

# MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

*One Hundred and Fourth  
Legislature*

OF THE

STATE OF MAINE

1969

KENNEBEC JOURNAL  
AUGUSTA, MAINE

**ROLL CALL**

**YEA** — Berman, Bernier, Binnette, Bourgoin, Carey, Carter, Chick, Coffey, Crommett, Cummings, Dam, Emery, Fecteau, Fraser, Gauthier, Gilbert, Hunter, Jameson, Jutras, Kelley, R. P.; Lebel, Levesque, MacPhail, Marquis, McTeague, Mills, Mitchell, Moreshead, Mosher, Nadeau, Norris, Ouelette, Payson, Pratt, Rochelleau, Sheltra, Tanguay, Temple, Williams.

**NAY**—Allen, Baker, Barnes, Bédard, Benson, Birt, Boudreau, Bragdon, Brennan, Buckley, Burnham, Carrier, Chandler, Clark, C. H.; Clark, H. G.; Corson, Cote, Cottrell, Couture, Cox, Crosby, Croteau, Curtis, Cushing, D'Alfonso, Danton, Dennett, Donaghy, Drigo-tas, Dudley, Durgin, Dyar, Erickson, Eustis, Evans, Farnham, Faucher, Finemore, Fortier, A. J.; Fortier, M.; Foster, Giroux, Hall, Hanson, Hardy, Harriman, Haskell, Hawken, Henley, Hesel-ton, Huber, Immonen, Jalbert, Johnston, Kelleher, Kelley, K. F.; Keyte, Kilroy, Laberge, Lawry, Lee, Leibowitz, LePage, Lewin, Lewis, Lincoln, Lund, Marstaller, Martin, McNally, Meisner, Millett, Morgan, Noyes, Page, Porter, Quimby, Rand, Richardson, G. A.; Richardson, H. L.; Rideout, Sahagian, Scott, C. F.; Scott, G. W.; Shaw, Snow, Soulas, Starbird, Stillings, Susi, Thompson, Trask, Tyndale, Vincent, Watson, Wheeler, White, Wight, Wood.

**ABSENT**—Brown, Bunker, Carey, Curran, Good, Hewes, Hichens, McKinnon, Ross, Santoro, Waxman.

Yes, 39; No, 99; Absent, 11.

The **SPEAKER**: Thirty-nine having voted in the affirmative and ninety-nine in the negative, the motion does not prevail.

Thereupon, the Minority "Ought to pass" Report was accepted, the Bill read twice and tomorrow assigned.

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

**MAJORITY REPORT (6)** — "Ought not to pass"—Committee on State Government on Resolve Proposing an Amendment to the Constitution Providing for the Ap-

pointment of the Attorney General by the Governor (H. P. 355) (L. D. 463) and **MINORITY REPORT (4)** reporting "Ought to pass"

Tabled—April 22, by Mr. Starbird of Kingman Township.

Pending—Motion of Mr. Dennett of Kittery to accept Majority Report.

The **SPEAKER**: The Chair recognizes the gentleman from Kingman Township, Mr. Starbird.

Mr. **STARBIRD**: Mr. Speaker, I move that we table this until Tuesday next.

Whereupon, Mr. Rideout of Manchester requested a division.

The **SPEAKER**: A division has been requested on the tabling motion. All those in favor of this bill being tabled until Tuesday, April 29, pending the acceptance of the Majority Report, will vote yes; those opposed will vote no. The Chair opens the vote.

A vote of the House was taken. 38 having voted in the affirmative and 82 having voted in the negative, the motion did not prevail.

The **SPEAKER**: The pending question is the motion of the gentleman from Kittery, Mr. Dennett, that the House accept the Majority "Ought not to pass" Report.

The **SPEAKER**: The Chair recognizes the gentleman from Madawaska, Mr. Levesque.

Mr. **LEVESQUE**: Mr. Speaker and Ladies and Gentlemen of the House: It will probably be in vain that I say these few words this morning, but not to belabor this question any longer than it must, I feel that the members of the House of Representatives and the members of the Senate, would be doing a justice to the people of the State of Maine if they would allow this type of legislation, a Constitutional amendment, to appear before the people so that they would have a chance to voice their opinion as to how the appointments of the Attorneys General, or other Constitutional officers, should be handled on a state-wide basis.

I think it's very important in our present form of government that we strengthen the Legislative Branch of government. I also feel very earnestly that we should also strengthen the Executive

Branch of government. And my reason for feeling this way is that time and time again we have seen occasions where in our own branches some areas should be improved, yet we fail to take steps to improve our own lots, and in the area of the Chief Executive I assume that there are some areas there that would be in the same conditions. So this would be one of the areas that I feel that the Attorney General should either run for public office, therefore serving all of the people of the State of Maine, by being an elective office, or should serve the Chief Executive in a capacity representing the entire people of the State of Maine through the Chief Executive, and being responsible to one person in administering the laws of our state.

I can recollect a few years ago that a decision coming from the Attorney General's office was in question in regards to a decision by the Chief Executive as to whether he had certain powers to do one thing or another, only to find out that only for political reasons or political expediency was the Attorney General's decision against that of which was the Governor's powers to do one way or the other.

If for no other reason whatsoever, the Governor, in order to defend his own position, had to go outside of the realms of the operation of state government, in order to hire the services of an outside attorney to defend what was his as an executive officer. This I feel we should avoid at all costs, that we should ask any Chief Executive, from any political affiliation, having to go outside of the governmental operation of our state, to have to defend his position as the Chief Executive, if he cannot depend on the Attorney General's office for an unbiased opinion from that office.

Subsequently, the ruling came, or the ruling was overruled that was made by the Attorney General's office; but be that as it may, it still happened, and I'm a firm believer that it should not happen. Therefore, I hope that the vote to accept the Majority Report will be defeated, and I request that when

the vote is taken it be taken by the Yeas and Nays.

The SPEAKER: The Chair recognizes the gentleman from Cumberland, Mr. Richardson.

Mr. RICHARDSON: Mr. Speaker and Ladies and Gentlemen of the House: I support the motion of the gentleman from Kittery, Mr. Dennett, to accept the Majority "Ought not to pass" Report.

Very briefly, it seems to me a rather—and frankly—silly argument to suggest that the Chief Executive of this State, be he Democrat or Republican, does not have the resources within the funds provided for the Executive Branch of government to hire competent legal advice. The basic question here is whether or not the Attorney General should be appointed by the Governor, and I submit he should not be. The Legislature has, since the beginning of Maine as a state, been able to call on the Attorney General for advice and opinions with respect to legislation. This relationship should not be tampered with.

I would support, personally, the statewide election of the Attorney General, but I don't believe that it is consistent with good government to have the Attorney General's office subservient to the Chief Executive. I prefer to have the chief law enforcement officer of this state either elected on a statewide basis, which I would prefer to our present system, but certainly not appointed by the Chief Executive.

As I say, I support the motion of the gentleman from Kittery, Mr. Dennett, that we accept the Majority "Ought not to pass" Report.

The SPEAKER: The Chair recognizes the gentleman from Old Town, Mr. Binnette.

Mr. BINNETTE: Mr. Speaker and Ladies and Gentlemen of this House: This is a bill that I presented, and I will give you a few words relative to why I presented this bill.

We have heard tell a lot about these reforms over the many sessions that we have had. Every time a reform is brought up here on the

Floor the Majority Party always sees to it that the reform dies right there.

Well, Maine is the only state in the Union in which the Legislature selects its Attorney General. The Majority Party will surely get one of their own kind as an Attorney General it has never failed. Those of us in the Legislature know how complex the problems of government have become, both for us and for the Executive Branch. Both branches of government faced with this complexity are continually seeking ways to improve their operations. That I believe you will find has been recommended by the Research Committee on more than one occasion. To the extent that we succeed, the people of Maine will be the beneficiaries.

I firmly believe that the effectiveness of the Executive Department will be enhanced if the Governor has the responsibility for selecting the Attorney General. The Governor under our Constitution has ultimate responsibility for enforcement of the laws. He often needs advice on the proper interpretation of state laws and the legal implications of programs and legislation. For all these reasons the Governor should have an Attorney General who is directly responsible to him and with whom he is personally compatible. This I can say is not the case at the present time.

If the Governor and the Attorney General cannot work together, if the Governor is deprived of the trusted legal counsel of the man who should be his chief legal advisor, the only real losers are the people of the state. We demand a high quality performance from our Governor and we expect to receive it, as we should. We should also give him the opportunity to choose men who will help him meet that demand. And to that extent, I certainly hope that we will defeat the motion from my friend, the Representative from Kittery, Mr. Dennett.

The SPEAKER: The Chair recognizes the gentleman from Kingman Township, Mr. Starbird.

Mr. STARBIRD: Mr. Speaker and Members of the House: This bill of course is one of those

perennial ones that come every so often, and I, like some of the previous speakers, could also very well support a change to election of the Attorney General instead of the present method.

I prefer appointment. I prefer appointment because it makes sense. We, today, have a variety of terms for our various heads of departments, and we have in only four instances, I believe, election by the Legislature.

Originally, under the Constitution as it was adopted in 1820, Maine's Attorney General was chosen by the Governor. The County Attorneys were chosen by the Governor with the consent of the Council. The amendment to the State Constitution adopted on March 17, 1855, adopted our present system. The difference was that on that date the Legislature was given the right to elect the Attorney General; the County Attorneys were elected by the people. We still have County Attorneys elected by the people, but we have our Attorney Generals elected by the Legislature. Either one way or another, these two should be put in conformity with one another as the original founders of our state saw fit to do.

I, for one, would think that the Attorney General, the Secretary of State, I believe the State Auditor, State Treasurer if we are to retain him, should be selected by the Governor with the approval of the Council, whatever that council might be, whether it be Executive or Legislative, as is proposed in this session, or confirmed by the Senate, whatever method we adopt, and I believe that if we cannot agree on appointment, I think we should choose election.

For that reason I have signed "ought to pass" on both of the bills for the change in the office of Attorney General. I signed "ought to pass" on election as well as this one on appointment because I feel that some method should be adopted that would either make the Attorney General responsible to a man who is himself responsible to the people, or should change so that the Attorney General was directly responsible to the people.

The SPEAKER: The Chair recognizes the gentleman from Madawaska, Mr. Levesque.

Mr. LEVESQUE: Mr. Speaker and Ladies and Gentlemen of the House: After the remarks by the gentleman from Cumberland, Mr. Richardson, I was just wondering if he was making an offer of acceptance of the possibility of having an Attorney General elected by the people. If that was an offer, as indicated in the legislative records, I would like to ask the gentleman now to table this matter until the proper amendment could be drafted and presented before this House.

The SPEAKER: The Chair recognizes the gentleman from Cumberland, Mr. Richardson.

Mr. RICHARDSON: Mr. Speaker, I was before, and am now, opposed to tabling the bill. I would suggest that there is other legislation following which would make a change in the method of selection of the Attorney General. As I understand the gentleman from Kingman Township, Mr. Starbird, has just indicated to provide for the election of the Attorney General on a state-wide elective basis, as is the case in so many other states throughout the United States. I just don't think that appointment by the Governor is sound legislation. I feel very strongly that we should not have an Attorney General serving to the will of the Governor. I can cite you many instances where we would have achieved a different result, I say a bad result, if that had been the case.

Mr. Levesque of Madawaska withdrew his motion for a roll call.

The SPEAKER: Is the House ready for the question? The pending question is on the motion of the gentleman from Kittery, Mr. Dennett, that the House accept the Majority "Ought not to pass" Report. The Chair will order a vote. All those in favor of accepting the Majority "Ought not to pass" Report will vote yes; those opposed will vote no. The Chair opens the vote.

A vote of the House was taken.

77 having voted in the affirmative and 50 in the negative, the motion prevailed.

Sent up for concurrence.

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

HOUSE REPORT — "Ought not to pass" — Committee on State Government on Bill "An Act relating to Legislative Ethics" (H. P. 909) (L. D. 1170)

Tabled — April 22, by Mr. Rideout of Manchester.

Pending — Motion of Mr. Fortier of Waterville to reconsider acceptance of Report.

Thereupon, the pending motion prevailed.

The SPEAKER: The pending question now is the acceptance of the "Ought not to pass" Report.

The Chair recognizes the gentleman from Waterville, Mr. Fortier.

Mr. FORTIER: Mr. Speaker, Ladies and Gentlemen of the House: I would like to preface my remarks by thanking Representative Rideout and Representative Dennett for allowing this bill to be tabled so that I might gather my wits.

I arrived in my seat last Tuesday about ten or fifteen minutes late and found that L.D. 1170 had been reported out of committee with a unanimous "Ought not to pass" Report. To say that I was taken aback is an understatement as I was certain that the bill was comfortably tabled in committee and that the committee was preparing to draft a committee bill to include the subject matter of this bill and other legislation germane to this document. The committee apparently changed their mind and now I want to get a respectable funeral for this bill.

This bill is a worthy bill and I think it is good legislation deserving of the few remarks I'm about to make.

We as legislators, myself included, are often faced with awkward situations wherein we are or feel we might be in conflict and the situation could be resolved by submitting our doubts to a joint legislative committee for their decision, relieving ourselves of this responsibility.

I am concerned with the public image of a legislator because I am one, and I am sensitive to the way