

# MAINE STATE LEGISLATURE

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**LEGISLATIVE RECORD**

OF THE

***One Hundred and Ninth  
Legislature***

OF THE

STATE OF MAINE

**SECOND REGULAR SESSION**

**January 2 to April 3, 1980**

**THIRD SPECIAL SESSION**

**May 22, 1980**

**THIRD CONFIRMATION SESSION**

**July 17, 1980**

**FOURTH CONFIRMATION SESSION**

**July 24, 1980**

**FIFTH CONFIRMATION SESSION**

**September 12, 1980**

**REPORT, HEARING TRANSCRIPT AND  
RELATED MEMORANDA OF THE JOINT  
SELECT COMMITTEE ON INDIAN LAND  
CLAIMS**

ways—in some instances, they have to be a member of the district that they are elected by the voters at large, through the whole county. In other instances, they have to be a member of the district and they are also elected by only those people who live in that district. Does this particular amendment allow either one of those instances to be changed? I guess that would be a change in the present law, but does that allow people who now are electing members from specific districts for a charter commission to be able to say those elections are going to take place county-wide, and coming from an area which has a relatively small number of towns and a fairly small percentage of votes in a county, I am particularly concerned with that particular issue.

The SPEAKER: The gentlewoman from Owl's Head, Mrs. Post, has posed a series of questions through the Chair to anyone who may care to answer.

The Chair recognizes the gentleman from Sabattus, Mr. LaPlante.

Mr. LaPLANTE: Mr. Speaker, Ladies and Gentlemen of the House: In Section 24, it allows the county commissioners in each county shall appoint finance committee members from the commissioner district from among the municipal officers of that district.

It does allow municipal officers to also choose a second method amongst their members to serve on a finance committee.

It can be stated in the charter commission, if you wish the treasurer or the registrar of probate or whatever to be elected or not to be elected but, again, that goes to referendum.

The SPEAKER: The Chair recognizes the gentleman from Kennebunk, Mr. McMahon.

Mr. McMAHON: Mr. Speaker, Ladies and Gentlemen of the House: To further respond to the gentlewoman's questions, the options for the finance committee are spelled out in the bill. One of them is the option the gentlewoman talked of; the other one is quite different, it is selection by municipal officials. The point is that the charter commission would determine and the people in the county would approve or disapprove one of those two options.

Regarding her other questions, the bill provides for in-district elections. You must be a resident in the district, and that is, any charter that is drafted would require that a 3, 5 or 7 member board, the members of those boards run from and be residents of the district.

Finally, the charter determines the role of the treasurers and the registrar of deeds. The bill before you does not in any way change the role of those individuals, but a county charter could, again, subject to local approval.

The SPEAKER: The Chair recognizes the gentlewoman from Owl's Head, Mrs. Post.

Mrs. POST: Mr. Speaker, Men and Women of the House: I understand that there are, in fact, two options and they will be chosen by the charter commission as to how the finance committee will be set up. One option is that the finance committee would be appointed by the county commissioners, sort of a fox watching the chicken house routine, and the other is, it could be made up of municipal officers. My concern is that the county commissioners will have a great deal of impact into the original charter commission, since they will be able to appoint 3 out of the 9 members and the others will be elected.

It has been my experience, when charter commissions put out a relatively lengthy change in the charter or adopting a charter, that those are usually chosen the first time around.

It is not clear to me, in taking a look at the language on districts, what it says, it is on Page 7 of the amendment, "a county adopting a charter pursuant to this chapter shall provide for the election of county officers from 3, 5 or 7 districts, from each of which one officer shall be elected. The charter shall specify the number of districts and establish the boundaries of each district." In the actual statutes

themselves, and I am familiar with it a little bit because I sponsored the bill which sent up the Knox County districts anyway, it very clearly says that you set up specific districts and that the voters themselves will elect people from the district. I am concerned that that language is not used and it is not clear exactly whether or not the people from the district from which they will serve. If they cannot be elected county-wide, there are some forms of elections in county government, which are presently in the statutes, that will not be allowable under this particular charter.

The SPEAKER: The Chair recognizes the gentleman from Kennebunk, Mr. McMahon.

Mr. McMAHON: Mr. Speaker, Ladies and Gentlemen of the House: With regard to the first question posed by the gentlewoman, perhaps, I didn't properly respond in my earlier comments.

It is true that the commissioners will appoint 3 of the 9 members of the charter commission, but if you read Section 9 of the bill, the committee, in its amendment, has taken great pains, while we have given them a responsibility of appointing 3 of the 9 members, we make it quite clear that only one of those 3 may be a county official, one must be a municipal official and one a legislator. We further make it clear that no more than two may be of the same party, so we have anticipated the gentlewoman's concerns in this bill and have built into the bill language that would not permit the commissioners from designating 3 people that would not act independently of themselves. So, I think that is not or should not be a concern in any event.

The SPEAKER: The Chair recognizes the gentlewoman from Auburn, Mrs. Lewis.

Mrs. LEWIS: Mr. Speaker, Ladies and Gentlemen of the House: I will be very brief. I certainly do believe in local control. I think any record that I have had in the eight years that I have been here would show that I do.

But the point, as far as I am concerned about this bill, is not the local control so much, it is, do we really need county government?

I have heard people say that they don't like county government, they would vote in a minute to abolish county government, but this bill, even though it does promote local control, and I would agree to that, it promotes local control in a place that I don't think it belongs. I really think we would be better off without that layer of county government and I think when Mr. Leighton described the situation as two separate entities right now, local and state, with the county being in sort of a netherland in between, taking money from the local property taxes but being under the jurisdiction of the state, I don't think that that is all bad unless we can abolish it altogether. But to do this, to pass this bill today, would certainly start us on the way to a truly third layer of government, and in a state the size of Maine, I don't believe we need or can afford the three separate layers of government, so I do hope that you will vote to indefinitely postpone this.

The SPEAKER: A roll call has been ordered. The pending question before the House is on passage to be enacted. Those in favor will vote yes; those opposed will vote no.

#### ROLL CALL

YEA — Aloupis, Austin, Bachrach, Baker, Barry, Beaulieu, Benoit, Berube, Birt, Bordeaux, Bowden, Brannigan, Brenerman, Brodeur, Brown, K.C.; Call, Carrier, Carroll, Chonko, Cloutier, Conary, Cox, Cunningham, Davies, Davis, Dellert, Dexter, Diamond, Doukas, Dow, Drinkwater, Dutremble, L.; Elias, Fillmore, Fowlie, Garsoe, Gowen, Gray, Gwadosky, Hall, Hickey, Higgins, Hobbins, Huber, Hughes, Immonen, Jackson, Jalbert, Joyce, Kane, Kany, Kiesman, Laffin, Lancaster, LaPlante, Lizotte, Locke, Lowe, Lund, MacBride, MacEachern, Mahany, Marshall, Martin, A.; Masterman, Masterton, Matthews, McHenry, McKean, McMahon, McPherson,

McSweeney, Mitchell, Morton, Nadeau, Nelson, A.; Nelson, M.; Nelson, N.; Norris, Paradis, E.; Payne, Pearson, Peltier, Peterson, Prescott, Reeves, P.; Rolde, Rollins, Sewall, Simon, Small, Soulas, Sprowl, Stetson, Stover, Strout, Studley, Theriault, Tierney, Tozier, Twitchell, Vincent, Violette, Vose, Wentworth, Whitemore, Wood.

NAY — Blodgett, Brown, A.; Brown, D.; Brown, K.L.; Bunker, Carter, D.; Carter, F.; Churchill, Connolly, Curtis, Damren, Dudley, Dutremble, D.; Fenlason, Gavett, Gillis, Hunter, Hutchings, Jacques, E.; Jacques, P.; Leighton, Lewis, Lougee, Maxwell, Paradis, P.; Paul, Post, Reeves, J.; Smith, Torrey, Tuttle.

ABSENT — Berry, Boudreau, Hanson, Howe, Kelleher, Leonard, Michael, Roope, Sherburne, Silsby, Tarbell, Wyman.

Yes, 107; No, 31; Absent, 12.

The SPEAKER: One hundred and seven having voted in the affirmative and thirty-one in the negative with twelve being absent, the Bill is passed to be enacted.

Signed by the Speaker and sent to the Senate.

By unanimous consent, ordered sent forthwith to the Senate.

The Chair laid before the House the fourth tabled and today assigned matter:

An Act Concerning Revisions in Maine's Juvenile Code and other Statutes Relating to Juveniles (H. P. 1847) (L. D. 1951) (C. "A" H-888)

Tabled—March 18, 1980 by Mr. Connolly of Portland.

Pending—Passage to be Enacted.

On motion of Mr. Hobbins of Saco, tabled pending passage to be enacted and later today assigned.

The Chair laid before the House the fifth tabled and today assigned matter:

Bill, "An Act Increasing the Minimum Handling Fee for Returnable Beverage Containers from 1¢ to 2¢" (H. P. 1973) (L. D. 2012)

Tabled—March 18, 1980 by Mr. Gwadosky of Fairfield.

Pending—Passage to be Engrossed.

Mr. Jackson of Yarmouth offered House Amendment "B" and moved its adoption.

House Amendment "B" (H-939) was read by the Clerk.

Mr. JACKSON: Mr. Speaker, Ladies and Gentlemen of the House: This amendment basically embodies the bill that was presented to the 106th Legislature and to the 109th in our first session and also was considered by the Business Legislation Committee, presented by the Representative from Auburn, Mr. Hughes. It would expand the scope of the bottle bill to pick up certain other products that are on the market now which are noncarbonated. As you know, the bottle bill presently picks up carbonated products; this would pick up products with added sugar. It would not include fruit juices, natural fruit juices nor milk products. It also would not include products sold in paper containers, but it would add new metal and glass containers that are being marketed of soft drinks on the market.

The committee had discussed this in some detail and it was our intention not to present the majority of the committee felt that the penny should be left at one cent and not another penny added, but when the House chose to add the \$5 million penny to it, it seemed appropriate to present this amendment and to add these products to the bottle bill.

The intention of the penny, as was discussed here yesterday, is to help the redemption centers. The redemption centers would be aided by the addition of these products, it would give them further things to handle and would make them more useful to the grocer. I personally think that the grocers, and I break the grocers in my own mind down into two areas, one being the small grocer and the other being the larger grocery chain, and I personally think the small

grocers are being compensated by our act of mandating them the extra \$5 million and therefore handling the extra product is only reasonable at this point, and the large grocers, who I think probably thought that yesterday was Christmas will also have plenty of money to be able to handle these additional products.

I think it is a good amendment, I think it attacks that which both proponents and opponents of the bottle bill have talked about when they say why not add the other trash items. I think this is a growing area and it should be added to the bill, and I urge the acceptance of this amendment.

The SPEAKER: The Chair recognizes the gentlewoman from Sebec, Mrs. Locke.

Mrs. LOCKE: Mr. Speaker, I ask a ruling from the Chair as to the germaneness of this amendment.

The SPEAKER: The Chair would rule that the amendment is not germane.

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

By unanimous consent ordered sent forthwith to the Senate.

The Chair laid before the House the following matter:

Bill "An Act Relating to the Games of Chance at Agricultural Fairs" (H. P. 1797) (L. D. 1919) which was passed to be engrossed as amended by Committee Amendment "A" in the House; in the Senate, passed to be engrossed as amended by Committee Amendment "A" as amended by Senate Amendment "A" thereto in non-concurrence.

Which was tabled earlier in the day pending further consideration.

Thereupon, the House voted to recede and concur.

On motion of Mrs. Mitchell of Vassalboro, the Chair laid before the House the first tabled and Unassigned Matter:

Bill, "An Act to Provide for Licensing and Regulation of Adult Foster Homes" (H. P. 1089) (L. D. 1466)

—In House, "Ought to Pass" in New Draft under same title (H. P. 1816) (L. D. 1927) report of the Committee on Health and Institutional Services read and accepted and the New Draft Passed to be Engrossed.

—In Senate, Bill and Papers Indefinitely Postponed.

Tabled—March 5, 1980 by Mrs. Mitchell of Vassalboro.

Pending—Further Consideration.

On motion of Mrs. Prescott of Hampden, the House receded from its action whereby the New Draft was passed to be engrossed.

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

House Amendment "A" (H-938) was read by the Clerk and adopted.

The SPEAKER: The Chair recognizes the gentlewoman from Portland, Mrs. Payne.

Mrs. PAYNE: Mr. Speaker, Ladies and Gentlemen of the House: L. D. 1927 is a department bill. It was held over from the last session. It was written, rewritten; we spent more time on it than any other bill, I think, that came before us.

Because the bill is having difficulties elsewhere, this amendment now comes before us, members of the committee and the House, as a complete surprise. It is a very, very watered-down but open-ended version of the bill. I believe it addresses very little of what we worked so hard on.

I was against the bill originally, feeling that we certainly and surely would be discouraging anyone from opening their home to foster care.

As you know, there is a great trend in deinstitutionalization. You know that nursing homes are very expensive and the small foster care home, taking care of up to four people, is a good answer. But if you could have seen the list of rules and regulations that would be facing

anybody wanting to open one, it would discourage them from beginning. But we were told it all had to be tied up to coincide with boarding care rules, which were tightened up too in the bill, giving the state the necessary authority to expand the program. However, we were never given or cited one instance of abuse of any foster care patient.

Now the boarding care rules have disappeared in this amendment. The department may adopt rules with very, very broad limitations, and the poor little widow, whose lonely, kind heart prompted her to think about taking in four adults for foster care, can, if this passes, be driven crazy and out of business by rules, regulations, inspections and paperwork not even spelled out in this amendment.

I ask for the indefinite postponement of this Bill and all its accompanying papers.

The SPEAKER: The Chair would advise the gentlewoman from Portland, Mrs. Payne, that a motion to indefinitely postpone is not in order.

The Chair recognizes the gentlewoman from Hampden, Mrs. Prescott.

Mrs. PRESCOTT: Mr. Speaker, Ladies and Gentlemen of the House: I would like to clarify one point that Mrs. Payne made, and that was the fact that this was a department bill, and that is not the case. This bill was sponsored by myself at the request of the adult foster home operators who are asking me to be licensed. They wanted to be approved by the department so that they could receive the funding from the department. This is not a department bill. It affects only adult foster homes.

The amendment which I am offering is offered because of the objections of the other body. It is my understanding that we can work out the problems that we have on the promulgation of rules and regulations.

I would like to call your attention to the statement of fact which is on the amendment itself. Under the statement it says that the Pineland suit, or the deinstitutionalization policies, and, I might add, the recent moratorium on the admissions at Pineland, means that more of these people will be going to adult foster homes and foster care. The department now does not have the authority to approve these homes, to say that there will be standards that will be met. These homes now are only voluntarily approved, and if a home operator does not want to be approved, they do not have to be.

The gentlelady said that there was not one case of abuse cited. I would like to correct that statement as well. There was a case cited, it was in Berwick, where an operator was taken to court and was proven guilty. The problem, you see, is that the state could not remove those two residents from the home. Therefore, other residents can go into the home because that home does not want to be voluntarily approved.

Further, in the statement of fact it says that the Department of Human Services operates an adult foster care program, but merely voluntarily approves these foster homes, but these homes are receiving state reimbursement. One of the problems is that there is no statutory authority for this program to continue, and according to a recent attorney general's opinion, the department's rules for approval of state reimbursed foster homes is in doubt. This is a critical problem because it threatens the state's ability to safeguard resident's health, safety and care, and it also jeopardizes federal matching funds. In fact, if the rules for approval of state reimbursed adult foster homes were challenged in court, we would be in danger of losing at least \$150,000 in federal funds per year. This would obviously put tremendous pressure upon the state to make up the loss.

The amendment merely places in the statute the authority to approve the adult foster homes that are seeking the state reimbursement, and it does restrict the department's rulemaking

authority, because it is very specific in stating that the areas in which rules would be promulgated would only be in the areas that are related to the health, safety, care and the sanitation.

Thereupon, Mrs. Payne of Portland requested a vote.

The SPEAKER: The pending question is on passage to be engrossed as amended by House Amendment "A" in non-concurrence. All those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

52 having voted in the affirmative and 41 having voted in the negative, the motion did prevail.

Sent up for concurrence.

By unanimous consent, ordered sent forthwith to the Senate.

(Off Record Remarks)

Mr. Jacques of Waterville was granted unanimous consent to address the House.

Mr. JACQUES: Mr. Speaker and Members of the House: During the past two years, every once in a while some of you get up and take this opportunity to say something on the record that is stuck in your craw, if you will pardon the expression, and if you will bear with me, I would like to do that today.

In yesterday's paper, there were articles in different papers where Sportsmen's Alliance of Maine blasted the Commissioner of Inland Fisheries and Wildlife for what he called incompetence and bordering on the possibility of being criminal. Now, we of the Fisheries and Wildlife Committee realize that Fisheries and Wildlife isn't the number one importance to a lot of you and we understand that because there are a lot of very important things here, but Mr. Jones, the Executive Director of Sportsmen's Alliance of Maine, and I might add that Sportsmen's Alliance of Maine has 5,000 members and last year we sold over 280,000 licenses in the State of Maine, different licenses, so his organization represents very few of the actual people that are involved here.

What Mr. Jones' motives were when he attached the commissioner I do not know and I would not dare to speculate, but I think it was one of the most irresponsible acts performed by anybody that I have seen in my two years down here, and I want it to be on the record that I think it was a gross injustice done to the commissioner, a commissioner that has been in that department for nine months, who inherited one of the biggest mixed up, messed up, balled up affairs, who has tried very hard to solve the problems of Fisheries and Wildlife.

He says the commissioner has done nothing to solve the financial problems. Since Mr. Manuel took over, he stopped the purchase of 44 new automobiles for Fish and Game, he has cut all out-of-state travel, it has cut capital expenditures over \$1,000, no new personnel, all positions left vacant when somebody retires, unless they are vital to the department they are not being filled. He has asked for a 10 percent reduction in his warden service and all the people involved in the department, and he has even gone to the point where they are cutting lumber on the department's lands that they feel should be cut to try to raise a little revenue for that department.

Now, why Mr. Jones comes up with something like that, I do not understand, and I would like to have the record show that Mr. Jones does not represent all the people that see him, and Mr. Jones certainly does not represent all the sportsmen in the State of Maine, and I hope all of you will take that into consideration.

I think he has caused some harm. We saw it in the other body yesterday. Some of the bills that we were hoping would solve this problem were killed. I think Mr. Jones has done something to set back the sportsmen's interest in the State of Maine, and that is not what SAM was