

# MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

Ninetieth Legislature

OF THE

STATE OF MAINE



1941

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As many as are in favor of the motion of the gentleman from Portland, Mr. McGlaufflin, that the House accept the minority report "Ought not to pass" will say aye; those opposed no.

A viva voce vote being doubted, A division of the House was had.

Forty-six having voted in the affirmative and 76 in the negative the motion did not prevail.

Thereupon, on motion by Mr. Payson, the majority report "Ought to pass" was accepted, and the bill was given its two several readings.

Committee Amendment "A" was read by the Clerk as follows:

Committee Amendment "A" to S. P. 361, L. D. 668, Bill, "An Act Relating to the Liability of Relatives to Support Recipients of Public Assistance."

Amend Section 1 of said bill by striking out in the 4th and 5th lines thereof the words "or of a person liable to become in need of such Assistance."; and

Further amend said bill by striking out in the 6th and 7th lines of Section 2 thereof the words "or is an applicant for public assistance."

Committee Amendment "A" was adopted in concurrence and the bill assigned for third reading tomorrow morning.

#### Senate Divided Reports

Majority Report of the Committee on Judiciary reporting "Ought to pass" on Resolve proposing an Amendment to the Constitution to Provide for the Appointment of the Secretary of State by the Governor with the Advice and Consent of the Council, for a Term of Four Years (S. P. 354) (L. D. 669)

Report was signed by the following members:

Miss LAUGHLIN of Cumberland  
Messrs. FARRIS of Kennebec  
HARVEY of York  
—of the Senate.  
BRIGGS of Hampden  
GRUA of Livermore Falls  
PAYSON of Portland  
MILLS of Farmington

—of the House.

Minority Report of same Committee reporting "Ought not to pass" on same Bill.

Report was signed by the following members:

Messrs. WILLIAMS of Bethel  
HINCKLEY of So. Portland  
McGLAUFFLIN of Portland  
—of the House.

Came from the Senate the Majority Report accepted and the Bill passed to be engrossed.

In the House:

The SPEAKER: The Chair recognizes the gentleman from Bethel, Mr. Williams.

Mr. WILLIAMS: Mr. Speaker, regardless of what may be said about the Committee on Judiciary, I think one thing can be said,—that there is some independence of thought on that Committee, by the looks of some of the reports that came out this morning.

In regard to this measure that is now before us, I would move the acceptance of the Minority Report "Ought not to pass."

In so doing, I would state my personal reason for signing the "Ought not to pass" report is that I feel that we should not concentrate further power in the Executive. As far as the appointments that have been made by the Governor—and I do not mean the present Governor, but by the various Governors—and the elections which have been made by the Legislature, I think, if you compare the men as elected by the Legislature with the men as appointed by the Governor, that you will find that they will compare favorably.

I do not want to go into the present situation, but I think if you will examine the present office holders, you will find that those elected by the Legislature will compare favorably with those appointed by our various Governors.

It is also interesting to note with regard to the particular office of Secretary of State, what the situation is throughout the entire United States.

Thirty-eight of the states elect the Secretary of State by a vote of the people. In six states, he is appointed by the Governor with the advice and consent of the Senate. In three, he is elected by the Legislature. In one he is appointed by the Governor with the advice and consent of the Legislature.

I think that we have chosen a middle ground between these two methods—between the appointment by the Governor and the election by the people, because of the fact that the members of the Legislature would perhaps be in a better position than the people would be to choose a person to fill this position, which is a position of high trust,

and yet on the other hand still preserve to the people their control over appointments to these very important offices—such as the Secretary of State, the Treasurer of State, and so on.

I personally feel that this is no time to concentrate further power in executives, either in our state or in our Federal government.

Therefore, I hope that the Minority report will be accepted.

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

Mr. McGLAULIN: Mr. Speaker, I would like the privilege of facing the House as I address you.

The SPEAKER: The gentleman may have that privilege.

Mr. McGLAULIN: Mr. Speaker, there have been introduced into the House at least ten measures to change the Constitution of the State of Maine and I am opposed to the whole of them.

I want for a few moments to ask you to let me discuss this matter with you.

I want to say, before debating this question that I am not at all discouraged by the fact that you sometimes vote against me, because occasionally you have the good judgment to vote with me. (Laughter)

What is the Constitution? The Constitution is a declaration of principle upon which a government is run. It is the frame-work of the government. The best illustration that I can give is that of a steel structure building. The steel work is what holds the building together. That is the Constitution. The walls, the ceiling, the floors, the doors, and the windows—that is the Legislative part. That can be changed at any time. But you do not readily change the foundation on which the building is built, unless there is great necessity for doing so.

I have already pointed out to this Legislature that the Constitution provides that you can make change in the Constitution when two-thirds of both branches of the Legislature deem it necessary. You do not submit matters to the people to vote on, just because somebody wants to vote on them.

You do it only when two-thirds of this House, and two-thirds of the Senate, both concur and say they find this change necessary.

You should not put your name on

a matter until you do find that it is necessary, for the reason that when the people send you up here to represent them, they expect you to use your sound judgment first, and when that matter is submitted, and they find your name there, they have the benefit of your judgment to go on, when they vote on the matter.

So I say that you hold a very responsible position here, because you are influencing people all over the State by the stand that you take.

What is the necessity for this? I ask you, is there any public demand for such a change? The only demand that I have heard or seen was a recommendation of the Code Committee and a suggestion by the Governor. Who is this omnipotent Code Committee that tells this Legislature what to do? Why, they are just members, like you and me, of the last Legislature. They have not got any monopoly on brains, for all they are very able men. We have a right to differ in judgment from them, and still we may not go to Hell.

This particular bill is to try to change the Secretary of State. I now ask you, then, what is the necessity? Where is there any demand or need of this?

Are you going to get a better Secretary of State by having the Governor appoint him than by having this Legislature elect him?

Let us look at some of our other Secretaries of State. One of them was Nicholas Fessenden, of Fort Fairfield. He served, if I remember rightly, for a period of fifteen years. They must have thought that Nicholas Fessenden was a pretty good Secretary, or they would not have kept him in there for that length of time.

Another one that I recall was Frank Ball. He served as Secretary of State for ten years. I have never heard it said that he did not make a good one.

The third man who served as Secretary of State that I can recall was Byron Boyd. Did you ever hear anyone say that Byron Boyd did not make a good Secretary of State? Why, we think so much of that man that we honor him every year we come up here. Everybody that knows him has the greatest respect for him.

There was Edgar O. Smith—he was a worthwhile Secretary, and served for six years.

I do not know of any great defects that our present Secretary has. I think he has made a good Secretary.

I do not believe that the time has come when the men and women of this Legislature are not capable of choosing a good Secretary of State. We have done it in the past. What is the cause for the need of changing that situation now? Is this Legislature here today so inferior to the Legislatures of the past, and are the Legislatures to come going to be so inferior to us, that we cannot trust them to choose a good Secretary of State. Have we got to trust it to some Governor,—whether he is a good Governor or a bad one,—we may not know.

Have we got to leave it to the judgment of the Governor, rather than leaving it to our own judgment. God forbid!

There is another point I want to bring out to you. This Legislature, here and now, possesses the power, of that appointment. Why should you and I give up that power because somebody has got a whim that they want to elect a Secretary of State?

You have heard the story of Jacob and Esau. Esau sold his birth-right for a mess of pottage. They have not given us even the mess of pottage. (Laughter)

I shall not agree to surrender any power that we possess to any Governor—because I believe that it is for the welfare of this State, that this Legislature retain its own powers.

Now, I have heard it said, several times, that if the Governor has something he wants to carry out, then it would be a good thing for him to have the power of appointing the Attorney General, the Secretary of State, the Treasurer, and perhaps some other officers.

Now, I want to ask you why should the Governor have any control over the Secretary of State, or the Attorney General, or the Treasurer of the State.

Let me take the Attorney General. Supposing, for example, the Governor appoints an Attorney General and matters came up that this Legislature should see fit to impeach the Governor. What kind of a position is the Attorney General going to be in, to have to impeach the Governor who appointed him?

Well, we could not let him act, of course. But what does that mean? It means we would have to go out and hire somebody else to be Attorney General and we would be paying for two instead of for one.

Let me take the matter of the State Treasurer. Where under God's Heavens is there any occasion for any Governor—I do not care what his policy is—to interfere with the Treasury Department? The State Treasurer is responsible to the people of Maine and to nobody else except to the Legislature, who represents the people.

On this matter of Treasurer—there is another bill coming up on the Treasurer—so I might as well argue these right out here, now. (Laughter)

In four New England States—Vermont, Massachusetts, Rhode Island and Connecticut—they elect the State Treasurer. In New Hampshire and Maine, the Legislature elects him. Now, that is according to the Constitution of all those states. If you undertake to change the Treasurer, you are going contrary to the precedent of one hundred and twenty years in the State of Maine. You are going contrary to the Constitution of every State in New England. And what are you doing? You are launching out an experiment—an experiment as to what may, or may not, be a better situation if you made a change. And they call that a necessity.

I stated, a day or two ago, in this House, that when you have things working well, why disturb them? I say the same thing here.

Our Constitution is working well. It has worked well for one hundred and twenty years, under the system as it is set up right now. You know where those steel frame supports are. You know what they hold. They have been tried and tested and not found wanting.

Why should you take out that steel structure and put in one which may turn out to be nothing but wood? Can not you see that there is no sense in these proposed amendments to the Constitution, which is supposed to be a frame-work that we can depend upon.

What makes us Christians? It is because we have faith in the Almighty. Why do we have faith at all? I will tell you why? It is because every day in the year the sun is in the sky. Every day in the year

there is a sunrise and a sunset. The stars and the moon hold their places.

The point that I am trying to make is that you can depend upon the Almighty. He does not change his laws to suit anybody.

Why do we need a Constitution? We want a Constitution so that we will have some frame-work in this government that we can depend upon. We should not change that Constitution every time somebody has an idea in his head that it would be better to get something else.

I do not say that if the set-up had been put up to us in the first place we might not have voted for a four year term for the Governor, or that we might not have made some other set-up. But the framers of this Constitution saw fit to put it as it is. We have had it all this time, and it has worked well.

I will not weary you any longer, but I hope you will kill every one of these proposed Constitutional amendments, until you find one where you can conscientiously say, in your own soul, that the change is necessary.

The SPEAKER: The Chair recognizes the gentleman from Hampden, Mr. Briggs.

Mr. BRIGGS: Mr. Speaker and Members of the House: As a signer of the Majority Report "Ought to Pass" on this measure, I wish to state that I did not sign it for any reasons of personality.

I believe that the bill will make for a more efficient state government.

Unlike Judge McGlaufflin, just because we have had something for one hundred and twenty years, it does not mean to me that we ought to keep it.

I have had my appendix ever since I was born, but if it starts to pain, I am going to take it out. (Laughter)

I agree with the Judge that we should not go around foolishly amending the Constitution.

If I remember correctly, the Judge wants to amend the Federal Constitution, but there is something more sacred about the State Constitution.

In our State the Legislature elects five officials, the Commissioner of Agriculture, the Attorney General, the State Auditor, the Secretary of State, and Treasurer of State.

I ask you why should we elect any of them? What reason is there why we should elect them?

We have seen fit to give to the Governor and Council authority to appoint the Adjutant General, the Commissioner of Banks, the Budget Officer, the Development Commission, the Commissioner of Education, the Forestry Commissioner, the Fish and Game Commissioner, Department of Health and Welfare, Highway Commission, Insurance Commissioner, Labor Commissioner, Liquor Commission, Public Utilities Commission, Commissioner of Sea and Shore Fisheries, the head of the Department of Taxation, and members of the Courts.

Is there anything more sacred about the Commissioner of Agriculture, and the Attorney General, or the other three, than this long list that the Governor appoints?

It seems to me that what we need more than anything else in the State is efficiency. I am not talking about any particular officer who is inefficient, but I believe that more efficiency results if the head of a Department is directly responsible to, and appointed by, the Governor. The Governor is the Chief Executive officer and administrative officer of this State. As such, he should have the authority and the power to appoint the subordinate officers. He is the one who is going to be held responsible if there is any trouble in any of the departments of the State. If that is true, he should have the power and authority to appoint his officers.

I might say that any officers which the Legislature elects are responsible to the Legislature. Being responsible to the Legislature is just like being responsible to nobody, in one sense. There are too many of us. No matter what a State official does, you will find some people in the Legislature who will be for him and some people who will be against him. There is not any definite responsibility. If any corrective measures need to be taken, it takes too much time.

Therefore, it occurs to me that if we wish to have an efficient state government, that we should give the Governor full authority to select his own subordinate officers.

The SPEAKER: The question before the House is on the motion of the gentleman from Bethel Mr. Williams, that the House accept the mil-

nority report "Ought not to pass". The Chair recognizes the gentleman from Portland Mr. Payson.

Mr. PAYSON: Mr. Speaker and Members of the House: I too have considerable reverence for the Constitution of this State. I sometimes wonder if our revolutionary radical forefathers who wrote this revolutionary document would not be rather amazed at the slavish reverence that is sometimes followed in regard to its details. In the major portion of the Constitution in which the grand rights of mankind are guaranteed I believe we have a foundation no one should tamper with; but when the Constitution deals with purely administrative details it is no more sacred than any other instrument. This part of the Constitution should be amended and has been amended repeatedly to take care of changed situations. The Legislature used to meet yearly—and there probably are people who wish we would change it once every ten years. Your Governor used to be elected annually, as I recall it, but it seemed proper to amend that Constitution in that administrative detail to fit the needs and rights of the people.

The gentleman from Portland Mr. McGlauffin has referred quite a bit to the omnipotent or omniscient Code Committee. Well the Code Committee has not done very much. We were just a poor dumb gang of hard-working people who studied this question for quite a time, read all the material we could get, took testimony and spent some time on it. I admit we were not inspired and able to make up our minds in a minute. We did come to what we thought was a mature judgment.

I want to tell you specifically the conversation that I had with a good friend of mine, a young member of this House this year, that illustrates as well as anything I can say why I think the Governor should have this power. The young man has been trying to make some changes, putting more elections back into the lap of the Legislature. I asked him this: "On that first day when we voted for these different State officials, how many of them did you know well enough so you would hire them to do a job which pays three or four or five thousand dollars a year?" He said, "I think I know Mr. So and So." I said, "You do?

Is he married? How many children has he got? Does he drive an automobile? Does he drink? Does he live within his income?" He said, "I don't know." I said, "Wouldn't you want to find out the answers to those questions before you hired him to work for you?"

I do not know the people here well enough so I would hire them to work for me, and I have been here two terms in the Legislature and know something of the things that are going on.

These are purely administrative propositions—the Secretary of State and the rest of these officers—except the State Auditor, who should be elected by the Legislature to keep him independent. One bill provided that the Attorney General should be appointed by the Chief Justice of the Supreme Court rather than by the Governor.

I am not interested in the powers of the Legislature; I am interested only in its duties, what it is supposed to do and not in any prerogatives that have been conferred upon us as a part of the Constitution. I am very heartily in favor of the passage of this measure that the Governor appoint the Secretary of State.

The SPEAKER: The Chair recognizes the gentleman from Livermore Falls, Mr. Grua.

Mr. GRUA: Mr. Speaker and Members of the House: I signed the Majority Report on this.

This is not really a Code Committee bill. The Code Committee considered it favorably but did not back the bill as such.

This is a plan that was originally recommended at the time that the Code itself was adopted. In the report that was made to the Legislature at that time, by the Code Committee, this was the general set-up that is advocated for the running of our government.

It was felt that since we had confidence enough in our Governor to elect him as our supreme head, that we should also have confidence enough in him to permit him to select such officials under him as he thought fit, in order to enable him to obtain the highest degree of efficiency.

Who was it that received the blame for the misdoings here at Augusta? Was it not the Governor himself that bore the brunt of those misdoings, regardless of the fact

whether he had anything to do with the appointment of the Treasurer or other officials, or not? Did it not reflect on him? Was not he the one that we looked to and wanted to hold responsible?

Now, I say to you, I am in favor of being able to put your finger on one man, and being able to say to him, "Why was not this done?" We do not like him to be able to say, "I had nothing to do with electing this fellow. I had nothing to do with putting him in this position. The Legislature did that."

If this power is put in the hands of the Governor, he can select an official that he thinks will do the job to the satisfaction of the people of the State of Maine. He may select an official without regard to politics, who maybe he thinks has the ability to do the job as it should be done.

I want you to consider this,—that the Secretary of State has changed from the sort of official he was when the Constitution was adopted, and when he merely had charge of the great seal of the State of Maine. He has now become the head of a tremendous department,—the Motor Vehicle Department. He has charge of it. We have placed this on his hands. He has charge of the corporations. He has charge of an infinite variety of things, so he employs a large number of people. Those things could not have been in line with what our forefathers contemplated when they adopted the Constitution. His work, and the methods he carries on, reflect directly upon the Governor, and his administration of the State of Maine.

Now, I am just as jealous as any of you of the rights of this Legislature, but I think the point has well been taken that we come here to elect officials to run this State of whom we know very, very little. I know that my first year here I did not know a single official who came up for election. I had to ask some of the older members whom I should vote for. Do you think that I represented the people in that?

Furthermore, I think this is a good step forward, inasmuch as it will take the election of the Secretary of State out of politics. I do not like the idea that the Secretary of State has to go around and campaign every two years, in order to

keep his job. I think it would be a good thing if he could be sure of a four year term at least, and be appointed by the Governor, so that he would only be responsible to the Governor and not have to curry favor with the members of this House.

We are all interested in good government. There is no use in casting aspersions against any of us, in saying that we have any particular desire to favor one group or favor another.

I do not think there is one member here but what has high regard for the present incumbent of office, I know. We are not indulging in personalities. We do not need to. The only thing we all have in mind is what is best for all of the people of our great State of Maine; what will serve the people the best; what will give us the most efficient government and be most likely to prevent any recurrence of the misdoings or corruption from lack of oversight. I say to you that this, in my opinion, is a decided step forward. I hope that the bill may be allowed to pass.

The SPEAKER: The question before the House is on the motion of the gentleman from Bethel, Mr. Williams, that the House accept the "Ought not to pass" report of the committee.

The Chair recognizes the gentleman from Monticello, Mr. Good.

Mr. GOOD: Mr. Speaker. I am opposed to this bill and to every one of these bills to amend the Constitution for two reasons: One is we are sent down here to represent the people and the only way the people are represented is through you and me. They come here and make their requests known and leave it to our judgment to elect a Secretary of State. I am opposed to it because too much concentrated power is dangerous.

I have heard it argued that the Governor and Council could elect a treasurer. You know there has been a bill that has gone through here just recently to take the powers away from the Council that they might not have power to do the things that they have done in the past.

It has also been said that the Legislature might not get as good a man. I think the people that have been elected by the Legislature will measure up to any of the people that have been appointed by the Governor and Council.



I understand that Mr. Runnells was not elected by the Legislature. He got his appointment. Concentrated power, gentlemen, is dangerous. All we have got to do is look at Europe. When Hitler first made his move for power he was defeated. He lay idle for a certain time and then he got his cards in the proper place and he manipulated things and got in power in Germany, and you know what has happened today: European countries are bathed in blood because one man got power, and I am not sure but what the United States of America will probably be in the same category before the thing is over. Therefore I hope the majority report on this bill will be accepted.

The SPEAKER: The Chair recognizes the gentleman from Montville, Mr. Davis.

Mr. DAVIS: Mr. Speaker, I want to go on record as appearing against this idea of delegating more of the Legislature's power into the hands of one man. I agree with the gentleman from Portland, Mr. McGlauffin, one hundred per cent. I believe the people of this State are against the centralization of power. I believe that the officials as far as possible should be held accountable to the Legislature.

Little by little the power of the people is being delegated into the hands of a few. They say it is for more efficiency.

The gentleman from Monticello, Mr. Good, has cited the efficiency of Hitler and Mussolini, but I want to say, gentlemen, that I am against that kind of efficiency. I believe in the people retaining the power that belongs to them.

The SPEAKER: The Chair recognizes the gentleman from Weston, Mr. Bubar.

Mr. BUBAR: Mr. Speaker and Members of the House: This bill is a step in a definite program to make the Legislature just a rubber stamp, and I believe that so far as this Legislature is concerned it should stand on its own feet and think for itself. I believe that we should go along with the motion of the gentleman from Bethel, Mr. Williams.

The SPEAKER: The question before the House is on the motion of the gentleman from Bethel, Mr. Williams, that the House accept the minority report, "Ought not to pass".

All those in favor of the motion of the gentleman from Bethel, Mr. Williams, that the House accept the minority report, "Ought not to pass" will say aye; those opposed no.

A viva voce vote being taken, the motion prevailed and the minority "Ought not to pass" report of the committee was accepted in non-concurrence and sent up for concurrence.

### Non-Concurrent Matter

From the Senate:

Resolve in favor of Wilfred Duquette of Brunswick (H. P. 1106) (L. D. 1046) which was finally passed on April 1st and passed to be engrossed in the House on March 25th.

Came from the Senate, passed to be engrossed as amended by Senate Amendment "A" in non-concurrence.

In the House, Senate Amendment "A" read by the Clerk as follows:

Senate Amendment "A" to H. P. 1106, L. D. 1046, "Resolve in favor of Wilfred Duquette of Brunswick."

Amend said resolve by striking out the figures "1941" wherever they appear in the 6th line thereof, and substituting in place thereof the figures '1940'.

Thereupon, on motion by the gentlewoman from Brunswick, Miss Bangs, the House voted to recede from its former action whereby it finally passed this Resolve on April 1st and to further recede from its action whereby it passed this Resolve to be engrossed on March 25th.

Senate Amendment "A" was then adopted in concurrence and the Resolve was passed to be engrossed as amended in concurrence.

On motion by the gentlewoman from Bangor, Miss Clough, House Rule 25 was suspended for the remainder of today's session, in order to permit smoking.

The SPEAKER: At this time the Chair invites the gentleman from Winslow, Mr. Belanger, to the Chair and designates him as Speaker pro tem of the House.

The Sergeant at Arms then conducted the gentleman from Winslow, Mr. Belanger, to the Speaker's desk, amid the applause of the House, Speaker Varney retiring.