

# 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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**August 4, 1983**

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STATE OF MAINE  
One Hundred and Eleventh Legislature  
First Regular Session  
JOURNAL OF THE SENATE

Augusta, Maine  
May 17, 1983

Senate called to order by the President.

Prayer by the Reverend Clayton A. Alward of the Full Gospel Assembly of North Monmouth.

REVEREND ALWARD: Our gracious Father in Heaven, this morning we thank You for this opportunity we have together with these people. We ask You, Lord, this morning to give us wisdom and knowledge, Lord, to these people that have grave decisions to make. Lord, we pray, God this morning that Your mighty presence will be in this place throughout the day.

Guide us in our thoughts; guide us in our decisions. We'll be grateful to thank You, Father, in Jesus' Wonderful Name. Amen.

Reading of the Journal of yesterday.

**Communication**

The Following Communication:

**State of Maine**

**One Hundred and Eleventh Legislature  
Committee on Education**

May 16, 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 Joseph D. Murphy of Biddeford to the State Board of Education.

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 3  
NAYS: Senators 1  
Representatives 7  
ABSENT: 0

Five members of the Committee having voted in the affirmative and eight in the negative, it was the vote of the Committee that the nomination of Joseph D. Murphy of Biddeford to the State Board of Education be denied.

Sincerely,  
/S/ KENNETH P. HAYES  
Senate Chair  
/S/ STEPHANIE LOCKE  
House Chair

Which was Read and Ordered Placed on file.

On motion by Senator Pray of Penobscot, the Joint Standing Committee on Education's recommendation that the nomination of Joseph D. Murphy be denied was Tabled until later in today's session pending Consideration.

**Senate Paper**

BILL, "An Act to Provide Workers' Compensation Coverage to Emergency Medical Services' Persons." (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27) (S. P. 563) (Presented by Senator Twitchell of Oxford) (Cosponsors: Representative Jackson of Harrison, Representative Roderick of Oxford and Representative McCollister of Canton)

Which was referred to the Committee on Labor and Ordered Printed.

Sent down for concurrence.

(Off Record Remarks)

**Committee Reports**

**House  
Ought Not to Pass**

The following Ought Not to Pass reports shall be placed in the legislative files without further action pursuant to Rule 15 of the Joint Rules:

BILL, "An Act to Increase the Minimum Wage" (H. P. 1013) (L. D. 1338)

BILL, "An Act Relating to Banking Disclosure" (H. P. 957) (L. D. 1228)

**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 to Equalize the Years of Participation and Benefits Under the Maine State Retirement System" (H. P. 1098) (L. D. 1449)

BILL, "An Act to Promote Better Voter Participation and to Designate the Day of the State General Election a State Holiday" (H. P. 820) (L. D. 1060)

BILL, "An Act to Improve and Strengthen the Referendum Process" (H. P. 1032) (L. D. 1357)

**Ought to Pass in New Draft**

The Committee on Education on BILL, "An Act to Amend the Laws Pertaining to Dissolution and Withdrawal from School Administrative Districts and Community School Districts" (H. P. 854) (L. D. 1104) Reported that the same Ought to Pass in New Draft under same title (H. P. 1214) (L. D. 1610)

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 and Assigned for Second Reading later in today's session.

The Committee on Energy and Natural Resources on BILL, "An Act to Prevent the Closing of Fire Lookout Towers" (H. P. 153) (L. D. 161) Reported that the same Ought to Pass in New Draft under same title (H. P. 1217) (L. D. 1613)

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 and Assigned for Second Reading later in today's session.

**Ought to Pass in New Draft under New Title**

The Committee on Business Legislation on BILL, "An Act to Prevent Abuses in Certain Land Installment Contracts" (H. P. 853) (L. D. 1103) Reported that the same Ought to Pass in New Draft under New Title, BILL, "An Act to Require Certain Disclosures in Land Installment Contracts for Improved Residential Property and to Provide for Recordation of those Contracts" (H. P. 1213) (L. D. 1609)

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

Which Report was Read and Accepted in concurrence. The Bill in New Draft under New Title Read Once and Assigned for Second Reading later in today's session.

**Divided Report**

Nine members of the Committee on Energy and Natural Resources on BILL, "An Act to Require Review of Road Construction" (H. P. 627) (L. D. 779) Reported in Report "A" that the same Ought to Pass in New Draft under same title (H. P. 1215) (L. D. 1611)

Signed:  
Senators:

KANY of Kennebec  
McBREAIRTY of Aroostook  
PEARSON of Penobscot

Representatives:

HALL of Sangerville  
MICHAUD of East Millinocket

KIESMAN of Fryeburg  
JACQUES of Waterville  
McGOWAN of Pittsfield  
RIDLEY of Shapleigh

Two members of the same Committee on the same subject matter Reported in Report "B" that the same Ought to Pass in New Draft under same title (H. P. 1216) (L. D. 1612)

Signed:

Representatives:

MICHAEL of Auburn  
MITCHELL of Freeport

Two members of the same Committee on the same subject matter Reported in Report "C" that the same Ought Not to Pass.

Signed:

Representatives:

BROWN of Livermore Falls  
DEXTER of Kingfield

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

Which Reports were Read, and Report "A" the Majority Ought to Pass, in New Draft, Report of the Committee was Accepted, in concurrence.

The Bill, in New Draft, Read Once and Assigned for Second Reading later in today's session.

**Divided Report**

The Majority of the Committee on Health and Institutional Services on BILL, "An Act to Regulate Smoking on Public Conveyances in the State of Maine" (H. P. 829) (L. D. 1067) Reported that the same Ought to Pass in New Draft under same title (H. P. 1211) (L. D. 1604)

Signed:

Senator:

BUSTIN of Kennebec

Representatives:

RICHARD of Madison  
PINES of Limestone  
MANNING of Portland  
CARROLL of Gray  
MELENDY of Rockland  
BRODEUR of Auburn  
NELSON of Portland

The Minority of the same Committee on the same subject matter Reported that the same Ought Not to Pass.

Signed:

Senators:

CARPENTER of Aroostook  
GILL of Cumberland

Representatives:

WEBSTER of Farmington  
MAYBURY of Brewer

(Representative SEAVEY of Kennebunkport Abstained)

Comes from the House with the Majority Report Read and Accepted and the New Draft Passed to be Engrossed as Amended by House Amendment "A" (H-240).

Which Reports were Read.

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

Senator BUSTIN: Mr. President, I move the Ought to Pass Report of the Committee.

The PRESIDENT: The Senator from Kennebec, Senator Bustin, moves that the Senate Accept the Majority Ought to Pass, in New Draft, Report of the Committee.

The Chair recognizes the Senator from Aroostook, Senator Carpenter.

Senator CARPENTER: Mr. President, Ladies and Gentlemen of the Senate: As you can see, the good Senator from Kennebec, Senator Bustin and I, once again part company on the issue, I guess you would say the issue of smoking, but I would rather think it was the issue of just how far you can go in forcing people to do certain things.

If you look at the New Draft which is L. D. 1604 it appears to me to be a totally unnecessary piece of legislation, yet, it's titled "An Act to Regulate Smoking on Public Conveyances in the State of Maine." However, what the Bill

does, it says, "smoking is prohibited in elevators, and intrastate buses," and you must have signs, and then it goes on to talk about ferries, "smoking is prohibited on ferries except as follows": and it does put down some guidelines as to where you can smoke on the Casco Bay Lines and what not.

The Bill is unnecessary for a couple of reasons. First of all, the Federal Department of Transportation presently has regulations which require that all buses allocate 25% of their seats to smoking, in the rear of the bus as I understand it. As far as the elevators are concerned, State and Municipal and County Governments presently prohibit smoking in elevators on Government properties and insurance companies by contract prohibit smoking in elevators located in commercial buildings. As far as the ferries are concerned, there is presently a something called, "the Maine State Ferry Advisory Board" which is set up to advise the Commissioner of Transportation on things such as this and it seems to me it would be more appropriate that they would set down the rules and regulations. The largest ferry service in the State which is Casco Bay Lines, as I understand it presently, voluntarily has set aside certain areas where you can smoke and the rest of the boat, you can't smoke.

It just seems to me that this is once again a totally unenforceable and totally unneeded piece of legislation. I would ask you to vote against the pending motion, and we can take the Ought Not to Pass Report.

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

Senator BUSTIN: Thank you, Mr. President. Ladies and Gentlemen of the Senate, not being one to give up easily, I will fight the good fight until the end, and hope that those good Senators who stuck with me yesterday will stick with me today; at least, let's make some kind of an effort to indicate that smoking is not acceptable when it harms other people.

On smoking, the people say to me, "well, I always ask if I can smoke when I'm in front of you." I always say, "well, it never bothers me. I always give permission to smoke." Well, that's because in most instances, smoke does not bother me personally. I can handle it, when it's at the dinner table or it's in a home, if it's not for a whole length of time, at a cocktail party, I can handle that. What I cannot handle, however, is public conveyances. It literally makes me sick to my stomach. I guess you need to choose between lighting up that cigarette when I'm on the bus or something that isn't quite as attractive even as smoking cigarettes, because it literally does make me sick. You put me on the water with all that kind of motion along with and being confined in a very enclosed space with smoking, and you are going to have one sick lady on your hands. Now, you can make a choice as to whether you want to have that kind of a health problem or you want to smoke. I think that that is a very big consideration. I think you ought to think of that, because all this Bill does is, if you will look at it, on the ferries, "it's prohibited on ferries except as follows" and it allows smoking in the area where it's not confined where you're not going to cause that kind of difficult health problem.

So, I would plead with you to please, take a good look at that Bill before the vote is taken and make your decision based on what I said and whether it makes you sick or not for instance, for heaven sakes, and if you're not a smoker and if you do have some problem with motion sickness, that's what we're talking about in this Bill.

When the vote is taken, Mr. President, I ask for a division.

The PRESIDENT: A division has been requested.

The Chair recognizes the Senator from Androscoggin, Senator Minkowsky.

Senator MINKOWSKY: Mr. President and Members of the Senate, I oppose this Bill

simply because it is an intrusion upon what is already being accomplished by the people in the private sector of business.

I received two letters, one from the Brunswick Transportation Company and one from my own community of Lewiston, Hudson Bus Company. I think of significant value was part of the message that was sent to me by Mr. Ouellette of the Brunswick Transportation Company. Mr. Ouellette states not only that the Bill would be impossible for anyone to enforce, but it is also discriminatory and it imposed additional regulation in an area that we are already controlling.

Secondly, smoking on chartered buses has in the past, always been controlled by the chartering party and in forty years of business this has never been a problem.

Thirdly, we also control smoking on our escorted tours by stipulating as a tour condition the following: 'passengers are asked to refrain from smoking while aboard the coach. If one cannot, the seat in the rear may be used for smoking, provided that smoke does not bother other passengers. Our escort may request no smoking should the smoke become excessive and a hindrance to the quality of our tour.'

I think these are very valid, sound constructive reasons that the people who are in a regulated industry are taking the necessary precautions in which to secure the health of these people who utilize their service. I just cringe when I think of what is coming through this Legislature with regulation, over-regulation it's really it's not in the interest of the people in the State of Maine. I would sincerely hope that the pending motion would fail, and subsequently, we could Adopt the Ought Not to Pass Report.

The PRESIDENT: Is the Senate ready for the question?

Will all those Senators in favor of the motion by Senator Bustin of Kennebec that the Senate Accept the Majority Ought to Pass, in New Draft, Report of the Committee, please rise in their places to be counted.

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

11 Senators having voted in the affirmative, and 19 Senators having voted in the negative, the motion to Accept the Majority Ought to Pass, in New Draft, Report of the Committee, Failed.

The Minority Ought Not to Pass of the Committee was Accepted, in non-concurrence.

Sent down for concurrence.

#### (Off Record Remarks)

#### Senate 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 Concerning Open Burning When There is Snow on the Ground" (S. P. 127) (L. D. 314)

BILL, "An Act to Further Clarify the Right of Citizens to Petition for Special Town Meetings" (S. P. 450) (L. D. 1371)

#### Ought to Pass

Senator McBREAIRTY for the Committee on Energy and Natural Resources on BILL, "An Act Relating to the Forest Practice" (S. P. 525) (L. D. 1548) Reported that the same Ought to Pass.

Which Report was Read and Accepted. The Bill Read Once and Assigned for Second Reading later in today's session.

#### Ought to Pass as Amended

Senator USHER for the Committee on Fisheries and Wildlife on BILL, "An Act Concerning Artificial Fishways in Dams and Other Artificial Obstructions in Inland Waters" (S. P. 405) (L. D. 1253) Reported that the same Ought to Pass as Amended by Committee Amendment "A" (S-

124)

Which Report was Read and Accepted. The Bill Read Once. Committee Amendment "A" (S-124) was Read and Adopted. The Bill, as amended, Assigned for Second Reading later in today's session.

#### Divided Report

The Majority of the Committee on Fisheries and Wildlife on BILL, "An Act to Discourage Violation of Wildlife Laws" (S. P. 143) (L. D. 435)

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (S-125)

Signed:

Senators:

USHER of Cumberland  
DOW of Kennebec  
REDMOND of Somerset

Representatives:

MacEACHERN of Lincoln  
CLARK of Millinocket  
JACQUES of Waterville  
ERWIN of Rumford  
CONNERS of Franklin  
RODERICK of Oxford

The Minority of the same Committee on the same subject matter Reported that the same Ought Not to Pass.

Signed:

Representatives:

SMITH of Island Falls  
GREENLAW of Standish  
KELLY of Camden  
PAUL of Sanford

Which Reports were Read and the Majority Ought to Pass, as amended, Report of the Committee was Accepted.

The Bill Read Once.

Committee Amendment "A" (S-125) was Read and Adopted.

The Bill, as amended, Assigned for Second Reading later in today's session.

#### Second Readers House

The Committee on Bills in the Second Reading reported the following:

BILL, "An Act Concerning the Admissibility in Criminal Proceedings of Statements by Minors Describing Sexual Contact" (H. P. 1201) (L. D. 1595)

BILL, "An Act Relating to Registration and Inspection of Motor Trucks used for Fishing" (H. P. 1205) (L. D. 1600)

BILL, "An Act Relating to Unauthorized Taking of Agricultural Products" (H. P. 1209) (L. D. 1603)

Which were Read a Second Time and Passed to be Engrossed in concurrence.

#### House — As Amended

BILL, "An Act to Amend the Election Laws" (H. P. 950) (L. D. 1231)

Which was Read a Second Time and Passed to be Engrossed as Amended in concurrence.

#### Senate

BILL, "An Act Concerning Records of Arrests of Criminal Offenders" (S. P. 559) (L. D. 1616)

Which was Read a Second Time and Passed to be Engrossed.

Sent down for concurrence.

#### Enactors

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

An Act Relating to Forged or Illegal Prescriptions. (S. P. 492) (L. D. 1491)

An Act Pertaining to License Revocation Notices Issued by the Commissioner of Inland Fisheries and Wildlife. (S. P. 357) (L. D. 1078)

An Act Relating to Agricultural Contracts. (S. P. 272) (L. D. 835)

An Act to Restructure Maine's Insurance Management Program. (S. P. 482) (L. D. 1464)

An Act to Permit Barbers to Cut Hair Out-