

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

Ninety-Second Legislature

OF THE

STATE OF MAINE

1945

DAILY KENNEBEC JOURNAL

AUGUSTA, MAINE

SENATE

Friday, March 2, 1945.

The Senate was called to order by the President.

Prayer by the Rev. Tom G. Akeley of Gardiner.

Journal of yesterday read and approved.

Order

(Out of Order)

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 Tuesday, March 6th, 1945, at eleven o'clock in the forenoon. (S. P. 377)

Sent down for concurrence.

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

From the House:

"Resolve Authorizing Kennebec Towage Company to Bring Suit at Law against the State of Maine." (H. P. 331) (L. D. 146)

(In the Senate on February 22nd, passed to be engrossed in concurrence.)

Comes from the House, passage to be engrossed reconsidered, House Amendment "A" read and adopted, and the bill as amended passed to be engrossed in non-concurrence.

In the Senate: on motion by Mr. Brown of Aroostook, the bill was laid upon the table pending consideration.

From the House:

Report from the Committee on Legal Affairs; Majority Report, "Ought to Pass as Amended by Committee Amendment 'A'"; Minority Report, "Ought Not to Pass", on Bill "An Act Creating a Division of Community Recreation Under the State Park Commission." (S. P. 50) (L. D. 13)

(In the Senate, on February 15th, Majority Report read and accepted, and the bill passed to be engrossed as amended.)

Comes from the House, the Minority Report read and accepted in non-concurrence.

In the Senate. On motion by Mr. Brown of Aroostook the Senate voted to adhere.

Papers from the House referred in concurrence.

From the House:

Bill "An Act Providing for the Taking of Property by the State by Right of Eminent Domain." (H. P. 1319) (L. D. 963)

Which was received by unanimous consent and referred to the Committee on Judiciary in concurrence.

House Committee Reports

The Committee on Judiciary on Bill "An Act Relating to Parties in Interest in the Trial of Causes," (H. P. 1187) (L. D. 748) reported that leave be granted to withdraw.

The same Committee on Bill "An Act Relating to Authority of Towns to Raise Money for Pensions for Town Employees," (H. P. 1191) (L. D. 750) reported that the same ought not to pass.

The Committee on Appropriations and Financial Affairs on "Resolve Appropriating Money for Control of the Fruit or Blueberry Fly in Maine," (H. P. 621) (L. D. 284) reported that the same ought not to pass, as the matter is covered by existing legislation.

Which reports were severally read and accepted in concurrence.

The Committee on Judiciary on Bill "An Act Relating to Duties of Clerks of Courts and Registers of Deeds in Judgment in Real Actions," (H. P. 812) (L. D. 420) reported that the same ought to pass.

The Committee on Legal Affairs on Bill "An Act Relating to a Pension Plan for Employees of the City of Lewiston," (H. P. 429) (L. D. 237) reported the same in a new draft (H. P. 1309) (L. D. 956) under the same title, and that it ought to pass.

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

Remonstrance

Mr. Dunbar of Washington presented "Remonstrance of Clarence E. Alley and 21 others of Beals against any Change in the Fishing Law or Licence Fee." (S. P. 376)

On motion by Mr. Spear of Cumberland the remonstrance was referred to the Committee on Inland Fisheries and Game.

Sent down for concurrence.

Bill in First Reading

First Reading of a Printed Bill: Bill "An Act Relating to Free Hunting and Fishing Permits for Veterans." (S. P. 363) (L. D. 962)

On motion by Mr. Dunbar of Washington the bill was laid upon the table pending first reading.

Senate Committee Reports

Mr. Dow from the Committee on Judiciary on Bill "An Act Relative to Assignment of Accounts Receivable and other Choses in Action," (S. P. 91) (L. D. 134) reported that the same ought not to pass as the matter is covered by other legislation.

Mr. Dunbar from the same Committee on "Resolve Proposing a Constitutional Amendment to Increase the Tenure of Sheriffs to Four Years," (S. P. 319) (L. D. 832) reported that the same ought not to pass.

Mr. Dow from the same Committee on "Resolve Proposing an Amendment to the Constitution to Provide for Lowering the Voting Age," (S. P. 137) (L. D. 342) reported that the same ought not to pass.

Which reports were severally read and accepted.

Sent down for concurrence.

Mr. Sterling from the Committee on Towns on bill "An Act Relating to Town Reports (S. P. 276) (L. D. 611) reported the same in a new draft (S. P. 375) under the same title, and that it ought to pass.

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

Mr. Welch from the Committee on Counties on "Resolve Relating to the Old Bay Bridge Road in the County of Sagadahoc," (S. P. 282) (L. D. 728) reported that the same ought to pass.

Mr. Spear from the Committee on Inland Fisheries and Game on Bill "An Act Relative to Game Preserves," (S. P. 112) (L. D. 229) reported that the same ought to pass.

Which reports were severally read and accepted, the bill and resolve read once, and tomorrow assigned for second reading.

Mr. Gould from the Committee on Legal Affairs on Bill "An Act Permitting Religious, Charitable, Fraternal or Benevolent Societies or Associations to Operate Lotteries," (S. P. 372) (L. D. 952) reported that leave be granted to withdraw the same.

Mr. Batchelder from the same Committee on Bill "An Act Relating to Operation and Use of Slot Machines," (S. P. 371) (L. D. 953) reported that leave be granted to withdraw the same.

Which reports were severally read and accepted.

Sent down for concurrence.

Mr. Leavitt from the same Committee on Bill "An Act Relating to Auctioneers," (S. P. 322) (L. D. 829) reported that the same ought not to be received as introduced in the Senate obviously as a bill to raise revenue.

Mr. SAVAGE of Somerset: Mr. President, I rise to a point of order.

The PRESIDENT: The Senator may state his point.

Mr. SAVAGE: Mr. President, I would like to inquire of the Chair whether this "ought not to be received as introduced in the Senate obviously as a bill to raise revenue" is a proper report?

The PRESIDENT: The Chair will rule that this bill is not a revenue raising measure within the meaning of the Constitution which requires that all revenue raising measures must originate in the House; the distinction in the opinion of the Chair being that a revenue raising measure is one which purports to levy a tax in the strict sense of the word on all individuals of a particular class and is not a bill which is regulatory in its nature and which purports to grant a permit to individuals to engage in a given activity if they desire to pay the fee. The Chair thinks this distinction was more clearly stated by the Supreme Court at the time when the legislature attempted to raise the hunting and fishing license fees from twenty-five cents for a lifetime to \$1.15 for a year. At the time the bill was introduced in the Senate, if the Chair remembers correctly, and the Supreme Court ruled that it was not

a revenue raising measure. The Chair therefore rules the point of order is well taken and the committee report is not in order for adoption.

The Chair feels that perhaps the Chair should state that there is a distinction between the adoption of a committee report and the acceptance of a committee report. The Chair would like to point out that the Chair's ruling is in no way critical of the action of the committee in making this report. The Chair believes it is not only the privilege but the duty of every committee to return bills to the legislature with such recommendations as the committee sees fit to make.

By long established custom in this legislature we do not ordinarily distinguish between the acceptance of a report and the adoption of a report. From a parliamentary standpoint, therefore, the ruling of the Chair results in the following situation,—this bill was, in the opinion of the Chair, properly introduced in the Senate and properly referred to the committee. The committee has properly reported the bill back with its recommendation. The Senate has properly received the report and the Chair has ruled that the Senate can not properly adopt the provisions of the report. The bill is therefore now before the Senate for such further action as the Senate may see fit to take.

Mr. LEAVITT of Cumberland: Mr. President, because of the serious trend of the report I think I should say this one thing in defense of the Committee, that in looking over the bill we could find just one advantage and that is the fact that a fee of \$25.00 would be charged to all auctioneers. We found no other advantage in the bill and felt the auctioneers were perhaps trying to get some revenue for themselves, and that is why this more or less facetious report was put in.

On motion by Mr. Savage of Somerset, the bill was recommitted to the Committee on Legal Affairs.

Mr. Leavitt from the Committee on Legal Affairs on Bill "An Act Creating the Greater Portland Public Development Commission," (S. P. 323) (L. D. 828) reported

that the same ought to pass as amended by Committee Amendment "A".

Which report was read and accepted, and the bill read once. Committee Amendment "A" was read:

"Committee Amendment A to Bill, An Act Creating the Greater Portland Public Development Commission, S. P. 323 (L. D. 828).

"Amend said bill by inserting after the word 'facility' in the second line of Section Two thereof (second line of bill as printed) the underlined words 'Within the confines of Portland and South Portland.'

"Further amend said bill by striking out after the word 'directors' in the third line of Section Two thereof (third line of bill as printed) the words 'in consultation with the elected officers of the various towns in said area and with the various chambers of commerce in said area.'

"Further amend said bill by striking out after the words 'residents of' in the second line of Section Three thereof (second line of bill as printed) the words 'Cumberland County' and inserting in place thereof the underlined words 'Portland and/or South Portland.'

"Further amend said bill by striking out the word 'towns' being the first word in the second line of Section Six thereof (in the first line of bill as printed after the words 'and/or') and inserting in place thereof the underlined word 'cities.'"

Thereupon, on motion by Mr. Brown of Aroostook, the bill and accompanying papers were laid upon the table pending adoption of Committee Amendment A.

Passed to Be Engrossed

Bill "An Act Relating to the Bee Industry." (H. P. 306) (L. D. 113)

Bill "An Act Relating to Jurisdiction of Violations of the Inland Fisheries and Game Laws." (H. P. 823) (L. D. 427)

Bill "An Act Relating to Assignment of Counsel by the Superior Court." (H. P. 824) (L. D. 428)

Bill "An Act Relating to State Bureau of Identification." (H. P. 946) (L. D. 526)

Bill "An Act Relating to Absent Voting." (H. P. 953) (L. D. 577)

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

Bill "An Act Relating to the Transportation of Poles" (S. P. 205) (L. D. 479)

Bill "An Act to Extend Opportunities for Secondary Education to Children Residing on the Islands Classified as Unorganized Territory." (S. P. 238) (L. D. 646)

Bill "An Act to Extend Opportunities for Secondary Education to Island Children." (S. P. 239) (L. D. 645)

Bill "An Act Relating to Settlement of Suits." (S. P. 244) (L. D. 640)

Bill "An Act Relating to Reference or Compromise." (S. P. 245) (L. D. 639)

Bill "An Act Relating to the Determination of Mentally Defective Children." (S. P. 318) (L. D. 833)

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

Sent down for concurrence.

Passed to be Enacted

Bill "An Act Relating to the Salary of the Judge of Probate in Washington County." (S. P. 81) (L. D. 75)

Bill "An Act Relating to the Salary for Clerks in the Office of Register of Probate in Washington County." (S. P. 82) (L. D. 76)

Bill "An Act to Amend the Charter of Lincoln Academy." (S. P. 143) (L. D. 349)

Bill "An Act Relating to the Salaries of Clerks in the Offices of Register of Deeds, Register of Probate and Clerk of Courts in Piscataquis County." (S. P. 158) (L. D. 362)

Bill "An Act Relating to the Salary of the Register of Probate of Piscataquis County." (S. P. 165) (L. D. 368)

Bill "An Act Relating to the Salary of the Recorder of the Piscataquis Municipal Court." (S. P. 166) (L. D. 369)

Bill "An Act Amending the Charter of the Preachers' Aid Society of the Maine Conference of the Methodist Church." (S. P. 177) (L. D. 385)

Bill "An Act Relating to the Organization of Plantations." (S. P. 179) (L. D. 383)

Bill "An Act Relating to the Salary of the County Treasurer of Washington County." (H. P. 215) (L. D. 79)

Bill "An Act Relating to the Salary for Clerk Hire in the Office of Register of Deeds in Washington County." (H. P. 352) (L. D. 101)

Bill "An Act Relating to the Salary for Clerks in the Office of Clerk of Courts in Washington County." (H. P. 354) (L. D. 103)

Bill "An Act Increasing the Salary of the County Attorney of Piscataquis County." (H. P. 440) (L. D. 194)

Bill "An Act Relating to the Assessment and Collection of the Potato Tax." (H. P. 447) (L. D. 197)

Bill "An Act Relating to the Assessment and Collection of the Gasoline Tax and the Use Fuel Tax." (H. P. 448) (L. D. 192)

Bill "An Act Relating to Adoption of Persons Twenty-one Years of Age or Over." (H. P. 1283) (L. D. 910)

Orders of the Day

On motion by Mr. Dunbar of Washington, the Senate voted to reconsider its action taken earlier in today's session whereby Remonstrance of Clarence E. Alley and 21 others of Beals against any Change in the Fishing Law or License Fee (S. P. 376) was referred to the Committee on Inland Fisheries and Game.

Mr. DUNBAR of Washington: Mr. President and members of the Senate, knowing this town as I do, it is purely a fishing town and although the petition was not clear I am satisfied that what they had in mind was really the licenses and laws relating to Sea and Shore Fisheries. I therefore move that the remonstrance be referred to the Committee on Sea and Shore Fisheries.

The motion prevailed.

On motion by Mr. Bishop of Sagadahoc, the Senate voted to take from the table, House Report from the Committee on Taxation "Ought to Pass with Committee Amendment 'A'" on bill, An Act Relating to the Assessment and Collection of State, County and Forestry District Taxes in Unorganized Territory (H. P. 446) (L. D. 173) tabled by that Senator on March 1st pending adoption of Committee Amendment "A" in concurrence; and on further motion by the same Senator, Committee Amendment "A" was adopt-

ed in concurrence. House Amendment "A" was read and adopted in concurrence and the bill as amended was given its first reading and Tuesday next assigned for second reading.

On motion by Mr. Dow of Oxford, the Senate voted to reconsider its action taken earlier in today's session whereby bill, An Act Relating to Adoption of Persons Twenty-one Years of Age or Over (H. P. 1233) (L. D. 910) was passed to be enacted; and on further motion by the same Senator, the bill was laid upon the table pending passage to be enacted.

On motion by Mr. Owen of Kennebec, 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 Property and Money of Intestate Inmates of State Institutions, (H. P. 517) (L. D. 252) tabled by that Senator on February 16th pending acceptance of the Committee report in concurrence; and on further motion by the same Senator, the report of the committee was accepted in concurrence.

On motion by Mr. Clemnts of Waldo
Adjourned until next Tuesday morning, March 6th at eleven o'clock.