

MAINE STATE LEGISLATURE

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Legislative Record
House of Representatives
One Hundred and Twenty-First Legislature
State of Maine

Volume III

Second Special Session

April 8, 2004 - April 30, 2004

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House Legislative Sentiments
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The SPEAKER: The Chair recognizes the Representative from Sanford, Representative Courtney.

Representative **COURTNEY**: Mr. Speaker, Ladies and Gentlemen of the House. This amendment what it does is it funds a veteran's cemetery in Springvale with the money that was supposed to go to our legislative pay after adjournment. This is meant as a compromise. I think that there is a good argument that we get the pay and that this will at least give it to something that is worthwhile. If there are excess funds to get the veteran's cemetery started, that money would go to the relief fund for service people. This money will be reimbursed by the federal government after the cemetery is completed. There has been a request in the Governor's Office to fund this. It was not put in the budget. It is something that is sorely needed, so families can bury their loved ones nearby, especially in the southern part. I think it is a way that we can come out of this without the controversy and the bad taste that has endured this body for quite a while now. I would appreciate your support and consideration. Thank you.

Representative **RICHARDSON** of Brunswick moved that **House Amendment "A" (H-948)** be **INDEFINITELY POSTPONED**.

The same Representative **REQUESTED** a roll call on the motion to **INDEFINITELY POSTPONE House Amendment "A" (H-948)**.

More than one-fifth of the members present expressed a desire for a roll call which was ordered.

The SPEAKER: A roll call has been ordered. The pending question before the House is Indefinite Postponement of House Amendment "A" (H-948). All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 495

YEA - Adams, Ash, Barstow, Beaudette, Blanchette, Bliss, Brannigan, Breault, Bull, Bunker, Canavan, Cowger, Cummings, Davis, Dudley, Dugay, Dunlap, Duplessie, Duprey G, Earle, Faircloth, Finch, Fischer, Gagne-Friel, Gerzofsky, Glynn, Grose, Hutton, Jackson, Jennings, Kane, Ketterer, Koffman, Lemoine, Lerman, Lessard, Lundeen, Mailhot, Makas, Marley, McGlocklin, McKee, McLaughlin, Mills J, Moody, Norton, O'Brien L, O'Neil, Paradis, Pellon, Percy, Perry A, Perry J, Pineau, Pingree, Richardson J, Saviello, Simpson, Smith N, Smith W, Sullivan, Suslovic, Thomas, Thompson, Usher, Walcott, Watson, Wheeler, Woodbury, Wotton, Mr. Speaker.

NAY - Andrews, Annis, Austin, Berry, Berube, Bierman, Bowen, Bowles, Brown R, Browne W, Bruno, Bryant-Deschenes, Campbell, Carr, Churchill E, Collins, Courtney, Cressey, Crosthwaite, Curley, Daigle, Eder, Goodwin, Hatch, Heidrich, Honey, Hotham, Jodrey, Joy, Kaelin, Landry, Ledwin, Lewin, Maietta, McCormick, McNeil, Millett, Mills S, Moore, Murphy, Muse, Nutting, Peavey-Haskell, Rector, Richardson M, Rogers, Rosen, Sherman, Shields, Snowe-Mello, Stone, Sukeforth, Tardy, Tobin D, Tobin J, Trahan, Treadwell, Twomey, Vaughan, Young.

ABSENT - Bennett, Churchill J, Clark, Clough, Craven, Duprey B, Fletcher, Greeley, Jacobsen, Marraché, McGowan, McKenney, Norbert, O'Brien J, Patrick, Piotti, Richardson E, Rines, Sampson, Sykes.

Yes, 71; No, 60; Absent, 20; Excused, 0.

71 having voted in the affirmative and 60 voted in the negative, with 20 being absent, and accordingly **House Amendment "A" (H-948)** was **INDEFINITELY POSTPONED**.

Under further suspension of the rules, the Bill was **PASSED TO BE ENGROSSED as Amended by Senate Amendment "D" (S-544)** in concurrence.

By unanimous consent, all matters having been acted upon were **ORDERED SENT FORTHWITH**.

UNFINISHED BUSINESS

The following matter, in the consideration of which the House was engaged at the time of adjournment yesterday, had preference in the Orders of the Day and continued with such preference until disposed of as provided by House Rule 502.

Joint Order To Require a Special Election on the Initiated Bill Pertaining to Tax Reform

(S.P. 803)

- In Senate, **READ** and **PASSED**.

TABLED - April 17, 2004 (Till Later Today) by Representative **DUNLAP** of Old Town.

PENDING - PASSAGE. (Roll Call Ordered)

The SPEAKER: The Chair recognizes the Representative from Raymond, Representative Bruno.

Representative **BRUNO**: Mr. Speaker, Men and Women of the House. When this bill was tabled last week, I went and did some homework. I actually went and reviewed a petition from the referendum question. On the petition itself it says that if you want this question to go out to the voters in November 2004, you must turn in your signatures by June 4, 2003. It says it right on the referendum petition. I think it was the intent of the people who went out and got these signatures and that this election should be held in November. I personally will plan to vote against this bill, because the intent of the voter is to put it out in November. I think we do a great disservice to the people who did all the hard work in getting this out there if we go against their wishes.

The SPEAKER: The Chair recognizes the Representative from York, Representative Andrews.

Representative **ANDREWS**: Mr. Speaker, Ladies and Gentlemen of the House. I also did some checking during the time that we were at home. I am given to understand that if we send this out in June, we have a large number of National Guardsmen and military personnel serving overseas. They will be denied the right to vote on this critical subject that is going to have implications for the whole State of Maine. I also believe it will impact the general absentee ballots. On an issue of such grave importance I think we should pay close attention to that and put it out when everyone will have a chance to vote on it.

The SPEAKER: The Chair recognizes the Representative from Scarborough, Representative Clough.

Representative **CLOUGH**: Mr. Speaker, Ladies and Gentlemen of the House. I happen to be in the company of General Libby the other night and asked him a question about how this would work for those of our National Guard that are serving overseas. He said that if the ballot was prepared and ready to be mailed right now there might be a chance for these people to vote. Anything much later, they would really be disenfranchised. I think it is important that we recognize that that is a problem that we really shouldn't feel comfortable in causing.

The other thing that I would like to say is that I think most of the people in this body are hoping that this bill will not pass, this initiated referendum will not pass. I think if you really don't want it to pass, then you really don't want it to be voted on in June. If this is voted on in June, along with the MMA proposal or something that might be replacing the MMA proposal and people go to vote, they are going to see that nothing yet has happened and nothing may happen. None of this may pass. I think that one thing that they are going to do is hedge their bet by voting yes on the Palesky initiative.

If it is in November when something that may have passed in June has had a chance to be discussed, people have had a chance to reflect on it and say that maybe this needs a chance to work and we will do what we want done without really taking such a strong step as we would with the Palesky initiative that it can be defeated. I would encourage you to vote against this bill and allow this initiative to be voted on at the November general election. Thank you.

The SPEAKER: The Chair recognizes the Representative from Sanford, Representative Courtney.

Representative **COURTNEY**: Mr. Speaker, May I pose a question through the Chair?

The SPEAKER: The Representative may pose his question.

Representative **COURTNEY**: Mr. Speaker, Ladies and Gentlemen of the House. Could someone explain to me how unenrolled voters will be treated with this primary election under this circumstance?

The SPEAKER: The Representative from Sanford, Representative Courtney has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Old Orchard Beach, Representative Lemoine.

Representative **LEMOINE**: Mr. Speaker, Men and Women of the House. The polls will be open to all eligible voters. Those who are members of a particular party will be allowed to vote in their perspective primary elections and on this ballot question. All others will be allowed to vote on the ballot question, but not in the primary if they are not a member of that party.

The SPEAKER: The Chair recognizes the Representative from Arundel, Representative Daigle.

Representative **DAIGLE**: Mr. Speaker, Ladies and Gentlemen of the House. My colleague from York, Representative Andrews, and my colleague from Scarborough, Representative Clough, touched upon the issue of our military servicemen and the difficulty that they will incur. I feel the issue needs to be stated far more bluntly than it has been to this point. In 2000, it was very clear in Florida that there was concerted effort by one political party to deny the right of our American servicemen to vote. I feel the efforts to bring this election forward to June is a concerted effort to do the same by a political party here in the State of Maine. I am ashamed, but not surprised, given the conduct this session, that that would be the effort here today. I hope sincerely that those of you who care about this will vote against the pending motion. If you care, in fact, about our servicemen and the accusations I feel are legitimate at this time.

The SPEAKER: The Chair recognizes the Representative from Brunswick, Representative Richardson.

Representative **RICHARDSON**: Mr. Speaker, Men and Women of the House. We have been here a long time. I am just a little disappointed that our motives are being called into question. I think it is perfectly logical to say to Maine people that you have MMA, a proposal, which has been out there once already to consider and now it sits back on the ballot. Put Palesky out at the same time, to give people the comparison and contrast. We may differ in terms of how that ought to play out, but to question the motives of people who vote one way or the other is wholly inappropriate here. There are reasons, I think good, valid, reasons, that this matter ought to be in June. There are also good reasons why it ought to be in November. You know, that is what we were sent here to do, make decisions about that. I don't think there is a wrong decision and I don't think our voters ought to be called into question. June works just fine for me for a lot of reasons. We know there is a campaign that is going to be mounted in favor of Palesky. I haven't met many

people in this institution that think that Palesky is a good idea. I am asking you folks to consider the kind of money and resources that will be brought to bear to try to support Palesky. It is probably not in our best interest and certainly not in the municipalities that we serve. It is certainly not in their best interest.

We have been working hard all of us at tax reform. Just because we haven't been able to solve that in a bipartisan solution this time, it doesn't mean our motives should be questioned. It just means that we have philosophical differences. I would ask us to go ahead and stay away from things like that so that we don't get so partisan and so that we can continue to work together in the last few days. Thank you.

The Chair reminded all members that it was inappropriate to question the motives of other members of the House and others.

The SPEAKER: The Chair recognizes the Representative from South Portland, Representative Glynn.

Representative **GLYNN**: Mr. Speaker, Ladies and Gentlemen of the House. I think that the question that we have in front of us to send this referendum out is a very key one and one that I did a little bit of research on. Yesterday I sought out the head lobbyist for the Maine Municipal Association and I asked what the position of the Maine Municipal Association was as far as sending this issue out in June. His response to me was, he would not favor sending it out in June and the reason why is in order for the municipalities to mount a successful educational campaign, it is going to need more than six weeks notice. That sounds reasonable to me. It sounds real reasonable to me. I look at this issue as one that is going to be affecting the municipalities very much in the State of Maine. I think their input is key on it.

Recently I met with my local town council and they were very clear to the South Portland delegation that they want to see meaningful property tax relief and they want to see an alternative to this referendum. Where one has not been reached by the Legislature as of this date, I feel it is like putting a loaded revolver on the table to send this referendum out in June without a meaningful alternative of our own.

For those reasons, I am going to be voting opposed to this and I hope you will join me.

The SPEAKER: The Chair recognizes the Representative from Bangor, Representative Blanchette.

Representative **BLANCHETTE**: Mr. Speaker, Ladies and Gentlemen of the House. This is a very, very important issue to all of us. We know we have the Palesky plan out that and if passed it is going to be absolutely devastating to our municipalities back home. The issue that I am concerned about is the untimeliness of wanting to put this out to a June vote. We have 40 days from today until we go to the polls to vote. Most of the municipalities in the state, especially the big towns, will tell you that they handle a lot of absentee ballots. Not only are people who are in the service who are over there and dying on the daily basis to protect us, but our vacationing senior citizens and there are probably about 3,000 of them in my municipality, they are either in Arizona or they are in Florida. These people have every bit as much right to vote on this issue as we do that are here. In fairness to everyone, I don't ever want to be accused to disenfranchising any voter that wants to vote on any issue, this needs to go out in November. It gives the municipalities time to put the information out to their residents of how devastating this tax cap would be. I urge you to vote against the passage and let's move this out to November where everybody can get a chance to vote. I mean everybody.

The SPEAKER: The Chair recognizes the Representative from Old Orchard Beach, Representative Lemoine.

Representative **LEMOINE**: Mr. Speaker, Men and Women of the House. I wanted to clarify a couple of things for the record. First of all, regarding the nature of the petition that was circulated and was eventually certified. It was very clear in the face of it that it sets forth filing deadlines for the November 2003 ballot and separately the filing deadlines for the November 2004 ballot. The 2003 November ballot deadline was January 23. In fact it was on June 3, 2003 that the petitions were submitted to the Secretary of State and it wasn't until later that year that they were certified as having had enough signatures to be on the ballot. The language, however, the nature of the citizen's petition has been available for the public scrutiny for many, many months now. There is no surprise about what is being put on the ballot. I think in terms of what is out there, that has been available for some time. Thank you.

The SPEAKER: The Chair recognizes the Representative from Kennebunk, Representative Murphy.

Representative **MURPHY**: Mr. Speaker, Men and Women of the House. I am really shocked by the comments of the good Representative from Brunswick. He clearly said on this floor that we need to move this to a June election so we can limit public debate. When has it been the policy in the State of Maine that when the citizens bring forth a bill that we don't have the opportunity in the State of Maine to discuss it, scratch at it, dig into it and find out exactly what it is going to do. It was clearly stated that we want to do it quickly, before our campaign can be launched. Most of us would say that we are not too much interested in the campaign, but we want to make sure we get the facts on both sides so there is an informed decision.

I would take you back to the amendment or the referendum on the casino. In that first month or two showed overwhelmingly that it was going to pass. We had a summer and a fall for both sides to make their case, for people to actually look at the bill, to turn to people and say, what will this do? People had a chance to get beyond the advertising and they cast a very informed vote, no matter what side of that issue you were on. This issue should have that same type of respect.

I am a historian. I enjoy well after the fact that when historians look back and they try to answer the question why, why did this occur? Why did people make such a decision? They will look back and see a series of missteps. One will be the flat funding of GPA, mandates, refusal to address the problem of evaluations. We did not do this. This Legislature and 20 to 30 years back. They will also look at a major factor that an institution of the Legislature tried to prevent public discourse and a voter casting an informed vote moved the date up and angered the electorate and that some voters would make a decision based on that political move and cast their vote and might well be a major factor in the passage of this referendum. I would ask you to stick with November. We are still waiting for June. In June the Maine voters are focused on waiting for spring to finally arrive. They will be focused in November. They have that right and the time and to seek that information and for both sides to make their case. I would ask you to reject this. As the Representative from Brunswick said, if you move to June, it is a political act you are taking and you are trying to influence the election.

The SPEAKER: The Chair recognizes the Representative from Biddeford, Representative Sullivan.

Representative **SULLIVAN**: Mr. Speaker, Men and Women of the House. I really don't know how I want to vote on this. I have heard a lot said and I was just sort of catching up on hometown news. On the front page, bracing for the tax cap, it

says, "At a dinner held at the Captains Galley Restaurant in Old Orchard Beach municipal leaders had the opportunity to hear a Maine Municipal Association representative talk about implications of the Palesky tax cap. City officials had been publicly saying the initiative would be on the June 8 ballot. Jeff Herman, director of the Maine Municipal Association State Relations Department said that Palesky's proposal will most likely be pushed to the November general election."

I find it hard to understand how the lobbyists in the hallways know what we are going to do. I was just sitting here passing time reading this from the *Courier*. At least in my area the public officials have been expecting this on the June 8 ballot. It seems to me that the lobbyist says most likely it will be in November. It goes on to say why the Maine Municipal Association would like to have in November, but he is telling the Municipal Association what we are going to do when this bill is here. I find that amazing and disappointing that we are letting the lobbyists decide what we will do and carry their water in here. Thank you.

The SPEAKER: The Chair recognizes the Representative from Sanford, Representative Courtney.

Representative **COURTNEY**: Mr. Speaker, Ladies and Gentlemen of the House. First of all, I would like to thank the Majority Leader two Fridays ago for tabling this so we could at least have an honest debate about it when it is not after midnight. I think that was very commendable. I think that ultimately the people of Maine are going to be the ones that decide what the Legislature's motives are. I think that if this is put into June and there is going to be a very short campaign, I think that it is very, very easy for some well funded outside source, rather than looking at the bill, but to question the inaction of the Legislature and say that the Legislature is not going to do it so this is your only chance. I think it diminishes anything else that is subsequently put out there. I don't know what is going to be put out there because I am not privy to all the little meetings going on in the back rooms. I am sure that we will see it in the next day or so.

I think that whatever we do we ought to give the people a real fair chance to look at this and look at it clearly. There are serious constitutional problems with this Palesky referendum. We all know that. If you put it out there in June and there is well-funded program quickly to push it through, people aren't going to look at the facts. They are not going to dig into it. They are going to be looking at the Legislature and how our solution to tax reform is to raise a tax. I would ask you to seriously look at sending this out in November.

The SPEAKER: The Chair recognizes the Representative from Biddeford, Representative Twomey.

Representative **TWOMEY**: Mr. Speaker, Men and Women of the House. I think those of us who are political wonks, those of us who have been running quite a few years, know how to campaign. We all know that if you have a primary election, that is a different beast all together than when you run in a general election. We all know that when you run in a primary, it is all about getting out the vote. That is how you win. For me, this is about democracy. I think that a primary, unless you are watching something and you are really interested in it, you tend to sit back, unless you have been called or been notified, you are going to sit this one out. I think that no matter how we feel about Carol Palesky's plan, even though I think we all agree it is pretty devastating, I think that the highest turnout will be in November. That is when we will get the true reading of the people of the State of Maine. I really support doing this in November. Thank you.

The SPEAKER: The Chair recognizes the Representative from Bath, Representative Watson.

Representative **WATSON**: Mr. Speaker, Men and Women of the House. There will be a very well financed campaign indeed behind Palesky. Given time, that campaign will be on television and will be in front of us and will be full of all the reasons that Proposition 13 passed in California. The way to beat Palesky is with the simple truth. The simple truth comes from our municipalities. My town manager in an interview with the *Times Record* could name names as to municipal employees who may face layoffs if Palesky passes. He could point out specifically to the dollar, right now, what this will cost my city. He doesn't need six months to do that. He can do that now. Palesky can be beaten with the truth. If we give a well financed campaign paid for by people from out of state six months to bombard us on television along with all the other stuff we are going to get on television, the truth will not get out. It is a risk, but I think it is a risk with the odds in favor of beating Palesky simply by cutting the legs out from under her and getting this to a ballot before that well financed campaign can take place. Let the municipalities answer Palesky with the facts and figures that they already have at hand that need not be transmitted with expensive television acts, but by simple forms of communication that carried elections for years and years and years before the last round. Thank you Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Crystal, Representative Joy.

Representative **JOY**: Mr. Speaker, Ladies and Gentlemen of the House. I have sat here and listened to the debate going back and forth. I think that the good Representative from Biddeford, Representative Twomey, and the good Representative from Bangor, Representative Blanchette, are right on target. If you try to put this out in June, this initiative is going to pass. There is no two questions about it. The people right now do not know enough about it. I heard earlier that a lot of people are away. They are on vacations. They are in Florida. I know that a lot of people in my area are down there. You are not going to have a very good turnout on this election. I urge you to follow the two Representatives from the other side of the aisle and vote with them. Thank you.

The SPEAKER: A roll call having been previously ordered. The pending question before the House is Passage. All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 496

YEA - Adams, Bliss, Bull, Bunker, Canavan, Cowger, Cummings, Dunlap, Earle, Gerzofsky, Grose, Jackson, Kane, Koffman, Lemoine, Mailhot, Moody, O'Brien L, O'Neil, Paradis, Richardson J, Rines, Simpson, Smith N, Smith W, Suslovic, Thomas, Usher, Walcott, Watson, Wheeler, Mr. Speaker.

NAY - Andrews, Annis, Ash, Austin, Barstow, Beaudette, Bennett, Berry, Berube, Bierman, Blanchette, Bowen, Bowles, Brannigan, Breault, Brown R, Browne W, Bruno, Bryant-Deschenes, Campbell, Carr, Churchill E, Clough, Collins, Courtney, Cressey, Crosthwaite, Curley, Daigle, Davis, Dudley, Dugay, Duplessie, Duprey G, Eder, Faircloth, Finch, Fischer, Gagne-Friel, Glynn, Goodwin, Hatch, Heidrich, Honey, Hotham, Hutton, Jennings, Jodrey, Joy, Ketterer, Landry, Ledwin, Lerman, Lessard, Lewin, Lundeen, Maietta, Makas, Marley, McCormick, McGlocklin, McKee, McLaughlin, McNeil, Millett, Mills J, Mills S, Moore, Murphy, Muse, Norton, Nutting, O'Brien J, Peavey-Haskell, Pellon, Percy, Perry A, Perry J, Pineau, Pingree, Rector, Richardson M, Rogers, Rosen, Saviello, Sherman, Shields, Snowe-Mello, Stone, Sukeforth, Sullivan, Tardy, Thompson,

Tobin D, Tobin J, Trahan, Treadwell, Twomey, Vaughan, Woodbury, Wotton, Young.

ABSENT - Churchill J, Clark, Craven, Duprey B, Fletcher, Greeley, Jacobsen, Kaelin, Marraché, McGowan, McKenney, Norbert, Patrick, Piotti, Richardson E, Sampson, Sykes.

Yes, 32; No, 102; Absent, 17; Excused, 0.

32 having voted in the affirmative and 102 voted in the negative, with 17 being absent, and accordingly the Joint Order **FAILED PASSAGE in NON-CONCURRENCE** and sent for concurrence.

The following items were taken up out of order by unanimous consent:

REPORTS OF COMMITTEE

Divided Report

Majority Report of the Committee on **APPROPRIATIONS AND FINANCIAL AFFAIRS** reporting **Ought to Pass as Amended by Committee Amendment "B" (S-553)** on Bill "An Act To Promote Economic Growth by Retaining Engineers in Maine"

(S.P. 334) (L.D. 993)

Signed:

Senators:

CATHCART of Penobscot
ROTUNDO of Androscoggin

Representatives:

BRANNIGAN of Portland
MAILHOT of Lewiston
COWGER of Hallowell
DUDLEY of Portland
PINGREE of North Haven
FAIRCLOTH of Bangor
MILLS of Cornville
O'BRIEN of Augusta

Minority Report of the same Committee reporting **Ought Not to Pass** on same Bill.

Signed:

Senator:

TURNER of Cumberland

Representatives:

ROSEN of Bucksport
MILLETT of Waterford

Came from the Senate with the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "B" (S-553).**

READ.

On motion of Representative BRANNIGAN of Portland, the Majority **Ought to Pass as Amended** Report was **ACCEPTED.**

The Bill was **READ ONCE.** Committee Amendment **"B" (S-553)** was **READ** by the Clerk and **ADOPTED.**

Under suspension of the rules the Bill was given its **SECOND READING WITHOUT REFERENCE** to the Committee on **Bills in the Second Reading.**

Under further suspension of the rules the Bill was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "B" (S-553)** in concurrence. **ORDERED SENT FORTHWITH.**