

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

SENATE

Friday, February 13, 1976

Senate called to order by the President.

Prayer by the Honorable Peter W. Johnston of Fort Fairfield:

Let us pray in the weeks to come this legislature will move surely, efficiently, and effectively in its consideration of the emergencies that confront us, and that we give some consideration to the possibility that the changes of the past decade simply have not heralded the dawning of a great new day in our state, and let's hope that a judicious return to some of the concepts and values of another time will herald such a dawning. Amen.

Reading of the Journal of yesterday.

Joint Order

Out of Order and Under Suspension of the Rules:

On motion by Mrs. Cummings of Penobscot,

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

Which was Read and Passed.

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

Papers from the House**House Paper**

Bill, "An Act to Revise and Reform the Maine Personal Income Tax Law." (H. P. 2036) (L. D. 2211)

Comes from the House referred to the Committee on Taxation and Ordered Printed.

Which was referred to the Committee on Taxation and Ordered Printed in concurrence.

Study Report — Judiciary

The Committee on Judiciary to which was referred the study relative to Confirmation of Justices and Judges, pursuant to H.P. 1782 of the 107th Legislature, have had the same under consideration, and ask leave to submit its findings and to report that the accompanying RESOLUTION, Proposing an Amendment to the Constitution to Allow Judges whose Terms of Office Expire or who Reach Mandatory Retirement Age to Continue to Hold Office for up to 6 Months until their Successors are Appointed (H. P. 2037) (L. D. 2209), be referred to this Committee for public hearing and printed pursuant to Joint Rule 3.

Comes from the House, the report Read and Accepted and the Bill referred to the Committee on Judiciary.

Which report was Read and Accepted and the Bill referred to the Committee on Judiciary, in concurrence.

Communications**Report Of The Committee On Judiciary**

To the Senate and House of Representatives, Special Session of the 107th Legislature

re-Study Order, H.P. 1782, requesting the Judiciary Committee to examine the effect of the constitutional amendment abolishing the Executive Council on the confirmation of judicial appointments.

The Committee determined that the abolition of the Executive Council and its being replaced with the Committee confirmation process would, indeed, affect the confirmation of judicial appointees in that the Maine Senate, which is the ultimate confirming body, would not be in session at certain times of the year.

The problem arises from the fact that judicial officers hold their term of office for a term of seven years from the day of appointment and "no longer." Article 6, Section 4, Maine Constitution. Title 4, Section 157 and Title 5, Section 2401, Maine Statutes, provide for a similar specific seven-year term for District Court Judges and the Judge of the Administrative Court.

Therefore, the recommendation of the Judiciary Committee is a change in the Maine Constitution to allow Judges whose term of office expires, or who reach mandatory retirement age, to hold over and remain in office until a successor is appointed, but not to exceed six (6) months. Similar changes in all pertinent statutory law are likewise recommended in order to conform the statutory law to the recommended constitutional amendment.

The constitutional change should be acted upon in the special session of the 107th Legislature so that, if ratified by the voters, it can become effective in January of 1977, the date of the abolition of the Executive Council.

Provisions should also be made so that Judges due to retire who hold over under these provisions do not jeopardize their retirement benefits.

All statutory changes implementing the Constitutional Amendment, should it be ratified, would have to be made by the 108th Legislature. (H. P. 2038)

Comes from the House, Read and Ordered Placed on File.

Which was Read and Ordered Placed on File in concurrence.

Senate Papers

Mr. Wyman of Washington presented, Bill, "An Act to Authorize Washington County to Raise Funds for Construction of a Detention Center." (S. P. 693)

(Approved for introduction by a Majority of the Committee on Reference of Bills pursuant to Joint Order S. P. 635, as amended.)

Which was referred to the Committee on Local and County Government and Ordered Printed.

Sent down for concurrence.

Committee Reports**House****Ought to Pass**

The Committee on Local and County Government on,

Bill, "An Act Concerning Municipal Appropriations to Incorporated Volunteer Fire Departments." (H. P. 1906) (L. D. 2093)

Reported that the same Ought to Pass.

The Committee on Appropriations and Financial Affairs on,

Bill, "An Act Extending the Legislative Lifetime and Reporting Deadlines of the Commission on Maine's Future, and Allowing for Expenditures of Previously Appropriated Funds Throughout the Revised Lifetime of the Commission. (H. P. 1916) (L. D. 2104)

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.

Ought to Pass — As Amended

The Committee on Education on,
Bill, "An Act to Clarify Provisions Relating to the Town of York School District." (H. P. 1832) (L. D. 1997)

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-887).

Comes from the House, the Bill Passed to be Engrossed as Amended by Committee Amendment "A".

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

Senate Ought to Pass

Mr. Curtis for the Committee on State Government on,

Bill, "An Act Authorizing the Legislative Council to Accept Grants from Public and Private Agencies." (S. P. 672) (L. D. 2143)

Reported that the same Ought to Pass.

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

Ought to Pass — As Amended

Mr. Collins for the Committee on Judiciary on,

Bill, "An Act to Amend the Real Estate Disclosure Law." (S. P. 658) (L. D. 2083)

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (S-399).

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.

Second Readers

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

House

Bill, "An Act to Include Grain in Weight Tolerances for Certain Vehicles Operated on State Highways." (H. P. 1887) (L. D. 2065)

Which was Read a Second Time.

On motion by Mr. Berry of Cumberland, tabled and Specially Assigned for February 18, 1976, pending Passage to be Engrossed.

Bill, "An Act Relating to Fiscal Year Transitions for Municipalities." (H. P. 1833) (L. D. 1998)

Which was Read a Second Time and Passed to be Engrossed, in non-concurrence.

Sent down for concurrence.

House — As Amended

Bill, "An Act Concerning the Purchase of Liquor." (H. P. 1884) (L. D. 2062)

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

Enactors

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

AN ACT Authorizing the Department of Mental Health and Corrections to Purchase Residential Services. (H. P. 1880) (L. D. 2055)

AN ACT to Clarify the Statutory Authority of the Board of Pesticide Control. (H. P. 1901) (L. D. 2088)

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

The Adjournment order having been returned from the House, Read and Passed in concurrence, on motion by Mr. Speers of Kennebec, adjourned until Tuesday, February 17, 1976, at 10 o'clock in the morning.