

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

***One Hundred and Tenth
Legislature***

OF THE

STATE OF MAINE

Volume II

FIRST REGULAR SESSION

MAY 4, 1981 to JUNE 19, 1981

INDEX

FIRST SPECIAL SESSION

AUGUST 3, 1981

INDEX

FIRST CONFIRMATION SESSION

AUGUST 28, 1981

INDEX

SECOND SPECIAL SESSION

SEPTEMBER 25, 1981

INDEX

THIRD SPECIAL SESSION

DECEMBER 9, 1981

INDEX

State Championship, on May 17, 1981. (S.P. 670) presented by Senator CLARK of Cumberland (Cosponsor: Representative Jackson of Yarmouth).

Cynthia A. May, of Yarmouth, winner of a National Merit \$1,000 scholarship. (S.P. 671) presented by Senator CLARK of Cumberland (Cosponsor: Representative Jackson of Yarmouth).

Which were Read and Passed.
Sent down for concurrence.

Out of Order and Under Suspension of the Rules, the Senate voted to consider the following:

Papers from the House Joint Orders

Expressions of Legislative Sentiment recognizing:

Henry C. Wurts, son of Mr. Davis P. Wurts, of South Hiram, Valedictorian of Sacopee Valley School District, Class of 1981. (H.P. 1614)

Oxford Hills High School "Vikings" Boys' Baseball Team, Kennebec Valley Athletic Conference Class A Champions, for 1981. (H.P. 1615)

Come from the House, Read and Passed.

Which were Read and Passed, in concurrence.

ORDERED, the Senate concurring, that Bill, "An Act to Revise the Salaries of Certain County Officers," House Paper 1508, Legislative Document 1622, be recalled from the Governor's desk to the House. (H.P. 1616)

Comes from the House, Read and Passed.

Which was Read.

On motion by Senator Pierce of Kennebec, Tabled until later in today's session, pending Passage.

Orders of the Day

The President Pro-Tem laid before the Senate: Bill, "An Act to Amend the Workers' Compensation Law." (H.P. 685)

Tabled—Earlier in the Day by Senator SEWALL of Lincoln.

Pending—Passage to be Engrossed.

On motion by Senator Sutton of Oxford, the Senate voted to Reconsider its action whereby it Adopted House Amendment "A".

Senator SUTTON: Mr. President, I now present Senate Amendment "A" to House Amendment "A" under filing number S-328 and move its adoption.

The PRESIDENT Pro-Tem: The Senator from Oxford, Senator Sutton offers Senate Amendment "A" to House Amendment "A" and moves its adoption.

Senate Amendment "A" to House Amendment "A" (S-328) Read.

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

Senator CONLEY: Mr. President, I question the germaneness of the amendment to the Bill.

The PRESIDENT Pro-Tem: The Chair will defer ruling on this until later in today's session, so that the matter may be more carefully studied.

On motion by Senator Conley of Cumberland, Tabled until later in today's session, pending Adoption of Senate Amendment "A" to House Amendment "A".

The President Pro-Tem laid before the Senate:

Bill, "An Act to Continue the Maine Turnpike Authority." (S.P. 650) (L.D. 1676)

Tabled—Earlier in the Day by Senator PIERCE of Kennebec.

Pending—Passage to be Engrossed.

The PRESIDENT Pro-Tem: The Chair recognizes the Senator from Penobscot, Senator Emerson.

Senator EMERSON: Mr. President, earlier today I stated that if a toll system remained on

the Turnpike, there will be federal pay back. I stated that it would be in the amount of \$3 million in a barrier system and \$8 million with a closed system.

I would like to read this statement which will further clarify it. The State of Maine expanded federal funds to provide connections to the Maine Turnpike at several locations. These Federal Highway Funds, were expended with the knowledge that once the Turnpike indebtedness was paid off the Maine Turnpike would revert to a free status. Recognizing that that desirability is to maintain a toll collection system on the Turnpike the State of Maine was successful in obtaining Federal Legislation to allow a continuation of tolls after the Turnpike indebtedness was paid off, subject to certain conditions.

These conditions were stated as Section 145 of the Federal and Public Law 95-599, dated November 6, 1970. Which indicated that upon the satisfaction of certain conditions by the State of Maine or the Maine Turnpike Authority, the Turnpike shall be free of all restrictions, with respect to imposing on collecting tolls.

Requirements to be met included: one, repayment to the Treasury of the United States the sum of \$3,055,000 for the construction of interchanges or connections with the Turnpike at West Gardiner and York; two, removal of the existing toll plazas and collection facilities within 3 years after the repayment of the existing bonds outstanding, at Exit 6-A, know as intersection 1, I-295, Maine Turnpike.

Now these two things were regarding the barrier system. Assuming that the Maine Turnpike was to remain a closed tolls collection facility the following pay back provision would be required. York, \$281,471, West Gardiner \$2,771,667, and Scarborough/South Portland \$5,700,838. This would total an amount of \$8,753,833, this amount would have to be paid back to the federal government, if a closed system was continued.

The PRESIDENT Pro-Tem: The Chair recognizes the Senator from Cumberland, Senator Usher.

Senator USHER: Thank you, Mr. President. Mr. President Members of the Senate, I would like to direct a question to our good Chairman from Penobscot, Senator Emerson. Is it not true that one, presently in the federal government they are discussing the possibility of no pay back from either way? Also, if either method of pay back is accepted whether it be barrier or closed system this is put in the form of credit and actually we get it right back?

The PRESIDENT Pro-Tem: The Senator from Cumberland, Senator Usher has posed a question through the Chair to any Senator who may care to answer.

The Chair recognizes the Senator from Penobscot, Senator Emerson.

Senator EMERSON: I believe that that is a matter of speculation, I am not sure that that is a law.

The PRESIDENT Pro-Tem: Is the Senate ready for the question?

The Chair recognizes the Senator from Androscoggin, Senator Trafton.

Senator TRAFTON: Mr. President I request that when the vote is taken it be taken by the Yeas and Nays, and I hope that you all will defeat the pending motion.

The PRESIDENT Pro-Tem: The Chair recognizes the Senator from Oxford, Senator O'Leary.

Senator O'LEARY: Mr. President, I know that this Bill has been lobbied heavily today, by the good Senator from Androscoggin, Senator Minkowsky, but I must remind this Body that in 1977 the Legislature initiated a Study of a barrier system as such. This is 4 years later and there is nothing done. If we do not Enact this piece of Legislation you can believe that we will not have any Study by the time the bonds are paid off in 1983.

I listened intently to the good Senator from

Penobscot, Senator Emerson, on the pay back, and the Senator from Cumberland is correct, there is a discussion in the administration in Washington, at the present time, about the pay back. I listened intently in 1977 and the cost of whether we had a barrier system a that time, to pay back, or a toll system, it was still \$3 million. Now these figures are coming down, I should imagine, from the Department of Transportation at the whims of the administration, because I know that the administration is opposed to toll, they want to go to a barrier system.

Under a barrier system, we will have a system whereby we will barely have enough money to maintain this road. The political clout that can be used to certain people in our Legislature becomes very evident. The barrier system would perhaps be at the expense of repairing your own roads in your own districts.

We have built into this Bill a provision that allows for access roads, and make it a priority wherever there is economic development. When you lay it right on the line the people that are opposing this Bill here today want no barrier system, either. They want free access to it, at the expense of your highways in your districts.

So I ask you to vote in favor of this Bill.

The PRESIDENT Pro-Tem: The Chair recognizes the Senator from Androscoggin, Senator Minkowsky.

Senator MINKOWSKY: Mr. President, and Members of the Senate, a point of clarification for the good Senator from Oxford County, Senator O'Leary, that number one, the Study that is in the existing law, would not go into effect until the bonds were paid off. So it would be ludicrous actually to ask for a Study at the present time.

Number two, the toll facilities under existing law, states very clearly, prior to the conversion of the Maine Turnpike to a barrier toll system, the Commissioner of Transportation shall evaluate alternative barrier toll systems." Evaluate is the word that I am stressing. "Conduct public hearings regarding alternate system in appropriate geographic locations," and present as a recommendation, "and present a recommended barrier toll system and toll schedule to the Legislature while it is in Session. This recommendation, or recommended barrier toll system and toll schedule shall include a system of toll barriers designed in such a manner that motor vehicles travelling the entire length of the Turnpike will encounter no more than 3 toll barriers. The toll barriers shall be approved by the Legislature, at least one year prior to the conversion of the turnpike to the toll barrier system. The Commissioner of Transportation shall present the recommendation to the Legislature during the first week of January for the Legislature's Approval. Rejection, approval, rejection, or change during the Legislative Session." Now, there's some key words I want you to pay attention to.

In the event that the change during the Legislative, "in the event that the Legislature does not make a decision within that legislative Session, the recommendation of the Commissioner of Transportation for the location of the toll barrier system shall be authorized."

All the safeguards have been built into the existing law.

Let me just recap one single point, if nothing else this afternoon. We had the option, back in 1977, to fulfill the mandate that when the bonds were paid off, this road would be toll free, and we'd have no hassle beyond that particular point.

I took it upon myself, with other people at the time, to make it very clear that I did not want to see this go into the Gasoline Tax uses of the State of Maine. I made it perfectly clear during debate that the users should continue to pay for it. The compromise is very simply, when I-295 was built around us, and a continuation of I-95 from Augusta northward, that Lewiston/Au-

burn, and other people on the corridor, were entitled to a toll free system.

In essence, what we've done here is said very clearly that we will keep tolls at a reduced rate, since the bonds will be paid off, to actually address the upkeep and maintenance, and that the users, in the toll free zones, after they are designed, would pay their fair share. I think that is the most equitable, fairest approach that anybody, no matter which county they come from in the State of Maine, could ever have presented to them, because over the years, let's put it in perspective, we never have really got our fair-share of Highway Reconstruction Funds. Today we are asking simply equity and fair play in addressing this critical issue, because of this commitment back in 1977, that we do have a large air park in an area in the southern part of Lewiston totally industrially zoned with potential prospects, which, number one, addresses what we've been looking for for a long time, and has the utilization, of the skills and talents of the people who are graduating from our VTI's to stay in the State of Maine and have a liveable wage.

Now, is that not more important to any of you, or all of you, compared to the fiasco that's been going on relative to this issue?

I count upon you this afternoon, to use your good judgment in equity and fair play, in basically voting against the Engrossment of this particular L. D.

The PRESIDENT Pro-Tem: The Chair recognizes the Senator from Waldo, Senator Shute.

Senator SHUTE: Mr. President, Ladies and Gentlemen of the Senate, I didn't hear all the figures on the financial condition of the Turnpike. I wonder if the Chairman of the Committee or somebody on the Committee could tell me how much of a Gas Tax would be needed to maintain the same revenue that we now collect if we went to a barrier system? How much of an increase in registration fees might be needed to collect the same amount of revenue, as we are collecting at the present time, versus the barrier system?

The PRESIDENT Pro-Tem: The Senator from Waldo, Senator Shute, has posed a question to the Chair.

The Chair recognizes the Senator from Penobscot, Senator Emerson.

Senator EMERSON: I guess it'll be hard to answer that. In the first place, we're not sure that you couldn't collect nearly as much money from the barrier system as you could the closed system, but if you talked about total revenues that the closed system brings in, total revenues, that would be something in excess of 2¢.

The PRESIDENT Pro-Tem: The Chair recognizes the Senator from York, Senator Dutremble.

Senator DUTREMBLE: Mr. President, Men and Women of the Senate, I think over and over again we've heard the major problem with this whole Bill.

They need a study to find out what the barrier system is going to do. We know what the current system is doing. We know that it's bringing in all kinds of money into the State of Maine. We know it's providing enough to maintain that highway.

The best highway in the Northeast, the Maine Turnpike, and yesterday somebody said it costs \$17,000 per lane mile to take care of. Well, I got information this morning that it's \$1700 per land mile which is even less than the DOT takes to maintain a lane mile. There's a major difference there.

The thing that I want to stress is that people from out-of-state may pay a major part of the Maine Turnpike, and the upkeep of the Maine Turnpike, and under our Bill they will be taking care of the access roads leading to the Maine Turnpike, and under our Bill, any communities that have high priorities for economic development, will have access roads.

We have a good working mechanism. Some-

thing that has worked for us for years.

Now, back in 1977, I imagine things were said. I wasn't here, but the conditions in 1977 are not the same as they are today in 1981. The State is in financial distress today. The Department of Transportation is under financial distress today, and we are going to take the Maine Turnpike and hand it over to the Department of Transportation, a Department that in the 3 years I've been here, we've been trying to solve the problems of their finances. I just can't see it. I would hope that we would leave the Maine Turnpike the way it is and let a good working mechanism remain, continue to be good working mechanism, and let's continue getting the income, a lot of the income, from people from out-of-state.

The PRESIDENT Pro-Tem: The Chair recognizes the Senator from Androscoggin, Senator Minkowsky.

Senator MINKOWSKY: Mr. President, Members of the Senate, first let me state that the figures that have been projected, I projected yesterday, that the upkeep and maintenance cost of the Maine Turnpike, based on a lane mile, was \$17,000, and the same lane mile maintained by the Department of Transportation for I-95 is roughly about \$2,200. I may have been off by a few dollars, because today I find out the maintenance of the Turnpike, upkeep and maintenance is \$15,244 versus \$1,715 for I-95 or I-295.

Let's not forget the one important factor, had we not advanced in 1977 to direct this particular problem today. You'll be pumping in the Maine Turnpike into the interstate system in the State of Maine and having no tolls on there whatsoever, none whatsoever. At least, you have a mechanism in front of you if the study proves that it will produce revenues to the expectations of the proponents, that we're having something instead of nothing. That was the entire purpose behind this particular Bill then, to preserve the upkeep and maintenance to take care of the jobs of the concerned people on the Turnpike, which is one of the main things I addressed back in 1977. Yet, in essence we seem to be getting a kick in the pants for trying to do the right thing at that particular segment of time.

I could assure you if I had anticipated the problems I see today, I would have fought much more diligently with Governor Longley, at that time, to make that a toll free road and not break faith with the people of the State of Maine, which was his major concern at the time. I can assure you, also, that we would fight just as diligently as a toll free road to get the egress and ingress roads at the expense of the users of all the interstate systems in the State of Maine. That's what I'm speaking about, equity and fair play. We didn't decide to take that particular approach; we took the more logical, compassionate, realistic approach. Let the users pay for it, and let it not be pumped into the overall costs of our secondary roads and our primary roads in the State of Maine.

I ask you, this afternoon, to vote against, again, the Engrossment of this particular Bill.

The PRESIDENT Pro-Tem: The Chair recognizes the Senator from Androscoggin, Senator Charette.

Senator CHARETTE: Thank you, Mr. President. Women and Men of the Senate, in the last 2 days I've heard, we've heard, you know, a lot of debates on this issue. Many, many questions that are unanswered, and I'd like to point to some comparisons.

It was stated yesterday that the bonds won't get retired until '83, and in another breath someone said we could retire the bonds tomorrow, which tells me that somehow there is some money in a fund someplace or there is an accumulation of money. Then we hear there isn't any money.

There again, in '77, the survey was passed here in this Legislature and we're still waiting

for this survey. It was pointed out that under the closed system it now brings \$15 million dollars, and with a barrier system, it could bring \$9 million, yet, no survey has been done.

So, these are just figures, from what I can see, that are picked in the air, and used for a purpose of debate.

I still would like to point out that I think this whole issue is a little premature. We do have until '83 before the bonds are planned to retire, so it is premature. It seems to me that there is time to give a study on the barrier system and be more accurate with our figures. There again, I fully endorse all the comments Senator Minkowsky, has reiterated again today, and those of Senator Trafton yesterday. I certainly, as I mentioned yesterday, I, myself, as I read my campaign, I spoke about toll free turnpike. It's something that the people in our area have talked for years and years.

I think, perhaps, we could go with some kind of fees and so forth. We appreciate the fact that the Turnpike is a well kept road. It's the best traveled road in the State, however, I still can commend the roads from Augusta to Bangor. I've traveled them many, many times, and these are all our tax dollars that are paying for those roads, all of the people of Maine.

So, I still say this Bill is premature, and we ought to give some serious thoughts before we make a decision and vote on this.

The PRESIDENT Pro-Tem: A Roll Call has been requested. Under the Constitution, in order for the Chair to order a Roll Call it requires the affirmative vote of at least one-fifth of those Senator present and voting.

Will all those Senators in favor of ordering a Roll Call, please rise and remain standing until counted.

Obviously more than one-fifth having arisen a Roll Call is ordered.

The Chair recognizes the Senator from Washington, Senator Brown.

Senator BROWN: Mr. President, I wish permission to pair my vote with the good Senator Wood, if he were here he would vote Yes and I would vote Nay.

The PRESIDENT Pro-Tem: The Senator from Washington, Senator Brown, Requests Leave of the Senate to pair his vote with the gentleman from York, Senator Wood. If he were here, he would be voting Yea and the Senator from Washington, Senator Brown would be voting Nay.

Is it the pleasure of the Senate to grant this leave?

It is a vote.

The pending question before the Senate is Passage to be Engrossed.

A Yes vote will be in favor of Passage to be Engrossed.

A No vote will be opposed.

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEA — Bustin, Collins, Devoe, Dutremble, Gill, Hichens, Kerry, Najarian, O'Leary, Pray, Redmond, Sewall, C.; Shute, Trotzky, Usher, Violette.

NAY — Ault, Carpenter, Charette, Clark, Conley, Emerson, Huber, McBreairty, Minkowsky, Perkins, Pierce, Sutton, Teague, Trafton, The President, J. Sewall.

A Roll Call was had.

16 Senators having voted in the affirmative and 15 Senators in the negative, with 2 Senators having paired their votes, with No Senators being absent, L. D. 1676 was Passed to be Engrossed.

Sent down for concurrence.

The President Pro-Tem laid before the Senate:

Bill, "An Act to Recodify and Amend the Maine Guarantee Authority Laws." (H. P. 1563) (L. D. 1671)

Tabled — Earlier in the Day by Senator PIERCE of Kennebec.