

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

***One Hundred and Fifth
Legislature***

OF THE

STATE OF MAINE

Volume III

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**KENNEBEC JOURNAL
AUGUSTA, MAINE**

"An Act to Encourage Improvement in Forest Growth by Creating a Method of Taxation Based Upon the Productivity of Various Classes of Forest Lands." (H. P. 1192) (L. D. 1667)

Pending — Acceptance of Either Report.

Mr. Wyman of Washington then moved that the Senate Accept the Minority Ought to Pass in New Draft Report of the Committee.

The PRESIDENT: The Chair recognizes the Senator from Piscataquis, Senator Martin.

Mr. MARTIN of Piscataquis: Mr. President and Members of the Senate: This, as you know, is the so-called productivity bill on taxing woodlands. This bill would place a value on lands in the unorganized, together with woodland in the organized, based on its productivity.

I would like to impress on the members of the Senate today that we are getting away from the concept of market value. I also would like to impress on the members of the Senate that the lands in the unorganized have been assessed according to their productivity in the past. If you would check the assessed values on the public lots and compare them to the assessed values of land owned in fee simple in the unorganized, you will find that those values are very, very much the same. They may vary from \$.50 to \$1.25 an acre, therefore, the land itself has not been assessed.

This productivity bill would place the value according to types of forest products. Different types would have different values, according to their stumpage value, and the stands would be valued according to types, providing they have 75 percent of the various types on the stand. The land would be assessed on a county basis. The types would carry a value on a county basis. Then, in turn, the rate of the types will be established by the information from the United States Forest Service, the Northeastern Forest Experimental Station at Orono, or by the Maine Forestry Department. I would like to put much emphasis on just that small word "or". Do you realize, Members of the Senate, the power that this

would place in the hands of our Maine Forest Commissioner and also in the hands of our State Tax Assessor? Those two men would be the most powerful men within our state. They would be the ones who would control the value on land, the assessed value on eight and one-half million acres of land in the unorganized, and almost as much land in the organized.

As you know, under the bill, the value would be figured on 100 percent and then would be reduced down to 50 percent. Then these types would be valued according to a capitalization rate, and which at this time nobody knows that that rate would be.

Another feature about this bill which is difficult to buy is the fact that these values would be studied every ten years. As you know, we have had an increase in values based on the economy every year, but this bill here would set a value and that value would remain for the next ten years. So we would have special treatment for a certain few.

Again coming to the organized municipalities, the bill calls for a loss no more than 10 percent of the present tax contributions on this type of property within the organized, and I am questioning myself on just how the local assessors would be able to treat this, an assessor who is elected from the rolls and doesn't know a thing about assessing. This could be very confusing to him. So in one sense you would have a value for type in one town and you would have another value for the same type in the adjoining town, because the value would be adjusted accordingly so that the loss to the town would not be more than 10 percent.

There are many features of this bill that are very, very hard for me to stomach. It is nothing else but the establishing of a new method of taxing woodland and giving special treatment to the owners. And as you all know, any special treatment has to be absorbed by some other taxpayer.

I think you all pretty well understand the bill at this time. It has been debated and discussed in the halls. It has been lobbied to death.

Again, as in my sob story of last week regarding another L. D., I don't think that my efforts are going to get me anywhere but, Mr. President and Members of the Senate, I shall move for indefinite postponement of this bill and all its accompanying papers, and I would request a roll call, please.

The PRESIDENT: The Senator from Piscataquis, Senator Martin, moves that Legislative Document 1667 be indefinitely postponed, and a roll call has been requested.

The Chair recognizes the Senator from Washington, Senator Wyman.

Mr. WYMAN of Washington: Mr. President and Members of the Senate: I am the first to admit this isn't a perfect bill. Many of the bills we pass aren't perfect, but I think it is a start in the right direction.

Now, this matter has been studied, as was expressed before the committee, studied to death. The Governor had a task force and this task force recommended a productivity bill. Another committee, headed by a Yale professor from the Yale Forestry District, also recommended a productivity tax.

Now, we have, regarding the method of taxation, to decide whether we set up a new tax bureau or whether we use our present tax bureau. I certainly am in favor of using our present Bureau of Taxation. That is what it is for. I think Ernest Johnson is one of the most dedicated and sincere public officials and that we do have a good Department of Taxation. But if there is anything wrong with it, I don't think we should set up another bureau.

It was mentioned that these lands would be valued only every ten years. My understanding is that they will be valued or revalued every two years. The productivity will be reviewed every ten years, but not the valuation.

The committee came out with this particular draft, which is a new draft. We did not accept either of the two bills that were originally presented. Now, one of the problems that came before the committee is the fact that a great many times woodland owners cut their wood merely to reduce the tax rate, and I think, in the in-

terest of environment, that certainly we should let them harvest their wood in a reasonable manner.

This bill will also provide for a single tax rate, which is what the good Senator from Piscataquis was speaking in favor of yesterday. One of the committee amendments provided, as the good Senator said, that the valuation cannot change more than 10 percent in any one year, which would seem to be a safeguard. It also provides for divided ownership and other technical corrections.

Perhaps the thing that impressed me the most before the committee was the fact that a number of people faulted the bill but, at the same time, when they got through they said, "For heaven's sake, this has been studied and studied and studied, and let's make a start on the bill, get the law enacted and then, if there are errors in it or should be changes made, we can come back and do it, but let's not study it any more." And when the people who criticized the bill finally spoke and said, "Well, give us something", that impressed me more than anything else. And I hope you will defeat the motion of the good Senator from Piscataquis, Senator Martin, to indefinitely postpone the bill.

The PRESIDENT: The Chair recognizes the Senator from Piscataquis, Senator Martin.

Mr. MARTIN of Piscataquis: Mr. President and Members of the Senate: As my good friend, Senator Wyman from Washington, mentioned, it is a step in the right direction, but I wonder which direction. We are buying a pig in a bag. We don't know what this bill will come up with. We don't know what the value there will be on the types. We don't know what the capitalization rate is. We know about what is going to be done regarding our woodlands.

Again referring to the Governor's Task Force, which recommended a productivity rate, the majority of the committee, which was twelve in number, recommended the productivity basis of assessment. These twelve included the Maine Forest Commissioner, and the owners of the lands themselves represented a great portion of

these twelve. So again I would like to tell the members of the Senate to please bear in mind that this is an industry bill. This is not a bill that was written by the Governor's Task Force, by a group of members of the legislature, or by anyone else who attempts to make a correction for the good of the public. It is an industry bill, and it was written by their lawyers, by themselves, and it was presented by themselves. It was changed somewhat by the Committee on Taxation, but not too much change was made in the bill. It is still pretty much in toto in whole as it was first introduced.

So my recommendation to the members of the Senate today, instead of buying a pig in a bag, would be to set this aside until the special session, and have them come up with facts and tell us just what this bill is going to do, how much tax will this bill contribute to the state. I just can't imagine that we will buy this item, this pig in a bag, and say that we will make corrections afterwards. I am not convinced that this is a step in the right direction because 75 percent of this is unknown. We know the method of taxing the specie and who is going to administer it, but we know nothing else as far as what will be the ultimate results.

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

Mr. VIOLETTE of Aroostook: Mr. President and Members of the Senate: I rise to support the position taken by the Senator from Piscataquis, Senator Martin, and for these reasons:

I was one of the members who served on the Governor's Task Force to come up with a proposal for the taxation of our timberlands. This was a committee that was made up, I suppose, of almost all interests that could be concerned with regard to the taxation of these properties. It was composed of landowners, economists, tax experts, and common people like myself who had indicated some interest in this field, and we met for a considerable length of time. But the bare fact of the situation

is that we just didn't have the time to fully develop the subject.

We did develop by the time the legislature met here in January some basic concepts, and the committee did adopt the idea of a tax on productivity as being perhaps one of the most equitable ways of taxing these properties. But this is the extent to which our committee was able to develop its work. We never were able, once having accepted the idea of productivity, to develop the concept and apply it to the factors which go into allowing anyone, or allowing the committee, to say what would be the result of accepting the concept of productivity if you carried it out to its conclusion. This is the problem which we met and, as a result, the committee tried to develop legislation, did draft a bill, but eventually withdrew it because these factors had not been fully completed and we could not really tell the legislature what would be the end result of it as far as yield in taxation was concerned. So, rather than follow up and go through with the bill, we felt we really couldn't assure the legislature what the result would be, and this basically is the problem that I find with the bill which was developed by the industry side of this problem. There are some factors in their formula which are personally unacceptable to me, but there might not be if we knew what they were going to do.

Now, when you say that you accept the idea of productivity, then what do you do with it? There are some departures from the idea that was advanced by the Governor's Committee in this legislation here. What this bill proposes to do is to capitalize the annual growth of the forest land and, in a sense, tax the landowner on the profit that he would make on the yields or on the productivity of this land. Now, this is a very, very uncertain and rather nebulous theory to have us accept today without having set the ratios or the rates of the capitalization, or without knowing what the factors of productivity or yield are going to be. So we don't know the end result any more than our committee was able to develop them.

Aside from that, I think the idea of projecting or basing this fact on the profit, so to speak, when we talk about capitalization value of the annual growth, results in what I think is a result of the yield tax, so that when he makes a profit on this property you tax him on that.

Now, the Governor's Committee did advance the concept that if you did go into productivity you would tax a landowner on the annual growth, period, without bringing in the matter of capitalizing the income to be realized from the annual growth. I think this is a far greater and a far fairer way of basing your tax on productivity. If I own a stand of timber and it is producing or growing a certain amount of timber every year, if it is going to be taxed on the productivity angle, if I cut it or don't cut it, my tax is going to be based on what it is producing or what it is growing. But under the industry bill, that is going to have to be determined on what the profit would be. So the land can stand idle for a number of years and, unless he cuts it, he just isn't going to be taxed for it under their bill.

Now, there is another factor which I really cannot accept under the industry bill, and this is that there is a recovery clause in this so that if you take it out of forestry and devote it to development, then you are penalized and have to repay a certain amount of money to the state over a period of years.

This one here is loaded, as far as I am concerned, in this present bill. What it is going to do is this: You determine what the tax would have been had you taken it out of forestry and had you used it for development. You subtract from that the tax that the industry paid for it. Not only do you subtract it, but you also give them an allowance for the interest on the money they paid for the tax. But you don't charge them on the interest on the money they should have paid for the tax had they removed it out of forestry and placed it into development. So this is strictly a one-sided deal.

That is about all I am going to

say on this matter. I personally would like to see this subject deferred to the special session of the legislature. I would like to see a continuance of the Governor's Committee, which would continue to include the representatives of the landowners, the industry, as well as other interests, and try to work out to a conclusion the basic principles that the Governor's Committee made and, hopefully, by the special session we could come out with something which would be acceptable to all sides. I think if enough effort is placed into it I think we can. But if we place this bill into law now, I think it will become our law and it will be exceedingly hard to change.

As I say, I have adopted and I buy the concept of productivity. Secondly, this legislature has adopted the Land Use Regulation Commission and, as a result of that, our state has to adopt a policy of other than current market value. And I buy that concept; it must follow as a consequence of what we have done in the Land Use Regulation Commission. But on the other hand, I don't think we should accept any bill - and I accept the principles of productivity, I accept the principles of taxing other than on the basis of market value - but the factors which are in this bill here are not acceptable to me. I think we can come up with something which is going to be more equitable to the people of Maine.

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

Mr. ANDERSON of Hancock: Mr. President, a point of order. Would a motion to refer this to the 106th Legislature take precedence over a motion to indefinitely postpone?

The PRESIDENT: The Chair would answer in the negative.

The Chair recognizes the Senator from Oxford, Senator Fortier.

Mr. FORTIER of Oxford: Mr. President and Members of the Senate: I would like to make it clear that my signing the Ought Not to Pass Report on that was intended for the original bill, which has been referred to as the indus-

try bill. The redraft has sweetened it somewhat. I state "somewhat" probably with reluctance, because it is far from being what I would like to have seen.

Personally, I still believe that the bill which we previously debated here, and which apparently has no more chance of being adopted than anything at all, would have been preferable. On the other hand, I am somewhat in accord with the good Senator from Washington, Senator Wyman, when he states that this has been kicked around for so many years that it seems that we should make a definite effort to start somewhere. But I would not feel right if I were to vote for acceptance of this bill without trying to bring out to you the doubtful points and the things we are accepting, as the good Senator Martin has said, as a pig in a bag, without really knowing what we are accepting.

The formula which is incorporated in this bill has three factors: growth, value of stumpage, and capitalization. It is growth times cost of stumpage, times capitalization. Now what are these figures? They will be placed in the hands of the State Tax Assessor, with practically no limitation as to where and how he can arrive, or no guide to him as to how he is to establish these figures.

Let us take growth, for example. We find that the State Tax Assessor until 1970 had used a growth rate of .125. Since 1970 the growth rate has been .25. But we find that the Maine Forestry Service estimate has been .4, that the United States Forest Service Extension estimate has been .5. In other words, the United States Forest Service estimate, even with the correction made by the State Tax Assessor in 1970, the United States Forest Service estimate is still double that figure.

If we take the question of valuation of stumpage, for example, we find that spruce, as an example, is now being valued roughly somewhere between \$4.25 and \$5.50. We find that the Maine Forest Service establishes this figure at between \$5.50 and \$8. Now, you can understand that with the formula as used, a very slight variation in any of these factors could make a

whale of a difference in the assessment, in the final assessment.

I also find that according to the present figures there is a great difference in inoperable areas, and how are these going to be handled?

I do not want to come out openly against this bill. It has been kicked around a long time, and I would like to see something happen, but we have no idea of how it would work out. To borrow an expression which has been used here a great many times, I believe that this is probably one of the most important bills that we will act on, because it involves our largest industry, it could hurt our largest industry very materially. On the other hand, it could be the best innovation that we have made in our tax system for a long time.

The PRESIDENT: The Chair recognizes the Senator from Piscataquis, Senator Martin.

Mr. MARTIN of Piscataquis: Mr. President and Members of the Senate: I know how complex this is, I know how difficult it is to research this, and I know how difficult it is to come up with an answer but, as I mentioned a while ago, we don't have the answers yet. I think the answers could be forthcoming with further study and, in the hope that this could be further studied, Mr. President and Members of the Senate, at this time I will withdraw my motion for indefinite postponement.

The PRESIDENT: The Senator from Piscataquis, Senator Martin, withdraws his motion to indefinitely postpone Legislative Document 1667.

The pending question before the Senate is the motion of the Senator from Washington, Senator Wyman, that the Senate accept the Minority Ought to Pass in New Draft Report of the Committee.

The Chair recognizes the Senator from Aroostook, Senator Violette.

Mr. VIOLETTE of Aroostook: I hope the Senate would defeat this motion so that I could introduce a motion to substitute the Bill for the Reports and do exactly what I would like to see done, which is to refer this to the next special session of the 105th Legislature. I would request a division on the motion.

The PRESIDENT: A division has been requested.

The Chair recognizes the Senator from Kennebec, Senator Levine.

Mr. LEVINE of Kennebec: Mr. President and Members of the Senate: I support the motion of Senator Wyman. We have been talking and talking and kicking around the idea of what shall we do about taxing the wildlands. Now this piece of legislation might not be 100 percent, but it is a good start on the right legislation at the right time.

I don't know of any piece of legislation that we pass here where we are going to be 100 percent sure it is going to turn out to be all right. None of us know how it is going to turn out. We just feel that we are voting the right way and in the best interest of the people of the State of Maine.

It is a compromise piece of legislation. The industry might not be too happy with it, but they can live with it. I think it might bring in more money to the state in the long run. And if there might be any bad features in it, we can adjust it the next time, but I feel that we should pass it now rather than just not do anything about it and let it die. The people in the State of Maine want us to do something about the wildland taxes, and I think it is not the best piece of legislation, but it is about as good as we can come out with this time. To indefinitely postpone it until the next legislature would just kill it, that's all, and we would not be doing anything about it.

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

Mr. VIOLETTE of Aroostook: Mr. President and Members of the Senate: I would like to make two points clear. First of all, this is not compromise legislation. This is not legislation which is the result of any committee.

Secondly, there has been mention here that this matter has been studied to death. Well, this is not the case. The Governor's Committee was actually the first committee to try to make a comprehensive study to try to come up with an equitable system of taxing the woodlands of the state. This is the first major effort that has been

made in the state to come up with an answer to this problem, so the matter has been studied to death point that is being made that the is not the case at all.

Now, I am not critical of industry, and I want to make that very clearly understood. But I think we can come up with a better bill, and this is not, as has been said here, a compromise bill. I think with further study until the next special session that they could come up with answers to some of the items on some of the factors here which is unknown at this point. And it may well be that when those factors are known and they are demonstrated to us that we will go along with them. But there are definitely items that ought to be, I think, further studied and I think ought to be the subject of further compromise in the public interest here.

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

Mr. BERRY of Cumberland: Mr. President and Members of the Senate: I must disagree with my esteemed colleague, Senator Violette from Aroostook, when he says that this matter has not been studied. One of the most comprehensive studies that was ever made on the subject was made by a predecessor Senator of mine from Cape Elizabeth, Ed Chase, who got very far before his untimely death in studying a severance tax on timberlands. This was revolutionary and it was just the beginning of many, many studies that had been put in on this area.

I think this is a modest beginning, as Senator Fortier has so well put it. We may not be satisfied with it, but I think it is a step in the right direction. I can't see that any harm will be done by it, and I think some good may be. So I hope you would vote "Yes" on the prevailing motion made by Senator Wyman of Washington.

The PRESIDENT: The Chair recognizes the Senator from Washington, Senator Wyman.

Mr. WYMAN of Washington: Mr. President and Members of the Senate: I dislike repetition as much as anybody, but I am going to repeat that I am the first to admit that this is not a perfect

bill, and I also want to point out probably the one factor that influenced me the most when this was before the committee. That was that various people who testified faulted the bill, but they said, "For heavens sake, make a start." So, I certainly hope you will vote "Yes" on this motion.

The PRESIDENT: The Chair recognizes the Senator from Piscataquis, Senator Martin.

Mr. MARTIN of Piscataquis: Mr. President, I request a roll call.

The PRESIDENT: A roll call has been requested. Under the Constitution, 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 motion of the Senator from Washington, Senator Wyman, that the Senate accept the Minority Ought to Pass in New Draft Report of the Committee on Bill "An Act to Encourage Improvement in Forest Growth by Creating a Method of Taxation Based Upon the Productivity of Various Classes of Forest Lands." A "Yes" vote will be in favor of accepting the Minority Ought to Pass Report of the Committee; a "No" vote will be opposed.

The Secretary will call the roll.

ROLL CALL

YEAS: Senators Bernard, Berry, Chick, Dunn, Fortier, Greeley, Hoffses, Johnson, Katz, Levine, Minkowsky, Moore, Peabody, Quinn, Schulten, Shute, Tanous, Wyman, and President MacLeod.

NAYS: Senators Anderson, Carswell, Clifford, Danton, Graham, Harding, Kellam, Marcotte, Martin, and Violette.

ABSENT: Senators Conley, Hichens and Sewall.

A roll call was had. Nineteen Senators having voted in the affirmative, and ten Senators having voted in the negative, with three Senators absent, the Minority Ought to Pass in New Draft Report of the Committee was Accepted in

concurrence and the Bill, in New Draft, Read Once.

House Amendment "A" was Read and Adopted in concurrence and, under suspension of the rules, the Bill, as Amended, given its Second Reading and Passed to be Engrossed.

Thereupon, under further suspension of the rules, sent forthwith to the Engrossing Department.

On motion by Mr. Sewall of Penobscot, the Senate voted to take from the Special Appropriations Table:

An Act Providing Moneys for Eastern Regional Conference of the Council of State Governments to be Held in Maine in 1971. (L. D. 483)

This being an emergency measure and having received the affirmative vote of 30 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. Sewall of Penobscot, the Senate voted to take from the Special Appropriations Table the following matters:

An Act Relating to Committees on Status of Women, Children and Youth, and the Aged (L. D. 618)

An Act Appropriating Funds for Drug Rehabilitation in York County. (L. D. 639)

An Act to Provide Loans to Encourage the Practice of Family Medicine to Assist in Maintaining the Health of Maine Residents (L. D. 772)

An Act Providing Funds for Shalom House, Inc., a Halfway House, in Portland (L. D. 800)

An Act Providing for Repair, Maintenance and Operations of State-owned Dam on Dead River, Androscoggin County (L. D. 806)

An Act to Create an Interstate Boundary Commission to Establish a Marine Boundary Compact between Maine and New Hampshire (L. D. 920)

An Act Appropriating Funds to Establish Kidney Disease Treatment Services (L. D. 993)

Which were Passed to be Enacted and, having been signed by the President, were by the Sec-