

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

***One Hundred and Eighth
Legislature***

OF THE

STATE OF MAINE

Volume II

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**Senate Confirmation Session
September 16, 1977**

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Senator from Cumberland, Senator Conley.

Mr. CONLEY: Mr. President, apparently the good Senator from York, is not aware of the fact that people have to go to the town clerk today to register their vehicles under the excise tax. Certainly there is no added expense to the clerks office to give them a tab, and they make a dollar on it.

The PRESIDENT: The Chair recognizes the Senator from Hancock, Senator McNally.

Mr. MCNALLY: Mr. President, I have got to concur with what the good Senator from Waldo told you. It is not the fact that we are back in the days when we used to stand in line and everybody waited to the last minute to go get their licenses. It is due to the fact that we now have to have a title law, and that was passed a year and a half or so ago, and that is what the trouble is, and if we do let this Bill get by, I am afraid they are going to have to increase the number of people they are hiring right now in the Secretary of State's office to take care of the title law.

The PRESIDENT: Is the Senate ready for the question?

A Division has been requested.

The pending Motion before the Senate, is the Motion by the Senator from Waldo, Senator Greeley, that the Senate accept the Minority Ought Not to Pass Report of the Committee.

Will all those Senators in favor of the Motion to accept the Minority Ought Not to Pass Report, please rise in their places to be counted.

Will all those Senators opposed to the Motion to accept the Minority Ought Not to Pass Report, please rise in their places to be counted.

14 Senators having voted in the affirmative, and 14 Senators in the negative, the Motion to accept the Ought Not to Pass Report does not Prevail.

Is it now the pleasure of the Senate to accept the Majority Ought to Pass as amended Report of the Committee?

The Chair is in doubt and will order a Division.

Will all those Senators in favor of accepting the Majority Ought to Pass as Amended Report of the Committee, please rise in their places to be counted.

Will all those Senators opposed to accepting the Majority Ought to Pass As Amended Report of the Committee, please rise in their places to be counted.

15 Senators having voted in the affirmative, and 14 Senators in the negative, the Motion to accept the Majority Ought to Pass As Amended Report of the Committee does prevail.

The Bill Read Once.

Committee Amendment "A" Read and Adopted, and the Bill, as amended, Tomorrow Assigned for Second Reading.

The President laid before the Senate: Bill, "An Act to Revise the Maine Tort Claims Act." (Emergency) (H. P. 1689) (L. D. 1874)

Tabled — Earlier in the Day by Senator Collins of Knox

Pending — Passage to be Engrossed

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

Mr. COLLINS: Mr. President I present Senate Amendment "A" (S-252) and in accordance with Joint Rule 4, I move that this matter lie on the table for three legislative days.

The PRESIDENT: The Senator from Knox, Senator Collins, now presents Senate Amendment "A" to L. D. 1874.

The Secretary will read Senate Amendment "A".

Senate Amendment "A" Read.

The PRESIDENT: The Senator from Knox, Senator Collins, now moves that this item be tabled for three legislative days, pending adoption of Senate Amendment "A". Is this the pleasure of the Senate.

The Chair recognizes the Senator from Cumberland, Senator Merrill.

Mr. MERRILL: Mr. President, is the parliamentary procedure that we are in is that this is being tabled for three days so that we may reconsider a matter that we have already rejected as of yesterday?

The PRESIDENT: The Chair would advise the Senator according to Rule 4 of the Joint Rules that three days notice should be given to the House of the moving member of any item which has been previously debated.

The Chair recognizes the same Senator.

Mr. MERRILL: Mr. President, in that case I would ask for a Division.

The PRESIDENT: A Division has been requested.

Will all those Senators in favor of the Motion to table this item for Three Legislative Days pending adoption of Senate Amendment "A", please rise in their places to be counted.

Will all those Senators opposed to the Motion to table this item for three legislative days pending adoption of Senate Amendment "A", please rise in their places to be counted.

The Chair recognizes the Senator from Cumberland, Senator Merrill.

Mr. MERRILL: 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 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 Cumberland, Senator Merrill.

Mr. MERRILL: Mr. President, would it be in order at this time that I ask that the Amendment be read in full?

The PRESIDENT: The Chair would answer in the affirmative. The Secretary will read the Amendment.

Senate Amendment "A" read.

The PRESIDENT: The pending question before the Senate is the motion to table L. D. 1874 for three legislative days pending adoption of Senate Amendment "A".

A yes vote will be in favor of tabling for three legislative days. A nay vote will be opposed.

The doorkeepers will secure the Chamber.

The Secretary will call the roll.

The Chair recognizes the Senator from Cumberland, Senator Conley.

Mr. CONLEY: Mr. President, would it be in order to suspend the rules and to consider the amendment at this time?

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

Mr. CONLEY: Mr. President, a parliamentary inquiry, it is my understanding it is a Joint Rule.

The PRESIDENT: The Chair would answer in the affirmative. The Senate will be at ease pending some research.

(At Ease)

The PRESIDENT: The Chair will respond to the Senator's question that on page 214 in Masons, Section 283, the Motion to suspend the rules, Number 1, the motion to suspend the rules may be made at any time when no question is pending, or while a question is pending provided it is for a purpose connected with that question.

The Chair recognizes the Senator from Cumberland, Senator Merrill.

Mr. MERRILL: Mr. President and Members of the Senate: I request unanimous consent to briefly address the Senate on the record.

The PRESIDENT: The Senator from Cumberland, Senator Merrill, now requests unanimous consent to address the Senate on the record. Is there objection? The Chair hears none. The Senator may proceed.

Mr. MERRILL: Mr. President and Members of the Senate: I know that it is the custom in this body not to debate tabling motions, but what we have before us is slightly extraordinary. I just want to offer a brief explanation so all the Senators will know what we are voting on.

If we table this for three days, it is for the purpose of complying with Rule 4 of our Joint Rules, which allows a way to get around the rule which makes it impossible to reconsider something which has already been rejected. What we rejected yesterday was the notion that State employees could be sued. If you think that that decision ought to be changed in this bill, you will vote to table this for three days, and then vote for the amendment that is being offered by the Senator from Knox. If you think that we took the proper position yesterday, you will vote against tabling for three days, stick with the position that we previously took and get on with the matter at hand.

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

Mr. COLLINS: Mr. President. I request unanimous consent to address the Senate on the record.

The PRESIDENT: The Senator from Knox, Senator Collins, requests unanimous consent to address the Senate on the record. Is there objection? The Chair hears none. The Senator may proceed.

Mr. COLLINS: Mr. President, a few minutes ago the good Senator from Cumberland, Senator Merrill, when he was in the position that I am in now, pointed out that there were people absent from the Chamber, and yesterday there were people absent from the Chamber that were on my side of the issue, and I would further say that the reason that I attempt this particular maneuver — it is the first time I have ever attempted it, is that at least two Senators have explained to me in the interim that there were some things they did not understand about the bill, and I think they deserve an opportunity to have another consideration of the measure.

The PRESIDENT: The pending question before the Senate is the motion to table L. D. 1874 for three legislative days, pending adoption of Senate Amendment "A".

A Roll Call has been ordered.

A yes vote will be in favor of tabling for three legislative days. A nay vote will be opposed.

The Chair recognizes the Senator from Cumberland, Senator Conley.

Mr. CONLEY: Mr. President, a point of order.

The PRESIDENT: The Senator may state his point of order.

Mr. CONLEY: Mr. President, I do not have the rule in front of me, but it was my understanding or it is my understanding that in order to have something reconsidered that has been disposed of at one time, that it must be done by Order.

The PRESIDENT: The Chair will read the Joint Rule 4 to the Senator, and also advise that the bill is not disposed of and put in the Legislative file, which does require two-thirds vote in both branches.

The Chair recognizes the same Senator.

Mr. CONLEY: Excuse me, Mr. President, a further inquiry. Was the Amendment itself rejected and reconsidered?

The PRESIDENT: The Amendment itself has been offered for the first time as far as the Chair is concerned.

The Chair recognizes the same Senator.

Mr. CONLEY: Mr. President, the item that we disposed of yesterday would have been the opposite signing of the Report, both Ought to Pass but one including —

The PRESIDENT: The Chair would advise the Senator that yesterday the Senate accepted

the Minority Ought to Pass in New Draft Report of the Committee.

The Chair recognizes the same Senator.

Mr. CONLEY: Mr. President, therefore, it rejected the Majority Ought to Pass Report.

The PRESIDENT: That is true. The Chair recognizes the same Senator.

Mr. CONLEY: Mr. President, it is my understanding now that what we are presently considering is a Report that is trying to be implemented into this Bill, a Report that was already rejected by the fact that the Senate had accepted the other Report.

The PRESIDENT: The Chair would advise the Senator that in the Chair's judgment Rule 4 of the Joint Rules would apply in this instance.

A yeas vote will be in favor of tabling the adoption of Senate Amendment "A" for Three Legislative Days. A nay vote will be opposed.

The doorkeepers will secure the Chamber.

The Secretary will Call the Roll.

ROLL CALL

YEA — Collins, D.; Collins, S.; Curtis, Greeley, Hewes, Hichens, Huber, Lovell, Morrell, Pierce, Snowe, Trotzky, Wyman.

NAY — Chapman, Conley, Cummings, Danton, Farley, Jackson, Levine, Mangan, Martin, Merrill, O'Leary, Pray, Speers.

ABSENT — Carpenter, Katz, McNally, Minkowsky, Redmond, Usher.

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

Mr. JACKSON: Mr. President, I wish to change my vote from no to yeas.

The PRESIDENT: The Senator from Cumberland, Senator Jackson, changes his vote from nay to yeas.

14 Senators having voted in the affirmative, and 12 Senators in the negative, with 6 Senators being absent, the Motion to table for Three Legislative Days does prevail.

The Chair recognizes the Senator from Cumberland, Senator Conley.

Mr. CONLEY: Mr. President and Members unanimous consent to address the Senate on the record.

The PRESIDENT: The Senator from Cumberland, Senator Conley, requests unanimous consent to briefly address the Senate on the record. Is there objection? The Chair hears none. The Senator may proceed.

Mr. CONLEY: Mr. President and Members of the Senate, I notice that the item that is no longer before us is an emergency measure. That has no bearing to me, but what does bother me and what does disturb me is I think we have established a very, very bad precedent here today, because I feel that the Rules can be bended and worked around to any way we would like them to come out. I think we have established a bad precedent by rejecting something one day, and then turning around the following day and inserting it back into the wishes of the group that were on the prevailing side. I think it is a very, very bad thing to establish.

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

Mr. SPEERS: Mr. President, I request unanimous consent to address the Senate on the record.

The PRESIDENT: The Senator from Kennebec, Senator Speers, requests unanimous consent to address the Senate on the record. Is there objection? The Chair hears none. The Senator may proceed.

Mr. SPEERS: Mr. President, I would agree with the Minority Leader that we have established a very bad precedent here today, and I would hope that the establishment of this would really not prove to be a precedent, and that is the fact that we have established this afternoon meets the practice of debating tabling Motions, and I have never seen anything quite as blatant as has occurred here this afternoon with regard to ignoring that particular rule, and I would seriously hope that it never happens again.

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

Mr. MERRILL: Mr. President, I would inquire through the Chair specifically what Rules the Majority Leader refers to.

The President laid before the Senate:

Bill, "An Act Relating to an Increase in the Volume Fees Paid by Major Creditors under the Maine Consumer Credit Code." (H. P. 180) (L. D. 242)

Tabled — Earlier in the Day by Senator Conley of Cumberland

Pending — Motion of Senator Farley of York to Reconsider Indefinite Postponement

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

Mr. PIERCE: Mr. President and Members of the Senate, I think that there is probably not too much more that can be said on this Bill that was not said in debate this morning.

I just would like to say a couple of things, however. Whenever a new Bureau is set up, the funding mechanism is always very difficult to determine whether or not it is going to be properly funded. This is a relatively new Bureau, and a couple of adjustments have had to be made, and we have seen these adjustments made before the Business Legislation Committee in the past.

This particular Bill, in its original form, was rejected by the Committee, but again we overwhelmingly thought 11 to 2 that there was something wrong with the present funding, and hope that the Senate will tonight look at the bottom line here, and that is the merits of the Bill, and look beyond personalities, because to improperly fund this Bureau and have them borrow and then pay back, and borrow and pay back really does not make any sense at all. We feel with the passage of this small measure, which would raise the maximum of about \$19,000.00, it is not going to increase by one person the number of people in the Bureau. All it is going to do is keep them from having to borrow and pay back, which really does not make too much sense. So I hope that the Senate will reconsider its action.

The PRESIDENT: The pending question before the Senate, is the Motion by the Senator from York, Senator Farley, that the Senate reconsider its action whereby the Senate indefinitely postpone L. D. 242.

The Chair will order a division.

Will all those Senators in favor or reconsideration, please rise in their places to be counted.

Will all those Senators opposed to reconsideration, please rise in their places to be counted.

13 Senators having voted in the affirmative, and 11 Senators in the negative, the Motion to reconsider does prevail.

The Bill Passed to be Engrossed as amended in concurrence.

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

Mr. CONLEY: Mr. President, I now move that the Senate reconsider its action whereby this Bill was passed to be Engrossed.

The PRESIDENT: The Senator from Cumberland, Senator Conley, now moves that the Senate reconsider its action whereby this Bill was passed to be Engrossed.

A viva voce vote being had,

The Motion to reconsider does not prevail.

The President laid before the Senate:

Bill, "An Act to Regulate Affiliated Interests of Public Utilities." (S. P. 539) (L. D. 1870)

Tabled — Earlier in the Day by Senator Speers of Kennebec

Pending — Passage to be Engrossed.

Passed to be engrossed as amended.

Sent down for concurrence.

The PRESIDENT: Is it the pleasure of the

Senate that all matters acted upon be sent down forthwith? It is a vote.

On Motion of Mr. Huber of Cumberland, Adjourned until 9:30 tomorrow morning