

MAINE STATE LEGISLATURE

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Legislative Record

of the

Seventy-Third Legislature

of the

State of Maine.

1907.

HOUSE.

Tuesday, February 12, 1907.

Prayer by Rev. Kearney of Augusta.

Papers from the Senate disposed of in concurrence.

Senate Bills on First Reading.

An Act to extend the charter of the Aroostook Valley Railroad Co.

An Act to amend and additional to the charter of the Rangeley Trust Co.

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

Judiciary.

By Mr. Davies of Yarmouth—Petition of Frank H. Haskell of Portland and about 40 others for amendment for constitution to provide for proper rate of taxation on wild land.

By Mr. Stover of Brunswick—Petition of Bricklayers and Masons Union of Brunswick for the initiative and referendum.

By Mr. Johnson of Waterville—Bill, "An Act to prevent the unlawful diversion of water;" Bill, "An Act to authorize the foreclosure of mortgages by sale of the mortgaged property and to shorten the time of foreclosure by other methods"; Bill, "An Act to authorize the issue of bonds on the serial payment plan."

Legal Affairs.

By Mr. Stevens of Portage Lake—Petition of Ernest Judkins and 5 others of Mapleton for the act providing for the pauper insane and feeble-minded by the State.

By Mr. Milliken of Island Falls—Petition of S. P. Johnson and 7 others for same; of Alvin A. Albert and 8 others for same.

By Mr. Theriault of Ft. Kent—Petition of Joseph Michand and 23 others of Ft. Kent; of John Patterson and 17 other of Eagle Lake for same.

By Mr. Merriman of East Livermore—Bill, "An Act to incorporate the Livermore Falls Gas company.

By Mr. Scates of Westbrook—Bill, "An Act to revise the charter of the city of Westbrook; Bill, "An Act to amend Section 7 of Chapter 30 of the Revised Statutes relating to registration of apothecaries.

By Mr. Haskell of Deer Isle—Bill, "An Act authorizing the construction of a wharf into the tide waters of Jerico Bay in Deer Isle, Hancock county."

By Mr. Thomas of Harpswell—Bill, "An Act to authorize the construction and maintenance of a wharf into the tide waters of Casco Bay in the town of Harpswell."

By Mr. Wight of Newry—Petition of P. O. Brink and 27 others of Oxford county for amendment of law relating to bounty on bears so that the bounties be paid by town treasurers instead of as now paid.

Appropriations and Financial Affairs.

By Mr. Pinkham of Lincoln—Petition of W. H. Averill of Lee and 19 others for resolve in favor of Maine State Sanatorium Association.

By Mr. Lovejoy of Milo—Petition of E. G. Lovejoy of Medford and others for same.

By Mr. Hall of Dover—Petition of S. A. Buzzell of Parkman and 17 others for same.

By Mr. Walker of Biddeford—Petition of O. G. House and 7 others of Lyman in favor of the Webber Hospital.

By Mr. Theriault of Ft. Kent—Resolve in favor of Northern Maine General Hospital of Eagle Lake

By Mr. Milliken of Island Falls—Petition of S. R. Crabtree and 13 others of Island Falls urging an appropriation for a State of Maine exhibit at the Jamestown Exposition and the reproduction of the Home of Longfellow as the Maine State Building.

By Mr. Johnson of Waterville—Petition of the Current Events Club of Vassalboro for same; of the Mothers Club of Readfield for same.

Railroads and Expresses.

By Mr. Theriault of Ft. Kent—Petition of Wm. E. Brown and 19 others of Eagle Lake for the act providing for a transferable two-cent mileage on the Bangor & Aroostook Railroad; of Joseph B. Michand and 24 others of Ft. Kent for same.

By Mr. Milliken of Island Falls—Petition of Remi Lable and 9 others; of L. P. Johnson and 7 others; of Martin S. Rideout and 19 others of Bridgewater, for same.

By Mr. Stevens of Portage Lake—Petition of Wm. C. Churchill and 5 others of Mapleton; of B. R. Blackston and 13 others of Perham, for same.

Agriculture.

By Mr. Snow of Brunswick—Remonstrance of Frank H. Sturtevant and 77 others of Bath against Bill amending Chapter 4 of the Revised Statutes relating to the care and ownership of dogs; of E. W. Thomas and 45 others of Brunswick against same.

State Lands and State Roads.

By Mr. Decker of Weld—Petition of C. F. Chandler and 77 others of Phillips in favor of act to provide for State aid and for other public moneys in the permanent improvement of Maine highways on State roads; of W. S. Heath and 9 others of Salem for same.

By Mr. Witham of Raymond—Petition of W. H. Bennett and 16 others of New Gloucester for same.

By Mr. Mayo of Foxcroft—Petition of W. S. Hussey and 61 others of Guilford; of Tho. Daggett and 13 others of Foxcroft; of A. A. Adams and 4 others of Foxcroft for same.

By Mr. Herrick of Brooklin—Petition of R. W. Smith and 19 others of Brooklin; of W. A. Ricker and 17 others of Castine; of L. B. Bridges and 15 others of Brooklin for same.

By Mr. Dyer of Buckfield—Petition of G. A. Holmes and 38 others for same.

By Mr. Witham of Raymond—Petition of N. H. Titcomb and 25 others of New Gloucester; of Herbert W. Swetser and 15 others of New Gloucester; of W. E. Allen and 12 others of Gray for same.

By Mr. Knowlton of Monson—Petition of A. M. Phillips and 27 others of Shirley for same.

By Mr. Merrill of Monmouth—Petition of Elliott Wood and 38 others of Winthrop; of L. B. Seavey and 11 others of West Gardiner for same.

Ways and Bridges.

By Mr. Baldwin of Boothbay Harbor—Petition of John A. Thompson and 14 others of Southport for a law authorizing the town of Southport to build and maintain a bridge across Decker's cove in Southport.

Inland Fisheries and Game.

By Mr. Merrill of Monmouth—Petition of J. L. Orcutt and 46 others of Kennebec county praying for the enactment of a law closing the following lakes to ice fishing: Cochnewagon, Wilson, Dexter and Berry, all in Kennebec county; petition of J. H. Gilman and 33 others of Kennebec county; of Walter E. Keith and 59 others of Kennebec, for same; of I. D. Hodsdon and 16 others of Wayne and vicinity praying for a law prohibiting ice fishing in Pocasset lake and Pickerell pond in Kennebec county.

By Mr. Knowlton of Monson—Petition of J. E. Sprague and 17 others of Monson against taking firearms into wild lands of the State.

By Mr. Skilling of Falmouth—Bill, An Act to amend Section 5 of Chapter 32 of the Revised Statutes relative to close time on game birds.

Shore Fisheries.

By Mr. Baldwin of Boothbay Harbor—Petition of S. B. Orne and 32 others of Southport for a law against seining for herring in Sheepscot river.

By Mr. Skilling of Falmouth—Remonstrance of W. R. Hamilton and 71 others of Cumberland against bill limiting use of clam flats owned in common by towns of Yarmouth and Cumberland.

Public Buildings and Grounds.

By Mr. Tarbox of Harrison—Petition of V. L. Jordan and 64 others of Harrison for removal of capital to Portland.

By Mr. Stearns of Norway—Petition of A. M. Menish of Portland and 49 others for same.

By Mr. Scates of Westbrook—Petition of Guy P. Woodman and 47 others of Westbrook for same; of W. C. Henderson and 51 others of Westbrook for same; of C. W. Waterhouse and 57 others of Westbrook for same.

By Mr. Dow of Brooks—Remonstrance of Dr. C. M. Whitney and 42 other taxpayers of Unity against removal of State capital.

By Mr. Stuart of Belgrade—Remonstrance of E. F. Yeaton and 45 other taxpayers of Belgrade against same.

By Mr. Montgomery of Camden—Re-

monstrance of L. M. Chandler and 55 others, taxpayers of Camden against same.

By Mr. Colcord of Searsport—Remonstrance of H. R. Hitchborn and 37 others, taxpayers of Stockton Springs against same.

By Mr. Gleason of Mexico—Remonstrance of P. U. Redding and 8 others, taxpayers of Sumner against same.

By Mr. Crosby of Albion—Remonstrance of W. W. Washburn and 49 others of China against same.

By Mr. Merriman of East Livermore—Remonstrance of E. P. Smart and 44 others, taxpayers of East Livermore against same.

By Mr. Jacobs of Athens—Petition of Geo. H. Herrick and 107 others of Madison against same.

By Mr. Wardwell of Rockland—Remonstrance of C. M. Thomas and 50 others, taxpayers of Rockland against same.

By Mr. Titcomb of Farmington—Remonstrance of A. L. Fenderson and 46 others, taxpayers of Farmington against same.

By Mr. Duncan of Rockland—Remonstrance of Oliver Otis and 93 others, taxpayers of Rockland against same; of J. R. Baker and 20 others, taxpayers of Rockland against same.

Temperance.

By Mr. Hathorne of Detroit—Petition of Allison P. Howes and 6 others of Palmyra against resubmission.

By Mr. Milliken of Island Falls—Petition of J. W. White and 22 others of Ludlow for the act providing for the proper labeling of medicines containing alcohol and narcotic drugs; of L. P. Johnson and 7 others; of Lewis S. Cyr and 59 others for same.

By Mr. Theriault of Fort Kent—Petition of John Patterson and 19 others of Eagle Lake for same.

By Mr. Stevens of Portage Lake—Petition of N. A. Haynes and 5 others of Mapleton for same.

By Mr. Theriault of Fort Kent—Petition of Joseph Michaud and 22 others for same.

By Mr. Milliken of Island Falls—Petition of Thomas Albert and 8 others for same; remonstrance of Lewis A.

Cyr and 36 others against resubmission; of Martin S. Rideout and 29 others of Bridgewater; of Remi Sable and 8 others against same.

By Mr. Stevens of Portage Lake—Remonstrance of Wm. Churchill and 5 others of Mapleton against same.

By Mr. Newbert of Augusta—Bill, An Act to repeal Sections 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, and 35 of Chapter 29 of the Revised Statutes relating to the establishment of a State agency for the sale of intoxicating liquors.

Placed on File.

By Mr. Donigan of Bingham—Petition of L. D. Rich and 20 others of Tremont in favor of the act to provide for the ownership and maintenance of highway bridges by the State; of F. A. Chandler and 60 others of Addison; of C. N. Rand and 37 others of Guilford; of F. B. Hill and 78 others of Thomaston; of S. B. Libby and 30 others of Durham; of Geo. E. Garland and 28 others of Eliot; of Geo. A. Martin and 12 others of Hancock; of W. A. Heath and 14 others of Tremont for same.

By Mr. Lord of Parsonfield—Petition of James C. Ayer and 71 others for same.

Orders.

On motion of Mr. Loring of Pownal, Ordered, That 500 additional copies of House Document No. 148 be printed.

Mr. Safford of Kittery presented the following resolution:

Resolve requesting the delegation in Congress to oppose the consolidation of pension agencies.

Resolved, That the passage of the bill now pending in Congress to consolidate the pension agencies will cause great inconvenience and delay to pensioners in this State, and our senators and representatives in Congress are therefore requested to oppose it and to use their best efforts to retain the United States Pension Agency in this State.

On motion of Mr. Safford the resolution was tabled for printing pending its reference to a committee.

Reports of Committees.

Mr. Smith from the committee on

the judiciary reported ought not to pass on Resolve proposing an amendment to the constitution providing that the rights of the citizens of the State to vote and hold office shall not be denied or abridged on account of sex.

Mr. Smith from the same committee, on Bill, An Act to regulate the fares on steamboat lines, reported that the same be recommitted to the committee on railroads and expresses.

The reports were accepted and sent to the Senate.

Mr. Waldron from same committee reported in a new draft, Bill, An Act in relation to reports of hearings in vacation in law or equity, and that it ought to pass.

Mr. Montgomery from same committee reported ought to pass on Bill, An Act to amend Chapter 267 of the Private and Special Laws of 1905 in relation to Alfred Light and Heat Company.

Mr. Jordan from the committee on appropriations and financial affairs reported ought to pass on Resolve in aid of the Temporary Home for Women and Children at Portland.

The reports were accepted and bills and resolves ordered printed under joint rules.

First Reading of Printed Bills and Resolves.

An Act to repeal Chapter 228, entitled An Act to annex certain lands belonging to Enoch A. Glidden to the town of Alma.

Passed to Be Engrossed.

An Act to incorporate the Union Trust Company of Ellsworth.

An Act to incorporate the Lincoln County Trust Company.

An Act to incorporate the Fairfield Trust Company.

An Act to amend Chapter 588 of the Private and Special Laws of 1871, entitled "An Act to incorporate the Grand Lodge of the Independent Order of Good Templars of Maine."

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

Resolve in favor of the Hospital of

the Sisters of Charity of the city of Lewiston, Maine.

Resolve providing for the repair of a roadway in Townships 5 and 6 in the 9th Range, north of the Waldo Patent, in Piscataquis county.

Resolve relating to the Canadian Pacific Railway.

An Act to continue in force the charter of the Newport Trust Company.

An Act to extend the charter of the Lily Water Company.

An Act to amend Section 58 of Chapter 2 of the Revised Statutes relating to deposits by the State treasurer.

An Act to incorporate the Atlantic Trust Company.

Orders of the Day.

On motion of Mr. Hadlock of Cranberry Isles, Bill, An Act to prohibit the taking of lobsters in Hancock county, was taken from the table and referred to the committee on sea and shore fisheries.

On motion of Mr. Stearns of Norway, Bill, An Act to make plain the provision of Section 9, Chapter 139 of the Revised Statutes relating to extradition, was taken from the table.

The bill was then read a third time and was passed to be engrossed.

On motion of Mr. Weeks of Fairfield, Bill, An Act to amend Section 50 of Chapter 93 of the Revised Statutes of the State of Maine, was taken from the table.

Mr. Thomas of Howland offered an amendment by adding to the title of the bill the words, "relating to liens."

The amendment was adopted, the bill was then read a second time and was assigned for tomorrow morning.

The SPEAKER—At the time of adjournment yesterday the House had under consideration the order requesting the opinion of the justices of the supreme judicial court on taxation of railroads. The gentleman from Boothbay Harbor (Mr. Baldwin) moved a reconsideration of the vote whereby that order was passed, and the gentleman from Eastport (Mr. Pike) raised a point of order that the House had waived Rule 45 in passing the order last Friday. Without passing upon

that question the Chair will say that the point of order is not well taken, for the question before the House is whether the House will reconsider the vote whereby the order was passed. The question is on the motion to reconsider. The gentleman who made the motion, I should say, assumed that the gentleman from Eastport is correct in his supposition, that we waived the rule when the order was passed. Now the question is upon the vote whereby the order was passed. I will say that under Rule 45 this order would have lain upon the table over one day for reconsideration, but as it was not noticed and was acted upon by the House, the vote giving the order a passage now comes up for reconsideration; and that is the question before the House at the present time.

Mr. PIKE—Mr. Speaker, I rise to a point of order. Under the rules of parliamentary procedure governing this House I notice that Rule 40 says, "When a motion has once been made and carried in the affirmative or negative, it shall not be in order for any member who voted in the minority to move a reconsideration thereof; but any member who voted with the majority, or in the negative on a tie vote, may move to reconsider on the same or succeeding day." Now I submit, Mr. Speaker, that three days ago this order was given a passage, and that it is now not proper under the rules to reconsider it. This is not unfinished business within the meaning of Rule 27; and I therefore submit this point of order and ask the Chair to rule upon it.

The SPEAKER: The Chair will say to the gentleman from Eastport that under the rules of this House a motion may be made to reconsider at any time during the next session. The next session from last Friday would be yesterday. That motion was made within the time prescribed by the rules, and it was pending at the time of adjournment. The Chair rules that it is in order to be considered at this time. The following day under the rules means the following legislative day.

Mr. PIKE: Mr. Speaker, as I under-

stand it the question is now on reconsidering the vote whereby the order was passed, and I rise to raise my objection to its reconsideration. I introduced this order under Article 6, Section 3, of the Constitution of this State which reads as follows: "The justices of the supreme judicial court shall be obliged to give their opinion upon important questions of law and upon solemn occasions when required by the Governor, Council, Senate, or House of Representatives." So this is a matter that the House of Representatives can submit to the supreme court without the concurrence of the Senate.

Now that it is an important question. I think that no gentleman can differ with me. A question that affects so vitally the interests of this State is an important question. Now it logically follows, is it an important question of law? I submit that it is. The case of Maine vs. the Grand Trunk Railway decided that a franchise tax was constitutional. But that has nothing to do with the constitutionality of this present statute. I will read the statute regulating the tax of railroads in this State: "Every corporation, person or association operating any railroad in this State under lease or otherwise, shall pay to the treasurer of State, for the use of the State, an annual excise tax, for the privilege of exercising its franchises and the franchises of its leased roads in the State, which, with the tax provided for in Section 4 of Chapter 9, is in place of all taxes upon such railroad, its property and stock."

Now, Mr. Speaker, Article 9, Section 8, of the Constitution reads as follows: "All taxes upon real and personal estate assessed by authority of this State shall be apportioned and assessed equally according to the just value thereof." And I submit, Mr. Speaker, that a statute of this State which says that a franchise tax shall be assessed but says that the property of a road shall not be assessed according to its just value as the Constitution provides, is unconstitutional. The question has never been settled by the courts; and I submit that it is a proper question for this House to present to the supreme court. I know of no legitimate objec-

tion to this order going to the supreme court. There cannot be any. It is certainly a question that is not settled. And I ask that the order have a passage and object to its reconsideration.

Mr. MILLIKEN of Island Falls: Mr. Speaker, I don't understand that, if the motion to reconsider the vote whereby this order was passed, should prevail, it would necessarily mean that this House would finally refuse to give a passage to the order presented by the gentleman from Eastport, nor would it mean that they who voted to reconsider the passage of the order were necessarily opposed to its final passage. As I understand it, Mr. Speaker, the purpose of this motion is to enable us to begin again with the order as we should have done when it was first introduced and to allow it to take its course in accordance with the spirit of the rule which provides that it shall lie on the table for consideration before being passed. The purpose of that rule I think will be plain to every member of the House—that is, that an order of this kind, involving an unusual and important request made upon the supreme court should not be passed as common orders are, without consideration and without any delay, but time shall be given enabling members of the House to decide whether or not they are in favor of its passage.

Now this order was introduced on Friday, and I undertake to say that there were not many more than a quorum present, probably not a quorum present. It escaped the notice of most of the members of the House, and I think many of the members desire an opportunity to look into this matter and decide whether or not after consideration they are in favor of the passage of the order. Either the order represents the deliberate judgement of the majority of the members of this House or it does not. If it does represent the deliberate judgement of the majority of the members, it can take no harm whatever from being laid on the table long enough to allow members to consider it. If it does not represent the deliberate judgement of the members of the House, surely the gen-

tleman from Eastport and those who favor the order would not take advantage of a technical inadvertence on the part of those in charge of the business of the House and insist upon relying on the fact that the order has been technically passed.

Mr. HALL of Dover: Mr. Speaker. It so happened that I was absent on Friday myself. I know that very many others were absent on committee trips and other business. That was the day this order went through the House. I confess that I have not had an opportunity to know the meaning of this proposition. It seems to me a matter of some importance; it may be of some gravity unless it has due consideration. I believe that we are entitled to time to give candid consideration to all matters of this kind. I might after consideration agree with the gentleman from Eastport that this is a proper thing to do; but I am not in a position to tell what is best. I believe it is the duty of this House, without regard to party affiliations, personal or corporate interests, that this matter should come back into the House and lie on the table at least two days for candid, calm and proper consideration.

The SPEAKER: The question is upon the motion of the gentleman from Boothbay Harbor to reconsider the vote whereby the order was passed.

The motion was agreed to.

Mr. Pike called for the yeas and nays. The question being, Shall the yeas and nays be ordered?

The motion was agreed to.

The SPEAKER: Those in favor of reconsidering the vote whereby this order was passed, will say yeas as their names are called; those opposed will say no. The clerk will call the roll.

YEA:—Allen of Columbia Falls, Allen of Mt. Vernon, Allen of Richmond, Baldwin, Barker, Barrows, Brackett, Chase, Cobb, Colcord, Crosby, Davidson, Davies, Farrar, Folsom, Fulton, Gallagher, Giddings, Gleason, Goodwin, Hadlock, Hall of Dover, Haskell, Hathorn of Detroit, Hawkes, Hill of Machias, Irving, Johnson of Waterville, Joy, Kelley, Kendall, Knowlton, LaBree, Lane, Langley, Libby, Lord, Loring, Lovejoy, Martin of Rumford, Mayo, McClutchy, Merrill, Merry, Michaud, Milliken, Mullen, Newcomb, Newton, Peacock, Perkins of Al-

fred, Perkins of Kennebunkport, Perry of Fort Fairfield, Pooler, Putnam, Reynolds, Safford, Smith of Lisbon, Smith of Patten, Spear, Sprague, Stearns, Stevens of Portage Lake, Strickland, Stuart, Stubbs, Tarbox, Theriault, Titcomb, Tolman of Glenburn, True, Waldron of Dexter, Weeks, Whitehouse, Wight, Wood, Young—82.

NAY:—Allan of Dennysville, Blanchard, Brawn, Brown, Copeland, Cyr, Danforth, Dondero, Denigan, Duncan, Edwards, Flaherty, Frost, Grinnell, Harriman, Harris, Harthorn of Milford, Havey, Hibbard, Hill of Monticello, Jacobs, Jordan, Leighton, Lowe, Lynch, Martin of Bangor, Montgomery, Moore, Murphy, Newbert, Noyes, Perry of Randolph, Pike, Pinkham, Preston, Scates, Skidmore, Skillin, Snow, Stevens of Jonesport, Stover, Thomas of Harpswell, Thomas of Howland, Tolman of Portland, Tucker, Waldron of Portland, Wardwell, Weld, Witham—49.

ABSENT:—Charles, Clark, Dunton, Dyer, Farnham, Gordon, Hall of Caribou, Herrick, Higgins, Horgan, Johnson of Calais, Leader, McKinney, Merriman, Minahane, Morneau, Oram, Randall, Walker—19.

So the motion prevailed.

On motion of Mr. Baldwin the order was then tabled for printing.

On motion of Mr. Joy, of Eden,

Adjourned.