

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

***One Hundred and Eleventh
Legislature***

OF THE

STATE OF MAINE

Volume II

FIRST REGULAR SESSION

May 16, 1983 to June 24, 1983

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August 4, 1983

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An Act to Increase the Number of Voting Booths Required in Maine Elections (S. P. 566) (L. D. 1639)

An Act to Rejuvenate the Fishing Industry in Maine (S. P. 575) (L. D. 1652)

An Act to Improve Access to Small Claims Court (H. P. 540) (L. D. 577) (H. "A" H-227 and H. "B" H-273)

An Act Regarding Multiple Sentences of Imprisonment (H. P. 483) (L. D. 580) (C. "A" H-265)

Were reported by the Committee on Engrossed Bills as truly and strictly engrossed, passed to be enacted, signed by the Speaker and sent to the Senate.

An Act to Permit the Use of State Funds for Rail Rehabilitation Projects and Townway Crossing Improvements (H. P. 835) (L. D. 1087)

An Act to Amend Provisions of the Maine Insurance Code Relating to Tender Offers and to Unfair Trade Practices (H. P. 838) (L. D. 1088)

An Act to Require Annual Disclosure of Interest in Agricultural Land in Maine (H. P. 871) (L. D. 1125) (C. "B" H-260)

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An Act Relating to the Replacement of Existing Buildings within 33 feet of the Center Line of a State or State Aid Highway (H. P. 982) (L. D. 1283)

An Act to Control Hazardous Air Pollutants (H. P. 1080) (L. D. 1426) (C. "A" H-259)

An Act to Provide Continued Funding for the Determination of Ground Water Quality in the State's Sand and Gravel Aquifers (H. P. 1113) (L. D. 1471) (C. "A" H-277)

An Act Concerning the Admissibility in Criminal Proceedings of Statements by Minors Describing Sexual Contact (H. P. 1201) (L. D. 1595) (H. "A" H-278)

An Act to Insure State Enforcement of Equal Opportunity in State-supported Educational Programs (H. P. 1241) (L. D. 1653)

An Act to Create a Forest Resource Assessment and Marketing Program (H. P. 1171) (L. D. 1559)

An Act to Authorize the Supreme Judicial Court to Provide for Collective Bargaining for Judicial Department Employees (H. P. 1246) (L. D. 1660)

An Act Concerning Explanations for Referenda Questions which Appear on a Ballot (H. P. 1250) (L. D. 1663)

An Act to Require Interdepartmental Coordination of Social Services Planning (H. P. 1255) (L. D. 1668)

Were reported by the Committee on Engrossed Bills as truly and strictly engrossed, passed to be enacted, signed by the Speaker and sent to the Senate.

By unanimous consent, all matters acted upon requiring Senate concurrence were ordered sent forthwith to the Senate 15 minutes after the House recessed.

(Off Record Remarks)

On motion of Mr. Handy of Lewiston,
Recessed until four o'clock in the afternoon.

After Recess
4:00 p.m.

The House was called to order by the Speaker.

At this point, the Speaker announced the presence in the hall of the House Representative-elect Joseph Mayo of Thomaston. The Speaker asked the gentlewoman from Vassalboro, Representative Mitchell, Representative Melendy of Rockland and Representative Kelly of Camden to escort the Representative-elect

to the Office of the Governor where the Governor would enable him to receive and subscribe the oath necessary to qualify him to enter upon his official duties.

The following papers appearing on Supplement No. 2, which were set aside during this morning's session, were taken up out of order by unanimous consent:

Passed to Be Enacted

An Act to Prohibit Residence Requirements for Municipal Employees (S. P. 61) (L. D. 167) (S. "B" S-136 to C. "A" S-90)

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: When this bill first appeared on the floor, I was in opposition to it and I haven't changed my mind since that time. The reason that I am opposed to this bill is because we are trying to dictate to municipalities what they should do or what they should not do. As an example, last week there was a bill that went through which directed municipalities to change their ordinances, their zoning ordinances, to permit and allow manufactured housing to be built on separate lots. Also last week we debated heavily a bill that would direct municipalities to adopt an ordinance to enclose swimming pools, and today we have a bill before us that directs municipalities to enact ordinances that would require employees to reside within a specified distance or a specific response time of a facility where those provisions represent a legitimate job requirement.

I feel that we should leave these things up to those elected officials that represent the people of a particular municipality. I feel that they are in a better position to be able to determine what is good or what is bad for that particular community. If the voters of that particular community are dissatisfied with the way that they are being represented by their local officials, they should either recall them or change them at election time.

On that basis, I move that L. D. 167 and all its accompanying papers be indefinitely postponed and I ask for a roll call.

The SPEAKER: The gentleman from Biddeford, Mr. Racine, moves that this Bill and all its accompanying papers be indefinitely postponed.

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

Mrs. BEAULIEU: Mr. Speaker, Ladies and Gentlemen of the House: This bill has been explained to you several times. It was worked carefully and diligently by the Committee on Labor and we came out with a unanimous report on the issue. The questions raised by the gentlewoman from Rockland have been addressed and taken care of and she has indicated to you that she is supportive of the bill as amended and taken care of. We have worked as hard as we possible could with Maine Municipal Association to insure that we were doing something that would not strip management rights, and I would ask that you vote no on the pending motion before you.

The SPEAKER: A roll call has been requested. 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 Biddeford, Mr. Racine, that this Bill and all its accompanying papers be indefinitely postponed in non-concurrence. All those in favor will vote yes; those opposed will vote no.

ROLL CALL

YEA—Anderson, Armstrong, Bell, Benoit, Bonney, Bott, Brodeur, Cahill, Callahan, Carroll, G.A.; Carter, Conary, Conners, Daggett, Davis, Day, Dexter, Dillenback, Drinkwater, Dudley, Foster, Gwadlosky, Higgins, L.M.; Holloway, Ingraham, Jackson, Jacques, Kiesman, Lebowitz, Livesay, MacBride, MacEachern, Martin, A.C.; Masterman, Masterton, Matthews, K.L.; Maybury, McPherson, Moholland, Murphy, E.M.; Murphy, T.W.; Nelson, Paradis, E.J.; Parent, Paul, Pines, Pouliot, Racine, Reeves, J.W.; Ridley, Roderick, Salsbury, Scarpino, Sherburne, Smith, C.W.; Sproul, Stevenson, Stover, Telow, Vose, Walker, Webster, Wentworth, Weymouth.

NAY—Ainsworth, Allen, Andrews, Baker, Beaulieu, Bost, Brannigan, Brown, A.K.; Brown, D.N.; Brown, K.L.; Carroll, D.P.; Chonko, Clark, Connolly, Cooper, Cox, Crouse, Crowley, Diamond, Erwin, Gauvreau, Greenlaw, Hall, Handy, Hickey, Higgins, H.C.; Hobbins, Joseph, Joyce, Kane, Kelleher, Ketover, Kilcoyne, LaPlante, Lehoux, Lewis, Lisnik, Locke, Macomber, Manning, Martin, H.C.; Matthews, Z.E.; McCollister, McGowan, McHenry, McSweeney, Michael, Michaud, Mitchell, J.; Murray, Nadeau, Norton, Paradis, P.E.; Perkins, Perry, Reeves, P.; Richard, Roberts, Rolde, Smith, C.B.; Stevens, Strout, Swazey, Tammaro, Theriault, Thompson, Willey, Zirkilton, The Speaker.

ABSENT—Carrier, Cashman, Cote, Curtis, Hayden, Jalbert, Kelly, Mahany, Melendy, Mitchell, E.H.; Randall, Rotondi, Seavey, Small, Soucy, Soule, Tuttle.

Yes, 64; No, 69; Absent, 17; Vacant, 1.

The SPEAKER: Sixty-four having voted in the affirmative and sixty-nine in the negative, with seventeen being absent, the motion does not prevail.

Thereupon, the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

Tabled and Assigned

An Act Relating to Prison Visits (H. P. 699) (L. D. 888) (C. "A" H-261)

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

On motion of Mr. Richard of Madison, tabled pending passage to be enacted and tomorrow assigned.

An Act to Require the Wearing of Protective Headgear by all Motorcycle and Motor Driven Cycle Riders (H. P. 836) (L. D. 1072) (Conf. Com. "A" H-263)

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

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

Mr. CLARK: Mr. Speaker, Ladies and Gentlemen of the House: The reason I had this set aside, I would like to have a little more information from the committee that had this bill about what it is going to do. I have read a lot in the paper, I have had some 300 petitions from motorcyclists in my town who are against this bill, so at this time I would like to hear from the Committee of Conference about what this bill is going to do.

The SPEAKER: The gentleman from Millinocket, Mr. Clark, has posed a question through the Chair to anyone who may care to answer.

The Chair recognizes the gentleman from Pittsfield, Mr. McGowan.

Mr. MCGOWAN: Mr. Speaker, Ladies and Gentlemen of the House: As you know, Representative Cahill, Representative Moholland and myself served on the committee of conference on this bill, representing the Maine House, which defeated the mandatory helmet bill. We decided in the committee of conference to make mandatory helmets required for persons who are riding a motorcycle with a permit and during their first year of operation. It was our belief that people who have little experience

riding motorcycles are the ones most vulnerable for accidents. We believe that this is a fair compromise and I urge this House to accept it.

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

Mr. CLARK: Mr. Speaker, I would like to pose a question through the Chair to the good gentleman from Pittsfield, Mr. McGowan. How would you identify a person for the first time, a beginner or the first year using a motorcycle?

The SPEAKER: The gentleman from Millinocket, Mr. Clark, has posed a question through the Chair to the gentleman from Pittsfield, Mr. McGowan, who may answer if he so desires, and the Chair recognizes that gentleman.

Mr. MCGOWAN: Mr. Speaker, Ladies and Gentlemen of the House: That is an excellent question, and I believe the only way that we will be able to enforce it is if an officer of the law does stop a motorcyclist and finds by the date of issuance on his license that he is within the period determined by law that he must wear the helmet, then he will be in violation of this law. That is a hard point to enforce, but I believe that with a statement issued to the permittee and the first-year motorcyclist, then he will be warned that if he does not wear a helmet he will be in violation of the law.

The SPEAKER: The Chair recognizes the gentleman from Island Falls, Mr. Smith.

Mr. SMITH: Mr. Speaker, does this bill now cover mopeds?

The SPEAKER: The gentleman from Island Falls, Mr. Smith, has posed a question through the Chair to anyone who may care to respond.

The CAHILL: Mr. Speaker, Ladies and Gentlemen of the House: The Moped provision has been eliminated in the Committee of Conference Report.

The SPEAKER: The Chair recognizes the gentleman from Orono, Mt. Bott.

Mr. BOTT: Mr. Speaker, I would like to pose a question through the Chair. I would like to ask what the penalty for not wearing a helmet would be if an individual were stopped and was found to be in violation of the law?

The SPEAKER: The gentleman from Orono, Mr. Bott, has posed a question through the Chair to anyone who may care to answer.

The Chair recognizes the gentlewoman from Woolwich, Mrs. Cahill.

Mrs. CAHILL: Mr. Speaker, the first offense would be a \$25 fine; the second or subsequent offenses would be \$50.

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

Mr. CLARK: Mr. Speaker, Ladies and Gentlemen of the House: Just from the report I have heard from the people that just made the presentations, I would like to have this bill and all its accompanying papers indefinitely postponed and would ask for a roll call.

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 Chair recognizes the gentleman from Winslow, Mr. Carter.

Mr. CARTER: Mr. Speaker, I would like to pose a question through the Chair. If I understand the amendment correctly, it states that no parent or guardian may allow a passenger under the age of 15 years to ride in violation of this section. If that occurs, will the parent or guardian be held liable?

The SPEAKER: The gentleman from Winslow, Mr. Carter, has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the gentleman from Pittsfield, Mr. McGowan.

Mr. MCGOWAN: Mr. Speaker, Ladies and Gentlemen of the House: As you know, under

current law, passengers on motorcycles under the age of 15 are required to have a helmet on, so this is part of the current law and I believe that the motorcyclist who is of legal age driving the vehicle will be responsible.

The SPEAKER: A roll call has been ordered. The pending question is on the motion of the gentleman from Millinocket, Mr. Clark, that this Bill and all its accompanying papers be indefinitely postponed in non-concurrence. All those in favor will vote yes; those opposed will vote no.

ROLL CALL

YEA—Allen, Anderson, Armstrong, Bell, Bonney, Bost, Brown, A.K.; Brown, D.N.; Brown, K.L.; Callahan, Carter, Clark, Conary, Conners, Connolly, Daggett, Davis, Day, Dexter, Dillenback, Dudley, Gauvreau, Greenlaw, Hickey, Higgins, L.M.; Jackson, Joseph, Kelleher, Kisman, Lebowitz, Lewis, MacEachern, Martin, H.C.; Masterman, McCollister, McHenry, Michaud, Murphy, E.M.; Norton, Paradis, E.J.; Parent, Paul, Perkins, Pouliot, Racine, Reeves, J.W.; Ridley, Roberts, Roderick, Salsbury, Scarpino, Sherburne, Smith, C.W.; Strout, Tammaro, Webster, Wentworth, Willey.

NAY—Ainsworth, Andrews, Baker, Beaulieu, Benoit, Bott, Brannigan, Brodeur, Cahill, Carroll, D.P.; Carroll, G.A.; Chonko, Cooper, Cox, Crouse, Crowley, Diamond, Drinkwater, Erwin, Foster, Gwadnosky, Hall, Handy, Higgins, H.C.; Hobbins, Holloway, Ingraham, Jacques, Joyce, Kane, Kelly, Ketter, Kilcoyne, LaPlante, Lehoux, Lisnik, Livesay, Locke, MacBride, Macomber, Manning, Martin, A.C.; Masterton, Matthews, K.L.; Matthews, Z.E.; Maybury, McGowan, McPherson, McSweeney, Melendy, Michael, Mitchell, E.H.; Mitchell, J.; Moholland, Murphy, T.W.; Murray, Nadeau, Nelson, Paradis, P.E.; Perry, Pines, Reeves, P.; Richard, Smith, C.B.; Sproul, Stevens, Stevenson, Stover, Swazey, Telow, Theriault, Thompson, Vose, Walker, Weymouth, Zirkilton, The Speaker.

ABSENT—Carrier, Cashman, Cote, Curtis, Hayden, Jalbert, Mahany, Randall, Rolde, Rotondi, Seavey, Small, Soucy, Soule, Tuttle.

Yes, 58; No, 77; Absent, 15; Vacant, 1.

The SPEAKER: Fifty-eight having voted in the affirmative and seventy-seven in the negative, with fifteen being absent, the motion does not prevail.

Thereupon, the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

At this point, Mrs. Mitchell of Vassalboro reported that the necessary oath had been taken by Representative Mayo of Thomaston to qualify him to enter upon his official duties.

The Speaker then assigned him to Seat 81.

An Act to Provide that Joint Custody be Awarded when the Parents Agree to it in Child Custody Cases (H. P. 1243) (L. D. 1657)

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

The SPEAKER: The Chair recognizes the gentleman from Saco, Mr. Hobbins.

Mr. HOBBS: Mr. Speaker, I humbly move that we table this matter for one day.

The SPEAKER: The Chair would correct the gentleman from Saco, Mr. Hobbins. He has debated his motion to table.

Whereupon, on motion of Mr. Diamond of Bangor, tabled pending passage to be enacted and tomorrow assigned.

An Act to Revise Certain Sections of the Probate Code (H. P. 1256) (L. D. 1669)

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

On motion of Mr. Hobbins of Saco, tabled pending passage to be enacted and tomorrow assigned.

The following papers appearing on Supplement No. 3 were taken up out of order by un-

animous consent:

Bill "An Act to Clarify State Authority Regarding Higher Education Student Loan Secondary Markets" (Emergency) (S. P. 585) (L. D. 1702)

Came from the Senate referred to the Committee on Business Legislation and ordered printed.

In the House, the Bill was referred to the Committee on Business Legislation in concurrence.

Bill "An Act Relating to Exceptional Children" (Emergency) (S. P. 586) (L. D. 1703)

Came from the Senate referred to the Committee on Education and ordered printed.

In the House, the Bill was referred to the Committee on Education in concurrence.

Bill "An Act Relating to the Period of License Suspension for Drivers Convicted or Adjudicated of Operating Under the Influence" (S. P. 587) (L. D. 1706)

Came from the Senate referred to the Committee on Judiciary and ordered printed.

In the House, the Bill was referred to the Committee on Judiciary in concurrence.

Divided Report Tabled Unassigned

Majority Report of the Committee on Business Legislation reporting "Ought Not to Pass" on Bill "An Act to Authorize the Public Advocate to Intervene in Workers' Compensation Rate Filings" (H. P. 1000) (L. D. 1308)

Report was signed by the following members:

Senator:

SEWALL of Lincoln

— of the Senate.

Representatives:

PERKINS of Brooksville
CONARY of Oakland
RACINE of Biddeford
MacBRIDE of Presque Isle
POULIOT of Lewiston
TELOW of Lewiston
MURRAY of Bangor
STEVENS of Bangor

— of the House.

Minority Report of the same Committee reporting "Ought to Pass" as amended by Committee Amendment "A" (H-297)

Report was signed by the following members:

Senators:

CLARK of Cumberland
CHARENTE of Androscoggin

— of the Senate.

Representatives:

BRANNIGAN of Portland
MARTIN of Van Buren

— of the House.

Reports were read.

Mr. Brannigan of Portland moved that the Minority "Ought to Pass" Report be accepted.

On motion of Mrs. Mitchell of Vassalboro, tabled unassigned pending the motion of Mr. Brannigan of Portland to accept the Minority Report.

The following papers appearing on Supplement No. 4 were taken up out of order by unanimous consent:

Ought to Pass in New Draft

Report of the Committee on Education on Bill "An Act Concerning Confidential Records and State Certification of Educational Personnel" (Emergency) (S. P. 356) (L. D. 1077) reporting "Ought to Pass" in New Draft (Emergency) (S. P. 583) (L. D. 1691)

Came from the Senate with the Report read and accepted and the New Draft passed to be engrossed.

In the House, the Report was read and accepted in concurrence and the New Draft read once. Under suspension of the rules, the New Draft was read the second time and passed to