

MAINE STATE LEGISLATURE

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Legislative Record

OF THE

Eighty-ninth Legislature

OF THE

State of Maine

SPECIAL SESSION

1940

**KENNEBEC JOURNAL PRINT SHOP
AUGUSTA, MAINE**

SENATE

Friday, May 24, 1940.

Senate called to order by the President.

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

Journal of yesterday, read and approved.

From the House:

Joint Order

Relative to Committee for the Purpose of Making a Study of the Financial and Functional Activities of State Departments. (H. P. 2254)

Comes from the House, passed as amended by House Amendment "A" as amended by House Amendment "A" thereto, and as amended by House Amendment "B".

In the Senate:

On motion by Mr. Spear of Cumberland the Order as amended was read by the Secretary.

Mr. SPEAR: Mr. President, I move that we adopt House Amendment B in concurrence. By adopting this amendment we strike out the words "or after final adjournment of this special session" and the words "or any other." That is what the adoption of House Amendment B in concurrence would mean.

Thereupon, House Amendment B was adopted in concurrence.

Mr. SPEAR: Mr. President, I move that we indefinitely postpone House Amendment A to House Amendment A. By the postponement of House Amendment A to House Amendment A we are disposing of that clause which would increase the number on the part of the House from eighteen to twenty-two.

House Amendment A to House Amendment A was indefinitely postponed in non-concurrence.

Mr. SPEAR: Mr. President I move the indefinite postponement of House Amendment A. By indefinitely postponing House Amendment A we dispose of the clause which would increase the number from seven to eighteen.

House Amendment A was postponed in non-concurrence.

Mr. SPEAR: Mr. President, I move the passage of the order as amended by House Amendment B in non-concurrence.

Mr. HILL of Cumberland: Mr. President, it appears to me that although the order purports to authorize the committee to subpoena wit-

nesses it contains no authority to punish for contempt. It therefore seems to me that the order is lacking in teeth in that respect and that that could be taken care of by amendment before the order receives passage.

Mr. SPEAR: Mr. President, may I answer my colleague, the Senator from Cumberland, Senator Hill?

The PRESIDENT: The Senator from Cumberland, Senator Spear, may answer through the Chair, the Senator from Cumberland, Senator Hill.

Mr. SPEAR: Mr. President, Senator Laughlin has prepared some amendments to this order and one of them contains an amendment that covers that situation.

Mr. HILL: Mr. President, I am glad to know that the amendment is being prepared. I had understood that the Senator's motion was that the order receive passage. It occurs to me that such an amendment should be adopted before the order is given passage.

The PRESIDENT: The question before the Senate is on the passage of the order.

Miss LAUGHLIN of Cumberland: Mr. President, in answer to that I would say that some of the amendments that I am preparing would be such that would require rewriting of that first paragraph. Even with these amendments it might require a reconsideration. There are so many amendments which would have to be added to that paragraph that I believe it would have to be as a substitute for paragraph one in which case it could be taken care of in that way, or, of course, we might postpone for the time being the action on this particular amendment. I think that would probably be better and I make that motion, Mr. President, that action upon the amendment as proposed be postponed for the present and taken up later.

Mr. HILL: My understanding, Mr. President, is that the question before the Senate is on the motion for passage of the order. If amendments are necessary and are to be prepared certainly they should be presented before the order is passed. I therefore move, Mr. President, that the order be laid upon the table.

Miss LAUGHLIN: Mr. President, may I say to the Senator, that the purpose was to lay the entire order on the table. I intended to make

that motion when we got through; not just this amendment but to lay the whole order on the table.

Thereupon, the order was laid upon the table pending passage as amended by House Amendment B in non-concurrence.

Communication

Monmouth, Maine
May 14, 1940

Mr. Royden V. Brown,
Secretary of the Senate.
Augusta, Maine.

Dear Royden:—

Having accepted a permanent position with the Secretary of State, I hereby tender my resignation as Sergeant-at-Arms of the Senate.

I can assure you it has been a great pleasure to serve with such a fine body of members and officers for the past five sessions.

Sincerely,

LOUIS R. FOWLER

Sergeant at Arms

Which communication was read and ordered placed on file.

The following bills were received, and on recommendation by the Committee on Reference of Bills were referred to the following Committees:

Military Affairs

Mr. Marden of Kennebec presented

Bill "An Act Permitting State to Accept Federal Funds for Promotion of Aviation." (S. P. 714)

(500 copies ordered printed.)

Sent down for concurrence.

Judiciary

Mr. Spear of Cumberland presented

Bill "An Act Amending the Unemployment Compensation Law Relating to Employer Liability and Coverage." (S. P. 717)

(1000 copies ordered printed.)

Sent down for concurrence.

Appropriations and Financial Affairs

Mr. Wentworth of York presented Bill "An Act Appropriating Moneys for Overdrafts Already Incurred Due to Insufficient Appropriations and Anticipated Overdrafts and Other Obligations for which no Legislative Appropriations have been made. (S. P. 718)

(500 copies ordered printed.)

Sent down for concurrence.

On motion by Mr. Spear of Cumberland,

Recessed for ten minutes.

After Recess

The Senate was called to order by the President.

On motion by Miss Laughlin of Cumberland the Senate voted to take from the table Joint Order relative to Committee for the Purpose of Making a Study of the Financial and Functional Activities of State Departments (H. P. 2254) tabled by that Senator earlier in today's session pending passage as amended by House Amendment B in non-concurrence; and that Senator yielded to the Senator from Cumberland, Senator Spear:

Thereupon, that Senator was granted permission to withdraw his motion that the order as amended by House Amendment B be passed in non-concurrence.

Miss Laughlin of Cumberland presented Senate Amendment A and moved its adoption:

"Senate Amendment A to House Paper 2254. Amend said order by striking out all of the first paragraph of said order as amended and substituting the following: 'Ordered, the Senate concurring, that there be and hereby is created a Joint Committee to consist of seven on the part of the House and four on the part of the Senate, said four on the part of the Senate to be appointed by the President of the Senate. Said Committee shall be charged with the duty of studying the report of Ernst & Ernst, auditors, authorized and empowered to conduct a study of all activities of each and every said department, agency or commission, to determine the manner in which the affairs of such department, agency or commission are or have been conducted and whether or not state laws are or have been complied with and what, if any, legislation may be advisable to permit efficient, economical and effective administration of such department, agency or commission, in compliance with state laws and with the avoidance of duplicated functions.' Further amend said order by striking out in the second paragraph, line two thereof, the words 'subpoena witnesses' and substituting therefor the words 'compel the attendance of witnesses, punish for contempt'".

Miss LAUGHLIN: Mr. President,

in explanation of this amendment I want to say that there are a number of additions there to put teeth in it. For instance, the original order simply said to determine whether the state laws have been complied with. The amendment makes it to determine the manner in which the affairs of the departments have been conducted and whether state laws have been complied with. Furthermore where it says only state departments it is a question whether it would cover certain agencies such as the liquor commission and so forth so we added the words "agencies or commission", and, as I said, the words to determine how it is conducted, and of course I had to put in the provision to see whether the laws are complied with.

In the second paragraph about subpoenaing witnesses, the original order said "subpoena witnesses" and left it there and they could subpoena all the witnesses in the state and if they didn't come the committee, as the order read, would have no power to make them come by citing them for contempt and that also was put in to put teeth in it and to make it possible for the committee to work effectively. Except for these additions we have used the general form of the order and simply put these in but there were so many words in so many different places which had to be changed that it seemed to me better to rewrite the paragraph instead of having four or five and putting those words in here and there and this way it simply puts teeth into it and makes it more comprehensive.

THE PRESIDENT: The question before the Senate is on the adoption of Senate Amendment A in non-concurrence.

MR. BURNS of Aroostook: Mr. President, the thought comes to me after having heard read Senate Amendment A—and I think we should vote confidence in Senator Laughlin and her efforts here, and I approve of the general purport of the amendment, and I think that teeth have been driven into it and that it is in better shape than when it was originally read. However, I am thinking of the psychology applying to the case as it relates to the number that has been set up in the amendment. It is proposed that the amendment create seven on the part of the House

and four on the part of the Senate. In the first place, I do not think it wise for the Senate to undertake to dictate to the House just what number they should set up on that committee on the part of the House. Assuming that the number ten, that is, seven on the part of the House and three on the part of the Senate, is the proper one—and I am inclined to agree that it is—then you have a better distribution and it is in accordance with time-honored custom in the appointment of various committees here in the Senate, whether it be joint standing committees or other committees. Generally when we do agree on the number of the committee it is seven and three rather than seven and four and I am concerned with the psychology of it.

Yesterday a great deal of the session was devoted to the naming of this committee. There was considerable discussion in the House in relation to it and the minds of the House did not agree on it. It seems to me that the first point they might raise is that we are undertaking to establish a new precedent and undertaking further to get stronger representation on the part of the Senate by the number four than we have in the past. I am for expedition in the passage of legislation here although I realize it must be thoroughly studied, and it seems to me that to have those numbers four and seven go over to the House would result in further discussion all of which will probably result in delay. So I am opposed to the amendment as offered for the reason that the numbers seven and four have been set up.

MISS LAUGHLIN: Mr. President, if the House wants to put more on the committee, they can do so—if they want more than seven. The fact is well known to anyone who has worked on a recess committee that an odd number is necessary. On one of the regular standing committees which we have here if we vote five to five, we can report to the legislature to act; but if the question comes up before this recess committee if we are to investigate a department or any committee and the committee divides five to five, we are stopped. Or even if we want a certain witness and we vote five to five, we are stopped, so with an even number it would be possible to block the whole investi-

gation. If the House wants to put it nine or to make it eleven, of course they can do it, but it is a different proposition from the usual standing committee where we can report to the legislature and they can take action and decide between the five to five report. In this case, with a committee that is investigating, they cannot move if they get a five to five vote.

Mr. BURNS: Mr. President, I disagree with my distinguished colleague that a committee would come to an impasse if there is a vote of five to five. I see no distinction between a recess committee and an ordinary committee such as we have here in regular session, and if that committee seeks to submit a divided report, five to five, there is plenty of precedent to that. The function of the committee is to make recommendations to the legislature and if they want to make a divided report, five to five or three to seven, or a unanimous report, it isn't necessarily the duty of the legislature to follow the recommendation.

The Senator from Cumberland (Senator Laughlin) brought out the fact that if a certain witness gave testimony or a certain issue came up before the committee in the course of their deliberations, that if they voted evenly five and five it would stop the functions of the committee. I don't see that that carries. It certainly does not carry in our legislative procedure under our functions when we operate under our standing committees and I do not like the psychology of that number. I think we should adhere to traditions and precedents of the past and a committee of ten in my estimation, although I don't want to dictate and will not undertake to do so, to the House, as to the number, it is just inviting further controversy and delay in my opinion. Therefore, Mr. President, I offer Senate Amendment A to Senate Amendment A.

"Senate Amendment A to Senate Amendment A to House Paper 2254. Amend said amendment by striking out in lines five and six thereof the word 'four' and inserting in lieu thereof the word 'three'".

Miss LAUGHLIN: Mr. President, I just want to emphasize again what I have already said. I have served on several recess committees and I know the absolute necessity of being able to get a majority vote

on that committee or else stop all activity because, as I said, occasionally there is a division and there is no possibility of going on with an investigation unless you can get a vote of the majority of the committee.

Mr. CHAMBERLAIN of Penobscot: Mr. President, it seems to me that a recess committee is far different than a legislative committee. No legislative committee is ever given the powers that this recess committee is to be given and certainly, as the Senator from Cumberland (Senator Laughlin) has said a tie vote would almost stop action. And, Mr. President, when the vote is taken I ask for a division.

The PRESIDENT: The question before the Senate is on the motion of the Senator from Aroostook, Senator Burns, that Senate Amendment A to Senate Amendment A be adopted and the Senator from Penobscot, Senator Chamberlain asks for a division.

A division of the Senate was had.

Two having voted in the affirmative and twenty-two opposed, Senate Amendment A to Senate Amendment A was not adopted.

Thereupon, Senate Amendment A was adopted in non-concurrence, and the order as amended by House Amendment B and Senate Amendment A was passed in non-concurrence.

Thereupon, on motion by Miss Laughlin of Cumberland, the order as amended in non-concurrence was sent forthwith to the House.

From the House, out of order and under suspension of the rules:

"Resolve Providing for a Research Committee to Study the Administration of State Affairs." (H. P. 2259)

(On motion by Mr. Tompkins of Aroostook tabled pending reference in concurrence)

Paper from the House referred in concurrence.

On motion by Mr. Spear of Cumberland,

Recessed for one-half hour.

After Recess

The Senate was called to order by the President.

On motion by Mr. Spear of Cumberland,

Recessed until one-thirty o'clock
Eastern Standard Time.

After Recess

The Senate was called to order
by the President.

Communication

(Out of Order)

STATE OF MAINE
HOUSE OF REPRESENTATIVES
OFFICE OF CLERK
Augusta

May 24, 1940

Honorable Royden V. Brown,
Secretary of the Senate,
of the 89th Legislature.

Sir:

In compliance with the provisions of Rule 3 of the Joint Rules of the 89th Legislature, I hereby transmit to you the names of the members of the House appointed by the Speaker to serve on the committee created by House Paper 2254, Joint Order relative to committee for the purpose of making a study of the financial and functional activities of state departments, on which the House concurred with the Senate and passed the order as amended:

Messrs: Varney of Berwick; Donahue of Biddeford; Dow of Norway; Noyes of Franklin, Hinman of Skowhegan; Richardson of Strong; MacNichol of Eastport.

Respectfully,

HARVEY R. PEASE,
Clerk of the House.
(S. P. 721)

Which communication was read and ordered placed on file.

The Chair appointed as members of such committee on the part of the Senate, Senators Tompkins of Aroostook, Laughlin of Cumberland, Thatcher of Penobscot, Boucher of Androscoggin.

The following bill was received out of order and under suspension of the rules and was referred to the Committee on Judiciary:

Mr. Elliot of Knox presented

Bill "An Act Relating to Unemployment Compensation." (S. P. 715)

(500 copies ordered printed.)

Sent down for concurrence.

Order

(Out of Order)

Mr. Spear of Cumberland presented the following order and moved its passage:

ORDERED, that a message be sent to the House of Representatives, forthwith, proposing a Convention of both branches of the Legislature, this evening at 7:00 D. S. T. for the purpose of extending an invitation to the properly authorized representative or representatives of Ernst and Ernst Auditors, to attend the Convention and to answer such questions as may be deemed necessary by the Convention to explain the recent report of Ernst and Ernst.

Mr. SPEAR of Cumberland: Mr. President, in support of this order I would like to explain that by having a Joint Convention each member of the legislature will have an opportunity to question these authorized representatives of Ernst and Ernst and we will also have a record of the questions and answers.

Thereupon the order received passage.

Sent down for concurrence.

Mr. KENNEDY of Hancock: Mr. President, out of order and under suspension of the rules I ask for unanimous consent to present a measure which I believe, if accepted will be of benefit to the State of Maine. In support of that I wish to say that in presenting to the members of this Legislature for passage as an Emergency Measure at this Special Session an amendment to Chapter 153, Public Laws of 1935 entitled "An Act Relative to Mines and Minerals," your attention is called to a serious inadequacy of our present mining laws which may prevent our state from the participation of an important development.

What is far more important, it might well be the means of barring Maine from making its proper contribution to the building up of defenses of the United States through its proved mineral resources. Maine's mineral deposits are even now being explored to definitely determine their extent and quality. There are numerous proven areas where copper, zinc, lead, manganese and beryllium exist in amounts making it entirely profitable and feasible for their development.

The importance of the immedi-

ate passage of this amendment was demonstrated within the past few weeks when one of the country's largest industrial concerns, with unlimited resources, halted an exploration which they had been making. As far as they went, their report was favorable but they refused to proceed under the existing laws of Maine which would prevent them from carrying their workings, in case of a development, out under the waters which are controlled by the state.

In one area of the state alone, the section in the vicinity of Cape Rosier and Bluehill, mines were opened during the World War and furnished a substantial amount of minerals. Under present war conditions, it may well be that within a short time every mineral resource of the country should be made immediately accessible in the interests of the defense of our nation.

In this amendment, the State of Maine loses nothing and stands to gain a substantial income and her citizens an opportunity for profitable employment.

Unanimous consent was granted to Mr. Kennedy of ancock to introduce bill, "An Act to Permit Development of Mines in Maine"; and under suspension of the rules the bill was referred to the Committee on Mines and Mining, and five hundred copies ordered printed.

Mr. ELLIOT of Knox: Mr. President, I ask unanimous consent to introduce a resolve. In explanation thereof I would like to make a few remarks.

This resolve merely provides for a study of existing accounting methods and reports of employers relating to various Social Security matters, matters relating to Income Tax and other matters with relation to which employers of Maine and other States are required to make reports to the Federal and to the State Governments. While these reports relate to the same general subject matter it has been the custom of several bureaus to which the reports are made to require a particular report to be in a form and at a time which makes it necessary for the employer to make a separate report to each department or bureau upon each matter where it is the belief of good accountants that quite easily one form could be fashioned and copies of the

same used for other agencies so that time, money and annoyance could well be saved.

This measure will in no way embarrass or interfere with this Special Session. If we wait until the regular session then a committee report could not be filed for two years and we would have lost that much time. Under the procedure proposed in this Resolve a committee might well complete its study and make its recommendations so that the cooperation of other states might be shortly obtained and the tangle now existing untangled two years sooner than would be the case if you require us to wait for the regular session.

It seems little to ask where the benefits will be so substantial and somewhat immediate.

It appears self-evident that such constructive program will result in a considerable saving of time and money to the employer, which savings, can not be other than to the advantage of employees. Simplification of reporting and accounting is just as much to be sought in State and National governmental agencies as in private industry.

It is not believed that the improvements above contemplated can be accomplished except by the resolve which I should like to have the members of the Senate allow to be introduced.

Unanimous consent was granted Mr. Elliot of Knox to introduce, "Resolve Providing a Recess Committee to Study Certain Industrial Accounting with Respect to Unemployment Compensation, Social Security and Income Tax Laws"; and on further motion by the same Senator, under suspension of the rules, the resolve was referred to the Committee on Legal Affairs and 500 copies ordered printed.

Order

(Out of Order)

On motion by Mr. Harkins of Androscoggin, it was

ORDERED, the House concurring, that free telephone service be provided for each member and office of the Senate and House to the number of fifteen calls of reasonable duration from Augusta to points within the limits of the state of Maine and that each member and officer of the Senate and House be provided with a card to be certified to by the Secretary of State or

his Deputy, the cost of this service to be paid to the New England Telephone and Telegraph Companies at regular tariff rates.

Sent down for concurrence.

On motion by Mr. Spear of Cumberland,

Recessed for one-half hour.

After Recess

The Senate was called to order by the President.

Message from the House

A message was received from the House concurring in the proposal of the Senate to hold a Joint Convention in the hall of the House of Representatives at 6.00 o'clock Eastern Standard Time this evening.

Order

(Out of Order)

On motion by Mr. Marden of Kennebec, it was

ORDERED, the House concurring that before reporting on the matters referred to it by Order, S. P. 713, dated May 23, pertaining to the advisability of proceeding by address for the removal of Belmont A. Smith, State Treasurer, that the Legal Affairs Committee hold a public hearing and that a representative or representatives of the firm of Ernst & Ernst and the office of the Attorney General present all available facts for the consideration of the committee pertaining to the conduct of the office of the State Treasurer, and be it further

ORDERED, that the said public hearing be held in the Senate Chamber on Tuesday, May 28, at nine-thirty A. M. Eastern Standard Time.

Thereupon, on further motion by the same Senator, the Order was sent forthwith to the House.

On motion by Mr. Spear of Cumberland

Recessed until six o'clock Eastern Standard Time this evening.

After Recess

The Senate was called to order by the President.

Order

(Out of Order)

Out of order and under suspension of the rules, on motion by Mr. Spear of Cumberland, it was

ORDERED, the House concurring, that when the Senate and House adjourn, they adjourn to meet on Tuesday, May 28th, 1940, at three o'clock in the afternoon, E. S. T. (S. P. 725)

Mr. SPEAR of Cumberland: Mr. President, in support of this order it probably won't suit everyone but it seems to be the best thing that we could work out. It is hoped that the Committee will start functioning as soon as they can and that we will have a report from the committee on Legal Affairs by Tuesday night or Wednesday morning. If the order receives a passage I would move that it be sent to the House forthwith.

Thereupon the order received passage and was sent to the House forthwith.

Communication

(Out of Order)

May 24, 1940

Honorable Royden V. Brown
Secretary of the Senate of the
Eighty-ninth Legislature.

Sir:

This is to inform you that Mr. Hinman of Skowhegan has been excused from serving on the committee created by H. P. 2254, Joint Order Relative to Audit for the Purpose of Making a Study of the Financial and Functional Activities of State Departments, and the Speaker has appointed Mr. McNamara of Winthrop to fill the vacancy thus caused.

Respectfully,

Harry R. Pease
Clerk of the House.

Which communication was read and placed on file.

The following bill and resolve were received out of order and under suspension of the rules and on recommendation by the Committee on Reference of Bills were referred to the following committees:

Motor Vehicles

Mr. Owen of Kennebec presented Bill "An Act Amending the Law Relating to Guaranty of Titles of Motor Vehicles." (S. P. 719)

(500 copies ordered printed.)

Sent down for concurrence.

**Appropriations and Financial
Affairs**

Mr. Harkins of Androscoggin presented

"Resolve in Favor of the City of Lewiston." (S. P. 726)

The same Senator presented

"Resolve in Favor of Bates College." (S. P. 727)

Sent down for concurrence.

At this point, in accordance with joint order passed this afternoon, the Senate proceeded to the House

of Representatives where a joint convention was formed.

(For proceedings of joint convention see House report.)

In the Senate

The Senate was called to order by the President.

On motion by Mr. Spear of Cumberland

Adjourned until Tuesday next, May 28th, at three o'clock in the afternoon, Eastern Standard Time.