

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

***One Hundred and Eighth
Legislature***

OF THE

STATE OF MAINE

Volume I

January 5, 1977 to May 25, 1977

KJ PRINTING
AUGUSTA, MAINE

SENATE

Friday, May 6, 1977

Senate called to Order by the President.
Prayer by the Honorable Charles P. Pray of Millinocket.

Mr. PRAY: Lord, as we end this week of deliberation, aid us in our consideration to be fair and honest with ourselves and those we serve. As we head home this afternoon, watch over the Members of this Legislature and the excellent staff that serves us. Amen.

Reading of the Journal of yesterday.

**Papers from the House
Non-concurrent Matter**

Bill, "An Act to Expedite the Collection of Sales Tax on the Rental of Automobiles." (H. P. 600) (L. D. 725)

In the Senate April 28, 1977, Passed to be Engrossed, in concurrence.

Comes from the House, Passed to be Engrossed as amended by House Amendment "A" (H-267, in non-concurrence.

On Motion by Mr. Pierce of Kennebec, the Senate voted to recede and concur.

Non-concurrent Matter

Bill, "An Act to Reorganize the System of Public Post-secondary Education in Maine." (S. P. 95) (L. D. 219)

In the Senate, May 4, 1977, Passed to be Engrossed as amended by Committee Amendment "A" (S-106).

Comes from the House, Bill and Papers Indefinitely Postponed, in non-concurrence.

On Motion by Mr. Speers of Kennebec, tabled for two legislative days.

Pending — Consideration

Joint Orders

Expressions of Legislative Sentiment recognizing that: Falmouth High School has won the State Mathematics Championship for 1977 at the State Math Meet. (H. P. 1527)

Bruce Leo of Gray-New Gloucester High School earned the highest individual score in the State Mathematics Championship for 1977. (H. P. 1529)

Come from the House, Read and Passed.

Which were Read and Passed, in concurrence.

House Papers

Bill received from the House requiring reference to Committee was acted upon in concurrence.

Communications

HOUSE OF REPRESENTATIVES

May 5, 1977

The Honorable May M. Ross
Secretary of the Senate
108th Legislature
Augusta, Maine
Dear Madam Secretary:

The House voted today to Adhere to its former action whereby it Indefinitely Postponed Bill "An Act Concerning the Penalty for Sale of Alcoholic Beverages to Minors" (S. P. 249) (L. D. 758)

The House also voted today to Adhere to its former action whereby it Indefinitely Postponed Bill "An Act Permitting Corporal Punishment in Certain Private Schools" (S. P. 281) (L. D. 495)

Respectfully,

Signed:

EDWIN H. PERT
Clerk of the House

Which was Read and Ordered Placed on File.

Senator Pray of Penobscot was granted unanimous consent to address the Senate on the record.

Mr. PRAY: Mr. President and Members of the Senate, I am kind of sorry to see that the House adhered on this matter which we had just taken care of. Earlier this year we addressed the issue of drinking in our younger adults and much concern was expressed about not only those young adults of 18 and 19, but other individuals of our society from the ages of 12 through 17.

I am kind of close to this legislation here that has just been put in the files and has now gone through the legislative process. I would just like to briefly say what the Bill did do.

For an individual who purchased alcohol for somebody under the age of 16, we were going to enforce a little bit stricter law. I do not think that it was too much to ask to remain consistent about previous action, and I do feel as if I would be remiss if I let this issue go by without at least expressing my own deep concern for the problem that we have addressed earlier. I am very sorry this Legislature did not take the further action, not only by this legislation, but several other Bills which we have had before us and which we will still have.

I hope that we will not let the issue die with the fact that we have just raised the drinking age. Thank you.

Orders

On motion by Mr. Huber of Cumberland, ORDERED, the House concurring, that the following be recalled from the Governor's Office to the Senate: "Resolve, Directing the Bureau of Taxation to Provide Credits for the Commuter's Income Tax Imposed by New Hampshire for the Period January 1, 1975 to March 19, 1975." H. P. 1482, L. D. 1698. (S. P. 489)

Which was read.
On Motion by Mr. Conley of Cumberland, tabled for one legislative day
Pending — Passage

**Committee Reports
House
Leave to Withdraw**

The Committee on Election Laws on, Bill, "An Act to Require Direct Mailing and Verification of Absentee Ballots and Concerning the Marking of Verification Ballots." (H. P. 452) (L. D. 557)

Reported that the same be granted Leave to Withdraw.

Comes from the House, the Bill Recommitted to the Committee on Election Laws.

Which report was read.
On Motion by Mr. Katz of Kennebec, tabled for two legislative days

Pending — Acceptance of the Committee Report.

Change of Reference

The Committee on Legal Affairs on, Bill, "An Act to Provide for Municipal Licensing of Public Dancing and to Authorize Suspension or Revocation of Municipal Licenses for Exhibitions and Amusements." (H. P. 1109) (L. D. 1364)

Reported that the same be referred to the Committee on Liquor Control.

Comes from the House, the Report Read and Accepted and the Bill referred to the Committee on Liquor Control.

Which Report was Read and Accepted in concurrence and the Bill referred to the Committee on Liquor Control, in concurrence.

Ought to Pass

The Committee on Local and County Government on, Resolve, for Laying of the County Taxes and Authorizing Expenditures of Lincoln County for the Year 1977. (Emergency) (H. P. 1524) (L. D. 1751)

Reported (pursuant to Joint Order, H. P. 138) that the same Ought to Pass.

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

Which Report was Read and Accepted, in concurrence and the Resolve Read Once.

Under Suspension of the Rules, on Motion by Mr. Jackson of Cumberland, the Resolve was read a Second Time.

The Resolve passed to be Engrossed in concurrence.

The Committee on Local and County Government on, Resolve, for Laying of the County Taxes and Authorizing Expenditures of Kennebec County for the Year 1977. (Emergency) (H. P. 1526) (L. D. 1753)

Reported (pursuant to Joint Order, H. P. 138) that the same Ought to Pass.

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

Which Report was Read and Accepted, in concurrence and the Resolve Read Once.

Under Suspension of the Rules, on Motion by Mr. Jackson of Cumberland, the Resolve was Read a Second Time.

The Resolve passed to be Engrossed in concurrence.

Ought to Pass — As Amended

The Committee on Natural Resources on, Bill, "An Act to Establish an Environmental Coordination Procedure." (H. P. 386) (L. D. 476)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-262).

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.

The Committee on Transportation on, Bill, "An Act Authorizing the Commissioner of Public Safety to Appoint and Commission Railroad Policemen and Providing Regulations Pertaining Thereto." (H. P. 790) (L. D. 1014)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-236).

Comes from the House, the Bill Passed to be Engrossed as amended by Committee Amendment "A" as amended by House Amendment "A" thereto (H-251).

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. Committee Amendment "A" as amended by House Amendment "A" thereto was Adopted, in concurrence, and the Bill, as amended, Tomorrow Assigned for Second Reading.

Ought to Pass in New Draft

The Committee on Public Utilities on, Bill, "An Act Concerning the Powers of the Eagle Lake Water and Sewer District." (H. P. 1002) (L. D. 1242)

Reported that the same Ought to Pass in New Draft under same title. (H. P. 1521) (L. D. 1747)

Comes from the House, the Bill, in New Draft, Passed to be Engrossed.

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

Divided Report

The Majority of the Committee on Judiciary on, Bill, "An Act to Reinstate the Death Penalty." (H. P. 943) (L. D. 1156)

Reported that the same Ought Not to Pass.

Signed:

Senators:

COLLINS of Knox
CURTIS of Penobscot

Representatives:

NORRIS of Brewer
SPENCER of Standish
DEVOE of Orono
BYERS of Newcastle
TARBELL of Bangor
HENDERSON of Bangor
HUGHES of Auburn
GAUTHIER of Sanford
HOBBINS of Saco
BENNETT of Caribou

The Minority of the same Committee on the same subject matter Reported that the same Ought to Pass.

Signed:

Senator:

MANGAN of Androscoggin

Comes from the House, Bill and Papers, Indefinitely Postponed.

Which Reports were Read.

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

Mr. O'LEARY: Mr. President, I would move that the Senate accept the Ought to Pass Minority Report of the Committee.

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

Mr. COLLINS: Mr. President, I request a Division.

The PRESIDENT: A Division has been requested. The Chair recognizes the Senator from Oxford, Senator O'Leary.

Mr. O'LEARY: Mr. President, I request a Roll Call.

The PRESIDENT: A Roll Call has been requested. In order for the Chair to order a Roll Call, it must be the expressed desire of one-fifth of those Senators present and voting.

The Chair recognizes the Senator from Androscoggin, Senator Minkowsky.

Mr. MINKOWSKY: Mr. President, before we go on to ordering the Roll Call, I certainly would like to express a feeling or point of view I have had in reference to this Bill since it was being discussed back in January of this year in the various newspapers in the State of Maine. And I must say at the present time after reading much on this particular item and following the cases that have materialized in other states, that I concur that this should be sent to the people of the State of Maine upon referendum.

An article appeared January 27 in one of our State of Maine newspapers, where they were discussing the item pro and con, exemplifies part of the feeling I have had about the death penalty in the State of Maine. I would like to read part of this article so that it is perfectly clear on the record, if this particular thing should have any political overtones in the future, exactly what my sentiments are.

It states as follows: "It is not society, but the murderer who ultimately sets the value on human life. Society says it is a capital offense to take a human life, establishing the nature of the crime and the penalty. The murderer takes the life, knowing he will give up his own and thus establishes value. The arguments that capital punishment is, one, not a proven deterrent; and, two, has not been consistently enforced, argue against each other and cancel each other out. Could any law prove its value as a deterrent if it was inconsistently enforced?"

The critics of capital punishment bemoan the lack of consistency in its enforcement and harp on its lack of value as a deterrent, without recognizing this direct relationship. We will never know whether capital punishment works as an effective deterrent until it is imposed in all situations in which lives are lost through heinous, violent acts.

Any society, even a civilized society, has two

basic obligations. The first is preserve and perpetuate itself; the second is to protect and defend its members who abide by its laws. Societies that fail in either of these obligations quickly cease to be coherent, functioning organizations. Under its second obligation, its primary responsibility is to protect the lives of the citizens and to recognize this importance, the responsibility by imposing the harshest penalties on those who wilfully destroy other human beings.

Mr. President and Members of the Senate, I think this has been the feelings as taken in a television poll back in the month of February or March of this year, and I do not think the people of the State of Maine should be denied the opportunity to vote on this issue in referendum, either pro or con.

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

Mr. MANGAN: Mr. President, this Bill comes before us as a Divided Report today, primarily because I was the one that signed the Minority Ought to Pass. My rationale on that was fairly consistent with the rationale of my brother Senator from Androscoggin County, Senator Minkowsky.

WGAN-TV did take a poll on this specific issue from the people in the State of Maine. The question at that time was, Should the people of the State of Maine be allowed to vote on a reinstatement of the death penalty. The issue is not, do you favor the death penalty, but should the people be allowed to vote on it. The vote was 963 yes and 178 no.

Now in the states that I have been familiar with or have lived in, I cite for example Massachusetts, where the people were given the opportunity to vote on the death penalty, and it did pass with overwhelming flying colors.

The question I have here is, should the people of the State of Maine have a right to make this decision, or will the Legislature make that decision for the people themselves. It has been my knowledge to see that in all of the states that have had the death penalty question submitted to the people, the overwhelming majority of those states did enact a death penalty pursuant to the vote of the people.

Now I am not here to question whether a death penalty is a deterrent to murder or is not a deterrent to murder, and I did have the opportunity to speak with a doctor yesterday who tried to approach the matter logically — which I think is difficult to do at times — and this doctor did state that it would probably cost the State of Maine somewhere in the vicinity of \$2,000.00 to kill somebody as a result of a conviction for murder. On the other hand, we would probably save in the vicinity of \$20,000.00 a year in guard fees and food and what not for a good 30 years. Which was a difference between \$2,000.00 and \$600,000.00.

We are not looking at it necessarily deterrent-wise and not looking at it necessarily logically as far as the money is concerned. There are questions today as to whether somebody who takes somebody else's life is really sick and, therefore, should not be committed to some sort of an asylum. There are serious doubts as to whether somebody who has taken somebody else's life can be rehabilitated. But I think the major question today is whether we are going to preserve the right of the people of the State of Maine that we represent to vote on this important issue.

I would urge the Members of this Senate at this time to actually allow the people a chance to vote and to pass this piece of legislation.

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

Mr. HICHENS: Mr. President and Members of the Senate, because I have such vivid memories of what took place back in South Berwick 12 years ago — it does not seem possi-

ble that it has been that long since it happened. But on one July day back in 1964, I had picked several bushel of peas, was delivering some of them to a store in South Berwick, drove up in front of the local bank and parked my car and went into the store with that bushel of peas.

While I was there being paid for them, suddenly shots rang out and I, along with other people, ran out onto the street and I arrived in front of the bank, in front of my car just in time to see a Trooper in his death throes. One of the men who had robbed that bank had been thrown to the pavement, the other had escaped in a car and the police had gone after him.

After an extensive hunt, they found the man and later on he and his fellow robber were convicted and put in the State's Prison. I would like to read the headline on front of the Portland Press Herald today, because it brings those memories back to me.

"Parole officials have issued a warrant for the arrest of the convicted murderer of a Maine State Trooper Charles Black during a South was issued for Joseph R. MacDonald, 45, who was convicted of murder in the 1964 slaying of State Trooper CHARLES Black during a South Berwick bank robbery."

"Paroled from Maine State Prison in Thomaston in December, 1975, MacDonald was returned to the New Jersey State Prison at Leesburg to complete a sentence there."

"According to Raymond K. Conniff, acting director of the Maine Division of Probation and Parole, MacDonald was released from the New Jersey prison on April 9 with instructions to report to a Maine parole officer in Portland. Conniff said MacDonald, a former resident of Rochester, N.H., had been convicted in New Jersey for 'atrocious assault and battery and robbery' in 1958. He was paroled by New Jersey officials in June, 1964, and less than one month later he and Wayne Beckus of Masontown, Pa. robbed the South Berwick branch of the First National Bank of Biddeford."

"During the robbery, Trooper Black was shot and killed, the only Trooper ever to be killed in the line of duty, a State Police spokesman noted. At their sentencing in 1967, MacDonald and Beckus each received the mandatory life term for murder."

Six years later MacDonald was involved in the uprising in our Maine State Prison and was transferred to the Federal Prison at Joliet, Ill. He came back and two years later was released on parole, just 10 years after being convicted for this cold-blooded murder of this Trooper. Now he has violated that parole and is being sought.

I can well imagine if the vote was taken in the York County area today just how the people of York County would vote on reinstating the death penalty, and I would go along with this Minority Report today to let the people make the decision. I am not going to try to make the decision for them this afternoon, but I think they should have the right to make that decision.

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

Mr. LEVINE: Mr. President and Members of the Senate, this is a very difficult situation I find myself in. I rise with great trepidation here. I have heard some talk here today about the heinous acts that are committed, the act of murder, even rape has been brought up, but it has generally been found by most Courts of high standing that rape does not fall under the qualification for capital punishment, although in some instances it might.

But I would like to say a few words here. First of all, we have heard how it might save the State \$598,000.00 in order that we might put someone to death rather than incarcerate them for 30 years. I would hate to think that we can place any dollar value on human life and this is

on argument which is totally moot to me at this point. This in itself is a heinous act, our discussing the saving of money by putting another human being to death.

I have a serious question about capital punishment, perhaps the most serious question. What do you do in an instance where a mistake was made? How do you give someone back life? Is it up to us to give back life, or up to God? I do not think anyone in this room can give a life back once it has been taken. And I have heard some talk in the halls, although not in this Chapter, about the Biblical adage, 'an eye for an eye and a tooth for a tooth'. Perhaps we should read further in the Bible. Perhaps we should read in the Bible where the Lord has said, 'vengeance is mine, thus sayeth the Lord.'

The PRESIDENT: A Roll Call has been requested. In order for the Chair to order a Roll Call, it must be the expressed desire of one-fifth of those Senators present and voting. Will all those Senators in favor of a Roll Call, please rise in their places to be counted?

Obviously, more than one-fifth having arisen, a Roll Call is ordered.

The pending question before the Senate is the Motion by the Senator from Oxford, Senator O'Leary, that the Senate accept the Minority Ought to Pass Report of the Committee.

A Yes vote will be in favor of accepting the Ought to Pass Report: A Nay vote will be opposed.

The Secretary will call the roll.

YEA — Chapman, Greeley, Hewes, Hichens, Jackson, Lovell, Mangan, Minkowsky, O'Leary, Pray, Redmond.

NAY — Carpenter, Collins, D.; Collins, S.; Conley, Cummings, Farley, Huber, Katz, Levine, Martin, McNally, Morrell, Pierce, Snowe, Speers, Trotzky, Usher.

ABSENT — Curtis, Danton, Merrill, Wyman. 11 Senators having voted in the affirmative and 17 Senators in the negative, with 4 Senators being absent, the Motion to accept the Minority Ought to Pass Report does not prevail.

Majority Ought Not to Pass Report accepted, in non-concurrence.

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

Mr. CONLEY: Mr. President, having voted on the prevailing side, I now move for reconsideration and urge the Senate to vote against me.

A viva voce vote being had,

The Motion to Reconsider does not prevail.

Divided Report

The Majority of the Committee on Taxation on, Bill, "An Act to Remove the Manufacturer's Excise Tax on Tires from the Sales Tax." (H. P. 339) (L. D. 430)

Reported that the Same Ought to Pass as amended by Committee Amendment "A" (H-209).

Signed:

Senator:

WYMAN of Washington

Representatives:

MAXWELL of Jay

CAREY of Waterville

MACKEL of Wells

CHONKO of Topsham

TWITCHELL of Norway

IMMONEN of West Paris

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

Signed:

Senators:

JACKSON of Cumberland

MARTIN of Aroostook

Representatives:

COX of Brewer

TEAGUE of Fairfield

CARTER of Bangor

POST of Owls Head

Comes from the House, the Majority Report Read and Accepted and the Bill Passed to be Engrossed as amended by Committee Amendment "A" and House Amendment "A" (H-230).

Which Reports were Read.

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

Mr. JACKSON: Mr. President and Members of the Senate: A piece of legislation like this has much merit, but I feel that to try and resolve this problem of double taxation with individual pieces of legislation is not the answer.

This is one reason why I signed the Bill out Ought Not to Pass. Another reason, this Bill in its original version, it has been amended as you will note, but in its original version it carried a price tag of \$130,000.00 the first year in the biennium and \$173,000.00 in the second year of the biennium.

I think that the answer to this problem is that maybe a little later down the road, and we do have a piece of legislation in the Taxation Committee, if we so decide to take a complete look at the taxation picture in the State, might answer this problem.

I, therefore, now request that the Senate accept the Minority Ought Not to Pass Report of the Committee.

On Motion of Mr. Speers of Kennebec, tabled for one legislative day.

Pending — the Motion of the Senator from Cumberland, Senator Jackson, that the Senate accept the Minority Ought Not to Pass Report of the Committee.

Senate

The following Ought Not to Pass report shall be placed in the Legislative files without further action pursuant to Rule 20 of the Joint Rules:

Bill, "An Act Establishing Standards for Surveys of Municipal or County Boundaries." (S. P. 397) (L. D. 1356)

Senate

Leave to Withdraw

Mr. Usher for the Committee on Fisheries and Wildlife on, Bill, "An Act to Establish a Closed Season on Deer on Deer Isle." (S. P. 194) (L. D. 591)

Reported that the same be granted Leave to Withdraw.

Mr. Pierce for the Committee on Business Legislation on, Bill, "An Act to Regulate the Use and Possession of Compressed Air for the Purpose of Scuba Diving." (S. P. 378) (L. D. 1254)

Reported that the same be granted Leave to Withdraw.

Mr. Pierce for the Committee on Business Legislation on, Bill, "An Act Relating to the State Board of Social Workers Registration Law." (S. P. 29) (L. D. 41)

Reported that the same be granted Leave to Withdraw.

Which Reports were Read and Accepted. Sent down for concurrence.

Ought to Pass — As Amended

Mr. Collins for the Committee on State Government on, Bill, "An Act Relating to Foreign Trade Zones." (Emergency) (S. P. 128) (L. D. 312)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (S-120).

Mr. Pierce for the Committee on Business Legislation on, Bill, "An Act Concerning Fees of the Board of Chiropractic Examiners." (S. P. 231) (L. D. 735)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (S-123).

Mr. O'Leary for the Committee on Local and County Government on, Bill, "An Act Relating to Training Municipal Fire Departments, Incorporated Volunteer Fire Departments and Fire Brigades." (S. P. 362) (L. D. 1216)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (S-124).

Which Reports were Read and Accepted and the Bills Read Once. Committee Amendments "A" were Read and Adopted and the Bills, as amended, Tomorrow Assigned for Second Reading.

Divided Report

The Majority of the Committee on Legal Affairs on, Bill, "An Act to Exclude Sparklers from Prohibition against the Sale of Fireworks." (S. P. 379) (L. D. 1255)

Reported that the same Ought to Pass.

Signed:

Senators:

HEWES of Cumberland

CARPENTER of Aroostook

CUMMINGS of Penobscot

Representatives:

COTE of Lewiston

MOODY of Richmond

GOULD of Old Town

BIRON of Lewiston

SHUTE of Stockton Springs

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

Signed:

Representatives:

BURNS of Anson

CARRIER of Westbrook

JOYCE of Portland

DURGIN of Kittery

DUDLEY of Enfield

Which Reports were Read.

On Motion of Mr. Hewes of Cumberland, Majority Ought to Pass Report accepted.

The Bill Read Once and Tomorrow Assigned for Second Reading.

Committee of Conference

The Committee of Conference on the disagreeing action of the two branches of the Legislature on, Bill, "An Act Pertaining to License Fees for the Regulation of Certain Amusements." (H. P. 577) (L. D. 701) have had the same under consideration, and ask leave to report:

that the Senate recede and concur with the House.

On the Part of the Senate:

HEWES of Cumberland

CARPENTER of Aroostook

CUMMINGS of Penobscot

On the Part of the House:

JOYCE of Portland

MOODY of Richmond

BURNS of North Anson

Which Report was Read.

On Motion by Mr. Pierce of Kennebec, tabled for one legislative day.

Pending — Acceptance of the Committee Report.

Second Readers

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

House

Bill, "An Act to Amend the State Tuition Equalization Fund." (H. P. 258) (L. D. 327)

Bill, "An Act Concerning the Seeking of Competitive Bids by the Treasurer of State." (H. P. 299) (L. D. 355)

Bill, "An Act Relating to Guardianship of Incapacitated Adults in Need of Protective Services." (H. P. 327) (L. D. 418)

RESOLVE, for Laying of the County Taxes and Authorizing Expenditures of Aroostook