

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

SENATE

Tuesday, March 5, 1935.

Senate called to order by the President.

Prayer by the Rev. L. L. Campbell of Fairfield.

Journal of Friday, March 1st, read and approved.

Papers from the House disposed of in concurrence.

From the House:

Bill "An Act Relating to Public Records." (H. F. 1372) (L. D. 620)

(In Senate, February 28th, bill indefinitely postponed in non-concurrence.)

In the House, that branch having voted to insist on its action of February 15th whereby the bill was passed to be engrossed, and asking for a Committee of Conference, the Speaker having appointed as House members of such a Committee:

Representatives

Burnham of Kittery
Hill of South Portland
Scates of Westbrook

In the Senate, that body voted to insist and join the House in the Committee of Conference and the President appointed as members of such a Committee on the part of the Senate, the Senator from Cumberland, Senator Burkett, the Senator from Aroostook, Senator Burns, and the Senator from Somerset, Senator Friend.

House Bills in First Reading

"Resolve in Favor of William C. Boyles, of Castle Hill." (H. P. 1486) (L. D. 667)

"An Act Relating to Clerk Hire in County Offices in Oxford County." (H. P. 702) (L. D. 222)

Orders

On motion by Mr. Ashby of Aroostook, it was

ORDERED, that the Rev. G. Douglas Frasier of Caribou be invited to officiate as Chaplain on the morning of Wednesday, March 6, 1935.

On motion by Mr. Hussey of Kennebec, it was

ORDERED, that the use of the Senate Chamber be accorded to the use of the Maine Photographers Association Monday, June 17, 1935.

First Reading of Printed Bills

Bill "An Act Relating to Proceedings in the Probate Court." (S. P. 461) (L. D. 682)

Bill "An Act to Provide for the Investigation of Divorce Cases in Which the Custody of Children is Involved." (S. P. 462) (L. D. 680)

Bill "An Act Relating to the Blue Sky Law." (S. P. 463) (L. D. 681)

Reports of Committees

Mr. Schnurle from the Committee on Inland Fisheries and Game on Bill "An Act Relating to West Bath Game Preserve." (S. P. 378) reported that the same ought to pass.

The same Senator from the same Committee on "Resolve Relative to Opening Cold Brook and Toothaker Brook." (S. P. 279) reported that the same ought to pass.

The same Senator from the same Committee on Bill "An Act Relative to the Transportation of Fish taken from Inland Waters," (S. P. 188) (L. D. 130) reported the same in a new draft (S. P. 464) under the same title and that it ought to pass.

Which reports were severally read and accepted and the bills and resolve laid upon the table pending printing under the joint rules.

Passed to be Engrossed

Bill "An Act Relating to Taking of White Fish in Mattawamkeag Lake" (H. P. 435) (L. D. 659)

"Resolve Relative to Closing Pet-tengill Stream." (H. P. 566) (L. D. 660)

"Resolve Relative to Closing Cary Brook, to All Fishing." (H. P. 568) (L. D. 661)

"Resolve Relative to Fishing in the River between Mooselucmeguntic Lake and Upper Richardson Lake." (H. P. 571) (L. D. 662)

"Resolve Relative to Muskrats in Morrill Mill Pond." (H. P. 574) (L. D. 663)

Bill "An Act Relative to the Aroostook Valley Railroad Company." (H. P. 605) (L. D. 161)

Bill "An Act to Make Valid the Doings of the Harrison Water Company, and to Define and Confirm its Powers." (H. P. 837) (L. D. 284)

Bill "An Act Relating to Leases, Consolidations and Mortgages by Public Utilities." (H. P. 856) (L. D. 248)

Bill "An Act Providing Penalties for Boarding Freight Trains without Right." (H. P. 857) (L. D. 249)

Bill "An Act Relating to Wilful or

Malicious Injury to Property of any Railroad." (H. P. 859) (L. D. 250)

Bill "An Act Relating to the Counting and Sealing of Ballots." (H. P. 1181) (L. D. 387)

Bill "An Act Relating to Equalization of Tuition Expenses." (H. P. 1308) (L. D. 567)

"Resolve Appropriating Money to Complete the Fish Way at Aroostook Falls." (H. P. 1487) (L. D. 664)

Bill "An Act Relating to Salary of Members During Special Session of Legislature." (S. P. 100) (L. D. 668)

Bill "An Act to Fix the Fees for Members of the Board of Examiners of Podiatrists." (S. P. 101) (L. D. 669)

Bill "An Act Relating to Disposal of Minor Children in Divorce Proceedings." (S. P. 196) (L. D. 145)

Bill "An Act Relating to Salary of Register of Deeds in Waldo County." (S. P. 200) (L. D. 670)

Bill "An Act to Incorporate the Bethel Library Association." (S. P. 293) (L. D. 665)

Bill "An Act Relating to Licenses for Wholesalers in Malt Beverages." (S. P. 347) (L. D. 397)

Bill "An Act Relating to European Corn Borer." (S. P. 378) (L. D. 66)

Bill "An Act Relating to Kidnaping." (S. P. 379) (L. D. 399)

Bill "An Act to Amend the Law Relating to Loan and Building Associations." (S. P. 386) (L. D. 422)

Bill "An Act to Amend the Law Relating to Loan and Building Associations." (S. P. 387) (L. D. 423)

Bill "An Act to Amend the Law Relating to Loan and Building Associations." (S. P. 388) (L. D. 424)

Bill "An Act to Amend the Law Relating to Loan and Building Associations." (S. P. 389) (L. D. 425)

Bill "An Act Relating to the Discontinuance of Railroad Crossings." (S. P. 393) (L. D. 418)

Sent down for concurrence.

Orders of the Day

On motion by Mr. Fernald of Waldo, the Senate voted to take from the table, Senate Report from the Committee on Judiciary, Majority Report "Ought Not to Pass", Minority Report "Ought to Pass" on Resolve Proposing an amendment to the Constitution increasing the limit of municipal indebtedness (S. P. 355) (L. D. 348), tabled by that Senator on February 22nd pending acceptance of either report.

Mr. FERNALD of Waldo: Mr.

President, I move the acceptance of the Minority Report "Ought to Pass". This bill before us is a constitutional amendment. About eleven years ago, when Gov. Brewster was at that time a representative in the Legislature from Portland, the financial affairs of Portland were in such a state at that time that it was necessary for that city to have an increased borrowing capacity and as a consequence an amendment was passed by the Legislature providing for a referendum of the people asking them to permit Portland to have a borrowing capacity of seven and one-half percent on its valuation, making Portland an exception to the general rule, or general law, which provides that no city or town shall borrow more than five percent of its assessed valuation. It was a matter that was hailed with great enthusiasm by Portland and when the matter was voted upon it was a matter of local concern and Portland was practically the only place that voted on it one way or the other.

Now, today we are confronted by this situation: In the nation, if we look at the financial situation that confronts a great many of our municipalities in other states, we find that over eight hundred municipalities and towns in the other states are in default upon their indebtedness. Now, what is the situation in Maine? We find in the State Auditor's report, the fifteenth report of the State Auditor, on page 37, a statement that fifty-two of our communities in Maine are over their debt limit. Now those figures were taken hastily and without much consideration, from town reports, and as you all know a town report never shows the total indebtedness of any community. And these figures were taken in 1932.

Now, I want to make this statement in regard to the municipal and town and plantation indebtedness in Maine. If a careful check and audit of the cities, towns and plantations of Maine were taken today it would show that nearly one hundred of these various jurisdictions had exceeded their debt limit, and that is one hundred out of a total of about five hundred and eighteen towns, cities and plantations; or practically twenty percent of our localities are over their debt limit. Now Portland has seven and one-half percent. As-

suming that Portland has a population of about seventy thousand we know that that seventy thousand of population have a greater borrowing capacity than seventy thousand of people in rural Maine. By that I mean that the figures will show—and you can all check on this—that the borrowing capacity of Portland, because of the concentration of wealth and so forth, is greater than seventy thousand people in rural Maine, because of the fact that we do not have large office buildings and the tremendous concentration of wealth in rural Maine that they have in Portland.

So my proposition is this, that if we pass this measure and permit rural Maine to have the same percentage of borrowing capacity over and against our assessed valuation as Portland has, at best Portland has an advantage. Now what is the situation in some of the places outside of Portland? So far as the city of Rockland is concerned, that city has probably borrowed ten percent of its assessed valuation. It is probably over its debt limit twice, and I am permitted from this floor to state that the Mayor of Rockland, Mayor A. T. Thurston of Rockland, is in favor of this measure and heartily endorses it. And why? Because if they are permitted to have this extra borrowing capacity they can refund some of their indebtedness and it will mean a saving of about thirty-eight thousand dollars a year in Rockland. Now, if that is true in Rockland it is also true in Waterville and a lot of other communities. And it is true in a lot of rural towns. Take the city of Waterville that borrowed half a million dollars the other day. We all know that it was over their debt limit.

Now, I think that we want to permit these municipalities and these towns to clean house and put their finances upon a sound business basis and the only way that we can permit them to do it is to pass a law that will permit them legally to do it and permit them to get back onto their feet. And I say to rural Maine now that anything that is good for Portland and anything that the citizens of Portland want to do I don't believe that we should have any feeling that the people of rural Maine would abuse. And I don't believe that the people of Portland are bet-

ter business people than the people of rural Maine.

All I want to do in this bill is to give every citizen, every community, every town in Maine the same position under the law. That is the trouble with our laws in Maine today. We have made exceptions to this person and that person and that corporation and it is time now that we all got under the law on an equal footing and an equal basis. You people come from various places and you know the situations in your communities. It is your responsibility and it will mean a great deal to your various communities that are up against it financially. I have faith in rural Maine. I have faith that rural Maine will conserve its municipal resources just as well as the city of Portland.

And, Mr. President, when the vote is taken I would like to have a rising vote.

Mr. BURNS of Aroostook: Mr. President, I have not given this matter a great deal of deep thought and I am afraid that what I may have to say will not add a great deal in the debate of this question. However, I cannot help but rise to my feet and protest against the proposed constitutional amendment.

Whenever there is a bill introduced into the Legislature that endeavors to amend the Constitution, to me it is a red flag ahead and any bill that has for its purpose or as part of the bill, the amendment of our Constitution, strikes at a vital principle of our government. About the only bill I would willingly subscribe to relating to the Constitution of the State of Maine would be a bill to recodify it and index it in such fashion that laymen as well as lawyers could find in the Constitution the particular matter which they are looking up.

Now, in these times of economy preaching it seems to me that it is most inopportune for this Legislature to make a gesture to the various cities and towns in the State to go ahead in an orgy of spending because, as I view this resolve, that will be the practical result of it. Towns which heretofore by economy have stayed within their municipal debt limit would look upon this as an invitation to go out and spend the tax-payers' money, raise the indebtedness, taxation on real estate and other things, and it seems to me that this is a most inopport-

tune time for us to do that. Of course, if we want to get in line with the democratic policy in Washington of spending our way out of debt, why I suppose rural New England can follow in the wake of those principles that are now holding sway in Washington. But I have never subscribed to such principles. I am reminded of a statement in history by that great German chancellor, Bismarck, who said that more governments were ruined by undertaking to spend their way out of debt than by wars. And I think a review of history will show this.

It seems to me that that is the real principle involved here, and that we are getting away from the economy which has heretofore held sway in Maine.

Now, mention has been made that Portland has received the benefit of some legislation whereby they could increase their borrowing power, but we are not dealing with such a situation here. That was specific relief granted for Portland and apparently it was necessary, but this is very general and it does not apply to the few towns or cities, or maybe there are a large number of them, that have oversubscribed their municipal indebtedness. If it were specific legislation perhaps there would be some occasion to get behind it, but to make it general and give towns which perhaps do not need to borrow money an opportunity to borrow it, I am afraid it would be human nature for them to step out and borrow money and go into unnecessary expenditures, and it does not strike me that the matter should be made so general.

Now, I don't think there is much chance of this proposed amendment passing and I will not take up any more of the time of the Senate.

Mr. BURKETT of Cumberland: Mr. President, I think the Senator from Aroostook, Senator Burns, has well stated the feeling of the majority of the Judiciary Committee in reporting this oft-recurring bill "ought not to pass." It does not affect Portland, as has been stated, and other members of the Senate are perhaps better qualified to speak on it than I am.

I would like to call your attention, however, to the provision of the Constitution which was amended in 1911. Not being then a member of the Senate, not even living in Portland at the time, I do not know what the motives were that

impelled the representatives from Portland to ask for the change which, previous to that time, had been a flat 5% limit, but you will find if you read Article 34 of the Constitution, that when the provision was inserted in the Constitution, that cities of over 40,000 inhabitants, which would of necessity include only Portland, were permitted to increase their indebtedness beyond the 5% debt limit previously fixed, that the Constitutional Amendment which was adopted provided as follows: "Cities of 40,000 inhabitants, or over, may, by a majority vote of their city government, increase the present rate of five per centum by one-fourth of one per cent, in any one municipal year, until, in not less than ten years, the maximum rate of seven and one-half per cent is reached." Thereby hedging around the situation even as far as Portland was concerned, a provision that they could not in any one year jump their rate up to the seven and one half per centum figure, but must gradually work up to it in a period of ten years, and there is a still further protection on it. It says, "any city failing to take the increase in any one municipal year then the increase for that year is lost and no increase can be made until the next year as provided above."

Now, that is the situation and yet the Senator from Waldo, Senator Fernald, would have this Legislature jump abruptly from the 5% to the 7½% rate, and if we did that and the result of it was as the Senator from Aroostook, Senator Burns, so aptly described, in a few more years the cities and towns would be here asking for an increase to 10% or some other figure, bringing about all the results to which he has called your attention. I do not believe the Senate should accept the minority report, as has been moved by the Senator from Waldo, Senator Fernald.

Mr. FERNALD: Mr. President and Members of the Senate, I feel that the communities in Maine are now faced by the same necessity that faced Portland in the time when the change was made in favor of Portland. The question is raised as to why we don't make this amendment specific and make it apply to the particular towns that we wish to aid? The answer to that is this: In Constitutional

law or in the application of any such measure, it would not be constitutional to designate any specific community, and if you will refer to the Constitution where the provision was made for Portland, you will see that the name "Portland" is not mentioned at all, but it very astutely and properly says that "any community of 40,000 inhabitants," or whatever it is. You cannot specifically say this town or that town can borrow over the specific debt limit. You have to make your measure general.

Now, it has been pointed out here that it would be a bad theory to permit this town or that to borrow more than the 5%, but we are faced, ladies and gentlemen, we are faced today not with a theory but we are faced with the practical situation. The fact remains that a hundred towns, communities, cities and plantations in Maine have exceeded their debt limit. The city of Rockland is one specific illustration as they have reached nearly 10%. If any of you wanted to take the time you could find other communities in the same situation. We have communities whose tax rate is nearly 15%. We have communities who have borrowed 15 to 20% of their assessed valuation. We are faced by fact and not theory, and in order to help these communities to get back onto their feet we have got to permit them, under the law, to legally refinance their indebtedness because as it is now very few Maine banks will loan money to these communities although some Boston banks are taking a chance on the proposition. We are not seeking to permit these communities to borrow more, but seeking to permit them to refinance their indebtedness and cut down their debt and get onto their feet. The situation may not appeal to you people now but if something isn't done we will all be over here at a special session of the Legislature and pass such a bill as I have before me now. You will come over here for that particular purpose and the Governor will call you over here to do it.

Mr. SCHNURLE of Cumberland: Mr. President, I assume that the Senator from Waldo (Senator Fernald) with his customary thoroughness has probably contacted by mail or otherwise most of the five hundred and eighteen towns in the State, and with your permission

and with his permission I would like to ask him a question.

The PRESIDENT: The Senator from Cumberland, Senator Schnurle, wishes to ask a question of the Senator from Waldo, Senator Fernald. The Senator from Cumberland, Senator Schnurle, may ask his question and the Senator from Waldo, Senator Fernald, may reply if he so desires.

Mr. SCHNURLE: Mr. President, I would like to ask the Senator from Waldo (Senator Fernald) how many of the five hundred and eighteen towns in the State have expressed a desire to have such a law passed.

Mr. FERNALD: I will say, Mr. President, in answer to the question of the Senator from Cumberland (Senator Schnurle) that I have been spending my legislative postage not in sending questionnaires to those five hundred and eighteen towns that some of us are interested in, but more in questioning some of the five or six hundred Maine dealers, Maine industrialists, in the state of Maine who are interested in having a preference to Maine bidders given and I believe that the Senator's mail will vouch for that statement.

Mr. SCHNURLE: Mr. President, that is rather off the subject. As far as my mail goes, my mail is coming along regularly every day now. However, the Senator has not answered my question and I will simply make the statement that I, as one member of the Senate, have not received a single letter from a single town asking that we pass any such legislation.

Mr. FERNALD: Mr. President, may I point out that the Senator from Cumberland (Senator Schnurle) represents the city of Portland?

Mr. SCHNURLE: Mr. President, I guess perhaps I never have been properly advised. I didn't know that I represented only the city of Portland. In fact, I don't live in the city at all, and I don't have any particular interests there. I am here to represent my county, which is Cumberland County, and the rest of the counties in Maine, as one member of the Senate. I didn't know that I was here specifically to represent the city of Portland.

The PRESIDENT: Is the Senate ready for the question? The ques-

tion is on the motion of the Senator from Waldo, Senator Fernald, that the Minority Report "Ought to Pass" on Resolve proposing an amendment to the Constitution increasing the limit of municipal indebtedness (S. P. 355) (L. D. 348) be accepted, and the same Senator has asked for a division.

A division of the Senate was had.

Two having voted in the affirmative and twenty-four opposed, the motion to accept the Minority Report did not prevail.

Thereupon, on motion by Mr.

Burkett of Cumberland, the Majority Report "Ought Not to Pass" was accepted.

Sent down for concurrence.

The PRESIDENT: Is there anything further that can be taken up under Orders of the Day this morning?

On motion by Mr. Bissett of Cumberland,

Adjourned, until tomorrow morning at ten o'clock.