

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

***One Hundred and Twelfth
Legislature***

OF THE

STATE OF MAINE

Volume I

FIRST REGULAR SESSION

December 5, 1984 - June 20, 1985

HOUSE

Thursday, March 7, 1985

The House met according to adjournment and was called to order by the Speaker pro tem. Prayer by Reverend Edward L. Fenderson, Southport United Methodist Church, East Boothbay.

Quorum called; was held.

The Journal of yesterday was read and approved.

Papers from the Senate

Bill "An Act Relating to Odometer Readings" (S.P. 342) (L.D. 933)

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

Was referred to the Committee on Business and Commerce in concurrence.

Bill "An Act to Establish an Advisory Committee on the Recommendation and Nomination of Judges" (S.P. 344) (L.D. 935)

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

Was referred to the Committee on Judiciary in concurrence.

Bill "An Act Concerning the Licensing of Small Maine Breweries" (S.P. 343) (L.D. 934)

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

(The Committee on Reference of Bills had suggested reference to the Committee on Business and Commerce.)

Was referred to the Committee on Legal Affairs in concurrence.

Unanimous Ought Not To Pass

Report of the Committee on Audit and Program Review reporting "Ought Not to Pass" on Bill "An Act Relating to Periodic Justification of Departments and Agencies of State Government under the Maine Sunset Laws" (Emergency) (S.P. 1) (L.D. 3)

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

Unanimous Leave to Withdraw

Report of the Committee on Education reporting "Leave to Withdraw" on Bill "An Act to Clarify the Laws Relating to Schools of Barbering and Schools of Cosmetology" (S.P. 60) (L.D. 86)

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

Non-Concurrent Matter

Bill "An Act Pertaining to Law Enforcement Officers and Public Office Holding" (Emergency) (H.P. 467) (L.D. 616) which Failed of Passage to be Enacted in the House on March 1, 1985.

Came from the Senate, passed to be engrossed as amended by Senate Amendment "A" (S-8) in non-concurrence.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Auburn, Representative Cote.

Representative COTE: Thank you Mr. Speaker. I move we recede and concur.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Scarborough, Representative Higgins.

Representative HIGGINS: I move we recede. Senate Amendment "A" (S-8) was read by the Clerk and adopted.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Portland, Representative Manning.

Representative MANNING: Mr. Speaker: I move that we reconsider our actions where we voted for Senate Amendment A.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Corinth,

Representative Strout.

Representative STROUT: I ask for a division. The Chair recognizes the Representative from Saco, Representative Nadeau.

Representative NADEAU: Mr. Speaker, Ladies and Gentlemen of the House: Essentially what had occurred over the last few days, is that this Bill was originally spoken about in this body, as everybody is quite aware of, it passed the emergency enactor, went down to the other body, they passed the Bill with the Senate Amendment "A." What I am urging you to strongly consider and vote for is defeating Senate Amendment "A" at this point in time so that we can further go on to pass this Bill.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Bangor, Representative Diamond.

Representative DIAMOND: Thank you Mr. Speaker. Ladies and Gentlemen of the House. I am a little confused. Could a member of the Committee or a sponsor please explain what this Amendment does.

The SPEAKER PRO TEM: The pending question is reconsideration where this body has adopted Senate Amendment "A."

The Chair recognizes the Representative from Bangor, Representative Diamond.

Representative DIAMOND: Thank you Mr. Speaker. I still would be interested in an explanation of Senate Amendment "A" before we vote on the motion to reconsider. Thank you.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Corinth, Representative Strout.

Representative STROUT: Mr. Speaker, Members of the House: Senate Amendment "A" removes the emergency. That is all that it does. It removes the emergency from the Bill.

Representative Manning of Portland withdrew his motion to reconsider.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Scarborough, Representative Higgins.

Representative HIGGINS: Mr. Speaker, I present House Amendment "A" to L.D. 616 (H-14) and move its adoption.

House Amendment "A" (H-14) was read by the Clerk.

Representative HIGGINS: Mr. Speaker, Ladies and Gentlemen of the House: The purpose of House Amendment "A" is to remove from the provision of the Bill the ability for law enforcement personnel to run for municipal office, basically, town council, mayor, alderman, selectmen. It would allow them to run for any other office that they chose in a non-partisan way. The other day we discussed at great length the implications of this Bill and while I agreed that certain provisions of it were much better than the existing law, I still feel that its a problem or a potential problem for a person to serve as both a law enforcement officer and as a municipal officer in the municipality. I think we discussed this fully the other day and I would hope you would adopt this amendment.

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

Representative SMITH: I move for indefinite postponement of House Amendment "A."

I believe if we are going to give the officers, State Police and other state employees the opportunity to run for office, they should be allowed to do so. I understand that there are ordinances that will take care of any local problems with sheriffs or others running for office which they don't want. I would hope you would vote for indefinite postponement of House Amendment "A." Thank you.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Corinth, Representative Strout.

Representative STROUT: I would pose a question to the Chair. I would ask if House Amendment "A" is germane to the Bill where it deals with Title 30, Section 2366 dealing with municipal offices, My feeling that the Bill we

had before us is dealing specifically with Title 25, Section 1503, I would question the germanes.

On motion of Representative Diamond of Bangor, tabled pending ruling from the Chair and assigned for Tuesday, March 12, 1985.

Petitions, Bills and Resolves Requiring Reference

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

Aging, Retirement and Veterans

Bill "An Act to Provide that Cost-of-Living Plans for Retired Persons under the Maine State Retirement System shall Apply to All Participating Local Districts that do not Provide Social Security Benefits for Employees" (H.P. 661) (Presented by Representative JALBERT of Lisbon) (Cosponsors: Representatives STEVENSON of Unity, DRINKWATER of Belfast, and DAGGETT of Manchester) (Ordered Printed)

Sent up for concurrence.

Appropriations and Financial Affairs

Bill "An Act to Support the Growth and Development of Community Child Abuse and Neglect Councils" (H.P. 662) (Presented by Representative RYDELL of Brunswick) (Cosponsors: Representative NELSON of Portland, Senators BUSTIN of Kennebec, and SEWALL of Lincoln) (Ordered Printed)

Sent up for concurrence.

Business and Commerce

Bill "An Act Relating to Requirements for Removal of Mobile Homes from Mobile Home Parks" (H.P. 663) (Presented by Representative HOGGLUND of Portland) (Cosponsor: Representative BEAULIEU of Portland) (Ordered Printed)

Sent up for concurrence.

Judiciary

Bill "An Act Concerning Maine's Debt Collection Procedure" (H.P. 664) (Presented by Representative WARREN of Scarborough) (Cosponsors: Senators Trafton of Androscoggin, DANTON of York, and Representative JACKSON of Harrison) (Ordered Printed)

Sent up for concurrence.

Labor

Bill "An Act to Create a Cancer Presumption for Firefighters in the Workers' Compensation Law" (H.P. 665) (Presented by Representative BEAULIEU of Portland)

Bill "An Act to Reform the Current Spendable Earnings Program with the Workers' Compensation Laws" (H.P. 666) (Presented by Representative STETSON of Damariscotta) (Cosponsor: Representative RIDLEY of Shapleigh)

Bill "An Act Concerning Average Weekly Wages under the Workers' Compensation Act" (H.P. 667) (Presented by Representative WHITCOMB of Waldo) (Cosponsors: Senator BLACK of Cumberland, Representatives TARDY of Palmyra, and WILLEY of Hampden) (Ordered Printed)

Sent up for concurrence.

Local and County Government

Bill "An Act Validating the Vote to Convert Wallagrass Plantation into the Town of Wallagrass" (Emergency) (H.P. 668) (Presented by Speaker MARTIN of Eagle Lake) (Cosponsors: Senator McBREAIRTY of Arostook and Representative THERIAULT of Fort Kent) (Ordered Printed)

Sent up for concurrence.

Marine Resources

Bill "An Act to Regulate the Shipment of Lobsters" (H.P. 669) (Presented by Representative SCARPINO of St. George)

(Ordered Printed)

Sent up for concurrence.

State Government

Bill "An Act Relating to Disposal of Property taken by the State" (H.P. 670) (Presented by Representative McPHERSON of Eliot) (Cosponsor: Representative ROLDE of York)

(Ordered Printed)

Sent up for concurrence.

Taxation

Bill "An Act Relating to Taxation of Aircraft" (Emergency) (H.P. 671) (Presented by Representative LISNIK of Presque Isle) (Cosponsors: Representative SALSBUURY of Bar Harbor and Senator TWITCHELL of Oxford)

Bill "An Act to Establish Municipal Cost Components for Services to be Rendered in Fiscal Year 1985-86" (Emergency) (H.P. 672) (Presented by Representative HIGGINS of Portland) (Cosponsors: Senator TWITCHELL of Oxford, Representatives INGRAHAM of Houlton, and ZIRNKILTON of Mount Desert) (Submitted by the Department of Finance and Administration pursuant to Joint Rule 24)

Bill "An Act to Increase the Eligibility Guidelines under the Elderly Householders Tax and Rent Refund Act and the Elderly Low Cost Drug Program" (H.P. 675) (Presented by Representative CARROLL of Gray)

(Ordered Printed)

Sent up for concurrence.

Transportation

Bill "An Act to Make Supplemental Allocations from the Highway Fund for the Fiscal Years Ending June 30, 1986, and June 30, 1987" (Emergency) (H.P. 673) (Presented by Representative THERIAULT of Fort Kent) (Cosponsors: Senator DANTON of York, Representatives MILLS of Bethel, and CALLAHAN of Mechanic Falls) (Submitted by the Department of Finance and Administration pursuant to Joint Rule 24)

Bill "An Act to Provide Signs on the Maine Turnpike Indicating Exit for Oxford Plains Speedway" (H.P. 674) (Presented by Representative WALKER of Norway) (Cosponsor: Senator TWITCHELL of Oxford)

(Ordered Printed)

Sent up for concurrence.

Orders

On motion of Representative McSWEENEY of Old Orchard Beach, the following Order:

ORDERED, that Representative Alan L. Baker of Orrington be excused March 7 and 8 for legislative business.

AND BE IT FURTHER ORDERED, that Representative Bradford E. Boutillier of Lewiston be excused March 7 and 8 for legislative business.

AND BE IT FURTHER ORDERED, that Representative Leland C. Davis, Jr., of Monmouth be excused March 8, 12, 13 and 14 for legislative business.

AND BE IT FURTHER ORDERED, that Representative John P. Daggett of Manchester be excused March 5 for the duration of his illness.

Was read and passed.

Reports of Committees

Unanimous Leave to Withdraw

Representative COLES from the Committee on Energy and Natural Resources on Bill "An Act to Clarify the Land Use Laws" (H.P. 329) (L.D. 445) reporting "Leave to Withdraw"

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

Refer to the Committee on Aging,

Retirement and Veterans

Representative COOPER from the Committee on Judiciary on Bill "An Act to Clarify the Definition of Spouse and to Add a Definition of Substantial Gainful Activity" (H.P. 426) (L.D. 606) reporting that it be referred to the Committee on Aging, Retirement and Veterans.

Report was read and accepted and the bill referred to the Committee on Aging, Retirement and Veterans and sent up for concurrence.

Ought to Pass in New Draft

Representative GWADOSKY from the Committee on State Government on Bill "An Act to Establish Alcohol Awareness Week" (H.P. 232) (L.D. 273) reporting "Ought to Pass" in New Draft (H.P. 676) (L.D. 936)

Report was read and accepted. The New Draft was given its first reading and assigned for Second Reading tomorrow.

Consent Calendar

First Day

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

(H.P. 303) (L.D. 392) Bill "An Act to Clarify the Maine Administrative Procedure Act" Committee on State Government reporting "Ought to Pass"

There being no objections, the above item was ordered to appear on the Consent Calendar of Thursday, March 8, 1985 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:

(S.P. 16) (L.D. 9) Bill "An Act to Clarify the Enforcement of Private Septage Disposal Sites"

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

(S.P. 147) (L.D. 414) Bill "An Act to Restrict the Number of Advertising Signs Which May be Displayed by Licensed Retailers"

On objection of Representative Racine of Biddeford, was removed from Consent Calendar Second Day.

The Committee report was read and accepted, the Bill read once and assigned for second reading tomorrow.

(S.P. 86) (L.D. 267) Bill "An Act Relating to Radiation User Fees Under the Human Services Law"

(H.P. 100) (L.D. 125) Bill "An Act to Establish a Maine Rivers Grants Program" (C. "A" H-12)

(H.P. 233) (L.D. 274) Bill "An Act to Amend the Weights and Measures Law"

(H.P. 146) (L.D. 180) Bill "An Act to Lower the Storage Temperature of Milk" (C. "A" H-13)

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

Orders of the Day

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

Bill "An Act to Increase the Fees of Bail Commissioners" (H.P. 9) (L.D. 7) (C. "A" H-8)

TABLED—March 6, 1985 by Representative DIAMOND of Bangor.

PENDING—Passage to be Engrossed.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Portland, Representative Connolly.

Representative CONNOLLY: Mr. Speaker and

Members of the House: This particular Bill has been tabled for two or three days now because there were some concerns that I and some other people had with it. The gist of the Bill is to increase the fees that Bail Commissioners can receive when they bail someone. Nobody, including myself, has a problem with that. There was, however, a question as to whether or not somebody who might be able to meet all the other requirements of bail be forced to remain in jail because they could not pay the Bail Commissioners' fees and I would like a member of the Committee to explain what safeguards there would be to prevent that kind of a situation from occurring.

The SPEAKER PRO TEM: The Representative from Portland, Representative Connolly, has posed a question through the Chair to any member who many respond if they so desire.

The Chair recognizes the Representative from Washington, Representative Allen.

Representative ALLEN: Thank you Mr. Speaker. Men and Women of the House. With regard to Representative Connolly's concerns, I have a form that is currently being used by the State Bail Commissioners. It is a four part form. One of the forms is to remain with the defendant. I will quote from the back of that form. "No person shall be denied admission to bail based on his/her ability to furnish the fee." There is also a place in the front of the form where a box can be checked that says, fee waived. I would point out that according to the Court Administrator's Office, this form is currently being used for surety bails and bails that deal with real estate. They are in the process of developing a shortened version of a similar form for personal recognizance. I believe that Representative Connolly's concerns have been answered.

Whereupon, the Bill was passed to be engrossed and sent up for concurrence.

(Off Record Remarks)

On motion of Representative Ridley of Shapleigh.

Adjourned until 11:00 a.m. March 8, 1985.