

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

Seventy-Second Legislature

OF THE

STATE OF MAINE.

1905.

HOUSE.

Thursday, March 16, 1905.

Prayer by Rev. Mr. Hope of Augusta.

Journal of yesterday read and approved.

Papers from the Senate disposed of in concurrence.

An act relating to pensioning members of the police department of the city of Bangor, came from the Senate, received in that branch under a suspension of the joint order, and passed to be engrossed under a suspension of the rules.

The House concurred with the Senate in suspending the joint order, the bill was received, and the rules were then suspended and the bill received its three readings and was passed to be engrossed in concurrence.

Senate Bills on First Reading.

Resolve in favor of Ida Yeaton, widow of John Yeaton, late of the Third Maine Battery.

An act to amend section 3 of chapter 41 of the Revised Statutes, relating to seashore fisheries, came from the Senate amended by Senate amendment A. The House reconsidered the vote whereby this bill was passed to be engrossed. Senate amendment A was adopted and the bill was then passed to be engrossed as amended in concurrence.

Report A, B and C of the committee on legal affairs on petitions to investigate the non-enforcement of the prohibitory law in Cumberland county, were received from the Senate. On motion of Mr. Morey of Lewiston, the three reports were tabled and Tuesday of next week assigned for their consideration.

Nine resolves in favor of the towns of China, Chelsea, Farmingdale, Litchfield, Phippsburg, Vassalboro, Vienna, Wayne and West Gardiner came from the Senate placed on file in that branch. The House concurred with the Senate in its action.

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

Judiciary.

By Mr. Lougee of New Limerick:

Petition of S. W. Putnam and 11 others of Houlton asking for exceptions to the manslaughter bill.

Legal Affairs.

By Mr. Baxter of Portland: An act to amend section 43 of chapter 6 of the Revised Statutes, relating to the rejection of other than official ballots at elections.

Appropriations and Financial Affairs.

By Mr. Smith of Madison: Resolve in favor of the clerk and stenographer to the committee on interior waters.

Placed on File.

By Mr. Davis of Benton: Petition of Everett G. Wing and 9 others of Albion praying for the enactment of a law requiring the labelling of patent medicines.

By Mr. Page of Appleton: Petition of Rev. G. A. Chapman and 17 others of Appleton for same.

By Mr. Sparrow of Freedom: Petition of Rev. E. A. Dinslow and 23 others for same.

By Mr. Jillson of Otisfield: Petition of A. P. Reed and others of Naples for same; petition of E. Z. Whitman and others of Harrison for same.

By Mr. Cobb of Gardiner: Petition of C. T. Schneider and 70 others for the referendum; petition of J. E. McCarrison and 17 others, members of Seven Tree Grange, for same; petition of W. H. Clark and 97 others for same; petition of W. Viles and 26 others of Madison for same; petition of Gage B. Smith and 31 others of Mount Desert for same; petition of Brooklyn Grange No. 251 for same; petition of Keene Bassett and 25 others of Solon for same; petition of James Welch and 43 others for same.

Reports of Committees.

Mr. Johnson from the committee on appropriations and financial affairs, on resolve in favor of monument marker on the battle ground of Cedar Mountain, Virginia, reported that same be referred to the next Legislature.

Same gentleman from same committee on resolve in favor of the town of Bristol, reported that same be referred to the next Legislature.

Mr. Merrill from the committee on

judiciary, reported ought to pass on bill, "An act to incorporate the Waterville Gas and Electric Company."

Same gentleman from same committee, reported in a new draft and ought to pass, bill, "An act to amend chapter 11 of the Revised Statutes, relating to registers of deeds."

Mr. Hale from same committee, reported in a new draft and ought to pass, bill, "An act to create Portland Bridge District."

Mr. Littlefield from same committee, reported ought to pass on bill, "An act to incorporate the Oldtown Water District."

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

First Reading of Printed Bills.

An act to amend sections 36, 37 and 40 of chapter 29 of the Revised Statutes, relating to the manufacture and sale of intoxicating liquors, and particularly the manufacture and sale of cider.

An act providing for a bounty on bears in Franklin county.

Resolve relating to the documentary history of Maine.

Resolve in favor of a feeding station for the Sebago Lake Fish Hatchery.

An act to provide for the employment of male prisoners upon public ways or in preparing materials for the construction or repair thereof.

An act to amend section 23 of chapter 114 of the Revised Statutes relating to relief of poor debtors.

An act to establish the Caribou municipal court.

Passed to be Engrossed.

An act to prohibit the throwing of sawdust or other mill waste into Fish River, down as far as the dam of the Fort Kent Lumber Company, also in the tributaries of said river.

Bill, to abolish the common council of Augusta.

Mr. Littlefield of Rockland, offered an amendment and moved that the bill and amendment be tabled and the amendment be printed. (Motion agreed to.)

Bill, to repeal Revised Statutes relating to testimony when party is executor or administrator. (Tabled pending

third reading on motion of Mr. Merrill of Skowhegan.)

Bill, relating to assessment of damages for property taken for public uses.

Bill, to provide for probation officer for Cumberland county.

Bill, relating to recording of plans.

Bill, to prevent sale of merchandise in fraud of creditors.

Bill, to prevent unlawful diversion of electricity.

Bill, to extend charter of the Patten Trust Co.

Bill, to regulate fishing in Rangeley lakes.

Bill, relating to the York Light and Heat Co.

Bill, relating to the Sebec Dam Company.

Bill, relating to the compensation of clerks of courts.

Bill, relating to compensation of county commissioners.

Bill, relating to compensation of county treasurers.

Bill, relating to compensation of registers of probate. (Tabled pending third reading on motion of Mr. Oakes of Auburn.)

Bill, relating to the compensation of judges of probate.

Bill, relating to the compensation of registers of deeds. (Tabled pending third reading on motion of Mr. Thompson of Orono.)

Bill, relating to fees of registers of deeds. (Tabled pending third reading on motion of Mr. Thompson of Orono.)

Bill, relating to the compensation of county attorneys.

Bill, relating to enlarging duties of county attorneys. (Tabled pending third reading on motion of Mr. Littlefield of Rockland.)

Bill, to amend the Revised Statutes relating to salaries of public officers. (Tabled pending third reading on motion of Mr. Higgins of Limerick.)

Bill, to amend private and special laws, 1903, in relation to establishment of Normal School, Presque Isle.

Bill, to amend Revised Statutes, relating to State prison.

Bill, to reorganize Pepperell Manufacturing Company.

Bill, to amend Revised Statutes, relating to liens.

Bill, to amend charter of city of Gardiner.

Mr. Cobb of Gardiner offered an amendment to section three, by striking out the words "when approved" in the first line, and substituting therefor the words "at the annual municipal election held next after its approval." (Amendment adopted and bill passed to be engrossed as amended.)

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.

Bill, amending Revised Statutes, relating to challenging of jurors.

Bill, to authorize Frank G. Spurling to build wharf in town of Cranberry Isles.

Resolve, relative to completion of residence of principal of the Gorham Normal School.

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

Resolve, in favor of the city of Portland.

Passed to be Enacted.

An act to incorporate the Old Town Trust Company.

An act to amend and enlarge the corporate powers and purposes of Greenville Light and Power Company.

An act to incorporate the Roach River Dam Company.

An act additional to chapter 49 of the Revised Statutes, relating to insurance.

An act to regulate fishing in Moxie pond in the county of Somerset.

An act establishing a close time for fishing in Thompson pond from September first to January first of the following year.

An act for the protection of ducks.

An act to extend the corporate powers of the Sebacook Manufacturing and Power Company.

An act to amend chapter 415 of the private and special laws of 1868, entitled "An act authorizing Drew Plantation to raise money for certain purposes."

An act to incorporate the United States Trust Company.

An act changing the close time for fishing in Long pond, in Cumberland county.

An act to amend section 11 of chapter 23 of the Revised Statutes, relating to the relocation of highways.

An act to amend chapter 557 of the private and special laws of 1893, entitled, "An act to incorporate the Home for Aged Men in Bangor."

An act to incorporate the Mata-gamon Towboat Company.

An act to authorize the Maine and New Brunswick Electrical Power Company, Limited, of New Brunswick, to exercise certain powers in this State.

An act to improve the channel of Crooked river.

An act regulating the close time for fishing in Sandy and Half Moon streams and their tributaries and the tributaries to Unity pond in Waldo county.

An act relating to the compensation of the commissioners of inland fisheries and game.

An act to amend chapter 108 of the Revised Statutes, in relation to the selection of service of jurors.

An act to provide for the appointment of receivers of corporations.

An act to amend chapter 321 of the private and special laws of 1903, relating to the taking of smelts from tributaries of Upper Kezar pond, in Lovell, Oxford county.

An act to authorize the improvement of Chandler's river for log driving purposes.

An act to prohibit ice fishing in Brewer pond, sometimes called Hynes pond, situated in the towns of Orrington and Holden, Penobscot county, and Eucksport, Hancock county.

An act in addition to chapter 19 of the Revised Statutes, relating to contagious diseases among cattle.

Orders of the Day.

On motion of Mr. Higgins of Limerick, bill, to incorporate the Kittery Village Corporation, was taken from the table. Mr. Higgins offered an amendment to Section one, which was adopted, and the bill was then passed to be engrossed as amended.

On motion of Mr. Higgins, bill to incorporate the Saco River Electric Power Company, was taken from the table. (Read a third time and passed to be engrossed.)

On motion of Mr. Littlefield of Rockland, the vote was reconsidered whereby the House passed to be engrossed bill relating to the location and assessment of damages for property taken for public uses.

Mr. Littlefield offered House amendment A, by inserting in line four after the word "thereof" the words "or a quasi municipal corporation."

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

On motion of Mr. Hastings of Bethel, resolve in relation to York deeds and Maine wills, was taken from the table. (Read a second time and passed to be engrossed.)

On motion of Mr. Hastings, resolve in favor of Joseph Archambault, was taken from the table. (Read a second time and passed to be engrossed.)

On motion of Mr. Hastings, the report of the committee on inland fisheries and game relating to the throwing of sawdust and mill waste into Breakeck brook, was taken from the table. (Report accepted and bill tabled for printing under joint rules.)

On motion of Mr. Sewall of Bath, resolve in favor of Harry B. Conway, was taken from the table, an on further motion by the same gentleman the resolve was again tabled in order that an accompanying statement of facts might be printed.

On motion of Mr. Merrill of Skowhegan, bill relating to investment of deposits in savings banks, was taken from the table. (Read a second time and assigned for tomorrow morning for its third reading.)

On motion of Mr. Higgins of Limerick, the vote was reconsidered whereby the House passed to be engrossed bill, recognizing Pepperell Manufacturing Company as a corporation legally organized, and granting to it additional powers, and on further motion by the same gentleman the bill was tabled.

On motion of Mr. Powers of Houlton, bill to provide for the collection of inheritance taxes, was taken from the table.

Mr. Powers offered an amendment which was adopted, and the bill was then read a third time and was passed to be engrossed as amended.

On motion of Mr. Fowers, resolve in favor of the city of Lewiston, was taken from the table. (Read a second time and passed to be engrossed.)

On motion of Mr. Powers, resolve in favor of the city of Rockland, was taken from the table. (Read a second time and passed to be engrossed.)

On motion of Mr. Hastings of Bethel, the rules were suspended and that gentleman introduced bill, An Act for the better protection of lobsters and to prevent the transportation of lobsters out of the State between June first and October first of each year, and on further motion by Mr. Hastings, the bill was tabled for printing.

On motion of Mr. Oakes of Auburn, report of the committee on judiciary, reporting "ought to pass" on bill, to secure uniform records in municipal courts, was taken from the table. (Report accepted and bill tabled for printing under the joint rules.)

Sturgis Bill.

Unfinished business: Report, 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. LITTLEFIELD of Rockland: Mr. Speaker, I wish to call attention to some of the general features of this bill, and before doing that I wish to call attention to some objections that have been made to it. One speaker has said that this bill is repugnant to the principles of local self government. That means that a general law of the State enforced uniformly throughout the State is repugnant to local self government, that any law put upon the statute books of this State should be enforced or not at the discretion of the local officials. I think I need say nothing further about the question of consistency with local self government.

We are informed that there is sufficient law upon the statute books, that we may apply to the municipal officers and the sheriffs, and if the municipal officers wilfully refuse to enforce the

law they are subject to a penalty of \$50. If I had anyone around me that was 15 years of age that could not be a municipal officer and substantially do nothing in relation to the enforcement of the law and escape liability for penalty under that statute, I should want him to go to a kindergarten school. It is the wilful failure to enforce upon request, and if the man sees fit to evade that he can do so and you cannot help it. We are told that the sheriffs are required to enforce this law. If you will examine the statute law of this State, when a man informs the sheriff that the prohibitory law is being violated, what must the sheriff do under our statute? The sheriff must proceed to enforce the law or report it to the county attorney, pass it along to someone else and the sheriff is free. Now, we have the law to prevent as well as it possibly can be prevented the manufacture and sale of intoxicating liquors, if it is enforced; and according to the speech on resubmission of the gentleman from Lewiston (Mr. O'Brien) he agrees that there are places in this State where that law is not enforced. For the maintenance not only of that law but for the maintenance of all law we should have that law enforced if it can be enforced. We are informed that we cannot enforce it because 16 sheriffs and their deputies and the other officials have not enforced it. We cannot enforce it unless in some way we have officials who are ready and willing to enforce it, or unless we provide some means which shall compel them to do their duty. No one will contend that there are not counties in this State where that law is fairly and honestly enforced, and is enforced as well as the other criminal laws on the statute books. That demonstrates that it can be enforced. The fact that it is not enforced in some places, or is enforced two years in a certain county and then for two years it is not enforced, simply demonstrates that it can be enforced if you choose to enforce it. The opinion of anyone that the old constabulary law or the more recent law in relation to special constables, the opinion that either one or the other of those laws is bad, is not

a practical law, is not a working law such as we want, has nothing to do with the question here in issue. Neither of those laws is any more like this measure than black is like white. They proceed on an absolutely different principle and the general principle on which this law proceeds is the principle so much talked about by the opponents of the prohibitory law, that you cannot enforce a law until you have a public sentiment to back the law; and the purpose of this measure is to manufacture and make the public sentiment.

We are informed that this is freak legislation, but what does the gentleman allege as the cause of its being freak legislation? He alleges that the cause is that the law leaves the officials who have not done their duty to draw their compensation and furnishes someone else to do their work. What does that mean? It means that this law does not cover the whole subject and incorporate the whole revised statutes. There is law now upon the statute books under which such officials may be impeached, and that is the only way the sheriff can be reached under our constitution and laws. This law does not take that away. If some one else is put in there to enforce the law it is one of the best evidences that that official ought to be impeached and you should resort to the other law, to fit his case but because he may be impeached is no reason why we should provide no other law which can operate in enforcing the laws upon our statute books than to wait for that slow process. The process still exists; and because this bill does not include that and is not a full revised statute is no reason why it is freak legislation. If it is freak legislation simply because it is a new idea, I submit that the gentleman is not so impervious to progress that he would turn down every new idea if it has anything to commend it.

We are informed that this law will be expensive, that it will cost money to enforce it. I apprehend as a matter of fact that it is only necessary to show that this law will be used in order to make its use unnecessary. The result of any consistent and proper en-

forcement would be that more money would be paid in fines than it would cost to enforce the law. The law rather than being an expense will be a source of revenue. It does not follow that every man who violates the prohibitory law should be at once jailed any more than the man who commits theft. Our statute provides for penalties of fine and imprisonment, and you never saw the case in any county where the net profit of the enforcement of the prohibitory law did not result in a showing on the right side of the ledger. The position of the State will be this, the State will get the proceeds and it will only have to pay a comparatively small part of the expenses of enforcing the law.

We are informed by another speaker (Mr. Hutchins of Penobscot) who, I think, is a temperance man and not only a temperance man but also a Prohibitionist, that if this bill becomes a 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. There is an admission from this same gentleman who opposes this bill that it would accomplish its purpose. It would compel the local officials to enforce the law because they would be afraid of the results if they did not. Yes, he says it would accomplish the purpose of enforcing the prohibitory law. But he says "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?" And in another extract he says, "After we have taken the fort in this way, can we hold the fort after we have taken it with a united determined array, or shall we find our forces scattered?" What is that proposition? I care not whether the result of this bill, if it succeeds in enforcing the prohibitory law, is to re-

peal it or not. I had rather the prohibitory law would be repealed than not be enforced, and if it cannot stand enforcement it is not entitled to be on the statute books, and I am in favor of the prohibitory law on that account. (Applause.)

This law is a law for the purpose of promoting the consistent, sustained, uniform enforcement throughout the length and breadth of this State. It is a law which removes the ability of any official to give protection to a rumler, because if a local official undertakes to protect a rumseller, the result is, if we have as governor a man who observes his oath, when the responsibility is put upon him, whoever he may be, he cannot get out from under it; it is absolutely in his control and if he does not enforce the law he is responsible to the people for it, and if he does enforce the law it will give him the power to do it. If he enforces the law, nobody, whether he be Republican or Democrat, can blame him for doing it. He is not responsible for the law. This bill removes the prohibitory law from politics because no local sheriff can promise immunity if a man votes one way or the other. He can promise him, but he cannot deliver the goods. This law proceeds upon the basis of compelling the local officials to enforce the law. It proceeds on the proper basis if you were going to enforce any law. It says, if the local officials do not enforce the law, that then the result upon their immediate constituents shall be such that they will fail to receive the fines, the result is that the county suffers a decided financial loss. It pays the expense; it does not get the proceeds. I have asked men from different counties in this State, those opposed to, as well as those in favor of the law, "Do you suppose any official in your county will fail to enforce the prohibitory law when the result of his failure is to give the proceeds to the State and the expense to the county?" And uniformly the statement has been made that no man could stand under that proposition. Now there is the foundation of this whole law. It makes no difference to me whether a man is opposed to the prohibitory law or whether he is in favor of it, it makes

no difference whether the people of a county want enforcement or not, they will say that so long as this law is to be enforced, you officials elected to do it must enforce it because we won't tolerate for a moment your neglect of duty which shall visit on us a penalty of that kind.

Now that is the foundation principle of this law. It necessarily makes a public sentiment against which the local officials cannot stand and fail to enforce the law; and if it is only necessary that the governor of the State or the commissioners who are under his thumb shall demonstrate their ability and their willingness to use the law when there is occasion for it, and the law will have to be used very infrequently. Now, we are in this position: our constitution provides that the supreme executive power of the State shall be vested in the Governor. It also provides that he shall take care that the laws are faithfully executed. And we put a law on the statute books which we admit, to a greater or less extent, is not faithfully executed, and we say in our constitution that it is the duty of our governor to execute it, and he is absolutely powerless to do the first thing. I say put it up to the governor and give him some power to perform the duties that are laid upon him by the constitution, and whether or not the performance of those duties results in the repeal of the prohibitory law or any other law makes no difference. If we have a law that won't stand enforcement, get rid of it as quickly as you can.

Gentlemen, there are a great many Republicans in this House. The Republican platform has said something in relation to this matter, and it says that the Republican party demand the faithful and impartial enforcement of the laws of the State which prohibit the manufacture and sale of intoxicating liquors. Are we going to carry out that pledge of our party to the people of the State of Maine? Are we going to have it called to our attention that the Governor of the State of Maine has no power to execute the law, and then say that we won't furnish him the means by which he can perform not only his constitutional duties but the

pledge of the Republican party to the voters of the State of Maine? I submit, gentlemen, that this is not a freak law. I submit that if it works as it is expected to work, it will demonstrate to the people of the State who want the prohibitory law that it can be enforced, I believe it will demonstrate that or else it will demonstrate that the law never ought to be on the statute books. Gentlemen, I think this bill should be passed. (Applause.)

Mr. MERRILL of Skowhegan: Mr. Speaker and Gentlemen of the House, to my mind this is too important a matter to the State of Maine, to the Republican party, to the well wishers of good government for us to stand by without protest and be called as a party a party of hypocrites. We have been called a party of hypocrites, and it has been said that for the past fifty years the enforcement of the prohibitory law has been a perfect farce. If that be true, I believe in putting ourselves upon a higher platform than that on which we have hitherto stood. There may be an element in the Republican party that is willing to accept silently the charge of being hypocrites; but I say to you it is not that part of the Republican party that believes in standing upon its platform and keeping faith with its promises made to the people. If there are any elements in the Republican party to whom it applies, it applies to those who are acting hand in hand with the minority party, who for the last fifty years have been against prohibition and in favor of the open saloon and the free sale of rum. If there is a majority or a large minority in the Republican party who want to accept of that epithet, I say the best thing for that element of the Republican party is to go, and immediately go over and stand on the platform of the Democratic party, and let the Republican party be in the minority and build itself up on a pure and solid foundation of prohibition. (Applause.)

What matters it which party is in power if you have got to stand here and say that you are hypocrites and don't believe in what you preach? In the month of June, 1904, the Republican party held its convention in the

city of Bangor. There was a contest before that convention and all over this State, and the cry came "Where is candidate Cobb on the temperance question?" And Mr. Cobb came out and declared his position. The people of the State of Maine accepted his declarations as true. The Republican party in that convention put into their platform its plank of temperance principles and said that they would stand upon them. Our chief executive did not make that platform. He gracefully stepped upon it; and thank God, if there was any element in the Republican party that thought they were going to put a plank into that platform and then nullify it after Governor Cobb had stated his position and got upon it, they had made a great mistake. I know that Governor Cobb, from a personal interview with him within twenty-four hours, is in favor and heartily in favor of enforcing the prohibitory law to its limit. (Applause.) Governor Cobb, within twenty-four hours after his inaugural, stood stronger in the State of Maine in the hearts of the people by more than twenty-five per cent when he came out forcibly and declared his principles upon this great question. And I ask you, gentlemen of the House, if before election you had come out before your constituents and said that you were not in favor of the strict enforcement of the law, how many of you would be at your homes now in your everyday employment instead of sitting here as representatives of your constituents? Now, I say that not ten members present but would have been left at home. Talk about public sentiment being in favor of the sale of intoxicating liquors or re-submission or the open rum shop! That is not the public sentiment of the good old Pine Tree State. I have heard it for years that the Republican officials to whom I have been time and time again and asked them to enforce the law, and they have said that public sentiment would not stand behind them. I have heard it in my own county and in my own town. I told them that public sentiment would stand behind them. We elected a Democratic sheriff in Somerset county two years ago be-

cause it was believed that that Democratic sheriff believed in the enforcement of the law, and that if elected he would enforce it, and he did; and Somerset county has been a dry county for more than two years. If public sentiment was in favor of enforcement, some will ask me why they did not reelect him. Because two years ago I went to the man who wanted to be nominated by the Republican party and I said to him, "Come out and declare yourself and say that you will enforce the law." He said, "If I say that I cannot be nominated." And then I said to him, "If you don't say that you cannot be nominated," and he was not nominated; and the one that was nominated was not elected because he did not say. What did they do two years after that, after a sweeping victory for temperance? They nominated a man who came out and put it in black and white over his own signature that he would use his utmost efforts to enforce the law. Then with the Democratic sheriff, whom everybody knew would enforce the law, and a Republican candidate with a majority of sixteen hundred behind him naturally, both standing upon a platform declaring that they would enforce the law, the Republican candidate was elected by twenty-six majority. So you can see as an answer to the reason why the old sheriff was not elected, that every vote that was cast in Somerset county was cast for a man upon his plighted oath that he would enforce the law.

Now, some believe, and honestly, that the enforcement of this law would be detrimental to the Republican party. Let the detriment come. And I am going to talk just what is in my heart, gentlemen, whether it be good politics or not. I can remember the time when practically every rumseller in the State of Maine was a member of the Democratic party. Where do you find them today? It is a sad comment upon the Republican party when you answer that question. I say, if the Republican party is defeated two years hence at the polls it is better for it, it is better for the State of Maine that it be so than that it be alleged that they are a party of hypo-

rites, that before election they promised to do something and after election they nullified their promise. Now this law is drawn in such a way that it is put right up to the Governor of this commonwealth, a man in whose integrity and business capacity every member of this House has the most unlimited confidence. It will be for him to say whether it is necessary in any part of the State to have commissioners or deputies set at work. It is for him to say how long they shall work and when they shall cease. The law provides that if in his judgment it is expedient to stop it, that the operations of it are inadvisable and not expedient he may wipe the commission off the face of the earth. Do you not believe that Governor Cobb is a man who will fearlessly exercise that good judgment? I say if there is any additional power that can be placed in the hands of the chief executive of this state which will aid in the prosecution of this law and make it uniform throughout our State, let us give it to him whatever it may cost. Then I say to you, that if the chief executive of this State finds that the last card has been played towards the enforcement of this law, if he finds that it cannot be enforced, then let us go to our convention two years hence and acknowledge that we have done everything that is in our power to do to keep our faith with the people of the state to enforce the law and give to the people of the state what we promised them, and if it is then a failure let us get together like men and say so, and if resubmission is the proper thing let us have resubmission; and if a license law is the proper thing and the best thing then let us have it; but like men let us face the issue and keep faith with the people of the State, and then when you go to the people two years hence and ask them for their support you can look them in the face and say, "We have kept the faith. You trusted us and we have kept the faith. We did everything in our power but it is a failure. We must resort to some other means."

Mr. Speaker, I hope that the majority report will prevail. (Applause.)

Mr. JOHNSON of Waterville: Mr.

Speaker and Gentlemen of the House, I had not intended to say one word upon the measure which is under discussion until the gentleman from Skowhegan spoke. I have listened patiently to a discussion which, it seems to me, is entirely foreign to the bill which we are considering. I seem to have found myself in a convention of the Republican party where I feel somewhat out of place. (Laughter.) At the opening of this session I stood with the gentleman from Skowhegan and with up-raised hands I subscribed to the same oath to which he subscribed, to which the gentleman from Rockland subscribed. In it appeared not the word "Republican" nor the word "Democrat." We came here as representatives of the people of the State of Maine, not to legislate, I submit to this House, for what may be for the benefit of the Republican party nor for the benefit of the Democratic party, or any other party, but we came here and took our seats under our oaths of office to legislate for the interests of the whole State of Maine; and if my friend from Skowhegan believes that he stands here today to make a convention speech to his fellow Republicans, sitting here as one member of this House, under the same oath to which he subscribed I arise to differ with that gentleman, and to say that we are not here to legislate for his party nor for my party, but we are here to legislate for the people of the State of Maine regardless of party.

Reference was made to the party to which I belong, and with which from early boyhood I have cast my lot. It may have been an unwise choice, it certainly has not been a profitable one to be a Democrat in the State of Maine. (Laughter) And when the gentleman rises in his seat to discuss before this House partisan politics, I say he is wholly out of place and outside of the duties devolving upon him under his oath of office.

I want to call the attention of the gentleman from Skowhegan and the gentlemen of this House to a misstatement which he has made, not intentionally, but it has been spread broadcast and I cannot sit here in my seat and hear it stated again thus pub-

hly in this hall without calling the attention of the gentleman to it. He says that at the last election upon the questions presented to the people the party with which he is allied stood for enforcement of the law, and that the other party did not stand for the enforcement of the law. I want to call his attention to the plank in the Democratic party platform which declared that the Democratic party of the State of Maine believes in the enforcement of all laws and particularly of the prohibitory liquor law. There may be Democrats in the party to which I belong who do not subscribe to that platform, but if they do not they do not stand upon the Democratic platform. For one, I subscribed to it, and in every utterance which I ever made, public or private, I have stood for the enforcement of the law because it is law, and because of my respect for the law; and I arise here at this time, and if the gentleman wishes a partisan discussion I would say, looking at party alone, that I should believe in the passage of this measure. But I am actuated by another motive than that upon this occasion. I oppose the present measure for several reasons. I oppose it, first, because I believe it to be unnecessary. I have watched, not so long as the gentleman from Skowhegan may have watched, I have watched the attempts at the enforcement of the prohibitory law. I have seen law after law passed, and I remember that when I came to cast almost my first vote it was on the question whether we should put that into the constitution of the State of Maine,—unusual, extraordinary thing,—put into the constitution of the State a declaration against the manufacture and sale of intoxicating liquors, doing something that we had never done and which never since has been done with any crime, with murder or arson or any of the great crimes; and we put it into the sacred constitution where it would be venerated and revered. It was believed that as a part of the great organic law of the state of Maine it would be so revered that it would never be violated, that it was out of politics. It was said that we had got it where it would remain safe and se-

cure and be enforced. What was the result? I mention it because it is in line with the very thing you propose to do at the present time by this extraordinary, unusual legislation. Was it venerated and revered? The gentleman himself tells you the result, and I need not mention it. Was it enforced because of the reverence for constitutional law or was it violated? And watching the results from that time I have been forced to the conclusion that it was better to get back to the people of Maine again and see if we could not possibly call their attention to this violation of constitutional law which has trampled the constitution itself into the dust, and not only that, but making it also the means of success in party politics,—meeting in convention, assembling in legislative halls, enacting the laws which may please the good temperance people of this State,—and the gentleman from Skowhegan don't respect the honest temperance people of Maine any more than I do,—and then going out and controlling the man who wants to engage in the liquor traffic with the promise that we have the law and we can shield and protect you, and marching them up solidly side by side with the temperance people of the State of Maine to vote the same ticket. That has been the result and you know it.

And then I remember that there came to these legislative halls, after seven or eight years of constitutional prohibition the good temperance people of this State, knowing that faith had not been kept with them, knowing that they had been fooled, they came here and asked to have this law amended, this statute law, to make it imprisonment at the first offence. They came here and they presented the conditions honestly. This legislature enacted the law such as they had been working for for a long time. They added to the statute penalty, not only that there should be a fine as in the case of a common seller, that he should not only be sentenced to pay a fine of one hundred dollars and costs, but in addition thereto be imprisoned sixty days in the county jail. That was the law that they asked for, and they went away supposing that the legislature

and the dominant party in this legislature meant what it said, that it should be imprisonment for the first offence. "In addition thereto sixty days in the county jail." They went to their homes feeling that they had taken another step in the enforcement of the prohibitory liquor law, and that now its enforcement would be easy. I think that happened in 1891. What was the result? For ten years with that law upon your statute books—an unusual one, too, extraordinary legislation, to make it mandatory on the court to impose imprisonment for the first offence,—from 1891 down to two or three years ago when the people became aroused again, was that law made use of to destroy the liquor traffic in Maine? You know the result. Everybody knows that liquor was sold openly, the constitutional law and the statute law violated, and those engaged in the business came up at each term of court and paid a comparatively low license fee and went on with the business until the good honest temperance people became aroused again at the conditions; and now at this legislature it is proposed to enact some more extraordinary legislation to add to that which has already been enacted, in the interests, I am told, of the Republican party of the State of Maine. The law is the creation of a commission to enforce one particular law and prosecute violations of one particular law.

Reference has been made to the machinery which we now have for the execution of the law, and I want to call your attention to one other which has not been referred to. The gentleman from Auburn early in the session introduced a law making it an offence to be negligent, or for non-feasance in office, fine and imprisonment. I want to read a section of the statute which has not been referred to, Chapter 82, Section nine of the Revised Statutes relating to the duties of sheriffs. "Sheriffs shall obey all of such orders relating to the enforcement of the laws as they from time to time receive from the Governor." Now, we have come here and I have seen no announcement that the chief executive of this State has issued an order to a single sheriff in the State of Maine in regard to the

enforcement of the prohibitory liquor law, or any other law. Suppose he should issue his orders directly to any sheriff. Will he not be doing his full duty? And supposing the sheriff does not perform his duty isn't there a sufficient remedy in the bill which was presented by the gentleman from Auburn early in the session and which, I believe, has passed both Houses? Isn't there sufficient machinery with the machinery which has been referred to of making it compulsory on the municipal officers and sheriffs and their deputies and then this provision that the sheriffs shall obey such orders as they may receive from the Governor?—and not an order issued yet under the present law. Why enact other laws with the great mass of laws which we now have? I would yield neither to the gentleman from Rockland nor the gentleman from Skowhegan in my firm conviction that every law placed upon the statute books should be enforced, but I would not go a step further in enacting laws until I knew and felt assured that the law enacted would be enforced, with sufficient law upon the statute books, if used, I say, to enforce this law or any other law.

Here is another provision, Chapter 81, Section 18. "County attorneys shall enforce the faithful performance of their duties by sheriffs, coroners and constables, and give information to the court of their default in this respect." This makes it the duty of the county attorneys in the different counties. The duty of the governor, if he believes the law is not enforced, to issue his orders, the duty of the county attorney to investigate; and now on top of all that law it is proposed by this legislature to create a commission, an expensive commission, called into being on top of all the other officials, with salaries at fifteen hundred dollars each, clerk hire, actual expenses of travel, and under them a long list of deputies, and the governor relieved from his duty which is thrown upon the commission to execute the law. They may be a most unusual and most extraordinary set of men in the world,—I have the greatest confidence that the present chief executive would act wisely in his selection,—but we shall find them to

be such men as we are acquainted with in Maine, men called to do extraordinary things, placed in a position of great importance, charged with the enforcement of this one law all over the State of Maine, they would have to be unusual men. Can we expect better men than we have elected to the different offices in the State of Maine charged with a solemn oath with the enforcement of the present law? I submit, gentlemen, that we have had good men in office, elected for the enforcement of the law, and that we shall not be likely to get any different sort of men on any commission which we may create than those that have been selected by the people of the State of Maine.

And I come to the chief objection which I have against this measure. A great deal of what I have said I would not have said had it not been called out by the discussion to which I have listened in regard to party politics. We are not here for that purpose. But I come to this, which is the chief objection. We have a system of government in the State of Maine depending on the votes of the people of the State of Maine. To that system I am committed to the very core. I am in love as every citizen should be and is, with our Republican institutions. I am in love with the Democratic government which we have, leaving to the people the government of themselves. Are you going to say to the people of this State of Maine by this bill that they cannot be trusted? I have sometimes thought so when I have voted in the minority party and have been beaten; I have thought that the people of the State of Maine perhaps could not be trusted; but I got over it in a day or two. I have great confidence in the good sound judgment of the citizens of Maine and their loyalty and their love for their State. Are you going to say because under our Democratic government elections by the people of their officers in any part of the State may have proved a failure once in a while,—are you going to say that you are going back upon this system of government? Are you going to take it away from the people all over the State and lodge the supreme power in the chief

executive? I have great respect for the present chief executive, but if in any particular section of this State there is reason to believe that sheriffs or other officers are not doing their duty, elected by the people under this good system of government which we have and to which I say we all yield ready and willing obedience,—are we going to take away from the people of the State the right to the election of their officers and lodge it in a chief executive, however great he may be, however patriotic he may be? However much he may love the State he cannot love it any more than the good citizens of the State of Maine. He has no more patriotism than the average, ordinary citizen of Maine. Maine citizens are loyal to her institutions and to her laws, and I would trust the people of the State of Maine throughout its borders before I would trust any one man or any commission of men. If they make a mistake they will right it. Leave it to them; they will right it. Republican government by the people shows all along its course that the people may make mistakes, but I tell you you can trust them to make them right; and that is my chief objection to this measure. You are saying to the people in different parts of this State, "You cannot be trusted in the selection of your officers, you cannot be trusted and we will create a commission at Augusta and we will lodge certain powers in that commission because we distrust you, you are not doing your duties as citizens." I believe we strike a great blow at Republican institutions, and for that reason, while I favor as strongly as any member of this House the enforcement of every law and believe in it and have talked it publicly and privately, yet I am opposed to this measure for that reason. (Applause.)

Mr. OAKES of Auburn: Mr. Speaker, if there are no others to speak I desire to close with a single word. When the vote is taken I shall ask that it be taken by the yeas and nays. I shall be very much surprised at that time, notwithstanding the non partisan attitude of the distinguished speaker who has preceded me, notwithstanding the high moral attitude taken by our Democratic friends

on the floor of this House in the discussion of this question, I shall be very much surprised if you don't find every Democratic vote recorded against this measure; and yet the Republicans of this House are scored because they refer to the question of the political position taken by the two great parties of this State. It is not properly a political question primarily, and yet the prohibitory law is enforced, if it is enforced at all, mainly by persons elected by the dominant party of this State, and they are held responsible for the enforcement of the law, and when this party is held responsible for the enforcement of the law it is right they should consider as a party how they are going to act, whether they will be true to their party pledges, and it is on the higher plane of party position that it is properly discussed as perhaps a Republican measure.

Now I have not heard it questioned in all that has been said in opposition to this bill that it is true that the condition exists under which this law is deliberately, defiantly, openly nullified by certain officials in this State. I have not heard it questioned that although the constitution of this State and the laws of this State do provide that the Governor shall see that the laws are executed and do provide that he may issue his commands to the sheriff of any county in this State requiring him to enforce the law,—I have not yet heard it questioned that there is absolutely no immediate power vested in the Governor of this State to enforce such a command. It is to meet just that question, just that failure in the law, that the proposed legislation is before us. The law is sufficient so far as penalties are concerned, and so far as procedure is concerned, and it is sufficient if the officials obey their sworn duty. But suppose an official defiantly says that he will not do his duty. Your only remedy is to wait until election or wait until legislative impeachment,—your only remedy is to try to appeal sometime in the future to a popular vote when the question may be mixed up with something else. Now we say logically, fairly, straightforwardly, let us put our hands right on the evil as it exists. Let us meet the evil, let us

pass a law which will not take the execution of it out of the hands of the proper officials but which will not take the execution of it out of the hands of the officials; but which will say imperatively to those officials, "Gentlemen, the Chief Executive of this State has power now to say to you that you must do what he commands and what the law enjoins." As I look at it, that is the only question. This law will accomplish that, in my opinion, if it is passed; and you will see an enforcement of the law not by this commission but perhaps because of this commission. You will see an enforcement of the law not by this commission but by the officials who will no longer dare to nullify the laws of the State of Maine.

Mr. Speaker, I move that the vote be taken by the yeas and nays.

Mr. REED: I would like to ask the gentleman from Auburn a question.

The SPEAKER: Does the gentleman from Auburn yield?

Mr. OAKES: Certainly.

Mr. REED: I would like to ask if the law which he introduced himself at this session and which was passed upon by the legal affairs committee of which he is a member, called the Oakes Bill, which provides a penalty of a thousand dollars fine and a term of imprisonment for any sheriff or county attorney who does not enforce the law,—I want to ask if that was considered by him when he presented it as an effective measure?

Mr. OAKES: It was.

Mr. REED: Then why doesn't that provide for the punishment of an inefficient officer who has nullified the law?

Mr. OAKES: It does.

Mr. REED: That is all.

Mr. OAKES: I want to see something which will not only provide for punishment which may be by process of law which may be delayed quite a while—I want to see a process provided so that the law won't have to wait to be put into execution through the courts, but I want to see a process by which the Governor of this State, if he decides that the machinery is not working as it ought, that the engineer is not doing his duty, then, and immediately, promptly and efficiently he can say that this law

shall be enforced now, it shall not wait. The punishment will come afterwards and it ought to come; but this present law looks to a different purpose.

The question being shall the yeas and nays be ordered,

The motion was agreed to.

The SPEAKER: Those in favor of adopting the report "ought to pass," that is, those in favor of the Sturgis bill, will say yes when their names are called; those opposed will say no. The clerk will call the roll.

YEA:—Albert, Baldwin, Barrows, Bean, Berry, Blanchard, Bradford of Livermore, Briggs, Bunker, Cobb, Copp, Cushman, Davis of Benton, Davis of Guilford, Dennison, Fawsette, Fulton, Gannett, Goodwin, Grant, Hastings, Hill, Holmes, Howes, Ingersoll, Irving, Johnson of Hallowell, Jordan of Cape Elizabeth, Jordan of Yarmouth, Kimball, Kinsman of Cornville, Knapp, Littlefield, Lougee, Marshall, Martin, Merrill of Dixfield, Merrill of Skowhegan, Miller, Milliken, Nash of Damariscotta, Nash of Kennebunk, Newcomb, Norcross, Oakes of Auburn, Oakes of Milford, Page of Appleton, Peacock, Powers, Purinton, Putnam, Russell, Sargent of Brewer, Sargent of Castine, Sawyer of Milbridge, Sawyer of Smithfield, Scribner of Springfield, Sewall, Shaw, Smart, Smith of Saco, Stearns, Talpey, Terreault, Thomas, Thompson of Roque Bluffs, Tracy, Treworgy, Tupper, Turner, Usher, Vittum, Washburn, Weatherbee, Webb, Webster, Whitmore—77.

NAY:—Allan, Belleau, Bradford of Friendship, Burkett, Byron, Cole, Downs, Dudley, Foss, Garcelon, Giddings, Hanson, Hathaway, Higgins, Hodgkins, Hussey, Hutchins, Jilson, Johnson of Waterville, Jones, Josseyn, Leighton, Leonard, Libbey, Morey, Morton, Mullen, Newbegin, O'Brien, Page of Hampden, Pendleton, Percy, Philbrook, Poor, Reed, Sanborn, Seavey, Shevenell, Sparrow, Staples, Stevens, Swain, Sweet, Thurlough, Trickley, Walker, White, Wilder, Witherspoon, Witt—50.

ABSENT:—Clark, Cousins, Gray, Hall, Kinsman of Augusta, Laliberte, Lanigan, Longfellow, Ferry, Price, Scribner of Charleston—11.

PAIRED:—Abbott, yes; Bliss, no. Baxter, no; Smith of Madison, yes. Buzzell, no; Hagerthy of Sedgwick, yes. Hagerthy of Ellsworth, yes; Verrill, no. Hale, no; Johnson of Calais, yes, Morrison, yes; Thompson of Orono, no.

So the report A was adopted.

The bill was then read twice and assigned for tomorrow morning for its third reading.

On motion of Mr. Higgins of Limerick, a recess was taken until half past 2 o'clock.

Afternoon Session.

Mr. Morrison from the committee on

Insane hospital, reported ought to pass on resolve in favor of the inmates of the Maine Insane Hospital.

Mr. Hale from the committee on judiciary, which was instructed by an order of the Legislature to inquire into the expediency of amending Chapter 237 of the Public Laws relating to the use of automobiles and motor vehicles on public ways, so as to better insure the safety of the public travel in our rural towns, reported accompanying bill.

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

Mr. Hale from the committee on judiciary, reported ought not to pass on bill, An Act to provide for the registration of automobiles and motor cycles.

Insurance Bill—Arbitration Clause.

Mr. BRIGGS of Auburn: Mr. Speaker, with the consent and approval of the gentlemen who joined with me in signing this minority report and as I believe in accordance with the sentiment of a majority of the members of this House, I move that both of these reports be indefinitely postponed. Mr. Speaker, I ask the indulgence of the House for a few moments while I state a few reasons why the laws in relation to insurance should not be changed as contemplated by the majority report. There are no laws on our statute books that affect more of our people in their property rights any more vitally than do our insurance laws. These laws affect all classes and conditions of citizens. The manufacturer, the merchant, the farmer, the laborer, in fact every citizen who owns a home or has any business whatever, is affected and must be interested in the laws governing insurance matters. These laws should be easy to be understood by the common people; they should not only guarantee to every one their rights, but provide a way in which they can secure the indemnity for any loss that they may suffer in the least possible time and at the least possible expense. In 1895 the Legislature of Maine passed a law establishing what is known as the Maine standard fire insurance policy. All insurance

companies were obliged to issue their policies in conformity to that prescribed form.

Since that time hundreds of thousands of policies have been issued in our State and thousands are in force today. The people are familiar with their provisions and are satisfied with them. An attempt was made two years ago to pass the identical bill which is contained in this majority report. The law had been in force for eight years, yet no petitions were presented asking for a change. A hearing was advertised and held and no man, woman or child appeared to tell of any injury or hardship which had come to them on account of any of the provisions of this Standard Policy. The source of the opposition to the policy I will speak of later. The committee on mercantile affairs and insurance two years ago voted unanimously ought not to pass and they were sustained by the Legislature.

The claim at that time was that the clause known as the arbitration clause was unconstitutional. The sponsor of that attempt to repeal the arbitration clause presented a resolution in the Senate asking the Supreme court if the arbitration clause is or is not a constitutional provision. The court unanimously decided that it is.

Two years have passed away and again from the same source comes the same bill supported by the same argument, and as before unsupported by one petition. From whence does it come? Some years ago the Governor of Maine appointed three men to act with like commissioners appointed by the governors of other states on a commission on uniformity of laws. These men representing Maine on this commission were eminent in the legal profession, of great natural ability and respectable in every way. These men looking at this matter from a theoretical standpoint, reported that the arbitration clause should be repealed for the reason that it deprived a citizen of a right to take his case to a jury, ignoring the fact that a speedier, cheaper and more satisfactory way of adjusting these matters is provided in these same clauses.

As I have said, this matter comes in

here at this time without one single petition to support it while there are more than 900 petitioners representing millions of dollars protected by insurance policies in the form of the Maine Standard Policy asking that there be no change.

The number has been sneered at as small; I admit it is not large as compared with the whole number of policy holders in the State but it is 900 more than appear on the other side. Who are these petitioners? Every shoe manufacturer in Auburn, 50 of the leading business men of Auburn; the agents of all the mills in Lewiston; its foremost business men; business men of Portland who carry millions of dollars of insurance policies. These petitions come from all parts of our State and the cry is the same from all, "The law is satisfactory, don't change it."

There is a large amount of property in this State which the old stock companies refuse to insure or place the rate so high that the owners cannot afford to be insured by them. To relieve and protect this class of property, mutual companies spring up all over our State. There are 48 such companies today doing business in the State. They are carrying risks to the amount of nearly \$30,000,000.

They are doing this at a cost of less than \$300 on an average to each company per year. The average amount of the policies in these mutual companies is about \$1,000 from which fact we can estimate that there are about 30,000 policy holders in these companies in this State. The companies are the policy holders and the policy holders are the companies.

These companies have no surplus, they have no money anyway, only as they assess themselves and have no wish to be drawn into the courts, but prefer to have all losses, which they may have, adjusted at once without recourse to legal proceedings. Under the present law these companies are able to protect the property in the rural districts at a cost only slightly in advance of the premiums charged by stock companies in fire protected places.

Pass the proposed bill and these companies will go to the wall, and these

parties who need protection as much as any class in the our State would be without it. But how does this arbitration clause work in its actual application?

The gentlemen on the other side will say, "Give the people a chance for a jury trial and if the verdict is not just, an appeal can be had." How much would a poor man have left after such a process to collect the insurance on a policy of \$1,000 on his home which had been destroyed by fire. The chances are he would be used fairly by arbitrators and would get his money at once when he needs it most.

The argument is adduced that the privilege of arbitration should not be limited to insurance companies, but the question is asked, "Why not other corporations as well?" I echo the question, Why not?

In years gone by, the nations of the world have submitted such disputes as they could not settle by diplomacy to the arbitration of war. Such questions were not always settled on the side of right, but on the side of the strongest battalions. But in late years, arbitration has become the watchword of the nations. They have found it is a safer, speedier and cheaper way to settle those disputes; to submit them to a disinterested and impartial tribunal for settlement upon their merits. I claim that arbitration is better for both parties in a dispute than litigation.

The old stock companies do not wish any change as they would have to retain high priced legal talent to protect themselves from unscrupulous and dishonest men. The honest policy holders in these companies don't wish a change as they can get a speedier and more satisfactory adjustment of their losses under it, than they could if a change were made. The mutual companies don't wish a change as their very life depends on the continuation of the present law.

The policy holders in these companies do not wish a change as they would be deprived of the privilege of insurance of any kind.

Then who does wish a change? a coterie of legal gentlemen who wish a

change for the very philanthropic reason that a law which the highest legal tribunal in our State has pronounced constitutional deprives a citizen of a right guaranteed to him by the constitution.

Mr. Speaker, I hope and trust that this House will not tamper with this Standard Policy which has worked so well for ten years, but will indefinitely postpone both of these reports.

Mr. MOREY of Lewiston: Mr. Speaker, I sincerely hope that the minority report presented here will not be substituted for the majority. The committee at its hearings was attended by some of the brightest legal talent in the State and the positions of the respective parties were fully and fairly stated and the committee at an adjourned session after giving careful thought arrived at the conclusion embodied in their respective reports. This law was enacted in 1895 and for 40 years prior thereto the long line of judicial determinations made by our courts fully established the rights and liabilities of the insured and of the companies. The law was fixed and settled and well understood and 35 states today in this union do not have a policy in which is found the compulsory arbitration clause.

"It appeared before our committee in evidence that the insurance commissioner of this state desired to establish a uniform policy of insurance because he said that the different companies desired different forms of policies but there was no suggestion made that there was ever a demand for a change except the mere wish of the insurance commissioner. He went to Massachusetts and Connecticut to meet the insurance men for the purpose of establishing a policy of insurance as he said would be uniform. He came back from that conference with the insurance men with a policy embodying many objectionable features and chief among them the compulsory arbitration clause and he secured the passage of that act creating the Maine Standard policy.

"By that one act the right of trial by jury was taken from the people of this State and the foreign insurance companies who had appointed that meeting

with the insurance commissioner were relieved of the necessity of having the amount of loss in case of fire determined by a jury. It is true that on that occasion he had a distinguished attorney with him but that attorney, as I am informed, was then and is now the attorney of the insurance companies. Their method of selecting arbitrators under this policy is unfair. If a fire occurs in a community the man suffering loss selects three men, three friends of his, and from that number one is selected by the insurance companies and ofttimes the man so selected is unfamiliar with building and the process of figuring to the last cent the loss sustained.

"Not so with the insurance companies. They keep men whom they call on in different cities and towns in the State to act as arbitrators and these men are thoroughly proficient, keen, and are in every way looking out for the insurance companies to make award as low as possible and if you have a fire, say in Auburn, their appraisers would be one from Waterville, one from Portland and one from Augusta, men who are termed 'ringers.' What chance against one of these men has the man appointed by the insured? If they cannot agree upon a third man the insurance commissioner appoints him and an award by two of the three arbitrators is binding. Now for illustration. Suppose a man sustains a loss of \$1000. His appraiser fixes it at \$1000. The appraiser for the insurance company puts it at \$500. The third man will split the difference and the insured will get \$750 of his loss of \$1000. Now in case of loss by fire the only question in which the insured is interested is the amount of his loss, but his right to go before a jury and have it assessed was taken away by the establishment of this arbitration clause but the insurance companies retain for themselves the right to go to court and contest every possible defence except that of amount.

"If an award is made by these arbitrators and they don't want to pay it they sit back and say 'sue us,' and you get them into court, but you collect only the amount which the arbitrators

award while they can contest every feature of the policy on every quirk and technicality and compel the insured to go to court and meet them. They did not want a form of policy which should oblige them to pay at once the amount of the award by the arbitrators under a penalty for a failure to do. There is another practical question under the arbitration clause as it stands today which has given rise to a difference in the adjustment of losses. Suppose, for instance, that it is desired by the insured to prove the amount of stock in his store by bill or invoices with the companies with whom he is trading outside the State for the purpose of showing the amount of stock in his store. The bills, as happened in one instance, were presented and the arbitrator for the insurance company threw up his head and said 'These bills, how do I know whether they are correct or not?' But there is no provision made for the insured to get by deposition the evidence in other states of persons selling the goods so as to form legal evidence. Where is the power or by what provision of law could this be done. The insured suffers.

"But this bill does not compel the insured to go to court on every loss. You have heard it whispered in the lobby, you have had solicitous friends for these insurance companies tell you that this bill meant that every loss would have to go to court. There is truth in any statement of the sort, there is no foundation for it. If you have a fire, if the pending bill goes into effect, the insurance agent can adjust the loss to your mutual satisfaction, but if you find yourselves unable to agree then if you desire you may arbitrate with the insurance companies with referees agreed upon. But if you cannot arbitrate or cannot settle and if you desire to go to court you would have the right but it is not compulsory in any respect. Now, it may be urged that there are several grange insurance companies in this State and that the insurance agents connected with the grange are desirous of allowing the arbitration policy to stand. No action as appeared before our committee was

taken by any grange to that effect. There were, however, some representatives of the grange insurance companies present. The rates are small in these companies and they insure only to the amount of two-thirds of their value. The members of the grange only are insured. They are members of a secret order and they would not tolerate any injustice to one of their members in the settlement of their losses.

"The representative of one of the companies said that they had but one arbitration in five years. He said that they had no difficulty in adjusting their losses and the question was put to him if that was true why they needed any arbitration clause. And while this representative was trying to frame an answer to escape the dilemma the bright attorney for the old line insurance companies very plausibly said that while the old companies have only four per cent of arbitration they need this arbitration clause to whip the other 96 into line. But it is argued or suggested that there will be higher rates if this bill passes and undoubtedly this was the argument used to obtain the signatures of those business firms to these petitions. But the evidence showed that in 35 states where the compulsory arbitration clause does not prevail the rates of insurance were no lower than in the state in which it did and are the rates in this State today any lower than they were in the 40 years prior to the adoption of this arbitration clause?

"While it is shown conclusively from the rates in the 35 states that the rates here would not be increased yet what necessity is there for the insurance companies to suggest such a thing if they are paying now every dollar which they honestly owe when a loss ensues? One man suggested that the insurance companies would withdraw from the State but that was a threat which was not supported by the colleagues of the insurance fraternity. Have they withdrawn from the other 35 states in the union in which the arbitration clause does not exist? Did they ever withdraw from this State for the 40 or more years when they were going along

without the policy containing the arbitration clause? But their bluff was called. One member of the committee, whose firms with which he is connected pay annual premiums on \$250,000 worth of insurance stands ready to guarantee that an insurance company would be formed of thoroughly reliable men to carry on the insurance business in this State in case of any such direful calamity."

Mr. Morey then cited several instances where the adjustment of losses worked injury to the insured.

Continuing Mr. Morey said "There is another reason why this bill should become a law. The governor of this State appointed a commission of gentlemen of the highest legal standing on uniformity of laws and at a conference held with representatives from other states the arbitration clause was universally condemned as being unfair legislation. This commission consisted of Hon. Charles F. Libby of Portland, a former president of the Senate, Hon. Hannibal Hamlin of Ellsworth, the present attorney general, and Hon. Frank M. Higgins of Limerick, the chairman of the judiciary on the part of the house. What higher endorsement could be had than from the gentlemen composing this commission? Very many of the prominent men of the State heartily favor this law.

Mr. STEVENS of Portland: Mr. Speaker, I am a life insurance man, and I was interested in this bill for a time until the provisions in regard to life insurance coming under it were eliminated. At that time I lost my interest in the bill. But since hearing the discussion here it has recalled to my mind some points that I have learned in my twenty years' experience as a life insurance agent. I was particularly glad to hear the gentleman from Lewiston give the origin of this bill, that it was copied from the Massachusetts law. I will say that a man connected with the fire insurance in Boston, connected with the largest firm in New England told me a few days ago that the Maine law was practically the same as the Massachusetts law, and he told me at the same time that it was the best law under which they had ever done business.

I want to say also that I have not heard any demand for the passage of this law. I don't know where it comes from. Have there been any petitions presented by people before this committee in favor of this law? I have not heard that there have been, and I understand that there was no one who appeared before the committee asking for its passage. Do the companies ask for it? Do the people ask for a change in the present law? I have not learned that they have done so. Now it is a well known fact that the Massachusetts law in regard to insurance, both fire and life, is conceded to be as good if not better than any other law that we have in the United States. It has been said that under the present law a man is deprived of a trial by jury. I make the claim that a jury does not need to consist of twelve men; and I submit that any man would rather have one, two or possibly three men who are in the business and who know more about adjusting a fire loss because they are selected for that purpose, than an ordinary jury of twelve men.

The gentleman from Lewiston would have you believe that because two men are in the same business they cannot be fair with one another. I dislike to believe that. I am in a business in which there is closer competition than in any business in this world, and I believe that my competitors are fair with me. We are friends. And I believe it is so in other lines and in all kinds of trades. There may of course be some exceptions. Here is one remarkable fact to my mind, that last year in the State of Maine there were 1829 fires involving a loss of over two million dollars, and four per cent. of that loss was settled by arbitration. Isn't it a satisfactory law that works in that way? Is there any need of any change from the present law? I don't believe there is, and I think when you come to vote on this question you will decide that you also believe there is no immediate necessity for a change.

Mr. THOMAS of Topsham: Mr. Speaker, we have a bill before the House that nobody has asked for. I was not at the hearing, but I am informed that there were just three people that ap-

peared before the committee in favor of the bill, one was the author of the bill, another a lawyer of Portland, and another a contractor. In opposition to that bill I am informed that there were representatives of the mutual companies representing seven million dollars of insurance, and who have about 30,000 policies outstanding. Every one of those companies were represented there and were in favor of the law as it stands. I am also told that stock companies, old line companies, were represented at that meeting; and that those representing them spoke in favor of the law as it stands. We have a list of something like a thousand names in favor of the law as it is at present. No petition has appeared here in opposition to the existing law.

It is claimed that under the present law a man is deprived of his right to a trial by jury. We are ready to admit perhaps that up to the present time the jury system is as good as anything we can get. For several hundred years they have been trying to find out something better but so far they have decided that they have failed to do so. The gentleman from Portland (Mr. Stevens) stated what I intended to state, that it does not necessarily mean that we must have a jury of twelve men. In this case it is a jury of three men; and I submit to anyone present that three business men can go to the ruins of a fire on the day after the fire takes place and decide more intelligently on what that loss is than a jury of twelve men six months afterwards thirty or forty or fifty miles from there in a court house who have no chance whatever to see the premises, and who could not act intelligently if they could because it is six months too late. I submit that as a common sense proposition. I have taken pains to look up the definition of what a jury is,—it is "a number of men selected according to the law, empanelled, and sworn to inquire into and decide the facts and give their verdict in accordance with the evidence legally laid before them." It does not say that their number must be twelve. To me it is rather amusing to hear so much harping on the jury system. I claim that we can have a jury

of three who can act more intelligently under certain circumstances than a jury of twelve six months afterwards.

It is stated that these mutual companies, the grange and farmers organizations, are able, by having officers who practically get no salaries, to insure farm property at practically the same rate that old line companies insure in large cities, with ample fire protection. I suppose we all know, on the other hand, that the old line companies or the stock companies do not insure property in the rural districts as cheaply as they do in cities. In that respect the farmers have a chance to get their property insured at a reasonable rate, comparatively at the same rate as those who live in the cities.

Now, it seems to narrow down to this, that as far as the hearing before our committee is concerned nobody in the State of Maine outside of the author of this bill, one lawyer and one contractor is interested enough in this matter to have a change and to even state it to the committee after it had been advertised thoroughly throughout the State of Maine. Then we have three men in the State of Maine out of seven or eight hundred thousand people come here and tell us that they want to have this law changed. Does it look reasonable for the people of the State of Maine to change a law which is perfectly satisfactory not only to the insured but also to the insurer of the State of Maine. We do not expect, gentlemen, that we can pass any law that will make all adjustments equitable and right, but we do claim that this law has been in effect for several years and that it has been perfectly satisfactory to all concerned, and we want to know of a good reason for changing it. I have not heard so far a good reason for changing it, and I have had the best reasons on earth as far as I am concerned to vote against any change, and that is that practically every person in the State of Maine believes in letting it stay right where it is because it is good enough. It has worked well so far, and let us leave it alone until somebody can propose something better.

Mr. MILLIKEN of Island Falls: Mr.

Speaker, I would like to ask the gentleman from Auburn if he insists on his motion to indefinitely postpone both reports.

Mr. BRIGGS: I do.

Mr. MILLIKEN: I would ask the gentleman if that means that he does not concur with the minority report which he signed?

Mr. BRIGGS: I am not under oath.

Mr. MILLIKEN: I understand the answer. I wish to say at the outset that I am much surprised at the attitude taken on this question by the gentleman from Auburn. We supposed that we knew what the question was that was to be discussed this afternoon. We supposed that the only question which was to be raised here was the question as to the section of this bill which relates to a trial by jury. All the committee agreed in recommending unanimously certain parts of this bill. The only difference of opinion was as to this second section, and the minority report, signed by the gentleman from Auburn, among others, recommended the adoption of all the rest of the bill. It strikes me as a little peculiar to say the least after that report had been signed, that now the gentleman who signed that minority report should make a motion to indefinitely postpone both reports. I do not propose to discuss here anything except the section which is properly under discussion, about which there was a disagreement in the committee.

This bill proposes to change an existing law, and everybody recognizes the fact that those who propose such a change have a certain burden of proof to sustain. But at the outset I want to point out certain things which make a material difference in this particular case as to the side on which the burden of proof properly rests. In the first place this existing law is an exception to all the other law which we have. No other person or corporation under any form of contract under a law of this State can be exempted from a trial by jury as the insurance companies are exempted under this present law which this bill proposes to change, and for that reason I say that the burden of proof is rather upon those who propose to con-

tinue the present law. In the second place, in this State we always had a trial by jury up to the time when this law was passed in 1895, and there never was any exception made until this law was passed in reference to insurance companies; and for that reason I submit there is a burden of proof resting still upon those who propose to continue the present law. In the next place this law that was passed in 1895 was passed without any discussion upon its merits. No reason was shown whatever or has ever been shown since why this particular form of contract should be exempt from the provisions of law that apply to all contracts. For these reasons, then, because it is contrary to the general theory of all our law, because they always had a trial by jury in this State until 1895, because the change when it was made was made without discussion, without any expression from the people, without any demand from the people for a change, and made simply at the instance of the insurance companies, and because no reason was brought forward then and no reason has ever been brought forward since to my knowledge why the insurance companies should be entitled to this exception,—I say that the burden of proof in this discussion rests not on those who propose a return to the law which existed prior to 1895 but upon those who advocate the continuance of this peculiar and unusual exception.

If it be said in regard to any ordinary form of contract that it is unjust, it is said in answer that a man need not make that contract unless he chooses, but in this particular form of contract not only is the insurance contract important to every man throughout this State, but he must make just the form of contract which this law outlines. The people are tied down to one particular form of contract and it becomes of the first importance to inquire whether there is any chance under that form of contract for injustice to be done. In any law that it to be made governing contracts existing between insurance companies and citizens of this State we would all agree that the parties should stand before the court or before the tribunal that is to

decide their case on an exact and equal footing. That is the theory of the law. Any law is destined not for the control of those who will obey it but for the control of those who will not obey it. This law ought to be made so as to give no advantage to a dishonest or selfish person on either side.

The insurance companies have a decided advantage in the way in which this tribunal of three men is made up. They may appoint three of their own men, they may appoint them from different sections of the state. The company at the very outset have under ordinary conditions an advantage in respect to the two men who start the tribunal. What about the third man? He is not appointed by an impartial tribunal, but if the two do not agree then the insurance commissioner appoints the third man. In my judgment at least when the insurance commissioner appoints the third man the chances are more than even that he will be a friend of the insurance company. Another thing that is unjust about the present method is the method of the payment of costs. In an ordinary case in court if you recover more than the other man has offered to pay you, the costs are very properly assessed upon him on the theory that he has not offered to pay what the court has said he reasonably ought to pay. Under the present insurance law you have to stand your part of the cost anyhow. The representatives of the insurance companies admit that everything is not right under the present arbitration system. When this matter was brought up in the Senate that was admitted and a substitute was offered to be introduced taking away some of these features which the insurance people themselves admit may work injustice. But now the crowning injustice of the whole thing is, in my judgment, that under the present arbitration system it is not a question of jury trial or arbitration. That is not the question at all. The question is, jury trial for the insurance company or jury trial for both. It has been argued around this hall by insurance agents that the question simply was as to whether you would rather have your loss adjusted

quickly by three men than to have a long jury trial. There is not any question about that, but that is not the whole of this proposition. The insurance company may go to a jury at any stage of the proceedings on any question arising under the policy, or they may even wait and have the adjusters appointed and influence the amount of the award itself by the threat to go to the jury if the award is made. The law says that they must abide by the award, but you may have to bring suit to get it. It becomes not a question at all of jury trial or not, but a question of allowing the same chance to go to the jury on the part of the insured that you allow now to the insurance company.

It has been claimed that this law works well. Nobody questions the fact that the law works well in nearly all cases that come under it; and in that respect it differs not at all from all the other laws that we have in this state. The law works well in most cases, but this law does not uniformly work well. I submit, gentlemen, that any case arising under this insurance law where any citizen finds himself injured by the decision of this tribunal of three men and wants to appeal to the jury, presents to you a case where injustice is done. There is no way in which the insured can appeal from the decision of those men. The point about this matter is not whether a jury should be composed of three or of twelve men, but the point on this question is that the three men make the decision and from it there is no appeal to any tribunal whatever. I suppose that the most eloquent and earnest advocate of the present system will agree that sometimes those three men may make a mistake. It is not comparing a jury of twelve men with a jury of three men appointed unfairly in some instances, but it is a question of setting up that verdict of the three men and saying that that verdict shall not be reviewed by any court and shall not be subject to any appeal whatever. The proposition in this bill simply is that the insured shall have the same chance to go to a jury that the insurance company has now. The claim that the law works well is all right as far as the 96

or 97 cases out of a hundred is concerned, but it is the other cases that any law is enacted to meet. Who are the people that are meeting with injustice? It has been argued that because there is nobody here petitioning for this change, that nobody in the State wants it. I want to say that not one person in ten in this State, and I doubt whether one in one hundred understand just what the provisions of this particular law are unless he has experienced them. Who are the class that are meeting with injustice? I submit that where injustice occurs it is most likely to occur and as a matter of fact does occur most often in the small towns and in the case of the small insurers. No insurance company wants to have any trouble with a man carrying four or five thousand dollars worth of insurance. You will find on examining the insurance commissioners' report that in many cases the discrepancy that exists in the small towns between the amount paid and the amount carried is very striking. The actual fact is just what we would be led to expect, that the greatest difference is in the case of the small insurers.

A good deal has been said about this question of jury, but I submit simply this, that no man has ever shown me, and I challenge those who favor the present law to mention upon the floor of this House any good and sufficient reason for selecting an insurance company out of all the corporations and business concerns that make contract and do business in this State, for this particular exemption. If you are going to argue against a trial by jury on questions of damages, that is another proposition, and if you decide to abolish jury trials on questions of damages it applies as well to all corporations and persons who have contracts under which that question will arise; and no man has shown me any good reason which makes me believe that an insurance company alone is entitled to this particular exemption. What is there about this insurance business that is so sacred that it should be placed on a pedestal above the common crowd? What is there about an insurance company so immaculate that it cannot mingle on an equal

footing with the rest of us? What dignity is this so austere and so terrible that it cannot be jostled by the elbows of the common crowd? What is there about this contract of the insurance companies that is so mysterious, so wonderful in its operations, that it cannot be reviewed in the clear light of a court of justice? What reason has anybody brought forward which would justify you and me in going home to the plain people of this State whom we represent and telling them that we have voted here to deny to them the right against an insurance company which they now have against every other person and corporation and which the humblest citizen of this State ought to have against every person and every corporation under every kind of a contract—the right to carry his case before a jury of his peers whenever in his own judgment he has suffered wrong?

(Applause)

Mr. GOODWIN of Sanford: Mr. Speaker, as one of the plain people in the State of Maine I say that I am surprised at the doings of any committee in this House which would report any bill before it was asked for by a single person. I am surprised further that any defendant in any court of law is obliged to stand up and plead his case when there is already a clear preponderance of evidence in his favor. I want it distinctly understood that as for myself no member of an insurance company, no agent or attorney representing any insurance company, has ever approached me in one way or the other; and so far as I can see there has been no lobbyist of an insurance company upon the floor of this House since this bill was introduced.

There are several things which I think should be taken into consideration before we change any law. There are 750,000 inhabitants of this State. There are I think 145,000 insurance policies outstanding at the present time, which are running all the way from one year to five years. They will be expiring from tomorrow for the next five years. You go to work and change your law and make a law which not one of those 175,000, with the possible exception of three, have asked for, and they

don't know where they stand; they don't know whether they must arbitrate their policy or whether they shall go into court. Suppose you pass that law, gentlemen. Suppose someone suffers a loss by fire. He doesn't think to arbitrate, and he doesn't suppose he has got to arbitrate, and that old policy of his gets into the courts; and the first thing he knows he is out of court as quick as he got into it. As a practicing attorney in this State, I presume it would be for my benefit personally to have this law changed so we could get into court with insurance cases; but I don't believe that it would be for the interests of the insured of this State. There are thirty million dollars in the several grange companies in this State. Are they here asking for this legislation? On the other hand, they have sent you protest after protest against any change. That is a class of insurance that you cannot place with the old line companies, so called. The old line companies will not take a policy that the mutual companies are carrying. We are told that there were about 1800 losses by fire last year, and we are also told that about four per cent. of those were arbitrated. There may have been individual cases where arbitration possibly upon the face of it worked an injustice. The only interest that I have in any insurance company is that I carry two or three policies. That is the only interest I have personally in this matter, and I believe from my personal knowledge of the workings of the insurance companies in settling losses that nothing is lost but very much is gained by letting the policies alone as they are at present. We understand them, the people understand them; and I submit, gentlemen, until someone comes into this House or before its committees and asks for a change in legislation, that we have no business or license to make a change. Do you believe that the wholesale dealers of Portland, for instance, are people who would be likely to be influenced to sign a petition, that the manufacturers of the city of Auburn, the agents of the mills of the city of Lewiston, the people who pay large premiums—do you believe that they don't want their losses paid? Do you believe that they don't want the very best in-

insurance that can be had? And by their remonstrances against any change in this law they believe they are getting it.

Under the arbitration clause we get our money. It is a very rare thing that an insurance company will appeal from the assessment of damages. I submit, gentlemen, that any loss which the insurance companies will take advantage of under the arbitration clause, they would take advantage of in the courts of this State under this proposed bill and fight us to the bitter end. There will be two years of time wasted for the man who wants his money; it is tied up in a court of law. I submit, gentlemen, that the most feasible thing, the most reasonable thing would be to let the law remain as it is until someone asks for a change, until some of the people who represent the insured of this State want a change, and then give it to them and not until then.

Mr. CUSHMAN of Woodstock: Mr. Speaker, I can say that I am not an insurance agent but I am interested in this question. Do you think, gentlemen, that we owe anything to our constituents. do we owe anything to the people who have sent us here? If we do, then how can we change this law? If we have one law on our statute books that is giving universal satisfaction, why should we change it? How can we go back to our constituents and tell them that we have changed a law that no one was asking that it should be changed? It has been said that the grange was not represented at the committee hearings. That is a mistake.

Our county grange sent two men there to represent us and say that we did not want any change in this law. I was there before that committee and heard the whole of the talk that was made. The insurance agents of our mutual companies have the same interest in this matter. We are all, properly speaking, our own insurance agents. The only chance for insurance for the farmer is in the mutual companies; and I feel that if you pass this bill it would be almost a death blow to the only insurance that we have, and my reason for thinking so is that before this law was passed, ten years ago, the insurance company

which I belong to nearly went down from the same effects that would prevail again if this law was changed.

Now, I ask you, gentlemen, to vote upon this question as you think right and just. Think of your constituents, those who have sent you here, and vote as you think they would ask you to, not as a few men here claim you should vote. It is claimed that the grange has no right to ask to be heard in this matter because they represent only one-tenth of the insurance in the State of Maine. Very well; if you will show us that the other nine-tenths are asking for a change, then I will say that I am willing that the change should be made; but when the other nine-tenths are not asking for a change, then I ask you to let the law remain as it is.

Mr. PURINTON of Bowdoin: Mr. Speaker, I would like to say that the people whom I represent are satisfied with this law as it stands and I have heard from them in regard to it. They are generally insured in the small mutual companies of this State which insure very generally in the rural communities. These people I know are satisfied. All that we want is to be let alone. As I understand this matter the companies are satisfied, and from the argument that has been made it seems to me that the gentleman from Island Falls assumes that if a trial by jury were allowed those who are opposed to the present law would not be dissatisfied. I have heard of cases, and so have you, gentlemen, where gentlemen have appealed to the court and when the decision was rendered they were not satisfied with that. And I think it is a fair assumption in this case that the expense of a trial by a jury of twelve men and the resulting appeal, if taken, is more expensive than a trial by a jury of three, and would necessarily on an average be that way, and would result in a loss to the insured if they avail themselves of their right of trial by jury rather than a trial by the three that we now have. I hope that the motion of the gentleman from Auburn will prevail.

The question being shall the yeas and nays be ordered,

The motion was agreed to.

The SPEAKER: Those in favor of postponing both reports will answer yes when their names are called; those opposed will answer no. The clerk will call the roll.

YEA:—Albert, Allan, Baldwin, Barrows, Bean, Berry, Blanchard, Bradford of Livermore, Briggs, Burkett, Buzzell, Byron, Cobb, Cole, Copp, Cushman, Davis of Benton, Davis of Guilford, Dudley, Fawsette, Foss, Fulton, Gannett, Giddings, Goodwin, Gray, Hale, Hastings, Hathaway, Hill, Howes, Hutchins, Ingersoll, Jones, Jordan of Cape Elizabeth, Jordan of Yarmouth, Josseyn, Kinsman of Cornville, Knapp, Lanigan, Leonard, Leighton, Libbey, Littlefield, Lougee, Martin, Merrill of Dixfield, Miller, Morton, Nash of Damariscott; Nash of Kennebunk, Newcomb, Norcross, Oakes of Milford, Page of Appleton, Percy, Poor, Price, Purinton, Russell, Sanborn, Sargent of Brewer, Sawyer of Smithfield, Scribner of Charleston, Scribner of Springfield, Shaw, Smart, Smith of Saco, Sparrow, Staples, Stevens, Swain, Talpey, Thomas, Thompson of Orono, Thurlough, Trickey, Turner, Usher, Vittum, Walker, Washburn, Webb, Webster, White, Wilder, Witherspoon, Witt—88.

NAY:—Baxter, Belleau, Bradford of Friendship, Garcelon, Higgins, Hodgkins, Hussey, Laliberte, Morey, Newbegin, Pendleton, Putnam, Tracy, Treworgy—14.

ABSENT:—Abbott, Bliss, Clark, Cousins, Dennison, Downs, Hagerthy of Ellsworth, Hanson, Irving, Jillson, Johnson of Calais, Johnson of Hallowell, Johnson of Waterville, Kinsman of Augusta, Longfellow, Marshall, Merrill of Skowhegan, Mullen, Oakes of Auburn, O'Brien, Page of Hampden, Peacock, Perry, Philbrook, Sargent of Castine, Sawyer of Milbridge, Seavey, Shevenell, Swett, Thompson of Roque Bluffs, Tupper, Whitmore—32.

PAIRED:—Bunker, yes; Powers, no; Grant, yes; Milliken, no; Kimball, yes; Morrison, no; Hagerthy of Sedgwick, no; Stearns, yes; Hall, yes; Therriault, no; Holmes, no; Verrill, yes; Reed, yes; Weatherbee, no. Smith of Madison, yes; Sewall, no.

So the motion was agreed to and both reports were indefinitely postponed.

Mr. ERIGGS of Auburn: I move that the vote whereby these reports were indefinitely postponed be reconsidered, and I hope that every one who voted yes will vote no on this motion.

The motion was lost.

Special assignment: Report of committee on federal relations, reporting "ought to pass" on Resolve, relating to lumber manufactured in New Brunswick and admitted into United States free of duty.

Mr. Laliberte of Fort Kent, moved that the report be indefinitely postponed.

The motion was lost.

Mr. Laliberte moved that the yeas and nays be ordered.

The motion was lost.

The report was accepted, the memorial was read once and assigned for tomorrow morning for its second reading.

On motion of Mr. Higgins of Limerick, a recess was taken until 8 o'clock.

Evening Session.

Special assignment: Majority and minority reports of the committee on temperance, reporting ought not to pass in new draft, and ought to pass in new draft, on Bill to provide for proper labelling proprietary medicine.

On motion of Mr. Milliken of Island Falls, both reports pending the acceptance of either were laid upon the table.

Mr. Kimball of Rockland, moved to adjourn.

A division being had, the motion was lost by a vote of 19 to 38.

Mr. Higgins of Limerick, raised the point of no quorum.

The question being to determine the presence of a quorum, the roll was called and no quorum was found to be present, 60 members answering to their names.

Mr. Reed of Portland, requested the Chair to note as present and not voting Messrs. Higgins of Limerick, Holmes of Caribou, Littlefield of Rockland, Powers of Houlton, Nash of Kennebunk, Kimball of Rockland, Scribner of Springfield, Kinsman of Cornville, Hastings of Bethel, Laliberte of Fort Kent and Stevens of Portland.

The SPEAKER: The Chair is unable to see the members that the gentleman has mentioned.

Mr. REED: They dodged out, the most of them, and are standing in the corridor.

The SPEAKER: Only 60 having answered to their names, there is no quorum present. The Chair cannot count a member as present unless he sees him visibly.

Mr. REED: I move that the Chair compel the attendance of such members as can be reached.

The SPEAKER: The Chair has no power to do so; it is in the province of the House.

Mr. REED: I move that the House compel their attendance.

The SPEAKER: The gentleman will reduce his motion to writing. The Chair will put the motion, but the Chair will inform the gentleman from Portland that the messengers in order to carry out the order of the House must be empowered by certain precepts to bring them here bodily. The House I presume could issue its warrant to arrest members and bring them here. This is the gentleman's motion that the House through its messengers compel the attendance of absent members. Is it the pleasure of the House to give the order a passage?

The motion was agreed to.

The SPEAKER: The messengers will obey. (Laughter.)

Mr. REED: I move the adoption of the majority report on the pending question.

The SPEAKER: The only motion that the Chair can entertain is on the question of securing a quorum or of adjourning.

Mr. POWERS of Houlton: I move that we adjourn, there being no quorum present.

The motion was lost.

Mr. REED: I would ask if the Chair will entertain a motion for a roll call to determine if a quorum is now present?

The SPEAKER: The clerk will call the roll to determine if a quorum is present.

The roll was called and 91 members having answered to their names, a quorum was found to be present.

Mr. Holmes of Car'bou, moved to adjourn.

Mr. Baxter of Portland, called for the yeas and nays on the motion.

The motion was lost.

The question then being, shall the House adjourn.

The motion was lost.

Mr. Reed moved that majority and minority reports of the Committee on Taxation, reporting "ought to pass" and "ought not to pass" on Bill, Relating to taxation of mortgages on real estate be assigned for consideration on Tuesday morning of next week at the expiration of the morning hour.

The question being, shall the matter be assigned for next Tuesday at the expiration of the morning hour, Mr.

Reed called for the yeas and nays on the motion.

The motion was lost.

The question being shall the matter be assigned for next Tuesday at the expiration of the morning hour.

The motion was agreed to.

On motion of Mr. Hastings of Bethel, bill relating to cruelty to animals, was taken from the table.

The bill was read twice and on further motion by Mr. Hastings, the rules were suspended, the bill received its third reading and was passed to be engrossed.

Special assignment: Resolve in favor of the Central Maine Fair Association.

The pending question being the second reading of the resolve. Mr. Littlefield of Rockland, called for the yeas and nays.

The motion was lost.

The question then being on the second reading of the resolve.

The motion was agreed to.

The resolve was then read a second time and was passed to be engrossed.

On motion of Mr. Giddings of Gorham,

Adjourned.