

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

Seventy-Second Legislature

OF THE

STATE OF MAINE.

1905.

HOUSE.

Wednesday, March 15, 1905.

Prayer by Rev. Mr. Degen of Augusta.

Mr. REED of Portland: Mr. Speaker, I rise to speak to a question of privilege or the point of order presented in the form of a resolution offered by the gentleman from Rockland (Mr. Littlefield) and laid upon the table yesterday. This matter was, as I then stated, suddenly sprung upon the friends of this measure and we were at that time unable to quote any precedents to give you our idea as to what the rights of the House were and what should control our action in this matter. It seems to me now, as it did then that this is an effort for delay to get rid of this troublesome question upon a technicality and not to try it upon its real merits. But I do not believe that the members desire to determine an important question of this kind, affecting the people throughout our State, upon a mere technical consideration. I do not believe that they carry a chip on their shoulders and that they are living in dread and fear of the encroachment of the Senate on the rights and privileges of the House. We stand here broad enough and bold enough to defend our rights and not timid in regard to a supposed encroachment which exists only in the fertile brain of the gentleman from Rockland.

This is not an act for the raising of revenue and it does not come within the purview of the provisions of our constitution at all. It can originate just as well in the Senate as in the House.

At every session of this Legislature from time immemorial, since the foundation of this State and in the State of Massachusetts, the practice has been continuous, and in every single session of this Legislature you can find bill after bill of precisely this same character which has originated in the Senate. I desire to call your attention to a few bills which are more revenue bills than this is. At this very session in the case of the railroad tax bill, that bill was considered in the Senate and turned down and then came to this House and the action of the Senate was concurred in at this session. But you may properly say, if we did wrong

in the past it is no reason why we should continue to do wrong. That is true, but we have not done wrong in the past, we have been right.

The distinction is this as I understand it. Congress raises its revenue by direct taxation. Every bill which changes the tariff in Congress perhaps is a tariff measure, a measure for raising revenue, and the precedents of the House unquestionably apply to that class of measures, that they should originate in the House. That does not apply to the State of Maine. The precedents of the House as quoted by the gentleman from Rockland are absolutely inapplicable.

The precedents in Congress are not good here. We determine our methods of taxation and the precedents of Congressional proceedings are not applicable to this State. We shall have revenue bills originate in this House. A bill will shortly be presented here fixing the tax at two and one quarter or two and three-quarters mills, as may seem just.

That is a money bill and as such must originate here. Such bills do originate here, and the point made by the gentleman from Rockland applies to that class of legislation. But the class of legislation that simply varies or changes the statute and which would incidentally produce revenue is not to be considered under this provision of the constitution.

I want to call attention to a few precedents of this House, and I claim right here that we should be guided by the precedents of this House and not attempt to draw analogies which must necessarily be misleading from the doings of Congress. They are not our guides. In that respect we are a law unto ourselves. They do not establish our rules. We establish our own rules and we should be guided by our own precedents. The bill I shall refer to originated in the Senate, came to the House and were concurred in and became laws. There was a bill relating to the assessment of taxes in unincorporated places introduced into the Senate in 1885, as appears by the Senate Journal of that year, page 371, and which was enacted into a law as is shown by the Senate Journal, page 422. In 1887 an Act chang-

ing the law as to the taxation of railroads was reported to the Senate, concurred in by the House without an objection and was finally passed to be enacted on March 9th, 1857, as shown by the Senate Journal, page 409. In 1839 an Act to amend Section six of Chapter six of the Revised Statutes was introduced into the Senate, relating to this very chapter which we are now considering. It pertained to property exempt from taxation. It was concurred in by the House without an objection and finally enacted, as shown by the Senate Journal, page 469.

I am willing to concede to the gentleman from Rockland a very close and intimate knowledge of the law and the constitution, none better versed in this House today, but I am not willing to concede to him all learning and all knowledge, and I am not willing to concede that he knows more about the constitution and the laws than the gentlemen who were members of this Legislature at the time these precedents were made. I am not willing to concede that the gentlemen sitting in Congress, now or at any other time, are necessarily greater jurists than the men who sat in this Legislature when these precedents were established and who concurred in them. The array of legal talent in this Legislature at that time it seems to me is sufficient to show that measures of this kind were not allowed to be slipped through and that the privileges of this House would not be encroached upon without protest. In 1895 a bill for taxing trust and banking companies was reported in the Senate, passed to be engrossed and sent down for concurrence, amended by the House and passed to be engrossed without further objection.

Mr. LITTLEFIELD: I would like to ask if the bill which the gentleman from Portland has just mentioned in his opinion is a bill for raising revenue?

Mr. REED: No, and this is not either. Neither of them are. Now we have an act relating to the taxation of railroads in the same year which was passed to be engrossed in the Senate and sent to the House and finally passed without any technical objections in the year 1893.

Mr. LITTLEFIELD: In that year

the taxes on railroads were increased by that act. were they not?

Mr. REED: Yes, I think that is the year when they were increased. It seems to me that this is more of a revenue measure than the bill we are now considering.

Mr. LITTLEFIELD: I would ask the gentleman his opinion of that bill that increased the taxes on railroads, whether that is a bill raising revenue?

Mr. REED: I don't think it is under the provisions of our constitution. I think it was properly introduced in the Senate and properly passed by this House; and in regard to every precedent I shall refer to I will give the same answer. They are none of them revenue bills. Now, in 1895, an act was passed relating to the taxation on land in places not incorporated, reported in the Senate as shown by Senate Journal, page 375, and concurred in by the House without objection. Evidently if we were wrong in the past we were grossly and terribly wrong, and it is for the gentleman from Rockland to come here and correct a long established and very unparliamentary usage. I do not believe that we are willing to concede that position at this time.

Under the constitution of Massachusetts the provision is that all money bills shall originate in the House. This was passed in 1780 and it is practically the provision now. In a Massachusetts report, Vol. 127, is given the opinion of the justices of the supreme court to the Legislature in regard to this provision of the constitution, and the opinion ends in this way: "Then there being no other clause in the constitution establishing a procedure in this particular, the right of both branches must be equal." That is precisely the position which we take, and we claim that in this instance the right of both branches is equal. When revenue bills as such come before you for your consideration they will come as original bills and will originate in the House. Those are the bills for raising the tax. Those are the revenue bills to which the constitution pertains. The law and the precedents of this House are not wrong, and I do not believe that we wish at this time to set them aside. The precedents quoted by the gentle-

man from Rockland in the national House of Representatives do not apply. We were right before and we are right now; and I believe that gentlemen in voting upon this resolution will take that position.

Mr. LITTLEFIELD: Mr. Speaker, I will preface my remarks by saying that I am at least surprised at the course taken by the gentleman from Portland (Mr. Reed) and I think that if he were arguing as a lawyer he would never take any such position. I do not claim for myself all of the knowledge on the constitution of Maine or on any other subject. I can succeed after investigation in making up my own mind in a matter, and if I cannot give you a good reason for so making up my mind I shall not ask you to support it; but I shall not undertake in giving you the reasons for sustaining this resolution to say that some man has expressed his opinion upon it when it was never called to his attention and nothing was ever said in relation to it.

The gentleman from Portland says that this matter was suddenly sprung. It was well known on the day before it was presented to this House that the claim was made and would be presented. He says it is for the purpose of delay. It is equally competent to say, but I do not say it, that the argument put forth by the gentleman from Portland is irrespective of the constitution and of the rights of this House for the purpose of having this bill considered now at this time upon its merits. And lest there are some in this House who do not fully understand the question before the House I will take occasion to say that this has nothing to do with the merits of this measure one way or the other. It is simply a question of the privileges and rights of this House. When the bill comes up in the proper course for action on its merits I shall have some views to express on that bill, but I trust that my views in relation to the bill have no bearing and no weight with me in approaching the question now before the House; and the question now before the House is whether this bill in the way in which it has been introduced is in contravention of the ninth section of article four of the constitution which provides that all bills for raising rev-

enue shall originate in the House of Representatives.

To begin with I wish to call attention to a fallacious argument of the gentleman from Portland, a hypothesis which he introduces, a basis on which he founds his whole argument, and that is that we determine our own rules and methods and should be governed by them. I wish now and here to inform the gentleman and every member of this House that it is not a rule of this House we are talking about; it is the organic law which governs our action as well as the action of all the other people in the State of Maine. It is aside from the rules of the House. If it was an infringement of the rules of the House the proper time to have raised the question would have been when the bill came up and then to have raised a point of order to be ruled upon by the Speaker. But this is further and deeper. It is a violation not of a rule of this House, not of a thing of which we have control, but of the very law by which we are controlled and by which we must be controlled. I have no desire to interfere with anything the Senate may wish to do, but I know that the gentleman from Portland is too good a lawyer to expect any lawyer is this House, and I think he has too much good sense to expect any member of this House, to hold that an action of this House or the Senate when a point was not in question, was not raised, when it went by unanimous consent or without objection, is a precedent for any action on the part of this House when the point is raised. Does the gentleman ever cite to the supreme court or any justice thereof as a precedent something that was done when the point in controversy was not raised? God forbid, Mr. Speaker, that I shall hereafter be held to indorse proceedings of this House as being consistent with the laws of the State of Maine when no question has been raised about it and I had no opportunity to express an opinion upon it one way or the other. That is what the gentleman wishes us to do. He says that the precedents of bills originating in the Senate and coming to this House have settled it and fixed it for the purposes of this Legislature. I ask you, in the first place, what can the action of this House or the Senate fix and determine in contravention of the constitution of the State

of Maine? Suppose for instance only yesterday noon a gentleman who voted on the losing side of a measure made a motion to reconsider it. The question was voted on without the point being raised that it was not competent under parliamentary rules and the rules of this House for him to make such a motion. Does the fact that that was done yesterday establish in the mind of the gentleman from Portland that that is a proper parliamentary proceeding, that the action of the House yesterday was a precedent which established the right and propriety of that proceeding? So much for the precedents which he cites. He says that in not one single case was any man's attention who passed upon those bills called to the question here in controversy. Does any member of the House wish to be held as endorsing the regularity of a proceeding when nobody's attention is called to it and when he has not acted on it? Does he wish hereafter some member of this House to rise up and say that every member in the House said that that was right? Mr. Speaker, the gentleman as a lawyer never would think of producing such things as precedents for the action of anybody. But he proves altogether too much. In 1893 he says, a bill was passed for taxing trust and banking companies. What under Heaven is a bill for raising revenue if a bill taxing trust and banking companies is not a bill for raising revenue? The gentleman says it is not a bill for raising revenue. Where are you going to find a bill for raising revenue? I presume the gentleman would agree that appropriation bills are bills for raising revenue, that resolve carrying appropriations are bills raising revenue. If that be so, what does that prove? Repeatedly resolves carrying money and raising revenue have originated in the Senate of the Legislature of the State of Maine. If they are bills for raising revenue have they properly originated in the Senate because no question has ever been raised about them? He cites as a precedent the law of 1893 which laid an increase tax upon railroads. Has any gentleman any doubt as to whether that is a bill for raising revenue? The gentleman won't even admit that that is a bill for rais-

ing revenue. I care not what bills he takes. I would ask him if those bills are not bills for raising revenue, what on earth are? Assuming that some one of these is a bill for raising revenue, what is the result? If it is a bill for raising revenue, you must at once admit that it is one of those bills that the constitution says shall originate in the House of Representatives; and does the fact that those bills have originated in the Senate and have been enacted into law abrogate the constitution of the State of Maine? Does that prove that they were right when they did it? If we admit it is a bill for raising revenue, and the constitution says it shall originate in the House, does the fact that it has been otherwise change the constitution? Does a repeated course of violation of the constitution make that course consistent with the constitution? That is the argument of the gentleman from Portland.

He mentions a case from Massachusetts. But you will not that while action under the constitution of the United States which reads like ours is not in his mind a precedent for our action, a decision under the constitution of the State of Massachusetts is a precedent to sustain his contention; and the constitution of Massachusetts says that money bills shall originate in the House, and he cites a case of a bill that did not have the least earthly thing to do with money. The constitution of Massachusetts is not the same as ours. It is not bills for raising revenue, but it is money bills.

Now the only question here for the action of this House is whether we shall continue to proceed in a way practically in the teeth of the constitution of the State of Maine because forsooth somebody else, however a good lawyer he may be, has sat in this House or in the Senate and has not raised the question, but has allowed things to proceed by unanimous consent. Ah, gentlemen, nothing is a precedent for a decision of a court or a decision of anybody else, and we have no right to cite a man as endorsing a course of procedure unless the question is raised and he has a chance

to say something and express his ideas on it. I wish to say that the gentleman from Portland greatly differs from that other greater gentleman from Portland who bore a like name; and I shall not stop to cite the precedents of Congress. I will simply read a short extract. The gentleman from Portland has had from yesterday until now since these precedents of Congress were cited to him, and has he brought to you one single instance where this clause of the constitution of the United States which is like our own, where the action has not been precisely the action I told you about yesterday morning? Not one. The situation is summed up in an extract which I did not read yesterday, in the Congressional Record of February 16th, 1905, page 2824; and this is the action of Mr. Tawney: "To come within the provision of the constitution it is not necessary that the proposed legislation provide for the raising or the lowering of the revenue. It has been held by Mr. Speaker Reed and Mr. Speaker Carlisle that to come within this provision of the constitution bills need not necessarily provide for the raising or lowering of revenue." (This bill provides for the lowering of revenue and it necessarily provides for the raising of revenue because if you lower it in one particular you have presumptively got to raise it in some other in order to raise the necessary revenue) "but bills affecting the revenue or the revenue laws whether such laws relate directly to the laws relating to the administration raising or lowering revenue, or to the laws relating to the administration of the revenue laws, are within this provision of the constitution. That has been the uniform ruling and construction placed upon this provision of the constitution by the House of Representatives and by its Speakers. My colleague, the gentleman from Pennsylvania, calls my attention to the report made by Senator Carpenter on this very question as to whether or not a bill, in order to come within the provision of the constitution, ought to be a bill raising revenue or a bill reducing revenue, but that it may be a bill affecting revenue. This House has

repeatedly held that bills relating to the administration of the revenue laws are bills affecting the revenue within the meaning of the constitution, referring to the origin of revenue measures."

I call the attention of the members of the House to one thing. While you are not responsible for the regularity of action that may be taken if no question is raised, while the gentleman from Portland necessarily admits that the precedents he has cited are no precedents for our action at this time—because he must admit, at last I have no doubt that every member of the House is satisfied, that the precedents that he has cited are bills for raising revenue as originating in the Senate of this Legislature—and if they are bills for raising revenue they are directly in the teeth of the constitution of Maine and consequently cannot be precedents for our action here—but I call your attention to this, that now the point is presented to you this resolution is up to you to act upon. The question is whether you will maintain the rights and the dignity of this House, or whether forsooth because you want to do something else you will fly in the face and eyes of the constitution, and you will establish by your vote when the question is squarely and directly presented a precedent that ought to have some weight and which hereafter in the action of this House will come home to roost and to bother you. You are called on now not to act in accordance with your desires, but to establish consistently with the constitution the rights of this House, let it hit where it will; and Mr. Speaker and gentlemen, I call on this House to vote squarely upon that proposition, leaving out of mind any preconceived opinions you may have in relation to the merits or demerits of this bill which would be under consideration except for the raising of the question here on which you are to decide.

Mr. FEED: In regard to the gentleman's congressional precedents, as I did not consider them to have any bearing on this question it did not seem necessary to look them up. The revenue laws of Congress are entirely different from the revenue laws of this

State. Even if we take the position that some of the bills which have been referred to as precedents in this State are revenue bills, and for a moment admitting the position taken by the gentleman from Rockland as to the bill in regard to the tax on railroads, that proves nothing except that was not a precedent for this particular bill. I have not referred to these as controlling precedents, but rather as the established line of procedure coming down to this House from the foundation of the State and never before questioned by anybody so far as I can learn; and if I have quoted no precedent from the Congressional Record I will ask you if the gentleman from Rockland has quoted one single precedent from the records of this House?

Mr. LITTLEFIELD: As that seems to call for an answer, I will say with all solemnity that we cannot quote as precedents of this House when the question has never been raised on acted upon by this House, and consequently there are no precedents in this Legislature.

Mr. REED: That is the only question I wish to establish, that there are no precedents in this House. Now, I am not willing to take the position that this House has been constantly wrong in the past. I believe that we have had jurists in the past able enough to check this procedure if it had been wrong.

Now, the answer to the gentleman from Rockland is right here, that whatever the other measures may have been, and whatever the measures which I have quoted as precedents may have been, this is not a revenue measure. This is a measure providing for a change of tax upon mortgages—taking it off. Supposing it was a measure for putting a tax on, that this was a bill for putting a tax on mortgages and not for taxing it off. The tax placed upon mortgages would be placed upon them by the towns and the counties in which they were recorded. The revenue derived by the State, and that is the revenue to which this constitutional provision refers, not how many towns may raise revenue or cities, but whether they may increase their 5 per cent. limit or issue

bonds or anything else, but how the State shall raise revenue. I don't believe the gentleman from Rockland will deny the position that this constitutional provision provides for raising revenue for the State.

Mr. LITTLEFIELD: I would ask if the direct State tax is not derived from the very items which we have in consideration?

Mr. REED: Admitting that point, this bill in the first instance is not a bill to raise revenue for the State. Providing it were to impose a tax upon mortgages, it would be then not a tax measure in itself for the State, and it would not become a tax measure here until the bill was brought in imposing a direct tax upon the property of this State. That is the tax bill to which this constitutional provision applies. Now, we may not lay any tax this year. The Governor proposed that we reduce it. We may choose before the close of this Legislature to place the entire tax somewhere else so that this State will not lay any part of the tax upon mortgages, and the gentleman from Rockland has no right to assume that we will. We don't know what we will do. When that measure comes that is a tax measure which is provided for in the constitution and which has always been so considered. This is not a bill to raise revenue.

Mr. Littlefield called for the yeas and nays.

The motion was agreed to.

The question being on the adoption of the resolution offered by Mr. Littlefield,

The SPEAKER: The resolution is as follows:

Resolved, That Senate document No. 146 entitled "An Act in relation to the taxation of mortgages upon real estate," contravenes Section nine of article four of the constitution of Maine and is an infringement of the privileges of this House, and that the same be respectfully returned to the Senate informing that body that the same cannot be considered by this House, with a message communicating this resolution.

All in favor of adopting this resolution will say yes when their names are

called; those opposed will say no. The Clerk will call the roll.

YEA:—Allan, Baldwin, Barrows, Bliss, Bradford of Friendship, Briggs, Bunker, Cobb, Cole, Copp, Dudley, Fulton, Goodwin, Hanson, Hastings, Hathaway, Higgins, Hill, Holmes, Howes, Hussey, Irving, Johnson of Calais, Johnson of Hallowell, Jones, Jordan of Yarmouth, Kimball, Laliberte, Littlefield, Lougee, Marshall, Martin, Merrill of Skowhegan, Miliken, Morey, Morton, Oakes of Auburn, Page of Appleton, Pendleton, Poor, Powers, Price, Putnam, Russell, Scribner of Charleston, Smart, Smith of Madison, Smith of Saco, Sparrow, Stearns, Swain, Swett, Talpey, Terreault, Thomas, Thompson of Orono, Thurlough, Treworgy, Turner, Vittum, Walker, Webster, White, Wilder, Witherspoon—65.

NAY:—Albert, Baxter, Belleau, Berry, Blanchard, Bradford of Livermore, Burckett, Buzzell, Byron, Clark, Cushman, Davis of Benton, Davis of Guilford, Dennison, Downs, Fawsette, Foss, Gannett, Garcelon, Giddings, Grant, Gray, Hagerthy of Ellsworth, Hagerthy of Sedgwick, Hale, Hall, Hodgkins, Hutchins, Jillson, Johnson of Waterville, Jordan of Cape Elizabeth, Josselyn, Kinsman of Augusta, Kinsman of Cornville, Knapp, Lanigan, Leighton, Leonard, Libbey, Merrill of Dixfield, Miller, Morrison, Nash of Damariscotta, Nash of Kennebunk, Newbegin, Newcomb, Norcross, Oakes of Milford, O'Brien, Page of Hampden, Peacock, Percy, Philbrook, Reed, Sanborn, Sargent of Brewer, Sargent of Castine, Sawyer of Smithfield, Scribner of Springfield, Seavey, Sewall, Shaw, Shevenell, Staples, Stevens, Tracy, Trickey, Tupper, Usher, Yerrill, Washburn, Weatherbee, Webb, Whitmore, Witt—75.

ABSENT:—Abbott, Bean, Cousins, Ingersoll, Longfellow, Mullen, Perry, Purinton, Sawyer of Milbridge, Thompson of Roque Bluffs—10.

So the resolution was not adopted.

On motion of Mr. Littlefield of Rockland, bill, An Act in relation to the taxation of mortgages on real estate, was taken from the table, and on further motion by the same gentleman it was assigned for Thursday of this week.

Papers from the Senate disposed of in concurrence.

An Act to incorporate the Central Safe Deposit Company, came from the Senate having been received in that branch under a suspension of the joint order and having received its two readings and been passed to be engrossed under a suspension of the rules.

On motion of Mr. Morey of Lewiston, the joint order was suspended and the House received the bill, and on fur-

ther motion by the same gentleman the rules were suspended, the bill received its three readings and was passed to be engrossed.

Senate Bills on First Reading.

An Act to amend Chapter 130 of the Private Laws of 1866, entitled An Act to incorporate the Sebec Dam Company, as amended by Section 6 of Chapter 26 of the Private and Special Laws of 1899, and further amended by Chapter 141 of the Private and Special Laws of 1903.

An Act relating to the compensation of clerks of courts.

An Act relating to the compensation of county commissioners.

An Act relating to the compensation of county treasurers.

An Act relating to the compensation of registers of probate.

An Act relating to the compensation of judges of probate.

An Act relating to the compensation of registers of deeds.

An Act relating to the compensation of county attorneys.

An Act enlarging the duties of county attorneys.

An Act to amend Section 1 of Chapter 116 of the Revised Statutes relating to the salaries of public officers and compensation of members of the government.

An Act to amend Chapter 223 of the Private and Special Laws of 1903, in relation to the establishment of a normal school at Presque Isle in Aroostook county.

An Act to amend Section 4 of Chapter 141 of the Revised Statutes relating to State prison.

An Act recognizing Pepperil Manufacturing Company as a corporation legally organized, and granting to it additional powers.

An Act to amend Section 31 of Chapter 93 of the Revised Statutes relating to liens.

An Act to amend the city charter and city ordinances of the city of Gardiner, in relation to the election of the city marshal and street commissioner.

An Act relating to the compensation of sheriffs.

(Tabled pending first reading on motion of Mr. Littlefield of Rockland.)

An Act to amend Section 18 of Chap-

ter 117 of the Revised Statutes, relating to fees of register of deeds.

An Act to amend Section 88 of Chapter 84 of the Revised Statutes relating to the challenging of jurors.

Resolve to provide for the completion of the residence of the principal of the Western State Normal school at Gorham.

Resolve authorizing Frank Spurling, et als., and build a wharf into tide waters in the town of Cranberry Isles.

Resolve in favor of William H. Reid, State binder.

Resolve in favor of the city of Portland for reimbursement for amount spent for the relief of soldiers' families during the war with Spain.

An Act to extend and amend the charter of the Patten Trust Company.

An Act to regulate fishing in the Rangeley chain of lakes, so called, in the counties of Franklin and Oxford.

An Act relating to the York Light and Heat Company.

An Act to prevent the unlawful diversion of electricity, came from the Senate amended.

The House adopted the amendment in concurrence and the bill then received its two readings and was assigned for tomorrow morning for its third reading.

An Act to prevent the sale of merchandise in bulk in fraud of creditors, came from the Senate amended.

The House adopted the amendment in concurrence and the bill then received its two readings and was assigned for tomorrow morning for its third reading.

An Act in relation to moving buildings through the streets of cities and villages came from the Senate indefinitely postponed.

On motion of Mr. Whitmore of Brunswick, the bill was laid on the table.

An Act abolishing the common council and increasing the membership of the board of aldermen of the city of Portland, came from the Senate amended by Senate amendment A.

The House reconsidered the vote whereby this bill was passed to be engrossed, and on motion of Mr. Hale of Portland, the House adopted Senate

amendment A in concurrence, and the bill was then passed to be engrossed as amended.

An Act to incorporate the Danforth Water Company, came from the Senate amended by Senate amendment A.

The House reconsidered the vote whereby the bill was passed to be engrossed, and on motion of Mr. Baldwin of Boothbay Harbor, Senate amendment A was adopted in concurrence, and the bill was then passed to be engrossed as amended.

An Act granting additional powers to the Eastern Manufacturing Company, came from the Senate amended by Senate amendment A.

The House adopted the amendment, and on motion of Mr. Sargent of Brewer, the rules were suspended, the bill received its three readings and was passed to be engrossed as amended.

An Act to amend Chapter 175 of the Private and Special Laws of 1903 in relation to the Atlantic Shore Line Railway, came from the Senate amended by Senate amendment B.

The House adopted the amendment and the bill was then passed to be engrossed as amended.

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

Judiciary.

By Mr. Johnson of Waterville: An Act to amend Section 2 of Chapter 25 of the Revised Statutes, relating to ferries.

Taxation.

By Mr. Baxter of Portland: Petition of King & Dexter Company and others of Portland favoring the taxation of wild lands; petition of Benjamin F. Harris and 11 others of Portland for same; petition of W. G. Fowler and 29 others of Portland for same.

Placed on File.

By Mr. Wilder of Pembroke: Petition of Thomas McDonald and 25 others of Washington county for better enforcement of the State laws.

By Mr. Kinsman of Cornville: Remonstrance of G. E. Foster and 36 others of Cornville against the passage of an Act entitled "An Act to permit registered apothecaries to sell alcoholic

liquors for medicinal and mechanical purposes only."

By Mr. Merrill of Skowhegan: Remonstrance of L. W. Webster and 30 others against same.

By Mr. Martin of Rumford: Petition of the W. C. T. U. asking for the passage of the Sturgis bill.

By Mr. Josselyn of Portland: Petition of O. E. Johnson and 41 others of Portland for same.

By Mr. Baxter of Portland: Petition of Addison S. Thayer and five others in favor of bill providing for proper labelling of proprietary medicines.

By Mr. Sanborn of iVenna: Petition of H. J. Tuck and 14 others for same.

By Mr. Webster of Chesterville: Petition of M. F. Cushman, M. D., and others of Farmington for same.

By Mr. Nash of Kennebunk: Petition of H. G. Durrell and 26 others for same.

By Mr. Davis of Benton: Petition of A. E. Doe and 50 others for same.

By Mr. Verrill of Westbrook: Petition of A. Y. Witham and six others for same.

By Mr. Page of Appleton: Petition of Rev. George M. Bailey and 20 others of Camden for same.

By Mr. Leonard of Milo: Petition of Rev. A. W. Murray and four others for same.

By Mr. Jones of Searsmont: Petition of T. N. Pearson, M. D., for same; petition of H. L. True and 10 others of Lincolnville for same.

By Mr. Irving of Presque Isle: Petition of E. W. Sprague and 30 others of Easton for same.

By Mr. Josselyn of Portland: Petition of George F. Millward and others of Woodfords for same.

Reports of Committees.

Mr. Merrill from the committee on judiciary, reported ought to pass on bill An Act in relation to entertainments on the Lord's day.

Mr. Shaw from the committee on towns on petition of Edwin W. Smart and nine others of the town of Bancroft, praying that Bancroft be set off from said town of Bancroft and an-

nexed to the town of Weston, reported leave to withdraw.

Mr. Higgins from the committee on judiciary, on bill An Act to incorporate Prout's Neck Village Corporation, reported legislation inexpedient.

Same gentleman from same committee reported in a new draft bill An Act to prevent the pollution of Carleton pond, and that it ought to pass.

Mr. Higgins from the same committee, reported in a new draft and ought to pass, bill An Act to amend Section 52 of Chapter 32 of the Revised Statutes, relating to searches and seizures.

Mr. Johnson from the same committee, reported ought to pass on bill An Act to amend Section 23 of Chapter 114 of the Revised Statutes relating to relief of poor debtors.

Same gentleman from same committee, reported ought to pass on bill An Act to revise, consolidate and amend the charter and laws of the city of Augusta.

Mr. Holmes from the committee on legal affairs reported resolve appropriating money for the purpose of obtaining information in regard to the wild lands for the purpose of taxation, and that it ought to pass.

Mr. Cakes from the same committee reported ought to pass on bill An Act to provide for the employment of male prisoners upon public ways or in preparing materials for construction or repair thereof.

Same gentleman from same committee, reported in a new draft and ought to pass bill An Act to amend Section 2 of Chapter 117 of the Revised Statutes in relation to fees of trial justices in the trial of an issue in a criminal case.

Mr. Tupper from the committee on appropriations and financial affairs on order of the Legislature, reported resolve in favor of William B. Webb.

Same gentleman from same committee on order of the Legislature, reported resolve in favor of Charles Knowlton.

Mr. Russell from same committee reported ought to pass on resolve in favor of the clerk, stenographer and messenger to the judiciary committee.

Same gentleman from same committee, reported ought to pass on resolve in favor of the clerk, stenographer and messenger to the committee on legal affairs.

Same gentleman from same committee, reported ought to pass on resolve in favor of C. Bradstreet, clerk and stenographer to the committee on banks and banking.

Mr. Holman from the Aroostook county delegation reported in a new draft and ought to pass bill An Act to establish the Caribou municipal court.

Mr. Irving from the Aroostook county delegation, reported in a new draft bill An Act to empower the county of Aroostook to purchase and acquire title to lands adapted to agricultural purposes in said county.

Mr. Hale from the Cumberland county delegation, reported in a new draft and ought to pass bill An Act to amend Chapter 213 of the Private and Special Laws of 1903 authorizing the county commissioners of Cumberland county to erect a new county building in Portland.

The reports were accepted and the bills and resolves ordered printed under the joint rule.

First Reading of Printed Bills.

An Act to abolish the common council of the city of Augusta, and otherwise amend the charter of said city.

An Act to repeal Section 112 of Chapter 84 of the Revised Statutes in relation to the taking of testimony when the party prosecuting or the party defending is an executor or administrator.

An Act to amend Section 116 of Chapter 6 of the Revised Statutes relating to caucuses in cities of over 25,000 inhabitants. (Tabled pending third reading on motion of Mr. Belleau of Lewiston.)

An Act relating to the location and assessment of damages for property taken for public purposes.

An Act to provide for the appointment of a probation officer for the county of Cumberland.

An Act to amend Section 16 of Chapter 11 of the Revised Statutes relating

to the recording of plans in registries of deeds in the several counties.

Passed to be Engrossed.

An Act to amend Section 22 of Chapter 6 of the Revised Statutes relating to the regulation and conduct of elections.

Passed to be Enacted.

An Act authorizing the codification of the sea and shore fishery law. (Tabled on motion of Mr. Sewall of Bath.)

An Act to incorporate the Hastings Brook Improvement Company.

An Act to amend Section 93 of Chapter 4 of the Revised Statutes relating to town and city bylaws and ordinances.

An Act to assist in building a free bridge across Sheepscot river between the towns of Wiscasset and Edgecomb.

An Act to permit ice fishing in Fourth Buttermilk and Little Benson ponds in Piscataquis county during the month of February.

An Act to prohibit fishing at all times in the tributaries of Squa Pan Lake in Aroostook county.

An Act to prohibit the hunting of ducks and other water fowl in Merrymeeting bay, Eastern river, and the Kennebec river, below Gardiner and Randolph bridge, by the use of steam, naphtha or gasoline boats.

An Act to grant administration on the estate of John A. Holmes, late of Readfield.

An Act to incorporate the Union Light and Power Company.

An Act to extend the charter of the Ellsworth Street Railway Company.

An Act to authorize the Farmington Village Corporation to take water for municipal and domestic purposes.

An Act to incorporate the Jackman Water Company.

An Act to amend that portion of Section 3 of Chapter 407 of the Private and Special Laws of 1903, relating to the time and number of fish that can be taken in the streams lying wholly or partly in the towns of Freedom and Salem.

An Act providing for open season on white perch in Lake St. George, Waldo county.

Finally Passed.

Resolve in favor of the Maine School for the Deaf.

Orders of the Day.

On motion of Mr. Higgins of Limerick, bill, An Act to extend the charter of the Mutual Fire Insurance Company, was taken from the table, and on further motion by Mr. Higgins the bill received its third reading and was passed to be engrossed.

On motion of Mr. Cushman of Woodstock, bill, An Act to close the tributaries of Big Concord pond in the town of Woodstock, Oxford county, was taken from the table, and on further motion by Mr. Cushman the rules were suspended, the bill received its three readings and was passed to be engrossed.

On motion of Mr. Webb of Brunswick, bill, An Act to incorporate the Fidelity Trust Company of Portland, Maine, was taken from the table.

The bill was then passed to be enacted.

On motion of Mr. Morey of Lewiston, bill, An Act relating to cruelty to animals, was taken from the table, and on further motion by the same gentleman the bill was assigned for tomorrow for consideration.

On motion of Mr. Holmes of Caribou, bill, An Act to prohibit throwing of sawdust and mill waste into Fish river, was taken from the table, and on further motion of Mr. Holmes the vote was reconsidered whereby House amendment A was adopted.

Mr. Holmes then offered an amendment in substitution of Section 1.

The amendment was adopted, the bill was read a second time and assigned for tomorrow.

On motion of Mr. Holmes of Caribou, bill, An Act to prevent throwing of sawdust and waste into Little Madawaska river, was taken from the table.

Mr. Holmes offered an amendment by striking out of the last section the words "May first," and inserting the words, "July first."

The amendment was adopted, and the bill was then passed to be engrossed as amended.

On motion of Mr. Newcomb of Eastport, bill, An Act to make valid the municipal election in the city of Eastport, Washington county, was taken from the table, and on further motion by Mr. Newcomb the rules were suspended, the bill received its three readings without

reference to a committee and was passed to be engrossed.

Mr. Higgins of Limerick, moved that the House take a recess until half past two o'clock in the afternoon.

The motion was agreed to.

HOUSE—AFTERNOON SESSION.

Free Seining Bill.

Special assignment: Report of committee on sea and shore fisheries, reporting "A" ought to pass in new draft, "B" ought not to pass, on bill, relating to use of seines in Penobscot river and bay.

Mr. BALDWIN of Boothbay Harbor: Mr. Speaker, This bill now before us is accompanied by two reports, one, Report A, that the bill ought to pass, and the other, Report B, that the bill ought not to pass, and the pending question is on the acceptance of one of these reports, and I would move that Report A be accepted.

This proposed law as reported by your committee after a long hearing lasting two days does not give free and unlimited use of seines in the waters east of the west shore of the Penobscot river as perhaps some suppose but limits their use to a period of two and a half months and at all other times leaves the law to stand as it at present exists.

Now what is the history of the present law and what have been the effects of its workings? In 1893 this law was passed. Previous to that time the use of seines in the waters of our coast had been prohibited.

LAW PREVIOUS TO 1893.

Use of purse and drag seines is prohibited in all small bays, inlets, harbors or rivers where any entrance to the same, or any part thereof from land to land, is not more than two nautical miles in width.

Several times efforts had been made to change this law but the results have been only failure. In 1893 a strenuous attempt was made to repeal the law, and to have the use of seines allowed on our coast. There was quite a struggle in this matter as those of you here present who were members of that Legislature may perhaps recall. Those living west of the Penobscot river were earnestly fighting for the use of seines while those east of the river were opposing them and urging the retention of the law. After a long hearing before the committee a bill was drawn up I think by the present chief justice of our Supreme court which was regarded in the na-

ture of a compromise measure, and even with this bill there was a majority and minority report. Five members signed the report that this bill ought to pass while three signed the report that it ought not to pass and two failed to sign either report, and as they were Washington county men it is natural to suppose that their sympathies were with the minority report, which would make the reports stand as do these today on an equality as far as the views of the committee are concerned. I have the law here that was passed at that time but I will only read that part that bears on the question now before us.

In all bays, inlets, rivers and harbors east of the west shore of the Penobscot bay and river where any entrance to the same or any part thereof from main land to main land is not more than three nautical miles in width.

This law while it prohibited the use of seines east of the west shore of the Penobscot river yet it allowed free and unlimited seining in the waters west of the Penobscot except in a few places which the law exempts from its provisions. This law has been in force for twelve years. What has been the effect of its operation? To see the effect of the law permitting the use of seines let us see what have been the results where the use of seines has been allowed. You will be told that the effect of passing the law now before you will be to ruin the fishing by weirs and that the weir fisherman of Washington county will have to abandon their labors, if seining is permitted even for the short space of time of two and a half months. How has the law worked with the weir fishermen west of the Penobscot river? Previous to the passage of the law in 1893 there were scarcely any fish weirs west of the Penobscot, perhaps not more than half a dozen from Kittery to Rockland. After the passage of this act the fishermen began to build weirs in this section of the State, and they have been building new ones nearly every year until now the value of the weirs, nets, seines and appurtenances in connection therewith west of the Penobscot river

amounted to \$51,042 for the year 1903 and for the year 1904, \$51,455. According to the commissioner's report there are in the State 358 weirs and I am informed that of these about 100 are west of the Penobscot river, 36 in Sheepscot river and its coves. The value of the weirs and appurtenances in Lincoln county alone was \$20,330 for the year 1903 and for the year 1904, \$25,840. This value is not excelled by any county of the coast except Washington. Bear in mind that this whole industry has been built up under the operation of a law which permits free and unlimited seining at all times.

Now let us take a glance at the sardine industry west of the Penobscot. At the time of the passage of the law there was not a sardine factory in that section of the State. The first sardine factory was started in 1895 at Boothbay Harbor and there are now six factories in the county of Lincoln valued at \$81,500 and paying out last year for wages alone the sum of \$69,398, and in 1903, \$82,197, and turning out a finished product of the value of \$271,753, and in 1903, 309,999. Adding to this the sum of \$100,255 which is the value of the sardines manufactured in Knox county last year we have a total of \$372,008 as the value of the sardines manufactured west of the Penobscot river last year, and this too is a business that has been built up under this seining law. Taking the value of the weirs and so forth as I have given them with the value of the sardine factories we have an invested capital of a little over a hundred thousand dollars in my county alone. Add to this the value of the sardine factories in Knox county which amounts to \$16,000 and the value of the weirs and appurtenances in the counties west of the Penobscot which amounts to \$51,455 and we have a total amount of capital invested in the herring fishery in that section of the State of \$148,955, and this whole industry has been entirely built up since the enactment of this law. Now this does not look as though the law was an injury. Certainly the western section of the State has not suffered any injurious effects from its passage.

Your committee feel that this bill is

a very important one as it is one so intimately connected with the welfare of one of the great industries of our eastern coast, viz., the sardine industry.

This industry in Washington county alone has an invested capital in factories of a little over a half million of dollars, and in 1903 paid out in wages to its employees in that county, who number several thousand, the sum of \$892,739, nearly a million dollars paid out for labor alone. In Hancock county that same year was paid out in wages the sum of \$96,441. In 1904 was paid out in Washington county a greater amount, viz., the sum of \$1,137,024, and in Hancock county the sum of \$76,961. The value of the finished products of these Washington county factories was in 1903 \$2,818,119, and in 1904, \$4,378,353, or a total for the two years of over \$7,000,000. These figures are taken from the report of the commissioner of sea and shore fisheries as are all the other figures I have so far given and are I presume as nearly correct as it is possible to get such figures.

To keep these factories going and to keep their help employed as steadily as possible a supply of fish must be obtained and as nearly constant a supply as possible. There are times when fish will not readily go into the weirs and at such times other source of supply must be obtained, and it was freely testified to before your committee that at such times it has been the custom of the factories either to procure their fish from English waters or to violate the law and obtain them by the use of seines as it was, they considered cheaper for them to do so and pay their fines, if caught, than to have their factories lay idle even for a brief time.

The fish of the sea have an advantage over a land animal; they have the broad ocean over which to roam, and their movements cannot be seen by man, and whither they go and from whence they come no one can tell. Fish will follow their food and where that is plenty there you will find the fish. An abundance of their food in our bays and harbors means a

large number of the fish in the same places. The herring is also the food of the larger fishes and sometimes its presence is due not to a great abundance of its food but because it is driven into those waters by its enemies, particularly by the silver hake. The food of the herring is mainly made up of two small crustaceans, one of them being commonly known as "red seed." When these fish are caught in a seine they are generally more or less full of this "red seed," and when taken from the water the presence of this "red seed" injures their keeping qualities and makes them of an inferior quality for packing purposes. When caught in a weir, they have an opportunity to clear themselves of this food after having been imprisoned for awhile and then they are in a good condition for packing. As a consequence all packers prefer a fish caught in a weir to one caught in a seine and will give them a preference in purchasing fish for their factories. For this reason I contend that the weir fishermen will not suffer from the enactment of this law and in the future as in the past they will have no trouble in obtaining a market for their fish when they have them in their weirs, and I think their experience under its workings will soon convince them of their error in their present feelings.

Therefore in view of these facts, the need of a large quantity of fish and the inability of the weir fishermen to supply these needs at all times I think there need be no fear of any injury to them from the passage of this bill. Further observation and experience of the operation of a similar law but a broader one that has been in force for twelve years on our part of the coast shows us at least that fishing with weirs and fishing with seines can be carried on successfully in the same locality without either party suffering injury from the other and I move that Report A be accepted and that the bill be given a passage.

Mr. NEWCOMB of Eastport: Mr. Speaker and gentlemen, The deep interest which my people feel and have in this measure which is one of great importance to them prompts me at this

time to trespass a little on the time of the House in saying a few things in relation to it as well as to second the motion of the gentleman from Boothbay Harbor for the acceptance of report "A" of the committee.

It suggests itself to me, Mr. Speaker and gentlemen of the House, that a right consideration and determination of this question requires that we should bear in mind certain elementary propositions and facts, which when properly considered in their true relation to this question, will remove from it some of the false issues which have arisen or are likely to arise in our minds as the discussion proceeds.

The first is that "the State, subject to the paramount right of navigation, owns the tide waters and the fish in them, so far as the fish are capable of ownership while running, and for this purpose the State represents its people, and the ownership is that of the whole people of the State in their united sovereignty."

It therefore follows, that in the absence of laws regulating the matter, every citizen of the State has a right co-extensive and equal with that of every other citizen to take the fish which are his as much as anybody's, how and when he will.

The second proposition is that this ownership by the State, that is by the whole people, carries with it the right to control and regulate by legislative enactments the way in which, and the manner by which these fish are to be taken.

That all laws so enacted regulating the taking of fish, whether termed public, or private and special, are, or should be, made for the public benefit, and are public statutes. That the right to control the fishing interests of the State is a great public trust, to be regulated, if regulated at all, by law for the common benefit, the best good of all concerned. And in so far as any regulation or attempted regulation is founded upon any consideration other than the great public benefit, the greatest good to the whole people of the State, it falls short of what the common people have a right to expect and is in derogation of their rights as individuals and as citizens.

That this is equally true of any law which has outlived its usefulness in this respect needs no argument.

That the great vital test of any law in this behalf is the question of the benefit to the whole people, whether rich or poor, and regardless of classifications. Now, keeping in mind these two facts—first, that all the fish are owned by all the people; and second, that all laws enacted for the regulation of fishing are in restriction of the natural inherent rights of each individual, and can be justified only upon the ground that they represent the great public good, as distinguished from that of the individual; let us review for a moment the question before us, involving a consideration of:

First, the law as it now is,

Second, the changes proposed,

Third, the reasons for the change,

Fourth, the reasons, if any, why it should not be changed.

The law as it is, is as follows:

Section forty of chapter forty-one of the Revised Statutes of 1903 reads: "Sect. 44. No person shall set any net or seine within five hundred feet of the mouth of any weir under a penalty of fifty dollars for each offense," and applies to the whole coastline.

Section thirty-eight of chapter forty-one of the Revised Statutes of 1903 reads in part: "The use of purse or drag seines within a distance of one-half of a nautical mile from any fish weir in any of the waters of the State east of White Head on the west shore of Penobscot river is hereby prohibited; but such seines may be used for the taking of smelts and for the purpose of taking fish in weirs, but shall not be used in any water in which their use is prohibited by special or general law. Any person violating any of the provisions of this section shall be liable to a penalty not exceeding five hundred dollars for each offense, to be recovered in an action of debt."

In addition to these laws there are numerous so called private and special laws covering nearly the entire coastline from Penobscot bay east of the St. Croix river with greater or less penalties for their violation.

It is apparent at once that two dis-

inct policies are in operation on our coast, the one permitting seining west of the west shore of the Penobscot river at 500 feet from any weir, while on the east coast, seining is prohibited within one-half of a nautical mile of any weir. The law practically permitting free seining west of the Penobscot, and prohibiting it east of the Penobscot.

Just why this wide distinction should be drawn is not wholly apparent. No sufficient reason has been assigned for it, to my knowledge none exists. Is it because weirs on the west coast do not need protection while weirs on the east coast do? If so, why?

Are the fish on the west coast in need of less protection than the same fish on the east coast? If so, why?

Are the common people of the west coast, their rights and interests, of more importance than the common people of the east coast? Why should the fishermen, and by fishermen, I mean all who desire to exercise that right—I say why should fishermen of the west coast enjoy greater privileges regarding the herring fisheries, than the fishermen of the eastern section—or to restate the proposition, why, in the name of common sense and fairness, should a monopoly in the interests of the weir owners east of the Penobscot river, be fostered and pampered by the State at the expense of its citizens, their neighbors and fellow townsmen, who are every one an equal owner with them, of the fish in the tide water of the State?

But such is the law today, and we must deal with it as we find it. Ought it to be changed? If so, why, and in what particular?

We have in this State a public official, called the commissioner of sea and shore fisheries, whose duty it is to watch and guard the development of the important interests entrusted to him. I believe he is faithful to his trust and that what he says or does in regard to any matter under his department of State is prompted by a consideration of public welfare. With your permission I will read from his report for 1903 and 1904 a portion touching the herring fisheries as it is

found on page 13 of said report. It reads as follows:

"During the years 1903 and 1904 I have seen more than ever before the need of a change in our present laws, which now do not allow herring taken in certain waters excepting in certain ways. Many days during this season, thousands of dollars might have come to the different counties, if the law had allowed the herring to be taken when and wherever found.

In Washington and Hancock counties there has in the past been quite a general sentiment against the use of seines in the herring fishery, but this season has, I think, demonstrated to those who are connected with the herring fishery that they should have the same laws in the eastern counties that are in force in counties west of the west shore of the Penobscot river."

Now that is what the honorable commissioner of sea and shore fisheries says to the people of Maine, whose trusted servant he is. He ought to know whereof he speaks, and there are many who believe he is absolutely right in the matter, and that we shall, as a people, ultimately arrive at that conclusion and the law it foreshadows.

Be that as it may, the people who are here asking that this law shall be changed are not radicals, not rank enthusiasts wanting to change the law for the mere sake of changing it. They do not want to ruin anybody or anybody's business, as has been unjustly and absurdly charged against them. On the contrary, they have considered every interest involved and honestly believe that as a business proposition affecting the business interests of thousands upon thousands of our people, themselves among the number, this law should be changed; and further, that the change they ask will be beneficial to everybody. The situation as they view it is this:

There are in Washington and Hancock counties 68 sardine factories, valued at \$623,000, which for and during the packing season of 1904 canned \$4,635,890 worth of goods, employing in that year 7,153 persons, to whom they paid in wages \$1,213,965. That all the weirs in those two counties have been unable and are unable to furnish them

with a sufficient supply of herring. That if the herring fishery is conducted in accordance with the law as it now stands that at least one-quarter of the pack would be cut off, and with it one-fourth of the wages paid to 7,153 people. In other words, with 1904 as a basis, \$1,173,972 worth of manufactured goods would be cut off, with a loss to the wage earners who sadly need it, of \$303,466, together with a loss to all the business interests of the State incident to the withdrawal from circulation of those large amounts of money. And all for what, Mr. Speaker and gentlemen? So that the owners of 214 fish weirs, costing perhaps \$85,000, and of which the greater part go out every year with the ice, may have a monopoly of the herring fishing on our coast. In other words, so that a man owning a strip of shore on which he may erect a weir at a cost of two to four hundred dollars may have the exclusive right to take all the herring with a half a mile of his weir, provided they come into it,—and if he can't get them in his weir, then no person shall take them. What becomes of all our talk and legislation against trusts, all our righteous indignation against monopolies, while this condition obtains in our midst? Do you know of a greater monopoly in the State of Maine? If you do, root it out.

What trust has more protection than this, or more exclusive rights in the common property of all the people? Do you wonder that they are here opposing any change in the law which will restore to the people their rights in this behalf? I guess not. The proposed change in the law is found in House Document 399, to which I call your attention, Section 1. It shall be lawful for any citizen of the State to use purse and drag seines for the purpose of taking herring, from September fifteenth to December first in each year, in all bays and inlets, rivers and harbors of the State east of the west shore of the Penobscot bay and river, except as provided in sections two and three of this act.

Section 2. No person shall set any net or seine for the purpose of taking herring in the above waters within six hundred feet of the mouth of any weir,

under a penalty of one hundred and fifty dollars for each offense.

Section 3. The provisions of section one shall not modify or affect any rights or privileges heretofore granted concerning spawning grounds in said waters.

Section 4. It shall be unlawful for any person not a citizen of this State to use any purse or drag seines for the purpose of taking herring in the waters specified in section one. Any person violating the provisions of this section shall be liable to a penalty of five hundred dollars for each offense, to be recovered in an action of debt.

Section 5. So many of the provisions of the general law and of special acts heretofore passed as are inconsistent with the provisions of this act are hereby repealed.

It will be observed that the so-called free seining is not for the entire year as one might suppose but from Sept. 15, to Dec. 1st only. That the distance from any weir is 600 ft.,—100 ft. greater than the law on the west coast, that the penalty is fixed at 150 dollars. That spawning grounds are protected as under the present law. That persons not citizens violating the law are subject to the heavy penalty of \$500, which is also a fixed sum. Under our system of legislation the burden is upon all who ask that law shall be changed or enacted, to show cause why it should be done. That burden was cheerfully assumed by the petitioners in this case, and at a protracted hearing before the committee on Sea & Shore Fisheries in which the whole matter was thoroughly threshed out, introduced testimony which we believe fully established the reasons assigned for the change. At the hearing it was shown that the sardine herring weir fisheries and the sardine factories are substantially mutually dependent, each upon the other, for their successful existence and operation, that is to say, without the sardine factories, the weirs are practically worthless, because there is substantially no other market for the fish; without fish the greater part of which have been supplied from the weirs, the factories cannot operate.

This mutual interest is of so much importance and so well recognized that

many owners of sardine factories are also large owners in fish weirs. I think it is in the testimony that one sardine company, packers of sardines, asking for this change in the law, owns a half interest in weirs for which \$20,000 were paid, that others of the factory owners and petitioners are interested as owners in weirs,—some part owners, in from one to five weirs.

It was further shown that the fish which are caught in the weirs are much more desirable for the manufacture of sardines than those taken in seines, and that the sardine packers prefer them. Testimony was introduced tending to show that the herrings have a great many natural enemies who prey upon them relentlessly. Cod, pollock, haddock, dogfish, silver hake, squid, porpoise, seal and fin-backed whale, all feed upon the herring. On this point I quote from a bulletin issued from the office of the U. S. Commissioner of Fish and Fisheries, as follows: "These visitations (of the natural enemy) are often a source of loss to the fisherman, not only on account of the great destruction wrought, but also because they prevent the herring from entering the weirs, or even drive them out after they have entered, as when pursued by these foes they pass without hesitation, through the numerous openings in the brush." And again, "The enemies of the herring are important factors in governing its local distribution. Except when under the overpowering influence of the reproductive instinct, the herring will always give way before its foes if present in large numbers. Individually its safety lies in flight, but its powers in that direction are so inferior to those of some of its speedy pursuers that were it not for other factors the specie would soon perish from the waters. Its ancient lineage, however, shows that it is well able to maintain itself despite all perils."

It was shown at the hearing that because of the presence of their enemies it frequently happens in the fall of the year that the herring, although present in immense numbers will not weir, and the weirs will not fish. When that occurs under the present law the fish

must either be left to their natural enemies and the factory help be left idle, and the factory owners lose money, or the fish be taken by man in violation of the law, that is, the protection in that case is for the benefit of the dog-fish or squid or what not, to the exclusion of man. This is so much a part of the history of the herring fisheries that it was developed at the hearing before the committee that on an average 25 per cent. of the fish packed in the sardine factories for the year 1904 were seined fish, that is, were fish taken in violation of the law. It was further shown, I am informed, that with one or two exceptions the weir owners were not the last people to get out their seines and get their share of the fish, indeed one of the leading witnesses for the opposition admitted that their people "spudged" fish, that they were poor and needed the money! And that is what we say, gentlemen. We agree with him and the very purpose of this act is to enable everybody to do in a legal manner during ten weeks of the year what a few now do during that time illegally.

Is there any great hardship in that for anybody?

Is there any great wrong in it?

When you balance the equities between the natural enemies of the herring and man, it ought not to be hard to determine the question as to who has the greater right. When you consider the "exclusive right" under the present law of the weirman who produces nothing, creates nothing and manufactures nothing, as against the right of the manufacturer of sardines with ten times as much money permanently invested, to have a continuous supply of fish in order that he may operate his plant at a profit, and in operating his plant furnish employment to hundreds and thousands who need it. There ought not to be much difficulty in deciding where the preponderance of benefit lies.

And this question becomes the more easy of solution when you consider that the building of a weir is an experiment as every man knows or finds out who builds one. At best it is a venture which may or may not prove profitable.

It frequently happens that men build weirs who from lack of knowledge in the premises so construct these weirs that they never fish, never repay the cost of them, although fish are abundant all around them. Surely they need no such exclusive protection as the present law affords.

I think it conservative to say that not more than 40 per cent. of the weirs built on the coast of Maine east of the west shore of the Penobscot River are paying property. The whole coast is marked by the remains of weirs that have proved unprofitable ventures.

It is also true that when you do get a weir that fishes in good shape it is indeed paying property. I have in mind a weir which in one season stocked \$18,900. Need I tell you that the two brothers who own that weir are here in opposition to this measure. They are two of the poor men and there are a lot of them in the same financial class who are here seeking a continuance of this protection. I don't know that I blame them for that. I think I might do the same thing myself but we of this Legislature have a duty to perform in this matter, and the test is, the great public good. Now, having shown the conditions rendering this change not only desirable, but necessary from a law abiding and as a business standpoint.

Let us consider the principal objections raised. When the proposed change was first discussed, a general cry went up that free seining would open our fishing to all the world and our waters would be overrun by Canadian seiners and many remonstrances were signed upon that ground. With that objection we are in sympathy, we don't want that, we don't ask for it: that objection goes out because the bill provides for seining for citizens of the State only; and the free seining is restricted to cover the 2½ months when most needed, as I have said, rather than the whole season, so that two-thirds of the first objections on that point go out, and while I am on this point, I want to say, that the people of Machias Bay from whom comes a large part of the objection, when they asked the Legislature for their

"special law," named November first as the end of their protective season, so that, assuming they knew about their fisheries, they would be affected for a month and a half only of their fishing season as they saw it when the law was passed. The same thing is true of Milbridge and Narraguagus.

At the hearing the principal objections seemed to be the smothering or destruction of fish and the injury to the so called vested rights of the weirmen, and the ruination of the business generally. As to the smothering of fish, it was shown that so far as any fish had been destroyed by being smothered in seines, that it was due almost wholly to the fact that it had hitherto been done in violation of the law and the rush and hurry attending the violation of law was the cause, which would disappear when seining became legal; and further, that fish are quite as frequently smothered in weirs as in seines. It is of interest to note that one of the witnesses who appeared and gave strong testimony on this destruction by smothering subsequently, I am told, refracted in a letter read to the committee and admitted that he knew nothing about it, and wished to withdraw his testimony.

We do not believe there is any merit in this contention. If there is, we think the objection is amply met by the law passed at this session of the Legislature imposing a severe fine and penalty for the wilful destruction of fish.

Now, as to the other point, the ruination of the weir fisheries. On this point the practical experience of the fishermen west of the Penobscot resulting in the mutual advantage of all, seems a sufficient answer to this assertion of opinion, with no facts to substantiate it. If it isn't then, we submit that the undisputed facts in the case, showing how deeply interested the petitioners for this measure are in the general success of the weir fisheries, together with the large financial interests directly involved, both in factories, and weirs, which would suffer directly and in proportion as the weirs suffered, seems to me to preclude in sound reason the idea of any desire or attempt to do that which would injuri-

ously affect the interests of either.

This view becomes a certainty when we consider that the very thing this bill provides shall be done in a lawful way, has beyond question been done in an illegal manner heretofore, and hasn't ruined their business but has lead the Honorable Commissioners of Sea and Shore Fisheries to say in his report: "This season has, I think, demonstrated to those who are connected with the herring fisheries, that they should have the same laws in the eastern counties that are in force in counties west of the west shore of the Penobscot river."

Other objections and alleged reasons why this law should not be enacted will be considered and answered by others who desire to speak on this question and I shall not further trespass upon your time.

I wish now simply to say that I fully believe the passage of this law will result in the increase of the manufactured sardines—carrying with it an increase in the money paid the fishermen including the weirmen who are now, have been, and will be seiners, excepting perhaps those men of money who are interested in weirs from a money point of view only, as an investment and never seined even a weir in their lives.

I do not believe that it will shorten the packing season, as has been stated in the lobby of this house, and I desire to state that the sardine industry is no longer an experiment. It passed that stage long since having started in 1875.

To those who are familiar with the history of the business and the utter failure of those who heretofore have tried to accomplish that purpose that statement is entirely void of potential force.

I further believe that the great public good as measured by the increase of manufactured productions: the increase in the amount paid to wage earners and through them distributed through all the avenues of trade and living leading to the increased prosperity of all within the reach of that great money disbursing industry, demands the passage of this act. I therefore,

Mr. Speaker, hope and trust that the motion of the gentleman from Boothbay Harbor for the acceptance of Report "A" will prevail. And I ask that when the vote is taken it shall be by a ye and nay vote.

Mr. HANSON of Machiasport: Mr. Speaker and Gentlemen, no matter of more importance to the industrial welfare of this State will come before this House during the present Legislature than this bill known as the Free Seining Bill asking the right to use purse and drag seines within six hundred feet of the mouth of a weir in waters east of the Penobscot Bay and River on the coast of Maine during the period from Sept. 15, to Dec. 1 of each year.

Mr. Speaker and Gentlemen, when the industry of one section of a county or state is cut off or lessened without an increase to other sections in equal amount of benefits there is a loss to the state as a whole.

In 1904 more than 18,000 people were employed in our shore fisheries the value of fish taken in that year was over \$8,000,000, of dollars and more than five millions of this sum was received from the sale of sardines and herring in other forms. The number employed in herring catching and packing including the sardine business was over ten thousand contributing to the support of forty thousand people, and I feel that I make no mistake when I state that the herring fishery is the most important branch of our shore fisheries this bill in question is pointing directly at that branch and does not affect other fisheries to any extent and I might say this only in Washington and Hancock counties. These two counties sold last year herring worth four hundred and sixty thousand dollars and canned sardines which are nothing more or less than canned herring four million six hundred and ninety-five thousand dollars realizing from the herring fisheries for the year 1904 over five millions of dollars.

Mr. Speaker, by these figures I certainly can make no mistake when I say that nine-tenths of the herring and sardine business is done in this same territory which at present has protection and in which the herring industry has increased from year to year under

the protecting law and in the identical territory affected by this measure.

One-fifth of the people of Washington county, are directly interested in different forms in the herring fisheries and the larger per cent of the remaining number are more or less dependent on them.

This great industry as a whole has rapidly grown within a few years and especially that portion pertaining to weir fisheries has increased at a marked speed both in number and valuation since the enactment of the law which this bill asks to have repealed.

Gentlemen, the future of this great industry which benefits possibly more of the labor element employing men, women and children than any other one industry in our state depends wholly upon the supply of herring upon our eastern coast, fish cannot be taken long distances and have them in proper shape for canning, it has been tried and the result found unsatisfactory.

The best fish to can are those but a short time out of water and on which by reason of the distance from the canning plant it was not found necessary to use salt before arriving at the factory.

The present method of taking herring east of the Penobscot River is by means of weirs located in the different bays and to a large extent in front of the land of the owner of weir. Or in other words the adjacent land owner has the right after performing certain requirements to erect and maintain a weir in front of his land if not interfering with the rights of others, the rights of others are protected by the municipal officers of the different villages and towns and through the municipal officers the different parties secure their permits to erect and maintain their fish weirs.

These weirs are protected by a general law forbidding seines being used within one-half mile of a weir, east of the Penobscot river also by special laws extending from headland to headland forbidding seining in certain bays.

This proposed law relieves us of this protection and substitutes for it a law permitting seining within 600 feet from the mouth of a weir during the last ten weeks of the sardine season.

As many of the leaders to the weirs are 600 feet long this law would offer the weir owner no protection whatever as the seiner could fasten his seine to the outer portion of the leader of the weir itself and be 600 feet from the mouth of the weir.

Another feature of this proposed law presented as it has been in this house by one of the large sardine packers of Lubec is the \$150 fine for any person or persons found engaged in seining inside 600 feet from the mouth of any weir. Gentlemen, this like the other section of this law offers the weir fisherman no protection. If a man has the disposition to violate this law and a school of fish are located in the mouth of any weir where by running a seine a man employed in that business can realize from one hundred to one thousand dollars worth of herring by simply paying the paltry fine of \$150, is he not going to do it?

Yes, Mr. Speaker, we have seen this illustrated day after day through the fishing seasons of 1903 and 1904. When the penalty of our present law was so small that we by some hook or crook could impose a fine of not exceeding \$15 and cost amounting in all to 25 or 35 dollars we have seen in our bay when it was rumored that a school of herring had struck the bay and the native fishermen's hearts were made glad to know that after waiting patiently for months that the herring had once more struck our coast, we have seen a fleet of 50 sailing vessels and half a dozen steamers with miles and miles of seines enter Machias Bay inside of twenty-four hours from the time the fish struck the Machias waters and scoop the entire body of fish from the bay taking them to Lubec and Eastport without leaving a dollar with the weir owners who are natives of our town and who had expended large sums of money in erecting weirs and, had the seiners not completely cleaned the bay from herring, would have realized their expectations.

Mr. Speaker and Gentlemen of this House, I come here representing my native town who are unanimous in opposing this bill. We are not asking for the measure because we believe there is no good reason why we should

have such a law. It is not a practical proposition and can never become a practical law.

It is nothing more or less than a license to seine the weirs of the native fishermen. Does it compel the 200 seiners to bring with them their naturalization papers when they come to Machias Bay? Gentlemen, it is a pretence; the bill pretends to do something and will do nothing. It is not practical and will never become a practical law.

It has been stated by the packers that the only argument the fishermen had was the extermination of the herring from our coast. We are glad to have them acknowledge that we have an argument and gentlemen this is not the only argument we have. We come before you as citizens of the State of Maine asking from your hands the same privileges and rights that you are giving to other natives of our State.

There is a free seining law west of the Penobscot river. There are smelt laws, lobster laws, codfish laws, and we are glad that the people have those laws. They have asked for these many different laws in the various parts of our State because someone has believed that they would be a benefit to them. We do not object.

Mr. Speaker and gentlemen, we do not object to Eastport and Lubec having any law they desire so long as they confine that law to their own waters. If the world is willing we are willing that Eastport and Lubec shall have a right to seine the whole world so long as they leave us alone.

We are only asking to be let alone, nothing more; asking that we may keep the law we now have as other parts of the State are keeping their laws they now have. Equal rights are all we demand and shall insist that we are granted these rights.

Do we not know better than Eastport or Lubec what we want? They are kind indeed, but we prefer to do our own legislation and ask the city of Eastport and the town of Lubec to keep east of Cutler Head and leave us alone to work out our own salvation and enjoy the laws we now have.

The committee report comes to us in the form of report A signed by five members and report B signed by five members. A is supporting the measure and is signed by the gentleman of Lubec, a member of the Lubec Sardine Co., also by the gentleman from Milbridge, a partner of the largest packing house in western Washington county while report A opposing the bill was signed by five disinterested members of the committee of shore fisheries. The Hancock county delegation is solid in opposition to the passage of this measure while the delegation from Washington county stands 8 against and four in favor of the bill. Three of these four, namely, Senator Pike of Lubec, Peacock of Lubec, and Sawyer of Milbridge are directly interested in the packing of sardines, while the other member, Mr. Newcomb, the gentleman from Eastport is the attorney for the Seacast Packing Co.

Gentlemen, of the two delegations from Washington and Hancock counties, the counties interested in the matter, we have a large majority of the disinterested members with us protesting against the measure, as well as a majority of the disinterested members of the sea and shore fisheries committee.

As to the result of this law lessening or increasing the fish on our coast it would be an experiment, and we do not care to experiment. Our law is good enough and all we ask for is to be let alone.

We find that not all the packers are favoring this seining bill. The Machiasport Packing Co. as well as the Underwood Packing Co. of Jonesport believe the people have rights and do not care to infringe upon those rights. In comparing the West with the East, notwithstanding the fact that west of the Penobscot Bay, the citizens have had free seining for twelve years. They have built up an industry comprising three factories while on the east, with our protection laws, we have in active operation, or had in 1904, sixty-two sardine factories. Why, if this law is such a good thing for industry, has not

the west outstripped the east in the sardine industry?

Should this bill become a law it would naturally tend to do away with weirs in Machiasport and Jonesport bays.

It seems to me that there is nothing to be gained in driving this large number of weir fishermen out of business and ruining their property. This law will, beyond question, be a temporary benefit to Eastport and Lubec at the downfall of the other shore towns of our county, and in the period of ten years it will not be necessary to paint the picture of the disappearance of the mackerel and menhaden to convince you that the seine will exterminate the herring from our coast, for gentlemen, in the lapse of ten years, if this bill becomes a law, every man, woman and child on the coast of Washington and Hancock counties will then know the fate of not only the herring but also the once prosperous business which through a law pushed by a few gentlemen from the eastern section of our county, pretending to protect, in which there was no protection and by which the once prosperous sardine business of our State has been brought to a standstill and practical ruin.

Mr. Speaker and Gentlemen of this house, standing here with the solid support of the towns of Jonesport, Steuben, Cherryfield, Addison, Harrington, Columbia Falls, Jonesboro, Roque Bluffs, Machias, Machiasport and East Machias and the majority of several other towns together with the united delegation of Hancock county, eight out of twelve of the Washington delegation behind me all opposing this measure with practical illustrations of the damage to our section, with right and justice on our side of the question, gentlemen, I am willing to leave this matter with you believing you will do the honest thing and extend to us the same rights you would expect for yourselves. Therefore, Mr. Speaker, I move the acceptance of report B.

Mr. JOHNSON of Waterville: Mr. Speaker, in common with the great majority of the members of this House who live in the interior and who have had no practical experience with the industry

which is here before us for consideration, I presume you have felt a grave doubt as to the course which you ought to pursue. I am willing to admit that has been my condition. The herring with which I have been most familiar have been red ones, and from my experience I am ready to agree with the gentleman from Eastport that there is doubt about the lineage of the herring. We have had presented to us arguments pro and con from these weir men and from those who are interested in the packing business, and while I have not been able to thoroughly understand all the figures which have been adduced by the one side and the other, it has seemed to me that I have seen one principal which has appealed to me. I will say also that it was my good fortune to be a citizen of Washington county for a period of five years, in the good old shire town of Machias, among these people who come here interested in weir fishing; and my connection with them during that five years was such a happy and pleasant one that I have kept up the acquaintance ever since. I know something of the condition of Washington county. I think a great deal of the people of Washington county. It is a sparsely settled county. It is not a farming county. The people there used to be largely engaged in vessel business, but that dropped out; and in place of it they have been engaged, for the last ten or twelve years, in weir fishing. It has been successful, and they have prospered. Not only those directly engaged in it but also those who have been engaged in the business of getting out material for their weirs. They were protected, and the protection evidently was necessary. It seems that in 1893 a general law was enacted for the protection of weir fishing, and since that time special enactments have been made particularly applicable to Machias bay and for the protection of weir fishing there.

What appeals to my mind,—and I do not come to the consideration of this question with any technical knowledge and I know I am in the same position as a great many members of this House,—we want to deal fairly with these men, we want to do what is fair by these people who have vested interests, and who have their money invested in the weir fishing. We do not want to do anything

which will be a blow to the great sardine interests of the State and the packing houses. We want to be fair, and we want these industries which are growing up down there in the eastern part of Washington county to deal fairly with the people of Washington county. Now I look first to see how the delegation from Washington county stands; because I believe with a great majority of you, gentlemen, when a question similar to this came before us a short time since as to what shall be done in the city of Portland, that we should refer back to the city of Portland the question presented to this Legislature and let the citizens of Portland decide it for themselves. I say, I looked to the delegation from Washington county to see how they stood in regard to this question; and it has been explained to you by the gentleman who preceded me that they stand eight to four, eight against the law, against the free seining law, and four in favor of it; and as he tells you, two of the four are engaged in the business. They may be the most patriotic men and I have no doubt of it, but we have a right to consider that situation, coming here as they do as representatives from Washington county and directly, personally interested in a business and in the bill here,—I say their patriotism may be as pure and lofty as that of any man, and still, when I am looking at reasons and motives, those appeal to me. There are two o. the delegation so connected. And then we are told that one other is the attorney for the Seacoast Packing Company, the gentleman from Eastport who has addressed this House in favor of the bill. I presume that is the fact. Now, then, that is the way the delegation from Washington county stands. We were told how the committee upon shore fisheries, who heard the evidence before the committee, divided evenly, and that some of those gentlemen who are themselves directly interested in packing houses are in favor of the bill for free seining. Those matters appeal to my mind, gentlemen. They are matters for me to consider, and I am here as a representative with a vote to cast for what is right, wishing to do just what is right and fair and honorable, as you all are, in the interests of the State of Maine and in the interests of every section of this State.

Now, here are these large packing industries of which we are proud; and there is not in my mind one taint of the feeling that a large corporation or a large business interest is not to be dealt justly with by the Legislature of the State of Maine. And I am proud as a citizen of Maine to say that the Maine Legislature has dealt justly with the corporations who have come before it. I say we have upon one hand these great packing houses; upon the other hand, scattered along the shores of that sparsely settled country with its rock-bound coast a people patriotic, a people who love their country, a people who early showed their patriotism and their love of country because history informs us that the first naval battle of the Revolution was fought down there in Machias bay. Those people have been depending upon this industry for their living, and while it may be there are wealthy weir owners, there are hundreds of poor weir owners, men who are depending upon those weirs for their living and for rearing their families. They may not be manufacturers, as my friend from Eastport says they are not. They may not be employers of hundreds of thousands of men, but they make up the class which forms the very groundwork of our society in Maine, those who are honestly earning their living, who are rearing their families and giving their children an education, and depending upon this industry to do it. Now, while I say I do not claim to have any expert knowledge or large experience or in fact any experience in regard to this matter, I have no doubt but what these people know something about how they will be affected by free seining. They feel that free seining will deprive them of that means of a livelihood, that the money which has been invested in their weirs will be lost, and that those shore privileges which they valued highly and which have been valuable because the haunt of the herring,—that those shore privileges may become worthless. Now, they come here to you. Here is a remonstrance of over two thousand from the county of Washington remonstrating against the passage of this bill for free seining; the delegation from Washington county, a majority of eight out of twelve, against the passage of the bill for free seining. Do those

people know what they want down there in Washington county? Are they not as intelligent as are citizens in any other county of the State? Are they not capable of judging what is for their interests? My friend from Eastport says that they have had no experience with this bill and cannot tell how it is going to affect them. What good will the experience do them if you enact the bill into a law and they find their weir privileges and their shore privileges ruined and their money gone which they had invested in this industry, and they wake up to find that they have been ruined by the passage of this law? Too late then to have gained this knowledge.

I am willing to take the knowledge of the gentlemen from Washington county who have studied this matter and investigated it,—these weir fishermen along the coast and their neighbors who feel that they will be injured by the passage of this law; and I second the motion of the gentleman from Machiasport that report B be adopted. (Applause).

Mr. TRACY of Winter Harbor: Mr. Speaker and Gentlemen of the House, I believe that it is the conscientious duty of the members of this House, elected from the various cities and classified towns of the State by a popular vote of the people, to legislate for what we deem the best interests and welfare of the people. In the consideration of the enactment of general laws, we look well to the interests and welfare of the entire people and the State as a whole. In the passage of resolves, in response to the appeals for aid and support of our beneficent and educational institutions and in response to the petitions and prayers of the unfortunate asking aid at our hands to better their condition and to lift them from degradation and woe to a higher level of usefulness, we consider well and wisely the financial condition of the State and its resources and grant such a distribution of the funds as the committee on appropriations and financial affairs, in their deliberations, shall recommend. And especially in the case of those urgent appeals for the unfortunate, to satisfy our heart yearnings and pacify our sympathies, we have in some instances stepped beyond the bounds and limits fixed by the committee and ren-

dered more aid than they recommended. In our deliberations in regard to the enactment of the many private and special laws, we consider the wishes and the desires of the people coming to us in the way of petitions and remonstrances, and the vested rights of the people or the corporations to be affected by the passage of such laws, as compared with the special privileges and rights conferred upon the people in the particular section where the law is to operate.

The proposed bill which we now have under consideration is, indeed, a private and special law so far as its benefit is concerned in its operation; but very general so far as its effects are concerned upon more than forty thousand people and far reaching in striking down an industry from the eastern coast of our State that distributes, annually, more than two million dollars among the poorer class of people, and extensive in the destruction and rendering valueless vested rights of the poor people along the coast, I think I am safe in saying, in your privileges and equipments, nearly three hundred thousand dollars. The provisions of this bill have been duly considered by the gentlemen who have preceded me and I will not touch upon them. But let us look at the origin of this measure. Mr. Speaker, it appears to me that the gentlemen who are advocating this measure and are laboring so hard for its passage are simply following in the footsteps of that great sardine trust that came among us some five or six years ago and by every means that they could possibly invent endeavored to strike a blow at the independent and local packer. I remember a particular instance while negotiating with parties some five or six years ago about the time of the organization or the operation of the sardine trust. There came out during my negotiations with these parties for the location of a factory at a certain place in my county, the syndicate's circular that the price of sardines in the future would be so and so, a great deal less than it had been on an average in years past, when from 1875 this packing industry of the sardine had been growing up gradually until at that time it had developed into an enormous industry on our coast, and everything was moving along in the best

of ways and conditions. The weir men were making a good living, the packers were making money and the people engaged as laborers and otherwise were doing well. So, I say that this great sardine trust then came in and by the expenditure of thousands and thousands of dollars to invent machinery to take the place of the labor of men, whereby they might pack the goods at much less than by hand labor; and yet through their tremendous efforts in this direction they have not as yet been able to break down and crush out from existence these local and independent packers. This same sardine trust came here four years ago in the attempt to establish a general free seining law along the entire coast, but it met with this tremendous opposition through Washington and Hancock counties which it is meeting today, and a compromise was then made as has been stated. I have certainly gathered from my conversations with the leading packers who are particularly interested and striving for the passage of this law, that they are working entirely for the great volume of pack in a short season rather than for the general distribution of the business.

Now, it is true, that notwithstanding these various obstacles put forth by the sardine trust, the industry has steadily grown until it has amounted to the enormous figures of income to the people of Washington and Hancock counties which have been before stated. Why not, gentlemen, let well enough alone? The weirs are protected along the coast of Washington and Hancock counties by the various special acts previously enacted and being enacted by this Legislature, and under that protection the weirmen have and will continue to thrive. You will see it as you sail along the coast of Washington and Hancock counties; you will see new homes springing up; old houses renovated, repaired and painted, and a generally better prosperity in vogue. On the other hand, are the sardine packers suffering? Let us consider for a moment who wants this measure passed? There appear to be a few gentlemen particularly interested in the packing business, and I think they are the leaders so far as large packs are concerned at Lubeck and Eastport, and in one particular in-

stance at Milbridge in Washington county. And let me say right here, gentlemen, that the gentlemen of whom one is a member of this House and is interested in the packing business at Milbridge, while they are advocating this seining law, you will, as you peruse the special laws of our State, find that their bay, Milbridge and Naraguagus bay, is entirely protected as spawning ground; and this bill here excepts the law relative to spawning grounds. Now, I have mentioned the particular section comprising Eastport, Lubec and Milbridge, and it is said that city and those towns are entirely in favor of this law. Suppose we admit that. On the other hand who are there against it? All the rest of the towns I believe in Washington county and especially those along the coast and especially those large ones such as Jonesport, and some others that are engaged in the packing and sardine and herring industry. And in addition to all those towns in Washington county I stand here today to say that so far as Hancock county is concerned there is a solid delegation in this House and Senate opposing this measure. I have yet to find one man, with one possible exception, who has asked me to support in any way this measure; but on the other hand it is opposed by petitions of something over two hundred people from the particular towns interested and by urgent letters urging me to do what I could to defeat this measure. And for this reason I say at the same time that in the passage of private and special legislation we should consider what the people of the particular section that it is to affect, desire. And will you, gentlemen, who live in the interior towns of the State, who live on the western coast of the State where you are perhaps contented with your seining laws under present conditions,—I say, will you come here and say by your votes that nine-tenths of the people of Washington county and the whole people of Hancock county do not know what they want? Why, gentlemen, it seems to me that the members of this House who live on the sea coast, in case there was a measure here which affected certain sections in the interior of the State, would be reasonable enough to be gov-

erned by what nine-tenths of the entire people wanted. This is the situation; and I cannot urge upon you it seems to me with sufficient words to express my desire in the matter now before us that you should join this great majority of our delegation and the majority of the petitions of the people in the sections which this law will affect, and vote against this report A. (Applause.)

Mr. O'BRIEN of Lewiston: Mr. Speaker, in the arguments which have been made it strikes me that those who have opposed this bill have tried to avoid the real question at issue. I agree with the gentleman from Waterville that it was the right thing to do in the Portland case to refer that matter back to the citizens of Portland, but I must remind you that that was a case which was not at all analogous to the one we are now considering. In that case it was a question of whether or not this Legislature should say to the voters of Portland what kind of a government they should have. But in this case it is not a question of a mere single local municipality.

It is a question which interests the entire State because in this question there is at stake not only the interests of a thousand or fifteen hundred persons engaged in the weir fishing business but the interests of the entire State in so much as the good old Dirigo state is the one of the union which is looked to for its sardine supply. When we vote upon this question we are voting upon a question which interests every man, woman and child throughout the length and breadth of the State of Maine inasmuch as our vote upon this question will have an effect one way or the other upon that great industry. I believe that the principle which was enunciated in that great document upon which the Union was founded is at stake. The people were engaged in Washington and Hancock counties in the weir fishing business. Are they being deprived, if this bill becomes a law, of any right or privilege which they now enjoy? If this becomes a law and free seining is allowed, are their rights encroached upon? Do they not have the same privileges even after the passage of this act as they have now? If that is so, I ask that those who have been arguing on the other side, pray show to us why we should not vote for the bill which does not deprive them of

any particular right or privilege which they have, and which simply gives to another body of their citizens in that section the rights which they enjoy under the existing law?

I say, Mr. Speaker, that in the passage of this act we are not infringing upon the rights of those weir fishermen. I will yield to no man in my loyalty to the principle of American government which strives to protect every citizen and every alien while within our borders to the greatest extent that the law of this land will permit, but I do say that no one class of men should enjoy any one privilege unless every other class living in the same section are allowed to enjoy the same privileges. Those who have been arguing in opposition to this bill have done so in a manner which would indicate that the men who are engaged in the packing business down there have no other interest in that section other than that which they have in their factories. Let me ask those men, was it a trust that built those factories,—that developed that great packing industry down there,—or rather were those factories built and was that line of business developed by men in whose veins flow the purest of Maine blood, men who have the interests of the State of Maine as near and dear to them as those living in any other section of the good old State of Maine? Look at the persons signing this report. They say that two of them in favor of this bill are engaged in the packing business. Is the mere fact that a man is so engaged any reason why he should be indicted as not being a conscientious and liberty loving man? They have referred to the idea of a monopoly down there. If there is a monopoly down there how do they account for the fact that those packers some few months ago were selling goods at two dollars and ninety cents a case, and today they have been driven to sell them at two dollars and fifty cents a case? They say that a great many people will be thrown out of employment. Those men engaged in the weir fishing business have not yet been able to supply the packers with all the fish that they could and would buy from them. The weir men have claimed that the fish that are caught in the weirs are better for packing purposes than those caught in the seines. The packers agree with them, and they stand ready now to

pay them better prices for whatever fish they catch in their nets than they pay for fish taken within the seines. Isn't that a pretty good argument? They claim that this is going to ruin the weir industry. The gentleman who introduced this bill has shown me a letter which he has sent to those persons who represent the weir fishermen, and in that letter he makes a proposition to them which is still open, and that proposition is that next year, provided this bill becomes a law, they will pay them the market price for sardines that they paid them last year, or else if the market price is higher than it was last year they will pay them just as high as the market shows; and that offer holds good for thirty days. Isn't that a very fair proposition? The argument has been advanced that nine-tenths of the people of that section are opposed to this free seining bill. On the other hand, there are 19,000 people down there. I cannot understand how they make two thousand nine-tenths of 19,000.

Who has the most at stake in this matter, the weir fishermen or the packers? There are employed in the weir fishing industry 1516 people. The packers employ in Washington county 6573 people. Which class represents the interests of the greatest number of the entire population in that section? The amount of wages paid those engaged in the weir business is \$40,687 in Washington county. The amount paid by the packers in Washington county to 6573 people was \$1,136,024. That is the reason why I appear here on this side of the question. We must consider this proposition fairly. We must consider the rights of the people who have built up the sardine business, who have invested their money there, as well as the twelve or fifteen hundred people engaged in the weir business; and if you do that I feel you will support the report which has been brought in here to the effect that this bill ought to pass.

Mr. TREWORGY of Surry. Mr. Speaker, I did not intend to have anything to say on this question. I was elected from Hancock county and if I know what I was elected for it was the welfare of the people of my section of that county. Now, this fish question is a vital question, a question of vital importance to the people of the State. I am a member of the committee on shore fisheries. Personally, I am not interested in the fishing ques-

tion. It would make no difference to me whether this law was passed or not, but it would make a great difference to the people of this State. When I was a boy, in our little town of Surry they were doing a business of from \$25,000 to \$30,000 a year in the porgy fishing, and it didn't take but a little money to go into the business. Two or three hundred dollars would start a man in the business. And then we had fifteen hundred inhabitants where today there are only nine hundred. For the last twenty years there haven't been any fish there. Why are they not there? Because they have been seined. And the mackerel the same. When I was a boy you could go out before breakfast and catch a bushel of mackerel. Now we haven't caught a mackerel for the last twenty years. We cannot catch them because people from Rhode Island, New York, Connecticut and the western states have come in here. If they were not allowed to seine the fish in the waters of Maine, in a few years you would not be able to navigate the waters of the rivers and bays of the State. (Laughter.)

How is it now? There are no fish because they were allowed to seine them. And that is why I am opposed to this free seining bill for herring, because I want to protect the fish. And I want to help the sardine packers; I don't want to put them out of business.

If we allow them to seine they will have to go out of business. It has ruined the porgies and the mackerel; why won't it ruin the herring? I can remember the time when, I will venture to say, the fishermen could hang a net over the stern of a vessel and catch bait on the fishing ground. They can't do it now because there isn't any there; and there never will be until they are protected from seining. Now, if we allow the free seining of herring, we are going to exterminate the herring. Then the packers are going to take what few clams we have left. When they are gone, they have got to go out of business. We have got to do without fish altogether unless they adopt the net fishing or fishing from the bottom.

Now, they claim the reason why they wanted free seining on mackerel was because the market demanded it. As a matter of fact, they cannot supply the market. Why? Because they have seined the fish, and they have ruined thousands and thousands of barrels of

fish, thrown away the small fish and saved the large ones. The market has been overstocked and they have thrown thousands of barrels of good fish overboard. Take it into consideration now and vote for the people. We are here representing the people of the State and let us work for the people. I have all the sympathy in the world for the packers. They say that they have been selling fish for two dollars and a half or something. They have, because there is no protection. There are too many fish in the market. If they didn't take another fish for two years we would have all the sardines we want.

Let us vote for what is for the good of the people. (Applause.)

The question being shall the yeas and nays be ordered. The motion was agreed to.

The SPEAKER: All those in favor of adopting report A, in favor of free seining, will say yes when their names are called; all those opposed will say no. The Clerk will call the roll.

YEA:—Baldwin, Blanchard, Bradford of Friendship, Foss, Gannett, Gray, Hall, Hathaway, Higgins, Holmes, Johnson of Hallowell, Kimball, Littlefield, Marshall, Martin, Newcomb, O'Brien, Peacock, Sawyer of Milbridge, Seavey, Smith of Madisor, Stearns, Trickey, Tupper, Vitum—25.

NAY:—Albert, Allan, Barrows, Belleau, Rerry, Bliss, Bradford of Livermore, Briggs, Burket, Byron, Cobb, Cole, Copp, Cushman, Davis of Benton, Davis of Guilford, Dennison, Downs, Fawsette, Garcelon, Giddings, Goodwin, Grant, Hagerthy of Ellsworth, Hagerthy of Sedgwick, Hale, Hanson, Hastings, Hill, Hodgkins, Howes, Hussey, Hutchins, Jillson, Johnson of Calais, Johnson of Waterville, Jones, Jordan of Cape Elizabeth, Jordan of Yarmouth, Josselyn, Kinsman of Cornville, Knapp, Laliberte, Leighton, Leonard, Libbey, Longfellow, Merrill of Dixfield, Merrill of Skowhegan, Miller, Morey, Morton, Nash of Damariscotta, Newbegin, Norcross, Oakes of Auburn, Oakes of Milford, Page of Appleton, Page of Hampden, Pendleton, Percy, Philbrook, Poor, Price, Purinton, Russell, Sargent of Castine, Scribner of Charleston, Scribner of Springfield, Sewall, Shaw, Shevenell, Smart, Smith of Saco, Sparrow, Staples, Stevens, Swain, Talpey, Therreault, Thomas, Thompson of Roque Bluffs, Tracy, Treworzy, Turner, Verrill, Walker, Washburn, Webb, Webster, White, Whitmore, Wilder, Witherspoon, Witt—35.

ABSENT:—Abbott, Baxter, Bean, Bunker, Clark, Cousin, Ingersoll, Irving, Kinsman of Augusta, Lanigan, Morrison, Mullen, Perry, Powers, Putnam, Reed, Sanborn, Sargent of Brewer, Sawyer of

Smithfield, Swett, Thompson of Orono, Usher—22.

PAIRED:—Buzzell, yes; Nash of Kennebunk, no. Dudley, yes; Weatherbee, no. Fulton, yes; Milliken, no. Lougee, yes; Thurlough, no.

So the motion was lost.

On motion of Mr. Tracy of Winter Harbor, report B was then adopted.

Special assignment: Majority and minority reports of the committee on legal affairs, reporting "ought not to pass" and "ought to pass" on bill, relating to South Paris Village Corporation establishing a system of lighting.

Mr. Gray of South Paris, moved that the minority report be substituted for the majority report.

The motion was agreed to.

The bill was then read twice, and on motion of Mr. Gray the rules were suspended, the bill received its third reading and was passed to be engrossed.

Sturgis Bill.

Special assignment: Reports, committee on temperance, "A," ought to pass, in new draft, "B," ought not to pass on bill to provide for the better enforcement of the laws against the manufacture and sale of intoxicating liquors.

Mr. OAKES of Auburn: Mr. Speaker, I desire to move that the House concur with the Senate in the adoption of report A, "ought to pass," on this bill. I do not know whether it is desirable to enter into a lengthy discussion of this matter at the present time. I imagine that we have all done a good deal of work today, and we have listened intently to quite lengthy remarks on the floor of the House, and we all are tired and wish to go home. I also think that there are a good many of the members of the House, judging from the roll call, who are not in their seats, and it seems to me therefore, that the consideration of this matter be postponed until tomorrow; and I therefore move that the House do now adjourn.

The motion was not agreed to.

Mr. OAKES: Mr. Speaker, the measure now under discussion is well known to all, but I wish to call the attention of the members of the House to what I consider to be the substantial provisions of the bill, in order that

there may be no misunderstanding at all as to what we are about to vote upon. The Governor by the terms of this bill is authorized and it is left discretionary with him as I understand it, to appoint a commission of three men, two from one party and one from another, men whom he shall select as best qualified in his judgment to carry out the purposes of this act. The compensation of those men is provided, and the name of those men as the enforcement commissioners is also provided, and these men with the advice and under the direction of the Governor are authorized to exercise the authority of sheriffs in any part of the State of Maine. With the advice and under the direction of the governor, in order to carry out their duties they are authorized to appoint deputy commissioners as they may think necessary who shall have powers as deputy sheriffs. Then it is also provided that bonds shall be given for the faithful performance of their duties. Then it provides what the duty of these deputy commissioners shall be, that it shall be to enforce the law, to carry out these provisions as directed by this commission. And their pay is provided for, their fees to be taxed and allowed to them and turned over to the State of Maine. The commission itself, upon being satisfied that the legal authorities fail to enforce the law against the manufacture and sale of intoxicating liquors in any city or town of the State, shall, subject to the limitations of section two, that is, subject to the directions of the Governor of the State, instruct the deputy commissioners to enforce the law. There is also a provision that the Governor, after notice to any delinquent county attorney, may appoint a special attorney. There is a provision by which the fines which may be collected when the commissioners are enforcing the law, shall be divided, in case it is only a sheriff that is delinquent; if both the county attorney and the sheriff are delinquent the fines are not divided but the whole amount goes to the State. Section ten provides that nothing in this act shall in any way relieve the sheriffs or the municipal officers of cities and towns, or the county attorney except

when there is a special attorney appointed, in which case the county attorney is released from the further performance of his duties. Then it is provided that whenever in the judgment of the governor either of the commissioners is negligent the governor may discharge him; or whenever he thinks that the commission is not necessary and required, he may suspend the whole commission,—put it out of commission.

Now, that in substance is the Sturgis bill as it is presented for the acceptance of this House. It has been considered by the Senate, adopted by a large majority of the Senate, and comes down to us with the sanction of that body. We are to decide today upon a question of great public importance to the State of Maine. I believe that no greater question will come before this legislative body at this session or possibly at any very near future session. It is a question which reaches into the life, into the business, into the welfare of this State in every direction. It is a question which is brought to us by the chief magistrate of this State charged by the constitution with a care for the execution of the laws of this State.

The chief magistrate of the State, in his message to us at the opening of this session, called our attention particularly to the laws against the sale of intoxicating liquor and urged upon us the necessity of giving it our best thought. He stated it as strongly as he could and urged it upon us as a matter of the first importance.

It is said that the laws are sufficient if enforced. That is true—if they are enforced. How often we have heard the cry whenever new temperance legislation is proposed—"there is law enough." And they say to us: "Why don't you as individuals make complaint against them that violate the law—if you do you'll have enforcement." Now there is a very good answer to this. There are certain ones who are charged with this duty and if they will do their duty the law will be enforced.

But it is a solemn fact, a fact that has caused the blush of shame to rise to the cheek of many an honest citi-

zen, that officers sworn to the enforcement of laws will not enforce them. They say at one time that public sentiment does not favor their enforcement and again they simply say that they will not enforce them. Now this condition ought not to be. This law can be enforced. But it is admittedly not enforced in some instances. And why? Because there is no sufficient force to say to the delinquent sheriffs: "You must!" We have a chief magistrate whom the constitution says shall enforce the law. But how? Suppose the chief magistrate writes to a delinquent sheriff and says: "In the name of the state of Maine I command you to do your duty." And the sheriff says: "You occupy a very exalted position, fill a very great office and are looked up to and respected. But what are you going to do about it?"

Well, what are you going to do about it? Perhaps you say, "impeachment." Perhaps you say "prosecution." But prosecution depends largely on local sentiment. "Impeachment!" you say. But how by impeachment? If you start impeachment proceedings you will hear go up the cry of party and persecution. And you must wait for the legislature to convene before you can institute your proceedings.

The fact is, the law is lame in not providing certain ways in which it can be enforced. Until this late discussion of the question, many believed that the governor could be empowered to remove a sheriff who fails to perform his duty. But the constitution prevents. It cannot be done under the constitution.

When the governor calls upon us and says that we are in duty bound, in honor bound, to give the people of Maine the enforcement which we have promised, what are we to say?

If I appreciate rightly the sentiment of the State, it wants to meet this question fairly, in a large way, in a way that will appeal to the common sense of the people—in a way that will remove the stigma that always rests on the State of Maine whenever the enforcement of the prohibitory law is mentioned.

Now the question is, will this bill do it? I can say that having approached

the study of the bill from the standpoint of a man who was opposed to it, I believe that it is a wise measure, the best that I can see at this time for the State of Maine to pass.

It is suggested that the introduction of this bill will bring about two classes of enforcement. You will get, they say, on one side the ordinary officers and on the other an outside body and the two are going to conflict—that they are going to work independently. I don't believe this.

This law will place in the hands of the chief executive the power to say: "I command you to enforce this law." And the sheriff can't say: "What are you going to do about it?" If he does, the chief executive will say: "Never mind what I am going to do about it—I have the power to see that the law is enforced."

But you say—the governor may not get the right men to enforce the law. The law makes this easy. The governor has power to make and unmake the members of this commission and do you doubt that the gravity of the responsibility that would rest upon him would lead him to make appointments that would be for the welfare of the State—that he will appoint men who will strictly and wisely enforce the law?

Have you any doubt that this law will do this—that it will supply the very deficiency in existing laws? You want a law that will extend to every corner of the State. That's the kind of a law that we want to enforce the provisions of the prohibitory law.

I want to see a law that will make it impossible for a Bangor plan to exist—make it impossible for men to go ahead in violation of the law and of every sense of decency as long as the law is on the statute book.

I want to see a law that will make it impossible for such a condition to exist as has existed in Androscoggin county and may exist again unless there is a change in the present outlook.

I want something that will make it impossible for a man to say: "I will, allow certain men to sell liquor in violation of law and no one can help themselves."

That's the kind of a law that I want. This bill will put in the missing links in the present law.

But they say, it will be inquisitorial in its character—they say that it will allow a commission to come into a county and enforce the law. Under this law do you think it would be safe for any sheriff to say: "I will execute this law as I see fit, regardless of the law on the statute books?" He will first say: "Where am I at?—where will I be if this law goes through?" The power to deliver the political good will be taken out of his hands and a sufficient force will deal with the criminals, irrespective of anything that he may have promised them.

They say there'll be a lot of deputies running over the State and charging up expenses to the State. But will it? The minute that the commission begins to act the county begins to lose. Do you think that any sheriff will go to his people and say that I allowed this condition to come to pass?

Much has been said of the county attorneys in this matter but I know something of the county attorneys of Maine and I don't believe that there is a county attorney in the State who needs to be alarmed by this bill. I don't believe there is a single county attorney in Maine who is going to allow the appointment of an official to do his work for him.

If this bill passes you will see a very dry season. But, you say, it will be too dry—the people won't like it. In heaven's name let us get away from this talk! The people want this law thoroughly and impartially enforced. When they do they will find out whether they like it or not. If they do they will make its enforcement. If they don't they will do away with the law—and they ought to. In the words of our chief executive, they never can know about the law till it is enforced.

I hope the members will not vote upon this measure as a matter of personal convenience, nor of friendship of one man for another, but one by which we shall try to bring about a better condition of affairs for our own beloved State. (Applause.)

Mr. BELLEAU of Lewiston: Mr. Speaker, it cannot be expected on the

part of the people of this State that we labor for fourteen hours a day for the wages we are getting, and I move that we take a recess until half past seven o'clock this evening.

Mr. Merrill of Skowhegan moved to adjourn.

A division being had the motion was lost by a vote of 32 to 50.

Mr. HUTCHINS of Penobscot: Mr. Speaker, I realize that in opposing the bill now before this House I assume a delicate position. I am not unmindful of the fact, and fully appreciate the situation, that I am taking issue with a large number of political friends, and a host of temperance people, with whom, in the main object sought, and, I believe honestly sought by this bill, I fully sympathize and agree. I do not differ with you in the least as to the magnitude and importance of the object sought. We only differ as to the wisdom of the method to reach that desired result as outlined in this bill. I am aware too, that in view of my former position on the great question of prohibition taken on this floor I am open to the charge of having sold out to the friends of free rum—by those who are familiar with the lobby system in and around this State House. A member of this House a few days ago insinuated, if he did not directly say, that the lobby was having undue influence over the committees of this House. Now, Mr. Speaker, I wish to say, and to say it with emphasis, to fortify myself against any charge of the nature I have set forth, that for several weeks the Sturgis bill, so called as a fitting tribute to its author, has been the predominant theme of discussion, not only here but in the newspapers of the State, but no man, in or around this House, nor anywhere else, has even asked me to oppose this bill, either in committee or on the floor of this House, but I will add, that I have been persistently confronted by one of the most powerful lobbies, working for the bill, that to my knowledge has ever done business under the dome of this State House.

But, Mr. Speaker, I will say for the relief of this lobby that I believe it is a pure lobby, an honest lobby with a high purpose and without a corruption

fund, and I have been pleased to come in contact with it and get its views. Now I will agree with the friends of this bill that if it be enacted into law it will carry terror into every saloon in every hamlet, village and city in the State where intoxicating liquors are sold, and awaken a feeling of unrest, resentment and uncertainty in the bosom of every officer now charged with the enforcement of the law, and that it might wipe out so far as law could wipe out the sale of intoxicating liquors in this State. But I would ask in the light of history touching movements of this kind, brought about by rash and revolutionary methods, how long would this happy state of affairs continue to exist, and what would be its reactionary effect upon the progress of temperance in this State? It is not by sudden, spasmodic, extraordinary measures that we may hope to build the enduring fabric of an abiding, law-sustaining, law-enforcing prohibitory public sentiment. In the language of one of our American poets:

“Heaven is not reached by a single bound,

We build the ladder by which we rise
From the lowly earth to the vaulted
skies.”

Will it carry along with it a united increased public sentiment in favor of energized law, or produce irritation, dissension, disruption, reversion, litigation? Can we hold the fort after we have taken it, with a united and determined army, or shall we find our forces scattered, indifferent, and hard to rally? Let us take this measure which seems to me to be bold in assumption, undemocratic in principle, evasive of the constitution, pernicious in its tendencies, and view it in the light of reason and sense, and contemplate the possible and probable results that may follow its operation. We have in this State today sixteen sheriffs elected by the people, who are under oath and bonds, and more than a hundred deputies charged with the enforcement of the prohibitory law in their several jurisdictions. The sheriff of Cumberland county is required to give bond in the sum of forty thousand dollars, and the sheriff

of every other county in the State to give bonds in the sum of twenty-five thousand dollars, and let me quote the statute as to terms, "Conditioned for the faithful discharge of the duties of his office, and to answer for all the neglects and misdoings of his deputies." I find under this chapter 29 of the Revised Statutes, section 69, these specially aggressive duties imposed on sheriffs and their deputies.

"Sheriffs and their deputies and county attorneys shall diligently and faithfully inquire into all violations of law in their respective counties, and institute proceedings in case of violation or supposed violation of law against illegal sale of intoxicating liquors."

Add to this the Oaks bill which makes mal-feasance in office a crime punishable by imprisonment.

Add to this section 9, chapter 82 which says, "Sheriffs shall obey all such orders relating to the enforcement of the laws as they from time to time receive from the Governor."

Add to this section 12 article 5th of the Constitution of Maine which declares, "He (that is the Governor) shall take care to see that the laws be faithfully executed;" and I would ask in all candor what higher inspiration, what broader authority, what more effective means does the Governor of this State want placed in his hands with which to discharge the functions of his high office in relation to the rum traffic. Does he wish for a legal rod placed in his hands which, waved over the State of Maine, will roll back the waters of Intemperance, as Moses stretched forth his rod over the red sea and the waters rolled back, and the bed thereof became dry? If so, I would commend him to some other source than the Legislature of Maine. What does this most remarkable bill contemplate and what does it promise to the people of Maine. It gives the Governor power to appoint a permanent commission of three to hold office stated terms of years, at a salary of fifteen hundred dollars each with power to employ a clerk, which means twelve hundred dollars more and said commission shall have an office in Augusta with suitable arrangements for

their comfort and repose and it shall have power to appoint as many deputies as it sees fit, number not limited.

And these deputies shall receive each for his services \$3.00 a day while on duty—which means while he has a badge on and has an eye on the liquor traffic. And this commission are to be clothed with all the powers and duties of sheriffs, touching the laws against the sale of intoxicating liquors, and no other law, notwithstanding there are various other criminal laws touching other crimes growing out of and in part made necessary by this and little better enforced than this law and over which, this special enforcement commission will have no jurisdiction.

Now no reasonable man will estimate the cost of enforcement under this plan for violation of the liquor laws alone to be less than \$50,000. Now what under this economic, enforcement - commission-for-one-law plan would it cost to enforce all the criminal laws of the State, with a special commission for every law and more than a hundred regularly elected officers in the field besides?

It opens the door for commissions without number to support which will tax the taxpayers of the State of Maine to an extent beyond the imagination of the wildest mathematician. But the tax problem is not the most important one. It is the question of popular government against autocracy. It is the question of centralized civil and political power under the guise of immediate benefits. It is the question as to whether it be wise to give the Governor authority to make and unmake officials, or reserve to the people the right to make and unmake public officials according to legal and constitutional methods, and thus preserve the sovereignty of the people. This new bill is certainly an evasion of the constitution if not a violation of it. To overcome the power that inheres in the Senate by the constitution to impeach and remove from office, and to forever debar from office sheriffs who may be found guilty of criminal misdemeanors this new bill confers on the Governor the power to appoint and remove, a com-

mission charged with like duties and powers covering same jurisdiction but limited in exercise to one law only and more than this this commission is clothed with a certain degree of judicial authority than is vested in any court in the State of Maine to indirectly, inferentially sit in judgment on official conduct to determine a prejudicial state of facts, without trial and to condemn without hearing. This bill provides that the said commission upon being satisfied that the local authorities fail to enforce the law in every city or town of the state, may appoint one or more deputy commissioners who reside in said city or send one from some other place to enforce the law. They can satisfy themselves by any method they choose by observation or correspondence, or by the verbal reports of travelers in different sections of the State.

If they obtain their information by observation they will have to cover the State with deputies, and they will have to be constant and vigilant. If by correspondence they will have to satisfy themselves of the reliability of their correspondents and their opportunity to know the facts they present and their freedom from prejudice against local officials. If from the reports of travelers they will have to learn whether they are citizens of Maine or Massachusetts, and whether they are in favor of prohibition or license and the moment a deputy enters a county or town and begins his labors of enforcement he practically declares, on this picked up information, the sheriff and his deputies in that locality guilty of neglect and liable to suit under his bond.

He enters the field as a superior officer and proclaims the guilt of the representatives of the people. Do you think that such an arrogant law as this will produce harmony among officials and be palatable to the self-respecting citizens of Maine who are ever jealous of their rights and demand the right of trial by jury before being officially condemned?

What in the end will be the result of this infusion or confusion of forces?

One or the other will practically re-

tire from the field, and yield the scepter of authority to his rival. If it be the sheriff, then parties will feel no responsibility in putting a candidate forward for sheriff with an eye to the enforcement of the law, and all that we have gained in that direction will be lost.

If the commission becomes a permanent factor and specially charged with the business then the friends of temperance will cease their clamorings and sink into confident and stupid stagnation, as they did for years following the adoption of the prohibitory amendment. And this high commission with all its assumptions of purity and godliness will sink to the level of public sentiment. Created by reason of the political power behind it and difficult to remove on account of that power situated hundreds of miles away from their deputies an opportunity for graft and corruption will be open such as Maine has never witnessed in her most degenerate stages.

The bill assumes that one man invested with sovereign power can wield it more safely and wisely than the people, and that officers by appointment secure more virtue, greater official integrity in the discharge of official duties, than election by the people—the whole people—representing all classes and all interests and freed in part from concentrated political power. I want to say to the temperance people of this State that all the temperance legislation that has been secured for the past fifty years has not come from politicians, but from the great temperance element forcing itself through them, and it is only by keeping public sentiment alive, vigilant, strong and healthy, that we may hope to save the cause of prohibition through political vicissitudes and disasters. See to it that the primaries are well-conducted and men true to your cause are nominated. See to it that if these men fail to honor their oaths and fulfill their pledges, they shall receive your hearty condemnation on the threshold of the next election.

Develop your moral resources that all legislation looking to the betterment of the people may be imbued with strength and power.

Gentlemen on the other side will tell you that the Republican party pledged itself in its platform and in its campaign speeches to enforce the prohibitory law and we ought to do it.

True, every Republican in office or out of office ought to do his level best to enforce our prohibitory law. And we are enforcing it in three-fourths of the counties of the State as it has never been enforced before among this generation.

In three hundred towns and more in this State a rumseller can find a foothold because of the Prohibitory law, and the strong prevailing public sentiment in favor of that law. And if in Lewiston and Portland the Prohibitory law is not enforced it is because Androscooggin and Cumberland counties elected sheriffs who believe in license laws, and who imbibed their lessons in self-government from the fountains of Good old Democracy.

Over and over again the Republican party has declared its faith in the sufficiency of the Prohibitory Law to do its work when forced and backed by the best elements of society. We have law enough and if the officers from the highest to the lowest fail to do their duty, let the rank and file bring them to their sense of duty, and compel them to carry forward the work which through lack of courage, or bribery, or dishonesty or shiftlessness they have left undone.

It was said on the floor of the Senate by a member who seemed to be more profoundly interested in the political side of this question than anything else, that this was a Republican measure and we ought to support it. I am sorry that this expression escaped the lips of one of the younger members of that body, who is just beginning to form his standards of official duty and is one of the rising and hopeful young politicians, who in the near future is likely to contribute to the honor and glory of the good old State of Maine, or enshroud in the dust-covered shame and dishonor of a corrupt party-ridden ad party-robbed commonwealth. May God forbid that in this branch of the Legislature or in that august body that sits in deliberation at the other end of this State House, will ever be repeated, as the motto of Legislative duty—"This is a Republican measure and it ought to pass, or this is a Democratic measure and it ought not to pass" or vice versa. We are all representatives of broader constituency; the grand old State of Maine and in our devotion to her highest interests we should know no party, sect or nationality. He serves his party best, who serves his state first. We never promised to add new legislation to the Prohibitory, nor did the Governor deem it necessary in his message to recommend it, yet in the absence of this we have all ready another set of teeth to the Prohibitory Law, which, if properly used will bring every negligent officer to the keenest sense of his official duty.

But, gentlemen of this House. I have

confidence in your manly independence, and in your good sense and honesty of purpose, and having that confidence, I sincerely hope that you will bury this flimsy make-shift, this delusive prohibitory measure so deep that no Gabriel will be found with voice strong enough to raise it from the rubbish of extinct legislation, during this generation at least. (Applause.)

Mr. O'Brien of Lewiston followed Mr. Hutchins and said that he did not feel, owing to the lateness of the hour, like making a long speech, but that he felt, as a member of the committee on temperance, and one of those who signed the minority report, "ought not to pass," that it was his duty to explain his reasons for signing that report; also, he believed that he owed it to his colleagues on that committee to set forth their reasons for sending in a report of that kind on the bill.

It would appear to many, from the argument of his friend from Auburn that the only officers to be effected are the sheriffs of the different counties, That, said he, was absurd. Judging by the remarks of his friend it would seem that it was only upon the sheriffs whom the duty of enforcing the prohibitory law devolved. Such was not the case. To show this it was but necessary that one examine the revised statutes of the State. That would show upon whom it fell to enforce this law.

The gentleman from Auburn had made the assertion that some people would oppose the law because it would give the driest time some counties had ever seen and then he beseeched heaven to give us the law. In doing this he virtually admitted that in the fifty years that the prohibitory law had been in effect the State of Maine has never been made dry.

Mr O'Brien then read from the revised statutes showing what other officers in cities, towns and counties were responsible for the enforcement of the law besides sheriffs.

"I submit," said he, "that the sheriffs are not the only officers in the State upon whom devolves the duty of enforcing this law. Further, I say to you, that any private citizen has the right, when he feels that this law is being violated, to make complaint to the sheriff, city marshal or any other

officer of the city or town and that officer must investigate the complaint or be subject to a punishment, as I have shown you is provided by the statutes of the State, by the sections of the law, which I have just read to you.

"And so I say to you that if we pass this Sturgis bill, which, as I have said is aimed at the sheriffs, we not only indict the sheriffs of the State of Maine, but we must indict the mayors of our cities, the selectmen of our towns and our city marshals, constables, in short, every municipal officer, for being derelict in their duty.

"But we do not stop there. We have more law. We have the law which says that the deputy sheriffs must enforce the law, which says that the county attorneys shall see to it that the law is enforced. Isn't that law sufficient to enforce this prohibitory statute? If it is not, then I ask you is it possible to enforce that law. How much law do you want, gentlemen, to accomplish what the gentleman from Auburn has admitted that it has been impossible to accomplish?

"Early in the session, the gentleman from Auburn introduced an act, which has since been passed, and which has come to be known as the Oakes law, which provides for the punishment of officers who fail to do their duty and for whom punishment is not provided in the statute which I have read to you. How much law, I say, do we need to enforce this farce of a law, which has been foisted upon the good people of Maine for the past 50 years?

"I want to say, Mr. Speaker and gentlemen of the House, that I have the greatest confidence in the chief executive of this State and I say that if this Sturgis bill becomes a law the governor will enforce its provisions to the very best of his ability. But I do not believe that any one man can enforce this law. I do not believe it is in his power to accomplish that which all the officials of the State have not been able to accomplish in all the years that the law has been upon the statute books of the State.

"It will be argued to you that enforcement was promised to the people at the Bangor convention; that it was

promised by speakers who went about the State in the interests of that party. In that platform adopted at the Bangor convention there was a plank telling how nicely the prohibitory law had worked and how well it had been enforced. I cannot find in it a single word which shows that the people were promised any such a drastic measure as is this Sturgis bill. I say to you now, that if, after these statements in the platform, you pass this bill and say to the people that there has been no enforcement, that this law is a necessity, you are fit for indictment at the next election for having obtained your election by false pretenses.

"This will be one departure from sane legislation, where will it end?

"It has been said that this bill is an insult to the sheriffs and county attorneys of the State. This may not be true, but I contend that the passage of this bill will be an insult to the people in those counties who elected those men on your platform stating that the law has been enforced.

"As was stated in this House this morning, during the discussion of a measure, we are governed largely by precedent, but more by our experience, history, judgment or whatever you wish to call it. This Sturgis bill, if passed, will be doing something which the history of this State shows has proven a failure, as I will show to you. A bill of this character attacks the very vitals of Americanism. If you pass this bill you say that you are better judges of what should be done than are the people who sent you here. There is no demand for this bill.

"Give us all the enforcement which is necessary and possible under the law and there will still be those who, from fanatical reasons will still persist in saying that the law is not being enforced. For this reason it is easy enough to send out blank petitions, send them broadcast about the State and secure many signatures to them. And that is all the notice I am going to say in regard to the petitions in favor of this bill which have been put in here.

"Some years ago we had a constabulary law in this State. It gave the governor power to appoint officers

whose duties it was to go about the State and enforce this law to the best of their ability. What was the result? Was the law better enforced? Was the enforcement as good or better than it has been since then?"

He then read from the message of Governor Chamberlain in which that gentleman said that the constabulary law was unpopular because it was repugnant to the, and in conflict with, the deep seated feeling of municipal rights.

He continued saying that the Sturgis bill was similar to the old Constabulary bill and that if it was passed it would be an attack upon those same feelings of municipal rights.

"You will be giving them something which they do not want," said he. "The gentleman from Auburn has intimated, yes more than intimated that the Governor is behind this bill. I say that it makes no difference if the Governor is behind it—you are sent here by a constituency which requires you to vote for their best interests. Use your judgment, and your good sense when you vote on this measure and then you can go back to those people feeling that you have done your duty."

Mr. REED of Portland, in opening, said that this was one of the most serious questions which has come before the legislature in a number of years and it should be decided in a spirit of fairness. The House was not considering the Prohibitory Law and would not vote on that law but were considering simply a certain measure which proposes to accomplish certain ends. The Sturgis Bill departs from all established forms and when the House departs from established forms and lanes it was doing a serious thing. The Sturgis Bill did not propose to remove unfaithful officers. It proposes to leave them in office, with all their emoluments and the State will appoint others to do their work and will pay them for it. The cost may amount to \$50,000 a year. It may be even more, may even reach \$100,000 and all to make simply another class of officials.

He yielded to no man in his desire that the laws of the State be enforced. He stood before them as a Republican but this measure was not a party measure and should not be voted upon

as such. Mr. Reed referred to a certain newspaper published in Portland (The Express, owned and controlled by a man, the son of the father of the Prohibitory law and this paper he said was strongly opposed to this law." This paper is one of the strongest enforcement papers in the State advocating this policy at all times and condemning in unmeasured terms those officials who neglect to enforce this law. This paper is on record as being absolutely and unqualifiedly opposed to this law and I believe that the owner of that paper is personally opposed to the measure.

"I mention this simply to show that the temperance people are many of them opposed to this freak measure, for that is just what it is, a freak measure. It is also an ideal measure but I wish that it were possible to show this law up in its practical workings before the vote is taken. If it were possible for me to write on the wall behind the Speaker's desk the names of the three commissioners, they will doubtless be good men, but they are men who are looking for a salary of \$1500, and if under the names of those commissioners I could write the long list of names of their deputies, who are looking for a daily salary of \$3 a day, this bill would not command 50 votes in this House.

"You are not voting for the prohibitory law but you are voting for a measure that will knock the feet out from under the prohibitory law and the whole structure will fall with a crash. That is what this vote means tonight if you vote for that law. It is because I am in accord with the principles of the Republican party, it is because I am standing here upon the platform of the Republican party, that I oppose this unusual and freak legislation. I am absolutely opposed to it, and I believe if you vote against it you will consider it a credit to yourselves to the longest day you live." (Applause.)

Mr. WEATHERBEE of Lincoln: Mr. Speaker, the hour is late and I understand there are several others who desire to speak upon this question, and I therefore move that the House now adjourn.

The motion was agreed to.