

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

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**Senate Confirmation Session
September 16, 1977**

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

The pending question before the Senate is the motion to accept the Minority Ought to Pass Report of the Committee.

A yes vote will be in favor of accepting the Minority Ought to Pass Report. A nay vote will be opposed.

The doorkeepers will secure the Chamber. The Secretary will call the Roll.

ROLL CALL

YEA — Chapman, Collins, D.; Collins, S.; Conley, Cummings, Curtis, Danton, Farley, Greeley, Hewes, Hichens, Jackson, Levine, Lovell, Martin, McNally, Merrill, Redmond, Snowe, Speers, Trotzky, Wyman.

NAY — Huber, Minkowsky, Morrell, O'Leary, Pierce, Pray, Usher.

ABSENT — Carpenter, Katz, Mangan.

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

Mr. MORRELL: Mr. President, I would like to change my vote from no to yes.

The PRESIDENT: The Senator from Cumberland, Senator Morrell, now changes his vote from nay to yea.

23 Senators having voted in the affirmative and 6 Senators in the negative, with 3 Senators being absent, the motion to accept the Minority Ought to Pass Report does prevail.

On Motion of Mr. Conley of Cumberland,

The Bill Read Twice, and Passed to be Engrossed.

Sent down for concurrence.

Divided Report

The Majority of the Committee on State Government on, Resolution, Proposing an Amendment to the Constitution to Require the State to Reimburse Municipalities for at least 50% of Property Tax Exemption Losses. (S. P. 366) (L. D. 1227)

Reported that the same Ought Not to Pass.

Signed:

Senators:

COLLINS of Aroostook
MARTIN of Aroostook
SNOWE of Androscoggin

Representatives:

DIAMOND of Windham
LOCKE of Sebec
VALENTINE of York
CHURCHILL of Orland
KANY of Waterville
MASTERTON of Cape Elizabeth
BACHRACH of Brunswick
SILSBY of Ellsworth

The Minority of the same Committee on the same subject matter reported that the same Ought to Pass.

Signed:

Representatives:

CURRAN of South Portland
STUBBS of Hallowell

Which Report was Read.

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

Mr. COLLINS: Mr. President, I move that the Senate accept the Majority Ought Not to Pass Report.

The PRESIDENT: The Senator from Aroostook, Senator Collins, now moves the Senate accept the Majority Ought Not to Pass Report of the Committee.

The Chair recognizes the Senator from Cumberland, Senator Merrill.

Mr. MERRILL: Mr. President, I want to ask for a Division when the vote is taken, and speak briefly to this issue.

Mr. President and Members of the Seante: This Bill, this Constitutional Resolve as it is presently drafted would put the requirement on the state of making a 50 percent reimbursement to municipalities for the money that they lose because of our property tax exemptions. If we can accept the Minority Ought to Pass Report today, then I will offer an Amendment

which I suggested yesterday to the State Government Committee when I presented the bill, and the Amendment would say very simply that for any newly enacted property tax exemptions the state will provide 50 percent reimbursement.

Let me speak just briefly to that point if I can, why I think it is important to have this in the Constitution. I hold in my hand the property tax exemption bills that are presently before this legislature. I would like to read a few of the titles: "An Act to Lighten the Burden of Property Taxes on Elderly Widows and Disabled," "An Act to Exempt Certain Water Craft from Property Taxation," "An Act to Establish a Property Tax Exemption for New and Expanding Businesses," "An Act to Exempt Newly Added Returnable Bottle Container Storage Structures from the Property Tax," "An Act to Exempt Antiques from the Property Tax," "An Act Concerning the Veterans Property Tax Exemption," "An Act to Repeal the Personal Property Tax on Commercial Fishing Vessels and Equipment," the one we just dealt with, "An Act to exempt Blind Property Owners from Real Property Tax," "An Act to Increase the Property Tax Exemptions for Parsonages to \$50,000," "An Act to Increase the Exemption on the Estates of Veterans," "An Act to Remove Service Utilities from the Tax Exemption granted to the Maine Turnpike Authority." This list is fairly extensive. I have gone through a few of them.

All of these bills have one thing in common, and what they have in common is that you do not see any price tag on them, and the reason that you do not see any price tag is not because there is not a loss in tax revenue. It is because the loss in tax revenue is to the municipalities, and if there is one fact which has contributed to the destruction of many of our cities around the country, and it is starting to have that effect in Maine, it is the fact that the legislatures have the generosity to provide tax exemptions and do not have to foot the bill.

Now the reason that I did not say 100 percent, but said 50 percent, is because on average that is the amount of money that cities and towns spend on services to property and not on personal related services. In other words, it excludes on average welfare payments and educational cost, at least fire protection and police protection and those services which are provided to property. So the 50 percent figure, I think, is a reasonable one, and the only burden this Constitutional Amendment would put on, if we pass it and accepted my amendment tomorrow, would be that from now on when legislators consider bills like this, there would be a price tag which would represent 50 percent of the cost, which would represent on average the cost that we would be heaping onto the municipalities that they have to fund by taxing other people with their property taxes, mainly the average citizen.

I think it is a good idea. I think it is a moderate proposal, and I think it could be devised to bring a little discipline to our unbridled generosity which has resulted in over 25 percent of the tax base in many of our cities and towns being eliminated by legislative generosity. My suggestion is simple, and I think one that is very compatible to both the philosophies of the Republican and Democratic Parties, and that is that Santa Claus has to foot the bill for the gift he wants to give away. We politicians have been in a position where we do not have to do that in regard to personal property exemptions and real property tax exemptions for too long.

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

Mr. MARTIN: Mr. President and Members of the Senate: As a signer of the Majority Ought Not to Pass Report, I would like to explain why I did so. At the time this was a study on the

Committee, no one could guesstimate the fiscal note of the loss of revenue to the state and that probably is the reason why I did so.

However, I would agree and concur with the Amendment which would be proposed or presented tomorrow or in the future, if this motion was rejected, and I would urge the members of the Senate at this time to reject the pending motion.

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

Mr. CONLEY: Mr. President, I wish to concur with the statements made by the two previous speakers. I think what this will establish obviously, is a little more deeper concern as to whose money we are giving away, and from whose community or what community is being overburdened by those exemptions that we so freely hand out in Augusta.

So it is my hope that we at least would accept the Minority Ought to Pass Report this morning, to adopt an Amendment tomorrow and pass this along. I am sure that the people themselves would overwhelmingly adopt a Resolution that would prohibit the Legislatures from just taking away or giving out these exemptions so carelessly.

The PRESIDENT: Is the Senate ready for the question?

The pending question before the Senate is the motion by the Senator from Aroostook, Senator Collins, that the Senate accept the Majority Ought Not to Pass Report of the Committee.

A Division has been requested.

Will all those Senators in favor of the motion to accept the Majority Ought Not to Pass Report, please rise in their places to be counted.

The Chair recognizes the Senator from Cumberland, Senator Conley.

Mr. CONLEY: Mr. President, I request a Roll Call.

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 present 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 Chair recognizes the Senator from Penobscot, Senator Cummings.

Mrs. CUMMINGS: Mr. President, I would like to direct a question through the Chair to anyone who would care to answer. Does this mean that any new properties that are owned by churches would also be considered in this, or would this be a new category?

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

Mr. MERRILL: Mr. President, if we could not accept this Report today and accept the Amendment that I will offer tomorrow, the only time the State would have to provide 50 percent reimbursement is when we opened it up to a new category, in other words, when we created a new statutory exemption. Any new organization or new building or an individual that had a new piece of property that fell within existing exemption would be treated the same as everyone else. But, for example, if in the future we were to pass one of these Bills which would exempt certain watercraft from property taxation which now are not exempt, then the State would have to make up to the municipalities 50 percent of the money that they lost because of that new exemption.

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

Mr. COLLINS: Mr. President, the Committee on State Government generally is sympathetic to the idea in this particular Resolution. As Senator Martin has pointed out, one of our concerns was and in the form that it was when we addressed it, it was rather difficult to determine the price tag. We had estimates in the neighborhood of \$30 million, and this is, of

course, one of the reasons why we took the action we did.

We also discussed the possibility of trying to address this statutorially. We were concerned about whether or not in its present form it could survive as a Constitutional Amendment. I think the idea does have some merit, but I am not sure that we have studied it sufficiently, prepared the proper language to enact anything at the present time, and I think that in its present form we certainly are not interested in it, and I am not sure whether the vehicle of a Constitutional Amendment is the proper method to solve the problem anyway.

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

Mr. MERRILL: Mr. President and Members of the Senate: When the Senate votes on this I would like them to keep two things in mind. If the Amendment is adopted tomorrow there will be no price tag, unless and until this Legislature in the future further takes away from the communities part of their property tax base, and then we will be in the position, we the people voting, taking that position of generosity, will be in the position of having to come up with 50 percent of the money that is lost, so there is no price tag if we accept this and then accept the Amendment tomorrow, until the Legislature further takes away from the property tax base of the municipalities.

Secondly, there has to be a Constitutional approach to this question, because the problem which we presently now have comes from Legislation, and you cannot make a legislative bar to legislative action. In other words, if we were to put in the form of legislation this requirement, all you would have to do every time you wrote one of these bills is have a section at the end, section whatever it is shall not apply to this bill, to this law.

So, what this is really asking for is a Constitutional safeguard of sorts, and I think it is a fairly moderate approach to go 50 percent each way, one that the Maine Municipal Association was not satisfied with, but it seems to me that if we could just get some fiscal discipline into these decisions, that we would make these decisions better. You know we have the same thing here when we deal with sales tax exemptions, and they go through here and quite often they are voted upon, but then they go on to the Appropriations Table, and at that point there has to be some discipline. People recognize, you know, that there is a tax expenditure involved. This would just put the property tax exemptions in a similar posture.

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

Mr. MORRELL: Mr. President and Members of the Senate: I rise in support of the proposal that we keep this alive. For a number of years I have felt that the Legislature finds it entirely too easy to pass exemptions which have no real direct effect on it, but a very serious effect on the communities. I would frankly hope that if the Amendment was presented, if it was kept alive and an Amendment was presented to have this apply to future exemptions that might be granted by future Legislatures, that it might apply to a much greater percentage than 50 percent. But it seems to me that future application of this type of discipline is something that we in the past have demonstrated we need and certainly is going to be needed in the future.

The PRESIDENT: Is the Senate ready for the question? The pending question before the Senate is the motion by the Senator from Aroostook, Senator Collins, that the Senate accept the Majority Ought Not to Pass Report of the Committee.

A yes vote will be in favor of accepting the Majority Ought Not to Pass Report. A nay vote will be opposed.

The doorkeepers will secure the Chamber.

The Secretary will call the Roll.
YEA — Collins, D.; Collins, S.; Greeley, Hewes, Huber, Jackson, Lovell, Snowe, Trotzky, Wyman.

NAY — Chapman, Conley, Cummings, Curtis, Danton, Farley, Hichens, Levine, Mangan, Martin, McNally, Merrill, Minkowsky, Morrell, O'Leary, Pierce, Pray, Redmond, Speers, Usher.

ABSENT — Carpenter, Katz.

10 Senators having voted in the affirmative, and 20 Senators in the negative, with 2 Senators being absent, the Motion to accept the Majority Ought Not to Pass Report does not prevail.

Minority Ought to Pass Report accepted.

The Resolution Read Once, and Tomorrow Assigned for Second Reading.

The PRESIDENT: The Chair at this time would ask the Sergeant-at-Arms to escort the Senator from Cumberland, Senator Hewes, to the Rostrum to act as President Pro Tem.

Thereupon, the Sergeant-at-Arms escorted Mr. Hewes of Cumberland to the Rostrum, where he assumed the duties of President Pro Tem, and the President retired from the Senate Chamber.

Divided Report

The Majority of the Committee on Election Laws on, Bill, "An Act to Permit Voter Registration and Enrollment at the Polls on Election Day." (S. P. 355) (L. D. 1180)

Reported that the same Ought Not to Pass.

Signed:

Senators:

KATZ of Kennebec
TROTZKY of Penobscot
DANTON of York

Representatives:

McMAHON of Kennebunk
DURGIN of Kittery
BOUDREAU of Waterville
BIRT of East Millinocket
TRUMAN of Biddeford
BOUDREAU of Portland
RAYMOND of Lewiston

The Minority of the same Committee on the same subject matter Reported that the same Ought to Pass as amended by Committee Amendment "A" (S-254).

Signed:

Representatives:

MITCHELL of Vassalboro
TALBOT of Portland
BUSTIN of Augusta

Which Reports were Read.

On Motion of Mr. Danton of York.

Tabled until later in Today's Session pending acceptance of either report.

(See Action Later Today.)

Divided Report

The Majority of the Committee on Election Laws on, Bill, "An Act to Require Adequate Polling Facilities in Municipalities." (S. P. 445) (L. D. 1535)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (S-255).

Signed:

Senators:

KATZ of Kennebec
DANTON of York

Representatives:

BOUDREAU of Waterville
TALBOT of Portland
MITCHELL of Vassalboro
BOUDREAU of Portland
BIRT of East Millinocket
TRUMAN of Biddeford
RAYMOND of Lewiston
BUSTIN of Augusta

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

Signed:

Representative:

DURGIN of Kittery

Which Reports were Read.
Majority Ought to Pass Report Read and Accepted.

The Bill Read Once, Committee Amendment "A" Read and Adopted, and the Bill, as amended, Tomorrow Assigned for Second Reading.

Divided Report

The Majority of the Committee on Business Legislation on, Bill, "An Act Concerning the Blue Sky Law." (S. P. 200) (L. D. 598)

Reported that the same Ought Not to Pass.

Signed:

Senator:

CHAPMAN of Sagadahoc

Representatives:

JACKSON of Yarmouth
SPROWL of Portland
KILCOYNE of Gardiner
PEAKES of Dexter
HOWE of South Portland
CLARK of Freeport
ALOUPIS of Bangor
BOUDREAU of Portland
WHITTEMORE of Skowhegan

(Rep. Rideout — Mapleton abstained because of an appearance of conflict).

The Minority of the same Committee on the same subject matter Reported that the same Ought to Pass as amended by Committee Amendment "A" (S-260).

Signed:

Senators:

PIERCE of Kennebec
FARLEY of York

Which Reports were Read.

The PRESIDENT Pro Tem: The Chair recognizes the Senator from Kennebec, Senator Pierce.

Mr. PIERCE: Mr. President and Members of the Senate: The Blue Sky Law was designed originally to protect investors and protect the general public from unscrupulous investing procedures, and it provides that any group of over 10 members must register with the Security Division of the Banking Department.

This Bill would amend that, and increase the number from 10 to 20, not as 25 in the original Bill, the Committee Amendment would take it down to 20. It says that any group up to 20 people who want to invest do not have to go through all the procedures and requirements of the Division. I think that we who signed the Minority Report felt that 20 was a reasonable number and the fees for filing are considerable, so that if 15 or 16 people want to get together to form a group or corporation they would not have to go to that considerable expense.

Therefore, I would move the Minority Ought to Pass Report.

The PRESIDENT Pro Tem: The Senator from Kennebec, Senator Pierce, now moves the acceptance of the Minority Ought to Pass Report.

The Chair recognizes the Senator from Sagadahoc, Senator Chapman.

Mr. CHAPMAN: Mr. President and Members of the Senate: As the Senator from Kennebec, Senator Pierce, has stated, the initial Blue Sky Law is to protect investors. I think the majority of the committee felt that we should take a cautious stand on what this bill is trying to accomplish.

It is not the mission of the Blue Sky Law to promote business, or to make easier the act of raising public capital through business organizations. Protection of investors is accomplished through the registration requirements of the Blue Sky Law, which provide for information disclosure, as well as by enforcement of anti-fraud provisions and by civil remedy provisions.

Registration statement format requires