

MAINE STATE LEGISLATURE

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

VOLUME I
FIRST REGULAR SESSION
December 3, 1986 to May 22, 1987

STATE OF MAINE
ONE HUNDRED AND THIRTEENTH LEGISLATURE
FIRST REGULAR SESSION
JOURNAL OF THE SENATE

In Senate Chamber
Monday
April 6, 1987

Senate called to Order by the President.

Prayer by Reverend Ray Dupere of the Church of the Open Door in Hampden.

REVEREND DUPERE: Would you bow in prayer? Father, this last week, we have seen the mighty rivers of our State, move with a seeming will of their own, leaving behind, the very real destruction and the possibility of very real despair. We first thank You for keeping the people of our State safe during the floods and ask now, that they would find in You, the strength of body and spirit needed to look toward the future, as they begin to rebuild. We also ask that You would keep us from further harm, that You would cause the rivers to recede, that the rebuilding might begin. Father, we further ask that You would move the hearts of those in our national and state governments and enable them to make wise, compassionate and speedy decisions, as they assess the collective needs of our State, and the very personal and real needs of our people.

Lastly, I pray for these men and women here, to the extent that they seek Your guidance. Grant them the wisdom needed for the day before them, that they may be confident in the decisions they make. We know that we can come before You because You are our God. We know our needs, we know our desires and You desire to shower Your compassion and love upon those who call upon You. We pray these things in the name of Your Son, the Lord Jesus Christ. Amen

Reading of the Journal of Thursday, April 2, 1987.

Off Record Remarks

PAPERS FROM THE HOUSE

House Papers

Bill "An Act to Increase Maine Agricultural Market Research and Development"

H.P. 801 L.D. 1075

Bill "An Act to Require Labeling of Foods Processed with Radiation"

H.P. 814 L.D. 1088

Bill "An Act to Amend the Potato Marketing Improvement Fund Law"

H.P. 815 L.D. 1089

Come from the House referred to the Committee on AGRICULTURE and ORDERED PRINTED.

Which were referred to the Committee on AGRICULTURE and ORDERED PRINTED, in concurrence.

Bill "An Act Relating to Reimbursement of Counties for Costs Associated with Operations of the Court System"

H.P. 808 L.D. 1082

Committee on JUDICIARY suggested and ORDERED PRINTED.

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.

Bill "An Act to Expand the Blaine House Scholars Program"

H.P. 816 L.D. 1090

Comes from the House referred to the Committee on EDUCATION and ORDERED PRINTED.

Which was referred to the Committee on EDUCATION and ORDERED PRINTED, in concurrence.

Bill "An Act to Restructure the Method of Appointment of Members of the Maine Land Use Regulation Commission"

H.P. 813 L.D. 1087

Committee on STATE AND LOCAL GOVERNMENT suggested and ORDERED PRINTED.

Comes from the House referred to the Committee on ENERGY AND NATURAL RESOURCES and ORDERED PRINTED.

Which was referred to the Committee on ENERGY AND NATURAL RESOURCES and ORDERED PRINTED, in concurrence.

Resolve, to Provide a One-year Moratorium on School-based Health Clinics and Establish the Commission to Study Clinics in Public Schools which provide Counseling and Services Relating to Pregnancy

H.P. 802 L.D. 1076

Comes from the House referred to the Committee on HUMAN RESOURCES and ORDERED PRINTED.

Which was referred to the Committee on HUMAN RESOURCES and ORDERED PRINTED, in concurrence.

Bill "An Act to Remove Statutory Protection for Those Who Sexually Assault Voluntary Social Companions"

H.P. 809 L.D. 1083

Comes from the House referred to the Committee on JUDICIARY and ORDERED PRINTED.

Which was referred to the Committee on JUDICIARY and ORDERED PRINTED, in concurrence.

Bill "An Act to Prevent Criminals from Profiting as an Indirect Result of Their Crime"

H.P. 817 L.D. 1091

Committee on LEGAL AFFAIRS suggested and ORDERED PRINTED.

Comes from the House referred to the Committee on JUDICIARY and ORDERED PRINTED.

Which was referred to the Committee on JUDICIARY and ORDERED PRINTED, in concurrence.

Bill "An Act Concerning the Filing of Nominating Petitions for Elective Office"

H.P. 810 L.D. 1084

Comes from the House referred to the Committee on LEGAL AFFAIRS and ORDERED PRINTED.

Which was referred to the Committee on LEGAL AFFAIRS and ORDERED PRINTED, in concurrence.

Bill "An Act to Establish a Tax Credit for Removal of Asbestos"

H.P. 803 L.D. 1077

Bill "An Act to Permit a Local Option Sales Tax"

H.P. 807 L.D. 1081

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Bill "An Act to Provide Municipalities with the Option of Assessing Service Charges on Tax-exempt Property"

H.P. 811 L.D. 1085

Bill "An Act to Alter the Exemptions in Property Tax"

H.P. 812 L.D. 1086

Bill "An Act to Establish Municipal Cost Components for Services to be Rendered in Fiscal Year 1987-88" (Emergency)

H.P. 818 L.D. 1103

Come from the House referred to the Committee on TAXATION and ORDERED PRINTED.

Which were referred to the Committee on TAXATION and ORDERED PRINTED, in concurrence.

Bill "An Act to Require that Loads of Gravel, Sand, Crushed Stone, Wood Chips, Building Debris or Rubbish be Secure to Prevent Spillage"

H.P. 799 L.D. 1073

Bill "An Act Concerning Interstate or Intrastate Operating Permits"

H.P. 806 L.D. 1080

Come from the House referred to the Committee on TRANSPORTATION and ORDERED PRINTED.

Which were referred to the Committee on TRANSPORTATION and ORDERED PRINTED, in concurrence.

Bill "An Act Regarding Electric Rates for Volunteer Fire Associations"

H.P. 805 L.D. 1079

Comes from the House referred to the Committee on UTILITIES and ORDERED PRINTED.

Which was referred to the Committee on UTILITIES and ORDERED PRINTED, in concurrence.

COMMUNICATIONS

The Following Communication:

GREATER PORTLAND COUNCIL OF GOVERNMENTS
233 OXFORD STREET
PORTLAND, MAINE 04101

April 1, 1987

The Honorable Charles Pray
President of the Senate of the State of Maine
State House Station Number 3
Augusta, Maine 04333

Dear Mr. Pray:

The State 9-1-1 Emergency Telephone Number Study Commission, pursuant to Private and Special Laws of 1985, Chapter 114 as amended, is pleased to transmit to you and the Legislature the enclosed Commission's report.

The Commission Members look forward to presenting the Study's findings to the Legislature. Please notify me through the Greater Portland Council of Governments at the above address when that can be scheduled.

Sincerely yours,
S/Samuel Allen, III
Chairman

State 9-1-1 Study Commission

Which was READ and with Accompanying Papers ORDERED PLACED ON FILE.

SENATE PAPERS

Bill "An Act to Facilitate the Advertising of Local Businesses under the Maine Traveler Information Services Act"

S.P. 370 L.D. 1104

Presented by Senator TWITCHELL of Oxford

Which was referred to the Committee on BUSINESS LEGISLATION and ORDERED PRINTED.
Sent down for concurrence.

Off Record Remarks

COMMITTEE REPORTS

House

Leave to Withdraw

The following Leave to Withdraw Reports shall be placed in the Legislative Files without further action pursuant to Rule 15 of the Joint Rules:

Bill "An Act to Increase the Property Tax Exemption for Veterans"

H.P. 76 L.D. 79

Bill "An Act to Increase the Veterans' Property Tax Exemption"

H.P. 151 L.D. 192

Bill "An Act to Allow Sunday Deer Hunting"

H.P. 177 L.D. 221

Bill "An Act Relating to Organization and Powers of Religious Societies"

H.P. 195 L.D. 239

Bill "An Act to Allow Political Candidates and Members of their Campaign Staff to Appear Outside Voting Places"

H.P. 410 L.D. 544

Bill "An Act Making it a Class C Crime to Cause Serious Bodily Injury while Operating under the Influence"

H.P. 447 L.D. 600

Ought to Pass in New Draft

The Committee on LABOR on Bill "An Act Concerning Mandatory Workfare Participants"

H.P. 108 L.D. 118

Reported that the same Ought to Pass in New Draft under same title.

H.P. 798 L.D. 1070

Comes from the House, with the Report READ and ACCEPTED and the Bill in NEW DRAFT PASSED TO BE ENGGROSSED.

Which Report was READ and ACCEPTED, in concurrence.

The Bill in NEW DRAFT READ ONCE.

The Bill in NEW DRAFT TOMORROW ASSIGNED FOR SECOND READING.

Senate

Ought to Pass in New Draft under New Title

Senator WHITMORE for the Committee on BUSINESS LEGISLATION on Bill "An Act to Exempt Certain Eating Places from the Requirement to Provide a Public Rest Room" (Emergency)

S.P. 35 L.D. 19

Reported that the same Ought to Pass in New Draft under New Title Bill "An Act to Exempt Certain Eating Establishments from the Requirements to Provide a Public Toilet Facility" (Emergency)

S.P. 371 L.D. 1106

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 Provide for the Creation of Liens and Sales on Small Motors"

H.P. 768 L.D. 1031

Bill "An Act Requiring Proper Placement of Motor Vehicle Dealer Plates"

H.P. 771 L.D. 1034

Bill "An Act Relating to Rate-setting Procedures by Municipally-owned Utilities"

H.P. 772 L.D. 1035

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

Bill "An Act Relating to Absentee Balloting by Residents of Nursing Homes, Boarding Homes and Congregate Housing Units"

H.P. 705 L.D. 947

Which was READ A SECOND TIME.

On motion by Senator ERWIN of Oxford, Senate Amendment "A" (S-19) READ.

THE PRESIDENT: The Chair recognizes that same Senator.

Senator ERWIN: Thank you, Mr. President. Mr. President, Ladies and Gentlemen of the Senate. I am sure that most of us have had and will have people who are terminally ill or near terminally ill. We all have our pride and when you reach a stage such as that, we want people that we know, we don't want strangers coming in to see us with a terrific loss of weight, if we have had cobalt treatment, perhaps a loss of hair. Physically, our pride tells us that we want our friends to see us in a condition like that, not a perfect stranger.

This amendment would let people that are in those conditions request by name, an individual to help them with their voting. Thank you.

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

Senator KANY: Mr. President and Members of the Senate. I rise to oppose the amendment and I ask for the Indefinite Postponement of the amendment before us, and I also request a Division. I hesitate to oppose the the gentlemen, the wonderful Senator from Oxford, Senator Erwin, because I understand the sincerity when he offers anything to this Senate. I do favor the unanimous report of the Committee on Legal Affairs. Because the Committee rewrote the Bill which had been offered to us, which more or less required that a clerk of any municipality offer voting at a nursing home. We amended that particular Bill to make it clear that the clerk after a particular day of offering voting a nursing, could not allow a candidate whose name appeared on the ballot, to take an absentee ballot to a person at a nursing home, or a congregate housing, or a licensed boarding home.

We wanted to remove the candidates from the ballot process, because we think it is important to the integrity of the political process, and to politicians in general, that their name not be implicated as possibly intruding into the voting process. We, last year, totally re-drew the absentee balloting law, made comprehensive changes, in which individuals could have just two witnesses that did not need to be notary publics', being the witnesses to the outside of a ballot. We also allow voting purely by mail, without having any witness or a notary public who have to sign the outside of that ballot.

So, individuals, let's say, someone who is seriously ill, as described by the good Senator from Oxford, Senator Erwin, could either vote entirely by mail without a witness. They could have staff people at the nursing home or hospital be the witnesses and

sign on the outside of the ballot, they could have other members of their family, anyone but a candidate could witness for that particular absentee ballot. So, I think there are plenty of opportunities, including opportunities for privacy and not involving members of the public who the person who is ill would not want to associate themselves with at that time. I urge you to defeat the amendment before you which would allow candidates, then, whose names are listed on the ballot to be active participants in the absentee balloting process in a nursing home.

Senator KANY of Kennebec moved the INDEFINITE POSTPONEMENT of Senate Amendment "A" (S-19).

THE PRESIDENT: The Chair recognizes the Senator from Oxford, Senator Erwin.

Senator ERWIN: Thank you, Mr. President. Mr. President, Ladies and Gentlemen of the Senate. I have had only one occasion where I have had to do this with an extremely close friend. One of my friends whom I had years ago at Oxford Paper.

I had to go to a nursing home that was some twenty five miles, so when you figure two trips, that is one hundred miles. Many clerks will not do that.

I am a very emotional type of individual and I tell you it just tore me apart. Fortunately, I had asked for and received the nurse in charge of the nursing home to go with me. I was getting permission. As soon as Tony saw me, he was paralyzed and was just getting to where he could speak again, and it was very difficult to understand what he was trying to say. He held my hand and cried for about ten minutes. You can imagine what that did to me. When I went back, I made sure that I found out when his wife visited, and so I arranged to return with the ballot when she would be there where she would handle the complete voting. All that I did was sign the outside of the envelope.

It is something that is very emotional to anybody that is involved in a case where it is a friend. I reiterate that the people in this condition, and all of us have pride, but it seems to come out more then. They do not want strangers coming to see them. They prefer a friend. I ask you not to let current events carry away your decision on this matter.

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

Senator DILLENBACK: Thank you, Mr. President, Ladies and Gentlemen of the Senate. I think the lady from Kennebec, Senator Kany, made an excellent presentation, but I would just like to add a few points.. First, there is nothing in the world to prevent any relative or any friend to go visit somebody in a nursing home. Secondly, the clerk, himself, does not have to go to the nursing home. They can appoint somebody to handle that job. Three hundred and sixty days a year, you can go and hold somebody's hand. It is the day of the vote that you shouldn't be there if you are a candidate on the ballot. That is the only principle involved here. I think that people appreciate having the opportunity, in a nursing home, to vote like you and I do. If they are in a bed and unable to do it, then a relative or a third party, or a friend can go and help them with the ballot. They can ask for an absentee ballot. It can be mailed to them, it can be brought to them by a friend. Anything along those lines are perfectly permissible. I think this a good Bill. I hope you will support it.

THE PRESIDENT: The pending question before the Senate is the motion of Senator KANY of Kennebec, to INDEFINITELY POSTPONE Senate Amendment "A" (S-19).

A Division has been requested.

Will all those Senators in favor of the motion of Senator KANY of Kennebec, to INDEFINITELY POSTPONE Senate Amendment "A" (S-19), please rise in their places and remain standing until counted.

Will all those Senators opposed please rise in their places and remain standing until counted.

19 Senators having voted in the affirmative and 11 Senators having voted in the negative, the motion by Senator KANY of Kennebec, to INDEFINITELY POSTPONE Senate Amendment "A" (S-19), PREVAILED.

Which was PASSED TO BE ENGROSSED, in concurrence.

House As Amended

Bill "An Act to Amend the State Antitrust Laws"

H.P. 214 L.D. 266

(C "A" H-44)

Bill "An Act Concerning Good Time and Meritorious Good Time Relative to Parole Eligibility" (Emergency)

H.P. 231 L.D. 299

(C "A" H-48)

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

ENACTORS

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

An Act Relating to Passing Stopped School Buses

S.P. 50 L.D. 99

(C "A" S-13)

An Act to Provide a Trade-in-credit for Camper Trailers

H.P. 104 L.D. 114

(C "A" H-37)

An Act to Dissolve the Madawaska Hospital District

S.P. 57 L.D. 124

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

An Act to Require Greater Specificity in the Annual Reports of the Maine Health Care Finance Commission

S.P. 145 L.D. 399

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

Emergency

An Act to Validate and Approve the School Construction Proceedings of Maine School Administrative District No. 42

H.P. 365 L.D. 479

This being an Emergency Measure and having received the affirmative vote of 30 Members of the Senate, with No Senators having voted in negative, and 30 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 Provide a Base-year Budget Correction Adjustment for Hospital Financial Requirements

S.P. 311 L.D. 913

This being an Emergency Measure and having received the affirmative vote of 28 Members of the Senate, with No Senators having voted in negative, and 28 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

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

Bill "An Act to Increase the Availability of Boarding Homes and Adult Foster Homes for Persons with Mental Retardation"

S.P. 364 L.D. 1099

Tabled - April 2, 1987, by Senator CLARK of Cumberland.

Pending - REFERENCE (Committee on HUMAN RESOURCES suggested and ORDERED PRINTED.)

On motion by Senator CLARK of Cumberland, referred to the Committee on APPROPRIATIONS AND FINANCIAL AFFAIRS and ORDERED PRINTED.

Sent down for concurrence.

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

Bill "An Act to Measure Mileage Payments to Jurors"

S.P. 144 L.D. 398

(C "A" S-16)

Tabled - April 2, 1987, by Senator CLARK of Cumberland.

Pending - PASSAGE TO BE ENGROSSED AS AMENDED (In Senate, April 1, 1987, READ A SECOND TIME.)

Which was PASSED TO BE ENGROSSED AS AMENDED.

Sent down for concurrence.

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

Bill "An Act Regarding Disposal of Waste Matter"

S.P. 359 L.D. 1094

Tabled - April 2, 1987, by Senator CLARK of Cumberland.

Pending - REFERENCE (Committee on ENERGY AND NATURAL RESOURCES suggested and ORDERED PRINTED.)

On motion by Senator CLARK of Cumberland, referred to the Committee on UTILITIES and ORDERED PRINTED.

Sent down for concurrence.

Senate at Ease

Senate called to order by the President.

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

COMMITTEE REPORTS

Senate

Ought to Pass As Amended

Senator BRANNIGAN for the Committee on JUDICIARY on Resolve, to Establish a Commission to Study Treatment Protocol for Severely Incompetent Patients (Emergency)

S.P. 154 L.D. 451

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (S-18).

Which Report was READ and ACCEPTED.

The Resolve READ ONCE.

Committee Amendment "A" (S-18) READ and ADOPTED.

The Resolve as Amended, TOMORROW ASSIGNED FOR SECOND READING.

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

COMMITTEE REPORTS
Senate

Ought to Pass in New Draft
Senator PEARSON for the Committee on APPROPRIATIONS AND FINANCIAL AFFAIRS on Bill "An Act Making Additional Appropriations from the General Fund and Allocations from Other Funds for the Expenditures of State Government for the Fiscal Year Ending June 30, 1987" (Emergency)

S.P. 200 L.D. 557

Reported that the same Ought to Pass in New Draft under same title (Emergency).

S.P. 372 L.D. 1107

Which Report was READ and ACCEPTED.

The Bill in NEW DRAFT READ ONCE.

The Bill in NEW DRAFT TOMORROW ASSIGNED FOR SECOND READING.

Off Record Remarks

Senator PEARSON of Penobscot was granted unanimous consent to address the Senate off the Record.

Senator ANDREWS of Cumberland was granted unanimous consent to address the Senate off the Record.

On motion by Senator PEARSON of Penobscot, ADJOURNED until Tuesday, April 7, 1987, at 9:00 in the morning.

ONE HUNDRED AND THIRTEENTH MAINE LEGISLATURE

FIRST REGULAR SESSION

43rd Legislative Day

Tuesday, April 7, 1987

The House met according to adjournment and was called to order by the Speaker.

Prayer by Reverend Douglas Drown, First Congregational Church of Bingham.

The Journal of Monday, April 6, 1987, was read and approved.

Quorum call was held.

At this point, a message came from the Senate, borne by Senator CLARK of Cumberland proposing a Joint Convention of both branches of the Legislature to be held at 11:00 o'clock in the Hall of the House for the purpose of extending to His Excellency, Governor John R. McKernan, Jr., an invitation to attend the Joint Convention and make such communication as he may be pleased to make.

Thereupon the House voted to concur in the proposal for a Joint Convention to be held in the Hall of the House at 11:00 o'clock and the Speaker appointed Representative DIAMOND of Bangor to convey this message to the Senate.

Subsequently, Representative DIAMOND of Bangor reported that he had delivered the message with which he was charged.

SENATE PAPERS

Bill "An Act to Increase the Availability of Boarding Homes and Adult Foster Homes for Persons with Mental Retardation" (S.P. 364) (L.D. 1099)

Came from the Senate, referred to the Committee on Appropriations and Financial Affairs and Ordered Printed.

(The Committee on Reference of Bills had suggested reference to the Committee on Human Resources.)

Was referred to the Committee on Appropriations and Financial Affairs in concurrence.

Bill "An Act to Facilitate the Advertising of Local Businesses under the Maine Traveler Information Services Act" (S.P. 370) (L.D. 1104)

Came from the Senate, referred to the Committee on Business Legislation and Ordered Printed.

Was referred to the Committee on Business Legislation in concurrence.

Bill "An Act Regarding Disposal of Waste Matter" (S.P. 359) (L.D. 1094)

Came from the Senate, referred to the Committee on Utilities and Ordered Printed.

(The Committee on Reference of Bills had suggested reference to the Committee on Energy and Natural Resources.)

Was referred to the Committee on Utilities in concurrence.

PETITIONS, BILLS AND RESOLVES
REQUIRING REFERENCE

The following Bills and Resolves were received and, upon the recommendation of the Committee on