

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

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

In Senate Chamber
 Tuesday
 March 28, 1989

Senate called to Order by the President.

Prayer by Reverend E. Lamar Robinson of the Christ Church in Kennebunk.

REVEREND ROBINSON: Let us pray. In the words of the Psalmist, "This is a day the Lord has made: let us rejoice and be glad in it."

In like spirit, let this be our prayer: O God, like all other days, this is a day of remembrance. Let us remember our proud past, those men and women of courage, imagination, and daring upon whose shoulders we stand.

Like all other days, this is a day of thanksgiving. Let us remember the blessings of our great state of Maine, her gifts of rare beauty, from her rugged coast to her great Katahdin; and above all, her great wealth of human resources, her people whose strength comes from working together for significant goals.

Like all other days, this is a day of challenge and opportunity. Let us not retreat from hard tasks, but give our best efforts to overcoming the evils in our society, and making our state, our nation, and our world a little better for our having participated in the life of our time.

O God, give us wisdom, give us courage, and give us strength equal to our tasks as we put service about self, we humbly and expectantly pray. Amen.

Reading of the Journal of Yesterday.

Off Record Remarks

PAPERS FROM THE HOUSE
 Non-concurrent Matter

Bill "An Act to Validate and Approve the Town of China's Town Meeting and School Construction Referendum and Related Proceedings"

S.P. 109 L.D. 164
 (C "A" S-9)

In Senate, March 16, 1989, PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-9).

Comes from the House PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-9) AND HOUSE AMENDMENT "A" (H-16) in NON-CONCURRENCE.

The Senate RECEDED and CONCURRED.

Non-concurrent Matter

Bill "An Act to Prevent Improper Delegation of Eminent Domain Powers and Unjust Taking of Property"

H.P. 635 L.D. 869

Committee on JUDICIARY suggested and ORDERED PRINTED.

In House, March 22, 1989, referred to the Committee on AGRICULTURE and ORDERED PRINTED.

In Senate, March 23, 1989, referred to the Committee on JUDICIARY and ORDERED PRINTED in NON-CONCURRENCE.

Comes from the House, that Body INSISTED.

The Senate RECEDED and CONCURRED.

House Papers

Bill "An Act to Provide Funds for Start-up of School-based Health Centers and Creation of the Position of Educational Specialist II"

H.P. 672 L.D. 921

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 Regarding Damage from Industrial Fallout"

H.P. 673 L.D. 922

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.

Bill "An Act Concerning Subpermitting of Moose Hunting Licenses"

H.P. 677 L.D. 928

Comes from the House referred to the Committee on FISHERIES AND WILDLIFE and ORDERED PRINTED.

Which was referred to the Committee on FISHERIES AND WILDLIFE and ORDERED PRINTED, in concurrence.

Bill "An Act to Reform the Workers' Compensation Law to Prevent Mandatory Relocation and Family Hardship"

H.P. 675 L.D. 924

Bill "An Act to Clarify the Payment of Medical Expenses under the Workers' Compensation Act"

H.P. 678 L.D. 929

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

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

Bill "An Act to Clarify the Laws Relating to Marriage"

H.P. 676 L.D. 925

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 Property Tax Deferral Program for Maine's Older Citizens"

H.P. 674 L.D. 923

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

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

Joint Resolution

The Following Joint Resolution: H.P. 634

JOINT RESOLUTION MEMORIALIZING THE CONGRESS OF THE UNITED STATES TO RESTORE FULL CONSTITUTIONAL RIGHTS TO MAINE VETERANS WHO BORE ARMS IN DEFENSE OF THE UNITED STATES OF AMERICA
 WE, your Memorialists, the Members of the One Hundred and Fourteenth Legislature of the State of Maine, now assembled in the First Regular Session, most respectfully present and petition the United States Congress, as follows:

WHEREAS, the sons and daughters of Maine have always been generous in bearing arms to defend the United States of America and willingly took an oath to uphold, protect and defend the Constitution of the United States against all enemies; and

WHEREAS, it is commonly known that veterans who have served their country do not enjoy the full protection of the Constitution of the United States; and

WHEREAS, the 7th Amendment of the Constitution of the United States of America states "In suits at common law, where the value in controversy may exceed twenty dollars, the right of trial by jury shall be preserved..."; and

WHEREAS, the 14th Amendment of the Constitution of the United States provides that no person may be deprived of life, liberty or property without due process of law; and

WHEREAS, the founding fathers took great pains to establish that the military would always be under civilian control; and

WHEREAS, a decision of the Supreme Court of the United States which established the Feres doctrine precludes suits against the United States by veterans for peacetime damages and the so-called "Warner Amendment" declares defense contractors to be government employees when sued by a veteran and thus are defended by the Feres doctrine; and

WHEREAS, Title 38 United States Code bars an attorney-at-law from charging a veteran more than \$10 for that attorney's services at any level in the Veterans' Administration claims process; and

WHEREAS, Maine citizens entering the Armed Forces of the United States are not informed at time of enlistment of any constitutional rights they may be forfeiting by taking an oath to uphold, protect and defend the Constitution of the United States of America; and

WHEREAS, the sons and daughters of Maine have willingly sacrificed their lives to preserve our liberties, been decorated for heroism against an armed enemy and have kept faith with the Constitution of the United States; now, therefore, be it:

RESOLVED: That We, your Memorialists, respectfully pray, that in keeping faith with veterans of the Armed Forces of the United States of America, millions of whom have given their lives in defense of the Constitution of the United States, that the Congress of the United States, in keeping with the plain language of the Constitution of the United States, grant, reaffirm and forever pledge that the rights accruing to all citizens under this great document shall not be abridged or denied any citizen who bore arms in defense of that citizen's country; and be it further

RESOLVED: That the Congress of the United States shall require the Secretary of Defense be directed to inform all citizens volunteering or otherwise inducted into the Armed forces of the United States of their constitutional rights and of any rights their service shall cause the volunteer or inductee to forfeit, and that the notification be accomplished in writing prior to entering the military service; and be it further

RESOLVED: That a duly authenticated copy of this Memorial be submitted immediately by the Secretary of State to the Honorable George H.W. Bush, the President of the United States, the President of the Senate and the Speaker of the House of Representatives of the Congress of the United States, to each Member of the Maine Congressional Delegation and to the Governors of the 50 United States.

Comes from the House READ and ADOPTED AS AMENDED BY HOUSE AMENDMENT "B" (H-21).

Which was READ.

House Amendment "B" (H-21) READ and ADOPTED, in concurrence.

ADOPTED AS AMENDED BY HOUSE AMENDMENT "B" (H-21), in concurrence.

SENATE PAPERS

Bill "An Act to Require Written Leases for Long-term Tenancies"

S.P. 351 L.D. 933

Presented by Senator BRANNIGAN of Cumberland Cosponsored by Representative GURNEY of Portland and Representative PRIEST of Brunswick

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

Sent down for concurrence.

COMMITTEE REPORTS

House

Ought Not to Pass

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

The Committee on ENERGY AND NATURAL RESOURCES on Bill "An Act Regarding Replanting of Woodlots"

H.P. 334 L.D. 453

The Committee on ENERGY AND NATURAL RESOURCES on Bill "An Act to Clarify the Natural Resources Law"

H.P. 386 L.D. 517

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:

The Committee on ENERGY AND NATURAL RESOURCES on Bill "An Act to Permit Water Utilities to Repair, Maintain and Replace Existing Facilities"

H.P. 377 L.D. 508

The Committee on ENERGY AND NATURAL RESOURCES on Bill "An Act Regarding Parcels of Land Separated by a Road in the Site Location of Development Subdivision Provisions"

H.P. 449 L.D. 614

The Committee on JUDICIARY on Bill "An Act to Confiscate Assets Garnered by Convicted Felons Through Criminal Acts"

H.P. 306 L.D. 420

Ought to Pass

The Committee on FISHERIES AND WILDLIFE on Bill "An Act to Amend the Laws Relating to Licensed Maine Guides"

H.P. 20 L.D. 15

Reported that the same Ought to Pass.

Comes from the House with the Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED.

Which Report was READ and ACCEPTED, in concurrence.

The Bill READ ONCE.

The Bill TOMORROW ASSIGNED FOR SECOND READING.

Ought to Pass As Amended

The Committee on TAXATION on Bill "An Act to Amend the Real Estate Lien Discharge Law"

H.P. 76 L.D. 107

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-13).

Comes from the House, with the Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-13).

Which Report was READ and ACCEPTED, in concurrence.

The Bill READ ONCE.

Committee Amendment "A" (H-13) READ and ADOPTED, in concurrence.

The Bill as Amended, TOMORROW ASSIGNED FOR SECOND READING.

Senate

Change of Reference

Senator DUTREMBLE for the Committee on HOUSING AND ECONOMIC DEVELOPMENT on Bill "An Act to Establish an Affordable Housing Demonstration Program"

S.P. 315 L.D. 820

Reported that the same be REFERRED to the Committee on APPROPRIATIONS AND FINANCIAL AFFAIRS.

Which Report was READ and ACCEPTED.

The Bill REFERRED to the Committee on APPROPRIATIONS AND FINANCIAL AFFAIRS.

Sent down for concurrence.

Ought to Pass

Senator GAUVREAU for the Committee on HUMAN RESOURCES on Bill "An Act to Amend the Interpreter Service for the Hearing Impaired"

S.P. 144 L.D. 264

Reported that the same Ought to Pass.

Which Report was READ and ACCEPTED.

The Bill READ ONCE.

The Bill TOMORROW ASSIGNED FOR SECOND READING.

Senator GAUVREAU for the Committee on HUMAN RESOURCES on Bill "An Act to Amend Laws Related to the Bureau of Mental Retardation's Role in In-state Residential Treatment Centers"

S.P. 191 L.D. 418

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 GAUVREAU for the Committee on HUMAN RESOURCES on Bill "An Act to Save Medicaid Funds by Expanding the Ability of the Department of Human Services to Recover Funds from Prior Owners of Boarding and Nursing Homes"

S.P. 87 L.D. 89

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (S-21).

Which Report was READ and ACCEPTED.

The Bill READ ONCE.

Committee Amendment "A" (S-21) READ and ADOPTED.

The Bill as Amended, TOMORROW ASSIGNED FOR SECOND READING.

SECOND READERS

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

Senate

Bill "An Act to Grant Rulemaking Authority to the Maine Arts Commission"

S.P. 108 L.D. 163

Bill "An Act to Amend the General Relocation Assistance Provisions to Achieve Compliance with Certain Federal Laws" (Emergency)

S.P. 229 L.D. 559

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

Sent down for concurrence.

Senate As Amended

Bill "An Act to Designate April 9 as Former Prisoner of War Recognition Day"

S.P. 146 L.D. 266

(C "A" S-18)

Resolve, Allocating the Proceeds of the \$3,000,000 Bond Issue for Land Acquisition, Construction, Repair and Renovation of Public Safety Facilities (Emergency)

S.P. 216 L.D. 532

(C "A" S-20)

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

Sent down for concurrence.

Off Record Remarks

ENACTORS

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

An Act to Amend the Chapter Applicable to Medicare Supplement Insurance Policies

S.P. 67 L.D. 50

(S "A" S-17)

An Act to Clarify the Law Authorizing the Use of Warning Devices on Department of Corrections' Vehicles

S.P. 74 L.D. 64

(S "A" S-16; C "A" S-15)

An Act to Provide a Sales Tax Exemption for Materials Purchased by Certain Religious Institutions

S.P. 94 L.D. 99

(C "A" S-12)

An Act to Clarify the Blueberry Tax Laws

H.P. 79 L.D. 110

(C "A" H-10)

An Act to Establish a Portion of the Boundary Between the Town of Lincoln and the Town of Enfield in the County of Penobscot from the Penobscot River to the Westerly Shore of Cold Stream Pond

S.P. 102 L.D. 121

(S "A" S-14)

An Act to Amend Certain Dates Relating to the County Budget Procedure

H.P. 125 L.D. 169

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

Emergency

An Act to Make Additional Allocations from the Highway Fund for the Fiscal Year Ending June 30, 1989

H.P. 81 L.D. 112

(C "A" H-12)

This being an Emergency Measure and having received the affirmative vote of 32 Members of the Senate, with No Senators having voted in negative, and 32 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 Increase the Membership of the
Emergency Enhanced 9-1-1 Telephone Advisory
Committee

H.P. 122 L.D. 159
(C "A" H-11)

This being an Emergency Measure and having received the affirmative vote of 31 Members of the Senate, with No Senators having voted in negative, and 31 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.

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

PAPERS FROM THE HOUSE
Non-concurrent Matter

Resolve, to Provide Certified Nursing Assistant Training at the Central Maine Vocational-Technical Institute

S.P. 343 L.D. 913

In Senate, March 23, 1989, referred to the Committee on HUMAN RESOURCES and ORDERED PRINTED.

Comes from the House referred to the Committee on APPROPRIATIONS AND FINANCIAL AFFAIRS and ORDERED PRINTED in NON-CONCURRENCE.

The Senate RECEDED and CONCURRED.

SENATE PAPERS

Bill "An Act to Enhance the Integrated Pest Management Capabilities of Agriculture in Maine"

S.P. 357 L.D. 958

Presented by Senator EMERSON of Penobscot
Cosponsored by Senator KANY of Kennebec,
Representative PINES of Limestone and
Representative NUTTING of Leeds
Which was referred to the Committee on
AGRICULTURE and ORDERED PRINTED.
Sent down for concurrence.

Bill "An Act to Provide Assistance to Businesses Adversely Affected by Snow Drought" (Emergency)

S.P. 353 L.D. 954

Presented by Senator ANDREWS of Cumberland
Cosponsored by Senator PERKINS of Hancock,
Representative KILKELLY of Wiscasset and
Representative PAUL of Sanford

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27.

Bill "An Act to Establish a Pilot Program to Promote Literacy in Maine Correctional Facilities"

S.P. 360 L.D. 961

Presented by Senator BOST of Penobscot
Cosponsored by Senator ANDREWS of Cumberland,
Representative MAYO of Thomaston and
Representative SWAZEY of Bucksport
Which were referred to the Committee on
APPROPRIATIONS AND FINANCIAL AFFAIRS and ORDERED
PRINTED.

Sent down for concurrence.

Bill "An Act to Establish a Patient Compensation Fund"

S.P. 352 L.D. 953

Presented by Senator MATTHEWS of Kennebec
Cosponsored by Senator RANDALL of Washington,
Representative DONALD of Buxton and
Representative GARLAND of Bangor

Which was referred to the Committee on BANKING AND INSURANCE and ORDERED PRINTED.
Sent down for concurrence.

Bill "An Act to Provide Dealership Protection to Farm Equipment and Machinery"

S.P. 358 L.D. 959

Presented by Senator BALDACCI of Penobscot
Cosponsored by Representative ALLEN of Washington, Representative REED of Falmouth and Representative STEVENS of Sabattus
Which was referred to the Committee on BUSINESS LEGISLATION and ORDERED PRINTED.
Sent down for concurrence.

Bill "An Act to Clarify the Regulation of Biomedical Waste" (Emergency)

S.P. 356 L.D. 957

Presented by Senator GILL of Cumberland
Cosponsored by Representative HOGLUND of Portland, Representative PENDLETON of Scarborough and Senator BRANNIGAN of Cumberland
Which was referred to the Committee on ENERGY AND NATURAL RESOURCES and ORDERED PRINTED.
Sent down for concurrence.

Bill "An Act Concerning Municipal Regulation of Shellfish Resources" (Emergency)

S.P. 354 L.D. 955

Presented by Senator CLARK of Cumberland
Cosponsored by Representative COLES of Harpswell, Representative RYDELL of Brunswick and Representative PRIEST of Brunswick
Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27.
Which was referred to the Committee on MARINE RESOURCES and ORDERED PRINTED.
Sent down for concurrence.

Bill "An Act to Revise Compensation for Members of the Maine Human Rights Commission"

S.P. 355 L.D. 956

Presented by Senator BRANNIGAN of Cumberland
Cosponsored by Senator PERKINS of Hancock, Representative RYDELL of Brunswick and Representative FOSTER of Ellsworth
Which was referred to the Committee on STATE AND LOCAL GOVERNMENT and ORDERED PRINTED.
Sent down for concurrence.

Bill "An Act Concerning Certain Municipal Boundaries" (Emergency)

S.P. 359 L.D. 960

Presented by President PRAY of Penobscot
Cosponsored by Representative CLARK of Millinocket
Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27.
Committee on STATE AND LOCAL GOVERNMENT suggested and ORDERED PRINTED.

Which was, under suspension of the Rules, READ TWICE and PASSED TO BE ENGROSSED, without reference to a Committee, and ORDERED PRINTED.
Sent down for concurrence.

Off Record Remarks

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

On motion by Senator BOST of Penobscot, ADJOURNED until Wednesday, March 29, 1989, at 10:00 in the morning.

ONE HUNDRED AND FOURTEENTH MAINE LEGISLATURE
FIRST REGULAR SESSION
35th Legislative Day
Wednesday, March 29, 1989

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

Prayer by Reverend Edgar Jones, Winthrop Congregational Church.

The Journal of Tuesday, March 28, 1989, was read and approved.

Quorum call was held.

PAPERS FROM THE SENATE

Bill "An Act to Enhance the Integrated Pest Management Capabilities of Agriculture in Maine" (S.P. 357) (L.D. 958)

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

Was referred to the Committee on Agriculture in concurrence.

Bill "An Act to Provide Assistance to Businesses Adversely Affected by Snow Drought" (EMERGENCY) (S.P. 353) (L.D. 954)

Bill "An Act to Establish a Pilot Program to Promote Literacy in Maine Correctional Facilities" (S.P. 360) (L.D. 961)

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

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

Bill "An Act to Establish a Patient Compensation Fund" (S.P. 352) (L.D. 953)

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

Was referred to the Committee on Banking and Insurance in concurrence.

Bill "An Act to Provide Dealership Protection to Farm Equipment and Machinery" (S.P. 358) (L.D. 959)

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 to Clarify the Regulation of Biomedical Waste" (EMERGENCY) (S.P. 356) (L.D. 957)

Came from the Senate, referred to the Committee on Energy and Natural Resources and Ordered Printed.

Was referred to the Committee on Energy and Natural Resources in concurrence.

Bill "An Act to Require Written Leases for Long-term Tenancies" (S.P. 351) (L.D. 933)

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

Was referred to the Committee on Legal Affairs in concurrence.

Bill "An Act Concerning Municipal Regulation of Shellfish Resources" (EMERGENCY) (S.P. 354) (L.D. 955)

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

Was referred to the Committee on Marine Resources in concurrence.