

# 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

## SENATE

Wednesday, February 18, 1976

Senate called to order by the President.

Prayer by the Rev. David Glusker of the Methodist Church, Augusta:

Father, we acknowledge Thy presence here in this chamber and throughout all your creation. We acknowledge that you have a will, and we seek to be a part of that will by participating in right decisions, by thinking clearly, by using all of the resources at our command to make wise decisions. We pray your blessing upon each member of this Senate, each person who is involved in the important decision making process, that together we may be instruments of the good and the right and the true. To that extent we call forth your blessing upon us, and we do it with confidence because we know you are very present here. Amen.

Reading of the Journal of yesterday.

**Papers from the House**  
**Joint Orders**  
**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 John Bower Coach of the US Ski Team at the XIIth Winter Olympics

We the Members of the House of Representatives and Senate 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. (H. P. 2043)

Comes from the House, Read and Passed.

Which was Read and Passed in concurrence.

**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 Thomas Upham Coach of the US Ski Team at the XIIth Winter Olympics

We the Members of the House of Representatives and Senate 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. (H. P. 2044)

Comes from the House, Read and Passed.

Which was Read and Passed in concurrence.

**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 Karl Anderson Named to the US Winter Olympics Team in Alpine Events

We the Members of the House of Representatives and Senate 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. (H. P. 2045)

Comes from the House, Read and Passed.

Which was Read and Passed in concurrence.

**House Paper**  
**Labor**

Bill, "An Act Concerning the Workmen's Compensation Statutes." (H. P. 2046) (L. D. 2218)

Comes from the House referred to the Committee on Labor and Ordered Printed.

Which was referred to the Committee on Labor and Ordered Printed in concurrence.

**Senate Papers**

**Appropriations and Financial Affairs**

Mr. Huber of Cumberland presented, Bill, "An Act to Revise and Reallocate Appropriations from the General Fund for the Expenditures of State Government for the Fiscal Years Ending June 30, 1976 and June 30, 1977 and Changing Certain Provisions of the Law Necessary to the Proper Operations of State Government." (S. P. 700)

Which was referred to the Committee on Appropriations and Financial Affairs and Ordered Printed.

Sent down for concurrence.

**Health and Institutional Services**

Mr. Hichens of York presented, Bill, "An Act Relating to Mental Health and Retardation Programs in the Department of Mental Health and Corrections." (S. P. 698)

Which was referred to the Committee on Health and Institutional Services and Ordered Printed.

Sent down for concurrence.

**State Government**

Mr. Huber of Cumberland presented, Bill, "An Act to Promote Efficiency in Maine State Government." (S. P. 699)

Which was referred to the Committee on State Government and Ordered Printed.

Sent down for concurrence.

**Study Report — Agriculture**

Mr. Hichens for the Committee on Agriculture to which was referred the study relative to Maine's potato licensing and bonding laws and the effect on the Maine potato industry, pursuant to S. P. 530 of the 107th Legislature, have had the same under consideration and ask leave to submit its findings and to report that the accompanying Bill, "An Act to Promote the Sale of Maine Potatoes" (S. P. 701) (L. D. 2220) be referred to this Committee for public hearing and printed pursuant to Joint Rule 3.

Which report was Read and Accepted and the Bill referred to the Committee on Agriculture.

Sent down for concurrence.

**Study Report — Agriculture**

Mr. Hichens for the Committee on Agriculture to which was referred the study relative to Maine's potato licensing and bonding laws and the effect on the Maine potato industry, pursuant to S. P. 530 of the 107th Legislature, have had the same under consideration, and ask leave to submit its findings and to report that the accompanying Bill, "An Act to Revise the Potato Licensing Law" (S. P. 702) (L. D. 2221) be referred to this Committee for public hearing and printed pursuant to Joint Rule 3.

Which report was Read and Accepted and the Bill referred to the Committee on Agriculture.

Sent down for concurrence.

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

**Senate Papers**

**Appropriations and Financial Affairs**

Mr. Conley of Cumberland presented, Bill, "An Act Making Additional Appropriations for the Expenditures of State Government and for Other Purposes for the Fiscal Year Ending June 30, 1977." (S. P. 703)

The Committee on Reference of Bills suggests that this Bill be referred to the Committee on Appropriations and Financial Affairs and Ordered Printed.

Which was referred to the Committee on Appropriations and Financial Affairs and ordered Printed.

Sent down for concurrence.

Mr. Collins of Knox presented, Bill, "An Act Delaying the Effective Date of the Maine Criminal Code in Order to Allow Sufficient Time for Necessary Revisions." (S. P. 704)

(Approved for introduction by a Majority of the Committee on Reference of Bills pursuant to Joint Order S. P. 635, as amended.)

The Committee on Reference of Bills suggests that this Bill be referred to the Committee on Judiciary and Ordered Printed.

Thereupon, under suspension of the rules, the Bill given its First Reading.

The PRESIDENT: Is it now the pleasure of the Senate that under suspension of the rules this bill be given its second reading at this time.

The Chair recognizes the Senator from Knox, Senator Collins.

Mr. COLLINS: Mr. President and Members of the Senate: We passed in the regular session the criminal code with an effective date of March 1. Since that time the Criminal Code Commission has worked on a few revisions, some of them caused by court decisions which occurred late in the regular session. Those revisions were printed and received by us only this week and have been scheduled for public hearing for two days next week.

We conferred with members of the enforcement groups and with prosecutors and court officials, and it was felt by all of these groups that there would be a more orderly transition to the new criminal code if the revisions could be passed upon first and take effect at the same time that the code takes effect. We did not feel that we could do a proper job with this with public hearings, therefore, unless the effective date were postponed for one month. We conferred with the leadership about this and that is why this bill is before you. We are asking that this effective date simply be deferred for one month until April 1st..

and we hope that this bill may pass through without the usual formalities of committee hearings.

The PRESIDENT: Is it now the pleasure of the Senate that under suspension of the rules this bill be given its second reading at this time?

Thereupon, under suspension of the rules, the Bill was given its Second Reading and Passed to be Engrossed without reference to committee.

Under further suspension of the rules, sent down forthwith for concurrence.

### Committee Reports

#### House

#### Ought to Pass

The Committee on State Government on, Resolution, Proposing an Amendment to the Constitution Allowing the Governor Ten Days to Act on Legislation. (H. P. 1970) (L. D. 2159)

Reported that the same Ought to Pass.

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

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

#### Ought to Pass — As Amended

The Committee on Judiciary on, Bill, "An Act to Remove the Maine Criminal Justice Sentencing Institute from the Administrative Supervision of the Judicial Council." (H. P. 1974) (L. D. 2163)

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-895).

The Committee on Veterans and Retirement on, Bill, "An Act Concerning the Uniform Processing of Employer Contribution into the Retirement System." (H. P. 1871) (L. D. 2042)

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-896).

Came from the House, the Bills Passed to be Engrossed as Amended by Committee Amendments "A".

Which reports were Read and Accepted in concurrence and the Bills Read Once, Committee Amendments "A" were Read and Adopted in concurrence, and the Bills, as Amended, Tomorrow Assigned for Second Reading.

#### Divided Report

The Majority of the Committee on Natural Resources on, Bill, "An Act to Allow Certain Mining Operations within the Sandy River and Temple Stream without a Permit from the Commissioner of Inland Fisheries and Wildlife." (H. P. 1885) (L. D. 2063)

Reported that the same Ought Not to Pass.

Signed:

Senator:

TROTZKY of Penobscot

Representatives:

PETERSON of Windham

HALL of Sangerville

CURRAN of Bangor

McBREAIRTY of Perham

AULT of Wayne

HUTCHINGS of Lincolnville

BLODGETT of Waldoboro

CHURCHILL of Orland

WILFONG of Stow

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

Signed:

Senators:

WYMAN of Washington

O'LEARY of Oxford

Representative:

DOAK of Rangeley

Comes from the House, the Majority report Read and Accepted.

Which reports were Read.

Mr. Trotzky of Penobscot moved that the Senate accept the Majority Ought Not to Pass Report of the Committee.

The PRESIDENT: The Senator has the floor.

Mr. TROTZKY: Mr. President and Members of the Senate: What this bill does is exempt the Town of Farmington from the Stream Alteration Act. Some people from the Town of Farmington came in at the hearing and would like to be exempt from this act so they can mine the river, so that they can alter the river by digging channels to try and prevent erosion, and so on.

There is one problem with this bill, and that is that this is special legislation, and what it does, if the Town of Farmington can mine the river and can alter the shores without obtaining a permit from the Department of Inland Fish and Game, the towns downriver are going to receive siltation and so on, and they have no way of stopping the Town of Farmington if Farmington is made exempt from the Stream Alteration Act. So I hope you would accept the Majority Ought Not to Pass Report.

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

Mr. O'LEARY: Mr. President and Members of the Senate: Senator Trotzky has told you what he believes this bill will do. However, that is not my understanding of the bill whatsoever. A few years ago all the towns were mandated to come up with shoreland zoning, and I have here a plan for shoreland zoning that was submitted by the Town of Farmington and accepted by the proper authorities here in Augusta.

I would like to read you one section of it on Page 9 of the shoreland zoning. It says, "(e) Gravel Mining. Gravel, sand, and loam mining within and on the banks of the Sandy River shall be done in such a manner as to minimize erosion and/or altering the course of the river. The operator-owner of the site or his agent shall submit to the planning board an application describing the site area, river bed, proposed bars, banks, channels, or areas to be mined, to what extent and in what manner the mining is to be done, and any other information bearing on the course of the river or the effect on the river environment requested by the planning board."

Now, this bill would simply allow the Town of Farmington to go ahead with its planning process even further, and I have here a copy of the proposed plans to be adopted by the Town of Farmington should this bill become law. And in section 4 it says, "The committee shall advise the planning board that an application for a mining permit be approved if the proposed project or operation described in the worksheet will be conducted in such a manner as to (a) minimize site connected erosion or inhibit natural erosion, (b) not contribute to changing the course of the river, and (c) not adversely affect the Sandy River as a fish and wildlife habitat or as a recreational area."

So, with these things in mind, I would suggest to you that the people in Farmington who have been studying this are responsible people. They have

designed a fully responsible plan. The committee is chaired by a Dr. Tom Eastler. He is a Ph.D., a geologist and a pilot, and he has photographed the river. Now, the origin of Sandy River starts at Sandy River Plantation, flows on down through Madrid, and on down. It is pretty fast water and this is where your fish habitat is. When it gets down towards the Farmington Flats and on down through to its confluence with the ocean, it is pretty flat and you have scrub fish, so it is not merely something that is going to be detrimental to the fishing in there. When this river is at its natural flow, I think it is something like about 5,000 cubic feet per second. In the spring, I think it goes up to around 30,000 feet per second. And this wanders through the flatlands of Farmington or Farmington Falls, and as it meanders through it almost in a number of places makes a complete 360 degree turn, and it is just like a snake going through the fields. And the high water causes erosion of the banks, trees are falling in and such, and this contributes a lot to the siltation and such that goes down the river.

However, the sand bars that are created divert the water flow so that you have even more erosion, and that is all that they are asking in this piece of legislation, the right to do the same thing that they have been doing for over 200 years, mining these sand bars, taking them out so that they will not change or alter the course of the river, and will not result in one farm being moved again. The river right now is 25 feet beyond where one farm was. It had to be relocated, and the state itself has had to shore up the roadway because of the way the course of this river has been changing. All they ask here is that they be allowed to continue to mine these gravel beds, and it will not in any way destroy the habitat of the fish downstream.

There is no one who spoke in opposition to this bill from downstream. The people that are asking for this are responsible people. They are environmentalists and they do not want to do anything to harm the environment in any way, and I think that it behooves us to allow them to continue to do what they have been doing in the responsible manner that they have suggested.

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

Mr. TROTZKY: Mr. President and Members of the Senate: Again, if you give the Town of Farmington an exemption, what you are doing is gutting the whole Stream Alteration Act, because if any town can come in and say that the river they are on is unique, then they can get the exemption. The real problem you have here is that you have no protection for the towns downstream on the river.

Now, I want to talk somewhat quickly about erosion. The good Senator from Oxford mentioned a figure in the summer of maybe 5,000 cubic feet per second flow. In the spring it will go up to 30,000 cubic feet per second. In other words, the flow is six times in the spring what it was during the summer. During that time no channeling of a meandering river is going to stop the erosion when that river rises in the spring. The Town of Farmington right now has not gone into the river and taken out the gravel bars and dug up the river below the water surface. However, the Fish and Game Department stated when they were there that if the Town of Farmington comes in with a presentation