

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

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

March 3, 1980

Senate called to order by the President.

Prayer by the Honorable Walter W. Hichens of Eliot.

Senator HICHENS: May we unite in prayer! Our Heavenly Father we bow before thee on this beautiful March morning. We thank thee Lord for thy care over us during the weekend, we pray that thou will be with us as we return to deliberate on the many pressing issues before us.

Lord, give us wisdom, give us understanding, and a sense of empathy for those round about us, that we may work together as one combined unit, for the good of the people of the State of Maine. For we ask in thy name. Amen.

Reading of the Journal of yesterday.

Papers From the House
Joint Orders

Expressions of Legislative Sentiment recognizing:

Mr. and Mrs. Wilbert Nickerson, of Franklin, who celebrated their 50th wedding anniversary on January 20, 1980. (H. P. 1884)

The Washington Academy Raiders and Coach Donald Wood, winners of Class C Eastern Maine boys' basketball championship of 1979-80. (H. P. 1885)

The Medomak Valley High School, winners of the 1979-80 Western Maine Class B boys' basketball championship. (H. P. 1886)

The Van Buren soccer team which won the 1979-80 Eastern Maine Class B soccer championship. (H. P. 1887)

Robert Philbrook, of Portland, the recipient of the 1980 Jefferson award for greatest public service benefiting the disadvantaged. (H. P. 1888)

Gerald E. Talbot, of Portland, a former member of the House of Representatives, who is the recipient of the 1980 Jefferson Award. (H. P. 1889)

Daniel Morrow, of Van Buren, who has been accepted for membership in the United States Collegiate Wing Band, a highly selective musical organization. (H. P. 1890)

Helen Marshall, of Old Orchard Beach, who has been named an outstanding citizen of that community for 1980. (H. P. 1892)

Come from the House, Read and Passed.

Which were Read and Passed, in concurrence.

Senate Papers

The Maine Probate Law Revision Commission Pursuant to P&SL 1973, c. 126; P&SL 1975, c. 147, and PL 1977, c. 712, submitted, RESOLUTION, Proposing an Amendment to the Constitution of Maine Repealing the Exclusion of Judges of Probate from the Governor's Authority to Appoint all Judicial Officers. (S. P. 778)

Reference to the Committee on Judiciary is suggested.

On Motion by Senator Collins of Knox, Tabled for 1 Legislative Day, pending Reference.

Orders

An Expression of Legislative Sentiment recognizing:

Mrs. Adeline Merritt, a resident of the Williams Health Care Facility in Augusta, who celebrated her 103rd birthday on February 5, 1980. (S. P. 776)

is presented by Senator Katz of Kennebec.

Which was Read.

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

Senator CONLEY: Mr. President, with respect to SP 776, I would pose a question through the Chair asking the good Senator from Kennebec, if this is authentic, this particular order,

recognizing this very charming young lady.

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

Senator KATZ: Mr. President, it's authenticity certainly must be justified by my request that it not be tabled today.

Which was Passed.

Sent down for concurrence.

An Expression of Legislative Sentiment recognizing:

The Gorham High School Girls' Basketball Team, 1979-80 Western Maine Class B champions and champions for the 3rd consecutive year. (S. P. 777)

is presented by Senator Usher of Cumberland (Cosponsors: Representative Brown of Gorham and Representative Gowen of Standish).

Which was Read and Passed.

Sent down for concurrence.

On motion by Senator Collins of Knox,

WHEREAS, it appears to the Senate of the 109th Legislature that the following are important questions of law and that this is a solemn occasion; and

WHEREAS, a bill, S. P. 775, L. D. 1968, "AN ACT to Transfer Probate Jurisdiction to the Superior Court," attached as Exhibit A, has been introduced into the Senate and is now pending before that body; and

WHEREAS, the constitutionality of S. P. 775, L. D. 1968, has been questioned and it is important that the Legislature be informed as to the constitutionality of the proposed bill; now, therefore, be it

ORDERED, that in accordance with the provisions of the Constitution of Maine, the Justices of the Supreme Judicial Court are hereby respectfully requested to give to the Senate their opinion on the following questions:

1. Would S. P. 775, L. D. 1968, "AN ACT to Transfer Probate Jurisdiction to the Superior Court," if enacted, constitute a violation of the Constitution of Maine, Article V, Part First, Section 8, which excludes the appointment of "judges of probate" from the Governor's authority to appoint all judicial officers?

2. Would S. P. 775, L. D. 1968, if enacted, constitute a violation of the Constitution of Maine, Article VI, Section 6 in that it would not "establish a different Probate Court system with full-time judges?"

Which was Read.

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

Senator COLLINS: Mr. President, last Friday I mentioned briefly the fact that we would be asking for a special procedure concerning the Report of the Maine Probate Law Revision Commission.

Later in our calendar under the Orders of the Day, we will have before us a bill, which would transfer Probate Jurisdiction. I will be asking the Senate at that time to Suspend the Rules, and take this matter through its First and Second Readings. Then to table that item until such time as we can have an answer from the Law Court concerning the serious problems that are presented by the nature of this report.

On your desks this morning you will find a light blue covered report, dated February 21, 1980, which tells in considerable detail what is proposed here and why there is a Constitutional problem to be resolved before we do anything.

Whether or not the bill that the commission has recommended is the answer, I do not know at this point. It is doubtful whether we can really do justice to this entire report in this session. However, we can make a valuable contribution to this study about probate structure by getting the answers to certain Constitutional problems. That is the purpose of this order that is now before us.

In getting the answer to this problem, we may or may not find that the legislation that is proposed can go ahead, but the fact is that

when we amended the constitution, back in 1967 we did it in a very unusual way, because we said that that Constitutional Amendment back in 1967 did not become effective until certain conditions were met. Whether or not those conditions were met by the proposal that is now submitted by the commission is a serious question that must be addressed before we know in what manner we may treat or not treat their proposal.

I would ask that the Senate pass this Order and later I will make the procedural moves that I have suggested in this explanation. Thank you.

Which was Passed.

Committee Reports
House

The following Ought Not to Pass report shall be placed in the legislative file without further action pursuant to Rule 22 of the Joint Rules:

Bill, "An Act to Eliminate Dedicated Revenues for the Department of Inland Fisheries and Wildlife." (H. P. 1828) (L. D. 1932)

Ought to Pass

The Committee on Legal Affairs on, Bill, "An Act Concerning the Incorporation of the Mission Congregational Church." (H. P. 1791) (L. D. 1909)

Reported that the same Ought to Pass.

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

Which Report was Read and Accepted in concurrence, and the Bill Read Once and Tomorrow Assigned for Second Reading.

Ought to Pass — As Amended

The Committee on Marine Resources on, Bill, "An Act to Allow the Commissioner of Marine Resources to Exercise Limited Authority over the Conservation of Atlantic Salmon." (H. P. 1630) (L. D. 1740)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-785).

Comes from the House, the Bill Passed to be Engrossed as amended by House Amendment "B" (H-809).

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

(Off Record Remarks)

Second Readers

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

House — As Amended

Bill, "An Act Relating to the Powers of Hospital Administrative District No. 1 in Penobscot County." (Emergency) (H. P. 1818) (L. D. 1946)

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 Permit the Department of Transportation to Acquire Railroad Operating Equipment. (S. P. 666) (L. D. 1720)

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

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

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

An Act Relating to the Provision of Telephone Equipment by Telephone Companies to the Hearing Impaired and their Families. (S. P. 655) (L. D. 1694)

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

Senator KATZ: Mr. President, this bill which is being Enacted in a somewhat different form than it first appeared before us has to do with telecommunication typewriters. I guess this is a system for deaf people.

The bill seems to be in 2 parts. First it requires the Public Utilities Commission to establish specific rates for the hearing impaired, who use this equipment. The second part confuses me because it sets a procedure for appropriations of dollars for the purchase of these telecommunication typewriters and there is no appropriation. It just says that if money is available, that it can be used for this purpose.

I just want it clearly understood that we have not created a program here today by this Legislation, which is going to obligate any future Legislature to make any such appropriation.

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

Senator DEVOE: Thank you Mr. President, I would like to answer the questions that the Senator from Kennebec has raised.

He is correct that the first section of the bill directs the Public Utilities Commission to establish a rate for those who have a hearing impairment.

The second part of the bill was more or less of a compromise. We realized that technology is changing in telecommunication devices for deaf people. It is our hope that at sometime in the future if there were a possibility that money could be appropriated, that those with hearing impairments would be able to have a portion of the cost of these devices paid for by the State.

We are not intending to obligate the State to establish an appropriation. If an appropriation is deemed possible by some future Legislature then it would permit those with hearing impairment to have some help in the purchase of these devices. Thank you very much, Mr. President.

Which 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 Make Corrections of Errors and Inconsistencies in the Laws of Maine." (S. P. 770) (L. D. 1964)

Tabled—February 29, 1980 by Senator Collins of Knox.

Pending—Passage to be Engrossed.

On Motion by Senator Collins of Knox, Retabled for 2 Legislative days.

The Chair laid before the Senate the second 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 29, 1980 by Senator Katz of Kennebec.

Pending—Enactment.

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

The Chair laid before the Senate the third tabled and specially assigned matter:

Bill, "An Act to Transfer Probate Jurisdiction to the Superior Court." (S. P. 775) (L. D. 1968)

Tabled—February 29, 1980 by Senator Collins of Knox.

Pending—Reference.

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

Senator COLLINS: Mr. President, I have been asked whether this bill would be referred to a Committee later in the course of its history. The answer is yes, but we think that it would be much more productive if we get the difficult legal questions answered first. That is why I am presenting the suggestive procedure that I described earlier. I move that the Bill be given its first and second reading at this time.

The PRESIDENT: Is it the pleasure of the Senate to Suspend its Rules, in order to give LD 1968 its First Reading without Reference to Committee.

It is a vote.

Under Suspension of the Rules, the Bill read twice.

On Motion by Senator Collins of Knox, Retabled.

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