

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

Friday, March 19, 1937.

Senate called to order by the President.

Prayer by the Reverend W. P. Bradford of Hallowell.

Journal of yesterday, read and approved.

Order

(Out of Order)

On motion by Mr. Fernald of Waldo, out of order and under suspension of the rules, it was

Ordered, the House concurring, that when the Senate and House adjourn, they adjourn to meet Tuesday, March 23rd, 1937, at eleven o'clock in the forenoon. (S. P. 452)

Sent down for concurrence.

Subsequently, the foregoing order was returned from the House, read and passed in concurrence.

Papers from the House disposed of in concurrence.

From the House:

Joint Order recalling (H. P. 1059) (L. D. 377) bill "An Act to Incorporate the City of Lewiston," from the Committee on Legal Affairs to the House. (H. P. 1736)

Comes from the House, read and passed.

In the Senate, read and passed in concurrence.

House Bills in First Reading

"An Act Relating to the Horning of Deer" (H. P. 1494) (L. D. 549).

"An Act Relative to Importation of Wild Birds and Game" (H. P. 1452) (L. D. 521).

"An Act Relating to Wild Animals in Captivity" (H. P. 1448) (L. D. 636).

From the House:

The Committee on Judiciary on "Resolve Proposing an Amendment to the Constitution Relating to Signers on Referendum Petitions", (H. P. 1636) (L. D. 775) reported that the same ought not to pass.

Comes from the House, bill substituted for the report, and passed to be engrossed as amended by House Amendment "A".

In the Senate:

Miss LAUGHLIN of Cumberland: Mr. President, I move that we accept the report "Ought Not to Pass" of the Judiciary Committee in non-concurrence and that the report

and the amendment lie upon the table, and further, that the amendment be printed.

Miss MARTIN of Penobscot: Mr. President, would that mean that we would have to reconsider the "Ought Not to Pass" report if we saw this printed amendment and decided that we wanted to adopt it? I would table that pending the printing.

Miss LAUGHLIN: Mr. President, I made the motion to table, I believe.

Thereupon, the report together with the bill and the amendment were laid upon the table pending the motion to accept the "Ought Not to Pass" report of the committee in non-concurrence.

The PRESIDENT: While the matter is on the table the House Amendment will be printed.

From the House:

The Committee on Inland Fisheries and Game on "Resolve Relating to Fishing in Certain Somerset County Waters" (H. P. 1074) reported the same in a new draft (H. P. 1722) (L. D. 837) under the same title, and that it ought to pass.

Comes from the House, recommended to the Committee on Inland Fisheries and Game.

In the Senate, recommended to the Committee on Inland Fisheries and Game in concurrence.

From the House:

The Committee on Legal Affairs on bill "An Act to Regulate the Sale, Exchange, Possession and Distribution of Merchandise Manufactured in Whole or in Part by Convicts or Prisoners" (H. P. 1528) (L. D. 678) reported that the same ought to pass.

Comes from the House, recommended to the Committee on Legal Affairs.

In the Senate, recommended to the Committee on Legal Affairs in concurrence.

From the House:

Bill, "An Act Relating to Revocation of Fish and Game Licenses" (S. P. 434) (L. D. 829).

(In the Senate, on March 16th, passed to be engrossed.)

Comes from the House, passed to be engrossed, as amended by House Amendment "A".

In the Senate, under suspension of the rules, the Senate voted to reconsider its former action, taken

on March 16th, whereby the bill was passed to be engrossed. House Amendment "A" was read and adopted in concurrence and the bill as amended by House Amendment "A" was passed to be engrossed in concurrence.

Order

On motion by Mr. Walsh of Androscoggin, it was

Ordered, the House concurring, that the Committee on Legal Affairs be requested to return to the Senate, bill "An Act Relating to the Police Department of the City of Lewiston," (S. P. 397) (L. D. 735) for further consideration. (S. P. 453)

Which was read and passed.
Sent down for concurrence.

Reports of Committees

Mr. Marden from the Committee on Legal Affairs on bill "An Act to Incorporate the Port of Calais," (S. P. 343) (L. D. 612) reported that the same ought not to pass.

The same Senator from the same Committee on bill "An Act Relating to Legalizing Amateur Sports and Games Under Certain Conditions on Sunday," (S. P. 284) (L. D. 492) reported that the same ought not to pass.

Miss Martin from the same Committee on bill "An Act Relating to the Duty of Physicians to Report Gun Shot Wounds," (S. P. 396) (L. D. 737) reported that the same ought not to pass.

Which reports were read and accepted.

Sent down for concurrence.

Mr. Tompkins from the Committee on Library on "Resolve for the Purchase of 'Maine Digest, Fact and Law,' by Bartlett and Stern," (S. P. 131) reported that the same ought not to pass.

(On motion by Miss Martin of Penobscot, the resolve was tabled pending acceptance of the report.)

Mr. Graves from the Committee on Public Utilities on bill "An Act to Extend the Charter of the Vanceboro Water Company," (S. P. 251) reported that the same ought to pass.

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

Mr. Willey from the same Com-

mittee on bill "An Act to Extend the Charter of the Patten Water Power Company," (S. P. 252) (L. D. 394) reported that the same ought to pass.

Mr. Marden from the Committee on Legal Affairs on 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 Monneys for Maintenance of Same," (S. P. 247) (L. D. 383) reported that the same ought to pass.

The same Senator from the Committee on Library on bill "An Act Relating to Vital Statistics," (S. P. 189) (L. D. 288) reported that the same ought to pass.

Which reports were read and accepted, the bills read once and Tuesday next assigned for second reading.

The majority of the Committee on Legal Affairs on bill "An Act Relating to Amateur Sports on Sunday" (S. P. 267) (L. D. 446) reported that the same ought to pass.

(Signed)

Goudy of Cumberland
Payson of Portland
Cole of Kittery
Pike of Bridgton
Chase of Baring
Paul of Portland
Dow of Portland

The minority of the same Committee on the same subject reported that the same ought not to pass.

(Signed)

Martin of Penobscot
Marden of Kennebec
Higgins of Ellsworth

Mr. GOUDY of Cumberland: Mr. President, I would like to move the acceptance of the majority report but inasmuch as there is some discussion on the matter and since the Senator from Kennebec, Senator Marden, who signed the minority report is not present, for the moment, in the Senate, out of deference to him I would like to have the matter held in abeyance until he returns.

Thereupon, the bill and the report were laid upon the table pending the motion to accept the majority report "Ought to Pass".

The majority of the Committee on Military Affairs on "Resolve to Provide for the Completion of the Payment of a Bonus to Maine Soldiers and Sailors in the War with

Spain," (S. P. 52) (L. D. 15) reported that the same ought not to pass.

(Signed)

Worthen of Penobscot
Marden of Kennebec
Dow of Jay
Sawyer of Garland
Packard of Houlton
Owen of Bath

The minority of the same Committee on the same subject reported that the same ought to pass.

(Signed)

Fortin of Androscoggin
Buker of Bath
Larsen of Waterville
Batchelder of Parsonsfield

On motion by Mr. Worthen of Penobscot, the majority report, "Ought Not to Pass," was accepted. Sent down for concurrence.

Passed to be Engrossed

Bill "An Act Regulating the Labeling of Fresh Eggs for Sale." (H. P. 64) (L. D. 28)

Bill "An Act Relating to Hunting and Trapping." (H. P. 188) (L. D. 60)

Bill "An Act Relating to Equity Powers." (H. P. 617) (L. D. 183)

Bill "An Act Relating to Prepayment of Excise Tax on Motor Vehicles." (H. P. 877) (L. D. 279)

(On motion by Mr. Ashby of Aroostook, the bill was tabled pending second reading.)

Bill "An Act Relative to Trust Estates." (H. P. 1048) (L. D. 335)

Bill "An Act Relating to Registration of Voters." (H. P. 1050) (L. D. 336)

Bill "An Act to Define, Regulate and License Real Estate Brokers and Real Estate Salesmen; to Create the Maine Real Estate Commission." (H. P. 1102) (L. D. 318)

Bill "An Act Relating to Civil Actions in Court." (H. P. 1287) (L. D. 458)

Bill "An Act Relating to the Registration of House Trailers and Camp Trailers." (H. P. 1439) (L. D. 633)

Bill "An Act Relating to Pauper Settlement." (H. P. 1542) (L. D. 569)

Bill "An Act Granting Charles H. Scott the Right to Maintain a Ferry Across Eggemoggin Reach in Hancock County." (H. P. 1720) (L. D. 836)

Which bills were read a second time and passed to be engrossed in concurrence.

Passed to be Enacted

"An Act Relative to Junior Non-resident Fishing Licenses." (S. P. 145) (L. D. 172)

"An Act to Authorize the Maine Automobile Association to Change its Form of Organization." (S. P. 248) (L. D. 399)

"An Act Relating to Fishing in Pocumpus Lake and Western Grand Lake, in Washington County." (H. P. 853) (L. D. 303)

"An Act Relative to Sale and Transportation of Wild Hares and Rabbits." (H. P. 1078) (L. D. 343)

"An Act Relative to the Sale of Deer." (H. P. 1082) (L. D. 409)

"An Act to Annex Hurricane Island to the Town of Vinalhaven." (H. P. 1128) (L. D. 371)

"An Act Relative to Game Preserve in the Towns of Limington and Hollis in York County." (H. P. 1270) (L. D. 457)

Bill "An Act Relative to Game Preserve in York County." (H. P. 1500) (L. D. 608)

Bill "An Act Relating to Commitment of the Insane." (H. P. 1533) (L. D. 665)

Orders of the Day

On motion by Mr. Willey of Cumberland, the Senate voted to take from the table bill, An Act to Repeal "An Act to Tax Games of Skill" (H. P. 498) (L. D. 147), tabled by that Senator on February 10th pending reference in concurrence; and on further motion by the same Senator, the bill was referred to the Committee on Taxation, in concurrence.

On motion by Mr. Ashby of Aroostook, the Senate voted to take from the table bill, An Act to Require the Use of Safety Glass on Motor Vehicles (H. P. 1095) (L. D. 375), tabled by that Senator on March 18th pending second reading; and on further motion by the same Senator, House Amendment "A" was read and adopted in concurrence, and the bill was given its second reading and passed to be engrossed as amended by House Amendment "A", in concurrence.

On motion by Mr. Lewis of Lincoln, the Senate voted to take from the table, House Report from the Committee on Sea and Shore Fisheries "Ought Not to Pass" on Resolve Regulating Fishing in Flanders Bay (H. P. 309) (L. D. 97), tabled by that Senator on March 11th

pending acceptance of the report in concurrence; and on further motion by the same Senator, the "Ought Not To Pass" report was accepted in concurrence.

On motion by Miss Laughlin of Cumberland, the Senate voted to take from the table, House Report from the Committee on Judiciary "Ought to Pass in New Draft" (H. P. 1656) under the same title, on bill, An Act to Provide for Aid to Dependent Children (H. P. 189) (L. D. 66), tabled by that Senator on March 18th pending acceptance of the report in concurrence.

Miss LAUGHLIN of Cumberland: Mr. President, I was under the impression that there was a House Amendment to this bill and that is why I tabled it.

The PRESIDENT: The Chair will state that there are two amendments to the bill, House Amendment "A" and House Amendment "B".

Thereupon, on motion by Miss Laughlin of Cumberland the "Ought to Pass in New Draft" report of the committee was accepted in concurrence.

Miss LAUGHLIN: Mr. President, I have looked up the amendment and I have no objection to it and therefore I move the adoption of House Amendment "A".

House Amendment "A" was read.

Miss LAUGHLIN: Mr. President, the only change made by House Amendment "A" from the new draft as reported by the committee is the last sentence providing that in the case of dependent children of war veterans the application be made direct to the Department of Health and Welfare. The reason for that, as I am informed by the Department, was that certain representatives of the town thought that they should not be called upon as a town with reference to the dependents of war veterans and thereupon that amendment was added. That is the only difference that the amendment makes in the new draft.

Thereupon, House Amendment "A" was adopted in concurrence and the bill was given its first reading.

House Amendment "B" was then read and, on further motion by the same Senator, was adopted in concurrence; and the bill as amended by House Amendment "A" and House Amendment "B" was next Tuesday assigned for second reading.

On motion by Mr. Goudy of Cumberland, the Senate voted to take from the table, Report of the Committee on Legal Affairs, majority report, "Ought to Pass", minority report, "Ought Not to Pass" on bill, An Act Relating to Amateur Sports on Sunday, (S. P. 267) (L. D. 446), tabled by that Senator earlier in today's session pending motion to accept the majority report "Ought to Pass".

Mr. GOUDY of Cumberland: The pending motion, as I understand it, Mr. President, is on the acceptance of the majority report. Mr. President and members of the Senate: This bill, defining the word "amateur" was given a hearing before the Legal Affairs Committee, and as you will notice, the report was seven "Ought to Pass" and three "Ought Not to Pass".

The legislature in 1933 saw fit to pass an act legalizing amateur sports and games under certain conditions on Sunday and in this act which they, in their wisdom, saw fit to pass, they provided for a local option in cities and towns as to whether or not the different cities and towns cared to adopt the provisions of this act or not. In some cities in Maine they did see fit to act favorably upon the provisions of this act, and amateur sports within the boundaries and confines of these cities were legalized. The games consisted of football mostly, and the players consisted of some of our outstanding Maine school boys who, after graduation from schools and colleges, had gone to work on lawful enterprises for a salary and on Sunday they did participate as players in these games. They, for their services in these games, did receive a small compensation, very small, approximately two, three, four or five dollars for their activities in the games on the different Sundays. The question arose as to whether or not, under the law as it existed, they were legally within their rights. The question arose as to whether or not the acceptance of any compensation either by way of gift or reimbursement for expenses took them out of the amateur class and placed them in the class of professionals.

I know of no complaints having been made at the practice which has been followed. Neither do I know of any prosecution of this act or for violation of this act but it has

been a question that has to some extent bothered the prosecuting authorities in my section of the state. At their suggestion and at the suggestion of reputable citizens of Maine, it has been said something should be done by the legislature to define the word "amateur" and so that is what I have attempted to do in this act. This bill simply provides that as used in this and in the five following sections the words amateur sport or game shall mean any sport or game, the participants in which are otherwise gainfully employed and to which they do not devote a major portion of their time and effort. So, simply to clarify the already existing law which had been passed by the legislature, I offered this amendment. It has had its hearing before the Legal Affairs Committee and I now consider it my duty, as I believe in the bill and introduced it, and in the interests of my constituents, to urge the acceptance of the majority report. Whether or not it is accepted is entirely up to this body to determine, but whether it is or is not, I feel I have done my duty in at least attempting to clarify the situation in which I think the legislature which passed the bill intended it to be.

Miss MARTIN of Penobscot: Mr. President and members of the Senate, I hope the motion of my fellow committee member will not prevail. He mentions the fact that the original bill had local option on it. It did, but when the people voted under that local option clause to have amateur sports on Sunday they voted to have amateur sports and not professional sports and I contend that this definition is not a fair definition of amateur sports because under it a man would still be classed as an amateur even though he received 99% of his pay for the sport and 1% for his major activity. It says he should devote the major part of his time and effort—time and effort—to his gainful activity. Well, that would mean six days a week. His time, his effort might be in a sit-down strike. He might get \$1.00 for that and \$25.00 for the game he played on Sunday. I contend it is not a fair definition of the word "amateur". I think it would take professionals out of the class of professionals and put them in the class of ama-

teurs. I doubt if this Body wants to do so.

I contend this phrase, "As used in this and in the five following sections the words 'amateur sport or game' shall mean any sport or game the participants in which are otherwise gainfully employed and to which they do not devote a major portion of their time and effort"—I ask if it would not mean that any man or boy who was not gainfully employed, if it might prohibit him from taking part in amateur sports on Sunday. In other words, we passed this measure for the benefit of the poor boys on the lot who were not able to do anything while the rest of us were able to go out and play golf. This would provide, as I understand it, that the poor boy had to go out and get a job selling papers in order to play games on Sunday. I do not think it is the sort of legislation that we want to be passing, and I hope that the motion of my fellow Senator (Senator Goudy) will not prevail.

Miss LAUGHLIN of Cumberland: Mr. President, I agree with everything that the Senator from Penobscot (Senator Martin) has said and I think she pointed out one very great defect which is that the only persons who can engage in amateur sports now are persons who are gainfully employed so the very object of the bill is destroyed.

I have, however, other objections to it. The purpose of this bill is very plainly to authorize professional sports on Sunday by calling them amateur sports. Now, if the Senator who introduced it wants professional sport on Sunday I think he should introduce a bill that says, "Let's have professional sport on Sunday." I don't believe this legislature should pass a bill which is in effect a false statement. We all know that professional sport is not amateur sport, no matter what you call it, and I do believe it is time for the legislature at least to be honest and to make the thing mean what it says and not come here under the guise of introducing a bill clarifying "amateur" when it is contrary to every definition of it by everybody. I wonder if everybody here who went to college and they had amateur sports thinks they were paid for it. We know that is not what the word "amateur" means. We know that an amateur is not paid. This bill is simply trying to camouflage professional

sports by calling them amateur and that is not square or honest. If we are going to vote on this question I think it should come to us in the form of a bill legalizing professional sports on Sunday.

Of course, I am willing to say that I would vote against professional sports on Sunday. But there is another question here and that is the honest intent of the bill. Let a bill be brought in legalizing professional sport on Sunday and then we will vote on it as professional sport. And, Mr. President, when this vote is taken I ask for a division.

Mr. MARDEN of Kennebec: Mr. President, consistent with the privilege of signing the minority report of the committee, I, too, would like to say that I hope the motion of the Senator from Cumberland, Senator Goudy, will not prevail. In these days of liberalization which we admit are at hand, it is not perhaps altogether wise or proper to talk of morals, but I would perhaps use the term "morale" which seems a bit broader and a basis upon which we may more generally meet.

Regardless of whether we place the proposed change as a matter of definition or whether we attempt by that means to make more specific what is now general and which in turn brings with it a very apparent defect, the fundamental consideration, it seems to me, before this legislature today is whether or not the highest law-making body in the state of Maine cares to go on record as further liberalizing this matter of Sunday sports. I appreciate that perhaps Senator Goudy has a problem among his constituents which perhaps we do not have in some other portions of the state, but if it is the intent of those proponents to "play the game", so to speak, consistent with the amateur sport law and keep the game strictly amateur, further definition is not necessary. If it is their desire to further liberalize that definition as a step toward professionalism with the evils which many of us are willing to grant would follow, and which I think my brother Senator, Senator Goudy, will grant would follow, that in itself would bespeak refusal to accept the motion of the Senator from Cumberland, Senator Goudy. I hope his motion will not prevail.

The PRESIDENT: The pending question is on the acceptance of the

majority report of the committee "Ought to Pass". The Senator from Cumberland, Senator Laughlin, asks for a division.

A division of the Senate was had.

Three having voted in the affirmative and twenty-two opposed, the motion did not prevail.

Thereupon, on motion by Miss Martin of Penobscot, the minority report of the committee "Ought Not to Pass", was accepted.

The PRESIDENT: We are proceeding under Orders of the Day. For the information of the Senate, the Chair will state that the resignations of Mellen Tryon as Sergeant at Arms, Louis R. Fowler as Assistant Sergeant at Arms and Roy S. Humphrey as Page have been received.

Mr. BURKETT of Knox: Mr. President, I move that we proceed to the election of a Sergeant at Arms, an Assistant Sergeant at Arms and a Page.

The motion prevailed.

The PRESIDENT: The Chair awaits nominations for Sergeant at Arms.

Thereupon, on motion by Mr. Burkett of Knox, there being no other nominees, the Secretary was authorized to cast one ballot on the part of the Senate in favor of Louis R. Fowler for Sergeant at Arms and Roy S. Humphrey for Assistant Sergeant at Arms.

This was done and the above nominees were declared duly elected Sergeant at Arms and Assistant Sergeant at Arms, respectively, of the Eighty-eighth legislature.

Mr. ASHBY of Aroostook: Mr. President, I place in nomination for Page the name of Michael Burns, for many years a member of the House.

The PRESIDENT: Are there any further nominations?

Mr. FERNALD of Waldo: Mr. President, I place in nomination the name of Elton E. Black.

Mr. SPEAR of Cumberland: Mr. President, I wish to place in nomination the name of Henry Hanson of Portland.

Mr. WENTWORTH of York: Mr. President, I understand that Mr. Hanson does not care to have his name considered.

The PRESIDENT: The Chair is informed that Mr. Hanson is not a candidate.

Mr. SPEAR: Mr. President, I will withdraw from nomination the name of Henry Hanson of Portland.

The PRESIDENT: The Senator from Cumberland, Senator Spear withdraws the name of Henry Hanson of Portland from nomination for Page. The Chair appoints as a committee of one to receive, sort and count ballots on the nominations for Page—

Miss MARTIN of Penobscot: Mr. President, I move that the matter of the election of a Page be laid upon the table.

The motion to table prevailed.

The PRESIDENT: Pending the receipt of further papers from the House the Senate will take a recess.

After Recess

The Senate was called to order by the President.

The PRESIDENT: The Chair has been informed that there are no further papers coming from the House at this time. Is there any further business to come before the Senate?

On motion by Mr. Hussey of Kennebec, the Senate voted to take from the table Joint Order Relative to Blood Tests Made on Persons Driving Motor Vehicles While Intoxicated or Under the Influence of Liquors or Drugs (S. P. 439), tabled by that Senator on March 17th pending consideration; and on further motion by the same Senator, House Amendment "A" was adopted in concurrence and the order as amended by House Amendment "A" received a passage.

The PRESIDENT: The Chair appoints as members of the recess committee on the part of the Senate, the Senator from Aroostook, Senator Tompkins, and the Senator from Kennebec, Senator Marden.

Is there any further business to come before the Senate?

On motion by Mr. Walsh of Androscoggin

Adjourned until next Tuesday, March 23rd, at eleven o'clock in the forenoon.