

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

LEGISLATIVE RECORD

OF THE

*One Hundred and Seventh
Legislature*

OF THE

STATE OF MAINE

1975

KENNEBEC JOURNAL
AUGUSTA, MAINE

Bill, "An Act to Eliminate the Position of Farm Supervisor of the Department of Mental Health and Corrections." (H. P. 516) (L. D. 634)

Bill, "An Act Relating to Sale of Stuffed Toys." (H. P. 669) (L. D. 843)

Bill, "An Act Providing for a State Developmental Disabilities Planning and Advisory Council." (H. P. 871) (L. D. 1077)

Bill, "An Act to Require the Executive Council to Inform the Governor and the Legislature of its Activities." (H. P. 1483) (L. D. 1620)

Bill, "An Act Amending Certain Laws Relating to Games of Chance." (H. P. 1486) (L. D. 1678)

(On motion by Mr. Corson of Somerset, tabled and Tomorrow Assigned, pending Passage to be Engrossed.)

Bill, "An Act to Include Pellet Guns within the Definition of Firearm." (H. P. 1487) (L. D. 1679)

Which were Read a Second Time and, except for the tabled matter, Passed to be Engrossed, in concurrence.

Bill, "An Act to Clarify the Law Relating to Group Insurance Certificates." (H. P. 1485) (L. D. 1677)

Mr. Thomas of Kennebec then presented Senate Amendment "A" and moved its Adoption.

Senate Amendment "A", Filing No. S-62, was Read and Adopted and the Bill, as Amended, Passed to be Engrossed in non-concurrence.

Sent down for concurrence.

House - As Amended

Bill, "An Act Relating to Compensation and Benefits under the State Classified Services." (H. P. 406) (L. D. 495)

Bill, "An Act Prohibiting Increase of Finance Charges on Outstanding Balances of Open-End Accounts under the Consumer Credit Code." (H. P. 600) (L. D. 743)

Bill, "An Act Concerning Annual Notification Fees under the Consumer Credit Code, Concerning a Lender Collecting and Enforcing Loans without a License, and Requiring the Payment of Certain Investigation Fees to the Superintendent of the Bureau of Consumer Protection." (H. P. 607) (L. D. 750)

Bill, "An Act to Require a Notice of Default to be given Within Prescribed Intervals, as Applicable for Open-end Credit Transactions under the Consumer Credit Code." (H. P. 608) (L. D. 751)

Bill, "An Act Concerning Refinancing of Credit Sales on Consolidation under the Consumer Credit Code." (H. P. 610) (L. D. 753)

Bill, "An Act to Remove the Limitation on the Amount of Real or Personal Property Authorized to be Held by the Portland Diet Mission." (H. P. 647) (L. D. 799)

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

Bill, "An Act to Fund Public School Education." (H. P. 1437) (L. D. 1452)

Mr. Berry of Androscoggin then presented Senate Amendment "B" and moved its Adoption.

Senate Amendment "B", Filing No. S-63, was Read.

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

Mr. KATZ: Mr. President, first I would like to request a roll call on this amendment.

The basic question facing the Committee on Education with respect to this issue

was: to what extent do we move communities into a proper relationship in taxation. And the committee very, very vehemently said that we want to do things in this state by evolution and not by revolution.

L.D. 1994, when it was first considered and passed out, included a phase-in of 2.5 mills so that no community, no matter how low its tax effort, would be required to turn itself upside down overnight. 2.5 mills actually amounted to a maximum increase of about 19 point something percent. It was only natural when the committee looked at it this time, in the face of new state valuation, to say that we should continue this phase-in throughout the life of the bill so that no community would be required to react to its new uniform tax requirements with an increase of more than 20 per cent at any one time. The 20 percent was a repetition of our statement previously. I don't know quite where the 25 per cent came from, but I appreciate that those who support the 25 percent are doing so because very obviously their communities fare better.

Might I suggest that the legislature has a real responsibility here this morning, that temporarily it might be advantageous for some communities to support a 25 percent limitation. I would predict that two years from today the very communities which are supporting this posture may find that they have in fact voted disadvantageously to their long-run interests. For example, the City of Portland today would benefit from this 25 percent limitation. But for the singular occurrence of the repeal of the inventory tax, Portland would be in a completely different posture, because Portland is a vibrant growing community and its valuation is increasing.

So today I ask you to defeat the motion — and I will move that this amendment be indefinitely postponed — defeat the motion, and let us say to the state that we ask you to move through an evolutionary process into a position of greater equity, but we will not today or at any time cause any community to be faced with such radical increases in taxation that confidence in government will be reduced.

The PRESIDENT: The Chair recognizes the Senator from Androscoggin, Senator Clifford.

Mr. CLIFFORD: Mr. President, I would say that the difference between the current 20 percent limitation and the 25 percent limitation, which the amendment places on the increase, the difference of 5 percent is, as I read it, hardly revolutionary. It is not a substantial amount.

The issue here is really that a group of towns which have not been making a tax effort, because they are organized, and because they have initiated and threatened legal action against 1994, are holding a gun at the state, and they are requiring the communities that have been making the tax effort over the years to pick up the 2.5 million dollars. And that, I think simply stated, is what the issue is.

So I would hope that we could adopt the amendment and put the education funding bill into the posture of its original intent. The 25 percent is still a limitation so that no town can have its taxes increased in any one year more than 25 percent. The difference is that you don't punish the towns which have been making the kind of tax effort which they should have been making all along. And if you defeat the amendment, what you are doing is submitting to the blackmail of the organized towns which have not been

making a tax effort because of their threats against L. D. 1994 and the subsequent bills covering education funding. Thank you, Mr. President.

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

Mr. McNALLY: Mr. President, the good Senator from Kennebec suggested that we read over the horse blanket and see what has happened over in the House. I read it over and I just noticed that one of the representatives that spoke about this bill sort of said something very well: "Is it worse to be poor in the coastal towns than it is to be poor in the inland towns?" Think that over.

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

Mr. CONLEY: Mr. President and Members of the Senate: I would like to first commend the members of the committee for the work that they have done in trying to make L. D. 1994 a more workable piece of legislation and to relieve the high valuation coastal communities from the burden imposed by the existing law. My only concern is that we may be overreacting in our efforts to help the coastal communities.

Let's state honestly what is at hand here. There is no absolute standard of fairness in this legislation which seeks to set payment standards across the entire state, with its many various communities.

What's fair in Livermore Falls is not necessarily fair in Vinalhaven. What's fair in Ogunquit is not fair in Caribou. It all depends on where you stand. And from where I stand, representing the people of Portland, the legislation before you will be considerably improved by the adoption of Senate Amendment "B".

The coastal communities will still be vastly better off than if we let 1994 stay as it is now. There are some 55 coastal communities presently paying in about 5 million dollars under L. D. 1994. L. D. 1452 would cut that burden by more than 50 percent, and other towns would have to make up the 2.7 million dollars under L. D. 1452.

By limiting the increase in the school tax to 25 percent, as proposed, rather than by 20 percent, as in L. D. 1452, we will benefit just as many communities as we are seeking to do in aiding our coastal communities. The coastal communities will still benefit, but not as much. At the same time, we will benefit 54 other communities and a number of SAD's as well. These communities are not just the large urban communities but they include such towns as Peru, Cooper, Poland, towns which have just as much right to consideration as do coastal towns.

The municipalities which would benefit under Senate Amendment "B" do include Bangor, Brewer, Biddeford, Scarborough, Brunswick, Caribou, Millinocket, East Millinocket, Eastport, Presque Isle, Madawaska, Lewiston, Auburn, Jay, Lisbon, Rumford, Old Town, Orono, Sanford, Westbrook, Waterville, Winslow and, as you might have surmised, Portland, and South Portland. These are communities which have been meeting their commitments under the present law. They are being asked to provide the relief, in my opinion, this relief is perhaps a little excessive.

For instance, the Town of Wiscasset, which would have owed \$1,693,000 under present law, is being asked to pay in only \$745,000 under the limitation of 20 percent.

The Town of Wells, which would have owed almost \$400,000, is being reduced to only a little more than \$250,000. I am sure that the citizens of these communities welcome this relief, but at whose expense?

I think most of us felt that L.D. 1994, if left to stand as is, would harm Maine's self-image, if we forced lobstermen to sell their homes just because they lived on a highly valued peninsula. But we also have to remember that our factory workers are just as much a part of Maine, with just as hard a time paying their bills, and I urge you to consider Senate Amendment "B" as a proposal which tries to deal fairly, from where I stand, with all of our citizens.

Mr. President and Members of the Senate: Although I do represent a very large community of the State, I wonder how often is taken into consideration by the legislature the overburden of taxes the citizens of Portland must pay? We talk about our hospitals, which the smaller communities don't have. The City of Portland has been endowed with three very large hospitals, all tax-exempt. We can relate to the University of Maine campus which is tax-exempt. We can talk about the full-time police departments, full-time fire departments, full-time Department of Public Works, and we can talk about many services that are given through the City of Portland that the citizens down there pay taxes for. We look at the total evaluation of the City of Portland, which is roughly \$541,000,000, and of that, over \$116,000,000 is tax-exempt, a percentage of nearly 21.5 percent.

We can look at county government, of which the City of Portland pays 35 percent of the total county budget to make sure that the communities within those other 25 towns have protection, such as the Sheriffs Department, and never once has the City of Portland balked or raised any kind of attempt to do away with such services, because we recognize that it is a necessity.

I think the passage of this bill as it currently stands, or as currently proposed by the Education Committee, is further burdensome on the taxpayers of the larger communities which are being forced to pick up the slack for the communities that are not making, as the good Senator from Androscoggin, Senator Clifford, has stated, the equalized taxation effort on the local level.

I, therefore Mr. President and Members of the Senate, would hope this body would adopt Senate Amendment "B".

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

Mr. BERRY: Mr. President, I didn't speak to the motion when I made it, for the simple reason that I knew there were going to be other speakers.

First of all, Senator Thomas, Senator Katz, Representative Lynch in the back of the room, and many other members of the committee have put in a lot of long hard hours on this bill. And being a member of that committee myself, I came out of committee with the strong belief that we should be at 20 percent. But since then, having met for the last five nights consistently with large groups of educators and municipal officials, I hate to see this develop into an issue between cities and towns, because that is not actually fact. I have met with people in my district which come from towns as small as Poland, Minot, Mechanic Falls and Hebron, very small towns, as well as the Cities of Lewiston, Auburn, Lisbon, etc., and the general consensus — and I don't

have any doubt in my mind that we have made a mistake with the 20 percent — is that we have to go to the 25 percent for justification.

I think we also should realize when we hear of poverty in the coastal towns that there is poverty in other towns that aren't on the coastal properties, and we have subsidize these coastal towns for many years, not only through education, but through highways, through county government, general assistance, and many other areas. I think it is time that we not necessarily yield beyond a breaking point, but that we yield to something that is fair, and I think the 25 percent is more than fair, and we are still picking up a fair share of their costs.

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

Mr. COLLINS: Mr. President, I represent a district of 20 communities where there is a division among those who will be hurt and those who will be helped by the provisions of the school finance law, and I have agonized a great deal over my own position about this. It seems to me, however, that the Education Committee has done much more agonizing than I have and they have come out with a very fair position.

The House went through all of the debating that I think can possibly be done on these issues. We know that time is running out for our communities to get their budgets in shape, and I would say that we ought to decide today to stick with the decisions made in the House and with the decisions of the Education Committee.

In this respect, I want to cite only three statistics. And I will grant you that statistics are items that can be arranged in many different ways for many different purposes. But these statistics have to do with the three cities that we have heard from this morning. I think we all realize the importance of per capita income in knowing where burdens really fall. Now, these statistics are based on 1969 data, and so you have to realize that they are not too reliable, but I would say that they show you some relationships worth consideration.

The Town of Dayton, for example, paying in under present law \$35,000, has a per capita income of \$2,250. The City of Auburn, on the other hand, has a per capita income of \$2,826. The Town of Georgetown over on the coast, a small village in Sagadahoc County paying in \$55,000, with a per capita income of \$2,034. Compare the City of Portland in that same year, with a per capita income of \$2,812. Kingsbury Plantation, paying in \$6,000 to the state; per capita income, \$2,387. Compare the City of Lewiston, per capita income, \$2,543.

We realize, I am sure, that we cannot do perfect equity in this bill, but I ask you to go along with the best that we have been able to put together thus far.

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

Mr. KATZ: Mr. President, the debate really has succeeded in underlying the complexities of trying to raise and spend 123 million dollars from the property tax, and that is what it is all about. I hope that after this amendment is disposed of, one way or the other, that the Senate will join ranks and live up to our responsibilities as representatives of all the people in all of the state and enact legislation together.

To give an idea of the complexity of the issue facing us — and I want to say that there has been no blackmail. I have to

admit that I have been not terribly enthused by some of my mail and some of the editorial comment that was a little bit more personal than my family and I would have liked. But let me point out what has happened in Portland since the last legislature acted. Double digit inflation, higher teachers pay, greater expenditures for special education for vocational education. But what has happened to the actual property tax burden on Portland people? In 1973-'74 they had to raise over 10 million dollars. If you accept the committee's version of equity today, the Portland taxpayers' burden will be something under 9 million dollars, a very significant reduction in the tax burden of Portland people.

Lewiston, pre-1994, 5.2 million in local property tax burden; under this bill, 3.9 million, a significant reduction on the burden of Lewiston taxpayers.

Bangor, pre-1994, 4.3 million; under this committee bill, 3 million.

Auburn, pre-1994, 3.2 million of a local property tax burden on Auburn people; under the committee bill, 2.3 million.

We are moving toward an establishment of an equity. I guess what I am saying to the Senate today is that in the process of pursuing that which we believe, we must not be insensitive to the fact that we are raising a holy amount of hell in some parts of the state. Even with the 20 percent, you are voting here today to double taxes in some communities in something over three years. Now, I say that whether these small communities are on the coast, like Vinalhaven, or one of my little communities which I represent, the Town of Chelsea just within the shadow of the state house, it is wrong for the Maine Legislature to be completely insensitive to the problems we are causing around the state in the name of education funding. And I say that the superintendents who are pushing for this extra 5 percent, I think, are being a little shortsighted, because from my point of view it certainly is not good for education in the State of Maine to create these extraordinary hassles.

I sympathize with the political problems of every member of the Senate and I respect your point of view. I only ask that after this vote you stop thinking necessarily as representatives of particular districts and perhaps look at your total responsibilities and help us all toward emergency enactment.

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

Mr. BERRY: Mr. President, we have heard many figures this morning, and the most recent were in the millions of dollars, which were aimed directly, I think, at the cities. But if I might make a correction to my good friend, Senator Collins, and only using one example — but you could go through the complete list that he read, as I was following him along — the Town of Dayton, for instance, which was one he mentioned paying in \$35,000, the thing that failed to be mentioned was the fact that this is under present law. Under the revisions by the 107th Legislature, if passed, the Town of Dayton will be paying in \$22,000, or a reduction of \$13,000. So I think the equivalency runs down through, not only in the cities, but it also shows in the towns. So if we are going to argue on figures, we have to stick either to one revision or the other, and not under present law.

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

Mr. CONLEY: Mr. President and Members of the Senate: I look at the very painful expression on the face of the Chairman of the Education Committee, Senator Katz, as he is about to snap the guillotine, and I would like to at least inform the Senate that this matter has been discussed by leadership, in the presence of the Commissioner of Education as well as the Chief Executive, and although I can honestly say no endorsement was given to Senate Amendment "B" by the Commissioner, I honestly can say he said he could live with Senate Amendment "B", and I think that honestly it is just fair for all of us to share the load rather than just the large urban communities.

The PRESIDENT: Is the Senate ready for the question. The pending question before the Senate is the motion of the Senator from Kennebec, Senagor Katz, that Senate Amendment "B" be indefinitely postponed. A roll call had been requested. In order for the Chair to order a roll call, it must be the expressed desire of more than one fifth of those Senators present and voting. Will all those Senators in favor of a roll call please rise in their places until counted.

Obviously more than one-fifth having arisen, a roll call is ordered. The pending question before the Senate is the motion of the Senator from Kennebec, Senator Katz, that Senate Amendment "B" be indefinitely postponed.

The Secretary will call the roll.

ROLL CALL

YEAS: Senators, Cianchette, Collins, Corson, Cummings, Cyr, Danton, Gahagan, Graffam, Graham, Greeley, Hichens, Huber, Jackson, Johnston, Katz, Marcotte McNally, O'Leary, Pray, Reeves, Roberts, Speers, Thomas, Wyman.

NAYS: Senators, Berry E.; Berry R.; Carbonneau, Clifford, Conley, Curtis, Trozky.

ABSENT: Senator, Merrill.

A roll call was had. 24 Senators having voted in the affirmative, and seven Senators having voted in the negative, with one Senator being absent, Senate Amendment "B" was Indefinitely Postponed.

The PRESIDENT: Is it now the pleasure of the Senate that this bill be passed to be engrossed in concurrence? The Chair will order a division. Will all those Senators in favor of L.D. 1452 being passed to be engrossed, as amended, please rise in their places until counted. Will all those opposed please rise in their places until counted.

A division was had. 25 having voted in the affirmative, and 5 having voted in the negative, the Bill was Passed to be Engrossed, as Amended, in concurrence.

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

Mr. KATZ: Mr. President, I move reconsideration, and ask the Senate to vote against my motion.

The PRESIDENT: The Senator from Kennebec, Senator Katz, now moves that the Senate reconsider its action whereby this bill was passed to be engrossed. Will all those Senators in favor of the motion to reconsider say "Yes"; those opposed, "No".

A viva voce vote being taken, the motion did not prevail.

Senate

Resolve, Providing Funds for Clients in Special Age Groups Served by Cerebral

Palsy Centers. (S. P. 327) (L. D. 1113)

(On motion by Mr. Speers of Kennebec, tabled and Tomorrow Assigned, pending Passage to be Engrossed.)

Bill, "An Act to Clarify the Definition of Employee in the Workmen's Compensation Act." (S. P. 492) (L. D. 1821)

Bill, "An Act Relating to a Close Corporation Under the Unemployment Compensation Laws." (S. P. 493) (L. D. 1822)

Which were Read a Second Time and, except for the tabled matter, Passed to be Engrossed.

Sent down for concurrence.

Enactors

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

An Act Relating to Action or Claim of Insured against Insurer under a Policy of Insurance. (H. P. 207) (L. D. 252)

An Act to Amend the Maine Securities Act. (H. P. 574) (L. D. 709)

An Act to Provide for Multiple Initial Licenses and Clarification of License Category under the Insurance Code. (H. P. 594) (L. D. 733)

An Act to Aid Municipalities in the Purchase of Surplus State Property. (H. P. 643) (L. D. 796)

An Act to Provide a Right to Examine and Return Life Insurance Policies. (H. P. 665) (L. D. 839)

An Act to Authorize the Real Estate Commission to Administer Oaths and Affirmations at Hearings. (H. P. 679) (L. D. 868)

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

An Act Relating to Liability of Natural Gas Distributors. (S. P. 419) (L. D. 1267)

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

Mr. CIANCHETTE: Mr. President and Members of the Senate: I apologize to the Senate for asking to take action on this bill at this late date, but frankly I didn't notice the bill until the Senate passed it to be engrossed.

L. D. 1267 imposes upon suppliers of natural gas strict liability for injuries or damage resulting from explosions or fire occasioned by natural gas escaping the system. This bill creates a rebuttable presumption that the gas company is liable for any gas which escapes from its systems, regardless of whether it is at fault.

This bill will create an impossible burden on a natural gas company. A search of the statutes of the entire nation and the statutes in cases in the State of Maine disclose no rule or law requiring any supplier of any commodity to pay large damages simply because it cannot prove someone else was at fault.

The 106th Legislature passed a strict liability law holding the seller of any goods or product in defective condition, unreasonably dangerous to the consumer, liable for any injury or damage, regardless of whether the consumer has bought the goods or the product. I have had distributed today a copy of that law. It is title 14, section 221, and I would ask you to just verify that for yourself.

I move indefinite postponement of this bill and all the accompanying papers because it unfairly singles out one

corporation, and its passage can only lead to increased costs to the consumer.

I also had distributed a summary statement to save you from listening to me too long, but I would like you to pay attention to it and I would like you to listen to this:

The passage of this bill will create a precedent which could lead to strict liability for the industry, regardless of fault. Bottled gas distributors, automobile manufacturers and dealers, cement manufacturers, housing suppliers, appliance manufacturers and dealers; these are some of the examples of where this bill could be extended, and these people would be guilty until they proved themselves innocent.

This bill, if passed, could be an indicator to possible business interests that we in Maine clearly demonstrate that we are anti-business. They could react to this legislation and say, "You know, today it is the natural gas company; maybe it will be my business tomorrow." Again, I urge you to read the summary statement and apprise yourself of the existing law, and I would ask you to support my motion to indefinitely postpone.

The PRESIDENT: The Chair recognizes the Senator from Androscoggin, Senator Clifford.

Mr. CLIFFORD: Mr. President and Members of the Senate: I certainly welcome the opportunity to debate this measure which has not been debated in this body on its merits, and not on the basis of phone calls from bankers and industrialists, and to debate the bill on the merits and consider the bill on the merits, and not on the skill of the lobby, which is a very skillful one in this area.

This bill was considered long and hard by the Committee on Judiciary and was reported out ten to three Ought to Pass.

I notice that one of the members of the Committee on Judiciary, the Senator from Cumberland, Senator Merrill, who also represents an area which is served by natural gas and whose constituents would be directly affected, is not in the chamber, and I wonder if one of my colleagues might table this so that the good Senator from Cumberland, Senator Merrill, who has an interest in this bill, would be able to participate in this debate. Thank you, Mr. President.

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

Mr. Berry of Androscoggin then moved that the Bill be tabled and Tomorrow Assigned, pending the motion by Mr. Cianchette of Somerset to Indefinitely Postpone the Bill and accompanying papers.

Mr. Cianchette of Somerset then requested a division.

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

Mr. BERRY: Mr. President, due to the fact that I understand the Senator from Cumberland, Senator Merrill, will not be here until Monday, I withdraw the motion.

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

Mr. Conley of Cumberland then moved that the Bill be tabled and Specially Assigned for April 21, 1975, pending the motion by Mr. Cianchette of Somerset to Indefinitely Postpone the Bill and accompanying papers.

On motion by Mr. Cianchette of Somerset, a division was had. 15 having