

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

One Hundred and Sixth

Legislature

OF THE

STATE OF MAINE

1973

KENNEBEC JOURNAL
AUGUSTA, MAINE

HOUSE

Tuesday, January 9, 1973

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

Prayer by the Rev. Mr. Ondon Stairs of Augusta.

The members stood at attention during the playing of the National Anthem.

The journal of the previous session was read and approved.

Papers from the Senate

From the Senate: The following Communication: (S. P. 33)

STATE OF MAINE
OFFICE OF THE GOVERNOR
AUGUSTA, MAINE

January 3, 1973

To the Members of the 106th Legislature:

Accompanying this letter is a copy of the report of my Task Force on Energy, Heavy Industry, and the Maine Coast. Legislation based on this Report will be considered at this session, and I am transmitting the Report itself because it contains much information and many ideas that I thought you might find interesting.

Essentially, the report recommends that heavy industry be permitted and encouraged at two locations in the coastal zone, the Portland area and Machias Bay, and that oil refining operations in the coastal zone be confined to the general Portland area for the time being.

The report is more extensively summarized in the Chairman's covering letter and in pages 21-29.

Respectfully,

(Signed)

KENNETH M. CURTIS
Governor

Came from the Senate read and with accompanying papers ordered placed on file.

In the House, the Communication was read and with accompanying papers ordered placed on file in concurrence.

From the Senate: The following Communication: (S. P. 34)

STATE OF MAINE
DEPARTMENT OF BANKS AND
BANKING
AUGUSTA, MAINE

January 2, 1973

To the Members of the 106th Maine Legislature:

The commissioner shall report to the Governor biennially as of June 30th. His report shall include the texts of all regulations of the department of general application adopted or altered since his last previous report: a statement of the status and remaining assets and liabilities of all financial institutions in receivership; a summary of all changes occurring since his last previous report by reason of opening of new financial institutions, mergers and conversions; a statement of condition of each financial institution as of the date of the most recent report of condition rendered to the commissioner; such other information as the commissioner believes to be of value. Copies of the biennial reports not previously submitted shall be submitted to the Legislature at the opening of the regular session following the publication of the report.

9.M.R.S.A. §4

Respectfully,

(Signed)

ROBERT A. BROWN
Deputy Bank Commissioner
Acting Bank Commissioner

Came from the Senate read and with accompanying papers ordered placed on file.

In the House, the Communication was read and with accompanying papers ordered placed on file in concurrence.

From the Senate: The following Communication: (S. P. 35)

STATE OF MAINE
DEPARTMENT OF THE
ATTORNEY GENERAL
AUGUSTA, MAINE

December 21, 1972

To the Honorable Senate and House of Representatives of the 106th Legislature:

Pursuant to Article V, Part 4, Section 2, of the Constitution, I am transmitting herewith two bonds of the Honorable Norman K. Ferguson, Treasurer of State, each in the amount of \$250,000.00, one written by Seaboard Surety Company of Portland, Maine, bearing date of December 18, 1972; and the other written by Maine Bonding and Casualty Company of Portland, Maine, bearing date of December

18, 1972, each being payable to the State of Maine.

Respectfully,

(Signed)

JAMES S. ERWIN
Attorney General

Came from the Senate read and with accompanying papers ordered placed on file with the State Auditor.

In the House, the Communication was read and with accompanying papers ordered placed on file with the State Auditor in concurrence.

Messages and Documents Tabled and Assigned

The following Communication:
(H. P. 83)

STATE OF MAINE
OFFICE OF THE GOVERNOR
AUGUSTA, MAINE

January 4, 1973

To the Honorable Members of the Senate and the House of Representatives of the 106th Legislature:

On March 10, 1972 at the close of the Special Session, the Maine Legislature enacted H. P. 1531, L. D. 1974, "An Act Relating to Inherent Managerial Functions Under the Municipal Employees Labor Relations Law." Because L. D. 1974 brought forth a strong and heated controversy, I kept the bill for further study and appointed a knowledgeable committee made up of four representatives of public employers, four representatives of public employees and three representing the public at large, to analyze the measure and advise me on its proper disposition. By a 7-4 vote, the members recommended that L. D. 1974 should not become law.

I am, therefore, returning without my signature, L. D. 1974 to its house of origin with a statement of my reasons.

At issue in L. D. 1974 is the proper area for collective bargaining for teacher contracts under the Municipal Public Employees Labor Relations Law. The bill would exclude a number of items from negotiations by defining them as "educational policies" to be determined solely by school administrators and boards rather than as "terms and conditions of employment" subject to collective

agreement by management and labor. These newly defined areas of "educational policies" would include classroom schedules, content of educational programs, standards of services, use of technology, selection and direction of personnel, and the organizational structure. Although the supporters of the bill — mostly school board members and superintendents of schools — maintain that they themselves should have absolute authority in such matters, one wonders what is left to negotiate other than salaries if these important subjects are made nonnegotiable. The school management groups maintain that the elected school committees represent the public interest and that negotiations with teachers on such "educational policies" deprive the people of proper control of programs affecting student welfare through their elected and appointed supervisors.

The opponents of L. D. 1974 are equally strong in their view. Teachers, local and state teacher associations and representatives of organized labor view L. D. 1974 as an attempt to win by action of the Legislature and Governor that which could not be won through the bargaining process. In the opponents' judgment, the intent of L. D. 1974 is to remove unreasonably from negotiations a number of matters which the teachers believe primarily affects working conditions rather than educational policy. Also, L. D. 1974 would set discriminatory limits on collective bargaining in public education which do not apply to other public employee negotiations and which are not excluded by other states.

The critics feel that L. D. 1974 would increase teacher-management difficulties resulting from attempts by school committees to void sections of existing contracts or refusing to renegotiate existing clauses.

Upon review, I agree with the employee members and public members of the Advisory Committee that L. D. 1974 in its present form should not become law. The present law is working well in most communities now. Seventy-five

percent of our teachers are covered by agreements bargained between their representatives and their school committee. Furthermore, some of the issues L. D. 1974 attempts to decide are now before the Maine Supreme Judicial Court for legal clarification.

Since 1969 the State of Maine has adopted a policy to permit collective bargaining in municipal public employment. I would like to see the principle of collective bargaining extended to include State employees and those in publicly-supported higher education. I believe we should not encumber the negotiating process by imposing any more restrictions than necessary. I also think it is an unfortunate precedent for management and employees alike to have the Legislature in Augusta become the center for resolving differences between labor and management. As many problems as possible should be resolved through the collective bargaining process rather than by arbitrary restrictions imposed by law. For these reasons, I am asking you to sustain my veto of L. D. 1974.

However, the controversy over L. D. 1974 does indicate the need for improving the legal machinery for preventing and resolving deadlocks. Accordingly, the Advisory Committee recommended unanimously that study and review of the entire Public Employee Labor Relations Law be undertaken by the Legislature. Among areas that need revision, the Advisory Committee suggests: first, improvements in fact-finding and mediation procedures; second, provision for effectively resolving economic issues in crisis situations; third, an easier procedure for obtaining rulings on negotiable items; and fourth, the need for State funds or assistance to assure that school committees are adequately represented at the bargaining table.

These Advisory Committee recommendations seem worthwhile and sensible to me. Therefore, I hope you will sustain my action and then undertake an open and impartial study of the workings of our Public Employee

Labor Relations Law with the view of enhancing the quality of public service while maintaining and improving our traditionally good relationships between public management and public employees.

Respectfully,

(Signed)

KENNETH M. CURTIS

Governor

The Communication was read and ordered placed on file.

(On motion of Mr. Simpson of Standish, tabled pending further consideration and specially assigned for Tuesday, January 16.)

Petitions, Bills and Resolves Requiring Reference

The following Bills and Resolves were received and, upon recommendation of the Committee on Reference of Bills, were referred to the following Committees:

Appropriations and Financial Affairs

Resolve, Reimbursing Mars Hill Utility District for Bonds Issued for Sewer Construction. (H. P. 65) (L. D. 80) (Presented by Mr. Good of Westfield)

Bill "An Act Increasing Compensation of Assistant Secretary of the Senate and the Assistant Clerk of the House of Representatives" (H. P. 76) (L. D. 89) (Presented by Mr. Simpson of Standish)

Resolve, Providing Funds for Development of a State Park at Gleason Point, Town of Perry" (H. P. 77) (L. D. 90) (Presented by Mr. Mills of Eastport)

(Ordered Printed)

Sent up for concurrence.

Business Legislation

Bill "An Act Relating to Hot and Cold Water in Public Rest Rooms" (H. P. 59) (L. D. 71) (Presented by Mr. Emery of Rockland)

(Ordered Printed)

Sent up for concurrence.

County Government

Bill "An Act Increasing Salaries of County Officers of Somerset County" (H. P. 64) (L. D. 78) (Presented by Mr. Dam of Skowhegan)

(Ordered Printed)

Sent up for concurrence.

Education

Bill "An Act Increasing the Borrowing Capacity of Bucksport School District" (H. P. 71) (L. D. 84) (Presented by Mr. Churchill of Orland)

(Ordered Printed)

Sent up for concurrence.

Fisheries and Wildlife

Bill "An Act relating to Use of Power Boats on Certain Lakes in St. Croix Watershed, Washington County" (H. P. 68) (L. D. 81) (Presented by Mr. Mills of Eastport)

Bill "An Act Relating to Possession of Salmon, Trout, Togue or Black Bass" (H. P. 75) (L. D. 88) (Presented by Mr. Bither of Houlton)

Bill "An Act Relating to Use of Power Boats on Sourdnhunk Lake, Piscataquis County" (H. P. 78) (L. D. 91) (Presented by Mr. Crommett of Millinocket)

(Ordered Printed)

Sent up for concurrence.

Human Resources

Bill "An Act Requiring Municipal Consultation on Aid to Dependent Children Applications" (H. P. 80) (L. D. 93) (Presented by Mr. Lewis of Bristol)

(Ordered Printed)

Sent up for concurrence.

Judiciary

Bill "An Act Relating to Fees for Forest Lands and Wild Lands Posted Against Trespass" (H. P. 58) (L. D. 70) (Presented by Mr. Dyar of Strong)

Bill "An Act to Revise Maine Boat Law to Conform with Federal Law" (H. P. 62) (L. D. 74) (Presented by Mr. Kelley of Southport)

Bill "An Act to Provide for Full-time Elected District Attorneys" (H. P. 69) (L. D. 82) (Presented by Mr. Emery of Rockland)

(Ordered Printed)

Sent up for concurrence.

Legal Affairs

Bill "An Act Changing Name of Main Rescue Service" (H. P. 63) (L. D. 75) (Presented by Mr. Lawry of Fairfield)

Bill "An Act Changing Name of Land Owners Association" (H. P.

70) (L. D. 83) (Presented by Mr. Dyar of Strong)

Bill "An Act Relating to Amount of Property Held by Empire Grove Campmeeting Association" (H. P. 72) (L. D. 85) (Presented by Mr. Dunn of Poland)

Resolve to Reimburse Willard M. Judkins of Rangeley for Automobile Damage Due to Highway Construction (H. P. 81) (L. D. 94) (Presented by Mr. Dyar of Strong)

(Ordered Printed)

Sent up for concurrence.

Natural Resources

Bill "An Act Relating to Sale of Timber Stumpage on the Public Reserved Lands" (H. P. 73) (L. D. 86) (Presented by Mr. Dyar of Strong)

(Ordered Printed)

Sent up for concurrence.

Taxation

Bill "An Act Broadening the Sales and Use Tax Exemption on Water and Air Pollution Control Facilities" (H. P. 60) (L. D. 72) (Presented by Mr. Kelley of Southport)

Bill "An Act Exempting Sales of Fishing Vessels and Equipment Therefor from the Sales Tax" (H. P. 61) (L. D. 73) (Presented by Mr. Kelley of Southport)

Bill "An Act Repealing the Poll Tax" (H. P. 79) (L. D. 92) (Presented by Mr. Crommett of Millinocket)

(Ordered Printed)

Sent up for concurrence.

Transportation

Bill "An Act Providing a Full-time Office for Registration and Licenses for Operation of Motor Vehicles in the Town of Millinocket" (H. P. 74) (L. D. 87) (Presented by Mr. Crommett of Millinocket)

(Ordered Printed)

Sent up for concurrence.

Orders

Mr. Simpson of Standish presented the following Joint Order and moved its passage:

ORDERED, the Senate concurring, that a Joint Special Committee on Public Lands, consisting of ten members, three of whom shall be Members of the

Senate appointed by the President of the Senate and seven of whom shall be Members of the House appointed by the Speaker of the House, is hereby created and appointed for the purpose of reviewing legislation introduced in the 106th Legislature in connection with public lands including public lots. The Committee is not only authorized to review all legislation introduced in connection with the public lots but is directed to study and report on the present legal status of the public lots; the legal rights of the citizens of Maine in the public lots; and the alternative uses to which the public lots may be put to in the public interest and to report to the Legislature its views and recommendations in regard to what action, if any, the Legislature should take in regard to the use of public lands including public lots and to draft legislation to implement its recommendations.

The Committee shall act as expeditiously as possible and shall report to the 106th Legislature either in regular or special session in such manner as the Committee deems appropriate.

The Committee shall proceed in its work with the assistance of the Attorney General's Department, the Director of Legislative Research, the Legislative Finance Officer and any other state department, board, commission, authority or agency from which information may be required to carry out and expedite the Committee's duties. Furthermore, said Committee may employ such assistants, clerks, attorneys, agents and advisors as it shall deem necessary and set the conditions of their employment with the approval of the President of the Senate and the Speaker of the House. If it is necessary for the Committee to meet when the Legislature is not in session, the Committee members shall be reimbursed for their actual expenses in service to the Committee, with the exception of mileage which shall be paid at the same rate received by state employees. The Committee is authorized to conduct public hearings at such times, places and in such manner as it deems appropriate to fulfill its duties.

There is allocated to the Committee from the Legislative Account the sum of \$10,000 to carry out the purposes of this Order. (H. P. 84)

The Order was read and passed and sent up for concurrence.

On motion of Mr. Trask of Milo, it was

ORDERED, that Leon J. Crommett of Millinocket be excused because of illness in the family; and be it further

ORDERED, that Joseph E. Binnette of Old Town be excused because of illness for one week or the duration of his illness.

Mr. Haskell of Houlton was granted unanimous consent to address the House.

Mr. HASKELL: Mr. Speaker and Ladies and Gentlemen of the House: I am sure you are aware that the Governor's veto message on L. D. 1974 was tabled for a week. This was at my request. I was the sponsor of the bill last session. The reason I asked for a week's tabling — we are in a situation where we have approximately sixty new members of the House. We have not had an opportunity to attend a hearing on this bill. In order to get the detailed information on it that I feel is necessary if we are going to make a decision on whether or not to sustain the Governor's veto. For that reason we are now in a situation where we do have the bill tabled for a week.

We have scheduled an informational meeting which will take place tomorrow immediately following the session in the Appropriations room which is room 228. At this informational meeting we will give an opportunity to the M.T.A. to furnish whatever spokesman they wish to present their side of the bill and also give an opportunity for school boards and Superintendent's Association to present their side of the picture. Then we will give some of the details on the past efforts in the House and the Senate on this bill.

I think it is particularly important that the new members do attend this because there is an amazing amount of misinformation

that is current regarding the effects of the bill. I think a great deal of the misinformation is due to the fact that the professional staff of the M.T.A. in their communications which they have sent to teachers over the year has consisted of, among other things, some material out of context, some distortions and some material I can only describe as pure hysteria, to a point that I feel very confident that eight out of ten of the teachers in the State of Maine have no real conception of what is involved here in this bill. I am sure that that is reflected in the type of mail that you are receiving from teachers.

This morning I have heard from a couple of sources that L. D. 1974 makes it impossible for teachers to negotiate in the area of wages. Nothing could be further from the truth. So I think, the new members particularly, it is incumbent on them to attend this informational meeting tomorrow and find out what the real issues involved in the bill are and to inform themselves so that they can vote intelligently on the bill when it comes up for a vote a week from today.

Orders of the Day

The Speaker announced the appointment of the following House Standing Committees:

House Standing Committees

Ways and Means

Haskell of Houlton
White of Guilford
Susi of Pittsfield
Farnham of Hampden

Jalbert of Lewiston
Kelleher of Bangor
Conley of South Portland

Leave of Absence

McCormick of Union
Shute of Stockton Springs
Snowe of Auburn
McKernan of Bangor
Lawry of Fairfield
Gauthier of Sanford
Tanguay of Lewiston

Bills in the Second Reading

Evans of Freedom
Trask of Milo
McNally of Ellsworth
Ferris of Waterville
Goodwin of Bath
Keyte of Dexter
Carrier of Westbrook

Engrossed Bills

Evans of Freedom
Curtis of Orono
Hamblen of Gorham
Palmer of Nobleboro
Faucher of Solon
Cote of Lewiston
Kilroy of Portland

Rules and Business of the House

The Speaker Ex Officio
Simpson of Standish
McTeague of Brunswick
Binnette of Old Town

The Speaker appointed the following member of the House to the Joint Standing Committee:

Public Utilities

Maddox of Vinalhaven

(Off Record Remarks)

On motion of Mr. Simpson of Standish,

Adjourned until ten o'clock tomorrow morning.