

MAINE STATE LEGISLATURE

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Legislative Record

OF THE

One Hundred and Seventh Legislature

(First Special Session)

OF THE

STATE OF MAINE

1976

KENNEBEC JOURNAL
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The Chair recognizes the Senator from Cumberland, Senator Huber.

Mr. HUBER: Mr. President and Members of the Senate: This program concerning veterans' mortgage loans is about at its current limit of 2 million dollars. They have had very good experience. I am not certain that their experience can continue as successfully as it has, however, this is a program encouraging small business ventures, their lending experience has been extraordinarily successful so far, and the Appropriations Committee felt that this was a program worthy of expansion at this time.

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

Thereupon, on motion by Mr. Katz of Kennebec, tabled and Specially Assigned for March 16, 1976, pending Passage to be Engrossed.

House — As Amended

Bill, "An Act Relating to Employment of Drug Inspectors by the State Board of Pharmacy." (H. P. 1879) (L. D. 2054)

Which was Read a Second Time and Passed to be Engrossed, as Amended, in concurrence.

Enactors

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

AN ACT Concerning the Identification by Fingerprints of Past Offenders. (H. P. 1883) (L. D. 2061)

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

Orders of the Day

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

House Report -- from the Committee on State Government -- Resolution, Proposing an Amendment to the Constitution to Permit the Governor to Veto Items Contained in Bills Appropriating Monday. (H. P. 1981) (L. D. 2170) Majority Report -- Ought to Pass as Amended by Committee Amendment "A" (H-941); Minority Report -- Ought to Pass as Amended by Committee Amendment "B" (H-942).

Tabled -- March 9, 1976 by Senator Speers of Kennebec.

Pending -- Acceptance of Either Report. (In the House -- Minority Report Read and Accepted and the Resolution Passed to be Engrossed as amended by Committee Amendment "B" as amended by House Amendment "A" Thereto (H-943).

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

Mr. CURTIS: Mr. President, I hope that the Senate does not accept the majority report, and instead I hope that at a later time it will accept the minority report. The two reports differ primarily in one provision, and you find copies of the two reports under Filing No. H-941 for the majority report, which had seven signers, and H-942 for the minority report, which had two signers. And in order to clarify the issue at the moment, Mr. President, I will move acceptance of the minority report, which is H-942.

The minority report requires that any

override of an item veto in an appropriations bill by the governor -- and that is the question before us -- could only be achieved by a two-thirds vote of the Senate and a two-thirds vote of the House. The other report, the majority report, under Filing H-941, provides that the override of the governor's veto could be attained by a simple majority vote in the House and a simple majority vote in the Senate. Those are the two questions that are before us.

It is the responsibility of the governor to prepare and submit a budget. Without an item veto, a governor is forced to accept as "necessary or expedient" particular items which are excessive or unnecessary in his opinion to the budget which he is responsible for preparing and for which a great deal of time and expertise has been expended.

The item veto has been adopted in many states, and I have distributed to the Senate this morning some copies of pages from the book of the states which indicate which states have indeed already achieved, provided for an item veto in appropriations bills. In that list in table 10, you will find in the third column from the right, item veto on appropriations bills, including an amount, those states are starred which have adopted an item veto. Those states which have the little letter "C" after the star are those which provide that the governor has a choice when he item vetoes an item in the appropriations bill. His choice is either to completely eliminate the item which is included in the appropriations bill or to reduce the item in the appropriations bill, and the minority report of the committee for which I am arguing this morning provides that the governor has his choice either to reduce or completely eliminate an item in the appropriations bill.

I would also like to point out that the majority report is the same in this provision but that there is an additional amendment, and chronologically, fortunately, it is the next filing, No. H-943, which has been accepted in the House. That amendment accepted in the House gives the governor only the choice to accept the item in the appropriations bill or to eliminate. It does not give the governor the choice to reduce.

Now, these states which have adopted the item veto have recognized that an appropriations bill is unique in that it is not susceptible to a simple yes or no decision by a governor. It contains numerous separate and distinct measures which should stand or fall on their own individual merits.

A governor is particularly well situated to know when an item from one program affects the effectiveness of another program. A governor can more effectively eliminate duplication and waste by having the tools to exercise control over programs which overlap. It may be a legislative tendency sometimes to include in an appropriations bill those items which benefit a special interest group and would not stand the close scrutiny of an examination under a spotlight.

Now, the procedure is a simple one. The governor signs the appropriations measure presented and returns those items with which he finds disagreement. The return must be accompanied by his reasons for exercising the veto. And in my research in preparation for an explanation of this bill, I obtained a copy of an item veto message from the governor of New

Jersey last year. Because of the length of the message, which is about 15 pages long, I did not reproduce it for all of the members of the Senate. I have it here available for anybody who would care to look at it later, but I think that you would agree with me upon examining it that at least this gives the governor the opportunity to specifically examine individual provisions in the appropriations bill and to indicate why he thinks they ought to be reduced or eliminated.

The effect of an item veto on a legislature would be to force it to avoid frivolous spending measures and more closely scrutinize the budget it is funding. The executive and legislative branches would be compelled to work together to avoid unnecessary delay in a session. A disfavored item would be reviewed early and objections removed. At least that would be the hope.

In the past, Mr. President, I have taken an opposite position and opposed the item veto. And the reason for my own personal change is because I think that with a variety of other reforms in the legislative process the Maine Legislature has increased its stature and has provided other techniques and procedures by which we have become more effective. Specifically, I would mention to you the requirement now in the constitution that we have annual sessions; the provision we have now by which the legislature has staff to assist to a much greater extent than we have had in the past; the provision by which joint standing committees may meet in the interim between legislative sessions, both to work with departments and also to review and develop legislation; and the new Performance Audit Committee, which gives the legislature an opportunity to review on a continuing basis how money is being spent.

So, Mr. President, I hope that the legislature will give this a full and careful consideration, and I hope that the Senate will join me in voting for the minority report.

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

Mr. MERRILL: Mr. President, I rise to request a division and to speak against the motion. I wasn't in the 106th Legislature but I know this idea was put forward then, and I was against it then, even though the governor at that time was a Democrat and a personal friend, and I am against it now.

As I look at the events of the last twenty years in state government and the effect that they have had on the balance of power between the legislature and the executive, particularly in regards to the area of spending, I think that we are addressing the grievous misbalance in the wrong direction. I think what we ought to be concentrating our efforts on is strengthening legislative input into the budget process and taking the necessary steps to reform our own processes so that we can do a better job of making the budget, and so that we are less dependent on the executive branch and the executive bureaucracy in writing these budgets. I am against anything at this time particularly, with us being as weak as we are in the budget process, that gives more power to the chief executive of the state.

Now, I know at this particular time some members of this Senate have a great deal of sympathy with the particular turn of mind that the present chief executive has in regards to spending, but when we write

a constitution I think we ought to be aware of the thing in some broader context than that. And frankly, I think that any student of government would be concerned that the legislature regain its importance in the budgetary process before we give any more power — and this is an extraordinary power, much beyond what any member of this legislature has — in the area of writing the budget.

I would hope that when we have the division we would defeat this motion.

The PRESIDENT: Is the Senate ready for the question? The pending question before the Senate is the motion by the Senator from Penobscot, Senator Curtis, that the Senate accept the minority ought to pass as amended by Committee Amendment "B" report of the committee. A division has been requested. Will all those Senators in favor of accepting the minority report please rise in their places until counted. Those opposed will rise in their places until counted.

A division was had. 20 having voted in the affirmative, and six having voted in the negative, the Minority Ought to Pass as Amended Report of the Committee was Accepted in concurrence and the Resolution Read Once. Committee Amendment "B" was Read. House Amendment "A" to Committee Amendment "B" was Read.

On motion by Mr. Curtis of Penobscot, House Amendment "A" to Committee Amendment "B" was Indefinitely Postponed in non-concurrence. Committee Amendment "B" was Adopted in non-concurrence and the Resolution, as Amended, Tomorrow Assigned for Second Reading.

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

Bill, "An Act to Permit a Manufacturer of Alcoholic Beverages to be a Stockholder in a Corporation which is a Licensee." (H. P. 1892) (L. D. 2072)

Tabled — March 9, 1976 by Senator Speers of Kennebec.

Pending — Enactment.

(In the Senate — Enactment reconsidered)

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

On further motion by the same Senator, and under suspension of the rules, the Senate voted to reconsider its former action whereby Committee Amendment "A" was Adopted.

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

Senate Amendment "A", Filing No. S-430, to Committee Amendment "A" was Read and Adopted and Committee Amendment "A", as Amended by Senate Amendment "A" Thereto, was Adopted.

Thereupon, on motion by Mr. Graffam of Cumberland, tabled until later in today's session, pending Passage to be Engrossed.

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

HOUSE REPORT — from the Committee on Taxation — Bill, "An Act to Remove the Minimum Mandatory Tax from the Railroad Excise Tax Formula." (H. P. 2003) (L. D. 2179) — Majority Report — Ought to Pass as Amended with

Committee Amendment "A" (H-952); Minority Report Ought Not to Pass.

Tabled — March 10, 1976 by Senator Speers of Kennebec.

Pending — Acceptance of Either Report. (In the House — Majority report Read and Accepted and the Bill and accompanying papers, Indefinitely Postponed)

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

Mr. COLLINS: Mr. President, I move the acceptance of the ought to pass as amended report of the committee, and I would like to speak to my motion.

During the interval between the regular session and the special session, I served on a committee along with Senator Wyman and Senator Merrill that was specially appointed to study the problems of railroad excise taxation. You will recall that during the regular session we passed an act which would have provided certain tax relief for the railroads, but that particular act served to benefit only one railroad. On this grounds it was vetoed by the governor and the legislature sustained the veto.

The committee had several sessions of study on this problem. It seemed to be the unanimous opinion of the committee that it should be the policy of the State of Maine to encourage the good health of our railroads. We were particularly concerned about the abandonment of branch lines. We all know that there have been applications for abandonment, some lines have been abandoned, and others are still before the Interstate Commerce Commission under consideration. It seems to us important that we preserve railroad tracks in place, because we know that in the future it may be terribly important to this state to have a supply of coal moving over the railroad tracks to supply energy to our industry. We know that the supply of oil in the world will run out some day and that there is a vast store of coal in this country that can be used. There may be other forms of energy available by then, but we aren't sure of it, and if we permit the course to be that tracks are abandoned and torn up, we may live to regret it.

The particular proposal before us obviously has a problem with it. The problem is that because it removes the floor from a fluctuating scale of taxation that in this particular year, a time when virtually all our railroads are losing money, that the state will lose about \$152,000 of tax revenue. Now, because of that, it is my intention, if the ought to pass report is accepted by this body, to introduce an amendment which will restore taxation at that same level, that minimum level, this year and in the future. And my amendment will have the effect of introducing to our railroad taxation system a stable annual excise program, rather than utilizing a fluctuating program which goes up and down according to gross revenues.

I think that this amendment which I will propose is worthy of your consideration. I would not ask you to make the final decision on it today. I would hope that if this report is accepted and my amendment be placed before you that the matter could then perhaps lie over until you have a chance next week to look at it and consider it. Therefore, I would urge you to accept the ought to pass as amended report of the committee.

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

Mr. CONLEY: Mr. President, because of the appearance of a conflict of interest, I wish to be excused from voting on this subject.

The PRESIDENT: The Senator from Cumberland, Senator Conley, requests leave of the Senate to refrain from voting on this issue because of the possibility of an apparent conflict of interest. Is it the pleasure of the Senate to grant this leave?

It is a vote.

Is it now the pleasure of the Senate to accept the majority ought to pass as amended report of the committee?

The Chair recognizes the Senator from Kennebec, Senator Reeves.

Mr. REEVES: Mr. President, in the same vein as the majority leader, looking for ways to save money and not give these special concessions during this very tough time that the state is in now, I move that we indefinitely postpone this bill and ask for a roll call.

The PRESIDENT: The Senator from Kennebec, Senator Reeves, now moves that this bill and all its accompanying papers be indefinitely postponed and requests a roll call.

The Chair recognizes the Senator from Cumberland, Senator Berry.

Mr. BERRY: Mr. President and Members of the Senate: I would just like to address a question to the Senator from Kennebec, Senator Reeves, and ask him how he would like to have the branch railroad from Brunswick east that serves Bath and Wiscasset and way towns and the cement mill at Rockland discontinued if it doesn't get a little help?

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

The Chair recognizes the Senator from Kennebec, Senator Katz.

Mr. KATZ: Mr. President, might I request through the Chair to Senator Reeves a question, that apparently this Senate committee has done some significant work, such as the Jobs Committee did in the interim session, and I don't know yet what kind of recommendations we are going to get as this is a brand new issue before me, but might not the motion to indefinitely postpone this bill be more appropriate when we get a chance to, in effect, see what the committee is going to come up with?

The PRESIDENT: The Senator from Kennebec, Senator Katz, has posed a question through the Chair to the Senator from Kennebec, Senator Reeves, who may answer if he so desires.

The Chair recognizes the Senator from Kennebec, Senator Reeves.

Mr. REEVES: Mr. President, I ask the Senate's leave to withdraw my motion to indefinitely postpone at this time.

The PRESIDENT: The Senator from Kennebec, Senator Reeves, now requests leave of the Senate to withdraw his motion to indefinitely postpone this bill. Is it the pleasure of the Senate to grant this leave?

It is a vote.

Is it now the pleasure of the Senate to accept the Majority Ought to Pass as amended report of the committee?

Thereupon, the Majority Ought to Pass as Amended Report of the Committee was Accepted and the Bill Read Once. Committee Amendment "A" was Read and Adopted and the Bill, as Amended, Tomorrow Assigned for Second Reading.

The President laid before the Senate the