

MAINE STATE LEGISLATURE

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Legislative Record

OF THE

Seventy-Fifth Legislature

OF THE

STATE OF MAINE

1911

SENATE.

Thursday, March 2, 1911.

Senate called to order by the President.

Prayer by Rev. Mr. Kearney of Augusta.

Journal of previous session read and approved.

Papers from the House disposed of in concurrence.

Bill, An Act to amend Specifications II of Section 6 of Chapter 9 of the Revised Statutes, relating to the rebate of taxes to colleges, came from the House by the Branch referred to the committee on taxation. (On motion by Mr. Milliken of Aroostook, tabled for printing pending reference.)

The report of the committee on Indian affairs on Resolve in favor of the Penobscot Tribe of Indians, came from the House by that Branch indefinitely postponed.

(On motion by Mr. Kellogg of Penobscot, tabled.)

House Bills in the First Reading.

An Act defining the main trunk line of highways through the State.

An Act relating to lumbering operations.

An Act to abolish the Dover municipal court and the Milo municipal court and to establish the Piscataquis municipal court.

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

Legal Affairs.

By Mr. Boynton of Lincoln—An Act to amend Section 10 of Chapter 12 of the Revised Statutes, as amended by Chapter 40 of the Public Laws of 1907, relating to the support of law libraries.

Orders.

On motion by Mr. Donigan of Somerset, it was

Ordered, The House concurring, that the State commissioner of highways be and is hereby directed to make an investigation to ascertain the length, physical character and condition, original and annual cost of maintenance as he may deem pertinent or necessary concerning each and every bridge of six feet and over within the State. The

result of the investigation shall be published as a part of the next annual report of the State commissioner of highways and one thousand copies of the result of the investigation shall be published in pamphlet form for the use of the next Legislature.

Reports of Committees.

Mr. Dodge, for the committee on legal affairs, on Bill, An Act additional to the Act creating the Norway municipal court, reported that same "ought not to pass."

Mr. Boynton for the committee on appropriations and financial affairs, on Resolve in favor of continuation of pension for Daniel Lineo of Warren, in the county of Knox, late of Co. F, 81st Regiment, U. S. Troops, reported that Chapter 45 of the Resolves of 1909 provides for a pension to Daniel Lineo during the pleasure of the Legislature, and the amount required for continuation is already provided for; and that it "ought not to pass."

Mr. Allan, for the same committee, on Resolve in aid of the Piscataquis County Historical Society, reported that same "ought not to pass."

The same senator for the same committee, on Resolve in relation to the early York deeds, reported that the same "ought not to pass." (Tabled on motion by Mr. Stearns of Oxford.)

Mr. Foss, for the same committee, on Resolve in favor of the Freedom Academy, reported that same "ought not to pass."

Mr. Edwards, for the committee on railroads and expresses, on Petition of the Portland Union Railway Station Company, for an amendment to its charter, reported a Bill entitled "An Act to amend the charter of the Portland Union Railway Station Company, and to enlarge its powers under the name of the Portland Terminal Company," and asked that the same be printed and re-committed to the committee.

Mr. Noyes, for the committee on taxation, on Bill, An Act to repeal Chapter 21 of the Public Laws of 1905, relating to the collection of poll taxes, reported that legislation thereon is inexpedient.

Reports were accepted and sent down for concurrence.

Mr. Gowell, for the committee on judiciary, on Bill, An Act to amend Chapter 153 of the Public Laws of 1907, as amended by Chapter 72 of the Public Laws of 1909, relative to transportation of public officials, reported the same in a new draft, under the same title, and that it "ought to pass."

Mr. Foss, for the committee on appropriations and financial affairs, on Resolve in favor of the Hayes Young Women's Home at Lewiston, reported that the same "ought to pass."

The same senator, for the same committee, on Resolve in favor of St. Mary's General hospital in Lewiston, reported a new draft under the same title, and that it "ought to pass."

The same senator, for the same committee, on Resolve in favor of the Lewiston and Auburn Children's Home reported a new draft under the same title and that it "ought to pass."

The same senator, for the same committee, on Resolve in favor of the Girls' Orphanage of Lewiston, reported a new draft under the same title and that it "ought to pass."

Mr. Allan, for the same committee, on Resolve in favor of Northern Maine General hospital, reported a new draft under the same title and that it "ought to pass."

The same senator, for the same committee, on Resolve in favor of the Children's hospital, reported a new draft under the same title and that it "ought to pass."

The same senator, for the same committee, on Resolve in favor of the Maine Home for Friendless Boys, reported a new draft under the same title and that it "ought to pass."

Mr. Osborn, for the committee on telegraphs and telephones, on Bill, An Act to amend Section 12 of Chapter 55 of the Revised Statutes, relating to telephone companies, reported that the same "ought to pass."

Mr. Kellogg, for the same committee on interior waters, on Bill, An Act to amend Section 1 of Chapter 113 of the Private and Special Laws of 1864, entitled "An Act to incorporate the Baskahegan Dam Company," as

amended by Chapter 272 of the Private and Special Laws of 1903, reported that the same "ought to pass."

Mr. Fulton, for the committee on State lands and State roads, on Resolve authorizing the State land agent to sell the State's interest in Lot 163, Township No. 18, Range 6, Aroostook county, reported that the same "ought to pass."

Mr. Milliken, for the committee on State School for Boys and Industrial School for Girls, on Resolve in favor of Howard Winslow, reported that the same "ought to pass."

Mr. Smith, for the York county delegation, on Bill, An Act to amend Section 10f Chapter 151 of the Public Laws of 1905, relating to compensation of clerk hire for register of probate in York county, reported a new draft under the same title, and that it "ought to pass."

The reports were accepted and the several bills and resolves tabled for printing under joint rules.

Passed to Be Engrossed.

Resolve in favor of the town of Addison.

Resolve in favor of Frank W. Buckman.

Resolve in favor of road in New Canada Plantation.

An Act to extend rights and powers of Hancock and Sullivan Bridge Company.

An Act to incorporate the Monmouth Electric Company.

An Act to extend charter of Winter Harbor and Eastern Railway Company.

An Act to public school attendance.

An Act to incorporate L'Association d'Epargnes de Waterville.

An Act to amend Section 2 of Chapter 38 of Public Laws of 1905.

An Act to incorporate the Fort Kent and Clairs Toll Bridge Company.

An Act to prohibit throwing mill waste into outlet of Worthley pond.

An Act relating to fishing in Jim pond and Jim brook.

An Act to incorporate the Kennebec Water District.

An Act relating to the creation of a

board of trustees for Sullivan-Franklin bridge.

An Act to authorize the Bangor Railway and Electric Company to take water from Brewer pond.

An Act relating to agents of schools in unorganized townships.

An Act to authorize the town of York to construct a way across tide water of Burrill's mill pond.

Resolve in favor of the county commissioners of Franklin county for the repair and permanent improvement of the highway in Washington Plantation and Perkins' Plantation in Franklin county.

Resolve in favor of the county commissioners of Franklin county for the repair and permanent improvement of the highway in Jerusalem and Crocker Townships in Franklin county.

Resolve in favor of the county commissioners of Franklin county for the repair and permanent improvement of the highway in Letter E. Plantation and Sandy River Plantation in Franklin county.

(On motion by Mr. Kellogg of Penobscot, the three resolves in favor of the county commissioners of Franklin county were tabled.)

Mr. KELLOGG: Mr. President: I will state in regard to these three resolves in favor of the county commissioners of Franklin county, that there were three or four resolves in favor of the same county commissioners before the committee on State roads, and it looks to me as though those commissioners might be getting a little more than should be coming to them, and I want to look into it a little.

An Act to regulate the opening of streets in cities.

Mr. WINSLOW of Cumberland: Mr. President: I think there is an amendment to be offered to that bill, and I move that it be tabled.

The motion was agreed to.

Finally Passed.

Resolve in favor of Annie Jones.

Resolve in favor of Helen B. Hobart for State pension.

Resolve in favor of O. M. Davis of Hersey, Aroostook county, Maine.

Resolve in favor of Lola Cola, rep-

resentative of the Penobscot Tribe of Indians.

Resolve in favor of O. W. Cole.

Resolve in favor of Albion Moody.

Resolve in favor of Lettie Whittier of Mount Vernon.

Resolve proposing a memorial to Congress in favor of the Sulloway pension bill.

Passed to Be Enacted.

An Act to extend the provisions of Chapter 315 of the Private and Special Laws of 1909, being "An Act to incorporate the Penobscot Bay Water Company," to March 26, 1913.

An Act to amend Section 12 of Chapter 112 of the Public Laws of 1907 as amended by Chapter 69 of the Public Laws of 1909, relating to appropriations for State highways.

The PRESIDENT: Through an error on the part of the President of the Senate, this bill was passed to be enacted the other day, when it should not have been.

On motion by Mr. Boynton of Lincoln, the vote whereby the Senate passed the bill to be enacted, was reconsidered.

The PRESIDENT: This bill will now be put upon its passage to be enacted, and as it contains an emergency clause it will be necessary to have a vote of two-thirds of the members of the Senate.

A rising vote was taken and 25 senators voting in favor and none against the passage of the bill, it received a passage and was passed to be enacted.

Orders of the Day.

On motion by Mr. Staples of Knox, Senate Document No. 94, An Act to consolidate the management of State Institution for the Insane and Feeble Minded, was taken from the table, and upon further motion by the same senator, the bill was then referred to the committee on legal affairs in concurrence.

On motion by Mr. Sanborn of Piscataquis, House Document No. 246, An Act to incorporate the Carleton Stream Dam Company, was taken from the table.

Upon further motion by the same

senator, Senate Amendments A and B were adopted.

Mr. SANBORN: Mr. President: I wish to state that these amendments have been agreed upon by both parties. I now move that the bill receive its second reading as amended, and be passed to be engrossed.

The motion was agreed to, and the bill received its second reading and was passed to be engrossed.

On motion by Mr. Milliken of Aroostook, Senate Document No. 135, An Act to amend An Act entitled "An Act to authorize extensions of the Bangor & Aroostook Railroad in Aroostook, Piscataquis and Penobscot counties," being Chapter 222 of the Private and Special Laws of 1903, as amended by Chapter 70 of the Private and Special Laws of 1907, was taken from the table.

Mr. MILLIKEN: Before proceeding, Mr. President and gentlemen, to a discussion of the merits of the proposition contained in the amendment, for this Senate Document No. 135, contains the original document, which was House No. 39, together with the amendment, it seems proper to dispose of some considerations at the outset which have no bearing on the merits of the case, but which may have some bearing upon the views some of the senators have had upon this subject.

In the first place it is my duty, as it is the duty of each of you, to approach any question that involves a railroad in the same spirit of fairness with which we approach a question involving interests of any other constituent of ours. The Bangor and Aroostook Railroad is my constituent just as truly as any other citizen of Aroostook county, and is entitled from me to the same consideration to which any other of my constituents are entitled. And I would not advocate here any measure which seems to me to be unfair to the Bangor and Aroostook railroad, if all the rest of my constituents in the county asked me to do it, any more than I would advocate here any measure that seems unfair to my other constituents,

if the Bangor and Aroostook asked me to do it.

It has been my desire in offering the amendment to be perfectly fair in every way; it is not fair to the railroad, it would not be fair for me to have offered this amendment, which has not been presented to them and not presented to the committee and attempt to pass it here without notice and without giving them an opportunity to look into it. For that reason, as I said in the Senate last Friday, when I gave notice of the offering of the amendment—the amendment was offered on Monday, was tabled for printing and assigned for today, for the express purpose of giving counsel for the railroad an opportunity to talk with members or to have the amendment referred to the committee, if they so desired.

I want you to bear me witness further, gentlemen, that on this question I have not lobbied with you, except to say this to you personally, that I asked you to hear the matter fairly and fully and decide it upon what you believe to be right on the merits of the question involved. Neither I, nor anyone else has any right to present to you on any public question of this sort, any other consideration, either personally on your part, or any consideration involving any other measure pending before this Legislature. And any member of the Senate who has, or believes he has, any personal interest in the matter, is in honor bound, when the question comes to a vote, to vote on the public necessity involved and not on his personal interest.

Now, ordinarily, gentlemen, in the discussion of a question of this kind it would not be competent for me to enter into the question of personal motives on my part or to the consideration that led up to this amendment, but because of some misunderstanding which I think has arisen, I am going to state fully and frankly here the whole situation which led up to the introduction of the amendment, and especially what prevented the amendment being presented before the committee when the bill was considered.

I am going to say to you frankly that when this bill was introduced I supposed it to be what I understand counsel for the railroad asserted it to be, simply a proposition to extend the authority to build a railroad in the Allagash section. I do not mean to say that counsel intended to deceive anyone. I mean to say I did not, I think, apprehend the full purport of this bill at that time. Nobody has, or can have any reasonable objection to the Bangor and Aroostook Railroad having authority to build in the Allagash section, and on that question I was not interested and did not appear before the committee. I do not know that anyone appeared in opposition or otherwise, except counsel to explain the bill.

There is a condition, gentlemen, in connection with the Bangor and Aroostook Railroad which I believe needs to be remedied, and which I think is working a very serious injustice to the public that railroad serves. I believed, up to the time that bill was heard, and for some little time afterwards, that that condition would have to be remedied, if at all, by general law, and I intended to introduce some such Act this session.

The bill was heard and came into the Legislature without opposition from anyone. I am going to say to you frankly that the first thing that called my attention to this bill, or led me to suppose it was anything more than a mere matter of form, was the fact that the counsel of the road had the bill read twice in the House under suspension of the rules, and passed to be engrossed. The suggestion was made in the Senate that this be done. That led me to say, why this haste? And I say to you frankly here and now, that my reason for tabling the bill was that I supposed the reason for their haste was through a desire to get the bill through out of the way so that they might be free to oppose another railroad matter now pending and concerning our county. I suppose I tabled it from a feeling of fair play and a desire to know what was going on in regard to the other matter.

I knew the counsel for the Bangor and Aroostook was occupied here among the members of the Legislature with opposing the other scheme, not with favoring this particular matter.

Nobody that is connected with the proposition to build the electric road or extend the electric road had anything to do with tabling this bill. It was my own idea to give me time to look it over. Nobody that has any connection with the electric road has anything to do since that with the framing of this amendment or anything else connected with this bill. And any connection that the Bangor and Aroostook has with the electric railroad is a connection of their own seeking, when they appear as they do against the granting of the charter of the electric road.

I speak of that not because this has any connection at all with the other proposition, but because it has been said by the counsel for the Bangor and Aroostook that it did have. I have no doubt that some have talked with you, as they have a perfect right to do, and have given you the impression that this amendment was intended as a cloud, to have some effect upon the passage of the other bill. If they sincerely believed that, they have a right to present it to you.

Now one thing further before I proceed to the discussion of the main question. I want to make entirely clear the situation with reference to the railroad committee. This amendment has never been presented to the railroad committee. They have a right and any committee in this Legislature has a right to hear any amendment offered to any bill: they have passed upon, and unless there were reasons for it, they would have a right to feel they were slighted if the proposition had not been presented to them and was afterwards offered in the Legislature.

I have explained that I did not understand this bill, what the bill meant, as I think I do now, and that the amendment was necessary. I found out afterwards that an amendment would probably be necessary, and asked the members of the railroad committee

to allow me to wait until after the hearing upon another matter in order that I might find out the position of the Bangor and Aroostook, and what would be said there in regard to the stock and bonds of the Bangor and Aroostook in order that I might see what amendment was necessary.

I then went before the committee while this was on the table and asked them if they wanted it referred to them or would have it heard here. I understand they were willing to have it heard here. I have gone into this simply to make it perfectly clear, that this is heard now by members of the railroad committee for the first time, and of course without prejudice.

I want to make plain one thing in regard to this main proposition at the outset, and want you to bear it in mind and hear me patiently. The purpose of this amendment is not to introduce anything new or revolutionary or drastic; not to impose upon the construction of any new extensions of the Bangor and Aroostook, any new or unusual provisions. The purpose of the amendment is simply to deprive that railroad, so far as any future construction work is concerned, of an unusual, unique privilege which they have enjoyed in the past and which no other railroad in this State enjoys, and which I think they should not enjoy any longer.

In other words, this amendment might be entitled this way; An Amendment to provide that further extensions of the Bangor and Aroostook shall be made under the provisions of the general law applicable to all railroads, and without any special privilege whatever in regard to the issue of stocks and bonds or other privileges.

We said two years ago that we would not give them for further extensions the privilege given them in the past of having 95 per cent. of their taxes rebated. This is simply another privilege that has been given them and which this amendment seeks to take away with.

In regard to the form of the amendment or the way in which it is worded, I have no preference whatever. If anybody objects to any phrase or

clause of it, I am ready to entertain any amendment to this amendment provided it does not violate the main purpose, and that is to take away the privilege of watering their stock and bonds, in a way illegal if done by any other railroad.

The reason this extension of the charter is asked is not for providing authority to build the Allagash branch or any other but to continue for five years from March, 1913, this special and peculiar exemption.

Now before coming to the question of the charter itself, which is sought here to be extended, I want to ask you to consider for just a moment with me what the provisions of the general law are in this State applicable in such cases as this. In the first place I want you to notice that it is a well recognized principle of law in this State, as well as a principle of business honesty, that directors of corporations or prominent stockholders in a corporation have no right to sell to the corporation at an enhanced valuation property belonging to themselves. In other words they occupy with reference to their stockholders a position of trust, and it is not proper, as anybody will see, for the director of a corporation or a prominent stockholder to make a trade between himself and another corporation—whether personally or under the guise of another corporation—which is greatly to his own advantage. Not that it is necessary, but to make this plain, I wish to refer to the best decision in this State on the subject.

Mason vs. Carrothers—(105 Me. 392)—This was a case where the persons promoted a corporation and held a large part of the stock. They sold through an intermediary concern a lot of property at a greatly enhanced valuation and made a great profit themselves. The court held that the directors held a position of trust and had no right to do that.

This is the language of the decision: "Where the persons who promoted a corporation and controlled it through their nominee stockholders and directors, obtained a profit for themselves without revealing the fact to any persons except their associates,

and that profit consisted of \$549,400 the common stock of the corporation and subsequent bona fide purchasers of stock from the treasury without notice of the profit received by the promoters, brought a bill in equity for a surrender of the stock certificates and the cancellation of the same, held that the bill was maintainable and that equity would not allow the stock so received by the promoters to be retained by them nor by any person holding under them with no superior rights.

Revised Statutes, Chapter 47, Section 50, provides that any corporation may purchase property necessary for its business and "issue stock to the amount of the value thereof in payment therefore—and the stock so issued shall be full paid stock and not liable to any further call or payment thereon; and in the absence of actual fraud in the transaction, the judgment of the directors as to the value of the property purchases—shall be conclusive." This statute contemplates two independent contracting parties, the one buying and the other selling, each looking out for his own interest. It does not contemplate one party dealing with himself and acting in two capacities. It means also the honest and bona fide judgment of the directors."

There are some interesting Massachusetts decisions on the subject which I will not read, but will simply say that it is a well recognized principle of law as well as business honesty that a man who is a director, or prominent stockholder, in a corporation has no right to sell the corporation something that belongs to himself at an enhanced value, and take a rake-off.

Now, gentlemen, this principle just alluded to I think applies to ordinary corporations merely so far as their relations with the stockholders are concerned, because it does not matter so far as the public is concerned what price any private corporation pays for property or what they sell it for, but when you come down to a public service corporation, a different rule, a further application of the same rule, and for a more stringent reason, applies, and you will see at once the

point, for a public service corporation besides having the ordinary relations I have alluded to, has the relation to the public which requires that in the interest of the public its stock, its bonds, and all investments shall not be watered and increased, inflated in value, simply for the reason wherever that is done the public have to pay the increased interest and freight charges. And so the laws of this State very properly provide with regard to the railroad corporations in Sections 21 and 22 of Chapter 51 of the Revised Statutes, and in other parts of the Revised Statutes, that railroads shall not issue their stocks and bonds except under certain conditions, but that the interests of the public shall be safeguarded along these lines.

"Section 21. Whenever a railroad corporation increases its capital stock under the provision of the preceding section, the new shares to the number necessary to produce the amount necessary for the purposes for which such increases is authorized shall be offered proportionately to the stockholders at not less than the market value thereof at the time of increase, and shall be determined by the Board of Railroad Commissioners, taking into account previous sales of stock of the corporation and other pertinent conditions. The directors shall cause written notice of such increase to be given to each stockholder who was such at the date of the vote to increase, stating the amount of such increase and the proportion thereof in shares or portions of shares which he would be entitled to receive on a dividend of the same, and the price fixed by the railroad commissioners as hereinbefore provided at which he is entitled to take the same, and fixing a time, not less than 15 days from the date of such notice, within which he may subscribe for such additional stock; and each stockholder may, within the time fixed, subscribe for his portion of said stock, and the same shall be paid for in cash on the issue of a certificate thereof. Provided, that when the increase in the capital does not exceed 4 per cent. of the existing capital stock of the corporation, the directors may dispose of the same

in the manner hereinafter provided in this section without first offering the same to the stockholders. If, after the expiration of the notice above provided for, any shares of such stock remain unsubscribed for by the stockholders entitled to take them, the directors shall sell the same at auction. All shares of stock to be disposed of at auction under the provisions of this section shall be offered for sale to the highest bidder in the city of Boston, or in such city or town as may be prescribed by the railroad commissioners; and notice of the time and place of such sale shall be published at least five days during the 10 days immediately preceding the time fixed for the sale in such daily newspapers, not less than three in number, as may be prescribed by the commissioners." I would call your special attention to the last paragraph of this section. "No shares shall be sold or issued for a less sum, to be actually paid in cash, than the par-value thereof."

Section 22 provides penalties for the violation of those provisions.

I have said that the general principle of law is that a director of a corporation cannot take a rake off on a sale made by himself to his own corporation. Then it is provided that railroad corporations cannot issue their securities without proper consideration therefor, or cash. I will say further that the Bangor & Aroostook Railroad not only does not need this particular charter to allow it to extend up the Allagash; it does not need any particular charter to allow it to extend up the Allagash.

I call your attention to Section 14 of Chapter 51, on that point, for it has been said here that the purpose of this amendment was to load this charter down with amendments, that if the charter should fail to pass, or an improper amendment is put on, the railroad could not be built.

"Section 14. Any railroad corporation of this State may be allowed to extend its road to other points or places, on application to the Board of Railroad Commissioners, as provided in Section 9, and by conforming to the general railroad laws of the State, so

far as the same may be applicable."

This is right in the Section that has to do with all steam railroads, and refers to all. And the only effects of the extension proposed here, the only rights it could extend to the Bangor and Aroostook beyond what it would take under the general law, would be the two special exemptions which I shall come to in a moment; one is the exemption from competition of other steam railroads 15 miles on each side of their line, which I do not object to, the other is the exemption I shall refer to in a moment.

Before coming to the provisions of this special Act which the railroad asks to have extended, I want to call your attention briefly to the life history of the railroad itself. In 1891, in order to encourage the building of a railroad into Aroostook county, which was at that time in need of transportation facilities, and where there was a large population in need of such facilities, the Maine Legislature allowed the Bangor and Aroostook for a period of 20 years a rebate of its taxes amounting to 95 per cent. In 1893, that was extended for 30 years, bringing it to 1923. Another provision the Legislature placed in that special act was the one I referred to a moment ago, exempting the railroad from other railroads paralleling its lines, of the same character, for 15 miles on each side. That same session of a construction company was authorized by a special Act of the Legislature to aid in constructing railroads. I want to call attention here to the fact that this construction company is something unique in Maine. It could not be done under the general law; that does not permit a corporation to be formed to aid in the construction of railroads, and certainly does not permit a corporation to own railroad stock and build railroads and do everything that a railroad has to do, except to report to the railroad commissioners. I am quoting now from Chapter 126 of the Private and Special Laws of 1891, An Act to incorporate the Aroostook Construction Company. Certain persons, their associates—I am not

naming the persons here for most of those men have long since disappeared from the records of the Aroostook Construction Co.—“Are hereby made a corporation by the name of the Aroostook Construction Company, for the purpose of carrying on the business of building, constructing and equipping lines of railroad, with the right to operate the road so built and constructed so long as it may be found necessary for this company so to do, under the terms and conditions contained in their respective charters—“Said corporation shall have the right to purchase, manufacture and deal in all kinds of machinery, materials and appliances deemed necessary or proper for the construction, equipment, and operation of railroads, together with all patents, inventions and licenses appertaining to the same, with power to hold by purchase or may otherwise acquire the bonds, stocks, securities and other property of railroads constructed or equipped by this company.”

Now we come down from 1891 to 1903, 12 years, and within that time what is known as the main line of the B. & A. had been built, clear up through to Houlton, Caribou, Fort Fairfield, Van Buren, Ashland and Fort Kent. Covering what is called the main line of the B. & A., in 1903, the total indebtedness of the B. & A. was \$11,537,400, on a mileage of 375.33 miles, an average of \$30,734.42 per mile; providing for construction of line, equipment, cars, locomotives, stations, terminals and everything else.

Now, gentlemen, we come to the Act which this particular bill asks to have extended. If you will read the bill itself you will see that it asks that all the provisions of Sections 1, 2, 3, and 4 of Chapter 222 of the Private and Special Laws of 1903, as amended by the laws of 1907, are continued in force and extended for a period of five years on and after the 20th of March, 1913.

Chapter 222 gives, in the first place, the right to the B. & A. to build anywhere in Penobscot, Piscataquis and Aroostook counties, above a certain line on the C. P. Ry., upon filing the

proper petition with the railroad commissioners. I think that is not particularly important, as they have that authority under the general laws. I would call your attention to certain provisions of Chapter 222, and especially to Section 3 of that chapter, which is one of the sections asked to be extended. “Section 3. The provisions of Chapter 186 of the Public Laws of the year 1897, and any Act amendatory thereof, shall not apply to the issuance of an increase of the capital stock of said company to an amount in the aggregate of not more than six thousand dollars per mile for each mile of any extension or branch which said company may be authorized to build pursuant to the provisions of this Act.”

Now, gentlemen, that is the meat in this coccanut, and that provision which this bill asks to have extended and which in my opinion ought not to be extended after March, 1913, is the only important provision which the B. & A. could have under this extension, which they would not have under the general law, except the provision in regard to the 15 miles competition, which I do not object to.

I want to call your attention first to the Chapter of the Public Laws of 1897 from which this amendment excepts the B. & A. Railroad. I will say that is of course now incorporated into the Revised Statutes of 1903. If you will look at that chapter for yourselves, I will not read the whole of it or any large part of it; that chapter in the Laws of 1897 is the chapter that regulates the issuance of stock by railroads and applies to all railroads in the State unless expressly exempted. This charter, passed in 1903, good for a period of 10 years, had the effect of exempting the B. & A. with regard to the issuance of six thousand dollars of stock per mile, from the general law which applies to every other railroad in the State.

Now, up to 1903, gentlemen, until this exemption was passed, we had a comparatively modest railroad; modest in its investments and with a reasonable earning capacity in proportion to its investments. Without any spirit of

malice, I say that beginning in 1903, the balloon began to go up.

I want to call your attention to the figures; bearing in mind that I said the total indebtedness in 1903 was \$11,537,400 on a mileage of 375.39, and an average of \$30,734.42 per mile. In 1909 they had built enough more railroad to bring the total mileage to 514.69 miles but in 1909 the indebtedness per mile was \$43,746. In other words, the mileage up to 1903 when this particular special privilege was granted, was 375.39 miles at a cost of \$30,734.42 per mile, including equipment, terminals, stations, locomotives and everything else. In the six years between 1903 and 1909, 139.28 miles were added at a cost of \$78,800 per mile, bringing the average cost up to \$43,746. It ought to be said in this connection in entire fairness to everybody, that this included a large expense for terminal at Stockton. This is balanced by the fact that the first figures included all the cars and locomotives with which the road was equipped.

The figures for 1910 are not available in the Railroad Commissioners' report, but I have an abstract of them from the report of the railroad itself. In 1909 the total funded indebtedness was \$22,515,000. Out of this amount \$2,510,000 were stock, the rest was bonds. Between June 30, 1909, and June 30, 1910, 84.67 miles of road was built. The amount of stock went up from \$2,510,000 to \$3,004,200. In that year 84.67 miles of road were built and an issue of stock \$6000 per mile was issued against it. If you will look up the net earning you will find that it is roughly true that since 1903 the indebtedness has increased twice as fast as the net earnings.

What is the explanation of this increased cost? I say to you frankly here the explanation is that the Aroostook Construction Company, composed largely of influential stockholders of the B. & A. and its largest holder of stock, has made contracts with the road for each mile of its proposed extensions for a certain amount of bonds and stock per mile, and then proceeded, acting as a construction company, to sub-let to contractors who have

built the road for less than the bond issue per mile, and the construction company has pocketed the \$6000 per mile of stock, and whatever difference there was between the bond issue and the actual cost of the construction besides.

This construction company was organized in 1891, with a capital stock of \$50,050. I do not know what it is worth today. None can be bought. I do not know what dividends they pay. They do not have to report to anybody. They have all the rights of a railroad corporation, with none of its responsibilities.

I do know that at the present time out of \$3,004,200. of stock issues by the B. & A., the Aroostook Construction Company holds 26,499 shares, so that computing the value of their stock and what it is supposed to be the value of the B. & A. stock, the par value is \$100. per share and is now worth \$500. per share.

In other words the situation is this, that certain stockholders of the B. & A. acting as a construction company have constructed mile after mile of new road, sold it, as a construction company to themselves as a railroad company, made a large profit and the difference is paid by every man who ships anything over the road in the shape of freight.

Now I say that the objection which the people have to the further continuance of this extension is simply based on the well known fact that for the increased indebtedness whether properly or improperly made, the railroad corporation must necessarily increase its earning power. When complaint is made about freight charges and any shipper goes to Washington before the Interstate Commerce Commission, the Commission will inquire what the railroad corporation paid for the extension, and equipment. And it is pretty difficult to say that while the railroad paid \$36,000. per mile the cost was not over fifteen or sixteen thousand dollars per mile. The railroad will state they paid \$36,000. and the shippers have got to pay the interest on it.

That is true not only as a matter of theory, but it is true in fact as concerning the B. & A., for with its increase in securities, this watering of bonds and stocks has come and is coming every year an increased burden to the shippers of the road.

In the first place it is fair to say that the freight rates on the road are large—they are high. I think it is fair to say they are higher than freight rates on any road near its size on the Atlantic seaboard, and these rates have always been defended because it was a country road, etc. I want to read some of the freight rates: candy, Boston to Caribou, rate 68 c. per 100 lbs.; Bangor to Caribou, 64c. Hardware, Boston to Caribou, 55c. per 100 lbs. Bangor to Caribou, 64c. Soap, from Portland through to Caribou, 49c. Houlton to Caribou, 30c. Oleo., Boston to Caribou, 68c.; Bangor to Caribou the same rate. Grain, in carload lots, Northern Maine Jct. to Ft. Fairfield Junct., where there is competition, \$70.50; to Ft. Fairfield, fourteen miles further on, where there is competition, \$55.50—\$15.00 less on a carload.

The rate on potato sacks from Houlton to New Limerick, six miles, is 14c. per 100; from Houlton to Mars Hill, twenty-two miles, 21c. per 100. The rate on the same commodity from Chicago to Boston is only 55c. per 100.

The rate on fertilizer, carload lots, from Maple Grove to Fairmount, two miles, \$16.00. The rate on fertilizer from Fort Fairfield to Caribou, 34 miles, \$28.00.

A shipment of straw was made in less than a carload lot from Ashland to Eagle Lake, less than 35 miles; the rate of freight was \$4.80 per ton. Considering that straw is only worth five or six dollars a ton, this rate seems high. The freight on a single sewing machine from New Jersey to Bangor was 55c. The rate on the same machine from Bangor to Caribou was \$2.00.

The rate on tobacco from Detroit, Mich., to Caribou, via Northern Maine Jct., is 77c. of which the charge on the B. & A. R. R. is 45c.

The rate on agricultural implements on a shipment from Syracuse, N. Y., was \$45.34 to Northern Maine Jct. and \$60.05 from there to Ft. Fairfield.

It is possible to state instances of the rates to an interminable length, but the rates on the B. & A. are high. They are not only high, but they are growing higher, and we have had very conclusive proof of this condition the last two years. The freight rate on lumber has been raised an amount sufficient to cost the shippers pretty close to \$100,000 a year. I got a letter yesterday stating that the rate on potatoes had been raised one cent in some cases. The mileage rate has been raised from two cents to two and a quarter. The mileage is now transferable. The charges on potato houses have been raised this last two years. The railroad will not permit a farmer to have a potato house on his own land, but requires the farmers to lease the land from the railroad, and then having the house upon their land they increase the rental rate, and they have done that all over the country.

Now, gentlemen, what happens when a B. & A. shipper finds his rates of freight have been raised, when he asks for relief? He must go to the Interstate Commission in Washington. The question asked first is how much has the B. & A. invested in its plant? And next, what is a fair return on that investment? Then the shipper is not allowed to show how the B. & A. came to invest so much in its plant, and he may not be able to show, probably, and I have that direct from the secretary of the Interstate Commerce Commission, that the rake-off has been taken by the stockholders or that the rate was due to inflated prices. He finds that the B. & A. will be permitted to charge a fair return on the ostensible investment, whatever that may be.

It comes to the question whether we shall permit any further inflation, or whether we shall say to this railroad "You have had a 95 per cent. rebate from the State to help you on your taxes." (I am not here to argue the wisdom or unwisdom of that). "You have had a monopoly provision in your charter which gave you control of 15 miles of territory on

each side of your line, so far as steam railroads are concerned. You have had a special act in the laws of 1903 which has permitted you to load your road with watered stock." Shall we not say to them, gentlemen, "You have had all the special favors from the State that you are entitled to. Now go ahead and build your Allagash extension. Nobody objects to it, but build it under the sane and decent laws of the State of Maine. Charge the shippers from your section a fair return for every legitimate dollar invested in this extension, and if we have to stand some increase of freight charges for a time on account of the lack of profit on the new extension we will not complain. But from this on you shall have no right any more than any other road to charge your shippers with interest on an inflated issue of stocks and bonds."

I have tried to show you, and have gone over this hastily that this is not a revolutionary scheme, as I apprehend counsel would have you believe, or to talk something new. They came here two years ago and said they could not build in the Allagash unless we gave them an extension on their rebate. The Legislature said, and very properly, that whatever has been done in the past, no more tax rebates would be given in the future. If they come here and say to you, we cannot build in the Allagash without this special provision which provides for an inflation of our securities, without this rake-off to the construction company, then I say tell them to let the Allagash extension wait until there is demand for it to be built on an honest, sane and sound basis.

That is all there is in this amendment, and I do not know whether I have made it plain. I have tried to do so. As I said at the beginning, if any objection is offered to any part of the amendment, if anybody thinks there is anything in the amendment beyond that, I am ready to accept any change that does not defeat the main purpose.

It is not offered for anything new, but to take away any special exemption they have had, and whether they ought to have had it or not they have certainly had it long enough.

I hope the amendment will prevail.

Mr. MULLEN of Penobscot: Mr. President, I am not only interested in the development of the country north of us, not only the county of Aroostook but also in my own county of Penobscot and the adjoining county of Piscataquis. I have listened with a great deal of attention, with as much attention as I could, to the argument of the senator from Aroostook, and I gather from what he has said that the condition prevailing today and the extension asked for by the B. & A. people is just the condition that they have had to work with the last two years. Now they have not been able to build the Allagash branch and they have had, according to the deduction I have made from the senator's argument, all the chances of graft and watering their stock and inflating their bonds, that they are asking for in this extension. Now if they have not been able to do it in the last two years, with all the privileges that they have had and with the markets of the world in a fairly good condition, it seems to me that if we cut off that privilege, or if we adopt this amendment, that we might just as well refuse the extension of the time which they are asking for.

Most men would tell you, gentlemen of the Senate, that if I had anything to say in relation to the B. & A. railroad that it would be hostile, but I do believe that we must hold out inducements to capital to come to the State of Maine, particularly in the remote and northern regions of this State. I have done some work in that direction myself and I know that people do not want to come here and do not want to send their money here for a possible three or three and a half or four per cent. investment. They can get that without trouble in other places.

I have not very much to say on the matter. I could not say very much if I wanted to; but I do hope, Mr. President and gentlemen of the Senate, that the amendment offered by the senator from Aroostook will not be adopted.

Mr. KELLOGG of Penobscot: Mr. President, it would be useless for me to undertake to say anything that would make this plainer than Senator Milliken has done. I am surprised at a man I have seen here from Bangor, lobbying against this amendment, a man that in

years past has said as much against the B. & A. Railroad, more than the men in Aroostook county have said, and they have gone so far here today as to want to put this into a political aspect, saying to me, "Here, you must not support Mr. Milliken in this because he is a Republican." Now I think that was a thing that should not be allowed to come into this at all. I want to say right here that the B. & A. railroad before the September election put their special agent into the towns in northern Penobscot to defeat myself and Mr. Quinn of Millinocket because we were not in favor of their legislation. I notice that our senator from Penobscot has not seen fit to state why the B. & A. Construction Company owns \$2,200,000 worth of the B. & A. stock. Senator Milliken said he did not know what that stock was worth. Now if you will turn to the insurance commissioners' report for 1910 and look on page 433 you will see that the Union Mutual Life Insurance Company of Portland holds sixteen shares of that stock, face value \$1600, and the book value of that company is \$72,000.

What does that go to show? Does that go to show that the B. & A. Construction Company is not turning over this property to the B. & A. railroad at an enhanced value? Gentlemen of the Senate, I do not believe that you people down here in the lower part of this State, who have been getting your ice plant bills passed, and your fish laws and all of that for your own protection, want to say to the B. & A. Railroad, "you can continue to tax the traveling public, and with your high rates on that road can have this extension to 1913 and to 1918 as amended." and by that time they will have the B. & A. loaded down with freight rates and passenger rates so that it will have to go into the hands of a receiver. What does the construction company care then; they will step out and say, we have got our profits.

Gentlemen, I hope the amendment will be adopted.

Mr. MULLEN: Mr. President: I will say for the benefit of my colleague that one reason why I didn't

make any statement in regard to the ownership of the B. & A. Construction Company stock was because I didn't know.

Mr. KELLOGG: Mr. President: This proposition here (showing a paper to Senator Mullen) will show what it is worth, will it not?

Mr. MULLEN: Mr. President: It is so stated here.

Mr. KELLOGG: Mr. President: It is a matter of record in this report that these sixteen shares of stock are carried out to the value of \$72,000.

Mr. MILLIKEN: Mr. President: I think the argument against the amendment has not been made here on the floor of the Senate, and in attempting to answer the arguments I have tried to answer the argument that I understand has been made by counsel elsewhere. And those arguments I think were not based upon the merits of this matter, but were an attempt to create prejudice in your minds as to my motives in introducing this amendment, or as affecting some other legislation.

I expected more would be said here. The Senator from Penobscot, Mr. Mullen, says the conditions were the same the past few years, and why didn't they build the Allagash extension if they had a opportunity to get a rake off? Gentlemen, how much would you have them do in two years? They were very busy building 83 miles, with a rake off of \$6,000 per mile in stock and \$10,000, a mile in bonds. How much would you have them put upon the suffering public in the northern part of this State in two years? Why don't they build the Allagash extension! I submit they had enough to do in that 83 miles.

I call your attention to the fact that the road they built so far has perhaps offered some colorable reason for special privileges for it has gone through a section that is inhabited. Whereas this Allagash extension goes through regions absolutely unsettled and untenanted except by deer and moose and the other denizens of the forest, and the only reason for building it could be the prospective

profit to the promoters or the feeling that the country will be developed. There is no possible excuse for building it on account of the population. It has been argued to you in private, it has been argued to you in the corridors that anything against this extension is against progress.

Mr. STAPLES of Knox: Mr. President: I would like to ask the Senator a question. Does not this Allagash road pass through large lumber regions?

Mr. MILLIKEN: Yes.

Mr. STAPLES: And are there not large water powers in that region?

Mr. MILLIKEN: Yes, and water powers that could not be available except through the railroad.

I said there is no colorable reason for giving any special inducement to build up there. As to added industries, the chances are, if this program is followed, that for every industry added would be taken away an industry already existing. It is a matter of common knowledge that industries are constantly being prevented from locating on the existing lines of the B. & A. R. R. on account of the high freight rates, partly due to the exemption granted in 1903, and never granted to any other railroad in the history of this State.

The senator from Penobscot says that we must hold out inducements to capital to come here and invest in Maine. For Heaven's sake, what sort of an inducement does he want to hold out? I say to you that an investment of \$50,000 in capital increased in 10 years to \$2,600,000, besides unknown dividends, is a very decent inducement. Is that the sort of an inducement he wishes to offer? As much as I am interested in Northern Maine, my consideration for the people that have to live and do business on the existing lines of the road, makes it necessary for me to raise my voice here in protest against any such scheme. I have had it said to me, "what does anyone care about the issue of stock who lives on the road? Let them build their line and issue as much stock as they like."

Gentlemen, when I was a boy I

used to see an advertisement in the papers about some man by the name of Jones, who purveyed some article of merchandise, and "Jones, he pays the freight," was printed in big type in the advertisement. The objection to any further continuance of this exemption is simply the objection of Mr. Jones who pays the freight.

Now there is all there is to this amendment. The senator has alluded to the question of politics. I want you to bear me witness that on all matters here which have concerned the welfare of the State, I have tried to keep clear of politics, and I am for anything with all my might that I think is for the benefit of Maine, regardless of politics—and I am against everything with all my might that I think will injure Maine, no matter who proposes it. If, however, you wish to consider politics, consider the effect it will have upon the people of this section who are interested that this special privilege shall not continue, if you say to them by passing this amendment in its original form, we are going to continue for five years after 1913 this peculiar bond and stock watering privilege which this railroad has enjoyed. So far as its effect upon the railroad or its extensions is concerned, which would be better, to adopt this amendment, which I submit as a fair one, and put this further extension under the ordinary provisions of the general law, or to put this through in its original form and have what I believe you will have after the people understand it, an application for a referendum. When the vote is taken I ask that it be taken by the yeas and nays.

Mr. MULLEN: Mr. President: I would like to ask a question. In relation to the building of the road to which you have referred, has the B. & A. built any new road in the last 16 months, except the 10 or 12 miles on the St. John river?

Mr. MILLIKEN: Mr. President, my figures were based on the comparison between the report filed in the railroad commissioners' office for the year ending June 30, 1909, when, as the senator knows, construction was going on, and

the next report ending June 30, 1910. And the difference between the two reports, 84.60 miles, is the difference reported.

Mr. MULLEN: Mr. President, and all the mileage under construction the previous summer was finished up then?

Mr. MILLIKEN: Mr. President, I so understand it.

The question being on the adoption of the amendment presented by the senator from Aroostook, the yeas and nays were ordered, and the secretary called the roll. Those voting yea were: Messrs. Blanchard, Boynton, Dodge, Donigan, Fulton, Kellogg, Leach, Mayo, Milliken, Moulton, Osborn, Pendleton, Stearns—13.

Those voting nay were: Messrs. Al-Jan, Chandler, Edwards, Farrington, Foss of Androscoggin, Foss of Cumberland, Gowell, Hill, Mullen, Noyes, Sanborn, Smith, Staples, Theriault, Winslow—16.

So the motion to adopt the amendment was lost.

The bill was then given its second reading and was passed to be engrossed.

On motion by Mr. Mayo of Hancock, Senate Document No. 134, An Act to amend Chapter 4 of the Revised Statutes in relation to the erection of wharves and fish weirs, was taken from the table. On further motion by the same senator Amendment A was adopted and the bill as amended was read and the second reading assigned for tomorrow morning.

On motion by Mr. Gowell of York, Senate Document No. 145, An Act to constitute nine hours a day's work for public employes, was taken from the table, and on further motion by the same senator was referred to the committee on labor, in concurrence.

On motion by Mr. Boynton of Lincoln,
Adjourned.

HOUSE.

Thursday, March 2, 1911.

Prayer by Rev. Mr. Nichols of Hallowell.

Journal of yesterday read and approved.

Papers from the Senate disposed of in concurrence.

Senate Bills on First Reading.

An Act to authorize the city of Lewiston to take ice from the Androscoggin river, Lake Auburn and other ponds in Androscoggin county, and sell the same at cost to its inhabitants.

Mr. Williamson of Augusta, moved that the rules be suspended and the bill be given its third reading at the present time.

Mr. WILSON of Auburn: Mr. Speaker, I wish to say one word in regard to this bill for the information of the House. About 1860 the first company to harvest and distribute ice for the citizens of Lewiston was founded. From that time down to the present there have been six companies doing business in the cities of Lewiston and Auburn. Each company has survived but a short time. The latter company has absorbed them and driven them out of business, and during this time they have been acquiring the rights along the banks of the Androscoggin river; they have gone out to Lake Auburn and acquired the rights there; they have gone to Sabattus and acquired rights there, so that today the ice company doing business there practically controls all the shore rights in and around the city of Lewiston where it would be practical to procure the supply of ice for municipal purposes. Two years ago the citizens of Lewiston decided that they wanted the privilege of cutting or harvesting their own ice, and in less than two days they secured a petition signed by more than 4000 people of the city of Lewiston and came down here before the Legislature and asked for that privilege. The matter was given a hearing before the judiciary committee, if I remember correctly, and an adverse report was brought into the House of Representatives. Notwithstanding that adverse report the House voted to grant them their request. It then went to the Senate and was there