

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

Legislative Record

SPECIAL SESSION

JULY 22, 1940

SENATE

Wednesday, October 23, 1940.

The Senate was called to order by the President.

Prayer by the Reverend Wm. R. Wood of Augusta.
Journal of yesterday, read and approved.

From the House:

Communications

STATE OF MAINE
Department of the Attorney
General
Augusta

Oct. 22, 1940

To the Honorable Senate and
House of Representatives:

In reply to the request for information contained in Joint Order passed on October 22, 1940 (H. P. 2292), the full amount recovered by the State to date from former Controller William A. Runnells, is \$26,420.00.

Respectfully,

FRANZ U. BURKETT,
Attorney General
(H. P. 2295)

Which was read and ordered placed on file in concurrence.

STATE OF MAINE
Department of Finance
Bureau of Accounts and Control
Augusta

Oct. 22, 1940

To the Honorable Members of the
Eighty-ninth Legislature:

In compliance with House Order dated October 21, 1940, I hereby submit list of buildings and offices hired by the State for the housing of departments, the monthly rental basis and the location of said buildings and offices.

Respectfully submitted,

H. E. RODGERS
State Controller
(H. P. 2294)

Which communication and accompanying list were read and ordered placed on file in concurrence.

Mr. FRIEND of Somerset: Mr. President, I would like permission to address the Senate.

The PRESIDENT: Mr. Friend of Somerset asks unanimous consent to address the Senate. If there is

no objection, the Senator may proceed.

Mr. FRIEND: Mr. President, I just learned yesterday over at the Highway Commission, from WPA officials and Federal Highway officials that \$1,300,000 is at present available to the state for the construction of state highways under the State Highway Commission with State Highway specifications. This money would all be spent on Maine through highways for military and defense purposes. To obtain this money, the WPA officials and Federal Highway Officials say that it will be necessary for the state in some way to furnish, for surveying and land damages on such projects, \$150,000 in cash.

Now, the only way that this \$150,000 can be obtained is through action of the legislature. It is a large, substantial proposition and I believe that the legislators should pay some attention to it. I do not think that the matter should be dropped without any action whatsoever and for that reason I would like to ask for a short recess in order to take up the matter and explain it to the Ways and Bridges Committee and see what they may desire to report into this legislature on this matter.

The PRESIDENT: The Senator from Somerset, Senator Friend, moves that the Senate recess to the sound of the gavel.

The motion to recess prevailed.

After Recess

The Senate was called to order by the President.

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

Joint Order, Relative to Recall from the Legislative Files to the House of Joint Order H. P. 2289. (H. P. 2296)

Which was read and passed in concurrence.

Final Report

Final Report of the Joint Special Legislative Investigating Committee.

(On motion by Mr. Hill of Cumberland, tabled pending acceptance in concurrence)

Passed to be Enacted

Bill "An Act Providing for the Expiration of All Orders of the Governor's Council at the End of Its Term." (S. P. 777) (L. D. 1260)

Veto Message

The following message was received:

STATE OF MAINE EXECUTIVE DEPARTMENT AUGUSTA

October 23, 1940.

To the Honorable Senate
and
House of Representatives:

I return herewith, without my signature, L. D. 1265, An Act to Create a Legislative Research Committee.

It seems perfectly evident to most observers that government of late years has had a tendency to add bureau upon bureau with the inevitable increasing cost to the taxpayers. This Act seems to be no exception. It proposes to establish and perpetuate a committee of ten who shall meet as often as necessary, but at any rate four times a year. For such meetings the proposed compensation shall be five dollars per day for each member plus expenses. This means an amount that cannot be even estimated accurately. In addition, the Act makes possible "the employment of such assistants and research agencies as the committee may desire or its appropriation permit." There is no appropriation provided, that is apparent, and certainly the phraseology "such assistants and research agencies as deemed desirable" would make necessary budget estimates impossible. Overdrafts would more likely result.

To assist you in resolving your decision, it may not be inappropriate to call your attention to analogous situations occurring in recent months.

Section 6 of Chapter 254 of the Public Laws of 1933 carries a mandatory provision for a recess committee to make certain investigations in regard to election reports. Inasmuch as no action is ever taken or meetings held, would it be advisable to add to the law or repeal it?

More recently, of course, has been the instance—presumably now evident to every citizen of the State—that out of all the large number of State officials and employers one

was found to be dishonest, charged with larceny, and proper legal steps were taken for punishment the hour that it was first detected. No hesitation was shown by any State official, so far as was known then or has been discovered since, to do his plain duty. Yet ever since, a most exhaustive and detailed investigation has been going on and you have before you the final report of your committee. The expense to the State for that report and the assurances it contains cost the taxpayers \$7,994.60 and the detailed charges are available to you in the State Controller's office, if you want them. In addition, the expense of the various special legislative sessions, exclusive of the present one, has been \$42,941.83; the cost of the outside audit was \$50,000; and the expenses to date of the Recess Code Committee, so-called, are \$1,186. This is a total of over \$102,000, as you will observe.

Keep in mind also the increased appropriation and staff that has been provided to the State Auditor, which most decidedly should enable a constant and complete safeguard against any reoccurrence of that which had been going on for the past ten years, at least, and not detected until this year.

Furthermore, a new bureau such as herein proposed would mean added quarters and equipment, although that is not specifically mentioned in the Act.

I am fully convinced of the ability of the incoming administration, and the added staff that has been provided and is efficiently functioning at the present time, to carry on—and be just as alert to act quickly—if it has knowledge of any malfeasance or misfeasance of any employee.

If you insist that the taxpayers of this State be saddled with the permanent added expenditure that this Act would surely require, then the way is still open to you. However, the conclusion reported by the present investigating committee, that "it feels that the continuation of its work and the attendant expense would not be justified by any results that could be reasonably

anticipated," should be significant and conclusive, and I fail to understand how a "research" committee can be expected to accomplish any more than an "investigating" committee, plus the competent auditing control we now have.

I have read the partial report of your Code Committee and surely none can deny the eminence of its membership. However, as their report points out, the term of each member ceases with each succeeding regular legislative session. With attendant changing legislative personnel there is assured no continuity of service. To a very great degree the selection of departmental heads rests with the Legislature itself and over the years their selections have been admirable. I believe that any such official can supply, or at least quickly obtain, any information that is desired, upon request. If the plain intent is "to obtain factual information that can be relied upon," as stated, I believe that this is the source to obtain it from, without the permanent added organization. If such results are not possible, then it is time to change the departmental heads. You now have that power.

"Eliminating legislative congestion" most assuredly is commendable, but what assurance is herein guaranteed by this Act? That condition is wholly under your control now.

If a situation reoccurs such as we have just had, it is wholly inconceivable to me that any administrative (Executive, Legislative, or Judicial), such as this State would ever have, will lack either the machinery or the determination to meet the issue squarely and quickly.

Briefly stated, these are but some of the reasons why your present Executive is unable to concur in what is realized as a mutual desire to legislate for economy and the best interest of the State of Maine.

The responsibility for these proposed added burdens to our taxpayers rests entirely with you.

Respectfully submitted
(Signed) LEWIS O. BARROWS

Governor

Which was read and, on motion by Mr. Spear of Cumberland, was laid upon the table pending consideration.

Mr. FRIEND of Somerset: Mr. President, I simply would like to

make the statement that the Ways and Bridges Committee, during the noon hour, will make up a brief written report in connection with the \$1,300,000 of government funds which report will be presented to the Legislature and will undoubtedly be ready by two o'clock.

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

On motion by Mr. Spear of Cumberland

Recessed until this afternoon at one-thirty o'clock.

After Recess

The Senate was called to order by the President.

On motion by Mr. Spear of Cumberland the Senate voted to take from the table Communication from the Governor, veto message on bill An Act to Create a Legislative Research Committee (L. D. 1265), tabled by that Senator earlier in today's session pending consideration; and that Senator yielded to the Senator from Cumberland, Senator Sanborn.

Mr. SANBORN of Cumberland: Mr. President, I appreciate the fact that this Senate is in no frame of mind to cheerfully listen to long arguments or extended speeches and I promise you that I will use my best efforts to be reasonably brief in what I have to say.

We have before us a measure which has passed both branches unanimously without debate, some indication, or it should be some indication, that its principle and its contents meet the approval of the members of both branches.

Just a word as to how that measure came into existence. It was the product, of course, and accompanied the report of the so-called Code Committee. But in our work the Committee had had the advantage of valuable assistance, valuable information and valuable suggestion from that other senior committee, the Investigating Committee, with whose work you are all thoroughly familiar.

The members of this Body on that Committee you all respect. I believe you respect their judgment and their ability and I am given to understand and believe that this measure meets with their approval. At any rate it was prepared largely

in consequence of suggestions and information so generously accorded us by that committee.

Among the members of our own committee from this Body, to say nothing about myself, I do not suppose there is a member of this Senate who by his experience and familiarity with state affairs is entitled to greater respect in his judgment than my colleague, Senator Friend. Senator Beckett is another member of the committee whom I know you all realize is a man who does not yield to passion or prejudice. He is capable of viewing matters, calmly, judiciously, and intelligently.

The House members of our committee were unanimous. There was no difference of opinion, and both political parties were represented on the committee. There was no difference in opinion as to the wisdom of this measure.

I listened, perhaps not too attentively, to the Executive veto message. I am frank to say that I failed to hear anything in it that appealed to me as consisting of very powerful logic. I did see a little evidence of some fine Italian hand in the expression that was worked into that message in two or three places characterizing this proposed committee as a bureau. Of course we all know that the word "bureau" is in pretty bad odor just now but I know you will not be misled by the fact that the word "bureau" was used in that message.

This measure proposes to create a legislative committee, a committee of inquiry, in other words a committee similar to the Code Committee itself. Now, his Excellency tells us, and it is true, that the unfortunate situation in which we found ourselves last winter has resulted in the necessity of the expenditure of more than a hundred thousand dollars, for special audit, investigating committee and so on.

The purpose of this act is to have in existence at all times a legislative committee whose function, if they function properly, will be such as to prevent, to forestall, any future situation such as we have found ourselves in. And I submit to you that, as the Governor says, this Code Committee has cost the state eleven hundred dollars. I wonder if the members of the Senate feel that an annual or bi-annual expenditure of ten or eleven or twelve hundred dollars is too great an investment

that may result in forestalling and obviating catastrophes which from time to time discredit the entire state and bring down an expenditure of a hundred thousand dollars.

One argument in the message failed to appeal to me and that was that there would be no room, no accommodations, that additional room would have to be provided for such a committee. Why, this committee when it meets, meets right here in the State House between sessions of the legislature. I am frank to say that our Code Committee had no difficulty in finding quarters. We sat here in this Chamber several days without interruption. No one disturbed us. On other days we sat in the Council Chamber. We did not find any necessity heaven knows there is necessity, I believe, for more accommodations--but I am frank to say that the argument that creating this committee would crowd us too much is forced. It is purely a provision for a Body which shall meet from time to time and to which complaints may be made, suggestions may be made.

I will say to you that our Code Committee, I know, cannot begin, by the first of January, to cover the ground that ought to be covered in the way of ascertaining weak spots, ascertaining places where improvement might be made. It would certainly be in the interests of economy and wisdom if there were to be on tap all the time such a committee to whom suggestions could be presented and who would not be obliged to canvass them in the rough of a legislative session, who could canvass them thoroughly and efficiently and report them into the legislature.

This act requires that such a report should be made and presented to every member of the incoming legislature a month before it convenes, and such a report with information as to matters which are to be presented and are to engage the attention of the legislature will, I believe, enable them to crystallize in their minds their conclusions, and I believe it will result in shortening the legislative session materially, and the shortening of it by a few days would more than offset any expense that the committee would cause the state.

I doubt if it has been necessary for me to make these remarks. I believe that the Senate is in a state

of mind where they feel that this act is wise and should be enacted. And while I admit that it is unpleasant to say No to a message from the Executive, and that we have had much information and much help from the present Executive, and while I know that we all have great respect for him and for his judgment, nevertheless in this particular case I feel that we should act the part of wisdom and discretion if we give this act passage.

The PRESIDENT: The question before the Senate is, shall this bill become a law notwithstanding the objections of the Governor. According to the Constitution the vote will be by Yeas and Nays. Those favoring the passage of the bill will vote Yea. Those wishing to sustain the veto of the Governor will vote Nay. Is the Senate ready for the question? The Secretary will call the role.

The Secretary called the roll:

YEA: Beckett, Boucher, Burns, Chamberlain, Chase of Piscataquis, Chase of Washington, Dorr, Elliot, Findlen, Friend, Hill, Kennedy, Laughlin, Lewis, Littlefield, Marden, Morse, Owen, Sanborn, Spear, Thatcher, Tompkins, Wentworth—23.

NAY: Cony, Harkins—2.

ABSENT: Boothby, Cook, Dow, Graves, Worthen—5.

Twenty-three having voted in the affirmative and two opposed, the bill was passed to be enacted notwithstanding the objections of the Governor.

Sent down for concurrence.

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

Joint Order relative to advisability of legislation at this session to enable the State to obtain W. P. A. funds for highway construction, (H. P. 2297)

Which was read and passed in concurrence.

Joint Order Relative to State Military Defense Commission to submit report of salaries, etc. (H. P. 2289)

(In the Senate on October 22, read and passed in concurrence)

Comes from the House, passage reconsidered under suspension of

the rules, and indefinitely postponed in non-concurrence.

In the Senate under suspension of the rules that Body voted to reconsider its action of yesterday whereby the Order was passed in concurrence, and thereupon the Order was indefinitely postponed in concurrence.

Committee Report

Mr. Friend from the Committee on Ways and Bridges submitted report relative to the advisability of legislation at this session to enable the State to obtain W. P. A. funds for highway construction. (S. P. 795)

Which report was read and accepted.

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

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.

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

STATE OF MAINE
House of Representatives
Augusta
Office of Clerk

October 23, 1940.

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

Sir:

This is to advise you that the House of Representatives having received An Act to Create a Legislative Research Committee (S. P. 788) (L. D. 1265) together with the objections of the Governor, on which Bill the Senate had voted that it become a law notwithstanding the objections of the Governor, after reconsideration proceeded to vote on the question "Shall the Bill become a law notwithstanding the objections of the Governor?" A yeas and nays vote was taken, 108 voted in the affirmative and 10 in the negative, and accordingly, it was the vote of the House that the Bill become a

law notwithstanding the objections of the Governor, since two-thirds of the members of the House so voted.

Respectfully,

HARVEY R. PEASE
Clerk of the House.

Which was read and ordered placed on file.

On motion by Mr. Hill of Cumberland, the Senate voted to take from the table Final Report of the Joint Special Investigating Committee tabled by that Senator earlier in today's session pending acceptance of the report.

Mr. HILL: Mr. President, I move that the report be accepted with the understanding that the Committee shall not be discharged thereby.

The motion prevailed.

Order

On motion by Mr. Hill of Cumberland, it was

ORDERED, that a message be sent to the House of Representatives informing that body that the Senate has transacted all the business which has come before it, and is ready to adjourn without day.

Which was read and passed.

The Senator from Cumberland, Senator Hill was appointed to convey the message and subsequently reported that he had discharged the duty assigned to him.

A message was received from the House of Representatives by Mr. Bird of Rockland that that body had transacted all the business before it and was ready to adjourn without day.

Order

On motion by Mr. Spear of Cumberland, it was

ORDERED, the House concurring, that a Committee of three on the part of the Senate, with such as the House may join, be appointed to wait upon the Governor and inform him that both branches of the Legislature have acted on all matters before them and are now ready to receive any communication that he may be pleased to make. (S. P. 794)

The President appointed as members of such a committee on the part of the Senate:

Senators: Spear of Cumberland
Thatcher of Penobscot
Owen of Kennebec

Subsequently the foregoing order was returned from the House, read and passed in concurrence, the Speaker having appointed as members of such a committee on the part of the House:

Messrs. Ellis of Fairfield, Noyes of Franklin, Paul of Portland, Larabee of West Bath, Dow of Kennebunkport, Dean of Greenville, Snow of Herman.

Mr. Spear from the Committee subsequently reported that the Committee had attended to the duties assigned it and that the Governor would make a communication forthwith.

Communication:

STATE OF MAINE
Executive Department
Augusta

October 23, 1940.

To the President and members of the Senate:

To the Speaker and members of the House:

I herewith transmit the total number of acts and resolves passed by the special sessions of the 89th legislature. I have approved 22 acts, 6 resolves, and I have submitted 1 veto which becomes a law by your vote over-riding the veto.

There are three acts on my desk awaiting consideration and study. I have no further communication to make.

Respectfully submitted,
(Signed) LEWIS O. BARROWS
Governor.

Which communication was read and ordered placed on file.
Sent to the House.

Subsequently the foregoing communication was returned from the House having been read and placed on file in concurrence.

Order

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

ORDERED, the House concurring, that when the Senate and House adjourn to meet on Tuesday, October 29, 1940 at ten-thirty in the forenoon.

On motion by Mr. Hill of Cumberland, the order was laid upon the table pending consideration.

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.

On motion by Mr. Hill of Cumberland, the Senate voted to take from the table the joint adjournment order just previously tabled by that Senator pending consideration; and on further motion by the same Senator, the order received passage.

The PRESIDENT: The Senate may be at ease.

Communication

STATE OF MAINE
Executive Department
Augusta

October 23, 1940

To the President and members of the Senate:
To the Speaker and members of the House:

Since my previous communication to you this afternoon I have found time to complete a study of the bills before me.

I herewith transmit the total number of acts and resolves passed by the various special sessions of the 89th legislature.

I have approved 25 acts, 6 resolves and I have submitted one

veto which becomes a law by your vote over-riding the veto.

This constitutes final action on all of the legislative matters presented to date by you. I have no further communication to make.

Respectfully submitted,

(Signed) Lewis O. Barrows,
Governor.

Which communication was ordered placed on file.

Sent to the House.

Subsequently the foregoing communication was returned from the House having been read and placed on file in concurrence.

On motion by Mr. Hill of Cumberland, the Senate voted to reconsider its action taken earlier in today's session whereby a joint adjournment order fixing the date of adjournment as October 29, 1940 was passed; and on further motion by the same Senator, the order was indefinitely postponed.

Mr. CHASE of Piscataquis: Mr. President and members of the Senate, this duty seems to be always coming my way and as I do not want to shirk any responsibility I will move that this honorable Body be now adjourned without day.

The motion prevailed and at five twenty-six P. M., October 23, 1940, the Honorable Sumner Sewall, President of the Senate declared the Senate of the 89th legislature adjourned without day.