

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

Ninety-Sixth Legislature

OF THE

STATE OF MAINE

1953

DAILY KENNEBEC JOURNAL
AUGUSTA, MAINE

SENATE

Tuesday, January 20, 1953.

The Senate was called to order by the President.

Prayer by the Rev. Marvin Palm-erlee of Augusta.

Journal of Thursday, January 15, read and approved.

Referred to Committees**House Papers**

Bill "An Act Relating to Book-
mobile Service." (H. P. 2) (L. D. 2)

Which was referred to the Com-
mittee on Appropriations and Fin-
ancial Affairs in concurrence.

"Resolve to Reimburse the Town
of Brooks for Pauper Claim." (H. P.
25)

Which was referred to the Com-
mittee on Claims in concurrence.

Bill "An Act Relating to Guides
for Non-Resident Hunters." (H. P.
9) (L. D. 3)

Bill "An Act Relating to Hunting
and Trapping of Bears in Unorgan-
ized Townships." (H. P. 10) (L. D.
4)

Bill "An Act Relating to Posses-
sion of Deer in Closed Season." (H.
P. 11) (L. D. 5)

Bill "An Act Relating to Hunting
Licenses for Minors." (H. P. 12) (L.
D. 6)

Bill "An Act Relating to Taking
of Smelts in Cumberland County." (H.
P. 13) (L. D. 7)

Bill "An Act Relating to Closed
Season on Bass in Inland Waters of
Cumberland County." (H. P. 14)
(L. D. 8)

Which were severally referred to
the Committee on Inland Fisheries
and Game in concurrence.

Bill "An Act Relating to Penalty
for Failure to stop on Signal of In-
land Fish and Game Warden." (H.
P. 15) (L. D. 9)

"Resolve in Favor of a Retire-
ment Allowance for Edith V. Jack
of Hollis Center." (H. P. 16) (L. D.
10)

Which were severally referred to
the Committee on Judiciary in con-
currence.

Bill "An Act Exempting Ship's
Stores from Maine Sales Tax." (H.
P. 17)

Which was referred to the Com-
mittee on Taxation in concurrence.

Bill "An Act Relating to Hospital
Aid and Aid to the Disabled." (H.
P. 18) (L. D. 12)

Which was referred to the Com-
mittee on Welfare in concurrence.

Senate Papers

Mr. Weeks of Cumberland pre-
sented "Resolve Providing for a
Salmon Rearing Station in South-
ern Maine." (S. P. 40)

Mr. Collins of Aroostook present-
ed Bill "An Act to Appropriate
Monies for the Expenditures of
State Government and for Other
Purposes for the Fiscal Years End-
ing June 30, 1954 and June 30,
1955." (S. P. 41)

Which were severally referred to
the Committee on Appropriations
and Financial Affairs and the same
ordered printed.

Sent down for concurrence.

Mr. Weeks of Cumberland pre-
sented Bill "An Act Authorizing Ap-
pointment of Special Guardian." (S.
P. 42)

The same Senator presented Bill
"An Act Relating to Liens on Cer-
tain Personal Property." (S. P. 43)

Mr. Reid of Kennebec presented
Bill "An Act Relating to Hearings
Before the Insurance Commission-
er." (S. P. 44)

Which were severally referred to
the Committee on Judiciary and the
same ordered printed.

Sent down for concurrence.

The same Senator presented

Bill "An Act Relating to Pay-
ment of Certain County Officers"
(S. P. 46)

Which were severally referred to
the Committee on Towns and Coun-
ties and the same ordered printed.

Sent down for concurrence.

Mr. Weeks of Cumberland pre-
sented "Resolve Authorizing Com-
missioners of Cumberland County
to Provide for Survey of Portland-
South Portland Bridge." (S. P. 45)

Mr. WEEKS of Cumberland: Mr.
President, with reference to this
Resolve, after a few remarks I will
move that the bill receive its first
reading under suspension of the
rules without reference to a com-

mittee. My point is that there seems to be grave uncertainty as to the cost of repairs to the present structure and also uncertainty as to what a new structure would cost. It has been the desire of everyone I have talked with to obtain as soon as possible a very accurate estimate of costs for taking various alternatives. The County Commissioners have the money but have taken the attitude that they haven't the authority to expend it, or there is some doubt about it at least, but still they will not expend it until they have authority, and we would like to clarify the minds of the County Commissioners but cannot do so until we have the facts.

It is my opinion that the resolve should be given its first reading without reference to a committee and I so move.

Thereupon, under suspension of the rules, the resolve was given its two several readings and passed to be engrossed without reference to a committee.

Sent down for concurrence.

Mr. CHASE of Cumberland: Mr. President I have an order to present. There are copies available for distribution, and after the copies have been distributed and the order read, I should like to move its passage and speak briefly to the motion.

Thereupon, the same Senator presented the following Order and moved its passage:

STATE OF MAINE

In Senate

January 20, 1953.

ORDERED,

Whereas, Section 2 of Article IV, Part First, of the Constitution of Maine requires that "The legislature shall, within every period of at most ten years and at least five, cause the number of the inhabitants of the state to be ascertained, exclusive of foreigners not naturalized, and Indians not taxed"; and

Whereas, the same section further provides that "The number of representatives shall, at the several periods of making such enumeration, be fixed and apportioned among the several counties, as near as may be, according to the number

of inhabitants, having regard to the relative increase of population"; and

Whereas, the last apportionment of representatives was made by the legislature in 1941, so that more than ten years have elapsed since an apportionment was made or enumeration of inhabitants caused to be made for the purpose of apportionment; and

Whereas, the 95th legislature did not ascertain the number of inhabitants, either by causing an enumeration to be made or by adopting the federal census enumeration or any other, and did not reapportion representatives; and

Whereas, the foregoing facts appear to create a solemn occasion while the following questions appear to be important questions of law within the meaning of Section 3 of Article VI of the Constitution; now, therefore, be it

ORDERED, that the Justices of the Supreme Judicial Court be respectfully requested to give their opinion on the following questions:

Question 1. Is it the right of the 96th legislature to ascertain the number of inhabitants and to apportion representatives according to the provisions of Sections 2 and 3 of Article IV, Part First, of the Constitution?

Question 2. If the answer to Question 1 be in the affirmative, is it also the duty of the 96th legislature so to enumerate and apportion?

Question 3. Should an enumeration of inhabitants, when made by the 96th legislature, be made as of the latest date when it should have been made at the end of the ten years' period beginning with the 1941 apportionment, or should it be made as of the date of its actual making within the term of the legislature which makes it?

Question 4. Should a ten-year reapportionment of representatives made or provided for by the 96th legislature run from the year when it is made or from the year when it should have been made?

Question 5. Is it within the power of the legislature, it having first ascertained the number of inhabitants, to enact a law requiring any state official or any governmental body of the state to make the re-

apportionment based upon the enumeration of inhabitants as made by the legislature and otherwise according to the provisions of the Constitution?

Mr. CHASE of Cumberland: Mr. President, as the Senators all know, the facts recited in the preamble of the Order constitute a truthful statement of the proposition. The purpose of the Order is to determine from the only source from which it can be definitely determined, the Justices of the Supreme Judicial Court, first, whether it is the right of this legislature to reapportion and second, whether under the Constitution it is their duty.

If the Justices do not confirm my own impression that it is both the right and the duty of the legislature, I think you will hear no more from me during this session on the matter of apportioning. But if it is the duty of this legislature to correct the error or failure of the last legislature then the sooner we move in that direction the better.

If it shall appear from the answer of the Supreme Court that it is our duty I may at that time offer some suggestion as to how this problem may be approached in a manner conducive to a more congenial atmosphere than prevailed at the last session of the legislature when we failed to take action.

I move the passage of the Order.

Mr. HARDING of Knox: Mr. President, there was some action taken at the previous session of the legislature. Right at the moment I don't recall what that action was and for that reason I am not sure that everything that should be incorporated in this Order has been incorporated in it. For that reason I move that the Order be laid upon the table.

Mr. CHASE: Mr. President would the Senator from Knox, Senator Harding, assign a date for consideration this week?

The PRESIDENT: The Senator from Cumberland, Senator Chase, has asked a question of the Senator from Knox, Senator Harding and that Senator may reply if he so wishes.

Mr. HARDING: Mr. President, I would say to the Senator from Cumberland that I am not making a motion for the purpose of delay-

ing the matter. I absolutely have some question as to the content of the inquiry. I would suggest Thursday of this week if that is agreeable.

The PRESIDENT: The question before the Senate is on the motion of the Senator from Knox, Senator Harding that the Order be laid upon the table and especially assigned for Thursday, January 22, pending the motion of the Senator from Cumberland, Senator Chase, that the Order receive passage.

The motion to table and especially assign prevailed.

Orders of the Day

Mr. Collins of Aroostook was granted unanimous consent to address the Senate.

Mr. COLLINS of Aroostook: Mr. President, the Appropriations Committee is quite desirous of finding out from committee chairmen who their clerks will be and the amount of remuneration that they will receive. To that end it is my hope that the committee chairmen will be thinking this over and that tomorrow morning after the morning session they can meet with the Appropriations Committee and discuss this situation in order that it may be straightened out at that time. I make that as a suggestion.

On motion by Mr. Haskell of Penobscot the Senate voted to take from the table bill, An Act Relating to Additional Powers to Portland University (S. P. 30) tabled by that Senator on January 15 pending motion by Senator Chapman of Cumberland that the bill be referred to the Committee on Legal Affairs.

Mr. HASKELL of Penobscot: Mr. President, I now move that the bill be referred to the Committee on Legal Affairs and in support of that motion I am privileged to say that the motion does have the support and approval of the distinguished chairman of the Committee of Education.

The motion prevailed and the bill was referred to the Committee on Legal Affairs.

Sent down for concurrence.

On motion by Mr. Fuller of Oxford

Adjourned until tomorrow morning at ten o'clock.