

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

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Legislature*

OF THE

STATE OF MAINE

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Index

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is the time to stop it. I am certainly going to vote against the bill and I hope that you would join me.

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

Mr. MERRILL: Mr. President and Members of the Senate: I would just like to make a couple brief remarks in regards to the problems we are posed with and what has been said about them, and I hope the Senate will pardon me for what is a simple analogy.

I think in a way in the legislature we were faced as the man who had a leak in his roof that was causing his house to rot out and he had no money to deal with the leak. And I think in what we have done we could be criticized for some patchwork, we could be criticized for putting some buckets down to catch the water, from the standpoint that we haven't done enough, and I suppose that there is some legitimacy to the criticism that we pushed our resources as far as we can, maybe further than we would like to. But the alternative, I think, is to let the structure rot out, maybe beyond hope, in the case of what we are talking about here, and in the analogy what would be timbers would be the people in need and the people in our society that we want to help.

I don't think the question of fiscal responsibility is always an easy one for government. It is certainly harder than it is in business, and in business it is sometimes difficult when the only way to make money is to spend money. The question of what is the most fiscally responsible thing to do isn't simple there and it is a lot less simple here.

As a freshman Senator, as a person who came with no ties and really no great friendship or knowledge of any of the people in leadership in this legislature or who served on the Appropriations Committee, I applaud them for the job that they have done in trying to come to grips with a difficult situation, and I can very easily, within the context of the problems we have, vote to override the veto. I think that this legislature has been distinguished by the ability to put issues above personality and by the ability to put the concerns of Maine people above party. I am confident that we will do that this afternoon, and that the vote that is taken here this afternoon will be seen as another step on that path, as nothing more and as nothing less.

The PRESIDENT: The pending question before the Senate is: Shall this bill become a law notwithstanding the objections of the Governor? A vote of "Yes" will be in favor of the Bill; a vote of "No" will be in favor of sustaining the veto of the Governor.

The Secretary will call the roll.

ROLL CALL

YEAS: Senators Berry, E.; Cianchette, Clifford, Collins, Conley, Corson, Cummings, Curtis, Cyr, Gahagan, Graffam, Graham, Greeley, Huber, Johnston, Marcotte, McNally, Merrill, Pray, Reeves, Roberts, Speers, Thomas, Trotzky, Wyman, Sewall.

NAYS: Senators Berry, R.; Carbonneau, Danton, Hichens, Jackson, Katz, O'Leary.

Mr. O'Leary of Oxford was granted leave of the Senate to change his vote from "No" to "Yes".

A roll call was had. 27 Senators having voted in the affirmative, and six Senators having voted in the negative, and 27 being more than two-thirds of the membership present, it was the vote of the Senate that

the Bill becomes a law notwithstanding the objections of the Governor.

Sent down for concurrence.

On motion by Mr. Speers of Kennebec, the Senate voted to take from the table the following Specially Assigned matter:

Non-concurrent Matter

Bill, "An Act to Correct Errors and Inconsistencies in the Public Laws." (S. P. 480) (L. D. 1760)

In the Senate June 24, 1975, Passed to be Engrossed as amended by Committee Amendment "A" (S-351) as amended by Senate Amendments "A" (S-353), "B" (S-362), "E" (S-361) and "F" (S-365) Thereto, and Senate Amendments "A" (S-352), "B" (S-353), "C" (S-356) and "D" (S-360).

Comes from the House, Passed to be Engrossed as amended by Committee Amendment "A" as amended by Senate Amendments "A", "B", "E", "F" and House Amendments "B" (H-823), "C" (H-828), "E" (H-830), "F" (H-834), "G" (H-835) Thereto and Senate Amendments "C" and "A", and House Amendments "A" (H-814), "B" (H-821), "C" (H-831), "D" (H-832) and "E" (H-836), in non-concurrence.

Tabled — earlier in today's session by Mr. Collins of Knox.

Pending — Consideration.

On motion by Mr. Collins of Knox, the Senate voted to Recede from its former action whereby the Bill was Passed to be Engrossed.

The same Senator then moved that the Senate Recede from its former action whereby Committee Amendment "A" was Adopted.

The PRESIDENT: The Senator has the floor.

Mr. COLLINS: Mr. President and Members of the Senate: We have a fairly complicated schedule of amendments to go through on this matter. The amendments now before us which were placed on the bill in the other body are listed on our calendars. After the pending question is put, we would then proceed through House Amendment "B", "C", "E", "F" and "G" as offered to the Committee Amendment. If there is any member of the Senate that opposes any of these House Amendments, it will be in order as they are read to indicate your position. We would then propose to offer the Senate Amendments to the Committee Amendment. I understand that there are at least two of those to be offered. We would then proceed with the Bill itself, the amendments placed by the other body, and then come to the new Senate Amendments to the bill itself. I would now ask, Mr. President, to proceed with the pending question.

The PRESIDENT: The Senator from Knox, Senator Collins, now moves that the Senate recede from its action whereby it adopted Committee Amendment "A". Is this the pleasure of the Senate?

The motion prevailed.

Whereupon, House Amendments "B" and "C" to Committee Amendment "A" were Read and Adopted in concurrence.

House Amendment "E" to Committee Amendment "A" was Read and, on motion by Mr. Hichens of York, Indefinitely Postponed in non-concurrence.

House Amendment "F" to Committee Amendment "A" was Read and, on motion by Mr. Collins of Knox, Indefinitely Postponed in non-concurrence.

House Amendment "G" to Committee

Amendment "A" was Read and Adopted in concurrence.

Mr. Clifford of Androscoggin then presented Senate Amendment "A" to Committee Amendment "A" and moved its Adoption.

Senate Amendment "H", Filing No. S-369, to Committee Amendment "A" was Read.

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

Mr. REEVES: Mr. President, I move the indefinite postponement of Senate Amendment "H" to Committee Amendment "A". This amendment seems inconsistent to me. In L. D. 1035, which I believe this amendment refers to the legislature passed a bill providing for public access to public records. And at the same time we specifically included the legislature itself for the first time, the legislature and its committees, under our right to know law. This amendment seems contrary to our intentions in passing this law. Good government is open government, and the more open the better.

Mr. President, because this is, I believe, a controversial matter and concerns the public's right to know, I ask for a roll call on this amendment.

The PRESIDENT: The Chair recognizes the Senator from Androscoggin, Senator Clifford.

Mr. CLIFFORD: Mr. President and Members of the Senate: Senate Amendment "H" to Committee Amendment "A" does deal with the right to know law. It deals with exceptions to what are deemed to be public records and, therefore, open without restriction to members of the public.

Now, previous amendments to Committee Amendment "A" have gone in the direction of opening up further information that is available to members of the public. For example, under Committee Amendment "A", subsection 1 of section 1, concerning confidential information, this Senate, by an amendment, limited as an exception to the public records confidential information deemed confidential by statute, and struck out other confidential information which would have been deemed confidential by members of the bureaucracy.

We also struck out as an exception to what is deemed a public record interoffice memoranda between the various departments, which could have included opinions of the Attorney General, which I think you will agree with me, and the Senate agreed by adopting that amendment, should be public.

What we are talking about here, I think, is an area that is a little different, and that is working papers, memoranda of members of the legislature down in the Office of Legislative Research. And unless this amendment is adopted, those working papers, those memoranda, would be open to the lobbyists and to everybody and would present an administrative problem to the Office of Legislative Research which would be very substantial.

Now, any time an amendment is printed, it becomes a matter of public record. Any time an amendment comes out and is distributed, it is a matter of public record. But it seems to me that memoranda of the legislators, working papers of the members of the legislature, should be free from people, for example, from the lobby going in and opening up those files in the

Office of Legislative Research. That is what this Senate Amendment "H" to Committee Amendment "A" does. It does not in any way diminish the public's right to see amendments, whether they be printed or just waiting in the legislative office. What we are talking about is working papers, interoffice memoranda of the legislators, and notes that a legislator may have put in those files.

It seems to me if we want a government in which a legislator will feel free to present any amendment he wants, and will feel free to give Legislative Research any material he wants to back up those amendments, that we would vote against the motion to postpone Senate Amendment "H" to Committee Amendment "A". That is what we are talking about. The legislators should feel free to bring in their memoranda, their working papers, their working notes, to help to aid Legislative Research in drafting legislation and drafting amendments, and I think if we vote to postpone Senate Amendment "H" to Committee Amendment "A" that we are working against that freedom in that process. So I hope you would vote against the motion of the good Senator from Kennebec, Senator Reeves, and that we could adopt Senate Amendment "A" to Committee Amendment "A".

This would be consistent with previous action of this legislature. We are talking here about a bill to correct errors and inconsistencies, and this legislature in a previous action defeated a motion, an order, to completely open up the legislative files, so that this amendment is consistent with previous legislative action. And I think it would be consistent with good legislation, legislation free from people snooping, lobbyists snooping, to see what a legislator might have written in his notes when he brought a particular bill or a particular amendment in to Legislative Research to help in drafting that bill or that amendment. Thank you, Mr. President.

The PRESIDENT: Is the Senate ready for the question? The pending motion before the Senate is the motion by the Senator from Kennebec, Senator Reeves, that Senate Amendment "H" to Committee Amendment "A" be indefinitely postponed.

A roll call has been requested. In order for the Chair to order a roll call, it requires the expressed consent 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 pending motion before the Senate is the motion by the Senator from Kennebec, Senator Reeves, that Senate Amendment "H" to Committee Amendment "A" be indefinitely postponed. A "Yes" vote will be in favor of indefinite postponement of Senate Amendment "H" to Committee Amendment "A"; a "No" vote will be opposed.

The Secretary will call the roll.

ROLL CALL

YEAS: Senators Collins, Curtis, Gahagan, Graham, Hichens, Katz, McNally, Reeves.

NAYS: Senators Berry, E.; Berry, R.; Carbonneau, Cianchette, Clifford, Conley, Corson, Cummings, Cyr, Danton, Graffam, Greeley, Jackson, Johnston, Marcotte, Merrill, O'Leary, Pray, Roberts, Speers, Thomas, Trozky, Wyman.

ABSENT: Senator Huber.

Mr. Katz of Kennebec was granted leave of the Senate to change his vote from "Yes" to "No".

A roll call was had. Seven Senators having voted in the affirmative, and 24 Senators having voted in the negative, with one Senator being absent, the motion did not prevail.

Thereupon, Senate Amendment "H" to Committee Amendment "A" was Adopted and Committee Amendment "A", as Amended by Senate Amendments "A", "B", "E", "F" and "H" and House Amendments "B", "C" and "G" Thereto, was Adopted in non-concurrence.

House Amendments "A", "B", "C", "D" and "E" were Read and Adopted in concurrence.

On motion by Mr. Collins of Knox, the Senate voted to recede from its former action whereby Senate Amendment "B" was Adopted and, on subsequent motion by the same Senator, Senate Amendment "B" was Indefinitely Postponed.

On further motion by the same Senator, the Senate voted to recede from its former action whereby Senate Amendment "D" was Adopted.

The same Senator then moved that Senate Amendment "D" be Indefinitely Postponed.

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

Mr. CONLEY: Mr. President, would the Secretary give the filing number of Senate Amendment "D"?

The SECRETARY: S-360.

Mr. CONLEY: Mr. President, that is my amendment and I congratulate the Senator from Knox.

The PRESIDENT: Is it now the pleasure of the Senate that Senate Amendment "D" be indefinitely postponed?

The motion prevailed.

Mr. Corson of Somerset then presented Senate Amendment "E" and moved its Adoption.

Senate Amendment "E", Filing No. S-368, was Read and Adopted.

Mr. Merrill of Cumberland then presented Senate Amendment "G" and moved its Adoption.

Senate Amendment "G", Filing No. S-371, was Read and Adopted.

Mr. Clifford of Androscoggin then presented Senate Amendment "F" and moved its Adoption.

Senate Amendment "F", Filing No. S-370, was Read.

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

Mr. CONLEY: Mr. President, it just appears to me that the Judiciary Committee is offering all kinds of amendments on this errors and inconsistency bill, and the question in my mind is to whether or not the committee ever met.

The PRESIDENT: The Senator from Cumberland, Senator Conley, has posed a question through the Chair which any member on the Judiciary Committee may answer if he so desires.

The Chair recognizes the Senator from Cumberland, Senator Merrill.

Mr. MERRILL: Mr. President, in that regard, I just got a note from somebody saying they weren't completely clear as to what was going on here. I really think it is pretty simple as to what is happening, and if anybody has any questions they can address them to the Senator from Knox, Senator Collins.

The PRESIDENT: The Chair recognizes

the Senator from Androscoggin, Senator Clifford.

Mr. CLIFFORD: Mr. President, I think the members of the Judiciary Committee are just letting the members of the Senate know that they know the phonetic alphabet.

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

The motion prevailed.

The Chair recognizes the Senator from Knox, Senator Collins.

Mr. COLLINS: Mr. President, as far as the Judiciary Committee knows, this is all amendments that are forthcoming to this bill and I would ask now that it be passed to be engrossed.

The PRESIDENT: The Senator from Knox, Senator Collins, now moves that this bill be passed to be engrossed in non-concurrence. Is this the pleasure of the Senate?

The motion prevailed.

Thereupon, under suspension of the rules, sent down forthwith for concurrence.

The PRESIDENT: Is it now the pleasure of the Senate, under suspension of the rules, that L. D. 1937, the veto message, be sent forthwith to the House?

It is a vote.

On motion by Mr. Speers of Kennebec, Recessed until the sound of the bell.

After Recess

Called to order by the President.

Papers from the House

Out of order and under suspension of the rules, the Senate voted to take up the following:

Joint Order

WHEREAS, the State Legislature believes that there is a need to evaluate the several programs of the Maine Housing Authority in order to assure that maximum effectiveness in program administration is obtained in meeting housing needs for Maine people including the elderly and those of low income; and

WHEREAS, legislation dealing directly with the duties and powers of the Maine Housing Authority, such as L. D. 660, L. D. 723 and L. D. 1002, has been enacted or is presently being considered; and

WHEREAS, there has been question of the effect of such legislation on the present and future housing needs of the people of the State of Maine as well as on the credit rating of the State of Maine; now, therefore, be it

ORDERED, the Senate concurring, that the Legislative Council through the Joint Standing Committee on Performance Audit conduct the necessary review and consideration of the Maine Housing Authority to determine the need or desirability for altering, adding to or deleting from existing statutory provisions the Maine Housing Authority's powers to meet housing needs in this State; and be it further

ORDERED, that the Legislative Council report the result of its findings together with any suggested recommendations and any necessary implementing legislation to the next special or regular session of the Legislature; and be it further

ORDERED, upon passage in concurrence, that suitable copies of this Order be transmitted forthwith to said agency as notice of this directive. (H. P. 1773)