

# MAINE STATE LEGISLATURE

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# LEGISLATIVE RECORD

OF THE

**One Hundred And Fifteenth Legislature**

OF THE

**State Of Maine**

**VOLUME IV**

**FIRST REGULAR SESSION**

Senate  
May 22, 1991 to July 10, 1991

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STATE OF MAINE  
ONE HUNDRED AND FIFTEENTH LEGISLATURE  
FIRST REGULAR SESSION  
JOURNAL OF THE SENATE

PAPERS FROM THE HOUSE  
Non-concurrent Matter

In Senate Chamber  
Friday  
July 5, 1991

Senate called to Order by the President.

Prayer by the Honorable Dale McCormick of Kennebec.

**SENATOR DALE MCCORMICK:** The mediation today is by Bob Dylan. The prayer is by Dale McCormick. You may be an Ambassador to England or France. You might like to gamble, you might like to dance. You may be the heavy weight champion of the world. You might be a socialite with a long string of pearls. But you are going to have to serve somebody. Yes, indeed, you are going to have to serve somebody. Oh it might be the Devil. It might be the Lord. But you are going to have to serve somebody. You might be a State Trooper, you might be a young tough. You might be the head of some big cable TV network. You may be rich or poor. You may be blind or lame. You might be living in another country under another name. But you are going to have to serve somebody. Yes, indeed, you are going to have to serve somebody. Oh it might be the Devil. It might be the Lord. But you have to serve somebody. You might be a construction worker working on a home. You might be living in a mansion. You might be living in a dome. You may own guns, or you may even own tanks. You may be somebody's landlord. You may even own banks. But you are going to have to serve somebody. Yes, indeed, you are going to have to serve somebody. Oh it might be the Devil. It might be the Lord. But you are going to have to serve somebody. You might be a preacher preaching spiritual pride. You might be a city councilor taking bribes on the side. You may be working in a barber shop. You may know how to cut hair. You may be somebody's mistress. You may be somebody's heir. But you are going to have to serve somebody. Yes, indeed, you are going to have to serve somebody. Oh it might be the Devil. It might be the Lord. But you are going to have to serve somebody. You might like to wear cotton. You might like to wear silk. You might like to drink whiskey. You might like to drink milk. You might like to eat caviar. You might like to eat bread. You may be sleeping on the floor. You might be sleeping in a king sized bed. But you are going to have to serve somebody. Yes, indeed, you are going to have to serve somebody. Oh it might be the Devil. It might be the Lord. But you are going to have to serve somebody. Lord, help us to realize who we are here to serve. Amen.

Reading of the Journal of Tuesday, July 2, 1991.

Bill "An Act Making Unified Appropriations and Allocations for the Expenditures of State Government, General Fund and Other Funds, and Changing Certain Provisions of the Law Necessary to the Proper Operations of State Government for the Fiscal Years Ending June 30, 1991, June 30, 1992 and June 30, 1993" (Emergency)

H.P. 1379 L.D. 1967  
(H "C" H-741; S "A"  
S-416)

In House, July 2, 1991, PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENTS "A" (H-738); "B" (H-740) AND "C" (H-741).

In Senate, July 2, 1991, PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENT "C" (H-741) AND SENATE AMENDMENT "A" (S-416) in NON-CONCURRENCE.

Comes from the House, that Body ADHERED.

On motion by Senator BRANNIGAN of Cumberland, the Senate RECEDED and CONCURRED.

Non-concurrent Matter

Bill "An Act to Improve the Maine Workers' Compensation System"

H.P. 1372 L.D. 1957  
(H "B" H-696; H "C"  
H-697)

In Senate, June 26, 1991, PASSED TO BE ENACTED, in concurrence.

Returned to the House, July 1, 1991, by the Governor, together with his objections.

Comes from the House, Bill and Accompanying Papers RECOMMENDED to the Committees on BANKING AND INSURANCE and LABOR in NON-CONCURRENCE.

On motion by Senator CLARK of Cumberland, Tabled until Later in Today's Session, pending FURTHER CONSIDERATION.

Joint Resolution

Following Joint Resolution: H.P. 1381

JOINT RESOLUTION COMMEMORATING  
THE 175TH ANNIVERSARY OF THE TOWN OF GREENWOOD

WHEREAS, the Town of Greenwood, with its 770 residents, exemplifies the character that makes Oxford County and the State of Maine special; and

WHEREAS, the town has long reflected the rich cultural heritage of Maine, being populated over the years by English, Scottish, Finnish and Irish immigrants; and

WHEREAS, the town, formerly Number Four Plantation, was originally comprised of 3 separate land grants made in 1795, 1797 and 1805; and

WHEREAS, the first road through the town was built in 1798-1799 from North Norway, over Patch Mountain to Bethel; and

WHEREAS, the area's first settlers were William and Martha Yeats, who first cleared their land on Patch Mountain in 1800; and

WHEREAS, the residents of the area first assembled on May 8, 1813, to form a plantation government and petitioned the General Court of Massachusetts in 1815 to be incorporated as a township; and

WHEREAS, the town was incorporated on February 2, 1816, creating the Township of Greenwood, the 213th town in Maine; and

WHEREAS, the center of commerce in the town has shifted over the years from Patch Mountain to Greenwood City to Locke Mills, creating a diversified population and rich history; and

WHEREAS, Greenwood is recognized worldwide for the minerals and gemstones that have been found in its soils and is recognized within the State for its timber, wood turning, agriculture and skiing and other recreational industries; now, therefore, be it

RESOLVED: That We, the Members of the One Hundred and Fifteenth Legislature, now assembled in the First Regular Session, take this occasion to recognize the 175th anniversary of the Town of Greenwood, and to commend the inhabitants and officials of this town for the success they have achieved together for 175 years, and to extend to each our sincere hopes and best wishes for continued achievement over the next 175 years; and be it further

RESOLVED: That suitable copies of this resolution, duly authenticated by the Secretary of State, be transmitted to the citizens and officials of this proud community in honor of the occasion.

Comes from the House **READ** and **ADOPTED**.

Which was **READ** and **ADOPTED**, in concurrence.

Off Record Remarks

Under suspension of the Rules, all matters thus acted upon were ordered sent down forthwith for concurrence.

**COMMITTEE REPORTS**

House

**Ought to Pass**

The Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** on Bill "An Act to Make Changes to the Laws Governing the Maine State Retirement System" (Emergency)

H.P. 1376 L.D. 1961

Reported that the same **Ought to Pass**, pursuant to Joint Order (H.P. 51).

Comes from the House with the Report **READ** and Bill and Accompanying Papers **INDEFINITELY POSTPONED**.

Which Report was **READ** and **ACCEPTED** in **NON-CONCURRENCE**.

The Bill **READ ONCE**.

On motion by Senator **MCCORMICK** of Kennebec, Bill and Accompanying Papers **INDEFINITELY POSTPONED**, in concurrence.

Senate at Ease

Senate called to order by the President.

**ORDERS OF THE DAY**

On motion by Senator **BRANNIGAN** of Cumberland, the Senate removed from the **SPECIAL APPROPRIATIONS TABLE** the following matter:

An Act to Extend the Commission to Study the Future of Maine's Courts

H.P. 1280 L.D. 1850  
(C "A" H-508)

Tabled - June 10, 1991, by Senator **BRANNIGAN** of Cumberland.

Pending - **ENACTMENT**

(In House, June 10, 1991, **PASSED TO BE ENACTED**.)

(In Senate, June 5, 1991, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-508)**, in concurrence.)

**THE PRESIDENT:** The Chair recognizes that same Senator.

Senator **BRANNIGAN**: Thank you Mr. President. Ladies and Gentlemen of the Senate. The staff informs me that this was put on the Table in error. The costs are absorbed, therefore it should not have been placed on the Table. I move its enactment.

Which was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

Senator **WEBSTER** of Franklin was granted unanimous consent to address the Senate off the Record.

Off Record Remarks

On motion by Senator **CONLEY** of Cumberland, **RECESSED** until the sound of the bell.

After Recess

Senate called to order by the President.

Off Record Remarks

Out of order and under suspension of the Rules, the Senate considered the following:

**COMMUNICATIONS**

The Following Communication:

**STATE OF MAINE  
OFFICE OF THE GOVERNOR  
AUGUSTA, MAINE 04333**

July 5, 1991

The Hon. Charles P. Pray  
President of the Senate  
State House Station 3  
Augusta, ME 04333

The Hon. John L. Martin  
Speaker of the House  
State House Station 2  
Augusta, ME 04333

Dear Charlie and John:

During our discussions over the last week, you have both told me that you believe reform of our workers' compensation system is necessary. However, you have not authorized members of the House and Senate to begin to negotiate on the issue so we can break the current legislative stalemate. Because of your inaction many suspect that the Democrats are not serious about finding significant savings in workers' compensation insurance rates (see the attached article from yesterday's Morning Sentinel).

Maine businesses are closing, laying people off, and refusing to hire additional employees due to our high cost of workers' compensation insurance. From professional sports teams to the logging industry, legislative inaction is costing us jobs (see attached Bangor Daily News article).

I urge you to consider our competitive position versus other states in attracting jobs for our workers. When our workers' compensation rates are 2-1/2 times the national average, change is imperative. Even states like Colorado with a Democratic Governor are reducing their workers' compensation insurance rates to become more competitive (see the attached summary of recent Colorado legislative action).

We are all concerned about treating our injured workers fairly, but Maine's system is out of line when compared to other states (see the attached comparison).

Once again, I ask you to designate the legislators who are authorized to work with our Administration to resolve this impasse.

It is time we put both state government workers and those Mainers who are unemployed due to our high workers' compensation insurance rates back to work.

Sincerely,

S/John R. McKernan, Jr.  
GOVERNOR

Which was **READ**.

**THE PRESIDENT**: The Chair recognizes the Senator from Androscoggin, Senator Gauvreau.

Senator **GAUVREAU**: Thank you Mr. President. Ladies and Gentlemen of the Senate. Like State Government, my microphone remains shut down, and it is sinking into a set of primitive baths.

It was with some interest that when I arrived at the State Capitol this morning, I had an opportunity to peruse the correspondence of today's date addressed to the Presiding Officers from Governor McKernan. As I mentioned to the Body a few days ago, I had an opportunity to deliver correspondence to the Governor's Office, which sought a written response to further clarify the Governor's position regarding Workers' Compensation. I understand that we have before the Body this afternoon for reference L.D. 1972, which is a Bill which does crystalize the gravamen of the Governor's Workers' Compensation proposal.

I would like to note for the Record that I have had an opportunity to meet with the Chairs of both the Banking and Insurance Committee and the Labor Committee, and I have found that those Chairs have been open at all times to discuss alternatives and options which might get us through this particular stalemate on Workers' Compensation. In fact, I understand that the Chairs are meeting at this very moment. It seems to me that we all understand that Maine does have serious problems in its Workers'

Compensation System. However, as it has been said several times, it is essential that we perceive with the business at hand. Workers' Compensation is a very serious problem. The closure of State Government is a crisis.

This morning Senator Berube from Androscoggin and I had the honor and privilege of attending a ceremony in the City Hall in Lewiston. We met with a delegation from the Soviet Union whose trip to this country was sponsored under the American Council of Young Political Leaders. There was a frank and a very candid discussion of views, and of the comparative political systems existing in the Soviet Union and in the United States. I think it is appropriate at this point and time for us to pause and reflect a system that we have developed, which has evolved in our society of the past 200 years. We, of course, do operate under a system of law. The system of law transcends the politics of the moment. It is only because we have subordinated our own particular partisan, and political values, and goals to a system of law that we have achieved the oldest living Constitution on the face of the earth. While we have had a country which has evolved and grown into a major world power, we have under the rule of law developed stability, and a mechanism to reconcile conflicts which do arise in our society.

As I mentioned to you a few days ago, I have grave concerns about the stratagem which has been adopted by our Governor. The enactment of the States Budget Document has been actually linked to enactment of legislation on Workers' Compensation, which the Governor views to his liking. I believe now, as I believe I said two days ago, that the purpose at hand, the primary goal that we have now is to adopt a Budget Document. I understand that we will be asked shortly to pass judgment on a five day Budget Document. Although I intend to vote for that, it seems to me that the responsible action of all of us is to adopt a Biennial Budget, and then get on with the issues at hand in terms of Workers' Compensation. I know that the Chairs of the Committees of Jurisdiction are working on a specific proposal which is being advanced at this time to the Governor's Office, and I think that they will have an opportunity later on in the afternoon to outline what that proposal is. But it seems to me that the letter that we have before us today, the correspondence from the Chief Executive's Office of our state, is in some respects perhaps inaccurate, because it implies that the members of the Legislature are being tangent on Workers' Compensation. That, in fact, is not the case. I think though that my caucus has steadfastly stated the principle that we will observe the process which has evolved in our state. We will perceive to adopt a Budget Document. At that point, we will get onto other pressing issues which include Workers' Compensation. Thank you Mr. President.

Which was, with Accompanying Papers, **ORDERED PLACED ON FILE.**

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Out of order and under suspension of the Rules, the Senate considered the following:

**PAPERS FROM THE HOUSE**

**Non-concurrent Matter**

Bill "An Act Making Unified Appropriations and Allocations for the Expenditures of State Government Necessary to the Proper Operations of State Government for the Period of July 1, 1991 until July 8, 1991" (Emergency)

H.P. 1380 L.D. 1970

Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** suggested and **ORDERED PRINTED.**

In Senate, July 3, 1991, under suspension of the Rules, **READ TWICE** and **PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENT "A" (H-739)**, without reference to a Committee, in concurrence.

In House, July 3, 1991, **FAILED OF ENACTMENT.**

In Senate, July 3, 1991, **RECONSIDERED** whereby the Bill was **PASSED TO BE ENGROSSED AS AMENDED.** Subsequently, **PASSED TO BE ENGROSSED** in **NON-CONCURRENCE.**

Comes from the House, **PASSED TO BE ENGROSSED AS AMENDED BY HOUSE AMENDMENT "B" (H-745)** in **NON-CONCURRENCE.**

The Senate **RECEDED** and **CONCURRED.**

Under suspension of the Rules, ordered sent forthwith to the Engrossing Department.

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Out of order and under suspension of the Rules, the Senate considered the following:

**SENATE PAPERS**

Bill "An Act to Reform the Maine Workers' Compensation System"

S.P. 777 L.D. 1972

Presented by Senator **COLLINS** of Aroostook  
Cosponsored by Senator **BALDACCI** of Penobscot

Which was referred to the Committees on **BANKING AND INSURANCE** and **LABOR** and **ORDERED PRINTED.**

Under suspension of the Rules, ordered sent down forthwith for concurrence.

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Out of order and under suspension of the Rules, the Senate considered the following:

**COMMITTEE REPORTS**

**Senate**

**Divided Report**

The Majority of the Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** on Bill "An Act to Provide the Legislature with Revenue Forecasting Capabilities" (Emergency)

S.P. 232 L.D. 586

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-418)**

Signed:

Senator:

BRANNIGAN of Cumberland

Representatives:

MICHAUD of East Millinocket  
 HICHBORN of Howland  
 POULIOT of Lewiston  
 PARADIS of Frenchville  
 CARROLL of Gray  
 RYDELL of Brunswick  
 CHONKO of Topsham

The Minority of the same Committee on the same subject reported that the same **Ought Not To Pass.**

Senator:

FOSTER of Hancock

Representatives:

FOSS of Yarmouth  
 REED of Falmouth  
 MACBRIDE of Presque Isle

Which Reports were **READ.**

Senator **BRANNIGAN** of Cumberland moved to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report.

**THE PRESIDENT:** The Chair recognizes that same Senator.

Senator **BRANNIGAN:** Thank you Mr. President. Ladies and Gentlemen of the Senate. This Bill deals with the issue of projecting revenue forecasts done by the Executive Branch of this Government. For many years it was done only by the Executive Branch. The Legislative Branch always had to, and in most cases that I have known of were willing to follow the direction of the Finance Officer in being told what amount of money would be coming into the state in the next year and next two years. As everyone knows, through the difficult economic times of the last two years, there has been a great deal of discussion, and sometimes dissension as to the exact picture as to how bad it was, or how bad it was going to be.

Originally, this Bill presented by President Pray of Penobscot and myself, and others, was to give the Legislative Branch its own predictive power. That would have set up a dual system, if not a contentious system. Not unlike many other states, in fact, I

believe that there is one state that has four different groups that make projections, but it seemed like a good idea at the time that the Legislative Branch would have its own predictive power, so that we couldn't sit back and point our finger and say, "Oh, look at the Executive Department, how wrong they were". We would have our own set of numbers, and we would have been able to point to ourselves and say how wrong we were.

But since the Bill was originally drafted, myself and others have done a lot of research around the issue of consensus forecasting. This amended Bill presents to this Body this afternoon the opportunity to adopt for our state a consensus model, as many other states have now, and many others are looking at. A consensus model would have several people knowledgeable in the area of economics, sitting down together publically, openly, because ordinarily this is done not in any hiding way, but in a privacy of an office, and it is just done. But now, people are much more interested, I think, of seeing a public display of the business that we do. This Bill would allow us to have that kind of interaction. The Governor would appoint two people; the President of the Senate and the Speaker of the House. People not connected to the Legislature, not Legislators, but people with expertise in the area of financial forecasting. These folks would sit down in a public forum with the information that they desire to have from the government, and other sources which they wish to draw, and they would forecast to the best of their ability what they believed revenue projections should be. They would present that the Fiscal Officer of the Executive Department, who has the responsibility now, and would still have the responsibility to make the financial estimates. These are all words chosen carefully. The word estimate is the official term for the monies we must look at as we begin to prepare a Budget. This would be presented to the Fiscal Officer, and if he or she decided that they did not wish to accept these projections, then he or she would make a Report publically and openly back to the Governor and the Legislature, and why they were not going to accept those figures.

This would open this up to a very public process. I am very pleased to present that to you today. We worked a great deal, not in the last few days, but this was passed out yesterday very quickly, as I am sure that my counterpart in the Appropriations Committee will attest to. But we worked a great deal with the Administration with folks trying to hammer out something that we would all agree on. We were not able to do that. But, I do believe what we have to offer you is a good consensus forecasting model. I hope that you will accept it. Thank you Mr. President.

**THE PRESIDENT:** The Chair recognizes the Senator from Hancock, Senator Foster.

Senator **FOSTER:** Thank you Mr. President. Ladies and Gentlemen of the Senate. We had this Bill very early on, and over a period of months we had talked about that. I really think that the whole feeling of the Committee was that we would come up with a unanimous Report. Yesterday morning, about 11:25 a.m. we were given this Committee amendment and were told, "We can't be bothered. This is what we are

going to do. That other Report that you are working with is gone." We tried very hard to ask that the Bill be held over. I think that the idea has a merit. I would be willing to work on it. I think I signed a jacket with a note on it to hold the Bill over.

I will be honest. This amendment was printed July 5, 1991. We had a very short period of time. I think with the stress and the contention that is here that it would be a good idea to hold it over and look at it, because it does have merits somewhere along the line. That is all I have to say.

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

Senator **CONLEY:** Thank you Mr. President. Ladies and Gentlemen of the Senate. The good Senator from Hancock has just pointed out that this Bill was printed July 5th, and with everything going on, perhaps we could carry it over and look it. If she will agree to do that with her Bill, I will agree to do that with the good Senator from Aroostook, Senator Collins' Bill on Workers' Compensation. That, too, was just printed, and if we could just get that carried over, we could get on with what we are supposed to be doing here!

**THE PRESIDENT:** The Chair recognizes the Senator from Hancock, Senator Foster.

Senator **FOSTER:** Thank you Mr. President. Ladies and Gentlemen of the Senate. My friend of three seats down and I share one thing in common, we are very quick Irish people. Sometimes we sort of relish in needling one another. But I shall not be needled on this. I mean it deeply. This was not a Bill that over the year was crucial. I think that we all know from whence we come, whence we say, and I am not going to fight you on this one. So you can scream, and yell, and holler, and that's about it. Thank you.

Senator **CAHILL** of Sagadahoc requested a Division.

**THE PRESIDENT:** The pending question before the Senate is the motion by Senator **BRANNIGAN** of Cumberland to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report.

Will all those in favor of the motion by Senator **BRANNIGAN** of Cumberland to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, please rise in their places and remain standing until counted.

Will all those opposed please rise in their places and remain standing until counted.

19 Senators having voted in the affirmative and 12 Senators having voted in the negative, the motion by Senator **BRANNIGAN** of Cumberland to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, **PREVAILED**.

The Bill **READ ONCE**.

Committee Amendment "A" (S-418) **READ** and **ADOPTED**.

Which was, under suspension of the Rules, **READ A SECOND TIME**, and **PASSED TO BE ENGROSSED, As Amended**.

Under suspension of the Rules, ordered sent down forthwith for concurrence.

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Off Record Remarks

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On motion by Senator **MCCORMICK** of Kennebec, **RECESSED** until the sound of the bell.

After Recess

Senate called to order by the President.

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Out of order and under suspension of the Rules, the Senate considered the following:

**PAPERS FROM THE HOUSE**

**Joint Order**

The following Joint Order: H.P. 1382

**ORDERED**, the Senate concurring, that the Joint Standing Committee on Labor and the Joint Standing Committee on Banking and Insurance jointly report out a bill to the House to reform the worker's compensation system.

Comes from the House **READ** and **PASSED**.

Which was **READ** and **PASSED**, in concurrence.

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Off Record Remarks

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On motion by Senator **MILLS** of Oxford, **ADJOURNED** until Saturday, July 6, 1991, at 1:00 in the afternoon.