

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 16, 1945.

The Senate was called to order by the President.

Prayer by the Reverend Cymbrid Hughes of Augusta.
Journal of yesterday read and approved.

Order**(Out of Order)**

Out of order and under suspension of rules, on motion by Mr. Brown of Aroostook, it was

ORDERED, the House concurring, that when the Senate and House adjourn, they adjourn to meet on Tuesday, March 20th, 1945, at eleven o'clock in the forenoon. (S. P. 386)
Sent down for concurrence.

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

From the House:

"Resolve to Create a Special Joint Committee to Study Wild and Fur-Bearing Animals." (S. P. 383) (L. D. 983)

(In the Senate on March 13th, referred to the Committee on Inland Fisheries and Game.)

Comes from the House, referred to the Committee on Appropriations and Financial Affairs in non-concurrence.

In the Senate, that body voted to recede from its former action taken on March 13 whereby the Resolve was referred to the Committee on Inland Fisheries and Game, and the Resolve was then referred to the Committee on Appropriations and Financial Affairs in concurrence.

House Committee Reports

The Committee on Federal Relations on Bill "An Act Amending the Unemployment Compensation Law as to Definitions," (H. P. 1252) (L. D. 877) reported that the same ought not to pass.

The Committee on Indian Affairs on Bill "An Act Relating to Vital Statistics in Indian Tribes," (H. P. 1125) (L. D. 672) reported that the same ought not to pass.

The same Committee on Bill "An Act Relating to Overseer of Poor

and Other Special Officers of the Penobscot Tribe of Indians, (H. P. 1065) (L. D. 661) reported that the same ought not to pass.

The Committee on Sea and Shore Fisheries on "Resolve Relating to Taking Salmon in Machias River," (H. P. 1293) (L. D. 939) reported that the same ought not to pass.

The same Committee on "Resolve Relating to Dipping of Salmon in Machias River," (H. P. 1282) (L. D. 925) reported that the same ought not to pass.

The same Committee on "Resolve Relating to Dipping of Alewives in Certain Waters in Machias, Washington County," (H. P. 1004) (L. D. 603) reported that the same ought not to pass.

The same Committee on Bill "An Act Relating to Regulation of the Lobster Industry," (H. P. 863) (L. D. 439) reported that the same ought not to pass.

Which reports were severally read and adopted in concurrence.

The Committee on Education on Bill "An Act Relating to Greeley Institute," (H. P. 317) (L. D. 100) reported that the same ought to pass.

The same Committee on "Resolve in Relation to Teacher-Pension Status of Carrie M. Wight of Bethel, Maine," (H. P. 725) (L. D. 397) reported that the same ought to pass.

The same Committee on "Resolve Designating Hospital Building at State School for Girls as 'Stevens Building'," (H. P. 1327) (L. D. 971) reported that the same ought to pass.

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

The Committee on Banks and Banking on Bill "An Act Relating to Retiring Allowances or Life Insurance for Officers and Employers of Savings Banks," (H. P. 1163) (L. D. 700) reported that the same ought to pass as amended by Committee Amendment "A" submitted herewith.

The Committee on Legal Affairs on Bill "An Act to Provide a Town Council and Manager Form of Government for the Town of Mechanic Falls, in the County of Androscoggin," (H. P. 426) (L. D. 189) reported that the same ought to pass

as amended by Committee Amendment "A".

Which reports were severally read and adopted in concurrence, and the bills read once; Committee Amendments "A" were severally read and adopted, in concurrence, and the bills as amended were Tuesday next assigned for second reading.

Divided Reports

The Majority of the Committee on Judiciary on "Resolve Proposing an Amendment to the Constitution Changing the Date of the General Election," (H. P. 960) (L. D. 546) reported that the same ought not to pass.

(signed)

Senators:

DOW of Oxford
DUNBAR of Washington
CLOUGH of Penobscot

Representatives:

PERKINS of Boothbay Harbor
WILLIAMS of Auburn
WARD of Millinocket
HASKELL of Portland
CONNELLAN of Portland
PEIRCE of Augusta

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

(signed)

Representative:

PASCUCCI of Sanford

Comes from the House, the Majority Report, "Ought Not to Pass" adopted.

In the Senate, on motion by Mr. Dow of Oxford the Majority Report "Ought Not to Pass" was adopted in concurrence.

The Majority of the Committee on Judiciary on Bill "An Act Relating to Date of General Elections," (H. P. 954) (L. D. 544) reported that the same ought not to pass.

(signed)

Senators:

DOW of Oxford
DUNBAR of Washington
CLOUGH of Penobscot

Representatives:

PERKINS of Boothbay Harbor
WILLIAMS of Auburn
WARD of Millinocket
HASKELL of Portland
CONNELLAN of Portland
PEIRCE of Augusta

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

(signed)

Representative:

PASCUCCI of Sanford

Comes from the House, the Majority Report, "Ought Not to Pass" read and adopted.

In the Senate, on motion by Mr. Dunbar of Washington, the Majority Report "Ought Not to Pass" was adopted in concurrence.

Senate Committee Reports

Mr. Denny from the Committee on Agriculture on Bill "An Act to Provide for Scientific Investigation with Blueberries," (S. P. 72) (L. D. 68) reported that the same ought to pass.

The same Senator from the same Committee on Bill "An Act Relating to Prevention of Bang's Disease by the Department of Agriculture," (S. P. 125) (L. D. 330) reported that the same ought to pass.

Mr. Good from the same Committee on Bill "An Act to Establish a Seed Potato Board and Define its Powers and Duties," (S. P. 300) (L. D. 849) reported that the same ought to pass.

Mr. Batchelder from the Committee on Military Affairs on Bill "An Act Relating to Aid to Veterans," (S. P. 204) (L. D. 480) reported that the same ought to pass.

Mr. Dorr from the Committee on Ways and Bridges on Bill "An Act Relating to Removal of Notices on Roads Closed for Repairs," (S. P. 340) (L. D. 811) reported that the same ought to pass.

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

Mr. Sterling from the Committee on State Lands and Forest Preservation on Bill "An Act Relating to Baxter State Park Payments to the Maine Forestry District," (S. P. 274) (L. D. 613) reported that the same ought to pass as amended by Committee Amendment "A".

Which report was read adopted and the bill given its first reading.

The Secretary read Committee Amendment A:-

Committee Amendment "A" to S. P. 274, L. D. 613, Bill "An Act Relating to Baxter State Park Pay-

ments to the Maine Forestry District."

Amend said Bill by striking out the 17th, 18th and 19th lines of said bill the underlined words "valuation determined by the board of equalization at the same rate as the tax assessed on land in the Maine Forestry District" and inserting in place thereof the underlined words "1/3c per acre for all land within the Baxter State Park area".

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

The same Senator from the same Committee on "Resolve Authorizing Conveyance of the Interest of the State in Certain Land in Township 1, Range 1, N. B. K. P. in Somerset County" (S. P. 97) (L. D. 139) reported that the same ought to pass as amended by Committee Amendment A.

Which report was adopted and the Resolve given its first reading.

The Secretary read Committee Amendment A:—

Committee Amendment "A" to S. P. 97, L. D. 139, "Resolve, Authorizing Conveyance of the Interest of the State in Certain Land in Township 1, Range 1, N. B. K. P. in Somerset County."

Amend said Resolve by striking out the period at the end thereof and adding in place thereof the following: "; and be it further

RESOLVED: That the forest commissioner be, and hereby is, authorized to convey to Guy M. Whitten, of Rockwood, the interest of the state in lots 136 and 137 of the cottage lot in township 1, range 1, N. B. K. P., known as Rockwood Strip, in Somerset County, according to a survey and plan of said lots made by J. C. Hutchinson in 1913.

Thereupon, Committee Amendment A was adopted and the Resolve as so amended was Tuesday next assigned for second reading.

Mr. Gould from the Committee on Interior Waters on Bill "An Act Relating to Diverting Water by Canals for Mills," (S. P. 241) (L. D. 643) reported the same in a new draft, (S. P. 387) under the same title, and that it ought to pass.

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

Divided Report

The Majority of the Committee on Military Affairs on Bill "An Act to Aid Returning Veterans," (S. P. 39) reported that the same ought not to pass.

(Signed)

Senators:

BATCHELDER of York
SAVAGE of Somerset

Representatives:

MORNEAULT of Fort
Kent
DOW of Eliot
SOUTHARD of Bangor
JORDAN of South Port-
land
WALSH of Lebanon
JENNINGS of Strong
POULIN of Rumford

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

(Signed)

Senator:

CURRIER of Androscog-
gin

On motion by Mr. Batchelder of York, the Majority Report "Ought Not to Pass" was adopted.

Sent down for concurrence.

Passed to be Engrossed

Bill "An Act Relating to the Duties of the Department of Health and Welfare and the Inspection and Licensing of Institutions and Boarding Homes for the Aged." (H. P. 357) (L. D. 122)

Bill "A Act Relating to Tuition in Secondary Schools." (H. P. 805) (L. D. 419)

Bill "An Act Relating to Records of Sale of Real Estate for Taxes." (H. P. 1084) (L. D. 775)

Bill "An Act Relating to Personal Loans Made by Savings Banks." (H. P. 1117) (L. D. 692)

Bill "An Act to Extend the Charter of the Vanceboro Water Company." (H. P. 1226) (L. D. 772)

Bill "An Act to Extend the Charter of the Central Aroostook Railway Company." (H. P. 1227) (L. D. 809)

Bill "An Act Relieving Towns from Care of Neglected Children." (H. P. 1332) (L. D. 980)

Bill "An Act Relating to Licensing Boarding Houses for Children." (H. P. 1333) (L. D. 981)

Bill "An Act Relating to Street Sliding." (H. P. 211) (L. D. 84)

Bill "An Act to Amend the Charter of the City of South Portland and Provide for a Park and Recreation Commission." (H. P. 530) (L. D. 259)

"Resolve in Favor of Penobscot Tribe of Indians." (H. P. 792) (L. D. 415)

Bill "An Act Creating the Passamaquoddy District Authority." (H. P. 1200) (L. D. 759)

Bill "An Act to Aid in Prevention of Flood Damage." (H. P. 1225) (L. D. 808)

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

Bill "An Act Governing the Handling of Pasteurized Milk." (S. P. 186) (L. D. 493)

Bill "An Act Relating to Soil Conservation." (S. P. 187) (L. D. 494)

Bill "An Act Regulating the Labeling of Fresh Eggs for Sale." (S. P. 188) (L. D. 492)

"Resolve Relating to Printed Vital Records." (S. P. 255) (L. D. 629)

"Resolve Relating to Old Printed Laws." (S. P. 256) (L. D. 628)

Bill "An Act Relating to Fish Weirs." (S. P. 342) (L. D. 927)

Bill "An Act to Provide for the Election of a Superintending School Committee for the Town of Caribou." (S. P. 382) (L. D. 982)

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

Sent down for concurrence.

Orders of the Day

On motion by Miss Clough of Penobscot, the Senate voted to take from the table Report of the Committee on Judiciary; Majority Report "Ought to Pass," Minority Report, "Ought Not to Pass," on Bill, An Act Relating to the Transfer of Inmates from the Reformatory for Men to the State Prison and the State School for Boys, (S. P. 139) (L. D. 344) tabled by that Senator on March 15 pending acceptance of either report; and that Senator moved the adoption of the majority report, "Ought to Pass."

Mr. DOW of Oxford: Mr. President and members of the Senate, I do not speak in opposition to

the adoption of that Majority "Ought to Pass" report. I did sign a Minority report, feeling that this bill should not pass. I don't know too much about the subject matter but it did seem to me that when a person was sentenced to the Reformatory of Men for violating the laws of this state that he might well serve his term there and that in transferring a man from the State Reformatory to which he has been sentenced, to the State Prison would be making him serve a sentence in an institution to which he had not been sentenced; and the transferring of boys from one institution of the state who were there under sentence to that institution, to another institution would not be carrying out the sentence of the court.

I don't know whether my position is right or not but I wanted to go on record as not favoring that kind of legislation.

I do not speak in opposition to the motion of the Senator from Penobscot, Senator Clough, because I feel that I may be on the wrong side, although I feel it is right. I just wanted to make these remarks as to why I signed the Minority Report.

Miss CLOUGH of Penobscot: Mr. President, I feel that the bill may need a little explanation for the information of the Senate and I'd like to say it simply broadens the present transfer law for the institution, making it possible for the department to effect the transfer from the State Reformatory for Men to the Maine State Prison in the case of an inmate who is persistently unruly and detrimental to the program of an open type training school, such as the Reformatory for Men.

With an age group varying from 16 to 36, such cases occasionally arise. Under our present transfer law, an inmate can be transferred to the State Prison only for escape or assaulting an officer and an inmate who is aware of this fact is in a position to take advantage of it. The only other method of relieving the situation of such an inmate under the present law requires municipal court hearing and a grand jury indictment and is cumbersome to operate.

In an open type institution such as the Reformatory for Men, the only method of dealing with such an inmate is lock-up, which can

be achieved in the cell block. However, the purpose of the reformatory is to train and rehabilitate the kind of inmate who is amenable to rehabilitation without prison walls and prison atmosphere. The presence of the other kind of inmate obviously is a problem, both to the superintendent and officers of the institution as well as to the majority of the population upon which he is in a position to exert a bad influence.

The policy of departmental transfer from one institution to another is common practice in most of the states and is considered progressive legislation in the penal and corrective field. The validity of statutes authorizing administrative boards of superintendents with approval of the commissioners to transfer from a reformatory to a prison, or other penal institution, has been sustained in many jurisdictions, the courts having held that beyond that, the power conferred in the transfer law is one of administrative control or discipline as distinguished from a judicial act and that where statutes conferred the power of transfer upon administrative boards are effective at the time of sentence, the possibility of transfer is implied in sentence.

Among states which have such transfer laws are Connecticut, Kansas, Massachusetts, Minnesota, New Jersey, New York, Ohio, Rhode Island, Washington, Wisconsin, Wyoming and several others.

I think that may be explanation enough for the bill, Mr. President and members of the Senate.

Mr. BROWN of Aroostook: Mr. President, it seems to me that this bill is a matter which has two sides to it. I hadn't paid any attention to the bill but from what I have learned it seems to me that the transferring of a person from a reformatory to which he has been sentenced, to the State Prison, by a commission or governing board, is usurping the power of the court. In other words, as has been pointed out, he has been sentenced to one institution and maybe taken to another institution supposedly of a vastly different character; and owing to the few members that are here I think this should be taken up when we may have a chance to discuss it a little more fully and when there is a fuller attendance.

I therefore move that it be laid upon the table.

The PRESIDENT: The Senator from Aroostook, Senator Brown, moves that this report and accompanying papers be laid upon the table pending the motion of the Senator from Penobscot, Senator Clough, that the Senate adopt the Majority "Ought to pass" report. Is this the pleasure of the Senate?

The motion to table prevailed.

On motion by Mr. Noyes of Hancock

Adjourned until Tuesday next, March 20 at eleven o'clock in the forenoon.