

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

Seventy-Second Legislature

OF THE

STATE OF MAINE.

1905.

SENATE.

Thursday, February 16, 1905.

Senate called to order by the President.

Prayer by Mr. Kerney of Augusta.

Journal of yesterday read and approved.

Papers from the House disposed of in concurrence.

At this point Mr. Staples of Knox was called to preside.

On motion by Mr. Simpson of York, bill, "An act to incorporate the Prout's Neck Village corporation" was tabled pending reference in concurrence.

On motion by Mr. Gardner of Penobscot, bill "An act to repeal chapter 317 of the private and special laws of the State of Maine for the year 1903, relating to taking of clams in Scarborough" was tabled for printing.

At this point the President resumed the chair.

House Bills Read and Assigned.

An act to ratify and confirm the organization of the Penobscot Valley Gas Company, and to give said company additional powers.

In matter of the order passed in the Senate Feb. 13, for a committee to consider the matter of advertising legislative hearings, the President stated that the committee had been joined on the part of the House.

The following bills, petitions and resolves were presented and referred:

Judiciary.

By Mr. Gardner of Penobscot: Petition of Ernest J. Cram and 6 others of Millinocket in favor of initiative and referendum.

Also, endorsement of pulp, sulphite and paper makers, in favor of same.

Also, petition of D. Clements and 67 others of Eangor, in favor of same.

By Mr. Sturgis of Cumberland: Petition of John A. Barrows and 53 others of Portland for same.

Also, petition of E. C. Appleby of Portland and 29 others for same.

Also, petition of Cigar-makers Union No. 407, Portland, for same.

By Mr. Clark of Hancock: Petition of Llewellyn Martin and 35 others of

Mount Desert, for same.

Also, endorsement of bricklayers and Masons Union, No. 4, Bar Harbor for same.

Also, petition of J. E. Bunker and 225 others of Bar Harbor, for same.

By Mr. Allen of York: Bill, an act to amend an act approved Feb. 9, 1905 in relation to assessment of taxes on the estates of deceased persons before the appointment of executors or administrators on such estates.

By Mr. Potter of Cumberland: Bill, an act to provide notice of beneficiaries under wills.

By Mr. Clark of Hancock: Bill, an act to permit the Bar Harbor and Union River Water Company to increase an issue of bonds.

Also: Bill, an act to extend the charter of the Union River Water Storage Company.

By Mr. Staples of Knox: Petition of G. F. Eicks and 25 others of Rockland in favor of initiative and referendum.

Legal Affairs.

By Mr. Staples of Knox: Bill, an act to amend section 91 chapter 53 of the Revised Statutes relating to the construction and control of streets by cities and towns, on which street railways may be, or may have been constructed.

On motion by Mr. Bartlett of Oxford, the rules were suspended, and that Senator introduced, bill, "An act to amend section 5, paragraph 6, entitled Oxford county, of chapter 407 of the private and special laws of 1903, relating to fishing in the Megalloway river and its tributaries. On further motion by the same Senator the same was referred to the committee on inland fisheries and game.

On motion by Mr. Morse of Waldo, the rules were suspended, and the following bills were introduced out of order and severally referred: viz: Bill, an act to amend section 1 of chapter 301 of the private and special laws of 1903, relating to the protection of deer in the counties of Kennebec, Knox, Waldo and Lincoln. Referred to the committee on inland fisheries and game.

Also, Bill, an act to provide for an

open season on white perch in lake St. George, Waldo county. Referred to the committee on inland fisheries and game.

Also, Resolve in favor of the Eastern Maine Insane Hospital. Referred to the committee on Insane Hospital.

Also, Bill, an act to amend section 57 of chapter 29 of the Revised Statutes of Maine relating to sentences in liquor cases. Referred to the committee on legal affairs.

Mr. Shaw of Sagadahoc introduced Resolve authorizing the compilation and publication of the Insurance Laws of Maine. On motion by Mr. Clark of Hancock, the same was tabled for printing pending reference.

On motion by Mr. Clark of Hancock, the rules were suspended, and that Senator introduced bill, An act to extend the charter of the Ellsworth Street Railway Company.

Also, Bill, an act to extend the charter of the Hancock County Railroad Company. These bills were severally referred to the committee on railroads and expresses.

Mr. Knowlton of Penobscot introduced bill, an act regulating the sale of bonds and other obligations issued on the installment plan by foreign corporations, and on motion by that Senator the same was referred to the committee on banks and banking.

Read and Assigned.

An act to preserve the purity of the source of water supply for the villages 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 Deaconness Home Association of Bangor.

Resolve in favor of Bates College. On motion by Mr. Plummer of Androscoggin, this Resolve took its second reading under suspension of the rules, and was passed to be engrossed.

Reports of Committees.

The committee on salaries, on Re-

solve in favor of George E. Morrison, reported that the same be referred to the committee on appropriations and financial affairs. Report accepted.

Mr. Pierce for the committee on legal affairs, on bill, "An act to amend the charter of the Winterport Ferry Company," reported same in new draft, under title of an act additional to and amendatory of chapter 48 of the private and special laws of 1887, entitled, "An act to incorporate the Winterport Ferry Company," and that it ought to pass. Report accepted.

Mr. Simpson for the committee on Appropriations and Financial Affairs, on resolve in favor of marking grave of the late Gov. Hunton, reported ought to pass. Report accepted.

Mr. Irving for the committee on Railroads and Expresses, on bill, on act to extend the charter of the Pushaw Lake Railway, reported same ought to pass. Report accepted.

Passed to be Engrossed.

An act in relation to the original plans of the towns in Kennebec County.

An act to authorize the town of Sangerville to remove the bodies of deceased persons.

An act to amend section 65 of chapter 10 of the Revised Statutes relating to collection of taxes.

An act relating to Houlton Electric Light and Power Company.

An act to repeal paragraph 26 of chapter 60 relating to agricultural societies.

An act to permit the Bridgton Street Railway Company to discontinue the operation of its line during certain months of the year.

Resolve in favor of the Augusta City Hospital.

Resolve in favor of the Saint Elizabeth Roman Catholic Orphan Asylum of Portland.

An act to extend the time of the construction of the Boothbay Railroad.

An act relating to Lincoln Electric Railway Company.

An act to amend chapter 51 of the private and special laws of 1903, relating to the Pittsfield Trust Company.

An act to authorize the Piscataquis Savings Bank of Dover, Maine, to construct and maintain safety deposit boxes.

An act to amend section 26 of chapter 48 of the Revised Statutes relating to responsibility of shareholders in trust and banking companies.

An act to amend and extend the charter of the Rangeley Trust Company.

An act to incorporate the Guilford Trust Company of Guilford, Maine.

Resolve in favor of the dairying interests of the State of Maine.

An act to amend chapter 39 of the Revised Statutes in regard to the regulation of the sale of commercial fertilizers.

An act to regulate the practice of veterinary surgery, medicine and dentistry.

An act to change the name of Calf Island to Opechee Island.

An act to amend paragraph 5, section 1, chapter 407 of the private and special laws of 1903 relating to ice fishing in Pease pond, in Wilton, Franklin county.

An act to prohibit the hunting of duck on that part of upper Kezar pond situated in Stowe and Lovell, Oxford county.

An act to regulate fishing in West Carry of Somerset county.

An act to protect fish in Great brook and its tributaries in Lovell and Stoneham, and to repeal the law relating to taking fish in Cold brook, in Lovell and Stoneham, Oxford county.

An act to regulate fishing in Baskagegan lake and stream, and in Hot brook, a tributary to the stream, and in Schoodic, Grand Lake, North Lake, Brackett lake and Longfellow lake and their tributaries, and the waters between Schoodic Grand lake and Chepentocook lake, situated in the counties of Washington and Aroostook.

An act to amend chapter 41 of the Revised Statutes relating to sea and shore fisheries.

Resolve in favor of the town of Phillips.

An act to fix the salary of the recorder of the Western Hancock municipal court.

Passed to be Enacted.

An act to amend section 113 of chapter 15 of the Revised Statutes relating to the number of trustees of board of Normal School.

An act to confirm the organization of the Old Town Electric Company, and to change its name to Bangor Railway and Electric Company, and to authorize it to acquire properties and franchises of the Public Works Company, the Bangor, Orono and Old Town Railway Company and the Bangor, Hampden and Winterport Railway Company and to confer certain powers on said Bangor Railway and Electric Company.

An act to incorporate the Hamilton Trust Company.

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

An act to amend chapter 173 of the private and special laws of 1883, entitled, "An act to amend the charter of the city of Auburn."

Orders of the Day.

On motion by Mr. Curtis of Cumberland, the Senate reconsidered the vote whereby the petition of Sarah E. M. Todd and 34 others, was referred to the committee on appropriations and financial affairs, and on further motion by the same senator, the same was placed on file.

On motion by Mr. Tupper House Document No. 24, bill, an act relating to the annual town meetings of Boothbay Harbor was taken from the table.

The same Senator thereupon moved the adoption of Senate amendment A.

Mr. TUPPER of Lincoln: Mr. President: As I understand that there is to be some opposition to the adoption of this amendment, I would like to say a few words to the Senate. The bill that is introduced is to repeal chapter 443 of the—it reads: "Public Laws"—but it is private and special laws of 1901. Chapter 443 of the private and special laws of 1901 is an act by which Boothbay Harbor is allowed to hold its annual town meetings in January. This bill that is introduced here, in section 1 repeals that section 2 is simply that the act shall take effect when approved. The amendment that I offer perhaps I would better read, so that it may be fully understood. The amendment proposes to strike out section 2 in this bill, and insert the following section: "At the annual town meeting to be held in January, 1906, the legal voters of the town of Boothbay

Harbor shall be called upon to give their vote upon the acceptance of this act. The vote shall be taken upon a written or printed ballot, and shall be an answer to the following questions: Shall the act passed by the Legislature of 1905, entitled, An act repealing chapter 443 of the public laws of 1901 relating to the annual town meeting of Boothbay Harbor be accepted. Those in favor of the acceptance will vote Yes; Those opposed No. So much of this act as authorizes the submission of its acceptance to the legal voters of the town of Boothbay Harbor shall take effect upon its passage, but it shall not take further effect unless accepted by the legal voters of Boothbay Harbor, by a majority vote given upon the acceptance, as herein provided."

By this amendment, you see, gentlemen, we simply ask that this matter may be referred to the voters of Boothbay Harbor. We are asking nothing more. This is not an appropriation, it is nothing that concerns any man outside of Boothbay Harbor. If our people can have a fair and impartial vote on this question, they will be satisfied, and it will settle this matter for all time; but our people will never be satisfied if this bill is passed, and they do not have this chance to vote upon it. Until four years ago we held our annual meeting in March. It was not a very good time for our people to hold a meeting. A large number of our voters were away.

As you probably know, we are situated on the coast, and a large number of our people get their living from the water. They are at home but a short time in the winter. The most of the year they are away. Take, for instance, our election in September, when so much work was done by both parties to get out a vote in total. We have a total number of 630 voters. We were able to get out 380. Two hundred and fifty voters could not be reached in September. What is true in September is true nearly all the year outside of January. These people are at home in January. Many people had expressed a desire to attend and take some

part in our annual meeting who were not able to be there in March. A committee from our town came before the Legislature four years ago and we had this bill enacted. It came up at our annual town meeting in 1901, and the town of Boothbay Harbor voted, by a large vote, to change the annual town meeting to January, one man only voting against it. The bill that was framed and which was presented to the Legislature, provided that the Act should not take effect unless accepted by the voters in 1902, so that in March, 1902, this matter again came up before the voters of our town. At that time we had a committee appointed, and referred this matter to that committee, to hear all of the evidence for and against it. That committee held a meeting, heard all parties interested and brought in a unanimous report that we should accept the Act of the Legislature of 1901. The Hon. A. R. Nickerson was chairman of that committee. I was somewhat surprised, this morning, to find the honorable gentleman, superintending the distribution of a circular letter to the members of this Senate, making light of the very act which we entered into with his advice, he being one of the moving parties in the matter; and, gentlemen, I anticipate that hereafter he will be known by the name, in his town, by which he signs this circular letter "(Miss) Booth B. Arbor;" and I think it is a very pretty name for a man so fickle-minded as that.

When this matter came up in the town meeting for the report of the committee, we voted by a large vote, only one man voting against it, to adopt the report of that committee. We voted to accept the act and to hold our annual meeting in January. We have held our annual meeting in January from that time until the present. This year it seems that some others took up this matter and interested themselves and got up a petition to have the meeting changed back. One hundred and twenty-one voters of Boothbay Harbor signed that petition. We admit that there were 121 voters who could attend that meeting just as well in January as in March, and just as well in March

as in January. It is not for that 121 voters that this law was passed. Those people went further than this; and had an article inserted in the town warrant, here before me. That is article 36. It has been customary in our town to meet in the morning, hear the reports of various officers required by law to make reports to the town, elect our town officers, and then adjourn until the afternoon when we would take up the other articles of the warrant. It very often occurs that we do not get through with the election of our town officers. There was no option, but this year it appears there was no discussion over the various reports of our town officers. There was no opposition to electing the old board of town officers, and they were elected by one man voting for each candidate. It appeared in the evidence before that committee that they did not even wait for all of the town officers to be elected in this expeditious way, but they laid on the table the remainder of the articles, and took up article 30, which is this article that I have referred to—before the treasurer or collector were elected. They skipped over those 25 articles and took up article 30; and under that article it appeared by the evidence before the committee that there were 23 votes, 21 voting to change back to March and 12 against it. We say, gentlemen, that is a small number of votes upon a matter so important to the people of Boothbay Harbor. Twenty-three votes were all that were cast. Immediately after this town meeting adjourned a remonstrance was gotten up against the repeal of this law. That remonstrance was circulated about town, and 303 voters of the town of Boothbay Harbor signed that remonstrance. Thirty of the men who are on the original petition are on that remonstrance, and that thirty are among the most influential and respected citizens of our town, and of the biggest tax-payers of our town. They include a bank president, a bank cashier and business men on our streets. Now, if you knew these people as I know them—if the town meeting had been perfectly fair and everything as it should have been, those business men of Boothbay

Harbor never would have been upon that petition and remonstrance.

Gentlemen, that is not all. By letters that I have received. I am satisfied that a large number of the others that were on that original petition, are against this measure at present. The people that are on this remonstrance make claim that this matter was not understood—they claim that they had a right to suppose, and did suppose that this article 30 would not be taken up until afternoon. They claim they had a right to suppose, and did suppose that that the other 29 articles were acted upon before this article was to be acted upon. All they ask for is a fair chance to vote; a vote that will be understandingly.

If this law passes without an amendment, we are certainly going to get into difficulties in that town. This law simply repeals that act which allows us to elect our town officers in January. If that passes, we shall, of course, be obliged to hold another town meeting in March. We have already elected our town officers, and raised our money for the year. If we have another town-meeting in March, very likely a different set of officers may be elected, and those may claim to hold over and may appropriate different sums of money, and we shall hardly know where we are. We had no chance of seeing this bill when we were before the committee, or we could have brought all these matters before the committee, if the bill had been framed and presented before that; but this bill has been framed since the hearing before the committee, so we had no chance whatever to see just what was on this bill. All our people want is a fair vote on this matter; and whatever the decision of our people is we will be satisfied. Every man had a chance to be heard before the committee appointed by our town before this bill was passed—every man had a chance to vote upon it at two annual elections in our town; but now we say that we should have at least only a fair and impartial vote on this matter; so, in behalf of the 303 men who signed this remonstrance, and in behalf of the 30 that are on both the petition and remonstrance; and in behalf of that large

number of people of Boothbay Harbor who signed the petition, but did not sign the remonstrance, I ask that this amendment may be adopted.

Mr. CLARK of Hancock: Mr. President: I do not know that it is incumbent upon any committee to stand by its report upon the floor of this Senate. This matter came before the judiciary committee and was fully and freely discussed and the committee reported as you will see to change the town meetings back to March, as is provided by the Revised Statutes. This matter came up at Boothbay Harbor upon a legal call, or town warrant to so change it. The evidence before that committee was that they should change back to March, the time of holding their town meeting. I think Mr. Maddox said that he counted two, but others who appeared before the committee said there was but one who voted against changing back to March as the time for holding their town meeting. There seems to be some controversy between two factions in that town, but it does not seem proper for this Legislature to determine who is right and who is wrong in this matter. This is a matter that has been submitted to us by the people of that town and they have passed upon it after intelligently understanding the matter. It came up regularly before that town meeting and I say it was practically unanimous, Mr. President. The evidence, at least, before our committee was that they wished to change back. Now, that is the referendum, as I understand it. It is self-government, which we are giving these people. We are acting upon the advice of the town in open town meeting, which is the only way to act to secure a full expression of the people of that town. The signing of the petition and the signing of the remonstrance and sending them here is of no avail to us. We have taken the only method we know of to get the sentiment and opinion of that town. It is true that there are a great many people who will send word to the Legislature that they would like so and so done; but here they have done otherwise in open town meeting. When this matter was brought into this committee we were unanimous in our report.

We heard both sides, and listened very carefully, and gave them all the time and attention we possibly could; and we were unanimous in our report upon this matter. It has come to you, and if the committee's advice is worth anything, it seems to me it should be adopted. After this committee had reported, a gentleman who is a very close friend of mine came to me and asked if I had any objection to this matter being left on the table a reasonable time. I asked that gentleman his object; and he told me they were going to call another town meeting of the town of Boothbay Harbor to advise this Legislature over again what their will was. I said I was perfectly willing, and if they went back home and showed me, as a member of that committee, that a majority was against changing back, I would be perfectly willing to reverse my action in the matter; or, in other words, leave it entirely to the citizens of Boothbay Harbor what they wanted, or self-government, which is the foundation and principle of all government. Later I met that gentleman in the lobby and he said they were unable to get the selectmen to call a town meeting; and so it strikes me, gentlemen, that the citizens of Boothbay are not as anxious as they might be, when the selectmen refuse to call a town meeting, the selectmen are morally bound in all cases will do it; but the selectmen of this town refused to call a town meeting on the poor showing these gentlemen made. I said to him: That is not your only move. If they have wilfully refused, the statutes provides a way by which you can call a statutory town meeting, by petition of 14 citizens, I think, to a justice of the peace, who will call you one. But he did not see fit to take that method. Now they have had as thorough a trial as they seem to be entitled to; and if the committee's report is worth anything to you, it should be accepted. If it is not, if we have not found fairly and reasonably in this matter, have not listened to their testimony, or anything of that kind, I should say: Brush it aside. But we have given them as careful a hearing as we pos-

sibly could, and have reported unanimously, having taken the advice of the town meeting of Boothbay Harbor, which was practically unanimous.

Mr. GARDNER of Penobscot: Mr. President: In order that I may vote intelligently on this matter, I should like to make an inquiry of the senator from Lincoln.

Leave was granted.

Mr. GARDNER: I understand there are some 600 voters in your town?

Mr. TUPPER: Yes, sir.

Mr. GARDNER: What explanation do you give that only 121 voters voted for this proposition?

Mr. TUPPER: Twenty-three were all that voted for it. They claimed to me they did not understand the matter in town meeting, and some claimed they were not present, not expecting it to come up in the morning.

Mr. GARDNER: It was stated on your program for the annual meeting?

Mr. TUPPER: Yes.

Mr. GARDNER: You claim you did not get a fair expression of your voters on that occasion?

Mr. TUPPER: Yes—that is what these remonstrants claim.

Mr. GARDNER: How many were there present at the meeting?

Mr. TUPPER: I do not know. I simply know what has been told me.

Mr. GARDNER: It seems peculiar and important that only 121 voted in the matter if there was much interest in it. I wanted an explanation of why they did not.

Mr. ALLEN of York: Mr. President: I was absent at the hearing when it was placed before the Judiciary Committee. If I am correctly informed, when the notice for town meeting was sent, there were articles in the warrant specifying the subject-matter to be voted upon, so that the whole town had ample notice. If they did not see fit to vote it was their own fault. As I understand there were only two at the outside who voted against this proposition for change and as I understand, this proposed amendment was not before the committee, was it?

Mr. TUPPER: No, Sir. The bill was not drawn until afterwards.

Mr. ALLEN: The bill was submitted to the committee, and now they offer a different bill, the subject matter of which has not been before a committee. My position is they ought to have the full matter taken before a committee, including the proposed amendment.

Mr. STAPLES of Knox: Will the Senator from Lincoln permit me to ask a question?

Mr. TUPPER: Certainly.

Mr. STAPLES: What proportion of your voters are at home in March as compared with those at home in January?

Mr. TUPPER: It is a pretty hard matter to get at that. I think there would ordinarily be a hundred more at home in January than in March.

Mr. CLARK of Harceck: Mr. President: I would like to say that the evidence disclosed in that matter showed that there would be but very few. The evidence disclosed that but few were away at that season.

Mr. PIKE of Washington: Mr. President: I do not understand the position of the Chairman of the Judiciary Committee, the Senator from York, on this matter.

The PRESIDENT: He states that it is a different bill from the one presented by the committee, as I understand him.

Mr. ALLEN: My position is that I hope the report of the Committee will be sustained.

Mr. TUPPER: Mr. President: If the committee have not considered this matter I would be pleased to have it re-committed, so that it may be fully understood. I therefore move that the bill and amendment be re-committed to the committee on Judiciary.

Mr. GARDNER: Mr. President: While I am not at all interested in this matter and have known very little about it, it seems from the evidence submitted to the Senate that the subject-matter of the amendment, referring this to the people, was not considered by the Committee.

Mr. CLARK: That was fully considered and fully discussed, both in open and executive session.

Mr. GARDNER: Was the subject-matter of this amendment incorporated in the bill at that time?

Mr. CLARK: It was not incorporated but it was talked over and the suggestion of an amendment was not considered advisable by the committee.

Mr. GARDNER: The Committee did not consider the subject of the amendment at the committee meeting, did it?

Mr. CLARK: We certainly did consider it fully. Aside from the bill the amendment was talked of, and it was suggested that this amendment be made; and it was fully understood by the committee and was not thought advisable.

The question being put upon the motion to recommit the bill and amendment to the committee, the chair declared itself in doubt, and a rising vote was taken, six voting in favor of the motion, and twelve voting against the same. So the motion was lost.

The question being put upon the adoption of the amendment offered by the senator from Lincoln, the chair declared itself in doubt, and a rising vote was taken, seven voting in favor of its adoption and seventeen voting against the same. So the motion was lost.

The bill thereupon took its first reading, and was assigned.

On motion by Mr. Bailey of Somerset, the Senate adjourned to meet on Friday, Feb. 17, 1905, at 10 o'clock in the forenoon.

HOUSE.

Thursday, February 16, 1905.

Prayer by Rev. Fr. Hamel of Augusta.

Journal of yesterday read and approved.

Mr. REED of Portland: Mr. Speaker, I arise to a question of personal privilege. On Tuesday last, at a hearing before your committee on legal affairs, a witness was examined by me and by others on that committee in reference to what he knew in regard to the matter being then and there considered. The Portland Evening Express in its issue of February 15th has seen fit to comment on my behavior on that occasion in the following words:

"Portland Republicans who, with considerable enthusiasm and much unanimity, chose Joseph B. Reed to be one of their representatives to the Legislature are amazed to find that gentleman acting in his official capacity as a member of the committee before whom a hearing is in progress, and as the special representative and counsel for the Democratic sheriff of Cumberland county, at that hearing."

This, Mr. Speaker and Gentleman of the House, is practically a direct reflection upon me, and in effect a direct accusation that I have violated the rules of this House and that I have been guilty of conduct thoroughly reprehensible. This would be so if it were true. I brand the statement of the Express as an absolute falsehood. It is true in no way. I am not the attorney of the Democratic sheriff of Cumberland county, and never was. At that hearing I neither represented him nor anybody for him nor at the request of anybody for him for any purpose whatever. But I did, at that hearing, cross-examine one of the witnesses who appeared, for the purpose of bringing out, as I had a right to do, matters that I believed pertained to the question then at issue, for the enlightenment of the members of the committee.

If this charge were against me alone it would be unseemly and unbecoming in me to reply here to a newspaper; I never can get another chance; they