

MAINE STATE LEGISLATURE

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Legislative Record

OF THE

Seventy-Sixth Legislature

OF THE

STATE OF MAINE

1913

SENATE.

Friday, March 7, 1913.

Senate called to order by the President.

Prayer by Rev. Father James A. Carey of Hallowell.

Journal of previous session read and approved.

On motion by Mr. Stearns of Oxford, unanimous consent was given, and that senator presented the following order, out of order, and moved its passage:

Ordered, the House concurring, that when the Senate and House adjourn, it be to meet Monday afternoon, March 10, at half past four o'clock.

The order was given a passage and sent down for concurrence.

Subsequently the Chair announced that the order had been returned from the House that branch having concurred in its passage.

Papers from the House disposed of in concurrence.

An Act to amend section 12 of chapter 4 of the Revised Statutes, relating to the choice of town officers.

This bill came from the House by that branch referred to the committee on legal affairs, and on motion by Mr. Packard of Knox, was tabled for printing pending reference in concurrence.

Resolve in favor of higher education for municipal officers.

This resolve came from the House by that branch referred to the committee on education, and on motion by Mr. Morey of Androscoggin, was tabled pending reference.

Resolve in favor of the construction of a suitable office or shelter for the immigrant inspector at Van Buren, appropriating five hundred dollars.

In the Senate the report of the committee on federal relations, "ought to pass," on this bill was accepted, the resolve given its several readings and passed to be engrossed.

In the House Senate Amendment A

was adopted, striking out the emergency clause.

On motion by Mr. Morey of Androscoggin, the vote whereby this vote was passed to be engrossed in the Senate was reconsidered, and on further motion by the same senator, House Amendment A was adopted in concurrence.

The resolve, as amended, was then passed to be engrossed.

Mr. HERSEY of Aroostook: Mr. President, I do not know as the Senate can object anyway, but it seems to me, as the resolve stands now that it has failed of its purpose. The appropriation called for was to erect a building at the present time, and if it was not built at the present time, there was no use for it.

The PRESIDENT: The Chair will entertain a motion to reconsider if the senator desires to make that motion.

Mr. HERSEY: Mr. President, I am against the resolve myself. I move that the vote whereby this resolve was passed to be engrossed be reconsidered.

Mr. MOREY of Androscoggin: Mr. President, this bill was passed here in the Senate and sent over to the House, and had an emergency clause, providing for the storms of winter, but it is intended that the structure be there at all times. I have an idea that while it is desirable to have it there in the winter, it is certainly desirable that it be there to answer the purpose of a shelter for the inspector appointed by the Government, located at the end of this bridge.

It is a very small matter, the entire expense not exceeding five hundred dollars. The correspondence with the attorney general was read the other day and must be in the minds of all members. It seems to me that the motion to reconsider should not prevail.

A viva voce vote was taken. The Chair being in doubt, a rising vote was taken. Seven voting in the affirmative and thirteen in the negative, the motion to reconsider did not prevail.

Majority and minority reports of

the committee on taxation, which was instructed by an order of the Legislature to inquire into the expediency of taxing money invested in real estate mortgages, etc.

Majority report, legislation inexpedient; minority report submitting bill, An Act to repeal chapter 179 of the Public Laws of 1911, providing for the exemption of mortgages on real estate.

In the House the majority report was accepted.

Mr. WING of Franklin: Mr. President, pending acceptance of either report, I move that both reports lie on the table and be assigned for consideration next Tuesday.

The motion was agreed to.

House Bills in First Reading.

An Act relating to the use of automobiles in the town of Mt. Desert, Hancock county. (In the House, House Amendment A was adopted. On motion by Mr. Murphy of Cumberland, pending first reading and acceptance of House Amendment A, the bill was tabled.)

An Act to prohibit the use of automobiles on the public road in the town of Islesboro.

An Act additional to Sections 96, 97 and 98 of Chapter 49 of the Revised Statutes relating to the qualifications of insurance agents and brokers.

Resolve for the further improvement of marketing farm produce and purchasing supplies for the farm. (House Amendment A adopted in concurrence. On motion by Mr. Murphy of Cumberland, tabled pending commitment to the committee on bills in the second reading and assigned for consideration next Thursday.)

Resolve in favor of highway in the town of Ripley.

Resolve in favor of John R. Dinsmore of Kittery. (House Amendment A adopted in concurrence.)

An Act to organize the Ashland Water Company.

An Act to authorize Frank W. Hunt & Company to erect and maintain a bridge across the Mattavamkeag river.

An Act to incorporate the Lincoln Light and Power Company.

An Act permitting the shipment, once in 10 days, under special license tag, of 10 pounds of fish caught in Moosehead lake.

An Act to disorganize Plantation No. 8, in the county of Hancock.

An Act to repeal Chapter 503 of the Private and Special Laws of 1828, as amended by Chapter 508 of the Private and Special Laws of 1874 and by Chapter 254 of the Private and Special Laws of 1876, relating to the taking of fish in Narraguagus river.

An Act to incorporate Connor Plantation.

An Act to amend Chapter 154 of the Private and Special Laws of 1895 as amended by Chapter 156 of the Private and Special Laws of 1911 relating to the charter of the Wiscasset Water Company.

An Act to amend Section 13 of Chapter 4 of the Revised Statutes as amended by Chapter 200 of the Laws of 1909.

An Act to amend Section 38 of Chapter 47 of the Revised Statutes, relative to giving notice of the time and place of sale of shares of stock in corporations to pay assessments.

An Act to incorporate the Madison Water District.

An Act providing a punishment for certain indecent and immoral offences.

An Act to authorize the City Council of the city of Belfast to grant permission to Mathews Brothers to construct and maintain a suspension bridge over and across Front street in said Belfast.

An Act to amend Chapter 30 of the Private and Special Laws of 1911 authorizing the Wiscasset, Waterville and Farmington Railway Company to dispose of a part of the property of said company.

An Act relating to the inspection of lime casks.

An Act to incorporate Pleasant Hill Cemetery Association in the town of Webster.

An Act to amend Chapter 613 of the Private and Special Laws of 1893, entitled "An Act to establish the Western Hancock Municipal Court."

Resolve in favor of a highway

bridge in the plantation of New Canada.

Resolve in favor of bridge across the Umcolcus stream in Oxbow Plantation, Aroostook county.

Resolve in aid of building a bridge across Sandy stream in the plantation of Lexington.

Resolve in favor of aid in repairing highways in town of Cutler.

Resolve in favor of aid in building a bridge across Passadumkeag stream in Grand Falls Plantation.

Resolve in favor of aid in building a bridge across Moose river near its mouth.

Resolve in favor of the main highway leading from the town of Franklin in Hancock county to the town of Cherryfield in the county of Washington.

Resolve in favor of James R. Huntington of Milford.

Resolve in aid of navigation on Rangeley Lake, Mooselucmeguntic Lake and Cupsuptic Lake.

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

Legal Affairs.

By Mr. Cole of York: An Act in relation to the assessment and collection of inheritance taxes. (On motion by Mr. Cole, tabled for printing pending reference.)

Mercantile Affairs and Insurance.

By Mr. Wing of Franklin: An Act relating to fire inspectors and removal of fire hazards.

Ways and Bridges.

By Mr. Conant of Waldo: An Act establishing a State Highway Commission and providing for an issue of State Highway Bonds. (On motion by Mr. Conant, tabled for printing pending reference. (On motion by Mr. Hersey of Aroostook, 500 extra copies were ordered printed for the use of the Legislature.)

Shore Fisheries.

By Mr. Packard of Knox: Resolve for the scientific investigation of scallops and the scallop fisheries.

(On motion by Mr. Packard, tabled for printing pending reference.)

Senate Bills in First Reading.

An Act amending Section 37, Chapter 28 of the Revised Statutes, relating to the protection of life in buildings used for public purposes. (On motion by Mr. Murphy of Cumberland, tabled pending commitment to the committee on bills in the second reading.)

Reports of Committees.

Mr. Stearns from the Committee on Judiciary, on bill, an Act to authorize municipalities to take and condemn powers and power cites for municipal purposes, reported same "ought not to pass."

Mr. Conant from the Committee on Agriculture, on bill, an Act to improve the cattle industry, and increase the number of cattle in the State, reported same "ought not to pass."

Mr. Conant from the same Committee, on Resolve in favor of the Kennebec County Agricultural Society, reported same "ought not to pass."

Mr. Allen from the Committee on Inland Fisheries and Game, on Petition of A. A. Stitham for a change in the close time on deer and partridges, reported same be placed on file.

Mr. Allen from the same Committee, on bill, an Act relating to the powers and duties of the Commissioners of Inland Fisheries and Game reported that the same be placed on file, as the subject matter of said bill is covered in a manner satisfactory to the Senator introducing it in the general revision bill to be reported.

The reports were accepted.

Mr. Dutton from the committee on judiciary, on bill, An Act to ratify and confirm the organization of the Augusta Poultry and Experiment Station and to grant additional powers to said corporation, reported same in a new draft under the same title, and that it "ought to pass."

Mr. Boynton from the committee on appropriations and financial affairs, on Resolve in favor of authorizing temporary loan for the year 1913, reported same "ought to pass."

Mr. Boynton from same committee on Resolve authorizing temporary loan

for the year 1914, reported same "ought to pass."

Mr. Murphy from the committee on education, on bill, An Act to amend Sections 74 and 78 of Chapter 15 of the Revised Statutes relating to Free High schools, reported same "ought to pass."

Mr. Walker from the same committee, on bill, An Act to amend Section 51 of Chapter 15 of the Revised Statutes as amended, relating to the election of truant officers, reported same "ought to pass."

Mr. Walker from the same committee, on bill, An Act to amend Section 34 of Chapter 15 of the Revised Statutes, as amended, relating to the management of schools and the election of the superintendent of schools by the superintending school committee, reported same "ought to pass."

Mr. Maxwell from the committee on railroads and expresses on bill, An Act to amend Section 16 of Chapter 54 of the Revised Statutes, in relation to the sale of unclaimed merchandise, reported same "ought to pass."

Mr. Conant from the committee on agriculture, on bill, An Act to amend Section 8 of Chapter 195 of the Public Laws of 1911 relating to the disposition of cattle re-acting to tubercula tests, reported same "ought to pass."

Mr. Chase from the same committee, on Resolve in favor of the Bureau of Horticulture, reported same "ought to pass."

Mr. Chase from the committee, on Resolve providing for an appropriation for the control of contagious diseases among domestic animals, reported same "ought to pass."

Mr. Case from the same committee, on Resolve in favor of the Bureau of Horticulture, (emergency) reported same "ought to pass."

Mr. Conant from the same committee, on bill, An Act to amend Sections 2, and 12 of Chapter 195 of the Public Laws of 1911, in relation to the control of contagious diseases among cattle, sheep and swine, reported same "ought to pass."

Mr. Colby from the committee on interior waters, on bill, An Act to authorize the construction and maintenance of a dam and other structures in

the river St. Frances, reported same in a new draft under the same title, and that it "ought to pass."

Mr. Colby from the committee on State lands and forest preservation, on Resolve for retracing and defining the lines around the reserved or school lands of plantations and townships, reported same in a new draft under the same title, and that it "ought to pass."

Mr. Patten from the committee on public health, on Resolve providing for an epidemic or emergency fund, reported same in a new draft, under title of Resolve providing for an epidemic fund, and that it "ought to pass."

The reports were accepted, and the several bill and resolves were tabled for printing under the joint rules.

Passed to Be Engrossed.

An Act to amend Section 62 of Chapter 7 of the Revised Statutes of 1903, providing that railroad companies shall screen windows of cars. (On motion by Mr. Colby of Somerset, tabled pending second reading).

Resolve providing a State pension for Charles Fogg. (On motion by Mr. Allen of Kennebec, tabled pending passage to be engrossed.)

An Act authorizing the Sebago Lake, Songo River & Bay of Naples Steamboat Company to construct and maintain wharves along its route in the county of Cumberland.

Resolve in favor of Betsey A. Dyer for State pension.

An Act to amend the Act which constitutes the police court for the city of Rockland.

An Act to amend the charter of the Rumford Falls Light & Water Company.

An Act to incorporate the Harvey Memorial Crittenton Home.

An Act to repeal Chapter 199 of the Public Laws of 1911, entitled "An Act to provide for the nomination of party candidates by direct primary."

Resolve in aid of navigation on Sebago lake.

An Act to amend Section 62 of Chapter 7 of the Revised Statutes of 1903 to compel railroads to screen windows of smoking cars.

Act to incorporate the Corinna Water Company.

Act to amend Chapter 504 of the Private and Special Laws of 1889, incorporating the Otter Creek Bridge Company.

An Act to provide for the State certification of all teachers of public schools.

Orders of the Day.

Mr. Hersey from the joint special committee of the committees on judiciary and legal affairs, on that part of the Governor's Message relating to public utilities, under suspension of the rules, reported bill, An Act to create a public utilities commission, prescribe its powers and duties and provide for regulation and control of public utilities, and that it "ought to pass."

The report was accepted, and on motion by Mr. Hersey, the bill was tabled for printing and 1000 extra copies ordered printed for the use of the Legislature.

On motion by Mr. Cole of York, the rules were suspended and that senator presented report of the committee on legal affairs, on bill, An Act relating to the Fort Kent Electric Company, reporting same in a new draft, under the same title and that it "ought to pass."

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

On motion by the same senator, the rules were suspended, and that senator presented, bill, An Act creating a State police force.

On further motion by the same senator, the bill was tabled for printing pending reference to the committee on legal affairs.

On motion by Mr. Colby of Somerset, the rules were suspended, and that senator presented bill, An Act to amend Chapter 193 of the Public Laws of 1907, creating the Maine Forestry District, and providing for protection against forest fires therein.

On further motion by the same senator, the bill was referred to the committee on State lands and forest preservation.

On motion by Mr. Maxwell of Sagadahoc, Senate Document 438, An Act for the abolishment of grade crossings of railroads, was taken from the table, and on further motion by the same senator, was referred to the committee on railroads and expresses.

From the House: Report of the committee on judiciary "ought to pass" on An Act to regulate by arbitration strikes, lockouts and disputes between employers and employes of public utilities.

The report was read in full by the secretary:

STATE OF MAINE.

The committee on judiciary, to which was referred the bill entitled "An Act to regulate by arbitration strikes, lockouts, and disputes between employers and employes of public utilities," have had the same under consideration and ask leave to report that the same ought not to pass, and deem it advisable, under the circumstances, to give their reasons for this report.

This bill was evidently intended to furnish a remedy for the serious condition that has brought great injury to the public, growing out of the strike now pending on the Bangor & Aroostook Railroad in this State, and its ultimate object was intended to secure from this Legislature some law making possible compulsory arbitration in matters of strikes and lockouts.

At the hearing before this committee, certain representatives of labor organizations appeared by their attorneys who claimed to represent the wishes and desires of the striking employes of the Bangor & Aroostook Railroad Company. They requested the committee to report a bill that would compel public service corporations, in case of strikes and lockouts, to arbitrate the disputes between such public utility and their employes, to arbitrate the disputes between such public utility and their employes, and to be bound by the decision, and to force the public utility, if the decision was in favor of the employee to pay the wage fixed by the court of arbitration, to receive back into employment the striking employes and to do and perform whatever else the court should find

necessary to be done to settle the dispute, strike and lockout. Such proposed legislation was most strenuously opposed by the attorneys for the Bangor & Aroostook Railroad Company and others, on the ground that compulsory arbitration was unconstitutional and beyond the power of this Legislature to enact a law that would be upheld and enforced by the court.

This committee recognizing the serious condition brought about by this strike, and the great demand of the public upon the Legislature for some relief, have given this matter very careful attention, both as to the facts and the decisions of the court that have any bearing upon the subject of compulsory arbitration.

At the very beginning of this strike, the Governor requested the State Board of Arbitration and Conciliation to investigate the same, under the provisions of law now in force in this State. This the Board proceeded to do, and after a very careful and thorough investigation, they reported to the Governor their findings, with the evidence so taken, and thereupon the Governor accompanied this report by a message to the Legislature.

At the outset, we recognized the fact that any law enacted by this Legislature, to be constitutional, must apply to all public utilities alike, otherwise it would be class legislation. We also agreed, as an elementary principle of law, that there could be no such thing as compulsory arbitration between individuals. After careful research, we are unable to find any decision of the courts holding lawful any attempt to bring about compulsory arbitration. No such law has ever been enacted and we are left, if we enact such a law, to be pioneers. We are ready, however, to take the advance step, if we can do so and not exceed the constitutional rights of the people.

It is doubted whether even in a case where the employes on their part, agree to arbitrate, the Legislature can oblige the public utility to arbitrate, but if such an arbitration could be made lawful by the consent of one party and by compulsion on the part of the other party to the dispute, then

the decision of such court must necessarily fail to settle the dispute or remedy the existing evil. If the decision of the court of arbitration is in favor of the employes, that their contention was right, that they had just cause to strike, that their wage was too low, that they should receive a high compensation, or that other conditions surrounding their employment should be corrected by the public utility, what then? The Legislature has no power to arbitrarily fix the wage between the public utility and its employes, or to oblige the utility to receive back into its employment the striking servants. The right of the public service corporation to hire its servants and to discharge them cannot be taken away by any act of a Legislature. On the other hand, if the decision of the arbitrators is in favor of the public utility, and decides that the public service corporation was right in its contention in the matters in dispute, what then? No law enacted by this Legislature and no decision from such arbitration could compel such striking employes to return to their labor under the same wages or return to their labor under the same conditions. Such compulsory arbitration, if it could be lawfully brought about, must thereby fail to accomplish its purpose by reason of the one sided and unconstitutional attempt to enforce its decrees.

The State has the right to interfere and take control of its public utilities and to manage, own and control them as State institutions are now managed and controlled. We do not believe the State is ready or desires to undertake the burden and experiment of State ownership of its public utilities, and we do not recommend it.

Under our present laws, if any public service corporation fails or neglects to carry out the purpose for which it was organized, and its conduct and management will cause great loss and injury to its stockholders, bondholders and creditors, the State has a right through such creditors and bondholders to have a receiver appointed and thereby place such utility under another and better

management. Further than this the Legislature cannot go.

(Signed) Per order.

DURGIN for the committee

The report was accepted to concurrence.

Mr. HERSEY of Aroostook: Mr. President, I move that we take from the table the order for the appointment of a joint select committee to investigate the strike on the Bangor & Aroostook Railroad.

The motion was agreed to.

Mr. HERSEY: Mr. President, I ask that the order be read.

The order was read by the secretary.

Mr. HERSEY: Mr. President, when that order came in from the House, I tabled it for reasons which I expressed then to the Senate, that there was pending before the committee on judiciary a bill for compulsory arbitration, and I asked that this order lie on the table until that committee could make a report. That report has been read, this morning, in the Senate and House, and has been adopted. And the 10 lawyers of the judiciary committee decide that compulsory arbitration is not possible; that the State may interfere by government ownership to take control of its utility and operate it, but until it does that, it cannot compel arbitration in the case of disputes and lockouts.

Now, Mr. President, while this order may be amended so as to extend the time of making the reports, etc., it calls for an investigation of this strike of the employees of the railroad, and a further investigation of all the busi-

ness of the road, and to report by bill or otherwise to the Legislature.

I do not wish to be put in the position of opposing any such matter, if anything can come out of it for the good of the State. As I have said before, it seems to me that in the face of the present situation, any investigation additional to the one already made by the State Board of Arbitration, must result in failure to accomplish anything on behalf of this Legislature to settle this strike. If a committee of this Legislature should take the time of the Legislature to investigate this matter, and should make a report to the Legislature as to the conditions of the parties, as to which was right and which was wrong, it seems to me they would be unable to report any remedy. They could report no bill, it seems to me, that would meet the matter, and an investigation must necessarily fail to accomplish anything.

But I do not stand here in my place opposing any such a matter if the Legislature deems such an investigation is necessary. I make no further objection to the passage of the order.

The PRESIDENT: The pending question is the adoption of the order in concurrence with the House.

Mr. WING of Franklin: Mr. President, I move that the order be indefinitely postponed, in non-concurrence.

A viva voce vote was taken, and the order was indefinitely postponed in non-concurrence.

On motion by Mr. Smith of Penobscot,

Adjourned until next Monday afternoon, at half past 4 o'clock.