

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

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

INDEX

FIRST CONFIRMATION SESSION

August 4, 1983

INDEX

FIRST SPECIAL SESSION

September 6 and 7, 1983

INDEX

SECOND CONFIRMATION SESSION

September 23, 1983

INDEX

THIRD CONFIRMATION SESSION

October 28, 1983

INDEX

SECOND SPECIAL SESSION

November 18, 1983

INDEX

Senate's attention to the second matter of Unfinished Business:

RESOLVE, Authorizing the Conveyance of a Certain Unused Building and Land Owned by the State to the Town of Wells for \$10,000 (H. P. 1024) (L. D. 1325)

Tabled—June 16, 1983 by Senator PRAY of Penobscot.

Pending—Passage to be Engrossed.

(In House March 29, 1983 Passed to be Engrossed)

On motion by Senator Pray of Penobscot, Tabled for 1 Legislative Day, pending Passage to be Engrossed.

Out of Order and Under Suspension of the Rules, the Senate voted to consider the following:

Enactors

The Committee on Engrossed Bills reported as truly and strictly engrossed the following:

An Act to Provide Workers' Compensation Coverage to Emergency Medical Services' Persons (S. P. 563) (L. D. 1637)

An Act to Revise the General Assistance Laws (S. P. 626) (L. D. 1764)

Which were Passed to be Enacted, and having been signed by the President, were by the Secretary presented to the Governor for his approval.

An Act Affecting the Organization of the Department of Business Regulation (S. P. 541) (L. D. 1580)

On motion by Senator Najarian of Cumberland, placed on the Special Appropriations Table, pending Enactment.

An Act to License Home Health Care Services (S. P. 527) (L. D. 1550)

On motion by Senator Najarian of Cumberland, placed on the Special Appropriations Table, pending Enactment.

Emergency

An Act to Make Corrections of Errors and Inconsistencies in the Laws of Maine (S. P. 622) (L. D. 1760)

Emergency

An Act to Delay the Effective Date of the Property Tax Exemption for Naturally Occurring Metallic Minerals (S. P. 629) (L. D. 1769)

Emergency

An Act to Conform the Meaning of Approved Training in the Employment Security Law to Federal Definitions (H. P. 1331) (L. D. 1771)

These being emergency measures and having received the affirmative votes of 28 Members of the Senate, with No Senators having voted in the negative, were Passed to be Enacted, and having been signed by the President, were by the Secretary presented to the Governor for his approval.

Out of Order and Under Suspension of the Rules, the Senate considered the following:

Committee Reports

House

Ought to Pass in New Draft

The Committee on State Government on BILL, "An Act to Permit an Air National Guard Officer to be Eligible to Serve as Deputy Adjutant General" (H. P. 350) (L. D. 408) Reported that the same Ought to Pass in New Draft under same title (H. P. 1338) (L. D. 1778)

Comes from the House, the Report Read and Accepted and the New Draft Passed to be Engrossed.

Which Report was Read and Accepted in concurrence.

The Bill, in New Draft, Read Once.

The PRESIDENT: Is it the pleasure of the Senate that Under Suspension of the Rules, that L.D. 1778 be given its Second Reading by Title Only?

It is a vote.

Under Suspension of the Rules, the Bill Read a Second Time and Passed to be Engrossed, in

concurrence.

Ought to Pass in New Draft under New Title

The Committee on Appropriations and Financial Affairs on BILL, "An Act Making Additional Allocations for the Expenditures of State Government in Response to United States Emergency Jobs and Humanitarian Aid Program for the Fiscal Years Ending June 30, 1983, 1984, and 1985" (Emergency) (H. P. 1289) (L. D. 1709) Reported that the same Ought to Pass in New Draft under New Title, BILL, "An Act Making Additional Allocations for the Expenditures of State Government in Response to United States Emergency Jobs and Humanitarian Aid Programs for the Fiscal Year Ending June 30, 1984" (Emergency) (H. P. 1333) (L. D. 1773)

Comes from the House with the Report Read and Accepted and the New Draft Passed to be Engrossed.

Which Report was Read and Accepted in concurrence.

The Bill, in New Draft Under New Title, Read Once.

The PRESIDENT: Is it the pleasure of the Senate that Under Suspension of the Rules, that L.D. 1773 be given its Second Reading by Title Only?

It is a vote.

Under Suspension of the Rules, the Bill Read a Second Time and Passed to be Engrossed, in concurrence.

The Committee on Appropriations and Financial Affairs on BILL, "An Act to Appropriate Sohio Oil Company Overcharge Funds to the Energy Resources Development Fund" (H. P. 1010) (L. D. 1335) Reported that the same Ought to Pass in New Draft under New Title, BILL, "An Act to Appropriate Oil Company Overcharge Funds" (H. P. 1334) (L. D. 1774)

Comes from the House with the Report Read and Accepted and the New Draft Passed to be Engrossed.

Which Report was Read and Accepted in concurrence.

The Bill, in New Draft under New Title, Read Once.

The PRESIDENT: Is it the pleasure of the Senate that Under Suspension of the Rules, that L.D. 1774 be given its Second Reading by Title Only?

It is a vote.

Under Suspension of the Rules, the Bill Read a Second Time and Passed to be Engrossed, in concurrence.

Committee Reports

House

Divided Report

The Majority of the Committee on Taxation on BILL, "An Act Providing for Administrative Changes in Maine Tax Laws" (H. P. 1054) (L. D. 1398)

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-408)

Signed:

Senators:

WOOD of York
TWITCHELL of Oxford
TEAGUE of Somerset

Representatives:

HIGGINS of Portland
ANDREWS of Portland
CASHMAN of Old Town
KANE of South Portland
KILCOYNE of Gardiner
MCCOLLISTER of Canton

The Minority of the same Committee on the same subject matter Reported that the same Ought to Pass as Amended by Committee Amendment "B" (H-409)

Signed:

Representatives:

BROWN of Bethel
DAY of Westbrook

INGRAHAM of Houlton
MASTERMAN of Milo

Comes from the House with the Majority Ought to Pass as Amended Report Read and Accepted and the Bill Passed to be Engrossed as Amended by Committee Amendment "A" (H-408) as Amended by House Amendment "A" (H-412) thereto.

Which Reports were Read.

The PRESIDENT: The Chair recognizes the Senator from York, Senator Wood.

Senator WOOD: I would move that the Senate Accept the Majority Ought to Pass Report, as amended by Committee Amendment "A".

The PRESIDENT: The Senator from York, Senator Wood, moves that the Senate Accept the Majority Ought to Pass, as amended, Report of the Committee.

The Chair recognizes the Senator from Knox, Senator Collins.

Senator COLLINS: Mr. President, I note the title of this Bill as "Providing for Administrative Changes." I am not an authority on the Bill but I understand that it, also, includes an important change in the corporation of our multi-state corporations sometimes described as the unitary tax and I wonder if someone on the Committee would explain to us how that changes our present system of taxation.

The PRESIDENT: The Senator from Knox, Senator Collins has posed a question through the Chair to any member of the Taxation Committee who may respond if they so desire.

The Chair recognizes the Senator from York, Senator Wood.

Senator WOOD: Mr. President and Members of the Senate, this Bill does include clarifying language to clarify the scope of the unitary or combined reporting method; it is not a unitary tax, it is simply a method of apportioning what is appropriately within the jurisdiction of the State to collect.

There has been some question in the past whether Maine being a UDITPA State has the ability to levy this or use this method, most all UDITPA states with the exception of Maine have used this method. We have used it in the past in several instances; in fact, there is a court case that is in Washington County where this authority has been further clarified and it's simply clarifying language to allow the State to use combined reporting or the unitary method in apportioning multi-national corporate tax.

The PRESIDENT: The Chair recognizes the Senator from Knox, Senator Collins.

Senator COLLINS: Mr. President, I'm going to ask for a Division on the Adoption of the Committee Report. I was reading earlier in the day a report from the state of Minnesota which adopted this technique in 1981 and in the report, the Governor of that state, Governor Perpich is asking his Legislature to repeal that method because he finds that it is driving industries out of his state.

I would be interested in two further answers if they should be available from the Committee on Taxation: One is whether or not this Bill has been amended so as to take care of the problems of the Fraser Paper Company? The other is, how much increase or decrease in revenue may we expect from the adoption of this unitary tax technique?

The PRESIDENT: The Senator from Knox, Senator Collins has posed a question through the Chair to any Member of the Taxation Committee who may respond if they so desire.

The Chair recognizes the Senator from Somerset, Senator Teague.

Senator TEAGUE: Members of the Senate, in answer to the Senator from Knox, Senator Collins' question, the first question, I think, that he asked was the increase or decrease in the amount of revenue that the State of Maine would receive. I would like to say that we do not know at this time. We know that when Massachusetts, Vermont and New Hampshire put in the unitary process that they were net

gainers.

As far as his other question, I think, was on the Fraser Paper Company. House Amendment "A" (H-412) takes care of the Fraser Paper Company and takes care of all the international subsidiaries of any national company.

The PRESIDENT: A Division has been requested.

The Chair recognizes the Senator from Penobscot, Senator Pray.

Senator PRAY: I request a Roll Call.

The PRESIDENT: A Roll Call has been requested. Under the Constitution, in order for the Chair to order a Roll Call it requires the affirmative vote of at least one-fifth of those Senators present and voting.

Will all those Senators in favor of ordering a Roll Call, please rise and remain standing until counted.

Obviously more than one-fifth having arisen a Roll Call is ordered.

The pending question before the Senate is the motion by the Senator from York, Senator Wood that the Senate Accept the Majority Ought to Pass, as amended, Report of the Committee.

A Yes vote will be in favor of Accepting the Majority Ought to Pass, as amended, Report of the Committee.

A No vote will be opposed.

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEA—Baldacci, Brown, Bustin, Carpenter, Charette, Clark, Danton, Diamond, Dow, Erwin, Hayes, Minkowsky, Najarian, Pearson, Pray, Teague, Twitchell, Violette, Wood, The President-Gerard P. Conley.

NAY—Collins, Emerson, Gill, Hichens, Kany, McBrearty, Perkins, Sewall, Shute, Usher.

ABSENT—Dutremble, Redmond, Trafton.

A Roll Call was had.

20 Senators having voted in the affirmative and 10 Senators in the negative, with 3 Senators being absent, the motion to Accept the Majority Ought to Pass, as amended, Report of the Committee, Prevailed.

The Bill Read Once.

Committee Amendment "A" was Read.

House Amendment "A" to Committee Amendment "A" Read and Adopted, in concurrence.

Committee Amendment "A" as amended by House Amendment "A" thereto was Adopted, in concurrence.

The PRESIDENT: Is it the pleasure of the Senate that Under Suspension of the Rules, that L.D. 1398 be given its Second Reading by Title Only?

It is a vote.

Under Suspension of the Rules, the Bill Read a Second Time and Passed to be Engrossed, as amended, in concurrence.

Out of Order and Under Suspension of the Rules, the Senate voted to consider the following:

Papers From the House House Papers

BILL, "An Act to Amend the Military Laws of the State of Maine." (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27) (H. P. 1337) (L. D. 1777)

Committee on Aging, Retirement and Veterans suggested.

Comes from the House, Passed to be Engrossed Without Reference to a Committee, and Ordered Printed.

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

Senator DOW: Under Suspension of the Rules, I move that we give this LD its First Reading at this time without Reference to Committee.

The PRESIDENT: The Senator from Kennebec, Senator Dow, moves that Under Suspension of the Rules that LD 1777 be given its

First Reading at this time without Reference to Committee.

Is this the pleasure of the Senate?

It is a vote.

Under Suspension of the Rules the Bill Read Twice and Passed to be Engrossed without Reference to Committee, and Ordered Printed, in concurrence.

BILL, "An Act to Validate the Procedure for Selection of Members of the Maine Real Estate Commission." (Submitted by the Department of Business Regulation pursuant to Joint Rule 24) (H. P. 1335) (L. D. 1775)

Committee on Business Legislation suggested.

Comes from the House, Passed to be Engrossed Without Reference to a Committee.

The PRESIDENT: Is it the pleasure of the Senate that Under Suspension of the Rules, that L.D. 1775 be given its First Reading at this time without Reference to Committee?

It is a vote.

Under suspension of the Rules, the Bill Read Twice, and Passed to be Engrossed without Reference to Committee, and Ordered Printed, in concurrence.

BILL, "An Act to Amend the Statutes Regarding Mental Health and Mental Retardation." (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27) (H. P. 1336) (L. D. 1776)

Committee on Health and Institutional Services suggested.

Comes from the House, Passed to be Engrossed Without Reference to a Committee, and Ordered Printed.

The PRESIDENT: Is it the pleasure of the Senate that Under Suspension of the Rules, L.D. 1776, be given its First Reading at this time without Reference to Committee?

It is a vote.

Under Suspension of the Rules, the Bill Read Once and Tomorrow Assigned for Second Reading.

BILL, "An Act to Amend the Statutes Regarding Corrections." (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27) (H. P. 1339) (L. D. 1779)

Committee on Health and Institutional Services suggested.

Comes from the House, Passed to be Engrossed Without Reference to a Committee, and Ordered Printed.

The PRESIDENT: Is it the pleasure of the Senate that Under Suspension of the Rules, L.D. 1779 be given its First Reading at this time without Reference to Committee?

It is a vote.

Under Suspension of the Rules, the Bill Read Once and Tomorrow Assigned for Second Reading.

Communication

The Following Communication:

One Hundred and Eleventh Legislature Committee on Education

June 21, 1983

The Honorable Gerard P. Conley

President of the Senate of Maine

State House

Augusta, Maine 04333

Dear President Conley:

In accordance with 3 M.R.S.A., Chapter 6, Section 151 and with Joint Rule 38 of the 111th Maine Legislature, the Joint Standing Committee on Education has had under consideration the nomination of Robert J. Dunfey to the Board of Trustees of the University of Maine.

After public hearing and discussion on this nomination, the Committee proceeded to vote on the motion to recommend to the Senate that this nomination be confirmed. The Committee Clerk called the roll with the following result:

YEAS: Senators 2

Representatives 9

NAYS: Senators 1

Representatives 0

ABSENT: Representative Crouse of Washburn Eleven members of the Committee having voted in the affirmative and one in the negative with one being absent, it was the vote of the Committee that the nomination of Robert J. Dunfey to the Board of Trustees of the University of Maine be confirmed.

Sincerely,

S/KENNETH P. HAYES

Senate Chair

S/STEPHANIE LOCKE

House Chair

Which was Read and Ordered Placed on File.

The PRESIDENT: The Joint Standing Committee on Education has recommended that the nomination of Robert J. Dunfey be confirmed.

The pending question before the Senate is: Shall the recommendation of the Committee on Education be overridden: In accordance with 3 M.R.S.A., Chapter 6, section 151 and with Joint Rule 38 of the 111th Legislature, the vote will be taken by the yeas and nays. A vote of Yes will be in favor of overriding the recommendation of the Committee. A vote of No will be in favor of sustaining the recommendation of the Committee.

Is the Senate ready for the question?

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEA—None.

NAY—Baldacci, Brown, Bustin, Carpenter, Charette, Clark, Collins, Danton, Diamond, Dow, Emerson, Erwin, Gill, Hayes, Kany, McBrearty, Minkowsky, Najarian, Pearson, Perkins, Pray, Sewall, Shute, Teague, Twitchell, Usher, Violette, Wood, The President, Gerard P. Conley.

ABSENT—Dutremble, Hichens, Redmond, Trafton.

No Senators having voted in the affirmative and 29 Senators in the negative, with 4 Senators being absent, and none being less than two-thirds of the membership present, it is the vote of the Senate that the Committee's recommendation be accepted.

The nomination of Robert J. Dunfey is confirmed.

The Secretary was directed to inform the Speaker of the House.

Out of Order and Under Suspension of the Rules, the Senate voted to consider the following:

Papers from the House Non-concurrent Matter

BILL, "An Act Creating a Maine Milk Pool" (H. P. 1323) (L. D. 1754)

(In Senate June 15, 1983 Passed to be Engrossed as Amended by Senate Amendment "A" (S-210))

(Comes from the House Passed to be Engrossed as Amended by Senate Amendment "A" (S-210) as Amended by House Amendment "A" (H-410) thereto in non-concurrence)

The PRESIDENT: The Chair recognizes the Senator from Oxford, Senator Erwin.

Senator ERWIN: Mr. President, I move the Senate Recede and Concur.

The PRESIDENT: The Senator from Oxford, Senator Erwin moves that the Senate Recede and Concur with the House.

The Chair recognizes the Senator from Aroostook, Senator Carpenter.

Senator CARPENTER: Mr. President, Ladies and Gentlemen of the Senate: I'm not going to stand here and belabor the issue but I would ask that somebody would give me the courtesy of Tabling this until tomorrow. If you look at House filing 410 this is the third amendment that has been attached or attempted to be att-