

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

***One Hundred and Ninth
Legislature***

OF THE

STATE OF MAINE

SECOND REGULAR SESSION

January 2 to April 3, 1980

THIRD SPECIAL SESSION

May 22, 1980

THIRD CONFIRMATION SESSION

July 17, 1980

FOURTH CONFIRMATION SESSION

July 24, 1980

FIFTH CONFIRMATION SESSION

September 12, 1980

**REPORT, HEARING TRANSCRIPT AND
RELATED MEMORANDA OF THE JOINT
SELECT COMMITTEE ON INDIAN LAND
CLAIMS**

teacher who allegedly is being threatened here, who is getting about \$8 to \$10 an hour, and using a public vehicle and public expense vs. the guy who owns his own operation, pays taxes, as I brought out earlier, and has quite a bit of other expenses, including high insurance rates.

The Senator from Penobscot, Senator Trotsky, explained it very, very clearly that there is no way possible that this is going to injure anybody except to give the largest amount of service to the greatest amount of kids in the State of Maine who are eligible and who want to take driver education.

In the last Section, nothing in this Section removes from the local administrative unit the authority to establish criteria, I have yet to see any criteria brought before the Education Committee that has been laid down by the local people, other than the teachers themselves who follow a very lax format, as far as I'm concerned, in what they do. You just watch some of these driver education cars running around the State of Maine in the school units, you make a correlation between them and what is going on with the private instructor, you will see one big difference, believe me.

I don't think in any possible way this particular piece of Legislation threatens the teacher or his or her part-time job, in so far as teaching driver education. I would hope the Senate would accept the Majority Ought to Pass Report.

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

Senator CLARK: Thank you, Mr. President, Men and Women of the Senate. The Statement of Fact on this measure reads as follows: "The purpose of this bill is to clarify the law concerning the granting of temporary certification for teacher driver education," and I would submit to all present that, in fact, it does just the opposite. It muddies it beautifully.

I cast no aspersions on the qualifications, success rate and integrity of those private driving academies operating within the free enterprise system, for obviously they are viable businesses. I do resist the allegations suggested by the good Senator from Androscoggin, Senator Minkowsky about those same qualities as they relate to certified public school driving instructors.

I would submit once again that this bill is not the result of a overwhelming or even a significant public outcry reflecting need, but that it is, in fact, very narrow special interest bill. Mr. President, I would request a Division on the pending question.

The PRESIDENT: A Division has been requested.

Will all those Senators in favor of the Motion to Accept the Majority Ought to Pass, in New Draft, Report of the Committee, please rise in their places to be counted.

Will all those Senators opposed, please rise in their places to be counted.

18 Senators having voted in the affirmative, and 9 Senators in the negative, the Motion to accept the Majority Ought to Pass, in New Draft Report in concurrence, does prevail.

And the Bill, in New Draft, Read Once, and Tomorrow Assigned for Second Reading.

Divided Report

The Majority of the Committee on Taxation on,

RESOLUTION, Proposing an Amendment to the Constitution of Maine to Undedicate the Highway Fund. (H. P. 1799) (L. D. 1921)

Reported that the same Ought Not to Pass.

Signed:

Senators:

TEAGUE of Somerset

CHAPMAN of Sagadahoc

Representatives:

MARSHALL of Millinocket

TWITCHELL of Norway

CARTER of Bangor

COX of Brewer

LEONARD of Woolwich
IMMONEN of West Paris

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

Signed:

Senator:

CLARK of Cumberland

Representatives:

BRENERMAN of Portland

KANE of South Portland

POST of Owl's Head

WOOD of Sanford

Comes from the House, the Bill and Papers Indefinitely Postponed.

Which Reports were Read.

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

Senator TEAGUE: Mr. President, I move that we accept the Majority Ought Not to Pass Report.

The PRESIDENT: The Senator from Somerset, Senator Teague, moves that the Senate accept the Majority Ought Not to Pass Report of the Committee.

The Chair recognizes the Senator from Cumberland, Senator Clark.

Senator CLARK: Thank you, Mr. President, Members of the Senate, it would appear that this is my day.

I would share with you my reasons for signing the Minority Ought to Pass Report. Again, I stand before you under no delusions, that I have even the faintest chance of being successful, but I am consistent. I have throughout my Legislative Career, which now spans 8 years, it doesn't seem that long, been an opponent of dedicated revenues, for I believe that dedicated revenues systems stand as a barrier to sound and sensible state budget making, and in fact, effectively prevents, the State from measuring the needs of one department against those of another. The needs of Maine people can best be met by abolishing dedicated revenues placing all state money in a single fund, the infamous General Fund, and parcelling it out, on the basis of comparative needs and priority.

The public hearing on this measure was an educational experience for me, as a Member of the Committee on Taxation. I was impressed with the opposition's points as they were made for I have heard of them before never having experienced an on-site confrontation, a gentle confrontation.

It is suggested that the people vote on bonds for Highway Funds continually and that that approval indicates support for dedicated revenues of the Department of Transportation prevails in the State of Maine.

It was suggested that the pork-barrel concept, an increasing political influence would prevail, should the DOT funds be undedicated.

It was suggested that the Committee on Appropriations and Financial Affairs could not handle the additional responsibilities and burdens of pursuing and setting the Department of Transportation Budget, which is presently overseen by a very competent committee, the Joint Standing Committee on Transportation.

It was suggested that this State Legislature act responsibly and vote for a tax increase. I responded to that gentleman's statement with this inquiry. We should act responsibly by voting for a tax increase and the gentleman responded Yes. He said: The Construction Industry in this State supports a tax increase on gas, and so do the truckers support a gas tax increase.

My response, I think, is reflective of the response that all of us would make. That is, who said? Of course, the Construction Industry in this State would support an increase in Maine's gasoline tax. Of course, the Trucking Industry in this State would support an increase in Maine's gasoline tax, for the DOT's revenues are dedicated. For what? For highway maintenance, construction, repair. Who benefits?

All the citizens of the State of Maine benefit, but who primarily benefits in the industrial economy of Maine? I would submit to you that it is indeed the Construction Industry and the Trucking Industry. That's not all bad! But I know in Senate District 11, approximately 35,000 to 38,000 and even 40,000 people who said one thing to me. That is, Nancy, don't vote for a tax increase on gasoline! Most of them say undedicate the revenues.

So, thank you for allowing me to take your time this morning to explain my exceedingly minority signature on this perennial measure.

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

Senator CONLEY: Mr. President and Members of the Senate: I don't think there has ever been a time that the bill coming from the Legislative Committee dealing with undedicating the Highway Fund has come before me that I haven't voted in support of it. Today, though, I changed my mind. I want to keep them locked in, locked in because I think this is the only way today that we can control what roads are going to be built in this State.

Primarily, because of Maine's overly-liberal approach, in contrast to its customarily and more frugal attitude toward accepting federal dollars, for highway construction over the past 20 years, we now have an expanded highway system of a magnitude that it represents an unnecessary and unreasonable burden on the taxpayers of this State.

The one segment of the system that can be isolated and appropriately earmarked as the segment that "broke the camel's back" so to speak, is the new 4 lane I-95 especially those sections between Medway to Houlton and from Brunswick to Gardiner, which is also noted as the Conley-Danton Memorial Highway for those of you who weren't around a few years ago. In referring to those 2 specific sections, it was easy for the highway bureaucrats to convince and, actually show, whatever groups or clearance agencies necessary that this State could not pass up 90% federal highway construction dollars.

It was easily and readily conveyed and accepted that the spending stimulus to the economy and the number of jobs such a program creates was necessary to Maine's well being. However, with all the rhetoric that was so liberally spread over the entire Maine populous, you won't find one ounce of discussion on what it was going to cost to maintain these beautiful new highway monuments, once built. This is because most Maine people were led to believe that Maine has had a bottomless Highway Revenue Fund, well so to speak, guess what has hit the fan?

We now have miles and miles of a beautiful new ribbon of concrete but the cost to maintain the total system is simply staggering. If consideration is given to the maintenance cost alone, and compared it with the very low traffic volumes between Medway and Houlton for example, Brunswick and Gardiner, one can quickly understand why the Highway Department today is in such a quandary.

To more clearly make that point consider only a few traffic volume and cost figures. Based on a 1978 Maine Turnpike Report it costs that authority about \$34,000 to maintain, remove snow and patrol one mile of 4 lane highway per year. Excepting this as a reasonable figure to apply to most any one mile section of 4 lane highway in this State, consider the following. Refer to the section of the turnpike from Augusta to Lewiston. It is 28 miles long. That length multiplied by the \$34,000 cost per mile to maintain, etc. amounts to \$952,000 per year. This then should be compared with the total revenues that this section of this highway generates, which is about \$1,000,000 per year.

It can be seen that revenues generated just barely meet maintenance costs. There is little money left to amortize the original cost of construction. Now to identify a more extreme ex-

ample of excessive costs, consider the Conley-Danton Memorial Highway, Brunswick to Gardiner, section of I-95. The yearly maintenance cost etc., is or will be approximately \$748,000, 22 miles times \$34,000 per mile, applicable state revenues received would probably amount to \$447,855 obtained by multiplying the total number of user vehicles 2,294,000 times the number of miles, 22 divided by an average mile per gallon 10, times the State assessed 9¢ per gallon.

Glaringly it is noted that the total use of this new roadway is generating revenues that produce only about one-half of the cost simply to patrol, remove snow, and to maintain it. This means that the State's significant financial burden for the construction of this highway section will have to be siphoned away from other money-generating sources such as the General Fund or monies from other road sections. Additionally it is believed that the 58 miles of new super highway from Medway to Houlton will produce like-cost burdens for minimal traffic use.

Therefore, the principal point made here is that Maine has developed a highway system which has a present maintenance cost burden that far exceeds the present use of that system. Unfortunately, it appears that this burden will stay with us for an unknown period of time.

I feel, as I've stated earlier, for us to undedicate, today, the Highway Funding System would only give those individuals outside who really have the political muscle through DOT to raise revenues to continue to lay this massive blue-ribbon of concrete throughout the State to further burden the taxpayers of this State. Therefore, for the first time since I've been in the Legislature, and I apologize to my good friend and colleague the Senator from Freeport, I shall vote against undedicating the revenues.

The PRESIDENT: The Chair recognizes the Senator from Washington, Senator Silverman.

Senator SILVERMAN: Mr. President and Members of the Senate: When I was in the House I always stood out that the Highway Fund should be dedicated. For the first time I'm in agreement with the Senator from Cumberland, Senator Conley, that the Highway Fund should be dedicated.

The reason is that this time the State of Maine isn't playing games with it's financial situation. The days of the big spending are over. Now the days of reconstructing our State Government and coming up with an effective and efficient program are here in the '80's. The concept in the business world that those who use the product pay for it, is exactly what a dedicated fund will do. Therefore, I think it would be physically irresponsible to come out here today and undedicate a dedicated fund for transportation.

Sometimes there are those who work against the system. There are those who say too many highways were built in Maine, but if we look north, Bangor North, you will find the highways we have to drive on are in a state at times deplorable. Only by a dedicated fund, reaching out into rural Maine, can it be possible the areas that never received highway funding might in the future receive that funding.

If we are to look at the General Fund today, a fund that is doing, or is almost not able to handle the pension fund deficits, that is not able to handle human service needs, a fund that eventually is going to be placing the cost of education at the property level, and we are all seeing that, if we are going to share that fund with a highway system that is also in trouble, then I would say we've got bigger fiscal responsibility problems in this State than we have today. I'm sure today, they are problem enough.

The PRESIDENT: The Chair will order a Division.

Will all those Senators in favor of accepting the Majority Ought Not to Pass Report, please

rise in their places to be counted.

Will all those Senators opposed, please rise in their places to be counted.

24 Senators having voted in the affirmative, and 2 Senators in the negative, the Motion to accept the Majority Ought Not to Pass Report in non-concurrence does prevail.

Sent down for concurrence.

Senate

Ought to Pass — As Amended

Senator Huber for the Committee on Appropriations and Financial Affairs on, Bill, "An Act to Appropriate Funds to the Health Facilities Cost Review Board." (Emergency) (S. P. 736) (L. D. 1915)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (S-433).

Senator Huber for the Committee on Appropriations and Financial Affairs on, Bill, "An Act to Expand the State's Industrial Development Promotion Program." (S. P. 695) (L. D. 1831)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (S-432).

Which Reports were Read and Accepted and the Bills Read Once. Committee Amendments "A" were Read and Adopted and the Bills, as amended, Tomorrow Assigned for Second Reading.

Ought to Pass in New Draft

Senator Hichens for the Committee on Health and Institutional Services on, Bill, "An Act to Assure Advocacy Services for Children Committed to the Custody of the State of Maine." (S. P. 676) (L. D. 1783)

Reported that the same Ought to Pass in New Draft under same title (S. P. 782) (L. D. 1977)

Which Report was Read and Accepted and the Bill, in New Draft, Read Once and Tomorrow Assigned for Second Reading.

Second Readers

The Committee on Bills in the Second Reading reported the following:

House — As Amended

Bill, "An Act to Provide Supplemental Funds to the Judicial Department." (Emergency) (H. P. 1635) (L. D. 1744)

RESOLVE, Authorizing the State Tax Assessor to Convey the Interest of the State in Certain Lands in the Unorganized Territory. (H. P. 1742) (L. D. 1860)

Which were Read a Second Time and Passed to be Engrossed, as amended, in concurrence.

Bill, "An Act to Provide Broad Public Representation on the Board of Pesticides Control and to Improve the Level of Information Available to it and the Public. (H. P. 1891) (L. D. 1966)

Which was Read a Second Time.

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

Senator McBREAIRTY: Mr. President and Members of the Senate: I offer Senate Amendment "A" to House Paper 1891 with filing number S-431 and move it's adoption.

The PRESIDENT: The Senator from Aroostook, Senator McBreairty now offers Senate Amendment "A" to L. D. 1966 and moves it's adoption.

Senate Amendment "A" (S-431) Read.

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

Senator TRAFTON: Mr. President and Members of the Senate: I would hope that the good Senator from Aroostook would at least explain his amendment.

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

Senator McBREAIRTY: Mr. President and Members of the Senate: Presently the way that the law is drafted the Commissioner would have sole authority in deciding whether to reg-

ister pesticides or not. All this amendment does is include the board in this decision and require a public hearing.

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

Senator TRAFTON: Mr. President and Members of the Senate: This bill has progressed not without some concern on my part. First of all the title: An Act to Provide Broad Public Representation on the Board of Pesticides Control. When you look at the amendment in fact we have only 2 members of the public who will be on this board.

Now I see this further amendment which seeks to erode even further the power of that board. As I read the amendment it would take away a great deal of the control that our State would have with regards to these pesticides due to its mention of the standards of the EPA. I would like further explanation from the good Senator.

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

Senator McBREAIRTY: Mr. President and Members of the Senate: This does not erode the power of the board, this gives the board the right to make the decisions as to whether a pesticide is registered or not. Rather than have it left solely up to the one man, the commissioner. It seems that if we have a new board, that they should really be included in the decisions as to whether a pesticide is registered or not.

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

Senator DEVOE: Thank you, very much Mr. President. With respect to House Amendment "A" which has filing number H-829, I have just a couple of questions that I would like to direct through the Chair to any member of the Committee who may care to answer.

I think what concerns me particularly about this amendment, is that by limiting the academic field of study, or the scientist from UMO to one who is a specialist in Agronomy or Entomology may in effect be excluding many other kinds of academic fields who could have very valuable input into this question. For example, Botanists at the University. There may be some people in the Botany Department who have a particular knowledge of this problem. Micro-Biologist, Chemists, Bio-Chemists.

I do not pretend to be a scientist, but I have talked this morning with someone in the Forestry Department in the School of Forestry at the University. I read to him the new make-up of the board as it was going to be set out under filing number H-829. He expressed these concerns to me.

So I would like to simply pose this question to those of us yesterday who may have voted for this. That is: are we narrowing too severely the academic fields, from which a faculty person at the University of Maine may be chosen to serve on the board?

With respect to the phrase "commercial applicator" that seems to have a much narrower meaning to me than one dealing with "application of pesticides." Again this faculty person with whom I talked this morning said: it is extremely important and it became very evident to him during the hearings conducted concerning the Dennysville matter last summer, that there was no one on the board who had a knowledge of the delivery systems that are available to apply pesticides.

Again I would just raise this concern that has been expressed to me by someone at UMO who followed this matter last year, attended virtually all of the hearings and who has done a great deal of research in this matter. Thank you very much, Mr. President.

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

Senator CARPENTER: Mr. Speaker, Ladies and Gentlemen of the Senate: In response to a couple of things, first on the concerns of the good Senator from Penobscot, Senator Devoe. House Amendment "A" filing number H-829 is