

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

One Hundred And Sixteenth Legislature

OF THE

State Of Maine

VOLUME IV

FIRST REGULAR SESSION

Senate

May 19, 1993 to July 14, 1993

FIRST CONFIRMATION SESSION

October 14, 1993

Non-concurrent Matter

Bill "An Act to Provide Access to Landlocked Property"

H.P. 1051 L.D. 1403
(C "A" H-529)

In Senate, June 3, 1993, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-529)**, in concurrence.

Comes from the House **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-529) AS AMENDED BY HOUSE AMENDMENT "A" (H-646)** thereto, in **NON-CONCURRENCE**.

On motion by Senator **ESTY** of Cumberland, Tabled until Later in Today's Session, pending **FURTHER CONSIDERATION**.

ORDERS OF THE DAY

The Chair laid before the Senate the Tabled and Today Assigned matter:

RESOLUTION, Proposing an Amendment to the Constitution of Maine to Provide for the Popular Election of the Secretary of State

H.P. 965 L.D. 1296
(C "A" H-434)

Tabled - June 8, 1993, by Senator **ESTY** of Cumberland.

Pending - **FURTHER CONSIDERATION**

(In Senate, June 4, 1993, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-434)**, in concurrence.)

(In House, June 8, 1993, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-434) AND HOUSE AMENDMENT "B" (H-475)** in **NON-CONCURRENCE**.)

Senator **CAHILL** of Sagadahoc moved that the Senate **RECEDE** and **CONCUR**.

Senator **ESTY** of Cumberland requested a Division.

On motion by Senator **HANLEY** of Oxford, supported by a Division of one-fifth of the members present and voting, a Roll Call was ordered.

THE PRESIDENT: The Chair recognizes the Senator from Oxford, Senator Hanley.

Senator **HANLEY:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I am rather discouraged at the fact that this chamber just earlier had passed this legislation that would have called for the popular election of our Secretary of State. It had been sent down to the other chamber and now I am just trying to consider or understand what has transpired between now and then and why this chamber has had a change of heart. The issue is still the same. Instead of having the Legislature

select who our Secretary of State will be, we decided before to allow the people of the State of Maine to make that choice and to do so through the democratic process of a popular election, following the process that most other state's across our nation have adopted. I guess I would like to understand if their is a rationale why we are not going to continue on with the prior action as far as endorsing this proposal and sending it to the people of the State of Maine realizing the people of the State of Maine would still have to adopt this. I would hope you vote in favor of this motion to recede and concur.

THE PRESIDENT: The Chair recognizes the Senator from Penobscot, Senator Pearson.

Senator **PEARSON:** Thank you Mr. President, Ladies and Gentlemen of the Senate. Why would you want to elect a Secretary of State? What does he do that would cause you to want to elect a Secretary of State. I am just trying to run it through my mind and what would the campaign be like. If I were running for the Secretary of State what would I tell the voters I was going to do. I don't understand why Judges of Probate are elected, or Register of Deeds, I've never figured that out either, but I certainly don't understand why we are going to elect the Secretary of State. Is the Secretary of State going say I am going to put your drivers' licenses on platinum plates? What is it that he is going to do? I know they are elected in other States and they must have some kind of a campaign. Is the campaign "if you elect me Secretary of State I will get name recognition and then I can run for Governor". Why would we want to elect through popular vote a Secretary of State?

THE PRESIDENT: The Chair recognizes the Senator from Androscoggin, Senator Berube.

Senator **BERUBE:** Thank you Mr. President, Ladies and Gentlemen of the Senate. Why would only three states elect their Secretary of State the way we do, by the Legislature. For that matter our constitutional officers are not elected by the people at large. I think, I personally cannot speak for the other people here or on my Committee, but this was that I stressed a bipartisan report as all of our constitutional officer Bills have been. My personal feelings are that it would create a greater accountability on the part of constitutional officers to be elected by the people at large. Presently there is no accountability and that is not to impugn their integrity certainly. The perception out there is that all constitutional positions, because of the manner in which they are selected, becomes perceived to be very partisan. The feelings are that it should be apolitical, all of those positions and that's the reason some of us support the election at large. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Penobscot, Senator Pearson.

Senator **PEARSON:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I know that in the President's home town that elections to town council are done on a party basis. In my town they are done on a non-partisan basis. The good Senator from Androscoggin suggests that the Secretary of State should be apolitical. Are we, in this bill, suggesting that they run without any designation as to their political party, are they going to run as

Democrats, Republicans or is it going to be a separate ballot that is going to be non-party if they are apolitical? If they are political, what do they promise in an election campaign. What is it they say? What would a Republican say about a Democrat running for Secretary of State and what would a Democrat say about a Republican running for Secretary of State? I don't understand the need for it.

THE PRESIDENT: The Chair recognizes the Senator from Oxford, Senator Hanley.

Senator **HANLEY:** Thank you Mr. President, Ladies and Gentlemen of the Senate. If I could answer the good Senator from Penobscot's question as far as what would they say, I think that would be a blessing as far as to actually have a political contest which is not getting into mud slinging or back biting where it is basically hey I'm going to be Secretary of State and I am going to be responsible for this multi-million dollar constitutional office in the State of Maine and I'm going to be accountable to the people of State. Take a look at me, take a look at my character, what does the person have to stand for? The person has to stand for being trustworthy, accountable for their actions. One of the prime reasons it is brought to my attention as far as what happened just this past winter with the electoral process. The Secretary of State does currently oversee the recount process in elections. Now, I think that is a prime reason, and there is legislation that is pending before this chamber that would allow that recount process to be brought out of the domain of the Secretary of State. Currently it is there though, and I think that if for only that reason, that's reason enough for the people of the State of Maine to have the opportunity to elect who the Secretary of State will be. As the good Senator from Androscoggin pointed out, currently there are 36 states that allow for the popular election of the Secretary of State and because it is a constitutional office, because it does have a direct impact on the people of the State of Maine and a direct impact as far as how our democratic process works and is overseen, I think that's reason enough but for an added bonus you would have a wonderful campaign where two individuals, two candidates for the Secretary of State who have nothing but good to say about each other, because all you'd do is have the character of one and the character of the other and let the people of the State of Maine decide because there aren't any real non-pleasant issues for them to debate but there is a question of accountability and I think it is a very important one, especially the way our current system is established.

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

Senator **ESTY:** Thank you Mr. President, Ladies and Gentlemen of the Senate. This is another one of those rare occurrences in which I very humbly disagree with the Chair of the State and Local Government Committee and respect her position regarding this issue. I would like to point out that the reason I took that position in not electing this position was quite simple. I thought we should be consistent in our actions regarding who should be elected and who shouldn't. Earlier this session we debated whether the PUC Commissioners who are appointed by the Governor, whether or not they should be elected. We didn't think they should be elected even though they deal with great, great policy considerations. Later in the session, we dealt with the election of the Banking and Insurance Superintendent, who is appointed by the Governor, and

we felt, together, that that position shouldn't be elected even though it deals with great policy considerations. We felt that those appointments were fine. I suggest to this body that the Secretary of State has far less to do with policy than either of those positions and that the election procedure has worked well, we've been served very well and that it isn't necessary to change it because of those consistencies. I'd also say, or ask I should say, that those who feel that it should be elected, I would like to see your license pictures to see if it's in anger regarding those pictures and not this election because, should I run for Secretary of State, if this went out for public office and I am not intending to, I would run on a campaign of making all license pictures better. We will use better cameras and you will look good. I thank you all for listening to this brief debate.

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

Senator **VOSE:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I read this bill with interest and I realized how it enhances the chances of my constituents from Washington County to be a Secretary of State. They are accustomed to running a very high priced campaign and I expect an outcry from my constituents telling me to vote for this bill but not having any I have decided not to support it. The only chance we've got in Washington County is to be appointed.

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

Senator **SUMMERS:** Thank you Mr. President, Ladies and Gentlemen of the Senate. In response to the Senator from Penobscot, Senator Pearson, as to what type of platform he could run on. I think perhaps low license plate numbers might be a good plan for him, but seriously though I think the Secretary of State certainly has some domain over the business climate in this State. The corporate process, I can tell you that just last year I dissolved a corporation I had and I am still getting notices from the Secretary of State's office asking me for my filing fee, and I would certainly suspect that a Secretary of State might be able to run on streamlining the Corporate process, perhaps putting Maine in line with Delaware, which is the fastest state in the country to incorporate in and maybe bringing in extra revenue into the state for something like this. I think it is a very serious issue and competition has never hurt anyone or anything and I hope that you will support this measure.

THE PRESIDENT: The Chair recognizes the Senator from Oxford, Senator Hanley.

Senator **HANLEY:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I was just looking through my Constitution because I am usually swayed by the arguments of the good Senator from Cumberland, Senator Esty. As far as the PUC, we've got to be consistent. I was thinking maybe I have overlooked something in the constitution as far as the PUC Commissioners were a constitutional officer. They are not. The Secretary of State is. I think that is a very important point for us to keep in mind that we should be consistent as far as those that hold the constitutional offices should be held to that higher standard and a standard where you would be elected by the popular method.

THE PRESIDENT: The Chair recognizes the Senator from Hancock, Senator Foster.

Senator **FOSTER:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I would just like the record to reflect that there are eleven women here and we are not speaking on the record but we are here so would the record reflect that. We are listening.

Off Record Remarks

THE PRESIDENT: The pending question before the Senate is the motion of Senator **CAHILL** of Sagadahoc to **RECEDE** and **CONCUR**.

A vote of Yes will be in favor of **RECEDING** and **CONCURRING**.

A vote of No will be opposed.

Is the Senate ready for the question?

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEAS: Senators **AMERO, BEGLEY, BERUBE, BUTLAND, CAHILL, CARPENTER, FOSTER, GOULD, HALL, HANLEY, HARRIMAN, KIEFFER, LUDWIG, MARDEN, PINGREE, SUMMERS, WEBSTER**

NAYS: Senators **BRANNIGAN, BUSTIN, CAREY, CIANCHETTE, CLEVELAND, CONLEY, ESTY, HANDY, LAWRENCE, LUTHER, MCCORMICK, O'DEA, PARADIS, PEARSON, TITCOMB, VOSE, THE PRESIDENT - DENNIS L. DUTREMBLE**

ABSENT: Senator **BALDACCI**

17 Senators having voted in the affirmative and 17 Senators having voted in the negative, with 1 Senator being absent, the motion of Senator **CAHILL** of Sagadahoc, to **RECEDE** and **CONCUR**, **FAILED**.

The Chair moved that the Senate **ADHERE**.

Senator **CAHILL** of Sagadahoc requested a Division.

On motion by Senator **ESTY** of Cumberland, supported by a Division of one-fifth of the members present and voting, a Roll Call was ordered.

THE PRESIDENT: The pending question before the Senate is to **ADHERE**.

A vote of Yes will be in favor of **ADHERING**.

A vote of No will be opposed.

Is the Senate ready for the question?

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEAS: Senators **BALDACCI, BRANNIGAN, BUSTIN, CAREY, CIANCHETTE, CLEVELAND, CONLEY, ESTY, HANDY, LAWRENCE, LUTHER, MCCORMICK, O'DEA, PARADIS, PEARSON, TITCOMB, VOSE, THE PRESIDENT - DENNIS L. DUTREMBLE**

NAYS: Senators **AMERO, BEGLEY, BERUBE, BUTLAND, CAHILL, CARPENTER, FOSTER, GOULD, HALL, HANLEY, HARRIMAN, KIEFFER, LUDWIG, MARDEN, PINGREE, SUMMERS, WEBSTER**

ABSENT: Senators None

Senator **HARRIMAN** of Cumberland requested and received Leave of the Senate to change his vote from **YEA** to **NAY**.

18 Senators having voted in the affirmative and 17 Senators having voted in the negative, with No Senators being absent, the motion of the Chair to **ADHERE, PREVAILED**.

Under suspension of the Rules,, ordered sent down forthwith for concurrence.

Under suspension of the Rules, all matters thus acted upon, with the exception of those matters being held, sent down forthwith for concurrence.

The Chair laid before the Senate the Tabled and Later Today Assigned matter:

Bill "An Act to Provide Access to Landlocked Property" H.P. 1051 L.D. 1403 (C "A" H-529)

Tabled - June 9, 1993, by Senator **ESTY** of Cumberland.

Pending - **FURTHER CONSIDERATION**

(In Senate, June 3, 1993, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A"** (H-529), in concurrence.

(In House, June 9, 1993, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A"** (H-529) **AS AMENDED BY HOUSE AMENDMENT "A"** (H-646) thereto, in **NON-CONCURRENCE**.)

The Senate **RECEDED** and **CONCURRED**.
