

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

***One Hundred and Twelfth
Legislature***

OF THE

STATE OF MAINE

Volume II

FIRST REGULAR SESSION

December 5, 1984 - June 20, 1985

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Were reported by the Committee on Engrossed bill as truly and strictly engrossed, passed to be enacted, signed by the Speaker and sent to the Senate.

An Act to Establish a State Policy Relating to the Disposal of Low-level Radioactive Waste (H.P. 1141) (L.D. 1649)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed.

The SPEAKER: The Chair recognizes the Representative from Portland, Representative Connolly.

Representative CONNOLLY: Mr. Speaker, Ladies and Gentlemen of the House: I am not going to speak a lot, for two reasons, one, I spoke a lot on this issue a few days ago, and two, I am not having much luck speaking these days.

I just want to call your attention to this issue. This is the initiated referendum and the bill that is before us now, in this form to be enacted would be the one that would also, in my opinion, violate the referendum process by including the competing measure with it.

I would ask for the indefinite postponement of this bill and all its accompanying papers and would ask for a roll call.

The SPEAKER: The Chair recognizes the Representative from Bath, Representative Small.

Representative SMALL: Mr. Speaker, Men and Women of the House: I hope you will support the indefinite postponement of this bill. While I question the merit of the referendum question and I think those that have been here a while and seen my voting record will know that I usually come down on the more conservative side on nuclear questions. I believe the place to defeat this proposed legislation is at the polls and not in the legislature. I think the right to initiate a referendum is a very sacred right. I want to go back home to my constituents, many of whom I am sure signed the petitions and tell them that I did not interfere with their right to put the question on the ballot. As I said, I will then work when this question comes up to defeat it back home.

The SPEAKER: The Chair recognizes the Representative from Livermore Falls, Representative Brown.

Representative BROWN: Mr. Speaker, Ladies and Gentlemen of the House: I hope that you don't vote to postpone this bill. One thing that hasn't been discussed to date and I would like to bring to your attention is the Constitution of the State of Maine. I think the inference has been made this morning that what we are doing is somehow circumventing what the people want or circumventing their right to vote on an issue. If this bill is passed, the voters of Maine will still have the right to vote on the initiated referendum question. That question will be on the ballot.

I think to imply or to even infer in any small way that to pass this bill with a competing measure is somehow interfering in that process is very, very wrong.

I would like to read just a few lines from the Constitution, Article IV, Section 18 which deals with initiated referendum questions. I quote from the Constitution: "any measure thus proposed by electors, the number of which shall not be less than ten percent of the total vote for governor cast in the last gubernatorial election preceding the filing of such petitions, unless enacted without change by the legislature at the session at which it is presented, shall be submitted to the electors together with any amended form, substitute or recommendation of the legislature and in

such manner that the people can choose between the competing measures or reject both." So the process that we have dealt with here is totally in compliance with the Constitution. There is nothing that we have done which has taken away the voters opportunity to act on the initiated question. That question will be put before the voters in November, along with the competing measure. The Constitution provides for that, the process is there, just as the 40,000 plus folks who signed the petition are having their rights protected, so are all the people of Maine having their rights protected by this vote before us today.

So, I would ask that you would defeat the motion before you so that we can provide the voters in November with a real alternative.

The SPEAKER: The Chair recognizes the Representative from St. George, Representative Scarpino.

Representative SCARPINO: Mr. Speaker, Men and Women of the House: You are about to witness a very rare occasion, that occasion when the good Representative from Portland, Mr. Connolly and myself agree.

I would like to speak in support of his motion to indefinitely postpone this bill and all its accompanying papers. I was a signer of that petition. I would imagine somewhere between 70 and 80 percent of the people in my hometown signed that petition. I know what those people are going to say if they see this go out with a competing measure. Quite simply they are going to look at it, and I am going to look at it and say, that once again, regardless of the constitutionality of that competing measure, of that concept, that the Maine State Legislature is going to tell the people what they think they should do, that once again the legislature knows more than the people, the legislature knows more than the people that elected the legislators, that once again, big brother speaks.

Quite simply, the initiated referendum is the most direct and basic form of democracy that we have left on the statewide level. To take any action that would attempt to confuse or confound or change the will of the people or the intent of the referendum, I personally feel is unconscionable. Let this referendum go out the way it was intended, vote, fight for it or fight against it, that is your privilege, just like it is every other citizen's privilege. Let's indefinitely postpone this bill and let the democratic process go on its way.

The SPEAKER: The Chair recognizes the Representative from Livermore Falls, Representative Brown.

Representative BROWN: Mr. Speaker, Ladies and Gentlemen of the House: I would like to pose a question through the Chair to any of the three previous speakers.

For those of you and all of the other 40,000 plus folks who signed the petition, will the voters of the State of Maine have an opportunity to vote on that initiated question which was signed by those many thousands of people? Will the voters of Maine have the opportunity to vote on that question?

The SPEAKER: Representative Brown of Livermore Falls has posed a question through the Chair to any member who may respond, if they so desire.

The Chair recognizes the Representative from Portland, Representative Connolly.

Representative CONNOLLY: Mr. Speaker, Ladies and Gentlemen of the House: The answer to that question is no, not by itself. It will have the competing measure before it. Certainly the competing measure does not circumvent the laws of the Constitution of the State of Maine. The Speaker would not allow us to let that happen. The intention, and Representative Brown as well as I think every other member of this body who has paid any attention to this debate knows, the intention of the competing measure is to confuse the voters so that the final answer will be none of the above.

if this measure goes out by itself for a vote, the merits of it can be debated and the people will have a choice on that question. If the people should turn that down, as they very well may, then the next legislature, if it sees fit, can take some other sort of action. But the intention of the competing measure, Representative Brown, is to confuse the voters.

The SPEAKER: The Chair recognizes the Representative from Freeport, Representative Mitchell.

Representative MITCHELL: Mr. Speaker, Men and Women of the House: The nuclear power issue is a very complex issue and it is supported by the no-nuke movement. There are several very important issues that revolve around that movement that have to be resolved. I think that the most important of those issues is the issue of reactor safety. Although the reactor in Maine has had no accidents, it certainly, by any means, doesn't have the best safety record in the world.

I think that the misuse of the byproducts of nuclear reaction to build, perhaps to manufacture nuclear weapons, is a very, very serious issue. I think it deserves a lot of attention. I think that security at nuclear power plants and surrounding nuclear reaction is something that we should be very, very concerned about.

I also think that we should be very, very concerned about the issue of high level radioactive waste disposal because these substances are dangerous for hundreds of thousands of years and they have to be isolated from the environment. That is a great technical challenge for our society.

Low level radioactive waste, on the other hand, is not that serious a challenge and I don't want you to think that I am underestimating the dangers of these substances that we are trying to dispose of. The low level radioactive waste is radioactive trash and radioactive filter sludges generally that have half lives of 30 years or less and the disposal method is to isolate them from the biosphere, keep them away from man, keep them away from the food chain for 300 years. That I think is a technical challenge that we can rise and meet. It is not nearly the challenges that I mentioned earlier.

Furthermore, if our nuclear power plant in Maine were closed today, we would still have the low level radioactive waste problem to deal with. It won't go away by closing the plant down. This bill, the competing measure and the initiated bill, do one thing, they create the game of what is known as NIMBY—not in my back yard syndrome. If either of these bills passed, we are going to have a great big statewide game of NIMBY.

Low level radioactive waste ought to be disposed of at the safest possible site and in the safest possible manner at a reasonable cost. If either of these bills are enacted by the people rather than being disposed of at the safest possible site, they are probably going to be disposed of at the site that has the least political power to defend their interests.

I hope that the voters will turn down both the initiated bill and the competing measure when they deal with these issues in November. That way we can do a good job, we can dispose of the radioactive waste safely and efficiently.

Personally, I haven't decided how to vote on this particular motion. I don't think that the bill is very good. So, I am not going to advocate a yes or a no vote. But I do hope that when you all go out and discuss this matter in your communities, you will realize the problems we are facing and the problems that both of these bills are going to present.

Finally in response to Representative Scarpino's comment on the petition, I did not sign this petition, although I was asked to at Cottles Supermarket in Brunswick and when I walked into the supermarket last January, I was asked if I wanted to sign a petition to keep nuclear power out of Maine. That was a very, very misleading question.

The SPEAKER: The Chair recognizes the Representative from St. George, Representative Scarpino.

Representative SCARPINO: Mr. Speaker, Men and Women of the House: I would like to respond also to Representative Brown's question and to some of the statements made by Representative Mitchell. First thing I will say, I will not give you a yes or no answer because while I am not a lawyer, I have seen the trick often enough. I will give you a yes qualified answer and explain the qualification. Yes, they will get a chance to vote on the initiated referendum. But what we are looking at with the competing measure is a measure that is written based on very simple advertising techniques. You can do, a couple of well known words or phrases, things that are readily identified with the subject, in this case Maine Yankee and nuclear waste, and you are almost guaranteed the keyed response from the individual who is not familiar, extremely familiar, with all the questions or extremely familiar with the problem. They identify waste with what they perceive as being the place that creates the most of it. That decision ignores all the specifics, all the safety, all the technology. It is a decision that gets based on a psychological connection. It does obscure, it does confound, and it does it in a very subtle and subliminal method. That is why I feel it is really very important that this question go out as the single question as generated by the initiated petition.

Now, lets talk about a couple of things that Representative Mitchell mentioned. He mentioned some technical problems, things like half life, terms and radiation. I ask you, how many people in this House really understand it? I have no doubt in my mind that I understand it better than anyone on the low level waste siting commission. I trained in the United States Navy under their nuclear power program when it was still run by the AEC. I held a license to operate, maintain and repair nuclear reactors.

Now, lets talk about radiation. We are dealing with three basic kinds of radiation. Alpha particles, Beta particles and Gamma rays. Direct exposure to kill a human being takes approximately 600 rankines of direct exposure. It makes no difference whether that 600 rankine radiation dose comes from radioactive plutonium or a pair of contaminated shoes. The end result is the same.

For the exposure to long term low level radiation, which there is a mounting degree of scientific evidence causes cancers. Once again, it makes no difference whether that radiation is generated by plutonium or plastic gloves. The radiation is the radiation.

Mr. Mitchell also said that he wanted the safest possible method at a reasonable cost. When one is dealing with long term storage of radioactive waste, because there is no disposal, the only thing we are talking about when we are talking about disposal is long term safe storage. It is almost a contradiction in terms to say safest possible and reasonable cost, it is extremely expensive. The safest method is the method that we haven't even considered in this country yet and it is called glassification and deep well burying. We are talking about shallow well, burying it above the ground. So that is a contradiction and that confuses the issue.

Then he talks about these materials having only a half life of only 30 years. So, it is going to be 300 years until they are safe to be around. Well that is relative only. If we are talking about plutonium or cesium with a half life of 25,000 years then yes, that is an only. But we are talking about a human being with a full life of 70 or 80 years. That is not an only. What you are talking about is making a facility that is going to keep this material isolated from the environment for a term longer than the United States has been in existence. That is not an only. In human terms, that is a long time. You look

at all our storage facilities and all our wonderful constructions that we have around, how many of them do we have around that have been here since 1686? Yes, we have a little better construction technique now, but we still have an atmosphere with oxygen in it. Oxygen is an extremely reactive agent, breaks down all kinds of materials real fast, be it cement, be it lead, be it steel, but one is talking about 300 years, so it is a real problem.

People have a right to say, I don't want this problem in my back yard. People should have a right to sit down and say, if we are going to enter into a compact, we want to know what that compact is. We want to say we approve of that compact. People should have a right to say that we think is the safest place. This initiated referendum, in its initial form, says just that very simply, nothing else. There is no need for a greater choice because that one question gives you total choice.

If we put it out with a competing measure, we are giving the people of this state freedom of selection, not freedom of choice. The democratic system is about freedom of choice, let's give them that choice that they have said they wanted. Let's give it to them, totally and solely.

That is more than enough, we all want to get home.

Once again, I just urge you to support the motion to indefinitely postpone this bill.

The SPEAKER: The Chair recognizes the Representative from Dover-Foxcroft, Representative Law.

Representative LAW: Mr. Speaker, Ladies and Gentlemen of the House: There was 40,000 plus that signed the petition and we should protect those rights. But there were also one million people, roughly, in the State of Maine that did not sign those petitions and we should protect those rights also.

I think that the steps that we took in the Energy and Natural Resources Committee to put out a competing measure in the simplest terms gives everybody the right to vote on what they will want.

The SPEAKER: The Chair recognizes the Representative from Madawaska, Representative McHenry.

Representative McHENRY: Mr. Speaker, Ladies and Gentlemen of the House: Although I agree with the Representative from Portland, Representative Connolly, I really believe, even if we had two issues on the referendum ballot with the election laws reform that we have had in the past where the questions are put by number, I don't believe that it would be all that confusing to our constituents.

I have a question to any member who wishes to answer. If I am correct in my belief, I would like them to tell me so. If the two questions were approved, would not the one initiated by us here in the legislature supersede the one initiated by the people? Am I correct in my assumption?

The SPEAKER: Representative McHenry of Madawaska has posed a question through the Chair to any member who may respond, if they so desire.

The Chair recognizes the Representative from Freeport, Representative Mitchell.

Representative MITCHELL: Mr. Speaker, Ladies and Gentlemen of the House: One of the questions will have to have 50 percent of the vote before it becomes law and if neither of the two questions get 50 percent of the vote, there will be another election and we will keep voting until one of them gets half the vote.

The SPEAKER: The Chair recognizes the Representative from Portland, Representative Connolly.

Representative CONNOLLY: Mr. Speaker, Ladies and Gentlemen of the House: That last question I think illustrates something because I don't think some people quite understand how this is going to work. You will only get to check one box. There will be a ballot box and there will be the competing measure and then

there will be the initiated bill and then there will be a box, none of the above. You won't get to check one or more, you only get to check one. Like Representative Mitchell said, one of those three has to get 50 percent. If it doesn't, then we will have a run-off.

The SPEAKER: The Chair recognizes the Representative from Medway, Representative Michaud.

Representative MICHAUD: Mr. Speaker, Men and Women of the House: I hope you vote against the motion to indefinitely postpone the competing measure. There has been a lot said about the people who signed that petition. As I mentioned earlier in my debate, I had constituents call me up that also signed that petition and they want a chance to vote on a place in Maine and they will get that chance for the competing measure. The competing measure offers a lot more, it sets policy. They will have a chance to vote on policy. I have a lot of confidence in the people of the State of Maine that when they go to the polls that they are going to make the right choice, they are not stupid. They are going to ask questions. So, I hope you will go along with me and vote no on the motion to indefinitely postpone.

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

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

The SPEAKER: The pending questions before the House is the motion of Representative Connolly of Portland that the bill and all accompanying papers be indefinitely postponed. Those in favor will vote yes; those opposed will vote no.

ROLL CALL No. 193

YEAS:—Allen, Bell, Bost, Brodeur, Cahill, Carroll, Chonko, Connolly, Crowley, Foss, Foster, Hillock, Holloway, Kimball, Lebowitz, McHenry, Mills, Mitchell, Priest, Reeves, Rydell, Scarpino, Simpson, Small, Sproul, Webster

NAYS:—Aliberti, Armstrong, Baker, A.L.; Beaulieu, Begley, Bonney, Bott, Bragg, Branigan, Brown, A.K.; Brown, D.N.; Callahan, Carrier, Clark, Coles, Conners, Cooper, Cote, Crouse, Daggett, Davis, Dellert, Descoteaux, Dexter, Diamond, Dillenback, Drinkwater, Duffy, Erwin, Farnum, Greenlaw, Gwadnosky, Hale, Handy, Harper, Hayden, Heppburn, Hichborn, Hickey, Higgins, L.M.; Hoglund, Ingraham, Jackson, Jacques, Jalbert, Joseph, Lacroix, Lander, Law, Lawrence, Lisnik, Lord, MacBride, Macomber, Manning, Martin, H.C.; Matthews, Mayo, McCollister, McGowan, McPherson, McSweeney, Melendy, Michael, Michaud, Moholland, Murphy, E.M.; Murphy, T.W.; Murray, Nadeau, G.G.; Nadeau, G.R.; Nelson, Nicholson, Nickerson, O'Gara, Paradis, E.J.; Parent, Perry, Pines, Pouliot, Racine, Randall, Rice, Richard, Ridley, Rioux, Roberts, Rondoni, Salisbury, Sherburne, Smith, C.B.; Soucy, Stetson, Stevens, A.G.; Stevens, P.; Stevenson, Strout, Swazey, Tammara, Tardy, Taylor, Telow, Theriault, Vose, Walker, Warner, Wentworth, Weymouth, Whitcomb, Willey, Zirkilton

ABSENT:—Baker, H.C.; Boutlier, Carter, Cashman, Higgins, H.R.; Kane, Masterman, Paradis, P.E.; Paul, Rolde, Ruhlman, Seavey, Smith, C.W.; The Speaker

26 having voted in the affirmative and 111 in the negative with 14 being absent, the motion did not prevail.

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

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