

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

***One Hundred and Fifth
Legislature***

OF THE

STATE OF MAINE

Volume III

June 16, 1971 to June 24, 1971

Index

1st Special Session

January 24, 1972 to March 10, 1972

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**KENNEBEC JOURNAL
AUGUSTA, MAINE**

Orders of the Day

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

Bill "An Act to Amend the Laws Pertaining to the Protection and Improvement of Air by Establishing Ambient Air Quality Standards" (H. P. 1549) (L. D. 2008)

Tabled — January 31, by Mr. Susi of Pittsfield.

Pending — Passage to be engrossed.

Mr. Whitzell of Gardiner offered House Amendment "A" and moved its adoption.

House Amendment "A" (H-517) was read by the Clerk.

The SPEAKER: The gentleman may proceed.

Mr. WHITZELL: Mr. Speaker and Members of the House: The reason for this amendment was that the Attorney General's office in a communication to us told us that there was ambiguous language in the hours of 6 a.m. to 9 a.m. Since these were additional hours the Attorney General's office asked us to exclude them because it would seem that it would limit the air quality standards to only those hours, those three hours per day.

I don't see any other problem with it. I would move its adoption.

Thereupon, House Amendment "A" was adopted and the Bill passed to be engrossed as amended and sent to the Senate.

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

Resolve Providing a Minimum Service Retirement Under the State Retirement Law for Marion Gates of Phillips (H. P. 1520) (L. D. 1962)

Tabled — January 31, by Mr. Curtis of Bowdoinham.

Pending — Passage to be engrossed.

On motion of Mr. Curtis of Bowdoinham, retabled pending passage to be engrossed and tomorrow assigned.

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

Bill "An Act relating to Speed of Motor Vehicles on Freeways"

(H. P. 1513) (L. D. 1955) (Committee Amendment "A" H-515 adopted)

Tabled — January 31, by Mr. Kelleher of Bangor.

Pending — Passage to be engrossed.

The SPEAKER: The Chair recognizes the gentleman from Bangor, Mr. Kelleher.

Mr. KELLEHER: Mr. Speaker, Ladies and Gentlemen of the House: There is an amendment being prepared and it isn't on our desks yet, so I respectfully ask some member of the House to table it for a day, please.

Whereupon, on motion of Mr. Gill of South Portland, retabled pending passage to be engrossed and tomorrow assigned.

On motion of Mr. Susi of Pittsfield,

Recessed until the sounding of the gong.

After Recess

Called to order by the Speaker.

The Chair laid before the House the following matter:

Joint Resolution (H. P. 1563) respectfully urging the Governor to perform his ministerial constitutional duty to issue a proclamation for Initiated Bill No. 2 "An Act Relating to the Form of Ballots in General Elections," which was tabled earlier in the day and later today assigned, pending adoption.

The SPEAKER: The Chair recognizes the gentleman from Bath, Mr. Ross.

Mr. ROSS: Mr. Speaker, Ladies and Gentlemen of the House: I am presenting this resolution because history proves that I am not motivated one bit by the fear of Senator Muskie on the ballot. The abolition of the big box has been my bill five times. I first sponsored it when Republicans were in full control of both bodies. The bill was enacted twice, but it was vetoed twice by Governor Curtis, even though one time, when he was running for Congress, one of his planks in his platform was the abolition of the big box. Last year, 46,000 people signed petitions and, up until now, many of these persons are completely disillusioned

with our entire form of government. They had a chance to vote on the income tax on November 2 and they had had no word when they are going to have a chance to vote on this. I will not get into the details of the resolution because you have had all morning to study them and they are self-explanatory.

Last session we had two initiated bills before us, one on the income tax and one on changing the form of the ballot. Now Article IV of the Constitution states that the Governor should proclaim a special election within a reasonably short time. We adjourned on June 24. He issued a proclamation on July 1 whereby the income tax was to be voted on November 2. He did not want the abolition of the box on the same ballot because he did not want to confuse the issues.

But now, 221 days after adjournment, a great many people who signed these petitions wonder why the delay and they sense political shenanigans. Especially since a letter is on record from the Governor setting the date of June the 19th as the date we vote on this bill. Since then, evidently, political pressure has reared its ugly head, as evidenced by the Governor's inaction. It is frustrating to many people. They feel that they are being discriminated against, so the matter was brought to court. Yesterday, in the opinion of Justice Reid, he ordered the Governor, with reluctance and after much study, to issue his proclamation forthwith. It appears that the Governor has no intention of abiding by this ruling.

We could carry this further in the courts, at a great expense in time to all concerned, but we hesitate to go this route. Our resolution in the last paragraph asks only that we be statesmen and diplomatic and prove that government also can abide by the rules of fair play and we request only that the Governor comply with the Court's order and issue the proclamation forthwith.

The SPEAKER: The Chair recognizes the gentleman from Eagle Lake, Mr. Martin.

Mr. MARTIN: Mr. Speaker, La-

dies and Gentlemen of the House: The gentleman from Bath would have you believe that this is a non-political move on his part. I am sure that all of us are taken aback by all of this, realizing that the gentleman from Bath would never be political, but certainly this joint resolution before us is not a political move on his part, that it is totally for better government; that it has nothing to do with the fact that a number of people have been involved in this thing that ought to come to light, a number of things have occurred that ought to come to light. I am not going to try to do all of that today because there isn't time to discuss the activities of Robert Monks and the Republican Party.

But there is time, I think, and we ought to take the time to discuss a few issues. I for one have no intentions of having a computer in Washington. I, for one, have no intentions of having any candidate whether he be a Democrat or a Republican buy an election in Maine. I, for one, have no intentions of deciding that a certain individual is going to run for political office in Maine based on how much money he or she has. And I think that the people of Maine as well are fully aware of all of this and that they have no intentions of letting themselves get caught in this box.

Let's proceed on the questions posed by the gentleman from Bath, Mr. Ross. It is important to realize that this perhaps ought to be labeled as a political question. The gentleman from Bath simply didn't go far enough when he talked about how many times he tried to introduce this into the legislature. He only talked about the times when we had a Democratic Governor and a Republican Legislature. But he didn't talk to you about the times from 1912 for at least a period of fifty years, when the Republicans had nothing here but Republicans in either body or sitting in the corner office.

If it was not a political question, certainly at that time the big box could have been removed. It would no longer be on the books, and you and I wouldn't be here this morning even talking about it.

Some of us, I think, rightly so, ought to wonder about this new enlightenment within the Republican Party. I am happy to see it; I am just sorry that it has to come in the form that it does, through the activities of a computer in Portland. I am just sorry that the money that went behind the ballot reform committee came from one individual for the most part. I am just sorry that the petitions were acquired the way they were. And for all practical purposes, I suppose we might even say that many of those names ought never to have been on there, even though you and I will never know that. Because as you recall, during the regular session, no one had an option to even look at the petitions.

I am sure that the gentleman from Bath can vouch to that because he was Chairman of the Election Laws Committee. I am sure that some of you are aware of the activities of the method that the gentleman to which I have been referring has used to sign the petitions to get them filled, to get them submitted. I am also sure that you are aware of the way that he has acquired new registrants and new voters in this state. Someone ought to talk, and I am sure that there are legislators here who know of one specific instance when the name appeared on the new card, and it just so happened that the mother of the new voter just happened to be at the polling place and realized that the signature on the card was not that of her son. And yet, the card was verified to having been the valid signature by the secretary to Robert A. Monks.

Let's take a look at what the gentleman from Bath, Mr. Ross refers to as delays. It is not me, it is not the Governor who decided that we are going to Court over this; but it is the Election Reform Committee, the Chairman of whom as you know, is John Kelly, the Republican Chairman of Androscoggin County. Be aware of the intentions behind all of this. The gentleman from Bath did not tell you that Judge Reid issued an order yesterday afternoon which, in effect, said the following, and

I didn't have it reproduced because I didn't see the sense of it because most of us here are not lawyers and lawyers can do this better than I can, but let me just read it. It says, "The decision of the Court dated January 30, 1972 and filed this date be not considered an order, the Defendant saying that genuine issues of law exist and have not been argued to date, and Defendant further moves that he be allowed five days within which to file his arguments and or brief on said issue of law and the Court thereafter issue its decision and any appropriate orders requested by attorney for the Defendant," and on January 31, signed by Justice Reid, it says, "Motion granted. These motions present issues of law and counsel may have five days to submit written briefs."

It just seems to me at this point, that the courts are going to decide it in due course and that this resolution is nothing more than a political attempt to blast the Governor for two more days. We ought to realize that it is that, it is nothing more, it is nothing to do with better government, it is nothing to improve the betterment, I think, of State Government in this state. It is merely nothing but a political attempt and it ought to be labeled as such and I am surprised that the gentleman from Bath even introduced it.

The SPEAKER: The Chair recognizes the gentleman from Pittsfield, Mr. Susi.

Mr. SUSI: Ladies and Gentlemen of the House: I hold this current situation on the removal of big box to be a major breakdown in Maine Government. The applicants have conscientiously sought and acquired the necessary signatures to bring this issue to vote. This is their right, it must not be denied them.

For several months, it has been the Governor's clear and definite responsibility to bring this issue to the vote of the people. He has blatantly and flagrantly denied the people this right. I believe that we are entering a new era of an enlightened and concerned citizenry that is ready to assume full partnership in the government of these United States. I have also believed that Governor Curtis

subscribed to this idea. Under this concept, one must respect in order to be respected. Governor Curtis, I believe you have failed in this instance. Surely, the Governor feels as we do, that this a government of laws and not men.

When one of us in government sets himself above and out of the reach of the laws which are all that separate us in the final account from the animals of the jungle, then it is he and not the rest of society which must yield. I would have thought that the Governor had more respect for his party and its prospects than to believe that there was any occasion for any such poolroom politics as we witnessed today. Governor Curtis, we urge you to restore to the people of Maine their rights to vote on an issue of their own choosing and we invite you to resume your place amongst the honored government servants of Maine.

The SPEAKER: The Chair recognizes the gentleman from Brunswick, Mr. McTeague.

Mr. McTEAGUE: Mr. Speaker and Members of the House: We recall back during the regular session the emotion, sometimes the desire to communicate with the press as well as each other, which characterized this issue, this so-called ballot reform, so-called big box. Perhaps if anyone is concerned, I should start out by saying that I for one am not opposed to abolishing the big box and I realize that there are many in both parties that feel that way as there are many in both parties that are opposed.

I am somewhat reluctant to see the State of Maine go along with the Massachusetts type office ballot, because I do not think that the day has arrived when the Commonwealth of Massachusetts has much to teach us about decent or honest government. Unfortunately, considering the action of Mr. Monks and his committee in their petition and the action of the majority party in this Legislature in the regular session, our people will not have the right to choose between three alternatives; namely, the continuation of the present system, abolishing the big

box, and going to the Massachusetts office type ballot.

We were not allowed to really act as a legislative body on this last summer or last spring because perhaps the decision was made elsewhere. But in any case, and to try to get down to the contentions of Mr. Ross's resolution before us today, let us keep a few things in mind.

Number one, the case is in Court before Justice Reid in the Kennebec County Superior Court. Number two, he has shown that he is very willing and able to act with dispatch and great dispatch in disposing of the legal issues before him. And I might say that the Governor and the attorneys representing the Governor have evidenced a great willingness to cooperate so that we do have a decision on this matter in a short period of time. One example is the opposing side, Mr. Kelly and so on, filed certain interrogatories which the Governor had thirty days to answer. If he had been of a mind to try to delay things, to try to stall things, he could have consumed that entire period of time.

Mr. Kelly had filed a motion to reduce that normal thirty day period of time to five days. Before the court could even rule on Mr. Kelly's motion, the Governor had submitted his answers to his interrogatories, thereby proving not only by his words but by his action, and his quick action, his good faith in seeking a quick judicial determination of this issue. Because it is a judicial issue, it is a government of laws, and under a government of laws, as suggested by the House Majority Leader, a resolution of legal controversies is in the courts. We are not a court; the courts are not a political body. We are a political body. And hence, under a government of laws you leave judicial questions to judicial determinations, and you leave political statements on both sides of the aisle to partisan politicians acting in a legislative body.

We have confidence in the integrity of our courts, we have confidence in the particular Justice acting on this case, and we have

great confidence based on experience with Justice Reid in this case that he will act with dispatch. And we know, and so does the other party know, that this resolution can have no legal effect whatsoever. And we also know that both parties caucused before this debate today, and I think we also know the result of the vote.

So what is the meaning of the whole thing? The meaning of the whole thing is to attempt to communicate an idea and it is an attempt, in my opinion, to communicate an idea which is not accurate. Namely the idea being that the courts of the State of Maine, and in particular the Superior Court for this county will not act fairly, lawfully and quickly in determining the issue before it.

You recall that Representative Martin in partial response to Representative Ross's resolution called to mind the fact that there is a factual error in the resolution. I think this is understandable, and I understand Justice Reid only issued this final order yesterday afternoon. But the fact is that we do not deal with the case that has been decided by the Court. The Court has very properly allowed the short period of five days to submit legal arguments because the Court wants each side to have an opportunity in a short period of time of five days to state their point of view. Is that the American way? Is that the judicial way or is five days too long? And do we have confidence that after those five days that Justice Reid will render a decision rapidly and in time, if you will? I do and I think all of us do if we think about it or if we know Judge Reid.

We could go into the arguments in favor of having an election on this question, this important question regarding the reform of our ballot, whether it should be in November when we have roughly three or four times the number of citizens who vote than do vote in June or whether it should be in June because that is quicker and because one party, namely the Majority Party in this legislature, fears the effect of Ed Muskie. But that isn't really before us today. What is before us today is, what

are we doing? We are not a court; we are a legislative body. Are we seeking under a government of laws to resolve this question or are we engaging in public relations?

I think that no one will challenge the fairness, the impartiality and the integrity of our courts. We know that each side gets a fair chance to present their arguments to examine the evidence. Too bad that wasn't the case in the regular session of this legislature regarding allegations of impropriety on some of the signatures contained in the petitions presented to us. That wasn't allowed: those were secret and guarded. Evidence was attempted to be presented regarding irregularities contained in these and evidence was rejected. This would not happen in a court of law because a court of law is non-partisan. It happened in a body of this legislature because we do engage in partisan politics and attempts at partisan advantage.

I would like to conclude, Mr. Speaker, by saying that in the Portland Press Herald this morning there was a quote, and I don't think it gave the source, but it apparently was a member of the Republican Party. He talked about how crucial this issue was to the Republican Party, and at least I for one implied from that, because I felt so strongly about it because it was so crucial, perhaps they might take leave of their ordinary good sense in the way of dealing with these things when the ordinary good sense would indicate to leave it to the court.

I think, and I want to quote from my good friend the gentleman from Lewiston, Mr. Jalbert, to the members of our now Majority Party. The answer, gentlemen, is not changing the form of ballot and the answer is not all the shenanigans that one can figure. The real answer, as we all know to winning elections are two things: Number one is stand on issues that are in favor with the desires and the needs of the majority of the people; and secondly, good candidates.

All of the mechanizations and all of the attempts at public relations on a case that is pending before

our courts are not the answer, I think both sides know it and I think the only reason we are involved in this thing is because a gentleman by the name of Monks, Robert A. G. Monks came in and spent a lot of money and got something on the ballot and he is using it as a vehicle to attempt to attain his own ends. He is using it as a vehicle for publicity.

Now unfortunately, the more we mention his name the more we give him what he appears to want. But you know, he really hasn't left us with any choice because the crucial one before us today is not one of us, not one of the 151 here or the 32 in the other house, it is Robert A. G. Monks. I don't think he should decide it; I know we can't decide it. I do think the courts should.

Ask yourself really, and perhaps the vote will go down party lines, but ask yourself this fundamental question. Can we decide anything with this resolution, number one, and number two, can the courts decide anything? And of course the courts can. And then ask yourself this third question. If the court decision is that the election is to be held at the primary in June, will the Governor abide by it? And the answer is, the Governor has and always will abide by lawful orders of the courts.

The SPEAKER: The pending question is the adoption of this Joint Resolution. All in favor of the adoption of this Resolution will vote yes; those opposed will vote no.

A vote of the House was taken.

77 voted in the affirmative and 71 voted in the negative.

Whereupon, Mr. Martin of Eagle Lake requested a roll call vote.

The SPEAKER: 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 members desiring a roll call vote will vote yes; those opposed will vote no.

A vote of the House was taken, and move 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 Eagle Lake, Mr. Martin.

Mr. MARTIN: Mr. Speaker and Ladies and Gentlemen of the House: One last point, obviously fully aware that it is not going to change one vote, but simply respond - and perhaps I should have indicated it the first trip around, that the Governor in a statement, sworn affidavit to the court, filed yesterday afternoon before closing date, something which you have not seen, has indicated that he will issue a proclamation for an election to be held on November 7, 1972, and that proclamation will be issued on the 8th day of May, 1972. That, ladies and gentlemen, has been filed and is a signed affidavit, and you will find a copy of it in the Kennebec County Clerk of Courts.

The SPEAKER: The pending question is the adoption of this Joint Resolution. If you are in favor of adoption you will vote yes; if you are opposed you will vote no.

ROLL CALL

YEA—Ault, Bailey, Baker, Barnes, Bartlett, Berry, G. W.; Berube, Birt, Bither, Bragdon, Brawn, Bunker, Churchill, Clark, Collins, Cummings Curtis, A. P.; Curtis, T. S., Jr.; Donaghy, Doyle, Dyar, Emery, D. F.; Evans, Finemore, Gagnon, Gill, Good, Hall, Hardy, Haskell, Hawkens, Hayes, Henley, Herrick, Hewes, Hodgdon, Immonen, Kelley, K. F.; Kelley R. P.; Lee, Lewin, Lewis, Lincoln, Littlefield, Lund, MacLeod, Mad-dox, Marstaller, M c C o r m i c k, McNally, Millett, Morrell, Mosher, Murchison, Norris, Parks, Payson, Porter, Pratt, Rand, Rollins, Ross, Scott, Shaw, Shute, Silverman, Simpson, L. E.; Simpson, T. R.; Stillings, Susi, Trask, White, Wight, Williams, Wood, M. E.; Woodbury, The Speaker.

NAY—Albert, Bedard, Bernier, Binnette, Boudreau, Bourgoin, Bus-tin, Call, Carey, Carrier, Carter, Clemente, Cote, Cottrell, Curran, Cyr, Dam, Dow, Dudley, Emery, E. M.; Farrington, F a u c h e r, Fecteau, Fraser, Gauthier, Genest, Goodwin, Hancock, Jalbert, Kelle-her, Keyte, Kilroy, Lawry, Lebel, Lessard, Lizotte, Lucas, Lynch,

Mahany, Manchester, Marsh, Martin, McCloskey, McKinnon, McTeague, Mills, Murray, O'Brien, Orestis, Pontbriand, Rocheleau, Santoro, Sheltra, Slane, Smith, D. M.; Smith, E. H.; Tanguay, Theriault, Vincent, Webber, Wheeler, Whitson, Whitzell.

ABSENT—Berry, P. P.; Brown, Conley, Cooney, Crosby, Drigotas, Jutras, Kelley, P. S.; Page, Tyndale, Wood, M. W.

Yes, 77; No, 63; Absent, 11.

The SPEAKER: Seventy-seven having voted in the affirmative and sixty-three in the negative, with eleven being absent, the Joint Resolution is adopted. (H. P. 1563)

Sent up for concurrence.

On motion of Mr. Farrington of Old Orchard Beach, it was

ORDERED, that Barry Hobbins of Saco be appointed to serve as Honorary Page for today.

Mrs. Payson of Falmouth presented the following Joint Order and moved its passage:

ORDERED, the Senate concurring, that there shall be a study and analysis of the offices, departments, boards, commissions and other agencies of the State and of the functions of State Government to ascertain the means by which and the manner in which the services of the State of Maine may be afforded to its citizens in the most efficient, expeditious and economical manner; and be it further

ORDERED, that such study and analysis shall be undertaken by a nonprofit corporation to be known as the Commission on State Management and Costs. Such commission and chairman shall be appointed by the Governor. The commission may employ such agents, assistants, employees and consultants, and may utilize the services of such private citizens, including persons from Maine's business and industry, as it deems necessary and appropriate to carry out its functions; and be it further

ORDERED, that the commission is authorized to call upon any office, department, board, commission or other agency of the State, and any officer or employee of the State, to supply such statistical

data, program reports and other information and materials as the commission deems necessary or appropriate to discharge its responsibilities.

Each office, department, board, commission or other agency of the State, and each officer and employee of the State, is authorized and directed, to the extent not inconsistent with law, to cooperate with the commission and to furnish it such information and assistance as it may find necessary or appropriate in the discharge of its responsibilities; and be it further

ORDERED, that the commission shall render to the Governor and the Legislature such interim reports as it may deem appropriate and, upon the completion of its work, the commission shall render a full report to the Governor and the 106th Legislature of its findings and recommendations as it deems appropriate.

The Order was received out of order by unanimous consent and read.

On motion of Mr. Susi of Pittsfield, tabled pending passage and tomorrow assigned.

On motion of Mr. Bedard of Saco, it was

ORDERED, that Cindy Harmon and Debbie Beddle of Saco be appointed to serve as Honorary Pages for today.

The following paper was taken up out of order by unanimous consent:

Majority Report of the Committee on Public Utilities reporting "Ought to pass" on Bill "An Act relating to Costs of Inspections by the Passenger Tramway Safety Board (H. P. 1500) (L. D. 1942)

Report was signed by the following members:

Messrs. MOORE of Cumberland
VIOLETTE of Aroostook
MARCOTTE of York
-of the Senate.

Messrs. SHUTE
of Stockton Springs
BARTLETT
of South Berwick
MARSH of Hampden
RAND of Yarmouth
-of the House.