

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

Legislative Record
House of Representatives
One Hundred and Twenty-Fourth Legislature
State of Maine

Volume II

First Regular Session

May 28, 2009 – June 12, 2009

Second Regular Session

January 6, 2010 - March 23, 2010

Pages 609-1214

CONSENT CALENDAR

First Day

In accordance with House Rule 519, the following item appeared on the Consent Calendar for the First Day:

(H.P. 967) (L.D. 1377) Bill "An Act To Amend the 1980 Maine Implementing Act To Authorize the Establishment of a Tribal Court for the Houlton Band of Maliseet Indians and Related Matters" Committee on **JUDICIARY** reporting **Ought to Pass as Amended by Committee Amendment "A" (H-561)**

Under suspension of the rules, Second Day Consent Calendar notification was given.

There being no objection, the House Paper was **PASSED TO BE ENGROSSED as Amended** and sent for concurrence.

ENACTORS

Emergency Measure

An Act To Amend the Maine Certificate of Need Act of 2002
(H.P. 974) (L.D. 1395)
(H. "A" H-541 to C. "B" H-497)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 139 voted in favor of the same and 0 against, and accordingly the Bill was **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

Acts

An Act To Require Citizen Notification of Pesticide Applications Using Aerial Spray or Air-carrier Application Equipment

(H.P. 896) (L.D. 1293)
(H. "A" H-543 to C. "A" H-522)

Reported by the Committee on **Engrossed Bills** as truly and strictly engrossed, **PASSED TO BE ENACTED**, signed by the Speaker and sent to the Senate.

An Act To Simplify the Assessment of E-9-1-1 Surcharges on Prepaid Wireless Telecommunications Service

(H.P. 731) (L.D. 1056)
(C. "A" H-270)

Was reported by the Committee on **Engrossed Bills** as truly and strictly engrossed.

On motion of Representative PIOTTI of Unity, was **SET ASIDE**.

On further motion of the same Representative, **TABLED** pending **PASSAGE TO BE ENACTED** and later today assigned.

The following items were taken up out of order by unanimous consent:

UNFINISHED BUSINESS

The following matters, in the consideration of which the House was engaged at the time of adjournment yesterday, had preference in the Orders of the Day and continued with such preference until disposed of as provided by House Rule 502.

HOUSE DIVIDED REPORT - Majority (7) **Ought to Pass** - Minority (6) **Ought Not to Pass** - Committee on **LEGAL AND VETERANS AFFAIRS** on Bill "An Act To Join the Interstate Compact on the National Popular Vote"

(H.P. 49) (L.D. 56)

TABLED - May 13, 2009 (Till Later Today) by Representative TRINWARD of Waterville.

PENDING - Motion of same Representative to **ACCEPT** the Majority **OUGHT TO PASS** Report.

On motion of Representative TRINWARD of Waterville, the Bill and all accompanying papers were **COMMITTED** to the Committee on **LEGAL AND VETERANS AFFAIRS** and sent for concurrence.

HOUSE DIVIDED REPORT - Majority (7) **Ought Not to Pass** - Minority (6) **Ought to Pass as Amended by Committee Amendment "A" (H-471)** - Committee on **STATE AND LOCAL GOVERNMENT** on RESOLUTION, Proposing an Amendment to the Constitution of Maine To Establish a Unicameral Legislature

(H.P. 1000) (L.D. 1424)

TABLED - June 1, 2009 (Till Later Today) by Representative BEAUDETTE of Biddeford.

PENDING - Motion of same Representative to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report.

The SPEAKER: The Chair recognizes the Representative from Saco, Representative Valentino.

Representative **VALENTINO**: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. I rise today to ask you to vote against the pending motion on the floor and to vote for change, not small incremental change, but significant productive change.

In 1935, Senator Fernald, from Waldo County, introduced the first bill before the Maine Legislature asking for a unicameral body. This is an excerpt from his floor speech. He said: Never were Americans more interested in government than they are now. Recent experience has served to rouse the citizens to an appreciation of the fact that government does make a difference. This new conscientious of the necessity for being well governed has produced an attitude willing to entertain proposals for change. The American people are far from being satisfied with the way state governments are functioning.

This statement rings as true today as it did 74 years ago. In these tough economic times, the Legislature has reviewed and initiated proposals for consolidation, downsizing and belt tightening in all areas of state government. Significant changes were made to schools and correction facilities for tens of millions of dollars in savings. It is because of these changes that I ask you to reevaluate the way the Legislature should be working in the 21st century. All I can ask is you keep an open mind as you listen to this debate unfold.

LD 1424 proposes a one bodied, unicameral Legislature that will save over \$11 million in a biennium budget and give the citizens a more transparent, efficient and accountable form of government. I could spend hours on this subject starting with the Great Compromise at the Continental Convention in 1787, where Benjamin Franklin advocated for a unicameral federal legislature, and end with quotes from every floor speech that I have read in both the Maine House and Senate from 1935 to 1995, but I will not bore you with that. There are more qualified historians in this House who may speak to me after. I realize time is limited. Many of your questions may be addressed in the handouts, which I urge you to check on both sides of.

I've also included a handout which compares Maine to Nebraska. I can assure you that I do not want Maine to become Nebraska. Maine is Maine, but Nebraska has had a unicameral state legislature for 72 years, since 1937, and the system has worked. The basic outline of this bill is to have a part-time citizen Legislature of 151 members. In order for a constitutional amendment to go before the voters, both sides must vote by a supermajority two-third. The voters are not allowed to petition for this, they cannot get signatures, as they get in Nebraska, to put

this item on the ballot. The only way they will get to vote on it is if we decide to send it to the voters. This bill, if approved by the Maine voters, would not take place for a unicameral Legislature until 2014. This gives two, new bicameral Legislatures four years to review and change any statutes and rules that need to be changed. Four years to decide on staffing levels and housekeeping items.

This bill has also been introduced several times since the 1960s, when the United States Supreme Court ruled that states were not allowed to apportion the House and Senate differently. The court stated that both bodies must be apportioned based on population, not geography. The ruling raised doubts about the necessity of having two bodies, both based on population. Many states, including Maine at the time, introduced unicameral legislation, but no state approved the measure. Why? When asked this question, the First Clerk of the Nebraska Legislature was right when he said not many legislators want to vote themselves out of office.

Over the last five months, when I discussed this bill with a colleague, the first question was on preserving the checks and balances of the Constitution. Separation of powers, or checks and balances, refers to the three branches of government: executive, judicial and legislative. It does not refer between the House and the Senate. I contend that a unicameral system corrects the modern day concentration of power that we have seen in the executive and judicial branches of government. We live in an age of executive, bureaucratic and judicial dominance. By concentrating in increasing the authority of the Legislature, the unicameral structure restores the proper balance of power among the three branches of government.

In our system, the shared lawmaking quality does not rest with the Legislature alone. The executive veto, judicial review and, in Maine, the citizen initiative and people's veto are all protections against serious legislative error. Nebraska has safeguards in place to assure that legislation is not made in haste and without examination. Time periods, such as five days from an item appearing on a calendar until a vote can be taken on an issue, are in place. Members are not thrown bills, committee reports or amendments on their desks and asked to vote on them in the next few minutes. They have anywhere from 24 hours to five days to actually read the material, understand the issue and then vote on the amendment or bill. They cannot waive the rules of the debate; have a debate, amendment, first reading, second reading, engrossment and enactment all on the same day, as we have done in this House. What we consider a safeguard, having a bill passed between both bodies, often times acts to shift the responsibility and accountability from one house to the other. We have seen many times, after enactment, that a bill slipped through and needs to be changed in the next session. We need to have only one set of eyes that knows that they are the ones who are fully responsible for reading and understand what they are voting for and against.

When State and Local Government voted on this bill, over a month ago, the vote was 7-6 Ought Not to Pass. After spending time talking in depth with committee members, I think many have embraced this idea. Today I think the vote would be 8-5 Ought to Pass. Actually, it would be 8-4 Ought to Pass, depending on a conversation I had this morning. On May 31st, the *Kennebec Journal* wrote: with this budget, the Legislature has driven home the new reality that we simply can't afford government like we've had for the last 200 years. Let's live up to our Dirigo motto. Let's make Maine the first state in 72 years to become unicameral. Let Maine lead the change in the 21st century for a more transparent, efficient and accountable government with savings over \$11 million. Please vote against the motion of the floor by a two-

thirds majority so we can send this issue to the voters. Madam Speaker, I ask for a roll call. Thank you.

Representative VALENTINO of Saco **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 Lyman, Representative Wagner.

Representative **WAGNER**: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. Inherent in the constitutional principle of due process is the understanding that from time to time we re-examine and re-evaluate our governmental process, including our governmental structures. Too often we take things for granted.

I am sure that each one of us, at some point in our lives, asked questions such as: "Why do we do it this way? Why are things arranged in this fashion?" Almost without fail the answer is the same: We've always done it this way. The time has come for a closer examination of how our Legislature is structured.

The upper legislative chamber in state government is a colonial legacy, an archaic throwback. The "senate" of that time period was a council of the wealthiest landowners who advised the governor, and their advice was taken because they had the power to set the governor's salary. The other role of the "senate" of old was to review, and often times negate, the actions of the lower house—the chamber which represented the "common" people.

This was the way it was throughout the Union until a pragmatic reformer, George Norris came along. During the stark economic times of the Great Depression, Norris convinced his home State, Nebraska, to economize and adopt a unicameral legislative model. The result: effective, efficient government. Now Madam Speaker, Ladies and Gentlemen, I ask you does Nebraska have a reputation for a dysfunctional system? Do you hear people saying "those crazy Cornhuskers are at it again! Those whacko's with their unicameral legislature!" Not so. It has worked for decades; it can work here as well.

Now the good Representative, the Representative from Saco, Representative Valentino, has discussed the principle concern about this bold measure: checks and balances. The internal legislative rules that Nebraska uses are pretty much comparable to what we have in our joint rules. There is no rush to judgment. There is no immediate introduction to enactment. Balance is maintained.

Ladies and Gentlemen, it's our time, it's our turn to affect a significant change to make our State government more efficient, effective and economically sound. I ask that you please vote against the pending measure Ought Not to Pass. Thank you, Ladies and Gentlemen. Thank you, Madam Speaker.

The SPEAKER: The Chair recognizes the Representative from Eagle Lake, Representative Martin.

Representative **MARTIN**: Thank you, Madam Speaker. Madam Speaker, Members of the House. If we were to vote for this action today, it would be the second time in our history that we've made an attempt because, actually, this passed the Maine Legislature, at least the House side, a number of years ago, and unfortunately did not get any further than that. When we and the reason why so many think that we ought to have two houses is because one should check the other. In reality, each house uses one another in a play of "let's pass it and the other one can kill it" mode. If the responsibility lied in one house, I'm actually convinced that members would be far more responsible in that one house.

The guide that we had used before was to basically, and we

tried, that every member be called a Senator, in the hope that that would convince the other body that we were not doing away with the Senate. That didn't quite work. But as time has evolved, especially since the *Reynolds v. Sims* decision in the '60s, when the decision was made by the United States Supreme Court that whether you're in the House or the Senate, that both has to be based on population. Prior to that time, there was of course the ability for one body to represent trees and area, the Senate, much as the U.S. Senate does. Unfortunately, we're not protected by the United States Constitution like the United States Senate is, and therefore, when the Supreme Court decision was made in 1966, we went by the wayside in our ability to have at least one Senator from each county. And of course, at that time, the restriction was the largest county could only have four, which obviously drove the representation to the rural areas in the Senate. Today that doesn't exist anymore, so whether or not you're in the Maine Senate or the Maine House, it's simply based on population with a ratio of plus or minus five, in terms of the makeup of the number of people you're going to represent. So in reality, what we have is duplication, and the result, of course, is what we see today. I repeat what I said at the beginning of my comments that if there was only one house, call it what you like, I'm firmly convinced and I don't mean this in a negative sense, that the members would be more responsible at what they vote upon and know that that's the final vote, from that point on it's over to the Executive. That's the bottom line.

How successful do I think we will be today in an attempt to getting this to the voters? I will simply say I remember the vote last time in the other body.

The SPEAKER: The Chair recognizes the Representative from Blue Hill, Representative Schatz.

Representative **SCHATZ**: Thank you, Madam Speaker. Madam Speaker, Men and Women of the House. I, too, rise in opposition the pending motion, and everything everybody who has testified and presented so far has done so intelligently and comprehensively, there's not much more I can add. I was of course one of the members of the committee that support this bill, I am a cosponsor, and I am still enthusiastic about the potential that it possesses. So I would appreciate the support and I am also optimistic, though, that the other body might be convinced that 151 delegates could do the job that needs to be done. Thank you, Madam Speaker.

The SPEAKER: The Chair recognizes the Representative from Sanford, Representative Boland.

Representative **BOLAND**: Thank you, Madam Speaker. I just wanted to rise also to say that I was one of the supporters in committee on this, and it sounded kind of wild when the idea was first suggested, but Representative Valentino had clearly done an enormous amount of research and brought that to our committee and it was really rather compelling. A couple of the things that I thought were important about it were that I thought it would bring more transparency to the process for the voters of Maine, and, frankly, as well as for the legislators, because when bills go back and forth and different folks are talking about different amendments, it's hard to follow what the logic is to some of the changes, and I think that that would be a benefit to the people. Also, of course, when people are trying to get a bill passed, they often focus pretty much on the other body because it's a smaller group of people to influence, and that kind of shifts the important of the House in that direction. So it just seemed to me that things would work out a little bit more equitably for the people and for the legislators working on legislation to be able to all be together seeing it as it works its way through. Thank you.

The SPEAKER: The Chair recognizes the Representative from Buckfield, Representative Hayes.

Representative **HAYES**: Thank you, Madam Speaker. Madam Speaker, Esteemed Colleagues in the House. I'm on the Majority Report that came back to this body from the State and Local Government Committee, but I am among your colleagues who have been persuaded by the good Representative from Saco, and basically because there were two questions that gave me pause that she posed to me. The first was, if we were starting from scratch, would we build it to look like it does right now? The more I thought about that, the conclusion I reached was no, I would not have built it this way. The second question was would we choose to argue and defend the expense of the redundancy in today's economy? Eleven millions dollars. That's what the redundancy that this current system has cost us, and again, the conclusion I reached for myself was, no, I don't think I could defend that. Having given it that thought process, I've arrived at the conclusion that I too will vote to defeat the current pending motion and vote, hoping the opportunity to vote in favor of this concept. Thank you.

The SPEAKER: The Chair recognizes the Representative from Whiting, Representative Burns.

Representative **BURNS**: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. I rise to support the idea that we consider the possibilities of a unicameral legislation, not necessarily because I accept that premises. I need to know more about it, I want to have more debate, I want to have more discussion. But I would support passing this so that it could go out to the voters, just as I did a couple of weeks ago when we had an opportunity to reduce the size of our Legislature and make it a more efficient body and reduce it from 151 down to 131. I think voters need an opportunity to speak to this issue. The voters should be able to decide what kind of an institution represents them in this body here, and the only way to do that, from my understanding, is to put it out to the voters. That's why I would vote against the pending motion and urge you to do the same. Thank you, Madam Speaker.

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

Representative **MARTIN**: Thank you, Madam Speaker. I suspect I may be the lone voice to speak in support of the motion of Ought Not to Pass. It's not because I don't like the idea of a unicameral Legislature or that there may not be cost savings, but when I was a kid, I grew up with Schoolhouse Rock. One of the things on television that we've always taught our kids was how the legislative process works, and I'm sure all of you can sing the song: "I'm just a bill sitting here on Capitol Hill". And as a kid that really inspired me to learn more about how our government works. And throughout the past five or six months, I've had a lot of people trying to talk with me about the unicameral.

First of all, I would like to say and congratulate the good Representative from Saco, Representative Valentino, for her amazing and tremendous work on this issue, and I hesitated to rise to speak because of the great work that she has done on this. But I wanted to speak on the other side of the issue on why I will be supporting the motion. First of all, I'm not doing it because I'm trying to protect my job. That has nothing to do with this, because I believe more than anything that I'm here to represent the people of Maine and try to make the best decisions I can for the people of Maine, and I've learned a lot of things during this legislative session. I've learned that the process isn't always clean, it's not always easy, it's quite difficult sometimes, but in my mind, government is set up so that we can't lurch in certain directions, one way or another, when we get a particular idea that for that moment we think that's the greatest idea in the world and we just jump ahead. The way we have, with the two bodies and the Executive Branch, I believe that the House and

other body are a checks and balance on each other. Because I represent a smaller area of people, I'm more connected to the people in my district and I want to make sure that I'm expressing their voice. The other body represents larger geographical, a much more diverse population of people, and they have to think about the issues in a little different way. They're looking a little bit more on the macro level. So I don't see this as duplication, I see it as checks and balances with our system. I've seen it here this year. I've seen how many times we've gone back and forth and, at every opportunity, there's a new way to put an amendment in, there's a new way to call for another vote, there's a new way, and that's set up for a reason. Because at every step along the way, we have an opportunity to check ourselves and say is what we're doing the right thing, can we pull back from the edge because we got swept up in emotion. We've done a lot of discussing this week about school consolidation. I don't always agree that smaller is better. Now I'm not saying that we couldn't run more efficiently and that couldn't make improvement, I'm not saying we couldn't use the \$11 million that will come from this reorganization. But in my mind, I think that, like making sausage, it isn't pretty, but the goal is to have a good product when you come out at the end that we can all live with. So with all due respect, I'll be supporting the Ought Not to Pass motion. Thank you, Madam Speaker.

The SPEAKER: The Chair recognizes the Representative from Saco, Representative Valentino.

Representative **VALENTINO**: Thank you, Madam Speaker. Madam Speaker, I just wanted to address the fact on the checks and balances, the separation of powers. This has been the one question that is posed before me every time I mention the unicameral Legislature, and every single time it comes back to what we have just heard: fourth grade. We learned in the fourth grade that there is a House and a Senate and we need to get beyond that thinking. We have all been here. I've been here for five years. Some of you have been here for many, many years, since the 1960s. Many of the cosponsors of my bill were here in 1995 and actually voted for the unicameral Legislature in 1995. I think we need to get beyond the fourth grade government class on the two houses and realize in the real world up here in Augusta how we work as far as the efficiencies go, as far as sending it back and forth, there is a chance to do it better, to do it more transparent, more efficient and more accountable and to save the taxpayers over \$11 million.

I also want to address the one fact about being swept up in emotion that we've heard, that it's a good thing because we've been swept up in emotion and the other body comes back and saves us. We should not be swept up in emotion on our votes. The citizens elected us to be here, to read these bills, to read the amendments, to know what we are voting on before we vote, and that's why Nebraska, in their unicameral Legislature, has timelines to slow things down. You don't have amendments and papers being put on your desk or thrown on your desk at the last minute. I don't know how many times, I serve on two different committees, I've seen a House Amendment come to my desk from a committee that I am on and I have no idea what the amendment is even about, and I am on that committee, it has come through. These are the types of things that we should be slowing down and we should be realizing. We should not be voting because we are swept up on emotion. We should know that we are the final vote and no matter what we do, we have to be accountable for that vote. And I agree with the good Representative from Eagle Lake, when he stated that he has seen this. He knows that we need to be accountable for every vote here. I would also be very remiss if not mentioning that this

was nonpartisan support on the committee, and when I do sit down, I will ask that the Committee Report be read on that.

I also want to enter into the record two of my bigger supporters today. One is driving frantically to get here, the good Representative from Farmington, and I fear he will not make it. He had a great speech planned. My other is the good Representative from Portland, who is very ill and was not able to be here, and has been working on a speech for five months, and I think we would have been in awe of the good Representative from Portland, Representative Adams. I think he is listening, so I want to give a good shout out to him. I was very tempted, Representative Adams, to pull your speech. I do have it, of course, at my fingertips, from 1993, and I would have read it into the record but I do not feel the House wants that. They can read it themselves right now. But I did want to put on for the record, and thank you for all of your help that you've been.

The SPEAKER: The Chair recognizes the Representative from Bowdoinham, Representative Berry.

Representative **BERRY**: Thank you, Madam Speaker. Madam Speaker, Men and Women of the House. I also rise in opposition to the pending motion, and I want to thank the committee and the good Representative from Saco, Representative Valentino, for amending this bill to change the numbers from 105, in a new unicameral Legislature, to 151, because I think that we all realize, and many of us in fact voted this way the other day on a related bill, that this body is the closest to the public. This is where the public of Maine gets their most direct democracy and their most direct connection to the people that represent them.

The previous bill that I referred to, while it was very well-intentioned and many I think supported it for very good reasons, would have saved \$0.68 per person in Maine, and it would have done so at a 15 percent cost to our direct democracy for the access that folks have to their representatives currently—\$0.68 at a 15 percent loss, and this will would save us about \$7.50 per Mainer at no cost to our direct democracy.

Now I want to point out too that, in my view at least, opposing this motion is no slight to our colleagues in the other body, our friends in the other body. Some of them, in fact, were this to pass, would come over here and serve with us, and I'm sure that, for the most part, we would welcome them.

Passing this bill would be a personal sacrifice to many of us, but I think institutionally, it would be a step forward. There are many countries and many provinces, all the provinces of our neighbor to the north, for example, which currently operate under a unicameral system. I see no harm in going forward and certainly no harm in direct democracy in the State of Maine. Thank you, Madam Speaker.

The SPEAKER: The Chair recognizes the Representative from Bath, Representative Watson.

Representative **WATSON**: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. I was truly undecided on this matter, have been all along, having engaged in discussions with people who favor it on either side, either favor or oppose it, but the presentation of the good Representative from Orono kind of pushed me over the edge. The checks and balances argument. Think about that for a minute. How many times have you passed a closed group of people in the hall and heard, Oh, don't worry about it, we'll get it killed in the Senate? In fact, if you think about a lot of measures that have moved through here, perhaps too quickly, but have moved from this body to the other body, you note that it's not a great uprising our constituents who are convincing the members of other body to take some action and counter what the House has done, but rather that seems to be the focus of the paid lobby

in the State House chambers because they know the power is concentrated there.

In the earlier bill, referred to by my good friend, the Representative from Bowdoinham, I took a strong position against reducing the number of seats in this House, primarily because of the power shift that would be involved to the other end of the hall. That power shift is in fact what has come back to me and thought as to why this idea, brought by the good Representative from Saco, might just be a good idea. It runs counter to everything else that I do. I am a historian, and I fancy myself a lawyer with some constitutional law training. I am very hesitant to propose amendments to our Constitution. I think that it's a working document that has lived a long life and for good reason and it should not be tampered with lightly. On the other hand, times have changed; perhaps we do need to rethink how we act here. The Representative from Saco, the good Representative Valentino, has pointed out that House Rules or new chamber rules would have a number of years to develop and percolate as to how legislation would flow through a unicameral body, would force us to slow down, make sure that our decisions are the correct ones. We still have a Chief Executive and judiciary who are, under their constitutional duties, providing the necessary checks and balances against the legislative body. I guess, all in all, this is one of those rare occasions in my seven years here that I've sat in on a floor debate and actually have been swayed one way or the other as to how I was thinking before I walked in. I will oppose the pending motion and I will support this measure, and I want to congratulate my colleague, the good Representative from Saco, for bringing this forward and doing as much homework as was necessary to make it plausible to someone like me. Thank you, Madam Speaker.

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

Representative **RUSSELL**: Thank you, Madam Speaker. May I pose a question through the Chair?

The SPEAKER: The Representative may pose her question.

Representative **RUSSELL**: Thank you, Madam Speaker. Does Nebraska have term limits, and if they do not, how would term limits impact our institutional memory here in the Legislature?

The SPEAKER: The Representative from Portland, Representative Russell has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Saco, Representative Valentino.

Representative **VALENTINO**: Thank you very much, Madam Speaker. Nebraska has just instituted term limits. Their members run for a four year term and they do have term limits on it. Term limits, in the State of Maine, are governed by statute. Term limits are not part of the Constitution. That's why, if you'll notice the green sheet that I passed out to everybody, as far as the timeline goes on it, the timeline is that the voters and all of us will have over a year and a half to thoroughly debate this issue before anybody gets to vote for it. This is not going out in November for the voters. We will have ample time for editorials and everything else. If they vote for it in a year from this November, then we will have four years, two bicameral Legislatures, to review statutes and rules. Term limits are under statutes so those could be changed during that four year period of time, by either the Legislature or by the voters, and they could be extended, they could be eliminated. This bill only deals with constitutional items, so I think institutional knowledge will be preserved under a unicameral Legislature, but that's not the term limits under the Constitution. That's statute which is dealt with separately.

The SPEAKER: The Chair recognizes the Representative from Eddington, Representative Pratt.

Representative **PRATT**: Thank you, Madam Speaker. Madam Speaker, Men and Women of the House. In an attempt to give my good friends from Farmington a chance to get here, I will offer a few things. One of the things that I haven't heard mentioned, that I think is important that I think people need to understand, is we already have joint standing committees. A lot of these Legislatures that are bicameral don't have joint standing committees and folks from one body meet together and folks from another body meet together, and it makes things even more difficult. I feel as though here in the State of Maine we're halfway there already. This work is being done, it seems a waste of time and you've heard these words already and I'll say them again, redundant and duplicative, to do this here. I would urge folks to sit down and think does this make sense, and to me, at this juncture, it does, it makes sense to me.

The thing that swayed me the most in this idea of balance of power, which, I as a historian, has been drilled into my head, and I think I understand the reasoning why people talk about that and the ideas that float back and forth between the two bodies. But this idea of slowing it down, I think is really what put me into a place where I'm okay with this idea of a unicameral Legislature. I think that's the most important piece, because I can't agree more with the good Representative from Saco and others who have mentioned how quickly we move things in order to get something out of this body and down to the other end so they can send it back to us. If we slowed it down and took a deep breath and looked at what were doing, I think we would need less of that idea of balance of power and we wouldn't need to check each other. Personally, I've seen a whole lot of check from the other end and maybe not a whole lot of balance. To me, I think two things: The fact that we already have joint standing committees where a lot of this work is being done together already and that we're slowing it down under this proposal to make sure that we know what we're doing and we have the responsibility to act in good faith, as we all do, those are the reasons I would support a unicameral and would vote against the pending motion. I thank you for your time.

The SPEAKER: The Chair recognizes the Representative from Boothbay, Representative MacDonald.

Representative **MacDONALD**: Thank you, Madam Speaker. Madam Speaker, Men and Women of the House. I rise in opposition to the current motion and in support of a unicameral Legislature. I think a unicameral Legislature will increase the power of the people in this state, and I think about it this way: We have 17 small committees in our Legislature and a small other body. Those small committees and the small other body are more easily, I'll use the word attacked, I don't mean that in a negative way but are attacked more easily by the organized lobby than we are. We are a big, amorphous people's body. And I think if we have one of us, it will be harder to the organized lobby to distort the results that can happen in the Legislature by just targeting two or three people in one committee, or two or three other people in the other body. I truly believe that having one single large body will increase the voice of the people, the natural voice of the people that comes through us and not through the organized lobby. Therefore, I support this unicameral Legislature and I oppose the current motion. Thank you, Madam Speaker.

The SPEAKER: The Chair recognizes the Representative from Freeport, Representative Webster.

Representative **WEBSTER**: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. I'm listening carefully to the debate and I did so also in our caucus and tossing in my mind, really struggling with the pros and cons

of this. As I do so, I recall as a freshman being very excited an idea, an issue, and I remember talking with a legislator more experienced than I, who is no longer here in this body nor in the other body, and I said why don't you support this, it's a great idea. He was a person who was one too often to quote the Federalist Papers. He said I think it's good idea also, but I'm very, very thoughtful about constitutional change and I tend to weigh against such things. So as I weigh the conversation and the decision before this body, I ask you to take that experienced legislator's thoughts to heart and recognize that we should not tread thoughtlessly or carelessly on something that was crafted so thoughtfully and carefully. Thank you.

The SPEAKER: The Chair recognizes the Representative from Sanford, Representative Boland.

Representative **BOLAND**: Thank you, Madam Speaker. I apologize for rising a second time, but I'm not sure if the point was made that in having three branches of government, the administrative branch and the judicial branch are both united bodies that speak with one voice. I think it would strengthen the voice of the people to have one united voice as the Legislature, as opposed to two bodies that sometimes are somewhat warring with each other. I think that's an important thing also to remember. Thank you.

The SPEAKER: The Chair recognizes the Representative from Rockland, Representative Mazurek.

Representative **MAZUREK**: Thank you, Madam Speaker. May I pose a question through the Chair?

The SPEAKER: The Representative may pose his question.

Representative **MAZUREK**: By going to a unicameral Legislature would this necessitate the House or the body going to a full-time Legislature rather than what we are, a part-time Legislature?

The SPEAKER: The Representative from Rockland, Representative Mazurek has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Saco, Representative Valentino.

Representative **VALENTINO**: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. In answer to the question, no. As mentioned in my opening statement, this will still remain a part-time citizen Legislature. As shown also on our comparison sheets, which I want to call to your attention again, is the comparison in Nebraska, where they have a unicameral Legislature. Maine has a population of 1.3 million; Nebraska has a population of 1.7 million. Nebraska has twice the square area as the State of Maine does. I'm proposing in this bill, or what the State of Local Government Minority Report is proposing in this bill, to go 151 members. Nebraska works on 49 members. Nebraska is already out of session. They have two sessions: one 90 days, one 60 days. They represent 1.7 million people with 49 people on a part-time basis, and they are out of session as we speak. So yes, Maine will remain a part-time citizen's Legislature.

The SPEAKER: The Chair recognizes the Representative from Bangor, Representative Butterfield.

Representative **BUTTERFIELD**: Thank you, Madam Speaker. Madam Speaker, Men and Women of the House. I certainly wouldn't want my good friend, the Representative from Orono, Representative Martin, to be the only person to rise in opposition to this measure today. So with the utmost respect for those who have spoken on the other side, I would also rise in support of the pending motion Ought Not to Pass, and I give you the reason, the safe haven law, controversy from Nebraska last year. For any of you who aren't familiar with what happened here, the safe haven law is simply a way to protect parents of young infants from repercussions for dropping those children off

at hospital. Nebraska passed such a law last year and, in the span of four months, a variety of kids from a variety of ages, from a variety of states in fact, were dropped off and the law of unintended consequences took hold and this became sort of a crisis for Nebraska. They ended up having to come back into special session to fix that law. That, I fear, is the kind of thing we would open the door to by going to a single chamber. Am I frustrated sometimes by bouncing things back and forth between here and the other body and seeing things that I favor not getting the same kind of favorable reception at the other end of the hall? Yes. Am I happy or would I be happy in a situation if something like the safe haven law, if in that back and forth we caught this mistake before it turned into a crisis? Yes. So Madam Speaker, balancing my frustration with the process sometimes against that potential for unintended consequences, I will support the pending motion Ought Not to Pass and I urge others to do the same. Thank you, Madam Speaker.

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

Representative **FLAHERTY**: Thank you, Madam Speaker. I'm a little missed that my good seatmate, the good Representative from Portland, Representative Adams couldn't be here, so I want to talk briefly about the history of how we got senators in the Federal Government, and I'm going to read directly from Federalist Papers, No. 62: The qualifications proposed for senators, as distinguished from those of representatives, consist of "in a more advanced age and a longer period of citizenship. A senator must be thirty years of age at least; as a representative must be twenty-five. And the former must have been a citizen nine years; as seven years are required for the latter. The propriety of these distinctions is explained by the nature of the senatorial trust, which, requiring greater extent of information and stability of character, requires at the same time that the senator should have reached a period of life most likely to supply these advantages; in which, participating immediately in transactions with foreign nations, ought to be exercised by none who are thoroughly weaned from the prepossessions and habits incident of foreign birth." So Ladies and Gentlemen of the House, one of reasons that we ended up with a Senate in the United States Federal Government is because they were concerned about relations with the foreign governments.

Additionally, I'll go on from the Federalist Papers very briefly, is that "Among the various modes which might have been devised for constituting this branch of the government, that which has been proposed by the convention is probably the most congenial with the public opinion. It is recommended by the double advantage of favoring a select appointment, and of giving to the State governments such an agency in the formation of the federal government as must secure the authority of the former, and may form a convenient link between the two systems." Therefore, Hamilton and Madison are saying that one of the reasons that the convention ended up with the senators is to help the state governments out in forming a constitution and getting a more cohesive branch of government. We don't have that problem in state government, and it would seem very clear to me that the intent of the founders and the framers our Constitution is not certainly anything to do with state government and only in federal government. Thank you, Madam Speaker.

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

Representative **HARLOW**: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. When we first started off as a country, we were federalism, and we were basically unicameral because the senators were not elected, they were appointed by the House of Representatives and we saw

how well that worked. In 1876, we dropped it, when they fixed an election, in *Rutherford B. Hayes v. Tilden*. So I don't want to see this happen again here. I don't think it will, but thank you, Madam Speaker and Ladies and Gentlemen of the House.

The SPEAKER: The Chair recognizes the Representative from Pittsfield, Representative Fitts.

Representative FITTS: Thank you, Madam Speaker. May I pose a question through the Chair?

The SPEAKER: The Representative may pose his question.

Representative FITTS: In looking at some of the handouts, it becomes obvious that there is a major difference between our structure here in Maine and that of Nebraska, in that in Nebraska, their elections are nonpartisan. Is that also a part of this bill?

The SPEAKER: The Representative from Pittsfield, Representative Fitts has posed a question through the Chair to anyone who may care to respond. The Chair recognizes the Representative from Saco, Representative Valentino.

Representative VALENTINO: Thank you very much, Madam Speaker. No, this bill does not call for nonpartisan elections. This is one of the things that was discussed in the committee, it was never part of my bill. We would still have partisan elections on that. When I came here my first year, there was only a one vote difference between this House, so I think the partisan elections have worked well. The two years before that, when I was not here, there was also a one vote difference and, as you'll recall, the good Representative from Falmouth, Representative Woodbury was chair of the committee. I think it's always been an issue that it could go either way in this House chamber, and it has been very, very close many times that we have been here, and certainly since I have been here, there's only been one vote difference between these two bodies, so it will remain partisan. Thank you.

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

Representative CELLI: Thank you, Madam Speaker. Madam Speaker, Men and Women of the House. It's a shame that this wouldn't make the unicameral Legislature nonpartisan. I think that's one of the biggest reforms that we need to make in government in the United States. There is nothing in the Constitution that speaks about governing by parties, yet we are, and I don't think it's the right way, I don't think it's the most effective way. So I would be more in support of this legislation if it also did away with party majorities and minorities. Thank you.

The SPEAKER: The Chair recognizes the Representative from Belfast, Representative Giles.

Representative GILES: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. I rise to follow up on Representative Fitts' question, not that I can answer it, but I do have a neighbor who is retired and from Nebraska and has always spoken very well of the unicameral Legislature there. However, he has always stressed it works very well because it is nonpartisan. Thank you.

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

Representative HARLOW: Thank you, Madam Speaker. Madam Speaker, Ladies and Gentlemen of the House. I didn't make my position very clear. I am going to be supporting this motion. Thank you, Madam Speaker and Ladies and Gentlemen.

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. 212

YEA - Ayotte, Beaudoin, Blodgett, Briggs, Butterfield, Campbell, Carey, Cebra, Cleary, Cornell du Houx, Cotta, Crafts,

Cray, Crockett J, Curtis, Cushing, Davis, Eberle, Fitts, Flemings, Gifford, Giles, Goode, Greeley, Hamper, Hanley, Harlow, Hogan, Innes Walsh, Jones, Joy, Magnan, Martin JR, McKane, McLeod, Millett, Morrison, Nass, Nutting, Pinkham, Priest, Richardson D, Richardson W, Robinson, Rotundo, Russell, Sarty, Saviello, Shaw, Stevens, Sutherland, Sykes, Thibodeau, Thomas, Webster, Wheeler.

NAY - Austin, Beaudette, Beaulieu, Beck, Berry, Bickford, Blanchard, Boland, Bolduc, Browne W, Bryant, Burns, Cain, Casavant, Celli, Chase, Clark H, Clark T, Cohen, Connor, Crockett P, Dill, Dostie, Driscoll, Duchesne, Eaton, Edgecomb, Eves, Finch, Flaherty, Fletcher, Flood, Fossel, Gilbert, Haskell, Hayes, Hill, Hinck, Hunt, Johnson, Kaenrath, Kent, Knapp, Knight, Kruger, Lajoie, Langley, Legg, Lovejoy, MacDonald, Martin JL, Mazurek, McCabe, McFadden, Miller, Nelson, O'Brien, Pendleton, Percy, Peterson, Pieh, Pilon, Piotti, Plummer, Pratt, Prescott, Rankin, Rosen, Sanborn, Schatz, Sirois, Smith, Strang Burgess, Stuckey, Theriault, Tilton, Treat, Trinward, Tuttle, Valentino, Van Wie, Wagner J, Wagner R, Watson, Weaver, Welsh, Willette, Wright, Madam Speaker.

ABSENT - Adams, Harvell, Lewin, Peoples, Perry, Tardy.

Yes, 56; No, 89; Absent, 6; Excused, 0.

56 having voted in the affirmative and 89 voted in the negative, with 6 being absent, and accordingly the Majority **Ought Not to Pass** Report was **NOT ACCEPTED**.

Subsequently, on motion of Representative HAYES of Buckfield, the Minority **Ought to Pass as Amended** Report was **ACCEPTED**.

The RESOLUTION was **READ ONCE**. **Committee Amendment "A" (H-471)** was **READ** by the Clerk and **ADOPTED**.

Under suspension of the rules, the RESOLUTION was given its **SECOND READING WITHOUT REFERENCE** to the Committee on **Bills in the Second Reading**.

Under further suspension of the rules, the RESOLUTION was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (H-471)** and sent for concurrence.

HOUSE DIVIDED REPORT - Report "A" (10) **Ought to Pass as Amended by Committee Amendment "A" (H-503)** - Report "B" (2) **Ought Not to Pass** - Report "C" (1) **Ought to Pass as Amended by Committee Amendment "B" (H-504)** - Committee on **JUDICIARY** on Bill "An Act To Enact the Uniform Prudent Management of Institutional Funds Act"

(H.P. 981) (L.D. 1402)

TABLED - June 3, 2009 (Till Later Today) by Representative PRIEST of Brunswick.

PENDING - Motion of same Representative to **ACCEPT** Report "A" **OUGHT TO PASS AS AMENDED**.

Subsequently, Report "A" **Ought to Pass as Amended** was **ACCEPTED**.

The Bill was **READ ONCE**. **Committee Amendment "A" (H-503)** was **READ** by the Clerk.

Representative PRIEST of Brunswick **PRESENTED House Amendment "A" (H-559)** to **Committee Amendment "A" (H-503)** which was **READ** by the Clerk.

The SPEAKER: The Chair recognizes the Representative from Brunswick, Representative Priest.

Representative PRIEST: Thank you, Madam Speaker. Madam Speaker, fellow Representatives. This bill is the Uniform Prudent Management of Institutional Funds Act. It applies to charitable nonprofit corporations, especially colleges, and it requires them to prudently manage their endowment funds. They have to set up a policy and do a prudent investment and abide by