

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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Ms. BENOIT: Mr. Speaker, Members of the House: Yes, Mr. Kelleher, they would be, but as I said before, they did not help us write the amendment until after we had written it; then two of them came in and looked it over. Please, I hope and I believe that someone is going to make the motion to recommit this to committee, and that would make me very happy.

The SPEAKER: The Chair recognizes the gentleman from South Portland, Mr. Kane.

Mr. KANE: Mr. Speaker, I move that we recommit this bill and all its papers to the Committee on Judiciary.

The SPEAKER: The Chair recognizes the gentlewoman from Owl's Head, Mrs. Post.

Mrs. POST: Mr. Speaker, Men and Women of the House: I hope that we will oppose this motion to recommit this bill to Judiciary. This issue is here and it has to be dealt with in a timely manner. The Judiciary Committee had plenty of time to deal with this bill. The bill has been sitting here on the Unassigned Table for several weeks, if not months. The issue is causing great concern along the coast, as well as economic concerns, and I would therefore urge that you not vote to recommit this bill to Judiciary.

The SPEAKER: The Chair recognizes the gentleman from South Portland, Mr. Kane.

Mr. KANE: Mr. Speaker, Ladies and Gentlemen of the House: It is not often, as you may have been able to figure out, that I feel compelled to disagree with my friend, mentor, chairman, Mrs. Post, but it seems to me in this case that she is right about the Judiciary Committee having plenty of time to work on this bill. For whatever reason or reasons, they didn't.

This bill came out 9 to 4, including the chairman being opposed to it. This bill was just too big and it was going too fast and there aren't enough people in this House that understand it.

This problem has been with us since 1975 and the thing that puzzles me is, what makes the upcoming six months so different than the last six years? I don't think there are many districts, as far as percentage of the districts go, that have more filled land or submerged land than mine. We have ongoing development on filled land right now, today. It seems to me that a lot of what you hear about closed titles stopping everything colder than a mackerel is that people are blowing smoke and I don't know why.

Mr. Soule said that if we don't pass this bill, even though we don't know anything about it, we will be abdicating our responsibilities. I have to disagree with him on that. I think if we pass this bill to the other body, where I understand it has a pretty fair chance of survival, that we will have abdicated our responsibility then.

The approach to this bill after it came out, after the Divided Report, the approach that was described by Ms. Benoit as haphazard, I describe as frenzied. Everyone involved was acting as sincerely as he possibly could, but when all was said and done, and those people with whom Mr. Kelleher is so concerned had their input in the product, I just couldn't, there was no way that I could go along with this, it was out of the question.

If we do recommit this, then either the legislature or the administration will have the chance to pose questions to the Supreme Judicial Court. I don't see any reason, as I said before, why the upcoming six months is so different from the last six years. I have asked that question again and again and you hear about there was a development in Camden that just stopped. I checked with the Attorney General's Office on that and they said what happened in that case was that the developers misinterpreted the land. When they came to the AG's Office, they were told that they had and that they weren't subject to it. There was no applicability at all.

I have heard of another development that is

being hindered to some degree, but I know that the development in my district is not and I don't think that every piece of land on the coast or on the tidal waters is going to be under this cloud over the next six months if we just bide our time, recommit to the Committee on Judiciary, not Taxation, and give everybody in this legislature the option to vote on something that they know something about.

The SPEAKER: The pending question before the House is the motion of the gentleman from South Portland, Mr. Kane, that this Bill and all its accompanying papers be recommitted to the Committee on Judiciary. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

40 having voted in the affirmative and 86 in the negative, the motion did not prevail.

Thereupon, the Bill was passed to be engrossed as amended by House Amendment "A" in non-concurrence and sent up for concurrence.

On motion of Mr. Diamond of Windham, the following matter was removed from the Unassigned Table:

SENATE DIVIDED REPORT — Report "A" (9) "Ought to Pass" as Amended by Committee Amendment "A" (S-193) Report "B" (3) "Ought to Pass" as Amended by Committee Amendment "B" (S-194)

Report "C" (1) "Ought Not to Pass" — Committee on Judiciary on Bill "An Act to Clarify the Status of Certain Real Estate Easements in the State" (S. P. 224) (L. D. 611) — In Senate, Report "A" Accepted and the Bill Passed to be Engrossed as Amended by Committee Amendment "A" (S-193)

Tabled—May 13 by Representative Diamond of Windham.

Pending—Acceptance of Any Report.

Thereupon, the Bill was indefinitely postponed in non-concurrence and sent up for concurrence.

By unanimous consent, all matters acted upon were ordered sent forthwith to the Senate.

The Chair laid before the House the second item of Unfinished Business:

An Act Making Supplemental Appropriations from the General Fund for the Fiscal Years Ending June 30, 1981, June 30, 1982, and June 30, 1983 (Emergency) (S. P. 666) (L. D. 1686)

Tabled—June 9 (Till Later Today) by Representative Mitchell of Vassalboro.

Pending—Passage to be Enacted.

The pending question before the House is passage to be enacted. This being an emergency measure and a two-thirds vote of all the members elected to the House being necessary, a total was taken. 112 voted in favor of same and 16 against, and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

By unanimous consent, ordered sent forthwith to the Senate.

The Chair laid before the House the fourth item of Unfinished Business:

An Act Establishing a Voluntary Income Protection Program for Shellfish Harvesters (H. P. 1450) (L. D. 1590) (C. "A" H-510)

— In House, Passed to be Enacted on June 9.

— In Senate, Bill and Accompanying Papers Indefinitely Postponed.

Tabled—June 11 (Till Later Today) by Representative Fowlie of Rockland.

Pending—Further Consideration.

On motion of Mr. Kelleher of Bangor, the House voted to recede and concur.

Non-Concurrent Matter

Bill "An Act to Amend the Maine Tree Growth Tax Law" (H. P. 801) (L. D. 955) which was passed to be engrossed as amended by Committee Amendment "B" (H-547) as amended by House Amendment "A" (H-569)

thereto in the House on June 11, 1981.

Came from the Senate passed to be engrossed as amended by Committee Amendment "B" (H-547) as amended by Senate Amendment "A" (S-373) thereto in non-concurrence.

In the House:

The SPEAKER: The Chair recognizes the gentleman from Sangerville, Mr. Hall.

Mr. HALL: Mr. Speaker, I move that the House recede and concur.

The SPEAKER: The Chair recognizes the gentlewoman from Owl's Head, Mrs. Post.

Mrs. POST: Mr. Speaker, Men and Women of the House: I think it is important that we understand or at least try to understand how difficult it is within the machinations of the tree growth tax law what we do, and I hope that we will vote against the motion to recede and concur so we can vote for the motion to adhere.

Essentially, what this Senate Amendment does is, it increases the discount factor which is how the formula, which goes into studying the value for tree growth land, goes from five percent, which the House had requested, to ten percent.

What that does, by increasing the discount factor, is that it decreases the value of tree growth land relative to the House's position. That will mean that if you accept the Senate's position, which is to recede and concur, the value of tree growth land will be less than it would be if you would go along with the House position, which is five percent. That will be that the money that your towns will be able to receive from tree growth land will go down by approximately — the difference of the value of land will be about seven percent, so if we stick with the House position, the value of the land under tree growth will be approximately seven percent higher than it will be with the Senate position and you can judge for yourself what that might mean in increased tax base in your particular communities.

As far as the reimbursement goes, if we go with the Senate position, you will get 15 cents an acre, if we stay under one of the reimbursement schemes. If we go with the House position, your town would get 17 cents an acre, so that is 2 cents an acre difference in each particular community. If your community is reimbursed by the cents per acre provision, you can judge for yourself what that might mean in reimbursement from the state level.

If your community is getting reimbursed under the more complicated formula that was in effect when tree growth went into effect, what happens is a little bit more difficult to explain. If you increase your value, that particular formula when tree growth land went into effect is based primarily on the value of your land presently compared to what the value of your land was when tree growth went into effect. You get reimbursed the difference in that, the difference in those two figures.

If you increase your value, then the reimbursement will be less but, on the other hand, the more you increase your value, the more money your town will be able to get from tax base. As the value increases, more and more towns will not be able to get reimbursement under that provision but will get reimbursement under the 17 cents an acre provision.

I think it is fair to say that if you want to be fair to the majority of the towns, both to increase their tax base, which means a lower discount factor, the five percent rather than the ten percent, and to increase the reimbursement, which is 15 cents to 17 cents on the cents per acre basis, then you will stick with the House Amendment. Now, if that isn't as clear as mud, I don't know how to make it any clearer, because it is very difficult to tell you how it would affect any particular town. There is no question, if you are on a cents per acre reimbursement, you will get more money under the house Amendment than you will under the

Senate Amendment. If you are under the old system, it is still very likely that you will be helped more by the House Amendment than you will by the Senate Amendment. I am not sure of my figures, but it seems to me about 60 percent of the communities, and if anybody has the exact figures, I would be glad to have them use them — about 60 percent of the communities in the state are reimbursed under the percent per acre rather than the old system.

The SPEAKER: The Chair recognizes the gentleman from Sangerville, Mr. Hall.

Mr. HALL: Mr. Speaker, Members of the House: What they are trying to do is make a bad bill a little better with the amendment that the other body put on it yesterday. The amendment isn't better, but you are not going to get the 5 percent. No way in heaven do I see that they are going to budge on that.

We have come a long way on this already. The amendment as presented to you, you have made a great deal of progress in the discount factor already, from 20 percent down to 10 percent, so that is a step in the right direction. We have also made stipulations in this amendment that show you have to have definite programming in order to ready yourself to become eligible underneath the tree growth act. I assure you that this is about the last I want of fiddling around with this. If this doesn't work, I will assure you that next time it comes around, we will do something to really and truly fix it, get rid of the whole thing.

I would ask you to go along with recede and concur.

The SPEAKER: The Chair recognizes the gentleman from Durham, Mr. Hayden.

Mr. HAYDEN: Mr. Speaker, Members of the House: I think it is accurate to say that what we are facing here is a choice of trying to make a bad bill as good as possible. One of the ways to think about this bill is that with the Senate Amendment we might not be making a bad bill better, but we may be making a difficult situation impossible for some communities. One of the effects, in general, of the Senate Amendment would be to take the towns, particularly the smaller towns in Androscoggin County and coastal towns, who are facing a loss of that reimbursement, which is the figure that most of the people in the towns care most about, and increasing that loss. That would be the effect of this kind of amendment. That is the choice that we have before us today.

The House Amendment hurts some and helps some, but the harm to those people in Androscoggin County and along the coast is lessened by the House Amendment.

The SPEAKER: The Chair recognizes the gentleman from Bethel, Miss Brown.

Miss BROWN: Mr. Speaker, Ladies and Gentlemen of the House: For two days we have been going around on tree growth and I am sure that now everybody is totally confused. I would like to add a little more confusion to the problem.

I would like to support completely the recede and concur motion but I would also like to give you a little bit of information which hasn't been given to you, that has been very misleading. One reason why the people in Androscoggin County who are not going to receive reimbursement under tree growth has absolutely nothing to do with the bill that is before us now or the bill that was before us last night. That is very misleading the way the chairman of the committee represented it.

In 1980-81, the way the stumpage rate was established in Androscoggin County, it was a 61 percent increase; in Oxford County, it was a 43 percent increase; and in York County, it was a 47 percent increase. If you understood the formula and you can plug that in with the discount factor and all the other material, that is why those people in a lot of those counties that were brought out last night were not going to receive reimbursement. It has nothing to do with the bill that was before us. It is already law: we

passed that a year ago.

The bill that is before us today, the amendment in the Senate cleans up the bill a little bit. It is still a tragedy what we are trying to do, but it does clean up the bill a little bit. You can't take your total acreage and multiply it by 17 cents. The formula is much more complicated than that, so with all the computer sheets running around here, don't accept that as fact because it is untrue. You have to take into consideration your school subsidies, the valuation, how many areas are in tree growth and it is a very complex formula to figure out.

The amendment that is coming back from the Senate cleans up the bill a little bit. It makes it a lot more acceptable for the entire state.

Another thing that I would like to point out is the fact that in the Part I Budget that we already passed, there is \$600,000 which is the limit, it is going to cover the tree growth reimbursement, so that is supposed to be divided upon among the towns which are most severely hurt. They are really feeling more than a 3 percent tax shift and I urge you to support Mr. Hall's motion to recede and concur.

The SPEAKER: The Chair recognizes the gentleman from Owl's Head, Mrs. Post.

Mrs. POST: Mr. Speaker, Men and Women of the House: I would like to respond to a couple of comments that the gentlelady made which were simply inaccurate.

You want to take the situation of Androscoggin County, we have two systems of reimbursement; stumpage values, capitalization rates, discount values, and other of the sections that go into the formula of studying the value of tree growth land have absolutely nothing to do with the present system of reimbursement if you are reimbursed under the cents per acre program, absolutely nothing. The tree growth value could go to \$500 if you want to, and if you are getting reimbursed under the cents per acre, you can still get that reimbursement.

You want to take the situation in Androscoggin County, such as Minot, since that was brought up last night, under the cents per acre system, they would get \$1,240 on the 11 cents per acre. Increases in stumpage value under either bill that we discussed last night would not have any effect on that. Under the original Committee Amendment "A" which was discussed last night, Minot would not have gotten any reimbursement because of the provision that said you could only get reimbursement if it was over 3 percent of the tax shift. With the situation as far as Minot goes, right now, since Committee Amendment "A" is away from us, is whether or not for the 11,276 acres which they had in 1980, and it is very likely that we are talking about a higher number of acres at the present time, whether they will get 15 cents an acre or whether that town will get 17 cents an acre. Under the House Amendment, they would get 17 cents an acre. Under the House Amendment they would get 17 cents; under the Senate Amendment they would get 15 cents an acre.

The 7 percent, if you want to take a look again at the town of Minot, they have a tree growth value right now of \$619,477, that is their value of tree growth land. Under both the House Amendment and the Senate Amendment, that value will go up. It will go up because of changes we have made. When stumpage values are set, it will also go up because the discount factor in both bills has been reduced and the discount factor when you figure that you have so much value, you can subtract from the land and then you discount part of it. The discount factor in the Senate bill is 10 percent and you discount the value by 10 percent. The discount factor in the House Amendment is 5 percent; you discount the value by 5 percent.

In talking with the Bureau of Taxation, when I asked them, what will be the overall difference be the value of the land itself that Minot will be able to tax, their response to me last

night was the difference between the discount of 5 percent and 10 percent will be about 7 percent in value. So the difference for Minot, whether or not you accept the Senate Amendment or House Amendment, is that the value of the land that Minot will be able to tax that is presently under tree growth will be 7 percent greater if we stick with the House position. If you go with the Senate position, it will be 7 percent less than what it would have been if we had gone with the House position. Under either bill, it will be higher than what it is presently.

The SPEAKER: The Chair recognizes the gentleman from Madawaska, Mr. McHenry.

Mr. McHENRY: Mr. Speaker, Ladies and Gentlemen of the House: I think the House voted quite clearly 101 to 37 yesterday to support the House Amendment; therefore, I hope that we do not recede and concur but adhere.

The SPEAKER: The Chair recognizes the gentleman from Island Falls, Mr. Smith.

Mr. SMITH: Mr. Speaker, Ladies and Gentlemen of the House: The tree growth tax law is a very complex issue and I am not going to stand here and say that I fully understand it but I do know that we need a change. This is the best that we can get at this time and I say to you that a half a loaf is better than none.

I hope that you accept the motion to recede and concur.

The SPEAKER: The Chair recognizes the gentleman from Milo, Mr. Masterman.

Mr. MASTERMAN: Mr. Speaker, Ladies and Gentlemen of the House: I think each one of us had our little bit to say on tree growth and as we have said it, I have sat here and listened and realized that each one of us come from a unique district and were demonstrating self-interest. I don't think there is any harm in that. Each one of us is interested in our own area.

I think we should back away from that for a minute and consider why we are here. I tell my people back home and some of them don't agree with me — I said, my number one priority is representing the state of Maine, number two, the people in my district. I am going to do that this morning. I haven't gotten what I wanted. There are going to be a lot of us in here that don't get what we want, but I want to keep the tree growth concept and keep trees growing in Maine, our number one industry.

I hope you will join with me this morning. I am going to recede and concur, I am going to vote with Mr. Hall this morning and hope that many of you will do the same.

The SPEAKER: The Chair recognizes the gentleman from Sangerville, Mr. Hall.

Mr. HALL: Mr. Speaker, Ladies and Gentlemen of the House: One last word of warning — here we are on the second day, half past ten, we are all getting kind of weary and tired. Let me just say this to you, if you have seen the facts, you have seen what is going on the last three or four days and what I am very much afraid of is that if we don't do this, we are going to go out of here with the same thing we had last year.

This is a step in the right direction. It is not all that we hoped for. The thing I would hope to get, as I said before, is to get rid of the whole thing, but you are not going to be able to do that now, we haven't got that much time.

Mr. Speaker, when the vote is taken, I would like to have the yeas and nays.

The SPEAKER: The Chair recognizes the gentleman from Enfield, Mr. Dudley.

Mr. DUDLEY: Mr. Speaker, I would like to pose a question through the Chair to the gentleman from Sangerville, Mr. Hall.

Isn't it a fact that if we recede and concur with the Senate, that Piscataquis County will do quite well in this amendment?

The SPEAKER: The gentleman from Enfield, Mr. Dudley, has posed a question through the Chair to the gentleman from Sangerville, Mr. Hall, who may respond if he so desires.

The Chair recognizes that gentleman.

Mr. HALL: Mr. Speaker, Members of the

House: As a matter of fact, Mr. Dudley, had we gone with Amendment "A", Piscataquis would have done very well, but going this way, we don't make out any better than any other of my towns.

The SPEAKER: A roll call has been requested. For the Chair to order a roll call, it must have the expressed desire of one fifth of the members present and voting. All those desiring a roll call vote will vote yes; those opposed will vote no.

A vote of the House was taken, and more than one fifth of the members present having expressed a desire for a roll call, a roll call was ordered.

The SPEAKER: The pending question is on the motion of the gentleman from Sangerville, Mr. Hall, that the House recede and concur. All those in favor will vote yes; those opposed will vote no.

ROLL CALL

YEA — Aloupis, Armstrong, Austin, Baker, Beaulieu, Bell, Benoit, Berube, Boisvert, Bordeaux, Boyce, Brannigan, Brenerman, Brown, A.; Brown, D.; Brown, K. L.; Cahill, Callahan, Carroll, Chonko, Clark, Conary, Conners, Connolly, Cox, Crowley, Curtis, Damren, Davies, Davis, Day, Dexter, Diamond, G. W.; Diamond, J. N.; Dillenback, Drinkwater, Erwin, Fitzgerald, Foster, Fowlie, Gavett, Gillis, Gowen, Gwadosky, Hall, Hickey, Higgins, H. C.; Higgins, L. M.; Hobbins, Holloway, Hunter, Hutchings, Ingraham, Jackson, Jacques, Jordan, Joyce, Kany, Ketover, Kiesman, Lancaster, Lisnik, Livesay, Locke, Lund, MacBride, MacEachern, Macomber, Mahany, Martin, H. C.; Masterman, Masterton, Matthews, McCollister, McGowan, McKean, McPherson, McSweeney, Michaud, Mitchell, E. H.; Moholland, Nelson, A.; Nelson, M.; Norton, O'Rourke, Paradis, E.; Paradis, P.; Paul, Pearson, Perkins, Perry, Peterson, Poullet, Prescott, Racine, Randall, Reeves, J.; Reeves, P.; Richard, Ridley, Roberts, Salisbury, Sherburne, Small, Smith, C. B.; Smith, C. W.; Soulas, Soule, Stevenson, Stover, Studley, Tarbell, Telow, Theriault, Thompson, Treadwell, Tuttle, Walker, Webster, Wentworth.

NAY — Brodeur, Dudley, Hanson, Hayden, Kane, Kilcoyne, LaPlante, Laverriere, Lewis, McHenry, Mitchell, J.; Murphy, Nadeau, Post, Vose.

ABSENT — Carrier, Carter, Cunningham, Huber, Jalbert, Kelleher, Manning, Martin, A.; Michael, Rolde, Strout, Swazey, Twitchell, Weymouth, The Speaker.

Yes, 120; No, 15; Absent, 15; Vacant, 1.

The SPEAKER: One hundred twenty having voted in the affirmative and fifteen in the negative, with fifteen being absent, the motion does prevail.

House at Ease

Called to order by the Speaker.

On motion of Mr. Diamond of Windham, the following matter was removed from the Unassigned Table:

HOUSE DIVIDED REPORT — Majority (7) "Ought Not to Pass" — Minority (6) "Ought to Pass" in New Draft (H. P. 1517) (L. D. 1630) — Committee on Labor on Bill "An Act Relating to Self-insurance under the Workers' Compensation Act" (H. P. 821) (L. D. 975)

Tabled—May 21 by Representative Diamond of Windham.

Pending—Acceptance of Either Report.

Thereupon, the Bill was indefinitely postponed and sent up for concurrence.

By unanimous consent, ordered sent forthwith to the Senate.

The following papers were taken up out of order by unanimous consent:

Non-Concurrent Matter

Bill "An Act to Clarify the Status of Certain Real Estate Easements in the State (S. P. 224)

(L. D. 611) on which the Bill and Accompanying Papers were Indefinitely Postponed in the House on June 12, 1981.

Came from the Senate with that Body having Adhered to its previous action whereby Report "A" was read and accepted and the Bill was Passed to be Engrossed as amended by Committee Amendment "A" (S-193) in non-concurrence.

In the House: The House voted to adhere.

By unanimous consent, ordered sent forthwith to the Senate.

Special Sentiment Calendar

Recognizing:

The Reverend John W. Neff, pastor of the Orono United Methodist Church, and Mrs. John W. Neff, for 13 years of dedicated service to the people of Orono (S. P. 699)

There being no objections, the above item was considered passed in concurrence.

On motion of Mrs. Mitchell of Vassalboro, Adjourned until Friday, June 19, at nine-thirty in the morning.