

MAINE STATE LEGISLATURE

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Legislative Record

OF THE

One Hundred and Seventh Legislature

(Second Special Session)

1976

this Special Session except Legislative Document No. 2362 and such bills or resolves, if any, as may be returned by or recalled from the Governor. This order shall not apply to such bills or resolves as are intended only to facilitate the business of this Special Session. (S. P. 823)

Which was Read and Passed.
Sent down for concurrence.

On motion by Mr. Cianchette of Somerset, ORDERED, the House concurring, that three hundred twenty-five (325) copies of the Legislative Record for this Special Session be printed and bound, together with the Legislative Record of the First Special Session, one copy for each of the members of the Senate, House of Representatives, the Secretary of the Senate, Assistant Secretary of the Senate, Clerk of the House and Assistant Clerk of the House, and the remainder to be deposited with the State Law Librarian for exchange and library use; and be it further

ORDERED, that suitable index be prepared for such Legislative Record under the direction of the Director of Legislative Research. (S. P. 824)

Which was Read and Passed.
Sent down for concurrence.

On motion by Mr. Trotzky of Penobscot, ORDERED, the House concurring, that there is appropriated from the Legislative Appropriation a sum sufficient to pay each of the Indian Representatives mileage for one round trip and compensation for meals, lodging and attendance commensurate with other members of the Legislature for attendance at the Second Special Session of the 107th Legislature. (S. P. 825)

Which was Read and Passed.
Sent down for concurrence.

On motion by Mr. Curtis of Penobscot,
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 the University of Maine Baseball Team Eastern Regional NCAA Champions for 1976

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. 826)

Which was Read and Passed.
Sent down for concurrence.

On motion by Mr. Curtis of Penobscot,
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 the Orono High School Boys Track and Field Team State Class C Champions for 1976

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. 827)

Which was Read and Passed.
Sent down for concurrence.

On motion by Mr. Curtis of Penobscot,
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 the Orono High School Girls Track and Field Team State Class C Champions for 1976

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. 828)

Which was Read and Passed.
Sent down for concurrence.

(Off Record Remarks)

On motion by Mr. Speers of Kennebec, recessed until the sound of the bell.

After Recess

Called to order by the President.

Papers from the House

Out of order and under suspension of the rules, the Senate voted to take up the following:

House Paper

RESOLVE, Designating the Madison-Anson Bridge as "The Bicentennial Memorial Bridge." (H. P. 2399)

Comes from the House, Passed to be Engrossed without Reference to Committee.

Under suspension of the rules, the Resolve was given its First and Second Readings and Passed to be Engrossed without Reference to Committee in concurrence.

Senate Papers

Mr. Berry of Cumberland presented the following Joint Resolution and moved its adoption:

STATE OF MAINE

In the Year of Our Lord One Thousand Nine Hundred and Seventy-six.

IN MEMORIAM

Having Learned of the Death of Maurice F. Williams of Augusta, Former State Commissioner of the Department of Finance and Administration and an Administrative Assistant to Five Maine Governors

The Senate and House of Representatives of the State of Maine do hereby extend their sincere heartfelt condolences and sympathy to the bereaved family and friends of the deceased; and further

While duly assembled in session at the State Capitol in Augusta under the Constitution and Laws of the State of Maine, do herein direct that this official expression of sorrow be forthwith sent to the family of the deceased on behalf of the Legislature and the people of the State of Maine. (S. P. 830)

Which was Read.

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

Mr. BERRY: Mr. President and Members of the Senate: Maury Williams' life was certainly one which exemplified a long period of devotion and application of a remarkable man in his services to the state. I knew Maury as a friend and as a public official for many, many years. I early grew to admire his ability to cut through the red tape and the mystery which surrounds

many problems that were before his department.

Maury served with distinction and effectiveness for a long time under both Republican and Democratic leadership in the state. I think that I recall Maury's record of accomplishments, and they were many, in the light that he bridged the era from old fashioned administration by the book and by old methods to the present system of the age of the computer and the application of modern business methods in state government. To those of us who observed the state scene for many years, this is an extremely difficult thing to do, and rare indeed are the individuals who have the ability to do it. We will look back on our association with Maury as one of the many, many blessings that we have in state government, and I am sure Maury's pride above all was his outstanding service to the state.

The PRESIDENT: Is it now the pleasure of the Senate that this joint resolution be passed?

The motion prevailed.

Sent down for concurrence.

Order

On motion by Mr. Reeves 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 Ed Legg, Headmaster, Sumner Hawley, Dean of Faculty and the Students and Faculty of the Hyde School Whose Performance of "America's Spirit", an Original Bicentennial Production has Won the Acclaim of This State and of Our Nation

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. 831)

Which was Read and Passed.

Sent down for concurrence.

The President laid before the Senate the following tabled matter:

Bill, "An Act to Provide for the Position of Associate Administrative Court Judge and to Revise the Administrative Court Law." (S. P. 783) (L. D. 2338)

Tabled — June 14, 1976 by Senator Speers of Kennebec

Pending — Consideration

The PRESIDENT: The pending question before the Senate is shall this bill become a law notwithstanding the objections of the Governor. According to the Constitution, the vote will be taken by the Yeas and Nays. A vote of Yes will be in favor of the bill; a vote of No will be in favor of sustaining the veto of the Governor.

The Chair recognizes the Senator from Androscoggin, Senator Clifford.

Mr. CLIFFORD: Mr. President, this is a bill which provides for an additional administrative judge, effective July 1, '77. As you know, the Administrative Court handles all licensing matters in administrative law and all liquor license violations. It also handles numerous other areas, including appeals from decisions made in tax relief for the elderly.

The Administrative Court takes a tremendous load away from the district and superior courts in the state, and it is a court which has had an increasing burdensome case load. The Administrative Court for the entire state right now operates with one administrative judge and a secretary to cover the entire state. This is a

court that has well over 400 cases a year before it, many of which are serious in nature and many of which require hearings. It is my understanding that in 1974 alone there were sixty full-fledged hearings pertaining to liquor, and in 1975 there were eighty-three full-fledged hearings on liquor violations, and the figure grows with each year.

The result of this is that we have experienced delays in the rendering of administrative decisions, and the other result which the state is running the risk of with one judge covering the entire state is poor decisions, because when a court is overloaded the result is delays and poor decisions.

I think that most of the license holders in Maine are affected by this Administrative Court are small businesses, and I think it is imperative and in their interest that they receive on an alleged violation a prompt and a fair and a full hearing.

The veto was based on the funding on the fact that this legislature is putting over to the next legislature the funding of the second administrative judge. There is no question, I think that no one really disagrees as to the need of the second administrative judge. Well, the Judiciary Committee in hearing the bill rewrote the administrative law so that the judge will be encouraged to use the power of the fine more than has been used in the past, so that the judge will now have the power of the fine as well as the power of suspension, and I think you will find that with increased use of the power of the fine, as well as the power of suspension, that this will be, if not completely, certainly very close to being self-funded.

It seems to me that this is almost a disgrace to have the State of Maine, the Administrative Court which is growing by leaps and bounds, the cases coming before it, be covered by only one judge. I don't think two is enough really, but it certainly is a step in the right direction, and I would hope that we could vote to override the veto of this bill. Thank you, Mr. President.

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

Mr. CURTIS: Mr. President and Members of the Senate: This bill evolved from a joint study order which was assigned to the State Government Committee, and because of that I would like to commend the Judiciary Committee which spent a great deal of time considering our recommendation and rewriting our draft legislation and improving it substantially.

The one thing that I would like to add to that very fine description which was given to the bill as it stands before us by the good Senator from Androscoggin, Senator Clifford, is that there are some other clarifications and improvements in the existing statutes which are provided in the new law. These things are necessary and desirable. One, for example, provides that the Administrative Court Judge would be able to immediately suspend a license if he felt that a situation were an emergency, and in particular if a professional was practicing in a dangerous manner, misusing his license, or there was a situation in which the health and safety of an individual or the public at large might be affected. That power does not now exist in the Administrative Court, and the new law in its Section 2407 provides for that power. I think it is an important one.

The PRESIDENT: Is the Senate ready for the question? The pending question before the Senate is shall this bill become a law notwithstanding the objections of the Governor. A vote of Yes will be in favor of the bill; a vote of No will be in favor of sustaining the veto of the Governor.

The Secretary will call the roll.

ROLL CALL

YEAS: Senators Berry, E.; Berry, R.; Cianchette, Clifford, Collins, Conley, Corson, Cummings, Curtis, Cyr, Danton, Graffam,

Graham, Greeley, Hichens, Huber, Jackson, Johnston, Katz, Marcotte, McNally, Merrill, O'Leary, Pray, Reeves, Roberts, Speers, Thomas, Trotzky, Wyman.

NAYS: Senators Carbonneau, Gahagan.

A roll call was had. 30 Senators having voted in the affirmative, and two Senators having voted in the negative, and 30 being more than two-thirds of the membership present, it was the vote of the Senate that the bill become a law notwithstanding the objections of the Governor, and was sent down for concurrence.

The President laid before the Senate the following tabled matter:

Bill "An Act Relating to Definition of Retail Sale under Sales and Use Tax Laws." (S. P. 669) (L. D. 2128)

Tabled — June 14, 1976 by Senator Speers of Kennebec

Pending — Consideration

The PRESIDENT: The pending question before the Senate is shall this bill become a law notwithstanding the objections of the Governor.

The Chair recognizes the Senator from Knox, Senator Collins.

Mr. COLLINS: Mr. President, because of the economic importance of the only cement manufacturing firm in New England, I feel compelled to respond to the Governor's veto message concerning this bill.

The Governor states that this bill would result in an estimated loss of revenue of \$225,000 annually to the state. at this late date in the session, the amount in the next fiscal year would probably be about \$185,000, but in a good year it could be as high as he says. But the fact is that we have a real danger of losing this important part of Maine's economy, and if we should lose it, the loss in tax revenues not only to the State of Maine but to towns and cities in Maine would be much greater than \$225,000. If this plant closes, 12 million dollars per year of cash expenditures will cease, and that will cause a greater tax loss than the \$225,000 tax loss that this new definition of the sales tax provides.

The Governor says it is unfair to other firms and individuals in the state because it helps a single firm. At this moment in time it does help largely a single firm, although there are possibilities of helping others in a very, very small way, but every time that we pass a tax or amend a definition or create an exemption we hurt someone and we help someone. It is part of the function of government to help those elements of our population, our economy, our society, that need help. Here is an industry that has stood on its own feet for more than fifty years and made major contributions to the Maine economy, and now for the first time it is in serious trouble. And why is it in trouble? It is in trouble because of the unusual combination of circumstances created by the quadrupling of the price of fuel oil and the fact that a foreign government, the Canadian Government, has seen fit to subsidize the oil that is burned in the plants just across the Canadian border, which are thereby permitted to bring cement into the State of Maine and to sell it at figures less than this company in Maine can afford to sell it. Now, that situation may not exist forever, but it does exist now. Two years ago there was a loss of 4 million dollars, and last year a loss of 2 million dollars by this plant. They are making every effort to control their costs and to become not only competitive but at least to break even. This is a step in that direction.

Now, this company is of course a large company. It has eleven plants in nine states all over the country, and the State of Maine is the only state that puts a sales tax on the fuel oil burned in the manufacturing process. This is the only plant that is losing money. And when the decisions are made in the corporate board room, I fear very much that this plant is one that would be closed down if these losses continue. But if

the State of Maine displays an affirmative attitude in its government, if the government of Maine says yes we want you, we are trying to help you be competitive in a situation that is beyond your own control, then that company will think again and I think that we will have a good chance of keeping this important 12 million dollar cash flow in the State of Maine. I urge you to vote yes on the pending question.

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

Mr. REEVES: Mr. President, I will make this brief. I think most of the people in the Senate know my position on this bill, but I would like to relate one incident that happened in the past month. Strictly by coincidence, I found myself cross-examining the president of the Martin Marietta Company in the rate hearings of the Central Maine Power Company. At that time the company was being ably represented by an associate of Senator Collins, Mr. Crandall, and they were looking for some kind of concession in their rates for electricity. And I might mention that at that time they did not mention the Senate's generosity in passing this bill during the last special session, so I brought this to their attention, and I asked the president of the company directly whether this was going to be the end of it, whether this tax break that they got from the legislature and the special concessions they were looking for in the rate case would keep the company in Maine. His answer was that this tax break, this \$200,000, which he thought was \$180,000, was just a pittance. And that is a quote from the president of the Martin Marietta Company.

Now, I would like to go on record as saying that I think this is a terrific company and they make a great product and do a great job and I have no quarrel with the company in their operations in the State of Maine, and I would like to do all I can to help keep them in the State of Maine and to make their operation a profitable one, but I don't think this is the way. I don't think this would help them. I think that the comment by the president of the company that this tax break was a pittance is probably the best characterization of this gesture that we are considering here today, and I think it is an expensive gesture for us. If on the other hand we are charging them a tax on an item which is used in manufacturing which we shouldn't do, then I think they should take this to the courts and I think the court would rectify this situation immediately. But I don't think this tax break is the way. I don't think lower electricity rates is the way. I think it is a much bigger problem. And I think if we override this veto today, this bill that really was spawned by the Sobin Chemical bill, that we are going to have more Sobins, and every session we will have a lot of these tax breaks on the rolls. I think it is wrong, so I hope the Senate will vote to override this veto today. Thank you.

The PRESIDENT: The Chair recognizes the Senator from Hancock, Senator McNally.

Mr. McNALLY: Mr. President, I don't know as the Senators know the correct definition of cement, but it is a mixture of argillaceous and calcareous materials heated to incipient fusion, ground very fine, with gypsum added so it don't set too quickly. And how do I know it? Well, I was in college at the time when we had a very fine professor whose last name was Sprague, and we always called him Grumpy Sprague, and we soon learned that if we knew what cement was that we would get a little better rank in our prelims.

Now, this is a case whereby you have a lot of unemployment, you have very high prices on material, and if this company is put out of commission by not some small modicum of subsidization, you not only are going to hurt the State of Maine roads and bridges that have to be built but you are going to hurt the pulp mills that are being built, by the extra money that