

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

***One Hundred and Eleventh
Legislature***

OF THE

STATE OF MAINE

Volume II

FIRST REGULAR SESSION

May 16, 1983 to June 24, 1983

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HOUSE

Wednesday, September 7, 1983

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

Prayer by Representative Joseph Mayo of Thomaston.

The journal of yesterday was read and approved.

At this point, the rules were suspended for the purpose of allowing members to remove their jackets.

Orders

On motion of Speaker Martin of Eagle Lake, the following Joint Resolution: (H. P. 1372) (Cosponsor: Senator Conley of Cumberland)

Joint Resolution in Protest of the Needless Destruction of an Unarmed Korean Airliner By the Soviet Union

WHEREAS, this Legislature has learned with shock of the tragic death of 269 passengers aboard an unarmed South Korean 747; and

WHEREAS, this commercial jet which had strayed off course was shot from the sky above Sakhalin by a heat-seeking missile fired by one of eight Russian fighters which had tracked the plane for two and a half hours; and

WHEREAS, this was a cold and calculated act with little or no warning which has drawn outrage in capitals around the globe; and

WHEREAS, there has been no apology, suitable explanation or compensation offered for this barbarous act by the Soviet Union which has caused world-wide indignation; and

WHEREAS, sixty-one Americans were aboard that doomed aircraft, who with others aboard, appear to be victims of this cold war crime against humanity; now, therefore, be it

RESOLVED: that We, the Members of the 111th Legislature now assembled in Special Legislative Session take this opportunity to express our deep concern for this inexcusable act of shooting down an unarmed civilian aircraft in violation of international law and humanitarian regard for securing the safety of civilian air transport and that our deepest sympathy be extended to the many families who lost their loved ones in this needless tragedy; and be it further

RESOLVED: that a suitable copy of this joint resolution be sent to the Soviet Ambassador to the United Nations and to the American Ambassador to the United Nations.

Under suspension of the rules, the Resolution was read and adopted and sent up for concurrence.

By unanimous consent, ordered sent forthwith to the Senate.

The SPEAKER: The Chair recognizes the gentleman from Vassalboro, Mrs. Mitchell.

Mrs. MITCHELL: Mr. Speaker, is the House in possession of Bill "An Act to Provide Additional Revenue to the Department of Inland Fisheries and Wildlife Through an Increase in License Fees," House Paper 1208, L. D. 1607?

The SPEAKER: The Chair would answer in the affirmative, having been held at the gentleman's request.

On motion of Mr. Clark of Millinocket, the House reconsidered its action of yesterday whereby the Bill and all its accompanying papers were indefinitely postponed.

Thereupon, Report A "Ought to Pass" in New Draft New Title, Bill "An Act to Provide Additional Revenue to the Department of Inland Fisheries and Wildlife by an Increase in License Fees and to Allocate those Increased Revenues to the Department of Inland Fisheries and Wildlife for the Fiscal Years Ending June 30, 1984, and June 30, 1985" (H. P. 1364) (L. D. 1797) was accepted and the New Draft read once.

Under suspension of the rules, the New Draft was read the second time.

Mr. MacEachern of Lincoln offered House

Amendment "A" and moved its adoption.

House Amendment "A" (H-439) was read by the Clerk and adopted.

The New Draft was passed to be engrossed as amended by House Amendment "A" and sent up for concurrence.

By unanimous consent, ordered sent forthwith to the Senate.

The following papers appearing on Supplement No. 1 were taken up out of order by unanimous consent:

The following Joint Order: (S. P. 643)

WHEREAS, the United States Constitution, Amendment X, reserves to the states the exercise of the police power to protect public health, morals and public safety; and

WHEREAS, under the Constitution of Maine, the Legislature bears a portion of the responsibility to protect the public health, morals and safety; and

WHEREAS, the regulation of public utilities is a function of the Legislature; and

WHEREAS, in 1913 the Legislature delegated to the Public Utilities Commission the regulation of public utilities, including those granted monopoly status by Act of the Legislature and by operation of other laws; and

WHEREAS, the delegation of power to the Public Utilities Commission is limited, with the residual power and duty to regulate public utilities remaining in the Legislature; and

WHEREAS, the Legislature maintains constant oversight of the activities of the Public Utilities Commission and its efforts to regulate the public utilities of Maine; and

WHEREAS, the Legislature has been informed of the following matters:

1. Recently, the Public Utilities Commission has conducted an investigation of matters in connection with the false testimony of a specific utility and has proposed to order it and several of its officers and employees to show cause why it and the officers and employees should not be held in contempt for presenting false information to the commission, engaging in a series of actions designed to continue to impede the commission's authority and for failing to correct that information when its misleading nature became known to the utility;

2. As a result of that investigation, the utility and a senior officer of the utility have pleaded guilty in Maine courts to the crimes of falsification of physical evidence and false swearing, respectively;

3. During the course of that investigation, the commission developed information that at least one utility has become extensively involved in Maine's political process, including the use of utility employees in political campaigns; in the formation and use of political action committees; in the formation of operation of an incorporated subsidiary which conducted political polling for the utility and for presently unnamed political candidates and organizations; and in the retention of consultants for the purpose of directing its political activities;

4. The commission has indicated that due to a lack of resources it has been unable to satisfactorily complete further examination of that utility's or other utilities' involvement in the political process. This leaves unanswered the critical questions of the scope and purpose of involvement in political activities by large utilities, of the relationship of these political involvements to the regulation of public utilities and of the adequacy of and compliance with election laws applicable to their activities and the beneficiaries of their activities; now, therefore, be it

ORDERED, the House concurring, that pursuant to the Constitution of Maine and the Revised Statutes, Title 3, sections 162, 165 and 401, et seq., the Legislative Council shall appoint itself, a joint standing committee or a joint select committee, as a legislative investigating committee to investigate and report on

the following matters:

1. The nature of the relationship of public utilities to their subsidiaries, affiliates, officers, employees and persons or organizations providing contract services to them, with particular attention to the larger utilities;

2. The nature and extent of the participation of public utilities, either directly, indirectly or through their subsidiaries, affiliates, political action committees, officers, employees or contractors, in political processes and activities, including both referendum campaigns and election campaigns;

3. Whether that political participation has involved violations by public utilities or other persons of laws relating to elections, registration of voters, initiatives and referendum, campaign reports or finances, or other political or election activities or practices;

4. The relationship of that political participation and the regulation of public utilities;

5. Whether ratepayers' money has been used directly or indirectly to affect the regulation of public utilities;

6. The ability of the commission to properly and thoroughly investigate, monitor and report on the matters set forth above; and

7. The adequacy of the present laws governing public utility regulations and elections to properly reveal and regulate the political participation of utilities; and be it further

ORDERED, that to carry out this investigation, the Legislature grants to this committee all the powers and authority of a legislative investigating committee as provided under the Revised Statutes, Title 3, section 162, subsection 4; section 165, subsection 7; and sections 401, et seq. The committee may hire legal counsel and staff as necessary; and be it further

ORDERED, that the committee shall make its final report, including recommended legislation, as well as any interim reports and recommended legislation, not later than the convening of the 112th Legislature.

Came from the Senate read and passed.

In the House, the Order was read.

The SPEAKER: The Chair recognizes the gentleman from Livermore Falls, Mr. Brown.

Mr. BROWN: Mr. Speaker, I would just like to direct a question, if I may, to one of the sponsors of this Joint Order, and that is, what is the anticipated cost of the joint order should it pass?

The SPEAKER: The gentleman from Livermore Falls, Mr. Brown, has posed a question through the Chair to anyone who may care to answer.

The Chair recognizes the gentleman from Eastport, Mr. Vose.

Mr. VOSE: Mr. Speaker, Ladies and Gentlemen of the House: At this time we have no idea. I don't think it is going to be exorbitant, I don't anticipate a great cost to this. It appears to me, in my discussion with the other sponsors of the bill, we should be able to resolve this thing without a real large cost to the state.

The SPEAKER: The Chair recognizes the gentleman from Livermore Falls, Mr. Brown.

Mr. BROWN: Mr. Speaker, if I interpret the answer to my question to Mr. Vose correctly, then should this order pass, the commission will have an open checkbook with no limits of spending? Where is the money coming from, how is it going to be appropriated, what is going to be the process for putting this commission into business? Specifically, as I guess I asked before, how is the money going to be raised?

The SPEAKER: The gentleman from Livermore Falls, Mr. Brown, has posed a question through the Chair to anyone who may care to answer.

The Chair recognizes the gentleman from Vassalboro, Mrs. Mitchell.

Mrs. MITCHELL: Mr. Speaker, Men and Women of the House: There are simply no blank checks in the Maine Legislature. All

money that is appropriated by this body must be approved by the Legislative Council and, of course, in turn by the Appropriations Committee which is made up of men and women of both parties.

The SPEAKER: The Chair recognizes the gentleman from Scarborough, Mr. Higgins.

Mr. HIGGINS: Mr. Speaker, Ladies and Gentlemen of the House: Briefly, many of us have shared some concern over this particular order, but having spoken with a number of members of leadership who have been involved with it, I have been assured that this is not an attempt to create a witch hunt and it is, in fact, an attempt to address some legitimate questions which I think we all have as well as the general public in the State of Maine. So I don't have any particular problem with it, and since I found that the Council is going to have to authorize whatever dollars are needed to make this particular project work, I would trust that the members of the Council would act in a discretionary manner and would appropriate only those funds that were necessary in an attempt to carry out the duties with which they are directed through this order.

Thereupon, the Order received passage in concurrence.

Non-Concurrent Matter

Bill "An Act to Correct and Clarify the Motor Vehicle and Workers' Compensation Laws" (H. P. 1369) (L. D. 1803) which was passed to be engrossed in the House on September 6, 1983.

Came from the Senate passed to be engrossed as amended by Senate Amendment "A" (S-273) in non-concurrence.

In the House: The House voted to recede and concur.

Non-Concurrent Matter

Bill "An Act to Provide Additional Revenue to the Department of Inland Fisheries and Wildlife by an Increase in License Fees and to Allocate those Increased Revenues to the Department of Inland Fisheries and Wildlife for the Fiscal Years Ending June 30, 1984, and June 30, 1985" (H. P. 1364) (L. D. 1797) which was passed to be engrossed as amended by House Amendment "A" (H-439) in the House on September 7, 1983.

Came from the Senate passed to be engrossed as amended by House Amendment "A" (H-439) as amended by Senate Amendment "A" (S-274) thereto in non-concurrence.

In the House: The House voted to recede and concur.

The following paper appearing on Supplement No. 2 was taken up out of order by unanimous consent:

Orders

On motion of Representative Rolde of York, the following Joint Resolution: (H. P. 1373) (Cosponsor: Representative McPherson of Eliot) (Approved for introduction by a Majority of the Legislative Council pursuant to Joint Rule 35)

Joint Resolution Memorializing the Congress of the United States to Denounce the Inhuman and Genocidal Treatment of Baha'is in Iran

WE, your Memorialists, the House of Representatives and Senate of the State of Maine of the First Special Session of the One Hundred and Eleventh Legislative session assembled, most respectfully present and petition the United States Congress, as follows:

WHEREAS, the persecution of members of the Baha'i religious community in Iran has received world-wide attention; and

WHEREAS, most recently the entire civilized world was shocked by the news from Iran of the execution by hanging of women members of the Baha'i faith; and

WHEREAS, reports of attempted forced conversions to Islam of Baha'is in Iran and wholesale deliberate starvation of Baha'i communities

have been made public; and

WHEREAS, executions of Baha'is for no other reason than their religious preference continue in Iran; and

WHEREAS, these violations of human rights on the part of the Iranian authorities constitute violations against all civilization norms of behavior, as incorporated within such expressions of world opinion as the United Nations Declaration of Human Rights, and, indeed, violate the very principles of Islam, itself; and

WHEREAS, the Baha'i religion has a long and continued association with the State of Maine through the Green Acres Center at Eliot, and other official groups; now, therefore, be it

RESOLVED: That We, the Members of the First Special Session of the 111th Legislature, do hereby denounce the inhuman and genocidal treatment of the Baha'is in Iran by the present government of the Ayatollah Khomeini as a "crime against humanity," and we do further resolve that copies of this expression of our outrage and concern be sent to members of our state's delegation in Congress, the President of the United States, the Secretary of State, the Secretary-General of the United Nations and the Permanent Iranian Delegation to the United Nations.

Under suspension of the rules, the Resolution was read and adopted and sent up for concurrence.

By unanimous consent, ordered sent forth with.

The following paper appearing on Supplement No. 3 was taken up out of order by unanimous consent:

Passed to Be Enacted

An Act to Provide Additional Revenue to the Department of Inland Fisheries and Wildlife by an Increase in License Fees and to Allocate those Increased Revenues to the Department of Inland Fisheries and Wildlife for the Fiscal Years Ending June 30, 1984, and June 30, 1985 (H. P. 1364) (L. D. 1797) (S. "A" S-274 to H. "A" H-439)

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

The SPEAKER: The Chair recognizes the gentleman from Waterville, Mr. Jacques.

Mr. JACQUES: Mr. Speaker, Ladies and Gentlemen of the House: I would first like to ask for a roll call vote.

I rise today to assure you that the Lone Ranger doesn't always win. The Lone Ranger, even with the help of Tonto, couldn't take on the whole Calvary, and I sure couldn't here today.

I am told that there are enough votes here today to enact this, and I want to assure those of you who voted with me yesterday that I understand, I have been around here long enough to know what the real world is and I have no problem with the fact that some of you may have gone to the other side. I have no intention of going to the other side, however. I will be pairing my vote with the gentleman from Madison, Mr. Richard, but it is not because I don't want to be recorded in opposition to this bill. It is because he asked me to do it and I said I would.

I want to thank those of you who went with me yesterday, I do appreciate your support. If nothing else, we brought some badly needed attention to the Department of Inland Fisheries and Wildlife, and I think probably with the changes that are in this bill, whether I happen to agree with them or not, and I do happen to agree with everything that is in here, I just don't agree with the way it is being done and I am sorry about that but I just can't do anything that goes against my grain anymore than any of you can.

I think with the Audit and Program Review's investigation, I think with the line item budget coming up next year, and I think with the vote of 81 that this body gave to Mr. Carroll's motion yesterday, most of what I wanted to accom-

lish has been done. The attention has been put on there and the people of the State of Maine will get some satisfaction and will get some accountability from the Fisheries and Wildlife Department. Hopefully what we did here yesterday will enable future legislators looking at the department to be able to do a better job, a thorough job and hopefully through accountability your people will be served. I don't think this will help me any. I asked the Speaker today, and I hope he honors my request, to replace me as a member of the Fisheries and Wildlife Committee, and I hope he can find somebody to do the kind of job that apparently some people here want done; apparently they can't get that job from me.

I would like to thank you for supporting me yesterday. I know it wasn't the easiest thing to do but I still think it was the right thing to do. I thank you for your time then and I think you for your time now.

The SPEAKER: A roll call has been requested. For the Chair to order a roll call, it must have the expressed desire of one fifth of the members present and voting. All those desiring a roll call vote will vote yes; those opposed will vote no.

A vote of the House was taken, and more than one fifth of the members present having expressed a desire for a roll call, a roll call was ordered.

The SPEAKER: The Chair recognizes the gentleman from Durham, Mr. Hayden.

Mr. HAYDEN: Mr. Speaker, Men and Women of the House: Representative Jacques, the gentleman from Waterville, really laid it on the line to us. He went out on a limb on a tough issue. I didn't support him yesterday, I was persuaded that a fee increase was a sensible step to take, but the bill is very different today than what it was when we first started discussing the issue of whether or not we should have an emergency increase in fees so they would go into effect before January.

What we have before us today is a bill that puts us in a different position of not increasing fees but changing the way the department itself is going to operate. I think that those are issues, as we discussed before, that properly belonged in the legislative process, being worked out in legislative hearings where the public and the people who have opinions one way or the other can speak their peace. I think if we are just talking about fee increases, it is one thing; if we are talking about controlling the department with the bill that we zip through here like a skipping stone on water, I think we ought to think twice about it. I am not comfortable voting for a measure of that type.

The SPEAKER: The pending question is on passage to be enacted.

The Chair recognizes the gentleman from Waterville, Mr. Jacques.

Mr. JACQUES: Mr. Speaker, I would like permission to pair my vote with the gentleman from Madison, Mr. Richard. If he were here and voting, he would be voting yes; I would be voting no.

The SPEAKER: The Chair recognizes the gentleman from Wilton, Mr. Armstrong.

Mr. ARMSTRONG: Mr. Speaker, I request permission to pair my vote with Representative Norman Weymouth from West Gardiner. If he were here, he would be voting yea and I would be voting nay.

The SPEAKER: The Chair recognizes the gentleman from Scarborough, Mr. Higgins.

Mr. HIGGINS: Mr. Speaker, I request permission to pair my vote with the gentleman from Benton, Mr. Parent. If he were here, he would be voting nay and I would be voting yea.

The SPEAKER: The pending question is on passage to be enacted. All those in favor will vote yes; those opposed will vote no.

ROLL CALL

YE—Anderson, Beaulieu, Bonney, Bost, Brannigan, Carroll, D.P.; Carter, Cashman, Connors, Cooper, Cote, Cox, Crouse, Crowley,

Daggett, Davis, Day, Diamond, Dillenback, Drinkwater, Erwin, Greenlaw, Gwadosky, Hall, Hickey, Ingraham, Kane, Kelleher, Kelly, Kilcoyne, Lisnik, Livesay, Locke, MacEachern, Martin, H.C.; Masterton, Matthews, K.L.; Maybury, Mayo, McCollister, McGowan, McPherson, McSweeney, Melendy, Michael, Mitchell, E.H.; Moholland, Murphy, E.M.; Murray, Nadeau, Norton, Paul, Randall, Roberts, Roderick, Rolde, Scarpino, Seavey, Small, Smith, C.B.; Soucy, Stevenson, Stover, Tammara, Telow, Vose, Wentworth, Zirkilton, The Speaker.

NAY—Ainsworth, Allen, Andrews, Bell, Bott, Brodeur, Brown, A.K.; Brown, D.N.; Brown, K.L.; Cahill, Callahan, Carrier, Chonko, Clark, Conary, Connolly, Dexter, Foster, Gauvreau, Handy, Hayden, Holloway, Jackson, Joseph, Joyce, Ketover, Kiesman, LaPlante, Lebowitz, Lehoux, MacBride, Macomber, Manning, Martin, A.C.; Masterman, Matthews, Z.E.; McHenry, Michaud, Mitchell, J.; Paradis, E.J.; Paradis, P.E.; Perkins, Perry, Pines, Pouliot, Reeves, J.W.; Ridley, Rotondi, Salsbury, Sherburne, Smith, C.W.; Sproul, Stevens, Strout, Swazey, Theriault, Tuttle, Walker, Webster.

ABSENT—Baker, Benoit, Carroll, G.A.; Curtis, Dudley, Higgins, H.C.; Hobbins, Jalbert, Lewis, Murphy, T.W.; Nelson, Racine, Reeves, P.; Soule, Thompson, Willey.

PAIRED—Armstrong-Weymouth; Higgins, L.M.-Parent; Jacques-Richard.

Yes, 69; No, 59; Absent, 16; Paired, 6; Vacant, 1.

The SPEAKER: Sixty-nine having voted in the affirmative and fifty-nine in the negative, with sixteen being absent and six paired, the Bill is passed to be enacted.

Signed by the Speaker and sent to the Senate.

By unanimous consent, ordered sent forthwith.

The following paper appearing on Supplement No. 4 was taken up out of order by unanimous consent:

Passed to Be Enacted

An Act to Correct and Clarify the Motor Vehicle and Workers' Compensation Laws" (H. P. 1369) (L. D. 1803) (S. "A" S-273)

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

By unanimous consent, ordered sent forthwith.

Called to order by the Speaker.

At this point, the Chair appointed Representative Michael of Auburn as Chairman of the Joint Standing Committee on Agriculture.

The Chair also recognized the presence of Representative Gwadosky of Fairfield.

At this point, the Speaker appointed Representative Mitchell of Vassalboro on the part of the House to inform the Senate that the House had transacted all business before it and was ready to adjourn without day.

Subsequently, Representative Mitchell reported that she had delivered the message with which she was charged.

The Chair appointed the following members on the part of the House to wait upon His Excellency, Governor Joseph E. Brennan, and inform him that the House had transacted all business before it and was ready to adjourn without day.

Representative HICKEY of Augusta
Representative PERRY of Mexico
Representative THERIAULT of Fort Kent
Representative TUTTLE of Sanford
Representative AINSWORTH of Yarmouth
Representative LEHOUX of Biddeford
Representative MAYO of Thomaston
Representative STEVENSON of Unity

Representative WALKER of Skowhegan
Representative PARADIS of Old Town
Subsequently, Representative Hickey for the Committee reported that they had delivered the message with which they were charged.

At this point, a message came from the Senate, borne by Senator Carpenter of Aroostook, informing the House that the Senate had transacted all business before it and was ready to adjourn without day.

(Off Record Remarks)

The SPEAKER: The Chair recognizes the gentleman from Brewer, Mr. Cox.

Mr. COX: Mr. Speaker and Members of the House: I move the House stand adjourned without day.

The SPEAKER: The gentleman from Brewer, Mr. Cox, now moves that the House adjourn sine die. Is this the pleasure of the House?

The motion prevailed and at 3:14 P.M., Eastern Daylight Savings Time, Wednesday, September 7, 1983, the Speaker declared the House adjourned without day.