

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

***One Hundred and Tenth
Legislature***

OF THE

STATE OF MAINE

SECOND REGULAR SESSION

January 6, 1982 to April 13, 1982

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FOURTH SPECIAL SESSION

April 28, 1982 and April 29, 1982

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July 16, 1982

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the question for the good Senator from Androscoggin.

I think the difference between these two bills is that we had a lot of water and sewer districts. We don't have many municipal power districts. Two and three years ago, we were faced with a variety of amendment changes that the various districts were coming into the Public Utilities Committee with. We felt it was a reasonable idea to standardize the procedure for so many districts that were already then in existence and were going to perhaps come into existence.

Now, producing electrical power is a far different proposition than running a local municipal water district or sewer district. I think that's the key difference on this matter. Thank you, Mr. President.

The PRESIDENT: The Chair recognizes the Senator from Androscoggin, Senator Minkowsky:

Senator MINKOWSKY: Mr. President and Members of the Senate, the City of Lewiston is in a very unique situation. We have been generating our own electric power since we became a city in about 1863.

I was quite concerned when we were discussing the municipal takeover of the water and sewer districts when I was on the Board of Finance of the City of Lewiston. It came to light one important factor. Municipalities did not want to go through the waiting time in which to implement the rate increases, like the utilities must do at the present time, a nine month period of time from the time they have their public hearings.

In addition to that, the great difference between municipal operations such as water and sewer districts and the electric company is, the electric company are taxpayers. The municipal operations pay no taxes at all.

I think these are two very significant differences that we should really analyze.

If I go back to a remark made by the good Senator from Androscoggin, Senator Trafton, if a financial community would not sanction it, that is, about the bonding of it, then why all the fuss over this particular thing? If the municipalities are being adequately served, which is what the assumption I gathered from Senator Trafton is, then the outlying areas of the State, the smaller communities, who have co-ops, or small municipal water districts or electrical districts, do not have the financial resources in today's economy, with the amount of bonding that is absolutely necessary, I don't think you would find that those municipalities, even though you had this enabling legislation, anywhere in God's creation, especially with the curtailment of federal funds, ever could contemplate doing this particular thing.

This brings to mind a debate we had last year on the up front charge, the \$5.70 charge. It was interesting to note that the co-ops in the State of Maine, which pay no taxes at all, were charging an up front charge of \$16 per person. I thought this was really horrendous. Are we not representing the same constituency in the State of Maine, the low income, the elderly, the senior citizens? There seems to be such a deviation from the way we're handling things.

If things are being done in an ethical, constructive, regulated manner at the present time, why try to change the entire philosophy?

Another question that came up, which has not been addressed, is, I realize a former Senator of this Body was a sponsor of this particular Bill. I have a great deal of admiration for him, who is now deceased, as well as his widow, who now serves in the other Body, but, if I understand it correctly, the redraft, which I'm holding in my hand, is not the identical same piece of legislation that the Committee on Public Utilities had gone through. I was wondering possibly if somebody on the Committee might address that?

The PRESIDENT: The Senator from Penobscot, Senator Trotzky, requests leave of the

Senate to speak a fourth time, having spoken three times on this issue.

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

The Senator may proceed.

Senator TROTZKY: Mr. President and Members of the Senate, water and sewer districts, although we have model legislation in the books, they still have to come to the Legislature to get a charter.

Under this Bill, power districts will not have to come to the Legislature. In Chapter 322 of the laws of 1981 do allow municipalities to generate power.

The PRESIDENT: 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 Chair recognizes the Senator from Androscoggin, Senator Minkowsky:

Senator MINKOWSKY: Mr. President and Members of the Senate, just one more item for the record, and it is this. When the utilities, the municipal utilities were deregulated, the water and sewer districts, I just thought at least the Senate would like to know that in my municipality, the City of Lewiston, the water rates and the sewer rates went up 33%. A 33% increase without being deregulated. That was in two increments, 17% the first time and 16% the second time.

The PRESIDENT: The pending question before the Senate is the Indefinite Postponement of L. D. 1932.

A Yes vote will be in favor of the Indefinite Postponement of L. D. 1932.

A No vote will be opposed.

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEA—Collins, Devoe, Emerson, Gill, Hichens, McBreairty, Minkowsky, Perkins, Redmond, Sewall, C.; Shute, Sutton, Teague, Trotzky, Usher, The President, J. Sewall.

NAY—Ault, Brown, Bustin, Carpenter, Charette, Clark, Conley, Dutremble, Huber, Kerry, Najarian, Pray, Trafton, Violette, Wood.

ABSENT—O'Leary, Pierce.

A Roll Call was had.

Senator Usher of Cumberland was granted permission to change his vote from Yea to Nay.

Senator Ault of Kennebec was granted permission to change his vote from Nay to Yea.

16 Senators having voted in the affirmative and 15 Senators in the negative, with 2 Senators being absent, the motion to Indefinitely Postpone L. D. 1932, in non-concurrence, does prevail.

Sent down for concurrence.

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

Papers From the House

Non-concurrent Matter

Bill, "An Act Implementing Certain Recommendations of the Citizens' Commission to Evaluate the Department of Environmental Protection." (S. P. 968) (L. D. 2130)

In the Senate, April 1, 1982, the Bill Passed to be Engrossed.

Comes from the House, Passed to be Engrossed as amended by House Amendment "B" (H-750), in non-concurrence.

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

Senator McBREAIRTY: I move we Recede and Concur.

The PRESIDENT: The Senator from Aroostook, Senator McBreairty, moves that the Senate Recede and Concur with the House.

Is this the pleasure of the Senate?

The motion prevailed.

Non-Concurrent Matter

Bill, "An Act to Make Corrections of Errors and Inconsistencies in the Laws of Maine." (Emergency) (S. P. 969) (L. D. 2136)

In the Senate, April 1, 1982, the Bill Passed to be Engrossed.

Comes from the House, Passed to be Engrossed as amended by House Amendments "A" (H-738), "B" (H-739), "C" (H-740) "D" (H-741) and "E" (H-744), in non-concurrence.

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

Senator COLLINS: Mr. President, may the floorleaders approach the Chair?

(Senate at Ease)

The Senate called to order by the President.

The PRESIDENT: The Senate is presently considering L. D. 2136.

On motion by Senator Devoe of Penobscot, the Senate voted to recede.

House Amendment "A" was Read.

On motion by Senator Devoe of Penobscot, House Amendment "A" was Indefinitely Postponed, in non-concurrence.

House Amendment "B" was Read.

On motion by Senator Devoe of Penobscot, House Amendment "B" was Indefinitely Postponed, in non-concurrence.

House Amendment "C" was Read.

On motion by Senator Devoe of Penobscot, House Amendment "C" was Indefinitely Postponed, in non-concurrence.

House Amendment "D" was Read and Adopted, in concurrence. House Amendment "E" was Read.

The PRESIDENT: The Chair recognizes the Senator from Hancock, Senator Perkins.

Senator PERKINS: Mr. President, a point of information, if I may. If I am in error, I just heard that we had Indefinitely Postponed House Amendment "C".

The PRESIDENT: The Chair would answer in the affirmative. House Amendment "C" has been Indefinitely Postponed.

Senator PERKINS: Mr. President, I would, therefore, move we Reconsider whereby we killed House Amendment "C".

The PRESIDENT: Would the Senator defer his motion until the Senate has disposed of House Amendment "E", please?

House Amendment "E" was Adopted, in concurrence.

The PRESIDENT: The Chair understands that the Senator from Hancock, Senator Perkins, now moves that the Senate reconsider its action whereby it Indefinitely Postponed House Amendment "C".

The Chair recognizes the Senator from Cumberland, Senator Conley.

Senator CONLEY: Mr. President and Members of the Senate, I wish to address myself to also the Reconsideration motion, but also to the entire errors bill in itself.

The Committee certainly has spent a great deal of time going through this Errors Bill. In its deliberations, there were many, many things that came in to the Errors Bill, recommended by various executive branches of government, that the Committee thought were not errors but were definitely substantive changes. They were not inconsistencies. They were things that were actually changing the statutes.

Now, I've always had a great deal of faith in the process that has been used with respect to the Judiciary Committee long before I ever arrived on that Committee, certainly with the former Chairman, the good Senator from Knox, Senator Collins, and with the present Chairman, we have today, the good Senator from Penobscot, Senator Devoe.

We've had this Bill now, it's been in the Senate once. It has gone down to the other Body and it has come up here with several House Amendment on it. Some of those Amendments

that were just Indefinitely Postponed are not errors or inconsistencies. They are definitely substantive changes, adding new language to the statutes.

I believe very firmly that if we're going to have an Errors Bill, it should be an Errors Bill. I think that we need to adopt, within the Joint Rules, a joint rule that is going to state, in order for that bill to be amended on the floor of the Senate or the other Body, that it should take two votes of both branches, because what we're going to do is just clutter up this Errors Bill with all kinds of amendments that are very much substantive changes in the law.

I remember only a few years ago, when I raised a great deal of objections at that time, when they had amendments down in the other Body that went from A right through the 26 letters of the alphabet, and back down on those using AA, BB, until we got into almost, like I say, another third of the alphabet.

Now if we're going to have an Errors Bill, we should maintain an Errors Bill, but if we're going to have a catchall bill, such as the one that is before us now, then let's do away with holding hearings on the Errors and Inconsistencies Bill and let it just become a lark that some people are trying to make it.

The PRESIDENT: The Chair recognizes the Senator from Hancock, Senator Perkins.

Senator PERKINS: Mr. President and Ladies and Gentlemen of the Senate, if I may refer you to House Amendment "C", which is H-740. In the first few years I was here, and I believe it was in 1975, I put in a bill which would establish the fees for collecting of boughs for the making of wreaths to \$1 as opposed to what it is now, as \$12. This bill was passed at that time and put in the statutes.

During the ensuing years, during the recodification of the law, this section was omitted. So now, in order for the people of many of our coastal areas who, during the months of October and November, collect boughs in order to supplement their incomes for Christmas, or for winter clothes, or what have you, in order for them to collect the boughs, they must pay instead of the \$1 license fee, must pay \$12.

Now I submit to you, and I'm in full sympathy with the good Senator from Cumberland, Senator Conley's, position, that we shouldn't be cluttering up these things, but I submit to you, this is an error. It falls correctly within the purview of this bill here. I don't think that if these are the people's bodies, that the people of the State of Maine are interested in having the many people who supplement their incomes during the fall, are interested in having them go from a fee of \$1 to a fee of \$12 for collecting wreaths and perhaps making 30 wreaths, or some of them may make 100 or 200, but to go from \$1 to \$12 or 12 times the fee, they are very interested in this particular action.

I think they are more interested in having something that would be equitable to all. I think this is where this Amendment lies.

I, therefore, would urge you to support this Amendment and send it back to the other Body with your support.

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

Senator DEVOE: Thank you, Mr. President. Mr. President and Members of the Senate, I thank the good Senator from Hancock, Senator Perkins, for his comments. We discussed this extensively in the Committee. It was my recollection that there was a bill that was laying on the Tabled Unassigned in the House for many weeks last year that dealt with this. Perhaps the Committee Chairman of, I believe, the Committee on Energy and Natural Resources, can refresh the memories of all of us as to that particular bill and the meanderings that it took through these Legislative Halls.

It was for that reason, particularly, that it was a what seemed to me to be a rather partisan fight between the two bodies on this very subject that caused the Judiciary Committee

this year to decide that if this matter were going to be addressed, it were more properly addressed in a particular separate L. D. that dealt with that matter and that matter only.

Thank you very much, Mr. President.

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

Senator MCBREAIRTY: Mr. President and Honorable Members of the Senate, this is identical to a bill that came before the Energy and Natural Resources Committee last year. My position on the bill at that time was to take out the people who dealt with boughs completely, or charge them \$11.

The people who were on the Committee that was close to Christmas Tree and bough handlers chose to go with not taking the boughs out.

Now, what this is is a dedicated account that goes to the Forestry Department to police the handling of Christmas trees and boughs, police it to make sure they're not taking boughs in areas that they're not authorized to take.

This money goes to police it, so there's no way in the world that you can even do the paperwork on this permit with \$1.

I would back a bill next year, if I'm here, to take the bough handlers out. I don't believe they should be in there to start with. I don't believe they need that much policing. I think one of the officials of the Christmas Tree Association came before us last year and wanted the boughs taken out, but it wasn't.

So this is a bill that was before us last year. It is a substantive change in the law.

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

Senator BROWN: Thank you, Mr. President. Members of the Senate, I would like very much that you support the good Senator from Hancock, Senator Perkins. I don't know enough about the politics or the historical analysis of what has happened concerning this issue, but I do know the considerable concern that is being caused in my own County of Washington, because of this increase from \$1 to \$12.

In the Town of Milbridge alone, there was close to an uprising last year because of this increase. These are people that do not make a great deal of money. They can not afford this \$12 fee.

So I urge you to support the good Senator for Reconsideration of this Amendment H-740.

The PRESIDENT: Is the Senator ready for the question?

The Chair recognizes the Senator from Hancock, Senator Perkins.

Senator PERKINS: Mr. President and Ladies and Gentlemen of the Senate, I thank the good Senator from Washington. I, also, thank the good Senator from Aroostook, Senator McBreairsty, for his explanation. I think he is very sympathetic in his cause.

I only present to you that because of some mix-up in last year's session that the bill Failed to be Enacted. At the last crunch of the session, which is exactly the position many of our Committees found ourselves in this past week, that the Bill was given a Leave to Withdraw.

You then have presented to the people who supplement their income a penalty of \$11 on each one of them, so that they can collect wreaths, or collect boughs to make wreaths. I only submit to you that then you propose that we do the same thing in the subsequent year, that you penalize them another \$11.

You see, I think everybody had intentions and I know the Representative in the other Body, of which I share the name, proposed a bill of this nature, but because it was in last Session, and because it went through the mix-up and with the recodification, the bill was not considered.

So therein we find ourselves in a bind because we couldn't get in for the acceptance of bill through the Council. We can't get in because they call it substantive through the Errors Bill. Yet, we've got people who are paying now \$11 more per year for a license in order to collect a few boughs to make some

wreaths with which to supplement their Christmas income.

I, therefore, would request that you join the good Senator from Washington and myself in Reconsideration.

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

Senator CONLEY: Mr. President and Members of the Senate, I certainly appreciate the arguments made by the good Senator from Hancock, Senator Perkins, but he has certainly spelled out exactly what the case is.

Now, there's no question in my mind that the Amendment before us is one of great substance. If we want to say okay. Let's relax the rules a little, go ahead and do it.

I'm just telling you what we're going to be doing in the future, we're going to be perpetuating one of the worst systems, with respect to passing legislation or cleaning up what we call errors and inconsistencies in the statutes, we are just going to continue. Because somebody has a little power, either in the House or in the Senate, to doctor up the statutes, that are mostly going to benefit them, irrespective of where they come from.

It's a matter of principle, principle with me. I believe in all honesty and in fairness, if they have a problem with the Christmas tree wreaths or whatever, then they should have a bill introduced and have a public hearing on it, and let the legislature take a positive action on it in that respect.

The PRESIDENT: Is the Senate ready for the question?

The Chair will order a Division.

Will all those Senators in favor of the motion by the Senator from Hancock, Senator Perkins, that the Senate Reconsider its action whereby House Amendment "C" was Indefinitely Postponed, please rise in their places to be counted.

The Chair recognizes the Senator from Hancock, Senator Perkins.

Senator PERKINS: I request the Yeas and Nays.

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 Hancock, Senator Perkins, that the Senate Reconsider its action whereby it Indefinitely Postponed House Amendment "C" to L. D. 2136.

A Yes vote will be in favor of Reconsideration.

A No vote will be opposed.

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEA—Ault, Brown, Emerson, Gill, Min-kowsky, Perkins, Pierce, Redmond, Sewall, C.; Shute, Sutton, Teague.

NAY—Bustin, Carpenter, Charette, Clark, Collins, Conley, Devoe, Dutremble, Hichens, Kerry, McBreairsty, Najarian, Pray, Trafton, Trotzky, Usher, Violette, Wood.

ABSENT—Huber, O'Leary.

A Roll Call was had.

12 Senators having voted in the affirmative and 18 Senators in the negative, with 2 Senators being absent, the motion to Reconsider does not prevail.

The Bill, as amended, Passed to be Engrossed, in non-concurrence.

Sent down forthwith for concurrence.

Senate Paper

Senator USHER of Cumberland (Cosponsor: Senator REDMOND of Somerset) presents, RESOLVE, to Establish a Commercial Whitewater Study Commission. (Emergency)