

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)

Senate Legislative Record
One Hundred and Twenty-Sixth Legislature

State of Maine

Daily Edition

First Regular Session
beginning December 5, 2012

beginning at Page 1

The Secretary opened the vote.

ROLL CALL (#209)

YEAS: Senators: BOYLE, CAIN, CLEVELAND, CRAVEN, DUTREMBLE, GERZOFKY, GOODALL, GRATWICK, HASKELL, HILL, JACKSON, JOHNSON, LACHOWICZ, MAZUREK, MILLETT, PATRICK, VALENTINO, WOODBURY, THE PRESIDENT - JUSTIN L. ALFOND

NAYS: Senators: BURNS, COLLINS, CUSHING, FLOOD, HAMPER, KATZ, LANGLEY, MASON, PLUMMER, SAVIELLO, SHERMAN, THIBODEAU, THOMAS, WHITTEMORE, YOUNGBLOOD

EXCUSED: Senator: TUTTLE

19 Senators having voted in the affirmative and 15 Senators having voted in the negative, with 1 Senator being excused, the motion by Senator **MILLETT** of Cumberland to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT "A" (S-227)** Report, **PREVAILED**.

READ ONCE.

Committee Amendment "A" (S-227) **READ** and **ADOPTED**.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED**.

Ordered sent down forthwith for concurrence.

The Chair laid before the Senate the following Tabled and Later Assigned (6/6/13) matter:

SENATE REPORTS - from the Committee on **STATE AND LOCAL GOVERNMENT** on RESOLUTION, Proposing an Amendment to the Constitution of Maine To Establish a Unicameral Legislature

S.P. 538 L.D. 1454

Majority - **Ought to Pass as Amended by Committee Amendment "A" (S-234)** (8 members)

Minority - **Ought Not to Pass** (3 members)

Tabled - June 6, 2013, by Senator **LACHOWICZ** of Kennebec

Pending - motion by same Senator to **ACCEPT** the Minority **OUGHT NOT TO PASS** Report

(In Senate, June 6, 2013, Reports **READ**.)

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

Senator **VALENTINO:** Thank you Mr. President. Members of the Senate, I rise before you today to oppose the motion on the floor, even though I don't think I'm having a very good morning this

morning. I ask you to keep an open mind as you listen to my reasons for supporting this bill. I want you to remember that the committee report is Ought to Pass. Eight people on State and Local Government voted against three Ought to Pass. One thing about this is it certainly has nothing to do with parties. I submitted this bill when the Democrats were in power. I submitted it again when the Republicans were in power. Now I'm submitting it again when power is shared. I really want to call your attention to the green and yellow handouts that I have. Those of you who served in the House during the 124th and the 125th remember this bill and the lengthy House debates on giving the voters of Maine an opportunity to vote for a unicameral legislature. Now that I am in the Senate, I don't want to be a hypocrite. I have submitted the bill again. I really submitted it to finally be able to have a floor debate on the Senate floor that will be recorded in the Senate Record. You see, I have read every record that has been recorded on this debate going back to 1934. The House always passes the bill and has a lively debate while the Senate lately stays silent. That is why I'm here before you one more time to try and hopefully get somebody to rise out of their seat to talk for or against me. Many will say, and have said, that I'm trying to eliminate the Senate. Just as correctly, you could say I'm trying to eliminate the House and expand the Senate. The truth is that I'm trying to create one Body.

Although Maine allows the citizens to collect signatures for initiatives and to put a people's veto on the ballot, the citizens are prohibited from collecting signatures to place this on the ballot. I will read that again. The citizens are prohibited from putting this on the ballot. The only way people will ever get to vote on this is if we send it to them. This is unlike anything else because it's a Constitutional Amendment.

A unicameral legislature is not a new idea. A bill was first brought before the Maine Legislature in 1935 by Representative LeBelle of Brunswick. It was the floor speech in this Body by Senator Fernald of Waldo County that was remarkable. It is filled with historical research and references but extremely long. He was interrupted six times to yield for other Senators and each time he refused. Even a motion to adjourn was ruled out of order and finally, as a matter of privilege, it was requested that food be brought in to the Senate Chamber for members to eat. I assure you I will not take that long, but I am going to be a little long.

Some of you may say, "Why is she wasting her time on this? We should be tackling healthcare, education, big issues." My first term I was here I ran on the platform of tax reform. Let's do tax reform. I actually remember knocking on a door one time and telling somebody, "Every single member of the Legislature should not be reelected because they have not done tax reform and we are demanding tax reform for years." Well guess what? We still haven't really done a comprehensive tax reform. I was on the Taxation Committee. We passed tax reform. People didn't like it and we did a people's veto. The reality is, though, we work in silos here. Whatever committee you are on tends to be the silo that you work on. If you are on Health and Human Services, you do a lot on that. If you are on Education, you do a lot on that. The silo that I was put into for the last eight years was Veterans and Legal Affairs. That silo is government and government reform. That's why I have been pushing on this issue.

Although Nebraska is the only state to have a unicameral legislature, many of the original states, including Vermont and Pennsylvania, were unicameral after the United States was formed. Benjamin Franklin was an advocate of a unicameral Body and argued for it at the federal level when they were drafting

the Constitution. He did not want to model after the House of Lords and the House of Commons in England. He did not feel that we should have a House of Lords made up of men, at the time, with money and land. He argued for a one Body legislature, a one Body that would be closer to the people. In 1937 Nebraska became unicameral because their citizens were allowed to gather signatures to get this on the ballot. They have been unicameral for 76 years and operate with 49 Senators representing a population of 1.7 million; more than us and twice the geographical area. Nebraska's legislature has safeguards in place to assure that legislation is not made in haste and without thorough examination. Time periods, such as five days from an item appearing on the calendar until a vote can be taken on an issue, are in place. Members are not thrown bills, committee reports, amendments, and supplements on their desks and asked to vote on them in the next few minutes. They have anywhere from 24 hours to five days to read the material, understand the issue, and then vote on the bill. They cannot waive the rules. Can you imagine if we had that? If you had a divided report on your desk and said, "We're not going to do this until later so that you can research it." Sometimes we've had debate, amendments, first reading, second reading, engrossment, and enactment all on the same day. What we consider a safeguard, having a bill be passed back and forth between the two Bodies, often acts to shift the responsibility and the accountability from one Body to the other. We have seen many times after enactment that a bill slipped through and needs to be changed the next session. We need to have one set of eyes that knows that they are the only people responsible for reading and understanding what they are voting for and what they are voting against.

In the 1960's there were three United States Supreme Court cases ruling that states were not allowed to apportion the House and Senate differently. The court stated that Bodies must be apportioned based on population, not geography. That is why Maine had to change and that is why we cannot have two Senators from each county. We have to be based on population. We can never go back to the two Senators from each county. The rulings raised doubt about the necessity to have two Bodies, both based on population. In Maine, bills were introduced in 1967, 1973, 1977, 1979, 1992, 1995, 2009, and 2011 for a unicameral legislature. None of the bills achieved the two-thirds needed to send the issue to the voters to decide. Many states over the years continue to introduce bills to create a unicameral legislature, but no state has approved the measure. Why? When asked if other states would follow Nebraska in 1937 the Nebraska clerk predicted correctly. He said, "Not too many legislators want to vote themselves out of office."

The majority of the State and Local Government Committee has always supported this bill and every House member, Democrat and Republican, on that committee is on the Majority Ought to Pass. In these tough economic times, while trying to prepare a State budget, proposals for consolidation, downsizing, and belt tightening in all areas have been put forward. We have asked our schools, municipalities, nursing homes, State workers, and others to make sacrifices. There are currently 61 bills on the Appropriations Table as of today. Those bills have had a lot of work done on them. They have had public hearings. They've had meetings and work sessions. None of them got into the budget, maybe one or two. What happens to those 61 bills and all that work we've done? Nothing. It goes away. Funding that we don't have. Isn't it time we reevaluate the way the Legislature should be working in the 21st Century? It is no longer 1820. We

don't travel by horse and buggy. We reach out to constituents by e-mail, Facebook, or Twitter. We even drive in our automobiles now. Cost. I ask you, do we really need to spend \$12.2 million every budget for a Senate? Do we really need to spend \$350,000 every budget cycle to support one Senator? One of us.

The citizens in this electronic day and age really need two people to represent them. The basic outline of this bill is to have a part-time citizen Legislature of 151 members. There will be no redistricting. We will use the same 8,800 people. We will be closer to the people versus the 38,000 that we now have to represent. This assures closeness between members and the constituents. The first question most people ask is that we need to preserve the checks and balances of the Constitution. I would say look up what you learned in fourth grade. Separation of powers and checks and balances refers to the three branches of government; Executive, Judicial, and Legislative. It does not refer to the relationship between the House and the Senate. In our system of shared lawmaking authority, quality control does not rest with the Legislature alone. The Executive veto, judicial review, and in Maine we have a citizen's initiative and a people's veto are all protections. I ask you: why is the Legislature the only branch of government divided in two? I contend that a unicameral system corrects the modern day concentration of power and it increases the power of the Legislature and restores the proper balance among the three branches of government. Last month 19 members of this Body voted on a roll call vote to reduce the House from 151 to 101 members and the Senate from 35 to 25 members. Unlike that bill, which would just create larger districts, a unicameral legislature will not hurt rural districts. I have some great maps and visuals on these but props are not allowed. You will see reducing the size hurts a rural district. Unicameral may actually strengthen the voice of rural Maine since the Senate is usually the power base and rural Maine citizens are sparsely represented now because the Senate has one Senator for 38,000 people. In 2009, after I first proposed the bill, one paper wrote, "With this budget," because every year is the worst budget ever, "the Legislature has driven home the new reality that we simply can't afford government like we have had for the last 200 years." Another paper said, "Legislature misses rare opportunity to gain through division as legislative votes go to Maine House decision Tuesday to eliminate itself, deserves some kind of special award, if not a profiles in courage prize at least it's a profiles in common sense." Let's live up to our Dirigo motto. Let's make Maine the first state in 76 years to become unicameral. Let Maine lead the change in the 21st Century for more transparent, efficient, and accountable government with savings of \$12.2 million every budget cycle. Please vote against the motion on the floor so that Maine citizens will have an opportunity to vote.

On motion by Senator **VALENTINO** of York, 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 Kennebec, Senator Lachowicz.

Senator **LACHOWICZ:** Thank you Mr. President. Men and women of the Senate, I haven't been here very long. Frankly, I'm not a professional politician. I'm a social worker. If the Senate was to end tomorrow I'd just go back to my job and I'd be just fine. I really believe in the Constitution. I hear people talk about it all

the time. Our Constitution was modeled on the federal Constitution. Whatever you think of the mess that goes on in Washington that people complain about all the time, our Constitution, both federal and statewide, was set up to provide not just checks and balances, as the good Senator from York mentioned, but also a separation of powers and also for there to be a Body closer to the people and a more deliberative Body. I think that's what we have here. In the short time I've been here one of the things I've noticed is that we tend to debate less but also tend to talk more about solutions. Actually, I kind of like that. What I've seen is that it works. I guess we could save money, but if there is only one other unicameral legislature in the country maybe we're doing something that's right. We did set up our original government like this. Our Founding Fathers thought this was a good idea. Like I said, for whatever you think about what's going down in Washington, they also have the same model. I don't have much more to say about that, other than I respect the Constitution and if I didn't have this job tomorrow I would still be fine, as I'm sure most of us would be. Thank you very much.

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

Senator **COLLINS:** Thank you Mr. President. Ladies and gentlemen of the Senate, my colleague from York County, Senator Valentino, mentioned a few things that I think are important. One is that I think everybody in this Chamber realizes that we've been a state for 193 years, becoming a state in 1820. We put into play a system that seems to work, but towards the end of session sometimes it gets a little contentious, but nevertheless it does work. It's worked fine for 193 years. I don't think we need to change it now. I think it's tried and proved. I would urge you to support the pending motion of Ought Not to Pass and move on with our agenda today. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Aroostook, Senator Sherman.

Senator **SHERMAN:** Thank you Mr. President. Ladies and gentlemen of the Senate, I'd like to ask three questions of the sponsor, if I may?

THE PRESIDENT: The Senator may pose his questions.

Senator **SHERMAN:** Thank you Mr. President. The three questions are these. We had a bill in that wanted to change the way we handled our two year budget. We were talking about the Henry Joy idea. Some of you remember Henry. It was going to cost \$10 million or \$15 million. We couldn't do that very well. Second question is: how would you change the shapes? Would they be squares, rectangles, along High Street, along the river, or a nice circle around the town? How would you change the state to get the apportionment? The last one is: we have three seats, and possibly four seats, for our Native Americans. How would you handle the Native Americans? Would they have to run on a 8,500 seat or would they be granted special status?

THE PRESIDENT: The Senator from Aroostook, Senator Sherman poses a series of questions through the Chair to anyone who may wish to answer. The Chair recognizes the Senator from York, Senator Valentino.

Senator **VALENTINO:** Thank you Mr. President. Members of the Senate, to respond to the questions: the two year budget, changing the budget cycle. I think that's a great idea. I think this unicameral actually is a four-year unicameral. We'd be elected for four years. I've thought about this so much, I can go on and on and on. I would think what I would like to see if that in the first year we do all of the bills. Then we would have an amount on the Appropriations Table. We know what we're doing. Then the second year we could do a budget and figure that out. We would have a long short, long short session. Then you could put in emergency bills. That way there would be stability for a lot of businesses and people, to know that you couldn't submit the same bill each session. That would give some the stability of four years versus two years and knowing everything was going to be changed every single two years on it. I think changing the budget cycle is actually a good idea. Having four years here and having one bill introduced only once in four years, which actually gives an opportunity for an idea to take root and to grow and for people to do changes.

The other thing, I wasn't quite certain about your circles and squares. If you was talking about apportionment. Apportionment would be the same as it is now. I'm not sure if that was a true question or maybe just sarcastic. Apportionment would be the same.

As far as the Native Americans, the Body has to realize the Native Americans are not provided for in the Constitution. Therefore, this would not be in the Constitutional Amendment. Native Americans, their seats are done by statute and by rules. The statutes and rules would stay the same. The Native American seats are not provided in the Constitution. If they were then we would be in violation of the Constitution because the Constitution says we can only have 151 members of the House. Right now there are three Native Americans there. We would have, in essence, by-pass the Constitution, violated the Constitution. That's why they are in statute and that's how we get away with it. In statute. There would be no change for the Native Americans. That's in statute, not in the Constitution.

THE PRESIDENT: The pending question before the Senate is the motion by the Senator from Kennebec, Senator Lachowicz to Accept the Minority Ought Not to Pass Report. A Roll Call has been ordered. Is the Senate ready for the question?

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#210)

YEAS: Senators: BOYLE, CLEVELAND, COLLINS, CRAVEN, DUTREMBLE, FLOOD, GERZOFISKY, GOODALL, HAMPER, HASKELL, JOHNSON, KATZ, LACHOWICZ, MASON, MAZUREK, MILLETT, PATRICK, PLUMMER, SAVIELLO, SHERMAN, THIBODEAU, THOMAS, WHITTEMORE, YOUNGBLOOD, THE PRESIDENT - JUSTIN L. ALFOND

NAYS: Senators: BURNS, CAIN, CUSHING, GRATWICK, HILL, JACKSON, LANGLEY, VALENTINO, WOODBURY

EXCUSED: Senator: TUTTLE

25 Senators having voted in the affirmative and 9 Senators having voted in the negative, with 1 Senator being excused, the motion by Senator **LACHOWICZ** of Kennebec to **ACCEPT** the Minority **OUGHT NOT TO PASS** Report, **PREVAILED**.

Sent down for concurrence.

The Chair laid before the Senate the following Tabled and Later Assigned (6/7/13) matter:

Emergency Measure

An Act To Ensure the Continuation of Dairy Farming
S.P. 148 L.D. 368
(C "A" S-170)

Tabled - June 7, 2013, by Senator **GOODALL** of Sagadahoc

Pending - **ENACTMENT**, in concurrence

(In Senate, June 3, 2013, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-170)**.)

(In House, June 6, 2013, **PASSED TO BE ENACTED**.)

On motion by Senator **HILL** of York, placed on the **SPECIAL APPROPRIATIONS TABLE**, pending **ENACTMENT**, in concurrence.

The Chair laid before the Senate the following Tabled and Later Assigned (6/7/13) matter:

Emergency Measure

An Act To Make Supplemental Allocations from the Highway Fund for the Expenditures of State Government Necessary to the Proper Operations of State Government for the Fiscal Year Ending June 30, 2013

H.P. 1117 L.D. 1550
(C "A" H-292)

Tabled - June 7, 2013, by Senator **MAZUREK** of Knox

Pending - **ENACTMENT**, in concurrence

(In Senate, June 3, 2013, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-292)**, in concurrence.)

(In House, June 6, 2013, **PASSED TO BE ENACTED**.)

This being an Emergency Measure and having received the affirmative vote of 34 Members of the Senate, with no Senators having voted in the negative, and 34 being more than two-thirds of the entire elected Membership of the Senate, was **PASSED TO BE ENACTED** and having been signed by the President, was presented by the Secretary to the Governor for his approval.

Ordered sent down forthwith.

The Chair laid before the Senate the following Tabled and Later Assigned (6/7/13) matter:

Emergency Resolve

Resolve, Regarding Legislative Review of Portions of Chapter 17: Rules Regarding Proof of Ownership and Recruitment by Employers Employing Foreign Laborers To Operate Logging Equipment, a Major Substantive Rule of the Department of Labor
H.P. 893 L.D. 1259
(C "A" H-257)

Tabled - June 7, 2013, by Senator **JACKSON** of Aroostook

Pending - **FINAL PASSAGE**, in **NON-CONCURRENCE**

(In Senate, June 3, 2013, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-257)**, in concurrence.)

(In House, June 6, 2013, **FAILED FINAL PASSAGE**.)

On motion by Senator **JACKSON** of Aroostook, the Senate **SUSPENDED THE RULES**.

On further motion by same Senator, the Senate **RECONSIDERED** whereby the Bill was **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-257)**, in concurrence.

Senate at Ease.

Senate called to order by the President.

On motion by Senator **JACKSON** of Aroostook, Senate Amendment "A" (S-246) **READ**.

THE PRESIDENT: The Chair recognizes the Senator from Aroostook, Senator Jackson.

Senator **JACKSON:** Thank you Mr. President. Ladies and gentlemen of the Senate, this amendment removes the Emergency preamble, emergency clause, from the bill.

On motion by Senator **JACKSON** of Aroostook, Senate Amendment "A" (S-246) **ADOPTED**.