

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

Legislative Record

OF THE

Eighty-Seventh Legislature

OF THE

STATE OF MAINE

1935

KENNEBEC JOURNAL COMPANY
AUGUSTA, MAINE

On motion by Mr. Fernald of Waldo, the Senate voted to take from the table, Senate Report from the Committee on Judiciary, Majority Report "Ought Not to Pass", Minority Report "Ought to Pass", on bill, An Act relating to the Appointment of the Attorney General (S. P. 245) (L. D. 207), tabled by that Senator on February 22nd pending acceptance of either report.

Mr. FERNALD of Waldo: Mr. President, yesterday in the Senate we discussed this matter quite thoroughly and since we are more or less in accord that the matter should not be carried any further in this session of the Legislature, I move the acceptance of the Majority Report "Ought Not to Pass".

Thereupon, the Majority Report "Ought Not to Pass" was accepted. Sent down for concurrence.

On motion by Mr. Fernald of Waldo, the Senate voted to take from the table, Senate Report from the Committee on Judiciary, Majority Report "Ought Not to Pass", Minority Report "Ought to Pass", on bill, An Act relating to Clerks of Courts (S. P. 136) (L. D. 52), tabled by that Senator on February 22nd pending acceptance of either report.

Mr. FERNALD of Waldo: Mr. President, I now move the acceptance of the Minority Report "Ought to Pass." And, members of the Senate, this bill that we have for discussion today is Legislative Document Number 52, relative to Clerks of Courts. Under our present set-up Clerks of Courts in Maine are elected by the people for a term of four years. Under this bill before you this morning it is proposed that the Clerks of Courts should be appointed by the Supreme Judicial Court and should serve at the pleasure of the Court. I may say to the Senate that I am going to speak very briefly on this matter and I trust that when I say briefly it will be different than the brief address that Judge Deering gave before the Judiciary Committee yesterday which consumed two hours. I will promise you that my remarks this morning will not take two hours.

I have thought that at this time it would not be out of place to state the practice of some of the other states in regard to the appointment of Clerks of Courts and I find that in twenty-six jurisdic-

tions in the United States the Clerks of Courts are appointed by the Supreme Judicial Court to serve at the pleasure of the Court and those states are Arizona, California, Colorado, Connecticut, Florida, Idaho, Louisiana, Michigan, Missouri, New Hampshire, New Mexico, North Dakota, Ohio, Oregon, Pennsylvania, South Dakota, Utah, Vermont, Virginia, Washington, West Virginia, Wisconsin, Wyoming, United States District Courts, United States Circuit Courts and the United States Supreme Court. That is in twenty-six jurisdictions and that is the procedure that I would have you follow in this state. I find also that there are five more jurisdictions that say they will have the Clerks of Courts appointed by the Supreme Court but they limit the appointment to a term of years; Alabama six years, North Carolina eight years, South Carolina four years, Tennessee three years and Texas two years.

Now, in three states we have appointment by the Governor; Arkansas, Delaware for four years and New Jersey for five years. Then I find that there are thirteen states including the State of Maine that have election by the people; Georgia, Illinois for six years, Indiana for four years, Kentucky, Maine for four years, Maryland and Massachusetts for six years, and Minnesota, Mississippi, Montana and Nevada for four years each. Then there is New York, for three years and Oklahoma, for four years. And I find one state, evidently a state that is seeking to be advertised, that has the election of the Clerks of Courts by the Legislature, and that is Rhode Island, for a period of two years. I also believe that it is our practice here in Maine, upon the death of the Clerk of Courts to have the appointment made by the Supreme Court. So you will see that out of some fifty-one jurisdictions we have some thirty-one jurisdictions making their appointments through the Supreme Judicial Courts.

Now, in a discussion such as this somebody will doubtless get up and say that there has been no demand for this bill. I will point out that at the hearing before the committee the President of the Clerk of Courts Association of Maine appeared in favor of this bill and I have with me letters favoring this bill from the Clerk