

# 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

Lynch, MacEachern, Mahany, Martin, A.; Maxwell, McBreaury, Miskavage, Mitchell, Morin, Mulkern, Nadeau, Najarian, Norris, Peakes, Pearson, Pelosi, Peterson, T.; Post, Quinn, Raymond, Rolde, Saunders, Shute, Silverman, Spencer, Strout, Stubbs, Talbot, Theriault, Tierney, Truman, Twitchell, Usher, Wagner, Walker, The Speaker.

ABSENT — Ault, Blodgett, Cote, Curran, P.; Farley, Fraser, Gauthier, Hinds, Hobbins, Hutchings, Immonen, Jacques, Kany, Kelley, Kennedy, LeBlanc, Lizotte, McMahon, Mills, Powell, Smith, Tyndale, Webber, Winship.

Yes, 49; No, 78; Absent, 24.

The SPEAKER: Forty-nine having voted in the affirmative and seventy-eight in the negative, with twenty-four being absent, the motion does not prevail.

Thereupon, on motion of Mr. Kelleher of Bangor, the House voted to insist and ask for a Committee of Conference.

On Motion of Mr. Albert of Limestone, it was ORDERED, that Frederick Lunt of Presque Isle be excused March 29th and 30th for personal reasons.

Bill "An Act Relating to Borrowing Capacity of Community School District No. 915 Consisting of the Towns of Litchfield, Sabattus and Wales" (Emergency) (H. P. 2256) (Presented by Mr. Cooney of Sabattus) (Approved for Introduction by a Majority of the Committee on Reference of Bills pursuant to Joint order, S. P. 635, as amended.

Under suspension of the rules, without reference to any committee, the bill was read twice, passed to be engrossed and sent up for concurrence.

By unanimous consent, ordered sent forthwith to the Senate.

The following papers from the Senate appearing on Supplement No. 2 was taken up out of order by unanimous consent:

From the Senate: The Following Joint Order: (S. P. 774)

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.

Came from the Senate read and passed.

In the House, the Order was read and passed in concurrence.

#### Orders of the Day

The Chair laid before the House the first tabled and today assigned matter:

House Divided Report — Majority (11) "Ought Not to Pass" — Minority (2) "Ought to Pass" — Committee on Taxation on Bill, "An Act to Establish a Maine Community Jobs Act" (H. P. 2165) (L. D. 2293)

Tabled — March 25 by Mr. McKernan of Bangor.

Pending — Motion of Mr. Drigotas of Auburn to Accept Majority "Ought Not to Pass" Report.

The SPEAKER: The Chair recognizes the gentleman from Portland, Mr. Connolly.

Mr. CONNOLLY: Mr. Speaker, Ladies and Gentlemen of the House: I didn't intend to debate this bill today, but just so you can understand what is going to happen after I sit down, let me explain something.

This bill was presented to the committee for a hearing the day before bills had to be reported out of committee. We explained, when we presented the bill, that we wanted to offer an amendment that would substantially change the bill, but we were never able to put that together before the committee reported it out. That amendment is now being prepared and will be able to be presented in second reading on Monday. The chairman of the committee and the other members of the committee who opposed the bill have agreed to let us do that. I offer that to you as an explanation.

The SPEAKER: The Chair recognizes the gentleman from Auburn, Mr. Drigotas.

Mr. DRIGOTAS: Mr. Speaker and Members of the House: I would now withdraw my motion to accept the Majority "Ought not to pass" Report made on Wednesday.

Mr. Mulkern of Portland moved that the House accept the Minority "Ought to pass" Report.

Mr. Finemore moved the matter be tabled for one legislative day.

Subsequently, Mr. Finemore of Bridgewater withdrew his tabling motion.

The SPEAKER: The Chair recognizes the gentleman from Bridgewater, Mr. Finemore.

Mr. FINEMORE: Mr. Speaker and Members of the House: This bill is absolutely impossible to pass over the federal regulations. That is the reason we reported this bill out 11 to 2. It is impossible to pass.

If I remember right, the gentleman from Portland, Mr. Mulkern, didn't even attend the hearing. It is almost impossible. We will leave it that way.

The SPEAKER: The Chair recognizes the gentleman from Portland, Mr. Mulkern.

Mr. MULKERN: Mr. Speaker, I would like to correct the gentleman. I was at the hearing.

Mr. Leonard of Woolwich moved the Bill and all accompanying papers be indefinitely postponed.

The SPEAKER: The Chair recognizes the gentleman from Bangor, Mr. McKernan.

Mr. MCKERNAN: Mr. Speaker and Members of the House: I am not sure that I am going to go along with the amendment at second reader, but I do think that if it is going to be substantially different, we ought to reject the motion to indefinitely postpone and let the bill go to second reading.

The SPEAKER: The Chair will order a vote. The pending question is on the motion of the gentleman from Woolwich, Mr. Leonard, that this bill and all its accompanying papers be indefinitely postponed. All in favor of that motion will vote yes; those opposed will vote no.

A vote of the House was taken.

22 having voted in the affirmative and 72 having voted in the negative, the motion did not prevail.

Thereupon, the Minority "Ought to pass" Report was accepted, the Bill read once and assigned for second reading tomorrow.

The Chair laid before the House the second tabled and today assigned matter:

House Divided Report — Majority (10) "Ought Not to Pass" — Minority (3) "Ought to Pass" — Committee on Taxation on Bill, "An Act to Revise and Reform the Maine Personal Income Tax Law" (H. P. 2036) (L. D. 2211)

Tabled — March 25 by Mr. Mulkern of Portland.

Pending — Motion of the same gentleman to accept the Minority "Ought to Pass" Report.

On motion of Mr. Rolde of York, retabled pending the motion of Mr. Mulkern of Portland to accept the Minority Report and tomorrow assigned.

The Chair laid before the House the third tabled and today assigned matter:

Bill, "An Act to Amend the Employment

Security Law" (S. P. 691) (L. D. 2210) (C. "A" S-453)

Tabled — March 25 by Mr. Rolde of York. Pending — Passage to be Engrossed as amended by Committee Amendment "A" (S-453)

Mr. Tierney of Durham offered House Amendment "B" and moved its adoption.

House Amendment "B" (H-1117) was read by the Clerk and adopted.

The Bill was passed to be engrossed as amended by Committee Amendment "A" and House Amendment "B" in non-concurrence and sent up for concurrence.

The Chair laid before the House the fourth tabled and today assigned matter:

House Report — "Ought To Pass" as amended by Committee Amendment "A" (H-1028) — Committee on Local and County Government on Bill, "An Act Relating to Town Ways" (H. P. 1920) (L. D. 2108) — In House, Report Read and Accepted; Committee Amendment "A" read; House Amendment "A" (H-1070) to Committee Amendment "A" read and adopted.

Tabled — March 25 by Mr. Dam of Skowhegan.

Pending — Adoption of Committee Amendment "A" (H-1028) as Amended by House Amendment "A" (H-1070)

Mr. Morton of Farmington offered House Amendment "D" to Committee Amendment "A" and moved its adoption.

House Amendment "D" to Committee Amendment "A" (H-1122) was read by the Clerk and adopted.

Committed Amendment "A" as amended by House Amendment "A" and House Amendment "D" thereto was adopted.

Under suspension of the rules, the Bill was read the second time, passed to be engrossed as amended and sent up for concurrence.

The Chair laid before the House the fifth tabled and today assigned matter:

Bill, "An Act to Provide for more Effective Debt Management and for more Effective Administration of the State's Development Financing Capability" (H. P. 1816) (L. D. 1974)

Tabled — March 25 by Mr. Rolde of York. Pending — Passage to be Engrossed.

On motion of Mr. Cooney of Sabattus, retabled pending passage to be engrossed and tomorrow assigned.

The Chair laid before the House the sixth tabled and today assigned matter:

Bill, "An Act to Revise and Clarify the Freedom of Access Law" (H. P. 2226) (L. D. 2316) (H. "A" H-1034) (H. "B" H-1044)

Tabled — March 25 by Mr. Rolde of York. Pending — Passage to be Engrossed.

Mr. Perkins of South Portland offered House Amendment "C" and moved its adoption.

House Amendment "C" (H-1064) was read by the Clerk.

The SPEAKER: The Chair recognizes the gentleman from York, Mr. Rolde.

Mr. ROLDE: Mr. Speaker, Ladies and Gentlemen of the House: Looking at this amendment, it has a very familiar ring. I believe that we had this same amendment which would again open our files in the Legislative Research Office. We have had it in every sort of form, fried, scrambled, poached on toast and about every way you want to see it in the last session, and I believe the gentleman even took his case to court and it was turned down. What I would ask, Mr. Speaker, is this amendment properly before us under the rules.

The SPEAKER: The Chair would rule that the amendment is not germane.

Mr. PERKINS: Mr. Speaker, I would like to appeal that ruling.

The SPEAKER: The gentleman from South Portland, Mr. Perkins, has appealed the decision of the Chair. The Chair will order a vote. The pending question is, shall the decision of the Chair be sustained? If you are in favor of sustaining the decision you will vote yes; if you are opposed, you will vote no.

A vote of the House was taken.

81 having voted in the affirmative and 26 having voted in the negative, the decision was sustained.

Mr. Joyce of Portland offered House Amendment "E" and moved its adoption.

House Amendment "E" (H-1110) was read by the Clerk.

The SPEAKER: The Chair recognizes the gentleman from Portland, Mr. Joyce.

Mr. JOYCE: Mr. Speaker, Ladies and Gentlemen of the House: The Legal Affairs Committee met yesterday and this is more or less a housekeeping amendment. The Attorney General's Office found a slight defect in the bill and this amendment just clarifies it. It is a very minor change.

The SPEAKER: The Chair recognizes the gentleman from Bangor, Mr. Henderson.

Mr. HENDERSON: Mr. Speaker, I wonder if the gentleman could indicate what the effect of those minor changes are.

The SPEAKER: The Chair recognizes the gentleman from Portland, Mr. Joyce.

Mr. JOYCE: Mr. Speaker, they are so minute that I will go to the minutest. On page 3 of the bill, it seems as though the members of the Bar found difficulty in identifying undue damages. It was suggested that undue be removed. This is a minor change.

Also, on page 3, section 6, we get down into paragraph 2, it previously read: "Any person charged or investigated or otherwise under discussion." This "otherwise under discussion" seems to be a problem. It was a problem in municipalities that I checked with in that they felt if they wanted to hire a city manager, like they are trying to do in Portland and you were going to discuss the city manager, you would have to bring him in, let him sit in on the meeting. That is really the big thing.

Thereupon, House Amendment "E" be adopted.

The SPEAKER: The Chair recognizes the gentleman from Anson, Mr. Burns.

Mr. BURNS: Mr. Speaker and Members of the House: I would like to point out some of the provisions of the bill that you have before you.

I would like you to note, on page 2, under section 402, both subsections 2b and c. It is the committee's intent that subcommittee and committee are not included purposely in here and would not be involved with this law. We further feel that a committee or a subcommittee is defined as one less than the majority of the whole. In other words, the board, commission or agency could not suddenly declare themselves to be a committee and thereby get around the law. They could have any size committee they desired, so long as it is one less than the majority.

In section 408, it does not require that minutes be kept. However, if they are kept, they must be made available to the public.

In section 407, if any additional approval or denial is made or any dismissal or refusal for a new contract, a record must be kept by all committees in this regard.

Thereupon, the Bill was passed to be engrossed as amended by and sent up for concurrence.

The Chair laid before the House the seventh tabled and today assigned matter:

Bill, "An Act to Prohibit Payment of Dependency Allowance to Persons with a Spouse Employed Full Time" (H. P. 2118) (L. D. 2267) (C. "A" H-1029)

In House — Passed to be Engrossed as

amended by Committee Amendment "A" (H-1029)

Tabled — March 25 by Mr. Rolde of York.

Pending — Motion of Mr. Tierney of Durham to Reconsider Passage to be Engrossed.

On motion of Mr. Tierney of Durham, retabled pending his motion to reconsider and tomorrow assigned.

The Chair laid before the House the eighth tabled and today assigned matter:

Joint Order Relative to Legislative Budget Committee (H. P. 2248)

Tabled — March 25 by Mr. Rolde of York.

Pending — Adoption of House Amendment "A" (H-1102)

Mrs. Najarian of Portland moved the matter be tabled one legislative day.

Mr. Palmer of Nobleboro requested a vote on the tabling motion.

The SPEAKER: The pending question is on the motion of the gentleman from Portland, Mrs. Najarian, that this matter be tabled pending adoption of House Amendment "A" and tomorrow assigned. All in favor of that motion will vote yes; those opposed will vote no.

A vote of the House was taken.

49 having voted in the affirmative and 39 having voted in the negative, the motion did prevail.

The Chair laid before the House the ninth tabled and today assigned matter:

House Divided Report — Majority (8) "Ought To Pass" — Minority (5) "Ought To Pass" as amended by Committee Amendment "A" (H-1069) — Committee on Business Legislation on Bill, "An Act to Require a Majority of Consumer Representation on Governing Boards of Nonprofit Hospital and Medical Service Organizations" (H. P. 1865) (L. D. 2036)

Tabled — March 25 by Mrs. Clark of Freeport.

Pending — Motion of Mr. Bowie of Gardiner to Accept the Majority "Ought to Pass" Report.

The SPEAKER: The Chair recognizes the gentleman from Portland, Mrs. Boudreau.

Mrs. BOUDREAU: Mr. Speaker, Ladies and Gentlemen of the House: I hope you do not accept the majority "ought to pass" report. Yesterday morning when I looked at my calendar, I was surprised, to say the least, I attended the work session on this bill and when I left that committee, I thought we had a unanimous report. The people who attended the work session were agreeable to this. A call was made to Blue Cross, and they could live with the amended version which I signed. Evidently something happened in between.

Both reports require consumers on the Blue Cross Board, which I think is a good idea, but if we are going to put consumers on there, let's put real consumers. In the minority report, the only difference is, we have to find a consumer, and this would be someone who does not derive more than 20 percent of annual income, whether directly or through that person's spouse, from the delivery of health care services. If we are going to really have somebody who is considered a consumer on that board, I don't believe people such as the wife of the hospital administrator should be permitted to serve as a consumer representative on there.

There is room on that board for providers and she could serve in that position. Our amendment would take care of this situation.

I am asking you to vote against the majority "ought to pass" report so we can accept the minority "ought to pass" report.

The SPEAKER: The Chair recognizes the gentleman from Ellsworth, Mr. DeVane.

Mr. DeVANE: Mr. Speaker, I would request that the Clerk read the Committee Report so we will know which Senators and which Representatives signed which report.

Thereupon, the Report was read by the Clerk.

The SPEAKER: The Chair recognizes the gentleman from Scarborough, Mr. Higgins.

Mr. HIGGINS: Mr. Speaker and Members of the House: It is with a great deal of hesitancy that I rise after the success that I have had in the last two or three days in this House, but I would like to call your attention that there are only two differences in both committee reports. The minority report changes two things. First of all, it makes it impossible for anyone to serve on the board for more than three year consecutive terms. The other one is similar to what Mrs. Boudreau has alluded to already and has explained very well. The majority report calls for consumer representatives who do not earn any income from the health care services. This would allow a wife of an administrator, as has been stated before, to serve on the board, the wife of a doctor, someone who is indirectly involved with providers.

It would also not allow someone who worked, perhaps, one day a week as a nurse or in some related field, just on a part-time basis, they would not be able to serve. So it is discriminatory in that manner. If someone works parking cars for the Maine Medical Center and they were paid directly by the Maine Medical Center, the way I understand the majority report, they would not be able to serve as a consumer member on that board. I know that sounds a little bit ridiculous, but that is the way it reads to me.

The minority report, on the other hand, calls for consumer representatives who do not receive more than 20 percent of their income from providing health care services to people of this state. It would allow people who did work part time, as long as it wasn't more than one fifth of the total income of them and their spouse. I think that is the difference.

If we want consumers on the board, then let's put them on the board. If we don't, then let's not. The issue is a simple as that, and I would hope you would go against this motion to accept the majority report so that we might go on and accept the minority.

The SPEAKER: The Chair recognizes the gentleman from Ellsworth, Mr. DeVane.

Mr. DeVANE: Mr. Speaker and Members of the House: The minority report, at one and the same time, is both more restrictive and less restrictive.

The majority report would prohibit anybody who had any part of their income, and the minority report, 20 percent. But the minority report includes income of spouse, not just wife, it could be the husband of a nurse, either spouse, I believe.

Most of the people who signed the minority report, it seems to me when we talk in matters of banks and banking, were greatly concerned that people would be able to get loans, regardless of what their spouse had and not have to show their income. It seems to me that that sort of autonomy applies here. At one and the same time, the minority report, depending on how you look at it, is more restrictive because it eliminates the spouse of somebody who gets 20 percent of their income from providing health care services. That seems to me unfair and undesirable.

The last line of the minority report, "No director shall serve more than three consecutive three-years term," seems unnecessary since that is already in the Blue Cross by-laws. Nobody does anyway.

The SPEAKER: The Chair recognizes the gentleman from Freeport, Mrs. Clark.

Mrs. CLARK: Mr. Speaker, Men and Women of the House: I would hope that the Committee on Business Legislation, which I had believed at one time, was by majority in favor of what is now the minority report on this bill, would come together on this issue, for, indeed, it is a