

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD
OF THE
One Hundred And Thirteenth Legislature
OF THE
State Of Maine

VOLUME I
FIRST REGULAR SESSION
December 3, 1986 to May 22, 1987

Legislature's role in this procedure, is unclear. Its intent has not been met to date. That is indeed appropriate that we as the Senate, by majority, declare a solemn occasion, and present our concerns to the Supreme Court. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Kennebec, Senator Kany.

Senator KANY: Mr President and Members of the Senate. I wish to point out to the Senate and to the law court, that a public hearing on L.D. 20, which is the initiative measure, has not yet been held. The Legislature, in that case, under the State's Constitution, has the option of either enacting the initiated measure in tact, sending a competing measure out to the voters, or rejecting it, by which the initiative measure would automatically go out to the voters. How on earth can anyone say that we have a solemn occasion when that Bill has not been heard? No action has been taken on it and there are a number of competing possibilities for drawing up future referendum questions and the determination has not been made by any member of the Legislature, by any committee, on if any such re-drawing of future questions would apply to those currently before the Legislature.

THE PRESIDENT: The Chair recognizes the Senator from Penobscot, Senator Pearson.

Senator PEARSON: Mr. President, Men and Women of the Senate. What bothers me most of all about the whole situation, is that, and let's assume that a group on some issue, maybe totally unrelated to this, were attempting to get an idea passed, and they had not succeeded in the Legislature, and they went to referendum. In order to make that idea palpable to the people of the State, they decided to word their question in such a way that it would be confusing. Let's just assume they were to word their question that this a referendum "to make Maine a better place to live."

And, that is the question. Do you favor this referendum question in order to make Maine a better place in which to live?

Now that would be the question and the details would be contained in an obscure Bill some where. Would it then be the responsibility of the Maine Legislature, at that point, to step in and reword the question?

THE PRESIDENT: The Chair recognizes the Senator from Kennebec, Senator Kany.

Senator KANY: Mr. President and Members of the Senate. Our Constitution really gives the authority to the Secretary of State, to devise the question, and then statutorily, we have have flushed out the Constitutional language, so what happens now, under our law, is that the petition organizers may submit a question to the Secretary of State. That was done in the instance of the Maine Yankee question. Then, the Secretary of State checks with both sides, even though that is really not required by law, and the Secretary of State takes complete authority on devising the question which actually is on the petition that the petition signers signed. Furthermore, the Attorney General, under our law, has to have reviewed that question to see if it is consistent with the substance and body of the law that is being proposed by direct initiative. So, that is our current law, both constitutionally and statutorily. In other words, the Maine Legislature would have to revise either the statute, or would have to approve by a two-thirds vote, a constitutional change, which would then have to be approved by a majority of the voters, in order to change the current system. The Bills that are being proposed, and that are to receive the March 9th

hearing, are all statutory suggestions on flushing out current constitutional law on this subject.

THE PRESIDENT: The Chair recognizes the Senator from Penobscot, Senator Pearson.

Senator PEARSON: Thank you, Mr. President, Men and Women of the Senate. It is alleged by some, in this particular instance, that those checks and balances that the good Senator from Kennebec, Senator Kany cites, are ways of preventing an improper wording were not adequate. That indeed, when it came to the Deputy Secretary of State, some would allege that the wording he provided confused the situation instead of clarifying it. If that is the case, and I am not sure that it is, then does the Maine Legislature have the power to come in and say "you messed this up, we want to make sure the voter has the proper question."

The Senator from Kennebec, Senator Kany requested and received Leave of the Senate to speak a fourth time.

Senator KANY: Mr. President and Members of the Senate. The answer is 'No', according to the Attorney General's opinion. The Legislature could not come in and change the question. I would submit to the law court, if indeed this order does pass, a copy of the Attorney General's opinion on that subject.

Secondly, I would like to let you and the law court know the titles and L.D. numbers of the four Bills that the Legal Affairs Committee is scheduled to hear. The first is L.D. 289: "An Act relating to questions put to the elector at referendum." The Second, L.D. 324: "An Act concerning the wording an initiative and peoples veto referendum questions." Third, L.D. 119: "Resolve, to simplify the wording on the ballot of the proposed initiative, regarding the generation of electric power and high level radio active waste." Fourth, L.D. 347: "An Act concerning the drafting of ballot questions."

THE PRESIDENT: The Chair recognizes the Senator from Kennebec, Senator Matthews.

Senator MATTHEWS: Mr. President and distinguished Members of the Senate. I rise to also voice my support for my colleague, Senator Kany of Kennebec, and the good Senator from Penobscot, Senator Baldacci. With all due respect to my good friend, the Senator from Cumberland, Senator Clark, I do believe that we are jumping the gun here. We're taking an issue, which I believe is in the legislative court, and why we are doing, I do not think there is a sufficient answer on the other side, as to why we are asking for a law court decision. There are a couple of things which concern me deeply. Statements made by my good colleague, Senator Clark of Cumberland, which I do want to clarify. One of them is that the initiated question by thousands of Maine voters, is simply to close down Maine Yankee. That is not the case, ladies and gentlemen. The initiated question is to stop the production of high level nuclear waste in the State of Maine, after 1988. That is the question that will be before the Maine voters. Also, and I think it appropriate to mention, for the Record and for this Body to think about, is the question which will be before all of us, is the storage of high level nuclear waste, which I thank the good Lord, the good Senator from Kennebec, Senator Kany has been working very hard on, with the rest of us in the Legislature. That issue is coming up and we know we haven't seen the end of the site location process for a high level waste dump and they are looking here in Maine. That is why fifty thousand, I thought, Maine voters put this question out to referendum. Also, because Maine has to go on Record, it seems to me,