

# 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 PRESIDENT: The Chair recognizes the Senator from Penobscot, Senator Pray.

Mr. PRAY: Mr. President and Members of the Senate: There is just one other point I would like to make. The amendment that was passed in this body also lowers the fine by \$300, and I would hope that by receding and concurring with the House that we can get this bill which has been bouncing around with amendments being added seemingly every time it lands somewhere.

The PRESIDENT: Is the Senate ready for the question? The pending question before the Senate is the motion by the Senator from Penobscot, Senator Pray, that the Senate recede and concur with the House. A "Yes" vote will be in favor of receding and concurring; a "Nay" vote will be opposed.

The Secretary will call the roll.

**ROLL CALL**

YEAS: Senators E. Berry, R. Berry, Cianchette, Collins, Conley, Curtis, Cyr, Danton, Gahagan, Graffam, Graham, Greeley, Hichens, Huber, Jackson, Johnston, Katz, McNally, Pray, Speers, Thomas, Trotzky, Wyman.

NAYS: Senators Corson, Cummings, Merrill, O'Leary, Roberts.

ABSENT: Senators Carbonneau, Clifford, Marcotte, Reeves.

A roll call was had. 23 Senators having voted in the affirmative, and five Senators having voted in the negative, with four Senators being absent, the motion prevailed.

**Non-Concurrent Matter**

Bill, "An Act to Clarify Certain Provisions in the Education Laws." (S. P. 651) (L. D. 2056)

In the Senate March 31, 1976, Passed to be Engrossed as Amended by Committee Amendment "A" (S-480) as Amended by Senate Amendment "A" Thereto (S-500) and Senate Amendment "B" (S-502).

Comes from the House, Passed to be Engrossed as Amended by Committee Amendment "A" as Amended by House Amendments "E" (H-1180) and "G" (H-1192) and Senate Amendment "A" Thereto (S-500) and Senate Amendment "B" and House Amendments "A" (H-1132) and "B" (H-1173), in non-concurrence.

On motion by Mr. Katz of Kennebec, the Senate voted to Recede.

Thereupon, on further motion by the same Senator, tabled and Tomorrow Assigned, pending Consideration.

**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 Toby Doak of Rangeley winner of the 1976 Franklin County Spelling Bee sponsored by the Maine Sunday Telegram

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. 2283)

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 George Hale of Bangor named by the National Sportscasters and Sportswriters Association as Maine's Sportscaster of The Year for 1975

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. 2285)

Comes from the House, Read and Passed. Which was Read and Passed in concurrence.

**Communications  
State of Maine**

One Hundred and Seventh Legislature  
Committee on Agriculture  
April 6, 1976

Honorable Joseph Sewall  
President of the Senate  
State House  
Augusta, Maine 04333

Dear President Sewall:

It is with pleasure that I inform you that the Committee on Agriculture has completed all action necessary on the business placed before it by the Special Session of the 107th Legislature.

Total Number of Bills Presented	6
Ought to Pass	1
Ought to Pass in New Draft	1
Ought to Pass as Amended	2
Divided	1
Ought Not to Pass	1

Sincerely Yours,

Signed: WALTER W. HICHENS  
Senate Chairman  
Which was Read and Ordered Placed on File.

**Committee Reports  
House**

**Ought to Pass in New Draft**

The Committee on Liquor Control on, Bill, "An Act to Revise the Liquor Laws of Maine." (H. P. 2024) (L. D. 2199)

Reports that the same Ought to Pass in New Draft under New Title: "An Act to Revise the Statutes Concerning Alcoholic Beverages" (H. P. 2223) (L. D. 2311).

Comes from the House, the Bill, in New Draft, Passed to be Engrossed as Amended by House Amendments "A" (H-1048), "B" (H-1062), "C" (H-1066), "E" (H-1078), "F" (H-1086), "G" (H-1087), "H" (H-1094) and "J" (H-1113).

Which report was Read and Accepted in concurrence and the Bill in New Draft Read Once.

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

Mr. KATZ: Mr. President, before we get into these lengthy amendments, the Senate will recall that last year we had a bill pertaining to tennis clubs on which there was a difference of opinion, and then because we are men and women of good faith we got together and we agreed on a common denominator by which tennis clubs would be given liquor permits. I have an impression in reading this bill that it wipes out the agreement we made last year concerning the service of food. Could I ask from any member of the committee whether or not I should be reassured or I should continue to feel nervous.

The PRESIDENT: The Senator from Kennebec, Senator Katz, has posed a question through the Chair.

The Chair recognizes the Senator from Cumberland, Senator Graffam.

Mr. GRAFFAM: Mr. President, I think the

only change in that provision was that we just changed the date, because the date on that was 1977 and we had to have a little more time to see if it would work, to see if it would do its job, so they just moved it up one year.

The PRESIDENT: The Secretary will read House Amendment "A".

House Amendments "A", "B", "C", "E", "F", "G", "H" and "J" were Read and Adopted in concurrence and, under suspension of the rules, the Bill, as Amended, was Read a Second Time.

The PRESIDENT: Is it now the pleasure of the Senate that this bill be passed to be engrossed?

The Chair recognizes the Senator from Cumberland, Senator Merrill.

Mr. MERRILL: Mr. President and Members of the Senate: I have being prepared an amendment to the bill itself, which I have discussed with the chairman and the ranking Democratic member on the committee, and I wonder if somebody could table this until later in today's session.

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

Thereupon, on motion by Mr. Graffam of Cumberland, tabled until later in today's session, pending Passage to be Engrossed.

**Enactors**

The Committee on Engrossed Bills report as truly and strictly engrossed the following

An Act to Protect Owners and Bona Fide Purchasers of Real Property from Unrecorded Mechanics' Liens and to Protect Them from Double Payment to Contractors and Sub-contractors. (H. P. 2126) (L. D. 2274)

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

Mr. COLLINS: Mr. President, this bill represents a great deal of work on the part of the Judiciary Committee, and I wanted to say a word of particular appreciation to the Senator from Cumberland, Senator Merrill, for the work that he has done on this bill and to say that I concur with all that he has said about its values and its meaning.

The PRESIDENT: Is it now the pleasure of the Senate that this bill be passed to be enacted?

Thereupon, the Bill was Passed to be Enacted and, having been signed by the President, was by the Secretary presented to the Governor for his approval.

**Emergency**

Resolve, to Require the Department of Human Services to Reopen the Itinerant Office in Belfast. (H. P. 2269) (L. D. 2336)

(On motion by Mr. Huber of Cumberland, placed on the Special Appropriations Table.)

The President laid before the Senate the following tabled and Specially Assigned matter:

Bill, "An Act to Revise the Maine Criminal Code as Recommended by the Criminal Law Revision." (S. P. 777) (L. D. 2334)

Tabled — April 5, 1976 by Senator Speers of Kennebec

Pending — Consideration

(In the House — Passed to be Engrossed as amended by Senate Amendments "A", (S-488), "B" (S-495), and "C" (S-496) and House Amendments "C" (H-1162), "D" (H-1170), "E" (H-1171) and "F" (H-1174).

(In the Senate — Passed to be Engrossed as Amended by Senate Amendments "A", "B" and "C" and House Amendment "C" and House Amendment "E", as Amended by Senate Amendment "A" Thereto, (S-509), in non-concurrence.)

Mr. Collins of Knox moved that the Senate Recede and Concur.

The PRESIDENT: The Senator has the floor.

Mr. COLLINS: Mr. President, this is a motion that I make with a heavy heart. The bill before us is voluminous and it contains a great many important provisions to the success and implementation of our new criminal code. It is an emergency measure because the criminal code as enacted in the regular session is now scheduled to take effect on May 1st.

There are features of this bill that are most distressing to members of the Judiciary Committee in particular because we feel that mandatory sentencing is an impediment to the efficient administration of criminal justice. But there are so many things in this bill of importance, and there is such a great danger of these good things being lost, that I feel we should move ahead to the enactment and work on some of the imperfections thereby created at a later time.

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

Mr. MERRILL: Mr. President, I believe the effect of receding and concurring would be to put into our criminal code mandatory sentences for both burglary and crimes committed with a firearm, and although I agree with some of the concerns raised by the Senator from Knox, Senator Collins, my concern about that, particularly in regards to burglary, bring me to vote against the bill. And I would ask that there be a division when the question is put to the Senate.

The PRESIDENT: A division has been requested. Is the Senate ready for the question?

The pending question before the Senate is the motion by the Senator from Knox, Senator Collins, that the Senate recede and concur with the House. Will all those Senators in favor of this motion to recede and concur please rise in their places until counted. Those opposed will rise in their places until counted.

A division was had. 17 having voted in the affirmative, and seven having voted in the negative, the motion prevailed.

The President laid before the Senate the following tabled and Specially Assigned matter:

Bill, "An Act Redistributing the Powers of the Executive Council." (H. P. 1997) (L. D. 2197)

Tabled — April 5, 1976 by Senator Speers of Kennebec

Pending — Adoption of Committee Amendment "A" (H-1115)

(In the House — Passed to be Engrossed as Amended by Committee Amendment "A" and House Amendments "A" (H-1166), "B" (H-1177), "C" (H-1183), "E" (H-1191) and "F" (H-1196)).

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

Mr. CONLEY: Mr. President, it is my understanding there is an amendment being prepared and it should be here very shortly, so I would appreciate it if this could be tabled until later today.

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

Mr. BERRY: Mr. President, assuming that was not a tabling motion, it seems to me that there is quite a lot of work that can be done on this bill up until that point, and I would think that perhaps we ought to do it.

The PRESIDENT: The Chair recognizes the Senator from Somerset, Senator Cianchette.

Mr. CIANCHETTE: Mr. President, I am having an amendment prepared that would be an amendment to Committee Amendment "A", and it is my understanding that it should be done at this posture. Therefore, it would be nice if someone would table it until later in today's session.

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

Mr. SPEERS: Mr. President, I would ask through the Chair whether or not there are other amendments that are to be offered to Committee Amendment "A". If so, I would hope that we would defer tabling it and proceed to consider those amendments, and then table it should that amendment that is to be offered by the good Senator from Somerset, Senator Cianchette, not be ready at that time.

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

Mr. CURTIS: Mr. President, I presented Senate Amendment "A" to Committee Amendment "A" and moved its Adoption.

Senate Amendment "A", Filing No. S-519, to Committee Amendment "A" was Read.

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

Mr. CURTIS: Mr. President, this amendment which is before you was suggested by the Secretary of State's Office. I think it falls into the category of a rather procedural technical proposal which was not suggested in time for the committee to include it right in its amendment. I don't think there will be any problem with the adoption, but if anyone would like a more detailed explanation than what is provided under the S-519 statement of fact, I would be glad to provide it.

The PRESIDENT: Is it now the pleasure of the Senate to adopt Senate Amendment "A" to Committee Amendment "A"?

The motion prevailed.

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

Thereupon, on motion by Mr. Conley of Cumberland, tabled until later in today's session, pending Adoption of Committee Amendment "A".

The President laid before the Senate the following tabled and Specially Assigned matter:

Senate Reports — from the Committee on Appropriations and Financial Affairs — 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) (L. D. 2225) Report "A" Ought to Pass in New Draft Under Same Title (S. P. 790) (L. D. 2341); Report "B" Ought to Pass in New Draft Under Same Title (S. P. 791) (L. D. 2342); Report "C" Ought to Pass in New Draft under Same Title (S. P. 792) (L. D. 2343)

Tabled — April 5, 1976 by Senator Speers of Kennebec

Pending — Motion of Senator Huber of Cumberland to Accept Report "B"

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

Mr. HUBER: Mr. President and Members of the Senate: In light of the report of the Appropriations Committee which, after accepting all the remedies to the substantial deficits outlined in the report of January 29th to the Legislative Council, the signers of this report, Report "B" from the Appropriations Committee, decided that Report "B" should not expand any programs and should not contain any new programs. This deficit could amount, even after the remedies proposed by the Governor, up to the neighborhood of approximately 16 million dollars.

This report attempts to force the state to live within its current income. It does not use one-time funding for continuing expenses.

I would like very briefly to go through the provisions contained in this report, and I am sorry that it can't be briefer. Basically, the overall effect of this report will be to increase the Governor's balance by approximately \$300,000, from \$616,000 to \$918,000. It would do so in the following fashion:

In terms of increased revenues and increased surplus, there are six items. \$160,000 will be generated by enforcement of the existing sales tax law on casual sales of automobiles. This enforcement will be done by the Secretary of State as a prerequisite to registration. This would produce \$160,000.

This would also utilize \$75,000 of interest anticipated for the fiscal year '77 from the unorganized territories' school fund, as well as utilizing \$283,000 roughly of accumulated interest in this account. Since the advent of L. D. 1994 and 1452 this fund, which was set up for educational purposes, has had really no legitimate use of the interest developed from the fund. We do not propose in this report touching the principal in this account, which I think would be an abrogation of the trust that set this fund up. It furthermore would have problems, I believe, with the articles of separation from the State of Massachusetts.

Additional funding will be provided in the amount of \$137,000 because of the latest estimate of the income produced by the taxation measures under the Education Funding Act as opposed to the expenses included in that act.

Further, there is a \$50,000 transfer from the general fund to the District Court, which will be counterbalanced by a similar measure in the expenditures section.

This bill further utilizes \$1,100,000 which is generated from a limitation of state revenue sharing to an amount of \$9,000,000. I am sure this will be discussed later as I have seen an amendment concerning this. But basically the towns, prior to passage of the Education Funding Act, anticipated \$8.8 million in state revenue sharing. Because of the income tax changes under the Education Funding Act, this amount would increase by \$1,100,000, and this \$9,000,000 limitation would allow towns to have those monies that they expected prior to passage of the Education Funding Act, yet would not give them the windfall that they would receive under this act.

Report "B" also includes \$130,000 in working capital repayments from three specific state agencies. These agencies have had interest free general fund loans, most of them due within ten years from the date of the loan, and this bill would utilize \$15,000 from the Seed Potato Board fund. They were originally loaned \$50,000, and they have two years to repay this general fund money. This would utilize \$15,000 of that fund. It would further utilize \$65,000 from the State Lottery fund and \$50,000 from the Postal, Printing and Supply fund, a total of \$130,000, which is a one-shot repayment of these loans to fund only one-shot items, one-time expenses in this bill; namely, \$110,000 for the general fund portion of the proposed compensation plan. This is a one-time bonus to the lowest paid state employees, plus \$20,000 to fund the Appeals Board under this bill.

The expenditures proposed in Report "B" include the above-mentioned two items, the \$110,000 bonus for general fund employees — and I might mention that this bonus would amount to \$262,000 for general fund employees, plus those compensated from other funds — and again, I have already mentioned the \$20,000 compensation for the Appeals Board to guarantee that we do get people to serve on this very important board and that it can promptly and properly finish its business.

This provides \$43,000 for the Legislative Research Office to republish two volumes of part of the statutes. This item was deferred during the last regular session but these, I am told by people who use these volumes more than I do, are getting in a considerable state of disrepair, and I think this is a continuing program which we should carry out.

This would reduce Indian scholarship funds by \$10,000. This \$10,000 was not recommended by the Department of Education.