

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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STATE OF MAINE
One Hundred and Eleventh Legislature
First Regular Session
JOURNAL OF THE SENATE
Augusta, Maine
May 18, 1983
Senate called to order by the President.

Prayer by the Reverend Jack Shankel, District Superintendent of Maine, District Church of the Nazarene of Augusta.

REVEREND SHANKEL: Shall we pray! Our Father, You tell us in Your Word that praise exalteth a Nation and surely there is a disposition in our hearts this morning to offer to Thee our gratitude and our praise.

We are so grateful for health, and strength, and life itself, and the privilege of being able to work together in a free land. We're glad for the many manifold blessings of life that You have bestowed upon us; things that sometimes we do take for granted.

We thank You for a Nation called America, a free land. We thank You for the joys, and the freedoms, and the liberties that we experience and we believe, because of Thy love and grace.

We would offer to Thee a special prayer, this morning our Father, for the privilege of living in the State of Maine with all the wondrous beauty that surrounds us on every side and of this beauty, Our Father, not just that which is of the natural sense growing from the ground, the lakes and the streams; but for the beauty of the people that we associate with day in and day out. We thank you for the people of Maine.

We ask, our Father, that as we enter into the deliberations and the work and the responsibilities of this day that we might not only be cognizant of the fact that we are responsible to an electorate, but Father, we are ultimately responsible to Thee. May we do our work well as would be pleasing in Thy sight.

We would ask Your special blessing upon our Senate President, this morning as he guides this Body through the Legislative maze of parliamentary procedure. Give to him insight and understanding, wisdom. We recognize that all authority and all power ultimately cometh from God, and it is Thee ultimately with Whom we will have to do.

Give each Member of the Senate, today, insight and understanding and courage of their convictions. O God, we pray that when the final gavel is sounded and finally this session has paroled for the duration, and the final period has been penned and all of the annals of the Legislative Record, that we might be able to look back over the work that we have done, and may we be able to say that it was good and that we had a part in it. Bless to this end, we ask in faith and in confidence, even in the Name of Jesus, our Lord. Amend.

Reading of the Journal of yesterday.

Papers from the House Non-concurrent Matter

BILL, "An Act to Protect the Public from Unsafe Pesticide Use." (S. P. 553) (L. D. 1602)

(In Senate, May 16, 1983 Passed to be Engrossed.)

(Comes from the House Passed to be Engrossed as Amended by House Amendment "A" (H-245) in non-concurrence.)

The PRESIDENT: Is it the pleasure of the Senate to Recede and Concur with the House?

It is a vote.

Non-concurrent Matter

BILL, "An Act to Make Extreme Anger or Extreme Fear Brought About by Adequate Provocation an Affirmative Defense which Reduces Murder to Manslaughter, and to Create the Crime of Intentional or Knowing Manslaughter." (S. P. 447) (L. D. 1368)

(In Senate, May 9, 1983 Passed to be En-

grossed.)

(Comes from the House Passed to be Engrossed as Amended by House Amendment "A" (H-247) in non-concurrence.)

The PRESIDENT: Is it the pleasure of the Senate to Recede and Concur with the House? It is a vote.

Non-concurrent Matter

BILL, "An Act to Regulate Smoking on Public Conveyances in the State of Maine." (H. P. 829) (L. D. 1067)

(In House, May 16, 1983, Majority Ought to Pass in New Draft (H. P. 1211) (L. D. 1604) Report Read and Accepted and the New Draft Passed to be Engrossed as Amended by House Amendment "A" (H-240).)

(In Senate, May 17, 1983, Minority Ought Not to Pass Report Read and Accepted in non-concurrence.)

(Comes from the House, that Body Insisted and Asked for a Committee of Conference.)

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

Senator BUSTIN: Thank you, Mr. President, I move that the Senate Insist and Join in the Committee of Conference.

The PRESIDENT: The Senator from Kennebec, Senator Bustin moves that the Senate Insist and Join in a Committee of Conference. The Chair recognizes the Senator from Aroostook, Senator Violette.

Senator VIOLETTE: Mr. President, I would hope that we would oppose the motion to Insist and Ask for a Committee of Conference that we could Adhere and request a Division.

The PRESIDENT: A Division has been requested.

Will all those Senators in favor of voting to Insist and Join in a Committee of Conference, please rise in their places to be counted.

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

26 Senators having voted in the affirmative, and 6 Senators having voted in the negative, the motion to Insist and Join in a Committee of Conference, Prevailed.

Non-concurrent Matter

BILL, "An Act Concerning the Size of Exempt Lots Under the Subdivision Laws." (S. P. 462) (L. D. 1411)

(In Senate, May 16, 1983, Minority Ought Not to Pass Report Read and Accepted.)

(Comes from the House, the Majority Ought to Pass as Amended by Committee Amendment "A" (S-122) Report Read and Accepted and the Bill Passed to be Engrossed as Amended by Committee Amendment "A" (S-122) in non-concurrence.)

On motion by Senator Carpenter of Aroostook, Tabled for 1 Legislative day, pending Further Consideration.

Non-concurrent Matter

BILL, "An Act to Prohibit Smoking in Indoor Public Waiting Areas" (H. P. 597) (L. D. 741)

(In House, May 12, 1983 Majority Ought to Pass in New Draft under New Title. BILL, "An Act to Regulate Smoking in Public Buildings" (H. P. 1203) (L. D. 1597) Report Read and Accepted and the New Draft Passed to be Engrossed.)

(In Senate, May 16, 1983, Minority Ought Not to Pass Report Read and Accepted in non-concurrence.)

(Comes from the House, that Body Insisted.)

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

It is a vote.

House Paper

BILL, "An Act to Promote Efficient Completion of the State Weatherization Program" (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27) (Emergency) (H. P. 1207) (L. D. 1606).

Reference to the Committee on Energy and

Natural Resources suggested.

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

On motion by Senator Pray of Penobscot, Tabled until later in today's session, pending Reference.

Committee Reports House

Leave to Withdraw

The following Leave to Withdraw reports shall be placed in the legislative files without further action pursuant to Rule 15 of the Joint Rules:

BILL, "An Act Related to the Labeling of Milk Containers" (H. P. 972) (L. D. 1270)

BILL, "An Act to Apply Mirror Reciprocity Against Jurisdictions that Assess 3rd Structure Motor Vehicle Taxes" (Emergency) (H. P. 974) (L. D. 1272)

Ought to Pass as Amended

The Committee on Judiciary on BILL, "An Act to Discourage Frivolous Court Cases" (H. P. 759) (L. D. 990) Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-243).

Comes from the House with the Report Read and Accepted and the Bill Passed to be Engrossed as Amended by Committee Amendment "A" (H-243).

Which Report was Read.

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

Senator TRAFTON: Mr. President and Members of the Senate, if you'll bear with me a minute I simply want to clarify the Legislative intent as to L.D. 990.

This Bill has been reported out of the Judiciary Committee unanimously with Committee Amendment "A". It is the intention of the Committee in making this Amendment and reporting this Bill out favorably to provide that when a judge, justice, jury, fact-finder, returns a decision or verdict totally for the defendant on all claims of the plaintiff, that the court can then make a determination as to whether the plaintiff's claim was frivolous or instituted for the purpose of delay.

If the court finds that it was either of these, then the defendant can be reimbursed reasonable attorney's fees, costs and expenses. However, if the finder of fact finds with the plaintiff on one of the plaintiff's claims, but for the defendant on any other claims, that may have been assertive by the plaintiff, then it is our intention that the defendant not be entitled to seek attorney's fees or other costs or expenses at all.

I've risen simply to clarify this because there has been a little bit of confusion since the plaintiffs often present multiple claims simultaneously and the jury and other fact-finder may find for the plaintiff on some and for the defendant on some. I trust this answers any questions as to Legislative intent on this Bill. Thank you.

(Off Record Remarks)

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

Senator BALDACCI: Mr. President and Members of the Senate, I'd like to ask a question through the presiding officer to anyone that would care to answer it in regards to L. D. 990.

The two questions that I have would be that at the public hearing that the Judiciary Committee held on this Bill, were there many people that complained that there were a lot of frivolous cases being heard?

The second question would be are there a lot of frivolous cases that are being introduced in court that we would need this kind of law? It seems like it would sort of discourage anyone from going to court to present a case, because of this kind of retribution, if they did lose in all