

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 Thirteenth Legislature
OF THE
State Of Maine

VOLUME III

FIRST CONFIRMATION SESSION

August 21, 1987
Index

FIRST SPECIAL SESSION

October 9, 1987 to October 10, 1987
Index

SECOND SPECIAL SESSION

October 21, 1987 to November 20, 1987
Index

SECOND REGULAR SESSION

January 6, 1988 to March 24, 1988

CONSENT CALENDAR

Second Day

In accordance with House Rule 49, the following item appeared on the Consent Calendar for the Second Day:

(S.P. 736) (L.D. 1995) Bill "An Act to Clarify the Offense of Furnishing Liquor to a Minor"

No objections having been noted at the end of the Second Legislative Day, the Senate Paper was Passed to be Engrossed in concurrence.

PASSED TO BE ENACTED

Emergency Measure

RESOLVE, to Extend the Deadline for the Study of the Relationship between Nonprofit Service Agencies and Professional Liability and Other Hard-to-Obtain Lines of Liability Insurance (S.P. 807) (L.D. 2116)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 112 voted in favor of the same and none against and accordingly the Resolve was finally passed, signed by the Speaker and sent to the Senate.

PASSED TO BE ENACTED

An Act to Exempt Deeds of Distribution from the Transfer Tax Filing Requirement (H.P. 1494) (L.D. 2044)

An Act to Amend the Maine Tree Growth Tax Law (H.P. 1591) (L.D. 2177)

Were 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.

(Off Record Remarks)

(At Ease)

The House was called to order by the Speaker.

On motion of Representative Matthews of Caribou, Adjourned until Tuesday, February 9, 1988, at ten o'clock in the morning.

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

In Senate Chamber
Monday
February 8, 1988

Senate called to Order by the President.

Prayer by Reverend Paul Cates of Friends Meeting in East Vassalboro.

REVEREND CATES: Let us pray. Dear God we the people from the cities and villages and towns of Maine have tried to elect to the Maine Senate some of the best from among us and we think we have done a reasonably good job and yet when we read in the daily paper about some of the problems which they face providing for the future of our transportation system, providing for the safety of our factory workers and of children on the way to school, possibly even changing certain language in our constitution to mention only a few things, we are reminded that they are truly representative of us in that they are also like us - human. We remember that their motivation though deep is not unlimited. That their wisdom is human and not divine. That even the energy of these, our Maine Senators, is subject to the limitations of our human condition. And so dear God this morning we are deeply grateful that You are with us. We are grateful for the realization that in the deliberations of this Body, human limitations of wisdom can be compensated by Your divine and infinite wisdom and that the thoughts and the motivations of this group can be inspired by Your infinite justice tempered by Your perfect love.

Dear God we thank You this morning for Your inspiration which is a greater source of energy for all of us than all of the caffeine we could ever consume. Be with every member of this Body in this day dear God as they attempt to legislate for all the citizens of this great state. Amen.

Reading of the Journal of Friday, February 5, 1988.

PAPERS FROM THE HOUSE
Non-concurrent Matter

Bill "An Act to Clarify the Authority for Judicial Suspension of Motor Vehicle Licenses" (Emergency)

S.P. 656 L.D. 1879
(C "A" S-309; S "A" S-310)

In Senate, February 2, 1988, PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-309) AND SENATE AMENDMENT "A" (S-310).

Comes from the House PASSED TO BE ENGROSSED AS AMENDED BY SENATE AMENDMENT "A" (S-310) in NON-CONCURRENCE.

The Senate RECEDED and CONCURRED.

House Papers

Bill "An Act to Improve the Marketing of Potatoes by Strengthening the Maine Bag Program"

H.P. 1606 L.D. 2197

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

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

Bill "An Act to Provide Funds for the Seed Potato Breeding Program"

H.P. 1605 L.D. 2196

Somerset
Washington
York

Bill "An Act to Provide for a State Trademark for Maine Products"

H.P. 1608 L.D. 2199

Come from the House referred to the Committee on APPROPRIATIONS AND FINANCIAL AFFAIRS and ORDERED PRINTED.

Which were referred to the Committee on APPROPRIATIONS AND FINANCIAL AFFAIRS and ORDERED PRINTED, in concurrence.

Respectfully,
S/Rodney S. Quinn
Secretary of State

Comes from the House READ and referred to the Committee on STATE AND LOCAL GOVERNMENT.

Which was referred to the Committee on STATE AND LOCAL GOVERNMENT, in concurrence.

Bill "An Act to Reduce Special Education Costs to Local School Administrative Units"

H.P. 1607 L.D. 2198

Bill "An Act to Promote the Enhancement of Education in Maine" (Emergency)

H.P. 1610 L.D. 2201

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

Which were referred to the Committee on EDUCATION and ORDERED PRINTED, in 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 Establish Appropriate and Effective Penalty Levels for Violation of the Pesticide Control Laws"

H.P. 1513 L.D. 2063

Bill "An Act to Provide Greater Public Dissemination of Information Concerning Prohibition of Certain Land Usages"

H.P. 1609 L.D. 2200

Committee on APPROPRIATIONS AND FINANCIAL AFFAIRS 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.

Senate
Ought to Pass

Senator KANY for the Committee on LEGAL AFFAIRS on Bill "An Act Relating to the Use of Unoccupied Interment Spaces"

S.P. 774 L.D. 2031

Reported that the same Ought to Pass.

Which Report was READ and ACCEPTED.

The Bill READ ONCE.

The Bill TOMORROW ASSIGNED FOR SECOND READING.

Ought to Pass As Amended

Senator LUDWIG for the Committee on ENERGY AND NATURAL RESOURCES on Bill "An Act to Amend the Membership of the Soil and Water Conservation Commission"

S.P. 746 L.D. 2005

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (S-311).

Which Report was READ and ACCEPTED.

The Bill READ ONCE.

Committee Amendment "A" (S-311) READ and ADOPTED.

The Bill as Amended, TOMORROW ASSIGNED FOR SECOND READING.

Bill "An Act to Amend the Law Allowing the Town of York to Repair Certain Private Roads"

H.P. 1604 L.D. 2195

Comes from the House referred to the Committee on STATE AND LOCAL GOVERNMENT and ORDERED PRINTED.

Which was referred to the Committee on STATE AND LOCAL GOVERNMENT and ORDERED PRINTED, in concurrence.

COMMUNICATIONS

The Following Communication:

H.P. 1611

STATE OF MAINE
DEPARTMENT OF STATE
AUGUSTA, MAINE 04333

February 3, 1988
Hon. John L. Martin
Speaker of the House
Maine State Legislature
State House
Augusta, Maine 04333

Dear Speaker Martin:
In accordance with the provisions of Title 30, Section 253 of the Revised Statutes, as amended, I have the honor to transmit herewith the budget estimates of expenses of the counties within the State for the year 1988.

They are as follows:

- Arroostook
- Franklin
- Hancock
- Kennebec
- Knox
- Lincoln
- Oxford
- Penobscot
- Piscataquis
- Sagadahoc

SECOND READERS

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

House As Amended

Bill "An Act Relating to Taxation of Trucks"

H.P. 1284 L.D. 1757

(H "A" H-440)

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

ORDERS OF THE DAY

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

HOUSE REPORTS - from the Committee on STATE AND LOCAL GOVERNMENT on Bill "An Act Allowing the Town of Island Falls to Annex Township 4, Range 3 WELS in Arroostook County"

H.P. 1017 L.D. 1370

Majority - Ought to Pass as Amended by Committee Amendment "A" (H-437)

Minority - Ought Not to Pass

Tabled - February 5, 1988, by Senator TUTTLE of York.

Pending - ACCEPTANCE OF EITHER REPORT
(In Senate, February 5, 1988, Reports READ.)
(In House, February 4, 1988, PASSED TO BE
ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A"
(H-437).)

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

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

Senator PERKINS of Hancock was granted unanimous consent to address the Senate off the Record.

On motion by Senator ERWIN of Oxford, RECESSED until the sound of the bell.

After Recess

Senate called to order by the President.

ORDERS OF THE DAY

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

HOUSE REPORTS - from the Committee on STATE AND LOCAL GOVERNMENT on Bill "An Act Requiring Fiscal Impact Statements Describing the Costs and Benefits Associated with Each Legislative Document and Agency Rule that Affect Political Subdivisions of the State"
H.P. 855 L.D. 1149

Majority - Ought Not to Pass

Minority - Ought to Pass

Tabled - February 5, 1988, by Senator CLARK of Cumberland.

Pending - Motion of Senator TUTTLE of York to ACCEPT the Majority OUGHT NOT TO PASS Report, in concurrence.

(In Senate, February 4, 1988, Reports READ.)

(In House, February 3, 1988, Majority OUGHT NOT TO PASS Report READ and ACCEPTED.)

On motion by Senator CLARK of Cumberland, Tabled Unassigned, pending the motion of Senator TUTTLE of York to ACCEPT the Majority OUGHT NOT TO PASS Report, in concurrence.

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

Bill "An Act to Establish a Detention and Rehabilitation System for Chronic Operating-Under-the-Influence Offenders"
H.P. 1597 L.D. 2183

Tabled - February 5, 1988, by Senator CLARK of Cumberland.

Pending - REFERENCE

(Committee on LEGAL AFFAIRS suggested and ORDERED PRINTED.)

On motion by Senator CLARK of Cumberland, referred to the Joint Select Committee on CORRECTIONS and ORDERED PRINTED in NON-CONCURRENCE.

Sent down for concurrence.

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

COMMITTEE REPORTS

House

Ought to Pass in New Draft

The Committee on MARINE RESOURCES on Bill "An Act

to Postpone the Effective Date for the Use of Biodegradable Escape Panels on Lobster Traps" (Emergency)

H.P. 1487 L.D. 2021

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

H.P. 1613 L.D. 2206

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

Which Report was READ and ACCEPTED, in concurrence.

Under suspension of the Rules, the Bill in NEW DRAFT READ TWICE and the NEW DRAFT PASSED TO BE ENGROSSED, in concurrence.

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

ORDERS OF THE DAY

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

HOUSE REPORTS - from the Committee on STATE AND LOCAL GOVERNMENT on Bill "An Act Allowing the Town of Island Falls to Annex Township 4, Range 3 WELS in Aroostook County"

H.P. 1017 L.D. 1370

Majority - Ought to Pass as Amended by Committee Amendment "A" (H-437)

Minority - Ought Not to Pass

Tabled - February 8, 1988, by Senator CLARK of Cumberland.

Pending - ACCEPTANCE OF EITHER REPORT

(In Senate, February 5, 1988, Reports READ.)

(In House, February 4, 1988, PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-437).)

Senator TUTTLE of York moved that the Senate ACCEPT the Majority OUGHT TO PASS AS AMENDED Report, in concurrence.

Senator BALDACCI of Penobscot requested a Division.

THE PRESIDENT: The Chair recognizes the Senator from Aroostook, Senator Ludwig.

Senator LUDWIG: Mr. President, men and women of the Senate. I am very uneasy about L.D. 1370 and for this reason I told my good friend and the sponsor of this legislation that I could not cosponsor it. I represent the Town of Island Falls and I also represent the Unorganized Territory which Island Falls is considering annexing. The issue has divided the towns and it is difficult to say with any degree of certainty what would be gained or lost through annexation. Some think that those who hope to annex T4-R3 feel that there would be a chance for Island Falls to lower its tax rate by increasing the taxes paid in the unorganized territory. Others think that the supporters are more concerned with controlling development in this lovely area of lakes and forests, prime hunting and fishing territory and some say in the way in which future development takes place. Whatever the real reason, some serious questions remain. Island Falls has 711 registered voters. T4-R3 has 1. The only person who is a year-round resident of this unorganized territory. Island Falls took a vote which showed that a small majority favored the annexation. The single voter in T4-R3 is opposed and so are the other owners of the unorganized territory, but they can't vote because their voting takes place in the municipality where they reside for the better part of the year. Some out-of-staters are involved be sure, but many of the owners live near by and the largest out-of-state owner has roots in the area and this property has

been in his family for generations. No one can tell me if the residents of Island Falls are aware of the financial responsibilities which they could face in the future if they had to provide public services to the area now called T4-R3. A temporary tax break could turn into a real financial burden. Most of all I am concerned about the precedent being set if a town is allowed to annex a section of unorganized territory which abuts it.

Our present system gives some protection to the unorganized territories. The county commissioners determine their needs, the state provides them and collects the taxes to pay for those services. It may not be perfect, but it has worked pretty well for a good number of years. A certain balance has been established between areas where there is more land than people and areas where people have concentrated into organized towns. If we upset that balance, where will it lead? With development pressures being what they are today, will small towns opt to annex parts of the unorganized territories until they cease to exist? I urge you to consider the long-term consequences of this single unprecedented request and vote against the pending motion. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from York, Senator TUTTLE:

Senator TUTTLE: Thank you Mr. President, men and women of the Senate. The explanation that the good Senator from Aroostook, Senator Ludwig has given us has been a good one. I would like to add other information which I think would be pertinent to how we are going to vote on this issue today. This is an important issue as you can see from the numbers of individuals we have from the area. It is an important issue also for the people of Island Falls and I think the area of Southern Aroostook. As the good Senator from Aroostook is aware the concerns for development as we area seeing them occur, not only in my area of York County, but throughout the State of Maine. The initial bill sought to accomplish its purpose by having the Legislature ratify a vote by the Town of Island Falls, but the amended bill requires another referendum according to the committee's directions including the voters of the unorganized township. As I said in caucus, if the bill does proceed I would have no problem with also including those members of the other community so that we can get a consensus vote if that is the wishes of this body.

Island Falls with a population of about 1,000 seeks to annex the township of about 22,000 acres with a valuation of about \$1,774,000. A 1986 tax of about \$13,000. As was mentioned, we have five land owners and as of March, 1987, my understanding is that we have one legal resident residing in this area. The effects of this annexation will be to increase Island Falls tax base by the current valuation of this township and decrease the tax base of unorganized territories by that equal amount. To try to be neutral being chairman of the committee, the arguments that were put forward at the public hearing were that Island Falls would be environmentally impacted by the development by the two bodies of water which are partially within this township and the town would like to be able to control the development. I have gotten letters from people of Island Falls and people of the area that are concerned about development and justifiably so. The town would like to be able to participate in tax income from any future development of township and I think we can all identify with that coming from municipalities and seeing where development is heading. The arguments against the bill as the good Senator from Aroostook, Senator Ludwig has said, is

that it will increase the taxes of current land owners; three of whom own over 9,000 acres and one is, I believe, from the Houlton area and others from New York and the biggest land owner up there is Diamond Oxidental Corporation which I believe has to do with the paper industry and they control 25,000 acres. It will cost the State of Maine the loss of tax base as I said before and the area requires little in the way of state services excluding fire tax or fire service. Also in doing so, it may set a precedent for more of this activity in the future which we have seen before the committee. In the last twenty years there has been only one other incident of towns seeking to annex a township by charter. I believe the good Senator, Senator Webster had a bill about Carrabassett Valley last time and we passed that. The bill as I said before would have a referendum among the voters of a township and the unorganized territory and the votes would be taken accordingly.

I have tried to address this issue objectively. My understanding is that there is another bill before the committee, the good Senator from Penobscot, Senator Emerson has a concern with his area about annexation and we will address that later in the year. Now that you have heard the arguments pro and con I am going to leave the decision up to you. I am supporting the Majority Report and I hope you will too.

THE PRESIDENT: The chair recognizes the Senator from Penobscot, Senator BALDACCI.

Senator BALDACCI: Thank you Mr. President. Mr. President and members of the Senate. As the other member of the Joint Standing Committee on State and Local Government who signed the report with the Minority Ought Not to Pass I think some points need to be raised that caused me to be concerned in trying to be as objective as possible. My good friend and the sponsor of this legislation who I want to reiterate is a good friend of mine and I tried to deal with this separating personalities and issues. The thing that was a concern to me was why that if it was brought up at the public hearing are they concerned about the development on the lake or the lake areas. Why not survey that area and include just that area in the Town of Island Falls. Well, we heard that it was done because it was cheaper instead of having the expensive surveying work done, it was cheaper to annex the whole thing. Well, I think it may be cheaper in the short term to do that. You lose paying out the surveying costs, but what do you incur for doing that? Well, we all know that the state aid for education is based on valuation. Island Falls, therefore, will be increasing it's valuation which will be decreasing it's state aid. We were told they were going to increase their property taxes to make up the loss of that state aid. That is one thing that I have always tried to do since I have been down here in Augusta is relieve the property tax burden and try to get it onto something more progressive than property taxes which are not based upon your ability to pay. They are just based on value. The second point that was raised was that by increasing the valuation they are going to be increasing the amount that they pay on the county tax because that is based on valuation of the community. So there again they are going to be paying out more because they decided to take the whole thing rather than that area which is of tremendous concern to me. That I think is an issue. Then another issue that was raised that bothers me is another community that abuts this property that is also concerned about this property, Oakfield and they don't know outside of being opposed to it because

they don't know enough about it and they would like to be involved in the process because it is in their area. These gentlemen have traveled all the way down from Southern Aroostook to be here today to oppose this legislation not because they oppose what the sponsors are trying to do, but they would like to go back to those communities and discuss the ramifications of what is being done here today. Let's not put this through and then come back year after year after year and try to make amends to what was done because the situation isn't what we see on the surface. What I am asking here today in supporting the Minority position is not in opposition to what wants to be proposed to be done, but just in saying no, not right now until the communities themselves get together and decide what is in their best interests. You know right now the Land Use Regulation Commission is responsible for that particular area and according to the testimony given to this Chamber last week, some members feel that they are anti any type of development and it is almost creating a socialistic type of environment. I don't see that the damage is going to be done by retaining the Land Use Regulation Commission's jurisdiction over this area until those communities get together is going to cause any detrimental effect to that community. By the way, there is one person that is there and that one person bothered me because it didn't matter really what that particular persons concerns were even though he was opposed to it because he was just one individual, he didn't reside there all the time and he has to travel through forty other communities to go register his vehicles or vote because he is the only person in that community. I think his rights are just as important as the town's rights and if we stand for nothing else, we stand for individual rights over a governments rights and that is the way the constitution was established over two hundred years ago. It was the individuals rights. It may only be one person and he may have a beard and long hair, but he owns property in that particular area and his rights are just as important. Thank you Mr. President.

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

Senator PEARSON: Mr. President, men and women of the Senate. I don't possess any great knowledge of this particular issue. I used to represent Island Falls before the good Senator from Aroostook, Senator Ludwig did and it is a beautiful area. I would like to say to members of the Senate that the problem as I see it is development, development, development and the fear of it, even as far north as Southern Aroostook. The good Senator from Aroostook, Senator Ludwig sits on the Committee on Energy and Natural Resources and I hope that this brings home the message as nothing else can that something has got to be done about the pressures on development even in communities as far north as where we live. I think that this issue is here before us today irrespective of everything else, I think everything else is secondary is because of development and the fear of it.

I am told that in this particular township although I don't know it of a personal knowledge, but Township 4 Range 3 WELS is in the process right now of the surveying of several thousands of acres and the fear is that it is going to be sold in forty acre lots to people outside of the state because people in the area which we live cannot afford it and it comes down to that situation and over and over again I am going to say it until people listen, something has to be done about 40 acre lots and all the development and the pressure that is coming to bear upon us.

THE PRESIDENT: The pending question before the Senate is the motion of Senator TUTTLE of York, to ACCEPT the Majority OUGHT TO PASS AS AMENDED Report, in concurrence.

A Division has been requested.

Will all those Senators in favor of the motion of Senator TUTTLE of York, to ACCEPT the Majority OUGHT TO PASS AS AMENDED Report, please rise and remain standing in their place until counted.

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

14 Senators having voted in the affirmative and 17 Senators having voted in the negative, the motion of Senator TUTTLE of York, to ACCEPT the Majority OUGHT TO PASS AS AMENDED Report in concurrence, FAILED.

The Minority OUGHT NOT TO PASS Report was ACCEPTED in NON-CONCURRENCE.

Sent down for concurrence.

On motion by Senator BERUBE of Androscoggin, ADJOURNED until Tuesday, February 9, 1988, at 10:00 in the morning.