

MAINE STATE LEGISLATURE

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OF THE

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OF THE

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motion before the floor so that we can enact this legislation. Daniel Webster once said in an old saying, "Justice delayed is justice denied," and I think we will be denying justice if we do not pass this legislation.

The SPEAKER: The Chair recognizes the gentleman from Bangor, Mr. McKernan.

Mr. McKERNAN: Mr. Speaker, Ladies and Gentlemen of the House: Very briefly, I just want to add really some personal observations. When I was in law school before I was elected to the Legislature, one summer I was clerk for the Superior Court in Penobscot County and I was appalled at the way the court system was run. The judges, because of the way the system is set up, are traveling around constantly. They have little or no secretarial help. As the gentleman from Standish, Mr. Spencer, said, they come into a county, the judges do, and there is a clerk system there but it differs in all the counties. It takes them a half month just to get used to the system they are operating under, and they are only there for another two weeks after that. They have nobody to write opinions for them. There is no series of decisions that really have any bearing on anything else because there is nobody administering these courts.

In the regional system, I think that we will be able to set policy, and especially on sentencing and things like this, because there will be one judge who will be the administrator for that region, three or four counties or whatever are going to be in each region. Therefore, I think, you are going to see a better application of equal justice and I think, in fact, it will cure some of the problems that we in the legislature have in wondering why the laws perhaps aren't being interpreted the way we thought that we had passed them. This will, I think, facilitate that and also cure some of the problems we have with the present judicial system. So I urge you to oppose this motion.

The SPEAKER: The Chair recognizes the gentleman from Orland, Mr. Churchill.

Mr. CHURCHILL: Mr. Speaker and Ladies and Gentlemen of the House: I think one thing has been left out here is that currently 62 percent of the funding of the entire state judicial system comes from various sources at state level. However, the county still directly pay for the administrative costs of the Superior Court, the Clerks of the Superior Court, the County Law Libraries and some of the expenses of the Supreme Judicial Court. The counties are currently paying far more in these expenses for the courts than they gain in the revenues from the courts. All funding should come directly from the state so a rational and an effective budget may be planned for the entire court system so that the counties may be relieved of the burden of the ever increasing court costs. The proposed legislation provides that the above court expenses be paid by the state and it further provides that all court revenues accrue to the state. This is the main objection, right now, to this court system. They are afraid, most counties, that they would lose what refund they do get from the district courts. The other costs would far offset what little they have refunded, especially if you have a few good murder trials in one of these small counties it would nearly bankrupt the system. I certainly urge that if we are going to reform our court system that we pass this bill once and for all.

The SPEAKER: 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 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 pending question is on the motion of the gentleman from Anson, Mr. Burns, that the House indefinitely postpone Bill, "An Act to Implement the Recommendations of the Trial Court Revision Commission," House Paper, 350, L. D. 1263 and all accompanying papers. All in favor of that motion will vote yes; those opposed will vote no.

ROLL CALL

YEA — Bagley, Berry, G. W.; Burns, Call, Conners, Cote, Dam, Doak, Dudley, Fenlason, Hunter, Kelley, Laffin, Mackel, Maxwell, Raymond, Rollins, Shute, Truman.

NAY — Albert, Ault, Bachrach, Bennett, Berry, P. P.; Berube, Birt, Blodgett, Boudreau, Bustin, Byers, Carpenter, Carroll, Chonko, Churchill, Clark, Cox, Curran, P.; Curran, R.; Curtis, Davies, DeVane, Dow, Durgin, Dyer, Farley, Farnham, Finemore, Flanagan, Garsoe, Gauthier, Goodwin, H.; Goodwin, K.; Gould, Gray, Greenlaw, Hall, Henderson, Hennessey, Hewes, Higgins, Hinds, Hobbins, Hughes, Hutchings, Immonen, Ingegneri, Jackson, Jacques, Jalbert, Jensen, Kany, Kauffman, Kelleher, Kennedy, LaPointe, Laverty, LeBlanc, Leonard, Lewin, Lewis, Littlefield, Lizotte, Lovell, Lunt, Lynch, MacEachern, MacLeod, Mahany, Martin, A.; Martin, R.; McBreaity, McKernan, McMahan, Mills, Miskavage, Mitchell, Morin, Morton, Nadeau, Najarian, Norris, Palmer, Peakes, Pelosi, Perkins, S.; Perkins, T.; Peterson, P.; Peterson, T.; Pierce, Post, Powell, Quinn, Rolde, Saunders, Smith, Snowe, Spencer, Sprowl, Strout, Stubbs, Susi, Talbot, Tarr, Teague, Theriault, Tierney, Torrey, Tozier, Twitchell, Tyndale, Usher, Walker, Webber, Wilfong, Winship, The Speaker.

ABSENT — Bowie, Carey, Carter, Connolly, Cooney, Drigotas, Faucher, Fraser, Joyce, Mulhern, Rideout, Silverman, Snow, Wagner.

Yes, 19; No, 117; Absent, 14.

The SPEAKER: Nineteen having voted in the affirmative and one hundred and seventeen having voted in the negative, with fourteen being absent, the motion does not prevail.

Thereupon the Bill was passed to be engrossed in concurrence and sent to the Senate.

On request of Mr. Rolde of York, by unanimous consent, unless previous notice was given to the Clerk of the House by some member of his or her intention to move reconsideration, the Clerk was authorized today to send to the Senate, thirty minutes after the House recessed for lunch and also thirty minutes after the House adjourned for the day, all matters passed to be engrossed in concurrence and all matters that required Senate concurrence; and that after such matters had been so sent to the Senate by the Clerk, no motion to reconsider would be allowed.

On motion of Mr. Rolde of York

Recessed until four o'clock in the afternoon.

After Recess 4:00 P.M.

The House was called to order by the Speaker.

The Chair laid before the House the seventh tabled and today assigned matter:

Resolution, Proposing an Amendment to the Constitution to Provide for Reduction of the Number of Representatives in 1985, to Establish the Number of Senators at Thirty-three in 1985, and to Change the Date of Convening of the Legislature (H. P. 1587) (L. D. 1883) — In House, Indefinitely Postponed. House Reconsidered Indefinite Postponement, May 23.

Tabled — May 23, by Mr. McKernan of Bangor.

Pending — Motion of Mr. Faucher of Solon to Indefinitely Postpone.

The SPEAKER: The Chair recognizes the gentleman from Bridgewater, Mr. Finemore.

Mr. FINEMORE: Mr. Speaker, Ladies and Gentlemen of the House: I have stayed away from this and I haven't spoken on it once. Now I am going to tell you what I think of this bill, and that is very little. I will tell you, I live in a county that at one time had 16 representatives, now we have got 14. You go fooling around and the first thing you know we are going to have nine up in Aroostook County. It is only 205 miles long and 105 miles wide. Why our own Speaker, Mr. Martin, starts out in the morning and can't get out of it before the middle of the afternoon, just one county. It is just about time we woke up. We are going to lose our rural representation if we fool around with this bill, and I mean we are going to lose it, not only in Aroostook County, but Somerset County, Penobscot County, Washington County, you take them, I name them and we have got them all over so this is going to hurt. Why should we do it?

We had a reapportionment last year, and they couldn't even do that right. Our state is all mixed up under the reapportionment law. I don't blame the Speaker for laughing because it helped his party considerably. We in Aroostook County lost 1,500 votes that went into Washington County, which we could have used in Aroostook with a much better reapportionment than we got out of it. Let's call a spade a spade.

Today, I hope you will go along with indefinite postponement of this bill and all its accompanying papers. If I have to, I will speak again on it because it is a very, very poor bill. To go to work and put in ten years ahead makes it worse. How do we know what is going to happen in ten years. Why should we tell the Legislature in 1985 what to do. That isn't even sensible: 1985 can vote for themselves. I would say let's kill this bill and the quicker we kill it the better. In 1981, when we have another reapportionment, let's get together if we are here or I am here and get a reapportionment that is somewhere near fair.

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

Mr. BIRT: Mr. Speaker, Ladies and Gentlemen of the House: I will try to correct a few comments that have been made. Relative to the last apportionment that was done, as I remember, one day it seems there was a gentleman from Bridgewater came down and review the apportionment plan we were doing and he

looked it over and he said, "I think that is the best job that could possibly be done." He said, "Probably the best thing to do is to go along with it." That was when there was some questions from some of the other people involved and he at that time thought we had done a pretty fair job.

As far as reducing the size of the House is concerned, if we do reduce the size of the House, it will be proportionate all over the state so that the relationship of one district or one county's representation to another's will stay essentially the same.

There has been a great deal of interest in reducing the size of the House for quite a period of time. Every paper in the State of Maine has editorialized in favor of reducing the size of the House, there have been many of them.

For a long while I was reluctant to go along at all. I think that this reduction to 132 and building a Senate in relation to the House districts does make sense. As to how many representatives that Aroostook County would have, based on present population, it appears that they would have 12½ at the 132. I have heard comments that they will be down to nine and eight; that is not so. Based on the 1970 population and 132 members, they would have exactly 12½ or 12.49 representatives.

There have been some comments as to exactly what it might do to some communities. I did call the planning office and check with them to see what they estimated the population to be at the present time and whether they had any projection as to what it might be in 1980. The population at the present time is just under one million people, about 3,000 under the planning office indications are that at the present time there are 63,000 in the state, which would mean the ratio of districts, the population would be somewhere in the area of 8,000, which should take care of the comments that I have heard from some, well, my community has gone up about 300 or 400 people and this is going to mean that you are going to have to subdivide it again. I don't think that will be true, to allow a district to be as high as 8,456 people and still stay within the 5 percent guidelines.

As to why we are doing this at this time, many people say that why don't we wait until 1981. In the first place, the issue is fresh in our mind, just having completed an apportionment, it does require a change in the Constitution. If and I have heard this suggestion made - that we amend the Constitution and leave it flexible and not put any figure for the size of the House outside of it had to be a ratio of House to Senate. That is one possibility; I have been reluctant to go along with it in that direction, but if we don't do it now, 1981 will be here and then we will be into an apportionment problem and we won't have any guidelines to go with.

Actually, whether many of you realize it or not, at the present time, the present apportionment was done under Supreme Court Guidelines and completely outside of the guidelines of the present Constitution. At the present time, there are no guidelines in the Maine Constitution for doing an apportionment. I do feel that this legislature should face up to the problem this year of trying to do something in the area for setting some guidelines in the future apportionment. They have had the experience of what has gone on previously, there are the guidelines that have been recommended by the Maine Supreme Court and the United States Supreme Court, and I do think that passage of this

bill makes some sense at this time. I hope you do not support the indefinite postponement motion and then we can pass this bill to be engrossed.

The SPEAKER: The Chair recognizes the gentleman from Bridgewater, Mr. Finemore.

Mr. FINEMORE: Mr. Speaker, Ladies and Gentlemen of the House: At no time did I tell the gentleman that I would ever go along with breaking up Aroostook County and putting it into Washington County. I may have said the rest of the state was up to them, not to me.

You heard figures thrown at you, but I ask you again are we going to go to work and tell the legislature in 1985 what to do? Do we feel like doing that, do we feel like telling the 108th what to do? I know at times we have had a bill that was referred to the 107th from the 106th and back 105th and the 106th and we have all said we were neglecting our duties in asking them to do it and I don't think we should do it.

I came down the other time when they reapportioned on my own, spent my own money, stayed a couple of nights and went over it with them. I explained a few errors but it never did a bit of good. They just did as they wanted to and they will do it again if they reapportion it in 1980.

The Speaker is laughing. I am not blaming him because if I was on his side I would have done the same thing, but I wasn't on it. I don't like to have these traps set and then fall into them. I think the Speaker will feel the same as me right now, there is no reason for us telling them in 1985 what to do. I don't think there is a member in this House at this time that will say to themselves, should I tell the Legislature in 1985 what to do, especially us fellows that come from Washington, Aroostook, Penobscot, Somerset and as many more as you want to? Why should we give up our rural districts? I have got them sitting behind me here, three sitting right back here that all represent nice ones, Mr. Burns, Mr. Doak, Mr. Carroll, we all come from little districts. Do we want to see that representation cut down? That is just what we are doing, we are cutting them down. We are going to say you have got to have 10,000 in place of 6,000, you have got to travel 200 miles in place of 100. Look over in Washington County, like the gentlemen from Danforth, Mr. Fenlason, was telling us the other day, look at the distance he has got, look at what Mr. Mills has got. Do we want to add another 50 miles on them? Well, that is what we are going to do. If that is what you want to do, you vote against the indefinite postponement today.

The SPEAKER: The Chair recognizes the gentleman from Eastport, Mr. Mills.

Mr. MILLS: Mr. Speaker, Ladies and Gentlemen of the House: I heartily endorse what Representative Finemore has said and I would also call your attention to the way the reapportionment map of the State of Maine reads, and anybody that studies it for a few hours is going to get the hatchet. I believe that we are going to bring in professional politicians and we have enough of them in this House as it is.

The SPEAKER: The Chair recognizes the gentlewoman from Brunswick, Mrs. Martin.

Mrs. MARTIN: Mr. Speaker, Ladies and Gentlemen of the House: I have another opinion than Mr. Finemore, but I agree with him. I am one of many that believed in reducing the House but I have changed my mind. I attended the hearing on the bill

and I realized that the rural districts were going to get the hatchet. I believe that we are going to bring in professional politicians and we have enough of them in this House as it is.

The SPEAKER: The Chair recognizes the gentleman from Kittery, Mr. Kauffman.

Mr. KAUFFMAN: Mr. Speaker, Ladies and Gentlemen of the House: I hope you vote against indefinite postponement of this bill. I believe on the last reapportionment, no town was hurt worse than the town of Kittery. As a matter of fact, they split us up into three sections, I have a section bordering the York line which should belong to Representative Rolde. I have another section, Garrish Island, which should belong to Representative Rolde. I wrote to the Supreme Court Justice and informed him at the time of the reapportionment that we had 854 prisoners at the naval prison at the Kittery Naval Shipyard when the census was taken, which was taken into this consideration on reapportionment, plus military personnel permanently stationed there.

I believe the only opposition to this reduction is that a lot of us old timers, I will say, are afraid we have got to get out and campaign. For years, we have taken it for granted that we are in. Now, with the younger breed coming in, you might call them professional politicians if you wish, but they are the boys who get out and campaign. So, I think that is the objection to reducing the House.

The SPEAKER: The Chair recognizes the gentleman from Franklin, Mr. Conners.

Mr. CONNERS: Mr. Speaker, Ladies and Gentlemen of the House: I have 19 towns and it is about 50 miles across my district whichever way I go and if we increase this, it is almost impossible now for me to cover the area, or any other representative that should have this. I hope that you will support the indefinite postponement of this bill. I request a roll call.

The SPEAKER: 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 pending question is on the motion of the gentleman from Solon, Mr. Faucher, that the House indefinitely postpone Resolution Proposing an Amendment to the Constitution to Provide for Reduction of the Number of Representatives in 1985, to Establish the Number of Senators at Thirty-three in 1985, and to Change the Date of Convening of the Legislature, House Paper, 1587, L. D. 1883, and all accompanying papers.

ROLL CALL

YEA — Albert, Ault, Bachrach, Bagley, Berry, G. W.; Berry, P. P.; Berube, Blodgett, Boudreau, Bowie, Burns, Call, Carroll, Conners, Cox, Curran, R.; Dam, DeVane, Doak, Drigotas, Farley, Fenlason, Finemore, Flanagan, Fraser, Gauthier, Gray, Higgins, Hunter, Hutchings, Immonen, Ingegneri, Kelley, Leonard, Lewin, Lewis, Littlefield, Lunt, MacEachern, Mackel, Mahany, Martin, A.; Maxwell, McBrearty, Mills, Miskavage, Morin, Mulkern, Nadeau, Peakes, Perkins, T.; Post, Quinn,

Raymond, Rideout, Rolde, Rollins, Snowe, Susi, Talbot, Tarr, Theriault, Torrey, Tozier, Walker, Wilfong, Winship.

NAY: Birt, Byers, Carpenter, Chonko, Clark, Connolly, Cooney, Curran, P.; Curtis, Davies, Durgin, Dyer, Farnham, Gould, Greenlaw, Hall, Henderson, Hewes, Hinds, Hobbins, Hughes, Jackson, Jensen, Kany, Kauffman, Kelleher, Kennedy, Laffin, LaPointe, Laverty, Lovell, Lynch, Martin, R.; McKernan, Mitchell, Morton, Najarian, Norris, Palmer, Pelosi, Perkins, S.; Peterson, P.; Peterson, T.; Pierce, Powell, Saunders, Shute, Spencer, Sprowl, Stubbs, Teague, Tierney, Truman, Tyndale, Usher, Wagner, The Speaker.

ABSENT — Bennett, Bustin, Carey, Carter, Churchill, Cote, Dow, Dudley, Faucher, Garsoe, Goodwin, H.; Goodwin, K.; Hennessey, Jacques, Jalbert, Joyce, LeBlanc, Lizotte, MacLeod, McMahon, Silverman, Smith, Snow, Strout, Twitchell, Webber.

Yes, 67; No, 57; Absent, 26.

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

Sent up for concurrence.

The Chair laid before the House the eighth tabled and today assigned matter:

House Divided Report — Majority (10) "Ought Not to Pass" — Minority (3) "Ought to Pass" — Committee on Energy on Bill "An Act to Create an Independent Supervisor to Review the Construction and Initial Operation of an Oil Refinery" (H. P. 1433) (L. D. 1720)

Tabled — May 23, by Mr. Rolde of York.

Pending — Acceptance of either Report.

Mr. Farley of Biddeford moved the House accept the Majority "Ought not to Pass" Report.

Mr. Hobbins of Saco moved this matter be tabled one legislative day.

Mr. Farley of Biddeford requested a vote on the motion to table.

The SPEAKER: The pending question is on the motion of Mr. Hobbins of Saco that this matter be tabled one legislative day pending the motion of Mr. Farley of Biddeford to accept the Majority "Ought not to Pass" Report. All in favor of that motion will vote yes; those opposed will vote no.

A vote of the House was taken.

48 having voted in the affirmative and 59 in the negative, the motion did not prevail.

The SPEAKER: The Chair recognizes the gentleman from Saco, Mr. Hobbins.

Mr. HOBBS: Mr. Speaker and Members of the House: I guess it is a bad day, after the bill that was debated this morning, to debate an issue such as this dealing with oil. I think a brief history behind this piece of legislation is in order at this time.

Two years ago a group of legislators of the 106th Legislature paid a semi-official visit to Quebec City to participate in the Winter Carnival festivities. The most important aim of our trip was to visit an oil refinery called the Golden Eagle Oil Refinery and this trip was arranged for us by the Quebec government officials. We spent a fascinating day at the refinery visiting facilities and asking questions to its management, not only about the operation about this oil refinery but oil industry in general, because it is of very big importance to us in Maine because of several proposals that have been before the Board of Environmental Protection.

All of us who made the trip were most

struck by a general manager named Blake Stewart of this oil refinery and his suggestion that any promoter or oil refinery wishing to receive a permit to build a refinery would first be required to put up a sum of money and that this sum of money would be used to hire an independent consultant to examine the refinery plan in extensive detail. Mr. Stewart advised us that such a procedure was necessary because the refinery operation can run circles around legislation, any type of environmental legislation, and that no one follows up this legislation or a proposal to see if they lived up to their bargain. Most inspections, he said, were grossly inadequate and that in any event no inspector having found a violation would want to shut down a refinery once a refinery was being built.

This bill is the outgrowth of this suggestion made to us by the general manager of this oil refinery. The purpose of the bill is to provide adequate independent consulting and enforcement services to the Board of Environmental Protection when it must process an extraordinary application under the site location law. Such applications have in the past placed a considerable burden and strain on the limited resources and personnel of the Department of Environmental Protection. In addition, complicated applications for oil refineries require expert review involving technical expertise not usually possessed by individual members of the Department of Environmental Protection. In the past, the department has retained such consultants to provide needed expertise, and this has cost the taxpayers of the State of Maine, the people that we represent here in Augusta, a considerable amount of money.

Under this legislation before you, any consultant would be wholly independent of the Board of Environmental Protection and could express their opinions without pressure from any source. Also, in the event that the project was approved, the consultants would enforce the application through six months of start-up of the refinery.

Now, this program which Representative Rolde from York and Representative Goodwin from South Berwick and I are cosponsoring is a self-financing piece of legislation, since it puts the cost on the applicant who wants to build an oil refinery.

Under this bill, basically, I will explain to you that any person who applies for permission to construct or operate an oil refinery or any related facility, including oil terminal facilities, shall upon permission of such application pay the board an amount equal to one tenth of one percent of the actual anticipated cost in designing construction of that oil refinery. A good example, the application pending before the board now of the Pittston Oil Refinery.

This company would have to put up, under this proposal, money in the amount of \$400,000 which is one tenth of one percent of the total \$400 million cost of the refinery. These moneys would be used by the board exclusively for the purpose of paying the cost, fees and expenses of the foregoing consultant and consultants and any amounts not expended would be returned and refunded to the applicant for consultant services not used.

I feel that this bill, L. D. 1720 is a rational approach in dealing with the question of oil refineries in the State of Maine. I do not look at this as an obstructionist piece of

legislation or as another stumbling block in the way of possible oil development in our state. Hundreds of thousands of dollars of tax-payers money have been spent on the two applications that have been before the Board of Environmental Protection in recent years, Pittston Oil Refinery proposal and the Gibbs Refinery proposal in Sanford. Now, with this bleak financial situation which we are plagued with in the State of Maine, I have to ask you this question, is it right to continue to ask the mill worker in Lewiston or the shoe worker in Biddeford or any other person to fund this? I don't think it is. I feel that the applicant and not the tax-payer of the State of Maine should be the one who pays for the consultant fees in order to build an oil refinery.

As I said before, I am not anti oil. I am not an obstructionist, but I think this piece of legislation is a rational approach in questioning whether oil should be put in Maine or not. When the vote is taken I ask for the yeas and nays.

The SPEAKER: The Chair recognizes the gentleman from Biddeford, Mr. Farley.

Mr. FARLEY: Mr. Speaker, Ladies and Gentlemen of the House: I will only report that the majority of the committee felt there was no need for a consultant. There is, at the present time, adequate staff in the BEP to take care of these matters. If we went on and adopted this legislation it doesn't specify as to if the refinery is going to add any say in the choice of who is going to be this independent consultant. I would go on to ask further in this House, why just a refinery? Why not every major development in this state go along these same lines? Why single out these refineries? I don't remember if the gentleman from Saco mentioned that the case of the refinery, the proposed one in Pittston, it would be a matter of one half a million dollar deposit with the DEP to fund this consultant. It was brought up in committee, and rightfully so that half a million dollars is a lot of money for any corporation to put on deposit not drawing interest or anything else.

I would ask you to go along and accept the Majority "Ought Not to Pass" Report.

The SPEAKER: The Chair recognizes the gentleman from Eastport, Mr. Mills.

Mr. MILLS: Mr. Speaker, Ladies and Gentlemen of the House: I didn't think we would have to go this merry-go-round again but apparently we have got to. I hadn't paid much attention to this bill or what it meant until I heard Representative Hobbins, who is a strong advocate of labor, get up and expound the views of three members of this House who went on a personal excursion of their own to investigate an oil refinery and come back with the recommendations for the State of Maine to adopt, as propounded by some engineer, unknown in another locality, from somewhere. There is no question but there had been a very considered effort in this House to prevent the people of Eastport of having a chance to live and having a chance to do it on their own. Home rule is not the answer they want, they want control.

I am very much amazed at some of the people who have signed the names on this one, which I just happened to look at and notice. This goes along with the general pattern that had been running here for three sessions now. I am going back to 1964, when I sat in seat 82, and first started this ball a rolling. Here we are coming down into 1975 and we still have proponents who