

# 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 27, 1979

Senate called to Order by the President.

Prayer by Reverend Edward Merrill, Penney Memorial Church, Augusta.

Reverend MERRILL: Let's pray together. Father we again, thank you for this day, for the beauty that you create each day, in our own lives. We thank you, for your providence, your care for all of your creation.

We praise you for the power that we see in your being, for the depth of the love that comes to us, in many ways. We ask for you to help us to remember that often times we do not look to that love and power enough that we need again to be reminded of our failure as man, to follow your will.

We thank you, for the gifts that are here reflected in your servants and ask that you would continue to remind them and use them in your work, as they serve you today and each day; asking that you would remind us of all of the people that we serve together. Helping us to be sensitive to their needs, to be concerned about their well being; help us to be reminded of your love in each of our lives, as we care for the responsibilities that are given to us and attempt to fulfill your will each day. We pray this in your name and for your sake. Amen.

**Reading of the Journal of yesterday.**

Senator Conley of Cumberland was granted unanimous consent to address the Senate, Off the Record.

Senator Katz of Kennebec, was granted unanimous consent to address the Senate, off the Record.

On motion by Senator Pierce of Kennebec, Recessed until the sound of the bell.

**Recess**

**After Recess**

The Senate called to order by the president.

The PRESIDENT: Is it now the pleasure of the Senate to Suspend its Rules, in order to take up an additional paper, Out of Order?

The Chair recognizes the Senator from Cumberland, Senator Conley.

Senator CONLEY: Mr. President, I would pose a question to the chair, are we talking about Supplement Number 1?

The PRESIDENT: The Chair would answer in the affirmative.

Senator CONLEY: Mr. President, I would oppose Suspending the Rules, and when the vote is taken I ask that it be taken by the Yeas and Nays.

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 Suspension of the Rules.

A Yes vote will be in favor of Suspending the Rules.

A No vote will be opposed.

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

**ROLL CALL**

YEA — Ault, Chapman, Collins, Emerson, Gill, Huber, Katz, Lovell, McBreairey, Perkins, Pierce, Redmond, Shute, Silverman, Sutton, Trotzky.

NAY — Carpenter, Clark, Conley, Cote, Farley, Hichens, Martin, Minkowsky, Najarian, O'Leary, Pray, Trafton, Usher.

ABSENT — Danton, Devoe, Teague.

A Roll Call was had.

16 Senators having voted in the affirmative and 13 Senators in the negative, with 3 Senators being Absent, and 16 being less than two-thirds of the members present and voting, the Rules are not Suspended.

Senator Katz of Kennebec was granted unanimous consent to address the Senate, on the Record.

Senator KATZ: Mr. President, the path that was chosen by the Minority Party this morning, is a dangerous path. It might possibly suit your purposes this morning, to prevent the Senate from considering this Joint Order, it will be on the Calendar tomorrow morning, without Suspension of the Rules. There was a courtesy involved, because the sponsor will not be here tomorrow.

I am not quite sure what was gained by preventing the Suspension of the Rules, but what does concern me, even more, is an attempt to muzzle the Legislature, from doing the job that it was elected to do.

There are only two ways to amend the United States Constitution. Either through a Congressional origination or through the procedure which we are attempting to bring before the Legislature for debate. I have personally grave doubts about the wisdom of passing this Resolution.

That is not the issue, the issue is the right and the duty of the Legislature, faced by a Resolution which was introduced in a timely manner, long before cloture, drafted by the sponsor, presented by the sponsor and in what I consider to be an arrogant exercise of improper leadership, the Legislature has been precluded from even debating the question. A question on which I probably will be on the side of most members of the minority party.

I think that it was bad judgement this morning, and I hope that when the vote is taken on the Resolution tomorrow, the Minority Party will realize that what we are talking about is not the basic question as to whether or not we should have a Constitutional Convention in Washington, or whether you have any fears about the possibilities of a run-away constitutional convention. The issue is quite different from that, the issue is the right of a sponsor of a piece of Legislation, who has sponsored something in a timely manner, that is appropriate before the Legislature to have it dealt with by Leadership.

For those of you who weren't here, let me refresh your memory as to the reason for the Joint Rule, that says that Leadership or the Legislative Council has to vote on this. During the Vietnam War, we were deluged with some rather serious, but overwhelming number of foreign policy resolutions. We were overwhelmed with policy Resolutions; which would condemn this group or that group; which express our outrage at the slaughter of Baby Seals; and a whole bunch of issues over which we have no responsibility and no influence.

But when we talk about Resolutions which express the desire of this Legislature to partition Congress, in a manner consistent with the United States Constitution and subsequently as things come along pertaining to such other appropriate measures as the attitude of this Legislature on Dickey-Lincoln; the attitude of this Legislature on the question that I understand is going to be proposed with respect to a Right to Life Amendment to the Constitution, I think that it is extremely short sighted of our body, or of leadership to exercise and flex its muscles and to keep these measures from properly being debated.

I chide the Democrats this morning, I think that the decision was an unwise decision and I hope that you reconsider by the time that this

comes up in the calendar tomorrow.

Senator Conley was granted unanimous consent to address the Senate, on the Record.

Senator CONLEY: Mr. President, and Members of the Senate. I have served in the Legislature, for a number of years and I have always been interested in what the good Senator from Kennebec, Senator Katz, has to say.

But I would call your attention to Joint Rule 35. Which clearly states "Memorials. No Memorial shall be in order for introduction unless approved by a majority of the Legislative Council." This particular order that is before us today, states very clearly again a Joint Resolution Memorializing Congress to call for a Constitutional Convention for a specific purpose.

Now if you take and read the order, the order is directing the Legislative Council to sign, or a majority of the Legislative Council to sign, this Resolution Out. It has been well known for 1, 2, 3 weeks as far back as when Senator Trotzky, the good Senator from Penobscot, initially presented it, walked around both chambers, the House and the Senate trying to obtain the necessary signatures, we stated flatly that we were opposed to it.

Now all this Order is today that we rejected, is a run through the backdoor. First of all it has absolutely no strength, no merit, if you want to have it introduced, then you had better Suspend Joint Rule 35, or Repeal Joint Rule 35. so long as I am sitting in this seat and I have the right to make a decision with respect to any Joint Resolution Memorializing Congress, I intend to weight it. When we get into the areas of Constitutional Convention, for whatever matter it may be, I will not put my signature on it. So if you want to change Joint Rule 35, then I suggest that you attempt to do that.

Senator Trotzky of Penobscot was granted unanimous consent to address the Senate. On the Record.

Senator TROTZKY: Mr. President and Members of the Senate. I know that there is a great deal of concern on behalf of members of the Democratic Party and some members of my party, concerning a Constitutional Convention.

Consequently, what this order does is it directs the Legislative Council, to pass this Memorial Out, but not to pass it directly to the floor of the House and Senate. To pass it to the Judiciary Committee so that it can get at least a Public Hearing, so that we can have both sides of this issue heard.

That is the reason for this Joint Resolution, because essentially what it does is it does not say reported out to the floor, it says "Reported out to a Committee for Public Hearing." To back it up, give the people of the State of Maine, a chance to make their concerns heard.

The President would ask the Sergeant at Arms to escort the Senator from Oxford, Senator O'Leary, to the rostrum to assume the duties of the President Pro-Tem.

The Sergeant at Arms escorted the Senator from Oxford, Senator O'Leary to the rostrum, where he acted as President Pro-Tem.

The President then retired from the Senate Chamber.

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

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

In the Senate, February 13, Passed to be Engrossed, as amended by Committee Amendment "A" (H-14), in concurrence.

Comes from the House. Passed to be Engrossed as amended by Committee Amendment "A" and House Amendment "A" (H-39) in non-concurrence, having been recalled from the Governor's Office pursuant to Joint Order

(H. P. 581).

The PRESIDENT Pro-Tem: The Senator from Kennebec, Senator Katz, moves that the Senate Recede and Concur with the House.  
Is this the pleasure of the Senate?

The Motion prevailed.

#### Joint Order

An Expression of Legislative Sentiment recognizing that:

Bobby Berg of Brownville Jct., has captured top regional honors in the Pepsi-Cola NBA Hot-shot Basketball competition....(H. P. 620)

Comes from the House, Read and Passed.  
Which was Read and Passed, in concurrence.

#### Joint Resolution

A Joint Resolution in Memoriam:

WHEREAS, the Legislature has learned with deep regret of the death of George W. Small of Plymouth, a distinguished citizen and former Fire Chief of that community....(H. P. 619)

Comes from the House, Read and Adopted.  
Which was Read and Adopted, in concurrence

#### House Papers

Bill, "An Act Concerning Benefits for Fire Fighters under the State Retirement System for Heart or Lung Injuries." (H. P. 583) (L. D. 733)

Bill, "An Act to Permit Retirement with Full Benefits for any Member of the Maine State Retirement System when the Sum of the Member's Age Plus the Member's Years of Service Equals 85." (H. P. 582) (L. D. 732)

Come from the House, referred to the Committee on Aging, Retirement and Veterans and Ordered Printed.

Which were referred to the Committee on Aging, Retirement and Veterans and Ordered Printed, in concurrence.

Bill, "An Act Making Adjustments in the Basic Need Standards and Payment Maximums of the Aid to Families with Dependent Children Program." (H. P. 587) (L. D. 734)

Comes from the House, referred to the Committee on Appropriations and Financial Affairs and Ordered Printed.

Which were referred to the Committee on Appropriations and Financial Affairs and Ordered Printed, in concurrence.

Bill, "An Act to Require the Use of Metered Service on Oil Deliveries." (H. P. 588) (L. D. 735)

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

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

Bill, "An Act to Require Instruction in the Public Schools on the Ill Effects of Alcohol, Tobacco and Other Substances." (H. P. 590) (L. D. 745)

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

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

Senator KATZ: Mr. President, I thought that it would be worthwhile to call this Bill to the attention of the Senate, because it restates something already in Maine law. That the first Friday in March is Temperance Day in all the schools. Our Children are taught the benefits of Society, benefits of sobriety, chastity, kindness to small animals and birds. I think that it is a real winner.

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

Bill, "An Act to Facilitate the Treatment of Minors for Alcohol and Drug Abuse Problems." (H. P. 592) (L. D. 736)

Bill, "an Act Concerning Rules and Regulations on the Licensing of Ambulances and Ambulance Personnel." (H. P. 594) (L. D. 738)

Bill, "An Act to Provide Birth Certificates for Foreign Born Adopted Children." (Emergency) (H. P. 593) (L. D. 737)

Come from the House, referred to the Committee 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 Prohibit Unjust Retaliatory Evictions." (H. P. 596) (L. D. 740)

Bill, "An Act to Abolish County Subsidies to the Superior Court System." (H. P. 597) (L. D. 741)

Bill, "An Act to Provide for a Full-time Investigator for Each District Attorney." (H. P. 598) (L. D. 742)

Bill, "An Act to Require that Certain Notices of Termination of Tenancy Contain Minimum Information." (H. P. 595) (L. D. 739)

Bill, "An Act to Provide for Dismissal of Frivolous Title Claims to Personal Property in Forcible Detainer Actions." (H. P. 599) (L. D. 743)

Bill, "An Act to Provide a Waiver of Court Costs and Fees." (H. P. 600) (L. D. 744)

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 Establish Self-governing Provisions for Penobscot County." (H. P. 563) (L. D. 727)

Comes 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 Exempting Solid Waste Fuel-burning Facilities from Certain Taxes." (H. P. 568) (L. D. 716)

Bill, "An Act to Adopt the Multistate Tax Compact." (H. P. 569) (L. D. 717)

Bill, "An Act to Reduce the Residency Requirement for Certain Disabled Veterans' Property Tax Exemptions from 10 Years to 2 Years." (H. P. 570) (L. D. 718)

Bill, "An Act to Change the County Tax from a Property Tax to an Income Tax." (H. P. 567) (L. D. 715)

Bill, "An Act to Include the Cost of Processing and Collecting Real Estate Tax Liens within the Amount of the Lien Itself." (H. P. 571) (L. D. 719)

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

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

Bill, "An Act to Permit the Use of Flashing Red Lights on Vehicles Used by Doctors and Osteopaths." (H. P. 572) (L. D. 720)

Bill, "An Act Making an Additional Allocation from the General Highway Fund to the Ski Access Roads Account to Improve the Approach Road to Evergreen Valley." (H. P. 574) (L. D. 722)

Bill, "An Act Establishing Weight Tolerance for Certain Vehicles." (H. P. 575) (L. D. 723)

Bill, "An Act to Provide for Marking of the Trans-Maine Highway." (H. P. 576) (L. D. 724)

Bill, "An Act Concerning 8-Year Semitrailer Registration. (Emergency) (H. P. 578) (L. D. 726)

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.

Bill, "An Act Relating to Permits for Contract Carriers." (H. P. 577) (L. D. 725)

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

On Motion by Senator Katz of Kennebec, referred to the Committee on Public Utilities and Ordered Printed, in concurrence.

Bill, "An Act to Exempt Certain Bulk Feed Bodies from the Sales Tax." (H. P. 573) (L. D. 721)

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

On Motion by Senator Katz of Kennebec, referred to the Committee on Taxation and Ordered Printed, in concurrence.

#### Senate Papers

Senator Chapman of Sagadahoc, Cosponsors: Senator Katz of Kennebec, Senator Conley of Cumberland presented, Bill "An Act to Prohibit the Practice of a Mandatory Retirement Age." (S. P. 260)

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

Sent down for concurrence.

Senator Katz of Kennebec presented, Bill, "An Act Concerning Postgraduate Education in the Field of Medicine, Dentistry, Optometry and Veterinary Medicine." (S. P. 259)

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

Sent down for concurrence.

#### Committee Reports

##### House

##### Leave to Withdraw

The Committee on Judiciary on, Bill, "An Act Relating to the Use of Force in Defense of Premises." (H. P. 138) (L. D. 156)

Reported that the same be granted Leave to Withdraw.

Comes from the House, the Report Read and Accepted.

The Committee on Legal Affairs on, RESOLVE, Authorizing Burton L. Lockhart or his Legal Representatives to bring Civil Action against the State of Maine. (H. P. 137) (L. D. 159)

Reported that the same be granted Leave to Withdraw.

Comes from the House, the Report Read and Accepted.

Which Reports were Read and Accepted in concurrence.

##### Ought to Pass

The Committee on Energy and Natural Resources on, Bill, "An Act Relating to the Small Grants Program for Municipal Conservation Commissions." (H. P. 266) (L. D. 343)

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

Senator Trotzky for the Committee on Education on, Bill, "An Act to Strengthen Regional Library Systems." (S. P. 77) (L. D. 166)

Reported that the same Ought to Pass.

Which report was Read and Accepted and the Bill Read Once and Tomorrow Assigned for Second Reading.

##### Second Readers

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

##### House — As Amended

Bill, "An Act to Revise the Statute Relating to the Removal of Dangerous Buildings." (H. P. 103) (L. D. 113)

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

Bill, "An Act to Require Motorcycle Operators and Passengers and Motor Driven Cycle Operators and Passengers to Wear Helmets if they are Minors." (H. P. 114) (L. D. 123)

Which was Read a Second Time.

On Motion by Senator Minkowsky of Androscoggin.

Tabled for 1 Legislative Day, pending Passage to be Engrossed.

#### **Senate - As Amended**

Bill, "An Act to Permit Hotel or Motel Managers to Eject Disruptive or Destructive Persons from their Premises and to Require these Persons to Assume Responsibility for any Damages Caused." (S. P. 33) (L. D. 21)

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:

An Act to Transfer Certain Inactive Accounts of the Maine State Retirement System to the Retirement Allowance Fund. (H. P. 41) (L. D. 52)

An Act to Repeal the Per Diem Payment and the Commutation Allowance for Court Offenders. (H. P. 84) (L. D. 95)

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 Pro-Tem laid before the Senate the First Tabled and specially assigned matter:

Bill, "An Act to Exclude Certain Academies from the Category of 'Public School.'" (S. P. 66) (L. D. 110)

Tabled—February 26, 1979 by Senator Pierce of Kennebec.

Pending—Enactment

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

Senator Conley of Cumberland, was granted unanimous consent to address the Senate, Off the Record.

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