

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

***One Hundred and Eleventh
Legislature***

OF THE

STATE OF MAINE

Volume I

FIRST REGULAR SESSION

December 1, 1982 to May 13, 1983

ing up the books and I think we are cluttering up the Constitution in an attempt to baffle the people into believing that we were wrong to begin with—or they were wrong to begin with.

The SPEAKER: The Chair recognizes the gentlewoman from Vassalboro, Mrs. Mitchell.

Mrs. MITCHELL: Mr. Speaker, Men and Women of the House: I am sorry to prolong the debate this late in the afternoon, but I do hope that this issue will not be confused with the initiative process that took place this fall. I think it is much broader than that, I think we are looking forward in time. It has nothing to do with how much time people now have to get signatures to bring in a petition process, because this could happen with a law that started right here in this body. It is much broader than that, and I am sorry that the gentleman from Scarborough thinks it has only to do with that particular issue. It clearly is much broader than that.

It was brought about by that issue, I admit, because, frankly, I did not realize before that this legislature could tax retroactively.

The SPEAKER: The Chair recognizes the gentleman from Houlton, Mrs. Ingraham.

Mrs. INGRAHAM: Mr. Speaker, Ladies and Gentlemen of the House: This is a rhetorical question—what makes us think we are any smarter than any future legislators? If it is bad, they won't pass it.

Mr. Higgins of Scarborough requested a roll call vote.

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 gentlewoman from Vassalboro, Mrs. Mitchell, that the Majority "Ought to Pass" Report be accepted. All those in favor will vote yes; those opposed will vote no.

ROLL CALL

YEA—Ainsworth, Allen, Andrews, Beaulieu, Benoit, Bost, Brannigan, Brodeur, Brown, A.K.; Carroll, D.P.; Carroll, G.A.; Carter, Chonko, Connolly, Cote, Cox, Crouse, Crowley, Daggett, Diamond, Dudley, Erwin, Gauvreau, Gwadnosky, Hall, Handy, Hickey, Higgins, H.C.; Jacques, Joseph, Kelleher, Kelly, Ketover, Kilcoyne, LaPlante, Lehoux, Lisnik, MacEachern, Macomber, Manning, Martin, A.C.; Martin, H.C.; Matthews, Z.E.; McCollister, McGowan, McHenry, Melendy, Michael, Michaud, Mitchell, E.H.; Mitchell, J.; Moholland, Murray, Nadeau, Nelson, Norton, Paradis, P.E.; Perry, Pouliot, Racine, Richard, Ridley, Smith, C.B.; Soucy, Soule, Stevens, Swazey, Tammaro, Theriault, Thompson, Vose, Willey, The Speaker.

NA—Anderson, Armstrong, Bell, Bonney, Bott, Brown, D.N.; Brown, K.L.; Cahill, Callahan, Conary, Connors, Curtis, Day, Dexter, Dillenback, Drinkwater, Foster, Greenlaw, Higgins, L.M.; Holloway, Ingraham, Jackson, Joyce, Kiesman, Lebowitz, Lewis, Livesay, MacBride, Masterman, Masterton, Matthews, K.L.; Maybury, McPherson, McSweeney, Murphy, E.M.; Murphy, T.W.; Paradis, E.J.; Perkins, Pines, Randall, Reeves, J.W.; Roderick, Salsbury, Scarpino, Seavey, Sherburne, Small, Smith, C.W.; Sproul, Stevenson, Stover, Telow, Walker, Webster, Wentworth, Weymouth, Zirkilton.

ABSENT—Baker, Carrier, Cashman, Clark, Cooper, Davis, Hayden, Hobbins, Jalbert, Kane, Locke, Mahany, Parent, Paul, Reeves, P.; Roberts, Rolde, Rotondi, Strout, Tuttle.

Yes, 73; No, 57; Absent, 20; Vacant, 1.

The SPEAKER: Seventy-three having voted in the affirmative and fifty-seven in the negative, with twenty being absent and one vacant, the motion does prevail.

Thereupon, the Resolution was read once

and assigned for second reading tomorrow.

Consent Calendar

First Day

(S. P. 113) (L. D. 265) Bill "An Act to Change the Deadline for Holding Municipal Caucuses" — Committee on Election Laws reporting "Ought to Pass" as amended by Committee Amendment "A" (S-111)

(H. P. 1101) (L. D. 1452) Bill "An Act Relating to the Authority of the County Commissioners over the Operation of all County Offices" — Committee on Local and County Government reporting "Ought to Pass" as amended by Committee Amendment "A" (H-233)

(H. P. 812) (L. D. 1052) Bill "An Act Concerning Standards for Rejection of Altered Vehicles" Committee on Transportation reporting "Ought to Pass" as amended by Committee Amendment "A" (H-235)

(H. P. 951) (L. D. 1232) Bill "An Act to Establish and Amend the Air Quality Standards and Establish a Chromium Emission Standard" — Committee on Energy and Natural Resources reporting "Ought to Pass" as amended by Committee Amendment "A" (H-237)

There being no objections, the above items were ordered to appear on the Consent Calendar of Friday, May 13, under the listing of Second Day.

Consent Calendar

Second Day

(H. P. 1109) (L. D. 1462) Bill "An Act to Clarify Method of Payment of Salaries to County Commissioners"

(H. P. 827) (L. D. 1085) Bill "An Act to Amend the Child and Family Services and Child Protection Act" (C. "A" H-232)

There being no objections, the above items were passed to be engrossed or passed to be engrossed as amended and sent up for concurrence.

Passed to be Engrossed

Bill "An Act Relating to the Appointment of County Officials" (H. P. 1200) (L. D. 1594)

Bill "An Act to Provide a Statement of Birth Parents' Identity for Adoptees" (H. P. 1202) (L. D. 1596)

Were reported by the Committee on Bills in the Second Reading, read the second time, passed to be engrossed and sent up for concurrence.

Amended Bill

Bill "An Act Relating to Authority of the Land Use Regulation Commission Over Organized Municipalities" (S. P. 302) (L. D. 916) (S. "A" S-110)

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

Passed to Be Enacted

Emergency Measure

An Act to Clarify the Fuel Charges of Electric Utilities (H. P. 717) (L. D. 908) (C. "A" H-195)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure and a two-thirds vote of all the members elected to the House being necessary, a total was taken. 116 voted in favor of same and one against, and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

An Act to Increase the Borrowing Capacity of the Winterport Water District (H. P. 988) (L. D. 1293) (C. "A" H-193)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure and a two-thirds vote of all the members elected to the House being necessary, a total was taken. 118 voted in favor of same and 2 against, and accordingly the Bill was passed to be enacted,

signed by the Speaker and sent to the Senate.

An Act to Reestablish the Energy Testing Laboratory of Maine as a Part of Southern Maine Vocational-Technical Institute (H. P. 1104) (L. D. 1492) (S. "A" S-97)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 118 voted in favor of same and none against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

Enactor

Tabled and Assigned

An Act to Create a Student Seat on the Board of Trustees of the University of Maine (H. P. 24) (L. D. 29) (C. "A" H-177; S. "A" S-91)

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

The SPEAKER: The Chair recognizes the gentleman from Kennebunk, Mr. Murphy.

Mr. MURPHY: Mr. Speaker, Men and Women of the House: I hesitate again to rise on this bill knowing full well that every Representative who has a college constituency will follow. I didn't know until just the other day just how many there were.

I would ask you today to vote no on enactment for the following reasons: Because it creates a special two-year term rather than the regular seven-year term for trustees. It limits the Governor to selecting a nominee from a list of five candidates and only five candidates.

We talked the other day about the problem of defining a permanent resident, that that can be done in one or two minutes. We talked the other day also about establishing a quota, a special interest, on that board of trustees when every trustee should be attempting to represent all the citizens of the State of Maine.

The other day, even the students were divided on this issue. We heard from the proponents that we should do this because some other states do it. We actually even saw the trustees kicked around a little bit the other day. They were getting kicked around so much I almost thought they were state legislators.

We heard reference made to a threat to removing the subcommittees if a student was appointed to the board of trustees. And one of the proponents of this bill, I called a leader of the student government and put that question to that individual point blank, and the answer was an emphatic no.

I remind the members of this House that current law, there is no prohibition against a student now serving as a trustee. None have been recently appointed because none have applied. We asked the proponents and we asked students that were at the hearing if they knew of anyone that applied, and we got back hems and haws and shuffling of fees. We followed that up by a check with the Governor's office, and they indicated as well that no students had applied until the last week or week and a half, and you can't appoint someone, you can't even consider someone unless their name is placed there, before the Governor's Office, for consideration. And my feeling, men and women of this House, any interested student that would like to serve all the citizens of the State of Maine on that board of trustees should apply and be processed the same way as any other citizen of this state. Only through that type of full process will that seat mean anything.

Those of us, the few of us, who have been fighting this bill haven't lobbied you in the hall, we haven't lobbied you directly in terms of asking for your support as a favor or as a sign of friendship because we trust today in your good judgment to defeat this bill.

The SPEAKER: The Chair recognizes the gentleman from Washburn, Mr. Crouse.

Mr. CROUSE: Mr. Speaker and Members of

the House: In deference to my Chair who is not here today, I would like to have this item tabled two legislative days. I would like to have somebody table this for me.

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

**Enactor
Indefinitely Postponed**

RESOLVE, Providing for a Study to Determine the Need for a Statewide Task Force on Arson (H. P. 1173) (L. D. 1556)

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

The **SPEAKER**: The Chair recognizes the gentleman from Bangor, Mr. Kelleher.

Mr. **KELLEHER**: Mr. Speaker, could some wise member of this House tell us what we need this study for, and if we do need it, what the cost of it is going to be?

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

The Chair recognizes the gentleman from Brewer, Mr. Cox.

Mr. **COX**: Mr. Speaker, Ladies and Gentlemen of the House: There was a bill that came before the Legal Affairs Committee which proposed that we set up a task force on arson. The funding that was proposed in the bill was not, in our judgment, anywhere near adequate to do the work of the task force. Furthermore, we needed to do more study to determine whether this task force on arson was required.

The fiscal note on the bill, the appropriation, would be \$1,500. We assume that that would be enough for a couple of hearings or study sessions during the summer for the committee to determine the need for this state-wide task force on arson.

The **SPEAKER**: The Chair recognizes the gentleman from Bangor, Mr. Kelleher.

Mr. **KELLEHER**: Mr. Speaker, I move that this bill and all its accompanying papers be indefinitely postponed.

The **SPEAKER**: The Chair recognizes the gentleman from Lewiston, Mr. Nadeau.

Mr. **NADEAU**: Mr. Speaker and Members of the House: Just in the way of explanation—the original bill was my bill and the purpose behind it was to put together a task force for the purpose of reviewing the state's response to the arson problem in Maine, not primarily to direct itself to any current problems in the system but in this area there are new ways of combating the problem being developed every day in one state or another, new and creative ways of dealing with the problem. Obviously, arson is a dangerous and potentially life-threatening occurrence in this state, and it was simply an attempt to bring together law enforcement officials, prosecutors, fire fighters at the local level, both volunteer and full-time, and just bring this expertise together to share their ideas on how we can more effectively deal with the problem.

That was my original intent. The original fiscal note, I think, was \$1,500 to cover the cost of travel and so forth.

Subsequently, the committee decided that they wanted to study the study. Personally, I didn't think that was necessary but the committee collectively thought that they would like to have a little more information in regard to the need for a look at the arson problem in Maine. Therefore, I really had no choice in the matter and said that would be fine with me. But, I do think that the arson problem in Maine merits a great deal of attention not only in terms of the life-threatening potential but the cost is astronomical with the national problem that isn't going to go away. Much of the information I received was from the National Legislative Conference on Arson, of which I am a delegate, and these task forces in other states, I think there presently are about 27 states that have on-going task forces or advisory commit-

tees that deal with the problem.

So in the way of explanation, that was my intent, ladies and gentlemen. If the committee feels they want to study the need for a study, I personally will vote for the recommendation, I guess, and if we are not successful, I'm certainly going to attempt to pursue it in some way because it is a problem that ought to be looked into and I think ought to be looked into as soon as possible.

The **SPEAKER**: The Chair recognizes the gentleman from Livermore Falls, Mr. Brown.

Mr. **BROWN**: Mr. Speaker and Members of the House: It is always a pleasure to get up at least somewhere behind Mr. Kelleher from Bangor, and in this case I agree with him. A study of a study sounds to me like paralysis through analysis.

This is one of those issues where both police officials in my area and fire officials have said to me, Darryl, for gosh sakes, what are you doing down there? Let's kill this turkey.

The **SPEAKER**: The Chair will order a vote. The pending question is on the motion of the gentleman from Bangor, Mr. Kelleher, that this Resolve and all its accompanying papers be indefinitely postponed in non-concurrence. All those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

85 having voted in the affirmative and 30 having voted in the negative, the motion did prevail.

Sent up for concurrence.

Passed to be Enacted

An Act to Establish a Workers' Compensation Hearing Exemption for Agricultural and Aquacultural Employers' Liability Insurance Claim Disputes (S. P. 358) (L. D. 1079) (S. "A" S-98)

Was 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.

Tabled and Assigned

An Act Relating to Drinking in Public (S. P. 420) (L. D. 1273) (H. "A" H-201 to C. "A" S-86)

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

The **SPEAKER**: The Chair recognizes the gentlewoman from Waterville, Mrs. Joseph.

Mrs. **JOSEPH**: Mr. Speaker, I would like to pose a question through the Chair. I would like to know what the purpose of this piece of legislation is and ask somebody to explain it to me, please.

The **SPEAKER**: The gentlewoman from Waterville, Mrs. Joseph, has posed a question through the Chair to anyone who may care to answer.

The Chair recognizes the gentleman from Brewer, Mr. Cox.

Mr. **COX**: Mr. Speaker, Ladies and Gentlemen of the House: I think I congratulate Representative Joseph for asking this question. I think it is probably just as well that the House have an explanation on what this bill does.

The original bill would have removed the requirement for a policeman to give a warning before anyone could be arrested for public drinking. The committee amendment put the warning back in. We were not prepared to have the police simply arrest someone who has a drink in his or her hand without a warning.

Other changes that are made by the bill that are left, one removes the authority of a person who is in charge of a public place to grant permission to drink in the public place. The concern that was raised here was that in the case of school, if the janitor happened to be on the premises, he could give people permission to drink on the premises. This is one of the things that the bill does.

The major thing that this bill does that changes the public drinking law is that it allows the attorney for the state to elect whether to pro-

ceed under a criminal proceeding or a civil proceeding in these cases. It sets up a few guidelines that the attorney can go by in deciding whether to pursue a civil offense or a criminal offense. For one thing, take into consideration whether the person had previously been convicted or adjudged under a civil violation of the public drinking law or had refused to cease his public drinking when warned by the officer, or during the course of his public drinking had committed some other violation which would perhaps guide the state's attorney into deciding whether to proceed under a civil or a criminal proceeding.

These are just about all the changes, except the statement of fact tries to clarify that if the person who has a drink in his hand after being warned by the police officer, that he is guilty of drinking after the police officer has warned him. There has always been a question raised as to whether this meant that the police officer had to wait a period of time and it still is not spelled out in the law, but that is the intent of the law, that it is a separate offense if the person refuses to dispose of his drink after he has been warned by the officer.

I hope that either confuses people beyond redemption or explains the changes in this bill.

On motion of Mrs. Mitchell of Vassalboro, tabled pending passage to be enacted and tomorrow assigned.

An Act to Require Physicians, Chiropractors and Podiatrists to Post their Policy regarding their Acceptance of Medicare Assignments (S. P. 524) (L. D. 1542)

An Act Concerning State Assistance to Areas Affected by Non-English Speaking Immigrants and Refugees (S. P. 532) (L. D. 1555)

An Act to Revise the Mexico Water District Charter (H. P. 422) (L. D. 505) (C. "B" H-196)

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.

Tabled and Assigned

An Act to Remove the Requirement that Farm Vehicles have a Fuel Use Decal (H. P. 427) (L. D. 509) (C. "A" H-197)

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

On motion of Mr. Lisnick of Presque Isle, tabled pending passage to be enacted and tomorrow assigned.

An Act to Amend Certain Provisions of the Laws Defining Sex Offenses (H. P. 864) (L. D. 1113) (C. "A" H-204)

An Act to Clarify the Rights of Putative Fathers in Adoption Proceedings (H. P. 866) (L. D. 1114)

An Act Concerning Confidentiality of Information (H. P. 998) (L. D. 1306) (S. "A" S-100)

An Act to Make Corrections in the Maine State Housing Authorities Law (H. P. 1053) (L. D. 1397) (H. "B" H-207 to C. "A" H-163)

An Act Pertaining to Directions from Interstate 95 to the Maritime Provinces (H. P. 1175) (L. D. 1563)

An Act to Amend the Law Governing Traveling Shows (H. P. 1179) (L. D. 1569)

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.

The Chair laid before the House the following matter:

Bill "An Act to Create a Maine Potato Dealers' Licensing Board" (H. P. 1206) which was tabled and later today assigned pending reference (Committee on Business Legislation was suggested)

On motion of Mr. Brannigan, the Bill was referred to the Committee on Agriculture, ordered printed and sent up for concurrence.