

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

*One Hundred and Sixth
Legislature*

OF THE

STATE OF MAINE

Volume III

June 6, 1973 to July 3, 1973

Index

KENNEBEC JOURNAL
AUGUSTA, MAINE

ORDERED, that the Secretary of the Senate and the Clerk of the House 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 be reimbursed for their necessary expenses. (S. P. 686)

Which was Read and Passed.

Under suspension of the rules, sent down forthwith for concurrence.

Committee Reports House

The Committee on State Government on Bill, "An Act Revising the Reorganization of the Department of Manpower Affairs." (H. P. 1004) (L. D. 1331)

Reported that the same Ought to Pass in New Draft under Same Title (H. P. 1613) (L. D. 2030)

Comes from the House, the Bill in New Draft Passed to be Engrossed.

Which report was Read and Accepted in concurrence and the Bill in New Draft Read Once.

Under suspension of the rules, the Bill was then given its Second Reading.

Thereupon, on motion by Mr. Berry of Cumberland, tabled, pending Passage to be Engrossed.

Senate

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 institute a complete reform of the present procedures and requirements relative to the initiation of legislation by the electors.

Signed:

WAKINE G. TANOUS
Senator

Chairman
Committee on Judiciary

Which report was Read.

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

Mr. TANOUS: Mr. President and Members of the Senate: I suppose the public power petition's time for a moment of truth is here upon us to accept the report of the Committee. I would like briefly to explain how we arrived at this particular report.

The history of the right of petition in the State of Maine was not one that we acquired by virtue of our Constitution when we formed our Constitution back in 1820. It was a later amendment to our Constitution by the people

of Maine when they saw that they had no method, no way at all, of petitioning their government or questioning the acts of their government. So in 1873 the Constitution was amended to grant the people of this state the right to petition their government.

There were rules that were set out in the Constitution and there were statutory laws enacted to provide the proper method of petitioning the government.

Now, two years ago we had two different petitions presented before the legislature, which were forwarded to the Judiciary Committee to determine whether or not the petitions were valid under our Constitution. I recall very vividly at that time the Minority Party, headed by former Senator Harding of Presque Isle, wanted an in-depth study into these two petitions and demanded an in-depth study into the petitions, and they criticized me personally, as Chairman of the Judiciary Committee, and the Republican Party for not conducting an in-depth study into the petitions. Some of you who were here recall the words that were spoken by the Minority Leader at that time and other members of his party for our failure to properly initiate a proper study into those two petitions.

At this session we were again faced with another petition. I felt, as Chairman of the Judiciary Committee, that we had sufficient reason to conduct an in-depth study into this petition. Perhaps the words of Senator Harding of two years ago have finally reached the inner depth of my mind, where I felt that probably a committee which is charged with the validation of such a serious matter should conduct an in-depth study, and we did. And when it was requested that we be granted funds to conduct an in-depth study, the Minority Party again criticized me, as Chairman of the Judiciary Committee, and the Republican Party for wanting to do what we legally were charged to do.

I vividly recall the remarks of Senator Kelley of Aroostook of two months ago when he charged that

the Republican Leadership was mortgaged to the private utility companies. Those aren't always sweet words to hear when you have been assigned a job and all you want to do is do the job that has been assigned to you.

I recall reading of other remarks from the Minority Party that the request for funds was a campaign fund for the Chairman of the Judiciary Committee, and there were many other innuendos and remarks that were made, and it is difficult to read these and hear of them when you are just trying to do the job that has been assigned to you. In any event, I might add as an aside, that we haven't spent one blasted penny of the money that was given to us.

We did conduct an in-depth study into these petitions, and I remind you that the right of petition is a most serious matter, one that isn't to be taken very lightly. We do have provisions of law and we do have a Constitution to be guided by in the manner which petition drives are to be conducted. It is an expensive procedure not only for the parties involved but also the state. It is a constitutional right that has been granted to us, and that right should not be subverted by the legislature, nor should it be subverted by the organizers of a petition drive.

I wish I would have had time to prepare a statement perhaps this morning to properly express my feelings, but I guess I am just going to have to speak from the heart and mind as to how I feel about this subject.

Well, we did conduct a study, and I am sure that many of you felt, or will feel when I get done, that our study wasn't conducted as an in-depth study as you would have wanted, but we did. We examined the petitions. We had some help from the Attorney General's Office, and his methods of investigation were promptly chastized by members of the Minority Party, and the Governor impounded the work that the State Police conducted, the results of the work conducted by the State Police in this matter.

The Press was not at all charitable towards the Majority

Party nor the Attorney General in this investigation, or some of the Press, if I may correct that statement.

But in any event, we did have a witness before the Judiciary Committee last week. He was there for several hours. And I was convinced, upon the completion of his presentation to the Committee and his admissions to the Committee, that the Judiciary Committee could well have invalidated over 4,000 signatures on these petitions. We could have, and a report this morning could well have reported to you that the Judiciary Committee had sufficient cause to invalidate the petitions; I am sure that you would have had a minority report.

There are certain rules and regulations that people who desire to petition their government must follow, and these rules and regulations have been printed on each and every one of these petitions before they are circulated, and there is no question in my mind that there were many, many areas which we could have delved into and found that the procedure was not properly followed.

Ultimately, as I mentioned, we did have sufficient evidence. This evidence was based upon the admissions of an individual that appeared. The evidence was to the effect that he had not placed under oath the circulating petitions, the verifying petitioners, prior to taking the acknowledgement of their signatures. He was doubtful as to whether or not there were 15 or 16 of these individuals who ever appeared before him when he supposedly took their oaths.

I obtained an opinion from the Attorney General's Office, as well as another legal opinion, and the law is clear, we have precedence in Maine, we have constitutional law, we have reported cases — we have consulted Amjur and Corpus Juris 2d — and there is no question whatsoever that in a procedure of this type that an individual who is a verifying petitioner or circulating petitioner must be placed under oath by the jurat who is going to take the acknowledgement of the individual, and this was not done.

Perhaps I will be criticized by some of you because we reported to this legislature to validate these petitions. Perhaps we have turned our backs to the law, that we have not properly fulfilled our function, that we have not applied the law to the facts that have been presented to us, and you may well be right in criticizing me, the Chairman of the Committee, because I take full responsibility for the report that is before you.

A couple months ago Senator Kelley quoted a speech that I made two years ago in this body. He felt that myself, as an individual, and the Republican Party at that time which apparently agreed with the words that I had spoken on this floor two years ago when we voted to send those two other petitions to the people, he criticized me individually and the Party because he felt now we were applying different standards and we were trying to subvert the rights of the people. Well, I say to you now on behalf of myself and on behalf of the Republican Party that we are not trying to subvert the rights of the people. I felt and always will feel that in a matter of this nature we should bend over backwards to see that the rights of the people in petitioning their government be granted to them.

There were sufficient signatures on these petitions; there is no question about that. There were 44,885 signatures that were submitted to the Secretary of State's Office. There were some 34,000 that were validated by the Secretary of State's Office; a little over 2,300 more than required to send the petition to the people.

I feel, now that I am speaking on behalf of myself and the Republican Party, that we have again bent backwards not to deny the people the right of voting on such an important issue. The one overriding factor in this whole process is that because there were some ill-doings or some wrongdoings, or that the law was not complied with by the organizers of this petition drive, and those 44,000 people should not be deprived of the right of voting on this particular issue, because I feel they signed these petitions in good

faith. It was the individuals who took shortcuts trying in the last moments of this drive to get enough signatures in to the Secretary of State's Office; I feel that they are the ones that should take the blame and responsibility for having taken the shortcuts and not complying with the law.

I ask you this morning to join me in accepting the unanimous report of the Judiciary Committee. I hope that what we have done has been done properly, I hope you agree with the process we have undertaken, and I hope that in the future that some people ought to hold back some of their words prior to judgment of certain people or a party prior to the culmination of a particular act. Mr. President and Members of the Senate, I thank you.

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

Mr. BRENNAN: Mr. President and Members of the Senate: I think that we have reached the right result after a long period of time, some four months, in validating these petitions. However, I think it is clear that we have done the just and fair thing in that the people of the State of Maine will have an opportunity, I hope, to vote on those petitions.

I think what we need in this entire initiative process is some rules that will be directed at simplicity and clarity so that the people can do this rather easily. Right now it is bogged down in technicalities, and I just refer to one little section of the report of the committee: "the initiation of legislation by the electors are vague, cumbersome, inadequate and impossible to adequately and properly enforce." These are the problems that exist under our present mechanism.

I think we can do two fine things in this session in regard to this issue: We can pass this, which I hope we will. And secondly, we can make a serious effort to spell out the rules very clearly and concisely as possible so the people of the State of Maine will have the initiative process available to them, and not be subjected to some

technicality type situation when it is presented to the legislature.

I do commend the good Senator from Penobscot, Senator Tanous, for doing what he has done and going along with these petitioners.

The PRESIDENT: The Chair recognizes the Senator from Aroostook, Senator Kelley.

Mr. KELLEY: Mr. President and Members of the Senate: I too would commend the members of the Judiciary Committee for the action that they have just taken. I know that they have been very much fully charged with tremendous responsibilities and they have been difficult to fulfill. I think perhaps just a brief note on the effort that was made to gather these signatures, that there really was a grass roots effort. We had no great amount of funds, many volunteers, and the technicalities in order to get the necessary signatures are very difficult.

I think the wording in this report is very apt, and I hope it won't die here today or in the other body, that is, the recommendation for reform. I think it is very important that we do have legislation proposed in future legislatures to clean up some of the difficulties involved, probably somewhat along the line suggested by Senator Brennan, to streamline and perhaps simplify in clear language just exactly how petitions should be gathered in the future.

I think we are probably all tired, I am especially, without any further protracting of this rhetorical struggle, and otherwise, that has gone on since February 17 when we turned the petitions in. Now we can be assured that the citizens of the state will be able to vote on this valid issue and, as you well know, the citizens can either vote it down or up; we don't know that yet. Certainly both sides of this issue have very valid points to make, and I think the voters have the opportunity to make an intelligent decision on it.

To the members of this body, I want to commend you for your patience in this matter, and I am very hopeful that we will soon see it go out. I think as one closing favorable note, we all recall the time that the order was passed

to appropriate \$5,000. If I am not mistaken, I think now we can have the assurance that the \$5,000 will be returned to the treasury, in that I think Senator Tanous's Committee has conducted its affairs in investigating this properly and hasn't spent any of that money. Again, I want to commend the members of this body and also the members of the Judiciary Committee for their effort in this. I hope there are two valid things that do result from this: One, that it does go to the people. Number two, that we can follow ahead, perhaps in the special session or later, with some statutory proposals to streamline and make more effective petition drives in the future.

The PRESIDENT: Is it now the pleasure of the Senate to accept the report of the Committee on Judiciary?

Thereupon, the Committee Report was Accepted and, under suspension of the rules, sent down forthwith for concurrence.

Ought to Pass in New Draft

Mr. Speers for the Committee on Judiciary on, Bill, "An Act to Correct Errors and Inconsistencies in the Public Laws." (S. P. 554) (L. D. 1883)

Reported that the same Ought to Pass in New Draft under Same Title (S. P. 678) (L. D. 2044)

On motion by Mr. Tanous of Penobscot, tabled until later in today's session, pending Acceptance of the Committee Report.

Orders of the Day

The President laid before the Senate the following tabled and specially assigned matter:

HOUSE REPORTS — from the Committee on Marine Resources — Bill, "An Act to Change the Lobster License to the Boats, Increase License Fees and to Limit the Number of Licenses." (H. P. 1221) (L. D. 1578) Majority Report — Ought Not to Pass; Minority Report — Ought to Pass in New Draft and New Title of: Bill, "An Act to Conserve, Manage and Regulate Lobster Fishery." (H. P. 1614) (L. D. 2031)

Tabled — June 20, 1973 by Senator Huber of Knox.

Pending — Acceptance of Either Report.

On motion by Mr. Berry of Cumberland, retabled, pending Acceptance of Either Committee Report.

On motion by Mr. Sewall of Penobscot,

Recessed until 2:00 o'clock this afternoon.

(After Recess)

Called to order by the President.

Papers from The House

Out of order and under suspension of the rules, the Senate voted to take up the following:

Non-concurrent Matter

Joint Order (S. P. 676) Relative to Bill, "An Act Providing for a State Lottery (H. P. 1507) (L. D. 1938) being recalled from Legislative files to Senate.

In the Senate June 20, 1973, Read and Passed.

Comes from the House, Read and Failed of passage, in non-concurrence.

Mr. Danton of York moved that the Senate Insist.

Mr. Berry of Cumberland then moved that the Senate Recede and Concur.

Mr. Conley of Cumberland subsequently requested a division on the motion to Recede and Concur.

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

Mr. SPEERS: Mr. President and Members of the Senate: I would oppose the motion to recede and concur. I feel that this body has indicated quite clearly and quite strongly by a two-thirds vote what it wishes to be done with this particular matter. I have no illusions as to what might happen in the other branch, but I would hope that the Senate would remain in its desire to have this matter recalled from the legislative files.

The PRESIDENT: As many Senators as are in favor of the motion of the Senator from Cumberland, Senator Berry, that the Senate recede and concur with the House will please rise and remain standing until counted. Those opposed will please rise and remain standing until counted.