

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

***One Hundred and Ninth
Legislature***

OF THE

STATE OF MAINE

Volume I

FIRST REGULAR SESSION

January 3, 1979 to May 4, 1979

hoc, the Senate voted to reconsider its Adoption of House Amendment "A".

On Motion by Senator Chapman of Sagadahoc, House Amendment "A" Indefinitely Postponed, in non-concurrence.

Senator CHAPMAN: I now offer Senate Amendment "A" (S-65) and move its Adoption.

The PRESIDENT: The Senator from Sagadahoc, Senator Chapman, now offers Senate Amendment "A" and moves its Adoption.

Senate Amendment "A" (S-65) Read, and Adopted.

The Bill, as amended, Passed to be Engrossed, in non-concurrence.

Sent down for concurrence.

The President laid before the Senate the Fourth Tabled, and specially assigned matter:

RESOLUTION, Proposing an Amendment to the Constitution of Maine to Limit the Purposes for the Meeting of the First Regular Session of the Legislature during December to election of Constitutional Officers and Legislative Officers and to Provide for Senate Apportionment in 1983. (H. P. 288) (L. D. 348)

Tabled — March 27, 1979 by Senator Conley of Cumberland.

Pending — Final Passage.

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

Senator CONLEY: Mr. President and Members of the Senate: I've looked at this Constitutional Amendment now almost since the initial introduction into this Body and I am still convinced that practically every bit of the language that is present in this Amendment could be drafted and Adopted by way of the Statute route. In fact, encompassed within the Resolution it states that the Legislature shall enact the appropriate statutory Legislation, and it goes on and expresses in what way. All it does really is reiterate some of the constitutional provisions presently within the Constitution with respect to the presiding officer of this Body and the presiding officer of the other Body.

The only real Constitutional merit that I see in this Resolution is that dealing with reapportionment to the Senate. I would have no objections to supporting that type of Amendment, but with respect to encompassing all of this verbal literature into the constitution again, it rubs me the wrong way.

In fact, I noticed in the Statement of Fact of the bill when it appeared before us that it said it was trying to cut down a long sentence. Well, as I read this Amendment, it reminds me of some of the literature I used to get from a former Chief Executive of the State, and it has not been condensed whatsoever, and therefore I urge the Senate to vote against the pending Motion.

The PRESIDENT: is the Senate ready for the question?

The Chair recognizes the Senator from Kennebec, Senator Pierce.

Senator PIERCE: Mr. President, I would request when the vote is taken, it be taken by the Yeas and Nays.

The PRESIDENT: A Roll Call has been requested. Under the constitution, in order for the Chair to order a Roll Call it requires the affirmative vote of at least one-fifth of those Senators present and voting.

Will all those Senators in favor of ordering a Roll Call, please rise and remain standing until counted.

Obviously more than one-fifth having arisen a Roll Call is ordered.

The Chair recognizes the Senator from Washington, Senator Silverman.

Senator SILVERMAN: I'd like to put the question out to the Chairman of the State Government Committee, Senator Ault, to actually explain to us the necessity of this Constitutional Amendment being put out before the voters.

The PRESIDENT: The Senator from Washington, Senator Silverman, has posed the ques-

tion to the Chair.

The Chair recognizes the Senator from Kennebec, Senator Ault.

Senator AULT: To answer Senator Silverman's question, first, the main reason is to change the date from 1984 to 1983 on Apportionment of the Senate which is to be taken care of somewhere, and because it was a Constitutional Amendment, to change the convening from January to December. There are some people who believe that we should actually limit what we can do in that December convening, this does that.

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

Senator NAJARIAN: Mr. President and Members of the Senate: I have read the Amendment and I don't believe that it really limits what the Senate can do in those three days. It really requires certain things that we have to do, such as electing three Constitutional Officers and the Officers of the House and the Senate, but it doesn't say that we can't do any other things during those three days.

I have some questions, too. The Amendment says that the Legislature shall only meet for those three days and then adjourn until January, and would that mean the Governor then could not call us into a Special Session for the remainder of December, if that should become necessary?

I don't know that it would always be possible to elect the Attorney General, Secretary of State, and the Treasurer in three days, having been through sort of a traumatic experience not too long ago. I can foresee difficulties in restricting ourselves to just three days for all of those important officers.

It occurred to me that the time between the General Election and December 5 is not very long and it might interfere with the Legislative tradition, of being able to appoint or nominate defeated political candidates for these officers because, you know, they are fatigued emotionally and physically after an election, shocked and stunned by the rejection of the voters, and might not be able to decide in those few weeks whether or not they want to be candidates for the Attorney-General, the Secretary of State. I think that we could elect those officers in December now, the way the Constitution is written. It merely says they shall be elected bi-annually. It seems to me they could be elected bi-annually in January, December, March, whatever the Statutes say. As far as reapportionment of the Senate, that's not until 1983 and we'd have 1980, 1981, and 1982 to deal with that problem if we chose to do so.

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

Senator CONLEY: Mr. President and Members of the Senate: I thank Senator Najarian for her remarks and it's obvious to me that the three Senators serving in this body at the time that this resolution was before the Committee on State Government exercised great wisdom and all three of them voted that it Ought Not to Pass.

The PRESIDENT: A Roll Call has been Ordered.

The pending question before the Senate is Final Passage of this Constitutional Amendment.

A Yes vote will be in favor of Final Passage of this Constitutional Amendment.

A No vote will be opposed.

The Doorkeepers will secure the Chamber. The Secretary will call the Roll.

ROLL CALL

YEA — Ault, Collins, Cote, Devoe, Emerson, Gill, Huber, Perkins, Pierce, Redmond, Shute, Sutton, Teague.

NAY — Carpenter, Chapman, Clark, Conley, Farley, Hichens, Martin, McBreairty, Minkowsky, Najarian, O'Leary, Pray, Silverman, Trafton, Trotzky, Usher.

ABSENT — Danton, Katz, Lovell.

A Roll Call was had.

Senator Ault of Kennebec, was granted permission to change his vote from Yea to Nay.

12 Senators having voted in the affirmative and 17 Senators having voted in the negative with 3 Senators being absent and 12 being less than two-thirds of the membership present. This Resolution Fails of Final Passage.

The Chair recognizes the Senator from Kennebec, Senator Ault.

Senator AULT: Mr. President, Having voted on the prevailing side, I now move reconsideration of our action whereby this Resolution failed of Final Passage.

The PRESIDENT: The Senator from Kennebec, Senator Ault, now moves the Senate reconsider its action whereby this Resolution Failed Final Passage.

The Chair recognizes the Senator from Kennebec, Senator Pierce.

On Motion by Senator Pierce of Kennebec, retabled for 1 Legislative Day, pending the Motion of Senator Ault of Kennebec.

(Off Record Remarks)

On Motion by Senator Pierce of Kennebec, the Senate voted to remove from the Unassigned Table:

SENATE REPORT — from the Committee on Judiciary — Bill — "An Act to Make Corrections of Errors and Inconsistencies in the Laws of Maine". (Emergency) (S. P. 7) (L. D. 14) Ought to Pass in New Draft under Same Title (S. P. 401) (L. D. 1161)

Tabled — March 16, 1979 by Senator Pierce of Kennebec.

Pending — Acceptance of Report.

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

Senator COLLINS: Mr. President, I think we've had time now to look this bill over and to see if there is anything that needed correction. A couple of Senators have spoken to me about corrections that do need to be offered and tomorrow we'll be offering those Amendments that are needed to perfect the bill. If any Senators have any other questions, I know that members of the Judiciary Committee will be glad to be of help.

The Ought To Pass, in New Draft under same Title Report of the Committee Accepted.

The Bill, in New Draft, Read Once.

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

Senator CONLEY: Mr. President, I pose the question through the Chair, to the good Senator from Knox, Senator Collins, if Joint Rule 19A or whatever the new joint rule is, that we passed a couple of days ago, would have any bearing on offering Amendments to the errors and inconsistencies?

The PRESIDENT: The Senator from Cumberland, Senator Conley has posed a question, through the Chair?

The Chair recognizes the Senator from Knox, Senator Collins.

Senator COLLINS: It's my understanding that the new joint rule would apply, that amendments that have been printed, distributed, in the required length of time would be in order, and others would not be in order. If anyone has any problem with that, I hope they will speak to me because I'm not trying to rush this thing through. If someone has something, I certainly will cooperate. I think it's important that those amendments get printed, at least a day ahead of presentation, so everyone has a chance to see them.

The Bill, in New Draft, Tomorrow Assigned for Second Reading.

Senator Clark of Cumberland was granted unanimous consent to address the Senate Off the Record.

On Motion by Senator Pierce of Kennebec, adjourned until 10 o'clock, tomorrow morning.