

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

One Hundred And Fifteenth Legislature

OF THE

State Of Maine

VOLUME II

FIRST REGULAR SESSION

House of Representatives
May 20, 1991 to July 10, 1991

was tabled earlier in the day and later today assigned pending the motion of Representative McHenry of Madawaska that the House accept the Majority "Ought to Pass" Report.

Representative Whitcomb of Waldo requested a roll call vote.

The SPEAKER PRO TEM: 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 PRO TEM: The Chair recognizes the Representative from Fryeburg, Representative Hastings.

Representative HASTINGS: Mr. Speaker, Men and Women of the House: Philosophically, there are many reasons for voting one way or another on this particular bill. However, let me just give you one reason why, in my opinion, the Minority Report should be accepted and that is what is going on in this state today. I would request you not to adopt the Majority Report. Right now, we are just trying to improve a perception of business. We have businesses that are telling us for one reason or another they are leaving and frankly, regardless of your philosophy on this bill, this is perceived as an antibusiness bill. I don't think it is terribly important in this particular day and age on this item because everyone is fighting for jobs. I think it is important to adopt, if you will, the Minority Report. Therefore, I would urge you not to adopt the Majority Report.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Jay, Representative Pineau.

Representative PINEAU: Mr. Speaker, Men and Women of the House: I, unlike the good Representative from Fryeburg, Representative Hastings, do want the Majority Report passed and I want your endorsement on it. Simply because this is a bad time for business, that doesn't constitute this as a bad business bill. What this constitutes is a work force that wants to work but cannot work because they have been locked out. They show up at the gate, the gate is closed. This happens usually in time when contracts are being negotiated and have come to an impasse. It boils down to a philosophical difference. I know I refuse to let the current business situation warrant what is right or wrong in my mind, that still prevails. I hope members of the House too.

I know the hour is late and time is running on, I just ask for your support for this bill to give those people, as many other states do have, the right for unemployment benefits when they are locked out of their place of employment.

The SPEAKER PRO TEM: The pending question before the House is the motion of Representative McHenry of Madawaska that the House accept the Majority "Ought to Pass" Report. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 71

YEA - Adams, Anthony, Bell, Boutilier, Cahill, M.; Carroll, D.; Cathcart, Clark, H.; Clark, M.; Coles, Cote, Daggett, DiPietro, Dore, Duffy, Dutremble, L.; Erwin, Farnsworth, Gean, Goodridge,

Gould, R. A.; Graham, Gray, Gurney, Gwadosky, Hale, Handy, Heeschen, Hichborn, Hoglund, Holt, Hussey, Jacques, Joseph, Kerr, Ketover, Ketterer, Kilkelly, Kontos, LaPointe, Larrivee, Lawrence, Lemke, Luther, Manning, Mayo, McHenry, McKee, Melendy, Michaud, Mitchell, E.; Mitchell, J.; Morrison, Nadeau, Nutting, O'Dea, Paul, Pfeiffer, Pineau, Plourde, Pouliot, Powers, Rand, Richardson, Rotondi, Ruhlin, Rydell, Saint Onge, Simonds, Simpson, Skoglund, Stevens, P.; Strout, Swazey, Tannaro, Townsend, Tracy, Treat, Waterman, Wentworth.

NAY - Aikman, Anderson, Ault, Bailey, H.; Bailey, R.; Barth, Bennett, Bowers, Butland, Carleton, Carroll, J.; Donnelly, Farnum, Farren, Foss, Garland, Greenlaw, Hanley, Hastings, Heino, Hepburn, Lebowitz, Libby, Lipman, Look, Lord, MacBride, Marsano, Marsh, Merrill, Murphy, Nash, Norton, Ott, Parent, Pendexter, Pines, Reed, G.; Reed, W.; Richards, Salisbury, Savage, Small, Spear, Stevens, A.; Stevenson, Tardy, Tupper, Whitcomb.

ABSENT - Aliberti, Cashman, Chonko, Constantine, Crowley, Duplessis, Hichens, Jalbert, Kutasi, Macomber, Mahany, Martin, H.; O'Gara, Oliver, Paradis, J.; Paradis, P.; Pendleton, Poulin, Ricker, Sheltra, Vigue, The Speaker.

Yes, 80; No, 49; Absent, 22; Paired, 0; Excused, 0.

80 having voted in the affirmative and 49 in the negative with 22 being absent, the Majority "Ought to Pass" Report was accepted, the Bill read once.

Committee Amendment "A" (H-326) was read by the Clerk and adopted and the bill assigned for second reading Wednesday, May 22, 1991.

The Chair laid before the House the following matter: 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 Increase the Availability of Legislative Participation (H.P. 740) (L.D. 1044) and Minority Report of the same Committee reporting "Ought to Pass" as amended by Committee Amendment "A" (H-319) on same Resolution, which was tabled earlier in the day and later today assigned pending acceptance of the Majority "Ought to Pass" Report.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Paris, Representative Hanley.

Representative HANLEY: Mr. Speaker, Men and Women of the House: I campaigned on the issue of term limitation in 1988 and again in 1990. Every year since I was first elected as a State Representative in 1986 I have mailed a district wide questionnaire and have always received a strong response. In the past three years, I have asked my constituents how they feel about term limitation. They have consistently favored term limitation by a 59 percent margin.

Critics of term limitation tell me they have faith in our political process, that we can vote people out of office with a simple flick of a lever. Critics who see that as a simple matter wonder why I continue to tilt the Augusta windmill. The issue of term limitation goes beyond political parties and ideologies and goes directly to the question of whether or not we can sustain our democratic form of government. A limit on State Legislative terms reflects my Jeffersonian instincts to open up legislative service to more common citizens and fewer

career politicians. Our founding fathers never intended for congressional service to become a career, neither did members of Maine's first legislatures. Much of the public has lost interest in elections, voter apathy is a continuing problem and today we consider 50 percent a good election day turnout. That is an embarrassment, especially when you consider that, in some countries, there are people dying for the right to vote.

As I campaigned for the past three elections, some voters in my district told me they were not going to vote because they felt their vote didn't matter. They said that people in power are going to stay in power.

In last Fall's election, Oklahoma, California and Colorado passed initiatives to limit the terms of their state legislators. The citizens of Maine are denied the opportunity to amend the state Constitution by popular initiative. The only game in town for Maine residents is a Constitutional Amendment proposed by the State Legislature which would then be sent to public referendum. L.D. 1044, the bill before you this evening, would limit Maine State Legislators to five consecutive terms or ten years. There is no reason to lose talented public servants under term limitations. This Constitutional Amendment would not prevent legislators from running for other public office. A state Representative would not be prevented from running for State Senate. A state Senator would not be prevented from running for the House of Representatives. After a two year sabbatical, a legislator could again run for the office of his or her choice. They could also share their knowledge and experience at the local or county level.

Term limitation would eliminate the option of a life-time, self-interested career. Legislators entering into the political process would do so with their eyes wide open, knowing that they are limited to five consecutive terms, if they are fortunate enough to be reelected that often. After that, they would have to use their skills in another public office or in the private sector.

I didn't jump on the term limitation band wagon to ride the recent wave of public support for it. I have championed this cause since my second term in the legislature after I became acutely aware of the distrust and cynicism citizens feel towards legislators and politicians.

George Washington, our first President, refused to serve a third term as President of the United States, more than 150 years before the 22nd Amendment to the Constitution limited terms of U.S. Presidents. What did Washington know that we didn't? He knew that a truly representative form of government would only prosper and survive if infused regularly with fresh ideas and idealisms of its people.

Men and women of the House, I would appreciate it if you would vote against the Majority "Ought Not to Pass" Report so you can accept the Minority "Ought to Pass" Report. It is important that you remember that under Maine's Constitution, Article IV, Section 15 and 18, the people of the State of Maine are limited in proposing and voting on Constitutional Amendments. Any Constitutional Amendment must go through the Legislature. Whether or not they want to support this, it is in our hands to allow the choice. All I am asking you tonight to do is allow the people of the State of Maine to have a choice,

whether or not they want to limit state legislators to five consecutive terms.

Mr. Speaker, I request a roll call.

The SPEAKER PRO TEM: 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 PRO TEM: The Chair recognizes the Representative from Waterville, Representative Jacques.

Representative JACQUES: Mr. Speaker, Men and Women of the House: I was beginning to think that this session would go by and I wouldn't have my opportunity to disagree with the good Representative from South Paris, Representative Hanley, to and behold here is one and I have my chance.

I have never voted for four year terms for the legislature and I always opposed that for one reason. I think that two years time gives your people back home a chance to evaluate you, see if you have done a good job, see if you have represented their interests instead of your own special interest groups or whatever the case may be. I have always supported maintaining two year terms.

You know, we have something that was started around here a few years back that I find very interesting and that is Welcome Back Day. I have to point out that when we had Welcome Back Day this year they started with the current legislature and they went down the line. I would like to point out to the members of the House that there were three members that had over 14 years of service in this body, one was the good Representative from Topsham, Representative Chonko, Representative Strout from Corinth and Speaker Martin from Eagle Lake. Then you drop down to three of us that are in our 13th year in the Maine Legislature, the beginning of our seventh term. From there you drop down to 11 years and the number wasn't that great, then you drop down to members starting their seventh and fifth term in this legislature and they, indeed, made up a major part of this legislature.

Since I have been here, and this is my seventh term, we have had anywhere from a one-third to one-half turnover in this body. In my opinion, the only people that would truly benefit from having a lot of new people here would be the lobbyists because they won't have the people around that remember when something was brought forth for special interests other than those people you and I took our oath to represent. I don't say that to cast aspersions on new legislators because we all went through the same thing. You had a lobbyist that looked good and sounded good, came up as a freshman or sophomore and he gave you a line, a long line, a lot of it probably would have been better spent spreading it in your garden somewhere but it was a long line and it sounded good to you and you went along with it. Quite frankly, it was the veteran legislators, the Luman Mahany's, the guys that had been around here a while, the Eddie Kelleher's that came forward and said, wait a minute kid, this is what this really does, this is how it is going to affect your people back home and I think you should know about it. When you sat down and thought about it, you ended up

voting the other way and I was very appreciative of the fact that I had a few of those people that had been here awhile to point out the error of my ways.

The good Representative said that people are disillusioned in the way you vote. Well, I will say it is not because of the people they vote for or against, quite frankly, but as a perfect example the other day we had an issue that the people voted in referendum in one of the largest turnout and it dealt with Sunday sales. There were some things in that Sunday sales referendum that I didn't like but this legislature didn't have the guts to pass the original bill that was brought forward that had some of those protectional clauses in there that would have helped the people that we are trying to help now. So, we passed the buck because we didn't have the guts to pass it. We sent it to referendum and we said we will live by what the people decide they want to do because we are such a strong and bold body with backbone at times and, lo and behold, the people voted. I will agree it wasn't by a big majority but it was still a majority. What did we do? This year we came in with a bill to undo that. The only comment I got about it was, how come we pass something with a referendum because you didn't want to do it in the first place and then, once we pass it, you turn around and vote to change it different than when we passed it? Now, if you want to deal with voter disillusionment, start paying attention to what your people tell you. If you don't want them to tell you something you don't want to hear then vote for it yourself in here. Show a little guts.

Term limitations are a joke, they don't serve anyone, they look good and they make you feel good. This session of the legislature will go down in history as a session where we did things that looked good and make you feel good but really didn't accomplish a heck of a lot. This is just one of those bills.

I, too, sent out questionnaires and every two years one of the questions I ask is, do you believe I should run for reelection? The people get ahold of me and say, yes, we do because you have been there a while, you are getting the experience, you are getting the knowledge and you are getting the tenure and we like having that. So, they say to me, yes, you should run. I run, somebody can run against me if they want to, they do, they get beat and I come back here. When the people back home decide they want to change that around, somebody will run, I'll get beat, they will be here, I'll be home. End of story.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Skowhegan, Representative Hepburn.

Representative HEPBURN: Mr. Speaker, Ladies and Gentlemen of the House: I just want to speak in favor here of a concept that is already embodied in our constitution both at the state and federal levels and that is the concept of term limitation. It is very much with us in terms of the Chief Executive of this state and of the nation. We have seen fit to limit the Chief Executive to two terms, a total of eight years. Since our entire concept of government from its formation was one of balance between the various branches of government, it seems certainly appropriate that the legislature should also be limited in its number of terms.

One of the interesting arguments which has, surprisingly been used by opponents of this measure, was that of lobbyist in terms of having more power

with a legislature that had more citizen participation. Personally, I have never observed that to be true and feel quite the opposite. If you look in the halls — I think we have all been freshmen at one point, some of us are freshman right now — who do the lobbyists go to? Do they go to the freshmen and start talking to them all the time, the first month of the session, the second month of the session, even the first year of the session? No, they hang around with the veterans. There tends to be, at least in my case, the longer I have been here, the more they seem to talk to me. Maybe some of you folks are different but I think I see more independents among freshman legislators in terms of how they vote on roll calls than I see among veterans. I think that is a breath of fresh air into this body and into the whole system. I think it speaks very highly for term limitation. I hope you will oppose the motion and vote for the "Ought to Pass" Report.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Paris, Representative Hanley.

Representative HANLEY: Mr. Speaker, Men and Women of the House: I always appreciate the opportunity to differ with my colleague from Waterville, Representative Jacques.

I just want to take two seconds of your time and reiterate a point that should not be lost to anyone in their seat and voting tonight. The fact is that people out there, our constituents, want a chance to vote on this.

I have an agenda from the Small Business Advocacy Committee from their May 2nd meeting at Auburn Manufacturing. These are small business people from all around Androscoggin County, Cumberland County, and Oxford County. They met and fourth on their list was limiting terms for legislators. They wanted to start a referendum to limit the terms of legislators. They felt that the process had gotten out of hand and they didn't have control of it anymore. They had me come and speak to them and I told them that no, they would not have an opportunity to start a referendum because that is not the way things work in Maine. The only game in town is to go through the legislature. The National Federation of Independent Businessmen had a poll done statewide and nationwide. Their results showed 70 percent respondents were in favor of term limitation, that is 70 percent from the NFIB. I polled my caucus this afternoon for those who had asked this question on their questionnaire and, of the four of us that had put the question on, all the response was overwhelming. That is from the western part of the state, the northern part of the state, the central and eastern part of the state.

Men and women of the House, this is not a "bury your head in the sand" issue, the people want a chance to vote on this, let's give them that chance.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Arundel, Representative Wentworth.

Representative WENTWORTH: Mr. Speaker, Men and Women of the House: I am one of those freshmen Representatives and I have listened to a lot of debate here for the last four months. In listening to that, I have become much more of a fan to term limitations. I really think we ought of limit terms such as "to be quite honest", "quite frankly", or "I will be brief" — those are the only term limitations that will be constructive to this process.

The SPEAKER PRO TEM: 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. 72

YEA - Adams, Anthony, Bell, Boutilier, Cahill, M.; Carroll, D.; Cathcart, Clark, H.; Clark, M.; Coles, Cote, Daggett, DiPietro, Donnelly, Duffy, Dutremble, L.; Erwin, Farnsworth, Farnum, Gean, Goodridge, Gould, R. A.; Graham, Gray, Gurney, Gwadosky, Hale, Handy, Heeschen, Hichborn, Hoglund, Holt, Hussey, Jacques, Joseph, Kerr, Ketover, Ketterer, Kilkelly, LaPointe, Larrivee, Lawrence, Lemke, MacBride, Manning, Mayo, McHenry, McKeen, Melendy, Mitchell, E.; Mitchell, J.; Morrison, Murphy, Nadeau, Norton, O'Dea, Paul, Pfeiffer, Pineau, Plourde, Poulin, Pouliot, Powers, Rand, Richardson, Rotondi, Ruhlin, Rydell, Saint Onge, Simonds, Simpson, Skoglund, Small, Stevens, P.; Strout, Swazey, Tamaro, Tardy, Townsend, Tracy, Treat, Waterman, Wentworth.

NAY - Aikman, Anderson, Ault, Bailey, H.; Bailey, R.; Barth, Bennett, Bowers, Butland, Carleton, Carroll, J.; Farren, Foss, Garland, Greenlaw, Hanley, Hastings, Heino, Hepburn, Lebowitz, Libby, Lipman, Look, Luther, Marsano, Marsh, Merrill, Nash, Ott, Pendexter, Pines, Reed, G.; Reed, W.; Richards, Salisbury, Savage, Spear, Stevens, A.; Stevenson, Tupper, Whitcomb.

ABSENT - Aliberti, Cashman, Chonko, Constantine, Crowley, Dore, Duplessis, Hichens, Jalbert, Kontos, Kutasi, Lord, Macomber, Mahany, Martin, H.; Michaud, Nutting, O'Gara, Oliver, Paradis, J.; Paradis, P.; Parent, Pendleton, Ricker, Sheltra, Vigue, The Speaker.

Yes, 83; No, 41; Absent, 27; Paired, 0; Excused, 0.

83 having voted in the affirmative and 41 in the negative with 27 being absent, the Majority "Ought Not to Pass" Report was accepted. Sent up for concurrence.

The Chair laid before the House the following matter: Bill "An Act to Extend Confidentiality Status to Certain Records of Applicants for Housing, Community or Economic Development Activities" (H.P. 1271) (L.D. 1842) which was tabled earlier in the day and later today assigned pending passage to be engrossed.

On motion of Representative Gwadosky of Fairfield, retabled pending passage to be engrossed and specially assigned for Wednesday, May 22, 1991.

The Chair laid before the House the following matter: Bill "An Act to Ensure that County Sheriffs Continue to Provide Rural Patrols for Small Towns in the Counties" (H.P. 813) (L.D. 1167) (C. "A" H-305) which was tabled earlier in the day and later today assigned pending adoption of House Amendment "A" (H-375) to Committee Amendment "A" (H-305).

The SPEAKER PRO TEM: The Chair would rule that there is no fiscal note needed on the amendment.

On motion of Representative Mayo of Thomaston, retabled pending adoption of House Amendment "A" (H-375) to Committee Amendment "A" (H-305) and specially assigned for Wednesday, May 22, 1991.

The Chair laid before the House the following matter: An Act Concerning Special Waste Landfills (S.P. 472) (L.D. 1264) (S. "D" S-132 to C. "A" S-124) which was tabled earlier in the day and later today assigned pending passage to be enacted.

The SPEAKER PRO TEM: This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 118 voted in favor of the same and none against and accordingly the Bill was passed to be enacted, signed by the Speaker pro tem and sent to the Senate.

The Chair laid before the House the following matter: An Act to Prohibit the Charging of Rent in Advance by Landlords (H.P. 370) (L.D. 524) (C. "A" H-245) which was tabled earlier in the day and later today assigned pending the motion of Representative DiPietro of South Portland that L.D. 524 and all accompanying papers be indefinitely postponed.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Orono, Representative O'Dea.

Representative O'DEA: Mr. Speaker, Men and Women of the House: This bill has what you might call an overly complicated title. Its real purpose is to clarify a loophole in an existing law.

I would like to read for you the existing law, if you will indulge me, it is one sentence long. This deals with rents in advance and security deposits. The law reads, "No lesser of a dwelling intended for human habitation shall require a security deposit equivalent to more than the rent for two months." Very straightforward. However, in the town of Orono, we have a problem with some less than scrupulous landlords charging people six months rent in advance. They maintain that since it is not a security deposit but rather rent in advance that it is permissible under the law.

Committee Amendment "A" which was accepted unanimously by the Joint Standing Committee on Legal Affairs says, among other things, that — let me read to you the full extent of the proposed changes in Committee Amendment "A." "Rent collected for a rental period other than the rental period beginning immediately after collection of rent is part of the security deposit." So, the purposes of this definition is that a rental period may not exceed one month. It simply makes clear that the collection of advance rent is limited by the current law limiting security deposits to two months rent. All this Committee Amendment does is clarify the existing law to help deal with a few scoff laws in places like Orono. I understand the situation is also going on in Portland and it is a real problem. This body has spoken about the issues of affordable housing and to set apart one group of people and one group of landlords to have a separate rule and that is not appropriate.

My good friend, Representative DiPietro, said he thought this was a local problem. However, the