

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

1st Special Session

OF THE

*One Hundred and Sixth
Legislature*

OF THE

STATE OF MAINE

1974

Kennebec Journal
Augusta, Maine

WHEREAS, there is pending before the Senate of the 106th Legislature a Bill entitled "An Act Relating to Applicability of Workmen's Compensation Law to Employers," Senate Paper No. 802, Legislative Document No. 2296; and

WHEREAS, Article I, Section 20 of the Constitution of the State of Maine contains a strong declaration of the right to a trial by jury; and

WHEREAS, the constitutionality of the proposed bill has been questioned as it relates to said Section of the Constitution; and

WHEREAS, it is important that the Legislature be informed as to the answer to this important and serious legal question hereinafter raised; now, therefore, be it

ORDERED, that the Justices of the Supreme Judicial Court are hereby respectfully requested to give to the Senate, according to the provisions of the Constitution on its behalf, their opinion upon the following question, to wit:

QUESTION:

Do the provisions of Legislative Document No. 2296, an Act now pending before the 106th Legislature (Exhibit A) unconstitutionally impinge upon an employer's right to a trial by jury as declared by Article I, Section 20 of the Constitution of Maine?

Which was Read and Passed.

Committee Reports House Ought to Pass

The Committee on Public Utilities on, Bill, "An Act Increasing Indebtedness of the Jackman Water District." (H. P. 1863) (L. D. 2357)

Reported that the same Ought to Pass.

Comes from the House, the Bill Passed to be Engrossed.

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

Divided Report

The Majority of the Committee on State Government on, Bill, "An Act Creating a Permanent Governor's Advisory Council on the Status of Women." (H. P. 1808) (L. D. 2300)

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-662)

Signed:

Senator:

WYMAN of Washington

Representatives:

CROMMETT of Millinocket

BUSTIN of Augusta

CURTIS of Orono

SILVERMAN of Calais

NAJARIAN of Portland

GOODWIN of Bath

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

Signed:

Senators:

SPEERS of Kennebec

CLIFFORD of Androscoggin

Representatives:

FARNHAM of Hampden

COONEY of Sabattus

STILLINGS of Berwick

GAHAGAN of Caribou

Comes from the House, the Majority report Read and Accepted and the Bill and accompanying papers Indefinitely Postponed.

Which reports were Read and the Majority Ought to Pass Report of the Committee Accepted.

On motion by Mr. Clifford of Androscoggin, the Senate then voted to reconsider its action whereby the Majority Ought to Pass Report of the Committee was Accepted.

Thereupon, on further motion by the same Senator, the Minority Ought Not to Pass Report of the Committee was Accepted.

Divided Report

The Majority of the Committee on State Government on, Resolution, Proposing an Amendment to the Constitution to Provide Appointment of the Attorney General and the Treasurer by the Governor. (H. P. 1854) (L. D. 2347)

Reported that the same Ought Not to Pass.

Signed:

Senators:

SPEERS of Kennebec

WYMAN of Washington

Representatives:

SILVERMAN of Calais

FARNHAM of Hampden

CURTIS of Orono

GAHAGAN of Caribou

STILLINGS of Berwick

The Minority of the same Committee on the same subject matter reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-664).

Signed:

Senator:

CLIFFORD of Androscoggin

Representatives:

CROMMETT of Millinocket

NAJARIAN of Portland

GOODWIN of Bath

COONEY of Sabattus

BUSTIN of Augusta

Comes from the House, the Majority Ought Not to Pass report Read and Accepted.

Which reports were Read.

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

Mr. SPEERS: Mr. President and Members of the Senate: This particular bill is a bill that was recommended by the Cost Management Survey, and I suppose, if we are playing numbers games, that it will be regarded as just one more bill of the Longley Commission that has received at least a Majority Ought Not to Pass Report from the committee and has been accepted by one of the branches of this legislature.

I think the whole thrust of the Longley Commission, however, and the interest in that Commission of the people of the State of Maine is in cost savings and trying to find where we may save some money for the taxpayers of the State of Maine in state government. I think this particular bill is a perfect example of where the Commission has spilled over into a purely political consideration, at least a philosophical consideration of philosophy of government, rather than focusing strictly upon cost savings in our state government.

We are not doing away, of course, with the Attorney General. The recommendation is not to do away with the Attorney General. The recommendation is not to do away with the Treasurer of the State of Maine. So we still have those two individuals, we still have those two departments, we still have the costs that are involved with running those departments. The recommendation is purely, however, that they be appointed by the Governor of the State of Maine, and I submit

to you that that is a purely philosophical governmental decision to be made, and it is one that this legislature has addressed itself to in the past and has spoken very clearly upon.

I don't think that in putting this bill to rest that we are in any way depriving the taxpayer of the State of Maine of any possible savings, and I would resent any criticism along those lines that might come as a result of this report and as a result of the hoped for action by this body today. If we get to debating the merits of the particular bill, I think that that has been debated time and time again, but I don't believe that it is in the best interests of the people of the state to have the Attorney General particularly appointed by the Governor of the state, and I would move the acceptance of the Majority Ought Not to Pass Report.

The PRESIDENT: The Senator from Kennebec, Senator Speers, moves that the Senate accept the Majority Ought Not to Pass Report of the Committee in concurrence.

The Chair recognizes the Senator from Androscoggin, Senator Clifford.

Mr. CLIFFORD: Mr. President and Members of the Senate: Very briefly, I would oppose the motion of the good Senator from Kennebec, Senator Speers. In the recommendation which is adopted by the Minority Report, the Cost Management Survey recommends that the Secretary of State, the Treasurer and Attorney General be appointed by the Governor. It seems to me that this is not simply a political consideration. This is a consideration on overall efficiency of the Executive Branch. And in view of the fact that it has been recommended by the Cost Management Survey, I would hope that it would not become a partisan political issue in this body.

I think that it will result in a better executive, a smoother running, more efficient executive, and I do think that is certainly within the jurisdiction of the Longley Commission.

Committee Amendment "A" on the Minority Report prohibits a holder of the office of Treasurer or Attorney General from running for state-wide office from that position, which I also think is a good idea which was added by the minority members of the Committee. So I would hope that you would not consider this as

a partisan political issue. I hope that you would accept the Minority Report and the report of the Cost Management Survey, that you would vote against the motion of Senator Speers, and then go on to accept the Minority Ought to Pass as Amended Report. Thank you, Mr. President.

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

Mr. SPEERS: Mr. President, I in no way wish to indicate that this is a partisan political issue by any means, but I do feel that it goes directly to the philosophy of government. If we want to argue about efficiency in government, we could abolish all of the legislative actions and just elect a governor every four years and have him rule by fiat. I certainly don't believe that any of us would go quite that far in arguing for efficiency in government.

Since we are going to debate the merits of this particular bill, I would like to point out that I don't believe that the Attorney General should be the Attorney General for the Governor of the State of Maine. I think he is the Attorney General for the State of Maine. We saw in this last session, in the regular session, a problem arise in which the legislature of the State of Maine wished to have investigated certain aspects of the power petitions, and we saw a very uncooperative attitude on the part of the Governor of this state in directing that the State Police not cooperate with the Attorney General in carrying out that investigation. If the Attorney General himself had been appointed by the Governor, I am sure the directive would have gone directly to the Attorney General of the State of Maine, "Don't investigate this problem", even after having been requested to do so by the legislature. The point that I am making is that the Attorney General is the Attorney General for the people, and not strictly for the Chief Executive of this state.

The PRESIDENT: The pending question before the Senate is the motion of the Senator from Kennebec, Senator Speers, that the Senate accept the Majority Ought Not to Pass Report of the Committee in concurrence. Is this the pleasure of the Senate?

The motion prevailed.

Divided Report

The Majority of the Committee on Liquor Control on, Bill, "An Act Relating to Retail Sale of Fortified Wine." (H. P. 1710) (L. D. 2103)

Reported that the same Ought Not to Pass.

Signed:

Senators:

OLFENE of Androscoggin
SCHULTEN of Sagadahoc
FORTIER of Oxford

Representatives:

CHICK of Sanford
CRESSEY of North Berwick
RICKER of Lewiston
GENEST of Waterville
FARNHAM of Hampden
KELLEHER of Bangor
IMMONEN of West Paris
TRASK of Solon
STILLINGS of Berwick

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

Signed:

Representative:

TANGUAY of Lewiston

Comes from the House, the Majority Ought Not to Pass report Read and Accepted.

Which reports were Read and the Majority Ought Not to Pass Report of the Committee Accepted in concurrence.

Senate

Leave to Withdraw

Mr. Tanous for the Committee on Judiciary on, Bill, "An Act Relating to Supervised Practice by Third-year Law Students Pursuant to Court Rules." (S. P. 814) (L. D. 2310)

Reported that the same be granted Leave to Withdraw.

Which report was Read and Accepted.

Sent down for concurrence.

Ought to Pass

Mr. Roberts for the Committee on Legal Affairs on, Bill, "An Act to Eliminate Collection of Delinquent Accounts by the Treasurer of State." (S. P. 852) (L. D. 2420)

Reported that the same Ought to Pass.

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