

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 20, 1980

Senate called to order by the President.

Prayer by Mr. Julius G. Sussman of Augusta.

Mr. SUSSMAN: Good morning! Health and happiness to you all. This is Brotherhood Month, as should be every month of every year, and every day of every month.

Today I have selected two excerpts, both short. First a prayer for this House from the Singing World by Louis Untermeyer.

"May nothing evil cross this door, and may ill fortune never pry about these windows.

May the roar and the rain go by. Strengthened by faith these rafters will withstand the battering of the storm.

This hearth, though all the world grow chilled, will keep us warm.

Peace shall walk softly, through these rooms, touching our lips with holy wine, till every casual corner blooms into a shrine.

Laughter shall drown the raucous shout, and though these sheltering walls are thin, may they be strong to keep hate out, and hold love in."

The second from President Dwight D. Eisenhower's First Inaugural Address:

"Give us, we pray, the power to discern clearly right from wrong, and allow our words and actions to be governed thereby, and by the laws of this land. Especially, we pray that our concern shall be for all the people, regardless of station, race or calling.

May cooperation be permitted, and be the mutual aim of those who aren't of the concepts of our Constitution, hold to differing political faiths, so that all may work for the good of our beloved country, and thy glory."

We also pray for the families, for the imminent release of our hostages, that they may be quickly returned to our country, and their families, safe and sound, healthy and happy.

I will conclude with my people's ancient blessing. "The Lord keep thee and bless thee. The Lord cause his countenance to shine upon thee, and be gracious unto thee. The Lord lift up his face unto thee, and grant thee peace." Amen.

Reading of the Journal of yesterday.

(Off Record Remarks)

**Papers from the House
Joint Orders**

An Expression of Legislative Sentiment recognizing:

The Monmouth Middle School Girls' Basketball Team, winner of the regional conference girls' basketball championship. (H. P. 1854)

Comes from the House, Read and Passed.

Which was Read and Passed, in concurrence.

Communications

University of Maine at Orono

February 8, 1980

Ms. May Ross
Secretary of the Senate
State House
Augusta, Me

Dear Ms. Ross:

Enclosed please find 35 copies of the annual report on the operation of the State Government Internship Program as required by the Maine State Statutes, Chapter 14, paragraph 294.

Sincerely,

KATHRYN H. GODWIN

Director, Bureau of Public Administration
Which was Read and, with accompanying Report, Ordered Placed on File.

Order

An Expression of Legislative Sentiment recognizing:

Thomas Henderson of South Portland, who has been selected as the Guy Gannett Publishing Company's outstanding newspaper carrier. (S. P. 760) is presented by Senator Gill of Cumberland (Cosponsor: Representative Cloutier of South Portland).

Which was Read and Passed.

Sent down for concurrence.

Committee Reports

House

Ought to Pass - As Amended

The Committee on Marine Resources on, Bill, "An Act to Clarify Provisions for Fish Weirs and Clam Ordinances in Unorganized Territories." (H. P. 1716) (L. D. 1822)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H. 793).

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

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

Divided Report

The Majority of the Committee on Local and County Government on, Bill, "An Act Pertaining to the Abandonment of Public Ways." (H. P. 738) (L. D. 1856)

Reported that the same Ought to Pass.

Signed:

Senators:

EMERSON of Penobscot

COTE of Androscoggin

Representatives:

DUTREMBLE of Biddeford

PARADIS of Old Town

STOVER of West Bath

McHENRY of Madawaska

BORDEAUX of Mt. Desert

DRINKWATER of Belfast

WENTWORTH of Wells

NELSON of Roque Bluffs

LaPLANTE of Sabattus

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

Signed:

Senator:

REDMOND of Somerset

Comes from the House, the Bill Passed to be Engrossed.

Which Reports were Read.

The PRESIDENT: The Chair recognizes the Senator from Somerset, Senator Redmond.

Senator REDMOND: I move we accept the Ought Not to Pass Report of the Committee. I would like to speak to my motion.

The PRESIDENT: The Senator has the floor.

Senator REDMOND: At present the usual way for a municipality to terminate its interest in a public way is by discontinuance. Under 23 MRSA, Section 3026, this action relieves the municipality of the responsibility for maintenance and so forth.

Ordinarily a public easement is retained. For ways established before January 1, 1946, and not kept passable by the municipality or the county for the 30 year period from 1946 to 1976, an abbreviated procedure "abandonment" is available.

The main difference in procedure is that these roads are presumed to be abandoned, so opponents must rebut that presumption.

Abandoned ways are relegated to essentially the same status as discontinued ways. The amendment would make it a little harder to rebut presumption of abandonment by noting that isolated acts of maintenance do not constitute evidence of intent by the municipality or county to maintain the road. So actually this bill really is not necessary.

The PRESIDENT: Is it the pleasure of the

Senate to accept the Minority Ought Not to Pass Report of the Committee.

The Chair recognizes the Senator from Penobscot, Senator Emerson.

Senator EMERSON: I would urge the Members of the Senate to vote against the pending motion. I think Senator Redmond explained it quite well in that if a town, for instance, dumps one load of gravel on a road, that it wouldn't count as a road not being abandoned.

I really think that we should vote against the pending motion.

The PRESIDENT: The Chair will order a Division.

Will all those Senators in favor of the motion to accept the Ought Not to Pass Report of the Committee, please rise in their places to be counted.

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

3 Senators having voted in the affirmative, and 22 Senators in the negative, the Motion to accept the Minority Ought Not to Pass Report does not prevail.

The Majority Ought to Pass Report of the Committee, Accepted, in concurrence, 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

Resolution, Proposing an Amendment to the Constitution of Maine to Bring into Conformance the Year in which the House and Senate shall be Apportioned. (H. P. 1720) (L. D. 1824)

Which was Read a Second Time.

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

Bill, "An Act to Increase the Level of the Maine Wage Assurance Fund." (H. P. 1785) (L. D. 1894)

Bill, "An Act Relating to the Effective Date of Administrative Changes in the Employment Security Law." (Emergency) (H. P. 1762) (L. D. 1888)

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

House - As Amended

Bill, "An Act Relating to Plumbing Permits and Waivers for Septic Systems under Certain Conditions." (H. P. 1727) (L. D. 1846)

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

Senate - As Amended

Bill, "An Act to Allow School Districts to Account for Federally-subsidized Pupils as Residents of the District and not of the Municipality in which they Reside." (S. P. 720) (L. D. 1870)

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 Increase the Fees for the Driver Education Evaluation Program. (H. P. 1691) (L. D. 1801)

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

An Act to Eliminate the Requirement for Certain Adjudicatory Proceedings before the Board of Registration in Medicine. (H. P. 1642) (L. D. 1751)

An Act Relating to Suspension on Nonappearance under the Motor Vehicle Laws. (H. P. 1644) (L. D. 1753)

An Act to Redefine Golf Club, under the Liquor Laws, to Include Clubs with over 1,200 Yards per 9 Holes. (H. P. 1688) (L. D. 1796)

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

An Act Relating to Hunter Safety. (H. P. 1612) (L. D. 1722)

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

Senator O'LEARY: Mr. President, when this bill was reported out of committee and was on this floor before this body, I raised questions about it. I am not sure that this Engrossed copy that I have in my book is correct. I thought the words "recklessly endangered" was supposed to have been removed through an amendment, although I see that it is still here in the bill.

I asked one member of the committee why they wanted to change the wording in the law? He said that they had three cases, and they had to let them go. Apparently found them not guilty. I asked if there was any proof that they were guilty.

I am not absolutely sure that this bill that is before us is correct right now, in the engrossment copy. Would someone table it for a day so that we could find out?

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

An Act Providing for Return of Patients to Mental Health Institutions. (H. P. 1683) (L. D. 1792)

On Motion by Senator Conley of Cumberland, Tabled for 1 Legislative Day, pending Enactment.

Emergency

An Act Amending the Charter of the York Sewer District. (H. P. 1740) (L. D. 1858)

This being an emergency measure and having received the affirmative votes of 27 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 Authorizing the Bureau of Consumer Protection to Inform and Advise the Public and to Investigate and Prosecute Complaints Under the Fair Credit Reporting Act." (H. P. 1814) (L. D. 1926)

Tabled—February 19, 1980 by Senator Chapman of Sagadahoc.

Pending—Passage to be Engrossed.

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

Senator CHAPMAN: Mr. President I offer Senate Amendment "A" under filing number S-419 and move it's adoption.

The PRESIDENT: The Senator from Sagadahoc, Senator Chapman, now offers Senate Amendment "A" to L. D. 1926 and moves it's adoption.

Senate Amendment "A" (S-419) Read.

The PRESIDENT: The Senator has the floor.

Senator CHAPMAN: The Statement of Fact on this amendment is quite comprehensive and it explains in detail, but essentially this modifies the bill to stipulate that in the examination of any user of a credit report will be charged a fee unless violations are found.

Further directs the Bureau of Consumer Protection to work together with the Bureau of Insurance, as regards inspection of Insurance Companies so that they are not duplicating their efforts as far as the expense to the Bureau and as far as the involvement on the Insurance Companies.

Senate Amendment "A" Adopted.

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

Sent down for concurrence.

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

Senator LOVELL: Mr. President and Members of the Senate: You probably have gotten a notice on your desks this morning called the "Restater for Retired Maine State Employees."

As Chairman of the Committee on Retirement, I felt it my duty to mention this to you, so that you can think this thing over as time goes on.

Last year we had a bill in, in fact, let's go back a little earlier, back when the good Senator from Knox, Senator Collins was chairman of this committee in the 107th Legislature. We passed a bill for a 4% increase to the retired persons in the State of Maine. The retired persons in the State of Maine include 5,677 State Employees, 6,626 teachers, and 2,688 from participating districts, for a total of 14,991 as of June 30, 1979.

Now when we passed this bill for 4% it went through very handily, and it was the understanding of the committee at the time, that if inflation went up, the committee would then go along with a bill that would meet the inflation so the senior citizens of our State and our towns and cities who have worked hard and deserve retirement could keep up with the cost-of-living. So that they could buy their fuel, their food, and whatever necessary things they might need.

So last year we had a bill in for 3% and this 3% was over and above the 4% that we had previously voted. So the 3% came to about \$2,000,000. It passed the other body and it passed the body very handily, but we did not have the money and it was tabled and killed by the Appropriations Committee.

Now we have before us another bill, which is brought up here L. D. 1784, which they want 10% more to increase the cost-of-living, which will amount to over \$6,000,000. Now we have not heard this bill yet. But on the other hand if we hear this bill, and we will, there's probably not much sense in it because the Appropriations Committee is going to kill it. The Governor has come out and said that he is for no new taxes. There's no way that I can see, that this bill can be financed unless we have some kind of a tax.

I think that this Senate should think very carefully on what do you want to do with the Senior Citizens in Maine, that have worked their lifetime, and have retired and deserve to retire, but they have got to meet the cost-of-living somehow.

I thank you for your attention. I hope everybody will read this sheet over and come to some conclusion on what you want to do and contact the Governor. This actually should have probably been sent to the Governor, not to the Senate. He is the one who is going to be able to make the decision, on whether we are going to pass this or not. Thank you.

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 19, 1980 by Senator O'Leary of Oxford.

Pending—Motion of Senator Carpenter of Aroostook to Recede and Concur.

The PRESIDENT: The Chair recognizes the Senator from Aroostook, Senator Carpenter.

Senator CARPENTER: Mr. President, I request Leave of the Senate to Withdraw my Motion to Recede and Concur.

The PRESIDENT: The Senator from Aroostook, Senator Carpenter, now requests Leave of the Senate to Withdraw his Motion that the Senate Recede and Concur with the House.

Is it the pleasure of the Senate to Grant this Leave?

It is a vote.

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

Senator O'LEARY: Mr. President, I will now make the Motion to Recede. I have talked with a Member of the Board this morning, and they seem to have no more objections to this bill as long as these two amendments that I shall present are attached to the bill.

The PRESIDENT: The Senator from Oxford, Senator O'Leary moves that the Senate Recede.

Is this the pleasure of the Senate?

The Motion Prevailed.

The Senator has the floor.

Senator O'LEARY: Mr. President, I present Senate Amendment "A" to L. D. 1767 under Filing Number S-415 and move it's adoption.

The PRESIDENT: The Senator from Oxford, Senator O'Leary, now offers Senate Amendment "A" to L. D. 1767 and moves it's adoption.

Senate Amendment "A" (S-415) Read.

The PRESIDENT: The Senator has the floor.

Senator O'LEARY: Mr. President and Members of the Senate: This amendment reduces the possibility of mobile barber shops encroaching into areas already served by excluding them from the municipalities adjacent to a municipality already served by a licensed barber shop. This was one of the concerns of the board, I believe it was a good legitimate concern.

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

Senator CONLEY: Mr. President, if I may, I would like to pose a question through the Chair to the good Senator from Oxford, Senator O'Leary, I would like to know if we are legislating for the people of the State or for the Board?

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, I detect just a hint of criticism in the question that has just been posed.

Yesterday you remember that there were a great many people from the Legion here. After the session yesterday, one of them grabbed my arm and said: "If what we have seen here today is an example of how you people settle things, God help the people of the State of Maine."

Actually I was very pleased with what happened yesterday and today. It was the Democratic Process. Somebody had a Legislative idea that you meet people's needs. Senator O'Leary didn't sponsor the bill but the good Senator from Oxford, has done what is the best in any Legislature. He has listened carefully. He's identified a way to bring the parties together. I'm sure if the Legionnaires were here today, they would be proud of him.

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

Senator LOVELL: Mr. President and Members of the Senate: In noting the amendment, I see that there is no distance stated there. So consequently, if a town is only 1 mile from another town, which is quite often in the southern part of the State, like down in Lyman, Arundel, some of those towns. Then this mobile barber shop could go right into these towns that don't have a barber shop but they still would only be a mile or two away from several good barber shops. So I think that should be incorporated into the amendment before I would want to vote for the amendment. I think that I would move Indefinite Postponement of the amendment.

The PRESIDENT: The Chair recognizes the Senator from Somerset, Senator Redmond.

Senator REDMOND: It seems to me Senate Amendment "B" is very reasonable. No matter how we look at it, I think the Senate's concern is that people get the services, no matter how you look at it, people are going to

get clipped.

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

Senator CONLEY: Mr. President, along with the remarks of the good Senator from Somerset, Senator Redmond, if anybody has a real problem about the amendment, maybe we should all step outside in the alley and meet with the board. They could probably clarify anything that is bothering. A mile or 500 yards, what's the difference? If they have real problems about this, we ought to bring a little recess here, and discuss this bill out in the hallway.

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

Senator O'LEARY: Mr. President, I thought I explained it yesterday about the City of Augusta here having a number of barbers. Manchester having none. With this amendment they can't put a mobile unit in Manchester. Monmouth, Leeds, they perhaps don't have a barber shop, but because Winthrop does and it's an adjacent town, they could not have a mobile unit there. These mobile units will be regulated by the board.

I suspect the board, if it has any problems with these mobile units, will be back here in another year, and we'll address the problems. I'll work with them wholeheartedly. I would oppose the motion to Indefinitely Postpone.

The PRESIDENT: Is the Senate ready for the question?

The Chair will order a Division.

Will all those Senators in favor of the Motion to Indefinitely Postpone Senate Amendment "A", please rise in their places to be counted.

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

1 Senator having voted in the affirmative, and 28 Senators in the negative, the Motion to Indefinitely Postpone Senate Amendment "A" does not prevail.

Senate Amendment "A" Adopted.

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

Senator O'LEARY: I now offer Senate Amendment "B", under Filing S-417 and move it's adoption.

The PRESIDENT: The Senator from Oxford, Senator O'Leary, now offers Senate Amendment "B" to L. D. 1767 and moves it's adoption.

Senate Amendment "B" (S-417) Read.

The PRESIDENT: The Senator has the floor.

Senator O'LEARY: Mr. President, whereas the Board is the one that licenses these mobile units, the same as barber shops. Where barber shops have to be licensed in each and every municipality, this amendment brings the mobile unit into strict conformance with the rules and regulations of the Board.

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

Senator PRAY: Mr. President, and Members of the Senate, looking at today's Advance Journal, if you'll turn to page 5, you'll notice Item 4 on that, Tabled Unassigned, is a Bill to Increase License and Examination Fees for Barbers. With all the debate that this has received, the cost of energy, hopefully we'll have a number of these and we won't have to have an increase in fees.

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

Senator MINKOWSKY: Mr. President, and Members of the Senate, I am in concurrence with the second amendment proposed by the good Senator from Oxford, Senator O'Leary. Just another point of clarification if I may. Since we discussed this in depth yesterday, that each municipality should license mobile barber shops. Does this also mean that each municipality can tax the mobile barber shop in it's regular tax assessment basis, or does it just mean that the area or domicile where the barber, who owns the mobile unit, lives can tax

this particular unit?

The PRESIDENT: The Senator from Androscoggin, Senator Minkowsky, has posed a question through the Chair to anyone who may care to answer.

The Chair recognizes the Senator from Somerset, Senator Redmond.

Senator REDMOND: I would say that each municipality will either just give a permit or a tax, according to Home Rule. They have that privilege. It's not up to the Legislature to decide exactly what they will do.

Senate Amendment "B" Adopted.

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

Sent down for concurrence.

On Motion by Senator Katz of Kennebec, there being no objections, all matters previously acted upon were sent forthwith.

The President appointed the following conferees on the part of the Senate concerning: Joint Order Relative to Lakeview Plantation. (H. P. 1811)

Senators:

McBREAIRTY of Aroostook

TEAGUE of Somerset

CLARK of Cumberland

On Motion by Senator Pierce of Kennebec, adjourned until 9:30 tomorrow morning.