

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD
OF THE
One Hundred and Ninth
Legislature

OF THE
STATE OF MAINE

Volume II

First Regular Session

May 7, 1979 to June 15, 1979

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STATE OF MAINE
One Hundred and Ninth Legislature
First Special Session
JOURNAL OF THE SENATE

October 4, 1979

In compliance with a proclamation of His Excellency, Governor Joseph E. Brennan, the Senators convened in the Senate Chamber at ten o'clock in the morning.

The Senate called to order by the President.

Prayer by Reverend Bruce W. Meyer, Prince of Peace Lutheran Church, in Augusta.

Reverend MEYER: I will lift up mine eyes to the hills from where does my help come. My help comes from the Lord who made heaven and earth!

Good and gracious God, as we remember the words of your servant David, we too acknowledge the beauty of the hills, and the dazzling splendor of your creative hand, especially in our State in this autumn season.

We thank you for all that speaks to us of the joy of life, and also to our responsibility as stewards of your creation.

We give thanks for the men and women gathered here and in this day and for this session give them strength and insight, as they seek with mutual conviction to uphold the dignity, the welfare, and yes, the human rights of all people.

We pray O Lord, that you would keep them and each of us in our daily walk through life, faithful to your just, and peaceful, and loving purposes. Always open to that strength and dependency which David professed when he said: "My help comes from the Lord." Amen.

The Secretary read the Proclamation:
State of Maine
PROCLAMATION

WHEREAS, there exists in the State of Maine an extraordinary occasion whereby Maine citizens are faced with the prospects of sharply increased prices and possibly inadequate supplies of the petroleum products essential to heat most homes during the coming winter; and

WHEREAS, adequate home heating is a necessary part of shelter and the lack of home heating poses a genuine and immediate threat to life, health and safety; and

WHEREAS, many Maine citizens particularly the elderly and other low-income citizens, will need help to meet the anticipated high cost of fuel during the coming winter; and

WHEREAS, the Project Fuel Task Force has drafted a proposal to provide such assistance, to relieve the hardships caused by higher prices and to encourage energy conservation; and

WHEREAS, there exists a need for the Legislature to act in a timely fashion on this proposal;

NOW, THEREFORE, I, Joseph E. Brennan, Governor of the State of Maine, by virtue of the constitutional power vested in me as Governor, convene the Legislature of this State, hereby requesting the Senators and Representatives to assemble in their respective chambers at the Capitol at Augusta on Thursday, the Fourth Day of October, 1979, at ten o'clock in the morning, in order to receive communications and enact an emergency fuel assistance plan.

Given at the Office of the Governor at Augusta, and sealed with the Great Seal of the State of Maine, this Twenty-fourth day of September in the Year of Our Lord Nineteen Hundred and Seventy Nine.

JOSEPH E. BRENNAN

By the Governor
RODNEY S. QUINN
Secretary of State

Which was Read and Ordered Placed on File.

The Roll being called, the following Senators responded to their names:

Ault, Carpenter, Chapman, Clark, Collins, Conley, Cote, Danton, Devoe, Emerson, Farley, Hichens, Huber, Katz, Lovell, Martin, McBreairty, Minkowsky, Najarian, O'Leary, Perkins, Pierce, Pray, Redmond, Shute, Sutton, Teague, Trafton, Trotzky, Usher, Sewall.

31 Senators having answered to the Roll Call, the President declared that a quorum was present.

Out of Order and Under Suspension of the Rules:

On Motion by Senator Katz of Kennebec, ORDERED, that a message be sent to His Excellency, the Governor, informing him that in obedience to his Proclamation, a quorum of Senators is assembled in the Senate Chamber for the consideration of such business as may come before the Senate.

Which was Read and Passed.

The President appointed Senator Katz of Kennebec to deliver the message to his Excellency, the Governor.

Subsequently, Senator Katz, reported that he had delivered the message with which he was charged.

Subsequently, a message was received from the House of Representatives, through Representative Tierney of Lisbon Falls informing the Senate that a quorum was present for the consideration of such business as might come before the House.

Out of Order and Under Suspension of the Rules:

On motion by Senator Pierce of Kennebec, ORDERED, that a message be conveyed to the House of Representatives informing that Body that a quorum of Senators is present for the consideration of such business as may come before the Senate.

Which was Read and Passed.

The President appointed Senator Pierce of Kennebec, to convey the message. The Senator then retired to the Hall of the House.

Subsequently, Senator Pierce of Kennebec, reported that he had delivered the message with which he was charged.

Out of Order and Under Suspension of the Rules:

On motion by Senator Conley of Cumberland, ORDERED, that a message be sent to the House of Representatives proposing a Convention of both branches in the Hall of the House at 10:30 o'clock for the purpose of extending to His Excellency, Governor Joseph E. Brennan, an invitation to attend the Convention and make such communication as pleases him.

Which was Read and Passed.

The President appointed Senator Conley of Cumberland to convey the message. The Senator then retired to the Hall of the House.

Subsequently, Senator Conley of Cumberland reported that he had delivered the message with which he was charged.

Out of Order and Under Suspension of the Rules, the Senate voted to consider the following:

Senate Papers

Senator Huber of Cumberland (Cosponsors: Senator Perkins of Hancock and Senator Najarian of Cumberland, presented, Bill, "An Act to Allocate Money from the Federal Revenue Sharing Fund and to Appropriate Funds from the General Fund for Teachers' Retirement and a Study of the Maine State Retirement System for the Fiscal Years Ending June 30, 1980 and June 30, 1981." (Emergency) (S. P. 643)

(Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 26.)

Reference to the Committee on Appropriations and Financial Affairs is suggested.

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

Sent down forthwith for concurrence.

At this point a message was received from the House of Representatives, through Representative Garsoe of Cumberland, concurring in the proposition for a Joint Convention for the purpose of extending to His Excellency, Governor Joseph E. Brennan an invitation to make such communication as pleases him.

Out of Order and Under Suspension of the Rules, the Senate voted to consider the following:

Senator Collins of Knox (Cosponsor: Senator Conley of Cumberland) present, Bill, "An Act to Correct the Procedures for Suspending Motor Vehicle Operators' Licenses." (Emergency) (S. P. 645)

(Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 26.)

Reference to the Committee on Judiciary is suggested.

Under Suspension of the Rules, the Bill Read Once.

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

Senator COLLINS: Mr. President, the purpose of this bill that we have just given First Reading is to correct an error in the laws that relate to the suspension of drivers' licenses. This comes upon us quickly because of a decision filed the first of this week, by a judge of the District Court, which has ruled that the present procedures would require an additional hearing if they were to meet due process tests.

The proposal to correct this error in the statutes is simply to have the Court order the suspension of a license, send the papers along to the Secretary of State, as is now the case. The Secretary of State will then mail out the order notifying the licensee of the suspension. The licensee will be able to get a license back by curing his default, and paying a reinstatement fee, which is the same sort of thing that now prevails.

The importance of doing this at this Special Session is that there may be 3,000 or 4,000 suspensions between now and January that would otherwise either be defective or require a double procedure, greatly costing the Secretary of State and the taxpayers.

Under Suspension of the Rules, the Bill Read a Second Time, and Passed to be Engrossed, without reference to Committee and Ordered Printed.

Sent down forthwith for concurrence.

(Off Record Remarks)

The Senate then retired to the Hall of the House of Representatives, where a Joint Convention was formed.

After Joint Convention in Senate for Proceedings of Joint Convention, See House Report 7.

The Senate called to Order by the President.

Communications

MAINE DEPARTMENT OF AGRICULTURE
TO: Governor Joseph E. Brennan

Mr. Joseph Sewall, President of the Senate
Mr. John Martin, Speaker of the House

FROM: Frederick E. Hutchinson, Chairman
The Maine Food and Farmland Study Commission was established by the 108th Legislature with specific instructions to study the problem of farmland conversion to other uses and to recommend actions which would strengthen Maine agriculture. The Commission membership included legislators, department commissioners, university administrators,

farmers and agricultural businessmen.

Initially the Commission held twelve public hearings at which representatives of the various agricultural industries in the state expressed their views of the primary constraints to the economic viability of agriculture. Following these hearings, the Commission studied the comments and then structured subcommittees to study each of the four problem areas which emerged. These subcommittees were specifically instructed to study and make recommendations on land preservation, entrance to farming, marketing and transportation, and finance.

Early in the deliberations of the Commission there was considerable discussion concerning the feasibility of developing a food policy for Maine. The Commission members recognized the consumer interest in such a policy, but the majority did not feel it was feasible to undertake such a comprehensive study within the time and resources available to the project. Therefore there are no recommendations in this report relative to consumerism.

The reports submitted by the subcommittees were reviewed, modified and eventually combined by the whole Commission into a draft report which was released for public scrutiny. Public reaction was gathered at three hearings and the comments were reviewed by the Commission and incorporated into this final report which is submitted to you.

The recommendations are intended to be specific and practicable. The Commission feels strongly that the vitality of the family farm is essential to the future of Maine agriculture and this report is aimed to that end.

Which was Read and, with accompanying report, Placed on File.

State of Maine
OFFICE OF THE GOVERNOR

September 7, 1979

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

Dear Senator Sewall:

This is to inform you that I am nominating James V. Gibbons of South Portland for appointment to the Maine State Liquor Commission.

Pursuant to Title 3 M.R.S.A. Section 151-A, this nomination will require review by the Joint Standing Committee on Legal Affairs and confirmation by the Senate.

Thank you for your assistance in this matter.

Sincerely,
JOSEPH E. BRENNAN
Governor

Which was Read and Ordered Placed on File.

THE SENATE OF MAINE

September 10, 1979

The Honorable Melvin A. Shute
The Honorable Paul E. Violette
Chairmen, Legal Affairs Committee
109th Maine Legislature

Please be advised that Governor Joseph E. Brennan has nominated James V. Gibbons of South Portland to serve on the Maine State Liquor Commission.

Pursuant to Title 3 M.R.S.A. Section 151-A, this nomination will require review by the Joint Standing Committee on Legal Affairs.

Sincerely,
MAY M. ROSS
Secretary of the Senate

Which was Read and Ordered Placed on File.

State of Maine
One Hundred and Ninth Legislature
COMMITTEE ON LEGAL AFFAIRS

Sept. 27, 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 Joint Rule 38 of the 109th Maine Legislature, the Joint Standing Committee on Legal Affairs has had under consideration the nomination of James V. Gibbons to the position of member of the Maine State Liquor 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:

Senator

Melvin A. Shute of Waldo

Representatives:

Paul E. Violette, Van Buren
James T. Dudley, Enfield
Sidney D. Maxwell, Jay
George F. Call, Lewiston
John McSweeney, Old Orchard Beach
Courtney E. Stover, West Bath
Robert N. Soulas, Bangor
Katharine J. Gavett, Orono

NAYS:

Sensors:

Robert M. Farley of York
Albert E. Cote of Androscoggin

Representatives:

Ada K. Brown, Gorham

ABSENT:

David W. Dellert, Gardiner

Nine members of the Committee having voted in the affirmative and three in the negative, it was the vote of the Committee that the nomination of James V. Gibbons to the position of member of the Maine State Liquor Commission be confirmed.

Sincerely,
MELVIN A. SHUTE
Senate Chairman
PAUL E. VIOLETTE
House Chairman

Which was Read and Ordered Placed on File.

The PRESIDENT: The Joint Standing Committee on Legal Affairs has recommended that the nomination of James V. Gibbons be confirmed.

The pending question before the Senate is: Shall the recommendation of the Committee on Legal Affairs 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.

The PRESIDENT: The Chair recognizes the Senator from Androscoggin, Senator Cote.

Senator COTE: Mr. President and Members of the Senate: You notice that I voted "Nay" on the confirmation of Mr. Gibbons to the Liquor Commission.

The reason that I voted nay, first let me explain that I did not know the gentleman at the time, I just met him on the day of the hearing. I know nothing about him, that is bad, except that I am convinced and always have been, that the head of the Liquor Commission should be an individual who knows something about business. If we are going to operate a \$50,000,000 business in this State, I think that we should have a business man.

I questioned Mr. Gibbons and he told me and the committee, that he had no business background whatsoever, he had practiced law in Massachusetts, he had been a member of the FBI since 1954 I believe. For that reason I felt I could not vote to confirm him.

As I say I have nothing against the gentleman, I don't even know him. I only met him that day, but I feel very strongly that it should be a man who has business ability and a mer-

chandiser in order to operate the Liquor business in the State of Maine. With this explanation I hope that you do whatever you please.

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

Senator CONLEY: Mr. President and Members of the Senate: I appreciate the concerns of my colleague from Androscoggin, Senator Cote.

I would like to inform the Senate that I have known Mr. Gibbons for probably the last 20 or 25 years of my life, and he has established one of the finest records as referred to by the good Senator from Androscoggin, Senator Cote as a member of the FBI, a distinguished attorney at least in the legal profession. He would do one of the, I think, best jobs that we could ever expect of any Commissioner serving on the Liquor Commission.

He has a very lovely family, a devoted husband, and a very fine wife. I think Mr. Gibbons if confirmed by the Senate today, would do the citizens of Maine a justice in serving on the Liquor Commission.

The PRESIDENT: Is the Senate ready for the question?

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

ROLL CALL

YEA — Cote, Farley.

NAY — Ault, Carpenter, Chapman, Clark, Collins, Conley, Danton, Devoe, Emerson, Gill, Hichens, Huber, Katz, Lovell, Martin, McBreairey, Najarian, Perkins, Pierce, Pray, Redmond, Shute, Sutton, Teague, Trafton, Trotzky, Usher, Sewall.

ABSENT — Minkowsky, O'Leary, Silberman.

2 Senators having voted in the affirmative and 28 Senators in the negative, and 3 Senators being absent and 2 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 James V. Gibbons is confirmed.

OFFICE OF THE GOVERNOR

September 26, 1979

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

Dear Senator Sewall:

This is to inform you that I am nominating Anthony Peverada of Augusta for appointment to the Maine Employment Security Commission.

Pursuant to Title 26 M.R.S.A. Section 1081, this nomination will require review by the Joint Standing Committee on Labor and confirmation by the Senate.

Thank you for your assistance in this matter.

Sincerely,
JOSEPH E. BRENNAN
Governor

Which was Read and Ordered Placed on File.

THE SENATE OF MAINE

September 27, 1979

The Honorable Roland L. Sutton
The Honorable Jasper S. Wyman
Chairmen, Labor Committee
109th Maine Legislature

Please be advised that Governor Joseph E. Brennan has nominated Anthony Peverada of Augusta to serve as a member of the Maine Employment Security Commission.

Pursuant to Title 26 M.R.S.A., Section 1081, this nomination will require review by the Joint Standing Committee on Labor.

Sincerely,
MAY M. ROSS
Secretary of the Senate

Which was Read and Ordered Placed on File.

Orders

On Motion by Senator Devoe of Penobscot,

ORDERED, the House concurring, that three hundred twenty-five copies of the Legislative Record for this Special Session be printed, one copy for each of the members of the Senate, House of Representatives, the Secretary of the Senate and the Clerk of the House, and the remainder to be deposited with the State Law Librarian for exchange and library use; and be it further

ORDERED, that suitable index be prepared for such Legislative Record under the direction of the Director of Legislative Research.

(S. P. 644)

Which was Read and Passed.
Sent down forthwith for concurrence.

Out of Order and Under Suspension of the Rules, the Senate voted to consider the following:

Paper From The House House Paper

Bill, "An Act to Provide Funds for Emergency Home Heating Assistance for Elderly and Other Low-Income Households and for the Winterization, Housing Rehabilitation Technician and Citizens' Assistance Programs and to Correct an Error in the Energy Inventory Reporting Law." (H. P. 1586) (L. D. 1689)

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

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

On Motion by Senator Katz of Kennebec, Recessed until the sound of the bell.

(Recess)

(After Recess)

The Senate called to Order by the President.

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

Committee Report Senate

Ought to Pass as Amended

Senator Huber for the Committee on Appropriations and Financial Affairs on, Bill, "An Act to Allocate Money from the Federal Revenue Sharing Fund and to Appropriate Funds from the General Fund for Teachers' Retirement and a Study of the Maine State Retirement System for the Fiscal Years Ending June 30, 1980 and June 30, 1981." (Emergency) (S. P. 643) (L. D. 1688)

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (S-399)

Which Report was Read and Accepted, and the Bill Read Once.

Committee Amendment "A" (S-399) Read and Adopted.

Under Suspension of the Rules, the Bill Read a Second Time, and Passed to be Engrossed, as amended.

Sent down forthwith for concurrence.

Senate at Ease

The Senate called to Order by the President.

Out of Order and Under Suspension of the Rules, the Senate voted to consider the following:

Paper From The House Non-concurrent Matter

Bill, "An Act to Correct the Procedures for Suspending Motor Vehicle Operators' Licenses." (Emergency) (S. P. 645)

In the Senate, October 4, 1979 Passed to be Engrossed without Reference to Committee and Ordered Printed.

Comes from the House, referred to the Committee on Judiciary and Ordered Printed, in

non-concurrence.

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

Senator KATZ: I move the Senate Recess and Concur.

The PRESIDENT: The Senator from Kennebec, Senator Katz, moves that the Senate Recess and Concur with the House.

Is this the pleasure of the Senate?

The Motion Prevailed.

On Motion by Senator Pierce of Kennebec, Recessed until 3 o'clock this afternoon.

(Recess)

(After Recess)

Senate called to Order by the President.

Out of Order and Under Suspension of the Rules, the Senate voted to consider the following:

Enactor

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

Emergency

An Act to Allocate Money from the Federal Revenue Sharing Fund and to Appropriate Funds from the General Fund for Teachers' Retirement and a Study of the Maine State Retirement System for the Fiscal Years Ending June 30, 1980 and June 30, 1981. (S. P. 643) (L. D. 1688)

This being an emergency measure and having received the affirmative votes of 30 members of the Senate, with no Senators voting in the negative, was Passed to be Enacted, and having been signed by the President, was by the Secretary presented to the Governor for his approval.

Orders

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

Expressions of Legislative Sentiment recognizing that:

Kimberly Hanson of Brunswick has achieved the rank of First Class in Cadet Girl Scout Troop 475 . . . (S. P. 646) is presented by Senator Clark of Cumberland, cosponsored by Representatives Martin and Bachrach of Brunswick

Barbara Brosnan of Brunswick has achieved the rank of First Class in Cadet Girl Scout Troop 475 . . . (S. P. 647) is presented by Senator Clark of Cumberland, cosponsored by Representatives Bachrach and Martin of Brunswick

Brenda Lesieur of Brunswick has achieved the rank of First Class in Cadet Girl Scout Troop 475 . . . (S. P. 648) is presented by Senator Clark of Cumberland, cosponsored by Representatives Bachrach and Martin of Brunswick

Jane Schneidewind of Brunswick has achieved the rank of First Class in Cadet Girl Scout Troop 475 . . . (S. P. 649) is presented by Senator Clark of Cumberland, cosponsored by Representatives Bachrach and Martin of Brunswick

The Auburn Suburban Senior League All-star Team placed third in the senior league world series and second in the United States competition recently held in Gary, Indiana . . . (S. P. 650) is presented by Senator Trafton of Androscoggin, cosponsored by Representatives Brodeur, Hughes and Michael of Auburn

Which were Read.

On Motion by Senator Katz of Kennebec, Tabled for 1 Legislative Day, pending Passage.

Committee Report

Senate

Ought to Pass

Senator Devoe for the Committee on Judiciary on, Bill, "An Act to Correct the Procedures for Suspending Motor Vehicle Operators' Li-

censes." (Emergency) (S. P. 645) (L. D. 1690)

Reports that the same Ought to Pass.

The Ought to Pass Report of the Committee Accepted, and the Bill Read Once.

Under Suspension of the Rules, the Bill Read a Second Time, and Passed to be Engrossed. Sent down forthwith for concurrence.

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

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

On Motion by Senator Pierce of Kennebec, adjourned until 9 o'clock tomorrow morning.