

MAINE STATE LEGISLATURE

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Legislative Record

OF THE

One Hundred and Seventh Legislature

(First Special Session)

OF THE

STATE OF MAINE

1976

KENNEBEC JOURNAL
AUGUSTA, MAINE

HOUSE

Friday, February 13, 1976

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

Prayer by Father Henry Langlois of Waterville.

The journal of yesterday was read and approved.

On motion of Mr. Rolde of York,
Recessed until twelve o'clock noon.

**After Recess
12:00 Noon**

The House was called to order by the Speaker.

Papers from the Senate

From the Senate: The following Joint Order: (S. P. 690)

WHEREAS, on February 13, 1976, Maine's last of a long line of Forest Commissioners and present Director of the Bureau of Forestry, Fred E. Holt of Augusta, retires from the service of the State; and

WHEREAS, history will record over 27 years of continuous service as a guardian of our stately pines and forest; a record which includes and is further distinguished by 3 years as Director and Commissioner; and

WHEREAS, during this period he has been of great assistance to the Members of the Legislature and all the Members in turn have appreciated his kind service and friendship; now, therefore, be it

ORDERED, the House concurring, that the One Hundred and Seventh Legislature extends to Director Holt its very sincere best wishes upon his retirement and commends him for his long and distinguished service to the State of Maine; and be it further

ORDERED, that a suitable copy of this Order be transmitted forthwith to Mr. Holt to convey this message of thanks and appreciation.

Came from the Senate read and passed.

In the House, the Order was read and passed in concurrence.

From the Senate:

Bill "An Act to Amend the Employment Security Law" (S. P. 691) (L. D. 2210)

Came from the Senate, referred to the Committee on Labor and ordered printed.

In the House, referred to the Committee on Labor in concurrence.

Non-Concurrent Matter

Bill "An Act to Amend the Rules for Legislative Investigation Committees" (H. P. 2033) (L. D. 2205) which was referred to the Committee on State Government in the House on February 11, 1976.

Came from the Senate, referred to the Committee on Judiciary in non-concurrence.

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

Non-Concurrent Matter

Bill "An Act Authorizing the Capitol Planning Commission to Assume Certain Functions now Performed by the Bureau of Public Improvements" (H. P. 1912) (L. D. 2099) which was Passed to be Engrossed in the House on February 6, 1976.

Came from the Senate, Passed to be Engrossed as Amended by Senate Amendment "A" (S-398) in non-concurrence.

In the House: On motion of Mr. Lewin of Augusta, the House voted to recede and concur.

**Petitions, Bills and Resolves
Requiring Reference**

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

Judiciary

Bill "An Act Relating to the Priority of Attorneys' Liens in Regard to Allegedly Stolen Property" (H. P. 2040) (Presented by Mr. Martin of Eagle Lake)
(Ordered Printed)
Sent up for concurrence.

Labor

Bill "An Act Concerning the Statutes Relating to Labor" (H. P. 2041) (Presented by Mr. Tierney of Durham)
(Ordered Printed)
Sent up for concurrence.

**Study Report
Election Laws**

Mr. Mackel from the Committee on Election Laws to which was referred the study relative to the election laws as provided in Title 21 of the Maine Revised Statutes and related Titles pursuant to H.P. 1646 of the 107th Legislature, have had the same under consideration, and ask leave to submit its minority findings and to report that the accompanying Bill, "An Act Relating to the Registration of Voters" (H. P. 2039) (L. D. 2212) be referred to this Committee for public hearing and printed pursuant to Joint Rule 3.

Report was read and accepted, the Bill referred to the Committee on Election Laws, and sent up for concurrence.

**Consent Calendar
First Day**

In accordance with House Rule 49-A, the following items appeared on the Consent Calendar for the First Day:

(H. P. 1974) (L. D. 2163) Bill "An Act to Remove the Maine Criminal Justice Sentencing Institute from the Administrative Supervision of the Judicial Council" — Committee on Judiciary reporting "Ought to Pass" as amended by Committee Amendment "A" (H-895)

(H. P. 1871) (L. D. 2042) Bill "An Act Concerning the Uniform Processing of Employer Contribution into the Retirement System" — Committee on Veterans and Retirement reporting "Ought to Pass" as Amended by Committee Amendment "A" (H-896)

(H. P. 1970) (L. D. 2159) RESOLUTION, Proposing an Amendment to the Constitution Allowing the Governor Ten Days to Act on Legislation — Committee on State Government reporting "Ought to Pass"

No objections being noted, the above items were ordered to appear on the Consent Calendar on February 17, under listing of the Second Day.

**Consent Calendar
Second Day**

In accordance with House Rule 49-A, the following items appeared on the Consent Calendar for the Second Day:

(H. P. 1921) (L. D. 2109) Bill "An Act Concerning Allowances Granted to Indian Representatives During Special Sessions"

On the request of Mr. Hewes of Cape Elizabeth, was removed from the Consent Calendar.

The SPEAKER: The Chair recognizes

the gentleman from Cape Elizabeth, Mr. Hewes.

Mr. HEWES: Mr. Speaker, I was just wondering if they have to be in attendance in order to receive the stipend?

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

**Passed to Be Engrossed
Amended Bill**

Bill "An Act to Establish Assessments upon Certain Public Utilities and to Authorize Use of the Funds Generated by those Assessments to Pay Certain Expenses of the Public Utilities Commission" (H. P. 1910) (L. D. 2097) (C. "A" H-893)

Was reported by the Committee on Bills in the Second Reading, read the second time, passed to be engrossed as amended by Committee Amendment "A" and sent up for concurrence.

**Passed to Be Enacted
Emergency Measure**

An Act to Clarify Provisions for County Jail and District Court Facilities in the County of Hancock (H. P. 1819) (L. D. 1977) (C. "A" H-872)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure and a two-thirds vote of all the members elected to the House being necessary, a total was taken. 122 voted in favor of same and none against and accordingly, the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

Emergency Measure

An Act Concerning the County Commissioner Districts in Penobscot, Kennebec, Lincoln, Franklin and Knox Counties (H. P. 2011) (L. D. 2186)

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

The SPEAKER: The Chair recognizes the gentleman from Farmington, Mr. Morton.

Mr. MORTON: Mr. Speaker, Ladies and Gentlemen of the House: I would like to ask a question of the head of the Local and County Government Committee, a one-sentence explanation of just what this does to Franklin County? I am not sure.

The SPEAKER: The gentleman from Farmington, Mr. Morton, has posed a question through the Chair to any member of the Local and County Government Committee.

The Chair recognizes the gentleman from Showhegan, Mr. Dam.

Mr. DAM: Mr. Speaker, Ladies and Gentlemen of the House: What this does, the only real change in this bill concerned one county, and that was Knox County, which changed one island in with the rest of the islands in their commissioner districts.

What the rest of the bill does, it takes into consideration where we voted in the regular session to make county commissioners' terms four years, and we had to go back in several of the counties and make this four-year term coincide with what had been a six-year term to allow for the commissioners to be elected this year.

The SPEAKER: The pending question is on passage to be enacted. This being an emergency measure, it requires a two-thirds vote of all the members elected

to the House. All in favor of this Bill being passed to be enacted as an emergency measure, you will vote yes; those opposed will vote no.

A vote of the House was taken.

119 having voted in the affirmative and none in the negative, the Bill was passed to be enacted as an emergency measure, signed by the Speaker and sent to the Senate.

Emergency Measure Tabled Unassigned

An Act Relating to Monthly School Tax Payments by Municipal Treasurers to the Treasurer of State (H. P. 2018) (L. D. 2187) Was reported by the Committee on Engrossed Bills as truly and strictly engrossed.

The SPEAKER: The Chair recognizes the gentleman from Nobleboro, Mr. Palmer.

Mr. PALMER: Mr. Speaker, Ladies and Gentlemen of the House: This bill does bear some relationship to whatever we do with the school funding measures before us. It is important, therefore, that this be held back until we see which vehicle we use and what we do finally come out with.

I would hope that someone might table this bill unassigned until we have finally completed the work on the school funding act.

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

Mr. LYNCH: Mr. Speaker and Members of the House: Before this is tabled, I have had some concern over this bill and the Attorney General's Department says that they find no reason to question the legislature. Let me read one statement.

"The constitutionality of this set-off procedure, which was under 1994, was never challenged prior to its amendment by L. D. 1452." It was never challenged, but I think the committee recognized that there was a constitutional question here, the question that the Supreme Court might interfere with the funding law and the committee itself, in 1452, recognized that problem and required the communities to assess, collect and pay to the Treasurer of the State. And I still have some reservations that anything you interject in that process, the Supreme Court may not look favorably on it.

I would like to have this go to the Supreme Court for an opinion.

On motion of Mr. Rolde of York, tabled unassigned pending passage to be enacted.

Orders of the Day

By unanimous consent, the House voted to take from the table the first tabled and today assigned matter:

HOUSE DIVIDED REPORT — Majority (8) "Ought Not To Pass" — Minority (5) "Ought to Pass" — Committee on Natural Resources on Bill "An Act to Establish the Maine Forestry District Fire Protection Fund" (H. P. 1853) (L. D. 2022)

Tabled — February 12, by Mr. Rolde of York.

Pending — Acceptance of either Report.

The SPEAKER: The Chair recognizes the gentleman from Windham, Mr. Peterson.

Mr. PETERSON: Mr. Speaker, Men and Women of the House: I would move we accept the Majority "Ought not to pass" Report and would speak to my motion.

The SPEAKER: The gentleman from Windham, Mr. Peterson, moves the House accept the Majority "Ought not to pass" Report.

The gentleman may proceed.

Mr. PETERSON: Mr. Speaker, Men and Women of the House: I believe this bill appears here out of frustration in that this issue was assigned as a study order to the Taxation Committee in the 106th and the study really never came off. There are people in the Forestry District now who pay a levy into a forestry district fund. This would change the funding from those municipalities to the General Fund appropriation. Therefore, what we would be doing is adding another burden to the General Fund. The additional cost would be \$230,000.

Right now, in this forestry district, communities receive assistance from the forestry district tax and if there is a structural fire to a home in a community that doesn't have a fire department, this forestry district tax which funds the forest fire protection districts in those areas would go to the assistance of those communities. I understand that a few communities have their own departments, but this would result in communities having to appoint fire wardens who would have to accept or deny permits for certain types of fire and it also would require these communities to establish municipal fire departments at their own cost. Right now, they receive that assistance from the state.

I understood that many towns were paying into this and over the years certain towns have become exempt so that now there are fewer towns carrying the funding burden for the whole forestry district, and those towns feel it is inequitable.

I think there may be some inequity here, but I do not think that this is the time to change this law.

The SPEAKER: The Chair recognizes the gentleman from Rangeley, Mr. Doak.

Mr. DOAK: Mr. Speaker, Ladies and Gentlemen of the House: I will not take much of your time. Seeing as how this is Friday the 13th, we all must drive especially carefully home so we can arrive there safely.

A lot of the explanation for the purpose of this bill has been given to you by my good friend Mr. Peterson, and the only thing I would disagree with to some extent is the frustration expressed in the bill by the tax study not being done. I guess there is some frustration about tax studies not being done, but the fact remains that there is an inequity in the tax structure and I wanted this to run through this special session, not because this is an emergency measure but because I was asked to take "leave to withdraw" last regular session, so I said this time we would let it run so that it can be brought to the attention of this legislative session and some of you good ladies and gentlemen could take a hard look at it and would help out. I did not do this in order to diminish the forestry district's ability to fight fire by diminishing their income. However, there is one concern that the forestry district does have, and that is, if all the towns — there are 56 of them — applied for the money reimbursement which they would be entitled to, the \$272,000 revenue that the forestry district derives from this tax would be cut in half; therefore, you would already be receiving, on General Fund — you would already be receiving an increase from the General Fund to support the same amount of forestry protection that you are at the present moment. This is a possibility.

Also, I would say, knowing full well that it costs a great deal of money to fly these

days, and as we speak of bills flying, I know that this one isn't going to fly very far, because if the state faces up to its fiscal responsibility, I think a lot of State of Mainer's will be walking for awhile, and I do hope that we do face that fiscal responsibility in all areas. But I would hope that we could let this fly down the hall, at least, to the other end and perhaps we could do it rather economically by opening the doors and the draft might carry it down that far and then it could wind up on the Appropriations Table and die a respectable death. But I would hope we could get it to the other body so that they could look at it and study it a little bit and perhaps in this manner get some tax study going on it and provide some equity in this. I request a division.

The SPEAKER: The Chair recognizes the gentleman from Lincoln, Mr. MacEachern.

Mr. MACEACHERN: Mr. Speaker, I would hope you would vote against the majority report on this bill. Last session I had a bill in which would have provided to take the Town of Medway out of the forestry district. Medway is a small town and they don't have any industry and this provision of the law requires that they pay out \$13,000 every year to the forestry district. They have their own fire department, they don't use the facilities of the forestry district at all, yet they are required to pay this amount of money in. This bill would take care of that, and I hope you vote against the majority report.

The SPEAKER: The pending question is on the motion of the gentleman from Windham, Mr. Peterson, that the House accept the Majority "Ought not to pass" Report. All in favor of that motion will vote yes; those opposed will vote no.

A vote of the House was taken.

Whereupon, Mr. MacEachern of Lincoln requested a roll call vote.

The SPEAKER: 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 Windham, Mr. Peterson, that the House accept the Majority "Ought not to pass" Report. All in favor of that motion will vote yes; those opposed will vote no.

ROLL CALL

YEAS — Ault, Bagley, Berry, P. P.; Berube, Blodgett, Boudreau, Bowie, Bustin, Byers, Call, Carey, Carter, Chonko, Churchill, Clark, Connors, Cooney, Cote, Cox, Curran, P.; Curran, R.; Davies, DeVane, Farnham, Garsoe, Goodwin, H.; Goodwin, K.; Gray, Greenlaw, Henderson, Hennessey, Hewes, Hinds, Hunter, Hutchings, Immonen, Ingegneri, Jackson, Jacques, Jalbert, Joyce, Kany, Kelley, Kennedy, Lewis, Littlefield, Lizotte, Lovell, Lynch, MacLeod, Mahany, McKernan, McMahon, Miskavage, Mitchell, Morton, Nadeau, Najarian, Norris, Palmer, Peakes, Pelosi, Perkins, S.; Perkins, T.; Peterson, T.; Pierce, Post, Quinn, Raymond, Rolde, Silverman, Smith, Snow, Snowe, Spencer, Sprowl, Stubbs, Tarr, Teague, Tierney, Truman, Twitchell, Tyndale, Wagner, Wilfong.

NAYS — Bachrach, Bennett, Berry, G. W.; Burns, Carpenter, Connolly, Dam, Doak, Dow, Drigotas, Dudley, Durgin,

Dyer, Farley, Fenlason, Finemore, Flanagan, Fraser, Gould, Hall, Higgins, Kauffman, Kelleher, Laffin, LaPointe, Lavery, LeBlanc, Lewin, Lunt, MacEachern, Mackel, Martin, R.; Maxwell, McBreairty, Mulhern, Pearson, Peterson, P.; Powell, Rideout, Rollins, Saunders, Shute, Strout, Talbot, Theriault, Torrey, Tozier, Usher, Walker, Webber, Winship.

ABSENT — Albert, Birt, Carroll, Curtis, Faucher, Gauthier, Hobbins, Hughes, Jensen, Leonard, Martin, A.; Mills, Morin, Susi.

Yes, 85; No, 51; Absent, 14.

The SPEAKER: Eighty-five having voted in the affirmative and fifty-one in the negative, with fourteen being absent, the motion does prevail.

Sent up for concurrence.

From the Senate: The following Joint Order: (S. P. 692)

ORDERED, the House concurring, that when the House and Senate adjourn, they adjourn to Tuesday, February 17, at 10 o'clock in the morning.

Came from the Senate read and passed.

In the House, the Order was received out of order by unanimous consent, read and passed in concurrence.

Mr. Talbot of Portland was granted unanimous consent to address the House.

Mr. TALBOT: Mr. Speaker, Ladies and Gentlemen of the House: Just a few remarks. One is that I would like to go on record as supporting L.D. 2211, which is a bill presented by Mr. Ingegneri of Bangor concerned with an "Act to Revise and Reform the Maine Personal Income Tax Law," mainly because I have a lot of respect for the ability of Mr. Ingegneri and because I think we as a body of this legislature have to make a stand at this point in time insofar as the people of this state is concerned. I am going to go on record as supporting this piece of legislation and I am going to vote for it and I am going to publicly say so.

(Off Record Remarks)

On motion of Mr. LaPointe of Portland, Adjourned until Tuesday, February 17, at ten o'clock in the morning.