

MAINE STATE LEGISLATURE

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QUESTION: The question is whether bottled gas is included in the exemption, Section 10, VII-A: "Coal, oil and wood. Coal, oil, wood and all other fuels, except gas and electricity, used for cooking or heating for domestic purposes."

It is the contention of the bottled gas industry that bottled gas is a liquid and therefore should not be deemed included in the word "gas" in the above exemption.

In the Legislative Record, page 1239, it appears that Mr. Sleeper of Knox County presented Senate Amendment "E" to L.D.1273 and moved its adoption: "Amend said bill by adding to that part designated Section 10, a new Subsection to read as follows:

'VII-A. Sales of coal, oil, bottled gas and all other fuels.' "

There was considerable debate on this amendment. Senator Sleeper contended that there are three basic needs of life: heat, shelter and comfort. (Senator Sleeper's did not mention) He argued that if you are going to exempt food and rents you ought to exempt heat to be consistent.

Senator Noyes maintained that the amendment would cost \$600,000.00. Senator Allen said that if industry was going to have exemptions, the individual consumer should also have them and favored the amendment. He spoke of the "basic exemptions of food and fuel and a roof over their head." Senator Leavitt objected to the amendment because of its cost.

The amendment, above written, passed the Senate as noted on page 1244.

At page 1252 it appears that the Senate voted to reconsider Amendment "E". Thereupon the amendment was indefinitely postponed and Amendment "I" was introduced: "VII-A. Coal, oil and wood. Coal, oil, wood and all other fuels, except gas and electricity, used for cooking or heating for domestic purposes." This wording is the same as that in the ultimate bill.

Senator Haskell of Penobscot spoke in opposition to the taxation of some fuels and stated that they all ought to be exempt or all ought to be taxable.

Senator Sleeper stated that it would be extremely difficult to take the average electric light bill and determine how much the stove used and how much the lights were using. "That is the reason we have not attempted to eliminate electricity from paying the fuel tax."

Mr. Sleeper continued, "You brought up the question of gas. I don't know how many cities in this State still have gas companies, piped gas, but there aren't too many of them and I do realize that in some of the larger cities - Biddeford, Lewiston and Portland - that there are people living in tenements that are just as poor as the farmer in the crossroads who burns wood and oil and coal and these persons should be exempted for the gas they use for cooking. It would be mostly cooking and heating.

"The distinguished Senator from Penobscot has said there aren't many houses that are now lit with gas and you would have the same difficulty there to differentiate, even with a slide rule, the difference in the bill between cooking and lighting by gas. But I could almost guarantee to this Senate that I could count on my hands and feet the number of houses that are lit with gas, even in the State of Maine.

"I feel that this is just a move to confuse, bewilder and eventually vanquish the Amendment."

At page 1253 it is noted that Mr. Barnes wondered if the confusion would be clarified were "bottled" struck out of the Amendment. This is interesting because it indicates that the Legislature had bottled gas in mind. Mr. Barnes was incorrect in believing that the Amendment referred to bottled gas. Its predecessor did but the Amendment before the House was the same in wording as that in the Law.

At page 1254 it is noted that the Amendment passed.

The House debate appears on page 1373 et seq.

Mr. Turner of the House called attention to the distinction between gas and electricity on the one hand and other fuels. Mr. Turner said it was discriminatory.

Mr. Brown of the House moved to amend Senate Amendment "I" by eliminating the distinction between gas and electricity and other fuels. Mr. Brown called attention to gas furnaces but did not mention bottled gas.

In opposition to the amendment of the Amendment, Mr. Chase stated that he heats his own house with gas but maintained that he could not tell how much was used for heating and how much for cooking. (I am not clear on the relevance of his remarks.)

Mr. Fuller also called attention to the difficulty of differentiating between gas used for cooking, heating or refrigeration. He said that "we are trying to make it as easy as possible for the poor low-income groups, and I don't believe that there are many low-income families that use gas for heat. And therefore I hope that the Amendment of the gentleman from Wayne, Mr. Brown, is not adopted."

On page 1377 it appears that the House Amendment was defeated and Senate Amendment "I" was adopted.

It is my feeling that the broad intent of the Legislature was to exclude gas and electricity from the exemptions simply upon the ground of practicality. It would be impossible to tell how much was used for heating and cooking and how much for other domestic purposes. Bottled gas is almost never used for space heating. A little of it may be used for refrigeration but, almost entirely, it is used for cooking.

From the debate in the Senate it may be concluded that only a few gas users would be involved. There are only a few serviced by gas mains. But there are many users of bottled gas. Hence it would appear that the Legislature did not intend to include bottled gas in the exemptions.

On June 14, 1951, I telephoned Senator Haskell of Fenobscot. He explained that, as far as he was concerned, the Senate clearly intended to tax bottled gas. He explained that Senator Sleeper was engaged in selling bottled gas and that he, being interested in electricity, agreed with Senator Sleeper during the ten minute recess noted in the debate, that the two fuels should be considered alike.

I have not had opportunity to consider whether the statute is discriminatory.

I have no doubt, having explored the debate and talked to two or three members of the House and Senate (Senator Haskell, Senator Cross and one of the principal authors of the Bill whose name I have not recorded) that the intention in the Senate was to treat gas and electricity as taxable for domestic as well as industrial purposes.

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 Notebook