

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 Twelfth

Legislature

OF THE

STATE OF MAINE

VOLUME II

SECOND REGULAR SESSION

April 3 - April 16, 1986

Index

SECOND SPECIAL SESSION

May 28 - May 30, 1986

Index

THIRD CONFIRMATION SESSION

July 15, 1986

Index

FOURTH CONFIRMATION SESSION

August 29, 1986

Index

THIRD SPECIAL SESSION

October 17, 1986

Index

FIFTH CONFIRMATION SESSION

November 24, 1986

Index

was taken up out of order by unanimous consent:

ORDERS

On motion of Representative PARADIS of Augusta, the following Joint Order: (H.P. 1705)

WHEREAS, the Legislature may order a special election on any measure that is subject to a vote of the people pursuant to the Constitution of Maine, Article IV, Part Third, Section 18, Subsection 2; and

WHEREAS, direct initiative legislation has been transmitted to the Legislature which is identified as Legislative Document No. 2092, Initiated Bill 2, "AN ACT to Prohibit the Promotion and Wholesale Promotion of Pornographic Material in the State of Maine;" and

WHEREAS, it is the intent of the Legislature to refer this measure to the electors of the State at the next statewide election to be held on June 10, 1986, for determination by the people; now, therefore, be it

ORDERED, the Senate concurring, that the Office of the Secretary of State submit to the electors of the State for determination by the people at the next statewide election to be held June 10, 1986, the subject matter of "AN ACT to Prohibit the Promotion and Wholesale Promotion of Pornographic Material in the State of Maine;" and be it further

ORDERED, that a copy of this order be immediately transmitted to the Secretary of State.

Was read.

The SPEAKER: The Chair recognizes the Representative from Scarborough, Representative Higgins.

Representative HIGGINS: Mr. Speaker, Ladies and Gentlemen of the House: I object to this Order being in front of us. My understanding is that if an Order is taken out of order it would require suspension of the rules?

The SPEAKER: The Chair would advise the gentleman that that was granted when the Chair read the supplements.

Representative 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 more than one-fifth of the members present and voting. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken and more than one-fifth of the members present and voting having expressed a desire for a roll call, a roll call was ordered.

The SPEAKER: The Chair recognizes the Representative from Kennebunk, Representative Murphy.

Representative MURPHY: Mr. Speaker, Men and Women of the House: If I could pose a question to the sponsor of this Joint Order?

Having had this initiated petition before us with the communication from the Assistant Secretary of State, James Henderson, accompanying the petition when it was delivered to the legislature, in that communication his stating that, if the legislature did not take action, it would be addressed in the

November, 1986 election. I would like to have the gentleman from Augusta give us a full explanation why this would be addressed in June rather than in November?

The SPEAKER: Representative Murphy of Kennebunk has posed a question through the Chair to Representative Paradis of Augusta, who may respond if he so desires.

The Chair recognizes that Representative.

Representative PARADIS: Mr. Speaker, Men and Women of the House: I certainly will make every effort to answer the question posed by the gentleman from Kennebunk.

I have here in my hand an opinion from the Attorney General of the state. It is an answer to a question posed to him by the gentleman from Canaan, Representative McGowan. It asks the question you have asked and let me quote, "You have asked the opinion of this department whether initiative legislation presented to the Second Regular Session of the 112th Legislature, if not enacted, could be presented to the voters in referendum at the time of the statewide primary elections held on June 10, 1986. In response, it is the opinion of this department that the inquiry is answered directly by the final section of Subsection 2, Article 4, Part 3, Section 18 of the Maine Constitution and I quote, 'The Legislature may order a special election on any measure that is subject to a vote of the people.'"

When the Constitution was amended in 1980 specifically for this reason, the Constitution was clarified as to whether the powers of the electors, power of the legislature or the power of the Governor of the state would decide when issues would be decided by the people.

In the opinion of the Attorney General, again quoting, "The 1980 amendment establishes a clear preference for the presentation of referendum questions at an otherwise scheduled statewide election. This purpose is clearly reflected in the ballot question prepared by the same committee that wrote the amendment and contained in the Resolve itself quoting, 'shall the Constitution of Maine be amended to change the referendum provisions so that the direct initiative and people's veto elections can be held at the same time as a scheduled statewide election?'" The Constitution is clear that the legislature has the power by Order, not by law, but by Order, to schedule when an initiated bill can be presented to the voters. It is the opinion of his office and the opinion is six pages long. Quoting, "Accordingly it is the conclusion of this office that the referendum vote on initiated legislation, not enacted, may be ordered to take place at the same time as the previously scheduled June, 1986 primary election or at any other time by passage of a Joint Order by a majority of each House directing the conduct of a special election."

I voted to enact this initiated bill. I got up here some ten days ago and spoke from this very same spot and said I had every reason to believe that this bill should be enacted and sent to the law court for a decision on its constitutionality. At the Joint Standing Committee on Judiciary hearing held on this initiated bill, we asked, how many of you here who are supporters of this initiated bill favor its enactment by the legislature? Most of the people in the room raised their hand. I think the debate on this issue was instructive, it certainly was very civilized and everyone that said, send this out to

the voters said, let them decide. That is what this legislature established, let's send it out to them at the earliest possible time that they have a chance to vote on this issue. Why stall it for five or six months? Why not let them decide the issue in June at the next statewide election? There is no reason other than obvious political reasons to put it forward to November when the people want to vote on it now. They presented this issue to us in January as an initiated bill, let them vote on it at the earliest possible time. I urge adoption of this Joint Order.

The SPEAKER: The Chair recognizes the Representative from Kennebunk, Representative Murphy.

Representative MURPHY: Mr. Speaker, Men and Women of the House: I feel very fortunate to have received an early copy of that Attorney General's opinion, which was about 20 or 25 minutes ago. The official copy was just handed to us as the gentleman from Augusta was speaking.

I have five questions that I would like to pose to the gentleman from Augusta.

The first, those citizens, who may be on the opposing side of that referendum, less than 60 days will not be sufficient time for the research, legal, or raising the dollars to get their viewpoint to the Maine people. I would like to have the gentleman address that.

As a second question, I would also like to have the gentleman answer -- since 1980, can he cite another precedent such as this, the passage of a Joint Order, changing a referendum date?

Three, I would like to have him answer, why the June election, which is traditionally election where the parties vote, Democratic, Republican, the registered voters of this state vote rather than the unenrolled, why he would pick an election where traditionally the unenrolled voters are disenfranchised? And why he would want to have an election on such a major important issue decided by 15 to 20 percent of the people rather than 60 percent?

I guess the final question has to do with the straight face test. I watched the gentleman from Augusta very closely and he didn't smile while he did this but in terms of, as the sponsor of this Joint Order and then also the unofficial sponsors of this Joint Order, in terms of, how can you, with a straight face, say that in the Democratic June primary and the Republican June primary, you aren't playing politics?

The SPEAKER: Representative Murphy of Kennebunk has posed a series of questions to Representative Paradis of Augusta, who may respond if he so desires.

The Chair recognizes that Representative.

Representative PARADIS: Mr. Speaker, Men and Women of the House: As a firm believer in the straight face test in politics and not being a card player of any kind, I can certainly stand before you and answer your questions this afternoon.

Let me answer the last question first. To imply that the only reason that we seek to pass an Order or pass legislation is purely political, questions very much the motives of everybody in this body and everyone who put the initiated bill before us -- when I was at the hearing on this particular bill, I don't recall any member on the Judiciary Committee, either the majority or the minority parties, questioning the motives of the Reverend Jasper Wyman when he presented this petition to us. I don't recall that question ever coming up. What Mr. Wyman

asked for was that this bill become a law, that if we did not choose to do it, then send it out to the voters. I think to imply that only a November election is the proper forum for this initiated bill is certainly a political question and certainly is a political implication, a political mark against everyone in this body.

In answer to some of your other questions, whether or not there is enough time to mount a campaign, let me say -- how much time do we need to give the out of staters time to organize and fund a smut campaign against this initiated bill? Do the Penthouse and Hustler and Play Boy foundations need three months or six months or a year to gear up to oppose the people of Maine in presentation of their initiated bill? I think the people from the Christian Civic League and others who have petitioned this legislature for enactment of this law have a right to have the issue decided for them by the people at the earliest possible time. I am not for letting those out of staters come in here and organize the state, pump in hundreds of thousands of dollars so they can tell us how to vote on the first amendment, freedom of speech. If there is going to be a campaign, let it be run and directed by the people of Maine.

Your third question perhaps was the most interesting one, my good friend, because it implies that Independents do not want to vote in primaries, that they have absolutely no interest in voting in June elections.

We have clear precedent, I understand, where there have been questions other than political candidates on ballots in June primaries. Independents come out to vote in local elections, local referendum questions and local bond issues in June primaries. To say that Independents, because they have not registered in a party are not interested in what we do here, is really an insult to those who are not members of any party. There are many people in this town of Augusta that I represent, because they work for the state government or the federal government, do not choose to register in a party because they work in sensitive, governmental positions, but make no mistake, they have every interest in what we do here, their taxes are affected by what we do, their lives are affected by the laws we pass and they have every interest in voting in primaries and coming out to vote, if only to see other issues decided other than who we put up to oppose each other in the different parties.

If this does nothing more than bring out a heavy Independent vote in the June primary, then it will have certainly served a very good purpose of giving the Independent's a chance to vote for something besides two or three Democrats or two or three Republicans on the ballot.

I would encourage you to vote for passage of this Order because there is more at stake here than just politics. At stake here is our ability to understand the people who have petitioned us to enact this bill and decide with them and to say once and for all, we are not going to wait and wait and wait and put it off to the time we best think is necessary for this bill. We want it decided in November because there may be more people there or it might favor one candidate or the other. Let's face it square on in June so that it doesn't have to be put off. Let's face it right now in June, the earliest possible time.

The SPEAKER: The pending question before the

House is passage. Those in favor will vote yes; those opposed will vote no.

80 having voted in the affirmative and 64 in the negative with 7 being absent, the Order received passage. Sent up for concurrence.

(See Roll Call No. 312)

The following item appearing on Supplement No. 10 was taken up out of order by unanimous consent:

PAPER FROM THE SENATE

Non-Concurrent Matter

An Act to Strengthen State-Local Cooperation through Regional Councils (H.P. 837) (L.D. 1181) which was Passed to be Enacted in the House on March 17, 1986. (Having previously been passed to be Engrossed as amended by Committee Amendment "A" (H-558) as amended by Senate Amendment "A" (S-409) thereto)

Came from the Senate, Passed to be Engrossed as amended by Committee Amendment "A" (H-558) as amended by Senate Amendment "B" (S-501) thereto in non-concurrence.

The House voted to recede and concur.

The following item appearing on Supplement No. 11 was taken up out of order by unanimous consent:

PAPER FROM THE SENATE

Non-Concurrent Matter

An Act to Expand and Continue Alcoholism Treatment, Education, Prevention and Research Programs (H.P. 951) (L.D. 1370) which was Passed to be Enacted in the House on March 17, 1986 (Having previously been passed to be Engrossed as amended by Committee Amendment "A" (H-532)

Came from the Senate, Passed to be Engrossed as amended by Committee Amendment "A" (H-532) as amended by Senate Amendment "H" (S-502) thereto in non-concurrence.

The House voted to recede and concur

The following item appearing on Supplement No. 12 was taken up out of order by unanimous consent:

PAPER FROM THE SENATE

Non-Concurrent Matter

An Act to Expand the Maine Conservation Corps (Emergency) (H.P. 1251) (L.D. 1761) which was Passed to be Enacted in the House on April 10, 1986. (Having previously been passed to be Engrossed as amended by Committee Amendment "A" (H-524) as amended by Senate Amendment "A" (S-460) thereto)

Came from the Senate, Passed to be Engrossed as amended by Committee Amendment "A" (H-524) as amended by Senate Amendments "A" (S-460) and "B" (S-503) thereto in non-concurrence.

The House voted to recede and concur.

The following item appearing on Supplement No. 13 was taken up out of order by unanimous consent:

PAPER FROM THE SENATE

Non-Concurrent Matter

An Act to Increase the Maine Child Care Credit Under the State Income Tax (H.P. 1310) (L.D. 1826) which was Passed to be Enacted in the House on March 14, 1986. (Having previously been passed to be Engrossed as amended by Committee Amendment "A" (H-562) as amended by Senate Amendment "A" (S-406) thereto)

Came from the Senate, Passed to be Engrossed as amended by Committee Amendment "A" (H-562) as amended by Senate Amendment "B" (S-514) thereto in non-concurrence.

The House voted to recede and concur.

The following item appearing on Supplement No. 14 was taken up out of order by unanimous consent:

PAPER FROM THE SENATE

Non-Concurrent Matter

RESOLVE, Creating a Maine Commission to Commemorate the Bicentennial of the United States Constitution (Emergency) (S.P. 813) (L.D. 2045) which was Finally Passed in the House on April 12, 1986. (Having previously been passed to be Engrossed as amended by Committee Amendment "A" (S-443) as amended by House Amendment "A" (H-684) thereto)

Came from the Senate, Passed to be Engrossed as amended by Committee Amendment "A" (S-443) as amended by Senate Amendment "A" (S-504) thereto in non-concurrence.

The House voted to recede and concur.

The following item appearing on Supplement No. 15 was taken up out of order by unanimous consent:

PAPER FROM THE SENATE

Non-Concurrent Matter

An Act to Increase the School Bus Purchase Limit (S.P. 817) (L.D. 2062) which was Passed to be Enacted in the House on April 3, 1986.

Came from the Senate, Passed to be Engrossed as