

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

***One Hundred and Eleventh
Legislature***

OF THE

STATE OF MAINE

SECOND REGULAR SESSION

January 4, 1984 to April 25, 1984

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FOURTH CONFIRMATION SESSION

(FIRST CONFIRMATION SESSION – SECOND REGULAR SESSION)

May 31, 1984

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not accept this bill the other day and we voted for reconsideration and it has been tabled and tabled and tabled waiting for this amendment. I don't believe that in the long run we are interested in the bill and that is what everybody is talking about, but we do have to accept the bill in order to offer the amendment so that my questions can be answered and so can some others. Then if you want to kill it, kill it, but let's find out what this amendment says.

The SPEAKER: The Chair recognizes the gentleman from Limerick, Mr. Carroll.

Mr. CARROLL: Mr. Speaker, Ladies and Gentlemen of the House: I would just like to remind you that eleven states have this law. It doesn't say that you don't chase them, it doesn't say that you don't radio ahead—you radio ahead. Can you imagine chasing someone at 110 miles an hour down the road? Use your imagination. Do you think that you are going to save anybody's life chasing them at 110 miles an hour? That is where my problem comes in and don't tell me that I am hamstringing anybody, I am trying to save lives.

The SPEAKER: The Chair recognizes the gentleman from Newport, Mr. Reeves.

Mr. REEVES: Mr. Speaker, Ladies and Gentlemen of the House: I will be brief, I didn't want to get up and argue this this afternoon. I am not going to repeat what you have already heard but I do have some facts and figures here in front of me that I think I should share with you before you cast your vote.

We have heard a lot this afternoon about the danger, the injuries, the deaths, etc., as a result of high speed chases. I will give you just a few of these figures. I have the facts and figures for the last four years but I am not going to give them to you from 1980 through 1983. I will give you last year's. The State Police stopped a total of 140,700 vehicles; 125 of these vehicles that were stopped were involved in high speed pursuits, 125 out of a 140,000. Out of these 125 there were exactly three accidents. A footnote at the bottom says that 95 percent of the chases are concluded without any accidents, and based on this four year study, no person has been injured that was not involved in the chase. Example: Injury or death was only to the policeman or the individual being pursued.

I hope you will support the indefinite postponement.

The SPEAKER: The Chair recognizes the gentleman from Lincoln, Mr. MacEachern.

Mr. MACEachern: Mr. Speaker, Ladies and Gentlemen of the House: I would like to apologize but I just have to answer the gentleman from Limerick, Mr. Carroll.

As a good example, when I was first a state trooper and I am sure the thing still exists, the nearest trooper to my town, which was Danforth at that time, was 60 miles away. Now where would I radio and get any help?

The SPEAKER: The Chair will order a vote. The pending question before the House is on the motion of the gentleman from Belfast, Mr. Drinkwater, that this Bill and all its accompanying papers be indefinitely postponed. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

67 having voted in the affirmative and 35 in the negative, the motion did prevail.

Sent up for concurrence.

The Chair laid before the House the fifth item of Unfinished Business:

RESOLVE, to Reimburse David James McDaniel for Damages Suffered as a Result of Wrongful Imprisonment (H. P. 761) (L. D. 992).

—In House, Minority "Ought to Pass" Report of the Committee on Judiciary Read and Accepted and the Bill Passed to be Engrossed as amended by House Amendment "A" (H-591) as amended by House Amendment "A" (H-664) thereto on April 6, 1984.

—In Senate Majority "Ought Not to Pass" Report of the Committee on Judiciary was Read and Accepted in non-concurrence.

Tabled—April 9, 1984 (Till Later Today) by Representative Diamond of Bangor.

Pending—Further Consideration.
Thereupon, the House voted to insist.

The Chair laid before the House the sixth item of Unfinished Business:

Bill "An Act to Limit the Authority of the Public Utilities Commission to Award Compensation to Intervenor" (S. P. 763) (L. D. 2071) (C. "A" S-370)

Tabled—April 9, 1984 (Till Later Today) by Representative Vose of Eastport.

Pending—Passage to be Engrossed.

Mr. Vose of Eastport offered House Amendment "A" and moved its adoption.

House Amendment "A" (H-683) was read by the Clerk and adopted.

The Bill was passed to be engrossed as amended by Committee Amendment "A" and House Amendment "A" in non-concurrence and sent up for concurrence.

The Chair laid before the House the seventh item of Unfinished Business:

Bill "An Act Relative to Group Legal Insurance" (S. P. 906) (L. D. 2437).

Tabled—April 9, 1984 (Till Later Today) by Representative Brannigan of Portland.

Pending—Passage to be Engrossed.

Mr. Brannigan of Portland offered House Amendment "A" and moved its adoption.

House Amendment "A" (H-689) was read by the Clerk and adopted.

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

The Chair laid before the House the eighth item of Unfinished Business:

Bill "An Act to Amend Certain Motor Vehicle Laws" (H. P. 1444) (L. D. 1889).

In House, Minority "Ought to Pass" in New Draft Report of the Committee on Transportation was read and accepted and the New Draft (Emergency) (H. P. 1820) (L. D. 2412) was passed to be engrossed on April 3, 1984.

In Senate, Majority "Ought to Pass" in New Draft Report of the Committee on Transportation read and accepted and the New Draft (Emergency) (H. P. 1819) (L. D. 2411) was passed to be engrossed in non-concurrence.

Tabled—April 9, 1984 (Till Later Today) by Representative Diamond of Bangor.

Pending—Further Consideration.

On motion of Mr. Moholland of Princeton, the House voted to recede.

The same gentleman offered House Amendment "C" and moved its adoption.

House Amendment "C" (H-685) was read by the Clerk.

Mr. MOHOLLAND: Mr. Speaker, Ladies and Gentlemen of the House: This amendment will help us out. We had a little meeting the other day in the committee and everybody on the committee was in favor of this amendment, so I would hope that you would pass it so we could send it down to the other body and get this bill over with.

Thereupon, House Amendment "C" was adopted.

Mrs. Allen of Washington offered House Amendment "B" and moved its adoption.

House Amendment "B" (H-680) was read by the Clerk.

The SPEAKER: The Chair recognizes the gentleman from Limerick, Mr. Carroll.

Mr. CARROLL: Mr. Speaker, Ladies and Gentlemen of the House: I would now move indefinite postponement of this amendment.

The SPEAKER: The gentleman from Limerick, Mr. Carroll, moves indefinite postponement of House Amendment "B".

The gentleman may proceed.

Mr. CARROLL: Mr. Speaker, Ladies and Gentlemen of the House: I would like to explain to you my position in regards to this amendment. Plates on an automobile are sold by the State of Maine for the purpose of identification. They al-

ways used to be the property of the State of Maine and over the years we always went to register our vehicles and if you didn't register it or if you wanted to, you usually had your plates with you and you told them you wanted to renew them if you were a walkin'; if you sent them through the mail, you ordered your registration through the mail, but those plates were considered the property of the State of Maine and were never tampered with because they were a means of identification.

We have a case where a man claims that we are encroaching upon his freedom of speech. What my great concern is is that these license plates are not a figure of speech, they are a figure of identification and means for the police to identify an automobile going down the road. They are the property of the State of Maine and should be turned in if you no longer use them. They haven't been enforcing this law as rigidly as they should so we have a lot of plates scattered around the state.

What bothers me is that some Sunday morning you could be going out for a ride with your family or some beautiful evening, come up behind an automobile that has some very, very degrading words attached to a license plate and I don't think that we should allow this to go on and I think we should really come down hard on registration plates and tell them out there just what they are. Registration plates are a means of identification of a vehicle. They are owned by the State of Maine, you buy them, you get in trouble out there and lose your license or violate these laws, the State of Maine can call those plates in and take them away from you.

To travel on the highways is a privilege. We always think of it as a right but it is a special, special privilege to have a registration plate and I think all citizens should be good citizens and we shouldn't tolerate the tampering of any of our registration plates and that is why I am opposed to this amendment.

The SPEAKER: The Chair recognizes the gentleman from Washington, Mrs. Allen.

Mrs. ALLEN: Mr. Speaker, Men and Women of the House: I would urge you to vote against the motion to indefinitely postpone my amendment and I would like to explain briefly the history of why this amendment is before you.

Several days ago, it came to my attention that L. D. 2412 within its 30 sections had two sections, Section 11 and Section 18. Both of these sections as written in the L. D. caused serious constitutional problems.

I spoke with the Attorney General's Office and told them it was my intention to delete both of those sections. In later discussions with the representative from the Attorney General's Office, we got together and came up with a compromise amendment. That is the amendment that is before you now.

The compromise amendment in the Statement of Fact tells you that the purpose of the amendment is to clarify the prohibition against disfigurement of Maine's motor vehicle registration plates. The state has an important law enforcement interest in prohibiting interference with numbers and letters issued to individual motor vehicle registrants. This amendment insures that identifying letters and numbers issued to a registrant cannot be obscured.

It is the position of the Attorney General's Office that should we adopt L. D. 2412 with Sections 11 and 18 written as they are, that we will surely be faced with further costly litigation.

I point out, as Mr. Carroll has already mentioned to you, the state has gone to court once on this issue; we were the losers, it has already cost us money. This amendment would insure the integrity of the identifying numbers so that law enforcement officials will, in fact, be able to identify you via the numbers or letters on your individual license plate.

I would urge you to vote against the motion to indefinitely postpone.

The SPEAKER: The Chair recognizes the gentleman from South Portland, Mr. Macomber.

Mr. MACOMBER: Mr. Speaker, Ladies and Gentlemen of the House: I rise in favor of the motion to indefinitely postpone and very briefly I would like to tell you why.

This case, more or less, came about from a case in New Hampshire a few years ago. In New Hampshire I think they have a slogan on their plates, "live free or die." That was taken to court and under the ruling of the First Amendment of the United States Constitution, it was decided that the state did not have the right to require one of their citizens to carry this slogan.

This case is something entirely different. Under the prevailing law, without this amendment, the number plate that you are issued will remain in exactly the same form it is, the letters and the numbers of the identifying machine, plus the "Vacationland."

I think you will find under the amendment presented by the young lady from Washington the word "Vacationland" can be turned into anything you would like. In fact, a few years ago, I think there was a move—it was changed from "vacationland" to "radiationland." Under this amendment, that would still be allowed.

I hope that you will go along with the indefinite postponement.

The SPEAKER: The Chair recognizes the gentleman from Washington, Mrs. Allen.

Mrs. ALLEN: Mr. Speaker, Ladies and Gentlemen of the House: The debate here today is not whether or not we approve of people changing "vacationland" to "radiationland" or anything else, whether we like the motto on our license plate as it is or not. The point is that if the bill is enacted as written, it will cost the state further litigation, costly, expensive litigation that might lead all the way to the U.S. Supreme Court.

The Attorney General feels very strongly that he can live with this amendment rather than a removal of those sections, so the debate is not whether or not obscuring of the "vacationland" is something you or I disagree or agree with or whatever. The point is, if this legislation is passed as worded, without the amendment, that it will definitely lead to further costly litigation.

I would request a roll call.

A roll call has been requested.

More than one fifth of the members present expressed a desire for a roll call, which was ordered.

The SPEAKER: The pending question is on the motion of the gentleman from Limerick, Mr. Carroll, that House Amendment "B" be indefinitely postponed. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 466

YEA—Ainsworth, Anderson, Armstrong, Beaulieu, Bell, Bonney, Bott, Brannigan, Brown, A.K.; Brown, D.N.; Cahill, Callahan, Carrier, Carroll, G.A.; Carter, Cashman, Chonko, Clark, Conary, Connors, Crowley, Davis, Day, Dexter, Dillenback, Drinkwater, Erwin, Foster, Greenlaw, Hall, Higgins, L.M.; Holloway, Ingraham, Jackson, Joyce, Kane, Kelly, Ketover, Kiesman, Kilcoyne, Lehoux, Lisnik, MacBride, MacEachern, Macomber, Martin, A.C.; Masterman, Masterton, Matthews, K.L.; McCollister, McGowan, McHenry, McPherson, McSweeney, Michaud, Moholland, Murphy, T.W.; Nadeau, Nelson, Paradis, E.J.; Parent, Paul, Perkins, Perry, Pines, Pouliot, Racine, Randall, Reeves, J.W.; Richard, Ridley, Salsbury, Scarpino, Seavey, Sherburne, Small, Smith, C.B.; Smith, C.W.; Sproul, Stevens, Stevenson, Stover, Strout, Swazey, Theriault, Vose, Walker, Webster, Wentworth, Weymouth, Wiley, Zirkilton.

NAY—Allen, Andrews, Baker, Benoit, Bost, Brodeur, Carroll, D.P.; Connolly, Cooper, Cote, Cox, Crouse, Curtis, Daggett, Diamond, Dudley, Gauvreau, Gwadosky, Handy, Hayden, Hickey, Higgins, H.C.; Hobbins, Jacques, LaPlante, Lebowitz, Locke, Mahany, Manning, Matthews, Z.E.; Maybury, Mayo, Melendy, Mills, Mitchell, E.H.; Mitchell, J.; Murphy, E.M.; Murray, Norton, Paradis, P.E.; Reeves, P.; Roberts, Robinson, Roderick, Rolde, Rotondi, Soucy, Soule, Tammaro, Thompson, Tuttle.

ABSENT—Jalbert, Joseph, Kelleher, Livesay, Martin, H.C.; Michael, Telow, The Speaker.

92 having voted in the affirmative and 51 in the negative, with 8 being absent, the motion did prevail.

Thereupon, the Bill was passed to be engrossed as amended by House Amendment "C" in non-concurrence and sent up for concurrence.

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

Bill "An Act to Amend the Laws Regarding Bail" (H. P. 1844) (L. D. 2439).

Tabled—April 9, 1984 by Representative Brannigan of Portland.

Pending—Passage to be Engrossed.

Mr. Brannigan of Portland offered House Amendment "A" and moved its adoption.

House Amendment "A" (H-686) was read by the Clerk and adopted.

The SPEAKER: The Chair recognizes the gentleman from Lewiston, Mr. Gauvreau.

Mr. GAUVREAU: Mr. Speaker, Ladies and Gentlemen of the Maine House: I realize that the topic of bail is a very controversial one and I am sure that the new draft which the committee presented applied to several compromises and I have not worked this session very closely at all on that issue, but in reviewing this L. D. this morning, I note that on the first page on L. D. 2439, Section 813, requires that in all arraignments in the State of Maine, when people are arraigned in Superior Court upon charges of a felony nature, that a representative from the State Attorney General must be present. Now that is a major departure from the present practice whereby the District Attorney is present and conducts routine arraignments. The AG is only present in capital cases and it strikes me that this would put a tremendous demand upon the resources of the Attorney General to cover all the various arraignments involving felony charges in the 16 counties of the state. We are talking about, in many cases, routine burglaries, Class C offenses, that is a felony, and it strikes me as a bit unusual to require the Attorney General, let's say, to travel to Washington County or York County to handle such a matter.

I am wondering if one of the sponsors or someone from the committee can indicate to me exactly why they felt that it was necessary to require the State Attorney General to be present on arraignments of this nature?

The SPEAKER: The Chair recognizes the gentleman from Portland, Mr. Brannigan.

Mr. BRANNIGAN: Mr. Speaker, Men and Women of the House: It is my understanding as a very green novice in this area that the "state's attorney" is a general term that covers both the State AG's Office and DA's Office. I am sure the members of your committee might be more clear but I believe that it was never any intention for there to be any change from the present procedure other than a better covering of those procedures.

Thereupon, the Bill was passed to be engrossed as amended by House Amendment "A" and sent up for concurrence.

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

An Act to Increase Legislative Oversight of the Fiscal Affairs of the Department of Inland Fisheries and Wildlife (Emergency) (H. P. 1628) (L. D. 2143) (S. "A" S-296; S. "B" S-297).

Tabled—April 9, 1984 (under suspension of the rules) by Representative Diamond of Bangor.

Pending—Reconsideration. (Returned by the Governor without his Approval).

On motion of Mrs. Mitchell of Vassalboro, under suspension of the rules, retabled pending reconsideration and tomorrow assigned.

The following papers were taken up out of order by unanimous consent;

Passed to Be Enacted Emergency Measure

An Act to Amend the Laws Relating to Criminal

History Record Information (H. P. 1695) (L. D. 2250) (C. "A" H-671)

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. 102 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.

Emergency Measure

An Act to Require an Inventory, Permitting and Monitoring of Underground Tanks Containing Gasoline, Oil and Toxic Materials (S. P. 857) (L. D. 2324) (H. "A" H-641 and H. "B" H-652 to C. "A" S-363)

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. 105 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 Require that the Aid to Families with Dependent Children Program Promote Family Unity (S. P. 652) (L. D. 1842) (C. "A" S-383)

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

The SPEAKER: The Chair recognizes the gentleman from Biddeford, Mr. Racine.

Mr. RACINE: Mr. Speaker, Ladies and Gentlemen of the House: I would like to pose a question through the Chair.

Would somebody explain what this bill does, basically? Also, if there is a price tag as to an estimate as to much this will cost to administer?

The SPEAKER: The gentleman from Biddeford, Mr. Racine, has posed a question through the Chair to anyone who may respond if they so desire.

The Chair recognizes the gentleman from Portland, Mr. Connolly.

Mr. CONNOLLY: Mr. Speaker, Ladies and Gentlemen of the House: In response to the question, this is the so-called AFDC-U Program, the AFDC unemployed parent program. Right now, a household with two parents in it, an intact family, is not eligible to participate in the AFDC program. This legislation would allow a two parent family to participate in the program. This has a fiscal note on the bill of \$1.5 million, I believe, from the General Fund. It obviously will lie on the Appropriations Table and will have to compete against other measures when that time comes.

Mrs. Holloway of Edgecomb requested a roll call.

More than one fifth of the members present expressed a desire for a roll call, which was ordered.

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

ROLL CALL 467

YEA—Ainsworth, Allen, Anderson, Andrews, Armstrong, Baker, Beaulieu, Bell, Benoit, Bost, Bott, Brannigan, Brodeur, Carroll, D.P.; Carroll, G.A.; Carter, Chonko, Clark, Conary, Connolly, Cooper, Cote, Cox, Crouse, Crowley, Daggett, Day, Dexter, Diamond, Dillenback, Drinkwater, Dudley, Erwin, Foster, Gauvreau, Gwadosky, Hall, Handy, Hayden, Hickey, Higgins, H.C.; Higgins, L.M.; Hobbins, Ingraham, Jacques, Jalbert, Joseph, Joyce, Kane, Kelleher, Kelly, Ketover, Kilcoyne, LaPlante, Lebowitz, Lehoux, Lisnik, Locke, MacBride, MacEachern, Macomber, Mahany, Martin, A.C.; Masterton, Matthews, K.L.; Matthews, Z.E.; Maybury, Mayo, McCollister, McGowan, McHenry, Melendy, Michaud, Mills, Mitchell, J.; Moholland, Murphy, T.W.; Murray, Nadeau, Nelson, Paradis, E.J.; Paradis, Parent, Paul, Perry, Pines, Pouliot, Randall, Reeves, P.; Richard, Ridley, Rolde, Rotondi, Scarpino, Seavey, Small, Smith, C.B.; Smith, C.W.; Soucy, Soule, Sproul, Stevens, Stover, Swazey, Tammaro,