

Hearing February 8, 2010 before
Legal & Veterans Affairs Committee
By Mary Adams, P O Box 10, Garland ME 04939
Tel: 207-924-3835, Email: mga@tdstelme.net

Testimony opposing LD 1690, LD 1692, LD 1730 [2010]

Senator Sullivan, Representative Trinward:

My name is Mary Adams, I am a Maine native, and I led the successful signature gathering efforts which resulted in two referenda questions on the ballot: Repeal of the state property tax in 1977 and the Taxpayer Bill of Rights in 2006. These were volunteer efforts on my part; I have never been paid to lead a referendum and I am not being paid to be here today.

I am here this afternoon, as I have done ever since the late 70's, to protect this wonderful process granted to the citizens of the state a century ago. Past and current legislators do not seem to understand that this is not their method of referendum, belongs to the people. When you want to send an issue to referendum, all you need to do is create a bill and press a button! One wonders how you dare to interfere with the already-difficult process of the citizen's right to referenda? One wonders how the legislature even dares to handicap the people's exercise of their sovereign power to legislate by introducing this bill, thus:

- Trying to create an electronic list of signers can be used to intimidate citizens in the future from signing petitions on controversial question for fear of harassment
- Creating a burden and cost on the Sec of State which has trouble getting signatures verified in a timely manner
- Create an absurd now-you-have-them-now-you-don't situation by being the signature removal provision in this bill.
- Adding penalties, additional registrations, disclosures and reporting which are unnecessary and totally counter to the refreshingly simple and straightforward language and intent of the Maine Constitution. Example: in the attached analysis by Citizens in Charge, it points out that applying finance reporting to initiatives and referenda makes no sense because the latter is not corruptible. It may be important to know who and how much is given to a candidate's campaign because of how they may be influenced to vote, but if someone gives \$100,000 or \$1 million to a referendum campaign, it doesn't change the ballot question. All that would do, to quote Citizens in Charge is "to give initiative opponents free opposition research courtesy of the state."
- Power frenzy: Even imposing regulations on the municipal petitioning process

Maine's State Supreme Court said in a recent case concerning the legislature's frustrating the citizen initiative by statutory language not consistent with the freedom granted citizens in conducting petition drives in the Maine Constitution. The case is *McGee v.*

Secretary of State et al, handed down May 4, 2006. It sent a message to the legislature which, although recent, apparently hasn't been read by the sponsors of these bills being heard today. It's online and I suggest it as *must reading* for this committee because I think, by its unanimous opinion, the High Court loves the petition process as much as I do.

Judge J. Saufley cites *Allen v. Quinn*:

“Although the constitution (art. IV, pt. 3, § 22) contemplates that the legislature will enact laws to implement the direct initiative, any such laws, of course, must be consistent with the constitutional provision setting up the direct initiative, *i.e.*, section 18; until the legislature does enact laws not inconsistent with section 18, the constitutional provisions are expressly declared to be self-executing.

Allen v. Quinn, 459 A.2d 1098, 1100 (Me. 1983) (footnote omitted). Accordingly, although the Legislature has the authority to enact laws providing for the implementation of the initiative right, any legislative implementation must respect the substance of the constitutional right.

[¶21] We have previously recognized the importance of the right of initiative, and again conclude that the right of the people to initiate and seek to enact legislation is an absolute right. *Farris ex rel. Dorsky v. Goss*, 143 Me. 227, 231, 60 A.2d 908, 911 (1948). It cannot be abridged directly or indirectly by any action of the Legislature. *Id.* In short, the Legislature is authorized to enact implementing legislation, but cannot do so in any way that is inconsistent with the Constitution or that abridges directly or indirectly the people's right of initiative.

“Abridge” means to diminish or reduce in scope. These bills being heard today diminish and reduce in scope indirectly the people's right of initiative. They endeavor to set so many traps, create so much risk, that an ordinary citizen like myself would be overwhelmed by the red tape and danger involved in using the process.

J. Saufly goes on to say...

“The direct initiative right was added to the Constitution by an amendment effective in 1909. Resolves 1907, ch. 121, passed in 1908. Prior to the enactment of the initiative amendment, the ability to enact legislation rested solely with the Legislature. The amendment placed in the hands of the people a powerful tool for shaping and creating legislation. This fundamental change in the form of government reserved directly to the people a power that had previously been held solely by the people's elected representatives. In short, the sovereign which is the people has taken back, subject to the terms and limitations of the amendment, a power which the people vested in the Legislature when Maine became a state. The significance of this change must not be overlooked, particularly by this court whose duty it is to so construe legislative action that the power of the people to enact their laws shall be given the scope which their action in adopting this amendment intended them to have.

Farris, 143 Me. at 231, 60 A.2d at 910-11.

[¶25] “The broad purpose of the direct initiative is the encouragement of participatory democracy. By section 18 ‘the people, as sovereign, have retaken

unto themselves legislative power,' and that constitutional provision must be liberally construed to facilitate, rather than to handicap, the people's exercise of their sovereign power to legislate.'" *Allen*, 459 A.2d at 1102-03 (quoting *Opinion of the Justices*, 275 A.2d 800, 803 (Me. 1971)); see also *League of Women Voters v. Sec'y of State*, 683 A.2d 769, 771 (Me. 1996); *Wagner v. Sec'y of State*, 663 A.2d 564, 566 (Me. 1995). Applying this rule of construction to the issue before us, section 18 cannot be said merely to *permit* the direct initiative of legislation upon certain conditions. Rather, it reserves to the people the *right* to legislate by direct initiative if the constitutional conditions are satisfied.

As you can see from the court's opinion, this is not the legislature's process of getting issues to referendum; it belongs to the people of Maine. Bills that tinker and tamper with the process, as these do, interfere with the sovereign power and should be voted unanimously ought not to pass. They have no place in a free and simple process granted to us 100 years ago. I would like to be informed of the work session on these bills. Thank you for your time.