

MAINE STATE LEGISLATURE

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Legislative Record

OF THE

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(First Special Session)

OF THE

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may be of interest to some of the other members of the Senate, so I will just point it out. The items will appear on the warrants separately, if that is what the town decides to do. If the town follows the usual or what has been in my tradition the usual procedure of putting in a specified amount for each line item, than it would be impossible for the voters of the town to increase that amount. If they follow the other procedure which is available to them, and just put to see what sum the town shall appropriate, or whatever the body is, shall appropriate for the purpose of, whatever that particular line is, then they could appropriate obviously any amount. And of course that could be, as it often is, followed by a recommendation.

My only concern in regards to that then is that if the real goal of this bill is to increase the ability of local decision makers to have an effect, it could be defeated, at least to the extent that the townspeople wanted to spend more on a particular item by putting in a specified amount. But that is the sort of change I think that can come along after we have had this for a while, if it proves to be a frustration for local decision makers, so I won't attempt to amend the bill at this time.

The PRESIDENT: Is it now the pleasure of the Senate to adopt House Amendment "A" to Committee Amendment "B"?

House Amendment "A" to Committee Amendment "A" was Adopted in concurrence and Committee Amendment "B", as Amended by House Amendment "A" Thereto, was Adopted in concurrence.

Thereupon, under suspension of the rules, the Bill, as Amended, was Read a Second Time and Passed to be Engrossed in concurrence.

Under further suspension of the rules, sent forthwith to the Engrossing Department.

The President laid before the Senate the matter tabled earlier in today's session by Mr. Speers of Kennebec:

An Act Relating to Teacher Employment. (S. P. 640) (L. D. 2049)

Pending — Consideration

The President stated the question before the Senate: Shall this Bill become a law notwithstanding the objections of the Governor? According to the Constitution, the vote will be taken by the Yeas and Nays. 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 PRESIDENT: Is the Senate ready for the question?

The Chair recognizes the Senator from Kennebec, Senator Katz.

Mr. KATZ: Mr. President and Members of the Senate: If you will refer to this Item 2-1, which is the veto message of the Governor, I respectfully suggest that the reasoning is not exactly on target. For example, in the second paragraph the veto message says, "local control over educational policy and programs would be reduced." And I can tell you that it was the thinking of the committee that the opposite was true, that if local people are bound by a mandatory statute, which would be the case if the Governor's veto is maintained, the right of local people to negotiate in good faith with their employees would be stripped away from them.

In the third paragraph, he suggests what elected school committees, which are in a position to be responsive and so forth, would lose much of the statutory authority which they need to enable them to fulfill their obligations, and I suggest that this also misses the mark. The statute remains unchanged. What we are giving to local school committees is an alternative course of action, if they wish to adopt the alternative course of action. And literally and as honestly as I can say, we are increasing local alternatives for local school people by the pas-

sage of this legislation, and I ask that the Senate reaffirm its original posture and vote that this bill shall become law notwithstanding the veto of the Governor.

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

Mr. TROTZKY: Mr. President and Members of the Senate: My school board doesn't agree with the statements made by the good Senator from Kennebec, Senator Katz. Right now a superintendent can recommend dismissal of a teacher for reasons of incompetence, the school board can hold a hearing and dismiss that teacher. Under the present law, if the teacher feels aggrieved by that decision, he has recourse to the courts to prove that he was dismissed without just cause.

What this bill does is allow teacher organizations to negotiate third party dismissal proceedings. In the Governor's message, it states that a superior court decision in Winslow held that an arbitration panel exceeded its authority by inserting "just cause" language into a teacher contract over the objection of the school committee. And what my school board is afraid of is that this will take place also in Bangor, that under arbitration they will give the teachers third party rights for dismissals.

So I tend to feel that the present process that we have is just. Your school board and my school board hired these teachers, and I feel for reasons of incompetence they should be able to dismiss teachers.

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

Mr. SPEERS: Mr. President, very briefly, I understand that there has been an amount of confusion amongst some school board members with regard to this bill. And I would point out that the bill is not in its original posture as it was introduced into this body. The bill has been amended by the Committee on Education, and I think those that do understand the bill as it has been amended and presented to us find it agreeable. Very basically, it is a question of collective bargaining, and the question is whether or not the teachers, when they negotiate a contract, are going to be able to collectively bargain for the conditions of dismissal. It removes the tenure law from the statutes, and this has been a very real problem for both sides of the bargaining table in the past and, as the good Senator suggested, there have been court cases that have been involved in this regard and I understand that the court has decided the issue before it just yesterday, so I think that the Governor's comments that this is before the courts at the present time are now outdated.

I would urgently request the Senate to override this veto. It is a good bill and, as has been mentioned at the time that the bill was discussed earlier, it is a question of collective bargaining.

The PRESIDENT: Is the Senate ready for the question? 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., Clifford, Collins, Conley, Corson, Curtis, Cyr, Danton, Gahagan, Graham, Jackson, Katz, Marcotte, Merrill, Pray, Roberts, Speers, Thomas.

NAYS: Senators Berry, R., Carboneau, Cummings, Graffam, Greeley, Hichens, Huber, McNally, O'Leary, Trotzky, Wyman.

ABSENT: Senators Cianchette, Johnston, Reeves.

A roll call was had, 18 Senators having voted in the affirmative, and 11 Senators having voted in the negative, with three Senators being absent, and 18 being less than two-thirds of the

membership present, the veto of the Governor was sustained.

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

Mr. TROTZKY: Mr. President, I move the Senate reconsider its action whereby the Senate sustained the veto of the Governor and hope you vote against my motion.

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

Mr. SPEERS: Mr. President, I concur with the good Senator from Penobscot in making the motion to reconsider and I urge the Senate to vote in favor of the motion.

The PRESIDENT: The Senator from Penobscot, Senator Trotzky, now moves the Senate reconsider its action whereby the veto of the Governor was sustained. All those Senators in favor of reconsideration will please say "Yes"; those opposed will say "No".

A viva voce vote being in doubt, the Chair ordered a division.

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

Mr. BERRY: Mr. President, I request a roll call.

The PRESIDENT: 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 in favor of a roll call please rise in their places until counted.

Obviously less than one-fifth having arisen, a roll call is not ordered.

Whereupon, a division was had, 16 having voted in the affirmative, and 13 having voted in the negative, the motion prevailed.

Thereupon, on motion by Mr. Speers of Kennebec, tabled and Tomorrow Assigned, pending Consideration.

The President laid before the Senate the matter tabled earlier in today's session by Mr. Greeley of Waldo:

Bill, "An Act to Review and Clarify the Freedom of Access Law." (H. P. 2226) (L. D. 2316)

Pending — Consideration

Whereupon, House Amendment "H" was Read.

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

Mr. KATZ: Mr. President, my missing amendment was not in proper form and it has gone back. I would hope that someone would table this for one legislative day.

Thereupon, on motion by Mr. Speers of Kennebec, tabled and Tomorrow Assigned, pending Adoption of House Amendment "H".

The President laid before the Senate the matter tabled earlier in today's session by Mr. Greeley of Waldo:

Committee of Conference Report

Bill, "An Act to Regulate Drinking Water." (S. P. 687) (L. D. 2198)

Pending — Motion by Senator Speers of Kennebec to Reject Conference Committee Report and Ask for a Second Committee of Conference.

On motion by Mr. Speers of Kennebec, tabled and Tomorrow Assigned, pending the motion by that Senator to Reject Conference Committee Report and Ask for a Second Committee of Conference.

Committee of Conference

On the disagreeing action of the two branches of the Legislature on Bill, "An Act to Implement a Central Licensing Division within the Department of Business Regulation" (H. P. 2153) (L. D. 2294), the President appointed the following Conferees on the part of the Senate:

Senators

CURTIS of Penobscot
CONLEY of Cumberland
GRAHAM of Cumberland.