

# MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

*Ninety-Ninth Legislature*

OF THE

STATE OF MAINE

VOLUME II

1959  
and  
SPECIAL SESSION  
1960

DAILY KENNEBEC JOURNAL

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clear to any that are proposing to get in.

They spoke of damages. The Towns of Liberty and Perham, they all agreed to pay their part of any damage just like any other contract. When the vote is taken I would ask for a division.

The SPEAKER pro tem: The question before the House is the motion of the gentleman from Belfast, Mr. Rollins, that Bill "An Act to Authorize the Withdrawal of the Town of Liberty from School Administrative District No. 3," Senate Paper 531, Legislative Document 1438, be substituted for the "Ought not to pass" Report. A division has been requested.

Will those who favor the motion of the gentleman from Belfast, Mr. Rollins, that the Bill be substituted for the Report, please rise and remain standing until the monitors have made and returned the count.

A division of the House was had.

Fifty-six having voted in the affirmative and sixty-eight having voted in the negative, the motion did not prevail.

Thereupon, on motion of Mr. Linnell of South Portland, the "Ought not to pass" Report was accepted in concurrence.

At this point, Speaker Edgar returned to the rostrum.

SPEAKER EDGAR: The Chair would thank the gentleman from Houlton, Mr. Ervin, for his excellent services as Speaker pro tem.

Thereupon, the Sergeant-at-Arms conducted the gentleman from Houlton, Mr. Ervin, to his seat on the Floor, amid the applause of the House, and Speaker Edgar resumed the Chair.

#### House at Ease

Called to order by the Speaker.

(Off Record remarks  
by the Speaker)

The SPEAKER: On the record, continuing with Senate Reports on Supplement No. 2 which has been distributed to the desks.

#### Ought to Pass

##### Passed to Be Engrossed

Report of the Committee on Public Utilities reporting "Ought to

pass" on Bill "An Act to Authorize the Maintenance and Operation of a Dam at the Outlet of Sebec Lake" (S. P. 534) (L. D. 1441)

Came from the Senate with the Report read and accepted and the Bill passed to be engrossed.

In the House the report was read and accepted in concurrence and the Bill read twice.

On motion of Mr. Haughn of Bridgton, the rules were suspended, the Bill given its third reading, passed to be engrossed and sent to the Senate.

#### Ought Not to Pass

Report of the Committee on Legal Affairs reporting "Ought not to pass" on Bill "An Act to Authorize the Withdrawal of the Town of Brooks from School Administrative District No. 3" (S. P. 530) (L. D. 1437)

Came from the Senate read and accepted.

In the House the report was read and accepted in concurrence.

#### House at Ease

Called to order by the Speaker.

The SPEAKER: The House is proceeding under Senate Reports with Supplement No. 3.

#### Ought to Pass with Committee Amendment Passed To Be Engrossed

Report of the Committee on Judiciary on Bill "An Act to Correct Errors and Inconsistencies in the Public Laws" (S. P. 528) (L. D. 1435) reporting "Ought to pass" as amended by Committee Amendment "A" submitted therewith.

Came from the Senate with the Report read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A".

In the House, the report was read and accepted in concurrence and the Bill read twice. Committee Amendment "A" was read by the Asst. Clerk as follows:

COMMITTEE AMENDMENT "A" to S. P. 528, L. D. 1435, Bill, "An Act to Correct Errors and Inconsistencies in the Public Laws."

Amend said Bill by adding after section 7, a new section to read as follows:

**'Sec. 7-A. Effective date.** Section 7 shall become effective April 1, 1960.

Further amend said Bill in section 42 by striking out the underlined words "**the tentative list**" in the 9th and 10th lines.

Further amend said Bill in section 42 by striking out the underlined words "**in July**" in the 11th line.

Further amend said Bill by striking out all of sections 13, 14, 15, 16, 33 and 72.

Further amend said Bill in section 45 by striking out the underlined word "**and**" between the underlined words "**Governor**" and "**Council**" in the 9th line and inserting the underlined words '**with the advice and consent of the**'

Further amend said Bill by adding after section 72, a new section to read as follows:

**"Sec. 72-A. R. S., c. 103, §15, amended.** The first sentence of section 15 of Chapter 103 of the Revised Statutes, as amended by section 69 of chapter 317 of the public laws of 1959, is further amended to read as follows:

'The following cases only come before the court as a court of law: Cases on appeal from the Superior Court or a single justice of the Supreme Judicial Court; criminal cases in which there are motions for new trials upon evidence reported by the justice; questions of law arising on reports of cases, including, in civil cases, interlocutory orders or rulings of such importance as to require, in the opinion of the justice, review by the law court before any further proceedings in the action; bills of exceptions in criminal cases; agreed statement of facts; cases, civil or criminal, presenting a question of law; all questions arising in cases in which equitable relief is sought; motions to dissolve injunctions issued after notice and hearing or continued after a hearing; questions arising on writs of habeas corpus, mandamus and certiorari.

Further amend said Bill by adding after section 73, the following sections:

**"Sec. 73-A. R. S., c. 106, Par. 5, amended.** The last sentence of section 5 of chapter 106 of the Revised Statutes, as repealed and replaced by section 74 of chapter 317 of the public laws of 1959, is amended to read as follows:

'A single Justice of the Supreme Judicial Court also shall have and exercise jurisdiction, and have and exercise all of the powers, duties and authority necessary for exercising the same jurisdiction as the Superior Court, to hear and determine, with his consent, any issue in a civil action in the Superior Court as to which the parties have no right to trial by jury or in which the right to trial by jury has been waived, except actions for divorce or annulment.'

**Sec. 73-B. R. S., c. 106, par. 14, amended.** The last sentence of section 14 of chapter 106 of the Revised Statutes, as enacted by section 76 of chapter 317 of the public laws of 1959, is amended to read as follows: 'In any civil case a defendant **any party** aggrieved by any judgment, ruling or order may appeal therefrom to the law court within 30 days or such further time as may be granted by the court pursuant to a rule of court.'

**Sec. 73-C. R. S., c. 107, par. 23, repealed.** Section 23 of chapter 107 of the Revised Statutes, as amended by chapter 306 and as repealed by section 86 of chapter 317, both of the public laws of 1959, is repealed.

**Sec. 73-D. R. S., c. 107, par. 37-A, additional.** Chapter 107 of the Revised Statutes, as amended, is further amended by adding thereto a new section, to be numbered 37-A, to read as follows:

**'Sec. 37-A. Interlocutory appeals.** Any party may appeal to the law court from an interlocutory order granting or denying a preliminary injunction in a case involving or growing out of a labor dispute, but such preliminary injunction shall not be stayed by the taking of such appeal. Any such appeal shall be heard at the first term of the law court commencing not less than 14 days after the appellant has filed

the record on appeal with the clerk of the Superior Court and furnished the required copies of his brief to the clerk of the law court. Copies of the briefs of other parties shall be furnished to the clerk of the law court not more than 10 days after the appellant's brief has been filed. The law court shall affirm, modify or set aside the order with the greatest possible expedition and shall give such proceedings precedence over all other matters except older matters of the same character.'

Sec. 73-E. R. S., c. 114, par. 5, amended, Section 5 of chapter 114 of the Revised Statutes, as amended by section 209 of chapter 317 of the public laws of 1959, is further amended by adding at the end thereof, the following paragraph:

'When trustee process is used in connection with a counterclaim arising out of the transaction or occurrence that is the subject matter of the opposing party's claim, the alleged trustee may be summoned to appear in the county in which the action is pending, even though he does not reside or maintain a usual place of business in that county.' "

Further amend said Bill by renumbering the sections of said Bill to read consecutively.

**T H E S P E A K E R:** The Chair recognizes the gentleman from South Portland, Mr. Earles.

**M R. EARLES:** Mr. Speaker, if it is appropriate, and in support of the acceptance of this amendment, I would like to make a brief explanation as to a deletion from this particular bill.

You will note that the amendment provides for the striking out of section 33 of the so-called parent bill or the omnibus bill, and this relates to the question of whether or not a municipality comes within the operation of the minimum wage law which we passed this immediately last session. In excluding or cutting out from the parent bill this section, it was the intent of the Committee to do so for this reason: It was the opinion of the Committee that on the basis of citations of cases rendered by the Maine Supreme Court, that the State and in this instance, the political subdivisions, the muni-

cipalities, are regarded as excluded from the operation of so-called positive legislation unless they are specifically stated within the legislation, and in this particular instance in the minimum wage law there was no specific reference to municipalities; therefore, it was our opinion, based upon the search that we did, that municipalities were not within the embrace or under the obligations of the minimum wage law and therefore, the inclusion of this section in the parent bill so-called, or the omnibus bill, was unnecessary. And with that explanation I will conclude. Thank you very much.

**T H E S P E A K E R:** The pending question is on the adoption of Committee Amendment "A" in concurrence.

The Chair recognizes the gentlewoman from Presque Isle, Mrs. Christie.

**M R S. CHRISTIE:** Mr. Speaker, I presume I am very obtuse, but I know I am in legal phraseology, at least I don't understand it very well, but may I ask a question through the Chair?

**T H E S P E A K E R:** The gentlewoman may state her question.

**M R S. CHRISTIE:** Then it is the opinion of the Committee that the municipalities are exempt from the provisions of this law?

**T H E S P E A K E R:** The gentlewoman from Presque Isle has addressed a question through the Chair to the gentleman from South Portland, Mr. Earles, who may answer if he chooses.

**M R. EARLES:** To respond through the Chair to the gentlewoman from Presque Isle, that is specifically it, that we feel to rephrase it, that the municipalities are not within the operation of the minimum wage law, and the purpose for which I was making this brief statement was that in the event there was a question or contest between people feeling that they were and the municipalities, and it went to the Courts, and the Courts were seeking to find out what legislative intent is, I think there are times that we recognize it is a little bit obscure, we were attempting to specify what the intent was of the Committee when it

excluded this particular section 33 from the Act before us.

The SPEAKER: The question before the House is on the adoption of Committee Amendment "A" in concurrence. Is it the pleasure of the House that Committee Amendment "A" shall be adopted in concurrence?

The motion prevailed, and on motion of the gentleman from South Portland, Mr. Earles, under suspension of the rules, Bill "An Act to Correct Errors and Inconsistencies in the Public Laws," Senate Paper 528, Legislative Document 1435, was given its third reading, passed to be engrossed as amended by Committee Amendment "A" and sent to the Senate.

Mr. Whitman of Woodstock was granted unanimous consent to address the House.

Mr. WHITMAN: Mr. Speaker and Members of the House: Several members of the five southern counties have expressed a desire to be further acquainted with the progress of our Committee investigating the transfer of the South Portland School for Boys. For that

reason we attempted to organize a meeting this morning of the five county delegations, but due to the uncertainty of the program here today we were unsuccessful in getting together all the members of the five counties concerned. For that reason, I would like to announce that for those who are interested in learning the progress and problems involved in the relocation of the South Portland School for Boys, we will endeavor to hold a meeting tomorrow morning at nine o'clock in the Legal Affairs Room at which time we will meet with the two members of the Committee from the Legislature, and they will attempt to bring us up to date on their progress in the relocation of the South Portland School for Boys.

I hope all of the members from the five southern counties of York, Cumberland, Androscoggin, Oxford and Franklin can be present at that meeting, nine o'clock tomorrow morning in the Legal Affairs Room. Thank you.

On motion of Mr. Wade of Auburn,

Adjourned until ten o'clock tomorrow morning.