

MAINE STATE LEGISLATURE

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Legislative Record
House of Representatives
One Hundred and Twenty-Seventh Legislature
State of Maine

Daily Edition

First Regular Session
beginning December 3, 2014
beginning at page H-1

Subsequently, on motion of Representative GATTINE of Westbrook, the Bill and all accompanying papers were **INDEFINITELY POSTPONED**. Sent for concurrence.

REPORTS OF COMMITTEE

Divided Report

Majority Report of the Committee on **STATE AND LOCAL GOVERNMENT** reporting **Ought Not to Pass** on RESOLUTION, Proposing an Amendment to the Constitution of Maine To Change the Selection Process for the Attorney General (H.P. 964) (L.D. 1417)

Signed:

Senator:

LIBBY of Androscoggin

Representatives:

MARTIN of Sinclair

BABBIDGE of Kennebunk

BEEBE-CENTER of Rockland

BRYANT of Windham

DOORE of Augusta

EVANGELOS of Friendship

TUELL of East Machias

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "A" (H-392)** on same RESOLUTION.

Signed:

Senators:

WHITTEMORE of Somerset

WILLETTE of Aroostook

Representatives:

GREENWOOD of Wales

PICKETT of Dixfield

TURNER of Burlington

READ.

Representative MARTIN of Sinclair moved that the House **ACCEPT** the Majority **Ought Not to Pass** Report.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Sinclair, Representative Martin.

Representative **MARTIN**: Thank you very much, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House, as members of this body, we have opportunities to debate good bills and we have opportunities to exercise our right, debate, and enact great pieces of legislation. On the other hand, we debate bills that are not the greatest, and quite often, we refer to these bills simply as "bad bills."

LD 1417 is a Resolution proposing an amendment to the Constitution of Maine to change the selection process for the Attorney General, and this is a bad bill. LD 1417 proposes that the Chief Executive of this state nominate and appoint the Attorney General subject to confirmation by the Senate. Can you imagine having the chief law enforcement official of this state serving at the pleasure of the current Chief Executive? Serving at the pleasure, meaning being hired and fired, at will, by your superior. "Yes, I don't like and agree with your legal opinion Mister or Madam Attorney General. What do you mean you cannot defend my office? Here's what I would like you to do: I expect your legal opinion will be what I tell you it's going to be. You serve at my pleasure and you will do what I ask of you."

Did we not recently hear from a Chief Executive, "I do not micromanage my people. If I do not like what they do or what

they say, I simply replace them." Mr. Speaker and Ladies and Gentlemen of the House, not only is this a bad bill, this piece of legislation is ill conceived and irresponsible. Please join me and support the pending motion, which is Ought Not to Pass. Thank you.

Representative GIDEON of Freeport **REQUESTED** a roll call on the motion to **ACCEPT** the Majority **Ought Not to Pass** Report.

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

The SPEAKER PRO TEM: The Chair recognizes the Representative from Friendship, Representative Evangelos.

Representative **EVANGELOS**: Thank you, Mr. Speaker and Women and Men of the House, I just wanted to share you some information from the State of New Jersey, which has a gubernatorial appointed Attorney General. In five years, the Attorney General in New Jersey's office has issued a total of two legal opinions—two. And one of them was issued on May 20, 2015, in which Attorney General John Hoffman issued a ruling that Governor Christie is exempt from disclaiming any corporate gifts he receives. And this just shows you the kind of conflict of interest this type of ill-conceived legislation. So, I support Representative Martin's motion. Thank you.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Kennebunk, Representative Babbidge.

Representative **BABBIDGE**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House, I'd like to share just two things regarding the choosing of the Attorney General of the State of Maine. Perhaps it's the teacher in me, but I'm going to start with the best argument for the bill. And the counsel of the Chief Executive offered that our current way of choosing the Attorney General is by secret ballot and the Legislature always votes, as we know, in public view.

But on to consideration. The evolution of the secret ballot has been a wonderful thing in American politics. We've only had the Australian ballot in America here for a little over a century, depending on where we are. And, I think that, in fact, the choosing of the Constitutional Officers by secret ballot actually makes us more independent in our selection process than would be if we did not have that option.

But my main reason for standing here today is to share a personal experience. I've been a teacher of Social Studies for, well, I actually was a teacher of Social Studies for 39 years. And early on, beginning in 1975, I started bringing my Government class to Augusta every year. So, I got to know a lot of people here in Maine state government. And I'd like to share with you just one episode that I was privy to. And I happened to be in the Attorney General's Office, back when the Attorney General and the Chief Executive, at that time, were of the same political party, and they were of my political party and I knew them both and considered them friendly colleagues, I guess, as political as I was at that particular time.

But I was in the Attorney General's Office and he received a call. His secretary came in and said, "The Chief Executive is on the line." And so I stood up and said, "I'll leave." And he said, "No. No. No. This shouldn't take too long. Have a seat." And so, they began a conversation and I guess the way I would say it evolved into a spirited conversation. And after 10 or 15 minutes of this, there was a disagreement between the Attorney General and the Chief Executive. And I walked away from that experience, of course we were professional, I did not even acknowledge it after the phone call was done. But the fact of the matter, I walked away at that time thinking, "If the Governor had appointed the Attorney General, would that AG have felt free to act in the way he did at that time?"

Because what was happening was that the Chief Executive was looking for a legal opinion. The Attorney General was not willing to give him the one he wanted and, therefore, there was a check with the Attorney General fulfilling his legal obligation to do so, as I think it should be done. So, I feel confident that with the way we do it here in Maine is not a bad way and I would ask you to support the Ought Not to Pass Report.

The SPEAKER PRO TEM: A roll call has been ordered. The pending question before the House is Acceptance of the Majority Ought Not to Pass Report. All those in favor will vote yes, those opposed will vote no.

ROLL CALL NO. 215

YEA - Alley, Babbidge, Bates, Battle, Beavers, Beck, Beebe-Center, Bickford, Black, Blume, Brooks, Bryant, Burstein, Campbell J, Campbell R, Chapman, Chenette, Chipman, Cooper, Corey, Daughtry, Davitt, DeChant, Devin, Dillingham, Dion, Doore, Duchesne, Dunphy M, Edgecomb, Evangelos, Farnsworth, Fecteau, Foley, Fowle, Frey, Gattine, Gerrish, Gideon, Gillway, Ginzler, Golden, Goode, Grant, Grohman, Guerin, Hamann, Harlow, Head, Herbig, Herrick, Hickman, Higgins, Hilliard, Hobart, Hobbins, Hogan, Hubbell, Hymanson, Jorgensen, Kinney M, Kornfield, Kruger, Kumiega, Lajoie, Lockman, Longstaff, Luchini, Maker, Marean, Martin J, Martin R, Mastraccio, McCabe, McCreight, McElwee, McLean, Melaragno, Monaghan, Moonen, Morrison, Nadeau, Noon, Nutting, Peterson, Picchiotti, Pierce J, Pierce T, Pouliot, Powers, Rotundo, Russell, Rykerson, Sanborn, Saucier, Schneck, Shaw, Short, Skolfield, Stanley, Stearns, Stuckey, Sukeforth, Tepler, Tipping-Spitz, Tucker, Tuell, Verow, Wadsworth, Ward, Warren, Welsh, White, Wood, Mr. Speaker.

NAY - Austin, Buckland, Chace, Crafts, Dunphy L, Espling, Farrin, Fredette, Greenwood, Hanington, Hanley, Hawke, Kinney J, Long, Lyford, McClellan, O'Connor, Parry, Pickett, Prescott, Reed, Sanderson, Sawicki, Sirocki, Stetkis, Theriault, Timberlake, Timmons, Turner, Vachon, Wallace, Winsor.

ABSENT - Gilbert, Malaby, Seavey, Sherman.

Yes, 115; No, 32; Absent, 4; Excused, 0.

115 having voted in the affirmative and 32 voted in the negative, with 4 being absent, and accordingly the Majority **Ought Not to Pass** Report was **ACCEPTED** and sent for concurrence.

ENACTORS

Acts

An Act To Provide Legal Protection to Hospitals where Admitted Qualifying Patients Use Smokeless Forms of Medical Marijuana

(S.P. 17) (L.D. 35)
(C. "A" S-220)

An Act To Enact the Student Information Privacy Act

(S.P. 183) (L.D. 454)
(C. "A" S-222)

An Act To Amend the Competitive Skills Scholarship Program To Allow for Participation in Early College and Career and Technical Education Programs

(S.P. 300) (L.D. 856)
(C. "A" S-224)

An Act To Permit the Use of Firearm Noise Suppression Devices in Hunting and To Provide for a Chief Law Enforcement Officer's Certification for Certain Firearms

(S.P. 333) (L.D. 942)
(C. "A" S-218)

An Act To Make Damaging a Public Easement with a Motor Vehicle a Class E Crime

(S.P. 377) (L.D. 1074)
(C. "A" S-209)

An Act To Clarify the Policy for Withdrawal of Life Support from Minors

(S.P. 389) (L.D. 1117)
(C. "A" S-232)

An Act To Amend the Maine Business Corporation Act

(S.P. 405) (L.D. 1136)
(C. "A" S-233)

An Act To Allow the Release of Child Protective Records to Certain Providers of Child and Adult Services

(S.P. 443) (L.D. 1238)
(C. "A" S-231)

An Act To Amend the Licensing Laws of the Maine Fuel Board

(S.P. 523) (L.D. 1405)
(C. "A" S-229)

An Act To Merge the Maine Educational Loan Authority with the Finance Authority of Maine

(S.P. 544) (L.D. 1443)
(C. "A" S-223)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed, **PASSED TO BE ENACTED**, signed by the Speaker Pro Tem and sent to the Senate.

COMMUNICATIONS

The Following Communication: (S.C. 431)

MAINE SENATE

127TH LEGISLATURE

OFFICE OF THE SECRETARY

June 10, 2015

Honorable Robert B. Hunt

Clerk of the House

2 State House Station

Augusta, Maine 04333

Dear Clerk Hunt:

Please be advised the Senate today insisted to its previous action whereby it accepted the Minority Ought Not to Pass Report from the Committee on Education and Cultural Affairs on Bill "An Act To Amend Provisions Regarding the Appointment of Members of the Maine Charter School Commission" (H.P. 360) (L.D. 536), in non-concurrence.

Please be advised the Senate today insisted to its previous action whereby it accepted the Minority Ought to Pass as Amended Report from the Committee on Taxation on "RESOLUTION, Proposing an Amendment to the Constitution of Maine To Eliminate the Income Tax" (H.P. 928) (L.D. 1367), in non-concurrence.

Please be advised the Senate today insisted to its previous action whereby it accepted the Minority Ought Not to Pass Report from the Committee on Labor, Commerce, Research and Economic Development on Bill "An Act To Enact the Toxic Chemicals in the Workplace Act" (H.P. 799) (L.D. 1165), in non-concurrence.

Please be advised the Senate today insisted to its previous action whereby it accepted Report "A" Ought Not to Pass from the Committee on Taxation on Bill "An Act To Enhance the Property Tax Fairness Credit for Maine's Low-income Seniors and Other Low-income Residents" (H.P. 756) (L.D. 1095), in non-concurrence.