

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

One Hundred And Sixteenth Legislature

OF THE

State Of Maine

VOLUME II

FIRST REGULAR SESSION

House of Representatives
May 17, 1993 to July 14, 1993

Unfinished Business:

An Act to Correct Errors and Inconsistencies in the Growth Management Laws (H.P. 388) (L.D. 501) (C. "A" H-218)
 TABLED - May 17, 1993 (Till Later Today) by Representative GWADOSKY of Fairfield.
 PENDING - Passage to be Enacted.

On motion of Representative Gwadosky of Fairfield, retabled pending passage to be enacted and later today assigned.

On motion of Representative Gwadosky of Fairfield, the following was removed from the Tabled and Unassigned matters:

Bill "An Act to to Provide for Water Rights to the Town of New Gloucester" (H.P. 62) (L.D. 92)
 TABLED - April 1, 1993 by Representative Gwadosky of Fairfield.
 PENDING - Adoption of Committee Amendment "A" (H-88).

Subsequently Committee Amendment "A" (H-88) was adopted.

Under suspension of the rules, the Bill was read a second time.

Representative Carroll of Gray offered House Amendment "A" (H-339) and moved its adoption.

House Amendment "A" (H-339) was read by the Clerk and adopted.

The Bill was passed to be engrossed as amended by Committee Amendment "A" (H-88) and House Amendment "A" (H-339) in non-concurrence and sent up for concurrence.

(At Ease)

The House was called to order by the Speaker.

TABLED AND TODAY ASSIGNED

The Chair laid before the House the first tabled and today assigned matter:

HOUSE DIVIDED REPORT - Majority (10) "Ought Not to Pass" - Minority (3) "Ought to Pass" as amended by Committee Amendment "A" (H-276) - Committee on State and Local Government on RESOLUTION, Proposing an Amendment to the Constitution of Maine to Reduce the Size of the Legislature (H.P. 432) (L.D. 551)
 TABLED - May 17, 1993 by Representative JOSEPH of Waterville.
 PENDING - Motion of same Representative to accept the Majority "Ought Not to Pass" Report.

Representative Bennett of Norway requested a roll call vote.

The SPEAKER: A roll call has been requested. For the Chair to order a roll call, it must have the expressed desire of more than one-fifth of the

members present and voting. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken and more than one-fifth of the members present and voting having expressed a desire for a roll call, a roll call was ordered.

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

Representative LIPMAN: Mr. Speaker, Ladies and Gentlemen of the House: I would urge you to vote against the "Ought Not to Pass" motion and allow the Constitutional Amendment to go to the people. This is an opportunity for the people of the State of Maine to vote to reduce the size of the legislature.

This Resolution or amendment calls for the House to be reduced to 99 members and the Senate to 33. Why should we allow this to go to the people? One, I recently read a survey that was distributed among this body that 91 percent of the public in this particular district would like to see the size of the legislature reduced.

Albeit we should not exercise our decision in this body based upon the whims of the public as they may change from day to day. However, this is in fact a Constitutional Amendment and the only way it can take effect is if we vote by two-thirds of each body to allow the people to have that opportunity. Reduction of the size of the legislature is an item that in fact should go to the people and the people should have a chance to decide. With 91 percent, as much as 91 percent wishing to exercise that right, we ought to give them that opportunity.

As to the merits of the bill itself and the reason for the reduction, currently the legislature has 186 members. I believe that is too large. I also believe that if we reduce the House to 99 and the Senate to 33, we can develop asymmetry so that we have three Representatives from each Senate District and that in itself has merit.

I believe that we can reduce the size of the committees and that we can increase the participation of each individual legislator, if there are fewer legislators.

In addition to asymmetry, by reducing the size of the committees, increasing the participation of all legislators, we can also improve the participation and quality of the area represented.

Albeit it puts additional stress on each legislator because they have to cover a larger territory and I recognize that some of the areas are quite large, however, if in fact in 1840 we could service this type of area, you would think today in 1993 with our modern means of communications, our cars, our computers and other means of being able to get around our districts that we could make that accommodation.

An additional reason to reduce the size of the legislature is that we can save \$2 million per year, that is an estimated savings. I have heard say, well, if we have a reduced size legislature, we are going to have more staff, I believe that evidence in the last 15 years has shown there is no relationship between the size of the staff and the size of the legislature. Our legislative staff has gone up astronomically in the last ten years and yet we have had the same size legislature.

Let's compare Maine with another state. Let's take Indiana. Indiana has 5.5 million people, Maine has 1.2 million people. Indiana has approximately 35,000 square miles. Maine has 30,000 square miles.

So, Indiana has five times as much population, a little bit more land, and yet their House of Representatives is 100 people and their Senate 50 people. What happens? Indiana's salaries are \$11,600 per year, not that different than the State of Maine. However, let's look at the difference and the length of the term. In Indiana's legislature, odd years are 61 days, even years 30 days. State of Maine, 100 legislative days the first session, 50 days the second session. I think there are significant time savings that can be accomplished with a smaller legislature.

Are we going to disenfranchise people? I believe not. According to the statistics I have been furnished, 33 House seats were unopposed in the General Election. I think that it would encourage, by having a smaller legislature, more general contests.

The Special Commission on Governmental Restructuring made a finding that in December of 1991, we ought to reduce the size of the legislature. They left the figure between 99 and 123. Albeit I am sure that Democrats could have reasons not to reduce the size of the legislature, the Republicans can have reasons not to reduce the size of the legislature, but isn't this a subject we ought to let the people decide?

We are not alone, Wyoming, North Dakota and Idaho within the last year made the decision to reduce the size of their legislature so let's give the people of Maine a choice.

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

Representative JOSEPH: Mr. Speaker, Men and Women of the House: I urge you to support the Majority "Ought Not to Pass" Report. This Resolution to reduce the size of the legislature is a misnomer. This bill reduces the size of the Maine House of Representatives. The sponsor of this bill says that people are urging us to do so, that the people overwhelmingly support reduction of the size of the Maine House of Representatives. However, in an attempt to gain enough signatures to send this out to a referendum, 28,000 signatures were recorded. However, there was a need for 53,000 signatures.

In this proposal, there is no plan as to the district sizes for the Maine House.

There are no absolute savings and this is not a new proposal. Since 1971, there have been seventeen pieces of legislation before this body to reduce the size of the Maine House of Representatives.

We seriously looked at this issue and we were looking for efficiency and effective use of taxpayer dollars. You have heard about other states — however, I do think a base salary of \$22,000 for legislators in other states is a lot different from what Maine legislators earn. We must always remember that Maine has a unique legislative body. Maine has a part-time citizen legislature.

The inequity in this piece of legislation and in this proposal is that rural districts will be under-represented. Those of us who live in medium or large cities can walk from one end of our district to the other. However, in this proposal, there is no recommendation on how this would be done. Therefore, I would say that this proposal is flawed, that this proposal does not accomplish what the sponsor wishes to accomplish, so I would urge you to accept the Majority "Ought Not to Pass" Report.

The SPEAKER: The Chair recognizes the

Representative from Limestone, Representative Young.

Representative YOUNG: Mr. Speaker, Ladies and Gentlemen of the House: I rise to speak in support of the Representative from Augusta and ask that you vote against the pending motion to accept the Majority "Ought Not to Pass" Report. It may seem a little bit curious since allegedly this bill would negatively affect rural areas of the state that someone who represents a rural district would speak in favor of the bill, but I think there is a little bit of a misunderstanding involved here. I would just like to address that briefly and let you know why I am not opposed to sending this to referendum.

If we assume a population of a million, roughly the population of the State of Maine, and further assume to have one Representative for every 10,000, you would come up with a House the size of 100 Representatives. If you assume further that this House is divided or that the population of the state is divided 60/40, rural/urban, that would mean you would have 60 Representatives representing rural areas and 40 Representatives representing urban areas. If you cut the size of that representative body in half to 50, you would end up with 30 Representatives. I mean the rural areas are still rural and the urban areas are still urban, what you would have would be 30 Representatives representing rural areas and 20 Representatives representing urban areas. Proportionately the representation of rural to urban has stayed exactly the same in that mix. It is true that in the smaller chamber the dynamics may make a little bit of a difference but this issue that the rural areas (and maybe the Speaker's district will become a little bit bigger than it is but it is already an enormous district) and I don't think that those of us that come from large districts, that that is really going to make that much of a difference. I think the issue here of rural versus urban really isn't the issue. I think the question is efficiency and how the Maine Legislature can better function.

Again, I would ask that you defeat the pending motion.

The SPEAKER: A roll call has been ordered. The pending question before the House is the motion of Representative Joseph of Waterville that the House accept the Majority "Ought Not to Pass" Report. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 97

YEA - Adams, Ahearne, Aliberti, Anderson, Bailey, R.; Brennan, Carroll, Cashman, Cathcart, Chase, Chonko, Clark, Clement, Cloutier, Coffman, Coles, Constantine, Cote, Daggett, Donnelly, Dore, Driscoll, Dutremble, L.; Erwin, Farnsworth, Gamache, Gean, Gould, R. A.; Gray, Hale, Hatch, Heeschen, Hichborn, Holt, Hussey, Jacques, Jalbert, Johnson, Joseph, Ketterer, Kontos, Larrivee, Lemke, Libby James, Lord, MacBride, Marshall, Martin, H.; Michaud, Mitchell, J.; Morrison, Murphy, Nadeau, O'Gara, Oliver, Paradis, P.; Pfeiffer, Pineau, Pinette, Poulin, Rand, Reed, W.; Ricker, Rotondi, Rowe, Saint Onge, Saxl, Skoglund, Stevens, K.; Strout, Sullivan, Swazey, Townsend, E.; Townsend, G.; Townsend, L.; Tracy, Treat, Tufts, Vigue, Walker, Wentworth, Winn, The Speaker.

NAY - Aikman, Ault, Bailey, H.; Barth, Bennett, Birney, Bowers, Bruno, Cameron, Campbell, Carleton, Caron, Carr, Clukey, Cross, Dexter, DiPietro,

Faircloth, Farnum, Farren, Foss, Greenlaw, Gwadosky, Heino, Hillock, Hogle, Joy, Kerr, Kneeland, Kutasi, Lemont, Libby Jack, Lindahl, Lipman, Look, Michael, Mitchell, E.; Nash, Nickerson, Norton, Ott, Pendexter, Pendleton, Plourde, Plowman, Pouliot, Reed, G.; Robichaud, Simonds, Simoneau, Small, Spear, Stevens, A.; Taylor, Thompson, True, Whitcomb, Young, Zirkilton.

ABSENT - Beam, Fitzpatrick, Kilkelly, Marsh, Melendy, Richardson, Ruhlman, Rydell, Tardy.

Yes, 83; No, 59; Absent, 9; Paired, 0; Excused, 0.

83 having voted in the affirmative and 59 in the negative with 9 being absent, the Majority "Ought Not to Pass" Report was accepted. Sent up for concurrence.

The Chair laid before the House the second tabled and today assigned matter:

HOUSE DIVIDED REPORT - Majority (7) "Ought Not to Pass" - Minority (6) "Ought to Pass" as amended by Committee Amendment "A" (H-277) - Committee on State and Local Government on RESOLUTION, Proposing an Amendment to the Constitution of Maine to Create a Unicameral Legislature (H.P. 768) (L.D. 1035)

TABLED - May 17, 1993 by Representative JOSEPH of Waterville.

PENDING - Motion of same Representative to accept the Minority "Ought to Pass" as amended Report.

The SPEAKER: The Chair recognizes the Representative from Westbrook, Representative O'Gara.

Representative O'GARA: Mr. Speaker, Men and Women of the House: Whether a legislature should have one House or two has been debated longer than the existence of the United States and yet after all that time, only one of the 50 states has chosen a one House legislature.

Before I go much further, one of the documents that I have been putting together over the last two years since this came up in the last session is from an article from Nebraska itself and a comment by the son of the first Clerk of the House in the first Unicameral system. I thought you might be interested to know the circumstances under which this bill finally passed in 1934 after years and years and years of debate. Commenting on the fateful 1934 election, Warner (this is Jerome Warner whose father was Charles Warner) notes that there were two other proposals on the ballot with this initiative. One was to allow pari-mutuel horse racing and another to repeal prohibition. The advertising, the heavy advertising, was to vote yes on all three. And, Mr. Warner says that there are those who think that may have been a factor. I thought you might be interested in the circumstances under which the bill finally passed, not all by itself.

The name of James Madison has been invoked as having been a strong supporter of the unicameral system in a recent newspaper article by one of our members. In fact, in his Federalist papers, James Madison pointed out that one or the other of the two Houses of a bicameral system would slow down the legislative process and allow reason to prevail. In truth and in fact, while Madison was as willing to compromise as others, a unicameral system was not in fact the great thought of James Madison. That, by

the way, is from the Federalist Papers #63, page 384.

There is recorded a conversation between George Washington and Thomas Jefferson on bicameralism I thought you might find interesting and maybe amusing. They were drinking coffee and Washington noticing that Jefferson poured his coffee from his cup to his saucer asked Jefferson why he did so. "To cool it," was Jefferson's reply. "Just so," said Washington, "we will pour legislation into the Senatorial saucer to cool it."

Chief Justice Earl Warren in 1964 wrote, "A prime reason for bicameralism is to ensure mature and deliberate consideration of and to prevent precipitate action on proposed legislation." Arguing for a two House legislature, our second President, John Adams, said, "A single assembly is liable to all the vices, follies and frailties of an individual, subject to fits of humor, starts of passion, flights of enthusiasm, partialities of prejudice and, consequently, a producer of hasty results and absurd judgment."

And, in his commentaries on the Constitution of the United States many years ago, Supreme Court Justice Story wrote this about the bicameral legislature, "It has become a great check upon undue, hasty, and even oppressive legislation."

Yes, in fact there are others in the House who follow their history as well as some of those who will be speaking to you following myself.

Let me respond to a few of the comments that were made at other times and other newspapers and comments that are going to be made today and in the literature you have had streaming on our desks over the last several days.

In regard to cost savings, salary and expense savings that occur are but a small percentage of the total biennial budget. In addition, such a move may end up costing taxpayers more money if ill-considered legislation is a result of doing away with a second House. I would tell you about the words that I have heard that there is concrete, definite, proven cost savings of \$4.5 million. Respectfully to those who have made those statements and will make those statements to you today, I, for one, am going to challenge them to show me where those numbers are. I spent a little better than two hours while I was in Nebraska a few years ago with one of the Senators in Nebraska. I can tell you that while they heard those same arguments for many years about cost savings — by the way, I will say this now and I will say it to you later, everything that I am saying to you now, I have documented from the Nebraska Legislative staff, from NCSL and from newspaper articles that I have had sent to me from Nebraska itself by a professor of history at the University of Nebraska, all of these are documented, I will be asking those who are going to be telling you that there is \$4.5 million to show us where that is coming from.

Let me tell you about in Nebraska, they had those same arguments given to them. In fact, in this day in 1994 as we speak, the cost of the legislature in Nebraska is a major (not a minor, not a now and then idea) it is a major concern, not only to the Nebraska legislature itself, but to the people of Nebraska and people who are following it. Cost savings initially may be there but what happens is that it grows. The Senator I spent two and a half hours with, his picture is in the book I have here. He is still a Senator and he can be contacted at any time. While he personally likes the system, I spent two hours in