

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

***One Hundred and Tenth
Legislature***

OF THE

STATE OF MAINE

Volume I

FIRST REGULAR SESSION

December 3, 1980 to May 1, 1981

KJ PRINTING
AUGUSTA, MAINE

STATE OF MAINE
One Hundred and Tenth Legislature
First Regular Session
JOURNAL OF THE SENATE
February 23, 1981
Senate called to order by the President.

Prayer by the Reverend Steve Zarecki of the United Methodist Church in Bucksport.

REVEREND ZARECKI: Let us pray. Almighty God, Who art ever ready to hear the prayers of Your people, and Who has promised Your help at all times, as we lift up our hearts to You in prayer, we give You thanks for all Your gifts and mercies. For the spirit of wisdom and understanding in Your will, for the gift of counsel and might at all times, for the grace of spiritual knowledge, we thank You.

Open our hearts this day, to an enlarged sense of our responsibilities. Enlighten our minds, that we may know Your will for us, and walk in Your pathways, that you have set for our lives. Lead us into all truth, and instill in us charity to all humankind. Grant us a larger faith in Your might, power, and a deeper trust in Your merciful providence.

We pray for all homes and families, that You may hallow each one by Your presence. Give them Your spirit, that both parents and children may grow in wisdom and stature, in peace and in love. Preserve and maintain for us, O'God, and for all people, good government, integrity, honest citizenship, and dignity. Keep us and all Your people in the unity of faith in You. We ask these things in the name of Jesus Christ, our Lord. Amen.

Reading of the Journal of yesterday.

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

Bill, "An Act to Preserve Maine's Archaeological Heritage." (S. P. 316) (L. D. 827)

In the Senate February 18, 1981, Passed to be Engrossed.

Comes from the House, Passed to be Engrossed as amended by House Amendment "A" (H-45), in non-concurrence.

The PRESIDENT: Is it the pleasure of the Senate to Recede and Concur with the House? The Motion prevailed.

House Papers

Bill, "An Act to Abolish the Application Procedure in Absentee Balloting." (H. P. 731) (L. D. 898)

Comes from the House, referred to the Committee on Election Laws and Ordered Printed.

Which was referred to the Committee on Election Laws and Ordered Printed, in concurrence.

Bill, "An Act to Create the Maine Energy Authority." (H. P. 761) (L. D. 905)

Reference to the Committee on Energy and Natural Resources suggested.

Comes from the House, referred to the Committee on Public Utilities and Ordered Printed.

Which was referred to the Committee on Public Utilities, and Ordered Printed in concurrence.

Bill, "An Act to Require Fishways in all Newly Constructed Dams." (H. P. 762) (L. D. 899)

Comes from the House, referred to the Committee on Fisheries and Wildlife and Ordered Printed.

Which was referred to the Committee on Fisheries and Wildlife and Ordered Printed, in concurrence.

Bill, "An Act to Impose Reasonable Interest Charges on Judgment Debtors." (H. P. 763) (L. D. 900)

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

Which was referred to the Committee on Ju-

diciary and Ordered Printed, in concurrence.

Bill, "An Act Relating to Arbitration under the State Employees Labor Relations Act." (H. P. 764) (L. D. 901)

Bill, "An Act Relating to Injured State Workers." (H. P. 765) (L. D. 902)

Come from the House, referred to the Committee on Labor and Ordered Printed.

Which were referred to the Committee on Labor and Ordered Printed, in concurrence.

Bill, "An Act to Authorize County Commissioners to Charge Rent for Space Furnished to Other Governmental Entities in County Court Houses and Other County-owned Facilities." (H. P. 753) (L. D. 890)

Bill, "An Act to Amend the Provisions for Election as Voter Member of a County Charter Commission." (H. P. 767) (L. D. 903)

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

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

Bill, "An Act Concerning the Taking of Marine Worms in Clam Flats." (H. P. 768) (L. D. 904)

Comes from the House, referred to the Committee on Marine Resources and Ordered Printed.

Which was referred to the Committee on Marine Resources and Ordered Printed, in concurrence.

Bill, "An Act to Partially Deregulate Water Districts from Regulation by the Public Utilities Commission." (H. P. 754) (L. D. 891)

Bill, "An Act to Provide a Funding Mechanism for Public Interest Staff of the Public Utilities Commission." (H. P. 755) (L. D. 892)

Come from the House, referred to the Committee on Public Utilities and Ordered Printed.

Which were referred to the Committee on Public Utilities and Ordered Printed, in concurrence.

Bill, "An Act to Combine the Offices of Justice of the Peace and Notary Public." (H. P. 758) (L. D. 897)

Bill, "An Act to Create a State Compensation Commission." (H. P. 757) (L. D. 894)

Bill, "An Act to Reduce the Bonding Authority of the Maine Guarantee Authority." (H. P. 756) (L. D. 893)

Come from the House, referred to the Committee on State Government and Ordered Printed.

Which were referred to the Committee on State Government and Ordered Printed, in concurrence.

Bill, "An Act to Provide an Investment Tax Credit for Investment in Qualifying Energy Property." (H. P. 770) (L. D. 913)

Bill, "An Act Concerning the Sale of Certain Off Road Vehicles." (H. P. 769) (L. D. 906)

Bill, "An Act Concerning the List Price of Vehicles under the Excise Tax Laws." (H. P. 759) (L. D. 895)

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

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

Bill, "An Act to Provide Increased Visibility of Emergency Vehicles." (H. P. 760) (L. D. 896)

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

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

STUDY REPORT — Committee on Health and Institutional Services

The Committee on Health and Institutional Services to which was referred the Study relative to Create an Environmental Health Program, pursuant to Joint Order (HP 1900) have had the same under consideration and ask leave to submit its findings and to report that the accompanying Bill, "An Act to Create an Environmental Health Program" (Emergency) (H. P. 804) (L. D. 914) be referred to this Committee for public hearing and printed pursuant to Joint Rule 18.

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
Senate Chamber
President's Office**

February 20, 1981

Honorable Barbara A. Gill
Honorable Sandra K. Prescott
Chairmen, Joint Standing Committee
on Health and Institutional Services
State House
Augusta, ME

Please be advised that Governor Joseph E. Brennan is nominating John A. Notis of Saco for reappointment to the Health Facilities Cost Review Board.

Pursuant to Title 22 MRSA Section 353, this nomination will require review by the Joint Standing Committee on Health and Institutional Services and confirmation by the Senate.

Sincerely,
S/JOSEPH SEWALL
President of the Senate
S/JOHN L. MARTIN
Speaker of the House
(SP 341)

Which was Read and referred to the Committee on Health and Institutional Services.
Sent down for concurrence.

Committee on Education

February 20, 1981

The Honorable Joseph Sewall
President of the Senate of Maine
State House
Augusta, Maine
Dear President Sewall:

In accordance with 3 M.R.S.A., Chapter 6, Section 151, and with Joint Rule 38 of the 110th Maine Legislature, the Joint Standing Committee on Education has had under consideration the nomination of Marshall Cohen of Harrison to the position of member of the State Board of Education.

After public hearing and discussion on this nomination, the Committee proceeded to vote on the motion to recommend to the Senate of the 110th Maine Legislature that this nomination be confirmed. The vote was taken by the yeas and nays. The Committee Clerk called the roll with the following result:

YEAS: Senators 3
Representatives 10
NAYS: Senators 0
Representatives 0
ABSENT: 0

Thirteen members of the Committee having voted in the affirmative and none in the negative, it was the vote of the Committee that the nomination of Marshall Cohen to the position of member of the State Board of Education be confirmed.

Sincerely,
S/HOWARD M. TROTZKY
Senate Chairman
S/LAURENCE E. CONNOLLY, Jr.
House Chairman

Which was Read and Ordered Placed on File.

The PRESIDENT: The Joint Standing Committee on Education has recommended that the nomination of Marshall Cohen be confirm-

ed.

The pending question before the Senate is: Shall the recommendation of the Committee on Education be overridden? In accordance with 3 M.R.S.A., Chapter 6, section 151, and with Joint Rule 38 of the 110th Legislature, the vote will be taken by the yeas and nays. A vote of YES will be in favor of overriding the recommendation of the Committee. A vote of NO will be in favor of sustaining the recommendation of the Committee.

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

Senator TROTZKY: Mr. President and Members of the Senate, as everyone sees, the Committee on Education did recommend to the Senate that it confirm Marshall Cohen to be a member of the State Board of Education. Marshall Cohen has served as a member of his board and Chairman of his school board.

I would want to read just one statement that he made at the confirmation hearing, because I think it's extremely meaningful. "Most of you know me from my involvement in other issues here at the State House. Well my everyday, 9 to 5 concerns, have been mostly the basic needs of poor people. I have never been able to put aside the inescapable link between education and poverty. My own parents were immigrants, and the education of their children was a primary thing they lived for. I believe I've inherited that commitment. Thomas Jefferson once said: 'education was our last best defense against tyranny.' Poverty is only one form of tyranny, and I have never found a better statement of the importance of education."

The PRESIDENT: Is the Senate ready for the question?

The Doorkeepers will secure the Chamber. The Secretary will call the Roll.

YEAS — None.

NAYS — Ault, Brown, Bustin, Carpenter, Charette, Clark, Collins, Conley, Devoe, Emerson, Hichens, Kerry, McBreaity, Minkowsky, Najarian, O'Leary, Pray, Redmond, Sewall, C.; Shute, Sutton, Teague, Trafton, Trotzky, Usher, Violette, Wood, The President, J. Sewall.

ABSENT — Dutremble, Gill, Huber, Perkins, Pierce.

No Senators having voted in the affirmative and 28 Senators in the negative, with 5 Senators being absent and none being less than two-thirds of the membership present, it is the vote of the Senate that the Committee's recommendation be accepted. The nomination of Marshall Cohen is confirmed.

(Off Record Remarks)

Senate Papers

Senator CONLEY of Cumberland presented, Resolve, Providing Support for the Portland West Neighborhood Foster Grandparent Program. (S. P. 335)

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

Sent down for concurrence.

Senator NAJARIAN of Cumberland (Cosponsor: Representative PRESCOTT of Hampden) presented, Bill, "An Act to Amend the Maine Certificate of Need Act of 1978 to bring Nonconforming Provisions into Conformity with Federal Requirements and to make Technical Amendments." (S. P. 334)

(Submitted by the Department of Human Services pursuant to Joint Rule 24)

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

Sent down for concurrence.

Senator CLARK of Cumberland presented, Bill, "An Act Concerning the Liability of Land Owners for Recreational or Harvesting Activities on their Land." (S. P. 336)

Senator DEVOE of Penobscot (Cosponsor: Representative HOBBS of Saco) presented Bill, "An Act to Make Corrections of Errors and Inconsistencies in the Laws of Maine." (Emergency) (S. P. 340)

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

Sent down for concurrence.

Senator TEAGUE of Somerset (Cosponsors: Representative WALKER of Skowhegan, Representative GWADOSKY of Fairfield and Representative RICHARD of Madison) presented, Bill, "An Act to Authorize a Bond Issue for Somerset County to Renovate the Existing County Detention Facility." (S. P. 337)

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

Sent down for concurrence.

Committee Reports

House

Ought to Pass

The Committee on Transportation on, Resolve, Designating a Certain Bridge being Constructed Across the Androscoggin River as the "James B. Longley Memorial Bridge." (H. P. 228) (L. D. 265)

Reported that the same Ought to Pass.

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

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

Ought to Pass — As Amended

The Committee on Agriculture on, Bill, "An Act to Revise the Procedures for Regulating Dams." (H. P. 18) (L. D. 12)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-37).

Comes from the House, the Bill Passed to be Engrossed as amended by Committee Amendment "A" and House Amendment "A" (H-44).

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

Senate

Leave to Withdraw

Senator REDMOND for the Committee on Energy and Natural Resources on, Bill, "An Act to Amend the Statutory Limit on Phosphorus in Detergents" (S. P. 106) (L. D. 236)

Reported that the same be granted Leave to Withdraw.

Which Report was Read and Accepted.

Sent down for concurrence.

Ought to Pass

Senator O'LEARY for the Committee on Energy and Natural Resources on, Bill, "An Act to Adopt a Lead Emission Standard under the Laws for Protection and Improvement of Air." (S. P. 103) (L. D. 216)

Reported that the same Ought to Pass.

(Senator MCBREAIRTY of Aroostook and Representative KIESMAN of Fryeburg abstained from voting)

Which Report was Read.

On motion by Senator MCBreairty of Aroostook, Recommended to the Committee on Energy and Natural Resources.

Sent down for concurrence.

Ought to Pass — As Amended

Senator SHUTE for the Committee on Marine Resources on, Bill, "An Act to Define Alewives for the Purpose of Managing or Leasing Alewife Fishing Rights." (S. P. 108) (L. D. 238)

Reported that the same Ought to Pass as

amended by Committee Amendment "A" (S-20).

Which Report was Read and Accepted and the Bill Read Once. Committee Amendment "A" was Read and Adopted, and the Bill, as amended, Tomorrow Assigned for Second Reading.

Senator VIOLETTE for the Committee on State Government on, Bill, "An Act to Abolish the Legislative Council and Reestablish the Legislative Research Committee." (S. P. 147) (L. D. 318)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (S-21)

Which Report was Read and Accepted, and the Bill Read Once. Committee Amendment "A" was Read.

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

Senator O'LEARY: Mr. President, I now present Senate Amendment "A" to Committee Amendment "A" under filing number S-23 and move its Adoption.

The PRESIDENT: The Senator from Oxford, Senator O'Leary now offers Senate Amendment "A" to Committee Amendment "A" and moves its Adoption.

Senate Amendment "A" (S-23) to Committee Amendment "A", was Read.

The PRESIDENT: The Chair recognizes the Senator from Knox, Senator Collins.

Senator COLLINS: Mr. President, I wonder if the Senator would explain the tenor of his Amendment?

The PRESIDENT: The Senator from Knox, Senator Collins has posed a question through the Chair.

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

Senator O'LEARY: Mr. President and Members of the Senate, if you look at Committee Amendment "A" to my Bill to abolish the Legislative Council, you will notice that they even amended out the title. It is now "An Act to Allow Legislative Override of the Legislative Council Action." It does not in any way resemble the Bill that I presented to the committee.

I find it kind of hard to believe that it would take a two-thirds vote to override the Legislative Council, when all it takes is a simple majority of the House and the Senate to abolish it. I do not know why we should have to have a two-thirds vote to override their actions. That is why I presented this amendment so that it will be just a simple majority, Mr. President.

While I have the floor, Mr. President, I do not think there is too much to be concerned with here, because this amendment is exactly what failed in the other Branch, and I imagine that they will take care of it.

The PRESIDENT: The chair recognizes the Senator from Knox, Senator Collins.

Senator COLLINS: I would request a Division on the Amendment. We have set up the Legislative Council with certain defined responsibilities which have, on the whole, served to expedite the orderly business of the legislature. If we are going to have a majority vote overrule every decision, I think we make it too easy to subvert the whole purpose of the council. I would hope that we would not try to do that.

The PRESIDENT: The Chair recognizes the Senator from York, Senator Hichens.

Senator HICHENS: Mr. President, several years ago, I voted against the establishment of the Legislative Council, and if I had the chance again I would still vote against it.

In my opinion it has been a farce. A few weeks ago we had an Order here, or Resolution whatever you may want to call it signed by the President of the Senate, and by the Speaker of the House, stating that any Bill that had not been signed within 5 days after it had been printed in the Research Office, would be brought out on to the floor regardless of wheth-

er it was signed or not. That was challenged by the good Senator who has just spoken ahead of me, Senator O'Leary. Then later on it was disclosed that this was brought up before the Legislative Council, when we got their report it was not even voted on.

I think that these are some of the things that we should look into. I do not think that it is any joke today, it has been laughed about here in the Senate. I think that it is a serious matter, when the leadership can control through their Legislative Council what goes on without any chance for the Legislature to have a chance to vote on it whatsoever.

Not only as I say would I go along with this, I think that it was just too bad that they took the Bill as it was written and replaced it altogether, including the title and come out with what we have right now.

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

Senator NAJARIAN: Mr. President and Members of the Senate, while I do not agree that the Legislative Council should be abolished I do think that requiring a two-thirds vote of both Branches to override their actions is a bit excessive. I can not recall any time in the 10 years that I have been up here when any decision of their's has been overridden with a simple majority even.

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

Senator O'LEARY: This perhaps will be the last Session of the Legislature that you will see a Bill that will abolish the Council before you. I shall not ever attempt it again, because I think that the Council is so powerful that people are so worried about committee assignments and such that they would not dare to do otherwise.

Mr. President and Members of the Senate, the Council was established in 1973 through a Bill that came out of the Committee on State Government, Leave to Withdraw. The Majority Leader in the House, at that time, substituted the Bill for the Report. By all standards, not conceivable to me, attached an emergency clause to the Bill and got the two-thirds vote to get it passed in both branches.

Now, the law that establishes the Legislative Council is identical to the one that they have in New Hampshire, word for word, and it is one of four legislative councils in the entire country. It is only three paragraphs long, but the authority granted to the Council is found in Subsection 162, is two pages long. Then we have here something that sets out the purpose of it. It's not in the law, but it is established policy. I believe, but in 1975, the newspaper had a big article, "New System Multiplies Legislative Cost."

Mr. President, they referred to the old Legislative Research Committee as a "million dollar committee". That was the total cost of the Legislature at that time. The budget for this biennium of the Legislature is \$4.2 million. Forty percent of that is our salaries and expenses. The second year, it's \$3 million. Only thirty percent of that is our salaries and expenses. Now the decisions on how the rest of this money is spent is up to the Legislative Council. I know we elect them as our leaders, but at times, the Legislative Council is acting as a little Legislature of its own.

Now you've heard it referred to the privacy of our Legislation, and as I look down through the Legislative Authority and such, I can see no way in that authority where they could legally do what they did with this letter to us. I'm not going to fight about it, the time that it might take to get Bills before this Legislature. I am supportive of anything that will speed up the process. The authority granted to the Legislative Council, the first thing that bothers me is the Legislative Budgets. It says: "the Council shall have the authority to prepare and approve all legislative budgets." On the last night of the Session, we'll see before us, perhaps about 20 study orders, and each one of them will be sys-

tematically killed right here. Then the Legislative Council itself will determine which ones it would like to fund, and we'll do it through their action. Not collectively with 184 of us, but with our ten leaders.

If I had my druthers, Mr. President, I'd just as soon kill the Amendments to this Bill and let it fly on its own merit. Thank you.

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

Senator CONLEY: Mr. President and Members of the Senate, the good Senator from Oxford, Senator O'Leary, in initiating his remarks, spoke in a very similar pattern to my feelings several years ago when the Legislative Council was adopted over the old Legislative Research Committee. However, there have been many attempts since that time to do away with what is referred to as the Legislative Council, and it has always been killed in both Houses. I think he's 100 percent correct with the Senate Amendment that he's offering here this afternoon, because I think, really, the Legislative Leadership as a collective body of ten, generally try to act and respond in the best interests of the entire membership of both Houses. In order for any item to receive passage before the Council, it takes two-thirds of that branch to authorize anything, two-thirds for any orders that are being passed for study, two-thirds of practically anything that's going to be acted upon by both the House and the Senate. The good Senator was correct, in a sense, when sometimes some people sort of overstep their powers, in a sense, by just issuing ultimatums from either rostrum. They're generally very quickly taken to task, and generally brought back down out of the clouds, and restored to terra firma and find their firm foot, and renounced their sins, and act generally accordingly. I think Senator O'Leary is correct. The Amendment that he's proposed puts all of us on equal footing. Why should this Body have to get two-thirds of a vote to overturn anything the Legislative Council should respond to. I think it should be a simple majority, and I would urge the Senate to support the Amendment that he has offered.

The PRESIDENT: A Division has been requested.

Will all those Senators in favor of the Adoption of Senate Amendment "A" (S-23) to Committee Amendment "A", please rise in their places to be counted.

Will all those Senators opposed, please rise in their places to be counted.

24 Senators having voted in the affirmative, and 4 Senators having voted in the negative, Senate Amendment "A" (S-23) was Adopted.

Committee Amendment "A", as amended, by Senate Amendment "A" was Adopted, and the Bill, as amended, Tomorrow Assigned for Second Reading.

Senator DEVOE for the Committee on Judiciary on, Bill, "An Act to Amend and Clarify the Procedure to File and Appeal Claims by Patients, Inmates or Prisoners." (S. P. 144) (L. D. 315)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (S-22).

Which Report was Read and Accepted and the Bills Read Once. Committee Amendment "A" was Read and Adopted and the Bill, as amended, Tomorrow Assigned for Second Reading.

Off Record Remarks

Enactors

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

An Act to Provide Relocation Assistance to Certain Persons Ineligible for Federal Benefits." (H. P. 19) (L. D. 25)

On motion by Senator Huber of Cumberland placed on the Special Appropriations Table,

pending Enactment.

An Act to Permit Auctioneers to Conduct Auctions for Charitable Organizations without Posting an Additional Bond under the Charitable Solicitations Act." (S. P. 111) (L. D. 240)

An Act to Repeal Provisions for Premiums and Rebates under the Liquor Laws." (H. P. 234) (L. D. 249)

An Act Concerning Eye Enucleation under the Anatomical Gift Act. (S. P. 54) (L. D. 81)

An Act to Lower Certain Distance Restrictions on Enlargement of Cemeteries and Burying Grounds. (S. P. 41) (L. D. 42)

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

An Act to Exempt Certain Aquaculture Workers Under the Workers' Compensation Law. (S. P. 74) (L. D. 111)

On motion by Senator Collins of Knox, Tabled for 1 Legislative Day, pending Enactment.

Orders of the Day

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

Paper from the House

House Paper

Bill, "An Act Relating to Motor Fuel Taxes" (Emergency) (H. P. 811) (L. D. 937)

Come 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.

Senator Hichens of York was granted unanimous consent to address the Senate, Off the Record.

Senator Brown of Washington was granted unanimous consent to address the Senate, Off the Record.

On motion by Senator Pierce of Kennebec, Adjourned until 10 o'clock tomorrow morning.