

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

Ninety-Ninth Legislature

OF THE

STATE OF MAINE

VOLUME II

1959
and
SPECIAL SESSION
1960

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ery two or three years. It is true that doctors swap every year, but if anyone gets a hospital bill they will realize it. If the doctor pays \$8000 for a Cadillac, why can't he pay the tax. At that time in the House we gave plenty of exemptions for industry from the tax, and now we are going along and we want to reverse ourselves, after we have figured on that amount of money as estimated revenue coming into the State of Maine, and we have gone along with a large educational program for the State of Maine. I can hear Ed Chase down there, and Dr. Bates and Leon Sanborn, lining them up and telling them what it meant: if we did not vote for the sales tax our cities and towns were going to lose money on education. I think it is perfectly fair; I do not think anyone is going to be hurt except perhaps so far as the political angle is concerned.

I am not here for politics. I supported the Governor in the primaries. I could have ducked it but I did not want to duck it.

The PRESIDENT: The pending question is on the motion of the Senator from Penobscot, Senator Woodcock to indefinitely postpone.

A division of the Senate was had.

Sixteen having voted in the affirmative and thirteen opposed, the motion to indefinitely postpone prevailed.

On motion by Mr. Woodcock, ordered sent forthwith to the House.

Enactors

The Committee on Engrossed Bills reported as truly and strictly engrossed, the following bills and resolves:

Bill, "An Act to Revise the Inland Fish and Game Laws." (S. P. 205) (L. D. 544)

Which bill was passed to be enacted.

"Resolve Opening Wilson Lake, Franklin County, to Ice Fishing." (H. P. 66) (L. D. 104)

"Resolve Providing that the Legislative Research Committee Study the State and Municipal Tax Structure of the State." (H. P. 131) (L. D. 189)

(On motion by Mr. Rogerson of Aroostook, placed on the Special Ap-

propriations Table pending final passage.)

"Resolve Opening Portland Lake in Aroostook County to Ice Fishing for Salmon and Trout." (S. P. 114) (L. D. 264)

Which resolves were severally finally passed.

Emergency

Bill, "An Act Reactivating the State Committee on Aging." (S. P. 492) (L. D. 1370)

(On motion by Mr. Rogerson of Aroostook, placed on the Special Appropriations Table pending enactment.)

Orders of the Day

The President laid before the Senate the first tabled and today assigned item being bill, "An Act Relating to Salaries of County Officials and Clerk Hire." (S. P. 491) (L. D. 1369) tabled on May 27 by the Senator from Washington, Senator Wyman, pending adoption of Senate Amendment A; and that Senator yielded to the Senator from Kennebec, Senator Martin.

Mr. MARTIN of Kennebec: Mr. president, there is just one item on the bill that the delegation from Kennebec is concerned with, and we would like to have the privilege of tabling this until later in the session.

The motion prevailed and the bill was retabled.

On motion by Mr. Hunt of Kennebec, the Senate voted to take from the table the 7th tabled item being Senate Report from the Committee on Taxation: Ought not to pass, on bill, "An Act Relating to Definition of Casual Sales under Sales Tax Law." (S. P. 385) (L. D. 1111) tabled by that Senator on April 14 pending acceptance of the report; and on further motion by the same Senator, the Ought not to pass report was accepted.

On motion by Mr. Lessard of Androscoggin, the Senate voted to take from the table the 3rd tabled item being, Senate Reports from the Committee on State Government: Majority Report, Ought not to pass; Minority Report, Ought to pass, on "Resolve Proposing an Amendment

to the Constitution for Appointment of Attorney General by the Governor with Consent of the Senate." (S. P. 85) (L. D. 157) tabled by that Senator on March 18 pending motion by Senator Hillman of Penobscot for acceptance of the Majority report; and Mr. Lessard of Androscoggin yielded to Mr. Hillman of Penobscot.

Mr. HILLMAN of Penobscot: Mr. President and members of the Senate: This is one of the first times since I have been a member of the legislature and one of the few times that I have changed my mind, and I am happy to agree today with the Senator from Androscoggin, Senator Lessard, that a change might be beneficial to the State of Maine, and I have reason for that.

This was heard earlier in the session by the State Government Committee and was tabled on March 8th. Since that time, because of certain instances, I feel that perhaps if the Governor appoints the Attorney General we might get a more experienced man and careful consideration would be taken by the Governor in appointing him and in the confirmation by the council. If the Governor appoints the justices, then why shouldn't he appoint the Attorney General. Therefore, I will say that perhaps in this one instance a change is good.

Another reason why I go along with this measure is the fact that this will be one constitutional amendment to go before the people and this won't be confused with others: they will either confirm it or they will not. Therefore I will withdraw my motion to accept the majority "Ought not to pass" report of the committee.

The PRESIDENT: The Senator from Penobscot, Senator Hillman, moves that he be allowed to withdraw his motion that the Senate accept the majority "Ought not to pass" report of the committee.

The motion to withdraw prevailed.

Mr. LESSARD of Androscoggin: Mr. President, I now move the acceptance of the minority report of the committee and I yield to the Senator from Kennebec, Senator Hunt.

Mr. HUNT of Kennebec: Mr. President, I might say at the outset

that I have an amendment here which I intend to introduce which strikes out the word "Senate" and have the Attorney General named by the Governor and confirmed by the Council. In this bill we are not changing the original constitution. We are going back to the original set-up here in 1820 when Maine became a state. Under Section 8 of the Constitution of Maine adopted in 1820, the Attorney General was appointed by the Governor and this continued until 1855 at which time the present change was made and the reason for that was that in 1855 or 1857 there was a governor elected of one party and the Senate and House were of the other and there was quite a bit of feuding between the two and as a result of that in order perhaps for the then legislature to embarrass the Governor, this practice of having the Attorney General appointed by the Governor was changed.

If anyone is interested in checking on that, this book, "Maine A History, Volume 2" from the Maine State Library will give the details. So for the first thirty-five years of the state history, the Attorney General was appointed by the Governor with the consent of the Council. The reason that this change was made, was not that anyone thought it would be better, or because any group had studied it and thought it would be better, but simply because of this feud that there was at that time between the then Governor and the then legislature and they had strong enough backing so that they got the Constitutional Amendment passed by the people.

Now the Attorney General stated in a talk in Hallowell, back in February I believe it was, that although Maine was the only state in the union that elected the Attorney General in the way that we do, and the only state that has for a long time elected an Attorney General the way we do, that that didn't necessarily mean it was bad, but when you check on the history of the state around that period of 1855 to 1857 and find the reason for the change in the original constitution then it certainly doesn't indicate that it was a change made for high motives or for the welfare of the state.

Another reason why I think this change will be good, to have the appointment made by the Governor with the consent of the council is that at the present time it doesn't seem to me that we have anyone responsible for the appointment of the Attorney General. As we all know, he is appointed technically, in a caucus, and going back to the records of January 7th in the papers, we find that he was named by 64 unidentified, unnamed members of the Legislature. That is barely a third. Of course, as we all know, one section of the Legislature has nothing to do, really, with his appointment, and, with regards to the majority party, he is elected usually by a bare majority of that party. So in this case technically he was elected in caucus by sixty-four votes, which is only about a third of the legislature. But since this was by secret ballot, no one knows who the sixty-four were who voted for him or who the ones were who voted against him. So it is no wonder that no other state has seen fit to keep our system which we have here of electing our Attorney General, because we have now an Attorney General elected by sixty-four unidentified people. If under a system like this the Attorney General proves to be a good appointment whom we can give credit to, we do not know who is responsible—sixty-four unidentified persons have elected him; and if the appointment proves to be bad, who are we to blame for it. Again, we have sixty-four unidentified members of the legislature who name him, and we do not know who they are.

It seems to me, definitely, that we should have the Attorney General appointed by the Governor, in which case the Governor is responsible and receives the praise or the blame, or do as is done in some states where the people elect the Attorney General, and then of course it is the people who must take the blame or the praise for the appointment of the Attorney General.

So, in the first place, I feel that we are going back to the thinking of the founding fathers in suggesting this bill, and, in the second place, the change was made not for any high motive but simply because

there was a disagreement at that time between the chief executive branch of government and the legislative branch, and this disagreement became so heated that the legislature, as I understand it, took this method of perhaps hurting the then governor. And the third reason is that I do not feel that there is definite responsibility under this system that we now have. Fourth, and lastly, the Citizens Committee on State Government in its report suggested that the Attorney General should be named by the Governor with the consent of the council, and it was one of the decisions they came to in that Citizens Committee report.

The Senator from Penobscot, Senator Hillman, who was Chairman of the Committee on State Government, has authorized me to use excerpts from two letters which he received which I think show the thinking of the members of the Committee on this point. The first one is dated March 12, 1959 and addressed to Senator Earl M. Hillman, Chairman of the Committee on State Government, and is from Frank W. Hussey. I will read just two paragraphs:

"Frankly, Earl, two years ago I was opposed to these proposals myself. However, since our committee has given a great deal of time and thought to the problems of state government, and the need for more effective legislation, I am now completely convinced of their wisdom. We have too long tolerated a condition in state government that has placed responsibility on the Governor without giving him commensurate authority. Private business would not tolerate tying the hands of its chief executive officer. It is my sincere hope that your committee will see fit to report these bills out favorably because we believe they are important steps in the development of more efficient and effective state government.

I would therefore hope that the motion for the acceptance of the minority report will prevail, and then I would present this amendment to have confirmation by the council.

Mr. ROSS of Sagadahoc: Mr. President, yesterday I opposed certain gubernatorial appointments, and I

made two points in my argument: one was the point of political patronage and the other was too much centralized control in government. But here we have an elective post at the present time that is an entirely different category.

Our Attorney Generals must be men of integrity, ability and experience, and I certainly find no fault with the present Attorney General or any of the recent men who have held that office, but I certainly feel that we should remove this job from the popularity contest class. Popularity alone should not be a deciding factor in picking our Attorney General.

I mentioned yesterday that I am in favor of certain progressive governmental changes, and, as a proof of my integrity, which is sometimes open to question, I am happy to concur with some of my habitual opponents who have been friendly enemies of mine on many occasions this year, and I am delighted to support the motion of the Senator from Androscoggin, Senator Lessard.

Mr. PIERCE of Hancock: Mr. President, I have been a member of the Citizens Committee since its inception three years ago. We voted unanimously that the Attorney General should not be appointed by the Governor. Today I am very happy to reverse my feeling and go along with the distinguished Senator from Androscoggin, Senator Lessard.

Mr. WEEKS of Cumberland: Mr. President and members of the Senate: I rise in support of the motion of the Senator from Androscoggin, Senator Lessard. I think that possibly the thinking behind my position is more that the Attorney General is truly a representative of the State of Maine. Of course he is a law enforcement officer, but he should also be the chief advisor for the Governor, and as such the Governor should have the right to select someone in whom he has confidence, and I believe that he would select a man worthy of that position.

The PRESIDENT: Is it the pleasure of the Senate to accept the minority Ought to pass report of the committee?

The motion prevailed, the Ought to pass minority report was accepted and the resolve read once.

Mr. Hunt of Kennebec presented Senate Amendment A and moved its adoption.

Senate Amendment A was read and adopted and under suspension of the rules, the resolve was read a second time, and passed to be engrossed.

On motion by Mr. Woodcock of Penobscot

Recessed to one-thirty this afternoon.

After Recess

The Senate was called to order by the President.

The PRESIDENT: At this time it gives the Chair great pleasure to welcome to the Senate another group of students, the sixth grade from the New Gloucester Memorial School, accompanied by their teacher, William Herrman. It is always a pleasure to welcome you young people and your instructors to our deliberations in the Senate. On behalf of the Senate, I extend a cordial and hearty welcome and we hope that your visit at the state capitol today will be enjoyable and educational. (Applause)

On motion by Mr. Martin of Kennebec, the Senate voted to take from the table bill, "An Act Relating to Salaries of County Officials and Clerk Hire." (S. P. 491) (L. D. 1369) tabled by that Senator earlier in today's session pending adoption of Senate Amendment A; and on motion by the same Senator, Senate Amendment A was adopted.

Mr. Martin of Kennebec presented Senate Amendment A to Senate Amendment A and moved its adoption.

Thereupon, the Senate voted to reconsider its action just taken whereby it adopted Senate Amendment A. Senate Amendment A to Senate Amendment A was read and adopted; Senate Amendment A as amended was adopted.

Mr. Wyman of Washington presented Senate Amendment B to the bill.

Which amendment was adopted, and under suspension of the rules, the bill as amended was read a second time and passed to be engrossed.