

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

Seventy-Second Legislature

OF THE

STATE OF MAINE.

1905.

SENATE.

Saturday, March 18, 1905.

Senate called to order by the president.

Prayer by Rev. Mr. McKinnon of Augusta.

Journal of yesterday read and approved.

Papers from the House disposed of in concurrence.

The following bills from the House having taken their first reading in the Senate, on motion by Mr. Philoon of Androscoggin, received their second reading under suspension of the rules, and were passed to be engrossed.

Resolve of the Legislature of the State of Maine requesting the repeal by Congress of Section 20 of chapter 23 of the Revised Statutes of the United States admitting certain lumber manufactured in New Brunswick into the ports of the United States free of duty.

An act to amend section 12 of Chapter 4 of the Revised Statutes of 1903 as amended by chapter 335 of the public laws of 1903. (House amendment A adopted in concurrence.)

Bill "An act to amend sections 36, 37 and 40 of chapter 29 of the Revised Statutes relating to the manufacture and sale of intoxicating liquors, and particularly the manufacture and sale of cider," came from the House accompanied by a majority report that the same "ought not to pass," and a minority report that the same "ought to pass." In the House the bill was substituted for the report, and the same was passed to be engrossed. On motion by Mr. Clark of Hancock the bill was indefinitely postponed, and on further motion by the same Senator the Senate voted not to reconsider the vote whereby the bill was indefinitely postponed.

An act to amend chapter 213 of the private and special laws of 1903, authorizing the county commissioners of Cumberland county to erect a county building in Portland. (House amendment A adopted in concurrence.)

An act to amend section 16 of chapter 24 of the Revised Statutes relating to the law of the road. (House amendment A adopted in concurrence.)

An act relative to moving buildings

through the streets. This bill having been indefinitely postponed in the Senate was returned from the House, the action of the Senate non-concurred in by that branch, and by that branch referred to the next Legislature. On motion by Mr. Clark of Hancock the Senate voted to insist, and to ask for a committee of conference.

The Chair announced that he would appoint such committee on the part of the Senate when the members of the committee on towns should be present in the Senate chamber.

An act relating to the compensation of certain State officers. This bill was amended in the House, and the Senate refused to accept the amendment. The bill went back to the House, and that branch voted to insist, and asked for a committee of conference; and in the House Messrs Oakes, Baxter and Powers were appointed upon that committee.

An act to amend section 23 of chapter 48 of the Revised Statutes, relating to investment of deposits in savings banks.

Resolve relating to the documentary history of Maine.

Resolve in favor of a feeding station for the Sebago Lake Fish Hatchery.

An act to provide for the employment of male prisoners upon public ways or in preparing materials for the construction or repair thereof.

An act to amend section 23 of chapter 114 of the Revised Statutes relating to relief of poor debtors.

The PRESIDENT. Will the Senate insist upon its action, adhere, or recede and concur?

Mr. GARDNER of Penobscot. Will the President kindly inform the Senate what the amendment is, in order that the subject matter may be before us, and that we may have a clear idea what it is?

The PRESIDENT: The amendment upon which the House insists is the striking out of the words "and usual."

Mr. CLARK of Hancock: Mr. President, it strikes me it is quite necessary that we should keep the words "and usual" in. The terms "legal" and "and usual" are entirely different terms. An officer cannot collect under this bill, before it is amended, and keep the legal and usual fees. As

amended he can keep his legal fees, but the query is—Can he keep his usual fees?

Suppose he makes a copy of a paper for a clerk, and certifies that it is legal fees. Now he collects a dollar, and has to pay it over to the State. Suppose he makes something that is not a legal paper—makes a copy and does not certify it. That is not a legal paper, but it is an usual fee. Now, query—could he keep that fee, under this new bill, or would he have to turn it over to the State?

Mr. STAPLES of Knox: Does not the law fix what a clerk of courts shall charge for every paper?

Mr. CLARK: That is the legal fee; this is legal and usual.

Mr. STAPLES: Would not the legal fee be sufficient?

Mr. CLARK: He can only charge the legal fee for a certified copy of an indictment, or other part of the record; that is the legal fee. Now suppose he does not certify that copy; it is not a legal copy. Should he not receive the usual fee?

Mr. GARDNER of Penobscot: May I ask the Senator from Hancock, if this should not happen to be a certified copy, if it would be within the jurisdiction of the official to collect a fee as an official for something that was not an official act?

Mr. CLARK: That "and usual" would take care of that. I know nothing about the merits of the bill. I do not know why the amendment was put on. I do know that the chairman of the committee on salaries was quite insistent on this point.

Mr. PIERCE of Aroostook: Mr. President, I will state that the Senator from Hancock has the idea exactly as the committee on salary considered it, that in a number of these offices there were fees which the officers might charge for work which they could not be compelled to do, but which they do; and since they are working on a salary, and are paid by the State or a county, their services in the office should be for the benefit of the State, and all fees collected by them in those services should be paid over to the State or county, as the case might be. The Senator from Hancock has the

idea, and has explained it exactly as the committee saw it.

Mr. STURGIS of Cumberland: It seems to me, Mr. President, that if an officer has official duties to perform, and performs them, he must turn all the fees of the office over to the State. If he does anything that is not required by his office, I see no reason why he should not be entitled to the fees—if he does something outside.

The PRESIDENT: In the case of many of our officials a large part of their salary consists of fees prescribed by the statute as legal, and if they keep their usual fees, in addition to their salaries, the salaries will be almost double.

Mr. STURGIS: I do not see any objection to that.

On motion by Mr. Staples of Knox the Senate voted to insist, and to grant a committee of conference. The Chair appointed as such committee on the part of the Senate Messrs. Stetson, Clark and Pierce.

The following communication was received from the Secretary of State: To the President of the Senate and the Speaker of the House:

I have the honor to transmit the third biennial report of the typographic survey commission.

Very respectfully,

(Signed) BYRON BOYD,
Secretary of State.

The same was referred to the committee on appropriations and financial affairs.

Mr. Morse of Waldo presented resolve in favor of William C. Marshall, which was referred to the committee on appropriations and financial affairs.

Read and Assigned.

An act to reimburse the town of Chelsea.

An act additional to chapter 27 of the Revised Statutes relating to alien paupers.

An act to organize the plantation of Sandy River in the county of Franklin, State of Maine.

Resolve in favor of the clerk to the committee on ways and bridges.

Resolve in favor of clerk and stenographer to committee on appropriations and financial affairs.

Resolve in favor of Edward K. Milliken.

Resolve in favor of J. Perley Dudley.

Resolve in favor of Thomas Anderson, for services as postmaster at the organization of the 72d legislature.

Reports of Committees.

Mr. Shackford for the committee on sea and shore fisheries on petition of A. C. Smith and 24 others of Swan's Island, praying that a general law may be passed regulating the protection of clams, reported that the petitioners have leave to withdraw, as your committee have already reported such a law. Report accepted.

Mr. Simpson for the same committee on bill "An act to repeal chapter 317 of the private and special laws of the State of Maine, for 1903," reported same "ought to pass." Report accepted. (Bill read and assigned.)

The same Senator for the committee on appropriations and financial affairs on "Resolve in favor of G. W. Irving, chairman of the committee on Education," reported same "ought to pass." Report accepted.

Mr. Putnam for the same committee on "Resolve in favor of C. O. Purrington, secretary of the committee on agriculture," reported same "ought to pass." Report accepted.

The following committees submitted their final reports.

The committee on State School for Boys.

The committee on sea and shore fisheries.

Passed to be Engrossed.

An act to prohibit the throwing of sawdust and other mill waste into Fish River, down as far as the dam of the Fort Kent Lumber Company, also in the tributaries of said river.

An act to repeal acts incorporating the Skowhegan Village Corporation.

An act to incorporate the Kittery Village Corporation.

Resolve in favor of the city of Lewiston.

Resolve in favor of the city of Rockland.

An act to provide for the better collection of collateral inheritance taxes.

An act for the protection of children.

An act to amend section 16 of chapter 11 of the Revised Statutes, relating to the recording of plans in registries of deeds in the several counties.

An act to establish the Caribou municipal court.

Passed to be Enacted.

An act to amend section 2 of chapter 46 of the Revised Statutes relating to interest on loans on personal property.

An act to amend chapter 10 of the revised Statutes relating to the collection of taxes on organized plantations taxed as wild lands.

An act to amend section 44 of chapter 41 of the Revised Statutes relating to close time for smelts.

An act relative to the artificial cultivation of fish by riparian proprietors.

An act for the encouragement, development and conservation of the shell fish industry.

An act to provide notice to beneficiaries under wills.

An act to make valid the municipal election of the city of Eastport in Washington county.

An act to abolish the common council and increase the membership of the board of aldermen of the city of Portland.

An act to amend chapter 172 of the private and special laws of 1891 as amended by chapter 295 of the private and special laws of 1901, relating to the consolidation of certain railroad corporations.

An act to confirm the charter and enlarge the powers of the old York Historical and Improvement Society.

An act to authorize and empower the First Baptist church of Hampden to convey certain property to the Maine Baptist Missionary Convention.

An act relating to a winter speedway on the Kennebec river at Hallowell.

An act to extend the charter of the Fish River Improvement Co.

An act to extend the charter of the Camden and Liberty Railway.

An act to amend and extend the charter of the Winterport, Frankfort and Prospect Electric Railway.

An act additional to and amendatory of chapter 29 of the private and special laws of 1887, entitled "An act

to incorporate the Kennebec Light and Heat Company."

An act to incorporate the Alfred Light and Power Company.

An act to incorporate the Midland Power Company.

An act relating to the Bar Harbor and Union River Power Co.

An act to extend the charter of the Union River Water Storage Company.

An act to amend and extend the charter of the Devine Water Co.

An act to amend and extend the Pepperill Trust Company.

An act to extend the Hallowell Trust Company.

An act to extend the charter of the Tyler-Fogg Trust Co.

An act to incorporate the Orono Trust Company.

An act to incorporate the Searsport Trust Company.

An act to incorporate the Stonington Trust Company.

An act to authorize the North Brooklyn Wharf Company to extend a wharf into the tide waters of Bluehill bay at North Brooklyn, Hancock county.

An act to authorize Justin M. Leavitt to maintain and extend a wharf to the harbor line into the tide waters of Cape Porpoise harbor in the town of Kennebunkport.

Finally Passed.

Resolve authorizing land agent to release the State's interest in Half Way Island in Hancock county.

Resolve in favor of the town of Gray for reimbursement for money paid on account of Riley plantation.

Resolve in favor of the town of Trescott.

Resolve in favor of the Maine State Prison.

Resolve in favor of Matthias Culnan.

Orders of the Day.

On motion by Mr. Staples of Knox report of committee on judiciary "ought to pass" on bill, "An act to amend the Revised Statutes relating to costs in contested cases," was taken from the table. On further motion by the same Senator the report of the committee was accepted.

On motion by Mr. Simpson of York report of the committee on judiciary "ought to pass in new draft" on bill to

incorporate the Kittery Water and Electric Light Company, was taken from the table, and on further motion by the same Senator the report of the committee was accepted in concurrence. House amendment A of said bill was adopted in concurrence, and the bill as amended was read and assigned.

Mr. Morse of Waldo moved to reconsider the vote whereby Senate document 211, relating to advertising legislative hearings, was indefinitely postponed. Mr. Shaw of Sagadahoc thereupon moved that the motion of the Senator from Waldo be tabled and assigned for Tuesday of next week. The motion prevailed.

Mr. Staples of Knox moved to take from the table House document 471, being bill to amend the Revised Statutes relating to conduct of elections. On further motion by the same Senator the bill took its second reading, and was passed to be engrossed.

On motion by Mr. Heselton of Kennebec Senate document 208, being bill to amend the charter and ordinances of the city of Gardiner, was taken from the table. On further motion by the same Senator the vote whereby the bill was passed to be engrossed, was reconsidered. On further motion by the same Senator House amendment A was adopted. The bill as amended was passed to be engrossed.

On motion by Mr. Clark of Hancock House document 405, "An act to assist in building a free bridge across the Sheepscot river between the towns of Wiscasset and Edgecomb," was taken from the table.

MR. CLARK: I take this from the table for the purpose of offering an amendment. I understand there is no objection to this amendment at all; in fact, the gentlemen who ask for this appropriation have agreed to it. I did say yesterday, when I introduced the order requesting the return of this bill from the executive to the Senate, that I would bring the matter up when the Senator from Lincoln was here. There is a town meeting there on Monday, and they want to raise the sum of \$15,000, and in order to do it they want to be sure that this bill covering this appropriation has been provided

for by the State. Gentlemen from that county have assured me that it is perfectly satisfactory to the Senator from Lincoln county; and with that in mind I take it from the table in his absence on the express guaranty of gentlemen who are responsible, that it is perfectly satisfactory to the Senator from Lincoln. I therefore move that the vote whereby the bill was passed to be engrossed be reconsidered.

The motion prevailed.

On further motion by the same Senator Senate amendment A was adopted, and the bill as amended was passed to be engrossed.

On motion by Mr. Clark of Hancock Senate document 219, report of the committee on claims, referring to the Governor and council, resolve in favor of Susan J. Tukey, was taken from the table.

On further motion by the same Senator the report of the committee on claims, reporting "Resolve in new draft under same title, and that it be referred to the Governor and council."

On motion by Mr. Clark of Hancock, bill in relation to sentences in municipal and police courts, was taken from the table, and on further motion by the same Senator the bill took its second reading, and was passed to be engrossed.

On motion by Mr. Simpson of York: Order relating to bills contracted by committees or members thereof, was taken from the table. House amendment A to said order was adopted in concurrence, and the order as amended was passed.

On motion by Mr. Gardner of Penobscot, House document 340, being bill, "A general act relating to negotiable instruments," was taken from the table, and on his further motion the same was assigned for Tuesday next.

On motion by Mr. Heselton of Kennebec, it was, Ordered, the House concurring, that when the Senate and House adjourn, they adjourn to meet on Monday next at 4.30 P. M. This order was subsequently concurred in by the House.

On motion by Mr. Gardner of Penobscot, bill, "An act to amend the Revised Statutes relating to conduct of elections," was taken from the table.

Mr. GARDNER: Mr. President, this is a committee report on the statutes, changing the method and arrangement of voting booths. It was introduced, as I understand it, by parties from several cities where they wish to have a change in the method. I am not prepared to speak upon this, but it has occurred to me that this is a law which certain cities think they require, at least, in the conduct of their elections. In the country towns we do not want so many provisions and so much red tape in our voting. I propose to offer an amendment, that the law shall take effect only in such towns and cities as shall legally adopt it. It is a question whether we shall have these bird cages and swinging doors, or whether we shall go along in the old-fashioned way. The amendment is as follows: Senate amendment A, amend by adding section 2 to the bill. "This act shall take effect only in such towns and cities as by a majority vote of the legal voters in such town or city shall adopt it."

The amendment was adopted. Thereupon the bill took its second reading as amended.

On motion by Mr. Philoon on Androscoggin the bill was tabled pending its passage to be engrossed.

Mr. PHILOON: Mr. President, in explanation of my desire to table this bill I will say that I propose later to offer an amendment, and to ask reconsideration of the vote whereby we voted the adoption of the amendment just read. My amendment would be that it should not apply to towns having less than three or four thousand inhabitants. I think it would make less inconvenience and confusion to confine it to the larger towns and cities, and excluding the smaller towns which do not require it. I am persuaded that the larger towns do not need it, and in due time I shall move to reconsider the vote, and present an amendment in accordance with my ideas.

The PRESIDENT: Does the Senator intend to do that as early as the next session in order not to lose his rights?

Mr. PHILOON: I do.

There came from the House a report of the committee on Judiciary, which

was instructed by order of the Legislature to inquire into the expediency of amending chapter 237 of our public laws, relating to the use of automobiles and motor vehicles on public ways, so as to better insure the safety of public travel in our rural towns, and report by bill or otherwise. Said report was accompanied by bill "An act to amend chapter 24 of the Revised Statutes relating to registering, numbering, and regulating the speed of automobiles and motor vehicles, and for licenses to chaffeurs for the operating thereof. The report was accepted in concurrence, and on motion by Mr. Clark of Hancock the bill was tabled.

The following bills having had their first reading in the Senate, on motion by Mr. Philoon of Androscoggin received their second reading under suspension of the rules, and were passed to be engrossed:

An act to prevent the pollution of Carleton Pond.

An act to amend section 52 of chapter 32 of the Revised Statutes relating to searches. On motion by Mr. Staples of Knox this bill was tabled pending its second reading.

An act to revise, consolidate and amend the charter and laws of the city of Augusta. (House amendment A adopted in concurrence.)

An act to amend the Revised Statutes in relation to the registry of deeds.

An act to create the Portland Bridge District.

An act to incorporate the Waterville Gas and Electric Company.

An act to incorporate the Old Town Water District.

An act to secure proper and uniform records in municipal courts and provide for supplies.

An act in relation to the holding of political caucuses.

An act to amend section 2 of chapter 117 of the Revised Statutes in relation to the fees of trial justices, in the trial of an issue in a criminal case.

Resolve in favor of clerk, stenographer and messenger to the judiciary committee.

Resolve in favor of clerk, stenogra-

pher and messenger to the committee on legal affairs.

Resolve in favor of C. Bradstreet, clerk and stenographer to the committee on banks and banking.

Resolve in favor of Charles Knowlton.

Resolve in favor of William B. Webb.

Resolve in favor of Sereno T. Kimball, to provide for expenses of committee on railroads and expresses.

Resolve in favor of George M. Barrows, chairman of the committee of State School for Boys.

An act to provide for the representation of the State of Maine at the Lewis and Clark and Jamestown expositions, without State appropriations.

Mr. Clark of Hancock moved that the foregoing act be tabled.

Mr. GARDNER of Penobscot: May I ask the Senator from Hancock a brief question?

Mr. CLARK: Certainly.

Mr. GARDNER: This is a bill—

Mr. CLARK: I rise to a point of order. Is a motion to table debatable?

The PRESIDENT: It is not.

Mr. GARDNER: Will the Senator from Hancock permit a question out of order?

Mr. CLARK: If it is a question I will permit it.

Mr. GARDNER: Will the Senator withdraw his motion to lay on the table?

Mr. CLARK: I understand this matter is not debatable.

Mr. PHILOON of Androscoggin: I would like to ask the Senator from Hancock if he will permit the reading of the act as reported by the committee.

Mr. CLARK: With pleasure.

(The secretary thereupon read the bill.)

The question being put, upon the motion to table the bill the Chair declared the motion to have prevailed.

Mr. CLARK: Mr. President, I would like a division of the Senate on the vote.

The PRESIDENT: The Chair would inquire if this is not identical with the original resolve on which they subsequently got a \$40,000 appropriation?

Mr. PHILOON: I am not able to

say, Mr. President, but I understand that the committee, or the parties who are praying for this act to be passed, are willing—both they, their heirs and assigns—shall never at any time, now or hereafter, ask or receive any aid from the State directly or indirectly.

The question being upon a division of the House a rising vote was had, two voting in the affirmative and two in the negative; thereupon the Chair voted in the affirmative, and the bill was tabled.

Resolve in favor of inmates of the Maine Insane Hospital at Augusta.

An act to exempt soldiers and sailors of the Civil War from the payment of a poll tax. On motion by Mr. Morse of Waldo this bill was tabled pending its second reading.

An act relating to a description of public lands and townships for the purpose of valuation and assessment.

An act to empower the county of Aroostook to purchase and acquire title to lands adapted to agricultural purposes in said county.

The committee on appropriations and financial affairs on resolve in favor of towns for reimbursement for money spent on State roads in 1903, having reported that same be referred to committee on claims, the resolve was thereafter referred to the committee on appropriations, and was subsequently again referred to the committee on claims. Mr. Clark of Hancock thereupon moved that the same be indefinitely postponed.

Mr. PUTNAM: Mr. President, before that vote is taken I would like to make a statement in regard to the matter.

This was investigated by a sub-committee of the committee on claims, and thoroughly understood by them, and referred by them to the committee on appropriations. We did not understand the matter, and referred it back to them. I think the sub-committee have investigated the matter, and have talked with the Governor and council, and Monday morning they are to report upon it. I hope the gentleman's motion to indefinitely postpone will not prevail, as this is a matter of importance.

Mr. CLARK: I withdraw my motion.

Thereupon the bill was referred to the committee on claims, in concurrence with the action of the House.

House document 410, "An act to amend section 3 of chapter 50 of the private and special laws of 1821, as amended by chapter 161 of the private and special laws of 1848, as amended by chapter 171 of the private and special laws of 1862, as amended by chapter 413 of the private and special laws of 1903, relating to extending the time of controlling the water at the alewife fishery at Damariscotta Mills," was returned to the Senate as it originally came from the committee. The amendment offered in the House, the adoption of which was non-concurred in by the Senate having been withdrawn by the House. The bill was passed to be engrossed.

Passed to be Enacted.

An act granting additional powers to the Eastern Manufacturing Company.

On motion by Mr. Gardner of Penobscot the Senate voted to reconsider the vote on House document 560, "An act to amend section 112 of chapter 6 of the Revised Statutes relating to political caucuses," whereby the same was passed to be engrossed.

Mr. GARDNER of Penobscot. Mr. President, I wish to say briefly that this matter has been called to my attention, and it changes the law so that this complicated caucus law applies to a great many country towns; it applies to all towns of 1,000 inhabitants or more. It is a complicated piece of machinery, and if put in effect in our country sections it would debar a great many of our citizens from participating in our caucuses.

Originally I think this was the Bangor caucus law. I do not think it is wise to cut this number back to 1,000, so that it applies to towns of a thousand inhabitants; and I move, Mr. President, that this bill be indefinitely postponed.

Mr. PHILLOON of Androscoggin: Mr. President, in relation to the present caucus law I assume it is a tangle, a delusion and a snare, and directly in opposition to our secret Australian bal-

lot law, or our alleged secret ballot. I heartily second the motion of the Senator from Penobscot, and would as cheerfully endorse the movement to amend the entire law, striking it out, and giving us back the old caucus law. I hope his motion will prevail.

The question being put upon the motion to indefinitely postpone the motion prevailed. The Senator from Penobscot further moved to reconsider the vote whereby the Senate voted to indefinitely postpone the bill. The motion was lost.

On motion by Mr. Staples of Knox the following bills received their second reading under suspension of the rules, and were passed to be engrossed.

An act to repeal chapter 317 of the private and special laws of the State of Maine for the year 1903, relating to clams in the town of Scarborough.

An act to reimburse the town of Chelsea.

An act additional to chapter 27 of the Revised Statutes relating to alien paupers.

An act to organize the plantation of Sandy River, county of Franklin, State of Maine.

Resolve in favor of the clerk of the committee on ways and bridges.

Resolve in favor of the clerk and stenographer to the committee on appropriations and financial affairs.

Resolve in favor of Edward K. Milliken.

Resolve in favor of J. Perley Dudley.

Resolve in favor of Thomas Anderson, for services as postmaster of the Senate at the organization of the 72d Legislature.

Passed to be Enacted.

An act to provide for the better enforcement of the laws against the manufacture and sale of intoxicating liquors.

On motion by Mr. Heselton of Kennebec the vote whereby bill "An act in relation to sentences in a municipal or police court, or by a trial justice," was passed to be engrossed.

On further motion by the same Senator the bill was tabled, and Tuesday of next week assigned for its consideration.

On motion by Mr. Pierce of Aroostook the Senate adjourned to meet on Monday, March 20, 1905, at 4.30 o'clock in the afternoon.