

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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fraud or inaccurate information, there must be restitutions.

If you think that support of this veto is a chance to crack down on welfare abuse, you are wrong.

This bill represents a chance to save local tax dollars by making a federal program more responsive, and that is the real issue before us, and I would hope that the Senate would vote to override the veto of the Governor.

(Off Record Remarks)

The PRESIDENT Pro Tem: Is the Senate ready for the question? The pending question is, shall this Bill become 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 Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEA — Carpenter, Chapman, Collins, D.: Collins, S.; Conley, Cummings, Curtis, Danton, Farley, Greeley, Hewes, Hichens, Huber, Katz, Levine, Lovell, Martin, McNally, Merrill, Minkowsky, O'Leary, Pierce, Pray, Redmond, Snowe, Speers, Trotzky, Usher, Wyman.

ABSENT — Jackson, Mangan, Morrell, Sewall.

29 Senators having voted in the affirmative, and no Senators in the negative, and 4 Senators being absent, and 29 being more than two-thirds of the membership present, it is the vote of the Senate, that this bill become a law notwithstanding the objections of the Governor, and will be sent to the House for concurrence.

The President Pro Tem laid before the Senate:

Bill, "An Act to Amend the Maine Criminal Code and Related Statutes." (S. P. 574) (L. D. 1892)

Tabled — June 30, 1977 by Senator Speers of Kennebec

Pending — Passage to be Engrossed

This Bill Passed to be Engrossed, as amended.

Sent down for concurrence.

The President Pro Tem laid before the Senate:

Bill, "An Act to Revise the Judicial Retirement System." (S. P. 497) (L. D. 1776)

Tabled — June 30, 1977 by Senator Speers of Kennebec

Pending — Passage to be Engrossed

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

Mr. COLLINS: Mr. President, I move that this matter be Tabled for One Legislative Day.

The PRESIDENT Pro Tem: The Senator from Knox, Senator Collins, moves that this matter be Tabled for One Legislative Day.

The Chair recognizes the Senator from Cumberland, Senator Conley.

Mr. CONLEY: Mr. President, I move that this item be Tabled for Three Legislative Days.

The PRESIDENT Pro Tem: The Senator from Cumberland, Senator Conley, now moves that this item be Tabled for Three Legislative Days.

The Chair recognizes the same Senator.

Mr. CONLEY: Mr. President, I withdraw my motion.

The PRESIDENT Pro Tem: The Senator from Cumberland, Senator Conley, now asks leave of the Senate to withdraw his motion. Is it the pleasure of the Senate? It is a vote.

Is it now the pleasure of the Senate that this Bill be Tabled for One Legislative Day? It is a vote.

The President Pro Tem laid before the Senate:

RESOLUTION Proposing an Amendment to the Constitution to Mandate the Appropriation of Funds for State Employee and Teacher Retirement Costs. (H. P. 2) (L. D. 2)

Tabled — June 30, 1977 by Senator Merrill of Cumberland

Pending — Final Passage

On motion of Mr. Speers of Kennebec

Retabled until later in Today's Session.

(See Action Later Today)

The President Pro Tem laid before the Senate:

Bill, "An Act to Clarify Actual Notice Under the Recording Laws in Regard to Exceptions and Reservations." (H. P. 1119) (L. D. 1337)

Tabled — June 30, 1977 by Senator Speers of Kennebec

Pending — Passage to be Engrossed

This Bill Passed to be Engrossed, as amended, in concurrence.

The President Pro Tem laid before the Senate:

Bill, "An Act Concerning the Administration of Property Tax Laws Administered by the Bureau of Taxation." (H. P. 244) (L. D. 318)

Tabled — June 30, 1977 by Senator Redmond of Somerset

Pending — Enactment

The PRESIDENT Pro Tem: The Chair recognizes the Senator from Somerset, Senator Redmond.

Mr. REDMOND: Mr. President, I move that the rules be suspended for the purpose of reconsideration.

The PRESIDENT Pro Tem: The Senator from Somerset, Senator Redmond, now moves that the rules be suspended. Is it the pleasure of the Senate? It is a vote.

The Chair recognizes the same Senator.

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

The PRESIDENT Pro Tem: The Senator from Somerset, Senator Redmond, moves that the Senate reconsider its action whereby this Bill was Passed to be Engrossed. Is it the pleasure of the Senate? It is a vote.

The Chair recognizes the same Senator.

Mr. REDMOND: Mr. President, I present Senate Amendment "A" (S-362) and move its adoption.

The PRESIDENT Pro Tem: The Senator from Somerset, Senator Redmond now offers Senate Amendment "A" and moves its adoption. The Secretary will read Senate Amendment "A".

Senate Amendment "A" Read and Adopted.

This Bill, as amended, Passed to Be Engrossed, in non-concurrence.

Sent down for concurrence.

The President Pro Tem laid before the Senate:

RESOLVE, Authorizing and Directing the Commissioner of Marine Resources, the Commissioner of Inland Fisheries and Wildlife and the Atlantic Sea Run Salmon Commission to Take the Steps Necessary to Assure the Construction of a Fishway on the Dam Obstructing the Kennebec River at Augusta. (H. P. 1267) (L. D. 1494)

Tabled — June 30, 1977 by Senator Speers of Kennebec

Pending — Final Passage

On motion of Mr. Chapman of Sagadahoc, Retabled until later in Today's Session.

(See Action Later Today)

The President Pro Tem laid before the Senate:

House Reports — from the Committee on Transportation — Bill, "An Act Relating to the Maine Turnpike Authority." (H. P. 343) (L. D. 388) Majority Report — Ought to Pass as

Amended by Committee Amendment "A" (H-734) Minority Report — Ought to Pass as Amended by Committee Amendment "B" (H-735)

Tabled — June 30, 1977 by Senator Speers of Kennebec

Pending — Acceptance of Either Report

On motion of Mr. Speers of Kennebec.

Retabled until later in Today's Session.

(Off Record Remarks)

The PRESIDENT Pro Tem: There being no objection, all matters acted upon will be sent forthwith for concurrence.

On motion by Mr. Speers of Kennebec.

Recessed until 2:30 this afternoon.

After Recess

Senate called to order by the President.

(Off Record Remarks)

Senator Collins of Knox, was granted unanimous consent to address the Senate on the Record.

Mr. COLLINS: Mr. President, one of the items on the Special Appropriation Table is the Tort Claims Act as amended. The Senate will recall that we debated this very thoroughly two and three weeks ago and finally reached a compromise that was acceptable to everyone, and the matter was enacted in the other body and brought here for final disposition.

Since that time, the insurance industry and the State of Maine Executive Department people in charge of arranging the insurance that would insure all the State employees in this \$10,000.00 liability exposure area have been at work, and they have come back with recommendations of minor improvements in the language, and I have explored these with other persons who were active in the debating of this bill, and believe that these changes would be acceptable to all concerned.

I am hoping that some member of the Appropriations Committee may see fit to remove this from the table, so that I could proceed in that direction, and this would expedite the flow of our legislation.

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

Mr. HUBER: Mr. President, I move that L. D. 1874 be taken from the Special Appropriations Table.

The PRESIDENT: The Senator from Cumberland, Senator Huber now moves that the Senate remove from the Special Appropriations Table L. D. 1874 "An Act to Revise the Maine Tort Claims Act" Is it the pleasure of the Senate? It is a vote.

The Chair recognizes the Senator from Knox, Senator Collins.

Mr. COLLINS: Mr. President, the Amendment that I am going to offer after procedural motions does simply two things. It introduces into the language the words liable for his negligent acts or omissions causing property damage, bodily injury or death. This language has the effect of eliminating such hurt feelings actions as might be involved in libelous slander, and makes the cost and the availability of insurance greater.

The other item relates to some areas where insurance may not be obtainable, and to cover that possibility we have said to the extent that such insurance coverage is not available shall assume the defense of and indemnify such employees to the limit of their liability.

Mr. President, I move that we suspend the rules for the purposes of reconsideration.

The PRESIDENT: The Senator from Knox, Senator Collins, now moves that the Senate suspend its rules. Is it the pleasure of the Senate? It is a vote.

The Chair recognizes the same Senator.

Mr. COLLINS: Mr. President, I move that we reconsider the Engrossment of L. D. 1874.

The PRESIDENT: The Senator from Knox, Senator Collins, now moves that the Senate reconsider its action whereby L. D. 1874 was passed to be Engrossed. Is it the pleasure of the Senate? It is a vote.

The Chair recognizes the same Senator.

Mr. COLLINS: Mr. President, I move that we reconsider the adoption of Senate Amendment "B".

The PRESIDENT: The Senator from Knox, Senator Collins, now moves that the Senate reconsider its action whereby it adopted Senate Amendment "B" to L. D. 1874. Is it the pleasure of the Senate? It is a vote.

The Chair recognizes the same Senator.

Mr. COLLINS: Mr. President, I move the indefinite postponement of Senate Amendment "B".

The PRESIDENT: The Senator from Knox, Senator Collins, now moves that the Senate indefinitely postpone Senate Amendment "B" to L. D. 1874. Is it the pleasure of the Senate? It is a vote.

The Chair recognizes the same Senator.

Mr. COLLINS: Mr. President, I now offer Senate Amendment "C" (S-365) and move its adoption.

The PRESIDENT: The Senator from Knox, Senator Collins, now offers Senate Amendment "C" and moves its adoption. The Secretary will read Senate Amendment "C".

Senate Amendment "C" Read.

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

Mr. HEWES: Mr. President, I pose a question through the Chair to the Senator from Knox.

The PRESIDENT: The Senator may state his question.

Mr. HEWES: Mr. President, do I understand that by this Amendment the State will now indemnify state employees if insurance is otherwise not available?

The PRESIDENT: The Senator from Cumberland, Senator Hewes, has posed a question through the Chair.

The Chair recognizes the Senator from Knox, Senator Collins.

Mr. COLLINS: Mr. President, the answer to the question from the Senator from Cumberland, Senator Hewes, is that in those areas where the state remains immune, if the state is unable to purchase insurance, the state will indemnify the employee to the extent of the \$10,000.00 exposure.

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

Mr. HEWES: Mr. President, I pose a further question to the Senator from Knox, if I may, would it not be better just to establish immunity for the employee for that particular act or those acts, rather than say that the state is immune, but then in the next breath say that if insurance is not available for the employee, the state will have to pay for the action of the employee. It seems to me, we are circumventing and coming back with a different answer than we should be.

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

Mr. COLLINS: Mr. President, in response to the concern of the Senator from Cumberland, Senator Hewes, I would say that this was part of the compromise that we worked out. There was concern that that ordinary citizen be completely denied any recovery for wrongs that were committed against him by state employees. If you grant complete immunity, both to the state and to the employees, then 99 percent of our population has a very difficult time and has only as its remedy coming to the legislature for a Special Legislative Act for permission to sue the state, and it was the feeling of those who were concerned in this debate, and I think of the Legislature as a whole, that 99 percent of the

population ought not to be entirely denied, and, therefore, there is an increased exposure to the state. This is recognized in the Part II Budget by some appropriation, and of course, was recognized earlier by the Governor in his planning and in his budget, and I think that it is a fair position for the state to have this much exposure even though there is some circumvention of the idea of complete immunity of the state. Senate Amendment "C" Adopted.

This bill, as amended, Passed to be Engrossed, in non-concurrence.

Sent down forthwith for concurrence.

Out of order and under suspension of the rules, the Senate voted to consider the following additional

Papers from the House Non-concurrent Matter

Bill, "An Act to Establish a Property Tax Exemption for New and Expanding Businesses." (S. P. 416) (L. D. 1457)

In the Senate June 30, 1977 Bill Passed to be Engrossed.

Comes from the House, Majority 'Ought Not to Pass' Report accepted, in non-concurrence.

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

Mr. LEVINE: Mr. President, I move that the Senate recede and concur, and would like to speak briefly to my motion.

The PRESIDENT: The Senator has the floor.

Mr. LEVINE: Mr. President and Members of the Senate: Although this is a piece of legislation that I sponsored, I am sure there is no great pride of authorship here. I, of course, felt that it was a good piece of legislation in the long term for the State of Maine, and have since discovered that the majority, by far the majority of the members of the House of Representatives of the State of Maine disagree with that.

I feel we may soon find ourselves with the defeat of legislation of this type. We may soon find ourselves in the same position as New York State, which state has recently passed legislation of this type, of this nature, giving certain property tax exemptions to new businesses and expanding businesses, wherein most of the officers, financial officers of New York State have termed that too little and too late, and I certainly hope that that is not the case in the State of Maine, where we have such a terrible problem with unemployment, and we also have a terrible problem in expanding our tax base.

I assure you, this is not the last that will be heard of bills of this nature, and I fervently hope that we may pass some bill during this session, or very soon thereafter, that will increase employment in the State of Maine, and also broaden our tax base.

The PRESIDENT: The Senator from Kennebec, Senator Levine, now moves that the Senate recede and concur with the House in reference to L. D. 1457. Is it the pleasure of the Senate? It is a vote.

Non-concurrent Matter

Bill, "An Act to Lighten the Burden of Property Taxes on the Elderly Widowed or Disabled." (S. P. 440) (L. D. 1531)

In the Senate June 7, 1977 Bill Passed to be Engrossed as amended by Committee Amendment "A" (S-186).

Comes from the House, Bill and Papers Indefinitely Postponed, in non-concurrence.

On motion of Mr. O'Leary of Oxford,

The Senate voted to Adhere.

Non-concurrent Matter

Bill, "An Act Permitting the Director of Public Lands to Sell Small Parcels of Public Reserved Lands with Legislative Approval." (H. P. 1681) (L. D. 1875)

Recalled from Governor's Office Pursuant to Joint Order H. P. 1793.

Comes from the House, Passed to be Engrossed as amended by House Amendment "A" (H-887) in non-concurrence.

On motion of Mr. Collins of Arrostook,

The Senate voted to Recede and Concur.

Joint Orders

ORDERED, the Senate concurring, that the Clerk of the House and the Secretary of the Senate be authorized to furnish 100 13¢ stamps for each member of the House and Senate for the purpose of distributing various reports of the departments of state and other public documents such as they may desire to mail to the citizens of the State during the interim between the first regular session and the second regular session of the 108th Legislature. (H. P. 1796)

Comes from the House, Read and Passed.

Which was Read and Passed, in concurrence.

WHEREAS, there has been submitted to the 108th Legislative Session, L. D. 1877 entitled, "An Act to Provide for the Licensing of Denturists;" and

WHEREAS, the Legislature has reviewed, amended and debated this legislation which would establish denture technology as a new auxiliary profession to be practiced under the supervision of dentists; and

WHEREAS, there are presently no existing programs in the State of Maine which is available to students for the professional training in dental technology; and

WHEREAS, there are presently no rules and regulations relating to the licensing in the professional field of denture technology; and

WHEREAS, the 108th Legislature has identified a need in the field of professional denture technology; and

WHEREAS, the 108th Maine Legislature, while realizing that final decisions on the licensing of individuals in the professional field of denturism has not been established, nevertheless recognizes the need for review of a proposed dental technology program; now, therefore, be it

ORDERED, that the Joint Standing Committee on Health and Institutional Services, in cooperation with the Department of Educational and Cultural Services, the University of Maine and the Vocational-Technical Institutes of this State, investigate the feasibility and cost of establishing educational programs to meet the needs of the citizens of Maine in the area of dental technology; and be it further

ORDERED, that the committee shall complete this study no later than December 1, 1977 and submit to the Legislative Council within the same time period its findings and recommendations, including copies of any recommended legislation in final draft form; and be it further

ORDERED, upon passage in concurrence, that a suitable copy of this order be forwarded to members of the committee and to the Department of Educational and Cultural Services, to each Vocational-Technical Institute in this State, and to the Board of Trustees of the University of Maine. (H. P. 1795)

Comes from the House, Read and Passed.

Which was Read.

On motion of Mr. Speers of Kennebec, Tabled pending Passage.

Enactors

The Committee on Engrossed Bills reports as truly and strictly engrossed the following:

"An Act to Increase the Exemption on Estates of Veterans." (H. P. 70) (L. D. 94)

"An Act to Amend the Employment Security Law to Include Federal Requirements and other Options Available to the State." (H. P. 762) (L. D. 1012)

"An Act to Revise the Statutes Relating to Services for Mentally Retarded Persons." (H. P. 1472) (L. D. 1752)

"An Act to Remove the Commercial License