

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

Thursday, March 11, 1976

Senate called to order by the President.

Prayer by the Rev. David C. Glendinning, St. Mark's Episcopal Church, Waterville: Almighty God, whose authority lies behind the created order of things, pour out your Holy Spirit upon this legislative body, that its members may understand their political power as both complementing and completing the majesty of Your Creation. Grant them a public perspective as they exercise that power. Grant them a personal sense of proportion as they wear the mantle of authority. But above all grant them the private peace of knowing they do Your Will.

Reading of the Journal of yesterday.

Papers from the House
Joint Orders

WHEREAS, the present state-wide University of Maine system was created, on the recommendation of the Coles Commission of 10 years ago; and

WHEREAS, pervasive economic and societal changes have taken place in Maine since that time and a wide range of problems has developed; and

WHEREAS, the expense of operating the institution appears to exceed available revenues; and

WHEREAS, there is widespread concern about the needs and missions of individual campuses; and

WHEREAS, the allocation of legislative appropriations among the campuses and for instruction, services and administration is a continuing problem; and

WHEREAS, according to information reaching this Legislature, there are serious morale problems and uncertainty among the faculty and employees of the university; and

WHEREAS, this Legislature desires to maintain the best possible institution to represent our State and to educate our people; and

WHEREAS, the Legislature has little opportunity to review and discuss the specific operations of the university; and

WHEREAS, the dedication and contributions of university employees demand our respect and consideration and these people of the university have had little chance to be heard directly by the Legislature; and

WHEREAS, the review of the university cost effectiveness by the subcommittee of the Legislative Council established by this Legislature has not been fully completed and this subcommittee in its report has recommended that a review of university operations continue; now, therefore, be it

ORDERED, that the Joint Standing Committee on Performance Audit study and report on operations of the University of Maine with the goal of determining the effectiveness of current organization and operational policies; and be it further

ORDERED, that the committee specifically review the relationships and relative costs of the faculty versus the administration of the university; and be it further

ORDERED, that the committee shall specifically study and report on the desirability of establishing a Joint Standing Committee of the Legislature on the University of Maine; and be it further

ORDERED, the Senate concurring, that

the committee shall complete this study no later than 90 days prior to the next regular session of the Legislature, and submit to the Legislative Council within the same time period its findings and recommendations, including copies of any recommended legislation in final draft form; and be it further

ORDERED, that upon passage of this Order in concurrence, the Clerk of the House shall forward a suitable copy of this Order to the Senate and House chairmen of the committee.

Comes from the House, Read and Passed. (H. P. 2181)

Which was Read.

Mr. Berry of Cumberland then presented Senate Amendment "A" and moved its Adoption.

Senate Amendment "A", Filing No. S-427, was Read.

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

Mr. BERRY: Mr. President and Members of the Senate: Through the years there have been several very serious and well motivated attempts to inject the affairs of the University of Maine with the Maine Legislature. I think historically these have been defeated on the premise that the University of Maine is an organization which receives money from the state and dispenses it under the direction of the board of trustees as they deem necessary.

This order is a very good order in principle and in purpose. However, I think some of us have been concerned again that the order be interpreted as it reads, in the light of past performances, which could conceivably have led to an injection of legislative direction in University affairs. In order to obviate this, the amendment presented specifies that the committee shall deal with the board of trustees in its work, and I think that this, if followed in spirit, will result in obtaining the objectives that the legislature wants.

I think that we do not want to have a so-called witch hunt, we do not want to undermine the authority of the board of trustees, and, as we have noted in the past, any attempts to seriously reorient the University should originate with the board of trustees. And if these objectives and if these trustees are not in conformance with the thinking of the legislature in a philosophical standpoint, then the governor has the authority and the ability, and has in the past, changed the complexion of the board.

The amendment does add one item, and that is that the committee would have authority to employ, to the financial limits of \$5,000, outside consultants to help itself. I think we must recognize that we do not have necessarily expert expertise available on the staff in every area. I am continually amazed, however, at how well our staff adapts to the several areas of concern in which the legislature works. I think in this particular instance we should have the ability, if necessary in order to carry out the will of the legislature, to engage outside consultants.

With that, Mr. President, I would move adoption of the amendment.

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

Mr. CURTIS: Mr. President, I would like to speak in support of the proposed joint order and the amendment which has been offered by the Senator from

Cumberland, Senator Berry. I think that the order is necessary in the crisis situation which the University is finding itself in right now. I think that the amendment that the good Senator has offered is an improvement upon the original order, and I think the spirit in which he offers it is a fine one.

On Monday of this week, in an informational session in Room 228, the Chancellor of the University answered some questions which were posed by some members of the Senate, all of whom were invited to attend that session, and one of the questions that he answered was whether or not he would be willing to assist and cooperate in such a study, and he answered in the affirmative. Now, yesterday at a public hearing before the Appropriations Committee one of the trustees, the trustee who chairs the finance committee of the board of trustees, Mr. Masterton, indicated that the trustees would always welcome the interest expressed by the legislature, which created and originally gave the University its direction, in any kind of review or study of the University's financial situation.

Mr. President, because of the particular financial difficulty that the University faces in the real crisis situation that will occur next year, I think this is a fine idea and we ought to support it.

The PRESIDENT: Is it now the pleasure of the Senate to adopt Senate Amendment "A" to House Paper 2181?

The motion prevailed.

Thereupon, the Joint Order was Passed, as Amended, in non-concurrence.

Sent down for 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 Bulldogs of Lawrence High School Boys' Basketball Team and Their Coach, Gus Folsom Eastern Maine Class A 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. 2176)

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 Miss Carol Marquis of Fort Kent, Maine Maine's Junior Miss 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. 2180)

Comes from the House, Read and Passed.

Which was Read and Passed in concurrence.

**Joint Resolution
STATE OF MAINE**

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

IN MEMORIAM

Having Learned of the Death of the Honorable Edith W. Hatch who was a Member of the 93rd and 98th Legislatures and an Outstanding Citizen of Minot

The Senate and House of Representatives of the State of Maine do hereby extend their sincere heartfelt condolences and sympathy to the bereaved family and friends of the deceased; and further

While duly assembled in session at the State Capitol in Augusta under the Constitution and Laws of the State of Maine, do herein direct that this official expression of sorrow be forthwith sent to the family of the deceased on behalf of the Legislature and the people of the State of Maine. (H. P. 2177)

Comes from the House, Read and Adopted.

Which was Read and Adopted in concurrence.

**Senate Papers
Joint Resolution**

Mr. Danton of York presented the following Joint Resolution and moved its adoption:

STATE OF MAINE

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

IN MEMORIAM

Having Learned of the Death of Hon. Andrew J. Fournier Former Member of the State Senate and State Liquor Commission

The Senate and House of Representatives of the State of Maine do hereby extend their sincere heartfelt condolences and sympathy to the bereaved family and friends of the deceased; and further

While duly assembled in session at the State Capitol in Augusta under the Constitution and Laws of the State of Maine, do herein direct that this official expression of sorrow be forthwith sent to the family of the deceased on behalf of the Legislature and the people of the State of Maine. (S. P. 748)

Which was Read and Adopted.
Sent down for concurrence.

Orders

On motion by Mr. Cianchette of Somerset.

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 Kim Gilman and David Witham of Lawrence

High School Novice Debating Champions of the 1976 University of Maine Tournament and the Only Undeclared Novice or Varsity Team of that Tournament

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. 749)

Which was Read.

The PRESIDENT: The Chair recognizes the Senator from Somerset, Senator Cianchette.

Mr. CIANCHETTE: Mr. President and Members of the Senate: So many times the joint orders come through here and they are directed mostly at the athletic teams that seem to get most of the popularity, and here we have an order today that recognizes an accomplishment of an extracurricular activity in school that often goes unnoticed, I think one of the more important functions of a school. For that reason, I would like to bring attention to this order and move its passage.

The PRESIDENT: Is it now the pleasure of the Senate that this joint order be passed and sent down for concurrence?

The motion prevailed.
Sent down for concurrence.

**Committee Reports
House**

Leave to Withdraw

The Committee on Public Utilities on, Bill, "An Act to Enable the Town of Cape Elizabeth to Establish Sewer Service Charges." (H. P. 1804) (L. D. 1963)

Reported that the same be granted Leave to Withdraw.

Comes from the House, the report Read and Accepted.

Which report was Read and Accepted in concurrence.

Ought to Pass — As Amended

The Committee on Health and Institutional Services on, Bill, "An Act Relating to Employment of Drug Inspectors by the State Board of Pharmacy." (H. P. 1879) (L. D. 2054)

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-957).

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.

Ought to Pass in New Draft

The Committee on Appropriations and Financial Affairs on, Resolution, Proposing an Amendment to the Constitution to Increase the Bonding Limit on Maine Veterans' Mortgage Loans from \$2,000,000 to \$5,000,000. (H. P. 1829) (L. D. 1994)

Reported that the same Ought to Pass in New Draft under New Title: Resolution, Proposing an Amendment to the Constitution to Increase the Bonding Limit on Maine Veterans' Mortgage Loans from

\$2,000,000 to \$4,000,000 and to Decrease the Bonding Limit of the Maine School Building Authority from \$25,000,000 to \$10,000,000. (H. P. 2171) (L. D. 2295).

Comes from the House, the Resolution in New Draft Passed to be Engrossed.

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

Divided Report

The Majority of the Committee on Taxation on, Bill, "An Act to Permit Municipalities to Levy and Collect Service Charges for Certain Municipal Services from Tax Exempt Institutions and Organizations." (H. P. 1886) (L. D. 2064)

Reported that the same Ought Not to Pass.

Signed:

Senators:

WYMAN of Washington
JACKSON of Cumberland

Representatives:

MAXWELL of Jay
FINEMORE of Bridgewater
IMMONEN of West Paris
DAM of Skowhegan
TWITCHELL of Norway

The Minority of the same Committee on the same subject matter reported that the same Ought to Pass in New Draft under New Title: "An Act to Permit Municipalities to Levy and Collect Service Charges for Certain Municipal Services from Certain Tax Exempt Institutions and Organizations" (H. P. 2179) (L. D. 2299).

Signed:

Representatives:

DRIGOTAS of Auburn
MULKERN of Portland
SUSI of Pittsfield
COX of Brewer
MORTON of Farmington

Comes from the House, Bill and accompanying papers Indefinitely Postponed.

Which reports were Read.

Mr. Wyman of Washington moved that the Majority Ought Not to Pass Report of the Committee be Accepted.

Thereupon, on motion by Mr. Conley of Cumberland, tabled and Tomorrow Assigned, pending the motion by Mr. Wyman of Washington to accept the Majority Ought Not to Pass Report of the Committee.

Second Readers

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

House — As Amended

Bill, "An Act Relating to the Initiative and Referendum Processes." (H. P. 2027) (L. D. 2203)

Which was Read a Second Time.

Mr. Merrill of Cumberland then presented Senate Amendment "A" and moved its Adoption.

Senate Amendment "A", Filing No. S-426 was Read.

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

Mr. MERRILL: Mr. President and Members of the Senate: The bill that is before us that I would amend at this time deals with the initiative referendum process. This move really comes from activities which took place in the 106th and questions and problems that were raised specifically in light of the public power drive and some of the problems that came out of it. I think that the bill as amended by

the House Amendment is much improved over the original bill, but there is one section of the bill which I still object to, and that is the section of the bill that would put on the bottom of every initiative referendum petition in big letters a warning pointing out to people that if they should sign the wrong name, or something like that, that they might go to jail. I don't have anything against the criminal penalty itself when people deliberately misuse the process, but I think that the warning there would definitely have a very strong chilling effect and would tend to hamper what is in our constitution, a power that is left with the people, and that is the power to change our laws by the initiative and referendum process.

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

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

Senate — As Amended

Bill, "An Act Concerning Insurance Coverage for Blind Persons." (S. P. 637) (L. D. 2012)

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 Exempt Small Financial Institutions for Certain Insurance Requirements. (S. P. 654) (L. D. 2069)

An Act to Amend the Protection and Improvement of Air Statutes. (H. P. 2034) (L. D. 2207)

Which 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 first tabled and Specially Assigned matter:

Joint Order — Relative to Natural Resources Committee Reporting out a bill providing for the approval and permits for existing septic systems. (H. P. 2172)

Tabled — March 10, 1976 by Senator Trotzky of Penobscot.

Pending Passage.

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

Mr. TROTZKY: Mr. President, I move that this Joint Order, House Paper 2172, be indefinitely postponed, and I would like to speak to my motion.

The PRESIDENT: The Senator has the floor.

Mr. TROTZKY: Mr. President and Members of the Senate: We had a bill similar to the one which this order asks the Committee on Natural Resources to pass out. This bill was in the regular session of the legislature and it received an ought not to pass report. This is L. D. 1275.

After discussing with my colleagues in the Natural Resources Committee, I find the intent of this Joint order is not necessarily to allow local plumbing inspectors to approve permits to existing septic systems. Instead it is to approve permits for existing septic systems without a site investigation to determine soil suitability for a subsurface disposal system. I submit that this is an entirely different concept to consider. In other

words, the title to this joint order I believe is very misleading.

Local plumbing inspectors already have statutory authority to approve repairs to existing septic tank systems provided the work can be done in compliance with the Maine State Plumbing Code. Approximately five percent or less of the total permits have to be approved by Augusta because a waiver to the Plumbing Code is necessary. The department is presently using a modified waiver policy on a trial basis and plans to initiate it on a statewide basis very shortly. This will enable more local control by the local plumbing inspector. The matter of local plumbing inspectors issuing permits without a site investigation again is another matter.

A revised plumbing code was introduced in July, 1974, which was and still is a milestone and example for the rest of the nation. The new plumbing regulations included the legislation passed in 1973 plus the use of site investigation instead of percolation tests to determine if a soil is suitable for subsurface sewage disposal. I understand that the site investigation methods have the effect of lifting previously obsolete, unsatisfactory methods of determining soil suitability out of the dark ages into the 20th century. The results during the last one and a half years have borne out the advantages of site investigation in which less than one percent of the system installed under the new code have been reported to have problems. This is in sharp contrast to systems installed prior to July 1974, where entire subdivisions are known to have malfunctioned.

The claim has been made that the cost of site investigation is prohibitive and that local plumbing inspectors should determine if the soil is suitable to replace an existing malfunctioning system. I have been informed that the cost of site investigation is not much more, if any, than the cost of a percolation test several years ago which is known to be unreliable. The average cost runs about 50 to 100 dollars for a soil site investigation, depending on if a backhoe is used by the site evaluator. There may be a few exceptions, but let's not allow these exceptions to adversely effect sound and logical thinking.

The claim has been presented that a local plumbing inspector can determine soil conditions, design a system, issue a plumbing permit, and inspect the work. I would point out that as a result of the shoreland zoning bill passed by the 107th Legislature in 1975, the past session, the Department of Human Services gave about 180 examinations to the professionals, the people thought to be trained, who were already doing site investigation. Only 86 passed the examinations, and this was after a liberal scaling of results. If only half of the professionals can properly determine soil conditions, how can we expect local plumbing inspectors — and there are over 300 of them — to determine the conditions properly. I understand that only one local plumbing inspector in the entire State of Maine has been certified as a site investigator.

As you know, I am very concerned about the impact of septic tank systems on the environment, especially on our lakes, our streams, fresh water. I am also concerned about the cost of site investigation and the cost to repair a drain field. I understand the typical reasons why a drain field fails

include poor soil conditions, such as high water table or clay soil, significant changes in the water usage in a structure, or a drain field improperly designed and installed. I question the rationale to permit a drain field to be repaired or replaced without first determining what caused the drain field to fail.

We presently have an excellent system of checks and balances in the state. The site investigator analyzes the problems and designs a replacement drain field, the contractor does his work, and the plumbing inspector approves the installation. We have a plumbing code which is working well and, in fact, is a model for many other states and other countries. Let's not ruin a good thing due to a few limited exceptions.

I respectfully request that this joint order be indefinitely postponed, and the only reason, to just summarize very quickly, is that this bill was in the last session of the legislature, it received an ought not to pass report, and the only reason that this is being brought in is because some people in certain areas feel that soil tests are expensive. However, it can end up more expensive for the public when they go and build a leaching field and extend their septic tank beds, and it costs them quite a few hundred dollars, maybe up to 500 dollars, and then it fails to work. So I request again that this order be indefinitely postponed.

The PRESIDENT: The Chair recognizes the Senator from Oxford, Senator O'Leary.

Mr. O'LEARY: Mr. President and Members of the Senate: I would ask for a division on the motion and I will speak very briefly. I wasn't prepared to argue this today. I didn't believe that there was going to be any opposition really to this. As the good Senator from Penobscot, Senator Trotzky, said, we did have an executive session yesterday afternoon and this order was discussed, and we had a gentleman from the Department of Health and Welfare before the committee. The committee was unanimous, with one dissent, and that was the committee chairman, that this order was good and needed.

The good Senator has passed around "Cleaning up Water, Private Sewage Disposal in Maine," and I would direct your attention to page 10 of this pamphlet and try to explain what is the reasoning behind this order coming in. If you look at the top of page 10, it has a diagram that shows a septic tank, distribution box, and the leaching field. If a person has a home and he has a septic system, and this system has been working for ten or twelve years, fifteen years, and all of a sudden he has a blockage, the plumbing inspector could tell him that the soil has been taking this for the last ten or twelve years, so therefore perhaps just by moving his leaching field he could expect another ten or fifteen years of service.

Now, an onsite soil test, contrary to what you have been led to believe, is running in the neighborhood of 200 dollars at the present time. It seems odd that this morning I received a letter from the Town of Peru, and these people are at a financial loss now because the soil test was done and they commenced to build their homes and such, and the state has come in and found that the soil was not acceptable, so these people have really suffered a big financial loss. So the soil test is not the only absolute thing we have.

However, this is designed, in my way of thinking, more to protect the people and to

protect our lakes and shores than you are given to believe. Because right now you would have midnight repairs and such. I believe that if we pass this order, the committee will report out a bill, and then we can debate the merits of it on this floor, and I am sure the people will be given a fair hearing and perhaps we will all have a better understanding what it is all about. It is a good order and I request that you support the order.

The PRESIDENT: Is the Senate ready for the question? The pending question before the Senate is the motion by the Senator from Penobscot, Senator Trotzky, that H. P. 2172 be indefinitely postponed. Will all those in favor of indefinite postponement of this order please rise in their places until counted. Those opposed will please rise in their places until counted.

A division was had. 10 having voted in the affirmative, and 16 having voted in the negative, the motion did not prevail.

Thereupon, the Joint Order was Passed in concurrence.

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

House Report — from the Committee on Performance Audit — Bill, "An Act to Classify the Positions of Director of Program Review and Evaluation in the Department of Audit, Director of Fraud Investigation in the Department of Audit, and of Employees of the Fraud Investigation Division in the Department of Audit." (H. P. 1992) (L. D. 2174) Ought to Pass as Amended by Committee Amendment "A" (H-936)

Tabled — Marc 10, 1976 by Senator Speers of Kennebec.

Pending — Acceptance of Report. (In the House — Passed to be Engrossed as Amended by Committee Amendment "A")

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

Mr. BERRY: Mr. President, I wonder if I might inquire of the Secretary, Mr. President, as to the number of Committee Amendment "A"?

The PRESIDENT: The Chair would advise the Senator that Committee Amendment "A" is H-936.

Mr. BERRY: Mr. President and Members of the Senate: Speaking to the motion of accepting the committee ought to pass report, as amended, which I support, this bill was originally presented at the last session, and due to the lateness of the hour it fell apart on a technicality and it has been reintroduced. The Audit Section of the Bureau of Audit is an entity rather off in limbo inasmuch as the State Auditor is a legislative agent, and some of the personnel in this office do not enjoy classified service protection.

There is and again was a bill which would transfer the criminal audit part of the Auditors Bureau to the Attorney General's Office, where I think everybody involved has agreed it should be. This will augment the ability of the Attorney General's Office to investigate and process fraud, particularly in welfare situations, and a bill to accomplish this is coming along.

Regardless of the outcome of that bill, this bill appears to be in order in order to give civil service protection to these employees. The amendment which I shall introduce merely removes, on the recommendation of the State Auditor, the

fixing of salaries in this connection, and will leave it up to the head of the bureau or the Attorney General to determine, as is done elsewhere, the salary scale in which these people will be placed. So I would move acceptance of the committee report, Mr. President.

The PRESIDENT: Is it now the pleasure of the Senate to accept the ought to pass as amended report of the committee?

Thereupon, the Ought to Pass Report of the Committee was Accepted in concurrence and the Bill Read Once. Committee Amendment "A" was Read and Adopted in concurrence.

On motion by Mr. Berry of Cumberland, and under suspension of the rules, the Bill was Read a Second Time.

The same Senator then presented Senate Amendment "A" and moved its Adoption.

Senate Amendment "A", Filing No. S-428, was Read and Adopted and the Bill, as Amended, Passed to be Engrossed in non-concurrence.

Sent down for concurrence.

On motion by Mrs. Cummings of Penobscot,

Adjourned until 12 o'clock tomorrow noon.