

# MAINE STATE LEGISLATURE

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# **LEGISLATIVE RECORD**

OF THE

**One Hundred And Thirteenth Legislature**

OF THE

**State Of Maine**

## **VOLUME IV**

### **SECOND REGULAR SESSION**

March 25, 1988 to May 5, 1988

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### **SECOND CONFIRMATION SESSION**

May 13, 1988

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### **THIRD CONFIRMATION SESSION**

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### **THIRD SPECIAL SESSION**

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### **FOURTH CONFIRMATION SESSION**

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### **FOURTH SPECIAL SESSION**

November 28, 1988

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### **HOUSE & SENATE LEGISLATIVE SENTIMENTS**

December 3, 1986 to December 6, 1988

PENDING - Passage to be Enacted.

Subsequently, the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

The second Tabled and Today assigned matter was taken up out of order by unanimous consent:

An Act to Make Certain Statutory Changes to Facilitate District Court Judicial Administration (H.P. 1555) (L.D. 2115) (C. "A" H-567)

TABLED - April 5, 1988 by Representative GWADOSKY of Fairfield.

PENDING - Passage to be Enacted.

Subsequently, the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

The third Tabled and Today assigned matter was taken up out of order by unanimous consent:

An Act to Strengthen Enforcement of Marine Resources and Boating Safety Laws (H.P. 1463) (L.D. 1974) (C. "A" H-571)

TABLED - April 5, 1988 by Representative GWADOSKY of Fairfield.

PENDING - Passage to be Enacted.

Subsequently, the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

The following matters, in the consideration of which the House was engaged at the time of adjournment yesterday, have preference in the Orders of the Day and continue with such preference until disposed of as provided by Rule 24.

The first item of Unfinished Business was taken up out of order by unanimous consent:

Bill "An Act to Revise the Energy Building Standards Act" (S.P. 93) (L.D. 247)

- In Senate, Majority "Ought to Pass" in New Draft Report of the Committee on Energy and Natural Resources read and accepted and the New Draft (S.P. 958) (L.D. 2539) passed to be engrossed as amended by Senate Amendment "B" (S-352) in non-concurrence.

- In House, House Adhered to its former action whereby the Bill and accompanying papers were indefinitely Postponed on March 30, 1988.

PENDING - Motion of Representative DEXTER of Kingfield to Reconsider.

On motion of Representative Diamond of Bangor, retabled pending the motion of Representative Dexter of Kingfield to reconsider and specially assigned for Thursday, April 7, 1988.

The second matter of Unfinished Business was taken up out of order by unanimous consent:

An Act to Recodify the Laws on Municipalities and Counties (H.P. 1855) (L.D. 2538)

TABLED - March 31, 1988 by Representative CARROLL of Gray.

PENDING - Passage to be Enacted.

On motion of Representative Diamond of Bangor, retabled pending passage to be enacted and specially assigned for Friday, April 8, 1988.

The third matter of Unfinished Business was taken up out of order by unanimous consent:

SENATE DIVIDED REPORT - Majority (10) "Ought Not to Pass" - Minority (3) "Ought to Pass" - Committee on Taxation on Bill "An Act Concerning Access Fees" (S.P. 297) (L.D. 847)

- In Senate, Minority "Ought to Pass" Report of the Committee on Taxation read and accepted and the Bill passed to be engrossed.

TABLED - April 4, 1988 (Till Later Today) by Representative CASHMAN of Old Town.

PENDING - Motion of same Representative to accept the Majority "Ought Not to Pass" Report.

The SPEAKER: The Chair recognizes the Representative from Old Town, Representative Cashman.

Representative CASHMAN: Mr. Speaker, Men and Women of the House: This bill has the intent of removing from the Tree Growth Tax Program any land on which access fees are being charged. Obviously, the concern is that there is a great deal of land in the state now that has heretofore been open to the public for recreational use that landowners are now charging access fees for that privilege.

I think the objections to the Majority Report are that you are linking together the Tree Growth Tax Program with a recreational issue. The reason that this state chose to establish a Tree Growth Tax Law had nothing to do with recreation. The law was established in order to encourage proper land management and in order to encourage tree growth. That is where it gets its name. It has nothing to do with open access to recreation.

The signers of the Majority Report feel that it is a poor linkage to establish. If the concern is on recreation use, perhaps it should be addressed in other ways and we have had other bills in here this very session to address that situation. Linking recreational access fees to Tree Growth is a poor policy. Therefore, I would encourage this House to accept the Majority "Ought Not to Pass" Report.

The SPEAKER: The Chair recognizes the Representative from Millinocket, Representative Clark.

Representative CLARK: Mr. Speaker, Men and Women of the House: I hope you don't go along with the Majority Report and give us a chance with the Minority Report in order to pass this bill as it did in the other body.

I have a few remarks that I want to make and I will make them very brief. Just try to sit back in your seat, I know it's late in the evening, but try to relax and close your eyes and envision what is transpiring with all this land that is owned by some of these individuals. Take an area where I live, we have about 2 million acres of land, go up from my back yard to some of this area and, in all my life of 40 years, I have always had free access of this land. All of a sudden, there is a gate up there. I want to be on the Record right now that I am not opposed to any gate or any fees nor do the group that I represent oppose any fees. We have no qualms with charging fees for camp places to use but I do have a big problem with charging access fees on their roads. That is one reason why this bill is here before us today.

The bill says, "This bill provides that any person charging access fees for use of their lands should not receive Tree Growth for any relief." That is what we are asking for. If you look on your desks, there was a paper passed out a little earlier from the Millinocket Fin and Feather Club and there is a little remark on it. It hits right to the point. "What are you willing to pay for your grandchildren to be able to use this land?" Now you are talking about land where you want to hunt, fish, pick berries, fiddle-heading, how easy is it going to be able to get to it? I grant you that this may not be the way to go after some of these people but it might be a way to show them that we have a concern with what is happening out there to these lands.

When you vote today, I hope you turn down the Majority Report and give the Minority Report a chance because I understand there may be an amendment offered later so when the vote is taken, Mr. Speaker, I would request a roll call.

At this point, the Speaker appointed Representative Diamond of Bangor to act as Speaker pro tem.

The House was called to order by the Speaker pro tem.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Eagle Lake, Representative Martin.

Representative MARTIN: Mr. Speaker, Men and Women of the House: This is an issue, quite frankly, that has been pretty close to the heart of legislators who live in northern Maine. The issue of access fees, the availability of the use of lands, and the question as to what is going to happen in the future with that land and whether or not the people who live in that area will have access to it.

The Representative from Old Town, Representative Cashman, tells you that the purpose of Tree Growth is not for recreation. On that point, he is correct. The logic fails, however, from that point on.

I was the original sponsor of Tree Growth so I think I can speak with some expertise on the question as to why we enacted that piece of legislation. Quite frankly, it was to encourage owners of land to grow trees and not to develop and not to put it into recreation. It was to provide the base upon which Maine's economy was chiefly based and that was the growing of trees. So, the tax was less.

Let me tell you that this was rather difficult for a member of my family to swallow because my brother and I own land together and, since I was the sponsor of the legislation, I felt it improper for us (or me) to put that land into Tree Growth. Every time the tax bill comes around in the month of June, he says, "Why is it that we pay three times the taxes in the unorganized municipalities of Winterville and Eagle Lake? Why can't we do like the rest of them?" I keep saying, "But it was my legislation and I don't think I ought to be in conflict or give the appearance of conflict." That is the way it has to remain until I leave the legislature and he is beginning to fear that we will never get the tax break.

The purpose, as I said, was to provide an incentive. What this bill calls for is, if you want to do something else with it, which by the way, means development, because under the present Tree Growth Law, if you get a lease from paper company land, on that land they apply for withdrawal from Tree Growth, and they pay the penalty as a result of that withdrawal. If you have acquired one of those leases you know that you pay for it. They simply pass on that cost to you in addition to the cost of your lease, if you happen to lease land in the unorganized that happens to be under Tree Growth.

What we are trying to do and trying to say to rest of Maine is, if they charge for other purposes than what that land was intended for and was in Tree Growth, then why should the tax break be given? That is a perfectly logical question. It is one that I believe that we ought to be sure that we don't give the break when the break is not deserved. This legislation, in part, was created by what took place in Millinocket on the Golden Road and, in part, by

what International Paper Company decided they wanted to do.

I personally believe that, when large blocks of lands are taken away from the availability of the general public for the availability of a selected few, that the break ought not to be given. I don't think it is asking too much. If they want the tax break, then all they have to do is not lease beyond that point.

I would ask you today to reject the motion of the Representative from Old Town, Representative Cashman, because we are, in fact, working on a couple of amendments, one that we thought we had drafted fairly well this afternoon, but it is not here. The Representative from Old Town did not want to withdraw his motion to accept the Majority Report so this is the opportunity we have to bore you with tonight.

I would ask right now for your vote in return for my letting you off tomorrow afternoon. Seriously, I think for those of us who live where we live, we are under tremendous pressure, far more so than you are under the pressure of development. Remember in our case, the pressure is coming, not from people, but from landowners who are closing off land. For example, we do own land and members of my family do as well, but personally if people want to post their land, then they have to forego some of the rights. If they want to prevent others from passing on their land, then I think we ought not to be what the King of England was.

I would ask you now to reject the motion of the Representative from Old Town and then tomorrow we can deal with some amendments on the floor.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Saco, Representative Nadeau.

Representative NADEAU: Mr. Speaker, Men and Women of the House: Following the gentleman from Eagle Lake is always a difficult task. I strongly feel if these individuals of these companies that everybody is talking about can stoop so low as to posting land, restricting land in some fashion, then I guess my rhetorical question would be, what is to prevent them from raping the land of all trees within the next six months? Then there will be no tax law, there will be no Tree Growth and then my chairman and I and a few others will have to figure how we are going to deal with tax policy. I wish you would all consider that rhetorical question.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Waterboro, Representative Lord.

Representative LORD: Mr. Speaker, Men and Women of the House: I was on that recreation committee with Representative Carl Smith, Representative Jacques, Representative Allen and Representative Hichborn. The first day of our meeting, we spent the whole day on access. It is kind of hard to explain to some of us people down south what access is. I was very much up in arms and really confused as to what was going on up there.

One of the questions that was asked, is it closing off the land or are they getting a fee for the use of the roads? It seems to be of the opinion that they were getting a fee for the use of the road.

Another question that was asked was, would anybody have the right to go by the gate and walk in there? The answer was, absolutely, if anybody wanted to go in there and walk, they could do it, but if they used the road, then they would pay the fee. I had never been up on the Golden Road in my life until last Fall when I went on one of those tours. We took two trips, as a matter of fact, one up there and one down further. That Golden Road is a paved road and, I might say, it is a lot better than a lot of roads in the town of Waterboro. I can see why it needs to