

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

*One Hundred and Fourth
Legislature*

OF THE

STATE OF MAINE

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KENNEBEC JOURNAL
AUGUSTA, MAINE

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

Mr. KATZ of Kennebec: Mr. President and Members of the Senate: The issue is very, very clear. The opportunity is here, it has been afforded us, the amendments are in front of us, debate has taken place at very substantial length, I suggest to the Senator from Oxford, Senator Beliveau, and those of us who are in favor of the amendments will vote against enactment. The day in court is here. Those of us who are not in favor of the amendments, or further consideration of the amendments, will vote for enactment. You have absolutely as much choice under this procedure as you would have under the other. I hope you do vote indeed, those of you who are ready to go, will vote for final enactment now.

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

Mr. CONLEY of Cumberland: Mr. President and Members of the Senate: I believe that when the bill first came before this body from the Judiciary Committee it was an eight-to-two Ought Not to Pass Report. Without any question, the vote has been taken here at least half a dozen times by a roll call vote, and each time that we have had the full membership of this body present the vote has come down to generally about a sixteen-to-sixteen vote. It shows that there is absolutely not overwhelming support for this bill.

I think that the opponents of the legislation now realize that it is very possible that it is going to become law. The fact is that they want to make sure and they want at least to clean the bill up. As one of the opponents I, myself, if we do not enact this today, and the good Senator from Oxford is given the opportunity to present his amendments or whichever amendment he wants to present I would be happy to support the bill, but I do think certainly we should give the good Senator from Oxford the opportunity of presenting his amendments.

The PRESIDENT: Is the Senate ready for the question? A roll call

has been requested. The roll call is on Bill, An Act Providing for Implied Consent Law for Operators of Motor Vehicles. A "Yes" vote will be in favor of passing the bill to be enacted; a "No" vote will be opposed.

The Secretary will call the roll.

ROLL CALL

YEAS: Senators Anderson, Barnes, Berry, Boisvert, Dunn, Greeley, Hanson, Hoffses, Katz, Moore, Peabody, Reed, Sewall, Stuart, Wyman, and President Macleod.

NAYS: Senators Beliveau, Bernard, Cianchette, Conley, Duquette, Gordon, Kellam, Letourneau, Levine, Logan, Martin, Mills, Minikowsky, Quinn, Tanous, and Violette.

A roll call was had. Sixteen Senators having voted in the affirmative, and sixteen Senators having voted in the negative, the motion did not prevail and the Bill failed of Enactment in non-concurrence.

Sent down for concurrence.

The President laid before the Senate the fourth tabled and specially assigned matter: Bill, "An Act Establishing a Full-time Administrative Hearing Commissioner." (H. P. 1242) (L. D. 1577)

Tabled—June 17, 1969 by Senator Beliveau of Oxford.

Pending — Passage to be Engrossed.

Mr. Beliveau of Oxford then presented Senate Amendment "A" and moved its Adoption.

Senate Amendment "A", Filing No. S-291, was Read.

The PRESIDENT: The Chair recognizes the same Senator.

Mr. BELIVEAU: Mr. President and Members of the Senate: By way of explanation, this amendment would change only one word in the document, which would require under the present language that the Governor appoint our present Administrative Hearing Commissioner to the position of full time Administrative Hearing Officer.

As you recall, the new draft before us came out of committee having changed the original document somewhat which creates the office of full time Administrative

Hearing Office and to give him the salary of a Superior Court Judge for a seven-year term. It contains the further language that it was the intent of the legislature that the present Administrative Hearing Officer be appointed to the position. I have no objection to that, but I do have an objection to language which would compel and require the Governor to appoint the present Administrative Hearing Officer to that position. I believe that this would be the only bill or statute of its kind which would place such a requirement on our Chief Executive.

The legislative intent is quite clear. I believe that the Governor would certainly take it into consideration when the appointment was made. I do not believe that he should be handicapped or burdened with the requirement that he must, in fact, appoint a certain individual to that position. As I say, the change is from: "the Governor shall appoint the present Administrative Hearing Commissioner," to "the Governor may appoint the present Administrative Hearing Commissioner."

We all have a great deal of respect for our present Commissioner. Many of us have practiced before him, and find that he has done an excellent job and there is no reason why he shouldn't be continued in that office, but to place this requirement on the Governor, I think, is an unreasonable one. It is an intervention into the Executive Branch of our Government which I think is unwarranted and unneeded, and it certainly would create a bad precedent.

The PRESIDENT: The Chair recognizes the Senator from Washington, Senator Wyman.

Mr. WYMAN of Washington: Mr. President and Members of the Senate: I am reluctant to differ with my colleague on the State Government Committee, the good Senator from Oxford. I respect him greatly. I often tell him "I wish you were a member of the Republican Party." However, I don't think politics enters into this or should enter into this at all.

We heard this bill before the State Government Committee, and if you can imagine anything un-

usual, the Christian Civic League and the Liquor Interests lined up side by side in support of this measure as it was originally drawn. I have never seen anything like that, but this man has done a good job, as Senator Beliveau says, he has no fault to find with him. He has done a good job and there is no reason why he shouldn't be reappointed. To pass this measure this amendment would put the thing back into politics, I am sure. Now, it seems to me that the good Senator from Oxford, Senator Beliveau, asked to take the Bill up and have it re-drafted. He had it redrafted and this measure before you is his re-draft. Now he decided he doesn't like the word "shall" and he wants to change it to "may". I hope that you vote for indefinite postponement of this bill. If there is any place that we need to keep politics out of it is the liquor industry.

The PRESIDENT: The Senator from Washington, Senator Wyman, moves that Senate Amendment "A" be indefinitely postponed.

The Chair recognizes the Senator from Sagadahoc, Senator Reed.

Mr. REED of Sagadahoc: Mr. President and Members of the Senate: For what ever it is worth, I would favor this amendment. I again feel that politics possibly should be kept out of State Government, but I don't know how it can be. This man isn't going to live forever and eventually the Governor is going to have to make an appointment. I have said so many times already that I feel very strongly that he stands up for election, he is responsible for these men, and he should be. I think for this legislature to give the power of appointment to him, but tell him that he has to or shall appoint this particular man for as long as he wants the job, is going out of line. On that basis, I feel as if the Governor without—I don't know this, but I would assume that the Governor would appoint this man, but I think it is wrong for us to tell him that he has to. Therefore, I support the amendment.

The PRESIDENT: The Chair recognizes the Senator from Washington, Senator Wyman.

Mr. WYMAN of Washington: Mr. President and Members of the Senate: This does not give the man lifetime employment. It does give him a seven-year appointment and it puts him somewhat in the position of a Judge, which is the position he will occupy. It provides for continuity in office and he will know what he is doing. If he is uncertain about his term, he is working part-time, but he has assured me that he will work full-time, even though his salary increase will not take effect until ninety days after the legislature adjourns. This is only for one term, and I think it has been done before. Once more, I oppose the amendment, and I would ask for the "Yeas" and "Nays" please.

The PRESIDENT: Is the Senate ready for the question? The pending question before the Senate is the motion of the Senator from Washington, Senator Wyman, that Senate Amendment "A" be indefinitely postponed. A roll call has been requested. In order for the Chair to order a roll call, under the Constitution, it requires the affirmative vote of one-fifth of those Senators present and voting. As many Senators as are in favor of ordering a roll call will rise and remain standing until counted.

Obviously more than one-fifth having arisen, a roll call is ordered. The pending question before the Senate is the motion of the Senator from Washington, Senator Wyman, that Senate Amendment "A" to Bill, "An Act Establishing a Full-time Administrative Hearing Commissioner", be indefinitely postponed. A "Yes" vote will be in favor of indefinite postponement of the Amendment; a "No" vote will be opposed.

The Secretary will call the roll.

ROLL CALL

YEAS: Senators Anderson, Barnes, Bernard, Berry, Dunn, Greeley, Hanson, Hoffses, Katz, Logan, Mills, Minkowsky, Moore, Peabody, Quinn, Sewall, Stuart, Tanous, Wyman, and President MacLeod.

NAYS: Senators Beliveau, Boisvert, Cianchette, Conley, Duquette, Gordon, Kellam, Letourneau, Levine, Martin, Reed, and Violette.

A roll call was had. Twenty Senators having voted in the affirmative, and twelve Senators having voted in the negative, the motion prevailed, Senate Amendment "A" was Indefinitely Postponed and the Bill, as Amended, was Passed to be Engrossed in concurrence.

The PRESIDENT: The Chair recognizes the Senator from Franklin, Senator Mills.

Mr. MILLS of Franklin: Mr. President, is the Senate in possession of L. D. 1496, Bill, "An Act to Revise the Pharmacy Laws"?

The PRESIDENT: The Chair would answer in the affirmative the bill having been held at the request of the Senator.

Mr. MILLS: Mr. President, I now move that this matter be reconsidered and respectfully request that someone place it on the table until tomorrow. I don't get a chance to ride with the Governor in an airplane very often and I am going with him at 4 o'clock. I wish somebody would put this on the table until tomorrow. We are going to Boys' State, my son is up there at Old Town. If I could, out of order, I am sure, and breaking all the rules, perhaps, but, when Number Eight comes along, I could be paired with Senator Berry because everybody knows he and I won't vote the same way on Number Eight. Either that, or perhaps somebody could put that on the table until tomorrow when it comes along but I have got to go.

The PRESIDENT: The Senator from Franklin, Senator Mills, moves that the Senate reconsider its action whereby Bill, "An Act to Revise the Pharmacy Laws", was passed to be engrossed. Is this the pleasure of the Senate?

The Chair recognizes the Senator from Cumberland, Senator Stuart.

Thereupon, on motion of Mr. Stuart of Cumberland, tabled and tomorrow assigned, pending the motion by Mr. Mills of Franklin to Reconsider Engrossment.

The PRESIDENT: The Chair recognizes the Senator from Washington, Senator Wyman.