

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

*One Hundred and Seventh
Legislature*

OF THE

STATE OF MAINE

1975

KENNEBEC JOURNAL
AUGUSTA, MAINE

Amendment "C" be indefinitely postponed please rise in their places until counted.

A division was had. 23 having voted in the affirmative, and 4 having voted in the negative, the motion prevailed.

Thereupon, House Amendment "D" was Read and Adopted in concurrence and the Bill, as Amended, Tomorrow Assigned for Second Reading.

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

RESOLUTION, Proposing an Amendment to the Constitution to Provide for Annual Sessions of the Legislature and to Change the Date of Convening of the Legislature. (H. P. 1510) (L. D. 1827)

Tabled — May 1, 1975 by Senator Clifford of Androscoggin.

Pending — Motion of Senator Speers of Kennebec to Indefinitely Postpone Senate Amendment "D" (S-108).

(In the House — Passed to be Engrossed)

(In the Senate — Senate Amendment "A" (S-94), Adopted; Senate Amendment "B" (S-95), Indefinitely Postponed)

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

Mr. CLIFFORD: Mr. President and Members of the Senate: Briefly to review what we are talking about, we are talking about an amendment to the Maine Constitution to provide for annual sessions, and this amendment attempts to limit those sessions so that the first regular session will be limited to the first 100 legislative, and not calendar, legislative days. The second regular session will be limited in two ways under this amendment. It will be limited to 50 legislative, and not calendar, legislative days, and also limited in the subject matter which can be taken up. The third part of the amendment retains the right of the legislature to call itself into session upon extraordinary circumstances and limits the number of days of that session to 25 legislative days.

The bill does not — and I think it was mentioned in the debate the other day — limit the governor's right under the constitution to call the legislature into session. That right remains without limit as today's. This does not affect the right of the governor into session.

Just a couple of comments on some of the opponents from the other debate last week. The good Senator from Penobscot, Senator Curtis, said that this is an attempt to deal with the future. I agree with him. This is an attempt to deal with the future, to set the outside limits of time in which a legislature can be in session to hopefully guarantee that the legislature will retain citizen legislatures, working men and women who would be able to serve, and I think very quickly would not be able to serve if the legislature's annual sessions were without limit.

The good Senator from Cumberland, Senator Merrill, discussed the fact that the legislative business is more competent and that bureaucratic agencies write rules and regulations which are oftentimes are unrealistic and do not deal with people's problems as they should, and certainly I would agree with him on that issue. But I submit that it is more important as to who writes the statutes under which the bureaucratic agencies operate, and I submit that if we put no limits on annual sessions that the persons who will be writing the statutes under which the

administrative agencies are going to be operating will not be citizen legislatures; they will be full-time legislatures and they will not be in as close contact with the citizens of Maine as they should be. So I would say that other amendments or rules which tend to limit legislative sessions can be broken by the legislatures themselves. This sets an outside very reasonable on the time in which the legislature can be in session, and I would hope that you would go along with the amendment and vote against the motion to indefinitely postpone. And on that motion, Mr. President, I would request a roll call.

The PRESIDENT: A roll call has been requested.

The Chair recognizes the Senator from York, Senator Hichens.

Mr. HICHENS: Mr. President and Members of the Senate: I go along with the philosophy of this amendment and portions of it, which I hope can be included in another amendment, but as to the limitation of days I think we had a very good example brought forth in the New Hampshire legislature last week, which has a limit on days, limiting the House to so many days and limiting the Senate to so many additional days.

There was an item in the Portsmouth Herald last Thursday night which I intended to cut out and use to read from, but it stated the House has 173 bills to make decisions on before closure Friday evening. And then it went on to tell how three bills had been passed in a lengthy session which hadn't ended until 1 a.m. on that Thursday morning, which after consideration were repealed and sent to the Senate with no decision made whatsoever because of the lack of time. In the article it did sort of ridicule a legislature restricting time of the session when so many bills are so important to the people and for the welfare of the state. I think this would be a very wrong thing to do, to make a limit, even if it is 100 days for the regular session and 50 days for the special session, to make a limit on any date on which we would have to adjourn.

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

Mrs. CUMMINGS: Mr. President, two years ago there was a citizens commission created to go throughout the state and have hearings on whether or not to raise the legislative salaries. Part of the reason for raising our salaries was in order to attract businessmen, attract men and women who still are in very definitely their prime of life as far as their productive years are concerned.

I testified against this bill because the amounts of money that we can be paid really are not going to attract some man or woman who is in the high salary section of their lives. And at one point they said "What do you think would attract these people?" and I allowed that perhaps we would have to have our salaries increased by four times. The media, in its wisdom, reported that night that that was what I was testifying for. But that is beside the point.

I think what we really want to do is to get and attract people who are actively involved in businesses, and that one of the ways that this can be done is to let them realize that there is only a certain length of time that they will be asked to give of their service. I think a better thing even yet would be to limit it to, say, four days at the most of every week, because many men can, with herculean effort, but

nevertheless can, manage to keep their businesses going on three days a week and probably a few nights. I think this is necessary. I think annual sessions are necessary, and I think to limit it is going to make those who are willing to give two and hopefully more years of their lives to their state, it would give them a definite proposal either to their employers or that they themselves would have to argue it with themselves as to whether or not it would be worth their while. I hope this goes through.

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

Mr. SPEERS: Mr. President, I would like to reiterate simply that we are not talking necessarily about the only method by which the length of the session or the items to be considered by a session may be limited. There is another amendment which is prepared and ready to be offered, and I would hope that it would be offered and would support that amendment, limiting the subject matter to be considered in a special or the second annual session of any given legislature.

I think the comments by the good Senator from York, Senator Hichens, point up precisely what has always been the problem with limiting a session to a specific number of days. You cannot legislate and place into the constitution of a state a situation which will be in the best interests of the people of the state for years and years and years to come into the future. There will be and there are instances when a specific number of days simply are not adequate to effectively and responsibly legislate in the best interests of the people, and I think that the suggestion is unworkable and it breeds irresponsibility because, as the good Senator from York mentioned is happening at the present time in New Hampshire, there is legislation that is not being adequately and responsibly considered because simply there is not enough time. Now, if that is the kind of citizen legislature we wish to have here in Augusta, I would submit that it is not in the best interests of the people of the state and that the legislature would not be representing the people.

So I hope that the motion to indefinitely postpone does prevail and that we can get on with considering other methods and other means by which we can speed up the session or limit the subject matter which is to be introduced in the second annual session, but let's not participate in Maine in a charade the way that other states have participated.

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

Mr. BERRY: Mr. President and Members of the Senate: I think that the issue is being a little bit clouded here. The Maine Legislature is probably not going to do anything to limit its session until it has to. And while I commend the good Senator from Kennebec, Senator Speers, in his statement that he has an amendment and that there are measures under way, I have been hearing this tune played for many, many years. I think what we need to do is point a gun at the head of the Maine Legislature and say you are going to get out of here at the end of six months, which is what Senator Clifford's bill provides quite properly. Other states have done this and it works. We are not going to do it until we have to.

I point out that there are two safety

valves here to the objections which have been raised; namely, that the governor can call a special session if it is impossible to finish the regular session, and the legislature itself can continue itself in existence by calling a special session if it sees it cannot adjourn by the deadline.

I think legislation like this is very much in order. As I told the Senate before in the last debate, I have been very much no progress, and I think this is one way, no progress, and I think this is one way, and perhaps the only way, we are going to get it.

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

Mr. CIANCHETTE: Mr. President, I would like to add a few words of support to the amendment, and I am speaking now from personal experience and perhaps am guided by Parkinson's Law. As you probably all know, Parkinson's Law says work expands so as to fill the time available for its completion. I have been practicing that law for a long time, and when I was involved with trying to organize a company and determine how it is going to get its work done on time, we discovered the critical path method of scheduling, which was something new to us, but not new to the industry at all. But the critical path method of scheduling limits the number of days you are going to have to complete a job. And in going through this effort of trying to get the philosophy of a scheduling method sold to our people we heard all the same arguments that we are hearing here this morning.

You know, when you talk about scheduling a sewer job, where you are laying sewer pipes in the streets or in conditions that are unknown, how in the world can you schedule that work because you don't know what you are going to find there. Well, we have learned that the philosophy says that you must schedule that work and you must limit the time available to get this work done or it will just continue and go on and on and on. And I submit to you that there are many companies that have gone broke because they couldn't recognize the need for scheduling.

Now, any project can be scheduled. And I will say that again — any project can be scheduled. Generally, if that schedule is taken seriously, that schedule will be followed and the work will be completed, and completed probably better than any other way. Sure, it is going to take some discipline, it is going to put a little bit more load and a little bit more responsibility on the leadership. I feel the leadership of this legislature is capable of that load, and if given an absolute target date they are going to help schedule this legislature and they are going to do a better job of it. And with the demands on them, I am sure they will meet the challenge.

Now, I don't want to pattern this legislature after New Hampshire, like some have suggested. We know they have problems over there, and I certainly don't want to see this legislature patterned after New Hampshire by any means, and just because they are making some errors over there certainly doesn't mean that we have to make the same ones here.

I couldn't more agree, and I want you to stop and consider what it means to Maine if we are going to have a citizens legislature or if we are going to have a professional full-time legislature. I think now is the time to make that decision, now

is the time to put your name on the line of which way you support it, and believe me, these worries and concerns about not being able to meet a schedule really don't work. That is all the more reason why you need the schedule. Putting this limit on it would help that end, and I hope you vote against indefinite postponement.

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

Mr. MERRILL: Mr. President and Members of the Senate: I think the Senator from Somerset, Senator Cianchette, pointed out the very reason that we shouldn't accept this amendment in his example. It is important to remember here we are talking about means and not ends. I haven't heard any argument here with the end that is being sought by the amendment from the Senator from Androscoggin, Senator Clifford. We are talking about the means. I think that there are means available and, if we have to, we can change the constitution in some ways to make more means available to schedule our work and to see to it that we put together a schedule and that we follow it, and by that method we limit the amount of time that we spend here, which is a desirable goal. It is not the only goal, certainly. Quality has to be the most important goal. But it is very desirable goal for all the reasons put forth. I just can't agree with the method.

I don't think the Senator from Somerset, Senator Cianchette, would want it written in blood that if for one reason or another his business didn't complete the job on schedule that they wouldn't be paid anything for all the work that they had done, or that they would have to take all their equipment and go back to Pittsfield and just receive no compensation. Now, I think that what he pointed out is that by good management in his company they have been able and in almost all instances to meet those schedules, and that is a desirable goal and is one that is one we ought to work towards here, and I think we can improve our methods. But this is a drastic measure. It is more drastic than I think we would want to impose upon our business if we did that sort of scheduling, and I think it is more drastic than we should impose upon this legislature. So I agree with the ends, I disagree with the means, and I hope that we indefinitely postpone this amendment.

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

Mr. CLIFFORD: Mr. President and Members of the Senate: I rise to make two points: One is the New Hampshire Legislature. I think it is a poor comparison. They have a 400 member House of Representatives and they have an unworkable situation over there. However, their limitation is the kind of limitation that this is not. Their limitation is 90 calendar days. So that once their legislature convenes, the clock begins to run and they have no control over their scheduling. The calendar is running and they have no control over their scheduling. In this, of course, we are talking about legislative, days, so that the legislature can schedule itself, can schedule committee hearings on days which are not legislative days. This legislature with 100 days could be in session 50 weeks on a two-day legislative session per week basis.

The second item which I rise to address is the other amendment and other methods of controlling the amount of time which a

legislature is in session. That other amendment is under Filing S-96. First of all, it puts absolutely no limit on the first regular session. The legislature for the first year of the biennium could be in session the entire year. And only on the second regular session does the amendment go to limiting the subject matters, and one of those limitations is legislation of an emergency nature admitted by the legislature. I submit to you, Mr. President and Members of the Senate, that that could be any item whatsoever. I think we had an experience in the last legislature, the 106th Legislature, where many items were allowed in for consideration in the special session which were clearly not of an emergency nature. So I say that this is inadequate, and the legislature is going to reform itself on a time basis only when there is an outside limit of legislative days within which it can work.

I would hope that you would vote against the motion to indefinitely postpone and adopt this amendment. Thank you, Mr. President.

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

Mr. CURTIS: Mr. President and Members of the Senate: I would like to speak just briefly in support of the motion to indefinitely postpone this amendment. It seems to me that we have heard a lot about scheduling and so forth, and in my opinion, the best kind of leadership is that which can be directed from the elected leaders of the legislature and also the chief executive. If the chief executive in past years has used less than good discretion in deciding what bills ought to be included in the special session, then that is something that the people of this state have an opportunity to look at.

This year it seems to me that we have got good strong leadership, that we are told last week for scheduling public hearings was this week, and except for a few minor exceptions most of the committees are going to meet that strong direction and we will have our reports out by May 23. That gives us an opportunity to schedule logically and to consider without panic. But I would suggest what would happen if in getting close to the 100 day session, after perhaps logically scheduling the full session, we find out that we have run into a constitutional problem such as we realized the end of last week regarding L. D. 1994? Would the legislature then be thrown into panic or would we have to go to some other tool as has been suggested earlier of disbanding and then coming back into special session? That, I would suggest, is not a logical way to do it. We ought not to write this kind of control into the constitution.

The PRESIDENT: Is the Senate ready for the question. The pending motion before the Senate is the motion by the Senator from Kennebec, Senator Speers, that the Senate indefinitely postpone Senate Amendment "D". A roll call has been requested. In order for the Chair to order a roll call, it must be the expressed desire of more than 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.

Obviously more than one-fifth having arisen, a roll call is ordered. The pending motion before the Senate is the motion of the Senator from Kennebec, Senator Speers, that Senate Amendment "D" be indefinitely postponed. A "Yes" vote will

be in favor of indefinite postponement of Senate Amendment "D"; a "No" vote will be opposed.

The Secretary will call the roll.

ROLLCALL

YEAS: Senators Corson, Curtis, Graham, Hichens, Huber, Jackson, Katz, Merrill, Speers, Thomas, Trotzky.

NAYS — Berry, E.; Berry, R.; Carbonneau, Cianchette, Clifford, Collins, Conley, Cummings, Cyr, Danton, Graffam, Greeley, Marcotte, McNally, O'Leary, Pray, Reeves, Roberts.

ABSENT — Gahagan, Johnston, Wyman.

A roll call was had. 11 Senators having voted in the affirmative, and 18 Senators having voted in the negative, with three Senators being absent, the motion did not prevail.

Thereupon, Senate Amendment "D" was Adopted.

Mr. Speers of Kennebec then moved that under suspension of the rules the Senate reconsider its action whereby Senate Amendment "A" was Adopted.

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

Mr. BERRY: Mr. President, I wonder if we might defer action until we orient ourselves.

The PRESIDENT: The Chair did not understand the question from the Senator from Cumberland, Senator Berry.

Mr. BERRY: Mr. President, I felt that some members of the Senate were trying to identify the Senate Amendment "A" in question before the vote was taken on suspending the rules.

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

Mr. SPEERS: Mr. President, this is under Filing No. S-94. This was an amendment which was introduced by the good Senator from Penobscot, Senator Curtis, which provides for a referendum every eight years regarding the question of annual sessions, and should the referendum be opposed to annual sessions, the Chief Justice of the Supreme Judicial Court is then directed to amend the constitution. I would submit that that is a very strange position, a very strange provision, for any constitution to have to direct the chief justice of any state to amend its constitution. I, therefore, hope the motion to reconsider does prevail so that we can indefinitely postpone this amendment.

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

Mr. CURTIS: Mr. President and Members of the Senate: The question here is not having the Chief Justice of the Supreme Judicial Court of the State of Maine amending the Constitution. That is merely a procedural matter which we have done now at a regular interval so that the constitution is clarified for consistencies and stays up to date, not for any kind of substantive matter, so that is not the issue.

The issue here is whether or not the people should have an opportunity every eight years to vote again on whether or not the legislature should be meeting in annual sessions. I would suggest, as I explained when I introduced this amendment, that the only way the people have an opportunity to take a look at the constitution is when the legislature proposes an amendment. I guess my thinking is somewhat along the line of the

majority in the last vote we had, and that is periodically the people ought to have some control over the legislature. Since we have no initiative process for proposing amendments to the constitution by the people, only the legislature can do that, this is the one check that is provided or proposed for a check on elimination of annual sessions if the people don't want them any more. I would ask that there be a division.

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

Mr. BERRY: Mr. President and Members of the Senate: I would strongly support the position of the Senator from Kennebec, Senator Speers. I think the amendment, while laudable in purpose, has the unworkable provision in it, as he mentioned, that the Chief Justice shall amend the constitution. Regardless of the method, that is not one of the methods that is legally done.

There is nothing to prevent anybody of the 184 legislators introducing an order at any time to rescind this legislation through another vote of the people. So I really think the amendment is unnecessary, and I hope we suspend the rules and defeat the amendment.

The PRESIDENT: Is it now the pleasure of the Senate that the Senate reconsider its action whereby it adopted Senate Amendment "A"?

It is a vote.

Mr. Speers of Kennebec then moved that Senate Amendment "A" be Indefinitely Postponed, and Mr. Curtis of Penobscot subsequently requested a division.

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

Mr. CLIFFORD: Mr. President and Members of the Senate: It is my understanding that this afternoon before the Committee on State Government there is a resolution being heard to amend the constitution to allow initiative referendums, so perhaps that is the vehicle that should be used, if the Senate and the legislature wants another looksee. If that resolution would pass, then the people would have an opportunity on their own initiative to petition to amend their own constitution. Thank you.

The PRESIDENT: The pending motion before the Senate is the motion of the Senator from Kennebec, Senator Speers, that Senate Amendment "A" be indefinitely postponed. A division has been requested. Will all those Senators in favor of the indefinite postponement of Senate Amendment "A" please rise in their places until counted. Those opposed will please rise in their places until counted.

A division was had. 26 having voted in the affirmative, and four having voted in the negative, Senate Amendment "A" was Indefinitely Postponed.

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

Sent down for concurrence.

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

Bill, "An Act to Authorize the Executive Council to Approve or Disapprove Certain Certain Claims Against the State." (H. P. 366) (L. D. 460)

Tabled — May 2, 1975 by Senator Speers of Kennebec.

Pending — Passage to be Engrossed.

(In the House — Passed to be Engrossed)

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

Senate Amendment "A", Filing No. S-114, 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 seventh tabled and Specially Assigned matter:

Bill, "An Act to Permit the Disposal of Moose Killed in Motor Vehicle Accidents." (H. P. 977) (L. D. 1224)

Tabled — May 2, 1975 by Senator Danton of York.

Pending — Passage to be Engrossed.

(In the House — Majority Ought Not to Pass Report Read and Accepted.)

(In the Senate — Minority Ought to Pass as amended by Committee Amendment "A" (H-106) Report Read and Accepted in non-concurrence; Committee Amendment "A", Adopted.)

Mr. Pray of penobscot then presented Senate Amendment "A" and moved its Adoption.

Senate Amendment "A", Filing No. S-113, was Read.

The PRESIDENT: The Senator has the floor.

Mr. PRAY: Mr. President and Members of the Senate: Just a brief explanation. Last week when this was discussed, the good Senator from Somerset, Senator Cianchette, posed a question to me asking if I would amend it to make the individual that is going to benefit from the accident which he had, if he would be responsible for cleaning up the entire carcass, and that is basically what the amendment does. It puts the responsibility on that individual if he is going to claim the moose.

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

Thereupon, Senate Amendment "A" was Adopted and the Bill, as Amended, Passed to be Engrossed in non-concurrence.

Sent down for concurrence.

Committee of Conference

On the disagreeing action of the two branches of the Legislature on Bill, An Act Increasing the Number of Associate Justices of the Supreme Judicial Court," (S. P. 147) (L. D. 510) the President appointed the following Conferees on the part of the Senate:

Senators:

COLLINS of Knox
CLIFFORD of Androscoggin
MERRILL of Cumberland

Papers from the House

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

House Papers

Education

Bill, "An Act Relating to the Borrowing Capacity of East Range II Community School District." (H. P. 1560) (L. D. 1870)

(Comes from the House referred to the Committee on Education and Ordred Printed.

Which was referred to the Committee on Education and Ordered Printed in concurrence.

Liquor Control

Bill, "An Act to Authorize the Town of St. George to Hold a Special Town Meeting in May, 1975, to Vote on Certain Local Option