

MAINE STATE LEGISLATURE

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Legislative Record

OF THE

Seventy-Fifth Legislature

OF THE

STATE OF MAINE

1911

SENATE.

Wednesday, March 1, 1911.

Senate called to order by the President.

Prayer by Rev. Mr. Dunnack of Augusta.

Journal of previous session read and approved.

Papers from the House disposed of in concurrence.

The order in relation to the payment of legislative advertising by secretaries of committees, indefinitely postponed in the Senate, came from the House, by that branch read and passed.

On motion by Mr. Staples of Knox, the order was tabled.

The report of the committee on inland fisheries and game "ought not to pass" on Bill, An Act to prohibit ice fishing in Virginia lake, formerly called Upper Stone pond, in the town of Stoneham, in the county of Oxford; also remonstrance of C. L. Bartlett and 30 others of Stoneham against restriction on ice fishing in Upper Stone pond in Stoneham, came from the House.

Tabled on motion by Mr. Stearns of Oxford.

Majority and minority reports of the committee on counties, on An Act to annex the town of Isle au Haut to the county of Knox, and An Act to annex the town of Stonington to the county of Knox, came from the House, with the majority report accepted in each case.

Mr. STAPLES of Knox: Mr. President: I am not advised yet just what course I shall take, as my county is somewhat interested. I therefore move that both reports be tabled, pending acceptance in concurrence.

The motion was agreed to.

House Bills In First Reading.

An Act relating to public school attendance.

An Act relating to the creation of a board of trustees for the Sullivan-Franklin bridge.

An Act to amend Section 2 of Chapter 38 of the Public Laws of 1905.

An Act to extend the rights, powers

and privileges of the Hancock and Sullivan Bridge Company.

An Act to incorporate the Monmouth Electric Company.

An Act to authorize the Bangor Railway and Electric Company to take water from Brewer pond and its tributaries.

An Act relating to agents of schools in unorganized townships.

An Act to extend the charter of the Winter Harbor and Eastern Railway Company.

An Act to incorporate L'Association d'Epaignes de Waterville.

An Act relating to fishing in the tributaries of Jim pond.

An Act to prohibit the throwing of sawdust into the outlet of Worthley pond.

An Act to incorporate Fort Kent and Clairs Toll Bridge Company.

An Act relating to a way across tide waters of Barrell's mill pond, York harbor.

An Act to incorporate Kennebec Water District.

An Act to regulate the opening of streets in cities. (Tabled on motion by Senator Staples of Knox, pending second reading.)

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

Education.

By Mr. Milliken of Aroostook—Petition of A. M. Stackpole and 15 others of Bridgewater, for distribution of State school funds on the basis of average attendance; petition of O. A. Packard and 35 others of Milo; also, Charles L. Webber and 16 others of Bridgewater; also, F. L. Rowell and 44 others of St. Albans; George E. Payne and 24 others of Anson; L. F. Johnson and 28 others of Brownville; E. W. Watts and 35 others of Jonesboro; W. F. Packard and 14 others of Princeton; A. P. Belmore and 34 others of Princeton; Erwin G. Bates and 7 others of Princeton; A. A. Dinsmore and 43 others of Eingham, Concord and Moscow; Charles R. Hill and 40 others of Winterport; Frank Allighan and 22 others of Sherman; C. F. Thomas and 15 others of Caribou; Ira B. Gardiner

and 20 others of Patten, all for the same.

By Mr. Staples of Knox—Petition of T. M. Coombs and 40 others of Vinalhaven for distribution of State school money on the basis of average attendance; also petition of Frederick S. Watts and 42 others of Vinalhaven for same.

By Mr. Osborn of Somerset—Petition of J. L. Withee and 19 others of Smithfield for change in distribution of mill tax for schools; also petition of A. B. Tracy and 15 others of St. Albans for same.

Taxation.

By Mr. Osborn of Somerset—Bill, An Act to amend Section 48 of the Revised Statutes, relating to the taxation of insurance companies.

Read and Assigned.

An Act to amend Section 15 of Chapter 54 of the Revised Statutes, relating to expenses of the inspector of hulls, boilers and engines, and their appurtenances of steamboats upon inland waters.

(On motion by Mr. Chandler of Washington, tabled pending second reading.)

An Act to authorize the city of Lewiston to take ice from the Androscoggin river, Lake Auburn and other ponds in Androscoggin county, and sell the same at cost to its inhabitants.

Mr. EDWARDS of Androscoggin: Mr. President, I move that the rules be suspended and this bill receive its second reading and pass to be engrossed at this time.

Mr. GOWELL of York: Mr. President, I see no reason why this bill should not take the usual course. Pending its second reading, I would like to offer an amendment. I will say that the minority report of the judiciary committee was not filed for some reason, and I have not the amendment prepared at this time because the bill was not printed until today.

Mr. EDWARDS: Mr. President, it seems to me there has been ample time. This bill has been pending and in the committee room long enough. We gave Senators Gowell and Stearns until today to put in their minority report. They knew it was coming up

today for I told them the bill would come up, and there is no reason why it should not at this time be hurried along. With all this tabling of bills we never shall get home.

Mr. GOWELL: Mr. President, I move that the bill be tabled pending second reading.

The motion was put and a rising vote was taken. Sixteen voting against tabling and seven in favor of tabling the bill, the motion of Senator Gowell was lost.

The question being on the motion of Mr. Edwards that the rules be suspended and the bill take its several readings and be passed to be engrossed, the Chair recognized Mr. Gowell of York.

Mr. GOWELL: Mr. President, I do not know as this question is debatable, but I will say if this is an emergency measure I think the senator from Androscoggin should state the emergency. I do not suppose he intends to establish a municipal ice plant for the city of Lewiston this winter. It seems to me unusual to railroad a bill of this kind through in this manner. I hope the good people of the city of Lewiston will have all the ice they may need in the future, and I think the senator from Androscoggin will have an opportunity to cut all the ice he might wish in that vicinity, political or otherwise, and I hope the ice will be of good quality and not too thin.

Mr. EDWARDS: Mr. President, I have a good deal of respect for the senator from York. I assure him that I shall have ice, whatever the price; and I say that this does have some reference to the price of ice. This bill has been on the table a long time. I gave them ample opportunity and I think it is no more than just that we should send this bill along, and on account of one reason, and that is on account of my health, for I want to be here when this bill passes the Senate. I have had occasion to be at home for two weeks on account of my health, and have had one or two relapses, but I hope to regain my health and be present when the bill passes. I hope

the bill will be given a passage at this time.

Mr. GOWELL: Mr. President, in consideration of the senator's health I will withdraw my objection.

Mr. STAPLES: Mr. President, I suggest that the senator from Androscoggin send a ton of ice to the senator from York.

Mr. GOWELL: Mr. President, I concur in that motion.

The rules were suspended, the bill was given its readings and was passed to be engrossed.

Resolve in favor of Frank W. Buckman, secretary of the Commission of Pharmacy.

Resolve in favor of the town of Addison.

Resolve in favor of aid in building a road in New Canada Plantation.

An Act for the better protection of herring fishery. (Senate Amendment A adopted on motion by Mr. Mayo of Hancock. On further motion by the same senator, the bill as amended was tabled for printing.)

An Act to amend Section 4 of the Revised Statutes in relation to the erection of wharves and fish weirs. (Senate Amendment A adopted on motion by Mr. Mayo of Hancock, and upon further motion by the same senator, the bill as amended was tabled for printing.)

Resolve in favor of the county commissioners of Franklin county for the repair and permanent improvement of the highway in Letter E. Plantation and Sandy River Plantation.

Resolve in favor of the county commissioners of Franklin county for the repair and permanent improvement of the highway in Washington Plantation and Perkins' Plantation in Franklin county.

Resolve in favor of the county commissioners of Franklin county for the repair and permanent improvement of the highway in Jerusalem and Crockertownships in Franklin county.

An Act to amend Section 37 of Chapter 8 of the Revised Statutes, relating to the taxation of telephone and telegraph companies. (On motion by Mr. Noyes of Kennebec, re-committed to

the committee on taxation, pending second reading.)

Reports of Committees.

Mr. Dodge, for the committee on Legal Affairs, on Bill, An Act to amend Section 10 of Chapter 3 of the Revised Statutes, relating to the powers and duties of the Maine Library Commission, reported that same "ought to pass."

The report was accepted and the bill tabled for printing under joint rules.

Mr. Dodge, for the committee on Legal Affairs, on Bill, An Act to amend Section 55 of Chapter 88 of the Revised Statutes, as amended by Chapter 256 of the Public Laws of the State of Maine, for 1909, relating to trustee process, reported that same "ought not to pass."

Mr. Hill, for the committee on agriculture, on Bill, An Act in relation to the sale of nursery stock under false names or of inferior quality, reported that the same "ought not to pass."

The reports were accepted and sent down for concurrence.

Passed to Be Engrossed.

An Act to regulate transportation of fish and game outside of the State.

An Act relating to fishing in Wesserunnett stream.

Resolve in favor of Frank W. Burnham.

Resolve in favor of Fred A. Chandler.

Resolve in favor of Charles A. Rolfe.

Resolve to accept the James J. H. Gregory gift.

An Act to regulate the number of pounds of salmon, trout and togue to be taken in one day by one person. (The committee on bills in the second reading reported that the bill be re-committed to the committee on inland fisheries and game.)

Mr. MILLIKEN of Aroostook: Mr. President: Let me say in explanation that apparently there is a verbal amendment necessary. The member of the committee acting was not sure what the change should be and thought it best to re-commit the Bill rather than make such amendment as the committee saw fit.

The report was accepted and the Bill re-committed.

An Act to establish the Houlton municipal court. (On motion by Mr. Milliken of Aroostook, tabled pending second reading.)

An Act to amend Chapter 360 of the Special and Private Laws of 1909, regulating fishing in Bagaduce river in the towns of Castine, Penobscot and Brooksville, in the county of Hancock. (Re-committed to the committee on shore fisheries, upon report of the committee on bills in the second reading.)

An Act to extend the charter of the Parin Stream Dam and Improvement Company.

An Act to amend Chapter 88 of the Public Laws of 1907 as amended by Chapter 128 of the Public Laws of 1909, as follows: (Re-committed to the committee on legal affairs upon the report of the committee on bills in the second reading.)

Finally Passed.

Resolve in favor of William R. Roix.
Resolve in favor of S. C. W. Simpson.

Resolve providing for an amendment to the Constitution by abrogating and annulling the twenty-sixth Amendment adopted on the eighth day of September, 1884, relating to the manufacture and sale of intoxicating liquor.

Mr. BOYNTON of Lincoln: Mr. President: I move that when the vote be taken upon this Resolve that it be taken by the yeas and nays.

The motion was agreed to, and the secretary called the roll, the question being upon the final passage of the Resolve; those voting yea were: Messrs. Allan, Boynton, Chandler, Clifford, Dodge, Dunigan, Edwards, Farrington, Foss of Androscoggin, Foss of Cumberland, Fulton, Hill, Kellogg, Leach, Mayo, Moulton, Mullen, Noyes, Osborn, Pendleton, Sanborn, Staples, Winslow,—23. Those voting nay were: Messrs. Blanchard, Gowell, Irving, Milliken, Smith, Stearns, Theriault,—7. Absent, Mr. Hamilton. Two-thirds of the senators voting in favor of its passage, the Resolve was finally passed.

Orders of the Day.

On motion by Mr. Staples of Knox, House Document No. 275, An Act to regulate the opening of streets in cities, was taken from the table, and upon further motion by the same senator, Senate Amendment A was adopted, as follows: "Senate Amendment A to House Document No. 275. Amend by adding Section 12: 'Section 12. The provisions of this act shall apply only to cities having more than 40,000 inhabitants.'"

Upon further motion by the same senator, the bill was read once.

On motion by Mr. Chandler of Washington, House Document No. 222, An Act relating to the compensation of the trustees of the University of Maine and the trustees of the State Normal Schools, was taken from the table.

Mr. CHANDLER: Mr. President: I now move that the Senate non-concur with the House in adopting House Amendment A.

Mr. OSBORN of Somerset: Mr. President: I would like to know what the amendment to the bill is?

The PRESIDENT: The amendment reads as follows: "House Amendment A to House Document 222. House Document No. 222 entitled An Act relating to the compensation of the trustees of the University of Maine and the trustees of the State Normal Schools is hereby amended as follows:

Amend the title by striking out after the word Maine the words "and trustees of the State Normal Schools."

"Amend Section 1 by striking out after the word 'Maine' in the second line the words 'and trustees of the State Normal Schools,' so that said Section as amended shall read as follows:"

"Section 1. Beginning with the first day of August, A. D., 1911, the trustees of the University of Maine shall serve without pay, excepting that said trustees shall be entitled to receive from the State treasury out of any money not otherwise appropriated, after proper audit or voucher, a sum sufficient to defray any actual expenses incurred by them in connection with their duties whether for travel or other expense."

Mr. CHANDLER of Washington: Mr. President: The trustees of the State Normal Schools receive \$5 a day, whereas the trustees of the University of Maine do not receive anything.

The motion to non-concur was agreed to. Sent down for concurrence.

On motion by Mr. Staples of Knox, House Document No. 251, An Act to provide for a department of labor and industry, and Amendments A and B, were taken from the table.

On further motion by the same senator the bill was read the second time and passed to be engrossed.

Mr. STAPLES of Knox: Mr. President: I now move to take from the table Senate Document No. 119. That is the order relating to a joint special committee appointed to investigate and report upon the financial condition of the State, with three amendments. I have examined those amendments and I do not see as they add or detract but very little from the original order. I move that they have a passage in concurrence.

The motion was agreed to.

On motion by Mr. Staples of Knox, Senate Document No. 22, An Act authorizing the merger of the Somerset Railway Company, Washington County Railway Company and Sebasticook and Moosehead Railroad Company with the Maine Central Railroad Company, was taken from the table.

Mr. STAPLES: Mr. President: Ordinarily I should be in favor, perhaps of that amendment, but from a business point of view I am opposed to the amendment. The railroad corporations of Maine, and in fact all large business concerns, are very important concerns. The merger bill, so called, is a great proposition. Now the Maine Central Railroad, through its proper officers, at a proper meeting, has said that they intend to conform to the two-cent mileage. I think they ought to. I am not speaking for the railroad. I am speaking in behalf of good business principles. If I had a corporation doing business, I should not expect this Legislature to put upon the statute book that I

should pay just such wages or that men should work for me for just such sums of money for a term of years. I think it is not a businesslike proposition. I have been in favor of getting at the railroads by taxation, and I hope I may succeed this year, but at the same time I want to be fair with them. I do not think the amendment should be put into the Statutes of the State of Maine, that they never, as long as the Statute remains on the Statute Book, can raise their rates. I can conceive how some emergency might arise, some fluctuation in business, where it would be necessary that any corporation, whether a railroad corporation or otherwise, should have the right to raise their rates in order that they might successfully carry on their business.

Now they have said that they will give us a two-cent mileage, but they do not want it put into the Statute. Why? Because an emergency might arise where it would be necessary for them to raise their rates, and for that reason I am opposed to the amendment.

I hope the amendment will be indefinitely postponed.

Mr. OSBORN of Somerset: Mr. President, I very much regret that in the present instance I cannot agree with the senator from Knox. One reason for my regret perhaps is the fact that in past years, while I have observed his efforts for legislation, I have come to regard him very much in the light of the godfather of the Democracy of Maine. While I think the pupil should model his ideas along the lines of the teacher as much as possible, perhaps in some instances he may be justified in deviating from him. While this may be a very small matter or a very large matter, it makes a difference as I see it from which view point you approach it. We are told that the Maine Central Railroad, through its officers or some of its directors, have promised that just the think we ask for shall be done. Now it occurs to me if I should agree with a neighbor to do certain things, and meant to do them, I should have no objection whatever to reducing that agreement to writing. I think it is pro-

vided in the amendment, as I recollect it, that the public utility commission could change the rate of they deemed it proper, and surely future Legislatures—and we have a session as often as once in two years—could change the rate, and they would do it I have no doubt, provided it was shown to them that an emergency was really at hand and that it should be done.

There is another side to this question, as I see it. The Maine Central Railroad in this matter is but a small part in another system, the New York, New Haven & Hartford Railroad, and that in turn is a part of another railroad system which constitutes one of the great railroad properties of the nation.

We all know the tendency of the times in recent years is to merge these railroads and control them in units of large corporations. This State is somewhat in its infancy in the development of its railroads, but we shall meet in the future this question of railroad control as other states have been forced to meet them. Other states have found themselves confronted with this question and have been obliged to deal with it, assert their rights to control these great properties.

Now I regard it very much in this light: That they say, we are willing to do what you want us to do, but do not legislate; you trust us and leave it all in our hands. I really wish sometimes I could think that the future of the State of Maine and of the nation was safe in the hands of these great corporations; that their interests their destinies would be safeguarded, but when we look into the history of the past we cannot close our eyes to the fact that they have acted in a selfish manner. They have put the profits of labor into their own pockets and aggregated to themselves a large part of the wealth of this nation. It is up to the Legislatures of the states to safeguard their interests. I hope the State of Maine will simply say to this great corporation, we will deal with you just as we would with a citizen of the State of Maine; we will maintain our right to legislate in the inter-

ests of the people, and protect their interests, no matter who we deal with, no matter whether a large corporation or a small one, no matter whether a corporation controlled entirely beyond the lines of the State, as in the present instance this one is.

Mr. EDWARDS of Androscoggin: Mr. President, as a member of the railroad committee I will say that this report was signed by every member of the committee, who I know as members deem it their duty to safeguard the interests of the State, as well as any member of the Senate present here today. We had a letter from the directors of the road saying they would fulfill their promise, and that they would make a rate of two cents, as asked for, on all the different branches. I took this letter, to be sure it would be right, to the attorney general of the State and he said practically it was as good as an amendment incorporated in the bill and that he should not want to do that, and that it was perfectly safe for the people to have it in that way. I also took it to a number of lawyers, including the Speaker of the House, today, and he said it was perfectly safe.

As far as I am concerned, I certainly want to do what is for the best interests of the State, but I have no doubt but what the Maine Central Railroad will do what it says it will do. It never went back on its word, to my knowledge, yet. I am opposed to the amendment. I think it reflects upon the committee—upon any committee that reports a bill unanimously, without any opposition whatever. What do you have the committees for? They calculate to look into all measures, and deal with all measures that come up before them for the best interests of the State.

Mr. MILLIKEN of Aroostook: Mr. President: I agree entirely with what has been said by the senator from Androscoggin as to the probability that the Maine Central Railroad will do exactly as the directors promised in the letter to which he referred.

If I understand the situation correctly, the objection to the amendment offered before the committee is taken

care of in this amendment. I fail to find the amendment printed.

(The President informed the senator that the amendment was Senate Document No. 123.)

Mr. President, the last part of the amendment is the part to which I wish to refer, and I think it takes care of the objection made before the committee, namely, that this would be fixing an inflexible rate of mileage; "until said rates shall be increased by consent of the Legislature or under the provisions of any general law now or hereafter applicable thereto."

That means the rate may be increased by application to the railroad commissioners or public service commission and removes the objection made before the committee that this would be an inflexible rate.

Now, Mr. President, it strikes me that this is a very simple matter, looking at it in a businesslike way. I am unable to see it in any other way myself. We are directors in a great corporation and the name of that corporation appears in every bill enacted by this Legislature, for the heading of each bill is "Be it enacted by the people of the State of Maine," and we are here as members of the House and Senate acting as directors, and we are making a contract with another great corporation, the Maine Central Railroad Company, or, in effect, as has been said, perhaps the New York, New Haven and Hartford Railroad.

There is consideration on both sides of this contract. On the one hand the State of Maine agrees to consent to a merger of the subsidiary railroads. And the fact of that is, so far as the State of Maine is concerned, that there will be a loss after the rebates run out on the Somerset of \$38,953.00 a year, if I figure it correctly. The reason for that is apparent to anyone who will consider the present method of taxing railroads. We tax railroads on a sliding scale, increased as the gross earnings per mile increase. The effect of this merger will be to distribute the earnings of the whole system over the entire mileage. If the legislation proposed at this

session is passed difference in loss of taxes under the merger will be even greater. I am not stating that because I think it is improper for the State to do it. I think the merger is reasonable and proper and I have no objection to it on those grounds. I speak of it because it should be evident here that there is consideration on each side. The State is remitting something by permitting this merger, and the railroad company on the other hand agrees to do something for the State, to give a two cent mileage rate on all the lines included in the merger. The question is simply whether that provision that the railroad company agrees to, shall be incorporated in the contract, or the bill authorizing the merger. So far as I am concerned, I should think if a director of any other corporation, having made a contract as one of the directors of his corporation with some other corporation, involving a large amount of money and very important matters, went back to his people and stated that he had made this contract and agreed to pay so much a year, but that the other corporation said they would pay it but didn't want it in the contract, his stockholders would have a right to call him delinquent in his duty.

As to whether the statement of the directors is as good as an amendment in the bill, I think there can be no question about that. I think the senator must have misunderstood the statement of the attorney general. The question simply is, whether this shall be made a binding contract, and while I have no objection to the merger, and no objection to the matter at all, I cannot help feeling as a simple business proposition that there is no reason for not expressing in the contract the whole of the contract.

Mr. DONIGAN of Somerset: Mr. President: I move that when the vote is taken it be taken by the yeas and nays.

Mr. MAYO of Hancock: Mr. President: If you will allow me just a word, I want to say that I was one who felt I should vote against this amendment. Since coming into the

State House this morning, there has something come so forcibly to my notice that I feel I should make a mistake in doing so. If you will allow me to make a personal reference, I made a contract for work that amounted to some \$5000, and I had just as much confidence in that man as we can have in the officials of this railroad. I felt the conditions were fair and square. I have done my part, and I found because I did not deliver as much goods as this man expected that he did not want to pay me for what I did deliver. If I had had him sign a contract I should have had something that would have protected me in this matter. I feel today that any man making a contract, with a railroad or with a business man, it is safer to have that contract signed. What is good for one party is good for another.

The question being, shall the amendment offered by Mr. Donigan of Somerset be adopted, the yeas and nays were ordered. Those voting yea were: Messrs. Donigan, Kellogg, Leach, Mayo, Milliken, Osborn,—6. Those voting nay were: Messrs. Allen, Boynton, Chandler, Dodge, Edwards, Farrington, Foss of Androscoggin, Foss of Cumberland, Gowell, Hill, Irving, Mullen, Noyes, Pendleton, Sanborn, Smith, Staples, Stearns, Theriault, Winslow,—20. Absent, Messrs. Blanchard, Fulton, Moulton, Hamilton.—4.

And the motion to adopt the amendment was lost.

The bill was then read, and second reading assigned for tomorrow morning.

On motion by Mr. Gowell of York, House Document No. 149, An Act for the protection of deer in York county, was taken from the table.

On further motion by the same senator, Senate Amendment A was adopted, the bill was given its second reading and was passed to be engrossed.

On motion by Mr. Milliken of Aroostock, Senate Document No. 122, An Act to provide for the distribution of the school mill fund and the common school fund, was taken from the table.

Mr. MILLIKEN: Mr. President: There is a new draft and it was on the table for printing. Having been

printed, I now move that the new draft be referred to the committee on education.

The motion was agreed to.

The PRESIDENT: On account of the enforced absence of Senator Hamilton I shall appoint temporarily in his place on the committees on legal affairs, ways and bridges and pensions, Senator Mullen of Penobscot.

On motion of Mr. Allan of Washington, Adjourned.

HOUSE.

Wednesday, March 1, 1911.

Prayer by Rev. Mr. Allen of Jonesboro.

Journal of yesterday read and approved.

Papers from the Senate disposed of in concurrence.

Order relative to appointment of committee of three attorneys at law to inquire into system of municipal courts throughout the State, came from the Senate. In the house this order was given a passage. The Senate non-concurred and referred the order to the committee on judiciary. The House receded from its former action and referred the order to the committee on judiciary in concurrence.

Report of the committee on inland fisheries and game, reporting ought not to pass on bill, An Act relating to open season in Cumberland county to hunt, chase and kill black duck in the month of January in each year, came from the Senate.

On motion of Mr. Active I. Snow of Brunswick, the report was recommitted to the committee on inland fisheries and game.

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

Legal Affairs.

By Mr. Dunn of Brewer—An Act to amend Section 134, Chapter 49 of the Revised Statutes of Maine, relating to beneficiary association insurance. (Tabled for printing pending reference on motion of Mr. Weymouth of Saco.)

By Mr. Ross of Bangor—Petition of E. F. Briggs and H. S. Frost of Bangor