

MAINE STATE LEGISLATURE

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Legislative Record

OF THE

Eighty-Fourth Legislature

OF THE

STATE OF MAINE

1929

KENNEBEC JOURNAL COMPANY
AUGUSTA, MAINE

SENATE

Tuesday, February 12, 1929.

Senate called to order by the President.

Prayer by the Rev. H. A. Clark of Gardiner.

Journal of previous session read and approved.

From the House:

An act relating to the consolidation of corporations.

(In the Senate, February 7, referred to the Committee on Public Utilities, Judiciary and Interior Waters jointly, in non-concurrence.)

Came from the House, that branch having voted to insist on their former action whereby the bill was referred to the Committee on Judiciary.

In the Senate:

Mr. MURCHIE of Washington: Mr. President, I have no sympathy with the tendency that sometimes appears in the Legislature of seeking to secure the reference of interesting measures by any member or members to the committees on which they happen to be serving but I do not consider that the gentleman from Augusta who introduced this measure is yielding to that tendency in this case and I want to make a motion that the Senate recede and concur. I have known the gentleman from Augusta since he was rather a small boy and I knew his father before him. I consider him a very worthy son of a very worthy sire and I resent, I think as much as he does, the imputation that is put upon my motion of last week that he has in any way been attempting to do by indirection what he did not have the courage to come out squarely and attempt to do.

It is an unfortunate thing, it seems to me, that a certain proportion of our press and a certain proportion of our population are bound to see red every time the words "Water Power" are mentioned, and it is equally unfortunate, whether that seeing red raises a picture of Mr. Insull in Chicago or raises a picture of what some of the papers style are self-seeking politicians who in the past have secured political preferment by opposing water power.

I do not believe the water power question is anything more than an

economic question and I personally am fully satisfied to take the assurance of the gentleman from Augusta that no action will be taken by any committee on this bill of which the Legislature will not be fully informed.

I therefore, Mr. President, move that the Senate recede and concur.

The PRESIDENT: The Senator from Washington, Senator Murchie, moves that the Senate recede and concur with the House in the reference of this bill. Is this the pleasure of the Senate?

The motion to recede and concur prevailed.

Papers from the House disposed of in concurrence.

From the House:

An act relative to temporary plates for motor vehicles. (H. D. 301)

In the House, referred to the Committee on Ways and Bridges.

In the Senate, on motion by Mr. Littlefield of York, tabled pending reference.

House Bills in First Reading

An act enlarging the limits of the West Paris Village Corporation. (H. D. 68)

An act to amend the charter of the Bar Harbor Village Improvement Association. (H. D. 29)

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

Appropriations and Financial Affairs

By Mr. Spear of Cumberland: An act relative to payments from state appropriations. (S. P. 369)

(500 copies ordered printed.)
Sent down for concurrence.

Inland Fisheries and Game

By Mr. Greenleaf of Androscoggin: Remonstrance of A. W. Phinney and 7 others of East Peru against the passage of an act prohibiting fishing in Swift River Tributaries and in Swift River Pond, Franklin County. (S. P. 370)

Sent down for concurrence.

Judiciary

By Mrs. Pinkham of Aroostook:

An act relating to mothers with dependent children. (S. P. 371)

(500 copies ordered printed.)

By Mr. Martin of Kennebec: Remonstrance of Bliss Watts of Clinton and 35 others against Senate Document 30, "An act to establish a Board of Examiners for the Basic Sciences." (S. P. 372)

Sent down for concurrence.

Ways and Bridges

By Mr. Spear of Cumberland: An act relating to damage suits brought against towns and counties on State and State aid highways. (S. P. 373)

(500 copies ordered printed.)

Sent down for concurrence.

On motion by Mr. Slocum of Cumberland unanimous consent was granted that Senator to introduce, out of order and under suspension of the rules, An act relating to the State Highway Police (S. P. 375); and on further motion by the same Senator the bill was referred to the Committee on Judiciary and one thousand copies ordered printed.

Sent down for concurrence.

On motion by Mr. Slocum of Cumberland unanimous consent was granted that Senator to take from the table, out of order and under suspension of the rules, An act relating to the powers of the State Highway Police (S. P. 360), tabled by that Senator on February 7th pending reference; and on further motion by the same Senator the bill was referred to the Committee on Judiciary.

Sent down for concurrence.

Orders

Mr. Murchie of Washington presented the following order:

Whereas the State of Maine for a period of approximately twenty years has pursued the policy of retaining within its territorial limits the hydro-electric energy produced by water powers within its borders, and

Whereas this policy has been challenged on economic grounds by parties interested in the ownership of water powers and water power sites within the State, and

Whereas a proper settlement of the problem of a desirable water

power policy should be predicated solely upon the question of what policy is for the best interests of a majority of our own people,

ORDERED, the House concurring, that the committee to which has been referred Senate Document No. 44 and other bills and orders dealing with the subject matter of the export of hydro-electric energy is hereby requested and directed to conduct such an investigation into the economic phases of the problem of power export as in the opinion of said committee and its members may be necessary to advise this Legislature at the time of making its report on said bills or orders or any one of them upon the following matters:

1. The price of industrial power as sold by public utility corporations in Maine, in New Hampshire and in Massachusetts.

2. The trend of such prices in said states during a period of not less than the last three years.

3. The probable cost of construction of a power transmission line from the probable terminus in Maine to the probable terminus in Massachusetts with a designation of those probable termini.

4. The probable cost of operation of such a line including capital charges and transmission losses.

5. The relative cost of power developed in Maine delivered to points in Maine, in New Hampshire and in Massachusetts.

6. The probable effect of the construction and operation of such a line upon the price of industrial power in Maine, in New Hampshire and in Massachusetts.

7. The present rate of steam installation to hydro installation of the major utilities in Maine, New Hampshire and in Massachusetts.

8. The desirable ratio of such installations having regard to the nature of the loads of such several utilities.

9. The present freight costs for goods being manufactured in substantial quantities in Maine, in New Hampshire and in Massachusetts with a comparison of the same between State and State.

10. The trend of freight costs during a period of not less than the last three years with information if any is available of prospective changes.

11. The proportion of power costs and freight costs in the present major industries in said states, exclusive of such of those industries as depend upon raw materials available in large quantities in the state of manufacture.

12. The relative worth to the owners of powers and power sites in Maine of such powers or sites used, first in manufacture and, second, for the production of hydro-electric energy for sale.

13. The minimum amount of power export necessary to make the construction and operation of a transmission line in Massachusetts commercially feasible.

14. The class or kind of power, as now in use in New Hampshire and in Massachusetts, which power exported from Maine will probably replace, and, if more than one class or kind, the proportion or amount of the several classes, that is, prime, secondary and relay.

15. The desirability, from a capital standpoint, having regard to power cost, to freight cost, and to other items, of the location of industry in Maine under present conditions and after the construction of a line capable of transmitting electric energy in large amounts to New Hampshire and to Massachusetts.

Mr. MURCHIE of Washington: Mr. President, I do not believe that anyone can have any objection to the passing of this order as it calls simply for economic investigation and calls for the report to be made to this Legislature when the bills are reported, but in order that everyone may have an opportunity to see what the order is I move that it lay on the table and that five hundred copies be printed.

The PRESIDENT: The Senator from Washington, Senator Murchie, moves that the order be laid upon the table and that five hundred copies of the same be ordered printed. Is this the pleasure of the Senate?

The motion to table and print prevailed.

On motion by Mr. Noyes of Kennebec, it was

Ordered, that an invitation be extended to Rev. W. A. Smith of Waterville to act as Chaplain of

the Senate on Thursday, February 14th.

On motion by Mr. Martin of Kennebec, it was

Ordered, the House concurring, that all bills, petitions, resolves and orders after the session of the legislature held on February twenty-eighth, excepting such as pertain solely to facilitating the business of the Eighty-fourth legislature, be referred to the next legislature; and that the Clerk of the House cause copies of this order to be published in all the daily and weekly papers of the State, until and including February twenty-eighth, 1929.

Sent down for concurrence.

Bills in First Reading

Resolve providing for a state pension for Kate D. Talbot of Machias. (S. D. 150)

Resolve providing for a state pension for Alberta Wadsworth of Belfast. (S. D. 151)

An act to increase the salary of the Register of Deeds in the County of Androscoggin. (S. D. 153)

Reports of Committees

Mr. Dunbar, from the Committee on Claims, on "Resolve in favor of the Waldo and Penobscot Agricultural Society for the state stipend for 1928" (H. D. 71) reported that the same ought to pass.

Mr. Greenleaf, from the Committee on Public Health, on bill "An act to amend section 2 of chapter 208 of the Public Laws of 1925, permitting sterilizing operations" (S. D. 51) reported that the same ought to pass.

The reports were severally read and accepted, the bill and resolve each read once and tomorrow assigned for second reading.

Mr. Murchie, from the Committee on Salaries and Fees, on bill "An act relating to clerk hire in the office of the Register of Probate in Androscoggin County" (S. P. 113) reported the same in a new draft, under the same title (S. P. 374) and that it ought to pass.

Which report was read and accepted and the bill laid upon the table for printing under the joint rules.

Passed to Be Engrossed

Resolve providing for a State pension for Fred F. Harris of Lewiston. (S. D. 22)

An act relating to the expenses of the Justices of the Supreme Judicial Court. (S. D. 144)

Sent down for concurrence.

Orders of the Day

On motion by Mr. Oakes of Cumberland, the Senate voted to take from the table an order Relative to the Export of Hydro-Electric Power, tabled by that senator on February 6th pending passage.

The same senator then presented the following order and moved that the same be substituted for the order just taken from the table:

ORDERED, the House concurring, that:

Whereas there are two measures before this Legislature relating to export of surplus power known as the Carlton Bill S. P. 81 and the Oakes Compact Bill S. P. 177.

Whereas the economic phases of the question of export of power are being investigated by engineers at great expense and a report is being awaited by this Legislature.

Whereas all economic data and elaborate limitations are useless without a valid legal basis for enforcement.

Whereas George W. Wickersham and John W. Davis are both recognized as men of integrity and as authorities on law involving Federal and State control of interstate commerce.

Now, therefore the Attorney General of this State is hereby instructed to procure from the above named George W. Wickersham or the above named John W. Davis legal opinions in answer to the following questions:

Would the terms of the Carlton bill be legally enforceable so that, upon the export of electricity thereunder, the State of Maine would not, by reason of the Federal law, relinquish any portion of its control, jurisdiction and regulation over the hydro-electric resources within our borders?

Would the terms of a compact according to the provisions of the Oakes Compact bill be legally enforceable so that, upon the export of electricity thereunder, the State of Maine would not, by reason of the

Federal law, relinquish any portion of its control, jurisdiction and regulation over the hydro-electric resources within our borders?

Such opinions shall be reported to the Legislature on or before February 26, 1929 and if the services of neither of the above authorities is available the Attorney General shall so report to the Legislature immediately.

And it is further ordered that a sum not over ten thousand dollars is hereby made available for the purpose of carrying out this order.

The PRESIDENT: The Senator from Cumberland, Senator Oakes, moves that the order just read be substituted for the order taken from the table.

Mr. OAKES of Cumberland: The motion not to include passage, Mr. President.

The PRESIDENT: The motion of the Senator from Cumberland, Senator Oakes does not include the passage of the order but simply that this last order be substituted for the other.

The motion to substitute prevailed.

Mr. OAKES: Now, Mr. President, I believe that the other day when I tabled that order I interrupted the Senator from Sagadahoc, Senator Carlton. I now yield to that senator if he desires the floor at this time.

Mr. CARLTON of Sagadahoc: Mr. President and fellow senators, I have very little to say with relation to this order. I have had all kinds of advice not to speak of it at all in fear that I might stub my toe and spill the beans, but I am going to speak very briefly on a few of the features of this order. First, it is an expense of time and money and after you obtain the opinion asked for they do not settle any one identical thing. The fact that some of these great lawyers' opinions might be gratifying or satisfying to some attorney doesn't get us anywhere.

Now, I want to ask you if you think it will be advisable to spend five thousand dollars on the Oakes Compact Bill where the sponsor himself says it is dead? Wouldn't it be more proper and more economical to employ a local attorney and if he agreed with my colleague that that measure is dead, bury it with flowers? I think we can find better uses for our time and money

than wasting them on this kind of an order and I move you, Mr. President, that this order be indefinitely postponed.

The PRESIDENT: The Senator from Sagadahoc, Senator Carlton, moves that the order introduced by the Senator from Cumberland, Senator Oakes, be indefinitely postponed.

Mr. OAKES: Mr. President, is that motion debatable?

The PRESIDENT: The motion is debatable.

Mr. OAKES: Mr. President, I wish to explain to the Senate my reasons for changing the order. I have changed the date to which the request for an opinion was asked to February 26th. I had at first intended to change it to an earlier date but by reason of the delay in taking the matter off the table and bringing it to the attention of the Senate, February 26th seems to be the earliest date that we could probably expect to get an opinion. I call attention to the fact that the hearings on the water power bills have not been ordered, that the report of the commission to investigate under the fact-finding committee—I don't remember the name of it—has not been submitted, and it doesn't seem to me as though there could be any possible action by the Legislature, and probably not by the committee, prior to February 26th. So, I do not think that any delay would be caused by this order.

Now, as to the question of the change in name. You will remember that the previous order stipulated the names of Mr. Hughes or Mr. Wickersham. In this order I have changed that to Mr. Wickersham or Mr. Davis. The reason for this is that when the order was introduced the other day it was suggested to me that it lay on the table and perhaps some changes might be made that could make it a better order, and we had a short conference here in the afternoon to discuss it. At that time it was brought to my attention that Mr. Hughes had been employed by the Central Maine Power Company on this question and I therefore wrote this letter to Mr. Wyman on Thursday—but I will first state that Mr. Merrill, the representative of the Central

Maine Power Company, was out of town and asked me to delay the matter until Friday because of his absence and very courteously stated that I might state to the Senate that the delay was not my fault, and he was very fine about that. So on Thursday I wrote this letter to Mr. Wyman:—

"Feb. 7, 1929.

Mr. Walter S. Wyman,
Augusta, Maine.

Dear Mr. Wyman:

In view of the information that was given me yesterday afternoon and confirmed by you last evening, that you have consulted Mr. Charles E. Hughes regarding certain legal phases of the Water Power situation, but have received no written opinion from him, it seems to me that before the passage of the order which I introduced yesterday in its original form, I should request you to let me know if you have any objection to having Mr. Hughes give advice to the State, as, because of your having consulted him and the possibility of divergency of interests between your Companies and the State, he might feel obliged to decline to advise the State without your permission.

As this is expected to come off the table tomorrow morning, I am asking you to get a reply to me tonight."

On Thursday evening Mr. Wyman spoke to me at the Assembly and stated that the Company had received an opinion from Mr. Hughes and he also stated that Mr. Brewster, the former Governor, had consulted Mr. Hughes and Mr. Hughes had told him that he (Mr. Hughes) could not advise the State until the water power companies were willing to say that they would not ask any further information of Mr. Hughes. The water power companies, not knowing what further opinions they might desire, naturally did not care to agree to this. Therefore, the same situation would maintain today and it would be impossible to get an opinion from Mr. Hughes when he is acting for the water power company in the same capacity which we have in mind. So, I have eliminated Mr. Hughes' name and inserted instead the name of Mr. Davis.

Now, on Thursday night in my conversation with Mr. Wyman a suggestion was made by him which it seems to me would perhaps solve this question and save the passage of this order. He seemed to feel that the passage of the order might be confusing to some members of the Legislature and if the same result could be brought about otherwise it would be better, and I was glad to cooperate with him in that respect. I saw him Friday afternoon and was surprised to learn that there was a misunderstanding between him and me on Thursday evening. I don't know which of us misunderstood the other and there is no question of any slightest thought of insincerity—it is absolutely good faith on the part of Mr. Wyman without any question in my mind—but anyway, the opinion which I hoped we would be able to secure under the suggestion of Thursday evening, would not be available until after the adjournment of the Legislature. I couldn't see how that would be of any service to us and I told Mr. Wyman that I couldn't see that our attempt to clear the situation had been of any avail. That did, however, delay the matter until this morning and now we have it before us and I hope that the members of the Senate will feel, as I stated the other day, that it is as essential to know the legal situation under which we are acting as it is to know the economic situation. It is as essential for us to know the legal situation as it is for the water power interests to know the same situation.

On motion by Mrs. Carter of Androscoggin the order was tabled pending the motion to indefinitely postpone.

On motion by Mr. Greenleaf of An-

droscoggin, the Senate voted to take from the table An Act to extend the charter of the Quebec Extension Railway Company (H. D. 18), tabled by that Senator on February 6th pending enactment; and on further motion by the same Senator the bill was passed to be enacted.

On motion by Mr. Greenleaf of Androscoggin, the Senate voted to take from the table An Act to incorporate the City of Brewer High School District (H. D. 3), tabled by that Senator on February 6th pending enactment; and on further motion by the same Senator the bill was passed to be enacted.

On motion by Mr. Greenleaf of Androscoggin, the Senate voted to take from the table An Act to incorporate the Casco Title Guaranty Company (H. D. 4), tabled by that Senator on February 8th pending enactment; and on further motion by the same Senator the bill was passed to be enacted.

The PRESIDENT: The Chair will take the opportunity at this time to thank the members of the Senate for the very beautiful flowers that you sent us last week. My father was very much interested in the proceedings of the Legislature. He was a member of the House in 1877 and a member of the Senate in 1878 and 1879, and during the few weeks that he lived after this Legislature convened he was deeply appreciative of the honor that you conferred upon me on the opening day in electing me your presiding officer. I certainly appreciate more than I can tell you your kindness and sympathy during this time.

On motion by Mrs. Allen of Penobscot,

Adjourned until tomorrow morning at ten o'clock.