

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

*One Hundred and Sixth
Legislature*

OF THE

STATE OF MAINE

Volume II

April 23, 1973 to June 5, 1973

KENNEBEC JOURNAL
AUGUSTA, MAINE

SENATE

Thursday, April 26, 1973

Senate called to order by the President.

Prayer by the Rev. Donald N. Biggs of North Whitefield.

Reading of the Journal of yesterday.

**Papers From the House
Non-concurrent Matter**

Bill, "An Act Limiting Sunday Harness Racing." (H. P. 900) (L. D. 1188)

In the Senate April 19, 1973, Passed to be Engrossed in concurrence.

Comes from the House, Passed to be Engrossed as Amended by House Amendment "A" (H-276), in non-concurrence.

Thereupon, the Senate voted to Recede and Concur.

**Joint Resolution
STATE OF MAINE**

In the year our Lord One Thousand Nine Hundred and Seventy-Three

Joint Resoulution Memorializing the Honorable Dr. Robert M. White, Administrator of the National Oceanic and Atmospheric Administration to declare the northern lobster a creature of the Continental Shelf.

We, your Memorialists, the House of Representatives and Senate of the State of Maine in the One Hundred and Sixth Legislature, now assembled, most respectfully present and petition the Honorable Dr. Robert M. White, Administrator of the National Oceanic and Atmospheric Administration, as follows:

WHEREAS, a policy committee of State-Federal Marine Resource Management, consisting of high ranking federal and state fisheries directors, agreed last year on regulations which should be uniform, but the agreement hinged completely on the Federal Government's declaring the lobster a creature of the continental shelf; and

WHEREAS, Dr. Robert M. White, the Administrator of the National Oceanic and Atmospheric Administration, has decided not to declare the northern lobster a

creature of the continental shelf for the purpose of negotiation with foreign countries at the forthcoming 1974 Law of the Sea Conference; and

WHEREAS, this political decision was contrary to the wishes of 11 lobster producing states; Maine being the largest, the offshore lobstermen and the East Coast fishing industry in general and will curtail any future progress of the State-Federal partnership under the National Marine Fisheries Services; now, therefore, be it

RESOLVED: That We, your Memorialists, respectfully recommend and urge the Honorable Dr. Robert M. White, Administrator of the National Oceanic and Atmospheric Administration, to reconsider his recent action whereby he did not declare the northern lobster a creature of the continental shelf, thus providing for United States ownership of this resource and to cause this decision to be reversed in favor of uniform regulations, including limited foreign entry under the State-Federal Partnership Program as earlier agreed; and be it further

RESOLVED: That a duly authenticated copy of this Memorial be immediately submitted by the Secretary of State to said Administrator of the National Oceanic and Atmospheric Administration and to the Members of the Senate and House of Representatives in the Congress of the United States from this State. (H. P. 1459)

Comes from the House, Read and Adopted.

Which was Read.

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

Mr. BERRY: Mr. President and Members of the Senate: I cannot turn down the opportunity to pass on a little jewel in this connection to illustrate bureaucracy at its best.

If you will read the memorial, you will notice in there that we are dealing here with the definition of the lobster as a creature of the continental shelf. And in the recent decision of the Bureau in Washington, they found that the lobster was not a creature of the conti-

mental shelf; that it was a fish, because the lobster could come about three or four feet off the bottom and swim about eight feet before he fell back to the bottom again. Because of this definition, the lobster was not included as a creature of the shelf to be protected, and that is a real definition of a fish.

The PRESIDENT: Is it now the pleasure of the Senate that this Joint Resolution be adopted in concurrence?

Thereupon, the Joint Resolution was Adopted in concurrence.

House Papers

Bills today received from the House requiring Reference to Committee were acted upon in concurrence.

Senate Papers

Mr. Graffam of Cumberland presented the following Joint Resolution and moved its adoption.

STATE OF MAINE

In the Year of Our Lord One Thousand Nine Hundred and Seventy-Three

Joint Resoultion in support of The National Guard.

WHEREAS, the Maine National Guard, aside from its state role of the protection of life and property and the preservation of peace, order and public safety under competent orders of the state authorities, also serves a vital national function; and

WHEREAS, one of its major functions is to provide a reserve component of the Army and Air Force of the United States, trained, equipped and capable of immediate expansion to war strength, able to furnish units fit for service anywhere in the world; and

WHEREAS, another function is to defend critical areas of the United States against land, sea-borne or airborne invasion; and

WHEREAS, they also assist in covering the mobilization and concentration of the remainder of the reserve forces; and

WHEREAS, they must also be ready to participate by units in all types of operations, either in the United States or overseas; and

WHEREAS, the National Guardsman bears his dual relation

to the governments of this country, rendering his duty to both the State and the National without any conflict, by serving as a soldier of the United States or of the State, as the case demands; and

WHEREAS, the service of the full-time National Guardsman and that of the regular military enlistee is closely paralleled and is just as important a role; and

WHEREAS, although they do perform similar functions, the National Guardsman is not awarded the same benefits as that of the regular enlistee; and

WHEREAS, if the National Guardsman were granted the same privileges and benefits as his brother serviceman in the regular military service, then it would be much easier to recruit men into the National Guard and to allow them to fulfill their historic mission "in the first line of defense in the first weeks of an emergency;" now, therefore, be it

RESOLVED: By the combined Legislature of the State of Maine, that the President of the United States, the Secretary of Defense of the United States, the Governor of Maine and the Members of Maine's Congressional Delegation are hereby requested to support Congressional legislation which would extend the benefits of survivor benefits, reenlistment bonus, proficiency pay, medical, dental and death benefits and early reserve retirement to the Guardsman; and be it further

RESOLVED: That they work toward the passage of legislation which would allow National Guardsmen everywhere those needed benefits and privileges which can be granted readily without additional expenditures by the military services such as the use of post and base exchanges and military commissaries and military travel; and be it further

RESOLVED: That certified copies of this Resolution be transmitted to the President of the United States, the Secretary of Defense of the United States, the Governor of Maine and the Members of Maine's delegation to the United States Congress.

(S. P. 600)

Which was Read and Adopted.
Sent down for concurrence.

in New Draft Read Once and To-
morrow Assigned for Second Read-
ing.

Committee Reports

House

Ought to Pass

The Committee on Appropriations and Financial Affairs, on, Resolve, Appropriating Moneys for Spruce Budworm Control. (H. P. 735) (L. D. 938) Reported that the same Ought to Pass.

Comes from the House, the Resolve Passed to be Engrossed.

Which report was Read and Accepted in concurrence, and the Resolve Read Once and Tomorrow Assigned for Second Reading.

Ought to Pass - As Amended

The Committee on Legal Affairs on, Bill, "An Act Authorizing Food Stamp Program for Certain Municipalities." (H. P. 1037) (L. D. 1357)

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-266).

Comes from the House, the Bill Passed to be Engrossed as Amended by Committee Amendment "A" and House Amendment "A" (H-277).

Which report was Read and Accepted in concurrence and the Bill Read Once, Committee Amendment "A" was Read and Adopted in concurrence. House Amendment "A" was Read and Adopted in concurrence and the Bill, as Amended, Tomorrow Assigned for Second Reading.

Ought to Pass in New Draft

The Committee on Health and Institutional Services on, Bill, "An Act to Provide that Wages Earned by Prisoners in State Correctional Institutions Shall Draw Interest Pending Release of Prisoner." (H. P. 1031) (L. D. 1353)

Reported that the same Ought to Pass in New Draft under Same Title (H. P. 1456) (L. D. 1880).

Comes from the House, the Bill in New Draft Passed to be Engrossed.

Which report was Read and Accepted in concurrence, the Bill,

Divided Report

The Majority of the Committee on Health and Institutional Services on, Bill, "An Act Relating to Pauper Admittance to Hospitals." (H. P. 851) (L. D. 1125)

Reported that the same Ought Not to Pass.

Signed:

Senators:

HICHENS of York
GREELEY of Waldo
MINKOWSKY

of Androscoggin

Representatives:

WHITZELL of Gardiner
McCORMICK of Union
BERRY of Madison
MORIN
of Old Orchard Beach
LAPOINTE of Portland
DYAR of Strong
GOODWIN

of South Berwick

SANTORO of Portland

The Minority of the same Committee on the same subject matter reported that the same Ought to Pass.

Signed:

Representatives:

SOULAS of Bangor
LEWIS of Bristol

Comes from the House, the Majority report Read and Accepted.

Which reports were Read and the Majority Ought Not to Pass Reports of the Committee Accepted in concurrence.

Senate

The following Ought Not to Pass report shall be placed in the legislative files without further action pursuant to Rule 17-A of the Joint Rules:

Bill, "An Act Creating the Commission for the Blind and Visually Handicapped." (S. P. 435) (L. D. 1379)

Leave to Withdraw

Covered by Other Legislation

Mr. Katz for the Committee on Business Legislation on, Bill, "An

Act Relating to Bank Holding Companies." (S. P. 374) (L. D. 1100)

Reported that the same be granted Leave to Withdraw, Covered by Other Legislation.

Which report was Read and Accepted.

Sent down for concurrence.

Ought to Pass

Mr. Cox for the Committee on Business Legislation on, Bill, "An Act Relating to the Deletion of an Exemption under the Unfair Trade Practices Act." (S. P. 493) (L. D. 1550)

Reported that the same Ought to Pass.

Mr. Cox for the Committee on Business Legislation on, Bill, "An Act Relating to Waiver by Consumer under Unfair Trade Practices Act." (S. P. 485) (L. D. 1552)

Reported that the same Ought to Pass.

Mr. Cox for the Committee on Business Legislation on, Bill, "An Act Relating to Rules and Regulations Promulgated under the Unfair Trade Practices Act." (S. P. 484) (L. D. 1551)

Reported that the same Ought to Pass.

Mr. Cox for the Committee on Business Legislation on, Bill, "An Act Relating to Assurances of Discontinuance under the Unfair Trade Practices Act." (S. P. 486) (L. D. 1553)

Reported that the same Ought to Pass.

Mr. Cox for the Committee on Business Legislation on, Bill, "An Act Amending the Authorization of Foreign Banks and Trust Companies to Act as Fiduciaries." (S. P. 413) (L. D. 1252)

Reported that the same Ought to Pass.

Mr. Katz for the Committee on Education on, Bill, "An Act Appropriating Funds to Expand Post-secondary Educational Opportunities in Maine's Mid-coast, York County and Lewiston - Auburn Areas." (S. P. 538) (L. D. 1691)

Reported that the same Ought to Pass.

Which reports were Read and Accepted, the Bills Read Once and

Tomorrow Assigned for Second Reading.

Divided Report

The Majority of the Committee on State Government on, RESOLUTION, Proposing an Amendment to the Constitution Changing the Legislature to a Single Chamber, Unicameral System with Single Member Districts. (S. P. 273) (L. D. 798)

Reported that the same Ought to Pass.

Signed:

Senator:

CLIFFORD

of Androscoggin

Representatives:

FARNHAM of Hampden

GOODWIN of Bath

NAJARIAN of Portland

BUSTIN of Augusta

COONEY of Sabattus

CROMMETT

of Millinocket

The Minority of the same Committee on the same subject matter reported that the same Ought Not to Pass.

Signed:

Senators:

SPEERS of Kennebec

WYMAN of Washington

Representatives:

CURTIS of Orono

GAHAGAN of Caribou

STILLINGS of Berwick

Which reports were Read.

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

Mr. CLIFFORD: Mr. President and Members of the Senate: I am going to move that we accept the Majority Ought to Pass Report of the Committee. I feel that this is a very important issue which, hopefully, will be discussed fully in both houses of this legislature.

First of all, I think at the outset that this Constitutional Amendment provides that if this change comes about it will not come about until the election of 1976 and the legislative session of 1977.

Secondly, it will not come about until the people have the opportunity to vote upon it. It seems to me what we are asking, really, is for this legislature to send this

very important issue to the people for their vote.

I think, Mr. President and Members of the Senate, if we keep in perspective the history of bicameral and unicameral legislatures, I think if you keep the historical perspective in mind, you will find that the historical reason for bicameralism really no longer exists.

The history of bicameralism in the Anglo-Saxon tradition arose because the second or upper house was really representative of a different constituency, and it originally arose in England where the aristocracy was represented in the House of Lords and the common people were represented in the House of Commons.

In the United States the Senate, the upper house, represents a different constituency. That is, it represents the states, and the lower house, or the House of Representatives, represents the people. And in the state governments, which were modeled after the United States Government, the lower house represented the people and the upper house, or the senate, could be apportioned on a different basis. They could represent a different constituency, and traditionally, until recent history, they did in fact represent geographic and economic interests. And throughout most of Maine's bicameral history the State Senate represented the geographic and economic areas on a countywide basis.

But in 1964, Mr. President and Members of the Senate, the United States Supreme Court said, in the case of *Reynolds vs. Sims*, that you can no longer do this in state senates; that the only basis of representation in state senates, as well as in state houses of representatives, was a one-man one-vote factor. So that in the bicameral system you no longer in your state senates can have a different basis of representation than you can in the house of representatives. So most of the historical reasons for the second house, the upper chamber, or the senate, no longer exists. And the only reason which still exists, Mr. President and Members of the Senate, the only argument made for the exist-

ence of the second house, or the bicameral two houses, is that it allows one body to take a second look, it allows a delay in the passage of bills, and it prevents bad bills from being passed.

Well, I submit, Mr. President and Members of the Senate, that this is a procedural matter which can well be taken care of within a unicameral, one-body system in their own procedure, such as delays in the readings of bills, etc., limits on the number of bills to be introduced.

Unicameral, one-chamber system of government exists in Nebraska which, by the way, has a 50-member - it is called a State Senate, and Nebraska, interestingly enough, has approximately the same geographic size as Maine and approximately the same population as Maine. This bill calls for a 75-member single district house of representatives. So that Nebraska does have a unicameral legislature, it works well, and there is no pressure from any circles in Nebraska to bring back bicameralism.

The Virgin Islands and Guam both have unicameral legislatures. All of our major cities have gone from bicameral legislatures to unicameral legislatures and they, of course, many of them, represent a much larger constituency than the State of Maine. All of the Canadian provinces have unicameral legislatures. England now has a de facto unicameral legislature as the House of Lords has become, in fact, powerless and ceremonial only.

The advantages of a unicameral legislature, it seems to me, first of all, there is economics. We presently have 184 members in this legislature, and in order to provide them with adequate staff, in order to pay them, it costs a tremendous amount of money. I think it costs approximately \$10,000 per day to keep this legislature going. In order to adequately staff a legislature, we certainly need more staff than we presently have, and a 75-member unicameral legislature could be very well staffed at less money.

I think that a unicameral legislature would be more efficient,

more understanding of the issues, and there wouldn't be the committees of conference and "the other house killed it" kind of thing.

I think the third reason, Mr. President and Members of the Senate, and probably the most important reason — although the economic reason, I feel, is important — I think the most important reason would be that there would be accountability of the individual legislators to the people who elect them. I think there is too much in the bicameral system of "the other house killed it", "let's let the other house kill it", "let's send it to a committee of conference." If you had one house and single-member districts, those people would be accountable, those representatives, and only those representatives, would be accountable to the people in their districts for the way they voted and the way the issues came out. The voters in the district could look to that one person for his or her vote as to a vote on a particular issue.

In view of the fact, Mr. President and Members of the Senate, that this would not be effective until the election of 1976 and the legislative session of 1977, and in further view of the fact that the only thing we could do is send it to the people and let them decide, it seems to me that the least we could do is to do that. Therefore, Mr. President, I move that the Senate accept the Majority Ought to Pass Report of the Committee.

THE PRESIDENT: The Senator from Androscoggin, Senator Clifford, moves that the Senate accept the Majority Ought to Pass Report of the Committee.

The Chair recognizes the Senator from Kennebec, Senator Speers.

MR. SPEERS: Mr. President and Members of the Senate: First of all, I would like to commend the good Senator from Androscoggin, Senator Clifford, on his most comprehensive remarks. The Senator is certainly the most valuable member of the Committee on State Government and of this body, and for that reason it is with reluctance that I rise to oppose his motion on acceptance of the Majority Ought to Pass Report

from the Committee on State Government.

First of all, Mr. President, I feel that the members of the Senate do represent a somewhat different constituency than do the members of the other body, if only because it is a much larger constituency. Simply because we have changed from representing states, as is the case on the national scene, or because we have changed from representing counties, as it used to be in the State of Maine, and are now mandated by the Supreme Court decision that was referred to to representing individuals, does not mean that all of us in this body represent the same kind of interests or take the same kind of view on the issues that are presented to the legislature as do the members of the other body.

We do represent much larger constituencies, each one of us in this body representing approximately 30,000 people. With that large a constituency, we obviously are going to have a great many more interests which we do represent. Some of those interests may be conflicting and may be directly opposed to one another. I am sure that all of us have had individuals contacting us both ways on the various issues, both for and against, and it is up to us to vote on those issues as we deem in the best interest of all of the members of our districts. So it is a much larger constituency that we do represent, and for that reason I believe that we take a somewhat different view of many of the issues than would a member of the other body representing a much more confined and narrow constituency.

I think that all of us here do recognize the great worth in having two branches of the legislature and in having bills passed back and forth between those two branches so that we can have, not another look at a particular piece of legislation, as the good Senator from Androscoggin represents could be the case if a one legislative body system so constructed its procedure so that there could be one, two, or even three separate considerations of a particular

issue, because it is not just another look at a particular issue that is the great worth of having two bodies, but a different look. The great worth is in having 33 different individuals look at a particular piece of legislation, whose 33 individuals representing a much larger portion, each one of us, a much larger portion and constituency of the State of Maine.

I think the good Senator from Androscoggin presented the case for unicameralism very well. I would like to point out that Nebraska is the only state in the Union which does have a unicameral legislature. 49 other states follow the basic structure of the United States Federal Government, and under the Federal Constitution, of having an executive branch and a legislative branch composed of two separate and distinct bodies. I feel the worth of that kind of system is great and should be maintained. I would, therefore, oppose the motion of the good Senator to accept the Majority Report.

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

Mr. CLIFFORD: Mr. President and Members of the Senate: It is certainly not my intention to belabor this issue, but it does need a two-thirds vote, and it seems to me that it is of sufficient importance that it be kept alive for further discussion.

I agree with the Senator from Kennebec, Senator Speers, that most of the states certainly have the bicameral system, but there was a reason, a valid reason, for having a bicameral system until the mid-60's. You were allowed to consider geographic and economic interests up until the mid-60's and the decision of Reynolds vs. Sims, so that the second look would be a different look. But, in fact, the second look no longer is a different look because the people elected are elected on the same basis, the basis of one-man one-vote.

The second point I want to emphasize, Mr. President, I think, is that we all realized at the beginning of this term that the

legislature in the State of Maine had become secondary, or its power certainly had become secondary to the power of the Executive, and we all went along with strengthening the legislature by the hiring of staff. It seems to me that was just the first step, and a unicameral, single-body legislature fully staffed would really be the kind of step that the legislature would need to cope with the kind of issues it faces and to cope with the overpowering Executive Branch.

All I ask you to do is let this matter continue in this legislature so that perhaps the people who would be affected by this, the voters, could decide on this matter in the referendum. Thank you, Mr. President.

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

Mr. WYMAN: Mr. President and Members of the Senate: I merely want to concur with the remarks of the good Senator from Kennebec, Senator Speers, our Chairman.

It seems to me that this is excellent to have two bodies consider these bills. Sometimes the other branch will kill one of our bills, sometimes we will kill one of their bills, and sometimes they will be settled by a committee of conference, but I do think it protects the public. I think we get a great deal more legislation than we need, and I can't see any possible reason why we should pass this legislation because Nebraska, Canada, the Virgin Islands and Guam have it, and I move indefinite postponement of this measure and all accompanying papers.

The PRESIDENT: The Senator from Washington, Senator Wyman, now moves that Item 6-13, Resolution, Proposing an Amendment to the Constitution Changing the Legislature to a Single Chamber, Unicameral System with Single Member Districts, be indefinitely postponed.

The Chair recognizes the Senator from Androscoggin, Senator Clifford.

Mr. CLIFFORD: Mr. President, I request 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. The pending motion before the Senate is the motion of the Senator from Washington, Senator Wyman, that Item 6-13, Legislative Document 798, be indefinitely postponed. A "Yes" vote will be in favor of indefinite postponement; a "No" vote will be opposed.

The Secretary will call the roll.

ROLL CALL

YEAS: Senators Anderson, Berry, Cox, Fortier, Graffam, Greeley, Hichens, Joly, Peabody, Speers, Tanous, Wyman.

NAYS: Senators Aldrich, Brennan, Cianchette, Clifford, Cummings, Cyr, Danton, Huber, Kelley, Marcotte, Minkowsky, Morrell, Olfene, Roberts, Sewall, Shute, MacLeod.

ABSENT: Conley, Katz, Richardson, Schulten.

A roll call was had. 12 Senators having voted in the affirmative, and 17 Senators having voted in the negative, with four Senators being absent, the motion did not prevail.

Thereupon the Majority Ought to Pass Report of the Committee was Accepted, the Resolution Read Once and Tomorrow Assigned for Second Reading.

Second Readers

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

House

Bill, "An Act Relating to Credibility of Witnesses." (H. P. 597) (L. D. 788)

Bill, "An Act Designating Columbus Day a Legal Holiday." (H. P. 989) (L. D. 1309)

(On motion by Mr. Speers of Kennebec, tabled and Specially Assigned for May 2, 1973, pending Passage to be Engrossed.)

Bill, "An Act Allowing Municipalities to Insure Against Personal Liability of Their Officers, Officials and Employees." (H. P. 1069) (L. D. 1394)

Bill, "An Act to Increase the Number and Terms of Members of the Augusta Parking District." (H. P. 1451) (L. D. 1872)

Bill, "An Act to Require a Stamp to Fish for Atlantic Salmon." (H. P. 1452) (L. D. 1873)

Bill, "An Act Relating to the Prohibition Against Hitchhiking." (H. P. 1454) (L. D. 1875)

Bill, "An Act Relating to Civil Action for Alienation of Affections." (H. P. 1455) (L. D. 1876)

Which were Read a Second Time and, except for the tabled matter, Passed to be Engrossed in concurrence.

House — As Amended

Bill, "An Act Amending the Maine Tree Growth Tax Law." (H. P. 1073) (L. D. 1411)

Bill, "An Act Relating to Conveyance by Release Deed for the Penobscot Tribe of Indians." (H. P. 622) (L. D. 820)

Bill, "An Act Relating to Appointment of Persons to Act as Policemen on Property of the Vocational - Technical Institutes." (H. P. 980) (L. D. 1294)

Bill, "An Act Extending the Hours of the Maine State Library." (H. P. 1216) (L. D. 1571)

Bill, "An Act Relating to Fees of Municipal Police Officers or Constables as Witnesses." (H. P. 1257) (L. D. 1632)

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

Senate

Bill, "An Act to Clarify the Notice Procedure on Decisions of Zoning Board of Appeals." (S. P. 321) (L. D. 988)

Resolve, Designating Seaplane Base on Lake Maranacook, Town of Winthrop, as "Richard D. Varney Seaplane Base." (S. P. 489) (L. D. 1555)

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

Sent down for concurrence.

Senate — As Amended

Bill, "An Act Relating to Displaying of Fireworks at Blue Hill Fair Grounds on Sunday." (S. P. 405) (L. D. 1207)

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

Sent down for concurrence.

Enactors

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

An Act Relating to Maternity Benefits for Unmarried Health Insurance Policyholders and Minor Dependents of Health Insurance Policyholders. (S. P. 373) (L. D. 1099)

(On motion by Mr. Sewall of Penobscot, placed on the Special Appropriations Table.)

An Act to Provide Maine Students with Benefits of Environmental Education. (S. P. 400) (L. D. 1205)

(On motion by Mr. Sewall of Penobscot, placed on the Special Appropriations Table.)

An Act Revising the Laws Relating to Savings and Loan Associations. (H. P. 923) (L. D. 1221)

An Act Permitting Savings Banks to Indemnify its Trustee Officers and Employees. (H. P. 1081) (L. D. 1404)

An Act Repealing License Fee for Sporting Camps. (H. P. 1202) (L. D. 1540)

An Act to Provide Schooling for Juvenile Offenders in Place of Incarceration. (H. P. 1256) (L. D. 1581)

(On motion by Mr. Sewall of Penobscot, placed on the Special Appropriations Table.)

An Act Excluding Log Rafts from Personal Flotation Devices. (H. P. 1422) (L. D. 1746)

An Act Relating to Hunting and Trapping Bear. (H. P. 1443) (L. D. 1858)

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

Resolve, Providing for Purchase of One Hundred and Fifty Copies

of History of Solon. (H. P. 1231) (L. D. 1604)

(On motion by Mr. Sewall of Penobscot, placed on the Special Appropriations Table.)

Emergency

An Act Appropriating Funds for Expansion and Improvement of the Biddeford Municipal Airport. (S. P. 518) (L. D. 1649)

(On motion by Mr. Sewall of Penobscot, placed on the Special Appropriations Table.)

Orders of the Day

The President laid before the Senate the first tabled and specially assigned matter:

Bill, "An Act Relating to the Redemption Value of Trading Stamps." (H. P. 810) (L. D. 1056)

Tabled — April 24, 1973 by Senator Cox of Penobscot.

Pending — Passage to be Engrossed.

Committee Amendment "A" (H-213)

Mr. Joly of Kennebec then moved that the Bill and all accompanying papers be Indefinitely Postponed.

The PRESIDENT: The Senator has the floor.

Mr. JOLY: Mr. President and Members of the Senate: Every day I get a little more dismayed at how much we try to run the lives of the citizens of Maine. It seems to me that we are every day doing something additional.

I was amazed when I first saw this bill that we have anything to do with setting the value of trading stamps. If we are setting the value of trading stamps we are indirectly, I would think, setting the cost of goods. In this particular instance there is not much we can do about it; I suppose we are already setting the value, but to raise the value, it seems, would be indirectly raising the cost of goods in the State of Maine.

I came to the Senate pledged not to raise taxes and not to raise costs anymore than I possibly could. For that reason, in view of the fact that this bill would simply make Maine trading stamps pay as high as any other state, and as all the states except Rhode Island are now paying the same

as Maine, I don't see any need for it in the first place. Therefore, I so move.

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

Mr. MORRELL: Mr. President and Members of the Senate: I rise in support of the motion of the Senator from Kennebec, Senator Joly. I can't imagine anything more remote from our assignment in this body. I completely agree with him that this is a matter of private enterprise. There is no need for this legislation, and I hope that you will vote in the direction that he suggests.

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

Mr. COX: Mr. President and Members of the Senate: I rise in opposition to the motion of the good Senator from Kennebec, Senator Joly. This bill tries to do two things: one, it says that if you want to redeem your stamps for cash, which is permissible under the rules of the stamp companies at this point in time, they can be redeemed at a location within the State of Maine instead of mailing them to the national headquarters. Two, it also says that if stamps with the same value in another state are redeemed for two dollars in cash, and they are redeemed for \$1.20 in cash in the State of Maine, there is no justification for them to disregard the people of Maine and really not give them the additional value.

As I understand, at this point in time less than one percent of the people of Maine do redeem their stamps for cash, and in those states where they get a higher amount they redeem up to four percent of the stamps. The bill was intended not to increase costs, and I don't see that it will increase costs. It merely puts the consumers in Maine on an equal basis with several other states in the United States in giving at least eighty cents more per book in cash.

The PRESIDENT: Is the Senate ready for the question? The pending motion before the Senate is the motion of the Senator from Kennebec, Senator Joly, that Bill,

"An Act Relating to the Redemption Value of Trading Stamps", be indefinitely postponed. As many Senators as are in favor of the motion to indefinitely postpone will please say "Yes"; those opposed "No".

A viva voce vote being taken, the motion to Indefinitely Postpone prevailed in non-concurrence.

Sent down for concurrence.

The President laid before the the Senate the second tabled and specially assigned matter:

Bill, "An Act Repealing the York Beach Village Corporation and the York Harbor Village Corporation." (S. P. 47) (L. D. 104)

Tabled — April 25, 1973 by Senator Hichens of York.

Pending — Adoption of Senate Amendment "A" (S-96).

Committee Amendment "A" (S-93).

Mr. Hichens of York then moved the pending motion.

Thereupon, Senate Amendment "A" was Adopted and the Bill, as Amended, Passed to be Engrossed. Sent down for concurrence.

The President laid before the Senate the third tabled and specially assigned matter:

Bill, "An Act Relating to Vacation and Sick Leave Pay for County Employees." (H. P. 890) (L. D. 1177)

Tabled—April 25, 1973 by Senator Minkowsky of Androscoggin.

Pending — Passage to be Engrossed.

Committee Amendment "A" (H-234).

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

Mr. MINKOWSKY: Mr. President and Members of the Senate: After researching this bill, and seeing the committee amendment which has resolved the feelings I had against this particular bill, I now move that the bill be Engrossed.

The PRESIDENT: Is the Senate ready for the question?

Thereupon, the Bill, as Amended, was Passed to be Engrossed in concurrence.

The President laid before the Senate the fourth tabled and specially assigned matter:

Bill, "An Act Relating to Deceptive Price Comparison Advertising under Uniform Deceptive Trade Practices Act." (H. P. 1057) (L. D. 1381)

Tabled — April 25, 1973 by Senator Speers of Kennebec.

Pending — Passage to be Engrossed.

Committee Amendment "A" (H-198) and Senate Amendment "A" (S-95).

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

Mr. SPEERS: Mr. President and Members of the Senate: We discussed this bill quite a bit yesterday, and I would like to bring out a few additional facts. After the passage of the amendment that the Senate put on this bill yesterday, I checked with the Attorney General's Office and the particular division that is in charge of enforcing the Unfair Trade Practices Act.

The bill, as it was originally proposed, was introduced at the request of that division to make clear that a particular practice would be illegal under that act that was already considered illegal by the Attorney General's Office, and the particular bill would simply reinforce that opinion and make it very clear and clarify the fact that the practice of comparative pricing as it was in practice, and as it is practiced now, is in fact illegal under the Unfair Practices Act.

With the amendment that was put on yesterday in this body, the fear of the Attorney General's Office is simply that this body will be making legal a practice that has been considered illegal under the Unfair Trade Practices Act by amending a bill that was introduced specifically to make it clear that that practice is illegal under that act.

This is certainly not a cause celebre with me or I feel probably any other member of this body, but I do think it is clear that the practice that is presently followed has the capacity to be deceptive

to individuals who are shopping for items in various stores. Certainly the amendment that we put on yesterday does nothing to correct that situation.

The amendment that we put on yesterday would require that a company using a comparative price system would have to use the price that is the manufacturer's suggested retail price. That manufacturer's suggested retail price has absolutely nothing to do with the price for which that item is offered in the surrounding stores and in the trade area that a person may be shopping in. So if he looks at that suggested retail price, and then he looks at the price it is being offered for by the particular company, he says, "Well, I am saving X amount of dollars", whereas he is actually not saving that amount in most instances, because if he went to some other store he could also buy it for less price than the suggested retail price suggested by the manufacturer.

I am not trying to downgrade any particular store or chain of stores that is offering merchandise to the people of this state at substantially lower prices than many other places; that is certainly not my intention. I feel that these stores offer an excellent service, they offer excellent merchandise, and I buy many of the items in these various stores myself, but I do feel that the people of the State of Maine should not be led to believe that they are saving more money than they are actually saving. Therefore, Mr. President, I move the indefinite postponement of this bill.

The PRESIDENT: The Senator from Kennebec, Senator Speers, now moves that Bill, "An Act Relating to Deceptive Price Comparison Advertising under Uniform Deceptive Trade Practices Act", be indefinitely postponed.

The Chair recognizes the Senator from York, Senator Marcotte.

Mr. MARCOTTE: Mr. President and Members of the Senate: I would like to bring your attention to the fact that dual pricing is currently under the jurisdiction of the Federal Trade Commission.

The Federal Trade Commission could, if they decided this was an unfair practice, bring action against anyone using dual pricing in a catalog. Now, they have not done this because their ruling is that it is not an unfair practice. I would oppose the motion from Senator Speers and I would hope that you would join me.

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

Mr. SPEERS: Mr. President and Members of the Senate: Simply to clarify, the Attorney General's Office or the Assistant Attorney General that is in charge of prosecuting under the Unfair Trade Practices Act does feel that this practice is in violation of that act at the present time.

There are, of course, a number of other items and cases that the Attorney General's Office is faced with and, therefore, you are faced with an order of priority in which you are going to prosecute under that particular law and under the other laws that the Attorney General's Office is charged with enforcing. So the fact that there has not been action to date under this particular law and along these lines is not indicative of the fact or the suggestion that the Attorney General's Office does not feel that this is illegal at the present time. In fact, it has been indicated to me that the Attorney General's Office has already notified several companies that do put out catalogs and use the comparative pricing that they are requesting a meeting of all of these companies to come in, and they will be told at that time that this is considered illegal under the Unfair Trade Practices Act and that, therefore, they are to cease and desist or there will be action taken in the future.

The fear that I have, and that is the fear of the Attorney General's Office, on this particular bill, if it were passed with the amendment, is that the amendment would gut the existing Unfair Trade Practices Act in this particular area. It would turn around entirely the situation as it now exists. Therefore, I hope you support my motion for indefinitely postponing the entire bill.

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

Mr. CLIFFORD: Mr. President and Members of the Senate: I think that we should distinguish between the opinion of a young attorney in the Attorney General's Office in Maine, who feels that this might be in violation of the Unfair Trade Practices Act, and the considered opinion of the entire Federal Trade Commission, which has determined that it is not a violation, that price comparisons are not a violation of the Unfair Trade Practices Act. And we are talking about the same act because the state act is modeled after the federal act.

There are price comparisons in all forms of retail business, and this bill was directed against or would have hurt severely the catalog situation, the way it was originally written, because the catalog was printed so far in advance. What this amendment does is allow comparative prices as long as that price used is the manufacturer's suggested retail price. If it is not, then the cataloger would be in violation of the law and could be prosecuted. If it is, it would be all right.

The consumer knows that the suggested retail price is not always the one that is afforded in every store, but it seems to me that to take the opinion of a young attorney in our Attorney General's Office, as against the entire Federal Trade Commission, it seems to me that we should vote against the motion to indefinitely postpone, and concur with the action we took yesterday in passing this bill with the amendment on it. Thank you.

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

Mr. SPEERS: Mr. President and Members of the Senate: I hesitate to rise again on this matter, but I would simply like to point out that the suggested retail price has nothing to do with the price that that item may be available for in the particular trading area a shopper is shopping in. Secondly, there is no requirement, even

under the amendment that was put on yesterday, that the catalog represent that particular price as being the manufacturer's suggested retail price. All that it requires is that that particular price actually be the suggested price, but there is no notification given to the consumer that that is what that price represents.

The PRESIDENT: The pending motion before the Senate is the motion of the Senator from Kennebec, Senator Speers, that Bill, "An Act Relating to Deceptive Price Comparison Advertising under Uniform Deceptive Trade Practices Act", be indefinitely postponed. The Chair will order a division. As many Senators as are in favor of indefinite postponement will please rise and remain standing until counted. Those opposed will please rise and remain standing until counted.

A division was had. 13 Senators having voted in the affirmative, and 16 Senators having voted in the negative, the motion did not prevail.

Thereupon, the Bill, as Amended, was Passed to be Engrossed in non-concurrence.

Sent down for concurrence.

The President laid before the Senate the fifth tabled and specially assigned matter:

Bill, "An Act Relating to Additional Roads on Indian Reservations at Pleasant Point and Indian Township." (H. P. 1141) (L. D. 1476)

Tabled — April 25, 1973 by Senator Berry of Cumberland.

Pending — Enactment.

This being an emergency measure and having received the affirmative votes of 28 members of the Senate was Passed to be Enacted and, having been signed by the President, was by the Secretary presented to the Governor for his approval.

Reconsidered Matter

On motion by Mr. Cianchette of Somerset the Senate voted to reconsider its action of yesterday whereby on Bill, "An Act to Include Operators of Industrial Wastewater Treatment Plants in the Operator Certification Program" (S. P. 478) (L. D. 1534), the Senate voted to Adhere.

The PRESIDENT: The Senator has the floor.

Mr. CIANCHETTE: Mr. President and Members of the Senate: It was brought to my attention that this bill may have a particular interest to the Senator from Sagadahoc, Senator Schulten. It was acted upon in his absence, and I merely would like to have one of my colleagues table this bill until Tuesday next so that Senator Schulten may participate in the action on this bill.

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

Thereupon, on motion by Mr. Berry of Cumberland, tabled and Specially Assigned for May 1, 1973, pending Consideration.

On motion by Mr. Sewall of Penobscot,

Adjourned until 9:30 tomorrow morning.