

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

*One Hundred and Sixth
Legislature*

OF THE

STATE OF MAINE

Volume III

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Index

KENNEBEC JOURNAL
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House of Representatives and the members appointed respectively by them be paid from the Legislative Account; and be it further

ORDERED, that the Secretary of the Senate and the Clerk of the House of Representatives are authorized during the current biennium to attend the National Legislative Conference and meetings of any committee thereof on which they may serve; and be it further

ORDERED, that the Secretary of the Senate and the Clerk of the House of Representatives be reimbursed for their necessary expenses. (H. P. 1640)

On motion of Mr. Birt of East Millinocket, tabled pending passage and tomorrow assigned.

Committee Report from Judiciary (I. B. 1)

The Committee on Judiciary on Bill, "An Act Creating the Power Authority of Maine" (I. B. 1), considered the petitions and asks leave to report that 275 petitions were filed with the Secretary of State on February 17, 1973 at 11:08 P.M., containing 44,885 signatures; that 249 petitions are in the form required by Article IV, Part Third, Section 18 and Section 20 of the Constitution and that said petitions contain the valid signatures of 34,837 electors.

The Committee further reports that it has conducted an investigation and held hearings relative to the validity and sufficiency of said petitions and, although evidence and information was thereby presented which cast some doubt as to the authenticity of certain signatures and as to the validity of the procedures used in the preparation, circulation and verification of certain petitions, the Committee found that such evidence and information was insufficient to support the invalidation of any specific signatures or petitions, except those 26 petitions which were initially eliminated as not being in the form required by the Constitution. The Committee did find, however, from the evidence and information which it received that the present procedures and requirements provided in the

Constitution and the Statutes relative to the initiation of legislation by the electors are vague, cumbersome, inadequate and impossible to adequately and properly enforce.

The Committee, therefore, further reports that the petitions contain a sufficient number of signatures which are valid and that said Bill is properly initiated before the Legislature under the provisions of Article IV, Part Third, Section 18 of the Constitution, and the Committee recommends that the Legislature take whatever action it deems appropriate to institution of a complete reform of the present procedures and requirements relative to the initiation of legislation by the electors.

Comes from the Senate read and accepted.

In the House, the Order was read.

The SPEAKER: The Chair recognizes the gentleman from South Portland, Mr. Perkins.

Mr. PERKINS: Mr. Speaker and Members of the House: If you have had an opportunity to read the report of the Judiciary Committee in respect to an act creating the power authority of Maine, this is in regard to validation of the petitions that we had before us. I think you will notice or at least partially come through this report the frustration that was evident before the Judiciary Committee and with many of the members of the committee in respect to the job it had to do to check these signatures, invalidate or validate the petitions.

I, for one — and I think I do speak for some — found it a most difficult task, perhaps one of the most difficult ones that I experienced while here this session. This was primarily the result of having to do a duty as a member of the committee to check these signatures and to present to you the petitions either with a recommendation that they be validated or invalidated as it appears under the laws of the State of Maine and the constitution. Unfortunately, from the very beginning, it was a political football, as you all know. There wasn't a session of the Judiciary Committee initially that we didn't come

away and before we got out of the hearing room, the press was fully aware of what had taken place; and naturally, what had been taking place was nothing more than the hammering back and forth as to the political implications of our investigation. I, for one, was very disgusted.

As the time progressed, I realized, along with others, that we were going to have to really get busy if we were going to be able to get this done during this session. Unfortunately, because of the heavy workload of the committee, as well as other problems, we were unable to fully investigate these petitions as much as I, for one, would have liked. There was, as the report indicates, an investigation of sorts; and by that, I mean we had the request to the Attorney General's Department to conduct an outside investigation; and as you know from the reports in the paper, the Governor of the State of Maine chose to stop that investigation and impound the records.

We requested the Governor for those records on the assumption that regardless of whether the tactics used by the Attorney General's Department was proper or improper — and that question was never really answered — we felt the material was pertinent to the committee and could be useful to the committee. The Governor respectfully declined. We were informed there would be some legal question as to whether or not, if we subpoenaed the records, whether we had that power in respect to the executive branch. It was never done.

We then had one of the individuals who took the oath on a petition before the committee, and on those particular petitions, there was a serious question in regard to the fact that those petitions were verified or the oath was taken the last day on signatures of individuals from the central part of the state to the southern part of the state. We questioned whether it would be possible. By admission, that individual pointed out to us that some — and he wasn't sure to what extent, how many — he could not be certain the individuals

were actually before him for purpose of verification and taking the oath. He did admit that he did not put them under oath, in any event, and I suspect, as with most petitions of this nature, that it was never done.

We have an opinion that would indicate as well, as other areas of the law, that would indicate that the failure to take an oath by itself would be sufficient to invalidate the document by which the oath was taken, and in this respect, I would say technically speaking, we, of the committee, could have invalidated most of those petitions if we had had the opportunity to go far enough.

However, it would be based strictly on the question of a technicality; by that, the raising of the right hand and swearing. I feel, along with many other members of the committee, that that legal technicality by itself to invalidate these petitions would be a blackeye to us of the committee as well as a failure on our part to respect the wishes of a good many people of the State of Maine, who I am sure in good faith, put their signature on these petitions.

The fact that the circulators, verified petitions, or the individuals who took the oath ultimately did not do as they should have done within the law as it is given should not, in my opinion, necessarily invalidate what in good faith the people of the State of Maine might wish or those who had signed those petitions; and I think that I, for one, would say that thousands of people did request that their names appear there; they put them there, and they wished the people of Maine to vote or at least have an opportunity to vote on this question.

So I could stand along with others, perhaps, and say that we would not present to you these petitions validated — or rather invalidated, and I could probably stand pat within the realms of the law of the State of Maine and the constitution. Again, I feel that would be rather flimsy on my part in respect to the human needs and human wishes as expressed again by the signatures on the petitions.

I do feel that in a sense we perhaps failed you, failed you in the sense that we did not go deeper into the area of the investigation. There are other questions that I personally had that never were answered. However, again, I don't know as it would have produced a great deal more than what you have before you and honestly, I would say to you that I am not particularly concerned that the individuals were not present at the time that the signatures were obtained.

I think that the one thing it did point up as much as anything is the fact the initiative process in the State of Maine, and perhaps in other states, I don't know, but speaking in the State of Maine, it is a terrible one. It is something that was established in law in 1873, expanded upon somewhat, and has developed from there. It is unfortunate, extremely unfortunate that it is so cumbersome that the individuals, our constituents find it so difficult in respect to maintaining or complying with the law that they probably are prevented or would be prevented from speaking to us as legislators and the people through us by virtue of the present initiative process.

Therefore, I would only hope that we as members of the legislature would in the future attempt in some way to ease their problem, to better that situation to the extent that we make the laws such that we as individuals with ordinary intelligence may be able to understand it and to comply with it and respect the law and not have to as in the instance such as this, ultimately say break the law in order to get what we want by virtue again of technicalities.

I therefore would request, knowing as you now do the position of myself at least and the committee in respect for what it has done, I would now request that you would accept the report of the committee.

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

Mr. GAUTHIER: Mr. Speaker, Ladies and Gentlemen of the House: As a member of that committee, Judiciary, I think it is my

duty also to tell you a few things that happened. Number one, when it was brought out in discussion that we should get something that the Governor was holding back on us, I asked a question from the chairman if it was our duty as the Judiciary Committee to investigate all the petitions, isn't that what we had been called for as committee members, to investigate if these signatures were valid or not, and if all the petitions were in our committee at the time that we did look into these petitions? And I was informed by the chairman that the Governor was not holding back any petitions, that all the petitions that we had to check and verify were right there for us to look over.

I would like to agree with Mr. Perkins that probably there were some errors in the petitions, but it was also brought up that on several occasions previous by members of the committee — I wasn't on the committee two years ago — but some of the committee members that were there mentioned that when you had petitions there were two different petitions, I think for the income tax and I don't recall at the present time what the other one was, but that the same errors could have been made at that time, so I don't think that there was any more errors made in the power petitions than there were previously, and the committee agreed that this was so.

I thought as a member of that committee I should report this to you.

Thereupon, the Report was accepted in concurrence.

Second Reader Tabled and Assigned

Bill "An Act to Amend the Benefit Financing Provisions of the Employment Security Law" (S. P. 674) (L. D. 2041).

Was reported by the Committee on Bills in the Second Reading and read the second time.

(On motion of Mr. Simpson of Standish, tabled pending passage to be engrossed and tomorrow assigned.)

Passed to Be Engrossed

Bill "An Act Making Supplemental Appropriations from the