

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

Which were Read a Second Time and Passed to be Engrossed, in concurrence.

House — As Amended

Resolve, Confirming the Transfer of Certain Lands from the Department of Mental Health and Corrections to the Department of Conservation, Bureau of Public Lands. (H. P. 843) (L. D. 1028)

Which was Read a Second Time and Passed to be Engrossed, as Amended, in concurrence.

Senate

Bill, "An Act to Allocate Money from the Federal Revenue Sharing Fund for the Expenditures of State Government for the Fiscal Years Ending June 30, 1976 and June 30, 1977." (S. P. 230) (L. D. 774)

Bill, "An Act to Increase the Amount of Employee Life Insurance." (S. P. 377) (L. D. 1228)

Bill, "An Act to Increase the Amount of Dependent's Coverage for Group Life Insurance." (S. P. 378) (L. D. 1229)

Which were Read a Second Time and Passed to be Engrossed.

Sent down for concurrence.

Senate — As Amended

Bill, "An Act to Require the Bureau of Purchases to Publish a Manual on State Purchasing." (S. P. 323) (L. D. 1100)

Which was Read a Second Time.

On motion by Mr. Curtis of Penobscot, tabled and Specially Assigned for April 21, 1975, pending Passage to be Engrossed.

Enactors

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

An Act Relating to Voter Registration of Persons Born United States Citizens in a Foreign Country. (H. P. 13) (L. D. 21)

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

An Act to Exempt Scouting Supplies and Equipment from State Sales Tax. (H. P. 521) (L. D. 638)

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:

House Reports — from the Committee on Human Resources — Bill, "An Act Establishing the Civil Rights of Hemophiliacs." (H. P. 161) (L. D. 202) Majority Report — Ought Not to Pass; Minority Report — Ought to Pass in New Draft Under Same Title (H. P. 840) (L. D. 986).

Tabled — April 11, 1975 by Senator Speers of Kennebec.

Pending — Acceptance of Either Report.

(In the House — Minority Report Accepted, and the Bill, in New Draft, Passed to be Engrossed as amended by House Amendment "A" (H-118).)

The PRESIDENT: The Chair recognizes the Senator from Washington, Senator Wyman.

Mr. WYMAN: Mr. President, I move that we accept the Ought to Pass Report, and if accepted, tomorrow I will move indefinite postponement of House Amendment "A" and offer Senate Amendment "A".

The PRESIDENT: The Senator from

Washington, Senator Wyman, now moves that the Senate accept the Minority Ought to Pass in New Draft Report. Is this the pleasure of the Senate?

The Chair recognizes the Senator from Kennebec, Senator Katz.

Mr. KATZ: Mr. President, I just wanted to observe that this is a minor bill that is important to a very small group of people, and we have been perplexing about it for some weeks. And I want to express my gratitude to the Senator from Washington, Senator Wyman, for taking a hopelessly complicated situation which will be resolved by his very thoughtful amendment tomorrow.

The PRESIDENT: Is it now the pleasure of the Senate to accept the Minority Ought to Pass in New Draft Report of the Committee?

The motion prevailed.

Whereupon, the Bill in New Draft was Read Once and House Amendment "A" was Read.

On motion by Mr. Wyman of Washington, House Amendment "A" was Indefinitely Postponed in non-concurrence and the Bill Tomorrow Assigned for Second Reading.

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

Bill, "An Act Relating to Dealers in Used Personal Property." (H. P. 502) (L. D. 618)

Tabled — April 15, 1975 by Senator Carbonneau of Androscoggin.

Pending — Motion of Senator Cummings of Penobscot to Indefinitely Postpone Bill and accompanying papers.

(In the House — Passed to be Engrossed as amended by House Amendment "C" (H-124) as amended by House Amendments "A" (H-129) and "B" (H-130) thereto.)

Mrs. Cummings of Penobscot then withdrew her motion that the Bill and accompanying papers be Indefinitely Postponed.

On motion by the same Senator, the Senate voted to reconsider its prior action whereby House Amendment "C" was Adopted and, on subsequent motion by Mr. Johnston of Aroostook, House Amendment "C" was Indefinitely Postponed in non-concurrence.

Thereupon, on motion by Mr. Conley of Cumberland, tabled and Tomorrow Assigned, pending Passage to be Engrossed.

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

House Reports — from the Committee on Judiciary — Bill, "An Act Concerning Employment in the Department of Mental Health and Corrections." (H. P. 476) (L. D. 596) Majority Report — Ought Not to Pass; Minority Report — Ought to Pass.

Tabled — April 16, 1975 by Senator Speers of Kennebec.

Pending — Consideration.

(In the House — Minority Report Accepted and the Bill Passed to be Engrossed as amended by House Amendment "A" (H-155).)

(In the Senate — Majority Report Accepted in non-concurrence.)

(Comes from the House that Body having Insisted and Asked for a Committee of Conference.)

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

Mr. COLLINS: Mr. President and Members of the Senate: I am going to

move that the Senate adhere in this matter, and I think there should be a brief explanation.

This bill originated as a reaction to the problems that were so prominent in the news this past fall and winter at the Augusta Mental Health Institute. The bill was drawn so broadly that it would have presented the Department of Mental Health and Corrections from employing in the future any one who had been found either criminally or civilly guilty of abuse to any other person.

In the other body this was amended to take out the civil portion of it. However, as Dr. Schumaker pointed out to us in the hearing, there are cases — and we must remember that this bill is drawn to include not only health institutions but also penal institutions — there are cases where a person who perhaps has a fist fight with someone else and is convicted of assault and battery becomes a good citizen in later years, and where they might be employable and might even be a desirable employee of a penal institution, or even of a mental institution working on the grounds or in some other way that had no contact with patients. So the Judiciary Committee, in the majority, felt that the bill was drawn so broadly that it was an overreaction to the problem, and as there has been no attempt to refine it into a narrow posture that would truly be useful and responsive to the problem, we do not feel it is an appropriate part of our personnel regulations and laws, so, I move the Senate adhere.

The PRESIDENT: The Senator from Knox, Senator Collins, now moves that the Senate adhere.

The Chair recognizes the Senator from York, Senator Hichens.

Mr. HICHENS: Mr. President, I move that we insist and join in a committee of conference.

The PRESIDENT: The Senator from York, Senator Hichens, now moves that the Senate insist and ask for a committee of conference.

The Chair recognizes the Senator from Kennebec, Senator Katz.

On motion by Mr. Katz of Kennebec, a division was had. Six having voted in the affirmative, and 21 having voted in the negative, the motion did not prevail.

Thereupon, the Senate voted to Adhere.

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

Bill, "An Act Relating to Mandatory Reporting of Child Abuse or Neglect." (H. P. 1488) (L. D. 1680)

Tabled — April 16, 1975 by Senator Clifford of Androscoggin.

Pending — Motion of Senator Berry of Androscoggin to Indefinitely Postpone House Amendment "A" (H-161).

(In the House — Passed to be Engrossed as amended by House Amendment "A".)

Mr. Berry of Androscoggin then withdrew his motion to Indefinitely Postpone House Amendment "A".

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

Mr. COLLINS: Mr. President, yesterday I outlined to the Senate some of the problems that seemed to be presented in this bill. Since that time, through the joint effort of counsel for the Maine Medical Association and members of the other body who were vitally interested in this bill, an amendment has been prepared. I now offer Senate Amendment "A" to L. D. 1680 and would speak to this amendment.

The PRESIDENT: The Chair would advise the Senator from Knox, Senator Collins, that it would be necessary to adopt House Amendment "A" prior to his offering Senate Amendment "A". Is it now the pleasure of the Senate to adopt House Amendment "A"?

Thereupon, House Amendment "A" was Adopted and, under suspension of the rules, the Bill given its Second Reading.

Mr. Collins of Knox then presented Senate Amendment "A" and moved its Adoption.

Senate Amendment "A", Filing No. S-73, was Read.

The PRESIDENT: The Senator has the floor.

Mr. COLLINS: Mr. President, I have a letter today from counsel to the Maine Medical Association, and I think there are two or three paragraphs that should be read to the Senate.

"Dear Senator Collins: Following our conversation on April 16 and your subsequent comments on the floor of the Senate in regard to L. D. 1680, I had an opportunity to review the situation concerning the legislative posture of the bill with Dr. Daniel F. Hanley, Executive Director of the Maine Medical Association. As I believe you are aware, the concerns of the Association have been focused upon two areas: One, the potential disruption in the relationship between a parent and the physicians if a physician is required to report all suspected cases of child abuse. Two, the liability exposure which applies to physicians as a result of section 3857.

"The Association is aware of the statements which have been made by Representatives of the United States Department of Health Education and Welfare to the effect that the Maine law will not qualify the state for eligibility for federal funds unless it contains the mandatory reporting requirement for suspected cases of child abuse or neglect.

"The Association fully appreciates the quandary placed upon the legislature by the necessity to balance the various legitimate interests as you outlined in your Senate remarks. During these remarks you indicated that you would favor inclusion of the word 'suspect' in the mandatory reporting section of the bill if the criminal liability exposure as set forth in the bill were to be reduced. While such a proposal does not in my opinion modify the basic reporting requirement necessitated by the use of the word 'suspect', it does go far in making such a provision more palatable to the various professionals who will be subject to it.

"A concern has been expressed that once the word 'suspect' were inserted, a subsequent legislature would increase the criminal penalty. That I believe is always a concern since no legislature may bind a subsequent legislature. However, I hope that such a situation could be averted.

"After a careful review of all considerations, I have been authorized by Dr. Hanley to advise you and other members of the legislature that the Maine Medical Association would withdraw its active objection to the inclusion of the word 'suspect' in the bill's mandatory reporting section if section 3857 were amended to read as follows:

The amendment that is before you today under Filing No. S-73, distributed this morning, picks up the language that has been recommended here.

"I have been asked to convey to you the feeling of the Association that inclusion of the word 'suspect' is going to cause a

significant disruption to the relationship between parent and physicians if physicians adopt a defensive posture. However, the Association does not wish to jeopardize the availability of federal funds if a reasonable solution can be effected. A review of the statute dealing with privileged communication and conversations with other attorneys leads me to the conclusion that if a parent were to voluntarily seek treatment from a physician, psychiatrist, or other professional, the professional would be required to file a report, regardless of whether the word is 'suspect' or 'believe.' Therefore, I would strongly suggest an appropriate amendment be added to the bill."

I have added this amendment to the bill, and this is aimed basically at protecting the psychiatrist. This amendment would provide that no person otherwise required to report pursuant to this act shall be required to report if the factual basis for knowing or suspecting a case of child abuse or neglect exists was derived as a result of treatment of the individual suspected of committing such child abuse or neglect. For example, if a person goes to a psychiatrist and is explaining his problem, and one of his problems is that he has a compulsion to beat his children, then the psychiatrist doesn't have to make the report. On the other hand, if a parent brings a child to a physician and the physician is there to treat the child, and he sees evidence that indicates there has been or may be child abuse, the physician is still obliged to make the report.

I submit to the Senate that this amendment makes a suitable compromise and, hopefully, may cure the problem that was posed to us.

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

Mr. KATZ: Mr. President, again, I would like to express my personal appreciation to a member of this body for helping our committee out of a real dilemma. I suspect it would not have been resolved otherwise.

I am concerned that there are some 350 bills before the legislature this session, which are all noble in purpose, which deal more or less with the question of health care or physician care of our people. In these 350 bills we have a magnificent opportunity to create some real havoc with the cost of health care and the quality of health care if we just address ourselves to the noble purpose without identifying the spillover or the fallout from the legislation which we pass.

I am particularly fascinated this time because we are concerned about the effect of the lobby here on the third floor, that it was the lobby representing this large group of Maine physicians who pointed out the middle course in a highly professional area so that this Senate could move in order to accomplish our purposes of protecting the child and at the same time not creating inordinate disruption within a profession. I move the pending question.

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.

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

Mr. CONLEY: Mr. President, it is my understanding that there is a deadline

affecting this legislation, and I would move that under suspension of the rules the bill be sent forthwith to the House.

The PRESIDENT: The Senator from Cumberland, Senator Conley, now moves that the rules be suspended and this bill be sent forthwith to the House for concurrence. Is this the pleasure of the Senate?

The motion prevailed.

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

Senate Report from the Committee on Liquor Control Bill, "An Act Relating to Special Agency Stores." (S. P. 290) (L. D. 1015) Ought to Pass as Amended by Committee Amendment "A" (S-59).

Tabled April 16, 1975 by Senator Hichens of York.

Pending — Acceptance of Report.

Mr. Hichens of York then moved that the Bill and accompanying papers be Indefinitely Postponed.

The PRESIDENT: The Senator has the floor.

Mr. HICHENS: Mr. President and Members of the Senate: This L. D. 1015 is a repeat of the same legislation presented during every term I have served in the Maine Legislature, and wisely defeated in every session.

This legislation further erodes the monopoly system we now have in Maine and which was endorsed by the Liquor Control Committee who made a thorough study of the problem last year. How members of that committee could recommend continuation of the monopoly system and then endorse this bill is beyond my sense of reasoning.

We read on the L. D. that it will mean an increase in revenue of one million dollars in ten years for an eventual total of fifty stores. Again we look at revenue only and not the eventual increase in problems already recognized as the greatest influence on the deterioration of our society by experts and lay people alike.

This bill sets up fifty additional state liquor agencies in Maine, something we can certainly do without. It also states that the bureau shall have authority.

Under Chapter 1, Section 2, "Definitions" 6A, "the Bureau shall mean the Bureau of Alcoholic Beverages within the Department of Finance and Administration."

The law also clearly points out that the Director of the Bureau shall not be a member of the Commission. In addition, it indicates that one man regulates and makes regulations.

Under section 55 "Powers and Duties", Number 7, it clearly indicates that the Liquor Commission is empowered to issue and renew all licenses under Title 28 MRSA. However, this law relating to special agency stores positively eliminates the Liquor Commission in the licensing under this act and leaves it solely at the discretion of the bureau, and I can only assume that is the Director of the Bureau, in the absence of anything clearer in the proposed law. Too much power to give to one man, but it does indicate that the liquor must be purchased from the Commission under section 204.

They talk of Vermont and their success. Who puts out this propaganda? Let's look into their agency stores, not by writing to our Commission or the Vermont Commission, but to those concerned. They have licenses in clothing stores and hardware stores, so I am told, and I do not