

MAINE STATE LEGISLATURE

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Legislative Record

OF THE

One Hundred and Seventh Legislature

(First Special Session)

OF THE

STATE OF MAINE

1976

KENNEBEC JOURNAL
AUGUSTA, MAINE

in session at the Capitol in Augusta, under the Constitution and Laws of the State of Maine, that this official expression of pride be sent forthwith on behalf of the Legislature and the people of the State of Maine. (H. P. 2180)

Comes from the House, Read and Passed.

Which was Read and Passed in concurrence.

Joint Resolution STATE OF MAINE

In the Year of Our Lord One Thousand Nine Hundred and Seventy-six.

IN MEMORIAM

Having Learned of the Death of the Honorable Edith W. Hatch who was a Member of the 93rd and 98th Legislatures and an Outstanding Citizen of Minot

The Senate and House of Representatives of the State of Maine do hereby extend their sincere heartfelt condolences and sympathy to the bereaved family and friends of the deceased; and further

While duly assembled in session at the State Capitol in Augusta under the Constitution and Laws of the State of Maine, do herein direct that this official expression of sorrow be forthwith sent to the family of the deceased on behalf of the Legislature and the people of the State of Maine. (H. P. 2177)

Comes from the House, Read and Adopted.

Which was Read and Adopted in concurrence.

Senate Papers Joint Resolution

Mr. Danton of York presented the following Joint Resolution and moved its adoption:

STATE OF MAINE

In the Year of Our Lord One Thousand Nine Hundred and Seventy-six.

IN MEMORIAM

Having Learned of the Death of Hon. Andrew J. Fournier Former Member of the State Senate and State Liquor Commission

The Senate and House of Representatives of the State of Maine do hereby extend their sincere heartfelt condolences and sympathy to the bereaved family and friends of the deceased; and further

While duly assembled in session at the State Capitol in Augusta under the Constitution and Laws of the State of Maine, do herein direct that this official expression of sorrow be forthwith sent to the family of the deceased on behalf of the Legislature and the people of the State of Maine. (S. P. 748)

Which was Read and Adopted.

Sent down for concurrence.

Orders

On motion by Mr. Cianchette of Somerset.

STATE OF MAINE

In the Year of Our Lord One Thousand Nine Hundred and Seventy-six

WHEREAS, The Legislature has learned of the Outstanding Achievement and Exceptional Accomplishment of Kim Gilman and David Witham of Lawrence

High School Novice Debating Champions of the 1976 University of Maine Tournament and the Only Undeclared Novice or Varsity Team of that Tournament

We the Members of the Senate and House of Representatives do hereby Order that our congratulations and acknowledgement be extended; and further

Order and direct, while duly assembled in session at the Capitol in Augusta, under the Constitution and Laws of the State of Maine, that this official expression of pride be sent forthwith on behalf of the Legislature and the people of the State of Maine. (S. P. 749)

Which was Read.

The PRESIDENT: The Chair recognizes the Senator from Somerset, Senator Cianchette.

Mr. CIANCHETTE: Mr. President and Members of the Senate: So many times the joint orders come through here and they are directed mostly at the athletic teams that seem to get most of the popularity, and here we have an order today that recognizes an accomplishment of an extracurricular activity in school that often goes unnoticed, I think one of the more important functions of a school. For that reason, I would like to bring attention to this order and move its passage.

The PRESIDENT: Is it now the pleasure of the Senate that this joint order be passed and sent down for concurrence?

The motion prevailed.

Sent down for concurrence.

Committee Reports House Leave to Withdraw

The Committee on Public Utilities on, Bill, "An Act to Enable the Town of Cape Elizabeth to Establish Sewer Service Charges." (H. P. 1804) (L. D. 1963)

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 Health and Institutional Services on, Bill, "An Act Relating to Employment of Drug Inspectors by the State Board of Pharmacy." (H. P. 1879) (L. D. 2054)

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-957).

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.

Ought to Pass in New Draft

The Committee on Appropriations and Financial Affairs on, Resolution, Proposing an Amendment to the Constitution to Increase the Bonding Limit on Maine Veterans' Mortgage Loans from \$2,000,000 to \$5,000,000. (H. P. 1829) (L. D. 1994)

Reported that the same Ought to Pass in New Draft under New Title: Resolution, Proposing an Amendment to the Constitution to Increase the Bonding Limit on Maine Veterans' Mortgage Loans from

\$2,000,000 to \$4,000,000 and to Decrease the Bonding Limit of the Maine School Building Authority from \$25,000,000 to \$10,000,000. (H. P. 2171) (L. D. 2295).

Comes from the House, the Resolution in New Draft Passed to be Engrossed.

Which report was Read and Accepted in concurrence, the Resolution in New Draft Read Once and Tomorrow Assigned for Second Reading.

Divided Report

The Majority of the Committee on Taxation on, Bill, "An Act to Permit Municipalities to Levy and Collect Service Charges for Certain Municipal Services from Tax Exempt Institutions and Organizations." (H. P. 1886) (L. D. 2064)

Reported that the same Ought Not to Pass.

Signed:

Senators:

WYMAN of Washington
JACKSON of Cumberland

Representatives:

MAXWELL of Jay
FINEMORE of Bridgewater
IMMONEN of West Paris
DAM of Skowhegan
TWITCHELL of Norway

The Minority of the same Committee on the same subject matter reported that the same Ought to Pass in New Draft under New Title: "An Act to Permit Municipalities to Levy and Collect Service Charges for Certain Municipal Services from Certain Tax Exempt Institutions and Organizations." (H. P. 2179) (L. D. 2299).

Signed:

Representatives:

DRIGOTAS of Auburn
MULKERN of Portland
SUSI of Pittsfield
COX of Brewer
MORTON of Farmington

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

Which reports were Read.

Mr. Wyman of Washington moved that the Majority Ought Not to Pass Report of the Committee be Accepted.

Thereupon, on motion by Mr. Conley of Cumberland, tabled and Tomorrow Assigned, pending the motion by Mr. Wyman of Washington to accept the Majority Ought Not to Pass Report of the Committee.

Second Readers

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

House — As Amended

Bill, "An Act Relating to the Initiative and Referendum Processes." (H. P. 2027) (L. D. 2203)

Which was Read a Second Time.

Mr. Merrill of Cumberland then presented Senate Amendment "A" and moved its Adoption.

Senate Amendment "A", Filing No. S-426 was Read.

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

Mr. MERRILL: Mr. President and Members of the Senate: The bill that is before us that I would amend at this time deals with the initiative referendum process. This move really comes from activities which took place in the 106th and questions and problems that were raised specifically in light of the public power drive and some of the problems that came out of it. I think that the bill as amended by

the House Amendment is much improved over the original bill, but there is one section of the bill which I still object to, and that is the section of the bill that would put on the bottom of every initiative referendum petition in big letters a warning pointing out to people that if they should sign the wrong name, or something like that, that they might go to jail. I don't have anything against the criminal penalty itself when people deliberately misuse the process, but I think that the warning there would definitely have a very strong chilling effect and would tend to hamper what is in our constitution, a power that is left with the people, and that is the power to change our laws by the initiative and referendum process.

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

Thereupon, on motion by Mr. Speers of Kennebec, tabled and Tomorrow Assigned, pending Adoption of Senate Amendment "A".

Senate — As Amended

Bill, "An Act Concerning Insurance Coverage for Blind Persons." (S. P. 637) (L. D. 2012)

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 to Exempt Small Financial Institutions for Certain Insurance Requirements. (S. P. 654) (L. D. 2069)

An Act to Amend the Protection and Improvement of Air Statutes. (H. P. 2034) (L. D. 2207)

Which 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:

Joint Order — Relative to Natural Resources Committee Reporting out a bill providing for the approval and permits for existing septic systems. (H. P. 2172)

Tabled March 10, 1976 by Senator Trotzky of Penobscot.

Pending Passage.

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

Mr. TROTZKY: Mr. President, I move that this Joint Order, House Paper 2172, be indefinitely postponed, and I would like to speak to my motion.

The PRESIDENT: The Senator has the floor.

Mr. TROTZKY: Mr. President and Members of the Senate: We had a bill similar to the one which this order asks the Committee on Natural Resources to pass out. This bill was in the regular session of the legislature and it received an ought not to pass report. This is L. D. 1275.

After discussing with my colleagues in the Natural Resources Committee, I find the intent of this Joint order is not necessarily to allow local plumbing inspectors to approve permits to existing septic systems. Instead it is to approve permits for existing septic systems without a site investigation to determine soil suitability for a subsurface disposal system. I submit that this is an entirely different concept to consider. In other

words, the title to this joint order I believe is very misleading.

Local plumbing inspectors already have statutory authority to approve repairs to existing septic tank systems provided the work can be done in compliance with the Maine State Plumbing Code. Approximately five percent or less of the total permits have to be approved by Augusta because a waiver to the Plumbing Code is necessary. The department is presently using a modified waiver policy on a trial basis and plans to initiate it on a statewide basis very shortly. This will enable more local control by the local plumbing inspector. The matter of local plumbing inspectors issuing permits without a site investigation again is another matter.

A revised plumbing code was introduced in July, 1974, which was and still is a milestone and example for the rest of the nation. The new plumbing regulations included the legislation passed in 1973 plus the use of site investigation instead of percolation tests to determine if a soil is suitable for subsurface sewage disposal. I understand that the site investigation methods have the effect of lifting previously obsolete, unsatisfactory methods of determining soil suitability out of the dark ages into the 20th century. The results during the last one and a half years have borne out the advantages of site investigation in which less than one percent of the system installed under the new code have been reported to have problems. This is in sharp contrast to systems installed prior to July 1974, where entire subdivisions are known to have malfunctioned.

The claim has been made that the cost of site investigation is prohibitive and that local plumbing inspectors should determine if the soil is suitable to replace an existing malfunctioning system. I have been informed that the cost of site investigation is not much more, if any, than the cost of a percolation test several years ago which is known to be unreliable. The average cost runs about 50 to 100 dollars for a soil site investigation, depending on if a backhoe is used by the site evaluator. There may be a few exceptions, but let's not allow these exceptions to adversely effect sound and logical thinking.

The claim has been presented that a local plumbing inspector can determine soil conditions, design a system, issue a plumbing permit, and inspect the work. I would point out that as a result of the shoreland zoning bill passed by the 107th Legislature in 1975, the past session, the Department of Human Services gave about 180 examinations to the professionals, the people thought to be trained, who were already doing site investigation. Only 86 passed the examinations, and this was after a liberal sealing of results. If only half of the professionals can properly determine soil conditions, how can we expect local plumbing inspectors — and there are over 300 of them — to determine the conditions properly. I understand that only one local plumbing inspector in the entire State of Maine has been certified as a site investigator.

As you know, I am very concerned about the impact of septic tank systems on the environment, especially on our lakes, our streams, fresh water. I am also concerned about the cost of site investigation and the cost to repair a drain field. I understand the typical reasons why a drain field fails

include poor soil conditions, such as high water table or clay soil, significant changes in the water usage in a structure, or a drain field improperly designed and installed. I question the rationale to permit a drain field to be repaired or replaced without first determining what caused the drain field to fail.

We presently have an excellent system of checks and balances in the state. The site investigator analyzes the problems and designs a replacement drain field, the contractor does his work, and the plumbing inspector approves the installation. We have a plumbing code which is working well and, in fact, is a model for many other states and other countries. Let's not ruin a good thing due to a few limited exceptions.

I respectfully request that this joint order be indefinitely postponed, and the only reason, to just summarize very quickly, is that this bill was in the last session of the legislature, it received an ought not to pass report, and the only reason that this is being brought in is because some people in certain areas feel that soil tests are expensive. However, it can end up more expensive for the public when they go and build a leaching field and extend their septic tank beds, and it costs them quite a few hundred dollars, maybe up to 500 dollars, and then it fails to work. So I request again that this order be indefinitely postponed.

The PRESIDENT: The Chair recognizes the Senator from Oxford, Senator O'Leary.

Mr. O'LEARY: Mr. President and Members of the Senate: I would ask for a division on the motion and I will speak very briefly. I wasn't prepared to argue this today. I didn't believe that there was going to be any opposition really to this. As the good Senator from Penobscot, Senator Trotzky, said, we did have an executive session yesterday afternoon and this order was discussed, and we had a gentleman from the Department of Health and Welfare before the committee. The committee was unanimous, with one dissent, and that was the committee chairman, that this order was good and needed.

The good Senator has passed around "Cleaning up Water, Private Sewage Disposal in Maine," and I would direct your attention to page 10 of this pamphlet and try to explain what is the reasoning behind this order coming in. If you look at the top of page 10, it has a diagram that shows a septic tank, distribution box, and the leaching field. If a person has a home and he has a septic system, and this system has been working for ten or twelve years, fifteen years, and all of a sudden he has a blockage, the plumbing inspector could tell him that the soil has been taking this for the last ten or twelve years, so therefore perhaps just by moving his leaching field he could expect another ten or fifteen years of service.

Now, an onsite soil test, contrary to what you have been led to believe, is running in the neighborhood of 200 dollars at the present time. It seems odd that this morning I received a letter from the Town of Peru, and these people are at a financial loss now because the soil test was done and they commenced to build their homes and such, and the state has come in and found that the soil was not acceptable, so these people have really suffered a big financial loss. So the soil test is not the only absolute thing we have.

However, this is designed, in my way of thinking, more to protect the people and to