

# MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

# Ninetieth Legislature

OF THE

STATE OF MAINE



1941

KENNEBEC JOURNAL COMPANY

AUGUSTA, MAINE

War our country was infested with alien supporters and spies and is now confronted with a similar situation, and

WHEREAS, the prevention of all types of sabotage is a vital cog in the machinery of a complete national defense, and

WHEREAS, it is necessary to provide more stringent laws for the protection of the State and Nation in times of peril, and

WHEREAS, in the judgment of the Legislature these facts create an emergency within the meaning of Section 16 of Article XXXI of the Constitution of Maine, and requires the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore; and

Amend Section 11 of said bill by inserting after the word "choosing," in the 5th line thereof the words "to strike, to picket;"; and

Further amend said act by adding at the end thereof the following:

**Sec. 15. When this act is in force.** In view of the emergency cited in the preamble, this act shall take effect when approved, and shall remain in full force until January 15, 1945; provided, however, that any violation of this act, committed while the act is in force, may be prosecuted and punished thereafter, whether or not this act is in force at the time of such prosecution and punishment.

Thereupon, Committee Amendment "A" was adopted in concurrence and tomorrow was assigned for third reading of the Bill.

#### Non-concurrent Matter

From the Senate:

Bill "An Act relating to State Aid for Academies" (H. P. 792) (L. D. 307) which was passed to be engrossed in the House on March 27th as amended by House Amendment "A".

Came from the Senate, passed to be engrossed as amended by House Amendment "A" and by Senate Amendment "B" in non-concurrence.

In the House, Senate Amendment "B" read by the Clerk as follows:

Senate Amendment "B" to H. P. 792, L. D. 307, Bill "An Act Relating to State Aid for Academies."

Amend said bill by striking out in the 22nd line thereof the underlined figures "85,000", and inserting in

place there the underlined figures "90,000".

Thereupon, the House voted to recede from its action whereby it passed this Bill to be engrossed on March 27th.

Senate Amendment "B" was then adopted in concurrence and the bill was passed to be engrossed as amended by House Amendment "A" and Senate Amendment "B" in concurrence.

On motion by Mrs. Robbins of Harrison, Rule 25 was suspended for the remainder of today's session, in order to permit smoking.

#### Orders

On motion by Mr. McGlaufflin of Portland, it was

ORDERED, that Mr. Estabrook of Stacyville, be excused from attendance today and tomorrow because of illness; also that Mr. Pierce of Bucksport, be excused from attendance tomorrow because of business.

#### House Reports of Committees

##### Divided Reports

Majority Report of the Committee on Judiciary reporting "Ought not to pass" on Bill "An Act relating to Disclosure Commissioners" (H. P. 1581) (L. D. 932)

Report was signed by the following members:

Messrs. FARRIS of Kennebec

HARVEY of York

—of the Senate.

GRUA of Livermore Falls

McGLAUFFLIN of Portland

HINCKLEY of So. Portland

WILLIAMS of Bethel

PAYSON of Portland

BRIGGS of Hampden

MILLS of Farmington

—of the House.

Minority Report of same Committee reporting "Ought to pass" on same Bill.

Report was signed by the following member:

Miss LAUGHLIN of Cumberland

—of the Senate.

On motion by Mr. Grua of Livermore Falls, the "Ought not to pass" Majority Report of the Committee was accepted and sent up for concurrence.

##### Divided Reports

Majority Report of the Committee on Judiciary reporting "Ought

not to pass" on Resolve proposing an Amendment to the Constitution to Provide for the Appointment of the Attorney General by the Chief Justice of the Supreme Judicial Court (H. P. 1425) (L. D. 730)

Report was signed by the following members:

Messrs. FARRIS of Kennebec  
HARVEY of York  
Miss LAUGHLIN of Cumberland  
—of the Senate.

Messrs. McGLAUFILIN of Portland  
WILLIAMS of Bethel  
GRUA of Livermore Falls  
HINCKLEY of So. Portland.  
—of the Senate.

Minority Report of same Committee reporting "Ought to pass" on same Resolve.

Report was signed by the following members:

Messrs. MILLS of Farmington  
BRIGGS of Hampden  
PAYSON of Portland  
—of the House.

The SPEAKER: The Chair recognizes the gentleman from Portland, Mr. Hinckley.

Mr. HINCKLEY: Mr. Speaker, I move the acceptance of the majority report.

The SPEAKER: The gentleman from South Portland, Mr. Hinckley, moves that the House accept the majority report, "Ought not to pass." The Chair recognizes the gentleman from Portland, Mr. Payson.

Mr. PAYSON: Mr. Speaker, I realize that I may be speaking on a lost cause, but at least I want to put before you the reasons for the minority report which I have signed.

We are hearing a lot of talk about economy in this government of ours, and I claim that this resolve is an economy measure. When you talk about economy, just go down before the Appropriations Committee and try to cut the appropriation for any department in this State House, and you will find you are in a beautiful spot. Start on Education, if you want to, or Agriculture, or any other department you want to and try to cut their appropriation and see how long you will live. The real economy, I believe, that can be brought about in State government is by improving the administrative set-up of State government.

Go back to the proposition where-by your Attorney General is now

chosen—and I wish to say now as always on these matters, I do not speak of personalities, I am talking simply about the theory of administrative government. You chose by election of the Legislature an Attorney General for a two-year term. That, of course, confines the election to a Republican under the present set-up. By precedent you keep him in office four years; you reelect him once. Let me say to you from my own experience in a similar job in my city and my own close contact with the Attorney General's department, that there is hardly a man in this State who by training and experience is qualified to be Attorney General. He has got to come in and learn an entirely new type of law. If you will talk with lawyers here in the House, you will find that they are specializing in various branches of the law, but almost none of them in governmental or municipal law. After you have trained your Attorney General to do the work you fire him and go out and get a new one. I believe if you would guarantee continuity in office such as would be guaranteed under the measure I have given you here, that the Attorney General would save the State many times over his salary for the year.

My bill calls for a constitutional resolve to have the Attorney General appointed for a seven-year term by the Chief Justice of the Supreme Court with the advice and consent of the other members of the Supreme Court. This is, to my way of thinking, a real economy measure.

The SPEAKER: The Chair recognizes the gentleman from Farmington, Mr. Mills.

Mr. MILLS: Mr. Speaker, I just want to speak for a moment and give my reasons for signing the minority report on this resolve.

There are several ways of electing the Attorney General, and several methods have been presented to us this year of changing it. The present way, as we know, is election by the Legislature. In Massachusetts and a good many other states the election is by the people at large. One method presented to our committee this year was the proposition that the Governor appoint the Attorney General. This method which is before us for consideration this morning provides that he be appointed by the Chief Justice of the Supreme Court.

The only thing I had in mind when I considered these various methods was how could we get the best man for the job. After considering it quite fully, I felt that the Chief Justice of the Supreme Court of the State of Maine would be in a better position to know the qualifications of the man. He would be in a better position to know than anyone else or anyone group.

I think if you will review the history of our State and consider the personalities and capabilities of our Supreme Court, particularly the Chief Justices, you will find that consistently down through the years we have had very, very eminent men in that position, men whose whole life has been in the practice of law and in intimate contact with the practitioners over the State.

I think for the position of Attorney General we should have one of the most eminent lawyers of the State, and who would be better qualified to choose than the Chief Justice of the Supreme Court? I submit, not speaking of personalities at all, in the old days many of us know that the position of Attorney General of the State of Maine was a stepping stone to the bench; it was a great honor, and many of our Attorney Generals later went to the Supreme Court. I feel that perhaps the level is not the same in recent years as it was in those days; and that may be the reason why so many propositions have been proposed for a change. I think sometimes in the House of Representatives and the Senate it becomes more or less of a popularity contest, and I do not believe that situation would prevail if the Chief Justice of the Supreme Court were given power to make the appointment. I thank you.

The SPEAKER: The Chair recognizes the gentleman from Portland, Mr. McGlauffin.

Mr. MCGLAUFLIN: Mr. Speaker, I had not intended to speak on this matter at all, but, inasmuch as it is claimed that you will get better men by some other method, I wish to call your attention to some of the men that have been turned out as Attorney Generals chosen by this Legislature.

There was Nathan Clifford, who became an Associate Justice of the Supreme Court of the United States; there was William P. Frye, who be-

came President of the Senate; there was Thomas B. Reed, who became the greatest Speaker that the House of Representatives of the United States has ever known. There was Lucius Emery, John A. Peters, William R. Pattagall, Scott Wilson, and Guy Sturgis, all of whom became Chief Justices of the Supreme Court of Maine. There was William T. Haines and Henry P. Cleaves, who became Governors of Maine. There was Warren Philbrook and Fred Powers, who became Supreme Court Justices of the State of Maine. There was Raymond Fellows, who is now serving in the Superior Court of Maine.

Now I ask you, if this Legislature can choose men as Attorney Generals who have turned out to be such men as I have named, who have become known nationally and internationally, what is the sense of telling us that we cannot choose a good Attorney General?

The SPEAKER: The Chair recognizes the gentleman from South Portland, Mr. Hinckley.

Mr. HINCKLEY: Mr. Speaker, like the gentleman from Portland, Mr. McGlauffin, I did not think it would be necessary to say anything in regard to this bill, because I thought the House would naturally go along with the motion I made. I still do not believe it is necessary to make any extended remarks.

I fully agree with my Brother McGlauffin in what he has just said about the men who have been Attorney Generals of the State of Maine. I cannot understand why the gentleman from Farmington, Mr. Mills, brought that up, because it is simply an argument against the argument that he made. This House is perfectly capable of selecting an Attorney General, as past history has proved.

The gentleman from Farmington, Mr. Mills, has said we had a bill before us providing for the appointment of the Attorney General by the Governor, and we have this bill also before us. In my opinion, if the Attorney General is appointed by the Governor, he becomes possibly a tool simply of the Governor and will carry out the Governor's wishes. That is the danger you would face in that direction. If you have the Attorney General appointed by the Chief Justice of the State, you have an equal danger. The At-

torney General appears before the Chief Justice and the other justices of the State, and if he is appointed by them he is liable to be subservient to their wishes. I do not say that he would be, but I say that is the danger. If you leave it in the hands of this Legislature, that danger will not exist.

The SPEAKER: The Chair recognizes the gentleman from Bethel, Mr. Williams.

Mr. WILLIAMS: Mr. Speaker, I want to state briefly my reasons for opposing this measure which are none of the reasons that have been given today. My reasons briefly are these: Not that I have any fear that our justices would not make good appointments; not that I have any especial fear that the Attorney General would be subservient to the justices; but the very foundation of our government is that we should have three separate branches, and especially has it beer our desire to make the judiciary independent of political influence. And now immediately you take a very political appointment and you put the Chief Justice of the Supreme Judicial Court in a position where every attorney or friend of an attorney who wants to be Attorney General will be calling on the Chief Justice to see if his friend or he cannot be appointed. It will put the Supreme Judicial Court into politics, which is what we have tried to prevent by our Constitution. I hope the motion of the gentleman from South Portland (Mr. Hinckley) will prevail.

The SPEAKER: The Chair recognizes the gentleman from Hampden, Mr. Briggs.

Mr. BRIGGS: Mr. Speaker, I do not wish to make any extended speech, but I merely want to point out one thing: If you pass this bill you are not changing the law one single bit. This provides for a resolution to be submitted to the people to make the necessary constitutional change, therefore whatever we do here on this bill, if we should pass it, would not put the court into politics and would not change the manner of election of the Attorney General one bit.

The SPEAKER: The question before the House is on the motion of the gentleman from South Portland, Mr. Hinckley, that the House accept the majority "Ought not to

pass" report of the Committee. Is the House ready for the question?

All those in favor of the acceptance of the majority report, "Ought not to pass", will say aye; those opposed no.

A viva voce vote being taken, the motion prevailed and the majority report "Ought not to pass" was accepted and sent up for concurrence.

#### Reports A and B Tabled

Report A of the Committee on Judiciary on Bill "An Act relating to Attachment of Shares of Stock" (H. P. 1427) (L. D. 591) reporting "Ought to pass" as amended by Committee Amendment "A" submitted therewith.

Report was signed by the following members:

Miss LAUGHLIN of Cumberland  
Messrs. FARRIS of Kennebec  
HARVEY of York

—of the Senate.

HINCKLEY of So. Portland  
GRUA of Livermore Falls

—of the House.

Report B of the same Committee reporting "Ought not to pass" on same Bill.

Report was signed by the following members:

Messrs. MILLS of Farmington  
McGLAUFLIN of Portland  
WILLIAMS of Bethel  
PAYSON of Portland  
BRIGGS of Hampden

—of the House.

The SPEAKER: The Chair recognizes the gentleman from Augusta, Mr. Southard.

Mr. SOUTHARD: Mr. Speaker, as this bill is closely allied with another one that is now on the table, I move that the reports and accompanying bill be laid on the table.

The SPEAKER: The gentleman from Augusta, Mr. Southard, moves that Report A and Report B, with accompanying papers, lie on the table pending acceptance of either report. Is this the pleasure of the House?

The motion prevailed, and the two reports, together with the bill, were so tabled.

#### Refer to 91st Legislature

Mr. Slosberg from the Committee on Temperance on Bill "An Act to Regulate the Sale of Wines Produced by Natural Fermentation or Fortified" (H. P. 1489) (L. D. 735)