

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

LEGISLATIVE RECORD

OF THE

*One Hundred and Sixth
Legislature*

OF THE

STATE OF MAINE

Volume II

April 23, 1973 to June 5, 1973

KENNEBEC JOURNAL
AUGUSTA, MAINE

cians," House Paper No. 1233, Legislative Document No. 1610, as introduced at the regular session of the One Hundred and Sixth Legislature to determine whether or not the best interests of the State would be served by enactment of such legislation; and be it further

ORDERED, that the committee report its findings and recommendations at the next regular or special session of the Legislature. (H. P. 1546)

The Order was read and passed and sent up for concurrence.

**House Reports of Committees
Ought Not to Pass**

Mr. Churchill from the Committee on County Government on Bill "An Act Relating to County Estimates" (H. P. 1337) (L. D. 1771) reporting "Ought not to pass."

In accordance with Joint Rule 17-A, was placed in the legislative files and sent to the Senate.

**Ought to Pass in New Draft
New Draft Printed**

Mrs. Baker from the Committee on Judiciary on Bill "An Act Prohibiting Circulation of Obscene Literature and Moving Pictures among Minors" (H. P. 53) (L. D. 60) reporting "Ought to pass" in New Draft (H. P. 1532) (L. D. 1962) under new title "An Act to Prohibit Outdoor Motion Pictures Portraying Certain Sexual Conduct in Such a Manner that the Exhibition is Visible from Public Ways or Places of Public Accommodation."

Report was read and accepted, the New Draft read once and assigned for second reading tomorrow.

Divided Report

Majority Report of the Committee on State Government on Resolution Proposing an Amendment to the Constitution Providing for the Election of the Attorney General by the Electors" (H. P. 467) (L. D. 615) reporting "Ought not to pass."

Report was signed by the following members:

Messrs. CLIFFORD
of Androscoggin
WYMAN of Washington

— of the Senate.
Mrs. NAJARIAN of Portland
Messrs. COONEY of Sabattus
STILLINGS of Berwick
GAHAGAN of Caribou
FARNHAM of Hampden
SILVERMAN of Calais
— of the House.

Minority report of the same Committee on same Resolution reporting "Ought to pass."

Report was signed by the following members:

Mr. SPEERS of Kennebec
— of the Senate.
Messrs. CURTIS of Orono
BUSTIN of Augusta
CROMMETT

of Millinocket
Mrs. GOODWIN of Bath
— of the House.

Reports were read.

The SPEAKER: The Chair recognizes the gentleman from Hampden, Mr. Farnham.

Mr. FARNHAM: Mr. Speaker, I move the acceptance of the Majority "Ought not to pass" Report.

The SPEAKER: The gentleman from Hampden, Mr. Farnham, moves the acceptance of the Majority "Ought not to pass" Report.

The Chair recognizes the gentleman from Orono, Mr. Curtis.

Mr. CURTIS: Mr. Speaker and Members of the House: This is a matter, as you can see from the report in the calendar, which is roughly equally divided, coming out of committee. It is also one in which there are members of both political parties signing each report. I think it is one of the most important pieces of legislation that will come before us. It is a constitutional amendment. Before final passage it would require a two-thirds vote of each branch of the legislature, and then before finally being adopted into the Constitution, it would require approval by the people in a referendum vote, which would occur next November.

My own thinking is that we are talking about the chief law enforcement officer of the state, a very important position, and one in which he ought to have the greatest possible independence. The best way that I can think of to choose that officer is by popu-

lar election of the people. The present system we have, I think, lends a great deal of validity to the situation, particularly perhaps when the Governor is of one political party and the legislature is of another political party. But that would not always be the case, of course.

In the United States as a whole, there are 42 states in which the attorney general, the chief law enforcement officer is elected by the people. There are seven states in which he is appointed by the governor, which I personally think is not a particularly good idea, and one state, Maine, in which he is chosen by the legislature.

I think this is a very important matter. I request a vote by division, and I hope the matter stays alive at least long enough so we can give it a good deal of thought.

The SPEAKER: The Chair recognizes the gentleman from Bath, Mr. Ross.

Mr. ROSS: Mr. Speaker and Members of the House: I see absolutely no reason for this law here in the State of Maine. I will admit that the gentleman from Orono, Mr. Curtis, is right. There are a great many states where the attorney general has to run at large. In those states, not only is this generally a stepping stone for future political aspirations, but the job is a much better paying job, and if they win, it is generally worthwhile.

But here in Maine, I can't imagine anyone running statewide for the job of attorney general. It just would not be worth all of the time, effort and money they would have to put into it. If they were going to run statewide and if they were the caliber of men who was going to run for attorney general, they certainly might just as well run for governor of this state or even for the United States Senate.

I would move the indefinite postponement of this bill and request the vote be taken by the yeas and nays.

The SPEAKER: The gentleman from Bath, Mr. Ross, moves the indefinite postponement of this Bill and all accompanying papers. A roll call has been requested. For the Chair to order a roll call,

it must have the expressed desire of one fifth of the members present and voting. All those desiring a roll call vote will vote yes; those opposed will vote no.

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

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

Mr. JALBERT: Mr. Speaker and Members of the House: My very good friend from Bath is really the one who got me on my feet this morning. I had no intention of speaking on this bill. It is my bill and I don't intend to be beholden to Tom, Dick and Harry for this or any other bill wherein it concerns some of the foolishness that I hear that is going on concerning the amendments to the Constitution.

The office of the Attorney General for the last few years has been the biggest political office in this state, including the elected Governor of this state.

I can recall four years ago, and frankly, being one of those who likes to play according to the rules, being one of those who believes in numbers, I can recall when there was an attempt made to upset caucus action by the majority party and elect an attorney general of the minority party. Action that went on that day, actually not heated me. If the vote had been taken in a booth in a corner, with everybody voting their mind and the ballots being of a secret nature, the gentleman from Bath, Mr. Ross, being a thoroughly honest gentleman, will agree with me that we would have had another attorney general. But when the election happened, the counters named by the Speaker were stationed in front of the Clerk's desk, in back of the Clerk's desk and the ballot box was next to the Clerk's desk, and I have never seen anything like it in my entire life. And I see one gentleman here, who voted and signed the report "ought not to pass," smiling and he has good reason to smile because he knows I am telling the truth.

There is always an old saying that before you are going to say something against somebody or clobber them, you say what a very fine person he is. Well, as far as I am concerned, the last attorney general was way up over his head in politics and this one is in politics, also. So let's make the job political. What is the difference is just in pay between the Attorney General's job and the Governor of the state. And as far as I am concerned, one is equally as important as the other.

I can even remember some attorneys general, going down to see them. They would actually ask you, how do you want the opinion written? What is your pleasure? I have been around a few semesters.

The idea of knocking down a bill like this, which is a perfectly good bill, and sponsoring some of those other constitutional amendments, it makes me want to wonder. As usual, this was my bill, so naturally I didn't lobby it.

The report of the committee and some of the personnel on it doesn't surprise me on the "ought not to pass" and it is perfectly all right with me. I appreciate those who signed "ought to pass" because they signed for good government, and I am tickled to death to have a roll call, and I can assure you there will be roll calls on all other constitutional amendments, packaged or unpackaged.

The SPEAKER: The Chair recognizes the gentleman from Sabatius, Mr. Cooney.

Mr. COONEY: Mr. Speaker, Ladies and Gentlemen of the House: I have a few notes here that I wasn't going to share with you, but Mr. Jalbert has indicated that the signatures on this bill might not be signatures aimed at good government but for some other reason. And I want to assure you that in my own case, that is not the case.

As you know, I have presented a legislative reform package. Although I presented the concept of an appointed attorney general. I do feel some of the merits in the idea of electing an attorney general. But I do feel in this session we do have an opportunity to do

more than one thing in a package, and to deal with this on a piecemeal basis is probably not the best way to proceed if we can do it the other way.

Now, I do see some problems inherent in the idea of an elected attorney general. I said, I would try to deal with the facts of the matter, not the stories of how we have elected attorneys general in the past or anything of that sort.

Before I share these, I would just like to comment on one thing Mr. Curtis said. He said that he worried about the independence of this office and how it could be assured by electing this gentleman. I don't see that he is any more or less independent by being elected. If we elected him, saying that this important office should be elected, why shouldn't we elect the Commissioner of Education or the head of the State Police, or how many other important jobs do we have here? Perhaps all our constitutional officers should be elected. Some states do it that way. I am just not sure that is the best and most efficient way to run a government.

It seems to me that your Governor, who is of course elected, is your chief executive officer. He should have a certain inherent responsibility for the Executive Branch of government. Now, if he has opposing politicians elected to office in his administration, I don't see how he can work efficiently with them, especially when one of them might be the Attorney General, who might have to run for Attorney General with the very idea of stepping into the Governor's chair a few years later. I can see that if they are opposite political parties, they would be at odds continuously, fighting each other. I don't see that that is the kind of thing that I want to rush to inject into our governmental system. I can see ways that it might work, but I don't see that as this is proposed here that it is going to be an advantage.

Mr. Ross commented about the salary and it not being desirable, and I can see not just one administration under the governor, and I guess you could say system of patronage that has to occur in any administration, but I can see

two systems of patronage in our Executive Branch, one under the Governor and one under the Attorney General. I can see two divisions in each political party, each trying to raise funds among political parties that in Maine frequently don't have all the funds we need to run effective campaigns. I am just not sure we can afford to sponsor this many state-wide campaigns.

I would urge you to support the motion of the gentleman from Bath, "ought not to pass." It may be that if we do deal with legislative reform that we may want to take up this issue of the Attorney General and how he is selected. I don't see that our way is the very best, but then I am not sure it is improved upon by the election. I hope that these reasons have some soundness to you. I hope that you will vote to indefinitely postpone the bill.

The SPEAKER: A roll call has been ordered. The pending question is on the motion of the gentleman from Bath, Mr. Ross, to indefinitely postpone this Resolution and all accompanying papers. All in favor of that motion will vote yes; those opposed will vote no.

ROLL CALL

YEA — Baker, Berry, G. W.; Berube, Bither, Bragdon, Brawn, Briggs, Cameron, Cooney, Cottrell, Cressey, Davis, Donaghy, Dunn, Dyar, Emery, D. F.; Evans, Farrington, Ferris, Finemore, Garsoe, Good, Goodwin, H.; Hamblen, Haskell, Herrick, Hoffses, Huber, Hunter, Immonen, Jackson, Kauffman, Kelley, Kelley, R. P.; Knight, Lewis, E.; Lewis, J.; Littlefield, MacLeod, Maddox, Maxwell, McCormick, McKernan, McMahon, McNally, Merrill, Morton, Murchison, Najarian, Parks, Perkins, Rollins, Ross, Shaw, Shute, Silverman, Simpson, L. E.; Snowe, Sproul, Stillings, Susi, Tanguay, Tierney, Trask, Trumbull, Tyndale, Walker, White, Willard, Wood, M.E.; The Speaker.

NAY — Berry, P. P.; Birt, Boudreau, Brown, Bustin, Carrier, Carter. Chick, Chonko, Clark, Conley, Cote, Crommett, Curran, Curtis, T. S., Jr.; Dow, Drigotas, Dunleavy, Farnham, Fecteau, Fraser,

Gauthier, Genest, Goodwin, K.; Greenlaw, Hancock, Henley, Hobbins, Jacques, Jalbert, Kelleher, Keyte, Kilroy, LaCharite, LeBlanc, Lynch, Mahany, Martin, McHenry, Mills, Morin, L.; Morin, V.; Mulkern, Murray, Palmer, Peterson, Pratt, Ricker, Rolde, Santoro, Sheltra, Smith, D. M.; Smith, S.; Talbot, Theriault, Wheeler.

ABSENT — Albert, Ault, Binnette, Bunker, Carey, Churchill, Connolly, Dam, Deshaies, Dudley, Farley, Faucher, Flynn, Gahagan, LaPointe, Lawry, McTeague, Norris, O'Brien, Pontbriand, Soulas, Strout, Webber, Whitzell.

Yes, 71; No. 56; Absent, 24.

The SPEAKER: Seventy-one having voted in the affirmative and fifty-six having voted in the negative, with twenty-five being absent, the motion does prevail.

The Chair recognizes the gentleman from Calais, Mr. Silverman.

Mr. SILVERMAN: Mr. Speaker, I now move for reconsideration and ask you to vote against my motion.

The SPEAKER: The gentleman from Calais, Mr. Silverman, having voted on the prevailing side, moves for reconsideration. All in favor of reconsideration will say yes; those opposed will say no.

A viva voce vote being taken, the motion did not prevail.

Sent up for concurrence.

Divided Report

Majority Report of the Committee on Labor on Bill "An Act Relating to Minimum Wages for Students Employed at Summer Camps" (H. P. 1313) (L. D. 1723) reporting "Ought to pass" as Amended by Committee Amendment "A" (H-437)

Report was signed by the following members:

Messrs. TANOUS of Penobscot
 KELLEY of Aroostook
 —of the Senate.
 Mrs. CHONKO of Topsham
 Messrs. McNALLY of Ellsworth
 McHENRY of Madawaska
 FARLEY of Biddeford
 HOBBS of Saco
 —of the House.
 Minority Report of the Same Committee on same Bill reporting "Ought not to pass".