

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

Special Session

OF THE

*One Hundred and Second
Legislature*

OF THE

STATE OF MAINE

1966

DAILY KENNEBEC JOURNAL
AUGUSTA, MAINE

Members of Police Department of the City of Bangor." (S. P. 651) (L. D. 1625)

Tabled — January 26, by Mr. Hunter of Clinton.

Pending — Acceptance of Either Report. (In Senate, Majority "Ought to pass" Report accepted, and the Bill Passed to be Engrossed.)

On motion of Mr. Levesque of Madawaska, the Majority "Ought to pass" Report was accepted in concurrence and the Bill read twice.

Under suspension of the rules the Bill was given its third reading, passed to be engrossed and sent to the Senate.

The following Communication:
STATE OF MAINE
SUPREME JUDICIAL COURT
AUGUSTA

January 27, 1966

Honorable Jerome G. Plante
Clerk, House of Representatives
State House
Augusta, Maine
Dear Mr. Plante,

There is enclosed the Answers of the Justices to the Question of January 21, 1966, relating to a "RESOLVE, Proposing an Amendment to the Constitution Affecting the Apportionment of the State Senate." (L. D. No. 1630.)

Respectfully yours,

(Signed)

ROBERT B. WILLIAMSON
Chief Justice

ANSWERS OF THE JUSTICES

To the Honorable House of Representatives of the State of Maine:

In compliance with the provisions of Section 3 of Article VI of the Constitution of Maine, we, the undersigned Justices of the Supreme Judicial Court, have the honor to submit the following answer to the question propounded on January 21, 1966.

QUESTION (1): Is the Method of apportioning Senators, set forth in Legislative Document 1630, constitutional?

ANSWER: We answer in the affirmative.

In our opinion the permitted deviation of 10% from the median number of inhabitants for each senatorial district is within constitutional standards.

Constitutional requirements will be met if the Legislature makes a fair and honest effort to establish districts in such manner that it can reasonably be anticipated that a majority of the Senators will be so elected as to represent at least 50% of the population. If in practical operation a majority is so elected as to be representative of a lesser percentage of the population, no violation of constitutional requirements will occur if such controlling percentage is only slightly below 50%, but any substantial deviation below 50% may exceed tolerable and permissible limits.

Review and reapportionment every tenth year as proposed will meet constitutional requirements.

Our views are based upon the leading case of *Reynolds v. Sims*, 377 U. S. 533, 84 S. Ct. 1362, 1385, 1389, 1393, in which the Supreme Court of the United States said, in part:

"We hold that, as a basic constitutional standard, the Equal Protection Clause requires that the seats in both houses of a bicameral state legislature must be apportioned on a population basis. Simply stated, an individual's right to vote for state legislators is unconstitutionally impaired when its weight is in a substantial fashion diluted when compared with votes of citizens living in other parts of the State."

"By holding that as a federal constitutional requisite both houses of a state legislature must be apportioned on a population basis, we mean that the Equal Protection Clause requires that a State make an honest and good faith effort to construct districts, in both houses of its legislature, as nearly of equal population as is practicable. We realize that it is a practical impossibility to arrange legislative districts so that each one has an identical number of residents, or citizens, or voters. Mathematical exactness or preci-

sion is hardly a workable constitutional requirement.”

“In substance, we do not regard the Equal Protection Clause as requiring daily, monthly, annual or biennial reapportionment, so long as a State has a reasonably conceived plan for periodic readjustment or legislative representation. While we do not intend to indicate that decennial reapportionment is a constitutional requisite, compliance with such an approach would clearly meet the minimal requirements for maintaining a reasonably current scheme of legislative representation. And we do not mean to intimate that more frequent reapportionment would not be constitutionally permissible or practicably desirable. But if reapportionment were accomplished with less frequency, it would assuredly be constitutionally suspect.”

Dated at Augusta, Maine, this 27th day of January, 1966.

Respectfully submitted:

(SIGNED)

ROBERT B. WILLIAMSON
DONALD W. WEBBER
WALTER M. TAPLEY, Jr.
HAROLD C. MARDEN
ABRAHAM M. RUDMAN
ARMAND A. DUFRESNE, Jr.

The Communication was read and ordered placed on file.

The SPEAKER: Is there objection to taking up papers from the Senate out of order? The Chair hears no objection.

The following papers from the Senate were taken up out of order by unanimous consent:

From the Senate: The following Order:

Whereas, the 102nd Legislature approved, at its regular session, an interim committee to study Maine's 40 million dollar dairy industry; and

Whereas, the success of this study is highly dependent on the services of a trained economist to conduct comprehensive research and analysis of the problems concerning this vital industry; and

Whereas, accurate recordings and transcripts of testimony ob-

tained by the Committee when it conducts public hearings is of vital importance for a comprehensive study; now, therefore, be it

ORDERED, the House concurring, that an additional sum of \$5,000 be appropriated from the Legislative Appropriation to cover expenses of said committee (S. P. 718)

Came from the Senate read and passed.

In the House, the Order was read.

The SPEAKER: The Chair recognizes the gentleman from Turner, Mr. Gilbert.

Mr. GILBERT: Mr. Speaker, I don't think there is anybody in the dairy industry that objects to any help that they can get. Neither do I feel that there is anyone in the dairy industry who is aware that this order is in here. If the Legislature, for any reasons of its own, wants to appropriate this money, I am perfectly willing, but as far as any knowledge I have as a dairyman, it is going to accomplish nothing of any value. It does call for \$5,000, and although I am not going to feel bad regardless of how you vote, I will move that it be indefinitely postponed.

The SPEAKER: The question before the House now is the motion of the gentleman from Turner, Mr. Gilbert, that this Order be indefinitely postponed.

Mr. Levesque of Madawaska requested a division.

The SPEAKER: A division has been requested. The Chair recognizes the gentleman from Durham, Mr. Hunter.

Mr. HUNTER: Mr. Speaker, Ladies and Gentlemen of the House: You have to remember that the dairy industry is somewhere around a \$35,000,000 or \$40,000,000 business and the interim committee was kind of hung up and hadn't done too much yet because they were going to hire an economist and they don't come very cheap, and it was going to take all the money. Now the members of the committee are willing to do the job, but they just need just a few more dollars before the work can be completed. That's all there is to it.

The SPEAKER: The question before the House is on the motion of the gentleman from Turner, Mr. Gilbert, that this Order be indefinitely postponed. The gentleman from Madawaska, Mr. Levesque has requested a division. All those in favor of the indefinite postponement of this order will kindly rise and remain standing until the monitors have made and returned the count.

A division of the House was had.

Thirty-eight having voted in the affirmative and seventy-three having voted in the negative, the motion did not prevail.

Thereupon, the Order received passage in concurrence.

**Senate Reports of Committees
Ought Not to Pass
Tabled Until Later in
Today's Session**

Report of the Committee on Transportation reporting "Ought not to pass" on Bill "An Act relating to Inspection Station Licenses and Inspection Mechanic's Certificates" (S. P. 630) (L. D. 1609)

Came from the Senate read and accepted.

In the House, the Report was read.

(On motion of Mr. Levesque of Madawaska, tabled pending acceptance of the Report and assigned for later in today's session.)

Ought to Pass in New Draft

Report of the Committee on Judiciary on Bill "An Act relating to Erection of Causeways, Docks, etc., in Great Ponds" (S. P. 664) (L. D. 1697) reporting same in a new draft (S. P. 717) (L. D. 1801) under same title and that it "Ought to pass"

Came from the Senate with the Report read and accepted and the New Draft passed to be engrossed.

In the House, the Report was read and accepted in concurrence and the New Draft read twice.

Under suspension of the rules, the Bill was read the third time, passed to be engrossed and sent to the Senate.

**Passed to Be Engrossed
Ought to Pass with
Committee Amendment**

Report of the Committee on Appropriations and Financial Affairs on Bill "An Act Providing for Supplemental Payments of 1965 Education Subsidies to Administrative Units and Payments for Various Educational Subsidy Programs" (S. P. 644) (L. D. 1592) reporting "Ought to pass" as amended by Committee Amendment "A" submitted therewith.

Came from the Senate with the Report read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A".

In the House, the Report was read and accepted in concurrence and the Bill read twice.

Committee Amendment "A" was read by the Clerk as follows:

COMMITTEE AMENDMENT "A" to S. P. 644, L. D. 1592, Bill, "An Act Providing for Supplemental Payments of 1965 Education Subsidies to Administrative Units and Payments for Various Educational Subsidy Programs."

Amend said Bill in section I by striking out in the 4th, 5th and 6th lines (3rd, 4th and 5th lines in L. D. 1592) the words and punctuation "following sums for the fiscal year ending June 30, 1967. The breakdown by account and line category shall be as follows:" and inserting in place thereof the following: 'sum of \$650,000. The breakdown of expenditures by account and line category shall be as follows:'

Further amend said Bill in section 2 by striking out in the 4th line (3rd line in L. D. 1592) the words "following sums" and inserting in place thereof the words and figure 'sum of \$510,805.26'; and by inserting after the word "breakdown" in the 5th line (4th line in L. D.) the words 'of expenditures'

Further amend said Bill in section 2 by striking out all of the 20th and 21st lines (19th and 20th lines in L. D. 1592) and inserting in place thereof the following:

'Vocational Education

All Other 69,531.65 —';
and by striking out in the last line (same in L. D.) the figure