

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

SENATE

Friday, February 20, 1976

Senate called to order by the President.

Prayer by the Honorable Samuel W. Collins, Jr., of Rockland:

May we learn how to disagree without being disagreeable. Lord, we have so much, we ask but one thing more, the gift of grateful hearts. Amen.

Reading of the Journal of yesterday.

**Papers from the House
Joint Orders
STATE OF MAINE**

In the Year of Our Lord One Thousand Nine Hundred and Seventy-six.

WHEREAS, The Legislature has learned of the Outstanding Achievement and Exceptional Accomplishment of Cynthia Jean Olivieri of Lincoln Chosen 1975 Maine Winter Festival Queen by the Moosehead Lake Region Chamber of Commerce

We the Members of the House of Representatives and Senate do hereby Order that our congratulations and acknowledgement be extended; and further

Order and direct, while duly assembled in session at the Capitol in Augusta, under the Constitution and Laws of the State of Maine, that this official expression of pride be sent forthwith on behalf of the Legislature and the people of the State of Maine. (H. P. 2056)

Comes from the House. Read and Passed.

Which was Read and Passed in concurrence.

WHEREAS, the question of the proper taxation policy for Maine has often dominated the 107th legislative session; and

WHEREAS, the Governor's Tax Policy Committee, composed of persons experienced in tax policy and broadly representative of Maine citizens, was charged to study Maine's tax policy and, following its charge, held numerous deliberations during the fall of 1975; and

WHEREAS, the Governor's Tax Policy Committee submitted to the Governor, on November 17, 1975, a number of recommendations concerning what the committee called "important interim and fundamental tax policy directions for the State of Maine;" and

WHEREAS, it now remains for the Legislature to act upon these recommendations: now, therefore, be it

ORDERED, the Senate concurring, that the Joint Standing Committee on Taxation shall conduct a thorough study of the recommendations of the Governor's Tax Policy Committee, with emphasis on the drafting of proposed legislation embodying those recommendations for consideration by the next regular session of the Legislature; and be it further

ORDERED, that the Joint Standing Committee on Taxation shall complete this study no later than October 1, 1976, and shall submit to the Legislative Council by October 1, 1976, the report of its study and complete and final copies of any proposed

legislation recommended by that study. (H. P. 2057)

Comes from the House. Read and Passed.

Which was Read.

On motion by Mr. Speers of Kennebec, tabled pending Passage.

**House Papers
Taxation**

Bill, "An Act to Provide Relief from the Burden of the State Uniform School Tax." (H. P. 2055) (L. D. 2231)

The Committee on Reference of Bills suggests that this Bill be referred to the Committee on Education.

Comes from the House referred to the Committee on Taxation and Ordered Printed.

Which was referred to the Committee on Taxation and Ordered Printed in concurrence.

Local and County Government

Resolve, for Laying of Additional County Taxes for the Year Nineteen Hundred and Seventy-six and to Authorize Certain Reallocations to Conform with Line Budget Statutes. (H. P. 2053) (L. D. 2230)

Comes from the House referred to the Committee on Local and County Government and Ordered Printed.

Which was referred to the Committee on Local and County Government and Ordered Printed in concurrence.

Study Report — Health and Institutional Services

The Committee on Health and Institutional Services to which was referred the study relative to Promote the Development of Small Group Homes for Mentally Retarded Individuals pursuant to H. P. 1724 of the 107th Legislature, have had the same under consideration and ask leave to submit its Majority findings and to report that the accompanying Bill, "An Act to Promote the Development of Small Group Homes for Mentally Retarded Individuals" (H. P. 2058) (L. D. 2228) be referred to this Committee for public hearing and printed pursuant to Joint Rule 3.

Comes from the House, the report Read and Accepted and the Bill referred to the Committee on Health and Institutional Services.

Which report was Read and Accepted and the Bill referred to the Committee on Health and Institutional Services, in concurrence.

**Communications
STATE OF MAINE**

Department of Transportation
State Office Building
Augusta, Maine 04333

February 19, 1976

To the Members of the
107th Maine Legislature

Re: L. D. No. 2065, An Act to Include Grain in Weight Tolerances for Certain Vehicles Operated on State Highways.

As a result of comments made on the floor of the House in the debate over the subject legislation, I would like to attempt to clarify some issues in regard to commodities currently included in the law under the 10 percent tolerance provision.

I can assure you that none of the commodities contained in the tolerance provision were initiated, supported,

endorsed, passed into legislation or signed into law by the Maine Department of Transportation. It is the feeling of this Department that there are excessive commodities already included in the tolerance provisions and we would welcome the elimination of those products for which weight can be reasonably predicted.

Realizing the difficulty of eliminating something that has already been established in the law, we have found little recourse but to attempt to discourage the inclusion of any additional unnecessary commodities with the thought that two wrongs don't make a right.

Very truly yours,

Signed:

ROGER L. MALLAR
Commissioner

Which was Read and Ordered Placed on File.

**Senate Papers
Judiciary**

Mr. Collins of Knox presented, Bill, "An Act Relating to Costs in Contested Cases and Depositions in Probate Court." (S. P. 709)

(Approved by a Majority of the Committee on Reference of Bills pursuant to Joint Order S. P. 635, as Amended.)

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

Sent down for concurrence.

Natural Resources

Mr. Conley of Cumberland presented, Bill, "An Act to Temporarily Exempt Property Owners on Islands in Casco Bay from Certain Waste Discharge Compliance Requirements." (S. P. 708)

(Approved by a Majority of the Committee on Reference of Bills pursuant to Joint Order (S. P. 635), as Amended.)

Which was referred to the Committee on Natural Resources and Ordered Printed.

Sent down for concurrence.

Orders

On motion by Mr. Speers of Kennebec,

WHEREAS, the Legislature has often given administrative bodies the power to make rules and regulations in order to ensure the even, swift and just application of legislative purpose in government; and

WHEREAS, these rules and regulations have, often through necessity, multiplied and become complex; and

WHEREAS, the question has often arisen lately as to whether these rules and regulations fully embody the legislative purpose of the Acts which authorize them; and

WHEREAS, a careful legislative review of administrative rules and regulations is often the only method of ensuring that these rules and regulations adhere to legislative purpose; now, therefore, be it

ORDERED, the House concurring, that the Joint Standing Committee on State Government shall undertake a study of the desirability and best methods of providing for legislative review of administrative rules and regulations of state departments and agencies; and be it further

ORDERED, that the Joint Standing Committee on State Government shall complete this study no later than November 30, 1976, and shall submit to the Director of Legislative Research on November 30, 1976, a complete and final copy of any proposed legislation

recommended by that study; and be it further

ORDERED, that the committee shall supply sufficient copies of that report directly to the Legislature within 15 days after the convening of the first regular session of the 108th Legislature and that any proposed legislation recommended by that committee shall be introduced into the Legislature by the committee within that 15-day time period. (S. P. 710)

Which was Read.

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

Mr. SPEERS: Mr. President and Members of the Senate: I am introducing this order today because I feel it is regarding a subject which is of extreme importance to the legislative process and to the integrity of the legislature, and that is the idea of legislative review of administrative rules and regulations. This is an idea that has gradually become predominant among those interested in improving the legislative process. It is an idea that is becoming predominant not only in the State of Maine but throughout the nation as well.

I am pleased to be Chairman of a Committee, the Legislative Improvement Modernization Committee of the National Conference of State Legislatures, which has named this subject its priority item to be dealt with in the coming year, and we are determined to be looking at this problem and this subject and to be making recommendations to the states with regard to it.

Mr. President, there is on our calendar on our table assigned for today an order which would require the State Government Committee to report out a bill authorizing legislative review of administrative rules and regulations. I am in complete support of the idea expressed by the supporter of that order, but I think that this is a subject matter which is not a very simple matter. There are innumerable questions regarding how the legislature should take upon itself the duties of reviewing administrative rules and regulations, and some of those questions are very intricate and involved questions.

Some of the states that do have this procedure at the present time range from all the way from merely a legislative review and the committees giving an advisory opinion, with no more power than that, all the way through the gamut to the actual power and authority of a committee to stay the effectiveness of a rule or regulation that is promulgated by administrative agencies.

There is a serious question of constitutionality involved with those procedures which do grant the legislature the authority to stay the effectiveness, and this is one of the questions that the LIM Committee is looking into and trying to come up with some answers to that question and some recommendations that will provide a road map for the states to avoid the constitutionality problems that could be very much involved with this question.

There is also a variable as to which committees should be involved in reviewing administrative rules and regulations that are promulgated. Should it be one committee of the legislature, or should the various recommendations or regulations be referred to many different committees in the area of those committees' expertise.

There is also the question of whether or

not all proposed regulations should be reviewed or whether there should be some selectivity involved. I cite these questions to give an idea and a flavor of the intricacies involved with this particular problem.

Mr. President, the Committee on Reference of Bills had been approached with the idea of putting in a bill in this particular session to have the State Government Committee report a bill to establish legislative procedures for the State of Maine to review rules and regulations. That committee, understanding the intricacies involved and the questions involved, felt very strongly that this was a matter for a study to be conducted by the State Government Committee during the summer to take a careful look at it and come up with some recommendations of its own, hopefully to receive some recommendations from the LIM Committee, and to present a bill to be considered in the next regular session of the legislature a year from now. Because of the number of variables that are involved in this problem and because of the intricacies of those questions, we do feel that this is the proper approach to take to this problem and I therefore submitted this order, and would be objecting to the other order when it comes off the table later on this morning. Thank you, Mr. President.

The PRESIDENT: The Chair recognizes the Senator from Penobscot, Senator Cummings.

Thereupon, on motion by Mrs. Cummings of Penobscot, tabled pending Passage.

On motion by Mr. Curtis of Penobscot,
STATE OF MAINE

In the Year of Our Lord One Thousand
Nine Hundred and Seventy-six

WHEREAS, The Legislature has learned of the Outstanding Achievement and Exceptional Accomplishment of James L. Boyle of Waterville Founder of American Legion Boys State in Maine

We the Members of the Senate and House of Representatives do hereby Order that our congratulations and acknowledgement be extended; and further

Order and direct, while duly assembled in session at the Capitol in Augusta, under the Constitution and Laws of the State of Maine, that this official expression of pride be sent forthwith on behalf of the Legislature and the people of the State of Maine. (S. P. 706)

Which was Read and Passed.
Sent down for concurrence.

Committee Reports House Ought to Pass

The Committee on Legal Affairs on, Bill, "An Act Amending the Charter of the Caribou Hospital District." (H. P. 2005) (L. D. 2184)

Reported that the same Ought to Pass.

Comes from the House, the Bill Passed to be Engrossed.

Which report was Read and Accepted in concurrence, the Bill Read Once and Tomorrow Assigned for Second Reading.

Ought to Pass — As Amended

The Committee on Local and County Government on, Bill, "An Act to Clarify the Laws Relating to County Budgets." (H. P. 1818) (L. D. 1976)

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-903).

Comes from the House, the Bill Passed to be Engrossed as Amended by Committee Amendment "A".

Which report was Read and Accepted in concurrence and the Bill Read Once. Committee Amendment "A" was Read and Adopted in concurrence and the Bill, as Amended, Tomorrow Assigned for Second Reading.

Divided Report

The Majority of the Committee on Judiciary on, Bill, "An Act Relating to Public Inspection of Certain Juvenile Court Records." (H. P. 1881) (L. D. 2059)

Reported that the same Ought Not to Pass.

Signed:

Senators:

COLLINS of Knox
CLIFFORD of Androscoggin
MERRILL of Cumberland

Representatives:

SPENCER of Standish
MISKAVAGE of Augusta
HENDERSON of Bangor
HUGHES of Auburn
PERKINS of South Portland
HOBBINS of Saco

The Minority of the same Committee on the same subject matter reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-909).

Signed:

Representatives:

BENNETT of Caribou
HEWES of Cape Elizabeth
McMAHON of Kennebunk

Comes from the House, Bill and accompanying papers Recommended to the Committee on Judiciary.

Which reports were Read.

The PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Berry.

Mr. BERRY: Mr. President and Members of the Senate: I would move that this be referred back to the committee in concurrence. I would just invite the Senate's attention to a front page article in today's Bangor News. The headlines say, "Juvenile Sentenced in Death Plot", and the locale is Machias, Maine. It makes horrible reading.

I would hope that the recommitment of this bill would perhaps result in a little different report than we see here. This is a subject that deserves a great deal of attention. It is a very complex subject and it involves, of course, the rights of juveniles for protection, and yet it also involves the right of society against actions such as covered in this newspaper report. I am sure under the guidance of the good Senators Collins, Clifford and Merrill that this matter will receive a lot of close attention, and I would hope that we would end up with something that would be workable and fulfill a crying need for attention.

The PRESIDENT: Is it now the pleasure of the Senate that this bill be recommitment to the Committee on Judiciary in concurrence?

The motion prevailed.

Divided Report

The Majority of the Committee on Education on. Bill, "An Act to Revise the Laws Relating to Funding of Public Schools." (H. P. 1844) (L. D. 2011)

Reported that the same Ought to Pass in New Draft under Same Title (H. P. 2020) (L. D. 2196)

Signed:

Senators:

KATZ of Kennebec
THOMAS of Kennebec
BERRY of Androscoggin

Representatives:

MITCHELL of Vassalboro
LYNCH of Livermore Falls
FENLASON of Danforth
POWELL of Wallagrass
BAGLEY of Winthrop
CONNOLLY of Portland
INGEGNERI of Bangor

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

Signed:

Representative:

TYNDALE of Kennebunkport

Comes from the House, the Majority report Read and Accepted and the Bill, in New Draft, (H. P. 2020) (L. D. 2196) Passed to be Engrossed as Amended by House Amendments "C" (H-880) and "O" (H-920).

Which reports were Read, the Majority Ought to Pass Report of the Committee Accepted in concurrence and the Bill Read Once. House Amendment "C" was Read.

Thereupon, on motion by Mr. Speers of Kennebec, tabled and Tomorrow Assigned, pending Adoption of House Amendment "C".

Senate**Ought to Pass in New Draft**

Mr. Thomas for the Committee on Business Legislation on. Bill, "An Act to Conform the Maine Truth-in-Lending Act to Federal Statutes." (S. P. 647) (L. D. 2048)

Reported that the same Ought to Pass in New Draft under New Title: "An Act Relating to the Right of Rescission Under the Truth-in-Lending Act" (S. P. 711) (L. D. 2234).

Which report was Read and Accepted, the Bill in New Draft Read Once and Tomorrow Assigned for Second Reading.

Second Readers

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

House

Bill, "An Act Concerning Allowances Granted to Indian Representatives During Special Sessions." (H. P. 1921) (L. D. 2109)

Bill, "An Act Relating to Emergency Lights for Vehicles." (H. P. 1954) (L. D. 2139)

Bill, "An Act Appropriating Funds to the Maine Chapter of the Arthritis Foundation." (H. P. 2042) (L. D. 2216)

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

House — As Amended

Bill, "An Act Converting Wallagrass Plantation into the Town of Wallagrass." (H. P. 1822) (L. D. 1983)

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

Enactors

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

An Act to Include Grain in Weight Tolerances for Certain Vehicles Operated on State Highways. (H. P. 1887) (L. D. 2065)

On motion by Mr. Speers of Kennebec, tabled and Tomorrow Assigned, pending Enactment.

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)

Which was Passed to be Enacted and, having been signed by the President, was by the Secretary presented to the Governor for his approval.

Orders of the Day

The President laid before the Senate the following tabled and Specially Assigned matter:

Joint Order — Relative to State Government Committee reporting out a bill Authorizing Legislative review and suspension of proposed and existing administrative rules and regulations. (H. P. 2048)

Tabled — February 19, 1976 by Senator Speers of Kennebec.

Pending — Passage
(In the House — Passed)

The PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Conley.

Mr. CONLEY: Mr. President and Members of the Senate: I believe the majority floor leader covered this subject very well earlier this morning. Although I agree very strongly with the sponsors of this particular bill, I do feel that because of the fact that we are in a special session and we are hoping to be able to bring this to a close somewhat in the near future, to become involved in a measure such as this would delay the session somewhat. I therefore move that this joint order be indefinitely postponed.

The PRESIDENT: The Senator from Cumberland, Senator Conley, now moves that Joint Order H. P. 2048 be indefinitely postponed. Is this the pleasure of the Senate?

The motion prevailed.

(Off Record Remarks)

On motion by Mrs. Cummings of Penobscot,

Adjourned until Monday, February 23, 1976, at 11 o'clock in the morning.