

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

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Senator TROTZKY: I move this be Tabled for 1 Legislative Day.

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

Senator COLLINS: I request a Division.

The PRESIDENT: A Division has been requested.

Will all those Senators in favor of the motion by the Senator from Penobscot, Senator Trozky, that LD 624 be Tabled for 1 Legislative Day, please rise in their places to be counted.

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

8 Senators having voted in the affirmative, and 18 Senators having voted in the negative, the motion to Table LD 624 for 1 Legislative Day does not prevail.

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

Senator NAJARIAN: I move this be Tabled until later in the day.

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

Senator COLLINS: Mr. President, I request a Division.

The PRESIDENT: A Division has been requested.

Will all those Senators in favor of the motion by the Senator from Cumberland, Senator Najarian, that LD 624 be Tabled until later in today's session, please rise in their places to be counted.

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

11 Senators having voted in the affirmative, and 16 Senators having voted in the negative, the motion to Table LD 624 until later in today's session does not prevail.

Is it now the pleasure of the Senate to Adhere?

It is a vote.

Sent forthwith.

Non-concurrent Matter

Bill, "An Act Authorizing Bond Issue in the Amount of \$29,000,000 for the Purposes of Fostering Agricultural and Economic Development in the State of Maine." (S. P. 488) (L. D. 1428)

In the Senate June 10, 1981, Passed to be Engrossed as amended by Committee Amendment "A" (S-297) as amended by Senate Amendment "A" (S-365) Thereto, in non-concurrence.

Comes from the House. Passed to be Engrossed as amended by Committee Amendment "A" as amended by House Amendment "B" (H-571) Thereto, in non-concurrence.

The PRESIDENT: Is it the pleasure of the Senate to Recede and Concur with the House?

It is a vote.

Sent forthwith to the Engrossing Department.

Enactors

The Committee on Engrossed Bills reported as truly and strictly engrossed the following:

AN ACT to Amend the Workers' Compensation Law. (H. P. 685) (L. D. 799)

Which was Passed to be Enacted and having been signed by the President, was by the Secretary presented to the Governor for his approval.

Emergency

AN ACT to Stabilize the Maximum Weekly Benefits under the Workers' Compensation Act. (S. P. 225) (L. D. 613)

This being an emergency measure and having received the affirmative votes of 26 Members of the Senate, with 2 Senators having voted in the negative, was Passed to be Enacted and having been signed by the President, was by the Secretary presented to the Governor for his approval.

Out of Order and Under Suspension of the Rules, the Senate voted to consider the follow-

ing:

Committee Report House Divided Report

The Majority of the Committee on Taxation on, Bill, "An Act to Amend the Maine Tree Growth Tax Law." (H. P. 801) (L. D. 955)

Reported that the same Ought to Pass as amended by Committee Amendment "A" (H-546).

Signed:

Senators:

TEAGUE of Somerset
EMERSON of Penobscot

Representatives:
BROWN of Bethel
HIGGINS of Portland
MASTERMAN of Milo
DAY of Westbrook
INGRAHAM of Houlton
TWITCHELL of Norway

The Minority of the same Committee on the same subject matter reported that the same Ought to Pass as amended by Committee Amendment "B" (H-547).

Signed:

Senator:

WOOD of York

Representatives:

POST of Owl's Head
KANE of South Portland
HAYDEN of Durham
KILCOYNE of Gardiner

Comes from the House, Minority Report Read and Accepted and the Bill Passed to be Engrossed as amended by Committee Amendment "B" (H-547) as amended by House Amendment "A" (H-569) Thereto.

Which Reports were Read.

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

Senator TEAGUE: Mr. President, I move we Accept the Majority Ought to Pass, as amended, Report and would speak briefly.

The PRESIDENT: The Senator has the floor.

Senator TEAGUE: This Amendment provides for strict eligibility requirements for placing land under Tree Growth Taxation. It provides for regional determination of wood production rates and annual determination of stumpage value and the discount rate.

Beginning in 1982, municipal reimbursement is applied to municipalities which have a tax shift in excess of 3 percent of the total tax levy. It clarifies the definition of forest land, and expands the definition of a parcel of land. It also provides that towns notify the State Tax Assessor annually of the amount of penalties received for withdrawal of land from tree growth, and eliminates the mandatory inclusion of parcels of land containing an excess of 500 acres.

Mr. President, this Tree Growth Tax issue has been in front of Taxation. Two years ago, we had a public hearing that lasted until around 10:30 in the evening. This year, on April 1, we had a hearing that lasted until 6:30, or 7:00 at night. This Tree Growth Tax Law has been a bone of contention in the Taxation Committee's problems for a good number of years.

This Committee Amendment "A" was worked out about two or three weeks ago. It is a good Amendment. It will help the small towns that have had the greatest amount of tax shift. I hope you will support Committee Amendment "A".

The PRESIDENT: The Chair recognizes the Senator from York, Senator Wood.

Senator WOOD: Mr. President and Members of the Senate, I would urge you not to support Committee Amendment "A", Report "A". I think that the good Senator is exactly right in outlining what this Report does. It differs in two aspects from Report "B". I think these aspects are significant.

The first, in setting the 3 percent level, it eliminates all reimbursements to the majority of those towns that are presently receiving re-

imbursements. For you people that represent the various counties, I will outline what counties receive no benefits under Report "A". Knox receives no benefit, Lincoln receives no benefit, Sagadahoc, Waldo, Cumberland, York, Androscoggin, and Kennebec receive no money under Report "A".

The towns in those counties are presently receiving funds under the tree growth reimbursement formula. If we pass Report "A", these counties will receive no benefits, the towns in those counties.

I would point out that for some of these towns, it will be a substantial loss. I would like to read a list, and I know the hour is late but I think it's important when you vote on this issue, to know how it's going to impact on your various communities. The list I will read are towns that will lose over \$1000 in reimbursement. The Towns of Durham, Minot, Ashland, Cyr Plantation, Dyer Brook, Haynesville, Marsardis, Nashville, Macwahoc Plantation, New Canada, St. John, St. Francis, Stockholm, Wallagrass, Freeport, Harpswell, New Gloucester, Scarborough, Carabasset Valley, Avon, Houlton Plantation, Industry, Kingfield, Rangeley, New Sharon, Castine, Deer Isle, Ellsworth, Hancock, Lamoine, Otis, Belgrade, Farmingdale, Clinton, Fayette, Litchfield, Sidney, Vienna, Windsor, Cushing, Hope, Rockport, Alna, Jefferson, Newcastle, Buckfield, Denmark, Dixfield, Fryeburg, Gilead, Hartford, Greenwood, Lovell, Norway, Otisfield, Paris, Porter, Waterford, Woodstock, Brewer, Clifton, Edinburg, Garland, Howland, LaGrange, Medway, Milford, Plymouth, Bowerbank, Brownville, Dover-Foxcroft, Willimantic, Bowdoin, Athens, West Forks, Burnham, Cutler, Northfield, No. 21 Plantation, Princeton, Talmadge, Wesley, Whiting, Arundel, Cornish, Kennebunkport, Lebanon, Limington, Wells, and York.

These are the towns that will lose over \$1000 in reimbursement. There were other towns that will lose less than \$1000. I think, to pass Report "A", we'll be sending a message to these towns that are losing this money, that you will no longer get this reimbursement. With the 3 percent ceiling with the towns that have any built-up population, they will never receive any reimbursement for a law that we passed and put on the books and started reimbursing them. We are now taking that reimbursement away.

I don't think it's fair. I don't think it's equitable. I think in the closing days of the Legislature, it would be a slap in the face to these communities. I'm not prepared to go back to my communities and tell them that they've lost everything under tree growth.

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

Senator TEAGUE: The good Senator really is giving a list, but he's forgot one thing. That is the tree growth factor itself. This is in the formula. I mean the stumpage under Report "A" probably would be going up about 20 percent. The discount factor would be dropping from 20 percent down to 10 percent. This would increase the valuation, roughly, about 30 percent on an acre of land. If you took, say one acre of land, and figured at the present time, I mean, the value of that land under tree growth was \$50, and then you added, say the 30 percent increase, you would add a \$15 to that making it \$65. The \$15 increase, say at a 20 mil rate, would increase the amount the landowner pays to the town in those towns of about 30 cents. Most of those towns, I mean that the present time are being reimbursed at the rate of 11 cents an acre.

The PRESIDENT: Is the Senate ready for the question?

The Chair recognizes the Senator from York, Senator Wood.

Senator WOOD: I request a Division.

The PRESIDENT: A Division has been requested.

Will all those Senators in favor of the motion by the Senator from Somerset, Senator Teague, that the Senate Accept the Majority Ought to Pass, as amended, Report of the Committee, please rise in their places to be counted.

The Chair recognizes the Senator from York, Senator Wood.

Senator WOOD: I request a Roll Call.

The PRESIDENT: 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 Senators 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 pending question before the Senate is the motion by the Senator from Somerset, Senator Teague, that the Senate Accept the Majority Ought to Pass, as amended, Report of the Committee.

A No vote will be opposed.

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEA — Brown, Collins, Devoe, Emerson, Gill, Hichens, Pierce, Pray, Redmond, Sewall, C.; Sutton, Teague, Usher, Violette.

NAY — Ault, Bustin, Carpenter, Charette, Clark, Conley, Dutremble, Kerry, McBreairey, Najarian, Perkins, Shute, Trafton, Trozky, Wood.

ABSENT — Huber, Minkowsky, O'Leary.

A Roll Call was had.

14 Senators having voted in the affirmative and 15 Senators in the negative, with 3 Senators being absent, the motion to Accept the Majority Ought to Pass, as amended, Report of the Committee does not prevail.

The Minority Ought to Pass, as amended, by Committee Amendment "B" Report of the Committee Accepted, in concurrence. The Bill Read Once. Committee Amendment "B" Read.

House Amendment "A" Read.

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

Senator TEAGUE: I move Indefinite Postponement of House Amendment "A".

The PRESIDENT: The Chair recognizes the Senator from York, Senator Wood.

Senator WOOD: Mr. President, I would request a Division on that motion.

The PRESIDENT: A Division has been requested.

Will all those Senators in favor of the Indefinite Postponement of House Amendment "A", please rise in their places to be counted.

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

16 Senators having voted in the affirmative, and 12 Senators having voted in the negative, the motion to Indefinitely Postpone House Amendment "A", in non-concurrence, does prevail.

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

Senator TEAGUE: I present Senate Amendment "A" to Committee Amendment "B" and move its adoption.

The PRESIDENT: The Senator from Somerset, Senator Teague, offers Senate Amendment "A" to Committee Amendment "B" and moves its adoption.

Senate Amendment "A" to Committee Amendment "B" (S-373) Read.

The PRESIDENT: The Chair recognizes the Senator from York, Senator Wood.

Senator WOOD: Mr. President, I would request a Division and I'd like to speak.

The PRESIDENT: The Senator has the floor.

Senator WOOD: It looks at this point as if we will go away with this Session without any Tree Growth Reform. It will be back again. This is not the unusual. It seems to be the scenario we like to follow. I think it's unfortunate this has

happened, but it's out of my hands at this point.

The PRESIDENT: A Division has been requested.

Will all those Senators in favor of the Adoption of Senate Amendment "A", 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 10 Senators having voted in the negative, Senate Amendment "A" was Adopted.

Committee Amendment "B", as amended by Senate Amendment "A", Adopted, in non-concurrence. Under Suspension of the Rules, the Bill, as amended, Read a Second Time and Passed to be Engrossed, in non-concurrence. Sent down forthwith 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:

Kenneth F. Baily of Harpswell, for distinguished service to the Legislature and the people of the State of Maine. (H. P. 1686)

JoAnne M. D'Arcangelo of Augusta, for distinguished service to the Legislature and the people of the State of Maine. (H. P. 1687)

Dorothy Hall, of Sangerville, for distinguished service to the Legislature and the people of the State of Maine. (H. P. 1688)

Kathleen Watson Goodwin, of Bath, for distinguished service to the Legislature and the people of the State of Maine. (H. P. 1689)

Kenneth Allen, of Sidney, for distinguished service to the Legislature and the people of the State of Maine. (H. P. 1690)

Phyllis Stafford of Augusta, for distinguished service to the Legislature and the people of the State of Maine. (H. P. 1691)

Pamela E. Lovley, of Whitefield, for distinguished service to the Legislature and the people of the State of Maine. (H. P. 1692)

Come from the House, Read and Passed.

Which were Read and Passed, in concurrence.

WHEREAS, following 10 years of intensive efforts to clean up our waterways and to restore native fisheries, the Atlantic salmon is returning to Maine rivers; and

WHEREAS, the restoration of this majestic fish has created great interest and consequent fishing pressure on the resources; and

WHEREAS, there are few controls on taking Atlantic salmon in coastal waters, and without some controls fishing pressure may endanger the restoration effort; and

WHEREAS, the Legislature has enacted an emergency measure to establish interim controls on taking Atlantic salmon in coastal waters, but this interim measure will be repealed on December 31, 1981; and

WHEREAS, careful study of the restoration efforts, fishing measure, legal jurisdiction and enforcement of management alternatives is necessary before enacting long-term controls on the Atlantic salmon fishing; now, therefore be it

ORDERED, the Senate concurring, subject to the Legislative Council's review and determinations hereinafter provided, that the Joint Standing Committee on Marine Resources shall study the Atlantic salmon fishery and determine whether legislation should be introduced which would establish additional controls on this resource; and be it further

ORDERED, that the committee report its findings and recommendations, together with all necessary implementing legislation in accordance with the Joint Rules, to the Legislative Council for submission in final form at the Second Regular Session of the 110th Legislature; and be it further

ORDERED, that the Legislative Council

before implementing this study and determining an appropriate level of funding, shall first ensure that this directive can be accomplished within the limits of available resources, that it is combined with other initiatives similar in scope to avoid duplication and that its purpose is within the best interests of the State; and be it further

ORDERED, upon passage in concurrence, that a suitable copy of this Order shall be forwarded to members of the committee. (H. P. 1693)

Comes from the House, Read and Passed.

Which was Read and Passed, in concurrence.

On motion by Senator Collins of Knox, Recessed until the sound of the bell.

Recess

After Recess

The Senate called to order by the President.

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

Papers From the House Joint Orders

ORDERED, the Senate concurring, that in accordance with emergency authority granted under Title 3, section 2 of the Maine Revised Statutes, the First Regular Session of the 110th Legislature shall be extended by 2 additional legislative days to be held on June 12, 1981. (H. P. 1695)

Comes from the House, Read and Passed.

Which was Read.

The PRESIDENT: The Chair will order a Division.

Will all those Senators in favor of the Passage of HP 1695, please rise in their places to be counted.

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

27 Senators having voted in the affirmative, and 3 Senators having voted in the negative, HP 1695 was Passed, in concurrence.

(Senate at Ease)

The Senate called to order by the President.

WHEREAS, Legislative Document 1594, Bill, "An Act to Clarify the Status of Certain Real Estate Titles in the State" has been introduced before the Legislature; and

WHEREAS, passage of the Bill is intended to clarify the ownership, location and alienability of coastal lands that were or may have been created on or before October 1, 1975 by the filling of submerged or intertidal lands; and

WHEREAS, in order to avoid future problems and to protect the interest of owners or purchasers of coastal land and the State, a mechanism is needed to determine which lands are covered by the provisions of this Act, and whether or not particular pieces, about which questions may arise in the future, are covered by the provisions of the Act; and

WHEREAS, careful study of this problem is necessary in order to develop such a mechanism; now, therefore, be it

ORDERED, the Senate concurring, subject to the Legislative Council's review and determinations hereinafter provided, that the Joint Standing Committee on Judiciary shall study the provisions of Legislative Document 1594 and shall develop a procedure which may be used to determine what lands or parts of lands are covered by the provision of that Bill and which will protect owners of such lands, future purchasers of such lands, title attorneys and the State by making it possible to determine if particular lands are covered by that Bill; and be it further

ORDERED, that the committee report its findings and recommendations, together with