

# MAINE STATE LEGISLATURE

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# LEGISLATIVE RECORD

OF THE

*1st Special Session*

OF THE

*One Hundred and Sixth  
Legislature*

OF THE

STATE OF MAINE

1974

Kennebec Journal  
Augusta, Maine

## SENATE

Monday, February 4, 1974

Senate called to order by the President.

Prayer by the Honorable Armand J. Fortier of Rumford:

Let us pray. We thank you, Father, for having given us this day in which to serve you. We thank you for the grace of our families, our friends, and the wealth of our nation. We appreciate the privilege which you have granted to us to serve in this legislative body. We appreciate the opportunity to work for your greatest glory by serving our fellow man. But we also recognize the fact that due to all these gifts you have imposed upon us a certain responsibility, responsibility of dedication, of fidelity, of devotion, to the end to which we have dedicated ourselves. We appreciate the fact that very few of us will ever sponsor earth-shattering legislation, few of our names will probably go down in the pages of history, but O Lord, we recognize the fact that we should not use our influence for personal, mean, ulterior and selfish motives, but rather we should use this influence to work diligently in your vineyard for the justice of the greatest number of our people, particularly justice to the weak, the old and the oppressed. We ask that you give us foresight and strength to pursue these ideals, through Christ our Lord. Amen.

The PRESIDENT: The Chair would ask the Sergeant-at-Arms to escort the Senator from Aroostook, Senator Cyr, to his seat. The Senate is in session. A breakdown in Senate decorum comes from the building up of little things, such as laughing when someone is speaking, making jokes when something serious is going on and, through that, the decorum, for which the Senate has been noted for many, many years, is no more. The Chair is very disturbed at the Senator from Aroostook, Senator Cyr, for not hanging up the phone when the gavel came down.

Reading of the Journal of yesterday.

### Papers From the House Non-concurrent Matter

Bill, "An Act Relating to Name of Maine Ambulance and Rescue Association." (H. P. 1852) (L. D. 2345)

In the Senate January 29, 1974, Passed to be Engrossed, in concurrence.

Comes from the House, Passed to be Engrossed, as Amended by House Amendment "A" (H-659), in non-concurrence.

Thereupon, the Senate voted to Recede and Concur.

### House Papers

Bill, "An Act to Establish an Occupational Safety and Health Program for the State of Maine in Accordance with Federal Guidelines." (H. P. 1933) (L. D. 2474)

Comes from the House referred to the Committee on Labor and Ordered Printed.

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

### Committee Reports House

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 Relating to Discontinuance of Town Ways." (H. P. 1737) (L. D. 2183)

### Ought to Pass

The Committee on Public Utilities on, Bill, "An Act to Repeal the Sewerage Provisions of the Lincoln Water District." (H. P. 1765) (L. D. 2233)

Reported that the same Ought to Pass.

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

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

### Divided Report

The Majority of the Committee on Health and Institutional Services on, Bill, "An Act Requiring the Provision of Certain Information to Marriage Applicants by Municipal Officials." (H. P. 1815) (L. D. 2304)

Reported that the same Ought Not to Pass.

Signed:

## Senators:

HICHENS of York  
 GREELEY of Waldo  
 MINKOWSKY of Sagadahoc

## Representatives:

LEWIS of Bristol  
 DYAR of Strong  
 McCORMICK of Union  
 BERRY of Madison  
 SANTORO of Portland

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

Signed:

## Representatives:

GOODWIN of So. Berwick  
 MORIN of Old Orchard Beach  
 WHITZELL of Gardiner  
 SOULAS of Bangor  
 LaPOINTE of Portland

Comes from the House, the Minority report Read and Accepted and the Bill Passed to be Engrossed.

Which reports were Read.

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

Mr. BERRY: Mr. President, I don't want to anticipate the motion of the good Senator from York, Senator Hichens, but I would like to make a motion in connection with this, that the Senate accept the Minority Ought to Pass Report, and speak briefly to my motion.

The legislature at its last session passed and put in the statute books the following language with relation to family planning, and this is now the law of the land. And I might point out that the passage of this was by a significant majority and was not an emotionally involved item. This is what the law says now about family planning services:

"The legislature finds that family planning services are not sufficiently available, as a practical matter, to many persons in this state, that unwanted conception may place severe medical, emotional, social and economic burdens on the family unit, and that it is desirable that inhibitions and restrictions to the delivery of family planning services be reduced so that all persons desiring and needing such services shall have ready and practicable access thereto in an appropriate setting sensitive to their needs and beliefs.

"The legislature therefore declares

that it is consistent with public policy to make available comprehensive medical knowledge, assistance and services relating to family planning."

The bill before us has no money involved and, while it may make it obligatory upon the town and city clerks to make available information, it does not present any penalty for failure of these municipal officials to do it. The work involved would be merely the provision of a pamphlet prepared by the Health and Welfare Department to be distributed at the same time the marriage application is made.

It appears that this is an inexpensive way of complying with the intent of the legislature, as I read to the Senate, and I would hope that your feelings on the subject would warrant your support for my motion to accept the Minority Ought to Pass Report.

The PRESIDENT: The Senator from Cumberland, Senator Berry, moves that the Senate accept the Minority Ought to Pass Report of the Committee on Bill, "An Act Requiring the Provision of Certain Information to Marriage Applicants by Municipal Officials."

The Chair recognizes the Senator from York, Senator Hichens.

Mr. HICHENS: Mr. President, I rise in opposition to that motion. I cannot understand by precedent hasn't been honored that the chairman of a committee be recognized when two men stand to be heard on a bill. It has always been my assumption that that has been the case, but that was bypassed today for some reason or other.

I rise in opposition to accept the Minority Report. This bill was heard last week by the committee and, as you see, the majority of the committee felt that it should come out "Ought Not to Pass".

I feel there are others here in the room that want to speak on this bill along with me, so I am not going to prolong it too long, but we did not feel, after hearing the arguments, that it should be mandatory that a town clerk offer marriage advice or family planning advice to people who apply for a license. If these people don't know where the things are available, the information available, they can find out very easily. There are advertisements in the papers all the time, the Health and Welfare provides informa-

tion, and we do not feel that the town clerks should be forced to offer this material when a license application is requested.

The PRESIDENT: The Chair would inform the Senator from York, Senator Hichens, that when two Senators arise at the same time, one being the chairman of the committee and the other being the floor leader of the majority party, the Chair will usually recognize the majority floor leader first. In this particular instance both Senators stood up at the same time and I heard the voice first of the Senator from Cumberland, Senator Berry.

The Chair recognizes the Senator from Androscoggin, Senator Minkowsky.

MR. MINKOWSKY: Mr. President and Members of the Senate: I also arise in opposition to the motion made by the good Senator from Cumberland, Senator Berry.

This really was quite a comprehensive, in-depth meeting we had before the Committee on Health and Institutional Services with reference to this particular bill and, after analyzing it very closely, I think the greatest majority of the members of the Committee felt that this matter should be left to the determination of the local governments, that is, the mayor and council or the selectmen and town manager; that the people who are interested in family planning should appear before them more or less to make the request of them that this material be submitted with the certificate of marriage.

It was brought out very clearly by members of the Committee, as well as an opponent, that this basically could be construed as an insult upon the intelligence of the people who make application for a certificate of marriage because we are not just speaking of the low income or the indigent person, we are speaking of the senior citizens who are getting married again or many other classifications who I, as a Justice of the Peace, can account for that family planning won't do much good because they are well along the way at the time. And I just wonder sometimes, or I can visualize the expression the faces of senior citizens when they are passed this particular document along with their certificate of marriage, after raising a

family. Could it be construed as an insult upon them, or would it be just a hilarious outburst on their part?

This particular matter should be brought up long before the certificate of marriage is applied for. This matter should be taken up by a qualified person when a person is contemplating marriage, by a minister, a priest, or a rabbi, who is qualified to give them the proper answers that they desire. We are not speaking in the area of going into a city clerk or town clerk's office and picking up a fishing license or a hunting license, where you ask the town clerk for this particular material and ask him where the best fishing spots are in the State of Maine. This is a very, very serious matter, and these people feel that they are being imposed upon, and rightfully so. I think this is the basic reason why the committee in its deliberations weighed and analyzed this particular factor very, very closely.

Another matter comes up: how do you define the words "family planning"? Can it in its connotations include the word "abortion"? This leaves a great deal to be desired. Can other people with material of interest impose themselves through the legislature upon a town or city clerk to have their material passed out which may be relevant to a person's lot in life, as to exactly what they want to do? I think this is a decision that it is paramount for the people who are getting married to make this decision, and not have everybody, including the government, get involved in telling them what they should be doing.

I really think that this would not be the best thing that this legislature could do, to sanction this type of legislation, because it really has far-reaching implications and some very derogatory effects. You don't like to go toward the word "socialism", but I can actually see this particular word built into it where you are compelling people to pay attention to this particular piece of material.

Also comes another point, very, very, minor possibly: that if this person lost that piece of material and decided they wanted another one, what is to prevent them from calling the municipality and asking them to mail a copy to them? This is not right for the municipality to go to the additional expense and time.

If the people who are the proponents of this particular matter feel that strongly about it then they should use the mails to get their material out, or possibly, after the state has received a copy from the city or town clerk of the filed certificate of marriage, the state then, or the Department of Health and Welfare, may, if they so desire, send this material to the prospective bride and groom. But to mandatorily compel a town or city clerk to give this material is a very, very serious and a very, very drastic and bad move. I would hope that everybody in the Senate would vote against the motion of Senator Berry from Cumberland to accept the Minority Ought to Pass Report.

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

Mr. JOLY: Mr. President and Members of the Senate: I want to talk about a different reason why I think this bill should be killed. I am not going to talk about abortions or family planning and all this, and I think those members of this Senate who have strong feelings one way or the other, that my words will not affect them. But I hope the rest of you who may have a middle feeling on this will think of another point.

To me this is another example of "Big Daddyism" in government, and it just bugs me something terrible. Maybe I am still a romanticist. It seems to me when a couple goes down to the marriage bureau to get a marriage license that they are thinking of hearts and flowers, and to be handed a book like this, it just irks me, and I am wondering how much further we have to go. Why shouldn't we hand everybody a little book on how to get along after you get married? That you should tell each other if you have got body odor, because otherwise it is very difficult to get along and you might want to have a divorce, and we all want to keep the families going if we can. I mean how far do we have to go before we have to tell everybody what to do? For years many of us have been complaining about the federal government doing it, and now we are going to get the state government involved.

Even though I am not yet married, I still have hopes of it, contrary to what some of you might think, and I am watching very carefully the reports of

all of our candidates for governor to see who has got the most, and then I am going to watch the obituaries for the next few years and maybe I can find a good rich widow. But when I walk into that clerk's office and someone hands me one of these things, I can just tell you right now where it will get shoved.

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

Mr. HICHENS: Mr. President, I would ask for a division.

The PRESIDENT A division has been requested. The Chair recognizes the Senator from Oxford, Senator Fortier.

Mr. FORTIER: Mr. President and Members of the Senate: One thing I rather resent about this bill is the fact that it is being presented to us as a bill that has no cost. Still, if we read the bill itself, we see an allocation of \$5,000 from the general fund of the Health Department. This is the department that consistently reminds us that they would like to do so much more for our indigent, so much more for the people of this state, but they haven't got the funds, but still we are going to take \$5,000 from the general fund. And just how far does that \$5,000 go? It involves the printing of tens of thousands of leaflets or pamphlets, the accumulations, the mailings, and the distributions in every way, shape, or manner. \$5,000 could be a drop in the bucket, but we are going to take it away from our indigent people, we are going to take it away from our needy people. I think it could be used for much better results.

The PRESIDENT: Is the Senate ready for the question? As many Senators as are in favor of the motion of the Senator from Cumberland, Senator Berry, to accept the Minority Ought to Pass Report of the Committee will please rise and remain standing until counted. Those opposed will please rise and remain standing until counted.

A division was had. Seven Senators having voted in the affirmative, and 21 Senators having voted in the negative, the motion did not prevail.

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

Mr. HICHENS: Mr. President, I move

that we reconsider our action and hope that you vote against my motion.

The PRESIDENT: The Senator from York, Senator Hichens, moves that the Senate reconsider its action whereby the Senate did not accept the Minority Ought to Pass Report of the Committee. As many Senators as are in favor of reconsideration will please say "Yes"; those opposed "No".

A viva voce vote being taken, the motion did not prevail.

Thereupon, the Senate accepted the Majority Ought Not to Pass Report of the Committee in non-concurrence.

Sent down for concurrence.

#### **Senate Leave to Withdraw Covered by Other Legislation**

Mr. Cox for the Committee on Taxation on, Bill, "An Act Including Reconditioned Machinery in Definition of New Machinery used for Manufacturing and Research Which is Exempt from Sales and Use Tax." (S. P. 735) (L. D. 2147)

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. Fortier for the Committee on Taxation on, Bill, "An Act Exempting Machinery and Equipment Used for Manufacturing and Research from Sales and Use Tax." (S. P. 746) (L. D. 2158)

Reported that the same Ought to Pass.

Mr. Anderson for the Committee on Public Utilities on, Bill, "An Act to Provide for Continuation of Service by Cable Television Systems, to Facilitate Compliance with Federal Communications Commission Regulations and to Fix Liability for Cable Television Programming." (S. P. 827) (L. D. 2361)

Reported that the same Ought to Pass.

Which reports were Read and Accepted, the Bills Read Once and Tomorrow Assigned for Second Reading.

#### **Ought to Pass-As Amended**

Mr. Fortier for the Committee on Taxation on, Bill, "An Act Providing for a Credit in Maine Income Tax Law for Investment in Pollution Control Facilities." (S. P. 737) (L. D. 2149)

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (S-335).

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

#### **Second Readers**

The Committee on Bills in the Second Reading reported the following:

##### **House**

Bill, "An Act to Authorize County Commissioners of Aroostook County to Use 1974 Federal Revenue Sharing Funds for Court System and Jail." (H. P. 1769) (L. D. 2241)

Bill, "An Act Permitting the Supreme Judicial Court to Modify the Rules of Evidence." (H. P. 1800) (L. D. 2281)

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

##### **Senate**

Resolution, Proposing an Amendment to the Constitution Broadening the Limitation for Revenues Derived from Taxation of Vehicles Used on Public Highways and Fuels Used by Such Vehicles. (S. P. 756) (L. D. 2166)

Which was Read a Second Time.

On motion by Mr. Berry of Cumberland, tabled and specially assigned for February 6, 1974, pending Passage to be Engrossed.

#### **Senate - As Amended**

Bill, "An Act to Make the Term of Office of the State Planning Director Coterminous with that of the Governor." (S. P. 775) (L. D. 2222)

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 Damage to Beehives, Bee Colonies or Honey by Wild Animals. (H. P. 1809) (L. D. 2288)

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

An Act to Make it Unlawful to Dis-

criminate when Extending Credit. (H. P. 1819) (L. D. 2306)

An Act Validating the Franco-American Oblate Fathers, Inc., as a Legal Entity. (H. P. 1851) (L. D. 2344)

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

An Act Relating to Municipal Fire Protection. (H. P. 1707) (L. D. 2100)

The PRESIDENT: The Chair recognizes the Senator from Oxford, Senator Henley.

Mr. HENLEY: Mr. President and Members of the Senate: I would appreciate it if some member of the Senate would explain just what this bill does a little bit better than the statement of fact. I got from a friend of mine at the other end of the corridor that he doesn't like the bill, that there is something wrong with it, and I would like to know if anyone here feels that there is. I don't know enough about the bill, and I would like to have somebody explain it to me.

The PRESIDENT: The Senator from Oxford, Senator Henley, has posed an inquiry through the Chair which any Senator may answer if he desires.

The Chair recognizes the Senator from Cumberland, Senator Berry.

Thereupon, on motion by Mr. Berry of Cumberland, tabled and Tomorrow Assigned, pending Enactment.

#### **Recommitted by the House**

An Act Relating to Absentee Voting by Persons Serving Sentences in Jails and Penal Institutions. (H. P. 1781) (L. D. 2253)

Comes from the House, recommitted to the Committee on Election Laws.

The PRESIDENT: The Chair recognizes the Senator from Franklin, Senator Shute.

Mr. SHUTE: Mr. President and Members of the Senate: This bill has been hanging around the legislative halls now for five weeks, and it has been through here and it has been through the engrossment stage. We passed it a couple of weeks ago, and the House tacked on an amendment, H-636, which says as follows: "A person who is serving a sentence in a jail or penal institution

pursuant to a conviction for a felony is not an absentee voter."

This bill received three committee reports: ought to and ought not to pass, and as amended. The original amendment had to be discarded because it was unconstitutional. The Attorney General's office advises us that there is a question of constitutionality about this amendment, so, Mr. President and Members of the Senate, in order to save time and get us out of here by April Fools Day, I move that this L. D. and all of its accompanying papers be indefinitely postponed.

The PRESIDENT: The Senator from Franklin, Senator Shute, now moves that Bill, "An Act Relating to Absentee Voting by Persons Serving Sentences in Jails and Penal Institutions, be indefinitely postponed in non-concurrence.

The Chair recognizes the Senator from Kennebec, Senator Katz.

Mr. KATZ: Mr. President and Members of the Senate: I wonder whether or not this bill has any gubernatorial implications? I have been on the periphery, but I have heard some discussion perhaps that the question as to whether a man is a voter or not a voter controls his ability to run for major office in the state. If this is true, is this the vehicle that those who wish to prevent felons from being candidates, is this the vehicle that they had chosen to prevent such a situation from arising?

The PRESIDENT: The Chair recognizes the Senator from Franklin, Senator Shute.

Mr. SHUTE: Mr. President and Members of the Senate: As the Senator from Kennebec, Senator Katz, suggests, this bill, if passed, would effectively prevent the gentleman from Thomaston from being a legally qualified candidate for Governor. As a matter of fact, I think our laws, Title 21 of our Election Laws, effectively would prevent him from being a candidate. However, the Attorney General has ruled otherwise. They also question the constitutionality of this provision, House Amendment 636, and we just don't have the time. I will tell you, right now we have four bills that we are struggling with on campaign expenses and campaign funding, which the good Senators Kelley and Brennan and Representative Martin have given the



committee. We have problem enough trying to work out something which I feel is necessary to be passed by this legislature rather than fooling around with something like this.

The PRESIDENT: The pending motion before the Senate is the motion of the Senator from Franklin, Senator Shute, that Bill, An Act Relating to Absentee Voting by Persons Serving Sentences in Jails and Penal Institutions, be indefinitely postponed in non-concurrence. Is this the pleasure of the Senate?

The motion prevailed.

Sent down for concurrence.

Resolve, Authorizing the Maine Land Use Regulation Commission to Enter into License Agreements for Use of its Publications. (H. P. 1907) (L. D. 2422)

Which was Finally Passed and, having been signed by the President, was by the Secretary presented to the Governor for his approval.

#### Emergencies

An Act Relating to Exemption of Certain Plants under Oil Burner Men's Licensing Law, (S. P. 870) (L. D. 2421)

An Act Converting Somerville Plantation into the Town of Somerville. (H. P. 1671) (L. D. 2064)

An Act Relating to Conflicts of Interest in Municipal Contracts and Proceedings Pursuant to the Securities Approval Act. (H. P. 1835) (L. D. 2326)

These being emergency measures and having received the affirmative votes of 25 members of the Senate, were Passed to be Enacted and, having been signed by the President, were by the Secretary presented to the Governor for his approval.

#### Orders of the Day

Mr. Cyr of Aroostook was granted unanimous consent to address the Senate:

Mr. CYR: Mr. President and Members of the Senate: I would like to apologize to you and to my colleagues for my bad manners and my lack of decorum at the beginning of this session. I was in the embarrassing situation of having to hang up on the Regional Administrator of EPA in Boston and follow my duties here as a Senator. I suppose I should have done just that, hung up and asked him to call later. However, there

is a correction that I would like to make. I had been on the phone since 3:45 with this gentleman who had called me up, and it wasn't just a telephone call that I put in just at the beginning of the session. So again I repeat, I apologize for my bad manners.

The PRESIDENT: The Chair hears the Senator and I am sure the Senate accepts the apology.

Mr. Berry of Cumberland was granted unanimous consent to address the Senate:

Mr. BERRY: Mr. President and Members of the Senate: Last Thursday a very interesting and historical event took place here in Augusta when the International Paper Company presented as a gift to the State of Maine a suite of tourmaline minerals which were the outstanding part of a famous collection at Newry. International Paper has throughout this incident since the finding of the gems displayed a very cooperative and generous attitude toward the State of Maine, wanting from the beginning to have the state a repository for a very significant part of this collection.

It is gratifying, I am sure, to all of us to recognize this very fine outstanding corporate action. Too often the paper companies are the recipients of our darts and arrows with reference to other matters, and I think this is an outstanding example of their sense of responsibility to the State of Maine.

The PRESIDENT: The Chair would like to inform the Senate that you are now entering the sixth legislative week, and there is some concern on the part of Leadership that there are quite a large number of bills that have been heard and are still in the hands of the committees. As of last Friday, there were 138 bills that had received a public hearing and were still in the hands of committees. Since we are entering the sixth legislative week, I would urge all committee chairmen to report these bills as soon as possible and to advertise the 41 bills remaining unadvertised for public hearing for next week, if possible.

On motion by Mr. Sewall of Penobscot, Adjourned until 10 o'clock tomorrow morning.