

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

*One Hundred and Seventh
Legislature*

OF THE

STATE OF MAINE

1975

KENNEBEC JOURNAL
AUGUSTA, MAINE

Senate — As Amended

Bill, "An Act to Authorize the County of Hancock to Collect and Dispose of Solid Waste on a Regional Basis." (S. P. 128) (L. D. 414)

Bill, "An Act Relating to Closing Costs under the Maine Consumer Credit Code." (S. P. 218) (L. D. 717)

Bill, "An Act to Authorize Knox County to Raise \$700,000 for Construction of a County Jail and a District Court Facility." (S. P. 285) (L. D. 995)

Bill, "An Act Creating the Post-secondary Education Commission of Maine." (S. P. 344) (L. D. 1160)

Bill, "An Act Concerning Publication and Public Inspection of Executive Orders." (S. P. 449) (L. D. 1508)

Bill, "An Act Repealing the York Harbor Village Corporation." (S. P. 468) (L. D. 1563)

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

Sent down for concurrence.

Enactors

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

An Act Concerning the Jurisdiction of the Courts. (S. P. 374) (L. D. 1201)

An Act Relating to Fire Protection for Township 8, R. 4 and Township 10, R. 6 (H. P. 885) (L. D. 1056)

An Act Relating to the Validity of Absentee Ballots. (H. P. 31) (L. D. 39)

An Act to Exempt from the Sales Tax Sales of Goods and Services Essential for the Care and Maintenance of Seeing Eye Dogs. (H. P. 1423) (L. D. 1693)

An Act Relating to Amount of Annual Excise Tax on Railroads. (H. P. 1494) (L. D. 1740)

(On motion by Mr. Huber of Cumberland, placed on the Special Appropriations Table.)

Which, except for the tabled matter, were Passed to be Enacted and, having been signed by the President, were by the Secretary presented to the Governor for his approval.

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

Mr. REEVES: Mr. President, I just wanted to make an inquiry on An Act Relating to Amount of Annual Excise Tax on Railroads, (H. P. 1494) (L. D. 1740). Will the Senate have another chance to consider action on this bill.

The PRESIDENT: The Chair will reply in the affirmative, when it is removed from the Appropriations Table.

Mr. REEVES: So I will get a chance to speak against this bill again?

The PRESIDENT: The Chair will reply in the affirmative.

Mr. REEVES: Thank you.

Emergency

An Act Declaring the Lewiston-Auburn Water Pollution Control Authority to be a Quasi-municipal Corporation. (S. P. 316) (L. D. 1093)

This being an emergency measure and having received the affirmative votes of 26 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.

Mr. Speers of Kennebec was granted unanimous consent to address the Senate.

Mr. SPEERS: At the recess of the Senate this morning there will be a joint

caucus in the Legislative Council Chamber to discuss the education subsidy bill. I now move that the Senate stand in recess until the sound of the bell.

The PRESIDENT: The Senator from Kennebec, Senator Speers, now moves that the Senate be at recess until the sound of the bell. Is this the pleasure of the Senate?

It is a vote.

(After Recess)

Called to order by the President.

Non-concurrent Matter

On motion by Mr. Speers of Kennebec, the Senate voted to take from the table the matter tabled earlier in today's session by Mr. Conley of Cumberland, pending Consideration:

Bill, "An Act to Fund Public School Education." (H. P. 1437) (L. D. 1452)

In the Senate April 16, 1975, Passed to be Engrossed as amended by House Amendments "A" (H-135), "G" (H-141), "J" (H-144), "M" (H-147) and "N" (H-148), in concurrence.

Comes from the House, Passed to be Engrossed as amended by House Amendments "J" (H-144), "G" (H-141), "M" (H-147), "N" (H-148) and "R" (H-301), in non-concurrence.

Mr. Speers of Kennebec then moved that the Senate Recede and Concur.

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

Mr. REEVES: Mr. President, I would like to point out in regard to this bill that I feel the Town of Wiscasset is being treated unfairly in this situation, and although I intend to vote for this bill as being the best possible compromise in a terrible situation, I would like to pose this question to the other members of the Senate: how would they like it if one of their communities was singled out in this regard? I hope something can be done in the future to correct this situation.

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

Mr. MERRILL: Mr. President, I would like to just say briefly in regard to this bill that I cannot vote for it. With all due respect to the work that the Education Committee has done and, I think, feeling that much of what is recommended in this bill is a good change made in a good concept of 1994, I think that the provision that has been used to get around the Supreme Court decision runs into the same policy concerns that prompted the provision in our constitution in the first place in regard to fair taxation. I think in all fairness to the committee that has come up with this proposal that they have probably come up with it due to a sense of expediency that fills this capitol of people unwilling to face up to what I think are the hard decisions from honest alternatives.

Therefore, I would ask that when we take this vote we take it by the "Yeas" and "Nays."

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

Mr. KATZ: Mr. President, I would like to lay to rest completely and factually any thought that this bill in some kind of a contrived manner gets around the Supreme Court decision.

The Supreme Court directed its attention to the fact that we were raising more money from the local property tax than we really needed to fund education. And our purpose was then to take some of these local property tax dollars and funnel them

back to certain communities as tax relief. This was offensive within the meanings of the Maine Constitution. The bill presently before you does not directly or indirectly do any such thing. The tax relief that is the second part of this bill, in fact an appropriation measure, uses pure state dollars to accomplish this purpose. And the Supreme Court was very clear that it had a completely different attitude towards expenditures or appropriations out of state sources than it did for local property tax raising.

You will note that as a result of the Supreme Court decision, the uniform tax rate to support education has been reduced from 13½ to 13¼ mills, and literally, factually, directly and indirectly we have complied in spirit as well as in fact with the Supreme Court decision.

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

Mr. BERRY: Mr. President and Members of the Senate: I too am going to vote against the bill. I think the matter is not whether the bill is an attempt to circumvent the decision of the Supreme Court, but rather its expediency and its unfair treatment of a taxpayer, and the fact that immediately the increased cost is going to be passed along, to a large extent, to a segment of the state served by this one utility. I can appreciate the fact that statesmanship perhaps has been involved here in an attempt to arrive at a compromise. The compromise very definitely is an unfair one, and I personally am very much opposed to this method of straightening the matter out.

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

Mr. CURTIS: Mr. President and Members of the Senate: I will be supporting this bill. I think it is indeed a step that will work toward insuring that the goal we set for ourselves with 1994 may be achieved so that all school children in the state will have an equal opportunity for education, and quality education at that, and that the taxes in the state will be assessed in as equitable a situation as possible. But beyond that, I would like to make a couple of comments about all of the efforts that have gone into producing this document before us in the face of a number of hardships that we are all aware of.

I think there are some kudos that belong to the Appropriations Committee and its leadership, the leadership of this house and the other, and in particular the hard work of the Education Committee and especially its Chairman, the Senator from Kennebec, Senator Katz. I am privileged to be his seatmate and I have seen over the last few months the number of pieces of correspondence that have come to him, and some of those that are of course unsigned, and none of us like to get anonymous letters. But Senator Katz has approached the entire problem in a statesmanlike manner and with kindness and equity — perhaps we should call him "Gentle Ben" — and in a fashion that is truly the best that the State of Maine has to offer. So in voting for this, I will also be once again expressing my faith and trust in some hard work by a lot of dedicated people.

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

Mr. SPEERS: Mr. President and Members of the Senate: I don't think that

this body ought to forget the very trying days that came upon us at the beginning of this session, the questions that were raised regarding not only the application of L. D. 1994 but the philosophy of L. D. 1994 as well; that philosophy being, of course, that 50 percent of the cost of education would be funded out of the general fund and 50 percent out of the property tax.

To arrive at the application of that philosophy, the state instituted a statewide uniform property tax, and that tax and the valuations that came about because of it created certain undeniable hardships in certain areas of the state. The property taxes of individuals were increased in isolated instances by a significant amount, significant to those individuals who happened to be peacefully living in their own homes, and who suddenly found their property tax to be quite considerably more than they had been used to paying or had been planning to pay.

I think all of us have received a number of letters from these communities which have undergone this kind of a situation, and we must really pay attention to the problems that these individuals have faced. In very many instances these are individuals who are suffering the problems, the problems that are indicative of property taxation itself, and that is the inability to pay and those who are least able to pay which is really the real problem with the philosophy of property taxation.

I am reminded of many letters which I received from many communities around the state, but the figures that stick in my mind are those that are given from the community of Raymond, where the property tax was raised from raising \$400,000 to raising \$611,000. Now, that may well be the just share of the Town of Raymond compared to the rest of the state, but it is a significant impact on the individuals who live in that town to be taken into consideration all at once, all in one year.

Therefore, the attempt on the part of the Committee on Education, and on the part of the legislature as a whole, has been to provide some kind of relief to those individuals who are hit so suddenly and so completely with such a significant increase in their property tax. I think that the House and the Senate, the legislature as a whole, and the Committee on Education have been very responsive to this unique problem, and I think they are to be very highly congratulated for being responsive to this problem. And I would hope that if there are reasons for individuals to be voting against this particular measure at this time that it would not be because they are turning their backs on the problems of these individuals who are hit so hard and so suddenly with an increase in the property tax that could very well be threatening their very homes.

I think this is a good measure, Mr. President. I support the philosophy of L. D. 1994. It supports the philosophy of funding the cost of education by 50 percent out of the general fund and 50 percent property tax, but this measure also takes into consideration the very special problems of a number of citizens of this state, and I would hope that this body would not ignore those problems and not turn its back on those people who are faced with a real hardship in this transitional period.

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

Mr. CONLEY: Mr. President and Members of the Senate: When 1452 originally came before this body I voted against it. I voted against it because I felt that my community and many other communities throughout the state were being asked to raise money to pay to many of these 55 coastal communities who were all of a sudden overburdened with the very high increase in taxation. I felt it was unfair for my community and those other communities to have to pick up the increased cost of education for those communities. In fact, this chamber is well aware of the fact that a member of my delegation from my community was responsible for a communication and this bill going to the Supreme Court, whereby it was ruled invalid and unconstitutional. unconstitutional.

Perhaps the document before us today doesn't really measure up to the satisfaction of everyone, but I intend to vote for it. I think it is far better than the original L.D. was, after several amendments were put on it.

I too share the same feelings toward the Education Committee, leadership and the chief executive about the very complex situation that has been brought before this Senate. I again recognize that there are still problems, but I feel that at least this is a step toward trying to correct some of the injustices that were in the original document before us. So I would request and urge that not only the members of my party but the members of the entire Senate support the engrossment of this bill.

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

Mr. MERRILL: Mr. President, I would just like to say by way of clarification a couple of things. First of all, I share the appreciation for the hard work that has been done by the people who have been concerned with this problem, and I share the concern about the people in those areas that have been hard hit by the effect of the equal property tax that was assessed by the vehicle of last session's 1994, and I share the goals of 1994. It is not my intent and it would not be my intent to turn my back on those taxpayers that have been hardest hit by great increases, but there are other ways that we could have gone that I think would have been more honest.

Those ways could have included the passage of a circuit breaker. It could have included increasing the state's share to a portion where the amount assessed on these communities would have been less. I think these methods would have been straightforward and I would have gone along with them, even if it meant having to vote for a tax increase. That is obviously probably not the will of this legislature, and I am sure that my views on this matter will not prevail here today. But it is an important matter. It goes not only to the funding of education but a fair and honest approach to taxation, something that I feel very strongly about.

So in rising to speak against this, I don't speak against the goals and I certainly don't speak against the sincerity and the hard efforts that have been made on it. But in my opinion, balancing it all out, this is another tire patch on a tire patch on a tire patch. I think there is a more direct and honest way we could have taken, and I can't support this even though it has much in it that I agree with.

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

Mr. KATZ: Mr. President, the tire patch philosophy has been much in the press. The press uses expressions like

"patchwork", "bandaid", and in this morning's paper, "a temporary solution". I suggest to the Senate today that the bill in front of you is none of those things, that this is major legislation which will have lasting implications for school finance in the State of Maine. In combination with 1994, it is a very important evolution of a program that the legislature has said on numerous occasions it supports.

There will be an interim study of the whole question of school finance, and I hope it is a good one. Can I point out to you that there is always an interim study of school finance, because you can't spend a quarter of a billion dollars without monitoring very carefully, and it is very probable and possible that we will make improvements over the interim.

I would like to wrap my remarks up, Mr. President, by making just a couple of brief comments about the cost of education in the State of Maine because I think that in many respects L.D. 1994 might well be renamed 1984, because much of what has been said would do credit to George Orwell.

The Bangor Daily News in an editorial said that we are being driven to the brink of bankruptcy by the cost of education. I find that interesting because Bangor, where the paper is published, is probably going to raise about a million dollars less from local property tax this year than it did three years ago. And if this is being driven to the brink of bankruptcy, I am not sure.

I perplex with you, with the good Senator from Cumberland, Senator Huber, about the increasing cost of education. And I perplex with you exactly what it is we are buying. But let me give you a few statistics as we are being pushed to the brink of bankruptcy by the untrammelled spending. If you take a look at the total expenditures of state and local government in the State of Maine and ask yourself where do we put our dollars compared to other states in the nation, you might be interested to know that the State of Maine is eleventh in the nation in our appropriations for welfare; we are sixteenth in the nation in our appropriations for transportation; we are thirty-sixth in the nation for our expenditures for education. That gives an idea of how fast we are being pushed to bankruptcy.

How much do we spend on students in the State of Maine? Well, there is such a thing as a per pupil cost. And when we evaluate the fifty states in the nation and how much they spend per pupil per year, the State of Maine finishes forty-sixth, behind New Hampshire and behind all the other New England states. We are spending a lot of money, but I think we ought to be more concerned with what we are buying for the money than getting panicky that we are spending too much.

The PRESIDENT: Is the Senate ready for the question? The pending motion before the Senate is the motion of the Senator from Kennebec, Senator Speers, that the Senate recede and concur with the House. A roll call has been requested. In order for a roll call to be ordered, 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 will restate the question. The pending motion before the Senate is the motion of the Senator from Kennebec, Senator Speers, that the Senate recede and concur with the House. A "Yes" vote will be in favor of

receding and concurring; a "No" vote will be opposed.

The Secretary will call the roll.

ROLL CALL

YEAS: Senators Berry, E.; Carbonneau, Cianchette, Clifford, Collins, Conley, Corson, Cummings, Curtis, Cyr, Danton, Gahagan, Graffam, Graham, Greeley, Hichens, Huber, Johnston, Katz, Marcotte, McNally, O'Leary, Pray, Reeves, Speers, Thomas, Trotzky, Wyman, Sewall.

NAYS: Senators Berry, R.; Jackson, Merrill, Roberts.

A roll call was had. 29 Senators having voted in the affirmative, and four Senators having voted in the negative, the motion prevailed.

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

Orders of the Day

The President laid before the Senate the first tabled and Specially Assigned matter:

Bill, "An Act to Create Hospital Administrative District No. 5 in Piscataquis and Penobscot Counties." (H. P. 1099) (L. D. 1382)

Tabled — May 5, 1975 by Senator Speers of Kennebec.

Pending — Passage to be Engrossed.

(In the House — Passed to be Engrossed as amended by Committee Amendment "A" (H-205).)

(In the Senate — Committee Amendment "A", Adopted)

On motion by Mr. Corson of Somerset, retabled and Specially Assigned for May 15, 1975, pending Passage to be Engrossed.

The President laid before the Senate the second tabled and Specially Assigned matter:

Senate Report — from the Committee on Legal Affairs — Bill, "An Act to Establish the Public's Right to Know Governmental Business and to Repeal Statutory Authority for Executive Sessions." (S. P. 149) (L. D. 512) Leave to Withdraw

Tabled — May 9, 1975 by Senator Speers of Kennebec.

Pending — Motion of Senator Reeves of Kennebec to Substitute the Bill for the Leave to Withdraw Report.

On motion by Mr. Speers of Kennebec, retabled and Specially Assigned for May 15, 1975, pending the motion by Mr. Reeves of Kennebec to Substitute the Bill for the Leave to Withdraw Report.

The President laid before the Senate the third tabled and Specially Assigned matter:

Bill, "An Act to Reassign the Functions of the Department of Commerce and Industry and the Office of Energy Resources." (S. P. 440) (L. D. 1456)

Tabled — May 9, 1975 by Senator Speers of Kennebec.

Pending — Adoption of Committee Amendment "A" (S-133).

On motion by Mr. Speers of Kennebec, retabled and Tomorrow Assigned, pending Adoption of Committee Amendment "A".

The President laid before the Senate the fourth tabled and Specially Assigned matter:

Bill, "An Act to Specify which Activities on Lands Adjacent to Great Ponds, Rivers, Streams and Brooks Need Permits." (S. P. 514) (L. D. 1876)

Tabled — May 9, 1975 by Senator Trotzky of Penobscot.

Pending — Passage to be Engrossed.

Mr. Trotzky of Penobscot then presented Senate Amendment "A" and moved its Adoption.

Senate Amendment "A", Filing No. S-147, was Read and Adopted and the Bill, as Amended, Passed to be Engrossed.

Sent down for concurrence.

The President laid before the Senate the fifth tabled and Specially assigned matter:

Bill, An Act Relating to Ballots Containing Improper Write-in Votes. (S. P. 84) (L. D. 255)

Pending — Enactment.

(In the House — Passed to be Enacted.)

On motion by Mr. Corson of Somerset, and under suspension of the rules, the Senate voted to reconsider its prior action whereby the Bill was Passed to be Engrossed.

The same Senator then presented Senate Amendment "A" and moved its Adoption.

Senate Amendment "A", Filing No. S-146, was Read.

The PRESIDENT: Is it now the pleasure of the Senate to adopt Senate Amendment "A"?

The Chair recognizes the Senator from Kennebec, Senator Speers.

Mr. SPEERS: Mr. President, very briefly, this amendment will clarify some language that has given rise to considerable confusion, and the amendment would make it clear that it has been the intention of the legislature right along that in order to have a vote counted the vote must be within the box that is provided on the ballot for marking one's vote.

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

Mr. Conley of Cumberland then moved that the Bill be tabled and Tomorrow Assigned, pending Adoption of Senate Amendment "A".

On motion by Mr. Speers of Kennebec, a division was had. 12 having voted in the affirmative, and 18 having voted in the negative, the motion did not prevail.

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

Mr. CONLEY: Mr. President and Members of the Senate: If one would take the time to read this amendment, it is very clear that it would void practically any ballot that did not have a check mark directly in the square on the ballot. All one has to do is try to imagine, if one can, how our state ballots are printed. We know they are generally in very small letters and blocks, and it seems to me that this type of an amendment would certainly work to the disadvantage of many of our elderly citizens or people like myself, who really under a legitimate claim would possibly be getting some type of a grant from the state for being legally blind.

I certainly believe it is a hardship to adopt this amendment because it certainly is going to work to the disadvantage of people who are trying to exercise their right to vote. It has always been the contention by the courts that it was the intent of the voter as to how one checked their ballot, and I see no reason why that law shouldn't stand the way it is and the interpretation of the court remain. For us to adopt this amendment would mean practically that the check mark must be squarely placed in the box; to do otherwise would invalidate his or her vote, and I would move the indefinite postponement of Senate Amendment "A".

The PRESIDENT: The Chair recognizes

the Senator from Kennebec, Senator Speers.

Mr. SPEERS: Mr. President, I just want to clarify a couple of comments that were made by the good Senator from Cumberland, Senator Conley.

There is no requirement, as he would have us believe and imply, that the mark must be placed squarely within the box. If you read the amendment, it states that some part of the cross or checkmark is within the proper square. That is all that is required. Some part of the checkmark must be within the box.

Now, this amendment does not create any hardship on anyone. If anyone can read the names on the ballots, they can certainly see the box on the ballots. It is state law at the present time — and if you all recall looking at the ballot, you will see at the top of the ballot the instructions which very clearly state — and this is written right into the statutes — that the individual must place his mark within the box beside the candidate's name that he wishes to vote for. Now, what this amendment does is to clarify that that is the case, that you have to put a mark within that box, and not somewhere above or below or beside or across the way from that candidate's name. It clarifies a problem that has arisen and is prevalent at the present time as to how you decide what the intent of a particular voter has been or was at the time that he was voting. It very clearly states a very simple procedure that has been the election process in this state and in this nation ever since elections began, and that is that you put the mark within the box. I urge the adoption of this amendment.

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

Mr. CONLEY: Mr. President and Members of the Senate: Some members of this body have undergone some challenges on recounts. In fact, I think the presiding officer had one very early in the session. The fact is that when the original initiative petition to remove the big box from the ballot was presented to this legislature, it presented to the legislature what we call the office type ballot. At the same time it removed the so-called check box from the right column to the left column, with the party designation of such being put in the smallest print that it possibly could be.

Now, many people in having voted over the years have got accustomed to checking on the right; that is, out at the end of the ballot where there was a spot normally for people to check. Many of our citizens are still accustomed to either hitting the column on the right or the column on the left. There is no question what the intent is of the voter when they have exercised that right to check out at the end on the right where they have normally done so over the years, and this amendment is just to cloud the issue once more. It is to make sure that once somebody checks out on the right column that no longer will their vote be counted.

Now, we are trying to encourage people to exercise their right to vote, and I think we should give them that right, and not cloud the issue with an amendment such as this one.

Perhaps I was in error, in a sense, in saying that any part of the checkmark not being in the box would invalidate it. That is not true, as I reread the amendment. But what it does do, though, is that those people who have normally voted by checking on the right-hand side of the