

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

SENATE

Monday, January 28, 1974

Senate called to order by the President.

Prayer by The Honorable Cyril M. Joly of Waterville:

Let us pray. At the commencement of our week's labors, may we never forget that we few represent many, that our deliberations consist of composite thoughts and ideas of citizens from all over our great state. May the good Lord guide us as we embark on this week's activities. Amen.

Reading of the Journal of Yesterday.

House Papers

Bills today received from the House requiring Reference to Committees were acted upon in concurrence.

Committee Reports House

The following **Ought Not to Pass** reports shall be placed in the legislative files without further action pursuant to Rule 17-A of the Joint Rules:

Bill, "An Act Relating to Retirement Benefits for Members of Fire Departments under State Retirement Law." (H. P. 1791) (L. D. 2269)

Bill, "An Act Relating to Hunting Bear with Dogs." (H. P. 1664) (L. D. 2057)

Ought to Pass

The Committee on Legal Affairs on, Bill, "An Act Validating the Franco-American Oblate Fathers, Inc. as a Legal Entity." (H. P. 1851) (L. D. 2344)

Reported that the same Ought to Pass.

The Committee on Legal Affairs on, Bill, "An Act Relating to Name of Maine Ambulance and Rescue Association." (H. P. 1852) (L. D. 2345)

Reported that the same Ought to Pass.

The Committee on State Government on, Bill, "An Act Relating to Conflicts of Interest in Municipal Contracts and Proceedings Pursuant to the Securities Approval Act." (H. P. 1835) (L. D. 2326)

Reported that the same Ought to Pass.

Come from the House, the Bills Passed to be Engrossed.

Which reports were Read and Accepted in concurrence, the Bills Read Once and Tomorrow Assigned for Second Reading.

The Committee on Business Legislation on, Bill, "An Act to Make it Unlawful to Discriminate when Extending Credit." (H. P. 1819) (L. D. 2306)

Reported that the same Ought to Pass.

Come from the House, the Bill Passed to be Engrossed as amended by House Amendment "A" (H-654).

Which report was Read and Accepted in concurrence and the Bill Read Once. House Amendment "A" was Read and Adopted in concurrence and the Bill, as Amended, Tomorrow Assigned for Second Reading.

Ought to Pass — As Amended

The Committee on Legal Affairs on, Bill, "An Act Relating to Damage to Beehives, Bee Colonies, or Honey by Wild Animals." (H. P. 1809) (L. D. 2288)

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-653).

The Committee on Legal Affairs on, Bill, "An Act Relating to Municipal Fire Protection." (H. P. 1707) (L. D. 2100)

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-652).

The Committee on Legal Affairs on, Bill, "An Act Converting Somerville Plantation into the Town of Somerville." (H. P. 1671) (L. D. 2064)

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-651).

The Committee on Appropriations and Financial Affairs (Senator Sewall Abstaining) on, Bill, "An Act Providing Funds for Spruce Budworm Control and Surveys." (H. P. 1684) (L. D. 2077)

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-650).

Come from the House, the Bills Passed to be Engrossed as Amended by Committee Amendments "A".

Which reports were Read and Accepted in concurrence and the Bills Read Once. Committee Amendments "A" were Read and Adopted in concurrence and the Bills, as Amended, Tomorrow Assigned for Second Reading.

Ought to Pass in New Draft

The Committee on State Government on, 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)

Reported that the same Ought to Pass in New Draft under New Title: Resolve, Authorizing the Commissioner of Mental Health and Corrections to Lease Land in Windham to the Maine State Society for the Protection of Animals. (H. P. 1906) (L. D. 2414)

The Committee on Legal Affairs on, Resolve, Authorizing the Maine Land Use Regulation Commission to Enter into License Agreements for Use of its Publications. (H. P. 1838) (L. D. 2329)

Reported that the same Ought to Pass in New Draft under Same Title (H. P. 1907) (L. D. 2422)

Come from the House, the Resolves in New Draft Passed to be Engrossed.

Which reports were Read and Accepted in concurrence, the Resolves in New Draft Read Once and Tomorrow Assigned for Second Reading.

Senate Ought to Pass

Mr. Wyman for the Committee on State Government on, Bill, "An Act Providing an Enforcement Provision for the Police Training Law." (S. P. 782) (L. D. 2238)

Reported that the same Ought to Pass.

Which report was Read and Accepted and the Bill Read Once and Tomorrow Assigned for Second Reading.

Ought to Pass — As Amended

Mrs. Cummings for the Committee on Natural Resources on, Bill, "An Act to Clarify the Powers of the Cobscook Watershed District and Providing Funds for the Acquisition of Dams." (S. P. 781) (L. D. 2237)

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (S-326).

Which report was Read and Accepted and the Bill Read Once. Committee Amendment "A" was Read and Adopted and the Bill, as Amended, Tomorrow Assigned for Second Reading.

Ought to Pass in New Draft

Mr. Speers for the Committee on State Government on, Bill, "An Act to Increase Membership on the Public Utilities Commission." (S. P. 778) (L. D. 2225)

Reported that the same Ought to Pass in New Draft under New Title: "An Act to Make Public Utilities Commissioners Full Time." (S. P. 879) (L. D. 2455)

Which report was Read and Accepted, the Bill in New Draft Read Once and Tomorrow Assigned for Second Reading.

Second Readers

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

House

Bill, "An Act to Authorize a Food Stamp Program in Cumberland County." (H. P. 1898) (L. D. 2402)

Which was Read a Second Time.

The PRESIDENT: The Chair recognizes the Senator from York, Senator Roberts.

Mr. ROBERTS: Mr. President and Members of the Senate: This is a matter in which we, at the last regular session, authorized all the counties in the state to go into the food program, if they needed to. This bill was put in, I think, with the understanding and perhaps misunderstanding on my part that the County of Cumberland needed some authority in order to spend money for this purpose, since it wasn't in their previous budget. However, we have checked with the Legislative Finance Office and we find that this is not so, and there is no need for this because we have legislation which passes it. So I would like to move that the bill be indefinitely postponed.

The PRESIDENT: The Senator from York, Senator Roberts, moves that this bill be indefinitely postponed in non-concurrence.

The Chair recognizes the Senator from Cumberland, Senator Conley.

Mr. CONLEY: Mr. President, I congratulate the good Senator from York for bringing this bill to the attention of the Senate this afternoon. I am sure we are all aware that we passed a bill in the last session of the legislature that was an enabling act to allow all counties to participate in the food stamp program, but again, it is a reflection back on eenie, meenie, miney, and thank God there is no mo, that they didn't take advantage of this program when they had the opportunity to do so in preparation for their budget two years ago.

The PRESIDENT: Is it now the pleasure of the Senate that this bill be in-

definitely postponed in non-concurrence?

The motion prevailed.

Sent down for concurrence.

House — As Amended

Bill, "An Act to Correct Errors and Inconsistencies in the Marine Resources Law." (H. P. 1786) (L. D. 2258)

Bill, "An Act Relating to Expending Cumberland County Funds at County Jail and Recreation Center." (H. P. 1832) (L. D. 2323)

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

Senate

Bill, "An Act to Implement the Federal Aid Safer Roads Demonstration Program and to Make Additional Allocations from the General Highway Fund." (S. P. 878) (L. D. 2443)

Bill, "An Act Exempting Certain Sales through Coin-operated Vending Machines from the Sales Tax." (S. P. 753) (L. D. 2163)

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

Sent down for concurrence.

Enactors

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

An Act to Amend the Motor Vehicle Financial Responsibility Law. (S. P. 747) (L. D. 2159)

An Act Extending the Territorial Limits of Kennebunk, Kennebunkport and Wells Water District to Include all of the Towns of Wells. (H. P. 1677) (L. D. 2070)

An Act to Clarify the Exemption Date in the Minimum Lot Size Law. (H. P. 1731) (L. D. 2175)

Which were Passed to be Enacted and, having been signed by the President, were by the Secretary presented to the Governor for his approval.

Emergencies

An Act to Increase Borrowing Capacity of the Fort Fairfield Utilities District. (H. P. 1676) (L. D. 2069)

An Act Increasing Borrowing Capacity of Ashland Water and Sewer District. (H. P. 1674) (L. D. 2067)

These being emergency measures and having received the affirmative votes of 26 members of the Senate, were Passed to be Enacted and, having been signed by the President, were by the Secretary presented to the Governor for his approval.

Emergency

An Act Creating a Third Assistant County Attorney for Androscoggin County. (S. P. 760) (L. D. 2191)

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

Mr. MINKOWSKY: Mr. President and Members of the Senate I would appear a little reluctant this afternoon to stand here and oppose this bill, L. D. 2191, for a third assistant county attorney for Androscoggin County, but I have tried to weigh this and evaluate it, and I have discussed the matter, generally speaking, with the sponsor, Senator Clifford, and I think I am going to oppose this, for a variety of reasons, even though I am sure that I will be standing alone by myself and this will eventually end up on the Appropriations Table.

I think you will find that in eleven months from now the county attorney system in the State of Maine will be disbanded, and then we will proceed with the new district system. I just cannot see or understand why during the special session, first, that this bill is allowed to come in here, except as was outlined during the committee hearing, that they did have an excessive workload in Androscoggin County. I guess this points out basically what has happened throughout the years with the county attorney system on a part-time basis which, hopefully, in the future we will rectify.

If the workload in Androscoggin County has become that great, I am sure the county attorney and his present two assistants could turn to the Attorney General's office here in the State of Maine and receive temporary aid and relief. It seems to me that every time the legal system gets into a bind here in the State of Maine they always seem to be turning to the taxpayers for relief in these particular matters.

It is amazing that many times they go through very large appropriations, and we seem to cut and cut to give the tax-

payer in the State of Maine a semblance of an economy move, yet on the other hand, many of these small chestnuts, representing five and six and ten and twelve thousand dollars are added on continually, which, in my estimation, has proliferated the entire budgetary system here in the state.

For these maybe minor reasons on my part, Mr. President and Members of the Senate, I would move the indefinite postponement of this measure, and I would ask for a division.

The PRESIDENT: The Senator from Androscoggin, Senator Minkowsky, now moves that Bill, An Act Creating a Third Assistant County Attorney for Androscoggin County, be indefinitely postponed, and a division has been requested.

The Chair recognizes the Senator from Androscoggin, Senator Clifford.

Mr. CLIFFORD: Mr. President and Members of the Senate: I sponsored this bill, which I didn't think there would be any controversy on. It is an act to create a third assistant county attorney for Androscoggin County, the salary of which position would be \$6,000 for the full year. Of course, if it does pass, it would be that less whatever time there was during this year that there was no third assistant county attorney.

I too share the concerns of the good Senator from Androscoggin, Senator Minkowsky as to economy in government, but I do think there is one thing about this legislation which should be pointed out. That is that the position is not a permanent position, that, if this position is created, the person becomes an assistant county attorney, and those positions are all wiped out at the end of the year under the new district attorney bill. The positions for Androscoggin, Oxford and Franklin, which is a new district under the district attorney bill, are already in the bill, and there is no provision in here to expand the number of positions in that bill.

In 1965, when the last bill was before this legislature creating a second assistant county attorney, the number of cases before the Superior Court in Androscoggin County were 165 for the total year. In 1973, through the middle of November, the number of cases in the Superior Court in Androscoggin County was 513. I think that is a substantial in-

crease, without an increase in the staff. There has been a substantial increase in the district court case load in the Eighth District Court in Androscoggin County, which these county attorneys cover. There has been a substantial increase in the number of appeals to the Supreme Judicial Court since 1965 when the second assistant county attorney was created. There have been a lot of changes in the law since then and a great expansion in the rights of defendants, requiring more effort and more time on the part of the county attorneys. They have additional responsibilities advising the county commissioners in the civil field, as the county commissioners now are in the food stamp program and a lot of other programs which require time, and these people have to give legal counsel to the county commissioners' office. They also cover, of course, the Livermore Falls District Court.

The Attorney General's office has been requested on numerous occasions for help from the Androscoggin County Attorney's office, and each time the help has not been forthcoming. The Attorney General's office simply does not have the manpower to supplement the county attorney positions. So I would hope that since it is not a permanent position, and since the case load would seem to indicate that perhaps two are needed, but only one is being requested, I hope you would oppose the motion of the good Senator from Androscoggin, Senator Minkowsky, so that the people can be better protected by having a better state prosecution system. Thank you, Mr. President.

The PRESIDENT: The Chair recognizes the Senator from Kennebec, Senator Joly.

Mr. JOLY: Mr. President and Members of the Senate: This reminds me of a similar bill we had here last year which I introduced for a second assistant county attorney in Kennebec County, which I was told we needed very, very badly. It was passed by this body and referred to the Appropriations Committee. I was then asked to try to get it out of the Appropriations Committee, that we needed it right away, and finally, after some persuasion, I did persuade our friends on that committee to get it out. It was passed, and then it was three or four

months before another county attorney was appointed. I am not saying that the need wasn't that great, or maybe they just couldn't find anybody, but the court system in Kennebec County didn't fall by the wayside because of that, and I would contend that it won't in Androscoggin County if we don't pass this bill.

In view of the fact, as the good Senator from Androscoggin stated, there is a new system beginning in January, there will be changes then, people are running for the office, and they will be selecting their own assistant attorneys, it won't be as though somebody might get some practice now. Because of all these reasons, I will go along with the good Senator from Androscoggin, Senator Minkowsky.

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

Mr. CLIFFORD: Mr. President and Members of the Senate: One difference, of course, is that in Kennebec County they do from time to time get help from the Attorney General's office because of the proximity. We have in Androscoggin a court in Livermore Falls, a district court, the second busiest district court in the state in Lewiston, and one of the busiest superior court dockets in Androscoggin County itself. I would hope that you would vote against the motion to indefinitely postpone, since it is not a permanent position, and since it would go a long way for providing the state with the kind of protection it needs in the prosecution of criminals. Thank you.

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

Mr. BERRY: Mr. President and Members of the Senate: I think I would support Senator Minkowsky in his position in this instance. I think we are setting a precedent that the district attorney would be somewhat under pressure to follow in requiring three assistants in the new setup which will take effect a year from now. I don't believe that the people from Androscoggin would have any problem getting special assistance from the Attorney General's Office because three other counties are doing this now. I think if a good case is made that they would get help, so I think this is a bill that we could do without.

The PRESIDENT: The Chair

recognizes the Senator from Cumberland, Senator Conley.

Mr. CONLEY: Mr. President and Members of the Senate: I think perhaps someone ought to speak in behalf of the Appropriations Committee relative to this matter. The county attorney, Mr. Delahanty, I thought, as the good Senator from Androscoggin, Senator Clifford, presented a very good case before the Appropriations Committee for this third assistant which would expire at the end of the year. It was also explained to us at the time that Cumberland County has been given additional assistance through the LEAA grants, plus the fact that Kennebec County, when they are in need of additional assistance, all they have to do is come into Augusta here because the Attorney General apparently has a few extra men floating around at times. When things get jammed up in the courts he releases one of them to go over and assist the county attorney in Kennebec County. Where the new law does go into effect next year, and with the case load now present in Androscoggin, the Committee unanimously felt that this bill was worthy, and we think it at least should go to the Appropriations Table and then we will take another look at it at that time.

The PRESIDENT: The pending motion before the Senate is the motion of the Senator from Androscoggin, Senator Minkowsky, that Bill, An Act Creating a Third Assistant County Attorney for Androscoggin County, be indefinitely postponed. A division has been requested. As many Senators as are in favor of the motion to indefinitely postpone will please rise and remain standing until counted. Those opposed will please rise and remain standing until counted.

A division was had. 10 Senators having voted in the affirmative, and 17 Senators having voted in the negative, the motion did not prevail.

Thereupon, on motion by Mr. Sewall of Penobscot, placed on the Special Appropriations Table.

Orders of the Day

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

Bill, "An Act Providing Funds for Marine Research." (H. P. 1768) (L. D. 2240)

Tabled — January 24, 1974 by Senator Sewall of Penobscot.

Pending — Enactment.

On motion by Mr. Sewall of Penobscot, and under suspension of the rules, the Senate voted to reconsider its prior action whereby the Bill was Passed to be Engrossed.

The same Senator then presented Senate Amendment "A" and moved its Adoption.

Senate Amendment "A", Filing No. S-327, was Read.

The PRESIDENT: The Senator has the floor.

Mr. SEWALL: Mr. President and Members of the Senate: I understand that this amendment has not been distributed so, therefore, I will speak briefly to the amendment. What this amendment does, simply, is to move the funds in the amount of \$200,000 from the account of Personnel Services down to the "All Other" account, which will enable the Department of Marine Resources to negotiate with one or several agencies in order to obtain this research group from Massachusetts to start the Boothbay Harbor Laboratory. So therefore, Mr. President, in the interest of moving this matter along, since I understand the Commonwealth of Massachusetts has now become interested in this group of scientists, I move this bill be amended and sent forthwith to the House.

The PRESIDENT: Is the Senate ready for the question?

Thereupon, Senate Amendment "A" was Adopted and the Bill, as Amended, Passed to be Engrossed in non-concurrence.

Under suspension of the rules, sent down forthwith for concurrence.

Papers from the House

Out of order and under suspension of the rules, the Senate voted to take up the following:

Enactors

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

Emergency

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) (L. D. 2285)

This being an emergency measure and having received the affirmative votes of 28 members of the Senate was Passed to be Enacted and, having been signed by the President, was by the Secretary presented to the Governor for his approval.

Mr. Joly of Kennebec was granted unanimous consent to address the Senate:

Mr. JOLY: Mr. President and Members of the Senate: Something has come to my attention that I would like to bring to your attention regarding the Maine Management Cost Survey. I have been talking to some businessmen just this noon in Waterville, and one thing that bothers them, and I think it could be clarified — we could all help to do this — is the number of bills that have been introduced with the words "By request" thereafter. I think we all have the feeling that in the past when "By request" is added to a bill it is because we put it in and don't really care too much about it one way or the other, or we actually don't like it. But I would contend that the reason the "By request" is on many of the bills dealing with the Cost Survey is because we don't know that much about it. It has been a hurried thing, we have tried to get them in and to have some committee hearings on them, and it should not be looked at as a kiss of death, as it often is with other bills.

Many of the businessmen in Maine have spent a lot of time in the last year and a lot of money, their companies have, for this survey. Some of them are becoming a little more politically astute very rapidly as they find out what we do with these things, and I have tried to explain to them that we still are very sympathetic, we appreciate what they have done, and that if we could save a fifth of their recommendations in the special session it would be wonderful. We can't do it all at one time. There is too much of it, and there is too much thought, and it has got to take further study. But I don't want to discourage them, and we don't want to discourage the businessmen and the business community of Maine in the future. Therefore, I just wanted to bring out this one point about the "By request". Thank you.

Mr. Katz of Kennebec was granted unanimous consent to address the Senate:

Mr. KATZ: Mr. President and Members of the Senate: I would like to read something to the Senate, without comment; I think it speaks for itself. The dateline is Kennebunk: "SAD 71 directors voted Wednesday night to accept with gratitude a gift of 30 acres of land on the Sea Road here for the construction of a new high school. The land was given to the district by State Representative Rodney E. Ross Jr. of Bath. Ross has

been a member of the Maine Legislature since 1955. His family has long been prominent in Kennebunk history. His grandfather, Dr. Frank Ross, was a noted physician and President of the Maine Medical Association."

(Off Record Remarks)

On motion by Mr. Sewall of Penobscot,
Adjourned until 10 o'clock tomorrow morning.