

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

Ninety-Third Legislature

OF THE

STATE OF MAINE

1947

DAILY KENNEBEC JOURNAL
AUGUSTA, MAINE

SENATE

Tuesday, April 1, 1947

The Senate was called to order by the President.

Prayer by the Reverend J. N. Henriksen of Augusta.

Journal of yesterday read and approved.

House Committee Reports

The Committee on Judiciary on "Resolve Authorizing the Forest Commissioner to Convey the State's Interest in Certain Lands," (H. P. 955) (L. D. 558) reported that the same ought to pass.

The same Committee on Bill "An Act Relating to Licenses for Lease of Real Estate by Probate Courts," (H. P. 1504) (L. D. 1129) reported that the same ought to pass.

The same Committee on Bill "An Act Relating to Notice in Trust Estates to be Sold," (H. P. 1508) (L. D. 1133) reported that the same ought to pass.

The same Committee on Bill "An Act Relating to Qualifications of the Recorder of the Gardiner Municipal Court," (H. P. 1585) (L. D. 1238) reported that the same ought to pass.

The Committee on Sea and Shore Fisheries on Bill "An Act Relating to Protection of Alewives in Town of Orland," (H. P. 1321) (L. D. 918) reported that the same ought to pass.

The Committee on Towns on Bill "An Act Relating to Relief of Paupers in Deorganized Towns," (H. P. 887) (L. D. 499) reported that the same ought to pass.

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

The Committee on Education on Bill "An Act Relating to Tuition for Pupils from Towns Not Maintaining a Standard Secondary School," (H. P. 432) (L. D. 256) reported the same in a new draft (H. P. 1651) (L. D. 1349) under the same title and that it ought to pass.

The Committee on Salaries and Fees on Bill "An Act Increasing the Salaries of the Judge and Recorder of Fort Fairfield Municipal Court," (H. P. 468) (L. D. 274) reported the same in a new draft (H. P. 1653) (L. D. 1348) under a new title, Bill

"An Act Relating to the Fort Fairfield Municipal Court," and that it ought to pass.

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

The Committee on Judiciary on Bill "An Act Relating to the Apportionment of Estate Taxes," (H. P. 1353) (L. D. 954) reported that the same ought to pass as amended by Committee Amendment "A".

The same Committee on Bill "An Act Relating to Obstructions of Snow and Ice on Traveled Roads," (H. P. 1505) (L. D. 1130) reported that the same ought to pass as amended by Committee Amendment "A".

The same Committee on Bill "An Act Relating to Obstructions of Public Ways," (H. P. 1503) (L. D. 1128) reported that the same ought to pass as amended by Committee Amendment "A".

The Committee on Towns on Bill "An Act Relating to Expenses of Town and City Clerks," (H. P. 1525) (L. D. 1118) 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 tomorrow assigned for second reading.

First Reading of Printed Bills

Bill "An Act Relating to Increasing the Maximum Payment in Old Age Assistance," (S. P. 487) (L. D. 1355)

Bill "An Act Relating to Increasing the Maximum Payment in Aid to the Blind," (S. P. 488) (L. D. 1354)

Which were severally read once and tomorrow assigned for second reading.

Passed to be Engrossed

Bill "An Act Relating to Salary of State Auditor," (H. P. 22) (L. D. 12)

Bill "An Act to Increase the Clerk Hire in the Office of Recorder of the Portland Municipal Court," (H. P. 178) (L. D. 126)

Bill "An Act to Increase the Salary of the Registrar of Deeds in Cumberland County," (H. P. 179) (L. D. 127)

Bill "An Act to Increase the Salary of the County Commissioners for Cumberland County." (H. P. 181) (L. D. 129)

Bill "An Act Relating to Salary of Clerk of Courts and Deputy Clerk of Courts of Cumberland County." (H. P. 188) (L. D. 152)

Bill "An Act to Increase the Salary of the County Treasurer and the Deputy Treasurer of Cumberland County." (H. P. 264) (L. D. 181)

Bill "An Act Relating to the Amount to be Paid for Clerk Hire in the Office of Register of Probate in the County of Cumberland." (S. P. 265) (L. D. 182)

Bill "An Act Relating to Clerk Hire in Cumberland County Clerk of Courts Office." (H. P. 266) (L. D. 183)

Bill "An Act Relating to Weights and Measures." (H. P. 582) (L. D. 405)

Bill "An Act Relating to the Registration and Licensing of Dogs." (H. P. 583) (L. D. 406)

"Resolve, in Favor of Robert E. Cook of Portland." (H. P. 1157) (L. D. 767)

Bill "An Act to Increase the Salary of the Sheriff of Washington County." (H. P. 1212) (L. D. 829)

"Resolve Relating to Certain Equipment Issued to Officers of Maine State Guard." (H. P. 1356) (L. D. 957)

Bill "An Act Relating to Workshops and Factories Found Unsafe, Insanitary, or Injurious to Health." (H. P. 1397) (L. D. 1014)

Bill "An Act Relating to the Brewer Water District." (H. P. 1641) (L. D. 1325)

"Resolve Granting a Pension to Dorothy L. Springer of Lisbon Falls." (H. P. 1647) (L. D. 1338)

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

Bill "An Act to Create a Legislative Research Committee." (H. P. 1646) (L. D. 1332)

Comes from the House having been passed to be engrossed.

In the Senate:

Mr. HASKELL of Penobscot: Mr. President and members of the Senate,

I wish to present Senate Amendment A to this bill, and move its adoption. In presenting this Senate Amendment A, I am privileged to say that the amendment has the approval of the sponsor and also

has the approval of the Chairman of the Judiciary Committee.

The Assistant Secretary read the amendment:

"Senate Amendment A to H. P. 1646, L. D. 1332, Bill "An Act to Create a Legislative Research Committee. Amend said Bill by adding at the end of that part designated 'Sec. 23', before the period, the following underlined words: **'during each regular session'**

Further amend said Bill by striking out, in the 2nd line of that part designated 'Sec. 24', the underlined word **'convening'** and inserting in place thereof the underlined words **'final adjournment'**

Further amend said Bill by striking out, in the 3rd line of subsection IX of that part designated 'Sec. 25', and the underlined words **'members of the legislature'** and insert in place thereof the underlined words **'the committee'**

Further amend said Bill by striking out, in the 6th line of subsection XII of that part designated 'Sec. 25', the underlined word **'public'**

Further amend said Bill by striking out all of subsection XI of that part designated 'Sec. 26' and inserting in place thereof the following underlined subsection:

'XI. The director shall appoint, with approval of the legislative research committee, such technical assistants, and shall appoint, subject to the provisions of the personnel law, such clerical assistants, as may be necessary to carry out the provisions of sections 23 to 26, inclusive.'

Which amendment was adopted, and the bill as so amended was passed to be engrossed in non-concurrence.

Sent down for concurrence.

Bill "An Act Relating to Salary of Clerks in the Office of Clerk of Courts in Kennebec County." (H. P. 267) (L. D. 184)

Bill "An Act to Increase the Salary of the Clerk of Courts in Penobscot County." (H. P. 348) (L. D. 217)

Bill "An Act Increasing the Salaries of the Judge and Clerk and Clerk Hire of the Bangor Municipal Court." (H. P. 510) (L. D. 331)

Bill "An Act to Incorporate the Fort Kent School District." (H. P. 1612) (L. D. 1278)

Bill "An Act to Incorporate the Farmingdale School District." (H. P. 1617) (L. D. 1290)

Bill "An Act to Incorporate the Chelsea School District." (H. P. 1618) (L. D. 1291)

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

Orders of the Day

On motion by Mr. Leavitt of Cumberland, the Senate voted to take from the table Bill, "An Act Relating to the State School for Boys" (H. P. 1174) (L. D. 848) tabled by that Senator on March 13 pending passage to be engrossed.

Mr. LEAVITT of Cumberland: Mr. President and Members of the Senate, I realize that I am perhaps being fat-headed in trying to do what I am going to do just now. The Judiciary Committee has reported this bill out unanimously ought to pass and it has already got up to the engrossing stage. This bill calls for the lowering of the age at which boys can be admitted to the State School for Boys in South Portland. It says that a boy may be committed at the age of nine instead of eleven. We think we live in a civilized country, or we're trying to think we do, and we have different societies set up to take care of the children of this state. We try to educate our children. We have societies which are supported by both public and private funds which are trying to see if they can keep children out of the jails and reformatories and such institutions.

Now in Portland a short time ago we had one boy who defied the police. He said, "You can't arrest me and you can't send me to jail because I am not eleven years old." And the police came out in the papers and said they were just waiting until that boy would be eleven years old and they could put him in jail or sentence him to the State School for Boys.

I think this bill is a return to the Dark Ages and I believe there should be some other way to take care of a boy nine years old without sending him to a reformatory where he will probably be a repeater in the years to come, and especially if he graduates from there to our reformatory at South Windham and

later on graduates to the higher institute of learning at Thomaston. I believe what we should do is to try to take care of that boy and try to keep him out of the reformatory at least until he gets to be eleven years old. I move the indefinite postponement of this bill.

Mr. DUNBAR of Washington: Mr. President and Members of the Senate, being the father of five children and the grandfather of seven, I will be the last person to ask to send a boy nine years old to the State School for Boys. But if the Senator from Cumberland, Senator Leavitt, had appeared before our committee and listened to the arguments as to why this measure was asked for, I feel very sure he would not be rising today to oppose it.

The situation in Portland is not, as I understand it from Inspector Lannigan, confined to one boy alone. It concerns several boys who are laughing at the police. This particular boy that he has in mind is a boy who has made I don't know how many breaks, many many breaks, and breaks that carry with them the crime of larceny of money, and then he takes the money and hides it and when he is caught, he is delighted to say to the police, "Yes, I will take you where the money is," and he turns the money over to them and says to them, "What are you going to do about it, you can't do anything to me until I am eleven years old." That is the situation.

Now we all know from our reading that the crime wave throughout the country where the average age used to be around seventeen or eighteen or nineteen, it has gradually dropped and dropped until it is down now—I am not sure but far below seventeen years of age. What the cause of it is I don't know. Undoubtedly many things enter into it. It may be environment or the moving pictures, or the lack of means with which to gratify a boy's desire to go to the moving pictures or to spend on other sports. Perhaps the rising of the age limit whereby they could work may have something to do with it because I have been taught the old maxim which you all know that, "An idle mind is the devil's workshop."

Now this inspector, Mr. Greenleaf, who appeared for this bill and Judge Mahoney who appeared for it and Mr. Purinton the principal

of the school who appeared for it, none of them want to put boys of that tender age of nine years in the State School for Boys but if they have something that they can hold over them, so that they can say to these boys, "You are going to go to reform school unless you reform and obey the laws of the state," it will certainly have a deterrent effect in the city of Portland at least and I have no doubt in other places in the state as well. I have never been to the State School for Boys, but they tell me that the school is made up of several cottages and that the boys are segregated, the younger boys in one cottage and an older group of boys in another cottage so that the younger children, if you happen to get one of nine or ten or eleven years of age, are not thrown in with boys fifteen or sixteen years of age. And why today, with the situation as it is, should we be so considerate of the boys, that the age should not be dropped from eleven to nine when on our statute books today we have a law applying to girls so that they can be committed to the Reformatory for Girls at the age of nine?

With those few remarks, Senators, I hope that the motion of the Senator from Cumberland, Senator Leavitt will not prevail and I am sure that this is a measure that will help to save the boys that are nine years of age.

Mr. LEAVITT of Cumberland: Mr. President I have here a letter from Mr. Grube Cornish, who is superintendent of the Boys School at South Portland and has been for over twenty years. Mr. Cornish writes against this bill and he says in part, "I never have believed that boys should be committed to the State School for Boys unless and until every possible effort has been made for their proper supervision in their own homes or in foster homes. With all due respect to the present administration and with confidence that future administrations will as faithfully discharge their responsibilities, I am fully persuaded that boys as close to babyhood as nine year olds should not be sentenced to the State School for Boys. May I ask you to give this matter very careful consideration."

I received a letter from the Sheriff of Washington County. He wrote that he had visited the school and had found it very well oper-

ated. He had talked with the president and was thoroughly satisfied that the school was being run as well as possible. He quoted national statistics that one out of every five boys who goes to one of these schools is reformed to the extent that he never returns to another penal institution. In other words four out of every five boys once committed to this institution continue to go to institutions until they die.

There is another solution to this problem. It may be the foster homes, it may be psychiatric or something else, but it certainly is not sending the boys to correctional institutions. The only excuse I can possibly see for the discrepancy between the age limit on girls and that on boys is that there has been the notion for some years that girls mature faster than boys. I don't agree with that premise. I simply say that is perhaps the reason that someone advanced that argument earlier in the session and possibly the reason why the age for committing girls was put down to nine years. That is not an argument so far as I am concerned, although the Senator used it. I don't believe in committing girls nine years old and if that is the age limit now, I shall at a future legislature introduce a measure in an attempt to raise that age limit. I certainly don't believe boys should be sent to the State School for Boys when they are mere babies nine years old.

Mr. SPEAR of Cumberland: Mr. President and Members of the Senate, I hope I have had more experience in what I am going to talk about than my colleague from Portland. We have been broken into twice on Congress Street by some of these same boys. There are 25 or 26 of them. This one in particular who has been referred to has repeatedly defied the law. He knew nothing could be done to him and he said he would quit when he was eleven years of age but he didn't and he is now in reform school.

The fathers and mothers of these boys either can't control them or won't, and the law cannot touch them. If they break into our store and we assault them we can be put in jail and they can go free. Nothing is being done about it except lip service and Inspector Lannigan has been to me and asked me to support this bill. Judge Mahoney has also

asked that this bill have passage, and other members of the police department have done the same thing. The situation is not good and something should be done about it and I hope the Senator's motion to indefinitely postpone will not prevail.

The PRESIDENT: The question before the Senate is on the motion of the Senator from Cumberland, Senator Leavitt, that the bill be indefinitely postponed.

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

A division of the Senate was had.

Five having voted in the affirmative and sixteen opposed, the motion to indefinitely postpone did not prevail.

Thereupon, on motion by Mr. Dunbar of Washington, the bill was passed to be engrossed in concurrence.

On motion by Mr. Hopkins of Kennebec, the Senate voted to take from the table Senate Report "Ought Not to Pass" from the Committee on Education on bill, An Act Creating the State Board of Education (S. P. 436) (L. D. 1229) tabled by that Senator on March 27 pending adoption of the report.

Mr. HOPKINS of Kennebec: Mr. President and members of the Senate, I feel that perhaps in taking this matter from the table I ought to apologize to Senator Leavitt. I know he wants to speak on this matter and perhaps he would prefer not to speak again today but I know the Senate will take that into consideration when casting their votes.

This matter is one of considerable importance, I believe. Frankly, I was surprised when it came out of committee that we didn't at least get a divided report. This is one of those measures for which no one can bring substantiating data to use in arguing that it ought to pass neither is it the type of measure on which you can bring data that it ought not to pass. It is just a matter of opinion and I assume that all the Senators have an opinion as to the desirability of this bill. I shall speak on the bill very briefly.

I should like to give just a little history. I was in the office of the Governor earlier in the session with the Commissioner of Education and we were discussing this matter. Having been quite closely connected

with the Commissioner of Education, both in the session of two years ago and during recent months, it seemed to me that although I know there is tremendous resistance on the part of the legislature to create any more boards, and in that I join, that possibly because of the fact that the Commissioner of Education does distribute very large amounts of money without any review or appeal, or practically none, and because he is in a unique position in dealing with the people of the state, he may need the support of some organization of this kind.

I can think of quite a number of matters which seem to me to be of tremendous importance in connection with public education and in which I know very well the Commissioner of Education could not take leadership without incurring the disfavor of a large number of people and also a large number of the members of the legislature.

We have had able men as Commissioners of Education in Maine and it is not necessary or even desirable for me to attempt to review their relationship with the legislature or with the people of Maine because you know those relationships as well, or perhaps better than I do. The present Commissioner appeared at the hearing and very wisely did not commit himself for or against this bill. He is a party at interest and wouldn't be expected to say whether he favored or disapproved of this bill. He gave information tending to show that Boards of Education have been successful in some places and unsuccessful in others and I think the Senators know that this Board would be only as good as the people who are put on it, that we might get a good Board that would do good service, and then the Board might get less able persons on it and not do good work.

There is no appreciable expenditure involved in setting up such a Board and the Board could be legislated out of office by some later legislature if it were not doing good work. Several members of the committee suggested the opinion that there were no people in Maine who could do the job which is intended under this bill. That, to me, has no sound reasoning behind it at all. I think there are plenty of people in Maine who could and would give their time in the work which is contemplated under this bill. One

would naturally think that the presidents of the four Maine colleges would serve on such a Board and that with them there would be quite a number of women interested in education because of the children they have had in school, and there might be other people quite experienced in education who would serve on the Board, and that Board could stand behind the Commissioner in an advisory way and give him that support which I think a Commissioner of Education needs, and which I believe at the present time our Commissioner does not have.

I will not speak further on this measure. As I said at the outset I think the Senators either do or do not favor the Board and I do not believe there is anything I could say that would influence your opinion very much.

I move, Mr. President, the substitution of the bill for the report and as I see no reason why any legislator should object to being counted on it, I will request a division when the vote is taken.

Mr. LEAVITT: Mr. President and members of the Senate, my statements on this will be very brief. I think the Senator from Kennebec (Senator Hopkins) has almost proved my case for me. He has said that there is a great deal of doubt whether this is a good bill or not. He said the Commissioner of Education would not commit himself one way or another. The people who appeared didn't quite know whether it was a good bill or not. They thought it might be well to try it out and if it did not work we could take it off the books. On the question of who would serve on the committee, we know there are men in the state of Maine who are capable of doing it but we don't know whether they would be willing to serve. We know that they might be a help to the Commissioner and on the other hand they might be a millstone around his neck and in the Committee we argued back and forth and we could not find that there was enough evidence in favor of having such a Board to report the bill out "Ought to Pass." We feel that until there is definite demand, until we find that there is a weakness in the Department of Education which calls for this Board that it is better to leave it off the books. I hope that the motion of the Senator from Kennebec (Senator Hopkins) will not prevail.

Mr. BISHOP of Sagadahoc: Mr. President and members of the Senate, the Committee had a very extensive hearing on this bill and a full discussion ensued. In the executive session we discussed every angle of it. I recall that before the Committee Mr. Payson Smith, now at the University of Maine who has been at one time Commissioner of Education in the State of Maine and has also been Commissioner of Education in the State of Massachusetts, who has served under nine different governors, appeared opposing the measure as entirely unnecessary. He mentioned to us that Massachusetts had such a law at one time, had amended it five times and finally repealed it as unworkable. He mentioned that often the members of the Commission or Board were political appointments, many times not too interested in the matter, and we know from experience that Boards are pretty much inactive, and because of the political aspects have very little merit.

It is true that the Commissioner appeared before the committee both in executive session and in open hearing and he was not in a position to take a stand either way. He did admit and suggest that he had plenty of groups who now advise him or seek to advise him and I would gather that since he is a new Commissioner, he should be permitted to at least get his feet braced and show us what he can do before we shoulder any such committee or board on him. So, from the hearing and from our study, we felt it was not necessary, at this time at least, and I concur with my colleague from Cumberland, Senator Leavitt, that the motion of the Senator from Kennebec, Senator Hopkins, should not prevail.

Mr. HOPKINS: Mr. President and members of the Senate, I would like to mention just one or two other things that occurred to me as the members of the Committee were discussing this bill. While there is considerable power given to this board under the bill, I would conceive the Board as being largely one which would help the Commissioner in working educational policies and in conveying those policies to the school people of the state. I don't think the Commissioner of Education today can give very strong leadership on educa-

tional policies in the state without some group of advisors behind him because schools are so close to the people that if he attempts a leading policy there is very strong opposition, and criticism is very sharp and the feeling is very definite and acute.

Take the matter of area schools for instance. Probably an attempt to take leadership in that policy matter brought more criticism to the Commissioner who recently left the state than any other single activity which he undertook. He had no group behind him who could actually investigate and take a position on it and on whom he could rely for assistance.

Members of the Committee have mentioned persons they have talked with concerning this matter and who have agreed with them that the bill has no merit. Since early in the session when I knew I would introduce this bill, I have on many occasions talked with leading educators in the state of Maine. Only yesterday I happened to meet a group of three of the leading educators in the state and I told them what the bill provided and asked them if it would be good and they expressed unanimous opinion that it would have merit and would be worth a trial. They may have done

that out of courtesy to me but I doubt it.

There is practically no cost involved in this bill. The Department of Education is spending between five and six millions of dollars each year. This Board would only cost two hundred dollars a year as it carries no pay, and the people who would serve on this Board would only file their expenses against the state. I believe the bill has merit and I hope the Senators will give it careful consideration.

The PRESIDENT: The question before the Senate is on the motion of the Senator from Kennebec, Senator Hopkins, that the Senate substitute the bill for the "Ought Not to Pass" report of the Committee.

A division of the Senate was had. Six having voted in the affirmative and eighteen opposed, the motion did not prevail.

Thereupon, on motion by Mr. Leavitt of Cumberland, the "Ought Not to Pass" report of the committee was adopted.

Sent down for concurrence.

On motion by Mr. MacKinnon of Oxford,

Adjourned until tomorrow morning at ten o'clock.