

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

One Hundred and Seventh Legislature

(First Special Session)

OF THE

STATE OF MAINE

1976

KENNEBEC JOURNAL
AUGUSTA, MAINE

put the cable TV under the rules and regulations. I had an opportunity to meet some very high-classed, high-caliber individuals from Washington, D.C., who have been lobbying for years against any regulations for cable TV, and if I stay here for another 10 years, I doubt if we could ever get any kind of legislation through because of their ability to confuse people.

Cable Television is something that is not new, it has been in the United States since 1947.

Cable television, in my opinion, is going to have a lot of direct influence on the people of this state as well as the people of this nation in the coming years because of its ability to transmit. One of those little cables that can come from your street into your house eventually could have anywhere from 40 to 50 to 100 television stations on it, but that is not the question here this morning, the question is, do you want to allow a town or a municipality that fails to attract private interests to come in and develop a cable TV program for the residents in those towns to be able to operate one at a municipal and town level? I think we should be able to do that. I think the substantive change that has been addressed here this morning is not as great or as drastic or as alarming as Mrs. Tarr would like to have you believe.

I would hope that you would reject the Senate Amendment that is being reconsidered.

The SPEAKER: The Chair recognizes the gentleman from Gorham, Mr. Quinn.

Mr. QUINN: Mr. Speaker, Ladies and Gentlemen of the House: I am told that there is an Attorney General opinion which bears on the subject of whether this is applicable or not, and I can find out sometime in the next half hour, and the gist of the opinion, I am told, is that the amendment does not serve to do what it purports to do, that the bill, as it came out of Judiciary Committee, really was in support of the initial legislation. I would, therefore, since I can find out, I assume, in the next 30 minutes or so, I would be grateful if somebody would table until later today.

The SPEAKER: The Chair will order a vote. Those in favor of the motion of Mr. Kelleher of Bangor to indefinitely postpone Senate Amendment "F" will vote yes; those opposed will vote no. vote of the House was taken.

76 having voted in the affirmative and 43 in the negative, the motion did prevail.

The SPEAKER: The Chair recognizes the gentleman from South Portland, Mr. Perkins.

Mr. PERKINS: Mr. Speaker, Ladies and Gentlemen of the House: Before we act further on this bill, I would like the opportunity to make a few observations. I think I have consistently, within the past three sessions, voted against the errors bill, and even though I have an amendment which has just been passed, and I thank you all, I will again vote against it and I want you to know why.

When I first came to the legislature, I was told that the Errors and Inconsistency Bill was to deal with just that, those errors and inconsistencies that came to the legislature's attention and should be cured. I found the first session that that was not the case and you all have seen it here today. We enact by this bill major pieces of legislation every year without public hearing and make the public think that we are merely correcting an error or an inconsistency, and as long as we as politicians and legislators continue to do that, the general public is going to continue to look at us as something less than honest and forthright people.

I am continually amazed in going through this, and I spent a good portion of the weekend doing so, to think that we in the regular session, last time, passed three bills all dealing with the same subject matter and setting as an example the per hundredweight of milk under

the Milk Commission, one at 2 cents, one at 3 cents and one at 5 cents. I wonder how we managed to do that, I really don't know. It seems to me that there could be a better way to handle pieces of legislation. A good portion of these corrections are the result of two or more bills dealt with by us during the regular session in which one bill said one thing and another bill said another thing and we, by virtue of this bill, and correctly so, are trying to make them rhyme together and have one law on the books. If you look at the back sections of the revised statutes, you will see many places where it will say, Section 2301, this was what was enacted by Chapter 4 such and such and another one that says, this is what was enacted by the same legislature under Chapter such and such else.

There has to be, in my opinion, some better way of coordinating our legislation and the bills that are presented to the legislature, just in the numbers here of dual pieces of legislation that we enacted during the last regular session, if they were corrected in one piece of legislation, it would have reduced the number of bills that we would have had before us and perhaps having gotten us out of here before the 4th of July.

So again, as a matter of observation only, because I know this is going to pass, as has always happened, there are enough pieces of the pie for enough people to make this bill go, no matter what I say or anyone else might say. There is no way that this bill cannot be passed or can it be defeated, so while I recognize that very fact, I will continue to vote against it and understand fully that it will become law.

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 expose another side to that. In the time that I have been here, I think we have had a constant improvement. I never before have been in a session where nearly everyone in the House of Representatives understands what was included in these amendments that were offered. If you don't know what was in them, it was your own fault, there was an explanation made on every one of them. Our standards have improved, and I think mainly because of the efforts of gentlemen like Mr. Perkins from South Portland who constantly set higher goals in this legislature.

It was just a few years ago that it was a typical thing for the Errors and Inconsistencies to go through at 8 or 9 o'clock at night when everyone was just about asleep and you would not find five people in the House who would have the least idea of what was included in the amendments. So we have come a long way.

The SPEAKER: The Chair will order a vote. The pending question before the House is on passage to be engrossed as amended by Senate Amendments "B", "D", "E", "G", "H", "I", "J", "K" and "L" and House Amendments "A", "B", "C", "D", "E", "H", "I", "J", "K", "L", "M", and "N" in non-concurrence. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

77 having voted in the affirmative and 23 in negative, the motion did prevail.

By unanimous consent, ordered sent forthwith to the Senate.

On motion of Mr. Berry of Buxton, the House reconsidered its action of earlier in the day whereby Bill "An Act to Clarify the Election Laws" (H. P. 2293) (L. D. 2344) was passed to be engrossed as amended by House Amendments "A" and "C" in nonconcurrency.

The SPEAKER: The Chair recognizes the same gentleman.

Mr. BERRY: Mr. Speaker, I move we recon-

sider our action whereby House Amendment "C" was adopted.

The SPEAKER: The gentleman from Buxton, Mr. Berry, moves that the House reconsider its action of earlier in the Day whereby House Amendment "C" was adopted.

The gentleman may proceed.

Mr. BERRY: Mr. Speaker, Ladies and Gentlemen of the House: I was out of the hall this morning when House Amendment "C" was proposed or I would have done this earlier. This pertains to allowing people to be probably what I would call a little closer to the people that count absentee ballots than I think they ought to be. I have discussed this with several people, including some of the people in the Secretary of State's Office and if you read the amendment I think you can interpret it almost any way you want to and probably being on the cautious side, the people in the Secretary of State's Office seem to think that a person might be able to enter right in behind the rail and actually stand right over the people that are counting absentee ballots and I don't think that that is good procedure. I hope that we will reconsider our action whereby this was adopted so that I might later move the indefinite postponement of this amendment.

The SPEAKER: The Chair recognizes the gentleman from Lewiston, Mr. Jacques.

Mr. JACQUES: Mr. Speaker, Ladies and Gentlemen of the House: I hope that the House does not reconsider this amendment. I have discussed this with the Secretary of State. As a matter of fact, the Secretary of State was present when this amendment was being written and he agreed with the amendment at the time we did draw it up.

We have a problem in my community and some of the communities where absentee ballots are counted in the city clerk's office and any candidates that are present can ask to stand back where they can see the counting of those ballots. I feel that any one of us members here has an investment in that election and they should be present and be able to see how these votes are being counted and how these absentee ballot counters are putting down the candidates' names, and I hope that you do not reconsider.

The SPEAKER: The Chair will order a vote. Those in favor of reconsidering adoption of House Amendment "C" will vote yes; those opposed will vote no.

A vote of the House was taken.

Whereupon, Mr. Berry of Buxton requested a roll call vote.

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 Chair recognizes the gentleman from Buxton, Mr. Berry.

Mr. BERRY: Mr. Speaker, Ladies and Gentlemen of the House: In further explanation, Mr. Jacques has stated that he thinks it is necessary that somebody ought to be watching who voted for whom and how it is marked down. That is not the way it is done when the ballots that are not absentee ballots are counted. There are ample opportunities, if there are any irregularities in the absentee counting process, for a candidate to challenge, to ask for an inspection and to actually have a recount. I think part of what Mr. Jacques would like to do is to include in the counting of ballots what actually happens in a recount. I say that there is no need of this, and if eight or ten municipal election officials are very busy counting the absentee ballots, they don't need eight or

ten bystanders leaning in over their shoulders, making comments, laughing and giggling and everything else. I hope you will go along with reconsideration.

The SPEAKER: The Chair recognizes the gentleman from Portland, Mrs. Boudreau.

Mrs. BOUDREAU: Mr. Speaker, Men and Women of the House: If you will notice, in L. D. 2344, "An Act to Clarify the Election Laws," we had added a new Section 48 providing that ballots should be counted publicly so that those present may observe proceedings.

House Amendment "C" deletes that section and adds additional words.

This, for everyone's information, applies only to where absentee ballots are counted in central place or in one place. After reading this amendment I have some reservations. Is a central place the place if there is only one voting precinct or voting ward in the town or city? Do you want people standing right over their shoulders counting all the ballots? Really, no one has been able to interpret exactly what this amendment says and it could cause a lot of confusion.

The SPEAKER: The Chair recognizes the gentleman from Brunswick, Mrs. Bachrach.

Mrs. BACHRACH: Mr. Speaker, Ladies and Gentlemen of the House: This procedure surprises me because in Brunswick the absentee ballots are produced at the same time the other ballots are counted. The names of the people are checked off the voting list and then the ballots are thrown into the boxes along with everybody else's and nobody can tell which ones are absentee and which are not, and I think this is a much better protection for the voters than any isolated counting of ballots. It is impossible to tell at the time of counting which ones are absentee. It seems to me that this is the way we should be going and not having people standing over somebody and apparently being able to see how individuals voted.

The SPEAKER: The Chair recognizes the gentleman from Lewiston, Mr. Jacques.

Mr. JACQUES: Mr. Speaker, Ladies and Gentlemen of the House: A few years back, the legislature allowed the municipality to either count the ballots in the city clerk's office or a place designated by the city clerk for counting the absentee ballots. Well, any municipality can decide this. Now, our municipality and a few others around our area decided to do this. These ballots are counted as they open the envelopes and the ballots are dropped in the box and then when they are all put into the box, they are thrown on the table and then counted. No one sees how anyone else votes. But I am saying that the candidate or his assistant should be able to watch the counting and at present they are not able to watch the counting. They are put about eight to nine or twelve feet away from the table, facing the counter, which they don't even see the markings of the ballots, or even the envelopes never mind the counting. This is why, Mr. Speaker, ladies and gentlemen of the House, that we wanted this included in the law, because at this time we are having problems with it.

I think that every one of you who has an investment in that election would go along with it. I don't see anything wrong with it and you still have control by the city clerk if these people abuse these counters. The warden or the city clerk has the right to extract you out of the place.

The SPEAKER: The Chair recognizes the gentleman from Old Town, Mr. Pearson.

Mr. PEARSON: Mr. Speaker, Ladies and Gentlemen of the House: As I think the number one expert on recounts in the House, I don't think that there is any need for this particular amendment because you can always ask for an inspection of the ballots, ask for a recount afterwards.

Mr. Jacques of Lewiston was granted permission to speak a third time.

Mr. JACQUES: Mr. Speaker, Ladies and Gentlemen of the House: How many candidates over here have been beaten by 100 votes at one time? We have seen that in my community where there was a difference of 100 votes and when we had the inspection, that did come out. But a lot of people will say, well, I got beat by 100 votes I shouldn't have a recount because it is too many votes to pick up, but it has happened.

The SPEAKER: The Chair recognizes the gentleman from Buxton, Mr. Berry.

Mr. BERRY: Mr. Speaker, Ladies and Gentlemen of the House: I think maybe now you can see part of the problem that is beginning to evolve. Mr. Jacques talks about how many candidates have been beaten by 100 votes and things of that nature. Now, I submit to you, what kind of a counting process are you going to have if Mr. Jacques or any candidate is standing sufficiently close to observe one Republican, one Democrat who has set up his teams counting ballots. Now, I suppose that the Democrat is going to say one vote for Jacques. The Republican is not going to mark it down. This is what I am assuming is going to happen. So then what happens? Do we have an argument taking place over whether or not that person did mark that down or not? This is all premature. We don't need it. This is what takes place in a recount. If these things do occur, there are provisions in the law to take care of this and they have worked very well for many, many years and this amendment will only add total confusion to a process that works satisfactorily.

The SPEAKER: A roll call has been ordered. The pending question is on the motion of the gentleman from Buxton, Mr. Berry, that the House reconsider its action whereby House Amendment "C" was adopted. All in favor of that motion will vote yes; those opposed will vote no.

ROLL CALL

YEA — Albert Bachrach, Bagley, Bennett, Berry, G. W.; Berry, P. P.; Birt, Blodgett, Boudreau, Burns, Bustin, Byers, Carey, Carpenter, Carroll, Chonko, Churchill, Clark, Conners, Cooney, Cox, Curran, P.; Curran, R.; Curtis, Dam, Davies, DeVane, Doak, Dow, Dudley, Durgin, Dyer, Faucher, Fenlason, Finemore, Flanagan, Garsoe, Goodwin, K.; Gould, Greenlaw, Hall, Hennessey, Hewes, Higgins, Immonen, Ingegneri, Jackson, Jalbert, Jensen, Kennedy, Laffin, LaPointe, LeBlanc, Leonard, Lewis, Littlefield, Lunt, Lynch, MacEachern, Mackel, Mahany, Martin, A.; McBreairty, McKernan, McMahan, Mills, Miskavage, Mitchell, Morin, Morton, Nadeau, Najarian, Palmer, Pearson, Pelosi, Perkins, S.; Perkins, T.; Peterson, P.; Peterson, T.; Post, Quinn, Rideout, Rollins, Saunders, Smith, Spencer, Sprowl, Strout, Susi, Tarr, Teague, Theriault, Tierney, Torrey, Tozier, Twitchell, Tyndale, Usher, Wagner, Wilfong, Winship.

NAY — Berube, Call, Carter, Cote, Drigotas, Fraser, Gray, Henderson, Hinds, Hobbins, Jacques, Kany, Kelleher, Laverty, Maxwell, Pierce, Powell, Raymond, Rolde, Shute, Snowe, Stubbs, Talbot, Walker.

ABSENT — Ault, Bowie, Connolly, Farley, Farnham, Gauthier, Goodwin, H.; Hughes, Hunter, Hutchings, Kauffman, Kelley, Lewin, Lizotte, Lovell, MacLeod, Martin, R.; Mulkern, Norris, Peakes, Silverman, Snow, Truman, Webber.

Yes, 102; No, 24; Absent, 24.

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

Mr. Berry of Buxton moved the indefinite postponement of House Amendment "C".

Mr. Jacques of Lewiston requested a roll call vote.

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 Buxton, Mr. Berry, that House Amendment "C" be indefinitely postponed. All in favor of that motion will vote yes; those opposed will vote no.

ROLL CALL

YEA — Bachrach, Bagley, Bennett, Berry, G. W.; Berry, P. P.; Birt, Blodgett, Boudreau, Burns, Bustin, Byers, Carpenter, Carroll, Chonko, Churchill, Clark, Conners, Cooney, Curran, P.; Curran, R.; Curtis, Dam, Davies, DeVane, Doak, Dow, Durgin, Dyer, Faucher, Fenlason, Finemore, Flanagan, Fraser, Garsoe, Goodwin, H.; Goodwin, K.; Gould, Greenlaw, Hall, Hennessey, Hewes, Higgins, Hobbins, Immonen, Jackson, Jensen, Joyce, Kennedy, Laffin, LaPointe, Laverty, LeBlanc, Leonard, Lewis, Littlefield, Lunt, Lynch, MacEachern, Mackel, Mahany, Martin, A.; McBreairty, McKernan, McMahan, Miskavage, Mitchell, Morin, Morton, Nadeau, Najarian, Palmer, Pearson, Pelosi, Perkins, S.; Perkins, T.; Peterson, P.; Peterson, T.; Post, Quinn, Rideout, Rollins, Saunders, Smith, Spencer, Sprowl, Strout, Susi, Tarr, Teague, Theriault, Tierney, Torrey, Tozier, Twitchell, Tyndale, Usher, Wagner, Walker, Wilfong, Winship.

NAY — Berube, Call, Carter, Cote, Cox, Drigotas, Farley, Farnham, Gray, Henderson, Hinds, Ingegneri, Jackson, Jacques, Jalbert, Kany, Kelleher, Maxwell, Mills, Pierce, Powell, Raymond, Rolde, Shute, Snowe, Stubbs, Talbot.

ABSENT — Albert, Ault, Bowie, Carey, Connolly, Dudley, Farley, Gauthier, Hughes, Hunter, Hutchings, Kauffman, Kelley, Lewin, Lizotte, Lovell, MacLeod, Martin, A.; Mulkern, Norris, Peakes, Silverman, Snow, Truman, Webber.

Yes, 100; No, 25; Absent, 25.

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

The SPEAKER: The Chair recognizes the gentleman from Livermore Falls, Mr. Lynch.

Mr. LYNCH: Mr. Speaker, Ladies and Gentlemen of the House: This bill that we are considering now, the clarification of election laws, there is an inconsistency and a conflict with L. D. 2056, the education clarification bill, that must be resolved and the amendment is now being prepared, so I would ask that it be tabled until later today.

On motion of Mr. Rolde of York, tabled pending passage to be engrossed and later today assigned.

On motion of Mr. Sprowl of Hope, Recessed until three o'clock in the afternoon.

After Recess 3:00 P.M.

The House was called to order by the Speaker.

The following paper appearing on Supplement No. 7 was taken up out of order by unanimous consent:

Mr. Lynch of Livermore Falls presented the following Joint Order and moved its passage: (H. P. 2329)

ORDERED, the Senate concurring, that "An