

MAINE STATE LEGISLATURE

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ROLL CALL (#40)

The Chair laid before the Senate the following Tabled and Later (4/30/03) Assigned matter:

HOUSE REPORTS - from the Committee on **LEGAL AND VETERANS AFFAIRS** on RESOLUTION, Proposing an Amendment to the Constitution of Maine to Revoke the Voting Privileges of Convicted Persons in Prison
H.P. 159 L.D. 200

Majority - **Ought Not to Pass** (8 members)

Minority - **Ought to Pass as Amended by Committee Amendment "A" (H-171)** (5 members)

Tabled - April 30, 2003, by Senator **GAGNON** of Kennebec

Pending - motion by same Senator to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, in concurrence

(In House, April 29, 2003, the Majority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**.)

(In Senate, April 30, 2003, Reports **READ**.)

THE PRESIDENT: The Chair recognizes the Senator from York, Senator Lemont.

Senator **LEMONT:** Thank you, Madame President, ladies and gentlemen of the Senate. I hope we can all vote against the pending motion, so we can on to pass this legislation. What this proposes to do is adopt a constitutional amendment that revokes voting privileges of any person sentenced to a term of imprisonment in a state prison.

On July 9, 1964, in the town of South Berwick, State Police Officer Charles Black lost his life. He was murdered on the streets of South Berwick. That day he lost his privilege to vote. The two who were convicted of the murder and sentenced to prison did not lose that privilege. I intend to vote today for this legislation out of respect for the family and in honor of the service and the time put in by State Police Officer Charles Black.

Let me share with you a little bit of the testimony we heard in committee concerning this bill. We heard that 48 other states restrict voting rights of those in prison. We also heard that this was very important for those incarcerated as a rehabilitation tool. 3% of those in our prisons take advantage of this privilege. I don't believe that this is a very big part of the rehabilitation. Also you will hear that this is a constitutional right. It certainly is. But that is what this legislation proposes to do, revoke that privilege. I don't believe anyone that has been tried and found guilty of a crime and is incarcerated in our state prisons should have that privilege.

On motion by Senator **LEMONT** of York, supported by a Division of at least one-fifth of the members present and voting, a Roll Call was ordered.

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

YEAS: Senators: **BRENNAN, BROMLEY, BRYANT, CATHCART, DAMON, DOUGLASS, EDMONDS, GAGNON, HALL, HATCH, LAFOUNTAIN, MARTIN, PENDLETON, ROTUNDO, STANLEY, STRIMLING, TREAT, THE PRESIDENT - BEVERLY C. DAGGETT**

NAYS: Senators: **BENNETT, BLAIS, CARPENTER, DAVIS, KNEELAND, LEMONT, MAYO, MITCHELL, NASS, SAVAGE, SAWYER, SHOREY, TURNER, WESTON, WOODCOCK, YOUNGBLOOD**

ABSENT: Senator: **GILMAN**

18 Senators having voted in the affirmative and 16 Senators having voted in the negative, with 1 Senator being absent, the motion by Senator **GAGNON** of Kennebec to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, in concurrence, **PREVAILED**.

The Chair laid before the Senate the following Tabled Unassigned matter:

HOUSE REPORTS - from the Committee on **LEGAL AND VETERANS AFFAIRS** on Bill "An Act to Change the Name of the Maine Clean Election Act to the 'Publicly Funded Election Act'"
H.P. 198 L.D. 243

Majority - **Ought Not to Pass** (7 members)

Minority - **Ought to Pass** (6 members)

Tabled - April 28, 2003, by Senator **GAGNON** of Kennebec

Pending - **ACCEPTANCE OF EITHER REPORT**

(In House, April 16, 2003, Reports **READ** and the Bill and accompanying papers **COMMITTED** to the Committee on **LEGAL AND VETERANS AFFAIRS**.)

(In Senate, April 28 2003, Reports **READ**.)

Senator **GAGNON** of Kennebec moved the Senate **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, in **NON-CONCURRENCE**.

THE PRESIDENT: The Chair recognizes the Senator from Kennebec, Senator Gagnon.

Senator **GAGNON:** Thank you, Madame President, men and women of the Senate. It seems to be my day, I'm usually sitting over here fairly quietly. I would encourage you to vote for the majority Ought Not to Pass report. The Clean Election Fund, for whatever its deficiencies may be, the committee is looking at some of those deficiencies and has bills before it that will be looking at those items. Keep in mind that the bill today does nothing for any of those deficiencies that you may be concerned

about. This is simply a bill to change the name of the Clean Election Act to something different.

The people of the State of Maine, when they were voting on this issue by referendum, felt strongly about the issue, and voted for it fairly overwhelmingly. The entire campaign associated with the act had to do with the Clean Election Act. I had some concerns early on that the initiative being called the Clean Election Act would identify those who chose not to participate with the Clean Election Act be considered something other than clean. We all thought people not running under the Clean Election Act might be considered dirty. In fact, that concern has been taken care of, over the past few years that we've had the Clean Election Act. The standard term for those who do not chose to run as a Clean Election candidate is traditional. It is a term that we heard repeatedly in the committee. It is a term that we read about in the paper on a regular basis. That is generally what every side of this issue has agreed to call those who chose not to participate in the Clean Election Act. That is that they are participating as a traditional candidate.

Again, keep in mind this act is simply to change what the people voted for in the Clean Election Act. We, being one of the first states to have a Clean Election Act like this, have many other places in this country looking to Maine and making sure that we do not, in any way, diminish what it is we are trying to accomplish, which is, in fact, this ideal of having clean elections.

Does this act do it all by itself? Well, of course not. It would be very difficult and there have been many attempts to prevent, in some way, people from doing certain things. Because of our United States Constitution, we are very limited. This is the best piece of legislation, so far, as imperfect as it is, that tries to address these issues.

Again, the concerns you may have about the act are being addressed in committee, as best we can, staying within the constitutional parameters that we have. We didn't think it was wise, at this time, to change the will of the people by changing the name of the act simply for the sake of changing the name of the act. I encourage all of you, or any of you, who have concerns about the Clean Election Act, other than the name, to contact me, or any of the committee members that are here, so that we can consider those issues as we take up other pieces of legislation throughout the remainder of the session.

So, Madame President, I would ask for a roll call on this important issue and I would encourage everyone to vote with me and not change the name of what the people selected as the Clean Election Act. Thank you.

Senator **GAGNON** of Kennebec requested a Roll Call.

THE PRESIDENT: The Chair recognizes the Senator from Washington, Senator Shorey.

Senator **SHOREY:** Thank you, Madame President. I'd like to pose a question through the chair for anyone who cares to answer.

THE PRESIDENT: The Senator may pose his question.

Senator **SHOREY:** Thank you, Madame President. It is my understanding that the name was not part of the referendum. I am curious if anyone could tell me who came up with that name? Thank you.

THE PRESIDENT: The Senator from Washington, Senator Shorey, poses a question through the Chair to anyone who may wish to answer. The Chair recognizes the Senator from Sagadahoc, Senator Mayo.

Senator **MAYO:** Thank you, Madame President, ladies and gentlemen of this body. In answer to the question of the good Senator from Washington, Senator Shorey, I believe that what he is referring to, as the name, came to us through the Ethics Commission early on.

I stand today in opposition to the motion of the good Senator from Kennebec, Senator Gagnon. While I support the Clean Election Act, I have never participated in it. What bothers me is what came, not as a result of the vote of the people and not as a result of the original act, is the naming of candidates who either chose to run under the Clean Election Act or not to. That is what this particular piece of legislation is addressing and I would urge consideration by this body of making that change. We're not changing anything else to do with the Clean Election Act itself. I think that a strong majority of the Legal and Veterans' Affairs Committee does, in fact, support that particular piece of legislation. This is just to clarify, once and for all, the name attached to people who run either under it or don't chose to run under that particular piece of legislation. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from York, Senator Lemont.

Senator **LEMONT:** Thank you, Madame President, ladies and gentlemen of the Senate. I, too, rise in opposition of the pending motion. I also recognize the fact, as the good Senator and chair of the Legal and Veterans' Affairs Committee, that this is a very worthwhile program. It has a great deal of integrity. It is recognized throughout the nation. This piece of legislation does nothing more than changes the name. I believe it is long overdue to name the act to accurately reflect what it actually does.

I'd like to share with you, for your benefit, what the people of the State of Maine voted on in 1996 when that question that was on the ballot. 'Do you want to adopt new campaign finance laws and give public funding to candidates for state office who agree to spending limits?' Nowhere in the question was the word clean. I would like to share with you now what clean actually means. If you look it up in the dictionary, the definition of clean is 'morally pure and not obscene or indecent.' I have a real concern with naming it the Clean Election Act and what it says about those who chose to run traditionally, who chose not to take state funds to run their election. I think, once again, I'll reiterate, we're long overdue. Name the act so it explains exactly what it does. I think, if anything, it may encourage participation when people understand what it does and what is available to them when they run for elective office. Thank you, Madame President.

THE PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Edmonds.

Senator **EDMONDS:** Thank you, Madame President, men and women of the Senate. I definitely appreciate the reference to the dictionary, as a librarian.

Proceedings Interrupted by Fire Alarm.

Senate called to order by the President.

Off Record Remarks

THE PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Edmonds.

Senator **EDMONDS:** Thank you, Madame President, men and women of the Senate. I'll try again. Let's see, where were we? I was appreciating the dictionary. I still appreciate the dictionary. I just want to add a couple of thoughts to this debate.

Basically, I am in opposition to this bill and in favor of the motion. The only thing I want to add is that throughout the nation, like it or not, this act is known as the Maine Clean Election Act. One of my colleagues remarked that it was sort of like main recognition, branding of a product. It's known that way. Many of us have had conversations with legislators in other states. Some people in the legislature have traveled to other states to speak on behalf of the Maine Clean Election Act. I just think it would be unfortunate to, in the middle of the stream, change horses. So I hope you will vote with the majority Ought Not to Pass. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Strimling.

Senator **STRIMLING:** Thank you very much, Madame President. I, also, rise in support of the motion. In response to the issue about clean election not being on the question, it should be noted and remembered, on the ballot this was referred to as the Maine Clean Election Act forty-seven times. It may not have been in the actual question, but on the ballot, forty-seven times for the voters to see, it was called the Maine Clean Election Act. In all the editorials that were written around the state, it was referred to as the Maine Clean Election Act. In the debate on the floor, here in this body, it was referred to as the Maine Clean Election Act. Nothing has been pulled over anybody's eyes. People knew what they were voting for. Changing the name here is, without question, an attempt, unfortunately, to try to do damage to this law.

As we saw in Massachusetts, they changed the name from the Clean Election Act to Publicly Financed and then they defunded it. When it was on the ballot called Publicly Financed, it lost even though it had won before when it was the Clean Election Act. I think it is important. We don't characterize everything that government does as publicly financed. We don't call this the Publicly Financed State Senate. We call it the State Senate. That is the name. That is the name it has been given. That is the name it is understood as. We know the candidates that are not running under the Clean Election Act are not called dirty. They are called traditional. People accept that. It is the same way that people accept the Clean Election candidates.

So I urge my colleagues to vote with us for this motion, Ought Not to Pass. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Franklin, Senator Woodcock.

Senator **WOODCOCK:** Thank you, Madame President, ladies and gentlemen of the Senate. I rise in support of the motion. I speak on behalf of the morally pure today. This must be one of the most underhanded attempts I've ever seen to lobby votes. To pull a fire alarm, and out in the parking lot, you could, on behalf of the morally impure, gather more votes. I would just offer to all of you who haven't participated in this process as a morally pure candidate, there will be other opportunities in the future. This act will go forward. It doesn't matter whether it is called the Publicly Funded Election Act, the Clean Election Act, the People's Act, the Morally Pure, the Morally Impure, or whatever you chose to call it, what matters more is how it is managed. We've tinkered with this process since its initiation. I'm a supporter of the process. I'll be a supporter of this motion. I want to clearly say to those who are seated in this body today as morally impure election candidates, you are forgiven.

THE PRESIDENT: The Chair recognizes the Senator from Kennebec, Senator Blais.

Senator **BLAIS:** Thank you, Madame President. I rise today in opposition to the motion. All I would like to say is that I am one of the minorities here today. I ran as a traditional candidate. Only by running as a traditional candidate, with this act in existence, can you really know what it is like to go door-to-door and struggle with explaining to people how you are running when they say to you, with a little snicker, 'are you a clean candidate?' You can say, 'yes, I'm a traditional candidate.' But that really doesn't matter to them. There is something else in their minds that they see in reference to using the word clean when it comes to a candidate. I can say that I definitely oppose this motion and support the legislation. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Kennebec, Senator Gagnon.

Senator **GAGNON:** Thank you, Madame President, men and women of the Senate. As chairman of the Facilities Subcommittee of the Legislative Counsel, I'd like to thank you for how orderly you left the building. I'd also like to assure you that the toaster oven is gone, as we speak, so I've been told.

But men and women of the Senate, I'd like to continue this debate. I want to just bring us back to what the election was, a few years ago, when the people of the State of Maine voted for this act. As you recall, there was a lot of publicity surrounding the act. The term Clean Election was mentioned, as someone noted, over forty times. People knew what they were voting for. To suggest that they didn't, I think, is an insult to the voters of this state. They understand what it is, what it does, and they supported it. They support it with this name. They continue to support it.

For those who are concerned about what they might be called if they were not under the Clean Election Act, the term traditional has stuck. I'm glad to hear that people are standing up and saying that they are actually proud of being traditional candidates, because they don't support the act or don't want to take the money. Whatever the reason, no one seems to be ashamed of indicating that they are traditional candidates. To those who have said that they were concerned, as they went door-to-door, they are here today to say that; so it obviously didn't have a major impact on the voters of that particular district.

I would encourage you to vote for the pending motion. Thank you.

On motion by Senator **GAGNON** of Kennebec, supported by a Division of at least one-fifth of the members present and voting, a Roll Call was ordered.

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#41)

YEAS: Senators: BENNETT, BRENNAN, BROMLEY, BRYANT, CATHCART, DOUGLASS, EDMONDS, GAGNON, HALL, HATCH, MARTIN, PENDLETON, ROTUNDO, SAVAGE, STANLEY, STRIMLING, TREAT, TURNER, WESTON, WOODCOCK, YOUNGBLOOD, THE PRESIDENT - BEVERLY C. DAGGETT

NAYS: Senators: BLAIS, CARPENTER, DAMON, DAVIS, KNEELAND, LAFOUNTAIN, LEMONT, MAYO, MITCHELL, NASS, SAWYER, SHOREY

ABSENT: Senator: GILMAN

22 Senators having voted in the affirmative and 12 Senators having voted in the negative, with 1 Senator being absent, the motion by Senator **GAGNON** of Kennebec to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, in **NON-CONCURRENCE, PREVAILED.**

Ordered sent down forthwith for concurrence.

Out of order and under suspension of the Rules, the Senate considered the following:

ORDERS

Joint Order

On motion by Senator **MARTIN** of Aroostook, the following Joint Order:

S.P. 549

ORDERED, the House concurring, that Bill, "An Act To Increase Penalties for Furnishing or Trafficking Scheduled Drugs That Cause Death or Serious Bodily Injury," House Paper 701, Legislative Document 944, and all its accompanying papers be recalled from the Engrossing Division to the Senate.

READ and PASSED.

Ordered sent down forthwith for concurrence.

Out of order and under suspension of the Rules, the Senate considered the following:

PAPERS FROM THE HOUSE

House Paper

Bill "An Act To Enhance Electric Utility Consumer Protections" H.P. 1169 L.D. 1595

Comes from the House, **REFERRED** to the Committee on **UTILITIES AND ENERGY** and ordered printed.

REFERRED to the Committee on **UTILITIES AND ENERGY** and ordered printed, in concurrence.

Senate at Ease.

Senate called to order by the President.

Off Record Remarks

RECESSED until 1:15 in the afternoon.

After Recess

Senate called to order by the President.

Out of order and under suspension of the Rules, the Senate considered the following:

REPORTS OF COMMITTEES

Senate

Ought to Pass

Senator PENDLETON for the Committee on **JUDICIARY** on Bill "An Act To Release the Records of the Attorney General and the Maine State Police Regarding the Investigation, Prosecution and Trial of Dennis Dechaine"

S.P. 369 L.D. 1097

Reported that the same **Ought to Pass.**

Report **READ** and **ACCEPTED.**

Under suspension of the Rules, **READ TWICE** and **PASSED TO BE ENGROSSED.**

Sent down for concurrence.