

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

1st Special Session

OF THE

*One Hundred and Sixth
Legislature*

OF THE

STATE OF MAINE

Volume II

MARCH 7, 1974 TO MARCH 29, 1974

Index

Legislative Ethics Committee Report

ORDERED, that upon final passage, a copy of this Order be transmitted forthwith to the Department of Health and Welfare as notice of this directive. (H. P. 2103)

Comes from the House, Read and Passed.

Which was Read.

On motion by Mr. Hichens of York, tabled pending Passage.

Enactors

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

An Act to Ratify the Actions of the Trustees of the Cumberland County Recreation Center. (S. P. 970) (L. D. 2611)

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

Emergency

An Act Relating to Supplemental Security Income. (H. P. 2084) (L. D. 2608)

This being an emergency measure and having received the affirmative vote of 22 members of the Senate, was Passed to be Enacted and, having been signed by the President, was by the Secretary presented to the Governor for his approval.

On motion by Mr. Berry of Cumberland, the Senate voted to take from the table the following unassigned matter:

An Act to Change Weights and Related Provisions for Commercial Vehicles. (H. P. 2060) (L. D. 2592)

Tabled — March 29, 1974 by Senator Berry of Cumberland.

Pending — Enactment.

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

Mr. BERRY: Mr. President, I would hope that the members of the Senate would vote against enactment of the bill. I would request a roll call, and I will speak very briefly to the problem.

I understand that one of the gubernatorial candidates in the Republican Party who is pushing

Senator Tanous of Penobscot in second place had an ad some time ago saying don't knuckle under to the paper companies. I think that the message in that ad perhaps could be brought forth very clearly today. I have heard for the first time in my legislative career of attempts made to influence votes by donations to the Republican Party. I consider this a reprehensible act. I notice that the only thing that is being given as an argument for the bill is the dollar sign.

We had some pretty good debate on this the other day. There was one point that we did not touch on. The unfortunate problem, speaking economically, is that it is not too difficult to get into the trucking business. This works pretty well for the paper people. The more people you have as independent truckers running their own rigs, trying to meet their payments with the bank, trying to feed their families, the lower you can keep the price of hauling pulpwood. There are several other businesses in the same unfortunate predicament, but we are just dealing right now with the truckers for pulpwood people. If you have got a driver's license for a truck and you have got a reasonable credit rating, you can go out and buy a 20 to 40 thousand dollar rig and get in the business. You can get in line and try to get loaded up with pulpwood. There is no reason under the sun, and I can't blame the pulp companies for paying you any more than they need to haul pulp.

I have noticed for the first time in discussing overweights the total absence of any opposition to this except for pulpwood people. Of course, every session we have had knockdown dragout fights on weights and lengths, and it used to be over what we thought were major changes such as 10 percent of the gross weight, or 5 percent of the gross weight. But, lo and behold, today we certainly aren't talking in small figures; we are thinking in astronomical terms. As I pointed out yesterday in the debate, on a 12 foot center to center distance of the axle on a truck we have gone from 18 tons to 27 tons, and that is a 50 percent increase. That is a far cry from those figures that we used to fight and bleed over in previous legislatures.

Under the guise of an energy crisis, under the guise of the fact that a man can't take home his former paycheck, we are being asked to take the roads of the State of Maine and let them be wrecked, and we are being asked to put the safety of the citizens of the State of Maine in second place. As responsible members of the legislature, I find this a totally untenable position. The matter is nothing but a dollar and cents problem.

Now, there are many people in the State of Maine who make up these unemployment statistics, and maybe they would like to come down and have you vote to give them some money or change the requirements of their job so they will be able to take home a paycheck that they used to take home. Now, these are people who without any question are suffering because gas and diesel fuel are costing them more, but they are suffering more because there are a lot of fellows in the business and the paper companies aren't paying them any more to haul pulp than they used to.

I think these are the issues, and I would hope that we can think of the people of the State of Maine today, and not a small group of either very powerful paper companies or a small independent — God love them, and I hope they can exist — pulp truck operators. I hope that you would vote against enactment of the bill.

The PRESIDENT: The Chair recognizes the Senator from York, Senator Hichens.

Mr. HICHENS: Mr. President, if the Senator from Cumberland, Senator Richardson, were here this afternoon, he would be voting against passage of this bill, or would be voting for the indefinite postponement, where a I would be voting against indefinite postponement, and I would now ask permission to pair my vote with Senator Richardson's.

The PRESIDENT: The Senator from York, Senator Hichens, asks leave of the Senate to pair his vote with that of the Senator from Cumberland, Senator Richardson, who, if he were here, would be voting against the bill, and the Senator from York, Senator Hichens, would be voting for the bill, Is this the pleasure of the Senate?

It is a vote.

The Chair recognizes the Senator from Hancock, Senator Anderson.

Mr. ANDERSON: Mr. President, I wish to pair my vote with the Senator from Aroostook, Senator Cyr. He would vote for the bill, and I would vote against it.

The PRESIDENT: The Senator from Hancock, Senator Anderson, asks leave to pair his vote with that of the Senator from Aroostook, Senator Cyr. The Senator from Aroostook, Senator Cyr, if he were here, would be voting for the bill, and the Senator from Hancock, Senator Anderson, would be voting against the bill. Is it the pleasure of the Senate to grant this leave?

It is a vote.

The Chair recognizes the Senator from Penobscot, Senator Tanous.

Mr. TANOUS: Mr. President and Members of the Senate: We will be adjourning shortly, and the argument of lobbying bills has been brought up several times during discussions on major bills, and I am somewhat pleased that Senator Berry of Cumberland has brought up the subject on this particular bill as well.

Now, I have been here the last several days listening to the debate and I haven't participated in the debate on this particular bill. I hesitate to because of the area I live in. I guess most people have me as a marked man because I live in an area that is heavily industrialized by the woods product and this bill directly affects my area, but I am sure that it affects the entire State of Maine because our biggest employer in the State of Maine is represented by the woods product industry.

I commend Senator Greeley for his stand on this particular bill because he indeed is a capable and sincere individual in his position. But the lobbyists who have opposed this bill, members of the Senate, have been a special interest group, if we are going to discuss special interest groups. The only lobbyists that have approached me to change my position on this particular bill have been the lobbyists for the railroad industry. No one else has approached me to change my position on this bill. The railroad industry is opposed to this bill because it represents competition to them.

Now, I have many times stood here and mentioned to the members of this body that there are many individuals back home that don't have sufficient funds to be represented here on bills involving their interests. Many times on labor bills have I debated the fact that the unions don't care about that bill because they can get this through negotiation, yet the poor guy that is back in the puckerbrush digging ditches and working in the woods depends on us to represent him here in this body and use our discretion and our reason. And I apply this argument to this particular instance, because I have attended several meetings whereby these individuals who don't work for a big company, the individual truckowner, is interested in seeing legislation enacted to assist him in making a livelihood and to live as a decent person should live in this day and age. This is his profession, as much so as it is to a lawyer or doctor or storekeeper or anybody else. This is his profession and his livelihood, and he has invested his years and income into this particular field, and he is at the point where the financial aspects of his career are being threatened.

Now, I have seen the editorials in the papers with the graphic diagrams that show a big pulp truck overloaded over the rim, and I have never seen, as Senator MacLeod has mentioned before, misrepresentation of facts in the papers such as these diagrams. I live in an area where pulp trucks go by my home day in and day out, and you don't see loads heaping over the barriers, over the stakes, because we have laws that pertain to this, and the laws that we do have are such that they can't load a pulp truck over the stakes. Unfortunately, under the present law they can only get their pulp approximately half way up the stakes, and this is the only legal load they can carry presently. All we are asking is that they be able to carry a little more pulp, but not over those stakes on those particular trucks. That is all. They are not going to heap over and scare people half to death when they go by you. If you want to see a truck that is going to scare you half to death when it goes by you, I welcome you to go up the Golden Road sometime, which is a

private road, and see some of those trucks coming down that area.

Now, it has been mentioned that these trucks destroy or damage the roads. This has been said here in debate. Of course, I have a brother who has a sense of perception, and I am a skeptic in that area. You see, I don't mind saying this publicly, I am a skeptic in that, and I am also a skeptic when I hear people telling me that it destroys our roads because, as I mentioned, I have lived in the Millinocket area for 19 years, and they built a new road there back in 1955 and '56 that we have been using for 18 years, and there isn't one single road in this whole state of ours that has had as many pulp trucks cross over it in a period of 19 years than Route 157 from Millinocket to East Millinocket. I welcome any one of you to come up there and travel on that road to see what damage has been done by pulp trucks. If you can find any one spot that has been damaged by pulp trucks, gentlemen, I would switch my vote. You may argue that maybe there has been work done on this road. Well, we have had one skinny surface job that has been done on this road in 18 years. I am told that after 20 years a road needs an entirely new structure or base to it, but it hasn't happened to this particular road. So I can't buy the argument that this damages or destroys our roads.

That particular legislation asking for this increase is not unusual. It may be unusual for Maine but it isn't for other states, nor is it for Canada. This load that is requested in this bill has been in effect in Canada for several years and it has been in effect in many other states along the northern portion of our country. So when I hear the arguments against this bill, and I mentioned earlier, the only argument that I can conceivably come up with to oppose this bill is that there is a special interest group that wants to defeat this bill because it represents competition for their own industry. Thank you.

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

Mr. CIANCHETTE: Mr. President, I feel this item has had enough debate and I will not be debating the item, but I have a question. Earlier this week the Senator

from Cumberland, Senator Berry, the Majority Floor Leader, was questioned when he was tabling these items unassigned, and Senator Berry I remember said something like this: I want to assure you that I am not tabling these items just to kill them and that if I were to do that I hope someone would shoot me. I think those are pretty close to his words. Now, I would like to ask the Senator from Cumberland, Senator Berry, though the Chair, if I may, what was his reason for tabling this bill this morning.

The PRESIDENT: The Senator from Somerset, Senator Cianchette, has posed a question through the Chair which the Senator from Cumberland may answer if he wishes.

The Chair recognizes the Senator from Cumberland, Senator Berry.

Mr. BERRY: Mr. President, I will relinquish the microphone to the Senator from Waldo, Senator Greeley, who can answer that question.

The PRESIDENT: The Chair recognizes the Senator from Waldo, Senator Greeley.

Mr. GREELEY: Mr. President, I don't think it will take me too long to answer it. I am willing to admit that I was confused and didn't know what to do, so I asked the Senator from Cumberland, Senator Berry, to table the bill. And I am still confused.

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

Mr. BERRY: Mr. President and Members of the Senate: I want to thank the Senator from Somerset, Senator Cianchette. I am not totally surprised at his concern and I am not totally surprised at his tactics. If I were a major owner in a large road construction company and I were looking at the physical conditions of the roads of the State of Maine, and I had before us a measure that would noticeably increase and accelerate the deterioration of the roads, I know how I would vote.

The PRESIDENT: The Chair would caution the Senator from Cumberland, Senator Berry, on impugning or questioning the motives of any one of the Senators in this body on voting.

Is the Senate ready for the question?

The Chair recognizes the Senator from Kennebec, Senator Speers.

Mr. SPEERS: Mr. President, a good deal has been said about the efforts of the lobby on this particular measure, and it is very true that lobbyists have been contacting members of this body to discuss both the pros and cons of this measure. But I would like to relate and have it go on the record that I have been contacted at least by members of the general public as well. I have received phone calls on this matter, and as far as I am concerned, the only reason I am voting against this particular measure is, not because of anything that the lobby may have said to me, but rather because I do feel that it is detrimental to the public interest to increase the weights to the significant proportion that this measure does increase them and impair the roads as this increased weight would impair them.

There really hasn't been very much said about what the effect of the increased weight would be on the roads. And I submit again, members of the Senate, that it is incumbent upon those who proposed this increased weight to show that it would not have a detrimental effect upon the condition of our highways. I would call the attention of the members of the Senate to the letter that the Commissioner of the Department of Transportation wrote to us, and I would quote again from that letter. "Final enactment of the truck weight legislation which we have before us would mean a significant step backwards for the safety of Maine's approximately 500,000 licensed drivers and their often young passengers. Again, such a concentration of loads on the many old bridges throughout the state will have a very serious impact on our ability to assure that these bridges remain safe for the use of Maine's motorists. I can assure you that such loads will impose an inordinate amount of risk on the traveling public in this regard." And then he goes on. I think the Commissioner is indicating very clearly that it is the sense of the Department of Transportation that it would be detrimental to the traveling public in the State of Maine to increase the loads on the various roads that this measure would accomplish.

Now, I suppose the argument could be made that we don't really know precisely at what point the roads will not be torn apart by increased loads, that perhaps they can withstand a bit more of an increase, but I would submit again that it is incumbent upon the proponents of this legislation to show what that particular point is. I think it has been demonstrated and we have been told in as clear terms as possible that that point has been left far behind by this particular legislation, that this goes far in excess of the point at which the roads can take the weights.

So the lobby has been very helpful and very useful in presenting some facts and figures on this particular measure, but I think the people of the State of Maine, the constituents whom we all represent, have a very significant interest in this, far more so than just the businesses which the lobbyists represent. They have been interested in this, and I have been contacted and know how they feel about it.

The PRESIDENT: The Chair recognizes the Senator from Franklin, Senator Shute.

Mr. SHUTE: Mr. President and Members of the Senate: The Senator from Kennebec, Senator Speers, and I have discussed this. I have tried to convince him that the truckers of this state — and I am speaking principally of the pulp truckers, the people in my area who are small businessmen, who are trying to eke out a living, and they do make a heavy capital investment in the equipment that they own — I tried to point out to him and to the Senate repeatedly that the law that is now on the books, that is 50 years old, provides for 600 pounds per square inch. This bill does not propose to exceed those limitations. It does not propose to exceed the limitations of 22,000 pounds per axle.

I am really surprised at the position the Senate finds itself in today, because yesterday Amendment "B" was acceptable to this body. Today is a different story. Now, I opposed the adoption of Amendment "A" and "B" yesterday because I knew that we would be in non-concurrence with the other body and that the bill would be in difficulty. Sure enough, it is. But it is the

same old game, both sides are playing it, and it is pretty evident. That is why we are down to H-hour of D-day in discussing this bill which is at the very lifeblood of a lot of people in this state.

Now, Senator Berry has business in the north county and he knows well how dependent so many people are on truck weights and improved truck weight conditions for the people in that area, and he is fully aware of the financial plight of these people. Surely they aren't in the same situation that many of his constituents are in the Cape Elizabeth area. They have to fight for a dollar bill that they earn, they have to fight for the \$9 a cord they can get from the paper companies, and they intend to fight for a greater price per cord. They have guaranteed that. These are small businessmen, ladies and gentlemen, and they are just asking us to rectify what they consider to be an unjust law which has been on the books for 30 years.

These wider tire widths are not destroying the roads. They are not providing a greater pound per square inch than 600 pounds. And if we could only get that through to the Senator from Kennebec, he would change his vote and vote for this bill.

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

Mr. BRENNAN: Mr. President and Members of the Senate: First, I want to say that there have been no offers of contributions to the Democratic Party, to my knowledge. I guess we are being discriminated against in regard to a vote on this bill.

I would say that I have talked to half a dozen lobbyists on both sides and, frankly, I don't think any of them really penetrated. As far as I am concerned, it is not a battle between the railroads and the truckers. I think the question is really what is in the best interest of the general population of this state.

Now, I appreciate the small truck operator is having a real problem making a go of it, but the responsible party apparently is the paper company, and I think during the last session of the legislature we passed legislation permitting them to deal collectively with the paper companies. At one time it was

thought to be in violation of some anti-trust statute. I frankly think that is the answer, to deal collectively with the paper companies. I don't think the answer is to call on the citizens of the State of Maine to indirectly subsidize the paper companies because the paper companies are not paying apparently a fair rate to these truckers. So that is what I would like to see them do.

The other problem I have is that I can't in good conscience ask the Department of Transportation to absorb more weight on the roads — no matter how you do it, it is going to cause more damage — and not give them more money. I pledged not to support a two cent increase in the gas tax, I couldn't find anybody in the state that was for it, and it seems to me inconsistent to ask the Department of Transportation to do more maintenance with less money. So that is why I am going to vote against enactment.

THE PRESIDENT: The Chair recognizes the Senator from Waldo, Senator Greeley.

MR. GREELEY: Mr. President and Members of the Senate: I suppose I have got to come up with some kind of a jingle. I don't know if it will compare with the Campbell Soup jingle or not, but I don't imagine it will be as good because there is nothing good about it.

I think the last few days has been about the most unusual education that I have ever received in being a member of the Senate. I think probably that I saw maybe the toughest and maybe the most expensive lobby that I have ever seen in being a member of the legislature, and I started 27 years ago.

There is one thing that I did learn from the Senator from Franklin, Senator Shute, and that is I don't want to get involved in the trucking business. When he came up with the price of the truck and the excise tax, and the cost to get a truck on the road, I decided I'd join the guy that was selling the lobster traps because, as the way I understand it, his friend came along on a Thursday and he asked him how business was. Well, he says, "I will tell you." He says, "Monday I didn't sell any traps. Tuesday I sold ten traps. Wednesday," he says, "he brought them back, so I

guess you would have to call Tuesday my best day."

These truckers have had a special privilege on the frozen road law. Now, if you want to go back this winter and analyze the weather we have had, the road didn't stay frozen, and that is what our problem was, but they keep on hauling, so there is a chance to break up the road, there is no question about it. This has been one of the worst winters as far as freezing and thawing that I have ever seen. But I did write up a little statement concerning the hearings we have had, and so forth and so on. I will try and read it into the record:

There was testimony before the Transportation Committee that weights far in excess of those permitted by this Bill were being hauled regularly by those who testified. So it seems that all this Bill will do is perhaps lower their fines when they are caught and permit those who have obeyed the law to haul some added weight.

This Bill as presently written permits the highest tandem axle limits in the United States, 42,000 pounds. The Interstate System tandem axle limit remains presently at 32,000. Bills pending before the U. S. Congress suggest raising this to 34,000, which would still leave our law permitting 8,000 additional pounds on even our poorest class of secondary roads by all trucks, and loads of up to 52,800 on a tandem axle loaded with forest products.

Road and axle limits permitted by this Bill will be unable to go into either New Hampshire, New Brunswick or Quebec without being in violation of their laws.

From testimony before the Committee, we were told weight limits are not enforced to any degree in other jurisdictions, so we can assume that this law will add to the number of vehicles violating other jurisdictional laws before entering Maine or after leaving Maine.

It would seem to me that the weights permitted by this Bill would be permitted in States that do not have the frost and weather problems that we have if they were at all reasonable.

The Department of Transportation and municipalities will have to post a great number of bridges, as you have been told, and if one of these bridges

stands between the point of pick-up and the point of delivery of a trucker, I believe we all know what the trucker will do, and we won't be able to have a police officer watching every posted bridge in the State.

This Bill grants thousands of pounds of additional weight and does nothing to make the penalty more severe for excessive overloads. By that, I mean they will not be able to be fined more for an overload of 25,000 pounds than they will for 10,000 pounds. As several testified before our Committee, the maximum fine under the law at this time for 5,000 pounds can be \$210.00, so they might as well haul all they can get on. It will cost no more if they are caught, and if they get by a couple of trips they can afford the fine. The same situation will be true with this bill.

There has been testimony in this body that the State Police have not made truckers remove overloads. I want to make it a matter of record that they should follow the law as written and make them remove overloads as the law spells out.

Finally, we all know the condition of some of the roads in Maine, and common sense says that they get worse with these higher weights for all vehicles.

We should be prepared to accept the fact that our vote on this Bill is being made with the knowledge that we are willing to take our share of the responsibility when our constituents complain about highway conditions.

The PRESIDENT: The pending question before the Senate is the enactment of Bill, An Act to Change Weights and Related Provisions for Commercial Vehicles. A roll call has been requested. In order for the Chair to order a roll call, it requires the affirmative vote of at least one-fifth of those Senators present and voting. Will all those Senators in favor of ordering a roll call please rise and remain standing until counted.

Obviously more than one-fifth having arisen, a roll call is ordered. The pending question before the Senate is the enactment of Bill, An Act to Change Weights and Related Provisions for Commercial Vehicles. A "Yes" vote will be in favor of final enactment; a "No"

vote will be opposed.

The Secretary will call the roll.

ROLL CALL

YEAS: Senators Cianchette, Cummings, Graffam, Haskell, Henley, Joly, Kelley, Minkowsky, Sewall, Shute, Tanous, Wyman.

NAYS: Senators Berry, Brennan, Conley, Cox, Greeley, Roberts, Speers, MacLeod.

ABSENT: Senators Clifford, Danton, Fortier, Huber, Katz, Marcotte, Morrell, Olfene, Schulten.

A roll call was had. 12 Senators having voted in the affirmative, and eight Senators having voted in the negative, with nine Senators being absent and two Senators excused from voting, the Bill was Passed to be Enacted and, having been signed by the President, was by the Secretary presented to the Governor for his approval.

The PRESIDENT: The Chair recognizes the Senator from Franklin, Senator Shute.

Mr. SHUTE: Mr. President, having voted on the prevailing side, I ask for reconsideration and ask you to vote against me.

The PRESIDENT: The Senator from Franklin, Senator Shute, now moves that the Senate reconsider its action whereby this bill was passed to be enacted. As many Senators as are in favor of reconsideration will please say "Yes"; those opposed "No".

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

On motion by Mr. Hichens of York, the Senate voted to take from the table the following unassigned matter:

Joint Order, H.P. 2103

Tabled—earlier in today's session by Mr. Hichens of York.

Pending—Passage.

Thereupon, the Joint Order Received Passage in concurrence.

On motion by Mr. Berry of Cumberland, the Senate voted to take from the table the following unassigned matter:

Joint Order H. P. 2097

Tabled—earlier in today's session by Mr. Berry of Cumberland,

Pending—Passage.