

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

Ninetieth Legislature

OF THE

STATE OF MAINE



1941

KENNEBEC JOURNAL COMPANY

AUGUSTA, MAINE

Committee on Bill "An Act to Incorporate the Saco Bay Company," (S. P. 245) (L. D. 400) reported that the same ought not to pass, as legislation as this time is inexpedient.

Miss Laughlin from the same Committee on "Resolve Relating to the Revision of the General and Public Laws," (S. P. 371) (L. D. 623) reported that the same ought not to pass, as covered by other legislation.

Mr. Farris from the same Committee on Bill "An Act Relating to the Attorney-General and the Justices," (S. P. 249) (L. D. 405) reported that the same ought not to pass.

Which reports were severally read and accepted.

Sent down for concurrence.

Ought to Pass

Mr. Farris from the Committee on Judiciary on "Resolve Providing for the Revision of the Statutes," (S. P. 244) (L. D. 818) reported the same in a new draft (S. P. 561) under the same title, and that it ought to pass.

Miss Laughlin from the same Committee on Bill "An Act to Establish Labor Relations in the State of Maine," (S. P. 356) (L. D. 673) reported the same in a new draft, (S. P. 562) under a new title, Bill "An Act Relating to Labor Relations in the State of Maine," and that it ought to pass.

Which reports were severally read and accepted, and the bill and resolve were laid upon the table for printing under the joint rules.

Mr. Sanborn from the Committee on Education on Bill "An Act Relating to School Equalization Fund," (S. P. 293) (L. D. 504) reported that the same ought to pass as amended by Committee Amendment "A" submitted herewith.

Which report was read and accepted and the bill was given its first reading. Committee Amendment A was read as follows:

"Amend said bill by striking out in line 7 of subdivision (b) of section 1, the words 'emergency, exceptional and temporary appointments,' and

"Further amend subdivision (b) of section 1 by renumbering the items to read consecutively; and

"Further amend said act by adding at the end thereof Section 4 to read as follows: 'Sec. 4. Saving

clause. All acts and parts of acts inconsistent with any of the provisions of this act are hereby repealed.'"

Committee Amendment A was adopted and under suspension of the rules, the bill was given its second reading and passed to be engrossed as amended by Committee Amendment A.

Sent down for concurrence.

Divided Reports

The Majority of the Committee on Judiciary on "Resolve Proposing an Amendment to the Constitution to Provide for the Appointment of the Attorney-general by the Governor with the Advice and Consent of the Council, for a Term of Four Years," (S. P. 343) (L. D. 660) reported that the same ought not to pass.

(Signed)

Senator:

HARVEY of York

Representatives:

McGLAUFN of Portland

BRIGGS of Hampden

WILLIAMS of Bethel

PAYSON of Portland

HINCKLEY of South Port-

land

MILLS of Farmington

GRUA of Livermore Falls

The Minority of the same Committee on the same subject matter, reported the same in a new draft, (S. P. 563) under a new title, "Resolve Proposing an Amendment to the Constitution to Provide for the Appointment of the Attorney-general by the Governor, subject to Confirmation by the Senators and Representatives of the Legislature," and that it ought to pass.

(Signed)

Senators:

LAUGHLIN of Cumberland

FARRIS of Kennebec

Miss LAUGHLIN of Cumberland: Mr. President, I move the adoption of the Minority Report. I will say a few words, but I do not imagine it will be adopted. In all these questions of the Governor appointing administrative officers, it seems to be in line with the whole principle of American government; that is, we have the executive, legislative, and judicial. In the executive department, the governor should really be the chief executive and have full powers, and should keep out of the legislative department entirely. I have been here enough years to

know how certain governors have called meetings of certain committees to come in and he has imposed his will upon certain legislation. I have been on a committee where every member, except myself, would say, "We are opposed to this bill but the governor wants it, so we will report favorably." I consider it a vicious system and I consider it should be apart from the legislature.

I think on the executive part, the chief executive should not be interfered with, and for that part, have full control of the administration of the state. Of course, in the federal government we follow that system. The chief executive appoints the attorney general and the secretary of the treasury. Of course the secretary of state is very different from ours and doesn't count. He appoints all heads of departments because that is a part of the administrative and executive part of the government.

I believe in taking a position here and giving the chief executive power, as executive, to look after the executive and administrative part of government and I think it would strengthen the fact that the legislature be left free from pressure upon legislative matters, which has been so much the custom in the past. I think we who went out speaking over the state realize—take the Auburn robbery for instance—they laid it on Governor Barrows everywhere. I am not saying the attorney general was lax or the secretary of state was lax but I say the governor was not responsible. As a matter of fact, he had no power over those departments. For that reason, I believe, as I say, the executive should have full power over executive matters and appointments of executive and administrative officials.

Therefore, I am in favor of the minority report, establishing really in this state what we consider the American system of government, three branches, the executive under the executive, the legislative free from executive interference, and the judicial. When we talk about setting up a dictatorship in this country, it is when the legislature interferes with executive, that is when we get dictatorships. I say you should give all executive and administrative powers to the executive and keep the executive out of legislative matters, and in that way we would strengthen the whole system.

Mr. HARVEY of York: Mr. President, in considering this matter before the Judiciary Committee, we felt that it was wise legislation when it was made possible for the attorney general to be selected in the manner and form that the state has been selecting them in the past. We also felt that the legislature had, during the past few years selected most excellent attorney generals. We also felt,—although there might have been some exceptions—we also felt it would be a poor policy to have the head of your state, your executive head, select the man who may, on some occasion, be required to take some most important action against that very head. We think the matter should be left alone, and briefly, those were some of the reasons that were expounded and expressed; and I trust you will not accept the minority report.

Mr. CHAMBERLAIN of Penobscot: Mr. President, the conditions that surround the people in this country today are so complex and require such a complete technical training in order to carry them on efficiently, it seems to me it would be very suitable to adopt in public affairs some of the things that private industry, which has carried on so wonderfully well in this country, that we should adopt into public affairs some of those things that have served so well there. New occasions teach new duties and time makes ancient truth untrue. It seems to me, as members of a legislature, we should abide by that sentence and adopt some of these new things in legislative affairs. I trust the motion of the Senator from Cumberland, Senator Laughlin, will be adopted.

Miss LAUGHLIN: Mr. President, I meant to say and intended to emphasize the fact that this new draft requires the confirmation by the legislature and not by the council. One other thing, I have felt it was all wrong for the legislature that is supposed to be elected for the purposes of legislation, to be pulled and hauled for this and that candidate, for attorney general, commissioner of agriculture, secretary of state and others, which muddles the whole thing up, and some people are elected because of their support of a certain candidate when they should be elected because of their stand on certain legislation. That is one of the things we should get rid of. When we elect our rep-

representatives and senators for the United States Congress, we elect them because of principles they stand for, but here some of the legislators are elected on the basis of whom they are going to vote for the office of commissioner of agriculture, secretary of state, treasurer of state and attorney general. I believe the legislature should be free from that pulling and hauling.

Mr. SANBORN of Cumberland: Mr. President, I fully agree with the sentiments expressed by my colleague from Cumberland, Senator Laughlin. In my mind it resolves itself into a sort of practical question. The selection of attorney general is in the nature of one's choice of a professional servant. I think all of us have been, sometime in our life, conscious of our own inability to determine to what professional person we should apply for service or advice. In my own instance, I am frank to say, if I were taken suddenly ill, I am at the present moment too ignorant of the professional qualifications of the physicians of the city of Portland, to have very much confidence in my own judgment as to whom I should select.

All of us who are attorneys, I know, have seen multitudes of instances of people misguided and misinformed and in their selection of an attorney, selected most unwisely.

Now, it seems to me an entire legislature, when assembled, coming from all parts of the state, in great proportion—and I guess the greater proportion, the better—the greater proportion being laymen, I think will look at the matter fairly and squarely, and there could not be supposed to be in the minds of such an aggregation, a very competent judgment as to a wise selection of an attorney general. If, as has been pointed out, we have had capable attorney generals, I think it may have been due more largely to the quality, the high quality of all the candidates rather than to any singular powers of discrimination on the part of the legislature.

It savors in spots, in the minds of some of us, a little bit of surrendering a right, giving up a right or power we have been given to exercise, but I ask you if we are so small in our minds as to cling tenaciously to some supposed right or privilege as against our judgment as

to what would be for the welfare of the state?

As has been so admirably pointed out by Senator Laughlin, the governor is the chief executive and is looked upon, at least, as responsible for the administration of the executive department and if his hands are tied, if he has handed him by a legislature any officer in the Executive Department, the selection of whom he has no choice, no matter what that officer may do or fail to do, he is looked upon as responsible and is put in an embarrassing position. I would reply to the argument which has been made, and it is of force so far as it is likely to have application; the argument that the Attorney General might have occasion to proceed against the Governor, if we consider on the law of chance or on our observation of past occurrences, if we judge of the likelihood of that contingency to arise or the frequency to which it might be expected to arise, I think that argument has very, very little force.

I believe the Executive should have a pretty free hand in the selection of heads of departments and then let him not only be thought responsible but let him be held responsible.

Mr. HARVEY: Mr. President, in answer to my capable colleague Judge Sanborn, I simply want to say this: If he personally is not in a position to be able to pick out his physician, he would have to have help and assistance to do that. How does he expect one man, the Governor, to be able to select, we might say, the physician of this state, the Attorney General? I believe and I feel that 184 men can do a proper job. They have done it in the past. Let us not leave it to one person to select some personal friend who might not live up to the expectations of that office. I believe we are going quite far and I think it is unnecessary at this time.

Mr. SANBORN of Cumberland: Mr. President, something in the nature of an inquiry having been made of me, I will answer it by saying that if I find myself suddenly confronted by an abdominal pain and I do not know whether or not it may be appendicitis, I don't have a whole lot of time to canvass the situation. The Governor has ample time to canvass the situation regarding an appointment, take counsel and act advisedly.

Mr. BISHOP of Sagadahoc: Mr. President, I would like to exemplify just a bit my position, this being something of a legal debate this morning. I came here December 31st, a freshman if there ever was one, and after hearing the qualifications of four or five candidates well expounded, I was in more of a quandary than ever so I refused to vote for any candidate. I didn't feel qualified and a great many others of the legislature were in the same situation. Several candidates came to my place to see me and several didn't. As a layman, I didn't have any idea as to who was the best man for Attorney General and so I refused to vote for anyone.

Miss LAUGHLIN: Mr. President, when the vote is taken I ask for a division.

The PRESIDENT: The question before the Senate is on the motion of the Senator from Cumberland, Senator Laughlin, to accept the Minority Report and that Senator has asked for a division.

A division of the Senate was had. Thirteen having voted in the affirmative and seventeen opposed, the motion to adopt the Minority Report "Ought to Pass" did not prevail.

Thereupon, on motion by Mr. Harvey of York, the Majority Report "Ought Not to Pass" was accepted. Sent down for concurrence.

The Majority of the Committee on Judiciary on Bill "An Act Relating to Powers and Duties of the State Personnel Board," (S. P. 316) (L. D. 521) reported that the same ought to pass as amended by Committee Amendment "A" submitted herewith.

(Signed)

Senators:

- LAUGHLIN of Cumberland
- FARRIS of Kennebec
- HARVEY of York

Representatives:

- McGLAUFN of Portland
- WILLIAMS of Bethel
- MILLS of Farmington

The Minority of the same Committee on the same subject matter reported that the same ought not to pass.

(Signed)

Representatives:

- HINCKLEY of South Portland
- GRUA of Livermore Falls
- PAYSON of Portland
- BRIGGS of Hampden

In the Senate:

Miss LAUGHLIN of Cumberland: Mr. President, I move that the Majority Report be accepted and I ask that the matter be laid upon the table until later in the morning.

Thereupon, the bill and the accompanying reports were laid upon the table pending motion to accept the Majority Report "Ought to Pass as Amended by Committee Amendment "A."

Passed to be Enacted

Bill "An Act Relating to the Stipend for Agricultural Societies." (S. P. 90) (L. D. 95)

Bill "An Act Relating to Compensation of Justices upon Retirement." (S. P. 547) (L. D. 1129)

Bill "An Act Relating to the Game Sanctuary in the Town of Standish in the County of Cumberland." (S. P. 548) (L. D. 1133)

Bill "An Act Relating to the Taking and Sale of Clams in the Town of Georgetown." (S. P. 549) (L. D. 1132)

Bill "An Act Relating to St. Joseph's Convent and Hospital." (S. P. 555)

Bill "An Act Relating to Transportation of Lobster." (H. P. 1556) (L. D. 847)

Bill "An Act Relating to Annual Audits in Cities, Towns, Plantations and Village Corporation." (H. P. 1859) (L. D. 1072)

Bill "An Act Relating to Farm Tractor Trailers." (H. P. 1893) (L. D. 1108)

Bill "An Act Relating to Lobster Fishing Licenses." (H. P. 1912) (L. D. 1143)

Finally Passed

"Resolve to Apportion One Hundred and Fifty-one Representatives among the Several Counties, Cities, Towns, Plantations and Classes in the State of Maine." (S. P. 533) (L. D. 1096)

"Resolve in Favor of the Towns in the Hancock-Sullivan Bridge District." (H. P. 1222) (L. D. 439)

"Resolve for the Laying of the County Taxes for the Year Nineteen Hundred Forty-two." (H. P. 1901) (L. D. 1125)

Emergency Measures

Bill "An Act Increasing the Powers of the City of Brewer High School District." (S. P. 551) (L. D. 1145)

Which bill being an emergency measure, and having received the affirmative vote of 30 members of