

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

*One Hundred and Seventh
Legislature*

OF THE

STATE OF MAINE

Volume II

May 21, 1975 to July 2, 1975

Index

KENNEBEC JOURNAL
AUGUSTA, MAINE

Amended Report of the Committee was Accepted in concurrence and the Resolution Read Once. Committee Amendment "A" was Read and Adopted in concurrence and the Resolution, as Amended, Tomorrow Assigned for Second Reading.

Divided Report

The Majority of the Committee on Liquor Control on, Bill, "An Act to Authorize Class A Taverns to Serve Spirituous and Vinous Liquors." (H. P. 913) (L. D. 1123)

Reports that the same Ought to Pass as Amended by Committee Amendment "A" (H-439).

Signed:

Senators:

DANTON of York
CARBONNEAU of Androscoggin

Representatives:

TWITCHELL of Norway
MAXWELL of Jay
JACQUES of Lewiston
DYER of South Portland
PIERCE of Waterville

The Minority of the same Committee on the same subject matter reports that the same Ought Not to Pass.

Signed:

Senator:

GRAFFAM of Cumberland

Representatives:

LIZOTTE of Biddeford
FAUCHER of Solon
PERKINS of Blue Hill
IMMONEN of West Paris
RAYMOND of Lewiston

Comes from the House, the Minority report Read and Accepted.

Which reports were Read.

Mr. Graffam of Cumberland then moved that the Senate Accept the Minority Ought Not to Pass Report of the Committee.

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

Mr. CLIFFORD: Mr. President, could someone on the committee explain what the bill does?

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

The Chair recognizes the Senator from Cumberland, Senator Graffam.

Mr. GRAFFAM: Mr. President, this will allow the tavern owner to sell alcoholic beverages without the food requirement, so it would be unfair to the other licensees. That is all it does.

The PRESIDENT: The pending question before the Senate is the motion by the Senator from Cumberland, Senator Graffam, that the Senate accept the Minority Ought Not to Pass Report of the Committee. Is this the pleasure of the Senate?

Thereupon, the Minority Ought Not to Pass Report of the Committee was Accepted in concurrence.

Divided Report

The Majority of the Committee on Health and Institutional Services on, Bill, "An Act to Permit the Advertising of Prescription Eyeglasses and Other Optical Devices." (H. P. 893) (L. D. 1068)

Reports that the same Ought Not to Pass.

Signed:

Senators:

HICHENS of York
GREELEY of Waldo

Representatives:

SPROWL of Hope
LOVELL of Sanford
MORIN of Old Orchard Beach
HENNESSEY of West Bath
CURRAN of South Portland
KENNEDY of Gray
LAVERTY of Millinocket

The Minority of the same Committee on the same subject matter reports that the same Ought to Pass.

Signed:

Senator:

BERRY of Androscoggin

Representatives:

POST of Owl's Head
GOODWIN of South Berwick
LaPOINTE of Portland

Comes from the House, Bill and accompanying papers, Indefinitely Postponed.

Which reports were Read and the Majority Ought Not to Pass Report of the Committee Accepted.

Divided Report

The Majority of the Committee on Labor on, Bill, "An Act to Clarify the Mandatory Provisions of the Workmen's Compensation Act with Respect to Farm Laborers." (H. P. 936) (L. D. 1178)

Reports that the same Ought to Pass as Amended by Committee Amendment "A" (H-427).

Signed:

Senators:

ROBERTS of York
McNALLY of Hancock

Representatives:

SNOW of Falmouth
SPROWL of Hope
LAFFIN of Westbrook
TEAGUE of Fairfield
TIERNEY of Durham
CHONKO of Topsham
FLANAGAN of Portland
MARTIN of St. Agatha

The Minority of the same Committee on the same subject matter reports that the same Ought Not to Pass.

Signed:

Senator:

PRAY of Penobscot

Representative:

TARR of Bridgton

Comes from the House, the Majority report Read and Accepted and the Bill Passed to be Engrossed as Amended by Committee Amendment "A".

Which reports were Read.

Thereupon, the Majority Ought to Pass as Amended Report of the Committee Accepted in concurrence and the Bill Read Once. Committee Amendment "A" was Read and Adopted in concurrence and the Bill, as Amended, Tomorrow Assigned for Second Reading.

Senate

The following Ought Not to Pass report shall be placed in the legislative files without further action pursuant to Rule 17-A of the Joint Rules:

Bill, "An Act to Provide for Flashing Red Lights on Buses used for School Purposes by Houses of Religious Worship." (S. P. 110) (L. D. 364)

Ought to Pass

Mr. Cyr for the Committee on Public Utilities on, Bill, "An Act to Prohibit the Arbitrary Imposition of Certain Fuel Charges by Electric Power Utilities." (S. P. 469) (L. D. 1603)

Reports that the same Ought to Pass.

Which report was Read and Accepted,

the Bill Read Once and Tomorrow Assigned for Second Reading.

Divided Report

The Majority of the Committee on Natural Resources on, Bill, "An Act to Establish a Public Preserve in the Bigelow Mountain Area." (I. B. 1) (L. D. 1619)

Reports that the same Ought Not to Pass.

Signed:

Senators:

WYMAN of Wshington
O'LEARY of Oxford

Representatives:

CURRAN of Bangor
McBREAIRTY of Perham
AULT of Wayne
CHURCHILL of Orland
BLODGETT of Waldoboro
HALL of Sangerville
HUTCHINGS of Lincolnville

The Minority of the same Committee on the same subject matter reports that the same Ought to Pass.

Signed:

Senator:

TROTZKY of Penobscot

Representatives:

PETERSON of Windham
DOAK of Rangeley
WILFONG of Stow

Which reports were Read.

Mr. Trotzky of Penobscot then moved that the Senate Accept the Minority Ought to Pass Report of the Committee.

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

Mr. HUBER: Mr. President and Members of the Senate: I would like to request consent to abstain from any action on this bill, due to the possible appearance of conflict of interest.

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

Mr. KATZ: Mr. President, I request a division.

The PRESIDENT: The Senator from Cumberland, Senator Huber, has now requested permission to withdraw from voting on this issue because of the possibility of an apparent conflict of interest. Is this the pleasure of the Senate?

It is a vote.

A division has been requested on the motion of the Senator from Penobscot, Senator Trotzky, that the Senate accept the Minority Ought to Pass Report of the Committee.

The Chair recognizes the Senator from Somerset, Senator Cianchette.

Mr. CIANCHETTE: Mr. President, I would like to ask what the price tag on this bill may be? I read the L. D. and it was not clear at all to me what they were talking about, who was going to pay the bill, and so forth. I wonder if someone would explain that?

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 Penobscot, Senator Trotzky.

Mr. TROTZKY: Mr. President and Members of the Senate: This bill authorizes and directs the Department of Conservation to acquire approximately 40,000 acres of land in the Bigelow Mountain area. However, it doesn't require them to purchase the land outright or in fee simple.

As just a brief explanation of my understanding of this bill, first of all, it doesn't set a time limit, No. 1. This is a

referendum bill that has come in because of over 40,000 signatures, so the property could be purchased, or the rights, easements and so on, could be purchased in any amounts of time in the future.

The concern here is that Flagstaff Corporation, a corporation which intends to develop Bigelow as a ski resort, and is saying right now a year-round resort, owns 8,000 acres on the north side of Bigelow Mountain. The Department of Conservation of the State of Maine is conducting two appraisals of this property, and the price tag on this that they have gotten with the two appraisals is somewhere between 3 and 4 million dollars.

Now, there is federal money available in buying park and recreational land, and it runs on a 50-50 basis, so assuming the state were purchase the 8,000 acres, they would probably put in less than 2 million dollars. And there are other ways that they can go away below 2 million dollars, depending on the deal they make with the Flagstaff Corporation.

Now, the state has been trading right now for public lots all over the state, and we have passed a bill in this Senate, the legislature passed a bill, where the state acquired five or six large areas of over 60,000 acres from Great Northern Paper Company. If the state were to decide to trade for public lots, they could acquire probably somewhere in the neighborhood of 15,000 to 18,000 acres by trade, which would not cost the state anything. Then on the other land in the remaining area proposed, the state would not have to buy this land outright but could get easements from the companies whereby the companies would give up the right to develop the land. They would still keep the right to harvest the timber.

So I cannot give a specific price right now on this, but again the bill itself, the way it is written, it does not specify a specific time.

Whether we pass this bill or not, this goes out to referendum to the people. We cannot in any way change the language or wording on the bill.

I would also emphasize that there are ski areas in the State of Maine. Sugarloaf is right opposite Mount Bigelow, and Sugarloaf still can be developed further. Rangeley can also be developed, and that is probably half an hour away from Bigelow. Also, the State now owns Squaw Mountain, and economically as I understand it, The company that owned it before was having difficulty making a profit on it. So we have ski areas in the State of Maine that can be developed further and should be developed further, and I don't see personally any need for the development of a resort area on Bigelow Mountain.

For those who are unfamiliar with Bigelow, Bigelow is known as Maine's second mountain. The Appalachian Trail crosses it. It is a mountain range of approximately 17 miles long and is quite beautiful from the top. It is a magnificent mountain, and I feel that 40,000 people of this state who are aware of this mountain signed this referendum petition, and because of the price tag on this, which would not be very high if handled in the right way through trades in the public lots and also through easements, I feel strongly the state should try to purchase these rights and preserve this mountain for future generations.

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

Mr. CIANCHETTE: Mr. President, I want to thank the Senator for attempting to answer the question, and I would like to pose another question. In reading the purpose of the bill and listening to the debate of the Senator from Penobscot, Senator Trotzky, I guess my question would be: are we saying here that we want to buy land that has a potential of being developed by a private developer, buy that land, and let the state be the developer for the things that are stated in here, hiking, fishing, hunting and recreational uses? Would this be a proper deduction?

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 Kennebec, Senator Reeves.

Mr. REEVES: Mr. President, I ask for a roll call on this issue.

The PRESIDENT: A roll call has been requested.

The Chair recognizes the Senator from Kennebec, Senator Speers.

Mr. SPEERS: Mr. President, I noted with great interest the comments of the good Senator from Penobscot, Senator Trotzky, when he mentioned that the bill does not state how the Department of Conservation is to acquire all of these rights and interests in the land, that there are any number of ways in which the Department might gain an appropriation, or even that it doesn't really necessarily have to have an appropriation, that it can just trade the land. I would like to simply point out that the bill directs the Department of Conservation to acquire. It doesn't say the Department may acquire under any method in which it can accomplish this; it directs the Department of Conservation to acquire this land.

Now, what happens with this privately owned land if the owners of this land out of the goodness of their heart decide not to give this land to the Department of Conservation, which is now directed to acquire it? We go right back to the constitution, which we have regarded as close to sacred, and in the constitution is a little provision in there that the state may not take private property without just compensation. So if the individuals who happen to own this land at the present time don't wish to give up this land to the state, and I would suppose there is every indication that they don't, if that is the case, then it is going to take an eminent domain procedure and it is going to take compensation for the state to legally, constitutionally acquire that land.

Now, the bill also directs that the Department shall seek and use funds for the acquisition of the land, if necessary, for the Bigelow Preserve from state bond issues and appropriations. Now, there are no state bond issues or appropriations provided for. So what state bond issues and appropriations are we talking about? They simply do not exist. If we try to suggest that it will be required of future legislatures to provide for state bond issues or to provide for appropriations, I would simply point out that it is constitutionally impossible for one legislature, let alone a department of state government, to bind what a subsequent legislature is going to do.

Regardless of the merits of the suggestion of having a preserve in that area, or having a development in that area, regardless of that question, the bill that is presented to us — and it is most unfortunate that we can't do some work on this and present it in a responsible manner

— but the bill that was presented to us is simply unworkable and thoroughly irresponsible in the manner in which it was drafted.

I would move the indefinite postponement of this bill.

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

Mr. BERRY: Mr. President and Members of the Senate: I hope that the enthusiasm of the good majority floor leader didn't carry him away when he indicated that there might have been a lack of honest intentions on the part of the people who presented and worked so hard to get this petition before the legislature. I am sure it didn't. It would be unfortunate indeed if some minor technicality prevented the will of 40,000 people being put before the electorate to decide.

There are no indications in the bill as to the wording of the petition, and I would suggest, in view of the gravity of the matter, that this matter should be investigated, whether it was cleared through the Judiciary Committee, and I believe it was, as to the validity of the signers, but I think now the legislature is quite concerned as to the language on the petition as to going before the voters if the legislature in its usual course of events fails to enact the legislation as presented to the legislature. Now, ordinarily on an initiative petition, the legislature generally in the past has turned these items down so that the people will have a chance to vote. I see nothing like that in this L.D. I would suggest that this be tabled at least for one day so that we can refer to the petition and see the language that was mentioned.

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

Mr. SPEERS: Mr. President, let me hasten to clarify my remarks. And I thank the good Senator from Cumberland, Senator Berry, for pointing out what he considers to be my intention in the purport of my remarks. I want to state very clearly that I concur. I certainly do not have the intention of indicating that the intent of the individuals to bring this legislation before the Senate and the House was anything but honorable. In fact, I think it very unfortunate that it is before us in this particular form because the bill itself, I believe, prevents the real question from even being addressed. The real question, of course, is a choice in that area between a Bigelow Preserve and a development, and it is a very important question, one on which the voters of the State of Maine should have an opportunity to voice their opinion. And I think it is very unfortunate that we cannot make this a viable and workable piece of legislation. In my opinion, it is not a workable piece of legislation.

I would withdraw my motion to indefinitely postpone, Mr. President.

The PRESIDENT: The Senator from Kennebec, Senator Speers, requests permission to withdraw his motion to indefinitely postpone this bill. Is this the pleasure of the Senate?

It is a vote.

The Chair recognizes the Senator from Cumberland, Senator Berry.

Thereupon, on motion by Mr. Berry of Cumberland, tabled and Tomorrow Assigned, pending the motion by Mr. Trotsky of Penobscot to Accept the Minority Ought to Pass Report of the Committee.