

# MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

*One Hundred and Sixth  
Legislature*

OF THE

STATE OF MAINE

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Index

KENNEBEC JOURNAL  
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the Bill is in the possession of the Senate, having been held by the Senator from Cumberland, Senator Brennan.

The Chair would announce that it has been practiced in the past, and the Chair has stated it so, that even though matters are sent forthwith, that if they are still in the possession of the Senate, and a request is made by a Senator to have it held before or immediately following adjournment, the bill is held.

The Chair recognizes the Senator from Cumberland, S e n a t o r Brennan.

Mr. Brennan of Cumberland, then moved that the Senate reconsider its action whereby Bill, "An Act Relating to Contributions and Expenditures to Influence Direct Initiative or Referendum Legislation", was Passed to be Engrossed.

Thereupon, on motion by Mr. Berry of Cumberland, tabled, pending the motion by Mr. Brennan of Cumberland, to Reconsider.

The PRESIDENT: The Chair would also announce that tabled matter Number 11, Joint Resolution — Memorializing the Congress of the United States to Extend the United States Fisheries Management Jurisdiction 200 Miles Seaward from its Boundaries, (H. P. 1639), is not before the Senate because it was not approved by a majority of the Reference of Bills Committee. Memorials to Congress require the Reference of Bills Committee approval, and it should not have been before the body yesterday. The Chair did not understand that a majority of the Reference of Bills Committee did not sign approval to let this measure in.

On motion by Mr. Berry of Cumberland, the Senate voted to take from the table the ninth unassigned matter:

An Act to Redistribute Certain Statutory Powers Now Vested in the Executive Council, to Abolish the Legislative Research Committee, to Create a Statutory Legislative Council, to Provide for Permanent Joint Standing Committees of the Legislature, and to

Provide for an Annual Rather than a Biennial State Budget. (S. P. 661) (L. D. 2021)

Tabled — June 2, 1973 by Senator Berry of Cumberland.

Pending — Enactment.

Thereupon, this being an emergency measure and having received the affirmative vote of 25 members of the Senate, with four Senators voting in the negative, was Passed to be Enacted in non-concurrence.

Under suspension of the rules, sent down forthwith for concurrence.

On motion by Mr. Berry of Cumberland, the Senate voted to take from the table the tenth unassigned matter:

Resolution, Proposing an Amendment to the Constitution to Provide for Annual Sessions of the Legislature and to Limit the Matters Which May be Considered in the Second Regular Session; to Provide for Single Member Districts in the House of Representatives; to Provide for Reduction of the Number of Representatives and Reapportionment of the House of Representatives and the Senate in 1983; to Abolish the Executive Council and Reassign Certain Constitutional Powers to a Legislative Council; and to Provide that Oaths and Subscriptions of Office of the Governor shall be Taken before the Chief Justice of the Supreme Judicial Court. (S. P. 673) (L. D. 2040)

Tabled — June 26, 1973 by Senator Berry of Cumberland.

Pending — Final Passage.

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

Mr. SPEERS: Mr. President and Members of the Senate: I believe the weight of the importance of these two particular matters probably is responsible for the reluctance on the part of members of the Senate to comment on these legislative reform bills. I think, however, we would be somewhat remiss if we did not make some comment on the work that has gone into these particular bills and on the attitude of the legislature as we are considering them today.

I think it goes without saying that everyone of us could find something in these two particular bills that we could very heartily disagree with. But I think it also goes without saying that every one of us can find much in these two pieces of legislation that we very heartily agree with. I think it is indicative of the attitude that we take towards these pieces of legislation as to whether we look to the positive and to the future and to the good of the people of the State of Maine, in passing legislative reform, or whether we find ourselves looking at the negative aspects, which we feel would be the negative aspects, of these two particular bills and therefore vote against the entire package.

We have seen in recent days in our nation's capital rather remarkable meeting of the minds of two of the world's great super powers, and certainly no one could deny there are very great differences of attitude and differences of opinion between the Soviet Union and the United States. Yet the entire thrust of this meeting and of detente is to emphasize the positive and to look upon the aspects of agreement between these two powers. It may be a little difficult to make that same relationship to passing legislative reform for the State of Maine, and yet I think it is in the attitude of those who have worked very hard and long on these particular bills that they would like to see the emphasis placed upon the positive, and upon the affirmative, and upon those areas in which there is agreement.

Mr. President, because of the position which is held by the President of this body, the comments which I am sure the President would like to be making are unable to be made, but I would like to express the gratefulness of the Committee on State Government, from which these bills emanated, to all of the Legislative Leadership for the great amount of work and effort which has gone into producing these two documents.

I would like to reiterate my own strong feeling that the entire purpose of legislative reform is to strengthen the hand of the legisla-

ture and to give to the people of the State of Maine a far better grasp upon their own government. Nothing could be more important for the people than for the legislature to provide that vehicle to them. I move the enactment of this legislation.

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

Mr. CONLEY: Mr. President and Members of the Senate: I would like to congratulate the good Senator from Kennebec, Senator Speers. As Chairman of the State Government Committee, he certainly has done what I think is one of the finest jobs of all the Senators in the Senate this year.

As I look over this package, I still have some very, very, strong reservations. I think that the doing away with the multi-seat districts is an excellent idea, I think annual sessions is good, and everything right down the line, except when I come to see the abolishing of the Executive Council and replacing it with what I have often referred to as perhaps the Leadership — and we won't call them anything but Leadership today; I wouldn't want to infringe upon any of you. But over the years we have heard so much conversation about Snow White and the Seven Dwarfs, and I know that we have all made a great deal of jest about it, but today in looking at this package I honestly have strong reservations, and I am concerned as to whether or not there is a constitutional problem by replacing the Executive Council with the alleged Leadership.

If there is a separation in the branches of government between the Judiciary, the Executive and the Legislature, I cannot in good sense really see how we can have ten people who are representing the Legislature sitting here in one body and, on the other hand, be sitting in confirming appointments by the Executive Branch of Government. I just want to know, and I would like to pose a question to the Chairman of the State Government Committee or the Judiciary Committee as to whether

or not there is a conflict, or if there is a constitutional problem here, and perhaps that may have been sought out by one or both of those committees.

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

Mr. CLIFFORD: Mr. President and Members of the Senate: As members of the State Government Committee, we thoroughly discussed the bills, and I think if you go back to the original intention of the Executive Council, the Executive Council is elected by and represents the Legislature in the Executive Branch. It seemed to us, and I don't think there is any question, replacing it with the Legislative Council creates no problem whatsoever. The Executive Council originally was intended, and is still intended, to represent the Legislature in the Executive Branch, and it is merely replaced with another elected body by the legislature, so there is no constitutional problem with this at all.

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

Mr. CONLEY: Mr. President and Members of the Senate: I can only say that is not really legislative reform; it is ten steps backwards.

The PRESIDENT: The Chair recognizes the Senator from York, Senator Hichens.

Mr. HICHENS: Mr. President and Members of the Senate: From the first time I heard it mentioned, I have been opposed to the package idea in selling legislative reform to this 106th Legislature. I sincerely believe that each reform proposal should be considered separately on its own merits, as in the past, and heard and debated accordingly.

Compromise is not in my book, although many of my constituents inform me that politics is just a game of compromise. On many bills I am willing to settle for half a loaf rather than lose all, but in this case we take the whole package or none at all. Some of these proposals I do go along with, but am not concerned enough to accept the others in order to get those I like.

I resent leadership trying to push the whole package down my throat and, even though I appreciate the hours and hours of time expended by the State Government Committee, I still firmly believe that the only fair way to the public and the state was to evaluate each part of the package individually.

The press has attempted to sell legislative reform to the people of Maine, and I have read several articles stating that the residents of our state are up tight waiting for our vote on the issue. Maybe in some areas of the state this may be true, but in the first district I have had only one person actually contact me and express an opinion. Of 30,000 constituents I represent, I must say that interest is far from high.

This package idea is very similar to the action taken by the United States Congress in presenting bills for the President's approval. In giving him what he desires, they often tack something repulsive to him on the bill, so that if he approves he is accepting something he doesn't think is right, and if he vetoes the bill he defeats his own proposals.

Until we approach these problems individually and let each rise or fall on its own merits, I shall vote against all reform measures. I therefore will oppose passage of L.D. 2040.

The PRESIDENT: The Chair recognizes the Senator from Sagadahoc, Senator Schulten.

Mr. SCHULTEN: Mr. President and Members of the Senate: I rise this morning not to oppose this bill because I intend to vote for it. I too am a little troubled by certain sections of it perhaps, but I feel basically overall that this is undoubtedly a great step forward for the State of Maine in efficiency of government.

However, as a former Executive Councilor myself, I feel it would be remiss of me to allow the Executive Council to be abolished without some recognition on my part for what I feel has been the good points of the Executive Council. Even when I served on the Council back in '63-'64, I felt that perhaps things like pardons were beyond our real knowledge and

ability to handle, but this was cranked into the system, we did the best job we could and, with expert guidance along at our elbows, I think the decisions we reached were rather good. In other words, they weren't hasty decisions nor were they just independent decisions. We had a lot of help. So, while this was something that the Executive Council certainly should not have been handling, we did at least struggle through.

But the good Senator really brought this to my mind. I didn't know that I was going to speak this morning on this, but when he said that the purpose of the Council was to represent the Legislature, this is true. Up to the time that we pass this bill, the Legislature pretty much has been in session six months out of 24, which leaves approximately 18 months out of two years when the department heads in the various departments of the state government operate. At this time the full functions of the Executive Council come into play, and their one and only real job is to represent, to the best of their ability, the laws that have been passed by the legislature, the allocations that have been made, and the intent of the Legislature. I know really of no Executive Council, as a group, that has not been dedicated to this purpose. So, nostalgically, I feel that yes, we have come a long way, and perhaps times have changed, but I sometimes wonder if the change we are willing to make is going to be as good for us as what we presently have. And I think this applies to a degree to the Executive Council.

I remember with a great deal of amusement that the newspapers and our good friends on the other side of the political spectrum for years had beaten the war drums about the abolition of the Governor's Council, and yet when the situation came that the Republicans found they were not in power in Augusta, and the other party took over, after years of breastbeating that the first thing they would do was abolish the Council, they very soon found that really responsible people in that party, the Democratic Party, felt

that they wanted to serve on the Council, and to the best of my knowledge, which is not actually intimate but as I remember, the Democratic Executive Council in that two-term session served with distinction. They really became dedicated people and they did their utmost to carry on the tradition of the State of Maine.

I feel that when you sit down and analyze the cost of the Executive Council, to the amount of good, the amount of efficiency, the amount of overseeing of department heads, it is an inescapable conclusion that here is a body politic, born of the Legislature that has one purpose: to serve the intent of the Legislature. And I feel, by and large, since 1820 they have done a very creditable job.

As I said when I started, I fully intend to support this bill. I am willing to overlook the parts I don't like for the whole, but I wanted to share with you a little bit of nostalgia because I think in the State of Maine this is important, and I think also when we make decisions today we must be in position to fully evaluate the advantages we hope to obtain as against the advantages of what we have got. Thank you, gentlemen and Mrs. Cummings, very much for allowing me to speak.

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

**MR. CONLEY:** Mr. President and Members of the Senate: I would like to make myself perfectly clear on the reform package: I intend to vote for it. I think though that there isn't a member in this branch who wouldn't enthusiastically support this bill if the Council, as it is presently constituted, were put out to be elected by the people from the districts. There would be no objection at all. But I think replacing them with ten — whatever we are going to call them — is certainly not a very progressive step. I think that if we thought we had problems in the past with the Executive Council, we are going to have an awful lot of problems with the alleged leadership in the future.

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

Mr. WYMAN: Mr. President, I ask for a roll call.

The PRESIDENT: 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 please rise and remain standing until counted.

Obviously more than one-fifth having arisen, a roll call is ordered. This being a constitutional amendment, under the Constitution in order for its passage, it requires the affirmative vote of two-thirds of those Senators present and voting. A "Yes" vote will be in favor of final passage of this Resolution; a "No" vote will be opposed.

The Secretary will call the roll.

#### ROLL CALL

YEAS: Senators Berry, Brennan, Cianchette, Clifford, Conley, Cox, Cummings, Cyr, Danton, Fortier, Greeley, Huber, Joly, Katz, Kelley, Marcotte, Morrell, Peabody, Richardson, Roberts, Schulten, Sewall, Speers, Tanous, MacLeod.

NAYS: Senators Anderson, Graffam, Hichens, Minkowsky, Wyman.

ABSENT: Senators Aldrich, Olfene, Shute.

A roll call was had.

Mr. Graffam of Cumberland was granted leave to change his vote from "Nay" to "Yea".

28 Senators having voted in the affirmative, and four Senators having voted in the negative, with three Senators being absent, the Resolution was Finally Passed in non-concurrence.

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

On motion by Mr. Berry of Cumberland,  
recessed until 2:00 o'clock this afternoon.

#### After Recess

Called to order by the President.

#### Papers from the House

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

#### Enactors

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

An Act Reconstituting and More Effectively Coordinating the Maine Commission on Drug Abuse and the Division of Alcoholism and Providing an Alternative Sentencing for Violators of Drug Laws. (S. P. 635) (L. D. 2008)

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 Amend the Land Use Regulation Commission Law. (H. P. 627) (L. D. 851)

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

Mr. BERRY: Mr. President and Members of the Senate: L. D. 851 has on it an amendment, Committee Amendment "A", which stipulates that three members of the Commission shall be the Director of Parks and Recreation, the Forest Commissioner, and the State Planning Director. The thinking, I think, of considerable people is that these three ex-officio members have many, many commitments. Ex-officio — I think I understand that one of these three gentlemen is a member of 22 commissions. It would give a far greater flexibility and reflect more public opinion if these three people were public members. And I propose that Committee Amendment "A", which does just this, be removed.

Mr. President, I move the rules be suspended and that the Senate reconsider its action whereby this bill was passed to be engrossed as amended.

The PRESIDENT: The Senator from Cumberland, Senator Berry, moves that under suspension of the rules the Senate reconsider its action whereby this bill was passed to be engrossed.

The Chair recognizes the Senator from Kennebec, Senator Speers.