

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

*One Hundred and Seventh
Legislature*

OF THE

STATE OF MAINE

1975

KENNEBEC JOURNAL
AUGUSTA, MAINE

SENATE

Friday, April 4, 1975

Senate called to order by the President.
Prayer by Father Hilary Cameron of North Whitefield:

Let us pray. Heavenly Father, as we celebrate the season of your divine son's resurrection, we ask that the new light and life and the spirit of hope that Christ brought to the world may inspire all those who are gathered here today. May your blessings come upon the members of the Maine Senate as they strive to legislate and govern the activities of their fellow citizens. May your graces fill them with goodness, justice, wisdom and integrity as they work to provide for improved conditions for all, for the young and the old, the rich and the poor, the sick and the healthy, for men and women of all creeds and races. Grant them the courage to work sincerely and untiringly for justice and harmony on behalf of all the citizens of Maine, and may the integrity and good example both in their public and private lives be an inspiration to all who know them. We ask these blessings, our Heavenly Father, through your son Jesus Christ and the Holy Spirit, who live and reign with you for ever and ever. Amen.

Reading of the Journal of yesterday.

**Papers from the House
Non-concurrent Matter**

Bill, "An Act for the Humane Treatment of Animals in Schools, Public and Private." (H. P. 457) (L. D. 561)

In the Senate March 19, 1975, Passed to be Engrossed as Amended by Committee Amendment "A" (H-73), in concurrence.

Comes from the House, Passed to be Engrossed as Amended by House Amendment "A" (H-119), in non-concurrence.

Thereupon, an motion by Mr. Hichens of York, tabled and Tomorrow Assigned, pending Consideration.

Non-concurrent Matter

Bill "An Act Relating to County Administration of Certain Federal Programs." (S. P. 416) (L. D. 1312)

In the Senate March 27, 1975, referred to the Committee on State Government and Ordered Printed.

Comes from the House, referred to the Committee on Local and County Government and Ordered Printed, in non-concurrence.

Thereupon, in motion by Mr. Conley of Cumberland, the Senate voted to Recede and Concur.

Non-concurrent Matter

Bill, "An Act Raising the Age of Persons who may Purchase Alcoholic Beverages or Sell as Licensees." (S. P. 4) (L. D. 4)

In the Senate April 2, 1975, Passed to be Engrossed as Amended by Committee Amendment "A" (S-40).

Comes from the House, Bill and accompanying papers Indefinitely Postponed, in non-concurrence.

Thereupon, on motion by Mr. Speers of Kennebec, Tabled and Specially Assigned for April 8, 1975, pending Consideration.

Non-concurrent Matter

Bill, "An Act Relating to the Liability of Physicians and Surgeons Rendering Emergency Care." (H. P. 336) (L. D. 419)

In the House March 18, 1975, Recommended to the Committee on Judiciary.

In the Senate March 19, 1975, the

Majority Ought Not to Pass report Read and Accepted, in non-concurrence.

Comes from the House, that Body having Insisted and Asked for a Committee of Conference.

Thereupon, the Senate voted to Insist and Join in a Committee of Conference.

The President appointed on the part of the Senate the following Conferees: Senators

COLLINS of Alna
CLIFFORD of Androscoggin
MERRILL of Cumberland.

House Papers

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

Communications

STATE OF MAINE
One Hundred And Seventh Legislature
House of Representatives
Office of the Clerk
Augusta, Maine 04330

April 3, 1975

Hon. Harry N. Starbranch
Secretary of the Senate
107th Legislature

Dear Mr. Secretary:

The House today voted to Insist and Join in a Committee of Conference on Bill "An Act Exempting Solar or Wind Power Facilities from Sales Tax" (S. P. 56) (L. D. 125).

The Speaker appointed the following members of the House to the Committee: Representatives:

BOUDREAU of Portland
USHER of Westbrook
TYNDALE of Kennebunkport

Respectfully,
Edwin H. Pert, Clerk
House of Representatives

Which was Read and Ordered Placed on File.

On the disagreeing action of the two branches of the Legislature on Bill, "An Act Exempting Solar or Wind Power Facilities from Sales Tax," (S. P. 56) (L. D. 125), the President appointed the following Conferees on the part of the Senate:

Senators:
CUMMINGS of Penobscot
BERRY of Cumberland
HUBER of Cumberland

Augusta, Maine
April 3, 1975

To the Honorable Senate and House of Representatives of the One Hundred and Seventh Legislature:

Transmitted herewith is the Eighteenth Biennial Report of the Maine-New Hampshire Interstate Bridge Authority which is being presented in accordance with Chapter 18, Article VI, Private and Special Laws of 1937.

Respectfully submitted,
ROGER L. MALLAR, Vice-Chairman
Maine-New Hampshire Interstate
Bridge Authority
(S. P. 442)

Which was Read and with accompanying papers Ordered Placed on File.
Sent down for concurrence.

**Senate Papers
Judiciary**

Mr. Huber of Cumberland presented, Bill, "An Act Providing for Impoundment of Records of Commitment of Recovered Mental Patients." (S. P. 437)

Which was referred to the Committee on Judiciary and Ordered Printed.
Sent down for concurrence.

State Government

Mr. Trotzky of Penobscot presented, Bill, "An Act Relating to Tenants Serving on State and Local Housing Authorities." (S. P. 439)

Mr. Huber of Cumberland (Cosponsor: Mr. Marcotte of York) presented, Bill, "An Act to Reassign the Functions of the Department of Commerce and Industry and the Office of Energy Resources." (S. P. 440)

Mr. Carbonneau of Androscoggin presented, RESOLUTION, Proposing an Amendment to the Constitution to Provide for Succession in the Event of the Governor's Inability to Discharge the Powers and Duties of His Office. (S. P. 441)

Which were referred to the Committee on State Government and Ordered Printed.

Sent down for concurrence.

Taxation

Mr. Greeley of Waldo presented, Bill, "An Act to Require Legislative Approval of State Property Assessment Districts, Assessment Standards and their Implementation Schedules." (S. P. 438)

Which was referred to the Committee on Taxation and Ordered Printed.
Sent down for concurrence.

**Committee Reports
House**

The following Ought Not to Pass reports shall be placed in the legislative files without further action pursuant to Rule 17-A of the Joint Rules:

Bill, "An Act to Require the Identification in Telephone Company Directories of Subscribers using Recording Answering Devices." (H. P. 415) (L. D. 502)

Bill, "An Act to Prohibit the Use of Telephone Recording Answering Devices." (H. P. 673) (L. D. 848)

Leave to Withdraw

The Committee on Legal Affairs on, Bill, "An Act to Authorize Removal of Dam on Bond Brook in Augusta in Order to Remove a Danger to Playing Children and to Permit Anadromous Fish to Ascend that Brook." (H. P. 814) (L. D. 988)

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.

Ought to Pass - as Amended

The Committee on Education on, Bill, "An Act Relating to State Subsidy for Units were Federally Impacted Students." (H. P. 107) (L. D. 104)

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-116).

Comes from the House, the Bill Passed to be Engrossed as Amended by Committee Amendment "A".

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

The Committee on Appropriations and Financial Affairs on, Bill, "An Act Appropriating Funds for the State Share of the Spruce Budworm Control Program and Imposing a Tax on Forest Lands for Spruce Budworm Control." (H. P. 560) (L. D. 689)

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-62).

Comes from the House, the Bill Passed to be Engrossed as amended by Committee Amendment "A" was Read.

Which report was Read and Accepted in concurrence and the Bill Read Once. Committee Amendment "A" was Read.

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

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

The PRESIDENT: The Chair would advise the Senator from Kennebec, Senator Reeves, that unless you are proposing to amend Committee Amendment "A", the proper procedure would be to wait until the next legislative day to debate the entire bill and the amendment. In other words, the matter at this point is not yet before the body. Is it the pleasure of the Senate to adopt Committee Amendment "A"?

Thereupon, Committee Amendment "A" was Adopted and the Bill, as Amended, Tomorrow Assigned for Second Reading.

Senate

Leave to Withdraw

Mr. Johnston for the Committee on Business Legislation on, Bill, "An Act Relating to the Purchase of Insurance by the Maine Insurance Advisory Board." (S. P. 196) (L. D. 664)

Reported that the same be granted Leave to Withdraw.

Which report was Read and Accepted. Sent down for concurrence.

Ought to Pass

Mr. Reeves for the Committee on Business Legislation on, Bill, "An Act to Abolish Certain Filing Requirements for Out-of-State Nurserymen and Dealers Doing Business with this State." (S. P. 262) (L. D. 859)

Reported that the same Ought to Pass.

Which report was Read and Accepted, the Bill Read Once and Tomorrow Assigned for Second Reading.

Second Readers

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

House

Bill, "An Act Relating to Definition of Out-of-State Service under State Retirement System." (H. P. 73) (L. D. 85)

Bill, "An Act to Amend the Charter of the Van Buren Light and Power District." (H. P. 740) (L. D. 921)

Bill, "An Act to Protect the Rights of Persons Seeking Benefits under Maine's Workmen's Compensation Law." (H. P. 1222) (L. D. 1210)

Bill, "An Act to Reorganize the State Personnel Board." (H. P. 1238) (L. D. 1264)

Bill, "An Act Relating to Expenditures of the Town Road Improvement Fund." (H. P. 1247) (L. D. 1266)

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

House - As Amended

Bill, "An Act Relating to Subsidized Adoptions." (H. P. 203) (L. D. 248)

Bill, "An Act Creating Uniform Standards for Disqualification of Applicants with Prior Criminal Convictions for a License or Permit to Practice a Trade or Occupation Regulated by the State." (H. P. 330) (L. D. 402)

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

Bill, "An Act Relating to Pulmonary and Cardiac Diseases under the Workmen's Compensation Act." (H. P. 230) (L. D. 286)

Which was Read a Second Time.

Mr. Roberts of York then presented Senate Amendment "B" and moved its Adoption.

Senate Amendment "B", Filing No. S-47, was Read.

The PRESIDENT: The Senator has the floor.

Mr. ROBERTS: Mr. President and Members of the Senate: This bill came before the Labor Committee and was reported out in a new draft, which originally was Committee Amendment "A", unanimous Ought to Pass. At the hearing there was no objection to the bill. In the course of the bill, going through the House it was discovered that one of the essential parts of the original bill as it was originally printed in L.D. 286 had been omitted from the bill. That was why it was continued and that is the purpose of this amendment.

The bill as originally passed by the committee would allow anyone who was a member of either a permanent or a volunteer fire department for a period of two years, and who as a result of his activities as a firefighter either at a fire, at a drill, or at a training session received an injury which could turn out to be pulmonary or cardiac in nature, which either caused death or caused injury, within six months of that person having participated in a fire, a drill or a training session that the usual presumption in most workmen's compensation cases is a presumption that the person was not injured or the injury did not occur in connection with the work that he was doing, and it is up to the person injured to have the burden of proving that this particular injury that he suffered was connected with his employment.

In this instance, the real problem and the real reason for this bill is that it is very difficult in heart and pulmonary cases to definitely point out the exact moment at which damage is caused because the results oftentimes don't show up for weeks and sometimes months. The purpose here is to allow for a period of six months from the period when the person was either in a fire and overcome by smoke or was in training or on a drill.

Now, in training and drills they oftentimes use actual simulated fire conditions. They have smoke that they use and other types of conditions which simulate what you do at a real fire, including racing up and down ladders and including carrying people out of buildings, and that sort of thing. So this is amended to indicate that if such a training or drill which actually involves firefighting, not just to go to a drill and get a lecture on how to do something, but if you are actually involved with firefighting in that drill, and

so on, and as a result of that drill someone has a seizure within six months, in this case the presumption shifts and the presumption is then in favor of the injured party or the party who has died, in the case of a death, that it occurred in connection with his employment as a fireman or a volunteer fireman. Then it is up to the municipalities, or they all do as far as I company in most cases because most municipalities, or they all do as far as I know, carry workmen's compensation insurance, but it is up to the community to disprove that.

There has been objection to this bill, and the objection mainly is that at least Maine Municipal is concerned with how much it may cost the communities. There is nothing to base the actual cost on and there was a letter on your desks to that effect yesterday. However, the State of New Hampshire has a law, and Maine Municipal has found out how much that costs, but I would simply like to point out that the State of New Hampshire law goes far, far beyond this law, because in New Hampshire they have this same change of the presumption in favor of the injured person, but that change of presumption isn't for six months; it is for as long as the person is a member of the fire department, plus five years after he retires or after he leaves the firefighting unit that he is with. So it could, if a man became a permanent fireman in a city and stayed on until he was 60 or 65, go on even five years more, and obviously almost anybody could have a heart attack almost any time under that bill and the presumption will be in favor of the man. This one is only six months from the time when he has been exposed either, as I say, through fighting a fire or through a drill which involves simulated firefighting conditions. Also this does not apply to a person as soon as he comes on the force, but only after he has been on the force for two years, on the firefighting force or in the firefighting department.

I understand there is no reason why all these communities can't, if they want to, and they certainly should in my opinion, require all people that are in firefighting to take physicals and, therefore, if somebody does have a pulmonary condition of some sort or a cardiac condition of some sort, then that person certainly shouldn't be fighting fires, not only for his own life but also for the fact that he is an additional risk on the part of the community, and I feel that this is only fair.

What has happened in recent years is that we not only now have a problem with smoke but we have a problem with all sorts of different poisonous gases that are generated pretty much from plastic. Almost every house has a fair amount of plastic, either in furniture or sometimes in the actual building materials themselves, in drapes and that sort of thing, and when plastic burns you get a poisonous gas which has caused a lot of damage and we had before our committee maybe half a dozen people, at least, who have after leaving the service developed all sorts of pulmonary problems, and today there is no help for them because they can't specifically show that this came from their activity as a fireman.

I would hope that the Senate would approve this amendment that I have presented.

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

Mrs. CUMMINGS: Mr. President and

Members of the Senate: I rise today to oppose L. D. 286. I think that this bill was inspired by the firefighters who are organized in the larger communities. My district is composed primarily of small towns, and I see this as one more inroad, one more requirement, that they spend monies which they haven't got to spend. Most of the communities that I represent have volunteer fire departments and I think that their whole attitude towards this is quite different.

The redrafted legislation recommended by the Labor Committee represents a radical departure from the existing provisions of the occupational disease law. It is my understanding that if this law is enacted it will result in increased costs for communities of all sizes and particularly for small towns. It will do so because it shifts the burden of proof upon the town or volunteer fire association to demonstrate that heart or lung diseases suffered by a fireman are not the result of his or her work as a fireman or firewomen.

If enacted, the first action all towns and volunteer fire associations will have to take is to require physicals of all persons before they are allowed to serve as volunteers. This is the first additional expense, which will then be compounded by increased workmen's compensation costs. The increased workmen's compensation costs are inevitable because towns and volunteer fire associations will not be able to "prove the contrary by a preponderance of evidence."

New Hampshire has such a law and the increased costs to communities are sizable although, as was pointed out previously, their bill is much more lenient than this one, but nevertheless the increased costs are evident there.

It is time, I feel, that this legislature stopped imposing increased costs on towns. I support the coverage of injuries or diseases caused by their firefighting activities, of course, but I do not support shifting the burden of proof and increasing the municipal costs unnecessarily.

I now move the indefinite postponement of this bill and all accompanying papers.

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

Mr. COLLINS: Mr. President and Members of the Senate: I rise not to support or oppose but to make an inquiry. In reading the Senate Amendment, Filing S-47, section 64-C at the bottom of the page, I think I detect a hiatus in the wording which seems to me to change the meaning, and I would inquire of the Senator from York, or anyone who could help us, as to whether there may be some technical omission there.

The PRESIDENT: The Senator from Knox, Senator Collins, has posed a question through the Chair which any Senator may answer if he so desires.

The Chair recognizes the Senator from York, Senator Roberts.

Mr. ROBERTS: Mr. President and Members of the Senate: I believe what the honorable Senator from Knox, Senator Collins, is referring to is that it appears that the two years which is supposed to refer to the period that he has been an active member also appears to refer to the two years from the onset of a cardiovascular disease or pulmonary disease. In that respect, I believe that I would offer an amendment because that is not clear and it is not intended. The period to be covered following the onset of the disease is six months, and here it is not clear. The two years is only the period of

time which you have to serve in order to come under this condition. I agree with the Senator that there is something ambiguous here and I would hope to clear it up with an amendment.

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

Thereupon, on motion by Mr. Speers of Kennebec, tabled and Tomorrow Assigned, pending the motion by Mrs. Cummings of Penobscot, that the Bill be Indefinitely Postponed.

Senate

Bill, "An Act to Authorize the Treasurer and County Commissioners of Waldo County to Procure a Loan to Build a Detention Center." (S. P. 93) (L. D. 264)

Bill, "An Act Increasing the Number of Associate Justices of the Supreme Judicial Court." (S. P. 147) (L. D. 510)

Which were 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 to Repeal the Requirements that Assessors Conduct Annual Inventories of Births, Beekeepers and Dogs. (S. P. 87) (L. D. 258)

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

Emergency

An Act Relating to the Transfer of Misdemeanor Proceedings without Trial to the Superior Court. (H. P. 1045) (L. D. 1111)

This being an emergency measure and having received the affirmative votes 28 members of the Senate was Passed to be Enacted and, having been signed by the President, was 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:

Bill, "An Act to Provide a Career Ladder and 40-Hour Week for Correctional Employees." (H. P. 1048) (L. D. 1336)

Tabled — April 3, 1975 by Senator Speers of Kennebec.

Pending — Reference.

(The Committee on Reference of Bills suggests that this Bill be referred to the Committee on Labor)

(In the House — Referred to the Committee on Labor)

Thereupon, on motion by Mr. Speers of Kennebec, referred to the Committee on Appropriations and Financial Affairs, in non-concurrence, and Ordered Printed.

The President laid before the Senate the second tabled and Specially Assigned matter:

HOUSE REPORTS — from the Committee on Judiciary — Bill, "An Act Relating to Hearing for Provisional Motor Vehicle Licensee on Suspension." (H. P. 333) (L. D. 405) Majority Report — Ought to Pass; Minority Report — Ought Not to Pass.

Tabled — April 3, 1975 by Senator Speers of Kennebec.

Pending — Acceptance of Either Report.

(In the House — Passed to be Engrossed

as amended by House Amendment "B" (H-107.)

(In the Senate — Motion to Indefinitely Postpone lost.)

On motion by Mr. Speers of Kennebec, retabled and Tomorrow Assigned, pending Acceptance of Either Committee Report.

(Off Record Remarks)

On motion by Mrs. Cummings of Penobscot.

Adjourned until Monday April 7, 1975 at 2 o'clock in the afternoon.