

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

Seventy-Second Legislature

OF THE

STATE OF MAINE.

1905.

HOUSE.

Tuesday, Feb. 21, 1905.

Prayer by Rev. Mr. Quimby, of Gardiner.

Journal of yesterday read and approved.

Papers from the Senate disposed of in concurrence.

Senate Bills on First Reading.

An act to authorize the city of Bangor to issue new bonds to retire maturing bonds.

The following petitions, bills, etc., were presented and referred:

Judiciary.

By Mr. Nash of Damariscotta: Petition of A. L. Shaw and 70 others of Damariscotta relative to taxes on wild lands, and amendment to section 8, article 9 of constitution; petition of C. W. Ferguson and 30 others of Bristol relative to same. (These petitions were tabled on motion of Mr. Littlefield of Rockland.)

By Mr. Fawsette of Garland: Bill an act to amend section 1 of chapter 190 of the private and special laws of 1887 entitled, "An act to enlarge the jurisdiction of the municipal court of Dexter.

Legal Affairs.

By Mr. Holmes of Caribou: Petition of A. C. Leighton and 45 citizens of Limestone for the establishment of the Caribou municipal court.

By Mr. Jillson of Otisfield: Petition of Henry E. Jillson and 61 others of Harrison and Otisfield praying for a change in the constitution relative to taxation of wild lands.

By Mr. Merrill of Skowhegan: Petition of E. F. Allen and 5 others of Skowhegan to amend constitution relative to taxation of wild lands; petition of L. H. Packard and 29 others of Skowhegan for same.

By Mr. Newbegin of Gray: Petition of W. S. Allen and 26 others in favor of same.

By Mr. Staples of Eliot: Bill, an act to create a bridge commission.

Inland Fisheries and Game.

By Mr. Vittum of Concord: Remon-

strance of W. R. Jordan and 52 others of Bingham against the repeal of the law protecting moose and deer in organized towns and plantations.

Appropriations and Financial Affairs.

By Mr. Giddings of Gorham: Resolve in favor of the Maine State Prison.

Taxation.

By Mr. Wilt of Norway: Petition of W. P. Linnell and 25 others of Otisfield praying for an amendment to section 8 of article 9 of Constitution of Maine.

By Mr. Howes of Palmyra: Petition of B. E. Robertson and 22 others of Detroit for same.

By Mr. Merrill of Skowhegan: Petition of J. W. Packard and 11 others of Skowhegan in favor of bill to increase rate of taxation of railroads.

By Mr. Longfellow of Addison: Petition of Ellis J. Strout and 34 others of Harrington and Columbia pertaining to taxation of wild lands.

By Mr. Baxter of Portland: Petition of F. H. Gordon and 5 others of Thomaston for repeal of law taxing mortgages on real estate; of R. W. Lord and 21 others of Kennebunk for same; of A. C. Hagerthy of Ellsworth for same; of B. P. J. Weston and 12 others of Madison for same.

By Mr. Merrill of Skowhegan: Petition of J. P. Merrill and 36 others of Skowhegan in favor of the bill to increase rate of taxation on railroads.

By Mr. Fawsette of Garland: Petition of H. Silver and 38 others of Dexter for same.

By Mr. Hastings of Bethel: Petition of Vena Richards Sallont and 26 others of Dixfield for Grange bill to equalize school tax.

By Mr. Nash of Damariscotta: Petition of J. A. Perkins and 57 others of Damariscotta for same.

By Mr. Briggs of Auburn: Petition of Geo. E. Gray and 29 others of Auburn for same.

By Mr. Lougee of New Limerick: Petition of J. C. F. Bayley and 7 others of Caribou for same; of A. H. Nelson and 26 others of New Sweden for same.

By Mr. Witherspoon of North Haven: Petition of M. B. Stevens and 48 others of Warren for same; of W. W. Smith

and 53 others of Glen Cove for same; of Robert S. Simmons and 65 others of Rockport for same.

By Mr. Briggs of Auburn: Petition of M. A. Pulsifer and 9 others of Auburn for same.

By Mr. Howes of Palmyra: Petition of Fred Lucas and 75 others of St. Albans for same; of Harry E. Penney and 33 others of Canaan for same; of H. A. George and 30 others of Mercer for same; of T. Y. Perkins of St. Albans and 12 others for same; of O. B. Fletcher and 17 others of Starks for same; of H. L. Goodrich and 25 others of Palmyra for same; of C. J. Savage and 12 others of Somerset county for same.

By Mr. Merrill of Dixfield: Petition of Lewis H. Bisbee and 14 others in favor of the bill providing for an increase of the school fund by the mill tax.

Salaries.

By Mr. Merrill of Dixfield: Petition of Lewis H. Bisbee and 14 others in favor of adopting the report of the committee regarding the abolition of the fee system.

Reports of Committees.

Messrs. Pike, Brown, Downes, Hutchins, Irving and Howe, a majority of the committee on Temperance, reported ought not to pass on resolve to re-submit in the fifth amendment of the constitution relating to the manufacture and sale of intoxicating liquors.

Messrs. O'Brien and Leighton, a minority of same committee, reported ought to pass.

On motion of Mr. O'Brien of Lewiston, these reports, pending their acceptance, were laid on the table, with the resolve, to be printed, and assigned for Friday of next week.

Mr. Putnam, from the committee on interior waters, reported in a new draft bill an act to extend the powers granted the St. John Lumber Company, by chapter 201 of the private and special laws of 1903, and that it ought to pass.

On motion of Mr. Laliberte, of Fort Kent, the report was tabled pending acceptance.

First Reading of Printed Bills.

Resolve in favor of the Penobscot tribe of Indians for the years 1905 and 1906.

Passed to be Engrossed.

An Act to extend the charter of the Wilton Trust Co.

An Act to continue in force the charter of the Van Buren Trust Co.

An Act to extend the charter of the Merchants' Trust Co., and to change the name of some of the corporators.

(Tabled pending second reading on motion of Mr. Higgins of Limerick).

An Act to amend Section 44 of Chapter 41 of the Revised Statutes relating to close time for smelts.

An Act to extend the charter of the Cumberland Trust Co.

An Act to authorize the county commissioners of Aroostook county to create a sinking fund for the purpose of paying the bonded debt of said county.

An Act to amend Chapter 86 of the Private and Special Laws of 1903, entitled "An Act to authorize the Orono Pulp and Paper Co. to generate, use and sell electricity."

An Act to amend Chapter 108 of the Revised Statutes in relation to the selection of service of jurors.

An Act additional to Chapter 49 of the Revised Statutes, defining fraternal beneficiary associations doing business in 1889.

An Act relating to the Pine Grove Cemetery of Falmouth, Maine.

An Act to authorize James Crawford and his associates to erect and maintain piers and booms in the Saint John river in the town of Grand Isle.

An Act to regulate fishing in Shadow pond, so called, in Squaw Mountain township, Piscataquis county.

An Act to incorporate the Stockton Springs Water Co.

An Act to provide for the protection of trees and shrubs from the introduction and ravages of dangerous insects and diseases.

Resolve authorizing the land agent to sell certain public lots in Wallagrass plantation and Eagle Lake plantation, in Aroostook county.

Resolve in favor of the Maine Children's Home Society.

Resolve making appropriations for the Passamaquoddy tribe of Indians.

Resolve in favor of Peter F. Neptune, representative of the Passamaquoddy tribe of Indians.

Resolve providing for preventing contagious diseases among cattle and horses.

Resolve in favor of the Maine State Poultry and Pet Stock Association.

Resolve to amend Chapter 194 of the Resolves of 1903, relating to industrial exhibits. (Tabled pending second reading on motion of Mr. More, of Lewiston).

An Act to extend the charter of the Mattanawcook Manufacturing Co.

An Act to extend the time in which the Van Buren Sewerage Co. is authorized to commence business.

An Act to authorize the European and North American Railway and the Maine Central Railroad Co., its lessee, to change the location of its railroad bridge across the KenCuskeag stream in Bangor.

An Act to extend the charter of the Eastport Street Railway Co.

An Act to preserve the purity of the sources of water supply for the village of Livermore Falls and Chisholm and to protect the public health.

An Act to amend Chapter 82 of the Private and Special laws of 1903, entitled, "An Act to incorporate the Gardiner Water District."

Resolve in favor of the Madawaska Training school.

Resolve in favor of the town of Pittston.

Resolve in favor of the Deaconess' Home Association of Bangor.

Orders of the Day.

Special Assignment: Report of the Committee on Appropriations and Financial Affairs on resolve in favor of the Maine Industrial School and Shop for the Blind, reporting the same to be referred to next Legislature.

Mr. KNAPP of South Portland: Mr. Speaker, I did not learn until a late hour yesterday that I was to be entirely handicapped to further any other measure that would tend to assist the blind in our State but I did learn it then and learned it quite directly; so, without any discussion, I move that the report of the committee be accepted.

The motion was agreed to.

Appointment of Clerks of Judicial Courts.

Special Assignment: Bill, To amend Revised Statutes in relation to the appointment of clerks of judicial courts.

Mr. BAXTIER of Portland: Mr. Speaker, and Gentlemen of the House: This bill provides that the clerks of the judicial courts of this State shall be appointed by the members of the supreme court, instead of being elected as they are at present. I will read that section of the bill which is of the most importance:

"Clerks of the judicial courts shall hereafter be appointed by, and hold office during the pleasure of, the justices of the supreme judicial courts, or a majority thereof."

This is a bill which deserves grave consideration. It is a bill which affects not only the lawyers of the State, but also the citizens who have business before the courts; and ever broader than that, it affects every citizen whose rights and whose property are affected by the decision of the courts. Let me trace the history of this bill from the time of its inception down to the present. In 1903 this bill was presented to the Legislature. It was unaccompanied by a single petition from the members of the Bar of this State, or by a single letter from a citizen of this State. But there was one document, however, which is of interest in this connection. A remonstrance was signed by 22 members of the Knox County Bar who condemned this bill in on measured terms. This is what they say: "We believe that all attempts to deprive the people of the choice of such public officers is un-Republican, unwise, and detrimental to public interests." The committee to which that was referred in the Legislature of 1903, evidently wishing to be lenient with what was somebody's particular hobby, reported that it be referred to the next Legislature.

Now, the position of the bill before this Legislature has been in no wise changed since the Legislature of 1903.

Not a single petition from members of the Bar of this State, or from citizens of this State, has been sent in as far as the documents that are with the bill show, asking for its enactment. What is

more important than this, is the manner in which the people of this State were informed of the provisions of this bill. A bill which deprives the citizens of this State of the right to elect public officers should have been given a wide and conspicuous notice throughout the State. But the title of this bill does not conform to the rules of the House, which provide that bills shall be given a title showing in some respect, and showing carefully, what the bill embodies. The title of this bill, as published, is "An Act to amend Section 1, Chapter 81, of the Revised Statutes, in relation to the appointment of clerks of the judicial courts."

I submit, Mr. Speaker and Gentlemen of the House, that that title is wholly insufficient to convey to the people of this State what this bill means. A very reasonable interpretation of this title might be that it related solely to the filling of a vacancy in the office of clerks of courts, or to the appointment for an unexpired term. I do not wish to intimate even that the honorable committee to which this was referred intentionally gave it a defective title, but the fact remains that proper notice was not given throughout the State of the provisions of this bill.

Now, Mr. Speaker and gentlemen, there are two classes of cases on which it is proper for this House to act. One is that when a bad state of affairs exists we should find something better and another is, when there is a good state of affairs, that we might improve it. Under one or the other of these classes must this bill come. Is there any member of this House who will say that the clerks of the courts of this State are inefficient, incompetent or untrustworthy? I submit that of all the public officers in the State of Maine there is not a higher class than the clerks of the judicial courts of this State. We can, then, find no bad or evil state of affairs that needs to be remedied. Would we remedy the present good state of affairs by changing this law as is proposed? I submit that we would not. The people of the State who daily come in contact with the clerks of courts know better, in my opinion, as to their competency and efficiency than the judges of the supreme court;

and especially is this true in the counties where sessions of the court are infrequent.

What would be the result in case this bill becomes a law? Would the judges in the eastern end of the State interfere in the appointment of the clerks in the western end of the State? No. These appointments would be apportioned among the judges of our supreme court. The judges in the eastern end would appoint the clerks in that section, and so, in all the other parts of the State; and we all know what the appointment of officers of this nature brings with it. It brings with it all that personal and political influence that the appointment of any patronage carries with it. We do not wish to burden the members of the supreme court with this additional load.

Now leaving the question of the appointment aside, let us look at the difficulties in case it was necessary to remove a clerk of courts. I know of a court where the clerks are appointed by the judge. For several years there was in that court an incompetent clerk. The judge, out of the kindness of his heart, from personal and not from political motives, did not remove that clerk and the public service suffered thereby. All the work was done by a subordinate in that office. And that would be the result in case we give the members of the supreme court the same powers that the judge of that court now holds. The members of the supreme court of this State now stand on a plane far above any personal or political influences; and it should be the earnest wish of this Legislature to keep them there so that they may forever be a credit to themselves and an honor to the State.

I move you, Mr. Speaker, that this bill be indefinitely postponed. (Applause.)

Mr. HOLMES of Caribou: Mr. Speaker, I wish to second the motion of the gentleman from Portland, (Mr. Baxter) that this measure be indefinitely postponed. Every member of this House who is in favor of keeping the supreme court of Maine free from the suspicion of politics, should vote for this motion of the gentleman from Portland. Maine stands, today, second to no state in

the Union in the reputation for ability which the judges of the supreme court of our State have earned and well merit. The opinions of the court as found in our Maine Reports are models of their kind, the law concisely stated and fearlessly applied. This eminence which the courts of this State have attained is due in a large measure to the policy of Maine in keeping the supreme court free from political influences, thereby allowing the judges the opportunity of disposing of cases with the elements of self-interest entirely eliminated. Our court stands for justice first, last and all the time, fairly and impartially administered, without fear and without favor; and the nearer the court clings to the execution of this duty the better the results which will be attained.

This measure which has crept along thus far upon its passage without our notice is the first step tending toward plunging the supreme court upon a course of judicial appointments. If the clerks of courts should be appointed by the judiciary, with just as much reason should the judges of probate, the registers of probate, the county attorneys and the sheriffs, and carrying the matter a step farther, the county treasurer should be appointed by the State treasurer and the county commissioners by the Governor, and the only object in holding a county convention would be to meet and adopt resolutions in favor of an imperial form of government and then adjourn. The only defence I can see to this bill is that for a short time during each year while court is in session in a county, the clerk of courts acts as a sort of an assistant to the judge and if that clerk was appointed by that particular judge the two might be a trifle more congenial for the brief period that they are thrown together. But who is the best judge of the fitness of a clerk for his office? Under the present arrangement a judge of the supreme court holds one term of court in the county on an average of not oftener than once in two years. In other words, for three or four weeks out of over a hundred weeks he meets the clerk in court in the discharge of one function of that clerk's duties, while for the whole time of one

hundred and four weeks of those two years the lawyers and citizens of that county are in constant touch with that same clerk in the discharge of all his official duties.

Now, you cannot find a judge of the supreme court who will find any fault with the clerks in the various counties whom the people in their wisdom have elected. On the other hand, the judgment of the people has in every instance received favorable commendation at the hands of the supreme court. While the people once in four years pass upon the qualifications of their county officers, it would seem as if this must tend as an incentive to the faithful performance of their duty, which incentive would be entirely lost were those officers holding office by virtue of an appointment. No. Mr. Speaker, let us keep the reputation of the supreme court unsullied by even a breath of political scandal, and let us not abridge the rights of the people in any particular and deprive them of the right of electing their public servants who are paid by the people for services rendered to the people. (Applause.)

The question being on the indefinite postponement of the bill, the motion was agreed to.

On motion of Mr. Powers of Houlton, bill, An Act to separate Sheridan plantation, so called, from the town of Ashland in the county of Aroostook, was taken from the table, and on further motion by the same gentleman the bill was referred to the committee on towns.

On motion of Mr. Powers of Houlton, bill, An Act, to empower the county of Aroostook to purchase and acquire title to lands adapted to agricultural purposes in said county, was taken from the table, and on further motion by the same gentleman the bill was referred to the Aroostook County delegation.

On motion of Mr. Morrison of Eden, the rules were suspended, and that gentleman introduced remonstrance of John E. Bunker, Jr., and 21 others against the increase of mill tax; also, remonstrance of L. B. Deasy and 42 others against same; also, remonstrance of Julius Kurson and 62 others

against same. (Referred to the committee on taxation.)

On motion of Mr. Wilder of Pembroke, the rules were suspended and that gentleman introduced petition of John Humphrey and 24 others of Perry for two cent mileage on Washington County Railroad. (Referred to the committee on railroads and expresses.)

On motion of Mr. Oakes of Auburn, resolve relative to reprinting the Maine reports was taken from the table, and on motion by the same gentleman the resolve was referred to the committee on judiciary.

On motion of Mr. Littlefield of land, the rules were suspended and that gentleman introduced bill, An Act to amend the charter of the city of Rockland. (Referred to the committee on judiciary.)

On motion of Mr. Reed of Portland, bill, An Act to impose a tax on the business of dealing in trading stamps, was taken from the table, and on further motion by the same gentleman it was referred to the committee on legal affairs in concurrence with the Senate.

Mr. Oakes from the committee on ways and bridges reported in a new draft resolve in favor of repairing bridge across the Narraguagus river in the town of Milbridge, and that it ought to pass. (Tabled for printing under joint rule.)

Mr. HIGGINS of Limerick: Mr. Speaker, the committee appointed to prepare resolutions on the death of Joseph H. Manley are prepared to report, and I will ask the gentleman from Bath to present the report.

Mr. SEWALL of Bath: Mr. Speaker, the committee appointed to prepare resolutions on the death of Joseph H. Manley submit the following:

Resolved: That the House has heard of the death of Joseph H. Manley, recently Speaker, with profound sorrow and regret.

Resolved: That in his death our State has lost an eminent citizen whose ability and worth were recognized and felt far beyond its borders. Eminent, as he was, in many fields of activities, his conspicuous public characteristic was

his love for our State. It was with him a proud and overmastering passion. It softened the rigors of partisanship and constantly stimulated him to enterprizes for the development of the resources of our State. In return, although their appreciation found during his life only inadequate expression, our people reciprocated this devotion.

Resolved: That the Clerk of the House be directed to furnish a copy of these resolutions to the Senate and to the family of the deceased.

(Signed)

FRA^NK M. HIGGINS of Limerick,
DON A. H. POWERS of Houlton,
HAROLD M. SEWALL of Bath.

Mr. POWERS of Houlton: Mr. Speaker, I move that the resolutions be accepted by a rising vote of the House.

The question being on the adoption of the resolutions, a rising vote was taken, and the resolutions were unanimously adopted.

Mr. HIGGINS of Limerick: Mr. Speaker, as a further mark of respect to the memory of Mr. Manley I move that the House do now adjourn.

The motion was agreed to.