

# MAINE STATE LEGISLATURE

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**Legislative Record**

OF THE

**One Hundred and Seventh Legislature**

(First Special Session)

OF THE

STATE OF MAINE

**1976**

KENNEBEC JOURNAL  
AUGUSTA, MAINE

the Senate that this order be passed and sent down for concurrence?

It is a vote.

On motion by Mr. Thomas of Kennebec,  
State of Maine

In The Year Of Our Lord One Thousand Nine Hundred And Seventy-six.

WHEREAS, The Legislature has learned of the Outstanding Achievement and Exceptional Accomplishment of Dean Ernest C. Marriner of Waterville Who On March 25, 1976 Was Awarded A Special Bicentennial Award By The Waterville Area Chamber of Commerce

We the Members of the Senate and House of Representatives do hereby Order that our congratulations and acknowledgement be extended; and further

Order and direct, while duly assembled in session at the Capitol in Augusta, under the Constitution and Laws of the State of Maine, that this official expression of pride be sent forthwith on behalf of the Legislature and the people of the State of Maine. (S. P. 772)

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

Mr. THOMAS: Mr. President and Members of the Senate: At the same dinner last evening, The Chamber of Commerce had a special bicentennial award which they gave to Dean Ernest C. Marriner, who is probably Mr. Waterville. Dean Marriner is a noted historian here in the State of Maine. He has been on the staff of Colby College, first as a librarian, then as a professor of English, then as Dean of Men, and finally as Dean of Faculty when he retired in 1957. He also happens to be the Chairman of the Board of Thomas College. For 23 years he was a member of the State Board of Education, and two times was its chairman. As I said, he is really known for history. He wrote two books, one called Kennebec Yesterdays, and the other called Remembered Maine, and two books on Colby College, one the History of Colby College, and the other one The Life of Franklin W. Johnson, former president of the college. Thank you.

The PRESIDENT: Is it now the pleasure of the Senate that this order be passed and sent down for concurrence?

It is a vote.

#### Orders

On motion by Mr. Katz of Kennebec,  
STATE OF MAINE

In The Year Of Our Lord One Thousand Nine Hundred and Seventy-six.

WHEREAS, The Legislature has learned of the Outstanding Achievement and Exceptional Accomplishment of Julius G. Sussman of Augusta Selected As The Man Of the Year by Le Club Calumet

We the Members of the Senate and House of Representatives do hereby Order that our congratulations and acknowledgement be extended; and further

Order and direct, while duly assembled in session at the Capitol in Augusta, under the Constitution and Laws of the State of Maine, that this official expression of pride be sent forthwith on behalf of the Legislature and the people of the State of Maine. (S. P. 774)

Which was Read and Passed.

Thereupon, under suspension of the rules, sent down forthwith for concurrence.

Mr. Gahagan of Aroostook was granted unanimous consent to address the Senate:

Mr. GAHAGAN: Mr. President and Members of the Senate: Washington's farewell address contained the following words:

"The very idea of the power and the right of the people to establish government presupposes the duty of every individual to obey the established government.

"All obstructions to the execution of the laws, all combinations and associations, under whatever plausible character, with the real design to direct, control, counteract, or awe the regular deliberation and action of the constituted authorities are destructive of this fundamental principle and of fatal tendency."

George Washington was urging us to avoid factionalism. Washington warned us about factionalism, because he wanted us to remember that elected legislators sitting as a body must always govern, rather than factions in the form of political parties and lobbying entities. He also said "... A government for the whole is indispensable. No alliances however strict between the parts can be an adequate substitute. They must inevitably experience the infractions and interruptions which all alliances in all times have experienced."

In the Maine Senate, our ability to lead the people of Maine depends entirely on the Senate's credibility as a deliberative body. Since our constitutional power to spend and tax is derived from the people of Maine, work of quality and integrity is the only means which the Senate has to form policy commanding the respect of the whole citizenry of this state.

In recent weeks, the Senate has been beset with financial problems, and we have been hard pressed to solve them. We face chronic deficits, and any additional obligation we incur will require increased taxation. The Senate has been besieged with requests for money, yet we have been unable to develop the comprehensive approach we have needed to be demonstrably fair to each interest.

Not only has the Senate used a piecemeal approach to funding, but the Maine State Employees' Association, the Maine Teachers' Association, and the American Federation of State, County, and Municipal Employees have used the same piecemeal approach in lobbying with their "alliance for Maine's future." These three groups lobbied initially for one \$50 million tax package, but reverted to a fall-back position of supporting the education funding measure's \$18.3 million. This left the Maine State Employees and AFSCME with dim prospects for pay increases.

MSEA and AFSCME are presently opposing the Hay Report's job reclassification. Should we fail to enact this program, a chaotic collective bargaining situation could easily result unless we postpone collective bargaining.

In a situation as polarized and tense as this one, the quality and integrity of our Senate deliberations are all that sustain our credibility with both the public employees and with the other citizens of our state. Everyone must feel that they have equal access to us, and they especially must believe that no one in this highly charged situation has a privileged access or position of influence.

It concerns me that the Secretary of the Maine Senate is employed by the Maine State Employees Association as legal counsel. In my opinion this situation presents the possibility of the appearance of a conflict of interest on the part of the Secretary.

Lobbying is a legitimate function, and to be respected, it must be done on behalf of the best interests of those being represented. Legal representation of Maine State Employees, or any other entity, must approach the legislature solely on that basis. There especially must be no conflict, direct or apparent, with a constitutional or appointed office of state government.

#### Committee Reports House

#### Ought to Pass — As Amended

The Committee on Health and Institutional Services on, Bill, "An Act to Redefine the Administration of Medication in the Nursing Practice Act." (H. P. 1934) (L. D. 2122)

Reported that the same Ought to Pass as Amended by Committee Amendment "A". (H-1025).

Comes from the House, the Bill Passed to be Engrossed as Amended by Committee Amendment "A", as Amended by House Amendment "A" Thereto (H-1091).

Which report was Read and Accepted in concurrence and the Bill Read Once. Committee Amendment "A" was Read. House Amendment "A" to Committee Amendment "A" was Read and Adopted in concurrence and Committee Amendment "A", as Amended by House Amendment "A" Thereto, was Adopted in concurrence.

Thereupon, under suspension of the rules, the Bill, as Amended, was Read a Second Time and Passed to be Engrossed in concurrence.

The Committee on Judiciary on, Bill, "An Act to Clarify Various Statutes Relating to Superior Court Fees and Costs." (H. P. 1866) (L. D. 2037)

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-1016).

Comes from the House, the Bill Passed to be Engrossed as Amended by Committee Amendment "A" as Amended by House Amendment "A" Thereto (H-1055).

Which report was Read and Accepted in concurrence and the Bill Read Once. Committee Amendment "A" was Read. House Amendment "A" to Committee Amendment "A" was Read.

On motion by Mr. Speers of Kennebec, House Amendment "A" was Indefinitely Postponed in non-concurrence.

Thereupon, Committee Amendment "A" was Adopted in non-concurrence and, under suspension of the rules, the Bill Read a Second Time and Passed to be Engrossed in non-concurrence.

Sent down for concurrence.

#### Ought to Pass in New Draft

The Committee on Business Legislation on, Bill, "An Act Concerning the Geology and Soil Scientist Certification Act." (H. P. 1993) (L. D. 2182)

Reported that the same Ought to Pass in New Draft under New Title: "An Act Relating to the Geologists and Soil Scientists Certification Act" (H. P. 2240) (L. D. 2322).

Comes from the House, the Bill in New Draft Passed to be Engrossed as Amended by House Amendment "A" (H-1100).

Which report was Read.

The PRESIDENT: Is it now the pleasure of the Senate to accept the ought to pass in new draft report of the committee?

The Chair recognizes the Senator from Aroostook, Senator Cyr.

Mr. CYR: Mr. President and Members of the Senate: I think before we do we should have an explanation as to this new draft. Can anyone give us an explanation of just who is involved?

The PRESIDENT: The Senator from Aroostook, Senator Cyr, has posed a question through the Chair to any Senator who may care to answer.

The Chair recognizes the Senator from Aroostook, Senator Cyr.

Mr. CYR: Mr. President, I will have to move then for indefinite postponement. As I understand it, these people want to have an exclusive on soil testing. Last session, last year, I had a bill to extend these duties to soil conservationists, agronomists, other people that might be involved in soils and would know just as much as these people. Probably these people, the geologists and soil scientists, I will accept

that they probably know the theory a lot better than many people that otherwise might be qualified to do this testing but having got the theory, but are they practical.

I have been involved, I am an agronomist by profession, and when I work for the Soil Conservation Service we were involved in many cases in draining agricultural fields. Now, you don't necessarily have to have just a classification of the soil. If you take the classification of the soil, maybe you aren't going to have a proper drainage but you can improve the drainage. There are ways and means to improve the drainage, and the same in this. In my bill last year I withdraw it, because in the law it says soil geologists and scientists, engineers, and others. Now, what they mean by others are people that have taken courses from the Health and Welfare Department. They are offering courses around the state in regards to this percolation and regards to the absorption of soils. I was told at the hearing that others could cover and, as a result of that, I withdraw my bill. Those that were in opposition to it were the same people, the soil scientists and soil geologists, because they want to have an exclusive, and they want to have an exclusive because they want to have a chance to charge whatever fee they want.

There is only one soil scientist that would fit this bill here in Aroostook County, and I know of cases where individuals have asked for a soil test where it cost them as much as \$250 to get a test on whether or not a septic tank will work. Most of us know that around lakes you have a clay pan, you have a clay soil, and you are not going to have much percolation. But you can improve it, the same as I did on my cottage before this came along. In my drainage field I put in a perforated pipe and then I put in two feet of screening on top of it, and it has been acting beautifully ever since.

I am not in favor of giving this group an exclusive. I think that other people, some plumbers, some soil conservationists, some agronomists, or other classifications, if they take the courses that are required and they pass the exams and are certified. I think they should have the right to be able to make a little inspection on whether or not you can put in a septic tank for your camp or some other facilities that you need. For those reasons, I hope that you help me to defeat this bill.

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

Mr. THOMAS: Mr. President and Members of the Senate: I am not a geologist, I am not a soil scientist, and I am not an engineer, so I don't know too much about this particular bill, except that it did put us in conformity with the new plumbing code, and it put some teeth in the ability to have the people who do this work do it correctly, it also made changes in the makeup of the board.

I remember at the hearing that there was a great deal of conflict over section one and section fourteen. We eliminated section one and rewrote section fourteen, which concerned the geological plans and specifications, the reports and the documents which would have to be filed. It also put this under the Department of Human Services.

I don't know who the gentleman is from Aroostook, because he says there is only one, but a gentleman from Fort Fairfield did testify in favor of this bill. The State Geologist testified in favor of this bill and so did Mr. Donald Hoxie from the Department of Human Services. The opponents, and there were six, only opposed it because of section one and section eighteen, asking us to remove section one and to rewrite section eighteen, and that is what we have done.

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

Mr. Berry of Cumberland then moved that the

Bill be tabled and Tomorrow Assigned, pending the motion by Mr. Cyr of Aroostook to Indefinitely Postpone the Bill.

Thereupon, on motion by Mr. Speers of Kennebec, tabled until later in today's session, pending the motion by Mr. Cyr of Aroostook to Indefinitely Postpone the Bill.

#### Divided Report

The Majority of the Committee on Fisheries and Wildlife on, Bill, "An Act to Clarify the Fish and Game Laws." (H. P. 1933) (L. D. 2121)

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-1049).

Signed:

Senator:

PRAY of Penobscot

Representatives:

MILLS of Eastport

DOW of West Gardiner

TOZIER of Unity

MacEACHERN of Lincoln

USHER of Westbrook

MARTIN of St. Agatha

The Minority of the same Committee on the same subject matter reported that the same Ought to Pass as Amended by Committee Amendment "B" (H-1050).

Signed:

Senators:

McNALLY of Hancock

GRAFFAM of Cumberland

Representatives:

CHURCHILL of Orland

PETERSON of Caribou

WALKER of Island Falls

KAUFFMAN of Kittery

Comes from the House. Recommended to the Committee on Fisheries and Wildlife.

Which reports were Read.

On motion by Mr. McNally of Hancock, the Bill was Recommended to the Committee on Fisheries and Wildlife in concurrence.

#### Divided Report

The Majority of the Committee on Natural Resources on, Bill, "An Act to Redefine 'Sub-division' in the Site Location and Development Act." (H. P. 1979) (L. D. 2169)

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-1000).

Signed:

Senators:

WYMAN of Washington

O'LEARY of Oxford

Representatives:

CURRAN of Bangor

HALL of Sangerville

CHURCHILL of Orland

HUTCHINGS of Lincolnville

McBREAIRTY OF Perham

BLODGETT of Waldoboro

AULT of Wayne

WILFONG of Stow

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

Signed:

Representatives:

DOAK of Rangeley

PETERSON of Windham

(Senator Howard Trotzky Abstained)

Comes from the House, the Majority report Read and Accepted and the Bill Passed to be Engrossed as Amended by House Amendment "A" (H-1041).

Which reports were Read.

The Majority Ought to Pass as Amended Report of the Committee was Accepted in concurrence and the Bill Read Once. Committee Amendment "A" was Read.

Mr. Berry of Cumberland then moved that

Committee Amendment "A" be Indefinitely Postponed.

The PRESIDENT: The Chair recognizes the Senator from Washington, Senator Wyman.

Mr. WYMAN: Mr. President and Members of the Senate: The committee did a lot of work on this bill. It came out with a ten-to-two ought to pass report, with the committee amendment, with one member abstaining, and I oppose the motion to indefinitely postpone this committee amendment.

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

Mr. BERRY: Mr. President and Members of the Senate: The difference between the committee amendment, of which I am moving indefinite postponement, and the House amendment, which was adopted by the House and is on the bill that comes to us, is that the House amendment provides that a hundred acres would be permitted by the action of the basic bill, and when it got over the hundred acres then the matter would go back to the state control for permit purposes. It seems to me that a hundred acres to be subject to local control is ample. This is plenty of leeway, and it seems to me that we are trying to go whole hog here when we don't put on some control. I am sure that five acres is a very respectable minimum lot size, and when we have twenty of these it seems to be adequate. When we get above a hundred acres we certainly are getting into wholesale development, and I think then the state should be in the picture as they would be now. So I would hope that the Senate would go along with the indefinite postponement of this amendment, and then concur with the House by the adoption of the House amendment.

The PRESIDENT: Is it now the pleasure of the Senate to indefinitely postpone committee amendment "A"?

Whereupon, Committee Amendment "A" was Indefinitely Postponed in non-concurrence. House Amendment "A" was Read.

The PRESIDENT: The Chair recognizes the Senator from Washington, Senator Wyman.

Mr. WYMAN: Mr. President and Members of the Senate: House Amendment "A" completely rewrites the bill, and I moved indefinite postponement of House Amendment "A".

The PRESIDENT: The Senator from Washington, Senator Wyman, now moves that the Senate indefinitely postpone House Amendment "A". Is this the pleasure of the Senate?

The Chair recognizes the Senator from Cumberland, Senator Berry.

Mr. BERRY: Mr. President and Members of the Senate: I think that once again we have some legislation here that is in danger of extinction, and I kind of think it would be good for everybody if we went through with this.

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

Mr. CURTIS: Mr. President and Members of the Senate: Earlier this morning I distributed a reprint from the Bangor Daily News article so people would have an opportunity to understand some of the problems that have occurred under our existing laws, which doesn't seem to be too strict in the entire matter of subdivisions when there are large lots involved, namely, over ten acres. I would like to suggest that it would not be appropriate to indefinitely postpone this House amendment. I think that some change here is needed. I would ask for a division when the vote is taken.

I would also like to request that somebody who is familiar with this piece of legislation explain or answer the question of whether or not under the existing law without House Amendment "A" there would be any review at all by the Department of Environmental Protection