

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

LEGISLATIVE RECORD

OF THE

One Hundred And Seventeenth Legislature

OF THE

State Of Maine

VOLUME VI

SECOND REGULAR SESSION

House of Representatives

January 3, 1996 to April 3, 1996

Senate

January 3, 1996 to March 13, 1996

Yes, 114; No, 25; Absent, 12; Excused, 0.

114 having voted in the affirmative and 25 voted in the negative, with 12 being absent, House Amendment "A" (H-896) was adopted.

On motion of Representative VIGUE of Winslow, the House reconsidered its action whereby Committee Amendment "A" (H-859) was adopted.

On further motion of the same Representative, Committee Amendment "A" (H-859) was indefinitely postponed.

The Bill was passed to be engrossed as amended by House Amendment "A" (H-859) and sent up for concurrence.

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

SENATE PAPERS

Ought to Pass as Amended

Report of the Committee on Judiciary reporting "Ought to Pass" as amended by Committee Amendment "A" (S-541) on Bill "An Act to Correct Errors and Inconsistencies in the Laws of Maine" (EMERGENCY) (S.P. 711) (L.D. 1811)

Came from the Senate with the Report read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (S-541) as amended by Senate Amendment "A" (S-555) thereto.

Report was read and accepted. The Bill read once. Committee Amendment "A" (S-541) was read by the Clerk. Senate Amendment "A" (S-555) to Committee Amendment "A" (S-541) was read by the Clerk and adopted. Committee Amendment "A" (S-541) as amended by Senate Amendment "A" (S-555) thereto 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 "A" (S-541) as amended by Senate Amendment "A" (S-555) thereto in concurrence.

Ought to Pass as Amended

Report of the Committee on Human Resources reporting "Ought to Pass" as amended by Committee Amendment "A" (S-544) on Bill "An Act to Provide for Assisted Living Services" (S.P. 731) (L.D. 1835)

Came from the Senate with the Report read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (S-544) as amended by Senate Amendment "A" (S-552) thereto.

Report was read and accepted. The Bill read once. Committee Amendment "A" (S-544) was read by the Clerk. Senate Amendment "A" (S-552) to Committee Amendment "A" (S-544) was read by the Clerk and adopted. Committee Amendment "A" as amended by Senate Amendment "A" thereto 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 "A" (S-544) as amended by Senate Amendment "A" (S-552) thereto in concurrence.

Ought to Pass as Amended

Report of the Committee on Agriculture, Conservation and Forestry reporting "Ought to Pass" as amended by Committee Amendment "A" (S-542) on Bill "An Act to Encourage Enterprises Engaged in Agriculture and Aquaculture in Maine" (S.P. 734) (L.D. 1843)(Governor's Bill)

Came from the Senate with the Report read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (S-542).

Report was read and accepted. The Bill read once. Committee Amendment "A" (S-542) 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 "A" (S-542) in concurrence.

Non-Concurrent Matter

Bill "An Act to Reform Campaign Finance" (I.B. 5) (L.D. 1823) on which the Majority "Ought Not to Pass" Report of the Committee on Legal and Veterans Affairs was read and accepted in the House on March 28, 1996.

Came from the Senate with the Minority "Ought to Pass" as amended Report of the Committee on Legal and Veterans Affairs read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (H-836) in non-concurrence.

Representative NADEAU of Saco moved that the House Insist.

Representative RICHARDSON of Portland moved that the House Recede and Concur.

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

Representative RICHARDSON: Mr. Speaker, Men and Women of the House: The bill before you is the campaign finance initiated referendum. I know that the overwhelming majority of members of this body have reservations about the role of money in politics. I also know that for many of you the devil is in the details. There are aspects of any legislation in a complicated area like this that can worry any and all of us. For some of us who have been involved in this issue for a long time, the constitutional issues that were addressed in the House Order, the solemn occasion, are for us answered. The limitations of Buckley versus Valaio, a Supreme Court decision of 1976, in fact necessitate many of the complexities, many of the details, many of the circumstances in this bill. I worked with others on this legislation for many years and we worked with a lot of national legal experts and for us the constitutional issues are absolutely clear.

This bill was crafted so that it could, in fact, dynamite the present system of money and politics and do it constitutionally. For others of you I respect and know that that is not a closed issue. Although I had initial reservations about it, I now am pleased that there is a solemn occasion that has gone out, and presumably, in all due speed, there will be a pronouncement from the court on that. That may not end the matter because, of course, a case and controversy could arise in the legal system later on on this issue, and that's as it should be. For myself, there is no question of the constitutionality of what is before us. I will not attempt to, in any way, go through the details of this. I'm sure, by

now, everybody is fully aware of this. Make no mistake about it, we are on the edge, in Maine, with significant sentiment from a very wide constituency of dynamiting the money and political system that is part of our political system. It's not a perfect way of doing it. The limitations of Buckley versus Valaio make it difficult to do. We are on the edge of changing the political culture of Maine. I hope you will join me in supporting the Recede and Concur so that we can join in the 33-to-2 decision of the other body to enact this into law and give ample time for any issues of a constitutional nature to be directed either through the solemn occasion or through a case and controversy.

We, Ladies and gentlemen, have an opportunity here to create an environment in which legally and constitutionally a new political culture will essentially ratchet down the cost of campaigns and eliminate the role of private money in campaign politics. We can bring a new era to money and politics in Maine, and I urge you to join in supporting this historic legislation. Thank you.

At this point, the Speaker appointed Representative JACQUES of Waterville to serve as Speaker Pro Tem.

The House was called to order by the Speaker Pro Tem.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Saco, Representative Nadeau.

Representative NADEAU: Mr. Speaker, Men and Women of the House: First of all, I will ask for a division on this matter. One of the first comments I'll make is picking up from where the good Representative from Portland left off. He alluded to cynicism. He alluded to the fact that the voters want this whole concept of big money taken out of politics. That may, in fact, be correct. However, this is a 15-page document. Our Committee, when we held the public hearing on this, as a matter of fact I asked the question, how many of you folks do you really believe read the whole text? The answer was there were 60,000 people who signed it. They never really answered my question. I think that speaks for itself. The people may, in fact, be very cynical. They are also very cynical about the so-called playing the game to try to keep this situation away from them. If, in fact, this is a strong bill, and there are strong elements to it, why are we depriving them of the right to decide it? Why are we depriving them the opportunity to debate the issue, the good points, the not so good points? It just seems to me that with an 11-to-2 committee recommendation, we probably spent more time on this than we really should have. We thought about this for a long time. We spent a great deal of energy on it. What the members of the other body have done does not, in any way, affect what this body is going to do. You need to know that the two members of the Committee that voted in the minority fashion are members of the other body. Enough said on that topic.

This, I believe, just will add to the cynicism. I can see it now, the next time you go into the hall for a drink of water somebody will stop you and say, "What other games are you guys going to play?" That is the next question. They are already cynical of us and thinking how are these guys going to maneuver

this thing now. I have been asked that probably 30 times already. How many more times are you going to try to maneuver this? If, in fact, the 60,000 people that signed the nomination petitions felt strongly that there was an issue, there probably is an issue. Is this a perfect bill? Absolutely not. I'll be the first guy to tell you that. Are there some good points? Yes. Can this Legislature fine tune it in the next session? Probably, and I hope you do. However, there needs to be a full airing out of the pros and cons of this bill. I strongly believe that you should vote against the pending motion on the floor.

Representative NADEAU of Saco requested a division on the motion to Recede and Concur.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Buxton, Representative Libby.

Representative LIBBY: Mr. Speaker, Men and Women of the House: You know, I think it's important that I say something about this bill, given the fact that I spoke earlier about the influence of cameras in the courtroom. I would be wrong if I said money doesn't influence politics. I just think it does. That might be my opinion, but I just think it does. There are a lot of aspects of this particular bill that I do not like, in fact there may be more in it that I do not like than I like. I haven't decided that yet. Public financing, I know I don't like it, but I'm going to swallow really hard and tell my colleagues on both sides of the aisle that I think we have to do this, even though I don't like it. Do you know why we have to do this? I think because many of us in this body have come in front of a committee like the Legal Affairs Committee with bills to reform the campaign finance structure that we have now. Many of us left that committee with a huge ought not to pass and we were told, and I'm not blaming the Committee, they tried, but we were told, "Look, we are going to take care of your concerns. We are going to take care of your problems. We are going to have a comprehensive bill. We are going to come out with something." This is something that I have been doing for four years. I have gone in front of this Committee with several bills. If I had gone in front of this Committee with no bills, I wouldn't be up right now, but I did. I went in there with campaign finance reform bills, and I came out of there every single time with an "Ought Not to Pass." You didn't come through for me. You said you would reform the system. We didn't get it reformed. So, now the people have gone out and collected signatures because they are tired of our inaction. So am I. That's what we have in common. We are tired of the inaction. The question is, should we just do nothing, or should we listen to the people? In this particular case I think the people have spoken. They want some action, so it's up to this body. You can swallow really hard and vote for this thing, even though there are some parts of it you don't like, and at least take some kind of a step to try to do something about campaign finance reform, or you can kick it out to the people and you know what they are going to do in November. They are going to vote for this thing. What I am saying is, again, I don't like the bill. I know some of you don't like the bill. I don't like public financing, but we have done nothing for years and years and years. We have got to do something. I think it levels the playing field somewhat. I did come down and say that there is more good than bad, just barely more good than bad in this

bill, so I am going to ask that you support the recede and concur motion. Thank you.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Caribou, Representative Robichaud.

Representative ROBICHAUD: Mr. Speaker, Men and Women of the House: Happy Saturday. I had the pleasure of serving on the Legal Affairs Committee in the 116th Legislature. It was truly a memorable experience. I want to tell you we spent one very Appropriations-like night working well into the night during the 116th, trying to craft some furious campaign finance reform. We worked very hard with the group Common Cause who put together the proposal we are accepting today in the citizens' initiative. We did come out with a unanimous report. We had three bills which subsequently failed in the 116th Legislature. That is what has led to the document that we have before us today. Yes, the people readily supported it. The people were ready for something, anything, because they saw inaction in the Legislature, but we have to make sure, and the people need to make sure, that they are not taking action in favor of something just for the sake of taking action.

I would just like to mention a few of the points in the bill that you may or may not have found in your reading of it. There is one section of the bill that would require some updated equipment for the Commission on Governmental Ethics, to keep track of campaign finance reform, lobbyist fees and that type of thing. I don't think that is a bad measure. I think that is perhaps something that is very long overdue, but that is only one part of the bill. There is a change in the reimbursement to Commission members, going from expenses only to legislative per diem. That is going to cost more, but again, that is only one part of the bill. There are changes in the amounts that individuals and committees can make to political candidates. They are reductions below what we have now, and, in fact, if you look, a committee has a lower limit to make a smaller contribution than an individual. PACs tend to get a bad rap, but one thing that I found out during the 116th discussion is that PACs were put in originally as a campaign finance reform measure. You may not believe that, but the reason is PACs have very stringent reporting features, whereas if an individual makes a campaign contribution the only place that is noted is on the candidate finance form. A PAC needs to turn in a finance form all its own, so, twice that contribution is reported. Those are a lot easier to trace, and in this bill what we are doing is limiting the amount of those reportable contributions. Also, there is an issue when it talks about aggregate expenditures. It says, "A Committee may not make an expenditure in support or opposition to the candidacy of one person in an aggregate of \$5,000 in any election." I just have a little question. Does that include a candidate's campaign committee? That might be a minor one but that's still a legitimate question that you have to ask.

One of the things on here, just to cut to the quick that really bothers me about this initiative, is there is an element on page seven that talks about a qualifying contribution. Now, a qualifying contribution in this bill is when you are going out to get your signatures, every time you collect a signature from someone on your petition paper, you also need to collect \$5 from that person. What, \$5 per signature? You are having to pay to cast a vote or sign someone's petition? It doesn't sound very

democratic to me, actually it smacks of a poll tax to me, but that's my interpretation. Also, we talk often about how long campaigns are. Campaigns last forever. Why can't we shorten campaigns? Well, for a gubernatorial participating candidate the qualifying period begins November 1. That's a year before the election. It ends at 5 p.m. March 16. It ends one day later than it ends now as far as gathering signatures. For legislative candidates it's about the same, January 1 until March 16, so we get one more day. Then we have a thing called the Clean Election Fund. All the money that is collected through various fees, including a \$3 checkoff on tax returns, goes into this fund. Let me just mention, we have had numerous discussions on this floor about how to spend the taxpayer money that they send into the state on the tax returns, and we do have various checkoffs on the tax return, all for very good and worthy purposes, but you know as well as I do, every time you check off \$3, \$4, \$1 on a tax return you are dedicating that money. So, every time someone will check off \$3 on their tax return, that's \$3 that can't go towards education, can't go towards our existing programs for children, can't go towards our environmental clean-up. That's something to consider. We are going to take that money and we are going to turn around and hand it back to political candidates to run campaigns. Let me see, we are taking money away from children and education to put into political campaigns. It's a very interesting proposal.

I was very pleased to see that a solemn occasion had been used to ask some very critical questions relating to the constitutionality of various elements in this. I don't claim to be a constitutional scholar, but I did get a crash course in the 116th and I do know that Buckley versus Valaio made some things very clear when it came to how you can limit. One of the things that raised a red flag for me on page 10 was when it said, "A participating candidate must limit candidate seed money to..." a specific amount. In other words, if you want to put your own money in, you are limited to how much money you can spend. You are limited in your freedom of expression in spending your own money towards your own campaign. I am anxiously awaiting the courts decision on that particular item. I don't disagree, at all, with the people's wanting to see us do something. I would like to see something done myself. I would love for us to take the initiative and come up with some serious campaign finance reforms and show the people that we hear them and we legitimately believe in making sure that elections are run in a responsible manner, free from influence and intrusion. However, I am very worried about the contents of this measure. They are done with altruistic purposes, but I'm afraid they will have some very unintended consequences. Let us send this measure to the people to have a legitimate debate. You may wish to talk with your constituents and make sure that they are informed about the contents of this 15-page bill. I would urge you to oppose the measure to recede and concur. Thank you for your patience.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Portland, Representative Townsend.

Representative TOWNSEND: Mr. Speaker, Men and Women of the House: I just wanted to say that I believe very deeply in this bill and I am going to be voting for it for that reason. I believed in it

enough to collect signatures for it. I can't speak to the experience of other people who collected signatures, but in my precinct we ran out of petition forms because people were so eager to sign. Furthermore, I personally laid out for the people who came to my table how the Clean Elections Campaign would be paid for. Particularly when I mentioned the fact that lobbyist registration fees would be raised did they grab the pen and sign. I take Representative Robichaud's point about the \$3 voluntary check-off being diverted from the General Fund. Let me just say that our current system has everything to do with the way that public monies are spent. If you think that the lobby does not affect the way that the General Fund gets divided up come downstairs sometime. If you think that public policy is not determined, that the taxpayers dollars are not determined by the lobby you are mistaken. I'll just refer to one particular example. You may be aware that a number of states have chosen to go forward with the lawsuit against the cigarette industry, and that the Ligot Company has settled and that each state that engaged in that lawsuit is receiving \$2 million this year, and will be receiving substantial sums of money for the next 25 years. A good deal of money was spent by the tobacco lobby in this building last year to prevent our joining that lawsuit. So, the current system has everything to do with the way decisions are made and I think that becomes clearer as we read the papers recently. If you believe, as I do, that the current system is not adequate, that it must be changed, please vote to recede and concur. Thank you.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Auburn, Representative Dore.

Representative DORE: Mr. Speaker, Ladies and Gentlemen of the House: I'm not before my Committee so I am going to be really brief. This started as an attempt to let the voters decide this issue. I think that some people here sincerely want this issue to pass and they are going to vote to recede and concur because they sincerely want campaign finance reform. I have no doubt about that or about several members who have spoken today. But, there are some people who want this to pass so that the voters don't get to decide it. A really simple solution if we don't recede and concur is that the voters get to decide. What I like about the voters getting to decide is that if I were running in the next election, which I am not, and I didn't let the voters have this decision, if I were the opponent of somebody who didn't let the voters have this decision what I would say in my campaign is something like this: My opponent chose to spend tax dollars on their campaign. Is that entirely true or accurate? No, but that's how I would run my campaign. I would say my opponent chose to spend tax dollars on their campaign rather than on children's immunization or on this or that or the other thing. I had several people say to me that the voters aren't going to understand this. Every time I have been told the voters aren't going to understand something I have generally found, in the last decade, that they have understood it quite thoroughly from both perspectives. So, the only way to send this to the voters is not to recede and concur and I just have this basic faith that the voters will do the right thing and that if you pass it, you may be vulnerable to the accusation that you chose to spend tax dollars on your campaign. I don't know how you are going to

answer to that. It's not something that I will have to answer. I wouldn't want to spend campaign time explaining it. I do think, incidentally, that we do need campaign finance reform. As somebody who has played by the rules as they exist today I don't know where you begin. I think you begin by letting the voters make a decision. From there you look at some other alternatives, but I first start by letting the voters have this on the ballot. Thank you.

The Chair ordered a Division on the motion to Recede and Concur.

Representative RICHARDSON of Portland requested a roll call on the motion to Recede and Concur.

The SPEAKER: A roll call has been requested. For the Chair to order a roll call it must have the expressed desire of more than one-fifth of members present and voting. All those in favor will vote yes; those opposed will vote no.

A vote of the House was taken and more than one-fifth of the members present and voting having expressed a desire for a roll call, a roll call was ordered.

The SPEAKER: A roll call has been ordered. The pending question before the House is to Recede and Concur. All those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 358

YEA - Adams, Benedikt, Berry, Brennan, Buck, Bunker, Carleton, Carr, Chartrand, Chase, Davidson, Etnier, Gates, Green, Heesch, Jones, K.; Lemke, Libby JD; Meres, Mitchell JE; Morrison, Perkins, Povich, Richard, Richardson, Rowe, Samson, Saxl, J.; Saxl, M.; Shiah, Stevens, Townsend, Treat, Tuttle, Volenik, Watson.

NAY - Ahearne, Aikman, Bailey, Barth, Bigl, Bouffard, Chick, Chizmar, Clark, Cloutier, Clukey, Cross, Daggett, Damren, Desmond, DiPietro, Donnelly, Dore, Driscoll, Farnum, Fisher, Fitzpatrick, Gamache, Gerry, Gieringer, Gooley, Gould, Greenlaw, Guerrette, Hartnett, Hatch, Hichborn, Jacques, Jones, S.; Joseph, Joy, Joyce, Joyner, Kilkelly, Kneeland, Kontos, Labrecque, LaFountain, Layton, Lemaire, Lindahl, Look, Lovett, Lumbr, Madore, Marshall, Marvin, Mayo, McAlevey, McElroy, Mitchell EH; Murphy, Nadeau, Nass, O'Gara, O'Neal, Ott, Paul, Peavey, Pendleton, Plowman, Poirier, Poulin, Pouliot, Reed, G.; Reed, W.; Rice, Ricker, Robichaud, Rosebush, Savage, Sirois, Spear, Stedman, Stone, Strout, Taylor, Thompson, Tripp, True, Tufts, Tyler, Vigue, Waterhouse, Wheeler, Whitcomb, Winglass, Winn, Winsor.

ABSENT - Ault, Birney, Cameron, Campbell, Dexter, Dunn, Heino, Johnson, Keane, Kerr, Lane, Lemont, Libby JL; Luther, Martin, Nickerson, Pinkham, Simoneau, Truman, Underwood, The Speaker.

Yes, 36; No, 94; Absent, 21; Excused, 0.

36 having voted in the affirmative and 94 voted in the negative, with 21 being absent, the motion to Recede and Concur did not prevail.

Subsequently, the House voted to Insist.

Non-Concurrent Matter

Bill "An Act to Revise the Salaries of Certain County Officers" (EMERGENCY) (H.P. 1379) (L.D. 1887) which was passed to be engrossed in the House on March 29, 1996.

Came from the Senate passed to be engrossed as amended by Senate Amendment "A" (S-551) in non-concurrence.