

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

Index

**Senate Confirmation Session
September 16, 1977**

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AUGUSTA, MAINE

the affirmative and sixty-two in the negative, with seventeen being absent, the motion does prevail.

The Chair laid before the House the third item of Unfinished Business:

An Act to Authorize Bond Issue in the Amount of \$3,748,000 for Construction of an Educational Wing at Central Maine Vocational-Technical Institute, a Mechanicals Building at Eastern Maine Vocational-Technical Institute, a Multipurpose Instructional Building at Northern Maine Vocational-Technical Institute and a Building Construction Facility at Southern Maine Vocational-Technical Institute (H. P. 1618) (L. D. 1819) (S "A" S-218 to H "A" H-487)

Tabled — June 17, 1977 by Mr. Tierney of Lisbon Falls.

Pending — Passage to be Enacted.

The SPEAKER: This being a bond authorization act, under the terms of the Constitution it requires for its final Passage the affirmative vote of two thirds of the entire elected membership of this House. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

Mr. Kelleher of Bangor requested a roll call.

The SPEAKER: For the Chair to order a roll call, it must have the expressed desire of one fifth of the members present and voting. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken, and more than one fifth of the members present having expressed a desire for a roll call, a roll call was ordered.

The SPEAKER: The pending question before the House is on passage to be enacted. Those in favor will vote yes; those opposed will vote no.

ROLL CALL

YEA — Aloupis, Ault, Austin, Bachrach, Bagley, Beaulieu, Bennett, Benoit, Berry, Berube, Birt, Blodgett, Boudreau, A.; Boudreau, P.; Brenerman, Brown, K.C.; Bunker, Burns, Bustin, Carey, Carroll, Carter, F.; Chonko, Churchill, Clark, Connors, Connolly, Cote, Cox, Cunningham, Curran, Davies, Dexter, Diamond, Dow, Drinkwater, Durgin, Dutremble, Elias, Fenlason, Flanagan, Fowlie, Garsoe, Gillis, Goodwin, H.; Gould, Green, Greenlaw, Hall, Henderson, Hickey, Hobbins, Howe, Huber, Hughes, Hutchings, Jackson, Jacques, Jensen, Joyce, Kany, Kelleher, Kilcoyne, Laffin, LaPlante, LeBlanc, Lewis, Locke, Lougee, Lunt, Lynch, MacEachern, Mahany, Masterman, Masterton, Maxwell, McBreairty, McHenry, McKean, McPherson, Mills, Mitchell, Morton, Nadeau, Najarian, Nelson, M.; Nelson, N.; Norris, Palmer, Peakes, Pearson, Peltier, Perkins, Peterson, Plourde, Post, Prescott, Quinn, Raymond, Rideout, Rollins, Sewall, Shute, Silsby, Smith, Sprowl, Strout, Stubbs, Talbot, Tarbell, Tarr, Theriault, Tierney, Torrey, Tozier, Truman, Valentine, Whittlemore, Wilfong, Wood, Wyman, The Speaker.

NAY — Biron, Brown, K.L.; Dudley, Gray, Hunter, Immonen, Littlefield, Mackel, Marshall, Moody, Stover, Trafton.

ABSENT — Carrier, Carter, D.; Devoe, Gauthier, Gill, Goodwin, K.; Higgins, Jalbert, Kane, Kerry, Lizotte, Martin, A.; McMahon, Spencer, Teague, Twitchell, Tyndale.

Yes, 122; No, 12; Absent, 17.

The SPEAKER: One hundred twenty-two having voted in the affirmative and twelve in the negative, with seventeen being absent, the Bill is passed to be enacted.

Signed by the Speaker and sent to the Senate.

The Chair laid before the House the fourth item of Unfinished Business:

Bill, "An Act to Appropriate Money for Improvements to Airports and to Authorize General Fund Bond Issues in the Amount of \$1,200,000" (H. P. 1409) (L. D. 1684)

Tabled — June 17, 1977 by Mr. Strout of Corinth.

Pending — Adoption of Committee Amendment "A" (H-591)

The SPEAKER: The Chair recognizes the gentleman from Buxton, Mr. Berry.

Mr. BERRY: Mr. Speaker, I have some problems with this bill that I still haven't been able to work out and I would hope that someone would table this for two days.

The SPEAKER: The Chair recognizes the gentleman from Lincoln, Mr. MacEachern.

Mr. MacEACHERN: Mr. Speaker, I more that this lay on the table for two legislative days.

Mr. Palmer of Nobleboro requested a Division.

The SPEAKER: The pending question before the House is the motion of the gentleman from Lincoln, Mr. MacEachern, that this Bill be tabled for two legislative days pending adoption of Committee Amendment "A". Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

63 having voted in the affirmative and 62 in the negative the motion did prevail.

The Chair laid before the House the fifth item of Unfinished Business:

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)

— In House, Majority "Ought Not to Pass" Report Read and Accepted on June 13.

— In Senate, Minority "Ought to Pass" Report Read and Accepted and Resolution Passed to be Engrossed as Amended by Senate Amendment "A" (S-264)

(House Receded and Concurred on June 16)

Tabled — June 17, 1977 by Mr. Tierney of Lisbon Falls.

Pending — Motion of Mr. Bustin of Augusta to Reconsider Receding and Concurring.

Thereupon, the House reconsidered its action whereby it voted to recede and concur.

The SPEAKER: The Chair recognizes the gentleman from Bangor, Mr. Kelleher.

Mr. KELLEHER: Mr. Speaker, Ladies and Gentlemen of the House: I would hope that this House would not recede and concur and then a motion to adhere to our former action would be in order.

Not to belabor the question dealing with the item veto, I think we all understand if in fact we pass an item veto, we would simply be allowing the Chief Executive of this State, be it James B. Longley or in the instance when I opposed this bill two terms ago, the honorable Kenneth M. Curtis, in my humble opinion, all we would be doing is allowing that individual who is sitting in the corner office to write the Appropriations Act. We would be giving that particular individual in the corner office a weapon and that is exactly what it would be, in dealing with the legislature on a number of other issues because of certain items that we may be personally fighting for our own constituents. We all understand how the Appropriations Act is formed and put together and it takes a 101 votes to pass it and I know the argument is, let the issue stand on its own merits. Well, we all know that this is the declining days of the 108th Legislature and believe me, if certain items come back from the Appropriations Act up here, I believe, that the tempers and the temperature of the House dealing with individual issues would probably see their demise. Not because they wouldn't be worthy but simply because of time it takes in involving itself with debate.

It may be a very noble experience to support this motion. The goo-goos in government like it; the practical people in government, meaning the members of this legislature, whether they

be here today or the future legislature, I would hope that you would oppose it.

We have an Appropriations Committee, we have a process that we go through and I appreciate my good friend from Augusta, Mr. Bustin, who probably feels differently. However, I think this is a poor management bill in terms of the checks and balance system. We have it now. It is fair and I would hope that this House would not recede and concur because it is not good government.

The SPEAKER: The Chair recognizes the gentleman from Augusta, Mr. Bustin.

Mr. BUSTIN: Mr. Speaker, Ladies and Gentlemen of the House: I understand that the gentleman from Bangor is very excited about this bill but I didn't think he was so excited that he forgot who his friends were.

I, too, would urge you to vote no on this motion and I, too, believe that the time for a civics lesson has passed. We are dealing with one thing in this measure and that is power and a division of power. I have never seen in the years that I have served in this legislature any chief executive get involved in the nitty gritty of legislation as much as this one has. That is not to say that he shouldn't but it sure is to say that the capacity for holding bills hostage, for holding legislators hostage on other measures is certainly there.

When I first came into this legislature, I was ready to vote for any constitutional change that came down the pike. The longer I serve, the more I come to respect that the people who wrote the Maine Constitution really did know what they were doing. True, there are things that change with the passage of time, such as single member districts and this kind of thing but when they wrote into the Constitution a division of power, they knew what they were doing. I say that if you grant item veto power to any Governor, you are breaching that division of power and you are giving too much power to the executive.

I hope you vote no on this motion and then we will adhere.

The SPEAKER: The Chair recognizes the gentleman from Waterville, Mr. Boudreau.

Mr. BOUDREAU: Mr. Speaker, Ladies and Gentlemen of the House: I am not going to raise my voice or get red in the face about this bill. It seems to me that when a bill comes to this floor and has some merit, some people tend to get emotional and make all kinds of statements about divisions of powers in the Constitution and I think any bill we act on now goes through the same process as any appropriation bill would go through in the event of an item veto. The Governor can now veto anything we send to him and we have to either sustain his veto or not. I don't really think that the Governor is going to hold legislators hostage.

The next Governor could be Larry Connolly or Bill Garsoe and they wouldn't do that so I would hope that you would recede and concur.

Mr. Burns of Anson requests a roll call.

The SPEAKER: For the Chair to order a roll call, it must have the expressed desire of one fifth of the members present and voting. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken, and more than one fifth of the members present having expressed a desire for a roll call, a roll call was ordered.

The SPEAKER: The pending question before the House is the motion of the gentleman from Waterville, Mr. Boudreau, that the House recede and concur. Those in favor will vote yes; those opposed will vote no.

The Chair recognizes the gentlewoman from Freeport, Ms. Clark.

Ms. CLARK: Mr. Speaker, I would like to pair my vote with the gentleman from Lewiston, Mr. Jalbert. If Mr. Jalbert were

here. He would be voting no and I would be voting yes.

ROLL CALL

YEA — Aloupis, Bagley, Benoit, Berry, Berube, Biron, Birt, Boudreau, A.; Boudreau, P.; Brown, K.L.; Bunker, Burns, Carter, F.; Churchill, Connors, Cunningham, Dexter, Dow, Drinkwater, Dudley, Durgin, Garsoe, Gould, Gray, Green, Henderson, Higgins, Hunter, Hutchings, Immonen, Jacques, Joyce, Kanv, Lewis, Littlefield, Lizotte, Lynch, MacEachern, Mackel, Marshall, Masterman, McMahon, Mitchell, Moody, Morton, Palmer, Perkins, Post, Quinn, Raymond, Rollins, Sewall, Spencer, Sprowl, Stover, Stubbs, Tarbell, Tarr, Tozier, Trafton, The Speaker.

NAY — Ault, Austin, Bachrach, Beaulieu, Bennett, Blodgett, Brennerman, Brown, K.C.; Bustin, Chonko, Connolly, Cote, Cox, Curran, Davies, Devoe, Diamond, Dutremble, Elias, Fenlason, Flanagan, Fowlie, Gillis, Goodwin, H.; Greenlaw, Hall, Hickey, Hobbins, Howe, Huber, Hughes, Jackson, Jensen, Kelleher, Kilcoyne, Laffin, LaPlante, LeBlanc, Locke, Lougee, Lunt, Mahany, Masterton, Maxwell, McBreairty, McHenry, McKean, McPherson, Mills, Nadeau, Najarian, Nelson, M.; Nelson, N.; Norris, Peakes, Pearson, Peltier, Peterson, Plourde, Prescott, Rideout, Shute, Silsby, Strout, Talbot, Theriault, Tierney, Torrey, Truman, Valentine, Whittemore, Wilfong, Wood, Wyman.

ABSENT — Carey, Carrier, Carroll, Darter, D.; Gauthier, Gill, Goodwin, K.; Kane, Kerry, Martin, A.; Smith, Teague, Twitchell, Tyndale.

PAIRED — Clark, Jaibert.

Yes, 61; No, 74; Absent, 14; Paired 2.

The SPEAKER: Sixty-one having voted in the affirmative and seventy-four in the negative, with fourteen being absent and two paired, the motion did not prevail.

Whereupon, the House voted to adhere.

The SPEAKER: The Chair recognizes the gentleman from Augusta, Mr. Bustin.

Mr. BUSTIN: Mr. Speaker, I now move that we reconsider and hope you all vote against me.

The SPEAKER: The gentleman from Augusta, Mr. Bustin, now moves the House reconsider its action whereby it voted to adhere. Those in favor will vote yes; those opposed will vote no.

A viva voce vote being taken, the motion did not prevail.

The Chair laid before the House the sixth item of Unfinished Business:

Bill, "An Act Relating to the Administration of Medication" (H. P. 1236) (L. D. 1389) (C. "A" H-640)

Tabled — June 20, 1977 by Mr. Burns of Anson.

Pending — Passage to be Engrossed.

On motion of Mr. Burns of Anson, tabled pending passage to be engrossed and specially assigned for Friday, June 24.

(Off Record Remarks)

On motion of Mr. Lynch of Livermore Falls, the House reconsidered its earlier action whereby it voted to recede and concur on Bill, "An Act Relating to Approving and Financing School Construction" (H. P. 477) (L. D. 583).

On further motion of the same gentleman, tabled pending the motion of the same gentleman that the House recede and concur and later today assigned.

On motion of Mr. Jensen of Portland.
Recessed until 2:45 in the afternoon.

After Recess

2:45 p.m.

The House was called to order by the Speaker.

The following Enactors appearing on Supplement No. 1 were taken up out of order by unanimous consent:

Passed to Be Enacted

An Act to Provide for Special Education Facilities for Children at Drug Treatment Centers (S. P. 342) (L. D. 1126) (C. "A" S-242)

An Act to Provide Exemptions from Licensure for Certain Insurance Agents and Officers of Benefit Societies and Amend the Procedure for Licensing (H. P. 807) (L. D. 983) (S. "A" S-265 to C. "A" H-617)

An Act to Expedite Court Handling of Fish and Wildlife Violations of a Misdemeanor Nature by a System of Convenient Payment (H. P. 865) (L. D. 1053)

An Act to Prohibit Otter Trawling for Scallops in the Penobscot River (H. P. 1147) (L. D. 1381)

Were reported by the Committee on Engrossed Bills as truly and strictly engrossed, passed to be enacted, signed by the Speaker and sent to the Senate.

By unanimous consent, ordered sent forthwith.

Enactor

Reconsidered

An Act to Establish a Bill of Rights for Mentally Retarded Persons (H. P. 1473) (L. D. 1735) (S. "A" S-275 to C. "A" H-631)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed.

On motion of Mrs. Najarian of Portland, under suspension of the rules, the House reconsidered its action whereby the Bill was passed to be engrossed.

On further motion of the same gentlewoman, under suspension of the rules, the House reconsidered its action whereby Committee Amendment "A" as amended by Senate Amendment "A" was adopted.

The same gentlewoman offered House Amendment "A" to Committee Amendment "A" and moved its adoption.

House Amendment "A" to Committee Amendment "A" (H-792) was read by the Clerk.

The SPEAKER: The Chair recognizes the gentlewoman from Portland, Mrs. Najarian.

Mrs. NAJARIAN: Mr. Speaker and Members of the House: I apologize for not reading the committee amendment to the bill until yesterday. There was a section in the committee amendment that disturbed me quite a bit. That was in regard to behavior modification for the mentally retarded. I can't find the committee amendment right at the moment, but what it did, it allowed that painful stimuli could be administered to the mentally retarded patient in an institution, provided the psychologist and the administrator both agreed. I have discussed this with the sponsor and with the Attorney General who drafted the bill and the patient advocate in the Department of Mental Health and Corrections and have amended it to say that treatment programs which involve the use of noxious or painful stimuli may only be employed to correct behavior more harmful to the patient than the treatment program itself would be. Then I have added that the client advocate also be in with the psychologist and the hospital administrator in making the decision on whether to administer that to a patient or not.

Having seen the movie "One Flew Over the Cuckoo's Nest," I am a little apprehensive about this type of thing being used at all, although I understand in some cases patients do do things which are very harmful to themselves, and I would just feel better having somebody involved in that decision other than a couple of professional people. I think that is more protection for the mentally retarded patient.

Thereupon, House Amendment "A" to Committee Amendment "A" was adopted.

Committee Amendment "A" as amended by Senate Amendment "A" and House Amendment "A" thereto was adopted.

The Bill was passed to be engrossed as amended in non-concurrence and sent up for concurrence.

By unanimous consent, ordered sent forthwith.

The Chair laid before the House the seventh item of Unfinished Business:

Bill, "An Act to Define Duties and Set Salaries for Special and Part-time Deputy Sheriffs" (H. P. 992) (L. D. 1191)

Tabled — June 20, 1977 by Mr. Henderson of Bangor.

Pending — Adoption of Committee Amendment "A" (H-388).

On motion of Mr. Henderson of Bangor, retabled pending adoption of Committee Amendment "A" and tomorrow assigned.

An Act Concerning Registration on Election Day (H. P. 1664) (L. D. 1864) (H. "C" H-616)

An Act Relating to Municipal General Assistance Programs (H. P. 1673) (L. D. 1868) (H. "B" H-666)

An Act Relating to the Commitment of Mentally Ill Individuals (H. P. 1707) (L. D. 1880) (S. "A" S-262 to H. "A" H-651)

Were reported by the Committee on Engrossed Bills as truly and strictly engrossed, passed to be enacted, signed by the Speaker and sent to the Senate.

By unanimous consent, ordered sent forthwith.

The Chair laid before the House the eighth tabled and today assigned matter:

SENATE DIVIDED REPORT — Majority (8) "Ought Not to Pass" — Minority (5) "Ought to Pass" — Committee on Taxation on Bill "An Act to Repeal the Personal Property Tax on Commercial Fishing Vessels and Equipment" (S. P. 233) (L. D. 730) — In Senate, Minority "Ought to Pass" Report Read and Accepted and the Bill Passed to be Engrossed.

Tabled — June 20, 1977 by Mrs. Post of Owl's Head.

Pending — Motion of Mr. Carey of Waterville to Accept the Majority "Ought Not to Pass" Report.

On motion of Mrs. Post of Owl's Head, retabled pending the motion of Mr. Carey of Waterville to accept the Majority Report and tomorrow assigned.

The Chair laid before the House the ninth tabled and today assigned matter:

HOUSE DIVIDED REPORT — Majority (7) "Ought to Pass" — Minority (3) "Ought Not to Pass" — Committee on Labor on Bill "An Act Concerning Arbitration for Municipal Fire Departments" (H. P. 522) (L. D. 640)

Tabled — June 20, 1977 by Mr. Tierney of Lisbon Falls.

Pending — Motion of Mr. Bustin of Augusta to Accept the Majority "Ought to Pass" Report.

On motion of Mr. Tierney of Lisbon Falls, retabled pending the motion of Mr. Bustin of Augusta to accept the Majority Report and tomorrow assigned.

The Chair laid before the House the tenth tabled and today assigned matter:

Bill, "An Act to Control Conversion of Seasonal Dwellings to Year-round Use in Shoreland Areas" (H. P. 1385) (L. D. 1573) (C. "A" H-628)

Tabled — June 20, 1977 by Mr. Spencer of Standish.

Pending — Passage to be Engrossed.

Mr. Spencer of Standish offered House Amendment "B" and moved its adoption.