

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

LEGISLATIVE RECORD

OF THE

Ninetieth Legislature

OF THE

STATE OF MAINE



1941

KENNEBEC JOURNAL COMPANY

AUGUSTA, MAINE

SENATE

Friday, February 14, 1941.

The Senate was called to order by the President.

Prayer by the Reverend Andrew T. McWhorter of Augusta.

Journal of yesterday, read and approved.

Order

(Out of Order)

On motion by Mr Friend of Somerset, out of order and under suspension of the rules, it was

ORDERED, the House concurring, that when the Senate and House adjourn, they adjourn to meet on Tuesday, February 18, 1941, at 10.30 o'clock in the forenoon (S. P. 432)

Sent down for concurrence.

Subsequently the foregoing order was returned from the House having been read and passed in concurrence.

Order

(Out of Order)

On motion by Mr. Friend of Somerset, it was

ORDERED, the House concurring that the Executive Secretary of the Maine Development Commission be directed to furnish to the legislature a statement of all receipts and all disbursements of the Maine Development Commission for the fiscal year ending June 30, 1940 (S. P. 454)

Sent down for concurrence.

From the House:

Joint Order

ORDERED, the Senate concurring, that the Commissioner of Health and Welfare be requested to furnish to the Legislature the following information:

1. The names and residences of all persons receiving old age assistance together: with their monthly allotments, arranged by towns and counties.

2. The names and residences of all persons whose applications for old age assistance have been investigated and approved, together with the amount of monthly allotments approved, arranged by towns and counties.

3. The names and residences of all applicants who have filed applications for old age assistance and

whose applications have not been allowed, approved or denied, arranged by towns and counties.

And be it further

ORDERED, that 1000 copies of such information be printed. (H. P. 1504)

(On motion by Mr. Brown of Aroostook the Order was laid upon the table pending passage in concurrence.)

From the House:

Joint Order

ORDERED, the Senate concurring, that Dr. Tyson furnish forthwith to the 90th legislature a statement of the number of patients that can be safely and properly cared for by the present accommodations at the Augusta State Hospital, and the number of patients that are now cared for therein, and his recommendations to care for the situation. (H. P. 1507)

From the House:

Bill "An Act Relating to the Personnel Law." (H. P. 1445) (L. D. 759)

(On motion by Mr. Dow of Oxford, the bill was laid upon the table pending reference in concurrence.)

Bill "An Act Relating to the Publication of Legal Notices" (H. P. 1438) (L. D. 753)

(On motion by Mr. Sanborn of Cumberland, the bill was laid upon the table pending reference in concurrence.)

House Committee Reports**Ought Not To Pass**

The Committee on Motor Vehicles on Bill "An Act Forbidding Parking Motor Vehicles Near Hydrants," (H. P. 249) (L. D. 88) reported that the same ought not to pass.

Which report was read and accepted in concurrence.

Ought to Pass

The Committee on Inland Fisheries and Game on "Resolve Regulating Fishing in Mann's Mill Pond, Little Poverty Pond and Shy Beaver Pond," (H. P. 426) (L. D. 175) reported that the same ought to pass.

The same Committee on "Resolve Regulating Fishing in Moose Pond, Little," (H. P. 425) (L. D. 174) reported that the same ought to pass.

The same Committee on "Resolve

Regulating Fishing in Moose Pond," (H. P. 424) (L. D. 173) reported that the same ought to pass.

The same Committee on "Resolve Regulating Fishing in Moose Pond," (H. P. 423) (L. D. 172) reported that the same ought to pass.

The same Committee on "Resolve Regulating Fishing in Sand Pond," (H. P. 422) (L. D. 171) reported that the same ought to pass.

The same Committee on "Resolve Opening Adams Pond to Fishing," (H. P. 335) (L. D. 131) reported that the same ought to pass.

The same Committee on "Resolve Opening Lower Chain Lake in Washington County to Fishing for Pickerel," (H. P. 331) (L. D. 127) reported that the same ought to pass.

The same Committee on "Resolve Regulating Fishing in Hargraves Mill Pond, Dog or Mud Pond and Round Pond," (H. P. 305) (L. D. 115) reported that the same ought to pass.

The same Committee on "Resolve Regulating Fishing in Barkers Pond," (H. P. 301) (L. D. 111) reported that the same ought to pass.

The same Committee on Bill "An Act Relating to Katahdin Wild Life Sanctuary, Formerly Called Katahdin Game Preserve and Enlarging Same," (H. P. 245) (L. D. 84) reported that the same ought to pass.

The same Committee on "Resolve Regulating Fishing in Swan Pond," (H. P. 300) (L. D. 110) reported that the same ought to pass.

The Committee on Public Utilities on Bill "An Act to Extend the Charter of the Central Aroostook Railway Company," (H. P. 352) (L. D. 139) reported that the same ought to pass.

Which reports were severally read and accepted in concurrence, the bills and resolves severally read once and Tuesday next assigned for second reading.

The same Committee on Bill "An Act Authorizing Penobscot County Water Company to Obtain and Maintain a Supply of Water for its Corporate Purposes," (H. P. 444) (L. D. 138) reported the same in a new draft (H. P. 1332) (L. D. 596) under the same title and that it ought to pass.

(On motion by Mr. Chamberlain of Penobscot, the bill was laid upon the table pending acceptance of the report.)

From the House:

The Committee on Appropriations and Financial Affairs on "Resolve in Favor of Horace Polchies, Representative of the Penobscot Tribe of Indians," (H. P. 250) reported the same in a new draft (H. P. 869) (L. D. 302) under the same title and that it ought to pass.

(In the House, the Resolve was indefinitely postponed.)

(In the Senate on Feb. 11th, the report was accepted and the bill passed to be engrossed in non-concurrence.)

Comes from the House, the House having receded from its former position whereby the bill was indefinitely postponed; the report read and accepted in concurrence, House Amendment "A" read and adopted, and the bill as amended passed to be engrossed in non-concurrence.

In the Senate, under suspension of the rules that Body voted to reconsider its action of February 11 whereby the bill was passed to be engrossed in non-concurrence, House Amendment "A" was read and adopted in concurrence and the bill as amended by House Amendment A was passed to be engrossed in concurrence.

Referred to Committees

The following bills were received and on recommendation by the Committee on Reference of Bills were referred to the following committees:

Federal Relations

Mr. Chase of Washington presented Bill "An Act Amending the Unemployment Compensation Law to Provide for Rates Based on Benefit Experience," (S. P. 433) (500 copies ordered printed.) Sent down for concurrence.

Judiciary

Mr. Elliot of Knox presented Bill "An Act Relating to Inspectors of the State Police," (S. P. 434)

Mr. Libby of Cumberland presented Bill "An Act Relative to Nuisances," (S. P. 435)

(On motion by Mr. Libby of Cumberland, the bill was laid on the table pending reference.)

Mr. Sanborn of Cumberland presented Bill "An Act to Regulate the Manufacture, Sale, Distribution,

Use, and Possession of Explosives." (S. P. 436)

Mr. Whitney of Penobscot presented Bill "An Act Relating to the Transfer of Appropriations in the Department of Health and Welfare." (S. P. 437)

(500 copies of each ordered printed.)

Sent down for concurrence.

Legal Affairs

Mr. Boucher of Androscoggin presented Bill "An Act Relating to the Police in Lewiston." (S. P. 438)

(On motion by Mr. Boucher of Androscoggin, the bill was laid upon the table pending reference.)

Mr. Elliott of Knox presented Bill "An Act Relating to Injurious Substances not to be Placed on any Way or Bridge." (S. P. 439)

Mr. Fellows of Kennebec presented Bill "An Act Consolidating the Aviation Laws." (S. P. 440)

Mr. Findlen of Aroostook presented Bill "An Act to Incorporate the Fort Fairfield School District." (S. P. 441)

Mr. Harvey of York presented Bill "An Act Relating to Notices of Caucuses." (S. P. 442)

Mr. Libby of Cumberland presented Bill "An Act Relating to Beauty Culture." (S. P. 443)

(500 copies of each ordered printed.)

Sent down for concurrence.

Military Affairs

The same Senator presented Bill "An Act Relating to Employees of the State Inducted into Military Service." (S. P. 444)

(500 copies ordered printed.)

Sent down for concurrence.

Motor Vehicles

The same Senator presented Bill "An Act Relating to Registration of More Than One Motor Vehicle in Same Calendar Year." (S. P. 445)

Mr. Elliot of Knox presented Bill "An Act Relating to Indication on Motor Vehicles of their Weight." (S. P. 446)

Mr. Bishop of Sagadahoc presented Bill "An Act Relating to Registration of Farmers' Motor Trucks." (S. P. 447)

Mr. Elliot of Knox presented Bill "An Act Relating to Examination of Motor Vehicles by Inspectors and Police Officers." (S. P. 448)

Mr. Whitney of Penobscot presented Bill "An Act Relating to Registration Number Plates for

Use on Motor Vehicles." (S. P. 450)

The same Senator presented Bill "An Act Relating to Reserved Number Plates." (S. P. 451)

The same Senator presented bill "An Act Relating to Notification by Dealers to Secretary of State of transfer of Motor Vehicles." (S. P. 452)

(500 copies of each ordered printed. Sent down for concurrence.

Interior Waters

Mr. Farris of Kennebec presented Bill "An Act Relating to Water Level of Lake Torsey." (S. P. 449)

Sent down for concurrence.

Ways and Bridges

Mr. Stilphen of Lincoln presented Bill "An Act Relating to Maintenance of Third Class Roads." (S. P. 453)

(500 copies ordered printed.)

Sent down for concurrence.

Orders

Mr. Sanborn of Cumberland presented the following order and moved its passage:

STATE OF MAINE

In Senate Friday

February Fourteenth
1941

To the Honorable Justices of the Supreme Judicial Court:

WHEREAS, it appears to the Senate of the 90th Legislature that the following are important questions of law and the occasion a solemn one, and

WHEREAS, a Resolve has been introduced into the Senate entitled "Resolve Proposing Amendments to the Constitution Repealing the Constitutional Provisions Relating to the Office of Treasurer of Senate and Ratifying and Approving a Legislative Enabling Act Providing for Appointment of the Treasurer upon Approval of this Resolve" (a copy of which resolve marked Legislative Document 49 is herewith enclosed and made a part hereof) proposing an amendment to the Constitution of Maine to remove therefrom all provisions relative to the election, tenure and qualifications of the treasurer of state, and

WHEREAS, the amendment so proposed will be submitted to the people, if said resolve is finally passed, on the 2nd Monday in Sep-

tember next and, if accepted by them, will then become a part of the Constitution, and

WHEREAS, in anticipation of the adoption of said Amendment a bill has been introduced into the Senate entitled "An Act Creating a Bureau of the Treasury and Assigning Certain Duties Thereto" (a copy of which act marked Legislative Document 46 is herewith enclosed and made a part hereof) under the terms of which the treasurer of state is appointed by the commissioner of finance with the approval of the governor and council, and which act according to its terms is to become effective upon approval by the people of the aforesaid Resolve, and

WHEREAS, it is important that the Legislature be informed as to the constitutionality of the proposed act, now therefore, be it

ORDERED: That the Justices of the Supreme Judicial Court are hereby requested to give to the Senate, according to the provisions of the Constitution on this behalf, their opinion on the following questions, to wit:

Question 1

Where the Constitution provides for the tenure of office, qualifications, and mode of election of a state officer but contains no express prohibition of legislation with regard to such tenure, qualifications or election, would it be a constitutional exercise of the legislative power to pass, concurrently with a resolve proposing an amendment to the constitution removing therefrom the provisions relative to the election, tenure of office and qualifications of such officer, an act providing a different mode of election and a different tenure of office, which act is not to become effective until and unless such resolve is adopted by the people?

Question 2

If the provisions from ratification of Legislative Document 46 were omitted from Legislative Document 49 and the act and resolve finally passed by the legislature and the resolve adopted by the people, would Legislative Document 46 then become effective according to its terms as a valid and constitutional exercise of the legislative power?

Question 3

If the legislature has not the power to pass the act set forth in Question 1 and the act is unconstitutional, can such unconstitutionality be cured by including in the resolve amending the Constitution as set forth in Question 1 an express provision ratifying and approving such act?

Question 4

If Legislative Document 49 as now written were to be finally passed by the legislature and adopted by the people, would the provisions of Section 4 thereof cure any want of power in the legislature to pass Legislative Document 46 and make that act then effective as a valid law?

Which order received a passage.

On motion by Mr. Findlen of Arrostook, it was

ORDERED, that 500 additional copies be printed of Senate Paper 90, Legislative Document 95, An Act Relating to the Stipend for Agricultural Societies.

Senate Committee Reports Ought Not to Pass

Mr. Bridges from the Committee on Inland Fisheries and Game on "Resolve Regulating Fishing in Sysladobsis Stream" (S. P. 114) reported that the same ought not to pass.

(On motion by Mr. Bridges of Washington the Resolve was laid upon the table pending acceptance of the report.)

Ought to Pass

Mr. Dow from the Committee on Legal Affairs on Bill "An Act Relating to Suffrage to Qualified Voters in Unorganized Territory," (S. P. 154) (L. D. 223) reported that the same ought to pass.

The same Senator from the same Committee on Bill "An Act Relating to Investment of Trust Funds of the University of Maine," (S. P. 119) (L. D. 154) reported that the same ought to pass.

Mr. Sanborn from the same Committee on Bill "An Act to Dissolve Dexter and Piscataquis Railroad Company," (S. P. 103) (L. D. 148) reported that the same ought to pass.

Mr. Morse from the same Committee on Bill "An Act Amending

the Charter of the City of Augusta," (S. P. 195) (L. D. 286) reported that the same ought to pass.

Mr. Dow from the Committee on State Lands and Forest Preservation on "Resolve Authorizing the Commissioner of Inland Fisheries and Game to Convey in the Interest of the State Certain Land in Belgrade," (S. P. 98) (L. D. 126) reported that the same ought to pass.

Which reports were severally read and accepted, the bills and resolves read once, and Tuesday next assigned for second reading.

Mr. Morse from the Committee on Legal Affairs on Bill "An Act Relating to Falsely Assuming to be a Justice or Officer," (S. P. 94) (L. D. 98) reported that the same ought to pass as amended by Committee Amendment "A."

Which report was read and accepted.

The Secretary read Committee Amendment A: "Amend said bill by striking out the word 'and' in the 13th line thereof and inserting in place thereof the word 'or.'"

Thereupon, Committee Amendment A was adopted, the bill as so amended was given its first reading and Tuesday next assigned for second reading.

Passed to be Engrossed

Bill "An Act Relating to Clerk Hire by the Judge of the Municipal Court of Waterville." (H. P. 260) (L. D. 89)

Bill "An Act Authorizing the Town of Island Falls to Raise Money." (H. P. 263) (L. D. 92)

Bill "An Act to Provide for the Surrender by Unity Plantation of Its Organization." (H. P. 357) (L. D. 143)

Which bills were severally read a second time and passed to be engrossed in concurrence.

Finally Passed

"Resolve Regulating Fishing in Tributaries to Garland Pond." (S. P. 64) (L. D. 72)

Passed to Be Enacted

Bill "An Act Relating to Costs in Contested Cases." (H. P. 49) (L. D. 33)

Bill "An Act Providing for Orders for the Protection of the Rights of the Parties, While Appeal is Pending from Equity Decrees." (H. P. 248) (L. D. 87)

Emergency Measures

Bill "An Act to Provide for the Surrender by Town of Baring of its Organization." (S. P. 84) (L. D. 68)

Which bill being an emergency measure, and having received the affirmative vote of 24 members of the Senate and none opposed, was passed to be enacted.

Bill "An Act to Provide for the Surrender by Topsfield Plantation of its Organization." (S. P. 127) (L. D. 152)

Which bill being an emergency measure, and having received the affirmative vote of 24 members of the Senate and none opposed, was passed to be enacted.

Bill "An Act to Incorporate the Town of Oakfield School District." (H. P. 870) (L. D. 303)

Which bill being an emergency measure, and having received the affirmative vote of 24 members of the Senate and none opposed, was passed to be enacted.

Orders of the Day

On motion by Mr. Elliot of Knox, the Senate voted to take from the table Resolve Authorizing a State Airplane for Defense Purposes (S. P. 216) tabled by that Senator on February 4 pending reference; and on further motion by the same Senator the Resolve was referred to the Committee on Legal Affairs and 500 copies ordered printed.

Sent down for concurrence.

On motion by Mr. Elliot of Knox, the Senate voted to take from the table An Act Relating to Stations for Weighing Trucks (S. P. 317) tabled by that Senator on February 6 pending reference; and on further motion by the same Senator the bill was referred to the Committee on Judiciary and 500 copies ordered printed.

Sent down for concurrence.

On motion by Mr. Harvey of York, the Senate voted to take from the table An Act Relating to Town Appropriations for Advertising (S. P. 334) tabled by that Senator on February 12 pending reference; and on further motion by the same Senator the bill was referred to the Committee on Legal Affairs and 500 copies ordered printed.

Sent down for concurrence.

On motion by Mr. Snow of Piscataquis, the Senate voted to take from the table Resolve for Screening Outlet of Moosehead Lake at Indian Pond (H. P. 820) (L. D. 292) tabled by that Senator February 4 pending reference; and on further motion by the same Senator the bill was referred to the Committee on Inland Fisheries and Game in concurrence.

On motion by Miss Laughlin of Cumberland, the Senate voted to take from the table An Act Repealing the Personnel Law (S. P. 333) tabled by that Senator on February 11 pending reference.

Miss LAUGHLIN of Cumberland: Mr. President, I now move that this bill be referred to the Committee on Judiciary and I would like to speak to that motion. The Committee on Reference of Bills recommended that this bill be referred to the Committee on Legal Affairs and I tabled the bill because the Committee on Judiciary already had two bills relating to the Personnel Board.

I have talked it over with the Chairman of the Committee on

Legal Affairs and the Senator who introduced the bill, on the question of where we all preferred it to go and we each preferred that it go to the other committee but I think we finally agreed that it should go to the Committee on Judiciary.

I therefore move, Mr. President, that the bill be referred to the Committee on Judiciary in non-concurrence.

The motion to refer in non-concurrence prevailed.

Sent down for concurrence.

On motion by Mr. Dow of Oxford, the Senate voted to take from the table bill, An Act Relating to the Personnel Law (L. D. 759) tabled by that Senator earlier in today's session pending reference in concurrence; and on further motion by the same Senator the bill was referred to the Committee on Judiciary in non-concurrence.

Sent down for concurrence.

On motion by Mr. Friend of Somerset

Adjourned until next Tuesday morning, February 18, 1941 at ten-thirty o'clock.