

MAINE STATE LEGISLATURE

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Legislative Record

OF THE

One Hundred and Seventh Legislature

(First Special Session)

OF THE

STATE OF MAINE

1976

KENNEBEC JOURNAL
AUGUSTA, MAINE

Act to Clarify Certain Provisions in the Education Laws" (S. P. 651) (L. D. 2056) be recalled from the Governor's desk to the Senate.

The Order read and passed and sent up for concurrence.

The following paper appearing on Supplement No. 3 was taken up out of order by unanimous consent:

Non-Concurrent Matter

An Act Redistributing the Powers of the Executive Council (H. P. 1997) (L. D. 2197) which Failed of Final Passage in the House on April 9, 1976.

Came from the Senate, finally passed in non-concurrence.

The SPEAKER: The Chair recognizes the gentlewoman from Bath, Mrs. Goodwin.

Mrs. GOODWIN: Mr. Speaker, I move that we recede.

The SPEAKER: The gentlewoman from Bath, Mrs. Goodwin, moves that the House recede from its action whereby the Bill failed of final passage.

The Chair recognizes the gentleman from Gorham, Mr. Quinn.

Mr. QUINN: Mr. Speaker and Members of the House: We are essentially at a very important decision on this motion and there is a good deal to it that is not immediately evident. I should like to speak to it in sort of a descriptive or historical sense.

Our parliamentary position first is, if we recede and concur today and we pass it by a two-thirds vote, the matter is law as it now stands and is gone to the Governor. There is a higher motion, however, which is recede. If we adopt this higher motion, then this puts us in a position of being able to offer amendments to the bill again which, in effect, does two things: number one, it backs us up to what really for working purposes is the second reading of the bill and, two, it gives us a leverage over the other body that they previously enjoyed on us.

For example, if we do recede, and once we recede, if that vote passes, it is then obvious that is the intent of the House to put some amendments on the bill. How many, remains to be seen in the debate, but at any rate, some will likely be adopted.

In this event, we can send the bill in its new form back to the other body and the other body, if they fail to accept, will send it back to us so saying, whereupon we adhere, whereupon it goes back to them, assuming this all gets done this week, whereupon it then goes back to them and they are in the same position that we were in the other day, eat your spaghetti or throw yourself out the window (Spinach, Mr. Ingegneri says, excuse me).

There is something else we should know about the bill itself. The Attorney General has given us an interpretation of it. He says that if this legislation fails to pass and if we approve the motion to recede today and do proceed with our amendments and our discussions, then the chance of it failing becomes more and more real every day. If this does fail to pass, then on January 4 next year, the Governor will make all appointments which are non-judicial with absolutely no check by this body. He cannot make any judicial appointments whatsoever until this legislature has seen fit to pass some kind of a law.

The final thing that he ruled was, and most of you may be aware, it takes a two-thirds vote to pass this law now, just exactly as it would take a two-thirds vote to pass any subsequent law in the 108th Legislature which would do some of the things people want to do now.

Now, the people who have different positions on this, on either side of the argument, are perfectly sincere. Mrs. Goodwin wants to put an amendment that includes her Committee for the Aging. The appointments of the

members of this Committee for the Aging would have to be confirmed by a Joint Standing Committee of this Legislature. I respect her opinion in this matter. I respect her desire in this matter. However, there are people on the other side of the fence who feel that if you open the door to one amendment, you may be opening it to more and more.

There also is a strong school of belief that appointments of this type do not require confirmation and it is true. When you speak about the value of having confirmation or not having confirmation, you get back to the basic question of why this state had an Executive Council for 160 years and why the voters of Maine overthrew it last year. It was simply this, a matter of sharing the power.

Now, in this case, those people who are concerned with the appointing power that currently exists feel that they want the legislature to have a check rein on that, and I can sympathize with that. If I had a program in which I had worked as long and as hard as some people had I, too, would object to hostile appointments. But if you do make this a law and you do have a Governor downstairs who is doing things the way you want him, you may well have a committee who will be doing the same thing that the Executive Council was doing to Harrison Richardson four or five years ago. There is no guarantee by putting the legislature itself in the business of these relatively minor, and they are relatively minor in terms of relation of the overall state appointments, putting these people in for committees to approve them. You are guaranteeing now that the good guys have their say. Five years from now, it might be the bad guys who will be having the say. So, you do not guarantee, by any means, improved government by doing this.

Friday, we had a fiasco on the bill. The leadership of both parties agreed that they would back the bill up, permit Mrs. Goodwin's amendment to be placed on there and send it forward. This was the agreement made by everybody. Unfortunately, the leaders on both sides were unable to deliver their votes and, as you say, the two-thirds majority in order to back the thing up was not provided. Now, this means to me, as an original agreement to the party of backing it up, I was perfectly willing to compromise in the interest of getting this extremely important and far-reaching piece of legislation out of here. I was willing to compromise, agreed to compromise with it and so voted. It also became perfectly evident to me that there is not the strength in this body, let alone in the other body, to take exception or dictation or rule from any group who chooses to try and impose their opinion on the matter. This is not, under any stretch of the circumstance, a party issue.

On our State Government Committee here are seven Democrats and six Republicans. I have checked with every single one of them this morning, and with the exception of one Democrat who might possibly accept Mrs. Goodwin's first amendment but no other, says he, that committee remains just as firmly committed to the fact that no amendments of this type should be made to that bill. Therefore, I understand that on the Health and Institutions Committee there is a similar more or less unanimity between both sides of the political aisle.

But the point I want to make, this is not a party issue as such. This is an issue which you will decide based on your concept of how government should operate and based very, very importantly on how you see the dangers that will exist to the life and career of this very important piece of legislation if you do back it up and you do again open it to all kinds of amendments, arguments and discussion.

I would urge, in the interests of getting something done and getting out of here, that we defeat the motion to recede and that we then pass a motion to recede and concur by a two-thirds majority and, then, if we have valid considerations for appointments such as the one Mrs. Goodwin is talking about, they can pass in the 108th Legislature. It takes a two-thirds vote to pass these amendments today; it takes a two-thirds vote to pass those amendments next January. There is no difference, the only difference is that the proponents of the amendments are now holding hostage this extremely important piece of legislation.

I would urge you, in the interest of conscientious legislation, to defeat the motion to recede, then move to recede and concur, pass that by the necessary two-thirds, let's get on with the legislature and then let's consider these questions of other appointments in the next legislature as a clear-cut issue by itself, uncluttered by this 79 page law.

The SPEAKER: The Chair recognizes the gentlewoman from Bath, Mrs. Goodwin.

Mrs. GOODWIN: Mr. Speaker and Members of the House: Sometime I would like to get together with the gentleman from Gorham and have him explain to me the analogy between eating spaghetti and throwing yourself out the window. I am not too sure I understood what he meant. I would like to assure this House that I have no intentions of trying to kill this bill in the final analysis. I would hope that we would pass the amendment that I would like to offer today and send it to the Senate. I have some reason to believe that the Senate may well recede and concur, since the president of the Senior Citizens Club invited the chairman of State Government in the other body to lunch with the Maine Committee on Aging this noon. Hopefully he was well lobbied and perhaps we may have to file with the Secretary of State for that lunch.

However, I believe that perhaps we are not jeopardizing this bill as much as some are trying to make you believe. But in the event that it does go to the other body and they will not agree, I certainly will be no part of any effort to stop final enactment of this legislation, so I don't believe we are placing it in jeopardy. I am still very concerned about the Maine Committee on Aging and its future and about the Maine Human Services Council. I will not, unless provoked to do so, go on a long tangent about what we do and why I believe we should be confirmed.

I also believe, at least last Friday, the gentleman from Portland, Mr. LaPointe, promised me that if we let this go through he would not yell at the House. So, I would hope that you would let me recede and offer the amendment.

The SPEAKER: The pending question in on the motion of Mrs. Goodwin, of Bath, that the House recede. All in favor of that motion will vote yes; those opposed will vote no.

A vote of the House was taken.

Whereupon, Mrs. Snowe of Auburn requested a roll call vote.

The SPEAKER: A roll call has been requested. For the Chair to order a roll call, it must have the expressed desire of one fifth of the members present and voting. All those desiring a roll call vote 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 Chair recognizes the gentleman from Yarmouth, Mr. Jackson.

Mr. JACKSON: Mr. Speaker, Ladies and Gentlemen of the House: I would like to pair with Mr. Peakes. I would be voting no and he would be voting yes.

The SPEAKER: The gentleman from Yarmouth, Mr. Jackson, wishes to pair with the gentleman from Dexter, Mr. Peakes. If the gentleman from Dexter, Mr. Peakes, were present, he would be voting yea and if the gentleman from Yarmouth, Mr. Jackson, were voting, he would be voting nay.

The SPEAKER: The pending question is on the motion of the gentlewoman from Bath, Mrs. Goodwin, that the House recede from its action whereby the Bill failed of final enactment. All in favor of that motion will vote yes; those opposed will vote no.

ROLL CALL

YEA — Albert, Bagley, Bennett, Berry, P. P.; Blodgett, Boudreau, Burns, Bustin, Call, Carroll, Carter, Chonko, Churchill, Clark, Cote, Cox, Curran, P.; Curran, R.; Dam, Davies, DeVane, Dow, Drigotas, Faucher, Fenlason, Fraser, Goodwin, H.; Goodwin, K.; Gould, Greenlaw, Hall, Hennessey, Hobbins, Hughes, Ingegneri, Jalbert, Jensen, Joyce, Kany, Kelleher, Laffin, LaPointe, Laverty, LeBlanc, Lewin, Lynch, MacEachern, Mahany, Martin, A.; Maxwell, Mills, Mitchell, Morin, Nadeau, Najarian, Norris, Pearson, Pelosi, Perkins, T.; Peterson, T.; Post, Powell, Rolde, Saunders, Smith, Strout, Talbot, Theriault, Tierney, Tozier, Tyndale, Usher, Walker, Wilfong, Winship, The Speaker.

NAY — Ault, Bachrach, Berry, G. W.; Berube, Bert, Byers, Carey, Carpenter, Conners, Cooney, Curtis, Doak, Durgin, Dyer, Farnham, Finemore, Gauthier, Gray, Henderson, Hewes, Higgins, Hinds, Hunter, Hutchings, Immonen, Kelley, Kennedy, Lewis, Littlefield, Lunt, Mackel, McBreairty, McKernan, McMahon, Morton, Perkins, S.; Peterson, P.; Pierce, Quinn, Raymond, Rideout, Rollins, Shute, Snowe, Spencer, Sprowl, Susi, Tarr, Teague, Twitchell, Wagner.

ABSENT — Bowie, Connolly, Dudley, Farley, Garsoe, Jackson, Jacques, Kauffman, Leonard, Lizotte, Lovell, MacLeod, Martin, R.; Miskavage, Mulkern, Palmer, Peakes, Silverman, Snow, Stubbs, Torrey, Truman, Webber.

Yes, 77; No, 51; Absent, 21; Paired, 2.
The SPEAKER: Seventy-seven having voted in the affirmative and fifty-one in the negative, with twenty-one being absent and two having paired, the motion does prevail.

On further motion of Mrs. Goodwin of Bath, the House receded from its action whereby the Bill was passed to be engrossed.

The same gentlewoman offered House Amendment "G" and moved its adoption.

House Amendment "G" (H-1241) was read by the Clerk.

The SPEAKER: The Chair recognizes the gentleman from Westbrook, Mr. Laffin.

Mr. LAFFIN: Mr. Speaker, Ladies and Gentlemen of the House: I wonder if I could have this explained to me, please?

The SPEAKER: The gentleman from Westbrook, Mr. Laffin, poses a question through the Chair to the gentlewoman from Bath, Mrs. Goodwin, who may answer if she so desires.

The Chair recognizes that gentlewoman.

Mrs. GOODWIN: Mr. Speaker, Men and Women of the House: I believe that the gentleman from Westbrook is annoyed because I would not go out to lunch with him this noon. If he would like to have an explanation of the amendment, I would be glad to go out to lunch with him tomorrow.

The SPEAKER: The Chair recognizes the gentleman from Orono, Mr. Wagner.

Mr. WAGNER: Mr. Speaker, Ladies and Gentlemen of the House: I just rise to clarify a couple of things for the benefit of the gentlelady from Bath, Mrs. Goodwin.

First, in reference in eating your spinach or throwing yourself out of the window, it is an old Italian saying which the gentleman from Bangor could render for you, suggesting that the alternatives we have, neither of them are very pleasant.

Secondly, I am interested that she says the president of the Orono Senior Citizens Association was dining with herself and the Senate Chairman of the State Government this noon, because this gentleman is a constituent of mine and I would expect if he were this concerned about these appointments being confirmed, that he would have corresponded with his Representative, which he nor no other member of the Orono Senior Citizens has done to date. I can't speak for the other Representative from Orono, but I have heard nothing from him and I would assume that his concern is not that great or he would have contacted me, so I shall vote against this amendment.

The SPEAKER: The Chair recognizes the gentleman from Brewer, Mr. Norris.

Mr. NORRIS: Mr. Speaker, Ladies and Gentlemen of the House: Only to clarify a point for the gentleman from Orono, Mr. Wagner. Mr. Scammon was in the hall just before the session recessed for lunch. I have known him for several years and he did approach me and he did go through this amendment thoroughly and indicated that he was very anxious that it pass. He did say, and I believe if I quote the gentlewoman correctly, he did say that he was going to lunch with the chairman of the committee from the other body, he did not go with the gentlelady from Bath, Mrs. Goodwin. He went with the gentleman from Orono, Mr. Curtis.

Thereupon, House Amendment "G" was adopted.

The Bill passed to be engrossed as amended by House Amendment "G" in non-concurrence and sent up for concurrence.

By unanimous consent, was ordered sent forthwith to the Senate.

The following paper appearing on Supplement No. 6 was taken up out of order by unanimous consent:

Committee of Conference Report

Report of the Committee of Conference on the disagreeing action of the two branches of the Legislature on Bill "An Act to Clarify the Fish and Game Laws" (H. P. 1933) (L. D. 2121) ask leave to report: that the House recede from Passage to be Engrossed as Amended by Committee Amendment "B" (H-1050) as Amended by House Amendments "A" (H-1068), "B" (H-1163), "C" (H-1164), "D" (H-1172), and "E" (H-1175), thereto; recede from Adoption of Committee Amendment "B" as Amended by House Amendments "A", "B", "C", "D", and "E", thereto; recede from Adoption of Senate Amendments "A" (S-536) and "C" (S-513) and Indefinitely Postpone Senate Amendments "A" and "C" Adopt Conference Committee Amendment "A" (H-1269) and Pass the Bill to be Engrossed as Amended by Conference Committee Amendment "A", that the Senate recede from Indefinite Postponement; Adopt Conference Committee Amendment "A" (H-1269) and Pass the Bill to be Engrossed as Amended by Conference Committee Amendment "A" in concurrence.

(Signed)
Messrs. USHER of Westbrook
STROUT of Corinth
- of the House.
Mr. JACKSON of Cumberland
Mrs. CUMMINGS of Penobscot
Mr. GRAHAM of Cumberland
- of the Senate.

The Report was read and accepted.

The House receded from passage to be engrossed as amended by Committee Amendment "B" as amended by House Amendments "A", "B", "C", "D" and "E" thereto; receded from the adoption of Committee Amendment "B" as amended by House Amendments "A", "B", "C", "D", and "E" thereto; indefinitely postponed Committee Amendment "B" as amended by House Amendments "A", "B", "C", "D" and "E" thereto; receded from the adoption of Senate Amendments "A" and "C" and indefinitely postponed same.

Conference Committee Amendment "A" (H-1269) was read by the Clerk and adopted, and the Bill was passed to be engrossed as amended by Conference Committee Amendment "A" in non-concurrence and sent up for concurrence.

The Chair laid before the House the following matter:

Bill "An Act Clarifying the Use of the Mental Health Improvement Fund" (H. P. 2068) (L. D. 2238) which was tabled earlier in the day and later today assigned, pending reconsideration.

On motion of Mr. Rolde of York, tabled pending reconsideration and tomorrow assigned.

The Chair laid before the House the following matter: Joint Order — H.P. 2323 relative to the State Personnel System, which was tabled earlier in the day and later today assigned, pending passage.

On motion of Mr. Hennessey of West Bath, retabled pending passage and tomorrow assigned.

The Chair laid before the House the following matter: "An Act Relating to the Suppression of the Spruce Budworm Epidemic" (H. P. 2310) (L. D. 2348) which was tabled earlier in the day and later today assigned, pending passage to be enacted.

On motion of Mr. Smith of Dover-Foxcroft, tabled pending passage to be enacted and tomorrow assigned.

The Chair laid before the House the following matter:

Bill "An Act Providing for Administrative Corrections in Tax Laws" (H. P. 2312) (L. D. 2349) which was tabled earlier in the day and later today assigned, pending passage to be enacted.

On motion of Mrs. Post of Owl's Head, under suspension of the rules, the House reconsidered its action whereby this Bill was passed to be engrossed.

The same gentlewoman offered House Amendment "B" and moved its adoption.

House Amendment "B" (H-1268) was read by the Clerk.

The Chair recognizes the same gentlewoman.

Mrs. POST: Mr. Speaker, Ladies and Gentlemen of the House: A few days ago, the issue came to my attention that municipal officials were being told by the Bureau of Taxation that if they in fact were part of a municipal assessing unit, which is a change that we made last year in response to the difficulty of all communities being told that they were going to have to go into an assessing district, that if they were municipal units, they could no longer make abatements for reasons of infirmity or poverty, even though this right was given to communities which were part of the primary assessing area or primary assessing district.

I contacted the Bureau of Property Taxation and I was told that, yes, that was true and it was the understanding that that was an incon-