

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

One Hundred And Sixteenth Legislature

OF THE

State Of Maine

VOLUME IV

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Senate

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FIRST CONFIRMATION SESSION

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capital for a day, I can sit in the auditorium at the High School and I can pose questions to the Governor, the same questions that I can pose here. The big difference is that we are a legislative body. We are elected by our own districts to represent them. The Governor, elected by the State, is answerable to all of the people and he does this when he holds capitals for a day, when he has his town meetings at the end of the day. That's when the questions are appropriate.

If the Governor so chooses, whoever the Governor may be in 1994, be it a man, a woman, a Democrat, a Republican, if they so choose they can present themselves to the chamber. They can inquire of the President of the Senate or the Speaker of the House, I would like to come before your chamber and answer questions that they might have. I think it's the prerogative of the Executive branch, being a separate branch of government, to let that individual make that determination as far as how they will communicate to the legislature. Just one final point. The question of the lottery. I guess I have some concerns of how the lottery will be played out. Whether or not it's Clerk Mayo in the House office, kind of sifting through, or if it's going to be on Channel 6 at 7:00 right after Jeopardy, you know a big wheel, well it's going to be Senator Lawrence you asks a question this week and Senator Carey next week. Those are some questions that I think aren't addressed properly in this bill. While it's feel good government, which is the complaint that has been used against me, that's all it is. It's like chinese food, after you're done eating it you want to eat again in a few hours. Thank you.

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

Senator **TITCOMB:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I am also listed on the paper that was sent around as one who supports this legislation and in my case I do support this legislation. I don't think it's perfect and I think there are some process issues that have to be looked at very closely. But I happen to have great hope that we're going to move to a place in time where we have open dialog between the floors as a part of healthy government and I think this could be a good beginning in that direction. I think that this is a place where we can make a statement about the role between the two divisions of government and I think that role is talking and accountability. Frankly I think that has been missing over the last several decades. If there is something that we can do to open that dialog, to insure more accountability on the part of our branches of government then I think we should do it. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Piscataquis, Senator Hall.

Senator **HALL:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I'm sitting here, listening to all this debate and something comes to mind. I've heard some good ideas, I like the capital for a day idea, if I was Governor I'd be up here probably three or four days a week, at different times because I think the communication is important. My problem is I'm not exactly sure of the Governor's schedule. I know he's a busy individual but the thought comes to mind, do you suppose that all of the selectmen in my communities are saying the same thing about me. That I'm not getting to their towns and showing up and listening to their concerns and so on and so forth. That's just about the way it

is. I really don't want my selectmen telling me that I have got to be in their town to listen to their concerns and answer all of their questions once a week, once a month, because I am much too busy to do that right now. When I am not so busy I will surely be there at their beck and call. I wish you would consider that as you are considering which way to vote on this L.D. Thank you.

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

Senator **CAREY:** Thank you Mr. President, Ladies and Gentlemen of the Senate. Apparently no one has really answered the good Senator from Oxford, Senator Luther's, question. I would point out that a very bipartisan screening Committee, made up of leadership in either body or what have you, questions would be screened by those people. In fact, those particular people could let a question in by a two-thirds vote, so that somebody, legislator or Governor, would not get hurt in even asking or trying to answer the question. Thank you.

THE PRESIDENT: The pending question before the Senate is the motion by Senator **BERUBE** of Androscoggin, to **ACCEPT** the Minority **OUGHT NOT TO PASS** Report, in **NON-CONCURRENCE**.

The Chair ordered a Division.

Will all those in favor please rise in their places and remain standing until counted.

Will all those opposed please rise in their places and remain standing until counted.

18 Senators having voted in the affirmative and 14 Senators having voted in the negative, the motion by Senator **BERUBE** of Androscoggin, to **ACCEPT** the Minority **OUGHT NOT TO PASS** Report in **NON-CONCURRENCE, PREVAILED**.

Sent down for concurrence.

The Chair laid before the Senate the Tabled and Today Assigned matter:

HOUSE REPORTS - from the Committee on **STATE & 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

Majority - **Ought Not to Pass**

Minority - **Ought to Pass as Amended by Committee Amendment "A" (H-276)**

Tabled - May 19, 1993, by Senator **ESTY** of Cumberland.

Pending - **ACCEPTANCE** of Either Report

(In Senate, May 19, 1993, Reports **READ**.)

(In House, May 18, 1993, Majority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**.)

Senator **BERUBE** of Androscoggin moved that the Senate **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, in concurrence.

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

Senator **BUTLAND:** Thank you Mr. President, Ladies and Gentlemen of the Senate. Two good government bills in a row, I'm not sure I can stand it. I will, however, stand up and speak against the pending motion. I think that having been a former member of the House, with 151 members, and now being over here in the Senate with 35, at least for me, the size reduction certainly did help. I certainly understand the efficiencies that are gained in the smaller body. I also believe that the people of the State of Maine want this piece of legislation passed. Last fall, at the Cumberland fair, I stood and asked people to sign the petitions that would at least bring the interest to the legislature and it was amazing. So many people were so eager to sign to reduce the size of the legislature. They realize that at 151, and watching the process on TV, especially during the last few days of the session, that it's a very inefficient process with that large number of people involved.

I suspect that as we approach the 21st century it is possible for a State representative to efficiently and effectively represent 12,000 people. I know in some portions of the State that's going to be some sort of a hardship. You have to keep things in the historical perspective however, the State of Maine was established in 1820 and at that time it was determined that the ideal or appropriate level of representation was 1 representative per 2000 people. The very next year, in 1821, my town petitioned the State legislature, probably one of the first acts that it acted upon, it petitioned the State legislature to secede from the town of North Yarmouth. If you read the petition, one of the main reasons was that the undue burden caused by the extended distance between the seat of government in North Yarmouth and the citizens of that area. The seat of government in ancient North Yarmouth is located on Route 88 in present day Yarmouth, from the geographic center of the town of Cumberland it is 5 miles. By today's standards 5 miles is certainly not an undue burden. Things have changed, technology has brought us the telephone, the TV, mass newspapers and there are ways for us to communicate with greater and greater numbers of people. I certainly didn't have a problem with going from the 7500 constituents that I represented to the over 38,000 constituents that I presently represent. I'm not sure if 33 and 99 is the perfect number. We had some discussion in the State and Local Government Committee and unfortunately there wasn't a whole lot of sense to compromise at some area in between, where we could take into consideration the northern areas. I would hope that we could have a Division and I would hope that you would vote against the pending motion. Thank you.

Senator **BUTLAND** of Cumberland requested a Division.

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

Senator **HARRIMAN:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I also want to rise and ask you not to accept the Ought Not to Pass Report. When I earned the distinct honor of serving with you in the Maine Senate I quickly learned how

important it was for us to rethink, reshape, refocus State government. Indeed, all of us took time out of our schedules to go to the University of Maine in Orono and talk about the way to rethink State government. Respectfully, I would say to you what has happened since then? What have we done to prove to the citizens of Maine that we reprioritized, rethought what role State government should have in our lives. In my view this is an opportunity to prove to the citizens of Maine that we can act more efficiently, more cost effectively, and by doing so I believe we will do a better job of representing our constituents. As my good seatmate, the Senator from Cumberland, Senator Butland, has pointed out, technology has enabled us to do far more than we could have years ago. The telephone, the fax machine, computers, cellular telephones and so forth. We're able to do a good job of keeping in touch with our constituents. For those reasons, to prove to the citizens of the State of Maine, that we heard them, this is something that your constituents and my constituents want to see happen. Please vote against the report. Thank you.

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

Senator **TITCOMB:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I have a district of 17 towns in southern Maine. In fact my district is, by population, the largest Senate district in the State. I would tell you that if I were to allow my little towns, and most of them are relatively small, to be folded into a bigger district, which would ultimately be the case with a lesser number of Senators, the identity of little towns like Porter and Parsonsfield and Baldwin would very quickly be lost in the mix. I think politics tells us that when you set this situation into motion and a larger town overshadows the important critical issues of a small community, then those small communities are not as well represented. If we were to limit the number of Senators, if we were to reduce it, people should clearly understand that the consequence of that will be that many small communities will be included in the district with much larger communities, and that, in the long run, is going to mean that the personalities and the characters and the very unique needs of some of our smallest towns could very well be lost. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Oxford, Senator Hanley.

Senator **HANLEY:** Thank you Mr. President, Ladies and Gentlemen of the Senate. The good Senator from Cumberland, Senator Titcomb, has pointed out that if we were to reduce the size of this body that she would, in fact, lose some of the contact with the small towns. I'd just like to point out for her information we both represent an overpopulated area at this point in time, because of population shifts, with a 35 member Senate the ideal population is 35,084, with a 33 member Senate it is 37,100, thereabouts. Both of us would be representing, in a 33 member Senate, less people than we currently represent now. I think it's important that we, as a chamber, look back as far as some of the work that has been done before. In the 115th a Commission on government restructuring was established. That Commission had a lot of smart people, good people from all across the state involved in the very specific task of saying how can we retool our state government. One of their prime areas of support was in reducing the size of the legislature to make it more manageable. I think it's time that we give

deference to those people that we assign a task to, that put the time into it and then come forward with a report that is sound and is worthy of our passage. As the good Senator from Cumberland, Senator Harriman, has said the people of the State of Maine have spoken on this. I asked this question on my questionnaire that I sent out and 80% were in favor of reducing the size of the legislature. Men and women of the Senate, it is time for us to listen to our constituents and also to turn to those who have fully examined, and the Commission on governmental restructuring fully examined all of state government, and this was one of their proposals. I hope you will vote against the pending motion. Thank you.

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

Senator **CAREY:** Thank you Mr. President, Ladies and Gentlemen of the Senate. As Senator Hanley, I was one of the members on the apportionment Commission, and one of the thoughts in trying to go to a 33 and 99, and I wish Senator Lawrence were here, one of the thoughts was that you could very simply take 33 Senate seats and cut them up equally to make 3 House seats. You probably, in each Senate district, would have cut 2 or 3 towns into pieces to get the number that you would need. Secondly, the good Senator talked about the very intelligent, smart people who put together a study. I always find that people are more intelligent and smarter when they take the same position that I do. Senator Hanley talked about a legislature which would be more manageable. Manageable by who? That's what you really have to worry about. Who is going to be able to manage a smaller legislature? Most of the lobbyists, and I have absolutely nothing against lobbyists, I find them extremely informative and extremely helpful in the system and I think the State of Maine is blessed with the lobby that we have, I don't know of any of them that are dishonest, so this is not a slam at the lobbyists by any means, but you will find that the lobby spends more time in this body than it does in the other. Why is that? It's because we are more manageable. If you're really concerned about reducing the size of the legislature, I will be speaking to you a little later this week on a little minor item that I have co-sponsored with Representative Lemke which would put us all out of work in this body.

I think the Senator made a little error when he quoted that a 35 seat Senate took in 35,000 people and a 33 seat Senate took in 37,000, and then he went on to say, if I heard him correctly, he went on to say that a 33 seat Senate would then have you representing less people. I think that was an error that maybe the Record should clear up. Thank you.

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

Senator **LAWRENCE:** Thank you Mr. President, Ladies and Gentlemen of the Senate. For the Record, I am here, at least physically. Thank you.

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

Senator **AMERO:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I rise as a former member of the restructuring State government commission and I'm pleased to represent that group today, especially because somebody has said the Commission members were special and bright and made good recommendations. I'd like to remind people that

the special commission on restructuring State government was a 22 member commission, 11 of those members were appointed by the Governor, 11 were appointed by the Speaker and the President of the Senate. Most of our recommendations did go unnoticed although I do think they were outstanding recommendations and that most people running for the legislature this time did endorse them. That commission consisted of 4 former legislators, all very well respected legislators, and it was the recommendation of the commission that the size of the House be reduced and there was not a specific number given, but the size be reduced to somewhere between 99 and 125 members. So I would urge you to vote against the pending motion as a member of the restructuring State government commission. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Piscataquis, Senator Hall.

Senator **HALL:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I assure you I will be very short. I have found a location in my questionnaire where I wished I had put the seatbelt question and it would have replaced this one. The answers that I received back were 89% in favor of reducing the size of the legislature. I campaigned on just the opposite, not to reduce the size of the legislature and gave good reasons. I spoke many times in many places. I'm not going to say that my message was not heard because I'm here, but I've had people say apparently your constituents don't know the circumstances and what they should have. I'd like to remind you that that is one reason I am here and I will be voting the wishes of my constituents and I will be voting for 99 and 33. Thank you.

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

Senator **HARRIMAN:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I rise again to speak on this motion. I would simply add that in the difficult times that we're faced with in the next few weeks to put together a state budget that, in my opinion, is probably the most important budget that this state will put together in the last several decades. I would offer the following information, the legislative budget in fiscal year 1982 was \$4.7 million, the legislative budget in fiscal year 1992 was \$12.6 million. Three times what it was ten years ago. This is an opportunity for all the reasons that have already been mentioned, along with this one, you should vote not to accept the pending motion. Thank you.

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

Senator **PEARSON:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I'd like to respond to the remarks from the gentleman from Cumberland with regard to the cost of the legislature and what it cost then and what it costs now. First of all I think that you will see the cost of the legislature will be going down and second of all you should have been here when it was only the amount of money that he quoted. We had two or three telephones in order to reach our constituents and we were lining up for them in the morning in order to get to them. The ability to reach our constituents and serve them was extremely limited at that time and I never ever want to go back to that situation. Thank you.

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

THE PRESIDENT: The pending question before the Senate is the motion by Senator **BERUBE** of Androscoggin to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, in concurrence.

A vote of Yes will be in favor of **ACCEPTANCE**.

A vote of No will be opposed.

Is the Senate ready for the question?

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEAS: Senators **BEGLEY, BERUBE, BRANNIGAN, BUSTIN, CAREY, CIANCHETTE, CLEVELAND, CONLEY, ESTY, HANDY, LAWRENCE, LUTHER, MCCORMICK, O'DEA, PARADIS, PEARSON, PINGREE, TITCOMB, VOSE, THE PRESIDENT - DENNIS L. DUTREMBLE**

NAYS: Senators **AMERO, BALDACCI, BUTLAND, CAHILL, CARPENTER, FOSTER, GOULD, HALL, HANLEY, HARRIMAN, KIEFFER, LUDWIG, MARDEN, SUMMERS, WEBSTER**

ABSENT: Senators None

20 Senators having voted in the affirmative and 15 Senators having voted in the negative, with No Senators being absent, the motion by Senator **BERUBE** of Androscoggin, to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, in concurrence, **PREVAILED**.

The Chair laid before the Senate the Tabled and Later Today Assigned matter:

RESOLUTION, Proposing an Amendment to the Constitution of Maine to Protect State Parks
H.P. 176 L.D. 228
(C "A" H-92)

Tabled - May 20, 1993, by Senator **ESTY** of Cumberland.

Pending - Motion by the same Senator to **RECEDE** and **CONCUR**.

(In Senate, April 8, 1993, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-92)**, in concurrence.)

(In House, May 19, 1993, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-92) AS AMENDED BY HOUSE AMENDMENT "A" (H-360)** thereto, in **NON-CONCURRENCE**.)

On motion by Senator **ESTY** of Cumberland, Tabled 1 Legislative Day, pending the motion by the same Senator that the Senate **RECEDE** and **CONCUR**.

The Chair laid before the Senate the Tabled and Later Today Assigned matter:

HOUSE REPORTS - from the Committee on BANKING & INSURANCE on Bill "An Act to Amend the Workers' Compensation Laws"

H.P. 530 L.D. 714

Majority - **Ought Not to Pass**

Minority - **Ought to Pass as Amended by Committee Amendment "A" (H-259)**.

Tabled - May 20, 1993, by Senator **MCCORMICK** of Kennebec

Pending - **ACCEPTANCE** of Either Report

(In Senate, May 20, 1993, Reports **READ**.)

(In House, May 18, 1993, the Majority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**.)

Senator **MCCORMICK** of Kennebec moved that the Senate **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, in concurrence.

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

Senator **MCCORMICK:** Thank you Mr. President, Ladies and Gentlemen of the Senate. This bill, L.D. 714, in its amended form will allow employers of six or less to opt out of the Workers' Comp system if they can show that they have liability insurance of \$1 million, health insurance of \$100,000 and 12 weeks of disability. The majority of the Committee on Banking and Insurance thought this was ill-advised at this time. We heard testimony from MEMIC, which you will recall is the Maine Employer's Mutual Insurance Company, which has only been in existence since January, and which would basically be completely put out of business, undermined, kaput if you, in your wisdom, vote against the Ought Not to Pass Report. We also had testimony from the Chamber of Commerce, neither for nor against, but raising very many questions, some of which I won't outline for you. One thing for you to consider is that there is currently no insurance product available in the market in Maine that would meet the L.D. 714 requirements of replacement coverage. If we allow this there is nothing for these small employers to go to. Secondly, even if that product existed, if it represented a true replacement for Workers' Compensation insurance, the price of those products would be roughly commensurate to the price of Workers' Compensation premiums. Have you heard the saying "there is no free lunch"? Well there is no free lunch, you get what you pay for. You cannot snap your fingers and miraculously change costs that have been actuarially determined.

Let's go to the matter of cost for a minute. We were all quite upset, and understandably so, earlier in the year around January when we learned of the rate increase on MEMIC, a 9% rate increase and a 15%