

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

***One Hundred and Eighth
Legislature***

OF THE

STATE OF MAINE

1978

Second Regular Session

January 4, 1978 — April 6, 1978

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Senate Confirmation Session

June 14, 1978

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APPENDIX

SENATE

February 9, 1978

Senate called to Order by the President.

Prayer by Reverend Joe Flippin, Fellowship Baptist Church, Augusta.

Reverend FLIPPIN: My Father we are so thankful for another opportunity to come to Your presence. We thank you Lord for this privilege it is to serve You. We pray Lord that you bless this Senate today as they discuss the business that concerns the people of Maine. We pray that you will be done with each thought, each word that is said. Lord that everybody concerned will be benefited by it. We thank you Father for all that you have done for us. Thank you Lord that you died on Calvaries Cross for us and give us this liberty Lord that we can worship together. In spirit and truth. We ask you all that in Jesus Christ Your name. Amen.

Reading of the Journal of yesterday.

Papers from the House
Non-concurrent Matter

Bill, "An Act to Clarify and Limit the Authority of Municipalities to Establish Shellfish Conservation Programs and to License and Regulate the Taking of Shellfish." (H. P. 715) (L. D. 851).

In the House, February 2, 1978 Passed to be Engrossed as amended by Committee Amendment "C" (H-989) as amended by House Amendment "A" (H-993) thereto.

In the Senate, February 7, 1978 Bill and Papers Indefinitely Postponed, in non-concurrence

Comes from the House, that Body having Insisted.

On Motion of Mr. Speers of Kennebec, Tabled for One Legislative Day, Pending consideration.

Non-concurrent Matter

Bill, "An Act to Clarify the Law Concerning the Posting of Bonds by Electric Companies with the Department of Environmental Protection for Certain Licenses of Permits." (H. P. 1925) (L. D. 1986)

In the House, January 31, 1978 Passed to be Engrossed as amended by Committee Amendment "A" (H-986).

In the Senate, February 3, 1978 Passed to be Engrossed as amended by Committee Amendment "A" as amended by Senate Amendment "A" (S-452) thereto in non-concurrence.

Comes from the House, that Body having Insisted.

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

Mr. TROTZKY: Mr. President, I move that the Senate Adhere.

The PRESIDENT: The Senator from Penobscot, Senator Trotzky, now moves that the Senate Adhere.

The Chair recognizes the Senator from Oxford, Senator O'Leary.

Mr. O'LEARY: Mr. President, I move that the Senate Recede and Concur.

The PRESIDENT: The Senator from Oxford, Senator O'Leary, now moves that the Senate Recede and Concur with the House.

The Chair recognizes the Senator from Penobscot, Senator Trotzky.

Mr. TROTZKY: Mr. President and Members of the Senate, again all the Senate Amendment does is states that in lieu of a bond put up with the Board of Environmental Protection a public utility will produce evidence of financial capacity to make reimbursements unless they do not go through with the project that the Board has had heard.

I feel that it is a saving to the people of the State of Maine just for a company to put up satisfactory evidence of financial capacity and not have to go through the cost of buying bonds.

The PRESIDENT: The pending Motion before the Senate, is the Motion by the Senator from Oxford, Senator O'Leary, that the Senate

Recede and Concur with the House.

The Chair will order a Division.

Will all those Senators in favor of the Motion to Recede and Concur please rise in their places to be counted.

Will all those opposed please rise in their places to be counted.

10 Senators having voted in the affirmative and 14 Senators in the negative, the Motion to Recede and Concur does not prevail.

The Chair recognizes the Senator from Penobscot, Senator Pray.

Mr. PRAY: I move that the Senate Insist and Ask for a Committee of Conference.

The PRESIDENT: The Senator from Penobscot, Senator Pray, now moves that the Senate Insist and Ask for a Committee of conference.

The Chair recognizes the Senator from Penobscot, Senator Trotzky.

Mr. TROTZKY: Mr. President, I request a Division.

The PRESIDENT: A Division has been requested.

Will all those Senators in favor of the Motion to Insist and Ask for a Committee of Conference please rise in their places to be counted.

Will all those opposed please rise in their places to be counted.

10 Senators having voted in the affirmative and 16 Senators in the negative, the Motion to Insist and Ask for a Committee of Conference does not prevail.

The Senate voted to Adhere.

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

Mr. SPEERS: Mr. President, having voted on the prevailing side, I move that the Senate reconsider its action, and hope that the Senate vote against me.

The PRESIDENT: The Senator from Kennebec, Senator Speers, now moves that the Senate reconsider its action whereby it voted to adhere on L. D. 1986.

Will all those Senators in favor of reconsideration please say yes.

Will all those opposed please say no.

A Viva Voce Vote being had,

The Motion to reconsider does not prevail. Sent down for concurrence.

Joint Resolution

A Joint Resolution In Memoriam:

Whereas, the Legislature has learned with deep regret of the death of Arlo T. Bates of Calais, a devoted member of that community, (H. P. 2087)

Comes from the House, Read and Adopted.

Which was Read and Adopted, in concurrence.

Communications

COMMITTEE ON VETERANS AND RETIREMENT

The Honorable Joseph Sewall
President of the Senate of Maine
State House

Augusta, Maine 04333

Dear President Sewall:

In accordance with 3 M. R. S. A., Chapter 6, section 151, and with Joint Rule 37 of the 108th Maine Legislature, the Joint Standing Committee on Veterans and Retirement has had under consideration the nomination of Frank B. Tupper to the Board of Trustees of the Maine State Retirement System.

After public hearing and discussion on this nomination, the Committee proceeded to vote on the motion that this nomination be confirmed. The vote was taken by the yeas and nays. The Committee Assistant called the roll with the following result:

YEAS:

SENATORS — 3

REPRESENTATIVES — 8

NAYS:

NONE

ABSENT: MacEachern of Lincoln — Plourde of Fort Kent

Eleven members of the Committee having voted in the affirmative and none in the negative, it was the vote of the Committee that the nomination of Frank B. Tupper to the Board of Trustees of the Maine State Retirement System be confirmed.

Sincerely,
Senate Chairman
House Chairman

Which was Read and Ordered Placed on File.

Mr. PRESIDENT: The Joint Standing Committee on Veterans and Retirement has recommended that the nomination of Frank B. Tupper be confirmed

Mr. PRESIDENT: The pending question before the Senate is: Shall the recommendation of the Committee on Veterans and Retirement be overridden? In accordance with 3 M. R. S. A., Chapter 6, section 151, and with Joint Rule 37 of the 108th Legislature, the vote will be taken by the yeas and nays.

A vote of YES will be in favor of overriding the recommendation of the Committee.

A vote of NO will be in favor of sustaining the recommendation of the Committee.

Is the Senate ready for the question?

The Doorkeepers will secure the Chamber.

The Secretary will call the roll.

ROLL CALL

NAYS: Carpenter, Chapman, D.; Collins, S.; Collins, Cummings, Curtis, Danton, Farley, Greeley, Hewes, Hichens, Huber, Jackson, Katz, Levine, Lovell, Mangan, McNally, Merrill, Minkowsky, Morrell, O'Leary, Pierce, Pray, Redmond, Snowe, Speers, Trotzky, Usher, Wyman, Sewall

ABSENT: Conley, Martin

No Senators having voted in the affirmative and 31 Senators in the negative with 2 Senators being absent, and None being less than two-thirds of the membership present, it is the vote of the Senate that the Committee's recommendation be accepted. The nomination of Frank B. Tupper is confirmed.

Senate Papers
Study Report

Health and Institutional Services

The Committee on Health and Institutional Services to which was referred the study relative to health care costs, have had the same under consideration and ask leave to submit its findings and to report that the accompanying Bill, "An Act to Establish the Health Facilities Information Disclosure Act" (S. P. 695) (L. D. 2136) be referred to this Committee for public hearing and printed pursuant to Joint Rule 17.

Which Report was Read and Accepted and the Bill Referred to the Committee on Health and Institutional Services.

Sent down for concurrence.

Committee Reports
House

Leave to Withdraw

The Committee on State Government on, Bill, "An Act to Amend the Maine Administrative Procedure Act." (H. P. 1948) (L. D. 2027)

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 to Pass — As Amended

The Committee on Public Utilities on, Bill, "An Act Relating to the Inspection of Dams." (H. P. 2007) (L. D. 2084)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-1015)

Comes from the House, the Bill Passed to be Engrossed as amended by Committee Amendment "A".

Which Report was Read and Accepted in concurrence, and the Bill Read Once. Committee

Amendment "A" 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 State Government on, Bill, "An Act to Establish and Apply a Policy on the Classification of Major Policy-influencing Positions Below the Head of State Department and Agencies." (H. P. 671) (L. D. 729)

Reported that the same Ought to Pass in New Draft under same title. (H. P. 2051) (L. D. 2111)

Comes from the House, the Bill, in New Draft, Passed to be Engrossed as amended by House Amendments "A" (H-995), "B" (H-1002), "D" (H-1006) and "E" (H-1016).

Which Report was Read.

The PRESIDENT: The Chair recognizes the Senator from Aroostook, Senator Collins.

Mr. COLLINS: Mr. President and Members of the Senate, L. D. 2111 is a redraft of L. D. 729 which was conceived in the 107th Legislature, went through a period of gestation during the first Session of the 108th, was born a few days ago, and is now been removed from the incubator.

The Bill attempts to unclassify a number of policy influencing positions below the Department Commissioner Level. In its original form, it changed some 54 positions to an unclassified status. Generally the Committee took a conservative and cautious attitude towards declassification. In its present form, there are only some 20 odd people who are unclassified that were formerly classified. We did not attempt to unclassify and third level management people, technical people, and employees generally that were part of a bargaining unit.

The Committee supports the Bill in its amended form as it comes to us from the House.

We think the changes made should improve management capabilities and responsiveness at the highest level of State Government and we support its passage.

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

Mr. PRAY: Mr. President, I was just going through the list of Amendments here, and I find that under House Amendment "A" (H-955) in my book I have an Amendment that deals with telephone and telegraph companies. Could the Secretary check that number to see if it is the correct Amendment number?

The PRESIDENT: The Secretary will check the number.

The SECRETARY: House Amendment "A" is H-995.

Which Report was Accepted in concurrence, and the Bill, in New Draft, Read Once. House Amendments "A", "B", "D", and "E", were Read and Adopted in concurrence, and the Bill, as amended, Tomorrow Assigned for Second Reading.

(Off Record Remarks)

Out of order and under suspension of the rules, the Senate voted to consider the following:

Paper from the House Joint Order

An Expression of Legislative Sentiment recognizing that: Christopher Hoxie, the son of Joseph and Elizabeth Hoxie of Bradley, on January 27, 1978, performed a heroic lifesaving deed. (H. P. 2090)

Comes from the House, Read and Passed. Which was Read.

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

Mr. CURTIS: Mr. President, we are very privileged today to have in the Chamber with us this morning a sixth grade hero. A Young man, 11 year old Boy Scout, named Christopher Hoxie. He resides in Bradley and he is a student in the sixth grade and he had the remarka-

ble achievement of true heroism when on January 27th of this year, he spotted a girl, an older girl named Lisa Danilson, who was in the process of beginning to drown, in a stream, in the treacherous icy waters of Hollow Meadow Brook, and just 25 feet from the ice on the Penobscot, this young man managed to pull the girl out of the icy stream and save her from drowning. And the remarkable thing is, and if you will look at him, you can identify him over here because he has a Boy Scout uniform on, the remarkable thing, is, that Chris weighs 65 pounds, and Lisa, the girl that he saved, was 60 pounds more in weight than he was.

Mr. President, it is a real honor to have Chris and all of his family with us here today.

Which was Passed in concurrence.

Senate

Leave to Withdraw

Mr. O'Leary for the Committee on Veterans and Retirement on, Bill, "An Act to Allow Blind Vending Stand Operators Licensed by the Department of Human Services, Division of Eye Care, to Participate in the Maine State Retirement System."

Reported that the same be granted Leave to Withdraw.

Which Report was Read and Accepted. Sent down for concurrence.

Ought to Pass

Mr. Collins for the Committee on Public Utilities on, Bill, "An Act to Extend Until July 1, 1979, the Date for the Newport Water District to Purchase the Property of the Maine Water Company." (Emergency) (S. P. 686) (L. D. 2114)

Reported that the same Ought to Pass.

Which Report was Read and Accepted and the Bill Read Once and Tomorrow Assigned for Second Reading.

Ought to Pass in New Draft

Mr. McNally for the Committee on Transportation on, Bill, "An Act to Make Allocations from the Unappropriated Highway Fund Surplus for the Fiscal Year Ending June 30, 1979. (Emergency) (S. P. 666) (L. D. 2054)

Reported that the same Ought to Pass in New Draft under new title: "An Act Providing Allocations from the Unappropriated Highway Fund Surplus for Fiscal Year Ending June 30, 1979." (Emergency) (S. P. 694) (L. D. 2135)

Which Report was Read and Accepted and the Bill, in New Draft, Read Once and Tomorrow Assigned for Second Reading.

Second Readers

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

House

Bill, "An Act to Amend the Charter of the Gray Water District." (Emergency) (H. P. 1967) (L. D. 2048)

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

House — As Amended

Bill, "An Act to Increase the Authorized Indebtedness of the Kennebunk Sewer District and to Limit the Use of that Increase." (H. P. 2012) (L. D. 2087)

Which was Read a Second Time and Passed to be Engrossed, as amended, in concurrence.

Enactors

The Committee on Engrossed Bills reported as truly and strictly engrossed the following: An Act to Simplify Notice Procedures Required in Workmen's Compensation Cases. (S. P. 645) (L. D. 2012)

An Act to Amend the Maine Potato Branding Law. (H. P. 1896) (L. D. 1953)

Which were Passed To Be Enacted and having been signed by the President, were by the Secretary presented to the Governor for his approval.

Emergency

An Act to Enable the Purchase and Administering of Barbiturates for the Euthanasia of Pets and Animals. (S. P. 617) (L. D. 1905)

This being an emergency measure and having received the affirmative votes of 25 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.

Orders of the Day

The President laid before the Senate:

Bill, "An Act Relating to the Application of the State Valuation to the State and Town Cost-Sharing Activities Including Highway, Bridges and Winter Maintenance." (S. P. 657) (L. D. 2034) Emergency

Tabled — February 7, 1978 by Senator Speers of Kennebec

Pending — Passage to be Engrossed.

On Motion of Mr. Speers of Kennebec, Retabled for One Legislative Day.

The President laid before the Senate:

House Reports — from the Committee on Education — Bill, "An Act to Provide for Alternative Election Procedures for School Budgets on a Local Basis." (H. P. 1909) (L. D. 1970) Majority Report — Ought Not to Pass; Minority Report — Ought to Pass, as Amended by Committee Amendment "A" (H-999)

Tabled — February 8, 1978 by Senator Speers of Kennebec

Pending — Acceptance of Either Report

The PRESIDENT: The Chair recognizes the Senator from York, Senator Lovell.

Mr. LOVELL: Mr. President, I move that the Senate, accept the Minority Report.

The PRESIDENT: The Senator from York, Senator Lovell, now moves that the Senate accept the Minority Ought to Pass, as amended, Report of the Committee.

The Chair recognizes the Senator from Kennebec, Senator Katz.

Mr. KATZ: Mr. President, I oppose the Motion and ask for a Division.

This is an eleven to two Committee Report. All three Senators have voted Ought Not to Pass.

Let me tell you what the Bill does. It directs its attention only to School Administrative Districts. Now a School Administrative District is a legal entity and as such they are required to adopt a budget. Budgets are adopted at budget meetings attended by presumably the voters from throughout the district.

Some School Administrative Districts have a great number of towns. Someone was just talking to me about this district that had eleven towns. This Bill would make it possible for that district to have 11 different votes in the 11 different towns on the school budget.

How people would get information as to what they are voting on is a little obscure to me. The sponsor of the Legislation suggested that perhaps the local director representing each community would be the one to explain what that budget contained. It has been my experience that there are very few School Administrative District Directors who are in office long enough to attain the kind of information, the kind of experience, to handle that kind of an assignment. I would presume that it would be the superintendent that would have to go around to each and every town and explain the budget over and over and over again.

I guess the main thrust of the Legislation is because people in the State are not very satisfied with voter turnout at school district meetings and budget meetings, and that is a matter for all of us to be concerned about. It has been suggested that some of the districts involve a considerable distance and perhaps individual voting in individual towns would create a better situation.

But there is absolutely no prohibition under

existing law for such districts in conveying their tax payers, their citizens, to a district meeting using school buses. The district meeting is usually in the one place that will hold a great number of people, and it might very well be in the district high school.

The thing that concerns me I think was best exemplified by a letter from some people from some small towns, these are school directors. Let me read it.

"After careful consideration and discussion of this Bill, it is our opinion it should not be passed for the following reasons:

1. It would greatly increase the cost of the budget meetings, in that each individual town would have to call a special town meeting for that purpose. It is a matter of fact that special meetings are very poorly attended anyway.

2. There are no visible benefits to justify such additional cost."

And this is what I guess influenced me about as much as anything else, because after I do not know how many years of school Administrative Districts being on the books. You just sense that people are thinking in district terms at long last. The town lines are blurred a little bit, and people are thinking what is good for our district.

3. "Unless we are to abolish the S.A.D. concept, this Bill will only tend to weaken the integrity of a budgetary system."

I am deeply concerned that increasingly I hear a comment about people's rights, and almost never do we hear in the Senate about Legislation which underlines people's responsibilities.

I guess I have come to the conclusion that no Maine Statute that we can pass in this Legislature is going to cause people to live up to their responsibilities. This Bill does not and that is the answer to the dilemma of poor voter turnout. I think this Bill is destructive. It is well intended, but 11 Members of the Education Committee, after considerable searching, felt that it was inappropriate and would be disadvantageous and would not be a step in the right direction.

The PRESIDENT: The Chair recognizes the Senator from York, Senator Lovell.

Mr. LOVELL: Mr. President, Ladies and Gentlemen of the Senate, I hesitate to debate against the Chairman of the Education Committee, but it has come to my attention that this is what you call a typical Home Rule Bill and many of us run on that platform of Home Rule.

Now in the other Body, he mentions that all three Senators signed the Report, but in the other Body this Bill passed by two to one.

The PRESIDENT: The Chair would advise the Senator that actions in the other Body should not be brought up in debate.

Mr. LOVELL: Thank you Mr. President.

This Bill, LD 1970, and the purpose of this Bill was to provide an alternative procedure of voting on the budget items within the School Administrative District. Presently the voting is done on a District level which presents a hardship to those who cannot travel to the meetings. The Bill would permit the voters to vote within the municipalities of the District or the town that they are in. Now this would allow each town in that School Administrative District, allow each town by a ten percent of the voters voting in the last Gubernatorial Election, would have to request it by petition and then once the petition is certified, the question would be put to all voters in the district at the next state wide election. If a majority of the voters chose to vote within their towns, then the school budget will have a year to work out the procedures. The budget will be voted on the same day in each community on the same day after the local representatives of the school board have held informational meetings.

Now you have probably seen quite a good deal of literature that is published in the

papers. It is local control. Seems to me that, actually I represent 13 towns, of course, Sanford is 17,000 population, but the other towns; and this Bill was entered by one of my representatives in one of my districts, and he asked me to bring it up to the Senate, that this is a typical Home Rule Bill and I feel that the Senate should give this Bill a chance and pass it.

You will probably see quite a bit of material on your desk, and I hope that you have read it. I would ask for a Roll Call on the vote.

The PRESIDENT: A Roll Call has been requested.

The Chair recognizes the Senator from Penobscot, Senator Cummings.

Mrs. CUMMINGS: Mr. President, many years ago when I was serving on the School Committee of a newly formed District, we were having problems getting the attendance that we wanted at many meetings. But the budget that was brought up I think the District had been in existence about three or four years, and there was a great deal of discontent.

The night that was called for the district meeting which was to be held at the district high school, there was a blizzard. A good old fashion blizzard. We have never had more people attend a meeting than we had that night. They came two and three on snowmobiles, and one couple came on skis. There was no way you could have held them back.

I agree with the Senator Katz, that I think this will not solve the problem of attendance at these district meetings. And I think that it should be defeated.

The PRESIDENT: A Roll Call has been requested. In order for the Chair to order a Roll Call it must be the expressed desire of one-fifth of those Senators present and voting.

Will all those Senators in favor of a Roll Call please rise in their places to be counted.

Obviously more than one-fifth having arisen, a Roll Call is ordered.

The pending question before the Senate is the Motion by the Senator from York, Senator Lovell, that the Senate Accept the Minority Ought to Pass, as amended, Report of the Committee.

A yes vote will be in favor of accepting the Minority Report.

A nay vote will be opposed.

The Doorkeeper will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEAS: Carpenter, Chapman, Danton, Farley, Hichens, Levine, Lovell, McNally, Merrill, Morrell, O'Leary, Pray.

NAYS: Collins, D.; Collins, S.; Cummings, Curtis, Greeley, Huber, Jackson, Katz, Mangan, Minkowsky, Pierce, Redmond, Snowe, Speers, Trotzky, Usher, Wyman.

ABSENT: Conley, Martin.

12 Senators having voted in the affirmative and 18 Senators in the negative, with 2 Senators being absent, the Motion to Accept the Minority Ought to Pass Report does not prevail.

The Senate voted to Accept the Majority Ought Not to Pass Report of the Committee in non-concurrence.

Sent down for concurrence.

(Off Record Remarks)

On Motion of Mr. Huber of Cumberland, Adjourned until 12 noon, Friday, February 10, 1978.