

Criminal code approved

NT-Penal Code

By Harvey Fisher
The Record Trenton Bureau

7-28-78 Section on sex acts protested

TRENTON — State senators were called "perverts" and "sodomites" last night after passing New Jersey's first criminal code, which, in part, legalizes all forms of homosexual and heterosexual lovemaking between consenting adults.

Within seconds after the Senate voted 24-14 to send the code to Gov. Byrne, some 50 spectators — many of whom were elderly women — began waving their fists and pointing accusing fingers at the stunned senators. "Perverts, sodomites, garbage," they shouted and chanted as Senate President Joseph Merlino ordered state police to clear the gallery and make arrests if necessary. Peace was restored quickly, and then the Senate, without a word of debate,

gave final legislative approval to a bill restoring capital punishment. There were immediate indications of increased sentiment in favor of overriding the expected Byrne veto of the bill.

It is unclear whether both houses will be able to muster the two-thirds vote required to override.

Byrne has said he will sign the criminal code and veto the death penalty. In 1972 he was the Superior Court judge who struck down capital punishment as unconstitutional.

The new penal code, which covers all criminal laws except the drug statutes, will take effect a year after Byrne signs it.

He has called enactment of a code

one of the major priorities of his administration.

Many amendments are expected to be offered between the signing of the code and its effective date.

It took heavy lobbying by some of Byrne's chief aides yesterday before Senate Democrats agreed in caucus to ratify amendments added to the code by the Assembly. Some senators wanted to further amend the code immediately, especially to remove a section repealing the 1959 ban on Sunday sales of certain items.

Those senators won from Byrne a promise that he would support separate bills deleting the repeal of Sunday selling ban and ordering the 10 counties, in-

cluding Bergen and Passaic, which prohibit Sunday sales to hold referendums this November on whether to continue the ban.

Byrne says he would prefer to see Sunday sales bans eliminated.

The referendum bill was submitted by Sen. Frank Graves, D-Paterson. The decision of the voters in each of the 10 counties would prevail under his legislation, even if the bill deleting the repeal of the sales ban fails to be enacted.

Both bills are scheduled for Senate votes Aug. 14. Senate Republicans last night introduced similar legislation, which likely will gather dust because Democrats have solid control of the upper house.

Senate Majority Leader John Russo,

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the sponsor of the death penalty measure, said again that he would not move to override a Byrne veto unless he was reasonably sure of success.

Several weeks ago, Sen. Walter Sheil and other Hudson County senators who had supported a return to the electric chair, said they nevertheless would oppose a veto override because they did not want to jeopardize Hudson's good relationship with Byrne. But in a sudden shift yesterday, Sheil, who as Hudson Democratic Chairman signals the organization's positions on issues, said he probably would support an override.

If the Hudson County delegation goes against Byrne's veto, an override could be possible. Byrne is likely to pressure heavily against such a move.

Protesters angry at Maressa

The protesters in the Senate gallery essentially were outraged over sections of the criminal code legalizing adult homosexual behavior. Such behavior currently is subject to prosecution under the laws against sodomy. The protesters also oppose part of the code permitting municipalities to establish zones in which the sales of pornographic materials would be legal.

The demonstrators were escorted out of the State House by state police. No arrests were made.

Sen. Joseph Maressa, who had been

championing the protesters' cause, voted for the penal code, and the protesters immediately turned on him. The Camden County Democrat said he will attempt later this year to eliminate the pornography zones and reestablish the sodomy laws through separate amendments to the code.

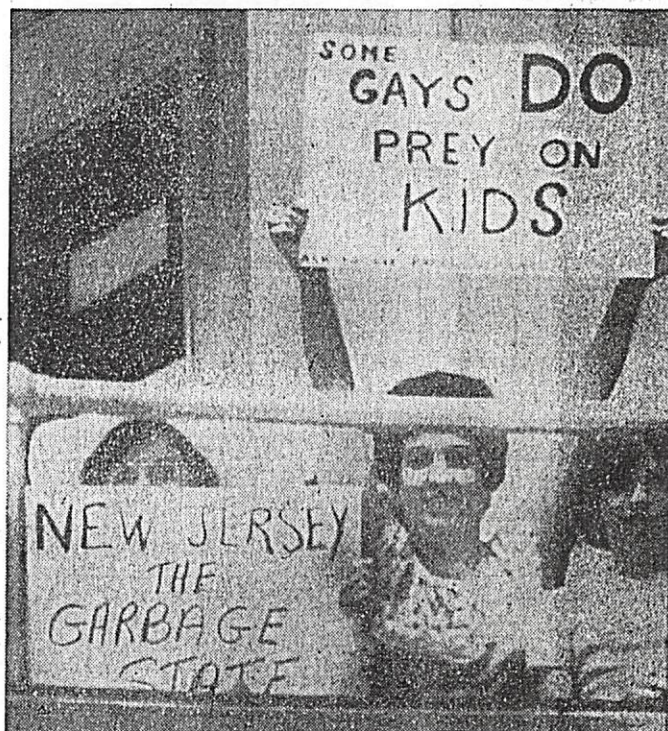
At one point during the debate, he permitted an anti-homosexual lobbyist to sit next to him on the floor of the Senate in open violation of Senate rules. When a sergeant-at-arms asked the woman to leave, Maressa insisted she was his aide. A check with the Senate clerk's office showed she is not.

'Shame on you'

"Shame on you, shame on you," a protester yelled. "Maressa sold us out," another screamed. Still another shouted, "Some gays do prey on kids."

While much of the controversy yesterday centered on the repeal of the Sunday sales ban and the sections dealing with adult sexual behavior and preferences, those matters actually are a small — and some say relatively unimportant — part of the mammoth criminal code.

The code makes major changes in defining crimes and specifying penalties. For the first time, all criminal laws except those concerning drug infractions would be in a single volume. All common laws — those established by rul-



UPI Photo

Women in the Senate gallery make known their feelings about the state's new criminal code, which legalizes homosexual acts.

ings of the courts rather than by the legislature — would be abolished.

Members of organized crime, murderers, and habitual offenders could face life sentences with no chance of parole until they have served 25 years. The discretion judges now have in de-

termining sentences would be limited.

Under Russo's death penalty bill, capital punishment could be imposed only for premeditated murder or murder by a hired killer. Once a guilty verdict has been rendered, a separate trial would be required to determine the sentence.