

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

*One Hundred and Fourth
Legislature*

OF THE

STATE OF MAINE

Volume III

June 17, 1969 to July 2, 1969

Index

1st Special Session

January 6, 1970 to February 7, 1970

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KENNEBEC JOURNAL
AUGUSTA, MAINE

SENATE

Monday, January 12, 1970

Senate called to order by the President.

Prayer by the Rev. Douglas H. Robbins of Augusta.

Reading of the Journal of yesterday.

**Papers From The House
Joint Order**

ORDERED, the Senate concurring, that the Joint Standing Committee on State Government report out to the House a Bill increasing the salaries of the Justices of the Supreme Judicial and Superior Courts and the Judges of the District Court. (H. P. 1425)

Comes from the House Read and Passed.

Which was Read and Passed in concurrence.

**Committee Reports
House**

Leave to Withdraw

The Committee on Natural Resources on Bill, "An Act Relating to Authority of the Maine Mining Bureau." (H. P. 1390) (L. D. 1739) Reported that the same be granted Leave to Withdraw.

Comes from the House the report Read and Accepted.

Which report was Read and Accepted in concurrence.

Ought Not to Pass

The Committee on Education on Bill, "An Act to Authorize Town of Winterport to Form a School Administrative District." (H. P. 1398) (L. D. 1754)

Reported that the same Ought Not to Pass.

Comes from the House the report Read and Accepted.

Which report was Read.

On motion by Mr. Katz of Kennebec, tabled pending Acceptance of the Committee Report.

Ought to Pass

The Committee on Legal Affairs on Bill, "An Act Relating to Eligibility of Bangor City Councilors for Certain City Government Officers." (H. P. 1339) (L. D. 1668)

Reported that the same Ought to Pass.

The Committee on Appropriations and Financial Affairs on Bill,

"An Act Relating to Appropriations and Allocations to the Legislative Research Committee." (H. P. 1315) (L. D. 1644)

Reported that the same Ought to Pass.

The Committee on Appropriations and Financial Affairs on Bill, "An Act Appropriating Moneys to Carry Out Duties of the Legislative Research Committee." (Emergency) (H. P. 1316) (L. D. 1645)

Reported that the same Ought to Pass.

The Committee on Legal Affairs on Bill, "An Act Relating to Issuing Bonds for Revenue-Producing Municipal Facilities." (H. P. 1407) (L. D. 1763)

Reported that the same Ought to Pass.

The Committee on Natural Resources on Bill, "An Act Relating to Motor Vehicle Air Pollution Equipment." (H. P. 1369) (L. D. 1718)

Reported that the same Ought to Pass.

The Committee on Natural Resources on Bill, "An Act Relating to Charts and Publications of the Maine State Park and Recreation Commission." (H. P. 1399) (L. D. 1755)

Reported that the same Ought to Pass.

The Committee on State Government on Bill, "An Act Relating to State-Owned Motor Vehicles." (H. P. 1356) (L. D. 1685)

Reported that the same Ought to Pass.

Come from the House the reports Read and Accepted and the Bills Passed to be Engrossed.

Which reports were Read and Accepted in concurrence, the Bills Read Once and tomorrow assigned for Second Reading.

Ought to Pass — As Amended

The Committee on Appropriations and Financial Affairs on Bill, "An Act Relating to Salary of the Assistant Director of Legislative Research." (H. P. 1314) (L. D. 1643)

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-627).

The Committee on Appropriations and Financial Affairs on Bill, "An Act Appropriating Funds for Maine Historical Society." (H. P. 1319) (L. D. 1648).

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-625).

Come from the House the reports Read and Accepted and the Bills 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.

The Committee on Inland Fisheries and Game on Bill, "An Act Relating to Bag Limit on Bears." (H. P. 1374) (L. D. 1723).

Reported that the same Ought to Pass as Amended by Committee Amendment "B" (H-623).

Comes from the House the report Read and Accepted and the Bill Passed to be Engrossed as Amended by Committee Amendment "B."

Which report was Read and Accepted in concurrence and the Bill Read Once. Committee Amendment "B" was Read and Adopted in concurrence and the Bill, as Amended, tomorrow assigned for Second Reading.

Ought to Pass in New Draft

The Committee on Legal Affairs on Bill, "An Act relating to the Implementation of a Uniform Fiscal Year." (Emergency) (H. P. 1376) (L. D. 1725).

Reported that the same Ought to Pass in New Draft Under New Title: "An Act to Repeal the Law Providing a Uniform Fiscal Year for Municipalities." (H. P. 1424) (L. D. 1794).

Comes from the House the report Read and Accepted and the Bill, in New Draft, Passed to be Engrossed.

Which report was Read.

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

Mr. KATZ of Kennebec: Mr. President and Members of the Senate: I would like to make a couple of comments on this bill and the committee report. This bill apparently is a new draft of a bill that was admitted to the special

session which sought to make some necessary changes in the law to help the communities implement the mandatory fiscal year that we passed at the regular session.

Apparently there has been a determination within the Committee on Legal Affairs that the bill had better be repealed rather than improved. I feel that this is regrettable because, although the bill as we passed it would have caused very substantial dislocation around the State, perhaps it was like the first pickle out of the jar; it is a little difficult to take the first pickle out, but those who follow you will bless you because you have done the hard part of the work.

The bill as it came out of committee is interesting in that the emergency preamble repeals or seeks to repeal the implied consent law by an improper reference. It says "Whereas Chapter 439 must be repealed immediately to eliminate uncertainty and confusion." I am sure the emergency preamble does not have the effect of the law, but it is my understanding that if this bill gets by us today — the Senator from Penobscot, Senator Tanous, is having an amendment prepared which will correct this, I am sure, as it was a pure oversight — but the disturbing part is that I have a feeling that the communities around the State have reacted predictably. To implement the legislative action of the regular session is difficult and painful, but I am not quite sure that on this basis it has had its fair day in court. The reaction was that it is difficult and painful; let's get the Legislature to repeal their action.

I notice that the other body has accepted the new draft, the repealer, and I have no notion of how it will fare here this evening, but purely and simply to find out the thinking of this chamber I would ask for a division.

The PRESIDENT: The Chair recognizes the Senator from Penobscot, Senator Tanous.

Mr. TANOUS of Penobscot: Mr. President, before a vote is taken on this I would like to bring the members of this body up to date as to what happened at the public

hearing. There were approximately 125 selectmen and town managers at the Legal Affairs hearing when this matter was heard last week, and there was much talk about repealing. So I made out sort of a petition type of a thing and passed it around in the Legal Affairs room, and it came out with 125 signatures of representation from one end of this State to the other desiring to repeal this uniform fiscal year.

If this is representative of the towns in our State, I don't see why the Legislature should stand in the way and make it difficult for them to operate their towns. Yet, I know in my heart, and I am sure all of you agree, that this legislation is good. The original legislation, the uniform fiscal year, is a good bill. I think they are scared of it, and the town managers and selectmen across this State aren't prepared to make such a change that they feel is so radical. I think it is a good bill.

Senator Martin from Piscataquis mentioned to me that somebody could have sold this to them by telling them that all they had to do was borrow money to operate their municipal government for six months and pay it off over a ten-year period. Maybe they would have been more receptive to it. Apparently they were scared of having an 18-months taxation period for their towns. I even suggested to them doing this one year at a time or one month at a time. In other words, starting off by giving them six years to work into it, using one month a year for a 13-months taxation period. Still they were scared of it and wouldn't go along with it. As I say, as far as I am concerned, if they don't want it, they have got to live with it, so the Legal Affairs Committee was quite unanimous in voting to repeal this.

Through some error, I guess, a typographical error really, I feel it was, the reference to the chapter does in fact refer to the implied consent law. I personally have no objection to repealing that, but I am sure that Senator Beliveau would have objected, so we are going to amend it. Thank you.

The PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Berry.

Mr. BERRY of Cumberland: Mr. President and Members of the Senate: I wonder, to focus this thing properly, if my motion to substitute the bill for the report might be in order, and I think we should discuss this in considerably more detail, as Senator Katz has suggested.

The history of this original legislation, which we passed during the 104th, was the result of a task force appointed which did a great deal of work in the area of trying to see what we could do in the State to improve our real estate tax situation. I think this particular uniform municipal fiscal year bill was about the only recommendation of that task force that didn't have a significant price tag on it.

You may recall that the big thing working for the original bill was that there was far too much confusion in everybody's mind, and the legislative mind not the least, particularly when we were discussing things like school subsidies. As you know, the several hundred odd municipalities in the State have varying fiscal years, starting on January 1st, and I don't know how long they go, but some go from January, some go from February, and some go from March 1st. Yet our fiscal State year is June 30th, and this has resulted in it being impossible to classify all our Maine towns on a uniform basis so far as school subsidy goes, because in one 12-months period they don't all get the same amount of money.

At the time we passed the legislation this received, I think, the approbation of most people who were quite familiar with it. Subsequently, I received unsolicited two communications from town managers as an aftermath of the discussion that was held last summer at a meeting of the Maine Municipal Association, indicating that these two town managers felt that the action taken at that Maine Municipal Association meeting was an emotional action and that it did not represent the grass roots thinking of the people in the Association. Now, I toss this out for

what it is; I think it is more than just gossip or a rumor. I think there is a modicum of truth in it.

The bill as proposed by Representative Jalbert, L. D. 1725, does provide a few explanatory suggestions as to what can be done. When the Legislature passed the original act it did intend, as was said by Senator Katz, that the municipalities should be able to spread this over a two or three year period and cut the impact. All the reasons for the original passage of the bill still exist. It does not cost money and, as has been intimated here, it just would take a little bit of willingness to put up with something that isn't perhaps something we have been doing for 150 years here to bring about uniformity in our fiscal affairs. I would think that we should go slowly before we repeal it. If we need to do something other than is indicated in L. D. 1725 to improve it, let's do that.

The PRESIDENT: The motion before the Senate is the motion of the Senator from Cumberland, Senator Berry, to substitute the bill for the report.

The Chair recognizes the Senator from Kennebec, Senator Katz.

Mr. KATZ of Kennebec: Mr. President and Members of the Senate: To further expand on the remarks of Senator Berry, we hope that the communities around the State would use the interim period, but not in an attempt to repeal or to keep secured the status quo, which makes us all feel so much more secure, but that they would use the interim period to seek out ways that our intent of the regular session could be implemented to make the transition period easier.

Presently before the Committee on Education is perhaps an errors and omissions bill, or an omnibus bill, and in it are four or five sections which pertain to school administrative districts and school budget which have taken the step of refinement, and I think have pretty well covered the changes that would be necessary from a school budgetary point of view to make the change. Inasmuch as the school budgetary situation was

one of the major motivations for changing, I felt a warm feeling of cooperation, that they were trying to cooperate.

Just to refresh your memories briefly, the thing that got me so sold on the propriety of this approach was the intolerable burden that was placed on us during the regular session. I remember that the pressures of the moment were so fierce when we were wrestling with the emergency situation of school subsidies for the first year, and perhaps Senator Kellam can remember this, that there wasn't even unanimity of opinion within the Education Committee on how we should approach the subsidy question. I was so bruised and battered by the impropriety of the legislature being faced with this type of emergency, which is completely needless were the communities on a fiscal year, I was so conscious of the fact at local level more than 50% of the budget is devoted to education, and at State level this is now the case, that prudence and wisdom indicated that we should all be on the same fiscal year. Also to refresh your memory, it seems to me that federal programs, which are becoming increasingly evident at the local level, federal programs are much easier to report and implement, and to get money for, if we don't have to face this wide divergence of fiscal and calendar years. I too would like to slow down this fast demand for a repeal of a program which was passed with a certain amount of deliberation at the regular session.

The PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Kellam.

Mr. KELLAM of Cumberland: Mr. President and Members of the Senate: As a member of the Legal Affairs Committee, I didn't have any real strong feelings about this bill, but it did appear to me that the great bulk of the municipalities involved did not like going onto the fiscal year. I don't really believe there would be any great problem, and I had highly recommended a six-months year and then the full year. Since most people pay their taxes based upon an escrow account with a bank I don't think it would be a partic-

ular hardship to them. And, as the good Senator, Senator Katz, has said, I think it would assist us some in the school programs.

I particularly was impressed with the thought of the pupil count, which we now do an average of April and October, and I felt it would be more accurate to have an October and April count done the same year, and of course that would be done before the fiscal year started. So I did think there was considerable merit to it, and I would agree with my good friend, Senator Katz, that there was some element of disagreement within the Committee on Education which, of course, is quite unusual, but I did have one thought which ran the other way. The thought was that I had it on pretty good authority that there is a movement in the federal program, the Director of Budget, to recommend that the federal government go onto a calendar fiscal year basis. I think if there is any substance to this, or likelihood of it happening, I think possibly we could be in considerable difficulty if we moved to the fiscal July to June and have the federal government change its system to the calendar year. I had heard that the Director of the Budget had recommended some thought along this line, primarily, I believe, due to the fact that taxes are collected on a calendar year basis. The great bulk of the taxes in the United States are collected calendarwise.

So that is the only deterrent I would see other than the fact that it is a great inconvenience to many municipalities, or at least they feel it is, to go on the fiscal year. So I do like to have the Senate realize that there has been some thought gone into this matter by the Legal Affairs Committee, and it is a subject upon which reasonable men could disagree, and possibly the Senate would like to think about it a little bit longer.

The PRESIDENT: The Chair recognizes the Senator from Hancock, Senator Anderson.

Mr. ANDERSON of Hancock:

Mr. President and Members of the Senate: The municipalities down my way would like to see this bill repealed. Now, I have al-

ways said that the will of the people is the legitimate foundation of government, and I would say at the hearing that it was the will of the people to repeal this.

The PRESIDENT: The Chair recognizes the Senator from Oxford, Senator Dunn.

Mr. DUNN of Oxford: Mr. President, I request a division on the vote.

The PRESIDENT: A division has been requested.

The Chair recognizes the Senator from Cumberland, Senator Moore.

Mr. MOORE of Cumberland: Mr. President and Members of the Senate: I am glad that Senator Kellam of Cumberland brought out what could take place in the federal government. It is very possible that about the time that the towns and cities got changed over to a fiscal year of July 1st the government would decide that they would be on a calendar year. Now, I represent eleven towns and they are very strong in their feelings that they want the law we passed in June to be repealed. I talked with about twenty of the selectmen and town managers on the day that they had the hearing, and they are all very much in favor of repeal of the original bill. I agree with Senator Anderson, and I feel it is our job to represent the people; not the Department of Education.

The PRESIDENT: Is the Senate ready for the question? The pending question before the Senate is the motion of the Senator from Cumberland, Senator Berry, that the bill be substituted for the Ought to Pass in New Draft Report of the Committee. A division has been requested. As many Senators as are in favor of substituting the bill for the Ought to Pass in New Draft of the Committee will rise and remain standing until counted. Those opposed will rise and remain standing until counted.

A division was had. Eight Senators having voted in the affirmative, and twenty Senators having voted in the negative, the motion

did not prevail.

Thereupon, the Ought to Pass in New Draft Report of the Committee was Accepted in concurrence, the Bill in New Draft Read Once and tomorrow assigned for Second Reading.

Divided Report

The Majority of the Committee on Inland Fisheries and Game on Bill, "An Act Relating to Length of Trout in Brooks and Streams." (H. P. 1331) (L. D. 1660)

Reported that the same Ought to Pass.

Signed:

Senators:

HOFFSES of Knox
ANDERSON of Hancock
MARTIN of Piscataquis

Representatives:

KELLEY of Southport
THOMPSON of Belfast
LEWIN of Augusta
ROCHELEAU of Auburn
RICKER of Lewiston

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

Signed:

Representatives:

PORTER of Lincoln
BOURGAIN of Fort Kent

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

Which reports were Read.

On motion by Mr. Hoffses of Knox, the Majority Ought to Pass Report of the Committee was Accepted in non-concurrence, the Bill Read Once and tomorrow assigned for Second Reading.

Divided Report

The Majority of the Committee on State Government on Resolve, Proposing an Amendment to the Constitution Providing for Annual Legislative Sessions. (H. P. 1308) (L. D. 1622)

Reported that the same Ought to Pass.

Signed:

Senators:

LETOURNEAU of York
BELIVEAU of Oxford

Representatives:

RIDEOUT of Manchester
D'ALFONSO of Portland
GOODWIN of Bath
STARBIRD of Kingman

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

Signed:

Senator:

WYMAN of Washington

Representatives:

DENNETT of Kittery
MARSTALLER

of Freeport

DONAGHY of Lubec

Comes from the House the Majority Ought to Pass Report Read and Accepted and the Resolve Passed to be Engrossed.

Which reports were Read.

On motion by Mrs. Beliveau of Oxford, the Majority Ought to Pass Report of the Committee was Accepted in concurrence, the Resolve Read Once and tomorrow assigned for Second Reading.

**Senate
Ought Not To Pass**

Mr. Wyman for the Committee on State Government on Bill, "An Act Adjusting Salaries of Certain Unclassified State Personnel." (S. P. 590) (L. D. 1745)

Reported that the same Ought Not to Pass.

Which report was Read and Accepted.

Sent down for concurrence.

Second Readers

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

House

Bill, "An Act Relating to Code of Military Justice for the State Military Forces." (H. P. 1338) (L. D. 1667)

Bill, "An Act Relating to Disqualification of the Administrative Hearing Commissioner." (H. P. 1367) (L. D. 1716)

Bill, "An Act to Create the Bangor Parking Authority." (Emergency.) (H. P. 1346) (L. D. 1675)

Bill, "An Act to Amend the Charter of Great Northern Paper Company." (H. P. 1368) (L. D. 1717)

Bill, "An Act to Validate Certain Proceedings in Formulating Voting Districts in the Town of Brunswick." (Emergency) (H. P. 1343) (L. D. 1672)

Bill, "An Act Relating to Appointment of Single Town Assessor for Town of Brunswick." (Emergency) (H. P. 1344) (L. D. 1673)

Bill, "An Act Extending Eagle Lake Water and Sewer District to Plantation of Winterville." (H. P. 1349) (L. D. 1678)

Bill, "An Act Authorizing Androscoggin County to Borrow Money for an Addition to the County Jail." (Emergency) (H. P. 1362) (L. D. 1691)

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

House — As Amended

Bill, "An Act Relating to Fees of Certain Corporations Payable to Secretary of State." (Emergency) (H. P. 1320) (L. D. 1649)

Bill, "An Act to Amend the Charter of the Community Life Insurance Company." (Emergency) (H. P. 1321) (L. D. 1650)

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

Senate

Bill, "An Act Relating to Dumping Offal and Feathers on Highways." (S. P. 589) (L. D. 1744)

Bill, "An Act Relating to Confering Associate Degrees by Huson College." (S. P. 600) (L. D. 1771)

Bill, "An Act Relating to Hours of Sale Under Liquor Laws." (S. P. 618) (L. D. 1793)

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

Sent down for concurrence.

Senate — As Amended

Bill, "An Act Appropriating Funds for Union River Anadromous Fish Restoration Program." (S. P. 580) (L. D. 1707)

Bill, "An Act Appropriating Funds for Providing Shade Trees Through the Forestry Depart-

ment." (Emergency) (S. P. 581) (L. D. 1708)

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

Sent down for concurrence.

Enactors

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

Emergency

Bill, An Act Increasing the Borrowing Capacity of School Administrative District No. 75. (S. P. 564) (L. D. 1639)

This being an emergency measure and having received the affirmative votes of 28 members of the Senate, was Passed to be Enacted and, having been signed by the President, was by the Secretary presented to the Governor for his approval.

Emergency

Bill, An Act to Appropriate Moneys for Legislative Expenditures. (S. P. 579) (L. D. 1706)

This being an emergency measure and having received the affirmative votes of 28 members of the Senate, was Passed to be Enacted and, having been signed by the President, was by the Secretary presented to the Governor for his approval.

Emergency

Resolve, Ratifying Certain Conveyances to the United States Government Made by the Governor and Council (S. P. 552) (L. D. 1627)

This being an emergency measure and having received the affirmative votes of 29 members of the Senate, was Finally Passed and, having been signed by the President, was by the Secretary presented to the Governor for his approval.

On motion by Mr. Hoffses of Knox,

Adjourned until 10 o'clock tomorrow morning.