

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

***One Hundred and Ninth
Legislature***

OF THE

STATE OF MAINE

Volume I

FIRST REGULAR SESSION

January 3, 1979 to May 4, 1979

Enactors

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

An Act to Restrict the Placing of Hazardous Objects on Utility Poles. (S. P. 107) (L. D. 212)

An Act to Permit the Retirement Earnings Limitation to Increase as Cost-of-Living Increases in Retirement Benefits are Granted. (S. P. 222) (L. D. 606)

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

Orders of the Day

The President Pro-Tem laid before the Senate the First Tabled and specially assigned matter:

Bill, "An Act Concerning Certain Allocations from the General Highway Fund for the Repair of Certain Bridges in Baxter State Park." (Emergency) (H. P. 134) (L. D. 145)

Tabled—March 29, 1979 by Senator Katz of Kennebec

Pending—Passage to be Engrossed

On Motion by Senator Pierce of Kennebec, Retabled for 1 Legislative Day.

The President Pro-Tem laid before the Senate the Second Tabled, and specially assigned matter:

Bill, "An Act Relating to Constables and Special Police Officers." (H. P. 250) (L. D. 295)

Tabled—March 30, 1979 by Senator Katz of Kennebec

Pending—Enactment

On Motion by Senator Pierce of Kennebec, Retabled for 1 Legislative Day.

The President Pro tem laid before the Senate the Third Tabled and specially assigned matter:

Bill, "An Act to Make Corrections of Errors and Inconsistencies in the Laws of Maine." (S. P. 401) (L. D. 1161) (Emergency)

Tabled—March 30, 1979 by Senator Katz of Kennebec

Pending—Passage to be Engrossed

The PRESIDENT Pro tem: The Chair recognizes the Senator from Knox, Senator Collins. Senator COLLINS: Mr. President I offer Senate Amendment "F" S-77 and move its Adoption.

The PRESIDENT Pro tem: The Senator from Knox, Senator Collins, offers Senate Amendment "F" (S-77) and moves its Adoption.

Senate Amendment "F" (S-77) Read

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

Senator COLLINS: Mr. President the purpose of this Amendment is simply to delete a section, because we found that there is a Bill now in the legislative process that deals with this same subject concerning Bail Commissioners and we felt it was better not to create any confusion, in that respect.

Senate Amendment "F," Adopted.

The Bill, as amended, Passed to be Engrossed.

Sent down for concurrence.

The President Pro tem laid before the Senate the Fourth Tabled and specially assigned matter:

SENATE REPORTS — from the Committee on Agriculture - Bill, "An Act to Authorize Municipalities of Under 2,500 Inhabitants to Permit other than Arborists to Remove Trees within Municipal Boundaries." (S. P. 219) (L. D. 761) Majority Report - Ought to Pass; Minority - Ought Not to Pass

Tabled—April 2, 1979 by Senator Katz of Kennebec.

Pending—Motion of Senator Hichens of York to Accept Minority Report.

The PRESIDENT Pro tem: The Chair recognizes the Senator from Somerset, Senator Redmond.

Senator REDMOND: Mr. President, and Ladies and Gentlemen of the Senate. I oppose the motion by the good Senator from York, to Accept the Minority Ought Not to Pass Report and urge you to accept the majority report.

Ten members of the Committee on Agriculture signed the Ought to Pass Report. What this Bill does L. D. 761 An Act to Authorize Municipalities of Under 2,500 Inhabitants to Permit Persons Other than Arborists to Remove Trees within Municipal Boundaries."

This Bill, was carefully drawn in the Office of Legislative Information, and checked out by the Office of the Attorney-General, who sees no problem with it. It has the full support of the Maine Municipal Association.

It changes the Arborists law under Title 32, MRSA, Chapter 29, Sub-Chapter 11. I would like to read the law, and the law defines an arborist as a person, who for compensation, diagnosis, or evaluates the condition of shade or ornamental trees, or solicits or recommends or supervises the treatment of such trees, or in any manner or for any purpose treats or cares for such trees or parts thereof, or takes down or fells such trees by topping or by sections. This is a part that is affected in the arborists law only, takes down or fells such trees by topping, or by sections.

What this bill does is returns to the municipalities what they are doing right along, or what some don't dare do. It becomes a threat to some people's lives, because some can't even afford arborists, and some of these municipalities under 2,500 of population, just simply don't have arborists there handy to cut down trees that should come down because they are decayed or dead trees. The arborists are doing a fine job. In many cases, some of these municipalities under 2,500 would continue to have to use the services of arborists, because some of them have some special equipment, which is designed to take down some of these trees that would be dangerous to take down otherwise.

However, the problem that seems to exist here, is that some of these municipalities, for instance, North Anson, or Jackman are being mandated by the Department of Conservation, to hire an arborist each time a tree gets in their way, is the same probably as if we mandated them in North Anson to have a steeple jack there, which they'd probably use, once in 25 years.

Some of these towns are located at a distance that is prohibitive for an arborist to move there, when some of these trees have to be removed. Jackman, for instance, would be at least 60 miles from the nearest arborist to go there, Caratunk couldn't support an arborist in their town, they wouldn't have enough work for him. So, traditionally, those people who work in the woods are the ones that are asked by the municipalities, the tree warden or whoever is responsible for removing dangerous trees, and many of the municipalities don't even know the law, and they are doing it as they conduct all their business in these municipalities, under 2,500 population.

This is a good bill and like I say, the Attorney-General has no problem with it. The Maine Municipal Association would like to see it, they give it their full support. I hope that you vote against the motion Ought Not to Pass, and support the Ought to Pass motion. Thank You.

The PRESIDENT Pro tem: Is the Senate ready for the question?

The Chair recognizes the Senator from York, Senator Hichens.

Senator HICHENS: Mr. President, and Members of the Senate, I appreciate the remarks and the explanations given by the good Senator from Somerset, Senator Redmond, but I think he has given us some reasons why we should vote Not to Pass this bill. The fact that many towns are hiring people to cut down the trees doesn't mean that it is right.

We had several people at the hearing who

spoke against the bill, only two spoke for it, including the Maine Municipal Association. I think that is what influenced several of the members that signed the Ought to Pass Report, because they seemed to think that when the Maine Municipal Association says something's good it has to be good. I've learned from experience that that's not always the case, but the people that were concerned and wanted us to vote against the bill explained what a ticklish job this is cutting down trees along the highways. Especially, where the power lines are involved, and where there is passing traffic, and how many times that people, who are inexperienced, have been hurt. Towns can be sued because there is no insurance coverage for these people when the town offices hire them, and it says in the bill that the municipality can qualify a person themselves.

I was just wondering how may selectmen know whether a person is qualified to cut down a tree or not, by his say so or whether they even saw a man cutting down a tree whether they would know if he was proficient in that job.

As you noticed, the three Senators who voted against the bill and I think you can rely on their wisdom, this was heard two years ago. The Committee also turned it down at the time, and it was turned down by the Legislature. The Bill says that it's for towns 2,500 or less, other towns with more people are going to shout discrimination. Next year it will be up to 4,000 up to 10,000, and then the City of Portland will be having the same rights, so I think we should kill the bill right now.

The PRESIDENT Pro tem: Is the Senate ready for the question?

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

Senator O'LEARY: Mr. President, and Members of the Senate, for years the municipalities have had the right to appoint boards that would name a tree warden. If you look under the statutes, Section 30, Sub-section 3902, it says here the municipal officers of municipalities not having appointed a conservation commission as provided by Sub-Chapters 1, 2, and 5 may annually appoint one or more tree wardens. Then it goes into what these tree wardens may do and may not do.

Now, I would like to emphasize that this bill is not to eliminate the profession of an arborist. This is a reduced measure of local control, and it's to compliment the arborist's law in a way. It is supported by the Maine Municipal Association, and this is only in the rural areas, it's not in your crowded urban areas, the danger of your electrical wires, and traffic aren't that heavy in the small municipalities. When you get to these rural municipalities we're talking about here, you have people who are imminently more qualified to take down a tree than some of these arborists.

It was just a couple of weeks ago, I was coming down here and as I come over the hill out of Winthrop, there was one of our famous arborist's truck right there, and there was three local vocals that must have been 18, 19 or 20 years of age, not one of them an arborist, taking down a tree that must have been 50 feet in diameter with the branches. Man, this was something, where was the arborists? We have people out there in our urban areas more qualified to take down these trees, than an arborist, and the price is right.

The PRESIDENT Pro tem: Is the Senate ready for the question?

The Chair recognizes the Senator from Somerset, Senator Redmond.

Senator REDMOND: I wish to enlighten the good Senator from York with regards to arborists and the taking down of trees. Firstly, I would like to state that I personally supervised and was involved in taking down trees on approximately a minimum of 5,000 acres during my days of logging.

I personally have supervised and taken down trees on both sides of the Kenduskeag River in