

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 Fifth
Legislature***

OF THE

STATE OF MAINE

Volume III

June 16, 1971 to June 24, 1971

Index

1st Special Session

January 24, 1972 to March 10, 1972

Index

**KENNEBEC JOURNAL
AUGUSTA, MAINE**

SENATE

Monday, February 28, 1972

Senate called to order by the President.

Prayer by the Rev. James Smith of Hallowell.

Reading of the Journal of Yesterday.

Papers from the House

Joint Order

ORDERED, the Senate concurring, that the Maine Education Council, established under chapter 452 of the public laws of 1967, is authorized and directed to study the academic and field training, certification, diploma and degree requirements for professionals, para-professionals and teacher aides in Maine Head Start programs; and be it further

ORDERED, that the council submit a written report of its findings, together with any necessary recommendations and implementing legislation, to the next regular or special session of the Legislature; and be it further

ORDERED, upon passage, in concurrence, that a copy of this Order be immediately transmitted to said council as notice of this proposed study. (H. P. 1590)

Comes from the House, Read and Passed.

Which was Read.

On motion by Mr. Berry of Cumberland, tabled and Tomorrow Assigned pending Passage.

Committee Reports

House

Divided Report

The Majority of the Committee on Appropriations and Financial Affairs on, Bill, "An Act Reallocating Funds for Professional Contractual Employees of the Joint Standing Committees of the Legislature." (H. P. 1450) (L. D. 1893)

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-559)

Signed:

Senators:

SEWALL of Penobscot

CONLEY of Cumberland

DUNN of Oxford

Representatives:

GILL of South Portland

CAREY of Waterville

BRAGDON of Perham

BIRT of East Millinocket

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

Signed:

Representatives:

CARTER of Winslow

JALBERT of Lewiston

SHAW of Chelsea

Comes from the House, the Majority Ought to Pass as Amended report Read and Accepted and the Bill Passed to be Engrossed as Amended by Committee Amendment "A" (H-559), as Amended by House Amendment "A" Thereto (H-574).

Which reports were Read and the Majority Ought to Pass as Amended Report of the Committee Accepted in concurrence. Committee Amendment "A" was Read. House Amendment "A" to Committee Amendment "A", as Amended by House Amendment "A" Thereto, was Adopted in concurrence and the Bill, as Amended Tomorrow Assigned for Second Reading.

Second Readers

The Committee on Bills in the Second Reading reported the following:

House

Bill, "An Act Permitting Veterans with Medical Experience to Take the Licensed Practical Nurses Examination." (H. P. 1585) (L. D. 2042)

Bill, "An Act Relating to Discharge of Waste from Watercraft." (H. P. 1585) (L. D. 2044)

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

House - As Amended

Bill, "An Act Relating to Penalty for Sale of Certain Drugs." (H. P. 1582) (L. D. 2040)

Which was Read a Second Time.

The PRESIDENT: The Chair recognizes the Senator from Aroostook, Senator Harding.

Mr. HARDING of Aroostook: Mr. President and Members of the Senate: Over the weekend there are some people who have been taking this matter under advisement, and I, Senator Tanous, and some of the others have been

reviewing a proposal which I think may be getting at what we want to get at, that is, the pusher. And this would be aimed at the person who was involved with drugs on a managerial basis or an organizational basis. This would be the pusher who was actually in that category.

Now, the persons in that category, we have no objection to them receiving a mandatory jail sentence, as far as I am concerned. I would, however, hope that we might be able to develop this amendment so that we could pass it out and perhaps we could reach an agreement on it, but it is not ready at this time. So if someone would be good enough to table this until the next day, I would like to be able to present this to the Senate for their consideration.

The PRESIDENT: The Chair recognizes the Senator from Franklin, Senator Shute.

Thereupon, on motion by Mr. Shute of Franklin, tabled and Tomorrow Assigned, pending Passage to be Engrossed.

Senate

Bill, "An Act to Revise the Site Location of Development Law." (S. P. 767) (L. D. 2045)

Which was Read a Second Time.

On motion by Mr. Moore of Cumberland, tabled and Tomorrow Assigned, pending Passage to be Engrossed.

Bill, "An Act to Appropriate Moneys for the Expenditures of State Government and Other Purposes for the Fiscal Years Ending June 30, 1972 and June 20, 1973." (S. P. 768) (L. D. 2047)

Which was Read a Second Time.

On motion by Mr. Berry of Cumberland, tabled and Tomorrow Assigned, pending Passage to be Engrossed.

Orders of the Day

The President laid before the Senate the first tabled and specially assigned matter:

HOUSE REPORTS — from the Committee on Taxation on Bill, "An Act Establishing a Forest Lands Taxation Policy Using a Productivity Approach. (H. P.

1557) (L. D. 2018) Majority Report, Ought to Pass in New Draft (H. P. 1577) (L. D. 2034); Minority Report, Ought to Pass as Amended by Committee Amendment "A". Filing H-553.

Tabled — February 25, 1972 by Senator Martin of Piscataquis.

Pending — Motion by Senator Hichens of York to Accept the Majority Report.

On motion by Mr. Berry of Cumberland, retabled and Tomorrow Assigned, pending the motion by Mr. Hichens of York to Accept the Majority Report of the Committee.

The President laid before the Senate the second tabled and specially assigned matter:

Bill, "An Act Implementing the Reorganization of the Department of Educational and Cultural Services." (S. P. 721) (L. D. 2010)

Tabled — February 25, 1972 by Senator Berry of Cumberland.

Pending — Passage to be Engrossed.

On motion by Mr. Katz of Kennebec, retabled and Tomorrow Assigned, pending Passage to be Engrossed.

The President laid before the Senate the third tabled and specially assigned matter:

SENATE REPORTS — from the Committee on County Government on Bill, "An Act Relating to Revenue Sharing and Financial Relief to Counties for Expenses of the Superior and Supreme Judicial Courts." (S. P. 712) (L. D. 1986) Majority Report, be Referred to the 106th Legislature; Minority Report, Ought to Pass as Amended by Committee Amendment "A". Filing S-358.

Tabled — February 25, 1972 by Senator Tanous of Penobscot.

Pending — Motion by Senator Martin of Piscataquis to Accept the Majority Report be Referred to the 106th Legislature.

The PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Berry.

Mr. BERRY of Cumberland: Mr. President and Members of the Senate: We have before us for consideration today, I think, one of the more significant bills that

we are going to be privileged to act upon at this session.

You all may recall that there has been in the works for some time now a major revision in the administration and set-up of our courts and, for a number of good and valid reasons, the progress has been reasonably slow, shall we say.

I am sure we are all familiar with the overloading in the court system, and those of you who have followed the payments on court costs know that the payments of these costs have been in the past intimately tied up with both the county and the state. Now, the proposed bill is going to do what needs to be done and it is going to give us an integrated court system, with the fines and the revenue accruing to the courts being used and available for a statewide all-level court system. Now, as a layman, this appeals to me because it will do away with any charges on the taxpayer for the administration of justice on the judicial part of the system.

Now, the objection, of course, is going to be that in the past the several counties have received moneys from the court system. To my way of thinking, this is really blood money because when we have an operation that isn't going and hitting on all cylinders, and we take away the money from it, then we are not helping it one bit. It seems to me we should actually make our decision now to go on a statewide court system, and I am sure that this will reflect a great deal of credit on us, which is incidental, but will make the wheels of justice run more smoothly.

I hope you would vote against the motion of Senator Martin, and I will ask for a roll call when the vote is taken.

The PRESIDENT: A roll call has been requested.

The Chair recognizes the Senator from Aroostook, Senator Peabody.

Mr. PEABODY of Aroostook: Mr. President and Members of the Senate: I would like to make a few remarks regarding this bill, L. D. 1986.

I believe a bill as important as this one should not have been taken up in this special session. A great deal of time should be given to

this bill by the Committee on County Government. This bill should have more research by a county research committee. I know this bill has been researched outside of these chambers, but I feel that eighty percent of both houses know very little, if anything, regarding this bill and just what it will do to both county and state government.

This L. D. came before our Committee on County Government on Tuesday, February 15th. A large crowd was there, and we heard both the pros and the cons of it. I would say that meeting lasted about three and a half hours. A week later, just one week later, on February 22nd we held a closed session. As all bills had to be reported out of committee by 5 o'clock on that same day, the Committee had to make a decision. After two hours we came up with a majority twelve-to-one report to refer L. D. 1986 to the 106th Legislature. I hope this body will go along with the Committee's Majority Report and send it along to the 106th Legislature. Thank you.

The PRESIDENT: The Chair recognizes the Senator from Aroostook, Senator Harding.

Mr. HARDING of Aroostook: Mr. President and Members of the Senate: This bill isn't really as new as my good friend, the Senator from Aroostook, Senator Peabody, would suggest to you.

One whole session ago it was recognized that the Superior Court system in this state has very serious problems, and so a study was made of the Superior Court system, at a cost of \$50,000 to the state and to the federal government. The same organization was used to study the Superior Court system as was used back ten years ago to study our old Municipal Court system. That organization back then had the wisdom to recommend to the people of the State of Maine the adoption of the District Court system. Almost everybody agrees that without the District Court system now to carry our load, which it does carry about 95 percent of the judicial load in this state, we would have a total

breakdown of law and order in the state.

This same organization recommended that as a basic part of our judicial reform that we have one budget for our state courts. This recommendation was brought to this legislature. As a result of this recommendation, a bill was put in at the regular session, but there were people who felt that it still needed further study, and so the bill was given further study by another committee of the Legislature, of which Senator Tanous was Chairman. As a result of that recommendation, this bill was put forth.

I suppose that perhaps in the State of New York and in some of the other states where you have almost a total breakdown of law and order because of the crowded court dockets, probably some legislators back ten years ago pleaded with the New York legislature to reorganize the court system so that it could do the job. We plead with you today, and I would say this of the people who came for this bill: the entire judicial system of Maine endorsed this concept. There were state legislators who spoke for it. The only people who opposed this bill were a few of the county commissioners.

So, I heard here the other day a plea for putting people behind bars that deserved to be put behind bars, and I agree with that, but, unless you have a system set up that is operating efficiently, you can't put them behind bars until they have a trial. In some areas now we are almost a year behind insofar as our court docket is concerned.

There is no bill before this legislature which is so important to law and order in the State of Maine as is this bill. If I could get on my bended knees and plead with you, if you value law and order, if you want peace in the streets, and if you want to get rid of crime, then I hope you will support this bill. On that basis, I sincerely hope you will vote against the motion which has been made to study this thing further when it has already been studied so thoroughly.

The PRESIDENT: The Chair recognizes the Senator from Piscataquis, Senator Martin.

Mr. MARTIN of Piscataquis: Mr. President and Members of the Senate: The Committee on County Government agreed with the comments just made by my good friend, Senator Harding of Aroostook, but we all agreed that there are unknown factors in this bill, the impact to the counties, and I assure you that, as the bill now reads, each county within the state will feel some financial difficulties in regard to this.

For instance, we heard mentioned in the County Government Committee that the courthouses would be rented, that the Superior Courts would be rented and the counties would receive the rent. There was \$100,000 allotted for this and it appeared, after hearing testimony, and other testimony since then, that this was far too low.

The thinking of myself, as a member of the County Government Committee, and the thinking of the majority of the County Government Committee was that this could wait until the 106th Legislature and we could find out the impact it would have on all the counties within the state.

I further went to one of the District Court Judges in my area and requested his advice. He was familiar with the bill, he had seen the study committee report, and he told me he didn't think there was any emergency, that it was not an emergency to him, but that it could very well wait. So, I acted on those bases, and I hope that the Senate would support my motion to refer this to the 106th.

The PRESIDENT: The Chair recognizes the Senator from Penobscot, Senator Tanous.

Mr. TANOUS of Penobscot: Mr. President and Members of the Senate: As was mentioned by my good friend, Senator Harding from Aroostook, I was appointed by our President on a committee to study the costs of the proposed bill which was submitted to the regular session of the 105th.

If you further recall, this bill in the regular session had been referred to the Committee on State

Government and had received unanimous support of that particular committee, the Committee on State Government. And it laid on the Appropriation Table because there was an uncertainty of the amount of cost connected with this particular bill. The committee was appointed through an order, and I was appointed on that committee, and made the Chairman of that committee. We conducted our study and, of course, we made our report to you people in this body, to the entire legislature, the first day of the session, and I am sure that perhaps you all saw it and read it. It was a concise report. It went right to the heart of the problem of the financing of this particular bill.

First of all, I would like to clear up some misnomers or misapprehensions about studying this matter any further. It has been mentioned that the Judicial Council of Maine has conducted this study. This matter has been studied to death, to use an old term. You know that we appropriated \$20,000 to fund the kitty to study this ourselves. This legislature appropriated \$20,000 for this study. And here the study comes back, it has been reviewed by the experts, it has been looked at, and they have recommended that we do what this bill calls for. Their recommendation is that we endorse this concept, that we adopt this, that we make this a statute in the State of Maine. And basically what we are doing is that we are unifying our sixteen Superior Courts into one fund. This is basically what we are doing. We are transferring the cost of operations of your Superior Courts from the counties to the State. Now, this will not cost the taxpayers any money, in a sense, because my amendment on the bill has formed a court pool, so to speak, and all of the money that the courts bring in will more than fund the operation of the entire court system in the State of Maine. In fact, our net proceeds from the District Court, if we don't make the payouts to the various counties as we have, annual net proceeds would be close to \$2.5 million dollars, approximately per biennium a net of \$5.0 million in this particu-

lar fund, after all of the District Court expenses have been paid but, of course, without the payouts to the various counties. Now, the proposed cost in this bill is \$3.2 million, so we still have some \$1.6 or 7 million left over in this court fund, so to speak to answer any emergencies such as Senator Martin from Piscataquis has mentioned, in case the rent should be higher than we had anticipated in our study.

Incidentally, I had distributed an article or editorial in the Bangor Daily News dealing with this very problem of this particular bill and certainly revealing all of the facts and reasons why we ought to enact this bill.

I would like to mention some of the people that appeared at the Committee of County Government, the public hearing of County Government on this bill. Senator Clifford from Androscoggin was one of the proponents. Professor Halperin from the University of Maine Law School was a proponent. Peter Murray from the Judicial Executive Council spoke in favor of it. Robert Marden, a former President of this body, individually, and also in his position as President of the Maine Bar Association, has highly endorsed this bill. John Salisbury of the Maine Municipal Association endorsed this bill. And, incidentally, may I mention that that was one of the most fiery speeches that I have heard Mr. Salisbury make before any committee. We had others, Mrs. Harding from Aroostook County, who was recently elected to the council over there, spoke in favor of it. Attorney Lewis Vafiades from Bangor appeared and spoke in favor of it. Representative Jon Lund spoke in favor of it. We also had one of the county commissioners that apparently feels that this should go through, who broke away from the fold and felt that the county commissioners ought to endorse this rather than oppose it. And last, but not least, we had a lovely young lady there who happens to be our Law Librarian, and she did a magnificent job supporting this bill, Edith Hary. Believe me, she pointed out things that even the

lawyers missed on why this bill ought to pass. She pointed out the distinction between the three governmental bodies in the state, the Executive, the Legislative and the Judiciary, and yet the Judiciary, under our present system, has to operate on a 16-counties basis, and questioned how would the legislature operate in that fashion. This is how our courts are operating today.

So, unless we have a head, unless we have a unification, unless we reorganize and reform our court system, we will remain in the fight that we are now presently in, and this predates the dark ages as far as our state is concerned. So I too will join Senator Harding and plead with you, if I could get down on bended knee, and ask your support for this. I certainly would appreciate it if you would oppose the motion of Senator Martin from Piscataquis, and endorse this bill. Thank you.

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

Mr. BERNARD of Androscoggin: Mr. President and Members of the Senate: Before I get down on bended knee and succumb to the proponents of this bill, I have a question in mind. I understand recently that Androscoggin County received some \$100,000 back from the court system. Now, the question in mind is if the courts are going to have their own pool, so to speak, and the county is going to be denied this amount of money that is generally paid back to it, which it uses to go toward the taxes from the various towns, is that not going to cut the counties short fiscally?

The PRESIDENT: The Chair recognizes the Senator from Penobscot, Senator Tanous.

Mr. TANOUS of Penobscot: Mr. President and Members of the Senate: If I may answer that question, presently the District Court system sends back to the various counties a certain percentage of the amount of money left over at the end of each year. They do this on a quarterly basis. There are two counties that won't get back as much as the cost of

operating the court is. In other words, two counties will lose a small sum of money when compared to the present operation. The other fourteen counties will all end up with a net gain, a net gain, as a result of the state taking over the cost of the operation of your Superior Courts. There are fourteen counties out of sixteen that end up with a net gain.

The PRESIDENT: The Chair recognizes the Senator from Piscataquis, Senator Martin.

Mr. MARTIN of Piscataquis: Mr. President and Members of the Senate: In a further attempt to answer Senator Bernard's question, I would say that at the hearing testimony was given that the rental for the Androscoggin County Courthouse would be roughly in the \$6,000 area per year. Testimony was also given by a Mr. Labbe from Androscoggin County that, after an appraisal performed by two different appraisers of the court facilities in Androscoggin County, the rental should be in the \$50,000 bracket.

I will say that this bill has been studied with regard to the courts, but study has not been made of the impact on the counties. This is the reason the Committee felt this should be delayed. If this is done, if my motion is accepted, I have an amendment which I will attempt to introduce to refer this to the Legislative Research Committee for study.

The PRESIDENT: Is the Senate ready for the question? 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 question before the Senate is the motion of the Senator from Piscataquis, Senator Martin, that the Senate accept the Majority Report of the Committee whereby Bill, "An Act Relating to Revenue Sharing and Financial Relief to Counties for Expenses of the Superior and Su-

preme Judicial Courts", be referred to the 106th Legislature. A Yes vote will be in favor of referring this bill to the 106th Legislature; a No vote will be opposed.

The Secretary will call the roll.

ROLL CALL

YEAS: Senators Bernard, Danton, Greeley, Johnson, Marcotte, Martin, Peabody, Schulten, Wyman and President MacLeod.

NAYS: Senators Anderson, Berry, Carswell, Chick, Clifford, Conley, Dunn, Fortier, Graham, Harding, Hichens, Hoffses, Katz, Kellam, Minkowsky, Moore, Quinn, Shute, Tanous, and Violette.

ABSENT: Senators Levine and Sewall.

A roll call was had. Ten Senators having voted in the affirmative, and twenty Senators having voted in the negative, with two Senators absent, the motion to Accept the Majority Report did not prevail.

Thereupon, the Minority Ought to pass as Amended Report of the Committee was Accepted and the Bill Read Once. Committee Amendment "A" was Read and Adopted and the Bill, as Amended, Tomorrow Assigned for Second Reading.

The President laid before the Senate the fourth tabled and specially assigned matter:

Joint Resolution Memorializing the Honorable John H. Chaffee, Secretary of the Navy, to Review all Contractual Obligations between Litton Systems, Inc., of

Pascagoula, Mississippi and the Navy. (H. P. 1591)

Tabled — February 25, 1972 by Senator Hoffses of Knox.

Pending — Adoption.

The PRESIDENT: The Chair recognizes the Senator from Sagadahoc, Senator Schulten.

Mr. SCHULTEN of Sagadahoc: Mr. President and Members of the Senate: The management of the Bath Iron Works were unaware of this Joint Resolution to be Memorialized. They sent word that they deeply appreciate the interest and the concern of the Legislature concerning any problems they might have, however, they feel perhaps that this is not the most timely or opportune moment for such a memorial and, in view of such, I would make a motion that we indefinitely postpone the Joint Resolution.

The PRESIDENT: The Senator from Sagadahoc, Senator Schulten, moves that Joint Resolution, H. P. 1591, be Indefinitely Postponed. Is this the pleasure of the Senate?

Thereupon, the Joint Resolution was Indefinitely Postponed in Non-concurrence.

Sent down for concurrence.

(Senate at Ease)

Called to order by the President.
(Off Record Remarks)

On motion by Mr. Hoffses of Knox,

Adjourned until 10 o'clock tomorrow morning.