

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

***One Hundred and Eighth
Legislature***

OF THE

STATE OF MAINE

Volume II

May 26, 1977 to July 25, 1977

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**Senate Confirmation Session
September 16, 1977**

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tive relief. However, this is a new area in the law. It is not really a new area, but it is an extremely rarely used area which will require that the tenant run off to the Court and seek what he calls an injunctive relief. This is an affirmative injunctive relief, very rarely used in the law. What this would require is basically the Courts supervising the landlord to make sure that everything is being done properly.

This Bill becomes really dangerous in the long run. It becomes an ideal tenant Bill and very anti-landlord. I have a problem in seeing that this Bill becomes law. I would have been very happy with this Bill about six years ago when I was working as a legal aid in Boston. We could have really given it to the landlords on the chin over and over and over again, and just called the place unfit for human habitation. But you must remember one thing that has to come out here. What if the place is unfit for human habitation, and an individual, we will call him Charlie Brown, goes into an apartment building and wants to rent an apartment, and he sees the apartment, he approves of the apartment, there is an agreement, a contract to rent the apartment for X amount of dollars a week or a month or for the year. All of a sudden now the place becomes so unfit for human habitation because of causes not of his own, that he must run to the Court and get this affirmative injunctive relief. What would have caused the place to have become so uninhabitable in the space of time that he is in there?

Now I warn the members of this Body that the ones that I have seen have become uninhabitable over the years that I have done evictions or work with legal aid have generally been from the tenant himself. I recall the old days when a building was found uninhabitable, but that is because the tenant kept throwing his beer bottles through the windows, and after a while there were so many vacant spaces in places where there were formerly windows that the place became very cold and freezing.

Now if we pass this Bill, I think we are going to put a tremendous burden on the landlords in the State of Maine. If we, for example, force a landlord whose place has become uninhabitable because it has gone down to the point where it cannot be fixed, and the landlord seeks this affirmative injunctive relief from the Court the landlord cannot really go out of business any further. What he is going to have to do is fix the place. He is going to have to put the money up. He is going to have to stay in the business, because of this remedy that is almost never used today. So what we are saying here is you pass this Bill and you are going to have some real deep trouble.

I think that you should seriously read the portions of this Bill, read the Amendments and decide whether you really want to do this, because if this Bill passes you are going to have an awful lot of landlords who would rather stay out of the business, and at today's prices for homes you cannot afford to have too many landlords going out of business, so think about it very seriously before you do vote.

On Motion of Mr. Speers of Kennebec. Tabled until later in Today's Session. Pending the Motion of the Senator from Knox, Senator Collins, that the Senate accept the Majority Ought to Pass Report.

Divided Report

The Majority of the Committee on State Government on, RESOLUTION, Proposing an Amendment to the Constitution to Permit the Governor to Veto Items Contained in Bills Appropriating Money and Retaining the Power Within the Legislature to Override such Item Vetoes. (H. P. 1287) (L. D. 1520)

Reported that the same Ought Not to Pass.

Signed:

Senator:

MARTIN of Aroostook

Representatives:

CURRAN of S. Portland
BACHRACH of Brunswick
SILSBY of Ellsworth
LOCKE of Sebec
VALENTINE of York
MASTERTON of Cape Elizabeth
DIAMOND of Windham

The Minority of the same Committee on the same subject matter Reported that the same Ought to Pass.

Signed:

Senators:

COLLINS of Aroostook
SNOWE of Androscoggin

Representatives:

KANY of Waterville
CHURCHILL of Orland
STUBBS of Hallowell

Comes from the House, the Majority Report Read and Accepted.

Which Reports were Read.

The PRESIDENT Pro Tem: The Chair recognizes the Senator from Aroostook, Senator Collins.

Mr. COLLINS: Mr. President, I Move the Senate accept the Minority Ought to Pass Report, and would speak briefly to my Motion.

The PRESIDENT Pro Tem: The Senator has the floor.

Mr. COLLINS: Mr. President and Members of the Senate, this is a Bill that has been before this Body at another Session. It provides a management tool, I think, for the Chief Executive. It permits him to veto particular items in an Appropriations Bill, so that he does not have to make the judgment as to whether or not to accept or reject the entire budget. This ability is held in some 43 or 44 states, and I think it is time that the State of Maine also considered it.

The PRESIDENT Pro Tem: The Chair recognizes the Senator from Aroostook, Senator Martin.

Mr. MARTIN: Mr. President, I request a Division.

I think the Senator from Aroostook, Senator Collins, did an excellent job explaining the Bill. It is not a new idea. It was here in the last Session and it was soundly defeated in the last Session.

I strongly urge you to indefinitely postpone the Bill.

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

Mr. SPEERS: Mr. President and Members of the Senate, I hope it will not be considered a conflict of interest for me to be speaking on this Bill, and I am sure there are many who would dispute that it possibly could be, but I would urge this Body very strongly to accept the Minority Ought to Pass Report on this particular item.

This Bill has been introduced before, and this Body in its wisdom has passed the Bill before, and it seems to me to be eminently logical that the Chief Executive of this State should have the authority to identify those specific areas in an appropriations measure which he so very strongly disagrees with that he feels he must veto those particular items, and I would simply point out that the Legislature is giving up no more power than it has always had, because even if those specific items happen to be vetoed, they are returned to the Legislature and the Legislature has the opportunity, as it has with all vetoed items, of either sustaining or overriding the veto.

I would hope that the Senate would accept the Minority Ought to Pass Report on this Bill, and I would ask for a Roll Call.

The PRESIDENT Pro Tem: 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 present in favor of a Roll

Call, please rise in their places to be counted.

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

The Chair recognizes the Senator from Penobscot, Senator Pray.

Mr. PRAY: Mr. President and Members of the Senate, in no way do I feel as if the good Majority Leader is going to have a conflict on this issue, but I would like to address one point one concern that I have on this issue.

I think it was the original intent of the Legislature, in separation of powers, and the fact that the Legislators were given the ability to accept the budget, and to amend certain Section of Legislation and then pass that Legislation on to the Governor for his total rejection or acceptance, and I think that if we accept this pending report today, that what we will be doing in attempt, we will be in a small way separating the powers of the Legislature. We will be passing on something to the Governor, something which we have not done in the past and which we have not seen fit to do in the past as the Legislature on the whole. I think that we should take careful consideration of that point before we continue on perhaps in this direction.

When I consider the Legislative process in the past, and the previous Session that I was here, and addressed a number of issues, particularly those within the budget process, I would be quite concerned with the actions of the Governor, the individual on the second floor, no matter present Governor or any future Governors. The powers that he would have to separate particular issues and to separate the Legislative Bodies on those issues. Many times there are Legislative matters that go through that some of us as individuals are opposed to. We can address that through the Amendment process here on the floor, or if there is something particular that we dislike then we can usually find an individual in either one Body or the other to address that issue through the Amendment process to take it out. I do not believe that we should be passing this on to any individual on the second floor.

The PRESIDENT Pro Tem: Is the Senate ready for the question. The pending question before the Senate is the Motion of the Senator from Aroostook, Senator Collins, that the Senate accept the Minority Ought to Pass Report of the Committee.

The doorkeepers will secure the Chamber.

The Secretary will Call the Roll.

YEA — Chapman, Collins, D.: Collins, S.: Curtis, Danton, Farley, Greeley, Hewes, Hichens, Huber, Jackson, Levine, Lovell, McNally, Morrell, O'Leary, Pierce, Redmond, Snowe, Speers, Trotzky.

NAY — Cummings, Mangan, Martin, Merrill, Minkowsky, Pray, Usher, Wyman.

ABSENT — Carpenter, Conley, Katz, Sewall.

21 Senators having voted in the affirmative, and 8 Senators in the negative, with 4 Senators being absent, the Motion to accept the Ought to Pass Report of the Committee does prevail.

The Bill Read Once, and Tomorrow Assigned for Second Reading.

Divided Report

The Majority of the Committee on Judiciary on, Bill, An Act Relating to Legal Representation and Indemnification of State Officers and Employees. (Emergency) (H. P. 1312) (L. D. 1559)

Reported that the same Ought to Pass in New Draft under new title: Bill, An Act to Revise the Maine Tort Claims Act. (H. P. 1679) (L. D. 1873)

Signed:

Senators:

COLLINS of Knox
CURTIS of Penobscot

Representatives:

BENNETT of Caribou
DEVOE of Orono