

MAINE STATE LEGISLATURE

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Legislative Record

OF THE

Eighty-Ninth Legislature

OF THE

STATE OF MAINE

1939

KENNEBEC JOURNAL COMPANY
AUGUSTA, MAINE

SENATE

Wednesday, March 8, 1939.

The Senate was called to order by the President.

Prayer by the Reverend L. L. Dunn of Gardiner.

Journal of yesterday read and approved.

Papers from the House disposed of in concurrence.

House Committee Reports

The Committee on Sea and Shore Fisheries on bill "An Act Relating to the Legal Size of Lobsters," (H. P. 1340) (L. D. 524) reported that the same ought not to pass.

The Committee on Taxation on bill "An Act Relating to Exemption from Taxation of Property of Blind Persons," (H. P. 1773) (L. D. 941) reported that the same ought not to pass.

Which reports were severally read and accepted in concurrence.

The Committee on Claims on "Resolve to Reimburse Certain Exhibitors at the Penobscot and Piscataquis Fair," (H. P. 1140) (L. D. 381) reported the same in a new draft (H. P. 1833) (L. D. 999) under the same title, and that it ought to pass.

The Committee on Inland Fisheries and Game on bill "An Act Establishing a Game Preserve in Piscataquis County," (H. P. 540) (L. D. 214) reported that the same ought to pass.

The same Committee on bill "An Act Relative to Game Preserve in York County," (H. P. 273) (L. D. 83) reported the same in a new draft (H. P. 1834) (L. D. 1000) under the same title and that it ought to pass.

The same Committee on bill "An Act Relating to Hunting in the Town of Castine," (H. P. 541) (L. D. 215) reported that the same ought to pass.

The same Committee on bill "An Act Relative to Trapping on Game Preserves," (H. P. 1129) (L. D. 407) reported that the same ought to pass.

The same Committee on bill "An Act Relative to Trapping in the Winthrop and Wayne, Standish and

Rangeley Game Preserves," (H. P. 1130) (L. D. 408) reported that the same ought to pass.

The same Committee on bill "An Act Relating to the Standish Game Preserve," (H. P. 1131) (L. D. 409) reported that the same ought to pass.

The Committee on Public Utilities on bill "An Act to Amend the Charter of the Camden and Rockland Water Company," (H. P. 710) (L. D. 263) reported that the same ought to pass.

The same Committee on bill "An Act to Extend the Rights, Powers and Privileges of the Sabattus Water and Sewer District," (H. P. 1171) (L. D. 477) reported that the same ought to pass.

The Committee on Taxation on bill "An Act Amending the Farm Lands Loan Act," (H. P. 713) (L. D. 265) reported that the same ought to pass.

The same Committee on bill "An Act Relating to Taxation of Radios," (H. P. 1214) (L. D. 475) reported the same in a new draft (H. P. 1835) (L. D. 1001) under the same title and that it ought to pass.

Which reports were severally read and accepted, in concurrence, the bills and resolve read once and tomorrow assigned for second reading.

The Committee on Judiciary on bill "An Act Relating to Judicial Notice of Foreign Law," (H. P. 1618) (L. D. 706) reported that the same ought to pass.

In the House, passed to be engrossed as amended by House Amendment "A".

In the Senate, the report was accepted in concurrence and the bill was given its first reading. House Amendment A was read and adopted in concurrence and the bill, as amended by House Amendment A, was tomorrow assigned for second reading.

The same Committee on bill "An Act to Provide for Alternate Jurors," (H. P. 1592) (L. D. 691) reported that the same ought to pass.

In the House, passed to be engrossed as amended by House Amendment "A".

In the Senate, the report was accepted in concurrence and the bill was given its first reading. House Amendment A was read and adopt-

ed in concurrence and the bill, as amended by House Amendment A was tomorrow assigned for second reading.

The Committee on Education on bill "An Act Relating to Use of Foreign Languages in Schools," (H. P. 1549) (L. D. 907) reported the same in a new draft (H. P. 1843) (L. D. 1003) under the same title and that it be printed and recommitment to the Committee on Education.

Which report was accepted in concurrence.

Referred to Committees

The following remonstrances were received and on recommendation by the Committee on Reference of Bills were referred to the Committee on Taxation:

Remonstrances against the bills taxing cigarettes and tobacco, (S. P. 465) and (S. P. 466) presented by Mr. Cony of Kennebec.

Remonstrance opposing any increase in the gasoline tax (S. P. 468) presented by Mr. Owen of Kennebec.

Remonstrance opposing any increase in the gasoline tax (S. P. 467) presented by Mr. Beckett of Washington.

Remonstrance opposing any increase in the gasoline tax (S. P. 469) presented by Mr. Burns of Aroostook.

Remonstrance opposing any increase in the gasoline tax (S. P. 470) presented by Mr. Dorr of Oxford.

Remonstrance opposing any increase in the gasoline tax (S. P. 471) presented by Mr. Worthen of Penobscot.

Remonstrance opposing any increase in the gasoline tax (S. P. 472) presented by Mr. Boothby of York.

Sent down for concurrence.

Senate Committee Reports

Mr. Graves from the Committee on Claims on "Resolve in Favor of Lorin Moraisey of Crawford," (S. P. 314) reported that the same ought not to pass.

Mr. Chase of Washington from the Committee on Labor on bill "An Act Relating to the Hours of State House Employees," (S. P. 386) (L. D. 826) reported that legislation thereon is inexpedient, as the matter has been taken care of in other ways.

Mr. Marden from the Committee on Legal Affairs on bill "An Act Relating to a Commissioner of Burial Grounds," (S. P. 392) (L. D. 822) reported that the same ought not to pass as legislation thereon is inexpedient.

Which reports were severally read and accepted.

Sent down for concurrence.

Mr. Chase of Washington from the same Committee on bill "An Act to Prohibit Officials of the Several Counties, Cities, Towns and Plantations from having any Pecuniary Interest in the Contract Thereof," (S. P. 262) (L. D. 451) reported that the same ought not to pass.

(On motion by Miss Laughlin of Cumberland tabled pending acceptance of the report.)

Mr. Burns from the Committee on Judiciary on bill "An Act Relative to Enforcing the Collection of Real Estate Taxes by the Alternative Method," (S. P. 219) (L. D. 288) reported that the same ought to pass.

Which report was read and accepted and the bill was read once.

Thereupon, Mr. Burns of Aroostook presented Senate Amendment A and moved its adoption:

"Senate Amendment A to Legislative Document 288. Amend said bill by reinserting the word, 'registered' in the 11th line of Section 1 of said bill; and further amend said bill by striking out in said Section 1 the words, 'postage prepaid.'"

Senate Amendment A was adopted and the bill as so amended was tomorrow assigned for second reading.

Mr. Beckett from the Committee on Claims on "Resolve in Favor of J. E. White of Columbia," (S. P. 205) (L. D. 270) reported the same in a new draft (S. P. 474) under the same title and that it ought to pass.

Mr. Spear from the Committee on Mercantile Affairs and Insurance on bill "An Act Relating to Insurance Brokers," (S. P. 287) (L. D. 435) reported the same in a new draft (S. P. 473) under the same title and that it ought to pass.

Which reports were severally read and accepted, and the bill and resolve laid upon the table for printing under the joint rules.

Passed to be Engrossed

"Resolve Relating to Close Time on Lobsters in Certain Waters." (H. P. 1207) (L. D. 420)

Bill "An Act to Define the Pre-emptive Right of Stockholders." (H. P. 1825) (L. D. 995)

Which bill and resolve were read a second time and passed to be engrossed in concurrence.

Passed to be Enacted

An Act Relative to Charter of the Fort Kent Telephone Company. (H. P. 32) (L. D. 24)

An Act Relating to Town Clerks. (H. P. 244) (L. D. 60)

An Act Relating to Removal of Paupers from Towns wherein they Have no Settlement. (H. P. 245) (L. D. 61)

An Act Relating to Pauper Settlements. (H. P. 552) (L. D. 189)

An Act Relating to the All Maine Fair Association. (H. P. 670) (L. D. 245)

An Act Relating to Apportionment of School Equalization Fund. (H. P. 673) (L. D. 248)

An Act to Incorporate the City of Presque Isle. (H. P. 683) (L. D. 267)

An Act Validating Acts of Boothbay Harbor and Southport. (H. P. 1177) (L. D. 494)

An Act Relating to the Harrison Mutual Fire Insurance Company. (H. P. 1185) (L. D. 456)

An Act Relating to Roads in Unincorporated Places. (H. P. 1215) (L. D. 460)

An Act Authorizing Cities and Towns to Raise Money for Certain Purposes. (H. P. 1330) (L. D. 538)

An Act Relating to Exemption of Polls and Estates from Taxation, of Veterans of the Philippine Insurrection. (H. P. 1344) (L. D. 531)

An Act Relating to Payment to State of Teachers' Retirement Association Deductions. (H. P. 1409) (L. D. 603)

An Act Relating to Set-Offs Against Taxes. (H. P. 1808) (L. D. 981)

An Act Relating to Operators' Licenses. (H. P. 1809) (L. D. 982)

An Act Relating to the Qualifications, Residence, and Practice of Dentists. (S. P. 52) (L. D. 3)

An Act Providing Penalties for Boarding Freight Trains Without Right. (S. P. 95) (L. D. 58)

An Act Relating to the Regrouping of School Unions. (S. P. 108) (L. D. 77)

An Act Relating to the Use and Maintenance of the Kennebec or Carlton Bridge. (S. P. 114) (L. D. 79)

An Act Relating to the Proper Branding of Potatoes. (S. P. 310) (L. D. 580)

An Act Relating to Probation Officers. (H. P. 1786) (L. D. 967)

Finally Passed

Resolve in Favor of George H. Larrabee, of Portland. (H. P. 1147) (L. D. 978)

Resolve in Favor of the Town of Nobleboro. (H. P. 1806) (L. D. 979)

Resolve in Favor of Allen C. Reed and Warren Reed, of Boothbay Harbor. (H. P. 1807) (L. D. 980)

Resolve Relating to the Digging of Clams in the Town of Brooksville. (H. P. 1810) (L. D. 983)

Resolve Relating to the Digging of Clams in the Town of Sedgwick. (H. P. 1811) (L. D. 984)

Resolve Relating to the Digging of Clams in the Town of Brooklin. (H. P. 1812) (L. D. 985)

Emergency Measure

Bill "An Act Authorizing the Board of Registration of Nurses to Give Examinations to Certain Persons." (S. P. 226) (L. D. 431)

Which bill being an emergency measure and having received the affirmative vote of 26 members of the Senate and none opposed, was passed to be enacted.

Emergency Measure

"Resolve Appropriating Money for the Study and Control of the European Spruce Sawfly." (S. P. 230) (L. D. 275)

Which resolve being an emergency measure, and having received the affirmative vote of 26 members of the Senate and none opposed, was finally passed.

Orders of the Day**Order**

(Out of Order)

Mr. Spear of Cumberland presented, out of order and under suspension of the rules, the following order:

"Ordered, that there be and hereby is created a committee of three members of the Senate to be appointed by the President of the Senate. Said committee shall investigate the system used by loan companies permitted by law to

charge up to a maximum of 36% per year on loans. Said committee may employ a counselor, compel the attendance of witnesses and the production of books, papers, documents, records and other evidence and may administer oaths to witnesses and punish for contempt in the same manner as provided by law in rate proceedings before the Public Utilities Commission. Said committee shall report its findings to the Eighty-ninth Legislature. All expenses incurred by said committee in the discharge of its duties shall be paid from the general funds upon approval by the Governor and Council."

Thereupon, on motion by Mr. Spear of Cumberland the order was laid upon the table pending passage.

On motion by Mr. Chamberlain of Penobscot the Senate voted to take from the table House Report from the Committee on Legal Affairs "Ought to Pass as amended by House Amendment A submitted herewith" on An Act Relating to Assessment and Collection of Taxes (H. P. 483) (L. D. 178) tabled by that Senator on February 23rd pending acceptance of the report in concurrence; and on further motion by the same Senator the report was accepted in concurrence and the bill was given its first reading.

House Amendment A was read and adopted in concurrence.

Thereupon, the same Senator presented Senate Amendment A and moved its adoption:

"Senate Amendment A to Legislative Document 178 bill, An Act Relating to Assessment and Collection of Taxes. Amend the third paragraph of Section 1 of said bill by inserting in the second line of said paragraph after the word, 'assessed' the words, 'at any time within five years from the date of the original assessment' said wording to be set off by commas; and by inserting in the sixth line of said paragraph after the word, 'certifying' the words, 'under the hands of the assessors'; and further amend said bill by striking out the last paragraph of Section 4 thereof."

Thereupon Senate Amendment A was adopted and the bill as amended by House Amendment A and Senate Amendment A was tomorrow assigned for second reading.

On motion by Mr. Kennedy of Hancock, the Senate voted to take from the table House Report from the Committee on Appropriations and Financial Affairs "Ought to Pass" on Resolve in Favor of Samuel J. Dana, Representative of the Passamaquoddy Tribe of Indians" (H. P. 452) (L. D. 390) tabled by that Senator on February 14th pending acceptance of the report in concurrence; and on further motion by the same Senator the report was accepted in concurrence and the resolve was given its first reading.

Thereupon, the same Senator presented Senate Amendment A and moved its adoption:

"Senate Amendment A to House Paper 452, Legislative Document 390 entitled Resolve in Favor of Samuel J. Dana, Representative of the Passamaquoddy Tribe of Indians. Amend said bill by striking out the figures '\$200' and inserting in place thereof the figures '\$400.'"

Mr. KENNEDY: Mr. President, it is my conviction that the members of this Senate will maintain towards this amendment that attitude of fair play and justice for which they are so justly noted.

Mr. WENTWORTH of York: Mr. President, well here we are again holding another pow-wow. All winter long we have been witnessing the demise of the Indians and I hope when we effect this one that they will be buried in full regalia, head dress, bows and arrows, quivers and wampum. When we speak of Indians today it is a rather broad term. I find that down there on the reservations a great many are not more than seven-eighths Indian. If we keep on, we are going to be providing relief for almost poor whites in a little while. As a matter of fact, we are paying \$48,000 for each tribe and I guess they are better off than most people on relief today. These two resolves are old stock resolves entered every session providing \$200 for each of the two Indians who appear here, stay a few days and have a good time and go home. I believe they are well paid and I think it is all they are worth. I move the amendment be indefinitely postponed.

The PRESIDENT: The question before the Senate is on the indefinite postponement of Senate Amendment A.

Mr. KENNEDY: Mr. President, I ask for a division.

A division of the Senate was had. Ten having voted in the affirmative and sixteen opposed, the motion to indefinitely postpone the amendment did not prevail.

The PRESIDENT: The question now before the Senate is on the adoption of Senate Amendment A.

Mr. SPEAR of Cumberland: Mr. President I ask for a division.

A division of the Senate was had.

Sixteen having voted in the affirmative and ten opposed, Senate Amendment A was adopted and the resolve as so amended was tomorrow assigned for second reading.

On motion by Mr. Kennedy of Hancock the Senate voted to take from the table House Report from the Committee on Appropriations and Financial Affairs "Ought to Pass" on Resolve in Favor of Leo Shay, Representative of the Penobscot Tribe of Indians (H. P. 230) (L. D. 389) tabled by that Senator on February 14th pending acceptance of the report in concurrence; and on further motion by the same Senator the report was accepted in concurrence and the resolve was given its first reading.

Thereupon, the same Senator presented Senate Amendment A and moved its adoption:

"Senate Amendment A to House Paper 230, Legislative Document 389, entitled Resolve in Favor of Leo Shay, Representative of the Penobscot Tribe of Indians. Amend said bill by striking out the figures '\$200' and inserting in place thereof '\$400.'"

Mr. BURNS of Aroostook: Mr. President, I suppose if the Senate is going to be consistent with their former action, they will adopt Senate Amendment A, which provides for an increase from \$200 to \$400 for the representative of the Penobscot tribe. They have previously adopted a similar amendment to increase the salary or pay of the representative of the Passamaquoddy tribe from \$200 to \$400.

As I listened to the debate and procedure here, I questioned in my own mind just how sincere the attitude of the Senate was in regard to this particular matter. Not that I question the probity of the members of the Senate at all, but it seemed to me there was something of an air of levity in the proceed-

ings. Far be it from me to cast aspersions on levity and fun, as I enjoy it as much as anyone else. At the same time, we are here to consider serious legislation and this is serious legislation. There is a principle involved here. Perhaps there are two principals involved. The opponents always devote their cause to a principle and the proponents always have a principle. The principle of this opponent is that we are using state funds for a matter where there is really no justification or any real reason behind the bill or the amendment that has been offered.

A debate in this matter took place in the House and those in favor of the bill and those against the bill spoke, and those of you who have read the debate that took place in the House understand, of course, the various issues that are involved here.

Far be it from me to deny that the poor Indian should be given relief. They say that this country has been unfair and inequitable in the treatment of the Indian. I subscribe to that to a certain degree, and if this bill is to alleviate that condition and rectify an error, it seems to me you are only going at it piecemeal. You are only singling out one individual in each tribe to extend upon him the bounty of the state, and doing nothing to relieve the general situation of the tribe, and it seems to me it is unfair treatment of the case to single out one individual at the expense of the others. If there is going to be any increase of money appropriated to correct the errors of history, let us go about it in an intelligent manner and consider the needs of these two tribes and make appropriations which are consistent with their requirements. For these reasons Mr. President, I move for the indefinite postponement of Senate Amendment A.

Mr. KENNEDY: Mr. President, I ask for a division.

A division of the Senate was had.

Ten having voted in the affirmative and sixteen opposed, the motion to indefinitely postpone the amendment did not prevail.

The PRESIDENT: The question now before the Senate is on the adoption of Senate Amendment A.

A viva voce vote being doubted, a division of the Senate was had.

Sixteen having voted in the affirmative and ten opposed, Senate Amendment A was adopted and the bill as so amended was tomorrow assigned for second reading.

Mr. BURNS of Aroostook: Mr. President, I ask unanimous consent of the members of the Senate to introduce An Act Relating to Fines Paid by Municipal Courts. In support of my request, I wish to bring to the attention of the members of the Senate that there is an inconsistency in relation to the fines collected by municipal courts which are paid over to the counties, in our Revised Statutes. There are two separate provisions of the Revised Statutes that deal with this matter. This was brought to my attention yesterday for the first time at a hearing before the Judiciary Committee by Mr. Bailey, one of the county commissioners of Sagadahoc County, who appeared there in behalf of certain legislation the committee was considering. He had apparently studied the Revised Statutes more than some lawyers, for I, for one, did not know of this inconsistency, and I think it should be corrected. It is an important matter. The Revised Statutes now provide in one chapter, 144, section 1, that the fees collected by the municipal courts, shall be paid over quarterly to the treasurer. Then there is another section of the Revised Statutes, section 2 of chapter 148, where it is provided that these fees collected shall be turned over to the treasurer, and fees collected by trial justices are included in this case. It provides they shall be turned over every two months. So

apparently in reading these two sections, the commissioners were undecided just what they should do in regard to this matter because one section provided the funds should be turned over quarterly, and the other section provided they should be turned over every two months.

I think it is simply a procedural matter or technical matter and it is for this reason that I offer this resolve and ask unanimous consent that it be received at this time.

Thereupon, out of order and under suspension of the rules, Mr. Burns of Aroostook was granted unanimous consent to introduce bill, "An Act Relating to Fines Paid to Municipal Courts"; and on further motion by the same Senator, the bill was referred to the Committee on Judiciary and 500 copies ordered printed.

Sent down for concurrence.

Order

(Out of Order)

On motion by Mr. Hill of Cumberland, out of order and under suspension of the rules, it was

Ordered, that the use of the Senate Chamber be granted to the Committee on Labor for Thursday P. M., March the 16th, 1939, notwithstanding the provisions of any prior order.

The PRESIDENT: Is there any further business to come before the Senate?

On motion by Mr. Dorr of Oxford

Adjourned until tomorrow morning at ten o'clock.