

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

*One Hundred and Fourth
Legislature*

OF THE

STATE OF MAINE

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Index

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KENNEBEC JOURNAL
AUGUSTA, MAINE

The following Bills on their passage to be enacted and the Resolve on its final passage were taken up out of order by unanimous consent.

Passed to Be Enacted Emergency Measure

An Act relating to the Purposes and Powers of the Maine Port Authority (H. P. 1265) (L. D. 1595)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure and a two-thirds vote of all the members elected to the House being necessary, a total was taken. 102 voted in favor of same and 4 against, and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

Constitutional Amendment Failed of Final Passage

Resolve Proposing an Amendment to the Constitution Providing for the Election of the Attorney General by the Electors (S. P. 491) (L. D. 1585)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed.

The SPEAKER: The Chair recognizes the gentleman from East Millinocket, Mr. Birt.

Mr. BIRT: Mr. Speaker and Members of the House: As I understand this amendment to the Constitution at present — I believe I am right, that House Amendment "C" was adopted which puts the bill back into its original form and with the statewide election of the Attorney General. I appreciate the value of governmental reforms. On the other hand I am not convinced that some of our governmental institutions and operations are as needy of reform as are indicated.

I am going to pass on a compliment that I have heard in the corridor in the last couple of days. There has been a gentleman from Virginia working on the tote board up here. They have this tote board in some 35 states or in that neighborhood and he does the maintenance on pretty near all of them because these boards are owned by the company and they work on a contractual basis. I was sitting

there talking to him this morning and he was telling me about some of the decorum in other states. And he did comment at that time the decorum in this Legislature he felt was the finest that he had ever seen in any Legislature in the country, which I think is a credit to the leadership and the membership.

I think it is indicative to me of many of the institutions in this State. I do think that they are reasonably good. I think the system of the selection of the Attorney General has worked out successfully and we have had some good ones, and I think that probably if it went to popular election the quality, I am not sure, would be improved.

As I spoke on this the other day, there is some question in my mind as to whether it would be as good. I can't be convinced in my own mind that a person would be willing to go out and try to organize a campaign and finance this 50 to 75 thousand dollar campaign to have himself elected to the Attorney Generalship and it would take four years of his salary to make just about what he has invested in this. It leads me to believe that somewhere along the line — and I hate to say this, but it leaves you to believe that somewhere that he must have to pick up other capital and consequently might be subject to owing obligations.

I personally feel that this might be a step in the wrong direction and I would consequently hope that when the vote is taken that you will vote against the adoption of this amendment to the Constitution.

The SPEAKER: The Chair recognizes the gentleman from Houlton, Mr. Berman.

Mr. BERMAN: Mr. Speaker and Members of the House: This is a Constitutional Amendment and a very important one and I would like to say at the outset that I have admiration for zeal but have some feelings about advantage. I really admire fair play but I don't like to see anyone taken advantage of even though it might be legal advantage.

Also I have very deep respect for the fundamental law of this

State and that fundamental law is our Constitution. I know my able colleague, the gentleman from Kittery, Mr. Dennett, shares these sentiments, and I know if he were able to be here this afternoon he would speak them most eloquently.

Now I think it was last week in this House something happened which doesn't happen too often, thank goodness. Two amendments to this bill had been reproduced and put on our desks. I believe there was House Amendment "A" by the gentleman from Manchester, Mr. Rideout, and House Amendment "B" produced by myself.

Now one of the younger members of the loyal opposition to this House had told me that he had a third amendment dealing with a four-year term in popular election but the amendment wasn't reproduced at the time because he wasn't going to offer it. So the good gentleman from Kittery, Mr. Dennett and myself were lulled into a sense of good will and perhaps false security.

When the time came to add amendments to the bill prior to engrossing the good gentleman from Manchester stood up and offered his House Amendment "A" and it was very clear what House Amendment "A" was and the House accepted it, and subsequently I stood up and offered my House Amendment "B" making it a two-year term and it was very clear from the amendment what that was all about and the House accepted it. And somewhere along the line the bill got tabled to later in the afternoon session. And then lo and behold the next morning on the calendar from the other body it was pointed out to me and I pointed it out to the good gentleman from Kittery, Mr. Dennett, that House Amendment "C" somehow had gotten on this bill which completely nullified the amendment that I had put on and I wasn't aware of it and the good gentleman from Kittery wasn't aware of it. And it was thought then that the time to handle it was to wait until it came back at the enactment stage.

Now I will say for my young friend of the loyal opposition, when I spoke to him later about the matter, he said that he turned around in his seat and he looked up in this direction and I was sitting in my seat and he turned around in his seat and he looked at the gentleman from Kittery, Mr. Dennett, and Mr. Dennett was in his seat, so he didn't feel that he was under any obligation, as I understand it, to get up and explain his amendment and say that it completely nullified my amendment. Well, so be it; but I think that perhaps I, in such a situation, or the good gentleman from Kittery in such a situation, would call to the attention of this honorable body that what we are doing with our amendment was completely abrogating another.

So this is how this bill comes to us in the form that it does. Now frankly I think that Mr. Birt is on very sound grounds in saying that a popular election of this constitutional office could work a hardship in the State of Maine. Anyone who is campaigning for this office undoubtedly is going to be faced with a primary competition, or very likely to be faced with a primary competition, so he is going to have to campaign statewide in the primary.

It is undoubtedly probable that he is going to be faced with a statewide election once he secures the primary nomination. So he is going to have to go around the merry-go-round a couple of times with expensive TV or radio advertising and it would be even more expensive than someone campaigning say for Congress in the first district or Congress in the second district, and I know of one instance in the last couple of years where a very good candidate for Congress in one of the larger congressional districts in this State, even though he wasn't faced with primary opposition put on a good campaign but he found himself at the end of the general election substantially in debt. And I don't think that anyone who is running for one of the chief legal offices of this state should get in the posi-

tion where it is going to cost him a great deal of money to run in a primary and to run in the general election.

Now I think that the predecessors and the founders of this state in their wisdom saw fit to say that when we have a Constitutional Amendment it takes two-thirds of the membership sitting in this House and in the other body to enact it. Now I am very sympathetic and I support the idea of the gentleman from East Millinocket, Mr. Birt, that we shouldn't enact this—what I will call for lack of better phrasing so late in the day—this rich-man's bill. And all we need is just one vote more than one third of the membership sitting here this afternoon to set this matter straight. So I would respectfully request that if the tote board is working that the vote be taken by the yeas and nays and like Mr. Birt I hope you will vote against enactment of this measure.

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

Mr. RICHARDSON: Mr. Speaker and Members of the House: It is of course always enlightening to have one legislator recount in considerable detail what he said to another some weeks ago and I know that it is always interesting to point out the many deficiencies of our opponents who happen to disagree with us on the bill. I have noted that when I am with the previous speaker I am referred to as that fair and ultimately honest and just and reasonable man; when I am on the other side I am just his friend from Cumberland.

Now if everybody isn't so hot and tired that they are just about ready to scream I would like to touch, because nobody else has, very briefly on what the bill is about and then we can vote for it in fairness and justice and honesty and all those other attractive virtues and whatever you do is of no consequence to me I can assure you.

But at the present time we have a part time Attorney General who in order to earn anywhere near the amount of money that he would

be able to command in private practice—and this is true of the present Attorney General and it is true of those who have served in the past, many of whom you know, all of whom going back to the Honorable Frank Hancock, the Honorable Frank Harding, the Honorable Richard Dubord, all are good close friends of mine—they have had to work part time to implement their income. Now the judgment that you are going to have to make is: do you want to continue this situation—and it has worked well, I don't deny that—do you want to continue this situation, or do you feel that the responsibilities of law enforcement are such today that we need a full time man?

Now once you have overcome that interesting hurdle you have to decide how you want him selected. Now the gentleman from Houlton, Mr. Berman, put in a little handy dandy amendment that would have said that the Attorney General shall receive the same pay — or in addition to the amendment which said that the Attorney General shall receive the same pay, put in by the gentleman from Manchester — Mr. Berman's handy dandy little amendment said he will serve for four years and will be elected by the Legislature.

Well, now, those of us who look at calendars and horoscopes realize that if the Republicans controlled this House in 1970 they might elect the Attorney General, and then if by some cruel stroke of fate the treacherous opposition should take over in '72, guess who would be the number one elected Republican in this State, my heavens. the Attorney General!

And this is the reason I don't like this idea of having a full-time, four-year Attorney General elected by the Legislature. Now if we are going to leave his election with the Legislature I think he should be subject to the close scrutiny we all give our Attorneys General every two years. If you are going to agree that we want to follow the course that prevails I believe in most other states and have a four-year elected Attorney General, and we want to pay him enough money so that he can be full-time,

then you will follow that course. I owe the gentleman from Houlton an apology. It wasn't his amendment that had the four-year term elected by the House and Senate, it was the other amendment, it was the paper reported out of the State Government Committee. My apologies.

So you have today the scintillating opportunity to decide whether or not you want a four-year elected Attorney General, running at large as he does in most other states, full-time, or do you want to maintain the present system? Now those, with apologies for any unintended sarcasm, are the facts.

The SPEAKER: The Chair recognizes the gentleman from Waterville, Mr. Carey.

Mr. CAREY: Mr. Speaker and Members of the House: I shall be a little sarcastic, and casually mention that after watching the current Attorney General move from the second floor to the third floor, I say if there ever was a time to elect the Attorney General it is now, and possibly we could have a little more "attorneying" and a little less "generalizing."

The SPEAKER: The Chair recognizes the gentleman from Houlton, Mr. Berman.

Mr. BERMAN: Mr. Speaker and Members of the House: I am not going to be sarcastic, at least I hope I am not, and I accept in good faith the apologies of my good friend from Cumberland, Mr. Richardson. But this is a situation with regard to a four-year Attorney General, and it happens in other states.

Now a four-year Attorney General in the State of Maine, if he happened to be politically motivated and were interested in running for Congress say, and half way through his four-year term, if we adopted this resolve, which I hope you will not, he can decide that he is going to run for Congress while he is still Attorney General. So he goes around the circuit, he has quite an advantage being the State's Attorney General running for Congress. If he wins he goes down to Washington and we have to find some other Attorney General to fill out the unexpired term.

Now every six years or so there comes up a Senate term. Now

I am not talking about the next Senatorial election or the one subsequent thereto, but during the term of Attorney General in the State of Maine, the United States Senate seat is going to be vacant one way or another, or it is going to be up for election. The State's Attorney General, while he is supposed to be the chief legal officer of the state, could decide that he would like to go down and sit in that very select club of 100 people. So while he is supposed to be doing the job of the State's Attorney for the people of Maine, he could run for the United States Senate. Well if he is elected he just packs his briefcase and goes off to Washington for six years and we have to find an Attorney General to fill in the next term. If he isn't elected he is still the Attorney General.

Now I don't think that this is good politics. I don't think this is good government. This is the way that it works in other states, and we can go down a list of the states that have this sort of thing and start from the ones that start with "Z" and go down to the ones that end in "Y", and you will find that this goes on time and again in these states that elect the Attorney General at large for a four-year term. Now I think that in the State of Maine of less than a million people that our present way of doing business isn't too bad. As a matter of fact, the amendment put on by Mr. Rideout and the amendment put on by myself, I think would have been a step of moderate progress, and frankly, if the gentleman from Houlton and the good gentleman from Kittery had been aware of the situation we probably wouldn't have been involved in this hassle today about the bill as it comes back to us for enactment, having been engrossed with this House Amendment "C" which I find very repugnant.

So we are all tired, and it is the end of the day, but I have requested the yeas and nays. This is a serious Constitutional Amendment, and I hope that the membership of this House will vote against enactment.

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

Mr. LEVESQUE: Mr. Speaker and Members of the House: Very briefly, I think if we can afford to come here and serve the people of the State of Maine on a part-time basis, and in view of what has happened in the other states and in our own state as late as this winter, up to right now, I think it is high time that we do have a full-time Attorney General and that he represent actually the views of the people of the State of Maine. And it could only be by election that we would be able to get that.

The SPEAKER: The gentleman from Houlton, Mr. Berman, moves that when the vote is taken it be taken by the yeas and nays. All members desiring a roll call vote will vote yes; those opposed will vote no. The Chair opens the vote.

A vote of the House was taken and more than one fifth having expressed the desire for a roll call vote, a roll call was ordered.

The SPEAKER: This being a Constitutional Amendment a two-thirds affirmative vote of the House is necessary for final passage. All in favor of final passage of Resolve Proposing an Amendment to the Constitution Providing for the Election of the Attorney General by the Electors, Senate Paper 491, L. D. 1585, will vote yes; those opposed will vote no. The Chair opens the vote.

ROLL CALL

YES — Allen, Baker, Benson, Bernier, Binnette, Boudreau, Bourgoin, Buckley, Burnham, Carey, Carrier, Carter, Casey, Clark, C. H.; Clark, H. G.; Coffey, Corson, Couture, Croteau, Cummings, Curran, Cushing, D'Alfonso, Dam, Donaghy, Drigotas, Erickson, Eustis, Faucher, Fecteau, Finemore, Fortier, A. J.; Fraser, Hardy, Heselton, Hunter, Jalbert, Kelleher, Keyte, Kilroy, Lawry, Lebel, Leibowitz, Levesque, Lewin, Marshtaller, Martin, McKinnon, McTeague, Mills, Mitchell, Morgan, Nadeau, Ouellette, Payson, Pratt, Richardson, H. L.; Rideout, Rochelleau, Santoro, Sheltra, Snow, Starbird, Susi, Temple, Thompson, Tynedale, Vincent, Watson, Waxman, Wheeler.

NAY — Barnes, Berman, Birt, Bragdon, Brown, Chick, Cottrell,

Curtis, Dudley, Durgin, Dyar, Evans, Farnham, Fortier, M.; Gilbert, Hall, Hanson, Haskell, Hawkins, Henley, Hewes, Hichens, Immonen, Kelley, K. F.; Kelley, R. P.; Lee, Lewis, Lincoln, Lund, McNally, Meisner, Moreshead, Mosher, Page, Porter, Quimby, Ross, Sahagian, Scott, C. F.; Scott, G. W.; Shaw, Stillings, Trask, Wood.

ABSENT — Bedard, Brennan, Bunker, Chandler, Cote, Cox, Crommett, Crosby, Danton, Dennett, Emery, Foster, Gauthier, Giroux, Good, Harriman, Huber, Jameson, Johnston, Jutras, Laberge, LePage, MacPhail, Marquis, Millett, Norris, Noyes, Rand, Richardson, G. A.; Ricker, Soulas, Tanguay, White, Wight, Williams.

Yes, 71; No, 44; Absent, 35.

The SPEAKER: Seventy-one having voted in the affirmative and forty-four having voted in the negative, seventy-one not being two thirds, the Resolve fails of final passage.

By unanimous consent, foregoing matters ordered sent forthwith.

Passed to Be Enacted

An Act relating to Jurisdiction and Judicial Divisions of the District Court (S. P. 468) (L. D. 1526)

An Act to Revise the Liquor Laws (H. P. 1224) (L. D. 1556)

Were reported by the Committee on Engrossed Bills as truly and strictly engrossed, passed to be enacted, signed by the Speaker and sent to the Senate.

By unanimous consent, ordered sent forthwith.

The Chair laid before the House the following matter: An Act Providing for Presidential Preferences in Primary Election (H. P. 1151) (L. D. 1473) which was tabled earlier in the day and later assigned, pending further consideration.

On motion of Mr. Ross of Bath, tabled pending further consideration and specially assigned for tomorrow.

(Off Record Remarks)

On motion of Mr. Benson of Southwest Harbor,

Adjourned until nine - thirty o'clock tomorrow morning.