

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD
OF THE
One Hundred And Fourteenth Legislature
OF THE
State Of Maine

VOLUME II

FIRST REGULAR SESSION

May 10, 1989 to June 14, 1989

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 the members present and voting. 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: The Chair recognizes the Representative from Waldo, Representative Whitcomb.

Representative WHITCOMB: Mr. Speaker, Ladies and Gentlemen of the House: Not to carry this debate any longer except I ask that, when you vote, to remember who is paying for these trips, it is the Maine taxpayers. I ask when you vote to establish a sense of accountability. I understand the Representative from Lisbon's concern about the cost and the duplication of paper but I also ask you to consider that the cost of implementing this legislation is far less than the annual increase in the legislative travel budget. We have a budget that is increasing at a very rapid rate and yet, we have a mechanism that is entirely voluntary and cloaked in secrecy at times of reporting. Many legislators, when we had the hearing before State and Local Government, said that they voluntarily filed reports or made out summaries of their travel as I had done. I think that is an indication of the interest in this subject area and yet, where did those reports go? Maybe they shared them with their particular committee but what about the rest of the legislature? Do we assume that no one else in the legislature has a concern about the subjects discussed at the meetings?

All I ask is that when you cast your vote, you remember who pays for these trips and how we can best disseminate the information that we gather.

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

Representative RAND: Mr. Speaker, I would like to pose a question through the Chair.

I am interested in knowing who is going to check on these forms and verify them if that is going to be necessary? If 15 people go on one of these trips, do 15 reports get passed in and passed out to us as a body? How does the public get this information? Does this require each branch of the government to do the same? Could we expect written reports from anyone who makes any type of trip on the state's time?

The SPEAKER: The Representative from Portland, Representative Rand, has posed a series of questions through the Chair to anyone who may respond if they so desire.

The Chair recognizes the Representative from Waldo, Representative Whitcomb.

Representative WHITCOMB: Mr. Speaker, Ladies and Gentlemen of the House: I will attempt to answer the questions as I remember them. The legislation proposes that a booklet be prepared much in the form that we receive other legislative reports, that it be an annual compilation and that they would be made available to legislators, to the press, to the general public annually so we would not receive them on our desks as we receive things each day.

The question was asked if this bill would be extended to other branches of government and if someone wishes to amend the bill in that form, I would be very willing to accept that amendment. First, we have to pass the bill. That was not my particular initiative so if someone else has an interest in that regard, I would be very willing to talk to them.

The SPEAKER: The Chair recognizes the Representative from Lewiston, Representative Aliberti.

Representative ALIBERTI: Mr. Speaker, Ladies and Gentlemen of the House: Very, very briefly. I have been privileged to attend for the past three years a major conference and there these tapes were available so this is a duplicate kind of role that you are asking us to take. One year, these tapes were purchased by the office, the whole set of these tapes were made available to anyone who wanted them, and I, too, purchased some tapes that I was interested in. So I think this is very unnecessary at this time as did the very, very worthy editorial director of the Portland Press Herald.

The SPEAKER: The pending question before the House is the motion of the Representative from Waterville, Representative Joseph, that the House accept the Majority "Ought Not to Pass" Report.

The Chair recognizes the Representative from Milo, Representative Hussey.

Representative HUSSEY: Mr. Speaker, pursuant to House Rule 7, I wish to pair my vote with the Representative from Wiscasset, Representative Kilkelly. If she were present and voting, she would be voting yea; I would be voting nay.

The SPEAKER: The pending question before the House is the motion of the Representative from Waterville, Representative Joseph, that the House accept the Majority "Ought Not to Pass" Report. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 25

YEA - Adams, Aliberti, Allen, Anthony, Bell, Boutilier, Brewer, Burke, Carroll, D.; Carter, Cashman, Cathcart, Chonko, Clark, H.; Clark, M.; Coles, Conley, Constantine, Cote, Crowley, Daggett, Dipietro, Dore, Dutremble, L.; Erwin, P.; Farnsworth, Gould, R. A.; Greenlaw, Gwadosky, Hale, Handy, Heeschen, Hickey, Hoggland, Holt, Jacques, Jalbert, Joseph, Ketover, LaPointe, Larrivee, Lawrence, Lisnik, Lord, Luther, Macomber, Mahany, Manning, Marston, Martin, H.; Mayo, McGowan, McHenry, McKeen, McSweeney, Melendy, Michaud, Mills, Mitchell, Moholland, Nadeau, G. G.; Nadeau, G. R.; Norton, O'Dea, O'Gara, Oliver, Paradis, J.; Paradis, P.; Paul, Pederson, Pineau, Pouliot, Priest, Rand, Richard, Ridley, Rolde, Rotondi, Rydell, Sheltra, Simpson, Skoglund, Stevens, P.; Strout, D.; Swazey, Tammaro, Tardy, Telow, Tracy, Walker, The Speaker.

NAY - Aikman, Anderson, Ault, Bailey, Begley, Butland, Carroll, J.; Curran, Dellert, Dexter, Donald, Farnum, Farren, Foss, Foster, Garland, Hanley, Hastings, Hepburn, Hichborn, Higgins, Hutchins, Jackson, Lebowitz, Libby, Look, MacBride, Marsano, Marsh, McCormick, McPherson, Merrill, Murphy, Nutting, Paradis, E.; Parent, Pendleton, Pines, Plourde, Reed, Richards, Seavey, Sherburne, Small, Smith, Stevens, A.; Stevenson, Strout, B.; Tupper, Webster, M.; Wentworth, Whitcomb.

ABSENT - Duffy, Graham, Gurney, Ruhlin, Townsend.

PAIRED - Hussey, Kilkelly.

Yes, 91; No, 52; Absent, 5; Vacant, 1; Paired, 2; Excused, 0.

91 having voted in the affirmative and 52 in the negative with 5 being absent, 2 paired, and 1 vacant, the Majority "Ought Not to Pass" Report was accepted. Sent up for concurrence.

The Chair laid before the House the third tabled and today assigned matter:

HOUSE DIVIDED REPORT - Majority (8) "Ought to Pass" as amended by Committee Amendment "A" (H-175) - Minority (4) "Ought Not to Pass" - Committee on State

and Local Government on RESOLUTION, Proposing Amendments to the Constitution of Maine to Provide for the Popular Election of the Attorney General and the Secretary of State (H.P. 525) (L.D. 710)
 TABLED - May 12, 1989 by Representative JOSEPH of Waterville:

PENDING - Motion of the same Representative to accept the Minority "Ought Not to Pass" Report.

The SPEAKER: The Chair recognizes the Representative from Kennebunkport, Representative Seavey.

Representative SEAVEY: Mr. Speaker, Men and Women of the House: I urge you to reject the motion that is presently before us, which is the acceptance of the Minority Report so we can then vote for the Majority "Ought to Pass" Report.

Before I speak to you on the merits of the bill, I want to thank the committee for a strong bipartisan show on the merits of this legislation. It would have been very easy for this committee to simply dismiss this bill outright without any particular forethought but simply as a minority Republican initiative. It is much more than that, it is a reform measure, it is a good government bill, it is a peoples bill.

What this measure would do is to put out to the people a Constitutional Amendment and that is important to remember because this bill would only become law or this change would only result if the people of the State of Maine supported it. What this proposed amendment would do is to make the Attorney General and Secretary of State elected in the same manner as we now do for the Governor and that is to say by all of the people of the State of Maine. It would change their terms of offices from two years to four years and they would both be elected in a non-gubernatorial year.

The reason we have not done this in the past, I can't really say. The reason we probably won't do it this year either, I can't really say. Is it that in this legislature there is a lack of confidence in the choices that the people of the State of Maine make? Is it that we believe that the citizenry as a whole now puts into office — is there something wrong with those people? I hope not, I hope that is not our intention. The voters in this state are better educated, they are more informed, they are more politically involved than ever before in our history, certainly more so than they were with the inception of our current system. I think what happens now is that this legislature sort of expoused the arrogance of the situation by saying that the legislators judgment, the legislatures judgment is better than that of the citizenry.

For the legislature to approve or to elect a Secretary of State and Attorney General, I don't see where it has any relevance to our particular system of checks and balances as we now know it. I think you would have the same amount of checks and balances perhaps if they were elected by the people.

These positions, Secretary of State and Attorney General, are important positions, very, very important. They are not mere agents of the legislature but they are agents that are top-flight administrators for two branches of our government that affect peoples lives, more perhaps than any other levels of our government bureaucracy.

This bill is really not an indictment of any particular person or personality whatsoever but it is an indictment of the process. I think what happens is that these positions presently are a reward, not for public service, but for party service. It is not even a stepping stone for future political office. Except for Congressman Brennan, I can only think of

Ken Curtis in the last 25 years that has been elected for a statewide office by the process of a stepping stone, having served in a constitutional office. More often, it is has been reported in the press that it is really a dumping ground for losers but again, that is not necessarily a problem, it is just that I think if we open up the process, let the people decide, I see no harm in that and I think only benefits can come of it.

The other problem we have with this bill is that the people themselves cannot initiate the change. It is a problem with the process, not a problem of the bill, the bill is a solution to it. The people themselves cannot initiate a change and in our Constitution, the only way a constitutional amendment can take effect, is to be initiated by the legislature and sent out to the people to vote on. The people can't petition as they can for a statutory change, the people can't petition the legislature to change the constitution and that is a problem. So, effectively you have shut out the people from voting on this.

I am not sure why we ever put that in our Constitution. Perhaps it was a fear of mob rule early on when we first became a state in 1820 but I don't think that fear of mob rule still exists today. One of the foundations of our democracy rests on belief that the pillars in our government and our society is the people themselves. They are the ones that know right and wrong and they should have the voice in this say.

I urge you to vote no on the pending motion.

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

Representative HALE: Mr. Speaker, Ladies and Gentlemen of the House: I will be very brief. I urge you to vote yes on this issue before us. The people have spoken, the people have elected us, the members of the legislature, to vote on their behalf. I am sure that we can handle that; otherwise they wouldn't think we were smart enough to be here and we wouldn't.

The SPEAKER: The Chair recognizes the Representative from Waterville, Representative Joseph.

Representative JOSEPH: Mr. Speaker, Men and Women of the House: This dialogue is healthy and I ask you to support the Minority "Ought Not to Pass" Report.

Based on the fact that in 1820, the Joint Session of the Senators and Representatives elected the Secretary of State and in 1856, that was then changed as far as the Attorney General. He was then included in being elected by the Joint Session of the Senators and Representatives. In 1820, the Governor nominated the Attorney General with the advice and the consent of the Executive Council. At that time, the Attorney General was seen as a judicial officer. We feel, on the Minority Report, that we presently have heard strong arguments to change the rich history and the tradition of this great State of Maine. We have fine people who have served in both of these positions and it is very interesting to note that, of the last 6 Attorneys General, four were Republicans and two were Democrats. We also feel very strongly that this would politicize these offices even further than what has been suggested today.

We feel in four year terms these people would be continually running for office. We also feel that there is no public outcry to change the system as it is today. At the public hearing, on April 19th, there were no proponents besides the sponsor and there were no opponents; therefore, we believe that as we look at those fine persons who have served us in these offices starting with 1961, Mr. Paul

McDonald of Coopers Mills; Ken Curtis of Cape Elizabeth in 1965; Joseph Edgar of Farmingdale in 1967; Mark Gartley of Greenville in 1975; Rodney Quinn in 1979 and presently Bill Diamond. We feel all of these people have been responsible and good candidates for the Secretary of State's office. As we look at the Attorneys General, as I recently mentioned, in 1964, the Honorable Richard Dubord from Waterville; in 1967, the Honorable James Erwin of York; in 1972, the Honorable John Lund of Augusta; in 1975, the Honorable Joseph Brennan of Portland and in 1979, the Honorable Richard Cohen of Augusta and in 1981, the present Attorney General, James E. Tierney of Lisbon Falls. We feel, again, that Maine is well-served with the system that is presently in place and I ask you to support the Minority "Ought Not to Pass" Report.

The SPEAKER: The Chair recognizes the Representative from Wells, Representative Wentworth.

Representative WENTWORTH: Mr. Speaker, Men and Women of the House: I ask you to join with Representative Seavey and vote against the Minority Report. We did debate it well and the majority have voted "Ought to Pass" so let's vote against the Minority Report so that we may accept the Majority Report.

The SPEAKER: The Chair recognizes the Representative from Skowhegan, Representative Hepburn.

Representative HEPBURN: Mr. Speaker, Men and Women of the House: Just a couple of quick points, folks. This is a very, very common method of electing constitutional officers, statewide. Forty-three states pick their Attorney General at the polls as this constitutional amendment would have us do. Thirty-six states pick their Secretary of State in the same manner so I think it would put us into the mainstream and provide for a better method of selection of these individuals.

Mr. Speaker, I would request a roll call.

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

Representative ROLDE: Mr. Speaker, I would like to pose a question through the Chair to the proponents of this.

It costs about a million dollars to run for office statewide -- what would it cost to run for these offices?

The SPEAKER: The Representative from York, Representative Rolde, has posed a question through the Chair to anyone who may respond if they so desire.

The Chair recognizes the Representative from Paris, Representative Hanley.

Representative HANLEY: Mr. Speaker, Men and Women of the House: Probably the same amount as it costs for them to run currently for their constitutional office.

The SPEAKER: The Chair recognizes the Representative from Fairfield, Representative Gwadosky.

Representative GWADOSKY: Mr. Speaker, I would like to pose a question through the Chair.

My question is, given that request for the amount of cost for selection, I wonder whether or not those who speak as a proponent of this legislation would be kind enough to share their feelings of the practical effect of having the chief law enforcement officer of the State, the Attorney General, out soliciting funds from special interest groups and having to represent those in a question of court later on.

The SPEAKER: The Representative from Fairfield, Representative Gwadosky, has posed a question through the Chair to anyone who may respond if they so desire.

The Chair recognizes the Representative from Kennebunkport, Representative Seavey.

Representative SEAVEY: Mr. Speaker, Ladies and Gentlemen of the House: I would answer that question but I would put it in reverse and say this, the reverse is happening now. It is interesting that the chief law enforcement officer is turning around and contributing to the campaigns of certain legislators so just the opposite is happening to a certain extent. But that is an interesting point.

The SPEAKER: The Chair recognizes the Representative from Fairfield, Representative Gwadosky.

Representative GWADOSKY: Mr. Speaker, I would like to pose a question through the Chair.

During the debate, the Representative from Kennebunkport, Representative Seavey, commented that one of the important reasons for this legislation is that individuals in this state currently do not have the opportunity to submit an amendment to the constitution via the route of citizens initiative. Last week, a bill sponsored by Representative Hepburn was on the floor for debate, that was a bill that I am sure Representative Seavey is familiar with because he is a seatmate of Representative Hepburn, and my understanding is, if my memory serves me right, that bill went under the hammer "Ought Not to Pass" and I wonder if either Representative Seavey or Representative Hepburn (the sponsor of that important legislation) would like to share with members of this body why it is they chose not to fight for that very important piece of legislation?

The SPEAKER: The Representative from Fairfield, Representative Gwadosky, has posed a question through the Chair to anyone who may respond if they so desire.

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 the members present and voting. 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: The pending question before the House is the motion of the Representative from Waterville, Representative Joseph, that the House accept the Minority "Ought Not to Pass" Report. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 26

YEA - Adams, Aliberti, Allen, Anthony, Bell, Boutilier, Brewer, Burke, Carroll, D.; Carter, Cashman, Cathcart, Chonko, Clark, H.; Clark, M.; Coles, Conley, Constantine, Cote, Crowley, Daggett, Dipietro, Dore, Farnsworth, Gould, R. A.; Gwadosky, Hale, Handy, Hastings, Heeschen, Hickey, Hoglund, Holt, Hussey, Jacques, Jalbert, Joseph, Ketover, LaPointe, Lawrence, Lisnik, Luther, Macomber, Mahany, Manning, Marsh, Marston, Martin, H.; Mayo, McGowan, McHenry, McKeen, McSweeney, Melendy, Michaud, Mills, Mitchell, Moholland, Nadeau, G. G.; Nadeau, G. R.; O'Dea, O'Gara, Oliver, Paradis, E.; Paradis, J.; Paradis, P.; Paul, Pederson, Pineau, Plourde, Pouliot, Priest, Rand, Richard, Ridley, Rolde, Rydell, Sheltra, Simpson, Skoglund, Smith, Stevens, P.; Strout, D.; Swazey, Tammaro, Tardy, Tracy, Walker, The Speaker.

NAY - Aikman, Anderson, Ault, Bailey, Begley, Butland, Carroll, J.; Curran, Dellert, Dexter, Donald, Dutremble, L.; Erwin, P.; Farnum, Farren, Foss, Foster, Garland, Greenlaw, Hanley, Hepburn, Hichborn, Higgins, Hutchins, Jackson, Larrivee, Lebowitz, Libby, Look, Lord, MacBride, Marsano, McCormick, McPherson, Merrill, Murphy, Norton, Nutting, Parent, Pendleton, Pines, Reed, Richards,

Rotondi, Seavey, Sherburne, Small, Stevens, A.; Stevenson, Strout, B.; Telow, Tupper, Webster, M.; Wentworth, Whitcomb.

ABSENT - Duffy, Graham, Gurney, Kilkelly, Ruhlin, Townsend.

Yes, 89; No, 55; Absent, 6; Vacant, 1; Paired, 0; Excused, 0.

89 having voted in the affirmative and 55 in the negative with 6 being absent and 1 vacant, the Minority "Ought Not to Pass" Report was accepted. Sent up for concurrence.

The Chair laid before the House the fourth tabled and today assigned matter:

An Act to Facilitate Treatment of Abused and Neglected Children (H.P. 745) (L.D. 1028) (C. "A" H-138)

TABLED - May 12, 1989 by Representative GWADOSKY of Fairfield.

PENDING - Passage to be Enacted.

On motion of Representative Gwadosky of Fairfield, retabled pending passage to be enacted and specially assigned for Tuesday, May 16, 1989.

The Chair laid before the House the fifth tabled and today assigned matter:

Resolve, Requiring the Department of Educational and Cultural Services to Study Textbooks in Schools and School Libraries of the State (EMERGENCY) (H.P. 358) (L.D. 478) (C. "A" H-164)

TABLED - May 12, 1989 by Representative GWADOSKY of Fairfield.

PENDING - Passage to be Engrossed.

On motion of Representative Gwadosky of Fairfield, retabled pending passage to be engrossed and specially assigned for Tuesday, May 16, 1989.

The Chair laid before the House the sixth tabled and today assigned matter:

An Act to Increase the Age Limit for Child Support (H.P. 119) (L.D. 156) (C. "A" H-139)

TABLED - May 12, 1989 by Representative ALLEN of Washington.

PENDING - Passage to be Enacted.

The SPEAKER: The Chair recognizes the Representative from Washington, Representative Allen.

Representative ALLEN: Mr. Speaker, I move that L.D. 156 and all its accompanying papers be indefinitely postponed.

Mr. Speaker, Men and Women of the House: As you are all well aware, current law provides that both men and women shall provide child support for their children until they reach the age of 18. This law attempts to make a change in that standard and does so in an uneven and unfair manner. Parents, whether they be married, divorced, separated, never married, whatever, living apart, have a legal obligation in statute at this time that is applied evenly. All of their children are due support from them regardless of their marital status until that child turns 18. Now that has been a standard that has been used in this state for many years. It is a standard that applies to all children, regardless of their parents' marital status -- age 18 is the age where we are legally, not morally, but legally bound to support our children.

This bill attempts to obliterate that particular provision. The sponsors of the bill, proponents of the bill, say that it is necessary in order to keep 18 year olds from dropping out of school on their 18th birthday because they have to go to work to help

support the family or, in some cases, a single parent no longer has the financial assets to support that child. The assumption is that absent parents suddenly don't care if the kid finishes school or not and they are going to cut off support. I don't think that that is right and I think that is a false assumption. One of the reasons I believe that is, I went to the Department of Education and asked them how often this phenomenon occurs. Unfortunately, the Department of Education has never nor does not have any plans to ever monitor how many 18 year olds drop out of school simply and purely for the fact that one or both parents either refuses to support them or are unable to support them. What the Department of Education does know is that a lot of kids drop out of school in order to supplement the family income and that occurs whether the parents are married, divorced, separated or whatever. Oftentimes, these youngsters continue their education by taking continuing education courses and getting their GED's.

The way this bill is drafted, those kids who drop out of school at age 16 or perhaps 17 in order to supplement their family income and get their GED's, are excluded from continuing support as this bill would suggest. This bill says that "support shall continue for kids who, (by the way, are now adults at age 18). Title 1 says in statute very clearly "once you are 18, you adjudged by law to be an adult." This bill would allow what they call child support, which is actually adult support for those young adults who remain in school and that is the argument on behalf of the bill. That may be a laudable argument but statistics are not available to verify that. As a matter of fact, the only statistics available from the Department of Education say that the smallest group, two to three percent of all high school students, to drop out of school are 12th graders. Most of the kids that are dropping out of school drop out of school prior to the 12th grade and they do so for any number of reasons. Another statistic that the Department of Education does not have is whether these come from traditional whole families where parents are currently married or whether they come from families that were never married or divorced or separated or whatever. There is no way to determine why these kids are dropping out of school at least from the parents' marital background.

This bill would suggest that those kids who remain in high school -- now you could be involved in a home schooling program that is approved by the state and still be excluded from this bill or you could be an 18 year old who is living in a divorced family with a custodial parent, and at age 18, you could say, "Hey, I'm an adult, I want to live on my own and I am going to get an apartment and get myself through high school." That is a real commendable role and a lot of kids do that. As a matter of fact, I am a parent of one who did. The bill would still require the absent parent to continue child support to the custodial parent who, by the way, is no longer custodial because the child has turned 18 and moved out of the house so there is no requirement that that 18 year old remain at the home of the custodial parent. So, you have an absent parent providing child support for a child who is now an adult who no longer lives with the custodial parent and that, in my mind, is absurd. At the very least, if you are going to require that the adult remain in school, you should also require that they reside with the custodial parent but that is not the case in this bill.

What is the most glaring and outrageous section of this bill was an attempt by the committee to