

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

*One Hundred and Seventh
Legislature*

OF THE

STATE OF MAINE

Volume II

May 21, 1975 to July 2, 1975

Index

KENNEBEC JOURNAL
AUGUSTA, MAINE

years. Men go out together, one man may own the boat but another owns some of the gear and is secondary in some respects, but he nonetheless has an independent status in the minds of both of those participants and, as such, ought to be accorded the privilege of filing a schedule C as an independent contractor, an independent businessman, as it were.

Fishermen are allowed by federal law, if that is their principal occupation, the privilege of filing their return at a different time and under different requirements for withholding, or I should say for estimating their payments than other people. And I would say that this small recognition by Maine in its income tax law of this ancient tradition would not cause the state enough difficulty but would strengthen the position of our Maine fishermen in dealing with the Internal Revenue Service.

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

Mr. BERRY: Mr. President and Members of the Senate: I must reluctantly oppose the bill. I think that this is a laudable but unfortunate misguided attempt to strike back at the multiplicity of the Internal Revenue Service Act, in which I am sure we are very much in sympathy with the fishermen. This will be the first exception we have made and it would set a precedent, if its constitutional, and I question that it is, it would set a very bad precedent for two-man operations anywhere. Exceptions could be claimed for two loggers working in the woods, for a truckman and his helper, and for any number of other relationships of this nature.

As I say, I am very sympathetic with the lobstermen. They have been going on, as was said, probably for 100 years with this method of operation, and along came Uncle Sam and put the wood to them or pulled the plug, or opened the seacock, whatever they did to them, but I don't think that our sympathy and our good wishes should be translated into making a shambles of the state income tax. Maybe something else will come out of it, but I can see proliferation of unemployment taxes and social security tax, and so forth, that will just follow if this law goes on the books. So I would hope that we would vote to sustain the Governor's veto.

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

Mr. REEVES: Mr. President, I would like to state that the lobstermen are 100 percent in favor of this. I would also request that the committee report be read, if that is possible.

The PRESIDENT: The Secretary will read the committee report.

The SECRETARY: The Committee on Taxation, to which was referred the Bill, An Act to Exempt Lobster Fishing Boat Operators from Withholding State Income Taxes from Sternman's Share of Proceeds, (H. P. 1246) (L. D. 1547), have had the same under consideration and ask leave to report that the same Ought to Pass. Signed, Representatives Mulhern, Senator Merrill and Senator Wyman.

The Minority members of the committee who signed the Ought Not to Pass Report are Representatives Maxwell, Twitchell, Susi, Finemore, Morton, Immonen, Senator Jackson, Representatives Cox, Dam and Drigotas.

The PRESIDENT: The pending question before the Senate is: Shall this Bill become

a law notwithstanding the objections of the Governor?

The Chair recognizes the Senator from Washington, Senator Wyman.

Mr. WYMAN: Mr. President, as a member signing the Ought to Pass Report, and after listening to the remarks of the good Senator from Cumberland, Senator Berry, he sees goblins in the corner. I don't think there are very many bills that go through here but what if we looked hard enough in the dark corners we could find goblins. So, that doesn't disturb me too much, and I certainly hope you will vote to override the veto.

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

Mr. CARBONNEAU: Mr. President, I request permission to pair my vote with that of Senator Clifford, who, if he were here, would be voting "Yes", and I would be voting "No".

The PRESIDENT: The Senator from Androscoggin, Senator Carbonneau, now requests leave of the Senate to pair his vote with the Senator from Androscoggin, Senator Clifford, who, if he were here, would be voting in favor of the bill, and the Senator from Androscoggin, Senator Carbonneau, would be voting in favor of sustaining the veto of the Governor. Is it the pleasure of the Senate to grant this leave?

It is a vote.

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 E. Berry, Cianchette, Collins, Conley, Corson, Cummings, Curtis, Gahagan, Graham, Greeley, Hichens, Huber, Jackson, Johnston, Marcotte, McNally, Merrill, O'Leary, Pray, Reeves, Roberts, Speers, Thomas, Trozky, Wyman.

NAYS: Senators R. Berry, Cyr.

ABSENT: Senators Danton, Graffam, Katz.

A roll call was had. 25 Senators having voted in the affirmative, and two Senators having voted in the negative, with two Senators pairing their votes and three being absent, and 25 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 and was by the Secretary presented to the Secretary of State.

On motion by Mrs. Cummings of Penobscot,

Recessed until 2:30 this afternoon.

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:

Non-concurrent Matter

Bill, "An Act Appropriating Funds to Renovate Indian Dwellings on the Penobscot Indian Reservation." (H. P. 1377) (L. D. 1708)

In the Senate June 27, 1975, Passed to be Enacted, in concurrence.

Comes from the House, recalled from the Governor's Office pursuant to Joint Order (H. P. 1791) and Passed to be Engrossed as Amended by Committee Amendemnt "A" (H-489), as Amended by

House Amendemnt "A" (H-854) Thereto, in non-concurrence.

Thereupon, the Senate voted to Recede and Concur.

Papers from the House Enactor

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

Constitutional Amendment

Resolution, Proposing an Amendment to the Constitution to Provide for Annual Sessions of the Legislature with Limits on the Matters which may be Considered in the Second Regular Session of Each Biennium and to Change the Date of Convening of the Legislature. (H. P. 1510) (L. D. 1827)

The PRESIDENT: The Chair recognizes the Senator from Washington, Senator Wyman.

Mr. WYMAN: Mr. President, I would 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 more than one-fifth having arisen, a roll call is ordered.

The Chair recognizes the Senator from Androscoggin, Senator Clifford.

Mr. CLIFFORD: Mr. President and Members of the Senate: I would hope that the Senate would enact this resolution and allow the people to vote on the question as to whether or not they want annual sessions of the legislature. I think the fact is that we do have sessions on an annual basis, even though we may not call those sessions annual sessions, and I know there are differences of opinion among legislators as to how restrictive the constitution should be and how restrictive the sessions of the legislature should be. This Senate, I think, in most instances has come down on the side of restrictions on the sessions.

What the bill in its present form would do, it would provide for annual sessions of the legislature and it would limit the second regular session by the type of bill which could be introduced, which is very similar to what we have under the present rules of the Senate. Further, it would require the legislature, without putting a date or a number of days into the constitution, which a lot of people did not want to do, it provides more flexibility and requires the legislature to enact by statute appropriate limitations on both the first and second regular sessions of the legislature.

I am confident that this is as restrictive an annual session bill as you will ever get through the legislature, and I am further confident that the legislature can enact an appropriate statute to put a reasonable limit on both sessions. I think that this will be a step, first of all, to provide for annual sessions, which I think most people have observed as the actual fact for a number of years, and I think it will also, by these restrictions, help to guarantee that the Maine Legislature will continue to be a citizen legislature as opposed to a full-time legislature, and I hope we would vote to enact this legislation. Thank you, Mr. President.

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

Mr. CURTIS: Mr. President and

Members of the Senate: In theory, I don't like the idea of a restriction upon the time that the legislature can sit, and I spent some time debating that point of view a while back when this was under consideration earlier. Since that time I have had occasion to look at the calendar, and while home this past week-end to review my own personal situation, and I think probably all my colleagues have had that same opportunity too, and I think now I am starting to realize the wisdom of the position of the Senator from Androscoggin, Senator Clifford. If we are to expect our citizens to participate directly in the political process by running and serving in office, then I think we have either got to provide the salaries to make that a paying situation to the point where they can afford to do so or we have got to find some way, if we expect ourselves to be a citizen legislature, to provide some restrictions.

Two days from today is July 4th, and I thought it might be appropriate and you might enjoy listening to just a couple of paragraphs from one of my favorite authors, John Adams. On October 9, 1774, he was writing to his wife Abigail:

"I am wearied to death with the life I lead. The business of the Congress is tedious beyond expression. This assembly is like no other that ever existed. Every man in it is a great man, an orator, a critic, a statesman; and therefore every man upon every question must show his oratory, his criticism and his political abilities. The consequence of this is that business is drawn and spun out to an immeasurable length. I believe if it was moved and seconded that we should come to a resolution that three and two make five, we should be entertained with logic and rhetoric, law, history, politics, and mathematics, and then — we should pass the resolution unanimously in the affirmative."

It has always been a problem, I guess, in our country to try to find a resolution of those two conflicting problems, the desire to enable full debate at great length on every topic and the similar desire to enable people in public service to also be citizens. I guess if I can beg your indulgence for just another minute, I would like to read a section of a historical novel by Irving Stone called "Those Who Love". The situation is two years later, and John Adams is in Philadelphia, in the fall of 1776, and Abigail has for eight months been taking care of the farm in Massachusetts:

"John also begged her to send him a horse so that he would have a means of getting home. He had no money with which to buy or rent a horse in Philadelphia.

"Nor did Abigail have any in Braintree. The harvest was mediocre because she had not been able to hire extra hands for the time she was in Boston. Of the short sums she received she first paid her taxes, then £34 as a next-to-last installment on the decaying house on Queen Street. That left her with little cash to tide them over the winter, but she spent all of it to send young Bass to Philadelphia with two horses. She wrote:

"... I know the weight of public cares lie so heavy upon you that I have been loath to mention your own private ones."

"She told him how much it would cost to put their Boston house in repair. Then she described his boat, lying rotting at the wharf; one more year without care and it would be worth nothing. The big family farm of thirty-five acres which they had brought from Peter was no longer paying its way. Either John would have to farm it

himself, or it would have to be rented out. There were no debts but neither were there any coins in the Adams Specie Bank. She and the children ate well off the farm and the dairy; they could make their own clothes, cut firewood for warmth. Nothing more..."

Well, Mr. President and Members of the Senate: I thank you for being patient and listening to me, and I will try not to fall too much into the category of what John Adams was writing about in that first letter, but I do hope that we are able to find a good balance, and I would suggest that the resolution before us is such a balance. It provides that the legislature can be in annual sessions and take care of the matters that should be cared for on an immediate basis, but also give us the chance to restrict the lengthy sessions. So, once again, I am changing my position to follow the lead of the Senator from Androscoggin, and I think it is about time we put a limit of some type on the legislative sessions.

The PRESIDENT: The Chair recognizes the Senator from Washington, Senator Wyman.

Mr. WYMAN: Mr. President and Members of the Senate: If I understand this correctly, this isn't going to do anything other than what our leadership and members of the legislature can already do by rules. And why we want to cement this into the constitution and send it to the voters I just can't see. I think we should leave it in the hands of the legislature and the legislative leadership to handle by rules. I certainly hope you vote against it.

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

Mr. BERRY: Mr. President, it is possible, even probable that this may not be perfect legislation, however, I think, like the bill that got rid of the Executive Council, that we are going to have to have enough trust and faith in future sessions to pass this bill. The bill does do something. It takes away the misnomer of a special session and it calls the off-session what it really is, a second regular session. It does even more than that, it sets a day that we are going to meet and, thank goodness, it is not going to be on New Years from now on.

So I think we should reaffirm our faith in the future, stating at the same time we are not infallible ourselves, and pass this. Many of us have had changes of heart about it, but I think we must come right down to the final decision that this is what we have been after, annual sessions, this is what we have been having, annual sessions, and this bill acknowledges the fact.

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

Mr. CONLEY: Mr. President and Members of the Senate: I concur very much with what has been said here this afternoon by each of those gentlemen who have spoken. I agree with Senator Wyman from Washington that really the constitutional amendment before us doesn't do too much, but what the Senator from Cumberland, Senator Berry, has stated is absolutely true, that at least it sets the framework whereby when we come in here right after this has been adopted, if it is adopted by the people, and we can put into statutory provisions exactly how many days we shall meet during a special session. I think that is important. I think that is where many of us

have made the compromise on this particular amendment and I would urge the Senate to support it and to come back perhaps at a future session and set the statutory limits as to how many days we will be here. I would urge the Senate to move for its adoption.

The PRESIDENT: Is the Senate ready for the question? A roll call has been ordered. The pending question before the Senate is the passage of this constitutional amendment. A "Yes" vote will be in favor of the constitutional amendment; a "No" vote will be opposed.

The Secretary will call the roll.

ROLL CALL

YEAS: Senators Berry, E.; Berry, R.; Carbonneau, Cianchette, Clifford, Collins, Conley, Corson, Cummings, Curtis, Cyr, Gahagan, Graham, Greeley, Hichens, Huber, Jackson, Johnston, Marcotte, McNally, Merrill, Pray, Reeves, Roberts, Thomas, Trotzky.

NAYS: Senators O'Leary, Speers, Wyman.

ABSENT: Senator Danton, Graffam, Katz.

A roll call was had, 26 Senators having voted in the affirmative, and three Senators having voted in the negative, with three Senators being absent, the Resolution was Finally Passed and, having been signed by the President, was by the Secretary presented to the Secretary of State.

Communications
State of Maine
Office of the Governor
Augusta, Maine
04330

July 2, 1975

To the Honorable Members of the House of Representatives and Senate of the 107th Maine Legislature:

I cannot sign L. D. 1775, An Act to Insure Citizen Participation in the Promulgation, Amendment and Repeal of Agency Rules. While I cannot dispute the merits of citizen input, this particular bill will be costly and administratively incompatible with efficient government implementation.

Such public hearings as envisioned in this legislation are almost certain to be contained in an Administrative Procedures Act now being prepared by the Attorney General's Office.

While the Administrative Procedures Act will be incorporating an overall look at public safeguards, L. D. 1775 deals solely with the one isolated aspect of the public hearing process. Where rule changes occur frequently because of the logistical considerations, such as in the area of Health and Welfare, this bill would incur penalties of inefficiency and loss of time in implementation, when such promptness is essential.

I also ask for time for our newer Commissioners, particularly in the Department of Health and Welfare and the Department of Mental Health and Corrections, to realign operational procedures before they are cemented in by statutory law, which could inhibit the efficiencies and cost-savings we know we can attain in our departmental operations.

I feel this legislation is premature. I would like to see more study made of the impact before we go ahead and put more laws on the books, based on incomplete facts.

Very truly yours,
JAMES B. LONGLEY
Governor

Comes from the House, Read and