

# MAINE STATE LEGISLATURE

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Legislative Record

OF THE

Eighty-Seventh Legislature

OF THE

STATE OF MAINE

1935

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**HOUSE**

Friday, March 15, 1935.

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

Prayer by the Rev. Mr. Webber of Hallowell.

Journal of the previous session read and approved.

Papers from the Senate disposed of in concurrence.

**Senate Bill in First Reading**

S. P. 411, L. D. 533: An act relative to the filing of an inventory in estate.

From the Senate: Joint order creating State Insurance Fund Commission, H. P. 1711, L. D. 747, which was referred to the committee on Judiciary in the House on March 12th.

Comes from the Senate indefinitely postponed.

In the House:

Mr. LEBEL of Brunswick: Mr. Speaker, in view of the fact that there seems to be a little misunderstanding regarding this proposition, I move that the same be tabled.

The motion prevailed, and the Joint Order was tabled pending further consideration.

From the Senate: Ordered, the House concurring, that when the Senate and House adjourn, they adjourn to meet on Tuesday, March 19, 1935 at 11 o'clock. (S. P. 628)

Comes from the Senate, read and passed.

In the House, read and passed in concurrence.

The following petitions and remonstrance were received and upon recommendation of the committee on Reference of Bills were referred to the following committees:

**Education**

Petition of Edward E. Shapleigh, Jr. of Kittery and 50 others in favor of L. D. 56, relating to educational program (H. P. No. 1731) (Presented by Mr. Burnham of Kittery)

Petition of B. C. Paul of Limington and 83 others in favor of same (H. P. No. 1732) (Presented by Mr. Chase of Limington)

Petition of Leon W. Ayers of

Cornish and 50 others in favor of same (H. P. No. 1733) (Presented by same gentleman)

Petition of Hiram Gerrish of Brownville and 77 others in favor of same (H. P. No. 1734) (Presented by Mr. Hescocock of Monson)

Petition of H. R. Willard and 45 others of Orono in favor of same (H. P. No. 1735) (Presented by Mr. King of Orono)

Petition of Carroll L. Ford of Hartland and 102 others in favor of same (H. P. No. 1736) (Presented by Mr. Lancaster of Canaan)

Petition of Virgil E. Goodrich of Harmony and 93 others in favor of same (H. P. No. 1737) (Presented by same gentleman)

Petition of N. H. Vining of St. Albans and 81 others in favor of same (H. P. No. 1738) (Presented by same gentleman)

Petition of Edith M. Patch of Old Town and 14 others in favor of same (H. P. No. 1739) (Presented by Mrs. Latno of Old Town)

Petition of Vera L. Emery of Eastport and 28 others in favor of same (H. P. No. 1740) (Presented by Mr. Stoddard of Eastport)

Petition of Annie E. Bailey of Sanford and 26 others in favor of same (H. P. No. 1741) (Presented by Mr. Wallace of Sanford)

**Taxation**

Remonstrance of J. P. Hutchison of Eastport and 62 others against sales tax (H. P. No. 1742) (Presented by Mr. Stoddard of Eastport)

**Ways and Bridges**

Petition of Charles A. Ham and 38 others of Wales in favor of L. D. 13, an act relating to snow removal on R. F. D. routes (H. P. No. 1743) (Presented by Mr. Russ of Woodstock)

**Reports of Committees**

Mr. Devereux from the Committee on Claims on resolve in favor of Norris Wescott of Prospect (H. P. No. 664) reported same in a new draft (H. P. No. 1744) under same title and that it ought to pass.

Mr. Mosher from same Committee on resolve in favor of Lang Plantation (H. P. No. 294) reported same in a new draft (H. P. No. 1745) under same title and that it ought to pass.

Mr. Burgess from the Committee on Inland Fisheries and Game on resolve relating to the dipping of smelts in Mousam Lake in the towns of Acton and Shapleigh (H.

P. No. 1044) reported same in a new draft (H. P. No. 1746) under same title and that it ought to pass.

Mr. Sprague from same Committee on resolve relative to closing Armstrong Brook and tributaries to said brook to all fishing (H. P. No. 1059) reported same in a new draft (H. P. No. 1747) under same title and that it ought to pass.

Mr. MacKenzie from same Committee on resolve relative to smelt fishing in China Lake (H. P. No. 1046) reported same in a new draft (H. P. No. 1748) under same title and that it ought to pass.

Mr. Hescoc from same Committee on resolve relating to fishing in North Pond (H. P. No. 1055) reported same in a new draft (H. P. No. 1749) under same title and that it ought to pass.

Mr. Willey from the Committee on Judiciary on bill an act relating to sealers of weights and measures (H. P. No. 1236) (L. D. No. 550) reported same in a new draft (H. P. No. 1750) under same title and that it ought to pass.

Mr. Ellis from the Committee on Mercantile Affairs and Insurance on bill an act relative to the countersignature of all insurance policies and bonds (H. P. No. 206) (L. D. No. 66) reported same in new draft (H. P. No. 1751) under same title and that it ought to pass.

Mr. Mace from same Committee on bill an act relating to delinquency in payment of insurance assessments (H. P. No. 1151) (L. D. No. 371) reported same in a new draft (H. P. No. 1752) under same title and that it ought to pass.

Reports read and accepted and the new drafts ordered printed under the Joint Rules.

Mr. Allen from the Committee on Public Health reported ought to pass on bill an act relating to the sale of prophylactic rubber goods for prevention of venereal and other diseases (H. P. No. 1190) (L. D. No. 392)

Report read and accepted, and the bill having already been printed was read twice under suspension of the rules and tomorrow assigned.

**First Reading of Printed Bills and Resolves**

(H. P. No. 1458) (L. D. No. 759) An act to provide for the appointment of a Board of Commissioners

of Police for the town of Sanford (On motion by Mr. Demers of Sanford, tabled pending second reading)

(H. P. No. 1728) (L. D. No. 760) An act relative to qualifications of voters

(H. P. No. 1730) (L. D. No. 761) An act creating the Port of Calais Authority

(H. P. No. 1171) (L. D. No. 762) Resolve relating to fishing in Great Meadow Stream

**Passed to be Engrossed**

(S. P. No. 238) (L. D. No. 715) An act to extend the charter of Kennebec Reservoir Company

(S. P. No. 284) (L. D. No. 315) An act relating to incorporating the Madawaska Log Driving Company

(S. P. No. 304) (L. D. No. 713) An act relating to Deputy Clerk of Courts in Penobscot County

(S. P. No. 550) (L. D. No. 712) An act to authorize the acceptance of a surety company bond in lieu of bail-bonds or other sureties

(S. P. No. 551) (L. D. No. 711) An act relating to offenses against habitations and other buildings

(S. P. No. 552) (L. D. No. 714) An act relating to clerk hire in Penobscot County

(S. P. No. 554) (L. D. No. 720) An act relating to the transportation of poultry

(S. P. No. 556) (L. D. No. 724) An act relating to exemptions (H. P. No. 1300) (L. D. No. 450)

An act relating to investments of savings banks

(H. P. No. 1606) (L. D. No. 695) An act relating to liquor licenses

(S. P. No. 271) (L. D. No. 722) Resolve in favor of the First National Bank of Houlton, Maine

(S. P. No. 275) (L. D. No. 748) Resolve in favor of Harold F. Wing of Bingham

(S. P. No. 277) (L. D. No. 718) Resolve relative to open season on pheasants

(S. P. No. 281) (L. D. No. 717) Resolve relating to ice fishing for perch in Orneville Ponds or Boyd Lakes

(S. P. No. 282) (L. D. No. 716) Resolve relating to ice fishing in Summet Pond

(S. P. No. 325) (L. D. No. 721) Resolve in favor of Edwin T. Clifford

(S. P. No. 555) (L. D. No. 723) Resolve relating to plug fishing in Howard's Lake

(H. P. No. 1203) (L. D. No. 452)

Resolve relating to ice fishing in Little Sebago Lake

The **SPEAKER**: Is it the pleasure of the House to take up, out of order and under suspension of the rules, a paper from the Senate?

From the Senate: Ordered, the House concurring, that the committee on Interior Waters be authorized to return forthwith to the Senate S. P. 285, L. D. 316, an act to confer additional rights and powers upon East Branch Improvement Company. (S. P. 632).

Comes from the Senate, read and passed.

In the House, read and passed in concurrence.

### Orders of the Day

The Chair lays before the House the first matter of unfinished business, House Order relative to advertising by State Liquor Commission, tabled March 8th by the gentleman from South Portland, Mr. Hill, pending passage; and the Chair recognizes that gentleman.

Mr. **HILL**: Mr. Speaker, I move that this order be indefinitely postponed. I make that motion for two reasons. The first of those reasons is that in my opinion this House ought not to involve itself in the internal affairs of one of the departments of the State and to undertake to dictate to that department in matters of detail respecting the administration thereof, unless it be an occasion on which some real necessity justifies that action.

The order, although somewhat obscurely worded, appears to relate not only to advertising but also to rules requiring certified checks, cashiers' checks, money orders, cash, and other matters of that sort, which I personally feel we can very well leave to the discretion of the Liquor Commission.

The second reason for my opposition to this order is that even though we saw fit to direct the Liquor Commission in those details, we have no legal power to do so, or, in other words, if the House passes this order, it will be absolutely null, void, and of no effect. I base that opinion upon the opinion which the Attorney General submitted on a similar order, in which he ruled that if the Legislature were to order some department of the State to take certain action, it must be

by joint action of the two bodies and not by one branch alone. I am quoting from the communication of the Attorney General directed to this House under date of March 1, 1935, in which he says:

The duty and authority of the Secretary of State have been defined by an act passed by both branches of the Legislature and signed by the Governor. Such duty and authority may not be interfered with except by legislative action of solemnity equal to that which conferred the authority and the duty."

I submit that this order is subject to exactly the same difficulty.

Mr. **DESMOND** of Portland: Mr. Speaker and members of the House: On a check-up of the business done by the mail order department of the Liquor Commission it is found that it is not up to expectations, only about five hundred orders having been received up to the present time. It seems to me that the citizens of the State do not realize they have a mail order department in the Liquor Commission. Now between \$53,000 and \$54,000 worth of business a week is being done by the liquor stores, and only about five hundred mail orders have been received up to the present time by the Liquor Commission mail order department. It seems as though something should be done relative to making known to the citizens of the State of Maine that branch of the Commission's business.

Now I feel it is a matter in which a lot of the citizens of the State of Maine should be interested. They should get behind that mail order department. Why should they send liquor orders to Massachusetts and pay more, when the mail order department of our own Liquor Commission is selling for much less?

I appeal to the citizens of the State to be patriotic and to get behind this mail order department of the Liquor Commission, and not be sending their orders to Boston and other points outside the State. Your State treasury can stand more income. Why favor the treasuries of Massachusetts and New Hampshire and other states? I appeal to all citizens of Maine to be patriotic and get behind their liquor stores and the mail order department which is now in operation and which undersells out-of-state concerns and also guarantees their spirits. I appeal to all citizens of

the State of Maine to make their purchases through the mail order department of the State Liquor Commission, Augusta, Maine, which is now in full operation, if they are unable to make their purchases at the State liquor stores.

Mr. Speaker, I feel that this order should have a passage, and I move its passage.

The SPEAKER: The question before the House is on the indefinite postponement of this order relative to advertising by the State Liquor Commission. The Chair recognizes the gentleman from Ellsworth, Mr. Higgins.

Mr. HIGGINS of Ellsworth: Mr. Speaker, I ask for a division, when the vote is taken.

The SPEAKER: The gentleman from Ellsworth, Mr. Higgins, asks for a division of the House.

Mr. DESMOND: Mr. Speaker I move for a yea and nay vote.

The SPEAKER: The gentleman from Portland, Mr. Desmond, asks for a yea and nay vote, when the vote is taken on this question. Before taking a yea and nay vote it is necessary that one-fifth of the members present signify their desire for the roll call. All those in favor of the roll call will rise and stand in their places until counted and the monitors will return the count.

A division of the House was had.

The SPEAKER: Only one having demanded the roll call, the motion fails of passage. Is the House ready for the question? All those in favor of the indefinite postponement of House Order relative to advertising by the State Liquor Commission will rise and stand until counted and the monitors will return the count.

A division of the House was had.

Ninety voting in favor of the motion and none in opposition, the motion prevailed, and the order was indefinitely postponed.

The Chair lays before the House the second item of unfinished business today being majority report ought not to pass and minority report ought to pass in new draft of the committee on Judiciary on bill an act relating to the procurement of medical services, physicians and surgeons for injured employees under the Workmen's Compensation Act, (H. P. 260, L. D. 69) new draft, H. P. 1647, L. D. 725, tabled on March 8th by Mr. Hill of South

Portland, pending the motion of that gentleman to accept the minority report. The Chair recognizes that gentleman.

Mr. HILL: Mr. Speaker, in connection with this matter, several members of the House who wish to oppose my motion have informed me that they are waiting for certain information which has not yet been received, and in order to be perfectly fair to them, I move that the matter be retabled.

The motion prevailed, and the matter was retabled, pending the motion to accept the minority report.

The Chair lays before the House an act creating a lien on potatoes, H. P. 1605, L. D. 694, tabled on March 6th Mr. Gray of Presque Isle, pending assignment for third reading and specially assigned for today; and the Chair recognizes that gentleman.

On motion by Mr. Gray, the bill was indefinitely postponed.

The SPEAKER: We are now proceeding under Orders of the Day on unassigned matters, and the Chair recognizes the gentleman from Brooksville, Mr. Gray.

On motion by Mr. Gray it was voted to take from the table the fourteenth unassigned matter, House report ought not to pass of the committee on Inland Fisheries and Game on resolve relative to fishing in Walker's Pond in Sedgwick and Brooksville, H. P. 1054, tabled by that gentleman, March 14, pending acceptance of the report; and on further motion by the same gentleman, the report was accepted.

On motion by Mr. Jacobson of Portland, it was voted to take from the table the seventh unassigned matter, House report ought not to pass of the committee on Claims on resolve in favor of John H. Simmonds of Portland, H. P. 957, tabled by that gentleman March 13, pending acceptance; and on further motion by the same gentleman the report was accepted.

On motion by Mr. Jacobson of Portland, it was voted to take from the table the first unassigned matter, majority report ought not to pass and minority report ought to pass of the committee on Judiciary on resolve proposing an amendment

to the Constitution abolishing the office of Treasurer of State, S. P. 330, L. D. 345, tabled by that gentleman March 12, pending acceptance of either report.

The SPEAKER: The Chair recognizes the gentleman from Portland, Mr. Jacobson.

Mr. JACOBSON: Mr. Speaker and members of the House: All I can say about this matter is that the Governor many times, and in his inaugural address, has expressed the opinion that the office of Treasurer of State should be abolished. That officer has no duties to perform which cannot be allocated to different departments of the State. The only time that he is here—and I have all due respect for the gentleman who is now holding that office, and there is nothing personal in my remarks so far as he is concerned—the only time that his services are required is when the Legislature is in session. Therefore, I signed the minority report that the office should be abolished, and I move that the minority report be accepted.

Mr. VAUGHAN of South Berwick: Mr. Speaker, I have consulted the heads of departments and looked into the situation. It seems very clear to me that this bill would take away a department and provide no substitution for it. It is like cutting a limb of a tree and putting the ladder outside of where you are cutting the limb. When the limb goes why you go down too. I once did that myself and I know all about it. I went into the Treasurer's office once. I happen to be a Director of a bank handling trust funds for various towns, so I think I know something about figures. His office does probably thirty million dollars' worth of business, that is, he handles the in come and out go. He handles also three million dollars of trust funds which he invests and re-invests. When the new Administrative Code went into effect there was a recommendation by the man who worked out the Code that the Treasurer and Secretary of State should be put under the Bureau of Finance. When they came to work it out they found there had to be a Constitutional Amendment to put the Treasurer and the Secretary of State under that Bureau. The Bureau of Finance is made up of a Controller, a Purchasing Department and the Budget Officer. In order to handle the Treasurer's

work, they would have to appoint another Bureau which would cost just about as much as the Treasurer's office does now. Another reason why it could not be taken over is because the three Bureaus we now have, have as much as they can do now. It seems foolish to abolish a department that is doing good work, handling thirty million dollars' worth of funds, and put it into another Bureau in another room in the State House. Therefore, the majority of the committee felt that not only was it premature to have a bill like this, because you have no place to put the thirty million dollars but the Treasurer's department but also that the present arrangement was excellent.

The SPEAKER: The question before the House is on the motion of the gentleman from Portland, Mr. Jacobson—

Mr. HIGGINS of Ellsworth: Mr. Speaker, on this important Constitutional question I would like to ask that the vote when taken be taken by the yeas and nays.

The SPEAKER: The question before the House is on the motion of the gentleman from Portland, Mr. Jacobson, to accept the minority report in non-concurrence. The gentleman from Ellsworth, Mr. Higgins, asks for a ye and nay vote. It will be necessary for one-fifth of the members present to rise and stand until counted, and the monitors return the count, before a ye and nay vote can be taken. All in favor of the ye and nay vote will rise.

A division of the House was had.

The SPEAKER: Obviously none having arisen the motion is lost.

Mr. JACOBSON: Mr. Speaker, I move for a division.

The SPEAKER: The Chair recognizes the gentleman from Dresden, Mr. Stilphen.

Mr. STILPHEN: Mr. Speaker, if I am not out of order, I would like to move the indefinite postponement of the resolve.

The SPEAKER: The motion now before the House is on the indefinite postponement of both reports.

Mr. LEBEL of Brunswick: Mr. Speaker, in view of the fact that there seems to be some interest in this proposition, I move that it be retabled.

A viva voce vote being taken, the motion to retable failed of passage.

The SPEAKER: The motion now before the House is the motion of

the gentleman from Dresden, Mr. Stilphen, for the indefinite postponement of both reports. Are you ready for the question? All those in favor of the motion will say aye, contrary-minded no.

A viva voce vote being taken, the action to indefinitely postpone prevailed.

On motion by Mr. Gibbons of Portland, it was voted to take from the table the twentieth unassigned matter, House Amendment A, L. D. 756, to bill an act relating to licenses for wholesalers in malt beverages, S. P. 347, L. D. 397, tabled on March 14th by that gentleman, pending adoption.

Mr. GIBBONS: Mr. Speaker, I now move the adoption of the amendment.

The SPEAKER: I may say for the information of the House that the amendment has been printed and is now on your desks, Legislative Document 756. The Chair recognizes the gentleman from Skowhegan, Mr. Doyle.

Mr. DOYLE of Skowhegan: Mr. Speaker, the object of this amendment is to attempt to increase the revenue of the State by a larger amount than the bill itself would. The bill, as you know, is a revenue bill, and under existing conditions it would increase the revenue by the comparatively insignificant sum of \$2,100 a year. The amendment proposed would increase the possibilities, and I should imagine the income would range from fifty to seventy-five thousand dollars a year.

In the state of New Hampshire the outside brewer pays a state registration fee, or license fee, of five hundred dollars for the privilege of distributing the product of his brewery in the State. In Rhode Island they pay \$1,500, and it seems that the State of Maine might just as well benefit from the example of those states. For that reason, I suggest and move the adoption of the amendment.

The SPEAKER: The question before the House is on the adoption of House Amendment A. The Chair recognizes the gentleman from Biddeford, Mr. Donahue.

Mr. DONAHUE of Biddeford: Mr. Speaker, this amendment came into the House yesterday, and we received copies for the first time this morning. I believe there is considerable opposition in this House

to the measure, and I think that out of consideration to those members who oppose the measure, the matter should be retabled, and so move.

The SPEAKER: The gentleman from Biddeford, Mr. Donahue, now moves that House Amendment A, L. D. 756, to bill an act relating to licenses for wholesalers in malt beverages, S. P. 347, L. D. 397, be retabled. All those in favor of the motion will say aye; those opposed no.

A viva voce vote being doubted by the Chair.

A division of the House was had. Twenty having voted in the affirmative and 54 in the negative, the motion to retable failed of passage.

The SPEAKER: The pending question before the House is on the adoption of House Amendment A. All those in favor of the adoption of the amendment will say aye; all those opposed no.

A viva voce vote being taken, the motion prevailed. House Amendment A was adopted, and the bill as amended was given its third reading and passed to be engrossed.

On motion by Mr. Webber of Auburn, it was voted to take from the table the nineteenth unassigned matter House Amendment A (L. D. 755) to bill an act relating to lights on trucks, H. P. 335, L. D. 105, tabled by that gentleman March 14, pending the adoption of the amendment.

Mr. WEBBER: Mr. Speaker, I now move the adoption of this amendment. I do not think it requires any talk on my part to bring before the members this bill. This is strictly a safety bill, something that will help out a little more in night driving. There was some objection in the committee to the original bill, and instead of making a new draft they asked me to put it in the form of an amendment. I would move the adoption of the amendment.

The SPEAKER: The gentleman from Auburn, Mr. Webber, moves the adoption of the amendment. Are you ready for the question? Those in favor of the adoption of the amendment will say aye, those opposed no.

A viva voce vote being taken, the amendment was adopted and the next legislative day assigned for third reading.



On motion by Mr. Gray of Presque Isle, it was voted to take from the table the fifth unassigned matter, resolve appropriating money to complete the fishway at Aroostook Falls, H. P. 1487, L. D. 664, which was finally passed in the House on March 7th and passed to be engrossed in the House on February 28th, and which came from the Senate passed to be engrossed as amended by Senate Amendment A in non-concurrence. This was tabled on March 13th by Mr. Gray, pending further consideration.

Mr. GRAY: Mr. Speaker, I now move that the rules be suspended in order that the House may reconsider its previous actions on this matter and be in order to concur with the Senate on the amendment. I would ask that the

Clerk read the proposed amendment.

(Senate Amendment A read by the Clerk)

On motion by Mr. Gray, the House voted to reconsider its action whereby this resolve was finally passed; and on further motion by the same gentleman that body voted to reconsider its action whereby this resolve was passed to be engrossed. On further motion by the same gentleman the House adopted Senate Amendment A in concurrence, and the resolve as amended was passed to be engrossed in concurrence.

On motion by Mrs. Latno of Old Town,

Adjourned until Tuesday, March 19, at eleven o'clock in the forenoon.