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Senate Legislative Record
One Hundred and Twenty-Sixth Legislature

State of Maine

Daily Edition

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beginning at Page 1

The Chair laid before the Senate the following Tabled and Later Assigned (5/22/13) matter:

HOUSE REPORTS - from the Committee on **STATE AND LOCAL GOVERNMENT** on Bill "An Act To Change the Schedule for the Beginning of the Biennial Budget Cycle"
H.P. 58 L.D. 80

Majority - **Ought Not to Pass** (6 members)

Minority - **Ought to Pass as Amended by Committee Amendment "A" (H-200)** (5 members)

Tabled - May 22, 2013, by Senator **LACHOWICZ** of Kennebec

Pending - motion by same Senator to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, in concurrence

(In House, May 21, 2013, the Majority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**.)

(In Senate, May 22, 2013, Reports **READ**.)

On motion by Senator **LACHOWICZ** of Kennebec, the Majority **OUGHT NOT TO PASS** Report **ACCEPTED**, in concurrence.

The Chair laid before the Senate the following Tabled and Later Assigned (5/30/13) matter:

SENATE REPORTS - from the Committee on **STATE AND LOCAL GOVERNMENT** on RESOLUTION, Proposing an Amendment to the Constitution of Maine To Provide for the Popular Election of the Secretary of State, Attorney General and Treasurer of State
S.P. 441 L.D. 1279

Majority - **Ought to Pass as Amended by Committee Amendment "A" (S-139)** (9 members)

Minority - **Ought Not to Pass** (3 members)

Tabled - May 30, 2013, by Senator **LACHOWICZ** of Kennebec

Pending - motion by same Senator to **ACCEPT** the Minority **OUGHT NOT TO PASS** Report

(In Senate, May 30, 2013, Reports **READ**.)

THE PRESIDENT: The Chair recognizes the Senator from Penobscot, Senator Cushing.

Senator **CUSHING:** Thank you Mr. President. Ladies and gentlemen of the Senate, I rise today in opposition to the Minority Report of a committee action that I believe was a considerable vote in favor of this motion. This leaves Maine as an outlier again. There is a packet on your desk that was provided that may be of interest to the members. Our state is one of only a handful

that still presents the issue to the Legislature for decision. I think in today's society more and more people are expecting transparency in their government. What I am simply asking for in your consideration is to not support the Minority Report and accept a 9-3 Majority Report that would allow this matter to go before the voters so that they could determine if they feel it's time for Maine to join many of our colleagues, 85% of other states, in having public elections for their Constitutional Officers. Thank you, Mr. President.

THE PRESIDENT: The Chair recognizes the Senator from Kennebec, Senator Lachowicz.

Senator **LACHOWICZ:** Thank you Mr. President. Men and women of the Senate, I did push for the Minority Report. This is something I changed my mind about primarily because this is a Constitutional Amendment. It's a really big deal. I have to say in all the talking I had with people in my district not once did I hear anyone bring up that this was something that needed to be changed. I heard a lot of other things that people want to change, but that's not what's before me at this moment. I also talked to a man fairly recently who came down here. I had never met him. He was a constituent of mine. He came up to me and he whispered to me, "You talk about a lot of things in here that I don't think we need to be talking about. You make a lot of laws. Maybe we don't need them." I thought maybe he was right. Maybe he was right. This guy who just came down from Clinton one day just to see what it is we do here, just to see what it is I do here, thought that maybe we talk about a lot of stuff that doesn't have a lot of bearing in what his life is like every day. A Constitutional Amendment is a big deal. I keep hearing about people who want them, but this has never been the one that I've heard. I urge you to support the Minority Ought Not to Pass Report. Thank you very much.

THE PRESIDENT: The Chair recognizes the Senator from Arostook, Senator Sherman.

Senator **SHERMAN:** Thank you Mr. President. Ladies and gentlemen of the Senate, I rise in opposition to this motion. I had a bill in that dealt with one-third of this popular election. I had a bill in on the Attorney General. I had folks take a look at why we should do that. My rational before the committee, when my bill went before the committee, was that Attorney General needs to know his or her stuff, so to speak. I've been here with all the elected Attorney Generals. Some, frankly maybe didn't know their stuff. I'm not casting aspersions on any of those folks. The other issue when I put mine in was that we are one of the few states that don't have a Lieutenant Governor. If I had my druthers I'd have a Lieutenant Governor. We have people always in waiting that haven't had any statewide experience. The whole point of putting this bill, and particularly my bill, before the people is that they would have to go out and campaign from one end of the state to the other. We don't have anyone waiting now, running for these offices. We've got the Governorship. I think we need an assistant there or someone who has at least gone statewide. I'm a little surprised that people wouldn't be interested in that, but I understand some of the realities of life around here. Someone asked me whether I had it in for a particular person. The present Attorney General's name came up. I served with her on Judiciary. Great lady. Had nothing to do with her. I know that was kind of a rumor at times. She and I get along. She has a

certain way about her, as we all know, so we get along in her parameters, so to speak. I would ask you to oppose the motion and put this out to the vote of the people so we can be in tune with the other 40 something states that do this statewide.

On motion by Senator **KATZ** of Kennebec, supported by a Division of one-fifth of the members present and voting, a Roll Call was ordered.

THE PRESIDENT: The Chair recognizes the Senator from York, Senator Collins.

Senator **COLLINS:** Thank you Mr. President. Ladies and gentlemen of the Senate, when this bill came before the State and Local Committee, which I'm a member obviously, it was a very strong vote. I believe the committee vote was 10-2 in favor of this action. It came up during the committee proceedings and public hearing that a lot of folks back home, when the committee members were discussing it, that they were surprised, the folks back home were surprised, to find out that we do, in fact, we as the Maine Legislature, elect the Secretary of State, Attorney General, and State Treasurer. They were surprised at that. As time evolved with my many terms here in the Maine Legislature, I'm still astonished at the number of people who still think that this is wrong and that we should be having these folks elected based upon their job qualifications, their ability to do the job, and not just as a simple political favor. These are very important positions. They should be elected. I would strongly suggest to everybody in this Chamber today to vote against the pending motion. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Aroostook, Senator Jackson.

Senator **JACKSON:** Thank you Mr. President. Ladies and gentlemen of the Senate, I'll try to be brief. I haven't supported this in the past and I won't be today. We may be an outlier but I actually like the way the state does it. It's been done like that for as long as I know and probably as long as the Constitution of Maine has been drafted. Quite honestly, I don't think that having high priced elections actually always get you the best person either. I think that both sides of the aisle can say that people get vetted. There are numerous candidates that come up for these positions. People do get vetted. Probably it doesn't get done by everyone in the Legislature, but it certainly does get vetted. I think that in my time we've had good candidates that definitely had the background and the knowledge to do the position. I certainly didn't agree with decisions that I think all of them made at some time or another. Unfortunately, not everyone thinks like me. I just don't like the idea that this is going to get to be a high priced election, that the people that have the most amount of money are probably going to be the ones that get out and are seen more than the other ones. I'm for this motion and I will be supporting it. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Penobscot, Senator Cushing.

Senator **CUSHING:** Thank you Mr. President. I appreciate your forbearance in allowing me to rise again to speak on this issue. I think there were some very important points that were raised in the discussion here as to why opposing the current motion before

is valid. This is an opportunity, Mr. President, to ask the people of the state of Maine if they think it is time for us to follow our colleagues in over 85% of the other states in giving the citizens an opportunity to speak on this issue. I think if we were concerned about the issue related to spending on elections, and that was how it was accomplished, we might have a different individual sitting in the second floor chair and we might have had different nominees for the recent elections for the Executive Branch. To my understanding, Mr. President, this issue before us today, the Minority Report, does not truly reflect the good work of the committee and I would respectfully ask the clerk to read the report before you call the roll. Thank you, Mr. President.

At the request of Senator **CUSHING** of Penobscot, Reports **READ.**

THE PRESIDENT: The Chair recognizes the Senator from Aroostook, Senator Sherman.

Senator **SHERMAN:** Thank you Mr. President. I won't prolong this. Just two comments. The first one is, in reference to my comments. To my good friend from Allagash, who I've learned to have a great respect for, who is leading the Ag Committee now, the two comments are that we're now in a more complicated world. When you talk about going back to the nostalgia times, we're in a more complicated world. Just think of the number of lawsuits that have been involved with the Attorney General involved. That's point number one. It's rather complicated. Number two, if we went back to the past, if I remember it correctly, I was actually doing other work other than here. They didn't used to have a second session in this house. Years ago something called the Executive Council. If you wanted to make adjustments to the budget we could let the Executive Council come back and do that. We wouldn't have to come back here in January. Thank you very much.

THE PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Haskell.

Senator **HASKELL:** Thank you very much Mr. President. Colleagues of the Senate, I was a candidate for a Constitutional Office. I don't know how many of the folks here ever were, but I thought I'd give that a shot at one point in time. I was not successful, obviously. I want you to think about what it would have been like for somebody to have been attempting to become one of the Constitutional Officers and exactly what that path is. I did it because I truly thought I would be in a good position to be able to manage that and I thought that it would be a service to my community and to my state. I am concerned here when the good Senator from York mentioned the fact that people were surprised that we were not popularly elected to become a Constitutional Officer. I think the reason that people are surprised by that is we have not had a problem. We have not had a problem with the folks who have been serving in our Constitutional Offices. Did we disagree ever with what any of them did? Perhaps, but it just has not made the news. It has not been an issue around the state about who are our Constitutional Officers. What if I was deciding that I wanted to run for higher office, let's say I had ambitions to sit on a different floor than I am now? I could think of no better way to find out how my polling would be than if I set out to run for Constitutional Office. Whether or not I was qualified might be secondary in my thinking. Perhaps I'd just like to see how I'd poll,

how an election would go. That, frankly, is my concern about electing our Constitutional Officers. I'm going to be supporting this Minority Report. I think, indeed, here what we have is a solution looking for a problem, which we do not have. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Penobscot, Senator Cain.

Senator **CAIN:** Thank you Mr. President. Men and women of the Senate, I rise in support of the Minority Ought Not to Pass because I do agree that this is a solution in search of a problem. I also don't buy into the fact that we need more statewide races to make politics in Maine better. Maine politics are pretty great because you can go from being a millworker to a Congressman. You can go from being a teacher to being the State Treasurer. You can go from being a Mayor to being the Chief Executive. You don't have to run time and time and time and time again at the statewide level in order to make a difference, to take that leap, and to be a leader for the state of Maine. We don't need more statewide elections with lots more campaign finance to improve Maine politics. Right now, because of Maine, because of the way we are, because of communities that we live in, we're elected because we reach out. We're elected because we make a difference, because we are leaders. To add more statewide elections when we're already seeing the statewide elections we have in place grow and multiply and grow and multiply time and time again will only put us closer to states that we mock, who have lots of statewide contested elections that get very nasty. I think right now we don't have a problem. I think the officers we have in place are goods and the ones we've had in the past are good. We don't have a problem that needs fixing. Most of all, I don't want to change the nature of Maine politics. You can go from being, well there are so many of us and we do so many things, a small business owner and you can become the State Auditor. You can become the Attorney General after being a defense attorney or working anywhere in the state of Maine. You have a lot of opportunities in front of you and good people end up in these positions. We don't need to fix this problem that we don't have. Thank you, Mr. President.

THE PRESIDENT: The Chair recognizes the Senator from York, Senator Collins.

Senator **COLLINS:** Thank you Mr. President. Ladies and gentlemen of the Senate, what are we afraid of? Let's put this out to the voters for these three Constitutional Officers. Let the best qualified person win the election with all the confidence of the people of Maine behind their election. We all go through elections here in the Maine Legislature. Usually the best person wins. I think the same should be applied to the Constitutional Officers. Very important positions here in state government. Sometimes I equate state government and the Maine Legislature to my business background. I was a food broker years ago. I always surrounded myself with the best and brightest I could afford. They always made me look good. I think we should do the same thing with our Constitutional Officers. We should be electing the best qualified person, man or woman, to hold those positions, to help us here in the state of Maine, and guide us on the right path. These Constitutional Officers are vitally important to the progress of Maine and the economy of Maine. They could bring to the table a lot more than I think what is present today and what I've witnessed in past sessions. Ladies and gentlemen, I

repeat my first appeal. Vote against the pending motion. Thank you.

THE PRESIDENT: The Senator from Aroostook, Senator Sherman, requests unanimous consent of the Senate to address the Senate a third time on this matter. Hearing no objection, the Senator may proceed.

Senator **SHERMAN:** Thank you Mr. President. I am asking for a point of information, if I may. I'm struck by the good Senator from Penobscot with the list of people who run here and there. I could make an inquiry about that, but I won't. Does anyone have a list of Attorney Generals that were Republican when there was a Democrat majority? It would seem to me that when the Democrats get majority or Republicans get majority that becomes a Republican Attorney General. It has never been a cross pollination, so to speak. That's an interesting dilemma that you have to deal with.

THE PRESIDENT: The Senator from Aroostook, Senator Sherman poses a question through the Chair to anyone who may wish to answer. The Chair recognizes the Senator from Penobscot, Senator Cain.

Senator **CAIN:** Thank you Mr. President. I believe there is at least one example in recent history where the longest serving Attorney General in the state of Maine, James Tierney, served for approximately a decade and overlapped with Governors of different parties. Thank you, Mr. President.

THE PRESIDENT: The Chair recognizes the Senator from York, Senator Tuttle.

Senator **TUTTLE:** Thank you Mr. President. I think there was also a Secretary of State by the name of Rodney Quinn that was also in that situation.

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from Kennebec, Senator Lachowicz to Accept the Minority Ought Not to Pass Report. A Roll Call has been ordered. Is the Senate ready for the question?

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#142)

YEAS: Senators: BOYLE, CAIN, CLEVELAND, CRAVEN, DUTREMBLE, GERZOFKY, GRATWICK, HASKELL, HILL, JACKSON, JOHNSON, LACHOWICZ, MAZUREK, MILLETT, PATRICK, TUTTLE, VALENTINO, THE PRESIDENT - JUSTIN L. ALFOND

NAYS: Senators: COLLINS, CUSHING, FLOOD, GOODALL, HAMPER, KATZ, LANGLEY, MASON, PLUMMER, SAVIELLO, SHERMAN, THIBODEAU, THOMAS, WHITTEMORE, WOODBURY, YOUNGBLOOD

ABSENT: Senator: BURNS

18 Senators having voted in the affirmative and 16 Senators having voted in the negative, with 1 Senator being absent, the motion by Senator **LACHOWICZ** of Kennebec to **ACCEPT** the Minority **OUGHT NOT TO PASS** Report, **PREVAILED**.

Sent down for concurrence.

The Chair laid before the Senate the following Tabled and Later Assigned (5/31/13) matter:

HOUSE REPORTS - from the Committee on **EDUCATION AND CULTURAL AFFAIRS** on Bill "An Act To Increase Public Awareness Regarding School Budget Elections"
H.P. 258 L.D. 383

Majority - **Ought Not to Pass** (10 members)

Minority - **Ought to Pass as Amended by Committee Amendment "A" (H-253)** (3 members)

Tabled - May 31, 2013, by Senator **MILLETT** of Cumberland

Pending - motion by same Senator to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, in concurrence

(In House, May 30, 2013, the Majority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**.)

(In Senate, May 31, 2013, Reports **READ**.)

On motion by Senator **KATZ** of Kennebec, supported by a Division of one-fifth of the members present and voting, a Roll Call was ordered.

THE PRESIDENT: The Chair recognizes the Senator from Hancock, Senator Langley.

Senator **LANGLEY:** Thank you Mr. President. Men and women of the Senate, just a brief introduction to this bill. I would urge you to oppose it. This bill just would include a statement at the polls. It would require, in the already required listing, that it would indicate the percentage of increase or decrease in the school budget over the previous year just as a point of information for voters. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Millett.

Senator **MILLETT:** Thank you Mr. President. Members of the Senate, the Majority Ought Not to Pass is a bipartisan report. The reasons this include testimony from the Maine Town and City Clerk's Association citing concerns with lack of adequate time to print absentee ballots with specific budget information. Under 20A MRSA 1486, 3C, "Absentee ballots must be delivered to the municipal clerk no later than a day after the date of the regional school unit budget meeting." Many local school budget meetings finish late in the evening and printing overnight would be challenging, to say the least. The Maine Municipal Association testified with similar concerns and added that it is their belief that

the printed ballot question should be as content neutral as possible. Thus, if the change between the current year and the prior year budget must be embedded in the budget question, as this bill and the Minority Amendment would require, the information explaining the variance would need to similarly be reported. That could be problematic and cumbersome. A great deal of testimony was provided by supporters, presenting low turn-out figures for local referendums. This bill does nothing to address voter turn-out. The committee also heard testimony about concerns regarding the posting of ballot information in polling locations. The committee asked the Maine Town and City Clerk's Association to survey its members about the posting of printed information at polling places. The results did not reflect any serious systemic problems and the committee felt that the survey process served to remind the state's clerks about the importance of posting materials in accessible and prominent locations. As such, and given the testimony, the bipartisan majority vote was Ought Not to Pass. I urge you to support the Majority Report. Thank you.

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from Cumberland, Senator Millett to Accept the Majority Ought Not to Pass Report, in concurrence. A Roll Call has been ordered. Is the Senate ready for the question?

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#143)

YEAS: Senators: BOYLE, CAIN, CLEVELAND, CRAVEN, DUTREMBLE, GERZOFISKY, GOODALL, GRATWICK, HASKELL, HILL, JACKSON, JOHNSON, LACHOWICZ, MAZUREK, MILLETT, PATRICK, TUTTLE, VALENTINO, WOODBURY, THE PRESIDENT - JUSTIN L. ALFOND

NAYS: Senators: COLLINS, CUSHING, FLOOD, HAMPER, KATZ, LANGLEY, MASON, PLUMMER, SAVIELLO, SHERMAN, THIBODEAU, THOMAS, WHITTEMORE, YOUNGBLOOD

ABSENT: Senator: BURNS

20 Senators having voted in the affirmative and 14 Senators having voted in the negative, with 1 Senator being absent, the motion by Senator **MILLETT** of Cumberland to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, in concurrence, **PREVAILED**.

The Chair laid before the Senate the following Tabled and Later Assigned (5/31/13) matter:

HOUSE REPORTS - from the Committee on **EDUCATION AND CULTURAL AFFAIRS** on Bill "An Act To Protect Charter Schools by Requiring Them To Be Operated as Nonprofit Organizations"
H.P. 463 L.D. 671