

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

1st Special Session

OF THE

*One Hundred and Sixth
Legislature*

OF THE

STATE OF MAINE

1974

Kennebec Journal
Augusta, Maine

SENATE

February 1, 1974

Senate called to order by the President.

Prayer by the Rev. Robert Walden of Camden:

We pray, Lord Jesus, for these men and women of the Senate of our beloved State of Maine, that they may know the will of God and may have the spiritual grace and courage to follow it.

We live in an age of excitement and glory, and yet in an age when fears and dangers would torment us from every side. Deliver these Thy servants from every fear and every temptation that would encompass them. Deliver them from all selfish considerations. We pray that you would lift them above the level of partisanship and give them the ideals to express the will of their own best thinking and that of the thinking of those people whom they represent here in this Senate. Fill them, we pray, with the spirit of God to know and to do right and to resist the temptation that frustrates us as a nation, the temptation to use the power and the prestige of high office for personal gain.

Father, we would not be hesitant to thank you for these great United States of ours and to confess that our heart yearns as we see moral corruptions and decay setting in. Help these men and women to set an example in personal living that may redirect others to seeking that which is right and true and good.

Hear and answer, we pray Thee, forgiving us all our unworthiness, cleansing us from every ignoble thought and unworthy ambition, that we may be renewed in spirit and mind and heart, through Jesus Christ our Lord. Amen.

Reading of the Journal of yesterday.

**Papers From The House
Joint Resolution**

STATE OF MAINE

In The Year Of Our Lord One
Thousand Nine Hundred And Seventy-
Four

IN MEMORIAM

WHEREAS, the Legislature has learned with much regret of the passing, on December 22, 1973, of the Honorable Stuart B. Brown of South Portland; and

WHEREAS, he stands high in the memory of his colleagues for having served well in both the 100th and 101st Maine Legislatures; and

WHEREAS, his success in business never altered his willingness to generously give of his time and effort for worthwhile civic needs; and

WHEREAS, the demise of Stuart B. Brown is an immeasurable loss to the people of South Portland and to a host of others throughout the State; now, therefore, be it

RESOLVED: That we, the Members of the 106th Legislature now assembled in special legislative session, record this expression of enduring affection and esteem for his memory and extend our deepest sympathy to his family and our understanding to all others who share in the loss; and be it further

RESOLVED: That a suitable copy of this Joint Resolution be immediately transmitted by the Clerk of the House to his dear wife as a token of our esteem. (H. P. 1936)

Comes from the House, Read and Adopted.

Which was Read and Adopted in concurrence.

Joint Order

WHEREAS, an annual district tax is assessed upon all property in the Maine Forestry District pursuant to Title 12, subchapter X of the Revised Statutes; and

WHEREAS, municipalities within the district feel inequities exist as to the amount of tax paid and benefits received which must be resolved; and

WHEREAS, as impartial study should be made to determine the inequities involved between towns and the use of such proceeds; now, therefore, be it

ORDERED, the Senate concurring, that the Legislative Council be authorized and directed to conduct a study in detail of the Maine Forestry District tax, its assessment and use to determine what, if any, inequities exist between towns and to formulate such legislation as may be necessary in order

to correct the situation; and be it further

ORDERED, that the council provide a report on their findings and recommendations, including all necessary legislation, at the next regular session of the Legislature. (H. P. 1935)

Comes from the House, Read and Passed.

Which was Read and Passed in concurrence.

House Papers

Bill, "An Act Authorizing Director of Public Improvements to Convey Land of the Department of Mental Health and Corrections." (H. P. 1931) (L. D. 2469)

Comes from the House referred to the Committee on State Government and Ordered Printed.

Which was referred to the Committee on State Government and Ordered Printed in concurrence.

Committee Reports

House

Leave to Withdraw

The Committee on Health and Institutional Services on, Bill, "An Act Relating to Admittance of Indigents to Hospitals." (H. P. 1689) (L. D. 2082)

Reported that the same be granted Leave to Withdraw.

Comes from the House the report Read and Accepted.

Which report was Read and Accepted in concurrence.

The Committee on Health and Institutional Services on, Bill, "An Act Amending Laws Relating to Pineland Center." (H. P. 1745) (L. D. 2204)

Reported that the same be granted Leave to Withdraw.

Comes from the House, the report Read and Accepted.

Which report was Read.

Mr. Berry of Cumberland then moved that the matter be tabled and specially assigned for February 5, 1974, pending Acceptance of the Leave to Withdraw Report of the Committee.

On motion by Mr. Hichens of York, a division was had. 17 Senators having voted in the affirmative, and six Senators having voted in the negative, the tabling motion prevailed.

Ought to Pass

The Committee on County Government on, Bill, "An Act to Authorize County Commissioners of Aroostook County to Use 1974 Federal Revenue Sharing Funds for Court System and Jail." (H. P. 1769) (L. D. 2241)

Reported that the same Ought to Pass.

The Committee on Judiciary on, Bill, "An Act Permitting the Supreme Judicial Court to Modify the Rules of Evidence." (H. P. 1800) (L. D. 2281)

Reported that the same Ought to Pass.

Comes from the House, the Bills Passed to be Engrossed.

Which reports were Read and Accepted in concurrence, the Bills Read Once and Tomorrow Assigned for Second Reading.

Senate

Ought to Pass - As Amended

Mr. Clifford for the Committee on State Government on, Bill, "An Act to Make the Term of Office of the State Planning Director Coterminous with that of the Governor." (S. P. 775) (L. D. 2222)

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (S-334).

Which report was Read and Accepted and the Bill Read Once. Committee Amendment "A" was Read and Adopted and the Bill, as Amended, Tomorrow Assigned for Second Reading.

Second Readers

The Committee on Bills in the Second Reading reported the following:

House

Bill, "An Act to Regulate the Size of Shot in Shotgun Shells for Waterfowl Hunting." (H. P. 1915) (L. D. 2444)

Which was Read a Second Time and passed to be Engrossed, in non-concurrence.

Sent down for concurrence.

House - As Amended

Bill, "An Act to Clarify Certain Municipal Laws." (H. P. 1920) (L. D. 2452)

Which was Read a Second Time and Passed to be Engrossed, as Amended, in concurrence.

Senate

Bill, "An Act to Create the Bangor Community Solid Waste District." (S. P. 772) (L. D. 2219)

Which was Read a Second Time and Passed to be Engrossed.

Sent down for concurrence.

Enactors

The Committee on Engrossed Bills reported as truly and strictly engrossed the following:

An Act Relating to Cruelty of Animals. (S. P. 704) (L. D. 2116)

An Act to Regulate Municipal Debt. (S. P. 727) (L. D. 2139)

An Act to Correct Errors and Inconsistencies in the Marine Resources Law. (H. P. 1786) (L. D. 2258)

Which were Passed to be Enacted and, having been signed by the President, were by the Secretary presented to the Governor for his approval.

Emergencies

An Act Relating to Expending Cumberland County Funds at County Jail and Recreation Center. (H. P. 1832) (L. D. 2323)

An Act Relating to Time of Referendum for Ratification of "An Act to Authorize Creation of the Maine Inland Fisheries and Game Acquisition Fund and Financing Thereof". (S. P. 853) (L. D. 2405)

An Act to Authorize County Commissioners of Oxford County to use 1974 Federal Revenue Sharing Funds for Operating Expenses for Oxford County Regional Airport. (S. P. 742) (L. D. 2154)

These being emergency measures and having received the affirmative votes of 23 members of the Senate, were Passed to be Enacted and, having been signed by the President, were by the Secretary presented to the Governor for his approval.

Orders of the Day

The President laid before the Senate the first tabled and specially assigned matter:

SENATE REPORTS — from the Committee on State Government on RESOLUTION, Proposing an Amendment to the Constitution Broadening the Limitation for Revenues Derived from Taxation of Vehicles Used on Public

Highways and Fuels Used by Such Vehicles. (S. P. 756) (L. D. 2166) Report "A" Ought Not to Pass, Report "B" Ought to Pass and Report "C" Ought to Pass as Amended by Committee Amendment "A" (S-332)

Tabled — January 31, 1974 by Senator Brennan of Cumberland.

Pending — Motion of Senate Berry of Cumberland to accept Report "A" — Ought Not to Pass.

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

Mr. MORRELL: Mr. President and Members of the Senate: As you know, gas taxes are constitutionally dedicated for a rather narrow use for highways, for funding of the Motor vehicle division, and a portion of the support for the State Police, and I hesitate, because I put the bill in, to say it makes sense. May be it is for that reason that it perhaps does. But I think that, in spite of the difficult times that we are in relative to highway fund resources, my intention here was to keep this kind of consideration before us from time to time, because I think it does make good business sense to seriously consider the merits of the Joint Standing Committee on Transportation having full responsibility for all the various bureaus within that department.

As it is now, the Highway Department is funded through the highway funds and the remainder of the department is funded through general revenues, and it just seems to me that if we asked that Joint Standing Committee to have full responsibility, if we relied upon that source of funds at the very least to fund the entire department, that you would get the kind of overview and discipline that seems to me to make fiscal responsibility more apparent in that area.

I would hope that today we wouldn't quickly dismiss this. I am under no illusions as to its ultimate chances of passage, but I would hope that it perhaps might be kept alive, not for long, but for a little bit more discussion. At some point I will introduce an order suggesting that a study be made of the entire subject of highway funding, and feel that at some point the people of Maine ought to make the decision, as they did back in

the 40's as to whether or not dedicated funds should be continued in the manner in which they are.

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

Mr. SPEERS: Mr. President and Members of the Senate: I would certainly support the good Senator from Cumberland, Senator Morrell, in supporting such an order but, as we all very well realize, we need not have this bill before us in order to introduce or support such an order.

I signed the Report "A", Ought Not to Pass, on this particular bill, and I don't think that it reflects necessarily my thinking on whether or not the Highway Department should be funded out of the General Fund or whether some of the dedicated revenues should be used for other matters besides specifically highways, or whether it could be used for other modes of transportation. I don't think we even need to get to that question, or even can get to that question, in deciding on the fate of this particular bill, because we are presented with a very stark reality that we really can't ignore. That is that Highway does not at the present time have money to do the job as it should be done, and we are faced with a bill that would increase the gasoline tax by two cents just to maintain our highways and to continue the program as it has in the past. So really we don't even get to the philosophical question as to whether or not some of these funds should be used for other modes of transportation because we are faced with the reality that there just plain isn't enough money at the present time to fill the potholes. so, I would support the motion of the good Senator from Cumberland, Senator Berry, and urge the Senate to accept the Ought Not to Pass Report "A".

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

Mr. CLIFFORD: Mr. President and Members of the Senate: I think the regular session had before it the constitutional amendment which would have opened up the entire dedicated revenue funds and made them subject to legislative approval. That went down to defeat,

and although I voted for that, I don't think I would if that similar bill came up again. I think there is a great distinction between that bill and the resolution before us now because the resolution now only opens up those dedicated funds for transportation uses.

I think what we are doing is facing reality that transportation problems are related to one another and that we have got to face the whole transportation issue, not only roads, but all the other aspects, trains and mass transit bus service. They are related and they must be faced as an entire picture. I think this is what this would do. If it went before the people, they would have the choice of whether or not they felt that the money they paid for their gas taxes could be used to solve our entire transportation problem. But I do think that the ultimate solution is the consideration of these other modes of transportation, therefore, I would urge you to oppose this motion and let this bill move along so that perhaps at the final time, when it requires a two-thirds vote, we could consider as to whether or not we want it to go to the people. Thank you.

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

Mr. BERRY: Mr. President and Members of the Senate: The purposes of the bill and the motives of the two speakers, I am sure, are extremely laudable but the bill is extremely broad. We have given the Department of Transportation many other responsibilities other than pure transportation as we visualize it. The money from the gas tax revenue could be used for building airports, building ferries, building docks and other things, and I don't believe that is what anybody wants. I know we would all support a study resolution, and I would hope something like that would come along. I don't think this bill should continue to exist.

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

Mr. KATZ: Mr. President and Members of the Senate: If we are going to have a study, I think it should be a comprehensive study of how many studies we have made on the question before us.

If there is one thing we don't need, it is a study; it is a question of philosophical approach.

I think the highway people have done an extraordinarily good job meeting the needs of the people of the state for a dependable highway system, but in the process we have overlooked some very, very substantial needs. For example, in New York City it is the right people who ride in taxicabs; in Augusta, Maine it is the poor people. If you are a poor person and you want to get from here to Rockland, good luck to you.

If there is one thing the transportation people agree on, it is that you have to look at the intermodal alternatives of transportation to solve your transportation needs, and I really feel that the time has come for us to accept the fact there is a relationship between flying to Boston and driving to Boston and hitchhiking to Rockland and being able to take a bus to Rockland.

As this election year unfolds, I think we are going to find the people are deeply concerned at transportation and the inability to get transportation except by the device of getting behind a large car and driving one-on-one to their destination. I hope you don't accept this motion, and I hope we take a serious look this session, not in study, but this session of the advisability of passing this Constitutional Amendment.

The PRESIDENT: The pending motion before the Senate is the motion of the Senator from Cumberland, Senator Berry, that the Senate accept Report "A" of the Committee on Resolution, Proposing an Amendment to the

Constitution Broadening the Limitation for Revenues Derived from Taxation of Vehicles Used on Public Highways and Fuels Used by Such Vehicles. The Chair will order a division. As many Senators as are in favor of accepting the Ought Not to Pass Report "A" of the Committee will please rise and remain standing until counted. Those opposed will please rise and remain standing until counted.

A division was had. 10 Senators having voted in the affirmative, and 14 Senators having voted in the negative, the motion did not prevail.

Thereupon, on motion by Mr. Morrell of Cumberland, the Ought to Pass Report "B" of the Committee was Accepted, the Resolution Read Once and Tomorrow Assigned for Second Reading.

The President laid before the Senate the second tabled and specially assigned matter:

Bill, "An Act Providing Emergency Funds for Staffing a Fuel Allocation Office Within the Bureau of Civil Defense for the Fiscal Year Ending June 30, 1974." (S. P. 834) (L. D. 2366)

Tabled — January 31, 1974 by Senator Berry of Cumberland.

Pending — Enactment.

On motion by Mr. Berry of Cumberland, retabled and Specially Assigned for February 5, 1974, pending Enactment.

On motion by Mr. Sewall of Penobscot, Adjourned until Monday, February 4, 1974, at 4:00 o'clock in the afternoon.