

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

***One Hundred and Eleventh
Legislature***

OF THE

STATE OF MAINE

Volume I

FIRST REGULAR SESSION

December 1, 1982 to May 13, 1983

nite postponement.

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

Mr. DILLENBACK: Mr. Speaker, Ladies and Gentlemen of the House: Mr. Kelleher isn't the only one that has served on a jury, I am sure many of you have too. I can tell you that any witness that gets before you and before the judge is nervous. I happened to serve on a jury where a young teenager was raped. That young girl was very nervous. We could see the girl, she talked, she was very upset and when we went in to talk about this in the jury room, there were several young men on the jury who decided that the girl had not been raped and so the gentleman was let off. We all saw both the witnesses, we saw these people, we both drew our own conclusions, but they were the only two. At a later date, I happened to bump into both of these young gentlemen and they came up to me and apologized, that they were wrong, because this same person who had been accused was bragging around the bars that he had raped the young lady.

It doesn't do any good whether you see the person or you don't see the person. Can you imagine a small child sitting in front of that jury? I prefer the way that it is set up. I think this is an excellent law and I think it is an opportunity to do justice. I am going to support Mrs. Nelson.

The SPEAKER: The Chair recognizes the gentleman from Waterville, Mr. Jacques.

Mr. JACQUES: Mr. Speaker, Ladies and Gentlemen of the House: I am not a lawyer and I don't intend to tell you how to vote on this issue but I do want to relate to you a little story, a true story. When I was campaigning for reelection for the second time, I met a lady who asked me about this very same problem that we are talking about today. She had an 11 year old daughter that had been a victim of this type of crime and the daughter just could not appear in court. For whatever reason, she just could not do it; the man was set free. The man was guilty but he was set free. This girl is now 15 years old and her mother told me, everyday of my life, I now have to explain to my daughter why this man was set free. She said, I have to explain to that girl how, in this country, the United States of America, with the democracy that we have set up, the judicial system that we have set up and the word justice meaning so much, how this man was set free because my little girl couldn't go in there and put the final little bit of proof beyond a reasonable doubt that this man was guilty.

I know how I am going to vote on this bill today and it is mainly because of that one story. How you vote is up to you, but I just thought you should know about this.

The SPEAKER: The Chair recognizes the gentleman from Winslow, Mr. Matthews.

Mr. MATTHEWS: Mr. Speaker, I would like to pose a question through the Chair. My question is, has this law been passed in any other states and I would like to know some of the things that have happened after this has been passed.

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

The Chair recognizes the gentlewoman from Portland, Mrs. Nelson.

Mrs. NELSON: Mr. Speaker, Members of the House: There is only one other state, to my knowledge, that has passed this legislation and that is where I heard about it, because a friend of mine did it in the state of Washington. They have had no problems with the constitutional-ity of it.

I do know that there are five or six other states at this time who are considering this legislation but it has not passed because the bill has not come up before their legislative bodies yet.

The SPEAKER: The Chair recognizes the

gentleman from Portland, Mr. Joyce.

Mr. JOYCE: Mr. Speaker, Ladies and Gentlemen of the House: I will be brief on this one. The basic fact still remains, the jury is the one who will make the finding of guilty or not guilty; yet, the jury cannot hear nor see the spoken word. Now, what are we talking about? What is missing from this type bill that I have often referred to as computer justice? You want to take a fellow and put him before a computer and say whether he is right or wrong. In order to be right and to fit squarely into our Constitution, we have the problem of communication.

I am very much aware, as many of you are, about communications. I get several notes, usually a couple a week, from the Chair. I glance at them and throw them in the waste basket, but when I get the message with that expression, that frown, that curled lip, that is what the jury should have the opportunity to observe. When I get up here, I know when it is time for me to sit down, and it is not because of the spoken words; I get the message.

I ask that in the interest of fundamental fair play you support the motion before this body now to indefinitely postpone this bill and all its accompanying papers.

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

A vote of the House was taken.

14 having voted in the affirmative and 88 having voted in the negative, the motion did not prevail.

Thereupon, the Majority "Ought to Pass" Report was accepted, the New Draft read once and assigned for second reading the next legislative day.

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

An Act to Create a Student Seat on the Board of Trustees of the University of Maine (H. P. 24) (L. D. 29) (C. "A" H-177) and (S. "A" S-91)

Tabled—May 12, 1983 by Representative Diamond of Bangor.

Pending—Passage to be Enacted.

Representative Bott of Orono requested a roll call vote.

The SPEAKER: For the Chair to order a roll call, it must have the expressed desire of one fifth of the members present and voting. All those desiring a roll call vote will vote yes; those opposed will vote no.

A vote of the House was taken, and more than one fifth of the members present having expressed a desire for a roll call, a roll call was ordered.

The SPEAKER: The pending question is on passage to be enacted. Pursuant to Article VI, Part 1, Section of the Constitution of Maine, this requires a two-thirds vote of all the members present and voting. All those in favor of this Bill being passed to be enacted will vote yes; those opposed will vote no.

The Chair recognizes the gentleman from Freeport, Mr. Mitchell.

Mr. MITCHELL: Mr. Speaker, I request permission to pair my vote with the gentleman from Eastport, Mr. Vose. If he were here, he would be voting no; if I were voting, I would be voting yes.

ROLL CALL

YEA—Ainsworth, Allen, Andrews, Baker, Beaulieu, Benoit, Bost, Bott, Brannigan, Brodeur, Cahill, Carroll, D.P.; Carroll, G.A.; Cashman, Chonko, Clark, Connolly, Cox, Crouse, Crowley, Daggett, Dexter, Diamond, Gauvreau, Gwadosky, Hall, Handy, Hayden, Hickey, Higgins, H.C.; Higgins, L.M.; Ingraham, Jacques, Joseph, Kelleher, Kelly, Ketover, Kilcoyne, LaPlante, Lisnik, MacBride, Martin, H.C.; Matthews, K.L.; Matthews, Z.E.; Maybury, McGowan, McHenry, Michael, Michaud, Mitchell,

E.H.; Murray, Nadeau, Paradis, P.E.; Pines, Randall, Richard, Rolde, Rotondi, Smith, C.B.; Soule, Stevens, Stevenson, Telow, Theriault, Thompson, Webster, Weymouth, Zirnklton, The Speaker.

NAY—Anderson, Bell, Bonney, Brown, D.N.; Brown, K.L.; Callahan, Carter, Conary, Cote, Day, Dillenback, Drinkwater, Erwin, Foster, Greenlaw, Holloway, Jackson, Joyce, Kiesman, Lewis, Livesay, MacEachern, Macomber, Manning, Martin, A.C.; Masterman, Masterton, McCollister, McPherson, McSweeney, Melendy, Murphy, E.M.; Murphy, T.W.; Nelson, Norton, Paradis, E.J.; Parent, Perkins, Perry, Pouliot, Reeves, J.W.; Roberts, Roderick, Salsbury, Sherburne, Small, Smith, C.W.; Soucy, Sproul, Stover, Strout, Swazey, Tammaro, Vose, Walker, Wentworth, Willey.

ABSENT—Armstrong, Brown, A.K.; Carrier, Connors, Cooper, Curtis, Davis, Dudley, Hobbins, Jalbert, Kane, Lehoux, Locke, Mahany, Paul, Racine, Reeves, P.; Ridley, Scarpino, Seavey, Tuttle.

PAIRED—Mitchell, J.;—Moholland.

Yes, 69; No, 58; Absent, 21; Paired, 2; Vacant, 1.

The SPEAKER: Sixty-nine having voted in the affirmative and fifty-eight in the negative, with twenty-one being absent, two paired and one vacant, the motion does not prevail.

Sent to the Senate.

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

An Act Relating to Drinking in Public (S. P. 420) (L. D. 1273) (H. "A" H-201 to C. "A" S-86) Tabled—May 12, 1983 by Representative Mitchell of Vassalboro.

Pending—Passage to be Enacted.

On motion of Mr. Diamond of Bangor, re-tabled pending passage to be enacted and specially assigned for Monday, May 16.

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

An Act to Remove the Requirement that Farm Vehicles have a Fuel Use Decal (H. P. 427) (L. D. 509) (C. "A" H-197)

Tabled—May 12, 1983 by Representative Lisnik of Presque Isle.

Pending—Passage to be Enacted.

On motion of Mr. Lisnik of Presque Isle, under suspension of the rules, the House reconsidered its action whereby the Bill was passed to be engrossed.

On further motion of the same gentleman, under suspension of the rules, the House reconsidered its action whereby Committee Amendment "A" was adopted.

The same gentleman offered House Amendment "A" to Committee Amendment "A" and moved its adoption.

House Amendment "A" to Committee Amendment "A" (H-239) was read by the Clerk.

The SPEAKER: The Chair recognizes the gentleman from Presque Isle, Mr. Lisnik.

Mr. LISNIK: Mr. Speaker and Members of the House: This emergency amendment simply puts an emergency on the bill to ensure that it will go into effect prior to the harvesting season.

Thereupon, House Amendment "A" to Committee Amendment "A" was adopted.

Committee Amendment "A" as amended by House Amendment "A" thereto was adopted.

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

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

Mr. BAKER: Mr. Speaker, is the House in possession of House Paper 1087, L. D. 1430, Resolution, Proposing an Amendment to the Constitution of Maine to Undedicate the Highway Fund?

The SPEAKER: The Chair would answer in the affirmative.

Mr. BAKER: Mr. Speaker, having voted on the prevailing side, I would move reconsideration whereby the House voted to accept the Majority "Ought Not to Pass" Report and I would like to speak to my motion.

The SPEAKER: The gentleman from Portland, Mr. Baker, moves that the House reconsider its action of earlier in the day whereby the Majority "Ought Not to Pass" Report was accepted on L. D. 1430.

The gentleman may proceed.

Mr. BAKER: Mr. Speaker and Members of the House: I have no great desire to debate an issue of which we all know the outcome that is going to take place. However, the issue of undedicating the highway fund is such a matter of important public policy that I do feel that the public is entitled to know how we stand on the issue as a body; that is why I would like it if you would support the motion to reconsider, so that we may at least establish a roll call for the record.

The SPEAKER: For the Chair to order a roll call, it must have the expressed desire of one fifth of the members present and voting. All those desiring a roll call vote will vote yes; those opposed will vote no.

A vote of the House was taken, and more than one fifth of the members present having expressed a desire for a roll call, a roll call was ordered.

The SPEAKER: The pending question is on the motion of the gentleman from Portland, Mr. Baker, that the House reconsider its action whereby the Majority "Ought Not to Pass" Report was accepted on L. D. 1430. All those in favor will vote yes; those opposed will vote no.

ROLL CALL

YEA—Ainsworth, Andrews, Baker, Beau- lieu, Benoit, Brodeur, Carroll, D.P.; Carter, Chonko, Connolly, Cooper, Daggett, Diamond, Gauvreau, Hall, Handy, Hayden, Hickey, Holloway, Livesay, Martin, A.C.; McCollister, Mitchell, E.H.; Mitchell, J.; Murray, Nadeau, Rolde, Thompson.

NAY—Allen, Anderson, Bell, Bonney, Bost, Bott, Brannigan, Brown, D.N.; Brown, K.L.; Cahill, Callahan, Carroll, G.A.; Cashman, Clark, Conary, Cote, Cox, Crouse, Crowley, Day, Dillenback, Drinkwater, Erwin, Foster, Greenlaw, Gwadosky, Higgins, H.C.; Higgins, L.M.; Ingraham, Jackson, Jacques, Joseph, Joyce, Kelleher, Kelly, Ketover, Kiesman, Kilcoyne, LaPlante, Lebowitz, Lewis, Lisnik, MacBride, MacEachern, Macomber, Martin, H.C.; Masterman, Masterton, Matthews, K.L.; Matthews, Z.E.; Maybury, McGowan, McHenry, McPherson, McSweeney, Melendy, Michael, Michaud, Murphy, E.M.; Murphy, T.W.; Nelson, Norton, Paradis, E.J.; Paradis, P.E.; Parent, Perkins, Perry, Pines, Randall, Reeves, J.W.; Richard, Roberts, Roderick, Rotondi, Salsbury, Sherburne, Small, Smith, C.B.; Smith, C.W.; Soucy, Soule, Sproul, Stevens, Stevenson, Stover, Strout, Swazey, Tammara, Telow, Theriault, Vose, Walker, Webster, Wentworth, Weymouth, Willey, Zirnkilton.

ABSENT—Armstrong, Brown, A.K.; Carrier, Connors, Curtis, Davis, Dexter, Dudley, Hobbs, Jalbert, Kane, Lehoux, Locke, Mahany, Moholland, Paul, Pouliot, Racine, Reeves, P. Ridley, Scarpino, Seavey, Tuttle, The Speaker.

Yes, 28; No, 98; Absent, 24; Vacant, 1.

The SPEAKER: Twenty-eight having voted in the affirmative and ninety-eight in the negative, with twenty-four being absent and one vacant, the motion does not prevail.

Mr. Hall of Sangerville was granted unanimous consent to address the House.

Mr. HALL: Mr. Speaker, Ladies and Gentlemen of the House: In regard to L. D. 475, Unanimous Leave to Withdraw on "An Act to Protect Air Quality, I would like to read into the record a letter from our Governor. This was very important to me and my cosponsor,

Representative Mitchell from Vassalboro.

"Dear Judy and Don: At the Public hearing on L. D. 475, An Act to Protect Air Quality, a member of my staff indicated to your committee that I am prepared to direct the Department of Environmental Protection to perform the preliminary analysis required by the Clean Air Act of the health, environmental, economic, social and energy effects of the proposed redesignations contained in L. D. 475, and to conduct the necessary public hearings in the areas proposed for redesignation. By copy of this letter, I am directing Commissioner Henry Warren to initiate the necessary studies and analyses and to report back to me by November, 1983 so that the recommendations can be considered at the Second Regular Session of this Legislature.

"I believe this is a sensible approach to addressing this significant environmental issue and I commend your committee for its cooperation. Sincerely, Joseph E. Brennan, Governor of Maine."

(Off Record Remarks)

On motion of Mr. Gwadosky of Fairfield,
Adjourned until Monday, May 16, at nine o'clock in the morning.