

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

One Hundred And Seventeenth Legislature

OF THE

State Of Maine

VOLUME I

FIRST REGULAR SESSION

House of Representatives

December 7, 1994 to May 23, 1995

To do it where it is most appropriate and to expand in ways that are most thoughtful and are part of a conversation that is broadly across the University and the community. I think that is what we have to do and should do and should expect to do. We will also have to continue to change.

Three years ago we had what we call Project 2002. That has been the guide post for how we will change. We are going to have to get smaller. In five years we have twenty percent less administrators than we had five years ago. We are smaller in all of our staff. That is part of what has to happen as we change.

Aside from the cantankerousness and the turmoil we ought to remember what a great University we have. What a great number of campuses we have. Anyone of you can probably barely walk down your streets of your home district and not run into people who have been at or benefited from or who's children have had something to do with the University.

I just met a friend of mine the other day in St. George who works on boats. I have known him a long time. His wife who is a teacher depends on the Thomaston Center and what interactive television can do there and what that center can do. His daughter was just accepted to the University of Maine in Orono and it is that excitement of looking forward to that. We all know how it touches all of us.

In New England today, New England is a region which is dependent on its intellectual resources and higher education for economic development. We are seeing the twilight of public higher education. We are seeing the loss of the philosophy that public higher education is a public good and we invest in it because it is a public good.

That is going on all over New England our state aide is lower today than it was five years ago. We get only eight percent of the budget when we did ten percent of the budget five years ago and that is happening all over New England. Here is the point, no state in New England depends more on public higher education, Technical College, University and Maine Maritime than this state. The reason is we are the poorest state and our families have the least average income.

Secondly, because we do not have a complex of private colleges that dominate so many of the other states in New England. We are not Connecticut. We are not Massachusetts. In terms of our future of economic development and opportunities for middle and lower income people in this state. The twilight of public higher education threatens the future of this state far, far more than any other place in New England. That is where we ought to have our eyes in the next few days and months and years in terms of what is going to happen to the future of this state.

I would like to close by simply saying that I know there are many questions and I want to be responsive. You have questions about the Chancellor's Office. That is not surprising. I would like to try to answer those questions and many others and I always can be reached.

I thank you for the time. I thank you for the attention and I thank you for all the good will you have given the University System and me personally for many many years. Thank you.

By unanimous consent, all matters having been acted upon were ordered sent forthwith.

Bill "An Act to Repeal the Laws Regarding Consumer Information Pamphlets" (H.P. 307) (L.D. 411) (C. "A" H-88)

TABLED - April 12, 1995 (Till Later Today) by Representative DAGGETT of Augusta.

PENDING - Passage to be Engrossed.

On motion of Representative JACQUES of Waterville, tabled pending passage to be engrossed and specially assigned for Tuesday, April 25, 1995.

SENATE DIVIDED REPORT - Majority (7) "Ought to Pass" as amended by Committee Amendment "A" (S-47) - Minority (6) "Ought Not to Pass" - Committee on State and Local Government on RESOLUTION, Proposing an Amendment to the Constitution of Maine to Require the Popular Election of the Secretary of State (S.P. 49) (L.D. 79)

- In Senate, Minority "Ought Not to Pass" Report read and accepted.

TABLED - April 12, 1995 (Till Later Today) by Representative DAGGETT of Augusta.

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

The SPEAKER: The Chair recognizes the Representative from Caribou, Representative ROBICHAUD.

Representative ROBICHAUD: Thank you Mr. Speaker, Colleagues in the House: I would urge you to oppose the pending motion so we can go on to accept the Majority "Ought to Pass" Report on this measure.

We have seen an increase in the demand from the public in terms of accountability. One of the best ways to achieve accountability is to empower the people, to empower the voters. One way to do that is to allow them to make the decision regarding this constitutional office, the Office of the Secretary of State.

This is an office that touches many, many elements of those people's daily lives, whether it be from the Motor Vehicle Division to the Bureau of Corporations to the Elections division. These all are elements that the general public, the citizens of Maine have a vested interest. I believe it is also in their interest for us to allow them to have a direct say in who they would like to see as the Secretary of State.

Again I won't take up our time, but this is empowerment measure, an empowering measure and as we trust our constituents to send us here we should also be able to trust them to elect a Secretary of State. Please oppose the pending motion.

The SPEAKER: The Chair recognizes the Representative from Augusta, Representative Daggett.

Representative DAGGETT: Thank you Mr. Speaker, Men and Women of the House: If ever there was a case of, if its not broken, don't fix it, this is one of them.

Maine has a unique method of electing its constitutional officers. There are other states who have them. They do them in different ways. We are one of the only states, in fact, that has our constitutional officers elected by the Legislature.

We are also a state that has been blessed with very good and responsible constitutional officers. I think that when there are appropriate reasons for changing a process when you can see that there are problems that need to be fixed then the process needs to be looked at. There was absolutely no evidence given by anyone that, in fact, any of our

constitutional officers were a problem or if there was actually a problem with the process and that, in fact, it didn't work.

A few years ago we took away even the part of allowing constitutional officers to have PACs and to be raising money and passing out money in order to be elected to those positions. I think that was a good move to make and removed these positions from having money be a factor.

If we were to try to move those now to statewide elections, these people would have to be raising more than a million dollars a piece from private interests and from all kinds of sources. I would suggest to you that there is a certain accountability that comes with having to raise a lot of money. A statewide campaign costs more than a million dollars. The other problem with a statewide campaign is that it makes it inaccessible for those people who cannot raise a million dollars.

When the constituency for the constitutional officers is one hundred eighty some people those one hundred and eighty people have an opportunity to really get to know who it is who is running and actually hold them personally accountable without any money involved at all. I would suggest to you in this climate where the partisan numbers are very, very close that the quality of the candidates will rise because it will be a very close election. I think we have today the opportunity to make these positions very, very accountable in the very best of ways with a minimum of money involved so that simply does not become the case.

I urge you to support the Minority "Ought Not to Pass" Report.

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

Representative ROBICHAUD: Thank you Mr. Speaker, Colleagues in the House: I call to your attention a few points mentioned by the good representative from Augusta.

One is that she is absolutely correct, Maine is one of the only states that currently allows the legislature to elect the constitutional officers. I know Maine is made up of independent people and far be it for me to discourage Maine's independent spirit.

This leads me to the next point. The question was raised if its not broken, there is no need to fix it. I would argue friends that we come here everyday to fix problems and come up with solutions. We also spend a good amount of our time everyday trying to improve upon the process. This is an improvement upon the process. I think that is as critical a time to address this issue as if there was a concrete problem.

I think it is also important to note that if we are focusing on the quality of candidates and we do trust in so many other ways the general public as voters to go out and make the best decision on behalf of this state. Are we to assume that the public can make a good decision in some offices that run statewide and yet we can't give them enough credit to make good decisions in others.

Again, I refer to the issue of accountability and ask you to please oppose the pending motion so we can go on to accept the Majority "Ought to Pass" Report.

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

Representative JACQUES: Thank you Mr. Speaker, Men and Women of the House: After debating an hour

on tabling motions today, now we are going to debate this issue of accountability. Lets talk about accountability in electing constitutional officers. Do you honestly believe that if we force people running for constitutional officers to go out and raise millions of dollars that it is going to take to win these offices that it is going to increase the accountability?

I can just see it now. Candidate for Secretary of State . . . See this low digit plate, you to can have one of these, just vote for me for Secretary of State and I will make sure you get one. Your child has a problem passing his drivers' license, we can fix that, vote for me for Secretary of State and I will make sure your child gets his drivers license first time around.

Maine is one of the few states that still elects their constitutional officers by the Legislature. Just think about that. Some of the other states have popular elections for their constitutional officers and just the fact that they are out raising money from all special interest groups doesn't that just make you feel warm all over and so secure about accountability.

I think you should take a long hard look at some of the controversies that have occurred in some of those states. Attorney Generals indited. Secretary of States accused of crimes of favoritism. All because they were elected by populous based on accountability.

Can you just imagine a corporation giving a big fat donation to the Secretary of State? The same outfit that holds that same outfit that holds that same corporation accountable for filing their papers and making sure that they operate in a fair and equitable manner. Clearly there is a double edge sword here.

The State of Maine has a long history since we have started this process of having all the constitutional officers above board. There have been no problems. There has been no controversy. There have been no criminal activities or inditements. We want to change that under the guise that we are going to get more accountability from this whole thing because they are going to go out and raise money from every PAC or every group.

Hey it has worked so well for Congress we ought to model that. We ought to elect our constitutional officers that way. It has worked wonderfully for Congress, wonderfully. We have had a lot more accountability in Congress because they owe everybody and their brother their heart and soul. Give me a break!

The SPEAKER: The Chair recognizes the Representative from Enfield, Representative Lane.

Representative LANE: Thank you Mr. Speaker, Men and Women of the House: There are a good many good arguments raised in support of the Minority "Ought Not to Pass" Report, but I would rise in opposition to that.

I wish I could be as assured as some people are that the way we currently choose our constitutional officers is not full of political dealings. I am not that sure and I think there is a good deal of feeling in the general population that government is getting further and further away from them and I would remind you that voting against the Minority "Ought Not to Pass" Report and accepting the Majority "Ought to Pass" Report would put this out to a referendum. Therefore the people themselves would have the

opportunity to vote on whether or not they feel they should have the right to elect the Secretary of State in a popular election.

I urge you to vote against the Minority "Ought Not to Pass" Report. Thank you.

The SPEAKER: The Chair recognizes the Representative from Presque Isle, Representative Donnelly.

Representative DONNELLY: Thank you Mr. Speaker, Men and Women of the House: I must say that I am offended at the comments of the good Majority Leader. To say that the people of the State of Maine cannot assert the difference between somebody who is bought and paid for and someone who is running as a candidate to do what is right for the State of Maine oversimplifies and I think offends me as a voter and my constituents as voters. I can't stand for that.

In understanding the point that the Representative was making and maybe his emphasis was done in such a manner that tickled something in me that I am offended at. The fact remains that at one time the State of Maine had a tradition that many other states didn't as well. This legislature used to appoint our United States Senators. Those Senators have gone on since being elected to have great people come from the State of Maine. The people of Maine were able to discern and pick someone of high moral character and high quality.

The likes of Senator Muskie, Senator Cohen, Senator Mitchell and Senator Margaret Chase Smith have all run as popularly elected persons. That position was at one time appointed. Radicals at one time were not picked. Radicals like Joshua Chamberlain. Radicals like Governor Baxter were denied the United States Senate because they were to radical for these bodies to pick. I believe in the people of the State of Maine. I believe they make good choices. They elected us didn't they.

The SPEAKER: The Chair recognizes the Representative from Waldo, Representative Whitcomb.

Representative WHITCOMB: Thank you Mr. Speaker, Men and Women of the House: I think the Representative from Presque Isle said it well. I can appreciate the fact that the good Representative from Waterville has an interest in protecting the status quo.

I mean it is difficult to acknowledge that the people of Maine do make good choices when they make selections in the election process. However, the suggestion that only if there were a popular election of constitutional officers then fund raising would begin is a bit misleading. Some constitutional officers do engage in the business of raising funds at the present time. Some choose not to. Some choose not to when the heat is on.

The difference between then and now is that they serve one party and one doesn't know if all the feared improprieties of a Secretary of State elected by the popular election are occurring now only they only seem to go in one direction. Certainly half of us don't know whether that is the case or not. We have to ask ourself very seriously are we concerned about, as you might say in my business, protecting a cash cow here by not changing the process or are we really concerned about what the popular election might really do.

I think it is, as said by the Representative from Presque Isle a bit ludicrous to suggest, on the floor of the House, that we don't trust the people. We have expended our horizons enough to allow the people

to select the U.S. Senator and the only reason that we continue the constitutional officer selection by the Legislature is simply a carry over from a previous century and the power of the party in control tends to want to keep that power which is understandable, but not necessarily for reasons of fearing the public process or popular election.

The Majority Report has merits that the people of Maine, I think can handle fairly well. Thank you.

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

Representative JACQUES: Thank you Mr. Speaker, Men and Women of the House: We will clarify one thing. This Representative has never questioned the ability of Maine voters to vote. All this Representative did, and I have never been accused of not being able to be understood, but I am sure maybe I will be understood this time is question whether or not a new process would be better than the old process.

I would also like to point out in this last election of constitutional officers the vote was not straight party lines. The vote was not straight party lines. Clearly some members of this house chose to vote for who they perceived to be the better candidate for the job.

I don't want anyone to get away with this a referendum of whether or not I have any faith in the Maine voters. My concern is, and the question I leave you is, do you need another election in the State of Maine where large amounts of money will have a direct impact, because I am sure even the Representative from Presque Isle will admit that in most elections the people that spend the most money win the election. Sometimes to our advantage. Sometimes to our chagrin, but often times to late for anything to be done about it. Thank you.

The Chair recognizes the Representative from Auburn, Representative Gerry.

Representative GERRY: Mr. Speaker, Ladies and Gentlemen of the House: Just a little bit of background information on this bill. What it does is allow popular election of a constitutional officer for a four-year term to start like what we do for a Governor.

It gives the people of Maine a chance to choose of any of the parties to get out of the party game. To pull it out of being an inner party game to more of outside where it is more in the public view of what party candidate we choose. It is true. I have questions about candidates running and having to collect money, but maybe this is a good reason for campaign finance reform to do some sort of public campaign law changes.

I think this is a good idea to be able to let Maine voters choose whom they would like to elect. Not just for this Secretary of State but for Treasurer and Attorney General. Thank you.

Representative WATERHOUSE of Bridgton requested the Clerk to read the Committee Report and further requested a roll call on the motion to accept the Minority "Ought Not to Pass" Report.

Subsequently, the Clerk read the Committee Report in its entirety.

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

Representative ADAMS: Thank you Mr. Speaker. May I pose a question through the Chair.

The SPEAKER: The Representative may pose his question.

Representative ADAMS: Thank you Mr. Speaker. Through the Chair to the Chairperson of the Committee on State and Local Government, would subsequent amendments to this act as now before us, should we pass it and should it be passed by the voters have the effect of enshrining term limits in the Constitution of the State of Maine?

The SPEAKER: The Representative from Portland, Representative Adams has posed a question through the Chair to the Representative from Augusta, Representative Daggett should she care to respond.

The Chair recognizes that Representative.

Representative DAGGETT: Thank you Mr. Speaker, Men and Women of the House: I believe that the "Ought to Pass" Report has been amended to include term limits.

The SPEAKER: The Chair recognizes the Representative from Auburn, Representative Gerry.

Representative GERRY: Thank you Mr. Speaker. One of the conditions why we had set on it that no elected officials or constitutional officers could run no more than two four-year terms. The same as what we have now for our Governor.

THE SPEAKER: A roll call has been requested. For the Chair to order a roll 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 Chair recognizes the Representative from Portland, Representative Adams.

Representative ADAMS: Thank you Mr. Speaker, Men and Women of the House: I thank the two Representatives who have just spoken for the clarification regarding the enshrinement of the issue of term limits in the Maine State Constitution.

The issue alone of whether or not the state has the financial and spiritual energy for another set of state wide elections I think is one issue, entirely separate from whether or not we really wish to take it upon ourselves passing any form of any amendment that puts any form of official term limits into the Maine State Constitution.

This is a issue that is very much alive in the courts and very much in question in the courts, as well it should be. The Supreme Court of the United States will rule before June as to whether or not states may exercise any form of a vote that can effect the constitutionality of electing people to Congress with state imposed restrictions. The constitutionality of the term limits voted by the public into state law, not the Constitution, effecting ourselves is also bound for court.

If we make a positive absolute statement right now that we have determined that all of these issues now before the courts are likewise constitutional without having fully debated that point on the floor of this chamber or fully debating that point in any public hearing on the bill, then we have cut off all those court cases and we will never get the answers that we require.

I was somewhat in doubt about my thoughts about whether or not to vote for the bills before, but with this description now that I have just received I am more determined than ever that it would be a very

poor idea for us to vote term limits of any kind into the Maine State Constitution before the courts have had a time to talk about it and for that reason I would urge you to vote against the bills before us on the floor now and accept the "Ought Not to Pass" Report. Thank you.

The SPEAKER: A roll call has been ordered. The pending question is the motion to accept the Majority "Ought Not to Pass" Report. All those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 41

YEA - Adams, Ahearne, Benedikt, Berry, Bigl, Bouffard, Brennan, Bunker, Chartrand, Chase, Chizmar, Clark, Cloutier, Daggett, Davidson, Desmond, DiPietro, Dore, Etnier, Fisher, Fitzpatrick, Gamache, Gates, Gould, Green, Hartnett, Hatch, Heesch, Hichborn, Jacques, Johnson, Jones, K.; Joseph, Keane, Kerr, Kilkelly, Kontos, Labrecque, Lemaire, Lemke, Look, Luther, Marvin, Mayo, McAlevey, McElroy, Meres, Mitchell EH; Mitchell JE; Morrison, Murphy, Nadeau, O'Neal, Perkins, Poulin, Pouliot, Povich, Richardson, Ricker, Rosebush, Rotondi, Rowe, Samson, Saxl, M.; Shiah, Sirois, Stevens, Thompson, Townsend, Treat, Tripp, Tuttle, Tyler, Vigue, Volenik, Watson, Winn.

NAY - Aikman, Ault, Bailey, Barth, Birney, Cameron, Carleton, Chick, Clukey, Cross, Damren, Dexter, Donnelly, Dunn, Farnum, Gerry, Gieringer, Gooley, Greenlaw, Guerrette, Heino, Jones, S.; Joy, Joyce, Joyner, Kneeland, Lane, Lemont, Libby JD; Libby JL; Lindahl, Lovett, Lumbra, Madore, Marshall, Nass, Nickerson, Ott, Peavey, Pendleton, Pinkham, Plowman, Poirier, Reed, G.; Reed, W.; Rice, Robichaud, Savage, Simoneau, Spear, Stedman, Stone, Taylor, True, Truman, Tufts, Underwood, Waterhouse, Whitcomb, Winglass, Winsor, Yackobitz.

ABSENT - Buck, Campbell, Driscoll, LaFountain, Layton, Martin, O'Gara, Paul, Saxl, J.; Strout, Wheeler, The Speaker.

Yes, 77; No, 62; Absent, 12; Excused, 0.

77 having voted in the affirmative and 62 in the negative, with 12 being absent, the Minority "Ought Not to Pass" Report was accepted and sent up for concurrence.

SENATE DIVIDED REPORT - Majority (11) "Ought Not to Pass" - Minority (2) "Ought to Pass" as amended by Committee Amendment "A" (S-55) - Committee on State and Local Government on Bill "An Act to Eliminate Benefits Offered to Legislators" (S.P. 211) (L.D. 553) - In Senate, Reports read and the Bill and accompanying papers indefinitely postponed.

TABLED - April 12, 1995 (Till Later Today) by Representative DAGGETT of Augusta.

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

Representative ROBICHAUD of Caribou moved to table until later pending the motion of Representative DAGGETT of Augusta to accept the Majority "Ought Not to Pass" Report.

Representative AHEARNE of Madawaska requested a roll call on the motion to table.

The SPEAKER: A roll call has been requested. For the Chair to order a roll 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