

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

On motion of Representative TESSIER of Fairfield the House reconsidered its action whereby the Legislative Sentiment was passed.

The SPEAKER: The Chair recognizes the Representative from Fairfield, Representative Tessier.

Representative TESSIER: Madam Speaker, Men and Women of the House. It gives me double pleasure to extend recognition and congratulations to Miss Kate Roberts on her selection by the Maine Chapter of the National Association of Social Workers as Social Worker of the Year. I say double pleasure because not only do I know Miss Roberts as a colleague in the social work profession, but I also am well aware of her excellent people helping skills since I am her clinical supervisor. Miss Roberts holds a masters in social work from the University of Maine, School of Social Work. Her selection as Maine Social Worker of the Year is in recognition of the many hours of volunteer time she has devoted to the social work profession in Maine. Miss Roberts has served as secretary for the Maine Chapter and currently serves as its President-elect. In addition, she has chaired both the legislative committee and the continuing education committee of the Maine Chapter for the past three years. I would ask that the House join me in congratulating Miss Roberts with this special recognition given to her by her social work peers.

Subsequently, was read and passed and sent up for concurrence.

RESOLUTION, Proposing an Amendment to the Constitution of Maine to Require the Election of the Secretary of State in Statewide Elections (S.P. 122) (L.D. 401) (C. "A" S-73)
 -In House, Failed of Passage to be Engrossed.
 HELD at the Request of Representative DONNELLY of Presque Isle.

Representative DONNELLY of Presque Isle moved that the House reconsider its action whereby the Resolution failed of passage to be engrossed.

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

Representative DONNELLY: Thank you Madam Speaker, Ladies and Gentlemen of the House. This bill amends the Constitution to require the election of the Secretary of State. It would set up the only other, other than the member of the Executive, the only other position that is a statewide elected position.

The Secretary of State, as we all know, has a very broad net that they cast over of responsibilities. It is a position that has public policy issuance and especially those who sit in the Transportation Committee or on Legal and Veterans Affairs or other committees that they deal with, you see what an impact that office has on the every day life of Maine citizens.

It seems only fitting that when choosing that position, that we would select that position as an elected position. Broaden the base of support and allow that position to have more of a policy role publicly than it does currently. Currently, I was recently contacted to sponsor a bill that was drafted after noticing a problem that the Secretary of State's office picked up. So they're currently playing a policy role and I think this bill would be good government, it's a recommendation of members of the Committee on State and Local Government and I think it went under the hammer a little quick yesterday and we ought to talk about it a little bit and hopefully pass this bill where it failed passage yesterday. I encourage you to vote for it to be engrossed. Thank you.

The SPEAKER: The Chair recognizes the Representative from Sanford, Representative Tuttle.

Representative TUTTLE: Madam Speaker, Ladies and Gentleman of the House. I would move for the Indefinite Postponement of this bill and all its accompanying papers and ask for a roll call.

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

The same Representative requested a roll call on his motion to indefinitely postpone the Resolution 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: Thank you Madam Speaker, Men and Women of the House. L.D. 401 is an opportunity for all of us to support an initiative which grants direct democracy empowerment to the citizens in our districts. The Office of the Secretary of State is a position which requires a great deal of contact and interaction with the residents of this State. Furthermore, the office demands, given the Secretary's responsibilities for elections and the like, a great deal of independence and objectivity. Making the office an elected position will make the Secretary directly accountable to the people that he or she serves. The Committee overwhelmingly supported this measure and added an amendment to ensure that this position respects the term limits approved by Maine voters.

Currently, and this is the important part, currently only three states, Maine, New Hampshire and Tennessee provide for the election of the Secretary of State by their respective legislatures. On the contrary, 37 of the 50 states allow for the direct popular election of the Secretary of State. This bill is an excellent proposal and I urge your support and would urge you to vote against the pending motion to Indefinitely Postpone. Thank you.

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

Representative GAMACHE: Thank you Madam Speaker, Men and Women of the House. It seems to me that the last thing we need here in Maine is another half million dollar campaign every couple of years. We deplore the amount of money in elections right now, and speaking of adding another major statewide political campaign - direct democracy indeed, who is going to be paying for the elections? The direct responsibility is ours to prevent another expansion of this sort of thing.

I said in an earlier debate that our present method of appointing the Secretary is a matter of proud tradition and something that we should cherish and preserve. It would be a terrible, terrible mistake to create another office that calls for these massive political campaigns. I would call to your attention the fact that among those States who elect their Attorney Generals and Secretaries of State, they also elect judges and it has been found that there is considerable corruption among the judges who are being elected. Beware of this as you vote in support of the present motion. Thank you.

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

Representative AHEARNE: Thank you Madam Speaker, Madam Speaker, Ladies and Gentlemen of the House. I hope you would reject the pending motion and the good Representative from China brought it right to heart. This is direct democracy, this is an opportunity to involve more people in our elections, more people in the process. That is not a bad thing. Currently, we have three offices that hold statewide elections, the

Executive and two US Senators. This will provide the people of Maine with another opportunity to choose a statewide election and provide more opportunity involving them into the process. We all know we have always led the nation in voter turnout. This could even propel further voter turnout. In regards to the money situation, that resonates even why we need campaign finance reform, some serious campaign finance reform and not some feel good measures that really amount to nothing.

So I hope you would join me in voting against the pending motion. Thank you.

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

Representative LEMKE: Thank you Madam Speaker, Men and Women of the House. I always favor a bill that increases democracy. I always find it strange that we feel threatened by that. I would particularly be in favor of this as a Democrat. I noted the words by the good Representative from Lewiston. There was a famous elective judge in Missouri, his name was Harry Truman, I think he went on to do quite well. As far as the issue about how much all of this is going to cost, here we go again. We're putting the cart before the horse, that's an argument for campaign finance reform, that's not an argument for limiting democracy. So I mean that's kind of a red herring at best and maybe a pink one, it certainly is not something to be considered seriously on this issue.

The bottom line is whether you believe in democracy or not. If you don't believe in democracy or you feel it's threatening, then certainly you should vote against electing your Secretary of State. If you feel you can deal with that then you should support it.

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

Representative DUNLAP: Thank you Madam Speaker, Men and Women of the House. I must defer with a number of my colleagues on this issue. I don't think that the system in Maine is necessarily one that can be described as being flawed. I think a good rationale for the high rate of voter turnout could be that the system works so well and is so representative.

To the argument about campaign finance reform being an issue, I don't think that's germane to this particular topic. I'm not exactly sure, in fact, I'm a bit befuddled as to what the intent is of this particular piece of legislation. Is it because the Secretary of State is a particularly corrupt position? I think this is an issue we have visited several times before on other issues of electing Constitutional Officers or heads of departments and what not and the excuse is given to open it up to the people and give them a voice in it. Well, I believe they do already and that voice is in electing this body and we appoint those positions, we elect them and we do those people's business for them.

I hope that you support this pending motion as put forth by the good Representative from Sanford. I think it's clearly deleterious to the democratic process to ask people to select a Secretary of State on an election ballot, which would be a competitive election, and here you are electing someone who supposed to be supervising elections and can you really expect objectivity in that instance and I urge you to support this pending motion. Thank you.

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

Representative DONNELLY: Thank you Madam Speaker, Men and Women of the House. I'm glad to hear the Representative from Old Town endorsing a republican form of government, but we do have a history in the State of Maine of making changes on statewide elected offices from appointed ones. Let me give you an example, a debate much like we might have heard that we heard today, might have been heard back

earlier in the last century when a fellow by the name of Joshua Chamberlain was being recommended to be a United States Senator. Members of this body thought he was a bit radical to be in the United States Senate, he never made it there. But the people of the State of Maine did recognize the superior qualities in leadership that that gentleman had and they elected him Governor.

I think when we look back, 20 or 30 years from now, those of us that hope to be around then, hopefully all of us will be, not necessarily in this Chamber, and how history will look back at this. This will be a positive change on the State of Maine, it will one that opens up the process, it will one that allows the people of the State of Maine to have more of a voice than they currently have. I don't think anyone is accusing a current or recently passed Secretary of State of any wrongdoing, you don't make changes like this just because of that, although they tend to only happen then. That shouldn't be the only agent for change. I think the State and Local Government Committee did not endorse all of these positions. They came out with a position on this bill that said it makes sense. The good chairman spoke earlier and a number of other members of the Committee, bipartisanly, have spoken on this bill. It seems to me that we're at a crux in history much like we were earlier in the last century where we had an opportunity to either share the power of this body with the people or greedily hold on to it ourselves.

I believe in the people of the State of Maine. I believe they know how to pick Representatives, they obviously have done a good job, they've selected all of us. Madam Speaker, I would ask that the Clerk read the Committee Report.

Representative DONNELLY of Presque Isle requested that the Clerk read the Committee Report.

The Committee Report was read by the Clerk in its entirety.

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

Representative WRIGHT: Madam Speaker, Men and Women of the House. If we had had a history of corruption in this office, I could understand why we'd be looking at this, but I fall back on the old adage, if it ain't broke, don't fix it.

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

Representative THOMPSON: Thank you Madam Speaker, Men and Women of the House. Clearly, what we have here is a situation where people are asking you to vote to indefinitely postpone, which I support. The underlying issue is whether you should vote to amend the Constitution and I want to ask you a question of each of you as you went door to door in your campaign. How many of your constituents said to you, I really think you should amend the Constitution to popularly elect the Secretary of State? I can honestly tell you that not one person in my district has ever asked me to vote for that. I would ask you to support this indefinite postponement and if there is a need to popularly elect the Secretary of State, there will be a groundswell of public opinion and you will hear about it, but I don't think anyone has. Thank you.

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

Representative LEMKE: Thank you Madam Speaker, Men and Women of the House. The good Representative from Old Town used the phrase, I believe it would be deleterious to the democratic process to institute democratic elections, I'm not quite sure how that works out. I would be interested in a response at the appropriate time. How do other states manage? How do all the others states, in the United States, manage that do have democratic elections of their officers. You'd have to make the argument that all of those are some of corrupt uniquely, you'd have to make the argument that all of those

involve elections of overwhelming democracy. I don't think I've really heard that argument and, if anybody wishes to make that argument, I would be interested in it. I really think it's a good thing to stand up to democracy and I do this as a democrat.

I must envision if Thomas Jefferson was sitting here or Andrew Jackson was sitting over there or William Jennings Brian back there or Wilson or FDR or Truman or, somehow, I have a pretty good idea how they would vote on that and I don't think that they would be particularly timid to stand up for democracy.

We really have nothing to fear but fear itself on this and I've heard this argument over and over, if it ain't broke don't fix it. Well ladies and gentlemen, there is a little problem and the problem is in the State Constitution in Article VII, Section 5, there's a little problem because as it is now, the Legislature elects the Constitutional Officers, well how does the provision on impeachment then come in, since in affect we are the ones in the House who are going to be impeaching. They in the other body are the ones that are going to be convicting, you're having the same persons, who is affect, have elected the officer, then sitting in judgment, and I have done some brief research on this issue, since in the past issues of corruption did come up against various constitutional officers. What happened in those cases was under pressure such as the Secretary of the Treasury at the time of the Civil War, they resigned. I think you want me to do more research, one of the problems was the unique nature we have of electing which makes it difficult to remove these individuals. So there's where the system is broke and there is where the system should be corrected. I urge you to support the direct election of the Secretary of State and vote against the pending motion.

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

Representative TOWNSEND: Thank you Madam Speaker, Men and Women of the House. I can address one question asked by the previous Representative, which is how do other states cope. I want to tell you that about three years ago I received a letter from a man named Miles Rappaport who was running for the position of Secretary of State in Connecticut. He asked me for money to aid him in his campaign. Miles Rappaport is a good, decent and honest man whose politics I support, but I can't for the life of me understand why he would need to raise money in Maine for a race in Connecticut. I think that this proposal opens up the very real possibility of similar situations arising in Maine.

Furthermore, I want to point out that the Secretary of State oversees the trucking industry and that would be a very real possibility that we would have candidates for Secretary of State raising money from the very same people who they would be regulating. For that reason I will be supporting the pending motion. Thank you.

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

Representative GAMACHE: Thank you Madam Speaker, Men and Women of the House. Unfortunately, Jefferson and Hamilton are absent today, but Al Gamache is here and you will go far to find more of a champion of the integrity and reputation of this body or of our profession as members of the political circus. I'll just tell you one more time to use good sense and vote in favor of this motion.

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

Representative DUNLAP: Thank you Madam Speaker, Men and Women of the House. I'd like to clarify my statement which seemed to be obfuscated in the mind of my good colleague Representative Lemke from Westbrook. The Representative from Presque Isle, Representative Donnelly was absolutely

correct in interpreting my previous words as being in favor of a republican form of government in the strictest sense of the word, it is. By the leave of the Chair, if I could give you a short quote from James Madison he said, "The first question that offers itself is whether the general form and aspect of the government be strictly republican. It is evident that no other form will be reconcilable with the genius of the people of America. That the fundamental principles of the revolution or with that honorable determination which animates every voter of freedom to rest all our political experiments on the capacity of mankind for self government." In other words, they were warning the founding fathers who were warning against the whimsy of the direct election and I have spoken previously on this very topic about the sort of obsequious self-flattery that people give themselves. They'll make the same consistent decision every time and the founding fathers did not trust these great matters to be rested in uninformed annual elections and they be put forth before the representatives of the people. They would be put aside to take the time to study these matters and this is one of those matters.

I don't think it would do anything to alleviate the confusion of the people to throw another statewide election at them and I think that's, like I said before, that's one of the reasons why the turnout is so high is because the process is so simple.

I hope that would alleviate any confusion I may have sowed earlier. Thank you.

The SPEAKER: The Chair recognizes the Representative from Hampden, Representative Plowman.

Representative PLOWMAN: Thank you Madam Speaker, Men and Women of the House. I understand that we all want to go to lunch so I'm going to be brief and use short words.

Article I, Section 2, "All power is inherent in the people; all free governments are founded in their authority and instituted for their benefit". I don't have to read this to you, this is the Constitution. Having been elected in a whimsy election just six or seven short months ago and having to face another whimsy election very soon, I understand the nebulous nature of serving here. Oh no, I'm sorry, I promised short. I believe that when we come here and we elect in this body, from this body, we should be electing the people that have something to do with the body. The Speaker, the Senate President down at the other end of the hall.

The Secretary of State has no authority in the Legislature. He has no authority here. Why are we electing someone who has nothing to do with this process? Why does it come from here? Why is it two layers of elections? We get elected so we can elect. Well we should only be electing our own leadership. We should only be electing our own Speaker. We're not voting on the President of the Senate down the hall and they're not voting on our Speaker. We don't belong there, they don't belong here, and we don't belong electing someone who sets policy, electing ourselves, a policy maker, a statewide policy maker to be elected putting his name out there for everyone to look at, understand, see where he's coming from. What is the problem with making people stand up? Nobody says there's anything wrong with the Secretary of State or any of our past Secretary's of State. I think that coming here and thinking that everything we're supposed to do is to fix something is not the right idea. The right idea is to come here and look forward and seeing that if we can be progressive in some ways, which this would be, that that would be appropriate. You don't have to wait for something to go wrong to look at it and say how do you make it more available. No, nobody has asked me who are you going to vote for for Secretary of State, but then, nobody asked me how I was going to vote on dioxin, nobody has said to me when the probate code comes up before your committee and nobody told me that when I go before the Human Resources Committee to make sure

that I don't take away this provision or that provision. People don't get that specific until they're informed. When I learn about these issues, I learn about them from special interest groups or someone that has a personal experience. Do the people of the State of Maine have a personal experience with the Secretary of State? Only when they get their drivers license. Right now, they don't even know who it is. But it's a very important position and I promised I'd be short. Please defeat this motion and let's go on to being a little bit progressive which I think we can all do. Thank you.

The SPEAKER: The Chair recognizes the Representative from Windham, Representative Kontos.

Representative KONTOS: Thank you Madam Speaker, Men and Women of the House. It's an important debate we're having here because it allows us to reaffirm a 177 year tradition in Maine of having the Legislature choose the Secretary of State. That's why it's an important debate. It's also the job of the minority to challenge that tradition, as it was the responsibility of my party years ago when we were in the minority. There's a great historical precedent for the kind of debate we're having here and I welcome it. Also, I welcome the opportunity for you to vote in favor of the pending motion so you can reaffirm the tradition that has served Maine so well.

In fact, I even think that tradition has been underscored by the voters this November when they voted overwhelmingly in favor of clean elections laws to put parameters around what statewide elections would look like in Maine. This past year the Secretary of State in the State of Missouri, a modest state, spent a million dollars on her election and many of you have mentioned the shortcomings of statewide elections for a position such as this one who has control over so many important functions of government.

Third, and finally, you need to remember that the Constitution was carefully crafted with a set of checks and balances that have served our predecessors, our children and our grandchildren very well for 177 years. That tradition should continue, there's no reason to change the Constitution and I'm amazed at some of my more conservative colleagues being so eager to change such a historical document as this. I urge you to vote in support of the pending motion.

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

Representative MURPHY: Madam Speaker, Men and Women of the House. Since we're talking about Madison today and we're talking about the founding fathers, and I think that phrase is being used interchangeably, for those in Philadelphia as well as the drafters of the Maine Constitution. I think we want to remember, in Philadelphia, what brought those founding fathers there and that's a general theme that transfers here to Maine even though we're talking about two different centuries. They were there because of Shay's Rebellion but many of those delegates to Philadelphia called "The Mob" and many historians have referred that fear occupied the 57th seat in Philadelphia that long hot summer and there was a distrust of the people and we heard reference made to checks and balances to the destructive government. But to give you two examples within the US Constitution that lack of trust in the people, one was the establishment of the electoral college and the other was keeping the people from voting directly on their US Senators. Now with those two examples, one has changed dramatically during the progressive era, legislatures lost their right to elect US Senators. The people through the referendum process said, we want that ability to elect our US Senators. The second area hasn't changed, electoral college, not because we don't trust the people, but because the electoral college represents one of the

last symbols of our federal form of government, our partnership between the state and federal level.

I look at the electorate, not from a 19th century or 18th century attitude, as they did "The Mob," but people that can listen, judge and make decisions, referred reference to honored traditions. We've also heard it's a time for change, revolutionary change and this election belongs to the people, not to this narrow body.

The SPEAKER: The Chair recognizes the Representative from Falmouth, Representative Fisk.

Representative FISK: Thank you Madam Speaker, Men and Women of the House. I rise with some trepidation, having done so incorrectly the first of my two attempts to speak, and I apologize to the Speaker, my recent lack of knowledge in the parliamentary procedures, and this member appreciates her graciousness in handling that.

I just have three quick points to make on this. In State and Local Government we had a myriad of bills that came before us on the Constitutional Officers and we voted on these matters in a bipartisan way and this is one of the bills that had the strongest support from the Committee and I think that has to be considered. Secondly, we had sheets also on what other states have done in all the Constitutional Officers in terms of their elections and the vast majority, if I remember correctly, do elect the Secretary of State. Thirdly, I would like to bring up that I don't see anything really wrong with letting the people decide whether or not to change the Constitution. Thank you.

The SPEAKER: The Chair recognizes the Representative from Bremen, Representative Pieh.

Representative PIEH: Thank you, Madam Speaker, Ladies and Gentlemen of the House. I'm listening to this debate, about the federal implications of this, and I think we need to remember this is the Secretary of State of Maine, this is not the same person who's Secretary of State of the United States. The purpose of this person is to require to attend the Governor, the State and the House of Representatives as they shall respectively require to keep and preserve the records of all their official acts and proceedings and to perform other duties as required by law. They're responsible for finances, personnel and programs; they're responsible for archives, the Bureau of Corporations, Elections and Commissions and the Bureau of Motor Vehicles, and I could go on. There's a whole bunch of other things that they're responsible for to us. This is not like the federal Secretary of State. Thank you.

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

ROLL CALL NO. 122

YEA - Bagley, Baker CL, Baker JL, Berry RL, Bolduc, Bouffard, Brennan, Brooks, Bull, Bunker, Chartrand, Chizmar, Clark, Colwell, Cowger, Davidson, Desmond, Driscoll, Dunlap, Farnsworth, Fisher, Frechette, Fuller, Gagne, Gagnon, Gamache, Green, Hatch, Jabar, Jones KW, Jones SL, Kane, Kerr, Kontos, LaVerdiere, Lemaire, Mailhot, McKee, 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, Usher, Vigue, Volenik, Watson, Wheeler GJ, Wright, Madam Speaker.

NAY - Ahearne, Barth, Belanger DJ, Belanger IG, Berry DP, Bodwell, Bragdon, Bruno, Buck, Bumps, Cameron, Campbell, Carleton, Chick, Cianchette, Clukey, Cross, Dexter, Donnelly, Dutremble, Fisk, Foster, Gerry, Goodwin, Gooley, Honey, Jones SA, Joy, Joyce, Joyner, Kasprzak, Kneeland, Labrecque, Lane, Layton, Lemke, Lemont, Lindahl, Lovett, MacDougall,

Mack, Madore, Marvin, Mayo, McAlevey, McElroy, Meres, Murphy, Nass, O'Brien, Ott, Peavey, Pendleton, Perkins, Pinkham RG, Pinkham WD, Plowman, Savage, Snowe-Mello, Spear, Stedman, Taylor, Tobin, Treadwell, True, Underwood, Vedral, Waterhouse, Wheeler EM, Winglass, Winsor.

ABSENT - Bigl, Etnier, Gieringer, Nickerson, Winn.

Yes, 75; No, 71; Absent, 5; Excused, 0.

75 having voted in the affirmative and 71 voted in the negative, with 5 being absent, the Resolution and all accompanying papers were indefinitely postponed. Sent up for concurrence.

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

The SPEAKER: The Chair recognizes the Representative from China, Representative Bumps who wishes to speak on the record.

Representative BUMPS: Madam Speaker, Men and Women of the House. I apologize to you and to my colleagues of the House for missing two roll calls while Representative Berry and I

were downstairs assisting with a medical emergency. I would like the record to reflect that if I had been present with regards to Item 4 on Unfinished Business, I would have voted, with the motion to Indefinitely Postpone and with respect to Item 5 on Tabled and Today Assigned, I would have voted with the unanimous majority for passage. Thank you.

At this point, the Speaker appointed Representative USHER of Westbrook to serve as Speaker Pro Tem on Thursday, May 1, 1997.

At this point, the Speaker appointed Representative DONNELLY of Presque Isle to serve as Speaker Pro Tem on Friday, May 2, 1997.

On motion of Representative KNEELAND of Easton, the House adjourned at 1:00 p.m., until 9:00 a.m., Thursday, May 1, 1997.