

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

1st Special Session

OF THE

*One Hundred and Sixth
Legislature*

OF THE

STATE OF MAINE

1974

Kennebec Journal
Augusta, Maine

WHEREAS, it was Representative Payson who persistently persuaded passage of House Paper 1564 at the special session of the 105th Legislature, thus enabling the survey; and

WHEREAS, it is indeed appropriate and unquestionably desirable that such foresight and achievement not pass unnoticed by Members of the 106th Legislature; now, therefore, be it

ORDERED, the Senate concurring, that the Members of the Senate and House of Representatives of the One Hundred and Sixth Legislature in recognition of the importance of her invaluable contribution extend to our friend and former colleague, the Honorable Mary W. Payson, our sincere thanks for her distinguished accomplishment which has served so well as she had anticipated as the foundation for numerous recommendations calculated to improve the process of government; and be it further

ORDERED, that an appropriate copy of this Order be transmitted forthwith to Mrs. Payson conveying the gratitude expressed herein. (H. P. 1986)

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

Ought Not to Pass

Mr. Bither from Committee on Education on Bill "An Act to Provide Continuance of Private Post-Secondary Institutions Serving Significant Public Functions" (H. P. 1841) (L. D. 2333) reporting "Ought not to pass"

Mr. Carrier from Committee on Judiciary reporting same on Bill "An Act Providing Professional Immunity to Red Cross First Aid Personnel in Emergency Cases" (H. P. 1951) (L. D. 2497)

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

Referred to Committee on Natural Resources

Mr. Perkins from Committee on Judiciary on Bill "An Act Relating to Damages for Violating the Bulldozing of Rivers, Streams and Brooks Law" (H. P. 1820) (L. D. 2307) reporting that it be

referred to the Committee on Natural Resources.

Report was read and accepted, the Bill referred to the Committee on Natural Resources and sent up for concurrence.

Ought to Pass in New Draft New Draft Printed

Mr. Farnham from Committee on State Government on Bill "An Act Establishing a Commission on Maine's Future" (H. P. 1926) (L. D. 2458) reporting "Ought to pass" in New Draft (H. P. 1984) (L. D. 2528) under same title.

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

Divided Reports

Majority Report of the Committee on Election Laws on Bill "An Act Relating to Elections to the House of Representatives" (H. P. 1985) (L. D. 2530) reported pursuant to Joint Order (H. P. 1968) reporting "Ought to pass"

Report was signed by the following members:

Messrs. SHUTE of Franklin
CIANCHETTE of Somerset
JOLY of Kennebec
—of the Senate.

Messrs. ROSS of Bath
HANCOCK of Casco
KAUFFMAN of Kittery
BINNETTE of Old Town
Mrs. BOUDREAU of Portland
SNOWE of Auburn
KELLEY of Machias
—of the House.

Minority Report of same Committee on same Bill reporting "Ought not to pass"

Report was signed by the following member:

Mr. HOFFSES of Camden
—of the House.

Reports were read.

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

Mr. ROSS: Mr. Speaker, I move that the House accept the Majority "Ought to pass" Report.

The SPEAKER: The gentleman from Bath, Mr. Ross, moves that the House accept the Majority "Ought to pass" Report.

The Chair recognizes the gentleman from Camden, Mr. Hoffses.

Mr. HOFFSES: Mr. Speaker, Ladies and Gentlemen of the House: I would call your attention to the very one-sided report from the Committee on Election Laws.

This particular document, the first portion of it I have absolutely no objections to, none whatsoever. What I do call your attention to is section 4 on page 2, and the necessity for this language in this particular bill, I think we well know the reason for it; namely, the result of the bipartisan reapportionment committee and the subsequent report of the courts.

I would like to make it very clear at the outset that this is not a case of sour grapes, far from it, because I had made up my mind as to what my political future was, as far as 1974 was concerned, about the time the first frost was on the pumpkin. I would also point out to you that in this reapportionment document which we have that I hold in my hand, my particular legislative district was not affected in any single manner whatsoever. The district remains the same. So this is not a case of sour grapes.

I do want to make mention of this thing because I feel that it is going to have some long-range repercussions when we go back home and your peers go to the polls to cast their vote. I feel that the blue-ribbon committee on reapportionment were far more concerned about numbers and percentages than they were about the welfare of the people of the State of Maine. And I say that, I believe, with some small degree of knowledge and understanding.

I was on a House reapportionment committee before a great many of you ladies and gentlemen here in this body were ever here to serve in this capacity. Ten years ago we proceeded to reapportion the House. Now, my particular county lost one legislative seat, but we did do one thing. We considered the people in our respective communities. And the same applied to each and every other legislative district in the state.

I will hasten to admit that we did not reapportion the House to the fraction of a

percentage point deviation from the norm. We had some districts which were far below the norm. We had other districts which were considerably above the norm, but the people knew where they were going to cast their vote for their respective legislative candidates. I say to you today that there are many people in the State of Maine that come June 11 will not know where they are supposed to go to cast their vote.

Now, this blue-ribbon committee report on apportionment this body rejected and it was sent to the courts according to law. The courts, in their infinite wisdom, decided to rubber stamp, basically, this blue-ribbon report. Now I say to you that I believe that here and now is the opportunity for the legislative branch of government to return this document to the courts, to the commission, that they can complete their job. I say their job is not complete because they have set up the districts without concern or regard of the cost of the taxpayers or the frustration to the Secretary of State's office and to the expense which the taxpayers are going to be involved in.

I believe that if this document is going to continue, which this particular section 4 has been required to insert, that they should take it back and they should set up new voting precincts which involves buildings, it involves voting machines, it involves the cost of paying for the ballot clerks, rather than to impose the expense upon the municipalities.

This document as it now stands means that the Secretary of State Department is going to have to print up colored ballots. That, in turn, is going to cost you and I, the taxpayer, money which the courts and this commission have not provided for.

Now let's get down to the problems of our peers, the people who sent us here to represent them. And I am going to cite an example here that I think in due time is going to come back to all of us relative to the matter of voting in the June primary of which this particular section has been inserted to endeavor to cover. Mrs. Jones goes to her voting precinct to cast her ballot. She approaches the ballot clerk; she gives her name and the street that she lives on. The ballot clerk

says to Mrs. Jones, "Do you live on the north side or the south side of Summer Street?" Well, "I live on the west side. Summer Street goes north and south. Oh yes, that is right." So she proceeds to give the lady a blue ballot. "Mrs. Jones, this is your ballot." The lady sitting next to the ballot clerk, the other one says, "Psst, Mrs. Jones lives next to my son-in-law, and she is on the same side of the street. Oh, oh, just a moment, Mrs. Jones, I gave you the wrong ballot. You must have the yellow ballot." So Mrs. Jones comes back and receives the yellow ballot.

Now in the case of voting machines, Mrs. Smith comes in, she gives her name and her street number and she is asked which side of the street she lives on. Well, she doesn't know whether she lives on the east or the west or the north or the south, but it is finally determined that she lives on this particular side of the street. "Very well, Mrs. Smith, when you go into the voting booth and there has been an error and it is determined that she lives on the other side of the street. So the ballot clerks, how do they solve this problem? They say, "Mrs. Smith, you are supposed to pull the pink handle." Now I think we all know that voting machines have only one lever to pull. So I ask you and I ask the courts and I ask the commission, how do we solve this problem? I can assure that come June 11 there is going to be that trouble. And let me say here and now that this problem is not going to be blamed upon the commission. It is not going to be blamed upon the court which has basically rubber stamped it, it is going to be blamed on you, the members of the legislature, who are the nearest to the people. You are the ones that are going to be blamed for this fiasco which I believe that it is going to result in.

I have been around here long enough to know that I will undoubtedly receive less than poor support for this measure, but nevertheless, I would like to be on record as opposing this bill for this particular reason that I have pointed out to you for the requirement of this section 4. And Mr. Speaker, when the vote is taken, I would request the yeas and nays.

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

Mr. ROSS: Mr. Speaker, Ladies and Gentlemen of the House: What the gentleman from Camden, Mr. Hoffses, says is probably very truthful.

Now, I agree that there will be many problems, and I will agree that many people may not know where they are going to vote. But it is up to those of us who will be running for seats in the House to try to the very best of our ability to let them know. But I don't believe it is feasible to give this back at this point in time to the court. Now whether or not we agree or disagree with this decision of the law court, it has been made and it is now a fait accompli and in my opinion we must now try to implement it as best we can.

Now, the first two sections of this bill are very simple. They say that the number of signatures which you must have on your nomination papers shall be the specific numbers for every member of the House of Representatives, between 25 and 50 signatures, rather than a set percentage of the last gubernatorial vote.

Now, in the third and fourth sections it says that in the cities or towns which have more than one district, you shall have more than one colored ballot so that you can differentiate between these candidates. I will agree that we have no provision in there now for voting machines. I am sure there is going to be a problem, but it is a problem that the courts can't handle; it is a problem that must be handled by the Secretary of State's Office and this legislature. I just maintain that this bill before us today, with the exception of voting machines, does as best we can to implement the decision of the Supreme Court.

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

Mr. BIRT: Mr. Speaker, Ladies and Gentlemen of the House: I think probably there is a requirement to answer a few of the comments that have been previously made.

I guess probably when we are faced with a situation in which one person represents 11,028 people and another person represents somewhere in the neighborhood of 4,500 people, there is a gross inequity. I think probably the one thought that comes to my mind to sum

up this whole thing is that we basically, presently, and I mentioned this to some people, that we basically have a very excellent Constitution, one of the finest in the United States. Interestingly enough, this Constitution—and many people have never realized this — this Constitution was reviewed by Thomas Jefferson. He was an excellent and very good friend of William King, the first Governor of this state. Thomas Jefferson reviewed this entire Constitution and he made only one comment, he said, "you have a very excellent Constitution" he said, "I find only one thing wrong with it, that you do not elect your representatives on the basis of one man one vote." A hundred and fifty-four years later we are doing this, and I am proud to say so.

The SPEAKER: The Chair recognizes the gentleman from Skowhegan, Mr. Dam.

Mr. DAM: Mr. Speaker, Ladies and Gentlemen of the House: I couldn't agree anymore wholeheartedly with anyone than I do with the gentleman from Camden, Mr. Hoffses. And maybe, according to the statement of Mr. Ross from Bath, it would be too late to do anything with the plan, but I know what it has done in my town in Skowhegan. Before we started this reapportionment business, I had 7,601 people, according to the last census. So evidently I had a little too large a district, so I had to be brought down to the magic figure. I was brought down to the magic figure, I will have roughly now between 4,800 and 4,900 people. The town of Fairfield will pick up one half of the town of Skowhegan.

Now this is going to be confusing enough when they go to vote because they are going to say, "Which side of the road do you live on," just like Mr. Hoffses said. Evidently when they looked at the map someone looked at the map kind of wrong because where they cut me off at the Skowhegan Drive-in Theater, they also, just before I got there, two streets before I got there, they took one street out of the center of the town. So this is real interesting.

As the whole report reads, of course you go to an unnamed road to an unnamed street to an unnamed road. Well we have got the names on the map

partly, and I do know somewhere where I am in Skowhegan, and I spent 46 years there but for awhile I was confused. But as I told the Road Commissioner, he is a good friend of mine, we will have to put some stakes up and we will put Dam's Country with arrows pointing this way and we will say Fairfield at large over this way and maybe the people will know where they are.

But this is not the only confusion, because in this coming election Skowhegan, with the county commissioner districts of Somerset, does not vote for a county commissioner; Fairfield does. Therefore, the people that are in my legislative district, they won't vote. The people that are in the town of Skowhegan's legislative district who go to Fairfield won't be able to vote for a commissioner, so there will have to be a separate ballot prepared there without the commissioners name on it. Then, when we get into the school reapportionment part, assuming we don't do anything at all in this legislature and we let the other bill stand, the people up in the north end of my town, they won't vote in Skowhegan, they will go to Cornville to vote.

Now, I just don't know just how much farther we are going to go because every time we have an election we are going to have to tell these people, well, this time you are going to have to vote in Fairfield. Next time half of you, well, almost half, can vote with Skowhegan. But the same time you vote with Skowhegan, if anything comes up according to school districts, you will have to then go over to Cornville and vote too. The people are quite confused, and I am quite confused. I am confused at why is it because I have 7,601 people I had too large a district, but now I can have 4,800 and 4,900 people and I have got the ideal district. I think somewhere along the line someone pulled a big boo-boo because they didn't look at the map, they didn't add the figures up, and they didn't know what they were doing.

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

Mr. CURTIS: Mr. Speaker and Members of the House: I would like to pose a question to the gentleman from Bath, Mr. Ross or any other member of

the Election Laws Committee if they would be able to answer it for me.

I have been looking back a few bills to L. D. 2526 and see a Section 14 in there that refers to where people are able to vote. My question is this, under the proposals from the Election Laws Committee, is it necessary for every representative district to have a polling place within that district?

The SPEAKER: The gentleman from Orono, Mr. Curtis, poses a question through the Chair to any member who may answer if he or she wishes.

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

Mr. ROSS: Mr. Speaker and Members of the House: The gentleman from Orono, Mr. Curtis, referred to a bill that hasn't come before us as yet, although it is a prior numbered bill, 2526, it is an omnibus bill. And before that comes to you, you will have an explanation of each one. If we pass this bill, it will not be necessary to have your polling place right in the district. It might be across the street or it might be a couple of streets up.

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

Mr. McKERNAN: Mr. Speaker, Ladies and Gentlemen of the House: I just have a couple of comments on this bill. That is, in the provision it is going to require people from multi-membered districts to have to get more signatures than people from single-member districts. Although I will vote for the bill this time, I plan to offer an amendment to change that. I certainly don't feel that I have any extra privileges or any extra power here in the House than someone coming from a single-member district, and I don't see why I should be required to get 125 signatures when somebody else has to get 25.

I wish that someone from the committee could respond to this if they have a reason why I should have to.

The SPEAKER: The Chair recognizes the gentleman from Casco, Mr. Hancock.

Mr. HANCOCK: Mr. Speaker, Ladies and Gentlemen of the House: In regard to the extra number of signatures that are needed in a position like the City of

Bangor of Portland or Lewiston is because that the House and the courts chose not to have single-member districts. If there were single-member districts in the City of Bangor, you would only be required to have the 25 signatures minimum, 50 maximum. However, as there are I believe five representatives from Bangor, you need five times that amount for the minimum and maximum, because you are elected by the people at large in the City of Bangor, not by a single-member district.

Now, while I am on my feet, there is something I would like to correct that bothered me a little bit that the gentleman from Camden, Mr. Hoffses, said. He mentioned that the House rejected the commission's report on reapportionment. This is not true. I regret to say that the House, this legislative body, never had an opportunity to vote on that commission report. We did vote on an extensively amended edition of that report. And he is quite right that at that time it was rejected. Once it was rejected, it then had to go to the courts; it had to go to the courts, and they have come out with this version.

Mr. Hoffses, Mr. Dam, other people who have spoken, are 100 percent correct when they say there is going to be confusion in some areas. I can certainly see that coming. What the Election Laws Committee has attempted to do is to clarify this as much as we possibly can so that there will be as little confusion as possible under the circumstances that we do have to work with.

Now the gentleman from Bath is also correct in his statement when he says it is up to us, the candidates, to help clarify this as much as we possibly can.

I hope that I have answered the gentleman's question, from Bangor.

The SPEAKER: The Chair recognizes the gentleman from Augusta, Mr. Sproul.

Mr. SPROUL: Mr. Speaker and Members of the House: I would like to pose a question, if I may, to the gentleman from Bath, Mr. Ross.

The SPEAKER: The gentleman may pose his question.

Mr. SPROUL: I am just wondering, in relation to voting machines, was there

any information or thought or any discussion whatsoever concerning a solution to voting machines?

The SPEAKER: The gentleman from Augusta, Mr. Sproul, poses a question through the Chair to the gentleman from Bath, Mr. Ross, who may answer if he wishes.

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

Mr. ROSS: Mr. Speaker and Members of the House: That was not specifically spelled out in the bill, and the committee did not take up that particular subject. Although it should have been called to our attention, it was not.

The SPEAKER: The Chair recognizes the gentleman from Waterville, Mr. Carey.

Mr. CAREY: Mr. Speaker and Members of the House: I think in answer to Mr. Ross, the gentleman from Bath, I think I brought up the point on voting machines at the time the order was introduced. So certainly those members who were present who came from the Election Laws Committee were made well aware of it.

And possibly in answer to the gentleman from Augusta, Mr. Sproul, the bill that we passed in the last session of the legislature directed that not only do we have voting machines in the buildings but we also have booths for paper ballots. So that may be your solution.

The SPEAKER: The Chair recognizes the gentleman from Camden, Mr. Hoffses.

Mr. HOFFSES: Mr. Speaker, Ladies and Gentlemen of the House: In the caucuses heretofore, I have been quite firm in my feeling and opinions that it is high time that the legislative branch of government flex its muscles and not permit the executive and the judicial to take over all of our responsibilities. Here, in my opinion, is an opportunity for the legislative branch to flex its muscles, and it could do this in this manner. Send this infinite document, which was, as I said before, put together by a blue-ribbon, bipartisan committee and then rubber stamped by the courts, let's send this document back to the courts, tell the courts that it is impossible to live with this document

and for them to bring up one which is reasonable and one that we can live with.

The SPEAKER: The Chair recognizes the gentleman from Perham, Mr. Bragdon.

Mr. BRAGDON: Mr. Speaker and Members of the House: I assure you that I, by no means, intended to get into the debate on this, but after listening to the remarks of the gentleman over here on the other corner it reminded me of a conversation that I had with a Justice of the Supreme Court the other day. He commented that we have redistricted your House. Why in thunder didn't you do it yourselves? I expect that if we send it back to them, this again would be what they would say.

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 Bath, Mr. Ross, that the House accept the Majority "Ought to pass" Report on Bill "An Act Relating to Elections to the House of Representatives," House Paper 1985, L. D. 2530. All in favor of that motion will vote yes; those opposed will vote no.

ROLL CALL

YEA — Albert, Ault, Baker, Berry, P.P.; Berube, Binnette, Birt, Bither, Boudreau, Bragdon, Brawn, Briggs, Brown, Bunker, Bustin, Cameron, Carrier, Carter, Chick, Chonko, Clark, Conley, Connolly, Cooney, Cote, Cottrell, Cressey, Crommett, Curran, Curtis, T. S., Jr.; Davis, Deshaies, Donaghy, Dow, Drigotas, Dudley, Dunleavy, Dunn, Dyar, Emery, D.F.; Evans, Farnham, Faucher, Fecteau, Ferris, Finemore, Flynn, Fraser, Gahagan, Garsoe, Gauthier, Genest, Goodwin, H.; Goodwin, K.; Hamblen, Hancock, Herrick, Hobbins, Huber, Hunter, Immonen, Jackson, Kauffman, Kelleher, Kelley, Keyte, Kilroy, Knight, LaCharite, LaPointe, LeBlanc, Lewis, E.; Lewis, J.; Littlefield, Lynch,

Mahany, Martin, Maxwell, McHenry, McKernan, McMahon, McTeague, Merrill, Mills, Morin, L.; Morin, V.; Morton, Mulkern, Murchison, Murray, Najarian, O'Brien, Palmer, Perkins, Peterson, Pontbriand, Ricker, Rolde, Ross, Shaw, Sheltra, Silverman, Simpson, L.E.; Smith, D.M.; Snowe, Stillings, Strout, Susi, Talbot, Tanguay, Theriault, Tierney, Trask, Twitchell, Walker, Webber, Wheeler, White, Whitzell, Willard, The Speaker.

NAY — Berry, G.W.; Carey, Churchill, Dam, Farrington, Good, Hoffses, Lawry, MacLeod, Maddox, McCormick, McNally, Parks, Pratt, Rollins, Shute, Sproul, Trumbull, Wood, M.E.

ABSENT — Greenlaw, Jacques, Jalbert, Kelley, R.P.; Norris, Santoro, Smith, S.; Soulas, Tyndale.

Yes, 122; No, 19; Absent, 10.

The SPEAKER: One hundred twenty-two having voted in the affirmative and nineteen in the negative, with ten being absent, the motion does prevail.

Thereupon, the Bill was read once and assigned for second reading tomorrow.

Consent Calendar

First Day

(S. P. 884) (L. D. 2472) Resolution Proposing an Amendment to the Constitution to Clarify Validity of Municipal Industrial Parks — Committee on State Government reporting "Ought to pass"

No objection having been noted, was assigned to the Consent Calendar's Second Day list.

Second Day

(H. P. 1940) (L. D. 2477) Emergency, Bill "An Act Relating to the Powers of Hospital Administrative District No. 1 in Penobscot County" (C. "A" H-704)

(S. P. 720) (L. D. 2132) Emergency, Resolve Authorizing the Town of Bingham to Remove Sand Bars at Confluence of Austin Stream and Kennebec River (C. "A" S-337)

No objection having been noted, were passed to be engrossed as amended and sent to the Senate.

Second Reader Tabled and Assigned

Bill "An Act Relating to Property Tax Exemption of Health Care Institutions" (S. P. 910) (L. D. 2519)

Was reported by the Committee on Bills in the Second Reading and read the second time.

The SPEAKER: The Chair recognizes the gentlewoman from Auburn, Mrs. Lewis

Mrs. LEWIS: Mr. Speaker, Ladies and Gentlemen of the House: The title of this bill, I think, is misleading. It is an act relating to property tax exemption of health care institutions, so it sounds as though the exemption applies to the health care institution, whereas actually the exemption applies to the profit-making company that leases something to a health care institution, and I wonder how many tax exemptions a municipality can stand.

The SPEAKER: The Chair recognizes the gentleman from Pittsfield, Mr. Susi.

Mr. SUSI: Mr. Speaker, Ladies and Gentlemen of the House: I would like to give you a brief explanation of this bill as we in the Taxation Committee saw it and an explanation for our report which had a minority of one in opposition to the bill.

The origin of the bill was from a problem that was up in Bangor, although I understand it is quite a common problem around the state. In Bangor they are building a major addition to the Eastern Maine General Hospital. As I remember the figures, there was around \$15 million involved in the construction of the addition. Also, as I remember, now that the building is nearly completed, they need around a million and a half dollars worth of equipment to go inside, which would be personal property and which, under the present laws, would be exempt if it is owned by the institution, by the health care institution, and in this instance the Eastern Maine General Hospital. However, under the present law, if it is leased by the health care institution but not owned by the health care institution, it is subject to property taxes.

At the present time, this hospital is faced with a problem of obtaining about a million and a half dollars worth of equipment such as X-ray equipment, blood count equipment, bookkeeping equipment and all the stuff that they