

MAINE STATE LEGISLATURE

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Legislative Record

OF THE

Seventy-Sixth Legislature

OF THE

STATE OF MAINE

1913

SENATE.

Saturday, April 5, 1913.

Senate called to order by the President.

Prayer by Rev. Father Nelligan of Augusta.

Journal of previous session read and approved.

Papers from the House disposed of in concurrence.

From the House: Resolve in favor of Benjamin F. Sturgis for expenses of the committee on State prison visiting the State prison.

In the House this resolve was received under suspension of the rules and passed to be engrossed without reference to a committee.

Upon motion by Mr. Hersey of Aroostook, the rules were suspended, the resolve received its several readings and was passed to be engrossed without printing or reference to a committee.

From the House: An Act to amend chapter 195 of the Public Laws of 1911, entitled "An Act to extirpate contagious diseases among cattle, sheep and swine."

This bill was reported from the committee on agriculture, "ought not to pass," recommitted to the committee and again reported the same. In the House the bill was substituted for the report; in the Senate the report of the committee was accepted. It came from the House that branch insisting upon its former action and asking for a committee of conference.

On motion by Mr. Boynton of Lincoln, the committee insisted and granted 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 Lincoln, Senator Boynton, the senator from Waldo, Senator Conant, and the senator from Piscataquis, Senator Chase.

From the House: An Act to empower the county of Aroostook to aid in the construction of a railroad through that county and to acquire

and hold preferred stock of the company building such railroad.

In the House this bill was received under suspension of the rules, read twice and passed to be engrossed.

In the Senate unanimous consent was refused to the admission of the bill, and the bill was indefinitely postponed.

The PRESIDENT: In the opinion of the Chair no action can be had upon this bill except by a two-thirds vote under suspension of the rules.

Mr. MOREY of Androscoggin: Mr. President, I would like to ask if the senators from Aroostook want it done.

Mr. HERSEY of Aroostook: Mr. President, it is not a question of what the senators from Aroostook want. Having denied to several parties private legislation, it seems to me that the senators from Aroostook should not rise in their places and ask for private legislation. I do not feel, as one, I think my colleague feels the same, that the senators from Aroostook should ask any special favor because they come from Aroostook county, and I therefore as one of the senators ask for no special privileges. I think that we did right in denying private legislation early in the session, after the limitation, and I do not think, whatever we want, that we should ask that this rule be set aside.

Mr. MOREY: Mr. President, I appreciate the position of the senator from Aroostook, and I cannot help thinking how hard he strove for the bridge at Van Buren, and still, notwithstanding that, I move that we do not accept the petition in concurrence with the House. I appreciate how hard he struggled for the bridge, and having exhausted the good will of the Senate in that particular I appreciate that he does not ask us to consider this.

Mr. HERSEY: Mr. President, there is an old story with which we are all familiar in Roman history of a certain man who kept the bridge, but I want to assure the senator from Androscoggin that I made no speeches or remarks about the bridge, and the record will show.

The PRESIDENT: The Chair will

state that in the absence of a formal motion to suspend the rules, unanimous consent is refused and this matter cannot be considered.

From the House: House Document No. 585, An Act to provide for the reconstruction of the Portland Bridge.

This came from the House, House amendment D adopted.

Mr. MURPHY of Cumberland: This bill is substantially the same as the first bill and it is the unanimous opinion of the Cumberland County Delegation that this new draft should have a passage. I move that the vote whereby the bill was passed to be engrossed be reconsidered.

The motion was agreed to, and on further motion by the same senator, Senate amendment D was adopted in concurrence and the bill as amended was passed to be engrossed.

From the House: Majority report of the committee on salaries and fees on An Act to amend section 15, chapter 154 of the Private and Special Laws of 1911, relating to the Houlton Municipal Court, reporting same "ought to pass in new draft" under title of "An Act providing temporary compensation for recorder of the Houlton Municipal Court."

There was no minority report. In the House the majority report was accepted and the bill was passed to be engrossed.

Mr. DUTTON of Kennebec: Mr. President, I have been informed that this is one of those bills that I have been somewhat interested in earlier in the session in regard to an increase of salary.

The bill was read by the secretary:

"An Act providing temporary compensation for the recorder of the Houlton Municipal Court.

Section 1. In addition to any sums now provided by law there shall be paid the recorder of the Houlton Municipal Court the sum of \$200 per year for two years beginning July 1st, 1913. Said sum to be paid from the county treasury."

Mr. DUTTON of Kennebec: Mr. President, I have been informed that this is one of those bills that I was

somewhat interested in earlier in the session myself. I should like to make certain of it.

The bill was read by the secretary.

Mr. DUTTON: Now, Mr. President, of course, inasmuch as it has been stated here by the senator from Aroostook, Senator Hersey, that Aroostook county is not asking for any special favors at this Legislature, and inasmuch as we have indefinitely postponed the bill in regard to the Waterville municipal court giving a small increase of salary, and for the added reasons that comes particularly home to me, that the Governor vetoed the bill increasing the salary of the superior court of Kennebec county and the Legislature coincided with the Legislature in his views, and for the further reason that we are all good fellows and want to use everybody just alike, I move that this bill be indefinitely postponed.

Mr. MANSFIELD of Washington: Mr. President, the salary received by this man in Aroostook county is \$290 and he asks for an increase of \$200, and we granted it to him with the understanding among the committee that this was a small increase and that he should have it, that he was entitled to it. Perhaps some of the others were the same, but that was the reason we took that action.

Mr. HERSEY: Mr. President, I fear the senator from Kennebec, Senator Dutton, has too long a memory about his wrongs. Now I have forgotten a great many things during this present Legislature where I did not get what I wanted, and I hope the senator will by and by forget the salary of the judge of the superior court of Kennebec county. This is one of those cases, Mr. President, mentioned in the Governor's veto of the Kennebec salary measure where he says if in the opinion of the committee on salaries and fees there should be temporary arrangements made for the carrying on of the business of the State, that he would not veto such measures, and in accordance with that veto message we have had a great many matters calling for temporary clerk hire, to take care of injustices that are not purely and simply a raise in salaries.

In the matter of the Houlton Municipal Court, the court was organized two years ago, that is, long since there has been a revision of salaries and fees, the recorder received \$200.00. At that time a recorder was appointed to this court. I wish to say, Senators, it is a very important court in my county. We have no superior court. The jurisdiction of this court is \$200.00. It takes the whole southern portion of the county in its jurisdiction.

You, who are lawyers, understand that to make real estate attachments in this court, it is necessary to have a recorder, a court or record. We cannot get along without a recorder. We had a recorder, who took the salary of \$200 for a short time. He resigned. He could not afford to take it. We have one now who is temporarily taking the place with the understanding that he is to have at least \$400 a year or he cannot afford to take it. It is necessary to have a lawyer in that court because the act provides that the recorder shall sit in the absence of the judge, and it is an important court with real estate attachments, and this is only a temporary arrangement to meet that injustice. It means that you cannot have a recorder unless this amount is put out. Now if it was a question of clerk hire, there would be no question about it. We cannot put in a resolve for clerk hire because the clerk would not help out the court a bit.

It seems to me it is a necessity, such a necessity as is contemplated by the Governor's veto. I simply state this, Mr. President. It is not a parallel case with the case of the salary in Kennebec county where the judge accepted the office with knowledge that the salary was from twenty-five to twenty-seven hundred dollars, somewhere along there.

Mr. DUTTON: Mr. President, may I ask the senator through the Chair if they now have a recorder.

Mr. HERSEY: Mr. President, we do temporarily. We have a recorder who says he will not keep the office unless the salary is put up \$200 more.

Mr. DUTTON: Mr. President, does

the senator think there is any danger of his resigning?

Mr. HERSEY: I have it from him that he will. That is all I know.

Mr. BURLEIGH: Mr. President, when this court was established, the act, as I understand it, that passed the committee, was for a salary of \$400, but in the last Legislature during the economy of the Democratic party, they cut down to \$200 and reported it, as I understand it, \$200. I think I am correct. Now he should have had the \$400 when they started, and as my colleague, Senator Hersey, says it is impossible for that court to keep a recorder there at the salary that he gets. The amount of business that is done in that court is, I should say, twice, yes, three times what was expected when the court was established and this, as I understand it, is only temporarily for a few years, the salary to be regulated by the committee that has been appointed to investigate, and when the two years are expired this temporary increase ceases, and if the committee, upon investigation, decides that he should not have but \$200, that is all he will get. I hope that this resolve will have its passage in this Senate.

Mr. DUTTON: Mr. President, may I indulge in just one word more? I have not the slightest opposition to this that the senators from Aroostook are asking for, but this is exactly a parallel case with the Waterville Municipal court where a bill was in here to change the law so as to take them off from fees and give them a salary of \$400, and both the senators from Aroostook voted to indefinitely postpone that bill. It went through without objection, indefinitely postponed. Now I think all counties ought to be used alike on this proposition of salaries.

Mr. WING of Franklin: Mr. President, I fully agree with Senator Mansfield in regard to the merits of this case. The evidence was taken up before our committee and there appeared to be no question regarding the desirability of increase of salary. It seemed to be necessary. But I could not sign the report because it seemed

to be an injustice to some of the other parties that had been before the Legislature for an increase in salary that we had not granted. The situation is this, with this exception, all matters that have been reported by our committee have been for temporary clerk hire. This is an increase, or temporary increase, of the salary of the recorder.

A matter that was very much the same as this was before the Legislature and was indefinitely postponed, the bill increasing the recorder of the Waterville municipal court. There was also another one regarding the municipal court at Millinocket. It was identically parallel with this. And that was amended by cutting out the increase. And it seems to me that in order to be fair,—while it may work an injustice as it has in many other cases—it simply allows all these various applicants to wait until the revision is made,—if we are to grant this increase, in order to be consistent, those that we have turned down should have received different action.

Mr. HERSEY: I wish to say in explanation. Mr. President, to the senator from Kennebec, in regard to the Waterville municipal court, also to the senator from Franklin, that the recorder of the Waterville municipal court is on a fee system. It would depend on the amount of business how much his fees would be and it is a different question altogether. He may get more than by an increase in salary and the injustice there is not a parallel case with this at all. Here it is not a question of a fee system and a salary system at all; it is a question of maintaining a court or letting it go out of existence.

A viva voce vote was taken, and the Chair being in doubt, a rising vote was had, and 13 senators voting in the affirmative and 10 in the negative, the motion of the senator from Kennebec prevailed and the bill was indefinitely postponed.

The following communication was received from the office of the state auditor:

STATE OF MAINE.
OFFICE OF STATE AUDITOR.

Augusta, Maine, April 5, 1913.

To the Honorable Senate and House of Representatives in Legislature Assembled:

Complying with Section 5 of Chapter 147 of the Public Laws of 1907, the auditor begs to report that claims, accounts and demands against the State of Maine as set forth in detail in the following schedule have not been approved by him for the reasons set forth in the following clause of said Section 5: "The auditor shall not approve nor issue his certification for the payment of any bill or account unless there is a specific appropriation of funds for the payment thereof or an expenditure is authorized by law to be paid out of a contingent fund or moneys in the treasury not otherwise appropriated; and whenever any appropriation or fund is expended, all bills and accounts presented to said auditor and drawn on said expended appropriation or fund, shall not be approved by him but shall be reported by him to the next session of the Legislature, and he shall not approve any bill or account against any appropriation unless said bill or account was incurred during the time for which said appropriation was made."

The names of the parties and the amounts payable, as well as the authority of law for the expenditure, are shown under the titles of the appropriation to which they would have been chargeable, had there been no deficiency.

Of the deficiencies herein reported, resolves have already passed authorizing payment of the following: Van Buren and St. Leonard's bridge, \$1,283.35, bills for which are on file in auditor's office, although the resolve included this amount and additional claims. Maine Register, \$600, ordered by the last Legislature, although no provision was made for payment of the account. Cumberland county for expenses of law court and for compensation of the clerk of law court, \$934.12.

The total deficiencies herein reported under Section 5 of the Public Laws of 1907 amount to \$99,450.24. Other deficiencies, amounting to \$16,844.61 have already passed in resolves. The grand

total of deficiencies is therefore \$116,294.85.

(Signed) T. F. CALLAHAN,
State Auditor.

Referred to the committee on appropriations and financial affairs.

From the House an Act relating to the issue of stock by corporations.

Mr. DUTTON of Kennebec: Mr. President, I am not sure whether the senators would like some time to consider this question. Of course we are getting toward the closing days of the session, but it is perfectly evident that this bill was introduced to fit some special case, and it is not a bill that is at all desirable in the great majority of cases in regard to corporations.

While it looks very good upon its face, it might bother the people in corporations. It accomplishes no more than may be accomplished now under the by-laws of the corporation if those by-laws are adopted at the time of the organization of the corporation.

When men get together and organize a corporation under our Statute they may prescribe all the powers by by-laws, and the liabilities within certain limits of stockholders. They may prescribe the voting rights of different classes of stockholders; they may limit one class of stock so that it shall not vote at all or participate in the dividends. It may provide for a class of stock to carry out any special purpose through almost unlimited powers with the associates under the by-laws.

This provision provides that when this stock is increased the common stockholders shall be entitled to subscribe pro rata for the stock. That sounds very good, but it might defeat the very purpose in a given case of the increase of stock. For instance an increase of stock might be for the purpose of buying a certain plant and adding it to the original plant. If they wanted to do that under this law, it would require a two-thirds vote. The plans of the corporation might be defeated. I say in all fairness to the idea of this bill, that it is certainly designed to fit some special case. I cannot conceive of a man who has been connected with corporation work and is familiar with the calls that might come in in regard to the rights of stockholders, unless he wanted it to ap-

ply to a special case, I cannot conceive of his asking for a general law like this, when he might provide when organizing the corporation for that and more stringent regulations.

I do not think it ought to be put on the Statute books. This is Senate bill 669,

The PRESIDENT: The Chair will state that this bill has been proceeding without objection. It cannot be passed without a two-thirds vote.

Mr. DUTTON: Mr. President, here we are in this State engaged in the business, whether it is a commendable practice or not, the State of Maine is receiving a half million of revenue yearly from this business, and it is a serious question whether we ought to satisfy some individual case and tinker our law and so interfere with that business.

On motion by Mr. Wing of Franklin, the bill was indefinitely postponed.

From the House: Senate Document 670, an Act requiring certain vehicles to carry lights at night on public highways and bridges.

Mr. ALLEN of Kennebec: Mr. President, on account of the absence of Senator Conant, and knowing that he may have some interest in the bill, I move that it be tabled.

The PRESIDENT: If it is satisfactory to the senator, the bill will take its first reading and will then come up tomorrow morning.

The bill was then given its first reading, and the second reading assigned for tomorrow morning.

Passed to Be Engrossed.

Resolve waiving a forfeiture of the public lots in the north half of Township No. 27, Washington county, Eastern Division.

Resolve in favor of Steward & Blunt for extra labor and material used in the construction of the State House.

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

Passed to Be Enacted.

An Act to amend section 16 of chapter 15 of the Revised Statutes, as amended, relating to the withholding of State school funds from delinquent towns.

An Act to amend section 1 of chapter 138 of the Public Laws of 1909, as amend-

ed, relating to the school equalization fund.

An Act to incorporate the Sanford Investment Company.

An Act to repeal section 9 of chapter 30 of the Revised Statutes, as amended by chapter 201 of the Public Laws of 1909, relating to the payment of registration fees of apothecaries.

An Act to enable the county of Sagadahoc to rebuild Merry Bay bridge.

An Act to provide for the election of officers in cities by plurality vote.

An Act to regulate the size and construction of caboose cars.

An Act to incorporate the trustees of the John B. Curtis Free Public Library in Bradford.

An Act relating to the jurisdiction of the superior court for the county of Kennebec.

An Act in relation to Maine street in the city of Westbrook and certain streets in the city of Portland.

Resolve in favor of W. A. Ricker, secretary of the committee on education, for certain committee expenses.

Resolve in favor of the Androscoggin Anti-Tuberculosis Association for the relief and control of tuberculosis.

Resolve in favor of the State Highway Department covering the expenditures for repairs and maintenance of the state bridge at Old Town.

Resolve in favor of Cassie K. Turner for services as stenographer to the committee on military affairs.

Resolve in favor of H. P. Hawes, clerk to the committee on railroads and expresses, for services rendered.

Finally Passed.

Resolve in favor of providing a suitable storehouse for military property in Augusta.

Resolve in favor of W. V. Peebles for witness fees and expenses in attending a hearing before the House committee on elections.

Resolve reimbursing John Metcalf for expenses incurred in his contest for election, as representative.

Resolve in favor of Clyde Scribner for services as messenger to the committee on inland fisheries and game.

Resolve in favor of M. H. Hodgdon for services as clerk and the stenographer to the committee on inland fisheries and game.

Resolve reimbursing Warren B. Clark for expenses incurred in his contest for election as representative.

Resolve in favor of Fred F. Lawrence for services as stenographer rendered to the committee on ways and bridges.

Resolve in favor of the commissioners on enlargement of the State House for their services rendered and also for clerk hire.

Resolve providing for an epidemic or emergency fund for the year nineteen hundred fourteen.

Orders of the Day.

On motion by Mr. Richardson of Penobscot, unanimous consent was granted, and that senator presented the following order which was given a passage.

Ordered, that 1000 extra copies be printed of Senate Document 541, as amended, for the use of the Legislature.

At this point the senator from Lincoln, Senator Boynton, arose from his seat, and spoke as follows to the messenger of the Senate:

Uncle Charles:

The members of the Senate of the seventy-sixth legislature appreciating your uniform courtesy, the loyal and faithful manner in which you have discharged your duties, have asked me to pin upon your breast this emblem of your office. You will wear it with no more pride than it has given us pleasure to give it, and when this session closes, we wish you a pleasant and safe journey to your home, with the hope that many years of prosperity and happiness await you. In the years to come when the foot-step falters and the eye grows dim, you will carry with you the assurance that you commanded the respect and esteem of every member of the body. (Applause.)

Messenger LOVEJOY; Mr. President and Senators, I was always taught to thank you for any kindness. I thank you all for this beautiful gift and I shall always wear it with pleasure. (Long and continued applause.)

On motion by Mr. Cole of York, Senate 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, and moved its passage.

The PRESIDENT: In the House this bill was introduced under suspension of the rules and is now printed as House Document 712.

Mr. DUTTON of Kennebec: Mr. President, I have read this document two or three times. I cannot satisfy myself as to what it means. If it means we are to keep this railroad commission in existence, I do not see any reason for it, and I am opposed to it. It strikes me very forcibly that it revives and keeps in existence this railroad commission and the whole understanding of the public utilities bill is the abolition of the railroad commission.

Mr. COLE of York: Mr. President, this bill was introduced by the chairman of the railroad commission.

Under the existing law two members of the commission go over the various railroads and examine them. Whatever duties devolve upon the railroad commission will devolve upon the utilities commission. This law does not change the law except where it is changed in the bill itself. In all other cases the utilities commission takes the law as it is. And the commission must perform the laws as they are. The railroad commissioners desire to send an engineer over the

road to examine them instead of going themselves, and if the law is passed, the utilities commission would have to do exactly what the railroad commissioners do. They can send their engineer over the road instead of going themselves. This is, as I understand the law. It does not keep the railroad commission in existence. Any law enacted before the commission comes into existence will be turned over to the utility commission.

On motion by Mr. Dutton, the bill was tabled and assigned for tomorrow morning for the purpose of offering an amendment.

On motion by Mr. Stearns of Oxford the Senate took a recess subject to the call of the President.

After Recess.

Senate called to order by the President at 5 o'clock P. M.

On motion by Mr. Bailey of Penobscot, unanimous consent was given and that senator presented the following order, moved its passage, and the same was given a passage.

Ordered, that when the Senate adjourn, it be to meet Monday morning at half past nine o'clock.

On motion by Mr. Bailey of Penobscot,

Adjourned until Monday morning at half past nine o'clock.