

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

***One Hundred and Ninth
Legislature***

OF THE

STATE OF MAINE

Volume I

FIRST REGULAR SESSION

January 3, 1979 to May 4, 1979

STATE OF MAINE
One Hundred and Ninth Legislature
JOURNAL OF THE SENATE
March 9, 1979
Senate called to Order by the President.

Prayer by Chaplain Robert Harris, Veterans Administration Center, Togus.

Chaplain HARRIS: Let us pray! Eternal Father, Creator, from you our life began and you allow us to be. For whatever purposes we were born, it was never to kill ourselves, in the attainment of wealth or paper relationships, rather it was to earmark each day and each person in a special way. Bless these elect, who are leaders that serve, more clearly, let them see what ought to be, what can be, and how to do it. Amen.

Reading of the Journal of yesterday.

Papers from the House
Non-concurrent Matter

Bill, "An Act Appropriating Funds for Promotion of Direct Marketing of Agricultural Commodities." (H. P. 684) (L. D. 864)

In the House, March 1, Referred to the Committee on Agriculture.

In the Senate, March 6, Referred to the Committee on Appropriations and Financial Affairs, in non-concurrence.

Comes from the House, that Body Insisted.

The PRESIDENT: The Senator from Cumberland, Senator Huber, moves that the Senate Recede and Concur with the House.

Is this the pleasure of the Senate?

The Motion Prevailed.

Non-Concurrent Matter

Bill, "An Act to Provide for Jury List Selection from Sources other than Voting Lists." (S. P. 178) (L. D. 408)

In the Senate, March 6, Minority 'Ought Not to Pass' Report Read and Accepted.

In the House, March 7, Majority 'Ought to Pass as amended' Report Read and Accepted, and the Bill Passed to be Engrossed as amended by Committee Amendment "A" (S-25), in non-concurrence.

The PRESIDENT: The Chair recognizes the Senator from Washington, Senator Silverman.

Senator SILVERMAN: I move that we Recede and Concur.

The PRESIDENT: The Senator from Washington, Senator Silverman moves that the Senate Recede and Concur with the House.

The Chair recognizes the Senator from Androscoggin, Senator Trafton.

Senator TRAFTON: Thank you, Mr. President. I would hope you would vote against the Motion to Recede and Concur so that we may Adhere, and I would ask for a Roll Call.

The PRESIDENT: A Roll Call has been requested. Under the Constitution in order for the Chair to order a Roll Call it requires the affirmative vote of at least one-fifth of those Senators present and voting.

Will all those Senators in favor of ordering a Roll Call, please rise and remain standing until counted.

Obviously more than one-fifth having arisen a Roll Call is ordered.

The Chair recognizes the Senator from Washington, Senator Silverman.

Senator SILVERMAN: Mr. President and Members of the Senate. This Bill allows a direction, where the present jury selection system, which has people now not registering to vote, allows a direction that says you are going to be taking your duty and be put on the jury or be put on the jury list, just as well if you register to vote or if you don't register to vote.

Now those who are against this Bill, say it is needed, but they want to wait and my concern here today is this, as the Senator from Auburn said, a \$50,000 study is now being taken places with LEAA money, to decide how this area may be improved.

As an independent, who is critical of the way the direction the two parties are going, I will say this, that when elected to the Legislature, we should give the direction the bureaucracy should not make the plans, the rules, and then tell us what Bills to pass. That is what is being done here today, now I know the cards are stacked against me, but I also know this, that those of you in our Maine society who take on the responsibility of registering to vote, and are subject to jury duty, feel it is unfair for those who will not register to vote, to escape the responsibility of jury duty.

Now this Bill will set a direction to correct this and the vote is yours, the decision is yours, but it leaves those who are independent a chance to show you, where we think, you are incorrect. Thank you.

The PRESIDENT: The Chair recognizes the Senator from Androscoggin, Senator Trafton.

Senator TRAFTON: Thank you, Mr. President. Mr. President and Members of the Senate. I would just remind you the Bill before us today has an effective date of January 1, 1982.

The Judiciary Committee is very sympathetic to the intent of the good Senator from Washington, Senator Silverman, however we feel with the pending studies by LEAA and the Court Administration that it would be wise to wait and see the resolute of that study, and then implement it in a timely fashion.

The PRESIDENT: Is the Senate ready for the question? The pending question before the Senate is the Motion by the Senator from Washington, Senator Silverman, that the Senate Recede and Concur with the House.

A Yes vote will be in favor of the Motion to Recede and Concur.

A No vote will be opposed.

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEA—Hichens, Minkowsky, O'Leary, Pray, Silverman.

NAY—Ault, Carpenter, Chapman, Clark, Collins, Conley, Cote, Emerson, Farley, Gill, Huber, Katz, Lovell, Martin, McBreairty, Najarian, Perkins, Pierce, Redmond, Shute, Sutton, Teague, Trafton, Trotzky, Usher.

ABSENT—Danton, Devoe.

A Roll Call was had.

5 Senators having voted in the affirmative and 25 Senators in the negative and 2 Senators being absent, the Motion to Recede and Concur does not prevail.

The PRESIDENT: Is it the pleasure of the Senate that the Senate Adhere?

The Motion prevailed.

(Off Record Remarks)

Non-concurrent Matter

Bill, "An Act to Require Motorcycle Operators and Passengers and Motor Driven Cycle Operators and Passengers to Wear Helmets if they are Minors". (H. P. 114) (L. D. 123)

In the House, February 23, Passed to be Engrossed as amended by House Amendment "A" (H-40).

In the Senate, February 28, Bill and Papers, Indefinitely Postponed, in non-concurrence.

In the House, March 6, that Body Insisted.

In the Senate, March 7, Senate Insisted and Conference Asked.

Comes from the House, that Body Adhered.

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

Senator EMERSON: I move that we Adhere.

The PRESIDENT: The Senator from Penobscot, Senator Emerson, moves that the Senate Adhere.

The Chair recognizes the Senator from Cumberland, Senator Conley.

Senator CONLEY: Mr. President, I move that the Senate Recede and Concur with the House.

The PRESIDENT: The Senator from Cum-

berland, Senator Conley, moves that the Senate Recede and Concur.

The Chair recognizes the Senator from Androscoggin, Senator Minkowsky.

Senator MINKOWSKY: Mr. President and Members of the Senate: I would sincerely hope that you would Adhere, on this particular Bill today. I am so disappointed that the members of the other Branch of the Legislature, could not see the wisdom of a Committee of Conference, to iron out many of the inconsistencies that exist in this particular Bill.

I think it is of paramount importance that all these issues relevant as to how it can be enforced, by the Law Enforcement Agencies in the State of Maine, which is under great stress at the present time, how it can be implemented by our District Court System, which is virtually impossible, and how discriminatory this particular Bill is.

I think it would be in the interest of the people of the State of Maine, Mr. President and Members of the Senate to Adhere, as the good Senator has emphasized and allow this Bill, maybe to come in as a study, since there are many areas that are questionable.

I am sure as members of the upper Branch of the Legislature, we certainly do not want to impose any more restrictions upon the people of the State of Maine, than we already have. This really would be a very very serious area, that we would be infringing upon as Motorcyclists in the State of Maine. So Mr. President and Members of the Senate, First I would ask we have a Division, and that you accept the Motion to Adhere to our action.

The PRESIDENT: The Chair would advise the Senator from Cumberland, the pending Motion is the Motion by the Senator from Cumberland, Senator Conley, that the Senate Recede and Concur.

Is the Senate ready for the question?

The Chair will order a Division.

Will all those Senators in favor of the Motion to Recede and Concur please rise in their places to be counted.

The Chair recognizes the Senator from Androscoggin, Senator Minkowsky.

Senator MINKOWSKY: Mr. President, I would ask for a Roll Call.

The PRESIDENT: A Roll Call has been requested.

Under the Constitution in order for the Chair to order a Roll Call it requires the affirmative vote of at least one-fifth of those Senators present and voting.

Will all those Senators in favor of ordering a Roll Call, please rise and remain standing until counted.

Obviously more than one-fifth having arisen a Roll Call is ordered.

The Chair recognizes the Senator from Penobscot, Senator Trotzky.

Senator TROTZKY: Mr. President and Members of the Senate: When this debate was held a week ago, I mentioned a Study that was done by the National Highway Safety Administration, I am not exactly sure of the title, because I do not have it here with me, but I mentioned it on the floor of the Senate.

Their study showed that motorcyclists who do not wear helmets have more of a probability of receiving very serious head and spinal injuries. The good Senator from Androscoggin, Senator Minkowsky, stated that we are infringing on the motorcyclists rights when we say to a young person, 18 or younger, that you have to wear a helmet on a motorcycle.

Well, I would answer that by saying, if that person gets into an accident, has a very bad spinal injury, why don't we follow through and just let him suffer with it. We do not let him suffer with it, we bring him into our hospitals and sometimes up to hundreds of thousands of dollars in funds are spent to maintain that person throughout his life, the public pays for that.

I feel that it is public policy to take care of

these people after they do have these injuries, then we also have the right to try and protect them by mandating that they wear helmets.

The PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Conley.

Senator CONLEY: Mr. President and Members of the Senate. Last Friday or Thursday we enacted, in this Chamber, a Bill that mandated No Smoking in Public Meetings and the big argument for that Bill allegedly was, to protect people from breathing in toxic gases, that we were going to all of a sudden shorten their lives and the concerns we had for these unfortunate informed souls who know enough to stay away from the weed, but because of the fact that people like myself enjoy lighting up on occasion, we are now under statute going to be prohibited from lighting up such a weed, because of what harm that cigarette or cigar may bring upon someone else. I said that Bill was nonsense because it is something that should have been decided by local communities.

Now we have a Bill before us that can, perhaps, save some youngsters from being killed, or being very severely injured and we are turning our backs on it. I hope you try to keep in mind when the Roll Call is called, the substance of both these Bills, and as to whether or not we are concerned about life, liberty, and the pursuit of happiness.

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

Senator O'LEARY: Mr. President, it was nearly a year ago, well as a matter of fact it was Mothers' Day Sunday, May 14, of last year, my boy was a passenger in an automobile. I was called out of the mill at 3:15 in the morning to go to the Rumford Community Hospital. My boy was scarred and marked in good shape for the rest of his life. That was in an automobile, he did not have seat belts on and luckily he didn't because they would have held him in place, and he would have been killed. Now in our automobiles we do not mandate that you wear these seat belts, they are there and provided for your safety if you wish to wear them.

This Bill goes one bit further and says you must wear it. There is also an amendment that was put on this Bill for the purpose of killing it over at the other end of the corridor, that was the sole purpose of this amendment. Now this amendment is dangerous. It requires insurance, and if a youngster gets on that motorcycle that looks to be of age and the operator picks him up somewhere along the road and they do have an accident, that insurance will not cover that passenger. This is the dangerous part of the Bill, our good Chairman of the Committee recognizes the errors that are in this Bill and wanted to do something about it out of respect for him, you should at least Adhere.

The PRESIDENT: Is the Senate ready for the question? The pending question before the Senate, is the Motion by the Senator from Cumberland, Senator Conley, that the Senate Recede and Concur with the House.

A Yes vote will be in favor of the Motion to Recede and Concur.

A No vote will be opposed.

The Doorkeepers will secure the Chamber. The Secretary will call the Roll.

ROLL CALL

YEA—Carpenter, Clark, Collins, Conley, Farley, Hichens, Katz, Najarian, Perkins, Shute, Silverman, Trafton, Trotzky

NAY—Ault, Chapman, Cote, Emerson, Gill, Huber, Lovell, Martin, McBreairty, Minkowsky, O'Leary, Pierce, Pray, Redmond, Sutton, Teague, Usher

ABSENT — Danton, Devoe

A Roll Call was had.

13 Senators having voted in the affirmative and 17 Senators in the negative, with 2 Senators being absent, the Motion to Recede and Concur does not prevail.

The PRESIDENT: The Senator from Penobscot, Senator Emerson, moves that the Senate Adhere.

Is this the pleasure of the Senate?
The Motion Prevailed.

Joint Orders

An Expression of legislative Sentiment recognizing that:

Julie Hopkins, a Junior at Schenck High School in East Millinocket, has won the State Voice of Democracy contest sponsored by the Veterans of Foreign Wars . . . (H. P. 883)

Comes from the House, Read and Passed.

An Expression of Legislative Sentiment recognizing that:

Mrs. Naomi White of Patten, who has been instrumental in forming the Katahdin Valley Health Center and in establishing the Patten Community Center, has been named recipient of the 1979 Jefferson Award for Public Service by the American Institute for Public Service and WLBZ-TV and Radio in Bangor . . . (H. P. 884)

Comes from the House, Read and Passed.

An Expression of Legislative Sentiment recognizing that:

F. Robert Fay is retiring as Road Commissioner of Waterboro, after 40 years of dedicated service to the State and to the Town of Waterboro . . . (H. P. 885)

Comes from the House, Read and Passed.

An Expression of Legislative Sentiment recognizing that:

The University of Southern Maine and their Coach, Joey Bouchard, have won the District 5 National Association of Intercollegiate Athletics' Basketball Championship to be held in Kansas City during the week of March 12th . . . (H. P. 896)

Comes from the House, Read and Passed.

Which were Read and Passed, in concurrence.

House Papers

Bill, "An Act Concerning Retirement Benefits Under the Maine State Retirement System." (H. P. 774) (L. D. 976)

RESOLUTION, Proposing an Amendment to the Constitution of Maine to Maintain and Protect the Integrity of the Maine State Retirement System. (H. P. 780) (L. D. 973)

Come from the House, referred to the Committee on Aging, Retirement and Veterans and Ordered Printed.

Which were referred to the Committee on Aging, Retirement and Veterans and Ordered Printed, in concurrence.

Bill, "An Act Relating to License Fees for Dogs." (H. P. 775) (L. D. 977)

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

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

Bill, "An Act Revising the Pauper Laws." (H. P. 776) (L. D. 978)

Bill, "An Act to Appropriate \$30,000 to Day One, Inc." (H. P. 778) (L. D. 980)

Bill, "An Act to Increase the Funds for Displaced Homemakers Program." (H. P. 779) (L. D. 981)

Bill, "An Act to Provide for Aid to Families with Dependent Children Benefits for Unemployed Parents under the Aid to Families with Dependent Children - Unemployed Fathers Program." (H. P. 777) (L. D. 979)

Come from the House, referred to the Committee on Appropriations and Financial Affairs and Ordered Printed.

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

Bill, "An Act to Permit Certain Private Actions under the Profiteering Statutes." (H. P. 782) (L. D. 982)

Bill, "An Act to Prohibit Automobile Franchisers from Granting New Franchises within the Relevant Market Area of Existing Fran-

chises." (H. P. 783) (L. D. 983)

Bill, "An Act to Permit Certain Maine Pharmacists to Fill the Prescription of Certain Non-resident Physicians." (H. P. 784) (L. D. 984)

Bill, "An Act to Extend Warranty Protection to Purchasers of Used Cars." (H. P. 785) (L. D. 985)

Bill, "An Act to Encourage the Acceptance by Distributors of Beverage Containers." (H. P. 786) (L. D. 986)

Bill, "An Act to Make Certain Changes in the Manufactured Housing Act." (H. P. 787) (L. D. 987)

Bill, "An Act to Provide Recycling and Conservation Use of Unredeemed Refunds on Beverage Containers." (H. P. 781) (L. D. 993)

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

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

Bill, "An Act to Provide for Legislative Management Audit of the University of Maine." (H. P. 791) (L. D. 990)

Bill, "An Act to Permit School Administrative Units to Grant Leaves of Absence Without Loss of Contract Status to Teachers who are Elected to County or Local Office." (H. P. 789) (L. D. 989)

Bill, "An Act to Provide an Alternative to Compulsory School Attendance." (H. P. 788) (L. D. 988)

Bill, "An Act to Provide Representation Based on Population to the Various Regions of Maine on the University of Maine Board of Trustees." (H. P. 790) (L. D. 995)

Come from the House, referred to the Committee on Education and Ordered Printed.

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

Bill, "An Act Relating to Appropriating Funds for Certain Municipal Governments." (H. P. 792) (L. D. 991)

Come from the House, referred to the Committee on Education and Ordered Printed.

On Motion by Senator Huber of Cumberland, referred to the Committee on Appropriations and Financial Affairs, and Ordered Printed, in non-concurrence.

Sent down for concurrence.

Bill, "An Act to Provide for Publication of Specimen Ballots." (H. P. 794) (L. D. 994)

Come from the House, referred to the Committee on Election Laws and Ordered Printed.

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

Bill, "An Act Providing for the Consideration of Solar Energy Requirements in Comprehensive Plans." (H. P. 800) (L. D. 996)

Bill, "An Act for Expression of Public Sentiment on the Dickey-Lincoln Hydroelectric Power Project by Referendum." (H. P. 798) (L. D. 992)

Bill, "An Act Concerning the Saco River Corridor Commission." (H. P. 797) (L. D. 967)

Come from the House, referred to the Committee on Energy and Natural Resources and Ordered Printed.

Which were referred to the Committee on Energy and Natural Resources and Ordered Printed, in concurrence.

Bill, "An Act to Transfer the Responsibility for Administering and Enforcing the Human Rights Act to the Attorney General." (H. P. 758) (L. D. 974)

Come 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 con-