

# MAINE STATE LEGISLATURE

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**LEGISLATIVE RECORD**

OF THE

***One Hundred and Eighth  
Legislature***

OF THE

STATE OF MAINE

**Volume II**

**May 26, 1977 to July 25, 1977**

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**Senate Confirmation Session  
September 16, 1977**

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KJ PRINTING  
AUGUSTA, MAINE

provides that substitution shall be made only when the responsible bidder is not 2% higher than other bidders.

Whereupon, House Amendment "A" was adopted.

The SPEAKER: The Chair recognizes the gentleman from Portland, Mr. Jensen.

Mr. JENSEN: Mr. Speaker, I have several questions about this piece of legislation as many of you who were members of the 107th legislature may remember, I was very much involved in a fairly lengthy series of problems with the Bureau of Purchases, dealing with the granting of bids particularly underpads and actually a few other things.

I read over this piece of legislation and Section A, troubles me somewhat. It says that for the purposes of this Sub-section, the words In-State Bidder shall mean a bidder who (1) Whose principal place of business or branch thereof has been located in Maine for a period of two years. No problem with that. (2) Who will employ at least 90 percent of Maine residents to carry out this contract. Now, I certainly agree with the intent of the bill and I think the kind of piece of legislation which has been drafted by the Governor and redrafted by the committee is basically a very good document.

However, I have very real questions about what the words "to carry out the contract" and "90% Maine residents" mean.

Let me give you an example: The problem that I was involved in was a problem with underpads. Now, underpads are something that are used for patients in nursing homes, in mental institutions and in hospitals. The underpad, basically, collects urine and prevents from chafing against the person's body. Now, that is a product which is essentially made up of paper, of fiber. It is a product which is not manufactured in the State of Maine. Now, this is something, which, as I understand it, is manufactured in another state, in many cases with substantially Maine products. Now, if a firm is headquartered out of Boston, as is the case in this particular company I am thinking of and it is set up in such a way as to have their two salesmen located in Maine, although not part of an incorporated Maine firm, that have been dealing with the State of Maine and operating out of the State of Maine for 30 years and those two salesmen are Maine residents, my question is this: Is that firm considered to be a Maine firm? Particularly when you are competing say, with C.M. Rice Company that is based in Portland, that is a Maine firm, however has nothing whatsoever to do with the production of this material and may well be selling underpads or attempting to sell underpads to the State of Maine, that they buy in Wisconsin. I guess my question is, how do you interpret that? It seems to me that the language in here is perhaps not quite tight enough and I would like to be allowed a little bit of time to look it over and see if I might come up with something a little bit tighter, something that works a little bit better, and I would ask that somebody would table this for one legislative day.

On motion of Mrs. Berube of Lewiston, tabled pending passage to be engrossed and later today assigned.

An Act to Clarify the Investigatory Authority of the Commission on Governmental Ethics and Election Practices in Regard to Contested Elections (H. P. 1649) (L. D. 1850)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed, passed to be enacted, signed by the Speaker and sent to the Senate.

The Chair laid before the House the first tabled and today assigned matter:

An Act Relating to Time Limitation on Providing Written Reasons for Termination of Employment (H. P. 1710) (L. D. 1309)

Tabled — June 9, 1977 by Mr. Tierney of Lisbon Falls.

Pending Motion of the same gentleman to Reconsider Failing to Override the Objections of the Governor.

Thereupon, the House reconsidered its action whereby it failed to override the objections of the Governor.

The SPEAKER: The Chair recognizes the gentleman from Sanford, Mr. Nadeau.

Mr. NADEAU: Mr. Speaker, Ladies and Gentlemen of the House: This is a veto message we received last Thursday. Again, let me briefly go over it and ask you to override with me.

The present law now states that if an employer fires an employee, the employee may write to the employer and ask the employer give him the written reasons for being terminated.

All my bill would do would be to grant to the employer, ten business days to comply after the employee has asked him to give the written reasons for his termination of employment. So, all this is doing, is to help the person who has maybe been fired for some shoddy reasons or for reasons that are not too helpful to him as a person.

I ask you this morning to join me in overriding this veto.

The SPEAKER: The Chair recognizes the Gentleman from Augusta, Mr. Bustin.

Mr. BUSTIN: Mr. Speaker Members of the House: I would inform the members of the House that this veto was on a Unanimous Report from the Committee on Labor, the only thing I would add to the remarks of the gentleman from Sanford is that that ten days doesn't even start until the employer receives request for the reasons by certified mail. So, there is plenty of time for someone to comply. I would urge you to override this veto.

The SPEAKER: The Chair recognizes the gentleman from Lisbon Falls, Mr. Tierney.

Mr. TIERNEY: Mr. Speaker, I would like to ask a question through the Chair to any member of the House. Does anyone have any problem with this bill?

The SPEAKER: The pending question before the House is, shall this Bill become a law notwithstanding the objections of the Governor? According to the Constitution, a two-thirds vote of the members present and voting is necessary to override the objections of the Governor. The vote will be taken by the yeas and nays. Those in favor will vote yes; those opposed will vote no.

ROLL CALL

YEA — Ault, Austin, Bachrach, Bagley, Beaulieu, Bennett, Benoit, Berry, Berube, Biron, Blodgett, Boudreau, A.; Boudreau, P.; Brenerman, Burns, Bustin, Carey, Carrier, Chonko, Clark, Connolly, Cote, Cox, Curran, Davies, Diamond, Dow, Drinkwater, Dutremble, Elias, Fenlason, Flanagan, Fowle, Gillis, Goodwin, H.; Goodwin, K.; Greenlaw, Hall, Henderson, Hickey, Hobbins, Howe, Hughes, Jacques, Jalbert, Jensen, Joyce, Kane, Kany, Kelleher, Kilcoyne, Laffin, Locke, MacEachern, Mahany, Marshall, Martin, A.; Masterman, Masterton, Maxwell, McBreairty, McHenry, McKean, McMahan, Mitchell, Moody, Nadeau, Najarian, Nelson, N.; Norris, Palmer, Pearson, Peltier, Plourde, Post, Prescott, Quinn, Raymond, Shute, Spencer, Stubbs, Talbot, Teague, Theriault, Tierney, Tozier, Trafton, Truman, Tyndale, Valentine, Wilfong, Wood, Wyman, The Speaker.

NAY — Brown, K. L.; Bunker, Carroll, Carter, D.; Carter, F.; Churchill, Cunningham, Devoe, Dexter, Dudley, Durgin, Garsoe, Gauthier, Gill, Gould, Gray, Green, Higgins, Huber, Hunter, Hutchings, Immonen, Jackson, LaPlante, Lewis, Lizotte, Lougee, Lynch, Mackel, Morton, Nelson, M.; Perkins, Peterson, Rideout, Rollins, Sewall, Silsby,

Smith, Sprowl, Stover, Tarr, Torrey, Whittemore.

ABSENT — Aloupis, Birt, Brown, K. C.; Connors, Kerry, LeBlanc, Littlefield, Lunt, McPherson, Mills, Peakes, Strout, Tarbell, Twitchell.

Yes, 94; No, 43; Absent, 14.

The SPEAKER: Ninety-four having voted in the affirmative and forty-three in the negative, with fourteen being absent, and ninety-four being more than two-thirds, the veto is not sustained. Sent to the Senate.

The Chair laid before the House the second tabled and today assigned matter:

HOUSE DIVIDED REPORT — Majority (7) "Ought to Pass" as Amended by Committee Amendment "A" (H-536) — Minority (6) "Ought Not to Pass" — Committee on Judiciary on Bill "An Act to Clarify and Modify Causes for 7-Day Notice of Termination of Tenancy at Will" (H. P. 988) (L. D. 1199)

Tabled — June 9, 1977 by Mr. Carrier of Westbrook.

Pending — Motion of Mr. Spencer of Standish to Accept Minority "Ought Not to Pass" Report.

The SPEAKER: The Chair recognizes the gentleman from Standish, Mr. Spencer.

Mr. SPENCER: Mr. Speaker, I move that this lie on the table for two legislative days.

The SPEAKER: The Chair recognizes the gentleman from Westbrook, Mr. Carrier.

Mr. CARRIER: Mr. Speaker, I request a division.

The SPEAKER: The pending question is on the motion of the gentleman from Standish, Mr. Spencer, that this matter be tabled pending his motion to accept the Minority "Ought Not to Pass" Report and specially assigned for Wednesday, June 15. All those in favor of that motion will vote yes; those opposed will vote no.

A vote of the House was taken.

65 having voted in the affirmative and 35 having voted in the negative, the motion did prevail.

The Chair laid before the House the third tabled and today assigned matter:

SENATE REPORT — "Ought to Pass" as Amended by Committee Amendment "A" (S-186) — Committee on Taxation on Bill "An Act to Lighten the Burden of Property Taxes on the Elderly Widowed or Disabled" (S. P. 440) (L. D. 1531)

Tabled — June 9, 1977 by Mr. Palmer of Nobleboro.

Pending — Acceptance of the Committee Report.

The SPEAKER: The Chair recognizes the gentleman from Waterville, Mr. Carey.

Mr. CAREY: Mr. Speaker, Ladies and Gentlemen of the House: This bill is being incorporated in L.D. 1146 so that we can take care of those people 55 and older who are disabled or widowed in with the elderly.

Mrs. Kany is working on an amendment which would not discriminate. The Taxation Committee left out because no one even brought to their attention the fact that there are some people who are 55 and disabled and single. Mrs. Kany is working on an amendment to the bill. She needs the fiscal note to add to it. If that is successful, this bill will have been incorporated in 1146 and, therefore, will no longer be necessary. Until that time arrives, we would hope that maybe somebody would table for two legislative days.

On motion of Mr. Palmer of Nobleboro, tabled pending acceptance of the Committee Report and specially assigned for Wednesday, June 15.

The Chair laid before the House the fourth tabled and today assigned matter:

Bill, "An Act Relating to Reporting of Data of

Abortions Performed by an Attending Physician" (H. P. 1628) (L. D. 1831)

Tabled — June 9, 1977 by Miss Brown of Bethel.

Pending — Passage to be Engrossed.

The SPEAKER: The Chair recognizes the gentlewoman from Falmouth, Mrs. Huber.

Mrs. HUBER: Mr. Speaker, Ladies and Gentlemen of the House: As I indicated the other day when this bill came across my desk, I did have some questions about it. I have been trying to get the answers to those questions, particularly since the redraft came about and appeared to do some of the things that I was hopeful that we could do. I think we have heard already this morning on one bill the question of whether it was necessary or not. Basically, I guess as I pursue this bill a little bit, I have come to the conclusion that it is not a necessary or desirable piece of legislation.

I would point out in a letter we received from Mr. Carey on our desks the other day that Title XXII, number 2841 of the Maine statutes requires the registration of fetal deaths. It is on our books. It is an existing law and it is not being enforced and I think we all have to say, why? Perhaps you are wondering if this particular section covers what we are trying to cover in this new draft, 1831 the registration, specifically of abortions.

I would only read to you the definition of fetal death as I have received from the department. I will read, first of all, the explanation of the definition, then the definition itself. The term fetal death encompasses stillbirths, abortions and miscarriages. Any delivery of a lifeless fetus or embryo is a fetal death. The following has been adopted as the official definition of fetal death for vital statistical purposes in Maine. It is a definition recommended by the World Health Assembly for use throughout the world. Fetal death is death prior to the complete expulsion or extraction from its mother of a product of conception, irrespective of the duration of pregnancy. The death is indicated by the fact that after such separation, if the fetus doesn't breathe or show any other evidence of life such as beating of the heart, pulsation of the umbilical cord or definite movement of voluntary muscles.

I would submit to you, that this definition does, in fact, cover those particular cases that L. D. 1831 addresses.

The second point I have to make in regard to this is that there is a great deal of information in this bill which concerns what would be put on a form that would report such fetal deaths. I don't know whether some of you have had a chance to look at the existing certificate of termination of pregnancy which is used by the State of Maine. It is indeed inclusive. There are a couple of things called for in the bill. One is the weight in grams and one is the measurement in centimeters. The current form does include the weight but does not include the measurement in centimeters.

I would now call your attention also to the form that is proposed to be put into use as of January 1st. It is called "Report of Induced Termination of Pregnancy". Above that, it says U.S. Standard. This is the form that has been put together over a period of time by doctors and officials who are interested in statistics. It is going to be used country-wide to report to the national health center on induced termination of pregnancy statistics. Nowhere on this form does either of those two, either weight or measurement appear. They are basically concerned with the type of termination procedure and any complications that may result.

I would just suggest to you that to put the requirements that 1831 does into the actual law so that therefore, our requirements if this bill were to be passed, would not be met by the United States form which will be and is standardized and will be used by doctors and hospitals

all over the country. It doesn't really make very much sense. I think it indicates we will either have to have more people passing out a particular State of Maine form, that type of thing: duplication. Basically, it will cost more money.

There is one other difference in the United States standard form and what this bill calls for. This bill, in the revised version, 1831 says that such report forms shall not identify the patient by name or otherwise. That sounds okay except when you look on the new U.S. form and they have a patient identification number, essentially. To me, that would violate this particular bill if we did pass it and put it on our books. I think it is just basically an unwise thing for us here in the legislature to try and determine, dot every "i" and decide exactly what we are going to have on a form when people who have been working in this field for a number of years have determined that what they prefer to see on it is not perhaps what each and every state legislature would prefer to see on it.

Basically then, I question the need for this legislation. It is a question of enforcement. I see no reason why it isn't enforced because we have a law on the books that covers this. Finally, I think it is a very poor idea to try and put these kinds of requirements for the form into legislation itself.

Therefore, Mr. Speaker, I would at this time move for the indefinite postponement of this bill and all its accompanying papers and I ask for a division.

The SPEAKER: The Chair recognizes the gentlewoman from Augusta, Mrs. Kane.

Mrs. KANE: Mr. Speaker, Ladies and Gentlemen of the House: I am afraid I have the same problem today that the gentlewoman from Portland, Mrs. Najarian had, it must have been a week and a half or two ago when this bill first came out, she had an amendment that she wanted to propose. There was some information passed on our desks that she wanted to look into before she proposed her amendment.

The news from the gentlewoman from Falmouth, Mrs. Huber, is all news to me. I would like to look into this and find out perhaps exactly what we are doing here. I would like this to be tabled until later in today's session.

The SPEAKER: The Chair recognizes the gentleman from Cumberland, Mr. Garsoe.

Mr. GARSOE: Mr. Speaker, I move this be tabled until later in today's session.

The SPEAKER: The Chair recognizes the gentleman from Lewiston, Mr. Jalbert.

Mr. JALBERT: Mr. Speaker, I move this item lie on the table for two legislative days.

Mr. Garsoe of Cumberland requests a Division.

The SPEAKER: The pending question before the House is the motion of the gentleman from Lewiston, Mr. Jalbert, that this be tabled for two legislative days. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

Mr. Kelleher of Bangor requested a roll call.

The SPEAKER: For the Chair to order a roll call, it must have the expressed desire of more than one fifth of the members present and voting. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken, and more than one fifth of the members present having expressed a desire for a roll call, a roll call was ordered.

The SPEAKER: The pending question before the House is on the motion of the gentleman from Lewiston, Mr. Jalbert, that this matter be tabled for two legislative days. Those in favor will vote yes; those opposed will vote no.

#### ROLL CALL

YEA — Bachrach, Beaulieu, Bennett, Birt, Blodgett, Burns, Bustin, Carey, Carroll, Clark, Connolly, Cote, Cox, Curran, Dow, Dudley,

Dutremble, Elias, Flanagan, Fowlie, Gauthier, Goodwin, H.; Goodwin, K.; Gould, Green, Hall, Hickey, Higgins, Hobbins, Jacques, Jalbert, Jensen, Joyce, Kane, Kany, Kelleher, Kerry, Kilcoyne, Laffin, LaPlante, Lewis, Lizotte, Lynch, MacEachern, Mackel, Mahany, Marshall, Masterman, Maxwell, McBairty, McHenry, McKean, McMahon, Mitchell, Nadeau, Najarian, Nelson, N.; Perkins, Plourde, Quinn, Raymond, Shute, Spencer, Sprowl, Talbot, Tarr, Theriault, Tierney, Torrey, Tozier, Truman, Tyndale, Valentine, Whittemore, Wood, Wyman.

NAY — Aloupis, Ault, Austin, Bagley, Benoit, Berry, Berube, Biron, Boudreau, A.; Boudreau, P.; Brenerman, Brown, K. L.; Bunker, Carrier, Carter, F.; Chonko, Churchill, Cunningham, Davies, Devoe, Dexter, Diamond, Drinkwater, Durgin, Fenlason, Garsoe, Gill, Gillis, Gray, Greenlaw, Henderson, Howe, Huber, Hughes, Hunter, Hutchings, Immonen, Jackson, Lougee, Martin, A.; Masterton, Morton, Nelson, M.; Palmer, Pearson, Peltier, Peterson, Post, Prescott, Rideout, Rollins, Sewall, Smith, Stover, Stubbs, Tarbell, Teague, Trafton, Wilfong.

ABSENT — Brown, K. C.; Carter, D.; Connors, LeBlanc, Littlefield, Locke, Lunt, McPherson, Mills, Moody, Norris, Peakes, Silby, Strout, Twitchell.

Yes, 76; No, 59; Absent, 15.

The SPEAKER: Seventy-six having voted in the affirmative and fifty-nine in the negative with fifteen being absent, the motion does prevail.

The Chair laid before the House the fifth tabled and today assigned matter:

Bill "An Act Defining the Rights and Responsibilities of Landlords and Tenants in Residential Property" (H. P. 1641) (L. D. 1843) (H. "A" H-533)

Tabled — June 9, 1977 by Mr. Spencer of Standish.

Pending — Motion of Mr. Carrier of Westbrook to Indefinitely Postpone House Amendment "C" (H-548) (Roll Call Requested)

The SPEAKER: The Chair recognizes the gentleman from Standish, Mr. Spencer.

Mr. SPENCER: Mr. Speaker, Ladies and Gentlemen of the House: I would urge you to vote against the indefinite postponement of the motion on House Amendment "C". The major purpose of House Amendment "C" is to clarify the jurisdiction of the district court to hear cases under the procedures established in L. D. 1843.

The original bill provided that any case under 1843 or under the original draft of this bill would go to the superior court. In the committee, that was changed at the request of Senator Collins to include the superior court and the district court because the district court is more accessible and it is generally cheaper and more expeditious to proceed within the district court than in the superior court. The bill itself includes the district court and the purpose of this amendment is simply to add a provision in Title IV which makes it clear that the district court does have jurisdiction to deal with the cases that come up under L. D. 1843.

There are a couple of other minor changes in the amendment. One would change the word "welfare" to "safety" so that instead of before the procedures of 1843 would become operative, a condition would have to threaten the safety of the tenant, not just his welfare. That change would make the bill a narrower bill that would only apply where there was a threat to safety rather than the general word "welfare".

We also struck out three words which were "or the public". What that said was that if any condition in the building threatens the safety and so on of the tenants or the public, that the tenant could go into court. "or the public" is stricken out so that the bill only deals now with