

MAINE STATE LEGISLATURE

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Legislative Record

OF THE

Eighty-Seventh Legislature

OF THE

STATE OF MAINE

Special Session, December 16, 1936

KENNEBEC JOURNAL COMPANY
AUGUSTA, MAINE

SENATE

Friday, December 18, 1936.

Senate called to order by the President.

Prayer by the Reverend A. T. McWhorter of Augusta.

Journal of yesterday read and approved.

The PRESIDENT: Has any Senator any matter which he wishes to present or take up this morning? There is nothing on the calendar of the Senate. If there is nothing at this time I would suggest that the Senate be at ease awaiting papers which probably will come from the House in about an hour. I will declare the Senate to be at ease, to respond to the sound of the gavel.

From the House, out of order and under suspension of the rules, a divided report of the joint committee on Labor and Judiciary, on bill, "An Act Relating to Unemployment Compensation" (H. P. 1883) (L. D. 938); majority report "Ought to Pass," minority report "Ought Not to Pass."

In the House, the majority report accepted and the bill given its several readings under suspension of the rules and passed to be engrossed as amended by House Amendment A.

In the Senate, House Amendment A was read.

Mr. BURKETT of Cumberland: Mr. President, I move the acceptance of the majority "Ought to Pass" report, in concurrence. I make that motion very reluctantly and briefly I want to explain my apparently inconsistent position.

We had a very interesting hearing on this bill and I think most of you attended. I would like to commend the attorney for the Social Security Board for his fair and comprehensive explanation of the bill. When the hearing was all over we went into executive session, the two committees involved, and strangely enough, every member of the two committees was present, which is unusual. We had a very interesting discussion and the majority of us, as is shown by the report, felt that we should vote for the measure. Speaking for myself and for a number of the others who signed the majority report, we did it very reluctantly and with a feel-

ing no different in principle from the feelings of the two members who signed the minority report.

I do not propose to take any time to discuss the merits of the bill. We have all heard it explained. I am entirely in sympathy with any attempt that can be made, within the limits of our Constitution, to improve the condition of the laboring man and prevent unemployment. This method may do it. It is a big, new, strange method of doing it. It may work. If it does, then that is to the benefit of everyone. The criticisms I have against it were very ably presented by the Republican floor leader in the other branch yesterday. Most of you heard him. I am not going to take time to cover the situation again. I do not like to make speeches. It is too warm here today to do it and you would not want to listen.

The word "coercion" has been used. It is a pretty strong word, and while I am not prepared to go quite so far and use such a strong word, I do object very strongly to the manner in which this State is compelled to legislate on this matter. I feel that we are compelled—and that is why I am voting for it. You know what the bill does, how it levies the tax and how it collects it. Those who were in the House heard it talked about as a tax on employers, which money was coming out of the employers of the State. You know that cannot be, in the final analysis. In two or three years, as you know, the tax goes up to six percent on the part of the employer, on the payroll, and then three more percent on the part of the employee. If this is a good form of taxation, the employer is not going to pay the tax himself, but is going to pass it on to his consumer and to his labor. If he cannot do that it is not a good form of taxation.

We have talked for years, all through legislative sessions about finding some broader basis of taxation, some way to diffuse the basis of taxation, to distribute the burden of maintaining our institutions and departments over all the people. That has got to be done with the employers of the State, if this tax will continue.

I know something of the affairs of one concern in Portland, a corporation in which two men have invested all their life savings, a

corporation engaged in a highly competitive business, a business where it will be difficult to increase the gross returns. It has a payroll of \$150,000 a year with capitalization of \$30,000. In two or three years when the tax rate goes up to six per cent, the tax will be \$9,000. That is more than they ever made in any two years or ever hope to make in that type of business with that capitalization. \$9,000 is thirty per cent of their capitalization. They can not possibly do it and continue in business, and so if they cannot pass it on to the consumers or take it out of the laboring man in some way, they will have to go out of business, and then there will be more unemployment.

I do not say this to criticise the merits of the bill, but simply to illustrate the point that we are simply taxing ourselves. We are not taking the employer. It is not a proper bill unless it taxes everybody. If it is not so, it cannot continue. You know that. It doesn't take an economist to figure that out. We are placing another tax on ourselves and that money which we collect from ourselves instead of being allowed to stay here in the State and being distributed by us, goes to Washington and is sent back to us and distributed strictly in accordance with the rules of the Federal Social Security Board. That may be all right but it is not in accordance with my ideas of what the correct relationship is between the states and the federal government and I have tried to make my position plain. I tried to make it plain during the regular session when we considered the bill for the establishment of national forests in the state, and I will not go over it again. But I do believe if this state is not being coerced—I do not like the word—that it is being put in a humiliating situation.

I believe the principle on which the nation was founded, of a strict and well defined and maintained distribution of powers between state and national government, was sound and that we should do everything possible to stand for those principles and help maintain them. If we don't, the future of the whole union, I believe, is greatly endangered. That is my reason for signing the majority report and being prepared to vote for the bill, and if that

position is inconsistent, as an editorial in one of our morning papers says, I do not know what I can do about it.

Mr. COWAN of Lincoln: Mr. President, I have the greatest respect for the Senator from Cumberland, Senator Burkett, and the greatest respect for all the members of the committee who signed the majority report. I believe they all thought and think now that they are doing their duty for their constituency and toward the State. I have also the greatest respect for the two members, one from the Senate and one from the House, who signed the minority report, believing that they were acting in accordance with what they believed to be their duty toward their constituency, toward the State of Maine, and toward the national Constitution. I have studied this bill all the time that the short period it has been before us has permitted me, and I believe that I can see many objectionable features in it.

I will not take the time of the Senate to go into a detailed enumeration of the matters that seem to me to be objectionable, but I do wish to go on record as opposing it. When I came to this special session of the Legislature, on the call of our Governor, I came with an open mind. I hoped that a bill would be presented to which I could readily subscribe, but on the contrary, I find before me a bill which I believe to be not only revolutionary for the State of Maine but dangerous to her very sovereignty.

While I have been a Republican, there has been one principle for which the Democratic Party once stood in which I have always believed, and in which I believe today, and that principle is states' rights. I believe thoroughly in the sovereignty of the individual state. I cannot support a measure that I believe will be departing from that sovereignty.

I listened attentively yesterday to a representative of the federal government, Mr. Hardy, before the joint committee to which this bill was referred, and with his very able and I believe honest explanation of the bill, with my mind open to explanation, with a desire to be convinced if I were dumb and reactionary, I still was convinced that this bill is dangerous to the sovereignty of our state.

I attended a session of the House of Representatives and there I listened to a very able oration by the Republican floor leader. He attacked this bill as being dangerous, yet suggested he would vote for it because we are put on the spot and can do nothing else about it. I have always despised being put on the spot, and until the present national administration, the whole United States—then including Maine and Vermont—has despised it as much as I do now, to the extent that they have given the best blood of the country to protect ourselves and if we, today, were called on to fight with the modern agencies of warfare to protect our country, the best blood would again be sacrificed on the altar of devotion to her.

Why then, should we, in peace time, fail to do our utmost to protect? Why should we, under coercion, do the thing which we believe to be dangerous not only to our state but eventually to our country as well?

The floor leader of the House yesterday further stated that when the blame and responsibility for the National Security Act is distributed in years hence by an impartial and correct history, he did not believe it would fall on Maine. I am going to see to it that the record of this Senate in years to come is going to place no blame on me personally for supporting by my vote a measure in which I do not believe and which I do believe is dangerous to the sovereignty of my state and dangerous to the supreme law of my country. I, from the study I have put to this bill, believe it to be in the major part unconstitutional not only for our state but thoroughly contrary to the principles of our federal Constitution.

A little less than two years ago, standing where I now stand, with hand upraised, acknowledging my Maker, I registered an oath if you please, to support the Constitution of the United States and of this State of Maine. As I understand those two great documents and as I understand this bill, though I may be misinterpreting all three, I am not intentionally going to be false to that oath. I am not going to vote to sell my birthright for a mess of pottage.

MR. FERNALD of Waldo: Mr. President, and members of the Sen-

ate, our forefathers were builders of the Constitution of the United States and State of Maine. In each of these charters of our liberties they wisely provided a method for the orderly amendment and change of each document by the people.

Many times have I sworn allegiance to these safeguards of our liberties and in every case I did so with no mental reservation whatsoever on my part. My oath of office as Senator requires me to uphold them.

I believe in the theories of state rights as laid down by Thomas Jefferson, Abraham Lincoln and Woodrow Wilson, and with God and my conscience as my guide I shall ever try to keep the faith regardless of what my personal fortunes may be with the hope that those who died to give us liberty shall not have died in vain.

Mr. BURNS of Aroostook: Mr. President, I have listened with a great deal of interest to the debate that has been made on this social security legislation and of course it is disturbing to think that one who is disposed to vote for this bill, for reasons of his own, may be placed in the position that he has violated his oath taken when he swore to uphold and defend the Constitution of the United States and the Constitution of the State of Maine.

I signed the majority report on this bill. It was the most disagreeable and offensive public act of my short career. It took me a considerable time debating with myself before I could see a conscientious reason why I should support this bill. It is offensive in many details. I think, however, its repulsiveness is due to the procedure that has been followed by the government in Washington rather than the bill itself being offensive because of certain legislation undertaken to be put through by virtue of this bill.

It seems to me that the position taken by our government in Washington is that we are incapable of legislating for ourselves, and that they have therefore drafted legislation which they think is to our interests and have deprived us of the discretion which we as legislators should have in all legislative matters. That is offensive and repulsive to me. It is a "big stick" attitude. They say, "Unless you do this you will be penalized."

There cannot be any question about the penalty involved in this legislation unless we pass it because unless we do pass this legislation it means that we will pay into Washington a million and a half dollars a year which will come out of the employers and employees of this state and nothing will be returned to us, unless this legislation is passed. Now, insofar as my private, personal interests are concerned this legislation will affect me in no way and such being the case if I had only my personal wishes to consider I would vote against this legislation. But there are others involved besides myself; employees and employers of the State of Maine.

This legislation has merit because it will improve working conditions for the laborers in the State of Maine. For that reason we should give it our serious consideration, and also for the further reason, upon which I have already touched, that the employers of the State will be paying money into Washington and the State will get no return unless we pass this legislation. That is why it seems to me it is desirable legislation.

However, the procedure followed in this case is reprehensible and constitutes, perhaps, a surrender of our state rights. If we recognize this as a precedent which may be followed in the future—and so far as I can see there will be other legislation coming out of Washington where they will undertake to subject us to the "big stick" attitude—if we were to allow this to become a precedent by passing this bill of course we would not be doing our duty; we would not be supporting our oaths; we would be surrendering our state rights and surrendering to dictatorial powers from Washington. But let us cross that bridge when we come to it. If they undertake in the future to pass legislation by using this "big stick" attitude, if they undertake to force upon us any bill which has no merit and does not improve working conditions for the employees of the State of Maine or which is unmeritorious in other respects, then let us stand up and fight for the oath which we have taken, fight for our sovereign rights, and refuse to surrender our state rights.

It is, I say, the saving grace in this legislation, as I view it, despite the objectionable procedure followed by Washington, that the bill itself has merit. For that reason I signed the majority report.

Mr. WINN of Androscoggin: Mr. President, I will say that I think I respect my oath of office the same as all the other distinguished gentlemen of this Senate but I believe that there are times when our entire nation is confronted with questions and when we should act as a whole body. I believe that this is one of those times. If we could but stop inventions in business we could stop the necessity of having such a law but we find that in the factory sections of our State, and of the country, that it becomes necessary to have some sort of a law that will take care of the people on the unemployment situation.

Now, if we were to allow one state to enact a certain type of law we might have our factories closing down in one state and moving over to another, and at the present time we have many factories that are idle and in some cases the machinery has been removed. When this occurs it becomes a serious handicap and it seems to me it becomes necessary in such a situation that our whole nation should act as one body and all the states act alike in order to keep from moving industries from one state into another. As the Senator from Aroostook (Senator Burns) said, I believe that we should at least try to work in accordance with the other states of the nation.

Mr. BISSETT of Cumberland: Mr. President, I also signed that majority report after listening to the hearing in the House of Representatives very closely, and I am in accord with Senator Burns of Aroostook in feeling that the employers are paying one million, five hundred thousand dollars and getting no return if we do not pass this bill, and that money would go to someone else.

I was also very much interested at the hearing in the fact that the judge who is Secretary of the Associated Industries of Maine endorsed this bill and it seems to me that of course, while there are things in this bill that we perhaps do not like, that I followed the proper course when I signed the majority

report because I think the bill will be a benefit to the laboring class of this state.

Mr. HARMON of Hancock: Mr. President, there has been a grave question in my mind as to whether this bill will ultimately be of benefit to the workers in this state, and I do not like to see this legislation go through without trying to place some of my views before this Senate.

I am heartily in favor of any legislation that will help the unemployed of this state and will improve their working conditions. This bill which is before us today is a bill which is in accordance with the federal law of this land, whether we like it or whether we do not. The bill that has been passed by the federal government is a law and will be a law until such time as, if and when it is overruled by the Supreme Court of the United States as unconstitutional.

The imposition of this tax will, as you all know eventually turn over to the federal government six per cent of the cost of all labor or production in this state. The employees will turn over at least three per cent of their wages to the same source. This means that at least nine per cent of the cost of all goods will be turned over to the federal government, which will increase the cost of all goods and commodities in the state of Maine by nine per cent. The manufacturers cannot reach into the air and take this money. The tax must of necessity be passed along to the cost of the manufactured article.

Let us look for a moment at the situation as regards our domestic market in relation to our foreign market. Under the set-up which has been in vogue in the last two years, instead of being an export nation and a creditor nation we have become an importing nation and a debtor nation. Over and above the goods of our own manufacture in order to supply our domestic market there have been imported goods from foreign markets, placing our manufacturers in competition with the other producers of the world. Today you can go into our stores and find on their shelves and counters textiles manufactured in foreign countries, goods which should be produced in this country, shipped into this country by foreign governments in competition with our own

manufacturers. Even under the present set-up many of our mills and factories have had to close down because they could not stand the strain of the cost of production in competition with foreign costs today. Foreign producers are today invading our domestic market with their goods and when you add nine per cent to the cost of the production of our own goods, our own factories and mills will be forced to close down because they can not remain in competition with the foreign invasion. What, then, is to become of our workers? What is to become of our unemployed?

The number of our unemployed will be doubled and trebled and even if our factories have to add that nine per cent to their cost of production without any competition from foreign market there is a grave question in my mind whether or not it is the best thing for our working people and for our laborers.

This legislation which is before us today is revolting to me, not only as a member of our Senate but as a layman. It is wholly revolutionary and is far from the principle on which this government was founded and on which our ancestors came to these shores and built up this nation which has become the greatest nation on earth. The federal government is now invading our state, taking the money away and telling us that we cannot get any of it back unless we pass legislation to conform to legislation which is wholly unconstitutional, I believe really coercing us into passing this legislation in order to get our money back.

I believe that the State of Maine today will be just as well off if we do not pass this legislation. Our workers can not receive any benefit from it for two years and I myself believe that the other thirty-odd states who have not passed laws conforming to this federal law will find some way of recapturing this money even if the law is not declared unconstitutional.

But be that as it may, I myself do not feel that I can subscribe to a bill which I believe may throw thousands and perhaps millions of workers in our United States out of employment, merely for the sake of receiving back the comparatively small sum which will come to us. I agree with Senator Cowan of Lincoln that I am not going to sell my birthright for a mess of pottage.

Mr. WINN of Androscoggin: Mr. President, I will not take much time—

The PRESIDENT: The Senator from Androscoggin, Senator Winn, asks the consent of the Senate to speak a second time on the same question. Hearing no objection, consent is granted.

Mr. WINN: Mr. President, we are faced today by conditions which perhaps we sometimes lose sight of that when we have unemployment in some of our manufacturing cities and towns we are forced to spend a lot of money on relief. I know of one town of four thousand population which in the year 1932, through the fact that they had unemployment, spent thirty-two thousand dollars for relief. That means an extra tax rate laid upon all the property in that town and in any city or town where there is unemployment the same situation exists. These are things which our whole nation is faced with, things that we all have to go through, unless, as one of the Senators said, we all purchase American goods and do our part.

The PRESIDENT: Is the Senate ready for the question? The Chair will have to call to the attention of the Senate the fact that there are visitors occupying Senator's seats which they must vacate while the vote is being taken.

The question is on the motion of the Senator from Cumberland, Senator Burkett, to accept the majority report "Ought to Pass" of the Committee.

A division of the Senate was had. Twenty-four having voted in the affirmative and four in the negative the majority report "Ought to Pass" was accepted.

Thereupon the bill was given its first reading, House Amendment A was adopted in concurrence, and under suspension of the rules the bill was given its second reading and passed to be engrossed as amended by House Amendment A in concurrence.

On motion by Mr. Burkett of Cumberland

Recessed until this afternoon at two o'clock.

After Recess

The Senate was called to order by the President.

The PRESIDENT: The Chair will state that there is nothing whatsoever that he knows of that he

Senate can do by staying in session any longer at present. Everything has been completed and we are still awaiting papers from the House. The only thing to do is to be at ease, and plenty of time will be given the Senators to be here after the sound of the gong and the gavel.

(Emergency Measure)

(Out of Order)

Bill, "An Act to Legalize Meetings of the Presidential Electors of the State of Maine for the Year 1936." (H. P. 1885)

Which bill being an emergency measure and having received the affirmative vote of 24 members of the Senate, was passed to be enacted.

From the House, out of order and under suspension of the rules, report of the Committee on Appropriations and Financial Affairs on Bill, "An Act Relating to Old-Age Assistance" (H. P. 1884) (L. D. 939) reporting the same in a new draft (H. P. 1886) (L. D. 941) under the same title and that it ought to pass.

In the House, the report accepted and the bill given its two several readings under suspension of the rules and passed to be engrossed as amended by House Amendment A as further amended by House Amendment A to House Amendment A.

In the Senate, the bill was given its first reading, House Amendment A as amended by House Amendment A to House Amendment A was adopted in concurrence and under suspension of the rules the bill was given its second reading and passed to be engrossed as amended by House Amendment A as further amended by House Amendment A to House Amendment A, in concurrence.

Reports of Committees

(Out of Order)

The Committee on Judiciary presented its final report.

The Committee on Labor presented its final report

Which reports were read and accepted.

Sent down for concurrence.

By unanimous consent, out of order and under suspension of the rules, Mr. Hussey of Kennebec presented "Resolve on the Pay Roll of the Senate" (S. P. 741).

Upon motion by that Senator, under suspension of the rules, the resolve was received without reference to a committee, given its two

several readings and passed to be engrossed.

Sent down for concurrence.

From the House, out of order and under suspension of the rules, Resolve on the Pay Roll of the House of Representatives (H. P. 1887).

In the House, under suspension of the rules received without reference to a committee and passed to be engrossed.

In the Senate, under suspension of the rules the resolve was given its two several readings and passed to be engrossed in concurrence.

On motion by Mr. Burkett of Cumberland

Recessed until this evening at seven-thirty o'clock.

After Recess

The Senate was called to order by the President.

From the House, out of order and under suspension of the rules, bill, "An Act Relating to Old Age Assistance" (H. P. 1886) (L. D. 941)

In the House, passed to be enacted.

In the Senate:

Mr. BURKETT of Cumberland: Mr. President, I move that when the vote is taken on this bill it be taken by the Yeas and Nays.

The PRESIDENT: The Senator from Cumberland, Senator Burkett, moves that when the vote is taken, it shall be taken by the Yeas and Nays. Those in favor of the motion will rise and stand until counted.

A sufficient number having obviously risen the Yeas and Nays were ordered.

The PRESIDENT: The question is on the passage to be enacted of bill, "An Act Relating to Old Age Assistance."

The Secretary called the role.

YEA—Senators, Ashby, Billings, Blaisdell, Burkett, Fred E. Burkett, Franz U. Burns, Cowan, Fernald, Roy Lynde, Friend, Harmon, Hathaway, Hussey, Jackson, Pillsbury, Potter, Schnurle, Thatcher, Tompkins, Weeks, Harold E. Winn—20.

NAY—Bartlett, Bodge, Carl, Fernald, John D. Goodwin, McDonald, Pinansky, Worcester—8.

Absent—Bissett, Blanchard, Martin—3.

This being an emergency measure, twenty having voted in the affirmative and eight in the negative, the two-thirds affirmative vote re-

quired by statute was not obtained and the bill failed of passage.

From the House, Bill, "An Act Relating to Unemployment Compensation" (H. P. 1883) (L. D. 938).

In the House, passed to be enacted.

In the Senate:

Mr. BLAISDELL of Hancock: Mr. President, in the matter of the bill now before the Senate I move that it be laid upon the table for a period of ten minutes at which time I will move to take it from the table.

The motion prevailed and the bill was laid on the table pending passage to be enacted.

Passed to be Enacted

Bill, "An Act Relative to the Deer Isle-Sedgewick Bridge District" (S. P. 740) (L. D. 940).

Finally Passed

"Resolve on the Pay Roll of the Senate" (S. P. 741).

"Resolve on the Pay Roll of the House of Representatives" (H. P. 1886).

On motion by Mr. Blaisdell of Hancock, a recess was ordered.

After Recess

The Senate was called to order by the President.

Report of Committee

Mr. HUSSEY of Kennebec on behalf of the Committee on Appropriations and Financial Affairs submitted its final report.

Which report was read and accepted.

Sent down for concurrence.

(Emergency Measure)

On motion by Mr. Blaisdell of Hancock the Senate voted to take from the table bill, An Act Relating to Unemployment Compensation (H. P. 1883) (L. D. 938), tabled by that Senator earlier in this evening's session pending passage to be enacted.

This being an emergency measure, and having received the affirmative vote of twenty-four members of the Senate and three opposed, was passed to be enacted.

The PRESIDENT: The Chair is informed that the House has adjourned until nine-thirty tomorrow morning.

Thereupon, on motion by Mr. Blaisdell of Hancock

Adjourned until tomorrow morning at nine-thirty o'clock.