

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

*One Hundred and Fourth
Legislature*

OF THE

STATE OF MAINE

Volume III

June 17, 1969 to July 2, 1969

Index

1st Special Session

January 6, 1970 to February 7, 1970

Index

KENNEBEC JOURNAL
AUGUSTA, MAINE

Bay and River, Maine. (S. P. 338) (L. D. 1136)

An Act relating to Creation of Professional Service Corporations. (S. P. 378) (L. D. 1288)

An Act relating to Jurisdiction and Judicial Divisions of the District Court. (S. P. 468) (L. D. 1526)

(On motion by Mr. Mills of Franklin, tabled, pending Enactment.)

An Act Revising the Maine State Personnel Laws. (H. P. 1048) (L. D. 1376)

(On motion by Mr. Katz of Kennebec, tabled pending Enactment.)

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

Resolve, Proposing an Amendment to the Constitution Providing for Convening of the Legislature at Such Times as the Legislature Deems Necessary. (H. P. 21) (L. D. 24)

Comes from the House, having failed of Final Passage.

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

Mr. KATZ of Kennebec: Mr. President, is enactment the pending question?

The PRESIDENT: Enactment is the pending question.

Mr. KATZ: I move the pending question.

The PRESIDENT: The Chair recognizes the Senator from Oxford, Senator Beliveau.

Mr. BELIVEAU of Oxford: Mr. President and Members of the Senate: Several weeks ago we discussed this proposed amendment at some length. As you know, this bill would permit the President of the Senate and the Speaker of the House to convene the legislature anytime that they deemed it necessary. I believe that the bill further provides that they could convene the House and Senate at the times as provided by rule.

We discussed the impact that this could have in the State of Maine, and we further discussed the need for it at this time. As you know, under our constitution

today, only the Governor can call special sessions of the legislature. This would give authority to the President of the Senate and Speaker of the House which they do not now possess. Of course, this leads us to ask the question as to whether there is a need for it at this point. As I indicated earlier, at the hearing on this bill the sponsor testified that this document was the thinking man's answer to annual sessions. I have some very real reservations as to whether it would accomplish that purpose. I don't believe that there is any need for this legislation at this time. No case was made by the proponents, they are projecting or anticipating problems in the future, but to date we don't know of any situation where the Governor has failed or refused to call a special session of the legislature where the situation so required.

This is a very dangerous document in the sense that it would delegate the authority to two individuals to call the legislature into special session. I have no quarrel and, as a matter of fact, I know that under our present leadership it would not be abused, but who knows what occurs in the heat of a political campaign. A speaker commented on what occurred several years ago where certain legislative leaders were disturbed and concerned with the actions of one of our former Governors, how they wanted to call in the legislature solely to embarrass the Governor and to try to manufacture and create political issues which didn't exist at that time, or to expand and to magnify political problems during a campaign year.

This document, in my opinion, is not needed. It is so broad in the language that we don't know what the rules would be. We don't know these are joint rules which would be approved by the legislature. Who would promulgate the rules would create some problems, and it could be — I don't want to raise it as a spectre — but it could be a very real constitutional problem as to whether we do have the right to delegate this to two leaders and permit them, apparently, although I would assume it would mean to permit

them to promulgate or prepare their own rules, so, I urge the members to oppose the passage of this resolve at this time.

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

Mr. KATZ of Kennebec: Mr. President and Members of the Senate: We have never had in our times a constitutional crisis at federal level concerning the election of the President. But if there is one thing that all political scientists are agreed on it is that our present electoral system is replete with potential for mischief and problems in the future. Congress has unsuccessfully wrestled with this problem for many years.

Maine did express itself earlier this session in saying that we wanted to liberalize the electoral system in Maine and, if you can recall, Maine is now the only state in the nation in which it is possible for two candidates for President on opposing tickets each to get electoral votes.

Here is a situation where I am convinced there is danger in the future if we don't act. The record of the Governors that Maine has had has been perfectly splendid. I think long ago we convinced everyone here that this is not a partisan nor a personal matter. If in the future the occasion comes up where the Governor is incompetent, incapable, immoral, if he is capricious and mischievous, and if he defies all the rules of the game insofar as his office is concerned, he is the only one, the only one under the Maine Constitution, who can call the Legislature into session.

You can say that this case hasn't been proven by anything that has happened in the past, but you are closing your eyes to the fact that you are leaving the State of Maine in the situation where if something like this occurs, and the Governor is no longer responsive to the obligations of his job, either because of medical or psychological or any other reason, that the people of the State have absolutely no protection against the workings of this man.

I find it interesting that, although many people here oppose it, no one

has offered any suggestion as to how to modify this measure to make it acceptable. The opponents have shown absolutely no inclination to try to resolve their differences and to meet what I consider a pressing need. I don't care whether the mechanics of this are changed to include majority and minority representation, but no one in here is ever going to convince me that the leadership of this great legislature is ever going to be, with malice aforethought, capricious in calling a legislative session for political reasons.

I can't imagine what would happen to the court system, which is one of the three great branches of government in the State of Maine, if they required the permission of the Chief Executive to move into an area that had an emergency and they were not presently sitting. Are we three co-equal branches of government? I say today we are not, not when our entire potential for effective operation is dependent upon the calling of the session of the legislature by the Governor and that is the only way to do it. This will be a roll call vote, Mr. President and Members of the Senate, and I have a feeling that, even though the implications of this proposed amendment are in the future rather than the past, it is my idea of governmental reform. I hope on that basis it is supported by those who have been calling for governmental reform.

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

Mr. BERRY of Cumberland: Mr. President and Members of the Senate: With reference to the possibility of there being a problem in succession of the Governor, I have asked the Legislative Research Department to prepare a study order for the Legislative Research Committee to determine if there is a problem and to suggest legislation in this field. I would hope that this would take care of the problem. I think that, pending the results of such a study, our State has gone along for a hundred and fifty years and that maybe the necessary safeguards are in. If not, I think we probably can last until the results of this

study are in. I do subscribe to the arguments against this measure and I shall personally vote against its enactment.

The PRESIDENT: Is the Senate ready for the question? This is a Constitutional Amendment and requires the affirmative vote of two - thirds of those present for Passage. 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 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 final passage of Resolve, Proposing an Amendment to the Constitution Providing for Convening of the Legislature at Such Times as the Legislature Deems Necessary. A "Yes" vote will be in favor of the resolve, and a "No" vote will be opposed.

The Secretary will call the roll.

ROLL CALL

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

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

ABSENT: Senator Tanous.

A roll call was had. Sixteen Senators having voted in the affirmative, and fifteen Senators having voted in the negative, with one Senator absent, sixteen being less than two - thirds of all Senators present and voting, the Resolve failed of Final Passage in concurrence.

Emergency

An Act to Clarify School Construction Aid for Certain Units. (S. P. 288) (L. D. 930)

On motion by Mr. Sewall of Penobscot, placed on the Special Appropriations Table.

The President laid before the Senate the first matter tabled,

earlier in today's session, by Mr. Katz of Kennebec:

Joint Order

On motion by Mr. HANSON of Kennebec,

ORDERED, the House concurring, that the State Highway Commission be, and hereby is, authorized and directed to make a study of the need and cost of reconstruction of Route 201 between the Cities of Gardiner and Augusta to provide a highway of modern design and construction with all necessary accesses thereto; and be it further

ORDERED, that the commission report the results of its study, including recommendations and any necessary legislation, to the next special or regular session of the Legislature. (S. P. 512)

Thereupon, the Joint Order received Passage.

Sent down forthwith for concurrence.

The President laid before the Senate the second matter tabled earlier in today's session, by Mr. Greeley of Waldo:

Emergency

"An Act Increasing the Gasoline Tax." (H. P. 1217) (L. D. 1549)

Comes from the House, having failed of Enactment.

On motion by Mr. Barnes of Aroostook, and under suspension of the rules, the Senate voted to reconsider its action whereby the Bill was Passed to be Engrossed.

The same Senator then presented Senate Amendment "A" and moved its adoption.

Senate Amendment "A", Filing No. S-279, was Read and Adopted and the Bill, as Amended, Passed to be Engrossed in non-concurrence.

Sent down for concurrence.

The President laid before the Senate the third matter tabled earlier in today's session, by Mr. Levine of Kennebec:

Bill, "An Act Relating to Contracts of Loans Under Small Loan Agency Law." (H. P. 622) (L. D. 810)

Tabled — June 16, 1969 by Senator Mills of Franklin.