

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

***One Hundred and Eighth
Legislature***

OF THE

STATE OF MAINE

Volume I

January 5, 1977 to May 25, 1977

KJ PRINTING
AUGUSTA, MAINE

SENATE

Thursday, February 3, 1977

Senate called to order by the President.

Prayer by The Honorable Michael E. Carpenter of Houlton.

Mr. CARPENTER: Let us pray. Our Heavenly Father, watch over us and guide us as we deliberate here on behalf of all the people of our great State. Help us to put aside our personal feelings, personal prejudices and our personal ambitions, and do what is right for the people of this great State. Keep us ever mindful that we live in an imperfect world, but that we occupy a particularly beautiful spot in that imperfect world, and help us to strive for the perfection that is achieved only in You. Amen.

Reading of the Journal of yesterday.

Out of Order and Under Suspension of the Rules:

On motion by Mr. Huber of Cumberland, ORDERED, the House concurring, that when the House adjourns, it adjourns to 9:30 in the morning on Wednesday, February 9.

That when the Senate adjourns, it adjourns to 10:00 o'clock in the morning on Wednesday, February 9.

Which was Read and Passed.

Sent down forthwith for concurrence.

(Off Record Remarks)

**Papers from the House
Non-concurrent Matter**

Joint Order (S. P. 88) relative to Amending Joint Rules.

In the Senate January 27, 1977, Read and Passed.

Comes from the House, Read and Passed as Amended by House Amendment "A" (H-7), in non-concurrence.

On Motion by Senator Speers from Kennebec, tabled for one Legislative day, pending consideration.

Joint Resolutions

A Joint Resolution In Memoriam:

WHEREAS, the Legislature has learned with deep regret of the death of our esteemed colleague the Honorable Floyd Powell of Wallgrass Plantation. (H. P. 176)

Comes from the House, Read and Adopted.

Which was Read and Adopted, in concurrence.

A Joint Resolution in Memoriam:

WHEREAS, the Legislature has learned with deep regret of the death of Capt. Larry B. Coffman, United States Marine Corps, of Gray. (H. P. 177)

Comes from the House, Read and Adopted.

Which was Read.

The PRESIDENT: The Chair recognizes the Senator from Aroostook, Senator Martin.

Mr. MARTIN: Mr. President and Members of the Senate: I would like to speak for a few moments on the life of an old neighbor and a good friend, Floyd Powell of Soldier Pond.

The town of Danforth produced a son, seventy years ago, whose destiny was to educate and inform others about the affairs of life. It can be said that Floyd Powell performed his duty well.

Floyd understood that a true educator does so, not through coercion or brow-beating, but through example and leadership.

Running for the Legislature in 1974 was a natural step for a man who had served so many years before that, instructing students at the University of Maine at Fort Kent. He was never idle. Idleness for Floyd Powell, was unspoken of.

His accomplishments, both publicly and privately, are too numerous to list here today. Let it be said that the memory of Floyd Dean Powell exists as an example and an inspiration

to citizens, young and old, throughout the St. John Valley, the County and the State of Maine.

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

Mr. KATZ: Mr. President, it was my good fortune to know Floyd, even before he was elected to the Legislature, when he was a member of the Maine Delegation to the New England Board of Higher Education, and Floyd brought something to the Maine Delegation, to the New England Board, that he also brought to the Committee. He brought a small town voice, but a very, very broad perspective.

I always used to think of him as my friend, the red head. Every time I looked at Floyd, whom I understand was 70 years old, I thought of him playing second base, or whatever position he played in baseball. He was a very young man.

Serving on the Committee with him for two sessions, handling minor legislation like school funding, and watching Floyd keep his cool, getting his humorous remarks at tense moments, was a strength to all of us.

I feel very fortunate that in my term I was permitted to serve on the same Committee with him on two separate occasions.

Which was Read and Adopted, in concurrence.

Joint Order

An Expression of Legislative Sentiment recognizing:

WHEREAS, Sister R. Mildred Barker of United Society of Shakers at Sabbathday Lake, has attained her eightieth birthday. (H. P. 175)

Comes from the House, Read and Passed.

Which was Read and Passed, in concurrence.

Bills received from the House requiring reference to Committee were acted upon in concurrence.

(Off Record Remarks)

Communications

Office Of The Governor

February 1, 1977

To: Members of the
108th Maine Legislature
From: Governor James B. Longley
Subject: Preliminary Message on
Education Funding, Property
Taxation and Steps
Toward Tax Reform

Due to pending legal questions relating to education funding, the uniform property tax and the inventory tax, it is not possible at this time to outline this administration's total tax reform message to this Legislature. I am advised that it might be at least another week before all the legal determinations are made. Therefore, rather than delay the addressing of some of the major questions, including specific options on the inventory tax, I would like to pay the Legislators the courtesy of sharing with them our preliminary thinking as it relates to the following:

(1) Recommendations relating to the additional \$28 million scheduled to be collected under the uniform property tax in fiscal 1978.

(2) Property tax mill(s) rate reduction.

(3) Property tax assessment and collection.

(4) Long-range goals and objectives.

While our preliminary decisions in these areas might be affected by final legal opinions and rulings, hopefully this preliminary report will give this Legislature an indication of the direction we hope to take.

**The \$28 Million and Mill
Rate Reduction**

First, it is imperative that we all have a clear understanding of the facts surrounding the so-called "28 million surplus" which is being forecast as being available to appropriate for additional educational spending. I believe

that, when the 107th Legislature provided for a statutory reduction in the uniform property tax rate from 13 mills in fiscal year 1977 to 12.5 mills in fiscal year 1978, the intent was to convey to the people a legislative desire to further reduce the level of property tax burden to be borne by this tax. At that time, certainly no one could accurately forecast the amount of property valuation increase which the 1977 state valuation would produce nor could the legislature anticipate the exact dollar amount of education funding requirements for the next fiscal year. The combination of these unforeseen circumstances have now, surprisingly to some, produced a situation in which the projected dollar yield from the uniform property tax in fiscal year 1978 would exceed by approximately \$28 million the corresponding yield in the present fiscal year if no changes were made in the tax rate. I have previously stated that I do not approve of this tax increase taking place unless the citizens of Maine vote to approve at the local level both the additional property taxes and the additional spending for education at the local level.

Therefore, pending final legal opinions, I will support, in addition to the one-half mill rate reduction outlined in my Budget Address, the return of the remaining \$22 million to the citizens of Maine as follows:

(a) A repeal of the approximately \$18 million income tax increase approved last year by the 107th Legislature without public hearing. This would allow the Maine Legislature, known historically for its fairness, to provide tax relief and reduce the per capita tax burden for the very group of our citizens who were assessed confiscatory taxes without opportunity for input. A repeal of the income tax increase would represent a direct \$18 million tax reduction for Maine people and would equate to a reduction of some \$36 million in the property tax since we are advised that approximately 50 percent of the property tax is paid by business and out-of-state residents.

1. We suggest that the difference in the \$18 million income tax repeal and the remaining \$22 million also be returned in the form of an additional fractional reduction in the mill rate, and;

2. Our recommendation is based on the repeal of the rate increase alone and not the standard deductions and low income allowance provisions which also were included in that law.

(b) Or, if we are restricted by law from the income tax reduction outlined above, or if the Legislature prefers, I will support an approach whereby the remaining \$22 million be returned to the taxpayers in the form of a reduction of as much as an additional two mills in the uniform property tax.

This will enable the people of the towns and cities of Maine . . . not the Governor and the Legislature, to decide if they want to spend this additional amount for education. It is important to understand that this does not shift a tax to local governments . . . it shifts the decision of whether or not to tax and spend more for education to the local citizens rather than have a Legislature and a Governor dictate any further tax burden or dictate even more education spending and higher spending per pupil.

**Long-Range Goals
and Objectives**

Also, I feel a responsibility today, to outline for the Legislature and the people of Maine the following long-range objectives with regard to property taxation and education finance:

(1) We must separate any state-imposed tax on property from the financing of education. I believe that the present uniform property tax is inappropriately tied to education spending with the result being that the citizens of Maine are unnecessarily divided as towns and cities are fragmented into "pay-in" versus "receiving"

communities. Even so-called receiving communities have been deceived into believing they're getting more from Augusta than they're paying in all forms of taxes . . . or, giving up in the form of local control of their own lives and decisions and destinies. To quote a statement co-authored by a member of the current Legislature in a report filed for the Joint Select Committee on State Tax Policy:

"Our primary disagreement with the present law is with the tax policy features, specifically the State Uniform Property Tax. It should be noted that L.D. 1994 and its successors all have been the product of the Joint Standing Committee on Education. In our opinion the Legislature has made a fundamental and grievous error in tying these two major policy areas together in one law. It should separate the two and deal with each on its own merits."

(2) The state must establish its intent to support a basic minimum standard of educational support tied to increased local decision-making with the assurance that those decisions will not infringe upon the right of any Maine student to be provided with a free public education designed to assure a basic level of competence and achievement.

(3) Decisions affecting the establishment of education funding levels within the state budgetary picture must be addressed within the same time frames and under the same priority adoption procedures as are applied to all other state-supported programs.

(4) Because Maine is a property-rich state by comparison inasmuch as the state is now financially supporting many local programs which have previously been funded from the local property tax, we must agree that a state-imposed tax on property is not only defensible but desirable if done within the context of an overall state/local tax policy. I am, therefore, proposing that the Legislature establish a state property tax which shall be an undedicated revenue source to the general fund but which shall be strictly limited in terms of:

(a) A maximum per capita tax burden on the people of Maine.

(b) A maximum percentage share of general fund revenues, and;

(c) Strict limits must be placed on the responsibility and authority of the Legislature and the Governor to annually allow for increases in the dollar and/or mill rate levels derived from this tax on property.

PROPERTY TAX ASSESSMENT

Improvements in the administration of the State property tax will be pursued immediately. I am asking for legislation which will require the Bureau of Taxation to appraise industrial properties in the state, and all operating public utilities subject to taxation with a value in excess of \$10,000,000 (\$1,000,000 by 1985). This legislation will require that the municipalities use these appraisals as the basis for their assessed value of these individual properties. I am submitting legislation in this area which will require municipalities to segregate property in the Valuation Book by types of property in order to insure proper comparisons with market values and other significant valuation data. There are several other pieces of legislation which I will be submitting which I feel will significantly enhance the administration and equalization of our state property tax laws.

It is my feeling that as we proceed and continue to improve our property tax administration that the residential property taxpayer will realize greater protection and less tax penalty and discrimination than many feel presently exists.

I will also be introducing legislation which will require the Governor to present an omnibus tax bill at the same time as the submission of his budget. This bill would include the state tax mix recommended to finance the budget. It

would also contain projections of local tax effort so that total state and local tax mix can be derived. Such a bill will give the tax mix visibility and will provide the vehicle for conscious decision-making in this area. Most importantly, it will put the focus on the tax mix and per capita tax burden rather than allow future tax increases without benefit of specific data and/or equity, and/or justification.

I am now in receipt of the recommendations for education funding levels for fiscal year 1978 as submitted by the Commissioner and the State Board of Education. I am presently reviewing these recommendations and will certify to the Legislature on or before February 15th my specific recommendations as they relate to education funding levels and taxation for the upcoming fiscal year. Needless to say, these recommendations may be affected by legal opinions and rulings which are expected within the next few days, but I am proceeding in my review of these issues with the expectation that a reduction in the level of the uniform property tax rate will be allowable during the next fiscal year. As I have indicated earlier, my goal is to hold the line against any increase in the state-imposed uniform property tax dollar assessment and to reserve to the local citizens the determination of any property tax increase which may be voted for education.

I feel we have made considerable progress in refining the education finance law during the past two years. However, I believe we can still do much more to simplify the law, to return more local decision-making in terms of the levels of spending necessary to go beyond a basic educational program. I believe it is important for the state to assure that all municipalities make suitable provision for the education of our youth but I believe that state mandates should not extend beyond those levels of program requirements necessary to assure that all students are provided with a basic educational program. The decision of whether to expend monies to achieve a standard of excellence beyond this basic program standard should be primarily that of local citizens.

I have chosen to focus on the issue of education funding and property taxation at this time since I believe there is a critical need to eliminate some of the confusion which now exists in this area. However, I believe that matters of taxation as they relate to education cannot be addressed in isolation but should be dealt with as part of an overall state/local tax policy. With this in mind, I will be submitting a set of comprehensive proposals which deal with the entire area of state/local tax policy, percentages of tax mix, and limitations on per capita taxation and debt burden which I believe Maine citizens should be asked to bear. This additional information, pertaining to tax reform must of necessity await receipt and study of pending opinions requested of the Attorney General and a very important question, presently being finalized by the Legislature, for submission to the Supreme Judicial Court of Maine.

James B. Longley

Which was Read and Ordered Placed on File.
Sent down for concurrence.

Committee on Judiciary
February 2, 1977

The Honorable May M. Ross
Secretary of the Senate
State House
Augusta, Maine 04333
re: Order S. P. 87 relating to I. B. 1 "An Act to Repeal the State Property Tax"
Dear Mrs. Ross:

We believe that in view of the change effective April 1, 1976, as described in the enclosed memo, that this Committee has no further duties and I. B. 1 should be returned to your office for further procedure.

Very truly yours,

Signed: SAMUEL W. COLLINS JR.
Senate Chairman

Signed: RICHARD A. SPENCER
House Chairman

Which was Read (S. P. 120)

On motion by Senator Speers of Kennebec, the Communication with accompanying papers Ordered Placed on File, and the Accompanying Legislation I. B. 1, Referred to the Committee on Taxation, and Ordered Printed.

Sent down for concurrence.

Senate Papers

Mr. Huber of Cumberland presented, Bill, "An Act to Allocate Moneys for the Administrative Expenses of the Bureau of Alcoholic Beverages, Department of Finance and Administration and the State Liquor Commission for the Fiscal Years Ending June 30, 1978 and June 30, 1979." (Emergency) (S. P. 104)

The same Senator presented, Bill, "An Act to Make Allocations from the Maine Coastal Protection Fund for the Fiscal Years Ending June 30, 1978 and June 30, 1979." (Emergency) (S. P. 105)

The same Senator presented, Bill, "An Act to Allocate Moneys for the Administrative Expenses of the State Lottery Commission for the Fiscal Years Ending June 30, 1978 and June 30, 1979." (Emergency) (S. P. 107)

The same Senator presented, Bill, "An Act to Allocate Money from the Federal Revenue Sharing Fund for the Fiscal Years Ending June 30, 1978 and June 30, 1979." (Emergency) (S. P. 106)

Which were referred to the Committee on Appropriations and Financial Affairs and Ordered Printed.

Sent down for concurrence.

Mr. Chapman of Sagadahoc presented, Bill, "An Act Relating to Conduct of Examinations." (S. P. 97)

Mr. Pierce of Kennebec presented, Bill, "An Act Relating to Valuation of Real Estate Held by Insurers." (S. P. 101)

Which were referred to the Committee on Business Legislation and Ordered Printed.

Sent down for concurrence.

(Off Record Remarks)

Mr. Pierce of Kennebec presented, Bill, "An Act Relating to Adult Education." (S. P. 102)

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

Sent down for concurrence.

Mr. Usher of Westbrook presented, Bill, "An Act Providing Legal Definition of Hunter Orange." (S. P. 100)

Sent down for concurrence.

Mrs. Snowe of Androscoggin presented, Bill, "An Act to Amend the Laws Relating to the Reporting of Child Abuse or Child Neglect." (S. P. 99)

Which was referred to the Committee on Health and Institutional Services and Ordered Printed.

Sent down for concurrence.

Mr. Pierce of Kennebec presented, Bill, "An Act Relating to Work Probation in Lieu of Fine." (S. P. 108)

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

Sent down for concurrence.

Mrs. Snowe of Androscoggin presented, Bill, "An Act Concerning the Power of the Criminal Justice Academy to Inspect Records to Ensure

Compliance with Law Enforcement Officer Employment Requirements." (S. P. 98)

The same Senator presented, Bill, "An Act Concerning the Definition of Full-time Local Law Enforcement Officer." (S. P. 103)

Which were referred to the Committee on State Government and Ordered Printed.
Sent down for concurrence.

Mr. Levine of Kennebec presented, Bill, "An Act to Eliminate the Requirement of the Secretary of State to Maintain a Copy of Murder Transcripts." (Emergency) (S. P. 109)

Reference to Committee on State Government suggested.

On Motion of Mr. Speers of Kennebec,
Referred to Committee on Judiciary, and Ordered Printed.
Sent down for concurrence.

Committee Reports House

Leave to Withdraw

The Committee on Human Resources on, Bill, "An Act Relating to the Operation of Vending Facilities by Blind Persons." (H. P. 3) (L. D. 3)
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

The Committee on Public Utilities on, Bill, "An Act to Increase the Total Authorized Indebtedness of the Kennebec Sewer District from \$1,000,000 to \$3,000,000." (Emergency) (H. P. 41) (L. D. 58)

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, and the Bill, Read Once.

On motion by Mr. Conley of Cumberland, under suspension of the rules, Read a Second Time and Passed to be Engrossed, In concurrence.

Senate

The following Ought Not to Pass report shall be placed in the legislative files without further action pursuant to Rule 20 of the Joint Rules:

Bill, An Act to Prohibit a Nominee for Public Office from Withdrawing his Candidacy unless he is Physically or Mentally Incapacitated. (S. P. 2) (L. D. 5)

Second Readers

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

House

Bill, "An Act Appropriating Funds for the Purchase of Copies of the History of Newfield." (H. P. 137) (L. D. 138)

Which was Read a Second Time and Passed To Be Engrossed, in concurrence.

House-As Amended

Bill, "An Act Relating to Removal of County Buildings." (H. P. 9) (L. D. 19)

Which was Read a Second Time and Passed To Be Engrossed, As Amended in concurrence.

Senate

Bill, "An Act Relating to Transfer of Unexpended Appropriations of State Funds." (S. P. 6) (L. D. 11)

Which was Read a Second Time and Passed To Be Engrossed.

Sent down for concurrence.

Senate-As Amended

Bill, "An Act Exempting Homeowner Occupied Dwellings Built before January 1, 1974 from Certain Safety Glaze Requirements." (S. P. 30) (L. D. 42)

Which was Read a Second Time and Passed

To Be Engrossed, As Amended.
Sent down for concurrence.

Enactors

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

"An Act to Revise the Board of Bar Examiners Law." (S. P. 5) (L. D. 10)

"An Act Pertaining to Town Clerk's Fees for Record of Burial Permits." (H. P. 54) (L. D. 75)

"An Act Pertaining to Out-of-state Marriages." (H. P. 51) (L. D. 72)

Which were Passed To Be Enacted and having been signed by the President, were by the Secretary presented to the Governor for his approval.

(Off Record Remarks.)

(Recess)

The Senate called to Order by the President.

Out of order and under Suspension of the Rules, the Senate voted to consider the following:

Enactor

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

Emergency

An Act to Amend the Charter of the Baileyville Utilities District. (S. P. 35) (L. D. 43)

This being an emergency measure and having received the affirmative vote of 29 members of the Senate, was Passed to be Enacted, and having been signed by the President, was by the Secretary presented to the Governor for his approval.

(Off Record Remarks)

(Recess)

The Senate called to Order by the President.

Out of Order and Under Suspension of the Rules, the Senate voted to consider the following:

Papers from the House

House Papers

An Act Relating to the Penalty for Liquor Violations for Persons under 18 Years of Age. (H. P. 196)

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

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

An Act Raising the Age of Persons who may Purchase Alcoholic Beverages or Sell as Licensees. (H. P. 200)

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.

(Off Record Remarks)

On Motion of Mr. Huber of Cumberland,
Adjourned until Wednesday, February 9, at 10:00 in the morning.