

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

***One Hundred and Eighth
Legislature***

OF THE

STATE OF MAINE

Volume II

May 26, 1977 to July 25, 1977

Index

**Senate Confirmation Session
September 16, 1977**

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KJ PRINTING
AUGUSTA, MAINE

Came from the Senate with the Majority "Ought to Pass" as amended by Committee Amendment "A" (S-224) Report read and accepted and the Bill Passed to be Engrossed as amended by Committee Amendment "A" (S-224).

In the House: Reports were read.

The SPEAKER: The Chair recognizes the gentleman from Bangor, Mr. Henderson.

Mr. HENDERSON: Mr. Speaker, I move we accept the Majority "Ought to Pass" Report.

The SPEAKER: The Chair recognizes the gentleman from Lincoln, Mr. MacEachern.

Mr. MacEACHERN: Mr. Speaker, I would just like to have somebody explain to me what a substate district is and what this bill does.

The SPEAKER: The gentleman from Lincoln, Mr. MacEachern, has posed a question through the Chair to anyone who may care to answer.

The Chair recognizes the gentleman from Bangor, Mr. Henderson.

Mr. HENDERSON: Mr. Speaker, Ladies and Gentlemen of the House: A substate district is your average Health and Welfare administrative district or planning district, school district sometimes, sewer districts, water districts, etc., and the Governor introduced a bill proposing that somebody study all these things and try to come up with some rational organization of them, so this report suggests that a committee of the legislature and four people appointed by the Governor study that and come back at the next regular session to report to the legislature on what we can do about it.

Thereupon, the Majority "Ought to Pass" Report was accepted in concurrence and the Resolve read once. Committee Amendment "A" (S-224) was read by the Clerk and adopted and the Resolve assigned for second reading tomorrow.

Divided Report Tabled and Assigned

Majority Report of the Committee on Taxation reporting "Ought Not to Pass" on Bill "An Act to Repeal the Personal Property Tax on Commercial Fishing Vessels and Equipment" (S. P. 233) (L. D. 730)

Report was signed by the following members:

Messrs. CARTER of Bangor
TEAGUE of Fairfield
IMMONEN of West Paris
CAREY of Waterville
COX of Brewer
MACKEL of Wells
TWITCHELL of Norway

Mrs. CHONKO of Topsham

— of the House.

Minority Report of the same Committee reporting "Ought to Pass" on same Bill.

Report was signed by the following members:

Messrs. JACKSON of Cumberland
WYMAN of Washington
MARTIN of Aroostook

— of the Senate.

Mr. MAXWELL of Jay

Mrs. POST of Owls Head

— of the House.

Came from the Senate with the Minority "Ought to Pass" Report read and accepted and the Bill Passed to be Engrossed.

In the House: Reports were read.

Mr. Carey of Waterville moved that the Majority "Ought Not to Pass" Report be accepted in non-concurrence.

On motion of the same gentleman, tabled pending his motion to accept the Majority Report in non-concurrence and specially assigned for Monday, June 20.

Non-Concurrent Matter

Bill "An Act Granting Implied Power to the

Public Utilities Commission" (H. P. 295) (L. D. 352) which was passed to be engrossed in the House on June 14, 1977

Came from the Senate passed to be engrossed as amended by Senate Amendment "A" (S-261) in non-concurrence.

In the House: On motion of Mr. Tarbell of Bangor, the House voted to recede and concur.

Non-Concurrent Matter

Bill "An Act Prohibiting the Dissemination of Obscene Matter to Minors" (S. P. 533) (L. D. 1861) which was passed to be engrossed as amended by Senate Amendment "A" (S-216) and House Amendment "A" (H-637) in the House on June 15, 1977.

Came from the Senate passed to be engrossed as amended by House Amendment "A" (H-637) in non-concurrence.

In the House: The House voted to recede and concur.

Non-Concurrent Matter

Resolution, Proposing an Amendment to the Constitution to Permit the Governor to Veto Items Contained in Bills Appropriating Money and Retaining the Power Within the Legislature to Override such Item Vetoes (H. P. 1287) (L. D., 1520) on which the Majority "Ought Not to Pass" Report of the Committee on State Government was read and accepted in the House on June 13, 1977.

Came from the Senate with the Minority "Ought to Pass" Report of the Committee on State Government read and accepted and the Resolution was passed to be engrossed as amended by Senate Amendment "A" (S-264) in non-concurrence.

In the House: Mr. Curran of South Portland moved that the House adhere.

The SPEAKER: The Chair recognizes the gentleman from Waterville, Mr. Boudreau.

Mr. BOUDREAU: Mr. Speaker and Members of the House: This amendment on the bill now says that the Governor will not be able to reduce any items. After what happened in here yesterday, I sort of feel like a sheep in a wolf's pack here with this bill, but when I first came to the legislature it seemed like everybody was running for Governor, so I figured I would get a lot of votes on this bill, but apparently that is not the situation any more. I move to recede and concur and ask for a roll call.

The SPEAKER: The Chair recognizes the gentleman from Nobleboro, Mr. Palmer.

Mr. PALMER: Mr. Speaker, Ladies and Gentlemen of the House: I do hesitate myself to rise on this after the episode of yesterday, but I would like to seriously address myself to it. I think that the gentleman from South Portland made some very good points when he first spoke on this bill and said that the bill was not a good bill in the past but this was worse because of the fact that there was a provision in it that a governor could reduce the budget and send it back to us. I think the Senate Amendment has taken care of that, and I would earnestly say to you I believe, as I did two years ago when we debated this measure, that it is a good measure, in spite of what might have happened here yesterday or the day before. I see this as not taking away any of the powers of the legislature because, indeed, it does give the legislature the right to override that veto on an individual item. It seems to me that it is a responsible action.

This House did pass this, I think, within perhaps an eight point margin two years ago when they voted in the item veto for the governor. It has been for many years an item which I think particularly the Democrat Party has favored, and I am sure that in recent years the Republican Party has come around to the same thinking.

I think that we have to indeed look at the issue

without the emotionalism of events which might have transpired here this year and say to ourselves, this is indeed a reasonable thing, that a governor should have a right to make an item veto and that the legislature indeed still has that right to override if they do not agree with him. It seems to me it is a much more responsible action than simply saying to a governor "here is a budget of umpteen pages, you take it all, or you take nothing." I think reasonable minds can prevail and I think we should recede and concur and give this another chance as we go around, just once more.

The SPEAKER: The Chair recognizes the gentleman from South Portland, Mr. Curran.

Mr. CURRAN: Mr. Speaker, Ladies and Gentlemen of the House: Once again I stand to oppose this particular piece of legislation. I am not willing to overlook the message that was sent loud and clear to this House in the form of a letter yesterday, and I would ask you to envision what would happen with that Part I Budget if there were an item veto. As I said the other day, what we need to do is to revamp our Part I Budget in the way we handle it before we start giving item vetoes.

I am still opposed to the bill. Even though my party has supported it in the platform and I was the platform chairman, I still oppose it. I hope that you will give this a great deal of thought, especially here in the people's House. If you are going to support the item veto, then you can save even more money and just send him down a total figure and let him put it anywhere he wants. Don't bother to go through the budget line for line, item for item, just send him a figure and let him tuck it here, there and everywhere. But you can be sure, it is not going to get tucked into the University of Maine, and from the thinking of the other body, everyone will be sustained.

The SPEAKER: The Chair recognizes the gentleman from Augusta, Mr. Bustin.

Mr. BUSTIN: Mr. Speaker, relative to the remarks of the Minority Floor Leader and the particular interest of the Maine Times this week, I am wondering if there is any area of potential conflict of interest, is there any rule on anything about that? I would suggest that Mr. Boudreau's analogy is not quite accurate, I think he is more like a wolf in a sheep pack.

The SPEAKER: The Chair recognizes the gentleman from Cumberland, Mr. Garsoe.

Mr. GARSOE: Mr. Speaker and Members of the House: In response to the gentleman from Augusta, I hope the gentleman in the left corner is in a big conflict of interest-potentially. But I would hope we would have better reasons to turn this down than those we heard from the distinguished gentleman from South Portland. He is preying, raising fears that this body should have as to what might happen to a budget. He says, send him down a total figure, we will relinquish all our powers. I don't buy that.

In a way, I am glad that we are spending more time debating this issue than we did the \$800 million budget that we sent through here the other day. I think that was a tribute to our people on the Appropriations Committee and the work that we know they have done on it, but I insist that inasmuch as that particular budget has gone up more than the total budget was in 1961, that it is an indication of an increasing complexity of the financing of state government, the interrelation and the interactions of the various federal and state programs, and I submit that we have nothing to fear from an individual from another perspective taking a look at what we have passed and possibly sending back something to us for our reconsideration, and that is all it would be. Do we, after reconsideration, wish to insist on our former action? These budgets don't go out of here in any way except with a two thirds majority, and I just hope I am going to hear something better than

we have heard yet as to why the party that has been supporting this for so long is now going the other way.

I would hope we could go along with this measure and allow the Chief Executive the opportunity to reach into an ever increasingly complexed piece of business, single out one or more items and send them back to us for our reconsideration. I refute the contention that we are in any way decreasing our powers.

The SPEAKER: The Chair recognizes the gentleman from Brewer Mr. Norris.

Mr. NORRIS: Mr. Speaker, Ladies and Gentlemen of the House: Very briefly, I know there are folks here that can debate this much more ably than I, but after the message from the Governor yesterday, and taking a hypothetical situation in this time and place and some of the conversation that I had with a lot of my good colleagues, if he were to veto the University of Maine appropriation in the present budget, if this were hypothetically possible, I would shudder to think what would happen if that single item came back before this House just from the conversation that is floating across here right now, that perhaps he was right, perhaps there was not time enough given to the Part I Budget. I heard my good assistant say, Perhaps there was not enough said on it. I submit, this is a political proposition and that the University of Maine was in there because they never could have passed the Part I Budget without it.

The SPEAKER: The Chair recognizes the gentleman from Cumberland, Mr. Garsoe.

Mr. GARSOE: Mr. Speaker and Members of the House: If in my usual inept way I implied any criticism of the Appropriations Committee, I want to correct it. I thought I made it very clear that the reason we had so little debate over that budget was because of our confidence in the work they had done. I only pointed out that in the event someone from a different point of view wanted us to relook at an issue, that certainly this would be in the best interest of everyone concerned.

The SPEAKER: The Chair recognizes the gentleman from Portland, Mrs. Najarian.

Mrs. NAJARIAN: Mr. Speaker, Members of the House: I don't know if Mr. Garsoe will like my reasons for being against the item veto for a governor any better than any of the other reasons he has heard, but I don't think that the governor of Maine needs an item veto, because our appropriation process is unique.

The governor submits his budget to the legislature on his programs that he wants. We have hearings on every item on that budget. He has an opportunity again for his commissioners or members of his departments to come and justify those requests. We also hear from members of the public and people from all over the state on their feelings about the amounts and so forth in the budget. Then, after hearing from everybody who wants to speak, then we make our decision. The governor has input into that all along.

Finally, Maine is the only state in the Union that has an Appropriations Table. We send those bills down to him one by one which he can veto, any new and expanded programs or usually in single L.D.'s, and the governor, in effect, does have an item veto on every new program at any rate.

I just think that the governor makes certain cuts and the legislature might restore those cuts, and while you might get a majority to support it, it might be very difficult to get two thirds of the legislature to support a single item in a program, like the tree planting program which he cut out, like the nursery in Northern Maine which he cut out. There might be a lot of city folks that that would not mean anything to and they might just go along with the governor on that although it is an important program. I just think that we would be right back where we

started at the beginning of the year when he first presented his budget if we allowed the governor to item veto any item in that budget, and that is why I am opposed to it.

The SPEAKER: The Chair recognizes the gentleman from Bath, Ms. Goodwin.

Ms. GOODWIN: Mr. Speaker, Men and Women of the House: If there is anyone in this body today who ought to want to see this particular piece of legislation stomped into the ground, it is I. However, I don't think that this is a party issue. This is something I have supported since I first came to the legislature in 1969 and I still support it, and I say that the issue is not the man, but the office. I believe that the office of governor should have the power of item veto. I believe that if an item is worthy of our support, that it can stand on its own, and I hope you will recede and concur.

The SPEAKER: The Chair recognizes the gentleman from Waterville, Mr. Carey.

Mr. CAREY: Mr. Speaker, Ladies and Gentlemen of the House: This is not concerning itself with what happened yesterday, because Mr. Kelleher and I have consistently fought the item veto. We fought it six years ago before the State Government Committee, we fought it four years ago again before another committee. I have the item veto as the Mayor of the City of Waterville, it is built into our charter, and I have never used the item veto. I feel that I should be able to get my message across to the council who puts the budget together. I see no reason why the governor can't act the same way.

If anybody in this country ought to have the item veto, it certainly should not be the Mayor of Waterville, it should not be the Governor of the State of Maine, it should be the President of the United States, and he hasn't got it, and they can throw all kinds of garbage in the bills that they pass in Washington.

But I would like to bring out to you that it is up to us to dispose of matter, it is up to the governor to propose, and can you picture in your own mind a Human Services budget getting two-thirds vote to override a governor's veto in that other body down the other end of the hall? I certainly can't, and it is for that reason alone that I would vote against this receding and concurring.

The SPEAKER: The Chair recognizes the gentleman from Gorham, Mr. Quinn.

Mr. QUINN: Mr. Speaker, Members of the House: No matter how long I know the lady from Bath, my respect for her increases almost daily. I must commend and compliment her particularly statesmanlike position on the item veto. They say if you stay in this line of work long enough you will see everything. I thought I had seen everything today when I saw the left side of this hall for the item veto and the right side, or at least many speaking for the right side, opposed to it.

I am not speaking as a leader, I am speaking, however, as a Democrat, that is for sure, and I think the item veto represents good government, I think it represents good management, and I don't think that it would be treated on the basis of personality. The Democratic Party in this state has long wanted the item veto, it has been an item of platform consideration many many times repeatedly. It has been presented by Democrats as a member of democratic policy for at least three past legislatures, which current research tells me, so while I am as practical as anyone else in realizing the chances of this passing today, I do compliment Ms. Goodwin for her stand in a statesmanlike manner and I do support her.

The SPEAKER: The Chair recognizes the gentleman from Nobleboro, Mr. Palmer.

Mr. PALMER: Mr. Speaker, Ladies and Gentlemen of the House: Very briefly, I just want to add that I did not, by standing to speak on this, in any way try to infer this is a partisan

issue. I don't believe that it is and I commend the good lady from Bath for her remarks. I think this is not a partisan issue, it is something we can look at philosophically without regard to who is in the governor's office.

I think that the very statement made by the good gentleman from Waterville that the President of the United States doesn't have it is one of the best examples of why we should have it. I think there is more garbage thrown at the President of the United States without his ability to item veto than there ever should be for responsible fiscal management at the federal level. So, I would hope that we would view this thing not as a partisan issue and not as something personal but simply as an exercise in good government, and I hope we do recede and concur.

The SPEAKER: A roll call has been requested. For the Chair to order a roll call, it must have the expressed desire of one fifth of the members present and voting. All those desiring a roll call vote will vote yes; those opposed will vote no.

A vote of the House was taken, and more than one fifth of the members present having expressed a desire for a roll call, a roll call was ordered.

The SPEAKER: The pending question is on the motion of the gentleman from Waterville, Mr. Boudreau, that the House recede and concur. All those in favor of that motion will vote yes; those opposed will vote no.

The Chair recognizes the gentleman from Bethel, Miss Brown.

Miss BROWN: Mr. Speaker, I would like to pair my vote with Mr. Goodwin from South Berwick. If Mr. Goodwin were here, he would be voting no and I would be voting yes.

The SPEAKER: The Chair recognizes the gentleman from Freeport, Ms. Clark.

Mrs. CLARK: Mr. Speaker, I request to pair my vote with the gentleman from Portland, Representative Talbot. If he were here, he would be voting no and I would be voting yes.

ROLL CALL

YEA — Aloupis, Bagley, Benoit, Berry, Berube, Biron, Birt, Boudreau, A.; Boudreau, P.; Brown, K.C.; Burns, Bustin, Carroll, Carter, F.; Churchill, Conners, Cox, Cunningham, Cevoe, Dow, Drinkwater, Dudley, Durgin, Garsoe, Gill, Gillis, Goodwin, K.; Gould, Gray, Greenlaw, Henderson, Higgins, Hunter, Hutchings, Kany, Lewis, Littlefield, Lizotte, MacEachern, Mackel, Marshall, Masterman, Masterton, McKean, Mills, Mitchell, Moody, Morton, Nelson, M.; Nelson, N.; Palmer, Peakes, Quinn, Raymond, Rideout, Rollins, Sewall, Spencer, Sprowl, Stubbs, Tarbell, Tarr, Teague, Torrey, Tozier, The Speaker.

NAY — Ault, Bachrach, Beaulieu, Bennett, Blodgett, Brennerman, Carey, Carter, D.; Chonko, Connolly, Cote, Curran, Davies, Diamond, Dutremble, Elias, Fenlason, Flanagan, Fowlie, Gauthier, Hall, Hickey, Howe, Huber, Hughes, Jackson, Jensen, Joyce, Kane, Kerry, Kilcoyne, LaPlante, Locke, Lougee, Martin, A.; McBreairty, McHenry, Nadeau, Najarians, Norris, Peltier, Perkins, Peterson, Plourde, Shute, Silby, Smith, Strout, Theriault, Trafton, Truman, Valentine, Whittemore, Wilfong, Wood, Wyman.

ABSENT — Austin, Bunker, Carrier, Dexter, Green, Hobbins, Immonen, Jacques, Jalbent, Kelleher, Laffin, LeBlanc, Lunt, Lynch, Mahany, Maxwell, McMahon, McPherson, Pearson, Post, Prescott, Stover, Tierney, Twitchell, Tyndale.

PAIRED — Brown, K.L.; Clar, Goodwin, H.; Talbot.

Yes, 66; No, 56; Absent, 25; Paired, 4.

The SPEAKER: Sixty-six having voted in the affirmative and fifty-six in the negative, with twenty-five being absent and four paired, the motion does prevail.

The Chair recognizes the gentleman from Augusta, Mr. Bustin.

Mr. BUSTIN: Mr. Speaker, having voted on the prevailing side, I move we reconsider whereby we receded and concurred and I would further move that this lie on the table for one legislative day.

Thereupon, Mr. Quinn or Gorham requested a division.

The SPEAKER: The pending question is on the motion of the gentleman from Augusta, Mr. Bustin, that this matter be tabled pending his motion to reconsider and tomorrow assigned. All those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

59 having voted in the affirmative and 57 having voted in the negative, the motion did prevail.

Non-Concurrent Matter

Bill "An Act to Expedite Court Handling of Fish and Wildlife Violations of a Misdemeanor Nature by a System of Convenient Payment" (H. P. 865) (L. D. 1053) which was passed to be engrossed as amended by House Amendment "A" (H-609) in the House on June 14, 1977.

Came from the Senate passed to be engrossed in non-concurrence.

In the House: On motion of Mr. McKean of Limestone, the House voted to insist and ask for a Committee of Conference.

Consent Calendar

First Day

(S. P. 441) (L. D. 1552) Bill "An Act to Provide for Marine Resources Education by the Department of Marine Resources and to Establish a Marine Communication Center" — Committee on Marine Resources reporting "Ought to Pass" as amended by Committee Amendment "A" (S-253)

(S. P. 374) (L. D. 1218) Bill "An Act to Allow Public Inspection of Absentee Ballot Applications and Envelopes" — Committee on Election Laws reporting "Ought to Pass" as amended by Committee Amendment "A" (S-249)

(S. P. 339) (L. D. 1124) Bill "An Act to Require Implementation of Standards of Treatment for Residential Drug Treatment Centers Related to Special Education" — Committee on Health and Institutional Services reporting "Ought to Pass" as amended by Committee Amendment "A" (S-241)

(S. P. 342) (L. D. 1126) Bill "An Act to Provide for Special Education Facilities for Children at Drug Treatment Centers" — Committee on Health and Institutional Services reporting "Ought to Pass" as amended by Committee Amendment "A" (S-242)

(S. P. 116) (L. D. 275) Bill "An Act Amending the Maine Property Insurance Cancellation Control Act" — Committee on Business Legislation reporting "Ought to Pass" as amended by Committee Amendment "A" (S-243)

(S. P. 101) (L. D. 230) Bill "An Act Relating to Vaulation of Real Estate Held by Insurers" — Committee on Business Legislation reporting "Ought to Pass" as amended by Committee Amendment "A" (S-248)

(S. P. 117) (L. D. 276) Bill "An Act to Make Certain Revisions in Highway Related Laws Concerning State Aid Funds" Committee on Transportation reporting "Ought to Pass" as amended by Committee Amendment "A" (S-246)

No objections having been noted, the above items were ordered to appear on the Consent Calendar of Friday, June 10, under listing of Second Day.

The Chair laid before the House the following matter:

Bill "An Act to Revise Certain Motor Vehicle

Related Laws" (H. P. 246) (L. D. 336) (C. "A" H-597) which was tabled earlier in the day and later today assigned pending passage to be engrossed.

On motion of Mr. Carroll of Limerick, the House reconsidered its action whereby Committee Amendment "A" was adopted.

The same gentleman offered House Amendment "A" to Committee Amendment "A" and moved its adoption.

House Amendment "A" to Committee Amendment "A" (H-683) was read by the Clerk.

The SPEAKER: The Chair recognizes the gentleman from Corinth, Mr. Strout.

Mr. STROUT: Mr. Speaker, Ladies and Gentlemen of the House: I haven't had a chance to look at this amendment and there are some things that concern me. I would hope that somebody might table this for one day.

The SPEAKER: The Chair recognizes the gentleman from Limerick, Mr. Carroll.

Mr. CARROLL: Mr. Speaker, Ladies and Gentlemen of the House: Actually, this amendment is just trying to clear up some of the discrepancies in passing a law that takes effect 90 days after we adjourn and then passing the highway allocation act which would have an emergency preamble to take place immediately. Then in 90 days we would be rescinding our action. I am just trying to clear up some of our actions so we don't have contradicting legislation. There is no sneaky move here. I can assure you of that. I would be the first one to holler if I thought there was. If you do want it tabled and it is agreeable to all, we will table it for one day.

The SPEAKER: The Chair recognizes the gentleman from Corinth, Mr. Strout.

Mr. STROUT: Mr. Speaker, on the back side concerning the motorcycle or motor driven cycle learner's permit, it seems here that we are extending this until September 1, 1978, and I really don't have an answer to this thing and I think it should be tabled for one day.

The SPEAKER: The Chair recognizes the gentleman from Limerick, Mr. Carroll.

Mr. CARROLL: Mr. Speaker and Members of the House: The reason we are extending this one year is because at the present time we don't have any programs or any licensed people to have these programs put into effect, so we are giving this an extension of one year.

On motion of Mr. Jensen of Portland, tabled pending adoption of House Amendment "A" to Committee Amendment "A" and tomorrow assigned.

The Chair laid before the House the following matter:

Bill "An Act to Clarify and Modify Causes for 7-Day Notice of Termination of Tenancy at Will" (H. P. 988) (L. D. 1199) (C. "A" H-536) which was tabled earlier in the day and later today assigned pending passage to be engrossed.

The SPEAKER: The Chair recognizes the gentleman from Standish, Mr. Spencer.

Mr. SPENCER: Mr. Speaker, this bill was tabled until later in today's session because Mr. Tarbell had an amendment that he was prepared to offer. I don't see him in his seat, could this be tabled one day.

Thereupon, on motion of Mr. Palmer of Nobleboro, tabled pending passage to be engrossed as amended and tomorrow assigned.

(Off Record Remarks)

On motion of Mr. Davies of Orono,

Adjourned until nine-thirty tomorrow morning.