

# MAINE STATE LEGISLATURE

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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

Signed:

Senators:

COX of Penobscot  
MARCOTTE of York

Representatives:

TRASK of Milo  
DONAGHY of Lubec  
HAMBLÉN of Gorham  
JACKSON of Yarmouth  
CLARK of Freeport  
DESHAIES of Westbrook  
TIERNEY of Durham

The Minority of the same Committee on the same subject matter reported that the same Ought to Pass.

Signed:

Senator:

KATZ of Kennebec

Representatives:

BOUDREAU of Porrland  
O'BRIEN of Portland  
MADDUX of Vinalhaven

Comes from the House, Bill and accompanying papers Indefinitely Postponed.

Which reports were Read and the Minority Ought Not to Pass Report of the Committee Accepted.

#### Divided Report

The Majority 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)

Reported that the same Ought Not to Pass.

Signed:

Senators:

WYMAN of Washington  
CLIFFORD  
of Androscoggin

Representatives:

COONEY of Sabattus  
STILLINGS of Berwick  
GAHAGAN of Caribou  
FARNHAM of Hampden  
SILVERMAN of Calais  
NAJARIAN of Portland

The Minority of the same Committee on the same subject matter reported that the same Ought to Pass.

Signed:

Senator:

SPEERS of Kennebec

Representatives:

CROMMETT  
of Millinocket

BUSTIN of Augusta

CURTIS of Orono

GOODWIN of Bath

Comes from the House, Bill and accompanying papers Indefinitely Postponed.

Which reports were Read.

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

Mr. SPEERS: Mr. President and Members of the Senate: I think that we are all very well aware of the various proposals that have been made in the past to change the method by which the constitutional officers of the State of Maine are chosen. We are all very well aware that they are now presently chosen by election in the joint convention of the legislature.

This particular bill has to do with the constitutional office of Attorney General, and there have been a number of proposals made regarding how the Attorney General should be selected. Two of the most prominent proposals are: to have him elected by the electors of the State of Maine, the people of the State of Maine, or to have him appointed by the Governor.

I would certainly vigorously oppose the idea or the theory that the Attorney General should be appointed by the Governor of the State. There are numerous arguments in favor of that, to the effect that the Attorney General should be the Governor's lawyer. My basic feeling on that is simply that the Attorney General is not the Governor's lawyer; he is the attorney for the people of the State. There have been, there may be in the future — and I am not speaking of any one particular Governor or any one particular Attorney General — but there certainly are instances when the interest of the Attorney General in interpreting the laws of the State for the people of the State may very well be in conflict with the opinion of the Governor's Office as to any one particular issue.

If the method for choosing the Attorney General is to change, I would very much be in favor of having that changed toward having him elected by the people of the State, rather than having him

appointed by the Governor of the State. As I mentioned, he is the attorney for all of the people. Just as the Governor is elected by the people to execute the laws, the Attorney General should be elected by the people to enforce the laws. I, therefore, move acceptance of the Minority Ought to Pass Report on this bill.

The PRESIDENT: The Senator from Kennebec Senator Speers, moves that the Senate accept the Minority Ought to Pass Report of the Committee.

The Chair recognizes the Senator from Androscoggin, Senator Clifford.

Mr. CLIFFORD: Mr. President and Members of the Senate: I am opposed to the motion of the good Senator from Kennebec, Senator Speers, for the election of the Attorney General.

It was the feeling of the majority of the State Government Committee that only the policymakers, the Legislators and the Governor, should be elected by the people statewide. The Attorney General does not fall into that category; he is a member of the Executive. And if the Attorney General were to be elected, I think you could follow that theory through to the Secretary of State, the Treasurer, and perhaps other offices.

I think if we look at other states, particularly the Commonwealth of Massachusetts, where those officers are elected, we find that within the Executive there is nothing but conflict between those elected officials. The Attorney General's Office has become in the Commonwealth of Massachusetts nothing but a springboard to run for the office of Governor.

I think that what we need are two things: I think we need harmony within the Executive Department. And this certainly would not create harmony because what we would have, in many instances, is a Governor elected of one political party and an Attorney General of another political party who would have ambitions to become Governor, and I think law enforcement in the end would suffer.

I also think it would tend to weaken the legislature to have an

Attorney General elected by the people at large. I think our thrust and one of the main thrusts of this legislature has been the strengthening of the legislature through various types of reform. And I think for the legislature to cope with two, as opposed to one, members of the Executive elected at large would put the legislature at a disadvantage.

I think probably the most important thing, Mr. President and Members of the Senate, is that law enforcement should not become, in my opinion, mixed up with this political game, which it inevitably would should this constitutional amendment pass.

I think there are other proposals, I, myself would favor the appointment of the Attorney General by the Governor. But I think that I would prefer the present method, the appointment by the legislature, to this method, which is election statewide. Therefore, I would oppose the motion of the Senator from Kennebec, Senator Speers, and hope that you would accept the Majority Ought Not to Pass Report of the Committee.

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

Mr. BRENNAN: Mr. President and Members of the Senate: Some sixty years ago we stopped the practice of electing U. S. Senators by the legislature. I think that constitutional change was undertaken to make government more responsive to the people, and I think it made some sense. I think it was a very good reform; I think it is good to have some elected officials.

Presently, as I understand it, the principal qualifications for Attorney General are two: One, you have got to be a lawyer. Second, you have to have been a member of the legislature. That seems to be the way it has been historically. I don't think that makes any sense whatsoever. I personally feel that someone who is running for Attorney General should have been someone that has had some experience either in prosecution or experience in the trial of criminal cases, either in defense or prosecu-

tion. I think just because you are a legislator, that gives you no real qualifications to be Attorney General.

Personally, I think I could support the concept of the Governor appointing them, but I think this is a step in the right direction. I think our present situation is terrible, as far as I can see. And frankly, I am not afraid to think of the Attorney General wandering through the state seeking votes. I think while he is out campaigning he may get some feel for what the people want, as far as setting a tone for law enforcement. I think this is a real good democratic measure — I guess it is a big "D" — so I would strongly urge you to support the remarks and the motion of the good Senator from Kennebec, Senator Speers, and accept the Minority Ought to Pass Report.

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

Mr. SPEERS: Mr. President and Members of the Senate: I would simply like to second the remarks of the Senator from Cumberland, Senator Brennan, and would further ask for a roll call.

The PRESIDENT: A roll call has been requested.

The Chair recognizes the Senator from Cumberland, Senator Berry.

Mr. BERRY: Mr. President and Members of the Senate: I wholeheartedly support the motion to accept this report. I think this is a far-reaching and forward step that the legislature can take.

For many years we have been bandying back and forth what we should do about improving our law enforcement process, and we are starting right exactly at the foundation stone, which is the statewide person responsible for law enforcement.

The objections which have been raised this morning, I feel, can very easily be answered in the bill. These are the ones particularly raised by the good Senator from Androscoggin, Senator Clifford. If we make the election of the Attorney General in the off-year so that he is not running on the same ticket with the Governor, this would presumably at the expiration

of his office give him two years of oblivion, which we politicians understand very well can well end a person's political aspirations.

Quite to the contrary of Senator Clifford's statements about the State of Massachusetts, we have had some real good Attorneys General elected in Massachusetts, and one I would call to your attention is the present Senator from Massachusetts, Senator Brooke, who was an outstanding Attorney General.

We have seen in the past measures along this line debated on party politics, and I very happy today to see it receive the support of many of the statesmen in the Democratic Party. I would only correct the good Senator from Cumberland, Senator Brennan, in that the letter that starts democratic is small "d" and not big "D", as far as this bill is concerned. I hope you would support the motion of Senator Speers.

The PRESIDENT: The pending motion before the Senate is the motion of the Senator from Kennebec, Senator Speers, that the Senate accept the Minority Ought to Pass Report of the Committee on Resolution, Proposing an Amendment to the Constitution Providing for the Election of the Attorney General by the Electors. 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 Senators in favor of ordering a roll call please rise now and remain standing until counted.

Obviously more than one-fifth having arisen, a roll call is ordered. The pending motion before the Senate is the motion of the Senator from Kennebec, Senator Speers, that the Senate accept the Minority Ought to Pass Report of the Committee on Resolution, Proposing an Amendment to the Constitution Providing for the Election of the Attorney General by the Electors. A "Yes" vote will be in favor of accepting the Minority Ought to Pass Report; a "No" vote will be opposed.

The Secretary will call the roll.

**ROLL CALL**

**YEAS:** Senators Aldrich, Anderson, Berry, Brennan, Conley, Cox, Cummings, Cyr, Danton, Greeley, Hichens, Huber, Joly, Katz, Kelley, Marcotte, Morrell, Peabody, Richardson, Roberts, Schulten, Sewall, Shute, Speers, MacLeod.

**NAYS:** Senators Cianchette, Clifford, Fortier, Graffam, Minnowsky, Olfene, Tanous, Wyman.

A roll call was had. 25 Senators having voted in the affirmative, and eight Senators having voted in the negative, the Minority Ought to Pass Report of the Committee was Accepted in non-concurrence, the Resolution Read Once and Tomorrow Assigned for Second Reading.

**Senate  
Leave to Withdraw -  
Covered by Other  
Legislation**

Mr. Clifford for the Committee on State Government on, Bill, "An Act Relating to Regional Planning." (S. P. 291) (L. D. 838)

Reported that the same be granted Leave to Withdraw, Covered by Other Legislation.

Which report was Read and Accepted.

Sent down for concurrence.

**Ought to Pass -  
As Amended**

Mr. Greeley for the Committee on Transportation on, Bill, "An Act Relating to Snow Removal on State Highways in Built-up Sections of Certain Municipalities." (S. P. 295) (L. D. 842)

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (S-164)

Mr. Cianchette for the Committee on Transportation on, Bill, "An Act Relating to Winter Maintenance of State Aid Highways and Town Ways by Municipalities." (S. P. 119) (L. D. 264)

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (S-119)

Mr. Morrell from the Committee on Appropriations and Financial Affairs on, Bill, "An Act to Institute a Priority Program Budget System." (S. P. 592) (L. D. 1869)

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (S-167)

Which reports Were Read and Accepted and the Bills Read Once. Committee Amendments "A" were Read and Adopted and the Bills, as Amended, Tomorrow Assigned for Second Reading.

**Ought to Pass  
in New Draft**

Mr. Cyr for the Committee on Public Utilities on, Bill, "An Act Relating to Public Utilities Commission Rate Regulation for Carriers of Freight." (S. P. 378) (L. D. 1104)

Reported that the same Ought to Pass in New Draft under same Title. (S. P. 634) (L. D. 1965)

Which report was Read and Accepted, the Bill in New Draft Read Once and Tomorrow Assigned for Second Reading.

**Divided Report**

The Majority of the Committee on State Government on, Bill, "An Act to Reorganize the Departments of Health and Welfare and Mental Health and Corrections." Reported that the same Ought to Pass as Amended by Committee Amendment "A" (S-166)

Signed:  
Senators:

SPEERS of Kennebec  
CLIFFORD

of Androscoggin

Representatives:

BUSTIN of Augusta  
GOODWIN of Bath  
NAJARIAN of Portland  
FARNHAM of Hampden  
COONEY of Sabattus  
CROMMETT

of Millinocket

The Minority of the same Committee on the same subject matter reported that the same Ought Not to Pass.

Signed:  
Senator:

WYMAN of Washington

Representatives:

CURTIS of Orono  
STILLINGS of Berwick  
SILVERMAN of Calais

Which reports were Read.

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