

# MAINE STATE LEGISLATURE

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**LEGISLATIVE RECORD**

OF THE

*One Hundred and Twelfth*

*Legislature*

OF THE

STATE OF MAINE

**VOLUME I**

**SECOND REGULAR SESSION**

January 8 - April 2, 1986

Report and tomorrow assigned.

The Chair laid before the House the second tabled and today assigned matter:

HOUSE DIVIDED REPORT - Majority (11) "Ought to Pass" in New Draft under New Title Bill "An Act to Improve Lobster Research and Management" (H.P. 1597) (L.D. 2248) - Minority (2) "Ought Not to Pass" - Committee on Marine Resources on Bill "An Act to Raise the Minimum Legal Size of Lobsters" (H.P. 513) (L.D. 718)

TABLED - March 24, 1986 by Representative CROWLEY of Stockton Springs.

PENDING - Motion of same Representative to accept the Majority "Ought to Pass" in New Draft under New Title Report.

On motion of Representative Diamond of Bangor, retabled pending acceptance of the motion of Representative Crowley of Stockton Springs that the House accept the Majority "Ought to Pass" Report in New Draft under New Title and tomorrow assigned.

The Chair laid before the House the third tabled and today assigned matter:

HOUSE DIVIDED REPORT - Majority (10) "Ought Not to Pass" - Minority (3) "Ought to Pass" - Committee on Utilities on Bill "An Act to Prohibit Mandatory Local Measured Service and to Preserve Affordable Traditional Flat Rate Local Telephone Service at as Low a Cost as Possible" (I.B. 3) (L.D. 2093)

TABLED - March 24, 1986 by Representative VOSE of Eastport.

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

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

Representative BAKER: Mr. Speaker and Members of the House: I hope you will not accept the Majority "Ought Not to Pass" Report. I think the bill has merit and I would like to point out a couple of things before we take the vote.

This particular bill would basically do away with mandatory Local Measured Service. If the people who had chosen Local Measured Service reached a certain percentage, the phone company would have to provide clear and convincing evidence that an affordable flat rate was not possible. I think what we are trying to say here is that we want to prohibit the raising of a flat rate to an unofficially high level, forcing people on to a local measured plan. That would not make it an optional plan, that is the purpose of the bill.

The SPEAKER: The Chair recognizes the Representative from Eastport, Representative Vose.

Representative VOSE: Mr. Speaker, Ladies and Gentlemen of the House: This bill before us was an initiated bill asking that this legislature pass this bill or else go out to referendum. It seems to me that we had a very long debate on this issue; therefore, I am not going to debate the merits of Local Measured Service.

During the debate of a delay bill that we had, I

think that each and every person that got up favored the referendum process. For example, I would like to read just a few things that were said by (for example) Representative Baker, who just spoke. His last words on H-101 of the Legislative Record says, "let the voters decide." Representative Connolly, Page H-102 of the Legislative Record, "we should protect the integrity of the referendum process." Representative McHenry on H-105, Legislative Record, "why not wait six more months and let the people make a read good, clean, honest choice?" Representative Michael, H-106, "As I said, I would like to see us follow the tradition of petition -- that is keeping intact what we have in place now and let the voters decide what they want to do."

I am in full support of all those legislators that want the voters to decide and in particular Representative Baker.

I hope you will support my motion.

The SPEAKER: The Chair recognizes the Representative from Pittston, Representative Reeves.

Representative REEVES: Mr. Speaker, Men and Women of the House: I would like to point out to members of the House exactly what this bill does propose to do because I think that is something that has not been discussed in the record.

This referendum, if passed, will, in fact, make mandatory Local Measured Service illegal but it will never make optional Local Measured Service illegal. It will simply assure that those who benefit from an LMS plan will pay for what they used.

Since LMS is relatively new to Maine, we have to look at what happened in other states. The Bell System has been trying to push through Local Measured Service for 15 years now in order to raise its revenues. They have tried mandatory LMS programs but, as in Maine, these programs have been rejected by the people so they have tried optional programs. New England Telephone has offered an optional Local Measured Service program in Portland for ten years. As in Portland, they have found that, under 10 percent of the people, actually choose LMS if they have a free choice. Phone companies have been forced to try a third way to get us to buy LMS. They underpriced Local Measured Service and they overpriced flat rate service and, thereby, forced people to choose the Local Measured Service.

This is exactly what has happened in the plan that is in place now in Maine and in other states like Missouri and Iowa where bills with language similar to Maine's referendum are being considered by state legislatures.

What this Local Measured Service Bill actually does -- it says that if more than 25 percent of the people choose Local Measured Service, it may be because Local Measured Service is underpriced and the flat rate service is overpriced. Therefore, the phone company has to come back to the Public Utilities Commission and provide clear and convincing evidence that their rates structure is a fair one.

Seeing what has happened in other states, we are simply saying that the burden of proof should be on the phone company. If they can prove that there is a reasonable alternative rate, then fine, those people that choose LMS can have it.

In the meantime, the average phone user shouldn't be forced to subsidize cut rate phone bills for some. Most of the cost of the phone systems are a fixed cost, they don't depend on how many times you call, so all phone users should pay their fair share

of these costs.

Many of you have read and heard of the lawsuit recently filed by New England Telephone Company against the Secretary of State to challenge the wording of the ballot question. If this proposed citizens initiative is voted on next November, the Secretary of State's question reads, "Do you want to ban Mandatory Local Measured phone service and direct the state to keep the flat rate local phone service at as low a cost as possible"? This question was prepared in accordance with the law that the legislature passed in 1983 to insure that a fair and open procedure was used by the Secretary of State in writing ballot questions and that the wording of ballot questions would be decided before referendums were circulated for signatures.

Last August, the Secretary of State, when this referendum bill was proposed, invited comments from all interested parties, including the telephone company and the PUC, before he wrote the question. The question was prepared and certified prior to the circulation of the petition and was prepared in accordance with something called the flesh test for readability, which is intended to assure that all voters can understand the words and the meaning of the question. Then this approved question was printed on each petition in large type for all to read, including the 53,000 voters who signed the petition.

The telephone company filed a suit against this question and a suit to throw out the whole referendum two weeks ago, after the 53,000 signatures had been filed and because they were unable to find anything wrong with the signatures to disqualify them. The signatures have been finally certified by the Secretary of State. The judge in the suit has ruled that the appeal period for the referendum question has well passed and he has dismissed the suit on procedural grounds. But the telephone company is now appealing this decision to the Supreme Court. The phone company is desperate to head off this referendum because their polls show that a large majority of people do not want Local Measured Service and will vote to direct the PUC to keep flat rate service at as low a cost as possible. The phone company will bring suit against the question again because the door has been left open if we send this bill out to referendum.

We amended the law in 1983 to require ballot questions to appear on petitions. The Secretary of State wrote this question and approved the petition. Under the statutes, the Secretary of State now can't change the question.

This is a good bill, the people of Maine want it, and I urge you to vote against the "Ought Not to Pass" Report and enact this bill and save the expense of a referendum.

Mr. Speaker, when the vote is taken, I ask for a roll call.

The SPEAKER: A roll call has been requested. For the Chair to order a roll call, it must have the expressed desire of more than one-fifth of the members present and voting. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken and more than one-fifth of the members present and voting having expressed a desire for a roll call, a roll call was ordered.

The SPEAKER: The Chair recognizes the Representative from Lewiston, Representative Handy.

Representative HANDY: Mr. Speaker, Men and Women of the House: Over the past couple of years, I have been actively involved in this issue of Local Measured Service, having testified before numerous hearings of the Public Utilities Commission offering numerous suggestions. Since that time, the Public Utilities Commission has come out with a number of different mandatory Local Measured Service plans, none of which are optional. During those many hearings, myself and a number of other people testified to the fact that this was just another opportunity for NET to stick their foot in the door to raise rates without going through the normal rate making process. Indeed, men and women of the House, this is exactly what has happened, the prophecy has come true.

In my home city of Lewiston, we pay upwards of \$16 for the so-called optional flat rate. Now, if that isn't mandatory Local Measured Service, I don't know what is.

If the Public Utilities Commission can't take the bull by the horns and represent the people of the State of Maine, the phone customers of the State of Maine, in an open process and take into consideration their comments, then it is incumbent upon us as a representative body of this state to take that bull by the horn and prohibit mandatory Local Measured Service and allow those people who want to opt for some form of measured service to do so.

I urge you today to take a hold of this unique opportunity we have and pass this bill that has been initiated by the people of the State of Maine.

The SPEAKER: The pending question before the House is the motion of Representative Vose of Eastport that the House accept the Majority "Ought Not to Pass" Report.

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

Representative NELSON: Mr. Speaker, I request permission to pair my vote with Representative Bost of Orono. If he were here, he would be voting no and if I were voting, I would be voting yes.

The SPEAKER: The pending question before the House is the motion of Representative Vose of Eastport that the House accept the Majority "Ought Not to Pass" Report. Those in favor will vote yes; those opposed will vote no.

76 having voted in the affirmative and 54 in the negative with 19 being absent and 2 paired, the motion did prevail.

(See Roll Call No. 265)

The Chair laid before the House the fourth tabled and today assigned matter:

RESOLUTION, Proposing Amendments to the Constitution of Maine to Change the Reapportionment Procedures to Reflect Changes in Legislative Procedures and to Specify how the Reapportionment Commission should Operate (H.P. 1599) (L.D. 2252)

TABLED - March 24, 1986 by Representative HAYDEN of Brunswick.

PENDING - Passage to be Engrossed.

Representative Brown of Gorham offered House Amendment "B" and moved its adoption.

House Amendment "B" (H-602) was read by the Clerk