

MAINE STATE LEGISLATURE

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Legislative Record

OF THE

Eighty-Seventh Legislature

OF THE

STATE OF MAINE

1935

KENNEBEC JOURNAL COMPANY
AUGUSTA, MAINE

SENATE

Thursday, March 28, 1935.

Senate called to order by the President.

Prayer by the Rev. H. W. van Coughenoven of Hallowell.

Journal of yesterday, read and approved.

From the House:

"Resolve in Favor of Richard Clayton French of Carmel." (H. P. 1753) (L. D. 785)

In Senate on March 22nd report accepted and resolve passed to be engrossed in concurrence.

In the House, passage to be enacted reconsidered; passage to be engrossed reconsidered; House Amendment "A" adopted, and the resolve as amended by House Amendment "A" passed to be engrossed in non-concurrence.

In the Senate, House Amendment "A" was read; under suspension of the rules that body voted to reconsider its former action whereby the resolve was passed to be engrossed; House Amendment "A" was adopted in concurrence and the resolve as amended by House Amendment "A" was passed to be engrossed in concurrence.

From the House:

Bill "An Act to Provide for the Union of Towns for the Employment of Social Welfare Workers." (S. P. 653) (L. D. 826)

In Senate on March 25th report accepted and bill passed to be engrossed.

In the House, report accepted and bill passed to be engrossed as amended by House Amendment "A" in non-concurrence.

In the Senate, House Amendment "A" was read; under suspension of the rules that body voted to reconsider its former action whereby the bill was passed to be engrossed; House Amendment "A" was adopted in concurrence and the bill as amended by House Amendment "A" was passed to be engrossed in concurrence.

Papers from the House disposed of in concurrence.

From the House:

The Committee on Labor on Bill "An Act Relating to Hours of Labor." (H. P. 592) (L. D. 171) reported the same in a new draft (H.

P. 1796) (L. D. 839) under the same title, and that it ought to pass.

In the House, the bill indefinitely postponed.

In the Senate, the report of the committee was accepted in non-concurrence and the bill was given its first reading.

Mr. BISSETT of Cumberland: Mr. President, I move that the bill be indefinitely postponed in concurrence with the House.

Thereupon, on motion by Mr. Winn of Androscoggin, the bill was laid upon the table pending the motion to indefinitely postpone in concurrence.

From the House:

The Committee on Judiciary on Bill "An Act Relating to the Use of Reflectors on Commercial Vehicles." (H. P. 1208) (L. D. 814) reported the same in a new draft (H. P. 1777) (L. D. 814) under the same title and that it ought to pass.

In the House, report accepted and bill passed to be engrossed as amended by House Amendment "A".

In the Senate, the report of the committee was accepted in concurrence and the bill was given its first reading. House Amendment "A" was read and adopted in concurrence and under suspension of the rules the bill was given its second reading and passed to be engrossed as amended by House Amendment "A" in concurrence.

Additional papers from the House, disposed of in concurrence.

House Bills in First Reading

(Under suspension of the rules the following bills and resolve were given their second reading and passed to be engrossed in concurrence.)

"An Act Relative to Powers and Duties of Inland Fish and Game Wardens," (H. P. 1259) (L. D. 490)

"An Act Relative to Qualifications of Applicants for Admission to the Bar," (H. P. 1776) (L. D. 811)

Consolidated pension resolve entitled "Resolve Providing Pensions for Certain Soldiers and Dependents of Soldiers," (H. P. 1807) (L. D. 849)

From the House:

The Majority of the Committee on Salaries and Fees on Bill "An Act Relating to the Fees of

Jurors," (H. P. 314) (L. D. 75) reported that the same ought to pass.

(Signed)

Fernald of Waldo
Roach of New Gloucester
Seabury of Yarmouth
Smith of Van Buren
Churchill of Brewer
Crowell of Weston

The Minority of the same Committee on the same subject reported that the same ought not to pass.

(Signed)

Fernald of York
Cowan of Lincoln
Hammond of Strong
Fowles of Randolph

In House on March 6th, minority report accepted.

In Senate, on March 20th, majority report accepted in non-concurrence.

In the House, that body having insisted on its former action whereby the Minority Report "Ought not to pass" was accepted, and the Speaker having appointed as members of such a Committee:

Messrs:

Flanders of Auburn
Findlen of Fort Fairfield
Hastings of Bethel

In the Senate, that body voted to insist on its former action and to join the House in a committee of conference; and the President appointed as members of such committee on the part of the Senate:

Senators Winn of Androscoggin
Cowan of Lincoln
Ashby of Arrostook

From the House:

The Majority of the Committee on Mercantile Affairs and Insurance on Bill "An Act Relating to the Time Limit of Adjustment and Payment of all Fire Losses; Penalty," (H. P. 64) (L. D. 20) reported that the same ought to pass.

(Signed)

Hussey of Kennebec
Winn of Androscoggin
Sleeper of Rockland
Stickney of Brownfield
Palmer of Island Falls
Ellis of Rangeley
Noyes of Franklin
Eddy of Bangor
Mace of Augusta

The Minority of the same Committee on the subject reported that the same ought not to pass.

(Signed) Carl of York.

In the House, the majority report "Ought to Pass" accepted and the bill passed to be engrossed.

In the Senate, on motion by Mr. Carl of York, the bill and both reports were laid upon the table pending acceptance of either report.

Communications

Communications from the Clerk of the House:

March 27, 1935.

Hon. Royden V. Brown,
Secretary of the Senate,
Senate Chamber.

Sir:

I transmit herewith certified copy of House Order requesting the return to the House of the report of the Committee on Judiciary on Bill, "An Act Relating to Applications for Licenses," House Paper 443, Legislative Document 121.

Respectfully yours,

HARVEY R. PEASE.

Clerk of the House.

Which was read and accepted and the order placed on file.

Thereupon, on motion by Mr. Burns of Aroostook, the Senate voted to take from the table, House Report from the Committee on Judiciary "Ought not to pass" on bill "An Act Relating to Applications for Licenses (H. P. 443) (L. D. 121), tabled on March 27th by that Senator pending acceptance of the report; and on further motion by the same Senator the Secretary was instructed to return the bill and report to the House.

First Reading of Printed Bills

(Under suspension of the rules the following resolve was given its second reading and passed to be engrossed. Sent down for concurrence.)

Bill "An Act Relating to Small Loan Agencies." (S. P. 690) (L. D. 855)

(On motion by Mr. Hussey of Kennebec, tabled pending first reading.)

Resolve Appropriating Money to Pay Pauper Claims Heretofore Approved by the Committee on Claims. (S. P. 691) (L. D. 853)

Sent down for concurrence.

Reports of Committees

Mr. Schnurle from the Committee on Inland Fisheries and Game on Bill "An Act Relating to Beaver Trapping on the Magalloway River," (S. P. 210) reported that legislation thereon is inexpedient.

The same Senator from the same

Committee on "Resolve Relating to Beaver Trapping on Umbagog Lake," (S. P. 208) reported that legislation thereon is inexpedient.

Miss Martin from the Committee on Legal Affairs on Bill "An Act Relative to Authority of Officers in Criminal Matters," (S. P. 391) (L. D. 416) reported that the same ought not to pass.

The same Senator from the same Committee on Bill "An Act to Regulate Steam Engineering," (S. P. 255) (L. D. 623) reported that the same ought not to pass.

Which reports were severally read and accepted.

Sent down for concurrence.

Mr. Bartlett from the Committee on Inland Fisheries and Game on "Resolve Relating to Fishing in Umbagog Lake," (S. P. 211) reported that the same ought to pass.

Mr. Schnurle from the same Committee on Bill "An Act Relative to Vagrant Cats," (S. P. 408) (L. D. 534) reported the same in a new draft (S. P. 696) under the same title and that it ought to pass.

Miss Martin from the Committee on Legal Affairs on Bill "An Act to Validate Certain Loans Negotiated by the City of Hallowell," (S. P. 295) reported that the same ought to pass.

Mr. Blaisdell from the same Committee on Bill "An Act to Repeal 'An Act to Incorporate the Town of Mason,'" (S. P. 292) reported the same in a new draft (S. P. 697) under the same title and that it ought to pass.

Miss Martin from the same Committee on Bill "An Act Amending Section 2 of Chapter 16 of the Private and Special Laws of 1903 Relating to Bangor and Aroostook Railroad," (S. P. 218) reported that the same ought to pass.

(On motion by Mr. Ashby of Aroostook, the bill and report were tabled pending acceptance; and five hundred copies of the bill were ordered printed.)

Mr. Hathaway from the Committee on Public Utilities on Bill "An Act Relative to Regulation of the Highways by Motor Vehicles Transporting Property for Hire," (S. P. 396) (L. D. 431) reported the same in a new draft (S. P. 698) under the same title, and that it ought to pass.

Mr. Friend from the Committee on Ways and Bridges on Bill "An Act Relating to Highways," (S. P. 311) (L. D. 314) reported the same

in a new draft (S. P. 699) under the same title and that it ought to pass.

Which reports were severally read and accepted, and the bills and resolves laid upon the table pending printing under joint rules.

Mr. Bartlett from the Committee on Inland Fisheries and Game on "Resolve in Favor of the Maine Guide's Association," (S. P. 409) (L. D. 526) reported that the same ought to pass.

Which report was read and accepted, the resolve read once, and under suspension of the rules, read a second time and passed to be engrossed.

Sent down for concurrence.

The Majority of the Committee on Inland Fisheries and Game on Bill "An Act Relative to Resident Fishing and Hunting Licenses," (S. P. 132) (L. D. 79) reported that the same ought to pass.

(Signed) Burns of Aroostook
Bartlett of Oxford
Schnurle of Cumberland
Mackenzie of Jackman
Burgess of Rumford
Hescock of Monson
Davis of Newfield

The Minority of the same Committee on the same subject reported that the same ought not to pass.

(Signed) Thompson of Chelsea
Ryder of Orrington
Sprague of Oakfield

On motion by Mr. Schnurle of Cumberland, the Senate voted to accept the Majority Report of the Committee "Ought to Pass" and under suspension of the rules the bill was given its two several readings and passed to be engrossed.

Sent down for concurrence.

Mr. Friend from the Committee on Ways and Bridges on Bill "An Act Relating to the Use of the General Highway Fund, and to Prevent Diversion Thereof," (I. B. 1) (L. D. 217) reported that the Committee recommends that no action be taken by the Legislature with reference to passing the accompanying Bill and that no competing measure be submitted; that the Initiative Bill be submitted to the Electors of this State in accordance with the Constitution; that a certified copy of this report be transmitted to the Governor.

Which report was read and accepted, and a certified copy of the report was ordered transmitted to the Governor.

Sent to the House.

Passed To Be Enacted

"An Act to Amend Section 380 of Chapter 1 of the Public Laws of 1933 Relating to Probation of Boys at State School for Boys." (S. P. 223) (L. D. 196)

"An Act to Ratify and Confirm the Organization of Bingham Associates' Fund, and to Increase its Powers." (S. P. 333) (L. D. 344)

"An Act Relating to Licenses for Retail Stores." (S. P. 375) (L. D. 339)

"An Act Relating to Pauper Settlement of Indians." (S. P. 381) (L. D. 398)

"An Act Relating to Construction of Public Buildings". (S. P. 417) (L. D. 529)

(On motion by Mr. Fernald of Waldo, the bill was tabled pending passage to be enacted).

"An Act Relating to Public Records." (H. P. 1372) (L. D. 620)

"An Act to Amend the Charter of the City of Brewer." (H. P. 1758) (L. D. 778)

"An Act Relating to Trust Companies." (H. P. 1774) (L. D. 813)

Finally Passed

"Resolve Relative to Fishing in Middle Range Pond, in Poland." (H. P. 1058) (L. D. 802)

"Resolve in Favor of Certain World War Veterans." (H. P. 1786) (L. D. 812)

(On motion by Mr. Hussey of Kennebec, the resolve was tabled pending final passage.)

(Constitutional Amendment)

"Resolve Proposing an Amendment to the Constitution to Provide for an Additional Issue of Highway Bonds." (S. P. 442) (L. D. 477)

Which bill being a Constitutional Amendment having received the affirmative vote of 30 members of the Senate and none opposed, was finally passed.

Orders of the Day

On motion by Mr. Fernald of Waldo, the Senate voted to take from the table, bill, An Act to provide further issuance of state bonds (S. P. 202) (L. D. 150), tabled by that Senator on March 27th pending passage to be enacted.

Mr. FERNALD of Waldo: Mr. President, I move that this bill be now passed to be enacted.

Which bill being an emergency measure having received the affirmative vote of 30 members of the Senate and none opposed was passed to be enacted.

On motion by Mr. Burkett of Cumberland, the Senate voted to reconsider its action taken on the last legislative day whereby, bill, An Act relating to enforcement of Insurance Liens (H. P. 1798) (L. D. 841), was recommitted to the Committee on Mercantile Affairs and Insurance in non-concurrence; and on further motion by the same Senator the bill was laid upon the table pending acceptance of the report, of the Committee on Mercantile Affairs and Insurance, "Ought to Pass in New Draft," in concurrence.

On motion by Mr. McDonald of Washington, the Senate voted to take from the table, House Report from the Committee on Judiciary, Minority Report "Ought to Pass in Draft (H. P. 1647) (L. D. 725)", Majority Report "Ought Not to Pass" on bill, An Act for injured employees under the Workmen's Compensation Act (H. P. 200) (L. D. 69), tabled by that Senator on March 25th pending acceptance of either report; and that Senator yielded to the Senator from Cumberland, Senator Burkett.

Thereupon, on motion by Mr. Burkett of Cumberland, the Majority Report "Ought Not to Pass" was accepted, in non-concurrence.

Sent down for concurrence.

The President laid before the Senate, House Report from the Committee on Mercantile Affairs and Insurance, "Ought to pass in new draft (H. P. 1751, L. D. 768) on Bill, An Act Relative to the Countersignature of all Insurance Policies and Bonds, (H. P. 206, L. D. 66), tabled on March 27th by Mr. Burkett of Cumberland pending acceptance of the report, and today assigned; and the Chair recognized that Senator.

Mr. BURKETT of Cumberland: This first matter on the calendar was tabled by me and especially assigned for today, there being a typographical error as it was reported "ought to pass in new draft" and not "ought not to pass in new draft" as appears on the calendar.

It is with considerable reluctance that I arise to oppose the unani-

mous report of another committee but this report and the new draft seemed to me to present sufficient legal objections to warrant my speaking on it briefly here this morning, and I know the committee will take my attitude in the right spirit.

Under Section 122 of Chapter 60 of the Revised Statutes, it is provided that the Insurance Commissioner may issue a license to any person to act as an agent of a domestic insurance company and may also license any resident of the state to act as agent for a foreign insurance company which has received a license to do business in the state. Under that provision, insurance companies are operating in the state, both resident and non-resident having, necessarily, resident agents.

Now this bill which was reported out in Number 768, provides as follows: "All bonds or contracts of insurance on property or interest which shall be effected by foreign stock or foreign mutual fire, casualty or surety companies, except those doing business entirely within the State of Maine, operating through the local agency system,"—apparently those last two phrases were transposed through some typographical error and should be corrected—"shall be countersigned for the assuming company by some licensed resident agent of the assuming company, who maintains an established agency, and not by a salaried representative of the assuming company." And then there is a further exception pertaining solely to a particular type of risk.

The objection I have to the passage of the bill is purely a legal one. The point is this, that having licensed certain persons to act as agents of foreign insurance companies, it does not seem to me, as I understand the decision of the courts of this state, that it is proper to reclassify them and then say that none of those licensed agents shall do a particular act unless they have an established agency and are not operating on salary. In other words, it is just like saying to a member of the bar who has passed his bar examinations and has a license to practice in Maine, that he cannot practice law unless he has got an office and not working for someone on salary; or to say to a doctor who has passed examinations, that he shall not

practice medicine in Maine unless he has an office of his own and an automobile or what not, and is not working for some industrial plant or some other doctor on a salary.

It would also put a burden on the insurance commissioner to decide what resident agents had an established agency, that term not being defined anywhere in our statutes, and would allow him to discriminate between agents and pick out the ones that, in his opinion, come under the vague classification in this new draft and decide which one among them can do this particular act.

It would seem to me,—and I have some decisions from our courts and the courts of other states, which I will not quote or attempt to quote this morning, but I would be glad to show them to anyone—that it comes plainly within the scope of the definite classification of class legislation, improper, unconstitutional and unenforceable.

I do not believe this legislature wants to pass any such type of class legislation, whatever the merits of the thing may be. I therefore, move that the bill be indefinitely postponed.

Mr. CARLL of York: Mr. President, as a member of the Committee on Mercantile Affairs and Insurance, I make this criticism of the proceedings which we have here, which of course, I am not very familiar with, that instead of the practice of bunching your lawyers in two committees it might be a good idea to pass them around a little and put one or two on each committee to help us out, and I am sure a few laymen on the other committees to take their places might do some good. I think a committee like Mercantile Affairs and Insurance, dealing with pretty important business, would receive very valuable assistance from one attorney on the committee. We were all laymen.

Now, on this bill which we passed unanimously, I will say that having had some experience in the insurance business, my sympathies were all with the bill, that the men who were maintaining an office and doing an established business should properly be the men to receive the compensation, but I did have certain doubts whether if a company chose to compensate its agents by a salary instead of a commission, whether it would be too discrim-

inatory to say that a salaried agent could not countersign these bonds or polices, and I am inclined to think, Mr. President, that the Senator from Cumberland, Senator Burkett, is right. As far as I am concerned, as a member of the committee, I would be willing to reverse my action and support his motion.

The PRESIDENT: The question is on the motion of the Senator from Cumberland, Senator Burkett, that the bill and report be indefinitely postponed in non-concurrence.

Thereupon, the bill and report were indefinitely postponed in non-concurrence.

Sent down for concurrence.

On motion by Miss Martin of Penobscot, the Senate voted to take from the table, House Report from the Committee on Legal Affairs "Ought Not to Pass" on bill, An Act relating to state planning and development (H. P. 1331) (L. D. 539), tabled by that Senator on March 27th pending acceptance of the report in concurrence; and on further motion by the same Senator the bill was recommitted to the Committee on Legal Affairs in non-concurrence.

Sent down for concurrence.

On motion by Mr. Friend of

Somerset, the Senate voted to reconsider its action taken earlier in today's session whereby it accepted the report of the Committee on Ways and Bridges on bill, An Act relating to the use of the General Highway Fund and to Prevent Diversion Thereof (I. B. 1) (L. D. 217) reporting that "the Committee recommends that no action be taken by the Legislature with reference to passing the accompanying bill and that no competing measure be submitted; that the Initiative Bill be submitted to the Electors of this State in accordance with the Constitution; that a certified copy of this report be transmitted to the Governor;" and on further motion by the same Senator the bill and the report were laid upon the table pending acceptance of the report.

On motion by Mr. Hussey of Kennebec, the Senate voted to take from the table, Resolve in Favor of Certain World War Veterans (H. P. 1786) (L. D. 812), tabled by that Senator earlier in today's session pending final passage; and on further motion by the same Senator the resolve was finally passed.

On motion by Mr. Hathaway of Piscataquis,

Adjourned, until ten o'clock tomorrow morning.