

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

*One Hundred and Seventh
Legislature*

OF THE

STATE OF MAINE

1975

KENNEBEC JOURNAL
AUGUSTA, MAINE

SENATE

Tuesday, February 25, 1975

Senate called to order by the Secretary. Senate President Sewall being absent, Senator Richard N. Berry of Cumberland was unanimously elected President pro tem.

Thereupon, Senator Berry was escorted to the rostrum by the Sergeant-at-Arms and assumed the duties of President pro tem.

Prayer by the Honorable Gerard P. Conley of Portland:

God grant us the serenity to accept the things we cannot change, the courage to change the things we can, and the wisdom to know the difference. Amen.

Reading of the Journal of Friday, February 21, 1975.

Papers from the House

Non-concurrent Matter

Bill, "An Act to Provide for 6-person Juries in Civil Cases." (S. P. 16) (L. D. 90)

In the Senate February 13, 1975, Passed to be Engrossed as Amended by Committee Amendment "A" (S-3) as Amended by Senate Amendment "A" (S-6) Thereto.

Comes from the House, Passed to be Engrossed as Amended by Committee Amendment "A" (S-3) as Amended by House Amendment "A" (H-34), Thereto, in non-concurrence.

On motion by Mr. Conley of Cumberland, tabled and Tomorrow Assigned, pending consideration.

House Papers

Bills and Resolve today received from the House requiring Reference to Committees were acted upon in concurrence.

Senate Papers

Joint Resolution

Mrs. Cummings of Penobscot (Cosponsor: Mr. Pray of Penobscot) presented the following Joint Resolution and moved its adoption:

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

Joint Resolution Memorializing the Honorable Caspar W. Weinburger, Secretary of the Department of Health, Education and Welfare of the United States to Restore Medicare-Medicaid Funds to the Local Hospitals of the Towns of Dexter, Milo and Similar Communities.

WE, your Memorialists, the Senate and House of Representatives of the State of Maine now assembled in Regular Session of the One Hundred and Seventh Legislative Session, most respectfully present and petition the Secretary of the Department of Health, Education and Welfare and the United States Congress as follows:

WHEREAS, the Plummer Memorial Hospital has served the medical needs of Dexter, Maine continuously and well since its opening in 1920; and

WHEREAS, the townspeople of Dexter have aided and supported this hospital, and have provided an ambulance service for this hospital, serviced by the volunteer fire department; and

WHEREAS, the Plummer Memorial Hospital has been licensed by the State of Maine for the year 1975 to serve the people

of Dexter, a license recognized by all major medical insurance companies, including Blue Cross-Blue Shield; and

WHEREAS, the Department of Health, Education and Welfare has decided, contrary to the almost unanimous vote of the March, 1974 Dexter town meeting, that the Plummer Memorial Hospital shall be closed and that the people of Dexter shall be forced to use a regional hospital to be built in Dover-Foxcroft, 13 miles to the north; and

WHEREAS, the department has decided, based upon a technical and controversial interpretation of one regulation of the Federal Fire Code, that the hospital, in existence since 1920, is in violation of that fire code and must be closed; and

WHEREAS, the Department of Health, Education and Welfare has, therefore, cut off all but emergency Medicare-Medicaid funds to the Plummer Memorial Hospital, an action intended to close that facility; and

WHEREAS, the people of Dexter have received little cooperation from the regional director of the Department of Health, Education and Welfare, who seems unconcerned about the welfare of the people of Dexter when that welfare conflicts with a regionalization plan previously decided upon; and

WHEREAS, the situation in Dexter is too often repeated in other areas of Maine; and

WHEREAS, the Legislature of this State sympathizes with the struggle of all people who desire to preserve their own hospital facilities and their independence from the dictates of a huge federal agency; now, therefore, be it

RESOLVED: That We, your Memorialists, hereby record our dissatisfaction with the actions of the Department of Health, Education and Welfare and with the actions and uncooperative attitude of certain of its regional representatives, and respectfully urge and petition the Secretary of Health, Education and Welfare and the Congress of the United States to take appropriate action to help the people of Dexter, Milo and similar communities to maintain their own hospital facilities as active and useful hospitals serving the local needs of rural areas by restoring the use of all Medicare-Medicaid funds; and be it further

RESOLVED: That a copy of this Memorial, duly authenticated by the Secretary of State, be immediately transmitted by the Secretary of State to the Secretary of the Department of Health, Education and Welfare of the United States, and to the Members of the Senate and House of Representatives of the United States Congress from this State.

Which was Read.

The PRESIDENT pro tem: The Chair recognizes the Senator from Penobscot, Senator Cummings.

Mrs. CUMMINGS: Mr. President and Members of the Senate: I would call attention to the reprint of a newspaper article which I had put on your desks. Some of it is very pertinent to this memorialization. I would read two sentences that are from this:

"The founding fathers of our country perceived that government could indeed be a menace, that instead of serving the people, government could become an officious master ordering the people around."

Perhaps some of you read in the "Letters to the Editor" section of the Sunday Portland Telegram yesterday a protest from a writer who was writing about the flood insurance program which the government is going to force upon us in fact they are in the process right now by saying that you can't have a mortgage, that you can't build, and you can't do lots of things to your own private home unless you pay twenty-five cents per thousand dollar valuation for this insurance. In the meantime, you can't even get that insurance unless the towns belong to an organization that is set up by the federal government. It is just one more way, I think, that we are losing our freedoms, and I would like to hope that we are alive, alert and aware of these things.

The end of this reprint says that "The intrusions upon freedom and federalism would get nowhere if the people took a more vigilant interest in what government is up to." So I think that we should try to keep aware of these things and not just be bemused by what we have been led to believe might be free monies because I do think that, although at one point we were not able to start our cars unless we had seatbelts fastened and somebody put the pressure on the government and they rescinded that order, it is going to take a lot of pressure and a lot of real awareness of what is happening to us.

I would like to move the passage of this resolution.

The PRESIDENT pro tem: Is it now the pleasure of the Senate that this Joint Resolution receive passage?

The motion prevailed.

Sent down for concurrence.

Labor

Mr. Speers of Kennebec presented, Bill, "An Act Relating to Weekly Compensation Paid under the Workmen's Compensation Law." (S. P. 226)

The same Senator presented, Bill, "An Act to Simplify the Occupational Disease Law and to Conform with the Recommendations of the National Commission on State Workmen's Compensation Laws in Regard to Occupational Disease." (S. P. 227)

Which were referred to the Committee on Labor and Ordered Printed.

Sent down for concurrence.

Local and County Government

Corson of Somerset presented, Bill, "An Act Prohibiting County Commissioners and Municipal Officers from Appointing Themselves to Certain Offices." (S. P. 228)

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

Sent down for 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:

Resolve, Authorizing Arthur G. Powers to Sue the State of Maine. (H. P. 270) (L. D. 317)

Ought to Pass

The Committee on Education on, Bill, "An Act to Increase Boarding Allowance

for Students of Coastal Islands." (H. P. 232) (L. D. 288)

Reported that the same Ought to Pass.

The Committee on Labor on, Bill, "An Act Relating to Executive Exemption Under the Minimum Wage Law." (H. P. 140) (L. D. 172)

Reported that the same Ought to Pass.

Come from the House, the Bills Passed to be Engrossed.

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

The Committee on Legal Affairs on, Bill, "An Act Relating to Fines and Penalties under Fire Prevention Laws." (H. P. 326) (L. D. 398)

Reported that the same Ought to Pass.

Comes from the House, the Bill Passed to be Engrossed as Amended by House Amendment "A" (H-35).

Which report was Read and Accepted in concurrence and the Bill Read Once. House Amendment "A" was Read.

Mr. Corson of Somerset then presented Senate Amendment "A" to House Amendment "A" and moved its Adoption.

Senate Amendment "A", Filing No. S-10, to House Amendment "A" was Read and Adopted. House Amendment "A", as Amended by Senate Amendment "A" Thereto, was Adopted and the Bill, as Amended, Tomorrow Assigned for Second Reading.

Ought to Pass — As Amended

The Committee on Labor on, Bill, "An Act Concerning Appeals from Redetermination of Unemployment Compensation Claims." (H. P. 432) (L. D. 543)

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-28).

The Committee on Education on, Bill, "An Act Restricting Use of Weapons at Public Schools." (H. P. 6) (L. D. 11)

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-30).

Come from the House, the Bill, Passed to be Engrossed as Amended by Committee Amendments "A".

Which reports were Read and Accepted, in concurrence and the Bills Read Once. Committee Amendments "A" were Read and Adopted in concurrence and the Bills, as Amended, Tomorrow Assigned for Second Reading.

Ought to Pass in New Draft

The Committee on Election Laws on, Bill, "An Act to Provide for Reimbursement of Election Expenses in Unorganized Towns." (H. P. 67) (L. D. 79)

Reported that the same Ought to Pass in New Draft under Same Title (H. P. 596) (L. D. 694).

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

Which report was Read. On motion by Mr. Hichens of York, tabled and specially assigned for February 27, 1975, Pending Acceptance of the Committee Report.

The Committee on Education on, Bill, "An Act Concerning Tuberculosis Control Requirement for School Personnel." (H. P. 282) (L. D. 334)

Reported that the same Ought to Pass in New Draft under New Title: "An Act to Amend the Chest X-ray Certificate Law." (H. P. 595) (L. D. 693).

Comes from the House, the Bill in New Draft Passed to be Engrossed as Amended by House Amendment "A" (H-33).

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

Divided Report

The Majority of the Committee on Natural Resources on, Bill, "An Act to Require Licensing for Septic Tank Installers." (H. P. 26) (L. D. 34)

Reported that the same Ought Not to Pass.

Signed:

Senators:

TROTZKY of Penobscot
WYMAN of Washington
O'LEARY of Oxford

Representatives:

AULT of Wayne
HALL of Sangerville
HUTCHINGS of Lincolnville
BLOGGETT of Waldoboro
WILFONG of Stow
McBREAIRTY of Caribou
CHURCHILL of Orland
PETERSON of Windham

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

Signed:

Representative:

DOAK of Rangeley

Comes from the House, the Majority Ought Not to Pass Report Read and Accepted.

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

Divided Report

The Majority of the Committee on Election Laws on, Bill, "An Act Establishing Open Primaries." (H. P. 49) (L. D. 61)

Reported that the same Ought Not to Pass.

Signed:

Senators:

CORSON of Somerset
BERRY of Cumberland
O'LEARY of Oxford

Representatives:

SHUTE of Stockton Springs
BOUDREAU of Portland
CALL of Lewiston
DeVANE of Ellsworth
MACKEL of Wells
DURGIN of Kittery
ALBERT of Limestone
BIRT of East Millinocket
BUSTIN of Augusta

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

Signed:

Representative:

TALBOT of Portland

Comes from the House, the Majority Ought Not to Pass report Read and Accepted.

Which reports were Read.

On motion by Mr. Clifford of Androscoggin, tabled and Tomorrow Assigned, pending Acceptance of Either Committee Report.

Divided Report

The Majority of the Committee on Legal Affairs on, Bill, "An Act Relating to Vehicle Operators Wearing a Radio Headset." (H. P. 204) (L. D. 249)

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-31).

Signed:

Senator:

CORSON of Somerset

Representatives:

BURNS of North Anson
JOYCE of Portland
HUNTER of Benton
GOULD of Old Town
FAUCHER of Solon
PERKINS of Blue Hill
DUDLEY of Enfield

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

Signed:

Senators:

CIANCHETTE of Somerset
DANTON of York

Representatives:

CAREY of Waterville
SHUTE of Stockton Springs
COTE of Lewiston

Comes from the House, the Majority report Read and Accepted and the Bill Passed to be Engrossed as Amended by Committee Amendment "A" (H-31).

Which reports were Read.

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

Mr. KATZ: Mr. President, I notice that within the Senate this is a divided report. Might I inquire through the Chair as to the rationale of the majority?

The PRESIDENT pro tem: The Senator from Kennebec, Senator Katz, has addressed an inquiry to any member of the Committee on Legal Affairs, who may respond if he cares to.

The Chair recognizes the Senator from Somerset, Senator Corson.

Mr. CORSON: Mr. President and Members of the Senate: It is obvious that there was some disagreement on this bill. What the bill provides is that it will no longer be legal for a motor vehicle operator to wear a radio headset in his automobile or on a motorcycle. It was the feeling of the individuals signing the majority report that this does pose a traffic hazard, and that when one is wearing such a device and listening to a stereo set or radio he is unable to hear the audio warning signals, such as a horn or a railroad crossing signal and, therefore, would be posing a traffic hazard.

I think I can also explain that the feeling of the minority was that this was unnecessarily restrictive and it was not necessary to pass such legislation.

We debated it at some length and the results are as you see on the report. I hope that satisfies the Senator's question.

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

Mr. CIANCHETTE: Mr. President, I appreciate the Chairman of the Committee giving the report as requested and I feel that I ought to put in my two cents worth, at least.

The thrust of the bill, I am sure, is well-intended and well-meaning, and that is to stop people from riding motorcycles and driving their automobiles with headsets on, I suppose, with the music or radio turned up so loud that they can't hear signals around them and that might interfere with their driving. It is honorable and I agree with that, and I think it is doggone poor taste and poor judgment for a driver to be doing such a thing.

Then there are all the other kinds of

drivers who may be doing this thing in a perfectly legitimate, respectable and responsible manner, where they may for some reason want to be listening to a radio. And it may be in such a case that they do not have all the outside noise turned off. Compare that, if you would, with an automobile with a tape deck playing in there with the music turned up and the windows closed. That driver can't hear the audible signals that he ought to be hearing, but there is no law that says he can't do that.

I think that here is another place that we are just restricting and taking away little rights from the people of this state in the great and honorable terms of safety and motherhood, and all that sort of thing. I don't think we were sent down here to pass this kind of legislation. I think the people are getting sick of this kind of legislation, and I think that this legislation ought to be defeated.

I had intended to make my stand on the second reading and not today but, since we are talking about it, I would urge you to vote against acceptance of the majority report and put this bill where it belongs.

The PRESIDENT pro tem: The Chair understands the Senator from Somerset, Senator Cianchette, moves that the Senate accept the Minority Ought Not to Pass Report.

The Chair recognizes the Senator from Penobscot, Senator Curtis.

Mr. CURTIS: Mr. President and Members of the Senate: I would like to speak very briefly in support of the Senator from Somerset, Senator Cianchette, in his motion.

I would like to read the last two sentences from an editorial in today's Bangor Daily News. It happens to be on the subject of the legislature enacting laws regarding motorcycles and motorcyclists. It doesn't happen to be exactly this particular bill but another similar bill, but at any rate, the editorial writer concludes, "Laws to protect people from themselves should be used very sparingly, if at all. In this case, the motorcyclists prefer to be guardians of their own safety and welfare, and not singled out for protection every time the legislature convenes."

Mr. President, I think perhaps the editorial writer is correct.

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

Thereupon, on motion by Mr. Hichens of York, a division was had, 22 having voted in the affirmative, and five in the negative, the Minority Ought Not to Pass Report of the Committee was Accepted in non-concurrence.

Sent down for concurrence.

Senate Ought to Pass

Mr. Curtis for the Committee on State Government on, Bill, "An Act to Change the Name of the Bureau of Labor and Industry to the Bureau of Labor." (S. P. 140) (L. D. 443)

Reported that the same Ought to Pass.

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

Second Readers

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

House

Bill, "An Act Combining the Towns of Yarmouth and North Yarmouth as One

Municipality for Shellfish Conservation Purposes." (H. P. 70) (L. D. 82)

(On motion by Mr. Graham of Cumberland tabled and Specially Assigned for February 27, pending Passage to be Engrossed.)

Bill, "An Act Relating to Licenses Issued by the Harness Racing Commission and to the Rule-making Authority of that Commission." (H. P. 363) (L. D. 457)

Bill, "An Act Relating to Fines, Suspensions and Revocations Levied by the Harness Racing Commission." (H. P. 431) (L. D. 525)

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

House — As Amended

Resolve, to Reimburse Marcia S. Webster of Auburn for Loss by Fire Caused by State Ward. (H. P. 268) (L. D. 316)

Resolve, to Reimburse G. Gordon Gilman of Stow for Loss of Bee Hives by Bear. (H. P. 291) (L. D. 343)

Bill, "An Act Relating to Suspension of Sale of Certain Bedding and Upholstered Furniture." (H. P. 143) (L. D. 165)

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

Senate

Bill, "An Act Relating to Expenses of the Legislature." (S. P. 148) (L. D. 511)

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

Sent down for concurrence.

Enactors

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

An Act Relating to Compatibility of State Income Tax Law with Federal Law. (S. P. 59) (L. D. 139)

An Act Relating to Filing of Record of Locations and Changes of Highways. (S. P. 83) (L. D. 237)

An Act to Authorize the Issue of an Additional Pair of Specially Designated License Plates to Maine Members of the United States Senate and House. (S. P. 92) (L. D. 263)

An Act Establishing Special License Plates for the Handicapped. (H. P. 40) (L. D. 51)

An Act Relating to Reinstatement of Suspended Corporations under the Business Corporation Act. (H. P. 133) (L. D. 180)

An Act to Exempt Incorporated Fire Fighters Associations from the Sales Tax. (H. P. 156) (L. D. 191)

(On motion by Mr. Huber of Cumberland, placed on the Special Appropriations Table.)

An Act to Clarify the Laws Relating to the Bureau of Property Taxation. (H. P. 193) (L. D. 234)

An Act to Set Off Burying Island in Taunton Bay to the Town of Franklin. (H. P. 209) (L. D. 253)

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.

Orders of the Day

The President pro tem laid before the Senate the first tabled and Specially Assigned matter:

House Report — from the Committee on Legal Affairs, Bill, "An Act Authorizing

the Theater at Monmouth to be Named the Shakespearean Theater of Maine." (H. P. 261) (L. D. 308) Ought to Pass.

Tabled — February 20, 1975 by Senator Berry of Cumberland.

Pending — Acceptance of Report.

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

The President pro tem laid before the Senate the second tabled and Specially Assigned matter:

Bill, "An Act to Increase Funds Allowed by Court Order to a Minor without a Guardian." (S. P. 76) (L. D. 216)

Tabled — February 20, 1975 by Senator Berry of Cumberland.

Pending — Passage to be Engrossed.

Mr. Roberts of York then presented Senate Amendment "A" and moved its Adoption.

Senate Amendment "A", Filing No. S-9, was Read and Adopted and the Bill, as Amended, Passed to be Engrossed.

Sent down for concurrence.

The President pro tem laid before the Senate the third tabled and Specially Assigned matter:

Bill, "An Act to Include the Right to Use Submerged Lands as Part of Environmental Licensing." (H. P. 567) (L. D. 703)

Tabled — February 21, 1975 by Senator Speers of Kennebec.

Pending — Reference.

(Committee on Reference of Bills suggested this Bill be referred to the Committee on Public Lands.)

(In House — referred to Committee on Public Lands.)

On motion by Mrs. Cummings of Penobscot, retabled and Tomorrow Assigned, pending Reference to Committee.

The President pro tem laid before the Senate the fourth tabled and Specially Assigned matter:

Bill, "An Act to Authorize the University of Maine to Proceed with the Development of a School of Medicine as Part of the Teaching Program of the University System." (S. P. 224)

Tabled — February 21, 1975 by Senator Speers of Kennebec.

Pending Reference.

(Committee on Reference of Bills suggested this Bill be referred to the Committee on Appropriations and Financial Affairs.)

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

Mr. KATZ: Mr. President and Members of the Senate: In clear conformity with Joint Rule 16, I move this item be referred to the Committee on Education.

The PRESIDENT pro tem: Is it the pleasure of the Senate that this Bill be referred to the Committee on Education and Ordered Printed?

The motion prevailed.

Sent down for concurrence.

The President pro tem laid before the Senate the fifth tabled and Specially Assigned matter:

Senate Report from the Committee on Local and County Government Bill, "An Act Converting Rangeley Plantation into the Town of Haley." (S. P. 86) (L. D. 257) Leave to Withdraw.

Tabled February 21, 1975 by Senator Speers of Kennebec.

Pending -- Acceptance of Report.

The PRESIDENT pro tem: The Chair recognizes the Senator from Oxford, Senator O'Leary.

Mr. O'LEARY: Mr. President and Members of the Senate: On our last legislative day, I requested that this be tabled for four legislative days, but Senator Speers and I are in complete agreement and I will now accept the report.

The PRESIDENT pro tem: Is it now the pleasure of the Senate to accept the Leave to Withdraw Report of the Committee?

Thereupon, the Leave to Withdraw Report of the Committee was Accepted.

Sent down for concurrence.

(Off Record Remarks)

On motion by Mrs. Cummings of Penobscot,

Adjourned until 10 o'clock tomorrow morning.