

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD
OF THE
One Hundred And Sixteenth Legislature
OF THE
State Of Maine

VOLUME VI

SECOND REGULAR SESSION

Senate
January 5, 1994 to April 6, 1994

Off Record Remarks

Divided Report

Under suspension of the Rules, all matters thus acted upon were ordered sent down forthwith for concurrence.

The Majority of the Committee on **STATE & LOCAL GOVERNMENT** on RESOLUTION, Proposing an Amendment to the Constitution of Maine to Increase the Availability of Legislative Participation
S.P. 220 L.D. 691

Reported that the same **Ought Not to Pass.**

Signed:

Senators:

BERUBE of Androscoggin
ESTY of Cumberland
BUTLAND of Cumberland

Representatives:

JOSEPH of Waterville
GRAY of Sedgwick
DUTREMBLE of Biddeford
WALKER of Blue Hill
LOOK of Jonesboro
ROWE of Portland
KILKELLY of Wiscasset

The Minority of the same Committee on the same subject reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-391).**

Signed:

Representatives:

BENNETT of Norway
YOUNG of Limestone
AHEARNE of Madawaska

Which Reports were **READ.**

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

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

Senator **HANLEY:** Thank you Mr. President, Ladies and Gentlemen of the Senate. Those of you who were in this chamber two weeks ago made note that I celebrated my birthday then, but in fact I celebrated my birthday and my birthday present last November when the people of this State voted for term limits by over a 70% margin. I have been chastised in the Legislature as a member of both chambers, for having brought this issue forward. I have, at this point in time, realized that the people of the State of Maine, when given the chance, will speak and will speak loudly. I want to clear up a couple of misconceptions and misperceptions that have focused around this issue. When I first brought this issue forward I brought it in a number of different ways, first statutorily. I was advised by the Attorney General's Office that I could not do that, in the 113th Legislature and again in the 114th Legislature that was the peg that the majority of the members of this Legislature, of both parties, decided to hang their coat on as far as why we couldn't have term limits and why we couldn't deal with it. The only option available was a Constitutional amendment. For the benefit of the members of this Senate, let me just recount exactly how a Constitutional Amendment can come forward. Unlike the majority of states across our country, the State of Maine does not allow for a citizens initiated Constitutional amendment.

COMMITTEE REPORTS

House

Ought to Pass As Amended

The Committee on **UTILITIES** on Bill "An Act to Amend the Charter of the Portland Water District" (Emergency)

H.P. 1198 L.D. 1606

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (H-715).**

Comes from the House with the Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-715).**

Which Report was **READ** and **ACCEPTED**, in concurrence.

The Bill **READ ONCE.**

Committee Amendment "A" (H-715) **READ** and **ADOPTED**, in concurrence.

The Bill as **Amended, TOMORROW ASSIGNED FOR SECOND READING.**

Senate

Ought to Pass As Amended

Senator **VOSE** for the Committee on **UTILITIES** on Bill "An Act to Protect Utility Consumers from Bearing Responsibility for Utility Mismanagement"

S.P. 577 L.D. 1621

Reported that the same **Ought to Pass as Amended by Committee Amendment "A" (S-392).**

Which Report was **READ** and **ACCEPTED.**

The Bill **READ ONCE.**

Committee Amendment "A" (S-392) **READ** and **ADOPTED.**

The Bill as **Amended, TOMORROW ASSIGNED FOR SECOND READING.**

The only way to pass a Constitutional amendment is through the Legislature, by their grace, to send it out to the people and then have the people vote on it. That was the tack I decided to take, if that was the only option available, then a Constitutional amendment it would be. In the 115th Legislature it was brought forward and again now. Some people say the issue is moot now Senator Hanley, just drop it, you have won, accept the victory and accept the sweetness of the victory but go on. I have a concern this morning that I will share with the members of this chamber, a concern that there are some people who want to overturn what the electorate of Maine did in November, who want to challenge our term limits on a constitutional ground. That concerns me deeply and I guess I would acknowledge the advice and counsel of my colleagues to leave this issue, to say the battle has been won, terms limits is now on, no one would have the audacity to challenge what the people of the State of Maine have put forward, no one would have the audacity to challenge that. If I could be certain that that was the case I would drop this issue in a heartbeat, but I guess I still have those concerns that although statutorily it can be changed at any point in time by the whim of the Legislature, which ever way the wind blows, a certain day, a certain session, a certain number of people in one chamber, or a certain number of people in another chamber, anything can happen. The hard work that went into getting this initiative on the ballot and to put this issue in front of the people of the State of Maine would be tough to duplicate.

I said I wanted to correct some misperceptions, and misconceptions as far as the issue in front of us. It has been said that this issue, although near and dear to my heart, the only reason the people of the State of Maine embraced it and accepted it was because of one individual who put forward the money. One thing that hasn't come out in this entire discussion was that none of this money would have had to be put out there, it wouldn't have had to go through citizen initiative, if the Legislature had allowed the people of the state of Maine to vote on this themselves. This Constitutional amendment, the Minority report which I stand here today to ask you to support, is identical. Originally I had asked for five consecutive terms or ten years. The Minority report out of the Committee is identical to what the citizens adopted last November. Four consecutive terms, if you serve one day in the Senate or in the House, or as the Treasurer or Auditor, and then you step down, that is considered one term. Four terms mirrors what is in statute right now, which over 70% of the electorate voted for last November. This would just give the people an opportunity to say yes, we voted to put it into statute by 70%, now we are going to vote to put it into the Constitution by 80% or 90%. This issue is identical to what the people of the State of Maine voted on in November, identical except that it now has the constitutional protections which are so vitally important to protect this issue and to protect the will of the people.

I could get very sanctimonious here, and righteous, and tell the members of this chamber that they were all wrong and that I knew they were wrong and the people of the State of Maine have vindicated me. I won't say that. What I will say is that the people of the State of Maine deserve this opportunity. They deserve the protection that this amendment will provide to them. Without it this is just one branch blowing in the wind that can come down under any stiff breeze. I think we owe it to the people of the State of Maine. Occasionally when the people of the State of Maine speak so loudly and

so clearly we should all take note and recognize that. I hope I can count on your support to reject the Majority report so we can go on and accept the Minority report and accept the will of the people of the State of Maine. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Androscoggin, Senator Berube.

Senator **BERUBE:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I hope you will indeed support the Majority report, which is Ought Not to Pass, which is also a bipartisan Majority report I might add. The question is indeed a moot one because the people initiated on their own a statutory change. I can understand the wish of some people to have this set in the Constitution, however to go back within one year with the very same question to the voters of Maine I don't think is wise at this time. I doubt very much that this chamber, I can't speak for the other, but this Senate chamber would dare to defy the people when they so overwhelmingly voted for term limitations last year. I hope that you will go along with the Majority Ought Not to Pass report. We had a long hearing, this is a held over bill from last year and I think our decision was the right one. The people have spoken, we have heard the message, and they rightfully did so, they did it legally and I see no need to go back a second time for the very same issue in one year. Thank you.

The Chair ordered a Division.

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

Senator **HANLEY:** Thank you Mr. President, Ladies and Gentlemen of the Senate. I concur with the good Senator from Androscoggin that this issue has just been dealt with three months ago. For that reason my perception would be that it is fresh in people's minds. All of the pros and cons of term limits are out there. A twelve month period will not diminish the clarity which they had when they voted on this issue in November, it will only make the need become even more apparent. It was pointed out that this bill was held over and as most of you are aware a lot of my reform bills have been held over for a number of reasons. At a certain point in time you have to face the music. If I could be assured by every member of this chamber that they would sign a sworn statement that they would have no involvement with any constitutional challenge of our term limit law I guess that would be my compromise to where I wouldn't push this to a Roll Call vote. If I could have the affirmation of every member of this chamber that they wouldn't dare speak out against the people of the State of Maine, if that is in fact the unanimous position of this chamber I would be more than glad to step down and drop this issue and not even call for a Roll Call. If that is the case, if there is some acclamation that this chamber wants to adopt that, that everyone is bound by the statutory changes and they will not be involved in any court challenges. That having been said and I'm not seeing a large number of people jump for their microphones to endorse and accept that proposal I would respectfully ask for a Roll Call. Thank you.

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

THE PRESIDENT: The Chair recognizes the Senator from Lincoln, Senator Begley.

Senator **BEGLEY**: Thank you Mr. President, Ladies and Gentlemen of the Senate. Not being embroiled in this discussion, either in the Committee or at other times, I will simply speak my own position. As I published in the newspapers, I was against term limits. The people have spoken and spoken loudly. The difference between what we have now in statute and what the Constitution might say could be two or four years experience. As of right now we have term limits. We are not too certain what is going to happen in the next two years or four years or six years as to the effectiveness of legislation in the State of Maine. I would agree that it should be postponed and later on if the Constitution should be amended to guarantee the success of it then fine, right now we don't know how successful it is going to be. Thank you.

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.

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 **AMERO, BEGLEY, BERUBE, BRANNIGAN, BUSTIN, BUTLAND, CAREY, CARPENTER, CIANCHETTE, CLEVELAND, CONLEY, ESTY, GOULD, HANDY, LAWRENCE, LUDWIG, LUTHER, MCCORMICK, O'DEA, PARADIS, PEARSON, PINGREE, TITCOMB, VOSE, THE PRESIDENT - DENNIS L. DUTREMBLE**

NAYS: Senators **CAHILL, HALL, HANLEY, HARRIMAN, KIEFFER, SUMMERS**

ABSENT: Senators **BALDACCI, FOSTER, MARDEN, WEBSTER**

25 Senators having voted in the affirmative and 6 Senators having voted in the negative, with 4 Senators being absent, the motion by Senator **BERUBE** of Androscoggin, to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, **PREVAILED**.

Sent down for concurrence.

Out of order and under suspension of the Rules, the Senate considered the following:

PAPERS FROM THE HOUSE

House Papers

Resolve, Concerning the Licensure of Off-track Betting Facilities (Emergency)

H.P. 1365 L.D. 1848

Committee on **AGRICULTURE** suggested and **ORDERED PRINTED**.

Comes from the House, under suspension of the Rules, **READ TWICE** and **PASSED TO BE ENGROSSED**, without reference to a Committee.

Pursuant to Joint Rule 14, the Chair ordered a Division.

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

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

Senator **SUMMERS**: Thank you Mr. President, Ladies and Gentlemen of the Senate. Seeing as this supplement just hit my desk and I certainly have not had the opportunity to look and see what this Resolve is about I would respectfully request that this item be Tabled until we have an opportunity to examine it. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Sagadahoc, Senator Cahill.

Senator **CAHILL**: Thank you Mr. President, Ladies and Gentlemen of the Senate. Pending the motion to Table could someone from the Committee simply inform us as to what the Bill does before we go through the motions? 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'm not on the Committee and if there is no one from the Committee who is prepared to speak I could speak very briefly on what this Bill does. Thank you.

On motion by Senator **ESTY** of Cumberland, Tabled until Later in Today's Session, pending **FIRST READING**, without reference to a Committee. (Roll Call ordered).

Senate at Ease

Senate called to order by the President.

Off Record Remarks

SECOND READERS

The Committee on **Bills in the Second Reading** reported the following: