

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

***One Hundred and Eighth
Legislature***

OF THE

STATE OF MAINE

1978

Second Regular Session

January 4, 1978 — April 6, 1978

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Senate Confirmation Session

June 14, 1978

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First Special Session

September 6, 1978 — September 15, 1978

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December 6, 1978

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APPENDIX

SENATE

Monday, February 13, 1978

Senate called to Order by the President.

Prayer by the Honorable Ronald E. Usher of Westbrook.

Mr. USHER: Let us pray. Lord give us that extra strength as we begin another week of Legislation. Help us to see the needs of our people and use good judgment in all our deliberations. Lord we ask your blessings unto all in this Chamber. Amen.

Reading of the Journal of yesterday.

**Papers from the House
Joint Orders**

Expressions of Legislative Sentiment recognizing that: Norman Duplessie is retiring as fire chief of the Vassalboro Volunteer Fire Department after 38 years of dedicated service to that community, (H. P. 2095)

Bud Leavitt, Outdoor Editor of the Bangor Daily News has been elected to the International Fishing Hall of Fame, (H. P. 2093)

Come from the House, Read and Passed.

Which were Read and Passed, in concurrence.

**Joint Resolution
STATE OF MAINE**

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

**Joint Resolution
in Recognition of
Black History Month**

Whereas, the struggle for human dignity and respect has been taking place at an increasing pace throughout the 1960's and 1970's; and

Whereas, all that can be done must be done to instill a sense of pride and dignity in our Black heritage and the many contributions Blacks have made to this world; and

Whereas, National Negro History Week has been expanded and is now known as National Black History Month; and

Whereas, Whitney M. Young, Jr. stated so eloquently:

"Look at me, I'm here.
I have dignity, I have pride.
I have roots. I insist.
I demand that I participate in those decisions that affect my life and the lives of my children...;" and

Whereas, Black history has been and is now being made in many areas of our immediate society, throughout the world, our Nation and in our State; now, therefore, be it

Resolved: That we, the members of the 108th Legislature in the Second Regular Session assembled, hereby declare the month of February 1978, to be Black History Month; and be it further

Resolved: That we call upon the citizens of Maine, as well as all interested groups and organizations, to observe this month with appropriate ceremonies and activities in honor of the occasion; and be it further

Resolved: That upon passage in concurrence, the Secretary of State shall make available suitable copies of this joint resolution. (H. P. 2094)

Comes from the House, Read and Adopted.

Which was Read and Adopted, in concurrence.

**Communications
COMMITTEE ON EDUCATION**

The Honorable Joseph Sewall
President of the Senate of Maine
State House
Augusta, Maine 04330
Dear President Sewall:

In accordance with 3 M. R. S. A., Chapter 6, section 151, and with Joint Rule 37 of the 108th Maine Legislature, the Joint Standing Commit-

tee on Education has had under consideration the nomination of Albert H. Winchell, Jr., Esq. to the position of Board of Trustees, of the Maine Maritime Academy.

After public hearing and discussion on this nomination, the Committee proceeded to vote on the motion to recommend to the Senate of the 108th Legislature that this nomination be confirmed. The vote was taken by the yeas and nays. The Committee Assistant called the roll with the following result:

YEAS:

Senators: 3

KATZ of Kennebec
PIERCE of Kennebec
USHER of Cumberland

Representatives: 9

LYNCH of Livermore Falls
LEWIS of Auburn
PLOURDE of Fort Kent
BAGLEY of Winthrop
BEAULIEU of Portland
WYMAN of Pittsfield
FENLASON of Danforth
MITCHELL of Augusta
BIRT of East Millinocket

NAYS:

Representatives: 1

CONNOLLY of Portland

12 members of the Committee having voted in the affirmative and 1 in the negative, it was the vote of the Committee that the nomination of Albert H. Winchell, Jr., Esq. to the position of Board of Trustees, of the Maine Maritime Academy be confirmed.

Sincerely,
Senate Chairman
House Chairman

Which was Read and Ordered Placed on File.

Mr. PRESIDENT: The Joint Standing Committee on Education has recommended that the nomination of Albert H. Winchell, Jr. be confirmed.

Mr. PRESIDENT: 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 37 of the 108th 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.

Is the Senate ready for the question?

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

ROLL CALL

NAYS: Carpenter, Chapman, Conley, Cummings, Curtis, Danton, Farley, Greeley, Hewes, Hichens, Huber, Katz, Levine, Lovell, Mangan, Martin, McNally, Merrill, Minkowsky, Morrell, O'Leary, Pierce, Pray, Snowe, Trotzky, Usher, Wyman, Sewall

ABSENT: D.; Collins, S.; Collins, Jackson, Redmond, Speers

No Senators having voted in the affirmative and 28 Senators in the negative, with 5 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 Albert H. Winchell, Jr. is confirmed.

Committee on Education

The Honorable Joseph Sewall
President of the Senate of Maine
State House
Augusta, Maine 04330
Dear President Sewall:

In accordance with 3 M. R. S. A., Chapter 6, section 151, and with Joint Rule 37 of the 108th Maine Legislature, the Joint Standing Committee on Education has had under consideration the nomination of John A. Platz, Esq. to the position of Board of Trustees, of the Maine Maritime Academy.

After public hearing and discussion on this

nomination, the Committee proceeded to vote on the motion to recommend to the Senate of the 108th Legislature that this nomination be confirmed. The vote was taken by the yeas and nays. The Committee Assistant called the roll with the following result:

YEAS:

Senators: 3

KATZ of Kennebec
PIERCE of Kennebec
USHER of Cumberland

Representatives: 9

LYNCH of Livermore Falls
LEWIS of Auburn
PLOURDE of Fort Kent
BAGLEY of Winthrop
CONNOLLY of Portland
WYMAN of Pittsfield
FENLASON of Danforth
MITCHELL of Augusta
BIRT of East Millinocket

NAYS:

Representatives: 1

BEAULIEU of Portland

12 members of the Committee having voted in the affirmative and 1 in the negative, it was the vote of the Committee that the nomination of John A. Platz, Esq. to the position of Board of Trustees, of the Maine Maritime Academy be confirmed.

Sincerely,
Senate Chairman
House Chairman

Which was Read and Ordered Placed on File.

Mr. PRESIDENT: The Joint Standing Committee on Education has recommended that the nomination of John H. Platz be confirmed.

Mr. PRESIDENT: 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 37 of the 108th 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. Is the Senate ready for the question?

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

ROLL CALL

NAYS: Carpenter, Chapman, Conley, Cummings, Curtis, Danton, Farley, Greeley, Hewes, Hichens, Huber, Katz, Levine, Lovell, Mangan, Martin, McNally, Merrill, Minkowsky, Morrell, O'Leary, Pierce, Pray, Snowe, Speers, Trotzky, Usher, Wyman, Sewall

ABSENT: D.; Collins, S.; Collins, Jackson, Redmond

No Senators having voted in the affirmative and 29 Senators in the negative, with 4 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 John A. Platz is confirmed.

**Committee Reports
House**

Ought to Pass

The Committee on Local and County Government on, Bill, "An Act to Set Off a Portion of Land from the Town of Wales and Annex the Same to the Town of Sabattus." (H. P. 2058) (L. D. 2116)

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 and Tomorrow Assigned for Second Reading.

Senate

Ought to Pass — As Amended

Mr. Collins for the Committee on State Government on, RESOLVE, Authorizing the Commissioner of Educational and Cultural Services to Exchange Certain Lands at Southern Maine

Vocational-Technical Institute. (S. P. 660) (L. D. 2037)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (S-462).

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

Second Readers

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

House — As Amended

Bill, "An Act Appropriating Funds to Construct and Access Road to the Phase 2 Housing Project on the Penobscot Tribal Reservation." (H. P. 1916) (L. D. 1977)

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

Senate

Bill, "An Act to Revise the Statute on Operating a Motor Vehicle While under the Influence of Intoxicating Liquor or Drugs." (S. P. 696) (L. D. 2138)

Which was Read a Second Time.

On Motion of Mr. Curtis of Penobscot, Tabled for One Legislative Day, pending Passage to be Engrossed.

Enactors

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

"An Act to Include "Mobile Home" in the Definition of "Homestead" for the Purposes of the Homestead Exemption from Certain Attachments." (H. P. 1951) (L. D. 2030)

"An Act to Increase the Amount which Qualifies a Financial Institution for Exemption from Insurance of Deposits on Accounts." (H. P. 1862) (L. D. 1920)

"An Act to Revise the Sanford Sewerage District Charter." (S. P. 673) (L. D. 2081)

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:

Bill, "An Act to Facilitate the Making of Decrees by the Industrial Accident Commission." (S. P. 643) (L. D. 2010)

Tabled — February 7, 1978 by Senator Speers of Kennebec

Pending — Passage to be Engrossed

On Motion of Mr. Speers of Kennebec Retabled Two Legislative Days,

The President laid before the Senate:

House Reports — from the Committee on Legal Affairs — Resolve, to Terminate any Liability of the Town of Oakland to Clear Debris from the Fish Screen at Messalonskee Lake. (H. P. 1874) (L. D. 1911) Majority Report — Ought Not to Pass; Minority Report — Ought to Pass

Tabled — February 8, 1978 by Senator Speers of Kennebec

Pending — Acceptance of Either Report

On Motion of Mr. Hewes of Cumberland, the Majority Ought Not to Pass Report of the Committee Accepted in non-concurrence.

Sent down for concurrence.

The President laid before the Senate:

House Reports — from the Committee on Taxation — Bill, "An Act to Require Certain Out-of-State Sellers to Register under the Maine Sales and Use Tax Law." (H. P. 1883) (L. D. 1937) Majority Report — Ought to Pass

in New Draft (H. P. 2084) (L. D. 2134); Minority Report — Ought Not to Pass

Tabled — February 10, 1978 by Senator Speers of Kennebec

Pending — Acceptance of Either Report

The PRESIDENT: The Chair recognizes the Senator from Washington, Senator Wyman.

Mr. WYMAN: Mr. President, I move that we accept the Majority Ought to Pass Report.

The PRESIDENT: The Senator from Washington, Senator Wyman, now moves that the Senate accept the Majority Ought to Pass in New Draft Report of the Committee.

The Chair recognizes the Senator from York, Senator Lovell.

Mr. LOVELL: Mr. President and Ladies and Gentlemen of the Senate, I would like to move indefinite postponement of this Bill and all its accompanying papers and speak briefly to the motion.

The PRESIDENT: The Senator has the Floor.

Mr. LOVELL: If you will note, (L. D. 2134) contains two paragraphs. And it is a bad, bad Bill. Without any question.

It does not have enough money to any wheres near finance what is necessary as stated in the Bill. In the second place, it is going to drive business from one particular Radio Station, WSME, and they are going to lose thirty percent of their business and probably put them out of business. They are an FM radio Station and they have a good deal of advertising from New Hampshire. Without any question, since this Bill cannot be enforced with a small amount of money of \$17,000, how are we going to expect Maine people that go over the New Hampshire; and they all know along the Maine border that there is no Sales Tax in New Hampshire, you do not have to tell them that. So consequently, you are not going to stop the Maine people from going to New Hampshire and they are not going to give their right names if they ask them. Now an automobile you have got to give your name when you pay the Sales Tax in Maine. Fine. You pay the Sales Tax in Maine but on anything else that they buy over there, clothes or whatever they may buy in New Hampshire they are not going to ask the people where do you come from. And the people they ask are not going to say I come from Maine. I do not want to pay the Sales Tax.

So consequently, this is a real bad Bill and I would like everyone of the Members of the Senate to think this over very carefully. I hope you will. I would request a Division and I would hope you would go along with me on Indefinite postponement.

The PRESIDENT: Is the Senate ready for the question?

The Chair recognizes the Senator from Cumberland, Senator Jackson.

Mr. JACKSON: Members of the Senate, I am rather late this morning to hear the first of the debate. I am a signer of the Majority Report on this piece of Legislation. I also am a businessman on the western side of the State which is approximately 18 miles from New Hampshire border. I also represent the majority of my constituents are on the New Hampshire border. So I sort of have to walk a white line in respect to this piece of Legislation; but if you read the Committee Amendment, it deals specifically with those businesses in New Hampshire or other states which specifically identify a savings or advertise a savings due to the Sales Tax.

I do not think that the good Senator from York should be to concerned. We are not prohibiting any Maine residence from crossing the border and purchasing anything that they so desire. All we are saying is that those businesses in New Hampshire that advertise the savings of the Maine Sales Tax will have to open their books to the Bureau of Taxation.

The PRESIDENT: Is the Senate ready for the question?

The pending question before the Senate is the Motion by the Senator from York, Senator Lovell, that the Senate Indefinitely Postpone (L. D. 1937) and all its accompanying papers.

A division has been requested. Will all those Senators in favor of indefinite postponement

please rise in their place to be counted.

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

The Chair recognizes the Senator from York, Senator Farley.

Mr. FARLEY: Mr. President, I request a Roll Call.

The PRESIDENT: A Roll Call has been requested. In order for the Chair to order a Roll Call, it must be the expressed desire of one-fifth of those Senators present and voting.

Will all those Senators in favor of a Roll Call please rise in their places to be counted.

Obviously more than one-fifth having arisen, a Roll Call is ordered.

The Chair recognizes the Senator from York, Senator Danton.

Mr. DANTON: Mr. President, I would like to inquire through the Chair to any Member of the Taxation Committee really and truly what the purpose of this Legislation is. I would like to have some member really and truly get up as to why this idea — has come up at this time for us to vote on this Legislation.

The PRESIDENT: The Senator from York, Senator Danton, has passed a question through the Chair to any Member of the Taxation Committee who may care to answer.

The Chair recognizes the Senator from Washington, Senator Wyman.

Mr. WYMAN: Mr. President, the Taxation Committee considered this very carefully and it was their conclusion that it would bring in a considerable amount of money and I do not think that the intention was to try to collect the Sales Tax on small items or minor items but on larger items we could collect the Sales Tax and recover a good deal more than it would cost us to collect it.

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

Mr. DANTON: Mr. President and Members of the Senate, I can appreciate the fact that the State is looking for additional money.

I can remember a couple of years ago there was a Bill in collecting the Sales Tax from automobile dealers. That really and truly do not want to collect the Sales Tax and many of the used car dealers that have lots and sell cars and collect the Sales Tax and instead of turning it into the State they go out of business and the Sales Tax they collected went into their pocket very conveniently — I think at that time we were talking about two or three million dollars that were on the books owed to the State. Why didn't the Taxation Committee entertain the thought perhaps of collecting the Sales Tax that is already on the books rather than trying to go into New Hampshire where I am sure Governor Thompson will perhaps Veto this Bill anyway.

Another thing that I would like to point out is if we are going to collect this Sales Tax, why don't we collect the Sales Tax on the beer and the soft drinks that are being bought over there today because of our Returnable Bottle Bill? If there are so many youth as they claim go to New Hampshire, maybe we should get into all the lounges and bathrooms over there and collect the Sales Tax there.

This Bill is not needed. Not one bit. Number one; \$17,000 is not enough to enforce this Bill. If anything, we should have an appropriation on this Bill for about \$17,000 million. I would hope that we would vote for the sake of good government, vote to kill this Bill.

The PRESIDENT: Is the Senate ready for the question?

The pending question before the Senate is the Motion by the Senator from York, Senator Lovell to indefinitely postpone (L. D. 1937) and all its accompanying papers.

A Yes Vote will be in favor of Indefinite Postponement.

A Nay Vote will be opposed.

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

ROLL CALL

YEAS: Carpenter, Conley, Cummings,

Danton, Farley, Greeley, Hewes, Hichens, Lovell, Mangan, McNally, Merrill, Minkowsky, Morrell, O'Leary, Pierce, Snowe, Speers, Usher

NAYS: Chapman, Curtis, Huber, Jackson, Levine, Martin, Pray, Trotzky, Wyman

ABSENT: D.; Collins, S.; Collins, Katz, Redmond

19 Senators having voted in the affirmative, and 9 Senators in the negative, with 4 Senators being absent, the Motion to Indefinitely Postpone does prevail.

The Chair recognizes the Senator from York, Senator Lovell.

Mr. LOVELL: Mr. President, having voted on the prevailing side I would like to ask for reconsideration and hope that you would vote against me.

The PRESIDENT: The Senator from York, Senator Lovell, now moves that the Senate reconsider its action whereby it Indefinitely Postponed (L. D. 1937). Will all Senators in favor of reconsideration be say Yes.

The Chair recognizes the Senator from Cumberland, Senator Jackson.

Mr. JACKSON: Mr. President, I move that this item lay on the table for one legislative day pending reconsideration.

The PRESIDENT: The Senator from Cumberland, Senator Jackson, now moves that the Senate table this item for one legislative day pending reconsideration.

The Chair recognizes the Senator from York, Senator Lovell.

Mr. LOVELL: I request a Division.

The PRESIDENT: A Division has been requested on tabling motion. Will all those Senators in favor of tabling this item for one legislative day pending reconsideration please rise in their places to be counted.

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

13 Senators having voted in the affirmative and 15 Senators in the negative, the Motion to table does not prevail.

Will all those Senators in favor of reconsideration please say Yes.

Will those opposed please say no.

A Viva-Voce Vote being had, the Motion to reconsider does not prevail.

Sent down for concurrence.

The President laid before the Senate:

Bill, "An Act Relating to the Inspection of Dams." (H. P. 2007) (L. D. 2084)

Tabled — February 10, 1978 by Senator Cummings of Penobscot

Pending — Passage to be Engrossed

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

Mrs. CUMMINGS: Mr. President, I move that the Senate suspend its rules and reconsider its action whereby it adopted Committee Amendment "A" to (L. D. 2084).

The PRESIDENT: The Senator from Penobscot, Senator Cummings now moves that the Senate suspend its rules and reconsider its action whereby it adopted Committee Amendment "A" to (L. D. 2084). Is it the pleasure of the Senate? It is a vote.

On presentation of Mrs. Cummings of Penobscot,

Senate Amendment "A" to Committee Amendment "A" Read and Adopted. Committee Amendment "A", as amended, Adopted. This Bill, as amended, Passed to be Engrossed non-concurrence.

Sent down for concurrence.

Out of order and under suspension of the rules, the Senate voted to consider the following:

Papers from the House

House Paper

Bills requiring reference to Committee were acted upon in concurrence.

On Motion of Mr. Huber of Cumberland, Ad-

journal until 11:00 in the morning, Tuesday, February 14, 1978.