

MAINE STATE LEGISLATURE

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Legislative Record

OF THE

Eighty-Seventh Legislature

OF THE

STATE OF MAINE

1935

KENNEBEC JOURNAL COMPANY
AUGUSTA, MAINE

ERRATA:

The header on page 262

in the Regular Session

should read

“HOUSE, FEBRUARY 26, 1935”

instead of

“SENATE, FEBRUARY 26, 1935”

HOUSE

Tuesday, February 26, 1935.

The House met according to adjournment and was called to order by the Speaker.

Prayer by the Rev. Mr. Bubar of Blaine.

Journal of the previous session read and approved.

From the Senate: Bill an act relating to small loan agencies. (S. P. 406, L. D. 656)

Comes from the Senate referred to the committee on Banks and Banking.

In the House, on motion by Mr. Ellis of Rangeley, tabled pending reference in concurrence.

From the Senate: Bill an act to amend the law relating to school age. (S. P. 130, L. D. 51), which was passed to be engrossed in the House on February 15th.

Comes from the Senate passed to be engrossed as amended by Senate Amendment A in non-concurrence.

In the House:

Mr. DEVEREUX of Penobscot: Mr. Speaker, in order to perhaps make some corrections in this amendment I move that it lie on the table pending further consideration.

The motion prevailed.

Papers from the Senate disposed of in concurrence.

Senate Bills In First Reading

S. P. 452, L. D. 638: Resolve compensating bidders on the Howard Memorial.

S. P. 181, L. D. 641: Resolve in favor of Grace R. Lee of Augusta.

S. P. 212, L. D. 640: Resolve relative to fishing in Wentworth and Baker ponds.

S. P. 253, L. D. 203: An act to incorporate the town of Jonesport School District.

S. P. 166, L. D. 642: An act to prohibit the dumping or deposit of refuse in the waters of Damariscotta river.

S. P. 165, L. D. 639: An act relating to annual sessions of the county commissioners of Lincoln county.

S. P. 300, L. D. 263: An act to amend an act to incorporate the Guilford and Sangerville Water District.

The following petitions were re-

ceived and upon recommendation of the committee on Reference of Bills were referred to the following committee:

Education

Petition of D. H. Buxton of Abbot and 68 others in favor of L. D. 56, relating to Educational Program. (H. P. No. 1462) (Presented by Mr. Austin of Parkman)

Petition of Charles H. Damon of Charlotte and 33 others in favor of same. (H. P. No. 1463) (Presented by Mr. Clarke of Cooper by request)

Petition of George E. Snowman of Deer Isle and 109 others in favor of same. (H. P. No. 1464) (Presented by Mr. Devereux of Penobscot)

Petition of Lavinia G. Elline of Thomaston and 100 others in favor of same. (H. P. No. 1465) (Presented by Mr. Elliot of Thomaston)

Petition of Fred Harvey of St. Francis and 89 others in favor of same. (H. P. No. 1466) (Presented by Mr. Jandreau of St. Francis)

Petition of George Pelletier of St. John and 109 others in favor of same. (H. P. No. 1467) (Presented by same gentleman)

Petition of Dedimo Bouchard of Fort Kent and 158 others in favor of same. (H. P. No. 1468) (Presented by Mr. Labbee of Wallagrass)

Petition of Evan E. Hathaway of Mattawamkeag and 64 others in favor of same. (H. P. No. 1469) (Presented by Mr. Mallett of Lee)

Petition of Russell A. Lyman of Otis and 23 others in favor of same. (H. P. No. 1470) (Presented by Mr. Noyes of Franklin)

Petition of J. E. Russell of Phillips and 63 others in favor of same. (H. P. No. 1471) (Presented by Mr. Hammond of Strong)

Petition of Chester A. Cox of Strong and 47 others in favor of same. (H. P. No. 1472) (Presented by same gentleman)

Petition of Fred Hanly of Stockton Springs and 109 others in favor of same. (H. P. No. 1473) (Presented by Mr. Harriman of Prospect)

Petition of Lester Allen of Stoneham and 16 others in favor of same. (H. P. No. 1474) (Presented by Mr. Heald of Lovell)

Petition of Arthur Kimball of Albany and 36 others in favor of same. (H. P. No. 1475) (Presented by same gentleman)

Petition of W. C. Brooks of Lovell and 36 others in favor of same. (H. P. No. 1476) (Presented by same gentleman)

Petition of Maggie M. Merrill of Willimantic and 34 others in favor of same. (H. P. No. 1477) (Presented by Mr. Hescok of Monson)

Petition of Thomas W. McKay of Camden and 116 others in favor of same. (H. P. No. 1478) (Presented by Mr. Hobbs of Hope)

Petition of Burton F. Hall of Hope and 50 others in favor of same. (H. P. No. 1479) (Presented by same gentleman)

Petition of J. W. Hoyt of Hampden and 145 others in favor of same. (H. P. No. 1480) (Presented by Mr. Leonard of Hampden)

Petition of Flora M. Homsted of Hermon and 67 others in favor of same. (H. P. No. 1481) (Presented by same gentleman)

Petition of H. H. Day of Wesley and 19 others in favor of same. (H. P. No. 1482) (Presented by Mr. Lindsey of East Machias)

Petition of Pearl M. Manter of Wayne and 35 others in favor of same. (H. P. No. 1483) (Presented by Mr. Newton of Readfield)

Petition of Roger L. Thurston of Andover and 47 others in favor of same. (H. P. No. 1484) (Presented by Mr. Thurston of Andover)

On motion by Mr. Mace of Augusta, it was

Ordered, that the use of the hall of the House be granted to the State Federation of Garden Clubs for the evening of Tuesday, March 5, 1935.

Mrs. FORBES of Dover-Foxcroft: Mr. Speaker, in the absence of the member from Portland, Mrs. Kilroy, I move that the rules be suspended and the members allowed to smoke for the remainder of the morning's session. (Applause)

The motion prevailed.

Mrs. Currier of Bangor presented the following order and moved its passage:

Ordered, the Senate concurring, that the clerks of the joint standing committees be, and hereby are, directed to file with the Secretary of the Senate and with the Clerk of the House a report of the number of bills and resolves referred to their committees, and their disposition, the first report to be filed forthwith as of February 22nd, and weekly reports to be filed on Friday of each week.

The order received passage and was sent up for concurrence.

Reports of Committees

From the Senate: Majority report of the Committee on Legal Affairs reporting ought not to pass on bill an act to inflict corporal punishment upon husbands found guilty of assault upon their wives (H. P. No. 199) (L. D. No. 61).

Report was signed by the following members:

Messrs. Blaisdell of Hancock
Pinansky of Cumberland
Miss Martin of Penobscot
—of the Senate.

Messrs. Chase of Baring
Donahue of Biddeford
Chase of Sebec
Burnham of Kittery
Davis of Fairfield
Higgins of Ellsworth
—of the House.

Minority report of same committee on same bill reporting same in a new draft (H. P. No. 1485) under same title and that it ought to pass.

Report was signed by the following member: Mr. Sawyer of Brunswick, of the House.

Mr. SAWYER of Brunswick: I move, Mr. Speaker, and ladies and gentlemen, that the minority report be accepted, and I wish to state the matter before the House. I wish to state to the members of the House that nobody needs to expect—

The SPEAKER: The Chair will call the attention of the gentleman from Brunswick (Mr. Sawyer) to the fact that he must not stand in the aisle when he speaks.

Mr. SAWYER (continuing): I wish to state that it was not my expectation that there would be either a favorable report, or that the Eighty-seventh Legislature would pass this measure at this time. However, it has been called to my attention that I should discharge my duty in putting the facts before this Legislature at the present time and I was selected to do so. I was told, because I had the reputation of being a very mild individual, and not swayed by passion or prejudice. I was told that it was wise that I should do so because I was a member of the bar and was not sensitive to any knocks that might come as a result, all of which I admit.

In the first place, we all know that this country has been suffering from a wave of crime, that neither Federal nor State authorities admittedly have been able to cope with it with any degree of success, except in two States, Delaware and Maryland. Delaware and Maryland

follow more closely the English penalty of inflicting corporal punishment in cases of cruelty. In the State of Maryland, where this matter has had a passage and been in force since 1882, they had an average of cruel offenses under such a law of only one per year. My authority for that statement is Justice James O'Dunn, thirty or forty years Justice on the Bench, one of the leading justices of the State and the editor of the Baltimore Sun, in a personal letter to me.

The State of Delaware has such a law, not only in regard to the punishment of cruel offenders against the family relation, but other offenses where the perpetration of the crime was accompanied by cruelty. Cruelty is the crux of the whole matter. The State of Delaware has not had a bank robbery since 1873.

Criminologists, penologists and reformers have studied the situation, and a very acrimonious hearing was held in 1933 in an effort in these states of Maryland and Delaware to change the attitude in these states where theorists thought the penalty was too severe. After a full hearing, in which the leading men for the continuance of the law were bankers, bank presidents, business men, the most substantial men in the community, and the Bench and Bar, they pointed to the fact that their states showed the smallest degree of offenses of this kind of any state in the Nation. In comparison to that, in the State of Maine we have had six offenses in two counties, Kennebec and Cumberland, within the last three or four months. Two of these are on the continued calendar of the Cumberland County Superior Court at this time. One I have had something to do with personally. In the county of Kennebec, since this Legislature assembled, there have been two cases, one right within speaking distance of this Capitol, this State House. The Judges have been consulted by me in several jurisdictions, and without exception they admit there is no remedy on the statute books that metes out an adequate punishment to such offenders.

To the answer that this might suggest a revival of old time methods, Justice Avery made the remark that the time has come when it is necessary that stern measures should be taken to repress this class of offenders.

I have prepared and had circulated about the House quite a sum-

mary, or sort of a brief statement of points we make under this measure. I have here a clipping of very recent date headed "Love and the Lash," giving a summary of the laws presented in the different jurisdictions to prevent crime and among them there is a measure stronger than ours, intended to affect other crimes as well as wife-beating, introduced in the State of Washington, and I am advised that it probably will be passed.

In conclusion, I will say that a prominent engineer was speaking before a body of men in this city last Tuesday night, and he made this remark, after giving us some valuable information: "Now, I will turn to the social side. The trouble today with us is that we are governed altogether too much by emotionalism. We are not willing to face the facts and meet offenses with proper remedies."

Ex-President Taft, who as a Justice we all admit was about the best we could have, made the remark before the American Bar Association: "Any offense must have an adequate penalty," and he quoted from the old Indian Doctor who said his medicine was no good unless it had a bite.

I claim that so far as these crimes that are infesting society today—and not the least among them are the frequent examples of cruelty in the home that is destroying the very foundations of society—nothing is adequate except something which has sufficient bite to meet the cowardly individual who is guilty. In addition to that I will say, from another source, Grover Cleveland was wont to say that when you have a thing to meet, it is a condition and not a theory.

I will say in reply to those whom I have heard from this House in criticism, that there is no viciousness—and that word means spirit of revenge—that actuates this matter whatever. It is a matter of pure justice and no adequate remedy in justice can be administered to meet such an offense as this except that which will create a fear in the heart of the man who is guilty. The reading of the the Twenty-third Psalm and the recital of the Ten Commandments, and, I say with all due reverence, the recital of the Lord's Prayer, will not influence this form of individual. I thank you. (Applause).

Mr. DAVIS of Fairfield: Mr. Speaker and members of the

Eighty-seventh Legislature: As one who signed the majority report of the committee on Legal Affairs, I feel it is my duty to stand by that report. This measure was given a good, long, fair hearing before our committee. It was one of the first measures introduced into this House, and at the suggestion of the gentleman from Brunswick (Mr. Sawyer) it was laid on the table so that he might gather information from other states, and that he might have an opportunity to present his case fully. That request was granted.

We have before us, here on our desks this morning, a pamphlet or a letter addressed to the members of the Senate and the House, calling our attention to the majority and minority reports. I notice in capitals that "capital punishment and corporal punishment must not be confused, nor the effect of each." I disagree, and I dislike to very much, with the gentleman from Brunswick (Mr. Sawyer) when he suggests that perhaps it is not necessary to confuse the two. It was brought out in our committee, very forcefully, I thought, that this grand old State of Maine of ours was the first to allow the accused to take the witness stand in his own behalf. It was also the first State of the Union to abolish capital punishment among the states which had it on their statute books. Now to effect a law that brings in force capital punishment is to my mind just a beginning,—as the gentleman from Brunswick (Mr. Sawyer) suggests in this letter, "the end is not yet." It is a wrong step, I feel. I do not expect that this law will have its effect upon any member of this House, but the chances are that if it was on the books, there might be one judge, two judges or more, in some jurisdictions, who would like to try that out, and who would, just for the novelty of it, and perhaps for the publicity of it, try it out.

Can you imagine a father, although he is a cruel father and perhaps an unnecessary human being as far as civilized society is concerned,—can you imagine such a father being charged and being sentenced to appear in the rear of some jail, perhaps enclosed and perhaps not, with his hands held up over his head or tied there, to be subjected to this sort of humiliation, to be horsewhipped with

cat-o-nine tails or a whip, or whatever is used! That sentence is simply temporary—he is going to be discharged from that institution and is going out to face the world again. I ask you in all fairness, how could he ever hope to face his children again with that stigma on him?

I hope that when the vote is taken you will give it as serious consideration as our friend from Brunswick has given it. I know he is earnest in this, and I know he wants to do the right thing. This is not one iota a personal matter with me, and I am sure it will not be with you, but I do hope that the motion of the gentleman from Brunswick (Mr. Sawyer) will not prevail.

Mr. SAWYER: Mr. Speaker, if I may be allowed to reply to the gentleman, I will say that the idea, or even remotest suggestion that a man sufficiently capable to be appointed a judge of one of our courts would permit the sentencing of a man to punishment of this nature as a novelty, trial or experiment is disgusting to any man with an appreciation of the legal qualifications of a judge. I do not believe that we have a man in the State of Maine who has such a mean conception of his duties as a judge; and for the benefit of the profession who might be interested in this matter, I would call attention to a decision I have here which reviews the matter very thoroughly. It is found in 59 Maryland Reports, page 264. It is the case of Foote against the State, decided January 26, 1883, shortly after the Maryland law went into effect. There has not been another decision covering the question so thoroughly since.

The SPEAKER: Are you ready for the question? The question before the House is on the motion of the gentleman from Brunswick, Mr. Sawyer, to accept the minority report on bill an act to inflict corporal punishment upon husbands found guilty of assault upon their wives, H. P. 199, L. D. 61. All those in favor of the motion say aye; those opposed no.

A viva voce vote being taken, the motion to accept the minority report failed of passage.

On motion by Mr. Davis of Fairfield, it was voted to accept the majority report.

Reports of Committees

(Continued)

Mr. Sprague from the Committee on Inland Fisheries and Game on resolve appropriating money to complete the fish way at Aroostook Falls, (H. P. No. 572) reported same in a new draft (H. P. No. 1487) under same title and that it ought to pass.

Report read and accepted and the new draft ordered printed under the Joint Rules.

Mr. HescocK from the Committee on Inland Fisheries and Game reported ought to pass on bill an act relating to taking of white fish in Mattawankeag Lake (H. P. No. 435)

Mr. MacKenzie from same Committee reported same on resolve relative to closing Pettengill Stream (H. P. No. 566)

Mr. Ryder from same Committee reported same on resolve relating to muskrats in Morrill Mill Pond (H. P. No. 574)

Same gentleman from same Committee reported same on resolve relative to fishing in the river between Mooselucmeguntic Lake and Upper Richardson Lake (H. P. No. 571)

Mr. Thompson from same Committee reported same on resolve relative to closing Cary Brook to all fishing (H. P. No. 568)

Reports read and accepted and the bills and resolves ordered printed under the Joint Rules.

(H. P. No. 596) (L. D. No. 160) Mr. Donahue from the Committee on Legal Affairs reported ought to pass on bill an act to provide for the surrender by the town of Kingman of its organization

(H. P. No. 837) (L. D. No. 284) Mr. Higgins from same Committee reported same on bill an act to make valid the doings of the Harrison Water Company and to define and confirm its powers

(H. P. No. 1160) (L. D. No. 335) Mr. Clarke from the Committee on State Lands and Forest Preservation reported same on resolve authorizing the Forest Commissioner to convey certain land in Drew to Josephine Morse

(H. P. No. 111) (L. D. No. 34) Mr. Mace from same Committee reported same on resolve empowering and directing the Forest Commissioner to convey a lot of land in Wallagrass Plantation

Reports read and accepted and the bills and resolves having already been printed, the bills were

read twice under suspension of the rules, the resolves read once under suspension of the rules, and tomorrow assigned.

(H. P. No. 180) (L. D. No. 39) Mr. Drisko from the Committee on Education on Joint Order relative to reducing tuition rates to State aided academies

Report read and accepted and the order read and passed, and sent up for concurrence.

First Reading of a Printed Bill

H. P. 1459, L. D. 655: An act to assure the proper branding of potatoes.

(Tabled by Mr. Thompson of Belfast, pending second reading)

Passed to be Engrossed

(S. P. No. 189) (L. D. No. 225) An act relating to certain implements and devices prohibited in fishing; penalty

(S. P. No. 239) (L. D. No. 637) An act to validate the organization of Colby Light & Power Company, and the issuance of its stock

(S. P. No. 453) (L. D. No. 636) An act to validate the organization of Caribou Water, Light and Power Company, and to enlarge its purposes

(H. P. No. 693) (L. D. No. 224) An act relating to enforcement of tax liens

(H. P. No. 1130) (L. D. No. 329) An act relating to the Ogunquit Beach District

(H. P. No. 1161) (L. D. No. 376) An act relating to exemption of estates from taxation

(H. P. No. 1219) (L. D. No. 447) An act relating to State Highway Police

(S. P. No. 146) (L. D. No. 487) Resolve regulating fishing in Greeley Pond

(H. P. No. 570) (L. D. No. 651) Resolve relating to fishing in Greenlaw Brook

Orders of The Day

The Chair lays before the House the first matter tabled and today assigned, House Order relative to requesting opinion of the Attorney General relative to automobile number plates, tabled on February 22nd by the gentleman from South Portland, Mr. Hill, pending passage; and the Chair recognizes the gentleman from South Portland, Mr. Hill.

MR. HILL; Mr. Speaker, when this order was introduced the other day I moved that it lie on the table, not because of any opposition to the

order but because I knew that the gentleman from Calais (Mr. Tupper) who was particularly interested in the subject to which the order related happened to be out of the hall at the moment when it was introduced. The gentleman happens to be out again just now, but I understand he has no remarks to make in connection with the order and perhaps the House is ready to take such action as it may deem desirable in connection with this order.

Mr. DAVIS of Newfield: Mr. Speaker, I think the gentleman from Portland, Mr. Jacobson, one of the proponents, is away today and I would suggest that, if possible, we await his return, and that the order be retabled and specially assigned for tomorrow.

The motion prevailed.

On motion by Mr. Drisko of Jonesboro, it was voted to take from the table the fourth unassigned matter, House report ought not to pass of the committee on Taxation on bill an act relating to rebate on gasoline tax to lobster fishermen, H. P. 288, L. D. 70, tabled by that gentleman February 20, pending acceptance of the report; and on further motion by the same gentleman the report of the committee, ought not to pass, was accepted.

On motion by Mr. McKay of Drew, it was voted to take from the table the seventh unassigned matter, resolve in favor of Roscoe L. York of Medway, H. P. 1440, L. D. 647, tabled by that gentleman February 20th, pending second reading; and on further motion by the same gentleman the resolve had its second

reading and was passed to be engrossed.

Paper from the Senate, out of order.

From the Senate: The Joint Order relative to directing committee clerks to file reports of the number of bills, which was passed in the House this morning is now returned by the Senate indefinitely postponed in non-concurrence.

In the House, on motion by Mr. Hill of South Portland, it was voted to insist and ask for a committee of conference; and the Chair appointed on the committee of Conference Messrs. Hill of South Portland, Ellis of Rangeley and Chase of Sebec.

The SPEAKER: Is there any further business under Orders of the Day?

On motion by Mr. Jacobson of Portland, it was voted to take from the table the ninth unassigned matter, Memorial to Congress relative to subversive influences, tabled by that gentleman February 22nd, pending adoption.

Mr. HILL of South Portland: Mr. Speaker, the Memorial relates to a subject upon which there is legislation pending in the Legislature, which legislation is now before the committee on Judiciary. For that reason I move that the Memorial be referred to the committee on Judiciary.

The motion prevailed, and the Memorial was referred to the committee on Judiciary, and sent up for concurrence.

On motion by Mr. Pike of Lubec, Adjourned until ten o'clock tomorrow morning.