consistencies with the board that existed and have kind of been put together by piecemeal. Let me just give you out of all of these 119, just a little sense of some of the recommendations that we think will improve their operations. One is that it requires notification of all appointments that are coming up three months before the expiration date, so hopefully the Executive branch can make the appointments in a timely manner. Secondly, it requires that all of the boards provide consumer brochures, available at the place where consumers meet with the professionals so that consumers will have some sense of how to proceed if they have any concerns. It standardizes the appointment process, the staggering of terms. It requires that all of the boards comply with the Freedom of Access law and it clarifies that the sole role of the boards are for the protection and benefit of the public health. Let me just state that again, because I think it is extremely important that the purpose of these boards are clear. It clarifies that the professional regulatory boards protect the public health and welfare. That a board is created by the legislature for no other reason and that the value of the board is measured solely on its success in carrying out this particular mission.

Let me conclude by saying a few words about a particular board that had been renewed for only one year, the other boards we have reviewed renewed their existence for a ten year period, except for the Maine Laboratory Board of Registration, which we have

eliminated since they haven't met in five years. It was assumed they weren't critically needed to continue. The board that gave the Committee particular difficulty and concern was the Board of Optometry. That board in an affiliated board, that is it exists outside of the professional financial regulation umbrella and operates its own board with its own structure. There were a number of things that gave us concern and therefore we did not feel comfortable in continuing their existence for more than one year to ensure that they come back to the legislature to see that their operation is consistent with legislative intent. Let me just mention a few of them. One of the concerns that we had was that the board was in defiance of compliance with State law. State law, since 1985, requires that they have a presence in the Augusta area. After being formally notified in writing on at least two separate occasions they continued not to have a presence here and their presence was in Belfast. They were the only board in the State who were in that position. They continue to deny that they couldn't understand the law, they do have a presence here now. They had no listed phone number for at least two or three years in the directory, creating a significant obstacle for any consumer who might want to try to contact them. There was not adequate notification of meetings so that those who might have interest might be able to attend those meetings. They frequently held meetings in hotel rooms of the Optometrists and felt those were public meetings that the public could reasonably expect to attend, sitting on the double beds of the Ramada Inn. Not a usual practice for a public board carrying out public policy. I'm not sure how many of you would attend a meeting in an Optometrist's room at the Ramada Inn but it wouldn't be my first inclination that that was open to my attendance. They also hadn't complied to the notification of a consumer brochure. Frankly, at least to some of us, it seems fairly clear that they didn't have an absolutely clear understanding of their role as representatives of consumers, as opposed to representatives of the trade organization. For all of those reasons the Committee voted not to extend them for more than one year to ensure their adequate compliance and to ensure that we had no more Ramada Inn meetings on double beds. I wish for your support on this Bill. Thank you.

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

Sent down for concurrence.

Under suspension of the Rules, all matters thus acted upon were ordered sent down forthwith for concurrence.

The Chair laid before the Senate the Tabled and Today Assigned matter:

SENATE REPORTS - from the Committee on **BUSINESS LEGISLATION** on Bill "An Act to Increase Access to Primary Care by Redefining the Practice of Advanced Nursing"

S.P. 390 L.D. 1185

Majority - **Ought to Pass as Amended by Committee Amendment "A" (S-454)**

Minority - **Ought Not to Pass**

Tabled - March 24, 1994, by Senator **ESTY** of Cumberland.

Pending - Motion by Senator **CIANCHETTE** of Somerset to **ACCEPT** the Majority **Ought to Pass as Amended Report**

(In Senate, March 22, 1994, Reports **READ**.)

On motion by Senator **ESTY** of Cumberland, Tabled 1 Legislative Day, pending the motion by Senator **CIANCHETTE** of Somerset to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED Report**.

The Chair laid before the Senate the Tabled and Today Assigned matter:

Bill "An Act to Amend the Public Smoking Laws"
S.P. 724 L.D. 1945
(C "A" S-488)

Tabled - March 24, 1994, by Senator **ESTY** of Cumberland.

Pending - **PASSAGE TO BE ENGROSSED AS AMENDED**

(In Senate, March 23, 1994, **READ A SECOND TIME**.)

Which was **PASSED TO BE ENGROSSED, As Amended**.

Sent down for concurrence.

Off Record Remarks

Senator **CAHILL** of Sagadahoc was granted unanimous consent to address the Senate off the Record.

Off Record Remarks

Under suspension of the Rules, all matters thus acted upon were ordered sent down forthwith for concurrence.

On motion by Senator **HALL** of Piscataquis, **RECESSED** until the sound of the bell.

After Recess

Senate called to order by the President.

Under suspension of the Rules, ordered sent forthwith to the Engrossing Department.

Off Record Remarks

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

COMMITTEE REPORTS

House

Ought to Pass

The Committee on **BANKING & INSURANCE** on Bill "An Act to Create the Maine Health Care Authority" H.P. 1460 L.D. 1985

Reported that the same **Ought to Pass**, pursuant to Joint Order (H.P. 1453).

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**.

Senate at Ease

Senate called to order by the President.

Under suspension of the Rules, **READ A SECOND TIME**.

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

Senator **MCCORMICK:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I just want to talk for a minute to describe to you the wonderful process that the Banking and Insurance Committee had while unanimously agreeing on this bill which, until we did 'so, no one would have predicted that Republicans and Democrats could have reached a consensus on this issue. We did, we used the consensus facilitation technique that we were taught a year and a half ago and we worked so well together that we all gave each other hugs at the end of the day when we finished our work. I just wanted you to know that that it was a great accomplishment and it will be a great accomplishment when we pass this very important bill. Thank you.

Which was **PASSED TO BE ENGROSSED**, in concurrence.

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

COMMITTEE REPORTS

House

Divided Report

The Majority of the Committee on **LEGAL AFFAIRS** on Bill "An Act to Promote Integrity in the Citizens Petition Process" H.P. 1417 L.D. 1931

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-881)**.

Signed:

Senators:

HANDY of Androscoggin
CAREY of Kennebec

Representatives:

DAGGETT of Augusta
LEMKE of Westbrook
BOWERS of Washington
GAMACHE of Lewiston
STEVENS of Sabattus
NASH of Camden

The Minority of the same Committee on the same subject reported that the same **Ought to Pass as Amended by Committee Amendment "B" (H-882)**.

Signed:

Senator:

HALL of Piscataquis

Representatives:

BENNETT of Norway
ROBICHAUD of Caribou
TRUE of Fryeburg

Comes from the House with the Majority **UGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-881)** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-881)**.

Which Reports were **READ**.

On motion by Senator **HANDY** of Androscoggin, the Majority **UGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (H-881)** Report **ACCEPTED**, in concurrence.

The Bill **READ ONCE**.

Non-concurrent Matter

Committee Amendment "A" (H-881) **READ** and **ADOPTED**, in concurrence.

Bill "An Act Regarding the Custody of Remains of Deceased Persons" S.P. 553 L.D. 1577 (C "A" S-417)

Which was, under suspension of the Rules, **READ A SECOND TIME**.

In Senate, March 2, 1994, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-417)**.

On motion by Senator **ESTY** of Cumberland, Tabled until Later in Today's Session, pending **PASSAGE TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-881)**, in concurrence.

Comes from the House **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-417) AS AMENDED BY HOUSE AMENDMENT "B" (H-920)** thereto, in **NON-CONCURRENCE**.

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

The Senate **RECEDED** and **CONCURRED**.

COMMITTEE REPORTS

House

Ought to Pass As Amended

Senate at Ease

The Committee on **TAXATION** on Bill "An Act to Amend the Tree Growth Tax and Open Space Voluntary Withdrawal Laws"

Senate called to order by the President.

H.P. 1349 L.D. 1815

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-832)**.

Under suspension of the Rules, all matters thus acted upon were ordered sent down forthwith for concurrence.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-832) AS AMENDED BY HOUSE AMENDMENT "A" (H-914)** thereto.

Off Record Remarks

Which Report was **READ** and **ACCEPTED**, in concurrence.

The Bill **READ ONCE**.

Committee Amendment "A" (H-832) **READ**.

On motion by Senator **BEGLEY** of Lincoln, **RECESSED** until the sound of the bell.

After Recess

House Amendment "A" (H-914) to Committee Amendment "A" (H-832) **READ** and **ADOPTED**, in concurrence.

Senate called to order by the President.

Committee Amendment "A" (H-832) as Amended by House Amendment "A" (H-914) thereto, **ADOPTED**, in concurrence.

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

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

ENACTORS

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

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

PAPERS FROM THE HOUSE

An Act to Create the Maine Health Care Authority
H.P. 1460 L.D. 1985

On motion by Senator **PEARSON** of Penobscot, placed on the **SPECIAL APPROPRIATIONS TABLE**, pending **ENACTMENT**.

Off Record Remarks

At this point, the Senate retired to the Hall of the House, where a Joint Convention was formed.

AFTER CONVENTION

IN SENATE

Senate called to order by the President.

On motion by Senator **BRANNIGAN** of Cumberland, **ADJOURNED** until Monday, March 28, 1994, at 9:00 in the morning.