

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

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, Heesch, 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, Lumbr, 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

opposition to popular election of a constitutional officer. It is posed in terms of the implications of having a statewide campaign.

I would have you consider the implications if we don't have statewide campaigns. What is the corollary to this type of argument? We shouldn't have elections for any office if it is going to be costly. The result of that will not be democracy. The result of that will be oligarchy if we do not allow the people to vote. That is the basic issue here.

Are we a democracy in the State of Maine or aren't we? I urge you to vote against the pending motion.

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

Representative WHITCOMB: Thank you Mr. Speaker, Men and Women of the House: I wish to concur with the Representative from Westbrook in terms of challenging the argument that the effort to raise money is the principal reason that you should be opposed to the initiative of asking the people to popularly elect constitutional officers. It seems to fly in the face of what we do.

We as candidates find it ok to go out and raise funds and even ask the same people who might be inclined to vote for us to help us achieve a certain level of financial support. It is all right if we allow constitutional officers on behalf of one political party to raise funds in support of who ever they choose. It is not all right for people to raise funds in their own behalf to campaign for an office. I think those arguments simply fall on their own face. I urge your support for the Majority Report of the bill. Thank you.

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

Representative TOWNSEND: Thank you Mr. Speaker, Men and Women of the House: This is an issue I have struggled with for a long time. I am rising today to support the Minority "Ought Not to Pass" Report.

I have to disagree with the Minority Leader. I feel that the issue of money is an extremely important one in the issue of the Attorney General's race. It is extremely troublesome to me. The money needed to run a statewide race, as you know, is a lot. The question becomes where then would a candidate go for that money. Would they then go to their fellow attorneys, people who might have business before them or corporations. I think we need to keep in mind the law court ruling which has said that law enforcement officers ought not to be soliciting contributions. That obviously was in the issue of charities, but it is a related issue.

I find it deeply troubling to think that the top law enforcement officer in the state would be fund raising in order to get elected. I want to reinforce the fact that campaign finance reform has not been enacted yet. I am one of the strongest supporters, but until we have it it is not a relevant argument here.

Finally, I want to say that we often get bogged down in this body on issues which are easy for the public to understand and easy to campaign on. I think it is nice to go home and say that you voted this way or that way on a constitutional amendment.

I would say that if you want to do something really truly beneficial for the Office of the Attorney General, I would argue that you vote to adequately fund it. So that their Consumer

Protection Division can actually get involved in consumer protection issues rather than simply sending them out for mediation and sending a few letters.

We heard testimony from the current Attorney General that they are holding up their computer terminals on stacks of statutes. Statutes which are utterly worthless except as a piece of furniture, because they don't have the money to purchase the amendments. Without amendments those statutes are not only useless, they are worse than useless. They are misleading.

If you want to do something truly beneficial for the Office of the Attorney General work to get it adequately funded. It won't be something you could carry home as a campaign issue, but it will be a real accomplishment. Thank you.

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

Representative LANE: Thank you Mr. Speaker, Men and Women of the House: I would like to remind you that the Majority "Ought to Pass" Report had strong bipartisan support. I think the arguments we have heard today are healthy ones and if we do not allow the people of the State of Maine to hear the arguments they will be denied access again to the system.

I think it is our duty and I remind you that this bill will send a referendum and people will be able to hear these fine arguments and they will be able to decide for themselves whether or not they want a popular election of the Attorney General. 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 don't believe this is a feel good bill as some have tried to paint it. I see it more as a good government bill. The argument has been made that for the Attorney General to go out and raise money would leave that Attorney General vulnerable to particular interests which they are supposed to regulate.

The Attorney General is elected by a very small group of people now whom the Attorney General has some oversight over. I don't believe the people we have elected as Attorney General have faltered to that kind of pressure. Nor do I believe the quality of candidates would run and raise money would. To impune the integrity of someone who hasn't put their name before the public in this court seems premature and maybe even a little silly.

I think if he is elected statewide the person would have a mandate from the people to do what they campaigned for. They would have to lay out what they stand for among the general public. They would be elected on that basis not just on raising money. If we look through the campaign finance reports, not everybody who raised the most money got elected.

People discern and choose to make differentials between folks based on things other than the amount of dollars they are able to raise from big corporations. It makes sense to move the Attorney General more so than any other constitutional office out into the public. To be a true independent voice for what is right and what is wrong and a true independent voice in prosecuting the laws of the state. Thank you.

The SPEAKER: The Chair recognizes the Representative from Vassalboro, Representative Mitchell.

Representative MITCHELL: Thank you Mr. Speaker, Men and Women of the House: I very much respect the opportunity to sit in this corner and I want to disclaim from the beginning this is not a partisan position that I am taking. I am speaking simply as a Representative from Vassalboro and as a longtime member of this body and a longtime observer of how we do our business here. I apologize to any members of my party who's position I am offending. I do think it is so important that I could not sit silently by.

There is a huge difference in the Attorney General and, for instance, the Governor of the State of Maine. The Governor is elected politically and is free to interpret mandates and obviously goes out and raises large sums of money in order to reach that position. Though we certainly have problems with that and we must deal with campaign finance reform that is simply the way it is right now because we have been unable to do so.

The Attorney General is not elected to listen to mandates. The Attorney General is selected to interpret the laws of Maine passed by this body of elected Representatives and coordinated with that of the Governor. I think that is exactly the problem that I am concerned about. Of all the constitutional officers the most serious one to elect publicly is the Attorney General.

Now Representative Lemke says that those of us who are opposed had absolutely no reason and we shouldn't be concerned about money and besides most of the other states elected their Attorney Generals popularly. The Attorney General's of those other states were elected popularly at a time when campaign finance was not the issue that it is today and probably they should be reviewing how they go about doing their business.

Until, as the good chair of the committee said, until you really reform campaign finance laws I cannot for the life of me understand why you would want the person who is charged with fairness and equity in interpreting the laws of Maine to go out and raise money from people this person must regulate and interpret the laws of. What a serious, serious departure from how we view state government. I hope you will vote with the Minority "Ought Not to Pass" Report and lets move on to running this government.

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

Representative ROBICHAUD: Thank you Mr. Speaker. Much talk has been focused on the cost, the anticipated cost, of what these statewide campaigns would run.

According to research provided by the Commission on Governmental Ethics and Election Practices, who is the chief agency responsible for campaign finance information for our state, if we look at some other states around the nation that do have popularly elected Attorney Generals we find that in, for example, California a very large state. What they spend on average for Attorney General popular election races is one-seventh of what the spend for a Gubernatorial Race. In fact, the winning candidate spent about one-tenth of what was actually spent on a Gubernatorial Race.

If we go a little closer to our size, we have Massachusetts. In the 1990 election of their Attorney General the total cost for all candidates in

the Attorney Generals race was one-sixth of that of the Governor's race. In fact, the winning candidate spent about one-twelfth of the average cost.

If we go to Vermont, another fellow New England state. In Vermont the average cost of their popular election for Attorney General is less than one percent of the cost of the statewide election for the position of Governor.

I think though cost and the issues of campaign finance are legitimate for this body to be discussing, I think we must put them in the proper context when looking at an Attorney Generals race or any kind of constitutional officer race. It seems to be a pretty solid precedence going from large states, even Illinois, spends about one-fifth of what is spent in a Gubernatorial race on their Attorney Generals race.

I think we need to put this into perspective financially. Thank you.

The SPEAKER: The Chair recognizes the Representative from Westbrook, Representative Lemke having spoken twice now requests consent to address the House a third time. Is there objection? The Chair hears no objection, the Representative may proceed.

Representative LEMKE: Thank you Mr. Speaker. Men and Women of the House: I had not intended to speak again on this issue but some comments were made by the good Representative from Vassalboro and I respect her position, but I do want to clarify that the statement I made about democracy was in the context of a question which I asked on the floor about a half hour ago and I have not yet heard an answer to that question.

The question which I will restate is why is it ok in the State of Maine to popularly elect District Attorneys in the counties, but it is not ok to elect an Attorney General on the state level. It was in the context of that question that I did not believe that there was an answer consistent with a democratic society to it. I will sit down and I will not rise again, but I would appreciate an answer to that question.

The SPEAKER: The Chair would apologize to the Representative from Westbrook, Representative Lemke. I thought the earlier question was rhetorical, at that time, the Chair understands at this time. The Chair the Representative from Westbrook, Representative Lemke has posed a question through the Chair to anyone who may care to respond.

The Chair recognizes the Representative from Enfield, Representative Lane.

Representative LANE: Thank you Mr. Speaker, Men and Women of the House: I don't like to get up once, let alone twice. I just wanted to refocus everyone's attention to the fact that we are not today deciding whether or not the Attorney General is going to be popularly elected. We are deciding today whether or not we feel the people of the state of Maine have the right to decide that issue for themselves. Again, I urge you to vote against the Minority "Ought Not to Pass" Report. Thank you.

The Chair recognizes the Representative from Kossuth Township, Representative Bunker.

Representative BUNKER: Thank you Mr. Speaker. Men and Women of the House: I have been sitting here patiently for a while and listening to the pros and cons of this bill.

My concern is that we have a very unique system here in Maine and I think this system is built on a

unique set of checks and balances. I am up here talking personally trying to protect my constituents. I feel that this unique system that Maine has is a very valuable set of checks and balances work very well. If I have a constituent call me about one of these constitutional offices purview, I can go directly to him and I am received very seriously because of our position in oversight in electing these officers.

I know my constituent feels he is the one out of the magnitude of the state of Maine. That one constituent feels when he calls state government that they are not responsive to him or her. We know that when we go and ask a question on behalf of our constituents that they sit up and take notice and they listen to our concerns and try to at least way what is going on in this particular case.

My concern is money. I have heard on the campaign trail many times, why are we spending all this money when it could be used better elsewhere. That million dollars for that campaign, why didn't somebody put that to help kids. I heard that daily when I was on the campaign trail. That is very sensitive, but that issue has been talked about.

My other concern is if we abrogate our authority to elect these officers, how are they going to respond to us when we knock on their door with a constituent concern. They only answer to the magnitude of people that don't seem to have the ability to do what we do for them when we go and knock on these constitutional officers doors. I would ask you to support the "Ought Not to Pass" Report.

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

ROLL CALL NO. 45

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

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

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

Yes, 68; No, 75; Absent, 8; Excused, 0.

68 having voted in the affirmative and 75 voted in the negative, with 8 being absent, the Minority "Ought Not to Pass" Report was not accepted.

Subsequently, the Majority "Ought to Pass" Report was accepted. Committee Amendment "A" (H-70) was read by the Clerk and adopted. The Bill was assigned for second reading Thursday, April 27, 1995.

HOUSE DIVIDED REPORT - Majority (9) "Ought to Pass" as amended by Committee Amendment "A" (H-71) - Minority (4) "Ought Not to Pass" - Committee on Taxation on Bill "An Act to Increase the Tax Exemption on Church Properties" (H.P. 284) (L.D. 388) TABLED - April 13, 1995 (Till Later Today) by Representative JACQUES of Waterville. PENDING - Motion of Representative DORE of Auburn to accept the Minority "Ought Not to Pass" Report.

On motion of Representative DORE of Auburn, tabled pending her motion to accept the Minority "Ought Not to Pass" Report and specially assigned for Thursday, April 27, 1995.

HOUSE DIVIDED REPORT - Majority (8) "Ought to Pass" as amended by Committee Amendment "A" (H-66) - Minority (5) "Ought to Pass" as amended by Committee Amendment "B" (H-67) - Committee on Labor on Bill "An Act to Increase the Minimum Wage in Maine" (H.P. 108) (L.D. 143) TABLED - April 13, 1995 (Till Later Today) by Representative JACQUES of Waterville. PENDING - Acceptance of either Report.

On motion of Representative JACQUES of Waterville, tabled pending his motion to accept either Report and specially assigned for Thursday, April 27, 1995.

HOUSE DIVIDED REPORT - Majority (9) "Ought Not to Pass" - Minority (4) "Ought to Pass" as amended by Committee Amendment "A" (H-93) - Committee on State and Local Government on Bill "An Act to Require Legislators to Pay a Portion of Their Health and Dental Insurance Premiums" (H.P. 187) (L.D. 246) TABLED - April 13, 1995 (Till Later Today) by Representative DAGGETT of Augusta. PENDING - Motion of same Representative to accept the Majority "Ought Not to Pass" Report.

The SPEAKER: The Chair recognizes the Representative from Unity, Representative McElroy.

Representative McElroy: Thank you Mr. Speaker, Men and Women of the House: I urge you to join with me and vote no on the "Ought Not to Pass" motion on this L.D.

Like all of you, I didn't run for office for the money and the benefits. When I got elected to this office I was quite surprised by the benefits that were provided for this public service position. Fully paid health, dental, life insurance, retirement benefits, \$32 dollars a day meal money, mileage or lodging for everyday that we are in session and a \$750 dollar per session constituent allowance that we don't have to account for. Quite a benefit package for the position and better than I have ever had as a professional educator or during the time I worked for a major paper company in the state of Maine.

I sponsored L.D. 246 because I thought it was reasonable to ask legislators to make a small