

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

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Legislature*

OF THE

STATE OF MAINE

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Index

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KENNEBEC JOURNAL
AUGUSTA, MAINE

Mr. RICHARDSON: Mr. Speaker and Members of the House: The Director of Legislative Research advises me that this bill is in bad form and I would request some member of the House to table it until the next legislative day.

Thereupon, on motion of Mr. Benson of Southwest Harbor, tabled pending passage to be engrossed and specially assigned for tomorrow.

Engrossed in Non-Concurrence

Bill "An Act Creating a District Court Division of Northern Androscoggin and Franklin" (S. P. 544) (L. D. 1392)

Was reported by the Committee on Bills in the Third Reading and read the third time.

The SPEAKER: The Chair recognizes the gentleman from Rumford, Mr. Beliveau.

Mr. BELIVEAU: Mr. Speaker and Members of the House: I move that this item be indefinitely postponed and I would like to speak briefly to my motion.

The SPEAKER: The gentleman from Rumford, Mr. Beliveau, now moves that item 10, L. D. 1392 be indefinitely postponed.

The gentleman may proceed.

Mr. BELIVEAU: Mr. Speaker and Members of the House: This L. D. 1392 proposes to create a new district court district in northern Androscoggin or Livermore Falls and Franklin County. Now as you know, presently under our district court system we have some fifteen judges and two of which are elected at large. Now this would create an additional district which would require, of course, the appointment of an additional judge.

In this regard I have a letter from the Chief Judge of the District Court, Richard Chapman, who has given us his views on this and also who is strongly against a creation of a new district because, in his opinion, after conferring with the two judges who are presently serving in these two areas, and in reviewing the statistics as to the number of cases involved, that there is no felt need at this time for a new district. Now, I would like to read for the members, portions of his letter that apply to the creation of this new district. It is

dated June 19, 1967 and it reads as follows:

"As to creating a new district, I do not feel this can be justified for the following reasons:

The work load of such a new district would not be great enough to justify another judge. Such a judge would not be carrying his share of the total case load.

Another district would reduce the load of the judge at South Paris, Rumford and Livermore Falls, but I do not feel such a reduction is needed at this time.

Another district would reduce the load of the judge who now covers Farmington and Skowhegan, but I do not feel this is needed at this time.

The new district would remove Newport from the Bangor district and would leave two judges in Bangor with not enough to do.

The new district would do nothing to relieve the excessive load at Lewiston, Brunswick, Augusta and Waterville.

It would create one more judge who would have to be covered in times of vacation or illness.

I might point out that while I am a judge at large, frequently there are times when I am not available to hold court, such as when the budget, the annual allotment, and the annual report are being prepared.

If a new district is created and no additional judge at large provided, I feel I would have no choice but to assign the new judge in Farmington to assume some of the overload in Lewiston and Brunswick and to use the available man power at Bangor to assume some of the overload at Augusta and Waterville. I feel such a make-shift arrangement most undesirable, as it would mean much wasted time and expense spent on travel.

Sincerely yours,

Richard S. Chapman
Chief Judge"

In addition to this letter I have conferred with Judge John L. Batherson of Rumford who presides at Livermore Falls and who would be relieved of one day a week in Livermore Falls and it is his opinion that the present work load does not warrant his being re-

lieved of this. He can easily do the work there without any effort. It is also my understanding that in Franklin County that the work load of the District Court Judge who presides in that area is such that he doesn't believe this new district should be created; and as you know this new district would require the appointment of a new Judge and probably an additional appropriation of some \$15,000. So I ask all to join with me in this motion for indefinite postponement for it's quite apparent that this would be a wasteful act on our part and it's ill-timed, and certainly it is an unneeded Act.

The SPEAKER: The Chair recognizes the gentleman from Livermore Falls, Mr. Darey.

Mr. DAREY: Mr. Speaker and Members of the House: This bill had a full hearing before the Judiciary Committee as well as its companion bill, an Act to appoint another District Judge at large. We took action on the first bill yesterday, which was indefinitely postponed. Now I have a great deal of respect for Justice Chapman. He has done a wonderful job in the creation of these Courts and as Chief Judge of the District Court, and I know of nobody better qualified than this esteemed gentleman to carry on as he has. However, this Committee in the first bill to create a district judge at large after full consideration voted eight to two against the measure.

Now on this present bill, 1392, the Committee voted nine to one for its passage. There is nothing sacred about the divisions of these Courts. There has been substantial changes made from time to time and insofar as the division of northern Androscoggin County is concerned, that's been changed four times. When the Court was first created by the Legislature, northern Androscoggin County was with the southern Androscoggin County with the divisions being in Brunswick, Lewiston and Livermore Falls. Now that was deemed not to be feasible so that another change was proposed. That time northern Androscoggin County was thrown in with Kennebec County with the divisions being Livermore

Falls, Augusta and Waterville. It remained that way for some time, but again that was deemed unfeasible so a third change was made. That time northern Androscoggin County was thrown in with Franklin County and with Oxford County. That not deemed advisable, we are now with Oxford County with court being held only one day a week, one day for northern Androscoggin County which covers all of those towns in that section of the County, namely Turner, Livermore, Leeds and Livermore Falls.

Now there is something else to be considered here other than the convenience of the Court and that is the service to the public. This bill would place the division of northern Androscoggin County with Franklin County. To be sure it would be very convenient for the judge just to sit at Farmington and then the respondents or those coming before the Court having to travel fifty miles from the towns of Eustis, Rangeley, Stratton, Kingfield, Phillips, Madrid. Those towns are present—or have been serviced by Trial Justice Courts, and those, all but one, have now ceased to exist. That means additional case loads in that part of Franklin County, and that Judge's term, the Trial Justice, Judge Wright, his term is about to expire. That increases and keeps increasing the case load in that County.

There's another issue on this question of service, and that has to do with the juveniles. Juveniles play a very important part in the district courts. Title XV of the Revised Statutes, 2501, provide that the care and custody and discipline of the juveniles shall approximate as near as possible that which they should receive from their parents or custodians, and that insofar as practical they shall be treated not as criminals but as young persons in need of aid, encouragement and guidance.

Now I have acted in the capacity of Municipal Judge in Livermore Falls for over twenty-six years — to be exact, from 1935 until January, 1966, with the exception of four years out. Now during that

time and for a period of eighteen years there were only two juveniles sent to the State School for Boys during a period of eighteen years; as far as the girls go, for a period of twenty-six years there were only two girls sent to the Stevens Training Center, that time under a different name. Now this was not accomplished by a Court sitting one day a week. I held court there two and three days a week, at times on Saturdays, especially in connection with the juvenile cases.

Now we have a very good working tool — the Department of Probation and Parole, and it is with the cooperation of that Department that we were able to accomplish these results. Now not once do I feel that we've been let down by granting probation and working with this Board. It's not by following the practice of giving them probation but once and then committing them — yes, I've given them probation twice, three and four times as the circumstances required, and it's working with the very efficient head of that Department Mr. John Shea, Ray Nichols, Hamilton Grant, Ted Hanson and Mrs. Cadwallader, and many times some of those gentlemen would call on the way back in the evening, eight, nine o'clock at night. The state certainly got services rendered from those gentlemen, and it's working with them that we are able to accomplish that purpose.

Now this proposed district that we now have, the proposed district that L. D. 1392, as stated, is a natural geographical district. It's in a community which the International Paper Company has just established, it's an \$80 million plant and is still expanding. The creation of this court would provide a judge who could fill in in crowded Androscoggin County. It would alleviate the Oxford County District and allow that judge to sit in other courts as needed. Eastward the Judge of Somerset County would be free to help out in overcrowded Kennebec County. The District Court was founded on the principle that each judge should have his own base, his own bailiwick, to work from with its several

divisions, and each and every one of them is subject to be transferred and fill in with any other judge in the State. Therein lies the merit of this bill which is now before us.

Now as far as expense goes, the District Court pays for itself, and there is in addition — it not only pays for itself, but a certain amount — and that was presented to us in the Committee, a certain amount is paid back to every County in the State. Therefore, I respectfully urge that we follow the recommendations of the Majority, the nine to one Report, and pass this bill.

The SPEAKER: The Chair recognizes the gentleman from Sanford, Mr. Nadeau.

Mr. NADEAU: Mr. Speaker and Members of the House: I would just like to note that on page 3 of the House Advance Calendar it says here — divided report, comes from the Senate with the Report and Bill indefinitely postponed. I'm talking about this bill. I would like to remind you L. D. 1731, RST 4, 157 amended and so forth; anyway it says here, let's get to the meat of the thing — it says here that "Each judge shall receive an annual salary of \$16,500 and the chief Judge shall receive an annual salary of \$17,500." I just want to remind you gentlemen about this thing — and again I should have started by saying — fellow unpaid legislators, this means another court reporter, court facilities, sheriff's fees, gas mileage, et cetera, and one day — and of course the gentlemen admitted that they spend one day in a county — can you imagine this? We're going to appropriate a pay raise, a new man so he can spend one day in a county, that was excellent. And if service is that bad — if you go in a restaurant and you don't like the service you can leave a tip, but I think leaving a tip of \$16,500 is pretty huge.

And I also wonder why this bill was held until today which is June 22. I don't think we need another one, and I'll go along and move for indefinite postponement.

The SPEAKER: chair recognizes the gentleman from Farmington, Mr. Shute.

Mr. SHUTE: Mr. Speaker and Members of the House: You have listened to Judge Darey, who has served ably and long in the Court of Livermore Falls, explain how this can be done. This does not mean a new court reporter, it does not mean a new staff; apparently there is a staff at Farmington, there is a staff at Livermore Falls.

I'm beginning to wonder, Mr. Speaker and ladies and gentlemen, if Franklin County is still one of the sixteen counties of the State of Maine after what happened yesterday, and here in this legislative document, I'd like to explain to you once again and have you understand that in this District Court setup we have been in and out of Somerset and Oxford and Androscoggin Counties so many times that when people are hailed into court they hardly know which court to report to.

We in Franklin County and particularly attorneys that serve this area would like to have the double court system in Livermore Falls and in Farmington. Now this could very easily be expanded to include the Stratton area. At one time we had three trial justices in this area the last one will be going out of office very shortly. This will leave people in the Stratton, Eustis and Coburn Gore area something like fifty or sixty miles to travel to get to court, if they are summoned into court.

We have a solution which has already been suggested by the gentleman from Rumford, Mr. Beliveau. Since the Justice in Bangor will be unemployed, we'd like to have him sent to Farmington where he will be re-employed at no extra cost to the state. I'm opposed to the indefinite postponement of this measure.

The SPEAKER: The Chair recognizes the gentleman from Livermore Falls, Mr. Darey.

Mr. DAREY: Mr. Speaker and Members of the House: In reply to the gentleman from Sanford, Mr. Nadeau, I would like to remind him that, after all, money in the administration of justice is certainly not a prime factor. However, as has been pointed out, the district court pays for itself and more than pays for itself. All

of these courts are self-sustaining with the surplus, in accordance with their formula as to populations of counties going back to the counties, so that that is not a factor. Now, there are two bills here, one for the creation of a district court at large, which was voted "ought not to pass" yesterday, and this bill here. This is the one that we feel, the Committee felt, is the one that should pass, and so voted. And when the vote is taken, I request that the vote be by the yeas and nays.

The SPEAKER: Is the House ready for the question? The pending question is on the motion of the gentleman from Rumford, Mr. Beliveau, that L. D. 1392 be indefinitely postponed. The yeas and nays have 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 of those desiring a roll call will vote yes; those opposed will vote no. The Chair opens the vote.

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 pending question is on the motion of the gentleman from Rumford, Mr. Beliveau, that Senate Paper 544, L. D. 1392, Bill "An Act Creating a District Court Division of Northern Androscoggin and Franklin" be indefinitely postponed. All of those in favor of indefinite postponement will vote yes; those opposed will vote no. The Chair opens the vote.

ROLL CALL

YEA—Allen, Bedard, Beliveau, Benson, Bernard, Binnette, Birt, Boudreau, Bourgoin, Bragdon, Brown, Carey, Carrier, Carswell, Champagne, Clark, Cornell, Cottrell, Curran, Drummond, Dunn, Durgin, Eustis, Fecteau, Foster, Fraser, Fuller, Gauthier, Giroux, Hanson, H. L.; Harnois, Harri-man, Harvey, Healy, Hichens, Jannelle, Keyte, Kilroy, Kyes, Lebel, Levesque, McNally, Miliano, Mosher, Nadeau, J. F. R.; Nadeau, N. L.; Noyes, Pike, Quimby, Richardson, H. L.; Rocheleau, Roy,

Snow, P. J.; Starbird, Sullivan, Susi, Truman, Wheeler, Williams, Wood.

NAY—Baker, E. B.; Baker, R. E.; Belanger, Berman, Brennan, Buck, Bunker, Burnham, Conley, Cote, Crockett, Crommett, Crosby, Cushing, Danton, Darey, Dickinson, Drigotas, Dudley, Ewer, Farrington, Fortier, Gill, Hall, Hanson, B. B.; Hanson, P. K.; Hawes, Haynes, Henley, Hennessey, Hewes, Hinds, Hodgkins, Hoover, Huber, Hunter, Immonen, Jalbert, Lewin, Lewis, Lincoln, Littlefield, Lyette, Maddox, Martin, McMan, Meisner, Minkowsky, Philbrook, Porter, Prince, Quinn, Rackliff, Richardson, G. A.; Rideout, Ross, Sahagian, Scott, C. F.; Scott, G. W.; Scribner, Shaw, Shute, Soulas, Townsend, Trask, Waltz, Watts, White, Wight.

ABSENT — Bradstreet, Carroll, Cookson, Couture, D'Alfonso, Dennett, Edwards, Evans, Gaudreau, Humphrey, Jameson, Jewell, Payson, Pendergast, Robertson, Robinson, Sawyer, Snowe, P.; Tanguay, Thompson.

Yes, 60; No, 69; Absent, 20.

The SPEAKER: Sixty having voted in the affirmative and sixty-nine in the negative, the motion to indefinitely postpone does not prevail.

Thereupon, the Bill was passed to be engrossed in non-concurrence and sent up for concurrence.

Bill "An Act relating to Pay Increases for Department Heads and Court Justices" (S. P. 696) (L. D. 1732)

Was reported by the Committee on Bills in the Third Reading, read the third time, passed to be engrossed in non-concurrence and sent up for concurrence.

On the disagreeing action of the two branches of the Legislature on Bill "An Act Creating a Second Assistant County Attorney for York County" (S. P. 280) (L. D. 660) the Speaker appointed the following Conferees on the part of the House:

Mrs. FULLER of York
Messrs. DENNETT of Kittery
NADEAU of Sanford

On the disagreeing action of the two branches of the Legislature on Bill "An Act to Abolish Imprisonment for Debt and to Revise the Laws Relating to Disclosures of Debtors" (S. P. 680) (L. D. 1710) the Speaker appointed the following Conferees on the part of the House:

Messrs. BRENNAN of Portland
BERMAN of Houlton
HEWES of Cape Elizabeth

On the disagreeing action of the two branches of the Legislature on Bill "An Act relating to Method of Fixing Salaries of Certain State Officials" (S. P. 697) (L. D. 1733) the Speaker appointed the following Conferees on the part of the House:

Messrs. STARBIRD
of Kingman Township
DENNETT of Kittery
PHILBROOK
of South Portland

Passed to Be Enacted Emergency Measure

An Act Establishing the Maine Planning Commission on Criminal Law Administration (H. P. 583) (L. D. 815)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure and a two-thirds vote of all the members elected to the House being necessary, a total was taken. 116 voted in favor of same and 9 against, and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

Emergency Measure

An Act relating to Publication of Legal Notices (H. P. 1182) (L. D. 1684)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed.

The SPEAKER: The Chair recognizes the gentleman from Bristol, Mr. Lewis.

Mr. LEWIS: Mr. Speaker and Members of the House: This question of relating to the publication of legal notices was brought to my attention about four weeks ago by the editor of a well established weekly newspaper in my county.