

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

Ninetieth Legislature

OF THE

STATE OF MAINE



1941

KENNEBEC JOURNAL COMPANY

AUGUSTA, MAINE

SENATE

Wednesday, April 16, 1941.

The Senate was called to order by the President.

Prayer by the Reverend L. L. Dunn of Gardiner.

Journal of yesterday, read and accepted.

From the House:

Bill "An Act to Prevent Fraudulent Advertising." (S. P. 345) (L. D. 662)

(In the Senate on April 8, Report "B" read and accepted, and the bill passed to be engrossed as amended by Committee Amendment "A")

Comes from the House, Report "B" read and accepted in concurrence, and subsequently the bill indefinitely postponed in non-concurrence.

In the Senate, on motion by Mr. Hildreth of Cumberland, that Body voted insist on its former action and asked for a Committee of Conference and the President appointed as Senate members of such committee, Senators Hildreth of Cumberland, Laughlin of Cumberland, Fellows of Kennebec.

From the House:

Majority Report, "Ought Not to Pass"; Minority Report, "Ought to Pass in New Draft" (S. P. 537) (L. D. 1095) from the Committee on Education on Bill "An Act to Provide Higher Standards of Education by Securing to Teachers Greater Permanency of Employment." (S. P. 193) (L. D. 506)

(In the Senate, on April 10th, Minority report read and accepted, and the bill passed to be engrossed)

Comes from the House, the Majority report read and accepted in non-concurrence.

In the Senate:

Mr. BROWN of Aroostook: Mr. President, I move that the Senate recede and concur with the House and I make this motion because I think that to ask for a Committee of Conference would be a waste of time and would get us nowhere. So, Mr. President, I move that the Senate recede from its former action and concur with the House.

Mr. BATE of Kennebec: Mr. President, I hope that the motion of the Senator from Aroostook, Senator Brown will not prevail. If

that motion does not prevail I would like later to make a motion that the Senate insist on its former action and ask for a Committee of Conference.

Miss LAUGHLIN of Cumberland: Mr. President, when the vote is taken I ask for a division.

The PRESIDENT: The question before the Senate is on the motion of the Senator from Aroostook, Senator Brown that the Senate recede and concur. Is the Senate ready for the question? The Senator from Cumberland, Senator Laughlin has asked for a division.

A division of the Senate was had. Thirteen having voted in the affirmative and nineteen opposed, the motion to recede and concur did not prevail.

Thereupon, on motion by Mr. Bate of Kennebec, the Senate voted to insist on its former action, whereby the bill was passed to be engrossed, and ask for a Committee of Conference. The President appointed as Senate members of such committee, Senators Bate of Kennebec, Libby of Cumberland, Chamberlain of Penobscot.

Bill "An Act Relating to Speed Regulations." (H. P. 1552) (L. D. 843)

(In the Senate on April 14th passed to be engrossed in non-concurrence.)

Comes from the House, that body having insisted on its former action whereby the bill was indefinitely postponed, and now asking for a Committee of Conference, the Speaker having appointed as members of such a Committee on the part of the House:

Representatives:

BRAGDON of Perham

ARZONICO of Yarmouth

SLOSBERG of Gardiner

In the Senate, on motion by Mr. Elliot of Knox, that Body voted to insist on its former action and join with the House in a Committee of Conference. The President appointed as Senate members of such Committee, Senators Elliot of Knox, Haskell of Penobscot, Libby of Cumberland.

Bill "An Act Imposing an Additional Gasoline Tax." (H. P. 1475) (L. D. 615)

(In the Senate on April 14, "Ought Not to Pass" Report read and accepted in non-concurrence.

Comes from the House, that body

having insisted on its former action whereby the bill was substituted for the report and passed to be engrossed as amended by House Amendment "A", and now asking for a Committee of Conference, the Speaker having appointed as members of such a Committee on the part of the House:

Representatives:

HOLMAN of Dixfield
GRUA of Livermore Falls
SANDERSON of Greene

In the Senate, on motion by Mr. Friend of Somerset, that Body voted to insist on its former action and join with the House in a Committee of Conference. The President appointed as Senate members of such committee, Senators Friend of Somerset, Boothby of York, Dow of Oxford.

House Committee Reports Ought Not to Pass

The Committee on Claims on "Resolve in Favor of Watts Detective Agency, Inc.," (H. P. 229) (L. D. 75) reported that leave be granted to withdraw the same.

The same Committee on "Resolve to Reimburse the Town of Anson for Support of a State Pauper," (H. P. 17) reported that the same ought not to pass.

The same Committee on "Resolve to Reimburse the City of Portland for the Support of Marie Marotto, and Children," (H. P. 772) reported that the same ought not to pass.

The Committee on Sea and Shore Fisheries on Bill "An Act to Regulate the Shipment of Shellfish," (H. P. 865) (L. D. 351) reported that the same ought not to pass as covered by other legislation.

The Committee on Taxation on Bill "An Act to Impose an Occupation Tax on Conducting a Business by a system of Chain Stores," (H. P. 1480) (L. D. 611) reported that the same ought not to pass.

The Committee on Temperance on Bill "An Act Forbidding the Sale of Liquor to Certain Persons," (H. P. 1600) (L. D. 916) reported that the same ought not to pass.

Which reports were severally read and accepted in concurrence.

Ought to Pass

The Committee on Claims on "Resolve to Reimburse Aroostook Central Institute for Tuition Owed by the Town of Blaine," (H. P. 585)

(L. D. 1151) reported that the same ought to pass.

The same Committee on "Resolve in Favor of Joseph L. Perry, of Rumford," (H. P. 238) reported the same in a new draft (H. P. 1913) (L. D. 1150) under the same title and that it ought to pass.

The Committee on Indian Affairs on Bill "An Act Relating to Tuition for Indian Scholars in Elementary Schools of Old Town," (H. P. 297) (L. D. 107) reported that the same ought to pass.

The same Committee on Bill "An Act Relating to Health Officer for Penobscot Tribe of Indians," (H. P. 1349) (L. D. 802) reported that the same ought to pass.

The same Committee on Bill "An Act Relating to Schools at Pleasant Point and Peter Dana's Point," (H. P. 1350) (L. D. 803) reported that the same ought to pass.

The same Committee on Bill "An Act Relating to the Penobscot Tribe of Indians," (H. P. 1351) (L. D. 804) reported that the same ought to pass.

The same Committee on Bill "An Act Relating to Representation of Indian Tribes at the Legislature," (H. P. 1352) (L. D. 805) reported that the same ought to pass.

The same Committee on Bill "An Act Relating to the Penobscot and Passamaquoddy Tribes of Indians," (H. P. 1353) (L. D. 806) reported that the same ought to pass.

The same Committee on Bill "An Act Relating to the Passamaquoddy Tribe of Indians," (H. P. 1354) (L. D. 807) reported the same in a new draft (H. P. 1914) (L. D. 1153) under the same title, and that it ought to pass.

The Committee on Judiciary on Bill "An Act Relating to the Adoption of Children," (H. P. 1520) (L. D. 860) reported the same in a new draft (H. P. 1915) (L. D. 1152) under the same title, and that it ought to pass.

Which reports were severally read and accepted in concurrence, the bills read once, and under suspension of the rules read a second time and passed to be engrossed in concurrence.

Divided Reports

The Majority of the Committee on Judiciary on Bill "An Act Relative to Recording Meters on Fuel Oil Trucks," (H. P. 1619) (L. D.

967) reported that the same ought not to pass.

(Signed)

Senators:

FARRIS of Kennebec
HARVEY of York

Representatives:

GRUA of Livermore Falls
WILLIAMS of Bethel
PAYSON of Portland
MILLS of Farmington
BRIGGS of Hampden
HINCKLEY of So. Portland

The Minority of the same Committee on the same subject matter reported that the same ought to pass.

(Signed)

Senator:

LAUGHLIN of Cumberland

Representative:

McGLAUFLIN of Portland

In the House, the Majority report read and accepted.

In the Senate, on motion by Mr. Farris of Kennebec, the Majority Report "Ought Not to Pass" was accepted in concurrence.

The Majority of the Committee on Judiciary on Bill "An Act Relating to Licenses and Permits for Outdoor Advertising," (H. P. 1153) (L. D. 357) reported that the same ought not to pass as legislation is inexpedient at this time.

(Signed)

Senators:

LAUGHLIN of Cumberland
FARRIS of Kennebec
HARVEY of York

Representatives:

WILLIAMS of Bethel
PAYSON of Portland
BRIGGS of Hampden
HINCKLEY of South Portland

McGLAUFLIN of Portland

The Minority of the same Committee on the same subject matter reported that the same ought to pass.

(Signed)

Representatives:

MILLS of Farmington
GRUA of Livermore Falls

In the House:

The Minority report read and accepted and the bill passed to be engrossed as amended by House Amendment "B."

In the Senate:

Miss LAUGHLIN of Cumberland: Mr. President, I move that the Majority Report of the committee

"Ought Not to Pass" be accepted and I ask for a division.

Mr. BROWN of Aroostook: Mr. President, I rise in opposition to the motion of the Senator from Cumberland, Senator Laughlin. I think it is about time that the billboards along the roads in the state of Maine either be removed entirely or else that they be put on a paying basis. It has cost the state of Maine about \$4,000 a year for the past five years to inspect these billboards. In other words instead of getting some revenue from them we are running in the hole.

I haven't had time to go into this very exhaustively myself so I have a brief here which I hope you will pardon me for reading. It isn't my customary way of presenting an argument but I have been busy with other matters and haven't had time to prepare myself as fully as I should but I think this is something which the legislature should take seriously.

The billboard law enforcement has gone behind about \$20,000 in the past five years and will continue to go behind unless we raise the permit fees. This bill L. D. 357 was introduced to increase these fees and to put a stop to using road funds for sign regulation. Now you people who are opposed to any gasoline tax on the ground that you are already paying too much, must realize that part of the gasoline tax you are paying is going to supervise these road signs from which the state is getting no revenue. In other words it is diverting the money from the roads and putting it in to inspecting signs which do not pay.

At each session of the legislature since 1935 a fee bill has been introduced to put the billboard law on a self supporting basis and each time the bill was changed to favor the billboard interests. These changes have always reduced the proposed fees far below the amount needed and they are trying to do the same thing with this bill.

The billboard interests have taken every method they could devise to defeat any legislation that would make the billboard law self-supporting. They have even gone so far as to try to tell the legislature and the state highway commission how the law enforcement should be handled. They not only want to use our highways for our billboards, but they want to tell us what laws

to enact and to tell the enforcement agency how to enforce them. Several times in the past they have told us that the fees proposed in each bill would bring in many times more income than it actually did. They are now trying to make us believe that this bill will bring in more income than is needed. I believe it is time to stop listening to propaganda that we have learned is all one sided.

A sample of what billboard interests claim, is the expenditure of nearly \$102,000, to move 1800 panels 50 feet back from the road. Records show that they were obliged to move only 386 panels and the cost according to their own figures was \$32.50 per panel. After figures were produced, they then claimed that the \$32.50 per panel was the cost for only taking the signs down and it did not include the cost of setting them up again. A letter from one of these companies shows that their estimate for relocating a 2-panel sign was \$65.00 or \$32.50 per panel. These figures show that the cost of moving required by law was less than one-third of what they claim. They may have spent the amount they say but two-thirds of that amount must have been for improving their signs or for moving them to better places.

Another sample of their unreasonable claims, is that the small signs cause more trouble than the big ones, therefore the big signs should not pay more fees than the small ones. In other words, their claim is that the fees should be more upon small signs than upon large ones. They would have us increase the fees upon the little fellow and fix it so that billboards would not pay any increase. It would be as sensible to follow that line of reasoning as it would be to

require a larger registration fee for a Ford than for a ten ton truck.

The eight billboard companies, six of which are owned outside of Maine, are now displaying 430,300 square feet of signs for which they pay \$4,247 and the owners of small signs are paying \$5,341 for only 86,369 square feet. This is unfair and the fees should be changed to a schedule based upon square foot area. That is the basis charged for advertising and what can be fairer than to base permit fees upon the same factor that governs the profit of sign owners.

During the past five years we have gone behind \$20,952.45 with this law and before this bill becomes effective on January 1, 1942 we will be in the red \$25,000. That amount has gone to billboard owners through low permit fees. It will have reimbursed these companies practically all that they were obliged to expend to relocate their signs. By no stretch of the imagination should we help pay for repairing signs or moving those that did not need to be moved.

It seems to me we have gone a long way to help the billboard companies and it is now time to put this law on a self supporting basis. The fees proposed by L. D. 357 are about one-half of those charged in Vermont and less than one-half of those charged in New Jersey. I feel that we have babied the billboard interests long enough and should no longer sidestep an issue that will save our road funds \$4000 each year. I for one believe that we need roads more than we need billboards and I favor this bill that will make the billboard law self supporting.

Now I have some figures here in regard to what they actually pay on the costs, which I will read:

Outdoor Advertising Law enforcement	expenditures 1940	\$13,537.97
That was the total expenditure out of advertising law.	the road funds far enforcing this ad-	

For 1940 we received:—

92 Licenses at \$ 5.00	\$ 460.00
119 " " 25.00	2,975.00
12 " " 100.00	1,200.00
Total for license fees in 1940	\$4,635.00

Receipts from permits in 1940 were:—

For areas not over 50 sq. ft., 1561 permits at \$1.00	\$1,561.00
For areas over 50 sq. ft., not over 100 sq. ft., 148 permits at \$1.00	\$ 148.00
" " " 100 " " " 200 " " 78 " " 2.00	156.00
" " " 200 " " " 300 " " 1195 " " 2.00	2,390.00
" " " 300 " " " 400 " " 22 " " 3.00	66.00
" " " 400 " " " 500 " " 15 " " 4.00	60.00
" " " 500 " " " 600 " " 139 " " 4.00	556.00
" " " 600 " " " 700 " " 2 " " 5.00	10.00
" " " 700 " " " 800 " " 1 " " 5.00	5.00
" " " 800 " " " 900 " " 1 " " 5.00	5.00

So, for putting up a sign along your highway which obliterates the view and destroys the outdoor scenery which we are so loudly advertising, a sign of not over 900 square feet, they pay the princely sum of \$5.00.

And the total for permit fees in 1940 and receipts from license fees was \$9,588.00, so the state, instead of getting any revenue out of these billboards and this advertising which is cluttering up our landscape, loses \$3,949.97.

Now the big advertising companies, of which six are owned outside the state, in 1940 had a total square foot area of signs of 430,300 and paid a total of \$4,247.00. The little private signs in the state of Maine had a total of only 80,369 square feet, less than one-fifth of the area of the big boards, and they paid \$5,341.00 or more than a thousand dollars more for one-fifth the area of the big outdoor advertising companies.

I think, gentlemen, that this is a fair bill. How much longer are we going to give way to the outside advertising interests, the people outside the state of Maine who put up these big signs, let them go almost scot free and then take the money out of our own pockets to help keep them there?

I hope the motion will not prevail.

Miss LAUGHLIN of Cumberland: Mr. President, in past years on this matter I have been the chief proponent of the increases and the measures asked in putting further burdens upon the billboard people. Six years ago I led the fight to increase the taxes on billboards, and we did. Four years ago I advocated and asked for a further increase on the taxes, and we passed it. Two years ago I advocated and, after quite a struggle in committee, increased the fee for licenses so that it made an increase of \$1200, and I consistently took the position that they must pay the full cost of what it cost to police these signs, to inspect them. But the history of the case shows that they were never reached, because every time we increased the fees so they would meet the deficit for the previous year, the next year they put on an inspector and increased the cost of inspecting. So where originally we had but two inspectors and had increased the fees enough to meet the deficit they immediately put on a

third inspector making three inspectors to inspect some 1300 signs. Now, they only require three inspectors in Massachusetts to inspect 7000 signs.

As I said, they put on another inspector, making three, and one of those three is occupying his time as a member of the legislature, so he isn't being employed, but the deficit is based on the three.

Now, if they had continued to inspect them as they did when they brought in the increase last year there would have been practically no deficit on that.

Secondly, that the number of small signs which pay practically no fees, except a dollar I think, really outnumber the others and cost the most part of the inspection.

However, the fees they pay are not the whole amount paid to the state of Maine. These billboards pay taxes to the towns of \$2,723 a year. They pay rentals, to owners of barns and so forth where they put up the signs, of \$29,321 per year, to the people where they rent the property and before the committee we had people come in and say that they depended on what they received from these billboards to pay their taxes.

The Senator from Aroostook, Senator Brown, is very anxious that they be able to pay their taxes and not have the state take them over. Well, this is the way some of the people prevent the state from taking over their property, by receiving this money for rental. The total payroll in the state of Maine in 1940 was \$60,000. But that is not all. Six years ago in this legislature we ordered all signs moved away fifty feet from the highway and gave a year and a half to move them and the billboard companies were obliged to move the signs, and the total cost was \$120,000 which came out of their capital and would have to be made up.

Now, as I said, this seems to be a case of no matter how much we raise them they put on another inspector which raises the cost further so it is a geometrical progression and if you ever took algebra you will realize that we are on our way to infinity because no matter how much we raise them they raise the cost more.

Now I put up a fight in this legislature for the past six years to make the billboard people pay more

in order to make up that deficit but this year, in common with the eight members of the Judiciary we decided we had reached the time when it wasn't expedient to go any further. We have a law that no signs can exist where they are a menace to safety. Those must be removed entirely, where they obstruct the view, where it is a matter of safety. As far as I am concerned I had rather see all the billboards destroyed but there are some arguments of reason and fairness and justice which have to be observed and I think we have reached the point where we shouldn't go any further at this time. Another amendment coming from the House is to the effect that in all towns and cities of not over 5,000 population they are going to inspect and regulate themselves so they are being paid really by the towns and cities.

You can't accuse me this time of looking after the interests of Portland, because Portland is out of it, it is the towns of not over 5,000 that are going to pay the fees that are put into this amendment and they have got to supervise and control their own affairs.

As I say, I do not appear for the billboard people but I think we have reached a point where we are continually mulcting them without any regard to what is fair. And therefore it seems to me, and it was certainly the vote of the majority of the Judiciary Committee who heard all these arguments by the people who came in and said, "I am depending on that to pay my taxes," that any further increase is inexpedient, and therefore it seems to me that the majority report ought not to pass on the basis of inexpedience should prevail, because it was after a study of these figures, of which it meant to the state and the property owners that we brought in this report of ought not to pass.

Mr. BROWN: Mr. President, I am very glad that the Senator from Cumberland (Senator Laughlin) has been such an advocate of taxing the billboards. I am only sorry that she has now lost her interest in that respect.

In regard to the property tax and in regard to hearings, we always know when we sit in a hearing — and I have been on committees — we know that it is the people who are going to be taxed or in any way effected who are always the people

who are represented, much more so than the ordinary public. I am only sorry for the poor land owner who has to depend on signs on his farm to pay his taxes. It is too bad that his taxes are so high that he has to do that.

In regard to removing them from dangerous places or places where they obstruct the view, it is just as dangerous for a driver to be craning his neck looking at a sign a hundred feet away along the side of the highway and not attending to his driving as it is to have one on some corner which might obstruct his view because if it obstructs his view he slows down so that he can see better.

It is a fact that we are taxing the billboards less than one half of what they do in Vermont, and the same in New Jersey and in other states when they raise these taxes some of them pull down their signs and move out of the state and if they do that here we will be better off because then they won't be obstructing the view and we won't have to pay for the cost of inspection.

Now, putting on new inspectors. That is a matter for the department here in Augusta to attend to. That has nothing to do with this law. Let us make the law equitable so they will pay their just share of the advertising and then change their methods, if necessary, to keep down the expense of inspection.

I still hope that the motion does not prevail.

Mr. BRIDGES of Washington: Mr. President, from what has been said upon this matter it seems that the state is losing money in the billboard sign business. I hope that those who are most active in this piece of legislation will think a moment along this line: We have some state police who are too rheumatic to do active police duty. I assume that they can still see and can still read and write and figure. Why not abolish the whole department and let these state policemen do the inspecting and make the reports, and save the state the money.

The PRESIDENT: The question before the Senate is on the motion of the Senator from Cumberland, Senator Laughlin, that the Majority Report of the Committee "Ought Not to Pass" be accepted.

Miss LAUGHLIN: Mr. President, I ask for a division.

The PRESIDENT: And the Senator from Cumberland, Senator Laughlin, asks for a division. Is the Senate ready for the question?

A division of the Senate was had. Twenty-four having voted in the affirmative and seven opposed the "Ought Not to Pass" report was accepted in non-concurrence. Sent down for concurrence.

Senate Committee Report Final Report

Mr. Stilphen from the Committee on Sea and Shore Fisheries submitted its Final Report.

Which report was read and accepted.

Sent down for concurrence.

Divided Report

The Majority of the Committee on Sea and Shore Fisheries on Bill "An Act Revising the Regulation of the Clamming Industry," (S. P. 414) (L. D. 644) reported the same in a new draft, (S. P. 556) under a new title, Bill "An Act Revising the Regulation of the Clamming Industry in Lincoln County," and that the same ought to pass.

(signed) Senators:

STILPHEN of Lincoln
HODGKINS of Hancock

Representatives:

SMITH of Thomaston
FORHAN of Canton
TEEL of Long Island Pt.
RACE of Boothbay
CLAPP of Brooklin

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

(signed) Senators:

HARVEY of York

Representatives:

BAKER of Scarborough
SAYWARD of Kennebunk

Mr. STILPHEN of Lincoln: Mr. President I move the acceptance of the Majority Report "Ought to Pass in New Draft".

Thereupon, on motion by Mr. Harvey of York the bill and accompanying reports were laid upon the table pending acceptance of the Majority Report and especially assigned for tomorrow.

Ought to Pass

Mr. Dorr from the Committee on Claims on "Resolve in Favor of the Children's Aid Society," (S. P. 225) reported the same in a new draft

(S. P. 557) under the same title and that it ought to pass.

Which report was read and accepted, and the bill in new draft laid upon the table for printing under the joint rules.

Initiative Bills

Miss Laughlin from the Committee on Judiciary to which was referred the Initiative petitions proposing to the Legislature, "An Act to Provide a Police Commission for the City of Biddeford," (I. B. 1) reports that said petitions were filed in the office of the Secretary of State on March eighth and tenth, that the total number of legal signatures on all petitions proposing the above-mentioned act in 13,955, and that, therefore, said petitions are sufficient for the purpose of submitting said act to the voters, for their acceptance or rejection; and the Committee recommends that said act, "An Act to Provide a Police Commission for the City of Biddeford," (I. B. 1) be submitted to the voters of the State in accordance with the provisions of the State Constitution, for their action thereon.

Which report was read and accepted, and sent down for concurrence; and on motion by Miss Laughlin of Cumberland, a certified copy of the report was transmitted to the Governor, and a certified copy of the report together with initiative petitions proposing to the Legislature "An Act to Provide a Police Commission for the City of Biddeford," (I. B. 1) was transmitted to the Secretary of State.

Miss Laughlin from the Committee on Judiciary to which was referred the initiative petitions proposing to the Legislature, "An Act Relating to Elections in the City of Biddeford" (I.B.2), reports that said petitions were filed in the office of the Secretary of State on March thirteenth, that the total number of legal signatures on all petitions proposing the above-mentioned act is 12,085, and that, therefore, said petitions are sufficient for the purpose of submitting said acts to the voters, for their acceptance or rejection; and the Committee recommends that said act, "An Act Relating to Elections in the City of Biddeford," (I.B.2), be submitted to the voters of the State in accordance with the pro-

visions of the State Constitution, for their action thereon.

Which report was read and accepted, and sent down for concurrence; and on further motion by Miss Laughlin of Cumberland, a certified copy of the report was transmitted to the Governor, and a certified copy of the report together with initiative petitions proposing to the Legislature, "An Act Relating to Elections in the City of Biddeford," (1.B.2) was transmitted to the Secretary of State.

Passed to be Enacted

Bill "An Act Defining and Relating to Narcotic Drugs to Make Uniform the Law with Reference Thereto." (S. P. 344 (L. D. 661)

Bill "An Act Relating to the Liability of Relatives to Support Recipients of Public Assistance." (S. P. 361) (L. D. 668)

Bill "An Act Amending the Financial Responsibility Law." (S. P. 531) (L. D. 1094)

Bill "An Act Relating to the Sale of Malt Liquors to Minors." (S. P. 1286) (L. D. 562)

Bill "An Act Relating to Androscoggin and Kennebec County Law Libraries." (H. P. 1346) (L. D. 797)

Bill "An Act Creating the Maine Turnpike Authority." (H. P. 1601) (L. D. 917)

Bill "An Act to Incorporate the Presque Isle Water District." (H. P. 1865) (L. D. 1082)

Bill "An Act Relating to Taking and Sale of Clams in Certain Cumberland County Towns." (H. P. 1899) (L. D. 1123)

Finally Passed

"Resolve in Favor of Wilfred Duquette of Brunswick." (H. P. 1106) (L. D. 1046)

Emergency Measures

Bill "An Act to Provide for Reissuance of State Highway Bonds." (S. P. 542) (L. D. 1126)

Which bill being an emergency measure, and having received the affirmative vote of 32 members of the Senate and none opposed was passed to be enacted.

Bill "An Act to Provide for the Issue of State of Maine Agricultural Bonds for the Eradication of Bang's Disease and Other Contagious Diseases." (H. P. 1516) (L. D. 842)

Which bill being an emergency measure, and having received the

affirmative vote of 30 members of the Senate and none opposed was passed to be enacted.

Orders of the Day Order (Out of Order)

Out of order and under suspension of the rules, on motion by Mr. Stilphen of Lincoln, it was

ORDERED, that 500 copies be printed of the new draft, Senate Paper 566 of Legislative Document No. 644, An Act Revising the Regulation of the Clamming Industry in Lincoln County.

The President laid before the Senate the first tabled and especially assigned matter, bill An Act Relating to Caucuses in the City of Waterville (H. P. 1856) (L. D. 1118) tabled by Mr. Boucher of Androscoggin on April 14th pending motion to indefinitely postpone.

Mr. BOUCHER of Androscoggin: Mr. President, I would like to oppose this bill on the basis that I believe in home rule. This bill is for the city of Waterville and concerns only the city of Waterville. This bill was presented to the legislature by one of the representatives from Waterville, Mr. Poulin. It concerns the caucuses of the city of Waterville.

In order to inform myself, I went to Waterville last night and talked with quite a few of the citizens of Waterville regarding this matter. There seems to be opposition to it and also there seems to be a demand for this caucus law. This caucus law is patterned after the general caucus law. As I understand it, at this time in Waterville when they hold caucuses, they are held in the open without any voting compartments or booths so that everybody present at the caucus knows just which way the other party is voting. This would insure the people of Waterville privacy in their caucus. This applies not only to the Democratic party but also to the Republican party. I believe this is a good measure for the city of Waterville, but I most sincerely believe that the voters of Waterville should say whether they desire this way of holding caucuses or whether they will keep on voting openly in caucuses. For that reason, Mr. President, I hope the motion of Senator Fellows does not prevail,

and when the vote is taken, I ask for a division.

Mr. FELLOWS of Kennebec: Mr. President, I think Senator Boucher has been very fair in his remarks and I wish to state that I agree with him in the matter of home rule. However, I have also been to Waterville and talked with a number of people and the main point in this bill is the financial part of it.

I wish to point out it was only several years ago the legal debt of the city was in excess of \$400,000. Now, interested citizens of Waterville have struggled hard and diligently in the past several years to reduce that excess. Now this bill provides for a new additional unnecessary expense to the state. It is admitted that it will cost the city at least \$1200 for each election held in the city if this bill becomes law.

I wish to reiterate remarks I made the other day in making my motion to the effect that I have been besieged by prominent people of the city, both Republicans and Democrats, including the chairman of the Republican and Democratic city committees, the mayor of the city, chairman of the board of finance, chairman of the police commission and many others, who are opposed to this measure. I hope my motion will prevail.

The PRESIDENT: The question before the Senate is on the motion of the Senator from Kennebec, Senator Fellows, that the bill be indefinitely postponed. The Senator from Androscoggin, Senator Boucher, has asked for a division. Is the Senate ready for the question?

A division of the Senate was had

Twenty-four having voted in the affirmative and two opposed. the motion to indefinitely postpone, in non-concurrence, prevailed.

Sent down for concurrence.

The President laid before the Senate, House Report from the Committee on Legal Affairs, "Ought Not to Pass" on bill, An Act to Incorporate the Ellsworth School District (H. P. 1589) (L. D. 911) tabled by Mr. Bridges of Washington on April 15th pending motion to substitute the bill for the report; and today assigned.

Mr. BRIDGES of Washington: Mr. President, after a conference

with the Senator from Hancock, Senator Emery, and a conference with the President of the Senate, I ask permission to have this bill retabled and especially assigned for tomorrow, and I so move.

The motion prevailed and the bill was laid upon the table pending motion to substitute the bill for the report, and especially assigned for tomorrow.

On motion by Mr. Libby of Cumberland, the Senate voted to take from the table, House Report from the Committee on Public Utilities, "Ought Not to Pass" on bill, An Act to Aid Agriculture by Providing for the Organization of Rural Electrification Cooperatives (H. P. 350) (L. D. 137) tabled by that Senator on April 14th pending motion to substitute the bill for the report; and that Senator yielded to the Senator from York, Senator Batchelder.

Mr. BATCHELDER of York: Mr. President, at the hearing upon this bill so many serious objections were raised to its form and provisions that the committee was compelled to return an unfavorable report thereon. No one representing the proponents suggested either a redraft or amendments thereto. These defects were so fundamental that an unfavorable report was inevitable.

The defects then appearing were of two kinds, those which related to provisions which were contrary to the best interests of the state as a whole and others which were not only contrary to the settled public policy of the state, but had an immediately harmful effect upon the existing utility companies in the State of Maine and the thousands of our citizens who have invested their savings therein.

The proponents of the bill, evidently realizing that the criticisms of the bill were just and meritorious, have offered amendments thereto and the bill before this Senate with those amendments adopted and accepted by the body in which the bill was originally introduced.

Even though the amendments are all contained upon a single page of foolscap, they are so fundamental that the bill as amended by House amendment A is in truth and in fact almost an entirely new bill. It is unfortunate that these amendments could not have been presented to and considered by the committee in open hearing, and the opponents to

the bill have had an opportunity to be heard with respect thereto, not only as to the principles involved in their provisions, but even with respect to their language. It is further to be regretted that, as the amended bill is in effect a new bill, the committee could not have had the opportunity to consider it as such, and the opponents have been heard upon it and suggestions with respect to other and further amendments covering the whole subject received and considered. No member of the committee however even saw or heard of the proposed amendments until offered for adoption.

Without going into detail with respect to the various provisions, the original bill opened the door, in the guise of the creation of co-operatives, to the setting up of corporations entirely beyond the control of the State, and which under the broad powers of transfer and consolidation could cover the state of Maine with a system of uncontrolled corporations which could raid the customers of existing utilities in the territory they were authorized to serve, and which indirectly would allow every city and town in the State to enter the electric business without specific legislative consent.

One thing definitely was established at the hearing. The private utilities were not and have not been opposed to Rural Electrification. I am not going to tire you with the figures as to the extent to which it has been carried on by the existing utilities. Millions of dollars have been spent by the existing utilities therefor and thousands of miles of rural distribution lines have been built. Maine is twenty percent above the national average in percentage of farms electrified, and the states which exceed Maine in this respect are almost entirely those where the farms are concentrated in narrow geographical areas with density of population. It further appeared that the existing utilities are still engaged in expanding their rural services and that they plan to continue in such work.

It further appeared that the existing utilities did not object to co-operatives being formed to serve those portions of the territory assigned to them which they either do not want to serve or which they neglect to serve. Their position was, and, I understand, now is, that it is

not only their right but their duty to render service in the territory assigned to them by their charters, and that at least until they have failed in that duty, we should not grant an unrestricted right to others to engage in business therein.

The present House amendment A which comes along to us with the bill partially remedies this situation, but to my mind does not go far enough. That portion of the amendment referring to section 26 does provide that "except with the consent of the public utilities commission, no person shall receive service from any co-operative, if such person was already receiving electric service from a public utility on the date of the organization of such co-operative."

This amendment was evidently drawn to prevent the cooperative from taking away the existing customers of the utilities. And the use of language in this amendment brings out how unfortunate it was that the same was not submitted to the committee for consideration. The slightest reflection shows that what is really of importance to protect is the right to serve premises not particular persons.

Persons may move from place to place, premises remain where they are located. The protective clause therefore should be expressed in terms of locality rather than in terms of persons receiving service. If this bill is accepted and House amendment A thereto adopted, it is my purpose to offer an amendment to House amendment A which I believe will adequately cover this situation, give the existing utilities the protection to which they are entitled, and working no hardship upon the proposed co-operatives. It will prevent co-operatives without the consent of the Commission from serving premises at which service from an existing utility is available.

House Amendment A, however, while it attempted to protect the utilities as to their existing customers, did not in any way attempt to protect them in their rights to make extensions into and render service in those portions of their chartered territory which were as yet unserved by them, even though they never had been requested to serve the same. To me this seems an essential element in the protection of the existing utilities and the good people of Maine who have invested their savings therein.

From the very beginning of granting charters to public utility companies it has been the settled policy of the State that, when certain territory was assigned to a utility within which it could render service, no one else could render service therein without the consent either of the utility or the State. At first the consent of the State could only be granted by the Legislature, later with the establishment of the Public Utilities Commission such consent could be given by that body. By general statute now such consent may be given whenever public convenience and necessity requires. R. S. Chap. 68 §§ 3, 4, 5, and 6, or on failure to render service by an electric company to three or more persons within its territory, such persons may form a corporation and serve themselves and the Commission will designate them a portion of the existing utilities territory and require the existing utility to furnish them current and prescribe the rates to be paid therefor.

In the amendment which I shall offer it is provided that the co-operative shall not be permitted without the consent of the Public Utilities Commission to serve the territory assigned to an existing utility unless there has been a request for service of such territory on the existing utility and it has either refused or failed for an unreasonable length of time, to render such service.

It does not seem to me that any fair minded person can object to this limitation upon the power of co-operatives to enter the territory of an existing utility. Under this amendment, if the people living in the territory of a utility have asked for service in sufficient numbers to be fairly representative of any part thereof, and the Company has either refused or even failed for an unreasonable length of time to give that service, then the co-operative may serve it. Furthermore the Commission may grant the right to serve any of the exempted persons if it deems wise.

The amendment which I shall offer will further provide that an existing utility may give its consent to the service of any part of its territory by a co-operative.

One of the very controversial questions is whether or not co-operatives shall, after they have been

formed, be under the control of the Public Utilities Commission.

The proponents of the bill object to such a provision in the bill. House Amendment A has an express provision that "Co-operatives shall not be deemed to be public utilities."

After a great deal of thought upon the matter, I have adopted the same provision in the amendment which I shall offer.

My reasons are as follows: I think every lawyer in this body will agree that, whether a corporation is a public utility depends, not upon the commodity it sells, but upon the way in which, and the persons to whom, it renders its service.

As originally drawn, the co-operatives would clearly have been public utilities and, as originally drawn, there was an express provision "co-operatives shall be exempt in all respects from the jurisdiction and control of the Public Utilities Commission"

House amendment A strikes out this language and merely states that "Co-operatives shall not be deemed to be public utilities". A careful reading of the bill and the other amendments which have limited the powers of the co-operatives to sell current to its members makes it extremely doubtful in law as to whether they are public utilities. At most it is a border line case and I believe the weight of authority might well be that they were not utilities.

If in the future such co-operatives so conduct their business that regulation by the Public Utilities Commission becomes necessary to protect the public, or more especially to protect them from themselves under the reserved power to amend charters a future legislature may well be expected to deal with the subject. House Amendment A has made co-operatives subject to all of the safety rules and regulations of the State and has regulated the rights and manner of building lines along our highways. In these respects they are given the same rights, but no greater rights, and are subjected to the same burdens, but no greater burdens, than private utilities. Therefore on the whole I cannot see any harm in the declaration that they are not to be deemed public utilities as desired by the proponents; and I wish to point out

that this is an entirely different proposition from the provision of the original bill that "Co-operatives shall be exempt in all respects from the jurisdiction and control of the public utilities commission."

I realize that I have taken up a great deal, perhaps too much, time in discussing this bill and the amendments, both House Amendment A and the one which I shall offer. I could not justify my action in supporting in the first instance, the substitution of the bill for the report unless it was premised upon the adoption of House Amendment A and of the amendment which I shall offer.

With the adoption of these amendments I believe we shall have a bill that is fair to the proponents, fair to the companies, and will be a forward step in obtaining electrification in our several rural sections. Furthermore I believe that the adoption of this bill with these amendments will be a step forward in bringing about better relations between what some people like to believe are divergent interests in the State of Maine. Under this bill, with these amendments, I believe that the savings of our citizens invested in the existing utilities will not be in any way jeopardized and the citizens of rural areas will have the assurance of electrification in the home and on the farm.

With the assurance that I will later move the adoption of House Amendment A and offer my own amendment thereto I move that we join with the House and that the bill be substituted for the report.

The PRESIDENT: The question before the Senate is on the motion of the Senator from York, Senator Batchelder, that the bill be substituted for the report. Is that the pleasure of the Senate?

The motion prevailed and the bill was substituted for the report in concurrence, and given its first reading.

House Amendment "A" was read and adopted in concurrence.

Thereupon, Mr. Batchelder presented Senate Amendment "A" and moved its adoption:

Senate Amendment "A" to H. P. 350, L. D. 137, Bill, "An Act to Aid Agriculture by Providing for the Organization of Rural Electrification Cooperatives".

Amend Section 26 of said bill as Amended by House Amendment A,

so that the same shall read as follows:

Sec. 26. Cooperatives not public utilities. Cooperatives shall not be deemed to be public utilities; except with the consent of the public utilities commission, no premises shall receive service from any cooperative if such premises were on the date of the organization of such cooperative receiving or prior thereto had been receiving electric service from a public utility, or which are situated on those portions of roads or ways along which the distribution lines of an existing utility are located, nor if such service from the cooperative is to be rendered in the territory in which an existing utility is authorized to render such service unless and until such service has been requested of the existing utility by various persons whose premises are so located as to be fairly representative of the route or routes of the proposed distribution line or lines of the cooperative to be built in such territory and the utility has either refused or neglected for an unreasonable length of time to furnish such service; any existing utility may give its consent to a cooperative to serve any portion of the territory which said utility is authorized to serve. Any person who has been refused membership in or service by a cooperative may complain of such refusal to the public utilities commission which may after hearing upon finding that such service may reasonably be rendered order such person to be served.

Senate Amendment "A" was adopted, and under suspension of the rules, the bill as amended by House Amendment A and Senate Amendment A was given its second reading and passed to be engrossed in non-concurrence.

Sent down for concurrence.

On motion by Mr. Friend of Somerset, the Senate voted to take from the table, House Report from the Committee on Education, "Ought to Pass" as amended by Committee Amendment "A" on bill, An Act Relating to School Tax in Unorganized Territory (H. P. 1341) (L. D. 569) tabled by that Senator on April 7th pending acceptance of the report.

Mr. FRIEND of Somerset: President, I move this bill be indefinitely postponed. I would like to make a brief explanation, giving

my reasons for making this motion. It is provided by law on the statute books at the present time that unorganized towns which have never been organized, pay certain taxes. These taxes consist of state tax, county tax and road taxes. It will be noted that these small unorganized towns which have never been organized, are not taxed as organized towns are. The reason for this is that unorganized towns which have not been organized previously are very poor, very small towns and do not enjoy the advantages that organized towns do.

Now this bill provides that unorganized towns which have never been organized, of over 200 inhabitants be assessed an additional tax, which is the school tax. There are but three small towns in the state of Maine which would come under this bill. These towns are very poor, extremely poor, and by Committee Amendment "A" two of the towns which are in Aroostook, have been exempted from the bill. The whole reason, the main reason for that, as I understand it, is those towns are so poor and do not enjoy the privileges organized towns do and were exempted by the committee amendment for paying the school tax, which this bill would call for. With those two towns exempted, it leaves just one unorganized town covered by the bill and that town is a very small, poor town, the town of Rockwood, located in Somerset County, located far back from civilization you might say, way back in the woods, 20 miles from Greenville and about 40 miles from Jackman in the woods. The town has not enjoyed good roads and many other things organized towns enjoy and it is a very poor town as were the two towns in Aroostook which would be exempted from the bill, according to Committee Amendment "A".

Now, I have the utmost respect for the Committee on Education. The reason the bill was reported favorably and Rockwood was not exempted also from the bill is that there was no opposition presented to the committee. The legislator who was to appear there was at home, sick at the time and was unable to offer his objections.

Now, the passage of this bill, as I say, only affects one single poor town in the state of Maine. The passage of the bill on account of

the additional tax it levies upon them would cost one individual about \$500 a year and several other individuals at least \$100. It would cost that small town about \$2000 a year.

I might offer an amendment exempting that town. If I did, it would amount to the same thing as indefinitely postponing the bill. So I have made a motion to indefinitely postpone the bill and I hope the Senate will see fit to support that motion.

Mr. SANBORN of Cumberland: Mr. President, full recognizing the better acquaintance with the situation so far as it relates to the town or unit of Rockwood than I possess, I still think I perhaps ought to explain the position of the committee.

This was a bill which was presented to the committee or to the legislature at the instigation of the Department of Education and at the hearing the information given to us was, first, that the purpose of the bill was simply to place all unorganized units on the same basis, there now being discrimination between unorganized units which had formerly been towns and those which never had been towns. Of course it would naturally appear that there perhaps ought to be no discrimination between such units, based upon the fact that one of them had sometime been a town and the other never had been a town. That seemed only fair.

We were told it would affect only three units and the bill as originally drawn, was a general bill. While it was before the committee very strenuous objection was presented in behalf of the two units up in Aroostook County. I believe their names were Guerette and Ouellette, localities with which the committee were not at all familiar. It was represented that this act, if passed, would affect them in a very excessively burdensome manner. We were told that as a matter of fact if they were excluded there would be but one unit left, namely Rockwood.

While it may appear generally to be something that should be approached with caution, that is, to pass an act whose sole object is to affect one municipality, that sort of procedure certainly is not without precedent. Numerous acts have been passed by this legislature excluding, for instance, cities of over

50,000 inhabitants, the purpose of which would be to affect one municipality only. Despite that objection, on being told that Rockwood was a fairly reasonably prosperous community, one which could really afford to pay the additional tax which would be imposed upon it and which would put it on the same basis as other communities which had not been towns.

We were given figures, the correctness of which I cannot, of course, vouch for, but were given in good faith and accepted in good faith, and those figures and the presentation of the figures was, I think, the determining factor in our minds and those figures indicated the following, that in Guerette and Ouellette, up in Aroostook County they are at the present time being taxed on the rate of 9.78; that if they were included in this act it would add 18, making it 27.78, or practically three times their present burden, which naturally would appeal to one as something that would be considered in their favor. As to Rockwood, the present rate is on a basis of 9.83 as compared with 9.78 for the two Aroostook towns, and the passage of the act would increase it, not by 18 as in the case of the Aroostook towns, but by only 4, so their total then would be 13.83. We were asked to conclude and did conclude if that were

the only additional burden and upon a community which could fairly well afford it, it might appear to be entirely fair by its enactment to put Rockwood on the same basis as other unorganized units. Then in behalf of and in consideration for the two Aroostook units which would seem to be unduly burdened, a committee amendment was offered excluding the units in Aroostook County.

I do not think the committee felt strongly, but simply responded to the suggestion of the department that this was in the interest of equitable treatment of unorganized units.

The PRESIDENT: The question is on the motion of the Senator from Somerset, Senator Friend, that the bill be indefinitely postponed.

Mr. FRIEND: Mr. President, I ask for a division.

A division of the Senate was had. Fourteen having voted in the affirmative and thirteen opposed, the motion prevailed and the bill was indefinitely postponed in non-concurrence.

Sent down for concurrence.

On motion by Mr. Friend of Somerset

Adjourned until tomorrow morning at ten o'clock.