

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 22, 1979

Senate called to Order by the President.

Prayer by Reverend Robert E. Canfield,
Free Methodist Church of Gardiner.

Reverend CANFIELD: Let us bow in prayer!
Father in Heaven we pause these moments to
approach your Throne.

Forgive us where we have depended upon
words to express our feelings towards you, be-
cause they are so inadequate. So as we ap-
proach you, may we just be thankful in our
hearts, conscious of your guidance in our lives
and you never get tired of us coming to you in
our need.

We pray this day, that you will give guidance,
direction, so that as these who have been elect-
ed to this office, to serve you and to serve the
society of this State, at the end of the day they
may say, I have done my best. For we ask it in
the name of your Son our Savior Jesus Christ.
Amen.

Reading of the Journal of yesterday.

(Off Record Remarks)

Papers from the House
House Papers

Bill, "An Act to Require a Licensed Arborist
to be on the Job Site of Any Job Undertaken by
an Arborist." (H. P. 513) (L. D. 659)

Comes from the House, referred to the Com-
mittee on Agriculture and Ordered Printed.

Which was referred to the Committee on Ag-
riculture and Ordered Printed, in concurrence.

Bill, "An Act to Expand the Forms of De-
ferred Compensation Under the Deferred Com-
pensation Plan." (H. P. 517) (L. D. 660)

Bill, "An Act to Require Insurance Policy
Language Simplification." (H. P. 487) (L. D.
636)

Bill, "An Act Requiring Certain Consumer
Agreements to be Written so that they are
Readable and Understandable." (H. P. 483) (L.
D. 631)

Come from the House, referred to the Com-
mittee on Business Legislation and Ordered
Printed.

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

Bill, "An Act Concerning Nomination Proce-
dure for Nonparty Candidates." (H. P. 519) (L.
D. 662)

Bill, "An Act to Require Each Primary Can-
didate to be a Resident of the District from
which he is Running Prior to the Primaries." (H.
P. 518) (L. D. 661)

Come from the House, referred to the Com-
mittee on Election Laws and Ordered Printed.

Which were referred to the Committee on
Election Laws and Ordered Printed, in concu-
rence.

Bill, "An Act to Establish the Aquifer Protec-
tion Act." (H. P. 521) (L. D. 664)

Bill, "An Act to Amend the Subdivision
Law." (H. P. 520) (L. D. 663)

Bill, "An Act to Prevent Sludge from being
Deposited within 1,000 feet of any Resi-
dency." (H. P. 490) (L. D. 632)

Come from the House, referred to the Com-
mittee 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 to Increase Fees for Atlantic
Salmon Permits." (H. P. 492) (L. D. 633)

Bill, "An Act to Regulate the Hunting of
Bear." (H. P. 497) (L. D. 634)

Come from the House, referred to the Com-
mittee 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 Prohibit Commerce in Atlan-
tic Salmon in the State of Maine." (H. P. 495)
(L. D. 658)

Bill, "An Act to Prohibit Fishing for Atlantic
Salmon in any Territorial Waters in this
State." (H. P. 491) (L. D. 645)

Committee on Fisheries and Wildlife sug-
gested.

Come from the House, referred to the Com-
mittee on Marine Resources and Ordered
Printed.

Which were referred to the Committee on
Marine Resources and Ordered Printed in con-
currence.

Bill, "An Act Concerning Persons Exposed to
Diethylstilbestrol." (H. P. 499) (L. D. 635)

Bill, "An Act to Establish a Marijuana Thera-
peutic Research Program." (H. P. 523) (L. D.
665)

Come from the House, referred to the Com-
mittee on Health and Institutional Services and
Ordered Printed.

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

Bill, "An Act to Establish Self-Governing
Provisions for Cumberland County." (H. P.
509) (L. D. 637)

Bill, "An Act to Permit the Use of Facsimile
Stamps on Municipal Sewerage Assessments
and Charges." (H. P. 524) (L. D. 646)

Come from the House, referred to the Com-
mittee on Local and county Government and Or-
dered Printed.

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

Bill, "An Act to Require a Degradable Sec-
tion in all Lobster Traps." (H. P. 525) (L. D.
647)

Comes from the House, referred to the Com-
mittee on Marine Resources and Ordered
Printed.

Which was referred to the Committee on
Marine Resources and Ordered Printed, in con-
currence.

Bill, "An Act to Make it Mandatory for Utili-
ties to Notify Fire Chiefs and Municipal Offi-
cers when they Increase the Voltage through a
Municipality." (H. P. 526) (L. D. 648)

Bill, "An Act to Prohibit Telephone Charges
for Information or Directory Assistance
Calls." (H. P. 527) (L. D. 649)

Come from the House, referred to the Com-
mittee on Public Utilities and Ordered Printed.

Which were referred to the Committee on
Public Utilities and Ordered Printed, in con-
currence.

Bill, "An Act Releasing to the City of Bangor
the State's Interests in a Portion of the Bed of
the Penobscot River." (H. P. 528) (L. D. 650)

Comes from the House, referred to the Com-
mittee on State Government and Ordered
Printed.

Which was referred to the Committee on
State Government and Ordered Printed, in con-
currence.

Bill, "An Act Concerning the Rate of Return
on the Investment Factor under the Railroad
Excise Tax." (H. P. 530) (L. D. 651)

Bill, "An Act Concerning State Valuation and
Assessment." (H. P. 531) (L. D. 652)

Bill, "An Act to Amend the Laws on Taxation
to Provide for the Automatic Return of any
State Surplus to the Taxpayers." (H. P. 532)

(L. D. 653)

Come from the House, referred to the Com-
mittee on Taxation and Ordered Printed.

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

Bill, "An Act to Allow the Evaluation of the
Existing Toll Facilities on the Maine Turn-
pike." (H. P. 533) (L. D. 654)

Bill, "An Act to Remove the Requirement
that Violations of Certain Truck Weight Sta-
tutes be Punished by a Mandatory Fine." (H. P.
534) (L. D. 655)

Bill, "An Act to Authorize Constables to Use
Blue Lights on Their Vehicles." (H. P. 535) (L.
D. 656)

Bill, "An Act to Compensate for Certain
Wells within Highway Rights-of-Way." (H. P.
536) (L. D. 657)

Bill, "An Act to Revise the Motor Vehicle In-
spection Laws." (H. P. 515) (L. D. 638)

Come from the House, referred to the Com-
mittee on Transportation and Ordered Printed.

Which were referred to the Committee on
Transportation and Ordered Printed, in con-
currence.

(Off Record Remarks)

Communication
SENATE CHAMBER
President's Office

February 20, 1979

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

Please be advised that Governor Joseph E.
Brennan is withdrawing and renominating
Edward F. Gorham to serve as a member on
the Health Facilities Cost Review Board in
order to allow the Joint Standing Committee on
Health and Institutional Services more time to
review the nomination.

Pursuant to MRSA, Title 22, Section 353, this
appointment is subject to review by the Joint
Standing Committee on Health and Institution-
al Services and confirmation by the Legis-
lature.

Sincerely,
JOSEPH SEWALL
President of the Senate
JOHN MARTIN
Speaker of the House
(S. P. 252)

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

Senate Papers

Senator Clark of Cumberland presented, Bill,
"An Act to Establish Special Retirement Pro-
visions for Former CETA Employees." (S. P.
244)

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

Sent down for concurrence.

Senator Huber of Cumberland presented,
Bill, "An Act Making Appropriations from the
General Fund for Current Services and Chang-
ing 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) (S. P. 238)

The same Senator presented, Bill, "An Act
Making Supplemental Appropriations from the
General Fund for the Fiscal Years Ending
June 30, 1980, and June 30, 1981." (Emergency)
(S. P. 239)

Which were referred to the Committee on
Appropriations and Financial Affairs and Or-
dered Printed.

Sent down for concurrence.

Senator Najarian of Cumberland presented, Bill, "An Act to Amend the Maine Consumer Credit Code." (S. P. 243)

Which was referred to the Committee on Business Legislation and Ordered Printed.
Sent down for concurrence.

Senator Devoe of Penobscot presented, Bill, "An Act to Provide that SAD's May Contract for High School Education for its Students with any Other Approved School." (S. P. 242)

Which was referred to the Committee on Education and Ordered Printed.
Sent down for concurrence.

Senator Silverman of Washington presented, Bill, "An Act to Permit Independents to Vote in Party Primaries." (S. P. 245)

Which was referred to the Committee on Election Laws and Ordered Printed.
Sent down for concurrence.

Senator Devoe of Penobscot presented, Bill, "An Act to Establish the Descent of Real Estate in Interstate Succession when, Prior to Death, a Parent has been Cared for by a Child or Children." (S. P. 241)

Senator Collins of Knox presented, Bill, "An Act to Authorize Service of Process by Notaries Public and Justices of the Peace." (S. P. 246)

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

Senator Trotzky of Penobscot presented, Bill, "An Act Concerning Strikes or Work Stoppages by Public Employees." (S. P. 249)

Which was referred to the Committee on Labor and Ordered Printed.
Sent down for concurrence.

Senator Ault, of Kennebec, Cosponsor: Senator Cote of Androscoggin presented, Bill, "An Act to Permit Liquor Sales on Election Day." (S. P. 240)

Which was referred to the Committee on Legal Affairs and Ordered Printed.
Sent down for concurrence.

Senator O'Leary of Oxford presented, Bill, "An Act to Authorize County Appointment of Electrical Inspectors." (S. P. 248)

Which was referred to the Committee on Local and County Government and Ordered Printed.
Sent down for concurrence.

Senator Pierce of Kennebec, Cosponsors: Senator Usher of Cumberland, Senator Teague of Somerset, Senator Chapman of Sagadahoc presented, Bill, "An Act to Assess a Surcharge of Fines and Penalties for the Operation of the Maine Criminal Justice Academy." (S. P. 250)

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

Senator Silverman of Washington presented, Bill, "An Act to Allow Merchants to Retain a Percentage of Sales Tax Revenues." (S. P. 247)

Senator Huber of Cumberland presented, Bill, "An Act to Eliminate the Licensing and Reporting Requirements by the Owners of Diesel Powered Noncommercial Vehicles who Purchase only Fuel upon which Fuel Tax has been Paid." (S. P. 251)

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

Orders

Expression of Legislative Sentiment recognizing that:

Pam Plumb of Portland has been selected by Maine Jaycee Women as an Outstanding Young Woman of Maine for 1979. . . (S. P. 236) is presented by Senator Najarian of Cumberland, co-

sponsored by Senator Conley of Cumberland and Senator Usher of Cumberland.

Expression of Legislative Sentiment recognizing that:

Ms. Carol Tray of Lewiston has been selected as an Outstanding Young Woman of Maine for 1979 by the State Jaycee Women. . . (S. P. 237) is presented by Senator Trafton of Androscoggin, cosponsored by Senator Cote of Androscoggin and Senator Minkowsky of Androscoggin. Which were Read and Passed.

Sent down for concurrence.

Committee Reports

House

Ought to Pass

The Committee on Health and Institutional Services on, Bill, "An Act Concerning Prisoner Participation in Public Works Projects." (H. P. 213) (L. D. 261)

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 to Amend the Laws Relating to the Maine Historic Preservation Commission." (H. P. 194) (L. D. 243)

Reported that the same Ought to Pass. Comes from the House, the Bills Passed to be Engrossed.

Which Reports were Read and Accepted, in concurrence, and the Bill, Read Once and tomorrow assigned for Second Reading.

Ought to Pass — As Amended

The Committee on Judiciary on, Bill, "An Act to Increase the Mileage Reimbursement and Compensation of Jurors." (H. P. 124) (L. D. 131)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-31)

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

The Committee on Judiciary on, Bill, "An Act to Conform the Acknowledgment Provision of the Recording Statutes to the Uniform Recognition of Acknowledgments Act." (H. P. 158) (L. D. 186)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-32).

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

The Committee on Judiciary on, Bill, "An Act to Increase Fees and Mileage Reimbursements of Witnesses." (H. P. 125) (L. D. 135)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-30).

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

The Committee on Local and County Government on, RESOLVE to Direct the County of Cumberland to pay \$1,069.72 to Stanley E. Payson of Scarborough and Shirley M. Jodrie of Portland. (H. P. 19) (L. D. 36)

Reported that the same Ought to pass as amended by Committee Amendment "A" (H-33).

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

Which Reports were Read and Accepted in concurrence, and the Bills and Resolve Read Once. Committee Amendments "A" were Read and Adopted in concurrence, and the Bills and Resolve, as amended, tomorrow assigned for Second Reading.

Senate

Ought to Pass — As Amended

Senator Clark for the Committee on Business Legislation on, Bill, "An Act to Increase Certain Fees for Pharmaceutical Providers." (S.

P. 57) (L. D. 90)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (S-15)

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:

Senate

Bill, "An Act to Prohibit a Manufacturer or Wholesaler of Alcoholic Beverages to Hold a Retail License." (S. P. 109) (L. D. 202)

Which was Read a Second Time and Passed to be Engrossed.
Sent down for concurrence.

Senate — As Amended

Bill, "An Act to Revise Certain Motor Vehicle Laws." (S. P. 89) (L. D. 174)

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

Enactors

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

Emergency

An Act to Increase the Amount which the District Court is Allowed to Deposit Each Month into the District Court Building Fund from \$3,000 to \$10,000. (H. P. 101) (L. D. 108)

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

Emergency

An Act Concerning Appointments of Justices of the Peace. (H. P. 109) (L. D. 118)

Comes from the House, Recommended to the Committee on State Government.

On motion by Senate Katz of Kennebec, Recommended to the Committee on State Government, in concurrence.

Orders of the Day

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

Senator EMERSON: Mr. President, is L. D. 60 in the possession of the Senate?

The PRESIDENT: The Chair would answer in the affirmative, L. D. 60 An Act Converting Long Island Plantation into the Town of Frenchboro, having been recalled from the Engrossing Department.

Out of Order and Under Suspension of the Rules.

On motion by Senator Emerson of Penobscot the Senate voted to reconsider its action whereby:

Bill, "An Act Converting Long Island Plantation into the Town of Frenchboro." (Emergency) (H. P. 51) (L. D. 60) was Passed to be Engrossed.

The PRESIDENT: The Senator has the floor. Senator EMERSON: I present Senate Amendment "A" (S-13) and move its adoption.

The PRESIDENT: The Senator from Penobscot, Senator Emerson, now offers Senate Amendment "A" (S-13) to L. D. 60 and moves its adoption.

Senate Amendment "A" Read.

The PRESIDENT: The Senator has the floor.

Senator EMERSON: The original L. D. 60 provided for a referendum to vote to convert the Plantation of Long Island into the Town of Frenchboro. On the original document there was no date set for the first town meeting, this would rectify that.

Senate Amendment "A" Adopted.

The Bill, as amended, Passed to be Engrossed, in non-concurrence.

Sent down for concurrence.

The PRESIDENT: The Chair recognizes the

Senator from Androscoggin. Senator Minkowsky.

Senator MINKOWSKY: Mr. President, is the Senate in possession of L. D. 11, An Act to Prohibit Smoking at Public Meetings?

The PRESIDENT: The Chair would answer the Senator in the affirmative, the Bill having been held at the Senator's request.

Senator MINKOWSKY: Mr. President, I now move to Reconsider Engrossing of this measure, and would like to speak to my Motion.

The PRESIDENT: The Senator from Androscoggin, Senator Minkowsky, now moves that the Senate Reconsider its action whereby this Bill "An Act to Prohibit Smoking at Public Meetings," (H. P. 5) (L. D. 11) was passed to be Engrossed.

The Senator has the floor.

Senator MINKOWSKY: Thank you, Mr. President. Mr. President and Members of the Senate: The Amendment that I am sponsoring today will limit the applicability of this Bill solely to the meetings of the Legislature, its committees, its sub-committees and any board or commission of any state agency or authority. It would exclude meetings of the Board of Trustees of the University of Maine, of the Maine Maritime Academy and of its constituent committees and sub-committees, any boards, commissions, or agencies of any municipalities, school district, or any political or administrative sub-division thereof.

Therefore, Mr. President, Enactment of L. D. 11 with this amendment would bar smoking at public proceedings of State Government, but it would not impose the will of this Legislature on the governing bodies of any political sub-division.

I think that it is critically important in these days, when voters are increasingly concerned with undue regulation, that we as a body, limit the scope of our regulations to those governmental units for which we are directly responsible, that we leave to the sound judgment or discretion of local officials, the determinations with regard of how to conduct their own meetings.

It is interesting to note that an account in the Portland Press Herald pointed out, "The Maine Senate for years has refused to ban smoking in its own chamber. Tuesday voted to Ban Smoking at virtually all public meetings in this State." If we can not get our own house in order, Mr. President, how do we expect others to do so? Particularly when this decision will understandably be viewed as having been dictated from Augusta, and there is great concern of dictations from Augusta, Mr. President.

This point was further brought home in a February 15th editorial in the Portland Press Herald which said, "The people outside of Augusta or Washington are not unaware of logical steps that have been taken regarding personal habits, but it should be up to the local governments," which Senator Cote and myself are members of, to take this action and big government should as stated, "Butt Out".

We are deluding ourselves and being hypocritical if we think otherwise. As attractive as this may be to vote for something which is viewed as a public health measure, our own creditability is at stake here at the present time.

It is interesting to note that yesterday's press account pointed to some members who support this Bill, who were in fact at the time, smoking when this Bill was debated. It is clear that each of the governmental entities referred to in L. D. 11 could enact their own rules to regulate their own behavior on these matters. Therefore, this Bill serves no useful purpose but to rather intrude, and insults the sound discretion of local governmental officials. I would urge my colleagues in the Senate, this morning, to support this amendment as consistent with our Legislative interest, to regulate activities which are our own responsibility and to "butt out" of activities for which others undertake

day by day responsibilities for. When the vote is taken Mr. President, I would request a Roll Call.

The PRESIDENT: A Roll Call has been requested. Under the Constitution, in order for the Chair to order a Roll Call it requires the affirmative vote of at least one fifth of those Senators present and voting.

Will all those Senators in favor of ordering a Roll Call, please rise and remain standing until counted.

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

The pending question before the Senate is the motion by the Senator from Androscoggin, Senator Minkowsky that the Senate Reconsider its Action whereby this Bill was Passed to be engrossed.

A Yes vote will be in favor of Reconsideration.

A No vote will be opposed.

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEA — Conley, Cote, Devoe, Emerson, Huber, Katz, Minkowsky, Najarian, O'Leary, Pray, Shute, Usher.

NAY — Ault, Carpenter, Chapman, Clark, Collins, Gill, Hichens, McBreaity, Perkins, Pierce, Silverman, Sutton, Trafton, Trotzky.

ABSENT — Danton, Farley, Lovell, Martin, Redmond, Teague.

A Roll Call was had.

12 Senators having voted in the affirmative and 14 Senators in the negative, and 6 Senators being Absent, the motion to Reconsider does not prevail.

Sent down for concurrence.

On motion by Senator Pierce of Kennebec, the Senate voted to remove from the Unassigned Table.

Confirmation of Spencer Apollonio to the position of Commissioner of Marine Resources. (Committee on Marine Resources has recommended confirmation.)

Tabled—February 6, 1979 by Senator Pierce of Kennebec

Pending—Consideration

The PRESIDENT: The Joint Standing Committee on Marine Resources has recommended that the nomination of Spencer Apollonio be confirmed.

The pending question before the Senate is: Shall the recommendation of the Committee on Marine Resources 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, Carpenter, Chapman, Clark, Collins, Conley, Cote, Devoe, Emerson, Gill, Hichens, Huber, Katz, McBreaity, Minkowsky, Najarian, O'Leary, Perkins, Pierce, Pray, Shute, Silverman, Sutton, Trafton, Trotzky, Usher, Sewall.

ABSENT — Danton, Farley, Lovell, Martin, Redmond, Teague.

No Senators having voted in the affirmative and 27 Senators in the negative, and with 6 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 Spencer Apollonio is confirmed.

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

On motion by Senator Pierce of Kennebec, Adjourned until 12 o'clock noon tomorrow.