

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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cision come January.

The SPEAKER: A roll call has been ordered. The pending question is on the motion of the gentleman from Limerick, Mr. Carroll, that the Minority "Ought to Pass" Report be accepted in non-concurrence. All those in favor will vote yes; those opposed will vote no.

The Chair recognizes the gentleman from Sanford, Mr. Tuttle.

Mr. TUTTLE: Mr. Speaker, I would like to pair my vote with the gentleman from Auburn, Mr. Michael. If he were here, he would be voting yes; I would be voting no.

ROLL CALL

YEA — Armstrong, Austin, Beaulieu, Bell, Berube, Boisvert, Boyce, Brodeur, Brown, A.; Brown, D.; Brown, K. L.; Cahill, Callahan, Carroll, Carter, Clark, Connors, Crowley, Curtis, Day, Dexter, Diamond, J. N.; Foster, Gavett, Hall, Hayden, Higgins, L. M.; Hobbins, Holloway, Hunter, Jacques, Jalbert, Jordan, Kelleher, Kiesman, Kilcoyne, LaPlante, Lewis, Lisnik, Livesay, Locke, Lund, Mahany, Martin, H. C.; Matthews, McHenry, McKean, Michaud, Mitchell, J.; Nadeau, Paradis, E.; Paul, Peterson, Pouliot, Randall, Richard, Salsbury, Smith, C. B.; Stevenson, Strout, Tarbell, Telow, Theriault, Treadwell, Twitchell, The Speaker.

NAY — Aloupis, Baker, Benoit, Bordeaux, Brannigan, Brennerman, Carrier, Chonko, Cox, Damren, Davis, Diamond, G. W.; Dillenback, Drinkwater, Dudley, Erwin, Fitzgerald, Fowlie, Gillis, Gowen, Gwadodsky, Hanson, Hickey, Higgins, H. C.; Huber, Hutchings, Ingraham, Jackson, Joyce, Kane, Kany, Ketover, Lancaster, MacBride, MacEachern, Macomber, Manning, Masterman, Masterton, McCollister, McGowan, McPherson, McSweeney, Mitchell, E. H.; Moholland, Murphy, Nelson, A.; Nelson, M.; Norton, O'Rourke, Paradis, P.; Pearson, Perkins, Perry, Post, Prescott, Racine, Reeves, J.; Reeves, P.; Ridley, Roberts, Rolde, Sherburne, Small, Smith, C. W.; Soulas, Soule, Stover, Studley, Swazey, Thompson, Vose, Walker, Webster, Wentworth.

ABSENT — Canary, Connolly, Cunningham, Davies, Laverriere, Martin, A.;

PAIRED — Michael-Tuttle.

Yes, 66; No, 76; Absent, 6; Paired, 2; Vacant, 1.

The SPEAKER: Sixty-six having voted in the affirmative and seventy-six in the negative, with six being absent and two paired, the motion does not prevail.

The Chair recognizes the gentlewoman from Lewiston, Mrs. Berube.

Mrs. BERUBE: Mr. Speaker, I now move indefinite postponement of this Bill and all its accompanying papers.

Whereupon, Mr. Diamond of Windham requested a roll call vote.

The SPEAKER: 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 Chair recognizes the gentleman from Old Town, Mr. Pearson.

Mr. PEARSON: Mr. Speaker, Ladies and Gentlemen of the House: I understand that indefinite postponement of this bill would put us in the position just the opposite of what we just voted, so it would end the closed turnpike system when the bonds are retired. If I am not mistaken, I would like to be corrected, and if I am right, I think that is a ruse.

The SPEAKER: The Chair recognizes the gentleman from Lewiston, Mr. Jalbert.

Mr. JALBERT: Mr. Speaker, very obviously the chairman of the Appropriations Committee in the House is becoming an authority on highways. As a former chairman of the Appropriations Committee, let me give him a little

education for free. The MSEA is not telling me what do do, I guarantee you that right now. They have been educating him all day, but they haven't educated me.

If we had the \$14 million that he spoke about, I would be delighted to join George and have the highway be in the General Fund, and then we wouldn't have any highway problem. If we have to pay 50 cents in New Hampshire for 15 miles, if the 23,000 people that Mr. Pearson, the authority, mentions come in here, let's jack up the price for them, let those suckers pay. There are two sides to the street.

The lady's motion is well taken and we will act accordingly after we dispose of that motion, I can guarantee you that right now. I am in the highway business now, I am no longer with the Appropriations Committee for awhile.

The SPEAKER: The pending question is on the motion of the gentlewoman from Lewiston, Mrs. Berube, that this Bill and all its accompanying papers be indefinitely postponed in non-concurrence. All those in favor will vote yes; those opposed will vote no.

ROLL CALL

YEA — Armstrong, Berube, Bosivert, Boyce, Brodeur, Brown, D.; Brown, K. L.; Cahill, Carroll, Carter, Connors, Day, Dexter, Foster, Hayden, Higgins, L. M.; Kelleher, Kilcoyne, LaPlante, Lewis, Lund, Mahany, Martin, H. C.; McHenry, McKean, Michaud, Paul, Pouliot, Randall, Salsbury, Stevenson, Tarbell, Telow, Twitchell, The Speaker.

NAY — Aloupis, Austin, Baker, Beaulieu, Bell, Benoit, Bordeaux, Brannigan, Brennerman, Brown, A.; Callahan, Carrier, Chonko, Clark, Connolly, Cox, Crowley, Curtis, Damren, Davis, Diamond, G. W.; Diamond, J. N.; Dillenback, Drinkwater, Dudley, Erwin, Fitzgerald, Fowlie, Gavett, Gillis, Gowen, Gwadodsky, Hall, Hanson, Hickey, Higgins, H. C.; Hobbins, Holloway, Huber, Hunter, Hutchings, Ingraham, Jackson, Jacques, Jalbert, Jordan, Joyce, Kane, Kany, Ketover, Kiesman, Lancaster, Lisnik, Livesay, Locke, MacBride, MacEachern, Macomber, Manning, Masterman, Masterton, Matthews, McCollister, McGowan, McPherson, McSweeney, Mitchell, E. H.; Mitchell, J.; Moholland, Murphy, Nadeau, Nelson, A.; Nelson, M.; Norton, O'Rourke, Paradis, E.; Paradis, P.; Pearson, Perkins, Perry, Peterson, Post, Prescott, Racine, Reeves, J.; Reeves, P.; Richard, Ridley, Roberts, Rolde, Sherburne, Small, Smith, C. B.; Smith, C. W.; Soulas, Soule, Stover, Strout, Studley, Swazey, Theriault, Thompson, Treadwell, Tuttle, Vose, Walker, Webster, Wentworth, Weymouth.

ABSENT — Canary, Cunningham, Davies, Laverriere, Martin, A.; Michael.

Yes, 35; No, 109; Absent, 6; Vacant, 1.

The SPEAKER: Thirty-five having voted in the affirmative and one hundred nine in the negative, with six being absent, the motion does not prevail.

Thereupon, the Majority "Ought to Pass" Report was accepted in concurrence, the New Draft read once and assigned for second reading the next legislative day.

The following paper appearing on Supplement No. 19 was taken up out of order by unanimous consent:

Divided Report

Majority Report of the Committee on Energy and Natural Resources on Bill "An Act to Establish a Fund to Implement the Hazardous Waste Program in Lieu of a General Fund Appropriation" (S. P. 447) (L. D. 1303) reporting "Ought to Pass" in New Draft under New Title Bill "An Act to Establish a Hazardous Waste Response Fund and to Facilitate the Development of Needed Waste Facilities" (S. P. 660) (L. D. 1684)

Report was signed by the following members:
Representatives:

MITCHELL of Freeport
MICHAUD of East Millinocket
HALL of Sangerville
KIESMAN of Fryeburg
HUBER of Falmouth
JACQUES of Waterville
DAVIES of Orono
MICHAEL of Auburn

— of the House.

Minority Report of the same Committee reporting "Ought to Pass" in New Draft under New Title Bill "An Act to Establish a Hazardous Waste Response Fund and to Facilitate the Development of Needed Waste Facilities" (S. P. 661) (L. D. 1685)

Report was signed by the following members:

Senators:

REDMOND of Somerset
O'LEARY of Oxford
McBREAIRTY of Arrostook

— of the Senate.

Representatives:

DEXTER of Kingfield
AUSTIN of Bingham

— of the House.

Came from the Senate with the Minority "Ought to Pass" in New Draft under New Title Report read and accepted and the New Draft passed to be engrossed.

In the House Reports were read.

The Majority "Ought to Pass" Report was accepted in non-concurrence and the new draft read once. Under suspension of the rules, the New Draft was read the second time, passed to be engrossed in non-concurrence and sent up for concurrence.

By unanimous consent, ordered sent forthwith to the Senate.

The following paper appearing on Supplement No. 20 was taken up out of order by unanimous consent:

Non-Concurrent Matter

Bill "An Act to Make Corrections of Errors and Inconsistencies in the Laws of Maine" (Emergency) (S. P. 649) (L. D. 1677) which was passed to be engrossed as amended by Senate Amendment "A" (S-314) as amended by Senate Amendments "A" S-315, "B" S-317, "C" S-318, "D" S-319, "E" S-320, "F" S-321, and "G" S-322 and House Amendments "B" H-525, "C" H-526, "D" H-527, "E" H-529, "F" H-532 and "A" H-522 thereto in the House on June 3, 1981.

Came from the Senate passed to be engrossed as amended by Senate Amendment "A" (S-314) as amended by Senate Amendments "A" S-315, "B" S-317, "C" S-318, "D" S-319, "E" S-320, "F" S-321, "G" S-322 and House Amendments "B" H-525, "C" H-526, "D" H-527, "E" H-529, "F" H-532, and "A" H-522 thereto in non-concurrence.

In the House:

The SPEAKER: The Chair recognizes the gentleman from Westbrook, Mr. Carrier.

Mr. CARRIER: Mr. Speaker and Members of the House: I am rather disturbed by this report and I will tell you why. If you look at it, at first glance you don't see much, but what has happened here, somebody has sneaked in an amendment in the Senate which is H-334. This particular amendment, I don't believe you have it on your desks, nobody has the amendment on their desk, they told me it wasn't distributed yet, and under the Joint Rules, it says under 19-A, that no amendment shall be presented in either house unless the amendment is printed and distributed at least 24 hours prior to its introduction. This is a rule of the House, and on that basis, I think this is in violation of the rules.

But we have to do something with the errors and inconsistencies. For those of you who have been here for the first time, this is a nice way to sneak something in here, and I think that is what happened. The reason for that is that the present amendment, which is S-334, I believe is

in violation and a very substantive change from what the law is right now. The law says that the commissioner, at his discretion, by written authorization, may permit and authorize the implementation of spirituous and vinous liquors. This here says, and it should be in the form of a bill and not in the errors and inconsistencies, that they can grant permission to hospitals and state institutions for the purchase of liquor for medicinal purposes only. This is totally opposite of the present law. I think this is a substantive change and the errors and inconsistencies bill is not to be used for such a procedure.

I don't know which way to go, I just don't want to get anybody on the spot, that is all.

Mr. Speaker, under Rule 19-A of the House Rules, isn't this proposal in violation of that rule?

The SPEAKER: In reference to the question posed by the gentleman from Westbrook, Mr. Carrier, the Chair would advise the members of the House that in order for the amendment from the Senate to be adopted, the rule will have to be suspended, as it was in the other body.

The Chair recognizes the gentleman from Westbrook, Mr. Carrier.

Mr. CARRIER: Mr. Speaker and Members of the House: It is very clear from the last statement from the Speaker that this is in violation of the rules. I am told that if I really insist on this, and probably I would be in the right position to, this would mean for us to be here an extra day next week in order to get this straightened out. I am not that vindictive. I don't want to do this. I think that we should play fair. I am not hurt by this, this doesn't involve me, but the rules are the rules. I truly don't believe in this, but in order not to make it hard on us and have to have an extra day next week and the extra expense. I will concede and let it go, but I want you to know that this is what happens, and if you are here another year, you pay close attention because this is a vehicle that is used and somebody always makes an error somewhere.

I will forgive them but I don't believe in it, and to make it easy and so we are only here two days next week, I concede.

Thereupon, under suspension of the rules, Senate Amendment "H" (S-334) was adopted.

The House voted to recede and concur.

By unanimous consent, ordered sent forthwith to Engrossing.

The following paper appearing on Supplement No. 21 was taken up out of order by unanimous consent:

Committee of Conference Report

The Committee of Conference on the disagreeing action of the two branches of the Legislature, on Bill, "An Act to Add a Class Size Adjustment to the School Finance Act" (H. P. 1176) (L. D. 1400) have had the same under consideration, and ask leave to report:

That the House recede from passage to be engrossed as amended by Committee Amendment "A" (H-413); indefinitely postpone Committee Amendment "A" (H-413); read and adopt Committee of Conference Amendment "A" (H-542) attached herewith and pass the bill to be engrossed in non-concurrence.

That the Senate recede and concur.

Signed:

Representatives:

ROLDE of York
THOMPSON of South Portland
MURPHY of Kennebunk

— of the House.

Senators:

TROTZKY of Penobscot
MINKOWSKY of Androscoggin

— of the Senate.

Report was read and accepted.

The House receded from its action whereby the Bill was passed to be engrossed as amended by Committee Amendment "A" and the Amendment was indefinitely postponed.

Committee of Conference Amendment "A" (H-542) was read by the Clerk and adopted.

The Bill was passed to be engrossed as amended by Committee of Conference Amendment "A" in non-concurrence and sent up for concurrence.

By unanimous consent, ordered sent forthwith to the Senate.

The Chair laid before the House the following matter:

Bill "An Act to Maintain and Improve Marine Patrol Services" (H. P. 1589) (L. D. 1680) which was tabled and later today assigned pending a ruling by the Chair on the germaneness of House Amendment "A".

Thereupon, Mrs. Post of Owl's Head requested permission to withdraw House Amendment "A", which was granted.

The same gentleman offered House Amendment "B" and moved its adoption.

House Amendment "B" (H-544) was read by the Clerk.

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

Mrs. POST: Mr. Speaker, Men and Women of the House: The first amendment inadvertently repealed Section 16, which was another repeal section to this particular bill and this House Amendment corrects that and simply adds the repeal provision as a second Section 17.

The SPEAKER: The Chair recognizes the gentleman from Edgecomb, Mrs. Holloway.

Mrs. HOLLOWAY: Mr. Speaker, I would still have a similar question as to the germaneness of this.

The SPEAKER: The Chair would advise the gentleman from Edgecomb, Mrs. Holloway, that the amendment offered by the gentleman from Owl's Head, Mrs. Post, would not have been germane to the original bill, L. D. 1173. However, it is germane to L. D. 1680, which the committee redrafted in new title and new bill. So the Chair would have to rule that House Amendment "B" is germane to the bill, since the bill is now in the engrossed stage with L. D. 1680 before us and L. D. 1173 now dead.

The Chair recognizes the gentleman from Edgecomb, Mrs. Holloway.

Mrs. HOLLOWAY: Mr. Speaker, Ladies and Gentlemen of the House: My concern on this matter comes from the fact that because there is going to be a fee increase for the fishermen and the lobstermen in my area, and this fee increase is to pay for the marine patrol, it almost seems that this amendment is forcing the commissioner's hand in making Bigelow Laboratory pay the Marine Resources for rental space. I just can't see how the two connect.

I am sorry to hesitate, but the amendment is a little new and I would like to have a division on this.

The SPEAKER: The pending question is on the adoption of House Amendment "B". All those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

Whereupon, Mr. Fowlie of Rockland requested a roll call vote.

The SPEAKER: 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 Chair recognizes the gentleman from Rockland, Mr. Fowlie.

Mr. FOWLIE: Mr. Speaker, Men and Women of the House: This is a unanimous report from the Committee on Marine Resources and it does deal with improving marine patrol services in the department.

I would just like to point out that I will be supporting adoption of this House amendment today. I feel strongly that the Department of

Marine Resources needs additional money to operate the department in a way that is beneficial to the people in the fishing industry of the state.

The recent action of the Appropriations Committee of not approving the requested money in the Part II Budget has left the department in serious financial trouble. While the original bill addresses some of the financial problems, this amendment will allow more money to flow into the department's budget.

I would like to point out that I am not opposed to Bigelow Laboratory or the research that it is conducting, but to me it is a matter of priorities. I feel the department should be funded first and outside private agencies second.

The department has an immediate direct benefit to the fishing industry, whereas Bigelow has an indirect, long-term benefit.

I hope the House would, tonight, accept this amendment because of the situations that have happened of late.

The SPEAKER: The Chair recognizes the gentleman from Edgecomb, Mrs. Holloway.

Mrs. HOLLOWAY: Mr. Speaker, Ladies and Gentlemen of the House: One of the concerns on this, to me, is that this was not brought up at the public hearing. It is a last minute threshold and I am a little concerned about this and would ask for a roll call.

The SPEAKER: The Chair recognizes the gentleman from Yarmouth, Mr. Jackson.

Mr. JACKSON: Mr. Speaker, Ladies and Gentlemen of the House: The basic bill here is a fee increase bill for the Marine Resources Department. The department needs this money, chiefly because of some problems they got into last summer when we had red tide and they went beyond their budget at that time.

This money is specifically keyed to the warden department, and if you talk to most fishermen, certainly the lobstermen, they are always happy to see more wardens out there patrolling and keeping the seas safe for the lobstermen. That is what the bill, 1680, does.

We then brought in this amendment "B" which jumps back, as I figure it, the Part I Budget, or the Part II Budget, I guess it is the Part I Budget, and we are picking out money that is in the budget and tying that back into the bill on the license fees.

I think the problem we are getting into here is, we have two different things going on. We have got the question of the fee increases and the wardens, and the other problem we have got is the feeling that some people have that Bigelow Lab is perhaps getting a free ride or shouldn't be getting this amount of money. Again, this is approached and handled by the Appropriations Committee in their deliberations.

What we are really doing is, we are playing blackmail. We are saying that if you don't take this out of the budget, if you don't take out the Bigelow Lab thing, there aren't going to be any fee increases and the department is going to be in worse fiscal trouble than they are in now. Even with this fee increase they are going to have fiscal problems in about a year.

The SPEAKER: The Chair recognizes the gentleman from Kennebunkport, Mr. Hanson.

Mr. HANSON: Mr. Speaker, Ladies and Gentlemen of the House: There is \$300,000 that the Department of Marine Resources have come up short in the Part II. The committee was faced with raising this \$300,000. We cannot justify doubling or tripling of the fishing industry fees.

I would like to give you a little background on the laboratories and why this came up. We have two labs, one under the Department of Marine Resources and the other is a private lab known as the Bigelow Laboratory. Both labs are located in Boothbay Harbor and are presently sharing the same buildings. Bigelow Lab does not pay rent for their building nor do they pay for the utilities or maintenance of the building. That is now being paid by the Depart-