

# 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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relative to this particular piece of legislation.

Briefly what it does is, it makes it clear that if the rate case that was filed on Workers' Compensation increase last year is dismissed for some technical reason, that one additional case that is filed to take its place, the Public Advocate's Office will be authorized to become involved relative to a piece of legislation that we passed earlier this year. That particular Resolve that was passed from the State Government Committee pertained to the rate case specifically filed in December of 1983; that case may be dissolved and another one brought right in behind it so we need legislation to make it clear that that money can be used for this next case but that one case only.

Thereupon, the Resolve was passed to be engrossed and sent up for concurrence.

By unanimous consent, ordered sent forthwith to the Senate.

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

#### Orders

On Motion of Representative McSweeney of Old Orchard Beach, the following Order:

ORDERED, that Representative Carolyne T. Mahany of Easton be excused March 27 and March 29 for personal reasons.

Was read and passed.

#### Passed to Be Enacted Emergency Measure

An Act to Reduce Minimum Fees and Provide for Implementation of the Chemical Substance Identification Law (S. P. 915) (L. D. 2463)

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

The SPEAKER: The Chair recognizes the gentleman from East Millinocket, Mr. Michaud.

Mr. MICHAUD: Mr. Speaker, Men and Women of the House: I would urge you to vote in favor of this piece of legislation. This is a good piece of legislation, it refines the laws that we passed last year dealing with chemical identification.

There have been many concerns by members of this body on how this new law will affect small businesses. One of the key factors of this law or any law that is passed by this body is how it is going to be implemented and administered in a reasonable and prudent way.

I don't believe that the Department of Labor either intends or wants to make a mistake in implementing this law. As legislators we have a responsibility to see that the laws we pass are carried out as we intend, especially with this law. I fully expect that we will take extra care with this law to oversee that the Department administers this law as we intend it to be.

I believe that there is enough safeguards in this bill to address many of your concerns that you had with the original bill that was passed last year.

I talked to the Assistant Commissioner of the Department of Labor this morning and he assured me and agreed that the letter they will send out to businesses, he will let the members of the Committee on Energy and Natural Resources review that letter and give out input on the letter before they send it out.

This is a good piece of legislation and I would hope that you would support it. It is an emergency measure so we will need 101 votes. This L. D. will enhance the safety of the work place.

I might remind you that if we fail to enact this legislation, we will be stuck with the law that is on the books that we passed last year, so I would urge every member of this body to vote in favor of this bill.

The SPEAKER: The Chair recognizes the gentleman from Fryeburg, Mr. Kiesman.

Mr. KIESMAN: Mr. Speaker, Ladies and Gentlemen of the House: I don't know how good this is, as the gentleman from Millinocket said it was. Only time will tell how good it is. I will say to you that it is an awful lot better than what we were left with last year. It is an awfully lot better now than it was when we first started working

on this draft two days before we had to have all the bills in from the committee, so we are in a lot better position than we have been in the past.

As you know, my great concern with the present legislation was the concern with how the department would implement it. This morning we had a meeting with the department personnel and we have hammered out an agreement that before the letters go out to the employers, the department will draft the letter, send it to all members of the Committee on Energy and Natural Resources for review and comment and have assured us that they will seriously consider any of our criticisms or comments before the final letter is put together and sent out. I think in that way we will assure that the employers of the state will be properly notified with the right information so they can determine whether they are or are not in fact involved and will not have a lot of correspondence and phone calls floating back and forth trying to gain information as happened in the implementation of last year's law.

Therefore, I am satisfied that we have made a substantial improvement and I shall support this legislation and I urge you to also.

This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 101 voted in favor of same and 26 against, and accordingly, the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

The following paper was taken up out of order by unanimous consent:

#### Passed to Be Enacted Emergency Measure

An Act to Amend Certain Motor Vehicle Laws (H. P. 1820) (L. D. 2412) (H. "B" H-725 to H. "C" H-685; H. "D" H-722)

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

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

Mr. BRANNIGAN: Mr. Speaker, Men and Women of the House: I would like to pose a question through the Chair.

The SPEAKER: The gentleman may pose his question.

Mr. BRANNIGAN: Mr. Speaker, Men and Women of the House: Several amendments went through very quickly on this particular piece of legislation last night and I would like someone, I assume on the Transportation Committee, to explain H-722 that we passed regarding attorneys for the Secretary of State's Office?

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

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

Mr. CARROLL: Mr. Speaker, Ladies and Gentlemen of the House: In the Motor Vehicle Division, we have four people that do investigative work, they are members of the bar and they are attorneys and we have one particular man that we had in mind and we felt that due to the fact that he has to perform all the duties, he does all the investigating work and takes these cases right to the courthouse door and then he has to turn them over to a member of the Attorney General's Office, he has to educate him in what the charges are and do all the work, and many times these cases do not get into court as quick as we would like to have them, we don't get the action we would like to have and we just thought that where he did all the work that we would like to have the privilege of having him being able to take his case into court.

It doesn't say that he will always do this, he will work through the Attorney General's Office if he is asked to do so, but we feel that this is a very simple amendment. He is already on the payroll of the State of Maine, he is already in place and it is just a matter of giving out the authority to have this man do this work.

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

Mr. BRANNIGAN: Mr. Speaker, Men and

Women of the House: I am not sure I heard the explanation clearly as to the need for the Secretary of State to have his own attorney. It just seems to me that it is not necessary, and I would pose that question—it is not part of the Transportation Committee's recommendation. There was an amendment placed on last night and it was not part of this bill originally which is quite obvious—I won't pose that question. Naturally it was put on by Mr. Carroll.

I just believe that there is a problem when we begin to take the Attorney General's Office out of the work of the different departments of our state government. I think it is very important that we have one very powerful and very effective and efficient law office for the State of Maine. It seems to me that there have been other attempts in this legislature this year to change that, to give attorneys here, to give attorneys there without central control, without control by this legislature which controls the Attorney General's Office, or at least it does every two years.

I think there is something very bad about this kind of amendment especially, when it does not go through the hearing process. When one other department wanted to follow this route, it was heard by State Government Committee and I think that is where it should be heard. It is a change, major change, in state government when we begin to have these departures from pretty much the norm. There are, as you know, in the Transportation Department attorneys, but on the whole, the work of state government, legal work, is done by the Attorney General's Office.

I think this is a dangerous precedent, especially not having been heard by State Government in deciding. When State Government did hear it, dealing with another department, they decided definitely that they would not approve of such a move, so it seems to me that this is not a good move.

Whereupon, on motion of the gentleman from Portland, Mr. Brannigan, the House reconsidered its action whereby the bill was passed to be engrossed.

On motion of the same gentleman, the House reconsidered its action whereby House Amendment "D" (H-722) was adopted.

The same gentleman moved indefinite postponement of House Amendment "D."

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

Mr. CARROLL: Mr. Speaker, Ladies and Gentlemen of the House: It seems a little unusual that my co-chairman from another committee, because he couldn't achieve what this was about to achieve, it is sour grapes and so he tries to kill this amendment. That is what it is all about and we will call it just the way it is.

We asked the counsel from the Attorney General's Office to work with us on the registration plate amendment and he tried to draft up a piece of legislation so weak, with so little power in it, that we were thoroughly disgusted because he was in fear of drafting an amendment to give us the authority to tell people that they couldn't disfigure their license plates, so he drafted up an amendment and I killed it in the House and you concurred with me.

Then we had another study in which we had to work on it and we were very disappointed he did not understand the subject nor the subject matter after many meetings. We do have people down in Motor Vehicle, they are special investigators, they are trained in the field, they have gone on to become attorneys, they are already on the payroll, it is no extra cost to the State of Maine, they could be utilized in the Motor Vehicle Division and they could speed up the process down there and not take so long in cases where people have violated the laws in the Motor Vehicle Division. We could have them come in if they have violated the law, go through the due process, settle the case and be on their way home in just a matter of days. As it is now, the process moves slowly and we don't accomplish what we feel we should be accomplishing down there.

I think it is a difficult day for me, as you can

see, because I know that what went on last night, what went on this morning, I didn't enjoy it, having been here 14 years and being accused of being sneaky and underhanded, I didn't like it. I don't have to be sneaky and underhanded because I told that attorney that I was disappointed in his work in our committee and there is nothing sneaky about it, it is above board, it is an amendment that was offered in this House and was accepted by this House.

I hope that you would not indefinitely postpone this amendment and to leave it on there so the Motor Vehicle Division can operate efficiently. He is not going to be the personal attorney for the Secretary of State, he is going to be working down there in the Motor Vehicle Division.

Down in the Department of Transportation we have attorneys that are specialists and they work on right-of-ways and they are specialists in their fields. If we were to send up here and ask for an attorney on right-of-ways, we would get one one week, two weeks later we could another one that would need to be schooled by another man and tell what the case was all about. That is the problem as I see it in the Motor Vehicle Division and that is the purpose of this amendment.

I would hope that you would oppose the motion to indefinitely postpone this amendment.

The SPEAKER: The Chair recognizes the gentleman from Cumberland, Mr. Dillenback.

Mr. DILLENBACK: Mr. Speaker, Ladies and Gentlemen of the House: I can understand Representative Carroll's problem. Every department in the state has the same problem. They would all like to have their own lawyer, a man that they could talk to, the man they could tell how they wanted the job done. But we have something in this state which I think is rather unique and honest, we have an excellent Attorney General's Office, supposedly unbiased, an office that is honest and an office that can make a decision. I think that office should be the one that should handle this whole situation throughout all departments. We don't need to have every department set up its own law firm and I think Representative Brannigan from Portland is absolutely right. Let's keep our Attorney General and let's keep that department.

The SPEAKER: The Chair recognizes the gentleman from Canton, Mr. McCollister.

Mr. MCCOLLISTER: Mr. Speaker, Ladies and Gentlemen of the House: I know nothing of the problem that Representative Carroll is speaking about but I know that in the Department of Agriculture we have a very difficult time getting any prosecutions against potato violations. They are backed up and backed up and nothing is done. I can sympathize with the Transportation Department's problems.

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

Mr. HAYDEN: Mr. Speaker, Ladies and Gentlemen of the House: As I understand it, the pending motion is the indefinite postponement of this amendment. I haven't been around this legislature very long but you always hear stories, you know, of the diamond and the dust that was sort of slipped through when the wind started blowing at the end of the session and in spite of my respect for the people that may be supporting this amendment, I think there is such a thing. It is a diamond for the Secretary of State but I think it is a bit of poison for the people of this state.

Think about this—do we want to have some Secretary of State, the one we have now or anyone in the future, having his own legal staff, having criminal jurisdiction over important people that get stopped for drunk driving, over people with a great deal of influence that have problems with their drivers' licenses. What this does, this is a diamond for one agency of government and if that agency is saintly and if that attorney is skilled, we don't have anything to worry about. But if something every goes, not awry, not if something becomes evil, but if something be-

comes a little human, a little uneven, uneven in motivations, uneven in skills, then what we would have here is an independent agency, state government with jurisdiction over civil and criminal matters that is unique, it is bad policy and it is a tremendous amount of power and it is giving a bureaucrat power in the courts when the issues that come up that are the every day issues and the ones that come to mind, I am sure there are others, but the ones that really come to mind to me, are the ones about driving licenses, drunk driving, driving, things that have to do with people's cars.

All of us know, in fact all of us probably get a little bit advantage that we shouldn't get and I think anything that we ever consider doing that would expand special advantage and would give somebody a little bit of leverage with one office in this government or with one head of some agency is dynamite. I don't care if the head of that agency is my friend, this is a dangerous policy. You know you see this, you see this over and over again, it is turf, that is what this whole world is about, this world inside this statehouse dome is power. This gives one man, whether he is friend or foe, too much power.

If I got too much power, I think I am dangerous; if you had too much power, I think you are.

I think this amendment is a dangerous idea and I think the gentleman from Portland should be commended for siting it. We have a chance to do some good here amongst all this confusion and I hope we do.

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

Mr. BRANNIGAN: Mr. Speaker, Ladies and Gentlemen of the House: Mr. Carroll, just to clarify, I did not support, I went down to State Government and opposed the Department of Business Regulation having their own attorney. This is no sour grapes on my part. I am in the same position here as I was before the State Government Committee as were other members of my committee and I don't believe you did anything underhanded. You presented it, it was here and I don't accuse you of that either. I understand the frustrations as others have said, but what I say is, that if we are not being served well by this Attorney General, in another year we can vote him out. If these kinds of things happen in all those departments, we lose control, we should not lose control of the attorneys of this state and so I urge you very strongly to indefinitely postpone this matter.

When the vote is taken, I would ask that we have a Division.

The SPEAKER: The Chair recognizes the gentleman from Shapleigh, Mr. Ridley.

Mr. RIDLEY: Mr. Speaker, I would like to pose a question through the Chair.

The SPEAKER: The gentleman may pose his question.

Mr. RIDLEY: Mr. Speaker, Ladies and Gentlemen of the House: In the Statement of Fact in the last sentence it said there would be no increased cost to the state of this amendment. Could someone please expound on that a little bit?

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

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

Mr. CARROLL: Mr. Speaker, Ladies and Gentlemen of the House: The reason I said there was no increased cost is because he is already on the payroll, he is already working for the department; it is just a matter of using his expertise that he is trained for.

The SPEAKER: The Chair will order a vote. The pending question is on the motion of the gentleman from Portland, Mr. Brannigan, that House Amendment "D" be indefinitely postponed. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

77 having voted in the affirmative and 17 in

the negative, the motion did prevail.

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

By unanimous consent, ordered sent forthwith to the Senate.

The following paper was taken up out of order by unanimous consent:

#### **Passed to Be Enacted Emergency Measure**

An Act to Make Corrections of Errors and Inconsistencies in the Laws of Maine (S. P. 911) (L. D. 2462) (H. "A" H-711; H. "B" H-721)

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 necessary, a total was taken. 101 voted in favor of the same and 31 against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

The following paper was taken up out of order by unanimous consent:

#### **Orders Tabled and Assigned**

On motion of Representative Higgins of Scarborough, the following Joint Order: (H. P. 1867)

Ordered, the Senate concurring, that the Joint Standing Committee on Appropriations and Financial Affairs report out a bill "An Act to Authorize a General Fund Bond Issue in the amount of \$3,235,000 to clean up and Mitigate Threats to Public Health and the Environment from Uncontrolled Hazardous Substance Sites."

The Order was read.

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

Mr. HIGGINS: Mr. Speaker, Ladies and Gentlemen of the House: I understand that this is going to be tabled and that is fine with me but I did want to just make a brief remark regarding it and that is that members of the Appropriations Committee who were involved with the bond issues, at least from the Republican side, felt that this was the one issue that was very, very important and had to be dealt with in June of this year that needed to be on the ballot at that time. Several members of both parties and those who are interested in hazardous substances in the toxic waste problems and having it funded have come to us and said, "aren't you going to deal with that problem this year or in immediate fashion?" My answer to them simply was "yes." This was an attempt on my part to at least show that we are committed to that one particular project at this time.

On motion of Mr. Carter, tabled pending passage and specially assigned for April 24, 1984.

The following paper was taken up out of order by unanimous consent:

#### **Reports of Committees Unanimous Leave to Withdraw**

Representative Higgins from the Committee on Taxation on Bill "An Act to Replace the Franchise Tax on Financial Institutions" (Emergency) (H. P. 1787) (L. D. 2363) reporting "Leave to Withdraw"

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

The following paper was taken up out of order by unanimous consent:

#### **Divided Report Later Today Assigned**

Majority Report of the Committee on Taxation on Bill "An Act to Equalize Taxation of Leased Aircraft used in Interstate Commerce" (Emergency) (H. P. 1823) (L. D. 2416) reporting "Ought to Pass" in New Draft under New Title Bill "An Act to Equalize Taxation of Aircraft" (H. P. 1869) (L. D. 2471)

Signed:  
Senator: