

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

One Hundred and First Legislature

OF THE

STATE OF MAINE

VOLUME II

MAY 10 - JUNE 22, 1963

and

SPECIAL SESSION

JAN. 6 - JAN. 17, 1964

DAILY KENNEBEC JOURNAL
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Additional Papers from the House Non-Concurrent Matter

Bill, "An Act Relating to the Educational Foundation Program Allowances." (H. P. 862) (L. D. 1249)

In Senate, June 20, passed to be engrossed as amended by House Amendment "A" (H-465) and House Amendment "B" (H-466) and by Senate Amendment "A" thereto, in Non-concurrence.

Comes from the House — House Amendment "B" indefinitely postponed, and passed to be engrossed as amended by House Amendment "A" (H-465) and House Amendment "C" (H-500) in Non-concurrence.

Mr. BROOKS of Cumberland; Mr. President, I move that we recede and concur.

The Secretary read House Amendment C.

Mr. CRAM of Cumberland: Mr. President, I would like to inquire of any member of the Senate who is able to answer that the cost of this bill would be in this form.

The PRESIDENT: The Senator from Cumberland, Senator Cram, poses a question through the Chair to any Senator, who may answer if he chooses.

Mr. BROOKS of Cumberland: Mr. President, this bill in its entirety will cost in the neighborhood, I believe, of six to seven hundred thousand dollars for the second year of the biennium.

Thereupon, the Senate voted to recede and concur.

Joint Order

ORDERED, the Senate concurring, that the Legislative Research Committee study the relationship between the State ETV network and WCBB and costs relative thereto, and report the result of these findings to the next special or regular session of the Legislature. (H. P. 1121)

Comes from the House read and passed.

Which was read and on motion by Mr. Brown of Hancock was placed on the Special Legislative Research Table pending passage.

Committee Reports — House

Majority — Ought to Pass in New Draft "A"

Minority — Ought to Pass in New Draft "B"

The Majority of the Committee on Constitutional Amendments and Legislative Reapportionment on Resolve, Proposing an Amendment to the Constitution Affecting the Election, Powers and Apportionment of the House of Representatives. (H. P. 1030) (L. D. 1495) reported that the same Ought to pass in New Draft "A" (H. P. 1116) (L. D. 1599) (Signed)

Senators:

PORTEOUS of Cumberland
FARRIS of Kennebec

Representatives:

VILES of Anson
BERMAN of Houlton
PEASE of Wiscasset
DENNETT of Kittery
SMITH of Strong
SMITH of Bar Harbor
WATKINS of Windham

The Minority of the same Committee on the same subject matter reported that the same Ought to pass in New Draft "B" (H. P. 1117) (L. D. 1600) (Signed)

Senators:

JACQUES of Androscoggin
EDMUNDS of Aroostook
NOYES of Franklin

Representatives:

PLANTE
of Old Orchard Beach
COTTRELL of Portland
CARTIER of Biddeford

Comes from the House Minority Report "B" read and accepted, and passed to be engrossed as amended by House Amendment "A" (H-485)

In the Senate:

Mr. EDMUNDS of Aroostook: Mr. President, I move the acceptance of Minority Report B, H. P. 1117, L. D. 1600.

Mr. LOVELL of York: Mr. President and members of the Senate: I have not studied this constitutional amendment at any great length. I am impressed, however, by the signers of the new draft

"Ought to pass" report, the New Draft "A".

I am from York County and I am here to vote for the best interests of my county, and I am wondering if this is for the best interests of my county if I vote for New Draft "B". I have voted consistently with progress for the State of Maine. I note one signer in particular of New Draft "B" and I happen to know the reasons why he signed it. So I would move the indefinite postponement of New Draft "B" at this time, feeling that it will hurt the Republican Party in York County as well as the Republican Party in the entire State, and I definitely feel that as a Republican — and I may not be the best Republican in York County by any means — but as a Republican of York County I do not feel that I can accept New Draft "B", certainly without further study of the draft.

This amendment to the Constitution has come to us very quickly. It has been suggested by many papers that we would not even figure on reapportionment of the House. Nevertheless this draft has come out. I do not feel that I can go against the great number of Republicans that have signed New Draft "A", and for that reason I hope that the Senate will go along with the indefinite postponement of New Draft "B", and I feel that in the long run it will be better for my party and for the people in the front office and the entire legislature if we do not accept New Draft "B".

The PRESIDENT: The Senator from York, Senator Lovell, moves indefinite postponement of the minority report.

Mr. EDMUNDS of Aroostook: Mr. President, all I can say in answer to the good Senator from York, Senator Lovell, is that Draft "B" is a completely fair reapportionment proposal from the Committee on Constitutional Amendments. I believe I am correct in saying that many of the people who have signed Draft "A" are now prepared to vote for Draft "B", and when the vote is taken on this measure I request a division.

Mr. FARRIS of Kennebec: Mr. President and members of the Senate: Having signed the Republican proposal, Report "A", I certainly feel that some explanation should be given as to the reason that I signed Report "A". This is a rather important issue, one of the most important to be brought before this Legislature, and I certainly join with my colleague from York, Senator Lovell, in his sentiment that it is late and there has not been much opportunity for study of the two issues.

A great number of hours were put into this matter of reapportionment by the committee and particularly by the Chairman and those of us who were to make practically all of the special early morning meetings that were held on this issue. In coming up with Report "A", if you will look at the bill, which is L. D. 1599, the real gist of the apportionment is on the second page in what would be Section 3 of the Constitution. The last sentence, "No voter shall vote for more than one representative" was inserted into this measure after the proponents of Report "B" submitted their proposal, and I think it only fair to explain that it was on the day or at least no earlier than the day prior to the last day that the committees were supposed to clear all reports and the committee chairmen have the final reports filed with this legislature. That was the first time that any of us saw this so-called Report "B" and the first two drafts we saw that as a matter of fact were not identical with the final draft known as L.D. 1600.

I have seen the figures worked out on several counties and I do concur with the Senator from Aroostook, Senator Edmunds, that at least in the counties where I have seen this actually worked out — and I have had it worked out in the County of Kennebec this afternoon — that it does work out on a fairly equitable basis. You may have quite a variance in some counties of which we have no knowledge at this time on the number of people that a representative will be representing. Unfortunately the proponents of

this measure did not, as did the proponents of Report "A", work out a detailed tabulation of just what the effect of the formula would be, so we have never had anything before us as to what its effect would be on a statewide basis.

I might also point out that Report "B" as amended by House Amendment "A" makes a great deal of difference in the entire context and content of the resolve. The amendment is included as an integral part of Report "A" and is now included in Report "B" as a House amendment, and certainly this House amendment sweetens Report "B" considerably because it does provide that each county shall be entitled to that number of representatives which is in the same proportion to the total number of representatives as the number of inhabitants of the county bear to the number of inhabitants of the State and your fractional excesses over the whole numbers will be computed in favor of the counties having the larger fractional excesses. In other words, we are reversing our present formula in the Constitution. Fractional excesses at the present time are being allocated to the smaller counties and that, of course, has tended to take us out of disproportion to good, equitable representation. But actually the removal of the Rule of 7, so-called, that is removing the limitation that no city shall have more than seven representatives and allocating your fractional excesses to the larger counties, in my opinion does bring our constitutional resolve within the framework of the decision of Baker vs. Tarr, which is the recent constitutional decision on the matter of reapportionment. But I do find in Report "B" one disturbing feature, and that is in the same section 3 that I referred to in the first report, the last sentence reads: "Cities or towns entitled to two or more representatives under the formula may, by affirmative vote of two-thirds of both houses of the legislature, be organized in a single member district." Now the single district concept is in keeping with the report of the Constitutional Commission or at least the members

of that commission with whom I have discussed this matter, and I concur in their thought, which is this: that in the very near future the Supreme Court of the United States is going to render a decision and is going to state that it is completely unfair, for example in the City of Portland, for one person to be able to vote for eleven representatives whereas in practically all other areas one person only votes for one representative. In other words, we may be placing ourselves so far out of proportion to what is fair and equitable on the matter of voting rights when the people of Portland can vote for eleven representatives whereas the people in Gardiner, for example, can only elect one representative, and the trend is certainly in that direction; and under the Report "A" proposition, even if you take out "No voter shall vote for more than one representative" it will be possible for the legislature, in keeping with any future decision of the Supreme Court, to allocate a representative into single voting districts. Now under Report "B" this can be done, to be sure, but it can only be done if you have a two-thirds vote of both branches of the legislature. Now as a practical matter you can see why it would be pretty much of an impossibility to get a two-thirds vote to agree to put cities, for example, into single voting units, like in Portland have eleven voting units or Augusta three voting districts. I think the day is going to come when we are going to be faced with it, and this provision of having to have a two-thirds vote is going to be a very sticky proposition, in my opinion, but here again if I were a Democrat I certainly would be delighted with this provision in the constitutional resolve.

Now the only other basic difference in the two reports is on the matter of when we shall have our first apportionment. Now the majority of the Republicans on this committee feel that inasmuch as we are a biennial state that if we put out this constitutional resolve to the people it should be voted upon and in our regular orderly process that we should come back into the next

session of the legislature and reapportionment, and the reapportionment would take place in 1965. Now under Report "B" the reapportionment must take place in 1964, and that will mean this: it cannot be voted upon by the people until November, and so when voted upon in November we immediately must come into special session and we immediately must work out our reapportionment program very quickly so that people who are running for office on January 1, 1965 know from which class towns, for example, they are going to have to seek nomination and election. It is, in my opinion, a dangerous move, because if we delay for a number of days, and I think we may, because under any reapportionment formula some counties are going to lose and some counties are going to gain representation, and immediately we are going to have 185 experts on reapportionment. That would be about the only issue before us and I can see a lot of tussle arising over this proposition, whereas if it is to be acted upon in the regular session by the 102nd Legislature the reapportionment committee would go about its work the same as other committees go about their work, and I think we would have a much more orderly process.

Now the alternative to this proposition, that is having the 102nd Legislature reapportion say "Well, the Supreme Court or a federal court may be brought in and you will have to reapportion before 1965 anyway." That I do not believe. I do not believe that any federal court, when this legislature has instituted a resolve to let the people vote and merely wait for the next legislature to come in, is going to interfere here in the State of Maine, particularly where we are not too far out of proportion in comparison with the rest of the nation anyway. And, as a practical matter, if they got three federal judges up to Maine to do this — first they would tell us to do it, so we would have to come into special session to do it, but if we just waited I think our next legislature would still have it done before any federal court could tackle the problem in

the orderly process and have this completed.

So I am disturbed about Report "B", not so much because of the formula but because of the necessary two-thirds vote to move into districts in the event the court comes down and says this is a fair and equitable proposition, and also about having to come into a special session and being under pressure between November and the first of December in getting this job done, particularly where you are running into your so-called holiday season around Thanksgiving and Christmas. I will admit it could be worked out orderly and done in 1964 if every delegation would get together and work out its own formula before we came in here. It can be done, but I seriously doubt that it will be done, but if this report is accepted, and I guess it is a foregone conclusion that Report "B" is going to be accepted, I only hope it is done in an orderly fashion and that we come in here and do it and get out in a matter of two or three days. Nevertheless there will be quite a bit of hauling and pulling and it will not help the image of the 101st Legislature in any respect whatsoever. And, for the reason I do not like the date that we must reapportion and I do not like the two-thirds vote, most reluctantly I must support the motion of the Senator from York, Senator Lovell, to indefinitely postpone L. D. 1600.

The PRESIDENT: The question before the Senate is the motion of Senator Lovell of York that the Minority Report be indefinitely postponed.

A division of the Senate was had.

Three having voted in the affirmative and twenty-eight opposed, the motion did not prevail.

Thereupon, Minority Report B was accepted, the bill read once, House Amendment A was read and adopted and under suspension of the rules, the bill was given its second reading and passed to be engrossed, as amended.

Order Out of Order

Mr. Brooks of Cumberland, out of order and under suspension of the