

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

*One Hundred and Fourth
Legislature*

OF THE

STATE OF MAINE

1969

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change with reform. Change is not reform. It is purely and simply on its own merits, whether it is reform or not.

Indeed Maine is unique in its present posture. The Maine Legislature this session passed a change that is reform, and it makes us unique in the United States in the disposition of our votes in the Electoral College system. The Legislature felt that not only was this change, but it was reform.

We are in a minority in the United States in our system of requiring all bills to have public hearings when they are introduced into the Legislature. We are in the minority. I don't think a change in this would be reform, and I certainly do not feel that this constitutional amendment or the one that follows on the calendar represents reform.

The PRESIDENT: Is the Senate ready for the question? The pending question before the Senate is the motion of the Senator from Washington, Senator Wyman, to accept the Majority Ought Not to Pass Report of the Committee on Legislative Document 463, Resolve, Proposing an Amendment to the Constitution Providing for the Appointment of the Attorney General by the Governor. A roll call has been requested. Under the Constitution, in order for the Chair to order a roll call it requires the affirmative vote of at least one-fifth of those Senators present and voting. Will all those in favor of ordering a roll call rise and remain standing until counted?

Obviously more than one-fifth having arisen, a roll call is ordered. The Senator from Washington, Senator Wyman, has moved that the Senate accept the Majority Ought Not to Pass Report of the Committee on Resolve, Proposing an Amendment to the Constitution Providing for the Appointment of the Attorney General by the Governor. A "Yes" vote will be in favor of accepting the Majority Ought Not to Pass Report; a "No" vote will be opposed.

The Secretary will now call the roll.

ROLL CALL

YEAS: Senators Anderson, Barnes, Berry, Dunn, Greeley, Hanson, Hoffses, Katz, Logan, Moore, Peabody, Quinn, Sewall, Stuart, Tanous, and President MacLeod.

NAYS: Senators Beliveau, Bernard, Boisvert, Cianchette, Conley, Duquette, Gordon, Kellam, Letourneau, Levine, Martin, Mills, Minkowsky, Reed and Violette.

ABSENT: Senator Wyman.

A roll call was had. Sixteen Senators having voted in the affirmative and fifteen Senators having voted in the negative, with one Senator absent, the motion prevailed and the Majority Ought Not to Pass Report of the Committee was Accepted in concurrence.

The President laid before the Senate the eighth tabled and specially assigned matter:

SENATE REPORTS — from the Committee on State Government on Resolve, Proposing an Amendment to the Constitution Providing for the Election of the Attorney General by the Electors. (S. P. 178) (L. D. 580) Report "A", Ought to Pass in New Draft (S. P. 443) (L. D. 1474) Report "B", Ought to Pass; Report "C", Ought Not to Pass.

Tabled — April 25, 1969 by Senator Beliveau of Oxford.

Pending — Motion by Senator Wyman of Washington to Accept Report "A", Ought to Pass in New Draft.

Thereupon, the Ought to Pass in New Draft Report "A" of the Committee was Accepted, the Bill in New Draft Read Once and tomorrow assigned for Second Reading.

The President laid before the Senate the ninth tabled and specially assigned matter:

SENATE REPORTS — from the Committee on State Government on Resolve, Proposing an Amendment to the Constitution to Permit the Governor to Veto Items Contained in Bills Appropriating Money. (S. P. 131) (L. D. 393) Report "A" Ought to Pass; Report "B" Ought Not to Pass.

Tabled — April 25, 1969 by Senator Beliveau of Oxford.

Pending — Motion by Senator Wyman of Washington to Accept Report "B" Ought Not to Pass.

The PRESIDENT: The Chair recognizes the Senator from Oxford, Senator Beliveau.

Mr. BELIVEAU of Oxford: Mr. President and Members of the Senate: As the members of the Senate know, the Legislature has before it very many measures, a great number of measures, designed to enhance the efficient and coordinated management of State Government. This, in my opinion, is probably, together with the previous bill, two of the most important changes, so to speak, or governmental reform measures before us. There are several, I believe, one which would abolish the Executive Council, appointment of major department heads to run concurrent with the Governor's term of office, the administrative reorganization act, and the measure before us today, the Item Veto.

The Item Veto is presently used in forty-three states. I would direct your attention to L. D. 226, which is a 36-page appropriation document that we will be considering shortly, which, of course, is a very complex and detailed document appropriating millions of dollars. This bill would allow the Governor to eliminate or reduce items that are contained in this particular L. D., while allowing him to approve other portions of the bill which he believes are in the best interests of the citizens of the State of Maine.

It is a very simple procedure. The Governor simply indicates at the time of his signing the bill the item or the items which he declines to approve or which he has reduced. Of course, he must also outline the reasons for his actions, and he sends a copy of this statement to the House of Representatives and the Senate. And, of course, the items which he has reduced or eliminated would not take effect unless passed over the Governor's objection in the usual manner.

In my opinion, the present appropriations bill, and this is best

exemplified by the document before us, is nothing more than an ultimatum to the Governor to take it all or veto it all. This procedure completely ignores the fact that the appropriations bill is a unique bill, involving judgments on the worth, the priorities and the merits of many, many programs, of course, involving the expenditure of many millions of dollars. It just isn't susceptible to a simple Yes—No decision. It requires additional consideration by the Governor to make his own independent judgment as to the practical effect or impact this will have on the State of Maine.

In addition, we are very concerned in this State with comprehensive financial planning. We realize that because of the growth of the State Government and the number of new programs that a decision on one program will have a profound effect upon another program, and it must be made in relation to other programs. Yet, on the other hand, we insist that the executive eliminate duplication and waste in State Government. In spite of all this, despite the very real desire by the members of the Legislature to insist that the executive review its programs and make determinations as to whether it is an efficient and needed program, in spite of all this, we fail to give the Governor the authority he needs to eliminate all this duplication and inefficiency. I think if we were to adopt this bill it would be a real step forward and ultimately would lead to a more efficient operation of State Government.

I think it is important to us to make a judgment at this time, and for us to realize particularly that there is a great real disparity here in the House and in the Senate between our desires for an efficient coordinated State Government and the administrative techniques or tools available to the Governor to achieve this end. We simply do not give the Governor the authority or the tools to pass upon or to exercise effective control over the budgetary or appropriation matters.

In my opinion, the passage of this item would give the Governor the authority he needs and would prove to everyone our determina-

tion to remedy this very unfortunate situation.

For some of us this is our first term and for others the second term, or the first term in the Senate and the second term in the Legislature. The first time I reviewed an appropriations bill I was absolutely amazed by the contents and the language involved, and the difficulty to a certain extent that one has in reviewing it to such an extent that you can acquire a working knowledge of the document. We all know it has been the practice of this Legislature since time immemorial to include items in the various appropriations bills which on the merits could not stand, which benefit a special interest group, and which the Governor, regardless of his party affiliation, knows should not be permitted to stand or to pass. Yet, when he is confronted with nothing more than an ultimatum, the Governor must accept the complete document or reject it in its totality.

I submit to the members of the Senate that this is a very needed reform. This is a bill which would contribute greatly, immeasurably to a more efficient State Government, and I urge you all to oppose the pending motion to accept the Ought Not to Pass Report. Once again, Mr. President, I would request a roll call.

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

Mr. KATZ of Kennebec: Mr. President and Members of the Senate: I rise in support of the motion to accept the Ought Not to Pass Report of the committee although in this particular circumstance I think it is almost an academic question. I might venture that I cannot imagine the Governor presently vetoing any spending measures.

I am more concerned with the integrity and the strength of the Legislature today. The Legislature this session has been striving, I think sincerely, to work in harmony, Republicans and Democrats alike, in the handling of some very, very perplexing financial problems. I can state factually that there has been a real determined effort of Republicans, who have a very small majority, and Democrats,

who are in the minority but to a very small extent, to join together and arrive at a consensus. It is not an easy job, but it is a job we are facing, I think, with some responsibility. It is a job which hasn't been made any easier by actions of the executive so far this session.

I am concerned about the fact that we had assurance from the executive that the notion of funding Part I Budget, putting some taxes next to it, and passing it early in the session was a good idea and would get the support of the executive. On that basis we labored for some weeks here in good faith, Republicans and Democrats. When we came out with a unanimous report from the Committee on Appropriations for the Current Services Budget it was certainly with the advance understanding that early funding was acceptable and encouraged by the executive. Subsequently, after a good many weeks of hard work and sincere work, we find that it is no longer acceptable.

It is not easy for the Committee on Appropriations to put together — and they have been extremely dedicated—to put together a package which reflects the consensus of the Republicans and the Democrats on the Committee. The job becomes intolerably difficult when the pressures from outside of the Legislature grow and grow and grow and become more onerous and more vocal.

Here again is a measure that I do not look upon at all as progress, I don't look upon as reform; I look upon it as draining away the prerogatives and the strengths of the Maine Legislature, and my observation this session indicates that we need more muscles rather than less muscles. Also, I am uneasy at the notion of the tremendous leverage any chief executive of the State of Maine would have on individual legislators if the threat of an item veto of your individual measures hung over you all during the session, that you would toe the line or else your project for your people might be subject to an item veto.

I would be the first to admit that the work of the Maine Legislature is imperfect, but I think that there is a sense of integrity within this body, a sense of desire, that we are

honestly, truly trying to do the best job we can for the people of the State of Maine as we see it. Mr. President, I support the motion to accept the Ought Not to Pass Report.

The PRESIDENT: The Chair recognizes the Senator from Sagadahoc, Senator Reed.

Mr. REED of Sagadahoc: Mr. President and Members of the Senate: I just rise this morning to possibly say that I support this measure. I also rise to clarify maybe just one remark that the Senator from Kennebec, Senator Katz, made, and that is in regard to the Chief Executive of our State. I do not know what conversation took place between the Senator and the Governor of our State, but at no time did he ever tell me that as far as funding the Part I Budget that he thought it was a good idea—I think he indicated this, but I don't believe that he said that he was going to put his support behind it one hundred per cent. I feel as if the Governor in January made a statement to us, delivered it to us in his message. He still feels that was a good message, a good program, he still supports it. He does realize, however, that we here in this Legislature have to make up our own minds. I commend him on the fact that I feel he has left us pretty much alone to work out our difficulties and our problems, and I feel that both parties have made an honest attempt to do this. I certainly commend him for this, and I certainly commend him also for the fact that I feel he still wants his program, and I certainly don't think any the less of him because he is willing to fight for it, but yet, in the long run, I am sure that the Governor of this State will cooperate in every way that he can with this Legislature.

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

Mr. KATZ of Kennebec: Mr. President and Members of the Senate: I would like to respond to the Senator from Sagadahoc, Senator Reed, and reaffirm my very clear-cut personal understanding from the Governor some six weeks ago in personal conversation, that the notion of fund-

ing the Current Services Budget, enacting it and putting it on his desk for signature early in the session was not only acceptable, but I believe the expression was "I'll buy that." I am not aware of conversations that may have occurred with Senator Reed.

The thing that disturbs me about the financing of the session goes back to the question of the Current Services Budget. It disturbed me then and it disturbs me now that the whole orientation of the executive has been toward the creation of new programs, meaningful programs, good programs, necessary programs, but the whole orientation was toward the creation of new programs, with no evident attempt to re-evaluate existing programs, not even one, that may have been accumulated on the books over many, many years. Indeed, if there is financial responsibility available to the executive today it is in the preparation of the budget. And in this I must say that I was disappointed in the preparation of the Current Services Budget, and I am today disappointed in the handling of the Current Services Budget by the executive.

The PRESIDENT: The question before the Senate is the motion of the Senator from Washington, Senator Wyman, that the Senate accept Report "B", Ought Not to Pass, on Resolve, Proposing an Amendment to the Constitution to Permit the Governor to Veto Items Contained in Bills Appropriating Money. A roll call has been requested. Under the Constitution, in order for the Chair to order a roll call, it requires the affirmative vote of at least one-fifth of those Senators present and voting. Will all those Senators in favor of ordering a roll call rise and remain standing until counted?

Obviously more than one-fifth having arisen, a roll call is ordered. The pending question is the motion of the Senator from Washington, Senator Wyman, that the Senate accept Report "B", Ought Not to Pass, on Resolve, Proposing an Amendment to the Constitution to Permit the Governor to Veto Items Contained in Bills Appropriating Money. A "Yes" vote will be in favor of the motion to

accept the Ought Not to Pass Report; a "No" vote will be opposed.

The Secretary will call the roll.

ROLL CALL

YEAS: Senators Anderson, Barnes, Berry, Dunn, Duquette, Greeley, Hanson, Hoffses, Katz, Logan, Mills, Moore, Peabody, Quinn, Sewall, Stuart, Tanous, and President MacLeod.

NAYS: Senators Beliveau, Bernard, Boisvert, Cianchette, Conley, Gordon, Kellam, Letourneau, Levine, Martin, Minkowsky, Reed, and Violette.

ABSENT: Senator Wyman.

A roll call was had. Eighteen Senators having voted in the affirmative and thirteen Senators having voted in the negative, with one Senator absent, the motion prevailed, and the Ought Not to Pass Report "B" of the Committee was Accepted.

Sent down for concurrence.

The President laid before the Senate the tenth tabled and specially assigned matter:

SENATE REPORTS—from the Committee on Taxation on Bill, "An Act Exempting Sales to Certain Institutions from Sales Tax." (S. P. 240) (L. D. 715) Majority

Report, Ought to Pass; Minority Report, Ought Not to Pass.

Tabled — April 29, 1969 by Senator Bernard of Androscoggin.

Pending — Motion by Senator Martin of Piscataquis to Accept the Minority Ought Not to Pass Report.

Thereupon, the Minority Ought Not to Pass Report of the Committee was Accepted.

Sent down for concurrence.

The President laid before the Senate the matter tabled earlier in today's session at the request of Mr. Hoffses of Knox, Bill, "An Act Repealing Milk Control Prices at the Retail Level," (H. P. 848) (L. D. 1090) pending the motion by Mr. Levine of Kennebec to Accept the Majority Ought Not to Pass Report of the Committee.

Mr. Barnes of Aroostook moved the pending question.

Thereupon, the Majority Ought Not to Pass Report of the Committee was Accepted in concurrence.

(Off Record Remarks)

On motion by Mr. Hoffses of Knox,
Adjourned until 9:30 tomorrow morning.