

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

Ninety-Fifth Legislature

OF THE

STATE OF MAINE

1951

**DAILY KENNEBEC JOURNAL
AUGUSTA, MAINE**

SENATE

Wednesday, March 28, 1951.

The Senate was called to order by the President.

Prayer by the Reverend Douglas H. Robbins of Augusta.

Journal of yesterday read and approved.

From the House

The Committee on Inland Fisheries and Game on Bill "An Act Relating to Maranacook Game Preserve," (H. P. 1307) (L. D. 860) reported that the same ought to pass.

The Committee on Liquor Control on Bill "An Act Relating to Sale of Liquor Near Togus Hospital," (H. P. 1485) (L. D. 1092) reported that the same ought to pass.

The Committee on Public Utilities on Bill "An Act Relating to Interstate Carriers," (H. P. 1370) (L. D. 961) reported that the same ought to pass.

The Committee on Sea and Shore Fisheries on Bill "An Act Relating to Digging of Clams in Northport Village Corporation," (H. P. 1064) (L. D. 644) reported that the same ought to pass.

The same Committee on Bill "An Act Relating to the Digging of Clams in the Town of Wells," (H. P. 1394) (L. D. 988) reported that the same ought to pass.

The Committee on Public Utilities to which was recommitted Bill "An Act to Incorporate the North Jay Water District," (H. P. 549) (L. D. 322) reported that the same ought to pass without amendment.

Which reports were severally read and accepted in concurrence, the bills read once, and tomorrow assigned for second reading.

The Committee on Education on Bill "An Act Relating to Tuition in Normal Schools and Teachers' Colleges," (H. P. 882) (L. D. 524) reported that the same ought to pass as amended by Committee Amendment "A".

Which report was read and accepted in concurrence, and the bill read once; Committee Amendment "A" was read and adopted in concurrence, and the bill as amended was tomorrow assigned for second reading.

Senate Committee Reports

Mr. Savage from the Committee on Public Buildings and Parks on Bill "An Act Relating to Rentals of Certain State Offices," (S. P. 332) (L. D. 908) reported that the same ought not to pass.

Mrs. Kavanagh from the Committee on Public Health on Bill "An Act Relating to Compulsory Vaccination," (S. P. 384) (L. D. 910) reported that the same ought not to pass.

Mr. Haskell of Penobscot from the same Committee on Bill "An Act Relating to Free Vaccination for Children," (S. P. 383) (L. D. 909) reported that the same ought not to pass.

The same Senator from the same Committee on Bill "An Act Appropriating Moneys for Materials for Free Inoculations," (S. P. 258) (L. D. 556) reported that the same ought not to pass.

Which reports were severally read and accepted.

Sent down for concurrence.

Mr. Savage from the Committee on Public Buildings and Parks on Bill "An Act Relating to Baxter State Park," (S. P. 67) (L. D. 73) reported the same in a new draft, (S. P. 521) under the same title, and that it ought to pass.

Which report was read and accepted and the bill in new draft was laid upon the table for printing under Joint Rule No. 10.

Mr. Haskell of Penobscot from the Committee on Public Health on Bill "An Act Relating to Board of Registration in Medicine," (S. P. 243) (L. D. 514) reported that the same ought to pass.

Mr. Noyes from the Committee on Taxation on Bill "An Act Relating to Inheritance Tax," (S. P. 218) (L. D. 468) reported that the same ought to pass.

Which reports were severally read and accepted, and the bills read once and tomorrow assigned for second reading.

Mr. Haskell of Penobscot from the Committee on Public Health on Bill "An Act Relating to Distribution of Antitoxins in Emergencies," (S. P. 418) (L. D. 978) reported that the same ought to pass

as amended by Committee Amendment "A".

Which report was read and accepted, and the bill read once; Committee Amendment "A" was read.

Committee Amendment A to L. D. 978. "Amend said bill by striking out in the 4th line from the end, the underlined word, 'prepare' and inserting in place thereof the underlined word 'procure.'" Which amendment was adopted and the bill as so amended was tomorrow assigned for second reading.

Passed to be Engrossed

"Resolve Prohibiting Fishing in Certain Parts of Swan Lake, Waldo County." (H. P. 1225) (L. D. 779)

"Resolve in Favor of Forest Lake Improvement Association." (H. P. 1226) (L. D. 780)

Bill "An Act Relating to Closed Season on Deer in Town of Vinalhaven, Knox County." (H. P. 1407) (L. D. 1015)

Bill "An Act Regulating Registration of Vehicles Leased from Federal Government." (H. P. 1490) (L. D. 1097)

Bill "An Act Relating to Loan and Building Associations." (H. P. 1514) (L. D. 1120)

Bill "An Act Relating to Conversion Rights." (H. P. 1626) (L. D. 1170)

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

Bill "An Act Assenting to Act of Congress Relating to Fish Restoration and Management Projects." (H. P. 525) (L. D. 287)

Which was read a second time and passed to be engrossed as amended, in non-concurrence.

Sent down for concurrence.

Bill "An Act Relating to Temporary Judges for Municipal Courts." (H. P. 1011) (L. D. 574)

Which was read a second time and passed to be engrossed, as amended, in concurrence.

Bill "An Act to Amend the Charter of Somerset Academy." (S. P. 178) (L. D. 390)

Bill "An Act Relating to Apportionments from School Funds." (S. P. 251) (L. D. 550)

Bill "An Act Relating to the Taking of Alewives in the Town of Franklin." (S. P. 278) (L. D. 617)

Bill "An Act Repealing Advisory Committee on State Budget." (S. P. 363) (L. D. 877)

Bill "An Act Relating to Published Records of Vital Statistics." (S. P. 373) (L. D. 899)

Bill "An Act Relating to Taking Animals and Birds for Scientific Purposes." (S. P. 454) (L. D. 1068)

Bill "An Act Relating to the Use of Drags in Bluehill Bay, Hancock County." (S. P. 468) (L. D. 1101)

Bill "An Act Relating to Hunting of Foxes." (S. P. 487) (L. D. 1168)

Which were severally read a second time and passed to be engrossed.

Sent down for concurrence.

Bill "An Act to Incorporate the Town of Kittery School District." (S. P. 105) (L. D. 159)

Which was read a second time and passed to be engrossed, as amended.

Sent down for concurrence.

Orders of the Day From the House

Joint Order, out of order and under suspension of the rules:

ORDERED, the Senate concurring that notwithstanding joint orders permitting the introduction of matters, data for which was in the hands of the Director of Legislative Research, no bill or resolve be received after Thursday, March 29 at one P. M. unless received by unanimous consent in both branches as provided for by joint order.

Comes from the House having been read and passed.

In the Senate, the Order was read and passed in concurrence.

On motion by Mr. Brewer of Aroostook, the Senate voted to take from the table House Report "Ought Not to Pass" from the Committee on Appropriations and Financial Affairs on Resolve Creating a Fund for Scholarships for Vocational Technical Schools (H. P. 798) (L. D. 476) tabled by that Senator on March 23 pending acceptance of the report; and that Senator moved that the Senate accept the "Ought Not to Pass" report of the committee.

Mr. McKUSICK of Piscataquis: Mr. President, I think this should not be passed by without a little consideration. I have no personal interest. I have no relatives in the school. I think it applies just to this little vocational school established here in Augusta by the state. It simply sets up a little fund for scholarships for boys in that school. Of course we need to remember that we have only one such school in the state and of course the boys in this immediate vicinity have a great advantage by being located nearby and being able to board at home. The boys from other parts of the state are at a disadvantage.

They have to board away from home at a considerable expense. This would set up a little fund which I believe would be administered by the Commissioner of Education, to grant small scholarships. I also understand that when this matter came before the Appropriations Committee that it was grouped with the request for aid presented by other academies. I believe this should be considered on its own merits.

Two years ago we did establish a scholarship fund for the normal schools to help needy pupils. That has been very successful in keeping pupils in the normal schools who otherwise would have to drop out for financial reasons. I think this has a great deal of merit for these stated reasons. This is a little school, established by the state and is strictly a state school. Boys who attend are not boys from wealthy parents. They have no uniform. The boys do not receive any pay. No subsistence is allowed and if they had a uniform, it would be a pair of overalls. It is a school which is designed to give those boys an opportunity to earn more pay and I feel that this should not be allowed to go by without some consideration. It is a small amount, only five thousand dollars.

Mr. BREWER of Aroostook: Mr. President, I will say that this calls for something new. It carries an appropriation of five thousand dollars and I believe the bill reads that at no one time should any recipient have more than \$200 but we on the committee were working on a deficit budget and being some-

thing new, we felt that probably we had better try to carry on what we had already established rather than try to establish something new, and with this thought in mind, we report the bill out ought not to pass.

Mr. McKUSICK: Mr. President, when the vote is taken, I ask for a division.

Mr. REID of Kennebec: Mr. President, there are quite a number of bills in this same category, I believe, that call for appropriations of money, and that have a lot of merit. The question is whether or not the money will be available. I therefore move that the bill lie on the table.

The motion prevailed and the bill was laid upon the table pending motion by the Senator from Aroostook, Senator Brewer, that the Senate accept the "Ought Not to Pass" report of the committee.

On motion by Mr. Dennett of York, the Senate voted to take from the table bill, An Act Relating to Penalties for Violations of Liquor Laws by Unlicensed Persons (S. P. 381) (L. D. 907) tabled by that Senator on March 13 pending passage to be engrossed.

Mr. DENNETT of York: Mr. President, I now present Senate Amendment A and move its adoption and merely as a word in passing, I will say that this amendment is a clarification of the act.

The Secretary read the amendment.

Senate Amendment "A" to S. P. 381, L. D. 907, Bill "An Act Relating to Penalties for Violation of Liquor Laws by Unlicensed Persons". Amend said bill by striking out all after the enacting clause and inserting in place thereof the following:

"R. S., S. 57, S. 66 amended. The 2nd paragraph of section 66 of chapter 57 of the revised statutes is hereby amended to read as follows: "Whoever, being licensed to sell liquor by himself, his clerk, servant or agent sells any liquor in this state, in violation of law, shall be punished by a fine of not less than \$100, nor more than \$500, and costs, and in addition thereto by imprisonment for not less than 2 months, nor more than 6 months, and in default of payment of fine and cost, by imprisonment for not

less than 2 months, nor more than 6 months, additional, and on each subsequent conviction he shall be punished by a fine of \$500 and costs and in addition thereto by imprisonment for 6 months, and in default of payment of fine and costs, by imprisonment for 6 months additional. Any person or his clerk, agent or servant who sells liquor within the state without a license shall be punished for the 1st offense by a fine of not less than \$300 and costs, nor more than \$500 and costs, which fine and costs shall not be suspended, and an additional penalty or not more than 30 days in jail at the discretion of the court; and for a 2nd offense by a fine of not less than \$500 and costs, nor more than \$1,000 and costs, which fine and costs shall not be suspended, and an additional penalty of not more than 60 days in jail at the discretion of the court; and for all subsequent offenses a fine of not less than \$1000 and costs and 60 days in jail, which fine and costs and jail sentence shall not be suspended, and an additional penalty of 4 months in jail at the discretion of the court. Any clerk, servant, agent, or other person in the employment or on the premises of another, who violates or in any manner aids or assists in violating any provision of law relating to intoxicating liquors, is equally guilty with the principal and shall suffer like penalties."

Thereupon, on motion by Mr. Barnes of Aroostook, the bill and accompanying papers were laid upon the table pending motion by the Senator from York, Senator Dennett that Senate Amendment A be adopted.

On motion by Mr. Dennett of York, the Senate voted to take from the table Senate Report "Ought Not to Pass" from the Committee on Appropriations and Financial Affairs on Resolve in Favor of Robert W. Traip Academy (S. P. 52) (L. D. 62) tabled by that Senator on February 15 pending acceptance of the report.

Mr. DENNETT of York: Mr. President, while I feel very strongly on this resolve which provides an amount of fifty thousand dollars for the benefit of this academy which, incidentally is in my

own town, I feel that in the light of present circumstances, it would be very unwise to make any attempt to insist on this or attempt to get it through. Therefore, at this time, I move the acceptance of the "Ought Not to Pass" report of the committee.

The motion prevailed and the Ought Not to Pass report of the committee was accepted.

Sent down for concurrence.

On motion by Mr. Crosby of Franklin the Senate voted to take from the table bill, An Act Relating to Motor Vehicles Parking in Dangerous Places (H. P. 95) (L. D. 40), tabled by that Senator on March 22nd, pending consideration.

Mr. ALLEN of Cumberland: Mr. President, may I ask what the parliamentary situation of the bill is?

The PRESIDENT: The Secretary will read the endorsements.

The Secretary read: "In the Senate on March 7th House Amendment C was adopted and the bill was passed to be engrossed as amended by House Amendments A and C in concurrence. The bill was later recalled to the House from the Engrossing Department by joint order and passed to be engrossed in the House as amended by House Amendments C and D in non-concurrence."

Thereupon, on motion by Mr. Allen of Cumberland, the Senate voted, under suspension of the rules, to reconsider its action whereby the bill was passed to be engrossed as amended by House Amendments A and C in concurrence; on further motion by the same Senator the Senate voted to reconsider its action whereby House Amendment A was adopted in concurrence; House Amendment A was indefinitely postponed; House Amendment D was read.

Mr. ALLEN of Cumberland: Mr. President, in moving that the Senate concur with the House in the adoption of House Amendment D I would merely remark that not having any legal lights in our committee we ran into a few difficulties in the bill which I believe this amendment merely straightens out, and also the problem of public utilities for erecting poles and so forth on the highways. I believe the bill is now legally correct and I hope the

Senate will concur in the adoption of House Amendment D.

Mr. BARNES: of Aroostook: Mr. President, I move the indefinite postponement of the bill and when the vote is taken I ask for a division.

Thereupon, on motion by Mr. Allen of Cumberland the bill and accompanying papers were laid upon the table pending the motion by the Senator from Aroostook, Senator Barnes, that the bill be indefinitely postponed.

On motion by Mr. Ela of Somerset the Senate voted to take from the table House Report from the Committee on Inland Fisheries and Game on bill, An Act Relating to Fishing and Hunting Licenses for Residents (H. P. 523) (L. D. 285), majority report "Ought to Pass", minority report "Ought not to pass", tabled by that Senator on March 27th pending acceptance of either report.

Mr. ELA of Somerset: Mr. President, I move the acceptance of the minority "Ought Not to Pass" report of the committee and I will say briefly that this bill hikes the age from sixteen to eighteen of youths who must buy a fishing or hunting license before they can fish or hunt.

Mr. BARNES of Aroostook: Mr. President. I would like to ask the Senator a question through the Chair. It seems to me it lowers the age instead of hiking the age.

Mr. ELA: Mr. President, I think we mean the same thing but perhaps I mis-stated it. Under the bill, at age sixteen they must buy a license. The age now is eighteen. I think probably Senator Wright can explain very fully to you when he gets under way.

Mr. WIGHT of Penobscot: Mr. President and members of the Senate, I think possibly the Senate now understands what this bill means. At the present time any person between the ages of twelve and eighteen can hunt and fish without a license. This bill would reduce the age limit from eighteen to sixteen years. That is, anyone sixteen years of age or older would be obliged to buy hunting and fishing licenses, if this bill passes. I think that a person sixteen or seventeen years old is mature enough so that he should buy license. He has had the

privilege of hunting and fishing for four years, from twelve to sixteen years, without a license.

In the year 1950 persons under eighteen years of age who did not buy a license in the State of Maine tagged 1342 deer. There were approximately 138,000 hunting licenses issued in the State of Maine in 1950, and there were 39,000 deer tagged. That means that approximately one and one-half persons tagged their deer. Applying this to the 1342 tagged deer would mean that there were approximately 5,000 persons hunting in the State of Maine last year without a license; that is, between the ages of twelve and eighteen years. Also more persons would take out a license than this because a great many persons hunt for other animals beside deer such as rabbits and for birds.

Now it is necessary to be sixteen years of age, before one can get a driving license in the State of Maine and one must have a driving license in order to drive an automobile in Maine. I notice that in other states nearby licenses are required to hunt and fish from thirteen to sixteen years and some of them younger. For instance, Vermont requires a license at fifteen years of age, New Hampshire at sixteen, Connecticut at sixteen years, New York at sixteen, New Jersey at fourteen and Massachusetts requires a license to hunt no matter at what age the person may be and the fishing license must be purchased by anyone over fifteen years of age.

Now I may be arguing against my own business but I notice that most of these boys and girls who come into the store to buy equipment have a few dollars to spend. A hunting license costs \$2.25 and I think those boys and girls can afford that \$2.25 for a license. It would mean a lot to the State of Maine if we sold ten thousand licenses and got \$20,000 more for the Fish and Game Department.

I hope the majority report will be accepted.

Mr. ELA of Somerset: Mr. President, a few years ago we increased substantially the fees for hunting and fishing licenses and at that time one of the considerations urged for the passage of the increase was that we would take care

of youths who at that time, it was stated could not afford the increase and let all those under 18 hunt and fish without a license. That was considered good legislation at the time. It has worked well and I see no particular reason at this time to change it.

The Department of Inland Fisheries and Game is getting along nicely on its set up and on its income. It is true that any department needs funds and probably can well use all it could get but it seems to me that we are picking out the category who can least afford to produce the money. There are many families in the state who don't have too much money to spend. Families with children are particularly in that group. They have a hard time a lot of them.

I also think that in the long run it would not provide the department with any more money. If you encourage youth of sixteen to eighteen to hunt and fish, you are certainly going to provide potential customers for the licenses later on. That is the formative period. If a youngster doesn't learn to hunt and fish here in the State of Maine by the time he is eighteen, he is quite apt not to learn later on. If he doesn't learn then he is not very apt to buy a license.

It has been stated that 1342 deer were shot by persons under eighteen. Probably many of those were shot by people under sixteen who would not pay under this bill. I am sure that many of you who come from rural sections realize that possibly some of these 1342 were tagged by youngsters who did not shoot them.

We have in this state as in every state a youth problem and if there is any one thing we can do to encourage youth to hunt and fish that is good for that problem. There aren't too many boys and girls who get into much trouble while hunting and fishing.

The law has worked beautifully the way it is. It won't provide much more money and I question in the long run if it will provide any more money. The department is getting along all right as it is, and for those reasons, I hope that

my motion to accept the minority report will prevail.

Mr. BOUCHER of Androscoggin: Mr. President, in thinking about this hunting bill concerning young people I am reminded of a similar bill that passed this Senate a couple of weeks ago when the question of age was involved—the age of 18 to 21. I have just been told by our good Senator from Somerset, Senator Ela, that the formative age is 16 to 18. It shows there has been a change of mind recently about the formative age because I was told a couple of weeks ago, and very seriously, that the formative age is 18 to 21. If there is still time I would like to offer an amendment to this bill, changing the age from 18 to 21.

The PRESIDENT: The Chair will inform the Senator the time for amendment is not yet proper. The question is on the acceptance of the "Ought Not to Pass" report of the Committee.

A viva voce vote being doubted, a division of the Senate was had.

Sixteen having voted in the affirmative and nine opposed, the motion to accept the "ought not to pass" report of the committee was accepted, in non-concurrence.

Sent down for concurrence.

On motion by Mr. Weeks of Cumberland, the Senate voted to take from the table, Senate Report "Ought Not to Pass" from the Committee on Judiciary on Bill, An Act Relating to Trustee Process, (S. P. 164) (L. D. 338) tabled by that Senator on March 1st pending acceptance of the report.

Mr. WEEKS of Cumberland: Mr. President, before making a motion I would like to remark that at the inception of this legislature I had some very firmly conceived ideas regarding the operation of our trustee process as it is now on the statute books of the state. Those ideas have developed from an opportunity to observe its operation by some creditors. They just take advantage of the law as it is and it does work in an unfortunate way in a good many respects.

As result of my observations I introduced three measures, one of them was to increase the trustee exemption from \$20 to \$30. That

exemption has been there beyond my memory in the amount of \$20 without being changed, and without drawing diagrams regarding subsequent developments, it seems to me if \$20 was good 30 years ago then \$30 would be good now considering the economic conditions in which we find ourselves.

I introduced a second bill which dealt with the trustee process limiting trustee process to judgment on suits only. That bill is designed to meet a situation which I see occurring every day in the week in which lawyers bring action, trustee wages without having any case at all. I see it too frequently for anyone to tell me it is not true. This second bill merely provides that before you could trustee wages of a working man you would first have to get judgment. In other words, give a defendant the opportunity to go to court and have his day in court on the merits of the plaintiff's declaration before his money is held up. Please bear in mind when I use the word "trustee" I mean trustee on wages. I am not talking about trustee on bank accounts or other things, simply on wages.

The third bill is the bill before us now, An Act Relating to Trustee Process. That bill attempts to place the treasurers of cities and towns among those who are exempt from trustee process. The purpose of that was this, in my observations, talking about my own city now, those who are in dire distress for funds have no position even if we try to work them in some part of the city organization. Being in distress they are ideal subjects for this same trustee process. So we take someone who is poor and give him a job, which is not a high paid job, and he is no more than on the job and pay day comes around and you have a trustee on his wages. So as I stated before, a good many are without merit but the money is still held up.

Just recently a case has come along, a case which was defeated in the lower court and appealed to

the Superior court and defeated in Superior court but the trustee money is still held up. Someone would say he could free the money by filing a bond but those individuals do not have the capacity to have a bond, so the money is still held up.

I could very easily become very positive about this measure. I believe the towns and cities should be free of this process. However, my opinion meets with the unanimous non-concurrence of the Judiciary Committee. Consequently, in view of the fact that the Judiciary Committee has before it several bills dealing with an increase in the amount which will be free from the trustee process and on which they may grant additional exemption which will help the situation some, I move the acceptance of the committee report.

Thereupon, the "ought not to pass" report of the Committee was accepted.

Sent down for concurrence.

On motion by Mr. Crosby of Franklin, the Senate voted to take from the table House Report from the Committee on Appropriations and Financial Affairs on Resolve in Favor of the Town of New Sharon for School Building (H. P. 109) (L. D. 83), Majority Report "Ought Not to Pass; Minority Report "Ought to Pass", tabled by that Senator on March 6th pending the motion by Mr. Reid of Kennebec to accept the minority report.

The PRESIDENT: The question before the Senate is on the motion of the Senator from Kennebec, Senator Reid, that the minority report be accepted.

A viva voce vote being had, the motion to accept the minority "ought to pass" report was accepted, and the bill was given its first reading and tomorrow assigned for second reading.

On motion by Mr. Sleeper of Knox

Adjourned until tomorrow morning at ten o'clock.