

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

Friday, January 4, 1974

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

Prayer by the Rev. Canon Charles E. Karsten Jr., of Gardiner.

The journal of yesterday was read and approved.

Order Out of Order

Mr. Birt of East Millinocket presented the following Joint Order and moved its passage:

ORDERED, the Senate concurring, that the Legislative Council be authorized to employ staff to draft legislation implementing the apportionment of the House of Representatives and necessary funds shall be allocated from the Legislative Account. (H. P. 1825)

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

By unanimous consent, ordered sent forthwith to the Senate.

Joint Resolution Out of Order

Mr. Martin of Eagle Lake presented the following Joint Resolution and moved its adoption:

WHEREAS, two major newsprint manufacturers situated in Maine have been operating from month to month without assurance that fuel supplies will continue in the future; and

WHEREAS, industry mills in this State which have become dependent upon Canadian sources through the years now appeal to such sources to keep the fuel oil flowing to Maine; and

WHEREAS, on Wednesday, January 2nd, by communication to the Maine Congressional delegation Canadian Prime Minister Pierre Elliot Trudeau pledged assistance, within his government's limited powers; now, therefore, be it

RESOLVED, by the Senate and House of Representatives of the One Hundred and Sixth Legislature of the State of Maine assembled in special session, that we commend the Rt. Honorable Prime Minister Trudeau and the people and Parliamentary Government of Canada and extend our gratitude for such as-

surance of cooperation and assistance and join them in prayerful hopes that alternative supplies of fuel oil may soon be found; and be it further

RESOLVED, that a suitable copy of this resolution, duly authenticated by the Secretary of State, be immediately transmitted by the Secretary of State to the Prime Minister to convey this expression of gratitude. (H. P. 1826)

The Joint Resolution was received out of order by unanimous consent, read and adopted.

By unanimous consent, ordered sent forthwith to the Senate.

Orders Out of Order

Mrs. Kilroy of Portland presented the following Order and moved its passage:

ORDERED, that David Gleason and James S. Hewes of Cape Elizabeth be appointed Honorary Pages for today.

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

Mr. Theriault of Rumford presented the following Order and moved its passage:

ORDERED, that Cathy Bustin and Pamela Nedik of Augusta be appointed Honorary Pages for today.

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

Mr. Ault of Wayne presented the following Order and moved its passage:

ORDERED, that John and David Stevenson of Wayne be appointed Honorary Pages for today.

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

Papers from the Senate Non-Concurrent Matter

Bill "An Act to Permit Lakeville Plantation to use a Public Lot for Sanitary Landfill" (H. P. 1746) (L. D. 2205) which was referred to the Committee on Legal Affairs in the House on January 2.

Came from the Senate referred to the Joint Special Committee on Public Lands in non-concurrence.

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

Petitions, Bills and Resolves Requiring Reference

The following Bill was received and,

upon recommendation of the Committee on Reference of Bills, was referred to the following Committee:

State Government

Bill "An Act Creating a Permanent Governor's Advisory Council on the Status of Women" (H. P. 1808) (Presented by Mrs. Clark of Freeport)

Committee on Reference of Bills suggested the Committee on State Government.

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

Mr. SIMPSON: Mr. Speaker, Ladies and Gentlemen of the House: I am not going to oppose sending this bill to State Government. There seems to be a little difference of opinion whether the Reference of Bills Committee in actuality did take action on this bill. I think I would like to point some things out to you right here, and I think there are some things that we should start to really seriously consider.

As I read the Constitution, and I spent most of last night going back and forth over it time and time again, I read that under the Constitution we definitely do have a separation of powers within Maine government and that the Legislature is its own boss and it makes its own determinations as to what it wants to do and what it does not want to do. And under the Executive Powers in Article V, Part First, in Section 9 it says that the Governor from time to time shall report on the condition of the State to the Legislature and shall recommend — the word is "recommend" to their consideration such measures as he may judge expedient. You look under some court precedences and cases that have been established. It only states that the Legislature cannot challenge or deny or refuse his call to convene, but that we do have the right to make our own determination as to what we will and will not allow into the legislative halls for legislation once we get here.

If you will look at our own Joint Rules, the Reference of Bills Committee, if you really want to be technical, could pocket veto just about any bill that comes in or is introduced, because it says that the Reference of Bills Committee shall consider all legislation and shall then make a determination as to what recommen-

dation they would have to the committee to be heard and whether the bills will be printed.

Now it has been protocol and it has been a matter of courtesy that over the years the Reference of Bills Committee has never pocket vetoed bills and never kept bills out; they have always been put in. And it has always been a matter of courtesy that this Legislature has accepted the Governor's call and the Governor's messages and the Governor's bills that he wants to put in.

Prior to this special session the Governor assured us that he would try to keep his call at a minimum, and he asked us if we would do the same. We also advised him that we did not have his call for our members to take and put their bills in, and therefore they would have to go through the Reference of Bills and ask for the Republican leadership to act accordingly.

Before you you have a bill that was not in his call. It was presented to the Reference of Bills Committee and it was denied. Suddenly the other day at a Reference of Bills meeting the bill showed up. We set it off to one side and we have challenged it for not being in his call. We were told at that time there would be a supplemental call that would include this bill. There has been no supplemental call, but then at that time I was told by the gentleman from Eagle Lake that under the Constitution he would have the right to recommend this and we would put it in. Subsequently, we have not said so, and the Speaker has said, okay, fine, we will put it in, and I am not going to challenge. But I think there is a matter of principle right here, and it is a matter of principle that we should seriously consider and that we should not let this special session run away. But personally, as Majority Floor Leader of the Republican party, after seeing this bill come in and the way that it is being operated, will not deny any member of my party the right to have any bill that we have already turned down the right to have another hearing before the Reference of Bills Committee and be introduced into this special session.

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

Mr. MARTIN: Mr. Speaker, Ladies and Gentlemen of the House: I hope that the gentleman from Standish, Mr. Simpson, throughout the special session will keep in mind the words that he said and that he will heed them as they proceed throughout the special session. In particular, we have a bill that is coming up shortly. I would hope that he would follow the guideline that he, himself, has just laid down.

I happen to be a strong proponent of annual sessions. I always have been. I happen to also believe that it is the right of any member to try to get a bill or bills introduced at a session, whether it be special or regular, and that it would be very difficult to deny him that right to introduce that particular document.

If the gentleman from Standish, Mr. Simpson, will keep in mind, the three members, the three Democrats on the Reference of Bills Committee voted, as I recall, for most bills to be introduced into this special session, based on the philosophy that after all it is our job to attempt to legislate, and what is one's emergency may not be an emergency to all. What could very well be nothing to you and me could very well be an emergency to that other individual.

In reference to this particular bill, I am surprised that the gentleman from Standish and the Speaker of the House have decided to avert a constitutional crisis and letting the bill in, and that we don't have to go to the courts to determine whether or not the Governor of Maine has the power to recommend legislation to the Maine Legislature. I am sure that I know what the answer is. I am sure I am not a constitutional lawyer and don't pretend to be one. I am sure the gentleman from Standish doesn't either. But I am sure that by reading the Constitution, it seems to me that the Governor has the right to recommend any legislation that he so desires at any session, at any time. As a matter of fact, advisory opinions have been handed down by the Attorneys General in the past and by the Supreme Judicial Court of this State which have said that the Governor can in fact request an action of legislation just before we adjourn in any given session. There is precedent to this and it has happened before.

I want to thank the Speaker and the

Majority Floor Leader for a constitutional crisis this morning.

(Off Record Remarks)

Mr. Jalbert of Lewiston moved the previous question.

The SPEAKER: For the Chair to entertain a motion for the previous question, it must have the expressed desire of one third of the members present and voting. All those in favor of the Chair entertaining the motion for the previous question will vote yes; those opposed will vote no. The Chair opens the vote.

A vote of the House was taken.

The SPEAKER: Obviously more than one third of the members present having voted for the previous question, the motion for the previous question is entertained. The question now before the House is, shall the main question be put now? This is debatable with a time limit of five minutes by any one member. Is it the pleasure of the House that the main question be put now?

The Chair recognizes the gentleman from Sabattus, Mr. Cooney.

Mr. COONEY: Mr. Speaker, a parliamentary inquiry. Would putting the question now prohibit debate at future stages on this bill?

The SPEAKER: The Chair would inform the gentleman that the motion before the House is that this matter be referred to the Committee on State Government. This would not foreclose debate when the bill comes back into the House after the Committee has acted upon it.

The SPEAKER: All those in favor of the main question being put now will vote yes; those opposed will vote no.

A vote of the House was taken, and a sufficient number having voted in the affirmative, the main question was ordered.

The SPEAKER: The pending question is, shall this matter be referred to the Committee on State Government?

Mr. Carey of Waterville requested a vote on the motion.

The SPEAKER: A vote has been requested. The pending question is, shall Bill "An Act Creating a Permanent Governor's Advisory Council on the Status of Women," House Paper 1808, be referred to the Committee on State Government? All in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

112 having voted in the affirmative and 13 having voted in the negative, the Bill was referred to the Committee on State Government, ordered printed and sent up for concurrence.

Orders

Mr. Cooney of Sabattus presented the following Joint Order and moved its passage:

WHEREAS, rural crime has shown a marked increase nationally; and

WHEREAS, rural crime, especially breaking, entering and larceny has reached near epidemic proportions in certain outlying areas of Maine; and

WHEREAS, this represents a major threat to the safety of the homes, property and lives of Mainers; and

WHEREAS, this situation should be considered as an emergency so far as the State Legislature is concerned; now, therefore, be it

ORDERED, the Senate concurring, that the Legal Affairs Committee undertake a study of the problem of rural crime in Maine; and be it further

ORDERED, that the Legal Affairs Committee shall hold whatever meetings, hearings or studies it deems necessary to appraise the true extent of the problem in the State of Maine and further shall make recommendations as to:

1. What the public may do to combat this menace; and

2. The best long-range solutions to the problem.

The committee shall also assemble, with as much dispatch as practicable, a special report to the Legislature on practical ways that the public may best protect their homes, property and persons, and the Legislature shall take appropriate action to see that the information in this report is adequately disseminated to the public. (H. P. 1821)

The Order was read and passed and sent up for concurrence.

Mr. McKernan of Bangor presented the following Joint Order and moved its passage:

ORDERED, the Senate concurring, that the Joint Rules be amended by adding a new Joint Rule 2A, to read as follows:

2A. Formal committee action. All formal committee or subcommittee action shall be taken in sessions open to the press. "Formal action" shall be construed to mean any vote or motion of a member of a legislative committee to report or not to report, amend, or table a bill or resolution and the discussion and debate thereof. (H. P. 1824)

The Joint Order was read.

The SPEAKER: Pursuant to Rule 54, any proposed amendment to a standing rule cannot be adopted until one day's previous notice has been given and entered in the journal. Therefore, this order is placed on the calendar for Monday.

Thereupon, the Joint Order was tabled under the rules pending passage.

House Reports of Committees Ought Not to Pass

Mr. Haskell from the Committee on Appropriations and Financial Affairs on Bill "An Act Providing Additional Funding to Support the In-School Instructional Television Broadcasting Contract with WCBT-TV" (H. P. 1658) (L. D. 2051) Emergency reporting "Ought Not to Pass"

Same gentleman from same Committee reporting same on Bill "An Act to Provide Funds to Replace Fire Protective Devices at the Maine State Pier" (H. P. 1685) (L. D. 2078)

Same gentleman from same Committee reporting same on Bill "An Act to Provide Funds to Aid Construction of Kenduskeag Stream Park" (H. P. 1758) (L. D. 2226)

Same gentleman from same Committee reporting same on Bill "An Act to Increase Salaries of Justices of the Supreme Judicial and Superior Court, District Court Judges and the Administrative Court Judges" (H. P. 1778) (L. D. 2250)

In accordance with Joint Rule 17-A, were placed in the legislative files and sent to the Senate.

Leave to Withdraw

Mr. Jalbert from the Committee on Appropriations and Financial Affairs on Bill "An Act Providing Three Additional District Court Judges at large" (H. P. 1659) (L. D. 2052) reporting Leave to Withdraw.

Report was read and accepted and sent up for concurrence.

**Ought to Pass
Printed Bill**

Mr. Carter from the Committee on Appropriations and Financial Affairs on Bill "An Act to Authorize the Transfer of Certain Funds Appropriated to the Department of Indian Affairs from Capital Construction to All Other" (H. P. 1733) (L. D. 2179) reporting "Ought to Pass"

Report was read and accepted, the Bill read once and assigned for second reading the next legislative day.

Consent Calendar

First Day

Mr. Lynch from the Committee on Education on Bill "An Act Relating to the Borrowing Capacity of School Administrative District No. 24" (H. P. 1662) (L. D. 2055) Emergency reporting "Ought to pass"

Mr. Tyndale from same Committee reporting same on Bill "An Act Increasing Indebtedness of Town of York School District" (H. P. 1691) (L. D. 2084)

Mr. Ault from same Committee reporting same on Bill "An Act to Validate Certain Proceedings Authorizing the Issuance of Bonds and Notes by S.A.D. No. 49" (H. P. 1744) (L. D. 2203) Emergency

Mr. Murray from same Committee reporting same on Bill "An Act Clarifying the Sources of Payment of Bonds, Notes and Other Evidences of Indebtedness Issued for School Purposes" (H. P. 1761) (L. D. 2229) Emergency

Mr. Emery from Committee on Legal Affairs reporting same on Resolve, Relating to Granting Pipeline Easement by Atlantic Sea Run Salmon Commission to Town of Machias (H. P. 1667) (L. D. 2060)

Same gentleman from same Committee reporting same on Bill "An Act Increasing Indebtedness of Hospital Administrative District No. 3 in Aroostook and Penobscot Counties" (H. P. 1703) (L. D. 2096) Emergency

Mr. Carey from same Committee reporting same on Bill "An Act Changing Name of Peoples Benevolent Hospital to Northern Maine Medical Center" (H. P. 1669) (L. D. 2062)

Mr. Connolly from same Committee

reporting same on Bill "An Act Authorizing Use of Name "The Children's Theatre of Maine" (H. P. 1701) (L. D. 2094)

Mr. BRAWN from same Committee reporting same on Resolve, to Reimburse Gerald Perkins of Bucksport for Loss of Beehives by Bear (H. P. 1730) (L. D. 2174)

Mr. MacLeod from the Committee on Natural Resources reporting same on Bill "An Act to Clarify the Exemption Date in the Minimum Lot Size Law" (H. P. 1731) (L. D. 2175)

No objection having been noted, were assigned to the Consent Calendar's Second Day list.

**Enactor
Emergency Measure**

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

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed.

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

Mr. MARTIN: Mr. Speaker, Ladies and Gentlemen of the House: You recall yesterday that I objected to a portion of this bill being placed into the bill for action at this time since it had not had a public hearing. I felt very strongly about it. I think I still feel as strongly about it today as I did yesterday. Since yesterday I have done additional checking and I now find that there is no emergency.

All of the county attorneys, with the exception of one, have all been appointed special prosecutors. They are all operating in the courts of Maine, and the county system is not in jeopardy. In view of this, I think it is proper that this bill be referred to committee, given a public hearing, and go through the normal legislative process.

Therefore, Mr. Speaker, I would now move that this bill be committed to the Committee on Judiciary and sent up for concurrence.

The SPEAKER: The gentleman from Eagle Lake, Mr. Martin, moves that this matter be referred to the Committee on Judiciary.

Mr. Simpson of Standish requested a vote on the motion.

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

Mr. ROSS: Mr. Speaker and Members of the House: The gentleman from Eagle Lake, Mr. Martin, said this was not an emergency. As I look over the bills before us in this special session, I find that most of them are not emergency.

As far as this bill having had a public hearing, it is my understanding that the content of this bill was heard at length during our regular session, and I oppose the motion to send it to committee.

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

Mr. MARTIN: Mr. Speaker, Ladies and Gentlemen of the House: As I said earlier, what is one's emergency is not an emergency to someone else.

Secondly, the county attorneys believe, as I understand it, that they ought to be given an opportunity to be heard. They do not believe that this was discussed during the regular session.

Since it is not an emergency, I think it is just proper that we give them an opportunity to be heard, and it is for that reason that I made that motion.

The SPEAKER: The Chair recognizes the gentleman from Brewer, Mr. Norris.

Mr. NORRIS: Mr. Speaker, Ladies and Gentlemen of the House: I hate to disagree with my good friend down in the left-hand corner, but this particular bill has been discussed, debated and heard during the last three regular sessions of the Legislature. I am sure that those of us who are here know exactly what is in it and exactly what we wanted and this is what we want.

The SPEAKER: The Chair recognizes the gentleman from Chelsea, Mr. Shaw.

Mr. SHAW: Mr. Speaker, Ladies and Gentlemen of the House: I would like to ask a question of anybody who might answer.

I would like to know if the county attorneys under the existent legislation were paid on appropriation that was set up for them? Now if they are operating as attorneys general, are they operating for nothing or can they still be paid out of the monies that was appropriated for county attorneys?

The SPEAKER: The gentleman from Chelsea, Mr. Shaw, poses a question

through the Chair to anyone who may answer if he or she wishes.

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

Mr. MARTIN: Mr. Speaker, Ladies and Gentlemen of the House: From what I have been told, and it is only what I have been told, I have not checked this out myself, they have in fact been appointed by the courts. They are in fact, as I understand it, officers of the court, and the judges can therefore justify payment under their provision and their budget as officers of the court.

I can assure you, and I think I can assure all the members of the House that it would be my guess that there would be no county attorney that would work for nothing, whether he be a special prosecutor or a county attorney.

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

Mr. LYNCH: Mr. Speaker, Ladies and Gentlemen of the House: Looking at the bill, I believe there is a very substantial change in the intent of this law. It prohibits them to engage in private practice of law, something that was not in the bill when it was heard in the regular session.

Now I believe this is going to hurt the county system of prosecution. Without being allowed to engage in private practice, in such areas as probate and other nonadversary positions, you are not going to get the caliber of prosecution that the people of this state are entitled to. You are going to get young lawyers out of law school who are willing to work for a very low salary compared to people with experience in the practice of law.

The SPEAKER: The Chair recognizes the gentleman from Calais, Mr. Silverman.

Mr. SILVERMAN: Mr. Speaker, Ladies and Gentlemen of the House: I would like to throw a question to the gentleman in the left-hand corner. If this bill passes today and the county attorneys are not allowed to have a private practice, what will the State of Maine be paying them as a salary to be county attorney in their area?

The SPEAKER: The gentleman from Calais, Mr. Silverman, poses a question to the gentleman from Eagle Lake, Mr. Martin, who may answer if he wishes. The Chair recognizes that gentleman. —

Mr. MARTIN: Mr. Speaker, I assume the same.

The SPEAKER: The Chair recognizes the gentleman from Bangor, Mr. Kelleher.

Mr. KELLEHER: Mr. Speaker, Ladies and Gentlemen of the House: I have to agree with the good gentleman from Eagle Lake. By just the questions that were asked here this morning, I can understand why we should have a public hearing.

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

Mr. JALBERT: Mr. Speaker and Members of the House: The answer to the gentleman, Mr. Silverman, it has been correctly given to you by the gentleman from Eagle Lake, Mr. Martin. I happen to have been at the meeting when this bill was originally discussed by the then present county attorney at a meeting held in Bangor of all of the county office holders. And after their general meeting in the morning, they then broke up into meetings of county commissioners and judges of probate, registrars of deeds and county attorneys, and the bill was discussed at length.

Now as I understand Mr. Martin's position, he is not necessarily taking a stand on this amendment one way or another. I think in all honesty, and I certainly hope that if we're going to make party issues out of things that we don't do it out of things like this, because we've got Republican county attorneys; we've got Democratic county attorneys. The fact of the matter is this. If you take the original bill that has been passed and then you read the bill that is being proposed now that we're about ready to enact, you will see substantial changes. And on that basis, then, in my humble opinion, the people who have no voice in the matter, the people who have no voice in the matter, certainly should be heard.

I know that in my own county we had difficulty in spite of the fact that we had this bill here. For a while it looked like our present county attorney was not going to run. And believe me, we had difficulty looking around to find somebody to run. And I think, frankly, it would almost be a slap in the face to 16 elected officials, just like we have been elected. I

think that we ought to give them a little bit of our time in court. After all, we have argued, hashed and rehashed ERA, and we're going to give them a full hearing, and after this it is going to cost us \$30,000 in time before we get done with it. If that be the case, why not give these people a little bit of our time?

I don't even know how I would vote eventually. I don't know whether or not a county attorney who is a full-time man and can't have an office can possibly practice; I don't know that. I would like to know from the lawyers. And if I want to find out something about law, good or bad, I have got to go to a lawyer. If I want to find out something about meat and buy some, good or bad, I go to a butcher. If I want to go over and find a little bit of money, why I go to the gentleman from Bangor, Mr. Kelleher. And so I mean, I think, frankly, that these people, and I know that is really what the gentleman from Eagle is asking; he is asking that 16 people who are elected by the people — and also, mind you, the only 16 people in the entire setup of State government, be it local, state or county government, were left out without any raise at all during the last session.

I am not making a case for or against the bill. I am just saying that somewhere along the line it wouldn't take too long to refer this thing to the Judiciary Committee, thrash it out, have it out, have it reported, and then finally dispose of it one way or another. It is not really a question of taking sides here; it is a question of fair play. And I certainly hope that the motion of the gentleman from Eagle Lake does prevail. I hope, for heaven's sake, if we are going to make party issues — and there'll be plenty of it before the 15th of March rolls around besides picking on this one.

The SPEAKER: The Chair recognizes the gentleman from Hampden, Mr. Farnham.

Mr. FARNHAM: I would like to pose a question to anyone who cares to answer it. This bill was heard by State Government last spring and reported out by them. I just wonder now why it goes to Judiciary.

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

Mr. MARTIN: Mr. Speaker, Ladies and Gentlemen of the House: I guess I was in error. I would refer that to State Government, obviously. And so I would withdraw my motion to send it to Judiciary, and would send it to State Government.

The SPEAKER: Rule 34 permits the withdrawal of any motion except a motion to reconsider. The gentleman from Eagle Lake, Mr. Martin, withdraws his motion that this matter be referred to the Committee on Judiciary. The gentleman from Eagle Lake now moves that this matter be referred to the Committee on State Government.

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

Mr. SIMPSON: Mr. Speaker and Ladies and Gentlemen of the House: I think we ought to put at least one thing in proper perspective, and we better start discussing this bill as to whether we are dealing with the present county attorneys or whether we are dealing with district attorneys which the bill set up. I think most of us will remember that we had quite a considerable debate and this pretty well went down party lines, too, as to how we set up district attorneys, whether they are elected or appointed or whether we even had district attorneys. After the bill was finally given its okay and approved, there is no doubt about it, there was a mistake in the bill and the mistake is to be corrected here which is effective in 1975. It does affect the present county attorneys. It in no way affects their salaries, except that I happen to believe that right at the present time it could be questionable whether they can actually receive their pay because they are no longer in force, because they were put out of office as of 31 December.

I don't look at this thing as a substantive change. We went back last night to the debate in both bodies, and it is brought out time, and time, and time again that they would be full-time district attorneys. They are to be paid \$23,500. Most of the boys right now are being paid in the neighborhood of \$10,000 or less. That's a pretty substantive change in itself. The pay is equal, I believe, to the District Court Judges or the Superior Court Judges, and it was set high so that we would have men who would devote full time to prosecuting on

behalf of the State and not to engage in private practice.

Now, let's read it, read the bill. Let's take a look at it right in the title — "Full time." The words say, "An Act Amending the Full-time District Attorneys Law." Read down through Section 454 where it spells right out that they shall not practice law in the Supreme Judicial Court, the Superior Courts, or the District Courts of the State of Maine. It further goes on here to state that they shall not be a partner or an associate of any person engaged in the private practice of law or a member or employee of a professional association engaged in the private practice of law. To me they should be in the same status as our judges.

Now, if we want to take a look at this thing as far as the private practice of law, let's just look and see what is happening. The county attorneys wrote this bill, and they thought that if we were going to have a district attorney system that this is the way it ought to be. And now there has been some little changes made and some people who feel that because this little thing was left out of the law suddenly, that they should be allowed to practice law in the Probate Courts, do tax work, or do title work out of maybe a law office in their own home. What happens if a lawyer decides that if he's a district attorney and he handles a Probate Court and the Probate Court case suddenly ends up in the Superior Court? What does he do then? Sure, the party then goes out and finds a new lawyer. He is not supposed to be part of a partner or he is not supposed to be part of an association of lawyers, so he has got to either find one for his client or his client has got to find another one. I believe the bill stated just exactly what we wanted and it was debated that way. It is not a substantive change. This bill is to correct the errors that are in it. And, brother, this is a correction.

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

Mr. JALBERT: Mr. Speaker, Ladies and Gentlemen of the House: I think that the gentleman from Standish, Mr. Simpson, has put his finger on exactly what I was talking about. I mean, I could take the present 400-some-odd bills

we've got here and probably find 50 of them that have been printed and have been presented before and haven't got a comma changed on them, and they've been referred to a committee. Now, the gentleman from Standish can't dispute that argument.

This bill here is a bill that makes changes in an existing law. Now, if we are going to continue with the courtesy of — which is not a law but only a courtesy — of hearing bills, then why not this bill? And if the gentleman, who burns a lot of midnight oil as I do, would care to, I will take with him every bill that has presented here at this session, and I am not a betting man, but I would be willing to find somebody who might be able to bet that at least 50 of the bills that you have referred as the leader of your party, that you have referred, that does not have a comma changed in it.

This bill here makes radical changes, and I may not disagree with you. I may agree with you. As a matter of fact, I discussed it with my own county attorney, and I asked him, "Where are you going to practice law? You can't have a law office. You've got to have a law office in the county building here."

I am not saying that I am not going to go for or against. But you are exactly putting your finger on the reason why we should have a hearing on this bill, because you just got through debating the merits of the proposal that is before us. You may be dead right. But I think if the other bills are being referred to committee, I think this one should be.

Now, I stated that the 16 county attorneys that are involved, where only 8 districts will be involved. But I say 16 county attorneys, because any one of the 16 could be candidates. But in repeating myself, the argument as presented by the very fine gentleman from Standish, Mr. Simpson, is the finest and best argument why this bill should be referred to committee that I have heard since the debate started.

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

Mr. CURTIS: Mr. Speaker, Ladies and Gentlemen of the House: There is no need to refer this bill to committee for a public hearing. If it is referred to committee, I am glad to see that people recognize the expertise there is that has

been developed within a committee will be recognized and would be referred to the State Government Committee, as has referred this bill and other similar ones many times in the past. But there's no need to, because we considered this matter when we had the public hearing the first time. And it would certainly be my recollection that my own county attorney and many of the other people who testified, including other county attorneys, when they spoke about the importance of enacting this bill, the bill that we were considering last year, said that if it were enacted, and they for example were to run, that they would not expect to practice privately; that they would expect that the salary of \$23,500 per year, which is the same salary provided to a Superior Court Justice, would be sufficient to enable them to work full time at the job for the State.

However, if it is the will of this body that this bill go to public hearing, I think that it would be my position that we should reconsider the matter of the salary. There are other matters on today's calendar that indicate that the Appropriations Committee has turned down a request for an increase in salaries for Superior Court Judges and for District Court Judges. And I think that we ought to look at the salary matter of state officials in perspective. If we are to pay district attorneys \$23,500, the same amount of money paid for the State Attorney General for working fulltime and a position which does not permit the holder to practice law privately, and if we are to permit district attorneys I think everybody would agree is somewhat a lesser prosecuting position — if we are to permit them to have an equal salary and to also practice law on the side, then I think we would get our priorities out of perspective. And like I said, I for one would work for lowering of the salary of \$23,500 to at least something under what we paid the district court judges.

The SPEAKER: The Chair recognizes the gentleman from Brunswick, Mr. McTeague.

Mr. McTEAGUE: Mr. Speaker, Ladies and Gentlemen of the House: I have not had the advantage of being a county attorney; I think perhaps there are one or two of us in here that have. I

don't know what the right answer is on it. I am inclined initially, without hearing the evidence, to be a little bit in sympathy with the sentiments expressed by the gentleman from Orono, Mr. Curtis. We should have truly a full-time arrangement on it. But I am more concerned about legislative procedures, fairness and due process in the legislature at this time than I am the merits or lack of it on this particular bill.

It seems to me that if we only have a courtesy or a custom of referring bills to hearing, and we are going to forget about that courtesy or custom when the going gets rough or when we are in special session or when something has an aura of partisanship about it, then maybe we are not operating in the right way, maybe we need an ironclad rule that guarantees the right to public hearing to any bill.

It is possible, although I am not inclined in the direction of this bill, that after the matter is heard before State Government and the particular people involved who have the knowledge that none of us have, really, testify before State Government that in my view and yours might change.

Whether this was intended to be this way or not in terms of the private practice of county or district attorneys, the fact is it wasn't, the fact is a substantive change and all of us know it. This is why we are having the debate today.

I am not speaking of the matter of the effective date now, I am speaking of a matter that appears to be in controversy, the matter of private practice.

I share Mr. Jalbert of Lewiston's hope that this does not turn into a partisan wrangle on our third day here and I have some hope in that regard, because I notice the Majority Floor Leader did not ask for a roll call, he asked for a division.

So I hope each of you would vote not on what you suspect the merit one way or another on the matter under contention is, but rather that you would vote for a public hearing, give these 17 or 18 people involved an opportunity to come down here and be heard.

I think it has been well explained that there is not an emergency that would preclude a week or two to take care of a public hearing, and I suspect, but hope not, if we don't have a public hearing we

may have difficulty mustering the votes for the emergency passage.

The SPEAKER: The pending question is on the motion of the gentleman from Eagle Lake, Mr. Martin, that L. D. 2280 be referred to the Committee on State Government. All in favor of that motion will vote yes; those opposed will vote no.

A vote of the House was taken.

Thereupon, Mr. Simpson of Standish 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 Eagle Lake, Mr. Martin, that An Act Amending the Full-time District Attorneys Law, Senate Paper 808, L. D. 2280, be referred to the Committee on State Government. All in favor of that motion will vote yes; those opposed will vote no.

ROLL CALL

YEA — Albert, Berry, P. P.; Berube, Binnette, Boudreau, Bustin, Carey, Carter, Chonko, Clark, Conley, Connolly, Cooney, Cote, Cottrell, Crommett, Curran, Dam, Deshaives, Dow, Drigotas, Dudley, Dunleavy, Dyar, Fraser, Gauthier, Genest, Goodwin, H.; Goodwin, K.; Greenlaw, Hancock, Hobbins, Jacques, Jalbert, Kauffman, Kelleher, Keyte, Kilroy, LaPointe, Lawry, LeBlanc, Lynch, Mahany, Martin, Maxwell, McHenry, McTeague, Mills, Morin, L.; Morin, V.; Mulhern, Murray, Najarian, O'Brien, Ricker, Rolde, Sheltra, Smith, S.; Soulas, Sproul, Talbot, Tanguay, Theriault, Tierney, Twitchell, Webber, Wheeler, Whitzell.

NAY — Ault, Baker, Berry, G. W.; Birt, Bither, Bragdon, Brawn, Briggs, Brown, Bunker, Cameron, Chick, Churchill, Cressey, Curtis, T. S., Jr.; Davis, Donaghy, Dunn, Emery, D. F.; Farnham, Farrington, Ferris, Finemore, Flynn, Gahagan, Garsoe, Good, Haskell, Herrick, Hoffses, Huber, Hunter, Immonen, Jackson, Kelley, Kelley, R. P.; Knight, Lewis, E.; Lewis,

J.; Littlefield, MacLeod, McCormick, McKernan, McMahon, McNally, Merrill, Morton, Murchison, Norris, Palmer, Parks, Perkins, Pratt, Rollins, Ross, Shaw, Shute, Silverman, Simpson, L. E.; Snowe, Stillings, Strout, Susi, Trask, Trumbull, Tyndale, Walker, White, Willard, Wood, M. E.; The Speaker.

ABSENT — Carrier, Evans, Farley, Faucher, Fecteau, Hamblen, LaCharite, Maddox, Peterson, Pontbriand, Santoro, Smith, D. M.

Yes, 68; No, 71; Absent, 12.

The SPEAKER: Sixty-eight having voted in the affirmative and seventy-one in the negative, with twelve being absent, the motion does not prevail.

The pending question is passage to be enacted. This being an emergency, a two-thirds vote of all the members elected to the House is necessary. All in favor of this Bill being passed to be enacted as an emergency measure will vote yes; those opposed will vote no.

A vote of the House was taken.

71 having voted in the affirmative and 60 having voted in the negative, 71 not

being two-thirds, the Bill failed of enactment.

The SPEAKER: The Chair recognizes the gentleman from East Millinocket, Mr. Birt.

Mr. BIRT: Mr. Speaker, I move this Bill be sent forthwith to the Senate.

Thereupon, Mr. Martin of Eagle Lake objected to the motion.

The SPEAKER: For the rules to be suspended for this Bill to be sent forthwith we must have a two-thirds vote of all the members present and voting. All those in favor of the rules being suspended will vote yes; those opposed will vote no.

A vote of the House was taken.

73 having voted in the affirmative and 56 having voted in the negative, 73 being less than two thirds, the rules were not suspended.

(Off Record Remarks)

On motion of Mr. Birt of East Millinocket,

Adjourned until Monday, January 7, at four o'clock in the afternoon.