

MAINE STATE LEGISLATURE

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Senate Legislative Record
One Hundred and Nineteenth Legislature
State of Maine

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May 6, 1999 to June 18, 1999

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ROLL CALL (#86)

YEAS: Senators: ABROMSON, AMERO, BENNETT, BERUBE, CAREY, CASSIDY, CATHCART, DAGGETT, DOUGLASS, FERGUSON, GOLDTHWAIT, KIEFFER, LAFOUNTAIN, LIBBY, LONGLEY, MACKINNON, MICHAUD, MILLS, MITCHELL, NUTTING, O'GARA, RAND, RUHLIN, TREAT

NAYS: Senators: BENOIT, DAVIS, HARRIMAN, KILKELLY, MURRAY, PARADIS, PENDLETON, SMALL, THE PRESIDENT - MARK W. LAWRENCE

ABSENT: Senator: PINGREE

EXCUSED: Senator: KONTOS

24 Senators having voted in the affirmative and 9 Senators having voted in the negative, with 1 Senator being absent, and 1 Senator being excused, the motion by Senator **BERUBE** of Androscoggin to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, in concurrence, **PREVAILED**.

Off Record Remarks

Senator **MURRAY** of Penobscot was granted unanimous consent to address the Senate off the Record.

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

HOUSE REPORTS - from the Committee on **LEGAL AND VETERANS AFFAIRS** on Bill "An Act to Extend Term Limits for Elected Officials and Constitutional Officers"

S.P. 377 L.D. 1078

Majority - **Ought to Pass as Amended by Committee Amendment "A" (S-262)** (12 members)

Minority - **Ought Not to Pass** (1 member)

Tabled - May 11, 1999, by Senator **DAGGETT** of Kennebec.

Pending - motion by the same Senator to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (S-262)** Report

(In Senate, May 11, 1999, Reports **READ**.)

Senator **AMERO** of Cumberland requested a Roll Call.

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

Senator **BENNETT:** Thank you, Mr. President. Fellow members of the Senate, I hope that you vote against the pending motion. In my opinion actions like this, which directly pertain to all of us, which were initiated by the people through the petition and referendum process ought to be changed just by that process. I don't find as palliative the notion that we're sending this out to the people. I think, frankly, if people want to change the Term Limits Law they ought to go through the effort, which is considerably easier now than the proponents of this original law did. Which is go to the people again, get the matter on the ballot and have the vote that way. To me it is very unfortunate to have this change being done in this way and I encourage you to vote against the pending motion. Thank you.

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

Senator **HARRIMAN:** Thank you very much, Mr. President. Good afternoon, ladies and gentlemen of the Senate. I hope you will join my very good friend from Oxford, Senator Bennett, in opposing the pending motion. Seems to me that we have sent a message here today that there is some misunderstanding about what the citizens of Maine meant when they voted overwhelmingly to support term limits. What part of this vote from the people of Maine do we not understand? I think it's legislation like this, while well intended to be sure, that causes the citizens of Maine to want to opt out of the political process. That they use the power that's invested in them in the Constitution to send a message to the very people they send here and we then turn around and say well, maybe you didn't get it right, let's try it again. The message was clear, it was succinct. It was overwhelming that Maine citizens believe that four terms in a row is enough. Many of my colleagues here in this Chamber have gone from one branch of the Legislature to another because of term limits. Indeed, some members of the Legislature have left and come back, proving that indeed the term limit system does work. To suggest that we have designed a legislative system that is so important that we should go against the wishes of the citizens just validates the objection that they have to suggest that we have a system that is so complicated, so unyielding that only a select few seasoned people here know how to run it. I would suggest that we listen very carefully to the citizens and their message and that we find ways to simplify the process, to shorten the time that we spend here so that we can welcome a broad cross-section of Maine citizens who can come here and participate and leave and go home and let their neighbor come and have their turn. Actually it'd be pretty easy for me to want to support this, I love the opportunity to be here. This Bill would enable me to continue to do so. But to vote for this mess would be an insult to the very people who gave me the honor of sitting in this seat. Thank you, Mr. President.

THE PRESIDENT: The Chair recognizes the Senator from Somerset, Senator Mills.

Senator **MILLS:** Mr. President and men and women of the Senate, I think we do not avail ourselves often enough of the great opportunity that is presented to us as representatives of the people to frame appropriate questions for the people themselves to decide on a ballot out in general elections that we call from time to time. I think this is a perfect issue to send out to the people and to have them resolve one way or the other. If they

reject this measure, if they say no eight years is enough, twelve years is too long, than we know. But we're not being presumptuous or high handed by passing the measure that's now before you because we're not passing it into law, even though we have that power. We have power allocated to us as representatives to change this law in any way we might see fit. Do I think we should do that? No. I think that if we're going to make or suggest a change to this law, it is highly appropriate to do as the Committee has recommended and that is to send this measure out and have people look at the narrow issue. Having accepted the principle that term limits are appropriate, the principle that I personally accept and the people of Maine have accepted, should we have an intelligent and focused discussion on the duration of those limits. I think we have all been witness to what happens, particularly in the House of Representatives. We have someone who struggles up through the ranks, grapples with the confusions, school funding, unemployment comp, pension systems, utilities law, and passes through two or three terms, becomes cognizant or familiar with all of these complex systems that we, as a board of directors, are in charge of managing. Achieves the pinnacle of Leadership in either party and is almost immediately ousted from office just at the time when that person might conceivably be on the verge of making the difference in how this state governs itself. I think it's a shame how many people I have seen in my short tenure here of only 4½ years, how many capable, qualified people in both parties I have seen turned out the door at a time when I know very well that their constituents would have been happy to have sent them back here for a term or two in a Leadership position. So I think we ought to bring this discussion back to the people. When the people were presented with this issue last time the drafters of the document in their wisdom hit a term of 8 years and the people had no choice about how many. There wasn't a multiple choice box available on the ballot. The question was do you accept terms limits in principle or do you reject them. And, as both Senators who have just spoken remind us, they accepted the principle overwhelmingly. But how many of them would have said 8 years if they'd had the choice of looking at say 12 or perhaps another number. But in any case, let's work towards refining this very difficult democratic process that we all serve. Let's send out to the people this discussion that we're now having and let's see what they say. If they reject it, then we'll have their answer. If they accept it, then I think these institutions that we serve would be the better for it. Thank you.

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

Senator DAGGETT: Thank you very much Mr. President and members of the Senate. When the Legal Affairs Committee discussed this issue much of the debate that's been made today was brought forward. We discussed the issue of term limits over several work sessions in an attempt to try to come to some understanding and majority feeling as to the purpose of putting something out on the ballot and exactly what kind of question that might be. In my own opinion, this has nothing to do with getting it right. It has to do with allowing a very full discussion of the ramifications of term limits in front of the people and allowing the people to be a part of that. The Bill, as it's presented to you, is a compromise. It's a compromise between those people who would like to see term limits repealed, in which I am one, and those people who feel that term limits should stay in place with 4 terms is really not enough. This is a very intricate and involved

process and just as Legislators are beginning to learn how to accomplish the kinds of things they want to they do not have the option of running again. I personally feel that it does not serve the citizens of this state well when, as we are learning how to do our jobs, we are automatically prevented from running again. I fail to see where that serves the people well. Prior to term limits enactment here, the Maine Legislature, because it's a citizen part-time Legislature, had almost a 30% turnover every Session. We had a fairly high turnover. As those of you who serve here know, this is not a place where you make a living. This is not a career unless you have some other means of support. Every single Session we see Bills that seek to overturn laws, to change laws, to refine laws, to look at them again. This is an opportunity to look at this issue again. It's an opportunity for us all to be involved in the public debate. I think we have more information now than we did when this was first passed and I think it's appropriate for the citizens of Maine to have the opportunity to make a decision based on additional information. I know I would like to do that. When there's an issue in front of me, I make the best decision I can given the information I have. If there is new information, other information or experience, I'd like to have that and have an opportunity to revisit a previous decision. I don't think we're doing anything here by sending this out to the people then allowing them to have a more fuller understanding of what it is like to be a Legislator and I think it gives them the opportunity to be more closely allied with those of us who represent them. This is a good opportunity for Maine citizens and for Legislators. For those who are in favor of term limits or who are against term limits, it gives us all an opportunity to engage citizens in that debate. I urge you to support this and allow the debate to go forward based on what we know now, not what we knew some years ago. Thank you.

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

Senator CAREY: Thank you, Mr. President. Members of the Senate, I hope we never get to the point where we are like California. You are allowed terms in office then you are banned for the rest of your life from holding public office. If we've opened the door to term limits, that can be the only thing that comes up next in my mind. I have to tell you that I've had over my career and still do have, a term limit of two years. The people themselves will decide whether I come back or not. That's the same thing for all of you. Senator Kontos of Cumberland made a study and while we were sitting in the Utility Committee on one day she just spelled out the whole thing to me and she said I've taken the terms that all of the House members who are currently here and all the Senate members who are currently here and then I divided it by the number of people and the experience that these people have, all of us, averages out to 3.8 years. I would tell you if we're going to have a changeover as often as we do, then you will continue to get 3,000 or 3,200 or 3,400 Bills per Session. They're called perennials to some of us who are veterans here. They pop up and they pop up in different forms and they somehow or another multiply. As for Senator Bennett of Oxford's comments, Central Maine Sentinel for a week ran an editorial on the editorial page with a question thing. If you had the ability to cancel one law, only one law, in the state of Maine, which would it be? Overwhelmingly it was to do away with the Term Limit Law. Thank you, Mr. President.

THE PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator O'Gara.

Senator **O'GARA:** Thank you, Mr. President. Ladies and gentlemen of the Senate, if this were a Bill we were debating right now on the value or the quality or the reasonableness of term limits, that would be one thing. But in my judgment we are not debating that, we are debating a question, a decision, made by the voters of the state of Maine or at least a number of them. A decision which I disagreed with very strongly. I hate term limits. I never supported them when they came in for President nor for Governor. I argued against them if they were ever brought up for local officials for the City of Westbrook. I feel the decision was a wrong decision by the voters of the state of Maine when they voted for term limits. But as strongly as I feel about that, I feel even more strongly that it was their decision. However it got started, whether it was because it was financed by a person who had incredible wealth and didn't know what to do with it, that is neither here nor there. It did grow and it did develop into a ground swell and right or wrong they voted and that's the way it will be. I shall never support, nor encourage anyone else to support, a piece of legislation that we initiate. If the voters of Maine, and I hope it will be soon, themselves decide, however they're encouraged to make that decision, that term limits are in fact wrong or they should be lengthened or whatever, I would be right there at the front urging the voters of Maine to do away with them. I do agree that I think lots of citizens and probably the survey that the good Senator is talking about is probably very accurate and I suspect that they're right. Because, as probably a lot of you found out, many of the voters in my district when they found out about it were very apologetic and pointed out that obviously they didn't mean me. They didn't mean me, they meant those other people around the state that should have term limits. I urge the members of this Body to defeat the motion and leave it up to the public. If they want to initiate a Referendum than that's another story. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Waldo, Senator Longley.

Senator **LONGLEY:** Thank you, Mr. President. Colleagues in the Senate, I stand in support of term limits. Maybe it's because when my class entered we knew our contract was at most for eight years. But I think the biggest reason is our founders. When they talked about how we were going to develop this country, what was really critical was the importance of dispersing power because understanding our human frailties and our need for power. Basically the goal was power dispersed even among the three Branches and then there's a Madison writing that talks about the importance of using, my words, rotary tilling and making sure that new people and new rocks, new whatever, could surface and have a chance to serve. For that reason I'll be voting against the pending measure. I also think in terms of the Senator from Somerset's point about Leadership. Yes, we will be seeing Leadership just arrive and have to say good-bye but I think that speaks to all of us in the Legislature to realize we need to develop a new definition of Leadership. We need to have more of a team ethic about Leadership. We need to develop the freshmen so that they can grab that baton and run with it and be better leaders in different styles of leaders. Again I come back to my point that power dispersed is a founding ethic of our society and with that in mind I'll be voting against the pending measure. 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 would also urge you to vote against the pending motion because I think term limits have been good for the people of the state of Maine. We have seen new faces in Leadership and I think that's refreshing. People do have to have a faster learning curve but that's okay too. Remember we are a citizen Legislature and I really think that one of the benefits of the term limits that we have in Maine is that more people have had an opportunity to serve and more people have had an opportunity to serve in Leadership positions as well. Our Term Limit Law is one of the more liberal term limit laws in the country. Unlike California and other states, you can go from one Body to another, you can take one term off and come back and we have several examples of that. I think that this law was a good one. It was well thought up and when 2/3 of the people say yes, that's what they want, I think we ought to listen. I haven't heard a whole ground swell of people out there in the state of Maine saying let's get rid of term limits. It's not coming from the people. This is a legislative initiative. If the people don't want term limits, I believe they ought to come forward with their petitions just like they did saying that we needed term limits. So for those reasons, I hope that you will oppose the pending motion. Thank you, Mr. President.

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

Senator **BENNETT:** Thank you Mr. President. Fellow members of the Senate, I just rise to respond to a couple of the arguments that I've heard presented today. Over the past several months there's been a lot of talk about the dysfunction of this institution, the Legislature, and how we have so many Bills and these various problems internally that we have to resolve. I agree with some of that. I think that we do have to manage ourselves better. I hate to hear the suggestion that the number of Bills or other problems internally here is a problem of term limits because I don't believe it is. If it is I think it's remediable by changing our internal structure here. As a matter of fact, if you look at the figures about the Bills being introduced, it's not the first termers that are introducing most of the Bills. The 2,900 - 3,000, whatever the figure is now, Bills that are being introduced into the Legislature this year were introduced predominately by members who are serving more than first terms but are in their second, third or forth terms. Maybe they're feeling that they need to get their ideas out there and give them air before the big term limits axe comes falling. I think not, I think that there are other structural considerations that we need to accommodate and, as a member of Leadership in this Legislature, I am going to commit myself this summer immediately following this Session to try to work with the rest of the members of the Legislative Counsel to begin to address those problems. This measure before us is not a multiple choice issue either. Let's be clear about it. This measure would extend term limits. It would extend term limits to 12 years instead of the current 8. This is not a question which we're putting out there that asks voters well what about one term, what about two terms, what about three. This is a specific number that was generated here by Legislators. So I think it's a bit disingenuous to suggest that we're giving a lot of options here. We're giving one option. It's an option that we chose. I

encourage every member of this Senate to go down the hall to just outside the other Body and to go into the hallway behind us and to look at the photographs, I think they're all photographs or maybe they're some drawings in there too, of the presiding officers of the Senate and the other Body that reside there. Look at the years of service under them. The notion of having long serving presiding officers in our Legislative Chambers is a recent phenomenon. It's not the good old days. The good old days were the days that were represented by the plethora of pictures there, people who served one year or two years. Maybe an extraordinary one would be four years.

In my view, as others who have spoken before me have suggested, that is good because Leadership, in my view, is about stewardship. It's about moving this institution forward. It's not about having a career here. In my view, this issue goes right to the heart of the value of term limits which is that it insures a steady turnover of not just rank and file members but of Committee Chairs, our Officer positions, and Leadership positions in this Legislature. Before the imposition of term limits, this Legislature had a healthy turnover. It wasn't uncommon to have years when 40% of the Legislature would turnover. But if you look below the statistics you'd see who was turning over. It was the people who would come in, serve a term or two and for one reason or another, I think because of frustration in many respects, leave and say I can't break into the power structure here because power was concentrated in the hands of a few, a few very long serving members. It didn't afford the rank and file members the opportunity to get into those positions. That's a real shame. Power tends to concentrate in the hands of a few inside of any organization with as many members as we have here. Term limits insure that those powerful positions are turned over on a regular basis. Let me, in closing, offer a prediction. I think that if this measure passes this Legislature and goes out to the people and is approved by the people, which I don't think will happen, but if it is, I vouch safe that we'll back here, maybe not me or maybe not you, but probably a lot of us, four years from now asking to extend term limits to 16 years or to 20 years. That will be the gradual and incremental eroding of this very useful reform mechanism passed by the people and imposed upon us. So again I encourage you to vote against the pending motion. Thank you very much.

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

Senator **DAVIS:** Thank you, Mr. President and I'll be very brief. All the arguments I've heard today to extend term limits, to abolish term limits, I have heard very few arguments for term limits, very little about the advantage of incumbency and that type of thing. All of this, every bit of it, was thoroughly debated four or five years ago by the people. The people spoke. Thank you very much.

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

Senator **LAFOUNTAIN:** Thank you, Mr. President. Men and women of the Senate, I would like to remind this Chamber that sending this issue out to the voters would not be precedence setting in any way. If I recall correctly, the citizens several years ago initiated the Sensible Transportation Act and at that time the voters supported the Act and indicated their lack of enthusiasm for widening the Maine Turnpike. A few years later, this

Legislature in it's wisdom decided to put the question back out to the voters. At that time the voters supported the widening. Thank you.

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

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#87)

YEAS: Senators: ABROMSON, CAREY, CATHCART, DAGGETT, DOUGLASS, KILKELLY, MILLS, MURRAY, PARADIS, RUHLIN, TREAT, THE PRESIDENT - MARK W. LAWRENCE

NAYS: Senators: AMERO, BENNETT, BENOIT, BERUBE, CASSIDY, DAVIS, FERGUSON, GOLDTHWAIT, HARRIMAN, KIEFFER, LAFOUNTAIN, LIBBY, LONGLEY, MACKINNON, MICHAUD, MITCHELL, NUTTING, O'GARA, PENDLETON, RAND, SMALL

ABSENT: Senator: PINGREE

EXCUSED: Senator: KONTOS

12 Senators having voted in the affirmative and 21 Senators having voted in the negative, with 1 Senator being absent, and 1 Senator being excused, the motion by Senator **DAGGETT** of Kennebec, to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (S-262)** Report, **FAILED**.

Senator **RAND** of Cumberland, moved the Senate **RECONSIDER** whereby it **FAILED** to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report and further moved to **TABLED** until Later in Today's Session, pending motion by same Senator to **RECONSIDER** whereby the Senate **FAILED** to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report.

At the request of Senator **HARRIMAN** of Cumberland a Division was had. 20 Senators having voted in the affirmative and 13 Senators having voted in the negative, the motion by Senator **RAND** of Cumberland to **TABLE** until Later in Today's Session, pending motion by same Senator to **RECONSIDER** whereby the Senate **FAILED** to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, **PREVAILED**.

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

HOUSE REPORTS - from the Committee on **LEGAL AND VETERANS AFFAIRS** on Bill "An Act to Reduce Operating Under the Influence by Requiring Certification of On-premise Alcohol Servers"

H.P. 259 L.D. 363