

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

One Hundred And Sixteenth Legislature

OF THE

State Of Maine

VOLUME IV

FIRST REGULAR SESSION

Senate

May 19, 1993 to July 14, 1993

FIRST CONFIRMATION SESSION

October 14, 1993

Is the Senate ready for the question?

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEAS: Senators AMERO, BEGLEY, BERUBE, BUTLAND, CAHILL, CARPENTER, FOSTER, GOULD, HALL, HANLEY, HARRIMAN, KIEFFER, LUDWIG, LUTHER, MARDEN, SUMMERS, WEBSTER

NAYS: Senators BALDACCI, BRANNIGAN, BUSTIN, CAREY, CIANCHETTE, CONLEY, ESTY, HANDY, LAWRENCE, MCCORMICK, O'DEA, PARADIS, PEARSON, PINGREE, TITCOMB, VOSE, THE PRESIDENT - DENNIS L. DUTREMBLE

ABSENT: Senator CLEVELAND

17 Senators having voted in the affirmative and 17 Senators having voted in the negative, with 1 Senator being absent, the motion by the **CHAIR** to **RECONSIDER ACCEPTANCE** of the Majority **OUGHT NOT TO PASS** Report, in concurrence, **FAILED**.

The Chair laid before the Senate the Tabled and Later Today Assigned matter:

HOUSE REPORTS - from the Committee on **APPROPRIATIONS & FINANCIAL AFFAIRS** on **RESOLUTION**, Proposing an Amendment to the Constitution of Maine to Provide the Governor with a Line-item Veto
H.P. 948 L.D. 1277

Majority - **Ought Not to Pass**

Minority - **Ought to Pass as Amended by Committee Amendment "A" (H-338)**

Tabled - May 25, 1993, by Senator **ESTY** of Cumberland.

Pending - **ACCEPTANCE** of Either Report

(In Senate, May 24, 1993, Reports **READ**.)

(In House, May 24, 1993, Minority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-338) AS AMENDED BY HOUSE AMENDMENT "A" (H-393)** thereto.)

Senator **TITCOMB** of Cumberland moved that the Senate **ACCEPT** the Majority **OUGHT NOT TO PASS** Report in **NON-CONCURRENCE**.

THE PRESIDENT: The Chair recognizes the Senator from Oxford, Senator Hanley.

Senator **HANLEY:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I would ask that the Committee Report be read. Thank you.

Which Report was **READ**.

THE PRESIDENT: The Chair recognizes the Senator from Oxford, Senator Hanley.

Senator **HANLEY:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I was very encouraged when I saw the Report come out of the Appropriations Committee, having been on a line-item veto Bill in the past, it was good to see a nice, strong, bipartisan vote out of the Appropriations Committee. It is also important to note that this line-item veto, of which 44 States currently have, only 5 of those States allow for a majority override of the line-item veto. The Bill in front of you now only requires a majority vote to override a line-item veto. It is not a two-thirds vote, as 34 States have, it is not a three-fifths vote, as the remainder of the States have. The Bangor Daily News gave a very favorable editorial as far as if we were ever to have a line-item veto, now is the year, the timing is right to hold the legislature and the Governor, both, accountable for the budget. How many times have I heard comments from both sides of the aisle, well it's the legislature that finally adopts the budget so it is the legislature's budget, the Governor doesn't have to be held accountable. This line-item veto, a very reasonable and moderate measure, would hold the Governor accountable. For those of us in the chamber, and I have heard the arguments before, let's hold the Governor accountable, this should be a unanimous report and there should be a unanimous vote from this chamber. You talk about ending gridlock, you talk about ending backroom budget deals, this is it people. There is no hiding, you could not ask for a more moderate reasoned, line-item veto. It only needs a majority vote to override the line-item veto and each line-item that the Governor vetoes must be singularly put forward and have that veto overridden on its merits.

The people of the State of Maine look at our process now, see no accountability on the part of the Governor's Office, the legislature, they see an increase in spending on the State level and the reason for that is the fact that both sides make compromises so that they get what they want. Unfortunately, the people of the State of Maine don't get what they want, they just get a higher tax bill. When are we going to have the fortitude and the courage to say okay, the time is right, the time is now to have some accountability in our budget process. We have taken giant strides in the way this budget process is worked, involving the Committees of jurisdiction, now let's erase this one black mark on our budget process and allow a very reasonable and a very moderate line-item veto to be initiated and instituted. I don't think there are any arguments against that. It's a majority vote to override, every single line-item must be overridden singularly. Men and women of the Senate, the time has come, and I think it's important that when we cast our vote we cast it against the Majority Report and accept the strong bipartisan Minority Ought to Pass as Amended Report. Thank you.

On motion by Senator **HANLEY** of Oxford, supported by a Division of one-fifth of the members present and voting, a Roll Call was ordered.

THE PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Titcomb.

Senator **TITCOMB:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I happen to feel very strongly that on the Federal level a line-item veto is very important. I do not feel that we have the same depth of problem that would justify a

line-item veto on the State level. I believe that this administration and any administration has full opportunity for meaningful involvement in all budget negotiations that take place. That involvement is right from the beginning of the process to the end. I do not think that the State of Maine has the risks of the pork barrelling types of issues that we see on the Federal level and, frankly, I feel at this point if we initiated a line-item veto then we could certainly look at the potential of having a much longer session than we are looking at right now. Envision us getting to the very end of the process, finally coming up with a budget that is agreeable and then having the line-item veto begin. I think we are opening ourselves up to a process that I don't think is necessary. We don't have a lot of fat in this budget. This budget is down to bare bones and frankly, if there are any initiatives that are constructive and positive that this administration would like to bring into the process I think that they would be received with open arms. I don't think they have to take the form of a line-item veto.

My Committee has opened the process again and again to folks from the administration. If there are areas that need work and we need to cooperate on come on down, we are more than willing to participate. Frankly my requests have had no response. I would say that a line-item veto first of all, this is not the time, we are working at a very productive, constructive process right now and I frankly, do not see, with the skinny nature of this budget, that we have any need for one. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Oxford, Senator Hanley.

Senator **HANLEY:** Thank you Mr. President, Ladies and Gentlemen of the Senate. It's with a lot of chagrin that I just cannot understand why we, as a chamber, would not adopt this wholeheartedly and endorse this and just embrace it as far as a measure to bring our State government back into control. Let me read just a short portion of the BDN editorial. It says, "Any spending line that cannot stand alone and survive a majority vote shouldn't be in the budget. This is only common sense but it runs against the grain of conventional politics. Many lawmakers oppose line-item veto authority because it means they no longer will be able to hide pet spending proposals in large, complicated Bills." The fact of the matter is when the budget document comes up from the second floor, from the Appropriations Committee, the first thing I learned, being a member of the other body in the 113th Legislature, is don't propose amendments to that inviolate Bill, because if you do you will upset the apple cart. Men and women of the Senate, I think it's about time that we upset the apple cart. I think the amount of spending that has gone through this legislature in my tenure is reprehensible and I think if, the BDN is absolutely correct, a line-item can't survive a majority vote in this chamber it shouldn't be in the budget, bottom line. If the Governor wants to veto it, that line-item, and it's a simple move for him, the Governor has one day to submit that line-item veto back to the legislature. One day, 24 hours, I guess I find it difficult to go along with the good Senator from Cumberland, Senator Titcomb's, argument that it is going to slow down the process. 24 hours, each item must be voted on separately. If the item cannot sustain a majority vote it shouldn't be in the budget, clear and simple, that's it, that is all this Bill does. I think it is appropriate that we keep that in mind when we take the vote and I hope that you will vote against the pending motion. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Sagadahoc, Senator Cahill.

Senator **CAHILL:** Thank you Mr. President, Ladies and Gentlemen of the Senate. The good Senator from Cumberland, Senator Titcomb, has said that this is a bare bones budget and I agree with her, it is, and I applaud the work of the Appropriations Committee. What we are attempting to do today is amend the Constitution in November, this coming November 1993 and hopefully, this budget will be finished by November, if it isn't then I think we are all in for a lot bigger problem than we are here today. The point is that this is a Resolution to the Constitution for future legislatures and future Governors. Hopefully, at some point in time, the economy in the State will pick up and we won't be dealing with a bare bones budget and then, I think, this proposal as a Resolution to the Constitution, will be very pertinent and I hope that is soon. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Piscataquis, Senator Hall.

Senator **HALL:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I would like to remind you of one thing, 80,000 people out there signed a petition for term limits. 80% of the people think we should reduce the size of the legislature. The voters do not have any confidence at all that this system is working. Many people forget what the people out there want, I have heard it said, we know better, we are here and we know the ins and outs and so on and so forth. Please, do not make that mistake. The system can be improved. We have made some steps of improvement this year, some small steps, we are working on it. I realize that we can't move mountains very swiftly. This is another small step in the right direction of building up the confidence and doing what is right. Think about it very seriously now, with a majority override of a veto, it should not hurt a thing but build confidence into the budget process and I disagree, I think the budget will work faster and better with a line-item veto. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Conley.

Senator **CONLEY:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I was glad that the Senator from Sagadahoc reminded this chamber of what we are about to do if we adopt this measure, as the good Senator from Oxford, Senator Hanley, would like us to do, is change the Constitution. The good Senator from Piscataquis, Senator Hall, has indicated that people are dissatisfied. We are the people, we represent the people, we are the first branch of government, we surrender our power when we give away the power we have here regarding a veto. Term limits, line-item vetos, reducing the size of the legislature, they all reduce the people's power. That's what it is all about, that's what the check and balances are all about. The legislature is by far, even now, the weakest branch of government. We are here for a mere 100 days a year, we are part-time citizen legislators, that's what we are. We have very little ability to check the power of the executive. Anybody here who has been around for a while would know that, very little. The budget is the only place where people come together as they sit here, the two chambers come to compromises, put it together in a budget and then send it downstairs. If we were to give the Executive, whoever that person

may be, it is giving the people's power, yet again, over to the Executive branch. That's the reason it is in the Constitution, that is why it has withstood the test of time for 160 years. We are not to be doing this cavalierly, I think it's wrong that we would do this. There is a reason why the framers of our State Constitution put this in and we should not tamper with it lightly. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Summers.

Senator **SUMMERS:** Thank you Mr. President, Ladies and Gentlemen of the Senate. In response to my friend from Cumberland County, Senator Conley, he is right, this is the people's power right here, and let's give the people the power to decide what they want to do. Let's not sit here and permit them from being able to make a choice on an issue. Let the consumer's decide, once again the motto applies. It is the people who we represent who ought to have the ability to choose on this issue. This is a line-item veto, he mentioned the fact that we are only in Augusta for 100 days and we are part time legislators, I would submit to you that the Chief Executive of this State, whoever that person may be, is here fulltime and has his or her finger on the pulse of what goes on in the legislature. Who could be better qualified to make that decision on a pork barrel project. I find it humorous, almost, that the Majority party in this chamber, is reluctant to let an amendment go that would require a majority vote. It just doesn't seem to add up. The people have a right on this issue to decide on this line-item veto,, and I dare you to vote against it. Thank you.

THE PRESIDENT: The pending question before the Senate is the motion by Senator **TITCOMB** of Cumberland to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report in **NON-CONCURRENCE**.

A vote of Yes will be in favor of **ACCEPTANCE**.

A vote of No will be opposed.

Is the Senate ready for the question?

Senator **BALDACCI** of Penobscot who would have voted **NAY** requested and received Leave of the Senate to pair his vote with Senator **CLEVELAND** of Androscoggin who would have voted **YEA**.

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEAS: Senators **BERUBE, BRANNIGAN, BUSTIN, CAREY, CONLEY, ESTY, HANDY, LAWRENCE, LUTHER, MCCORMICK, O'DEA, PARADIS, PEARSON, PINGREE, TITCOMB, VOSE, THE PRESIDENT - DENNIS L. DUTREMBLE**

NAYS: Senators **AMERO, BEGLEY, BUTLAND, CAHILL, CARPENTER, CIANCHETTE, FOSTER, GOULD, HALL, HANLEY, HARRIMAN, KIEFFER, LUDWIG, MARDEN, SUMMERS, WEBSTER**

ABSENT: Senators None

PAIRED: Senators **BALDACCI, CLEVELAND**

Senator **BERUBE** of Androscoggin requested and received Leave of the Senate to change her vote from **NAY TO YEA**.

17 Senators having voted in the affirmative and 16 Senators having voted in the negative, with 2 Senators having paired their votes and No Senators being absent, the motion by Senator **TITCOMB** of Cumberland, to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report in **NON-CONCURRENCE, PREVAILED**.

Sent down for concurrence.

Out of order and under suspension of the Rules, the Senate considered the following:

PAPERS FROM THE HOUSE

Non-concurrent Matter

Bill "An Act to Facilitate Municipal Road Construction"

H.P. 144 L.D. 189
(C "A" H-299)

In Senate, May 20, 1993, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-299)**, in concurrence.

Comes from the House **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-299) AS AMENDED BY HOUSE AMENDMENT "A" (H-422)** thereto, in **NON-CONCURRENCE**.

On motion by Senator **ESTY** of Cumberland, the Senate **RECEDED** and **CONCURRED**.

Non-concurrent Matter

Bill "An Act to Encourage the Implementation of the Solid Waste Management Hierarchy"

H.P. 525 L.D. 709
(C "A" H-297)

In Senate, May 20, 1993, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-297)**, in concurrence.

Comes from the House **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-297) AS AMENDED BY HOUSE AMENDMENT "A" (H-420)** thereto, in **NON-CONCURRENCE**.

On motion by Senator **ESTY** of Cumberland, the Senate **RECEDED** and **CONCURRED**.