

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

*One Hundred and Seventh
Legislature*

OF THE

STATE OF MAINE

Volume II

May 21, 1975 to July 2, 1975

Index

KENNEBEC JOURNAL
AUGUSTA, MAINE

merchandise that is being sold because it amounts to thousands and thousands of dollars each year, but is passed on to the consumer. I don't think that the utilities should be treated any differently. I would hope that the Senate Amendment would be indefinitely postponed, and that we put through a good bill and pass a good law for the people of this state.

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

Mr. CIANCHETTE: Mr. President, I would like to ask a question through the Chair to the Senator from Cumberland, Senator Conley. Is he recommending that this Senate pass a law that gives people a license to steal?

The PRESIDENT: The Senator from Somerset, Senator Cianchette, has posed a question through the Chair to the Senator from Cumberland, Senator Conley, who may answer if he so desires.

The Chair recognizes the Senator from Cumberland, Senator Conley.

Mr. CONLEY: Mr. President, it is my firm belief that the people of this state are basically honest.

The PRESIDENT: Is the Senate ready for the question? The pending motion before the Senate is the motion by the Senator from Cumberland, Senator Graham, that Senate Amendment "A" be indefinitely postponed. A roll call has been ordered. A "Yes" vote will be in favor of indefinite postponement of Senate Amendment "A"; a "No" vote will be opposed.

The Secretary will call the roll.

ROLL CALL

YEAS: Senators Carbonneau, Conley, Danton, Graham, Merrill, O'Leary, Reeves, Speers.

NAYS: Senators Berry, E.; Berry, R.; Cianchette, Clifford, Collins, Corson, Cummings, Curtis, Cyr, Gahagan, Graffam, Greeley, Hichens, Huber, Jackson, Johnston, Katz, McNally, Pray, Roberts, Thomas, Trotzky, Wyman.

ABSENT: Senator Marcotte.

A roll call was had. Eight Senators having voted in the affirmative, and 23 Senators having voted in the negative, with one Senator being absent, the motion did not prevail.

Thereupon, Senate Amendment "A" was Adopted and the Bill, as Amended, Tomorrow Assigned for Second Reading.

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

Bill, "An Act to Clarify Certain Provisions of the Maine Right to Know Law." (H. P. 848) (L. D. 1035)

Tabled — May 20, 1975 by Senator Conley of Cumberland.

Pending — Passage to be Engrossed.

(In the House — Passed to be Engrossed as amended by Committee Amendment "A" (H-285).)

(In the Senate — Committee Amendment "A", Adopted)

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

Mr. REEVES: Mr. President, I don't know whether today is a good day to go ahead with this, but I will try.

Mr. President, as I indicated in an earlier session, I wish to amend this bill to provide for a more complete revision to this important right to know law. By way of explanation, I have incorporated Committee Amendment "A", already adopted on this bill, into a longer amendment which I wish to offer today.

This new amendment is supported by myself and the other co-sponsors of the old L. D. 512, now filed away. It is also supported by Common Cause, the citizens' lobby which helped to draw up these revisions. This is Senate Amendment "A" to L. D. 1035, Filing No. S-176. To facilitate the procedures, I intend to ask for a roll call on this Senate Amendment "A" first. If this is adopted, I intend to move to postpone Committee Amendment "A", which, as I have said, is already covered by the new amendment.

I might also add that parts of a bill tabled earlier, L. D. 899, would also need to be postponed if we adopt this amendment. And to clarify the differences between these bills, I have again distributed a sheet to show which bills does what.

As I stated last week when the matter was first on the calendar, our right to know law, although it was a pioneer in the nation, does need some revisions. At that time I showed this headline, which I would like to hold up again. It says, "Council Budget Session Secret". And I would like now to read part of an editorial about this secret meeting.

"The City Council of Augusta has broken the law. By going into executive session and discussing a public issue, a discussion that resulted in a contract being drawn, they have broken the law. At least two Maine court rulings support that assertion: in South Portland, where the council was forced to open its budget meetings to the public, and Kittery, where selectmen's secret meetings were also ruled in violation.

"City councils, boards of selectmen and education are the governmental units closest to the people, the areas that affect them most intimately. Yet when such a body adjourns a meeting, waits for press and public to depart, and then reconvenes with the door open to make it a new public meeting, such a body is cheating its constituency, violating the law in spirit if not in fact, and laying itself open for legal action."

L. D. 512, which, as I have said, is now embodied in this new amendment, would sharply curtail the use of executive sessions for whatever purpose. It defines a few reasons that may be used for working behind closed doors, and citizens whose rights have been denied may bring a suit. That is the end of that editorial.

Yesterday a city council met in secret to discuss the dismissal of a fireman. And under this amendment such a discussion would be allowed unless — and this is important — the person being discussed chose to have this done in the open. This is the type of specific exception and guideline which is needed to be spelled out in our right to know law. There are others as indicated in the sheet which I have handed out.

In particular, the amendment I offered today provides for the following changes.

1. It extends open meeting requirements to us, the legislature, and all its committees, task forces and special study groups.

2. It requires minutes to be kept of all meetings.

3. It requires notice of all public proceedings and agenda to be posted 24 hours in advance at the place where the meetings would be held, except for emergency meetings. It provides for notification of the local newspaper or media that such a notification must be made prior to the emergency meeting with no time specified.

4. It allows only four narrowly defined areas for holding executive sessions by any public body. These include the discussion of an individual, as mentioned, the deployment of security devices, collective bargaining and other litigation, and criminal allegations.

I would like to stop here, Mr. President, and let others address this matter which I believe affects everyone in Maine, and especially at the local level. But let's not duck this issue. Our right to know law needs to be improved.

Mr. President, I offer Senate Amendment "A" to L. D. 1035 and move its adoption, and I ask for a roll call on this amendment.

The PRESIDENT: The Senator from Kennebec, Senator Reeves, now offers Senate Amendment "A" to L. D. 1035 and moves its adoption. 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 Chair recognizes the Senator from Aroostook, Senator Cyr.

Mr. CYR: Mr. President and Members of the Senate: If you want to give more work to Pine Tree Legal, then vote for this. If you want to discourage good substantial citizens from running for any of these public offices, vote for this. But if you want to have good candidates, I suggest that you vote against it. It is just a bad amendment and, in fact, I move for indefinite postponement of this bill and all its accompanying papers. It is just a bad bill.

We have enough laws on the books to regulate executive sessions, and anyone who cannot win his election through the ballot box wants to have a voice at any of these executive sessions, and I object very strenuously to it.

The PRESIDENT: The Chair will interrupt debate, because it is a hot afternoon, to welcome in the rear of the chamber some young people from South Berwick who are here as guests of the Senator from York, Senator Hichens. These young people are students at the Fifth Grade School in South Berwick, and they are accompanied by their teacher, Mr. Carleton Spring.

I would also like to welcome some gentlemen on the other side of the chamber who are members of the South Berwick Volunteer Ambulance Squad; Chief Clinton Shaw, Maynard Hanson, Robert Parent, and Carleton Spring. We are very pleased to have you gentlemen here with us this morning, and also you young people. I would like to introduce Senator Hichens to you, who represents you here in Augusta. (Applause)

Mr. Hichens of York, was granted unanimous consent to address the Senate.

Mr. HICHENS: Mr. President and Members of the Senate: In connection with the order which will be on the calendar later in today's session, I would make the following comments.

On May 22, 1960, then Governor John Reed officially dedicated the founding of the South Berwick Volunteer Ambulance and Rescue Squad. For 15 years the men and women of this group have given of themselves unselfishly to aid citizens of South Berwick and surrounding towns in Maine and New Hampshire in time of

greatest need. The citizens of South Berwick and these surrounding towns have shown their appreciation by continually supporting the squad during these 15 years.

Because of their support, I feel it is important to note that the squad has operated for these years as a public service without any taxpayer's dollars. The residents of South Berwick and surrounding area, and I personally, who had occasion to call them for ambulance service for my mother several years ago, are very proud and thankful to have had this group of men and women serving them for these 15 years, and look forward to several more years of unselfish dedicated service.

The PRESIDENT: The Chair recognizes the Senator from Aroostook, Senator Cyr.

Mr. CYR: Mr. President and Members of the Senate: I withdraw my motion to indefinitely postpone the whole bill, and make the motion to indefinitely postpone this amendment.

The PRESIDENT: The Senator from Aroostook, Senator Cyr, now requests permission to withdraw his motion to indefinitely postpone the entire bill. Is this the pleasure of the Senate?

It is a vote.

The Chair recognizes the Senator from Kennebec, Senator Katz.

Mr. KATZ: Mr. President, the most interesting part of legislative service is enacting legislation, going home, and subsequently seeing how the legislation is interpreted either by the bureaucracy or by the court. And as I look at this amendment before us, I wonder just what the implications are going to be for legislative procedure. I would like you to follow with me along the lines of this amendment to ask yourself just how you will operate within the constraints of this bill.

In the first place, obviously there must be public notice of any meeting of the Committee on Education. And presently of course, we usually have public notice of our public hearings, but every once in a while we run in a bill without public advertising which has no public implications and has to do with a housekeeping function, particularly at the end of the session. Now, we would be permitted to have an emergency meeting, I would presume under this bill, but we have got to let the newspaper know immediately just what we talked about, who was there, and what we decide. But the things that really bugs me about the bill and the legislative process is what happens when legislative subcommittees go to work?

Now, within our committee we use subcommittees very frequently, but they are nonetheless meetings of a public body. And under this bill, the procedures for three guys getting together to discuss some technical maneuverings to get a bill out on the floor or to amend a bill would come completely under the jurisdiction of this amendment. And I am not certain that this would make a better world, but it certainly would make an impossibly complicated legislative world.

I hope that if this amendment is indeed enacted, and I shall not support its enactment, that it better have a whacking good price tag on it, because we are all going to have to keep written minutes of all our meetings, including regular committee meetings and subcommittee

meetings, and keep a permanent record of them available for public inspection.

I think it is going to be a very, very complex bill, and I think if we take a look at what our needs are — and I do say that we have needs for better sunshine laws; I sponsored the last one that is presently in the books, and I say that it needs some improving — but within the constraints of what our needs are in the State of Maine, if we tie our hands and our feet and our mouths and put ourselves in such difficult strictures as this amendment would attempt to put us, goodbye to our ability to operate in the interest of the people, and that is why we are here.

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

Mr. CLIFFORD: Mr. President and Members of the Senate: I just would like to point out a couple of things that disturb me about the amendment. One is that executive sessions, which are restricted by the amendment to certain specific reasons, are limited to a vote of three-fifths of the members of the body. It seems to me that raises the question as to whether or not the majority which wish to go into executive session to accomplish a public purpose — for example, to discuss one of the valid reasons for going into executive session — that the majority's will could be thwarted. For example, the majority would like to go into executive session to discuss something concerning collective bargaining, and unless they got a three-fifths vote they would not be able to go into executive session. This certainly could have very substantial effects on the collective bargaining process.

I would also like to point out under the exceptions, paragraph A, apparently a public body could go into executive session to discuss the character of an individual, but they could not go into executive session to discuss the professional competence of an individual. I would suggest that this could have adverse consequences and could tie the hands of public bodies which were charged with the responsibility of perhaps discharging an individual. It would have adverse consequences on meetings of the Executive Council, where someone's competence or incompetence could be tossed around in public, I think, to the very adverse effect of attempting to draw people into public service.

I think perhaps the minutes of every meeting would be an unnecessary headache. For example, meetings of so-called working sessions of all committees would apparently have to be kept, as pointed out by the good Senator from Kennebec, Senator Katz.

But perhaps the definition which disturbs me most is that of public proceedings. I wonder if someone could define what a public proceeding was; whether it was a meeting of a committee, limited to meetings of committees, or whether it would be any public proceeding; for example, going into the city clerk's office to get a marriage license or to get a hunting license. It seems to me that that could well fall into the definition of a public proceeding.

I think the intention of the sponsor of the amendment is good, but I think that we run a dangerous course when we attempt to restrict the actions of public officials to the point where we actually begin to interfere with the free legislative or executive process. So I would hope that we could defeat the amendment, and vote the bill to improve our laws and not to create a

situation which would discourage many people from serving in public service, either in elected or appointive positions. Thank you, Mr. President.

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

Mr. MERRILL: Mr. President, this is an area that I think is important to all of us, and I think some very thoughtful objections have been raised as to the price tag and other problems, and because this is a newly distributed amendment and we haven't had a chance to study it, I wonder if somebody could table this until later in today's session.

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

Mr. SPEERS: Mr. President, I do not rise to make a motion to table. I think if after further discussion someone else might wish to make that motion, it would certainly be in order.

There have been numerous questions raised regarding this amendment, and I think all very valid; primarily the question of providing minutes for every public proceeding involved on the state level or municipal level or the city or town level, or county level, would involve an incredible expense. I can think of the necessity of hiring a stenographer at each and every single one of these meetings or public proceedings, and the mind just boggles at the amount of money that this would cost.

Also, the question has been raised as to what is a public proceeding, and the very valid question is put whether this includes an individual coming in and making an application for a hunting license. Is there required a 24-hour notice of that individual? Or regarding methods of legislative process, we have committees of conference being appointed daily practically on legislation, particularly toward the end of the session, and these individuals get together whenever they can find a moment here or there. It is not a matter of being able to schedule something 24 hours in advance. Often it is not a matter of even being able to schedule such a meeting five minutes in advance when these individuals get together to discuss the disagreeing action between the branches.

We could go on and on with numerous examples, but there is one that has not been mentioned that disturbs me greatly, and that is section 7 of the amendment which provides for violations and penalties under this law, a penalty of \$500 or by imprisonment for less than one year. It seems to me that should two legislators happen to be sitting together and having dinner some evening, and one of them happens to think of a bill that he has been discussing, or perhaps they are on the same committee and they want to discuss some of the committee action that was taking place that day, are these individuals simply by bringing up a question on a bill before their committee in violation of this law, and would they then be subject to a fine of \$500 or imprisonment for bringing up a discussion of the law? And if that is the case, I really think that we have to seriously ask ourselves what it is that we are even doing here.

We are elected to come here to represent the best interests of our constituents and of all of the people of the State of Maine. And in spite of many comments that are being made elsewhere than in these chambers, I feel that with regards to each and every

single individual serving in this legislature that that is the case, we do feel that we are here representing our constituents and the best interests of the people of the state. The way in which that is done is not in a void, is not in a vacuum, is not hopefully with a lack of intelligence or a lack of knowledge. And in the realm of human communication the only way that you can gain knowledge or intelligence regarding many of the matters that come before us is to speak with our colleagues, is to speak with those who have some expertise in these matters, whether they are members of the legislature or whether they are here representing others, either being paid to do so or not paid to do so. It seems to me that if we, as individual members of the legislature, are going to be subjected to the questions in our own minds as to whether or not we even speak about a particular bill, whether we may be subjected to a \$500 fine or imprisonment, we seem we have come a long way toward confusing the legislative process and towards bringing about a genuine lack of faith on the part of the people of this state in the ability to govern themselves.

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

Thereupon, on motion by Mr. Conley of Cumberland, tabled until later in today's session, pending the motion by Mr. Cyr of Aroostook that Senate Amendment "A" be Indefinitely Postponed.

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

Bill, "An Act Relating to Contracts of Teachers with Municipalities." (H. P. 1033) (L. D. 1339)

Tabled — May 20, 1975 by Senator Conley of Cumberland.

Pending — Adoption of House Amendment "A" (H-253).

(In the Senate — Passed to be Engrossed, in concurrence.)

(In the House — Passed to be Engrossed as amended by House Amendment "A" (H-253) as amended by House Amendment "C" Thereto, (H-300), in non-concurrence.)

(In the Senate — House Amendment "C" to House Amendment "A", Indefinitely Postponed, in non-concurrence.)

On motion by Mr. Merrill of Cumberland, retabled and Specially Assigned for May 27, 1975, pending Adoption of House Amendment "A".

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 to Authorize the Withdrawal of the Town of Nobleboro from the Damariscotta-Newcastle-Nobleboro Community School District, also known as the Great Salt Bay Community School District." (H. P. 1612) (L. D. 1893)

Bill, "An Act to Allow the Deferral of Monthly Payments of the Uniform School Tax." (H. P. 1616) (L. D. 1896)

Come from the House referred to the Committee on Education and Ordered Printed.

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

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

Mr. SPEERS: Mr. President, with

reference to these bills, I would ask the Secretary whether or not they contain an endorsement as to admission by the Committee on Reference of Bills?

The SECRETARY: Each of these bills have the legend of "Approved for introduction by the majority of the Committee on Reference of Bills pursuant to Joint Rule 10."

Local and County Government

Bill, "An Act to Authorize Hancock County to Raise Funds for the Development of an Airport at Bar Harbor." (H. P. 1615) (L. D. 1895)

Come from the House referred to the Committee on Local and County Government and Ordered Printed.

Which was referred to the Committee on Local and County Government and Ordered Printed in concurrence.

Transportation

Resolve, Designating the Bridge Between East Machias and Machiasport as "Rim Memorial Bridge." (H. P. 1614) (L. D. 1894)

Come from the House Referred to the Committee on Transportation and ordered Printed.

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

There being no objection, all matters previously acted upon in today's session requiring concurrence, except L.D. 1574 and L.D. 359, Were sent down forthwith for concurrence.

On motion by Mrs. Cummings of Penobscot,

Recessed until 4:30 this afternoon.

After Recess

Called to Order by the President.

Papers from the House

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

Non-concurrent Matter

Bill, "An Act to Facilitate Operation of the Coastal Island Registry and to Establish Criteria for State Title in Coastal Islands." (H. P. 965) (L. D. 1209)

In the House May 16, 1975, Passed to be Engrossed as Amended by Committee Amendment "A" (H-326).

In the Senate May 20, 1975, Passed to be Engrossed as Amended by Committee Amendment "B" (H-327).

Come from the House, that Body having Insisted.

On motion by Mr. Berry of Cumberland, the Senate voted to Insist and Ask for a Committee of Conference.

Joint Order State of Maine

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

WHEREAS, the Legislature has learned of the Outstanding Achievement and Exceptional Accomplishment of the Black Bears of the University of Maine at Orono Yankee Conference Varsity Baseball Champions for the Academic year 1975

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.

Come from the House, Read and Passed.

Which was Read.

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

Mr. CURTIS: Mr. President and Members of the Senate: Just before passing this joint order, I would like to mention to the members of the Senate that the University of Maine baseball team will be playing this Friday evening. It has been invited to join in the NCAA playoffs in Connecticut and they will be playing Saint John University of New York, in Stamford, Connecticut. So that game is this Friday evening at 8 o'clock, and I hope to be able to bring you back good reports on Monday.

The PRESIDENT: Is it now the pleasure of the Senate that this joint order be passed in concurrence?

Thereupon, the Joint Order was Passed in concurrence.

Joint Order State of Maine

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

WHEREAS, the Legislature has learned of the Outstanding Achievement and Exceptional Accomplishment of The South Berwick Volunteer Ambulance and Rescue Squad who are now celebrating the 15th anniversary of their founding

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.

Come from the House, Read and Passed. (H. P. 1621)

Which was Read and Passed in concurrence.

Communications

May 21, 1975

Honorable Harry N. Starbranch
Secretary of the Senate
107th Legislature
Augusta, Maine
Dear Mr. Secretary:

The House voted today to Adhere to its action whereby it indefinitely postponed Bill, An Act Further Defining the Definition of "North American Indians Residing in Maine" (H. P. 1375) (L. D. 1688).

Respectfully,
EDWIN H. PERT
Clerk of the House.

Which was Read and Ordered Placed on File.

STATE OF MAINE
One Hundred and Seventh Legislature
Committee on Liquor Control

May 21, 1975

Honorable Joseph Sewall
President of the Senate
Senate Chamber
Augusta, Maine 04330