

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

*One Hundred and Sixth
Legislature*

OF THE

STATE OF MAINE

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Index

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dox, Mahany, Martin, Maxwell, McHenry, McKernan, McMahon, McNally, Merrill, Morin, V.; Morton, Mulhern, Murray, Najarian, Norris, O'Brien, Perkins, Pratt, Rollins, Ross, Silverman, Simpson, L. E.; Smith, S.; Snowe, Soulas, Sproul, Stillings, Strout, Trask, Walker, Webber, Wheeler, White, Whitzell, Willard, Wood, M. E.; the Speaker.

NAY — Brawn, Chick, Chonko, Clark, Connolly, Cooney, Cote, Emery, D. F.; Faucher, Gahagan, Goodwin, K.; Hamblen, Hancock, Hoffses, Morin, L.; Parks, Peterson, Rolde, Santoro, Shaw, Shute, Talbot, Theriault.

ABSENT — Berry, P. P.; Berube, Briggs, Bunker, Carey, Carrier, Churchill, Cottrell, Cressey, Dam, Deshaies, Dudley, Farley, Fecteau, Ferris, Gauthier, Herick, Hobbins, Jacques, Kelleher, Kelley, Kilroy, Lynch, MacLeod, McCormick, McTeague, Mills, Palmer, Pontbriand, Ricker, Shelta, Smith, D. M.; Susi, Tanguay, Tierney, Trumbull, Tyndale.

Yes, 90; No, 23; Absent, 38.

The **SPEAKER**: Ninety having voted in the affirmative and twenty-three in the negative, with thirty-eight being absent, the motion does prevail.

Thereupon, the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

The Chair laid before the House the second item of Unfinished Business:

Bill "An Act to Create the Maine Guarantee Authority and to Amend the Maine Industrial Building Authority and Maine Recreational Authority Statutes" (S. P. 667) (L. D. 2033) (H. "A" H-585 to S. "A" S-242).

Tabled — June 20 by Mr. Henley of Norway.

Pending — Passage to be engrossed.

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

Mr. **ROSS**: Mr. Speaker, I move this bill be passed to be engrossed as amended.

Mr. **Curtis** of Orono offered House Amendment "B" and moved its adoption.

House Amendment "B" (H-596) was read by the Clerk.

The **SPEAKER**: The Chair recognizes the gentleman from Orono, Mr. Curtis.

Mr. **CURTIS**: Mr. Speaker and Members of the House: To explain just briefly, the purpose of this amendment is to reduce the per diem that would be paid to members of the Authority from what was criticized previously as being too high at \$100 for the chairman and \$75 for other members all the way down to \$75 for the chairman and \$50 for the members, and it changes slightly the provisions for expenses that are provided.

A lot of people put an awful lot of thought into this, and I am sure that I speak for many to say this is a reasonable approach.

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

Mr. **ROSS**: Mr. Speaker and Members of the House: I still think that these prices are a little bit high, and I have no doubt they will have quite a lot of meetings at \$75 a day, I would if I were they, but I still move it be passed to be engrossed as amended.

Thereupon, the Bill was passed to be engrossed as amended by Senate Amendment "A" as amended by House Amendment "A" thereto and House Amendment "B" in non-concurrence and sent up for concurrence.

The Chair laid before the House the third item of Unfinished Business:

Bill "An Act to Provide Property Tax Reduction, Rent Relief and Equalization of Municipal Revenues" (H. P. 1620) (L. D. 2038)

Tabled—June 20 by Mr. Martin of Eagle Lake.

Pending — Passage to be engrossed.

On motion of Mr. Martin of Eagle Lake, tabled pending passage to be engrossed and tomorrow assigned.

The Chair laid before the House the fourth item of Unfinished Business:

Resolution, Proposing Amendments to the Constitution to Provide for Annual Sessions of the Legislature and to Limit the Matters Which May be Considered in the Second Regular Session; to Provide for Single Member Districts in the House of Representatives; to Provide for Reduction of the Number of Representatives and Reapportionment of the House of Representatives and the Senate in 1983; to Establish an Apportionment Commission to Plan for all Reapportionments of the House of Representatives and Senate; to Abolish the Executive Council and Reassign Certain Constitutional Powers to a Legislative Council; and to Provide that Oaths and Subscriptions of Office of the Governor, Representatives and Senators Shall be Taken Before the Chief Justice of the Supreme Judicial Court. (S. P. 673) (L. D. 2040).

Tabled—June 20, by Mr. Birt of East Millinocket.

Pending — Passage to be engrossed.

Mr. Birt of East Millinocket offered House Amendment "E" and moved its adoption.

House Amendment "E" (H-600) was read by the Clerk,

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

Mr. BIRT: Mr. Speaker, Ladies and Gentlemen of the House: In attempting to explain the several minor changes that have been made in this piece of legislation as it has been working its way through here, they have come about and as a result of it there have been five amendments presented to you and this is a summation of all five of them.

Fairly well down the amendment there was a change to take the swearing in of the legislature from the Chief Justice and leave it be done by the Governor as it presently is. I believe the swearing in of the Governor is by the Chief Justice of the Maine Supreme Judicial Court.

The first section refers to the change in the title in which they have taken Representatives and Senators out and leave it as is.

The second change came as a technical error that was done in drafting, and the words "in January" were left out, resulting in a situation if the bill were to pass that the legislature would immediately the day after election be dissolved. Those two words "in January" were left out. It intended to be the first Wednesday in January, they left the first Wednesday after the election.

The third and fourth changes are changes in the way that the apportionment will be handled. If the legislature — or if a commission plan is not accepted by the legislature, and it does have to go to the court, the court will have to give due consideration to the plan of the commission. It brings this commission plan, which has been worked out prior to the convening of the legislature to the intention of the justices so that they will have to give due consideration to that.

The fifth change is a change in the introduction of bills. It allows the minority party, whichever party it might be, to have some assurance that bills that are introduced at the second session could be introduced by them in that it only requires the affirmative votes of four members for introduction.

And the last change was a change that was found was skipped over of a constitutional change that was made a few years ago, but it had not been brought into the Constitution, and when the Constitution was reviewed to find out all areas that had "and council" in, Governor and Council" the words "and council" were taken out. This by accident was not—it didn't come to their attention. One of the people on State Government happened to come across this, so they had an amendment drawn up to correct this condition.

All five of these changes are put into this amendment. On the last page, on page 3, you will find that the language that I referred to that was necessary in the title has been corrected here so that the oath of office will be given to the Governor by the Chief Justice, but the rest of the language remains identical as it was.

I would hope for the adoption of this amendment.

The SPEAKER: The Chair recognizes the gentleman from Eagle Lake, Mr. Martin.

Mr. MARTIN: Mr. Speaker and Members of the House: Is this filing amendment H-600?

The SPEAKER: The Chair would answer in the affirmative.

Mr. SIMPSON: I support adoption of the amendment.

Thereupon, House Amendment "E" was adopted.

Mr. Martin of Eagle Lake offered House Amendment "D" and moved its adoption.

House Amendment "D" (H-597) was read by the Clerk.

The SPEAKER: The Chair recognizes the gentleman from Eagle Lake, Mr. Martin.

Mr. MARTIN: Mr. Speaker, Ladies and Gentlemen of the House: As you are obviously aware, House Amendment "E" that we adopted to L. D. 2040 makes some drastic changes in our system of government in terms of the Constitution of the State of Maine.

One of the items which many people, as far as members of my caucus, have been extremely concerned about is the issue of single versus multiple districts. Obviously it creates a problem for not other I suppose than political reasons. As you well know two thirds of the members of the Democratic caucus tend to come from the larger areas. Keep in mind also that the Democratic party presently holds about two thirds of all members from multiple districts.

Basically, the amendment here removes from the Constitution all provisions dealing with the multiple districts. It does remove from the Constitution the requirement that if multiple districts are to be done, they must be done by two-thirds vote. That is the present requirement under the Constitution of the State of Maine.

If you would take a look at House Amendment "D" which is under filing H-597, the last sentence is I would think the most important provision of that amendment, or I perhaps ought to say the paragraph before that as well. And for those of you who don't have it, let me very briefly read

it. "Whenever a municipality entitled to one or more representatives shall have the census of population insufficient to justify an additional representative, that excess of population may be combined with contiguous territory from more than one municipality to form a single representative district.

Now this is most important and this is also part of the existing document in L. D. 2040 as amended. That provides that if you are going to be dividing up the cities, that when you do that you shall have no more than one district going outside the municipal boundaries. It would prevent, in effect, the eventuality of the possibility of taking certain sections and sort of pie cutting it in such a way as to try to gerrymander it as much as possible.

The most important provision from our viewpoint is the last sentence which reads, "Any municipality entitled to two or more representatives may be organized into single member districts whereby each legally qualified elector therein is entitled to vote for only one representative or into any combination of single and multiple member representative districts."

What this does is to remove the requirements that the legislature by two-thirds vote must handle the reapportionment method through the legislative body. As you know, we have created a system in this particular document that sets up a commission consisting of 11 people, five would be members of one political party, five of the other, and one supposedly would be neutral to be elected by the ten. In order for the commission to act, in order for it to present a plan, it needs the affirmative vote of seven of the eleven members, not two-thirds, but seven of eleven. What this does, there, is to allow an opportunity for those seven people to decide whether or not a city is going to be divided into single or divided into multiple or divided into types of either within the same city. It allows flexibility that can be used by this commission.

I am sure that the argument can be made that this in effect will

destroy the single-member concept. That is what I thought originally. After viewing the situation and the problem I feel that the single-member issue and the multiple issue is one that is most important to everyone in the sense of political terms, and that what we have to try to do is try to arrive, if we can, at a system that is going to be as much as possible fair to all people involved. I guess what I am saying is that members of the Democratic caucus feel that this would be a fair way of approaching the problem. It does not, as the original bill does, mandate single member districts automatically. But for those of you who feel more strongly about single member districts, I can assure you, or I think I can, whichever it might be, that as the time goes and as the way the courts have been operating, I see nothing to change them from continuing that type of reasoning that they have exercised in the past.

The best example to demonstrate that, I suppose, is what happened a couple of weeks ago at the City of Presque Isle involving the school board directors where the federal court has ruled that the city and the communities of SAD 1 must divide themselves and must reapportion themselves according to one man one vote. I understand that it is going to mean a school board if they do it along those lines of close to 70 or 80 people.

Now there is no issue in my mind that the courts are going to continue that type of decision making, and that is one of the reasons why I am supporting the amendment and introduction of it here today. I would ask that you give it serious consideration and that you would consider voting for it as we vote this afternoon on what will affect the State of Maine for a long time to come.

The SPEAKER: The Chair recognizes the gentleman from Standish, Mr. Simpson.

Mr. SIMPSON: Mr. Speaker, I would move the indefinite postponement of House Amendment "D".

Thereupon, Mr. Martin of Eagle Lake requested a roll call on the motion.

The SPEAKER: 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 Housue 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: As I think probably the number one opponent to single member districts, I am amazed that the gentleman from Standish, Mr. Simpson, is not willing to do what I am willing to do, and that is compromise and go with the good gentleman from Eagle Lake, Mr. Martin.

The SPEAKER: The pending question is on the motion of the gentleman from Standish, Mr. Simpson, to indefinitely postpone House Amendment "D" to L. D. 2040. All in favor of that motion will vote yes; those opposed will vote no.

ROLL CALL

YEA — Ault, Baker, Berry, G. W.; Berube, Birt, Bither, Bragdon, Brawn, Briggs, Brown, Cameron, Chick, Curtis, T. S. Jr.; Davis, Donaghy, Dunn, Dyar, Emery, D. F.; Evans, Farnham, Farrington, Ferris, Finemore, Flynn, Gahagan, Garsoe, Good, Hamblen, Haskell, Henley, Herrick, Hoffses, Huber, Hunter, Immonen, Jackson, Kauffman, Kelley, Kelley, R. P.; Knight, Lewis, E.; Lewis, J.; Littlefield, MacLeod, Maddox, McCormick, McKernan, McMahon, McNally, Merrill, Morton, Murchison, Norris, Palmer, Parks, Perkins, Pratt, Rollins, Ross, Shaw, Shute, Silverman, Simpson, L. E.; Snowe, Soulas, Sproul, Stillings, Strout, Susi, Trask, Walker, White, Willard, Wood, M. E.; The Speaker.

NAY — Binnette, Boudreau, Bustin, Carey, Carter, Chonko, Clark, Conley, Connolly, Cooney, Cote, Cottrell, Crommett, Curran, Dow, Drigotas, Dunleavy, Faucher, Fraser, Gauthier, Genest, Goodwin, H.; Goodwin, K.; Greenlaw, Han-

cock, Jalbert, Kelleher, Kilroy, LaCharite, LaPointe, Lawry, LeBlanc, Martin, Maxwell, McHenry, McTeague, Morin, L.; Morin, V.; Mulhern, Murray, Najarian, O'Brien, Peterson, Rolde, Santoro, Smith, D. M.; Smith, S.; Talbot, Theriault, Webber, Wheeler, Whitzell.

ABSENT — Albert, Berry, P. P.; Bunker, Carrier, Churchill, Cressey, Dam, Deshaies, Dudley, Farley, Fecteau, Hobbins, Jacques, Keyte, Lynch, Mahany, Mills, Pontbriand, Ricker, Sheltra, Tanguay, Tierney, Trumbull, Tyndale.

Yes, 75; No, 52; Absent, 24.

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

The pending question is L.D. 2040 being passed to be engrossed. All in favor of that motion will vote yes; those opposed will vote no.

A vote of the House was taken. 94 having voted in the affirmative and 30 having voted in the negative, the motion did prevail.

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

Mr. BRIT: Mr. Speaker, I would move that the rules be suspended for the purpose of sending this Bill forthwith to the Senate.

The SPEAKER: The pending question is on the motion of the gentleman from East Millinocket, Mr. Birt, that the rules be suspended for the purpose of sending this Bill forthwith to the Senate. This requires a two-thirds vote. All in favor of that motion will vote yes; those opposed will vote no.

106 having voted in the affirmative and 15 having voted in the negative, the motion did prevail.

Thereupon, the Bill was sent forthwith to the Senate.

The Chair laid before the House the fifth matter of unfinished business:

Bill "An Act to Improve the Lobster Fisheries" (S. P. 638) (L. D. 1973)

Tabled — June 20, by Mr. LaCharite of Brunswick.

Pending — Passage to be enacted.

The SPEAKER: The Chair recognizes the gentleman from Vinalhaven, Mr. Maddox.

Mr. MADDOX: Mr. Speaker, Ladies and Gentlemen of the House: We have now arrived at that position we often achieve — we always achieve at the end of a session when more or less confusion accompanies certain bills. We embarked upon this business of looking into the Sea and Shore Fisheries administration of the lobstering industry with considerable hope that we were going to come up with a solution.

This was done with the knowledge and the complete agreement of the Department of Sea and Shore Fisheries. We have a new commissioner in that department. He is a man who hasn't yet had time to get his feet on the ground. He has many beautiful theories and some he has advanced through bills that have been introduced in this legislature at the present time. Some of them were workable, some of them were not. We have discarded those, but we have now arrived at the point where he repudiates his own desires. He doesn't know what he wants.

The limitation of traps is something that was agreed upon by everybody, and now the Department of Sea and Shore Fisheries, having possibly within their reach a bill that would limit the number of traps being fished, acknowledge they don't know how to administer it, how to enforce it if it passed. I consider the conditions regarding this particular bill at the present time as far as it refers to the Department of Sea and Shore Fisheries to be an exercise in futility, because they are in such a state of confusion as to what they want, they wouldn't be able to administer the bill.

I would suggest, after I make the following motion, that they consider — the Department of Sea and Shore Fisheries study with the Legislative Committee on Marine Resources and come up with some legislation that they would agree to and that they will admit that they can administer. So I now