

# MAINE STATE LEGISLATURE

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**LEGISLATIVE RECORD**

**OF THE**

***One Hundred and Ninth  
Legislature***

**OF THE**

**STATE OF MAINE**

**SECOND REGULAR SESSION**

**January 2 to April 3, 1980**

**THIRD SPECIAL SESSION**

**May 22, 1980**

**THIRD CONFIRMATION SESSION**

**July 17, 1980**

**FOURTH CONFIRMATION SESSION**

**July 24, 1980**

**FIFTH CONFIRMATION SESSION**

**September 12, 1980**

**REPORT, HEARING TRANSCRIPT AND  
RELATED MEMORANDA OF THE JOINT  
SELECT COMMITTEE ON INDIAN LAND  
CLAIMS**

## HOUSE

Wednesday, January 23, 1980

The House met according to adjournment and was called to order by the Speaker.

Prayer by the Reverend James Word of the United Methodist Church of Bath.

Rev. WORD: Father, the awareness of the immensity of human need and our own shortcomings and limitations may be the means whereby your spirit may minister to us and enter our spirits to wrestle with the giant that lies within each of us. Thank you for these legislators and for the commitment that brings them together this day for the tasks that are before them. Enable them so that they may go even beyond their own limitations to do that which must be done for the good of all of us and, indeed, finally for all of mankind. We pray in Christ's name. Amen.

The journal of yesterday was read and approved.

## Papers from the Senate

The following Expression of Legislative Sentiment recognizing that:

Joseph J. Ricci of Falmouth, for his dedication to rehabilitation efforts, was named one of Maine's outstanding young men for 1980 by the State Jaycees (S. P. 712)

Came from the Senate read and passed.

In the House, the Order was read and passed in concurrence.

## Messages and Documents

The following Communication: (S. P. 711)  
January 18, 1980

Honorable Barbara A. Gill  
Honorable Sandra K. Prescott  
Chairmen, Committee on Health and Institutional Services  
State House  
Augusta, Maine 04333

Please be advised that Governor Joseph E. Brennan is nominating Kevin W. Concannon of Portland to serve as Commissioner of the Department of Mental Health and Corrections.

Pursuant to Title 34 MRSA Section 1, 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

Came from the Senate, read and referred to the Committee on Health and Institutional Services.

In the House, was read and referred to the Committee on Health and Institutional Services in concurrence.

The following Communication: (H. P. 1744)  
January 7, 1980

Honorable Joseph Sewall,  
President of the Maine Senate  
and  
Honorable John L. Martin,  
Speaker of Maine House of Representatives  
Augusta, Maine 04333

Dear President Sewall and Speaker Martin:  
As requested in Legislative Resolves, Chapter 55 (1977), we the undersigned are pleased to submit the following as our annual report on the status of fish passage construction in the Augusta dam.

Since submission of the last report we have received a verbal commitment from the Attorney General's office approving the use of the appropriated funds for engineering studies and design work. As a followup, the Attorney General's office is preparing a letter for submission to the Federal Energy Regulatory Commission (FERC) requesting a reopening of the license on the Augusta dam, to consider the construction of a fishway.

Should you or your associates require additional information we would be pleased to meet with you at your convenience.

Respectfully submitted,  
S/GLENN H. MANUEL, Chairman  
Atlantic Sea Run Salmon

Commission and,  
Commissioner, Department  
Inland Fisheries & Wildlife  
S/SPENCER APOLLONIO, Commissioner  
Department of Marine Resources  
and member, Atlantic Sea-Run  
Salmon Commission

The Communication was read and with accompanying report ordered placed on file.

Petitions, Bills and Resolves  
Requiring Reference

The following Bills and Resolves were received and referred to the following Committees:

## Appropriations and Financial Affairs

Bill "An Act Adjusting Appropriations and Allocations for the Expenditures of State Government and Changing Certain Provisions of the Law Necessary to the Proper Operations of State Government for the Fiscal Years Ending June 30, 1980 and June 30, 1981" (Emergency) (H. P. 1732) (Presented by Mr. Pearson of Old Town) (Governor's Bill)

(Ordered Printed)

Sent up for concurrence.

By unanimous consent, ordered sent forthwith to the Senate.

## Business Legislation

Bill "An Act to Amend the Fair Credit Reporting Act" (H. P. 1734) (Presented by Mrs. Mitchell of Vassalboro) (Cosponsor: Mr. Gwadz of Fairfield) (Governor's Bill)

(Ordered Printed)

Sent up for concurrence.

## Energy and Natural Services

Bill "An Act to Allow Counties to Participate in the Solid Waste Management Subsidy" (H. P. 1735) (Presented by Mr. Blodgett of Waldoboro) (Cosponsors: Mr. Austin of Bingham, Mr. Brenerman of Portland and Mr. Diamond of Windham) (Governor's Bill)

(Ordered Printed)

Sent up for concurrence.

## Later Today Assigned

Bill "An Act Pertaining to the Time for Recording a Tax Lien Mortgage" (H. P. 1736) (Presented by Mrs. Wentworth of Wells) (Approved for introduction by a Majority of the Legislative Council pursuant to Joint Rule 27.)

Committee on Local and County Government was suggested.

On motion of Mrs. Post of Owl's Head, tabled pending reference and later today assigned.

## Local and County Government

Bill "An Act Providing for the Election of a Deputy Moderator at Town Meetings" (H. P. 1737) (Presented by Mr. McMahon of Kennebunk) (Approved for introduction by a Majority of the Legislative Council pursuant to Joint Rule 27)

Bill "An Act Pertaining to the Abandonment of Public Ways" (H. P. 1738) (Presented by Mr. Drinkwater of Belfast) (Approved for introduction by a Majority of the Legislative Council pursuant to Joint Rule 27.)

(Ordered Printed)

Sent up for concurrence.

## Public Utilities

Bill "An Act to Permit the Public Utilities Commission to Include in the Fuel Adjustment Clause Capacity Purchases from Small Power Producers and Cogenerators" (H. P. 1739) (Presented by Mrs. Kany of Waterville) (Cosponsor: Mr. Elias of Madison) (Governor's Bill)

Bill "An Act Amending the Charter of the

York Sewer District" (H. P. 1740) (Presented by Mr. Rolde of York) (Approved for introduction by a Majority of the Legislative Council pursuant to Joint Rule 27.)

Bill "An Act Requiring Public Utilities Commission Approval for the Purchase of Portions of Electrical Generating Facilities by Electrical Companies" (H. P. 1741) (Presented by Mrs. Kany of Waterville) (Cosponsor: Mr. Davies of Orono) (Governor's Bill)

(Ordered Printed)

Sent up for concurrence.

## State Government

RESOLVE, Authorizing the State Tax Assessor to Convey the Interest of the State in Certain Lands in the Unorganized Territory (H. P. 1742) (Presented by Mr. Kane of South Portland) (Cosponsors: Mr. Bowden of Brooklin and Mr. Hall of Sangerville) (Approved for introduction by a Majority of the Legislative Council pursuant to Joint Rule 27.)

(Ordered Printed)

Sent up for concurrence.

## Orders

On motion of Mr. Cox of Brewer, it was ORDERED, that Representative John Joyce of Portland be excused January 22, 1980, for the duration of his illness.

AND BE IT FURTHER ORDERED, that Representative Lucien Dutremble of Biddeford be excused January 23 to 25, 1980, for personal reasons.

A Joint Resolution (H. P. 1743) in memory of Honorable William O. Douglas, retired Supreme Court Justice.

Presented by Mr. Simon of Lewiston.

The Resolution was read.

The SPEAKER: The Chair recognizes the gentleman from Lewiston, Mr. Simon.

Mr. SIMON: Mr. Speaker, Members of the House: Last Saturday, retired Justice William O. Douglas of the United States Supreme Court died at the age of 81. Today, he is being buried in Arlington National Cemetery near the grave of Justice Oliver Wendell Holmes, Jr.

William O. Douglas served on the Supreme Court from 1939 to 1975, longer than any justice in American history. It is fitting that we, as representatives of the people of Maine, should pause to honor the memory of Justice Douglas.

One of his principal concerns was the environment. In particular, he loved the Maine wilderness; he admired the wisdom of our people in taking collective action to curtail the exploitation of our natural resources.

But William O. Douglas's principal mission as a judge was the defense of the First Amendment. He was of the generation that remembered the old court, the group of Supreme Court Justices who abused the power of judicial review by killing bills passed by Congress and the state legislatures simply because these justices disagreed with the social or economic policies embodied in this legislation. So he saw the danger in free-wheeling judicial activism.

In contrast to the old court, which created new rights not included in the Constitution, Justice Douglas believed in the generous interpretation of rights specified in the Constitution. Of these specified rights, the ones he was most concerned with was the guarantee of freedom of speech and of the press. He wrote: "Free speech has occupied an exalted position because of the high service it has given our society. Its protection is essential to the very existence of a democracy. The airing of ideas releases pressures which otherwise might become destructive. When ideas compete in the market for acceptance, full and free discussion even of ideas that we hate encourages the testing of our prejudices and preconceptions. Full and free discussion keeps society from becoming stagnant and unprepared for the stresses and strains that work to tear all civilizations apart."

Justice Douglas was activist in protecting First Amendment rights because he trusted the people. He believed that a free flow of ideas and information would allow the people to correct bad policies through their elected representatives. He maintained this position with respect to hated and feared groups as well as safe and solid ones, because, as he said, "Courts sit on stormy days as well as clear ones," and because he agreed with his late colleague, Hugo Black, that when the Constitution said it allowed "no law abridging freedom of speech or the press," it meant, no law, not reasonable laws, not convenient laws, not laws that passed some traditional balancing test.

Throughout his life, Justice Douglas practiced what he taught, vigorously presenting his sometimes controversial ideas, in books, in judicial opinions and in speeches and lectures throughout the world.

Today, his prophetic voice is silent and his courageous pen is still, but his words and his spirit will live on as long as America remains the free society and the example to other countries that William O. Douglas fought to preserve, protect and defend.

Thereupon, the Resolution was adopted and sent up for concurrence.

#### House Reports of Committees

##### Study Report

##### Referred to the Committee on Judiciary

Mr. Hobbins from the Committee on Judiciary to which was referred the study relative to the reorganization of the District and Superior Courts and the Judicial Retirement System, pursuant to Joint Order H. P. 1567 have had the same under consideration, and ask leave to submit its findings and to report that the accompanying Bill "An Act to Expedite Criminal Trials and to Provide for the Election of Jury Trials" (H. P. 1733) (L. D. 1849) be referred to this Committee for public hearing and printed pursuant to Joint Rule 17.

Report was read and accepted, the Bill referred to the Committee on Judiciary, ordered printed and sent up for concurrence.

##### Ought to Pass

Mr. Wyman from the Committee on Labor on Bill "An Act to Expand the State's Program to Promote Apprenticeships" (H. P. 1617) (L. D. 1727) reporting "Ought to Pass"

Report was read and accepted, the Bill read once and assigned for second reading tomorrow.

##### Divided Report

Majority Report of the Committee on Judiciary reporting "Ought to Pass" on Bill "An Act to Provide for Per Diem Compensation for Active Retired Judges" (Emergency) (H. P. 1636) (L. D. 1745)

Report was signed by the following members:

Messrs. COLLINS of Knox  
DEVOE of Penobscot  
Mrs. TRAFTON of Androscoggin  
— of the Senate.  
Messrs. HOBBS of Saco  
HUGHES of Auburn  
Mrs. SEWALL of Newcastle  
Messrs. SILSBY of Ellsworth  
STETSON of Wiscasset  
SIMON of Lewiston  
LAFFIN of Westbrook  
— of the House.

Minority Report of the same Committee reporting "Ought to Pass" as amended by Committee Amendment "A" (H-749) on same Bill.

Report was signed by the following member:  
Mr. GRAY of Thomaston  
— of the House.

Reports were read.

On motion of Mr. Hobbins of Saco, the Majority "Ought to Pass" Report was accepted, the Bill read once and assigned for second reading tomorrow.

#### Consent Calendar

##### Second Day

In accordance with House Rule 49, the following item appeared on the Consent Calendar for the Second Day:

(H. P. 1640) (L. D. 1749) Bill "An Act to Increase the Amount which the District Court is Allowed to Deposit into the District Court Building Fund from \$3,000 per Month to \$120,000 Per Year" (Emergency) (C. "A" H-748)

No objections having been noted at the end of the Second Legislative Day, the House Paper was passed to be engrossed and sent up for concurrence.

##### Passed to Be Engrossed

Bill "An Act to Require that Children who are under 15 Years of Age Wear Helmets when they are Passengers on Motorcycles" (H. P. 1590) (L. D. 1700)

Was reported by the Committee on Bills in the Second Reading, read the second time, passed to be engrossed and sent up for concurrence.

Bill "An Act Revising the Maine Capital Corporation" (H. P. 1616) (L. D. 1726)

Was reported by the Committee on Bills in the Second Reading and read the second time.

Mr. Rolde of York offered House Amendment "A" and moved its adoption.

House Amendment "A" (H-751) was read by the Clerk.

The SPEAKER: The Chair recognizes the gentleman from York, Mr. Rolde.

Mr. ROLDE: Mr. Speaker, Ladies and Gentlemen of the House: I mentioned yesterday that I would be offering an amendment to this bill and I would, as briefly as I can, try and explain it although it is a somewhat complicated matter.

First, I would like to give you a little background on the bill itself, and I will refresh your memory that the 108th Legislature created an entity called the Maine Capital Corporation. The purpose of this corporation was to create venture capital for equity investment in Maine businesses. It was established as a private corporation, and the only links to the State of Maine were the fact that two members of the nine member board would be appointed by the Governor and that in order to spur investment in the corporation, a tax credit would be allowed. This bill was passed by the 108th and in the interim, they are trying now to establish this corporation. Under the original law, they were allowed to sell a million dollars in stocks.

The purpose of the bill before you is to allow the Maine Capital Corporation not only to sell its million dollars in stocks but to become a particular kind of SBIC (a Small Business Investment Company) under the SBA laws of federal government. As such, the Maine Capital Corporation would then be eligible for federal loans up to \$4 million, thus making some \$5 million available in venture capital for Maine businesses, at least \$5 million, but there are possibilities actually that they would be able to have more capital available. I won't go into the technicalities of that, but I will emphasize that the original law says also that this is only for businesses in Maine.

The stock issue is now being sold by the Maine Capital Corporation, and more than \$350,000 in stock has been pledged by investors.

I would note that the bill revising the Maine Capital Corporation, L. D. 1726, received a unanimous report from the State Government Committee. The technical problem that arose, for which I am presenting this amendment, came about because the Bureau of Taxation found that the way the original law was drafted, there was a question—and when I speak of the original law, this is the law in the 108th—there was a question as to whether banks were eligible to invest in the Maine Capital Corporation. And the trouble seems to be

that the tax on banks is called a franchise tax and not a corporate income tax.

The original bill, back in the 108th, stated that all Maine corporations were eligible to invest in the Maine Capital Corporation, and Ray Halperin has said that when he submitted his original revenue loss figures to the 108th, he included banks, but the technical fact that the tax on banks is labeled a franchise tax has raised the kind of nit-picky questions that lawyers and bureaucrats delight in. Thus, to make things absolutely clear, I am submitting this amendment which has been discussed with the State Government Committee. It is very important this be done, since banks have been among the original subscribers to the Maine Capital Corporation stock issue and without their participation, it is likely that the stock issue would fail, the Capital Corporation would not be created and at least \$5 million of venture capital would not be available for Maine businesses to use in creating jobs and expanding their operation.

I hope you will go along with my amendment.

Thereupon, House Amendment "A" was adopted.

The Bill was passed to be engrossed as amended by House Amendment "A" and sent up for concurrence.

Bill "An Act Relating to Enforcement of the Truck Weight Requirements Under the Motor Vehicle Laws" (H. P. 1628) (L. D. 1738)

Was reported by the Committee on Bills in the Second Reading and read the second time.

Mr. McHenry of Madawaska offered House Amendment "A" and moved its adoption.

House Amendment "A" (H-750) was read by the Clerk.

The SPEAKER: The Chair recognizes the gentleman from Bangor, Mr. Tarbell.

Mr. TARBELL: Mr. Speaker, may we have an explanation of House Amendment "A" and other amendments during this session as they are presented please?

The SPEAKER: The Chair recognizes the gentleman from Corinth, Mr. Strout.

Mr. STROUT: Mr. Speaker, I would pose a question. Is the amendment needed? The way I read it, the amendment is the same as the bill.

The SPEAKER: The Chair recognizes the gentleman from Bangor, Mr. Tarbell.

Mr. TARBELL: Mr. Speaker, when I originally posed the question—I have now received an answer. The current bill reads as the amendment does before us. The problem was that the bill did not have this language in it. So this amendment conforms the bill that we have on our desks to how the original bill was drafted.

What the net effect of the change is is what the original bill said, that the penalty provision would be changed from what is now on the statute books, I guess, of a \$500 fine as a maximum and imprisonment of a maximum of 90 days to a Class E crime, which conforms it to our Criminal Code. The Class E crime is the lowest class of crime. According to the language in the amendment, a Class E crime would subject a person who is convicted up to \$1,000 maximum and 6 months in jail.

Thereupon, House Amendment "A" was adopted.

The Bill was passed to be engrossed as amended by House Amendment "A" and sent up for concurrence.

#### Passed to Be Enacted Emergency Measure

An Act to Validate Proceedings Authorizing the Issuance of Bonds and Notes by the Town Council of the Town of Orono (S. P. 652) (L. D. 1699)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure and a two thirds vote of all the members elected to the House being necessary, a total was taken. 123

voted in favor of same and none against, and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

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**Orders of the Day**

The Chair laid before the House the first tabled and today assigned matter:

Bill, "An Act to Revise the Small Claims Law" (S. P. 684) (L. D. 1807) — In Senate, referred to Committee on Judiciary.

Tabled — January 18, 1980 by Mrs. Mitchell of Vassalboro.

Pending — Reference in concurrence.

On motion of Mrs. Mitchell of Vassalboro, tabled unassigned pending reference in concurrence.

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The Chair laid before the House the following matter:

Bill "An Act Providing for the Election of a Deputy Moderator at Town Meetings" (H. P. 1737) which was tabled earlier in the day and later today assigned pending reference.

On motion of Mrs. Post of Owl's Head, the Bill was referred to the Committee on Taxation, ordered printed and sent up for concurrence.

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**(Off Record Remarks)**

On motion of Mr. Fenlason of Danforth, Adjourned until ten o'clock tomorrow morning.