

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

Ninety-Eighth Legislature

OF THE

STATE OF MAINE

VOLUME I

1957

DAILY KENNEBEC JOURNAL
AUGUSTA, MAINE

HOUSE

Wednesday, January 23, 1957

The House met according to adjournment and was called to order by the Speaker.

Prayer by the Rev. Mr. Harvey Ammerman of Augusta.

The journal of the previous session was read and approved.

Papers from the Senate

From the Senate: The following Order:

ORDERED, the House concurring, that there be paid to George Stevens, Jr., Representative of the Passamaquoddy Tribe of Indians; and to John Nelson, Representative of the Penobscot Tribe of Indians, on account of compensation, the sum of one hundred dollars (\$100.) each, plus mileage (S. P. 71)

Came from the Senate read and passed.

In the House, the Order was read and passed in concurrence.

From the Senate:

Bill "An Act relating to Obstructions to View at Railroad Crossings" (S. P. 49) (L. D. 80)

Bill "An Act relating to Time of Payments by Counties and Towns under Bridge Act" (S. P. 50) (L. D. 81)

Came from the Senate referred to the Committee on Highways.

In the House, referred to the Committee on Highways in concurrence.

From the Senate:

Bill "An Act relating to Employees of Maine Maritime Academy Receiving Federal Social Security Benefits" (S. P. 51) (L. D. 82)

Bill "An Act relating to Rules of Descent" (S. P. 53) (L. D. 83)

Bill "An Act relating to Minimum Speed of Motor Vehicles" (S. P. 60) (L. D. 90)

Came from the Senate referred to the Committee on Judiciary.

In the House, referred to the Committee on Judiciary in concurrence.

From the Senate:

Bill "An Act to Increase the Borrowing Capacity of the Town of Hartland School District" (S. P. 54) (L. D. 84)

Came from the Senate referred to the Committee on Legal Affairs.

In the House, referred to the Committee on Legal Affairs in concurrence.

From the Senate:

Bill "An Act Changing the Name of the Pownal State School to Pineland Hospital and Training Center" (S. P. 55) (L. D. 85)

Came from the Senate referred to the Committee on Public Health.

In the House, referred to the Committee on Public Health in concurrence.

From the Senate:

Bill "An Act Increasing Salaries of Judge and Recorder of Saco Municipal Court" (S. P. 56) (L. D. 86)

Bill "An Act relating to Appointment of Deputy Treasurer, Kennebec County" (S. P. 57) (L. D. 87)

Bill "An Act relating to Time of Payment of Fees by Clerks of the Judicial Courts" (S. P. 58) (L. D. 88)

Came from the Senate referred to the Committee on Towns and Counties.

In the House, referred to the Committee on Towns and Counties in concurrence.

From the Senate:

Bill "An Act relating to Speed Regulations for Motor Vehicles" (S. P. 59) (L. D. 89)

Came from the Senate referred to the Committee on Transportation.

In the House, referred to the Committee on Transportation in concurrence.

Messages and Documents

The following Communication:

STATE OF MAINE
SUPREME JUDICIAL COURT
Augusta

January 22, 1957

Honorable Harvey R. Pease
Clerk, House of Representatives
State House
Augusta, Maine

Dear Mr. Pease:

There is enclosed the Answer of the Justices to the Question of January 16, 1957 relative to travel expense.

Respectfully yours,
(Signed) ROBERT B. WILLIAMSON

Answer of the Justices

To the Honorable House of Representatives of the State of Maine:

The undersigned Justices of the Supreme Judicial Court, in accordance with the provisions of the Constitution, respectfully answer here-in the question propounded by the House of Representatives in an Order passed by the House January 16, 1957 relative to House Paper No. 42, a proposed joint Order under the provisions of which members of the House and Senate would be paid for travel at each legislative session once each week at the rate of 8c per mile to and from his place of abode, retroactive to the commencement of the present session of the Legislature. The present rate of 5c per mile was established by statute in 1949. Laws of 1949, Chap. 406.

Mileage of legislators for travel to the Legislature is personal expense as distinguished from legislative expense. It is not expense "necessary to enable the legislature to properly perform its functions" but expense "that must be incurred by a member of the legislature in order to be present at the place of meeting." The appropriation or payment of money for such a purpose is a matter "of public concern and one which can be effected only by an act or resolve of the Legislature passed as a law by both branches thereof and submitted to the Executive for his executive approval in accordance with the Constitution." Opinion of the Justices, 148 Me. 528, 530, 531.

Our views are strengthened by the course of our legislative history. From at least 1823 (Laws of 1823, Chap. 216) the travel expense of members of the Legislature has been fixed in amount by statute. As was said by the Justices in 1953, on page 530: "It is common knowledge that it has been the practice of the Legislature by order as distinguished from act, bill or resolve to provide for payment of legislative expenses, as above defined, from current legislative appropriations."

To say now that travel expense is a legislative expense as distinguished from a personal expense of the legislator would put aside the

practice, and we may say the conviction, of the Legislatures of the past. A Legislature by order, as here, if such a view prevailed, could destroy completely the mandate of the statute.

On the reasoning of the 1953 opinion, we reach a like result. We quote with approval therefrom on page 531:

"The nature of the expenses for which reimbursement is provided in the proposed Order being personal, they cannot be authorized or payment thereof directed by a joint legislative order."

In our opinion the travel expense sought in the Order is not compensation within the meaning of the Constitution. Provision therefor may properly be made by Act or Resolve. Constitution, Art. IV, Part Third, Section 7.

Dated at Augusta, Maine, this 22nd day of January, 1957.

Respectfully submitted:

(Signed) Robert B. Williamson
Donald W. Webber
Albert Belliveau
Walter M. Tapley Jr.
Francis W. Sullivan
F. Harold Dubord

The Communication was read and ordered placed on file.

Petitions, Bills and Resolves Requiring Reference

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

Appropriations and Financial Affairs

Resolve Reimbursing Certain Municipalities on Account of Property Tax Exemptions of Veterans (H. P. 99) (Presented by Mr. Edwards of Raymond)

(Ordered Printed)
Sent up for concurrence.

Claims

Resolve in favor of City of Ellsworth (H. P. 100) (Presented by Mr. Brown of Ellsworth)

(Ordered Printed)

Resolve in favor of Norman M. Dyer of Ellsworth (H. P. 101) (Presented by same gentleman)

Resolve to Reimburse Mrs. George Dumond of New Canada Plantation for Beaver Damage (H. P. 102) (Presented by Mr. Gallant of Eagle Lake)

Resolve to Reimburse Town of Limestone for Aid Extended to Marion Joseph of Limestone (H. P. 103) (Presented by Mr. Johnson of Stockholm)

Resolve in favor of John O. Cain of Masardis (H. P. 104) (Presented by Mr. Prue of Ashland)

Resolve in favor of Town of Franklin (H. P. 105) (Presented by Mr. Tarbox of Gouldsboro)
Sent up for concurrence.

Highways

Bill "An Act relating to Services of State Police on Maine Turnpike" (H. P. 106) (Presented by Mr. Crockett of Freeport)
(Ordered Printed)
Sent up for concurrence.

Inland Fisheries and Game

Bill "An Act relating to Taking of Smelts" (H. P. 107) (Presented by Mr. Harris of Greenville by request)

(Ordered Printed)

Bill "An Act Increasing the Bounty on Bobcat" (H. P. 108) (Presented by Mr. Prue of Ashland)

(Ordered Printed)

Bill "An Act relating to Fees for License for Nonresident Dealers in Furs" (H. P. 109) (Presented by same gentleman)

(Ordered Printed)

Bill "An Act relating to Complimentary Non-resident Fishing and Hunting Licenses" (H. P. 110) (Presented by Mr. Walsh of Brunswick)

(Ordered Printed)

Resolve Regulating Fishing in Houston Pond, Franklin County (H. P. 111) (Presented by Mr. Carville of Eustis by request)

(Ordered Printed)

Resolve Regulating Fishing in Rangeley River, Franklin County (H. P. 112) (Presented by same gentleman by request)

(Ordered Printed)

Resolve Regulating Fishing in Haley Pond, Franklin County (H. P. 113) (Presented by same gentleman by request)

(Ordered Printed)

Resolve Regulating Fishing in Saddleback Stream and Its Tributaries, Franklin County (H. P. 114) (Presented by same gentleman by request)

(Ordered Printed)

Resolve Prohibiting Live Fish as Bait in Spring Lake, Somerset County (H. P. 115) (Presented by same gentleman by request)

(Ordered Printed)

Resolve Closing Haley Brook, Franklin County, to all Fishing (H. P. 116) (Presented by same gentleman by request)

(Ordered Printed)

Resolve Regulating Fishing in Tim Pond, Franklin County (H. P. 117) (Presented by same gentleman by request)

(Ordered Printed)

Resolve Regulating Fishing in Blanchard Ponds, Franklin County (H. P. 118) (Presented by same gentleman by request)

(Ordered Printed)

Resolve Regulating Fishing in Tributaries to Baker Pond, Somerset County (H. P. 119) (Presented by same gentleman by request)

(Ordered Printed)

Resolve Regulating Fishing in Big Island Pond, Franklin County (H. P. 120) (Presented by same gentleman by request)

(Ordered Printed)

Resolve Regulating Fishing in Kennebec River, Somerset and Piscataquis Counties (H. P. 121) (Presented by Mr. Harris of Greenville by request)

(Ordered Printed)

Resolve Regulating Fishing in Moose River, Piscataquis County (H. P. 122) (Presented by same gentleman by request)

(Ordered Printed)

Resolve Regulating Fishing in Kodjo, Piscataquis County (H. P. 123) (Presented by same gentleman by request)

(Ordered Printed)

Resolve Regulating Fishing in Bell Pond, Piscataquis County (H. P. 124) (Presented by same gentleman by request)

(Ordered Printed)

Resolve Prohibiting Outboard Motors when Fishing in Grindstone Pond, Piscataquis County (H. P. 125) (Pre-

sented by same gentleman by request)

(Ordered Printed)

Resolve Regulating Fishing in Moosehead Lake Tributaries, Somerset and Piscataquis Counties (H. P. 126) (Presented by same gentleman by request)

(Ordered Printed)

Resolve Opening Twitchell Pond in Oxford County to Ice Fishing During February and March (H. P. 127) (Presented by Mr. Saunders of Bethel)

(Ordered Printed)

Resolve Closing Chain of Tacoma Lakes to Ice Fishing (H. P. 132) (Presented by Mr. Vaughan of Hallowell)

(Ordered Printed)

Sent up for concurrence.

Judiciary

Bill "An Act relating to Violation of Motor Vehicle Laws by Juveniles" (H. P. 128) (Presented by Mr. Crockett of Freeport)

(Ordered Printed)

Bill "An Act relating to Certain Penalties for Motor Vehicle Violations" (H. P. 129) (Presented by Mr. Hancock of York)

(Ordered Printed)

Bill "An Act relating to Delivery of Absent Voting and Physical Incapacity Voting Ballots" (H. P. 130) (Presented by Mr. Kinch of Livermore Falls)

(Ordered Printed)

Bill "An Act relating to Qualifications of Judge and Duties of Recorder of Brunswick Municipal Court" (H. P. 131) (Presented by Mr. Walsh of Brunswick)

(Ordered Printed)

Sent up for concurrence.

Legal Affairs

Bill "An Act relating to Examination of Dog Shelters by State Humane Agents" (H. P. 133) (Presented by Mr. Call of Cumberland)

(Ordered Printed)

Bill "An Act relating to Stealing or Killing Dogs" (H. P. 134) (Presented by same gentleman)

(Ordered Printed)

Bill "An Act relating to Castle Hill-Chapman - Mapleton Community School District" (H. P. 135) (Presented by Mr. Foss of Chapman)

(Ordered Printed)

Bill "An Act relating to Definition of Redevelopment Project under Slum Clearance and Redevelopment Authority Law" (H. P. 136) (Presented by Mr. Miller of Portland)

(Ordered Printed)

Bill "An Act to Authorize the Town of Brunswick to Provide for the Collection and Disposal of Garbage and Rubbish" (H. P. 137) (Presented by Mr. Walsh of Brunswick)

(Ordered Printed)

Sent up for concurrence.

Natural Resources

Bill "An Act to Authorize the City of Lewiston to Discharge a Drain into the Androscoggin River" (H. P. 138) (Presented by Mr. Rancourt of Lewiston)

(Ordered Printed)

Resolve Authorizing the Forest Commissioner to Convey Certain Land in Woodland, Aroostook County (H. P. 139) (Presented by Mr. Bragdon of Perham)

(Ordered Printed)

Resolve Authorizing the Forest Commissioner to Convey Loon Island to Mrs. Anna Fowler and Julius Peterson (H. P. 140) (Presented by Mr. Jones of South Portland)

(Ordered Printed)

Sent up for concurrence.

Public Utilities

Bill "An Act relating to Facilities Furnished by Public Utilities for Rate Fixing Purposes" (H. P. 141) (Presented by Mr. Haughn of Bridgton)

(Ordered Printed)

Sent up for concurrence.

Retirements and Pensions

Bill "An Act relating to Definition of Public School under State Retirement System" (H. P. 142) (Presented by Mr. Haughn of Bridgton)

(750 copies Ordered Printed)

Bill "An Act relating to Military Leave Credits under State Personnel Law" (H. P. 143) (Presented by Mr. Vaughan of Hallowell)

(750 copies Ordered Printed)

Bill "An Act relating to Military Leave Credits under State Retirement System" (H. P. 144) (Presented by same gentleman)

(750 copies Ordered Printed)

Resolve Providing for State Pension for Clarence Ramdell of Lubec (H. P. 145) (Presented by Mr. Denbow of Lubec)

(Ordered Printed)

Resolve Providing for State Pension for Iva Colson of Lubec (H. P. 146) (Presented by same gentleman)

(Ordered Printed)

Resolve Providing for State Pension for George McCray, Presque Isle (H. P. 147) (Presented by Mr. Foss of Chapman)

(Ordered Printed)

Sent up for concurrence.

Taxation

Bill "An Act Exempting Water Sold for Home Consumption from Sales Tax" (H. P. 148) (Presented by Mr. Couture of Bath)

(750 copies Ordered Printed)

Sent up for concurrence.

Towns and Counties

Bill "An Act to Increase the Salaries of the Judge and Recorder of the Portland Municipal Court" (H. P. 149) (Presented by Mr. Childs of Portland)

(Ordered Printed)

Bill "An Act to Increase the Salaries of the Judge and Recorder of the South Portland Municipal Court" (H. P. 150) (Presented by Mr. Hanscomb of South Portland)

(Ordered Printed)

Bill "An Act Increasing the Salaries of the Judge and Recorder of the Westbrook Municipal Court" (H. P. 151) (Presented by same gentleman)

(Ordered Printed)

Bill "An Act relating to Payment of Expenses of Lewiston Municipal Court" (H. P. 152) (Presented by Mr. Jacques of Lewiston)

(Ordered Printed)

Sent up for concurrence.

Transportation

Bill "An Act relating to Issuance of Motor Vehicle Operators' Licenses from the Anniversary of the Date of Birth" (H. P. 153) (Presented by Mr. Ross of Bath)

(750 copies Ordered Printed)

Sent up for concurrence.

Orders

On motion of the gentlewoman from Presque Isle, Mrs. Christie,

House Rule 25 was suspended for the remainder of today's session in order to permit smoking.

House Report of Committee Ought to Pass Printed Bill

Mrs. Smith from the Committee on Legal Affairs reported "Ought to pass" on Bill "An Act relating to Procedure to Repair or Demolish Buildings after Fire" (H. P. 25) (L. D. 30)

Report was read and accepted, the Bill read twice, and tomorrow assigned.

Orders of the Day

The SPEAKER: The Chair places before the House the first tabled and today assigned matter, a House Joint Order relative to Increase in amount paid to Legislators for travel, House Paper 42, tabled on January 10 by the gentleman from Bridgton, Mr. Haughn, pending passage. The Chair now recognizes that gentleman.

Mr. HAUGHN: Mr. Speaker and Members of the House: We have no alternative but to take one course here this morning on this tabled matter. The Court has rendered their decision and decree and by that we are not authorized to proceed in that form which we have tried to obtain a result, so at this time I move the indefinite postponement of this Joint Order, and I would like to remark that there will be a bill or resolve coming in shortly.

The SPEAKER: The gentleman from Bridgton, Mr. Haughn, moves the indefinite postponement of this order. Is this the pleasure of the House?

The motion prevailed and the House Joint Order was indefinitely postponed.

The SPEAKER: Proceeding under Orders of the Day, the Chair at this time has two vacancies to fill on the Maine Commission on Interstate Cooperation Committee, and to those vacancies the Chair will appoint the gentleman from Lee, Mr. Frazier, and the gentleman from Auburn, Mr. Walker.

The SPEAKER: The House is proceeding under Orders of the Day.

There are no notices in the Clerk's possession other than those that have been reproduced and distributed to your desks.

Mr. Carey of Augusta and Mr. Earles of South Portland were

granted unanimous consent to address the House off the record.

On motion of Mr. Andrews of Jonesboro,

Adjourned until one o'clock tomorrow afternoon.