

# MAINE STATE LEGISLATURE

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# **Legislative Record**

**SECOND SPECIAL SESSION**

**JUNE 26, 1940**

**SENATE**

Thursday, June 27, 1940.

The Senate was called to order by the President.

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

Journal of yesterday read and approved.

From the House: Bill, An Act Amending the Unemployment Compensation Law relating to the Unemployment Compensation Fund (H. P. 2273) (L. D. 1248)

Comes from the House, having been read three times under suspension of the rules and passed to be engrossed without reference to a Committee.

In the Senate, on motion by Mr. Spear of Cumberland, under suspension of the rules, the bill was given its two several readings and passed to be engrossed in concurrence.

From the House: Bill, An Act Providing for Improvement in Military Preparedness (S. P. 756) (L. D. 1246)

In the Senate: On June 26th, 1940, read twice under suspension of the rules, Senate Amendment A adopted, and the bill passed to be engrossed as amended by Senate Amendment A without reference to a committee.

Comes from the House, read three times under suspension of the rules, Senate Amendment A adopted in concurrence, House Amendment A adopted and passed to be engrossed as amended by Senate Amendment A and as amended by House Amendment A in non-concurrence.

In the Senate, on motion by Mr. Spear of Cumberland, the Senate voted to reconsider its action of yesterday whereby the bill was passed to be engrossed. On further motion by the same Senator, House Amendment A was read and adopted in concurrence, and the bill as amended by Senate Amendment A and House Amendment A was passed to be engrossed in concurrence.

**Order**

On motion of Mr. Spear of Cumberland, it was

ORDERED, the House concurring, that there be paid to the members, officers and chaplains of the Senate and House of Representatives for attendance and mileage at this special session of the legislature the

amounts stated opposite their respective names on payroll lists certified to the State Controller by the Secretary of the Senate and the Clerk of the House respectively, and bearing the approval of the committee on Appropriations and Financial Affairs.

Sent down for concurrence.

On motion by Mr. Spear of Cumberland,

Recessed to the sound of the gavel.

**After Recess**

The Senate was called to order by the President.

**Emergency Measure**

Bill, An Act Authorizing a Bond Issue for Military Expense (S. P. 757) (L. D. 1247)

Which bill being an emergency measure and having received the affirmative vote of 22 members of the Senate and none opposed was passed to be enacted.

**Emergency Measure**

Bill, An Act Providing for the Custody of Federal Funds for Vocational Training (S. P. 758) (L. D. 1250)

Which bill being an emergency measure and having received the affirmative vote of 22 members of the Senate and none opposed was passed to be enacted.

**Orders of the Day**

On motion by Miss Laughlin of Cumberland, the Senate voted to reconsider its action of yesterday whereby Bill, An Act Amending the Unemployment Compensation Law Relating to the Unemployment Compensation Fund (H. P. 2273) (L. D. 1248) was passed to be engrossed.

Miss LAUGHLIN: Mr. President, I move this measure be referred to the session which is to be convened on July 22nd. In support of my motion I would like to call the attention of the members of the Senate to a sentence in a paragraph on Page 3 of the bill, by which there is an amendment to the present law which says, "Neither the state controller nor the state treasurer shall be bound to inquire into the legality or propriety of the items appearing in any such warrant so prepared by the commission." Now, there may be a good reason for that amend-

ment but I cannot see it. I think we have had too much of this business of the state controller not inquiring into the legality or propriety of certain items. I have got to have a pretty good reason given to me for this amendment. It is a plain invitation — and if they have no power to inquire into the legality of this procedure, we do not need this — but I believe it is an invitation to more looseness and more inefficiency in state finances.

Now, as to this emergency, it is merely the signing of checks. The warrants are to be prepared by the commission and signed by the controller. This is all embodied in both bills on the table and there will be a conference between the two houses. I cannot see that three weeks from Monday, when the session convenes, will be delaying this unnecessarily. There cannot be such a tremendous emergency for signing checks before July 22nd when we take up the two bills which are now, or will be when we meet, before a conference committee. It seems to me as this is an amendment of the social security law, the very best thing that could be done would be to refer it to the session meeting July 22nd.

Mr. BURNS of Aroostook: Mr. President, may I inquire what the motion is before the Senate?

The PRESIDENT: The motion before the Senate, as the Chair understands it, is that the bill be committed for consideration by the special session to meet on July 22nd.

Mr. BURNS: Then, Mr. President, I understand that as the motion before the Senate is not to table, debate is in order?

The PRESIDENT: The Senator is correct.

Mr. BURNS: Mr. President, I unfortunately was not here when the distinguished senator from Cumberland, Senator Laughlin, discussed this matter but I have heard throughout the corridors that there is some objection to the sentence appearing in black print on page three of Legislative Document 1248, which reads as follows: "Neither the state controller nor the state treasurer shall be bound to inquire into the legality or propriety of the items appearing in any such warrant so prepared by the commission."

The provision as I read it is rather startling and it would seem that there would be some justification to taking issue with the lan-

guage. Very recently, however, I have had an opportunity to examine into it and I believe that although the language is somewhat startling we need not concern ourselves too much about it.

The purport of this bill, as I understand it, is to save the state approximately \$8,000 a year and to avoid a duplication of effort so far as the writing and countersigning of checks is concerned. It seems that under the present practice with the Unemployment Compensation Commission between one section in the city of Augusta and the Treasurer's office and the Controller's office here in the state house that it is necessary for certain duplication of work in order to carry out the requirements of the federal act.

The present procedure is to bring the necessary checks or instruments here to the state house and to fulfill the requirements of the act in that manner.

If this bill becomes a law, as I understand it there will be two employees, one designated by the controller and one designated by the treasurer, who will perform the duties with respect to countersigning the checks by each of these officials, checks of course having to do with unemployment compensation and that these employees will be assigned to the office of the Unemployment Compensation Commission here in Augusta, which is outside of the state house.

Now that is the intent and the principle reason for this bill, as I understand it. I have not talked with the Treasurer nor with the State Controller but I understand that they have no objection to the delegation of authority to an employee in their department who will be at the office of the Unemployment Compensation Commission on Water Street and I understand that they are satisfied to have this employee there act in the capacity necessary to see that these various checks are countersigned.

Now it seems to me that if they are willing to assume that responsibility and delegate it, it is not any great concern of the legislature and if there is an opportunity to save \$8,000 or a proportionate amount between now and July 22nd I don't see any reason why this matter should be delayed further.

The thought occurs to me that if this money for which the treasurer of the state or the controller is signing checks were state funds there

certainly would be some reason to inquire into the legality or propriety of the item but if I understand the operation of the unemployment compensation funds correctly they have lost their identity as state funds and after they are transferred to the Federal Reserve Bank in Boston they become federal funds. So that the jurisdiction of these state officials as I understand it, is merely ministerial. They couldn't question the legality or propriety of them anyway because they are not state funds, they are federal funds.

We are doing nothing more here, under this particular sentence, than is being done every day in the state house with respect to state funds. There are millions of checks that pass through the treasurer's office, as we learned at the recent hearing on the Smith case, and the treasurer and controller must necessarily depend on subordinates to see that these items are correct and they must rely upon an honest and efficient force, and it seems to me that this language, unfortunate though it may be, is no new precedent.

We have been doing the same thing in so far as our state funds are concerned and now we are dealing with federal funds and I certainly see no reason why we should question the propriety of that language where they would be acting in merely a ministerial capacity. This relates to state funds and it is one way of saving the state money, as I have pointed out, and if we continue with our present practice of bringing these checks or warrants to the treasurer or controller here it means an expense of \$8000 a year whereas if it is returned to the Unemployment Compensation Commission and two clerks, one from the treasurer of the state and one from the controller, are sent there to the office on Water Street to supervise the countersigning of these checks and if the treasurer is willing to do that and the controller is willing to do it, it seems to me that the measure is a proper one and should be enacted.

Now, as I said, I don't know what the motion is before the Senate, but I think that the Senate should take affirmative action on Legislative Document 1248 at this time, and in order that I may make a motion, if I may, I would like to inquire again just what the motion is before the Senate.

The PRESIDENT: The motion before the Senate is that the bill be referred to the next special session of the legislature which meets on July 22nd. The Chair considers that motion the same as a motion to commit.

Mr. BURNS: Well, Mr. President, I shall oppose that motion.

Mr. SANBORN of Cumberland: Mr. President, may I through the Chair make an inquiry of the Senator from Aroostook, Senator Burns?

The PRESIDENT: The Senator may ask a question through the Chair of the Senator from Aroostook, Senator Burns, and that Senator may reply if he desires.

Mr. SANBORN: Mr. President, in order that we may have action at the present time and get passage of this measure, I would like to be informed to what extent the Senator thinks the value of the act would be impaired if the act were amended by striking out that sentence. Would the act then serve its purpose?

Mr. BURNS: Mr. President, in answer to the Senator from Cumberland, Senator Sanborn, I can say this, the bills relating to unemployment compensation insurance generally must receive the approval of the federal commission and it is possible that this particular sentence is a requirement on their part. If it is, we are going to be confronted with it July 22nd as much as we are today. I have not had an opportunity to examine into the matter to find whether the federal authorities would be willing to delete it but if they would it would save unnecessary trouble. As I said, I have not had an opportunity to telephone the commission to see if they would be willing to delete this sentence. My point is that if they require it, it will be here July 22nd as much as it is today.

Miss LAUGHLIN: Mr. President, I am impressed by the value which the Senator from Aroostook, Senator Burns, places upon federal requests since the hold up in the last session was due to the fact he didn't want federal requests acceded to in another matter. However, it seems to me as the Senator has said he has not had a chance to look into it to see whether it is required or is not, it is only an argument to put it over to July 22nd which is only three weeks away. There are many of us, including the Senator from Aroostook, Senator Burns, who realize the state treasurer and state

controller haven't in the past inquired into the legality and propriety of similar items, and I repeat it is an invitation to loose bookkeeping and loose financing.

Mr. CHAMBERLAIN of Penobscot: Mr. President, may I ask a question through the Chair of the Senator from Aroostook, Senator Burns?

The PRESIDENT: The Senator may ask a question of the Senator from Aroostook, Senator Burns, and that Senator may answer if he desires.

Mr. CHAMBERLAIN: Mr. President, if the benefit accruing is \$8,000 a year, what proportion would be saved if we did not let this go over to July 22nd?

Mr. BURNS: Mr. President, I would say it would be the difference between now and July 22nd as the number of days relate to 12 months in a year. I move this matter be laid on the table.

Thereupon the bill was laid upon the table pending reference to the next special session of the legislature.

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

On motion by Mr. Spear of Cumberland,

Recessed until one o'clock this afternoon, Eastern Standard Time.

#### After Recess

The Senate was called to order by the President.

The PRESIDENT: We are proceeding under Orders of the Day.

#### Order

(Out of Order)

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 Monday, July 22, at three o'clock in the afternoon, Eastern Standard Time.

Sent down for concurrence.

On motion by Mr. Spear of Cumberland,

Recessed until the sound of the gavel.

#### After Recess

The Senate was called to order by the President.

#### Committee Reports

(Out of Order)

The Majority of the Committee on Ways and Bridges on "Resolve in Favor of the State Highway Planning Survey" (S. P. 762) (L. D. 1251) reported that the same OUGHT TO PASS in a new draft under the same title.

(Signed) Friend of Somerset, Dorr of Oxford, Stilphen of Lincoln, Hussey of Kennebec, Davis of Piscataquis, Burgess of Aroostook, Howes of Penobscot.

The Minority of the same Committee on the same subject matter reported that the same OUGHT NOT TO PASS.

(Signed) Goss of Androscoggin, Dennison of Washington.

Mr. FRIEND of Somerset: Mr. President, I would like to make the motion that the majority report of the committee Ought to Pass in New Draft be accepted. The original bill called for twenty thousand dollars to be appropriated to continue the Highway Planning Survey work until January 1, 1941. It was the thought of the majority of the committee that sixteen thousand dollars instead of twenty thousand dollars would be sufficient to do the job and that was the only change in the report. The Highway Planning Survey work has been going along for about three years and in that time \$340,000 has been spent in the work, in which time a great amount of information and figures has been gathered in connection with roads, bridges and so forth on all highways in the state of Maine. Up to this time the figures and information have not been compiled. If this appropriation of sixteen thousand is not made, the work will be discontinued at the end of this week. And thus all work that has been done up to this time by the Highway Planning Survey, which has been \$340,000, will have been to no avail. Now, with an appropriation of sixteen thousand dollars which will continue the work from now until January 1 all of that information and figures can be compiled and from that a report will be made into the legislature and for the Highway Commission which highway officials consider will be of great value in the future in de-

termining how and where our millions of highway money shall be spent.

All organizations that I know of, particularly those interested in highways, are in favor of this bill appropriating sixteen thousand dollars to continue the work. Among those organizations are the Maine Automobile Association, the Good Roads Association, the State Highway Department and the Federal Bureau of Public Roads.

Just this afternoon I received a wire from the Maine Automobile Association in support of this bill: "Francis H. Friend, Chairman, Ways and Bridges Committee. We urge authorization of proposed appropriation to complete state highway planning survey. This work involves certain relations under federal requirements and irrespective of some question regarding its entire necessity from the state standpoint is so nearly completed that the whole project should not now be left incomplete and thus jeopardize federal approval. Much lasting information has been obtained from this survey of value not only to economical highway improvement and to general transportation and industry but to a new condition requiring certain military consideration as well. We repeat the small sum now required to complete the work should not be denied at this juncture.

(Signed)

Maine Automobile Association."

There will be much information in this report that would be of great help in determining a possible future highway program which might be called for because of defense purposes. That is, it is said that there are many of our roads and many of our bridges which have not been built sufficiently strong to allow heavy equipment like tanks and heavy guns to go over them.

There is information compiled by the Highway Planning Survey that would help a great deal in determining what bridges and roads might need strengthening or improvement. Inasmuch as three hundred and fifty thousand dollars has already been spent on this project and that only sixteen thousand dollars additional is necessary now to bring this matter to a conclusion and completion it is my opinion that it may be of help to the legislature, the state highway department and the people of the state of Maine

and that this bill in new draft calling for sixteen thousand dollars should be passed by this legislature.

I think it would be wise to do this and I move that the majority report be accepted.

Thereupon the majority report was accepted and the bill was given its first reading. Under suspension of the rules, the bill was then given its second reading and passed to be engrossed.

Send down for concurrence.

### Emergency Measure

Bill "An Act Providing for Improvement in Military Preparedness" (S. P. 756) (L. D. 1246)

Which bill being an emergency measure and having received the affirmative vote of 24 members of the Senate and none opposed was passed to be enacted.

On motion by Mr. Burns of Aroostook, the Senate voted to take from the table bill, An Act Amending the Unemployment Compensation Law relating to the Unemployment Compensation Fund (L. D. 1248) tabled by that Senator earlier in today's session pending commitment to the next special session; and that Senator yielded to the Senator from Cumberland, Senator Laughlin.

Miss LAUGHLIN of Cumberland: Mr. President, during the recess an amendment was worked out that will accomplish the purpose required without the obnoxious language that was in the original draft and while it still seems to me that it would be better to refer the matter to the July 22nd session when the whole question of the unemployment bill will be taken up, nevertheless in the interests of harmony and inasmuch as the governor has requested that this particular section in question be amended at this time I ask leave to withdraw my motion to refer this bill to the session of July 22nd.

Thereupon permission was granted to the Senator from Cumberland, Senator Laughlin to withdraw the motion.

Mr. Burns of Aroostook presented Senate Amendment A and moved its adoption: "Senate Amendment A to Legislative Document 1248, An Act Amending the Unemployment Compensation Law Relating to the Unemployment Compensation Fund.

Amend said bill by striking out the next to the last sentence in subsection C and inserting in place thereof the following: "The Commission shall be the sole judge of the legality or propriety of any award of benefits or the amount thereof appearing in any such warrant prepared by the Commission subject only to the right of appeal as provided in sub-sections H and I of section 6 of Chapter 192 of the Public Laws of 1935 as amended."

Senate Amendment A was adopted and the bill as amended by Senate Amendment A was passed to be engrossed in non-concurrence.

Sent down for concurrence.

Mr. CHAMBERLAIN of Penobscot: Mr. President, as the Senate has elevated some of its employees to positions higher than they held when we came here and consequently there happens to be no doorkeeper I have been asked to nominate a person for that position and I will do so: Francis X. Mooney, Jr. who has been a folder here and is acting as doorkeeper, that he be appointed to that position. It carries no more salary but simply appoints a doorkeeper permanently for this legislature.

Mr. FINDLEN of Aroostook: Mr. President, I second the nomination.

Mr. BURNS of Aroostook: Mr. President, I move that nominations cease.

The PRESIDENT: The Senator from Penobscot, Senator Chamberlain nominates as doorkeeper of the Senate Mr. Francis X. Mooney of Bangor. The Senator from Aroostook, Senator Findlen, seconds the nomination. The Senator from Aroostook, Senator Burns, moves that nominations cease. Is this the pleasure of the Senate?

The motion prevailed.

Thereupon upon motion by Mr. Spear of Cumberland the Secretary was instructed to cast one ballot on the part of the Senate for the election of Francis X. Mooney, Jr. of Bangor to the position of doorkeeper.

The secretary attended to this duty and the President declared Francis X. Mooney, Jr. elected as doorkeeper of the Senate of the 89th Legislature.

On motion by Mr. Spear of Cumberland,

Recessed for five minutes.

### After Recess

The Senate was called to order by the President.

### Order

(Out of Order)

On motion by Mr. Spear of Cumberland, it was

ORDERED that a message be sent to the House proposing that a Joint Convention of the two branches of the legislature be held in the hall of the House this evening at seven o'clock, fast time, for the purpose of hearing a message from His Excellency, Governor Lewis O. Barrows (S. P. 765); and on further motion by the same Senator, the order was sent forthwith to the House.

Subsequently the Secretary reported that he had delivered the message with which he was charged.

A message was received from the House, by its Clerk Harvey Pease, that the House does not concur with the Senate in the proposal for a Joint Convention to be held at seven o'clock fast time and that the House proposes a Joint Convention be held for the purpose stated at seven o'clock Eastern Standard Time.

Thereupon, the Senate voted to concur with the House in its proposition that a Joint Convention be held in the Hall of the House at seven o'clock Eastern Standard Time and the Secretary was instructed to convey the message.

Subsequently the Secretary reported that he had delivered the message with which he was charged.

On motion by Mr. Spear of Cumberland.

Recessed until this evening at seven o'clock Eastern Standard Time.

### After Recess

The Senate was called to order by the President.

The PRESIDENT: At this time the Senate will proceed to the Hall of the House for the forming of a Joint Convention.

Thereupon the Senate retired to the Hall of the House where a Joint Convention was formed.

(For proceeding of Joint Convention see House Report.)



**In the Senate**

The Senate was called to order by the President.

**Committee Report**  
(Out or Order)

The majority of the Committee on Ways and Bridges on Resolve in Favor of the State Highway Planning Survey (S. P. 762) (L. D. 1251) reported the same **OUGHT TO PASS** in a New Draft (S. P. 766) under the same title. The Minority Report from the same committee on the same resolve reported **OUGHT NOT TO PASS**.

In the Senate the Majority Report was accepted, the Resolve given its second reading and passed to be engrossed.

Comes from the House, that body having indefinitely postponed both reports in non-concurrence.

In the Senate, on motion by Mr. Friend of Somerset, that body voted to adhere.

**Emergency Measure**

Bill 'An Act Amending the Unemployment Compensation Law Relating to the Unemployment Fund (H. P. 2273) (L. D. 1248)

Which bill being an emergency measure, and having received the affirmative vote of 25 members of the Senate and none opposed, was passed to be enacted.

On motion by Mr. Spear of Cumberland

Recessed for one-half hour.

**After Recess**

The Senate was called to order by the President.

**Committee Reports**  
(Out of Order)

Mr. Friend from the Joint Standing Committee on Ways and Bridges on Resolve Providing for Additional State Police Facilities (S. P. 761) (L. D. 1249) reported the same in a new draft under the same title and that it ought to pass.

Which report was read and accepted and the resolve was given its first reading.

Mr. FRIEND of Somerset: Mr. President, the Senate will readily see that the original bill calling for one hundred thousand dollars has been cut considerably, down to forty thousand dollars, but this was considered by the committee to be sufficient at this time to get the improvement in the highway police program started and in the meantime between now and July 22nd if the sentiment seems to develop and it seems to be absolutely necessary to have further money for this purpose that at that time more money can be appropriated.

Thereupon under suspension of the rules the resolve was given its second reading and passed to be engrossed.

On motion by Mr. Spear of Cumberland the resolve was sent forthwith to the House.

Mr. SPEAR of Cumberland: Mr. President, I am informed that the printer, Mr. Grenier, can engross this bill in an hour. I therefore move that the Senate recess to the sound of the gong pending action of the House on this resolve.

The motion to recess prevailed.

**After Recess**

The Senate was called to order by the President.

The PRESIDENT: The Chair will inform the Senate that the adjournment order passed earlier in the session has been returned from the House that Body having concurred with the action of the Senate that when the Senate and House adjourn they adjourn to meet on July 22, 1940 at three o'clock in the afternoon, eastern standard time.

On motion by Mr. Spear of Cumberland,

Adjourned until Monday, July 22, 1940, at three P. M., Eastern Standard Time.