

# 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  
**Sixty-Ninth Legislature**  
OF THE  
**STATE OF MAINE.**  
-----  
**1899.**

[This volume has no title page. The above information is supplied by the State Law and Legislative Reference Library, based on later volumes.]

**SENATE.**

Thursday, Feb. 16, 1899.

The Senate met according to adjournment and was called to order by the President.

Prayer by Rev. Mr. Wyman of Augusta.

Journal of yesterday read and approved.

Papers from the House disposed of in concurrence.

**HOUSE BILLS READ AND ASSIGNED.**

Resolve in favor of repairing a road leading from Van Buren to Caribou, Aroostook county, at a point in Cyr plantation leading to Connor plantation.

Resolve to pay Howard Whittier of Mt. Vernon, in the county of Kennebec, a pension of \$2 a month.

Resolve making appropriations for the Passamaquoddy tribe of Indians.

Resolve in favor of the town of Beddington.

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

**JUDICIARY.**

By Mr. Hamlin of Hancock—Bill an act relating to the jurisdiction of the municipal and police courts and proceedings therein.

**LEGAL AFFAIRS.**

By Mr. Reynolds of Cumberland—Bill an act to amend section 13, of chapter 64, of the Revised Statutes, as amended, relating to probate of foreign wills.

By Mr. Grindle of Hancock—Petition of Geo. M. Pillsbury and 47 others of the town of Bluehill, for change in the law relating to election of road commissioners.

**RAILROADS, TELEGRAPHS AND EXPRESSES.**

By Mr. King of Oxford—Remonstrance of J. H. Jones and others, commercial travellers, against bill making it compulsory for railroads to issue mileage books at a rate of two cents a mile.

By Mr. Blanchard of Franklin—Petition of E. H. Shepherd and 63 others of Phillips, asking for law to compel railroads in the State to issue mileage books at two cents a mile.

**MANUFACTURES.**

By Mr. Adams of Penobscot—Petition of Fletcher & Butterfield and 20

others, for an act to create a lien on monumental work.

By Mr. Heald of Kennebec—Petition of L. C. Stevens and 18 others, for same.

By Mr. Blanchard of Franklin—Petition of S. Clifford Belcher and 99 others, for same.

By Mr. Pike of York—Petition of A. P. Copp and 15 others, for same.

**PLACED ON FILE.**

By Mr. Fernald of Androscoggin—Remonstrance of W. J. Crooker and 99 others of West Minot, Androscoggin county, against increase of salaries of justices of the supreme judicial court.

Remonstrance of E. H. Libby and 22 others of Auburn, against same.

By Mr. Hargraves of York—Remonstrance of Elliot Fernald and 62 others of Biddeford and Saco, against same.

By Mr. Pike of York—Remonstrance of E. E. Guptil of Cornish, against same.

By Mr. Merrill of Somerset—Remonstrance of G. L. Wilder and 29 others of Cambridge, against same.

**READ AND ASSIGNED.**

Bill an act to amend chapter 169, of the Private and Special Laws of 1867, relating to the Mattawamkeag Log Driving Co.

**REPORTS OF COMMITTEES.**

Mr. Hamlin for the committee on judiciary, reported ought to pass, bill an act to enable the Winter Harbor Co. to purchase stock in the Grindstone Neck Water Co.

The same gentleman for same committee, reported ought to pass, bill an act additional to the incorporation of the Ellsworth Electric Illuminating Co. and additional to the charter of the Ellsworth Water Co.

Mr. Weeks for the committee on legal affairs reported ought to pass, bill an act to amend an act to incorporate the Masonic Trustees of Lewiston.

Mr. Reynolds for the same committee, reported ought to pass, bill an act to repeal section 7, of chapter 194, of the Private and Special Laws of 1895.

Mr. White for the committee on financial affairs, reported ought to pass, new draft, resolve in favor of the hospital of the Society of the Sisters of Charity of Lewiston, Me.

The same gentleman for the same committee, reported ought to pass, in

new draft, resolve in favor of the Central Maine General Hospital.

Mr. Weeks for the committee on legal affairs, reported ought to pass, bill an act to extend the territorial limits of the Dover and Foxcroft Village Fire Co.

The reports were severally accepted and bills and resolves reported were tabled for printing under rule.

Mr. Drummond for the committee on judiciary, to which was referred bill an act to amend section 2 of an act, entitled, "An act to incorporate Ponds Sheer Boom Co.," reported that the same be referred to the next Legislature. Report accepted.

#### **PASSED TO BE ENGROSSED.**

Bill an act entitled "An act to incorporate the Madawaska Agricultural Society."

Bill an act to establish the Rumford Falls municipal court.

Bill an act to amend section 2, chapter 166, of the Private and Special Laws of 1887, entitled "An act creating the Fort Fairfield Village Corporation."

Bill an act to amend section 15, of chapter 113, of the Revised Statutes, as amended by chapter 318, of the Public Laws of 1885, relating to disclosures on mesne process.

Bill an act additional to acts to incorporate the Lockwood Company.

Bill an act to amend the charter of the Public Works Company.

Bill an act to incorporate the Hebron Water Company.

Bill an act granting William S. Hopkins the right to establish and maintain a ferry between North Haven and Vinalhaven.

Bill an act to incorporate the Southwest Harbor Dam and Bridge Company.

Bill an act to legalize the doings of Rangeley Plantation in Franklin county.

Bill an act to amend chapter 33, of the Public Laws of 1887, relating to the burial expenses of honorably discharged soldiers and sailors of Maine.

Bill an act to incorporate the Ticonic Foot Bridge Company.

Resolve in aid of a temporary home for women and children in Deering.

Resolve providing for the preservation of regimental rolls in the adjutant general's office.

Resolve in favor of the Maine Insane hospital.

Bill an act to amend chapter 493, of the Private and Special Laws of 1895, relating to the Penobscot Tribe of Indians.

Resolve in favor of the Maine Eye and Ear Infirmary.

Bill an act to amend Section 6, of chapter 157, of the Public Laws of 1895, relating to the rights of widows and widowers in the real estate of deceased husbands and wives.

Bill an act to fix the salary of the judge of probate for the county of Penobscot.

Bill an act to establish the salary of the county attorney of Penobscot county.

Bill an act to fix the salary of the register of probate for the county of Androscoggin.

Bill an act to establish the salary of the county attorney of Piscataquis county.

Bill an act to amend the charter of the city of Hallowell.

This bill came from the House on its first reading, and on motion by Mr. Heald of Kennebec, the rules were suspended the bill given its second reading and passed to be engrossed.

#### **PASSED TO BE ENACTED.**

An act to amend chapter 130, of the Private Laws of 1866, entitled "An act to incorporate the Sebec Dam Company."

An act additional relating to the appointment and compensation of the recorder of the municipal court of the city of Biddeford.

An act to change time for holding sessions of county commissioners in Washington county.

An act for protection of fish in Baga-duce river, bay and tributaries.

#### **FINALLY PASSED.**

Resolve in favor of the State Normal school

#### **ORDERS OF THE DAY.**

Bill an act in relation to the salaries of the justices of the supreme judicial court.

This bill came up by special assignment, pending second reading and passage to be engrossed.

**MR. STEARNS OF AROOSTOOK.**

Mr. Stearns of Aroostook, said:  
Mr. President and Fellow Senators:

In support of the proposition that is embodied in this bill, before the Senate, I would like to urge some plain and simple arguments that to my mind are potent to compel the conclusion that the salaries of the justices of the supreme judicial court should be increased. I am aware that the question has created great discussion and wide difference of opinion and yet I am fully confident that a full understanding of the case and a just consideration of the needs of the justices will procure the passage of this act.

First I would like to call the attention of my fellow senators to what they already know, and that is, the importance of the office held by the eight justices. Indeed, I believe that no man can exaggerate the importance of the functions that they perform in the State of Maine. They are a co-ordinate branch of our government; they are constitutional guardians and defenders of that precious document which guarantees us our liberties, the possession of our property, our reputation; they construe the statutes that we propose to consider and pass. Before them as a tribunal must come our citizens for decision of all those questions affecting their liberty, property and reputation; before them may be considered everything the possession of which makes life a blessing to man; before them, aided by 12 plain men, are decided disputes of endless variety and of vast consequence to the people.

More than this, they reach out into a vast realm unknown to common law and decide questions of infinite variety arising between citizens of a state that is great and prosperous, unhampered by the unyielding rules of the common law, but according to the principles of right and equity and under their conscience. The functions of the judges of the supreme judicial court of this State being so great, what class of men ought we to expect to fill judicial office? The ablest and most learned in the State of Maine, those who have had experience in the practice of the law, those who are fitted by study and by temper to pass upon questions arising betwixt man and man, those who have lived such a life that they may not only be able to associate freely with the most refined and cultivated and gentle of our people, but that they may also

serve as models for them; in short, they should be gentlemen learned, great and honest, for no longer in the State of Maine can a churl be tolerated upon the bench, no longer, in the present advance of legal and other knowledge, can a man upon the bench of the State of Maine who has not learning and ability be credited with the possession of such.

Much do we expect from a judge. Then I submit that it is incumbent upon us to have such laws in the State of Maine that the able and the learned may fill judicial positions as well as the rich and the honest. First of all, it seems to me, it is important that the independence of the judiciary should be fixed and guaranteed, and that independence, I believe, is best compelled and enforced by the granting of a sufficient salary to maintain a judge upon the bench without his being forced to engage in other business or in speculation. I am aware that there are many who will say that we have no right to even argue that judges of our courts under the trammels of office will be partial or will lack independence, no matter what may be their salaries, no matter who may be the men who are appointed, but I answer to this that since Adam and Eve plucked the fairest and sweetest fruit that ever grew in Paradise, frailty has been the attribute of every son of women born, and that the appointing of any citizen of this State to the supreme bench, clothing him with the ermine of office, empowering him with its attributes and authority, will not necessarily render him impervious to those motives that insiduously and subtly possess man's soul and make him involuntarily and unconsciously the instrument of pronouncing a decision contrary to that which judgment and honesty should dictate.

Make our judges independent; place them on such a plane that they may never bow to the storm of heated political discussion, that they may never be influenced involuntarily and, as they believe honestly, by the arguments urged in favor of great corporations. There stands today between the plain people and the grasp and greed of corporations the supreme court of this State, and I submit that they should be rendered so strong that they shall be as a wall over which corpora-

tions shall never pass to infringe upon the rights and the privileges of the people.

Now, I say, demanding as we do from the judges of the supreme court learning, ability and independence, we, the Legislature of Maine, have assumed the obligation, do assume the obligation, ought to assume the obligation to be the defenders of their independence and the guardians of their families, so that neither the one nor the other shall suffer. The volume of business that is done by the justices of the supreme court has grown to a remarkable degree even within my time. Litigation, in its forms varied, has increased. Actual trials perhaps have not increased to the same extent, but arising from year to year all over the State are a multitude of new questions that grow out of new conditions and result upon increased wealth and increased activity. That fair younger sister of the common law has grown until she has thrown her mantle of protection over all the vested interests and business interests of the State of Maine, the system of quiet jurisprudence.

In the early days of my practice the lawyer who knew how to draw a bill in equity was regarded somewhat as a wonder in the country districts, but now the most obscure country lawyer finds the drawing of a bill in equity as simple as anything else, and the system has grown apace and with it the knowledge of its provisions and the capacity of the court to grapple with problems that were unknown even a generation ago. The growth of the State in all those things that require a judge of enhanced qualities and ability and social graces has been remarkable. All over the State learning and refinement are on the increase and all these require of the judge a corresponding growth. There is now no longer any district of the State where the people are utterly rural as they were once, but in the country as well as the cities people have grown, adopted a new style of living and have acquired habits that necessitate a corresponding growth on the part of the court.

All this compels new and increased outlays by the judges as they travel on their circuits throughout the State, that they may be not only fit companions of the gentlemen of the bar

and their families but of those people who occupy the highest social positions in the different communities where they hold their court. Great outlays are required by the court to pay the expenses of the inns, whose charges have steadily grown within my time.

There is another item of expense that is very considerable that has been thrown upon the judges within the last few years, because of this, that the intense activity and the vast interests of our lives now, wait not upon the slow process of writing with the pen but our work is done by stenographers and typewriters, and the judges of the court who draw opinions and pronounce decrees, who have written documents to make, can no longer consistently with the proper discharge of their duties requiring intellectual ability continue to do the mere menial work of writing that they formerly did. There is no provision in the law whatever to allow the judges compensation or reimbursement for the amount that they pay out for typewriters and stenographers for reproducing their opinions. I submit that they ought to be given a sufficient salary to provide for their outlays while upon the circuit in the discharge of their duties, as well as to furnish them the means of subsistence, to educate their children and also to lay aside something that might be a competence, or at least a pittance, to keep the wolf from the door in their old age.

Now it has been frequently stated that the judges when they were appointed knew that their salary was five and thirty hundred dollars and that therefore, so far as the question of the present incumbents goes, they have nothing to complain of, having accepted an appointment with the salary fixed, and this, it is urged to me, is an answer to any proposition to increase their salaries. I say that this argument is not sound and cannot be sound. If we admit the proposition, then I think we ought to admit that the State which receives the best of the life of its judge, his years of learning, his years of struggle to fit himself for the position, makes him its servant in the performance of most arduous duties and cares, should provide not only the bare necessities but the comfort that befits

his station and dignity, and if because of different conditions now surrounding us from those which formerly existed, even so long ago as the last increase of salary, more is needed, it is our duty to increase it.

There could have been no guaranty implied on the part of the judges in accepting the appointment that they would be content with the salary they now receive no matter what might be the change of conditions, the increased cost of living, the growth of luxury or the increase of refinement. The duty is still as pressing upon us to provide a sufficient salary for them as though the question were a new one.

Now the argument is made, and I believe it is sound, that the salary of the judges of the supreme court is too small in comparison with professional earnings, and in the hearing before the judiciary committee there came both lawyers and laymen who gave us not only their opinions but the statements of fact, and it would seem that the earnings of the lawyer who is in full practice in a city are very great in comparison with the salary of the justices of the supreme court. It is true that the earnings of all lawyers are not large, and I must confess, speaking with candor, that I have never earned in any one year the net amount that is paid one of the justices of our supreme judicial court, but I am a country lawyer and have always practiced in the country, and the men who are appointed to the bench, men who are capable to fill the judicial office, are almost always taken from the cities; and the reason is this, that the lawyers bred in cities and practicing there have advantages that are denied the country attorney.

Not only are they living in an atmosphere of learning, having access to libraries, but they are brought into daily contact with men of great ability and learning amid the never ceasing activities of the city bred business man. The scope of their business and the magnitude of the cases that they manage and arrange is infinitely greater than those of the country lawyer, and so it would seem proper that the city lawyer is chosen a member of the supreme bench and not the country lawyer; indeed, for the last five and twenty years and more only one lawyer from the country has appointed to the

supreme court, all the rest having been taken from our various cities. Now, as it has been said to us, and I believe truly, those men who are capable of filling judicial positions are in receipt of great incomes from their professional earnings and it is indeed a sacrifice for them to accept a place upon the bench.

Of course men do make and ought to make a sacrifice and I cannot for one moment consent to the argument that has been urged upon us that if we fail to increase the salary of the justices we shall not obtain competent men upon the bench. That cannot be. The time I believe will never come when competent men will refuse appointments, because there are those who from honorable ambition, or perhaps a sense of duty, will consent to fill the place which is the proudest and the loftiest that can be aspired to by a lawyer of the State of Maine. But that does not answer the argument, because, having made a sacrifice voluntarily and accepted a place upon the bench, much more is it our duty to provide for their wants and see to it that they do not suffer to an unreasonable extent.

The salaries of justices of the supreme judicial court, it seems to me, far too low in comparison with what has been fixed as a standard in other states, and that standard may be discovered, perhaps, by the most casual examination of the list of salaries paid to similar officers in their jurisdiction, and let us see what some of these salaries are.

The lord chancellor of England receives as a salary \$50,000, a peerage and a pension for life; the chief justice of England receives a salary of \$40,000, the degree of knighthood, frequently a peerage, and his associates are always knighted. The justices of the supreme judicial court of the state of New York receives these salaries: The chief justice, \$14,200, each associate \$13,700; of the little state of New Jersey, little in area, not large in population, though great in wealth, the chancellor receives \$9000, and each justice of the supreme court receives \$8000; of Pennsylvania the chief justice receives \$7500, each associate \$7000 and \$500 for travelling expenses. In the little state of Rhode Island the chief justice is paid the salary of \$5000 and the associates a little less. In Connecticut the chief justice receives \$4500, the asso-

ciates \$4000 and \$500 for travelling expenses. Vermont, small in population and area, comparatively insignificant in wealth and smaller still in business, pays its judges \$3000; New Hampshire pays its chief justice \$3500 and the associates \$3200.

Now it seems to me that this comparison may furnish us some basis upon which we can fix the standard of the value of the services of the justices of our supreme judicial court, and ought it to be longer said of us that we are paying one of the smallest salaries of any state? In this comparison I have only cited the Middle and New England states. I have not gone into the West where all salaries and professional earnings are large. I do not suppose that anyone will say that the supreme court of the State of Maine is less worthy than the court of last resort of any other state. Here in Maine we have today the purest system of common law that exists anywhere in the realm of the English tongue. In spite of the demands of radicals, of reformers, of iconoclasts, of unread lawyers, of pettifoggers, of dreamers, of enthusiasts, we have preserved the substance of the old system of jurisprudence that has everywhere made the English speaking race great, prosperous and powerful, and such a system of jurisprudence has had for expounders and advocates men who in ability, in character, in ethics, in standing in every way, are worthy the respect of the world.

We have had a Mellen, a Shepley, a Tenney and an Appleton, and these judges and their associates have pronounced opinions that have been cited in every place where the rights of men and property are regarded and the system of English jurisprudence prevails, and I say that these men are as worthy to be considered as those in other jurisdictions and their successors now upon the bench, whose opinions are read and cited and counted upon everywhere, are entitled to the same respect as are the opinions of these justices in their jurisdictions. That being so, I submit that it is a reproach upon us and our State if we fail to provide for them to that extent that is necessary for men of their calibre and ability. I believe that the justices of our supreme judicial court at present filling the office are the equals of any

body sitting in judgment where the English jurisprudence is followed.

I know of no reason in the world why our own chief justice, affection for whom is embedded in the heart of every one of us, is not entitled to the same respect that is accorded to Russell Lord of Killoween, who happens to be the chief justice of England. I do not believe the judges of our court are less worthy than the judges of Massachusetts, who receive \$7000 and \$7500, and in whose behalf it is now demanded that they be paid \$10,000. The purpose of this bill is but to give our judge a moderate increase, \$500. I myself believe they are entitled to more, but they will be content with this, and ought they not to have it?

The argument is made, and admitted, that the burdens of the people are great and that taxation weighs us down. Yet I ask, was there ever a time when the taxes of the people, heavy though they be, were more easily paid by citizens of the State than at the present time? Increased taxation comes as a result of increased activity in business and an increase of the comforts of life that the people enjoy. Some of you will remember that the great Macaulay wrote, 50 years ago, that the taxes of England since the time of the Stuarts had increased more than 50-fold, and yet the people of England did not complain of their tax at that time. How much they have increased since that I know not, and how much they will increase in the future no man knows, but this I believe, that the increase of the paying power will be in the same ratio as the taxes themselves.

I can remember before the war when the tax in the rural town where I lived was very low but when it was paid it was at the sacrifice of the comforts of the family. In the household where I was reared the inmates knew not the taste of wheat bread for weeks at a time, and the little tax caused a constant anxiety on the part of the parent for a whole year that he might provide for it; but now it is easier, and it seems to me that this constant exclamation that we hear of excessive taxation arises thoughtlessly to the lips of the people and increases in its intensity until it becomes an argument only because of its constant repetition.

Granted that taxes are high and that the burdens of the people are great, still I ask, does it comport with the dignity



of the State of Maine and with our duties and senators and legislators to deny the little increase in answer to the judges' needs, while we vote away, perhaps, thousands for other purposes, possibly for schemes—possibly, I say. I do not and cannot believe that this is where economy and saving ought to begin. I may be wrong. These burdens of taxation cannot be increased to any great extent thus, and probably the levying of this additional sum would not be felt at all by our citizens in comparison with the burdens that are placed upon them by municipal taxation.

That is the burden that bears most heavily upon the people and what they ought to complain of, is their own municipal taxation, and not the taxation of the State, which is levied to so great an extent upon the banks and the railroad companies and other corporations, which perhaps bear lighter burdens than they ought to, but still great in comparison with the volume of all.

I have now briefly and imperfectly set forth some of these simple propositions that to me are conclusive, and I hope that the senators may look upon them in the light that I do. There is one reason which is cogent to me, and that is the consideration of the judge who has been long upon the Bench and has not a competence. Sad and melancholy must be his reflections as he is approaching old age without wealth, with no possibility of acquiring wealth and with the possibility of the loss of place before him; sad, I say, must be his contemplation of life and his position.

Perhaps he may have a dependent family; he may have been the most part of his active life upon the Bench, and his duties and the dignity of his office have compelled him to use all his salary and left him on the brink of old age without the hope of ever making a competence, without the means of educating his children and with no possibility of ever acquiring a practice at the bar, provided he should lose his place.

It seems to me that such a judge has the right to appeal to us that we leave him not in that condition, but that we fix the salary of the justice so that by the same thrift and economy that he has heretofore followed he may save something against the time when old age shall have fallen upon him.

It is a reasonable provision, I submit, that the Senate ought to make, and there-

fore, Mr. President, I move that when the vote is taken upon this proposition, it be by the yeas and nays, and that the vote be taken upon the pending question, which is to give the bill its second reading, so that all those who vote will vote upon its merits. Those who favor the proposition to increase the salary of the justices will vote yes, and those opposed will vote no. I thank the Senate for its attention.

The question being upon a vote by yeas and nays, the Senate so voted and the yeas and nays were ordered.

#### MR. MERRILL OF SOMERSET.

Mr. Merrill of Somerset said:  
Mr. President and Fellow Senators:

Were there no other good and sufficient reason, I am physically unable this morning to enter into any extended discussion of this question, and much less would I attempt to answer the able arguments of the senator from Aroostook. I do, however, desire very briefly to express the feeling that prompts me to oppose this measure, and first, Mr. President, I desire to state that I am actuated by no captious feeling of opposition. For the committee that has reported that bill I have the utmost respect and kindly feeling. The only trouble with them, as I understand and believe, is that for once they are entirely out of touch with the people of the State.

For the members of our supreme judicial court I have the most profound respect. Maine has for years been proud of her able delegation in Congress; she has equal reason for pride in her judiciary. She has never been called upon to place any second-class timber there, and I believe, and I agree with the senator from Aroostook that whether this bill passes or not, she never will be called upon to do so. But I feel, Mr. President, that the people of this State at this time are staggering under just about all the load they can carry, and for us to increase their burden would be not only a blunder, but a crime.

When the great business depression struck this country a few years ago, it seemed to reach the business industries of Maine last, and we seem to be the last to recover. Almost every business man will tell you that he has been passing through a hard time. To the manufacturer it seems that it takes

twice as many yards of cloth to bring the dollar; to the mill owner twice as many feet of lumber; to the farmer twice as many pounds of farm produce, but we have seen the expenditures of the State gradually creeping up in every department, notwithstanding what I have said, and we have seen as a consequence of that our rate of State taxation go from 2 to 2½ and 2¾ mills, and it does seem to me that the people have a right to call a halt.

We have seen the appropriations that have been proposed at this present session. If we go on in this way to the end of this session, we shall find ourselves in debt up to our constitutional limit, and the rate of taxation will again necessarily be increased to somewhere from 3 to 3¼ mills. Now this is not a pleasant picture to contemplate, but I submit to my brother senators whether it is not a true one. The distinguished senator from Aroostook has suggested that this is making a great deal of fuss over a little matter, calling simply for an appropriation of \$4000, but, brother senators, this is not the meat of the coconut.

I have no more doubt that nine out of every ten of the voters of this State are opposed to this increase than I have of any geometrical demonstration. Their conversation shows it; their letters show it, and their petitions rain down upon us by dozens and scores and hundreds, showing it. They know that they are compelled to practice the strictest economy at this time and they simply ask that those holding high positions practice a little of the general self-denial; and I believe that when the judges themselves come to consider all the evidence in the case and the wishes of the people, they themselves will be willing and glad to grant the prayer of the petitioners.

#### MR. GRINDLE OF HANCOCK.

Mr. Grindle of Hancock, said:

Mr. President and Gentlemen of the Senate:

I rise to speak briefly in explanation of my views relative to the measure under consideration. I wish to say sincerely that no man has more respect or admiration for our judges than I have, but before voting for this measure I want to see the responsibility fixed where it belongs. Certainly the movement to raise their salaries did not originate in the air, and where did it come from?

Did the judges themselves start it? Have they ever complained that their pay

is inadequate? Are they saying that they are getting less than they could earn working for clients? Or did the movement originate with some promising young lawyers who are prospective candidates for the Bench? Without any discount to such, I must say that their interest is not entirely a public one. Or did it originate with persons who have no personal interest and who are well disposed but a little too officious? These are important questions on which I want information.

Now I believe that I correctly state the sentiment of my constituents when I say that the most valuable service that the members of this Legislature can render to the people is to oppose all schemes or measures which will increase the expense of State government. For while there is not in sight a single measure which will lessen expense, there are many which will increase it. And unless something is done to defeat them it is certain that they will entail upon us a rate of taxation so burdensome as to be actually oppressive and none the less oppressive because imposed by a Republican form of government.

But what excuse or right have we who claim to represent the people to misrepresent them? We cannot claim that we do it ignorantly for the Governor has warned us against making unnecessary expenses. The press has repeated the warning, while the people have cried aloud against the continual tendency to increase taxes. Is it right for us to turn a deaf ear to these warnings? No, I believe that those who elected us have a right to expect that we shall fully understand what unnecessary burdens are proposed and also that we shall make an effort to protect them from such burdens.

With these convictions I cannot vote for this measure till I hear better reasons than have yet been given. I believe it would be well for the members of this Legislature to vote for no new measure which would increase public expense unless such measure can be shown to be actually necessary, and the burden of proof should be put on those who advocate the measure now under consideration to show that it is necessary. In my judgment there is no proof that it is either necessary or for the public good.

It is said that the present salary is not sufficient to enable our judges to live in a style becoming their station and respectability, and hence it should be increased that they may do so. But this argument is not only inadequate to prove the necessity of such an increase, but is actually mischievous. It is positively bad, because it makes luxurious living the criterion of respectability of men in public life. The idea that one's respectability or importance is determined by the amount of money he spends, is an offspring of monarchy, and is still tolerated and fostered in countries so governed.

But for us living under a Republican form of government and representing common people to perform an act which could be understood as recognizing, encouraging or in any way approving of such an erroneous idea would be simply shameful. Once let the public adopt the sentiment that the amount of money spent by one in public life is to count in the measure of his importance or usefulness and the days of Democratic simplicity will be at an end and instead we shall become feeble imitators of European snobbery.

Private fortunes are so large and so common that it is not rare to find men spending tens of thousands of dollars annually for current expenses. I do not know as it is desirable to keep such men out of public life nor can we limit or control their lavish expenditures of money while in office. But to impose on the common tax payers the burden of paying to our officials such salaries will enable them to imitate such extravagance is neither just nor wise. And inasmuch as this tendency to extravagance is progressive no one can tell where it will end.

For a salary of \$4000 or even \$10,000 a year will not enable them to indulge in the expensive living of their rich neighbors. So I think the issue should be fully understood and squarely met for it is much easier to prevent abuses one by one as they appear, than to reform them after they are established.

It is said that the salary is less than the judges could earn by practicing law. This is a statement without proof and probably is a fiction. But if true then the practice of law is much more lucrative than has been generally supposed and certainly much more lucrative than the work of other professions.

The judges knew what the salary was at the time of appointment and probably did not look upon it as a self-sacrifice when they accepted the position; and no one claims that any of them will resign to better his condition.

And even if it is true that one in the history of our State, that one judge did decline a re-appointment because it was not for his pecuniary interest to accept it, it certainly does not necessarily follow that the same is true of the others. And it should be remembered that the increase of 1887 has occurred since that. I do not think that the recommendations of the committee should have much weight in this case. For the conditions are such that no thoughtful persons would expect much opposition from it. I do not mean that the members were afraid to oppose the measure or that the judges would resent their opposition and get even with them; but that it is the most natural thing in the world for members of the legal profession to embrace any and every opportunity to show their friendliness for judges with whom they come in contact and whom they like and respect.

No one denies that the judges are able, faithful and in every way worthy, and their good qualities are appreciated, for they have the confidence and respect of everybody. In a word, they are highly honored and reasonably well paid; very much better paid than hundreds of men in other professions who are equally faithful and intelligent in their work, but getting not more than one-half as much for it.

And it seems to me that our constituents have a right to expect that we shall practice an intelligent economy. That we shall make an effort to curtail expense but that if we cannot do much in this direction that at least we shall not needlessly increase it.

In closing my remarks, gentlemen, I will say that I have endeavored to clearly state my views on this measure and with honest convictions cannot do otherwise than vote against it.

MR. FERNALD OF ANDROSCOGGIN.

Mr. Fernald of Androscoggin, Said: Mr. President and Gentlemen of the Senate:

I wish to state at the commencement of this discussion that there is no man

in the Senate or in this Legislature who has higher regard or greater respect for the dignity of the court than myself. In its honor and convictions our very lives are entrusted, and upon its honor and good judgment our fortunes depend.

It is a most embarrassing position for me at this time to stand here, a farmer, and oppose a measure which is considered by a large number of the distinguished citizens of Maine, and especially by the legal gentlemen to be so important, so just and so necessary.

Aside from this, I have sitting upon the bench today, personal friends, men whose friendship I hold to be more precious than jewels, and for this reason alone I wish I could conscientiously support this measure, for I believe it to be the noblest virtue of humanity to have a desire to assist our friends. But, sir, for reasons which I will endeavor to express in as few words and as short time as possible, I am strongly opposed to this measure and to any measure at this time increasing the salary of any officers of this State.

At the opening of this session an order was presented by the gentleman from Somerset, asking that a committee on salaries be instituted and appointed, but strange and remarkable as it may seem, the order was tabled and remained tabled for three weeks. In the mean time those opposed to the order presented a resolve, asking that the salary of the judges of the supreme court be increased from \$3500 to \$5000 a year and asked that the resolve be referred to the judiciary committee—a marvelous transfiguration, gentlemen!

My first impression in regard to the word "judiciary" and "judiciary committee" was that it referred to matters of a legal nature; but in this word of progress, where words are constantly changing in their use and meaning, I thought probably I must be mistaken and that this word in some way might have reference to salaries, so I carefully consulted this new dictionary and I found one definition there given is "a passing of judgment," and I assumed that the judiciary committee of this Legislature was about to pass judgment and I concluded that their verdict would be that all the fraternity should have increased fees and salaries.

Let us investigate this matter a little and see if any of the officers or ser-

vants of the State are rendering more service than they are paid for, for I am sure that no member of this Legislature desires for a single moment that any of the State officials should be sparingly or meanly dealt with, from the judges of the supreme court to the janitor of this building, but that we may not make any mistake and increase the salary of the wrong man or men, let us see what their pay really is.

As you all know, the salary of the judges of the supreme court is \$3500, received from the State. In addition to this I am told from very high authority, they average to receive about \$500 each for services rendered as referees in matters referred to them outside the courts, or so-called referee cases, and presumably a much larger sum than this is received by them as trustees of estates. About these two items I think there can be no controversy, as the sums estimated are very low, and probably much lower than the amount actually received. Are they poor men? Not unless the public are very much deceived. One of them, at least, is rated to be worth \$200,000; \$4500 a year would be an average of \$14.42 per day for every week day in the year, Sundays alone accepted, and this certainly to the average citizen would seem to be a reasonable compensation for services rendered. And I am sure that any man from the country, at least, would consider that he might have all the necessities and some few luxuries of the world upon this amount.

Four thousand five hundred dollars! How does that strike you, professors of colleges, teachers of the public schools, ministers, doctors and men engaged in literary pursuits? How many of you are receiving \$4500 in clean cold cash? How does it strike you, mechanics, carpenters, blacksmiths and men engaged in mechanical pursuits? How many of you are receiving \$14 a day or even one-fourth of that amount? How does it strike you my farmer friends, you who are the backbone and the life blood of the republic, you who are working 14 hours per day every week day in the year, and four hours on the Sabbath, at an average of 90 cents per day? Do you think the State is fugal and mean with its judges? And do you think their

salary should be increased to \$17 per day?

I ask one more class of men, and it is one interested in a business with which I am somewhat familiar, the manufacturers. Everyone at all familiar with manufacturing knows that we have passed through four long years of depression, low prices for manufactured goods and hard times, and the best of us have been hardly able to hold our own. We have run our mills and operated our factories when at the end of the season we would have been glad to exchange our dividends for a very meagre salary.

But, sir, through the great efforts of our late lamented congressman of the 2nd District, and the bill bearing his name, and with the assistance of the best national administration ever given the republic since Lincoln, we hope we can see the sun of prosperity peeping through the clouds of adversity and depression, and trust in the near future we may behold it in its fullest glory. But does the discreet manufacturer, upon the anticipation of better times, increase the wages of his employes, or does he wait like a wise man until he himself begins to reap the benefit of higher prices and better markets and some return for his capital invested?

Now, gentlemen, all I ask of you is to carry the same rules and principles into the affairs of the State that you employ in your own business affairs. The State demands this of you; your constituents will be satisfied with nothing less. The politician who cares nothing for the vast business interests he is supposed to represent must go to the wall and the narrow minded partisan must be swept out of the path of progress where too long he has been an obstacle, and the business and industrial men will have more to say in the shaping of our laws.

It has been suggested by friends of the bill that some of the legal lights from our large cities had refused an appointment to a judgeship on the ground that the salary was insufficient for their support. This doubtless is true, for there are some few lawyers who have as clients large firms and corporations who are willing to pay extraordinary and exorbitant fees, much more than the average citizen could afford to pay for advice, and it is certain that these lawyers would not accept an appointment at much larger salary than is proposed, but it does not prove that they would be any more competent or efficient judges than some of the

lesser known and more conscientious lawyers of the rural districts. If my conception of the office is correct, it does not require the greatest statesman, the most eloquent orator or even the most brilliant lawyer to fill the position acceptably but a careful, honest, correct, well educated man, one in whom the people have confidence and in whom they can trust. Such men, sir, can be found in every county in this State, and the office will never go begging. There are dozens of men, our best lawyers, who are living in hopes that some future day they, too, may enjoy the honor, the glory, and even the remuneration of this office. Why, sir, it would be contemptible to speak reproachfully of the Court of Maine or that it is retrograding.

Any look at the judges upon our supreme bench, Judge Albert R. Savage, Judge Andrew P. Wiswell, Judge William H. Fogler. More honest, able, conscientious, well fitted men cannot be found upon the bench in New England, and, sir, proud as I am of Judge Savage, of Androscoggin, and his achievements, I am frank to say, in the presence of this distinguished body, that Androscoggin county still has more material of the same kind. Why, sir, Androscoggin today will take the contract to provide judges for the supreme court for the next century at the salary already paid. (Laughter and applause.) And we will bring men that we will not be ashamed of, either.

It is not true that all of our great men came from the large cities; they were not all born in homes of luxury.

I remember 38 years ago this coming summer, when the old temple of liberty, was shaken to its very foundation, and men trembled, for fear that it would be shattered. We took a man of the people for a leader, a man who knew how to build a log cabin and fence his acres with rail, and who later built the citadel of individual, universal, and unconditional freedom and fenced it with the strong arm of constitutional law. And I remember that associated with Abraham Lincoln was our own Hannibal Hamlin of Oxford County, Maine, the distinguished father of the senator on my right, a man of the people and from the people, and under this august leadership the Republican party first marched to victory and to glory.

And this same party, gentlemen, is in power today, very much in power. It has been called by its enemies the strong party, and they called it right. It is a strong party, strong in principle, strong in progressive leadership, strong in its devotion to the people's interest, strong enough in its infancy to stoop and lift a down trodden and despised race up to the shining heights of American citizenship and make them free men and women forever; stronger yet in the patriotic record of its entire history. This great party that has seated you, and me, and all of us in this chamber, demands of us that we protect its interest; and if we err, or deviate from the principles of justice, the party and the State suffers, and we are looked upon as unwise men, and unfit legislators.

To return once more to the bill under discussion, I ask you with all candor, if

the highest salaried officers in this State are to have an increase in salary of 14½ per cent. should not the same rule apply to every individual of the \$90 or more in the State's employ, from the judges and Governor to the janitors, and the fireman who shovels coal into the boiler at \$1.35 per day?

As for me, I admit that my sympathies are almost always with the under dog in the fight; but if there is to be an increase in wages, I had rather it should commence at the other end of the line.

I believe this increase is unnecessary, and uncalled for, and in the interest of the great party which we represent, in the interest of common business economy, in the interest of the tax payers and citizens of Maine, and in the interest of justice, and right, between man and man, I believe no increase is necessary.

Mr. Stearns replied briefly, stating his doubt of the correctness of the information that the judges receive the sums stated for services as referee, and that to his personal knowledge, several of the judges never sit as referees. The judges had expressed themselves to the effect that were the salaries such as to support them in comfort and provide for their necessities, provide them a nucleus for a competence hereafter, they would never ask for an increase. It were better that the judges never acted as referees, but only sat upon the bench in the exercise of their judicial duties. As to the reference of the matter to the judiciary committee, two memorials in favor of the measure, one from Hon. Albert W. Paine, signed by every attorney in the county of Penobscot with one or two exceptions, and the other signed by business men of the town of Caribou, his own town, had been sent him with the request that they be referred to the committee on judiciary, and that duty he had performed. About that same time the committee on salaries was provided for by an order. At the time it was presented to the Senate, he was not aware of such a committee. He believed that the judiciary committee was better qualified to deal with a question of this nature than a special committee, and it was the express desire of the memorialists that it should go before the judiciary committee. There had never been an increase of judges salary ordered, from the commencement of the government of the State, that was not referred to this committee. The responsibility, if any, for this reference he was willing to bear.

The yeas and nays being ordered, the vote was as follows:

Yea—Adams, Chamberlain, Dudley, Hamlin, Hargraves, Heald, Hurd, Shepherd, Stearns, Vickery, White—11.

Nay—Blanchard, Fernald, Grindle, Hodsdon, Johnston, King, Merrill, Peirce, Pike, Reynolds, Sawyer, Sharp—12.

Absent—Plummer.

Pairs: Mr. Weeks of Somerset, no, with Mr. Jones of Penobscot, yes; Mr. Witham of Cumberland, no, with Mr. Drummond of Cumberland, yes; Mr. Young of Oxford, no with Mr. Whitehouse, of Sagadahoc, yes.

And 11 voting in the affirmative and 12 in the negative; it was not a vote that the bill receive its second reading.

Mr. Fernald. I move that the matter be indefinitely postponed.

Mr. Stearns. I hope that the Senator will not insist on his motion, but that the matter may lie upon the table.

Mr. Fernald. I withdraw my motion. On motion by Mr. Johnston of Piscataquis,

Adjourned.