

# MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

**Seventy-Second Legislature**

OF THE

STATE OF MAINE.

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1905.

**SENATE.**

Tuesday, March 21, 1905.

Senate called to order by the President.

Prayer by Rev. Mr. Lanberg of Gardiner.

Journal of yesterday read and approved.

Papers from the House disposed of in concurrence.

An Act to amend Section 10, Chapter 12 of the Revised Statutes. On motion by Mr. Potter of Cumberland, this bill was amended so that the title should read as follows: "An Act to amend Section 10 of Chapter 12 of the Revised Statutes relating to the amount of fines for the law library for counties. As amended the bill took its second reading under suspension of the rules, and was passed to be engrossed.

An Act to amend Section 116 of Chapter 6 of the Revised Statutes relating to caucuses in cities of over 25,000 inhabitants. (House amendments to this bill adopted in concurrence. As amended the bill was read and assigned.)

Mr. Putnam for the committee on appropriations and financial affairs, on "Resolve in favor of Clerk and Stenographer to the committee on interior waters," reported same ought to pass. Report accepted. On motion by Mr. Putnam of Aroostook, the Resolve took its second reading under suspension of the rules, and was passed to be engrossed.

**Read and Assigned.**

An Act to prohibit the throwing of sawdust and other mill waste into Break Neck Brook, and its tributaries in the county of Cumberland. (House amendment A adopted in concurrence.) As amended the bill took its second reading, under suspension of the rules and was passed to be engrossed.

The following bills which came up on first reading also received their second reading, under suspension of the rules, and were passed to be engrossed:

An Act to amend section 38 of chapter 41 of the Revised Statutes relative to enforcement of the penalty for illegal seining.

An Act for the protection of clams in parts of the county of Sagadahoc.

Resolve laying a tax on counties of the state for the years 1905 and 1906.

The following bills came from the House, passed to be engrossed under suspension of the rules, without reference to any committee, and received by the Senate under suspension of the rules, without reference to a committee, and on motion of Senator Sturgis of Cumberland were passed to be engrossed:

An Act to amend an act approved March 8, 1905, amending the charter of the George A. Young Company.

An Act to authorize the payment of an annuity to Charles B. Skillings.

House bill 528, "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." This bill was indefinitely postponed in the Senate, having been passed by the House. It was sent back to the House, and that branch insisted upon its action, and requested a committee of conference. On motion of Mr. Clark of Hancock, the Senate voted to adhere.

House bill 560, "An Act to amend section 112 of chapter 6 of the Revised Statutes relating to political caucuses." This bill was passed in the House, and indefinitely postponed by the Senate and sent back; whereupon the House insisted upon its action. On motion of Mr. Staples of Knox, the Senate voted to adhere.

**Reports of Committees.**

Mr. Putnam for the Committee on Appropriations and Financial Affairs on bill,— "Resolve in favor of the clerk of Committee on Temperance," reported that same "ought to pass." Report accepted.

The same Senator for the same committee on bill,— "Resolve in favor of clerk of the Committee on Telegraphs and Telephones," reported same "ought to pass," and said report was accepted, and both resolves tabled for printing.

**Passed to be Engrossed.**

An Act to abolish the office of public printer, and to authorize contracts for

state printing on basis of competitive bids.

Resolve in favor of C. O. Purington, secretary of the Committee on Agriculture.

Resolve in favor of G. W. Irving, chairman of the Committee on Education.

An Act to amend section 35 of chapter 65 of the Revised Statutes relating to costs in contested cases.

Resolve in favor of Harry B. Conway.

**Passed to be Enacted.**

An Act to incorporate the Dexter Trust Co.

An Act to incorporate the city of Brunswick.

An Act to incorporate the Central Safe Deposit Co.

An Act to incorporate the Danforth Water Co.

An Act to regulate the use of the roads in the town of Castine.

An Act to incorporate the Milbridge and Cherryfield Street Railway.

An Act to prevent sales of merchandise in bulk in fraud of creditors.

An Act to extend the close time on deer on Swan's Island, Hancock county.

An Act to incorporate the Saco River Electric Power Co.

An Act regulating the taking of clams in the town of North Haven.

An Act relating to pensioning members of the police department of the city of Bangor.

An Act granting Ithiel C. Blackman the right to maintain a ferry.

An Act relating to a winter speedway on the Kennebec river, at Gardiner.

An Act additional to Chapter 13 of the Revised Statutes, relating to the Penobscot tribe of Indians.

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

An Act in relation to the South Paris Village Corporation, and to establish a system of municipal lighting.

An Act to amend paragraph 7 of Section 4 of Chapter 49 of the Revised Statutes of Maine, relating to fire insurance policies.

An Act to amend Section 3 of Chapter 20 of the Revised Statutes, relating to burying grounds.

An Act authorizing the town treasurer of Kittery to expend money left for private lots in cemeteries not incorporated.

An Act to amend Section 51 of Chapter 125 of the Revised Statutes, relating to cruelty to animals.

An Act to amend Section 31 of Chapter 93 of the Revised Statutes, relating to liens on buildings and lots, wharves and piers.

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

An Act authorizing Frank G. Spurling and others to build a wharf into tide waters in the town of Cranberry Isle.

An Act relating to the York Light and Heat Co.

An Act to amend Section 4 of Chapter 455 of the Private and Special Laws of 1901, entitled "An Act to incorporate the York Village Corporation."

An Act to amend Chapter 257 of the Private and Special Laws of 1903, relating to the protection of deer on the island of Mt. Desert.

An Act to amend Section 1 of Chapter 166 of the Private and Special Laws of 1887, entitled "An Act creating the Fort Fairfield Village Corporation."

An Act to regulate fishing in Sokokis lake, so called, in the town of Limerick, also its tributaries, and in Long and West ponds in Parsonsfield, in the county of York.

An Act to amend Section 23, Chapter 48, Revised Statutes, relating to investment of deposits in savings banks.

An Act to provide for the better collection of collateral inheritance taxes.

An Act to establish the Caribou municipal court.

An Act to incorporate the Buxton and Hollis Power Co.

An Act to prevent the throwing of sawdust and other mill waste in Little Madawaska river and its tributaries in Aroostook county.

An Act to close the tributaries of Big Concord pond, in the town of Woodstock, Oxford county.

An Act to amend Sections 100, 101 and 102 of Chapter 23 of the Revised Statutes, relating to State roads.

An Act to amend Section 3 of Chapter 41 of the Revised Statutes of 1903, relating to sea and shore fisheries.

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

An Act to prohibit throwing sawdust, shavings, waste or refuse into Heath brook or its tributaries, in the town of Acton, York county.

An Act in relation to insane persons in the State Prison and in the county jails, and additional to Chapter 138 of the Revised Statutes.

An Act to amend Section 95 of Chapter 49 of the Revised Statutes, relating to notice of injury to Casualty Insurance Companies.

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

An Act to incorporate the Trinitarian Congregational Parish of Castine, and to legalize the doings of the parish heretofore known under the name of the Trinitarian Society of Castine, Maine.

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

An Act to prevent the unlawful diversion of electricity.

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

An Act to amend Chapter 126 of the Revised Statutes, relating to gambling.

An Act to amend Chapter 153 of the Private and Special Laws of 1879 in regard to building dams and embankments on Swift river in the town of Byron.

An Act to amend the Revised Statutes, Chapter 125, Section 53, relating to cruelty to animals.

An Act to authorize the town of Cornish to remove the bodies of deceased persons.

An Act concerning Merrial Memorial Library, a free public library in the town of Monmouth.

An Act to amend Section 4 of Chapter 128 of the Revised Statutes, relating to injury to property used for public water supplies.

An Act to restore the jurisdiction of trial justices in the town of Fayette in the county of Kennebec.

An Act to change the title of the

Wilton Electric Light and Power Company.

An Act to amend Section 70 of Chapter 51 of the Revised Statutes, relating to the ringing of bells and sounding of whistles on steam railroads.

An Act to amend Section 26 of Chapter 135 of the Revised Statutes, relating to sentences.

An Act to amend the charter of the Augusta Water District.

An Act to enable Edwin W. Doyle to maintain the upper dam on Flanders stream in the town of Sullivan, Hancock county.

An Act to amend the charter of the Auburn and Turner Railroad Company.

An Act to extend the charter of the Mutual Fire Insurance Company.

An Act to amend Section 83 of Chapter 84 of the Revised Statutes, relating to the challenging of jurors.

An Act to incorporate the Saco River Electric Power Company.

An Act to amend Section 30 of Chapter 51 of the Revised Statutes, relating to railroad branch tracks.

An Act to incorporate the Kittery Village Corporation.

An Act to authorize the town of Mechanic Falls to acquire certain property and rights of the Mechanic Falls Manufacturing Company.

An Act to amend Chapter 135 of the Public Laws of 1895, relating to Bath municipal court.

An Act to amend Chapter 184 of the Private and Special Laws of 1895, entitled "An Act to incorporate the Castine Water Company."

An Act to prohibit the throwing of sawdust, shavings, waste or refuse into Little Ossipee river, within the limits of the towns of Shapleigh, Newfield, Waterboro, Limerick and Limington, in York county.

An Act to amend Section 24, Chapter 43, Revised Statutes, relating to real estate investments in savings banks.

An Act to amend Section 16 of Chapter 24 of the Revised Statutes, relating to the law of the road.

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 13 of Chap-

ter 11 of the Revised Statutes, relating to the recording of plans in registries of deeds in the several counties.

An Act to amend Chapter 123 of the Private and Special Laws of 1903, in relation to establishing a normal school at Presque Isle, in the county of Aroostook.

An Act to amend paragraph 20 of Section 1 of Chapter 116 of the Revised Statutes, relating to the salary of the commissioner of sea and shore fisheries.

An Act relating to the compensation of county attorneys.

An Act relating to the compensation of clerks of courts.

An Act relating to the compensation of county commissioners.

An Act relating to the compensation of county treasurers.

An Act for the protection of children.

#### Finally Passed.

Resolve in favor of I. S. Cote.

Resolve in favor of the town of New Gloucester.

Resolve in favor of the town of Mariaville.

Resolve in relation to York deeds and Maine wills.

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

Resolve in favor of State Normal schools.

Resolve authorizing the compilation and publication of the insurance laws of Maine.

Resolve in favor of Ida Yeaton, widow of John Yeaton, late of the 3d Maine Battery.

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

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

An Act to prohibit fishing in Breakneck Brook and its tributaries, situated partly in the towns of Sebago and Baldwin, county of Cumberland. (On motion of Mr. Clark of Hancock, this was tabled.)

An Act to prohibit the throwing of sawdust and other mill waste into Fish river down as far as the dam of the Fort Kent Lumber Co., also in the

tributaries of said river. (On motion of Senator Pierce this was tabled.)

An Act relating to compensation of judges of probate. (On motion of Senator Clark this was tabled.)

An Act to amend section 12 of chapter 4 of the Revised Statutes of 1903, as amended by chapter 335 of the Public Laws of 1903, relating to the election of selectmen, overseers of the poor and assessors. (On motion of the same Senator, tabled.)

On motion by Mr. Stetson of Penobscot the vote whereby bill, "An Act to amend paragraph 7, section 4 of chapter 49, of the Revised Statutes of the State of Maine, relating to fire insurance policies," was passed to be enacted, was reconsidered; and on further motion by the same Senator the bill was tabled.

#### Orders of the Day.

On motion of Mr. Potter of Cumberland, Senate document 243 "An Act to amend section 2 of chapter 119 of the Revised Statutes defining manslaughter," was taken from the table.

Mr. POTTER of Cumberland, Mr. President, on the supposition that there is now no opposition to this bill, I move that the rules be suspended, and that it take its two several readings and pass to be engrossed at the present time; and on that motion I wish to explain briefly to the Senate the present situation of the bill.

Two years ago a boy named Bartlett was taken sick with diphtheria at Shiloh, and after being sick for two weeks without receiving medical treatment, or treatment of any kind, he died. Sandford, the Shiloh leader, was indicted for manslaughter; and on his trial he set up the defense that the law could not touch him because he did not believe in medical treatment. The court instructed the jury that conscientious disbelief in medical treatment was a complete defense. The court said further that that defense originated at an early time in the history of the common law when medical treatment was quackery; but, the court added, that that rule of law would remain the rule in this State until the Legislature, as it had a right to do, should change it. The sole object of the manslaughter bill which I intro-

duced early in this session was to take away that defense, not merely from Sandford, but from any person in the State who should hereafter wish to raise that defense on an indictment for manslaughter.

The bill as originally drafted would accomplish that object of taking away that defense from any such respondent. The bill in its present form will do the same thing. The committee on the judiciary have made a single change in the wording of the bill. Originally the bill said: "Necessary food, clothing, medical treatment, or other necessities of life." The committee has substituted for the words "medical treatment," "treatment for the sick" so that the bill now reads—or that part of it: "Necessary food, clothing, treatment for the sick, or other necessities of life." So that, while the bill in its original form referred, so far as treatment for the sick is concerned, only to medical treatment, now, as the bill stands, if it should become a law, a man might be punished under it for wilful neglect resulting in death, to furnish not only medical treatment but any other kind of treatment—if there is any other which the State could show by legal and proper evidence was necessary as a matter of fact. That is all there is in the change made in the bill, and the object, as I have stated, is the sole object for which the bill was offered.

Now, as I have stated, on the supposition that the change that has been made removes all opposition to it, as it does remove all opposition that I happen to know anything about, I make the motion I at first submitted.

On further motion by Senator Potter the bill took its several readings under suspension of the rules, and was passed to be engrossed.

On motion of Mr. Staples of Knox, House document 524, bill relating to assessment of damages for property taken for public uses, was taken from the table. The same Senator offered Senate amendment A, and on motion by Mr. Clark of Hancock, the amendment, together with the bill, were tabled, and tomorrow morning assigned for their consideration.

On motion by Mr. Shaw of Sagadahoc Senate document 211, being a motion to

reconsider the indefinite postponement of bill relating to advertising hearings before Legislative Committees, was taken from the table. The same Senator offered an amendment in effect that the governor and council should make a contract with three papers instead of one.

Mr. GARDNER of Penobscot. Mr. President, before that motion is put I would like to say that I have given this matter a little thought. I have talked with the Senator from Sagadahoc some, and with business men in the State, and I have endeavored in a way to get at some plan that would correct any errors or any abuses that have crept into the matter of advertising the hearings of our legislative notices, and the result of what I can learn is, that a majority of the citizens—a majority of the people with whom I have talked—do not want to say that we shall arbitrarily limit the printing of these notices to one, two or three papers; but that we should have some responsible head to which all of these notices should go before they are printed, who will run a blue pencil through any abuses that might creep in, or who should say that these notices shall be printed only in such papers, and to such an extent as shall give the people in this State adequate notice of what we are doing here; and without arguing this matter further, I trust that the motion to amend of the Senator from Sagadahoc will not prevail. And I trust that an amendment to the act may be submitted that will provide that these legislative notices before being given to the papers shall be submitted to some responsible head, who will audit or examine them, and that no bills shall be paid until the party or some clerk, who have understood this matter, shall o. k. these bills. I hope something of that kind will be done. And if this motion of the Senator from Sagadahoc does not prevail, I will ask that this matter be laid on the table for a short time until I can write an amendment, or an act such as I have in mind. I trust that the motion to amend, with a view to limiting this to three papers will not prevail.

The Senator from Sagadahoc

then moved that the bill and pending amendment be tabled. The motion prevailed.

On motion by Mr. Morse of Waldo, Senate document 232,—“Resolve in favor of Eastern Maine Insane Hospital,” was taken from the table. The same Senator moved that the resolve take its second reading, and pass to be engrossed. The motion prevailed, and the bill was passed to be engrossed.

The same Senator thereupon moved that Senate document 233, in new draft, being Resolve in favor of Maine Insane Hospital be taken from the table. The motion prevailed, and on further motion by the same Senator the bill took its second reading, and was passed to be engrossed.

Special assignment “Report of the Committee on Insane Hospitals, majority ‘ought to pass,’ minority ‘ought not to pass,’ on Resolve in favor of the Eastern Maine Insane Hospital,” on motion by Senator Stetson of Penobscot, was taken from the table. The pending question was upon the substitution of the minority for the majority report.

Mr. STETSON of Penobscot: Mr. President, before the motion is put, to substitute the minority report for the majority report, I think it is only fair that we should have an explanation from the Senator from Waldo as to why he desires this action.

Mr. MORSE of Waldo: Mr. President, this matter was taken entirely from my hands and, as you all know, very much against my desire, and tabled for an unusual length of time—a week.

I now propose that if anybody has any remarks to make he shall make them, or I shall make another motion.

Mr. STETSON: Mr. President, I seems to me that it is a courtesy due the Senate, and that we should act intelligently on the motion of the Senator from Waldo; and it seems to me only fitting and proper that that Senator should explain to us, who are deeply interested in this appropriation, why in his opinion it should not pass. And I ask the Senator from Waldo again that he will explain to the Senate the

reasons that have brought him to this conclusion, so that I can intelligently answer him with regard to the interests of those in Eastern Maine upon the passage of the Resolve.

Mr. MORSE: Mr. President, in answer I would say to the Senator that if he is here as the representative of a majority of this committee he ought to know wherein they sustained the report for this unusual appropriation of \$120,000.00, and he should also know my mind in opposing it. I am ready to listen to the Senator from Penobscot.

Mr. STETSON: I believe, Mr. President, the time has passed for playing football on this matter, and surely for my part I am willing to state the position that we in Eastern Maine have on this question, although I think that the Senator from Waldo would have been more courteous had he stated his reasons for his motion. He filed yesterday a statement of facts in regard to the minority report. Fortunately I was able to obtain a copy of the same. In that statement of facts he claims that the committee had decided on their report March 1st, and he says in his statement of facts three or four days before the word came from Gov. Burchleigh that the U. S. government was to make us a present of the U. S. Arsenal grounds in Augusta. I deny that part of the statement, and I wish to assure the Senators that every member of that committee went to the Arsenal grounds and carefully examined them to ascertain their present condition, and to see what it would cost to change them so that they could be adapted to take care of the insane under our modern treatment. More than that, the trustees of the hospital visited the Arsenal grounds, and they and eight of the committee are unanimous in stating that after a careful consideration of the buildings, and the amount necessary to make those buildings fit to accommodate the insane, that still a ward should be built at the Eastern Maine General Hospital. More than that Dr. Sanborn has recently stated, since the question of the gift of the Arsenal grounds came up, that he is in favor of building this hospital at Eastern Maine, and I think I am right in stat-



ing that Dr. Sanborn has said that if the State could only afford to build one of these proposed buildings, the one at Eastern Maine hospital should be the one to be built.

Right here, Mr. President, I want to say a word in regard to an editorial in the Bangor Commercial, which I wish to say slurred the honorable gentleman who is superintendent of the Augusta hospital; and I wish to state that that editorial does not express the feeling in Eastern Maine, that Dr. Sanborn is opposing any appropriation for the hospital, we believe and we all know from his history, and from his works, and from his actions, that he is interested in the insane in the State of Maine, no matter where they be located; and we believe that he is an honorable man, and will do all he can to see that the insane are provided for, no matter in what section of the State they may be located. I only state that as a matter of justice to Dr. Sanborn whom we all consider our friend, and as one who is working for the best interests of the State, irrespective of locality.

The senator from Waldo did make a remark which gave the idea possibly of what he would say, and that was that two of the committee opposed the granting of an appropriation for this ward, because the State could not afford it as a financial proposition. He no doubt will claim that we can take these Arsenal grounds at Augusta and adapt them by a reasonable appropriation so they would take care at least of part of the insane that are now overcrowded in our hospitals, but we from Eastern Maine desire, and earnestly ask, that those who are so unfortunate as to be insane, among our friends and relatives, should be taken care of in a hospital in the Eastern part of the State, and we ask that only in justice and right. Later I shall attempt to show you why, from financial reasons, I believe the State can afford to grant this appropriation.

The Senator from Waldo has had many appropriations at this session, and I am pleased to see that they have passed to a successful end. He no doubt is in a happy frame of mind at the present time, and believes now

that the time has come to call a halt on appropriations, no matter how worthy or just they may be; and even if they hit the insane of our State. I believe that he may work a great injustice, and that he may cause great suffering to those in our State whose brain has been shadowed by this cloud, and who are today living what we might call a living death. I believe, and I want you all to realize the crowded condition of the hospitals in this State, and how imperative it is that something should be done, and that soon, to take of the overcrowded condition of these hospitals. I believe it is a wicked shame upon the fair name of the State of Maine that these conditions do exist.

In the Augusta hospital today they have 710 patients, with a capacity of only 533, 127 more than they can take care of under normal conditions, and those patients are crowded in the corridors and basements, and are not getting treatment such as they should have under modern medical methods. In the Bangor hospital we have accommodations for 200, and at the present time they have 270 patients,—70 more than the two wards were intended to accommodate.

Do you realize, gentlemen, that there are over 225 patients in those wards more than can be accommodated. The hospital grounds in Augusta were a magnificent gift to the State of Maine, and we all appreciate the motives under which the gift was made. We know of the appropriation which passed here this morning, granting an appropriation to repair the large building on the grounds, so that it will take care of some of this surplus in the two hospitals; and the resolve that passed this morning provides that the large buildings shall be repaired at an expense of \$45,000; and if you have read the bill you will note it says that said buildings shall be used for temporary purposes. He does not tell you in the bill itself that that is all that is necessary to make that building fit to take care of 120 or 125 of the chronic cases at the Augusta Hospital, which they propose to put in the Arsenal grounds.

Now that majority report was signed by eight of the committee, and on that

committee were three doctors, leading practitioners in the State of Maine. They carefully examined the arsenal grounds, and they, I claim, are as well qualified as the senator from Waldo to know what it will cost, and to know especially how well the insane can be provided for in the buildings at the hospital grounds, and to realize the importance of building the ward at the Eastern Maine Insane Hospital at Bangor.

When the appropriation some years ago was passed for building this hospital at Eastern Maine the purpose of the State was to provide for the insane of Eastern Maine—for the eastern part of the State. I feel that we who live in the eastern part of the State have as a right of justice to ask you to grant an appropriation which shall give us an opportunity to have our unfortunate friends and relatives near to us, so that we can visit them without great expense of travel and time incident to going to Augusta. More than that any doctor in the State will tell you how dangerous it is to take a patient affected by these brain troubles, living under great nervous excitement, and to place him on the cars, and to compel him to travel the longer distance to Augusta rather than the shorter distance to Bangor; and that it might seriously affect his mental condition; and that for the best treatment of our insane it is important they should be treated as near their homes as possible, to avoid the disturbing effects of long distances of travel.

In this appropriation statement which you will all find upon your desks the financial committee have made a statement that resolves which have been appropriated—resolves that are pending, fixed charges including the cost of the Legislature, will amount to about \$2,585,000.00. They also state that the estimated receipts for the year, including the cash on hand, will be about \$2,495,000. That is, if every resolve which is now pending before this Legislature should pass, there would be a deficit of some \$90,000.

Now you all know as well as I that not all of these resolves pending will pass, and if you will examine that statement you will see that there are some \$95,000 for the cost of the Legislature; and if you will examine the resolves you will probably be aware that many resolves

carry appropriations for this year, which carry none for the next; and even if every resolve should pass, and even if this conservative estimate of receipts is correct, there would simply be a deficit of \$90,000 this year; whereas next year, without the Legislature being in session, and without so many resolves carrying appropriations for that year, there will next year be a large surplus—probably four or five hundred thousand dollars, which would easily take care of the deficit of \$90,000 for this year, and that is provided that every resolve now pending should pass.

And on that point I recollect a similar statement made two years ago, which was placed upon our desks, and it was stated that we had over-appropriated \$200,000, and that we had proved an extravagant Legislature. What were the results at the end of the year? The treasurer's report showed nearly \$600,000 on hand. What was the reason for the fact that the estimate of receipts had been too conservative? I do not blame the financial committee, or the treasurer of the State for holding us down in our appropriations so that we shall not be warranted in the making of appropriations where perhaps they may not be justified, and where we appropriate them on account of the personal interest of our friends; but I do claim that their estimates for this year are conservative, and that the receipts for two years will exceed by \$200,000 or \$300,000 the fixed charges and the amount of appropriations, even should they all pass. Therefore I say to you that in justice to the people of eastern Maine, where we are showing the greatest growth in population, that you should vote no on the passage of the minority report; so that we shall be able to have this ward built, and to have our patients who are insane, and who may be relatives or friends, near to us in the eastern part of the State.

Mr. MORSE of Waldo: Mr. President, and members of the Senate, I want to state to the members of this Senate that I have no personal motives in this matter whatever. I have no friends to please, and no enemies to tease. I am acting up to my highest conception of right and justice in this matter, in signing this minority report.

The appropriation to supply our insane hospitals carry far more than any other

appropriations that we shall have, or that we have had during the present session. I do not think that any senator here will charge me with wanting in any way to deprive those people who are laboring under the terrible--terrible disease which they are now of insanity by taking from them anything that would contribute to their happiness and comfort. My religion goes out in that way to those so distressed, if I have any, and I would do everything that would mete out to them comfort.

Now, Mr. President, we have had eight public hearings on insane hospitals, and is there a member of this Senate who can cite me eight hearings on one matter without any particular new evidence to come before the committee of this Legislature? I assure you, Mr. President, that I was willing to be present; I was willing to give my attention to these hearings; I wanted to learn if possible something about the workings of these great institutions which are being supported by the State. I think the people in general all up and down this State want to know, and I believe that they have the right to know--every man who deposits his ballot in the box, and who has a tax assessed against him, small though it may be it may tax him more than the rich man who pays his tax conveniently--I say I believe what class of citizens in this State, and of this whole State, are entitled to know; and so far as that is concerned I have no personal interest, only one end of this State to the other, and that means 694,466 souls--and I have no particular interest for the eastern or western, for any other section, but I stand here as the representative of that number.

I want to call your attention to the report put out by the board of trustees of the Insane hospitals, and I suggest, Mr. President, if there is any information which goes out to the people over this State, whereby they may understand the workings of these institutions it is in this report. And I call your attention to what the trustees say. The question, gentlemen, on which we are divided is this.--Do we need a new building at Bangor? Everything else is conceded by your committee, and I am surprised that the senator from Penobscot should make that declaration to contradict any statement of facts that we

have presented that this committee agreed on the 1st day of March to recommend \$35,888 for hospital purposes. We were unanimous, every member of the committee there, and I think we were all there except Senator Randall, and I suggested that our report be forwarded to him, as he has been ill since it was made--and we all say, and it was agreed upon, that that sum should be the sum that we should recommend; and I am sorry that the senator has received any information that would lead him to believe anything to the contrary, for such are the facts on the 1st day of March.

Now then, this overcrowded condition is what I have been trying to investigate, to find out that it was actually the fact, that those patients were being cared for in a crowded condition detrimental to their interests, and let us see what the trustees say. They say here,--"This large increase in two years calls for careful public consideration of the means best adapted to provide for these unfortunates in the future." They do not state how many more above the capacity of the hospital, either one of them. They leave it there.

Then we will pass on to the treasurer's report on the 13th page, and let us see what information we shall glean from that. As I said, we look to these to find out the workings of that institution, and to see how you will interpret this, and I will tell you how I interpret it. Not that I am finding any fault with the conduct of the officials, or with their expenses, but I would like to have this read so a commonplace man like myself when reading it will understand what it means. So they say the annual financial statement of the steward and treasurer shows a net gain of \$1,436.63, and there has been expended for general improvements and repairs over the receipts of the hospital \$10,853.98. In addition the books of the treasurer show also that there has been expended for extra repairs, improvements, grading, for crushed stone for roads, etc., a total of \$4,123.28. There has been expended for new stock barn, additions and alterations,--\$5,134.86. Though incomplete at the present time, there has been expended on the piggery, \$4,379.71, less insurance \$3,000. And the total amount taken from the earnings of the hospital, for special extra repairs and

improvements—not including general repairs, \$10,637.85.

This represents the current surplus earnings of the institution. Now, gentlemen, what do you understand from that? Do you not understand that this hospital has been earning something? That was my conclusion, and I have not changed it a particle; but when I look and see that they have received from the State by direct resolve, and for beneficiary appropriations \$82,654.27, then I can see how they can have a surplus. Most any man or company could have a surplus under those conditions. So that, gentlemen, when we take the earnings from the support by the State we find that it has actually cost the State \$54,223.82. And it is all right—I make no complaint, but I say it does not put the matter plainly before the people, so that we can understand it.

So much for that, gentlemen. I simply bring it to your attention because it was told us at the several hearings,—Put us on the wing at Bangor and this hospital will be self-sustaining; and to make myself solid on that point, I assure you Mr. President, and members of this Senate, that I have searched the State treasurer's records for information, and I have been back fifteen years to see how this hospital has been getting along here, with more than twice the number of patients in it that they have had at Bangor. What do I find? I will tell you. I do this simply to see at what stage—what age—what time—and how many patients they will have to have in order to be self-sustaining. Is there any business in that? If there is not, I am all wrong.

Now let me see what I have to start me on this presumption, and I will ask you to take your report and go over with me to page 8,—Superintendent's report. He says in regard to the financial condition of the hospital, I would say we have endeavored to practice rigid economy in the various departments of the institution, but with the number of patients under treatment, and at the present price of board, we must necessarily have a yearly deficit in our running expenses. If we had accommodations for twice the number of patients we now have we could undoubtedly pay all running expenses of the hospital, and have a small balance to our credit annually. That is Bangor;

that is what the superintendent says.

Now, gentlemen, for your information let us see how we will get along with that proposition. I take these figures from the State treasurer's book, and I trust they will be acceptable to you. I have gone back fifteen years to find how we stand, and I find—mind you I am finding no fault with the conduct of the officials of this hospital—I believe they are the best—I believe we may well look to them for example—not that! But I am showing whether or not we shall have another institution which shall constantly drain on the State, when they can be cared for as I shall show you later in these magnificent grounds just across the river here, donated to the grand old State of Maine by the great government of our country.

Now, then, let us see: Amount paid to the Maine Insane hospitals direct—that is, by resolve,—In 1890 they had \$50,000; in 1891, \$28,533; in 1893, \$15,000; in 1895, \$14,000; in 1897, \$15,000; in 1898, \$15,000. Total, \$137,668. Amount paid to Maine Insane hospitals for insane State beneficiaries, and here we have the list and total. In 1890, \$55,141; total that year \$100,000 from appropriation and from State beneficiaries. In 1891, \$47,615.81; total \$75,254. In 1892, \$58,574. In 1893, \$62,343; total \$78,437. In 1894, \$64,124. In 1895, \$64,114; total, \$78,124. In 1896, \$68,032; total, \$84,820. In 1897, \$69,820. In 1898, \$65,000; total, \$682,525, down to 1899.

Now then, we will start at 1899, and here are the various years: 1899, \$66,803; total \$74,000. In 1900, \$63,000; total, \$71,453. In 1901, \$63,604. In 1902, \$54,771. And here are the totals carried out, which make them about \$75,000. \$66,000 is the smallest received for any year. 1903, \$58,609; total, \$108,609. In 1904, \$62,654. Total in 15 years \$1,119,196.

Can you see where this self-supporting element comes in when you add another wing at Bangor, and when you have more than twice the number here? Gentlemen, this is all a delusion; is it not so?

I want to call your attention to another thing,—to the cost of these wings. You will remember that we built these buildings up there not very long ago, and after the foundations had been laid, and some of the walls had been put up, they failed to get an appropriation, and

they remained there for from two to four years. Finally they came down again and got an appropriation, and so completed the matter, and here is what they did,—in 1899 they got \$112,500 for completing the buildings, and adding thereto two pavilions. In 1900 for the same purpose \$112,500. In 1901 for furnishing and repairing, and for the reception of patients, \$60,000. In 1901 to redeem outstanding pledges \$36,000; and the same year to assist in meeting current expenses, \$12,500. In 1902, to assist in meeting current expenses, \$12,500. For meeting current expenses and making repairs and improvements, \$30,425. In 1904, for the same purpose, \$30,425. In six years they have had \$406,850 at Bangor, and that does not include the first of the plant, because in all they have had \$612,000 expended there in that plant. Shall we continue it, or shall we provide for these unfortunates here under the shadow of the old hospital in this beautiful enclosure here, containing 42 acres of land, 22 buildings—14 of them strong, built by this government in the most thorough manner, and handed out to us gratis? Gentlemen, is it or not a business proposition?

Let me take you back just a moment to consider the conclusion of this committee on the first day of March. I say to you in all candor and fairness, as a matter of fact, we did conclude, I repeat it, to recommend \$235,800, the last of the week—this was Wednesday. On Friday I went to my home away back here in the country; and on Saturday evening about 9 o'clock my telephone rang, and I went to it and George D. Macomber called me from Augusta. He says: "Senator, the government has ceded to Maine the Arsenal property here across the river. I just had a telegram from Gov. Burleigh." And he said: "I thought you would like to know it before you made up your final figures, and that it might make some difference." Well, I assure you it was a happy thought for me ever since the first week, or possibly the second week, of our meeting here. I was handed a letter here by Senator Potter of Cumberland, from the Hon. Amos Allen. It seems he had had some correspondence about this property, and he says—"As you are chairman of the committee I thought it might interest you," and he handed me that letter and went into the adjutant general's of-

fice and dictated a long letter to Gov. Burleigh asking him if he thought there was a prospect of our obtaining this property; and if so, if it could be used as an adjunct to our hospital, and utilized and be worth something to us. From that time until I received this telephone from Mr. Macomber here in Augusta I was constantly waiting and watching for this desired information, and it came. We came back here the first of the week, and on Monday or Tuesday we arranged to go over to the hospital. Dr. Sanborn was here, as were also the trustees and the committee, excepting our honorable friend from Portland who has been ill since our visit to Bangor. And we went over and went into one of those magnificent buildings, constructed of stone, the walls of which are three or four feet thick—solid as the Flock of Ages itself—ceilings complete, and everything all right, excepting a little leak or two over the corners—three stories high—the biggest building 120 feet long and 37 feet wide. Dr. Sanborn then and there told our committee that in a few months, by early fall, he said—We can put in steel beams here, renovate this and make room for 125 patients, and relieve this crowded condition at once.

What about the proposition at Bangor? Do they expect to relieve this overcrowded condition at Bangor at once? No; they don't expect it, and I will tell you why. Because they have not asked for any appropriation to compete it. And are they lax in asking for an appropriation? Do you know how much they have asked for? Do you know the number of resolves presented to this committee? Let me tell you; the resolves presented to this committee in all amount to \$452,278. Is that a matter of any importance to you, gentlemen? Is that a matter of importance to any taxpayer in the State of Maine? What are we here for? Why did our constituents send us here? Was it for business purposes, or was it for sectional purposes? I ask you in common sense is it right—is it just to tax the population the whole length of our State, the same as these delicate gentlemen would suggest—\$452,278?

Isn't that remarkable! It is to me. Now just a word about the buildings over the way. We went over there. There they are, 42 acres, beautifully adapted, sloping off towards the river. There is not a place the whole length of the Kennebec river

that I have ever seen which compares with it. A bank-wall the whole of the river front, which cost the government over \$40,000 to put in, thoroughly substantial; a wharf there which a vessel drawing 10 feet of water can come up to for coal or anything like that—but they don't require that; for the steam pipe of the Augusta Lumber Co. passes directly through and across this ground now, and the magnificent buildings up beyond are heated from that plant. And way down there by the river all that has got to be done is to tap that pipe, take your heat, warm your patients and care for them under those magnificent slate roofs that have stood there for more than half a century. There are 24 of those buildings—mind you that!—all fenced in there with a splendid iron fence eight feet high. The government dug down beneath the frost line and laid in its granite foundations, and set those posts eight feet high, and it cost the government \$100,000 to fence it.

Think you, gentlemen of the Senate, and Mr. President, that in that 704 patients contained within this hospital over here, when Dr. Sanborn has been quoted as saying that 20 per cent of them ought not to be there, but should be in the home for feeble-minded instead, that we cannot with a proper keeper let them roam up and down the banks and hillsides, and over the green acres under the shade of those trees, and be as comfortable and as well cared for as in the new wing at Bangor in two years and a half from this time? I think so.

Gentlemen, I think this is a business proposition. I look at it that way.

Now, gentlemen, here comes in the point in question; here is a point that will interest you. I am sure it will; it did me.

When we were at Bangor of course this overcrowded condition was continually being thrust upon us. I was looking as best I could—for my charity goes out in that direction, I assure you—to see where and how this might be obviated, and these people be relieved if it were so; and by some means, I don't know just how—but here is a paper that dropped into my hands there, and I have been laboring under a false impression received from that paper ever since. Let me tell you what it is. Mind you this paper is not signed. I am glad it is not. It goes on to recite how many patients there were in the hospital in Bangor November 30,

number in both hospitals 793. November 1901—193 patients. Augusta had 600. Total 30, 1902, 209 in Bangor, 631 in Augusta. In 1903, 216 in Bangor, 664 in Augusta; total 880. Number of patients in Bangor November 30, 1904—254; at Augusta the same date 704; total 958.

Number in hospitals in excess of normal capacity—170—I thought so—I thought so until the 8th day of March, when Dr. Sanborn told me right here in the presence of witnesses that are here today, that the actual condition was that they had just 80 in both hospitals. Then I stepped aside; I says is that so—is that the fact? I made a minute of it. Yesterday I asked him the question over again, and in the presence of witnesses he says 80. And I assume, Mr. President, that that is correct; and I ask you if there is a man in the State of Maine who is better qualified to judge of the capacity of both those hospitals than is Dr. Sanborn? I take it for granted that that is correct, and that 170 has been hung up before this committee from start to finish in order to bias their opinion, and draw them away from the real situation of the facts as they are today.

Gentlemen, I do not like this treatment. I do not think it is becoming in the trustees, and I want to say to you, Mr. President and gentlemen of this Senate, that this matter has not been represented by a majority of the trustees. A majority of the trustees have been conspicuous by their absence, but some have been here, and I regret very much that they should have assumed the position which they have, in order to carry this money to Bangor; and as has been said—that they may have it to spend over in Bangor.

Gentlemen, we want to spend this money where it can be made to bring these people to the most comfortable possible position for the least amount of money. That is what we want. That is what I want, and I trust that every senator who hears me wants precisely the same thing. Do you believe that there is a man here who wants to be warped from his honest convictions, or to have anything whispered in his ear by a party in interest? Why do we sit here and represent the people of our several constituencies? Were we sent here to be wavered in our ideas? Gentlemen, we were sent here by an honest and fair ballot—sent here to do for this State as we would do for ourselves

in a business transaction; and I assume that you will see my point, and if you do that you will vote with me on this measure, and that is that the minority report be substituted for the majority report.

And now, Mr. President, just a word more. Here are so many worthy institutions that have been coming here asking for aid, that I have felt badly because we could not reach out for them. I would to God we could reach out for all of them. We have turned down hospitals. We have turned down appropriations for the feeble-minded. We have said to the blind—and God bless that old man who wandered about here in this State House week after week, feeling his way along with a cane—we have said to him—Wait until our treasury shall enable us and we will reach out to you; but until then continue to grope your way up and down this earth in darkness, and feel your way along until we shall be able to reach out and take you by the hand, and educate you so that you shall be self-supporting.

Mr. GARDNER of Penobscot: Mr. President, I feel it my duty to say just a word. I shall attempt no technical discussion of the capacity of either hospital in this State, but I will briefly urge upon the senators here that this State has established and has for a hospital a building at Augusta and one at Bangor to convene the insane in this State, and I believe as the hospital at Bangor was chartered with the assumption that when the State was ready and willing, they would have their four wings, and the capacity to care for the number of patients originally provided for in the drafts of that hospital, and that when the demand came upon us we should complete the building to its full capacity. I understand now that this proposition to build one or two more wings, which was the original plan, for which the administration, the heating and all other parts of that hospital were built. This proposition to build that hospital as it was originally intended has been made by interested gentlemen of Maine, over this State, considering that the care of the insane was a State duty, and that location had nothing to do with it. We have had flung in our faces, ever since this State started to have a hospital at Bangor, near the central part of this State, to convene the insane in the eastern part

of the State, and for the great, growing part of our State—we have had it flung in our faces that this was a Penobscot, and a Bangor measure, and instead of asking what was for the best interests of the State, certain interests have seen fit to try to belittle the work, and to make it a local matter, so that the senators from the eastern part of the State who have been interested to build up something for the whole State, have been accused of making a local issue of it. I am heartily sick of the wail and howl which has gone up over this State on that ground. The minute anything comes up for the University of Maine, which is a State institution, or for the hospital at Bangor, the cry goes up that it is a local matter. It is time we should get above and beyond that. It is a fact that this State needs more room for the care of the insane. It is a business proposition to continue what we have begun; and add to the capacity of the hospital located in the central part of this State; or shall we change the entire proposition, and take some other building which happens to be abandoned by the United States government, because they have seen fit to give it to us. That building never can be made suitable and proper to answer the requirements of a modern hospital for the insane. It appeals to me as a business proposition that to take an old building, designed for one purpose, and try to rebuild it for something else—for a modern insane hospital—is absurd. They may be able to build the large building over so as to care for some classes of patients, but it will not more than relieve the demands that come upon this hospital at Augusta. I repeat it is time to get over this local issue; and as the hospital at Bangor is intended to properly care for the insane use it for that purpose. As another business proposition, I have been told that over at the insane hospital at Augusta that institution was practically self-supporting, so far as running expenses were concerned; and why? Because they can care for patients enough so that the division per capita will pay for the running expenses. The Bangor hospital was started on that plan; and I understand, and am informed that this hospital if finally built to its originally intended capacity the same condition would prevail

there; so it seems to me to be a business proposition that the hospital should be built large enough to care for our insane, and so that the building, and that part of the plant which was intended to have four wings finally shall do the business originally intended. I say it is a business proposition, and it is not a business proposition to change the plan which originally was started. I am almost ashamed that there has arisen so much local discussion and sectional feeling on this matter. The plain proposition is whether the State is willing to spend more money for the care of the insane. The Governor has urged upon us that we should reduce the State tax rate, and we have probably reduced the State tax rate 2-1-2 mills, and it does not look as if we were suffering for money for anything we ought to do to carry out the original intent of making the hospital at Bangor large enough to accommodate the people of that section of the State, so far as insane patients in that part of the State are concerned. This institution here is crowded enough now; and if you build two more wings at Bangor, the full capacity of this hospital will not be more than will be proper to take care of the probable increase of the insane in this State; and I want to urge upon the senators here to look at this thing fairly and honestly, and as we are able—and we know we are—to appropriate money, to vote to continue to build this building as it was intended originally to be built. Let us do it. It is time we did it. The insane patients in the State demand it. They have a modern, up-to-date hospital building, intended to be a hospital. Let us not switch off and fix up the Arsenal building here, and attempt to build it over into a modern hospital for the insane. It is not a business proposition. It may cost a little less, but you will not have what you want when you get it done. It is like remodelling an old barn into a modern residence. You might as well try to make a rock soup. An old story up my way is, that you can make a good soup of rock and water, if you will add vegetables enough. The arsenal was not built originally for a hospital. I trust the Senate will carry out what the State originally intended and give to the people of Eastern Maine an up-to-date hospital, with the capacity originally intended.

Mr. STAPLES of Knox: Mr. President, it is well known by this Senate that I have always been opposed to large appropriations. I never have favored any appropriation unless I believed it was absolutely necessary. I do not belong in Bangor, nor in Augusta. I do not believe in any sectional discussion. This is a matter that comes to us from every section of the State. It is not a matter of Bangor. It is not a matter of Augusta. It is a matter that appeals to every taxpayer from one end of the State to the other. If there is anything we should spend money for, it is for the suffering humanity of the State of Maine. I believe that the institution of the Eastern Maine Hospital at Bangor is a distinct institution, and should be regarded as a distinct institution from the one in Kennebec. They tell us the number of insane in this State is growing. I am inclined to think, from some legislation we have passed this winter that that may be true, but I know that the institution at Augusta is crowded. I do not know but what I would be willing to say that the gift from the United States government to the State of Maine is not such a glorious thing as the senator from Waldo would have us believe, because my experience, and I think it is the experience of everybody, is that when you undertake to remodel a building like this building over there, it never will be satisfactory to the people of the State. The Bangor institution was built in an up-to-date manner, and was designed for the people of Aroostook, Penobscot, Piscataquis and Washington counties. It is distinct from this one at Augusta. We have built it at an expense of \$400,000. It is well equipped, and the plant is capable of taking care of two hundred or three hundred more, and all they want is to add another wing there. I do not believe but what the Bangor hospital, if you give them 250 more patients would be self-sustaining. You may build your wing over to the hospital but the demands of Eastern Maine will be just as patent two years from now as they are today. It was intended, when that hospital was built that there should be another wing whenever the State felt able to do it. Are we going to say that the State of Maine is not able to build a wing at Bangor? Are we going to stand and tinker over a few dollars and cents when we have almost nine hundred



of these unfortunate people today in the State of Maine, and in Bangor they have to lodge them down in the basement on cots? Over here in this hospital where they say they have 700 today they have only accommodation for 500, and they tell us we do not need a wing at Bangor.

I am not in favor of such appropriations, but I never will stand here and say I will not vote for the unfortunate men and women of the State of Maine. The hospital at Bangor demands a new wing, and the taxpayers of the State of Maine will call us glorious if we give it to them. I have no doubt that for some purposes the biggest building on the Arsenal grounds might be utilized for a certain class of patients, but I do not believe that it will ever be satisfactory to the State of Maine. We have a plant at Bangor only capable of taking care of 200 patients—a plant sufficient to take care of twice that number; all they ask is a wing,—\$60,000 this year, and \$60,000 for the next, making \$120,000. You may have your hospital over here; I am one of those who believe that if today the insane were taken out of the jails and other institutions you may have your buildings over at the Arsenal, and build the wing at Bangor, and then you cannot more than comfortably take care of all the patients you have.

Are you going to say to the people of this state that we have built an institution up at Bangor costing \$450,000 that can only take care of 200 patients, when if we put on this wing there it will accommodate 150 more, and that that institution will be self-sustaining? Do we doubt that? I believe the trustees are telling me the facts as they exist. I believe Dr. Sanborn is honorable, and I deprecate the editorial in the Commercial, because no man has done more for the state of Maine than any man in the line of work he has adopted; and I do not like to see a man who has done that to endure him to our people treated like that.

Now in regard to this appropriation, I say if you build a wing that was the intention when the hospital was planned; they never intended when that building was in contemplation to accommodate only 200 patients, but it was intended as soon as the State was able to put another wing on there. Eastern Maine demands

it today—not the people of Bangor alone, but it voices the wants of the people of eastern Maine, who demand an institution that will be capable of taking care of the insane patients in that portion of our good old State. I do not believe that you and I will vote that if that man at the upper end of Aroostook is taken insane that he shall be toted over to Augusta, but shall be left at Bangor where his friends and relatives can see him and visit him.

Now \$120,000 will put a wing on at Bangor, and as I said I believe that should be a separate institution. Have that there—there are plenty to fill it. Have your institution here—I will not vote against it; but you have today all you can take care of in this section of the State if you have these Arsenal buildings put in shape. And I believe as I am standing here that it will take \$45,000, on the one hand, and \$120,000 on the other; and I venture to say that if you undertake to put these buildings in repair that it will cost you more than \$150,000 in any way you can mention. I tell you the people of the State will rise up and say you have done just right in voting for the appropriation at Bangor, to build the wing there. If you do not do it now the people will still demand it, and it will only be putting off the day of grace when it must be done.

Mr. MORSE. Mr. President, just a word that I would like to mention. Speaking of these surprises—they come on every hand; I have found them all through life. And no man is more surprised than I am when I hear the Senator from Knox talk on the other side of this question; for he assured me he was with me at the start; but you can see how he has turned, and from what he says I now infer that he is against me. Now I would like to ask the Senator if he has been over there to examine the building?

Mr. STAPLES: No, I have not—and I don't want to.

Mr. MORSE: What do you know about them?

Mr. STAPLES: I know from what you have told me—

Mr. MORSE: Go on and answer my question—

The PRESIDENT: Both the senators will be in order.

Mr. STAPLES: We will try—

The PRESIDENT: You can be if you try—everybody knows that.

Mr. MORSE: Now, Mr. President, some things I omitted. One thing is plain; of

course the Senator understands the difference between the majority and minority report so far as the expense is concerned. This resolve calls for \$120,000, which is extra—cleancut, and you and I know that is not the end of the completion of this wing, because it cost \$112,500 to construct the wing in 1900, and when we add to that 25 or 30 per cent. you will see it carries you way up, and \$175,000 is not exorbitant for this new wing; it cost \$165,000 to construct the other one, so you may judge from that.

I will read this statement of facts, and you will see how nicely it fits in to what you have heard all round. And speaking of influences,—have you seen any other influence here except from Bangor? Have you seen any lobbying over in Waldo, in the bushes where I came from? Mr. President and fellow Senators, I come here without any support, and if there is anyone to blame I take it myself, and I will take it all, if my judgment is at fault and I am wrong.

I want to read this statement of facts:

The absolute necessity of increasing the accommodations for the insane of the State is apparent. This statement is put in by the majority on the resolve. "The Maine Insane Hospital in July 1891 had 49 patients transferred from Augusta. The hospital at Augusta contains 100 patients in excess of its normal capacity, so that transfers to that institution are not deemed expedient."

Now let me comment a little on that. Dr. Sanborn told us that in a few months, by early fall, he could put 125 in there, and that it could be made fire-proof. There is no question about that,—by early fall he could relieve the situation there by 125.

The Committee went over to the Hospital, and there is a splendid wing all newly renovated ready for occupancy that will take care of 125 or 140 more, and they want \$46,000 to complete it, and in there are 125 or 120; so you will see that all those patients that go in to fill that wing have been somewhere cared for under the roof of that institution over there since a year ago last August. They have been housed and sheltered and cared for there every one of them—not comfortably perhaps—too closely together perhaps, which we all regret, but now there will go into that new wing 120, and 125 into the Arsenal building which will relieve the situation by 245,—not two years

from now, but in six months. Won't that relieve that crowded condition of 80 patients, think you? It seems to me it will.

The natural increase in the number of insane under treatment since the Maine Insane Hospital was opened has filled that hospital to its capacity, so that it is as overcrowded today as when it was opened. The building provided by this resolve cannot be made available for occupancy for more than two years. They admit that now. Long before the expiration of this period the hospital would be crowded to an extent hitherto unknown, if they are not obliged to refuse to receive further patients. The natural and usual increase in the number of insane under treatment in the next two years will be more than sufficient to supply the 200 patients necessary to fill the wing provided by this resolve to their utmost capacity as soon as they can be completed.

Now, mark you, Mr. President, the 200 patients will be ready to fill that wing which the resolve describes shall be after the same plans as those already built there; and while they only have 254 in the main building and two wings, this new wing of the same style of construction is going to accommodate 200.

Look at these matters; they are plain and open to you, and I do not believe that even the Senator from Knox will discover any hole there. If there is he may mention it.

I think I stated the difference that in my opinion would accrue,—it means \$120,000 today; and I understand from the clerk who is making up the assessment for taxes that it means a change in the rate from two and one-half mills to two and three-fourths, which our taxes have been assessed at last year, instead of that recommended by our honorable governor, which he hopes to reduce to two and one-half mills—I will not be certain, and I may not give it to you as it was given to me—but the Senator from Knox will undoubtedly tell you whether that is correct or not.

Mr. STAPLES: I have only a word to say Mr. President, in reply to the Senator's insinuations that somebody has been going wrong in this matter. There is no collar, and there never was, around my neck. I vote independently, according to

the dictates of my conscience. The only man who has importuned me and whom I have seen doing any lobbying is the Senator from Waldo himself, and it is not becoming in him to cast any reflections; and it is unkind to say such a thing. Men's minds change sometimes. The Senator from Waldo came to me in a sort of frenzied state, and possibly I said to him that perhaps I might, but I have told him repeatedly since that I never would. People change their minds sometimes, and a bad promise is better broken than kept. I have known the Senator from Waldo to turn around and vote against matters.

Now I have nothing further to say in regard to this question, but I believe the taxpayers today, and the interests of humanity, and that unfortunate class—saying nothing against this institution and what they propose to do here—that that wing at Bangor should be built, and that the people will come up her clamoring for it until you give it to them.

Mr. PLUMMER of Androscooggin: Mr. President, as a member of the Committee on Insane Hospitals I would like to say just a word. Mr. President and Gentlemen, I will say that the members of this Committee visited these hospitals, and inspected them thoroughly, the one at Bangor and the one across the river here at Augusta; also the Arsenal grounds after they had been given by the United States government; and we were of the opinion—that is, eight members of the ten—that it was good business judgment to invest this \$120,000 at Bangor; that it would be in the interests of humanity, and good judgment and in the interests of the people of the eastern part of the state. While this magnificent present here across the river may relieve the institution here at Augusta temporarily, as a matter of fact to reconstruct this building over here to adapt them for the insane would mean the investment of from \$200,000 to \$300,000. What would be the result? The result would be that you would have three insane hospitals for this State to provide for instead of two. Now the State wisely or unwisely started this at Bangor. It was built for the purpose of supplying eastern parts of the State. Now the Senator from Waldo tells about the great appropriations they ask for,—\$42,778. Now, gentlemen, what have

they done? They have cut this down to \$238,000. \$200,000 from the amount originally asked for. I say to you gentlemen, that is cut enough.

In regard to the capacity of these institutions I submit—and trust that these figures they have handed to the members of the committee are correct—it says the normal capacity of the Augusta hospital is 588, Bangor 200. Number in excess of normal capacity, 170. This was handed to us by the trustees, and I have no doubt the figures are correct. Increase in both hospitals 118, and I think where the senator got his figures for 80, the increase in Bangor, was if no transfers were made it would be 80. We have 170 already in cases of the normal capacity, and the increase for the past two years has been 118; and it may be the same—possibly more—for the next two years. That makes 288 in excess of the normal capacity. Suppose it does take \$120,000 to put in these other buildings, see where we are. Then we have over a hundred in excess of the normal capacity, and I say, gentlemen, I hope the members of this Senate will stand by the majority of this committee, 8 out of 10, to grant this appropriation for the Eastern Maine Hospital.

Mr. STETSON. Just one word, Mr. President, regarding the cost of this wing at Bangor. The evidence is that there was an appropriation of \$260,000 made for building that wing, and of that sum \$20,000 was spent for the enlargement of the heating and lighting departments. Therefore the cost of the wings was \$240,000, making the cost of one wing \$120,000, being the amount asked for in this appropriation for the building of this wing; and responsible contractors say today that they stand ready to enter into a contract for building that wing for the amount of the appropriation,—\$120,000.

And more than that,—I want you distinctly to understand that the New England states—Massachusetts has twelve hospitals scattered all over the state, so as to take care of patients all over the state. And I have been informed that the statement of the Senator from Waldo—the excess of 80—that Dr. Sanborn intended to convey to him that it was male patients, and did not include female pa-

tients. And I move that when the vote is taken it will be by yeas and nays.

The yeas and nays were then called for and ordered, and the vote being had resulted as follows: Those voting Yea were Messrs. Allen, Bailey, Bartlett, Brown, Clark, Curtis, Heselton, Mills, Morse, Philoon, Pike, Potter, Shaw, Simpson, Sturgis, Tartra, Tupper (17). Those voting Nay were Messrs. Ayer, Furbish, Gardner, Irving, Knowlton, Owen, Pierce, Plummer, Putnam, Shackford, Staples, Stetson. (12.)

So the motion prevailed, and the minority report was substituted for the majority report, the minority report being "ought not to pass."

On motion by Mr. Pierce of Aroostook, the following bill was taken from the table, and Senate amendment A to bill "An Act to prohibit the throwing of sawdust into Fish river down as far as the dam of the Fort Kent Lumber company, and also in the tributaries of said river," was adopted, and the bill as amended was passed to be engrossed.

On motion by Mr. Clark of Hancock, House document 562, being report of the Committee on Federal relations "ought to pass" on bill to provide for representation of the State of Maine at the Lewis and Clark and Jamestown expositions without a State appropriation was taken from the table. On motion by Mr. Philoon of Androscoggin, this bill took its second reading under suspension of the rules, and was passed to be engrossed.

On motion by Mr. Clark of Hancock, House document 332, bill "An Act authorizing a topographic survey of the State," was taken from the table, and on motion by the same Senator the bill was passed to be engrossed.

On motion by Mr. Stetson of Penobscot, House document 513 "An Act to amend paragraph 7 of section 4 of chapter 49 of the Revised Statutes of Maine," was taken from the table. On further motion by the same Senator the vote was reconsidered whereby the bill was passed to be engrossed. On further motion by the same Senator Senate amendment A was adopted, and the bill as amended was passed to be engrossed.

On motion by Mr. Pierce of Aroostook, the Senate adjourned to meet at 2.30 P. M., March 21, 1905.

#### Afternoon Session.

Tuesday, March 21, 1905.

The Senate called to order by the President.

Mr. STAPLES of Knox: I move to reconsider the vote on House bill 312 "An Act relating to trustee process," whereby we voted to insist, and had a committee on conference appointed.

The PRESIDENT: This bill was passed to be engrossed in the House, came to the Senate, and was indefinitely postponed; went back to the House, the House insisted upon their action, and appointed a committee of conference consisting of Messrs. Johnson, Reed and Higgins. Yesterday the bill came back to the Senate, and the Senate insisted upon its action, and appointed a committee consisting of Messrs. Staples, Gardner and Putnam. The Senator from Knox now moves to reconsider the vote whereby the Senate voted to insist, and to grant a committee of conference. The Chair would inquire of the Senator from Knox for what purpose does the Senator make the motion?

Mr. STAPLES: If the motion prevails I shall then move that the committee be discharged, and that the Senate adhere.

The PRESIDENT: A committee of conference having been appointed by the President, and sanctioned by the Senate, and sent to the House, and announced to the House, the matter is now in the hands of the conference committee. The Chair thinks it is proper, if the Senate sees fit to do it, to withdraw it from the conference committee even after the committee have been joined. The Chair thinks it would be within the power of the Senate to do so. Whether it would be the best parliamentary practice or not, the Chair ventures no opinion.

Mr. STAPLES: I make the motion for the purpose of expediting matters.

The PRESIDENT: I suppose the Senator means to convey the idea that there is no possibility of the conferees agreeing.

Mr. STAPLES: I have not any idea there will be.

The question being put, the Senate voted to reconsider the vote whereby it insisted upon its action yesterday.

Upon further motion by the same Senator the Senate voted to adhere, and that the committee of conference be discharged.

On motion by Mr. Potter of Cumberland House document 552, bill to amend Revised Statutes relating to automobiles, was taken from the table. The bill took its first reading, and on further motion by the same Senator took its second reading and was passed to be engrossed.

On motion by Mr. Sturgis of Cumberland the motion to reconsider the indefinite postponement of bill to provide for appointment of Commissioner of Highways, was taken from the table.

The pending question was upon the indefinite postponement of the bill.

Mr. STURGIS of Standish: Mr. President, I was somewhat surprised at the action of the Senate, yesterday, because I was so thoroughly convinced myself that the bill ought to pass, that I did not interview the Senators very much, and did not place myself in a position where I was able to say much on the merits of the bill. Up to yesterday I had supposed that when the Senator from Knox had finished his inspection of the same that he was to let it go through. In fact, he offered, or set out to do so, and then, yesterday informed me that he was going to fight it. I told him, jokingly, that he might, but that it would go through, just the same; but it seems that his eloquence was too much for my arguments and consequently he secured a vote to have it indefinitely postponed. This is a matter of considerable consequence to this State, and in my opinion, as I said yesterday, is a step in the right direction. It was said here, yesterday, by the Senator from Knox, and also by the Senator from Penobscot that the people already knew enough about road-building. That is not true in any sense. They know but very little about road building. Road commissioners are elected in various towns of the State, and the selectmen themselves act or appoint agents throughout the town who have the care of the roads. Outside of schools,

as I said, it is the largest single expenditure for any town, and there is a large proportion of the money wasted.

The roads are not built in a workmanlike manner. The people who build them, while they may have the interests of the town at heart do not understand the matter of road building. This bill will provide that they may, whenever they see fit, receive instructions from a man who knows something about road building. It was argued, yesterday that the bill did not go far enough. I do not see how it could have gone farther, or have stood more likelihood of going through than at the present time. It was argued that he ought to have control of the State's appropriation for good roads. I believe, myself, he ought, and eventually he will; but at this time it would be necessary to change the law in regard to the duties of the county commissioner, and the committee decided that, at this late date, it would not be wise to do it; and therefore, it was not placed entirely in his hands; but the county commissioners may have the benefit of his judgment without any cost to the town or county, and nobody but the State—to be paid out of this appropriation. They will then be able to decide, with his assistance whether the roads built comply with the requirements of law. The county commissioners of a county are not elected because they are good road builders. They are elected to take care of the financial interests of the county; and I submit that most of them know very little about road building. They consist of farmers, store-keepers and perhaps lawyers, but as far as road building is concerned, they know nothing about it, except when they drive over a good road they know it is good, and when they drive over a bad road, they know it is bad. They do not know how wide it should be built, or what sort of a trench it should have, etc. I think there are twenty-four states in the Union that have some system of highway commission. The State of Maine will undoubtedly within a short time appropriate more money than it does at present for aid in building permanent roads. When it does it will

be well to have a man at the head to understand how the money can be expended to the best advantage. The two years in which he will not have full control is none too long a time for him to become acquainted with the needs of the State and the different sections, and to consult with the people of the different sections that he may be prepared two years from now to submit to the Legislature a report of what the State could do and should do in the way of making better roads. Everybody knows that the interests of any section that has anything to sell depends upon its means of transportation, and that the farmer in many parts of the State is hampered in getting his product to market because the roads are so poor that the cost of transportation eats up the profits of the business. If a railroad comes in, they get cheap transportation, and the section is benefitted so that they get their products to market at a profit. Good roads are an advantage to transportation. There are other things to be considered. The electric railroads are going through this country, and they come into certain sections in the street—they are business men, and know about the location of roads—they have located them in other places, and they come in and get control to a certain extent, and by their knowledge of affairs dominate the road commissioner. As I said in regard to the bridges of this State, this highway commissioner would save the State in one year more than the cost of the office, in the building of bridges, in my opinion, because that is something that the people pay whatever is asked by the bridge company—they know nothing as to what the bridge should cost, and they pay the schedule price whatever it is. I hope the motion to reconsider will prevail, and that afterwards the bill may go through.

Mr. STAPLES of Knox: Mr. President, I said about all I desire to say yesterday, upon this bill. I yield to no man in this body in favor of good roads. I believe that a time is coming when the State will have a larger command over highways of the State than it does at the present time, but I cannot conceive what good is to be de-

rived from this bill. I do not believe in commissions. If we keep on creating commissions we shall change the fundamental law of our land, and have a State by commission instead of a State by the people. The minute you pass this bill, you take out of the hands of the county commissioners and from the towns certain rights that they now have. They are to be domineered over, and you will find friction at once. In the first place I find fault with the bill. We have heard a great deal said in the last 24 hours about economy. If anyone thinks an appropriation of \$5000 which that bill calls for is to be compensated by any good by a commissioner who sits here in his office in Augusta and makes out charts and maps, etc., and who may be consulted by municipal officers of the towns, I cannot agree with him, because I can see no good to result from it. I believe we have just as good men as county commissioners as you can appoint, whoever should be appointed as commissioner of highways in this State. I do not believe in the idea of this man going through this State instructing the county commissioners as to good roads. In my town we have built as good roads under the State law as there are to be found in the State, and as good as could be made by any commissioner who could be appointed. I believe the county commissioners of the different counties have informed themselves so that they are better prepared today than they were two years ago to make roads. They have given it some study. I do not know of anybody in the State of Maine that is better qualified to be appointed commissioner of highways than some of our county commissioners. You will see what his duties are by reading section 1, line seven. It is a fact that the selectmen of towns and county commissioners are receiving from the heads of departments at Washington literature upon this matter, all the time, and I believe they have as good knowledge in this matter as anyone, and a great many of our road commissioners are experts in this matter.

I think, if you go through the State today, you will find the \$40,000 ap-

propriated for two or three years has been so expended as to give us grand good roads in the State of Maine. Do not take it out of the hands of the people and put it in the hands of a commissioner. Let them try it for two years longer, and then I would not object if anyone would show me that there is going to be better results to the State.

Mr. STETSON of Penobscot: Mr. President, I will not take but just a moment. I want to say that I am in favor of the bill, and for the reason that I believe the roads in the State should have some sort of uniformity. The State of Maine is appropriating an increasing amount of money every year towards bettering the condition of our roads, and is doing a grand good work for the agricultural interests of our State. Now, if we can have a commissioner—I do not believe the bill goes far enough—but I do believe it is a step in the right direction, and will give the county commissioners, under the advice of such a commissioner a practical and intelligent idea of how a modern road should be constructed, and we will have this large amount of money now being expended by the State, spent in a uniform system in the different counties, so that when the State, does as I believe it will before many years, appropriate large sums of money for the betterment of our roads, we can have a uniform system of roads, and not one thing in one county, and another in another; and when the State Board of Trade—practical business men of our State, is urging it for the best interests of the State and to better the interests of the people, I do not think we should oppose this bill. I surely am in favor of it, and I hope the Senators present will vote in favor of it.

Mr. PHILOON of Androscoggin: Mr. President, I have but a word, and that is that in the past few days I have received a communication from the State Board of Trade, and I wish to quote from that letter. The president of that board says: "When we get good roads in the State it certainly will be of great benefit to the department, in the transaction of State busi-

ness. The commission have done very effectual work, and I am sure it would be a great loss to our State if they were unable to continue the work. I trust the appropriation asked for will be made." E. M. Blanding, secretary of the State Board of Trade is also deeply interested in this bill providing for a State highway commissioner, which bill has been unanimously reported "ought to pass" by the committee on ways and bridges. "This measure means much for the benefit of the State, and any assistance you can render by furthering the passage of the bill will be appreciated."

These letters commend themselves to my judgment, after deliberating carefully for the last 24 hours, and I find it my duty to indorse this measure, and shall gladly vote that the measure have a passage.

The yeas and nays were ordered, and the vote being had resulted as follows: Those voting Yea were Messrs. Bartlett, Pike, Staples (3). Those voting Nay were Messrs. Allen, Aver, Bailey, Brown, Clark, Curtis, Furbish, Heselton, Irving, Knowlton, Mills, Morse, Owen, Philoon, Pierce, Plummer, Potter, Shackford, Shaw, Simpson, Stetson, Sturgis, Tartre, Tupper (24).

So the motion to indefinitely postpone was lost. The bill thereupon took its second reading, and was passed to be engrossed.

On motion by Mr. Morse of Waldo House document 561, report of the committee on taxation "ought to pass" on bill to exempt soldiers and sailors of the Civil War from the payment of a poll tax, was taken from the table, and the report of the committee was accepted in concurrence. On further motion by the same senator Senate amendment A was adopted, and on his further motion the rules were suspended, and the bill took its second reading and was passed to be engrossed.

On motion by Mr. Heselton of Kennebec bill in relation to sentences in municipal and police courts was taken from the table.

Mr. HESELTON of Kennebec: Mr. President, I offer the foregoing amendment. In reference to that amendment, I was in hopes that the Senator from Aroostook, who is Chairman of the Committee on Legal Affairs would ex-

plain the purport of the original bill. As I understood it, the original bill was to take care of a class of people who are convicted in the municipal court and were sentenced to a fine and were unable to pay that fine. And, after they were committed for non-payment of fine some relative or they themselves, personally, secured the money. In this way, under the present existing statute, they were unable to get out of jail, and this original bill was offered to take care of that class of people. In order to make it more certain, and not to interfere with other statutory law, I offer this amendment which is in harmony with the views of the senator from Aroostook, and I hope it will be adopted. (Amendment read by the President.)

On further motion by the same Senator Senate amendment A was adopted, and the bill as amended was passed to be engrossed.

On motion by Mr. Gardner of Penobscot, bill, "A general Act relating to negotiable instruments" was taken from the table, the same being specially assigned for today.

Mr. GARDINER of Penobscot: Mr. President, I am frank to admit this is something I know nothing about, and I have been unable to get any information concise and definite in regard to it. This is a bill relative to commercial and negotiable instruments, covering a vast number of pages, and being a report of our Commission for Uniformity of Legislation. I have consulted with some members of that Commission, and they say, in their opinion the bill is all right. I have had many eminent lawyers tell me they were unable to fathom the depth and reach of this; and they cannot give me, a layman, a precise digest of what this law will or will not do. For that reason I am in the dark. I do not want to be a party to the passage of a bill we cannot digest, and from which we do not know what will occur. I am going to leave the lawyers to debate this. It is something I know nothing about. I want to suggest to the members of the Senate that in view of the length and scope of this bill, that this matter be referred to the following legislature, and let the press and lawyers of the State consider this matter that we may have some light on it before it is passed to be enacted.

Mr. STAPLES of Knox: Mr. President, I am in a good deal the position of the Senator from Penobscot. I do not know anything about this bill excepting casually. I find there are 198 sections, and it occurred to me that there was one serious objection, which was enough to authorize me to make the motion which I shall. Of the 198 sections of this bill, one hundred at least have been decided, and opinions given upon them by the Supreme Court of this State—a long line of decisions covering almost every section that is in this bill today. I know what the decisions of the Courts are upon all these questions. If this bill should become a law, it would disarrange it and we should have to have new decisions upon

most of these questions and it would create with the lawyers of this State and with the Court much disarrangement of practice and decisions; and I am going to move that the bill be indefinitely postponed.

Mr. HESELTON of Kennebec: Mr. President, I would like to inquire if the motion to indefinitely postpone would take precedence to a motion to refer to the next legislature.

The PRESIDENT: The motion to refer it to the next legislature would take precedence.

Mr. Heselton of Kennebec moved that the bill be referred to the next Legislature.

Mr. HESELTON of Kennebec: Mr. President, on the general subject of this bill I wish to make a very few remarks. This bill in my opinion is the most important measure that has come before the Legislature. For this reason, in one fell swoop, it attempts to overturn the well settled opinions of the judiciary in this State of the commercial law relating to negotiable instruments. I would like to ask the Senator from Cumberland, and I think I asked him yesterday, whether there is a schedule attached to this bill which is called for in section 197?

Mr. POTTER: There is no schedule attached. It was omitted by inadvertence. There should be such a schedule, stating what statutes are repealed by this statute that may be added.

Mr. HESELTON: I hesitate, Mr. Chairman, to present my opinions upon a legal question like this that has received the endorsement of the united committee of judiciary. But I feel that I am justified in so doing when I consider the history of this measure. For four sessions, I think, since 1896 this measure has been before the Legislature, and has been considered by the different judiciary committees, and up to the present time has been successively turned down. There never was even a minority report which came before any Legislature up to the present time. It has no support, and has received no support, excepting, as I understand it, from the committee on uniformity of legislation. It has received no support from the commercial interests of the State. It has received no support from the bar of the State. It has been opposed in successive



Legislatures by the members of the bar, and it has received the endorsement of only the committee on uniformity of legislation.

Now, as I have said, this radically, in the first instance, changes the commercial law of the State. In order that some features which I have discovered in the little time which I have had to devote to this matter, that are different from the well settled law of this State, may be presented, I wish to call the attention of the Senators to a few sections of this bill.

There is one feature of the bill which every business man will readily see how it alters the business principles of the State. Today if you present a paper to the bank, and it is endorsed in blank, upon that paper the party who endorses that paper upon the back is held as a joint promiser. Under the bill as it is presented here, in section 64, that is entirely changed, and the man who endorses that paper upon the back is an endorser entitled to notice.

Section 49 of this bill reads as follows: "Where the holder of an instrument payable to his order transfers it for value, without endorsing it, the transfer vests in the transferee, such title as the transferer had therein, and the transferee acquired in addition the right to have the endorsement of the transferer."

Now according to the settled law of this State in the 87 Maine our court held exactly opposite to the proposed change incorporated in that section and this has been the well settled law on that subject since that time. This bill reverses that rule of law.

Section 137 of the bill repeals a part of the Revised Statutes, chapter 34, section 13, which in part is "No person shall be charged with a bill of exchange, draft, or written order, unless his acceptance is in writing, signed by him or his lawful agent, and no waiver of demand or of notice by the endorser of a promissory note or bill of exchange is valid unless it is in writing, and signed in like manner."

Section 137 says this,—“Where a drawee to whom a bill is delivered for acceptance destroys the same, or refuses within twenty-four hours after such delivery, or within such other period as the holder may allow, to re-

turn the bill accepted or non-accepted to the holder, he will be deemed to have accepted the same.” If a man loses a draft, or refuses to return it in twenty-four hours, he will be deemed to have accepted the same, directly in contravention to the statute which I have read.

Now these are only three points which I can call your attention to in this bill, which in 36 pages attempts to codify the laws of the State of Maine in regard to negotiable instruments. I have not had the time to form any opinion of what other changes are embodied in this bill—it would take any lawyer three months to examine into the bill, and state his opinion of all of the changes it makes in the law, and the business laws of the State of Maine, and then it would be only the opinion of the lawyer the real difference could only be settled and determined by a judicial opinion of the bench of this State.

Another objection, however, to this act is that it is incomplete. I might suggest to you that on page 44 of the index of our Revised Statutes relating to bills cover two pages and a half of indexed matter relating to negotiable instruments. Now under the lax manner in which this bill has been presented to this Legislature, it says under section 197,—“Of the laws enumerated in the schedule hereto annexed that portion specified in the last column is repealed.” We have not that schedule. We have not any knowledge of what that schedule refers to, or of how many of the matters referred to by the index of this statute are repealed.

My objection to the bill is fundamental—not merely to the specific sections which I have pointed out, but to the whole code, root and branch. It has been for about ten years the pet scheme of some men, for the purpose of uniformity of legislation they say, to present this self-same measure to the different states in this Union, and attempt to secure the adoption of a similar statute. It is nowhere discussed except in a pamphlet of this form, where Judge Brewster, the father of the measure, and James P. Ames, the professor of negotiable instruments of Harvard College, take issue with each other in relation to the matter,

It is stated that Professor Ames is academic—that he is merely a professor, and not a practicing lawyer, and does not understand the different features of the bill as a practicing lawyer should; but his criticisms of this bill are unanswered and unanswerable in many ways. The reason of my objection, as I said, to this measure is not that Prof. Ames takes one side and Judge Brewster takes the other, but because it commences the codification of the laws of the State of Maine; it commits us to the principle of codification.

1. No man and no body of men can in one year, or ten years draft a perfect code. Our common law has developed by successive stages for hundreds of years.

Judge Brewster's English friend, Mr. Arthur Cohen, writes him concerning this particular code: "I have no doubt it is not perfect. What code is perfect?"

The common law has developed its principles slowly, wisely, thoroughly, through successive generations of judicial decisions. Those principles are ordinarily sufficiently broad and comprehensive and elastic to keep pace with changing conditions and the march of events as no written code in set language could possibly do. Each judicial decision that enters into this united fabric of the common law represents a litigated case where all pertinent suggestions and legal principles have been presented to the court by counsel zealous to protect their client's rights, and where the trained jurists who compose the court have added to the efforts of counsel their own patient investigation and deliberation. In each case there is involved the personal or property rights of individuals, the reputation and sense of professional duty of counsel, and the solemn investigation of judges learned in the law.

It is in this way that there has grown up in this State that extensive body of the law known as the law merchant, which we are now asked to exchange for a code of 39 pages not designed with special reference to our own State, our own judicial decisions and our own business customs, but

based upon the wholly impracticable ideal of uniformity between states—a perfect myth, as I shall attempt later on to demonstrate.

2. Our law now settled, but many judicial interpretations of code necessary to settle its construction.

When we have adopted this code, what then? Thousands of cases are to arise under it, each presenting its own particular facts. Your interpretation of the statute as applied to the facts of a particular case may differ from mine. In that case, the court must decide it. Does it fall within the statute, or is it beyond its scope? Does it create an exception to it, or is it qualified by the application of some other statute which must be construed together with it? Can any lawyer foretell with certainty what the court's decision will be?

A legislature rarely gives birth to a statute without becoming the grandparent of judicial decisions. Take the original English statute of frauds, which provided that certain contracts were not admissible in evidence unless in writing—a statute of not over a dozen lines, if I recollect correctly. That statute, with slight changes, has been re-enacted in all the states of this country. There have been literally thousands of decisions both English and American upon it—construing it, limiting or extending its application, and in some instances creating judicial exceptions to it. Text writers have devoted whole volumes to the subject. Take this one clause in it: "To charge any person upon any special promise to answer for the debt, default or misdoings of another." In Savage's Digest of the Maine reports you will find that our Maine Supreme Court alone, in 88 only of the 98 volumes of decisions have made some 35 decisions upon those few words.

3. The objections to the bill are fundamental—not merely to specific sections, but to the whole code, root and branch:

Aside from other objections, is this code intrinsically perfect, and beyond the necessity of any amendment before it is passed? Aside from what I have already indicated in that respect, I

confess frankly that I cannot answer that question, and I believe that no lawyer will claim that he can, without devoting to this code months of the most profound study.

That its framers were able men, and labored assiduously in its preparation, will not probably be denied.

How many adverse criticisms have been leveled against this code, I am not aware. In the brief time I have had to give to the matter, I have seen no articles upon the subject except those collected and published in a pamphlet containing the text of the code, which I have before me. In this pamphlet are two articles by Professor Ames of the Harvard Law School, criticising the code, two articles by Judge Brewster, ex-president of the commission who drafted it, defending it, two supplementary notes, one by each of the writers, and a letter from Mr. Arthur Cohen, Q. C., who was one of the committee who framed the English act.

The criticisms of Professor Ames, Dean of the Harvard Law school, are not to the code as a whole, but to some twenty odd specific sections of it. Judge Brewster concedes that Professor Ames is "not merely an expert, but an authority on this subject." He intimates, however, that the criticisms of the Dean are mainly academic, and descends a little, it seems to me, from the high plane of his discussion to this very common form of ARGUMENTUM AD HOMINEM as applied to men who teach law and do not practice it. It seems to me that the suggestions of any critic of the code must stand or fall upon their own intrinsic merits. From the casual examination I have been able to give these articles, it seems to me that many of Professor Ames' criticisms are eminently practical, and he is apparently supported in his positions by a respectable array of decided cases.

So far as the ARGUMENTUM AD HOMINEM is concerned, I believe that Mr. Bishop, the greatest authority on criminal law on this continent, was never an active practitioner. Professor Greenleaf, whose work on Evidence is the Bible on that subject in the Maine Courts, and Professor Parsons, whose

great work on contracts is known throughout the English speaking world, were both professors at the Harvard Law school. I understand that Professor Ames is known both in this country and in England, as one of the ablest writers and teachers on the common law. Tiffany on bills and notes, to which Judge Brewster refers as containing one of the "ablest and most interesting discussions" on a given point, refers to the index and summary at the end of Professor Ames "Leading Cases on Bills and Notes" as "unquestionably the most important contribution to the subject that has been made in America." It would seem, therefore, that Professor Ames' criticisms are entitled to some weight.

Professor Ames reaches the conclusion that if his criticisms are well founded, "the errors and imperfections in the negotiable instruments law are so numerous and so serious that notwithstanding its many merits, its adoption by fifteen states must be regarded as a misfortune." Judge Brewster, on the other hand, regards its speedy adoption by all of the states as "a boon to the commercial communities of both nations." Mr. Arthur Cohen, while in general commending the American draft, and disagreeing with Professor Ames in many of his criticisms, states that section 137 of the code does not, in his opinion state the law, and ought not to be the law, agreeing with the criticism of Professor Ames to this extent.

I say so much merely in passing, because I wish to state distinctly and emphatically that for the purposes of my argument it is immaterial whether Professor Ames or Judge Brewster is right with reference to the specific sections of the code discussed by them, and I do not undertake for a moment to say which is right; nor could I determine that question to my own satisfaction without a much closer study of the subject than I have been able to give it thus far.

My objections to this code are fundamental. Were it the most perfect code ever devised by human brain, that would not in the least disturb my profound conviction that it is the most absolutely ill-advised, inexpedient, and

mischievous piece of legislation that has been presented for our consideration during the entire session.

The argument that it has been adopted by fifteen states does not impress me. I believe that there are more than that number of states which have abandoned the common law to run after new gods in the shape of codes, and the inevitable results of codification are to my mind a sufficient reason for resisting to the utmost this attempt, four times rejected, at codification in the State of Maine.

4. It commits us to the principle of codification:

a. It is a code, though its supporters, realizing that that is a word of evil portent with the legal profession in Maine, are claiming otherwise.

1. If a bill of 39 pages, covering the whole vast field of negotiable instruments is not a code, how define code?
2. Professor Ames and Mr. Cohen, the English commissioner, constantly refer to it as a code.
3. Judge Brewster, President of the commissioners who drafted it, calls it a code (directly and by quotation from others) no less than 16 times in three articles he has written concerning it.

b. Objections to a code:

The idea of a code is sometimes attractive to the uneducated layman who does not understand the practical workings of statutes, or the relative functions of courts and legislatures. He fondly imagines that with this 39 page act he has "got it all," knows it all, and can "read it as he runs." Numerous cases where the words have been construed by our inferior courts in cases which have not been carried to the Supreme court for decision.

Take the Maine statutes relating to the one subject of intoxicating liquors. You will find eleven of the large pages of *Savages's Digest* filled with the decisions of the Maine court, and that

only up to the 88th volume of the Maine reports.

Now if all this is true with reference to particular and necessary statutes, how is it when you undertake to codify a whole vast branch of the law like that of negotiable instruments?

Take for illustration the experience of New York the great code state. Instead of establishing certainty it has introduced the utmost confusion. The common law was well settled by decisions of generations of judges and when the code was introduced, a perfect host of decisions were required to interpret it. Inferior courts would give one construction which the next higher court would reverse and this in turn would be reversed by the appellate courts. Then when the decisions proved unsatisfactory, developed faults of the code, amendments by the legislature were introduced, which had to be construed in like manner. This resulted in a perfect wilderness of code decisions, so that now on almost any point raised you can be delayed there on mere technicalities of what the law means and can cite decisions of inferior courts to sustain almost any position. What is a fact in this State is true of any code state.

Is it any wonder that Maine has always preferred to remain a common law State? Is it any wonder that her substantive law is infinitely better settled, and her practise infinitely simpler than that of the Code states? And yet the whole theory on which these codes were originally adopted was the notion that the whole body of the law could be simplified by reducing it to a written code. That was the theory, but it proved a dismal failure in practise, and the very reverse has proved to be the truth.

The adoption of a code does not abolish the common law. Result—increase in the total body of law, and increased confusion and uncertainty.

It may seem to the superficial thinker that when you reduce the principles of the common law to a written code, you start with a clean slate, and that thenceforth your starting point in any case is the language of the code itself. Every lawyer knows better. It is not thus that you can get rid of the great principles

of the common law, which are so deeply rooted in our whole system of jurisprudence.

We all know that in construing a statute the court will not and ought not to close its eyes to the previous history of the common law upon the subject. One of the first questions the court will ask will be: Is this statute merely a declaration of the pre-existing common law? If so, all the principles and corollaries and qualifications and exceptions of the common law upon that subject remain intact. They supplement the code, and must be read into and with it. Or, is this statute intended to change the common law, and if so, to what extent? And you all know that the principles of interpretation on which the courts proceed frequently vary according as the statute to be construed is declaratory or in derogation of the common law, remedial or involving a forfeiture, and so on.

If a client should come to our office today with any question relating to the law of negotiable instruments we are able to advise him with confidence what the law is. But enact this great branch of the common law into a code, and we can only guess as to the court's probable interpretation of it. I have already shown you that the greatest experts in this country already differ as to the proper interpretation of some twenty odd sections of this code.

I have said that the law of negotiable instruments is a vast branch of the common law.

I examined the Savage Digest the other evening relating to this particular subject of negotiable instruments and I counted 250 opinions of our court.

Let anyone who doubts the extensiveness of the law merchant read Judge Brewster's defense of this code in the Yale Law Journal for 1901. Let him note his constant reference to great text books like Daniel on Negotiable Instruments, which comprises, in two volumes, 1500 pages on the subject. To justify the code's definition of an accommodation party in Section 29, the judge cites six text books, three dictionaries, and the second edition of the American and English Encyclopaedia of Law, and says of the latter: "This article is a very full and complete discussion of the subject,

containing 58 pages on accommodation parties alone."

And incidentally, in this very article, you will note all the way through the constant application by Judge Brewster of the very principles of interpretation of the code which I have just now said that the court will and must employ, namely, the interpretation in the light of the prior judicial decisions on the subject.

To sum up this branch of the argument, therefore, I submit that by the adoption of this code you will not only not abridge the existing body of law, but will actually and very materially add to it, and largely destroy its present certainty, for your law will then be made up as follows:

1. The pre-existing body of judicial decisions.
2. The code.
3. The decisions interpreting the code.
4. The amendments which will inevitably be made in the code from time to time.
5. The judicial interpretation of those amendments.
6. The notion that actual uniformity will result from the adoption of this code is a myth.

This code is admittedly imperfect. Professor Ames clearly points it out, Mr. Cohen asserts it, and even Judge Brewster admits that as to some of the "technical" and "academic criticisms," as he is pleased to term them, "the weight of authority or the true theory of the law merchant may be on the side of the critic."

And yet, imperfect though it may be, any suggestion of amendment is greeted by the supporters of this measure with a storm of opposition. Why is it that this bill, unlike any other act that was ever introduced into a Maine Legislature, is not and cannot be the subject of legitimate amendment? Simply because you would destroy at the outset this fond dream of uniformity. Judge Brewster says:

"But wherever passed, it should be passed without any alteration whatever, exactly like the original code recommended by the commissioners, word for word. Otherwise, the discrepancies of supposed uniformity would be almost as bad as the present diversity. Once

passed, it should not be changed until some court of authority has indicated the desirability of a change, or some convention of bankers or merchants has indicated where the demands of modern business require a change."

Admitting for the sake of argument, but contrary to my belief, that uniformity is so very desirable, how much is there in this claim that the adoption of this code will insure it?

First of all, turn to Section 196 of the code: "In any case not provided for in this act, the rules of the law merchant shall govern."

What does that mean? The rules of the law merchant of Massachusetts, or New York, or California? No, the rules of the law merchant of the State of Maine, embodied in the mercantile customs of our own people and the decisions of our own supreme court, or in other words, the common law of negotiable instruments in this State, which is, or may be different from that of other states. So that at the very outset you start with the admission in the act itself that you can at most secure only partial uniformity.

But what as to the rest of the act? Are its provisions to be construed by the courts of Massachusetts or New York or California? No—by the Maine supreme court. Is the court of any one of these fifteen states bound to follow the interpretation given the act by the court of any other state? No. Each judicial tribunal is absolutely independent of all the others. It will follow the decisions of another jurisdiction only when it believes them to be right, and founded on correct legal principles. Each court will apply to the interpretation of the code the principles of its own separate, settled system of jurisprudence. It will extend to the code its own particular judge-made limitations, qualifications and exceptions.

Does any senator here believe that the courts of fifteen jurisdictions, much less the courts in all the states, will reach precisely the same results? Do you believe that watch can be now and forever kept on fifteen legislatures, so that no amendment shall ever be introduced by one without immediate acquiescence and adoption by all the others?

Even if you give your commissioners

on uniformity of legislation a life tenure, do you agree to surrender to them the legislative power of this State, and agree in advance to accept any changes they may recommend? You have turned them down four times already on the main proposition. How will it be on subsidiary propositions which they might recommend in years to come?

Will you surrender for all time your right to your own convictions as to what is just and wholesome mercantile legislation for the State of Maine to a body of commissioners most of whom live in other states?

If you answer all these questions in the affirmative, there yet remains another: Your fifteen legislatures meet at different times of the year. The sessions of some are annual, of others biennial. Even though all agreed to the adoption in the same language of every change suggested, yet they could not adopt it at the same time. What, then, becomes of your uniformity, with an amendment adopted in one or two states, and the other states necessarily retaining the old body of legislation for a year or longer, or straggling into the adoption of the amendment at irregular intervals?

Who could tell what the law was, at any given time, without keeping in touch not only with the legislative action, but also the judicial decisions of fifteen different states? Instead of this boasted uniformity would you not rather have a snare and trap for the unwary who trusted in such a myth?

But fortunately we are not left to mere speculation on this subject. Section 49 of this code provides that "Where the holder of an instrument payable to his order transfers it for value without indorsing it, the transfer vests in the transferee such title as the transferer had therein, and the transferee acquires, in addition, the right to have the indorsement of the transferer.

Professor Ames contended that to compel the transferer to indorse the instrument and thus assume the liabilities of an indorser when he may never have intended so to do, was obviously unjust. The Colorado Legislature took the same view, and before passing the act they added to the sentence requiring an indorsement the words "if omitted by accident or mistake." Judge Brewster thinks

the addition of those words unnecessary, and thinks the same result might be reached in a court of equity. The Colorado Legislature thought otherwise. If the Colorado Legislature was right, the law of fourteen states already differs from hers in a most material matter.

But this is not all. A couple of cases recently decided in states which have adopted the code give point to my argument.

The first is the Rhode Island case of Tolman vs. American Bank (48 Atl. Rep. 480), and involved an interpretation of Section 23 of this code. The case had reference to the fraudulent impersonation of the payee of a check by another party, and Judge Stiness, one of the framers of the code, based his decision not only on the section in question, but also on principles of common law entirely independent of the code, citing several common law decisions in his opinion.

The other case was a Massachusetts case involving the question of the material alteration of a note. The Massachusetts court found it possible to decide the case on common law principles without construing Section 124 of the code but remarked in their opinion that the question of its interpretation was one that drew serious consideration. Judge Brewster says of the Massachusetts case: "This appears to be the first case so far in which any judge has suggested any ambiguity in the code and this is an obiter dictum."

These two cases clearly demonstrate that you do not get rid of the common law by adopting this code, and that it is vastly improbable that all courts will agree either upon the interpretation of the code, or on the principles of common law which should regulate its construction.

Uniformity can be obtained only by the passage of a Federal law, construed by Federal courts.

Uniformity of law can only be obtained or procured through Federal legislation—through federal government—through congressional action, and then it can be maintained so only through the decisions by the United States supreme court or the federal courts of the United States. That is the only possible way that any man can see uniformity of law under this code. The sub-note on page 39, of

this bill says: Memo. "The statute has been adopted by fifteen states, and by Congress for the District of Columbia." I understand it has been adopted by twenty odd states. Is not that correct, Senator Potter?

Mr. POTTER: I think it has.

Mr. HESELTON: This bill has evidently remained in the hands of our committee on judiciary, and been revamped from the old bill that has been turned down so repeatedly by the previous judiciary committees of the different legislatures that have received it. It was introduced into this legislature as I am informed and a hearing given—notice was given and hearing was deferred for the purpose of having the people who were opposed to the measure come before the Committee and give their reasons. But the bill itself did not get into this legislature until March 2d, when it was re-reported to the House. No member of this Senate, I do not care who the lawyer is, has had sufficient opportunity to examine into the details or full import of this bill, and if they had had a long time for its examination I will venture this assertion not even the Senator from Cumberland, and I have great respect for the legal learning of my friend the Senator from Cumberland, could state to this Senate how far the bill alters or changes the well defined decisions of the state of Maine relating to negotiable instruments.

Now on this point I want to say that my ignorance in regard to the full import of this bill prompted me when the judiciary committee reported this measure to make inquiries from other lawyers in this State; and I will say this, that outside of the committee of judiciary I have not found a single man who was a member of the bar who said he either understood this measure or, if he had seen the bill, did not regard it as dangerous legislation—dangerous to the mercantile interests of the State of Maine. Dangerous why? Because they attempt to codify in 39 pages laws and decisions that fill a book larger than this volume which is the 87th Maine. I wish to refer to the opinion of one gentleman, a member of the bar, who presented himself before the judiciary committee of this legislature when this matter came up, and opposed it. Almost every senator here knows him. I refer to judge

Stearns of Bangor, and you know his legal attainments, and you will be more or less influenced by his views, because as it is well known he has given this subject study and attention. Yesterday I received a letter from him, and I wish to read some parts of it here to the senators of this chamber.

Bangor, Me., March 19, 1905.

Hon. George W. Heselton, Augusta, Maine.

My dear Senator: House document number 340 (a general act relating to negotiable instruments) has had an eventful history. It first came to the Maine legislature in 1897, with the recommendation of our commissioners on uniformity of legislation. It was considered and fully argued before the judiciary committee of that year and rejected by them without dissent. The senate members of the committee were Judge Savage, chairman, myself and Hon. J. H. Drummond. Among the house members were George M. Weeks, George H. Smith, the late Judge Fogler and E. F. Hamilton.

It came to the judiciary again in 1899 when I was senate chairman. The other members of the senate committee were Drummond and Hamlin. The house members were Judge Philbrook, Judge Smith, E. N. Merrill, Hon. J. H. Manley, Harry Virgin, the late N. W. Harris and Perkins of York. This time the proposition was fully argued and rejected by the committee without dissent.

In 1901 the proposition was again heard. I went expressly to Augusta to enter my protest. The hearing was exhaustive and every effort was made by the friends of the bill to procure a favorable report without success. It was rejected without dissent. The committee of 1901 as you will remember was a very strong one, embracing many able lawyers.

In 1903 there was another hearing at which my voice was raised in protest. This committee rejected the bill again without a minority report.

It is now before the legislature for the fifth time. I had fondly hoped it would never pass. So far as it goes it purports to be a full code of the law on the subject of negotiable instruments. It has ever been against the policy, not only of the legislature, but the people, lawyers and laymen alike, to permit a code of laws. Once this code is passed, consist-

ing of 198 sections, it will remain with us forever. It sweeps out of existence our whole common law based on the custom of merchants. Hereafter whatever is added to this body of law must be by statute tinkering and judicial construction.

It is said that it is desirable to have this act passed because it makes our law uniform with the law of many other states. That uniformity cannot remain fixed for the court of every state will construe these 198 sections according to its own views and wisdom. A generation will have come and gone before all the various sections will have received judicial construction. The same process will be going on meanwhile in other states, and I apprehend at the end of a generation the divergence of the law betwixt the states will be as great as it now is.

I have read the bill with some care and there are some articles in it that I am utterly unable to comprehend with such knowledge of the law as I possess. It seems to me they will need very immediate construction. Again there is in the act a foreign flavor, perhaps coming from states with whose laws we are little acquainted. It has an elaborateness that is ill suited to the simple genius and practices of our people. Again there are changes in existing law, and one extremely radical and undesirable, that dealing with the liability of one who signs his name on the back of a note. The law upon this particular subject is so well settled in the State of Maine that it seems cruel to change it. There are hundreds of plain business men in this State who have learned, through years of experience, what the law now is in reference to the liability of such signers. It will take them a long time to unlearn what they have learned and not unlikely it will be a costly education. It is of mighty consequence that the old principles of law once established should be suffered to exist. It is casting upon the lawyers of this State, who have learned the law with painstaking industry and with honest purpose, too great a burden to compel them to renounce the simple system based upon the common law of England, and take up an imitation of the code of ancient Rome.

The same spirit that seeks innovation, after fastening this code upon us, will



direct its attention in the future to some other subject of the law. It may be contracts, sales or carriers. It seems to me we ought to nip this growth in the bud.

This act is a formal, soulless thing, with hairsplitting distinctions and provisions to tax the subtlety and ingenuity of judges. Our common law on the subject is simple, reasonable, full of life and breathing the very spirit of freedom. The legislature ought not by passing this bill to compel the legal profession to learn anew the law it has practiced for years. It ought not to pass a code that is calculated to put in peril the rights of laymen, which they can never safely undertake to act upon without the advice of most careful counsel, even although it appears that many other states have adopted it.

Much more occurs to me than I can write without fear of preying upon your patience.

Sincerely yours,  
LOUIS C. STEARNS."

These views expressed by Judge Stearns are not the views of a single and lone attorney in this State; they are views that have been expressed to me in this chamber by men who have served with fidelity and credit to the state upon the committee of judiciary in the past. It is the opinion, as I well know, of certain members of our bench. It is the opinion of many of the lawyers in this very State House, who have had little opportunity to examine into the merits of this bill, and I say to the senators, who are business men here, that if this law is passed, and goes into effect at this time, when you go home there is hardly a commercial act which may involve the subject of negotiable instruments that you can undertake without consulting an attorney. Even then you will not be sure of what your rights are until that question is determined by the judiciary of our State.

I wish that the Senator from Knox, out of respect to the judiciary committee which reported this bill had allowed it to go to the next legislature. I hope the motion made by the Senator from Penobscot will prevail; which I understand is to refer to the next legislature. If it does it will be supplemented by a motion from myself to have a sufficient number

of copies of this bill printed and circulated among the members of the bar, and the bankers and merchants of the state, so that they may become acquainted with its provisions, and at the next session of the legislature we certainly will come here prepared to understandingly consider this measure, which today is so revolutionary in regard to the business interests of our State.

Mr. POTTER of Cumberland: Mr. President, the Senator from Kennebec has made very elaborate preparation for this discussion; and I have made no such preparation. He says the bill is important; and it is important. He says we should be slow in adopting such a measure; and I agree to that. We have been slow about it. As the Senator from Kennebec says, this bill has been before the State of Maine for eight years. It has been turned down by four successive legislatures and by four judiciary committees, because we are naturally conservative. The bar is especially so. This bill will become a law of this State, either by act of this legislature or by act of some other legislature. It is only a question of time. But it is proper that we should go slowly in passing upon a measure of as much importance as this is. The present judiciary committee gave a hearing early in the session, and the Commission representing this State in behalf of uniformity of State legislation appeared before the committee, and through its Chairman, the Hon. Charles F. Libby an ex-President of this Senate, and Mr. Hamlin, the Attorney General of the State, and the other member of the commission happened to be a member of the judiciary committee. The hearing was adjourned in order to give Judge Stearns an opportunity to make an argument which, through the Senator from Kennebec, he has just now again made to the Senate. The State Bankers Association, as the Senator from Kennebec is apparently not aware, is and has been unanimously in favor of this bill. How did it happen that it finally got the support of the judiciary committee where the argument of Judge Stearns was made before it, where it had been turned down by three or four previous judiciary committees. To the members of the Senate who are not lawyers, it has probably seemed strange

after listening to the Senator from Kennebec, that any judiciary committee, even by a bare majority could have reported such a bill. I want to undertake to state very briefly, as the argument occurs to me, why the judiciary committee finally reported favorably on the bill, and why this legislature or some succeeding legislature will certainly adopt the bill and make it a part of the law of the State. The great argument, which the Senator from Kennebec has referred to, is that we need uniformity in these matters. This nation is a single people commercially, and State lines are artificial lines in the matter of commerce. It is of supreme importance that we should have uniformity as to these instruments of commerce, these negotiable bills, notes and drafts. When a business man receives a note which was made in New York, or when he sends a draft attached to a bill of lading to California, it is a great convenience for him to know that the law of New York or of California is the same as the law of his own State. Uniformity is necessary. The Senator from Kennebec half admits the necessity of uniformity, and he is driven to the sary, can only come through the Federal argument that uniformity, though necessary. The Senator from Kennebec is absolutely mistaken in his view of the law in that proposition. Uniformity can come in this matter only through State legislation. The only way in which uniformity is to be secured is through a bill like this. Under our form of Government, it is not competent for Congress to pass any such law as this. The Congress of the United States cannot by an unanimous vote pass a negotiable instruments bill and have it apply to all the states of this Union. It cannot be done except by amendment to the constitution of the United States, and that is an amendment which it ought to be impossible to get. I would like to know whether the Democratic members of the chamber, for instance, would favor taking from the states the power to pass a law of this kind, vesting that power in the Congress of the United States. It does not seem to me that any Republican member of this chamber, either should take that position.

The process of centralization has gone

far enough and fast enough in our central government. We want uniformity in regard to these instruments of commerce, and we want it through this slow process of State legislation, the only possible way in which we can get it without an amendment to the constitution of the United States, which is also impossible. Now, then, this desirable uniformity which can come in only one way, and that is in this way, is coming. The Senator from Kennebec read a memorandum attached to this bill, and that must have been attached to it when it was offered here in 1897, stating that fifteen states of the American Union had adopted this bill. Today the number of states that have adopted it is 24. The Congress of the United States has also adopted it for the District of Columbia. I want to read to the Senate a list of the States which have adopted the bill, verbatim; because, of course, the object being uniformity, it must be adopted verbatim, if it is adopted at all. Since the last legislature met in this State, it has been adopted by Idaho, Kentucky, Louisiana and Montana. It had previously been adopted by Colorado, Connecticut, Florida, Iowa, Maryland, Massachusetts, New Jersey, New York, California, Dakota, Ohio, Oregon, Pennsylvania, Rhode Island, Tennessee, Utah, Virginia, Washington and Wisconsin. The territory of Arizona and as I have stated, by Congress in the District of Columbia so that more than half of the States of this Union and more than four-fifths of the leading commercial states like Pennsylvania and New York and Massachusetts and Ohio, and Iowa have already adopted the bill precisely as it is.

This bill is not a hasty proposition. It was drafted at the instance of Commissioners representing 37 states of the Union. It was submitted to leading lawyers of the United States and of England and to eminent judges in both countries, and was finally adopted by the commissioners for uniformity of legislation. It is one of the most remarkable pieces of legal drafting that has been made by members of the Bar in this country for a generation. The fact that it has been adopted by Congress and by 24 states is sufficient evidence of that fact.

Now, before the hearing was held before the Judiciary committee I asked

the Chairman of our commission for uniformity of legislation if he would be prepared to inform the committee in what respect this bill changes the law of this State. That is an exceedingly important question. If we can get this desirable uniformity without a revision in our law, it is of course well to do so. I understand that in five respects—possibly in one or two minor matters—but in five important matters the law of this State is changed.

I will call them to the attention of the Senate: In the first place, a pre-existing debt is deemed to be valuable consideration in taking a note. If a note is taken in payment of a pre-existing debt the holder is considered to be a bona fide holder, and equities between the antecedent parties are not opened up. That would be a change in the law of Maine.

The matter of irregular endorsers, to which the Senator from Kennebec has referred is another change. The law is now when a man signs his name on the back of a note in order to enable the maker to get it discounted, he is, as has been stated, a joint maker, not technically an endorser, not entitled to notice. By this law he would be entitled to notice, and in that respect the law of Maine is changed; and if it were not a fact that the law has been established for a good many years, it would naturally have been changed by the Legislature; because most men in writing their names on the back of a note in that way, in order to enable it to be negotiated, understand and suppose (though ignorantly) that they are mere technical endorsers—they understand, most of them, that they are entitled to notice, and this bill gives them that notice to which they suppose themselves (though ignorantly) entitled.

The third matter is this,—a waiver above the signature of an endorser, if there are other endorsers below, binds only the endorser above whose name the waiver is written. That changes the law of this State, but not in a very important particular.

Fourthly, the holder in due course of business of an altered note, he not being a party to the alteration, may recover on that note according to its original tenor. He can recover on the note as originally written, under this bill, and

that also is a change in the law of this State.

Fifthly, and finally, the fact that a note may be written so as to carry an attorney's fee if not paid at maturity—does not under the negotiable instrument bill prevent its being a negotiable piece of paper. That is a still further change.

In these five respects the law of Maine would be changed by the adoption of this bill, but not otherwise. Otherwise the law of Maine is in accordance with the bill, which has been in existence ten years already, construed by the courts with substantial agreement, and which has been successfully attacked by no man. It has been criticised, as the Senator from Kennebec says, by Judge Ames, a Harvard professor who never practiced law, whose criticisms have been answered by the Chief Justice of Rhode Island, and by ex-governor Chamberlain of Massachusetts, and by others.

This bill, which has withstood criticisms for ten years, has been adopted verbatim by 24 states, and by Congress, as I have said, for the District of Columbia.

Now I submit to the Senate that there is something to be said in favor of it. In my judgment, if it is not adopted by this Legislature it is only a question of a short time when it will be adopted. I hope the members of the Senate, who are not also members of the bar, will give some weight to the judgment of the Judiciary Committee—its final judgment—after this long delay.

I hope the pending motion will be defeated, and if it is defeated, I shall move that the bill be laid upon the table, in order that section 197 may be amended by annexing to the bill the schedule of laws which it would repeal, a list which Mr. Libby, the chairman of the commission has in his possession, and has very carefully prepared. That was omitted inadvertently from the bill.

I hope the motion to refer to the next Legislature, or indefinitely postpone, whichever it is, will be defeated.

Mr. IRVING of Aroostook: Mr. President, it has been my policy during my brief experience in legislative matters to allow all matters pertaining to statutory amendments or enactments to be handled by the attorneys. By following that policy I think perhaps there have been fewer laws placed upon the statute books for the next legislature to repeal.

I was aware of the existence of this

act when it was reported from the committee back to the Senate, and feeling that the attorneys knew better what was best for the State, and having confidence in the judiciary committee which recommended its passage, it gave me no alarm.

When I began to inquire concerning the bill, and found among the broad circle of my acquaintance of men practising at the bar few, if any, who understood the law, and few, if any, who felt competent to advise me as a member of a mercantile house, and as a man associated with the banks of this State in a county where a large percentage of the business is transacted by negotiable instruments, I became alarmed for the banks and business men of the State; and I wish to state here and now that I believe the passage of this bill will shock the business interests and banking interests of our State, especially in the smaller and younger portions of the State where credit and negotiable instruments are the means by which the sections are being developed.

In my county the fertilizers and machinery which enable us to produce the main product of our section are sold—a very large percentage of them—on time to the farmers, taking in exchange therefor notes, and I am inclined to think now that as a member of a firm that has been engaged in that kind of business for a number of years, I would hesitate to continue in that business, and to take in exchange notes under this law, because of the fact that whatever little law I do know has been acquired not from practicing at the bar, but from experience on this line relative to these negotiable instruments.

The shock to me is not so great from the fact that this knowledge, and my knowledge of the law relative to these matters, but it comes from the fact that I have no source to go to by that knowledge that I can rely upon. If our attorneys are unable to interpret that law so as to enable us to protect ourselves in the handling of these instruments until some decision of the courts empower them to give information to us, then we are in the position that it is unsafe to continue in that line of business.

I appreciate the importance that it would be to a banker of our county, and to men engaged in the shipping of the products of that county, to have an uniform law applying to drafts going out of the State, and I would hail with delight that uniform law; but until we can be sure that we will be protected, until we can obtain advice that will enable us to make these drafts and these negotiable instruments in a form that will stand the law,—an iron paper, I ask the business men of this chamber to stand firmly upon the importance of taking more time to advise themselves, and give their attorneys an opportunity to look into the matter, so as to be able to advise them; and I hope that the motion to refer this

matter to the next Legislature will receive a passage.

The question being upon the motion of Mr. Heselton of Kennebec, that the bill be postponed to the next legislature, the motion prevailed and the bill was postponed to the next legislature.

On motion of Mr. Morse of Waldo. "Resolve relative to the State accepting Willows Island" was taken from the table and on further motion by the same Senator the resolve was indefinitely postponed.

On further motion by the same senator, bill additional to Chapter 144 of the Revised Statutes relating to insane hospitals, which was tabled pending its passage to be enacted, was taken from the table. The same senator further moved that the bill be indefinitely postponed.

Mr. PIERCE of Aroostook: Mr. President, this bill has laid on the table so long at the instance of the Senator from Waldo that I had forgotten all about it.

It is a bill which was reported from the committee on legal affairs by the unanimous vote "ought to pass." It merely gives the trustees of the insane hospitals power to appoint a treasurer other than the steward of the institution. It was fully explained to the committee that there might arise a necessity of so doing, and it seemed but right in the minds of the committee upon the explanations as given by those interested in the insane hospitals that there should be such a law. It is for the safety of the State, and for the best interests of those connected with managing those institutions; and if the members of the Senate will look over the bill they will see that all there is to it is a provision that the trustees may appoint, subject to the approval of the Governor and council, a treasurer for either of the insane hospitals, other than the steward of an insane hospital. Not that they shall, but if they think necessity demands it, and that the funds of the institution may be better protected, they have power at their discretion, subject to the approval of the Governor and council.

I trust the members of the Senate will give this bill a passage.

Mr. STETSON of Pemobscot: Mr. President, I wish to cover just one matter that the Senator from Aroostook did not cover. I believe it is an important matter that institutions of the magnitude of our insane hospitals, who have a steward and who have a treasurer, that these offices should be distinct and separate. I believe I am not questioning the veracity or integrity of any official of our State, but I believe that the man who purchases supplies and material should be a distinct and separate individual from the man who pays the bills,

and this bill leaves it to the judgment of the trustees.

The matter was brought up in consideration of the crowded condition of the hospital at Bangor, and there is was provided there should be a treasurer as well as a steward; and it was thought best for the interests of the State that the man who buys goods, and the man who pays for them, should be distinct and separate.

The salary is trivial; I think they paid over there some \$300. When the revision of the statutes was accomplished at the last session Mr. Morrill struck out that section of the act relating to Maine Insane Hospitals providing for the appointment of a treasurer, as the duty of the treasurer at that hospital was performed, and has been since, by the steward. At the hospital at Augusta they have a most efficient man, and a man of integrity, Mr. Manning Campbell.

In the law establishing the Eastern Maine Hospital that condition was thought to be unwise, and the trustees have told me and others that if the change was made there should be two distinct individuals for these offices. I believe the bill is one of excellent merit, and one which should receive the approval of the senate.

Mr. MORSE of Waldo: Mr. President, as the committee on the revised statutes saw fit to cut this out, it seems to me that their judgment is far better than mine, and possibly better than that of the trustees of this institution.

I deem it safe and wise to leave it in that way. I can also see where the salary of the treasurer may be paid, and as I understand it it would simply go back onto the statutes, which has been in force for more than fifty years, which says: "The steward of each hospital shall be treasurer, give bonds to the trustees in such amount and with such sureties as they may deem sufficient," etc.

I understand we have a man over here who finds the bill to the satisfaction of everybody, while the institution at Bangor it seems should have a special act to apply to that special hospital.

Mr. Morrill, who revised the statutes, saw fit to cut it out, and to put that hospital on a level with this one; and inasmuch as this one has worked so admirably for all this time it would seem to me that this having been revised so recently, it would be very bad legislation to change it.

The steward there receives \$1,000 a year for such service, and the treasurer receives \$300. Over here this steward receives \$1,600 and does all the business, and performs all the duties devolving upon the two at the Bangor hospital, and in addition to that has about three times the amount of work, and handles about three times the funds.

I see no possible benefit to be derived from this change.

The question being put the yeas and nays were called for and ordered, and the vote being had resulted as follows: Those voting yea were Messrs. Brown, Clark, Curtis, Heselton, Mills, Morse, Pike, Shackford, Simpson, Tartre—(10). Those voting nay were Messrs. Allen, Ayer, Bailey, Furbish, Gardner, Irving, Knowlton, Owen, Philoon, Pierce, Plummer, Shaw, Stetson, Sturgis, Tupper—(15).

So the motion was lost. The bill was thereupon passed to be enacted.

On motion by Mr. Gardner of Penobscot, bill in relation to advertising hearings before legislative committees was taken from the table. The pending question was upon the adoption of Senate amendment A offered by Mr. Shaw of Sagadahoc, and the bill was tabled pending its acceptance.

Mr. Bailey of Somerset moved to take from the table House document 459, being "An Act to amend Chapter 485 of the Private and Special Laws of 1901, establishing a municipal court in the town of Skowhegan," and the motion prevailed. On further motion by the same senator the bill was indefinitely postponed.

On motion by Mr. Heselton of Kennebec, it was "Ordered, that the House concurring 1000 copies of House document 340, being entitled a general Act relating to negotiable instruments,—being An Act to establish a law uniform with the laws of other states on that subject; the schedule calling for Section 18 of said bill to be printed and placed in the hands of the State librarian, who shall upon request mail the same to any citizen of this State."

Mr. Clark of Hancock, introduced bill "An Act to extend the charter of the Bluehill and Bucksport Electric Railroad Company," which was received under suspension of the rules, and on further motion by the same senator took its two several readings, and was passed to be engrossed.

#### Finally Passed.

Resolve in favor of the Central Maine Fair Association.

On motion of Mr. Clark of Hancock, Senate document 244, bill relating to the referendum was taken from the

table and on his further motion the same was tabled and assigned for consideration tomorrow.

On motion by Mr. Stetson of Penobscot, the Senate adjourned to meet Wednesday, March 22, 1905, at 10 o'clock in the forenoon.