

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

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

comes that in the present law the board has now a hygienist as a consultant when hygienists are examined, but it was the feeling of the committee that hygienists should not be put in a position to examine dentists.

The second fallacy in Amendment "A" is that under present law in order to serve on that board a dentist must have practiced in the State of Maine for ten years. Under the amendment, it brings it down to three years. It is the feeling of the Dental Association that they should come from those with the most expertise of the dentists, and that they shouldn't be someone newly out of school examining dentists who are going to work in the State of Maine.

The third problem is that it leaves it open for profit-making corporations to form dental clinics. Under the present law, a non-profit organization may form a dental clinic, and the Dental Association is perfectly happy with that phase of it, but they don't think that we should allow profit-making corporations to form dental clinics because then you get into a money value situation where you get inferior work.

On Amendment "B", the reason that I supported Amendment "B" is that it allows the dentist to perform a physical examination pertinent to his work. If the patient is going through dental surgery or a local anaesthetic is being applied, it gives the dentist the right to check a person's heart or pulse, or whatever need be. So I think that Committee Amendment "A" would be damaging to the profession as well as to the State of Maine, but Amendment "B" is something that we should have within the law.

The PRESIDENT: Is the Senate ready for the question? The pending question before the Senate is the motion by the Senator from York, Senator Hichens, that the Senate accept the Minority Ought to Pass as Amended by Committee Amendment "B" Report of the Committee.

The Chair will order a division. Will all those Senators in favor of accepting the Minority Ought to Pass as Amended by Committee Amendment "B" Report please rise in their places until counted.

A division was had. 24 having voted in the affirmative, and two having voted in the negative, the motion prevailed and the Bill was Read Once. Committee Amendment "B" was Read.

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

Mr. KATZ: Mr. President, I am looking at Senate Amendment "B" and I really don't think it accomplishes anything. On that basis, I move indefinite postponement. It says two things. It says that before a dentist, for example, pursues surgery, he has got a right to find out whether the patient is in good health. And I think he has that right under existing law. The second thing it says is that he may not perform any examinations in the hospital if it is objectionable to the hospital. And I think that is pretty much the case around the state today, that the hospital pretty much has control over its own destiny.

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

Mr. BERRY: Mr. President, not to be argumentative with the Senator from Kennebec, Senator Katz, but it was pointed out to us in committee that the dentist does not have the right under the dental laws of the State of Maine to perform a physical examination.

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

Mr. KATZ: Mr. President, whereupon I withdraw my motion.

The PRESIDENT: The Senator from Kennebec, Senator Katz, now requests permission to withdraw his motion to indefinitely postpone Committee Amendment "B". Is this the pleasure of the Senate?

It is a vote.

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

The President laid before the Senate the sixth 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 -- Earlier in the Day by Senator Speers of Kennebec.

Pending -- Motion of Senator Cyr of Arrostook to Indefinitely Postpone Senate Amendment "A" (S-201) to Committee Amendment "A" (H-285)

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

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

Mr. REEVES: Mr. President and Members of the Senate: As the hour was late yesterday when we first discussed this amendment, I would like to briefly explain that the only purpose of this amendment is to include under the provisions of our current right to know law the legislature and its committees.

Somehow we were always excluded, even though we observe its provisions in practice, and I think that the public wants the legislature to be part of this law and not above it.

This amendment strikes out one sentence from the existing 16 year old law, and that is, "The conditions of this section shall not apply to the executive sessions of committees of the Maine Legislature."

Now, I have withdrawn my amendments providing for public notice, for minutes of meetings, agenda, and other such changes in the law, and I wish that the members of the Senate would not confuse these with this provision. It asks only that the legislature observe the current right to know law, and nothing else. And I ask a roll call please, Mr. President, on this issue.

The PRESIDENT: A roll call has been requested.

The Chair recognizes the Senator from Arrostook, Senator Cyr.

Mr. CYR: Mr. President and Members of the Senate: First of all, I want to apologize to the good Senator from Kennebec, Senator Reeves, for coming on so strong. I probably left the impression in some minds that maybe there is a personal feud or something. I can assure the good Senator that there is no such thing. I respect the good Senator and I know he had been working hard and long on this right to know law, and I admire his courage and tenacity.

However, as I mentioned yesterday, in this right to know law there is a danger of going too far, and by doing so we can be counterproductive. Probably I came on strong on the Senator and maybe I was taking out my frustration for what happened to me last spring as a member of my town council. We had an episode that I think will

signify to you what can happen if this is pushed too far on the part of the public. We can turn this open government into a government of puppets.

What happened to me and the council last spring is that we had failed to reappoint a member of the town -- well, the town nurse, to be specific. It was a unanimous vote on the part of the council. Well, we had our good reasons, but apparently it was not a popular move in some segments of the town, so they organized a drive and landed at one of our council meetings to oppose what we had done. They asked us to hear them, which we did. And after we had heard them properly, the chairman of the board told them that we would take their comments and opinion under advisement and see if we would reconsider our action. They left the room and we continued our meeting. Shortly after that the group got into an emotional spree to speak, returned back to the council chamber, and pounded on the desk that they wanted to have action that night. They wanted the council to take action that night.

Well, after hearing them for a while, I am the one that answered them. I said I for one, and I am not speaking for the board, I for one will not take action under duress, which is actually what you are asking us to do. And I said if you want to help your candidate the best move you can make is to just walk out of here. Well, I was painted by the press as being arrogant and arbitrary. And as a result of that, we had two months of courses on the right to know in the press. Now, I was able to do that because I was no longer in business. If I had been in business, possibly I might have taken a different action.

Now, this example applied to the right to know law. If we go too far the same thing is going to happen whenever you have a decision, particularly on sensitive matters, and you have a delegation from a political pressure group or from a special interest in the audience. They don't have to say a word; all they have to do is be present and they are influencing your vote. You are taking action under duress, and that is not conducive to good government.

Now, if we apply this to the amendment that we have before us, to the legislature, to our executive sessions and whatnot, it is a very simple bill, but I say that it is unnecessary because we already are working under rules and regulations of the legislature and everything is open. Picture the Education Committee, for instance, trying to make a decision on L. D. 1994 with a delegation from the coastal towns. Wouldn't you say that this would be taking action under duress? The same with the assessing districts. Picture the Taxation Committee making a decision with a delegation sitting in the room from the coastal districts. Our own Committee on Transportation, for instance, if we were to take action on the motorcycle helmets with the delegation that we had at the hearing, I don't believe it would have been democracy in action: it would have been a democrat in fragments. And this is exactly where we are heading for.

You have heard me expound on this before, that we are moving toward the direction of government by pressure groups and special interests, and this is exactly where we are going with this. Now, we are going to have every one of these political pressure groups and special interests make sure that they have a candidate, a puppet, on these committees so

that they can maneuver them. So this will be government by puppets; not a puppet government, but government by puppets, and I am very much concerned in regard to it. And I think as public officials it is time for us to pronounce ourselves and say, well look, you elected me to this position; now have confidence in my judgment. If I don't satisfy you, you know what do do, kick me out the next time around, but in the meantime give us latitude and flexibility to be able to exercise our judgment and try to bring you good government, which I am sure is the motive of the good Senator from Kennebec, Senator Reeves. Thank you.

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

Mr. CONLEY: Mr. President, as I look at the proposed amendment, Filing S-201, it seems to me what the amendment is asking is to put upon the Maine Legislature what we have put on our towns and cities throughout the state. Now, I don't believe there is anything sacred about the Maine Legislature, nor do I think there is anything sacred about our communities throughout this state. In fact, like the good Senator from Aroostook, Senator Cyr, if he thinks he is having problems in Aroostook County, he ought to visit the Portland City Council every first and third Monday night and he will find out what it is to have citizen participation at public meetings.

But I see nothing wrong at all with the proposed amendment. In fact, in my recent years in the legislature it has been the position of the chairmen that I have served under, particularly on the Appropriations Committee, and on some of the other committees, that during executive session the door was held wide open and anyone who wanted to attend the executive session was allowed to come in, provided they kept quiet and the committee was allowed to deliberate.

The communities, don't forget, are nothing but creatures of the state and under the jurisdiction of us. We are supposed to make the laws and subject them to the laws.

I think there is an old saying of Harry Truman's that we are all familiar with, "If you can't stand the heat, stay to hell out of the kitchen", and I think that is probably a very good proverb for anyone who is running for public office today. I have nothing to hide. I have nothing to hide in this Senate, nor do I have anything to hide in my office or in any committee room of any committee I have ever served on.

I think it is a good amendment, and I certainly have never been fearful of any pressure groups, whether it was the lobby, the ULI, low income, or whatever other group that it may have been that came to Augusta to speak its mind. I think everybody has the right to appear before us in committees or as individual members. And if we talk about pressure groups, one doesn't have to be around the Senate too long to understand what pressure groups are all about. And I am not condemning anyone. I think that any member who has the honor of serving in these chambers that can't keep an open mind on every subject and every piece of legislation that is brought here, and if he just kowtows and wags his tail to everybody who has a special interest, then I don't think that one is serving their constituents or themselves in the finest tradition.

I hope the Senate would adopt this amendment, and it would be a message

back home to those communities saying that what is good enough for you people is good enough for us.

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

Mr. KATZ: Mr. President, I was very critical of one of the moves the Senator from Kennebec, Senator Reeves, made because I felt that he was going much, much too far for our needs here, and I just wanted to say that I think he has put together a very reasonable amendment. On that basis, I agree almost completely with the Senator from Cumberland, but when Senator Conley says that there is nothing sacred about the Senate I think he overlooks the fact that sometimes the oratory is quite inspired and very frequently, although not quite so frequently, it is inspirational too. But I think this is a reasonable posture for us to take today and I hope you support the amendment.

The PRESIDENT: 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, I ask leave to withdraw my motion for indefinite postponement.

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

It is a vote.

Thereupon, Senate Amendment "A" to Committee Amendment "A" was Adopted and Committee Amendment "A", as Amended by Senate Amendment "A" Thereto, was Adopted.

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

Mr. REEVES: Mr. President, I don't want to push this too far but I have another amendment, Senate Amendment "B".

The PRESIDENT: The Senator from Kennebec, Senator Reeves, now offers Senate Amendment "B" and moves its adoption. The Secretary will read Senate Amendment "B".

Senate Amendment "B", Filing No. S-202, was Read.

The PRESIDENT: The Senator has the floor.

Mr. REEVES: Mr. President, just briefly, this amendment enlarges on the enforcement provision of the present law by providing a citizen standing to bring suit to void any action taken by a government agency in violation of the present right to know law or to force compliance with our present laws. This in no way changes the present laws; it just writes into the law the citizens' right to bring suit under this law.

The PRESIDENT: Is it now the pleasure of the Senate to adopt Senate Amendment "B"?

The Chair recognizes the Senator from Aroostook, Senator Cyr.

Mr. CYR: Mr. President, could I have this tabled one day? I don't know what the amendment is, and it sounds lousy to me.

The PRESIDENT: The Chair would advise the Senator that he should not debate his tabling motions.

The Chair recognizes the Senator from Kennebec, Senator Speers.

Thereupon, on motion by Mr. Speers of

Kennebec, tabled and Tomorrow Assigned, pending Adoption of Senate Amendment "B".

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

Bill, "An Act to Restrict Armed Forces Preferences in State Employment to Veterans Who Were Not Career Officers or Career Enlisted Personnel and to Remove a Barrier to Affirmative Action Programs." (H. P. 1491) (L. D. 1739)

Tabled -- Earlier in the day by Senator Speers of Kennebec.

Pending -- Motion of Senator Katz of Kennebec to Indefinitely Postpone Senate Amendment "A" (S-74)

(In the House -- Bill and Accompanying Papers Indefinitely Postponed.)

(In the Senate -- Under suspension of the rules, Passage to be Engrossed Reconsidered; Conference Committee Amendment "A" (H-273) Indefinitely Postponed.

Mr. Katz of Kennebec then moved the pending question.

Whereupon, Senate Amendment "A" was Indefinitely Postponed.

The same Senator then presented Senate Amendment "B" and moved its Adoption.

Senate Amendment "B" was Read and Adopted and the Bill, as Amended, Passed to be Engrossed in non-concurrence.

Sent down for concurrence.

The President laid before the Senate the following matter which was tabled earlier in this afternoon's session by Mr. Berry of Cumberland, pending Consideration:

House Papers

Bill, "An Act Exempting Transactions in Securities or Commodity Accounts made with a Broker-dealer Registered on the Commodities Futures Trading Commission from the Consumer Credit Code." (H. P. 1630) (L. D. 1905)

Comes from the House, Passed to be Engrossed without reference to Committee.

Thereupon, under suspension of the rules, the Bill was given its First Reading and Tomorrow Assigned for Second Reading.

The President laid before the Senate the following matter which was tabled earlier in this afternoon's session by Mr. Greeley of Waldo, pending Adoption of House Amendment "B".

Bill, "An Act to Remove the Requirement that Municipalities Composing a Transit District be Contiguous and to Authorize Municipal Transit Districts to Provide Transportation Service Outside of District Boundaries." (H. P. 1244) (L. D. 1545)

Mr. Berry of Cumberland then presented Senate Amendment "A" to House Amendment "B" and moved its Adoption.

Senate Amendment "A", Filing No. S-221, to House Amendment "B" was Read.

The PRESIDENT: The Senator has the floor.

Mr. BERRY: Mr. President and Members of the Senate: The amendment which I have just offered leaves the emergency preamble on the bill and takes out the matter of the advertising. I really think this is a step backward when we are going to have buses roaming the streets covered with advertising. These are municipally operated buses, I think they are going to do a good job, and I think the Greater Portland Transit District is a service