

MAINE STATE LEGISLATURE

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Legislative Record

OF THE

Seventy-Sixth Legislature

OF THE

STATE OF MAINE

1913

SENATE.

Friday, April 4, 1913.

Senate called to order by the President.

Prayer by Rev. Fred V. Stanley of Augusta.

Journal of previous session read and approved.

Papers from the House disposed of in concurrence.

From the House: Senate Document 541. An Act to regulate the business of dealing in securities.

In the Senate this bill was passed to be engrossed as amended by various Senate amendments. It came from the House further amended by House Amendment B. The vote whereby the bill was passed to be engrossed in the Senate was reconsidered, House Amendment B was adopted in concurrence and the bill, as amended, was passed to be engrossed.

From the House: Senate Document 639, An Act to provide for appointment for road commissioners by selectmen.

In the Senate this bill was passed to be engrossed. In the House the bill was passed to be engrossed in concurrence and House Amendment A was adopted.

Mr. CONANT of Waldo: Mr. President, this is a matter that we wanted to eliminate from the old law. I move we nonconcur with the House as far as the amendment is concerned.

The PRESIDENT: The Chair will state that if the Senate is inclined to reconsider its action, the same purpose can be accomplished.

Mr. MOULTON of Cumberland: Mr. President, I would like to ask the senator from Waldo through the Chair what objection he has to selectmen acting as road commissioners.

Mr. CONANT: Mr. President, it has been my experience that if you have a selectman as road commissioner, he does not attend to his duties. I talked this over with the highway commissioner and he says that it is his experience if selectmen and road commissioners are both elected by ballot there is always more or less friction between them. If you give the selectmen authority to appoint road commissioners,

they will appoint someone they can get along with. That was the unanimous opinion of the committee.

Mr. MOULTON: Mr. President, I wish to inquire through the Chair if this bill allows selectmen to be road commissioners providing they cannot find men to take that position.

Mr. CONANT: Mr. President, I will read the section:

"Section 13. The selectmen of each town shall annually choose by written appointment a road commissioner who shall hold his office until the first Monday of April in the year following; provided, however, that selectmen may so choose such commissioner for a longer term, not exceeding three years. Any town may, at its option, vote to have not more than three road commissioners whose appointment, powers and duties shall be the same as prescribed for a single commissioner. Any road commissioner may be removed from office by the selectmen for incompetency or neglect to perform his official duties."

Mr. BAILEY of Penobscot: Mr. President, Perhaps I can answer. I presume if no one would take the position, the selectmen would fulfill the duties of road commissioner, as they do under the present law. I believe if they cannot appoint a road commissioner, why, then the roads of the state cannot go without being attended to, holes filled up, etc., any emergency, —the selectmen would have to do the work in case they could not find any man who was willing to take the appointment of road commissioner; but I should imagine that emergency would happen very seldom. I believe that the bill as drawn by the committee is right. As a practicing attorney I have had occasion to have this matter brought to my mind quite a few times—the friction and difficulty between the selectmen of towns and the road commissioner. The road commissioner is elected in open town meeting and so are the selectmen. They are two independent officials. And sometimes the benefits to be derived from the law are lost on account of this disagreement and friction between the road commissioner and the board of selectmen, and the public and the inhabitants of the town suffer thereby. If, as the senator from

Waldo says, the board of selectmen appoint a road commissioner, why then he will be under their supervision and direction, and they will be held responsible for his action and control him to a large extent. And I think that the tendency of the times is to put the responsibility on the heads of our towns and cities more and more; the appointing of the subordinate officers in cities is being put into the hands of the mayor so that he can be held responsible for their action.

I certainly hope that the motion of the senator from Waldo will prevail.

Mr. WALKER of Somerset: Mr. President, I want an opportunity to express my appreciation of the work which has been done by the committee on roads and bridges during this session of the Legislature, especially the chairman of the committee, the senator from Waldo, Senator Conant. He was one of the sub committee which worked on the bill in relation to the issue of bonds for the State, and the happy outcome of that measure was in a large degree due to him.

Now unless there is a good reason for not supporting the members of this committee in the position which they have taken in this matter, I believe we should stand by that committee.

The motion of the senator from Waldo, Senator Conant, that the Senate reconsider its former action, was lost on a viva voce vote.

On further motion by Mr. Conant, the Senate voted to insist upon its former action and asked for a committee of conference.

The Chair appointed as Senate members of the committee of conference on the disagreeing action of the two branches, the senator from Waldo, Senator Conant, the senator from Somerset, Senator Colby and the senator from Penobscot, Senator Smith.

From the House: Senate Document 333, An Act to provide for the care and treatment of tubercular patients.

In the Senate this bill was indefinitely postponed.

The bill came from the House with no request for a committee of con-

ference but amended by the adoption of House Amendment A.

Mr. PATTEN of Hancock: Mr. President, I move that the Senate recede from its former action and concur with the House.

Mr. STEARNS of Oxford: Mr. President, if I understand the purposes of the amendment, it is to reduce the amount of the appropriation which was called for originally, from \$100,000 to \$50,000 for the purpose of in some way, somewhere, somehow, getting a hospital for the purpose of receiving tubercular patients.

This question was discussed in the Senate and the Senate decided that it was not wise at that time and under the circumstances to take this course. It was generally understood that even the sum of \$100,000 would not be sufficient to go the full length that would be desired. It was also decided by the Senate that the State was not in financial circumstances to undertake this. If that position is correct, certainly the \$50,000 would accomplish very little. It seems to me that the Senate was correct in its position at first taken, and I hope that it will not now recede from that position.

Mr. HERSEY of Aroostook: Mr. President, I just want to say a word. I did not say anything at the time this matter was discussed in the Senate, and I do not wish to say anything this morning practically. I wish to call the attention of the senators to this fact that yesterday we heard in the Senate the conditions of an institution of the State across the river described, and its condition is brought about, so it was said here in the Senate, by lack of funds. Now we have a great many institutions of the State at the present time which we are under obligation to support and maintain. If what the senator from Yord, Senator Cole, said yesterday was true, there is pressing need for an enlargement of the hospital in this city, and it seems to me that we ought to take care of the institutions we have.

Now while I am in hearty sympathy with anything that can be done to alleviate human suffering, we have today in the State hospitals of this

kind; how much good they are doing is a question. The matter of treating tuberculosis is arriving at this point, that the only way to cure it is to get out of doors and stay out, and you can stay out doors in one part of the State just as well as you can in another. There is an experiment in this nation today somewhat successful as far as I have read, and if it is a success any doctor can give the treatment, at any place. I think that we ought to take care of our present institutions. When we get through with that, if we have any money left, **build new ones. That is my position.**

Mr. MOREY of Androscoggin: Mr. President, I understand that this amendment simply calls for a reduction from \$100,000 to \$50,000 to carry on the work of investigating tubercular patients in the State.

It seems to me that this amount could be reduced to \$50,000, and that amount wisely expended and the remaining \$50,000 used for the suffering people in the State to whom it is a necessity.

I hope the motion of the senator from Hancock will prevail. The matter has been thoroughly discussed once and the question could not this \$50,000 be used in a much more advantageous way.

Mr. BAILEY of Penobscot: Mr. President, I move the previous question.

The question being shall the main question be put now, the motion was agreed to, and the previous question was ordered.

The motion of the senator from Hancock that the Senate recede and concur with the House was lost on a viva voce vote.

From the House: House Document 712, An Act to amend section 50 of chapter 51 of the Revised Statutes as amended by chapter 165 of the Public Laws of 1911 relating to the duties of the railroad commissioners.

Received in the House under suspension of the rules, read three times and passed to be engrossed.

Mr. HERSEY of Aroostook: Mr. President, I move that the bill be read.

The bill was read by the secretary.

Mr. DUTTON of Kennebec: Mr.

President, I would like further information on this subject. My recollection is that the public utilities commission abolishes this board of railroad commissioners, and if that is so, I don't think it ought to be revived in this act. I would like to be informed. I will inquire, through the Chair, of the chairman of the subcommittee.

Mr. COLE of York: Mr. President, the act says that the railroad commission is abolished. But the railroad commission is not abolished until the first day of September, so that I presume they will have full power and duty up to that time, and I move that this lie on the table in order that we may examine it more.

The PRESIDENT: The pending question being action in concurrence with the House, the Senator from York moves that the bill lie on the table.

Mr. WALKER of Somerset: Mr. President, I move that the bill be indefinitely postponed.

Mr. COLE: Mr. President, it is possible that there may be something in that bill which has some merit in it, because under the utilities bill the public utilities commission takes over all the duties of the railroad commission. Now if there are any extended duties of the railroad commission which by inference would not be included in the public utilities commission, regarding their duty toward the governor or the people, then this would be an addition to the duties imposed upon them and I think it is only fair that we have time to look into this and consider it. Somebody had something in mind apparently, when they introduced the bill.

The PRESIDENT: The Chair will state that while a motion to lay on the table, the Chair cannot entertain a motion to indefinitely postpone.

Mr. BURLEIGH of Aroostook: Mr. President, under the present law the railroad commissioners have to examine all the railroads in the State—at least a majority of them. Now as I understand this bill, it gives the railroad commissioners authority to

examine the roads by one member, or appoint some man to examine the roads. Now as I understand the utilities bill, when that takes effect it takes over all the duties of the railroad commissioners. Now as that board is composed entirely of lawyers, they would have authority, if this bill passed, to appoint a civil engineer or a man that is skilled in the examination of railroads to do that duty for them. So I think that this bill is one which should be passed to give the utilities commission authority to appoint some man to examine the railroads that is skilled in the building and running of railroads.

The bill was then tabled on motion by Mr. Cole of York.

From the House: An Act relating to the issuance of stock by corporations.

This bill was received in the House under suspension of the rules, read the issuance of stock by corporations, without printing.

On motion by Mr. Wing of Franklin, the bill was tabled for printing.

From the House: Majority and minority reports of the committee on ways and bridges on an Act requiring certain vehicles to carry lights at night on public ways or bridges.

Majority report "ought to pass in new draft." Minority report "ought not to pass." In the House the majority report was accepted, and the bill, as amended, by House Amendment A, was passed to be engrossed.

Majority report of the committee was accepted in concurrence.

The question being on the adoption of House Amendment A in concurrence, upon motion by Mr. Reynolds of Kennebec, the bill was tabled for printing, as amended.

House Bills in First Reading.

Resolve in favor of Steward and Blunt of Sowhegan.

An Act to amend Sections 2, 9 and 12 of Chapter 195 to the Public Laws of 1911 in relation to the control of contagious diseases among cattle, sheep and swine.

Resolve waiving forfeiture of the public lots in the north half of township No. 27, Washington county, eastern division.

Passed to Be Engrossed.

Resolve in favor of Cassie K. Turner for stenographic services rendered for Committee on Salaries and Fees.

Resolve in favor of clerk and stenographer to Committee on Banks and Banking.

Passed to Be Enacted.

An Act relating to the assessment of the county taxes in the several counties for the year 1913.

This bill, carrying an emergency clause, required a two-thirds vote of all members present and voting.

Twenty-eight senators voting in the affirmative, the bill was passed to be enacted.

Finally Passed.

Resolve for an amendment to the constitution providing for the classification of property for the purposes of taxation.

This resolve carrying an emergency clause, required a two-thirds vote of all members present and voting.

Twenty-seven senators voting in the affirmative, the resolve was finally passed.

Orders of the Day.

The PRESIDENT: The first assignment for today is House Document 449, An Act to regulate the sale of morphine and other hypnotic or narcotic drugs.

The pending question is its passage to be enacted.

Mr. MOULTON of Cumberland: Mr. President, I have an amendment to offer, if it is in order, Senate Amendment B to House Document 449.

The rules were suspended and the vote whereby the bill was passed to be engrossed was reconsidered, and Senate Amendment B was then adopted, and the bill, as amended, was passed to be engrossed.

The PRESIDENT: The next matter on the calendar is Senate Document 623, Resolve in favor of the superintendent of public buildings to provide for a rail in the Senate chamber.

The pending question is its final passage. The bill was tabled by Mr. Cole of York.

Mr. COLE: Mr. President, I yield to the senator from Lincoln.

Mr. BOYNTON: Mr. President, I move that the resolve take its final passage.

Mr. COLE: Mr. President, I dislike to differ with the senator from Lincoln in this matter. All his work here this session has been for the good of the State. I do not know what actuated him in advocating a bill of this kind unless it was to spend a little of the people's money. He has been a member of the committee that has been calling for money all along the line.

There are a number of things that I intended to take up in connection with this bill, and one was to introduce an amendment, but the time is short, and it does not seem to me that a rail is needed in this room. Sitting back so far as we have to from the desk, the rail would narrow the room in the rear. It is unnecessary. It seems to me that no senator has been interfered with. We are not children that need to be fenced in. I do not think an expenditure of \$150 for a mahogany rail around the back row of seats in this chamber is either necessary or wanted. It seems to me that the State of Maine can spend that money in a good many other ways and get more benefit from it.

I move that the bill be indefinitely postponed.

Mr. BOYNTON: Mr. President, I would like to rise to a question of personal privilege.

In the discussion yesterday relative to the employes of the State House, the senator from Kennebec, Senator Dutton, made the statement that this had been the custom. I took the ground that the custom was done away with last year. I find that Chapter 180 of the resolves of last year appropriated \$25.00 each to be paid to the employes who had served under the superintendent of public buildings more than one year for extra services rendered during the remodeling of the State House and during the session of the Legislature, eight in number, amounting to \$200.

It was in my mind that the committee turned this down, which they did do, and later Major Keefe came

before the committee and stated the work done by these employes for nights and days for two months, and the committee reconsidered their vote, and under those conditions, this bill was reported and passed.

I make this statement in justice to the senator from Kennebec, who was correct, and I was wrong.

The PRESIDENT: The statement of the senator will be inserted in the records.

The question being on the motion of the senator from York, that the bill providing for a rail in the Senate Chamber be indefinitely postponed, a viva voce vote was taken, and the Chair being in doubt, a rising vote was taken, and twenty voting in the affirmative and seven in the negative, the motion prevailed, and the resolve was indefinitely postponed.

On motion by Mr. Stearns of Oxford, unanimous consent was given and that senator presented out of order report of the conference committee on the disagreeing action of the two branches of the Legislature, on an Act to regulate the practice of the system, method or science of healing known as Osteopathy, creating a board of examination and registration for those desiring to practice the same and providing penalties for violation of this act, reporting that the committee was unable to agree.

The report was accepted.

On motion by Mr. Hersey of Aroostook, the rules were suspended, and that senator presented Resolve in favor of Donald Gates, page to the Press.

(The resolve appropriated \$50 to be paid to Donald Gates.)

Mr. HERSEY: Mr. President, I wish to state that Donald Gates is an eleven-year old boy, the son of a widowed mother with three small children, who attempts to support her family by her labor, public washing, and care of the home, and the little fellow is trying to earn a living and go to school.

During the session of the Legislature, he has been a page to the reporters in the Press room. The reporters are a

part of the business of the Legislature, We could not get along without them. The members of the Legislature know that only as the business of the State conducted through the reporters in the "Ruin of Hell," as they call it, the characters, reputation and statesmanship of the members are in the hands of the Press; that the editorials and work of the Legislature is conducted and handed out to the public through the Press room.

This little fellow has worked faithfully in the Press room. I understand from the boys that he has been faithful in every way, has seen that nothing was omitted, and has conducted their correspondence by taking it to the telephone and telegraph offices and to the mail; that he has worked there late at night, and then gone to school in the morning, and has been up there at five o'clock in the morning looking after his duties.

The little fellow ought to be looked after. While the State is not ready to look after some things, I think this \$50 ought to be given to him as a reward of merit, if nothing else.

I move that the rules be suspended and the resolve be given its several readings at the present time and passed to be engrossed.

The motion was agreed to, the resolve was read twice and passed to be engrossed.

On motion by Mr. Hersey of Aroostook, unanimous consent was given and that senator presented the following order, out of order:

Ordered, the House concurring, that the secretary of State be authorized to print and bind in the Acts and Resolves in the 76th Legislature, the Acts and Resolves passed at the Special Session of the 75th Legislature, 1912, also an Act to provide for nomination of candidates of political parties by primary election adopted by the qualified voters of the State of Maine at a special election held on the eleventh day of September, A. D. 1911, and on the 28th day of September, 1911, proclaimed by the Governor and to take effect 30 days after said proclamation.

Mr. HERSEY: Mr. President, I wish to say in explanation that the acts and resolves of the special session is a

little bit of a pamphlet and never has been bound up in any shape where we can use them, and they are so few that they ought to be bound with the Acts and Resolves of this Legislature so that we can preserve them and have them for use. It would not cost much more to put them in. Also the Act which became a law in vacation, called the Primary Election Law, by initiation, which became a law during the recess of the Legislature. It never has been printed in any Acts or Resolves either of the last Legislature or the Special Session, and if it is not printed by this order, it will not appear in the present Acts and Resolves, and can only be used in a printed pamphlet and I think it ought to be printed with the Acts and Resolves of this Legislature so we may have it in some place where we can have recourse to it.

Mr. DUTTON of Kennebec: Mr. President, I have been informed that the primary election law is amended in such shape that it is to be reprinted in full. Now if that is the situation, why this order should be amended so as not to apply to that direct primary law.

Mr. HERSEY: Mr. President, I understand from the senator from Penobscot, Senator Bailey, that it does not quote the whole law.

Mr. BAILEY: Mr. President, the amendment to the corrupt practice act quotes the whole act, but the direct primary act applies only to a few sections.

The order was given a passage.

On motion by Mr. Moulton of Cumberland, Senate Document 544, An Act to amend Sections 2, 3, 4, 5, 6 and 9 of Chapter 17 of the Public Laws of 1905, regulating the practices of veterinary surgery, medicine and dentistry, was taken from the table.

On further motion by the same senator, the vote whereby this bill was passed to be engrossed, was reconsidered, and on further motion by the same senator, House Amendment A was adopted in concurrence with the House, and the bill, as amended, was passed to be engrossed.

On motion by Mr. Colby of Somerset, a recess was taken, subject to the call of the Chair.

After Recess.

Senate called to order by the President.

The PRESIDENT: For the purpose of forming a joint convention in accordance with the joint order passed by both branches of the Legislature, the Senate will now procede to the Hall of the House.

The Senate retired to the Hall of the House.

IN SENATE.**After Recess.**

Senate called to order by the President.

The PRESIDENT: The matter now before the Senate is the proposed resolve in favor of the adoption of an address to the Governor for the removal of John W. Ballou, sheriff of the county of Sagadahoc.

"Resolved, That both branches of the Legislature after due notice given according to the Constitution will proceed to reconsider the adoption of an address to the Governor for the removal of John W. Ballou, sheriff for the county of Sagadahoc, for the causes as following:

First, because the said John W. Ballou, who is now holding the office of sheriff for the county of Sagadahoc, and who has held said office continuously since the first day of January, A. D., 1913, wilfully or corruptly refuses or neglects to perform the duties required of him as such sheriff by Section 69 of Chapter 29 of the Revised Statutes of this State as amended by Chapter 41 of the Public Laws of 1905, and particularly his duties as said sheriff in the enforcement of the law against the illegal sale of intoxicating liquors and the keeping of drinking houses and tippling shops.

Resolved, The House of Representatives concurring, that these resolutions and statements of causes of removal be entered on the Journal of the Senate and served on said John W. Ballou, by such person as the President

of the Senate shall appoint for that purpose, who shall make return of said service upon his personal affidavit without delay, and that the second day of April, eleven o'clock in the forenoon, be assigned as the time when the said John W. Ballou may be admitted to a hearing in his defence."

On motion by Mr. Stearns of Oxford, the Senate went into executive session for the purpose of considering this resolve.

In Executive Session.

The question being on the adoption of an address to the Governor for the removal of John W. Ballou, sheriff of Sagadahoc county, a yea and nay vote was ordered, and the secretary called the roll.

Those voting yea were: Messrs. Allen, Boynton, Burleigh, Chase, Cole, Cole, Conant, Dutton, Emery, Emery, Maxwell, Milliken, Patten, Richardson, Smith, Stearns, Walker, Wing—18. Those voting nay were: Messrs. Allan, Bailey, Flaherty, Hagerthy, Hastings, Jillson, Mansfield, Morey, Murphy, Packard, Reynolds—11. Absentees: Messrs. Clark, Moulton—2.

Eighteen senators having voted in the affirmative and eleven having voted in the negative, the address to the Governor for the removal of John W. Ballou, sheriff of Sagadahoc county, was adopted.

On motion by Mr. Stearns of Oxford, the yea and nay vote in executive session upon the adoption of an address to the Governor for the removal of John W. Ballou, sheriff of Sagadahoc county, was ordered incorporated in the record of the Senate, and that nothing else be included.

The Senate then arose from executive session.

In Regular Session.

On motion by Mr. Wing of Franklin,

Adjourned until tomorrow morning at 9 o'clock.