

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

One Hundred and Ninth

Legislature

OF THE

STATE OF MAINE

SECOND REGULAR SESSION

January 2 to April 3, 1980

THIRD SPECIAL SESSION

May 22, 1980

THIRD CONFIRMATION SESSION

July 17, 1980

FOURTH CONFIRMATION SESSION

July 24, 1980

FIFTH CONFIRMATION SESSION

September 12, 1980

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

STATE OF MAINE
One Hundred and Ninth Legislature
Second Regular Session
JOURNAL OF THE SENATE

January 7, 1980

Senate called to order by the President.

Prayer by the Honorable Walter W. Hichens of Eliot.

Senator HICHENS: May we pray together! Our Lord and our God we come before thee at the beginning of a new week of this session of the State Legislature, realizing the crises which our nation faces, and the great responsibilities upon the President of our United States.

As we bow here this morning, we ask for divine wisdom for our President, that he may seek thy counsel, and that he may act upon the leadings from thee, as to the future of our country. Lord, grant him physical strength, and grant him spiritual strength at this time.

As we convene again we pray that thou will give us strength and wisdom to face the issues which are before us, which have a great importance on the welfare of our State, and the people we represent.

So we ask this day that thou will guide us, and thou will help us to seek thy will in everything that we attempt to do, to the best for those we have representation for, and those who are looking to us for guidance, at this time.

We ask in thy name. Amen.

Reading of the Journal of yesterday.

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

Bill, "An Act to Clarify the Education Law." (Emergency) (H. P. 1534) (L. D. 1683)

In the Senate, Passed to be Enacted June 15, 1979, in concurrence.

Come from the House, Recommended to the Committee on Education, having been recalled from the Governor's desk pursuant to Joint Order (H. P. 1611), in non-concurrence.

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

Senator TROTZKY: I move the Senate Recede and Concur.

The PRESIDENT: The Senator from Penobscot, Senator Trotzky, moves that the Senate Recede and Concur with the House.

Is this the pleasure of the Senate?

The Motion prevailed.

Non-concurrent Matter

Bill, "An Act Relating to the Vocational-technical Institutes." (Emergency) (H. P. 1393) (L. D. 1613)

In the Senate, Passed to be Enacted June 15, 1979, in concurrence.

Come from the House, Recommended to the Committee on Education, having been recalled from the Governor's desk pursuant to Joint Order (H. P. 1609), in non-concurrence.

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

Senator TROTZKY: I move that the Senate Recede and Concur with the House.

The PRESIDENT: The Senator from Penobscot, Senator Trotzky, moves that the Senate Recede and Concur with the House.

Is this the pleasure of the Senate?

The Motion prevailed.

Non-concurrent Matter

Bill, "An Act to Provide for County Self-government." (H. P. 831) (L. D. 1038)

In the Senate, Passed to be Enacted June 13, 1979, in concurrence.

Come from the House, Recommended to the Committee on Local and County Government, having been recalled from the Governor's desk pursuant to Joint Order (H. P. 1610), in non-concurrence.

The PRESIDENT: Is it the pleasure of the Senate to Recede and Concur with the House?

The Motion prevailed.

House Papers

RESOLVE, Appropriating Funds to Camden Community School, Inc. (H. P. 1645) (L. D. 1755)

Bill, "An Act Relating to Maine Educational Advisory Organizations" (H. P. 1646) (L. D. 1756)

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

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

Bill, "An Act Amending the Requirement of Announcing Policial Disclaimers." (Emergency) (H. P. 1647) (L. D. 1757)

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

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

Bill, "An Act Relating to State Monitoring and Disclosure of Nuclear Power Radiation." (H. P. 1654) (L. D. 1763)

Reference to the Committee on Health and Institutional Services suggested.

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

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

Bill, "An Act to Prevent the Exclusion of Manufactured Housing from Maine Towns by Unduly Restrictive Police Power Ordinances." (H. P. 1649) (L. D. 1758)

Bill, "An Act to Authorize a Bond Issue for Franklin County for the Construction of a New Detention Facility." (H. P. 1650) (L. D. 1759)

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

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

Bill, "An Act to Authorize the Town of East Millinocket to Purchase the Assets of Northern Water Company." (Emergency) (H. P. 1651) (L. D. 1760)

Bill, "An Act to Authorize the Public Utilities Commission to Establish an Electrical Family Farm Rate." (H. P. 1652) (L. D. 1761)

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

Which were referred to the Committee on Public Utilities and Ordered Printed in concurrence.

Bill, "An Act Broadening the Elderly Tax and Rent Refund Act to Include Persons who are Currently Married as well as Unmarried under the Eligibility Standards." (H. P. 1653) (L. D. 1762)

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.

Communications

**DEPARTMENT OF FINANCE AND
ADMINISTRATION**

Bureau of Accounts and Control

November 20, 1979

Governor Joseph E. Brennan,
Members of the Legislature
and Other Citizens of Maine

The accompanying statements present the financial position of the various funds of our State Government at June 30, 1979, and their resources and expenditures for the fiscal year then ended. Comparative prior year and budgetary data as well as footnotes, statistical information and an outline of the State's budget

and accounting procedures have been included in this report to promote a better understanding of the State's finances.

This report reflects the recommendations of the National Council on Governmental Accounting's March 1979 restatement of the principles of Governmental Accounting, Auditing and Financial Reporting. Accordingly, modest changes in statement format and terminology have been made in relation to the prior year presentation. The new classification of "Governmental Funds" is defined to include the State's General Fund and Highway and Other Dedicated Funds (formerly reported in the aggregate as "Operating Funds") as well as the Proceeds of Bonds Funds and Debt Service Fund.

I am pleased to announce that the U.S. Department of Treasury has certified Maine as being in full compliance with the audit requirements of the Revenue Sharing Act based on our prior years' audited reports. Audit services covering the quadrennial period ending June 30, 1982 will be provided by Ernst and Whinney.

Questions or comments about the State of Maine's finances are always welcome.

Respectfully submitted,
S/ RICHARD A. DIEFFENBACH
State Controller

Which was Read and, with accompanying papers, Ordered Placed on File.

OFFICE OF THE GOVERNOR

January 3, 1979

To: The Honorable Members of the Senate and House of Representatives of the 109th Maine Legislature:

I am returning without my signature or approval S. P. 469, L. D. 1417, AN ACT Relating to the Reporting of Use and Trafficking of Drugs in Maine Schools.

L. D. 1417 intends to address the use of drugs by students in Maine schools. This is truly a matter of grave concern to all of us. My Administration, acting through the Department of Public Safety, has been very active in enforcing the laws against illegal use of drugs in all segments of society, but especially with regard to schools. We will continue to be vigorous in suppressing drug abuse.

But L. D. 1417 poses some serious problems. First, the bill creates a special protection from responsibility for school employees who make false accusations against students, fellow workers or others, even though such charges could cause devastating damage to the reputations of the accused.

The bill does not create any similar special immunity for people making accusations concerning drug use who do not happen to be connected with schools.

Parents and students, for example, would still be liable for their falsehoods. Second, the bill does not solve the problems it apparently seeks to address; it will not prevent the type of reprisals which people fear most, those which deter people from cooperation with the police.

The real problems are physical violence, social ostracization, or simple rudeness. These evils are not, and cannot be, addressed by L. D. 1417.

The final problem presented by this legislation is that it requires a school administrator to notify the parent or legal guardian of any student about whom such a report is made, in the event that no disciplinary action is taken by a school official. This would be true even when the reason for failing to take any disciplinary action is that there has been no offense. The potential result is that a parent who might be less than understanding or even abusive would be confronted with a statement which would lead to an explosive situation at home even though there was no basis for the report in the first place.

While I recognize the seriousness of the problem of substance abuse in our schools and in society in general, I must disapprove of this piece

of legislation. The potential advantage to be gained from immunizing school personnel from civil liability for making reports concerning drug use or trafficking. I hope that school personnel will act responsibly in these matters without any special additional protection, just as other citizens are required to do. I hope that you will express your confidence in the good judgment of school personnel and your appreciation for the value of the reputation of our students, teachers and others who function in a school setting, by sustaining my veto of this piece of legislation.

I respectfully request that you sustain my veto of this measure.

Very truly yours,
S/ JOSEPH E. BRENNAN
Governor

Which was Read and Ordered Placed on File.

The accompanying Bill:

AN ACT Relating to the Reporting of Use and Trafficking of Drugs in Maine Schools. (S. P. 469) (L. D. 1417)

The President stated the question before the Senate:

Shall this Bill become a law notwithstanding the objections of the Governor?

According to the Constitution, the vote will be taken by the Yeas and Nays.

The PRESIDENT: The Chair recognizes the Senator from York, Senator Hichens.

Senator HICHENS: Mr. President, and Members of the Senate. I rise this afternoon to vehemently oppose the Governor's veto of L. D. 1417, An Act relating to the reporting of use and trafficking of drugs in our Maine schools.

This bill was heard before the Committee on Education after being tossed about and almost stymied by the Speaker of the House who reportedly made the statement that it would never get to a committee hearing. He was wrong. It not only reached the committee, had a good hearing, received a Majority Ought to Pass Report and received a 25-3 vote in this Senate chamber. The Governor has kept it on his desk until this time.

I could stand here this afternoon and bring to your attention instance after instance of drug abuse in our public schools from Kittery to Ft. Kent, but I believe that you are as aware of the conditions as well as I am or even more so, so I will not elaborate on them today.

As you are also well aware, there is a great reluctance on the part of the general public to report drug activities for fear, not only of bodily and personal retribution, as related in a feature article in yesterday's Maine Telegram, but from civil or criminal liabilities as well. L. D. 1417 cannot address personal retaliation against anyone reporting illegal use and trafficking of drugs but it does promise immunity from liability and confidentiality of records by the teachers.

In his veto message, the Governor states "The Bill creates a special protection from responsibility for school employees who make false accusations against students etc."

Does this statement infer that our school teachers are not honest and would attempt to incriminate students by false accusations? I cannot believe this.

Further, the Governor relates to similar immunity for people not connected with schools. I wish we could do this, but this bill is related to school personnel only. Maybe we could reach out to others in the future, but L. D. 1417 is concerned with teachers.

Maine Educators have made a concerted effort to deal with this problem which is recognized as being the most serious facing young people today. It even exceeds discipline in polls that are taken. In reference to the Governor's objection by granting immunity to a special class of people, there are many instances in Maine Law which do this—for example, the Good Samaritan Laws.

The Governor listed himself in the primaries

as being the only candidate who admitted to being a liberal. Does his liberal standing mean that he is in favor of drug abuse and trafficking in schools? The Maine School Superintendent's Association has recognized this problem to be so serious that it has appointed an Ad Hoc Committee to work in this area. I share with you a letter sent to Governor Brennan by John A. Houghton, President, Maine School Superintendents' Association.

Dear Governor Brennan. It is our understanding that you have before you for signature or veto, Legislation entitled: An Act Relating to the Reporting of Use and Trafficking of Drugs in Maine Schools. The intent of this act is to facilitate the information flow from schools to proper authorities for the obvious purpose of reducing the trafficking in schools.

Teachers have been understandably reluctant to report their observations, in an atmosphere where law suits and threats upon person and property are becoming increasingly commonplace. Your background in the finer aspects of law and your experience as an Attorney General may provide the misgivings on your part concerning this Legislation. Our background and experience with schools tell us that teachers must have the necessary tools if we are to make a dent in school drug trafficking.

This law would be a long overdue beginning for all of us to assure that we do care about people and laws. Further if we do not take this beginning, and build upon it, we must all share the responsibility when teachers do not report suspected use and/or trafficking, and a human life is sacrificed because of our failure to take affirmative action.

We urge you to view the act positively, and allow it to become law for the State and our children. Sincerely yours, John A. Houghton, President.

I urge you fellow Senators this afternoon to support me in this attempt to curb drug abuse and drug trafficking in our public schools by voting to override this veto with the same vote given in passage of the bill.

The PRESIDENT: Is the Senate ready for the question?

The Chair recognizes the Senator from Cumberland, Senator Conley.

Senator CONLEY: Mr. President and Members of the Senate: After listening to the remarks of the good Senator from York, Senator Hichens, it leaves me compelled to get up and say a few words with respect to the veto that the Governor has presented us this morning.

I think when we discuss the areas of drug abuse that many of us as parents are greatly concerned, as to the drug trafficking, that perhaps goes on in many of our schools throughout our communities. I'm sure that each of us here deplore the thought of it and would like to do something very much about it.

I'm reminded of the fact a few years ago when we make reference to the school superintendents of the State, most of them supported statutory language that was on the books in those days dealing with truancy that the only responsible thing that we could do to solve truancy in that era was to place boys and girls in places like the Boys Training Center or some other place for the young girls. To me that was a tragedy because we really weren't addressing the problem.

I look at the situation today when we're talking about drug trafficking. It's a highly emotional issue, and it's one that we could easily sort of fly off the handle with, and put in any type of language on the books, statutorily to give immunity to the teachers, to the superintendents, for the sole purpose of turning someone in to the authorities, allegedly for the handling of some of these drugs.

I think the Governor has pointed out perhaps the most important thing in his message was, how about the innocent, falsely accused. The State did away with capital punishment years

ago primarily because of the fact that they executed the wrong person.

I think that we have to be concerned primarily of, the innocent children. Those who are or may be innocent, whose names will be smeared throughout their community, wrongly accused and yet, no recourse will be given to that individual.

The good Senator from York, Senator Hichens, talked about the Good Samaritan Law, and how many years ago when we first discussed that, doctors wanted to be immuned from suits, for providing what they called the Good Samaritan Act. Is there anybody in this Chamber that wouldn't like to have immunity from any type of law suit? Police would love to have it; municipalities used to have it, until the court struck it down and said: No, you must be responsible for your actions. That's why the Governor has vetoed this particular bill today, that if there is going to be accusations made, then those accusations should be truthful accusations.

Therefore, Members of the Senate, I would ask you to vote to support the Governor and to sustain his veto.

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

Senator MINKOWSKY: Mr. President, I don't concur wholeheartedly with the remarks made by the good Senator from Cumberland, Senator Conley.

I think the Education Committee spent about 3 or at least 4 hours on this particular bill, if I am not mistaken, and I think the vote in the Maine Senate proved the time, the necessity of having this type of Legislation on the Books.

It is very simple to give a cursory synopsis of what other people suppose is going on, but the people who really know and the people we don't give that much attention to, are the classroom teachers in the State of Maine, who must live in this type of a fishbowl.

I think the Governor and the people who make the decisions in his office, should spend a few hours going through the trials and tribulations of the average classroom teacher, who must cope with the caliber of some of the students that we have in the Maine school system. I think that they would have a different perspective altogether.

If the governor intends, as he said in his opening statement, to address the drugs or the problem that we have with the students in the State of Maine then I certainly would be interested in seeing the Legislation, looking over the list that he has I do not see anything that corresponds along those lines at all.

I would hope that the members of the Senate would stand fast as we did previously and override the Governor's veto.

The PRESIDENT: Is the Senate ready for the question?

A vote of Yes will be in favor of the Bill.

A vote of No will be in favor of sustaining the veto of the Governor.

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEA — Ault, Carpenter, Chapman, Emerson, Gill, Hichens, McBreairty, Minkowsky, Perkins, Pierce, Pray, Redmond, Shute, Silverman, Teague, Trotzky.

NAY — Conley, Cote, Danton, Farley, Huber, Katz, Martin, Najarian, O'Leary, Traf-ton, Usher, Sewall.

ABSENT — Clark, Collins, Devoe, Lovell, Sutton.

Senator Pray of Penobscot, was granted permission to change his vote from Yea to Nay.

The PRESIDENT: The Chair would advise the Senate in the future that in order to vote in this Chamber, one should be present in his chair when the vote is taken.

15 Senators having voted in the affirmative

and 13 Senators in the negative, with 5 Senators being absent, 15 being less than two-thirds of the membership present, the veto of the Governor is sustained.

Order

An expression of Legislative Sentiment recognizing that: After 12 years of exploration, John S. Cummings, a Maine geologist, has located a very large commercially viable copper zinc sulphide deposit in Aroostook County, Northern Maine (S. P. 671) is presented by Senator Trotzky of Penobscot.

Which was Read and Passed.
Sent down for concurrence.

Committee Report

House

Ought to Pass

The Committee on Business Legislation on, Bill, "An Act to Improve Private Remedies for Violations of the Antitrust Laws." (H. P. 1077) (L. D. 1330)

Reported that the same Ought to Pass.

Comes from the House, the Report Read and the Bill Recommitted to the Committee on Business Legislation.

Which Report was Read.

The PRESIDENT: The Chair recognizes the Senator from Sagadahoc, Senator Chapman.

Senator CHAPMAN: Mr. President, I move that the Senate Recommit this Bill, to the Committee on Business Legislation, in concurrence.

The PRESIDENT: The Senator from Sagadahoc, Senator Chapman, moves that the Senate Recommit L. D. 1330 to the Committee on Business Legislation, in concurrence.

The Chair recognizes the Senator from Kennebec, Senator Katz.

Senator KATZ: Mr. President, I want to compliment the Business Legislation Committee for having the first Committee Report of the session.

The PRESIDENT: Is it the pleasure of the Senate to Recommit L. D. 1330, in concurrence?

It is a vote.

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

Senator HICHENS: Thank you, Mr. President.

There are those who like my poetry — I compose from time to time

There are those who think it clever how I put words into rhyme

There are those who think it corney (the verses that I read)

And to let their birthdays go unchecked, with me some colleagues plead.

There are those who slump and squirm a bit for fear of what I'll say

And others remind in advance of someone's natal day.

It takes some researching at times the facts to put in place

And the revelations I disclose make some folk red of face.

But as long as fellow Senators my verse seem to enjoy

I'm sure to keep on writing — my talents to employ.

And on this 7th day of 1980 — I take pleasure in bringing to attention — thoughts of interest without measure

For the one whom we will honor feels that he's been slighted some

For we've never been in session when his birthdate has come

And as a result his birthday's ne'er been noted as it should

And I apologize to him — for write a verse I would

With due enthusiasm — for I've found he's quite a guy

One with whom I served with affably as ses-

sions have rolled by

But I have trouble I admit — and I ask you — just how-sky

Does one find words that rhyme with such a common name — Minkowsky?

Yet regardless of my difficulty — please join me today

In wishing Brother Carroll the best now — and always.

On Motion by Senator Pierce of Kennebec, Adjourned until 11 o'clock tomorrow morning.