

# MAINE STATE LEGISLATURE

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# LEGISLATIVE RECORD

OF THE

## **One Hundred And Fifteenth Legislature**

OF THE

## **State Of Maine**

### **VOLUME VII**

#### **SECOND REGULAR SESSION**

Senate

March 10, 1992 to March 31, 1992

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#### **SECOND CONFIRMATION SESSION**

May 20, 1992

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November 19, 1992

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#### **HOUSE AND SENATE LEGISLATIVE SENTIMENTS**

December 5, 1990 to December 1, 1992

Senator GAUVREAU: Thank you Mr. President. Ladies and Gentlemen of the Senate. L.D. 513 is a hold over Bill from last session. This Bill allows, in certain circumstances, victims of the crime of gross sexual misconduct to secure a court order to have a person convicted of gross sexual offense to be tested to determine if they have the HIV virus. The amendment I have just offered would ensure that when the test results are completed they are made available to the victim witness advocate who is governed by confidentiality requirements. The victim witness advocate will release the information to the victim and ensure that appropriate post test counseling be available to the victim in these circumstances. Thank you.

On further motion by same Senator, Senate Amendment "A" (S-692) to Committee Amendment "A" (H-963) **ADOPTED**.

Committee Amendment "A" (H-963) As Amended by Senate Amendment "A" (S-692) thereto, **ADOPTED** in **NON-CONCURRENCE**.

Which was **PASSED TO BE ENGROSSED**, As Amended in **NON-CONCURRENCE**.

Under suspension of the Rules, ordered sent down forthwith for concurrence.

The President requested the Assistant Sergeant-at-Arms escort the Senator from Penobscot, Senator BOST to the Rostrum where he assumed the duties of President Pro Tem.

The President took a seat on the Floor of the Senate.

The Senate called to Order by the President Pro Tem.

On motion by Senator WEBSTER of Franklin, the Senate removed from the Later Today Assigned Table, the following:

RESOLUTION, Proposing an Amendment to the Constitution of Maine to Reduce the Size of the House of Representatives

H.P. 1660 L.D. 2337  
(C "A" H-1173)

Tabled - March 25, 1992, by Senator WEBSTER of Franklin.

Pending - **FURTHER CONSIDERATION**

(In Senate, March 24, 1992, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A"** (H-1173) in **NON-CONCURRENCE**.)

(In House, March 25, 1992, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A"** (H-1173) **AND HOUSE AMENDMENT "B"** (H-1175) in **NON-CONCURRENCE**.)

On motion by Senator PRAY of Penobscot, the Senate **RECEDED** from its action whereby the Bill was **PASSED TO BE ENGROSSED AS AMENDED** in **NON-CONCURRENCE**.

House Amendment "B" (H-1175) **READ**.

On further motion by same Senator, House Amendment "B" (H-1175) **INDEFINITELY POSTPONED** in **NON-CONCURRENCE**.

On further motion by same Senator, Senate Amendment "A" (S-702) **READ**.

**THE PRESIDENT PRO TEM**: The Chair recognizes the Senator from Penobscot, Senator Pray.

Senator PRAY: Thank you Mr. President. Ladies and Gentlemen of the Senate. As you all recall yesterday there were only eight of us who voted in opposition to this Bill of reducing the size of the House. I think the Senator from Penobscot, Senator

Pearson explained rather well the concerns of those of us in rural Maine have on the reduction on the size of the Legislature. Also in consideration of the concerns that were expressed by members of this Body, there is a desire to see a reduction. The proposal I am presenting is a reduction of the size of the House similar to the current status of the Constitution for the Senate.

Currently, our State Constitution says the Senate will be of an odd number of 31-35. The difference of the four individuals that could serve in the State Senate is a difference of 11.4%. If you took the number of 35 and reduced it to 31, it would be an 11+ percentage reduction. Taking that same formula of 11.4% and applying it to the number 151 and allowing the Body to be the determining factor of its size, it would only be appropriate that the House be the Body to make the determination if that is ratified by the citizens of this State. This amendment would set the House number at an odd number from 135 to the current number of 151. I would ask the support of the members for this amendment. Thank you.

**THE PRESIDENT PRO TEM**: The Chair recognizes the Senator from Sagadahoc, Senator Cahill.

Senator CAHILL: Thank you Mr. President. Ladies and Gentlemen of the Senate. I wish to pose a question to the sponsor of the amendment. After thinking about that, would an increase in population determine whether or not if 31, 35, 135, or 151 would be the number? Is it correct that this would depend on the fluctuation of the population? Thank you.

**THE PRESIDENT PRO TEM**: The Chair recognizes the Senator from Penobscot, Senator Pray.

Senator PRAY: Thank you Mr. President. Ladies and Gentlemen of the Senate. It is a Federal Court rule as well as our own Constitution that sets the determination of the sizes of each of the Legislative Bodies. In the Senate, we used to have a different interpretation of representation. In 1966, the U.S. Supreme Court ruled one person, one vote. We had to redesign our Senate Districts to reflect that. Our Constitution had been set at an earlier date that the Maine Senate could be of an odd number of 31-35 determined by this Body. In 1984, I had the privilege or misfortune of serving on the Reapportionment Commission and prior to that time when I served in this Body we had 33 Members. It was the determination of the Reapportionment Committee to adjust for the growth of the population in the southern part of our State.

The Senator from Sagadahoc, Senator Cahill who posed a question is in one of the Districts that was created. My seatmate, the Senator from Cumberland, Senator Titcomb is in the other district that was created by this expansion. Those two areas had had significant population growth. Excluding those two districts we kept the remaining districts at 92% of districts that had existed prior to that on the average. That was one of the requirements of reapportionment. It had to remain consistent but the determining factor was done by this Body. Everybody clearly understands that those proposals are Legislative proposals and have to go through both branches. Either Branch can amend the other one but traditionally they have been left alone. Whatever recommendations the House made would establish how reapportionment would occur and whatever recommendation the Senate made is how the reapportionment would occur in that particular Body.

The gist of the question by the Senator from

Sagadahoc, Senator Cahill, population fluctuation would not be the determining factor as to how many seats there would be. It would be the House that would make the determination as to whether or not they would want to reduce. Currently, they do not have that option available to them because the Constitution sets them at 151 members. This would provide a flexibility if they would so desire to reduce on their own they could do so. Thank you.

On further motion by same Senator, Senate Amendment "A" (S-702) **ADOPTED**.

Which was **PASSED TO BE ENGROSSED, As Amended in NON-CONCURRENCE**.

Under suspension of the Rules, ordered sent down forthwith for concurrence.

The President Pro Tem requested the Assistant Sergeant-at-Arms escort the Senator from Penobscot, Senator PRAY to the Rostrum where he resumed his duties as President.

The Assistant Sergeant-at-Arms escorted the Senator from Penobscot, Senator BOST to his seat on the Floor.

Senate called to Order by the President.

Out of order and under suspension of the Rules, the Senate considered the following:

**COMMITTEE REPORTS**

**House**

**Ought to Pass As Amended**

The Committee on JUDICIARY on Bill "An Act to Ensure Continuing Knowledge of the Identity and Whereabouts of Convicted Sex Offenders"

H.P. 1652 L.D. 2315

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-1271)**.

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-1271)**.

Which Report was **READ** and **ACCEPTED**, in concurrence.

The Bill **READ ONCE**.

Committee Amendment "A" (H-1271) **READ** and **ADOPTED**, in concurrence.

Which was, under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED, As Amended**, in concurrence.

**ORDERS OF THE DAY**

The Chair laid before the Senate the Tabled and Later Today Assigned matter:

Bill "An Act to Improve Educational Public Broadcasting Statewide" (Emergency)

S.P. 945 L.D. 2409

Tabled - March 25, 1992, by Senator ESTES of York. Pending - **ADOPTION** of Committee Amendment "A" (S-666)

(In Senate, March 24, 1992, Committee Amendment "A" (S-666) **READ**.)

**THE PRESIDENT:** The Chair recognizes the Senator from Penobscot, Senator Bost.

Senator BOST: Thank you Mr. President. Ladies and Gentlemen of the Senate. It's very seldom that the good Senator from York, Senator Estes, who is a very good friend of mine and I disagree on an issue. I notice he's shaking his head. We've fought a number of very good battles together and I've been

around this legislature long enough to know when I'm engaging in an uphill fight of sort. The issue of public private merger has been lobbied intensely in this legislature by a very expensive, high powered lobbying firm. I'm sure you've all been approached in one form or another over the last two or three weeks. I could only think of the good Senator from Aroostook, Senator Theriault, who likened his position on an issue last session to being engaged in a fight between David and Goliath and I think this situation is quite similar.

I hope members of this body will think very carefully before endorsing this proposed merger of WCBB and MPBN. I believe that this initiative raises more question than answers, among them: Why were the employees of both entities deliberately excluded from discussions about the merger and denied an opportunity, for the most part, to participate in the process? Why are the staff, who are calling me and a number of my colleagues from both WCBB and WPBN, voicing legitimate concerns about the merger afraid to go public for fear of retribution? That's very real and was reiterated to me tonight by a number of people who are involved. Why would the University of Maine system be so enthusiastic about relinquishing one of its greatest assets, a broadcasting system, which reaches into hundreds of thousands of Maine homes? Why would the University promote the dilution of one of its greatest outreach tools? Why would WCBB hire the services of a prestigious firm to lobby this bill full time at great expense? Who's picking up the tab? Why the intense interest in the sudden passage of this bill? Why is this bill being rushed through the process? Why should we be compelled to adhere to an arbitrary time frame set by the management at WCBB? Why does the Chancellor indicate that if this bill doesn't pass that the concept is dead for another five or ten years? What safeguards are in place for existing employees after the first year of operation? And, finally, in my estimation the most important question, Why would we, as a Legislature, approve dissolving a public broadcasting system funded in large part by a general appropriation and send that same appropriation to a private corporation when we don't have sufficient funds available to insure the solvency of some of our most basic programs in State Government? Why should we be earmarking millions of dollars to a private, essentially autonomous entity? What's going on here? I don't know. I've been trying to find out, it's very difficult to get information. You have to ask the right questions in order to get the answers that you want. And that's been a very frustrating exercise. I know that it's been frustrating for the Education Committee because they've been placed in a situation where they've had to deal with a bill of tremendous significance and substance in a very compressed time period. And much of what I think has needed to take place, in terms of discussion and thoughtful deliberation about this proposal, has not taken place simply because of the time element. I know that's been frustrating for a number of people that have been involved in this discussion. As far as I'm concerned these questions need to be resolved before I can vote for this measure. Thank you.

**THE PRESIDENT:** The Chair recognizes the Senator from York, Senator Estes.

Senator ESTES: Thank you Mr. President. Ladies and Gentlemen of the Senate. I wish that I had had the opportunity to have gone up to the lounge earlier