

MAINE STATE LEGISLATURE

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DOCUMENTS

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THE LEGISLATURE

OF THE

STATE OF MAINE,

DURING ITS SESSION

A. D. 1844.

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1844.

TWENTY-FOURTH LEGISLATURE.

No. 35.]

[HOUSE.

REPORT

RELATING TO

PRIVATE PETITIONS.

[Wm. R. SMITH & Co....Printers.]



REPORT.

HOUSE OF REPRESENTATIVES, }
February 21, 1844. }

THE select committee of the House, to whom were referred the several petitions of a private nature, presented to the House since the 2d day of February, with instructions to inquire and report what further action the House should take thereon, have had that subject under consideration, and ask leave to

REPORT :

It is well understood that the action of the Senate, in referring these petitions to the next Legislature, purports to be based upon a vote of that branch passed on the 6th of January, the fourth day of the session. That vote was taken upon a *joint* order, then introduced into the Senate, in the following terms :

“ *Ordered*, That, the House concurring, all petitions presented to this Legislature, from and after the second day of February next, except those relating to subjects of general and public legislation, shall be referred to the next Legislature, and that no further action shall be had thereon.”

The House has never effectively concurred with the Senate in adopting this order—a sudden and unpremeditated vote to that effect, having been immediately reconsidered, and the order left upon the table of the House. Since the second instant, there have been numerous and very decisive votes of the House, declining to adopt the course marked out by the Senate. The petitions received since that date, have been referred by the House to the proper committees, and the non-concurrence of the Senate therein, has produced the present posture of the question.

Your committee feel at liberty to express their regret that the Senate has attempted to give the force of a joint rule to its own separate vote on an order, to which the concurrence of the House was expressly requested. The non-concurrence of the House undoubtedly left that order entirely inoperative, and your committee do not perceive that the separate action of the Senate, enforcing the order, under such circumstances, is consistent with parliamentary propriety, or with the respect due to the co-ordinate rights of the two branches.

It is understood by your committee that the Senate had not, among its own rules and orders, any standing rule of limitation as to the reception of private petitions. The action of the Senate, therefore, upon the petitions presented since the 2d inst., not resting upon the imperfect and inoperative order of the 6th January, nor upon any standing rule of that branch, must rest upon the general power of the Senate to adopt such course, upon any matter, as it may deem proper, in its own discretion. It is evident that either branch has the *power* to vote a reference of any and all petitions, without an examination, to the next Legislature. It is the rightfulness and the expediency of such an exercise of power, which is now drawn in question, between the two branches.

In making these remarks upon the particular action of the Senate, in this case, and the basis of that action, your committee intend no disrespect to that branch; they only wish to exhibit these points as a part of the just and necessary defence of the course pursued by the House. The rights and powers of the two branches are co-ordinate and co-extensive. The action of one branch is no impeachment to the action of the other, and there can be no question, between the two, of the motives of either. The only issue that can be raised in any case of disagreement, is upon the propriety and accuracy of their respective judgments, upon matters of common duty.

In reference to the amount of business that should be done at any session, it is obvious to remark, that the constitution has fixed no limit for the sessions of the Legislature, but has left the time of terminating any session entirely to the discretion of the members.

This constitutional provision is simply an appeal to the members for the time being, to act upon their own responsibility—to discharge their duty with fidelity and economy—to do their whole duty and nothing more. No session can be praised as a short one, which leaves necessary business unattended to, or imperfectly performed; nor can any Legislature be blamed for holding a long session, when its time is faithfully occupied with the proper business that is brought before it. In view of these truths, your committee cannot but remark on the apparent impropriety of an absolute rule, adopted at the commencement of a session, fixing beforehand a limit to the time, which shall be devoted to any kind of legislative duty. Your committee know of no proper course, but to entertain all matters of business as they rise, and *then* to see, whether they can be attended to, within the customary and reasonable period of a session. If not, and they are matters which admit of future consideration, it will then be time enough to pass them over to the next Legislature. The opposite course, of resolving at the outset of a session, that any particular kind of business shall be excluded after a certain day, seems like an attempt to shut up what the constitution has left open, and to interfere with just legislative discretion.

The present standing rule of the House on this subject, although not deemed by your committee to be necessary or expedient, is nevertheless free from the exceptions just urged, because it contains a provision, that private petitions may be received after thirty days, by order of the House. Under this rule, the House exercises its discretion upon the matter of any petition, at the time when it is presented, and may receive it by a mere majority vote, while the rigorous order in which we have declined to concur, would be absolutely exclusive without a vote of two thirds to suspend, or perhaps a unanimous and concurrent order to rescind.

Your committee cannot fail, in this connexion, to draw the attention of the House to the well known fact, that acts and resolves of a strictly private nature not originating from any petition or committee, are often introduced and passed at late periods,—sometimes down to the last day and hour of a session. A rule

excluding private petitions does not therefore exclude private business ; and there is a practical unfairness in attending to the business of those parties, who procure their friends or confidants in either branch, to offer private bills and resolves, while the less favored *petitioner*, who knows nothing of the members, but by his constitutional right to their services, is absolutely excluded.

The habit of undervaluing the importance of what is called private business, has led more than any thing else, perhaps, to these rules of exclusion. Many of the petitions for private benefits do in fact relate to, and affect public and general rights and privileges ; and it cannot ever be known whether a petition is of a public or a private nature, when it is not read nor opened, but summarily referred to the next Legislature. It is obvious withal, that the people themselves ought to have some liberty of judgment as to the importance of their private applications to the Legislature. Some of these petitions are doubtless unreasonable, and not entitled to much consideration at any time, but very few of them are vexatious or frivolous. They generally express what is felt to be a real want or grievance or claim, which the Legislature is invoked to supply or relieve, and an absolute rule of postponement for one year—a rule which very few of the petitioners know any thing about—seems not in accordance with the true beneficence of Legislative power. Petitions for relief from burdens, for the grant of reasonable franchises and privileges, for public aid to particular enterprises, for the adjustment of claims against the State, for individual relief under the mistakes or defects or abuses of general laws, these and other obvious classes of petitions represent such numerous wants of the people, that they rise at all times to a high degree of public importance. They must of course be received and attended to, within the time, which long experience has established as the reasonable and economical limit of a session, and though some of them may come in at late periods, yet their reference to faithful and active committees will decide with little delay or cost, whether they can properly be attended to at once, or must wait for further investigation. The people are well enough aware, what is the customary length of a

session, and will not often obtrude needless applications at improper times.

Your committee are satisfied also, from familiar history of our own Legislature, that it is not private business which causes long sessions, but public business and general legislation. This public business is either necessary or unnecessary, and examples of both descriptions, causing protracted sessions, are well enough known, while it would be difficult to recur to any session, which was materially lengthened by the consideration of private petitions. It may be the merit of wise legislators to refrain from governing the State too much by a profusion of general enactments, and from agitating the public interests by too many projects of change in the standing laws, while it may be an equal merit to confer as many particular benefits, consistent with the general welfare and with judicious liberality, as the people may desire.

In regard to the present session, the House of Representatives took into view the laborious public undertaking, the State Valuation, for which arrangements had been made by our predecessors, and which was likely to detain the Legislature quite as long a time as would be necessary for due attention to all the private business that should be presented. It was upon this view, in part, that the House declined to concur in the order from the Senate, and the course of business appears evidently to have proved that the judgment of the House was accurate.

Your committee find in the petitions that have been referred to them, a sufficient illustration of the foregoing statements, as a reference to a few of them will show.

One of these petitions is signed by the officers of a company of artillery in Wilton, praying for measures to preserve the ordnance of the company, the property of the State, from injury and loss in its present exposed condition. This is evidently matter of public interest, and the case is detailed in the Adjutant General's report for 1842. The same case is also brought to the notice of the Legislature by the present Adjutant General, in his last report. Your committee regret that the summary action of the Senate did not permit that body to ascertain from the contents of the petition, that it is a case of public interest.

Another of the petitions is from a revolutionary soldier, praying for an exchange of a land certificate for money. Your committee doubt whether this veteran was acquainted with any rules of this Legislature, and presume that if the other branch had opened the petition and observed the personal character of the petitioner, they would not have postponed even an adverse report upon its merits to the contingency of his surviving another year.

A third petition represents the case of a married woman and three minor daughters who are interested in a certain landed estate, which it has become exceedingly necessary for them to convey, but which is held under such titles, and in such proportions, that the Legislative authority seems to them necessary to perfect a valid conveyance. In this case, as in others, it is altogether likely, that the delay in presenting the petition is the fault of an agent, while the hardship of its exclusion would fall upon innocent petitioners, and in their opinion a year's delay might seriously impair their inheritance.

Some of the petitioners should undoubtedly have leave to withdraw, as is evident from a slight examination of their cases, and your committee cannot but deem it a better course to look into them, and dispose of them at the present time, than to cast them as a needless burden upon a future Legislature.

Having stated these considerations and facts, which your committee regard as justifying the position of the House, and which they recommend should guide its future action, your committee will further report to the House, by bill, resolve or otherwise, after such examination as is practicable, upon each of the petitions referred to them.

All which is respectfully submitted.

P. BARNES, *Chairman.*



STATE OF MAINE.

HOUSE OF REPRESENTATIVES, }
February 23, 1844. }

ORDERED: That 500 copies of the foregoing Report, be printed
for the use of the House.

W. M. T. JOHNSON, *Clerk.*