

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

LEGISLATIVE RECORD

OF THE

***One Hundred and Eleventh
Legislature***

OF THE

STATE OF MAINE

Volume II

FIRST REGULAR SESSION

May 16, 1983 to June 24, 1983

INDEX

FIRST CONFIRMATION SESSION

August 4, 1983

INDEX

FIRST SPECIAL SESSION

September 6 and 7, 1983

INDEX

SECOND CONFIRMATION SESSION

September 23, 1983

INDEX

THIRD CONFIRMATION SESSION

October 28, 1983

INDEX

SECOND SPECIAL SESSION

November 18, 1983

INDEX

STATE OF MAINE
 One Hundred and Eleventh Legislature
 First Regular Session
 JOURNAL OF THE SENATE
 Augusta, Maine
 May 27, 1983
 Senate called to order by the President.

Prayer the Honorable Nancy Randall Clark of Freeport.

Senator CLARK: Let us pray. Our gracious Father we humbly ask for strength to serve, wisdom to guide, and courage to act.

Help us to have a sense of humor, good judgment and an understanding heart.

Grant that we may truly be Thy representative through our service to our fellow men and women.

All this we ask in Thy holy name. Amen.

Reading of the Journal of yesterday.

(Off Record Remarks)

Out of Order and Under Suspension of the Rules:

On motion by Senator PRAY of Penobscot, the following Joint Order: (S. P. 590)

ORDERED, the House concurring, that when the House and Senate adjourn, they adjourn to Tuesday, May 31, 1983 at 12:00 noon.

Which was Read and Passed.

Sent down forthwith for concurrence.

**Committee Reports
 House
 Leave to Withdraw**

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

BILL, "An Act to Clarify the Status of Workfare Recipients under the Workers' Compensation Act" (H. P. 1221) (L. D. 1628)

Ought to Pass

The Committee on Local and County Government on BILL, "An Act Relating to the Date to Apportion County Taxes" (H. P. 1252) (L. D. 1665) 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.

The PRESIDENT: Is it the pleasure of the Senate that Under Suspension of the Rules, that L. D. 1665 be given its Second Reading by Title Only?

It is a vote.

Under Suspension of the Rules, the Bill Read a Second Time and Passed to be Engrossed, in concurrence.

Senate

Ought to Pass as Amended

Senator CLARK for the Committee on Business Legislation on BILL, "An Act to Effect Changes in the Statutes of Various Occupational and Professional Licensing Boards" (S. P. 562) (L. D. 1625) Reported that the same Ought to Pass as Amended by Committee Amendment "A" (S-156).

Which Report was Read and Accepted. The Bill Read Once. Committee Amendment "A" (S-156) was Read and Adopted.

The PRESIDENT: Is it the pleasure of the Senate that Under Suspension of the Rules, that L. D. 1625 be given its Second Reading by Title Only?

It is a vote.

Under Suspension of the Rules, the Bill Read a Second Time and Passed to be Engrossed, as amended, in concurrence.

Senator TWITCHELL for the Committee on

Local and County Government on BILL, "An Act to Extend the Time for County Commissioners to Apportion County Taxes" (Emergency) (S. P. 510) (L. D. 1536) Reported that the same Ought to Pass as Amended by Committee Amendment "A" (S-158)

Which Report was Read and Accepted. The Bill Read Once. Committee Amendment "A" (S-158) was Read and Adopted.

The PRESIDENT: Is it the pleasure of the Senate that Under Suspension of the Rules, that L. D. 1536 be given its Second Reading by Title Only?

It is a vote.

Under Suspension of the Rules, the Bill Read a Second Time and Passed to be Engrossed, as amended, in concurrence.

Ought to Pass in New Draft

Senator CHARETTE for the Committee on Business Legislation on BILL, "An Act to Amend the Investment Provisions and Certain Related Sections of the Maine Insurance Code" (S. P. 104) (L. D. 236) Reported that the same Ought to Pass in New Draft under same title (S. P. 589) (L. D. 1707)

Which Report was Read and Accepted.

The Bill, in New Draft, Read Once.

The PRESIDENT: Is it the pleasure of the Senate that Under Suspension of the Rules, that L. D. 1707 be given its Second Reading by Title Only?

It is a vote.

Under Suspension of the Rules, the Bill Read a Second Time and Passed to be Engrossed.

Sent down for concurrence.

Senator TWITCHELL for the Committee on Local and County Government on BILL, "An Act to Establish County Budget Committees" (S. P. 435) (L. D. 1347) Reported that the same Ought to Pass in New Draft under same title (S. P. 592) (L. D. 1710)

Which Report was Read and Accepted.

The Bill, in New Draft, Read Once.

The PRESIDENT: Is it the pleasure of the Senate that Under Suspension of the Rules, that L. D. 1710 be given its Second Reading by Title Only?

It is a vote.

Under Suspension of the Rules, the Bill Read a Second Time and Passed to be Engrossed.

Sent down for concurrence.

Enactors

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

An Act to Prohibit Residency Requirements for Municipal Employees. (S. P. 61) (L. D. 167)

An Act to Provide for the 1983 Amendments to the Maine Housing Authorities Act. (H. P. 1152) (L. D. 1521)

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

An Act to Require the Wearing of Protective Headgear by All Motorcycle and Motor Driven Cycle Riders. (H. P. 836) (L. D. 1072)

On motion by Senator Carpenter of Aroostook, Tabled for 1 Legislative Day, pending Enactment.

An Act to Authorize the Department of Environmental Protection to Continue to Provide Technical Assistance to Municipalities and other Quasi-municipal Entities Regarding Solid Waste Management. (H. P. 1114) (L. D. 1472)

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

Emergency

An Act to Increase the Annual Public Utilities Commission Regulatory Fund Assessment to \$1,460,000, beginning in Fiscal Year 1984. (H. P. 1228) (L. D. 1632)

This being an emergency measure and having received the affirmative votes of 30 members of the Senate, with No Senators having voted in the negative was Passed to be Enacted and having been signed by the President, was by the Secretary presented to the Governor for his approval.

Emergency

RESOLVE, to Prohibit the Expenditure of Funds Raised for Food Stamps in Androscoggin County. (H. P. 1138) (L. D. 1500)

This being an emergency measure and having received the affirmative votes of 27 members of the Senate, with No Senators having voted in the negative was Finally Passed, and having been signed by the President, was by the Secretary presented to the Governor for his approval.

Orders of the Day

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

SENATE REPORTS — from the Committee on Legal Affairs on BILL, "An Act to Provide for Licensing of Bottle Clubs" (S. P. 509) (L. D. 1535)

Majority Report — Ought To Pass in New Draft under New Title, Bill, An Act to Provide for Local Option Voting on Bottle Clubs (S. P. 584) (L. D. 1694)

Minority Report — Ought to Pass as Amended by Committee Amendment "A" (S-155)

Tabled — May 26, 1983 by Senator BALDACCIO of Penobscot

Pending — The motion of Senator CHARETTE of Androscoggin to Accept the Majority Report (Roll Call Ordered)

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

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

An Act Concerning the Catching of Herring for Bait (H. P. 1172) (L. D. 1560)

Tabled — May 26, 1983 by Senator PRAY of Penobscot

Pending — Enactment

(In House May 25, 1983 Passed to be Enacted)

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

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

RESOLVE, Authorizing the State Tax Assessor to Convey Title to the Former Municipal Building of Plantation 21 to the Bureau of Public Lands and Authorizing the Bureau of Public Lands to Lease the Former Municipal Building to the Princeton Grange (Emergency) (H. P. 1232) (L. D. 1636)

Tabled — May 26, 1983 by Senator PRAY of Penobscot

Pending — Enactment

(In House May 25, 1983 — Passed to be Enacted)

This being an emergency measure and having received the affirmative votes of 28 Members of the Senate, with 1 Senator having voted in the negative, was Finally Passed and having been signed by the President, was by the Secretary presented to the Governor for his approval.

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

BILL, "An Act to Amend Various Provisions of the Maine Criminal Code" (H. P. 1035) (L. D. 1360)

Tabled — May 26, 1983 by Senator CARPENTER of Aroostook

Pending — Motion of Senator NAJARIAN of Cumberland to Reconsider Passage to be Engrossed

(In House May 23, 1983, Passed to be Engrossed as Amended by Committee Amendment "A" (H-275))

(In Senate May 23, 1983 Passed to be Engrossed as Amended by Committee Amendment "A" (H-275) in concurrence)

On motion by Senator Carpenter of Aroostook, Retabled for 2 Legislative Days.

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

An Act Concerning Volunteer Marine Patrol Officers (Emergency) (S. P. 558) (L. D. 1624)

Tabled — May 26, 1983 by Senator MINKOWSKY of Androscoggin

Pending — Enactment

(In House May 26, 1983 Passed to be Enacted)

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

Senator MINKOWSKY: Mr. President and Members of the Senate, in checking with the Department of Marine Resources this morning we find that there will be no State expenditures involved in this particular volunteer program, the costs with federal subsidies will be about two thousand two-hundred dollars. The second question that came to light, do these volunteers come under workers' compensation? The answer is no they do not, because they are not paid State employees. Number three regarding weapons. The Department does not recommend carrying of weapons by volunteer officers no more than they do recommend the carrying of weapons by their full-time officers. It has been a State police requirement and in some instances where State police officer was not available full-time officers or marine patrol officers would be carrying weapons. But the Department does feel strongly, nor will they place weapons in the hand of volunteers. Insofar as the duties are concerned very very simply, they are classified as routine duties of low priority. Checking clam flats, salmon tags, striped bass as to minimum size.

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

Senator PRAY: Thank you Mr. President. Mr. President, Ladies and Gentlemen, since I raised several concerns yesterday I have been adequately satisfied that this measure should be enacted, but I would like to clarify one statement. I think it's similar to volunteer fire fighters and so forth that operate in municipalities. If they are injured on the job they will receive a minimal workers' compensation coverage. So just for clarification points that there is some obligations if they are allowed and authorized by the Commissioner of Marine Resources to be a volunteer Marine Warden that there will be some responsibilities on the State, but that's a minor detail and I think that this bill will assist the State.

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

Senator CARPENTER: Mr. President, I have a question or a number of questions to pose, either to the Chairman of the Marine Resources Committee, or perhaps the minority floor leader the good Senator from Knox, Senator Collins. In the case were we seemed to have taken care of the situation where one of these people is injured but what if they do something that's not proper? We've talked about they're not encouraged to carry weapons, but apparently the legislation allows them to. What happens if they use excessive force? Or shoot someone? Or in some way injury who in that situation would be liable for their actions?

The PRESIDENT: The Senator from Aroostook, Senator Carpenter has posed a question through the Chair to any Member of the Committee who may respond if they so desired.

The Chair recognizes the Senator from Androscoggin, Senator Minkowsky.

Senator MINKOWSKY: Mr. President, Mem-

bers of the Senate, in my discussion with the Commissioner this morning relevant to this issue. Let me stress one more time that the volunteer officers so far as the Department is concerned will not be carrying weapons at all. I understand, also, that insofar as force they will not be put in that particular predicament of exerting force on any licensee or any person who is fishing in our waters, or clamming or taking striped bass. I think it would be just a courtesy that if the person hopefully complies that will be the end of the story and if it gets into any confrontation I believe the volunteer officers would back off, and report the person after checking their license, and then further steps would be taken by the Department.

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

Senator CARPENTER: Mr. President, I don't mean to hassle this, what seems to be an innocuous little bill, but if you look at the L. D. under the second section 6028, it says, "volunteer Marine Patrol Officers shall have the same powers and duties as Marine Patrol Officers as specified in section 6025 except that the exercise of these powers and duties shall be limited to Marine Resources Laws." It seems to me that's the only the restriction that is being placed on these people, is that where a regular Marine Patrol Officer, as I understand it, is a state wide law enforcement officer who could be called upon to do other law enforcement duties, these people are only allowed to enforce Marine Resources Laws. While the Department may say its not their intent that these people carry weapons or do anything which might put them in a situation where they would have to confront either a dangerous situation, or a situation were they could cause some damage and possibly have somebody held liable. While it may not be the departments intent it seems to me very clear once these people are appointed then that pretty well limits the Departments authority to restrict them. And I would ask again, who would be liable if they where, if they didn't back off in a situation, or if in pursuing an illegal fishermen or something, they wrecked their car and injured somebody? Who would be liable? Would the State be liable? Would they as individuals be liable? Or exactly where would the liability lie?

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

Senator MINKOWSKY: Mr. President, my own personal assessment is that through litigation if somebody was injured or detained, that the State could be held liable if the case could be proven. Let me stress one more time that this really is classified as duties of extremely low priority. They do not fall in the same classification as the full-time officers insofar as the magnitude and scope of duties as they do have. Also, let me stress again that the Marine Patrol Officer, full-time officer, does carry a weapon but in most cases does not carry his weapon at his side. The Department frowns a great deal upon Marine Patrol Officers carrying weapons. And that point was stressed very clearly this morning by the Commissioner, but again in certain situations were they are called upon they can place a weapon at their side, and fill in where other Maine State Police people are not presently available in which to make an arrest, or to face a very serious confrontation. I think I'm primarily referring to contraband, drugs, and other activities that have taken place off the coast of Maine. I do not believe that the volunteer Marine Patrol Officers will find himself in that particular situation. I hope that the bill will be Enacted.

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

Senator CLARK: Mr. President, I have a question, perhaps two, that I would offer to the good Senator from Androscoggin, Senator Minkowsky one, will these clam-cops be in uni-

form? And will they be checking seaweed harvester licenses?

The PRESIDENT: The Senator from Cumberland, Senator Clark has posed a question through the Chair for any Senator who may respond to the question.

The Senator from Androscoggin, Senator Minkowsky asks Leave of the Senate to speak a fifth time.

Is there objection?

The Senator has the floor.

Senator MINKOWSKY: Mr. President, and members of the Senate in response to my very dear friend the fine Senator from the Cumberland County the answer is affirmative. Part of that two thousand two hundred dollar cost is for uniforms, and secondly the clam-cops would enforce the seaweed law, also.

This being an emergency measure and having received the affirmative votes of 21 Members of the Senate, with 8 Senators having voted in the negative, the Bill, Failed of Enactment, in non-concurrence.

Sent down for concurrence.

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

BILL, "An Act to Provide for Consumer Representation before the Maine Milk Commission" (H. P. 1137) (L. D. 1499)

Tabled—May 26, 1983 by Senator CARPENTER of Aroostook

Pending—Adoption of Senate Amendment "A" (S-157)

(In House May 25, 1983 Majority Ought Not to Pass Report Read and Accepted)

Senate Amendment "A" was Adopted.

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

Sent down for concurrence.

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

BILL, "An Act to Clarify and Make Corrections in the Inland Fisheries and Wildlife Laws" (S. P. 548) (L. D. 1599)

Tabled — May 26, 1983 by Senator CARPENTER of Aroostook

Pending — Passage to be Engrossed

Which was Passed to be Engrossed.

Sent down for concurrence.

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

BILL, "An Act to Create Boothbay Region Waterfowl Sanctuary" (H. P. 713) (L. D. 904)

Tabled — May 26, 1983 by Senator PRAY of Penobscot

Pending — Passage to be Engrossed

(In House May 24, 1983 Passed to be Engrossed as Amended by Committee Amendment "A" (H-284).)

On motion by Senator Pray of Penobscot, Retabled for 2 Legislative Days.

Out of Order and Under Suspension of the Rules, the Senate voted in consider the following.

Papers from the House House Papers

BILL, "An Act Making Additional Allocations for the Expenditures of State Government in Response to United States Emergency Jobs and Humanitarian Aid Programs for the Fiscal Years Ending June 30, 1983, 1984 and 1985." (Emergency) (H. P. 1289) (L. D. 1709)

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

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

The Adjournment Order having been returned from the House, Read and Passed, in concurrence, on motion by Senator Pray of Penobscot, Adjourned until Monday, May 31, 1983 at 12 o'clock noon.