

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

Bill, "An Act Relating to a Maine-New Hampshire Interstate School Compact." (S. P. 387) (L. D. 1378)

Tabled—April 23, 1969 by Senator Hoffses of Knox.

Pending—Passage to be En-grossed.

On motion by Mr. Katz of Kennebec, retabled and tomorrow assigned, pending Passage to be En-grossed.

The President laid before the Senate the sixth tabled and specially assigned matter:

Bill, "An Act Relating to Death Benefits before Retirement Under State Retirement System." (S. P. 175) (L. D. 576)

Tabled—April 24, 1969 by Senator Katz of Kennebec.

Pending—Enactment.

On motion by Mr. Katz of Kennebec, retabled and specially assigned for May 7, 1969, pending Enactment.

The President laid before the Senate the seventh tabled and specially assigned matter:

HOUSE REPORTS — from the Committee on State Government on Resolve, Proposing an Amendment to the Constitution Providing for the Appointment of the Attorney General by the Governor. (H. P. 355) (L. D. 463) Majority Report, Ought Not to Pass; Minority Report, Ought to Pass.

Tabled—April 25, 1969 by Senator Beliveau of Oxford, pending motion by Senator Wyman of Washington to Accept the Majority Ought Not to Pass Report.

The PRESIDENT: The Chair recognizes the Senator from Oxford, Senator Beliveau.

Mr. BELIVEAU of Oxford: Mr. President and Members of the Senate: Maine is the only state in which the legislature selects the Attorney General. L. D. 463 would propose a constitutional amendment that would alter this very outmoded procedure by having the Attorney General appointed by the Governor.

We all know, particularly those of us in the Legislature, know how complex the problems of government have become, both in the legislative branch and in the execu-

tive branch. Both branches are seeking ways and methods to change these problems, and are continually attempting to find methods to develop a more efficient operation. It is my opinion that to the extent that we are able to develop and improve the operations of both branches of government, and to that extent, if we do succeed, the citizens of Maine will certainly benefit by our efforts.

I strongly and firmly believe that the effectiveness of the executive department will be enhanced if the Governor has the responsibility for selecting the Attorney General. As we all know, under our Constitution the Governor has the ultimate responsibility for enforcing all of our laws, and frequently, if not often, he needs the advice and counsel of our Attorney General for the proper interpretation of the laws and the Constitution of our State, and more particularly, with the legal implications of the legislation that is enacted here in the Legislature. For these reasons, and many more, I believe that the Governor should have an individual, an Attorney General, who is directly responsible to him and with whom he is personally compatible, for if the Governor and Attorney General cannot work together he is deprived of the so-called trusted legal counsel, particularly the legal counsel of a man who should be and is his chief legal aide, and the only real losers are the people of the State of Maine.

In the past, and in the future of course, we have always demanded a high quality standard of performance from the Governor, which we should. We should also give him the opportunity to select an individual and choose men who will help him to seek and help him to meet this demand.

This bill, of course, is one of many governmental reform measures that have been before us and will continue to be before us during the remainder of the session. As I said at the outset, Maine is the only state in which the legislature appoints or elects the Attorney General. To say that the Attorney General answers to us is a fallacy. In my opinion, he

should answer to the Governor, the person who is responsible for the administration of the laws of this State. I therefore strongly urge that we oppose the pending motion to accept the Ought Not to Pass Report, and I request a roll call.

The PRESIDENT: The Chair recognizes the Senator from Franklin, Senator Mills.

Mr. MILLS of Franklin: Mr. President and Members of the Senate: I rise as I did two years ago in support of this measure. This is, it seems to me, a measure that peculiarly should not be associated with party politics. It is especially aimed at the improvement of the structure of state government, and, I believe, thoroughly in the right direction. It has much, much more to recommend it, it seems to me, than any of the other proposals in regard to the changing of the heads of the various executive branches to direct responsibility of the Chief Executive.

I ask you if you wouldn't imagine yourself at the head of a great business, such as the State of Maine, tinged with a great deal of legal implications as certainly the Governor's office is, and ask you if you wouldn't want to be able to call in your own attorney? As a matter of fact, you probably would. And you wouldn't want to have imposed upon you legal advice from your political opposition. It just doesn't make sense.

If you regard the federal system, and consider that it has been fairly successful over the years, as an example of good executive administration of government through the years of Republicans and Democrats alike, it has been an example to the world of good structure from the time of the founding fathers, and it has stood out that way and been copied all over the world. One of the features that distinguishes it is the strength of the executive, properly limited by the judiciary. The key person in the cabinet of the President, of course, is his Attorney General. He is there for policy, he is there for legal work. It has been called sometimes the greatest legal firm in the world,

the greatest law office in the world, and it is behind him and backing him, as it should be in a good prototype of executive government, with the limitations, of course, imposed by the judiciary. If you are in business you want your lawyer, if you are in government you want your lawyer, it seems to me.

This is without any reflection, of course, upon your very able and efficient Attorney General and his fleet of assistants. It seems to me those people should be directly under the control and under the appointive power of the Governor.

I think that if this hadn't become somewhat of a political matter that there wouldn't be much question about how we would regard it. And, of course, we have the precedent of it having been this way for a long, long time, and that is a very hard thing to change in our thinking. I am just not sure, Mr. President, what the motion is, but I hope that the Attorney General's office will be given to the Governor for appointment in the Republican years and the Democratic years alike.

The PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Berry.

Mr. BERRY of Cumberland: Mr. President and Members of the Senate: As a neophyte in legal matters, I pay a great deal of attention to the statements of the Chairman of the Judiciary Committee. I was sitting here enjoying this nice Spring day until he said that he thought the office of the Attorney General should be under the control of the Governor. That is quite a statement, and in this statement the good Senator from Franklin, Senator Mills, has put his finger right on the problem, and I thank him.

Is the Attorney General the dominion of the Governor? Is he at his beck and call? Is he to grind out opinions favoring the Governor? I don't think so.

The PRESIDENT: The Chair recognizes the Senator from Kennebec, Senator Katz.

Mr. KATZ of Kennebec: Mr. President and Members of the Senate: Every session I have been as guilty as anybody else, when it suited my purpose, to equate

change with reform. Change is not reform. It is purely and simply on its own merits, whether it is reform or not.

Indeed Maine is unique in its present posture. The Maine Legislature this session passed a change that is reform, and it makes us unique in the United States in the disposition of our votes in the Electoral College system. The Legislature felt that not only was this change, but it was reform.

We are in a minority in the United States in our system of requiring all bills to have public hearings when they are introduced into the Legislature. We are in the minority. I don't think a change in this would be reform, and I certainly do not feel that this constitutional amendment or the one that follows on the calendar represents reform.

The PRESIDENT: Is the Senate ready for the question? The pending question before the Senate is the motion of the Senator from Washington, Senator Wyman, to accept the Majority Ought Not to Pass Report of the Committee on Legislative Document 463, Resolve, Proposing an Amendment to the Constitution Providing for the Appointment of the Attorney General by the Governor. A roll call has been requested. Under the Constitution, in order for the Chair to order a roll call it requires the affirmative vote of at least one-fifth of those Senators present and voting. Will all those in favor of ordering a roll call rise and remain standing until counted?

Obviously more than one-fifth having arisen, a roll call is ordered. The Senator from Washington, Senator Wyman, has moved that the Senate accept the Majority Ought Not to Pass Report of the Committee on Resolve, Proposing an Amendment to the Constitution Providing for the Appointment of the Attorney General by the Governor. A "Yes" vote will be in favor of accepting the Majority Ought Not to Pass Report; a "No" vote will be opposed.

The Secretary will now call the roll.

ROLL CALL

YEAS: Senators Anderson, Barnes, Berry, Dunn, Greeley, Hanson, Hoffses, Katz, Logan, Moore, Peabody, Quinn, Sewall, Stuart, Tanous, and President MacLeod.

NAYS: Senators Beliveau, Bernard, Boisvert, Cianchette, Conley, Duquette, Gordon, Kellam, Letourneau, Levine, Martin, Mills, Minkowsky, Reed and Violette.

ABSENT: Senator Wyman.

A roll call was had. Sixteen Senators having voted in the affirmative and fifteen Senators having voted in the negative, with one Senator absent, the motion prevailed and the Majority Ought Not to Pass Report of the Committee was Accepted in concurrence.

The President laid before the Senate the eighth tabled and specially assigned matter:

SENATE REPORTS — from the Committee on State Government on Resolve, Proposing an Amendment to the Constitution Providing for the Election of the Attorney General by the Electors. (S. P. 178) (L. D. 580) Report "A", Ought to Pass in New Draft (S. P. 443) (L. D. 1474) Report "B", Ought to Pass; Report "C", Ought Not to Pass.

Tabled — April 25, 1969 by Senator Beliveau of Oxford.

Pending — Motion by Senator Wyman of Washington to Accept Report "A", Ought to Pass in New Draft.

Thereupon, the Ought to Pass in New Draft Report "A" of the Committee was Accepted, the Bill in New Draft Read Once and tomorrow assigned for Second Reading.

The President laid before the Senate the ninth tabled and specially assigned matter:

SENATE REPORTS — from the Committee on State Government on Resolve, Proposing an Amendment to the Constitution to Permit the Governor to Veto Items Contained in Bills Appropriating Money. (S. P. 131) (L. D. 393) Report "A" Ought to Pass; Report "B" Ought Not to Pass.