

MAINE STATE LEGISLATURE

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Legislative Record

OF THE

Eighty-Fifth Legislature

OF THE

STATE OF MAINE

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today assigned bill an act relating to special provisions for towns peculiarly located, S. P. 487, L. D. 648, tabled March 25 by Mr. Brewster of Wells, pending third reading; and the Chair recognizes that gentleman.

Mr. BREWSTER: Mr. Speaker, in the absence of the gentleman from Berwick, Mr. Varney, who I understand wishes to speak on this matter and who is home sick, I move that this be retabled.

A viva voce vote being taken, the motion to retable prevailed.

The SPEAKER: The Chair lays before the House the second matter tabled and today assigned majority report ought to pass in new draft and minority report ought not to pass on bill an act to regulate the sterilization of inmates of institutions, S. P. 277, L. D. 250, new draft S. P. 590, L. D. 992, which came from the Senate the majority report accepted, and the new draft passed to be engrossed, and which was tabled in the House March 27 by Mr. Authier of Sanford, pending acceptance of either report, and the Chair recognizes that gentleman.

Mr. AUTHIER: Mr. Speaker, for the same reason, namely, the illness of my colleague, Mr. Varney, I move that it be retabled.

A viva voce vote being taken, the motion to retable prevailed.

The SPEAKER: The Chair lays before the House the third matter tabled and today assigned, Senate report ought to pass in new draft of the committee on Administrative Code on bill an act relating to administration of the State, S. P. 60, L. D. 20, new draft, S. P. 588, L. D. 954, which came from the Senate report accepted and the new draft passed to be engrossed as amended by Senate Amendment A, and which was tabled March 27 in the House by Mr. Robie of Westbrook, pending acceptance of report in concurrence; and the Chair recognizes that gentleman.

Mr. ROBIE: Mr. Speaker, I move that we accept the unanimous report of the committee, and that the new draft, as amended by Senate Amendment A, be given its several readings at this time, and that when the vote is taken, it be taken by the yeas and nays.

Mr. JACK of Lisbon: Mr. Speaker, I rise to second the motion.

Mr. FARRIS of Augusta: Mr. Speaker and members of the House: In view of the fact that the bill before us is so far reaching, and sets up so much power to be exercised by a few individuals, and, it appears to me, to be departing from the established principles of representative government, I am compelled to oppose this piece of legislation. I regret to do this because I am a personal friend of the Governor, and I know it is his honest opinion that this matter should be passed. However, I disagree with it.

It seems to me that by this bill we are delegating our power of making laws conferred by the people who sent us here to a small group of individuals so that they may perform the duties that now devolve upon us as legislators, and this without limiting the powers conferred on these commissioners and bureau chiefs as set up in the bill.

From the beginning of government, two desires, in a measure conflicting with one another, have been at work striving for supremacy: First, the desire of the citizens to control and regulate his own activities in such a way as to promote what he conceives to be his own good, and, second, the desire of the Legislature to curtail the activities of the citizens in such a way as to promote the common welfare of the whole State. The operation of the first of these—we call liberty, and that of the second—authority.

Throughout all history mankind has swung like a huge pendulum between these two desires, sometimes swinging too far in one direction, and sometimes in the rebound too far in the opposite direction. In all probability we shall never succeed in getting rid of all the evils which affect our state government, and perhaps it would not be a desirable result if we should succeed, since out of a state of settled perfection there could not come that uplifting sense of reform which follows the successful fight against governmental evils, and which is responsible for so much governmental advance-

ment, but I am sure that in many ways in our state government we are better off today than we have ever been before. It is, apparently, one of the deductions of progressive government that we get rid of old evils only to acquire new ones, and I am wondering whether we shall, under this proposed law, rid the administration of our state government of the evils we now have, or fly to others that we know not of. That is the question in the mind of every legislator in this House today. Today, as always, eternal vigilance is the price of liberty—liberty whose form has changed but whose spirit is the same.

In the early days of the history of this country it was the liberty of speech, and religious worship that were principally threatened, and later taxation without representation; but today it is the liberty to order the detail of our own daily conduct, the liberty to do honest and profitable business, and the liberty to seek honest and profitable investments. Those are the things that are in peril today. In my mind, our national government, in all history, never occupied a higher plane than it does today, and yet never before have the activities of the people been so beset with vexatious statutes, prying commissions and governmental intermeddling.

Under our form of government, the will of the people is supreme, and when we propose to make drastic changes in the administration of our state government, which will affect the welfare of thousands of our unfortunate citizens confined in our state institutions, and also their relatives and friends throughout the state, it is only fair that the people should be given an opportunity to approve or reject any such proposed legislation. If we vote according to the dictates of our own conscience, we cannot go far wrong.

Jefferson once said: "That government is best which governs least," and Lord Macaulay expressed it "The primary end of government is the protection of the person and property of men." Any attempt, therefore, to curtail the liberties of the citizens, which shocks the sense of personal inde-

pendence of any considerable portion of the state is likely to do more harm than good, not only because a strong feeling that a particular law is unjust lessens in some degree the respect for law generally, but because such a law cannot be successfully administered.

Another thing we must consider is the increase during late years of the number of commissions, boards, and similar agencies, the tendency of which is to undermine the fundamental principle upon which our form of government depends, namely, that it is "An empire of laws and not of men," the meaning of which is that rights and duties of the individuals as members of society should be defined by fixed laws and not be left to the official edict of commissioners and bureau chiefs as defined in this bill.

As legislators concern ourselves with this question: Is the proposed law just in its general application? The official who administers the law has nothing to do with the abstract question of its justice; his function is to ascertain what it is and whether it has been violated. The two functions are so utterly different that the necessity of vesting them in separate hands has long been recognized.

To confer upon the same man, or body of men, the power to make the law and also administer it, would inevitably result in despotic government by substituting the shifting frontiers of personal command for the definite boundaries of general, impersonal law. "The habits of thinking in a free country" said Washington in his farewell address, "should inspire caution in those intrusted with its administration, to confine themselves within their respective constitutional spheres, avoiding in the exercise of the powers in one department to encroach upon another. The spirit of encroachment tends to consolidate the powers of all the departments in one, and thus create, whatever the form of government, a real despotism."

The danger, therefore, which is threatened by the consolidation of departments and the appointment of commissioners and bureau chiefs is placing too much money and political power in the hands of a few individuals. Another danger,

as I see it in the bill, is that the authority conferred upon these administrative boards and bureau chiefs is an unlimited authority. The jurisdiction to deal with particular subjects involving the conduct of individuals is conferred in terms which are so indefinite that we will have to resort to the courts for a construction of the limitation of authority and power granted in this bill.

The power of making laws is the supreme power in the state, and the power in which it resides will naturally have such a preponderance in the political system, and act with such mighty force upon the public mind, that the line of separation between that and the other branches of the government ought to be marked very distinctly, and with the most careful precision. The Constitution of Maine has effected this with great felicity of execution, and in a way well calculated to preserve the equal balance of the government and the harmony of its operations. It has not only made a general delegation of the Legislative power to one branch of the state government, of the executive to another, and of the judicial to the third, but it has specially defined the general powers and duties of each of those departments, and one department should not encroach upon the rights of another department. It is for the legislature to make the laws, the executive to administer them, and the judicial to define and interpret them.

We have many thousand of our citizens who are unfortunate in being confined in our state institutions. We also have hundreds of employees such as attendants and nurses at the hospitals and feeble-minded schools, and guards at the state prison and reformatories. We have boards of trustees at these various institutions who have taken a personal pride in the work of their institutions, and have worked for the welfare of the inmates as well as the State at large. We have the superintendents and heads of these various institutions who are cooperating with the boards of trustees, trying to make their institution the best, so that when the Legislature convenes, they have a report of the doings of their institution for the past two years with which they want to impress

the Legislature and give a good accounting of their stewardship.

We have the local health officers, we have the officers of the towns and cities of our state who are doing good work under our present law—in fact we have a system now which has been built up gradually by the experience and foresight of public-spirited men and women in our state who served in places of public trust, and today we as a state are deriving the benefit of their experience and wisdom, and I say "Remove not the ancient landmark, which their fathers have set." I trust that this bill, at this time, in its present form, will not become a law. (Applause)

Mr. BRIGGS of Caribou: Mr. Speaker and members of the Eighty-fifth Legislature: I am well aware that the *lassiez-faire* policy in government prevails in certain quarters. The bill which we have before us under discussion is nothing but a simplification of the fiscal program of our beloved State of Maine. It has not been drafted under cover. The Cole Committee, in 1921, recommended these changes. This bill has been worked upon for six months, and by some of the ablest people of the State of Maine, and I for one am willing to accept their judgment as to the constitutionality of the law.

This bill provides primarily for a simplification of the fiscal set-up of this State in which no change has been made, so far as I can learn, in the last twenty years. Your methods of finance in the State of Maine, members of the Eighty-fifth Legislature, are antiquated and obsolete. Such items as a \$700,000 trust fund entirely vacated under our present system of book-keeping are absurd. Such items of accruals to different departments of special funds are absurd. This bill provides that all money coming to the State of Maine shall go to the treasurer of the State of Maine, and be allocated therefrom. This bill sets up a budget officer, which I believe to be a thing of vast importance in our fiscal program.

Speaking from twelve weeks of experience as a member of the Appropriations and Financial Affairs Committee, I say to you members of the Eighty-fifth Legislature, it is almost impossible to determine, sitting on that committee, the needs of the various departments