

# MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

**Seventy-Second Legislature**

OF THE

STATE OF MAINE.

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1905.

### Initiative and Referendum.

The SPEAKER: The Chair lays before the House as special assignment the following:

Resolve proposing an amendment to article four of the constitution of the State of Maine, establishing a people's veto through the optional referendum, and a direct initiative by petition and at general elections.

Mr. HIGGINS of Limerick: Mr. Speaker, I would ask whether upon its final passage it requires a two-thirds vote of the House?

The SPEAKER: The constitution so reads, two-thirds of those present.

The question being on concurring with the Senate in adopting the minority report.

Mr. MERRILL of Skowhegan: Mr. Speaker and gentlemen of the House, perhaps you don't all understand fully the purpose of this bill. It is called the initiative and referendum. In its principles it is very simple. It is something that we have and always have had in this State in all of our towns in the management of our town affairs. You will all recall the fact that if there is any measure that is desired to be brought to the attention of your town, that by virtue of our statute ten legal voters of the town may ask the selectmen of the town to call a town meeting, and they may ask that a certain article may be inserted into the warrant in that town meeting, and submitting to the people that proposition and asking them to vote upon it. Now, that petition to the selectmen of the town and asking them to insert a certain article into the town warrant is in fact the initiative. By putting that article into the town warrant you initiate the measure upon which the people of that town, your town or my town, are called upon to vote. Now, that is a right that we have always enjoyed in this State; that is the taking of the first or initiatory step to call upon the citizens of the town and ask them to do what you want them to do; that is your constitutional right. When that article is inserted in the warrant, the people of the town assemble, and then the article is submitted to the vote of the people of the town, whatever it may call for, and is decided by a ma-

jority vote. That is your right today. Now, when the people vote upon that article, and the majority vote for it or the majority vote against it, that determines the question, that is the referendum.

Now, gentlemen, there are the principles involved in this bill, asking of this Legislature to extend that same principle of initiative law in this State, and asking for the referendum of those laws to the people of the State. Now, in town matters I ask you, gentlemen, has it not always been a success, has it not always met with the approval of every law-abiding citizen, and should this Legislature attempt to take away from the people of this State the right to initiate a measure in the town meetings? Would you grant it for a moment? This law simply asks that this Legislature extend that principle one step further; it asks that the people of the State, instead of limiting it to the individual in the town, it asks that the people of the State, upon petition signed by ten or twelve per cent. of the legal voters of the State petitioning and initiating a bill, when signed by that percentage of the legal voters, reckoned upon the last preceding vote at the State election, signed by ten per cent. of the legal voters of the State of Maine asking that a bill be considered by the incoming Legislature of this State, by their representatives, when that ten per cent. of the voters of the State ask that a law be presented to this Legislature, then it becomes the duty of this Legislature under this law to introduce that bill, and then if the Legislature passes it, well and good; and then it becomes a law.

Now, gentlemen, I want to read some of the provisions of this bill in order that you may understand more fully just what it is. "That the following amendment to the constitution of this State be proposed for the action of the legal voters of this State in the manner provided by the constitution, to wit:

'Article 4. Part third is hereby amended by adding thereto the following sections:

Section 16. No act of the Legislature not passed to be enacted by a two-thirds vote of each house, taken by yeas and nays, shall take effect until

90 days after the recess of the Legislature passing it." Or, in other words, when a measure passes this House, or both branches of this Legislature by a two-thirds vote, taken by the yeas and nays, when it becomes a law without referring it to the people; but an act not so passed does not become the fixed law and go into effect until after the expiration of 90 days, and during that period of 90 days certain rights are granted to the people. It follows, "Any act, if ten per cent. of the voters calculated upon the vote at the preceding general election for governor, not more than 15 per cent. of whom shall be from any one county, by petition signed and filed with the secretary of State within said time, shall so request, shall be submitted to the people, on a ballot by itself, not later than the next general election and shall only go into effect 10 days after the governor and council canvassing the vote thereon shall declare a majority of the votes upon such act to have been cast therefor."

Now, after it has been passed and ten per cent of the people sign a petition, then it must go to the people to pass upon that law as to whether or not they want it. Now, gentlemen, is that right? What is the fundamental principle, the bed rock, and the foundation stone upon which a true republic or a true democracy is based. It is a government by, for and of the people. It does not interfere with our representative government in any respect. It simply goes a step further than it has up to the present time and increases the rights of all the people of the State. When was the Child of Liberty first born, as it were, and where? It was when the barons of England confronted King John at Runnymede and demanded certain rights and privileges for the people, that no longer would they submit to the tyrannical rule of a King without any rights whatever but the single declaration of a King that such and such should be the law. I say, gentlemen, then and there was born the Child of Liberty; it was then and there that the parents of that child, the barons of England, wrung from King John that great charter, the Magna Charta, under which and to which every republic and every people now have to go and find in that charter the principles that give to us the liberties of today.

Now, Mr. Speaker and Gentlemen of the House, what does this bill ask for? It simply asks that you still give to the people of the State of Maine more rights for themselves the law by which they shall be ruled; it refers to the people the laws passed by this Legislature, and why shouldn't it? Some gentlemen have said in conversation with me, "Why, we are sent here by our constituents to pass laws, and we know better than they do what they want." It was a wise saying of Abraham Lincoln and which has been so often quoted that "the good plain people of this land are safe to rule it." And do you, Mr. Speaker and gentlemen, propose to say to the people of the State of Maine that you know better what they want than they themselves know? Do you propose to say by your vote here that the people of the good old State of Maine do not know what kind of laws they want to live under? Do you assume yourselves to be superior to the men who sent you here? I say that the people of the State of Maine are able and capable of judging for themselves what kind of law they want to live under. In the hurry and rush of a term of this Legislature where there have been considered between 500 and 600 bills introduced into this House and between 200 and 300 introduced into the Senate, making about 700 or 800 bills that have been considered by those two branches in the last three months, wouldn't it be strange if there were not some laws passed here that were not only unjust but such as viewed in the moments of reflection during the 90 days that you give to the people in which to look those laws over—laws made for the people and for them to say if they see fit that those laws are not such as they want—and when 10 per cent. of the whole people of the State of Maine take so much interest in that proposition as to sign a petition and ask to have that bill or that act referred to them, do you propose to say that you will not submit that question to them? You may ask who is behind this bill. Twenty-five thousand petitioners of the labor unions of the State of Maine—40,000 of the grangers of the State of Maine and 25,000 members of the Civic League, making a total of nearly 90,000 who come here and ask for the passage of this law. Who is behind it? The people of the State of Maine are behind it, regardless of party. It is no party measure; there is no

politics in it, but the people of the State of Maine are demanding it, and they are demanding it at our hands.

But, sir, some will say, "Why, if you pass this bill—here are some 200 or 300 or 400 or 500 acts that have gone through this Legislature this winter that the people of the State of Maine will demand that they have a right to vote upon." Now, that is not so; that does not follow; there may not be one act passed by this Legislature where the people will petition and ask for a referendum. If the laws are just and they are such as the people believe in, then there will be no petition, and there will be no referendum. Why, gentlemen, consider what we are, who we are, and what our position is relative to the rest of the State. We are here in the capacity of agents for our constituents—not only our immediate constituencies, but when we have assembled here and have taken our oaths to do our duty as representatives, we then become the representatives of the entire State, and as such what is our duty? We are the mere agents of the people. We are here as the agents of the people and servants of the people and we should be guided and be willing to be bound by their wishes, and if in the haste of legislation we pass a law that the people of the State of Maine don't want, then they should have the privilege of having it submitted to them, and if a majority of the people of the State of Maine say that that law is not in accordance with their wishes they don't want to be governed by such a law, that it is detrimental to their interests—if the majority of them say so, then it does not become a law. Who is to be harmed by it?

Now, Mr. Speaker and gentlemen, I have often heard it said around this State House that the third branch of this Legislature has about as much influence on the floor of this House as any other branch, and has about as much to do with the legislation that goes through this House. What would this initiative and referendum do for those gentlemen? It would consign them to their homes, because with it no longer could they lobby bills through this House or kill bills that are introduced in the interest of the people of the State of Maine. Because why? Because if the people said those laws were wrong, and they had a right to have them referred to the people, then the lobby

that is around this State House for anything that is unjust and for anything that is wrong would be done away with, because they would know and fully understand that the people of the State of Maine would have a voice in saying whether that law shall take effect or not. I say to you, Mr. Speaker and Gentlemen of the House, I believe this is a bill fraught with more good to the people of the State of Maine than any bill that has come before this House this winter. Are you afraid to go into your respective towns and say to your fellow citizens who have confidence enough in you to send you here—are you afraid to say to them, "We have passed a law this winter whereby you may have a direct voice, if necessary, a direct right to initiate legislation if you want to do it."

The gentleman from Boothbay Harbor has handed me this. "This (referring to this House) is in itself only a referendum. It can only be adopted after a majority of the voters voting for it." And that is true to a certain extent. They come here to us and refer to our several committees the propositions which they ask to become law. The committees report to whom? To the referees—to the referendum—you, gentlemen; and this bill simply asks if the people demand it that you refer it to the people themselves, and give them an opportunity to say what the law shall be. We have arrived today at a place where the people have a voice. We want this extended a little further. What do we do in every state and national election? In the first place in our platform we lay down the general rules by which our party shall be governed. That is the initiative. Then we go to the people upon that platform and ask them to sustain the men whom they nominate as the representative of the people to carry out the initiative. You refer it to the people and there you have got the referendum again. And when the National Congress passes a law that does not suit the majority of the people of the United States what do they do in the very next campaign? They turn down that party and install in power another party that will promise to do that which they want to have done. It is only carrying a step further this great principle of the people's

having a government made by themselves and for themselves; it is a government under which the governed make laws for themselves.

Now, Mr. Speaker and gentlemen of the House, I hope when you come to consider this question that you will adopt the minority report of the committee. (Applause.)

On motion of Mr. Downes of Berwick, a recess was taken until half past two o'clock.

#### Afternoon Session.

The report of the committee of conference to which was referred the disagreeing action of the Senate and House in regard to the resolve in favor of the Eastern Maine Insane hospital came from the Senate reporting that the majority report be accepted.

The report of the committee of conference was accepted and the House then voted to adhere to its former action.

The following from the Senate were passed to be engrossed under a suspension of the rules:

Resolve on the payroll of the Senate.

Resolve on the payroll of the House.

Resolve in favor of Albert W. Buck, messenger to the President of the Senate.

An Act relating to corporations.

An Act to incorporate the Kittery Water and Electric Light Company, came from the Senate with Senate amendment A adopted.

The House reconsidered the votes whereby this bill was passed to be enacted and passed to be engrossed, Senate amendment A was adopted and the bill was then passed to be engrossed as amended.

An Act to amend Section 12 of Chapter 4 of the Revised Statutes of 1903 as amended by Chapter 335 of the Public Laws of 1903, came from the Senate with Senate amendments A and B adopted.

The House reconsidered the votes whereby this bill was passed to be enacted and passed to be engrossed, Senate amendments A and B were adopted, and the bill was then passed to be engrossed as amended.

An Act to amend Section 23 of Chap-

ter 119 of the Revised Statutes relating to offences against persons and to prevent the improper use of telephones came from the Senate having been considered by that branch under a suspension of the rules without reference to a committee, read three times and passed to be engrossed.

The House suspended the rules and received the bill. The rules were then suspended, the bill received its three readings and was passed to be engrossed in concurrence.

An Act in relation to the taxation of mortgages on real estate came from the Senate referred to the next Legislature in non-concurrence.

On motion of Mr. Holmes of Caribou, the House voted to adhere to its former action.

Resolve in favor of towns for reimbursement for money spent on State roads in the year 1903, under the provisions of Chapter 23 R. S., came from the Senate non-concurred in and with Senate amendment A adopted.

On motion of Mr. Hastings of Bethel, the House concurred with the Senate in adopting Senate amendment A, and the bill was then passed to be engrossed as amended.

Unfinished business:

#### Initiative and Referendum.

(Mr. Kimball of Rockland in the Chair.)

Mr. HOLMES of Caribou: Mr. Speaker, it is with a great deal of timidity that I say a word on this subject on the opposite side from the able and eloquent gentleman from Skowhegan; but I cannot look at this matter in the way he does. I was very much surprised at the position which he has taken. From his argument you would infer that legislation under our present system was restrictive, that the people could not get at this House, could not get at the Senate with a bill, could not introduce measures, that they needed this initiative to help them get a measure before these bodies for consideration, that the House and Senate were standing here with a club, as it were, beating the people back and not allowing them to come before them with the laws which they wish to have en-

acted. I submit that this is not a fact. The fact is that we actually pass more laws than we should. The gentleman this morning, succeeded in killing a measure that had received its three readings and had been passed to be engrossed, and he killed it with the unanimous consent of this House. Does that look as though we could not get bills enough before us? It is just the reverse; we get too many. I don't think that is the trouble at all.

I don't believe, gentlemen, that this initiative is necessary. I know as far as I am concerned that in my own district none of my constituents has approached me in the matter in regard to wanting this measure passed,—not a single person has asked for it. I sincerely trust that the substitution of the minority report of this committee for the majority report will not prevail. The gentleman from Skowhegan brings up the matter of towns. He says that towns have a referendum, but that is not a fair comparison. You might as well compare a small parcel delivery with any of our great common carriers throughout the country. Even though a towns had that little petty referendum, still, I think if you will look back in your own experience you will find that it is not used very often, that it is not necessary. Your selectmen, if they want an office, are usually listening with their ear pretty near the ground trying to find out just what the people do want, and they are glad to put every article imaginable in a warrant. I sincerely trust that the motion of the gentleman will not prevail, but that we will stand by the report of this committee who have looked this matter over carefully and thoroughly.

Mr. O'BRIEN of Lewiston: Mr. Speaker, I would like to say in reply to the last statement of the gentleman from Caribou to the effect that these men seeking office as a rule have their ear to the ground and are desirous of knowing what the people want, that in that I agree with him; but the great danger to the interests of the people today is that the great bulk of the people don't get out and go to the primaries; and following the very line which the gentleman from Caribou has sug-

gested I will say that the politician seeking office keeps his ear to the ground, but it is to the extent of the particular portion of the people whom he controls at the primary elections. Consequently, he oftentimes secures a nomination, or may secure an election, and after securing his election he may possibly come here to the Legislature and be the cause of passing through the channels of legislation something upon which the people in his own city or town or plantation or district, if they themselves were given an opportunity to pass judgment upon it, would pass judgment in such a way that it could not possibly become legislation.

Now, gentlemen, it strikes me that we have on two or three occasions on important matters allowed the referendum, for instance, in relation to the city of Portland. This Legislature granted to those people of Portland the right to vote upon that question. But we have no guarantee of any kind that the Legislature which will come here two years from now is going to possess the same amount of wisdom as the members of this House, and it may be that in the case of such important measures as that one in regard to the city of Portland, that members of the next Legislature would refuse to refer a question of that kind back to the people. What would be the result? I believe that a great majority of the members here think that this House of Representatives when it voted to allow the voters of Portland themselves to pass judgment upon that particular act, I believe that a majority of the members here believed that they were giving what was wise and just and right.

Now, with this referendum we are simply giving to the people a right to say whether or not certain acts may become laws. The gentleman from Caribou says that we have all the referendum and initiative at the present time that we need because in the different towns of the State any ten voters may call on the board of selectmen and have an item inserted in the town warrant so that the voters in those towns can pass judgment upon the proposed legislation. Now, gentlemen, I submit to you whether or not there is any such safety or any such wise protection for

the people of other places. Take the cities for example. We do not hold town meetings in the cities. Are not the people of the cities entitled to the same guaranty that is given to the people of the small towns? I believe, gentlemen, that this is the one issue which has been raised here at this session of the Legislature wherein we as members of this House can show that we appreciate the confidence that has been reposed in us; this is the one grand opportunity that has been presented to us to place ourselves on record as appreciating that confidence; it brings us closer to the people, and if we should pass this bill for the initiative and referendum we are simply making each individual of our constituents an essential part of the entire working machine of legislation, we are simply placing each individually voter in our cities and towns in a position where he can have something to say about legislation. I do not agree with those persons who say that we have been elected here as representatives and thereby that we must legislate for ourselves alone. That is not true. We are sent here as representatives to enact legislation upon matters wherein the voters of the different cities and towns and plantations are not authorized by law to make that desired legislation. They don't wish us to pass legislation in any particular whatever upon a matter upon which they as voters can settle at their town and city elections; and I believe that it is our duty as members of this House to vote for the acceptance of the minority report, thereby proving that we do believe in the principles of Republican government, that we believe in the principles of Democratic government, as a system of government and not as a political issue, but as a system of government. We never should be afraid to get too near to the people. I have always believed that you can trust the great majority of the people, and if the people of this State do not wish this referendum they will not take advantage of it even though you make it a law. Give them an opportunity to use it if the occasion presents itself. You do not by passing this act compel them to use it. Give them an opportunity to make their choice in the matter, and I say that in

so doing you are simply going back to your constituents with a badge handed out to them as a warranty that you appreciate the confidence which they reposed in you when they sent you here, and that you are now trying to show such confidence in them in matters of legislation as they showed in you when they sent you here.

The question being on the adoption of the minority report, Mr. Merrill of Skowhegan, moved that the vote be taken by the yeas and nays.

The motion was agreed to.

The SPEAKER: The vote is on the acceptance of the minority report of the judiciary committee, the minority report being in favor of the referendum. Those in favor of the minority report will say yes when their names are called; those opposed will say no. The clerk will call the roll.

YEA:—Allan, Belleau, Berry, Bradford of Friendship, Byron, Cobb, Cole, Davis of Benton, Davis of Guilford, Dennison, Dudley, Fawsette, Foss, Fulton, Garcelon, Giddings, Grant, Hanson, Hastings, Hill, Hodgkins, Hussey, Hutchins, Jilison, Jones, Jordan of Yarmouth, Kinsman of Cornville, Leighton, Longfellow, Merrill of Skowhegan, Miller, Milliken, Morey, Morton, Mullen, Nash of Damariscotta, Newbegin, Norcross, O'Brien, Page of Appleton, Peacock, Pendleton, Philbrook, Price, Purington, Russell, Sargent of Castine, Sowyer of Milbridge, Scribner of Charleston, Seavey, Sewall, Shaw, Shevnell, Smart, Smith of Saco, Sparrow, Staples, Treworgy, Trickey, Turner, Usher, Verrill, Washburn, Webb, White, Wilder, Witherspoon—67.

NAY:—Baldwin, Barrows, Baxter, Bradford of Livermore, Buzzell, Cushman, Downs, Goodwin, Gray, Hale, Hall, Hathaway, Higgins, Holmes, Howes, Ingersoll, Irving, Jordan of Cape Elizabeth, Josselyn, Knapp, Leonard, Lougee, Martin, Merrill of Dixfield, Nash of Kennebunk, Oakes of Milford, Percy, Poor, Putnam, Reed, Sargent of Brewer, Sawyer of Smithfield, Scribner of Springfield, Swain, Swett, Talpey, Webster, Witt—33.

ABSENT:—Albert, Bean, Blanchard, Bliss, Briggs, Bunker, Burkett, Clark, Cousins, Gannett, Hagerthy of Ellsworth, Hagerthy of Sedgwick, Johnson of Calais, Johnson of Waterville, Laliberte, Lanigan, Libbey, Marshall, Page of Hampden, Perry, Sanborn, Stearns, Terreault, Thomas, Thompson of Orono, Thompson of Roque Bluffs, Thurlough, Tupper, Vittum, Walker, Weatherbee—32.

PAIRED:—Copp, Yes; Abbott, No. Morrison, Yes; Kimball, No. Johnson of Waterville, Yes; Smith of Madison, No. Oakes of Auburn, Yes; Stevens, No. Tracy, Yes; Whitmore, No. Littlefield, Yes;



Powers, No. Kinsman of Augusta, Yes; Newcomb, No.

So the minority report was accepted. The resolve was then read once, and the rules were suspended, the resolve received its second reading and was passed to be engrossed.

(At this point the Speaker resumed the chair.)

The conference committee to which was referred the disagreeing action of the two branches of the Legislature on House amendment A to Senate bill No. 199, being An Act in relation to the compensation of registers of deeds, reported that they recommend that House amendment A ought not to pass and that the following amendment ought to pass. Amend by striking out all but the word "Knox" in line eighteen and all of line nineteen, and insert the words "Nine hundred dollars with two hundred and fifty dollars additional clerk hire."

The report of the committee was accepted. The House then reconsidered the vote whereby House amendment A was adopted, the amendment recommended by the committee of conference was then adopted, and the bill was then passed to be engrossed as amended.

On motion of Mr. Higgins of Limerick, the report of the committee on ways and means, reporting an order on an order, relating to the state tax for the years 1905 and 1906, was taken from the table.

The report of the committee was accepted and the order received a passage.

On motion of Mr. Higgins bill, relating to the Northern Gas and Electric Company, was taken from the table.

Mr. HIGGINS: Mr. Speaker, there is no such corporation existing. A careful examination has been made in the secretary of state's office and this company has never filed a certificate of organization. There is no means of knowing that such a company exists. I move that this bill be indefinitely postponed.

The motion was agreed to.

An Act to make valid the action of the town of Standish in uniting the former school districts of South Stand-

ish and Bonny Eagle, having been indefinitely postponed in the House, came from the Senate that branch insisting and asking for a committee of conference.

On motion of Mr. Hastings of Bethel, the House voted to adhere.

On motion of Mr. Higgins, Senate order in relation to printing extra copies of act relating to negotiable instruments, was taken from the table.

The order received a passage in concurrence.

The committee of conference to which was referred the disagreeing action of the two branches of the Legislature on House bill No. 191, came from the Senate reporting that they concurred with the House in referring the bill to the next Legislature.

The House accepted the report of the committee.

#### Passed to be Enacted.

An Act to amend section 22 of chapter six of the Revised Statutes relating to the regulation and conduct of elections.

An Act relating to the compensation of registers of probate.

An Act providing for a bounty on bears in Franklin county.

(Tabled on motion of Mr. Milliken of Island Falls.)

An Act to extend the charter of the Bluehill and Bucksport Electric Railway Company.

An Act to amend sections 116 and 117 of chapter six of the Revised Statutes, relating to caucuses in cities of over thirty-five thousand inhabitants.

An Act to amend An Act entitled "An Act to amend chapter nine of the Revised Statutes, relating to the assessment of taxes on lands in unincorporated places."

An Act to revise, consolidate and amend the charter and laws of the city of Augusta.

#### Finally Passed.

Resolve in favor of C. O. Purinton, secretary of the committee on agriculture.

Resolve to amend chapter 194 of the Resolves of 1893, relating to industrial exhibits.