

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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S/SENATOR HOWARD M. TROTZKY
Senate Chairman

Which was Read and Ordered Placed on File.

Senate Paper

Senator TRAFTON of Androscoggin (Cosponsors: Senator HICHENS of York, Representative GOWEN of Standish and Representative CONNOLLY of Portland) presented, Bill, "An Act to Remove the Customer Charge from Electric Utility Rate Structures." (S.P. 654)

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

Senator COLLINS: Mr. President, in looking at this Bill, I would judge that it contains the same matter that appeared in a previous Bill. I would, therefore, raise a parliamentary question, to the Chair, as to whether or not this is a Bill which under Rule 4 has been finally rejected?

The PRESIDENT: The Senator from Knox, Senator Collins has posed a question to the Chair, relative to the application of Rule 4 of the Joint Rules. The Chair would request that someone would Table this Bill until later in today's session, in order for the Chair to give this Bill careful research.

On motion by Senator Collins of Knox, Tabled until later in today's session, pending Reference.

Senator Conley of Cumberland was granted unanimous consent to address the Senate, On Record.

Senator CONLEY: Mr. President, I would only suggest that at the same time that the parliamentarian is questioning the rule with respect to rejection of this Bill, that she might also research the Constitution at the same time, as to whether or not the Chief Executive doesn't have the right to submit Legislation at any time.

The PRESIDENT: The Chair thanks the Senator.

Orders

Expressions of Legislative Sentiment recognizing:

Diana Jordan, Valedictorian of Deer Isle-Stonington High School, Class of 1981. (S.P. 656) presented by Senator PERKINS of Hancock (Cosponsor: Representative PERKINS of Brooksville).

Dawn Flagg, Salutatorian of Deer Isle-Stonington High School, Class of 1981. (S.P. 655) presented by Senator PERKINS of Hancock (Cosponsor: Representative PERKINS of Brooksville).

Marjorie Austin, Valedictorian of George Stevens Academy, Class of 1981. (S.P. 657) presented by Senator PERKINS of Hancock (Cosponsors: Representative BORDEAUX of Mount Desert and Representative PERKINS of Brooksville).

Robert Vogt, Salutatorian of George Stevens Academy, Class of 1981. (S.P. 658)

presented by Senator PERKINS of Hancock (Cosponsors: Representative BORDEAUX of Mount Desert and Representative PERKINS of Brooksville.)

Which were Read and Passed.
Sent down for concurrence.

The 133 foster grandparents in the 2 foster grandparent programs in the State, who serve over 400 children with special needs at more than 50 sites. (S.P. 659)

presented by Senator PIERCE of Kennebec (Cosponsors: Representative MARTIN of Brunswick and Representative CONNOLLY of Portland).

Which was Read.

The PRESIDENT: The Chair recognizes the Senator from Kennebec, Senator Pierce.

Senator PIERCE: Mr. President and Members of the Senate, we are fortunate today to

have with us some very special people. I guess probably most of us in this Body, serve on a variety of committees and have throughout our legislative lives. One of the programs that I have been involved with has been with the Advisory Council and have had the pleasure this year of Chairing it as the Maine Foster Grandparent Program. There are actually two in the State and we do have some of those people here with us today. It is really heartening to see what these people do, not only in helping a great variety of people around the State, mostly children from the areas and in locations such as Pineland, private homes, schools, or whatever. It's really quite wonderful what these people do for these children. At the same time, I'm sure they receive a great benefit themselves in the love they receive in return would ask that the Chair recognize those that are here with us today, and welcome them to the Maine Senate.

The PRESIDENT: The Chair following the suggestion of the Senator from Kennebec, Senator Pierce would ask the ladies, in the rear of the Chamber, who are foster grandparents to rise and accept the greetings of the Maine Senate. We are certainly pleased to have you in attendance here this morning. (Applause, the members rising.)

Which was Passed.

Sent down forthwith for concurrence.

Senator Collins of Knox was granted unanimous consent to address the Senate, Off the Record.

Senator Conley of Cumberland was granted unanimous consent to address the Senate, Off the Record.

On motion by Senator Collins of Knox, Referred until the sound of the Bell.

Recess

After Recess

The Senate called to order by the President.

Committee Reports

Senate

Ought to Pass in New Draft

Senator DEVOE for the Committee on Judiciary on, Bill, "An Act to Make Corrections of Errors and Inconsistencies in the Laws of Maine." (Emergency) (S.P. 340) (L.D. 978)

Reported that the same Ought to Pass in New Draft under Same Title. (S.P. 649) (L.D. 1677)

Which Report was Read and Accepted and the Bill, in New Draft, Read Once.

On motion by Senator Devoe of Penobscot, Under Suspension of the Rules, the Bill, in New Draft, Read a Second Time.

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

Senator DEVOE: Thank you, Mr. President. Mr. President, Members of the Senate, several weeks ago the Judiciary Committee sent to all Committee Chairmen a request for suggestions for inclusion in the Errors Bill. It was addressed to the respective Committees on the feeling that that way we would ensure covering all titles in the statutes.

Fortunately or unfortunately, that effort in contacting Committee Chairmen, and it was both Senate Chairmen and House Chairmen that we contacted, only elicited one suggestion from a Committee, and that was for a minor suggestion in the statement of fact concerning one of the sections.

The Bill is before us now, and given the time frame that we're operating under, we're going to offer some amendments, basically, which came to us after the Bill had been reported out of Committee, and therefore, were not able to be included in the original Committee Bill.

Mr. President, at this time I offer Senate Amendment "A" under filing number S-314,

and would move its Adoption, would speak briefly to my motion.

The PRESIDENT: The Senator from Penobscot, Senator Devoe, offers Senate Amendment "A" to L. D. 1677, moves its Adoption.

Senate Amendment "A" (S-314) Read.

The PRESIDENT: The Senator has the floor.

Senator DEVOE: Thank you, Mr. President. Mr. President and Members of the Senate, all that this Amendment does is to provide for the addition of a Part B to the Errors Bill so that Floor Amendments in the Senate and in the House may be accommodated. That's the only reason that we're offering this.

The PRESIDENT: Is it now the pleasure of the Senate to Adopt Senate Amendment "A"?

The Chair recognizes the Senator from Cumberland, Senator Conley.

Senator CONLEY: Mr. President, I am in a query right now, I pose a question to the Chair. Do I have to Suspend the Rules, at this time, to offer Senate Amendment "A" to Senate Amendment "A"?

The PRESIDENT: The Chair would answer the Senator in the Affirmative. The Rules must be Suspended.

Senator CONLEY: Mr. President, I would now move that the Rules be Suspended.

On motion by Senator Conley of Cumberland, the Senate voted to Suspend the Rules, for the purpose of amending.

Senator CONLEY: Mr. President and Members of the Senate, I have spoken with the Chairman of the Judiciary Committee, as well as the House Chairman of the Judiciary Committee with respect to this Amendment, and the purpose is to correct, certain technical matters in the Private and Special Laws of 1981, Chapter 22, a Bill that we enacted earlier this session dealing with the Casco Bay Transit Authority, and primarily what it does, it validates the first election because at that time we said that the petitions must be submitted 21 days prior to the election. The day that we were enacting this Bill 21 days had already been eaten up.

What this does is validate the election that was held. It also satisfies Bonding Counsels concerning with the technical aspects of the Bill, and reduces the 2/3 majority of Board making decisions, down to a majority.

The only question I had with respect to the Amendment was the reduction of the 2/3 of the Board, down to the Majority of the Board, and it is my understanding, after speaking with the Legislative Research Counsel, that somewhere around 90 percent of the Charters that have been approved by the Legislature designate that they be a Majority, and therefore, I have no problem.

I now submit Senate Amendment "A" to Senate Amendment "A" and move its Adoption.

The PRESIDENT: The Senator from Cumberland, Senator Conley offers Amendment "A" to Senate Amendment "A" and moves its Adoption.

Senate Amendment "A" to Senate Amendment "A" (S-315) Read. Under Suspension of the Rules, Senate Amendment "A" to Senate Amendment "A" was Adopted.

The Chair recognizes the Senator from Penobscot, Senator Devoe.

Senator DEVOE: Thank you, Mr. President. Mr. President, I offer Senate Amendment "C" to Senate Amendment "A" under filing number S-318, and move its Adoption.

The PRESIDENT: The Senator from Penobscot, Senator Devoe offers Senate Amendment "C" to Senate Amendment "A" and moves its Adoption.

Senate Amendment "C" to Senate Amendment "A" (S-318) Read.

The PRESIDENT: The Senator has the floor.

Senator DEVOE: Thank you, Mr. President. Mr. President, Members of the Senate, what this amendment does is to provide authority to the Trustees of the University of Maine to ap-

point persons to act as policemen. That is presently in the Private and Special Law dealing with the University but do to a quirk in the Criminal Code, the policemen on the University Campuses, astoundingly enough, have only jurisdiction and powers of policing in criminal cases, so we have the unusual situation where policemen on the campuses, due to this quirk in the law, can only act in criminal cases and this would simply provide the power and authority to act in connection with civil violations as well.

Under Suspension of the Rules, Senate Amendment "C" to Senate Amendment "A" was Adopted.

The Chair recognizes the Senator from Penobscot, Senator Devoe.

Senator DEVOE: Thank you, Mr. President. Mr. President, members of the Senate, I offer Senate Amendment "D" to Senate Amendment "A" under filing number S-319 and would move its Adoption.

The PRESIDENT: The Senator from Penobscot, Senator Devoe, offers Senate Amendment "D" to Senate Amendment "A" and moves its Adoption.

Senate Amendment "D" to Senate Amendment "A" (S-319) read.

The PRESIDENT: The Senator has the floor.

Senator DEVOE: Thank you, Mr. President. Mr. President, Members of Senate, all that this Amendment does is to put an Emergency Clause on a bill that was earlier passed by this Legislature dealing with the hospital up in Fort Kent.

That statute would have gone into effect 90 days after adjournment of the Legislature, and by our adding the Emergency Clause, it will go into effect now. It deals with the ability of a corporation to establish and maintain a Mental Retardation Home and Center to be known as the Powell Memorial Center, and for the purposes of this section the corporation shall maintain a separate division of finance to the center to administer matter of income, assets, liabilities, and other matter of finance. That's the only change made in the law that's already passed.

Under Suspension of the Rules, Senate Amendment "D" to Senate Amendment "A" was Adopted.

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

Senator DEVOE: Thank you, Mr. President. Mr. President, I offer Senate Amendment "E" to Senate Amendment "A" under filing number S-320 and would move its Adoption.

The PRESIDENT: The Senator from Penobscot, Senator Devoe offers Senate Amendment "E" to Senate Amendment "A" and moves its adoption.

Senate Amendment "E" to Committee Amendment "A" (S-320) Read.

The PRESIDENT: The Senator has the floor.

Senator DEVOE: Mr. President, Members of the Senate, all this Bill does is provide that Section 42 of the Errors Bill will go into effect 90 days after the Legislature adjourns.

If the Chair will give me just one moment, I will check on Section 42.

(Senate at Ease)

The Senate called to order by the President.

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

Senator DEVOE: Thank you. Before further action is taken, I would ask Leave of the Senate for me to Withdraw my motion at this time. I will need a few more minutes. I think I can do it in five or ten minutes.

On motion by Senator Collins of Knox, Tabled until later in today's session, pending the Adoption of Senate Amendment "E" to Senate Amendment "A".

(Off Record Remarks)

Divided Report

The Majority of the Committee on Transportation, Bill, "An Act to Continue the Maine Turnpike Authority." (S.P. 324) (L.D. 932)

Reported that the same Ought to Pass in New Draft under Same Title. (S.P. 650) (L.D. 1676)

Signed:

Senators:

USHER of Cumberland

O'LEARY of Oxford

Representatives:

HUTCHINGS of Lincolnville

MOHOLLAND of Princeton

MCPHERSON of Eliot

REEVES of Pittston

FOWLIE of Rockland

MACOMBER of South Portland

The Minority of the same Committee on the same subject matter reported that the same Ought to Pass as amended by Committee Amendment "A" (S-309).

Signed:

Senator:

EMERSON of Penobscot

Representatives:

CARROLL of Limerick

STROUT of Corinth

HUNTER of Benton

McKEAN of Limestone

Which Reports were Read.

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

Senator O'LEARY: I now move that we Accept the Majority Ought to Pass Report of the Committee.

The PRESIDENT: The Senator from Oxford, Senator O'Leary, moves that the Senate Accept the Majority Ought to Pass, in New Draft, Report of the Committee.

The Chair recognizes the Senator from Penobscot, Senator Emerson.

Senator EMERSON: Mr. President and Ladies and Gentlemen, I would urge you not to adopt the Majority Report and adopt the Minority Report. I'd like to speak to my motion.

The PRESIDENT: The Senator has the floor.

Senator EMERSON: In 1977, the 108th Legislature adopted Chapter 8 regarding the Maine Turnpike. This law would be enacted, or would become effective upon the date of retirement of all the bonds and the payment of all the interests on the Maine Turnpike.

Subchapter 332 of that Chapter 8, regarding the Legislative Intent, I'd like to read. "It is the intent of the Legislature that the collection of tolls on the Maine Turnpike shall be by a means of a Barrier Toll System, after all bonds have been retired and funds are available in sufficient amount to convert the toll collection system and recommendations in regard to the system have been made to and reviewed by the Legislature."

Further on in that Chapter, Subchapter 335, regarding Legislative Approval. "Prior to the conversion of the Maine Turnpike to a Barrier Toll System, the Commissioner of Transportation shall evaluate alternative Barrier Toll Systems and toll schedules, conduct public hearings regarding alternative systems in appropriate geographic locations, and present a recommended Barrier Toll System and toll schedule to the Legislature while it is in Session."

Since 1977, many changes have taken place, especially in the area of highway financing. There are people along the Turnpike corridor and throughout the State that would prefer to keep the present Closed Toll System facility. It was argued in our Committee that the present closed system would assure a better maintained highway, would provide jobs, would produce more revenue by preventing users from circumventing the toll booths on a barrier system. That is contained in Report "A" in the Majority Report, which is "An Act to Continue the Maine Turnpike Authority." It is intended

to keep the present system with some modifications.

There were those of us on the Committee, those of us who signed Report "B", which is Senate Amendment S-309, "An Act Relating to the Maine Turnpike." There were those of us who felt that we didn't have enough information at this time to make a recommendation about the adoption of either system.

We, also, felt that since the Department was going to be directed, was directed to make a study after the bonds were paid, it would make good sense to make the study now, so we could have the information at this time, or now we would have the study completed by January 1, 1982.

We would then have the results of the study, and we could act on it in the Second Session of this Legislature. I think we would be better informed, and we could analyze the situation better. We could make a recommendation then as to which system to adopt.

I believe that it would make sense to have this study. I think that we would be doing a better service to the people of the State to have more information in this area. Therefore, I hope you would reject the Majority Report and Accept the Minority Report.

I'd like to refer to one thing in the Statement of Fact in Senate Amendment 309. The Statement of Fact reads thus: "This Amendment requires that an evaluation of the present closed system and any proposed barrier system be evaluated and compared." The Amendment further requires: "the Commissioner make his recommendation to the Legislature and the Legislative Committee having jurisdiction over Transportation review those recommendations and report to the Second Regular Session of the 110th Legislature.

I hope you do Accept this Report.

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

Senator MINKOWSKY: Mr. President and Members of the Senate, I sincerely hope this afternoon that the Senate rejects the Majority Ought to Pass Report, projected by the Transportation Committee, and Accept the recommendation made just a few minutes ago by the Chairman of the Transportation Committee, who apparently is very cognizant of all the ramifications of this particular Bill.

A little history about this Bill goes back to the year 1977, when I sponsored this piece of legislation, as a long term objective in addressing a very critical problem in the State of Maine. At that particular time, the Transportation Committee, along with Governor Longley, disagreed. Governor Longley was in full concurrence with one particular factor and it was this. That we would be breaking faith with the people of the State of Maine if we did not let this road go toll-free upon payment of bonds.

At the time, I took issue with Governor Longley relevant to this matter. I pushed for the present law. The present law says, when these bonds are paid off, either in 1982, or 1983, then we will have a study. At which point we will make a determination what system we will utilize.

The entire concept behind this was very simple. We felt it was of significant value that the users pay for the cost of the Turnpike. The compromise laid out during that segment of time was simply that our municipalities, or many municipalities along the corridor were being somewhat disenfranchised because of the creation of I-295 from Portland north, coming out into the Town of Gardiner.

Bear in mind that during that segment of time, also, federal funds were readily available and Interstate 95 was being built in increments, of which 90 percent federal funds went into it with 10 percent State funds. My community as well as many communities along the corridor of the 100 mile present Maine Turnpike contributed towards that.