

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

Seventieth Legislature

OF THE

STATE OF MAINE.

1901.

SENATE.

Augusta, Feb. 7, 1901.

Senate met according to adjournment, and was called to order by the president.

Prayer by the Rev. Fr. Doherty of Augusta.

Journal read and approved.

Papers from the House disposed of in concurrence.

Senator Virgin of Cumberland, then took the chair at the invitation of the president.

Petition of a committee of the Lincoln County Historical Society, also of J. A. Chamberlain of Bristol and 58 others for the appointment of a committee and the appropriation of money to care for the premises and ruins of the colonial Fort William Henry at Pemaquid.

This petition came from the house the committee on financial affairs having reported that petitioners have leave to withdraw.

Mr. McFadden of Lincoln—I ask that this petition lie on the table for a few days until I can communicate with some parties who are interested. The hearing, I understand, was very little attended, I presume, on account of the storm. There were certain parties that intended to appear before the committee that did not get here, at any rate; and I may later move a recommitment. I ask that it lie on the table until sometime next week—I will take it up then.

On motion of Mr. McFadden the report and petition were laid on the table.

READ AND ASSIGNED.

Bill, an act to amend the charter of the Parsonsfield cemetery.

This bill came from the House amended by that body, and the Senate concurred with the House in the adoption of the amendment.

Resolve providing for the payment to the town of Eden of the amount deducted from said town's proportion of the school fund for the year 1899, on account of imperfect school return.

Bill, an act to incorporate the Little Churchill Stream Dam Company.

Resolve in aid of temporary home for women and children of Portland.

Resolve in favor of St. Elizabeth's Home and Catholic Orphan Asylum at Portland.

Bill, an act to provide for a close time on Lily pond, in the town of Shirley, county of Piscataquis.

Bill, an act to amend chapter sixty-seven of the Public Laws of 1891, relating to the taking of smelts.

This bill came from the House with amendment A, adopted by that body. The amendment was adopted in concurrence.

The following communication was received from the secretary of the board of agriculture:

"In compliance with the order of the Senate of Feb. 5, 1901, I herewith submit a copy of the circular letter, printed envelope and remonstrance sent to the granges of the State. My authority for sending the circulars and using the official letter heads of the agricultural department is the direction of the executive committee of the board of agriculture so to do, in order to notify and inform the grangers and farmers of the State of the nature of the pending legislation affecting their rights, and to request their protest to the passage of the same.

(Signed)

B. WALKER MCKEEN, Sec.

Augusta, Feb. 7, 1901.

On motion by Mr. Alden of Kennebec, the communication was laid on the table to be printed.

On motion by Mr. Plummer of Penobscot, the time for receiving petitions and resolves relating to private matters was extended to receive the following bills, petitions, etc., which were presented and referred:

MILITARY AFFAIRS.

By Mr. McFadden of Lincoln—Resolve in favor of the town of Dresden.

INTERIOR WATERS.

By Mr. Morrison of York—Remonstrance of proprietors of Saco boom against bill entitled an act to regulate erecting and maintaining booms in certain parts of Saco river.

INLAND FISHERIES AND GAME.

By Mr. Prince of Oxford—Bill, an act to prohibit fishing in Pleasant Pond and its outlets, situated in Sumner, Oxford county.

REPORTS OF COMMITTEES.

Mr. Murchie for the committee on railroads, telegraphs and expresses to which was referred bill, an act to authorize the

Portland Railroad Company to acquire certain street railroads and to make certain extensions of its street railway system, reported ought to pass. Bill tabled for printing under the joint rules.

Mr. Plummer for the committee on education to which was referred bill, an act relating to academies, reported same ought to pass. Bill tabled for printing under the joint rules.

PASSED TO BE ENGROSSED.

An act to authorize Charles H. Mansfield to maintain a wharf into the tide waters of Moosabec Reach in the town of Jonesport, county of Washington.

An act to incorporate the Searsport Water Company.

Resolve, for the purpose of redeeming outstanding pledges in favor of Eastern Maine Insane Hospital.

Resolve, providing for the payment to the town of Bucksport the amount deducted from said town's proportion of the school fund for the year 1899 on account of imperfect school returns.

An act to extend the time of construction of the Boothbay Railroad.

An act to incorporate the Pushaw Lake Railway.

An act to incorporate the Machias Banking Company.

Resolves, providing for the preservation of regimental rolls in the adjutant-general's office.

An act to amend chapter 30 of the Revised Statutes, as amended by chapter 42 of the Public Laws of 1899, pertaining to inland fisheries and game.

PASSED TO BE ENACTED.

An act to amend section 6 of chapter 267 of the Public Laws of 1893 entitled, an act to provide for the printing and distributing ballots at the public expense and to regulate voting for State and city elections.

An act to open Lambert Lake, Washington county, to ice fishing.

An act to prohibit ice fishing in Bunga-neaut pond, situated in Alfred and Lyman, York county.

ORDERS OF THE DAY.

On motion by Mr. Fernald of Androscoggin, bill, an act amending section 49 of chapter 42 of the Public Laws of 1899, relating to the duties and powers of game wardens, was taken from the table; and,

on the further motion of that senator, the Senate concurred with the House in referring the same to the committee on legal affairs.

Remonstrance from full boards selectmen and 44 citizens in towns of Warren, Hope and Union; also remonstrance from Georges Rivers Mills and 15 others, against granting charter to the town of Camden for water works.

Mr. Staples of Knox—Yesterday these two remonstrances were laid upon the table by my motion until today. They are two remonstrances against granting a charter to the town of Camden; and I wish to say, for the information of the Senate that these two remonstrances were against the charter of Camden taking water from Fish Pond, Hobbs Pond, Grassy Pond, Alford's Lake, Crawford Pond and their tributaries,—I will move that the remonstrances be taken from the table.

The motion prevailed.

Mr. Staples—The remonstrances were against taking water from the town of Hope; entirely and completely, and for nothing else; and not against the town of Camden having a charter for water. Before the bill, asking for the charter was introduced by the town of Camden, the ponds in Hope to which the remonstrance was aimed, were eliminated entirely from the bill. Therefore, they can have no reference at all to the granting of the charter to the town of Camden. They were simply against taking water from the town of Hope, in Knox county. As these ponds have been eliminated from the bill, it seems to me that these remonstrances should not go to the committee on judiciary or to any other committee. As you will see by looking at the bill, as it is printed, we ask to take water from no pond except in the town of Camden, and in the town of Lincolnville; and from no place in the town of Hope. Therefore, it seems to me that the case should not be prejudiced by these remonstrances which do not affect the gist of the matter, going to the committee on the judiciary, or any other committee; and I now move that these remonstrances be laid on the table.

The question being put upon the motion of the senator from Knox that the

remonstrances lie on the table, the motion was declared to have prevailed.

Mr. Noble of Franklin doubted the vote.

Mr. Staples of Knox—I ask for a division and before the question is put, if the Senate will pardon me for a moment, if you will look at the bill, you will see that these remonstrances are against taking water from the town of Hope, and if you will look at the bill itself, you will see that the ponds named are entirely eliminated from the bill itself, and I cannot see any reason why it should go to the committee.

The question being put to a rising vote upon the motion of the senator from Knox, the chair declared that a quorum had not voted.

Mr. McFadden of Lincoln—Mr. President, it seems to me that, if the facts are as stated by the senator from Knox, that there is no occasion for them to go to the committee.

Mr. Noble of Franklin—It seems to me, Mr. President, that there has been debate on one side of this question, allowed, and nothing allowed on the other side. I have something to say on this matter.

The President—Is it the pleasure of the Senate that the senator from Franklin have leave to speak on the question, out of order? There seems to be no objection.

Mr. Noble of Franklin—The constitution of our State provides that all may have a chance to be heard in the way of petition, or by way of remonstrance. This matter interests me only as I am interested in fair play and in justice. The senator has said that these remonstrances do not apply because the waters covered by those remonstrances are already eliminated from the bill. We do not know how far they may apply. We, as a body are not to judge of that question. We cannot judge of that question. We cannot go into the details of the matter and ascertain whether those remonstrances are entitled to any weight or not—that is a matter for the committee. If they do not apply they certainly cannot influence the committee one way or the other, and if they do apply, no matter how remote that application may be, they should be heard, Mr. President,

I have in my hand a notice given by the committee duly authorized for the town of Camden, Mr. Howard Gardiner, E. S. Stearns and C. K. Miller, which notice was served by the sheriff, in which the committee refers to these same waters. I will read the notice with the permission of the Senate.

To the Honorable, the Senate and House of Representatives of the Legislature of Maine:

The undersigned, being a committee duly authorized and instructed by the town of Camden, in the county of Knox, for that purpose, respectfully represent that the present water system is inadequate for domestic and fire purposes, and that the town ought to own its water supply and water system, and therefore they respectfully pray for and in behalf of the said town of Camden, that said town of Camden may have granted to it authority to build and own a system of water works for the purpose of supplying its inhabitants with pure water for domestic and fire purposes; or to purchase any existing system; or to acquire title to any existing system upon such terms and conditions as may seem proper to your honorable body to grant; and that the said town may be authorized to make any necessary contract for acquiring the ownership of a system of water works; and that the said town of Camden may have authority granted to take water for its water works and water system, from Fish pond and Hobbs pond, in the town of Hope in the county of Knox, and Fletcher pond in the town of Lincolnville, in the county of Waldo, or any other body of water in the said towns of Hope, Lincolnville and Camden; and that the town of Camden may be authorized to issue its bonds, or to sell stock belonging to the town, to raise the money necessary for carrying out the foregoing purposes." Dated at Camden, Nov. 12, 1900, and signed by the committee whose names I have read, and attested by J. H. Thomas, deputy sheriff.

Now, as I said before, Mr. President, according to that notice, these remonstrants have a right to come in here and put in that remonstrance for what

it is worth; and in the interests of justice and fair play, I say, let the remonstrances go to the committee, and if they are worth nothing they can do no harm, and if they have application they should go there.

Mr. STAPLES of Knox—If the Senate will look at House bill, No. 9, An act to supply the town of Camden with pure water. While I grant that in the first preparation of the bill the ponds in the town of Hope at which these remonstrances were aimed, were in the bill, as opposition came from the town of Hope, they were eliminated from the bill, as you will see by House bill, No. 9. "The town of Camden by its municipal officers, or by a commission, as hereinafter provided, acting for and in behalf of said town, is authorized and empowered to take water from Hosmer's pond in the town of Camden, in the county of Knox, and Fletcher pond in the town of Lincolnville, in the county of Waldo, and any other body of water in said towns of Lincolnville, and Camden, sufficient for domestic purposes in said Camden."

Now certainly the bill does not call for any water from the town of Hope. If the Senate will look at the remonstrances, it will see that they remonstrate against the granting of a charter to take water from Fish pond, Hobbs pond, Grassy pond, Alford's lake, Crawford pond and their tributaries, in the towns of Warren, Union and Hope. Now it seems to me that the merits of the case should not be prejudiced by these remonstrances, which might be construed as being against the charter itself. The bill goes before the committee—it matters not about the notice—the bill is going before the committee, and they do not require, and do not ask to take water from the town of Hope. The remonstrances are against taking water from the town of Hope; and I ask, gentlemen, that as they do not refer to the bill itself that the case should not be prejudiced by having it go forth that there were remonstrances against having a charter for the town of Camden.

Mr. NOBLE of Franklin: I would like to ask if the remonstrances are just alike. May they not apply to other towns than the town of Hope

Mr. STAPLES of Knox: I do not see that there is any difference in the two remonstrances. They are both against taking water from the same ponds or lakes, and the bill does not refer to any of the waters that the remonstrance is against. Why should these remonstrances go to the judiciary or any other committee.

Mr. NOBLE: I submit that it is too simple a question for this whole Senate to bother with, to look up the geography of this State as to the Hobbs ponds and frog ponds, and other little ponds. As I have said, if the remonstrances do not apply, the committee may disregard them. I do not believe that these remonstrances should be shut out simply because they may not apply. We do not know whether they may apply or not.

Mr. White of Androscoggin—This whole matter seems to resolve itself into a question as to the admissibility of evidence. As a member of the judiciary committee to whom this whole subject is to go, and by whom it will be thrashed out ultimately, I confess to a little feeling of delicacy in voting on the question primarily as to the admissibility of these remonstrances. It has rather seemed to me, on the whole that petitions and remonstrances of this nature which are sent to the Legislature should be referred to the committee having jurisdiction of the subject matter; and that that committee itself is the proper body to determine whether or not the petition shall be given any weight; and that it seems to me, is all there is to this case. It is a question of what these petitions actually were in the determination of the question that will come before that committee later on: As I said at the outset it is a delicate matter to one sitting as a member of that committee to undertake to determine in advance whether that evidence shall be admitted or not. Of course, it is perhaps properly a matter for the Senate, but it seems to me that petitions of this kind coming from citizens should be allowed to go to the committee where the subject matter is under consideration and there such weight should be given to the petition as the facts appear to justify.

On motion by Mr. Staples of Knox, the motion to lay on the table was amended

to read: to lay on the table for one week.

The motion as amended was then put and prevailed, and the remonstrances were laid on the table for one week.

The president then resumed the chair.

Mr. Virgin of Cumberland—During yesterday's session I moved that the vote whereby the Leavitt Institute bill was passed to be engrossed be reconsidered; and the Senate so voted. I then moved that the matter lie upon the table. That motion was strictly within the rules allowing a motion to reconsider to be made one day, or within twenty-four hours after the original motion was passed. I find, on looking at the journal, this morning, that the bill was engrossed and introduced in the House yesterday on its passage to be enacted, and there it was tabled on the motion of the gentleman from Portland, Mr. Chase; so that, as the record now stands not only is that bill tabled in the House on its passage to be enacted but it is also tabled in this body on its passage to be engrossed. Inasmuch as it got away from this body and was engrossed, I move that my motion to lay on the table be reconsidered in order that our journal and our record may be correct.

And the motion prevailed.

Mr. Virgin—That, as I understand leaves the original motion on its passage to be engrossed, and I move that it pass to be engrossed.

And the motion prevailed.

On motion of Mr. Dudley of Aroostook, the Senate

Adjourned.

HOUSE.

Thursday, Feb. 7.

Prayer by Rev. Mr. Newbert of Augusta.

Papers from the Senate disposed of in concurrence.

The following Senate bills were read and assigned:

Bill, an act to supply the town of Dexter with pure water.

Bill, an act to extend the charter of the Kennebec & Franklin Railway.

Bill, an act to prohibit the pursuit and killing of duck and other water fowl by the use of launches or other craft propelled by other than hand power.

This bill was tabled pending its third reading on motion of Mr. Farrell of Van Buren.

Bill, an act to regulate fishing in the lower Wilson pond, Prong pond and Horseshoe pond.

This bill was tabled pending its third reading on motion of Mr. Chase of Portland.

Resolve to apportion State senators to the Legislature.

The following petitions, bills, etc., were presented and referred:

JUDICIARY.

By Mr. Dudley of Augusta—Petition of Samuel W. Lane and 27 others to amend the charter of the city of Augusta.

By Mr. Randall of Portland—Petition of fire underwriters for passage of bill for reorganization of Portland fire department; of merchants and business men for same.

By Mr. Pattangall of Machias—Petition of citizens of Wesley for change in relation to the April term of the S. J. court in Washington county.

By Mr. Bradford of Eastport—Petition of citizens of Eastport for same.

By Mr. Eaton of Calais—Remonstrance of John C. Kinney and 18 others of Brookton against change of place of holding the April term of the S. J. court in Washington county; of Hon. L. O. Dudley and 12 others of Brookton; of C. R. Pike and 81 others of Calais; of James R. Eaton and 17 others of Calais; of Herbert J. Dudley and 13 others of Calais; of Charles H. But-