

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

Ninety-Sixth Legislature

OF THE

STATE OF MAINE

1953

DAILY KENNEBEC JOURNAL
AUGUSTA, MAINE

HOUSE

Tuesday, April 14, 1953

The House met according to adjournment and was called to order by the Speaker.

Prayer by the Rev. Mr. Alfred Mulhern of Gardiner.

The members stood at attention during the playing of the National Anthem.

The journal of the previous session was read and approved.

Papers from the Senate

From the Senate: The following Order:

ORDERED, the House concurring, that Bill "An Act Repealing Law on Canning of Clams and Mussels", H. P. 1112, L. D. 1247 be recalled from the Legislative files to the Senate for further consideration (S. P. 537)

Came from the Senate read and passed.

In the House, was read and passed in concurrence.

**Senate Reports of Committees
Divided Report**

Majority Report of the Committee on Judiciary reporting "Ought not to pass" on Resolve Proposing an Amendment to the Constitution to Provide for Appointment of Attorney General by the Governor (S. P. 437) (L. D. 1205)

Report was signed by the following members:

Messrs. REID of Kennebec

WARD of Penobscot

HARDING of Knox

—of the Senate

Messrs. LOW of South Portland

McGLAUFLIN of Portland

MARTIN of Augusta

FITANIDES of Saco

TRAFTON of Auburn

—of the House

Minority Report of same Committee reporting "Ought to pass" on same Resolve.

Report was signed by the following members:

Messrs. CIANCHETTE of Pittsfield

FULLER of Bangor

—of the House

Came from the Senate with the Majority Report read and accepted.

In the House: Report was read.

The SPEAKER: The Chair recognizes the gentleman from Bangor, Mr. Fuller.

Mr. FULLER: Mr. Speaker, I move that the minority report be accepted by the House.

The SPEAKER: The gentleman from Bangor, Mr. Fuller, moves that the minority report "Ought to pass" be accepted. Is this the pleasure of the House?

(Calls of "No" and "Yes")

The SPEAKER: The House will be in order. As many as are in favor of the motion —

The Chair recognizes the gentleman from Bangor, Mr. Fuller.

Mr. FULLER: Mr. Speaker, I would like to address the House on this motion.

As you will see from the printed bills and resolutions, Legislative Document Number 1205 proposes a change in the State Constitution, so that the Attorney General will be appointed by the Governor subject to the approval of the Council instead of having the Attorney General chosen in the manner that he is at the present time, by the Legislature.

Article III of the Constitution provides the fundamental basis for the set-up of our government by saying that the powers of the government shall be divided into three distinct departments, the legislative, executive and judicial.

Then Section 12 of Article V goes on to define the duties of the Governor as Chief Executive of the State.

Section XII is that he shall take care that the laws be faithfully executed. In other words, while the Legislature enacts the laws, it is the duty of the Governor to see that they are faithfully carried out.

Now in performing this duty, who is it that is the Governor's Chief Assistant in the legal field? And the answer to that is that it must be the Attorney General who is the chief legal officer of the State. It is his duty to advise the Governor in connection with the carrying out of the laws. It is to the Attorney General that the Governor must look for opinions on legal matters.

So then, we have the Governor, with the duty of seeing that the laws are faithfully carried out, but so far it has been the Legislature who has chosen his chief assistant for him. We have not given him the right to choose his own assistant and then have his choice approved by the Council. That is the first weakness in the present set-up under Section II of Article IX, then I say to you, how would any of you like to have an immediate subordinate chosen for you by somebody else? You wouldn't like it. And although I feel that the choices of the Legislature have generally been very good, we still are back to the point where the man who is to carry out the laws of the State should be allowed to choose an associate with whom he thinks he can cooperate with the greatest efficiency.

The other difficulty with the present set-up is that it produces too few candidates for the job. Most lawyers of unusual ability and prestige just haven't the time to campaign throughout the State and meet all the members of the Legislature and seek the job in the manner that they would have to do. This means that those lawyers who have previously served in the Legislature have a great advantage over the others, which perhaps is proper enough but it does practically exclude those who have not felt that they could take the time and make the financial sacrifice involved in serving in the legislative branch of the government.

Of course under this proposed change the Governor would not be allowed to exercise his own discretion entirely, because any choice that he makes for the job must then be approved by the Council, so that the Council, being chosen by the Legislature, the legislative branch would still retain a reasonable degree of control over the situation, and I hope that this chance may be submitted to the people for their approval. Of course, here in the Legislature, we are not changing the Constitution. We are merely allowing the people to decide if they want it changed in that manner.

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

Mr. McGLAUFFLIN: Mr. Speaker and Members of the House: The present method of choosing the Attorney General has been in vogue for many years. We have had some very able Attorney Generals chosen by that method.

When Governor Sewall became Governor, he advocated this change. I met the Governor out in the hall and I stated to him that I could not go along with his proposition, and he put up the same argument that the gentleman from Bangor, Mr. Fuller, has just put up: Why shouldn't the Governor have the control of all the different offices like the Treasurer, the Attorney General, Secretary of State, Secretary of Agriculture and so forth? And I said: "Governor, supposing it should happen that you, yourself, were up for impeachment? Do you think we want an Attorney General, appointed by you, to try that case? I guess not. We would have to have a second Attorney General."

We don't want the Attorney General under the thumb of the Governor ever. I am opposed to the motion of Mr. Fuller and I shall expect you to go along with the majority report.

The SPEAKER: The Chair recognizes the gentleman from Auburn, Mr. Trafton.

Mr. TRAFTON: Mr. Speaker and Members of the House: I believe my good friend, the gentleman from Portland, Mr. McGlaufflin, has made an excellent argument for election of the Attorney General by the people, that there should be no political control over it. I originally voted that this bill "Ought not to pass", but having thought it over since the time the committee considered it, I intend to change my vote and vote that it should pass.

The SPEAKER: The pending question before the House is on the motion of the gentleman from Bangor, Mr. Fuller, that the House accept the minority "Ought to pass" report of the committee.

As many as are in favor of the acceptance of the minority report,

"Ought to pass", as moved by the gentleman from Bangor, Mr. Fuller, will kindly rise and remain standing in their places until the monitors have made and returned the count.

A division of the House was had.

Ten having voted in the affirmative and sixty-six having voted in the negative, the motion did not prevail.

Thereupon, the majority "Ought not to pass" report was accepted in concurrence.

Leave to Withdraw

Report of the Committee on Labor on Bill "An Act relating to Discharging of Employees" (S. P. 505) (L. D. 1385) reporting leave to withdraw.

Came from the Senate read and accepted.

In the House, read and accepted in concurrence.

Ought Not to Pass

Report of the Committee on Appropriations and Financial Affairs reporting "Ought not to pass" on Resolve in favor of the Town of Gouldsboro (S. P. 287) (L. D. 956)

Report of the Committee on Labor reporting same on Bill "An Act relating to Payment of Wages" (S. P. 179) (L. D. 420)

Came from the Senate read and accepted.

In the House, were read and accepted in concurrence.

Ought to Pass in New Draft

Report of the Committee on Towns and Counties on Bill "An Act relating to Collection of Excise Taxes in Unorganized Territory" (S. P. 459) (L. D. 1272) reporting same in a new draft (S. P. 523) (L. D. 1420) under same title and that it "Ought to pass"

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

In the House, Report was read and accepted in concurrence, the Bill read twice, and tomorrow assigned.

Ought to Pass

Report of the Committee on Judiciary reporting "Ought to pass" on Resolve Proposing an Amendment to the Constitution to Liberal-

ize Limitation on Municipal Indebtedness (S. P. 313) (L. D. 912)

Report of same Committee reporting same on Resolve for a Recess Committee to Study All Phases of the Maine State Retirement System and Related Titles of the Social Security Act (S. P. 454) (L. D. 1264)

Came from the Senate with the Reports read and accepted and the Resolves passed to be engrossed.

In the House, Reports were read and accepted in concurrence, the Resolves read once, and tomorrow assigned.

Ought to Pass with Committee Amendment

Report of the Committee on Judiciary on Bill "An Act relating to Pauper Settlement of Parents of Children Receiving Aid to Dependent Children" (S. P. 299) (L. D. 915) reporting "Ought to pass" as amended by Committee Amendment "A" submitted therewith.

Came from the Senate with the Report read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A".

In the House, Report was read and accepted in concurrence and the Bill read twice.

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

COMMITTEE AMENDMENT "A" to S. P. 299, L. D. 915, Bill "An Act Relating to Pauper Settlement of Parents of Children Receiving Aid to Dependent Children."

Amend said bill by striking out the underlined words "or parents" in the seventh line thereof.

Committee Amendment "A" was adopted in concurrence, and tomorrow assigned for third reading of the Bill.

Report of the Committee on Judiciary on Bill "An Act Permitting Reassignment of Justice in Equity Matters" (S. P. 484) (L. D. 1342) reporting "Ought to pass" as amended by Committee Amendment "A" submitted therewith.

Came from the Senate with the Report read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A".