

MAINE STATE LEGISLATURE

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Legislative Record

OF THE

Seventy-Fifth Legislature

OF THE

STATE OF MAINE

1911

HOUSE.

Wednesday, February 15, 1911.

Prayer by Rev. Mr. Nichols of Lowell.

Journal of yesterday read and approved.

Papers from the Senate disposed of in concurrence.

An Act to incorporate the Northern Penobscot Water Company, came from the Senate having been referred in that branch to the committee on interior waters.

Tabled on motion of Mr. Hastings of Auburn pending reference in concurrence.

Majority and minority reports of the committee on temperance on resolve for an amendment to the constitution by abrogating and annulling the 26th amendment adopted on the 28th day of September in the year of our Lord one thousand eight hundred and eighty-four relating to the sale and manufacture of intoxicating liquors, came from the Senate.

On motion of Mr. Allen of Jonesboro, the reports were tabled pending acceptance of either, and specially assigned for tomorrow morning.

Senate Bills on First Reading.

Resolve in favor of Edward E. Chase, Junior.

An Act to incorporate the Sawtelle Brook Dam and Improvement Company.

An Act relating to the Southwest Harbor Water Company.

An Act to provide for the purchase of supplies by the State through the system of competitive bids.

An Act to repeal Section 2 of Chapter 148 of the Public Laws of 1905, relating to the construction of booths at polling places.

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

Judiciary.

By Mr. Hogan of Portland—An Act for the protection of life on buildings. (Tabled for printing pending reference on motion of Mr. Hogan of Portland.)

By Mr. Dunn of Brewer—Petition of Marshall P. Oakes and 103 others, in

favor of fenders on street railroad cars for protection of human life.

Legal Affairs.

By Mr. Wheeler of Paris—An Act relating to the solemnization of marriages.

By Mr. Austin of Phillips—Petition of C. E. Cragin and 14 others favoring An Act to incorporate the Sandy River Power and Improvement Company.

Also, Petition of F. N. Beal and 17 others for An Act to incorporate the Sandy River Power and Development Company.

Also, Petition of J. C. Tirrell and 100 others for same.

By Mr. Allen of Jonesboro—Petition of J. R. Kittridge of Farmington for amendment of law relating to registration of dentists.

Also, Petition of E. A. Whitredge of Foxcroft for same.

Also, Petition of F. L. Wood of Bar Harbor for same.

Also, Petition of Arthur G. Webster of Farmington for same.

Also, Petition of Milroy L. Bonney of Caribou for same.

Also, Petition of I. W. E. McLellan of Caribou for same.

Also, Petition of J. W. Norton of Bath for same.

Also, Petition of O. W. Baker of Boothbay Harbor for same.

Also, Petition of H. P. Higgins of Bar Harbor for same.

Also, Petition of F. M. Whitehouse of Fort Fairfield for same.

Also, Petition of B. M. Hardy of Farmington for same.

Also, Petition of Port Doyle of Houlton for same.

Also Petition of Harry P. Jones of Norway for same.

Also, Petition of W. F. Brown of Norridgewock for same.

Also, Petition of G. H. Walling, G. N. Gardner and M. A. Perkins, dentists of Machias, for same.

By Mr. Bisbee of Rumford Falls—Petition of F. W. Rounds and F. E. Drake of Oxford county, for same.

By Mr. Heffron of Eastport—Petition of F. C. Jewett of Eastport, for same.

By Mr. Hersey of Houlton—Petition of F. O. Orcutt and five others, dentists of Houlton, for same.

By Mr. Persy of Bath—Petition of F. J. McLeer of Bath for same.

By Mr. Peters of Ellsworth—Petition of Harvard Greely of Ellsworth for same.

Also, Petition of George S. Hagarthy of Ellsworth for same.

By Mr. Plummer of Lisbon—Petition of F. B. Cushing of Lisbon Falls for same.

By Mr. Thompson of Presque Isle for same.

By Mr. Trimble of Calais—Petition of C. S. Murphy of Calais for same.

Also, petition of Charles W. Grant of Calais, for same.

Also, petition of Frank H. Moore of Calais, for same.

By Mr. Small of Machiasport—petition of H. A. Mansfield of Jonesport, for same.

By Mr. Wilson of Auburn—Petition of Archer Jordan of Auburn, for same.

By Mr. Couture of Lewiston—Petition of Joseph Theberge and 45 others of Augusta, to repeal Chapter 151, Private and Special Laws of 1887, and to substitute in its stead an act providing for incorporation of Roman Catholic parishes.

Also, petition of Joseph Pomerleau and 50 others of Augusta, for same.

Also, petition of Aime Casavant and 47 others of Augusta, for same.

Also, petition of Joseph Peletier and 47 others of Augusta, for same.

Also, petition of Thomas Peltier and 45 others of Augusta, for same.

Also, petition of Edmond Doyon and 46 others of Augusta, for same.

Also, petition of Ovide Cote and 51 others of Augusta, for same.

Also, petition of Paul d'Auteuil and 48 others of Augusta, for same.

Inland Fisheries and Game.

By Mr. Dunn of Brewer—An Act in favor of the Brewer Lake Protective Association.

Shore Fisheries.

By Mr. Mitchell of Kittery—An Act to provide for the propagation and cultivation of clams.

Temperance.

By Mr. Otis of Rockland—An Act to carry into effect Article 26 of the Constitution of Maine; (Tabled for print-

ing pending reference to the committee on motion of Mr. Otis of Rockland.)

Placed on File.

By Mr. Wilcox of Cary—Remonstrance of D. M. Libby and six others of the town of Amity, against resubmission.

Portland Delegation.

By Mr. Murphy of Portland—An Act relating to pensioning the patrol driver of the city of Portland. (Tabled for printing pending reference on motion of Mr. Murphy of Portland.)

Reports of Committees.

Mr. Clark from the committee on inland fisheries and game, on petition of John Cushman and others for abolishing the commission of inland fisheries and game, reported that same be referred to the committee on legal affairs.

Mr. Descoteaux from the committee on labor, reported in a new draft and ought to pass, bill, An Act to provide for the weekly paying of wages.

Mr. Shea from the committee on appropriations and financial affairs, reported ought to pass on resolve in favor of O. N. Davis, of Hersey, Aroostook county, Maine.

Mr. Murphy from the committee on pensions, reported ought to pass on resolve in favor of Lettie Whittier of Mt. Vernon for pension.

Same gentleman from same committee reported same on resolve in favor of Annie Jones for pension.

Same gentleman from same committee reported same on resolve in favor of Albion Moody of Kennebunk for pension.

Mr. Bisbee from the committee on appropriations and financial affairs, reported ought not to pass on resolve in favor of the American Bridge Company of New York.

Mr. Deering from the Cumberland county delegation, on bill, An Act to amend Section 1 of Chapter 146 of the Private and Special Laws of 1895, relating to the commissioner of public works for the city of Portland, reported that the same be referred to the committee on legal affairs with a recommendation that it ought to pass. The report was accepted.

Mr. MURPHY of Portland: Mr.

Speaker, that should be from the city of Portland delegation.

The SPEAKER: It is from the Cumberland county delegation in the report.

On motion of Mr. Murphy the vote was reconsidered whereby the House accepted the report of the Cumberland county delegation, and on further motion by the same gentleman the bill be recommitted for further consideration.

First Reading of Printed Bills.

An Act to amend Section 1 of Chapter 173 of the Public Laws of 1905 relative to clerk hire in the office of the Register of Deeds in Kennebec county.

An Act to build and repair a dyke in the town of Milbridge.

An Act to authorize the mayor of the city of Portland to appoint commissioners of cemeteries and public grounds.

An Act to increase the allowance for watering tubs.

An Act to repeal an act authorizing the city of Portland to appoint a deputy sealer of weights and measures.

An Act relating to lumbering operations.

Mr. Munroe of Brownville, moved that the bill be tabled pending its second reading.

Mr. PATTANGALL of Waterville: Will the gentleman from Brownville kindly assign a time for the consideration of the bill?

Mr. MUNROE: Next Wednesday.

The SPEAKER: This bill is specially assigned for consideration next Wednesday morning at ten o'clock.

MR. DAVIES of Yarmouth: Mr. Speaker, I would inquire what is Chapter seven of the public laws of 1907.

MR. PATTANGALL: Mr. Speaker, if consideration of the bill is to be postponed until next Wednesday I suppose it would be a little waste of time on the part of the House to listen to an explanation of the bill now. Chapter seven of the Public Laws of 1907 is by that bill repealed, and it might be easier and quicker possibly for the gentlemen interested in it to look up that section than

for me to spend much time over the matter now.

Mr. DAVIES: I knowe, Mr. Speaker, that the gentlemen is very much overworked, but I thought that perhaps he might give the information.

Mr. PATTANGALL: Now, Mr. Speaker, the gentleman is not overworked at all, and if the House wants to debate that bill now the gentleman is all ready to debate it, but I supposed that when my friend over here assigned the bill for next Wednesday he meant to assign it for then and not for this morning. If the gentleman from Yarmouth is so busy that he can not look up Chapter seven of the Public Laws of 1907, if he will come over here to my seat I can show it to him, and that will save the House some time. (Laughter.)

Mr. DAVIES: May I thank the gentleman through the Chair for his very kind and courteous explanation.

An Act to extend the time in which the Maine Title Guarantee Company is authorized to commence business.

An Act to extend the charter of the Fire Insurance Company of Portland, Maine.

An Act to authorize the town of York to construct a way across tide-water of Barrell's Mill pond, so called, in York Harbor. (Tabled pending first reading on motion of Mr. Chase of York.)

An Act relating to the Board of Overseers of the Poor of the city of Portland. (Tabled pending first reading on motion of Mr. Murphy of Portland.)

An Act to facilitate the identification of criminals.

An Act to extend the charter of the Northeastern Insurance Company.

An Act to extend the charter of the Mutual Fire Ins. Co.

Passed to be Engrossed.

House Resolve, No. 130, for the introduction of the Hungarian partridge in the State of Maine.

House Resolve, No. 131, in favor of Louis Mitchell, representative of the Passamaquoddy tribe of Indians.

House Resolve, No. 133, in favor of William R. Roix.

House Resolve, No. 123, in favor of the New England Fruit Show.

House Resolve, No. 142, in favor of E. F. Coburn of Andover, Maine.

House Bill, No. 143, An Act to authorize the improvement of Fall Brook in the towns of Bingham and Brighton.

House Bill, No. 157, An Act to extend the charter of the Parlin Stream Dam and Improvement Company.

House Bill, No. 160, An Act to regulate ice fishing in Lake Wassokeag.

Senate Bill, No. 176, An Act to repeal Chapter 92 of the Public Laws of 1905, entitled "An Act to provide for the better enforcement of the laws against manufacture and sale of intoxicating liquors."

Senate Bill, No. 77, An Act to abolish the State agency for sale of intoxicating liquors. (Tabled and specially assigned for tomorrow morning on motion of Mr. Davies of Yarmouth.)

Orders of the Day.

Specially assigned—House Bill, No. 107, An Act relating to the hunting of deer in the town of Searsmont.

Mr. WILLIAMSON of Augusta: Mr. Speaker, I would like to have that bill lie upon the table until the vote by which the general act relating to close time in the county of Waldo, which was passed to be engrossed can be reconsidered and an amendment offered which I think will cover the entire situation; and if it is in order I would move that we now reconsider the vote by which House Document No. 151, An Act relating to a general close time on deer in the county of Waldo, was passed to be engrossed.

The motion was agreed to.

Mr. WILLIAMSON: Mr. Speaker, I now wish to offer an amendment to House document No. 151, which is as follows:

Amend Section 4 by inserting after the word "act" in the second line thereof the words "including such provisions of Chapter 318 of the private and Special Laws of 1909 as relate to the towns of Lincolnville and Searsmont."

I offer the amendment and move its passage. I understand the amendment is entirely satisfactory to the committee.

The amendment was adopted.

Mr. Williamson then moved that the bill lie upon the table until the Senate shall concur in the amendment, at which time House Document No. 107 will be indefinitely postponed in concurrence with the Senate.

The motion was agreed to.

Specially assigned—House Order, The Senate concurring, that the Joint Special Committee appointed to investigate and report upon the financial condition of the State under the order which passed the House Jan. 27, be authorized and directed to investigate and report as to whether any dishonest practices or violations of law have existed in any department of the State which may be the subject of its investigation under said order previously passed; and, to facilitate its investigation, said committee is authorized to employ such expert assistance as it may deem necessary.

House Amendment "A" to Peters Order introduced February 10.

House Amendment "B" to Peters Order introduced by Mr. Peters February 14.

Mr. PATTANGALL of Waterville: Mr. Speaker, I have a further amendment to offer to the order now before the House which is House Amendment C to the order concerning the joint special investigating committee. After the word "law" and before the word "or" insert the words "inefficiency, incompetency or lack of proper business methods." I could not designate the lines in which these words occur because I had not the amended order in printed form, but the House will see the application of the words. The first amendment comes in where the committee were ordered, "if it finds any indications of dishonest practices or violations of law" and the amendment adds "inefficiency or incompetency," and by the second amendment the committee are authorized and directed to investigate and to report as to whether any dishonest practices or violations of law exist and the amendment adds "inefficiency, incompetency or lack of proper business methods." That enlarges the scope of the order

a little, and not I think more than it should be enlarged.

To instance the class of matters which that last amendment seeks to reach I called the attention of the House yesterday to the fact that in the 1910 treasurer's report, a copy of which each member has upon his desk, there is no report among the liabilities of the outstanding \$300,000 note. That fact did not appear in the investigation before the committee because we assumed that that had been reported and did not ask the question in regard to it. I take a good deal of pleasure in repeating that statement this morning because I notice in the verbatim report of the debate that occurs in the Kennebec Journal the note was called twice in the debate a \$3000 note. We find it omitted altogether from the official report of the treasurer, and \$297,000 of it was omitted from the official report of the House. I want to get it all in this time. Now it seems to me that the committee in going over these departments will likely find what they have already found without trying to find it, just because they could not help seeing it, certain things upon which they would desire to report which did not involve charges of dishonesty or violation of law, as I understand the term, but simply either incompetence or inefficiency or lack of understanding of business methods to which the attention of the Legislature and of the State might well be called. I do not understand there is any objection to the amendment. If there is any of course it will be made manifest. It is simply offered to provide a means by which the committee can do fully and fairly the work which the first order introduced was intended to put upon them; and Mr. Speaker, I move the adoption of the amendment.

Mr. PETERS of Ellsworth: Mr. Speaker, the plan of increasing the scope of the authority of the committee commends itself to me; in fact, that was the purpose of the introduction of the original order. The only doubt I have is as to whether now after the frequent amendments which have been offered for the purpose of getting this into shape to be a proper

guide for the use of the committee in this important matter, the matter is now framed so as to be logical and clear. I have not previous to this time seen the amendment proposed by the gentleman from Waterville this morning, and I should prefer that the matter lie upon the table until the effect of the various amendments upon the original order may be digested, and the matter if necessary put into shape so as to meet the approval of the members of the House, and if there is no objection I would move that it lie upon the table until tomorrow.

Mr. PATTANGALL: Would the gentleman from Ellsworth object to the House simply voting to adopt the amendment and then lay the order as amended on the table until tomorrow?

Mr. PETERS: I should prefer that the whole matter including the amendments lie upon the table.

Mr. PATTANGALL: I simply thought that might further the matter.

The question being on the motion to table the order until tomorrow.

The motion was agreed to.

Mr. PATTANGALL: Mr. Speaker, if there are no other special assignments for this morning, I would like to take from the table House Bill No. 146, An Act relating to the taxation of telegraph companies, and would make a motion to that effect.

The motion was agreed to.

Mr. PATTANGALL: I desire, Mr. Speaker, to offer an amendment to this bill, which amendment consists in prefacing the bill with what we usually refer to as the emergency clause, and in order that the House may understand the position which the committee take on it I will make a brief statement.

In 1909 the committee on taxation remodelled the tax laws referring to telephone and telegraph companies. Prior to that time the Postal Telegraph Company had been paying an average tax of less than \$40 a year in the State; and the committee re-arranged the law in an attempt to get some sort of a reasonable tax out of the Postal and Western Union. Attorneys representing these companies appeared before the committee and there

was some question raised as to the constitutionality of the law which the committee were about to recommend. The gentlemen representing the companies agreed that the tax was fair in amount and assured the committee that there was slight probability, if any, of the constitutional question being raised. Under the law of 1909 the tax of the Postal Telegraph Company was increased to seven hundred and sixty odd dollars, and immediately when the tax was assessed and they were notified of the amount the Postal Company simply said, "Well, your law is unconstitutional and we won't pay you anything," and in the opinion of the attorney general there was such grave doubt as to the constitutionality of the law—and I think his doubt was well founded—that the State made no attempt to collect the tax from the Postal Telegraph Company during the year except to ask them for it, that is, the State brought no suit, and probably could not have maintained one if they had brought it. Those facts were brought to the attention of the committee on taxation, and early in the session the gentleman from Portland (Mr. Clark) introduced a bill under which the State went back to the old method of taxing telegraph and telephone companies, which obtained in this State prior to 1911, that is, to tax them on their property. There isn't any question about the constitutionality of that of course, because it has been passed upon once by our court. It became necessary for us to do that in order to get a tax that we could hold and get any amount at all from the telegraph companies. The committee unanimously recommended the bill, but by an oversight the bill not containing the emergency clause, the companies would be in a position where they need not pay any tax for the year 1911. The tax is to be assessed in May. And after consultation with such members of the committee as we could readily get together we prepared the amendment which I now offer, simply prefacing the bill with the emergency clause.

The question being on the adoption of House amendment A,

The amendment was adopted.

The bill was then passed to be engrossed as amended.

MR. PLUMMER of Lisbon: Mr. Speaker, I move to take from the table bill. An Act to provide a close time on scallops.

The motion was agreed to.

Mr. Plummer: Is the question now on the amendment proposed yesterday to the bill?

The SPEAKER: The question is on the amendment.

MR. PLUMMER: Mr. Speaker, I wish to say that this bill was tabled not from any opposition to the bill as such but merely because it contained in the first clause the so-called emergency clause. Now, whether or not that clause should be attached to a bill of this kind is a question for this House to decide. I don't know that I personally have any objection to its being done, but nevertheless the use of the emergency clause is something that may be liable to abuse unless it is strictly guarded, and I think for myself, although I have learned something in regard to the matter since tabling the bill night before last—I think not only for myself but also for some other members of the House, it might be shown by those who are in favor of the attachment of the emergency clause to this bill, the reason why an emergency such as is described exists. I presume there are those who are sufficiently well acquainted with the subject to give us that information.

The SPEAKER: Is there anything further to be said upon this amendment before the question is put to the House?

MR. BOMAN of Vinalhaven: Mr. Speaker. I wish to state in a few words the reason why this emergency clause is attached to this bill. I will state in the first place that this bill after having an extensive hearing before the committee, received the unanimous report of that committee and was reported to this House. As to the reason why this emergency clause is added to the bill I wish to make a statement.

The scallop fishery is comparatively

a new industry, and has been made possible only by the use of power boats. The scallop fishermen found it impossible to make it a paying business until gasoline power came into use. At that time the fishermen themselves built up this industry and it is now pursued to a large extent. They now ask for the protection of the scallop beds. In this appeal they have the support of the commissioner of shore fisheries, Mr. Donohue, who went before the committee and recommended this bill, and also recommended that the emergency clause be attached. Now there are several scallop beds distributed all over the coast of Maine I presume, but the largest beds are situated near what is called Monroe's island which I think is about three or four miles from the city of Rockland in Penobscot Bay. The reason for asking for this emergency clause is this. Nine-tenths of the scallops that are procured are procured from the beds located near Monroe island. There are other smaller beds in other places, but in order to protect the industry which the fishermen ask for themselves, it is necessary to have a close time on all beds. At the present time there is a close time on the beds of which I have spoken near Monroe's island. Other beds I think are open to fishing the year around. Now the fact is this, that there are a few fishermen who are not in sympathy with this close time and they wish to fish on the other beds. But the fishermen, I dare say a majority of them and more than a majority, are in favor of a close time, and in order to protect the beds near Monroe's island it is necessary to have a close time now. There is a class of fishermen—we call them poachers—that go on the beds at Monroe's island in the night time and in cold weather and drag these beds for scallops and claim that they catch them or drag them on the other beds, and for that reason the law is violated and these beds become depleted. And, Mr. Speaker, not only that, but it puts an expense on the State, because the wardens have to watch these men who fish illegally. Now unless this emer-

gency clause it attached and permitted to become a law, the law will be in effective for the spawning season which is in May, and these poachers will have a right to fish until ninety days I presume after the adjournment of the Legislature. The fishermen only ask what is right and proper to protect their own industry. They have a large sum of money invested in their boats and gear and they ask nothing more than what is right. I hope this emergency clause will be adopted.

Mr. PETERS of Ellsworth: Mr. Speaker, I understand it is the unanimous opinion of the committee on shore fisheries that this industry will be very seriously injured unless this bill is allowed to take effect before July 1, and that that in the opinion of the committee constitutes a condition existing under the emergency clause. Now that does appeal to me as being an emergency threatening the welfare at least of a considerable group of citizens and indirectly of the State, and I desire to call attention of the House to the fact that we have a precedent from the last Legislature for the passage of just such legislation; and I for one am in favor of the passage of the emergency clause and that it be added to the bill in question.

Mr. PLUMMER of Lisbon: Mr. Speaker, with the consent of the House I will withdraw my amendment to strike out the emergency clause.

The question being on the final enactment of the bill, a rising vote was taken and 113 members voted in the affirmative.

The required two-thirds of all the members elected to the House having voted in its favor, the bill was passed to be enacted.

Mr. ALLEN of Jonesboro: Mr. Speaker, I move to reconsider the vote of Monday afternoon by which the report of the committee, voting ought to pass, was accepted by this House, on bill, An Act to provide for a bounty on bears in Washington, Hancock and Penobscot counties.

The motion was agreed to.

On motion of Mr. Allen the bill was then recommitted to the committee on agriculture.

Mr. ALLEN: Mr. Speaker, I move that the committee be requested to take this matter up at their first regular meeting.

The SPEAKER: The House hears the request from the gentleman from Jonesboro.

On motion of Mr. Davies of Yarmouth, the order introduced by Mr. Hogan of Portland yesterday relating to all committees reporting to the committee on appropriations and financial affairs all moneys recommended by them, was taken from the table, and on further motion by Mr. Davies the order received a passage.

On motion of Mr. Weston of Harrison, bill, An Act to further enable the Sebago Lake, Songo River and Bay of Naples Steamboat Company to construct and maintain wharves along its route in the county of Cumberland, was taken from the table.

Mr. WESTON: Mr. Speaker, I now desire to offer Amendment A to this bill as follows; strike out in line six of the second section the words "by right of eminent domain" and in line 15 of the same section strike out the words "by right of eminent" and in line 16 of said section the word "domain."

The amendment was adopted.

The bill then received its third reading and was passed to be engrossed as amended.

On motion of Mr. Murphy of Portland, bill, An Act to prohibit the hunting of duck and other water fowl in Saco bay by the use of steam, naphtha or gasoline boats, was taken from the table.

The bill then received its second reading and was assigned for tomorrow morning.

On motion of Mr. Mitchell of Kittery, bill, An Act to amend Chapter 233 of the Private and Special Laws of 1909 entitled "An Act for the protection of deer in York county," was taken from the table.

Mr. Mitchell offered an amendment by adding after the word "York" in line 18, the words "Kittery and Eliot."

The amendment was adopted.

The bill then received its third reading and was passed to be engrossed as amended.

Mr. PATTANGALL: I understand that the Speaker of the House has just received official information of the death of the gentleman from Palmyra, Mr. Miller. I move that this House now adjourn and that further business be suspended out of respect to his memory.

The motion was agreed to.