

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

One Hundred And Fourteenth Legislature

OF THE

State Of Maine

VOLUME I

FIRST REGULAR SESSION

December 7, 1988 to May 10, 1989

On motion by Senator PEARSON of Penobscot, placed on SPECIAL APPROPRIATIONS TABLE, pending ENACTMENT.

Emergency

An Act to Prohibit Persons Who have Violated the Animal Cruelty Laws from Participating in Pulling Events

S.P. 167 L.D. 324
(C "A" S-35; H "B" H-136)

This being an Emergency Measure and having received the affirmative vote of 30 Members of the Senate, with No Senators having voted in negative, and 30 being more than two-thirds of the entire elected Membership of the Senate, was PASSED TO BE ENACTED and having been signed by the President, was presented by the Secretary to the Governor for his approval.

Senate at Ease

Senate called to order by the President.

Emergency

An Act to Make Allocations from the Public Utilities Commission Regulatory Fund and the Public Utilities Reimbursement Fund for the Fiscal Years Ending June 30, 1990, and June 30, 1991

H.P. 366 L.D. 497
(C "A" H-116)

This being an Emergency Measure and having received the affirmative vote of 30 Members of the Senate, with No Senators having voted in negative, and 30 being more than two-thirds of the entire elected Membership of the Senate, was PASSED TO BE ENACTED and having been signed by the President, was presented by the Secretary to the Governor for his approval.

Emergency

An Act Relating to Tax Exemptions

S.P. 236 L.D. 566
(C "A" S-67)

On motion by Senator CLARK of Cumberland, Tabled 1 Legislative Day, pending ENACTMENT.

Emergency

An Act Concerning the Inspection of Dams

S.P. 331 L.D. 868
(C "A" S-70)

On motion by Senator PEARSON of Penobscot, placed on the SPECIAL APPROPRIATIONS TABLE, pending ENACTMENT.

Emergency Resolve

Resolve, to Redesign the Structure of the Board of Environmental Protection

S.P. 276 L.D. 722
(C "A" S-71)

On motion by Senator PEARSON of Penobscot, placed on the SPECIAL APPROPRIATIONS TABLE, pending FINAL PASSAGE.

Off Record Remarks

ORDERS OF THE DAY

The Chair laid before the Senate the Tabled and Later Today Assigned matter:

NOMINATION - of Ronald D. Russell of Bangor, Judge-at-Large of the Maine District Court.

Tabled - May 9, 1989, by Senator CLARK of Cumberland.

Pending - CONSIDERATION

(In Senate, May 9, 1989, Communication from the Committee on JUDICIARY READ and ORDERED PLACED ON FILE.)

THE PRESIDENT: The Joint Standing Committee on JUDICIARY has recommended the nomination of Ronald D. Russell of Bangor, for reappointment as Judge-at-Large of the Maine District Court, be confirmed.

The pending question before the Senate is: "Shall the recommendation of the Committee on JUDICIARY be overridden?"

In accordance with 3 M.R.S.A., Chapter 6, Section 151 and with Joint Rule 38 of the 114th 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

YEAS: Senators None

NAYS: Senators ANDREWS, BALDACCI, BERUBE, BOST, BRANNIGAN, BRAWN, BUSTIN, CAHILL, CARPENTER, CLARK, DILLENBACK, DUTREMBLE, EMERSON, ERWIN, ESTES, ESTY, GILL, GOULD, HOBBS, HOLLOWAY, KANY, LUDWIG, MATTHEWS, PEARSON, PERKINS, RANDALL, THERIAULT, TWITCHELL, WEBSTER, WEYMOUTH, WHITMORE, THE PRESIDENT - CHARLES P. PRAY

ABSENT: Senators COLLINS, GAUVREAU, TITCOMB

No Senators having voted in the affirmative and 32 Senators having voted in the negative, with 3 Senators being absent, and None being less than two-thirds of the Membership present, it was the vote of the Senate that the Committee's recommendation be ACCEPTED and the nomination of Ronald D. Russell, for reappointment as Judge-at-Large of the Maine District Court, was CONFIRMED.

The Secretary has so informed the Speaker of the House.

The Chair laid before the Senate the Tabled and Later Today Assigned matter:

Bill "An Act to Require Parental Consent to a Minor's Abortion"

H.P. 457 L.D. 622
(C "A" H-127)

Tabled - May 9, 1989, by Senator CLARK of Cumberland.

Pending - PASSAGE TO BE ENGROSSED AS AMENDED, in concurrence

(In Senate, May 9, 1989, READ A SECOND TIME.)

(In House, May 5, 1989, PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-127).)

Senator DUTREMBLE of York, moved that the Senate RECONSIDER whereby it ADOPTED Committee Amendment "A" (H-127), in concurrence.

Senator HOBBS of York requested a Division.

THE PRESIDENT: The Chair recognizes the Senator from York, Senator Dutremble.

Senator DUTREMBLE: Thank you Mr. President. Mr. President, men and women of the Senate. I just want

to explain to you why I want to Reconsider this Amendment that we passed yesterday. It is not for the purpose of killing the Bill that was passed. As I stated yesterday, I have accepted that, the votes were clearly there and so those of us who are on the other side have to live with that. The purpose of my motion to Reconsider is simply to introduce an amendment to try to clarify a couple of points for those of us who had problems with the Bill and hopefully we would want try to address and correct these points. One of them is the problem with the churches involved in this part of the Bill. The amendment would eliminate having state law to require the churches to talk about abortion. For those of us who felt that was clearly unconstitutional, the amendment would take the church out of that. I don't see any problem with taking that part out, as long as the other provisions stay in.

The second part that I want to address was to make sure the counselors instruct these young girls where they can go for counseling after an abortion, or after delivery. There was nothing in the original Bill that stated that. So, if we are clearly and really truly concerned about the minor with this Bill, then I would think that we would Reconsider and allow me to introduce this amendment so that, first of all, we address the Constitutionality of the Bill and second, we help these girls after they have gone through the experience of an abortion or a delivery. It is not my intention to kill this Bill, not one bit. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from York, Senator Hobbins.

Senator HOBBS: Thank you Mr. President. Mr. President, men and women of the Senate. I have the utmost respect for the Senator from York, Senator Dutremble, in his dedication and his sincerity. However, we have been dealing with this issue for the past five months. The proponents of the original Bill have had six work sessions to consider making constructive comments regarding a possible compromise, they have been given ample opportunity. Please know that I contacted the Diocese of Portland, somewhat at the request of one of the members of this Body, to extend an olive branch in order to see whether or not common ground could be laid on this issue. Unfortunately, those in support of the original Bill, as drafted, did not want to take any prisoners, there was no compromises talked about. I asked at the work session if the cosponsor of the legislation and the individual involved with the Maine Right to Life Committee, would you work with us for a compromise. The answer was that they wanted it their way or no way.

Ladies and gentlemen of the Senate, the Judiciary Committee, the twelve members that worked diligently at this effort, are pledged, after we crafted the Committee Report that was accepted by this Body, not to amend it. We don't want this to end up similar to four years ago where the matter was considered in non-concurrence. As I mentioned to you yesterday, the proponents of the original Bill argue that the amendment intrudes on the separation of church and state. Please know that the counseling provision that we have crafted in this amendment is not mandated. The clergy are free to counsel girls as he or she pleases. We are not mandating it, it is only for the purpose of the informed consent, that document which is part of the practice of which a physician determines whether or not that young woman, pregnant teen, has gone through that conscientious process in order to determine whether or not the consent that she is given to that abortion is an informed one.

The problem with additional language, that is proposed in this particular amendment, potentially could be consider directive. There are no standards that are set up. The Committee does not want to amend this proposal now, because we are afraid that if it is not the good Senator from York, Senator Dutremble's, intention, I can bet you I know it is someone else's intention. Please vote with me on this matter.

THE PRESIDENT: The Chair recognizes the Senator from Kennebec, Senator Matthews.

Senator MATTHEWS: Thank you Mr. President. Mr. President, men and women of the Senate. Just to set the Record straight, I think the good Senator from York, Senator Hobbins, is referring to me. As a cosponsor of the original parental consent Bill, all that I ever asked for, and I believe the people that supported this Bill ever asked for, was an up or down vote on the Bill as we drafted it. No one ever prevented other Bills from being entertained by this Body.

The other issue that has been mentioned by the good Senator from York, about the statement from the Diocese of Portland and that statement is very clear. I would like to read it into the Record so that we have no uncertainty or cloud around the statement from the Diocese of Portland. "While the Diocese of Portland is pleased to note the recognition of the Judiciary Committee that abortion should not be performed on minors without assurance of informed consent, the amended Bill is seriously flawed. Among its flaws, the amended Bill allows the physician performing the abortion to be the agent of the informed consent. It provides the physician designee to be the agent of the informed consent without stipulation for the qualifications of the designee. It intrudes on the separation of church and state and several of the provisions for information and counseling. It violates the rights of physicians, health care personnel, and counselors, who by statute are not required to participate in any phase of the abortion. Provisions for physician immunity are questionable and it further erodes the responsibility of parents." That was the statement, ladies and gentlemen, from the Diocese of Portland. So, I just rise to set the Record straight. Thank you.

Off Record Remarks

On motion by President PRAY of Penobscot, RECESSED until 4:30 this afternoon.

After Recess

Senate called to order by the President.

ORDERS OF THE DAY

Unfinished Business

The following matters in the consideration of which the Senate was engaged at the time of Recess, have preference in the Orders of the Day and continue with such preference until disposed of as provided by Senate Rule 29.

The Chair laid before the Senate:

Bill "An Act to Require Parental Consent to a Minor's Abortion"

H.P. 457 L.D. 622
(C "A" H-127)

(In Senate, May 9, 1989, READ A SECOND TIME. Subsequently, Senator DUTREMBLE of York moved to RECONSIDER ADOPTION OF COMMITTEE AMENDMENT "A" (H-127). (Division Requested).)

(In House, May 5, 1989, the PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-127).)

THE PRESIDENT: The pending question before the Senate is the motion of Senator DUTREMBLE of York, to RECONSIDER ADOPTION of Committee Amendment "A" (H-127), in concurrence.

A Division has been requested.

Will all those Senators in favor of the motion of Senator DUTREMBLE of York, to RECONSIDER ADOPTION of Committee Amendment "A" (H-127), please rise in their places and remain standing until counted.

Will all those opposed please rise in their places and remain standing until counted.

9 Senators having voted in the affirmative and 19 Senators having voted in the negative, the motion of Senator DUTREMBLE of York, to RECONSIDER ADOPTION of Committee Amendment "A" (H-127), FAILED.

Senator MATTHEWS of Kennebec moved the INDEFINITE POSTPONEMENT of the Bill and Accompanying Papers.

Senator CLARK of Cumberland requested a Division.

THE PRESIDENT: The pending question before the Senate is the motion of Senator MATTHEWS of Kennebec, to INDEFINITELY POSTPONE the Bill and Accompanying Papers.

A Division has been requested.

Will all those Senators in favor of the motion of Senator MATTHEWS of Kennebec, to INDEFINITELY POSTPONE the Bill and Accompanying Papers, please rise in their places and remain standing until counted.

Will all those Senators opposed please rise in their places and remain standing until counted.

8 Senators having voted in the affirmative and 19 Senators having voted in the negative, the motion of Senator MATTHEWS of Kennebec, to INDEFINITELY POSTPONE the Bill and Accompanying Papers, FAILED.

Which was PASSED TO BE ENGROSSED, as Amended, in concurrence.

THE PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Clark.

Senator CLARK: Thank you Mr. President. Having voted on the prevailing side, I now move reconsideration and I would urge you to vote against my motion.

THE PRESIDENT: The pending question before the Senate is the motion of Senator CLARK of Cumberland, to RECONSIDER whereby the Bill was PASSED TO BE ENGROSSED AS AMENDED.

The Chair will order a Division.

Will all those Senators in favor of the motion of Senator CLARK of Cumberland, to RECONSIDER whereby the Bill was PASSED TO BE ENGROSSED AS AMENDED, please rise in their places and remain standing until counted.

Will all those Senators opposed please rise in their places and remain standing until counted.

4 Senators having voted in the affirmative and 23 Senators having voted in the negative, the motion of Senator CLARK of Cumberland, to RECONSIDER whereby the Bill was PASSED TO BE ENGROSSED AS AMENDED, FAILED.

Senator WEBSTER of Franklin was granted unanimous consent to address the Senate off the Record.

Off Record Remarks

On motion by Senator BOST of Penobscot, ADJOURNED until Wednesday, May 10, 1989, at 12:00 in the afternoon.

ONE HUNDRED AND FOURTEENTH MAINE LEGISLATURE
FIRST REGULAR SESSION
59th Legislative Day
Wednesday, May 10, 1989

The House met according to adjournment and was called to order by the Speaker.

Prayer by Father Andre Houle, Saint Mary's Catholic Church, Lincoln.

The Journal of, Tuesday, May 9, 1989, was read and approved.

Quorum call was held.

PAPERS FROM THE SENATE

The following Communication:

Maine State Senate

Augusta, Maine 04333

May 9, 1989

The Honorable John L. Martin

Speaker of the House

114th Legislature

Augusta, Maine 04333

Dear Speaker Martin:

In accordance with Joint Rule 38, please be advised that the Senate today confirmed, upon the recommendation of the Joint Standing Committee on Judiciary, the Governor's nomination of Ronald D. Russell of Bangor for reappointment as Judge-at-Large for the Maine District Court.

Sincerely,

S/Joy J. O'Brien

Secretary of the Senate

Was read and ordered placed on file.

Bill "An Act to Improve the Sardine Inspection and Grading Programs" (S.P. 562) (L.D. 1565)

Came from the Senate, referred to the Committee on Agriculture and Ordered Printed.

Was referred to the Committee on Agriculture in concurrence.

Bill "An Act to Undedicate Revenue Received by the Bureau of Public Lands" (S.P. 556) (L.D. 1559)

Bill "An Act to Create the Position of Liquor Enforcement Officer in Washington County" (S.P. 557) (L.D. 1560)

Came from the Senate, referred to the Committee on Appropriations and Financial Affairs and Ordered Printed.

Were referred to the Committee on Appropriations and Financial Affairs in concurrence.

Bill "An Act to Reform the Workers' Compensation Insurance Rate-making Process" (S.P. 560) (L.D. 1563)

Came from the Senate, referred to the Committee on Banking and Insurance and Ordered Printed.

Was referred to the Committee on Banking and Insurance in concurrence.

Resolve, Creating the Special Commission to Study and Evaluate the Status of Education Reform in Maine (EMERGENCY) (S.P. 561) (L.D. 1564)

Came from the Senate, referred to the Committee on Education and Ordered Printed.

(The Committee on Reference of Bills had suggested reference to the Committee on Appropriations and Financial Affairs.)

Was referred to the Committee on Education in concurrence.