

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

***One Hundred and Eighth
Legislature***

OF THE

STATE OF MAINE

Volume II

May 26, 1977 to July 25, 1977

Index

**Senate Confirmation Session
September 16, 1977**

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Secretary will read Senate Amendment "A".

Senate Amendment "A" read and adopted.

The PRESIDENT: The Senator from Knox, Senator Collins, now offers Senate Amendment "B" (S-388) and moves its adoption. The Secretary will read Senate Amendment "B".

Senate Amendment "B" Read and Adopted.

The Bill, as amended, Passed to be Engrossed, in non-concurrence.

Sent down forthwith for concurrence.

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

Mr. COLLINS: Mr. President, I move that we take from the Table Bill, "An Act to Make Additional Corrections of Errors and Inconsistencies in the Laws of Maine." (S. P. 590) (L. D. 1896) (Emergency)

Tabled — Earlier in the Day by Senator Collins of Knox

Pending — Passage to be Engrossed

The PRESIDENT: The Senator from Knox, Senator Collins, now moves that the Senate remove from the Table L. D. 1896. Is this the pleasure of the Senate? It is a vote.

The Chair recognizes the Senator from Knox, Senator Collins.

Mr. COLLINS: Mr. President, I believe we have a total of eight amendments to offer in the Senate. The first one is Senate Amendment "A" (S-374) which I now present and move its adoption. This is a simple matter that has to do with recording charges of certain liens.

The PRESIDENT: The Senator from Knox, Senator Collins, now presents Senate Amendment "A" and moves its adoption. The Secretary will read Senate Amendment "A".

Senate Amendment "A" Read and Adopted.

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

Mr. O'LEARY: Mr. President, I offer Senate Amendment "D" (S-378) and move its adoption.

The PRESIDENT: The Senator from Oxford, Senator O'Leary, now offers Senate Amendment "D" and moves its adoption. The Secretary will read Senate Amendment "D".

Senate Amendment "D" Read.

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

Mr. O'LEARY: Mr. President, what this amendment does is provides that the motorcycle repealer law take effect immediately in order to permit fact finding as suggested by the Governor's Committee on safety to begin immediately. As you know, we have had a number of motorcycle accidents and fatalities so far in the State of Maine, and in conjunction with the Governor's veto message so that he may have all of this material available to him for when we return next year, I move the adoption of this amendment.

Senate Amendment "D" Adopted.

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

Mr. MORRELL: Mr. President, I present Senate Amendment "C" (S-377) and move its adoption.

The PRESIDENT: The Senator from Cumberland, Senator Morrell, now offers Senate Amendment "C" and moves its adoption. The Secretary will read Senate Amendment "C".

Senate Amendment "C" Read.

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

Mr. MORRELL: Mr. President and Members of the Senate: The effect of this amendment would be that while the benefits under the voluntary quit provisions that we passed earlier, would be paid, and they would not be charged to the individual employer.

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

Mr. HEWES: Mr. President and Members of the Senate: I would inquire if this is breaking new ground, if benefits are paid to an employee,

beneficiary, and no employer is charged for those payments.

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

Mr. MORRELL: Mr. President and Members of the Senate: My understanding is that this is not plowing new ground. The charge would be against the fund generally, and not to penalize the individual employer where an employee left through his own voluntary action.

Senate Amendment "C" Adopted.

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

Mr. COLLINS: Mr. President, I offer Senate Amendment "B" (S-375) and move its adoption.

The PRESIDENT: The Senator from Aroostook, Senator Collins, now offers Senate Amendment "B" and moves its adoption. The Secretary will read Senate Amendment "B".

Senate Amendment "B" Read.

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

Mr. COLLINS: Mr. President: Maine is currently acquiring Federal property that is no longer of use to the Federal Government through two separate programs. Federal law which takes effect in October of 1977 declares that Maine may now acquire this property only through one surplus property program.

This Amendment provides for one agency, namely, the Department of Finance and Administration, to handle this program.

Senate Amendment "B" Adopted.

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

Mr. LOVELL: Mr. President, I offer Senate Amendment "G" (S-382) and move its adoption.

The PRESIDENT: The Senator from York, Senator Lovell, now offers Senate Amendment "G" and moves its adoption. The Secretary will read Senate Amendment "G".

Senate Amendment "G" Read.

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

Mr. LOVELL: Mr. President and Members of the Senate: This Statement of Fact, this Amendment would allow the refund of excise tax to distributors in cases of distribution of unsuitable merchandise if the destruction is under the supervision of the Bureau of Alcoholic Beverages in case of destruction of the distributors inventory by natural disaster. This is simply the excise tax which the State would not have to pay to the Federal Government.

Senate Amendment "G" Adopted.

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

Mr. COLLINS: Mr. President, I present Senate Amendment "E" (S-380) and move its adoption.

The PRESIDENT: The Senator from Knox, Senator Collins, now offers Senate Amendment "E" and moves its adoption. The Secretary will read Senate Amendment "E".

Senate Amendment "E" Read.

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

Mr. COLLINS: Mr. President, this has to do with architectural and landscaping firms. The Amendment was presented to the Committee on Judiciary, but was felt to be something that ought to be identified specifically as a floor amendment. I submit it with my personal recommendation as an amendment to the bill.

Senate Amendment "E" Adopted.

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

Mr. PIERCE: Mr. President, I would present Senate Amendment "F" (S-381) and move its adoption.

The PRESIDENT: The Senator from Kennebec, Senator Pierce, now offers Senate Amendment "F" and moves its adoption. The Secretary will read Senate Amendment "F".

Senate Amendment "F" Read

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

Mr. PIERCE: Mr. President and Members of the Senate, I know you are going to find this hard to believe, but that Barber's Bill was not perfect, but it seems that we did omit one minor definition and this corrects that omission and puts it in.

Senate Amendment "F" Adopted.

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

Mr. CONLEY: Mr. President, I would yield to the good Senator from Knox, Senator Collins, if he has any more Amendments to offer at this time. Otherwise, I would like to speak to the Bill.

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

Mr. COLLINS: Mr. President, as far as I know, there is only one more Amendment to be offered in the Senate. It is being sponsored by the Senator from Cumberland, Senator Morrell, and he informed me just a minute ago that it should arrive here in the Senate momentarily. I would hope perhaps that we might wish to listen to the Senator from Cumberland, Senator Conley, for a few moments, and perhaps by that time it will be here and we will know the fate of the Bill.

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

Mr. CONLEY: Mr. President and Members of the Senate, I can assure the good Senator from Knox, Senator Collins, that if I cannot keep going that my two good friends, the Senator from Oxford, Senator O'Leary, or the Senator from Penobscot, Senator Pray, can fill in for me.

However, I would like to address the Bill, and I call your attention to Page 18, Section 120, and this is allegedly an Errors and Inconsistency Bill.

As I read Section 120, 32 MRSA

The PRESIDENT: The Chair recognizes the Senator from Penobscot, Senator Pray, and inquires for what purpose does the Senator rise?

Mr. PRAY: Mr. President, a point of order.

The PRESIDENT: The Senator may state his point of order.

Mr. PRAY: Does the Senate have a quorum?

The PRESIDENT: A quorum is present. The Senator from Cumberland, Senator Conley, has the floor.

Mr. CONLEY: Thank you, Mr. President. As I have said so many times in the past, it is always nice to speak to a full Chamber. If I knew we were going to have so many Amendments offered, I would have brought my five year old up here so he could have learned the alphabet.

However, I will address again as I did earlier Section 120, on page 18, MRSA 1870, excepting for beverage containers used on international flights. It says this Chapter shall not apply to any beverage container sold to an airline, and containing a beverage intended for consumption on an aircraft flight originating or terminating in a foreign country, and I was wondering if the good Senator from Knox, if he is still in the Chamber, or some other Member of the Judiciary Committee may respond to how they find this to be an Error and Inconsistency in the Statutes.

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

Mr. COLLINS: Mr. President, the material submitted to the Committee read thusly, this Amendment would exempt beverage containers used on International aircraft flights from the Bottle Bill.

There is no way for an airline to recover the deposit of beverage containers purchased in Maine but discarded in a foreign country. As a result, airlines are purchasing no-deposit containers either over-seas or in another State, causing an economic loss to caterers at Maine's

International Airports. In addition, requiring these containers to have a deposit does not serve the policies of the Bottle Bill. These containers have never been littered on Maine's roads and highways, and thus do not form a part of the problem that the Bottle Bill was supposed to solve.

That is all of the material that I have on this, so the sponsorship seems to have been in the City known as Bangor.

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

Mr. CONLEY: Mr. President, I thank the good Senator from Knox, Senator Collins, for his response.

I would call the attention of the Senate to one other item in this Bill, on page 19, dealing with Section 123, Chapter 32, MRSA 3295, as enacted by Public Laws of 1973, Chapter 625, 218 is repealed. It is my understanding that this repeals an entire section dealing with the patient-physician communication and I would like to know why.

The PRESIDENT: The Senator from Cumberland, Senator Conley, has posed a question through the Chair, to any Senator who may care to answer.

The Chair recognizes the Senator from Cumberland, Senator Conley.

Mr. CONLEY: Mr. President, I believe that the good Senator from Knox is shuffling through some materials over there. It is a very large document, and while he is searching I thought I might just pose a question, or at least give some thought to what happened to the good old days when the Errors and Inconsistency Bill was heard in Judiciary Committee and anyone who had any Amendments to be presented to this Bill were told that the Bill would be heard on a particular day and time, Amendments were offered before the Committee, the Committee considered them at that time and once this Bill was shut that was the end of it.

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

Mr. MERRILL: Mr. President and Members of the Senate, those were the same good old days when Leadership used to back up the Appropriations Committee.

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

Mr. MORRELL: Mr. President, in view of the previous comment, it is with some fear and trepidation that I mention that there are several Amendments being prepared in Legislative Research that I have been asked to present, and so I place that dilemma before you.

On Motion of Mr. Speers of Kennebec,

Tabled until later in Today's Session,

Pending Passage to be Engrossed.

(See Action later Today)

The President laid before the Senate:
RESOLVE, Authorizing and Directing the Commissioner of Marine Resources, the Commissioner of Inland Fisheries and Wildlife and the Atlantic Sea Run Salmon Commission to Take the Steps Necessary to Assure the Construction of a Fishway on the Dam Obstructing the Kennebec River at Augusta. (H. P. 1267) (L. D. 1494)

Tabled — July y. 1977 by Senator Speers of Kennebec

Pending — Final Passage

On Motion of Mr. Huber of Cumberland.

Placed on Special Appropriations Table,
Pending Final Passage.

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

Mr. SPEERS: Mr. President, I move that the Senate take from the unassigned Table

Bill, "an Act Concerning the Operating Expenses of Public Utilities." (H. P. 836) (L. D. 1009)

Tabled — May 6, 1977 by Senator Speers of Kennebec.

Pending — Passage to be Engrossed.

The PRESIDENT: The Senator from Kennebec, Senator Speers, now moves that the Senate remove from the Unassigned Table L. D. 1009. Is this the pleasure of the Senate? It is a vote.

Which Bill was Passed to be Engrossed, as amended, in concurrence.

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

Mr. SPEERS: Mr. President, I move that the Senate take from the Unassigned Table.

Bill, "An Act to Allow Water Utility Rates Under Bond." (S. P. 79) (L. D. 187)

Tabled — May 11, 1977 by Senator Speers of Kennebec.

Pending — Passage to be Engrossed.

The PRESIDENT: The Senator from Kennebec, Senator Speers, now moves that the Senate take from the Unassigned Table L. D. 187. Is this the pleasure of the Senate? It is a vote.

The Chair recognizes the Senator from Aroostook, Senator Carpenter.

Mr. CARPENTER: Mr. President, and Ladies and Gentlemen of the Senate, just briefly to refresh your memory again, if you have not been able to thumb through your L. D. Book and find it. This is what I consider to be a particularly odorous Bill.

It would allow a utility company to start charging you their new rates four months after they apply for them, regardless of whether the PUC had ruled on them or not. Of course, if the PUC did rule and the ruling was unfavorable to the new rates, they would give the money back. I think just giving the money back would be a particularly difficult problem when you talk about the people who have moved or changed address. Not only that, but I do not particularly want to hand over my money to anybody until there is a proven need for it, which in this case would be when the Public Utilities rules there is a need for higher revenue for the particular water company, and I do not particularly see the need that my money should be allowed to go to a utility company and draw interest, and then be returned at a later date, minus that interest.

I would hope that you would not accept the pending Motion, and, Mr. President, I would request when the vote be taken on engrossment that it be by the yeas and nays.

The PRESIDENT: A Roll Call has been requested.

The Chair recognizes the Senator from Cumberland, Senator Conley.

Mr. CONLEY: Mr. President, would it be in order to move the indefinite postponement of this Bill and all its accompanying papers?

The PRESIDENT: The Chair would answer in the affirmative.

The Chair recognizes the Senator from Cumberland, Senator Conley.

Mr. CONLEY: Mr. President, I so move.

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

Mr. CARPENTER: Mr. President, I ask for the yeas and nays.

The PRESIDENT: A Roll Call has been requested.

The Chair recognizes the Senator from Penobscot, Senator Cummings.

Mrs. CUMMINGS: Mr. President, again in rather weak defense of this Bill, but in reality the purpose of this Bill is to allow the water companies a chance to go a little bit ahead of the time schedule that is normally expected when they ask the Public Utilities Commission for a rate increase. It takes about nine months before they get a final result from the PUC, and in the meantime they are in the hands of fate, which means that once again they will probably

have to come back for another rate increase.

This would allow them to instigate a certain percentage of their rate increase, and it would be a gamble to be sure, so they are not going to instigate the entire rate increase for which they are applying to the PUC. Probably they would instigate a small percentage of it. Then should by some weird chance the PUC deny them any increase at all, true, they would have an awkward demand to pay back whatever it was that the PUC did not allow, plus six percent interest. As the Senator from Aroostook has pointed out, this would indeed be very difficult to do, and in some cases it might be impossible, but by and large it could be done. The water districts are small and anyone who moves could be followed up.

This is, as you will remember who were here before, the same kind of a Bill that was in the past for all of the electric companies and the water companies and sewer districts, all kind of things, but now it is just an experiment for two years to see how it works. It will die in the year '81, I think, and it is the kind of thing that I think as an experiment should be tried, and I would hope you would vote against the present Motion.

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

Mr. CARPENTER: Mr. President and Ladies and Gentlemen of the Senate: I apologize for my mistake about the interest. I am not trying to be misleading, but this has been around for a while and I had forgotten.

I think there are two major points here that I would just like to touch on briefly. First of all, I do not think there is a great need for this. I have not seen too many water utilities going bankrupt or going out of business due to lack of funds. They seem to be regularly before the PUC asking for and getting their rate increases and doing quite well, and just generally surviving quite well in what is not a very good economic time.

I would just pose a hypothetical question. I am very pleased that this type of Legislation is not in force for other utilities, such as New England Telephone Company, based on the PUC latest decision not to grant the \$27 million rate increase. If this type of Legislation had been in effect now, the NET would in fact be paying back a lot or attempting to pay back considerable chunks of money to the people of the State of Maine.

I just have a problem. Before any review has been consummated on a rate request, why I should up a certain portion of my money. I think it negates the purpose of having a Public Utilities Commission, and I do not particularly want to give up any more money than I have to, regardless of what percentage it may be of the total package, with the idea that, well, if it does not go through we will give it back to you. I think that is a bit of a ludicrous argument.

The PRESIDENT: Is the Senate ready for the question?

A Roll Call has been requested. In order for the Chair to order a Roll Call, it must be the expressed desire of one-fifth of those Senators present and voting. Will all those Senators in favor of a Roll Call, please rise in their places to be counted.

Obviously, more than one-fifth having arisen, a Roll Call is ordered.

The pending question before the Senate is the motion by the Senator from Cumberland, Senator Conley, that L. D. 187 be indefinitely postponed.

A yes vote will be in favor of indefinite postponement. A nay vote will be opposed.

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEA — Carpenter, Chapman, Collins, D.; Conley, Curtis, Danton, Farley, Hewes, Hichens, Levine, Mangan, Martin, McNally.