

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD
OF THE
Sixty-Ninth Legislature
OF THE
STATE OF MAINE.

1899.

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SENATE.

Thursday, March 16, 1899.

The Senate met according to adjournment and was called to order by the president.

Prayer by Rev. Mr. Lewis of Gardiner.

Journal of yesterday read and approved.

Papers from the House disposed of in concurrence.

The following bills and resolves came from the House and were read once. The rules were suspended, bills and resolves read the second time and passed to be engrossed:

Bill an act relating to the construction of sidewalks in the city of Auburn.

Bill an act to amend sections 3 and 6 of chapter 51 of the Revised Statutes relating to the organization of railroad companies under the general law.

Resolve in favor of the Maine State prison.

Bill an act to amend sections 3 and 6 of chapter 268 of the Public Laws of 1893, as amended by chapter 34 of the Public Laws of 1895, and chapter 249 of the Public Laws of 1897, relating to the organization and control of street railroads.

The following bill, in Senate passed to be engrossed, came back from the House indefinitely postponed:

Bill an act to incorporate the Winthrop Telegraph and Telephone Company.

The vote was reconsidered, whereby the bill was passed to be engrossed, and it was indefinitely postponed in concurrence.

Bill an act to amend chapter 104 of the Private and Special Laws of 1899, relating to the taking of herring in the town of Cutler.

This bill came from the House considered without reference to committee, read three times and passed to be engrossed under suspension of rules.

The rules were suspended, bill read twice and passed to be engrossed.

Resolve in favor of the committee appointed to attend the funeral of Harlan P. Prince of Yarmouth.

This resolve came from the House considered without reference to committee, read twice and passed to be engrossed under suspension of rules.

The rules were suspended, resolve read twice and passed to be engrossed.

House report of the committee on railroads, telegraphs and expresses, reporting ought not to pass, bill an act to amend the charter of the Ossipee Valley Telegraph and Telephone Company, came from the House, the vote reconsidered whereby the report was adopted, the report amended by striking out the word "not," bill read three times and passed to be engrossed under suspension of rules.

The vote was reconsidered whereby the report was accepted in concurrence, bill read twice and passed to be engrossed under suspension of rules.

On motion by Mr. Heald of Kennebec, a message was sent to the Executive department requesting the return to the Senate of Senate document 121, bill an act to regulate the increase of capital stock by street railroad companies.

The bill being returned, on motion by Mr. Heald, the votes were reconsidered whereby the bill was passed to be enacted and passed to be engrossed.

Mr. Heald offered Senate amendment A, amend by striking out section 7, which was adopted, and the bill as amended passed to be engrossed.

Mr. Hargraves of York, presented the following resolve and moved that it have its several readings and pass to be engrossed under suspension of rules.

Resolve in favor of the stenographers and typewriters of the presiding and recording officers of the Senate and House.

The resolve was read once, and on motion by Mr. Shepherd of Knox, was laid on the table pending second reading.

Mr. Vickery of Kennebec, presented the following resolve and moved that it have its several readings and pass to be engrossed under suspension of rules:

Resolve in favor of the messenger to the committee on inland fisheries and game.

The resolve was read once, and on motion by Mr. Shepherd of Knox, was laid on the table pending second reading.

The following resolve and bills were reported for first reading, and were read the second time and passed to be

engrossed under suspension of rules:

Resolves authorizing a temporary loan for the year 1900.

Bill an act to regulate the admission to practice of attorneys, solicitors and counselors, to provide for a board of examiners and to repeal conflicting acts.

Bill an act relating to the sale of real estate of corporations on execution.

Bill an act to incorporate Mount Pleasant Cemetery Corporation of South Portland.

On motion by Mr. Plummer of Penobscot, bill an act to amend paragraph 2, section 59, chapter 3 of the Revised Statutes, relating to town, village and city by-laws and ordinances, was taken from the table and read once.

On further motion by the same gentleman, the rules were suspended, bill read the second time and passed to be engrossed.

Mr. Adams, chairman of the committee on University of Maine, submitted the final report of that committee, that they had acted on all matters referred to them.

Mr. Reynolds, chairman of the committee on military affairs, submitted the final report of that committee, that they had acted on all matters referred to them.

The reports were severally accepted.

On motion by Mr. Chamberlain of Lincoln, a message was sent to the executive department, requesting the return to the Senate of House document 271, bill an act to prevent the taking of smelts by drag seines in the waters of Buck's Harbor, Orcutt's Harbor and Lawrence bay in the town of Brookville.

The bill being returned, on motion by Mr. Chamberlain, the votes were reconsidered whereby the bill was passed to be enacted and passed to be engrossed.

Mr. Chamberlain offered Senate amendment A, amend by striking out section 3, which was adopted and the bill passed to be engrossed as amended.

Bill an act to incorporate the Kennebec Water District.

This bill was read the second time and passed to be engrossed.

PASSED TO BE ENACTED.

An act to prevent incompetent persons from conducting the business of an apothecary.

An act to amend section 48 of chapter 104 of the Revised Statutes, relating to petitions to remove clouds from title to

real estate and to authorize justices of the supreme judicial court to order notice on such petitions in vacation.

An act to amend section 35 of chapter 285 of the Public Laws of 1897, entitled, "An act to revise and consolidate the Public Laws relating to sea and shore fisheries."

An act to amend section 30 of chapter 285 of the Public Laws of 1897, relating to close time on salmon.

An act to amend section 2 of chapter 294 of the Public Laws of 1899, fixing the salary of the county commissioners of Kennebec county.

An act for the better protection of sheep in the town of Perry.

An act to carry into effect the provisions of chapter 250 of the Private and Special Laws of 1891, and also of chapter 193 of the Private and Special Laws of 1895, providing for the building of a railroad from Van Buren to Caribou.

An act establishing a close time on lobsters in Pigeon Hill bay, in the towns of Milbridge and Steuben.

An act relating to the catching of smelts in Damariscotta river, bay and tributaries.

An act to authorize the Cape Porpoise Land Company to erect and maintain a toll bridge at Cape Porpoise.

An act to extend the charter of the Vinalhaven Water Company.

FINALLY PASSED.

Resolve in reference to the York deeds. Mr. Vickery, for the committee on military affairs, reported ought not to pass resolve in favor of J. A. Fairbanks.

The report was accepted.

On motion by Mr. Merrill of Somerset, the report of the committee on agriculture, on bill an act to regulate the sale and analysis of food, reporting that the same be referred to the next Legislature, tabled pending acceptance as amended by substituting the words "indefinitely postponed" for "referred to the next legislature," was taken from the table.

On motion by the same gentleman, the report was then accepted as amended.

On motion by Mr. Merrill, the bill to provide for insurance on normal school buildings, was taken from the table.

Mr. Blanchard of Franklin, moved that the bill pass to be enacted.

Upon this question Mr. Merrill called for a division; and 12 voting in the affirmative and 11 in the negative, the motion

prevailed, and the bill was passed to be enacted.

On motion by Mr. Vickery of Kennebec, a message was sent to the executive department, requesting the return to the Senate of bill an act to prevent the killing of tern.

The bill being returned, on motion by Mr. Vickery, the votes were reconsidered whereby the bill was passed to be enacted and passed to be engrossed.

Mr. Vickery offered Senate amendment A, amend by striking out section 2, which was adopted and the bill passed to be engrossed as amended.

On motion by Mr. Plummer of Penobscot, the Senate took a recess for thirty minutes.

AFTER RECESS.

Mr. Shepherd of Knox, moved that a committee of three be appointed by the chair to consider the matter of extra compensation of various officers and employees and make such report as will equalize the compensation of the parties in interest, requesting that he should not be appointed to the committee on account of other duties.

The motion was agreed to, and the chair appointed as such committee, Messrs. Stearns of Aroostook, Hurd of York and Reynolds of Cumberland.

On motion by Mr. Shepherd, the Senate took a recess until 4 o'clock.

AFTERNOON SESSION.

Papers from the House disposed of in concurrence.

The following bills came from the House passed to be engrossed under suspension of rules. The bills were read once, rules suspended, bills read the second time and passed to be engrossed.

Bill an act to prohibit advertising debtors.

Bill an act to amend section 28, of chapter 90, of the Revised Statutes, relating to the discharge of mortgages, as amended by chapter 69, of the Public Laws of 1895.

House amendment A adopted in concurrence.

USE OF SEALS ON DEEDS AND OTHER CONTRACTS.

Bill an act to render obsolete the use of seals on deeds and other contracts.

This bill came from the House on its first reading.

Mr. STEARNS of Aroostook: I feel constrained here, today, to make some remarks as to the wisdom, or lack of wisdom, that is shown in the presentation of this bill to the Legislature. To my mind, no measure looking to a change of the public statutes of such great importance has come before the Legislature at this session as is this little bill of five lines, seemingly innocent, but yet fraught, it seems to me, with danger to the people of the State; and it makes me sad to reflect that at my age of life, I am obliged to ask as I do, that such a bill as this should be indefinitely postponed. That is to say, the thought to me is mournful that we are called upon to meet such a bill as this is. For half a thousand years the American people and those of the old country who have spoken the English tongue have had two classes of contracts, those under seal, as deeds, and those not under seal, simply contracts. That distinction existing between those two classes of contracts, there has grown up a great system of jurisprudence, of learning, in this country and in Great Britain, that has been relied upon to guard the rights of all citizens. That system now is settled so that lawyers and laymen know what it means, and resting upon this doctrine of the use of seals today stands the title to countless millions of property, and yet the author of this little bill of five lines has undertaken to overthrow this system. The man who drew this bill suggested to me a little while ago, "What harm will it do to repeal the law authorizing the use of a seal or to abolish the use of seals?" I answered him that it is not for us to say what the objection is, or what the harm will be of abolishing seals, but it is for you to furnish us some argument in favor of abolishing seals, and thus far I have not heard any; but it seems to me that the only argument that can be made in favor of abolishing seals is that argument that is made by the little boy when he goes out in the spring with his hatchet and girdles trees because he wants to destroy something, or the man who, without taste, pulls down a fine mansion that has sheltered him, his father and his grandfather before him, and builds one of those little

Queen Anne cottages with peaked gables. The truth is, there can be no sound argument for abolishing an institution that has withstood so many changes and justified its use for 500 years.

So many things rest upon this doctrine of the use of seals that it is not conceivable that any lawyer, or any person, however brilliant his intellect, however subtle his mind, could draw a repealing act in five lines that would not conflict with vested rights and interests and overturn systems and principles to the injury of the people, so I move, Mr. President, that this bill be indefinitely postponed, and I wish to state here some propositions that occur to me as a reason why the motion should prevail.

First let me say that the sealing of a contract implies that the maker of it or the grantor of the deed receives some consideration. What will be the effect upon that principle of law if an abolishment of the seal is made? If the use of seals were abolished, in my opinion, no person could make a gift to-day that he could not take back tomorrow no matter how meritorious it was, because he could say, "I received no consideration for this gift, therefore I will take it back." The seal upon the deed of gift or instrument precludes the possibility of his taking it back, for it being under seal, there can be no question that he has received the consideration. Another thing, different rules of law hold in these cases; a contract under seal outlaws in 20 years, while a simple contract outlaws in 6 years. Did the gentleman who drew this bill contemplate making a change here requiring an examination of law that this Legislature cannot make when he drew this little, short bill? I question if he did; I do not believe he did. So many things would occur to one as an objection that I do not believe it is necessary to make an extended argument, even for the benefit of those who are not familiar with the law. But it was said by the gentleman who argued for the abolishment of the seal in the House this morning that he knew an instance of a man who lost something by a deed not being sealed. The man who made the deed forgot to seal it, therefore the grantor lost the property. But I will say that a man

might forget to sign his name to a deed and it would not be a good deed, and you know the necessity of sealing just as much as the necessity of signing, and there is no argument in that. No argument has been advanced that to me seems sound for overturning the wisdom of ages, by any individual or any number of individuals who wish to ask that things that are old and settled and vested be done away with and I hope that the Senate will say to reformers and those who desire such changes that it is well to leave that which we have as a system of law, at least until some pains have been taken to formulate a system that will take the place of it and will not leave us in confusion so that the difficulty will be infinitely greater to settle the disputes that will arise because of this inadequate change of a system than the use of a seal under present law.

Mr. PLUMMER of Penobscot: I would like to ask the learned gentleman who has just spoken, for information, if there are any states in this Union that have abolished the use of seals.

Mr. STEARNS: I would state to the senator from Penobscot that I heard the gentleman from Greater Portland, in his argument, this morning, give the names of a number of states that have abolished the use of a seal, and I remember that Indian Territory heads the list; there was also Colorado and Arizona, and I think Iowa. Then I heard it stated there, which is the fact, that very many of the states, most of the states recognize a scroll or mark of the pen, as a seal, but that change in no sense affects or touches the law upon which the seal rests; it simply provides that something else than a piece of paper, or a wafer, may be a seal. I wish to state further, at the suggestion of the gentleman from Somerset, that those states that have abolished a seal practice under a code; that is, they have abolished a whole system of practice, and when one man sues another, a long statement is written, prolix enough to furnish manuscript for a pretty long work, and they affect to despise the learning that has come down to us and ask for changes in everything. They abolish the seal, they change the form, but fortunately for us, for the adminis-

tration of justice in this State, for the welfare of the people and our prosperity, we have adhered to the common law of England, which has developed and grown in this country, so that it is sufficient to meet all our wants and 's a part of that system of law which makes me a lover of the State of Maine; and I ask that the Senate refuse to give a passage to this bill.

Mr. REYNOLDS of Cumberland: I have not such strong convictions on this matter as the senator from Aroostook. I did not consider it a question of life and death, or any approach to it, one way or the other. We were not altogether united on the question in the committee, and as a member of the committee who voted for the bill, and I believe there was only one dissenting vote, I feel to say a word or two in its behalf.

We all know, who know the senator from Aroostook, and most everybody is beginning to know him, fortunately, that he has such a veneration for the old common law and for the old customs, that it is almost like losing a part of his life or some of his dearest associations to part with any of them. I suppose if some of us, myself included, had that splendid equipment in the common law that he has, that we should feel differently about it. As a matter of fact, it seems to me that this bill, a permissive one, is one that will occasion no trouble whatever from a legal standpoint. I have been in the habit of drawing wills. I think the gentlemen all understand that there is no seal required when a will is signed, and yet, as a matter of practice, I always use one. I imagine that if this bill should pass, that when I make out a deed, for a long time I should put a seal on, or in making out other instruments do the same until we had got thoroughly accustomed to the working of this thing and felt it to be perfectly safe. It seems to me that it is pretty much a matter of tradition and is simply one of those things like many others which I hope the gentleman from Aroostook will live to see brushed away, as he has seen many in the past. Our statutes, today, contain many monuments to a belief contrary to his; in fact, he himself is trying to add one at this session, in House bill 337, or his committee is trying to, in regard to im-

prisonment for debt. It was one of the ancient English law principles, that we could imprison a man for debt, and we are doing the best we can to abolish it now, and I to a great degree assent to that doctrine. I think it rests largely there, that it is not a matter of very much moment, anyway, but inasmuch as our committee by a majority report reported the bill for your consideration I feel to say that, from a legal standpoint, as best I can judge, according to my light, there is no danger in the bill and it is simply a forerunner of what undoubtedly will be enacted in this chamber sometime.

A vote being taken, 22 voting in the affirmative and 2 in the negative, the motion to indefinitely postpone the bill prevailed.

The following bills and resolves came from the House passed to be engrossed under suspension of rules. They were severally read once, rules suspended, read the second time and passed to be engrossed.

Bill an act amendatory of chapter 507 of the Private and Special Laws of 1889, entitled "An act to establish the Dover municipal court."

Bill an act to amend chapter 11 of the Public Laws of 1899, entitled "An act to annex the city of Deering to the city of Portland."

Resolve relating to certain unpaid taxes assessed against certain street railroad corporations.

Bill an act in relation to foreign banking associations and corporations.

House amendment A adopted in concurrence.

Resolve in favor of Adjutant General John T. Richards.

Bill an act to divide the town of Frenchville and incorporate the town of St. Agatha.

Bill an act in relation to taxes assessed on timber and grass on reserved lands for years 1887 to 1896, both inclusive.

Bill an act to amend section 4 of chapter 115 of the Revised Statutes, relating to the register of probate in Lincoln county.

Bill an act to re-establish the salary of the judge and register of probate for Somerset county.

Bill an act regulating caucuses in the city of Biddeford.

Resolve laying a tax on counties of the State for the years 1899 and 1900.

Mr. Weeks of Somerset, offered Senate amendment A, which was adopted and the bill passed to be engrossed as amended.

PASSED TO BE ENACTED.

An act for the assessment of a State tax for the year 1899, amounting to the sum of \$907,950.98.

An act for the assessment of a State tax for the year 1900, amounting to the sum of \$907,950.98.

An act to amend section 11, chapter 78, of the Revised Statutes, relating to the duties of county commissioners.

An act to amend chapter 135 of the Public Acts of 1895, and acts additional thereto, relating to the salary of judge of municipal court of Bath.

An act to create a lien upon monumental work.

An act authorizing women to be admitted as attorneys to practice law in the courts of this State.

An act relating to sums paid by officers and collectors for internal revenue stamps affixed to deeds of real estate sold by them.

An act in relation to street railroad corporations.

An act to authorize a topographic survey of the State in co-operation with the United States Geological Survey.

An act for the better protection of fish weirs.

An act to prevent the destruction of smelts in Saco river.

An act to amend an act to incorporate the city of Gardiner.

An act to amend chapter 329 of the Private and Special Laws of 1891, relating to the municipal court of Waterville, as amended by chapter 325 of the Private and Special Laws of 1897.

An act authorizing the inhabitants of Foxcroft to make appropriation for free use of books in the Thompson Free Library.

An act to extend the charter of the Winn Water and Power Company and to amend the same.

An act to legalize the doings of the First Universalist Society of Westbrook.

FINALLY PASSED.

Resolve providing for expenses of State inspectors of steam vessels.

Resolve in favor of the commissioners appointed by the Governor to inquire into and report upon the advisability of establishing additional State normal schools.

Resolve relating to therereords of births, marriages and deaths in the office of the secretary of State.

On motion by Mr. Plummer of Penobscot, the Senate took a recess of 30 minutes.

AFTER RECESS.

The following bills and resolve came from the House passed to be engrossed under suspension of rules. Read once, rules suspended, read the second time and passed to be engrossed.

Bill an act to amend section 2 of chapter 33 of the Public Laws of 1887, relating to the burial of soldiers.

Bill an act to amend chapter 266 of the Public Laws of 1893, relating to the militia.

Resolve in favor of estate of H. F. Eaton.

Bill an act to prevent heads of departments from employing counsel or witnesses before committees of the Legislature.

On motion by Mr. Pike of York, it was Ordered, that when the Senate adjourn, it be to meet tomorrow morning at 9 o'clock.

PASSED TO BE ENACTED.

Resolve in favor of the Society of the Sisters of Charity for the use of the Healey asylum in Lewiston.

On motion by Mr. Shepherd of Knox, Adjourned.

HOUSE.

Thursday, March 16, 1899.

Prayer by Rev. Mr. Meade of Augusta.

Papers from the Senate disposed of in concurrence.

TAXATION OF RAILROADS.

Bill an act to amend section 42, of chapter 6, of the Revised Statutes, as amended by chapter 146, of the Public Laws of 1893, relating to the taxation of railroads.

This bill came from the Senate from the committee on taxation, referred to the next Legislature.

Mr. GARDNER of Patten: I have an amendment I wish to offer to that report, and I also wish to move that when the vote is taken on this amendment, it be taken by the yeas and nays, and that the members of the House go on record as voting for or against it. I am before you to defend in a feeble way my convictions; and I wish to say that this bill, introduced by me, calling for an increase in the taxation rates on railroads, is not a move to injure or affect or attack anyone corporation, but it is a move, and my position is that there should be an immediate move, in the direction of increased taxation on the public corporations of this State. And understand me here that by these corporations I mean the great quasi-public corporations of the State which have received immense privileges and grants and concessions from the people of this State. And I wish to say here that it is my firm belief—and the more I know of the matter the more I am convinced of it—that by undue and improper influence on the Legislature in this State, for too long have these corporations avoided paying their just proportion of the burdens of taxation, and too long have the people of this State had too great a burden of taxation upon them.

I had two objects in introducing this bill, in singling out the railroads. First, I claim that they have practically admitted, without discussion and with-