

MAINE STATE LEGISLATURE

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Legislative Record

OF THE

One Hundred and Seventh Legislature

(First Special Session)

OF THE

STATE OF MAINE

1976

KENNEBEC JOURNAL
AUGUSTA, MAINE

HOUSE

Thursday, February 12, 1976

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

Prayer by Father Vincent Morgan of Portland.

The journal of yesterday was read and approved.

On motion of Mr. Norris of Brewer, the House voted to take from the table the first tabled and today assigned matter:

Joint Order Relative to Harold Goss of Brewer (H. P. 2032) — In the House, read and passed February 11.

Tabled — February 11 by Mr. McKernan of Bangor.

Pending — Motion of Mr. Norris of Brewer to reconsider Passage.

Thereupon, the House reconsidered its action of yesterday whereby the Order received passage.

The SPEAKER: The Chair recognizes the gentleman from Brewer, Mr. Cox.

Mr. COX: Mr. Speaker, Ladies and Gentlemen of the House: You probably all have read of the courageous action of Mr. Harold Goss of Brewer during the flooding in Bangor on February 2. Disregarding the risk to himself, Mr. Goss swam out into the icy flood waters and rescued Cynthia Caulkins of Levant who was trapped in her car and probably had only seconds or minutes to live.

It is heartening to know that we have among us a man with both the courage and the physical strength to perform such an act. This act of Mr. Goss is in the tradition of all those, to paraphrase the words of a great song, "love mercy more than life." (Applause, the members rising)

Thereupon, the Order received passage and was sent up for concurrence.

By unanimous consent, ordered sent forthwith.

Papers from the Senate

From the Senate:

Resolution Proposing an Amendment to the Constitution to Assure Revenues for Bond Service and Prohibit State Bonding of Current Expenditures (S. P. 689) (L. D. 2206)

Came from the Senate referred to the Committee on State Government and ordered printed.

In the House, referred to the Committee on State Government in concurrence.

The following Communication: (H. P. 2038)

Report of the Committee on Judiciary To the Senate and House of Representatives, Special Session of the 107th Legislature

re — Study Order, H. P. 1782, requesting the Judiciary Committee to examine the effect of the constitutional amendment abolishing the Executive Council on the confirmation of judicial appointments.

The Committee determined that the abolition of the Executive Council and its being replaced with the Committee confirmation process would, indeed, affect the confirmation of judicial appointees in that the Maine Senate, which is the ultimate confirming body, would not be in session at certain times of the year.

The problem arises from the fact that judicial officers hold their term of office for a term of seven years from the day of appointment and "no longer". Article 6, Section 4, Maine Constitution. Title 4, Section 157 and Title 5, Section 2401, Maine

Statutes, provide for a similar specific seven-year term for District Court Judges and the Judge of the Administrative Court.

Therefore, the recommendation of the Judiciary Committee is a change in the Maine Constitution to allow Judges whose term of office expires, or who reach mandatory retirement age, to hold over and remain in office until a successor is appointed, but not to exceed six (6) months. Similar changes in all pertinent statutory law are likewise recommended in order to conform the statutory law to the recommended constitutional amendment.

The constitutional change should be acted upon in the special session of the 107th Legislature so that, if ratified by the voters, it can become effective in January of 1977, the date of the abolition of the Executive Council.

Provisions should also be made so that Judges due to retire who hold over under these provisions do not jeopardize their retirement benefits.

All statutory changes implementing the Constitutional Amendment, should it be ratified, would have to be made by the 108th Legislature.

Signed: SAMUEL W. COLLINS, JR.
Senate Chairman

Signed: RICHARD A. SPENCER
House Chairman

Signed: ROBERT W. CLIFFORD
Subcommittee Chairman

The Communication was read and ordered placed on file and sent up for concurrence.

Petitions, Bills and Resolves Requiring Reference

The following Bill was received and, upon recommendation of the Committee on Reference of Bills, was referred to the following Committee:

Taxation

Bill "An Act to Revise and Reform the Maine Personal Income Tax Law" (H. P. 2036) (Presented by Mr. Ingegneri of Bangor)

(Ordered Printed)
Sent up for concurrence.

Study Report Judiciary

Mr. Spencer from the Committee on Judiciary to which was referred the study relative to Confirmation of Justices and Judges, pursuant to H. P. 1782 of the 107th Legislature, have had the same under consideration, and ask leave to submit its findings and to report that the accompanying Resolution, Proposing an Amendment to the Constitution to Allow Judges Whose Terms of Office Expire or who Reach Mandatory Retirement Age to Continue to Hold Office for up to 6 Months until their Successors are Appointed (H. P. 2037) (L. D. 2209) be referred to this Committee for public hearing and printed pursuant to Joint Rule 3.

Report was read and accepted, the Resolution referred to the Committee on Judiciary and sent up for concurrence.

House Reports of Committees Divided Report

Tabled and Assigned

Majority Report of the Committee on Natural Resources on Bill "An Act to Allow Certain Mining Operations within the Sandy River and Temple Stream without a Permit from the Commissioner of Inland Fisheries and Wildlife" (H. P.

1885) (L. D. 2063) reporting "Ought Not to Pass"

Report was signed by the following members:

Mr. TROTZKY of Penobscot — of the Senate.
Mrs. HUTCHINGS of Lincolnville
Messrs. PETERSON of Windham
HALL of Sangerville
CURRAN of Bangor
McBREAIRTY of Perham
AULT of Wayne
BLODGETT of Waldoboro
CHURCHILL of Orland
WILFONG of Stow

— of the House.
Minority Report of the same Committee reporting "Ought to Pass" on same Bill.

Report was signed by the following members:

Messrs. WYMAN of Washington
O'LEARY of Oxford — of the Senate.

Mr. DOAK of Rangeley — of the House.

Reports were read.
Mr. Peterson of Windham moved the House accept the Majority "Ought Not to Pass" Report.

On motion of the same gentleman, tabled pending his motion to accept the Majority Report and specially assigned for Tuesday, February 17.

Divided Report Tabled and Assigned

Majority Report of the Committee on Natural Resources on Bill "An Act to Establish the Maine Forestry District Fire Protection Fund" (H. P. 1853) (L. D. 2022) reporting "Ought Not to Pass"

Report was signed by the following members:

Mr. TROTZKY of Penobscot — of the Senate.
Mrs. HUTCHINGS of Lincolnville
Messrs. PETERSON of Windham
CURRAN of Bangor
McBREAIRTY of Perham
AULT of Wayne
BLODGETT of Waldoboro
WILFONG of Stow

— of the House.
Minority Report of the same Committee reporting "Ought to Pass" on same Bill.

Report was signed by the following members:

Messrs. O'LEARY of Oxford
WYMAN of Washington — of the Senate.

Messrs. HALL of Sangerville
DOAK of Rangeley
CHURCHILL of Orland

— of the House.

Reports were read.
On motion of Mr. Rolde of York, tabled pending acceptance of either Report and tomorrow assigned.

Consent Calendar Second Day

In accordance with House Rule 49-A, the following items appeared on the Consent Calendar for the Second Day:

Bill "An Act Concerning Municipal Appropriations to Incorporated Volunteer Fire Departments" (H. P. 1906) (L. D. 2093)

Bill "An Act Extending the Legislative Lifetime and Reporting Deadlines of the Commission on Maine's Future, and Allowing for Expenditures of Previously Appropriated Funds Throughout and Revised Lifetime of the Commission" (Emergency) (H. P. 1916) (L. D. 2104)

Bill "An Act to Clarify Provisions

Relating to the Town of York School District" (C. "A" H-887) (H. P. 1832) (L. D. 1997)

No objections having been noted at the end of the Second Legislative Day, the House Papers were passed to be engrossed or passed to be engrossed as amended and sent up for concurrence.

Passed to Be Enacted

An Act Authorizing the Department of Mental Health and Corrections to Purchase Residential Services (H. P. 1880) (L. D. 2055)

An Act to Clarify the Statutory Authority of the Board of Pesticide Control (H. P. 1901) (L. D. 2088)

Were reported by the Committee on Engrossed Bills as truly and strictly engrossed, passed to be enacted, signed by the Speaker and sent to the Senate.

The following papers appearing on Supplement No. 1 were taken up out of order by unanimous consent:

Mr. Lunt from the Committee on Public Utilities on Bill "An Act to Establish Assessments upon Certain Public Utilities and to Authorize Use of the Funds Generated by those Assessments to Pay Certain Expenses of the Public Utilities Commission" (H. P. 1910) (L. D. 2097) reporting "Ought to Pass" as amended by Committee Amendment "A" (H-893)

Report was read and accepted and the Bill read once. Committee Amendment "A" (H-893) was read by the Clerk and adopted and the Bill assigned for second reading tomorrow.

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

Bill "An Act Concerning Allowances Granted to Indian Representatives During Special Session" Committee on State Officials reporting "Ought to Pass" (H. P. 1921) (L. D. 2109)

No objection being noted, the above item was ordered to appear on the Consent Calendar of February 13 under listing of Second Day.

Mr. Hennessey of West Bath was granted unanimous consent to address the House.

Mr. HENNESSEY: Mr. Speaker, Ladies and Gentlemen of the House: On behalf of Commissioner Rosser and the Pineland Superintendent, Mr. Sidney, I extend to you an invitation to be at the ribbon cutting ceremonies Friday at 9:30. Senator Muskie will be there to do the honors and I would like to see as many people there as possible.

This is going to be quite a turning point for the Pineland Center development and I think it should serve notice to those people in the state that always have been talking that Pineland is closing. I think Pineland has not reached its capacity to do business for the retarded in the state.

Mr. Jalbert of Lewiston was granted unanimous consent to address the House.

Mr. JALBERT: Mr. Speaker and Members of the House: You know, there is one thing in this body that I pride myself in, and it is the rules. I knew fully well the day before yesterday, when I asked the Speaker if a motion to adjourn would be in order and he said "the answer is in the negative" and one thing, I did salvage something, I was going to question his ruling, and I didn't have the stupidity to do that. But I had in my mind, and I consider

Mason the authority, I had in my mind when the motion to adjourn was in order. I felt that among these items that would make the motion to adjourn in order was the reason I did suggest it. But I read the rules today and I am not going to make myself any more miserable than I am, I am just going to suggest to you that it says that when the motion to adjourn is in order, except different areas, and then there are areas where you can make the motion. But unfortunately for me, and I don't know what Mason was doing when he wrote this, but he did, one of the items that you can't make the motion — the law that it is not in order during the taking or the verification of a vote. You know, Mason doesn't make me too angry — I don't get angry anymore, I just get even — but what really hurts me is to get blown down by an amateur.

(Off Record Remarks)

Mr. Connors of Franklin was granted unanimous consent to address the House.

Mr. CONNORS: Mr. Speaker, Ladies and Gentlemen of the House: The other day, the gentleman from Livermore Falls, Mr. Lynch, gave you a typical example of the mismanagement of schools by uncaring, selfish, small communities which can only be corrected by our generous big brother, the state. I refer, of course, to the terrible conditions at Franklin elementary school, which Mr. Lynch stated were only corrected on February 6, 1976. This speech is typical of the distortion and bad homework of the Department of Education and the backers of state controlled education. The conditions which he referred to were corrected before Mr. Dowdy was succeeded as superintendent by the current one and the new superintendent is now in his third year as superintendent.

With the cooperation of the town officials, school board and town people, we installed a completely new septic system, removed 90 percent of the rocks on the school grounds, we installed two back steps and hauled in gravel so that we have two baseball diamonds for different age groups, we have covered the tables in the cafeteria, moved the sewage pipe, rescheduled the remedial reading class so that it no longer conflicts with lunch or cleaning up, and with state approval, contracted with one of our local churches to use their facilities for the 6th grade class and next year we will have a new community school district that this 6th grade will be going into.

A lot of this was completed before we enjoyed the benefits of L. D. 1994. Three inspectors of the Department of Education completely examined the school and gave it a clean bill of health, save for an oil stove in the cafeteria, which they gave a temporary okay to.

Since the first of the year, inspectors from the Department of Human Resources have twice visited the school on a routine license inspection. They still find nothing wrong and I find it interesting that the graduates of this school, far from leading the deprived academic life that was implied, have had a far higher percentage of the honor roll in the high school than the graduates of schools from other towns.

By working for the Fish and Game Department for two winters on snowmobile safety, I have been in many schools throughout the state. I have seen old schools in good condition and new schools where the walls were covered with

scribbling and the desks and tables were notched in initials by knives. I have seen new toilets which overflowed into halls and old ones that have worked perfectly. I have seen weather tight old schools and leaking, poorly constructed new schools which use far more fuel to heat them, and I have not noticed that students in new schools behave better and learn more.

I feel if we were to follow Mr. Lynch's theory to its logical conclusion, we should look around us. Everything here is not new and shiny. The rug is worn and coming apart at the seams, the paint is chipped and peeling from the walls, drapes are torn and old, our desks are not large enough for all the committee reports, bills, odd papers, so we must take them home, and that is where many of them stay, but in spite of these adverse conditions, I feel that I, at least, am getting one heck of an education.

Mr. McKernan of Bangor was granted unanimous consent to address the House:

Mr. MCKERNAN: Mr. Speaker, Ladies and Gentlemen of the House: I am not going to give the gentleman from Perham any answer, but I do have something else that I would like to mention here today.

In the headlines of the Bangor Daily News, it talks about a school compromise being met and I just want to say that there are people who are working on a compromise and it is well discussed on the front page of the Bangor Daily News.

But in deference to the Bangor Daily News reporter, who has been here for the last week or so covering education, his name is Wayne Riley, I just wanted to say that nothing has been agreed upon. It is one of the proposals that will, in fact, be discussed at the Republican caucus, and I am sure at the Democratic caucus. But I just wanted to clarify that point simply because I told him after a leadership meeting yesterday, that we had not agreed upon anything, and then this UPI story today that there was a compromise being met and I wanted to make it clear, not only to Wayne but to everybody in this body, that this is just one alternative to be proposed and will be discussed in the caucuses.

(Off Record Remarks)

On motion of Mr. Twitchell of Norway, Adjourned until ten o'clock tomorrow morning.