

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

Presented by Representative VEROW of Brewer.
Cosponsored by Senator ROSEN of Hancock, Representative LYFORD of Eddington, Representative WARD of Dedham.

On **OBJECTION** of Representative VEROW of Brewer, was **REMOVED** from the Special Sentiment Calendar.

READ.

The SPEAKER: The Chair recognizes the Representative from Brewer, Representative Verow.

Representative **VEROW**: Thank you, Mr. Speaker, Ladies and Gentlemen of the House, Noah Tibbetts is here today with his brother.

The Children's Miracle Network Champion Program honors remarkable children from throughout the United States and Canada who have triumphed despite serious medical challenges. For his courage and perseverance, Noah was selected ambassador for Maine hospitals treating children for serious illness.

He and his brother, Gabe, organized a Halloween fundraiser called "Dare to Scare" and the family has followed that with another fundraiser called "Nickels for Noah." Both fundraisers have been successful in generating generous support for the Children's Miracle Network in the state of Maine, and so I'm pleased to present this sentiment. Thank you, Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Dedham, Representative Ward.

Representative **WARD**: Thank you, Mr. Speaker, this young man that Representative, my good friend Representative Verow was just mentioning is quite a young man, indeed. In fact, before I go any further, with the Speaker's permission, I would request that Noah Tibbetts come down and stand directly in front of the Speaker's podium so that you can all get a look at him with his brother. Noah, can you come down front for us, honey? Thank you, Mr. Speaker.

About a little over a year ago I received a call at my business, Nickerson and O'Day, from the Children's Miracle Network. They're a wonderful organization and they recognize a lot of effort that goes on in the greater Bangor area, and indeed across the state. And they explained to me that there was this young man, his name was Noah Tibbetts. They said that when he was a baby, he nearly died of meningitis. And his favorite team is the Boston Red Sox and he loves baseball more than anything.

Now, those of you might not know, I run an indoor baseball and softball training facility. It's what I call a "less than non-profit." You can figure that one out. It's called Sluggers, and they said, "Can we get him in there maybe for some free time at Sluggers?" I looked on the computer, and I could see that not only was he a member of the Sluggers family, but he was there all the time. I said, "You know what? I know some people at Cross Insurance," where I serve on the Board of Trustees in their Worker's Comp Division. It just so happens that Cross Insurance just began insuring the Boston Red Sox, which just happens to be Noah's favorite team, and mine by the way. I said, "Let me make a phone call and see what we can do."

In September of last year, we created a dream come true and a dream day for Noah and his little brother, Gabe, and his entire family. His mother, Julie, is up in the and she's videotaping right now. With the help of the Boston Red Sox and the Red Sox Nation, we were able to bring Noah to Fenway Park. He got to go down on the field, he got to meet his favorite players, he even got an autograph baseball. We got to go inside the clubhouse and the restaurant. We had seats on the Green Monster for the entire game—best seats in baseball, trust me. And, in the 7th inning, he got a surprise tap on his shoulder and he was led up into the radio broadcast booth, and the WEEI Red Sox Radio

Network, he sat beside Joe Castiglione and read the entire Red Sox line up in the 7th inning.

I got to witness all of that. And for this 52-year-old, it was a dream day for me, and I have to imagine that is equally so for 9-year-old Noah. Noah is a special kid. Noah understands what it's like to give back to community. Noah's using his story to provide benefit for many, many other young children through the Children's Miracle Network. And, Mr. Speaker, it's my proud moment to be able to recognize Noah here in the House of Representatives, and I wanted to introduce him all to you. Thank you, Mr. Speaker.

Subsequently, the Sentiment was **PASSED** and sent for concurrence.

REPORTS OF COMMITTEE
Divided Reports

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 Elect 2 Senators from Each County

(S.P. 234) (L.D. 641)

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

Minority Report of the same Committee reporting **Ought to Pass as Amended by Committee Amendment "A" (S-43)** on same RESOLUTION.

Signed:

Senators:

WHITTEMORE of Somerset
WILLETTE of Aroostook

Representatives:

GREENWOOD of Wales
PICKETT of Dixfield
TUELL of East Machias
TURNER of Burlington

Came from the Senate with the Majority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**.

READ.

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

Representative ESPLING of New Gloucester **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: The Chair recognizes the Representative from East Machias, Representative Tuell.

Representative **TUELL**: Mr. Speaker, Ladies and Gentlemen of the House, I rise today in opposition to the pending motion, and in support of LD 641, a "Resolution Proposing an Amendment to the Constitution of Maine To Elect 2 Senators from Each County."

Two hundred and twenty eight years ago, the Founding Fathers of this great nation gathered in Philadelphia to discuss, debate, and deliberate over the future of a loosely assembled confederation of states that had been clinging on to some semblance of a nation since emerging from the Revolutionary War, ten years previous.

Much has been written of those tense, feudal days when large states and small states jockeyed for advantage in the political arena. Much as I may add, if you read the pages in the newspaper today about small towns and large ones. Much has also been written of the men, their motivations and machinations as they tried to forge a Republic great enough to withstand all enemies—all enemies—foreign and domestic.

I bring all of this up because this discussion is echoed throughout the annals of history and has defined our nation and our state at every critical juncture. Madison and his contemporaries foresaw that. They saw that the big urban states like Massachusetts in the 1780's, and California today would, by might of numbers, seek to overwhelm small rural states. And so they crafted the Senate, giving each state two Senators, so that all states regardless of population were on an equal footing in one chamber of Congress. Yet, they also saw that smaller, rural states could hold the urban centers hostage if there was no balance. So they created the House, and based its membership on population, giving larger, more populous states sway in that chamber.

That is how our system was designed 228 years ago. And slowly, ever so slowly, we have gotten away from the original intent, the core concept, the point of our Constitution, to the point where most don't even understand why we ever did it in the first place. Which brings me to why I'm standing here chattering on today, knowing full well that this bill is doomed before you, Mr. Speaker, can bang the gavel.

Senator Davis' bill attempts to do at the state level what the Founders established at the federal. It attempts to bridge the rural/urban divide at a time when Mainers increasingly see the state as splitting in two. There, I've said it. There are two Maines. There is an urban Maine that feels like it is carrying rural regions like my district in Washington County; and there is a rural Maine that is consumed by the belief that its communities are being devoured by an insatiable, unsatisfiable, unquenchable, urban colossus.

Members of this body may argue that I am being melodramatic, and maybe I am. Yet all one needs to do is look at the discussion around school funding, economic development, local control, revenue sharing, healthcare, gun rights, on and on down the list we can go. This bill attempts to level the playing field, giving both rural Mainers and urban Mainers an equal voice in state government by balancing that government. This bill puts Lubec and Lewiston on the same playing field. It starts the proposed process of bridging the gap between the two Maines in a structural way as opposed to a partisan way; and it requires each of us to come to the table and figure things out in a balanced, measured way instead of a north versus south, or urban versus rural way.

I proudly support this legislation, Mr. Speaker. I know the die is cast, but I'm going to swing as big a stick for Washington County as I can while I'm here, and while I don't have the muscle, to borrow Representative Ward's analogy earlier, while I don't have the muscle of Pablo Sandoval or David Ortiz, I owe it to the folks back home to put every ounce I have into muscling that ball, this bill, into the Green Monster seats.

In closing, I urge my colleagues in this chamber, whether a firm believer in what the Founding Fathers set in motion nearly 230 years ago, a rural Representative or someone from the rural

caucus, or someone who wants to end the "Tale of Two Maines," to vote this bill Ought to Pass and hit the big red button. Thank you very much, Mr. Speaker.

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

Representative **BABBIDGE**: Thank you, Mr. Speaker. Mr. Speaker, Ladies and Gentlemen of the House, it is important that we consider this bill in some context. Two and a half centuries ago, we did have 13 very separate and disparate colonies, very different with different origins. And when we became one nation, as a result of the war, the Revolution, we set up a weak government that you're all familiar with the Articles in which each state was represented with a single vote.

When the Constitutional Convention did convene, people like James Wilson, a person from Pennsylvania and a delegate to the Constitutional Convention, looked at the status quo and said, and looked at New Jersey having equal votes with Pennsylvania. Pennsylvania had three times the population, and he said, "Are we not of equal value? Does it take three Pennsylvanians to equal one citizen of New Jersey?" And, of course what I know you are familiar with is that the Virginia Plan in 1787 came out with a major reform, and that would be choice according to population. And the Virginia Plan proposal was that the lower house be represented according to population, and that the upper house be chosen by the lower house.

Now, we didn't dare to go quite that far, so the compromise, the Great Compromise, Connecticut Compromise that we're all familiar with, ended up with making a major reform toward representation by the people, but sticking with a more traditional status quo in the Senate. Now, I'm not one to criticize Maine's place in the last 200 years with regard to the Senate. We have population representation in Washington that has been far more influential than our population would show.

And, in the 20th century, well, we had William Pitt Fessenden in the 1860's, a Senator from Maine who dared to go against his party and not vote for impeachment on trivial grounds, on political grounds. A century later we had another Republican, Margaret Chase Smith, who dared to oppose her party, or an important and powerful person in her party, when she gave the Declaration of Conscience speech in 1950. We've had Ed Muskie and George Mitchell, we've had Bill Cohen and Olympia Snowe, we have a proud tradition in Washington, I understand that.

But in 1868, the national Legislature, the Congress began the first of three major amendments to the Constitution, and the 14th amendment provided for equal protection of the laws. And that meant something back then but it came to mean more and more in the 20th century as the courts applied that to our lives. And in the 1960's, it was the Warren Court that came out with the *Baker vs. Carr* decision in 1962 that basically said, 1 person, 1 vote, established that principle. And *Reynolds vs. Sims* two years later addressed state legislatures, bicameral state legislatures.

And at the time, there was disparities all over the country. California, Tennessee, Florida had big disparities in the representation of the different delegates. In New Hampshire and Vermont, there were disparities where one Representative would actually represent a thousand times more people than another Representative.

So, in *Reynolds vs. Sims*, the Supreme Court of the United States declared that all bicameral legislature, both houses, of state legislatures be apportioned, or districts be abide by equal populations. And since that time, of course, the nation has abided by that. There's an evolution that has gone from tradition to popular sovereignty, representation by the people. It was Earl Warren who said, "Legislators represent people..."

The SPEAKER: Will the Representative defer.

Representative **BABBIDGE**: Yes.

The SPEAKER: The Chair would remind the Representative to address the Speaker through debate.

The Chair reminded Representative **BABBIDGE** of Kennebunk to address his comments toward the Speaker.

Representative **BABBIDGE**: I apologize.

The SPEAKER: The Representative may proceed.

Representative **BABBIDGE**: And the majority spears to be to my left, so I apologize to the people over here as well. Mr. Speaker, I just want to say that, a famous quote from Earl Warren that does apply here is that, "People represent," excuse me, "Representatives represent people, not trees or acres." And, although I am a proud former resident of Greenville for seven or eight years and have great affection for my friends in Piscataquis County, the fact of the matter is, should we go to this, should we go to this two Representative per county then a Senator from Piscataquis would represent an equal amount to a Representative, about 9,000 thousand people, a little less. And meanwhile, Cumberland, take the opposite, would represent 144,000.

So, I think it's important that we take this in context and although we respect our national legislature, the fact that we have two from each state was not a reform, it was part of a compromise to attend to the traditional status quo. And that finally, over the last 250 years we have come to proportional representation, "one man, one vote", and I think we should adhere to that. I urge you to vote with the majority Ought Not to Pass report. Thank you.

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

Representative **MARTIN**: Thank you, Mr. Speaker. Mr. Speaker and Ladies and Gentlemen of the House, LD 641 is, in fact a constitutional resolution; it's an amendment. It would, in fact reduce the size of the Maine Senate from 35 to 32.

Those that have spoken in opposition to the majority Ought Not to Pass Report might have had valid arguments prior to 1964. But here's what happened in 1964. In 1964 the U.S. Supreme Court ruled that representation in elected bodies had to be done by population and not by county. As a matter of fact, the *Baker vs. Carr*, the court ruled that representation had to be based on population. Again, this would be in clear violation of the Maine Constitution and I urge all members of this body to please support the majority Ought Not to Pass report.

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

Representative **EVANGELOS**: Thank you, Mr. Speaker, I rise to support the motion of the good Representative from Sinclair, the "one man, one vote" principle. Also want to clear up for the record for misconceptions, our Founding Fathers did not codify the direct election of Senators. That was done in 1913 with the adoption of the 17th amendment. Prior to that, U.S. Senators were elected by the respective state legislators. I also feel that this is more or less a bill that mirrors the House of Lords peerage system, which they've done away with in Great Britain.

Cumberland County has 285,000 people. Piscataquis County has 17,000 people and under the provisions of this bill they would both have two Senators. I might add that York County has 200,000 people and Penobscot County 153,000. And the "one man, one vote" provision has been solidly described by Representative Martin and I'll be following his lead on this. Thank you, Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Scarborough, Representative Sirocki.

Representative **SIROCKI**: Thank you, Mr. Speaker, I hadn't intended on rising to speak on this issue, but I had brought the same bill forward in the 125th, and I stand in opposition to the pending motion, and do support this idea.

And, I thought it was interesting that prior to the 1960's and the *Baker v. Carr* vote, that states were allowed the flexibility to mirror their state governments after the federal system and it was called the "little federal system," whereby the House of Representatives was apportioned by population and their Senate could be apportioned by region or geography, therefore both chambers really reflected a difference and I thank the Representative from Washington County for bringing this forward. Thank you.

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

Representative **RUSSELL**: Thank you, Mr. Speaker. Mr. Speaker, Men and Women of the House, I would just like to remind folks that it's "one person, one vote." Half the folks in this chamber aren't a man, so if we could just talk about it that way, that'd be awesome because I'd like to be reminded that I can vote. Thanks.

The SPEAKER: 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. 35

YEA - Babbidge, Bates, Beavers, Beck, Beebe-Center, Blume, Brooks, Bryant, Burstein, Campbell J, Chapman, Chenette, Chipman, Cooper, Daughtry, Davitt, DeChant, Devin, Dion, Doore, Duchesne, Dunphy M, Evangelos, Farnsworth, Fecteau, Fowle, Frey, Gattine, Gideon, Gilbert, Golden, Goode, Grant, Grohman, Hamann, Harlow, Herbig, Hickman, Hobbins, Hogan, Hubbell, Hymanson, Jorgensen, Kornfield, Kruger, Kumiega, Lajoie, Longstaff, Luchini, Marean, Martin J, Martin R, Mastraccio, McCabe, McCreight, McLean, Melaragno, Monaghan, Moonen, Morrison, Nadeau, Noon, Nutting, Peterson, Pierce T, Powers, Rotundo, Russell, Rykerson, Sanborn, Saucier, Schneck, Shaw, Stanley, Stuckey, Sukeforth, Tepler, Tipping-Spitz, Tucker, Verow, Warren, Welsh, Mr. Speaker.

NAY - Alley, Austin, Battle, Bickford, Black, Buckland, Campbell R, Chace, Corey, Crafts, Dillingham, Dunphy L, Edgcomb, Espling, Farrin, Foley, Fredette, Gerrish, Gillway, Ginzler, Greenwood, Guerin, Hanington, Hawke, Head, Herrick, Higgins, Hilliard, Hobart, Kinney J, Lockman, Long, Lyford, Maker, Malaby, McClellan, McElwee, O'Connor, Parry, Picchiotti, Pickett, Pierce J, Pouliot, Prescott, Reed, Sanderson, Sawicki, Seavey, Short, Sirocki, Skolfield, Stearns, Stetkis, Theriault, Timberlake, Timmons, Tuell, Turner, Vachon, Wadsworth, Wallace, Ward, White, Winsor, Wood.

ABSENT - Hanley, Kinney M, Sherman.

Yes, 83; No, 65; Absent, 3; Excused, 0.

83 having voted in the affirmative and 65 voted in the negative, with 3 being absent, and accordingly the Majority **Ought Not to Pass** Report was **ACCEPTED** in concurrence.