

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

One-Hundredth Legislature

OF THE

STATE OF MAINE

1961

DAILY KENNEBEC JOURNAL
AUGUSTA, MAINE

WHEREAS, Mrs. Marie Hoyt of Richmond, Maine, Author of the song "One Hundred" which was heard from the well of the House at this session, is in the hall of the House

BE IT ORDERED that the Members of the House of Representatives of this 100th Legislature extend to her their sincere thanks and appreciation for this splendid song.

The Order received passage.

Thereupon, the Sergeant-at-Arms escorted Mrs. Marie Hoyt to the well of the Hall of the House, amid applause, the Members rising.

The SPEAKER: Mrs. Hoyt wrote the words and the music to her original composition. And she is from Richmond, Maine. (Applause)

The Chair laid before the House the fifth tabled and today assigned matter:

HOUSE REPORT—Ought Not to Pass—Committee on Inland Fisheries and Game—on Bill "An Act to Field Trials for Beagle Hounds." (H. P. 809) (L. D. 1123)

Tabled — March 17, by Mr. Wellman of Bangor.

Pending — Acceptance of Report.

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

Mr. WELLMAN: I would now move that this item be tabled unassigned.

The SPEAKER: In reference to item five, L. D. 1123, the gentleman from Bangor, Mr. Wellman, moves that this be tabled unassigned pending acceptance of the report. Is this the pleasure of the House?

The motion prevailed.

The Chair recognizes the gentleman from Milbridge, Mr. Kennedy.

Mr. KENNEDY: Mr. Speaker, in the interest of good legislation I would like to debate the time. I move for reconsideration.

The SPEAKER: The Chair would regretfully inform the gentleman from Milbridge, Mr. Kennedy, that you cannot reconsider a tabling motion since that obviously would be debating the tabling motion which you cannot do, and this item is already on the table and it is no longer before the House.

Mr. KENNEDY: Mr. Speaker, I respectfully request that during our proceedings you perhaps delay your gavel somewhat on matters of this nature, and I apologize for this remark.

The SPEAKER: No apology is necessary, there is a great deal of affection for the gentleman from Milbridge, Mr. Kennedy.

The Chair laid before the House the sixth tabled and today assigned matter:

Motion that the House Reconsider its action whereby it Adopted Committee Amendment "A" (Filing H-107) to Bill "An Act relating to Short Term Permits for Certain Trucks" (H. P. 917) (L. D. 1251)

Tabled — March 17, by Mr. Storm of Sherman.

Pending — Consideration.

Mr. Storm of Sherman was granted unanimous consent to withdraw his motion to reconsider.

Thereupon, the Bill was passed to be engrossed as amended and sent to the Senate.

The Chair laid before the House the seventh tabled and today assigned matter:

An Act Revising the Maine Milk Law. (H. P. 219) (L. D. 334)

Tabled — March 21, by Mr. Curtis of Bowdoinham.

Pending — Passage to be Enacted.

The SPEAKER: The Chair recognizes the gentleman from Strong, Mr. Smith.

Mr. SMITH: Mr. Speaker, I received a communication this morning from Mr. Curtis, who isn't here, asking that this be taken off the table and passed to be enacted.

Thereupon, the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

On motion of Mr. Whitman of Woodstock, the House voted to take from the table the ninth tabled and unassigned matter:

HOUSE DIVIDED REPORT—Majority Ought Not to Pass—Minority Ought to Pass—Committee on State Government—on Resolve, Proposing an Amendment to the Constitution for Appointment of Attorney General by the Governor with Consent

of the Senate." (H. P. 638) (L. D. 855)

Tabled — March 10, by Mr. Whitman of Woodstock.

Pending — Acceptance of Either Report.

The SPEAKER: The Chair recognizes the gentleman from Woodstock, Mr. Whitman.

Mr. WHITMAN: Mr. Speaker, Ladies and Gentlemen of the House: Earlier in the day we acted on a bill of very similar nature. I do not wish to prolong the session with any lengthy debate on this particular bill, but I would like to point out the similarity of this bill and the previous bill, upon which we have acted earlier in the day. I think Mr. Dennett very ably explained the basic political philosophy involved in this bill as well as the earlier bill. However, I would like to point out a few more specific reasons why I am in particular opposed to this Constitutional Amendment.

I spoke to you the other day of a disease which I called "constitutional tinkophobia." I think this is perhaps another example of that particular line of thinking. For the express and obvious purposes of political expedience, a Constitutional Amendment has been proposed that we appoint the Attorney General by the appointment of the Governor and consent of the Senate. In this particular instance for the express purpose of political advantage, I think they have overlooked some of the underlying factors and perhaps some of the strong disadvantages that perhaps could evolve from such an action. If you will consider first the duties of the Attorney General, it becomes obvious that first off, his duties are to interpret the laws as the Legislature brings them out in the form of the Statutes of the State of Maine. He must interpret the laws as we make them.

Secondly, he is without a doubt the chief prosecutor and perhaps the chief enforcement officer of the State of Maine. He should be without connections with the Executive branch, because he is enforcing the laws as we make them here in the Legislature.

Thirdly, and without a doubt the most important, it is conceiv-

able and it has been the occasion here in the State of Maine at one time when it became necessary for the Attorney General to investigate the Executive branch.

If he was to be appointed by the Executive, this certainly would be an encumbrance upon his duties to carry out such an investigation. And it is perfectly obvious why our forefathers decided that this check and balance should be invoked in particular in the office of the Attorney General. For that reason, I move that the Majority "Ought not to pass" Report be accepted.

The SPEAKER: The Chair recognizes the gentleman from Brunswick, Mr. Lowery.

Mr. LOWERY: Mr. Speaker, I introduced this measure. It is true that there is a difference in the political philosophy of the two major parties.

May I first state that we who are supporting this resolve are not changing the original Constitution of the State of Maine. We are merely going back to the concept established in 1820 when the founding fathers of our State provided in that Constitution that the Attorney General should be appointed by the Governor. This practice continued until 1855 when the present method was adopted. At that time, there was a Governor elected of one party and a Legislature controlled by the opposition. And as a result of the feuding between the two parties, the Legislature, probably to embarrass the Governor, forced through the change. How fitting it would be if this 100th Legislature would vote to change to the wiser system of 1820.

Under our present practice, the selection of an Attorney General is as much of a political race as campaigning for major elective office. It is not uncommon to see a field of several vying for this position, travelling all over the state after the general elections to pick up the votes from members of the majority party and contacting political leaders in various sections to use their influence to gain support. In other words, it has become a political popularity contest only decided by caucus of the majority

party the night before the Legislature convenes.

The Attorney General should be a man of integrity, ability and experience. I cast no aspersions on the present holder of this office. But I do feel that popularity or influence alone should not be the deciding factor in picking our Attorney General. This office is much too important for that method of selection.

The duty of the Attorney General is not only law enforcement and legal advisor and interpreter to the Legislature, he is also the chief legal advisor to the Governor, the legal tie between the Executive, the Legislative and the Judicial branches of Government, and as such the Governor should have the right and the responsibility to select someone in whom he has the utmost confidence.

Let me say in closing, that this resolve was introduced in the 99th Legislature and passed the Senate May 28, 1959, with little opposition, and finally died in a committee of conference. I would suggest that you take this into consideration in your deliberations. Thank you.

The SPEAKER: The Chair recognizes the gentleman from Lewiston, Mr. Jalbert.

Mr. JALBERT: Mr. Speaker, for the purpose of being in order, I will state that I concur with the thinking of the gentleman from Brunswick, Mr. Lowery.

I have heard at this session more than once, and I no doubt shall more than once again hear what is termed by the Assistant Floor Leader of the Republican Party, his political philosophy.

Now for the purpose of saving time, I would hope that we could dispense with my saying what my political philosophy is, because all you have to do is see the way I vote a few times, listen to the way I talk a few times, and all I have to do is see the way my good friend from Woodstock, Mr. Whitman, votes all the time, and thinks all the time, and you know what his political philosophy is, so why not stop talking about it.

I might state that insofar as the Constitution of Maine is concerned, it would appear that when conver-

sation is made about our forefathers, I too am very proud to be a Maine product. I too had forefathers. I know that on both sides of the alley they respected the Constitution, and all others after me in my family will. It is not the sacred document that cannot be amended.

Now insofar as political philosophy is concerned, I have stated my feeling and my thinking, philosophically, when I spoke a short while ago on the Floor of the House, and I fully realize after being told time and time again, and I shall again, that whatever we, the people of our party, and some of it directly aimed at my head, would want, politically we wouldn't have. It is perfectly alright with me. I have stated before that I was most appreciative of a comfortable chair in a warm room, a travel check and a pay check every two weeks. My friend from Woodstock expressed it differently when he has stated that there are those who think that he is a pimple on the nose of progress, and who am I to question location?

The SPEAKER: The Chair recognizes the gentleman from Madison, Mr. Fogg.

Mr. FOGG: Mr. Speaker, I believe my education has been enhanced somewhat. I learned a new forty dollar word, political "tinkophobia." Thank you, Mr. Whitman. And it appears it is a disease which is peculiar to the Democrats. Well ladies and gentlemen, I think I have news for you. I believe that it is contagious.

If you will refer to your desks here, here is an L. D. 1498, which is a redraft of L. D. 271, and I strongly suspect that this is an administrative bill, an administration bill; I have been watching it ever since it came into the House. The wording in this bill: "The Governor shall appoint a bipartisan commission of 10 persons to study the Constitution of the State of Maine." Now we did have a committee to study this Constitution in 1955, that was a bipartisan committee, and they came out with recommendations, most of them of which concur with what the Democrats have been proposing. Now this Republican-sponsored bill

comes out to study the Constitution again. Well what do they want to study it for? Do they want to study it and come out with a report with a Republican label on it that they can put through and say "we did it"?

I would like to point out also that down in Massachusetts the Federation of Taxpayers Association, which I am quite sure is a Republican - dominated Association, in the Herald Tribune of March 18, 1961, came out and very definitely stated that the Attorney General of Massachusetts and the top officers should be appointed by the Governor, and that they should scrap the very thing which the Republicans here in the State of Maine are trying to adhere to.

Now I wonder if it would be indelicate of me if I should suspect that if the Democrats in the next election should win both the House and the Senate and lose the Governorship, that the Republicans here in the State of Maine might hasten to adhere to the political beliefs of the Republicans in Massachusetts and do an about-face. I am not going to argue this any more because this is Friday and we all want to get home.

The SPEAKER: The Chair recognizes the gentleman from Woodstock, Mr. Whitman.

Mr. WHITMAN: Mr. Speaker, just a few words in reply. I would like to point out that in my earlier remarks regarding "constitutional tinkerphobia," I pointed out that individuals of both parties were subject to that particular disease. However, that is neither here nor there.

In regard to the remarks of the gentleman from Lewiston, Mr. Jalbert, a few days back he suggested that perhaps we should oil up the steamroller to eliminate some of the loud, squeaky noises being brought forth. I would propose to make a swap with the gentleman from Lewiston, Mr. Jalbert, that if he will furnish me with an oil can, I will supply him with a crying towel.

The SPEAKER: The Chair recognizes the gentleman from Lewiston, Mr. Jalbert, and will caution all Members to preserve the deco-

rum long an established factor in this House.

Mr. JALBERT: Mr. Speaker, I am most happy — and Members of the House — that you made that last remark, and I am fully aware of the fact that the gavel if I would be wrong, can come down upon me, and should come down as it should on any Members, and while I am on my feet, it would bring about my explaining possibly the reasons why I got up twice this week on a point of order. I am very, very proud to be a Member of this House, and very, very proud of the decorum that we entertain here, and I like to go according to the rules because I am made to go according to the rules, and I know that without saying the Speaker knows my past and present, and I know future feelings, personal feelings, towards him.

I certainly appreciate the fact that the gentleman would have me supply him with an oil can. As far as a crying towel is concerned, ten years as a member in the past of the Appropriations Committee, being the only Democrat on it, I assure you I need no crying towels, because my philosophy at all times has always been that if I couldn't beat nine Republicans put together, I'd quit my party in disgrace.

Now in view of the fact that the gentleman from Woodstock, Mr. Whitman, also is a member of the hierarchy of his party, I would suggest to him that in the essence of time and the saving of money, that he and his partner on his left sometimes might be tempted to treat all measures of ought not to pass that pertain certainly to raises for one departmental head up against another, knowing fully well that it costs a lot of money to table them, to at least do what they do to some of us and did to me the first three days of the session, ask for a division, which means inevitable death. And I would suggest that if we are to continue to have government by caucus, that you may pick my ticket up Tuesday night. I need no crying towel. You can have some of those that I've saved for other members of your party. I have

them all home, I'll bring them up to you.

Mr. WHITMAN: Mr. Speaker?

The SPEAKER: The Chair would caution the gentleman that he has spoken twice and must get permission from the House to speak a third time.

Is there objection to the gentleman speaking the third time?

(Cries of "Yes")

The SPEAKER: There is objection. The gentleman may not proceed.

The question now before the House is the motion of the gentleman from Woodstock, Mr. Whitman, that the House accept the Majority "Ought not to pass" Report on Resolve, Proposing an Amendment to the Constitution for Appointment of Attorney General by the Governor with Consent of the Senate, House Paper 638, Legislative Document 855.

The Chair recognizes the gentleman from Pittsfield, Mr. Baxter.

Mr. BAXTER: Mr. Speaker, I request a division.

The SPEAKER: A division has been requested. All those in favor of accepting the Majority "Ought not to pass" Report, please rise and remain standing until the monitors have made and returned their count.

A division of the House was had.

Ninety-six having voted in the affirmative and twenty-two having voted in the negative, the motion did prevail, the Majority Report accepted and sent up for concurrence.

Mr. Pike of Lubec was granted unanimous consent to briefly address the House.

Mr. PIKE: Mr. Speaker and Members of the House: This is on a subject which has no partisanship as far as I know. You may have noticed this morning that we reported out three water sewerage district bills in new draft. You may or may not know that we have two or three more still in committee. The point I am trying to make is that these have invariably come up to us, with draftsmanship which is inept, sloppy, clumsy, not applicable to the communities to which they are aimed—in general, in disgraceful

shape. This wouldn't be very bad if they weren't so important to the communities involved. Let me give you an example. One of them came up, which by its own terms, prohibited the district from owning its own source of water; prohibited it from serving people in another community which is already being served. Another one came up which had internal illegalities in it, so that if we had reported it out "Ought to pass," the town would have immediately found that it couldn't do what it expected to do, and certainly couldn't borrow money.

Now this is the important item. Each one of these things involves a community borrowing money by the issuance of bonds, sometimes as little as a hundred thousand, and I notice in the Eastport bill as reported out this morning, in an unusual burst of generosity, I take it on the part of the typist, they are entitled to borrow five million dollars. There is an extra zero in there somewhere, but around a million dollars.

Now what happens? These things get passed, they get accepted at the town meetings. They then try to buy the company. The company lawyers point out these errors, or if they don't, the people from whom they want to borrow the money, who are going to float the bonds, they point them out, the town has lost two years and maybe forever an opportunity to take over its system. Now these districts are good things. This is no good for this present Legislature, but some of you will be here again. And I do beg of you that when your community wants to form a district for water or sewerage, or other purposes, that A, you get a good lawyer, that B, you pay him a fee and C, that you get a properly drafted bill. Some of these really are about as bad as if you were trying to dress up some of our beautiful young ladies here in the House today out of patterns drawn from Godey's Ladies Book in 1845. Thank you. (Applause)

Mr. Knight of Rockland was granted unanimous consent to briefly address the House.

Mr. KNIGHT: Mr. Speaker, I wish to have it understood clearly