

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, March 5, 1976

Senate called to order by the President.
Prayer by the Honorable David G. Huber of Falmouth:

Let us pray that the remaining serious questions before this Legislature can be resolved with all deliberate speed and can be resolved to the mutual benefit of all the people of this state. Amen.

Reading of the Journal of yesterday.

Papers from the House
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 Hampden Academy Broncos State of Maine Class A Girls Basketball Champions

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. 2146)

Comes from the House, Read and Passed.

Which was Read and Passed in concurrence.

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 The Cougars of Mt. Blue High School Boys' Basketball Team Kennebec Valley Conference Champions for 1976

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. 2149)

Comes from the House, Read and Passed.

Which was Read and Passed in concurrence.

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 The Cougars of Mt. Blue High School State Class B Football Champions for 1975

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. 2150)

Comes from the House, Read and Passed.

Which was Read and Passed in concurrence.

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 Ray Caldwell of Mt. Blue High School State Class B Football Coach of the Year For 1975

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. 2151)

Comes from the House, Read and Passed.

Which was Read and Passed in concurrence.

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 Robert J. Leopold of Sanford Winner of the Young Columbus XX Newspaper Carrier Contest Sponsored By the Guy Gannett Publishing Co.

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 dully 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. 2152)

Comes from the House, Read and Passed.

Which was Read and Passed in concurrence.

House Papers

Bill, "An Act to Permit the Town of Camden to Vote on June 8, 1976 on Certain Local Option Questions Concerning the Sunday Sale of Liquor." (H. P. 2147) (L. D. 2289)

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

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

Study Report — Labor

The Committee on Labor to which was referred the study relative to the Unemployment Statutes of the State pursuant to H. P. 1775 of the 107th

Legislature, have had the same under consideration and ask leave to submit its findings and to report that the accompanying Bill, "An Act to Set the Unemployment Insurance Contribution Rate for New Employers at the Average Contribution Rate for all Employers in the Previous Year" (H. P. 2144) (L. D. 2284) 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 Labor.

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

Study Report — Labor

The Committee on Labor to which was referred the study relative to the Unemployment Statutes of the State, pursuant to H.P. 1775 of the 107th Legislature, have had the same under consideration and ask leave to submit its findings and to report that the accompanying Bill, "An Act Relating to the Effective Date of Each Individual Establishing a Benefit Year under the Unemployment Law" (H. P. 2145) (L. D. 2285) 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 Labor.

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

Study Report — Labor

The Committee on Labor to which was referred the study relative to the Unemployment Statutes of the State, have had the same under consideration, and ask leave to submit its findings and to report that the accompanying Bill, "An Act to Strengthen the State Unemployment Trust Fund" (H. P. 2148) (L. D. 2287) 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 Labor.

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

Orders

On motion by Mr. Reeves of Kennebec,
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 Nathan W. Watson of Bath chosen by the Bowdoin College Alumni Council as the Twelfth Recipient of The Distinguished Bowdoin Educator Award

We the Members of the Senate and House of Representatives do hereby Order that our congratulations and acknowledgment 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. 739)

Which was Read and Passed.
Sent down for concurrence.

On motion by Mr. Collins of Knox,
State of Maine

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

In Senate, March 5, 1976

WHEREAS, it appears to the Senate of the 107th Legislature that the following are important questions of law and that the occasion is a solemn one; and

WHEREAS, it is the desire of the 107th Legislature to enact legislation making traffic infractions civil violations and providing for the enforcement of civil violations; and

WHEREAS, there is pending before the 107th Legislature in its Committee on the Judiciary, bills entitled "An Act to Revise the Laws Relating to the Maine Traffic Court," House Paper 2023, Legislative Document 2202 (Exhibit A) and "An Act to Revise the Maine Criminal Code as Recommended by the Criminal Law Revision Commission," Senate Paper 697, Legislative Document 2217 (Exhibit B); and

WHEREAS, Article 1, Section 6 of the Constitution of the State of Maine provides that in all criminal prosecutions the accused shall have a right to a trial by jury; and

WHEREAS, Article 1, Section 20 of the Constitution of the State of Maine provides that in all civil suits the parties shall have a right to a trial by jury, except in cases where it has been otherwise practiced; and

WHEREAS, Article 1, Section 6-A of the Constitution of the State of Maine provides that no person shall be deprived of life, liberty or property without due process of law; and

WHEREAS, the constitutionality of the provisions of Legislative Document 2202 (Exhibit A) has been questioned as they relate to Article 1, Section 6 and Article 1, Section 20 of the Constitution; and

WHEREAS, the constitutionality of the provisions of Legislative Document 2217 (Exhibit B), to wit, Section 19, enacting Title 17-A, section fifteen, subsection 2, and section 16, subsection 2, authorizing a law enforcement officer to require a person to remain in the officer's presence for up to 2 hours so that the officer may verify the person's identity have been questioned as they relate to Article 1, Section 6-A of the Constitution; and

WHEREAS, the constitutionality of the provisions of Legislative Document 2217 (Exhibit B), to wit, section 19, enacting Title 17-A, section fifteen, subsection 2, and section 16, subsection 2, punishing the knowing failure or refusal to provide a law enforcement officer with reasonably credible evidence of one's name and address, has been questioned as they relate to Article 1, Section 6-A of the Constitution; and

WHEREAS, it is important that the Legislature be informed as to the answers to these important and serious legal questions hereinafter raised, now, therefore, be it

ORDERED, that the Justices of the Supreme Judicial Court are hereby respectfully requested to give to the Senate, according to the provisions of the Constitution on its behalf, their opinion upon the following questions, to wit:

QUESTION No 1:

Would section 23 of Legislative Document 2202 (Exhibit A), if enacted into law, unconstitutionally deprive a defendant of his right to trial by jury as provided by Article 1, Section 6 of the Constitution of the State of Maine?

QUESTION NO. 2:

Would section 23 of Legislative Document 2202 (Exhibit A), if enacted into law, unconstitutionally deprive a defendant of his right to trial by jury as provided by Article 1, Section 20 of the Constitution of the State of Maine?

QUESTION NO. 3:

Would the provisions of section 19 of Legislative Document 2217 (Exhibit B), enacting Title 17-A, section fifteen, subsection 2, and section sixteen, subsection 2, authorizing a law enforcement officer to require a person to remain in the officer's presence for a period of up to 2 hours, if enacted into law, unconstitutionally deprive a person of life, liberty or property without due process of law in violation of Article 1, Section 6-A of the Constitution of the State of Maine?

QUESTION NO. 4:

Would the provisions of section 19 of Legislative Document 2217 (Exhibit B), enacting Title 17-A, section fifteen, subsection 2, and section sixteen, subsection 2, punishing the knowing failure or refusal to provide a law enforcement officer with reasonably credible evidence of one's name and address, if enacted into law, unconstitutionally deprive a person of life, liberty or property without due process of law in violation of Article 1, Section 6-A of the Constitution of the State of Maine?

Which was Read and Passed.
Sent down for concurrence.

Committee Reports

House

The following Ought Not to Pass report shall be placed in the legislative files without further action pursuant to Rule 17-A of the Joint Rules:

Bill, "An Act to Clarify the Definition of Supervisor as it Appears in the Maine Retirement Statutes." (H. P. 1923) (L. D. 2111)

Ought to Pass — As Amended

The Committee on Natural Resources on, Bill, "An Act to Amend the Protection and Improvement of Air Statutes." (H. P. 2034) (L. D. 2207)

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-946).

The Committee on Legal Affairs on, Bill, "An Act Concerning the Identification by Fingerprints of Past Offenders." (H. P. 1883) (L. D. 2061)

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-945).

Come from the House, the Bills Passed to be Engrossed as Amended by Committee Amendments "A".

Which reports were Read and Accepted in concurrence and the Bills Read Once. Committee Amendments "A" were Read and Adopted in concurrence and the Bills, as Amended, Tomorrow Assigned for Second Reading.

Senate

Ought to Pass in New Draft

Mr. Collins for the Committee on Judiciary on, Bill, "An Act to Define Resident of a Municipality for the Purpose of Hospitalization or Burial." (S. P. 653) (L. D. 2068)

Reported that the same Ought to Pass in New Draft under New Title: "An Act Relating to Residency for the Purposes of Municipal Relief of the Poor" (S. P. 738) (L. D. 2288).

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 — As Amended

Bill, "An Act to Establish a Single Maine Estate Tax Based Upon a Percentage of Federal Taxable Estate." (H. P. 1951) (L. D. 2142)

On motion by Mr. Jackson of Cumberland, tabled and Specially Assigned for March 9, 1976, pending Passage to be Engrossed.

Senate — As Amended

Bill, "An Act to Exempt Small Financial Institutions from Certain Insurance Requirements." (S. P. 654) (L. D. 2069)

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

Sent down for concurrence.

Enactors

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

An Act to Provide Adequate Funds for the Operation of a Bureau of Veterans Services Office in Arrostook County. (H. P. 1847) (L. D. 2016)

(On motion by Mr. Huber of Cumberland, placed on the Special Appropriations Table)

Emergencies

An Act Increasing Borrowing Capacity of Community School District Consisting of the Towns of Crystal, Dyer Brook, Island Falls, Merrill, Oakfield and Smyrna. (H. P. 1928) (L. D. 2115)

An Act Concerning the Charter of the Orono-Veazie Water District. (S. P. 648) (L. D. 2058)

These being emergency measures and having received the affirmative votes of 28 members of the Senate, were Passed to be Enacted and, having been signed by the President, were 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:

HOUSE REPORT — from the Committee on State Government — **RESOLUTION**, Proposing an Amendment to the Constitution to Permit the Governor to Veto Items Contained in Bills Appropriating Money. (H. P. 1981) (L. D. 2170) Majority Report — Ought to Pass as Amended by Committee Amendment "A" (H-941); Minority Report — Ought to Pass as Amended by Committee Amendment "B" (H-942).

Tabled — March 4, 1976 by Senator Curtis of Penobscot.

Pending — Acceptance of Either Report. (In the House — Minority Report Read and Accepted and the Resolution Passed to be Engrossed as amended by Committee Amendment "B" as amended by House Amendment "A" Thereto (H-943)

On motion by Mr. Graham of Cumberland, retabled and Specially Assigned for March 9, 1976, pending Acceptance of Either Committee Report.

Order

Out of order and under suspension of the rules, on motion by Mr. Speers of Kennebec,

ORDERED, the House concurring, that

all bills and resolves must be reported from committees by 5:00 p.m. on Friday, March 19, or by such later time as may be fixed by the Joint Standing Committee on Reference of Bills. (S. P. 740)

Which was Read and Passed.
Sent down for concurrence.

Mr. Hichens of York was granted unanimous consent to address the Senate:

Mr. HICHENS: Mr. President and Members of the Senate: This has been a week of serious debate and deliberations, and I feel it would be more or less appropriate to go home with a little less serious matter in our minds. So I would read the following:

It's really how a person wants to look at it Is'pose

As to whether they've been honored by the verse

That I've composed for birthdays or as occasions rose,

And I'll admit you couldn't find much worse.

I've tried to cover everyone but it's hard I fear

When we're in session for such little time:

And those who have had birthdays the last months of the year

Have not been subjects of my corny rhyme

And that's their hard or good luck — I'll leave it up to you,

But there's one among us who serves every day,

Who although his birthday doesn't come when we're in session here,

Should not be so lucky as to get away,
Without the dubious honor of having some trite verse

Composed to bring attention to full view
Of what his presence means to us — for better or for worse,

Since his landslide victories — not one time but two.

Elected Senate President with recounts taking place,

He came to take his shaky perch each day.

With staunch and sturdy attitude — with mallet high in hand,

He got each daily session on its way.

At last, the challenge met, he took his rightful place up front

And business moved along at steady pace.

His attitude toward everyone who met him-fair — but blunt;

And every problem he doth bravely face,
Striving to do what is best for all, both young and old

With that Ben Franklin Look — gavel in hand,

Receding hairline — which denotes a thinker I am told.

He stands before us — always in command

Of every situation that presents itself each day.

His perseverance an example rare.

And while some may expound quite long on bills that come our way,

He sits back in his high backed leather chair

With elbow bent, his fist upholding his clean shaven chin,

Apparently intent on every word

That each doth speak — although I sometimes fear he couldn't begin

To relate the testimony he has heard.

Our philosophies may differ and our thoughts may circumvent,

Each others for few think alike, we know,

But with all his faults we must admit our Senate President

Is in reality - a pretty good Joe!

Mr. Curtis of Penobscot was granted unanimous consent to address the Senate:

Mr. CURTIS: Mr. President and Members of the Senate: I have just requested, and they have been distributed, copies of two letters. One is a form letter from the State Development Office which apparently is designed to be sent to people who write to the State of Maine requesting, apparently in quantity, copies of maps and other promotional material about the State of Maine so that they might decide whether or not to come visit Maine on a vacation.

I think if you read that letter you will be concerned, as the Committee on State Government was concerned this morning when we first learned about it, that the State of Maine is not taking a very positive attitude with this kind of response. In a bicentennial year, it seems to me that we ought to be especially concerned, with many people about to travel on their vacations back east, and that includes Maine, and in a state which the tourist industry is our second largest, and on which thousands of jobs of Maine people depend upon visitors coming each year to the State of Maine, it is probably important that we continue our concern so that there will be a more positive attitude in the future on the part of the state.

(Off Record Remarks)

On motion by Mrs. Cummings of Penobscot,

Adjourned until March 8, 1976 at 12 o'clock noon.