

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

Tuesday, February 5, 1974

Called to order by the President.

Prayer by the Rev. Father John Donovan of Winthrop:

In the name of the Father, the Son, and the Holy Spirit. Amen.

Almighty God, we stand before you and realize that time creates problems that challenge the human mind. The long shadows of those problems stimulate the human imagination. You have given us an intellect to face the challenge, a human heart to compensate for the weakness of man, a love that will give us an interest in others. We believe when we see that you change the dreary scenes of winter into land kissed by you with sunshine and flowers. We know that without you we are alone, but with you we can face the world. In the name of the Father, the Son, and the Holy Spirit. Amen.

Reading of the Journal of yesterday.

**Papers From the House
Joint Order**

WHEREAS, many forested areas of northern Maine are endangered by an insect infestation known as the spruce budworm; and

WHEREAS, the State of Maine shares the cost of spraying programs in an effort to bring this infestation under control; and

WHEREAS, appropriations for this control program have increasingly mounted to meet expanded infestations; and

WHEREAS, the course of the infestation indicates that substantial funds will be needed in the future to deal with the spruce budworm problem; now, therefore, be it

ORDERED, the Senate concurring, that the Legislative Council be authorized and directed to fully review the spruce budworm control problem including, but not limited to, determining the overall direction of the State concerning this problem, the costs involved on behalf of the State with a view toward ascertaining with all possible certainty what progress has been made to date in bringing the infestation of spruce budworm under control and to what extent

the Legislature can reasonably anticipate costs of protection and state participation in the future; and be it further

ORDERED, that the council report the results of their findings and recommendations, including any needed legislation, at the next regular session of the Legislature. (H. P. 1944)

Comes from the House, Read and Passed.

Which was Read.

On motion by Mr. Berry of Cumberland, tabled and Tomorrow Assigned, pending Passage.

House Papers

Bills today received from the House requiring Reference to Committees were acted upon in concurrence.

Communications

State of Maine
House of Representatives
Augusta, Maine 04330

February 4, 1974

Hon. Harry N. Starbranch
Secretary of the Senate
106th Legislature

Dear Mr. Secretary:

Today the House voted to adhere to its action of January 30, 1974 whereby it indefinitely postponed H. P. 1915, L. D. 2444, AN ACT to Regulate the Size of Shot in Shotgun Shells for Waterfowl Hunting.

Respectfully,
E. LOUISE LINCOLN, CLERK
House of Representatives

Which was Read and Ordered Placed on File.

**Committee Reports
House
Leave to Withdraw**

The Committee on Education on, Bill, "An Act Repealing Two-year Limitation in Contracts Between University of Maine and Colleges Outside of Maine to Provide Additional Educational Opportunities." (H. P. 1779) (L. D. 2251)

Reported that the same be granted Leave to Withdraw.

The Committee on Human Resources

on, Bill, "An Act Relating to Police Officers for the Indian Tribes." (H. P. 1666) (L. D. 2059)

Reported that the same be granted Leave to Withdraw.

The Committee on Natural Resources on, Bill, "An Act to Extend Time When Towns May Accept to Join the Cobbossee-Annabessacook Authority." (H. P. 1777) (L. D. 2249)

Reported that the same be granted Leave to Withdraw.

Come from the House, the reports Read and Accepted.

Which reports were Read and Accepted in concurrence.

Divided Report

The Majority of the Committee on Taxation on, Resolution, Proposing an Amendment to the Constitution to Permit the Federal Government, by Agreement, to Collect Maine Individual Income Taxes. (H. P. 1856) (L. D. 2349)

Reported that the same Ought Not to Pass.

Signed:

Senators:

WYMAN of Washington

COX of Penobscot

FORTIER of Oxford

Representatives:

MORTON of Farmington

FINEMORE of Bridgewater

IMMONEN of W. Paris

MERRILL of Bowdoinham

MAXWELL of Jay

DAM of Skowhegan

SUSI of Pittsfield

The Minority of the same Committee on the same subject matter reported that the same Ought to Pass.

Signed:

Representatives:

DRIGOTAS of Auburn

DOW of West Gardiner

COTTRELL of Portland

Comes from the House, the Majority Ought Not to Pass report Read and Accepted.

Which reports were Read and the Majority Ought Not to Pass Report of the Committee Accepted in Concurrence.

Divided Report

The Majority of the Committee on Legal Affairs on, Bill, "An Act Relating to the Installation of Sprinkler Systems

in all New and Existing Hotels." (H. P. 1694) (L. D. 2087)

Reported that the same Ought Not to Pass.

Signed:

Representatives:

FAUCHER of Solon

CAREY of Waterville

COTE of Lewiston

SHAW of Chelsea

BRAWN of Oakland

FECTEAU of Biddeford

DUDLEY of Enfield

The Minority of the same Committee on the same subject matter reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-661).

Signed:

Senators:

JOLY of Kennebec

ROBERTS of York

HENLEY of Oxford

Representatives:

EMERY of Rockland

SHUTE of Stockton Springs

CONNOLLY of Portland

Comes from the House, Bill and accompanying papers Indefinitely Postponed.

Which reports were Read.

The PRESIDENT: The Chair recognizes the Senator from York, Senator Roberts.

Mr. ROBERTS: Mr. President, I move that the Majority Ought Not to Pass Report be accepted, and I would like to speak briefly to my motion.

The PRESIDENT: The Senator from York, Senator Roberts, moves that the Senate accept the Majority Ought Not to Pass Report of the Committee, and the Senator has the floor.

Mr. ROBERTS: Mr. President and Members of the Senate: As you will see, I, along with Senator Joly and Senator Henley, signed the Minority Report. At that time it involved an amendment to this bill which would exclude any properties which had two stories. The bill was originally drawn so that if any building had a second story then it had to be sprinkled. We amended it, or thought we did, to exclude buildings that had two stories, which covered most of your motel units.

We have since found out that legally there is a very good possibility that if the building has any kind of a third floor,

such as an attic or any third story, that they would then insist that the whole building be sprinkled, regardless of the fact that only the first two floors were used for sleeping quarters. The same thing is true of a building which might be built, and some of them are, whereby the ground floor has a cellar or at least has a heating system and has duct type of rooms and sleeping rooms on the two floors above.

In view of what appears to be problems with this bill, I have now changed my stand on the bill and have made the motion that the Senate accept the Majority Ought Not to Pass Report of the Committee.

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

Mr. BERRY: Mr. President, I understand the Senator from Kennebec, Senator Joly, shares the views of Senator Roberts.

The PRESIDENT: The pending motion before the Senate is the motion of the Senator from York, Senator Roberts, that the Senate accept the Majority Ought Not to Pass Report of the Committee on Bill, "An Act Relating to the Installation of Sprinkler Systems in all New and Existing Hotels", Legislative Document 2087. Is this the pleasure of the Senate?

The motion prevailed.

Second Readers

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

House

Bill, "An Act to Repeal the Sewerage Provisions of the Lincoln Water District." (H. P. 1765) (L. D. 2233)

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

Senate

Bill, "An Act Exempting Machinery and Equipment Used for Manufacturing and Research from Sales and Use Tax." (S. P. 746) (L. D. 2158)

Bill, "An Act to Provide for Continuation of Service by Cable Television Systems, to Facilitate Compliance with Federal Communications Commission Regulations and to Fix Liability for Cable Television Programming." (S. P. 827) (L. D. 2361)

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

Sent down for concurrence.

Senate - As Amended

Bill, "An Act Providing for a Credit in Maine Income Tax Law for Investment in Pollution Control Facilities." (S. P. 737) (L. D. 2149)

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

Sent down for concurrence.

Enactors

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

An Act Exempting Certain Sales through Coin-operated Vending Machines from the Sales Tax. (S. P. 753) (L. D. 2163)

(On motion by Mr. Sewall of Penobscot, placed on the Special Appropriations Table.)

An Act to Implement the Federal Aid Safer Roads Demonstration Program and to Make Additional Allocations from the General Highway Fund. (S. P. 878) (L. D. 2443)

An Act Clarifying Banking Laws. (H. P. 1918) (L. D. 2450)

Which, except for the tabled matter, 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

On motion by Mr. Sewall of Penobscot, Recessed until the sound of the bell.

After Recess

Called to order by the President.

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

Bill, "An Act Relating to Liability of Natural Gas Distributors." (S. P. 710) (L. D. 2122)

Tabled—January 31, 1974 by Senator Clifford of Androscoggin.

Pending—Enactment.

On motion by Mr. Clifford of Androscoggin, and under suspension of the rules, the Senate voted to reconsider its prior action whereby the Bill was Passed to be Engrossed.

The same Senator then presented

Senate Amendment "B" and moved its Adoption.

Senate Amendment "B", Filing No. S-333, was Read.

The PRESIDENT: The Senator has the floor.

Mr. CLIFFORD: Mr. President the Members of the Senate: The purpose of this amendment is to change the bill from one of strict liability to one of a rebuttable presumption of negligence when there is an explosion or fire caused by natural gas.

This is the third amendment, Mr. President, which has been offered on this bill. The first two were offered at the request of the gas company, and I was happy to add them, or see them added, in a spirit of compromise and without any great desire to punish the gas companies. This amendment is a further attempt at compromise to soften the bill, to eliminate entirely the concept of strict liability, and to allow the victim of a gas explosion to get into court. It is also to allow the gas company, which is in a better position, I think, to know the facts and the state of its distribution system, and in a better position to know how the gas escaped, if in fact it did escape, to show that it is not at fault. And this bill, with its rebuttable presumption of negligent conduct, allows the gas company to escape liability if in fact there is no fault.

So I would hope that we could add this amendment, and I think that the other body might take a different version of the bill with this amendment because it does substantially change the nature of the bill. Thank you, Mr. President.

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

Mr. TANOUS: Mr. President, I opposed this bill when it came out of committee, and now Senator Clifford has offered an amendment to the bill, so I certainly would be one who perhaps would like to have an opportunity to look at the amendment closely and perhaps would like to have an opportunity to look at the amendment closely and perhaps do some research on it. This is a most serious step in our tort law in this area, and I would appreciate it if somebody might table this for one day.

The PRESIDENT: The Chair re-

cognizes the Senator from Penobscot, Senator Sewall

Thereupon, on motion by Mr. Sewall of Penobscot, retabled and Tomorrow Assigned, pending Adoption of Senate Amendment B.

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

HOUSE REPORT—from the Committee on Health and Institutional Services Bill, "An Act Amending Laws Relating to Pineland Center." (H. P. 1745) (L. D. 2204) Leave to Withdraw Report.

Tabled—February 1, 1974 by Senator Berry of Cumberland.

Pending—Acceptance of Report.

The PRESIDENT: The Chair recognizes the Senator from York, Senator Hichens.

Mr. HICHENS: Mr. President and Members of the Senate: I move to accept the committee report and would speak on my motion. I am reluctant to have to read this but I am afraid I might leave out some important facts, and I know the reporters appreciate my reading it so they don't have to listen as carefully and can take it from the record as I have written it.

About two years ago, Mental Health and Corrections Commissioner William Kearns told a Legislative Study Committee that he wished the legislature would keep their noses out of administrative business. He was reminded that when the legislature had to appropriate funds it was their business. I might reverse his philosophy today by saying that his director of Mental Health, Dr. William Schumacher, should keep his nose out of legislative business, except as requested by the legislature.

L. D. 2204 was presented to the Health and Institution Services Committee early in January. Dr. Schumacher, when asked why he was speaking for a Pineland bill instead of Dr. Anderson, Director of Mental Retardation, replied, "I really don't know. Dr. Anderson just asked me to speak for the bill." There were only a few people present at the hearing, due to misinformation on the hearing date, of which I, as Committee Chairman, am partly to blame. Dr. Schumacher and Attorney Cortland

Perry supported the bill, and Mr. Robert Montminy, Union Leader, was there to oppose it. It was a lengthy hearing and the committee asked many questions. Several letters against the bill have been received by committee members since.

During executive session a motion was made for indefinite postponement. In deference to the sponsor, a member of the committee, he was asked if he would rather ask leave to withdraw. Reluctantly, because he stated that he would like to say some things on the floor of the House, the sponsor asked leave to withdraw. As such, the bill came out of committee and the report was accepted by the other body. Immediately Dr. Schumacher, asserting that he was emasculated by the committee at the hearing, got after the Speaker of the House and finally after the President of the Senate, who requested that action on the Committee Report be tabled by a fellow Senator.

As you recall, I asked for a division on the motion and the motion prevailed. In discussion with the President of the Senate, I was told that the Health and Institutional Services Committee was to meet with Commissioner Kearns, Dr. Schumacher and Attorney Perry to discuss the bill and allegations that the co-chairmen of the committee have made recently against the Mental Health and Corrections Department. I have no qualms whatsoever about discussing the allegations, but I do seriously question why any committee has to defend their actions on a bill before leadership, the Legislative Council and department heads. To my knowledge, no committee has ever been subjected to such a meeting, at least while I have been a state legislator.

I, therefore, urge the acceptance of the committee report so that we may proceed with legislative business, and trust that the administrators will do the same in their own departments.

The PRESIDENT: The Senator from York, Senator Hichens, moves that the Senate accept the Leave to Withdraw Report of the Committee on Bill, "An Act Amending Laws Relating to Pineland Center".

The Chair recognizes the Senator from Cumberland, Senator Berry.

Mr. BERRY: M. President and Mem-

bers of the Senate: I am very sympathetic with the views of Senator Hichens, Chairman of the Health and Institutions Committee. However, I think that we all would agree that a discussion of problems is very much in order, and the meeting to which Senator Hichens refers is in no way a reflection on the integrity or the ability of his committee, which has done yeoman service in solving what we all recognize as a very serious albeit emotional problem.

I do want to assure Senator Hichens that this is the only purpose of any meeting of legislators, to try to thrash out a problem such as this. I would hope as a result of the meeting to which Senator Hichens refers, as it will be held this afternoon, that many people will be in the position to inform the legislature, the Senate and House, tomorrow on further aspects of the problem.

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

Mr. Sewall of Penobscot then moved that the Bill be tabled and Tomorrow Assigned, pending Acceptance of the Committee Report.

On motion by Mr. Hichens of York, a division was had. 24 Senators having voted in the affirmative, and five Senators having voted in the negative, the Bill was retabled and Tomorrow Assigned, pending Acceptance of the Committee Report.

The President laid before the Senate the third 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—February 1, 1974 by Senator Berry of Cumberland.

Pending—Enactment.

On motion by Mr. Berry of Cumberland, retabled and Tomorrow Assigned, pending Enactment.

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

Bill, "An Act Relating to Municipal Fire Protection." (H. P. 1707) (L. D. 2100)

Tabled—February 4, 1974 by Senator Berry of Cumberland.

Pending—Enactment.

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

Mr. TANOUS: Mr. President, I have an amendment for this L. D. 2100, and would appreciate it if it might be tabled for one day. I thought it would be ready but it isn't.

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

Thereupon, on motion by Mr. Berry of Cumberland, retabled and Tomorrow Assigned, pending Enactment.

On motion by Mr. Sewall of Penobscot, Adjourned until 10 o'clock tomorrow morning.