

MAINE STATE LEGISLATURE

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OF THE

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OF THE

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that the price we pay by doing it by a legislative fiat of this kind is that there are going to be some legitimately aggrieved parties. There are going to be in some places some people who have owned this land legitimately who have, maybe through an understanding with their town government or one person that serves in it not insisted on the road being fixed up because they didn't intend to use that house, maybe they were going to save it for their child, and then the situation comes along all of a sudden where by legislative fiat we say that the person no longer lives on a public road. And I think if that happens, there is going to be a great public hue and cry about why the 107th took away the public road past this old person's house. That is the negative that we have to weigh against the public good, that the Maine Municipal Association and the other sponsors of this bill would have us do.

I just have trouble with doing it this way. I think that the proper approach is for the towns to find out what roads they do in fact have and, if there are more than they want, to bring their necessary action to bring an end to these public roads. Now, I am told that some towns don't know what roads they have and what roads they don't have, and I am sympathetic with their burden, but I am also sympathetic with the situation we are going to find some landowners in when they don't live on a public road any more as a result of this action we took.

There are some middle ground remedies that I understand were discussed in the committee: for example, giving landowners a year to come forward and defeat this presumption. But that action wasn't taken by the committee. I just think that the effect of this is going to be very, very harsh on a few individuals.

The PRESIDENT: The Chair recognizes the Senator from Androscoggin, Senator Carbonneau.

Mr. CARBONNEAU: Mr. President and Members of the Senate: This bill was heard in the Local and County Government Committee, and it came as a result of many small towns having all kinds of town roads but no records. Whether these town roads are abandoned or not, I think from here on in they are going to have to make a record of it. And if the road is to be discontinued by a town, there will be a public hearing to that effect so those people who own property on a town road will have a chance to speak.

Another thing this bill does is give the towns the authority to abandon a road or the presumption of abandoning a road that the town has not put any brand into for the last twenty or thirty years. I am not sure what the last figure was, but I think it was twenty-five or thirty years.

What is happening is that some of the real estate people, the brokers, the sellers, go out of state, they sell land on these supposedly town roads that have not been abandoned, get a pretty good price for it, and at the other end of that town road there may be, of course, another county line, and this guy comes in and picks up the land or some barn somewheres, and he wants the town to make a road for him. So this is costing these people an awful lot of money. Now, I have heard of some towns where they have perhaps \$70,000 to maintain the roads of the town, and to pick up a road like that would probably cost them \$125,000. Of course, that is quite a tax burden to the citizens of that community, and that is why this bill was brought in.

The PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Merrill.

Mr. MERRILL: Mr. President and Members of the Senate: I think it just should be clear that the towns have the ability to discontinue these roads. What they are asking us to do is to, in essence, discontinue a whole parcel of those — heaven knows which ones they are, because part of the reason for us doing it is that

supposedly the towns don't know which ones they are — sort of by legislative fiat. I just don't think it is the proper approach to take in bringing about this result, and it seems to me there are going to be some examples of some people for whom we can have sympathy and I recognize it is hard for us to have a lot of sympathy for land developers who are attempting to take advantage of the towns — but, you know, the problem we have as the legislature is that we can't pick out those that we don't like from those that we do when we pass this sort of broad sweeping legislation, and I think we have to keep that in mind when we vote for these things.

The PRESIDENT: A roll call has been ordered. The pending question before the Senate is the passage to be engrossed of L. D. 2108, "An Act Relating to Town Ways." A "Yes" vote will be in favor of the passage of this bill as amended to be engrossed: a "Nay" vote will be opposed.

The Secretary will call the roll.

ROLL CALL

YEAS: Senators Berry, E.; Berry, R.; Carbonneau, Cianchette, Clifford, Collins, Corson, Cummings, Curtis, Cyr, Gahagan, Graffam, Greeley, Huber, Jackson, Johnston, Katz, Pray, Reeves, Speers, Thomas, Wyman.

NAYS: Senators Conley, Danton, Graham, Marcotte, McNally, Merrill, Roberts, Trozky.

ABSENT: Senators Hichens, O'Leary.

A roll call was had. 22 Senators having voted in the affirmative, and eight Senators having voted in the negative, with two Senators being absent, the Bill, as Amended, was Passed to be Engrossed in concurrence.

The President laid before the Senate the following tabled and Specially Assigned matter:

Bill, "An Act to Improve Solid Waste Management." (H. P. 2090) (L. D. 2249)

Tabled — March 29, 1976 by Senator Speers of Kennebec

Pending — Adoption of Senate Amendment "A" (S-484)

(In the House — Bill in New Draft (H. P. 2225) (L. D. 2315) Passed to be Engrossed as Amended by House Amendment "A" (H-1090)

(In the Senate — Committee Amendment "A" (H-1015) Indefinitely Postponed)

The PRESIDENT: The Chair recognizes the Senator from Knox, Senator Collins.

Mr. COLLINS: Mr. President, Senate Amendment "A" contains a troublesome provision and an error, and I have redrafted my amendment. I would therefore ask leave at this time to withdraw Senate Amendment "A" from consideration.

The PRESIDENT: The Senator from Knox, Senator Collins, now asks leave of the Senate to withdraw Senate Amendment "A". Is it the pleasure of the Senate to grant this leave?

It is a vote.

The same Senator then presented Senate Amendment "B" and moved its Adoption.

Senate Amendment "B", Filing No. S-486, was Read.

The PRESIDENT: The Chair recognizes the Senator from Knox, Senator Collins.

Mr. COLLINS: Mr. President and Members of the Senate: I would like to just describe to you a bit of what this amendment will do to this solid waste management bill.

The first change is to allow the Department of Transportation to erect signs as their budget permits, instead of requiring them to put up signs every hundred miles. Obviously, the reason for this is that there would be a \$5,000 fiscal note needed if we made it mandatory, but by making it permissive, they will have to see whether it fits into their budgets.

The next change, in section 16 of the bill, which is the bottle part of the bill, it changes some definitions. The definition of beverage is

changed by deleting any reference to wine, liquor or alcohol. The reason this change is made is because we are not putting any financial requirement on those items. We have also deleted the definition of commissioner, department, operator of vending machine, premises, refillable, refundable containers, and so on, because we do not use those terms in the bill as amended.

Section 1864 of the bill is deleted because we are not going to have a disposal charge, but rather what we are requiring, as of January 1, 1978, is that beverage containers be returnable.

We have deleted section 1868 because we do not feel we should mandate the type of container which a business can use. I think this matter has to be controlled by the free enterprise system.

Sections 1871 and 2 have been deleted because it deals with the distribution of money collected from the tax and we have deleted the tax from the bill. The amendment also adds in place thereof a new section which provides for penalties for violating the provisions of the chapter on returnable containers.

We have also deleted section 17 that would set up a program in the DEP for solid waste. Again, there will be no money for this program, so there is no need to have that section of the bill.

The referendum clause has also been amended to have only the returnable beverage container section of the bill sent out to the people. That is section 16 of the act. We have changed the wording of the question to read: "Shall section 16 of 'An Act to Improve Solid Waste Management', which section bans non-returnable beverage containers, as passed by the Special Session of the 107th Legislature, become law?"

Since the printing of Senate Amendment "B", I have discovered one more typographical omission and I would expect, if Senate Amendment "B" is adopted, to offer Senate Amendment "C" following that to provide for some section references corrections and to refer to the word "unbroken" with respect to containers, and I think that any of you who are merchants or are close to merchants will be glad to know that the containers returned have to be reasonably clean.

The PRESIDENT: The Chair recognizes the Senator from Androscoggin, Senator Clifford.

Mr. CLIFFORD: Mr. President, with respect to the pending amendment, I would make a parliamentary inquiry as to whether or not this amendment would be in violation of Joint Rule 28. I am not an expert in this area by any means, but it seems to me we are talking about a returnable bottle bill which, as I understand it, was rejected at the regular session. Thank you, Mr. President.

The PRESIDENT: The Chair would advise the Senator from Androscoggin, Senator Clifford, that in the opinion of the Chair and its advisers this amendment is not in contravention to Joint Rule 28.

The Chair recognizes the Senator from Androscoggin, Senator Clifford.

Mr. CLIFFORD: Mr. President, if this is the proper time, I would offer Senate Amendment "A" to Senate Amendment "B", under Filing No. S-490, and move its adoption.

The PRESIDENT: The Senator from Androscoggin, Senator Clifford, now offers Senate Amendment "A" to Senate Amendment "B" and moves its adoption. The Secretary will read Senate Amendment "A".

Senate Amendment "A", Filing No. S-490, to Senate Amendment "B" was Read.

The PRESIDENT: The Chair recognizes the Senator from Androscoggin, Senator Clifford.

Mr. CLIFFORD: Mr. President, this is a very short amendment and it changes the wording of the referendum to include the fact that a 5 cent deposit on all returnable beverage containers

will be part of the law. It seems to me that we had some discussion this morning about the public's right to know. It seems to me if they are going to vote that the best place to put as much information as possible about the effect of the bill would be in the question that appears on the ballot so that the people will know a little more about the bill. Thank you, Mr. President. I hope you adopt Senate Amendment "A" to Senate Amendment "B".

The PRESIDENT: The Chair recognizes the Senator from Knox, Senator Collins.

Mr. COLLINS: Mr. President, I would ask the Senate to reject the amendment proposed by the good Senator from Androscoggin, Senator Clifford. The wording which now is set forth in Senate Amendment "B" clearly says that the purpose is to ban the non-returnable beverage container. It seems to me that this effort to talk about the 5 cent deposit and so on, with the word "minimum" before it, is an attempt to weaken the bill, weaken the referendum, and to give the voters the impression that things are going to cost more, and I would ask the Senate to reject the proposed amendment.

The PRESIDENT: The Chair recognizes the Senator from Kennebec, Senator Katz.

Mr. KATZ: Mr. President, I would like the Senator from Knox, Senator Collins, to expand a little bit. I didn't quite follow his reasoning because this legislature has always found it in the last two sessions helpful rather than confusing to have a fiscal note on our legislation.

The PRESIDENT: The Senator from Kennebec, Senator Katz, has posed a question through the Chair to any Senator who may care to answer.

The Chair recognizes the Senator from Knox, Senator Collins.

Mr. COLLINS: Mr. President, I recognized the twinkle in the good Senator's eye when he asked that question, and obviously fiscal notes relate to what it costs the state and not what it costs the customer in the field, and therefore the 5 cent limitation would not be required.

The PRESIDENT: The Chair recognizes the Senator from Penobscot, Senator Trotzky.

Mr. TROTZKY: Mr. President and Members of the Senate: This amendment is an attempt to kill the bill by rewording the question.

The PRESIDENT: The Chair recognizes the Senator from Somerset, Senator Cianchette.

Mr. CIANCHETTE: Mr. President, I would like to ask a question. I am sorry I am not quite up on this, and I am confused now. Would someone please explain to me does the bill, as amended at this point, call for a 5 cent deposit on returnable beverage bottles? Would you please answer that? Is that in the law, or is this something new added to the law?

The PRESIDENT: The Senator from Somerset, Senator Cianchette, has posed a question through the Chair to any Senator who may care to answer.

The Chair recognizes the Senator from Knox, Senator Collins.

Mr. COLLINS: Mr. President, Senate Amendment "B" which I have proposed would require these deposits, yes. That is a change from the original bill.

The PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Jackson.

Mr. JACKSON: Mr. President and Members of the Senate: I rise to support the good Senator from Androscoggin, Senator Clifford, with his amendment. I think it is only too fair to put this 5 cent deposit in the referendum so the people will know exactly what they are voting for. We can read the referendum clause which is in Senate Amendment "B", it says "Shall section 16 of 'AN ACT to Improve Solid Waste Management,' which section requires returnable beverage containers, as passed by the First Special Session of the 107th Legislature, become law?" How many people out there

realize what that does? How many people realize what the bill means?

I think Senator Clifford's amendment is explicit and I think it is right to the point, and the people will have the right to decide as to whether they want to pay 5 cents extra for returnable containers or whether they don't. So I think it is only fair that we put this out to them where they can see the question and where they can answer the question in its proper perspective.

The PRESIDENT: Is the Senate ready for the question?

The Chair recognizes the Senator from Penobscot, Senator Trotzky.

Mr. TROTZKY: Mr. President, if this amendment offered by Senator Clifford is a returnable deposit, the way it reads right now I think misrepresents the bill.

The PRESIDENT: The Chair recognizes the Senator from Androscoggin, Senator Carbonneau.

Mr. CARBONNEAU: Mr. President, I have kept quiet on this thing for some time and I just can't sit in my chair any more. It is getting kind of warm.

I would suggest to the good Senator from Penobscot, Senator Trotzky, that by the amendment as it reads, Senate Amendment "B", that you are actually camouflaging this whole thing and you are afraid the people are going to know about it. And I would like to second Senator Clifford here with his 5 cent deposit because then people will know. We are always talking about the right to know, that people should know. Let them know what you are talking about, let them know what you are trying to do. Don't camouflage it, and don't be scared of it either.

The PRESIDENT: The Chair recognizes the Senator from Knox, Senator Collins.

Mr. COLLINS: Mr. President, I would request a division.

The PRESIDENT: A division has been requested. The Chair recognizes the Senator from Cumberland, Senator Berry.

Mr. BERRY: Mr. President, in responding to Senator Carbonneau from Androscoggin, I am sure that by the time this plebiscite takes place everybody in the State of Maine is going to be so well informed on all the features of the thing that they will know more about the bill than we do now when we vote on it.

The PRESIDENT: The pending question before the Senate is the adoption of Senate Amendment "A" to Senate Amendment "B". A division has been requested. Will all those Senators in favor of adopting Senate Amendment "A" to Senate Amendment "B" please rise in their places until counted. All those opposed will please rise in their places until counted.

The Chair recognizes the Senator from Cumberland, Senator Jackson.

Mr. JACKSON: Mr. President, I request a roll call.

The PRESIDENT: A roll call has been requested. In order for the Chair to order a roll call, it must be the expressed desire of one-fifth of those Senators present and voting. Will all those Senators in favor of a roll call please rise in their places until counted.

Obviously more than one-fifth having arisen, a roll call is ordered. The pending question before the Senate is the adoption of Senate Amendment "A" to Senate Amendment "B". A "Yes" vote will be in favor of adopting Senate Amendment "A" to Senate Amendment "B"; a "No" vote will be opposed.

The Secretary will call the roll.

ROLL CALL

YEAS: Senators Berry, E.; Carbonneau, Cianchette, Clifford, Conley, Cyr, Danton, Graffam, Jackson, Johnston, Katz, Marcotte, Merrill, Pray, Wyman.

NAYS: Senators Berry, R.; Collins, Corson,

Cummings, Curtis, Gahagan, Granam, Greeley, Hichens, Huber, McNally, Reeves, Roberts, Speers, Thomas, Trotzky.

ABSENT: Senator O'Leary.

A roll call was had. 15 Senators having voted in the affirmative, and 16 Senators having voted in the negative, with one Senator being absent, the motion did not prevail.

Whereupon, Senate Amendment "B" was Adopted in non-concurrence.

Mr. Collins of Knox then presented Senate Amendment "C" and moved its Adoption.

Senate Amendment "C", Filing No. S-489, was Read and Adopted in non-concurrence.

The PRESIDENT: Is it now the pleasure of the Senate that this bill as amended be passed to be engrossed and sent down for concurrence?

The Chair recognizes the Senator from Kennebec, Senator Speers.

Mr. SPEERS: Mr. President and Members of the Senate: A year ago this Senate was faced with this question of solid waste management, commonly known as the bottle bill, under really considerably more difficult circumstances than it is facing at the present time, but the issue still is one of very great importance to the state and to the people in the State of Maine.

At the time a year ago there were many of us who did feel very sincerely that there had to be a better way to approach the particular problem with which we were being faced. And indeed my own feelings with regard to this matter are that this particular item is simply an interim proposal because, as was stated by the good Senator from Oxford, Senator O'Leary, stated very well on the floor of this body several days ago, in which I concurred wholeheartedly, that the real question that is facing the people of the State of Maine, and facing them today, but which will be facing them in ever more pressing circumstances in the very near future, that real question is the question of recycling of all solid waste, not just beverage containers, and the question of what kind of a policy this state will adopt with regard to this solid waste disposal.

It is quite obvious, I believe, that we are going to have to move away from the policy which we have now in the State of Maine of simply digging holes and burying solid waste, waste that can be recycled. And by recycling we could gain funds from recycling, as well as saving funds by allowing the municipalities not to have to search out areas which are entirely unsuitable for simply burying solid waste. In my own district I have seen a number of problems arise this year with regard to finding suitable areas for dumping the solid waste, and this is going to increase, and increase tremendously, in the next few years statewide.

So I think this measure is just an interim proposal, because we are going to have to find and adopt a broader policy to implement a recycling policy throughout the entire State of Maine. I made such a proposal last fall, and I still feel that that matter has not yet been given its fair hearing and a fair airing, and that in the future a policy of recycling will have to be given its fair airing. In that proposal the State of Maine would have been able to receive a minimum of 2 million dollars per year from unreclaimed deposits, unrecycleable beverage containers, and it would have presented an incentive for municipalities to go into a total recycling policy. So, as I mentioned, I think that it will have its airing in the future, but in the meantime I do believe that the people of the State of Maine have evidenced a tremendous interest in approaching this problem in this manner, in the manner of the bill that we now have before us. It is probably a good interim proposal and I do feel that the people of the state ought to have an opportunity to express their opinions with regard to it. I therefore intend to support

the motion to engross this bill in its present form, and I do ask for a roll call.

The PRESIDENT: The Chair recognizes the Senator from Androscoggin, Senator Clifford.

Mr. CLIFFORD: Mr. President and Members of the Senate: It seems to me from the statement of the majority floor leader that he has admitted in the statement — he has used the words "this issue, this bill before us one year ago" — I think it is pretty clear that we do have in fact the same issue before us now as we had before us a year ago and which the legislature rejected. And certainly one would call to question whether Rule 28 is any longer of any effect.

This bill is symbolic. Its real accomplishments are little. It is symbolic for the people involved in environmental movements and it is very symbolic for people in political life who want to get on the record. Unfortunately, however, it does great damage to many people and many industries. In my opinion, in these times of economic hardship, we should not be looking at ways to do great harm to industries in Maine, unless doing great harm is necessary and is going to accomplish something that outweighs the harm which we are going to do to those industries. I think it is pretty clear here that that is not true, that the benefits of this are symbolic only, but the damages are real.

I also think it is unfortunate that the legislature will not vote on this issue one way or the other. I have always believed that when you are elected to the legislature you are elected to represent your districts, and to vote yes or to vote no, one way or the other, on the issues that come before the legislature. I think that we ought to vote yes or no on this issue here in these halls since we have the opportunity to become informed of what the bill does and doesn't do. And I think it is unfortunate that we cause this to be sent out to referendum. I think it is an abdication of our responsibility, and I think it is an unnecessary expense to be borne by the taxpayers of the State of Maine. Thank you, Mr. President.

The PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Berry.

Mr. BERRY: Mr. President and Members of the Senate: The Senator from Androscoggin, Senator Clifford, made perhaps what might have been a slip of the tongue. If at any time any member of this body is dissatisfied with a ruling of the Chair, according to the procedure of the body here under the Roberts Rules, he has every right to appeal the ruling of the Chair, and I think that is the course to take, and not be critical of the Chair.

The PRESIDENT: The Chair recognizes the Senator from Kennebec, Senator Katz.

Mr. KATZ: Mr. President, when this issue came up before us before, the question of the referendum came up at that time, and I want to be consistent in my approach to the referendum.

This is a unique issue. I think the Senator from Androscoggin was absolutely right when Senator Clifford said, by implication, that this was tokenism. I think this is a gesture. The fact is, to put it as harshly as I can, that we have over the years degenerated into a nation of snobs, and I can't think of any other way to put it. We share this distinction with some other nations, but not all of them, and I suspect not most of them.

The people of my constituency have very clearly indicated by an absolutely extraordinary outpouring of sentiment to me that this is not just an ordinary issue. On most occasions they seem to be perfectly content to send me up here, having elected me to do what I consider is right, and then give a report card in two years, but this is not that kind of an issue, and I think the people clearly want in. So with a very clear conscience, I think any member of this body can vote for a referendum on this unique issue.

The PRESIDENT: The Chair recognizes the Senator from Aroostook, Senator Gahagan.

Mr. GAHAGAN: Mr. President and Members of the Senate: Before the vote on this issue in the last session of the legislature I held several constituent meetings at which both sides of this issue were very well represented. Both proponents and opponents attended the meetings that I had and were lined up on both sides of the wall, and it was a very emotional scene, and I felt that because of that we should take a closer look at this issue and I voted against the bill.

As a response, what I felt was a responsible response from a member of the legislature. I set up what were termed as citizens advisory committees on solid waste management and resource recovery. At the first meeting there was one opponent to the bottle bill who attended, just one. At the second meeting there were none. And throughout the summer the proponents to the bottle bill faithfully attended the meetings and faithfully pursued all courses and all alternatives to this situation concerning solid waste management, resource recovery, and the bottle bill. So I say there were no opponents who expressed any interest at all throughout the summer.

As to the matter of the Senator from Androscoggin, Senator Clifford, saying there would be harm done, if this is the case, I must consider that the harm was not sufficient to cause these people to come out and participate in what I felt was a very open and honest discussion of this issue. I believe that support of this bill today accurately represents the views of my constituency, and I have no hesitation in supporting it. I think we have a better bill before us this time than we did last year and I can in good conscience support it today.

The PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Conley.

Mr. CONLEY: Mr. President and Members of the Senate: Frequently I drive up Western Avenue and I pass by dear old St. Mary's over there, and I notice outside it says confessions being heard on Saturday afternoon between the hours of 5 and 7. It appears to me that there are several confessions being made here today, and I want them to know that all their sins are forgiven.

However, the likeness of this bill and the one that we debated a year ago, there is very little change in it. I mean, it is very poorly drafted. I don't believe there is any way in the world, even if it is approved by the voters in referendum, that we are going to notice any great change. Slobs are slobs, and they will continue to be slobs until enforcement is put to work.

I am going to vote for engrossment of the bill and let it go to the voters, but I think there is going to be a real clean-up job taking place, not on the highways, but in the next legislative session to clean up this bill.

The PRESIDENT: A roll call has been requested. In order for the Chair to order a roll call, it must be the expressed desire of one-fifth of those Senators present and voting. Will all those Senators in favor of a roll call on the passage of this bill to be engrossed please rise in their places until counted.

Obviously more than one-fifth having arisen, a roll call is ordered.

The Chair recognizes the Senator from Washington, Senator Wyman.

Mr. WYMAN: Mr. President and Members of the Senate: To me, the bill we killed the other day, the solid waste bill, 2250 I think it was, was a much better bill than this bill we have here. I don't think it had any referendum on it and I don't think it put the decision off for two years. I think it was an excellent bill. However, the legislature in its wisdom did not pass that bill, and so I will vote for this bill today which I think won't do nearly as much for solid waste as the bill we had previously.

The PRESIDENT: The pending question

before the Senate is the passage to be engrossed of L. D. 2249. A "Yes" vote will be in favor of passage to be engrossed; a "Nay" vote will be opposed.

The Secretary will call the roll.

ROLL CALL

YEAS: Senators E. Berry; R. Berry; Collins, Conley, Corson, Cummings, Curtis, Cyr, Gahagan, Graham, Greeley, Hichens, Huber, Jackson, Katz, McNally, Merrill, Pray, Reeves, Roberts, Speers, Thomas, Trotzky, Wyman.

NAYS: Senators Carbonneau, Cianchette, Clifford, Danton, Graffam, Johnson, Marcotte.

ABSENT: Senator O'Leary.

A roll call was had. 24 Senators having voted in the affirmative, and seven Senators having voted in the negative, with one Senator being absent, the Bill was Passed to be Engrossed, as Amended, in non-concurrence.

Sent down for concurrence.

Reconsidered Matter

Mr. Collins of Knox moved that the Senate reconsider its former action whereby "An Act Relating to Charitable Solicitations" (H. P. 1983) (L. D. 2165) failed of Passage to be Engrossed.

A viva voce vote being taken, the motion did not prevail.

On motion by Mrs. Cummings of Penobscot, Adjourned until 10 O'Clock tomorrow morning.