

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

Stevens, K.; Sullivan, Swazey, Townsend, E.; Townsend, L.; Tracy, Treat, Vigue, Walker, Wentworth, Winn, Young, The Speaker.

NAY - Aikman, Aliberti, Bennett, Birney, Brennan, Bruno, Campbell, Caron, Carroll, Cloutier, Clukey, Daggett, Donnelly, Dore, Driscoll, Dutremble, L.; Erwin, Farnum, Farren, Foss, Gamache, Greenlaw, Gwadosky, Heeschen, Hillock, Johnson, Joy, Kneeland, Libby Jack, Lindahl, Lipman, Look, MacBride, Marsh, Marshall, Melendy, Mitchell, E.; Murphy, Nickerson, Norton, O'Gara, Pendexter, Plowman, Reed, G.; Reed, W.; Ricker, Robichaud, Rotondi, Skoglund, Small, Spear, Strout, Taylor, Thompson, True, Tufts, Whitcomb, Zirkilton.

ABSENT - Ault, Bailey, H.; Bailey, R.; Carr, Cathcart, Coles, Heino, Holt, Jalbert, Larrivee, Martin, H.; Morrison, Nadeau, Ott, Ruhlin, Tardy, Townsend, G..

PAIRED - Libby (Nay)/Constantine (Yea)

Yes, 74; No, 58; Absent, 17; Paired, 2; Excused, 0.

74 having voted in the affirmative and 58 in the negative with 17 being absent and 2 having paired, L.D. 1035 was passed to be engrossed as amended by Committee Amendment "A" (H-277) and sent up for concurrence.

The Chair laid before the House the third item of Unfinished Business:

SENATE DIVIDED REPORT - Majority (11) "Ought to Pass" as amended by Committee Amendment "A" (S-141) - Minority (2) "Ought Not to Pass" - Committee on State and Local Government on Bill "An Act to Impose Term Limits on Presiding Officers of the Legislature" (S.P. 167) (L.D. 559)

- In Senate, Majority "Ought to Pass" as amended Report read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (S-141)

TABLED - May 20, 1993 by Representative GWADOSKY OF Fairfield.

PENDING - Motion of Representative JOSEPH of Waterville to accept the Minority "Ought Not to Pass" Report.

Representative Rowe of Portland requested a Division.

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

Representative JOSEPH: Mr. Speaker, Men and Women of the House: I believe it is quite plain what we are voting on. This piece of legislation would impose three consecutive term limits on presiding officers of this body and the President of the Senate and the Speaker of the House. This is not a complex issue, it is very self-explanatory.

I am asking you today, is this legislation necessary? We all understand what term limits mean, but there are two things happening here. First of all, there is a form of hypocrisy going on when in fact term limits are okay for some but they are not okay for others.

The second point that I would like to make this morning is that L.D. 751 was referred to the justices. The justices said that this piece of legislation is perfectly legal and the voters of this state may vote on it.

I will remind you that this piece of legislation was transmitted to the Clerk of the House by the Secretary of State upon the request of more than 90,000 persons in this state. The people in the districts throughout the State of Maine will be voting on the question that a person may not serve in the Senate more than four consecutive terms. A person may not serve more than four consecutive terms as a member of the House of Representatives. A person may not serve more than four consecutive terms as Secretary of State and a person may not serve more than four consecutive terms as Treasurer of the State. A person may not serve more than four consecutive terms as Attorney General. A person may not serve more than two consecutive terms as State Auditor and it says, "This section applies to terms of offices that begin on or after December 3, 1996."

The reason that I am on the Minority "Ought Not to Pass" Report is that I believe that this question is moot as to whether presiding officers, floor leaders, committee chairs (and you will be seeing those bills soon) will be restricted to serving only three consecutive terms when I am 99 percent sure that the people of this state will be endorsing the contents of the piece of legislation that I just read to you.

I would urge you to accept the Minority "Ought Not to Pass" Report.

The SPEAKER: The Chair recognizes the Representative from Presque Isle, Representative Donnelly.

Representative DONNELLY: Mr. Speaker, Ladies and Gentlemen of the House: I tend to disagree with the good chair of the State and Local Government Committee in that I don't think this is moot at all. It is hardly moot for the legislature to set guidelines for itself and its leadership. I don't think it is a foregone conclusion by any means that the people will pass the bill that is being sent out to them. If it were a foregone conclusion, then it certainly would have passed in this body which is representative of the people.

I just want to repeat a few of my comments from the committee hearing. We have seen in our state and nation a movement towards term limits. I submit to you that unless this legislature takes steps to remedy that problem, the people will focus in on the very basis of, what would constitute a democracy today, will be different tomorrow. Each of us must return to the people and be judged by our own performance every two years. These positions which we are talking about limiting today concentrate power and are representative of the Representatives and Senators and elected by fewer than 151 people and 35 persons. This is what is referred to as an oligarchy in political science terms, described in Webster's Dictionary as a government in which power is in the hands of a few. In such a case, I believe we have only two choices in helping reassure folks at home that their government is just that, fair government. Either we limit the terms of those in such positions to help guarantee that there is not too much power accumulated in that position or properly elect these positions as we all are.

I would ask that the people here today, State Representatives, vote against the pending motion and go on to accept the Majority "Ought to Pass" Report.

I ask the Clerk to read the Committee Report.

Subsequently, the Committee Report was read by the Clerk in its entirety.

The SPEAKER: The Chair recognizes the Representative from Madawaska, Representative Ahearne.

Representative AHEARNE: Mr. Speaker, Men and Women of the House: The question of whether to enact legislation limiting the number of terms individuals can serve in the legislative leadership positions must be answered by the people of Maine, not by the legislature. The proposition to be put to the voters to limit to four terms all members of the legislature would in fact decide the question of leadership term limits by eliminating the number of terms a legislator could serve. Simply stated, if the voters of this state want to limit the number of terms for legislative leaders, it will prove the term limit proposal; thus, automatically limiting leadership terms. If the people of this state decide that they want their legislators to serve an indefinite number of terms unless ousted by the electoral process, then they have the right to allow these same legislators to serve in a similar fashion in the leadership positions until either defeated in an election or defeated in an election for these leadership positions.

To otherwise say to the voters that this is okay for you to decide how many terms legislators will serve but we are going to enact legislation limiting the number of terms our leaders may serve in leadership positions because we don't believe that we as legislators are capable of exercising good judgment in the selecting process for leadership.

I say, let the people of Maine decide whether to limit terms for us all and in so doing, they will decide whether leadership positions will be limited to four terms automatically. Let the voters decide.

I ask you to accept the Minority Report.

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

Representative ROWE: Mr. Speaker, Men and Women of the House: I was one of the eleven members on the State and Local Government Committee, as you heard, that voted "Ought to Pass" as amended.

I would ask that you vote to defeat the pending motion so that we can go on to vote and pass the "Ought to Pass" as amended Report.

I just want to take a minute and tell you about the bill. You have heard that if there is a Constitutional Amendment question in November that passes, this bill will be made moot. I agree with Representative Donnelly, that is not in fact the case.

The original L.D. 559, limited — it said a person may not serve as President of the Senate or Speaker of the House for more than two consecutive legislative bienniums. So, there was a two term limit on the original L.D. 559. The amendment which the committee sent out would increase that to three consecutive legislative bienniums. So, it would restrict service in the positions of President of the Senate and Speaker of the House to three consecutive legislative bienniums. Service in that capacity before December 2, 1992 would not be included in the calculation of years served.

The proposed Constitutional Amendment, as you know, would limit the terms of legislators to four consecutive terms so there is a difference in the terms. More importantly than that, I think it is important that we, the legislature, do what we think is appropriate at this time and not look to the voters to do it for us. I think limiting the terms of Speaker and President of the Senate would be healthy for the legislature and healthy for the

legislative process. It would give more individuals an opportunity to serve in these very important leadership positions.

If you remember, a couple of months back, the Representative from Vassalboro had a rule change that she had proposed. Several people at that time were opposed to the rule. That rule would have limited the terms for Speaker and President of the Senate. They were opposed because they said we have some L.D.'s that will take care of that, let's wait for the L.D.'s. Well, you have the L.D. in front of you today.

Again, I think it is important to send a message to the voters that we understand the importance of this issue and that this will send a positive message to the voters. More importantly, as I said, I think it will be healthy for the process.

I ask that you vote to defeat the pending motion so that we can go on and vote and pass L.D. 559 as amended.

The SPEAKER: The Chair recognizes the Representative from Wiscasset, Representative Kilkelly.

Representative KILKELLY: Mr. Speaker, Men and Women of the House: One of the things that we have heard this morning is that the voters will have an opportunity to discuss term limits, that is true, but I think it is very important that each and every piece of legislation before this body be looked at on its own merit and not in relation to something else that has not even happened yet, particularly in this case.

I think there are some real significant differences in term limits for rank-and-file members and term limits for leadership. Part of that has to do with the voting process. When one of the many thousands of people in your district goes into a voting booth to vote, that ballot is absolutely secret. It is an absolutely private matter and when that person comes out, they can tell you they voted for you and they did not or vice versa. It just doesn't matter. When that vote has been totaled and someone is elected as a Representative for that district, at that point it shouldn't matter anyway because you are elected to represent all the people in your district, regardless of how they voted or if they voted. What happens in the smaller closed system in which we exist is very different. It is very obvious who votes for whom, whether it is a secret ballot or not. The ability under our current rules for leadership positions to control your ability to get your work done, to control how you are able to represent your constituents is very great. I do think there are significant differences in the process between electing leadership within this House or electing a Representative from within a very large district.

The three terms of two years each seems a reasonable amount of time for a person to come in, have some understanding of the job, work through that, and then allow other people to bubble up through that process as well. I think part of what would be created in that is a very active pool of people that are going to be climbing on that career ladder and also be developing their own policies, their own ideas and have their agenda. I think those discussions about policies and agenda would be very helpful and are something that we have not had enough of since I have been here for seven years.

I would urge you please to defeat this motion so

we can go on to pass this bill.

Representative Whitcomb of Waldo 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 Waterville, Representative Joseph.

Representative JOSEPH: Mr. Speaker, Men and Women of the House: I don't want to prolong this discussion but I want to make it clear to you that it is not a Constitutional Amendment that the voters will be voting on, it is an Initiated Act in the Fall.

If you are looking for government reform, we do not believe that this is government reform. I need to reemphasize logic. Logic is, that yes, I believe and that is why I signed on to the Minority Report, that the voters of this state under the present circumstances will be voting to limit legislators terms to four terms. Logic is, if you enter this body as a first term legislator, then you will probably not be holding a position of leadership either as a presiding officer or floor leader. Then, there would only be three terms left for you. I only base this argument on the decision of the justices that came to us long after the committee received this bill. The times have changed since the introduction of this piece of legislation in February. The times have changed since March 1 when the committee heard this piece of legislation and because of this new information, it was the feeling of those of us that presiding officers as well as others, terms should not be limited because I believe that the people of this state, the voters of the state, will in fact vote for the Initiated Act, the act that was initiated with more than 90,000 signatures.

The SPEAKER: The Chair recognizes the Representative from Wiscasset, Representative Kilkelly.

Representative KILKELLY: Mr. Speaker, Men and Women of the House: I would again like to emphasize that each and every piece of legislation that comes into this body should be judged in its own merit. It should not be linked to something that has not happened yet. I cannot and will not assume how the people of this state are going to vote on the Initiated Petition that has been put before us. I think that it is a cop-out to say we don't have to do this because people are going to do it. We don't know what they are going to do. We have a job to do here, now, today. Our job is to make a decision on this piece of legislation and I do believe that we should take everything else out of it and just look at this bill and decide within your heart if that is what you want to support or not.

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 Minority "Ought Not to Pass" Report. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 122

YEA - Ahearne, Aliberti, Chonko, Daggett, Driscoll, Erwin, Faircloth, Gean, Hatch, Holt, Jacques, Jalbert, Johnson, Joseph, Marsh, Melendy, Michaud, Mitchell, J.; O'Gara, Oliver, Paradis, P.; Pfeiffer, Pineau, Pouliot, Rand, Rotondi, Rydell, Saxl, Skoglund, Stevens, K.; Strout, Sullivan, Swazey, Townsend, G.; Townsend, L.; Wentworth.

NAY - Adams, Aikman, Anderson, Barth, Beam, Bennett, Birney, Bowers, Brennan, Bruno, Cameron, Campbell, Carleton, Caron, Carroll, Cashman, Chase, Clark, Clement, Cloutier, Clukey, Coffman, Cote, Cross, Dexter, DiPietro, Donnelly, Dore, Dutremble, L.; Farnsworth, Farnum, Farren, Fitzpatrick, Foss, Gamache, Gould, R. A.; Gray, Greenlaw, Gwadosky, Hale, Hillock, Hoggund, Hussey, Joy, Kerr, Ketterer, Kilkelly, Kneeland, Kontos, Kutasi, Lemke, Lemont, Libby Jack, Libby James, Lindahl, Lipman, Look, Lord, MacBride, Marshall, Michael, Mitchell, E.; Murphy, Nadeau, Nash, Nickerson, Norton, Pendexter, Pendleton, Pinette, Plourde, Plowman, Poulin, Reed, G.; Reed, W.; Richardson, Ricker, Robichaud, Rowe, Saint Onge, Simonds, Simoneau, Small, Spear, Stevens, A.; Taylor, Thompson, Townsend, E.; Tracy, Treat, True, Tufts, Vigue, Walker, Whitcomb, Winn, Young, Zirnkilton.

ABSENT - Ault, Bailey, H.; Bailey, R.; Carr, Cathcart, Coles, Constantine, Heeschen, Heino, Hichborn, Larrivee, Martin, H.; Morrison, Ott, Ruhlin, Tardy, The Speaker.

Yes, 36; No, 98; Absent, 17; Paired, 0; Excused, 0.

36 having voted in the affirmative and 98 in the negative with 17 being absent, the Minority "Ought Not to Pass" Report was not accepted.

Subsequently, the Majority "Ought to Pass" Report was accepted, the Bill read once.

Committee Amendment "A" (S-141) was read by the Clerk and adopted.

Under suspension of the rules, the Bill was read a second time, passed to be engrossed as amended by Committee Amendment "A" (S-141) in concurrence.

The Chair laid before the House the fourth item of Unfinished Business:

HOUSE DIVIDED REPORT - Majority (10) "Ought to Pass" as amended by Committee Amendment "A" (H-364) - Minority (3) "Ought Not to Pass" - Committee on State and Local Government on Bill "An Act Imposing Term Limits on Legislative Leadership Positions" (H.P. 546) (L.D. 742)

TABLED - May 20, 1993 by Representative JOSEPH of Waterville.

PENDING - Motion of same Representative to accept the Minority "Ought Not to Pass" Report.

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

Representative ROWE: Mr. Speaker, Men and Women of the House: I would simply want to point out what it is we are voting on and what is in the Committee Amendment to L.D. 742.

The Committee Amendment to L.D. 742 would essentially do the same to the Majority Leader, Minority Leader and the assistant Majority and Minority leaders as the last bill did to the Senate President and the Speaker. It would limit