

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

1st Special Session

OF THE

*One Hundred and Sixth
Legislature*

OF THE

STATE OF MAINE

Volume II

MARCH 7, 1974 TO MARCH 29, 1974

Index

Legislative Ethics Committee Report

Maine State Police to Lower Speed Limits in Order to Provide Energy Conservation." (H. P. 1857) (L. D. 2350)

Tabled — March 5, 1974 by Senator Berry of Cumberland.

Pending — Enactment.

The PRESIDENT: The Chair recognizes the Senator from Penobscot, Senator Tanous.

Mr. TANOUS: Mr. President, a parliamentary inquiry: Did we enact earlier this afternoon L. D. 2549, Item 8-6 on the Supplemental Senate Journal Number 1?

The PRESIDENT: The Chair would answer in the affirmative.

Mr. TANOUS: Thank you. I now move indefinite postponement of L. D. 2350, because the subject matters contained in this particular bill are covered under that emergency legislation which has just been enacted.

The PRESIDENT: The Senator from Penobscot, Senator Tanous, now moves that L. D. 2350 be indefinitely postponed in non-concurrence. Is this the pleasure of the Senate?

Thereupon, the Bill was Indefinitely Postponed in non-concurrence.

Under suspension of the rules, sent down forthwith for concurrence.

On motion by Mr. Berry of Cumberland, the Senate voted to take from the table the twelfth unassigned matter:

Bill, "An Act to Correct Errors and Inconsistencies in the Public Laws." (S. P. 953) (L. D. 2606)

Tabled—March 25, 1974 by Senator Berry of Cumberland.

Pending—Assignment for Second Reading.

Thereupon, under suspension of the rules, the Bill was Read a Second Time.

Mr. Tanous of Penobscot then presented Senate Amendment "A" and moved its Adoption.

Senate Amendment "A", Filing No. S-427, was Read.

The PRESIDENT: The Chair recognizes the same Senator.

Mr. TANOUS: Mr. President and Members of the Senate: The purpose of this amendment on dealing with this particular section of law is that there is a line which says that, "this section shall

not apply to vessels primarily engaged in the carriage of passengers for hire which operate on a published annual schedule." The "published annual schedule" indicates that they have to operate the vessels daily and, of course, this is not the situation, so we are changing the words around to "schedule published annually" rather than the former, which gives it the original intent or the intent of what the legislation was intended to be. At the end of that where it calls for a hearing and notice, because the word "hearing" appears before "notice," we shifted the word "hearing" after "notice" rather than before the word notice because it seemed to indicate the inconsistency of having a hearing and a notice afterwards.

Thereupon, Senate Amendment "A" was Adopted.

Mr. Tanous of Penobscot then presented Senate Amendment "B" and moved its Adoption.

Senate Amendment "B", Filing No. S-428, was Read.

The PRESIDENT: The Senator has the floor.

Mr. TANOUS: Mr. President and Members of the Senate: This deals with standard bred horses. I have a letter from the Attorney General addressed to a member of the other body indicating the inconsistency in this law. They review in the first part of the letter, and rather than read the entire letter, I would like to perhaps read part of it. "You state in your letter you are aware that this office gave an informal opinion indicating that the Commission's action was inconsistent with its authority created by statute. You asked that an explanation be made showing how the legislature may correct the situation. By way of informal opinion dated March 7, 1974, the Commissioner of Agriculture, Maynard C. Dolloff, was advised that the Maine Harness Racing Commission rules and regulations relating to conduct of a state program for Maine's own two and three year old horses was inconsistent with existing statutes. Specifically neither the provisions of Title 8 Maine Revised Statutes Annotated, Section 268 and 281, authorize the proposed program. In order to be of assistance, the Commissioner of

Agriculture and the Maine Harness Racing Commission proposed legislation that was prepared in this office which if enacted would make the Commission's action consistent with Maine law." And then they enclose a copy of this, and this is the amendment. The committee turned this amendment down, as the other one, and I wasn't present at that particular executive session, but probably it was for the reason that they felt it was substantive in nature and yet, according to the Attorney General's opinion, it appears to be an inconsistency with another section of the law.

The PRESIDENT: Is it now the pleasure of the Senate to adopt Senate Amendment "B"?

The motion prevailed.

Thereupon, on motion by Mr. Berry of Cumberland, tabled pending Passage to be Engrossed.

On motion by Mr. Berry of Cumberland, the Senate voted to take from the table the eleventh unassigned matter:

Bill, "An Act to Authorize Interagency Transfer of the Supervision and Control of Public Lands." (H. P. 2073) (L. D. 2600)

Tabled — March 25, 1974 by Senator Berry of Cumberland.

Pending — Adoption of House Amendment "A" (H-792)

Thereupon, on further motion by the same Senator, House Amendment "A" was Adopted. Under suspension of the rules, the Bill was then Read a Second Time and Passed to be Engrossed in concurrence.

Under further suspension of the rules, sent forthwith to the Engrossing Department.

On motion by Mr. Berry of Cumberland, the Senate voted to take from the table the fourteenth unassigned matter:

Bill, "An Act Extending Collective Bargaining Rights to State Employees." (S. P. 817) (L. D. 2314)

Tabled — March 25, 1974 by Senator Berry of Cumberland.

Pending — Motion by Senator Tanous of Penobscot to Reconsider Adoption of

Senate Amendment "B" (S-411)

The PRESIDENT: The Chair recognizes the Senator from Aroostook, Senator Haskell.

Mr. HASKELL: Mr. President and Members of the Senate: I think a copy of a letter from George West to Senator Tanous has been distributed, and in the event that some of you may not have read it, I am going to read it.

"Dear Senator Tanous: I had a telephone call from Walter Corey this afternoon and he, along with Parker Denico, discussed with me an amendment to the collective bargaining bill. We finally agreed that probably the proper thing to do is to repeal section 979 D, subsection 1, paragraph E, subparagraph (1), division (f). I believe such an amendment has been prepared as I was shown one this afternoon. If you wish to talk further with Walter Corey, I have left his office number", and it gives the number. Signed, George West.

This is substantially what I reported to the Senate this morning. These people are the people that were most intimately connected with writing the bill. I think that Mr. West had a clear understanding of the ambiguity that I raised in the language of the bill, and I think that it is his opinion and the opinion also of the people mentioned in this letter, apparently, that the course of action which I proposed by my amendment is the proper course to take to resolve the problem that I outlined. I don't want to belabor the point but I do want to say this: that if the Senate does reconsider this amendment, then the whole bill would be in a posture where it would have, in my view, an extremely serious deficiency in that we would have in it a wholly novel method of binding arbitration that has not been tried at the state level anywhere, to the best of my knowledge, which does involve the arbiter being compelled to accept one of two last best offers. At this point the United States Civil Service Commission has raised a question in this area and view it with some apprehension. If Senator Tanous's motion to reconsider does prevail, then certainly I am then going to have to offer an amendment to take the last best offer section out of the bill because, in my mind, this would be a