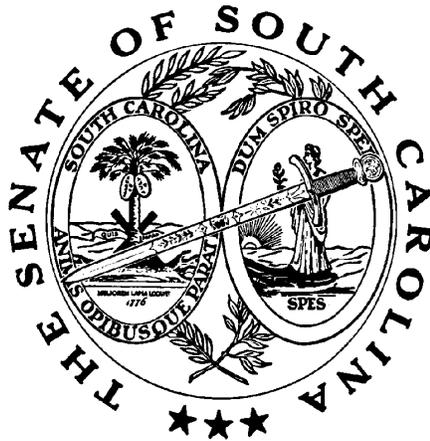


NO. 68

JOURNAL
OF THE
SENATE
OF THE
STATE OF SOUTH CAROLINA



REGULAR SESSION BEGINNING TUESDAY, JANUARY 12, 2021

FRIDAY, MAY 6, 2022

Friday, May 6, 2022
(Local Session)

~~Indicates Matter Stricken~~
Indicates New Matter

The Senate assembled at 11:00 A.M., the hour to which it stood adjourned, and was called to order by the ACTING PRESIDENT, Senator HARPOOTLIAN.

ADDENDUM TO THE JOURNAL

The following remarks by Senator SABB were ordered printed in the Journal of March 16, 2022:

Remarks by Senator SABB

Thank you, Mr. PRESIDENT and ladies and gentlemen of the Senate. Let me start by expressing my appreciation to the United States of America that saw fit to evolve over a course of years in the search to become a more perfect union, so I appreciate Her, Senator HARPOOTLIAN. Her, being the United States of America. I really believe that we make a mistake if we do not debate this issue in a serious kind of a way. One of the things that I have marveled about, since I have been a member of this Body, is oftentimes in committee meetings -- Senator CLIMER might say, "Well you know, I went back and I looked at the prior hearings to get a better understanding about what I'm hearing or about to hear." Actually, go back and research something because they want to make sure that they have gotten enough information to try to get something right. One could argue in this debate that it is an exercise in futility because it is never going to happen. There is never going to be a Convention of States. It is simply not going to happen. Before it happens, Congress will wake up and they will put into place the kinds of measures where the states will say no we do not need to do this. So, then states will have done what they believe is necessary to get Congress' attention. Ladies and gentlemen of the Senate, if that happens then I do not have a concern. My concern -- what if by some stretch of the imagination there is a Convention of States. What happens? Well, Justice Antonin Scalia, when dealing with this issue is quoted as saying, "I certainly would not want a constitutional convention, whoa! Who knows what would come out of it." That is a justice of the United States Supreme Court. A learned scholar in the issues of the constitution of our Union expressing a deep concern about what happens if there is a Constitutional Convention. Well, I know the scholars in here know that

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the last time they talked about a Constitutional Convention; it was on the Articles of Confederation. That is what they went in talking about and came out with the United States Constitution. That is my opinion because there were no sufficient rules in place to control the conversation. I would submit to this Body that there are no rules in place to control a Constitutional Convention. I do believe everything is on the table, and here is what is even more troubling to me than just that. We have talked about before this notion of experiments and democracy, and how that is what we live in right now, and the question is how strong is our Union, or how fragile is our democracy? I have maintained in terms of how we live in the State of South Carolina and in the United States of America that we are but a few votes away from turning back the clock. So, then I think it is incumbent upon every lawmaker everywhere to make sure that those kinds of rules, those kinds of laws are never enacted, because we ought to be about the business of going forward and not going backwards. We talked a bit about this experiment in democracy and we mentioned this notion of an experiment as it relates to the Convention of States -- nobody really knows. I understand that there was a simulated Convention of States that took place between the dates of September 21 to September 23, 2016. They simulated a Convention of States in Williamsburg, Virginia. That experiment based upon my reading did not exactly flush out the way that some had hoped and anticipated. I think one of the things that it did was highlighted some of the problems with a Convention of States. One of the things that I had an appreciation for, for a long period of time, and this experience with Convention of States has done nothing but reiterated what I always thought -- and that is, the well intentions of a lot of the proponents of this Bill. I appreciate, frankly, the information that some of you have been kind enough to share beyond the passage of the prior petition. The information relating to how many states are attempting to do what South Carolina is attempting to do. As I understand it, there is an intent to put a law in place. Such that if one of the delegates were to go beyond the directives then that delegate may face criminal penalties -- and grant you the real legal question as to whether or not that law will be constitutional, and whether or not that law can be enforceable because it's clear that those delegates will be performing a federal duty -- covered under the auspices of the federal government. So then the question is, "Can the state penalize an individual who is performing federal duties?" I am not a legal scholar so I do not know the answer to the question but I would venture to say, "I'm not alone. I'm absolutely not alone." Therefore, the question is,

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whether or not it is enforceable, but here is what I appreciate. -- we know that we are I think, the 19th state on the other petition. I missed yesterday, so I do not know how many states there are as it relates to this particular petition. Out of the 19 states, I believe and somebody correct me if I'm wrong, there were either eight or nine that have at least attempted to put safeguards in place so that if the delegates go rogue there are some consequences. What does that say? That says that there is no uniformity in how we approach this notion of controlling the convention. All that does is give opportunities for a wide-open kind of a convention where all cards are on the table, and to me, that is a serious problem. I have not heard any of the proponents of this Bill say that we want a wide-open convention. What I have heard is, "We want to control the convention." The question is can we really. We talked a bit about what rules would govern the convention. I think many of us were satisfied that Mason's Manual likely would be the one or if it is replaced. Here is the beauty or the absence of beauty in most of those kind of rules. Almost all of them, that I am aware of, says, in there we can do what? Change the rules so we will end up adopting rules where the rules say we can change the rules. That is almost a formula for no rules at all, or at least none in the beginning such that reasonable people can see it and say, well, wait a minute, there are rules in place. We cannot have any real confidence in that. Because they can be what? Be changed. I want to make sure in the annals of South Carolina history that if this record is reviewed, it is clear that we did not ignore the obvious. We did not just vote on the obvious because we thought it was popular, or in our heart of hearts, and minds of minds we thought it was the thing to do. We listened to what is considered the good. Somebody might call it the Clint Eastwood rule of rule -- what is considered the bad, and even what is considered the ugly. I do not believe that we have a situation, and I have to confess they say confession is good for the soul. I do not have the numbers on the balanced budget petition, so I do not know what the approach is for the proponents of this legislation. We do know what the approach was of the proponents of the prior legislation that has been passed by this Body. We know they could achieve their goals of getting 34 states to do the petition which would account for less than a third of American voters, and that if all it takes is a simple majority of them to pass the measure -- follow it, then we're talking about less than 17% of American voters. There's something fundamentally wrong and flawed when we allow 17% of the people of the United States of America to decide that we want to talk about changing the Constitution. In my mind, there is something

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fundamentally wrong with that. It flies in the face, in my opinion, of what we represent in terms of majority rules and that is why some have questioned whether or not it ought to be one state, one vote. I submit that will be a question that will override many of the conversations if this convention were ever to take place. Why? If we represent 83% of America, why should we be compelled to participate in an exercise that is controlled by 17%? Why should we have to do that? I mean it just seems fundamentally unfair to me for 17% of America to be able to tell the other 83% what they are required to do under our Constitution, but that is where we are headed. I appreciate so many of you for so many reasons. I think one of the things that I witnessed last week was conversations relating to our economy and where we ought to head. I, like Senator KIMPSON, appreciate those who bring levels of expertise to those kinds of issues. I always said to my basketball team back in my coaching days, "Hey, you've got to be a student of the game. You know, you got to be willing to learn and to adjust based on what you encounter, because you want to be a better athlete tomorrow than you are today. So the way that you grow and the way that you develop is to be a student of the game." Well, such is the case, I think, as relates to us and our duties and our responsibilities. We have to be students of this Body, and so we are unwilling to listen. If we are unwilling to follow the lead of those who know, then in my opinion it is a missed opportunity. It is a missed opportunity to grow and to develop and so I appreciate the conversation, and I especially appreciate and I will talk about an issue that Senator KIMPSON mentioned because I think that it fits, I think it is in sync. When I heard this notion that it is easy to do the easy things, but it is hard to do the hard things, and I think that is applicable in so many ways, and in so many areas of what we encounter. I think if one were to examine what we have done this year as a Senate, in terms of some of the Bills that have moved, I think perhaps there might be one or two of us that are amazed that we got so much done so quickly. I really think y'all that talking about race relations is a tough issue. I think it is a hard issue, and I would just encourage all of us to please, ma'ams and sirs, consider tackling hard issues. I have to say this -- I believe that we are all products of our experience. I think that what we encounter makes, molds, and shapes us into the individual that we ultimately are and are becoming. So, every once in a while an experience comes our way that we ought to be enriched and enhanced by, and every once in a while that experience puts us in a position to not just talk what we think and talk what we feel, but actually talk what we know. Therefore, when we think in terms of

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the Hate Crime Bill something was thrown our way, not something that we asked for. Frankly, something that we all wish we could have avoided encountering, but it was thrown our way. No other Senate in the United States of America has encountered what this Senate has encountered. No one has been victimized in a manner in which we have been victimized. I would submit that puts us in a position to lead based upon our experience and it is a missed opportunity. If we are the only one that does not act, it is a missed opportunity, because we are not reacting to our experience, and some would see divine that in which we encounter. I am not qualified to say that, but I know what I have experienced in the short time that I have been a member of this South Carolina Senate. I am urging my friends and neighbors to dig deep and so say let us at least have this hard conversation. I think we are eminently qualified to deal with it based upon those personal experiences that we have all had. I know that those of you who are not in the Body at that moment witnessed it just like all of South Carolina and the United States of America and the rest of the world witnessed it. We must not in my opinion -- my humble opinion we must take a step backwards. My grandmother used to tell me, "Son, you cannot control what people say about you, but you can control whether or not it is true." Therefore, I say that as a preference to saying that there would be some that would maintain that the reason why we have not acted is that we condone the conduct. There can be nothing farther than the truth, and I know like my grandmother said, we cannot control what they say, but y'all, we can erase the reasons why they say it. I believe that if a full and fair debate takes place, I believe this Body would move. I believe this Body would act and I believe we would get it right just like we have done on many of the other tough issues that have confronted this State and us over the years. I am finished with that.

I want to make two more points and then I will take my seat. The other important issue, I believe, is -- and I have to talk about the other Bill just for a minute, and its vagueness. I am sure that the architects in that drafted the Bill considered the four corners of what has been said, but I believe the drafters would have to admit that it is vague. I have an even greater appreciation as I reflected on my conversations with Senator KIMPSON and the things that we agreed with and we had scholarly disagreements about. One of the things that is clear and what I call petition number one is that it is unclear, and the biggest way to make mistakes, I think, is where there is an absence of clarity -- an absence of clarity -- I do not know who else wants to speak after I am finished, but

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I have an appreciation for the right to speak. I have an appreciation for the fact that most of us who disagree with the others of us would still defend our right to speak about that which we disagree with. Therefore, for the third time in conclusion, I will ever be mindful of something that I encountered when I just became a member of the Senate. Frankly, I do not remember what it was, but it was a compelling issue involving the State of South Carolina. One of the older, my humble opinion learned members of this Body, made it clear to the media and I think in a worldly like fashion, of course -- I don't know how far his words traveled. He said, "Look, we are not Republican Senators, we're not Democratic Senators, we are Senators of the State of South Carolina." I believed that statement to be true then. I believe that statement to be true now, but I would submit that that statement is a kin to experiment in democracy. I believe that statement to be fragile. I believe that statement to be breakable, but as long as the members of this Chamber are mindful of it and its significance, then it will last. Why should it last? It should last because of what we are most proud of, and that is this institution. Thank you, Mr. PRESIDENT.

ADDENDUM TO THE JOURNAL

The following remarks by Senator MASSEY were ordered printed in the Journal of April 20, 2022:

Remarks by Senator MASSEY

This morning I received an email from Clemson University informing me that it is "Give Day". The message reminded me of all the benefits I've received as a Clemson graduate. It went on to encourage me to make a financial contribution as a result of those benefits. I admit I am blessed and have certainly benefitted to be a graduate of Clemson University. However, I'm not sure they could have picked a worse time to send that solicitation to me. Clemson recently recognized "Pride Week", which included a number of events on campus -- one of which was a drag show. I have a number of thoughts about some of these things, including the use of student fees to host a drag show on campus in which a vice president received a lap dance. But, that's not why I'm up here. I want to talk about what happened after that. The day after the drag show, the university's College Republicans group issued a rebuke that contained strong language condemning the normalization of behavior the group criticized as being morally degrading. It was a strongly worded rebuke, condemning not just the drag show but Clemson's apparent endorsement

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and support. Over the long course of human history -- until the last 20 years or so -- the rebuke would have been received as the expression of self-evident truths. But that rebuke was not accepted as such in 2022. I want to be clear that the statement from the university's College Republicans criticizing the behavior the group disagreed with, and expressing their disappointment in the university's apparent endorsement of that behavior, did not call for students to be expelled from the university. The statement did not use an epithet. It did not call people names. The statement did not call for physical violence. The statement incited no such objectionable activity. It condemned the event and expressed disappointment in the university.

Now, when you engage in such a rebuke and offer that type of criticism, there's going to be a response. Indeed, there was a response. The university's College Republicans had to expect they were going to subject themselves to criticism. They were attacked for hate speech. Only terrible conduct should be punishable as that crime. There have been calls to investigate the College Republicans for violations of the student code of conduct which, by media reports, the university actually entertained before apparently declining to pursue. Then, of course, a Clemson provost issued a response from Clemson University on behalf of the provost and deans of Clemson University. The provost characterized the drag show where the vice president received a lap dance as merely a celebration of diversity and expressed the university's deep sadness over the hurtful comments contained in the criticism. Then the provost and deans -- in their official capacities -- proclaim they stand as advocates for the LGBTQ community. Y'all, there is a whole lot about this official response and the events surrounding it that I'm not happy about. My most immediate concern is that Clemson's administration has apparently adopted the Left's position that conservatives must not only tolerate, but accept as normal -- without criticism -- conduct with which we disagree. That is to say, failure to unconditionally accept conduct is hateful, bigoted, or almost always racist. The mere fact that we disagree makes us hateful, bigoted, and racist. That any type of public discourse in opposition to the world promoted by the Left should be shut down. For all the Left's talk of equality and inclusion, the only equality they want is for them to be included. The only thing they want to be included is their own conduct that others might disagree with. They want this political speech to be cancelled.

A few years ago, as you might recall, Clemson made national news because of a professor who repeatedly called all Republicans racist. He

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went so far as to say we “racist Republicans” should be punched. The professor actually called for physical violence. Yet, the university did not terminate him for those comments. Nary a peep from the Left that persistently demands equality and inclusion. Frankly, no matter how much I disagreed with his comments, I didn't think the guy should be fired. I thought any attempt by that guy to punch anybody was going to be an interesting sight.

Clemson has gained a great amount of positive national attention in recent years. I'm proud of that, not only as a graduate, but also as a South Carolinian. I'm proud that students across the country want to come to Clemson University. But I don't want Clemson to be the Berkeley of South Carolina. Clemson cannot on the one hand, promote and endorse activity and then, on the other hand, shut down criticism of the promotion and endorsement of that activity. Clemson, nor any university or college in South Carolina, should not be engaged in shutting down what is purely political speech. Again, there was no hateful name calling. There were no epithets. There were no calls for physical violence. The students were calling out behavior they disagreed with. They condemned it. Clemson's response was to shut them down. I have expressed my dissatisfaction, to put it lightly, to members of the board and to President Clements.

Members of the Senate, I think either this type of activity by Clemson University has to change or the board members and those who allow it to happen have to change. Mr. President, board members, this cannot happen again. It is unacceptable.

SECOND READING BILL

The following Bill, having been read the second time, was ordered placed on the third reading Calendar:

H. 5339 -- Reps. Lowe, R. Williams, Jordan, Kirby and Alexander: A BILL TO PROVIDE, AMONG OTHER THINGS, THAT PURSUANT TO THE STATE SUPERINTENDENT OF EDUCATION'S EMERGENCY DECLARATION AND MANDATORY CONSOLIDATION OF FLORENCE COUNTY SCHOOL DISTRICT ONE AND FLORENCE COUNTY SCHOOL DISTRICT FOUR, THE RESULTING CONSOLIDATED SCHOOL DISTRICT MUST BE KNOWN AS FLORENCE COUNTY SCHOOL DISTRICT ONE; TO PROVIDE THAT BEGINNING JULY 1, 2022, FLORENCE COUNTY SCHOOL DISTRICT ONE MUST BE GOVERNED INITIALLY BY A NINE-MEMBER BOARD OF TRUSTEES TO BE APPOINTED BY

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A MAJORITY OF THE FLORENCE COUNTY LEGISLATIVE DELEGATION; TO ESTABLISH AND REAPPORTION NINE SINGLE-MEMBER ELECTION DISTRICTS FROM THE COMBINED GEOGRAPHIC AREA OF FLORENCE COUNTY SCHOOL DISTRICT ONE AND FLORENCE COUNTY SCHOOL DISTRICT FOUR FROM WHICH, BEGINNING WITH THE 2022 SCHOOL DISTRICT ELECTIONS, THE GOVERNING BODY OF FLORENCE COUNTY SCHOOL DISTRICT ONE MUST BE ELECTED; TO PROVIDE THAT THE MEMBERS OF THE FLORENCE COUNTY SCHOOL DISTRICT ONE BOARD OF TRUSTEES MUST BE ELECTED IN NONPARTISAN ELECTIONS CONDUCTED AT THE SAME TIME AS THE GENERAL ELECTION AND EVERY TWO OR FOUR YEARS THEREAFTER AS NECESSARY TO STAGGER THE MEMBERS' TERMS; TO PROVIDE FOR A FLORENCE COUNTY SCHOOL DISTRICT ONE MAP THAT DELINEATES THE NINE SINGLE-MEMBER ELECTION DISTRICTS; AND TO PROVIDE DEMOGRAPHIC INFORMATION FOR THESE NINE SINGLE-MEMBER ELECTION DISTRICTS.

On motion of Senator K. JOHNSON.

ADJOURNMENT

At 11:06 A.M., on motion of Senator JACKSON, the Senate adjourned to meet next Tuesday, May 10, 2022, at 12:00 P.M.

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