

# MAINE STATE LEGISLATURE

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**LEGISLATIVE RECORD**

OF THE

***One Hundred and Tenth  
Legislature***

OF THE

STATE OF MAINE

**Volume I**

**FIRST REGULAR SESSION**

**December 3, 1980 to May 1, 1981**

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An Act Relating to Credit Disability Insurance Under the Consumer Credit Code (H. P. 490) (L. D. 542) (C. "A" H-123)

Were reported by the Committee on Engrossed Bills as truly and strictly engrossed, passed to be enacted, signed by the Speaker and sent to the Senate.

#### Orders of the Day

The Chair laid before the House the first tabled and today assigned matter:

Bill, "An Act to Repeal the Termination Date of the Emergency Petroleum Products Supply Act" (Emergency) (H. P. 863) (L. D. 977)

—In House, Passed to be Engrossed as Amended by Committee Amendment "A" (H-116) on March 25.

—In Senate, Minority "Ought Not to Pass" Report accepted.

Tabled—March 30 by Representative Brannigan of Portland.

Pending—Further Consideration.

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

Mr. BRANNIGAN: Mr. Speaker, I move that the House adhere.

The SPEAKER: The Chair recognizes the gentleman from Yarmouth, Mr. Jackson.

Mr. JACKSON: Mr. Speaker, I move that we recede and concur.

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

A vote of the House was taken.

52 having voted in the affirmative and 68 having voted in the negative, the motion did not prevail.

Thereupon, on motion of Mr. Brannigan of Portland, the House voted to adhere.

The Chair laid before the House the second tabled and today assigned matter:

Bill, "An Act to Permit Knox County to Withdraw from the Maine State Retirement System" (H. P. 487) (L. D. 539) (C. "A" H-128)

Tabled—March 30 by Representative Nelson of Portland.

Pending—Passage to be Engrossed.

On motion of Mrs. Nelson of Portland, retabbed pending passage to be engrossed and specially assigned for Friday, April 3.

The Chair laid before the House the third tabled and today assigned matter:

RESOLUTION, Proposing an Amendment to the Constitution of Maine to Abolish the Office of Secretary of State and to Create the Office of Lieutenant Governor (H. P. 436) (L. D. 483)

Tabled—March 31 by Representative Kany of Waterville.

Pending—Motion of the same gentlewoman to reconsider failing of Passage to be Engrossed.

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

Mr. KELLEHER: Mr. Speaker, would someone mind enlightening this House why we should create the Office of Lieutenant Governor? I think the House yesterday wisely failed to engross this bill, and I would like to know why the present system isn't working effectively and we should have to create an Office of Lieutenant Governor?

The SPEAKER: The Chair would advise the gentleman from Bangor, Mr. Kelleher, that the pending question is to reconsider. If the motion to reconsider does prevail, the question could then be posed.

Mr. KELLEHER: Mr. Speaker, in that light, I hope I don't get an opportunity to hear an answer to my own question.

I would ask for a division.

The SPEAKER: The pending question is on the motion of the gentlewoman from Waterville, Mrs. Kany, that the House reconsider its

action whereby this bill failed of passage to be engrossed. All those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

Whereupon, Mrs. Kany of Waterville requested a roll call vote.

The SPEAKER: 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 Chair recognizes the gentlewoman from Waterville, Mrs. Kany.

Mrs. KANY: Mr. Speaker, Ladies and Gentlemen of the House: I would ask you to reconsider whereby we barely failed to send this measure over to the other body for a first-time consideration of the topic. We haven't debated it, and certainly Representative Kelleher is right to ask questions. I guess this is Representative Kelleher's bill of the day. It is not the environmental health program, I guess that was yesterday and something else the day before, but this is his bill today to question.

Basically, what it does is consolidate, it doesn't create an additional office. It would do away with the Office of Secretary of State and instead have a Lieutenant Governor elected by the people, by the citizens of the state, to be a Lieutenant Governor in the event that the Governor is no longer able to function in that office either due to death, resignation, or for some other good cause. This would allow the people to have a voice in who that successor would be. Of course, that is not now the case. The President of the other body assumes that office, and whereas we may have chosen excellent presidents of that other body, the people of the state did not have a voice in that selection and perhaps qualifications might differ. So, the Lieutenant Governor, in the event that this does pass, then that person would assume the present duties of the Secretary of State.

I do hope you reconsider. At least keep this alive and let's send it over to that other body to let them have a look at this.

The SPEAKER: The Chair recognizes the gentleman from Pittsfield, Mr. McGowan.

Mr. McGOWAN: Mr. Speaker, Ladies and Gentlemen of the House: This is my bill and I would like the House to reconsider so that I may explain it to the House.

The SPEAKER: A roll call has been ordered. The pending question before the House is on the motion of the gentlewoman from Waterville, Mrs. Kany, that the House reconsider its action whereby the bill failed of passage to be engrossed.

The Chair recognizes the gentleman from Monmouth, Mr. Davis.

Mr. DAVIS: Mr. Speaker, I would like to pair my vote with the gentlewoman from Gorham, Mrs. Ada Brown. If she were here, she would be voting yes and I would be voting no.

#### ROLL CALL

YEA — Baker, Beaulieu, Bell, Benoit, Berube, Boisvert, Brannigan, Brenerman, Brodeur, Callahan, Carrier, Carroll, Carter, Chonko, Clark, Connolly, Cox, Crowley, Cunningham, Davies, Diamond, G.W.; Diamond, J.N.; Erwin, Fitzgerald, Fowle, Gowen, Gwadnosky, Hall, Hickey, Hobbins, Holloway, Jacques, Jalbert, Joyce, Kane, Kany, Ketover, Kilcoyne LaPlante, Lisnik, Livesay, Locke, MacEachern, Macomber, Mahany, Martin, A.; Martin, H.C.; McGowan, McHenry, McKean, McSweeney, Michael, Michaud, Mitchell, E.H.; Mitchell, J.; Moholland, Murphy, Nadeau, Nelson, M.; Norton, Paradis, P.; Paul, Pearson, Perry, Post, Pouliot, Prescott, Racine, Randall, Reeves, P.; Richard, Ridley, Roberts, Rolde, Soule, Swazey, Theriault, Thompson, Tuttle, Twitchell, Vose, Walker, Webster, The Speaker.

NAY — Aloupis, Armstrong, Austin, Bourdeaux, Boyce, Brown, D.; Brown, K.L.; Cahill, Conary, Connors, Curtis, Damren, Day, Dillenback, Drinkwater, Dudley, Foster, Gavett, Gillis, Hanson, Higgins, L.M.; Huber, Hunter, Hutchings, Ingraham, Jackson, Jordan, Kelleher, Kiesman, Lancaster, Laverriere, Leighton, Lewis, MacBride, Masterman, Matthews, McCollister, McPherson, Nelson, A.; O'Rourke, Paradis, E.; Perkins, Peterson, Reeves, J.; Salsbury, Sherburne, Smith, C.W.; Stevenson, Stover, Strout, Studley, Tarbell, Telow, Treadwell, Wentworth.

ABSENT — Dexter, Hayden, Higgins, H. C.; Lund, Manning, Masterton, Small, Smith, C.B.; Soulas, Weymouth.

PAIRED — Brown, A.-Davis.

Yes, 84; No, 55; Absent, 10; Paired, 2.

The SPEAKER: Eighty-four having voted in the affirmative and fifty-five in the negative with ten being absent and two paired, the motion to reconsider does prevail.

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

Mr. KELLEHER: Mr. Speaker, I would request a division on passage to be engrossed.

The SPEAKER: The Chair recognizes the gentleman from Pittsfield, Mr. McGowan.

Mr. McGOWAN: Mr. Speaker and Members of the House: This is my bill, this L. D. 483, which eliminates the Office of the Secretary of State and creates the Office of Lieutenant Governor. The Lieutenant Governor would run on the same ticket as the Governor with the same party affiliation. Presently, if the Governor dies, the President of the Senate takes over the Chief Executive's job, and in the case of today's situation, the President of the Senate is not of the same party affiliation as the Governor. Therefore, the majority of the voters of the state would not be represented by the Chief Executive. With this amendment to the Constitution, we would make the successor to the Governor of the same philosophy as that of which the people elected in the gubernatorial election.

This bill is a "government by the people" rather than "governor by the Senate" and in light of the assassination attempt on President Regan yesterday, I would hope that this House would consider this type of amendment to the Constitution as a priority to the executive office is very important to a majority of the people.

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

Mr. KELLEHER: Mr. Speaker, Ladies and Gentlemen of the House: I would like to commend the young Representative from Pittsfield this morning for giving his first speech in the House. He gave a very fine speech but, unfortunately, I think he gave it on a very poor bill.

I think this is a step backwards in good government as the goo-goos used to say years ago, the good government people of the United States. I honestly think the system that we have functioning here in state government is a good one, a proper one, and one that well balances off the political processes that we know here in the State of Maine.

I am not unsympathetic and realize that in the other body at the present moment we have a member not of my party but rather the party of the opposition but, nevertheless, the majority of the people in the senatorial districts created that situation, and I think, by the way, we have a very good man over there.

I think the system is well suited for the needs of the people of this state and I don't believe that we should be creating another political football. In fact, that is exactly what I think this bill will be doing, it won't be helping the people of the state of Maine, it will be hurting them.

We have a fine system of government here, as Representative Kany I know understands it to be, and I would appreciate it if she would reconsider here position this morning and vote

with the majority of us yesterday and not engross this bill.

The SPEAKER: The Chair recognizes the gentleman from Cumberland, Mr. Dillenback. Mr. DILLENBACK: Mr. Speaker, Ladies and Gentlemen of the House: I am on the state committee and I listened to this bill and I agree with Mr. Kelleher and what he has just said. All this is going to do is create two people running for the governorship, and you are going to have more political problems with this. I think the system is good; let's leave it the way it is.

The SPEAKER: The Chair recognizes the gentleman from Presque Isle, Mr. Lisnik.

Mr. LISNIK: Mr. Speaker, Ladies and Gentlemen of the House: I can understand the reluctance on the part of many to any kind of change. Change is not easy to accept, whether you are a Democrat or a Republican. However, I do feel that this bill does make good sense and I feel in time that we will come to accept that change.

It kind of reminds me of the first time I saw Representative Kelleher in his cowboy boots and cowboy hat. It took me a while to accept it but now I find the good Representative quite attractive. I think in time that he will find this bill quite attractive.

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

Mr. PARADIS: Mr. Speaker, Ladies and Gentlemen of the House: I have been on the State Government Committee for approximately two and a quarter years. We considered this bill in the 109th session; I was happy to vote for it then and am very happy to be here this morning to be able to rise and speak for it once again.

I commend the gentleman from Pittsfield, Mr. McGowan, for sponsoring such an excellent bill, because it addresses a fundamental concept of our constitution form of government that we have in the 50 states, and that is the executive, judicial and legislative.

One of the problems with the present system is that when there is a vacancy in the office of Governor, I don't think that is how this country works. On the federal level, we have an elected Vice-President and when there is a vacancy in the office of Vice President, the President proposes to the Congress and by majority vote of both branches of the legislative federal government, he assumes the office of Vice President, as we saw during the turmoil of the Watergate years.

In Maine, we have a different system. Maine is one of the few states that does not have a Lieutenant Governor, a person elected by the majority of the people of that state, to assume the office in case of death or resignation.

When this state was formed and when our Constitution was originally written, the term of office for Governor was two years; now it is four years. The first Governor to be elected for a four-year term was Governor Clauson from Waterville. He died approximately December 30, 1959, and John Reed, the President of the Senate, assumed control. That necessitated a new election in 1960, in the Fall of 1960.

If we had such an occurrence today and our very able President of the Senate, Senator Sewall, were to assume the office, we would have to have a new election this year for Governor—we would have one anyway, but we would have to have one halfway through a term if that were so. I think that is not good government. I think the executive office today is so expanded, the functions of government, the budget, everything is so large that it necessitates that we have continuity and we have someone in there who is prepared to take the reins of power immediately and effectively.

So, I urge you to vote in favor of this bill.

The SPEAKER: The Chair recognizes the gentleman from Lewiston, Mr. Nadeau.

Mr. NADEAU: Mr. Speaker, Ladies and Gentlemen of the House: I was very proud and honored to cosponsor this bill with my col-

league, Representative McGowan. I cosponsored it for a very good reason, I think it is sound government and I think the statistics bear me out on that. I dispute the good gentleman from Bangor, Mr. Kelleher's contention that this is something less than good government.

I am not quite sure of the figure, but it is either 42 or 44 states in this country have Lieutenant Governors in their states, and obviously the remainder do not, so that statistic is relatively staggering. States, for example, like Massachusetts, which is a large state with many more people than we have but it also ranges to states like Vermont, who is smaller than we are, so it varies from industrial states to rural states to the farming belt, it makes no difference. It has been viewed over the years historically as a sound concept, as Representative Paradis outlined. It is something that I feel is long overdue in this State and something that we should take a real hard look at.

I seriously hope that you give this bill a favorable vote.

The SPEAKER: The Chair recognizes the gentleman from Enfield, Mr. Dudley.

Mr. DUDLEY: Mr. Speaker, Ladies and Gentlemen of the House: Very briefly, I know there are about 42 Lieutenant Governors and I visited a lot of these states while I have been on the Council of State Governments and have been used very well and met a lot of these fellows, and they are generally known in their state as the baby kissers. I suggest that that job could very well be left to some of the nice looking boys in the House like Representative Kelleher. We really don't need a baby kisser in this state, I am satisfied with the present system.

The SPEAKER: The Chair recognizes the gentleman from Auburn, Mr. Boyce.

Mr. BOYCE: Mr. Speaker, Ladies and Gentlemen of the House: I am afraid that I am going to have to take a little bit of odds with my good friend from Lewiston, and I hope that he still lets me play on the softball team, and from Representative Paradis as well. I think they have pointed up a few of the concerns that I think many of us in the House have on this bill, as well as some of the concerns of that learned gentleman from the Appropriations Committee from Bangor, Mr. Kelleher.

One of the things that you mentioned was the accession that was done when Governor Reed succeeded. I think that proves the system presently in effect does work, the system that was started back in 1820 when the state was founded, and obviously I have a little bit of belief in our forefathers' capabilities of handling the situation.

There is one other point that you made in the fact that we have a large executive staff already down on the second floor. Well, we would just be adding one more executive to the staff possibly and still a larger office staff to go along with it.

Who then would assume the duties of the Secretary of State and what would the new duties of the Lieutenant Governor be and what would they eventually burgeon into beyond the realm of baby kissing?

There was a time when I, too, was convinced that this was the route to go. I, too, have visited a lot of states and seen the operation of Lieutenant Governor and I really don't think that we need that sort of thing here in the State of Maine. There would be some additional costs too in the ballot counting, I would assume, as one more elected office going through.

The SPEAKER: The Chair recognizes the gentleman from Pittsfield, Mr. McGowan.

Mr. MCGOWAN: Mr. Speaker, Ladies and Gentlemen of the House: The statement from the gentleman from Auburn, Mr. Boyce, is incorrect. We are eliminating the Office of Secretary of State and creating the Office of Lieutenant Governor. The Lieutenant Governor would run the office that the Secretary of

State currently runs.

I guess the main point that I would like to make on this bill is that the successor to the Governor at this time is elected by 1/33 of the voting population of the State of Maine, one Senate district, and what I would like to see is the majority of the voters of the State of Maine elect the successor to the Governor. That is one point I would like to make.

The SPEAKER: The Chair recognizes the gentleman from Windham, Mr. Diamond.

Mr. DIAMOND: Mr. Speaker and Members of the House: Just one point to bring out that I think has not been mentioned yet, and that is, our Constitution says to be a State Rep you must be 21 years old and to be a State Senator you must be 25 and to be Governor you must be 30. Now, if the President of the Senate is 25 years old, how would he replace the Governor if you have to be 30?

The SPEAKER: The pending question is on passage to be engrossed. All those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

71 having voted in the affirmative and 64 having voted in the negative, the motion does prevail.

Sent up for concurrence.

(Off Record Remarks)

The Chair laid before the House the fourth tabled and today assigned matter:

Bill, "An Act to Establish the Department of Public Safety as the Lead Agency Regarding Accidental Spills of Hazardous Waste Matter" (H. P. 270) (L. D. 303)

Tabled—March 31 by Representative Higgins of Scarborough.

Pending—Adoption of Committee Amendment "A" (H-126)

Mrs. Huber of Falmouth offered House Amendment "A" to Committee Amendment "A" and moved its adoption.

House Amendment "A" to Committee Amendment "A" (H-161) was read by the Clerk.

The SPEAKER: The Chair recognizes the gentleman from Falmouth, Mrs. Huber.

Mrs. HUBER: Mr. Speaker and Members of the House: The House Amendment I am presenting today deals with the area of jurisdiction between local safety officers and state police, in effect, or the Office of Public Safety.

I think the easiest way for me to explain this is to read to you the pertinent portion of the Committee Amendment, which was a unanimous amendment, and then let you see how the House Amendment fits onto it, because it is a clarifying amendment.

The two amendments as joined together read as follows: "The local public safety agency shall exercise authority for the preservation of public order and safety and shall coordinate the response to this bill." This is the bill of hazardous waste matter.

"The Department of Public Safety shall exercise its authority in those areas of the State without a local public safety agency."

The House Amendment goes on — "or in any situation in which a local public safety agency requests assistance from the Department of Public Safety."

The intent of the House Amendment is to clarify that when the State Public Safety Agency is involved in a spill situation, that the authority rests with the commander of those forces as opposed to local forces. I hope you will pass this amendment.

Thereupon, House Amendment "A" to Committee Amendment "A" was adopted.

Committee Amendment "A" as amended by House Amendment "A" thereto was adopted.

The Bill was assigned for second reading tomorrow.

(Off Record Remarks)