

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

*One Hundred and Sixth
Legislature*

OF THE

STATE OF MAINE

Volume II

April 23, 1973 to June 5, 1973

KENNEBEC JOURNAL
AUGUSTA, MAINE

Act Relating to Bank Holding Companies." (S. P. 374) (L. D. 1100)

Reported that the same be granted Leave to Withdraw, Covered by Other Legislation.

Which report was Read and Accepted.

Sent down for concurrence.

Ought to Pass

Mr. Cox for the Committee on Business Legislation on, Bill, "An Act Relating to the Deletion of an Exemption under the Unfair Trade Practices Act." (S. P. 493) (L. D. 1550)

Reported that the same Ought to Pass.

Mr. Cox for the Committee on Business Legislation on, Bill, "An Act Relating to Waiver by Consumer under Unfair Trade Practices Act." (S. P. 485) (L. D. 1552)

Reported that the same Ought to Pass.

Mr. Cox for the Committee on Business Legislation on, Bill, "An Act Relating to Rules and Regulations Promulgated under the Unfair Trade Practices Act." (S. P. 484) (L. D. 1551)

Reported that the same Ought to Pass.

Mr. Cox for the Committee on Business Legislation on, Bill, "An Act Relating to Assurances of Discontinuance under the Unfair Trade Practices Act." (S. P. 486) (L. D. 1553)

Reported that the same Ought to Pass.

Mr. Cox for the Committee on Business Legislation on, Bill, "An Act Amending the Authorization of Foreign Banks and Trust Companies to Act as Fiduciaries." (S. P. 413) (L. D. 1252)

Reported that the same Ought to Pass.

Mr. Katz for the Committee on Education on, Bill, "An Act Appropriating Funds to Expand Post-secondary Educational Opportunities in Maine's Mid-coast, York County and Lewiston - Auburn Areas." (S. P. 538) (L. D. 1691)

Reported that the same Ought to Pass.

Which reports were Read and Accepted, the Bills Read Once and

Tomorrow Assigned for Second Reading.

Divided Report

The Majority of the Committee on State Government on, RESOLUTION, Proposing an Amendment to the Constitution Changing the Legislature to a Single Chamber, Unicameral System with Single Member Districts. (S. P. 273) (L. D. 798)

Reported that the same Ought to Pass.

Signed:
Senator:

CLIFFORD

of Androscoggin

Representatives:

FARNHAM of Hampden

GOODWIN of Bath

NAJARIAN of Portland

BUSTIN of Augusta

COONEY of Sabattus

CROMMETT

of Millinocket

The Minority of the same Committee on the same subject matter reported that the same Ought Not to Pass.

Signed:
Senators:

SPEERS of Kennebec

WYMAN of Washington

Representatives:

CURTIS of Orono

GAHAGAN of Caribou

STILLINGS of Berwick

Which reports were Read.

The PRESIDENT: The Chair recognizes the Senator from Androscoggin, Senator Clifford.

Mr. CLIFFORD: Mr. President and Members of the Senate: I am going to move that we accept the Majority Ought to Pass Report of the Committee. I feel that this is a very important issue which, hopefully, will be discussed fully in both houses of this legislature.

First of all, I think at the outset that this Constitutional Amendment provides that if this change comes about it will not come about until the election of 1976 and the legislative session of 1977.

Secondly, it will not come about until the people have the opportunity to vote upon it. It seems to me what we are asking, really, is for this legislature to send this

very important issue to the people for their vote.

I think, Mr. President and Members of the Senate, if we keep in perspective the history of bicameral and unicameral legislatures, I think if you keep the historical perspective in mind, you will find that the historical reason for bicameralism really no longer exists.

The history of bicameralism in the Anglo-Saxon tradition arose because the second or upper house was really representative of a different constituency, and it originally arose in England where the aristocracy was represented in the House of Lords and the common people were represented in the House of Commons.

In the United States the Senate, the upper house, represents a different constituency. That is, it represents the states, and the lower house, or the House of Representatives, represents the people. And in the state governments, which were modeled after the United States Government, the lower house represented the people and the upper house, or the senate, could be apportioned on a different basis. They could represent a different constituency, and traditionally, until recent history, they did in fact represent geographic and economic interests. And throughout most of Maine's bicameral history the State Senate represented the geographic and economic areas on a countywide basis.

But in 1964, Mr. President and Members of the Senate, the United States Supreme Court said, in the case of *Reynolds vs. Sims*, that you can no longer do this in state senates; that the only basis of representation in state senates, as well as in state houses of representatives, was a one-man one-vote factor. So that in the bicameral system you no longer in your state senates can have a different basis of representation than you can in the house of representatives. So most of the historical reasons for the second house, the upper chamber, or the senate, no longer exists. And the only reason which still exists, Mr. President and Members of the Senate, the only argument made for the exist-

ence of the second house, or the bicameral two houses, is that it allows one body to take a second look, it allows a delay in the passage of bills, and it prevents bad bills from being passed.

Well, I submit, Mr. President and Members of the Senate, that this is a procedural matter which can well be taken care of within a unicameral, one-body system in their own procedure, such as delays in the readings of bills, etc., limits on the number of bills to be introduced.

Unicameral, one-chamber system of government exists in Nebraska which, by the way, has a 50-member - it is called a State Senate, and Nebraska, interestingly enough, has approximately the same geographic size as Maine and approximately the same population as Maine. This bill calls for a 75-member single district house of representatives. So that Nebraska does have a unicameral legislature, it works well, and there is no pressure from any circles in Nebraska to bring back bicameralism.

The Virgin Islands and Guam both have unicameral legislatures. All of our major cities have gone from bicameral legislatures to unicameral legislatures and they, of course, many of them, represent a much larger constituency than the State of Maine. All of the Canadian provinces have unicameral legislatures. England now has a de facto unicameral legislature as the House of Lords has become, in fact, powerless and ceremonial only.

The advantages of a unicameral legislature, it seems to me, first of all, there is economics. We presently have 184 members in this legislature, and in order to provide them with adequate staff, in order to pay them, it costs a tremendous amount of money. I think it costs approximately \$10,000 per day to keep this legislature going. In order to adequately staff a legislature, we certainly need more staff than we presently have, and a 75-member unicameral legislature could be very well staffed at less money.

I think that a unicameral legislature would be more efficient,

more understanding of the issues, and there wouldn't be the committees of conference and "the other house killed it" kind of thing.

I think the third reason, Mr. President and Members of the Senate, and probably the most important reason — although the economic reason, I feel, is important — I think the most important reason would be that there would be accountability of the individual legislators to the people who elect them. I think there is too much in the bicameral system of "the other house killed it", "let's let the other house kill it", "let's send it to a committee of conference." If you had one house and single-member districts, those people would be accountable, those representatives, and only those representatives, would be accountable to the people in their districts for the way they voted and the way the issues came out. The voters in the district could look to that one person for his or her vote as to a vote on a particular issue.

In view of the fact, Mr. President and Members of the Senate, that this would not be effective until the election of 1976 and the legislative session of 1977, and in further view of the fact that the only thing we could do is send it to the people and let them decide, it seems to me that the least we could do is to do that. Therefore, Mr. President, I move that the Senate accept the Majority Ought to Pass Report of the Committee.

The PRESIDENT: The Senator from Androscoggin, Senator Clifford, moves that the Senate accept the Majority Ought to Pass Report of the Committee.

The Chair recognizes the Senator from Kennebec, Senator Speers.

Mr. SPEERS: Mr. President and Members of the Senate: First of all, I would like to commend the good Senator from Androscoggin, Senator Clifford, on his most comprehensive remarks. The Senator is certainly the most valuable member of the Committee on State Government and of this body, and for that reason it is with reluctance that I rise to oppose his motion on acceptance of the Majority Ought to Pass Report

from the Committee on State Government.

First of all, Mr. President, I feel that the members of the Senate do represent a somewhat different constituency than do the members of the other body, if only because it is a much larger constituency. Simply because we have changed from representing states, as is the case on the national scene, or because we have changed from representing counties, as it used to be in the State of Maine, and are now mandated by the Supreme Court decision that was referred to to representing individuals, does not mean that all of us in this body represent the same kind of interests or take the same kind of view on the issues that are presented to the legislature as do the members of the other body.

We do represent much larger constituencies, each one of us in this body representing approximately 30,000 people. With that large a constituency, we obviously are going to have a great many more interests which we do represent. Some of those interests may be conflicting and may be directly opposed to one another. I am sure that all of us have had individuals contacting us both ways on the various issues, both for and against, and it is up to us to vote on those issues as we deem in the best interest of all of the members of our districts. So it is a much larger constituency that we do represent, and for that reason I believe that we take a somewhat different view of many of the issues than would a member of the other body representing a much more confined and narrow constituency.

I think that all of us here do recognize the great worth in having two branches of the legislature and in having bills passed back and forth between those two branches so that we can have, not another look at a particular piece of legislation, as the good Senator from Androscoggin represents could be the case if a one legislative body system so constructed its procedure so that there could be one, two, or even three separate considerations of a particular

issue, because it is not just another look at a particular issue that is the great worth of having two bodies, but a different look. The great worth is in having 33 different individuals look at a particular piece of legislation, whose 33 individuals representing a much larger portion, each one of us, a much larger portion and constituency of the State of Maine.

I think the good Senator from Androscoggin presented the case for unicameralism very well. I would like to point out that Nebraska is the only state in the Union which does have a unicameral legislature. 49 other states follow the basic structure of the United States Federal Government, and under the Federal Constitution, of having an executive branch and a legislative branch composed of two separate and distinct bodies. I feel the worth of that kind of system is great and should be maintained. I would, therefore, oppose the motion of the good Senator to accept the Majority Report.

The PRESIDENT: The Chair recognizes the Senator from Androscoggin, Senator Clifford.

Mr. CLIFFORD: Mr. President and Members of the Senate: It is certainly not my intention to belabor this issue, but it does need a two-thirds vote, and it seems to me that it is of sufficient importance that it be kept alive for further discussion.

I agree with the Senator from Kennebec, Senator Speers, that most of the states certainly have the bicameral system, but there was a reason, a valid reason, for having a bicameral system until the mid-60's. You were allowed to consider geographic and economic interests up until the mid-60's and the decision of Reynolds vs. Sims, so that the second look would be a different look. But, in fact, the second look no longer is a different look because the people elected are elected on the same basis, the basis of one-man one-vote.

The second point I want to emphasize, Mr. President, I think, is that we all realized at the beginning of this term that the

legislature in the State of Maine had become secondary, or its power certainly had become secondary to the power of the Executive, and we all went along with strengthening the legislature by the hiring of staff. It seems to me that was just the first step, and a unicameral, single-body legislature fully staffed would really be the kind of step that the legislature would need to cope with the kind of issues it faces and to cope with the overpowering Executive Branch.

All I ask you to do is let this matter continue in this legislature so that perhaps the people who would be affected by this, the voters, could decide on this matter in the referendum. Thank you, Mr. President.

The PRESIDENT: The Chair recognizes the Senator from Washington, Senator Wyman.

Mr. WYMAN: Mr. President and Members of the Senate: I merely want to concur with the remarks of the good Senator from Kennebec, Senator Speers, our Chairman.

It seems to me that this is excellent to have two bodies consider these bills. Sometimes the other branch will kill one of our bills, sometimes we will kill one of their bills, and sometimes they will be settled by a committee of conference, but I do think it protects the public. I think we get a great deal more legislation than we need, and I can't see any possible reason why we should pass this legislation because Nebraska, Canada, the Virgin Islands and Guam have it, and I move indefinite postponement of this measure and all accompanying papers.

The PRESIDENT: The Senator from Washington, Senator Wyman, now moves that Item 6-13, Resolution, Proposing an Amendment to the Constitution Changing the Legislature to a Single Chamber, Unicameral System with Single Member Districts, be indefinitely postponed.

The Chair recognizes the Senator from Androscoggin, Senator Clifford.

Mr. CLIFFORD: Mr. President, I request a roll call.

The PRESIDENT: A roll call has been requested. Under the Constitution, in order for the Chair to order a roll call, it requires the affirmative vote of at least one-fifth of those Senators present and voting. Will all those Senators in favor of ordering a roll call please rise and remain standing until counted.

Obviously more than one-fifth having arisen, a roll call is ordered. The pending motion before the Senate is the motion of the Senator from Washington, Senator Wyman, that Item 6-13, Legislative Document 798, be indefinitely postponed. A "Yes" vote will be in favor of indefinite postponement; a "No" vote will be opposed.

The Secretary will call the roll.

ROLL CALL

YEAS: Senators Anderson, Berry, Cox, Fortier, Graffam, Greeley, Hichens, Joly, Peabody, Speers, Tanous, Wyman.

NAYS: Senators Aldrich, Brennan, Cianchette, Clifford, Cummings, Cyr, Danton, Huber, Kelley, Marcotte, Minkowsky, Morrell, Olfene, Roberts, Sewall, Shute, MacLeod.

ABSENT: Conley, Katz, Richardson, Schulten.

A roll call was had. 12 Senators having voted in the affirmative, and 17 Senators having voted in the negative, with four Senators being absent, the motion did not prevail.

Thereupon the Majority Ought to Pass Report of the Committee was Accepted, the Resolution Read Once and Tomorrow Assigned for Second Reading.

Second Readers

The Committee on Engrossed Bills reported as truly and strictly engrossed the following:

House

Bill, "An Act Relating to Credibility of Witnesses." (H. P. 597) (L. D. 788)

Bill, "An Act Designating Columbus Day a Legal Holiday." (H. P. 989) (L. D. 1309)

(On motion by Mr. Speers of Kennebec, tabled and Specially Assigned for May 2, 1973, pending Passage to be Engrossed.)

Bill, "An Act Allowing Municipalities to Insure Against Personal Liability of Their Officers, Officials and Employees." (H. P. 1069) (L. D. 1394)

Bill, "An Act to Increase the Number and Terms of Members of the Augusta Parking District." (H. P. 1451) (L. D. 1872)

Bill, "An Act to Require a Stamp to Fish for Atlantic Salmon." (H. P. 1452) (L. D. 1873)

Bill, "An Act Relating to the Prohibition Against Hitchhiking." (H. P. 1454) (L. D. 1875)

Bill, "An Act Relating to Civil Action for Alienation of Affections." (H. P. 1455) (L. D. 1876)

Which were Read a Second Time and, except for the tabled matter, Passed to be Engrossed in concurrence.

House — As Amended

Bill, "An Act Amending the Maine Tree Growth Tax Law." (H. P. 1073) (L. D. 1411)

Bill, "An Act Relating to Conveyance by Release Deed for the Penobscot Tribe of Indians." (H. P. 622) (L. D. 820)

Bill, "An Act Relating to Appointment of Persons to Act as Policemen on Property of the Vocational - Technical Institutes." (H. P. 980) (L. D. 1294)

Bill, "An Act Extending the Hours of the Maine State Library." (H. P. 1216) (L. D. 1571)

Bill, "An Act Relating to Fees of Municipal Police Officers or Constables as Witnesses." (H. P. 1257) (L. D. 1632)

Which were Read a Second Time and Passed to be Engrossed, as Amended, in concurrence.

Senate

Bill, "An Act to Clarify the Notice Procedure on Decisions of Zoning Board of Appeals." (S. P. 321) (L. D. 988)

Resolve, Designating Seaplane Base on Lake Maranacook, Town of Winthrop, as "Richard D. Varney Seaplane Base." (S. P. 489) (L. D. 1555)

Which were Read a Second Time and Passed to be Engrossed.

Sent down for concurrence.