

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

Eighty-Eighth Legislature

OF THE

STATE OF MAINE

1937

KENNEBEC JOURNAL COMPANY
AUGUSTA, MAINE

SENATE

Tuesday, February 9, 1937.

Senate called to order by the President.

Prayer by the Reverend Raymond L. Hart of Gardiner.

Journal of Thursday, February 4, 1937 read and approved.

Order

(Out of Order)

Mr. Fernald of Waldo, out of order and under suspension of the rules, presented the following Memorial and moved its adoption:

Memorial

WHEREAS, We the Senate and House of Representatives of the State of Maine believe that the Constitution of the United States is the foundation of our liberty and that it should be amended only through the direct methods provided therein, openly and fairly by the submission of Amendments to the Legislatures or Conventions of the forty-eight States of the Union after a nation-wide discussion of the changes involved; and

WHEREAS, We believe that the continuation of our representative democracy and constitutional government depends upon the complete separation and independence of the three branches of government, to wit,—Legislative, Executive, and Judicial; and

WHEREAS, We regard the proposed changes in the laws affecting the Supreme Court of the United States and the Federal Judiciary now advocated by the President of the United States as a covert attack upon the Constitution of the Country whereby certain laws, the principles of which heretofore held to be in conflict with that great document, later may be enacted into the law by indirection through the control of the Court by the Chief Executive; now, therefore, be it

RESOLVED: That we, the Senate and House of Representatives of the Sovereign State of Maine, representing the People of Maine, urge you the 75th Congress of the United States to uphold the Constitution and to protect the Supreme Court

of the United States and the Federal Judiciary from Legislative and Executive Interference and control. Only by your so doing will the liberties of our citizens be safeguarded and the perils of personal government and dictatorship abhorrent to all free men and women, be avoided; and be it further

RESOLVED: That a joint select committee of three on the part of the Senate and three on the part of the House including the President of the Senate, and the Speaker of the House, be appointed to deliver personally and in hand to the Congress of the United States, a duly authenticated copy hereof attested by the Secretary of State.

Mr. CORRIGAN of Washington: Mr. President, I have had no previous knowledge that this matter was coming before the Senate today and I would like to say at this time that so far as I am concerned this appears to me to be an attempt to interfere with the Supreme Court of the United States. I think that every thinking man and every citizen who is not influenced by propaganda in favor of special interests realizes that the Constitution of the United States will undoubtedly stand just as it is. I do not believe it is the intention of the President of the United States to change it. But there are those in the Country, there are special interests, who have been perfectly satisfied with the Constitution of the United States and with the Supreme Court of the United States as long as decisions were being rendered in favor of these special interests which have driven the American people almost into desperation, and as one member here today I wish to protest against this proposed action.

I think that the Congress of the United States is fully qualified, and that the President of the United States and his advisors are fully qualified, to make any changes that might be necessary or advisable, and I wish to go on record in opposition to this motion.

Mr. WILLEY of Cumberland: Mr. President, no question can possibly be of greater concern to the free men and women of Maine and the free men and women of America than that which today threatens the very soul and fibre of our democracy.

Our National Congress is now

called upon to make a decision no less fateful than that which confronted Abraham Lincoln. Again we are testing whether this or any nation so conceived and so dedicated can long endure.

President Roosevelt's proposal to increase the membership of the Supreme Court is a part of his obvious plan to remake the Constitution without submitting the proposed changes to the people. The pretext that more and younger judges are needed on the Supreme Court but thinly disguises his desires to pack the Court and to make it subservient to his personal will.

The issue, in reality, is not the Supreme Court but rather, indeed, the issue is the attempt to fasten upon the American people some sort of a system of personal government in place of a government of laws.

The hills and valleys of America, the battlefields of France, are drenched in the blood of American soldiers, both living and dead, to establish freedom and liberty. It was the spirit of liberty which made our American civilization. That spirit made the Constitution. If that spirit is gone the Constitution is gone, even though its words remain.

The Constitution of the United States is the foundation of our freedom and the foundation of our liberty. Today, the hand of our President, which should guard and defend the rights guaranteed by our Constitution, which should be guarding and defending the rights of our free men and women, is outstretched, grasping for power, and for more power, and attempting to usurp not only the legislative power which was surrendered to him by a cowardly and spineless Congress, but in addition thereto, the judicial branch of our national government.

If the President becomes armed with this power, when his will and his mind are substituted for the free will and the free mind of both the legislative and judicial branches of our government, he becomes dictator, and free men are no more.

No progressive mind will feel that the Constitution should not be changed to meet the need of changing natural life. But, by the grace of God, if that need be let

it be done by the people as intended by the Constitution, for it was for the people that it was made, it is the people who carry the burden, it is the people who make its moral fiber.

Let us consider for a moment a few words in Washington's Farewell Address, an address as fresh and up to date, in many respects, as if it had been written yesterday. His views will always be relevant so long as Democracy is relevant. I quote: "If in the opinion of the people the distribution, the modification of the constitution powers be in any particular wrong, let it be corrected by an amendment in the way of constitutional delegates, but let there be no change by usurpation, either by Congress or the Executive or the Courts, or by all of them combined."

Let these words of Washington, members of this Senate, let these words, which should be the words of every free man and of every free woman of America, resound in your ears. This is no hour to pay heed to faint hearts. It is the hour in which to cry out against this tyranny, or forever you will be silenced.

Mr. President, I move that this Memorial be adopted.

Mr. FORTIN of Androscoggin: Mr. President, being a member of the minority party, representing the party of which the President of the United States is a member, and being totally unprepared to answer or to defend the President, I ask, I beg, that we of the minority be given an opportunity to prepare an answer, the same opportunity that those who have presented this order have had to think it over and prepare the written speeches on the same.

In consideration of the minority I ask you, in all fairness, that this Memorial be laid upon the table, and I will promise to take it from the table tomorrow morning.

The PRESIDENT: The Senator from Androscoggin, Senator Fortin, moves that this Memorial be laid upon the table. Under the rules of the Senate the motion is not debatable and takes precedence over the main question, which is whether or not the order shall receive passage. To repeat, the question is upon the tabling of the Memorial.

Mr. FERNALD of Waldo: Mr. President, I ask for a division on the question of tabling.

A division of the Senate was had. Four Senators having voted in the affirmative, and twenty-one opposed, the motion to table did not prevail.

The **PRESIDENT**: The question before the Senate is now on the motion of the Senator from Waldo, Senator Fernald, that the Memorial be adopted. Is the Senate ready for the question?

A division of the Senate was had. Twenty-three having voted in the affirmative, and four opposed, the Memorial was adopted.

Mr. **WILLEY** of Cumberland: Mr. President, I move that the Memorial be transmitted forthwith to the Hall of the House for the consideration of that body.

The **PRESIDENT**: Under the rules of the Senate the Memorial automatically will go to the House of Representatives for such action as that body may see fit to take.

Papers from the House disposed of in concurrence.

From the House: Bill, "An Act Relating to Motions for Directed Verdicts". (L. D. 217)

Bill, "An Act Relating to Impachment of Witnesses". (L. D. 218)

Bill, "An Act Relating to Sentences of Felons". (L. D. 265)

Bill, "An Act Relating to Prevention of Crimes". (L. D. 220)

Bill, "An Act Requiring Witnesses to be Seated While Testifying". (L. D. 306)

In the House, these several bills were referred to the Committee on Judiciary.

In the Senate, on motion by Mr. Fernald of Waldo, the bills were laid upon the table pending reference.

From the House: Bill, "An Act to Incorporate Great Indian Stream Log Driving Company." (L. D. 271)

Bill, "An Act to Incorporate Black Stream Log Driving Company." (L. D. 272)

In the House, these two bills were referred to the Committee on Legal Affairs.

In the Senate, on motion by Miss Martin of Penobscot, the bills were laid upon the table pending reference.

From the House: "Resolve in Favor of the Waldo and Penobscot Agricultural Society." (L. D. 301)

In the House, referred to the Committee on Appropriations and Financial Affairs.

In the Senate, on motion by Mr. Fernald of Waldo the resolve was laid upon the table pending reference.

The following bills, resolves, etc., were received and on recommendation by the Committee on Reference of Bills were referred to the following committees:

Aeronautics and Radio Control

Mr. Willey of Cumberland presented bill "An Act to Create the State Aeronautical Commission." (S. P. 217)

(1000 copies ordered printed.)

Sent down for concurrence.

Appropriations and Financial Affairs

Miss Martin of Penobscot presented "Resolve in Favor of the State Park Commission." (S. P. 218)

The same Senator presented "Resolve in Favor of Appropriating Money for the Maintenance, Supervision, Use and Development of State Parks." (S. P. 219)

(500 copies of each ordered printed.)

Sent down for concurrence.

Claims

Mr. Burkett of Knox presented "Resolve in Favor of Lawrence I. Morton of East Union." (S. P. 221)

Mr. Hussey of Kennebec presented "Resolve in Favor of Ruel Packard of Augusta." (S. P. 220)

The same Senator presented "Resolve in Favor of Percy Jones of Augusta." (S. P. 222)

The same Senator presented "Resolve in Favor of Fred Thompson of Augusta." (S. P. 223)

Sent down for concurrence.

Education

Mr. Fernald of Waldo presented "Petition of Mrs. Cecil Clay and 573 others in Favor of Educational Bill." (L. D. 112) (S. P. 224)

Sent down for concurrence.

Inland Fisheries and Game

Mr. Hussey of Kennebec presented "Resolve Relative to Fishing in Great and Long Ponds." (S. P. 225)

The same Senator presented "Resolve Relative to Fishing in Great Pond." (S. P. 226)

Mr. Worthen of Penobscot presented "Resolve Relative to Fur-Bearing Animals on Plymouth Pond." (S. P. 227)

Mr. Beckett of Washington presented "Resolve Relating to Fishing in Grand Lake." (S. P. 228)

Mr. Hussey of Kennebec presented "Resolve for Screening Three Cornered Pond." (S. P. 229)

Mr. Worthen of Penobscot presented bill "An Act Relating to Open Season on Fur-Bearing Animals." (S. P. 232)

Miss Martin of Penobscot presented bill "An Act Relating to Junior Guides." (S. P. 230)

Miss Laughlin of Cumberland presented bill "An Act Relating to the Establishing of a Game Preserve and Bird Sanctuary." (S. P. 231)

(500 copies of each ordered printed.)

Sent down for concurrence.

Judiciary

Mr. Spear of Cumberland presented "Memorial to Colonel Charles Lindbergh Inviting Him to Establish His Home in Maine." (S. P. 233)

The same Senator presented "Memorial to the Congress of the United States Urging It to Strengthen the Laws Relating to Kidnaping." (S. P. 234)

Mr. Mallar of Androscoggin presented bill "An Act Relating to the Powers of the Clerk of the Municipal Court of Lewiston." (S. P. 235)

Mr. Osgood of Oxford presented bill "An Act Relating to the Registration of Motor Vehicles by Non-Residents." (S. P. 236)

Mr. Marden of Kennebec presented bill "An Act Relating to Motor Vehicles." (S. P. 237)

Mr. Friend of Somerset presented bill "An Act to Amend and Extend the Charter of Kennebec Reservoir Company." (S. P. 238)

(On motion by Mr. Friend of Somerset, tabled pending reference.)

Mr. Burns of Aroostook presented bill "An Act Relating to the Practice of Law." (S. P. 240)

The same Senator presented bill "An Act as to the Importation of Intoxicating Liquors Other Than Those Consigned to Wholesale Malt Liquor Licensees." (S. P. 241)

The same Senator presented bill "An Act as to the Importation of Intoxicating Liquors Other Than Those Consigned to Wholesale Malt Liquor Licensees." (S. P. 242)

The same Senator presented bill "An Act Relating to Licenses for Importers of Malt Liquors." (S. P. 243)

The same Senator presented bill "An Act Relating to Licenses of Importers of Malt Liquors." (S. P. 244)

Mr. Sewall of Sagadahoc presented bill "An Act Relating to Enforcement of Tax Liens." (S. P. 245)

The same Senator presented bill "An Act Relating to the Bath Municipal Court." (S. P. 246)

(500 of each ordered printed.)

Mr. Wentworth of York presented bill "An Act Relating to Uniforms for Deputy Sheriffs." (S. P. 239)

(1000 copies ordered printed.)

Sent down for concurrence.

Legal Affairs

Mr. Graves of Hancock presented bill "An Act Confirming the Action of the Town of Cranberry Isles in Taking Over a Certain Wharf and Authorizing the Raising and Expending of Moneys for Maintenance of Same." (S. P. 247)

Mr. Goudy of Cumberland presented bill "An Act to Authorize the Maine Automobile Association to Change Its Form of Organization." (S. P. 248)

(500 copies of each ordered printed.)

Sent down for concurrence.

Mr. Marden of Kennebec presented bill "An Act Relating to the Charter of the City of Waterville." (S. P. 249)

(On motion by Mr. Marden of Kennebec, tabled pending reference.)

Mr. Hussey of Kennebec presented bill "An Act to Provide for the Appointment of a Board of Commissioners of Police for the City of Augusta." (S. P. 250)

(1000 copies of each ordered printed.)

Sent down for concurrence.

Public Utilities

Mr. Marden of Kennebec presented bill "An Act to Extend the Charter of the Vassalboro Water Company." (S. P. 251)

Sent down for concurrence.

The same Senator presented bill "An Act to Extend the Charter of the Patten Water Power Company." (S. P. 252)

Mr. Graves of Hancock presented bill "An Act Relating to Establishment of Temporary Crossings by Railroad Companies." (S. P. 253)

The same Senator presented bill "An Act Relating to Examiners of

the Public Utilities Commission." (S. P. 254)

Mr. Goudy of Cumberland presented bill "An Act Relating to Appointment of Commissioners; Tenure of Office; Vacancies; Clerks and Their Duties; Chief Inspector of Utilities; Office and Equipment." (S. P. 255)

The same Senator presented bill "An Act Relating to Grade Crossings." (S. P. 256)

(500 copies of each ordered printed.)

Sent down for concurrence.

Salaries and Fees

Mr. Maliar of Androscoggin presented bill "An Act Relating to Terms and Salaries of City of Lewiston Officials." (S. P. 257)

(1000 copies ordered printed.)

Sent down for concurrence.

State Lands and Forest Preservation

Mr. Potter of Penobscot presented "Resolve Defining Rights of Forest Commissioner." (S. P. 258)

(500 copies ordered printed.)

Sent down for concurrence.

Ways and Bridges

Mr. Blanchard of Franklin presented "Resolve in Favor of Perkins Plantation." (S. P. 259)

Mr. Kennedy of Hancock presented "Resolve in Favor of the Town of Penobscot." (S. P. 260)

500 copies ordered printed.)

Sent down for concurrence.

House Bills in the First Reading

"An Act Changing the Name of Oak Grove Seminary to Oak Grove School." (H. P. 68) (L. D. 285)

Reports of Committees

Mr. Spear from the Committee on Salaries and Fees on "Resolve in Favor of Harry C. Libby, of Portland," (S. P. 63) (L. D. 43) reported that the same ought to pass.

Which report was read and accepted, the resolve read once and tomorrow assigned for second reading.

The same Senator from the same Committee on Bill, "An Act Relative to Compensation of Reporter of Decisions," (S. P. 43) (L. D. 7) reported the same in a new draft (S. P. 261) under the same title and that it ought to pass.

Which report was read and accepted, and the bill laid upon the table pending printing under the joint rules.

Passed to be Engrossed

"An Act to Enlarge the Powers of the Trustees of Wilton Academy." (S. P. 78) (L. D. 80)

"An Act to Empower the Town of Wilton to Raise Money for the Enlarging and Remodeling of the Building Known as Wilton Academy." (S. P. 79) (L. D. 79)

"An Act Authorizing the City of Bangor to Finance Municipal Reconstruction." (S. P. 112) (L. D. 124)

"An Act Amending the Borrowing Provisions of the Charter of the City of Bangor." (S. P. 113) (L. D. 125)

Orders of the Day

On motion by Mr. Fernald of Waldo, the Senate voted to reconsider its action taken earlier in today's session whereby "Memorial to Colonel Charles Lindbergh Inviting Him to Establish His Home in Maine" (S. P. 233) was referred to the Committee on Judiciary; and on further motion by the same Senator the Memorial was laid upon the table pending reference.

On motion by Mr. Fernald of Waldo, the Senate voted to reconsider its action taken earlier in today's session whereby "Memorial to the Congress of the United States Urging It To Strengthen the Laws Relating to Kidnapping" (S. P. 234) was referred to the Committee on Judiciary; and on further motion by the same Senator the Memorial was laid upon the table pending reference.

On motion by Mr. Maliar of Androscoggin, the Senate voted to reconsider its action taken earlier in today's session whereby "An Act Relating to Terms and Salaries of City of Lewiston Officials" (S. P. 257) was referred to the Committee on Salaries and Fees.

Mr. MALIAR of Androscoggin: Mr. President, I move that Senate Paper 257 be referred to the Committee on Legal Affairs.

Thereupon, on motion by Mr. Fernald of Waldo, the bill was laid upon the table pending the motion to refer to the Committee on Legal Affairs.

On motion by Mr. Friend of Somerset, the Senate voted to take from the table "An Act Relative to

Keeping in Captivity Animals Wild by Nature" (L. D. 45) tabled by that Senator on February 3rd, pending second reading; and that Senator yielded to the Senator from Penobscot Senator Martin.

Thereupon, Miss Martin of Penobscot offered the following amendment and moved its adoption:—

"Senate Amendment 'A' to Senate Paper 66, Legislative Document 45, entitled 'An Act Relative to Keeping in Captivity Animals Wild by Nature'. Amend said bill by adding thereto at the end of the first

paragraph, after the word 'circus' the words, 'or agricultural fair.'"

The Amendment was adopted, and on further motion by the same Senator the bill as amended by Senate Amendment "A" was passed to be engrossed.

The PRESIDENT: Is there any further business to come before the Senate?

On motion by Miss Martin of Penobscot

Adjourned until tomorrow morning at ten o'clock.