

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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convicted person to earn as well as his resources.

I think that it is an important public policy to encourage restitution by the criminal in favor of the victim whenever it is possible. I think this is a small step in that direction. Thank you, Mr. President.

The PRESIDENT: Is it now the pleasure of the Senate to adopt Senate Amendment "A" to L.D. 2334?

The motion prevailed.

Thereupon, on motion by Mr. Collins of Knox, tabled until later in today's session, pending Passage to be Engrossed.

Senate — As Amended

Bill, "An Act to Clarify Certain Provisions in the Education Laws." (S. P. 651) (L. D. 2056) Which was Read a Second time.

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

Mr. KATZ: Mr. President, I have in my possession some item by item explanations both of this bill and the amendment on it, and it is available for anybody who would like one. There will be several amendments offered later today. I would hope somebody could table it until later in today's session.

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

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

Enactors

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

An Act to Provide for the Licensure of Speech Pathologists and Audiologists. (S. P. 673) (L. D. 2144)

An Act to Revise Statutory Provisions Relating to Dropouts. (S. P. 686) (L. D. 2195)

An Act Relating to the Formation of Political Parties and to Political Designations. (H. P. 1960) (L. D. 2140)

An Act to Provide a Procedure for Establishing Additional Exceptions for the Definition of Rental Units and to Clarify the Procedure for the Appointment of a Rent Control Administrator or Board under the Municipal Rent Control Act. (H. P. 2099) (L. D. 2259)

Which were Passed to be Enacted and, having been signed by the President, were by the Secretary presented to the Governor for his approval.

Emergencies

An Act to Clarify Municipal Development Authority. (H. P. 1882) (L. D. 2060)

An Act to Increase the Borrowing Capacity of the Topsham Sewer District and to Specify and Clarify Eminent Domain Powers. (H. P. 2187) (L. D. 2301)

An Act to Increase the Efficiency of the Investigation and Prosecution of Fraud Against the State. (H. P. 2155) (L. D. 2290)

An Act to Redefine the Administration of Medication in the Nursing Practice Act. (H. P. 1934) (L. D. 2122)

An Act Delaying the Effective Date of the Maine Criminal Code in Order to Allow Sufficient Time to Make Certain Necessary Revisions. (S. P. 776) (L. D. 2331)

An Act to Reorganize or Repeal Certain Activities and Agencies in Maine State Government. (H. P. 2143) (L. D. 2286)

An Act to Temporarily Exempt Property Owners on Islands in Casco Bay from Certain Waste Discharge Compliance Requirements. (S. P. 708) (L. D. 2235)

These being emergency measures and having received the affirmative votes of 27 members of the Senate, were Passed to be Enacted and, having been signed by the President, were by the Secretary presented to the Governor for his approval.

Emergency

An Act to Promote Efficiency in Maine State Government. (S. P. 699) (L. D. 2223)

On motion by Mr. Huber of Cumberland, placed on the Special Appropriations Table.

Orders of the Day

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

Bill, "An Act to Establish a Division of Travel Information." (H. P. 2022) (L. D. 2201) Emergency

Tabled — March 29, 1976 by Senator Marcotte of York

Pending — Passage to be Engrossed

(In the House — Passed to be Engrossed)

(In the Senate — Committee Amendment "A" (H-1012), as Amended by Senate Amendment "A" (S-475) Thereto, Adopted)

On motion by Mr. Marcotte of York, retabled until later in today's session, pending Passage to be Engrossed.

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

Bill, "An Act to Change County Budgets to an Annual Basis." (H. P. 2094) (L. D. 2253)

Tabled — March 29, 1976 by Senator Speers of Kennebec

Pending — Passage to be Engrossed

(In the House — Passed to be Engrossed)

Thereupon, the Bill was Passed to be Engrossed in concurrence.

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

Bill, "An Act Relating to Exceptional Children." (H. P. 1797) (L. D. 1956) Emergency

Tabled — March 29, 1976 by Senator Speers of Kennebec

Pending — Adoption of Committee Amendment "A" (H-1083) as Amended by House Amendment "A" (H-1104) Thereto

(In the House — Passed to be Engrossed as Amended by Committee Amendment "A", as Amended by House Amendment "A" Thereto)

On motion by Mr. Speers of Kennebec, retabled until later in today's session, pending Adoption of Committee Amendment "A", as Amended by House Amendment "A" Thereto.

On motion by Mr. Speers of Kennebec, and under suspension of the rules, all matters acted upon by the Senate this morning were sent forthwith to the House.

Mr. Speers of Kennebec moved that the Senate be at recess until 3 o'clock this afternoon, and Mr. Conley of Cumberland subsequently requested a division on the motion.

Thereupon, Mr. Speers of Kennebec was granted leave to withdraw his motion to recess.

Reconsidered Matter

The following Bill was held on March 30, 1976 at the request of Mr. Conley of Cumberland, pending Consideration:

Bill, "An Act to Improve Solid Waste Management." (H. P. 2090) (L. D. 2249)

(In the Senate — Passed to be Engrossed as Amended by Senate Amendments "B" (S-486) and "C" (S-489)

(In the House — Bill in New Draft (H. P. 2225) (L. D. 2315)

Passed to be Engrossed as Amended by House Amendment "A" (H-1090)

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

Mr. CONLEY: Mr. President, having voted on the prevailing side, I would now move that the Senate reconsider its action whereby this bill was passed to be engrossed.

The PRESIDENT: The Senator from Cumberland, Senator Conley, now moves that the Senate reconsider its action whereby L. D. 2249 was passed to be engrossed.

The Chair recognizes the Senator from Knox, Senator Collins.

Mr. COLLINS: Mr. President, I would like to inquire through the Chair as to the purpose of reconsideration.

The PRESIDENT: The Senator from Knox, Senator Collins, has posed a question through the Chair to any Senator who would care to answer.

The Chair recognizes the Senator from Cumberland, Senator Conley.

Mr. CONLEY: Mr. President, it is my understanding there are a number of amendments that are wished to be offered to this bill.

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

Mr. SPEERS: Mr. President, I would object to the motion and urge the Senate to vote against the motion. And I ask for a division.

The PRESIDENT: The pending question before the Senate is the motion by the Senator from Cumberland, Senator Conley, that the Senate reconsider its action whereby L. D. 2249, "An Act to Improve Solid Waste Management", was passed to be engrossed.

The Chair recognizes the Senator from Cumberland, Senator Berry.

Mr. BERRY: Mr. President, I think that we had a very good debate on this yesterday, and I would assume that we have allowed somebody to climb onto the bandwagon here who has a change of heart overnight. I am a little bit in doubt that perhaps we shouldn't have a roll call, and I would request one, Mr. President.

The PRESIDENT: A roll call has been requested. In order for the Chair to order a roll call, it must be the expressed desire of one-fifth of those Senators present and voting. Will all those Senators in favor of a roll call please rise in their places until counted.

One-fifth having arisen, a roll call is ordered.

The Chair recognizes the Senator from Cumberland, Senator Merrill.

Mr. MERRILL: Mr. President, if this is going to be a record vote, I would appreciate it if any Senators who wish to offer amendments could describe the nature of the amendments that will be offered so that the record may have some purpose.

The PRESIDENT: The Senator from Cumberland, Senator Merrill, has posed a question through the Chair to any Senator who may care to answer.

The Chair recognizes the Senator from Cumberland, Senator Conley.

Mr. CONLEY: Mr. President, I find on my desk this morning an amendment that allegedly is going to be offered by the good Senator from Knox, Senator Collins. It is also my understanding that if the motion to reconsider does prevail the motion will be made also to reconsider our action whereby the Senate indefinitely postponed an amendment which was offered by Senator Clifford yesterday.

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

Mr. COLLINS: Mr. President and Members of the Senate: It is true that there is an amendment on your desks that was prepared by me, but in order to expedite the passage of the bill, it was felt that this could just as well be put on in the House. So I do not intend to vote for reconsideration.

The PRESIDENT: The Chair recognizes the Senator from Androscoggin, Senator Clifford.

Mr. CLIFFORD: Mr. President and Members of the Senate: I certainly would accommodate the Senator from Knox, Senator Collins. I think we ought to reconsider so he can offer his amendment in the Senate.

I read in the Portland Press Herald this morning, in the lead paragraph concerning the story of the returnable container bill, pertaining to the amendment which was offered yesterday which failed of passage by one vote, it says "The Maine Senate gave all but final ap-

proval Monday to a bill allowing the voters to decide whether a minimum nickel deposit should be placed on all beer and soft drink bottles and cans." It seems to me the amendment which was offered yesterday gives the voters a clear-cut indication of what this bottle bill is about. As indicated by the lead story, that is what it is about, the nickel deposit. And it seems as though if that is what it is about, then that is what the voters ought to have in the question that is propounded to them.

The PRESIDENT: The Chair recognizes the Senator from Somerset, Senator Corson.

Mr. CORSON: Mr. President, I request leave of the Senate to pair my vote with that of the Senator from Cumberland, Senator Jackson. If Senator Jackson were here, he would be voting for the motion to reconsider, and I would be voting in opposition to that motion.

The PRESIDENT: The Senator from Somerset, Senator Corson, now requests leave of the Senate to pair his vote with the Senator from Cumberland, Senator Jackson, who, if he were here, would be voting in favor of reconsideration, and the Senator from Somerset, Senator Corson, would be voting in opposition to reconsideration. Is it the pleasure of the Senate to grant this leave?

It is a vote.

Is the Senate ready for the question? The pending question before the Senate is the motion by the Senator from Cumberland, Senator Conley, that the Senate reconsider its action whereby this bill was passed to be engrossed; a "Yes" vote will be in favor of reconsideration; a "Nay" vote will be opposed.

The Secretary will call the roll.

ROLL CALL

YEAS: Senators Berry, E.; Carbonneau, Cianchette, Clifford, Conley, Cyr, Danton, Graffam, Johnston, Marcotte, Merrill, O'Leary, Pray, Roberts, Wyman.

NAYS: Senators Berry, R.; Collins, Curtis, Gahagan, Graham, Greeley, Hichens, Huber, Katz, McNally, Reeves, Speers, Thomas, Trotzky, Sewall.

ABSENT: Senator Cummings.

Mr. Katz of Kennebec was granted leave to change his vote from "No" to "Yes".

A roll call was had. 16 Senators having voted in the affirmative, and 14 Senators having voted in the negative, with two Senators pairing their votes and one being absent, the motion prevailed.

Mr. Clifford of Androscoggin then moved that the Senate reconsider its former action whereby Senate Amendment "B" was Adopted.

On motion by Mr. Trotzky of Penobscot, a division was had. 16 having voted in the affirmative, and 14 having voted in the negative, the motion prevailed.

Mr. Katz of Kennebec then moved that the Senate reconsider its action whereby Senate Amendment "A" to Senate Amendment "B" was Indefinitely Postponed.

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

Mr. COLLINS: Mr. President, it is obvious that the lobby for the liquor industry and the soft drink industry has been diligently at work overnight and they are asking us again to decide the question that we decided yesterday. I think the arguments were made yesterday and need not be repeated, but I would urge the Senate to vote against the motion of the Senator from Kennebec, Senator Katz.

Mr. KATZ: Mr. President, I am sure that the Senator from Knox, Senator Collins, does not realize the implication that he made in his remarks, and since the debate yesterday I have neither spoken nor written nor received any communication from one living soul, let alone a lobbyist, on this measure.

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

Mr. CONLEY: Mr. President, I too sort of resent the implication being made by the good Senator from Knox, Senator Collins. I think what the amendment does is clearly present the question to the voters. The amendment lost by one vote yesterday, and I don't think the citizens of this state should be misled.

The PRESIDENT: The pending question before the Senate is the motion by the Senator from Kennebec, Senator Katz, that the Senate reconsider its action whereby Senate Amendment "A" to Senate Amendment "B" failed of adoption.

The Chair will order a division. Will all those Senators in favor of the motion to reconsider please rise in their places until counted. All those opposed will rise in their places until counted.

A division was had. 16 having voted in the affirmative, and 14 having voted in the negative, the motion prevailed.

Thereupon, Senate Amendment "A" to Senate Amendment "B" was Adopted.

Mr. Collins of Knox when presented Senate Amendment "B" to Senate Amendment "B" and moved its Adoption.

Senate Amendment "B", Filing No. S-491, to Senate Amendment "B" was Read.

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

Mr. COLLINS: Mr. President, since the matter has been reconsidered and is once again in a posture for amendment, I will bring before the Senate certain corrections to the bill. Although I am in vigorous opposition to the lobby, I am grateful for the fact that they have discovered certain technical errors in the version that we adopted yesterday and brought them to my attention. Some of these are pure inadvertences and there is one that has certain policy implications, and I would like to tell you what these corrections are.

By mistake, the wine and liquor bottles are included in the bill, and should not be. Therefore, this amendment will delete the references to wine, liquor, and alcohol in the definition section. The word "refundable" has been left in the bill in a couple of sections, and this amendment deletes those references. The words "sold by the dealer" in paragraph 24 were inadvertently struck from the version of the bill which was passed yesterday, and we are putting this phrase back in the bill. Also, in one section, section 1870, the date should be January 1, 1978, not 1977. The correct date appeared in other places in the bill but this is one place that was not corrected and should be.

Finally, the substantive change which this amendment would make would exempt from the requirements of accepting returnable containers those operators of vending machines which do not have an attendant on the premises. The purpose of this amendment is to allow vending machines to be operated in an isolated area without requiring the hiring of personnel. However, I want to point out that if a garage has on duty an attendant, that garage would be required to accept returnable beverage containers as long as the attendant is on duty.

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

The motion prevailed.

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

Mr. MERRILL: Mr. President, while this bill is still before us, I would just like to make one protest about the bill in its present form. It differs from the bill that I signed ought to pass out of committee in the respect, if I understand correctly, that it demands now that all people who sell these bottles take them back, and the bill that I signed out of committee would have not put that demand in the law, recognizing full well that the pressures of the marketplace

would force all store owners probably to take them back some of the time and most store owners to take them back all of the time. But it would have allowed the small store owners in areas like the one I represent possibly to say they would only take them back on two days or to say that they would only take them back in the afternoon, or to make some provision that would make it easier for them to live with the provisions of this law. I think the marketplace could have taken care of that very well, and I do not think that the change represented in the present law is an improvement. I think it is quite the opposite.

The PRESIDENT: The Chair recognizes the Senator from Somerset, Senator Cianchette.

Mr. CIANCHETTE: Mr. President, I would just like to make a statement for the record about this bill. I might describe it a little bit by relating an incident. I had a call from a small grocery store owner in Clinton, and he said "Gee, Senator Cianchette, I wish you would do something to see that they don't pass that bill that is before them down there." I asked him if he knew what the bill said, and he said, "Well, no, I don't. Do you?" I said, "No, I don't. I am not sure that I understand all the ramifications of it at all." He said, "You know, the people in my area do the bulk of their grocery shopping in Waterville at the big supermarkets, and I know they are going to be buying their containers that they are talking about in Waterville, and he said, "Do you have any idea where those containers are going to be returned?" And I said, "Well, I think I do. I think they are going to be returned to you." And he said, "That's right. I will not have sold them but I know I am going to get a big mess on my hands, and how can I refuse the customers that I generally deal with." He said, "I don't know what I am going to do with this sort of thing."

I think that is indicative of the whole bill. I don't think there is any member in this legislature who understands this bill, understands the implications of it and understands what it is going to do to many of the people of the State of Maine, and I object to the bill. I think it is wrong. I don't think there is enough time. I don't think it has been figured out, and I think it is a conglomeration of ideas that doesn't make a heck of a lot of sense. And further supporting my remarks is that we have seen every day that the bill has been before us with new amendments, new corrections, changing a word here, changing a word there, that have a meaningful impact on the whole law. I think it is a little bit of a disgrace to this legislature to be passing this kind of legislation, and I just wanted to go on the record so I can come back later and say I didn't have any part of passing that fiasco, and I think it is a bad mistake for this legislature to push something like this through when they don't know what they are doing.

The PRESIDENT: Is the Senate ready for the question?

Thereupon, the Bill was Passed to be Engrossed, as Amended, in non-concurrence.

Sent down for concurrence.

(See following action.)

(Off Record Remarks)

Reconsidered Matter

On motion by Mr. Speers of Kennebec, the Senate voted to reconsider its former action whereby it Passed to be Engrossed:

Bill, "An Act to Improve Solid Waste Management" (H. P. 2090) (L. D. 2249).

On further motion by the same Senator, Senate Amendment "B", as Amended by Senate Amendments "A" and "B" Thereto, was Adopted and the Bill, as Amended, Passed to be Engrossed in non-concurrence.

Thereupon, under suspension of the rules, sent down forthwith for concurrence.