

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**

SENATE

Wednesday, February 2, 1972

Senate called to order by the President.

Prayer by the Rev. Fr. Leonard E. LeClair of Augusta.

Reading of the Journal of yesterday.

**Papers From the House
Joint Resolution**

February 1, 1972

WHEREAS, during the regular session of the 105th Legislature, two bills were determined by the Legislature to have been validly initiated by the electors of the State of Maine pursuant to Article IV, Part Third, Section 18 of the Constitution of the State of Maine, namely, a Bill, I.B. 1, entitled "AN ACT Repealing the 'Maine Income Tax Law' ", and a Bill, I.B. 2, entitled "AN ACT Relating to the Form of Ballots in General Elections"; and

WHEREAS, the 105th Legislature did not enact either one of said bills without change, nor adopt any competing measures and transmitted both measures to the Governor with a recommendation that both measures be referended pursuant to the Constitution without a competing measure; and

WHEREAS, both measures were transmitted to the Governor pursuant to the Constitution; and

WHEREAS, the electors initiating both bills specifically requested that if the Legislature should not enact the proposed measures without change that the measures be referred to the people at a special election ordered by proclamation of the Governor to be held not less than four nor more than six months after such proclamation; and

WHEREAS, the 105th Legislature adjourned without day on June 24, 1971, and the Governor issued a proclamation on July 1, 1971, setting November 2, 1971, as a referendum date upon the initiated bill, I.B. 1, entitled "AN ACT Repealing the 'Maine Income Tax Law' ", which referendum was held on November 2, 1971; and

WHEREAS, the Governor of the State of Maine has the clear constitutional duty to issue the

proclamation pursuant to Article IV, Part Third, Section 18 of the Constitution within a reasonably short period of time after the Legislature adjourned without day, which now was over 221 days ago; and

WHEREAS, the Governor of the State of Maine has promised the petitioners in writing that he would issue a proclamation so that the bill entitled "AN ACT Relating to the Form of Ballots in General Elections" could be referended on June 19, 1972; and

WHEREAS, the Governor of the State of Maine has failed to perform his constitutional duty and his written promise; and

WHEREAS, the Superior Court for Kennebec County in the case of Kelly v. Curtis, Civil Action Docket No. 911 determined on January 31, 1972, that the Governor has failed to do his duty and has ordered him to issue the proclamation required by the Constitution; and

WHEREAS, one of the most fundamental rights of the people in the Constitution of Maine is to initiate and vote upon initiated measures;

NOW, THEREFORE, BE IT RESOLVED: By the Members of the House of Representatives and the Senate of the 105th Legislature in special session that they respectfully request and urge the Honorable Kenneth M. Curtis to perform his ministerial constitutional duty as Governor of Maine and issue forthwith the proclamation pursuant to Article IV, Part Third, Section 18 calling the special election in I.B. 2, "AN ACT Relating to the Form of Ballots in General Elections," to comply with the Court's order or judgment. (H. P. 1563)

Comes from the House, Read and Adopted.

Which was Read.

The PRESIDENT: Is it now the pleasure of the Senate that this Resolution be adopted in concurrence?

The Chair recognizes the Senator from Aroostook, Senator Harding.

Mr. HARDING of Aroostook: Mr. President and Members of the Senate: I move that this order be

indefinitely postponed and I would like to speak briefly to my motion.

The PRESIDENT: The Senator from Aroostook, Senator Harding, moves that this Joint Resolution be indefinitely postponed. The Senator has the floor.

Mr. HARDING: Mr. President and Members of the Senate: In regard to the order presented to the Senate today, and passed by the House yesterday, I wish to speak briefly.

I want to agree that the question of the method in which the ballot is presented to Maine voters is a most important one. There are those who argue that to change our ballot style will be a most important reform in Maine Government, that it will usher in an age when all Maine legislators will be men of superior wisdom and quality simply because they have been elected by a ballot style in fashion with Massachusetts' rather than the one which has existed in Maine for decades, and that if we will but enact this reform that we will bring to Maine the high standards and quality that now exist in Massachusetts' politics.

Now, I have no final insight into whether or not these claims are true, but I might add in passing that it is my belief that Maine has not been badly served by legislators, including all of the present company, who were elected by this method. I must say that I have had a change of mind since 1965 on this matter; I find that the only people who really want this changed are those who have political ambitions. The average voter likes it very much as it is, because he has a choice: he can either vote the straight ticket or he can split his ticket. And we do know that Maine voters in overwhelming numbers make the choice of splitting their ticket.

Now, the paramount issue in this controversy, however, is whether or not our ballot will be used for the convenience of the voting public or the convenience of the Republican Party. As some of you may remember, the initial change in which the presidential ballot was combined with the state ballot was prepared and consummated by a

Republican Legislature in time for the presidential election of 1960, when it was anticipated that a Republican sweep was in the offing. Such proved to be the case when Richard Nixon overwhelmingly defeated John F. Kennedy in Maine and brought with him three Republican congressmen, one Republican United States Senator, and Republicans controlled two-thirds in number of both branches of the legislature.

Again in 1962 there was a Republican sweep. They did very well. And it was mentioned what a fine system this was, it worked so well, that you did have a choice: you could either split your ticket, if you wished, or you could vote the straight Republican ticket. And why change a thing which had worked so well for Maine people, and especially the Republican Party.

Now, our present form of ballot became a problem only when the shoe was on the other foot in 1964, with Lyndon Johnson's sweep over Barry Goldwater, and that good old straight ticket no longer would work as well. From then on, Republicans looked with continuing alarm at the present system of voting and began to feel more and more that it adversely affected their interests.

Now, under the State Chairman, that distinguished gentleman, Cyril Joly, who has done so much for the Democratic — I mean the Republican Party, an attempt was made to initiate a referendum through petition, but the petition drive fell woefully short of its goal. It looked indeed as if the Republican convenience would no longer be a criterion for determining how people in Maine would vote.

Then all of a sudden from another state, from that state where true purity in politics exists, Massachusetts, as a matter of fact, a gentleman of great means, a multi-millionaire, appeared sensing an opportunity to fill a power vacuum in the Maine Republican Party. Rich, good-looking, young Robert Monks wanted to show the Grand Old Party in Maine what his money and brilliance could do for them. So he went out to obtain signatures on a petition to change the

ballot. It has been reported, and not denied, that he paid something like \$15 a day to those who would circulate petitions, and when confronted with this on TV he made this statement: he said, "If you use people, you have to expect to pay them." And I suppose that is fair enough, isn't it? He himself admitted spending close to \$5,000 on this drive and, of course, as you know, this was a grass roots inspired thing of people who wanted to have reform in state government.

Incidentally, Mr. Monks has set up an equally lavish registration drive in this state in which he pays his solicitors, it is reported, \$80 a week, plus 25 cents for every registration, 50 cents for every party enrollment and, best of all, \$1 for every Democrat changed to Republican. Now as Mr. Monks through this lavish financing was telling the Republican hierarchy, "See how many petition signatures and registrations I can get for you with my millions," well, think about how many votes this can be transferred to in the next election. Thus, Citizens for Ballot Reform joined a growing list of political front groups financed by Robert A. G. Monks's money, and the wheels of the computerized, up-to-date city operation imported from Massachusetts began to turn. Of course, one thing the hired guns in the Monks campaign didn't bother to tell the people who were signing this petition was that they were not just expressing a wish to get rid of the big box, they would also be introducing the Massachusetts type office ballot with all of its complications and possibilities for error, but as Robert Monks said, "It will bring the purity to us that exists in Massachusetts politics."

Now, the entire question of ballot reform in the Republicans' eyes comes down to the question of timing: It will be ballot reform in June, when only a limited number of the electorate will vote, but it will not be ballot reform in November, when the largest possible number of Maine citizens would express their opinions.

Indeed, the attorney for Citizens for Ballot Reform, who happens,

incidentally, to be a former Chairman of the Republican State Committee, admits with refreshing candor "Time is running out for us." Now, why should time run out for ballot reform if the reform is truly and generally desired? Why shouldn't we insure when we propose to take away a right of the people, namely, their right to vote a straight party ticket or split their ticket, which the Republicans so defended in the early 60's, that the greatest number of voters possible be entitled to make the decision? Now, time is running out, not on ballot reform, but on the Republican Party's manipulation of the use of ballots in Maine. Yet to my Republican friends I say do not despair. Right now, although you seem to have complete assurance and confidence that Edmund S. Muskie will be the Democratic nominee for President, and of course I pray that you are right, nothing in life or politics can ever be taken for granted. We may suddenly see our situation reversed, and a ticket headed by Margaret Chase Smith and Richard Nixon that could exert a drawing power of considerable magnitude, or perhaps the new Lochinvar of the Bay State, Mr. Robert Monks, will have effectively paved his way with gold to the head of the Republican ticket, on which his wealth would exert a strong influence. Now, all that he did for you in obtaining the signatures for a petition drive he might well do for you at the head of the ticket on which Maine citizens might have the option of voting a straight ticket. So all is not lost, and the fortunes of war are ever apt to change.

And I want to assure the members of the Senate on the other side of the aisle that we will be as compassionate with you as you have been with us if we should gain control, and so who could expect any more than that. So, let's not look to our immediate advantage, but settle this question on its own merits, with the greatest number of Maine voters having a chance to express themselves. Thank you.

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

Mr. TANOUS of Penobscot: Mr. President and Members of the Senate: I hasten to stand on my feet to answer my good friend, Senator Harding from Aroostook, on his charges in this matter. Believe me, I had not intended to speak this morning.

But I have been rather close to this particular question myself, and I fully agree with much of what Senator Harding has stated this morning. However, there is one underlying factor that he seems to forget, and that is the rights of the people of the State of Maine. These are the rights that are being abrogated when this particular referendum is not sent to the people in due and reasonable time.

We debated this matter at the regular session, as you will recall, and the prime concern and interest of a referendum of this nature is their rights under the Constitution of the State of Maine, that they be given an opportunity to see whether they want to do away with the old system of voting or whether they do, in fact, want ballot reform. It is not for the Republicans or the Democrats of this state to determine whether this right be given to them; it is theirs, and it is theirs under the Constitution of the State of Maine. We have no choice but to give them the opportunity to vote on this very important issue as soon as possible. To delay it is justice denied, and I ask you to vote in favor of this resolution and I ask that the resolution be read in full. Thank you.

The PRESIDENT: The Secretary will read the resolution.

Thereupon, the Secretary read the resolution in toto.

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

Mr. Conley of Cumberland moved that the Joint Resolution be tabled and specially assigned for February 20, 1972 at 2 o'clock in the afternoon.

Mr. Hoffses of Knox then requested a roll call on the tabling motion.

The PRESIDENT: A roll call has been requested. Under the Constitution, in order for the Chair to order a roll call, it requires

the affirmative vote of at least one-fifth of those Senators present and voting. Will all those Senators in favor of ordering a roll call please rise and remain standing until counted.

Obviously more than one-fifth having arisen, a roll call is ordered.

The Chair recognizes the Senator from Penobscot, Senator Tanous.

Mr. TANOUS of Penobscot: Mr. President, I would pose a question to the Chair. On the motion of my good friend from Cumberland, Senator Conley, he has moved that this matter be tabled to a Sunday, and under the Constitution I don't believe that the Legislature can meet on a Sunday. I wonder if this might have an effect on the motion itself.

The PRESIDENT: Would the Senator from Cumberland, Senator Conley, care to change the date in his motion?

The Chair recognizes the Senator from Cumberland, Senator Conley.

Mr. CONLEY of Cumberland: Mr. President, I will make that the 21st at 2:00 P.M.

The PRESIDENT: The Senator from Cumberland, Senator Conley, moves that this matter be tabled and specially assigned for 2:00 P.M. on February 21st. A roll call has been ordered. A Yes vote will be in favor of the tabling motion; a No vote will be opposed.

The Secretary will call the roll.

ROLL CALL

YEAS: Senators Bernard, Conley, Danton, Fortier, Graham, Harding, Kellam, Levine, Marcotte, Martin, Minkowsky, and Violette.

NAYS: Senators Anderson, Berry, Carswell, Chick, Dunn, Greeley, Hichens, Hoffses, Johnson, Katz, Moore, Peabody, Quinn, Schulten, Sewall, Shute, Tanous, Wyman, and President MacLeod.

ABSENT: Senator Clifford.

A roll call was had. Twelve Senators having voted in the affirmative, and nineteen Senators having voted in the negative, with one Senator absent, the motion to table did not prevail.

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

Mr. KATZ: Mr. President and Members of the Senate: Maybe the press is right, maybe this is just a flap between a bunch of politicians. The callous motion that the Senator from Cumberland, Senator Conley, just made indicates that we are all taking this in the spirit of good fun and routine enjoyment.

I expressed myself yesterday and I sincerely believed the press was wrong. And I believe the Senate is approaching this like a Roman circus. Since I spoke yesterday I spoke to several people who circulated the petitions in Augusta, people I know and trust, and asked them about their experience in circulating the petitions. What did they say to the people and what did the people say to them? There was no mention of being paid, no mention of buying votes. They assured me that the people who signed knew what they were signing; the people asked for a right to speak.

The Senator from Aroostook, Senator Harding, spoke for nine minutes this morning. Eight and a half minutes were a smoke screen and thirty seconds were to the point. The question is not whether the big box is a good thing, the question is not whether the Republicans or Democrats will benefit from the change, the question is not whether Bob Monks has spent some of his money to get the referendum brought to the people, or indeed whether he is going to be a candidate, or whether Muskie is going to be the Democratic nominee. The question is the right of the people.

You know, I find myself so defensive with some of my constituents whose opinion of politics is of the lowest possible order. And I remember Senator Martin in his first exposure to the political infighting that takes place in the Senate that he vowed not to return. Perhaps he was more right than wrong, because what has been going on in Augusta these past couple of days has reduced my confidence as a defender of the system.

I noticed while previous speakers were talking the grins and laughter of the partisans on both sides of the aisle surrounding me indicates that they feel this is a charade,

and maybe it is. I think that perhaps there is little that this vote will accomplish, but it will express my conscience, not my partisan conscience, but my conscience.

Senator Conley's motion, the remarks of Senator Harding, and perhaps some of the partisan remarks you will hear from both sides of the aisle indicates that maybe, superficially the press is right, but deep down inside I have got the damndest respect for the right of the people to their day in court promptly, not when a partisan Governor decides to get around to permitting them to vote. His arguments have been so spurious as to be callous: let's wait until November when we can get a bigger turnout. Yet we called for a special election on the single most important issue facing the state in my time in a special election for repeal of the income tax, and history indicates that a special election gets the poorest voter turnout. So let's have our partisan fun here today, but let's remember that perhaps the press is wrong, and deep, deep down inside we know that there are more important issues involved and, to some extent, the Senate is tarnishing its image with the people by thumbing its nose at the 40,000 people, many of them my constituents, who said that they want their day in court promptly.

The PRESIDENT: Is the Senate ready for the question?

The Chair recognizes the Senator from Knox, Senator Hoffses.

Mr. Hoffses of Knox then requested a roll call.

The PRESIDENT: A roll call has been requested under the Constitution, in order for the Chair to order a roll call, it requires the affirmative vote of at least one-fifth of those Senators present and voting. Will all those Senators in favor of ordering a roll call please rise and remain standing until counted.

Obviously more than one-fifth having arisen, a roll call is ordered. The pending question before the Senate is the indefinite postponement of House Paper 1563. A Yes vote will be in favor of indefinite postponement; a No vote will be opposed.

The Secretary will call the roll.

ROLL CALL

YEAS: Senators Bernard, Carswell, Conley, Danton, Fortier, Graham, Harding, Kellam, Levine, Marcotte, Martin, Minkowsky, and Violette.

NAYS: Senators Anderson, Berry, Chick, Dunn, Greeley, Hichens, Hoffses, Johnson, Katz, Moore, Peabody, Quinn, Schulten, Sewall, Shute, Tanous, Wyman and President MacLeod.

ABSENT: Senator Clifford.

A roll call was had. Thirteen Senators having voted in the affirmative, and eighteen Senators having voted in the negative, with one Senator absent, the motion to Indefinitely Postpone did not prevail.

Thereupon, the Joint Resolution was Adopted in concurrence.

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

Mr. TANOUS of Penobscot: Mr. President, I now move that we reconsider our action whereby we adopted this resolution, and I urge all of you to vote against me.

The PRESIDENT: The Senator from Penobscot, Senator Tanous, moves that the Senate reconsider its action whereby it adopted this joint resolution in concurrence. Is this the pleasure of the Senate? As many Senators as are in favor of reconsideration will please say "Yes"; those opposed "No".

A viva voce vote being taken, the motion to reconsider did not prevail.

The PRESIDENT: The Chair recognizes the Senator from Knox, Senator Hoffses.

Mr. HOFFSES of Knox: Mr. President, I move that the Secretary of the Senate be directed to deliver a certified copy of the Joint Resolution, House Paper 1563, to the Governor and to communicate his action to the Clerk of the House.

The PRESIDENT: The Senator from Knox, Senator Hoffses, moves that a certified copy of this Joint Resolution, House Paper 1563, be delivered by the Secretary to the Governor of the State and that the Secretary's action thereon be communicated to the Clerk of the

House. Is this the pleasure of the Senate?

The motion prevailed.

Communications

University of Maine
at Portland-Gorham
College Avenue
Gorham, Maine 04330
Department of Education
January 27, 1972

Mrs. Bertha W. Johnson
Clerk of the House
105th Legislature,
Special Session
State House
Augusta, Maine 04330

Dear Mrs. Johnson:

Submitted under separate cover is my analysis of the returns from the statewide survey of seniors as ordered by the 105th Legislature in House Order number 1349.

The problems encountered in the analysis are described in detail in the report itself as well as verbally to the sponsor of the Order, Mr. Cottrell of Portland.

Respectfully yours,
s/Dr. Merrill E. Cobb,
Chairman Department of
Secondary Education
University of Maine
At Portland-Gorham
(H. P. 1562)

Comes from the House, Read and Ordered Placed on File.

Which was Read and with accompanying papers Ordered Placed on File.

**Committee Reports
House
Ought to Pass**

The Committee on Public Utilities on, Bill, "An Act Increasing Borrowing Capacity of York Sewer District." (H. P. 1499) (L. D. 1941)

Reported that the same Ought to Pass.

Comes from the House, the report Read and Accepted and the Bill Passed to be Engrossed.

Which report was Read and Accepted in concurrence, the Bill Read Once and Tomorrow Assigned for Second Reading.

The Committee on Natural Resources on, Bill, "An Act to Amend the Laws Pertaining to the