

# 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

Henderson, Hewes, Higgins, Hinds, Hobbins, Hunter, Hutchings, Immonen, Ingegneri, Jackson, Jacques, Jensen, Joyce, Kany, Kaufman, Kelley, Kennedy, Laffin, Laverty, LeBlanc, Leonard, Lewin, Lewis, Littlefield, Lizotte, Lovell, Lunt, Lynch, MacEachern, Mackel, MacLeod, Mahany, Martin, A.; Martin, R.; Maxwell, McBrearty, McKernan, Mills, Miskavage, Morton, Nadeau, Najarian, Norris, Peakes, Pearson, Pelosi, Perkins, S.; Perkins, T.; Peterson, P.; Peterson, T.; Pierce, Powell, Raymond, Rideout, Rolde, Rollins, Saunders, Shute, Smith, Snow, Snowe, Spencer, Sprowl, Strout, Stubbs, Susi, Tarr, Teague, Theriault, Torrey, Tozier, Truman, Twitchell, Tyndale, Usher, Wagner, Walker, Webber, Wilfong, Winship.

NAY — Bachrach, Connolly, Dudley, Hennessey, Kelleher, LaPointe, Mitchell, Morin, Mulhern, Post, Silverman, Talbot, Tierney.

ABSENT — Bowie, Hall, Hughes, Jalbert, McMahon, Palmer, Quinn.

Yes, 130; No, 13; Absent, 7.

The SPEAKER: One hundred and thirty having voted in the affirmative and thirteen in the negative, with seven being absent, the motion does prevail.

Sent up for concurrence.

The following paper from the Senate was taken up out of order by unanimous consent:

The following Joint Order: (S. P. 782)

WHEREAS, children who are mentally retarded need every advantage to develop confidence in themselves and to succeed in building a positive image; and

WHEREAS, special olympics have been designed for the mentally retarded to give them a chance to develop skills and experience success through an organized programming of physical fitness; and

WHEREAS, through this unique program mentally retarded boys and girls of the State can share experiences of athletic competition not otherwise available; and

WHEREAS, the special olympics program for mentally retarded children is scheduled to be held in the City of Portland on June 4 and 5, 1976; now, therefore, be it

ORDERED, the House concurring, that the Members of the Special Session of the One Hundred and Seventh Legislature, now assembled, commend the continued development of the special olympics program and express our thanks to all those who participate, support and make possible, through this special olympic event, new hope and a better way of life for the mentally retarded; and be it further

ORDERED, that suitable copies of this Joint Order be forwarded to the olympic officials in token of our commendation and support.

Came from the Senate, read and passed.

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

The Chair laid before the House the second item of Unfinished Business:

Bill "An Act to Revise and Clarify the Freedom of Access Law" (H. P. 2226) (L. D. 2316) — In House, Passed to be Engrossed as amended by House Amendments "A" (H-1034), "B" (H-1044), and "E" (H-1110) — In Senate, Passed to be Engrossed as amended by House Amendments "B" and "E" in non-concurrence. Tabled — (Till Later Today) March 30 by Mrs. Najarian of Portland.

Pending — Further Consideration.

On motion of Mr. Faucher of Solon the House voted to recede from its action whereby the Bill was passed to be engrossed.

Thereupon, the same gentleman offered House Amendment "F" and moved its adoption.

House Amendment "F" (H-1137) was read by the Clerk.

The SPEAKER: The Chair recognizes the gentleman from Madison, Mrs. Berry.

Mrs. BERRY: Mr. Speaker, I wonder if this amendment could be explained?

The SPEAKER: The gentleman from Madison, Mrs. Berry, has posed a question through the chair to anyone who may care to answer.

The Chair recognizes the gentleman from Solon, Mr. Faucher.

Mr. FAUCHER: Mr. Speaker and Members of the House: This amendment was first drafted by a lobbyist for the Maine Municipal Association and asked me to offer it. I spoke to the members of the Legal Affairs Committee and they didn't see any problem with this amendment. This amendment makes it clear that public notice is to be given only for meetings of official bodies that consist of three or more persons. It does not require notice of meetings that merely deal with policy but only those at which policy will be adopted.

The SPEAKER: The Chair recognizes the gentleman from Bridgton, Mrs. Tarr.

Mrs. TARR: Mr. Speaker, I don't like the sound of that amendment. If Mr. Faucher can say anything else to convince me, but is this that three people could get together and discuss policy and so forth without any meeting, is that what you are saying?

The SPEAKER: The gentleman from Bridgton, Mrs. Tarr, has posed a question through the Chair to anyone who may care to answer.

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

Mr. BURNS: Mr. Speaker, Ladies and Gentlemen of the House: This has reference only to the advertising of the meetings. As I stated the other day, this law no longer is applicable to committees and subcommittees of those agencies or boards or commissions. However, there are some agencies that are one man or one individual, and the way that the law was written, it would mean that if that one individual came into town or contacted anyone, he would immediately have to post a public notice that he was going to do so. We didn't think that this was what they wanted.

This only involves the committees, agencies, boards and commissions that have the authority to either impose taxation, appropriate funds or set policy on those individuals governed and a committee would be one less than a majority, meaning that the commission couldn't go in and say, we are now a committee so these rules do not apply. But a committee or subcommittee of one of these boards, agencies, groups can only be one less than a majority so, therefore, the entire board must meet before any major decisions are made. Then this law does apply.

Thereupon, House Amendment "F" was adopted.

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

Mr. HENDERSON: Mr. Speaker, I would inquire to any member of the Legal Affairs Committee if they could explain to me if a body, say a school committee or a council, could say that they were not having an executive session or not even an official meeting, that they were having what they might call a work shop meeting, could they get together and have such a meeting without notifying the public or making it open to the public?

The SPEAKER: The gentleman from Bangor, Mr. Henderson, has posed a question through the Chair to anyone who may care to answer.

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

Mr. BURNS: Mr. Speaker, Ladies and Gentlemen of the House: This is one of the problems that we had with this bill in dealing with it, and we hoped that we had taken care of

it under Section 401. The last sentence says, it is further the intention of the legislation that clandestine means conferences or meetings held on private property without proper notice and ample opportunity for attendance by the public not to defeat the purpose of this subsection.

Mr. Shute of Stockton Springs offered House Amendment "G" and moved its adoption.

House Amendment "G" (H-1146) was read by the Clerk.

The Chair recognizes the gentleman from Stockton Springs, Mr. Shute.

Mr. SHUTE: Mr. Speaker, Ladies and Gentlemen of the House: The purpose of this amendment is pretty well explained in the Statement of Fact. It says the purpose of the amendment is to provide greater flexibility and notification of the media in the event of an emergency meeting. This is amending Section 406 of the bill under Public Notice, which reads at the present time: "Public notice shall be given to all public proceedings as defined in Section 402 whenever these proceedings deal with expenditures of public funds, taxation or policy. This notice shall be given in ample time to allow public attendance" which is all right with me and that is the way it should be and I find no fault with that section. The next sentence, however, deals with the emergency situation and this is the section that I am amending.

"In the event of an emergency meeting, local representatives of the media shall be notified of the meeting" and this is where my amendment comes in. "whenever practical" were those words. The notification to include time and location by the same means or faster means to notify members of the agency conducting the public proceedings.

Some of the small towns naturally would have to comply with this if an emergency situation did arise on water damage to a bridge or road repair or anything. I can think of one town next to my town that would have to notify three newspapers, four radio stations and three TV stations, and I think that is a little impractical if there isn't time to notify these people of the meeting. If the notification is given in person, it would also be impractical to notify the media in person.

It is not the intent of this amendment to in any way defeat the purpose of the bill because they would still be required to notify the media, whenever they could possibly do that. I do think there is a little need for flexibility in the notification section when an emergency arises.

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

Mr. HENDERSON: Mr. Speaker, Ladies and Gentlemen of the House: I was wondering if any member of the committee was concerned about this, and I am not quite sure but I think I am concerned about it in that what practicality is can sometimes be a very broad discretionary judgment on the part of people who might be holding meetings where people will not be able to attend. Unfortunately, this kind of a law is being passed to deal with those marginal cases where people do hold meetings where they are not quite as forthcoming as we would like to have them and this might give them what I would think is possibly a gaping loophole.

I wonder though, since it does talk about local representatives of the media, whether a small town which does not have a television station located in its district but may have a local correspondent of the newspaper, whether they would only be obligated to notify the latter and not all these other groups. I would ask for a division on the motion and hope, unless we hear some more convincing arguments, that we do not adopt the committee amendment.

The SPEAKER: The Chair recognizes the gentleman from Old Town, Mr. Pearson.

Mr. PEARSON: Mr. Speaker, Ladies and Gentlemen of the House: I am not really sure whether I support Mr. Shute's amendment or not, but I would point out to Mr. Henderson that I think he suffers from Bangoritis and that is that all three channels of television serve the area that we both live in are in Bangor and so is the newspaper, but what if you live in Danforth or a number of areas like that? It is very difficult — I think perhaps Mr. Henderson is just looking at it from a city's point of view.

The SPEAKER: The Chair recognizes the gentleman from Solon, Mr. Faucher.

Mr. FAUCHER: Mr. Speaker, Ladies and Gentlemen of the House: We had a study on this bill and we worked hard. The whole committee worked hard. We did the best we could with this and I don't see why we should study it. If there is anything wrong with it, maybe next time around we can correct it, but we tried to do a good job on it, that is about as much as we can do on it.

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

Mr. BURNS: Mr. Speaker, Ladies and Gentlemen of the House: In response to Mr. Henderson's question, the intent of the public notice would be to the same media which would normally be notified of the meeting in the first place, so I am sure that up in the Forks they are not going to call Channel 5 or Channel 13 and tell them about the meeting because it is not a normal procedure. They would, however, contact the local news representative, that is the intent.

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

Mrs. CLARK: Mr. Speaker, Ladies and Gentlemen of the House: I, too, share some concern with the thrust of this amendment and I would ask the members of this House, who have all so overwhelmingly supported citizen involvement and access to our public records, what is an emergency so great that it is impractical to notify the representatives of the local media so that the people might be aware when their funds are going to be expended?

The SPEAKER: The Chair recognizes the gentleman from Stockton Springs, Mr. Shute.

Mr. SHUTE: Mr. Speaker, Ladies and Gentlemen of the House: To answer a couple of questions of the gentlelady from Freeport, Mrs. Clark, there might be an emergency that the telephone lines were out and it would be rather difficult to notify the media, that might be the emergency.

In reference to the remarks made by the gentleman from Bangor, Mr. Henderson, he seemed reluctant to allow this degree of latitude to municipal officials. I wonder if he doesn't feel that municipal officials have as much credibility as this legislature has. I feel that the elected officials in my area do and I think that they would comply with the law whenever possible to do that.

The SPEAKER: The Chair recognizes the gentleman from Hampden, Mr. Farnham.

Mr. FARNHAM: Mr. Speaker, Ladies and Gentlemen of the House: Very briefly, I want to give you an example why this is a good amendment. The town of Hampden has agreements with abutting towns that in case of fire we can call on them for support, they can call on us, and when that happens, you don't have to call a meeting or anything, but if the City of Old Town was burning down and they called Hampden, will you send some pumpers up, under this bill, we would have to go to the radio stations, the newspapers and what not, to get permission. I know what would happen. Our town manager would call just two people on that council because he knows that the other three are going to say the right thing anyway but two he would have to worry about and that pumper is going up and save Mike Pearson from being burned to death. This is all that I can see this amendment is trying to do.

At our council meetings, we have to beg the Bangor Daily News to send a correspondent down. They say, we do have a problem, there are 8 or 9 councils meetings the same night each month and we don't have that many people, so our people in town kick that we don't get the coverage but the paper is not able to supply it half the time. It is a good amendment.

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

Mr. HENDERSON: Mr. Speaker, Ladies and Gentlemen of the House: Let me just put it on the record that I am not in favor of burning Old Town down, but I would like to say that this does talk about local news media and I don't think there are any radio stations located in Hampden or any television stations located in Old Town and that if this does mean local news media, I would like to preserve that, those people should be notified by whatever means. I don't think it is an overwhelming burden. If the telephone lines were down, for instance, still the members of the board of selectmen or whatever would still have to be notified some way, and if it is by smoke signal, then the local correspondent of the daily blat can also be notified by smoke signal. It just seems that that would be possible and also I would clearly imagine that if it was absolutely physically impossible to communicate, that the liability on the part of the local officials would be extremely limited.

The only other comment is, yes, I have great confidence in local officials, as much as I do with ourselves, but if we were completely confident across the board, we would not need this law at all. It is for those cases where there might not be as much public access as we would like and this is attempting to assure that without the possibility of a loophole.

The SPEAKER: The Chair recognizes the gentleman from Eastport, Mr. Mills.

Mr. MILLS: Mr. Speaker, Ladies and Gentlemen of the House: You are all familiar with the territory that I come from. I think this is a good amendment. When we had that gale down through there recently with the poles down, lines gone, radios out and everything else, there was no way that we could reach any news media to tell them you had an emergency. The local town people simply had to turn to and form their own gangs and get out and do the work, and that is the way it was done.

The SPEAKER: The Chair recognizes the gentleman from Brewer, Mr. Norris.

Mr. NORRIS: Mr. Speaker, Ladies and Gentlemen of the House: I would ask the gentleman from Bangor, Mr. Henderson, is this the same piece of legislation that he just put before the Bangor Council, that there was so much discussion the other night about notifying the media when they held a meeting?

The SPEAKER: The gentleman from Brewer, Mr. Norris, has posed a question through the Chair to the gentleman from Bangor, Mr. Henderson, who may answer if he so desires.

The Chair recognizes that gentleman.

Mr. HENDERSON: Mr. Speaker, no.

The SPEAKER: The pending question before the House is the adoption of House Amendment "G". Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

79 having voted in the affirmative and 10 having voted in the negative, the motion did prevail. The Bill passed to be engrossed as amended by "A", "B", "E", "F" and "G" in non-concurrence and sent up for concurrence.

On request of Mr. Rolde of York by unanimous consent, unless previous notice was given to the Clerk of the House by some member of his or her intention to move reconsideration, the Clerk was authorized today to send to the Senate, thirty minutes after the

House recessed for lunch and also thirty minutes after the House adjourned for the day, all matters passed to be engrossed in concurrence and all matters that required Senate concurrence; and that after such matters had been so sent to the Senate by the Clerk, no motion to reconsider would be allowed.

(Off Record Remarks)

On motion of Mr. Rolde of York,  
Recessed until two-thirty in the afternoon.

After Recess

2:30 P.M.

The House was called to order by the Speaker.

The Chair laid before the House the second item of Unfinished Business:

Bill, "An Act Relating to the Form of Ballots" (H. P. 2063) (L. D. 2233)

Tabled — (Till Later Today) March 30 by Mrs. Najarian of Portland.

Pending — Passage to be Engrossed.

Mr. Faucher of Solon offered House Amendment "A" and moved its adoption.

House Amendment "A" (H-1153) was read by the Clerk.

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

Mrs. BOUDREAU: Mr. Speaker, Ladies and Gentlemen of the House: I move the indefinite postponement of this amendment. This amendment is exactly what the minority report of the Election Laws Committee was on this particular L.D. This L.D. came out of committee 11 to 2 "ought to pass" without this amendment.

All we are trying to do with this bill is to make the voting process uniform, to have the box on the left hand side of all ballots, including the municipal and referendum ballots. The form of the ballot has been changed this time, the name of the candidate, the last name will appear first on the ballot. It will be in big bold letters so that it is going to be very easy to see. The space between the name is going to be bigger than it was the last time.

We felt that more people vote in a general and a primary election than they do in local elections; therefore, people are accustomed, in the last few years, of marking their ballots to the left. This was the reason that the majority of the committee voted to keep it that way in all elections. Therefore, I would hope that you would indefinitely postpone this amendment.

The SPEAKER: The Chair recognizes the gentleman from Solon, Mr. Faucher.

Mr. FAUCHER: Mr. Speaker, Ladies and Gentlemen of the House: I believe that my amendment is a good amendment. The purpose of my amendment is to make all ballots consistent by having the square on the right in all cases, for all candidates that are running for the state county, municipal officers and referendums.

When I first went to school, I was taught by the teachers to start reading from the left to the right, not right to the left, and I still believe in it. I don't see why this was ever changed. I believe it was two or three years ago when former Representative Whitzell from Gardiner was here and this bill, I don't know how it became a law, but it is, but I feel that at the last election people were saying what is the matter with you people in Augusta, why are you making us vote for you on the left and when we vote for referendum, municipal officers, we have to vote on the right. With my amendment, the cities and towns around the state, they have voting machines, if this becomes law with the other bill, they would have to get rid of the voting machines and buy new ones. This was testified to in our committee.

When we get questionnaires in the mail from different people and we got one on our desks