

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

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qualified from appearing in any proceeding the subject matter of which was directly within his official responsibility as a state employee. This amendment limits the applicability of the law to proceedings which were pending before the agency at the time of the employee's departure. The purpose of the amendment is permit the departing state employee to utilize the professional expertise which they may have brought or developed in state service, but still prohibit them from using their influence to affect pending proceedings in which they may have been involved. As the law now stands, it creates a significant impediment to the ability of state employees to obtain other employment.

The PRESIDENT: Is it now the pleasure of the Senate to adopt Senate Amendment "C" to L. D. 2345?

It is a vote.

Mr. Merrill of Cumberland then presented Senate Amendment "B" and moved its Adoption.

Senate Amendment "B", Filing No. S-548, was Read.

The PRESIDENT: The Senator has the floor.

Mr. MERRILL: Mr. President and Members of the Senate: This is just a technical amendment which corrects a date which was incorrect in an L. D. we passed earlier on in the session.

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

It is a vote.

Mr. Clifford of Androscoggin then presented Senate Amendment "E" and moved its Adoption.

Senate Amendment "E", Filing No. S-554, was Read.

The PRESIDENT: The Senator has the floor.

Mr. CLIFFORD: Mr. President and Members of the Senate: The Secretary of State currently is doing what this would specifically allow him to do; that is, under the implied consent law, where there is a refusal to take a blood test, for the refusal there is a suspension of 90 days. However, under another section in the law which gives the Secretary of State authority to issue a restricted license, for example, to and from employment after 30 days, provided, however, that there is a conviction, plea of guilty and attendance and completion of a course in rehabilitation. So that this would, I think, as the statement of fact says, result in more convictions, result in more people taking these rehabilitation courses, and result in fewer people attempting to plea bargain in the area of operating under the influence. I think it is consistent and it is a clarification because it specifies and allows the present policy of the Secretary of State which has been called into question as to the conflict in the law. Thank you, Mr. President.

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

It is a vote.

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

Mrs. CUMMINGS: Mr. President, I move the Senate reconsider its action whereby it accepted Senate Amendment "F" and hope you vote against my motion.

The PRESIDENT: The Senator from Penobscot, Senator Cummings, now moves that the Senate reconsider its action whereby it adopted Senate Amendment "F" to L. D. 2345.

The Chair recognizes the Senator from York, Senator Marcotte.

On motion by Mr. Marcotte of York, a division was had. 10 having voted in the affirmative, and 14 having voted in the negative, the motion did not prevail.

Mr. Collins of Knox then presented Senate Amendment "D" and moved its Adoption.

Senate Amendment "D", Filing No. S-553, was Read and Adopted.

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

Mr. COLLINS: Mr. President and Members of the Senate: There are two additional amendments to the errors bill that should arrive in the Senate at any moment. I would therefore hope that someone might table this matter for a few minutes and perhaps we will be able to finish it very shortly.

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

On motion by Mr. Speers of Kennebec, Recessed until the sound of the bell.

After Recess

Called to order by the President.

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

Mr. Curtis of Penobscot then presented Senate Amendment "G" and moved its Adoption.

Senate Amendment "G", Filing No. S-557 was Read.

The PRESIDENT: The Senator has the floor.

Mr. CURTIS: Mr. President and Members of the Senate: The purpose of this amendment is to repair an inconsistency in the law that resulted because last year we enacted a full revision of the veterinary laws of the State of Maine as they affected the Veterinary Licensing Board. We also enacted a bill which provided that every such licensing board have a public member. Because of the inconsistency of the two, it is necessary now to have an amendment which provides that the Veterinary Board, just like all the other licensing boards, have a public member.

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

It is a vote.

Mr. Merrill of Cumberland then presented Senate Amendment "H" and moved its Adoption.

Senate Amendment "H", Filing No. S-558, was Read.

The PRESIDENT: The Senator has the floor.

Mr. MERRILL: Mr. President and Members of the Senate: This amendment merely states what is now the interpretation of the law that is followed by the Secretary of State, something that isn't specific and clear in the law, and that is that a person may not file for more than one office. It is to prevent a situation which was raised, at least as a hypothetical, and which I discussed with the Chairman of the Election Laws Committee, and we couldn't find anywhere in the law where it specifically prohibited it, and this makes it clear. For example, you couldn't file for sheriff and for the legislature and then withdraw one of those petitions before the ballots were printed.

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

It is a vote.

Mr. Clifford of Androscoggin then presented Senate Amendment "I" and moved its Adoption.

Senate Amendment "I", Filing No. S-559, was Read.

The PRESIDENT: The Senator has the floor.

Mr. CLIFFORD: Mr. President and Member of the Senate: This is to reinsert in a rewrite of the longarm statute a provision which was voted on by the Judiciary Committee and which was left out by inadvertence, which is a catchall provision which broadens the jurisdiction authority of Maine over non-residents who do damage to property or injury to persons of Maine residence. This is inconsistent with the law which we passed last year to broaden the jurisdiction of the Maine courts over the non-residents in the so-called longarm, and this is merely putting something in which the

Judiciary Committee voted to put in and was left out by inadvertence.

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

It is a vote.

Mr. Collins of Knox then presented Senate Amendment "J" and moved its Adoption.

Senate Amendment "J", Filing No. S-560, was Read.

The PRESIDENT: The Senator has the floor.

Mr. COLLINS: Mr. President and Members of the Senate: One reason we have a rather lengthy selection of amendments this year is that for the first time we have a computer service checking the cross-referencing in our work. Every week there is delivered to my desk several pages of cross-reference material from the computer showing where we are contradicting each other in various bills. Unfortunately, many of these bills don't get chapter numbers and section numbers until the very last day or so, and this is why we have to bring some of them before you in this manner, in order to clean everything up. It should, hopefully, reduce the numbers that come in at the next regular session. This particular one I think has only one real change in it, and that is when we passed the traffic code bill this special session we made a crime once more speeding 30 or more miles per hour in excess of posted limits, but there is a special section in the law that relates to construction sites on public highways, and we wanted the same rule to apply there. So that is the chief purpose of this. The other things are rather routine corrections of inconsistent laws.

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

It is a vote.

Mr. Clifford of Androscoggin then presented Senate Amendment "K" and moved its Adoption.

Senate Amendment "K", Filing No. S-561, was Read.

The PRESIDENT: The Senator has the floor.

Mr. CLIFFORD: Mr. President and Members of the Senate: In the regular session of the legislature the wholesalers were allowed, although there could be no sales of liquor on election day, they were allowed to make deliveries on election day, since it would not interfere with the holding of an election, but by inadvertence in the omnibus liquor bill that provision was wiped out of the law, and this is merely a reinsertion.

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

It is a vote.

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

Mr. COLLINS: Mr. President and Members of the Senate: There is one last amendment that should be with us in a matter of two minutes, if the Senate would be willing to be at ease for a moment.

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

On motion by Mr. Speers of Kennebec, tabled until later in today's session, pending Passage to be Engrossed.

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

Enactors

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

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

Comes from the House, Failed of Final Passage.

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

Mr. CURTIS: Mr. President and Members of the Senate: I hope that the Senate will pass this

bill to be enacted today. I think it is extremely important that we do so. It is a matter of legislative responsibility that we take some action this session to replace the many, many powers of the executive council. Last year there was a great deal of compromise, there was a great deal of careful deliberation that went into the work resulting in an amendment to the constitution, ultimately enacted by the people in November, to abolish the executive council.

Since that time last year when the regular session of this legislature adjourned there has been a great deal of work done by the State Government Committee to prepare the necessary statutory changes which should be enacted to replace all of those powers of the executive council.

As you may recall, shortly after we adjourned the session last year the State Government Committee distributed by mail to each legislator a questionnaire listing all of the many positions which are subject to confirmation, and asking each legislator, each one of the 184 legislators, to indicate which positions they thought should be subject to confirmation. Now we received a few answers, a few responses, and primarily those responses suggested that as few positions as possible should be subject to confirmation, that only those truly important positions such as judges, such as department heads, such as members of the independent regulatory commissions, should be subject to that detailed procedure whereby a joint standing committee of the legislature and the whole Senate should vote on confirmation.

We also worked on many other areas, and in October, prior to the vote of the people, the State Government Committee submitted to each legislator and to the people of the state generally, through the press of the state, a preliminary report indicating what direction we were going to go in our recommendations. In December we held a public hearing on that preliminary report. If I remember correctly, two legislators attended that public hearing and we appreciated their suggestions. However, the suggestions that they made are not the ones that seem to be in some dispute today or in the last couple of days.

A final report was issued and was distributed to this legislature shortly after we came into session. The bill providing for the replacement of the powers of the executive council was duly advertised and had its public hearing. At the public hearing none of the issues that seem to have cropped up so recently were raised.

The bill then is at its enactment stage. If the Senate enacts it, it will be necessary of course for the House to take further action on it. As I said before, I think it is the responsible thing to do to provide this year the legislation which will go into effect on the effective date of the act, which is January 4 of next year, the same day that the executive council will go out of existence.

I would like to read, Mr. President, the first paragraph of a letter which I received from the Attorney General of the State of Maine, Joseph D. Brennan, in response to two questions which were posed.

Dear Senator Curtis: You have asked two questions regarding L. D. 2197, 'An Act Redistributing the Powers of the Executive Council', which is presently pending before the legislature. Specifically you have asked whether this piece of legislation requires the approval of two-thirds of the members of each house present and voting and whether, absent legislation such as L. D. 2197, the Governor would be able to make judicial and department head appointments without confirmation by any body of state government after January 4, 1977, the date on which the recent amendments to the Maine Constitution abolishing the executive council become effective.

"My answer to the first question is that the legislation in question does require the approval of two-thirds of the members of each house present and voting. My answer to the second question is that, absent further legislation, the Governor would be able to make appointments without confirmation to statutorially created offices which may fall vacant after January 4, 1977, but would not be able to make any appointment at all for constitutionally created offices such as judgeships after that date."

In the debate last year, Mr. President, when we were discussing the issue of what would happen this year when we handled the statutes, I recall that I made some remarks about of course the legislature would act in its responsible capacity, and, even if it didn't take a statesmanlike approach to the whole matter, it would realize that it would have a gun before its head and would have to take action. For that reason, Mr. President, I submit that this piece of legislation is essential, it is necessary, it is the right thing to do, and I request a division.

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

Mr. MERRILL: Mr. President and Members of the Senate: This isn't the first time we find ourselves about to be in non-concurrence with the other body. The other day I think a very intemperate act on the part of the Senate was made when we passed a motion to adhere. The act which was intemperate put the gun to the head of the other body, and I am afraid the next time we see this bill the gun will be pointing in the opposite direction.

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

Mr. CONLEY: Mr. President, I think we just received the answer to the questionnaire from the 151 member House.

The PRESIDENT: Is the Senate ready for the question? A division has been requested. Will all those Senators in favor of the enactment of this bill please rise in their places until counted. Those opposed will please rise in their places until counted.

A division was had, 20 having voted in the affirmative, with no one voting in the negative, the Bill was Passed to be Enacted in non-concurrence.

Sent down for concurrence.

Senate Papers Joint Resolution

Mr. Clifford (Cosponsor: Mr. Carboneau of Androscoggin) present the following Joint Resolution and move its adoption:

STATE OF MAINE

In the Year of Our Lord One Thousand Nine Hundred and Seventy-six.

IN MEMORIAM

Having Learned of the Death of Lucien Lebel Who Was An Outstanding Civic Leader of Lewiston and who Faithfully Served That City for 30 Years as Municipal Clerk

The Senate and House of Representatives of the State of Maine do hereby extend their sincere heartfelt condolences and sympathy to the bereaved family and friends of the deceased; and further

While duly assembled in session at the State Capitol in Augusta under the Constitution and Laws of the State of Maine, do herein direct that this official expression of sorrow be forthwith sent to the family of the deceased on behalf of the Legislature and the people of the State of Maine. (S. P. 802)

Which was Read and Passed.

Sent down for concurrence.

Papers From the House Non-concurrent Matter

Bill, "An Act to Change the Statutory

Qualifications and Salary Limit for Director of Personnel." (H. P. 1937) (L. D. 2125)

In the House April 7, 1976, Fails of Passage to be Engrossed.

In the Senate April 8, 1976, Passed to be Engrossed as Amended by Senate Amendments "A" (S-420) and "B" (S-547), in non-concurrence.

Comes from the House, that Body having Insisted and Asked for a Committee of Conference.

On motion by Mr. Curtis of Penobscot, the Senate voted to Insist and Join in a Committee of Conference.

On motion by Mr. Speers of Kennebec, Recessed until the sound of the bell.

After Recess

Called to order by the President.

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

Bill, "An Act to Correct Errors and Inconsistencies in Laws of Maine." (S. P. 799) (L. D. 2345) (Emergency)

Tabled — earlier in today's session by Mr. Speers of Kennebec.

Pending — Passage to be Engrossed.

Mr. Collins of Knox then presented Senate Amendment "L" and moved its Adoption.

Senate Amendment "L", Filing No. S-562, was Read.

The PRESIDENT: The Senator has the floor.

Mr. COLLINS: Mr. President and Members of the Senate: When we were considering the criminal code bill, there was an amendment in the other body which affected the authority of law enforcement officers. The sponsor of that amendment did not intend to completely wipe out the ability of law enforcement officers to serve citations with respect to civil violations, and it was by inadvertence that his amendment did that. And it was agreed between the sponsor and later by the full Judiciary Committee that this correction should be made in the errors bill, therefore, this amendment is offered to restore the ability of law enforcement officers in this area.

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

It is a vote.

Thereupon, the Bill, as Amended, was Passed to be Engrossed.

Sent down for concurrence.

Papers from the House Non-concurrent Matter

Bill, "An Act to Reorganize the Standardization Committee." (H. P. 2278) (L. D. 2339)

In the House April 7, 1976, Passed to be Engrossed as Amended by House Amendment "A" (H-1202), as Amended by House Amendment "A" Thereto, (H-1238), in non-concurrence.

In the Senate April 9, 1976, Passed to be Engrossed, in non-concurrence.

Comes from the House, that Body having Adhered.

On motion by Mr. Huber of Cumberland, the Senate voted to Recede and Concur.

Committee Reports House

Ought to Pass in New Draft

The Committee on Taxation on, Bill, "An Act Providing for Administrative Corrections in Tax Laws." (H. P. 1959) (L. D. 2147)

Reports that the same Ought to Pass in New Draft under Same Title (H. P. 2312) (L. D. 2349).

Comes from the House, the Bill in New Draft Passed to be Engrossed as Amended by House Amendment "A" (H-1252).

Which report was Read and Accepted in con-