

# 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

February 11, 1980

Senate called to order by the President.

Prayer by the Honorable Barbara A. Gill of South Portland.

Senator GILL: Heavenly Father, for all those assembled before us, grant us the wisdom, understanding, and the good judgment to do the work you have set before us in this august body, we pray. Amen.

Reading of the Journal of yesterday.

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

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

Bill, "An Act Clarifying the Authority of Municipalities to Acquire and Operate Water Systems." (Emergency) (H. P. 1605) (L. D. 1716)  
In the Senate February 5, 1980, Passed to be Engrossed, in concurrence.

Comes from the House, Passed to be Engrossed as amended by House Amendment "A" (H-781), in non-concurrence.

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

Senator DEVOE: Thank you, Mr. President. Mr. President, I move the Senate Recede and Concur.

The PRESIDENT: The Senator from Penobscot, Senator Devoe, moves that the Senate Recede and Concur.

Is this the pleasure of the Senate?  
The Motion Prevailed.

**Non-concurrent Matter**

Bill, "An Act to Establish the Boundary between Rockport and Rockland." (S. P. 658) (L. D. 1698)

In the Senate January 25, 1980, Passed to be Engrossed as amended by Senate Amendment "A" (S-403).

Comes from the House, Passed to be Engrossed as amended by Senate Amendment "A" as amended by House Amendment "A" (H-777) Thereto, in non-concurrence.

The PRESIDENT: The Chair recognizes the Senator from Waldo, Senator Shute.

Senator SHUTE: I move the Senate Recede and Concur.

The PRESIDENT: The Senator from Waldo, Senator Shute, moves that the Senate Recede and Concur.

Is this the pleasure of the Senate?  
The Motion Prevailed.

**Non-concurrent Matter**

Bill, "An Act to Amend the Pay Schedule of Physicians to Include Actuaries." (S. P. 707) (L. D. 1843)

In the Senate February 6, 1980, Passed to be Engrossed as amended by Committee Amendment "A" (S-406).

Comes from the House, Passed to be Engrossed, in non-concurrence.

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

Senator CHAPMAN: Mr. President, I move the Senate Recede and Concur.

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

The Chair recognizes the Senator from Penobscot, Senator Pray.

Senator PRAY: Mr. President, and Members of the Senate, as I look at this bill that we're addressing at this time, L. D. 1843, reference to the pay schedule of actuaries, it's my understanding that actuaries have been classified in the professional and technical unit, which would make this clearly a negotiable item,

through the contract and the collective bargaining process that we have set up.

I would like to see someone table this bill until we can clarify the situation as to whether or not we should have legislation before us pending with something which is to be handled via the negotiation process.

On Motion by Senator Conley of Cumberland, Tabled for 1 Legislative Day, pending the Motion by Senator Chapman of Sagadahoc.

**Joint Orders**

Expressions of Legislative Sentiment recognizing:

Leslie Bancroft of Paris Hill, who has been selected for the U.S. Olympic Women's cross country ski team. (H. P. 1812)

Steven Pelletier, son of Raymond and Gerry Pelletier of Sanford, the winner in the 12-13 age category of the 8th Annual Elk's Hoop Shoot Contest. (H. P. 1813)

Come from the House, Read and Passed.  
Which were Read and Passed, in concurrence.

ORDERED, The Senate concurring, that, pursuant to Joint Rule 37, two-thirds of the members of both Houses concurring, AN ACT Converting Lakeville Plantation into the Town of Lakeville and Removing Lakeville Plantation from the Maine Forestry District may be introduced during the Second Regular Session of the 109th Legislature. (H. P. 1811)

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

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

**Senate Papers**

Senator Conley of Cumberland presented, Bill, "An Act Increasing the Fees for Probate Proceedings." (S. P. 752)

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

Sent down for concurrence.

**Orders**

An Expression of Legislative Sentiment recognizing:

Mrs. Mabel Atwood, of Kingfield, who celebrated her 70th birthday on February 4, 1980, and has just received her high school diploma. (S. P. 753) is presented by Senator Redmond of Somerset (Cosponsor: Representative Dexter of Kingfield).

Which was Read and Passed.  
Sent down for concurrence.

**Committee Reports  
House**

**Leave to Withdraw**

The Committee on Aging, Retirement and Veterans on,

RESOLVE, Concerning the Disability Retirement of Stephen Bearce of Lincoln. (H. P. 1600) (L. D. 1711)

Reported that the same be granted Leave to Withdraw.

Comes from the House, the Report Read and Accepted.

The Committee on Health and Institutional Services on, Bill, "An Act to Require the Department of Mental Health and Corrections to Solicit Bids for Group Health Coverage for its Patients and Inmates." (Emergency) (H. P. 1685) (L. D. 1799)

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 — As Amended**

The Committee on Taxation on, Bill, "An Act Relating to Interest on Supplemental Assessments Under the Tax Laws." (H. P. 1750) (L. D. 1866)

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-770).

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

The Committee on Taxation on, Bill, "An Act Pertaining to the Time for Recording a Tax Lien Mortgage." (H. P. 1736) (L. D. 1854)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-769).

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

The Committee on Public Utilities on, Bill, "An Act to Clarify the Obligations of Certain Public Utilities Regarding Assessments to Defray Expenses of the Public Utilities Commission." (H. P. 1748) (L. D. 1864)

Reported that the same Ought to Pass as amended by Committee Amendment "A".

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

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

The Committee on Taxation on, Bill, "An Act Providing for Administrative Changes in the Maine Revised Statutes Relating to Taxation." (H. P. 1751) (L. D. 1867)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-771).

Comes from the House, the Bill Passed to be Engrossed as amended by Committee Amendment "A" and House Amendment "A" (H-779).

Which Report was Read and Accepted, in concurrence, and the Bill Read Once. Committee Amendment "A" was Read and Adopted, in concurrence. House Amendment "A" was Read and Adopted, in concurrence, and the Bill, as amended, Tomorrow Assigned for Second Reading.

**Senate**

**Leave to Withdraw**

Senator Devoe for the Committee on Public Utilities on, Bill, "An Act to Amend the Charter of the Aroostook-Prestile Treatment District." (Emergency) (S. P. 704) (L. D. 1840)

Reported that the same be granted Leave to Withdraw.

Which Report was Read and Accepted.  
Sent down for concurrence.

**Ought to Pass — As Amended**

Senator Sutton for the Committee on State Government on,

RESOLVE, Authorizing Execution of Leasehold Agreement Between Department of Educational and Cultural Services and the City of South Portland Establishing a Greenbelt and Public Park Area on the Southern Maine Vocational-Technical Institute Campus as Part of the Spring Point Shoreway." (Emergency) (S. P. 674) (L. D. 1778)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (S-412).

Which Report was Read and Accepted and the Resolve Read Once. Committee Amendment "A" was Read and Adopted and the Resolve, as amended, Tomorrow Assigned for Second Reading.

**Divided Report**

The Majority of the Committee on Health and Institutional Services on, Bill, "An Act to Develop Elderly Congregate Housing in Maine." (S. P. 724) (L. D. 1873)

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

413).

Signed:

Senators:

GILL of Cumberland  
HICHENS of York  
CARPENTER of Aroostook

Representatives:

CURTIS of Milbridge  
NORRIS of Brewer  
PRESCOTT of Hampden  
BRENERMAN of Portland  
BRODEUR of Auburn  
CLOUTIER of South Portland  
MacBRIDE of Presque Isle  
PAYNE of Portland

The Minority of the same Committee on the same subject matter Reported that the same Ought Not to Pass.

Representative:

MATTHEWS of Caribou

Which Reports were Read.

The Majority Ought To Pass, as amended, Report of the Committee, Accepted, and the Bill Read Once. Committee Amendment "A" Read and Adopted, and the Bill, as amended, Tomorrow Assigned for Second Reading.

#### Divided Report

The Majority of the Committee on Transportation on, Bill, "An Act to Permit the Department of Transportation to Acquire Railroad Operating Equipment" (S. P. 666) (L. D. 1720)

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (S. 411).

Signed:

Senators:

EMERSON of Penobscot  
O'LEARY of Oxford  
USHER of Cumberland

Representatives:

HUTCHINGS of Lincolnville  
McKEAN of Limestone  
ELIAS of Madison  
CARROLL of Limerick  
JACQUES of Lewiston

The Minority of the same Committee on the same subject matter Reported that the same Ought Not to Pass.

Representatives:

McPHERSON of Eliot  
STROUT of Corinth  
HUNTER of Benton  
BROWN of Mexico  
LOUGEE of Island Falls

Which Reports were Read.

The Majority Ought to Pass, as amended, Report of the Committee, Accepted, and the Bill Read Once. Committee Amendment "A" Read.

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

Senator KATZ: Mr. President, might I ask the Chairman of the committee. I noticed that the amendment attempts to protect the State from any possible expenses, in the purchasing, leasing, or using this equipment. Do we have adequate protection so that the State cannot be charged for storing the equipment on somebody else's rail lines?

The PRESIDENT: The Senator from Kennebec, Senator Katz, has posed a question through the Chair to any member of the committee who may care to answer.

The Chair recognizes the Senator from Penobscot, Senator Emerson.

Senator EMERSON: Mr. President, if we don't have that protection, the committee has overlooked it. I believe that if the State did acquire these cars, that they would be leased to a private firm, and the private firm would pay some amount of money, whatever the cost for a lease, even if they were going to be parked on a track, whoever uses the cars would pay for that.

We have tried to see there would be no State money going into it.

Committee Amendment "A" Adopted, and

the Bill, as amended, Tomorrow Assigned for Second Reading.

#### Second Readers

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

##### House

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

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

##### House — As Amended

Bill, "An Act Concerning the Category of Modified Antique Autos under the Motor Vehicle Statutes" (H. P. 1598) (L. D. 1709)

Bill, "An Act to Clarify Procedures Involved with the Municipal Shellfish Conservation Program" (H. P. 1613) (L. D. 1723)

Bill, "An Act Providing for the Election of a Deputy Moderator at Town Meetings" (H. P. 1737) (L. D. 1855)

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

#### Enactors

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

An Act to Amend the Charter of the Harrison Water District. (H. P. 1596) (L. D. 1707)

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

#### Emergency

An Act to Amend the Charter of the Lewiston-Auburn Water Pollution Control Authority. (S. P. 657) (L. D. 1696)

This being an emergency measure and having received the affirmative votes of 26 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 of the Day

The Chair laid before the Senate the first tabled and specially assigned matter: Bill, "An Act to Expand the State's Program to Promote Apprenticeships" (H. P. 1617) (L. D. 1727)

Tabled—February 8, 1980 by Senator Katz of Kennebec.

Pending—Enactment.

On Motion by Senator Huber of Cumberland, Placed on the Special Appropriations Table.

The Chair laid before the Senate the second tabled and specially assigned matter: Bill, "An Act Concerning Mobile Barber Shops" (H. P. 1658) (L. D. 1767)

Tabled—February 8, 1980 by Senator Katz of Kennebec.

Pending—Passage to be Engrossed.

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

Senator KATZ: Mr. President, during the days when we were getting ready for this Legislative Session, there was a certain amount of humor involved in considering this an emergency bill. The sponsor pointed out that in his section of the State, some of the amenities which we take for granted, such as being able to drive around the corner to a barber shop, were not available. In his part of the State some people have to drive for as many as 30 or 40 miles to get to a barber shop.

So in this Bill, L. D. 1716, in order to protect from unfair competition, existing barber shops, the phrase "no mobile barber shop shall be licensed to operate in any municipality, where a licensed barber shop was in operation, prior to the issuance of this license" was incorporated in the Bill. So down here at Duke's Rotary Barber Shop, for example, it would be illegal for a mobile barber shop to park in front

of his place and go into business.

Unfortunately there were some concerns expressed by the Attorney's Generals Office, in a previous letter, which indicated that there were real constitutional problems, once you say that mobile barber shops are licensed, in inhibiting the right of a mobile barber shop to operate any place. In the letter dated May 4, 1978, from an Assistant Attorney General, to the Executive Secretary of the Board of Barbers, the Attorney General's Office said, "with regards to your second question, whether the mobile barber shop should be limited in towns that do not have a full time barber shop." I believe the answer to this is, it cannot be so limited." In other words we have a problem, and you can't solve it, by restraining it just to the north woods. If you're going to open us a mobile barber shop, as I read this letter, you've got to open it up.

Now this completely, I think, askewers the original intent of leadership in permitting the bill to be admitted to this session, in the first place. I think the last thing the Senate wants to do is to give the right to mobile barber shops, to cruise around the State, pick the Main Street with highest density of traffic, park, put 10¢ in a parking meter and give barber shops unfair competition, to existing barbers.

So in order to crystalize the conversation and the debate on this bill, I'll move for it to be Indefinitely Postponed.

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

Senator CHAPMAN: Mr. President, and Members of the Senate, it's true that this bill appeared before the Business Legislation Committee, with the provisions that the Senator from Kennebec, Senator Katz, referred to. But the Committee Amendment to this bill, reported it out, so that these mobile barber shops may be licensed in any community. To further the concern the committee had, if you excluded or could exclude them from one community, what was to prevent them from setting up shop just across the line in another community? So it seemed clear to the committee, that if in fact, it was in order to allow the existence of mobile barber shops, they should exist anywhere that was legally permitted, and that we should allow the private enterprise system to work to it's fullest in this area.

Why not? We have a lot of mobile stores now, of various types. You've seen them. We have mobile lunch wagons, and coffee trucks, ice cream trucks, vegetable trucks, bookmobiles. There are mobile units selling merchandise and providing services already. Why not allow mobile barber shops? Should someone be enterprising enough to do what's necessary to establish one.

A mobile barber shop is obviously going to cost a substantial amount of money. It isn't a light expenditure. I certainly don't feel they're going to proliferate, but in some parts of this State, there is a need, as has been expressed in the presentation of this bill, before the Legislative Council.

This bill, essentially, would allow mobile barber shops to exist, and to insure that they meet sanitary standards that are required by any barber shop, which is what the amended bill would provide.

There has been a lot of concern expressed, that mobile barber shops are going to go right into downtown Augusta, wherever, and set up in front of an existing barber shop. I think there is a very effective control for that. That's a control that is used in municipalities, all the time and that is to establish an ordinance if a municipality finds this is a concern, in their particular municipality, they may establish an ordinance, that would restrict or limit the use of mobile barber shops in the town, or some places in that town. It seems to me this is local control and this is where it would be addressed. I would urge the Senate to support the continuation of this bill.

The PRESIDENT: Is the Senate ready for the question?

The Chair will order a Division.

Will all those Senators in favor of the Indefinite Postponement, of L. D. 1767, please rise in their places to be counted.

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

The Chair recognizes the Senator from Oxford, Senator O'Leary.

Senator O'LEARY: I 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 less than one-fifth having arisen a Roll Call is not ordered.

The Chair recognizes the Senator from Oxford, Senator O'Leary.

Senator O'LEARY: Am I in order to speak?

The PRESIDENT: The Chair would answer in the affirmative.

Senator O'LEARY: Mr. President, I thought the presentation made by the good Senator from Kennebec, Senator Katz, were well taken. The remarks of the good Senator from Sagadahoc, Senator Chapman, were well taken.

As I look down through a list of towns in my area and towns represented by the Senator from Somerset, Senator Redmond, there is in excess of 75 towns. Some of these people have to travel as much as 70 miles to get to a barber shop.

One of my constituents has been in contact with me, lobbying of course for the barbers, with, I think, a legitimate concern. I should imagine this amendment that's before us now, the Committee Amendment, could perhaps be amended to go along the lines of the good Senator from Sagadahoc, Senator Chapman. It could be amended and this bill would move along and these people, as an energy saving matter at the same time, could be serviced by a barber. I would appreciate it if someone were to table this for one Legislative Day until I've had an opportunity to work with some of the others.

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

Senator CONLEY: Mr. President, and Members of the Senate, I would just pose a question through the Chair, if I may, as to whether or not presently barbers are restricted from travelling from one place to another to cut hair?

I know that certainly in my area that we have a number of nursing homes for the elderly. They travel at will and go over and cut the hair and style it, whatever. There has never been any questions raised. So I'd like to know if there is any restriction?

The PRESIDENT: The Senator from Cumberland, Senator Conley, has posed a question through the Chair.

The Chair recognizes the Senator from Kennebec, Senator Katz.

Senator KATZ: Mr. President, the Senator from Cumberland, Senator Conley, is correct that barbers do travel to give service in homes, not only do barbers travel, but also customers travel. Perhaps, ladies and gentlemen of the Senate, you may have noticed that the Senator from Cumberland, Senator Conley, looks better this year than he did last year. One of the reasons is, besides the fact that he has given up drinking, smoking and God knows what else, one of the reasons is, that he is now having his hair cut within my constituency. So the portability goes both ways.

I should say to the Senator from Oxford, that leadership was perplexed as to the nature of this bill. We took a whack at it, I don't think it worked out well. Perhaps those of you who are interested in this issue might for the next Legislative Session attempt to arrive at some kind

of a conclusion, which accomplishes what you want, without opening things up quite as much as this bill does. On that basis, I would ask that this Bill be postponed at this time.

The PRESIDENT: Is the Senate ready for the question?

The Chair recognizes the Senator from Penobscot, Senator Pray.

Senator PRAY: I 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 Senator 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 Kennebec, Senator Katz, that the Senate Indefinitely Postpone L. D. 1767.

A Yes vote will be in favor of Indefinite postponement.

A No vote will be opposed.

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

#### ROLL CALL

YEA—Ault, Carpenter, Collins, Conley, Cote, Danton, Emerson, Farley, Gill, Hichens, Huber, Katz, Lovell, McBreairty, Minkowsky, Perkins, Pray, Silverman, Teague, Trafton, Trotzky, Usher.

NAY—Chapman, Clark, Devoe, O'Leary, Pierce, Redmond, Shute.

ABSENT—Martin, Najarian, Sutton.

22 Senators having voted in the affirmative, and 7 Senators in the negative, with 3 Senators being absent, the Motion to Indefinitely Postpone in non-concurrence does prevail.

Sent down for concurrence.

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