

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD
OF THE
One Hundred And Thirteenth Legislature
OF THE
State Of Maine

VOLUME II

FIRST REGULAR SESSION

May 26, 1987 to June 30, 1987

Index

ONE HUNDRED AND THIRTEENTH MAINE LEGISLATURE
FIRST REGULAR SESSION
82nd Legislative Day
Friday, June 5, 1987

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

Prayer by Reverend Kenneth E. MacDonald, Lisbon Falls Baptist Church.

The Journal of Thursday, June 4, 1987, was read and approved.

Quorum call was held.

ORDERS

REPORTS OF COMMITTEES

Ought to Pass in New Draft

Tabled Unassigned

Representative MITCHELL from the Committee on Energy and Natural Resources on Bill "An Act to Establish a Compliance Schedule for Owners and Operators of Salt Storage Areas" (H.P. 296) (L.D. 382) reporting "Ought to Pass" in New Draft (H.P. 1273) (L.D. 1749)

Report was read and accepted, the New Draft read once.

Under suspension of the rules, the New Draft was read a second time.

On motion of Representative Diamond of Bangor, tabled Unassigned pending passage to be engrossed.

Ought to Pass in New Draft

Representative TARDY from the Committee on Agriculture on Bill "An Act Relating to the Payment of Dues to Grower Organizations by Handlers and Processors of Farm Products" (H.P. 169) (L.D. 213) reporting "Ought to Pass" in New Draft (H.P. 1280) (L.D. 1753)

Report was read and accepted, the Bill read once.

Under suspension of the rules, the new Draft was read a second time, passed to be engrossed and sent up for concurrence.

Ought to Pass in New Draft/New Title

Representative CROWLEY from the Committee on Economic Development on RESOLVE, Requiring the Governor to Develop a Plan to Provide for Greater Coordination of Human Resource Development Programs (Emergency) (H.P. 938) (L.D. 1254) reporting "Ought to Pass" in New Draft under New Title RESOLVE, Pertaining to the Implementation of a Plan for Greater Coordination of Human Resource Development Programs (Emergency) (H.P. 1277) (L.D. 1748)

Report was read and accepted, the New Draft read once.

Under suspension of the rules, the new Draft was read a second time, passed to be engrossed and sent up for concurrence.

CONSENT CALENDAR

First Day

In accordance with House Rule 49, the following item appeared on the Consent Calendar for the First Day:

(H.P. 722) (L.D. 973) Bill "An Act to Improve Funding for Communicatively Impaired Maine Residents Served by Community-based, Private Nonprofit Speech and Hearing Centers" Committee on Appropriations and Financial Affairs reporting "Ought to Pass" as amended by Committee Amendment "A" (H-255)

Under suspension of the rules, Consent Calendar Second Day Notification was given, passed to be engrossed as amended and sent up for concurrence.

FINALLY PASSED

Constitutional Amendment

RESOLUTION, Proposing an Amendment to the Constitution of Maine to Insure the Preservation of the Right to Keep and Bear Arms (H.P. 484) (L.D. 651) (C. "A" H-230)

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

The SPEAKER: The Chair recognizes the Representative from Oakland, Representative Lacroix.

Representative LACRIOX: Mr. Speaker, Ladies and Gentlemen of the House: This is a Unanimous Report from the Committee on State and Local Government. I have a statement I would like to read into the Record.

The Constitution of Maine, Article 1, Section 16 currently reads: "Every citizen has the right to keep and bear arms for the common defense; and that right shall never be questioned."

In April of 1986, the Maine Supreme Court interpreted the phrase "for the common defense as pointing to service and a broadly based organized militia," meaning groups such as the National Guard. In effect, the court ruled that individual Maine citizens have no constitutional guarantee to keep and bear arms. In order to establish the individual right to keep and bear arms, thought by many to already be guaranteed in the Constitution, we are proposing to remove the words "for the common defense" from the current language and leaving the rest of the wording intact. It would now read: "Every citizen has the right to keep and bear arms; and that right shall never be questioned."

The intent of the legislature is to guarantee the right to keep and bear arms to every Maine citizen. It is also the intent of the legislature to preserve current statutes and ordinances pertaining to fire arms. In passing this amendment, we reserve to the legislature the authority to regulate the possession of firearms by convicted felons, minors, and the mentally infirm. We recognize the term arms to mean such arms as are commonly kept by the people, for example, rifles, shot guns and handguns. Laws pertaining to concealed weapons remain under legislative authority. Your municipalities may continue to regulate the discharge of firearms and waiting periods as allowed by statute. In some, the sole intent of this amendment is to ensure for each Maine citizen the right to keep and bear arms.

The SPEAKER: The Chair recognizes the Representative from South Portland, Representative Anthony.

Representative ANTHONY: Mr. Speaker, Ladies and Gentlemen of the House: I also have a statement I wish to read into the Record.

I wish to state clearly on the Record why I have become comfortable in joining the majority seeking passage of this Resolution here today.

I have been assured by the sponsors and other proponents of this bill that passage of this measure will not, in any way, alter the existing state of gun regulations in this state.

The sole purpose of this bill, I have come to understand, is to establish a constitutional underpinning to protect against any absolute prohibition by this or any future legislature or any municipality for that matter, any absolute prohibition on the owning or bearing of guns, whether for hunting or out of interest as a collector or for

purposes in defending one's self and one's home against an intruder.

This bill, if accepted by the population as a whole, would clarify that the constitutional right to bear arms is not exclusively a collective right for the purpose of defending the state against an outside enemy or the people against a tyrannical dictator but that the constitutional right to bear arms is also a personal right.

However, passage of the constitutional amendment would not, in any way, in and of itself expand that personal right beyond the parameters placed upon it by prior legislatures, nor would it prevent any future legislature from placing additional or different restrictions on it. Its sole purpose is to prevent any legislature or municipality from establishing an absolute and total ban of that right. Thus, it will still be equally possible after enactment of this proposed constitutional amendment to restrict who may possess guns and exclude certain classes of individuals, including minors or ex-felons for example, or require permits or waiting periods prior to purchase or possession of firearms.

It will still be possible to restrict the types of weapons and ammunition that may be possessed such as sawed-off shotguns or hollow-tipped bullets. It will still be possible to restrict places that arms may be kept and borne such as by prohibiting their possession in game preserves or at civic functions.

It will still be possible to limit by legislation and court decision the circumstances under which arms can be used for the defense of self, home, family, friends, livestock or other possessions of property.

It will still be possible to limit the manner of bearing arms including laws regulating the possession of concealed weapons.

In short, if this bill is passed and the proposed constitutional amendment is adopted by the people of this state, all reasonable regulation of the right to keep and bear arms including restrictions not yet contemplated by any of us, but which may be necessary for future generations of Mainer's in dealing with future arms not yet even conceived of by us, will be constitutionally permissible in this state. What will be impossible will be an outright and total ban on the keeping and bearing of arms, a total ban on collecting guns, a total ban on hunting or a total ban on the usage of firearms for defense of self and home. I don't want that and I believe neither do any of the rest of us.

It is with these understandings of the purpose of this bill that I have come to join in the Majority Report and seek passage of this bill.

Representative Murphy of Kennebunk 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 pending question before the House is final passage. This being a Constitutional Amendment, a two-thirds vote of the members present and voting is necessary. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 108

YEA - Aliberti, Allen, Anderson, Anthony, Armstrong, Bailey, Begley, Bickford, Bost, Bott, Boutilier, Bragg, Brown, Callahan, Carter, Chonko, Clark, H.; Clark, M.; Coles, Cote, Curran, Davis,

Dellert, Dexter, Diamond, Dore, Duffy, Dutremble, L.; Erwin, P.; Farnum, Farren, Foss, Foster, Garland, Gould, R. A.; Greenlaw, Gurney, Gwadosky, Hale, Hanley, Harper, Hepburn, Hichborn, Hickey, Higgins, Hoglund, Holloway, Holt, Hussey, Ingraham, Jackson, Jacques, Jalbert, Ketover, Kilkelly, Kimball, Lacroix, LaPointe, Lawrence, Lebowitz, Lisnik, Look, Lord, MacBride, Macomber, Mahany, Manning, Marsano, Martin, H.; Matthews, K.; Mayo, McGowan, McHenry, McPherson, McSweeney, Melendy, Michaud, Mills, Mitchell, Moholland, Murphy, E.; Murphy, T.; Nadeau, G. G.; Nadeau, G. R.; Nicholson, Norton, Nutting, O'Gara, Paradis, E.; Paradis, J.; Paradis, P.; Parent, Paul, Perry, Pines, Pouliot, Racine, Rand, Reeves, Rice, Ridley, Rolde, Rotondi, Rydell, Salsbury, Scarpino, Seavey, Sheltra, Sherburne, Simpson, Small, Smith, Soucy, Stanley, Stevens, A.; Stevenson, Strout, B.; Strout, D.; Swazey, Tamaro, Tardy, Taylor, Telow, Thistle, Tracy, Tupper, Vose, Walker, Warren, Webster, M.; Wentworth, Weymouth, Whitcomb, Willey, Zirkilton, The Speaker.

NAY - Baker, Conley, Handy.

ABSENT - Carroll, Cashman, Crowley, Hillock, Joseph, Priest, Reed, Richard, Ruhlin, Stevens, P..

Yes, 136; No, 3; Absent, 10; Vacant, 2; Paired, 0; Excused, 0.

136 having voted in the affirmative and 3 in the negative with 10 being absent and 2 vacant, the Resolution was finally passed, signed by the Speaker and sent to the Senate.

FINALLY PASSED
Emergency Measure

RESOLVE, Concerning the Testing of School Buildings for Radon (H.P. 1148) (L.D. 1563) (H. "A" H-238; C. "A" H-218; S. "A" S-122)

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. 121 voted in favor of the same and 1 against and accordingly the Resolve was finally passed, signed by the Speaker and sent to the Senate.

FINALLY PASSED
Emergency Measure

RESOLVE, That the Secretary of State Prepare a Revision of the State's Motor Vehicle Laws (S.P. 582) (L.D. 1726)

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. 121 voted in favor of the same and none against and accordingly the Resolve was finally passed, signed by the Speaker and sent to the Senate.

PASSED TO BE ENACTED

An Act to Increase the Appropriations to the Maine Student Osteopathic Loan Program (S.P. 94) (L.D. 241) (C. "A" S-126)

An Act Concerning the Boundary Between the Towns of Machias and Machiasport (S.P. 421) (L.D. 1301) (C. "A" S-120)

An Act to Amend the Law Concerning Activation of State Military Forces by the Governor in Human Health Emergencies (S.P. 492) (L.D. 1500)

An Act to Clarify Capital Reimbursements (S.P. 515) (L.D. 1558)