

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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in the woods at night time with guns, I never saw a deer in January or February that was very good to eat. They are eating cedar most of the time and they taste just like a piece of cedar. I have eaten them that have been killed at that time too. I didn't say that I killed them.

We hope you wouldn't vote to indefinitely postpone this bill, give it a chance. It is only a two-year thing that is sunsetted, and it is an attempt to make an effort by the committee and by this legislature to take care of the problem that we have with our deer herd and also to take care of the problem that some of the farmers have with their sheep. They are even killing some cattle too and the cattle farmers have a problem. This is just one avenue that we can try to control this animal and please don't kill it.

The SPEAKER Pro-Tem: The Chair recognizes the Gentleman from Westbrook, Mr. Day.

Mr. DAY: Mr. Speaker, Ladies and Gentlemen of the House: I would like to add that the newspaper clipping that the Representative from East Millinocket just mentioned said that that 76 lb. wolf exceeded the record of a 74 lb. wolf which has held the record in Wyoming for many years.

The SPEAKER Pro-Tem: The pending question before the House is on the motion of the gentleman from Waterville, Mr. Jacques, that this bill and all its accompanying papers be indefinitely postponed.

The Chair recognizes the gentleman from Sangerville, Mr. Hall

Mr. HALL: Mr. Speaker, I request permission to pair my vote with the gentleman from Bangor, Mr. Kelleher. If Mr. Kelleher were present and voting, he would be voting no; I would be voting yes.

The SPEAKER Pro-Tem: The Chair recognizes the gentlewoman from Portland, Mrs. Ketover.

Mrs. KETOVER: Mr. Speaker, I request permission to pair my vote with the gentlewoman from Auburn, Mrs. Cote. If Mrs. Cote were present and voting, she would be voting yes; I would be voting no.

The SPEAKER Pro-Tem: The pending question before the House is the motion of the gentleman from Waterville, Mr. Jacques, that this bill and all its accompanying papers be indefinitely postponed. Those in favor will vote yes; those opposed will vote no.

ROLL CALL

YEA—Andrews, Baker, Brodeur, Chonko, Clark, Connolly, Daggett, Handy, Jacques, Joseph, Kelly, Lisnik, Stevens.

NAY—Ainsworth, Allen, Anderson, Armstrong, Beaulieu, Bell, Bonney, Bost, Bott, Brannigan, Brown, A.K.; Brown, D.N.; Cahill, Callahan, Carroll, D.P.; Carroll, G.A.; Carter, Cashman, Conary, Connors, Cooper, Cox, Crouse, Crowley, Curtis, Davis, Day, Dexter, Diamond, Drinkwater, Dudley, Erwin, Foster, Gauvreau, Greenlaw, Hickey, Higgins, H.C.; Higgins, L.M.; Hobbins, Ingraham, Jackson, Joyce, Kiesman, Kilcoyne, LaPlante, Lebowitz, Lehoux, Lewis, Livesay, Locke, MacBride, MacEachern, Macomber, Manning, Martin, A.C.; Martin, H.C.; Masterman, Matthews, K.L.; Matthews, Z.E.; Maybury, McCollister, McGowan, McHenry, McPherson, McSweeney, Melendy, Michael, Michaud, Mitchell, E.H.; Mitchell, J.; Moholland, Murphy, E.M.; Murray, Nadeau, Nelson, Norton, Paradis, E.J.; Paradis, P.E.; Parent, Paul, Perkins, Perry, Pines, Pouliot, Racine, Randall, Reeves, J.W.; Reeves, P.; Richard, Ridley, Roberts, Roderick, Rolde, Salsbury, Scarpino, Sherburne, Small, Smith, C.B.; Smith, C.W.; Soucy, Sproul, Stevenson, Stover, Strout, Swazey, Tamaro, Theriault, Thompson, Vose, Walker, Webster, Weymouth, Willey.

ABSENT—Benoit, Brown, K.L.; Carrier, Dillenback, Gwadosky, Hayden, Holloway, Jalbert, Kane, Mahany, Masterton, Murphy, T.W.; Rotondi, Seavey, Soule, Telow, Tuttle, Wentworth, Zirkilton, The Speaker.

PAIRED—Cote-Ketover; Hall-Kelleher.

Yes, 13; No, 113; Absent, 20; Vacant, 1; Paired, 4.

The SPEAKER Pro-Tem: Thirteen having voted in the affirmative and one hundred and thirteen in the negative with twenty being absent, one vacant and four paired, the motion does prevail.

Thereupon, the Majority "Ought to Pass" Report was accepted, the New Draft read once and assigned for Second Reading tomorrow.

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

Bill, "An Act to Provide Workers' Compensation Coverage to Emergency Medical Services' Persons" (S. P. 563)

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

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

By unanimous consent, ordered sent forthwith.

Unanimous Leave to Withdraw

Report of the Committee on Energy and Natural Resources reporting "Leave to Withdraw on Bill "An Act Concerning Open Burning When There is Snow on the Ground" (S. P. 127) (L. D. 314)

Report of the Committee on Local and County Government reporting "Leave to Withdraw" on Bill "An Act to Further Clarify the Right of Citizens to Petition for Special Town Meetings" (S. P. 450) (L. D. 1371)

Were placed in the Legislative Files without further action pursuant to Joint Rule 15 in concurrence.

Divided Report

Majority Report of the Committee on Judiciary on Bill "An Act Concerning Records of Arrests of Criminal Offenders" (S. P. 289) (L. D. 877) reporting "Ought to Pass" in New Draft (S. P. 599) (L. D. 1616)

Report was signed by the following members:
Senators:

COLLINS of Knox
VIOLETTE of Aroostook
TRAFTON of Androscoggin
— of the Senate.

Representatives:

FOSTER of Ellsworth
LIVESAY of Brunswick
JOYCE of Portland
HOBBINS of Saco
HAYDEN of Durham
CARRIER of Westbrook
— of the House.

Minority Report of the same Committee reporting "Ought Not to pass" on same Bill.

Report was signed by the following members:
Representatives:

REEVES of Newport
DRINKWATER of Belfast
BENOIT of South Portland
SOULE of Westbrook
— of the House.

Came from the Senate with the Majority "Ought to Pass" in New Draft report read and accepted and the New Draft passed to be engrossed.

In the House: Reports were read.

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

Mr. HOBBINS: Mr. Speaker, I move the acceptance of Majority "Ought to Pass" Report.

Thereupon, the Majority "Ought to Pass" Report was accepted, and the New Draft read once and assigned for Second Reading tomorrow.

Non-Concurrent Matter

Bill "An Act to Regulate Smoking on Public Conveyances in the State of Maine" (H. P. 829) (L. D. 1067) on which the Majority "Ought to Pass" in New Draft (H. P. 1211) (L. D. 1604) Report of the Committee on Health and Institu-

tional Services was read and accepted and the New Draft passed to be engrossed as amended by House Amendment "A" (H-240) in the House on May 16, 1983.

Came from the Senate with the Minority "Ought Not to Pass" Report of the Committee on Health and Institutional Services read and accepted in non-concurrence.

In the House:

The SPEAKER Pro-Tem: The Chair recognizes the gentlewoman from Pittston, Mrs. Reeves.

Mrs. REEVES: Mr. Speaker, I move that the House insist and ask for a Committee of Conference.

The SPEAKER Pro-Tem: The gentlewoman from Pittston, Mrs. Reeves, moves that the House insist and ask for a Committee of Conference.

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

Mr. MCCOLLISTER: Mr. Speaker, I request a Division.

The SPEAKER Pro-Tem: The Chair recognizes the gentleman from Farmington, Mr. Webster.

Mr. WEBSTER: Mr. Speaker, I move that we recede and concur.

Mrs. Reeves of Pittston requested a Division.

The SPEAKER Pro-Tem: The pending question before the House is on the motion of the gentleman from Farmington, Mr. Webster, that the House recede and concur. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

Mr. Brodeur of Auburn requested a roll call.

The SPEAKER Pro-Tem: 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 in favor of a roll call will vote yes; those opposed will vote no.

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

The SPEAKER Pro-Tem: The pending question before the House is on the motion of the gentleman from Farmington, Mr. Webster, that the House recede and concur. Those in favor will vote yes; those opposed will vote no.

ROLL CALL

YEA—Anderson, Armstrong, Bonney, Brown, D.N.; Cahill, Callahan, Carter, Cashman, Chonko, Conary, Connors, Davis, Day, Dillenback, Dudley, Foster, Greenlaw, Hickey, Higgins, L.M.; Holloway, Ingraham, Jackson, Joseph, Joyce, Kilcoyne, Lebowitz, Macomber, Martin, H.C.; Matthews, K.L.; Maybury, McCollister, McSweeney, Murphy, E.M.; Parent, Perkins, Randall, Reeves, J.W.; Ridley, Roberts, Roderick, Salsbury, Scarpino, Sherburne, Small, Smith, C.W.; Soucy, Sproul, Stevens, Stevenson, Stover, Strout, Swazey, Tamaro, Theriault, Walker, Webster, Weymouth, Willey, Zirkilton.

NAY—Ainsworth, Allen, Andrews, Baker, Beaulieu, Bell, Bost, Bott, Brannigan, Brodeur, Brown, A.K.; Carroll, D.P.; Carroll, G.A.; Clark, Connolly, Cooper, Cox, Crouse, Crowley, Curtis, Daggett, Dexter, Diamond, Drinkwater, Erwin, Gauvreau, Hall, Handy, Higgins, H.C.; Hobbins, Jacques, Kelly, Ketover, Kiesman, LaPlante, Lehoux, Lewis, Lisnik, Livesay, Locke, MacBride, MacEachern, Manning, Masterman, Matthews, Z.E.; McGowan, McHenry, McPherson, Melendy, Michael, Mitchell, E.H.; Mitchell, J.; Moholland, Murray, Nadeau, Nelson, Norton, Paradis, E.J.; Paradis, P.E.; Paul, Perry, Pines, Pouliot, Racine, Reeves, P.; Rolde, Smith, C.B.; Thompson, Vose.

ABSENT—Benoit, Brown, K.L.; Carrier, Cote, Gwadosky, Hayden, Jalbert, Kane, Kelleher, Mahany, Martin, A.C.; Masterton, Michaud, Murphy, T.W.; Richard, Rotondi, Seavey, Soule, Telow, Tuttle, Wentworth, The Speaker.

Yes, 59; No, 69; Absent, 22; Vacant, 1.

The SPEAKER: Fifty-nine having voted in the affirmative and sixty-nine in the negative, with twenty-two being absent and one vacant, the

motion does not prevail.

Thereupon, the House voted to insist and ask for a Committee of Conference. Sent up for concurrence.

Non-Concurrent Matter

Bill "An Act Regulating the Activities of Political Action Committees" (H. P. 306) (L. D. 365) (C. "A" H-174) and H. "A" H-236)

— In House, Passed to be Engrossed as amended by Committee Amendment "A" (H-174) and House Amendment "A" (H-236) on May 12, 1983.

— In Senate, Passed to be Engrossed as amended by Committee Amendment "A" (H-174) and House Amendment "A" (H-236) on May 13, 1983 in concurrence.

— Recalled from Engrossing Department pursuant to Joint Order (S. P. 560)

Came from the Senate passed to be engrossed as amended by House Amendment "A" (H-236) in non-concurrence.

In the House:

The SPEAKER Pro-Tem: The Chair recognizes the gentleman from Lewiston, Mr. Nadeau.

Mr. NADEAU: Mr. Speaker, I move that the House recede and concur.

The SPEAKER Pro-Tem: The gentleman from Lewiston, Mr. Nadeau, moves that the House recede and concur.

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

Mr. HIGGINS: Mr. Speaker, I would like to pose a question through the Chair. Why was this bill recalled from the Governor's desk? I am not in possession of House Amendment "A" so I can't kind of coordinate here. I see where we killed the Committee Amendment and replaced it with the House Amendment and I wondered if the good gentleman could explain to us why we had to recall it.

The SPEAKER Pro-Tem: The gentleman from Scarborough, Mr. Higgins, has posed a question through the Chair to anyone who may answer if they so desire.

The Chair recognizes the gentleman from Lewiston, Mr. Handy.

Mr. HANDY: Mr. Speaker, Ladies and Gentlemen of the House: The problem that occurred was, when the House Amendment was drafted some language that was in the original Committee Amendment was also included in that and it presented a problem for the Engrossing Department. There is no substantive change and the issue regarding the \$5,000 referendum ceiling has been eliminated and still is.

Thereupon, the House voted to recede and concur.

At this point, Speaker Martin returned to the rostrum.

Speaker MARTIN: The Chair would thank the gentleman from Fairfield, Mr. Gwadosky, for presiding.

Thereupon, the Sergeant-at-Arms escorted Mr. Gwadosky to his seat on the floor, amid the applause of the House, and Speaker Martin resumed the Chair.

Unanimous Leave to Withdraw

Representative Stover from the Committee on Agriculture on Bill "An Act Related to the Labeling of Milk Containers" (H. P. 972) (L. D. 1270) reporting "Leave to Withdraw"

Representative Brown from the Committee on Taxation on Bill, "An Act to Apply Mirror Reciprocity Against Jurisdictions that Assess 3rd Structure Motor Vehicle Taxes" (Emergency) (H. P. 974) (L. D. 1272) reporting "Leave to Withdraw"

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

Consent Calendar First Day

In accordance with House Rule 49, the fol-

lowing items appeared on the Consent Calendar for the First Day:

(H. P. 1037) (L. D. 1362) Bill "An Act to Permit Municipalities to Regulate Shellfish Harvesting Within the State Park Limits" Committee on Marine Resources reporting "Ought to Pass" as amended by Committee Amendment "A" (H-246)

(H. P. 676) (L. D. 859) Bill "An Act Relating to the Adjustment to the Penalty for Withdrawal from Current Use Tax Laws" Committee on Taxation reporting "Ought to Pass" as amended by Committee Amendment "A" (H-248)

No objections being noted, the above items were ordered to appear on the Consent Calendar of April 18, under the listing of Second Day.

Passed to be Engrossed

Bill "An Act to Provide for Annual Motor Vehicle Inspections" (S. P. 551) (L. D. 1601)

Was reported by the Committee on Bills in the Second Reading, read the second time, and Senate Paper was passed to be engrossed in concurrence.

The following enactors appearing on Supplement No. 3 were taken up out of order by unanimous consent:

An Act to Prohibit Residency Requirements for Municipal Employees (S. P. 61) (L. D. 167) (S. "A" S-107 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 Rockland, Mrs. Melendy.

Mrs. MELENDY: Mr. Speaker, Ladies and Gentlemen of the House: I move the indefinite postponement of this bill and all its accompanying papers.

The SPEAKER: The gentlewoman from Rockland, Mrs. Melendy, moves that L.D. 167 be indefinitely postponed. The gentlewoman may proceed.

Mr. Speaker, Ladies and Gentlemen of the House: I am opposed to L.D. 167 as it is presently proposed. As written, it will eliminate the ability of municipalities to require that the municipal employees reside within the town or city in which they work even though they have already accepted their jobs with this stipulation. Such residency requirements currently exist in a number of Maine communities. They have been adopted by ordinance policy and negotiated contracts throughout the state and for good reasons. When people live in a community in which they work, they are more apt to have pride in it and they will work harder to protect it. Everyone has heard the expression — "Why should I care, I only work here."

Safety reasons is another reason why municipalities may want firemen or policemen and other key people to live within the town or city so that they can have them close by in case of emergency.

In addition, if municipalities must pay the wages of these people, why shouldn't they be able to pay the wages to their own taxpayers? The state has no compelling interest in this issue and it is one best left to the people who are directly affected. A town or city ought to have the right to set its own labor policy through ordinance or whatever instrument it chooses.

The employment contract or relationship exists between the community and its employees. The state is not and should not be involved. Our communities and the people employed by them are perfectly capable of dealing with local residency requirements. The state should not insert itself into this type of purely local decision over local policy without at least giving the community time to negotiate in good faith for radius requirement.

For this reason, I ask that you vote with me to indefinitely postpone the bill and all its accompanying papers. I request a roll call.

The SPEAKER: The Chair recognizes the

gentlewoman from Portland, Mrs. Beaulieu.

Mrs. BEAULIEU: Mr. Speaker, Ladies and Gentlemen of the House: I would ask you to remember that this particular bill before you applies strictly to those who are involved in the collective bargaining process. Even if this bill were to pass, anyone who has taken a job under a current collective bargaining agreement that has stated that residency was a requirement will not be dismissed. They will have to live by the current collective bargaining process. However, when they do get to the point of re negotiating the contract, this bill says that they shall not enact in ordinance which requires employees to reside within the boundaries of a municipality as a condition of employment but they will and they may negotiate collective bargaining agreements or if the municipality doesn't have collective bargaining agreements, they may enact ordinances that require employees to reside within a specified distance.

Even with the passage of this bill, if a community chooses or opts to say that their Superintendent of Schools, their City Manager or someone that is listed as an official in an official capacity or in an administrative capacity in a community, they can, indeed, insist that they be residents of that community. But for the general employee sector where collective bargaining agreement occurs, they will not be able to negotiate that into a contract, the strict residency requirement. This bill was brought to our committee, we put a lot of careful, thoughtful thinking into this process, it is a unanimous "ought to pass" committee report from the committee. Not everybody is happy but it was delicately negotiated. We invited and had the participation of the MMA in the drafting of the legislation to make sure that we were not infringing any more on an employer rights than we would be on an employees rights so we ask that you do not indefinitely postpone the bill.

The SPEAKER: The Chair recognizes the gentleman from Auburn, Miss Lewis.

Miss LEWIS: Mr. Speaker, Ladies and Gentlemen of the House: As Representative Beaulieu has stated, this was a unanimous report from the Committee on Labor. In addition to what she has explained to you about the bill, if a particular community did want to establish an emergency response time limit, this would be possible. For example, if you wanted all of your firemen or policemen to live within a certain distance of the fire or police station, this would be allowed.

We were very concerned that in some of these communities that housing would not be available or whatever and that is why the entire committee agreed that a strict residency requirement was not a good policy.

The SPEAKER: A roll call has been requested. For the Chair to order it it must have the expressed desire of more than one-fifth of the members present and voting. All those in favor of a roll call will vote yes; those opposed will a vote no.

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

The SPEAKER: The pending question before the House is the motion of the gentlewoman from Rockland, Mrs. Melendy, that this bill and all its accompanying papers be indefinitely postponed. Those in favor will vote yes; those opposed will vote no.

ROLL CALL

YEA—Anderson, Bell, Bott, Brodeur, Brown, A.K.; Carroll, G.A.; Carter, Chonko, Connors, Cooper, Cox, Daggett, Dexter, Drinkwater, Dudley, Foster, Hall, Hickey, Higgins, H.C.; Jackson, Joseph, Joyce, Kelly, Kiesman, Kilcoyne, Lehoux, Livesay, Macomber, Manning, McColister, McGowan, McPherson, McSweeney, Melendy, Michaud, Mitchell, E.H.; Moholland, Murphy, E.M.; Nelson, Parent, Paul,