

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

*One Hundred and Fourth
Legislature*

OF THE

STATE OF MAINE

Volume II

May 9, 1969 to June 17, 1969

**KENNEBEC JOURNAL
AUGUSTA, MAINE**

Mr. MILLS of Franklin: Mr. President, I am trying to figure that parliamentary - wise myself, and I figure the next time around I would offer an amendment to Committee Amendment "A". That would be my intention on Tuesday next.

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

Mr. KATZ of Kennebec: Mr. President, I might suggest that we allow this to go through to its second reading tomorrow, and at that time dispose of all the amendment processes.

Thereupon, Committee Amendment "A" was Adopted in concurrence and the Bill, as Amended, tomorrow assigned for Second Reading.

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

Bill, "An Act Relating to the Water and Air Environmental Improvement Commission." (S. P. 322) (L. D. 1084)

Tabled—May 28, 1969 by Senator Berry of Cumberland.

Pending — Passage to be Engrossed.

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

Mr. BERRY of Cumberland: Mr. President, the amendment which is being prepared for this will be ready for the next legislative session, and I hope somebody might table this until then.

The PRESIDENT: The Chair recognizes the Senator from Aroostook, Senator Barnes.

Thereupon, on motion by Mr. Barnes of Aroostook, retabled and tomorrow assigned, pending Passage to be Engrossed.

The President laid before the Senate the first matter tabled earlier in today's session, by Mr. Katz of Kennebec:

Non-Concurrent Matter

Bill, "An Act Relating to County Advisory Organizations." (S. P. 118) (L. D. 328)

In the Senate May 20, 1969, Bill substituted for the report and on May 26, 1969, Passed to be En-

grossed as Amended by Senate Amendment "A" (S-174).

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

Pending—Consideration.

Thereupon, on motion by Mr. Peabody of Aroostook, the Senate voted to Recede and Concur.

The President laid before the Senate the second matter tabled earlier in today's session, by Mr. Kellam of Cumberland:

Non-Concurrent Matter

Bill, "An Act Relating to the Small Claims Act." (S. P. 246) (L. D. 755)

In the Senate May 26, 1969, Bill substituted for the report and on May 27, 1969 the Bill Passed to be Engrossed.

Comes from the House, the Ought Not to Pass Report Read and Accepted in non-concurrence.

Pending—Consideration.

Thereupon, on motion by Mr. Berry of Cumberland, retabled until later in today's session, pending Consideration.

The President laid before the Senate the third matter tabled earlier in today's session, by Mr. Hanson of Kennebec:

Ought Not to Pass

The Committee on Taxation on Bill, "An Act Relating to Excise Tax on Motor Vehicles." (H. P. 841) (L. D. 1079) reports that the same Ought Not to Pass.

Comes from the House, the Bill substituted for the Report and the Bill subsequently Passed to be Engrossed.

Thereupon, on motion by Mr. Katz of Kennebec, the Bill was substituted for the Report in concurrence, the Bill Read Once and tomorrow assigned for Second Reading.

The President laid before the Senate the fourth matter tabled earlier in today's session, by Mr. Katz of Kennebec:

Second Reader

Bill, "An Act Providing for a State Pilotage System for the Penobscot Bay and River, Maine." (S. P. 338) (L. D. 1136)

Pending — Motion by Senator Beliveau of Oxford to Indefinitely Postpone the Bill.

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

Mr. HOFFSES of Knox: Mr. President and Members of the Senate: I rise in objection to the motion of the good Senator from Oxford, Senator Beliveau.

I introduced this bill some time ago and, in my humble opinion, it was a very worthwhile bill. I had a great many witnesses prepared to defend this bill. There was another piece of legislation which was coming up that day, and the chairman of the committee requested that we limit our testimony to a bare minimum to allow the other bill to have a lengthy hearing. The witnesses that I had here for that hearing had come, some of them, a great distance. There were some of them who were representatives of very important shipping companies' insurance underwriters to explain the worthiness of this bill. We did abide by the request of the chairman of the committee and we limited our testimony. I might also add that when the question was raised for opposition there was not one person that rose in opposition to this bill.

I would like, for the benefit of the members of this Senate, to read to you the names of some of the people who appeared and testified, and many of the others who appeared but who did not testify. Among the witnesses that I had in support of this bill was a Captain George Laverette, the President of the Boston Pilots' Association; Captain Howard Wentworth of Portland Pilots, Inc.; Captain Richard Spear of the Maine Ferry Service; Captain Boyd Gould and Captain Sharpe of the windjammer cruises out of Camden Harbor; Ronald Green of Sea and Shore Fisheries was endorsing this legislation; Captain Cummings of Texaco was prepared to testify; Webber Tanks was also in favor of this bill, and some of the very impressive ones of J. F. Moran and Company; C. H. Sprague of Boston; the Eastern Maine Towing; we had a letter from the American In-

stitute of Marine Underwriters, and I have it here in my file, endorsing this; Chase Leavitt, Incorporated, were there and wholeheartedly supported this piece of legislation; we had letters from Peabody and Lane, Steamship Agents; I have a letter from Admiral Rogers of the Maine Maritime Academy endorsing this legislation; I have letters in my files from practically every town manager or chairman of the board of selectmen of city managers of the communities bordering on Penobscot Bay, both on the east and the western shore.

I have two very short letters here which I would like to read to you:

"As the Captain-operator of the boat Laura B, carrying U. S. Mail and passengers between Port Clyde and Monhegan Island, Maine, I am writing you to urge passage of the bill requiring licensed pilots on large vessels moving up and down Penobscot Bay, particularly during times of reduced visibility, it is reassuring to know that there is a local pilot aboard the ships whose routes we must cross going to and from Monhegan." Signed, "Earl S. Fields, Captain of the Laura B."

I have another letter:

"As Captain of the oil tanker William McLune, carrying inflammable cargoes to and from various ports in the Penobscot Bay area, I am in favor of having State licensed pilots on the ocean-going ships that ply the area. Anything that can be done to reduce the chances of collision involving oil carrying vessels should be done. Having local pilots who are familiar with not only the rocks, shoals, tides and currents, but also the other ship traffic, should help a lot. Sincerely, Clinton H. Dean, Master of the William McLune."

I would point out to you that during the month of March there were sixteen of these deep-draft vessels which came into Penobscot Bay. Of those sixteen, eleven of them carried oil. I do not know exactly how many of them carried high-octane gas, or how many of them carried Bunker C, but in the event of a grounding or a collision, with these vessels opening up and pouring their cargo out into Penob-

scot Bay, I am sure that each and every one of us knows what the net result would be.

I believe that this is necessary legislation if we are going to provide for the safety of the passengers on our state-owned ferries, for the safety of our passengers on our windjammer cruises, which I am sure all of you know ply Penobscot Bay. I am sure all of you are familiar enough with our laws on the high seas that a vessel propelled by wind, carrying sails, as its only source of motivation has the right-of-way over and above any and all other vessels.

When I was home one weekend a lobster fisherman, who is very far removed from becoming active in piloting, urged the passage of this bill. He had been a lobsterman out of Rockport Harbor for many years, and he says that with the increased traffic we have in Penobscot Bay, and these very large tankers going in and out, that it is essential and necessary that we have trained, licensed pilots, licensed by the United States Coast Guard. I know and you know that these pilots must pass rigid examinations for them to retain their licenses.

I hope that you will vote against the motion of the good Senator from Oxford, Senator Beliveau, and that this bill can receive favorable passage. I would ask for a division on the vote.

The PRESIDENT: The Chair recognizes the Senator from Hancock, Senator Anderson.

Mr. ANDERSON of Hancock: Mr. President and Members of the Senate: To substantiate the remarks of the Senator from Knox, Senator Hoffses, I would just like to say that I had three telephone calls over the weekend urging me to vote for this measure, and I have also had four letters, so I will certainly go along with him.

The PRESIDENT: The Chair recognizes the Senator from Oxford, Senator Beliveau.

Mr. BELIVEAU of Oxford: Mr. President and Members of the Senate: I haven't received any phone calls, letters or telegrams on this. My attention was directed to the bill at the hearing and following the vote on this that the

committee took, and this really disturbs me.

I have no interest in this either way. In fact, my knowledge of Penobscot Bay is limited to my experience as a member of the Coast Guard Reserve in Rockland and having been aboard a 40-foot boat cruising along the islands of Penobscot Bay viewing the aids to navigation you find in the area. Certainly I am in no position and do not possess the expertise to discuss the reefs and so forth that might be found there. But I think that it is very important for us to consider whether there is a very real need to set up this commission.

Now, if you will read the document itself, we are setting up here a commission, a State piloted system for Penobscot Bay, which lists detailed various conditions, requirements and regulations regarding this system. But, if you will note very carefully, they seem to be more concerned with the fees that are going to be charged, the commissions that are going to be paid to the members of the Pilots Association, the liability for fees and so forth, the lien for pilotage fees.

I have had an opportunity to discuss this with a few people in that area. I inquired on my own, having some familiarity with the area, as to whether or not there was a very real need for this. Of course the Pilots Association is going to support a measure like this. It is a closed shop. This would be limited to a handful of people who would be required to board all these various vessels, the enrolled, registered and documented vessels, both under the United States and foreign flags, and charge a very substantial fee to guide them through Penobscot Bay.

In Penobscot Bay, as in other bays along the Atlantic Coast, we find a series of aids to navigation. We have had no problems in the past. We haven't had any difficulty where boats have gone aground, or the aids were insufficient, or where it was such a complicated bay and harbor that it requires persons who possess great familiarity with the area.

This is class legislation. The impressive list of persons supporting this that was presented earlier are those who are directly concerned, who would directly benefit from this. As I say, the Pilots Association have introduced this legislation to benefit themselves. They are doing this in the name of avoiding future collisions and future problems. But there aren't any problems. The problems do not exist, and this document is designed to protect the pilots, no one else. This is truly self-interest legislation that is not going to benefit the people of Maine, but will benefit those who are directly affected, the pilots themselves.

For instance, again directing my comments to the fees here, there seems to be more concern with collecting, levying their fees and acquiring their pay than there is with anything else. It says, for instance, "Liability for Fees:" it makes the master, owner, charterer and so forth liable for pilotage fees. "Every licensed pilot shall have a lien for his pilot's fees upon the hold of any vessel liable to him."

There is no need for this legislation. Something of this nature really runs contrary to my grain here. I don't believe that we should be passing legislation to protect or to create a poverty program for a limited number of people.

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

Mr. BERRY of Cumberland: Mr. President and Members of the Senate: I wasn't overly interested in this particular bill until Senator Beliveau discussed self-interest bills and class legislation, and I, for one, with considerable support from other members of this body, have been fighting class legislation and special interest bills here, with or without success, for some time this session. It sounds better on a recording than it looks in the record, I might say.

Actually the bill itself has as its objective a very commendable purpose. I would agree 100 per cent with Senator Beliveau that mechanically it is in poor shape. I would support the passage of the bill to the engrossing stage with

the thought and hope that it would be put in proper shape for ultimate passage.

The waters that are covered by this legislation are dangerous waters, particularly those until you get inside the islands above Spruce Head. If anybody has been in a fog between Matinicus and Monhegan, and think you are not in dangerous waters, you are either inebriated or you are asleep below, I guess. These are really dangerous waters. Many of the reefs come up to within a few inches of extreme low tide. A lot of them are unmarked, and through these waters go cargoes that should, above all types of cargoes, arrive unscathed at the port.

I would hope that we could pass this through its initial stages, and then see that it gets properly amended.

The PRESIDENT: The Chair recognizes the Senator from Washington, Senator Wyman.

Mr. WYMAN of Washington: Mr. President and Members of the Senate: I have been very lukewarm toward this bill, and I am inclined to agree with many of the comments of Senator Beliveau. It is apparently class legislation to protect a certain group. However, when the thought comes to me that just one cargo of oil, particularly Bunker C, goes ashore or is lost in that bay, then we have to think of the damage that would be done to marine life of all kinds. That one point is enough to swing me strongly in favor of the bill.

Now, if the bill needs changing, if the fees are too high, or it needs amending, I hope the good Senator from Oxford will come up with an amendment. But, I am also entirely in agreement with the comments as stated by the good Senator from Cumberland, Senator Berry, and I certainly hope we may pass this bill at this stage.

The PRESIDENT: The Chair recognizes the Senator from Oxford, Senator Beliveau.

Mr. BELIVEAU of Oxford: Mr. President, to show my good faith and my interest in this area, I will withdraw my motion and prepare an amendment.

The PRESIDENT: Is it now the pleasure of the Senate that this Bill be passed to be engrossed?

The Chair recognizes the Senator from Franklin, Senator Mills.

Thereupon, on motion by Mr. Mills of Franklin, tabled and tomorrow assigned, pending Passage to be Engrossed.

The President laid before the Senate the fifth matter tabled earlier in today's session, by Mr. Beliveau of Oxford:

Bill, "An Act Relating to Governmental Immunity in Civil Actions." (H. P. 557) (L. D. 738)

Tabled — May 28, 1969 by Senator Berry of Cumberland.

Pending — Motion by Senator Berry of Cumberland to Indefinitely Postpone Bill and Papers.

The PRESIDENT: The Chair recognizes the Senator from Oxford, Senator Beliveau.

Mr. BELIVEAU of Oxford: Mr. President and Members of the Senate: Very briefly, to oppose the motion of Senator Berry, this bill would clarify and expand or extend somewhat the existing law relating to governmental immunity in civil actions.

Under our present law a person can initiate a civil action against the State of Maine or a political subdivision up to the extent of insurance coverage. It is further limited to motor vehicle actions. I fail to see any distinction between motor vehicle accidents and other torts or wrongdoings which are done by agents of the State or our municipalities. When a person is struck by a State Highway truck or a truck owned by the City of Augusta, his injuries are just as bad and severe, and he hurts just as badly as if he was struck by you or me along one of our highways in one of our municipalities.

This bill is designed to change our law to remove the ceiling which limits the recovery to the extent of insurance coverage. This would also correct a situation that exists in some municipalities where, knowing the safeguards and protections they have if they do not carry liability insurance, they refuse to carry liability insurance and, therefore, are immune from

any form of claim for personal injuries. Now, if the community or the State does not carry insurance, then the individual, that is, the agent or employee of the municipality becomes personally liable. Certainly this is not proper where he is acting as an agent for the municipality; the municipality should carry the burden.

Now, this bill was a landmark bill when it was passed several terms ago. At that time it corrected a very real problem existing here in Maine. This bill is designed solely to remove the protection of the restriction that now exists as to liability coverage. It is a very good bill. As I say, the law today permits law suits and claims against the State of Maine or any political subdivision, and this would simply remove the restriction that presently exists as to the amount. For instance, if a municipality carries five or ten thousand dollars worth of liability insurance, and a person loses a leg in a motor vehicle accident, or is badly injured with loss of wages, or is permanently injured and prevented from working for ten or fifteen years, certainly a ten thousand dollar settlement would not be sufficient. This would place the municipalities and the State of Maine in the same position which every member of this body is in. That is, we are not protected to the extent of our insurance coverage because, regardless of whether or not we carry liability insurance, we are going to have to pay. Now, this would place the State of Maine and its municipalities in the same position which we are all in. That is, we shall be liable to pay whatever reasonable amount is necessary, regardless of insurance coverage.

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

Mr. BERRY of Cumberland: Mr. President and Members of the Senate: It would seem to me that if the real problem here is the insurance on governmentally-owned motor vehicles, and that if there are governmental units in the State of Maine so lacking in foresight that they do not carry insurance