

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

*One Hundred and Seventh
Legislature*

OF THE

STATE OF MAINE

Volume II

May 21, 1975 to July 2, 1975

Index

KENNEBEC JOURNAL
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SENATE

Saturday, June 28, 1975

Senate called to order by the President.

Prayer by the Honorable Theodore S. Curtis, Jr., of Orono:

Let us Pray. Dear Lord, thank you for this beautiful day and for our loved ones. In a telephone conversation last night, my wife reported that our two-year-old daughter, Lynn, who had been eating strawberries in the garden, had informed her mother that she was having jellybeans from the tomato plants. Lord, thank you for guiding us through 108 days of this Legislature, help us to return safely to our homes, our families and the jellybeans on the tomato plants. Amen.

Reading of the Journal of yesterday.

Papers from the House
House Paper

Bill, "An Act Relating to General Fund Aid to Local School Units." (H. P. 1784) (L. D. 1948)

Comes from the House. Passed to be Engrossed without Reference to Committee.

Under suspension of the rules, this Bill was given its First and Second Readings and Passed to be Engrossed in concurrence.

Thereupon, under further suspension of the rules, sent forthwith to the Engrossing Department.

Enactors

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

Emergency

An Act Making Additional Appropriations for the Expenditures of State Government and for Other Purposes for the Fiscal Years Ending June 30, 1976 and June 30, 1977. (S. P. 609) (L. D. 1945)

This being an emergency measure and having received the affirmative votes of 22 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.

On motion by Mr. Conley of Cumberland.

Recessed until the sound of the bell.

After Recess

Called to order by the President.

Papers from the House

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

Non-concurrent Matter

Resolution, Proposing an Amendment to the Constitution to Provide for Annual Sessions of the Legislature and to Change the Date of Convening of the Legislature. (H. P. 1510) (L. D. 1827)

In the Senate June 27, 1975, Fails of Final Passage.

Comes from the House, Passed to be Engrossed as Amended by Conference Committee Amendment "A" (H-491) and Houses Amendment "C" (H-851), in non-concurrence.

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

Mr. BERRY: Mr. President, I move the Senate adhere, and just very briefly I would say this: the condition of this resolution at the present moment is that it provides for a limitation on the subject matter that can be introduced at a special

session, confining it under House Amendment "C", which was just put on, H-851, to budgetary matters, matters in the Governor's call, and emergency matters.

The Conference Committee Amendment attempts to limit by number of days, but it does this by saying that the Legislature itself shall enact statutory limitations. In other words, the bill itself does not provide any limitations at all, as Senator Clifford was most anxious to do. I believe that Senator Clifford, if he were here, would be strongly opposed to this bill. I am opposed to it because of the subject limitation. Leadership feels that there is a \$900 price tag on here unless there is some kind of limitations on the bill. So with these viewpoints, I would urge everybody to vote to adhere.

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

Mr. MERRILL: Mr. President and Members of the Senate: Just so that there will be no misunderstanding, the Senator from Androscoggin, Senator Clifford, made it clear in the debate, and he made it clear in my discussion with him last night, that he would be very much satisfied with this bill if it had what was the committee amendment, and he would be more satisfied if it had the committee amendment and the amendment that was offered in the other body and was on the bill yesterday. I think that the Conference Committee Amendment when it originally came back, which is now on the bill, in essence, had the full support of the Senator from Androscoggin. I think it represents a good compromise because it doesn't write into the constitution specific limitation, but it puts this legislature under the gun to come up with one. I would hope that we could pass this resolution today and to have this one final element in the record of constitutional reform enacted today by the 107th.

The PRESIDENT: The Chair recognizes the Senator from Somerset, Senator Cianchette.

Mr. CIANCHETTE: Mr. President, I would pose a question through the Chair, if I could, to anyone who might care to answer. If we pass this matter before us now, will it require an appropriation?

The PRESIDENT: The Senator from Somerset, Senator Cianchette, has posed a question through the Chair to any Senator who may care to answer.

The Chair recognizes the Senator from Cumberland, Senator Berry.

Mr. BERRY: Mr. President, I think an honest answer would be no, it doesn't appropriate any more money than the present setup.

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

Mr. CURTIS: Mr. President, when the vote is taken I ask for a division.

The PRESIDENT: The Chair recognizes the Senator from Washington, Senator Wyman.

Mr. WYMAN: Mr. President, it seems to me that it is too late in the day to fool around with the constitution, and I am going to vote against this.

The PRESIDENT: Is the Senate ready for the question? The pending question before the Senate is the motion by the Senator from Cumberland, Senator Berry, that the Senator adhere. Will all those Senators in favor of the pending motion please rise in their places until counted.

A division was had. Nine having voted in the affirmative, and 14 having voted in the

negative, the motion did not prevail.

Thereupon, on motion by Mr. Merrill of Cumberland, the Senate voted to Recede and Concur.

Non-concurrent Matter

Bill, "An Act to Create a Full-time Board of Environmental Protection." (H. P. 931) (L. D. 1175)

In the House May 30, 1975, Passed to be Enacted.

In the Senate June 27, 1975, Indefinitely Postponed, in non-concurrence.

Comes from the House, that Body having Insisted.

Mr. Pray of Penobscot moved that the Senate Adhere.

Whereupon, Mr. Trotzky of Penobscot moved that the Senate Recede and Concur.

On motion by Mr. Pray of Penobscot, a division was had. 12 having voted in the affirmative, and 12 having voted in the negative, the motion did not prevail.

Mr. Merrill of Cumberland then moved that the Senate Adhere.

On motion by Mr. Curtis of Penobscot, a division was had. 11 having voted in the affirmative, and 12 having voted in the negative, the motion did not prevail.

Mr. Berry of Cumberland then moved that the Senate Recede and Concur.

Whereupon, Mr. O'Leary of Oxford moved that the Senate Recede and, subsequently, Mr. Curtis of Penobscot requested a division.

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

Mr. SPEERS: Mr. President and Members of the Senate: For clarification, I would urge those who wish to recede and concur to go along with the motion to recede, and at that point a motion to concur may then be placed before the body. So those who would wish to see the matter passed to be enacted along with the House should vote in the affirmative on this motion to recede.

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

Mr. CURTIS: Mr. President, I would like to withdraw my request for a division.

The PRESIDENT: Is it the pleasure of the Senate to recede?

The motion prevailed.

Mr. Cianchette of Somerset then moved that the Bill and accompanying papers be Indefinitely Postponed and, subsequently, Mr. Curtis of Penobscot requested a division.

The PRESIDENT: A division has been requested.

The Chair recognizes the Senator from Penobscot, Senator Pray.

Mr. PRAY: Mr. President and Members of the Senate: It seems as if we are at a stalemate in the late hours. I think the Senate has expressed its feeling on this bill a number of times, and I think it is time we stopped playing games and got this matter settled, got it out of the way and buried.

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

Mr. BERRY: Mr. President, all I can say is I think legislative adjournment would be speeded a great deal if we ended up by receding and concurring. I hope that we would defeat the motion and then concur.

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

Mr. TROTZKY: Mr. President and

Members of the Senate: We are not playing games here. We are giving the members of the board a raise from \$25 to \$40 a day. These people sit through long hearings and make decisions on some of the most complex problems that face the State of Maine. Also, I would like to state that I spoke with a member of the Executive Council, and he stated also that when we choose people, even though they are supposed to represent manufacturing, represent conservation interests, we really choose them to represent the broadest possible interests and experience which can be brought to bear on these problems, and that is the real issue here. I think the bill is a good one and I hope that we can recede and concur.

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

Mr. MERRILL: Mr. President, this issue was debated at length yesterday, and I am sorry to see that the lateness of the hour has caused some of the people that helped in the debate yesterday to change, but I think it is an important issue. The people who wrote our environmental laws, I think, had good sense when they assured that there would be built into the board some balance, some assurance that all sides would be represented.

I think the point that the Senator from Cumberland, Senator Berry, made yesterday was a good one, and that maybe it would be better if we said they shall be chosen from a certain group, not that they will represent a certain group. I think that would be a wise step for us to take in the special session and I would support it. There is no hurry on this, there is no reason why we have to run and make a change in what I think now is a fairly balanced board.

I think it is important that the legislature assure that there remains a balance on this board. The history of regulatory commissions in this country is not a good one. It is not a good one in terms of boards being able to remain balanced and remain in a position to represent all interests, and I think that is why the farmers of this legislature put this requirement in originally, and although I know some people who have in this legislature supported the environmental cause quite strongly, like the good Senator from Penobscot, Senator Trotzky, have feelings that this would be a good change for the environment. I think in this case they are wrong, and I think that this is sort of a late hour to be changing one of the fundamental bases and one of the fundamental innovative ideas that we had originally in the board. I think the fastest way to dispose of this thing would be to indefinitely postpone it and let it be done with right here and now. If a change has to be made, we can make it in the special session. There certainly is no compelling reason why we have to rush ahead now and make this change. I think it is interesting to note that I talked to the sponsor of this legislation this morning and he receded and concurred with my thinking on this matter.

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

Mr. CURTIS: Mr. President and Members of the Senate: As I mentioned before in earlier debate, the bill as it is before you is quite different from the way it was initially introduced by the sponsor of the measure, who wanted to have a full-time Board of Environmental

Protection and pay the members of that board a substantial amount of money.

The bill before you now provides that we shall continue to have a citizen lay Board of Environmental Protection. We would increase their stipend for per diem by \$15 a day, from \$25 a day to \$40 a day. The reason we would like to have the rest of the language in the bill, and that is the controversial part, is to eliminate those categories under which people now are appointed to the Board of Environmental Protection. The board is an ongoing one, the terms are staggered, and I think it would be appropriate for the members of the board, after they have been appointed, to feel that they are then representing all of the people in the State of Maine as they decide upon each issue that is placed before them rather than a particular category.

It is interesting to hear us described, that is, those people who worked on this legislation a few years ago in reorganization, as planning for the future and carefully balancing the legislation, and I appreciate the comments of the good gentleman who spoke before. I would like to point out, however, that the State Government Committee that worked on this bill in reorganization was in a bit of a quandary because we wanted to get the reorganization passed, and we decided to continue the basic category structure. I don't think it had anything to do with our decision that the merits were necessary to continue it at that time, but in order to get the bill with the least amount of controversy on that particular issue enacted a few years ago as part of the previous Governor's program, we did work out that language.

Now I think that the board has worked out its situation in the status of government, it is now appropriate to provide for this readjustment of the category.

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

Mr. TROTZKY: Mr. President and Members of the Senate: We killed in this legislature three bills: A bill that would put two labor representatives on the Board of Environmental Protection; a bill that would put a fisherman, someone representing marine interests, on the Board of Environmental Protection; a bill that would put a farmer, someone representing the agricultural interests of the state, on the Board of Environmental Protection. We killed those three bills with the confidence that this bill would pass eliminating categories.

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

Mr. O'LEARY: Mr. President and Members of the Senate: The same statements were made here last night when we defeated this measure by a vote of 16 to 10. But I would remind you once again that this bill has the potential of being really dangerous. We heard last night here from proponents and opponents on both sides admitting that the board as presently composed was a very good board. I would suggest that we wait until such time as we come back here in special session and write the right kind of a safeguards into a piece of legislation so that we can be sure in the future that the board will be comprised of people that we believe should be there. I don't think that we should just carte blanche the whole thing at this late date. There is not much opportunity to write qualifications into the bill now, we want to go home, so I hope you

will support Senator Cianchette's motion to indefinitely postpone.

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

Mr. GRAHAM: Mr. President and Members of the Senate: This is an historic occasion, it will probably be my farewell address for this session. The bawdy hand of time is fumbling with adjournment. Meanwhile, I would like to clarify my position regarding the Board of Environmental Protection. When the Committee on State Government met with the board, we were, as I said, impressed. But the board did not suggest a fulltime board, nor did it suggest a raise in their per diem. We, therefore, decided against a fulltime board, but we did raise the per diem so it would be in line with what other boards have been receiving.

One thing the board did mention, namely, that they should not be chosen as representatives of specific categories of society, industry, labor, conservationists, etc., but on the basis of the broadest possible interests and experience. We agreed, because this way, we thought, the members would be free men and women, representatives of the public without any strings on them, not tied to any segment of society. No governor, we thought, would be able to stack the board in favor of any segment of society because the council and the council's successor would reject such appointments.

Our faith may be an illusion, and I am well aware of the theory that regulatory agencies inevitably become the captives of the industries they are supposed to regulate. The irony of the opposition to this bill is that some of its opponenets think it would make the Board of Environmental Protection stronger, while others think it would make the board weaker. For my part, I think that only an alert public acting through their elected representatives can police the environmental policemen.

Margaret Fuller, the Boston Bluestocking, once announced in a burst of transcendental fervor, "I accept the universe", to which crusty old Thomas Carlyle said, "She damn well better." I accept the decision of this body, not only because I have to, but because I understand both sides of the debate. I did want to explain the committee's position. Thank you.

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

Mr. O'LEARY: Mr. President and Members of the Senate: So that everyone in this chamber will be aware, I would like to inform them that this morning the good Senator from Cumberland, Senator Berry, and I thought that we would try to at least give these members of the board the \$40 a day by working out an amendment, getting it preengrossed, whereas we would wipe out everything beyond the enacting clause and putting in the \$40 a day. It was rejected on the other side by the people we thought were interested, and we were led to believe that all they wanted to do was recede and concur, but the bill is back, they having insisted. I think we made an honest effort on our part, and I believe that when we come back in our special session we can take care of this.

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

Mr. PRAY: Mr. President and Members of the Senate: Only to be fair to the entire debate as to the facts of the categories that we presently have, the question keeps

coming up of the fact that we had legislation this time representing labor people, fishermen, people representing agriculture. I think we have to be fair to the entire process and ask what happened to those bills that asked for those people. Did we see them in the chamber? Did they come here to the floor for debate? Well, we all know the answer to that, so I think the fear of categories coming in is going to be there no matter which way we do it. When we come back in another session, even if we accept this, somebody is going to come back and put a bill in to put categories back.

The second thing that I have noticed in listening to both sides of it is the high praise for the present board that we have. I just have to wonder and ponder that if it is such a good board and working out now, what is the big hurry in changing it?

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

Mr. TROTZKY: Mr. President and Members of the Senate: The three bills that did come in on the labor, fishermen and farmers, these bills did come in as divided reports.

The PRESIDENT: Is the Senate ready for the question? The pending question before the Senate is the motion by the Senator from Somerset, Senator Cianchette, that L. D. 1175 and all its accompanying papers be indefinitely postponed.

A division has been requested. Will all those Senators in favor of the motion to indefinitely postpone please rise in their places until counted.

The Chair recognizes the Senator from Penobscot, Senator Curtis.

Mr. CURTIS: 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 in favor of a roll call, please rise in their places until counted.

Obviously more than one-fifth having arisen, a roll call is ordered.

The Chair recognizes the Senator from Cumberland, Senator Conley.

Mr. CONLEY: Mr. President and Members of the Senate: It is unfortunate that this debate on this particular item is prolonging the adjournment of today's legislative session. Last evening when this bill was debated, there was some discussion as to whether or not to put on an amendment to grant the members of the board an increase in their per diem and no one here was opposed to that. The good Senator from Cumberland at that time, Senator Berry, stated that he felt that the board could get along until the special session to increase their per diem to the \$10. Now, that was last evening. I would have been very happy to have had an amendment prepared at that time and put on the bill so that it could have been pre-engrossed and we could have enacted it today. It seems to me now that this thing is just being prolonged, and it would be my hope that the Senate would once again reject this measure.

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

Mr. CURTIS: Mr. President, in order to move along the legislative session, and we might end up in concurrence with the house, I would suggest that people should vote against the pending motion.

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

Mr. BERRY: Mr. President and Members of the Senate: As several speakers have indicated, some time has passed since last night. I think the only issue we are really voting on here, the issues are two: first, I have a strong suspicion that if we reject this by indefinitely postponing it, it is going down to the other end of the corridor and we are going to see it back again. Whether we are going to see it back again at 1:30 or 3:30 or 4:30 is just a matter of what happens down there and how long it takes them to get together to do it. So that is one issue, and I think it is a fairly important issue.

I think the second issue is that all we are really going to be talking about, in view of the fact, as I understand it, there are no appointments coming up before January, the same board is going to continue, we are not going to see any change at all, so putting this language on the book is a step in the direction Senator Merrill quite properly mentioned, and this is to change it so that once these people are appointed they are going to act for the interests of the state in general. So I don't think we are talking anything here but increasing these people's pay to \$40, which is a \$15 increase. All of us are aware that they work long hard hours and they are certainly entitled to it, and the money is in the budget to do it. So I think for these reasons, to move the session along, no harm is going to be done and some good will be done. I hope we will reject the motion and eventually concur.

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

Mr. MERRILL: Mr. President and Members of the Senate: There has been a great deal of reference in this debate to what is going on or what might go on at the other end of the corridor, and that is wrong that it should be mentioned. I know it is against our rules to do so, as it would be against the rules for me to say that they will probably recede and concur if we indefinitely postpone.

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

Mr. PRAY: Mr. President and Members of the Senate: To bring up the other issue that the good Senator from Cumberland, Senator Berry, has brought up, it was in the debate here last night, in reference to the pay increase for the members of the board, it was suggested by an individual, the good Senator from Cumberland, Senator Conley, that perhaps if this was the only problem that somebody should table it and we could put the amendment on it. None of the people concerned about the pay last night chose to take this alternative, the motion was never made. So I think now to start bringing up the bit about the pay is just trying to throw a little bait out to sway some of the individuals as to how they would vote, the same as it is being thrown when they say to speed the process up let's recede and concur. I think this is wrong, and I hope nobody here attempts to change their vote just for the idea or principle of speeding up the process so we can get out of here.

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

Mr. CONLEY: Mr. President, what we are truly involved in right now is a little parliamentary procedure. If the motion to indefinitely postpone fails, and the motion to recede and concur fails, it is obvious we

can get a roll call on a motion to adhere, which would then eliminate the whole problem that we have before us.

The PRESIDENT: Is the Senate ready for the question? A roll call has been ordered. The pending question before the Senate is the motion by the Senator from Somerset, Senator Cianchette, that the Senate indefinitely postpone L. D. 1175. A "Yes" vote will be in favor of indefinite postponement; a "No" vote will be opposed.

The Secretary will call the roll.

ROLL CALL

YEAS: Senators Berry, E.; Carbonneau, Cianchette, Conley, Corson, Johnston, McNally, Merrill, O'Leary, Pray, Roberts, Wyman.

NAYS: Senators Berry R.; Collins, Curtis, Gahagan, Graham, Greeley, Huber, Reeves, Speers, Thomas, Trotzky, Sewall.

ABSENT: Senators Clifford, Cummings, Cyr, Danton, Graffam, Hichens, Jackson, Katz, Marcotte.

A roll call was had. 12 Senators having voted in the affirmative, and 12 Senators having voted in the negative, with nine Senators being absent, the motion did not prevail.

Mr. Berry of Cumberland then moved that the Senate concur.

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

Mr. O'LEARY: Mr. President, I would ask for 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 in favor of a roll call please rise in their places until counted.

Obviously more than one-fifth having arisen, a roll call is ordered.

The Chair recognizes the Senator from Washington, Senator Wyman.

Mr. WYMAN: Mr. President and Members of the Senate: There has been some talk and a note on our desks that we are going to adjourn until next Wednesday, but my feeling is that if we pursue the course we are following we won't even adjourn.

The PRESIDENT: The pending question before the Senate is the motion by the Senator from Cumberland, Senator Berry, that the Senate Concur. A "Yes" vote will be in favor of concurring; a "No" vote will be opposed.

The Secretary will call the roll.

ROLL CALL

YEAS: Senators Berry, R.; Collins, Curtis, Gahagan, Graham, Greeley, Huber, Johnston, Reeves, Seers, Thomas, Trotzky.

NAYS: Senators Berry, E.; Carbonneau, Cianchette, Conley, Corson, McNally, Merrill, O'Leary, Pray, Roberts, Wyman.

ABSENT: Senators Clifford, Cummings, Cyr, Danton, Graffam, Hichens, Jackson, Katz, Marcotte.

Mr. Cianchette of Somerset was granted leave of the Senate to change his vote from "No" to "Yes".

A roll call was had. 13 Senators having voted in the affirmative, and 10 Senators having voted in the negative, with nine Senators being absent, the motion prevailed.

Orders

On motion by Mr. Speers of Kennebec ORDERED, the House concurring, that when the Senate and House adjourn, they