

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

Legislative Record

OF THE

Seventy-Sixth Legislature

OF THE

STATE OF MAINE

1913

SENATE.

Thursday, March 6, 1913.

Senate called to order by the President.

Prayer by Rev. Clayton D. Boothby of Augusta.

Journal of previous session read and approved.

Papers from the House disposed of in concurrence.

House Bills in First Reading.

An Act to repeal chapter 199 of the Public Laws of 1911, entitled "An Act to provide for the nomination for party candidates by direct primary."

An Act to provide for the State certification of all teachers of public schools.

An Act to amend chapter 504 of the Private and Special Laws of 1889, incorporating the Otter Creek Bridge Company.

An Act to amend the act which constitutes the police court for the City of Rockland.

An Act to amend the charter of the Rumford Falls Light & Water Co.

An Act to incorporate the Harvey Memorial Crittendon Home.

Resolve in favor of Charles Fogg of Norway.

Resolve in favor of Betsy A. Dyer for State pension.

A communication was received from the office of secretary of State transmitting a list of public acts approved by the Governor and date of approval.

Placed on file.

The following communication was received from the Executive Department:

To the Senate and House of Representatives:

I herewith return bill, "An Act relative to untrue and misleading advertisements," without my approval.

While in full sympathy with legislation against all forms of fraud upon the purchasing public, I am convinced that the bill as enacted is too drastic a departure from the usual type of criminal statutes against fraudulent practices, in that neither fraudulent intent or actual injury to anyone is re-

garded as an element of the crime which is created.

The cases in which criminal intent may be disregarded in the framing of criminal statutes are those in which imperative public necessity in particular instances overrides the comparatively slight risk of the individual engaging in a particular business or avocation, such as the liquor law, the pure food law, the game laws, and similar instances where the acts are per se injurious to the public and public policy requires the citizen to act at his peril. I cannot believe that public policy requires that the business world should be subjected to this hazard of criminal liability for acts which the most honorable and careful man might occasionally commit without harm to anyone. Every statement of fact, however innocently made, and though made with the best and most convincing reasons for believing it to be true, if actually either untrue, "deceptive or misleading," is under the ban, however trivial or harmless, and regardless of any injury to anyone.

None of the expressions "knowingly," "wilfully," "maliciously," "with intent to defraud" or "with intent to deceive," all of which are the basis of the most trivial penal statutes against fraud, are included in this act. The statute is aimed at "untrue and misleading advertisements," such as any publication in newspapers, books, notices, postals, circulars or other printed or written matter.

The American people are pre-eminent in their genius for advertising, and it is a natural instinct for all men having merchandise to sell to represent it in as favorable a light as possible, and those who buy generally believe that they are getting a good trade or they would not purchase. Sometimes after purchasing, merchandise looks different to them than before, and the desire to possess it lessens. How natural then to say they were deceived or misled at the time of purchase. They may have been deceived by the seller, and they may have been deceived by their own judgment. It is hard to overcome natural laws by legislative enactment, es-

pecially those laws which seem to be instinctive in our nature, and it seems to me most dangerous to undertake to regulate or treat instinct by statutory enactment.

Where could a jury be found that would convict, or a court that would impose sentence—which might be one thousand dollars fine or two years imprisonment, or both under this statute—for a publication that might be construed as “misleading”?

There is a popular clamor to regulate everything by statutory law, which is very strongly offset by the popular impression that such laws are not to be enforced, or that they are easily nullified. Such legislation has a tendency to weaken respect for all laws.

If this statute is intended to punish everyone who in the earnestness and enthusiasm of his business might advertise in a way that might be claimed to be “misleading,” the mercantile part of the community, as it seems to me, would be subjected to all sorts of spite prosecutions; and if the act is really intended to be enforced, I should think it would call for the establishment of a new court in every county, and additions to the jail. If on the other hand, the object of this statute is to punish for fraud and deceit in the selling of goods, I would recommend that the statute we already have upon that subject be examined and if not sufficient to cover all possible contingencies which may arise, that such an amendment be introduced as will meet all reasonable demands of the community upon this subject.

(Signed) WILLIAM T. HAINES.
Augusta, March 6, 1913.

The PRESIDENT: The title of the bill is An Act relative to untrue and misleading advertisements.

Under the provisions of Section 2 of Article 4 of the Constitution, the vote whereby this bill was passed to be enacted in the Senate is automatically reconsidered.

The question now is shall this bill become a law notwithstanding the objection of the Governor.

Mr. BAILEY of Penobscot: Mr.

President, I move that the message and bill lie on the table.

The PRESIDENT: The Chair will state that he cannot entertain a motion to lay the bill upon the table, as under the provisions of the Constitution, as the Chair understand them, the Senate must proceed to vote upon this question.

Mr. FLAHERTY of Cumberland: Mr. President, I introduced that bill at the suggestion of the advertising men of Portland. They were at the hearing before the legal affairs committee on that bill, and there were newspaper men here at the hearing to testify in favor of the bill. One was Mr. Dow, president of the Evening Express Company, and Mr. Wish of the Eastern Argus Company, but he had to go away.

There were some features of the bill that did not meet with the approval of the legal affairs committee and a new draft was submitted which I believe struck out the objectionable features, and after due consideration and showing the new draft to people who were interested in the bill, it was decided that it was all right.

This bill went through the different branches of this Legislature and then went to the Governor. He has found something in it that does not meet with his approval. I should like to hear from some of the members of the legal affairs committee in regard to that bill, and perhaps they can enlighten the Senate better than I can.

Mr. MOREY of Androscoggin: Mr. President, the bill does seem to have many objectionable features. As the chairman of the legal affairs committee, Senator Bailey, has asked to have it laid on the table, and the Chair having ruled that the motion is out of order, simply for the purpose of allowing the legal committee an opportunity, if they wish in regard to this matter, to examine into it, I move you that we postpone the consideration of the veto until a day certain, and that I understand under the rules is perfectly permissible.

The PRESIDENT: The Chair will entertain that motion.

Mr. MOREY: Mr. President, I

would inquire through the Chair of Senator Bailey what time he desires to have fixed for the consideration of this matter.

Mr. BAILEY: Mr. President, next Tuesday.

Mr. MOREY: Mr. President, I move that the vote upon the Governor's veto be postponed until Tuesday next. The motion was agreed to.

The following bills, petitions, etc., were presented and referred:

Judiciary.

By Mr. Morey of Androscoggin: Petition of Charles O. Beals and 97 others of Auburn and Lewiston in favor of Senate Bill No. 165 providing for Workmen's Compensation.

By Mr. Patten of Hancock: Petition of N. W. Chancy and 197 others of Eden in favor of Senate Bill No. 165 providing for Workmen's Compensation.

By Mr. Murphy of Cumberland: Petition of James A. O'Rourke and 282 others of Portland in favor of Senate Bill No. 165 providing for Workmen's Compensation.

Education.

By Mr. Allen of Kennebec: Remonstrance of F. C. Drummond and 24 others against any change of method of apportionment of State Common School Funds as recommended by a Legislative Committee to inquire into the same.

By Mr. Dutton of Kennebec: Remonstrance of H. L. Simpson and 25 others against any change of method in apportionment of State Common School Funds as recommended by a Legislative Committee to inquire into the same.

By Mr. Mansfield of Washington: Remonstrance of Rev. John P. Simon and 65 others against Senate Bill No. 386 entitled 'An Act to amend Section 1 of Chapter 15 of the Revised Statutes.'

By Mr. Packard of Knox: Resolution of Knox Pomona Number Three, representing 1000 members in favor of distribution of State School Funds according to aggregate attendance in Common Schools.

Interior Waters.

By Mr. Smith of Penobscot: An Act to amend Section 4 of Chapter 54 of the Revised Statutes, relating to the inspection of Power Boats and Vessels engaged in transporting passengers for hire.

State Lands and Forest Preservation.

By Mr. Clark of York: An Act for the preservation, perpetuation and increase of the Forests of the State of Maine.

By Mr. Smith of Penobscot: An Act in relation to islands belonging to the State.

Public Health.

By Mr. Boynton of Lincoln: An Act additional to Chapter 61 of the Revised Statutes, providing for the correction of errors in the records of births, marriages and deaths

Committee Reports.

Mr. Bailey from the Committee on Legal Affairs on bill an Act to regulate the taking of real estate of private owners for rights of way, reported same "ought not to pass."

Mr. Moulton from the Committee on Agriculture, on bill an Act to forbid the clipping of horses during the winter months, reported same "ought not to pass."

Mr. Moulton from the same Committee on Resolve in favor of the Stock Breeding Association, reported same "ought not to pass."

Mr. Clark from the Committee on Interior Waters, on bill an Act to amend Section 1 of Chapter 94 of the Revised Statutes of Maine, relating to Mills and Mill Dams, reported same "ought not to pass."

Mr. Colby from the same committee, on bill An Act to incorporate the Fish River Log Driving Company, reported same "ought not to pass."

Mr. Burleigh from the committee on public health, on bill An Act to establish public abattoirs in the cities and towns of the State, reported same "ought not to pass."

The reports were accepted.

Mr. Wing from the committee on mercantile affairs and insurance, on bill An Act amending Section 37, Chapter 28 of the Revised Statutes, relating to the pro-

tection of life in buildings used for public purposes, reported same "ought to pass."

Mr. Hastings from the committee on interior waters, on Resolve in aid of navigation on Sebago lake, reported same "ought to pass."

Mr. Reynolds from the committee on State lands and forest preservation, on bill An Act to amend Section 62 of Chapter 7 of the Revised Statutes of 1903, to compel railroads to screen windows of smoking cars, reported same "ought to pass."

The reports were accepted and the several bills and resolves were tables for printing under the joint rules.

Passed to Be Engrossed.

An Act to authorize a union of towns in maintaining town farms.

Resolve in favor of Peter W. Ranco, representative of Penobscot Tribe of Indians.

Resolve in favor of Peter J. Newell, representative of the Passamaquoddy Tribe of Indians.

An Act to incorporate the Pleasant River Gulf Improvement Company.

An Act to amend Section 75, Chapter 10 of the Revised Statutes, relating to the sale of land for taxes in incorporated places.

An Act to incorporate the Waterville Chamber of Commerce.

An Act to extend and enlarge the charter of the Ocean & Northern Railroad Company.

An Act to amend Section 2 of Chapter 303 of the Private and Special Laws of 1905, relating to the Wiscasset bridge.

Resolve in favor of repairing roadway leading from town of Greenville to Lily Bay bridge in county of Piscataquis.

Resolve in favor of the city of Saco for money expended in the investigation of incendiary fires.

Resolve in favor of the city of Waterville for reimbursement for State paupers.

Resolve in favor of building a highway bridge across Crooked river between the towns of Casco and Naples, in the county of Cumberland.

Resolve in relation to the repair of the Wiscasset bridge.

An Act to incorporate the Rockland Public Utilities District.

An Act to amend Chapter 100 of the Private and Special Laws of 1891, as amended by Chapter 506 of the Private and Special Laws of 1903, relating to drains and common sewers in the city of Rockland.

An Act relating to the entry of nolle prosequi in criminal cases. (Tabled by Mr. Packard of Knox and assigned for consideration next Tuesday.)

An Act relating to the jurisdiction of the superior court in the county of Kennebec, and to fix the salary of the judge thereof.

An Act to make valid the organization of the Pepperell Association of Kittery, Maine, under Chapter 57 of the Revised Statutes, in the year of our Lord, one thousand eight hundred ninety-seven.

An Act to amend the charter and rights of the Goodall Worsted Company.

Passed to Be Enacted.

An Act to revive and extend the powers of the Litchfield Electrical Company.

An Act to incorporate the Mount Vernon Water & Electric Company.

An Act to authorize the Kingman Lumber Company to build and maintain piers and booms in Mattawamkeag and Molunkus Rivers.

An Act to repeal the laws providing for a bounty on bears.

An Act to repeal Chapter 337 of the Private and Special Laws of 1825 entitled "An Act for the preservation of fish in Piscataquis river.

An Act to change the name of Hayden Lake, so-called, to Wesserun-sett Lake.

Finally Passed.

Resolve in aid of repairing highway in the town of Benton.

Resolve providing a State pension for Callie Maines.

Resolve providing a State pension for James Lombard.

Resolve providing a State pension for Vinnie E. Saunders.

Resolve providing a State pension for Susan J. Tarr.

Resolve providing a State pension for Henrietta S. Hodgdon.

Resolve for the permanent improvement and repair of the New Kenduskeag Road in the town of Glenburn.

Resolve for aid in building road in the town of Rockport.

Resolve in favor of the town of Whitneyville for extra expense in repairing of bridge.

Resolve for aid in building road in New Canada Plantation.

Resolve in aid of navigation on Sebect Lake.

Resolve for aid in repairing Rockland-Rockport Trunk Line.

Resolve in aid of the educational work of Greeley Institute.

Resolve for money expended by the town of Carthage for maintenance of a free High school.

Resolve to reimburse the town of Nobleboro for money expended for benefit of an insane pauper.

Resolve for the general maintenance and support of the University of Maine.

Resolve in aid of navigation on the Lower Lakes.

Resolve in aid of repairing highway in the town of Trescott.

Resolve in favor of a road in Eliotsville plantation.

Resolve in favor of raising and repairing the bridge over Garland's Brook in the town of Mariaville.

Resolve providing a State pension for Rosa Prentiss.

Resolve providing for additional equipment for and a method of lighting the dormitory of the Eastern State Normal School.

Resolve providing a State pension for Helen B. Hobart.

Resolve providing for a State pension for Bridget Kelly.

Resolve for reimbursement to the town of Talmadge for certain money expended for an insane pauper.

Orders of the Day.

Mr. MAXWELL of Sagadahoc: Mr. President, I move that we reconsider, under suspension of the rules, the vote whereby we referred to the committee on railroads and expresses, Senate Document 15, An Act for the abolishment of grade crossings of railroads.

The motion was agreed to, and on further motion by the same senator, the bill was tabled for printing of a new draft, pending reference.

Mr. MURPHY of Cumberland: Mr.

President, I would like to inquire in regard to the number of this bill.

The PRESIDENT: The Chair will state that the document number of the original bill is Senate No. 15. The new draft has not been printed.

On motion by Mr. Stearns of Oxford, the report of the committee on ways and bridges, on Resolve in favor of the towns of Mexico and Rumford in aid of a free bridge, was taken from the table.

On further motion by the same senator, the report of the committee, "ought not to pass," was accepted in concurrence.

On motion by Mr. Boynton of Lincoln, Senate Document 142, report of the committee on judiciary "ought not to pass," on An Act to amend Chapter 55 of the Private and Special Laws of 1903, as amended by Chapter 12 of the Private and Special Laws of 1909, relating to Squirrel Island Village Corporation, was taken from the table.

On further motion by the same senator, the bill was recommitted to the committee on judiciary.

On motion by Mr. Walker of Somerset, House Document 341, Resolve in favor of the Western State Normal school at Gorham for repairs and permanent improvements, was taken from the table, and on further motion by the same senator, was given its first reading.

On further motion by the same senator, the rules were suspended, and the resolve was given its second reading, and was passed to be engrossed.

On motion by Mr. Hersey of Aroostook, Senate Document 436, An Act to amend Section 93 of Chapter 83 of the Revised Statutes, relating to the time in which actions shall be brought, was taken from the table, and on further motion by the same senator, was referred to the committee on judiciary.

On motion by Mr. Wing of Franklin, Senate Document 51, An Act to provide for the conducting of investigations in animal husbandry by the

Maine Agricultural Experiment Station, was taken from the table.

Mr. WING: Mr. President, this act provides for an annual appropriation of \$5000. I have talked with members of the committee and with others interested in the matter and they advise me that it was not their intention to make a permanent appropriation.

I move you that the Act be recommended to the committee on agriculture.

The motion was agreed to

On motion by Mr. Murphy of Cumberland, Senate Document 388, An Act to further enable the Sebago Lake, Songo River & Bay of Naples Steamboat Company to construct and maintain wharves along its route in the county of Cumberland, was taken from the table, and on further motion by the same senator, was given its first reading and tomorrow morning assigned for its second reading.

On motion by the same senator, House Document 29, Resolve for the improvement of the State park on the easterly side of State street, was taken from the table.

On further motion by the same senator, the resolve was given its second

reading and was passed to be engrossed.

The PRESIDENT: The Chair desires to thank the chairmen of the committees for their co-operation in the committee reports, and to urge upon their consideration, today, the special importance of getting in, tomorrow, all the reports possible from the committees, especially favorable reports, so that the documents may be printed before next week.

The Chair suggests, if it proves impossible to get reports in on matters already acted upon in the ordinary course of business, that they be offered, tomorrow morning, under unanimous consent, so that the documents may be printed before next week.

On motion by Mr. Murphy of Cumberland, Senate Document 409, An Act in relation to Boards of Registration of voters, was taken from the table.

On further motion by the same senator, the bill was given its second reading and was passed to be engrossed.

On motion by Mr. Morey of Androscoggin,

Adjourned until tomorrow morning, at half past nine o'clock.