

MAINE STATE LEGISLATURE

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House Legislative Record
of the
One Hundred and Eighteenth Legislature
of the
State of Maine

Volume I

First Regular Session

December 4, 1996 - March 27, 1997

First Special Session

March 27, 1997 - May 15, 1997

TOWNSEND of Portland, Senators: LaFOUNTAIN of York, LONGLEY of Waldo, MITCHELL of Penobscot)

Inland Fisheries and Wildlife

Bill "An Act to Register New Property for the Thorncrag Bird Sanctuary with the Department of Inland Fisheries and Wildlife" (H.P. 1224) (L.D. 1736) (Presented by Representative LEMAIRE of Lewiston) (Cosponsored by Senator CATHCART of Penobscot and Representatives: DRISCOLL of Calais, FARNSWORTH of Portland, HATCH of Skowhegan, JONES of Bar Harbor, KONTOS of Windham, SAMSON of Jay, SAXL of Bangor, Senator: MICHAUD of Penobscot) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 205.)

Labor

Bill "An Act to Remove the Disqualification for Unemployment Insurance Benefits for Claimants Who Are Locked Out by an Employer" (H.P. 1222) (L.D. 1734) (Presented by Representative HATCH of Skowhegan) (Cosponsored by Senator CATHCART of Penobscot and Representatives: BULL of Freeport, CLARK of Millinocket, O'NEAL of Limestone, O'NEIL of Saco, RINES of Wiscasset, SAMSON of Jay, STANLEY of Medway, USHER of Westbrook) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 205.)

State and Local Government

Bill "An Act to Allow Municipalities the Option to Require Residency for Those Who Submit Major Budget Requests to the Municipality" (H.P. 1221) (L.D. 1733) (Presented by Representative WINGLASS of Auburn) (Cosponsored by Representatives: BOLDUC of Auburn, GERRY of Auburn, GOOLEY of Farmington, PERKINS of Penobscot, SAVAGE of Union, WHEELER of Eliot)

By unanimous consent, all reference matters requiring Senate concurrence having been acted upon were ordered sent forthwith.

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

REPORTS OF COMMITTEES

Divided Report

Majority Report of the Committee on **State and Local Government** reporting "**Ought Not to Pass**" on Bill "An Act to Require That All Legislative Documents Contain a Citizen and Business Impact Statement" (H.P. 196) (L.D. 249)

Signed:

Senators: LIBBY of York
GOLDTHWAIT of Hancock
NUTTING of Androscoggin

Representatives: FISK of Falmouth
AHEARNE of Madawaska
GERRY of Auburn
BUMPS of China
SANBORN of Alton
LEMKE of Westbrook
GIERINGER of Portland

Minority Report of the same Committee reporting "**Ought to Pass**" as amended by Committee Amendment "A" (H-139) on same Bill.

Signed:

Representative: BAGLEY of Machias

Was read.

On motion of Representative AHEARNE of Madawaska, the Majority "**Ought Not to Pass**" Report was accepted and sent up for concurrence.

Divided Report

Majority Report of the Committee on **State and Local Government** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (H-137) on RESOLUTION, Proposing an Amendment to the Constitution of Maine to Provide for the Direct Popular Election of Constitutional Officers (H.P. 290) (L.D. 354)

Signed:

Senator: LIBBY of York

Representatives: AHEARNE of Madawaska

BUMPS of China

FISK of Falmouth

BAGLEY of Machias

GERRY of Auburn

GIERINGER of Portland

KASPRZAK of Newport

SANBORN of Alton

DUTREMBLE of Biddeford

Minority Report of the same Committee reporting "**Ought Not to Pass**" on same RESOLUTION.

Signed:

Senators: NUTTING of Androscoggin

GOLDTHWAIT of Hancock

Was read

Representative AHEARNE of Madawaska moved that the House accept the Majority "**Ought to Pass**" as amended Report.

The SPEAKER: The Chair recognizes the Representative from Madawaska, Representative Ahearne.

Representative AHEARNE: Madam Speaker, Ladies and Gentlemen of the House. This bill has been amended and it is the direct election of the Attorney General of the State of Maine to be popularly elected. This is what I consider to be a direct-democracy initiative, providing the people of the State of Maine an opportunity to elect another statewide official. In fact the AG's Office would become the people's Attorney General, completely independent of this body, the other body and the Executive, as it should be. It would surely be the people's Attorney General.

The issue about campaigns and raising money; that is campaign finance reform and that should indicate every reason why we need campaign finance reform. To all of a sudden raise this issue, at this point in time, there is a problem with it, with electing a Governor, electing State Senators, our US Congressmen and our US Senators. To bring this up at this point, ignoring the fact that we have been electing people, a President of the United States, Governor of the State of Maine, two US Congresspeople, two US Senators, members of this body and members of the other body. I think this bill is absolutely a good bill. This should not be a partisan issue. This will empower the people of the State of Maine with more involvement and everything to bring more people into this opportunity or this institution, one of the greatest forms of government on the face of the Earth, I think, is a very good thing.

I hope you join me in voting to accept the Majority "Ought to Pass" Report.

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

Representative LEMKE: Madam Speaker, Men and Women of the House. I agree with the good Representative who just spoke. I urge you to vote for the overwhelming Majority "Ought to Pass" Report. County prosecutors are elected. County Sheriffs are elected. Why, in any sense, should not the chief enforcement officer of the State of Maine not be elected? I would ask any opponent of the bill to explain to me the answer to those questions. Thank you.

The SPEAKER: The Chair recognizes the Representative from Naples, Representative Thompson.

Representative THOMPSON: Madam Speaker, Men and Women of the House. I am rising in opposition to the pending motion. In all due respect to the Representative from Westbrook, Representative Lemke, it is always easy to frame the question and ask someone else to answer that. I ask you the question. Whenever we consider legislation, the first thing we are always supposedly doing in a committee is asking why. Why are we voting for a change in Maine law? When we are talking about amending the Constitution of Maine, we should not only ask that, we should sit and give it serious consideration. Why propose a change to the Constitution of the State of Maine until you have defined a problem. I haven't heard anyone define the problem. All I have heard is people wanting to change the government of Maine for whatever likeness they foresee. I have not heard anyone define the problem with the election of the Attorney General and the performances of the Attorney General. If there is not a problem, why are we fixing it? You should ask yourself that.

The SPEAKER: The Chair recognizes the Representative from Lewiston, Representative Gamache.

Representative GAMACHE: Madam Speaker, Ladies and Gentlemen of the House. This obviously should not be a partisan issue, but it is one of tradition. This chamber has done a very fine job of selecting people to lead us in that area. I see no reason to send this out or broad politicization. I don't see any advantage to that. It is a tradition of which we should be proud. A prerogative which we should cherish. I hope you will join me in voting against the measure. Thank you.

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

Representative LEMKE: Madam Speaker, Men and Women of the House. A question or counterquestion was queried by the good Representative Thompson. He said that you have not heard any particular reason and there has to be a reason for such a law to be proposed. I will attempt to answer that question. We are a democratic form of government. The ultimate basis of a democratic form of government is allowing the people to vote. Through the vote for public policy and action to be determined. We are not an oligarchy where the people's vote is limited or circumscribed. We are the only state in the country that does not allow for an alternative form of election of the Attorney General. I believe, if we want to be a democracy, we should allow the people to vote on whether or not they want this and if they do, to let the people be heard directly. I think democracy is about the best argument that anybody can make for anything in a chamber like this. Unless the Representative wishes to continue on that line I will not further indulge that.

In terms of the statements made by the very good Representative from Lewiston about this being a tradition, there have been a lot of traditions in our history that are very good and are maintained. There are others that are not and are changed over time. This, I believe, falls in the second category. Again, I

urge you to support the overwhelming report of the committee of jurisdiction, support the good Representative Ahearn from Madawaska and vote for popular election. Vote for democracy. Vote for having the people be heard, not a limited number of politicians up here.

Representative TUTTLE of Sanford moved the Bill and all accompanying papers be indefinitely postponed.

The same Representative requested a roll call on the motion to indefinitely postpone the Bill and all accompanying papers.

More than one-fifth of the members present expressed a desire for a roll call which was ordered.

The SPEAKER: The Chair recognizes the Representative from China, Representative Bumps.

Representative BUMPS: Madam Speaker, Men and Women of the House. I just wanted to reiterate a few points that have been made which I think are absolutely important to the members of this body as we consider the legislation before us. The first is that this should not be a partisan issue. I think, that based on reports that is coming out of the State and Local Government Committee, observation should be made clear. Beyond that I want to assure you that I absolutely concur with the points made by Representative Ahearn and Representative Lemke. I also would reinforce the point that Representative Lemke made. I am not sure how many people caught it, but the important thing to remember here is that Maine is the only state in the country that elects their Attorney General in this manner. There are only five other states in the country that don't popularly elect their Attorney General and in those states the Governor appoints the Attorney General. Finally, in the State of Tennessee the AG is appointed by the Supreme Court. I think that the precedence is clear. This is not a partisan issue. This is direct democracy. The people of this state ought to have the right and the ability to elect this position. I urge your support of this bill. Thank you.

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

Representative TOWNSEND: Madam Speaker, Men and Women of the House. I will be supporting the pending motion. I want to explain why. I have been following this issue since I was first elected. I think the first time I voted the other way. Since then, I have read about some experiences in other states which troubled me greatly. Recently, in Connecticut the Attorney General stepped down from his position at the end of his term and went to work for the gaming industry. I found that really disturbing. In Louisiana, the Attorney General resigned from his position following a scandal in which it turned out that he had received enormous sums of campaign contributions from the gambling industry. In California today, there is a scandal currently taking place regarding the popularly elected Attorney General. This is in response to Representative Ahearn's comments. California does have campaign finance reform and under their legislation the candidate for Attorney General was barred from raising sums of money for his own campaign. Nevertheless, he raised enormous sums of money for his political party, which in turn channeled soft money back into his campaign. Campaign finance reform was not sufficient to prevent a scandal related to that office. I am comfortable with the current form of elections, whether we are the only state or not. I will be supporting the pending motion.

The SPEAKER: The Chair recognizes the Representative from Old Town, Representative Dunlap.

Representative DUNLAP: Madam Speaker, Men and Women of the House. I also rise in support of the pending motion and in deference to the comments of the previous speakers, while we do have a democracy in this state and in this country, it is not in the truest sense of the word popular. It is

representative democracy, which in its truest sense is redundant. We are elected by the people to do the people's business. It has been the constitutional mandate of this body since its inception to include that in the election of its constitutional officers. I don't see, in my studies, any case where there has been an Attorney General in this state that has misused his or her office or performed anything against the people. The people have been well served by these offices and I don't think we should stand in opposition to the system as it currently runs. I would urge you to vote in favor of the pending motion.

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

Representative GERRY: Madam Speaker, Men and Women of the House. I stand up in opposition of the Indefinite Postponement of this bill. If one of the reasons that you vote against this bill is because you are afraid of the amount of money from political groups and PACs that might influence the Attorney General, we could always throw the Attorney General's race into the Clean Campaign Fund where he would be a clean candidate. He would collect the signatures like we would and have to get the same deposit of money. That would limit the amount of money from outside interests. The other reason I support this bill is that it would increase the number of candidates from other parties, other than those of the two-party system. Other good, qualified candidates can run. Being a legislator of either party or whatever party you represent, that are the only parties that you pull the candidates from. There are other candidates out there in the State of Maine who are good and equally qualified that are not given the chance to compete. Basically, when we are elected and come up here we vote party lines. We don't vote for outside parties. I ask you to vote down this pending motion. Thank you.

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

Representative KANE: Madam Speaker, Men and Women of the House. I think that any time we consider modifying the Constitution of our state, we should look long and hard. That is the bedrock of so much of what we do as legislators. With this particular issue the principle that one can apply is simple. If it isn't broke, don't fix it. Several speakers have attested to the quality of candidates and offices in Attorney Generals, from both parties, over these many years. We have a track record to be proud of and something that we can continue to support. Thank you.

The SPEAKER: The Chair recognizes the Representative from Madawaska, Representative Ahearne.

Representative AHEARNE: Madam Speaker, Men and Women of the House. I must disagree with my good colleagues who are supporting this pending motion. I believe the State and Local Government Committee looked at this issue. We had long deliberations on this issue. We know what it means to change or propose resolutions or any change to the Constitution. I believe the committee report stands by itself. It is not a partisan issue. I believe that this is right. I believe the people of Maine can make the decision and that they should have the opportunity to elect their Attorney General and have the opportunity to see to it that it is done. I ask you to reject the pending motion. Madam Speaker, I request the yeas and nays.

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

Representative LEMKE: Madam Speaker, Men and Women of the House. I urge you to vote against the pending motion. We have heard some interesting logic on the floor. As I

understand it, we should not allow the popular election of the Attorney General of the state because it might cost a lot of money. I just don't know what the corollary is or how far we develop this. Does that mean that we should not elect the Governor popularly because that costs money? There was a time in the state in the 19th Century where the Legislature elected Governors and I can assure you that did not contribute necessarily to the health and well-being of the state. If you carry this corollary out, it seems to be the argument because elections are becoming expensive, you therefore should not have popular elections. If you follow that through and limit, who are you going to have left. I mean the argument that is being made on the floor is really an argument for real campaign finance reform, not for deforming the democratic system. The committee thought long and hard, looked at all the other states, looked at history and the committee made what I believe was a very good decision. Once again, I encourage you to follow that by definitely voting against the pending motion to Indefinitely Postpone.

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

Representative GAGNON: Madam Speaker, May I pose a question through the Chair?

The SPEAKER: The Representative may pose his question.

Representative GAGNON: Thank you Madam Speaker. I am concerned about what may happen in the event that we have to remove the Attorney General and how this changes that. My question: what would be the removal of the Attorney General under the current situation and how would that change with the passage of this?

The SPEAKER: The Representative from Waterville, Representative Gagnon has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Madawaska, Representative Ahearne.

Representative AHEARNE: Madam Speaker, Men and Women of the House. I am not absolutely positive what the procedure is to remove the Attorney General as it currently stands. I believe it would take an order, a joint order, and reconvening both chambers to a special session where we can make a motion to remove the Attorney General. I am not absolutely positive. If he were to be popularly elected, I believe we would follow rules the Constitution of being impeached by this body. An order would be introduced. If it passes, he would therefore go before the other body and he would therefore be tried, I believe.

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

Representative GAGNON: Madam Speaker, Ladies and Gentlemen of the House. I guess we really haven't gotten an answer. We don't know what the details are and because of that I will be voting for the pending motion. Thank you.

The SPEAKER: A roll call has been ordered. The pending question before the House is the motion to Indefinitely Postpone. All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 69

YEA - Baker CL, Baker JL, Berry RL, Bouffard, Brooks, Bull, Bunker, Chartrand, Chick, Chizmar, Clark, Colwell, Cowger, Desmond, Driscoll, Dunlap, Etnier, Farnsworth, Fisher, Fuller, Gagne, Gagnon, Gamache, Green, Hatch, Jabar, Jones KW, Jones SL, Kane, Kerr, Kontos, LaVerdiere, Lemaire, Mailhot, Mayo, McAlevey, McKee, Meres, Mitchell JE, Morgan, Muse, O'Neal, O'Neil, Paul, Perry, Pieh, Poulin, Povich, Powers, Quint, Richard, Rines, Rowe, Samson, Sanborn, Saxl JW, Saxl MV, Shannon, Shiah, Sirois, Skoglund, Stanley, Stevens, Tessier, Thompson, Townsend, Tripp, Tuttle, Watson, Wheeler GJ, Wright, Madam Speaker.

NAY - Ahearne, Bagley, Barth, Belanger DJ, Belanger IG, Berry DP, Bigl, Bodwell, Bragdon, Brennan, Bruno, Buck, Bumps, Cameron, Campbell, Carleton, Cianchette, Clukey, Cross, Dexter, Donnelly, Dutremble, Fisk, Foster, Frechette, Gerry, Gieringer, Goodwin, Gooley, Honey, Jones SA, Joy, Joyce, Joyner, Kasprzak, Kneeland, Labrecque, Lane, Layton, Lemke, Lemont, Lindahl, Lovett, MacDougall, Mack, Madore, Marvin, Murphy, Nass, Nickerson, O'Brien, Ott, Peavey, Pendleton, Perkins, Pinkham RG, Pinkham WD, Plowman, Savage, Snowe-Mello, Spear, Stedman, Taylor, Tobin, Treadwell, Underwood, Usher, Vedral, Vigue, Volenik, Waterhouse, Wheeler EM, Winglass, Winn, Winsor.

ABSENT - Bolduc, Davidson, McElroy, True.

Yes, 72; No, 75; Absent, 4; Excused, 0.

72 having voted in the affirmative and 75 voted in the negative, with 4 being absent, the motion to indefinitely postpone the Bill and all accompanying papers was not accepted.

Subsequently, the Majority "**Ought to Pass**" as amended Report was accepted.

The Bill was read once. Committee Amendment "A" (H-137) was read by the Clerk and adopted. The Bill was assigned for second reading Thursday, April 3, 1997.

Divided Report

Majority Report of the Committee on **Business and Economic Development** reporting "**Ought to Pass**" as amended by Committee Amendment "A" (H-130) on Bill "An Act to Increase the Certification Fee Cap for the Board of Geologists and Soil Scientists" (H.P. 363) (L.D. 508)

Signed:

Senators: JENKINS of Androscoggin
RAND of Cumberland

Representatives: VIGUE of Winslow
FARNSWORTH of Portland
SIROIS of Caribou
SHANNON of Lewiston
WRIGHT of Berwick

Minority Report of the same Committee reporting "**Ought Not to Pass**" on same Bill.

Signed:

Senator: MacKINNON of York
Representatives: BODWELL of Brunswick
MURPHY of Kennebunk
CAMERON of Rumford
MacDOUGALL of North Berwick
MACK of Standish

Was read.

Representative VIGUE of Winslow moved that the House accept the Majority "**Ought to Pass**" as amended Report.

The SPEAKER: The Chair recognizes the Representative from Standish, Representative Mack.

Representative MACK: Madam Speaker, Great Honorable Men and Women of the House. I urge my colleagues to join me in voting against the Majority "Ought to Pass" Report. What this would do is, on the surface, it just raises the fees for licensed Geologists from \$65 to \$80 a year. The purpose for that fee increase is so they can change the way the geology test is administered. Currently, if you want to become a licensed geologist, the test would cost you \$20. The change they are proposing in here would move the test up to \$350. What this would do besides raising the fee for every geologist who is already licensed from \$65 to \$80. It would raise the fee for someone who wants to take the test from \$20 to \$350. That is a 1750 percent increase in the fee to take the geology test. This

bill is nothing more than a huge fee increase. Currently, if you are a licensed geologist hopefully the geology test would mean you have a minimum competency in being a geologist. Every geological report that is submitted, the Maine DEP geologists review and go over anyway. They don't care that you are licensed when you submit the report. They review and check on all the reports that are sent in. I spoke to someone who wants to sit for the geology exam. He is training for that. First of all, he is against having to pay \$350 for a test, but he said this is just an entry barrier put in from the existing geologists to try to keep new competition from new geologists out against him.

When the Geology Board was initially passed all the practicing geologists were grandfathered in. Many of the geologists never even had to take a test. In short, this bill besides raising the fee from \$65 to \$80 for every licensed geologist, would change the fee to take the geology test from \$20 to \$350. That is a 1750 percent increase. That is probably, percentage wise, the largest fee increase we will look at all year. I urge my colleagues to vote against the Majority "Ought to Pass."

The SPEAKER: The Chair recognizes the Representative from Winslow, Representative Vigue.

Representative VIGUE: Madam Speaker, Men and Women of the House. I didn't expect to be in this kind of a situation on this particular bill. This was requested by the Board of Geologists and they are asking to increase their fee from \$65 to \$80 per year for the examination. The reason being is they are going from a state examination and they want to take a national examination. The national examination is going to add some cost and this is the reason for the \$15 increase. What we are doing is not giving them an increase, we are giving them a cap and they can work within that cap. All licensing that we supervise through my committee, we handle licensing tasks. We give them a cap which only restricts, that restricts the amount that they can increase. This will allow the geologists to increase their fee up to \$15. That is to pay for that new examination that will, in the long run, save money for the state as we will not have to continue making up different examinations to test these people. They are going to have a national exam which will give them examination in that form. Thank you.

The SPEAKER: The Chair recognizes the Representative from Kennebunk, Representative Murphy.

Representative MURPHY: Madam Speaker, Men and Women of the House. What you have before you is a real rarity. It is a real Divided Report from Business and Economic Development. I think it is a measure of the good gentleman from Winslow to continually take this to a consensus position in that committee. I am on the "Ought Not to Pass." Primarily we were told during testimony, I think we have heard that a lot of times before, that in the short term if you spend more money in the long term you will save money. We heard that testimony that, rather than a state-generated test, we are going to go to a national test. We were told in testimony that that would result in savings, both for the staff and materials. We felt in the Minority Report that there should be a reduction in either the fees or a reduction in the staff. The minority on the committee had said show us the savings and the savings aren't there, so we voted "Ought Not to Pass."

The SPEAKER: The Chair recognizes the Representative from Berwick, Representative Wright.

Representative WRIGHT: Madam Speaker, Men and Women of the House. I also am on the Majority "Ought to Pass." This was put in as a board request. Right now it is put together and administered by volunteers. The board feels that they can no longer volunteer their time or their efforts on this. They are looking to nationalize this. The national exam will add some