

MAINE STATE LEGISLATURE

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

VOLUME III

FIRST CONFIRMATION SESSION

August 21, 1987
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FIRST SPECIAL SESSION

October 9, 1987 to October 10, 1987
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SECOND REGULAR SESSION

January 6, 1988 to March 24, 1988

HOUSE REPORT - "Ought to Pass" as Amended by Committee Amendment "A" (H-481) - Committee on Appropriations and Financial Affairs on RESOLVE, Concerning a Proposed Supreme Judicial Court Facility (Emergency) (H.P. 130) (L.D. 159)

TABLED - March 15, 1988 by Representative MURPHY of Kennebunk.

PENDING - Acceptance of Committee Report.

On motion of Representative Murphy of Kennebunk, retabled pending acceptance of Committee Report and specially assigned for Thursday, March 17, 1988.

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

An Act to Permit Sharing of Confidential Information between Criminal Justice Agencies at all Governmental Levels (H.P. 1467) (L.D. 1978)

TABLED - March 15, 1988 by Representative DIAMOND of Bangor.

PENDING - Passage to be Enacted.

On motion of Representative Paradis of Augusta, under suspension of the rules, the House reconsidered its action whereby L.D. 1978 was passed to be engrossed.

The same Representative offered House Amendment "B" (H-483) and moved its adoption.

House Amendment "B" (H-483) was read by the Clerk and adopted.

The Bill was passed to be engrossed as amended by House Amendment "B" (H-483) in non-concurrence and sent up for concurrence.

The Chair laid before the House the following matter: Bill "An Act to Assure Adequate Housing for the People of Maine" (S.P. 954) (L.D. 2526) which was tabled earlier in the day and later today assigned pending reference in concurrence.

On motion of Representative Crowley of Stockton Springs, was referred to the Committee on Economic Development in non-concurrence and sent up for concurrence.

(Off Record Remarks)

On motion of Representative Ruhlin of Brewer, Adjourned until Thursday, March 17, 1988, at nine o'clock in the morning.

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

In Senate Chamber

Wednesday

March 16, 1988

Senate called to Order by the President Pro Tem Ronald E. Usher of Cumberland.

Prayer by Reverend Robert T. Carlson of the Congregational Church in East Orrington.

REVEREND CARLSON: Good morning ladies and gentlemen of the Senate. I spoke with Mr. Pray last week and it is my tradition to tell a brief story before the prayer that I think might illumine all of us. The story that I have for the Maine Senate this morning is this:

There was an aircraft that was flying and it ran into some trouble, as a matter of fact the trouble was very serious. The pilot and the co-pilot came back through the cabin and told the four passengers that were on the aircraft that the plane was going to go down. They, with their parachutes, jumped out. Before they jumped out they said, we need to tell you one more piece of information and that is there are only three parachutes for the four of you and the crew left. The four persons had a concerned look on their faces and you need to know who those people were. One of them was a heart surgeon, another was a member of the Maine Senate, the third was a priest and the fourth was a boy scout. So the heart surgeon said well look, I am scheduled to do five operations today and so five people's lives are depending upon me. It is necessary that I be saved. They all concurred and he took a parachute and jumped out of the aircraft. The member of the Maine Senate said, I am the most intelligent member that the Senate has ever known and we are deliberating on very important pieces of legislation and it is important to the lives of many people of this great state that I be saved. And with that, he grabbed the straps and out the door he went. The priest looked at the boy scout and said, I am middle aged, I don't have a family, I think it is more important that you with all your potential save yourself so why don't you take the last parachute and go with the rest. The boy scout looked at the priest and he said well, the most intelligent member of the Maine Senate just jumped out with my nap sack.

I think it is important that we keep all of our lives in perspective. Could we bow our heads for prayer. Almighty God, we ask for Your blessings to be upon this very special Body that has been empowered and entrusted with a great responsibility. We ask for You to guide them and we ask that as citizens we can support them and to understand the complexity of the issues that face this Body and that through the legislative process, decisions would be made that are acceptable in Your sight and that this state can be made a safer and better place in which to live and to raise our families, but most importantly to serve You. With these continued blessings and with your affirmation we will attempt to place our trust in You. Amen.

Reading of the Journal of Yesterday.

Off Record Remarks

PAPERS FROM THE HOUSE

House Papers

Bill "An Act to Fund and Implement Collective Bargaining Agreements with Certain Maine Vocational-Technical Institute System Employees Represented by the Maine State Employees Association" (Emergency)

H.P. 1845 L.D. 2527

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 Relating to Exceptions to Prevent Escapes and Other Offenses under the Interception of Wire and Oral Communications Law"

H.P. 1846 L.D. 2528

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 Make the Exemption for Home Knitters from the Unemployment Insurance Tax Retroactive"

H.P. 1832 L.D. 2509

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

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

COMMUNICATIONS

The Following Communication: H.P. 1849

COMMISSION TO STUDY THE USE OF INVOLUNTARY SERVICES FOR SUBSTANCE ABUSERS

March 15, 1988

The Honorable John L. Martin, Vice-Chairman
Legislative Council
State House Station 2
Augusta, ME 04333

Dear Speaker Martin:

The Commission to Study the Use of Involuntary Services for Substance Abusers is pleased to submit its final report to the Legislature, pursuant to Resolve 1987, c. 72, as amended by Resolve 1987, c. 78. The report proposes that Maine's existing law which provides for the involuntary commitment of incapacitated alcoholics be revised extensively, and I am hopeful that this issue might be fully addressed by the Second Regular Session of the 113th Legislature.

Sincerely,
S/Stanley J. Evans, M.D.
Chairman

Comes from the House READ and with Accompanying Papers ORDERED PLACED ON FILE.

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

SENATE PAPERS

Bill "An Act to Provide Regulatory Oversight of Over-the-Road and Over-the-Rail Transportation of Hazardous Materials and to Increase Revenue to the Maine Hazardous Waste Fund and the Maine Coastal and Inland Surface Oil Clean-up Fund"

S.P. 955 L.D. 2533

Presented by Senator LUDWIG of Aroostook

Cosponsored by: Representative MICHAUD of East Millinocket, Representative DEXTER of Kingfield, Senator USHER of Cumberland
Which was referred to the Committee on ENERGY AND NATURAL RESOURCES and ORDERED PRINTED.
Sent down for concurrence.

COMMITTEE REPORTS

House

Ought Not to Pass

The following Ought Not to Pass Report shall be placed in the Legislative Files without further action pursuant to Rule 15 of the Joint Rules:

Resolve, Authorizing Gary Kelly, Daniel Kelly and the Estate of Cynthia Kelly to Sue the State for Compensation for Wrongful Death and Other Injuries Suffered as a Result of a Motor Vehicle Collision

H.P. 1662 L.D. 2272

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 Amend the Maine Tort Claims Act Regarding Punitive Damages"

H.P. 204 L.D. 256

Bill "An Act to Create the Litigation Accountability Act"

H.P. 216 L.D. 268

Bill "An Act to Broaden Peer Review Immunity"

H.P. 226 L.D. 294

Bill "An Act to Authorize the Use of Electronic Recording of Nonjury Superior Court Proceedings"

H.P. 1444 L.D. 1955

Ought to Pass As Amended

The Committee on ENERGY AND NATURAL RESOURCES on Bill "An Act to Provide Greater Public Dissemination of Information Concerning Prohibition of Certain Land Usages"

H.P. 1609 L.D. 2200

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-480).

Comes from the House, with the Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-480)

Which Report was READ and ACCEPTED, in concurrence.

The Bill READ ONCE.

Committee Amendment "A" (H-480) READ and ADOPTED, in concurrence.

The Bill as Amended, TOMORROW ASSIGNED FOR SECOND READING.

Ought to Pass in New Draft

The Committee on AGING, RETIREMENT AND VETERANS on Bill "An Act to Revise the Definition of Spouse Under the Maine State Retirement System"

H.P. 1593 L.D. 2179

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

H.P. 1834 L.D. 2511

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.

The Bill in NEW DRAFT READ ONCE.

The Bill in NEW DRAFT TOMORROW ASSIGNED FOR SECOND READING.

The Committee on EDUCATION on Bill "An Act to Amend the Law Concerning Alternate Voting Procedures for School Budget Approval"

H.P. 1501 L.D. 2051

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

H.P. 1840 L.D. 2518

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.

The Bill in NEW DRAFT READ ONCE.

The Bill in NEW DRAFT TOMORROW ASSIGNED FOR SECOND READING.

The Committee on JUDICIARY on Bill "An Act to Provide Immunity from Civil Liability for Certain Emergency Medical Service System Participants"

H.P. 1070 L.D. 1453

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

H.P. 1841 L.D. 2519

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.

The Bill in NEW DRAFT READ ONCE.

The Bill in NEW DRAFT TOMORROW ASSIGNED FOR SECOND READING.

The Committee on LABOR on Bill "An Act to Increase Work Incentive in the Unemployment Insurance Partial Benefit Structure"

H.P. 1545 L.D. 2105

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

H.P. 1839 L.D. 2517

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.

The Bill in NEW DRAFT READ ONCE.

The Bill in NEW DRAFT TOMORROW ASSIGNED FOR SECOND READING.

Senate

Ought Not to Pass

The following Ought Not to Pass Report shall be placed in the Legislative Files without further action pursuant to Rule 15 of the Joint Rules:

Bill "An Act to Remove the Issue of Parental Rights and Responsibilities from the Divorce Monetary Settlement Process"

S.P. 801 L.D. 2102

Ought to Pass As Amended

Senator WHITMORE for the Committee on BUSINESS LEGISLATION on Bill "An Act to Expand and Clarify the Jurisdiction of the Maine State Pilotage Commission"

S.P. 821 L.D. 2143

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (S-339).

Which Report was READ and ACCEPTED.

The Bill READ ONCE.

Committee Amendment "A" (S-339) READ and ADOPTED.

The Bill as Amended, TOMORROW ASSIGNED FOR SECOND READING.

Divided Report

The Majority of the Committee on LABOR on Bill "An Act to Promote the Prompt and Peaceful Settlement of Labor Disputes" (Emergency)

S.P. 866 L.D. 2255

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

S.P. 956 L.D. 2531

Signed:

Senators:

DUTREMBLE of York
ANDREWS of Cumberland

Representatives:

RUHLIN of Brewer
MCHENRY of Madawaska
RAND of Portland
HALE of Sanford
JOSEPH of Waterville
TAMMARO of Baileyville

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

Signed:

Senator:

COLLINS of Aroostook

Representatives:

WILLEY of Hampden
BEGLEY of Waldoboro
HEPBURN of Skowhegan
ZIRNKILTON of Mount Desert

Which Reports were READ.

Senator DUTREMBLE of York moved to ACCEPT the Majority OUGHT TO PASS IN NEW DRAFT Report.

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from Aroostook, Senator Collins.

Senator COLLINS: Mr. President and members of the Senate. I would urge you to vote against the pending motion. This is an item that I think we have discussed many times in this Chamber during the past year. Unfortunately, I don't think we have yet arrived at a solution to the problem. As you know, this deals with a definition of what a professional strike breaker is. In this attempt we have tried or the Committee has tried to determine how that best be done. They have suggested in this legislation that it be done by determining whether a firm had, during the last five years, supplied a hundred or more employees to an employer involved in the labor dispute. It seems to me that this is pretty difficult a method of making a determination. For example, we don't know whether we are talking about in this country or in the world, or whether we can document satisfactory the idea that there were that many employees involved. Sometimes we are not at all sure whether the duties that they might be performing were exempt. For example, security positions are exempt and maintenance positions are exempt and it seems to me that it does not narrowly focus on the definition which is the key to this determination.

I understand, Mr. President, that there is in the wings another bill that offers an alternative to this and I guess I would prefer to wait until we can discuss that bill. In the meantime, I would hope that we would oppose the pending motion and defeat this Bill. Thank you Mr. President.

THE PRESIDENT PRO TEM: The Chair recognizes the Senator from York, Senator Dutremble.

Senator DUTREMBLE: Mr. President and members of the Senate. The good Senator from Aroostook, Senator Collins is correct when he says that we have seen

this issue many times before. I think that is where his being correct ends.

When we dealt with this issue this past time in the Committee, we threw around many different options to try to come up with something that everybody could live with but at the same time would address the concerns of what is happening in the state today. The language that is finally put down in the Bill that we are voting on today, there is no question in my mind that it is fair and it is the right thing to do. I must say that I was a little bit more than disappointed when the members on the other side of the aisle signed the jacket the way they did because I felt that the Bill was truly fair and truly the right thing to do. The Bill does say that to be considered a strike breaking company, or to be considered a strike breaker, you would have had to offer one hundred employees or more in a particular labor dispute to a particular employer three times in the previous five years. That does not include Kelly Services, that does not include IBM, that does not include maintenance workers which were exempted in the Bill, that does not include security workers which were exempted in the Bill, that does not exclude anybody who had a contract with the company before the strike which is covered in the Bill, but it specifically was aimed at a company like B.E.N.K. The problem we are having here is, is the issue really one of language or is it one of philosophy? Maybe it is about time that the people who are opposing this come out and say that we just don't want this to be covered. We don't want this to change. Then maybe we can put the issue to rest instead of coming back here over and over again trying to find language that we feel will address the situation, but at the same time make everybody happy.

The good senator suggests that there is another bill waiting in the wings. Frankly, I am sick of the issue because the bill now that we are talking about that is waiting in the wings doesn't do a thing. It wouldn't even cover B.E.N.K. and I.P. if a company like B.E.N.K. would want to come in again. Again, I ask the question, if we are serious about taking care of a situation that has happened in the State of Maine like B.E.N.K. coming in from the south and taking Maine jobs, then lets say it and lets do it. But if it is a philosophical difference and we don't want to do it, then come out and say it because frankly, taking the time of this Legislature just to talk about nothing a waste of taxpayers money. Yes it is true that a company would have to show that they had been on strike three times maybe all over the country. But that is not up to the employer to prove. It wouldn't have been up to I.P., it would have been up to the labor organization or an employee and they would have to prove it in a court of law, prove it before anything is done and before an impartial judge. It wouldn't be the Legislature, it wouldn't be the Democrats or the Republicans or the Governor, it would be an impartial judge and that is why this Bill is fair and that is why it was the right thing to do. I would hope that you would support the Majority Ought to Pass Report.

Senator WEBSTER of Franklin requested a Division.

THE PRESIDENT PRO TEM: The pending question before the Senate is the motion of Senator DUTREMBLE of York, to ACCEPT the Majority OUGHT TO PASS IN NEW DRAFT Report.

A Division has been requested.

Will all those Senators in favor of the motion of Senator DUTREMBLE of York, to ACCEPT the Majority OUGHT TO PASS IN NEW DRAFT Report, please rise in their places and remain standing until counted.

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

17 Senators having voted in the affirmative and 15 Senators having voted in the negative, the motion by Senator DUTREMBLE of York, to ACCEPT the Majority OUGHT TO PASS IN NEW DRAFT Report, PREVAILED.

The Bill in NEW DRAFT READ ONCE.

The Bill in NEW DRAFT TOMORROW ASSIGNED FOR SECOND READING.

SECOND READERS

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

House

Resolve, to Name the New Bridge Between the Communities of Bucksport and Verona the "Dr. Edward Thegan Memorial Bridge"

H.P. 1669 L.D. 2287

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

Off Record Remarks

House As Amended

Bill "An Act to Provide for Retail Inspection of Potatoes"

H.P. 1447 L.D. 1958

(C "A" H-477)

Bill "An Act to Provide for Child Care and Child Development Training for Student Parents"

H.P. 1575 L.D. 2150

(C "A" H-474)

Bill "An Act to Increase the Effectiveness of the Public Utilities Commission through Computerization and to Provide Certain Exceptions from the Annual Regulatory Fund Assessment and from Filing Annual Reports and Certain Other Changes"

H.P. 1630 L.D. 2225

(H "A" H-479 to C "A" H-470)

Bill "An Act to Appropriate Funds for Replacement of Real Estate Tax Validation Machines in County Registries of Deeds"

H.P. 1638 L.D. 2237

(C "A" H-476)

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

Senate

Bill "An Act to Reform Provisions of the Civil Justice System"

S.P. 952 L.D. 2520

Bill "An Act to Include Certain Prisoners Within the Provisions of the Workers' Compensation Act"

S.P. 953 L.D. 2525

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

Sent down for concurrence.

Senate As Amended

Bill "An Act to Appropriate Funds for Structural Repairs to the Woodbury Pond Dam"

S.P. 771 L.D. 2028

(C "A" S-337)

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

Sent down for concurrence.

ENACTORS

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

An Act to Require Dealers in All-Terrain Vehicles to Provide Written Warranties

H.P. 1517 L.D. 2070
(C "A" H-466)

An Act Pertaining to Fire Permit Enforcement

S.P. 865 L.D. 2254
(H "A" H-471 to S "A" S-319)

An Act to Provide a Method for Taxation of Real Property When Owner is Unknown

H.P. 1753 L.D. 2402

An Act to Clarify the Unemployment Compensation Appeals Process

H.P. 1795 L.D. 2459
(S "A" S-327)

An Act to Clarify the Access of the Commissioner of Educational and Cultural Services to Employee Records for Certification of Educational Personnel

H.P. 1809 L.D. 2475

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

Senator ERWIN of Oxford was granted unanimous consent to address the Senate off the Record.

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

On motion by Senator ANDREWS of Cumberland, ADJOURNED until Thursday, March 17, 1988, at 9:00 in the morning.

Off Record Remarks

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

SECOND READERS

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

House

Bill "An Act to Correct Liquor License Fees" (Emergency)

H.P. 1649 L.D. 2257

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

Senate As Amended

Bill "An Act Amending the Workers' Compensation Laws Exempting Design Professionals from General Civil Liability for Injuries on Construction Projects"

S.P. 238 L.D. 657
(C "A" S-336)

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

Sent down for concurrence.

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

COMMITTEE REPORTS

Senate

Ought to Pass As Amended

Senator GOULD for the Committee on STATE AND LOCAL GOVERNMENT on Bill "An Act to Clarify the Status of Police Officers Assigned to the Bureau of Intergovernmental Drug Enforcement and to Add a District Attorney to the Bureau's Policy Board" (Emergency)

S.P. 832 L.D. 2166

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (S-340).

Which Report was READ and ACCEPTED.

The Bill READ ONCE.

Committee Amendment "A" (S-340) READ and ADOPTED.

The Bill as Amended, TOMORROW ASSIGNED FOR SECOND READING.