

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

KENNEBEC JOURNAL
AUGUSTA, MAINE

those in favor of receding and concurring will please say "Yes"; those opposed will say "No".

The Secretary will call the roll.

ROLL CALL

YEAS: Senators Berry, E.; Carbonneau, Cianchette, Clifford, Curtis, Cyr, Danton, Johnston, Marcotte, Merrill, Pray.

NAYS: Senators Berry, R.; Collins, Conley, Corson, Cummings, Graffam, Graham, Greeley, Hichens, Huber, Jackson, Katz, McNally, O'Leary, Roberts, Speers, Thomas, Troitzky, Wyman.

ABSENT: Senators Gahagan, Reeves.

A roll call was had. 11 Senators having voted in the affirmative and 19 Senators having voted in the negative, with two Senators being absent, the motion did not prevail.

Thereupon, the Senate voted to Insist and Join in a Committee of Conference.

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

Mr. SPEERS: Mr. President, having voted with the majority, I move reconsideration and urge the Senate to vote against my motion.

The PRESIDENT: The Senator from Kennebec, Senator Speers, now moves that the Senate reconsider its action whereby the Senate voted to insist and join in a committee of conference. Will all those Senators in favor of reconsideration please say "Yes"; those opposed "No".

A viva voce vote being taken, the motion did not prevail.

Thereupon, the President appointed the following Conferees on the part of the Senate: Senators:

CUMMINGS of Penobscot
JACKSON of Cumberland
GRAHAM of Cumberland

Joint Resolution

State of Maine

In The Year Of Our Lord One Thousand Nine Hundred And Seventy-six

Joint Resolution In Support Of The Pine Tree Foundation for Burn Treatment

Whereas, a study conducted in 1973 by the State Comprehensive Health Planning Council revealed that there are an average of 400 hospitalized burn victims in Maine each year; and

Whereas, this study revealed that the quality of acute burn care in Maine ranges from excellent to poor but that there is potential for a uniformly high level of care through a coordinated state-wide program; and

Whereas, the State Health Planning Council has recommended the establishment of 4 strategically located burn units and a program of specialized training for burn officers in all acute care hospitals in Maine in order to achieve this uniform high level of care; and

Whereas, the Pine Tree Foundation for Burn Treatment has been established as the funding vehicle to implement these recommendations; and

Whereas, this foundation has received broad support and endorsement from the Maine State Federation of Firefighters, the Maine Fire Chiefs' Association, the major associations of professional and institutional healthcare providers and the major 3rd party payors; now, therefore, be it

Resolved: That We, the Members of the 107th Maine Legislature in special session assembled, hereby endorse and support the efforts of the Pine Tree Foundation for Burn Treatment to improve the quality of care rendered to burn victims in Maine; and be it further

Resolved: That suitable copies of this resolution be forwarded to the trustees of the Pine Tree Foundation for Burn Treatment. (H. P. 2297)

Comes from the House, Read and Adopted.
Which was Read and Adopted in concurrence.

Joint Orders State of Maine

In The Year Of Our Lord One Thousand Nine Hundred and Seventy-six

WHEREAS, The Legislature has learned of the Outstanding Achievement and Exceptional Accomplishment of Westbrook High School Stage Band State Champions for 1976

We the Members of the House of Representatives and Senate do hereby Order that our congratulations and acknowledgement be extended; and further

Order and direct, while duly assembled in session at the Capitol in Augusta, under the Constitution and Laws of the State of Maine, that this official expression of pride be sent forthwith on behalf of the Legislature and the people of the State of Maine. (H. P. 2296)

Comes from the House, Read and Passed.
Which was Read and Passed in concurrence.

State of Maine

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

WHEREAS, The Legislature has learned of the Outstanding Achievement and Exceptional Accomplishment of Wayne Wormwood who in ten years took a dream and built it into Camp Waban For the Mentally Retarded at Sanford and who is now retiring as director of Camp Waban

We the Members of the House of Representatives and Senate do hereby Order that our congratulations and acknowledgement be extended; and further

Order and direct, while duly assembled in session at the Capitol in Augusta, under the Constitution and Laws of the State of Maine, that this official expression of pride be sent forthwith on behalf of the Legislature and the people of the State of Maine. (H. P. 2298)

Comes from the House, Read and Passed.
Which was Read and Passed in concurrence.

Communications

Edwin H. Pert, Clerk
Maine House of Representatives
Augusta, Maine 04333

April 7, 1976

Honorable Harry N. Starbranch
Secretary of the Senate
107th Legislature
Augusta, Maine 04333

Dear Mr. Secretary:

The House voted today to Adhere to its action whereby it Indefinitely Postponed Bill "An Act to Temporarily Suspend Statutory Provisions for Constituent Service Allowance" (S. P. 750) (L. D. 2340)

Respectfully,
EDWIN H. PERT
Clerk of the House

Which was Read and Ordered Placed on File.

Committee Reports House

The following Ought Not to Pass reports shall be placed in the legislative files without further action pursuant to Rule 17-A of the Joint Rules:

Bill, "An Act to Provide Funds to Maine Health Systems Agency, Incorporated." (H. P. 2186) (L. D. 2300)

Bill, "An Act Making Additional Appropriation for the University of Maine for the Fiscal Year Ending June 30, 1977." (H. P. 2129) (L. D. 2276)

Enactors

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

An Act to Clarify the Laws Relating to Marine Resources. (H. P. 2010) (L. D. 2192)

An Act Providing for Protective and Supportive Services for Mentally Retarded Persons. (H. P. 2069) (L. D. 2239)

An Act to Reform the Regulation of Watch, Guard and Patrol Agencies and of Private Detectives. (H. P. 2211) (L. D. 2309)

An Act to Clarify the Retirement Statutes. (H. P. 1860) (L. D. 2027)

An Act to Revise the Statutes Concerning Alcoholic Beverages. (H. P. 2223) (L. D. 2311)

Which 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 Revise the Maine Criminal Code as Recommended by the Criminal Law Revision Commission. (S. P. 777) (L. D. 2334)

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

Mr. MERRILL: Mr. President and Members of the Senate: This is the Maine Criminal Code coming before us for final enactment, if so voted here today. It is a criminal code that continues to include mandatory sentences, and much more troubling maybe than that fact to me is the fact that it has mandatory sentences for second offense burglaries as well as for crimes committed with a handgun.

When we first addressed this issue in the Senate, I made the point that I thought that to have anything else other than handguns included would be to seriously diminish whatever psychological impact it might have to have this be limited strictly to handguns. A couple of days ago in listening to news reports on and off all day long I heard what we had done here in the legislature described as a law that would make mandatory sentences for burglaries committed with a handgun. I think that report, which was based on a wire story, undermines the futility of what we have tried to. I am not of the opinion that this situation is beyond salvage necessarily and, therefore, would ask the Senate to deny this bill final passage at this time, and see if this what I consider to be bad situation is correctable. For that reason, I would ask the Senate to join me in not voting for final passage, and ask when the vote is taken that it be taken by the "Yeas" and "Nays".

The PRESIDENT: A roll call has been requested.

The Chair recognizes the Senator from Knox, Senator Collins.

Mr. COLLINS: Mr. President and Members of the Senate: I share the feelings of the Senator from Cumberland, Senator Merrill, with respect to treatment of mandatory sentences in this code. However, as I stated the other day, this bill contains a great many important measures to the implementation of the criminal code. The criminal code that we passed in the regular session is scheduled to become effective on May 1st. This bill, which has an emergency clause, would also become effective on May 1st, thus correcting various deficiencies in the original code.

Although I wish that we did not have to pass a bill with mandatory sentences, I have to come down on the side of passage because I think it is too important that the law enforcement community have a code taking effect with corrections in it and not with various mistakes in it. I think it undermines the psychological situation with enforcement officers to continually be having to think, well, this was corrected and this wasn't corrected, and so on.

If I am returned to office by the voters in

another session. I shall personally make it a project, and I would hope to have the cooperation of Senator Merrill, or perhaps it would be better to say that I would be cooperating with him, in an effort to change the impact of mandatory sentences as we have it here. In that context we could present a bill that would deal only with that, and avoid the difficulties that come with the complications of an all-inclusive measure. And I would urge the Senate to vote for the passage of this emergency action.

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

Mr. MERRILL: Mr. President and Members of the Senate: I think it is probably apparent to everyone that there is no disagreement between myself and the chairman of the committee, the Senator from Knox, Senator Collins, except there may be a slight degree more optimism, which the chairman may well say is unfounded, and may be right. And I know that it is improper to refer to the other body in a debate such as this kind, but I don't think that it is an inaccurate description of the parliamentary possibilities that we fail to enact this bill as an emergency measure that one measure available at the other end would be to insist and ask for a committee of conference.

I am going to ask the Senate to fail final passage today and give this one more chance at least, if the verdict is going to be mandatory sentences, to at least leave them for that situation where the most Senators thought that we should have that psychological impact, in the area of crimes committed with a handgun.

The PRESIDENT: Is the Senate ready for the question? 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.

Obviously more than one-fifth having arisen, a roll call is ordered. The pending question before the Senate is the enactment of L. D. 2334, An Act to Revise the Maine Criminal Code as Recommended by the Criminal Law Revision Commission. A "Yes" vote will be in favor of enactment; a "Nay" vote will be opposed.

The Secretary will call the roll.

ROLL CALL

YEAS: Senators Berry, R.; Carbonneau, Clifford, Collins, Corson, Cummings, Curtis, Cyr, Gahagan, Graffam, Greeley, Hichens, Huber, Jackson, Johnston, Katz, McNally, O'Leary, Pray, Roberts, Speers, Thomas, Trotzky, Wyman.

NAYS: Senators Berry, E.; Conley, Danton, Graham, Marcotte, Merrill.

ABSENT: Senators Cianchette, Reeves.

A roll call was had. 24 Senators having voted in the affirmative, and six Senators having voted in the negative, with two Senators being absent, the Bill was Passed to be Enacted and, having been signed by the President, was by the Secretary presented to the Governor for his approval.

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

Mr. COLLINS: Mr. President, having voted on the prevailing side, I now move that we reconsider and hope you vote against me.

The PRESIDENT: The Senator from Knox, Senator Collins, now moves the Senate reconsider its action whereby it enacted L. D. 2334. Will all those Senators in favor of reconsideration please say "Yes"; those opposed will please say "No".

A viva voce vote being taken, the motion did not prevail.

Committee Report

Senate

Committee of Conference Report

The Committee of Conference on the dis-

agreeing action of the two branches of the Legislature, on Bill, "An Act to Regulate Drinking Water." (S. P. 687) (L. D. 2198)

have had the same under consideration, and ask leave to report:

that the Senate recede from its action whereby it Passed the Bill to be Engrossed; recede from its action whereby it adopted Committee Amendment "A" (S-431); adopt Conference Committee Amendment "A" (S-542) to Committee Amendment "A"; adopt Committee Amendment "A", as amended by Conference Committee Amendment "A" thereto; and Pass the Bill to be Engrossed, as amended by Committee Amendment "A", as amended by Conference Committee Amendment "A" thereto;

that the House recede and concur with the Senate

On the part of the Senate:

CUMMINGS of Penobscot

CYR of Aroostook

GREELEY of Waldo

On the part of the House:

LEONARD of Woolwich

GARSOE of Cumberland

CAREY of Waterville

Which report was Read.

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

Mrs. CUMMINGS: Mr. President, all of the above amendments merely have removed the sections of the original bill which were not considered to be wise at this point, which said that every rule and regulation had to meet with the approval of the legislature. The date that this bill would become effective has been postponed, and Mr. Hoxie of the Human Services Department assures us that the rules and regulations will be available and certainly will come before the legislature next year sometime in January, when we can pass on them before the bill becomes effective April 1st.

The PRESIDENT: Is it now the pleasure of the Senate to accept the committee of conference report?

It is a vote.

Sent down for concurrence.

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

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

Tabled — April 7, 1976 by Senator Speers of Kennebec

Pending — Consideration

(In the House — Passed to be Engrossed as Amended by Committee Amendment "A" (H-1115), as Amended by Senate Amendment "A" (S-519) Thereto, and House Amendments "A" (H-1166), "B" (H-1177), "C" (H-1183), "E" (H-1191) and "F" (H-1196), and Senate Amendments "B" (S-524) and "C" (S-526), as Amended by Senate Amendment "A" (S-532) Thereto, in non-concurrence).

(In the Senate — Passed to be Engrossed as Amended by Committee Amendment "A", as Amended by Senate Amendment "A" Thereto, House Amendments "A", "C", and "E" and Senate Amendments "B", "D" (S-529) and "C", as amended by Senate Amendment "A" Thereto (S-532), in non-concurrence).

On motion by Mr. Speers of Kennebec, the Senate voted to Adhere.

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

Resolve, Authorizing the Governor to Create, Administer and Seek Funds for a Community Jobs Program for the State of Maine. (H. P. 2165) (L. D. 2293)

Tabled — April 7, 1976 by Senator Gahagan of Aroostook

Pending — Final Passage

(In the House — Finally Passed)

On motion by Mr. Gahagan of Aroostook, retabled and Tomorrow Assigned, pending Final Passage.

On motion by Mr. Berry of Cumberland, all matters previously acted upon in today's session requiring concurrence were sent down forthwith for concurrence.

On motion by Mrs. Cummings of Penobscot, Adjourned until 10 o'clock tomorrow morning.