

MAINE STATE LEGISLATURE

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Legislative Record

OF THE

Eighty-First Legislature

OF THE

STATE OF MAINE

1923

KENNEBEC JOURNAL COMPANY
AUGUSTA, MAINE

SENATE

Thursday, March 1, 1923

Senate called to order by the President.

Prayer by the Rev. M. G. Folsom of Gardiner.

Journal of previous session read and approved.

Communication from the Office of Secretary of State

STATE OF MAINE,
Office of Secretary of State

Augusta, March 1, 1923.

To the President of the Senate and Speaker of the House of Representatives,

Gentlemen:—In accordance with the requirements of Section 4, Chapter 1 of the Revised Statutes, I have the honor to notify you that the public acts, a list of the titles of which is hereto appended, have been approved by the Governor.

Very respectfully,

Your obedient servant,

(Signed) Edgar C. Smith,
Deputy Secretary of State.

Ordered placed on file.

The following bills, petitions, etc., were presented and recommendation by the committee on reference of bills were referred to the following committees:

Education

By Mr. Eaton of Oxford: Petition of John McKinnon and 31 others; petition of C. C. Bean and 50 others; petition of Isaiah I. Gray and 33 others; petition of Werton I. Sargent and 16 others; petition of John Wyman and 31 other citizens of Maine in favor of a Constitutional amendment prohibiting the use of public funds for sectarian schools.

Judiciary

By Mr. Phillips of Hancock: An Act requiring an excise tax to be paid on all cigarettes, cigarette tobacco and cigarette papers sold in this State.

(500 copies ordered printed)

By Mr. Cram of Cumberland: An Act to provide for the supervision, regulation and conduct of the transportation of persons over the public highways of the State of Maine by automobiles, jitney busses and auto stages by the Public Utilities Commission.

(500 copies ordered printed)

Judiciary and Labor

By Mr. Smith of Somerset: An Act to amend Sections 1 and 3 of Chapter 350 of the Public Laws of 1915, relative to the hours of employment of women and minors.

(1000 copies ordered printed)

By the same senator: Petition of James Olko and 173 others of Auburn; petition of E. H. Folsom and 699 others of Augusta; petition of Daniel Duparis and 169 others of Baileyville; petition of Harry Snyder and 387 others of Bangor; petition of A. A. Hamor and 208 others of Bar Harbor; petition of H. A. McCabe and 82 others of Bath; petition of William B. Sullivan, Jr. and 1344 others of Biddeford; petition of Elias A. Wilson and 37 others of Brownville; petition of Blanche L. Journeault and 421 others of Brunswick; petition of Orin Davidson and 137 others of Calais; petition of John Johnson and 215 others of Camden; petition of C. W. McClintock and 35 others of Fairfield; petition of Joseph H. Brown and 29 others of Falmouth; petition of W. A. Willey and 70 others of Gardiner; petition of Roger O. Williams and 162 others of Hartland; petition of Harry Booker and 35 others of Howland; petition of Clinton Foote and 47 others of Jay; petition of Leon L. Paquette and 1449 others of Lewiston; petition of William D. Haskell and 34 others of Lincoln; petition of Arthur Strout and 410 others of Lisbon; petition of H. A. Johnson and 329 others of Madison; petition of L. F. Willis and 96 others of Mechanic Falls; petition of Walter B. Baker and 192 others of Millinocket; petition of Mark E. Phillips and 177 others of Oakland; petition of John Hayes and 99 others of Old Orchard; petition of Frank Cowan and 49 others of Orono; petition of Albert Cook and 330 others of Pittsfield; petition of Gilman W. Martin and 1672 others of Portland; petition of James I. Rogers and 287 others of Rockland; petition of Charles H. Goodwin and 280 others of Saco; petition of Francis L. Benn and 282 others of Sanford; petition of Isaac A. Griffith and 839 others of Skowhegan; petition of Nathan Lombard and 99 others of Solon; petition of Charles Rouix and 268 others of South Portland; petition of Fred Thorndike and 272 others of Vassalboro; petition of Andrew Cota and 575 others of Waterville; petition of John L. Seguin and 40 others of Webster; petition of A. S. Bates and

20 others of West Enfield; petition of Edward Coppack and 280 others of Westbrook; petition of Narcisse Charland and 155 others of Winslow; petition of George H. True and 38 others of Yarmouth; in favor of bill, An Act to amend Sections 1 and 3 of Chapter 350 of the Public Laws of 1915, relative to the hours of employment of women and minors.

Legal Affairs

By Mr. Cram of Cumberland: An Act relative to the non-liability of the State for damages.

(500 copies ordered printed)

By Mr. Allen of York: An Act to amend Sections 1 and 5 of Chapter 169 of the Public Laws of 1919, as amended by Chapter 183 of the Public Laws of 1921, relating to the support of dependents of soldiers, sailors and marines.

Public Utilities

By Mr. Spencer of York: An Act conferring power upon the Public Utilities Commission to prescribe the standard for coal in this State.

(500 copies ordered printed)

Sea and Shore Fisheries

By Mr. Stevens of York: An Act for the better protection of clams in the limits of the town of Kennebunkport in the county of York.

Bills in First Reading

Senate 155: An Act making it unlawful for any person to have intoxicating liquors in his possession in any public place.

Senate 156: Resolve in favor of the State School for Boys for maintenance and other purposes.

Mr. EMERY of Washington: Mr. President, I move that when the Senate adjourns it be until tomorrow morning at 8 o'clock.

The motion was agreed to.

Reports of Committees

Mr. Hinckley from the committee on salaries and fees on An Act to amend Section 45 of Chapter 117 of the Revised Statutes, relating to clerk hire in county offices, reported that the same ought not to pass.

Mr. Sargent from the committee on sea and shore fisheries, on An Act to better protect the lobster industry within the waters around Matinicus and Criehaven, reported that legislation is inexpedient.

Mr. Putnam from the committee on State lands and forest preservation, on An Act to amend Section 29 of Chapter

8 of the Revised Statutes as amended by Chapter 61 of the Public Laws of 1921, providing for the appointment of forest fire wardens in towns, reported that the same ought not to pass.

Mr. Bemis from the committee on taxation, on An Act to amend Section 75 of Chapter 10 of the Revised Statutes, relating to the assessment of estates (Senate Doc. No. 90), reported that the same ought not to pass.

The reports were accepted and sent down for concurrence.

Mr. Hinckley from the committee on judiciary, on An Act in relation to compensation of judges of the supreme and superior courts upon retirement, reported same in a new draft, under title of "An Act providing for retirement of justices of the supreme and superior courts and their reappointment as active retired justices, and that it ought to pass.

The report was accepted and the bill tabled for printing under the joint rules.

Mr. Hussey from the same committee on An Act to amend Section 1 of Chapter 82 of the Revised Statutes, relating to the Supreme Judicial Court (Senate Doc. No. 145), reported that the same ought to pass.

Mr. Morneau from the committee on library on resolve appointing a committee of investigation to procure plans and estimates for a State library building (Senate Doc. No. 82), reported that the same ought to pass.

Mr. Hinckley from the committee on salaries and fees, on An Act to amend Section 32, Chapter 117, Revised Statutes, as amended by Chapter 183, Public Laws of 1917, and by Chapter 152, Public Laws of 1921, relating to the board of State assessors (Senate Doc. No. 94), reported that the same ought to pass.

The reports were accepted, and on motion by Mr. Hinckley of Cumberland, under suspension of the rules the bills were given their first reading.

The same senator from the same committee, on An Act to amend Section 45 of Chapter 117 of the Revised Statutes, relating to clerk hire in county offices, reported same in a new draft, under title of "An Act to amend Section 45 of Chapter 117 of the Revised Statutes, relating to clerk hire in the office of clerk of courts in Androscoggin county," and that it ought to pass.

The report was accepted and the bill

tabled for printing under the joint rules.

Passed to be Engrossed

H. 84. An Act to amend the charter of the city of Hallowell, relating to the appointment of the city marshal and street commissioner.

(On motion by Mr. Hinckley of Cumberland, recommitted to the committee on legal affairs.)

H. 90. An Act to amend Section 26 of Chapter 219 of the Public Laws of 1917, as amended by Chapter 244 of the Public Laws of 1917 and Chapter 196 of the Public Laws of 1919 and Chapter 218 of the Public Laws of 1921, relating to the taking of smelts in the tributaries to Sebago Lake.

H-164. Resolve providing a State pension for Marie N. Varrell.

H. 165. Resolve to increase the pension of Lester Patten of Hermon.

H. 166. Resolve in favor of State pension for Levi Holden.

H. 167. Resolve to increase the State pension of Charles D. Preble of Kittery.

H. 168. An Act to amend Section 11 of Chapter 211 of the Private and Special Laws of 1895 as amended by Chapter 101 of the Private and Special Laws of 1909 as amended by Chapter 146 of the Private and Special Laws of 1915, as amended by Chapter 33 of the Private and Special Laws of 1919 relating to the salary of the recorder of the Bangor municipal court.

H. 169. Resolve in favor of the board of registration of medicine.

H. 171. An Act to amend Chapter 31 of the Private and Special Laws of 1905, as amended by Chapter 348 of the Private and Special Laws of 1909, relating to the Houlton Water Company.

H. 172. An Act to amend Sections 34 and 75 of Chapter 211 of the Public Laws of 1921, relating to motor vehicles.

H. 173. An Act to amend Chapter 145 of the Private and Special Laws of 1887, as amended by Chapter 142 of the Private and Special Laws of 1903 and By Chapter 107 of the Private and Special Laws of 1907, relating to sewerage in the town of Houlton.

H. 177. Resolve in favor of Mary A. Grant for State pension.

(On motion by Mr. Hinckley of Cumberland, recommitted to the committee on pensions.)

H. 178. Resolve in favor of Mary E. Ames of Stockton Springs for State pension.

H. 179. Resolve in favor of Mary S. Hillman for State pension.

H. 180. An Act to extend the charter of the Penobscot Valley Gas Company.

S. 77. An Act to amend Section 40 of Chapter 127 of the Revised Statutes, as amended by Chapter 108 of the Public Laws of 1919, relating to prosecutions for violation of the intoxicating liquor laws.

S. 148. An Act to amend Section 49 of Chapter 219 of the Public Laws of 1917, relating to the protection of wild hares or rabbits. (On motion by Mr. Sargent of Hancock tabled pending second reading.)

Passed to Be Enacted

An Act to amend Chapter 128 of the Private and Special Laws of 1921, relating to clerk hire in the Lewiston municipal court.

An Act to repeal Chapter 66 of the Private and Special Laws of 1919, relating to the Biddeford and Saco Water Company.

Finally Passed

Resolve, appropriating money for the purpose of rebuilding steamship sheds of the State Pier at Portland.

Orders of the Day

Mr. WADSWORTH of Kennebec: Mr. President, I move that the Senate reconsider the action it took yesterday in indefinitely postponing H. D. 121, An Act to amend Sections 4 and 5 of Chapter 188 of the Public Laws of 1919, relating to the regulation of the practice of the system, method or science of healing known as osteopathy, and I yield the floor to Senator Hinckley of Cumberland.

Mr. HINCKLEY: Mr. President, I realize that it is a delicate thing for one who is not a surgeon to try to perform an operation with a view of relieving or removing from the minds of some of the members of this distinguished body misconceptions which have been created in their minds and established there by misrepresentations in regard to this particular bill. But I believe in fairness, I believe in justice, I believe in right to the citizens of the State of Maine, that the members of this Senate should have the full facts in regard to this act before finally committing themselves. If, after understanding the situation as it is, you see fit to concur in the action taken by you yesterday, I have no further complaint to make.

This Legislature is made up of

committees, and to a very large extent must depend on committees appointed at the beginning of the session. Every member of this Senate is aware that it is impossible for him to follow, to study, to investigate, to understand fully every matter that comes before this body. It is necessary for us to depend very largely upon the reports of the committees to which these matters have been submitted and before which the evidence is presented.

Mr. President and gentlemen, it seems to me that the committee—a joint committee of the House and Senate, and in this particular instance the judiciary committee—after having heard all of the evidence, should be in a position to determine this matter more accurately, more fully, more fairly, than those who did not hear the evidence and those whose minds have been temporarily at least biased and prejudiced by misrepresentations made to them.

May I, at this time, Mr. President say that I am not a follower of the school of osteopathy. If I were ill, I would send for my good friend, the senator from Hancock, or my other good friend, the senator from Franklin, and not for an osteopath. I am not biased or prejudiced in regard or in respect to any school of healing, but, as a member of this Legislature, I recognize that my oath of office compels me to be fair, compels me to consider every question on its merits, compels me to forget my friends, and I have many, in the great medical profession whom I respect, it compels me to forget my enemies, it compels me to do justice, and I say to you, gentlemen, that the action taken here yesterday was not justice.

I am not unmindful, gentlemen, of the great services performed by the medical profession during the past years. I am not unmindful of the sacrifices made by them—of the country doctor who through storm, snow, rain, hail, whatever the obstacle, goes to the bedside, and has for years gone to the bedside of those who need his ministrations. I am not unmindful of the fact that this great profession has during the past forty years increased the average length of life at least ten years. I am not unmindful of the fact that many of the mem-

bers of this profession have even given their lives that the generations unborn might benefit from it.

I recognize all of those things.

But, Mr. President and members of the Senate, the question is broader than that, the question is bigger than that. The question is this: Whether or not one body of men, one school of thought, shall have a monopoly of the healing in the State of Maine? It is a question whether or not, though I would not call in the osteopath, my neighbor shall be deprived of the right to have the osteopath? Why, gentlemen, under the laws of the State of Maine, even today, if the Saviour of mankind should make his second coming he would be in danger of being committed to jail, for healing the sick, because he didn't have a college education and a certificate. It is a big question, it is a broad question, gentlemen.

Now let us see what this bill is and what it provides, and I am going to tell you the evidence that came before the judiciary committee, and I think I am safe in saying that of the ten men comprising the judiciary committee, every man went in to that hearing as one follower of the regular medical profession and not of osteopathy. They were not biased except in favor of the old line physician. I want to tell you the evidence that came before us, but first let me call your attention to what this bill is. In talking with many senators since yesterday, I have found that they had no conception of what this bill was, that misrepresentations had biased them as I stated in the beginning.

What does it provide? It provides that osteopaths, under the conditions laid down here, can practice surgery and obstetrics. That is what it provides. Does it provide, as members of the medical profession have been telling you during the past forty-eight hours, that they can practice surgery in the State of Maine without taking a proper examination, or without having proper qualifications? That is what you have been told. Does it tell you that? Does it provide for that?

Let me read from the bill itself.

"The board shall then require the applicant to submit to an examination as to his or her other qualifications for the practice of osteopathy, which examination shall include"—

naming the various subjects—"Provided"—now listen to this, gentlemen, "Provided, that said examination in the subject of surgery shall be"—what?—"shall be equivalent to the examination required by the State of Maine board of registration of medicine, of applicants for registration by it, in said subject." That is what it provides, that no osteopath, after this bill becomes a law, can practice surgery unless he or she submits to and passes an examination equivalent to the examination provided by the State board of medicine. You have not been told that, have you? You didn't have that information, gentlemen, did you, when you voted yesterday? And it further provides,—let me read it to you, it further provides "that no person heretofore registered by the board of osteopathic examination and registration shall be permitted to practice surgery without passing said examination in said subject." That was not told to you, was it? You were told, gentlemen, that those who had their certificate now, if this became a law could practice surgery. That is what you were told. It was not true. It was not fair, was it? No person under this act can practice surgery unless they take the same examination taken by the regular medical student provided by their own board of examiners, and no person now practicing osteopathy can practice surgery without taking the same examination.

I will take up one other part of this concerning which gross misrepresentations have been made. You have been told that under this act osteopaths could use drugs, the impression being given that they could practice medicine, that they had free rein, and that they were not qualified for it.

What does the act provide? The original act, gentlemen, left the door wide open and the medical profession, although present before the committee, raised no question at that time. But your judiciary committee closed the door and insisted on this new draft and insisted on these words being put into that draft: "Such certificate shall entitle the person to whom it is granted to practice osteopathy in any county in this state, in all its branches as taught and practiced by the recognized schools and colleges of osteopathy, but it shall not authorize its holder

to administer drugs, except so far as necessary in recognized surgical technique." They cannot use drugs except as is necessary in surgical technique. Oh, how magnanimous of this great medical profession to be willing to agree that some other school of thought can practice surgery but refuse to them the right to administer an anaesthetic—allow them to perform an operation for appendicitis but deprive them of the right to administer ether! Magnanimous! You know, gentlemen, it is absurd, it would be ridiculous to pass an act by this Legislature giving the right to the osteopaths to practice surgery and then deprive them of the right of using an anaesthetic in connection with it. And that is all they are permitted to do. They cannot use drugs to any other extent than that. The bill says so in so many words. But you have been told during the last forty-eight hours, gentlemen, that they could practice medicine, use drugs. It is unfair.

Do you realize that at least one-third of the citizens of the State of Maine today are employing when they are ill those other than members of the regular medical profession— one-third? And are you going to deprive that one-third of the right to employ whom they please.

The committee also insisted—it was not in the original bill but they insisted that if the word "doctor" or "Dr." was to be used, that the word "osteopath" must be used in conjunction with it, so that if you were ill and wanted a physician you would not be misled when you saw the sign "Dr."—must be doctor of osteopathy. Should not a citizen have a right to employ whom he wishes, not only to the extent they are allowed now, but to perform a surgical operation if they prefer them to the medical doctor?

Now what is the evidence before the committee? Let me just restate it briefly. I will not weary you. This bill was referred to the judiciary committee and it was advertised in all of the principal papers of the State of Maine. The osteopaths were there represented. The medical profession of Maine was there represented and a full and complete hearing was held. I recall distinctly two gentlemen, heads of the department of surgery in the respective schools of osteopathy they represented, one in Philadelphia and one in Boston. They testified before

the committee, and those men were doctors, members of this same medical profession who are opposing this bill, those doctors occupying the chairs of surgery in their respective colleges, had with them their courses of study. I was skeptical and cross-examined those doctors very carefully in regard to their courses of study, and their evidence showed that the course of study pursued by them in surgery—I am talking about surgery and nothing else—the evidence showed that the courses of study pursued by them in surgery were exactly identical with the courses pursued in the medical schools of this country, and that the number of hours devoted to that particular study of surgery was longer than that in Tufts Medical school and the medical school of the University of Pennsylvania, with which comparisons were made—that is what the evidence showed—and taught by a member of the medical profession, himself a surgeon.

And the doctors were there. And the doctors presented their case in opposition to this bill, and not one doctor or anybody else was present at that time who questioned those statements made by the osteopaths. I am astounded that any member of this great medical profession, after that hearing was over and after this bill reached this stage, would come to the members of the Senate, as one or two of them came to me—And I put this proposition back to them—I said “You were present and you didn’t deny it,” and their reply was, “Well, you know it is a lie, that it is not true.” I am astounded that they should make such a charge. I have investigated it, gentlemen, outside of the committee, and I say to you in all fairness and in all sincerity, as one not interested in osteopathy but whose friends and associates and those who he would call in to heal in case of illness to himself are of the regular medical profession,—I say to you in all fairness that they have not told you the truth. The osteopath proponents of this measure gave you the facts in regard to it. That is true.

What are you going to do about it? What are you going to say to those who study in a college of osteopathy, who pursue the same courses of study, who put in more hours in studying surgery than those in the medical schools do, who put in as many hours in clinics in the hospitals where surgery is practiced, who in this particular school of

osteopathy in Philadelphia attend the clinics in the University of Pennsylvania Hospital and attend them in connection with the students of the medical schools of the University of Pennsylvania?

They told the committee, “Why, in the medical profession they don’t practice surgery until at least ten years after they take their examinations.” They don’t—they can—they have the right. The osteopath practitioners ask no more. They are certainly entitled to no less. If the Legislature of the State of Maine goes on record, gentlemen, to the effect that because you study in a different school from what we study, although you pursue the same studies under teachers trained in our schools pursue them to the same extent, get the same experience and the same knowledge and pass the same examination,—then if the Legislature says that those men and those women cannot practice surgery under those conditions, I tell you, you are taking a step backward. I care not, gentlemen of this Senate, where, how, under what conditions a man or woman gets his education, the examination for admission to practice the profession is the test. It is the only test, and if they pass it they are entitled to practice.

I remember four years ago in the House a bill was introduced to the effect that no person could make a mortgage or a deed unless he was an attorney at law. What did the lawyers do in regard to that? Did they do as the doctors are trying to do today? Why, Mr. President, I remember distinctly that I took the floor and said it was outrageous, that there were country squires in the State of Maine that could make a deed or a mortgage better than I could and better than any young man who had graduated from Harvard Law School or any other law school, and I hoped the legal profession would not be so narrow as to deprive them of that right. And it was overwhelmingly defeated in this Legislature as it should have been. Cannot the medical profession of the State of Maine be as big and broad? I have respect for every one of them. They are doing their work and they are doing their duty. If the great medical profession cannot stand the onslaughts of these different schools of healing that are coming along, if they are not strong

enough within themselves to stand under it, then they must pay the penalty. But I believe they are strong enough, I believe their teachings are wise, I believe their administrations are right, I believe they will survive and continue to do good as in the past. But, gentlemen of the Senate, give to every citizen of the State the right to select whom he pleases to administer to him when he feels the need of attendance.

The PRESIDENT: The question before the Senate is on the motion by the senator from Kennebec, Mr. Wadsworth, that the Senate reconsider the vote whereby it yesterday indefinitely postponed House Document No. 121.

A viva voce vote was taken, and the Chair being in doubt a rising vote was had. Eleven senators voting for reconsideration and 17 opposed, the motion to reconsider was lost.

On motion by Mr. Phillips of Hancock, H. D. 34, an Act to amend Section 35 of Chapter 8 of the Revised Statutes, relating to building of camp fires, was taken from the table.

On further motions by the same

senator the vote was reconsidered whereby this bill was passed to be enacted and passed to be engrossed. The bill was then recommitted to the committee on state lands and forest preservation.

On motion by Mr. Hinckley of Cumberland the Veto Message in relation to two resolves:

Resolve appropriating money for the purpose of completing the new cell block of the Maine State prison at Thomaston.

Resolve in favor of the Maine State prison at Thomaston for the repair of outside buildings, was taken from the table.

Mr. HINCKLEY: Mr. President, I now yield to the senator from Lincoln, Mr. Clark.

Mr. CLARK: Mr. President, I move that these two resolves with the veto message of the Governor be retabled and especially assigned for next Thursday.

The motion was agreed to.

On motion by Mr. Bailey of Penobscot,

Adjourned until tomorrow morning at 8 o'clock.