

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

One Hundred And Fourteenth Legislature

OF THE

State Of Maine

VOLUME I

FIRST REGULAR SESSION

December 7, 1988 to May 10, 1989

**ONE HUNDRED AND FOURTEENTH MAINE LEGISLATURE
FIRST REGULAR SESSION
53rd Legislative Day
Tuesday, May 2, 1989**

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

Prayer by Reverend David Glusker, First Radio Parish Church of America, Augusta.

The Journal of Monday, May 1, 1989, was read and approved.

Quorum call was held.

PAPERS FROM THE SENATE

The following Communication:

Maine State Senate
Augusta, Maine 04333
May 1, 1989

Honorable Edwin H. Pert
Clerk of the House
State House Station 2
Augusta, Maine 04333

Dear Clerk Pert:

Please be advised that the Senate today Adhered to it's former action whereby it accepted the Majority Ought Not To Pass Report on the Bill "An Act to Change the Process of Selecting the Commissioner of Educational and Cultural Services" (S.P. 205) (L.D. 483).

Sincerely,
s/Joy J. O'Brien
Secretary of the Senate

Was read and ordered placed on file.

Bill "An Act to Establish a State Arbitration Program for Lemon Motor Vehicles" (S.P. 517) (L.D. 1413)

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 Relating to Payment for Mandatory Overtime Work on Sundays and Holidays" (S.P. 515) (L.D. 1411)

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

Was referred to the Committee on Labor in concurrence.

Resolve, Concerning Grant of Easement (EMERGENCY) (S.P. 516) (L.D. 1412)

Came from the Senate, referred to the Committee on State and Local Government and Ordered Printed.

Was referred to the Committee on State and Local Government in concurrence.

Unanimous Ought Not To Pass

Report of the Committee on Appropriations and Financial Affairs reporting "Ought Not to Pass" on Bill "An Act to Increase Local Revenue Sharing and Promote Recycling" (EMERGENCY) (S.P. 234) (L.D. 564)

Was placed in the Legislative Files without further action pursuant to Joint Rule 15 in concurrence.

Ought to Pass as Amended

Report of the Committee on Human Resources reporting "Ought to Pass" as Amended by Committee

Amendment "A" (S-61) on Bill "An Act to Increase the License Fees for Hospitals and Long-term Care Facilities" (S.P. 163) (L.D. 320)

Came from the Senate, with the report read and accepted and the Bill Passed to be Engrossed as amended by Committee Amendment "A" (S-61).

Report was read and accepted, the Bill read once.

Committee Amendment "A" (S-61) was read by the Clerk and adopted and the Bill assigned for second reading Wednesday, May 3, 1989.

**PETITIONS, BILLS AND RESOLVES
REQUIRING REFERENCE**

The following Bills and Resolve were received and, upon the recommendation of the Committee on Reference of Bills, were referred to the following Committees, Ordered Printed and Sent up for Concurrence:

Appropriations and Financial Affairs

Bill "An Act to Authorize a General Fund Bond Issue in the Amount of \$5,000,000 for Municipal Service Piers" (H.P. 1020) (L.D. 1421) (Presented by Representative ROLDE of York)

Ordered Printed.

Sent up for Concurrence.

Education

Bill "An Act to Provide for Local School District Support for Vocational Centers" (H.P. 1015) (L.D. 1416) (Presented by Representative CONLEY of Portland) (Cosponsored by Representative OLIVER of Portland)

Ordered Printed.

Sent up for Concurrence.

Energy and Natural Resources

Bill "An Act to Establish a Technical Services Program in the Local Soil and Water Conservation Districts" (H.P. 1018) (L.D. 1419) (Presented by Representative WHITCOMB of Waldo) (Cosponsored by Senator EMERSON of Penobscot, Representative BAILEY of Farmington and Senator TWITCHELL of Oxford)

Bill "An Act to Require that the Department of Environmental Protection Be Responsible for the Location, Construction and Operation of Regional Solid Waste Disposal Facilities" (EMERGENCY) (H.P. 1021) (L.D. 1422) (Presented by Representative RUHLIN of Brewer) (Cosponsored by Senator COLLINS of Aroostook, Representative JACQUES of Waterville and Representative GOULD of Greenville)

Resolve, to Establish a Study Commission Regarding Incentives for Recycling of Solid Waste by Commercial Facilities (H.P. 1016) (L.D. 1417) (Presented by Representative TRACY of Rome) (Cosponsored by Senator KANY of Kennebec, Representative MICHAUD of East Millinocket and Representative GOULD of Greenville)

Ordered Printed.

Sent up for Concurrence.

Human Resources

Bill "An Act to Establish the Child Welfare Advisory Committee and to Redesignate the Bureau of Social Services as the Bureau of Child and Family Services" (H.P. 1024) (L.D. 1425) (Presented by Representative FOSS of Yarmouth) (Cosponsored by Senator HOLLOWAY of Lincoln, Senator BRANNIGAN of Cumberland and Representative HALE of Sanford) (Submitted by the Department of Human Services pursuant to Joint Rule 24.)

Ordered Printed.
Sent up for Concurrence.

Judiciary

Bill "An Act to Provide Compensation to Victims of Illegal Acts" (H.P. 1023) (L.D. 1424) (Presented by Representative ROLDE of York) (Approved for introduction by a majority of the Legislature Council pursuant to Joint Rule 27.)

Legal Affairs

Bill "An Act to Clarify that Municipal Police Officers Need Not Be Residents of the State" (EMERGENCY) (H.P. 1019) (L.D. 1420) (Presented by Representative FARNUM of South Berwick) (Cosponsored by Senator CARPENTER of York, Representative MURPHY of Berwick and Representative PLOURDE of Biddeford) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27.)

Ordered Printed.
Sent up for Concurrence.

Taxation

Bill "An Act to Prevent Double Taxation on Motor Vehicles" (H.P. 1017) (L.D. 1418) (Presented by Representative ROLDE of York)

Bill "An Act to Establish Homestead Credits" (H.P. 1022) (L.D. 1423) (Presented by Representative BREWER of Boothbay Harbor) (Cosponsored by Representative HICHBORN of LaGrange, Representative CARROLL of Southwest Harbor and Speaker MARTIN of Eagle Lake)

Ordered Printed.
Sent up for Concurrence.

REPORTS OF COMMITTEES

Unanimous Ought Not to Pass

Representative MILLS from the Committee on Housing and Economic Development on Bill "An Act Concerning the Purchase of Real Estate by the State or Local Housing Authorities" (H.P. 238) (L.D. 350) reporting "Ought Not to Pass"

Was placed in the Legislative Files without further action pursuant to Joint Rule 15 and sent up for concurrence.

Unanimous Leave to Withdraw

Representative HANDY from the Committee on Utilities on Bill "An Act Concerning the Regulatory Treatment of Consumer-owned Electric Utilities" (EMERGENCY) (H.P. 774) (L.D. 1086) reporting "Leave to Withdraw"

Was placed in the Legislative Files without further action pursuant to Joint Rule 15 and sent up for concurrence.

CONSENT CALENDAR

First Day

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

(H.P. 603) (L.D. 827) Bill "An Act to Authorize the Department of Corrections to Establish a Solid Waste Recycling Program" Joint Select Committee on Corrections reporting "Ought to Pass"

(H.P. 365) (L.D. 496) Bill "An Act to Make Allocations from the Maine Nuclear Emergency Planning Fund for the Fiscal Years Ending June 30, 1990, and

June 30, 1991" (EMERGENCY) Committee on Appropriations and Financial Affairs reporting "Ought to Pass" as amended by Committee Amendment "A" (H-126) (H.P. 343) (L.D. 462) Bill "An Act Making Appropriations for Temporary Additional Staff to the Maine Arts Commission for the Percent for Art Program" Committee on Appropriations and Financial Affairs reporting "Ought to Pass" as amended by Committee Amendment "A" (H-125)

(S.P. 403) (L.D. 1047) Bill "An Act to Allow Automatic Teller Machines on the Maine Turnpike" Committee on Transportation reporting "Ought to Pass"

(S.P. 246) (L.D. 576) Bill "An Act Concerning Transportation Expenses for Former AMHI Patients" Committee on Human Resources reporting "Ought to Pass" as amended by Committee Amendment "A" (S-62)

(S.P. 325) (L.D. 862) Bill "An Act to Ensure Proper Representation on the Region II Crisis Intervention Program Advisory Board" Committee on Human Resources reporting "Ought to Pass" as amended by Committee Amendment "A" (S-63)

There being no objections, the above items were ordered to appear on the Consent Calendar of Wednesday, May 3, 1989, under the listing of Second Day.

CONSENT CALENDAR

Second Day

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

(H.P. 584) (L.D. 788) Bill "An Act to Strengthen the Licensing Requirements for Foresters" (C. "A" H-114)

(H.P. 639) (L.D. 873) Bill "An Act Regarding Traveling Barbers" (C. "A" H-115)

(H.P. 366) (L.D. 497) Bill "An Act to Make Allocations from the Public Utilities Commission Regulatory Fund and the Public Utilities Reimbursement Fund for the Fiscal Years Ending June 30, 1990, and June 30, 1991" (EMERGENCY) (C. "A" H-116)

(H.P. 708) (L.D. 969) Bill "An Act to Establish a Statewide Program of Community-based Heart Attack and Stroke Prevention Programs" (C. "A" H-117)

(H.P. 651) (L.D. 885) Bill "An Act Concerning The Passamaquoddy Tribal Court" (C. "A" H-118)

(H.P. 316) (L.D. 432) Bill "An Act to Improve the Accountability and Allocation of Funds for Community-purchased Services" (C. "A" H-120)

(H.P. 646) (L.D. 880) Bill "An Act to Fund the Maine Hospice Council" (C. "A" H-121)

(H.P. 665) (L.D. 907) Bill "An Act to Remove Legislative Review from Certain Air Quality Standards" (C. "A" H-124)

(H.P. 134) (L.D. 178) Bill "An Act to Establish Rules for the Use of Dynamite and Explosives" (C. "A" H-123)

(H.P. 401) (L.D. 545) Bill "An Act to Clarify Election Law Procedures" (C. "A" H-122)

No objections having been noted at the end of the Second Legislative Day, the House Papers were Passed to be Engrossed as Amended and sent up for concurrence.

PASSED TO BE ENACTED

Emergency Measure

An Act to Make Technical Changes to Provisions Related to the Probation and Parole and Intensive Supervision Program Functions (S.P. 223) (L.D. 539) (C. "A" S-37 and H. "A" H-109)

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. 126 voted in favor of the same and none against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

PASSED TO BE ENACTED
Emergency Measure

An Act to Correct Errors in the County and Municipal Law Recodification (H.P. 859) (L.D. 1199) (S. "A" S-60)

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. 128 voted in favor of the same and none against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

PASSED TO BE ENACTED

An Act to Provide a Sales Tax Exemption for Sales to Providers of Certain Support Systems for Single-parent Families (H.P. 363) (L.D. 494) (C. "A" H-95)

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

PASSED TO BE ENACTED

An Act to Encourage Recycling of Lead-acid Batteries (H.P. 108) (L.D. 145) (H. "A" H-107 to C. "A" H-56)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed.

The SPEAKER: The Chair recognizes the Representative from Island Falls, Representative Smith.

Representative SMITH: Mr. Speaker, Men and Women of the House: I would like to pose a question through the Chair.

Does this bill in its present form prevent a junk dealer from buying batteries?

The SPEAKER: Representative Smith of Island Falls has posed a question through the Chair to any member who may respond if they so desire.

The Chair recognizes the Representative from East Millinocket, Representative Michaud.

Representative MICHAUD: Mr. Speaker, Men and Women of the House: The answer to that question is no.

Subsequently, the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

PASSED TO BE ENACTED

An Act Regarding the Consignment or Rental of Diseased Horses (H.P. 350) (L.D. 469)

An Act to Improve the Early Childhood Educational Plans Grants Program (S.P. 63) (L.D. 46) (C. "A" S-54)

An Act to Amend the Law to Provide for Appeal of Civil Contempt Orders (H.P. 281) (L.D. 393)

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.

ORDERS OF THE DAY
UNFINISHED BUSINESS

The following matter, in the consideration of which the House was engaged at the time of adjournment yesterday, has preference in the Orders of the Day and continues with such preference until disposed of as provided by Rule 24.

The Chair laid before the House the first item of unfinished business:

An Act to Provide Greater Power to the Maine District Court in Emancipation Proceedings (H.P. 109) (L.D. 146) (C. "A" H-71)

TABLED - May 1, 1989 (Till Later Today) by Representative GWADOSKY of Fairfield.

PENDING - Passage to be Enacted.

Subsequently, was passed to be enacted, signed by the Speaker and sent to the Senate.

TABLED AND TODAY ASSIGNED

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

An Act to Clarify and Make Changes to the Statute Governing the Operation of the Department of Corrections (S.P. 145) (L.D. 265) (S. "A" S-55 to C. "A" S-50)

TABLED - May 1, 1989 by Representative GWADOSKY of Fairfield.

PENDING - Passage to be Enacted.

The SPEAKER: The Chair recognizes the Representative from South Portland, Representative Anthony.

Representative ANTHONY: Mr. Speaker, Ladies and Gentlemen of the House: I wish to make a brief statement of legislative intent in accordance with the agreement reached during the committee process.

Section 5 of this bill makes a deletion from the list of the rights of prisoners contained in Title 34A, Section 3031 of the Maine Revised Statutes. It deletes the "right" to recreational activities — meaning the right to watch television or play pool or other games or participate in the crafts program at the state prison. Recreation is different from the right to exercise, which is the right to move about in a portion of the out-of-doors for one hour each day. That right is a true right and is constitutionally protected and is unaffected by this bill.

The deletion of "recreational activities" from the list of prisoners rights is not intended by our committee or by this body to indicate a desire for a reduction in the amount of recreational activities made available to prisoners. It is our understanding that passage of this bill will not in fact bring about a reduction in the availability of these activities — rather, Section 5 of this bill is simply to clarify that access to recreational activities is considered a privilege, one which will ordinarily be enjoyed by prisoners during their good behavior but one which, unlike exercise, may be withheld during periods of punitive segregation or during lock-downs or other times of high administrative stress.

In other words, after passage of this bill, recreational activities will continue to be made available in the same manner as they have been at Maine's correctional institutions but the state will not be subject to any possible legal actions for any cessation of the opportunity for recreational activities, especially during periods of administrative punishment.

Mr. Speaker, this statement is made to clarify our intent in the passage of this bill and in keeping with an understanding reached during the committee process.

Subsequently, was passed to be enacted, signed by the Speaker and sent to the Senate.

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

An Act Relating to Confidentiality of Investigative Records of Boards and Commissions (H.P. 232) (L.D. 316) (S. "A" S-51 to C. "A" H-51)
TABLED - May 1, 1989 by Representative GWADOSKY of Fairfield.

PENDING - Passage to be Enacted.

On motion of Representative Gwadosky of Fairfield, retabled pending passage to be enacted and specially assigned for Wednesday, May 3, 1989.

(Off Record Remarks)

Representative Melendy of Rockland was granted unanimous consent to address the House.

Representative MELENDY: Mr. Speaker, Men and Women of the House: It is with a great deal of pleasure that I rise to share with you a few paragraphs of updated history about the "Bowdoin", the official State of Maine Vessel.

As many of you who were members of the 113th Legislature will recall, the approval of naming the Bowdoin our official state vessel was granted by the Legislature in 1988. I am sure some of you will also remember that, at the time, there were legislators concerned that the state not absorb any cost by the designation of this historic vessel, which was plankied by Maine men, using Maine white oak, and skippered by a Bowdoin College graduate in Arctic explorations.

The Bowdoin had been refurbished by the Schooner Bowdoin Association at a cost of \$750,000. Due to prior fundraising efforts by the association, the purchase of the vessel was possible at a cost of only \$180,000. You will be pleased to hear that the purchase of the Bowdoin by the Maine Maritime Academy was made possible as a result of the sale of another vessel acquired through a drug bust and no state funds needed to be appropriated for this purchase.

As the sponsor of the legislation that gave the Bowdoin its new title, I was invited by Dr. Edward Morse, President of the Schooner Bowdoin Association, and Maine Maritime Academy President Kenneth Curtis to attend the signing of the documents on Thursday, April 27, that made the Bowdoin the property of the State of Maine.

The Bowdoin is now owned by Maine Maritime Academy, which will use the vessel to train academy students to sail, as a recruitment tool, and for public visitation and fundraising for the school during port stays. The restoration of the Bowdoin and the future use of the schooner stands as a tribute to Admiral Donald MacMillan, who captained the boat on many Arctic voyages, and keeps alive an important chapter of Maine History.

On motion of Representative McGowan of Canaan, Adjourned until Wednesday, May 3, 1989, at twelve o'clock noon.

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

In Senate Chamber
Tuesday
May 2, 1989

Senate called to Order by the President.

Prayer by Reverend Anthony Lombardi of the South Lewiston Baptist Church in Lewiston.

REVEREND LOMBARDI: I do want to thank you for giving me the privilege to offer this prayer this afternoon. Especially to Senator Georgette Berube, who placed my name in for this purpose. Right now let's pray.

Our Father, as we approach Your throne of grace, we come seeking Your divine help because we are totally dependent upon You. The God who is the originator and sustainer of the home, the church, and the government. Lord, we commit these, who are Senators of our State and want to do their best to represent their constituents. We commit them to You and we ask, O Lord, that You will impress upon them that they are stewards, trustees, they have been entrusted through the election of Thy people to represent them well. We ask, Lord, that as they realize that they are stewards, they will also realize that as stewards they must be found faithful, because they are accountable to You.

We ask, our Lord, as they seek to honor You, they will realize that they have been placed here through Your divine help and that they are to depend upon that divine help each day. You set up one and You put down another, even as the rivers are maintained in the water courses, so we are told that the heart of the king and those who represent our people are in the hands of the Lord.

Lord, we realize that no matter where we go we are in Your presence, even the Psalmist said, "if I send up into heaven, Thou art there, if I make my bet in hell behold Thou art there. If I take the wings of the morning, and dwell in the utter most parts of the sea, even there shall my hand lead me and Thy right hand shall hold me. If I say surely the darkness shall cover me, even the night shall be light about me. The darkness hideth not from Thee, but the night shineth as the day and the darkness and the light are both alike unto Thee."

Father, we pray Thy blessings upon these who seek to conduct this session and represent the people of this great State of Maine. We ask, Lord, that as they conduct this business that You will help them not to seek to promote pet projects, but seek to represent the people and their wishes.

Bless now, glorify Your name and this Senate. We would pray, Father, above all Your name will be exalted through Jesus Christ, our Lord. Amen.

Reading of the Journal of Yesterday.

PAPERS FROM THE HOUSE
Non-concurrent Matter

Bill "An Act to Increase the Number of Moose Permits Issued to Residents"

H.P. 197 L.D. 277

In House, April 24, 1989, the Majority OUGHT TO PASS AS AMENDED Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-65).