

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

***One Hundred and Tenth
Legislature***

OF THE

STATE OF MAINE

Volume I

FIRST REGULAR SESSION

December 3, 1980 to May 1, 1981

KJ PRINTING
AUGUSTA, MAINE

House Papers

Bill, "An Act to Control the Cost of Workers' Compensation Rates to Maine Employers." (H. P. 1291) (L. D. 1504)

Comes from the House, referred to the Committee on Business Legislation and Ordered Printed.

Which was referred to the Committee on Business Legislation and Ordered Printed, in concurrence.

Bill, "An Act to Provide for the Registration of Trail Bikes by the Department of Inland Fisheries and Wildlife." (H. P. 1286) (L. D. 1501)

Comes from the House, referred to the Committee on Fisheries and Wildlife and Ordered Printed.

Which was referred to the Committee on Fisheries and Wildlife and Ordered Printed, in concurrence.

Bill, "An Act to Prohibit Conveyance of Assets to Qualify for Public Assistance Program." (H. P. 1292) (L. D. 1505)

Comes from the House, referred to the Committee on Judiciary and Ordered Printed.

Which was referred to the Committee on Judiciary and Ordered Printed, in concurrence.

Bill, "An Act to Provide Greater Local Control over Liquor Licensing." (H. P. 1293) (L. D. 1306)

RESOLVE, to Reimburse Mr. and Mrs. David Condon of Levant for Property Damage and Personal Injury Resulting from Assistance Given the Division of Special Investigation by Mr. Condon." (Emergency) (H. P. 1298) (L. D. 1509)

Comes from the House, referred to the Committee on Legal Affairs and Ordered Printed.

Which were referred to the Committee on Legal Affairs and Ordered Printed, in concurrence.

Bill, "An Act to Revise the County Budget Process to Prevent the Incurrence of Deficits." (H. P. 1294) (L. D. 1507)

Comes from the House, referred to the Committee on Local and County Government and Ordered Printed.

Which was referred to the Committee on Local and County Government and Ordered Printed, in concurrence.

Bill, "An Act to Establish a Marine Resources Development Commission." (H. P. 1295) (L. D. 1508)

Comes from the House, referred to the Committee on Marine Resources and Ordered Printed.

Which was referred to the Committee on Marine Resources and Ordered Printed, in concurrence.

Bill, "An Act to Establish a Legislative Review of Agency Rules." (H. P. 1287) (L. D. 1502)

Comes from the House, referred to the Committee on State Government and Ordered Printed.

Which was referred to the Committee on State Government and Ordered Printed, in concurrence.

Bill, "An Act to Reduce the Subsidy Index for the Local Share of the State and Local Allocation by 50% for Residential Property and Shift the Tax Burden to the Individual Income Tax." (H. P. 1288) (L. D. 1503)

Comes from the House, referred to the Committee on Taxation and Ordered Printed.

Which was referred to the Committee on Taxation and Ordered Printed, in concurrence.

Orders

Expressions of Legislative Sentiment recognizing:

Kristen Boynton, a 4th grader at Yarmouth Intermediate School, 8th place winner in the Statewide Poster Contest sponsored by the Office of Energy Resources. (S. P. 544) presented by Senator CLARK of Cumberland (Cosponsor: Representative JACKSON of Yarmouth).

Brent Poulin of Troop 648, St. John's School in Brunswick, who has attained the highest honor in scouting, the Eagle Scout Badge. (S. P. 545) presented by Senator CLARK of Cumberland (Cosponsors: Representative MARTIN of Brunswick and Representative LIVESAY of Brunswick)

Jill Stanton, member of the Brunswick High School basketball team, who has been named to the Kennebec Valley Athletic Conference all-star squad (S. P. 546) presented by Senator CLARK of Cumberland (Cosponsors: Representative MARTIN of Brunswick and Representative LIVESAY of Brunswick).

Debbie Shaw, member of the Brunswick High School basketball team, who has been named to the Kennebec Valley Athletic Conference all-star squad. (S. P. 547) presented by Senator CLARK of Cumberland (Cosponsors: Representative MARTIN of Brunswick and Representative LIVESAY of Brunswick).

Joanne Palombe, member of the Brunswick High School basketball team, who has been named to the Kennebec Valley Athletic Conference all-star squad. (S. P. 548) presented by Senator CLARK of Cumberland (Cosponsors: Representative MARTIN of Brunswick and Representative LIVESAY of Brunswick).

Caribou High School Marching Band, which has been selected to participate in the 1981 Cherry Blossom Festival parade in Washington, D.C. (S. P. 549) presented by Senator McBREARITY of Aroostook (Cosponsors: Representative PETERSON of Caribou, Representative MATTHEWS of Caribou and Representative NELSON of New Sweden).

Which were Read and Passed.
Sent down for concurrence.

Committee Reports**House****Ought to Pass**

The Committee on Judiciary on, Bill, "An Act to Ensure the Rights of Privacy of Recipients of Public Assistance." (H. P. 820) (L. D. 974)

Reported that the same Ought to Pass.

Comes from the House, the Bill Passed to be Engrossed.

Which Report was Read and Accepted, in concurrence, and the Bill Read Once and Tomorrow Assigned for Second Reading.

Ought to Pass — As Amended

The Committee on Business Legislation on, Bill, "An Act Relating to the Availability of Joint Life Insurance in Connection with Real Estate Mortgage Loans." (H. P. 517) (L. D. 583)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-151).

Comes from the House, the Bill Passed to be Engrossed as amended by Committee Amendment "A".

The Committee on Labor on, Bill, "An Act to Provide the Employment Security Commission Flexibility in Handling Administrative Appeals." (H. P. 667) (L. D. 771)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-148)

Comes from the House, the Bill Passed to be Engrossed as amended by Committee Amendment "A".

The Committee on Public Utilities on, Bill, "An Act to Require Equitable Treatment of Electric Charges for Common Areas of Multi-unit Rental Dwellings." (H. P. 558) (L. D. 633)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-142).

Comes from the House, the Bill Passed to be Engrossed as amended by Committee Amendment "A".

The Committee on Taxation on, Bill, "An Act to Provide for Payment of Interest to the Taxpayer on the Amounts Over-collected by Taxes." (H. P. 860) (L. D. 1023)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-153).

Comes from the House, the Bill Passed to be Engrossed as amended by Committee Amendment "A".

The Committee on Taxation on, Bill, "An Act to Allow for the State's Collection of Aircraft Excise Taxes and to Reimburse these Funds." (H. P. 996) (L. D. 1184)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-154).

Comes from the House, the Bill Passed to be Engrossed as amended by Committee Amendment "A".

Which Reports were Read and Accepted, in concurrence, and the Bills Read Once. Committee Amendments "A" were Read and Adopted, in concurrence, and the Bills as amended, Tomorrow Assigned for Second Reading.

The Committee on Public Utilities on, Bill, "An Act to Amend the Lien Law for Sewer Districts." (Emergency) (H. P. 222) (L. D. 259)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-141).

Comes from the House, the Bill Passed to be Engrossed as amended by House Amendment "A" (H-155).

Which Report was Read, and Accepted, in concurrence.

The Bill Read Once. Committee Amendment "A" (H-141) was Read.

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

Senator TROTZKY: Mr. President and Members of the Senate: The amendment that should have been put on by the Committee was really House Amendment "A", therefore, because of the mistake, I would move that Committee Amendment "A" be Indefinitely Postponed.

The PRESIDENT: The Senator from Penobscot, Senator Trotzky, moves that Committee Amendment "A" be Indefinitely Postponed.

Is this the pleasure of the Senate?

It is a vote.

House Amendment "A" (H-155) was Read and Adopted, in concurrence, and the Bill, as amended, Tomorrow Assigned for Second Reading.

Divided Report

The Majority of the Committee on State Government on, RESOLUTION, Proposing an Amendment to the Constitution of Maine to Abolish the Office of Secretary of State and to Create the Office of Lieutenant Governor. (H. P. 436) (L. D. 483)

Reported that the same Ought to Pass.

Signed:

Senator:

VIOLETTE of Aroostook

Representatives:

KANY of Waterville

McGOWAN of Pittsfield

PARADIS of Augusta

LISNIK of Presque Isle

WEBSTER of Farmington

DIAMOND of Bangor

The Minority of the same Committee on the same subject matter reported that the same Ought Not to Pass.

Signed:

Senators:

AULT of Kennebec

GILL of Cumberland
Representatives:

BELL of Paris
DILLENBACK of Cumberland
MASTERTON of Cape Elizabeth
SMALL of Bath

Comes from the House, the Resolution
Passed to be Engrossed.

Which Reports were Read.

The PRESIDENT: The Chair recognizes the
Senator from Kennebec, Senator Ault.

Senator AULT: I move Acceptance of the
Ought Not to Pass Report.

The PRESIDENT: The Senator from Kenne-
bec, Senator Ault, now moves that the Senate
Accept the Minority Ought Not to Pass Report
of the Committee.

The Chair recognizes the Senator from
Aroostook, Senator Violette.

Senator VIOLETTE: Mr. President, and
Ladies and Gentlemen of the Senate, I know
we've had this Bill in past Legislatures, and I
know the result of past attempts to change the
Constitution to what I feel is, quite frankly, a
practice which is now exercised in some 40
other states in this nation, where they have
seen fit to provide for, as I see it, a continuity
of the voter's decision to elect a governor, and
to provide for continuity in that office, if the
governor should happen to pass away.

In the last Gubernatorial Election of 1978,
some 370,000 votes were cast in that Guberna-
torial Election. The largest vote-getter in the
1980 Senatorial Election was the good Senator
from Cumberland, Senator Huber, who, in that
race, some 17,000 votes were cast, or about 5
percent as many votes as were voted in the Gu-
bernatorial Election.

Thus, it makes absolutely no sense to me,
why a vote by 5 percent of the people of the
State of Maine from, be it the County of Cum-
berland, or in this instance, the County of Pe-
nobscoot, should have the right to elect, in
essence, a governor. I simply feel that it would
make far greater sense to amend our Constitu-
tion, as I have said, some 40 other states have,
or had adopted this originally when they
became states, to provide for what I consider
to be continuity, and the continuity of the
voters' right to exercise their right to vote and
support those people as they wish.

So I would simply hope today, you would not
support the motion to Accept the Minority
Ought Not to Pass Report, and that you would
Accept the Ought to Pass Report. Thank you.

The PRESIDENT: Is the Senate ready for
the question?

The Chair will order a Division. Will all those
Senators in favor of the motion by the Senator
from Kennebec, Senator Ault, that the Senate
Accept the Minority Ought Not to Pass Report
of the Committee, please rise in their places to
be counted.

Will all those Senators opposed, please rise in
their places to be counted.

16 Senators having voted in the affirmative,
and 16 Senators having voted in the negative,
the motion to Accept the Minority Ought Not to
Pass Report of the Committee does not prevail.

Is it now the pleasure of the Senate to Accept
the Majority Ought to Pass Report of the Com-
mittee?

The Chair recognizes the Senator from Ken-
nebec, Senator Ault.

Senator AULT: I request a Division.

The PRESIDENT: A Division has been re-
quested.

The Chair recognizes the Senator from
Aroostook, Senator Violette.

Senator VIOLETTE: I don't mean to belabor
this point, and I don't really see this as being a
partisan issue at all. There has been a change,
quite frankly, there has been a change over the
last several years, with respect to the strength
of various parties in this State. For many many
years it, quite frankly, made no difference as
to who the governor was, or as to who the Pres-
ident of the Senate was. There has, since that

time, and this Chamber has been in control,
and it perhaps will be controlled in the next
Legislature by Democrats. A Democrat may
be elected President of the Senate. Who knows
what will happen in 1982, if the incumbent
Democratic governor will be re-elected or not?

I simply think it makes a great deal of sense,
that if the voters of the State of Maine wish to
elect a governor, for whatever reasons, and
that governor should happen to pass away, or
should not be able to serve, as I can draw a
very good analogy to perhaps the situation
which has occurred in the Capitol City in Wash-
ington, where, I certainly don't think that if the
President of the Senate was controlled by the
Democratic Party, and the President of the
Senate took over, or however that structure
would work there is somewhat different. In
drawing an analogy there, this is what the
people of this country wanted.

When you vote for the governor of the State
of Maine, I don't think you're also voting to say
that you want the President of the Senate to
take over in his absence.

I just hope that you would vote to Accept the
Majority Ought to Pass Report. Thank you.

The PRESIDENT: Is the Senate ready for
the question?

A Division has been requested.

Will all those Senators in favor of Accepting
the Majority Ought to Pass Report of the Com-
mittee, please rise in their places to be count-
ed.

Will all those Senators opposed, please rise in
their places to be counted.

14 Senators having voted in the affirmative
and 18 Senators having voted in the negative,
the Majority Ought to Pass Report of the Com-
mittee was not Accepted.

The Chair recognizes the Senator from Ken-
nebec, Senator Ault.

Senator AULT: I move Indefinite Postpone-
ment of L. D. 493.

The PRESIDENT: The Senator from Kenne-
bec, Senator Ault, now moves that the Senate
Indefinitely Postpone L. D. 483.

Is this the pleasure of the Senate?

The Chair is in doubt and will order a Divi-
sion.

Will all those Senators in favor of the motion
by the Senator from Kennebec, Senator Ault to
Indefinitely Postpone L. D. 483, please rise in
their places to be counted.

Will all those Senators opposed, please rise in
their places to be counted.

17 Senators having voted in the affirmative,
and 15 Senator having voted in the negative, the
motion to Indefinitely Postpone L. D. 483, in
nonconcurrency does prevail.

The Chair recognizes the Senator from Ken-
nebec, Senator Ault.

Senator AULT: I move Reconsideration.

The PRESIDENT: The pending question
before the Senate is the motion by the Senator
from Kennebec, Senator Ault, that the Senate
Reconsider its action whereby it Indefinitely
Postponed L. D. 483.

Will all those Senators in favor of Reconsid-
eration, please say "Yes".

Will all those Senators opposed, please say
"No".

A Viva Voca Vote having been had, the
motion to reconsider does not prevail.

Sent down for concurrence.

The President would ask the Sergeant-at-
Arms to escort the Senator from Knox, Senator
Collins, to the rostrum to assume the duties of
President pro tem.

The Sergeant-at-Arms escorted the Senator
from Knox, Senator Collins, to the rostrum,
where he acted as President pro tem.

The President then retired from the Senate
Chamber.

(Off Record Remarks)

Divided Report

The Majority of the Committee on Judiciary,
on,

Bill, "An Act Concerning the Use of Force to
Protect Property." (H. P. 143) (L. D. 169)

Reported that the same Ought Not to Pass.

Signed:

Senators:

DEVOE of Penobscot
CONLEY of Cumberland
KERRY of York

Representatives:

HOBBINS of Saco
REEVES of Newport
BENOIT of South Portland
O'ROURKE of Camden
LUND of Augusta
SOULE of Westport
LIVESAY of Brunswick

The Minority of the same Committee on the
same subject matter reported that the same
Ought to Pass as amended by Committee
Amendment "A" (H - 145).

Signed:

Representatives:

DRINKWATER of Belfast
CARRIER of Westbrook
JOYCE of Portland

Comes from the House, Passed to be En-
grossed as amended by Committee Amend-
ment "A".

Which Reports were Read.

The PRESIDENT pro tem: The Chair recog-
nizes the Senator from Penobscot, Senator
Devoe.

Senator DEVOE: I move the Senate Accept
the Majority Ought Not to Pass Report.

The PRESIDENT pro tem: The Senator
from Penobscot, Senator Devoe, moves that
the Senate Accept the Majority Ought Not to
Pass Report.

The Chair recognizes the Senator from
Oxford, Senator O'Leary.

Senator O'LEARY: I would request a Divi-
sion.

The PRESIDENT pro tem: The Chair recog-
nizes the Senator from York, Senator Hichens.

Senator HICHENS: Mr. President and Mem-
bers of the Senate: I would hope that one
member of the Judiciary Committee that
signed the Ought Not to Pass Report would be
willing to share with the Senate their reasons
for voting Ought Not to Pass on this Bill, which
gives people the right to protect their own
properties.

We've had a great problem in this State with
the protection of property by individuals. I
think this Bill, as amended, by the Committee,
would take care of the situation in our State. I
would like an explanation as to why all three
Senators voted Ought Not to Pass.

The PRESIDENT pro tem: The Chair recog-
nizes the Senator from Penobscot, Senator
Devoe.

Senator DEVOE: Thank you, Mr. President.
Members of the Senate, when the State of
Maine passed the Criminal Code in 1975 that
became effective in '76, there were some bal-
ances worked out. Any time you have a major
recodification of the law, then some people are
going to be dissatisfied.

One of the balances that was worked into the
Code was the question of what to do about the
use of deadly force and the tilt that was im-
planted in the Code at that time, was that if a
very serious crime is being committed in your
house, or you yourself are about to have deadly
force used on you, you may use deadly force on
the other person.

The Legislature did not tamper with the law
as it had existed since 1879 that said, the law is
well settled that an assault with intent to kill
can not be justified for the defense of property.
That's what it comes down to. The use of
deadly force can not be justified for the defense
of property.

I know this is an emotional question. I know
that people in rural areas have unbelievable
frustrations. Their gardens are tampered with,