

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

*One Hundred and First
Legislature*

OF THE

STATE OF MAINE

1963

DAILY KENNEBEC JOURNAL
AUGUSTA, MAINE

SENATE

Friday, April 26, 1963

Senate called to order by the President.

Prayer by the Rev. Douglas H. Robbins of Augusta.

On motion by Mr. Jacques of Androscoggin, the Journal of yesterday was read and approved.

On motion by Mr. Edmunds of Aroostook, out of order and under suspension of the rules,

ORDERED, the House concurring, that when the Senate and House adjourn, they adjourn to meet on Tuesday, April 30, 1963. (S. P. 579)

Which was read and passed and sent forthwith to the House for concurrence.

House Papers**Joint Order**

ORDERED, the Senate concurring, that the Legislative Research Committee is directed to study the subject matter, Bill, "An Act Relating to Out-of-State Credit for Service of Members of Maine State Retirement System," introduced at the regular session of the 101st Legislature, to determine whether the best interests of the State would be served by the enactment of such legislation; and be it further

ORDERED, that the Committee report the results of its study to the 102nd Legislature. (H. P. 1066)

On motion by Mr. Brown of Hancock, tabled pending passage.

Non-concurrent matter

Bill, "An Act Revising the Minimum Wage Law." (S. P. 183) (L. D. 482)

In Senate, April 16, passed to be engrossed as amended by Senate Amendment A (S-149)

Comes from the House, passed to be engrossed as amended by House Amendment A (H-298), by Committee Amendment A (S-100), and by Senate Amendment A (S-149), in non-concurrence.

In the Senate, on motion by Mr. Campbell of Kennebec, tabled pending consideration.

Bill, "An Act Relating to Salaries Fixed by Governor and Council." (S. P. 462) (L. D. 1289)

In Senate April 10, Indefinitely Postponed.

In House, April 17, passed to be engrossed in non-concurrence.

In Senate, April 24, voted to adhere.

Comes from the House, that body having insisted and asked for a Committee of Conference.

In the Senate, on motion by Mr. Johnson of Somerset, the Senate voted to insist and join in the Committee of Conference. Subsequently, the President appointed as Senate Conferees, Senators: Whittaker of Penobscot, Campbell of Kennebec and Brooks of Cumberland.

Order

On motion by Mr. Lovell of York ORDERED, the House concurring, that the Legislative Research Committee is directed to study the transportation needs of the State for the purpose of developing and coordinating overall long-range transportation Improvement Programs; and be it further

ORDERED, that the Committee report the results of its study to the 102nd Legislature. (S. P. 580)

Mr. LOVELL of York: Mr. President and members of the Senate, this Order is for a study of the transportation problem in the State of Maine. We have tabled and especially assigned for today a bill which I introduced, An Act Providing for a Survey of Maine's Transportation Needs. This came out of the Appropriations Committee unanimously ought to pass, so I guess there must have been one or two against it in the Appropriations Committee. But in the traveling of the Committee on Industrial and Recreational Development through the state from Portland to Aroostook County, we were in Houlton and Senator Cyr was there and down in Waldo County, and Senator Cole was there and it was expressed by the people in the various areas that our transportation problems needed a careful survey and not being in the survey business or anything of that type, I felt we should have an experienced firm do it. But the Appropriations Committee evidently felt that the cost would be too expensive so this Order is to have the Legislative Re-

search Committee do the study. As I say it is very important not only to trucking, railroads, air and water, but in my opinion it is vital to industrial development because of the fact that — well, for example, in Maine to send material to New York in many cases is more costly than it is to send it to the south from New York, a much longer distance. I would hope that the order would pass.

Thereupon the Order received a passage.

Sent down for concurrence.

Committee Reports — House

Ought Not to Pass

The Committee on Judiciary on Bill, "An Act to Provide Compulsory Driver Education for Certain Motor Vehicle Law Violators." (H. P. 773) (L. D. 1127) reported that the same Ought not to pass.

Which report was read and accepted in concurrence.

Ought to Pass

The Committee on Retirements and Pensions on Resolve, Providing State Pension for Guy C. Brown of Portland. (H. P. 1042) (L. D. 1513) reported that the same Ought to pass.

Which report was read and accepted in concurrence, the Bill read once and tomorrow assigned for second reading.

Ought to Pass — New Draft — Same Title

The Committee on Legal Affairs on Bill, "An Act Prohibiting the Use of Live Birds and Animals for Certain Purposes." (H. P. 823) (L. D. 1210) reported that the same Ought to pass in New Draft under same title. (H. P. 1038) (L. D. 1505)

Comes from the House, passed to be engrossed as amended by House Amendment C (H-272)

In the Senate, the report was read and accepted, the bill read once and House Amendment C was read.

Mr. STITHAM of Somerset: Mr. President I move the indefinite postponement of House Amendment C.

Mr. CRAM of Cumberland: Mr. President, it would seem to me

that some explanation might be required of this motion. I am quite familiar with the problem that is involved here. The problem is that in the cities about Easter time, it has been the custom to sell colored baby chickens. It is also known that sometimes in the resort areas you will find baby chickens and small animals, which now has been eliminated from the bill, given away as prizes to small children. Well, what most frequently happens is that these chickens will be mistreated when they are taken home. They will not be fed properly and very soon they become a nuisance and are thrown out in the dump.

The sponsors of the bill certainly are in favor of 4-H work and are not against the having of pets by children if they are properly taken care of but the Maine State Society for the Prevention of Cruelty to Animals, and others, felt that this type of use of birds and animals was not the proper use and should be banned.

Mr. STITHAM of Somerset: Mr. President, the committee is in entire sympathy with all that the good Senator from Cumberland has told us. We wrestled with this problem and we tried to find some answer but if you will read this House Amendment 272 it provides that it shall be unlawful for any person, firm or corporation to sell, offer for sale, or give away within the state any baby chicks or ducklings two weeks old or younger, in quantities of less than six. That would prohibit your youngster and mine from the joy of having and bringing up these young chickens or ducks and it would perhaps solve the problem of sale in some of the larger stores, but also I think would handicap the 4-H clubs and other areas in which it might be desirable to encourage children to have ducks or chickens, but if they have to have six, perhaps the parents would not go along with it. For that reason only — if they could come up with some good answer to the problem I am sure the committee would be very happy about it. We couldn't come up with one.

Mr. CRAM of Cumberland: Mr. President, I don't think but I couldn't swear to it, that a 4-H project has as few chickens or duck-

lings as six. I have never heard of one with that few.

Mr. BROOKS of Cumberland: Mr. President, I would like to direct a question if I may through the Chair to the Senator from Somerset, Senator Stitham.

The PRESIDENT: The Senator may proceed.

Mr. BROOKS: Mr. President, in the original bill is not the motive of those persons wishing control of the sale of animals realized? Maybe I have read it incorrectly but it seems to me that the original bill pretty much takes care of the problem.

The PRESIDENT: The Senator from Cumberland, Senator Brooks, poses a question to the Senator from Somerset, Senator Stitham who may answer if he wishes.

Mr. STITHAM of Somerset: Mr. President, I think the only answer to the question is to have everybody read L. D. 1210. It is quite conclusive. It makes it unlawful for any person, firm or corporation engaged in the business of making wholesale or retail sales or any person, firm or corporation, owning, operating or doing business at any fair or carnival, to advertise, display, give away or otherwise dispose of any live bird or animal as a prize or premium; or to advertise, offer for sale, sell or dispose of live rabbits, baby chicks or ducklings under four weeks of age in any quantity less than twelve or which have been dyed or artificially colored. The section shall prohibit the display of live birds or animals by any person, firm or corporation having proper facilities for their care or regularly engaged in the business of making wholesale or retail sales of birds or animals. Whoever violates this section shall be punished by a fine of not more than fifty dollars.

Now if you analyze that bill and look into the ramifications it has, I think you will find that it is impractical and would work serious hardships on a great many activities.

Mr. STILPHEN of Knox: Mr. President, may I ask a question through the Chair of the Senator from Somerset? The question would be are we now considering Legisla-

tive Document 1505 or the legislative document he just referred to?

The PRESIDENT: The Senator from Knox, Senator Stilphen poses a question through the Chair to the Senator from Somerset, Senator Stitham, who may answer if he chooses.

Mr. STITHAM of Somerset: Mr. President, we are considering L. D. 1505. My remarks were merely in answer to the Senator from Cumberland, Senator Brooks, as to what the original bill was as I understood it. If I am wrong, I apologize to the President and to the members of the Senate. The present bill is the one that the Committee drafted which is the best that we could come up with, trying to help you out.

Mr. BROOKS of Cumberland: Mr. President, the question I asked through the Chair to Senator Stitham was relative to the redrafted bill and it seems to me that the intent is fully realized in the original bill, that is in L. D. 1210 the redraft.

The PRESIDENT: The Chair will declare a five minute recess for the purpose of getting some of the answers to the questions and clarifying this issue.

The Senate was called to order by the President.

The PRESIDENT: The question before the Senate is the motion of the Senator from Somerset, Senator Stitham that House Amendment C be indefinitely postponed, and a division has been requested.

A division of the Senate was had. Twenty-two having voted in the affirmative and six opposed, the motion prevailed and House Amendment C was indefinitely postponed.

Thereupon, the bill was tomorrow assigned for second reading.

The Chair is happy to recognize in the Senate Chambers the wife of Senator Campbell of Kennebec, Mrs. Campbell. Will you stand up and be recognized, Mrs. Campbell? (Applause)

The Chair is also glad to recognize in the Senate Chambers the mayor of Hallowell, Raymond Rideout, Jr. Ray, would you stand up and be recognized, please? (Applause)

**Ought to Pass — New Draft —
New Title**

The Committee on State Government on recommitted Bill, "An Act Providing for Disposal of Unnecessary Real Estate and Appurtenances Belonging to State of Maine." (H. P. 508) (L. D. 710) reported that the same Ought to pass in New Draft under New Title: "An Act Providing for Disposal of Unnecessary Buildings and Appurtenances Belonging to State of Maine." (H. P. 1063) (L. D. 1529)

Which report was read and accepted in concurrence and the Bill, in New Draft, read once and tomorrow assigned for second reading.

The Committee on Judiciary on Bill, "An Act to Provide for a Lien for Hospital Services on Recoveries from Third Persons." (H. P. 737) (L. D. 1066) reported in Report A, that the same Ought to Pass.

The report was signed by the following members:

Representatives:

KNIGHT of Rockland
THORNTON of Belfast
SMITH of Bar Harbor
CHILDS of Portland
PEASE of Wiscasset

The Committee reported in Report B that the bill Ought Not to Pass.

The report was signed by the following members:

Senators:

FARRIS of Kennebec
CAMPBELL of Kennebec
BOARDMAN of Washington

Representatives:

BERMAN of Houlton
RUST of York

Mr. CAMPBELL of Kennebec: Mr. President, I move acceptance of Report B, Ought Not to Pass.

Thereupon, on motion by Mr. Ferguson of Oxford, the bill and reports were tabled pending motion by Senator Campbell to accept Report B.

Ought to Pass — As Amended

The Committee on Education on Bill, "An Act to Create a Mount Desert Island Regional School District." (H. P. 475) (L. D. 678) reported that the same Ought to pass as amended by Committee Amendment A (H-287)

Comes from the House, passed to be engrossed without Amendment, Committee Amendment A having been Indefinitely Postponed.

In the Senate, on motion by Mr. Brown of Hancock, tabled pending acceptance of the report.

The Committee on Highways on Bill, "An Act Providing for Area Directional Sign for Bethel on Maine Turnpike." (H. P. 101) (L. D. 145) reported that the same Ought to pass as amended by Committee Amendment A (H-195)

Comes from the House, passed to be engrossed as amended by House Amendment A (H-274), Committee Amendment A having been Indefinitely Postponed.

In the Senate, the report was read and accepted, the bill read once, Committee Amendment A read and adopted.

Thereupon, on motion by Mr. Cole of Waldo, the Senate voted to reconsider its action just taken whereby it adopted Committee Amendment A; Committee Amendment A was indefinitely postponed in concurrence, House Amendment A was read and adopted in concurrence and the bill as amended was tomorrow assigned for second reading.

Second Readers

The Committee on Bills in the Second Reading reported the following Bills and Resolve:

House

Bill, "An Act Providing for Bus Taxation Proration and Reciprocity Agreement." (H. P. 839) (L. D. 1226)

Bill, "An Act Providing for Compact on Taxation of Motor Fuels Consumed by Interstate Buses." (H. P. 840) (L. D. 1227)

Which were read a second time and passed to be engrossed in concurrence.

As Amended

Bill, "An Act Repealing the Town Clam Laws and Authorizing Special Privileges for Cooperating Towns." (H. P. 1034) (L. D. 1498)

Resolve, Providing for Purchase of Fifty Copies of "Historic Hallowell" (H. P. 178) (L. D. 247)

Which were read a second time and passed to be engrossed, as amended, in concurrence.

Bill, "An Act Relating to Closed Time on Deer in Certain Counties." (H. P. 1033) (L. D. 1497)

Which was read a second time and passed to be engrossed, as amended by Senate Amendment A (S-179) in Non-concurrence. Sent down for concurrence.

Bill, "An Act Relating to Out-of-State Credit for Service of Members of Maine State Retirement System." (H. P. 1041) (L. D. 1508)

Comes from the House Indefinitely Postponed.

Which was read a second time.

In the Senate, on motion by Mr. Edmunds of Aroostook, tabled pending passage to be engrossed and was especially assigned for Thursday next.

Enactors

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

Bill, "An Act Clarifying the Maine Milk Law." (H. P. 172) (L. D. 241)

Bill, "An Act to Increase the Pensions of Certain Retired Teachers." (H. P. 246) (L. D. 314)

(On motion by Mr. Edmunds of Aroostook, tabled pending passage to be enacted.)

Bill, "An Act Increasing Compensation of Members of State Personnel Board." (H. P. 685) (L. D. 941)

(On motion by Mr. Edmunds of Aroostook, placed on the Special Appropriations Table pending enactment.)

Bill, "An Act Relating to Binders on Pulpwood, Logs or Bolts Hauled in Motor Vehicles." (H. P. 1045) (L. D. 1512)

Bill, "An Act Relating to Excise Tax on Motor Vehicles Owned by Domestic Corporations, Partnerships, Charitable Institutions and Religious Societies." (S. P. 464) (L. D. 1291)

Bill, "An Act Relating to Operation of Farm Trailers Without Registrations." (H. P. 620) (L. D. 855)

Which Bills were passed to be enacted, and the Resolve was finally passed.

Emergency

Bill, "An Act Relating to Non-lapsing Funds for Armory Expansion." (S. P. 89) (L. D. 226)

Which received the affirmative vote of 26 members.

Emergency

Bill, "An Act Appropriating Funds for Employment of Necessary Staff and Other Operating Expenses at Northeastern Maine Vocational Institute." (H. P. 174) (L. D. 243)

(On motion by Mr. Edmunds of Aroostook, placed on the Special Appropriations Table pending enactment.)

These Bills, being emergency measures, and having received the affirmative votes as indicated, were passed to be enacted.

Emergency

Resolve Appropriating Moneys for Spruce Budworm Control. (H. P. 89) (L. D. 133)

This Resolve, being an emergency measure and having received the affirmative vote of 27 members of the Senate, was finally passed.

Orders of the Day

The President laid before the Senate the 1st tabled and today assigned item (S. P. 7) (L. D. 16) Senate Report, Ought Not to Pass, from the Committee on Appropriations and Financial Affairs on Bill, "An Act Providing for a Survey of Maine's Transportation Needs"; tabled on April 16 by Senator Lovell of York pending acceptance of the report; and on further motion by the same senator, the ought not to pass report was accepted.

Sent down for concurrence.

The President laid before the Senate the 2nd tabled and today assigned item Senate Order Relative to Constitutionality of Cousins Island Causeway Bond Issue, tabled on April 19 by Senator Stilphen of Knox pending passage, and on motion by that Senator, the bill was retabled and especially assigned for May 3.

The President laid before the Senate the 3rd tabled and today assigned item (S. P. 420) (L. D. 1163) Senate Report, Ought Not to Pass,

from the Committee on Highways on Bill, "An Act Relating to Fixing the Boundaries of Highways and Town Ways"; tabled on April 23 by Senator Cram of Cumberland and pending acceptance of the report.

Mr. CRAM of Cumberland: Mr. President, I now move that the bill be substituted for the report for the purpose of offering an amendment, and I would like to speak at length on the question.

The PRESIDENT: The Senator may proceed.

Mr. CRAM: Mr. President, as they say, "You only come this way once and you might as well enjoy it while you are here."

This particular bill involves a section of the county law which is used extensively in Cumberland County but apparently at the present time is not used anywhere else. This is Chapter 89, Section 45. It involves redefinition of highways and town ways. "Highways", as referred to in the section, means "County Roads."

I do not quite understand why this bill was not approved by the committee, but it may be we strived for perfection. At the suggestion of Mr. Bradford of the Highway Commission, an amendment was drawn up and presented which would, in his mind and in my mind too, make the thing much more workable, but I think we are trying to accomplish too much at one time.

This law operates in this way: If a town way was ever laid out by a town, or a highway was ever laid out by the county, of a certain width, the county can go back and redefine that road of that width without paying damages to anyone. And of course it happens that some of these roads were laid out 200 years ago, and of course in that long period of time many of the monuments are lost. In the metropolitan areas, such as we have around Portland, zoning has been introduced, water lines extended, and pole lines of course have been erected within the limits of the road. The municipal officers have the power to grant rights to water companies and other utility companies to put their facilities within the limits of the road, but if they do not

know where the limits of the road are they sometimes are in trouble.

In Cumberland County now the Portland Water District will not extend their lines over a very old town road or an old county road until the limits of the road have been determined, so in Cumberland County we find quite a lot of use of this statute. We have employed by Cumberland County an engineer who should be a retired man but he is an engineer and likes to do research, and he takes charge of this program. When a petition comes in from the municipal officers he does the research, set up the hearings, and when a hearing is held he explains the status of the road at that time and then proceeds after the hearing to conduct a survey. The survey is always done by a private engineering firm who works under this direction. This survey is very carefully done; a survey line is run within the limits of the road and every tree, every monument that can be found, every culvert or building, I think within twenty-five feet of the probable road line — I am not certain of that distance — but within a certain distance of the probable road line it is located and plotted on paper. After the whole plan is laid out in detail the commissioners are then asked to determine what the limits of the road shall be. County roads are usually laid out at a width of four rods and many town roads were laid out at four rods, although occasionally they might have been two rods or three rods. Many times these layouts involve controversy with the abutting land owners and the municipal officers are only too glad to turn this over to a higher body. The State Highway Department has the power to lay out state-aid roads and redefine their boundaries, but I think they have no power to define town roads, and they do not care to go to the trouble of redefining the boundaries of state-aid roads. I know of one case in Freeport. One of the abutting owners lost land on the rebuilding of a state-aid road and he was not satisfied with the location of the road as shown by the State Highway Commission engineers. The thing was resolved by a petition to the County Commissioners to rede-

fine that old county road that that state-aid road was built on, and the State Highway Commission accepted our findings.

It surprises me that this law is not used more around the state, because under the law you start with a petition by the municipal officers to the County Commissioners, and then the law provides that the engineering shall be done by the County Commissioners and that the monuments are to be set by the town, so that if the town petitions the county — the law says “shall” —so if they petition the county the county must go ahead and make the survey, which must be at the expense of the county. The cost of setting the monuments is a minor part of the cost.

We were trying to accomplish in this little amendment two things. If you look at the bill, which is L. D. 1163. This law is all one paragraph at the present time. The lines struck out in the first paragraph of the bill strike out the words “placing stakes on sidelines at all apparent intersecting property lines and at intervals of not more than 100 feet.” This was not in the original law. I find that this law was originally put on the statute books in 1872. These words were not in the original law, and any attorney would know that if the county engineer attempted to locate intersecting property lines he would run into trouble. That is the case, and we would like to eliminate that requirement from the law. All the town wants the county to do is to decide where the road line is, and the town officers are certainly not interested in the location of intersecting property lines. The amount of additional research would be fantastic.

And then in regard to placing of monuments on the sidelines: the type of monument used is always a granite monument, so the monuments should be placed at the angles and at intervals on straight lines where they can be seen. They always try to put the monuments on the top of a knoll or in a location where an engineer coming along some years later can set up and easily find the road line.

In the last paragraph you will see a line stricken out. It says, “Mu-

nicipal officers shall maintain all highway or town ways monuments and replace them forthwith when destroyed.” That is a part of the original law, and the only reason it is taken out of there is because it seemed to be out of context. That last paragraph talks about damages and appeals, so the thought was that that line should be taken out and put in the middle paragraph.

Now the proposed amendment is Filing 184, and all I am trying to do with this amendment is to spell out a little more clearly that the cost of engineering shall be borne by the county and that the cost of setting the monuments is borne by the town; but we are going a little farther and saying that the monuments can be set by the county and billed to the town. The engineering is very expensive; a piece of road a mile long would probably cost a thousand dollars just for the engineering. What sometimes happens is this: the engineering will be all done, the final location of the road will be determined and the municipal officers will be notified that we are all ready to have them set the monuments. When the monuments are set Mr. Sweetser, our engineer, goes out and assists them in setting the monuments. Then sometimes they cannot find time to do the work for a whole year, and when they do get around to setting the monuments eventually then the survey will have to be done all over again, because during the course of that year the stakes and reference points, many of them will be lost. This involves additional expense. So all we are trying to do here is make the job a little less costly for the county as well as for the town.

I hope you will give consideration to substituting the bill for the report and later adding this amendment.

Mr. COLE of Waldo: Mr. President and members of the Senate: This bill is rather complicated and I believe I can speak for the committee in saying that we have no objection to the amendment of the Senator from Cumberland, Senator Cram, at this moment until I have another chance to study it further.

The PRESIDENT: Is the Senate ready for the question? Is it the pleasure of the Senate that the bill be substituted for the report?

The motion prevailed and the bill was substituted for the report. Mr. Cram then offered Senate Amendment "A" and moved its adoption. Senate Amendment "A" was read and adopted and the bill was assigned for second reading on the next legislative day.

The President laid before the Senate the 4th tabled and specially assigned matter (S. P. 360) (L. D. 1026) Bill, "An Act Providing for Area Directional Sign on Maine Turnpike for Andover-Rumford Area," which was tabled on April 23 by Senator Ferguson of Oxford pending enactment.

On motion by Mr. Ferguson the rules were suspended for the purpose of reconsidering action whereby the bill was passed to be engrossed and reconsideration of engrossment was voted.

Mr. Wyman of Washington then offered Senate Amendment "A" and moved its adoption. Senate Amendment "A" was read and adopted and the bill was passed to be engrossed as amended.

Sent down for concurrence.

On motion by Mr. Farris of Kennebec, the Senate voted to take from the table the 48th tabled and unassigned matter, (H. P. 421) (L. D. 547) House Report "Ought not to pass" from the Committee on Claims on Resolve, In Favor of Newtuck Corporation of Portland, tabled April 17th by that Senator pending acceptance of report.

Mr. FARRIS of Kennebec: Mr. President and members of the Senate: The sponsor of this bill states that initially it was intended that this measure should merely be a request seeking authority to bring an action against the State of Maine in the event that the corporation was legally entitled to any compensation, and for that reason, so that it may have an opportunity for consideration on that basis, I move that this matter be recommitted to the Committee on Judiciary.

The motion prevailed and the bill was recommitted to the Committee on Judiciary.

The adjournment order having been received from the House, the Senate adjourned until 10:00 A.M. Tuesday next.