

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

OF THE

Ninetieth Legislature

OF THE

STATE OF MAINE



1941

KENNEBEC JOURNAL COMPANY

AUGUSTA, MAINE

Maine which pays him his compensation. Is that too much of a restriction to put on beforehand, before he is even appointed?

Now I do not want to argue this at length. I feel that rightly or wrongly the people of this State have acquired a prejudice against our judges doing this sort of thing. I feel our courts should be beyond suspicion; I feel our courts should be as near to the point of giving divine justice as any institution we can produce. Anything that militates against the dignity and honor and confidence of the public in our courts is to be deprecated. Anything that we can do that will add to that dignity and respect on the part of the public, I believe we should do. I believe that our courts should be removed from this criticism. I fully agree with what has been said about the high character of our judges. I doubt if this would ever be called into action in many cases. If so, what is the harm in putting it on our books so that we may in the future avoid the criticism that we have heard of some of the judges of our courts?

I am very heartily in favor of this bill. I believe the judges of our courts, if we could get their honest opinion, would be in favor of it. I hope very much the motion of the gentleman from Portland, Mr. McGlauffin, does not prevail.

The SPEAKER: The question before the House is on the motion of the gentleman from Portland, Mr. McGlauffin, that the House accept the minority "Ought not to pass" report.

All those in favor of the motion of the gentleman from Portland, Mr. McGlauffin, that the House accept the minority "Ought not to pass" report will say aye; those opposed no.

A viva voce vote being taken, the motion to accept the minority "Ought not to pass" report did not prevail.

On motion by the gentleman from South Portland, Mr. Hinckley, the House voted to accept the majority "Ought to pass in new draft" report of the committee, and the bill was given its two several readings and assigned for third reading on the next legislative day.

On motion by the gentlewoman from Bangor, Miss Clough, House Rule 25 was suspended for the remainder of today's session, to permit smoking.

Senate Divided Reports

From the Senate:

Majority Report of the Committee on Judiciary on Resolve proposing Amendments to the Constitution Repealing the Constitutional Provisions relating to the Office of Treasurer of State and Ratifying and Approving a Legislative Enabling Act providing for Appointment of the Treasurer upon Approval of this Resolve (S P. 75) (L. D. 49) reporting same in a new draft (S. P. 546) (L. D. 1130) under title of "Resolve proposing an Amendment to the Constitution to Provide for Appointment of the Treasurer of State by the Governor and Council" and that it "Ought to pass"

Report was signed by the following members:

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

—of the Senate.

PAYSON of Portland
BRIGGS of Hampden
HINCKLEY of So. Portland
MILLS of Farmington
GRUA of Livermore Falls

—of the House.

Minority Report of same Committee reporting "Ought not to pass" on same Resolve.

Report was signed by the following members:

Messrs. WILLIAMS of Bethel
McGLAUFFLIN of Portland

—of the House.

Came from the Senate with the Majority Report accepted and the Resolve passed to be engrossed.

In the House:

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

Mr. McGLAUFFLIN: Mr. Speaker, again I would like the privilege of facing the House.

The SPEAKER: The gentleman may have the privilege.

Mr. McGLAUFFLIN: Mr. Speaker and Members of the House: I am not talking to you just for the sake of hearing myself talk. I am obliged, because of my situation on these committees, to explain to you my position.

I have already discussed this matter of changing the Constitution. This particular bill requires a little further explanation because this is the bill that started all the trouble. Again I have got to go back just a little to review what lead up to this situation.

Last year, early in the Spring the State of Maine was suddenly shocked to find that a large sum of money had been embezzled from the State. It stirred up everybody. The Governor was very much perturbed. I have no doubt he was in a very hard situation, but, whether wisely or unwisely, he thought it was a good plan to get rid of a lot of State officials. Therefore he asked for the resignation of Mr. Hayford, the State Auditor, one of the most honest men who ever filled that office, a man who had been misled and duped, a man who did not have the facilities to make the investigation that is required, but who, so far as he was able to investigate, did so honestly and found nothing out of the way. I want to say right here that it was not until the State of Maine had spent thousands of dollars that they were able to find it out either. At any rate, Mr. Hayford was asked to resign and he did resign.

The Governor also asked the Deputy Treasurer to resign, Mr. Winship. A fairer, squarer, finer, better man never walked in this State House than that same Mr. Winship. I admired him greatly. When he came to the hearing he took upon his shoulders the whole blame of having cashed some checks that he should not have cashed when he was duped and misled by that man Runnells. That killed Mr. Winship.

Then there was another man, the Commissioner of Finance, Mr. Owen. He did not have one single thing to do with the matter, excepting that on the advice of the Governor, years before, that Commissioner had appointed Mr. Runnells.

The Governor was not satisfied with that. He asked Belmont Smith to resign. Belmont Smith did not have one single thing to do with any part of that transaction, and, therefore, he refused to resign.

Now, the law was that the Governor and Council could have removed Mr. Smith for cause, but they did not have cause, and so the matter was referred to the Special Session of the Legislature, of which I was a member.

The agitation about the situation up here at Augusta stirred up the people of the State of Maine to such an extent that I, for one, was greatly alarmed, for fear that this Legislature, when it met, would do a great injustice.

I was concerned—and I want to tell you all in this House I heard man after man say, "Turn him out. Turn everybody out." They did not ask for cause. They were ready to fire anybody—everybody—just to satisfy the people back home.

But in the course of time, the Members of that Legislature were big enough and sensible enough to see the danger of that brand on them, and they got down to some common sense.

On the floor of this House, I defended Belmont Smith, not because I had the slightest interest in Belmont Smith, as such, but I saw that there was an attempt to railroad an innocent man.

I want to tell you now that when the charges were presented against him in this House, they were not charges having anything to do with the Runnells affair in particular. They went out of the way to find all kinds of picayune things, in order that they might prejudice that Legislature.

The result was that both the Senate and the House cleared Mr. Smith.

Now, why I am telling you this is because some of the members of this House have been very set on getting rid of Mr. Smith. Why,—I cannot tell you, but that was the situation. The next thing we knew they brought in this Legislature a bill—this bill was one practically like it. We discussed the matter in the Special Session of the Legislature. I opposed it and the Legislature stood by me and we killed that bill.

The next thing I heard was that they were going to do it through this Legislature, if they could not through the other. That is what they are attempting to do now.

Every objection that I raised in my speech on Constitutional affairs applies to his case. I say that it applies most particularly to this case, for, as I have already pointed out to you, in Vermont, Massachusetts, Rhode Island and Connecticut, under the Constitution, the Treasurer is elected by the people; and in Maine and New Hampshire he is appointed by the Legislature, and there is a reason for that. It is, as I pointed out the other day, because the Treasurer is responsible to the people and to the Legislature, and to them alone I say that I do

not believe that any Governor should have any control over a State Treasurer. I cannot possibly conceive any policy that any Governor could have that should give him control over the Treasurer.

Now, the Code Committee advocated a similar measure but not exactly this one. They had a plan, and this was introduced in the Legislature, again before the Judiciary Committee. They had a plan that went with this, to have a law that a Finance Committee was to be set up, and the Finance Committee was to choose the Treasurer.

I want to say that that was worse than this is. And the reason was that you would have had the Finance Committee controlling the Treasurer, and if you happened to get another Runnells in the State House, what that Board could do to loot this State would make the recent case look like penny-ante. (Laughter)

I want to show you another absurd thing about it. Under their provision, they were going to submit this Constitution to the people of Maine, and in that submission, the people were going to ratify the law that was proposed, and the people had no opportunity to know what the law was, unless they read it in the newspapers, because none of them was submitted to them. They were supposed to vote on something that they did not know a thing about, and could not know a thing about, and ratify it.

That matter was submitted to the Justices of the Court, and, as you know, they rendered the opinion that that kind of procedure was unconstitutional.

Well, when they could not get that thing through, then they advanced another scheme,—and this is it.

One argument put up was that taking this away from the Legislature, and letting a Treasurer be appointed some other way, would take the matter out of politics.

What do you want to take it out of politics for? You and I are elected by politics. The Governor is elected by politics. The Treasurers of State and Attorney Generals we have had since the State was formed, got their jobs through politics. We have not suffered greatly from it.

Then they said that you would

get a better man. I have pointed out to you the kind of men we have had for Secretary of State and the kind of men we have had for Attorney General. I do not see where you are going to get any better men.

Well, here is their argument,—if you had the Governor select him, he could investigate him and might pick out a better man. I want to say to you that when 184 members of this Legislature pass judgment on a man, somebody has looked him over.

I do not think that it is necessary for me to argue this matter any longer. I pointed out to you how this changes a precedent of one hundred and twenty years, not only in the State of Maine, but of all New England, and puts the matter into a place of experimentation.

I know that a Governor suggested such a move. I do not want any Governor appointing any Treasurer of this State.

I move, Mr. Speaker, that the Minority Report "Ought not to pass" be accepted.

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

MR. PAYSON: Mr. Speaker and Members of the House: It will be necessary for me to speak a little longer than usual, because, first, I must clear up the confusion that my brother has created.

He has said that this was an attempt to get one man, for personal reasons—Belmont Smith.

Belmont Smith, Mr. Winship, or Mr. Runnells have absolutely nothing to do with this case, or with the recommendation of the Committee or with my sponsorship of this bill. If you want proof of that, you go back to the record of the Special Session of last summer, and you will find that I did more to exonerate Belmont Smith than did my Brother McGlauffin, because I sat on the Legal Affairs Committee, to which the case was referred first, and we came out with a Majority Report that charges ought not to be preferred. Then I voted in the House, as my Brother McGlauffin did, against charges against Belmont Smith. So the personal angle of this thing is entirely exploded.

Now, my Brother McGlauffin has taken up some more of your time speaking about a bill which is not even before you. What you have before you is a Constitutional re-

solve that would allow the State Treasurer to be appointed by the Governor, with the advice and consent of the Council.

Now, the bare bone of this case is just as simple, and ridiculously simple, as this. The State Treasurer is elected by the Legislature for a two year term and he cannot hold office for more than six consecutive years. He is paid a salary of \$3,000 a year. Now, what good, outstanding business man would give up his office, as he would have to, and come down here and work for the State of Maine six years, and then have to step out and try to re-establish himself in any type of work or business? He could not do it. You know very well that no one could do it.

You have fixed up a political sinecure to take care of a good old political wheel horse, and, to prove that case up to the hilt, your State Treasurer gets \$3,000 and you pay the Deputy \$4,000, to do the work.

Now, I believe that if this Constitutional resolve were adopted, if the Governor appointed the State Treasurer, you would have a State Treasurer paid a salary of \$4,000 or \$4,200—whatever the Deputy now gets—and he would do the work and you could get rid of the title of Deputy, and get rid of that salary.

That is the bare bone; that is the whole proposition in words of one syllable.

I hope that the motion of the gentleman from Portland does not prevail.

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

Mr. WILLIAMS: Mr. Speaker and Members of the House: For a long time I have sat in this Body and heard remarks made about the Code Committee, some of which I think were not justified, but in this case I think I can see some inconsistencies in the stand taken by that Committee.

They have told us arbitrarily that the power of the Council should be curtailed, and there has been a great deal of agitation to curtail the power of the Council.

Now, they propose a bill where the Governor and Council can appoint a Treasurer of State, to serve without any tenure of office whatsoever.

They say that no man would come here to serve who had a business at home, under the present

set-up, because he might feel, at the end of two years that he would be turned out of office.

I submit that under this bill it says "appointed for three years or at the pleasure of the Governor and Council". He may be here only six months, and then, if his actions are not satisfactory to them, he may be removed at the end of three months.

Now, I do not believe that you are going to get any more efficient man under this set-up, where he may be removed at the end of three months, than under the set-up where he is elected for two years, and cannot be removed except of misfeasance or malfeasance in office.

During the recesses of the Legislature, as we all know, the sole control which the Legislature has over the administrative affairs of the State of Maine is through the officials which they chose.

Most of the administrative officials are now appointed by the Governor and Council, and during a period of two years, while the Legislature is at recess, they have absolute control, because the Legislature cannot assemble itself.

Under this proposed bill, you would take away one of those offices through which the Legislature does have some control over the administration of State affairs.

I personally feel that with the present set-up, with the Governor appointing such administrative officials as the Public Utilities Commission, the Commissioner of Inland Fisheries and Game, the Commissioner of Sea and Shore Fisheries and these other administrative officials, that that is sufficient power for any Governor and Council to have, and I feel that the Legislature should retain to itself some power during the period when we are recessed and not turn all the power over to the Chief Executive of our State.

The SPEAKER: The question before the House is on the motion of the gentleman from Portland, Mr. McGlaulin, that the House accept the minority "Ought not to pass" report.

The Chair recognizes the gentleman from Rockland, Mr. Sleeper.

Mr. SLEEPER: Mr. Speaker and Members of the House: Very early in this session I made a solemn promise that I would not speak or attempt to speak on any question that I did not know anything about. I like to speak as well as a lot of

other people here, and I am not the least bit bashful about it, but I had solemnly pledged myself that on questions that did not involve anything I was directly interested in I would not speak.

To further explain the reason for my speaking here, I will say that when Governor Sewall gave us his splendid inaugural address at the first of this session I was the only member of the House, I believe, who offered any adverse comment on his talk. I did so because I did not think the Governor should have the appointment of these offices. I might just as well tell you where I stand. But I did not include the Treasurer's office in that comment.

I sat here all through the special sessions, and as a personal friend of Belmont Smith I was very much interested in getting him clear of any blame in connection with the Runnells situation. It was very apparent to me, while I have not a legal mind, that we have not any State Treasurer in the real sense of the word under the Code set-up adopted under Governor Gardiner.

It was a pitiful thing seeing a man who was Treasurer of State being blamed for something done by his subordinate who was really his superior officer. Under the present set-up the Treasurer is not the real Treasurer. The real financial head of the State is the Commissioner of Finance, and his duties had been usurped and taken over by the Controller. The real head of the financial situation of the State in the last few years had been Mr. Runnells, and it was a pitiful thing for me to see a fine man like Belmont Smith blamed for something he had no control over. I made up my mind right there that if the Treasurer could not be Treasurer of State that the office should be abolished.

Be that as it may, I am very much opposed to the appointment of the Secretary of State by the Governor and Council, and I am opposed to the appointment of the Attorney General by the Governor and Council. But I really think the Governor and Council, because of the financial set-up of the State Treasurer has a very close connection with the State Treasurer, and I really think the law ought to be cleared up. As it now stands, the Governor and Council do control the financial policy of the State, because they control the appoint-

ment of the Commissioner of Finance and the Controller and the Budget Officer. The office of Treasurer is just a hollow title.

Bear in mind that I have no prejudice against Belmont Smith. But he is now serving his third term and he is not eligible for reelection. But I do hope, in deference to this splendid Code Committee, which has tried so hard to offer new suggestions in the set-up of our government, I sincerely hope for the benefit of the financial policy of our State these things will be put on a sound basis.

I hope the motion of the gentleman from Portland, Mr. Payson, does not prevail. If it should—and I hope it does not—I hope that we will at least amend the present statute to make our Treasurer a real Treasurer. As it stands now he is a subordinate officer to the Commissioner of Finance, and it certainly ought to be made an appointive job.

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

Mr. MCGLAUFLIN: Mr. Speaker, I want to answer the arguments of both of the last gentlemen in just a word.

The gentleman from Portland, Mr. Payson, says that the Treasurer does not get pay enough. All you have got to do is to have this Legislature change the pay. You have not got to change the Constitution to do that. Mr. Sleeper says that his duties are such that they are not what they should be. Then let this Legislature change the duties. There is the answer to both those arguments.

The SPEAKER: The Chair recognizes the gentleman from Unity, Mr. Farwell.

Mr. FARWELL: Mr. Speaker and Members of the Ninetieth Legislature: Unlike my friend, the gentleman from Portland, Mr. McGlaufflin, due to the acceptance of the recommendations of the Code Committee that you have accepted so far I do believe I am talking just to hear myself talk.

In answer to the gentleman from Bethel, Mr. Williams, I will say that the Code Committee has never recommended that the Governor's Council be taken out from the okeying of the head of any department in the State of Maine. We have recommended that they be taken

out from the okeying of ten-dollar-a-week clerks but not department heads.

During the financial difficulty that we had during the past year it was decided that perhaps a close study of the administrative program of the State might be useful, and it was found that we should probably start in the Treasurer's office where some of the trouble seemed to have started.

A close study of that office showed us that there was absolutely no responsibility placed in that office, and when we attempted to place the responsibility the buck was passed so far down there that it was lost in the shuffle. I indulge in no personalities; it was not the fault of the personnel of the State Treasurer's office; it was the fault of a custom of one hundred and fifty years which we cannot change because it is in the statutes.

Now I ask you: Is that good business. You saw what happened last year; you saw the inefficiency; you heard the charges that were made. I still say it was not the fault of the personnel but the fault of the set-up of years past.

We have had a State Treasurer for one hundred and twenty years who has done absolutely nothing but sign his own checks. The responsibility of this office lies entirely upon the Assistant Treasurer. If that is true and you want economy, why do you not get rid of your State Treasurer and get a Treasurer in there who will do the work, instead of paying some old party warhorse a salary for sitting down there and looking wise and getting elected every two years?

It is not the fault of the State Treasurer that he does it. It has been going on for a hundred and twenty years, and you cannot change it in a minute. When the Code was adopted it said he should be appointed by the Commissioner of Finance. The Code Committee never determined to set up a finance committee to appoint a treasurer. We did not offer a single bill as to how he should be appointed; we offered only to the Legislature a Constitutional Resolve that it should be sent to the people to determine whether or not the people were satisfied with the present set-up in the Treasurer's office. If I am not mistaken, you now have before you a resolve to change the Constitution, if the

people see fit, so that they may get service and eliminate some of the waste and inefficiency that has been in the State Treasurer's office.

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

Mr. WILLIAMS: There have been some very interesting arguments proposed here since I last stood up, one of them being that they wanted to get a Treasurer who would really function. It is interesting for me to know that one of the arguments presented is that the Treasurer has gradually been having his power taken away from him, which is true. That was not the intention under the original Constitution. It was that he should function and be a Treasurer with power. The final climax of that taking away of power came when the Code was adopted. Under that Code they did take away practically all this power and they created a Commissioner of Finance under which the State Controller was to be the czar and in which he was to be independent of politics—and he was; in fact he was independent of all control. I do not think that is what we want.

The SPEAKER: The question before the House is on the motion of the gentleman from Portland, Mr. McGlauffin, that the House accept the minority, "Ought not to pass" report. All those in favor of the motion of the gentleman from Portland, Mr. McGlauffin, that the House accept the minority "Ought not to pass" report will say aye; those opposed no.

A viva voce vote being doubted,

A division of the House was had.

Eighty-four having voted in the affirmative and 32 in the negative, the motion prevailed and the minority report "Ought not to pass" was accepted in non-concurrence and sent up for concurrence.

Senate Divided Reports

Majority Report of the Committee on Judiciary reporting "Ought not to pass" on Bill "An Act to Aid and Protect Crop Mortgages" (S. P. 310) (L. D. 517)

Report was signed by the following members:

Messrs. PAYSON of Portland
McGLAUFFLIN of Portland
GRUA of Livermore Falls
WILLIAMS of Bethel
MILLS of Farmington
HINCKLEY of So. Portland
—of the House.