

# 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

The Bill was passed to be engrossed as amended by House Amendment "A" (H-105) in non-concurrence and sent up for concurrence.

RESOLUTION, Proposing an Amendment to the Constitution of Maine to Provide for 4-year Terms for Senators (S.P. 155) (L.D. 378)

- In House, Majority "Ought Not to Pass" Report of the Committee on State and Local Government read and accepted on April 5, 1995.

- In Senate, Senate insisted on its former action whereby the Minority "Ought to Pass" as amended Report of the Committee on State and Local Government was read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (S-25) and asked for a Committee of Conference in non-concurrence.

TABLED - April 13, 1995 (Till Later Today) by Representative JACQUES of Waterville.

PENDING - Further Consideration.

On motion of Representative ROBICHAUD of Caribou, the House voted to Insist and join in a Committee of Conference.

RESOLUTION, Proposing an Amendment to the Constitution of Maine to Reduce the Size of the Legislature Following Redistricting in the Year 2003 (S.P. 170) (L.D. 431)

- In House, Majority "Ought Not to Pass" Report of the Committee on State and Local Government read and accepted on April 5, 1995.

- In Senate, Senate insisted on its former action whereby the Minority "Ought to Pass" as amended Report of the Committee on State and Local Government was read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (S-26) and asked for a Committee of Conference in non-concurrence.

TABLED - April 13, 1995 (Till Later Today) by Representative JACQUES of Waterville.

PENDING - Further Consideration.

Subsequently, the House voted to Insist and join in a Committee of Conference.

HOUSE DIVIDED REPORT - Majority (7) "Ought to Pass" as amended by Committee Amendment "A" (H-69) - Minority (6) "Ought Not to Pass" - Committee on State and Local Government on RESOLUTION, Proposing an Amendment to the Constitution of Maine to Provide for the Direct Popular Election of Constitutional Officers (H.P. 113) (L.D. 148)

TABLED - April 13, 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 of 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 bill.

Just to fill you in a little bit, we had, of course, all the bills dealing with the constitutional officers. This particular bill was amended to include only the Office of the Treasurer and I would again draw your attention to debate we had a little earlier on a similar bill where I discussed some of the merits of allowing the members of the public, the

Maine citizens, to have a direct say in electing these constitutional officers. These are very important members of our governmental system.

I would also remind you that we entrust the people of the state of Maine to make a great many decisions. We entrust them to elect us. We entrust them to accept or reject constitutional amendments, of which, this is one.

This measure would send the question to the public as to whether or not they would choose to publicly elect the Treasurer. I would urge you to please go on to oppose this motion so we can accept the Majority Report.

Representative ROBICHAUD of Caribou requested the Clerk to read the Committee Report.

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

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

Representative DAGGETT: Thank you Mr. Speaker, Men and Women of the House: I, too, would like to remind you of the discussion we had regarding the statewide election of constitutional officers which took place a couple of weeks ago.

I would just like to remind you and ask you to think about the implications of a statewide campaign for these constitutional officers. Today a statewide campaign costs over a million dollars. Any of the statewide elections for these constitutional officers would require these people to be fund raising statewide and it would by its very nature eliminate people who do not have access to that ability to fund raise. It would eliminate some very capable candidates.

I would also like to remind you that when the committee considered all of these bills, of which there were numerous ones, asking for changes in the constitutional officer selection method. It is my recollection that there was not one member of the public that came in and spoke on this issue. I would suggest to you that there is no overwhelming or even underwhelming push to change this selection process.

I would grant you that in some instances it is a very unique process which Maine has, but has been a very good process. There have not been problems with fraud or poor performances in office. It is a system that has worked and I would suggest to you will continue to work. In fact, I would suggest to you as the numbers are closer together that the quality of candidates will become even better.

I urge you to focus on changes that seem to have a positive impact and really will do something. I would suggest to you that this is not one. I would urge you to support the "Ought Not to Pass" Report.

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

Representative WHITCOMB: Thank you Mr. Speaker, Men and Women of the House: I am pleased to hear the comments from the Representative of Augusta who said the public doesn't care. However, it would be helpful to ask the public and that is all this resolution does. It proposes that we ask the public whether or not they choose to have a popular election.

Perhaps it does work well and perhaps it still would work well if we picked the U.S. Senators for the United States Senate. We have decided, rightly so, to turn those questions over to the people. I think all this piece of legislation does is put before the people the opportunity for them to decide rather or not they choose to pick the constitutional

officers instead of having them picked by one party of the legislature.

It seems to me that we ought not fear the opinion of the public and I would suggest that the Majority Report asks the appropriate question, Should the public decide? Mr. Speaker I request the yeas and nays when the vote is taken.

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

Representative NADEAU: Thank you Mr. Speaker. I request permission to pose a question through the Chair, please.

The SPEAKER: The Representative may pose his question.

Representative NADEAU: This question would probably be directed to either the Minority Leader or someone who ended up signing the Majority Report of the committee. If, in fact, we are trying to run a lean, but not necessarily a mean government, could somebody please tell me what the cost of a question on the ballot would be and where they intend to find this money.

The SPEAKER: The Representative from Saco, Representative Nadeau has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Caribou, Representative Robichaud.

Representative ROBICHAUD: Thank you Mr. Speaker. In response to the good Representative's question, the cost for this particular measure is no more or no less than any other constitutional amendment or referendum item that we send out to the public. It is \$95,000 dollars for the first six ballot items we come up with and \$7,000 dollars for each subsequent item. That is standard.

However, I would also mention that even though I think that is a good and valid point to talk about how we spend money that way, maybe this issue should be raised every time we have a measure like this in front of us. I am going to take this opportunity to say one other thing and that is just because there is no glaring problem staring us in the face shouldn't deter us from attempting to improve upon the process. Complacency and apathy is just as bad as a glaring problem or it could be seen as a glaring problem.

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

Representative LANE: Thank you Mr. Speaker, Men and Women of the House: I urge you not to vote for the Minority "Ought Not to Pass" Report.

My reason being, change is difficult, we all know that. We really consider that we are in a state right now where people are asking for more input into the democratic system and they are asking for change. I think this is a healthy change and a good change. Rather than having a closed door to these constitutional officers I think it will open the door wide open as more people become interested and involved.

I really submit that the varied publicity and argument going toward a referendum vote would be healthy for the democratic process for the people of the state of Maine who would be able to consider how now our constitutional officers are currently elected. Who is elected and from what pools we draw them from. I think this will open the process wide open to a healthy environment in our constitutional system. I urge you to vote against the Minority "Ought Not to Pass" Report. Thank you.

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

Representative GERRY: Thank you Mr. Speaker, Ladies and Gentlemen of the House: I encourage you to support my colleagues that have spoke in behalf of accepting the Majority Report and not the Minority Report.

I have spoken with Marilyn Canavan and she said at this time half the United States has a popular election of their constitutional officers and the other half have the Governor appoint them. As far as she knows, Maine is the only state that allows their House and Senate to choose their constitutional officers. She also gave me the cost of campaigns and they are not as bad as you might think. Any legislator who would like to see my statistics are more than welcome to see these things.

Also, our constitutional officers don't have to file campaign finance reports unless they become a PAC and collect money. As long as a candidate uses their own money they can spend whatever. I think that our constitutional officers whether we support this bill or not should state exactly how much they do spend individually for their campaigns.

The reason I support this bill is the time has come when we should allow the people to have this chance to vote whether or not they want to elect a constitutional officers or let us elect them. I feel the people will want to elect them themselves. They are tired of us having to play party games. That is what it seems to be amounting to is whichever one can cut deals with the other party in order to support a candidate. I do not feel that is right.

Again, I ask you to please support the Majority Report.

The SPEAKER: The Chair recognizes the Representative from Bangor, Representative Saxl.

Representative SAXL: Thank you Mr. Speaker, Men and Women of the House: We have been very fortunate in Maine to have very distinguished people represent us in the constitutional officers. That has been accomplished through the process we currently have now. I ask you to retain that process and to vote for the "Ought Not to Pass" Report.

There is no reason to bring into the political process the large spending field of a statewide election of constitutional officers. That will only detract from their ability to do their jobs. We all know the kind of effort that goes into fund raising on a statewide level campaign. It is important that they be free from that kind of rough and tumble and be able to professionally execute their responsibilities. Thank you.

Representative WHITCOMB of Waldo requested a roll call on the motion to accept the Minority "Ought Not to Pass" Report.

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 members present and voting having expressed a desire for a roll call, a roll call was ordered.

The pending question is the motion of Representative Daggett of Augusta that the House accept the Minority "Ought Not to Pass" Report. All those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 44

YEA - Adams, Ahearne, Benedikt, Berry, Brennan, Bunker, Chartrand, Chizmar, Clark, Cloutier, Daggett, Davidson, Desmond, DiPietro, Dore, Driscoll, Etnier, Fisher, Gamache, Gates, Gould, Green, Heeschen, Hichborn, Jacques, Johnson, Jones, K.; Joseph, Keane, Kerr, Kontos, LaFountain, Lemke, Luther, Marshall, Martin, Mayo, McAlevey, Meres, Mitchell EH; Mitchell JE; Morrison, Nadeau, O'Gara, O'Neal, Perkins, Poulin, Povich, Richardson, Rosebush, Rotondi, Rowe, Samson, Saxl, J.; Saxl, M.; Shiah, Sirois, Stevens, Strout, Thompson, Townsend, Treat, Tripp, Tuttle, Tyler, Vigue, Volenik, Watson, Wheeler, Winn, The Speaker.

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

ABSENT - Bouffard, Fitzpatrick, Hatch, Kilkelly, Lemaire, Look, Pouliot, Ricker, Stone, Truman.

Yes, 71; No, 70; Absent, 10; Excused, 0.

71 having voted in the affirmative and 70 voted in the negative, with 10 being absent, the Minority "Ought Not to Pass" Report was accepted and sent up for concurrence.

HOUSE DIVIDED REPORT - Majority (9) "Ought to Pass" as amended by Committee Amendment "A" (H-70) - Minority (4) "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 Attorney General (H.P. 153) (L.D. 201)

TABLED - April 13, 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 Westbrook, Representative Lemke.

Representative LEMKE: Thank you Mr. Speaker, Men and Women of the House: I urge you to vote against the Minority "Ought Not to Pass" Report. There is a Majority Report, a bipartisan Majority Report, of nine to four in favor of the popular election of the Attorney General of the State of Maine.

There are a number of reasons why you should vote against the pending motion and therefore a vote for this. Forty-three states of the United States presently popularly elect their Attorney Generals. Quite frankly I believe, and I believe those states believe and have believed for some time that we shouldn't be having a Legislature's Attorney General neither should we have a Governor's Attorney General, but we should have a people's Attorney General. The way you have that is to allow the people to vote directly for the Attorney General.

There is a basic question that I would pose for anyone who supports the pending motion and that is why? Why is it ok on the county level to elect District Attorneys, but it is not ok for the Attorney General on the state level. I submit there is

absolutely no answer to this question which is consistent with a democratic society.

The argument has been raised and it will cost a lot of money. Yes, it probably will cost a lot of money. That is not an argument to vote against popularly electing an Attorney General it is a very strong argument for campaign finance reform. Those are two distinct things, ladies and gentlemen, and I hope you keep them separate.

It has also been mentioned on this floor that everything works fine the way it is. I am an historian and I am not aware of that. Sometimes we have good Attorney Generals and sometimes we have bad Attorney Generals under the present system that we have. That might very well also occur if we popularly elected them, but at least we would let the people have a direct say instead of the decisions being made in private and behind closed doors.

I believe this is something which is consistent with our democratic traditions so I urge you to vote against the pending motion and Mr. Speaker I ask when the vote be taken it be taken by the yeas and nays. Thank you.

Representative LEMKE of Westbrook requested a roll call on the motion to accept the Minority "Ought Not to Pass" Report.

Representative AHEARNE of Madawaska requested the Clerk to read the Committee Report.

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

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 recognized the Representative from Augusta, Representative Daggett.

Representative DAGGETT: Thank you Mr. Speaker, Men and Women of the House: I am reluctant to speak again on a similar issue, but I will. I do want you to think again about the implications of the statewide campaign and even though several, actually one person indicated that it doesn't cost very much money. As an example from last November, the cost for the top two vote getters in the Gubernatorial campaign which was a statewide election was three million dollars.

Perhaps for some of you that isn't a lot of money, for me that is a lot of money and when you think about the state's chief law enforcement officer out there getting money from other attorneys and corporations that may be effected by decisions that that person has to make raising over a million dollars. Do you think that might have some kind of effect on any decisions? Maybe it won't and I hope it won't.

Until we have campaign finance reform, I think we need to be very careful about offices that are sent for statewide elections. I think we need to be very careful and I would suggest you consider that very carefully when you push your button for this vote.

The SPEAKER: The Chair recognizes the Representative from Westbrook, Representative Lemke.

Representative LEMKE: Thank you Mr. Speaker, Men and Women of the House: This is the second or third time that I have heard this argument being made in