

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

1st Special Session

OF THE

*One Hundred and Sixth
Legislature*

OF THE

STATE OF MAINE

1974

Kennebec Journal
Augusta, Maine

HOUSE

Thursday, January 3, 1974

The House met according to adjournment and was called to order by the Speaker.

Prayer by the Rev. Mr. Dana Craig of Augusta.

The journal of yesterday was read and approved.

The Speaker announced the presence of Mr. Jalbert of Lewiston and Mr. Bunker of Gouldsboro, who were recorded as absent on the organizational roll call.

Papers from the Senate**Non-Concurrent Matter**

Bill "An Act Relating to the Installation of Sprinkler Systems in all New and Existing Hotels" (H. P. 1694) (L. D. 2087) which was referred to the Committee on Health and Institutional Services in the House on January 2.

Came from the Senate referred to the Committee on Legal Affairs in non-concurrence.

In the House: On motion of Mr. Emery of Rockland, the House voted to recede and concur.

Non-Concurrent Matter

Bill "An Act to Revise the Membership of the Land Use Regulation Commission" (H. P. 1748) (L. D. 2207) which was referred to the Committee on Natural Resources in the House on January 2.

Came from the Senate referred to the Committee on State Government in non-concurrence.

In the House: The House voted to recede and concur.

Non-Concurrent Matter

Resolve Authorizing Commissioner of Mental Health and Corrections to Lease Certain Land in South Windham to the Maine Society for the Protection of Animals (H. P. 1754) (L. D. 2213) Emergency which was referred to the Committee on Health and Institutional Services in non-concurrence.

In the House: On motion of Mr. Simpson of Standish, the House voted to adhere.

By unanimous consent, ordered sent forthwith to the Senate.

Order Out of Order

Mr. McMahon of Kennebunk presented the following Order and moved its passage:

ORDERED, that Frederick W. Trumbull of Kennebunk be appointed Honorary Page for today.

The Order was received out of order by unanimous consent, read and passed.

Non-Concurrent Matter

Bill "An Act Relating to Medical Treatment of Persons at State-operated Facilities" (H. P. 1762) (L. D. 2230) which was referred to the Committee on Judiciary in the House on January 2.

Came from the Senate referred to the Committee on Health and Institutional Services in non-concurrence.

In the House:

The SPEAKER: The Chair recognizes the gentleman from Standish, Mr. Simpson.

Mr. SIMPSON: Mr. Speaker, I move we adhere.

The SPEAKER: The gentleman from Standish, Mr. Simpson, moves the House adhere.

The Chair recognizes the gentleman from Strong, Mr. Dyar.

Mr. DYAR: Mr. Speaker and Members of the House: I am not too concerned on the referral of these bills, but it seems strange to me that item three was heard by the Committee on Health and Institutional Services last session, which we have just adhered to; item four pertains to medical treatment of persons at state-operated facilities, and again we have a motion to adhere allowing this bill to return to the Committee on Judiciary.

It would seem to me that somewhere along the way we should get together with the committee chairmen and decide where some of these bills are going. If there is more expertise in other committees, that is where they should go. I think the precedent has been set in many cases. I am not looking for more work for my committee, but I am quite concerned with the way these bills are being tossed around.

The SPEAKER: The Chair recognizes the gentleman from Standish, Mr. Simpson.

Mr. SIMPSON: Mr. Speaker, Ladies and Gentlemen of the House: I, myself,

have not talked personally with Representative Dyar relative to these matters. I know it has been brought to his attention and it has been brought to the attention of the Senate chairman because we have two bills which relate to almost the same identical thing and both of them involve legal questions which after reviewing the bills and after we have handled them in the regular session and the technicalities involved, we felt that they should go to Judiciary. In so doing, we had them split and yesterday we sent it over there and they unknowingly overturned the reference over there and therefore we still have these two bills in two different committees. The motion to adhere was so that we could keep the bills in the Judiciary Committee, these two particular bills.

The other bill, item three which just went by, deals not with the operation of any institution or so forth, it deals with the land that the State owns around the institution and probably in honesty maybe that bill should have gone to Legal Affairs rather than State Government. But yet State Government Committee usually handles problems that deal with this type of thing, and that is the reason why we adhered, and we have talked with the Senate Chairman so to get these things in conformity.

Thereupon, the House voted to adhere.

By unanimous consent, ordered sent forthwith to the Senate.

Messages and Documents

The following Communication: (S. P. 791)

STATE OF MAINE
MAINE STATE ARCHIVES
Augusta, Maine

December 17, 1973

Honorable Kenneth M. Curtis
Governor of State of Maine
Members of the One Hundred
Sixth Legislature of Maine
Gentlemen:

In compliance with Maine Revised Statutes Annotated, Title 27, Section 278, subsection 6, I have the honor to submit the accompanying report relating to the work and needs of the Maine State Archives.

The publication of the report was delayed in order to include those significant changes in the records laws of the

State enacted by the One Hundred Sixth Legislature as the "Municipal Records Law", "County Records Law", and "Archives and Records Management Law"; and the proposed order for the establishment of an Advisory Committee on Judicial Records pending before the Supreme Judicial Court.

Respectfully,

Signed:

SAMUELS. SILSBY, JR.

State Archivist

Came from the Senate read and placed on file.

In the House, the Communication was read and ordered placed on file in concurrence.

Petitions, Bills and Resolves Requiring Reference

The following Bills and Resolution were received and, upon recommendation of the Committee on Reference of Bills, were referred to the following Committees:

Appropriations and Financial Affairs

Bill "An Act to Establish a Vocational Training and Sheltered Workshop at Camp Waban in Sanford" (H. P. 1799) (L. D. 2279) (Presented by Mr. Goodwin of South Berwick)

Sent up for concurrence.

Taxation

Bill "An Act to Increase the Cigarette Tax and Provide Funds for Catastrophic Medical Expense" (H. P. 1812) (Presented by Mr. Martin of Eagle Lake)

Committee on Reference of Bills suggested the Committee on Appropriations and Financial Affairs.

On motion of Mr. Jalbert of Lewiston, referred to the Committee on Taxation, ordered printed and sent up for concurrence.

Appropriations and Financial Affairs

Bill "An Act Making Additional Appropriations from the General Fund for the Current Fiscal Year Ending June 30, 1974, Allocations for the Administrative Expenses of the Bureau of Alcoholic Beverages, and the State Lottery Commission and Changing Certain Provisions of the Law Necessary to the Proper Operation of State Government" (H. P.

1813) Emergency (Presented by Mr. Carter of Winslow).
(Ordered Printed)
Sent up for concurrence.

Judiciary

Bill "An Act Permitting the Supreme Judicial Court to Modify the Rules of Evidence" (H. P. 1800) (Presented by Mr. McTeague of Brunswick)
(Ordered Printed)
Sent up for concurrence.

Labor

Bill "An Act Providing for a Workmen's Compensation Insurance Fund" (H. P. 1811) (Presented by Mr. Smith of Dover-Foxcroft)
(Ordered Printed)
Sent up for concurrence.

Legal Affairs

Bill "An Act Relating to Damage to Beehives, Bee Colonies or Honey by Wild Animals" (H. P. 1809) (Presented by Mr. Brawn of Oakland)
(Ordered Printed)
Sent up for concurrence.

State Government

Joint Resolution to Ratify the Equal Rights Amendment to the Federal Constitution (H. P. 1802) (Presented by Mrs. Goodwin of Bath)

Bill "An Act to Clarify the Industrialized Housing Act" (H. P. 1803) (Presented by Mrs. Boudreau of Portland)

Bill "An Act to Increase the Authorized Bonding Indebtedness of the Maine State Housing Authority" (H. P. 1804) (Presented by Mrs. Najarian of Portland)

Bill "An Act to Change the Evaluation of the Housing Reserve Fund and to Clarify the Right of the Maine State Housing Authority to Sell Refunding Bonds" (H. P. 1805) (Presented by Mr. Cooney of Sabattus)
(Ordered Printed)
Sent up for concurrence.

Taxation

Bill "An Act to Provide for a Temporary Increase in the Motor Fuel Tax and to Create a Task Force to Evaluate the Financing of Transportation Programs in the State of Maine" (H. P. 1806)

Emergency (Presented by Mr. Morton of Farmington)

Bill "An Act Amending the Elderly Householders Tax and Rent Refund Act" (H. P. 1807) (Presented by Mrs. Goodwin of Bath)
(Ordered Printed)
Sent up for concurrence.

Transportation

Bill "An Act Relating to Foreign Trade Zones" (H. P. 1810) (Presented by Mr. Murray of Bangor)
(Ordered Printed)
Sent up for concurrence.

Orders

On motion of Mr. Whitzell of Gardiner, it was

ORDERED, that David Jacobsohn of Farmingdale be appointed Honorary Page for today.

Passed to be Engrossed

Bill "An Act Amending the Full-time District Attorneys Law" (S. P. 808) (L. D. 2280) Emergency

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

Mr. Martin of Eagle Lake offered House Amendment "A" and moved its adoption.

House Amendment "A" (H-621) was read by the Clerk.

The SPEAKER: The Chair recognizes the gentleman from Eagle Lake, Mr. Martin.

Mr. MARTIN: Mr. Speaker, Ladies and Gentlemen of the House: If you will look in front of you, you were handed this morning L. D. 2280 in printed form for the first time.

Basically, the bill as presented to you on your desks this morning did two things, one was to correct an error that was made in the last regular session which said that the county attorneys' district bill would take effect on January 1, 1974. This was, of course, a mistake; it should have been January 1, 1975.

The second change which was added to this emergency bill is a substantive change. I happen to believe that it may be in the best interest of the State of Maine to go in that direction, but it is something that should not be done without a public hearing.

I think it is entirely proper for us to take care of an error in the law in a fashion such as we are now doing. I do not believe, however, that we ought to change the law substantially, without first having a public hearing on the remainder. So my amendment, if adopted, will remove everything from the bill except the provision that says that the district attorney bill, which we enacted at the last regular session, will take effect on January 1, 1975, which was the intent. I would hope that all of you would support my amendment.

The SPEAKER: The Chair recognizes the gentleman from Standish, Mr. Simpson.

Mr. SIMPSON: Mr. Speaker, Ladies and Gentlemen of the House: Unfortunately I can't agree with the gentleman from Eagle Lake, because I think this amendment does correct two things that were left out of the law, mistakes in the law. No doubt about it, the date needs to be corrected. But also when the bill appeared before us, one of the arguments and one of the biggest arguments that we had for the particular bill was the fact that we would have full time district attorneys and that they would not be engaged in private practice, that they would be working for the State. They were paid a salary of I think something like \$23,500 or \$24,000 to make sure that they were being adequately compensated. This particular clause has been put back into the bill to assure us that this is in effect and it is not just implied, but it is actually a part of the law.

I am opposed to the amendment. I think the bill as it is written should be passed and be sent out and put on the books.

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

Mr. ROSS: Mr. Speaker, Ladies and Gentlemen of the House: Mr. Speaker, I just have one question that I would like to ask any member of the House who might answer it. During the last session we granted salary increases to all county officials, including county attorneys. But then at the last moment we deleted increases for county attorneys because we said that they were going to become district attorneys in the future. Consequently, the county attorneys are the only persons in county government who do

not have an increase, did not have one last year, and will not have one at all. I wonder if any plans are made to take care of these increases which I think we passed in good faith.

The SPEAKER: The Chair recognizes the gentleman from Eagle Lake, Mr. Martin.

Mr. MARTIN: Mr. Speaker, Ladies and Gentlemen of the House: First, in response to the gentleman from Bath, Mr. Ross, it is my feeling that such a bill ought to be introduced. And if it is not introduced, then an amendment can be offered to one of the bills that is presently in county government. Certainly I feel that they are as much entitled to a salary increase as other county officials were.

Secondly, in response to the gentleman from Standish, Mr. Simpson, I don't necessarily disagree with the gentleman's purpose. I don't disagree with the fact that you are changing it, but I will point out that the County Attorneys Association that supported this bill, drafted the bill the last time, were fully aware of what was in the bill and we were too at that time. I do not believe that the gentleman really wants this type of a bill going through without a public hearing.

All we are trying to correct today is the fact that if we don't pass this type of legislation the county attorneys, in effect, are not in existence. That is our number one concern.

The second portion, whether or not there ought to be full time, et cetera, is something else, and that ought to be handled in the normal legislative process.

I don't believe that the gentleman who supports a hearing on ERA ought to oppose a hearing on a substantive change in legislation such as this. I think it is really improper for us to be doing it in this fashion without a hearing being conducted, and I would ask you to support my amendment.

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

Mr. CURTIS: Mr. Speaker, Ladies and Gentlemen of the House: I think that the bill as written, L. D. 2280, does need to correct perhaps a couple of non-substantive mistakes that may have been made in the original legislation. It seemed to me at the time it was perfectly

clear what we were enacting was a new system of district attorneys which would require that those district attorneys be full-time district attorneys and not engaged in the private practice of law.

If you will read the bill as it is printed here, read it without the heavy type, I think that it becomes fairly clear to anyone who reads that that the intent of the drafters into the legislature when it was enacted was to provide just what I said before, a situation in which district attorneys — very well paid as a matter of fact, at the same level as Superior Court Justices — would be prohibited from outside practice of law.

Now it may be that there will be a few situations that would not be included for the private practitioner of law. I have heard the description of probate work discussed. It seems to me that it was the intent of the legislature at the last regular session to enact a law which would be provided by L. D. 2280. So I would speak against the motion to accept the amendment to that.

The SPEAKER: The Chair recognizes the gentleman from China Mr. Farrington.

Mr. FARRINGTON: Mr. Speaker, Ladies and Gentlemen of the House: The question was asked and there was answers given about the impression that the county attorneys did not get a salary increase last year. There are other matters that I personally would like to look into on this. I would hope somebody would table it for one legislative day.

The SPEAKER: The Chair recognizes the gentleman from Eastport, Mr. Mills.

Mr. MILLS: Mr. Speaker and Ladies and Gentlemen of the House: I also have some doubts on this bill and I move it be tabled one legislative day.

Thereupon, Mr. Simpson of Standish requested a vote.

The SPEAKER: The pending question is on the motion of the gentleman from Eastport, Mr. Mills, that Bill "An Act Amending the Full-Time District Attorneys Law" (S. P. 808) (L. D. 2280) be tabled for one legislative day pending the adoption of House Amendment "A". All in favor of that motion will vote yes; those opposed will vote no.

A vote of the House was taken.

56 having voted in the affirmative and

56 having voted in the negative, the motion did not prevail.

The SPEAKER: The pending question is on the motion of the gentleman from Eagle Lake, Mr. Martin, that House Amendment "A" be adopted.

The Chair recognizes the gentleman from China, Mr. Farrington.

Mr. FARRINGTON: Mr. Speaker, Ladies and Gentlemen of the House: May I pose a question and ask anyone who might answer as to whether or not the county attorneys did indeed get a pay increase last session.

The SPEAKER: The gentleman from China, Mr. Farrington, poses a question through the Chair to anyone who may care to answer.

The Chair recognizes the gentleman from Standish, Mr. Simpson.

Mr. SIMPSON: Mr. Speaker and Members of the House: No, they did not, and also, this would not be the proper vehicle to start to amend as far as county attorneys' salaries go. We have some bills that we can use as the vehicle, and this would not be handled, by the way, by the County Government Committee, that their salaries are not handled that way, and therefore that is one of the reasons why I did not feel we should table this bill, that we should deal with it today.

The SPEAKER: The pending question is on the motion of the gentleman from Eagle Lake, Mr. Martin, that House Amendment "A" be adopted. All in favor of that motion will vote yes; those opposed will vote no.

A vote of the House was taken.

Thereupon, Mr. Martin of Eagle Lake 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.

Mr. Martin of Eagle Lake was granted permission to speak a third time.

Mr. MARTIN: Mr. Speaker, Ladies and Gentlemen of the House: I think it is important for me to make one comment, and I think it is this. I am not opposed to the purpose of that particular section of

the bill. I think it is improper for us, however, to adopt that without a public hearing. County attorneys of both political parties, and I repeat, both political parties, have indicated that they wish to be heard on this issue. I think that we ought to give them the opportunity. We ought to have that bill, that particular section, come back to us during this session, and we can act on it. We have a full year before that law goes into effect.

The only thing we ought to be dealing with in this particular bill is the continuation of county attorneys and the county attorney office. I would ask you to vote for adoption of the amendment.

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

Mr. BRAGDON: Mr. Speaker and Members of the House: As probably many of you noticed, I voted with the gentleman from Eagle Lake on this on the first occasion, and so far, the explanation that I have heard does not convince me that there is a matter of urgency in passing this this morning. I am pretty sure we are going to be here several days. I am not convinced in my own mind just which way I shall vote. However, I probably will continue to vote as I have regardless. I feel that we should give this apparently substantial change a public hearing and take the necessary time to attempt to arrive at the right decision.

This is another session, we are not in the last session. This is the thing that I feared in this session, that we would rush matters like this through, and I fear we are making a mistake. I might be the one that is wrong, but I shall continue in my being wrong.

The SPEAKER: A roll call has been ordered. The pending question is on the motion of the gentleman from Eagle Lake, Mr. Martin, that House Amendment "A" to Bill "An Act Amending the Full-time District Attorneys Law" Senate Paper 808, L. D. 2280, be adopted. All in favor of that motion will vote yes; those opposed will vote no.

ROLL CALL

YEA — Albert, Berube, Binnette, Boudreau, Bragdon, Briggs, Bustin, Carey, Carrier, Carter, Chonko, Clark, Conley, Connolly, Cooney, Cote, Cottrell, Crommett, Curran, Deshaies, Dow,

Drigotas, Dunleavy, Dyar, Evans, Farley, Faucher, Fecteau, Fraser, Gauthier, Genest, Goodwin, H.; Goodwin, K.; Greenlaw, Hancock, Hobbins, Jacques, Jalbert, Kelleher, Keyte, Kilroy, LaCharite, LaPointe, LeBlanc, Lynch, Mahany, Martin, Maxwell, McCormick, McHenry, Mills, Morin, V.; Murray, Ricker, Rolde, Shaw, Smith, S.; Soulas, Sproul, Tanguay, Theriault, Twitchell, Whitzell, Wood, M. E.

NAY — Ault, Baker, Berry, G. W.; Birt, Bither, Brawn, Brown, Bunker, Cameron, Chick, Churchill, Cressey, Curtis, T. S., Jr.; Davis, Emery, D. F.; Farnham, Farrington, Ferris, Finemore, Flynn, Gahagan, Garsoe, Good, Hamblen, Haskell, Herrick, Hoffses, Huber, Hunter, Immonen, Jackson, Kauffman, Kelley, R. P.; Knight, Lewis, E.; Lewis, J.; Littlefield, MacLeod, Maddox, McKernan, McMahon, McNally, Merrill, Morin, L.; Morton, Murchison, Norris, Palmer, Parks, Perkins, Pratt, Rollins, Ross, Shute, Silverman, Simpson, L. E.; Snowe, Stillings, Strout, Susi, Trask, Trumbull, Tyndale, Walker, White, Willard.

ABSENT — Berry, P. P.; Dam, Donaghy, Dudley, Dunn, Kelley, Lawry, McTeague, Mulhern, Najarian, O'Brien, Peterson, Pontbriand, Santoro, Sheltra, Smith, D. M.; Talbot, Tierney, Webber, Wheeler.

Yes, 64; No, 66; Absent, 20.

The SPEAKER: Sixty-four having voted in the affirmative and sixty-six in the negative, the motion did not prevail.

Thereupon, the Bill was passed to be engrossed and sent to the Senate.

Orders of the Day

The Chair laid before the House the first tabled and today assigned matter:

Bill "An Act Relating to Payment of Costs in a Statewide Food Stamp Program" (H. P. 1759) (L. D. 2227) (Presented by Mr. Jalbert of Lewiston)

Tabled January 2, 1974 by Mr. Simpson of Standish.

Pending — Reference to Committee on Appropriations and Financial Affairs.

Thereupon, the Bill was referred to the Committee on Appropriations and Financial Affairs and sent up for concurrence.

The Chair laid before the House the

second tabled and today assigned matter:

Bill "An Act Relating to a State-wide Food Stamp Program." (H. P. 1774) (L. D. 2246) (Presented by Mr. Jalbert of Lewiston)

Tabled --- January 2, 1974 by Mr. Simpson of Standish.

Pending -- Reference to Committee on Appropriations and Financial Affairs.

Thereupon, the Bill was referred to the Committee on Appropriations and Financial Affairs and sent up for concurrence.

The Chair laid before the House the third tabled and today assigned matter:

Bill "An Act Relating to the Sale of Malt Liquor at Central Maine Youth Center in Lewiston." (H. P. 1709) (L. D. 2102) Emergency (Presented by Mr. Jalbert of Lewiston)

Tabled --- January 2, 1974 by Mr. Simpson of Standish.

Pending — Reference to Committee on Liquor Control.

Thereupon, the Bill was referred to the Committee on Liquor Control and sent up for concurrence.

The Chair laid before the House the fourth tabled and today assigned matter:

Joint Order relative to Newspapers (S. P. 796)

Tabled — January 2, 1974 by Mr. Martin of Eagle Lake.

Pending — Passage in concurrence.

Mr. Martin of Eagle Lake offered House Amendment "A" and moved its adoption.

House Amendment "A" (H-622) was read by the Clerk.

The SPEAKER: The Chair recognizes the gentleman from Eagle Lake, Mr. Martin.

Mr. MARTIN: Mr. Speaker, Ladies and Gentlemen of the House: Many of us individual members have nothing against the K.J., but we feel that maybe we ought to get, if we are going to get only one paper, the paper of our choice.

This particular amendment will allow all of us to choose one paper, the paper of our choice, that will be delivered to you. I would hope that you would support this amendment.

Thereupon, House Amendment "A" was adopted.

The Order was passed as amended in non-concurrence and sent up for concurrence.

By unanimous consent, ordered sent forthwith to the Senate.

On motion of Mr. Simpson of Standish, Adjourned until nine o'clock tomorrow morning.