

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

Seventy-Eighth Legislature

OF THE

STATE OF MAINE

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up the river. We have not allowed them to fish near the shore, so there will be plenty of room for the smelts to get up for the ice fishermen. Your committee believed unanimously at the time that they were doing the best thing between the seiner and the handliner, and I hope, gentlemen, in justice to the man who fishes for a living to support his family and to buy food for his children, that this motion will not prevail.

Mr. PACKARD of Rockland: Mr. Speaker, it seems to me that seining smelts must be a pretty good business if they only fish one month in the year, and the men cannot be particularly poor. The month of October is the month of the year that they start up the river to lay their spawn. If those smelts are caught at the mouth of the river, there certainly will not be any to go up the river and come back in the spring. I move you that the previous question be voted on immediately.

A sufficient number having arisen, the previous question was ordered.

The SPEAKER: As many as are in favor of the motion of the gentleman from Waldoboro, Mr. Richards, that this bill be indefinitely postponed, will rise and stand until counted.

A division being had,

Sixty-five having voted in the affirmative and 41 in the negative,

The motion prevailed and the bill was indefinitely postponed.

On motion by Mr. Clason of Lisbon, House Amendments A and B to House Document No. 502, entitled "An Act to provide for the registration of resident hunters," were retabled and assigned for consideration on Wednesday of next week.

On motion by Mr. Farrington of Augusta, Senate Document No. 52, Resolve proposing an amendment to the Constitution of the State of Maine relative to the tenure of office of sheriffs, was taken up out of order, under suspension of the rules.

Mr. FARRINGTON of Augusta: Mr. Speaker and gentlemen of the House, whether this is a climax or an anti-climax I am not quite sure. We have come all the way from schools and smelts down to sheriffs. This resolve, to read the essential part, provides that "whenever the Governor and Council, upon complaint, due notice and hearing shall find that a sheriff is not faithfully or efficiently performing any duty imposed upon him by law, the Governor may remove such sheriff from office, and with the advice and consent of the Council appoint another sheriff in his place for the remainder of the term for which such removed sheriff was elected." This resolve further provides that the question be submitted to the voters of the State on the second Monday of September following the passage of the resolve. I am not going to take the time of this Legislature to any extent in discussing this matter. I think our minds are pretty well made up as to how we shall vote. I do want to say this, however, that in my opinion the success of the predominant party in this Legislature at the last September election was due in no slight degree to the courageous and consistent stand of our now Chief Executive in relation to the enforcement of the prohibitory law. In his message to this Legislature he asked that this resolve be passed. I feel personally that we should pass it so that the voters in this State may say, by their votes, whether or not it shall become part of our constitution. I feel, somehow or other, that some of the members of the party of a different faith from my own in their hearts and consciences agree with this proposition, and I trust that any such will vote for it; and without further remarks, Mr. Speaker, I move that the resolve at this time be given its final passage.

Mr. LARRABEE of Bath: Mr. Chairman, I do not agree with the attorney from Augusta (Mr. Farrington) by any means, and I would like to have it distinctly understood that I do not wish it thrown up to me whether my conscience is to be doubted at all, I vote as I think best, party or no party. This proposition to me is not the right kind of law to be

put upon our statute books. While I have every respect for our Governor and his Councillors, I do believe that it is wise for us, either Democrats or Republicans, to put into the hands of one man the power to annul the vote that is given to us by our Constitution. If a Governor—and, as I said before, I have every respect for our Governor, wishes to remove any sheriff, he can do it now and do it easily and by the law which we have, and no one knows it any better than these attorneys and the men in this House. I do not believe that this power should be given to any one man. It takes us back to the Dark Ages, to the absolute power that is dealt out to the people of Russia in their monarchy, where their emperor can remove any man or any set of men; and, if it is done here in our State of Maine, have you a right to vote? You vote for a man that you wish and you deprive him of that liberty. I do not favor the remarks of the gentleman from Augusta (Mr. Farrington).

Mr. SPEIRS of Westbrook: Mr. Speaker, I move the previous question.

The SPEAKER: The previous question is called for without objection.

Mr. MURRAY of Bangor: Mr. Speaker, I am rather surprised. Is not this debatable?

The SPEAKER: The Chair begs the pardon of the gentleman and will put the question again in order that there may not be any misunderstanding. The previous question has been moved. As many as are in favor of the previous question will please rise.

A sufficient number having arisen, the previous question was ordered.

The SPEAKER: The question now before the House is shall the main question be put, and the rules allow five minutes' debate. I recognize the gentleman from Bangor, Mr. Murray.

Mr. MURRAY: Mr. Speaker, I am rather surprised that the dominant party—and it is dominant, overwhelmingly—should choke off this debate. I know their reason for it. They are ashamed of the measure, and I agree with them.

The best way to stop discussion of this measure is to do what this distinguished gentleman has done, and the best thing for the Republican party is to stop discussion of it. It is obnoxious; it smells. It smells to every citizen of the State of Maine when you attempt to throw into the hands of one man so much power. The distinguished gentleman from Batn (Mr. Larrabee) has likened the man who has that power to the Czar of Russia, and I agree with him, and here and now I want to put the Democratic party on record as being opposed to any step, whether it be the first or last step, that gives to any one man such power. I want to remind some of you gentlemen who are so desirous of seeing the prohibitory law enforced of one thing. As your Constitution now is, if a sheriff is dishonest he can be removed by two methods. One is by Senate impeachment. The other is by a joint request from this body and the Senate. By changing this Constitution, you are taking from your Senate and your House the power which they have and you are throwing it into one man's hands. What if that one man is corrupt? What if that one man is weak so that he can be influenced? Cannot you see how much easier it is for lawbreakers to control one man, and I submit that it has been done? Cannot you see how much easier it is than it is to control one or both of these houses which are now probably, or at least attempting, to give up the power which they have and which they have held for so many years? In submitting by a resolve a former amendment, the reason advanced for it by the dominant party at least was that it was a vicious measure and that there was a demand for it from a sufficient number of people. I submit that this measure if passed is vicious, and instead of a sufficient number of people demanding it, a single man is commanding it, and you men are flying before that command like a flock of sheep. I respect all of you, but I also pity you. God forbid that men give up their rights, especially bodies of this kind, so easily, at the command of a single man! I am afraid that you fear the command because you want office. No man here, re-

regardless of party, can go back and explain to his constituents, and do it honestly,—explain satisfactorily why he has taken their power from them and the power which they have given to him in his official capacity as a legislator, giving it to a single man, and that man changing from time to time.

The SPEAKER: The time of the gentleman from Bangor has expired. Does the House grant unanimous consent for him to continue?

Mr. FARRINGTON of Augusta: Mr. Speaker, I really regret that any vote on the previous question has been put. I feel that this should be open to free discussion. I move that we reconsider the vote whereby the previous question was declared.

The motion prevailed.

Mr. Murray of Bangor (continuing): Mr. Speaker, I realize that it is late and I realize that there are others who would like to speak, and I believe I have sufficiently stated my position, and in addition to that have put both parties on record. Therefore I yield the floor.

Mr. DEARTH of Dexter: Mr. Speaker and Gentlemen of the House: I desire at the outset to assure the gentleman from Bangor (Mr. Murray) that we are not ashamed of what we are doing in this House. We are willing to accept any indictment that he may prefer against us. All we ask is for the opportunity to be heard on his indictment. Now what is the question before this House? What is the issue before this House? It is a plain, simple issue as to whether you are going to give the people of this State the opportunity to say whether they want to lodge with the Governor the authority to remove a sheriff who is not performing the duties of his office. That is the issue and the only issue, and I submit to you that every word uttered by the gentleman from Bangor (Mr. Murray) is not germane to the issue. When you vote to send this question to the electorate of this State you will have performed and discharged your duty to your constituents, and upon them will rest the only

question then to be determined,—whether this authority shall be given to the Governor, or whether it shall not be given to him. They are to determine that question and not you, and I want, when you come to the question of voting,—I want you to keep in your minds that that is the issue, notwithstanding the mist and the dust that the gentleman from Bangor is trying to throw into your eyes. Oh, I have heard it said so many times by the violators of the law, "You are limiting our liberty; you are taking from us our rights". Ah, gentlemen of this House, I submit that liberty does not mean license to do anything that you see fit to do. Liberty is the enjoyment of the rights accorded the citizens under the law in obeying those laws. A man's liberty is abridged by the law only in so far as that man attempts to violate the laws of his country; so do not confuse the question of liberty with the question of absolute license to do anything that you want to. There is a great difference, and no one knows it better than the gentleman from Bangor. He knows it, I know it, and so does every honest, conscientious man in this House know it. Oh, gentlemen, I would like to argue this matter until the morning sun rises, because of the unfair proposition put up here by the gentleman from Bangor! I say cling to the issue and vote to send this question to the people, and when you shall have done that you will have done your duty, and the responsibility rests with them as to whether they want to lodge with the Governor this power or whether they do not. I say do not deny to them this privilege because it is their privilege under the law of this land. I trust the gentleman will pardon me if I have been a little boisterous because I mean every word I have uttered. (Applause.)

Mr. HARTWELL of Oldtown: Mr. Speaker, I do not believe in booze, neither do I believe in the issue that is at stake. I believe every man here should vote as he sees fit. I shall vote as I see fit, and I will never vote to give the power to one man, although I accord him all the respect that is due him.

Mr. ROUNDS of Portland: Mr. Speaker, I am one of the majority party elected to this House, but I was not elected to give any one man power to say to the other men elected on that ticket whether they should be removed or not. I will read what few remarks I have to make.

I could give many reasons why I am opposed to the enactment into law of the bill now before this House, but I shall touch upon but few of them in the short time that I am to speak.

I fail to see any good reason why the Governor of this State should be clothed with the power which the measure under consideration would grant him. In my opinion it is asking altogether too much. If we are to pass a resolve permitting him to remove sheriffs, and fill the vacancies thus created, why not go farther and let him name them in the first place? Why go to the trouble of electing them? One proposition is just as reasonable as the other.

As a matter of fact, though, neither of them appeals to me. The people of each county choose the sheriff of that county, and the people, or their duly elected representatives, should be the ones to determine whether that official has so failed in the performance of his duties that he should be ousted from the position. No one within my hearing would venture to suggest that a citizen charged with some serious crime should have his guilt or innocence determined by the judge of a superior or supreme court, as the case might be. No, the accused must be given a trial before a panel of twelve men, and those twelve are to say whether or not he is deserving of punishment. The judge may in his charge aid the jurors in reaching a verdict in accordance with the law and the evidence that has been presented, but we say to him: "Thus far shalt thou go and no farther."

In like manner, a man occupying so high and responsible a position as that of sheriff of a county in this State must be said to have a serious charge made against him when it is alleged that he has failed to perform his duties properly, and yet this proposition is that one man shall consider those

charges and have the sole power to decide whether the charges are such as to warrant the sheriff's removal. I care not if it be the Governor who is given all this authority—I believe it is unjust. It comes close to setting up a little form of despotism within our State, and I find it difficult to believe that there are many men who would care to assume such a responsibility.

All of you will recall that a few years ago we had a sort of a clean-up with respect to sheriffs and their alleged inactivity in the enforcement of the prohibitory law—which is the chief principle involved in the pending resolve—and this clean-up was conducted by the Legislature. There was a Republican Governor and a Republican Legislature, and the first official head to fall was that of a Republican sheriff, one who had held that office for close on to a generation. In the cases which were then heard by the lawmakers of the State each side was given plenty of time and the widest possible latitude in presenting its evidence; and it was the proper method to pursue. Either that method should be retained, or the recall might be adopted, but for one man to listen to complaints, and then act in accordance with his judgment, is asking too much.

How many members of this House—were it within the realms of possibility that any one of you might become the next chief executive of the State of Maine—would want to hold such power within their grasp? How many of you would be happy in the thought that some day a sheriff might be accused of failing to perform his duty and that you might with snap judgment, if you chose, remove him from office and name his successor? If I could poll the House on this question, I am of the opinion that the result might prove somewhat of a surprise to the proponents of this measure. And yet, if the possibility which I have just mentioned existed, that is the situation that would confront the man taking the oath as Governor. There would be no other alternative for him. It is a difficult position in which to place a man, and it is a great deal for any one man to ask. He

must consider himself fit to be classed as "a Daniel come to judgment" to ask the people of Maine to grant him this extraordinary power.

I believe in progress, but I do not believe that progress consists in handing the Governor of this State a "snickersee" and saying to him every time somebody points out a head that should be lopped off, "it is your privilege to swing the 'snickersee' if you have a feeling that the head should drop." That is practically what this measure amounts to.

We have been in the habit of electing human beings to the gubernatorial chair up here in the State of Maine, and I can conceive of instances where a Governor might err in considering the charges made against an official and remove him when there was not good and sufficient reason. Cases of this kind should have the fullest investigation, and a complete airing, before any action is taken, and when this is done the decision should rest not with one man, but with many.

I have as much respect as any man in Maine for those who have held the office of Governor within my memory, but there is not one of these men to whom I would have given the authority asked for in this resolve. Moreover, I do not know of one of them who would have been possessed of a burning desire to obtain such authority. They were jealous of the good name of the Pine Tree State, eager to serve it to the best of their ability, and willing to do all that lay within their power to keep up with the procession of sister commonwealths that had "progress" for their watchword, but they never suggested that they themselves be Governors in name, but Czars in reality.

I have the profoundest respect and admiration for the young man who now occupies the most exalted position in the State within the gift of the electorate. I do not question his sincerity in asking that he be given the power to remove sheriffs who are not performing their duties, but at the same time I cannot conscientiously support him in this request, and I believe that it should be denied. And finally, if the voters next September

decide that the right of suffrage shall be extended to the women, we shall have nothing but good sheriffs ever after, and the authority asked will be something like a beautiful piece of bric-a-brac lying around on a parlor shelf—something nice to look at and talk about, but of no earthly use to the possessor. (Applause)

Mr. BUZZELL of Belfast: Mr. Speaker, I feel that some of us have not read all of this act. We seem to talk about one man, the Governor of the State of Maine, removing a sheriff. I want to read Section 10 of this act, and see what conclusion we can candidly arrive at then.

"Section 10. Sheriffs shall be elected by the people in their respective counties, by a plurality of the votes given in on the second Monday of September, and shall hold their office for two years from the first day of January next after their election, unless duly removed as hereinafter provided. Whenever the Governor and Council, upon complaint, due notice and hearing, shall find that a sheriff is not faithfully or efficiently performing any duty imposed upon him by law, the Governor may remove such sheriff from office."

Now, gentlemen, there is to be a finding from the lips and from the judgment of those seven members of that Council, and I submit to you that they are good men, that they are wise men. That they are carefully selected by their constituents. Now, it has got to be the judgment of so many, not the Governor alone; and do you suppose for one minute that the Governor of the State of Maine, even as good a man as he is, supposing that he should arrive at the conclusion that a man ought to be removed,—do you suppose that he could control and influence the minds and judgment of all those men? Not for one moment. They are all men of affairs; they are men that have their minds, they depend on their judgment, and there would have to be a majority, at least five of them, to come to that finding. Now I for one am always willing to let the majority rule. I feel about this proposition that it is safe to throw

this into the hands of the people, though it may be talked by one party one way if they like and by the other party the other way if they like; and then I am willing to abide by the decision of the people of the State of Maine—by their finding next September. (Applause.)

Mr. HARMAN of Stonington: Mr. Speaker, everybody voting for this amendment place themselves on record in favor of nullifying the elective power of the people of the State of Maine. It is unprogressive, undemocratic and un-American. I am opposed to the principle of the matter. The Governor of the State of Maine had the power from 1820 to 1855 of removing sheriffs. Never in all that time was one sheriff removed, or any attempt to remove a sheriff, for the non-enforcement of his duties. In 1909, I had the honor of being a member of this House. The Sturgis law at that time became very obnoxious. The Legislature attempted to replace that by the power to remove sheriffs, which was promptly defeated in both the House and the Senate. I had the honor of being a member of this legislature in 1913. During that session, there came up for impeachment a number of sheriffs. Those sheriffs who came up for impeachment were all impeached. I voted in favor of impeachment in every case. I was fully convinced that there had been a flagrant misuse of their power and that they had violated their oath of office. The Governor replaced those sheriffs, and no one claims that they ever gave any better enforcement than the old sheriffs after they had been in office three or four weeks. Therefore, I claim it is no use to remove sheriffs and appoint new ones in their place, for I claim that you can only get a cheap fellow to take the place of a sheriff who has been removed. I do not claim that the present Governor, if given this power, would misuse it; but other governors will be in office in the future and they may make bad use of this power. They might single a sheriff out for removal for some very slight offence, and we might find ourselves in this position: If a Dem-

ocratic governor was in the chair, he might in a very short time remove every Republican sheriff and replace them with Democratic sheriffs, or the reverse might take place if a Republican governor was in power. If you are going to give the Governor this power, I believe he should be given the power to appoint, and then he could be held wholly responsible for the actions of the sheriffs of the State. A recall power would be much preferred to the removal of the sheriffs. I cannot see where there is any call for this power. The Democratic House in Washington has given us a "bone-dry" law which will go into effect July first, and no one claims that any liquor can be smuggled into the State of Maine under this law. Gentlemen, I trust this resolve will not have a passage.

Mr. GOLDTHWAIT of Biddeford: Mr. Speaker, I rise to raise my voice in opposition to this measure upon this ground: That it is a direct blow to local self-government. There is only one thing about the whole situation that I am surprised at, and that is that it does not have an emergency clause attached to it.

Mr. BOMAN of Vinalhaven: Mr. Speaker and Gentlemen of the House: I wish in a few words to define my position in regard to this measure in order that I may not be charged with inconsistency. On general principles, I am a believer in submitting to the voters all constitutional amendments, but I do not think it should be applied when it takes away the rights conferred by law upon a county, city or town. This constitutional amendment seems to me to differ from other amendments. Sheriffs are elected by the voters in the several counties, and with all due respect to the Governor, he should not have the right to remove an official elected by the people of a certain section of the State. Sheriffs are not the only officials charged with the enforcement of the prohibitory law. Mayors of cities, selectmen of towns, and constables, are equally responsible for non-enforcement of that law. Now, why not apply this amendment to

them also? Mr. Speaker and gentlemen, I do not think we would want our mayor or selectmen, elected by the cities and towns, removed by the Governor. For the above reason I am opposed to the resolve.

Mr. MESSER of Union: Mr. Speaker, I suppose this matter will be decided by a yea and nay vote, and I wish to make my position clear on this matter as a Democrat in registering my vote. If this question did not carry the referendum with it, I should most assuredly vote against this resolve; but I do not understand that if this matter is passed, we place this in the hands of any one man or with the Governor and Council. If it were so, I should be opposed to it. We simply place it in the hands of the people to decide, and I, for one, am perfectly well satisfied and willing to entrust this measure to the hands of my constituents. I had much rather they would settle the matter than to settle it myself. For that reason I shall vote yes.

Mr. MURRAY of Bangor: Mr. Speaker, I move the previous question.

The SPEAKER: Those who are in favor of a vote being taken will please rise.

A sufficient number having arisen, the previous question was ordered.

On motion by Mr. Murray of Bangor it was voted that a yea and nay vote be taken.

The SPEAKER: The clerk will call the roll of names of the members. The Chair will state the question. Resolve proposing an amendment to the Constitution of the State of Maine relative to the tenure of office of sheriffs. The question before the House is the motion of the gentleman from Augusta, Mr. Farrington, that the resolve be finally passed. Those who are in favor of the passage of the resolve, as their names are called will answer yes; those who are opposed will answer no. The clerk will call the roll.

(At this point Mr. Murray of Bangor took the chair.)

YE—Albert, Alden, Allan of Portland, Allen of Sanford, Ames, Anderson, Andrews of Norway, Andrews of Warren, Averill, Babb, Barnes, Baxter, Bonney, Bowman of Detroit, Brackett, Bragdon,

Brewster, Brown, Burbank, Buzzell, Cates, Chaplin of Bridgton, Chaplin of South Portland, Charles, Clark of Harrison, Clarke of Randolph, Clason, Clement, Clifford, Coffin, Cole of Eliot, Cole of Etna, Conary, Crediford, Cummings, Cushman, Daigle of New Canada Pl., Daigle of Wallagrass, Day, Dearth, Dutton, Eaton, Ellis of Gardiner, Ellis of York, Farrington, Fletcher, Flint, Frost, Gannett, Garcelon, Greenlaw, Gurney, Hanson, Hall, Hammond, Hart, Hill, Holley, Holt of Gouldsboro, Hooper, Howard, Hutchins, Jenkins, Jennings, Jordan of Baileyville, Jordan of Cumberland, Knight, Leavitt, Lenfest, Libby, Longley, Lyford, McNally, Merrill, Messer, Morison, Newcomb, Nicholas, O'Connell, Patee, Pendexter, Phillips, Powers, Purington, Ranney, Redman, Rowe, Russell, Ryder, Sisson, Snow of Mars Hill, Speirs, Stearns, Stanley, Stubbs, Tuttle, Wagg, Washburn, Watts, Williams, Wilson—101.

NAY—Berry, Besse, Billings, Bolduc, Boman of Vinalhaven, Boynton, Bussabarger, Corliss, Descoteaux, Dow, Driscoll, Drisko, Emerson, Fleming, Goldthwait, Grant, Harmon, Hartwell, Holt of Skowhegan, Hunt, King, Kneeland, Langley, Largay, Larrabee, Levesque, Meserve, Morin, Murphy, Murray, Nellon, Packard of Newburg, Packard of Rockland, Picher, Reed, Richards, Rounds, Sawyer of Eden, Sawyer of Madison, Snow of Bluehill, Tate, Turner, Watson, Welch—44.

ABSENT—Harris, Holbrook, Lawrence, Lewis, Muttly, Webb—6.

When Mr. Bussabarger's name was reached in the roll call, that gentleman stated as follows:

Mr. Speaker, a decent regard for the comments of mankind prompts me to explain my vote on this measure. Before I entered this honorable body, I gave our Governor my pledge not to play politics against him. I have not and never expect to stoop to such tactics. I believe as firmly as he does in the recall of unfaithful public servants. There are such servants, I believe, in my country; but an examination of the records of the 1913 legislature—a Republican legislature—reveals to me the striking fact that a Republican administration refused to enact a law advocated by the Senator from Cumberland giving the people of Maine the right to recall unfaithful servants. This indicates to my mind that the leaders of the dominant political party in Maine do not care to trust the people; but I believe in the people, even when they fail to see things as I do; and, at this crisis in the affairs of our nation, I am not willing to take power away from

the common people and concentrate it in the hands of a chosen few who might misuse it, as was done a few days ago by a dozen men to bring discredit upon the nation. Wherefore, because I believe the recall of unworthy public servants should be the undisputed right of the people who elect such servants, I am opposed to this bill. Mr. Speaker, I vote no.

(Speaker Bonney resumes the chair.)

The SPEAKER: The Chair will announce the result of the vote. Whole number of members voting, 145. Necessary number of votes to pass the resolve 97. 101 having voted yes, and 44 having voted no, the Chair declares the resolve finally passed.

On motion by Mr. Murray of Bangor, adjourned until nine o'clock tomorrow morning.