

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

*One Hundred and Fifth
Legislature*

OF THE

STATE OF MAINE

Volume II

May 5, 1971 to June 15, 1971

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AUGUSTA, MAINE

fifth of those Senators present and voting. Will all those Senators in favor of ordering a roll call please rise and remain standing until counted. Obviously more than one-fifth having arisen, a roll call is ordered.

The pending question before the Senate is the motion of the Senator from Androscoggin, Senator Clifford, that Bill, "An Act Providing for a Study of Whether Savings Banks should offer Checking Accounts," be indefinitely postponed. A "Yes" vote will be in favor of indefinite postponement; a "No" vote will be opposed.

The Secretary will call the roll.

ROLL CALL

YEAS: Senators Anderson, Clifford, Conley, Dunn, Graham, Harding, Kellam, Shute, and Tanous.

NAYS: Senators Berry, Chick, Danton, Fortier, Greeley, Hichens, Hoffses, Johnson, Katz, Levine, Marcotte, Martin, Minkowsky, Moore, Peabody, Quinn, Schulten, Sewall, Violette, Wyman, and President MacLeod.

ABSENT: Senator Bernard.

A roll call was had. Nine Senators having voted in the affirmative, and twenty-one Senators having voted in the negative, with one Senator absent and one abstention, the motion to Indefinitely Postpone did not prevail.

Thereupon, The Majority Ought to Pass in New Draft Report of the Committee was Accepted in concurrence, the Bill Read Once and Tomorrow Assigned for Second Reading.

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

HOUSE REPORTS — from the Committee on Judiciary on Bill, "An Act Relating to Qualifications of Applicants for Examination for Admission to Practice Law." (H. P. 989) (L. D. 1351) Majority Report, Ought Not to Pass; Minority Report, Ought to Pass as Amended by Committee Amendment "A" Filing H-294.

Tabled — May 24, 1971 by Senator Tanous of Penobscot.

Pending — Acceptance of Either Report.

The **PRESIDENT**: The Chair recognizes the Senator from Penobscot, Senator Tanous.

Mr. TANOUS of Penobscot: Mr. President and Members of the Senate: On this particular bill, when we discussed this in committee I had some reservations about it, and I still do. But my reservations have been resolved by virtue of an amendment which will be presented on this bill tomorrow, so I now move that the Minority Ought to Pass Report of the Committee be accepted.

The **PRESIDENT**: The Senator from Penobscot, Senator Tanous, moves that the Senate accept the Minority Ought to Pass as Amended Report of the Committee. Is this the pleasure of the Senate?

Thereupon, the Minority Ought to Pass as Amended Report of the Committee was 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.

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

HOUSE REPORTS — from the Committee on Public Utilities on Bill, "An Act Relating to Complaints Against Public Utilities." (H. P. 1175) (L. D. 1633) Majority Report, Ought Not to Pass; Minority Report, Ought to Pass.

Tabled — May 24, 1971 by Senator Harding of Aroostook.

Pending — Motion by Senator Moore of Cumberland to Accept the Majority Ought Not to Pass Report.

Thereupon, the Majority Ought Not to Pass Report of the Committee was Accepted in non-concurrence.

Sent down for concurrence.

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

SENATE REPORTS — from the Committee on Election Laws on Bill, "An Act Relating to Form of Ballots in General Elections." (S. B. 2) (L. D. 1707) Majority Report, have had the same under consideration, and ask leave to

report that Committee recommend that no action be Taken by the Legislature with reference to passing the accompanying Bill and that no Competing Measure be submitted; that the Initiative Bill be submitted to the Electors of this State in accordance with the Constitution; that a certified copy of this report be transmitted to the Governor. Minority Report, Recommend that this initiated bill be submitted to the House and Senate for Debate so that the citizens of this State will be made fully aware of the Merits and demerits of this proposed legislation.

Tabled — May 24, 1971 by Senator Violette of Aroostook.

Pending — Acceptance of either Report.

The PRESIDENT: The Chair recognizes the Senator from Franklin, Senator Shute.

Mr. SHUTE of Franklin: Mr. President, I move we accept the Majority Report.

The PRESIDENT: The Senator from Franklin, Senator Shute, moves that the Senate accept the Majority Report on the Committee on Election Laws. Is this the pleasure of the Senate?

The Chair recognizes the Senator from Aroostook, Senator Violette.

Mr. VIOLETTE of Aroostook: Mr. President and Members of the Senate: I would have hoped that the committee might have put a majority report giving our voters some options under the referendum. I know that there is quite a difference of opinion among some people with regards to the merits of the big box and I don't plan to go at length to repeat some of the things which I said a couple of weeks ago when this first was brought up.

I think I recited that in my own part of the state we used to lose elections pretty regularly ten or fifteen years ago, and we used to blame the big box as the cause of all of our problems in failing to elect officials. I think I also said that we went to work and got a lot of enrollments, put out a good party organization and, consequently, today our party has been doing quite well in Aroostook County and the future promises

pretty well for our party. I don't think that the big box has been all that — I think we have come to recognize now the hard work and effective work is really perhaps the answer to whether or not you win or lose elections. So, I have some mixed feelings. I know that a lot of people in my own party feel very, very strongly that it ought to be preserved. As I say, I have some mixed feelings on that.

I am, however, quite distressed that if this were to pass, and if the voters of our state were to be submitted this referendum for voting the way it is now, that they are in effect going to be undoubtedly accepting or possibly asked to accept the ballot which I think is quite different from what most of the signatories who signed on the referendum petitions thought they were signing. I know I have talked to a few of them, and I don't think too many of them had any idea that they were signing for what we call office type ballot where everybody's name is in one column, and you go right down like checking off a grocery list. I think there is a great deal of merit to be said for the party ballot and having your lines definitely drawn, because I think there is merit for consideration in voting for candidates as members of a party as well as making up your own mind as to who you will vote for.

There is no doubt that our voters are becoming more selective, no question about that, and I think that is as it should be. I think, however, the party system has made a tremendous contribution to the electorate system, and I would hate to see it diluted more than it might be by the removal of the big box.

I have been subjected to enough elections to know that when the voters want to split ballots they know how to do it. I know when I ran in 1966 I was the only major candidate who was not elected. And I got defeated by a fair number of votes. They elected a Democratic Governor, they elected two Democratic Congressmen, and they failed to elect a Democratic U. S.

Senator. So, the voters knew how to split. And we saw in the last election where our Democratic major candidates won by major proportions, and yet our Governor survived by the so-called skin of his teeth. The voters knew how to split a ballot in expressing their wishes.

It does distress me that what we are going to put out does not give our people a choice to say whether they want to remove the straight ballot, and also whether or not, if they do so, do they also want to remove the party ballot where you would retain the Democratic Party column for candidates and also the Republicans. I wish this would have been so. I think it would have given our Maine voters a fairer picture of actually what they were being asked to do because, as I say, I think that if we were to ask a large number of the people who signed the referendum petition, that they did not know that they were signing in fact not only the removal of the big box but also saying that they were agreeing to a party ballot.

I know there has been something said in regards to thwarting the will of the people. I am not interested in that at all, but I would like to have given them a different chance, some options. For that reason I will not vote for acceptance of the majority report.

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

Mr. BERRY of Cumberland: Mr. President and Members of the Senate: I think we should look upon this legislation as progressive legislation, the type of legislation which frequently receives the support of some of my very good friends in the other party. I know Senator Harding has frequently castigated me for being too conservative, and not for some of the things that are for the good of the people, and I just invite him now to join the group.

I think some of the arguments that we just listened to are whispers from yesteryear. Perhaps some of us aren't attuned to just what is going on. There was an

interesting article in the Sunday paper quoting my very, very good friend and former colleague, the present Chairman of the Democratic Party, the former Senator Beliveau, saying that he was quite amazed in going around soliciting the younger vote to find that they are not flocking, rushing pell-mell, to register in the parties, and I include both parties. I think he was surprised that they weren't rushing pell-mell to register in his party. I think he said in his figures if I remember correctly, that sixteen percent of the young people that we are enrolling today, because of our eighteen year old vote, sixteen percent of the people only are choosing a party. Now, this means that people today are discriminating, they are analyzing, they are thinking, and this is why I say to Senator Violette and his associates that we have a new concept here, and this is what the people of this state want. I would suggest that he join them.

As to the office type ballot, this is somewhat of an affront to the intelligence, I think, of the voter to say well you go in and on the left hand side you just mark there, or you go in on the right hand side and you just mark there, because the office type of ballot, you know, isn't really complicated. It is awful, awful simple. You start in at the top and everybody who is running for top office is grouped, and then you go to the next office and everybody is grouped under that. There is nothing hard; it is very simple.

There was one little gimmick that they used to have in Massachusetts I always liked as an office holder there: they put an asterisk beside your name if you were up for reelection, and this was good. We figured it was worth fifteen percent of the vote to have that. This is something that we could think about a little later after we get the office type ballot in. I am not going to plead self-interest either on this subject. But I do feel that we have these two facts I would like bring out. I would ask for a roll call, Mr. President, and hope that you would vote to accept the Majority Report.

The PRESIDENT: A roll call has been requested.

The Chair recognizes the Senator from Aroostook, Senator Harding.

Mr. HARDING of Aroostook: Mr. President and Members of the Senate: I don't think that any of us can feel too badly about a matter which is going to the people to be decided upon because, after all, they are going to have the final say.

This is tagged progressive legislation by my good friend from Cumberland, Senator Berry, and if he wishes to tag it as progressive legislation, I suppose that I would be pleased to say that the good Senator was at least for some progressive legislation, under his own definition this time, and that is something I suppose to be said.

We do want to bear in mind, however, that the people now do have the right to split and this does, of course, take away one of the rights which the people now have, and that is to vote the straight ticket.

This will create some problems with some communities, and I think particularly of the Town of Caribou where that last time almost three hundred people were unable to vote because of the machines there. This will take more time to vote, and this will mean that in those municipalities that have not supplied sufficient facilities that some people will be deprived of the right to vote at all, and that I don't believe is progressive legislation.

But one thing does trouble me deeply about this, however, and that is that this matter will go to the people under a cloud. That cloud is that there were a substantial number on the Judiciary Committee that had sincere doubts about the validity of these petitions that were brought in. I had believed that it was the understanding that these questions would be submitted to the Supreme Judicial Court as to whether or not these petitions were valid. However, due to business, I had to be away the following day, and the questions were not submitted, although I had asked the Attorney General to prepare them. There were some law-

yers and some people throughout the state who believed that a cloud does hang over this, and this I think is very, very unfortunate. I think that anything that is submitted to the people should be submitted by this legislature and by the court that this is valid and it is not offered under a cloud. One of the things that will be debated before the people this year is that this thing is offered under a cloud. Do you want to know what the cloud is? I will tell you what it is: each one of these petitions were separate and were filled in as a separate town, but then they were bound together in probably as many as two thousand different signatures, and one person upon oath said that he personally knew that each of these was a valid signature. In order to be a valid petition this would have to be one petition, and not ten petitions. So we will never know the court's ruling on that. In other words, if we were to say that there were twenty different petitions, and only one of those had been valid, then maybe fifteen hundred signatures would have been held invalid. So this is a serious question. Of course, there are others who say that the court would have ruled the other way but, you see, we will never know that, and all I wanted to do was to ask the court for their ruling.

So it is for these reasons that I will vote against accepting the majority report. If I had had the opportunity to submit these questions to the court, and they would have said that this was valid, I would have joined in the majority report and say let it go to the people because it is legitimate, it is valid, it is lawful, it is their right to decide, but unfortunately I was denied that opportunity by this body.

The PRESIDENT: The chair recognizes the Senator from Franklin, Senator Shute.

Mr. SHUTE of Franklin: Mr. President and Members of the Senate: I reject the claim by the Senator from Aroostook, Senator Harding, that this will go to the people under a cloud. I didn't hear the good Senator make that assertion in the case of the income tax or any of the other initiative

referendums which have come before this body while he has been in its presence.

I think that this will give the opportunity for the voters in our state to make a selection, and for those people who, in some communities amounting to forty percent or more, have chosen to take the straight ticket route for either one party or the other, this will provide them the opportunity to make greater selectivity.

I felt that the minority report that was brought to this body is none other than a sheer fraud. The Democrats, apparently full of self-righteous indignation, are trying to give the impression that they are wearing white hats all of a sudden, and mounting white chargers, and are bringing into the arena of public concern a plea for a debate — and this is what we are having this morning, no question about that — on the merits of the proposed legislation. It is interesting to note too that part of their report contains the word "merit" with a capital "M" and the word "demerit" with a small "D".

Indeed, it is no credit to either party, and I think that Senator Violette has suggested this, that straight ticket voting has been a form of fraud perpetrated for many years by both parties. The loser has been the voter who has been neglected wherein it concerns the cause of good government.

It is strange what the difference of a few years do make. A letter to the editor in the Lewiston Daily Sun not too long ago goes as follows: "During the last few years the Franklin County Democratic Committee has adopted resolutions urging the elimination of the straight ballot box at the top of the printed ballot because it was believed that this would mean more intelligent and selective voting for all the people and would reduce the number of spoiled ballots. This change would in no way prevent a citizen from voting for all of the candidates of one party. It might be of further interest to recall that on July 21, 1957 at a tri-county leaders conference in Strong the then Democratic County Chairmen of Androscoggin, Somerset, and Franklin

Counties endorsed this voting reform. In view of the debate in Augusta on the subject, I believe most Franklin Democrats would like to see the issue decided on the basis of merit rather than along partisan lines. I submit this information to keep the record straight so that people will know that the Franklin County Democratic Committee has favored this change for several years and has publicly advocated it." Signed very truly yours, and then the corresponding secretary of the Franklin County Democratic Committee. So, what a difference a few years do make.

Of course 1964 changed all that, didn't it, when Democrats all up and down the line were swept into the office with the re-election of President Johnson and both Democrat and Republican oxen again were being gored? Today of course the Democrats charge the Republicans with refusal to change the ballot, and back in the days of Brewster and Paine and so forth the Republicans were charging Democrats with refusal to change the ballot in 1965 when they had the opportunity to do so right here. Now, I feel that we all have the opportunity to advance the cause of good government by establishing the office type ballot. We welcome the Democrats to join us in the roll of instant statesmen today.

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

Mr. CONLEY of Cumberland: Mr. President and Members of the Senate: I think perhaps what we are discussing here today is probably the largest political carrot to come before this session of the legislature. I kind of chuckle because we all know that it is pure political partisanship.

When the majority party was in rule for years here there have been bills submitted by the minority party to abolish the big box, and it always was rejected. Now, we find that approachment is closing in, and the Republicans are beginning to feel that their power is now in jeopardy.

I recall two years ago that the former State Chairman of the Republican Party, Mr. Cyril Joly,

initiated also such a petition to the legislature and apparently failed quite miserably in obtaining the necessary signatures to bring this vote to the people. And then this year we have a gentleman who is alien to me anyway, I believe his name is Robert Monks from Cape Elizabeth, and I often refer to him as a Lamont Cranston because I have never seen a man really get so much publicity and is known by so few people, but apparently he had a high-g geared finance campaign on to get the necessary employees to go out and bring in these petitions. I recall one afternoon or one evening I was at the local sports arena at a basketball game when a gentleman came up to me with a petition and asked me if I would sign the removal of the big box petition. I just said very sharply to him that I didn't think really that my right of being able to vote a straight ticket, regardless of what party I wanted to vote for, should be taken away from me if I can simplify it by voting the big box. And we got into about a ten-minute discussion over the petition, and not once, in fact not even until I read in the paper after we had gone into legislative session, was I aware of the fact that not only the removal of the big box was incorporated in that petition, but also the establishment of the so-called office type ballot. Well, I personally feel that regardless of which way we go, even if the people buy it and do repeal the big box, I think the Republican Party is still going to have plenty of problems, and you probably will be back next time trying to seek out some other endeavor or some other means to try to insure that power that you are rapidly losing.

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

Mr. LEVINE of Kennebec: Mr. President and Members of the Senate: I might be a maverick because I think I am going to vote for this bill, but I would like to remind my good friends, the Republicans, that this legislation is not going to cure the Republican Party in the State of Maine. I feel

that the Republicans should start voting more for legislation that will help bring a middle class America and I think that will help them get elected to office quicker.

The PRESIDENT: The Chair recognizes the Senator from Aroostook, Senator Harding.

Mr. HARDING of Aroostook: Mr. President and Members of the Senate: In response to the remarks made by my very good friend, the Senator from Franklin, Senator Shute, I would mention that in all of the races that I have personally run the electorate has always been about two to one in the opposite party, so that I suspect I have gotten very little help from the big box. In fact, I suspect that whatever I won I have won in spite of it, not because of it.

As far as the fraud part of it, and my good friend mentioned this, I would wish that we might, and I think we still might do it if someone would table this, we still might pose these questions to the court which the members of the committee wanted to do and which we had been assured that we would be able to do, and if we are able to do that then the question is eliminated; there is no question of any fraud being perpetrated. If we are denied that right to do that, then the question will always be raised of what did you have to hide? Why didn't you want those questions proposed or propounded to the court? So, I think that those who suggest here that they are for progress, and they want this to go out to the people, and they don't want it to go under a cloud, and they are talking about somebody else being a fraud and all this, why don't we just lay it on the table and find out what the court says about these questions, and then there will be no question about it. And I will join then in the majority report that it ought to be submitted to the people, that it has been legitimately done and it is a wise thing for them to vote upon.

However, should we be denied that opportunity, I do suspect that this matter of the fraud being perpetrated on the people will be raised, and I think it will be very difficult for anyone to explain as

to why we were denied the opportunity for the court to rule upon this very important matter.

The PRESIDENT: The Chair recognizes the Senator from Penobscot, Senator Tanous.

Mr. TANOUS of Penobscot: Mr. President and Members of the Senate: It was approximately one month ago when the Judiciary Committee voted this particular bill out of committee. If you recall, those of you that were here at that time, I had talked with the members of the Judiciary Committee of the Minority Party regarding a relative question to be sent to the Law Court on any serious questions that might be posed on the forms of the petitions. Now, this was one month ago. Here it is May 25, we are trying to work towards adjournment, and I still haven't seen any proposed questions that might be raised on the invalidity of these petitions to send to the Law Court. I think that they have had sufficient time to bring in questions, and I don't think we ought to delay this matter any more. I have got a family of seven children and a wife to feed, and I don't intend to spend the rest of the summer here, so, I move the pending question.

The PRESIDENT: The Senator from Penobscot, Senator Tanous, moves the pending question. The question before the Senate now is: shall the main question be put now? As many Senators as are in favor of the main question being put now will say "Yes"; those opposed "No".

A viva voce vote being taken, the motion prevailed.

The PRESIDENT: The question now before the Senate is the motion of the Senator from Franklin, Senator Shute, that the Senate accept the Majority Report of the Committee on Election Laws, on Bill, "An Act Relating to Form of Ballots in General Elections."

A roll call has been requested. Under the Constitution, in order for the Chair to order a roll call, it requires the affirmative vote of at least one-fifth of those Senators present and voting. Will all those Senators in favor of ordering a roll call please rise and remain stand-

ing until counted. Obviously more than one-fifth having arisen, a roll call is ordered.

The pending question before the Senate is the motion of the Senator from Franklin, Senator Shute, that the Senate accept the Majority Report of the Committee on Election Laws on Bill, "An Act Relating to Form of Ballots in General Elections." A "Yes" vote will be in favor of accepting the Majority Report; a "No" vote will be opposed.

The Secretary will call the roll.

ROLL CALL

YEAS: Senators Anderson, Berry, Chick, Dunn, Greeley, Hichens, Hoffses, Johnson, Katz, Moore, Peabody, Quinn, Schulten, Sewall, Shute, Tanous, Wyman and President MacLeod.

NAYS: Senators Carswell, Clifford, Conley, Danton, Fortier, Graham, Harding, Kellam, Marcotte, Martin, Minkowsky, and Violette.

ABSENT: Senators Bernard and Levine.

A roll call was had. Eighteen Senators having voted in the affirmative, and twelve Senators having voted in the negative, with two Senators absent, the motion to Accept the Majority Report of the Committee on Election Laws prevailed.

Sent down for concurrence.

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

Mr. BERRY of Cumberland: Mr. President, having voted on the prevailing side I move reconsideration and hope my motion does not prevail.

The PRESIDENT: The Senator from Cumberland, Senator Berry, moves that the Senate reconsider its action whereby it accepted the Majority Report of the Committee on Bill, "An Act Relating to Form of Ballots in General Elections." As many Senators as are in favor of the motion that the Senate reconsider its action will please say "Yes"; those opposed "No".

A viva voce vote being taken, the motion to reconsider did not prevail.