

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

(H.P. 640) (L.D. 863) Bill "An Act to Improve the Well-being of Communities by Providing Adequate Services for Victims of Sexual Assault, Incest, Rape and Child Sexual Abuse and Enhance Community Education and Prevention Programs Statewide" (C. "A" H-190)

No objections having been noted at the end of the Second Legislative Day, the Senate Papers were Passed to be Engrossed or Passed to be Engrossed as Amended in concurrence and the House Papers were Passed to be Engrossed as Amended and sent up for concurrence.

**BILLS IN THE SECOND READING
As Amended**

Bill "An Act to Allow the Issuance of Life Sentences for Violent Crimes" (H.P. 152) (L.D. 200) (C. "A" H-184)

Bill "An Act to Include Short-term Health Insurance Policies in the Continuity Laws" (H.P. 321) (L.D. 442) (H. "A" H-161 to C. "A" H-124)

Bill "An Act to Permit an Employer to Offer a Compressed Time Workweek to Consenting Employees" (S.P. 188) (L.D. 496) (C. "A" S-72 and S. "A" S-96)

Bill "An Act to Reestablish the 300-foot Setback for Siting of Solid Waste Disposal Areas" (H.P. 409) (L.D. 566) (C. "A" H-180)

Bill "An Act to Modify the Presidential Primary Laws" (H.P. 442) (L.D. 608) (C. "A" H-164)

Resolve, Directing the Bureau of Insurance to Develop a Comparable List of Mandatory Insurance Benefits for Health Maintenance Organizations (S.P. 329) (L.D. 910) (C. "A" S-90)

Were reported by the Committee on Bills in the Second Reading, read the second time, the Senate Papers were Passed to be Engrossed as Amended in concurrence and the House Papers were Passed to be Engrossed as Amended and sent up for concurrence.

Bill "An Act to Exclude Certain Parks from the Definition of Mobile Home Parks" (H.P. 372) (L.D. 507) (C. "A" H-142)

Was reported by the Committee by the Committee on Bills in the Second Reading, read the second time.

On motion of Representative NADEAU of Saco was set aside.

The same Representative moved that the Bill and all accompanying papers be indefinitely postponed.

On further motion of the same Representative tabled pending his motion to indefinitely postpone the Bill and all accompanying papers and later today assigned.

Bill "Act Concerning Sick Leave and Vacation Benefits" (H.P. 388) (L.D. 523) (C. "A" H-140)

Was reported by the Committee by the Committee on Bills in the Second Reading, read the second time.

On motion of Representative WHITCOMB of Waldo was set aside.

On further motion of the same Representative, tabled pending passage to be engrossed and later today assigned.

Bill "An Act to Amend the Maine State Retirement System Laws to Authorize the Buy-back of Time Served in the Peace Corps or VISTA Programs" (S.P. 260) (L.D. 696) (C. "A" S-82)

Was reported by the Committee by the Committee on Bills in the Second Reading, read the second time.

On motion of Representative WHITCOMB of Waldo was set aside.

On further motion of the same Representative, tabled pending passage to be engrossed and later today assigned.

ENACTORS

Constitutional Amendment

RESOLUTION, Proposing an Amendment to the Constitution of Maine to Require the Popular Election of the Attorney General (H.P. 153) (L.D. 201) (C. "A" H-70)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed.

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

Representative LEMKE: Thank you Mr. Speaker, Men and Women of the House: Having spent seven hours in the Judiciary Committee yesterday on the Takings Bill, it has essentially taken away my breath on this particular measure. So, for once Mr. Speaker, I will definitely be brief.

I do urge support of the pending motion. This bill has received majorities in both houses of the Legislature. In order for it now to go to the people it requires a two-thirds vote. I would urge your support for that, so that this bill can now go to the people in referendum. It may be discussed fully and finally voted upon. This should not be and I do not believe it is a partisan issue. This received bipartisan support in the committee of jurisdiction. It has bipartisan cosponsorship.

We are in a unique period in our state's history when we can put partisanship in the back seat on an issue like this. For Republican members of the House, personally I believe a vote in favor of sending this to the people in referendum is in full accordance with the principals of Abraham Lincoln and a government of the people, by the people and for the people. For my fellow Democrats, I believe the party, the oldest continuous political party in the world has no problem in supporting this measure. This is something that, I haven't talked to him recently, but I assume Thomas Jefferson who is considered the High Priest of Democracy would support.

I know that Andrew Jackson who is an elected Judge in Tennessee would support this. William Jennings Bryant who 100 years from next year fought a brilliant campaign for the people, would support this and so would Woodrow Wilson, Franklin D. Roosevelt, Harry Truman and Jack Kennedy. For that matter I would assume Bill Clinton, who among other posts was the popularly elected Governor and Attorney General of the state of Arkansas would support this measure.

Ladies and gentlemen of the House, I know you will vote your conscience and I am not telling you how to vote. I respect your decision on this, but I do urge you to vote for this. This measure is hardly radical when 43 states already elect their Attorney General. It is a beautiful day outside, the warm breeze blowing. Let it come into this house today. Let us send this out to the people. Let us tell them that we understand what they said in the last election. Let us say that we believe the people are sovereign in a democracy and so on this particular issue I urge you to vote green. Thank you very much.

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

Representative DAGGETT: Thank you Mr. Speaker, Men and Women of the House: I would just like to remind you of the debate on this issue. There is bipartisan opposition to the passage of this. I want to remind you of the issue of the Attorney General who is Chief Law Enforcement Officer of the state of Maine running a state wide campaign and the concern over the issue of money and raising money for a state wide campaign.

Also, there is the problem of access to this office and preventing people who don't have access to the money from running for the office. We have not had any problems with the current way that Maine elects its Constitutional Officers. In fact, I would submit to you, it is a very good process and we have a wonderful history of very conscientious and capable Constitutional Officers. I hope you will join me in opposing this.

Representative LANE of Enfield requested the Clerk to read the Committee Report.

The Clerk read the Committee Report in its entirety.

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

Representative LANE: Thank you Mr. Speaker, Ladies and Gentlemen of the House: I think you can see from the Report as read, that it had an overwhelming majority on "Ought to Pass". I agree with the good Representative Lemke that this is indeed a time for a breath of fresh air in our constitutional process and our democratic process. I believe that the people of the state of Maine have a right to hear the arguments supporting a popular election of the Attorney General and they have the right to go and vote on it. I think this is a good thing and I ask you to vote to support Enactment. I would like a roll call. Thank you.

Representative LANE of Enfield requested a roll call on passage to be enacted.

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

Representative JACQUES: Thank you Mr. Speaker, Men and Women of the House: With all due respect to my colleague from Westbrook, Representative Lemke, I am not trying to compare myself with the long list of the outstanding members of the political arena that he has used to support this bill. The good Representative from Waterville, Representative Jacques will not be voting for this bill. It is not a matter of political power or prestige, because clearly with term limits this Representative will not be around for the next election of the Attorney General of the state of Maine.

My objection is and always has been and always will be that until we deal with campaign finance reform in this state and in this country, the Chief Law Enforcement Official of this state, the lawyer who represents all the people, the lawyer whos opinion will dramatically effect the lives of everyone in this state. This system is not any better than the one we have now. People say Maine is the only state that lets the Legislature elect their Attorney General. Each and every one of us were elected by those very same people.

It reminds me a lot of when my City Councilors get in a flap saying the Legislature isn't listening to the people in the city and the whole ball of wax.

I remind them that each and every one of them represent the same identical people that I represent. I represent four wards in the City of Waterville, whole or partial. They represent the same people. I ask them it is curious to me how you and I can be so far apart under the guise that we are representing the very same people. It usually leaves them scratching their heads.

My biggest concern with the way that money corrupts elections and make no question about it, big money controls elections. You don't have to be a genius to see that. It happens everywhere. My first election for the House was less than \$500 dollars. You now have elections to the House and the Senate that are in the \$30,000 dollar class and in the Senate up as much as \$150,000 dollars. What do you imagine that an election for the Attorney General of this state would cost to run that state wide campaign? I dare say it would be more than the Governor. I dare say that your people and my people would not have very much influence on how much money was spent on that campaign. The money would be spent to influence them, but they would have very little influence on where that money went and where it came from.

My concern back then is the same as it is now. This person has to be above and beyond all the repercussions of running and holding your hand out and getting money from oil companies, paper companies, chemical companies and drug companies. That is the problem I have with this bill. With all due respect to Abraham Lincoln, Thomas Jefferson, George Washington and the whole lot, I, Paul Jacques, a Representative from District 100 in Waterville, Maine, have that problem.

I think it is a very serious problem. I am not saying the system that we have now is totally without flaw, but I will not vote to replace a system that has worked very well, as far as the integrity of that position with a system, that I believe is wide open and wrought with potential abuse. Plain and simple, no politics, no partisan as a Representative from Waterville duly elected by the people who had the opportunity to do so. I will be voting against this bill, because it is a bad bill. It replaces a system that people say is not the best of systems with one that is absolutely, totally worse. Thank you.

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

Representative LEMKE: Thank you Mr. Speaker, Men and Women of the House: I cannot match the good Majority Leader in volume, but I will try to make up for it as best I can. We have heard this argument before about campaign finance reform and how we shouldn't do anything whatsoever until we get campaign finance reform.

I would simply say to the good Representative from Waterville who always says exactly what he thinks. I think on this particular issue he has the cart before the horse. I think you have to first sign up for democracy and then you make democracy work as well as possible. I would assume that if we have more offices open to direct election that will, in fact, generate its own emphasis to the campaign finance reform, which I think most of us agree is necessary. We disagree on the details, but the need of it. I just don't see the corollary to what the good gentlemen from Waterville is saying.

If you follow this string all the way out to the end of it, then why have elections for Governor. Why

have elections for Congress? Why have elections for us? It cost money. It doesn't make sense, ladies and gentlemen, as Al Smith said and he was a good Democrat, "But anyway you slice it, it is still bologna." When you get right down to it here it is either a vote whether we believe in the people directly electing us or not directly electing us. What the good Representative from Waterville is defending on the floor is indirect election rather than direct election.

I know he has put himself up against Jackson, Jefferson, Lincoln and I didn't mention Roosevelt, but he believed in popular recall of judges so we might as well throw him in. I still think you should give due consideration to those folks in the past. They were in a Democratic tradition, Republican or Democratic. I think if you vote for this bill you will be very safe. You will be given the most traditional vote you have ever given on the floor of this House.

I don't think we have anything to fear, but fear itself from democracy, but if we do fear democracy, ladies and gentlemen, we are in sad shape. Once again, I urge you to vote for the pending motion, which is Enactment. Send it to the people and let the people be heard on this.

The SPEAKER: The Chair recognizes the Representative from Mexico, Representative Luther.

Representative LUTHER: Thank you Mr. Speaker, Ladies and Gentlemen of the House: I will be voting against this motion. I think there could be a better way to get our officers. I would like to see the Supreme Court appoint them. They are all beyond any political repercussions. That is not the choice we have today. The choice we have today is really not any better than what we are already doing and could be much worse. I don't see any reason to make this change. Thank you Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Jonesboro, Representative Look.

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

The SPEAKER: The Representative may pose her question.

Representative LOOK: Thank you very much. To anyone who can answer this question. In looking at this bill and the amendment that is attached to it, my question is in the statutes, are there any qualifications for this position listed?

The SPEAKER: The Representative from Jonesboro, Representative Look has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Augusta, Representative Daggett.

Representative DAGGETT: Thank you Mr. Speaker, Men and Women of the House: It is my understanding that there are no qualifications for this position.

The SPEAKER: The Chair recognizes the Representative from Jonesboro, Representative Look.

Representative LOOK: Thank you Mr. Speaker, Men and Women of the House: The reason I asked this question is because this particular position certainly requires a degree of advanced education that many of us do not have. I am concerned that putting this out to a general election might produce a person in a position that, perhaps, might not have the need for they type of qualifications that the position, at this time requires and therefore, I urge you to give serious consideration to how you vote on this particular issue. Thank you.

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

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

Representative DONNELLY: Thank you Mr. Speaker, Ladies and Gentlemen of the House: The good Representative from Jonesboro made a good point. There are currently no requirements for qualifications in this position. That does not change if you allow the people of the state of Maine to make a choice. My guess is they will make a good choice. A choice based on the facts that are presented to them or that 186 people in the state make a choice. If we go through the history of the Attorney General, we have made some good choices. If this doesn't pass, we will probably go forward and make some other good choices.

To hop back to Representative Jacques point earlier about if someone is campaigning they would be tainted by trying to raise funds. I have a question. How many of the Attorney Generals that have been elected have then gone on to run for Governor and applied that taint to themselves?

The SPEAKER: The Chair recognizes the Representative from South Berwick, Representative Farnum.

Representative FARNUM: Thank you Mr. Speaker. A question, If I may? When is it a bad bill? When it is a voice of the people? Thank you.

The SPEAKER: The pending question before the House is Enactment. This being an amendment to the Constitution requires for its final Enactment a two-thirds vote of those members present and voting. All those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 71

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

NAY - Adams, Bailey, Berry, Bouffard, Bunker, Chartrand, Chase, Chizmar, Clark, Cloutier, Daggett, Davidson, Desmond, DiPietro, Dore, Driscoll, Etnier, Fisher, Gamache, Gates, Gould, Green, Hatch, Heeschen, Hichborn, Jacques, Johnson, Jones, K.; Joseph, Keane, Kerr, Kilkelly, Kontos, Labrecque, LaFountain, Lemaire, Look, Luther, Martin, Mayo, McAlevey, McElroy, Meres, Mitchell EH; Mitchell JE; Morrison, Murphy, Nadeau, O'Gara, O'Neal, Paul, Poulin, Pouliot, Ricker, Rosebush, Rotondi, Rowe, Samson, Saxl, J.; Saxl, M.; Shiah, Sirois, Stevens, Stone, Strout, Thompson, Townsend, Treat, Tripp, Tyler, Vigue, Volenik, Watson, Wheeler, The Speaker.

ABSENT - Ault, Brennan, Dexter, Fitzpatrick, Heino, Ott, Truman, Tuttle.

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 Bill failed of passage to be enacted and sent up for concurrence.

Emergency Measure

An Act to Create Additional Employment Opportunities in the Financial Services Industry by Allowing Financial Organizations to Charge Additional Finance Charges (S.P. 18) (L.D. 49) (C. "A" S-70)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed.

Representative LUTHER of Mexico requested a roll call on passage to be enacted.

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

ROLL CALL NO. 72

YEA - Aikman, Bailey, Bigl, Birney, Bouffard, Buck, Bunker, Cameron, Campbell, Carleton, Chartrand, Chase, Chick, Chizmar, Clark, Cloutier, Clukey, Cross, Daggett, Damren, Davidson, DiPietro, Donnelly, Dore, Driscoll, Dunn, Farnum, Fisher, Gamache, Gates, Gieringer, Gooley, Gould, Greenlaw, Guerrette, Hartnett, Jacques, Jones, S.; Joy, Joyce, Joyner, Keane, Kerr, Kneeland, Kontos, Labrecque, LaFountain, Lane, Layton, Lemont, Libby JL; Lindahl, Look, Lovett, Lumbra, Madore, Marshall, Marvin, Mayo, McAlevey, McElroy, Mitchell EH; Morrison, Murphy, Nadeau, Nass, Nickerson, O'Gara, Paul, Peavey, Pendleton, Perkins, Pinkham, Plowman, Poirier, Poulin, Pouliot, Povich, Reed, G.; Reed, W.; Rice, Ricker, Robichaud, Rotondi, Rowe, Savage, Saxl, M.; Simoneau, Sirois, Spear, Stedman, Stone, Strout, Taylor, Thompson, Tripp, True, Tufts, Tyler, Vigue, Waterhouse, Watson, Wheeler, Whitcomb, Winglass, Winn, Winsor, Yackobitz, The Speaker.

NAY - Adams, Ahearne, Benedikt, Berry, Brennan, Desmond, Etnier, Gerry, Green, Hatch, Heeschen, Hichborn, Johnson, Jones, K.; Joseph, Lemaire, Libby JD; Luther, Martin, Meres, Mitchell JE; O'Neal, Samson, Saxl, J.; Shiah, Stevens, Townsend, Treat, Volenik.

ABSENT - Ault, Barth, Dexter, Fitzpatrick, Heino, Kilkelly, Lemke, Ott, Richardson, Rosebush, Truman, Tuttle, Underwood.

Yes, 109; No, 29; Absent, 13; Excused, 0.

109 having voted in the affirmative and 29 voted in the negative, with 13 being absent, this being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

Emergency Measure

An Act to Change the Commissions Payable to the State from Off-track Betting (S.P. 240) (L.D. 637) (C. "A" S-95)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed.

On motion of Representative JACQUES of Waterville, tabled pending passage to be enacted and later today assigned.

Emergency Measure

An Act to Make Revisions to the Uniform Interstate Family Support Act (S.P. 286) (L.D. 774)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 121 voted in favor of the same and 0 against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

Emergency Measure

An Act to Conform the Maine Tax Laws for 1994 with the United States Internal Revenue Code (H.P. 626) (L.D. 851) (C. "A" H-147)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 113 voted in favor of the same and 0 against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

Emergency Measure

An Act to Repeal the Sunset Provision Regarding Drug Recognition Technicians and Amend the Definition of Drugs in the Operating-under-the-influence Statutes (S.P. 332) (L.D. 913) (C. "A" S-84)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed.

On motion of Representative JACQUES of Waterville, tabled pending passage to be enacted and later today assigned.

Mandate

An Act to Increase Compensation of Trustees of the Gray Water District (S.P. 220) (L.D. 562) (C. "A" S-75)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. In accordance with the provisions of Section 21 of Article IX of the Constitution, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 128 voted in favor of the same and 0 against, and accordingly the Mandate was passed to be enacted, signed by the Speaker and sent to the Senate.

An Act to Protect Forest Management as a Viable Land Use (S.P. 25) (L.D. 56) (C. "A" S-81)

An Act to Allow Plumbers and Pump Installers to Install Wiring on Replacement Water Heaters and Water Pumps in Residential Property (S.P. 30) (L.D. 60) (S. "A" S-87 to C. "A" S-65)

An Act to Direct the Department of Human Services to Contract with the Next Step for Domestic Violence Family Crisis Services (H.P. 65) (L.D. 101) (H. "A" H-105)

An Act to Increase the Bonding Limits of the Maine Turnpike Authority (S.P. 102) (L.D. 242) (C. "A" S-94)

An Act to Permit Greenhouses To Have Temporary Road Signs (H.P. 193) (L.D. 252) (C. "A" H-153)