

# MAINE STATE LEGISLATURE

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**LEGISLATIVE RECORD**

OF THE

***One Hundred and Ninth  
Legislature***

OF THE

**STATE OF MAINE**

**Volume I**

**FIRST REGULAR SESSION**

**January 3, 1979 to May 4, 1979**

STATE OF MAINE  
One Hundred and Ninth Legislature  
JOURNAL OF THE SENATE

February 9, 1979

Senate called to Order by the President.

Prayer by the Honorable Ralph M. Lovell of York.

Senator LOVELL: Let us bow our heads in Prayer. O great God in heaven, Thou has given us this earth, our sun has burned for 400,000,000 years, and will continue to burn for 400,000,000 years, before it dies out. In the many stars which are all suns in our universe and milky way and the galaxy, there's billions and billions of planets such as ours. And we pray that you'll look down upon our planet, in this session of the Legislature; and in the future sessions. Help us to do good for our state; our country; our fellowmen; and the people in Maine.

O God, we thank you. Amen.

Reading of the Journal of yesterday.

Out of Order and Under Suspension of the Rules:

On motion by Senator Pierce of Kennebec, ORDERED, the House concurring, that when the House and Senate adjourn, they adjourn to Tuesday, February 13 at ten o'clock in the morning.

(S. P. 185)

Which was Read and Passed.

Sent down forthwith for concurrence.

**Papers from the House**  
**House Papers**

Bill, "An Act to Amend the Maine Veterinary Practice Act of 1975." (H. P. 291) (L. D. 388)

Bill, "An Act Authorizing the Issuing of Ex Parte Orders by the Courts and Complaint Justices to Allow Humane Agents and other Authorized Officers to take Possession of Neglected, Mistreated or Injured Animals." (H. P. 292) (L. D. 389)

Bill, "An Act to Remove the Restriction on Selling or Raffle Live Animals as a Fund-raising Device." (H. P. 293) (L. D. 390)

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

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

Bill, "An Act to Provide Minimum Attendance Requirements for Students Enrolled in Regular School Programs which shall be Met before those Students will Qualify for Promotion." (H. P. 294) (L. D. 393)

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

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

Bill, "An Act to Clarify the Procedure for Voting in a Voting Place Serving Voters from more than one Electoral District." (H. P. 295) (L. D. 391)

RESOLUTION, Proposing an Amendment to the Constitution of Maine to Provide for gubernatorial Run-off Elections. (H. P. 239) (L. D. 384)

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

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

Bill, "An Act to Establish a Solar Water Heater Demonstration Program for Maine Small Businesses." (H. P. 296) (L. D. 386)

Bill, "An Act to Amend the Stream Alteration Act." (H. P. 267) (L. D. 385)

Come from the House, referred to the Committee on Energy and Natural Resources and Ordered Printed.

Which were referred to the Committee on Energy and Natural Resources and Ordered

Printed, in concurrence.

Bill, "An Act Concerning Reissue of Inactive Snowmobile Registration Numbers." (H. P. 297) (L. D. 392)

Bill, "An Act Concerning Reissuance of Inactive Boat Registration Numbers." (H. P. 298) (L. D. 396)

Bill, "An Act to Establish Physical Boundaries for Deer Hunting Zones." (H. P. 299) (L. D. 394)

Bill, "An Act to Increase Penalties for Owners of Dogs Chasing Moose, Caribou or Deer." (H. P. 300) (L. D. 399)

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

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

Bill, "An Act to Provide Funds to Subsidize Adoption of Handicapped Children." (H. P. 278) (L. D. 387)

Come from the House, referred to the Committee on Health and Institutional Services and Ordered Printed.

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

RESOLVE, to Authorize Kennebec County to Develop a Pilot Program for Inmates Incarcerated at the County Jail. (H. P. 301) (L. D. 398)

Committee on Health and Institutional Services suggested.

Come from the House, referred to the Joint Select Committee on Correctional Institutions and Ordered Printed.

On motion by Senator Katz, of Kennebec, tabled for 1 Legislative Day pending reference.

Bill, "An Act to Establish more Convenient Hours to Permit Easier Access to Small Claims Court." (H. P. 302) (L. D. 397)

Bill, "An Act to Extend the Liability Limitations for Ski Areas to Cross-Country Ski Areas." (H. P. 305) (L. D. 401)

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

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

Bill, "An Act to Define Employer's Rights after Failure to File a Separation Report in Unemployment Compensation Cases." (H. P. 307) (L. D. 402)

Bill, "An Act to Adjust the Penalty Assessed Against Small Employers under the Employment Security Law." (H. P. 310) (L. D. 400)

Bill, "An Act to Exempt Part-time Musicians from the Unemployment Compensation Tax." (H. P. 311) (L. D. 407)

Bill, "An Act to Establish Strike Penalties." (H. P. 313) (L. D. 381)

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 Concerning Issuance and Renewals of Liquor Licenses." (H. P. 316) (L. D. 382)

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

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

Bill, "An Act to Clarify Certain Statutes Relating to Municipalities." (H. P. 318) (L. D. 395)

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

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

Bill, "An Act to Relieve Resident Recipients of Maine State Retirement System Allowances from Maine State Income Tax on those Allowances." (H. P. 324) (L. D. 405)

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.

Bill, "An Act Relating to Method of Turning at Intersections." (H. P. 325) (L. D. 406)

Bill, "An Act Relating to Identification of Motor Vehicles used to Transport Handicapped Persons." (H. P. 326) (L. D. 403)

Bill, "An Act to Assist Snow Removal and Improve Highway Safety." (H. P. 327) (L. D. 404)

Bill, "An Act to Increase the Legally Authorized Length of a Combination Tractor-trailer Operating Upon the Roadways of the State of Maine." (H. P. 328) (L. D. 383)

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

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

**Communications**

**MAINE CRIMINAL JUSTICE ACADEMY**

Department of Public Safety

TO: President of the Senate, the Speaker of the House and the members of the 109th Legislature of the State of Maine.

SUBJECT: Employee Turnover in the State Corrections Institutions

Pursuant to L. D. 2104, sec. 10 we are enclosing a report on Employee Turnover as mandated by the 108th Legislature.

High personnel turnover among line staff corrections personnel has been a chronic personnel problem. This has had obvious implications for the effectiveness of the corrections institutions.

These personnel turnovers, i.e. retired, released and quit, have other adverse effects upon personnel cost and performance. They necessarily increase the cost associated with recruitment and training, and they are an obvious symptom of low personnel morale.

In the analysis of the information it seems that both economic factors such as pay, and working conditions such as lack of staff and tension of overcrowding contribute to the high personnel turnover.

The recommendations reflect this analysis by proposing review of the job benefits, selection standards and training, and guidelines for the proper use of authority by the line officer.

Additional insights were obtained from the related comments of the respondents to the questionnaire concerning aspects of their job. These comments were considered and are reflected in the recommendations.

OTIS LaBREE

Chairman, Board of Trustees

Maine Criminal Justice Academy

Come from the House, read and with accompanying report, ordered placed on file.

Which was read and with accompanying report, ordered placed on file, in concurrence.

**DEPARTMENT OF TRANSPORTATION**

February 9, 1979

Governor Joseph E. Brennan and Members of the 109th Legislature

Transmitted herewith is a copy of the Highway and Bridge Improvement Program for Fiscal Years 1980 through 1983, as well as a copy of the Highway Maintenance Paving Program for the 1979 and 1980 summer seasons and a copy of the 1978 Highway Sufficiency Report.

The Highway and Bridge Improvement Program includes projects which the Department has determined to be the priority items that should be authorized for improvement during the next four years. Projects have been identified in the program which are proposed for de-

velopment in the first biennium in accordance with the recommendations for financing during the next biennium. Additional financing will be required for those projects proposed for the second biennium. The priority projects require a total of \$23.2 million of State funds to enable the matching of \$93.8 million in Federal funds.

The Highway Maintenance Paving Program for the 1979 and 1980 summer seasons provides for the paving of about 2,000 miles. This proposal represents a program that involves the same basic level of effort as the 1977 and 1978 summer seasons.

We trust that this material will be of interest and will provide information and clarification regarding the Department's efforts to maintain and improve Maine roads.

Very truly yours,  
ROGER L. MALLAR  
Commissioner

Which was read and with accompanying reports, ordered placed on file.

#### Senate Papers

Senator Lovell of York, Cosponsors: Senator Pray of Penobscot presented, Bill, "An Act Appropriating Funds to Allow Maine State Retirement Members a Cost-of-living Increase in Benefits." (S. P. 189)

Which was referred to the Committee on Aging, Retirement and Veterans and Ordered Printed.

Sent down for concurrence.

Senator Najarian of Cumberland presented, Bill, "An Act Providing Funds for Young Women's Christian Association Fair Harbor Shelter in Portland." (S. P. 194)

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

Sent down for concurrence.

Senator Farley of York presented, Bill, "An Act Relating to Certificate of Deposit as it Applies to Survivors." (S. P. 192)

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

Sent down for concurrence.

Senator Usher of Cumberland presented, Bill, "An Act to Enable the Land Use Regulation Commission to Establish Standards for Timber Harvesting in Management District." (S. P. 196)

Which was referred to the Committee on Energy and Natural Resources and Ordered Printed.

Sent down for concurrence.

Senator McBreairty of Aroostook, Cosponsor: Senator Carpenter of Aroostook presented, Bill, "An Act Relating to the Operation of Snowmobiles on Private Ways." (S. P. 188)

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

Sent down for concurrence.

Senator Trafton of Androscoggin presented, Bill, "An Act Increasing the Number of Laymen on the Judicial Council." (S. P. 191)

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

Sent down for concurrence.

Senator Usher of Cumberland presented, Bill, "An Act Permitting Binding Arbitration for Public Employees in Critical Public Services." (S. P. 197)

Senator Pray of Penobscot presented, Bill, "An Act Providing for Equitable Unemployment Compensation Contributions by Related Corporations that Concurrently Employ the Same Individual." (S. P. 195)

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

Sent down for concurrence.

Senator Najarian of Cumberland presented, Bill, "An Act Relating to Facsimiles of County Register of Deeds and Deputy Register of Deeds." (S. P. 193)

Senator Pierce of Kennebec, Cosponsor: Senator Redmond of Somerset presented, Bill, "An Act to Provide County Commissioners with the Exclusive Jurisdiction Over the Removal of Ice Jams." (S. P. 187)

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

Sent down for concurrence.

Senator Farley of York presented, RE SOLVE, Reimbursing Bugbee-Brown, Inc., for Over-collection of \$289.85 in Cigarette Taxes." (S. P. 190)

Reference to the Committee on Taxation is suggested.

On motion by Senator Katz of Kennebec, referred to the Committee on Appropriations and Financial Affairs and Ordered Printed.

Sent down for concurrence.

#### Orders

An Expression of Legislative Sentiment recognizing that:

Ben M. Leighton, Sr., has served the Town of Fairfield with great dedication as fireman, Assistant Chief and Chief of the Fairfield Fire Department. . . (S. P. 186) is presented by Senator Teague of Somerset, Cosponsored by Representative Gwadosky of Fairfield.

Which was Read and Passed.

Sent down for concurrence.

#### Committee Reports House

##### Ought to Pass

The Committee on Local and County Government on, Bill, "An Act Converting Long Island Plantation into the Town of Frenchboro." (Emergency) (H. P. 51) (L. D. 60)

Reported that the same Ought to Pass.

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

The Committee on State Government on, Bill, "An Act Concerning Appointments of Justices of the Peace." (Emergency) (H. P. 109) (L. D. 118)

Reported that the same Ought to Pass.

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

Which Report were read and accepted, in concurrence and the Bills, Read Once and tomorrow assigned for Second Reading.

##### Ought to Pass — As Amended

The Committee on State Government on, RESOLVE, Authorizing the Bureau of Public Lands to Convey by Sale to the Town of Dennyville the State's Interest in Certain Real Property in Edmunds, Washington County. (H. P. 72) (L. D. 81)

Reported that the same Ought to Pass as amended by Committee Amendment "A". (H. 14)

Comes from the House, the Resolve Passed to be Engrossed as amended by Committee Amendment "A".

Which Report was read and accepted in concurrence and the Resolve Read Once. Committee Amendment "A" was read and adopted in concurrence, and the Resolve, as amended, tomorrow assigned for Second Reading.

#### Divided Report

The Majority of the Committee on State Government on, Bill, "An Act to Provide for Review of Nominations to the Workers' Compensation Commission by the Joint Standing Committee on Labor." (H. P. 111) (L. D. 115)

Reported that the same Ought Not to Pass.

Signed:

Senators:

AULT of Kennebec

SUTTON of Oxford  
Representatives:

LANCASTER of Kittery

KANY of Waterville

BARRY of Fort Kent

CONARY of Oakland

DAMREN of Belgrade

LUND of Augusta

MASTERTON of Cape Elizabeth

The Minority of the same Committee on the same subject matter Reported that the same Ought to Pass.

Signed:

Senator:

MARTIN of Aroostook

Representatives:

BACHRACH of Brunswick

PARADIS of Augusta

REEVES of Pittston

Comes from the House, the Majority Report read and accepted.

Which Reports were read and the Majority Ought Not to Pass Report accepted, in concurrence.

#### Senate

##### Ought to Pass — As Amended

Senator Teague for the Committee on Aging, Retirement and Veterans on, Bill, "An Act to Exclude Certain Academies from the Category of 'Public Schools'." (S. P. 66) (L. D. 110)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (S. 7).

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.

#### Second Readers

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

##### House

Bill, "An Act Relating to Land Surveyor Applications and Fees." (H. P. 47) (L. D. 79)

Which was read a Second Time and Passed to be Engrossed, in concurrence.

#### Orders of the Day

The President laid before the Senate the First tabled and specially assigned matter.

RESOLUTION, Proposing an Amendment to the Constitution of Maine Repealing the Offices of Judges of Probate and Register's of Probate as Constitutional Offices. (H. P. 197) (L. D. 246)

Tabled—February 8, 1979 by Senator Collins of Knox

Pending—Motion of Senator Katz of Kennebec to Adhere.

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

Senator CONLEY: Mr. President, and Members of the Senate: I think it's unfortunate that when we get a bill such as the one before us this morning. We are in non-concurrence with both Houses, we cannot sit down and mutually agree that the bill be referred to a particular Committee. The case before us today is that if we adhere, this bill will get no public hearing, and it will go to the Legislative Files.

I appreciate all that's been done between Leadership and members of the State Government Committee with respect to trying to get this bill assigned. I know that sometimes we have to have the patience of "Job", to try to get a Legislator to sort of soften their position. It's unfortunate that today we have that case where we are sort of backed up against the wall. It would be my hope that perhaps some of us in this Chamber would swallow our pride, myself included and I would make the motion to Recede and Concur. I would hope that in the future, we would not be in a situation where we would confront the motion of adhering on a reference to committee report.

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

Senator KATZ: Mr. President, I share some of the frustrations of the Minority Leader, this is a Constitutional Amendment. We have tried to deal with the sponsor again and again. The sponsor happens to be the House Chairman of the State Government Committee. There are an absolutely unique number of the Constitutional Amendments coming before this Session. Constitutional Amendments usually go to the State Government Committee. Within my experience, covering many terms, never do they all go to the State Government Committee. The sponsor feels that they should, all go, to the State Government Committee.

Those of you who serve on Taxation, have the expertise to deal with your field; those of you who serve on the Judiciary Committee have the expertise to deal with your field. Constitutional Amendments not only amend the Constitution, but they have a significant amount of technical information necessary to deal with them. In this particular case, the technical information is in the Committee on Judiciary. I must confess that, I suspect that the Chairman of the Committee on Judiciary will be better able to tell you the nature of this Constitutional Amendment.

I oppose the motion to Recede and Concur. I ask that you join with me to establish an orderly procedure for the reference of bills and adhere on this motion. If, subsequently, it appears that this Constitutional Amendment is needed by this Legislature, it will be possible for us to recall it from the files, but certainly not under the conditions that exist today.

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

Senator COLLINS: Mr. President, this bill, does deal with the Judges of Probate in our system, they are presently elected.

Part of the function of this particular Constitutional Amendment would be to make it possible for them to be appointed. This area is one which was addressed by the 106th Legislature, when they charged a special commission with the duty of a thorough study of our Probate Law Procedure.

The Judiciary Committee now has before it a massive bill, on which we are holding hearing for the next 4 weeks, that deals with the Substitutive Law of our Probate Court. It deals with Procedural Law in a minor aspect.

But the questions that are addressed in this Constitutional Amendment, are those that are intended to be covered by Part II of the Probate Law Commissions work which is not yet completed.

If this Bill has any urgency to it, I certainly would be glad to swallow any pride of area that I might have, as the minority leader has suggested, but I do not believe that it has that urgency.

I do feel that it would complicate the work which the Judiciary Committee is doing and expects to be doing in the succeeding year or two, to have another committee take on this particular problem of how to structure the Probate Court, for that reason, I would hope that you would vote no on pending motion.

The PRESIDENT: Is the Senate ready for the question?

The pending question before the Senate is the motion by the Senator from Cumberland, Senator Conley, that the Senate Recede and Concur with the House.

The Chair will order a Division.

Will all those Senators in favor of the motion to Recede and Concur with the House, please rise in their places to be counted.

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

9 Senators having voted in the affirmative, and 20 Senators in the negative the motion to Recede and Concur does not prevail.

The PRESIDENT: The Senator from Kennebec, Senator Katz, moves that the Senate Adhere.

Is this the pleasure of the Senate?

The motion does prevail.

o'clock in the morning.

Out of Order and Under Suspension of the Rules:

The Senate voted to consider the following:

**Communication**  
**COMMITTEE ON JUDICIARY**

February 9, 1979

The Honorable Joseph Sewall  
President of the Senate of Maine  
State House  
Augusta, Maine 04333

Dear President Sewall:

In accordance with 3 M.R.S.A., Chapter 6, section 151, and with the Joint Rule 38 of the 109th Maine Legislature, the Joint Standing Committee on Judiciary has had under consideration the nomination of Joseph M. Jabar, Sr. to the position of Member of the Workers' Compensation Commission.

After public hearing and discussion on this nomination, the Committee proceeded to vote on the motion to recommend to the Senate of the 109th 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 9

NAYS:

Senators 0

Representatives 0

ABSENT:

Representatives 1 Stephen Hughes

12 members of the Committee having voted in the affirmative and 0 in the negative, it was the vote of the Committee that the nomination of Joseph M. Jabar, Sr. to the position of Member of the Workers' Compensation Commission be confirmed.

Sincerely,

SAMUEL W. COLLINS, JR.

Senate Chamber

BARRY J. HOBBINS

House Chairman

Which was read and ordered placed on file.

The PRESIDENT: The Joint Standing Committee on Judiciary has recommended that the nomination of Joseph M. Jabar, Sr. be confirmed.

The pending question before the Senate is: Shall the recommendation of the Committee on Judiciary be overridden? In accordance with 3 M.R.S.A., Chapter 6, section 151, and with Joint Rule 38 of the 109th 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**

YEA — None

NAY — Ault, Chapman, Clark, Collins, Conley, Cote, Devoe, Emerson, Farley, Gill, Hichens, Huber, Katz, Lovell, Martin, McBreairey, Minkowsky, Najarian, O'Leary, Pierce, Pray, Redmond, Shute, Silverman, Sutton, Teague, Trafton, Trotzky, Usher, Sewall

ABSENT — Carpenter, Danton, Perkins

No Senators having voted in the affirmative and with 3 Senators being absent and 30 Senators in the negative, 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 Joseph M. Jabar, Sr. is confirmed.

The Adjournment Order having been returned from the House, read and passed, in concurrence.

On Motion by Senator Pierce of Kennebec,  
Adjourned until Tuesday, February 13 at 10