

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

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Legislature*

OF THE

STATE OF MAINE

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each legislative session with mixed emotions as a lover should and although I felt very bad that I could no longer run for personal reasons for the legislature, I'm very grateful for the November 3rd events. It was disappointing to some, but, as far as I was concerned, it permitted me to continue my honeymoon with the legislature and although it may cease within the near future, I want you to know that it's been ten years of marital bliss. (Applause, the Members rising)

The SPEAKER: We are proceeding under Orders.

Mr. Gifford of Manchester presented the following Order and moved its passage:

WHEREAS, it is in the public interest that the Maine Employment Security Law effectively provide to as many as possible of the working men and women of Maine substantial protection against loss of income due to loss of employment for reasons beyond their control; and

WHEREAS, it is likewise in the public interest that the cost to contributing employers of providing, by law, such protection be competitive with the costs of similar employers in other states; and

WHEREAS, in Maine more so than in most of the states, a large segment of the work force is engaged in seasonal employment, and subject to regularly recurring seasonal unemployment, with consequent heavy demand upon the funds of the employment security program; and

WHEREAS, it is anticipated that within two years the U.S. Congress will enact legislation establishing Federal standards for the employment security programs of the states, which will require substantial revision by the Maine Legislature of the Maine Employment Security Law; now, therefore, be it

ORDERED, the Senate concurring, that there be created an interim joint committee to consist of 3 Senators appointed by the President of the Senate and 4 Representatives appointed by the Speaker of the House to study the

impact of seasonal employment, and of such Federal standards as may be imposed upon the states by the U.S. Congress, upon the employment security program and to report to the 103rd Legislature, or to the 102nd Legislature in special session if in its judgment earlier action is necessary or desirable, its recommendations for revision of the Maine Employment Security Law; and be it further

ORDERED, that there is appropriated to the Committee from the Legislative Appropriation the sum of \$1,000 to pay the expenses of the members of the Committee. (H. P. 1163)

The Order received passage and was sent forthwith to the Senate.

On motion of Mr. Levesque of Madawaska, it was

ORDERED, that the subordinate officers of the House which were appointed January 6, 1965 to serve for the present biennium be as follows: by the Speaker, a Secretary to the Speaker; by the Clerk, two Secretaries to the Clerk, a Secretary to the Assistant Clerk, Legislative Docket Clerk, Assistant Legislative Docket Clerk, a Journal Copy Clerk and an Amendment Clerk, and it is the intent of the Legislature that the retirement benefit provisions for such subordinate officers of the House shall apply to previous legislative sessions, beginning in 1947 and continuous thereafter, and

BE IT FURTHER ORDERED, that the Speaker and the Clerk respectively is hereby authorized to accept resignations and fill any vacancies of said subordinate officers during the biennium.

Emergency Measure Tabled Until Later in Today's Session

An Act to Correct Errors and Inconsistencies in the Public Laws (S. P. 414) (L. D. 1310)

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

The SPEAKER: The Chair recognizes the gentleman from Augusta, Mr. Lund.

Mr. LUND: Mr. Speaker and Members of the House: It is obvi-

ously too late to correct what I regard as a serious error we are making in this matter, and so I would simply move that this bill be passed to be enacted and I would like to speak to my motion.

The title of this bill is An Act to Correct Errors and Inconsistencies in the Public Laws. Now this means what it says. I would call your attention to the fact that those of you who have your amendments under S-288 you will find a little gem that got attached to this bill in the other House and I think it is not an error or inconsistency at all and it ought not to be on this bill.

This little gem is another of the pet projects of the Maine Trial Lawyers Association and I think it should be identified as such. I want to call the House's attention to it. This amendment would waive governmental immunity on the part of municipalities. This is a measure which I am sure could not have stood on its own feet in the House or the Senate, and I simply want to point it out as another instance of what I regard as the over-reaching efforts of certain members of the Bar in this Legislature.

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

Mr. RICHARDSON: Mr. Speaker, I would direct an inquiry to the gentleman from Augusta, Mr. Lund, as to the number.

The SPEAKER: The gentleman from Cumberland, Mr. Richardson, poses a question to the gentleman from Augusta, Mr. Lund, through the Chair, and the gentleman may answer if he so desires.

Mr. LUND: This is filing S-288.

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

Mr. RICHARDSON: Mr. Speaker, an inquiry, is it necessary to suspend the rules and move reconsideration in order to indefinitely postpone Senate Amendment "A"?

The SPEAKER: That is correct.

Mr. RICHARDSON: Mr. Speaker, I move the rules be suspended for the purpose of reconsideration.

The SPEAKER: The gentleman from Cumberland, Mr. Richardson,

now moves that the rules be suspended.

Mr. Levesque of Madawaska requested a division.

The SPEAKER: All those in favor of the rules being suspended will kindly rise and remain standing until the monitors have made and returned the count.

A division of the House was had.

Fifty-nine having voted in the affirmative and sixty-six having voted in the negative, the motion did not prevail.

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

Mr. RICHARDSON: Mr. Speaker and Members of the House: The Maine Trial Lawyers Association came before this legislature with several pieces of legislation which you have heard discussed over and over again. There was a bill to abolish the \$30,000 limitation on death actions; there was a bill to remove charitable immunities. This is an underhanded effort to violate an agreement. The agreement was made among the members of the Judiciary Committee that this matter of governmental immunity would be submitted to a study group which would draft meaningful and intelligent legislation and report back. This was a view which I shared, the necessity for a study that is, with Senator Violette and other members of the Committee. Now I say that this is the most despicable, underhanded attempt I have ever heard of, it violates any semblance of logic. I am literally amazed that you would not permit me to reconsider or to suspend the rules to reconsider this. This is not a party issue. This is a question of whether or not the counties and the towns and the State of Maine can be given a reasonable opportunity to procure insurance to defend themselves against the risk. This bill will put the State of Maine and the other governmental entities underneath it, such as the towns and the counties, in a state of chaos.

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

Mr. BRENNAN: Mr. Speaker, this amendment simply states that if a town has insurance on their motor vehicles, the insurance carrier is estopped, it cannot assert the defense of sovereign immunity. It just takes the insurance industry out of the enviable position of having their cake and eating it too. Now, if towns or states or quasi governmental agencies pay premiums, these insurance companies have to pay claims. That is all that this does.

The SPEAKER: The Chair recognizes the gentleman from Old Orchard Beach, Mr. Danton.

Mr. DANTON: Mr. Speaker, Ladies and Gentlemen of the House: I am very much surprised at the gentleman from Cumberland for coming out and making those remarks. To my knowledge, and I am House Chairman of the Judiciary, no such an agreement existed. And as far as I am concerned, his remarks are out of order.

Now this amendment that he speaks of, this amendment as I understand has been approved by the Maine Municipal Executive Secretary and if there is anyone in the Third Body that protects towns and communities and municipalities it's that gentleman. What does this amendment say? It says that when towns and communities have insurance that the insurance companies can't set up an immunity. That's all it says, nothing else; and this is not an underhanded play to get at the communities. It is not an underhanded play of lawyers. Thank you.

The SPEAKER: The Chair recognizes the gentleman from Kingman Township, Mr. Starbird.

Mr. STARBIRD: Mr. Speaker, it is probably a good thing that I wasn't allowed to speak when I first got up. Perhaps I can say what I want to say in calmer language now. What Mr. Richardson just said by the use of despicable, underhanded, to me is a direct attack on Senator Stern's character and I think that because I noticed Senator Stern's name is attached to this amendment, I think he

owes Mr. Stern an apology. Thank you.

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

Mr. RICHARDSON: Mr. Speaker, without reference to the question of whether or not I owe my good friend, Senator Stern, an apology, the point of the matter is this House has previously adopted without dissent from any member of the Judiciary Committee, the House Chairman, the gentleman from Old Orchard Beach, Mr. Danton, was here, as were the other members of the Judiciary Committee. There was a discussion back of this chamber at the time that Committee Report "B" was accepted. There was a separate bill, it was discussed on the merits, it was enacted, and now we are seeing this attempt to attach this law to a bill which is vital, an omnibus bill. I do not retract any statement that I made.

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

Mr. BISHOP: Mr. Speaker, Ladies and Gentlemen of the House: I was one of those who originally opposed this principle, but the thing has been done. It got by me. I was asleep and I think everyone else who may now object was also asleep. We certainly can't defeat this bill and this amendment does no great harm. As has been explained here, it only applies if there is insurance and in that event only to the limit of the insurance. It has been approved I am told by the Maine Municipal Association who represent those mostly concerned, and I think we are making a lot of to-do about nothing.

The SPEAKER: Is it now the pleasure of the House that this bill be passed to be enacted? This being an emergency measure under the Constitution it requires for its final enactment the affirmative vote of two-thirds of the entire elected membership of the House. All those in favor of this bill being passed to be enacted as an emergency measure will kindly rise and remain standing

until the monitors have made and returned the count.

A division of the House was had.

Mr. Jalbert of Lewiston requested a roll call.

The SPEAKER: The gentleman from Lewiston, Mr. Jalbert, now moves that when the vote is taken that it be taken by the yeas and nays. In order for the Chair to entertain the motion for the yeas and nays, it must have the expressed consent of one-fifth of the members present. All those in favor of the vote being taken by the yeas and nays will kindly rise and remain standing until the monitors have made and returned the count.

A sufficient number arose.

The SPEAKER: Obviously more than one-fifth having arisen, the yeas and nays are in order.

On motion of Mr. Levesque of Madawaska, tabled pending enactment and assigned for later in today's session.

Passed to Be Enacted

An Act relating to Testamentary Shares of Omitted Children (S. P. 287) (L.D. 849)

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

The SPEAKER: The Chair recognizes the gentleman from Houlton, Mr. Berman.

Mr. BERMAN: Mr. Speaker, Members of the House: This subject, An Act relating to Testamentary Shares of Omitted Children, may seem a little on the dull side, but it is important, and a day or so ago I had a note from my good friend the conscientious gentlewoman from Guilford, Mrs. White, who asked me, what is the background of L. D. 849? Well, I would say this.

At the present time, a child who may be born after his father dies, which child the parent did not know about at the time he made his will, ordinarily shares an inheritance. Now this present law is humane in this regard because it protects the posthumous child or children. For example, a young man may marry

and acquire some property and then he is killed in an accident. And his widow later gives birth to his child or perhaps his twins and this posthumous child or these posthumous twins were not mentioned in the will because the father didn't know about them.

This is something that can be easily overlooked. The young widow remarries and the posthumous child or the posthumous children will have absolutely no inheritance if this bill is passed and I think it is a shame to deny posthumous children inheritance from their father because their possibility may have been overlooked when the will is drafted. Now some of you who have married sons who have worked hard to acquire property and who have not yet been blessed by children will be affected by this bill because, heaven forbid anything should happen to them, and your son was killed and your former daughter-in-law later gave birth to your own grandchildren and subsequently remarried, your grandchildren would not get a nickel of your son's property if your son did not provide for posthumous children in the will, and that is exactly what section 2 of this bill would deny to your children and grandchildren.

Now at the present time the Maine law is very sound and these posthumous children who aren't mentioned in the will are protected and that is why I believe this bill ought not to pass. So I am very glad that the gentlewoman from Guilford inquired what was the background of this bill. I am sorry that I wasn't as strong about it in committee as I am now, because I think at that time I may have been the only one who said we should be very careful before we pass out this bill and I am really just looking out for the interests of these unborn children and grandchildren and I think you should be aware of this situation and I would like to move indefinite postponement because I don't like to see any posthumous children unintentionally disinherited by operation of law and I would