

# MAINE STATE LEGISLATURE

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Legislative Record

OF THE

Seventy-Sixth Legislature

OF THE

STATE OF MAINE

1913

**SENATE.**

Wednesday, March 12, 1913.

Senate called to order by the President.

Prayer by Rev. Melville C. Miner of Gardiner.

Journal of previous session read and approved.

Papers from the House disposed of in concurrence.

An Act to provide for appeals in the case of location of wharves or fish wiers.

This bill came from the House by that branch referred to the committee on judiciary, and on motion by Mr. Bailey of Penobscot, was tabled for printing pending reference in concurrence.

**House Bills in First Reading.**

An Act additional to Chapter one hundred eighty-one of the Laws of nineteen hundred eleven, entitled "An Act to establish in Cumberland County a County Farm."

An Act to amend Section nine of Special Laws of eighteen hundred and sixty-three, relating to the City of Portland.

An Act to extend the provisions of Chapter three hundred and fifteen of the Private and Special Laws of nineteen hundred and nine, being "An Act to incorporate the Penobscot Bay Water Company," as extended and amended by Chapter two hundred fifty-five of the Private and Special Laws of nineteen hundred and eleven, to March twenty-sixth, nineteen hundred and fifteen.

An Act relating to the compulsory assignment of real estate mortgages under certain circumstances.

An Act to amend the Primary Election Law and reduce the number of ballots required to be printed.

An Act additional to Chapter seventy-nine of the Revised Statutes, relating to transfer of actions and other matters to the Law Court in case of death of presiding justice.

Resolve, in favor of aid in reconstructing a bridge in the Town of Verona.

Resolve in favor of aid in repairing the Lake Road in Oxford County.

Resolve providing for an appropriation for the protection of trees and shrubs from the introduction and ravages of the gypsy moths for the year nineteen hundred and fourteen.

Resolve in favor of Repairing Highway in town of Somerville.

Resolve to determine the ownership, location and value of islands along the coast of Maine.

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

**Legal Affairs.**

By Mr. Bailey of Penobscot. "An Act relating to payment to minors under decree of Court." (On motion by Mr. Bailey, tabled for printing pending reference.)

**Appropriations and Financial Affairs.**

By Mr. Richardson of Penobscot: "An Act to amend section 2 of chapter 250 of the Public Laws of 1909, relating to the payment of Fees accruing to State Institutions and Departments. (On motion by Mr. Richardson, tabled for printing pending reference.)

By Mr. Richardson of Penobscot: Resolve relating to the payment of fees to Town Clerks for reporting in relation to Inheritance Taxes.

**Agriculture.**

By Mr. Burleigh of Aroostook: "Resolution of Golden Sheaf Grange, requesting enactment of bill establishing Experiment and Seed Farm in Aroostook County."

By unanimous consent, Mr. Hersey of Aroostook presented the following order, out of order, and moved its passage:

"ORDERED, that the Secretary of the Senate convey a message to the House of Representatives informing that body that bill 'An Act relative to Untrue and Misleading Advertisements,' (Senate Document No. 322), which was returned by the Governor without his approval, has not received the affirmative vote of two-thirds of the members of the Senate."

The order was given a passage and the secretary was instructed to convey the message to the House.

Subsequently the secretary reported

that he had delivered the message with which he was charged.

**Senate Bills in First Reading.**

An Act to repeal Chapter 179 of the Public Laws of 1911, providing for the exemption of mortgages on real estate from taxation.

**Passed to Be Engrossed.**

An Act to amend Chapter two hundred fifteen of the Resolves of the State of Maine enacted in the year eighteen hundred ninety-seven as amended by Chapter one hundred eight of the Private and Special Laws of the year nineteen hundred three relating to students in agriculture at the University of Maine.

An Act to revise and extend the charter of the Shawmut Water Company.

An Act relating to Good Templars Hall in Dexter.

An Act to restrict and regulate private banking.

An Act to incorporate the Brownfield Electric Company.

An Act to amend Section four of Chapter seventy-eight of the Public Laws of nineteen hundred nine relating to the better protection of the people of the State of Maine from the disease known as tuberculosis.

An Act granting the Penobscot Tribe of Indians the right to establish and maintain a ferry between Indian Island, so-called, and the city of Oldtown.

Resolve in favor of the town of Forest City.

Resolve in favor of the Maine State Agricultural Society and repealing resolves in favor of said society.

Resolve in favor of the town of Hermon.

Resolve in favor of the town of Milo.

An Act amending and correcting the limits of the Maine Forestry District.

An Act to incorporate the Washington County Light and Power Company.

An Act to extend the charter of the Farmington and Augusta Railway Company.

Resolve appropriating funds for filing cases in Senate office.

Resolve in favor of D. C. Skillin, secretary of the committee of the State

School for Boys and the Industrial School for Girls.

An Act to amend Section eighty-eight of Chapter fifteen of the Revised Statutes, as amended, relating to school holidays.

An Act to amend Chapter one hundred ninety-three of the Laws of nineteen hundred nine, entitled "An Act creating the Maine Forestry District, and providing for protection against Forest Fires therein."

**Orders of the Day.**

The PRESIDENT: The Chair lays before the Senate for consideration the first matter assigned for today, Senate Document 392, An Act repealing Sections 3 and 4 of Chapter 300 of the Private and Special Laws of 1911, entitled "An Act granting H. L. Gooch the right to maintain a dam on the East Machias river."

Mr. BAILEY of Penobscot: Mr. President, this bill was tabled and assigned for Tuesday by the senator from Washington, Mr. Mansfield, and at his request, I retabled it and assigned it for today, and I now yield the floor to the senator from Washington.

Mr. MANSFIELD of Washington: Mr. President, I am here to ask that this legislature stand by the grant or charter given Henry Gooch of East Machias in 1911 to maintain a dam on the East Machias river, which I will read, or that part wherein the parties using this dam should reimburse Mr. Gooch for the money he expended and had a right to expect by the grant you gave him:

"Section 3. (Of Chapter 300, Laws of 1911.)

Said Henry L. Gooch, his heirs and assigns, may demand and receive a toll for the passage of logs, pulp wood and other lumber over his said dam or dams, at the rate of ten cents per thousand feet, for logs and other lumber, and five cents per cord for pulp wood; and the said Henry L. Gooch, his heirs and assigns, shall have a lien on all logs, pulp wood and other lumber that may pass over his said dams and improvements for the payment of said toll and unless said toll is paid within thirty days after said logs, pulp wood and other lum-

ber shall have passed over his said dams and improvements for the payment of said toll, the said H. L. Gooch, his heirs and assigns may seize said logs, pulp wood or lumber and sell at public auction so much of the same as shall be necessary to pay said tolls, costs and charges; notice of the time and place of sale being first given, ten days before said sale, in some newspaper printed in Machias, in said county."

"Section 4. When the said Henry L. Gooch, his heirs and assigns have received from tolls his outlay on dams, improvements and repairs and six per cent. interest thereon, then the toll shall be reduced to a sum sufficient to keep the works in repair. The cost of dams, all improvements and repairs made subsequent to the passage of this act by the said H. L. Gooch, shall be included in the cost of dams and improvements designated in this act."

The parties wishing to transact business on this river do not want to pay the toll specified. I claim this money which he expended (as reported before the committee amounting to about \$300, less \$50 that they paid him in 1912) leaving a balance of \$250, should be paid. I understood at first they did not intend to make good. Friday the Senator from Penobscot, Mr. Bailey, informed me they are willing to pay and the amount of lumber they have to come in this year will more than cover the amount. If this is so, I am willing for this bill to pass.

I have no personal interest in this. No one has asked me to take this stand. I am only taking it because I was personally acquainted with Mr. Gooch who died last fall. His oldest son and successor to the business is very sick at the Eastern Maine General Hospital and they have no one to look after their interest. I will ask the senator from Penobscot if I am right that they expect and are willing Mr. Gooch or his heirs shall be reimbursed by the parties having lumber cut on this river?

Now, Mr. President, I understand this bill may become a law on or about July 1. A gentleman doing

lumber business in that section of the county informed me yesterday that last year's logs did not arrive or go over the dam until about July 15. Should this bill pass as it is and the logs come down the same time as last year, the heirs of Henry Gooch would lose the sum of \$250, which they can ill afford.

With the understanding that all parties interested do not wish to take any money away from the family that is honestly due them, expended with the grant from the legislature that they should be reimbursed and for fear the drive may come in late, I offer the following amendment to the bill:

Mr. President, I think I will make another little statement before I offer that amendment. I talked with Mr. Bailey and he is not willing that any time should be set, or that there is any certainty that the heirs of Henry Gooch shall be reimbursed.

If that is the position he is to take, I move the indefinite postponement of the bill.

Mr. BAILEY: Mr. President, this was a bill which came before the legal affairs committee, and it perhaps more properly should have gone before the committee on interior waters but they considered that there was a question of law involved and it was sent to our committee.

At the hearing the parties were represented by counsel, Mr. Herbert L. Dudley of Calais representing the proponents and Mr. William R. Pattingall representing the opponents of the bill. They were there with their witnesses. The committee gave a full hearing to the parties and their counsel.

The facts as developed at the hearing are as follows: In the closing days of the last Legislature this bill was passed. The testimony showed that Henry L. Gooch, living in the town of East Machias had a small steam saw-mill. It was not situated directly on the East Machias river, but at some little distance from the river upon a logan. During the average months of the year when there was plenty of water, Mr. Gooch could get his logs

from the main river over a sort of bar at the entrance to the logan, into the logan which he used as a mill pond. But it was only a short period during the year that he could do this. He cut a sort of artificial channel from the river into the logan. When the water was high it filled the logan up to some extent. In order to facilitate the passage of the logs from the main river into his mill pond, he built what would be called a partial dam. He took any rocks to be obtained in the vicinity and created enough obstruction in the flow of the river to divert the water into his mill pond. This served his purpose to some extent, but even then he did not get the amount of water which he desired to facilitate the passage of logs into the logan which he used as a mill pond.

He came to this Legislature and asked for a charter to construct a dam and also for the right to take tolls from other people who were driving logs down that river. Now as I understand the law in regard to these matters, it is this: Under the decisions of a court of our State the rivers, the floatable streams and rivers are public highways. They can be used in the summer for the driving or the floating of logs and boats and other conveyances and in the winter the river can be used as a means of travel upon the ice.

Mr. Gooch did not put this dam in for the purpose of generating power. Of course under the mill act a person owning riparian rights can erect a dam for the purpose of generating power. He can obstruct the stream. And some of our courts have found that is not allowed in some of the New England States. It is an obstruction of the stream, so that without a charter of the Legislature, this dam built by Mr. Gooch, not being a power dam, would be a public nuisance, and anyone injured thereby could bring an action or ask for its removal.

This dam, as I said before, was built primarily for the convenience of Mr. Gooch, but the charter was asked for under the pretext that it would facilitate the driving of logs.

In our State we have another peculiar law, and that is parties may build a dam upon some of our streams or rivers which is clearly shown to facilitate or aid in the driving of logs and charge a toll from those whose logs go over the dam. You see that is a very arbitrary exercise of power, when an individual or corporation could obstruct a stream by building a dam, and then charge their neighbors a toll for driving their logs over it. And the only reason that authority can be given is that it is for a public purpose, that it is a public benefit.

Mr. Gooch sought to bring himself under the provisions of that law. There was some testimony to the effect that his dam would benefit the driving of logs, but there was a good deal of testimony that the dam evidently did not benefit the driving of logs, but that it was an obstruction. If that was the fact of course it would be a public nuisance because it was obstructing a public highway, that is, a floatable stream, not being built to generate power, or under the act to facilitate the driving of logs.

Every lawyer knows that the only reason why such dams can be maintained, is that they must show—the burden of proof is upon such people to show, that the construction of the dam is for the benefit of the log drivers; that it will facilitate the work of those who have lumber or logs upon the stream to drive.

The committee did not think that this dam aided or helped or benefited the driving of logs to the extent claimed by Mr. Gooch, but two years ago, the Legislature having passed this act, and Mr. Gooch having gone ahead and built the dam—it was a very slimy structure; he paid \$250.00 to build this dam, so you can see that it was not a very substantial structure. It was primarily built for his own convenience in order to raise the head of water in order that logs might come to his mill pond. Therefore the committee thought if they allowed him to keep his dam in the stream, against the vehement objection of the owners above, they would strike out the provision to collect tolls.

It seemed that in 1912 there passed over this dam pulp wood, small logs, to the amount of \$50.00, so that it reduced the cost of the dam \$50.00, or making it cost \$300.00. It further appeared in testimony that a company cut and hauled and landed on the East Machias river somewhere from three to three and a half million of logs that will pass over this dam. And before this act goes into effect those logs would pass over this dam, and he would have the right to collect the toll. So that he would get pay from every land owner and log driver on that river for a dam which he constructed for his own benefit. The committee thought that they were using him pretty fairly.

I understand from the senator from Washington that last year those logs did not pass over the dam until July 15. As I understood it, they passed over some time in June. The ordinary time of the drive on this stream, it being so near the sea coast, is some time in May, when the logs come down the river.

As I said before, unless there is some unforeseen emergency or an extremely dry season, there is no reason why the logs should not go over the dam before this law takes effect, and he will get pay from the people on this river for something he wanted for his own peculiar benefit.

Therefore, I hope the motion of the gentleman will not prevail.

Mr. MOREY of Androscoggin: Mr. President, the act has been read once, being Chapter 300 of the Laws of 1911, and by the terms of that act Mr. Gooch was given the right to erect a dam and charge tolls until the sum of \$350.00 should be collected. After that he could charge no more in tolls except in the maintenance of the dam. It seems that Section 4 provides "When the said Henry L. Gooch, his heirs and assigns have received from toll his outlay on dams, improvements and repairs and six per cent. interest thereon, then the toll shall be reduced to a sum sufficient to keep the works in repair. The cost of dams, all improvements and repairs made subsequent to the passage of this act by

the said H. L. Gooch, shall be included in the cost of dams and improvements designated in this act."

This act was passed giving Mr. Gooch the right to erect a dam and collect toll, and on the strength of this act he built the dam. \$50.00 has been collected, and there is a large run of logs above. But he cannot collect anything above the cost of building this dam, and for maintenance in the future will have only a trifling amount.

Mr. Gooch is proceeding for the heirs and assigns.

The father is dead and the son is now sick. I think the proposition of the senator from Washington is eminently fair. As I understand him, he will be willing to have an amendment to the proposed act, which wipes out Sections 3 and 4,—although the motion now is to indefinitely postpone the bill,—provided the run of logs will get there in June, go over the dam and pay the amount required, so that they will get back the amount of money paid out. I understand that was the proposition that was practically afoot, and that both sides are willing that should be done. Unless this is done—unless it is indefinitely postponed—or a time fixed so that this run of logs will get through, this man Gooch who went on and built the dam relying on the act of the Legislature, will simply have built it for naught, and shows that it was absolutely foolish to put any trust in an act like this. It seems to me, in the spirit of fair play and justice that Mr. Gooch should have a chance to recover his tolls.

Mr. HASTINGS of Androscoggin: As a member of the committee on interior waters, in 1911, before which this matter was taken up and discussed, and through whose recommendation it was finally passed, I feel it my duty to take issue with the senator from Penobscot in relation to the value of this dam for driving purposes.

We will take the senator's statement, which I feel is no doubt correct, that Mr. Gooch had a mill erected upon what was a logan, as we lumbermen are in the habit of calling a condition of that kind, that made out from this

river. He says himself that at the times of high water Mr. Gooch could without trouble float his logs over this bar and into this logan without the aid or assistance of any dam upon the river. At the times of low water he could not do that. Now it is fair to presume, this being the case, these gravel beds were the occasion of his not being able to do that. The logs coming down the river from above must meet the same thing. In other words, they must be hung up by these same gravel bars and sand bars.

If the building of this dam destroyed the effects of those gravel bars, or in other words, crowded the water enough so that Mr. Gooch at any season of the year could float logs out of the main river into his logan, it is fair to presume it must be a benefit and assistance to the drives coming from above. The bill was drawn in the usual manner of all such internal improvements on streams, and it seems to me a fair proposition that he should be protected to the extent of receiving back the money he actually expended in the erection of this dam.

Mr. DUTTON of Kennebec: Mr. President, my only knowledge of this matter comes from the discussion here, this morning. I submit to the senators that the considerations which, two years ago, actuated the Legislature in granting this charter, or making this provision for the erection of this dam and the changing of tells have no place here, this morning. They are not at all material to the issue here. It is sufficient to say that, two years ago, the Legislature was satisfied that it was in the interest of driving upon this river that this charter be granted. It was granted, upon the face of the charter, upon the face of the contract that this deceased man spent the sum of \$350.

Now I submit that it is a fair proposition that that contract made with the State of Maine, two years ago, and carried out in good faith be not repudiated by this Legislature. If we are to start in on the proposition of repudiating contracts made with the State of Maine, let us take something of more importance and not some trivial thing going to some family, a mat-

ter of \$350. Let us not repudiate a contract with a man who is now deceased and is not here to answer.

Mr. BAILEY: Mr. President, I presume that in looking at every contract the surrounding circumstances, the conditions, the situation of the parties at the time when the contract was made is a proper subject of consideration in afterwards construing or in looking at the rights of the parties under it.

It does make a difference, Mr. President, whether before a committee which passes a bill there was a full hearing, or whether only a small part of the facts came to light. It does make some difference in regard to the rights of the parties under the contract with the State whether all the conditions, the facts, and the surrounding circumstances, which govern that contract were brought to the attention of the committee or not.

I say it is a fitting consideration for this Legislature or any other Legislature to look into those facts and those circumstances which control previous Legislatures in granting the charter of the contract.

Let us look at this matter. The senator from Androscoggin said there was a gravel bed in that river. There was a bar at the mouth of this logan. There was no evidence before our committee at this time there was any gravel bank or bar extending across the river. If there was such a gravel bed extending across the river, it would be a benefit to this man Gooch. It would obstruct the water so that it would go into his logan. But there was no obstruction at the south of the passage to his logan or his mill pond.

It has very frequently happened in other Legislatures that a man's rights or charters or privileges, or immunities granted by other Legislatures, have been modified, changed, abridged and wiped away, and I see nothing new, strange or extraordinary for this Legislature to take that action when that action is in favor of public policy and the protection of all the property owners under the conditions. I think not.

The senator from Androscoggin speaks of "presumption." When a man asks the State of Maine to give



him the strong right of eminent domain to build a dam across a stream and obstruct all navigation on that stream, and more than that, to compel men to go into their pockets and pay toll to him, there has got to be more than a presumption. The burden of proof is upon him. If it were not so any man could come to the Legislature and say that this thing would help him and that he thought it would help the public. And the public might be bothered and troubled in the matter.

As I said before, there was a full hearing. The parties were represented by able, and one of them by astute counsel. The committee heard the evidence, and all the committee after hearing this case reported as they did. I think, as I said before, the committee were given to understand by both counsel that these logs would arrive at that dam before this act took effect, but if perchance they did not, I think it may be right to give Mr. Gooch the benefit of the tolls on the logs that come down the river this year.

We do believe that this is right, that he should be reimbursed for the money he put out. The committee believed this dam being built primarily, I might say almost solely for his business, that he should not have the right to toll those above him on the stream. If any amendment is offered or can be offered to give Mr. Gooch the right of tolls on this stream this year, I shall certainly have no objection, for that was in accordance with the idea of the committee.

Mr. STEARNS of Oxford: Mr. President, I understand that the senator from Washinton intends to submit an amendment and the senator from Penobscot has signified his willingness along that line.

Mr. MANSFIELD: Mr. President, I did intend to submit an amendment but he said he would not accept it.

Mr. BAILEY: Mr. President, I did not understand that the senator wished to submit an amendment to that effect, this morning.

Mr. MANSFIELD: I have an amendment here and asked the sena-

tor if it would be acceptable and he said no.

Mr. RICHARDSON of Penobscot: Mr. President, this is a matter that comes a little outside of my experience but from my remembrance of the logs in boyhood days, it seems to me this ought to be adjusted. If by refusing to pass this little act we do an injury to this man Mr. Gooch and his heirs, why would it not be fair for all concerned to submit an amendment and allow Mr. Gooch his compensation for the logs which pass down the river, this year?

It seems to me that a dam of this character, as I understand it, is of much more benefit to Mr. Gooch in his business than it is to the parties who own the logs coming down the river, under the evidence presented here. I want in all fairness the heirs of this man to receive what is right and proper, but it seems to me on the other hand that the stipulations put over the act are well met, and that Mr. Gooch should have pay for the logs coming down the river, this year.

Mr. MANSFIELD: Mr. President, I withdraw my motion for the purpose of offering Senate Amendment A to Senate Document 392.

There was no objection. And Senate Amendment A was offered. "Senate Amendment A to Senate Document 392. Amend the last section by adding thereto 'this act shall take effect July 1, 1914.'"

The PRESIDENT: The question is upon the adoption of Senate Amendment A to Senate Document 392.

Mr. BAILEY: Mr. President, this is small matter to talk so much about. It seems to me that the senator from Washington offers a pretty liberal amendment to this bill. The Orono Pulp & Paper Company have just bought up there and intend to operate very largely. If this amendment goes into effect, the man will not only get pay for his dam but a great deal more. The testimony was that the dam was liable to go out at any time under pressure. He will get pay for the dam, but if the dam goes out he would obtain another run of logs for 1914, and it does not seem to me that is a proper amendment.

I have no objection and the committee has no objection, and in fact intended he should have the toll on the stream, this year. Under the amendment he would not only get that but would get what comes down, next year.

Mr. MOREY: Mr. President, I think there is a misunderstanding about this act. When they get pay for the dam, that is the extent except for improvements. It hardly seems that there is a call for any improvements of an extensive nature whatever. When the dam is once paid for, that is all they can claim, and the cost of whatever improvements are made. There does not seem to be any charge for maintenance before time, and it cannot go beyond the parties to the original act.

The question being on the adoption of the amendment, a viva voce vote was taken and the amendment was adopted.

The question being on the second reading of the act, it was given its second reading and was passed to be engrossed.

The PRESIDENT: The Chair lays before the Senate the second matter assigned for consideration, House Document 360, an Act permitting the use of automobiles in the town of Eden.

The pending question is the adoption of House Amendment A.

Mr. STEARNS of Oxford: Mr. President, inasmuch as this was tabled on my motion, I am glad at this time to yield the floor to the senator from Aroostook, Senator Hersey.

Mr. HERSEY of Aroostook: Mr. President, this Legislature has been in session two months and a little more, and owing to certain misunderstandings or a certain condition that confronts us at the present time I deem it necessary to take a few moments, this morning, to consider the duties of this Legislature in relation to the work of the session and the duties of the individual members to the people who sent them here.

A great deal of important legislation, the most of the important legislation of this session is waiting for

passage. There ought not to be at this time any conflict between the two Houses of this Legislature. There ought not to be any ill feeling between the members of the two Houses, whereby certain members denounce the other and hold it up to ridicule.

I wish to call the attention of the Senate, this morning, to certain things that we as senators may understand, whether at the present time we are engaged in our duties under the solemnity of our oaths, under the Constitution of the State, or whether we are here posing as mummies in ancient Egypt.

This Senate and the House across the corridor on the first day of January before the Governor and Council took an oath, and I want to read that oath, this morning, as preliminary to what I wish to say. Each one of us, the Speaker of the House and the President of the Senate did not do it for us; no man was delegated to do it for us. We each stood in our places and took this oath: "I do swear that I will support the Constitution of the United States and of this State so long as I continue a citizen thereof, so help me God." We subscribed to that oath and it is now in the archives of this State with our signatures. After taking that oath to support the Constitution of the United States and of this State, I want to call the attention of the Senate, this morning, to a part of that Constitution.

Amendment 10 to the State Constitution: "The Legislative power shall be vested in two distinct branches, a House of Representatives and a Senate, each to have a negative on the other, and both to be styled the Legislature of Maine, but the people reserve to themselves power to propose laws and to enact or reject the same at the polls independent of the Legislature, and also reserve power at their own option to approve or reject at the polls any act, bill, resolve or resolution passed by the joint action of both branches of the Legislature."

And in Section 16: "No act or joint resolution of the Legislature, except

such orders or resolutions as pertain solely to facilitating the performance of the business of the Legislature, of either branch, or of any committee or officer thereof, or appropriate money therefor or for the payment of salaries fixed by law, shall take effect until ninety days after the recess of the Legislature passing it, unless in case of emergency, (which with the facts constituting the emergency shall be expressed in the preamble of the act), the Legislature shall by a vote of two-thirds of all the members elected to each House, otherwise direct. An emergency bill shall include only such measures as are immediately necessary for the preservation of the public peace, health or safety and shall not include (1) an infringement of the right of home rule for municipalities."

Before the ink upon the oath to which we subscribed in both branches had dried, from the House there came into the Senate a bill, under suspension of the rules, an emergency clause attached, to change the name of a bank in my county, presented by my old friend, who represents the town of Caribou, an honest, straight-going Republican banker. He wanted the name of his bank changed, and he honestly thought I have no doubt that under the emergency clause, which he misunderstood at the time he could have that name changed. He gave for the reason under the Constitution of Maine, that the bank had printed in anticipation if the change of name a lot of stationary that would be wasted and could not be used if they waited ninety days. And, Senators, it was a serious thing, when that matter went through the House of Representatives; when the rules were suspended and that emergency was read and then came to the Senate. I deemed it my duty as one of the senators of this State to stand in my place, in spite of my friendship for the man who represented Caribou, my personal friend, to object to it on the ground that it was not an emergency and defeat it. My friend, Irving, came to my seat and said to me, "Why did you do that?" offended

with me for doing it. I called his attention to his oath, and I called his attention to the Constitution, and he said "You are right. I will not insist upon it. It was done under the idea that I could get it, and I had in my mind my bank, and the loss to my bank."

It was his private interest in this matter which influenced him to forget for a moment that he was representing his bank and not the people. It seemed to me at the time that that was a sufficient lesson for all time to come, but it did not seem to be so.

On March 6th, in the House of Representatives, something occurred. It seems that one of the Representatives of the city of Augusta, a candidate for mayor of the city, deeming that his private interest was greater than the interest of the people of the State of Maine, above the Constitution of Maine, thinking his election as mayor of the city was of more moment than his oath, of more moment than the conscience of the two Houses of this Legislature, put in, after the House and Senate had voted that no more private matters should be received, put in, under suspension of the rules, in the House, when men in both Houses with private bills in their pockets wanted an opening, put in his little measure to amend the charter of the city of Augusta, that he might be elected mayor of the city. And furthermore put on to that private measure, under suspension of the rules, what? An emergency clause, that the health and the peace and the safety of the people of Maine were endangered unless he was elected mayor of Augusta (laughter).

He asked this Legislature in both branches to pause in their business for the State and legislate for him and his private interests. It went through the House. I am not criticizing the House of Representatives. I have no business to. I say that it went through the House and came to the Senate. Why? Because I have no doubt that the men sitting in the House of Representatives said this: "Why, he is a fellow-member of this body; he is a leader of his party here. I have meas-

ures in the Legislature and I do not want to oppose him. I do not want him to rise up against some measure of mine. I saw his power on the suffrage question, and I do not want to antagonize him." They said "Why, although I do not believe in the emergency, I would not like to fight it, but I will let it go to the Senate and there they will take care of it. And thus greeting their consciences, they let it go to the Senate, and if I remember right, we took care of it, as we ought to and retained our dignity, we did our duty. When the bill went back to the House, they concurred except one man, and he stood up in the House and said this: "I cannot understand the attitude of the honorable senators who sit at the other end of our long corridor. I have observed the senators this winter, and were I superintendent of buildings here, I should put a motto over the door of that Chamber in large letters, inscribed as follows: "To the people of Maine: Leave hope behind, ye who enter here" (applause). I would rather sit in the tombs of Egypt with the mummies of the Egyptian kings than to sit in there."

I do not think he need worry. He said further: "Tell me, Mr. Speaker and gentlemen of the House, why the great Republican majority in that Senate—and I have no friendliness to that party, either—why they in the Senate should line up and vote down this proposition put up to them in an emergency like this by the citizens of my city?"

Strange, was it not? Well, it was sort of contagious. It seems to me that members of the House, certain members there, ought to have understood that the Senate of Maine understood the position, the dignity of their position, and could not be ridiculed away from it, or driven from their position by any threats of legislation to be held up in the other branch.

What happened next? Before the committee of which I have the honor of being a member, appeared a bill to open certain roads in Bar Harbor to automobiles, the measure now before us in this amendment. This is the third session in which I have listened to the discus-

sion of whether automobiles should enter Bar Harbor or not. It was a close question. The Legislature decided they ought to shut them out at two different sessions and in this session after a prolonged fight, our committee decided that it might be best for Bar Harbor to open up certain roads to automobiles.

Before our committee appeared in favor of that proposition the representative from Bar Harbor and he had a bill upon which he had put an emergency clause and after appearing before our committee and discussing the matter with us in a friendly way, and after we had talked it over in executive session, we called the parties together, and told them that we were disposed as a committee, although the question was doubtful, we were disposed to grant a favorable report from our committee to open up certain roads in Bar Harbor according to the bill called the Sherman bill, but we told them we wanted no emergency clause upon it and that if they would draw a new draft leaving off the emergency clause and covering those three roads that the bill would pass our committee.

It was all understood and he secured what he wanted, so he gave us to understand. He took his little bill with a smile upon his face and went away from our committee. He knew that no such bill as is here by this amendment could possibly pass through our committee with an emergency upon it. He knew that every man on that committee did not believe in putting an emergency on these private measures in which the public are not interested, where the public peace, health and safety were not imperiled.

It seems that the representative was so influenced by his little private measure, like my friend in Caribou, like the gentleman from Augusta, that he would not see anything but his little private measure, and his private interest in the matter cropping out, he goes from our committee and with the utmost good faith on its face and tacks on an emergency clause. Then he asks the House of Representatives of which he is a member to pass that emergency through. And standing in his place in the House on the seventh day of March, what does he say? He says: "I was satisfied with

the bill as reported by the committee." What now? "Until I found out that it was positively true that they were to buy a referendum; and that is the reason why I have had this emergency clause put on."

He says he had found out the people of Maine were going to invoke the referendum, a God-given right, and then he says to the people: "I ask you, the House of Representatives, to rise up and smite the people who sent you here and deprive them of the right of the referendum."

My God, has it come to this in the State of Maine, in the Legislature of Maine, that men will take that position on the floor of the House?

That is not all he said. He said: "I have one of the largest stores in Bar Harbor, and I want to say to you that my store will have to go out of business." His little store is influencing him and not the people of Maine in the enactment of laws. He has a little store down in Bar Harbor. That is why he is in the Legislature. He says: "I would not be up here advocating the admission of automobiles were it not for my personal benefit." Of course not. (Laughter.)

And then the House, acting I have no doubt honestly, the House of Representatives, feeling that they did not want to incur any animosity in the matter, after this gentleman had told them the people were to ask for a referendum, that "they would buy a referendum," after he said that to the House of Representatives, what did they do? They adopted the amendment, putting on the emergency clause and members stood there saying: "I do not want to incur any enmity or ill will. He is a member of my body," and they sent the bill with the emergency attached to the "tomb of the mummies." (Laughter.)

I wonder if you understand me? I am not criticizing the House of Representatives. I have been a member of that body for the last two sessions and I enjoy those men that are fresh from the people, honest, conscientious. The great body of the House of Representatives are just as honest as we are in the Senate, are just as anxious as we to do the will of the people. But when you forget everything but your own little interests

and say we will let "it slide through here the Senate will take care of it," we ought not to legislate that way.

The bill is here on the President's desk this morning with the emergency on it, for the introduction of automobiles into Bar Harbor. They must act at once, as soon as the Governor can get his signature to the bill, or the public health, peace and safety of Maine is in danger. Can there be a more absurd thing than this brought before men? We have our position to maintain as senators, standing here in our places with the dignity of senators of the State of Maine. Let us do our duty, and let us have an understanding between these two bodies from this time henceforth that we are for the interest of Maine and that no lobby shall influence us; that the interests of the people, of the whole people shall be our interest and our work. When we have done that and gone back to our homes, I believe we shall hear "Well, done, good and faithful servants."

I move, Mr. President, that we non-concur with the House in the adoption of this amendment. (Applause.)

Mr. COLE of York: Mr. President, I am very sorry that I am not endowed with these dramatic powers that characterize the senator from Aroostook. I am very sorry that I did not attend that play in Lewiston, last night, and come back so enthused with it that I come here and attempt to go over it again in the Senate.

I do believe there are a few honest men even in the Senate who disagree with the senator from Aroostook, and who are fresh from the people. I do not know that the voice of the lobby may not have been heard in this Senate, but I do know that it is not being heard at this moment. I am positive of it.

I come from a great summer resort, a section of the State of Maine which depends very largely upon people who come from other sections of our country and make for prosperity in my own section. I am therefore deeply interested in any resort in the State of Maine which depends upon that class of people. As I read the Constitution of the State of Maine, it was enacted for the benefit of the people, and although that saving clause of the emergency that

public safety, peace and health should be necessary for an emergency clause, yet this is a day of the world of an elastic Constitution, which we all agree must make for the general welfare of the people.

Thirty years the Constitution of the United States was taken literally, and no man would dare to go outside of the literal construction of it, but there came a time when the Constitution was broadened.

The Constitution of the State of Maine is no more sacred than the Constitution of the United States and is to be interpreted for the benefit of the people of the State of Maine. I am no Constitutional lawyer. I am willing to leave that to the gentleman from the House on one side and the gentleman from Arcostook on the other. I believe the members of this Senate and Legislature when they vote should vote their consciences and that they can do it without violating any oath they have taken here.

I believe in the great principle of the emergency clause in this bill, and that the emergency may mean the welfare of the people of the State of Maine—whether this bill goes through or not.

The little village of Bar Harbor contains estates valued at \$6,928,500. That is a part of the prosperity of the State. Those of us who know the upbuilding of summer resorts know that they are made or lost in a single season; that the prosperity of the future may depend on the work of this year; that what happened, five years ago to any place has seen its downfall. We know today, that automobiles are a part of our everyday life. We know that the spirit of the times has an onward movement and that Bar Harbor cannot live in the dark ages much longer.

Every man who realizes this onward movement, knows that the Legislature must remove the ban from Bar Harbor. I do not know what is the cause of the law remaining there, but I imagine it was because of the interest of several people engaged in certain business, and the wishes and desires of the wealthy class who wish to remove themselves from the everyday life of ordinary people.

It is not altogether the wealthy people who ride in automobiles. The well-to-do, the great middle class, are becoming, today, those who ride in automobiles. There is no more reason why Bar Harbor should be separated from every other portion of our State than any other town. There is no reason why a citizen of this city or any other city should not have the same right to go into the town of Eden as he has to go into the city of Augusta.

For one, I believe the time has come when we should remove that ban upon Bar Harbor to the people who wish to go there.

What will happen if this bill becomes law? Ninety days after the Legislature adjourns will be the first day of July. All arrangements will be made in the Spring. The people going to places want to know that their arrangements are made before the season opens, or they will go elsewhere.

If this matter is not allowed to go through; if there is uncertainty as to whether automobiles are going to be allowed to go into Bar Harbor, this summer, it will make a great difference to a large body of people, whether they go there or elsewhere. It is not a question of Bar Harbor alone, for from the time they leave Portsmouth they leave a trail of yellow gold on their way, and their first stop will be Portland. And Portland is just as much interested in the opening of Bar Harbor as is Bar Harbor. The next stop may be Augusta or Bangor, but somewhere every automobile must stop on the way to Bar Harbor, and all those places are just as much interested in automobiles in the summer of 1913 as is Bar Harbor. So that I say the whole State of Maine has something at stake in this question. It is not a little town alone that is interested, it is the prosperity of the whole State of Maine for wherever the touring with automobiles is directed there is directed the prosperity of the State. There are a great many spenders in the summer season, and they leave \$20,000,000 in their wake every season, and I say to you that

the welfare of the people demands that we make our laws so that they continue to come, and that there should be no uncertainty.

I believe it is wise at this time to settle the affair that the people at Bar Harbor may arrange their matters for the summer, and that the wealthy man may know whether he can go with his automobile or must leave it at home. It is only fair, as man to man, and as a business proposition. And simply because we stand here comparing the peace and prosperity of the State of Maine to a little bank in Caribou or to the aspirations of the gentleman from Augusta is no comparison whatever. One is an individual matter and the other is a matter which affects the whole State of Maine.

An emergency clause is what the Legislature believes is an emergency and not the interpretation put upon it by anyone here.

We have in the great state of Oregon, a state to which we have looked for examples in our modern legislation, something we can read with profit.

(Here the senator read from 58 Oregon 333.)

I do not know of any argument that any man can make against this except that technical argument that we do not do it ordinarily, and therefore should not do it in this case. But interpreting the Constitution in its broadest sense, that the peace, safety and health of the people, meaning that the public welfare of the people is at stake, and when the public welfare of any section of the State is at stake, the whole interest of the people of the State is at stake, I do not see under the legislative power given us why we cannot pass this bill.

I am sorry to take issue with the judiciary, but I have seen the judiciary take issue with the legal affairs. I do believe that any committee is greater than the Legislature, and if any committee of which I am a member should report a bill which the Senate did not believe was for the best interests of the State of Maine, I believe it is the duty of the Senate to pass its judgment upon it. If it does not, there is no need of these morning sessions. We might as well grind our matters through the committee, and say that they are sacred matters

and should not be discussed or interpreted and should not be passed upon.

I certainly hope this measure will go through. I do not know of any agreement except a gentleman's agreement which could bind the representative from Bar Harbor to any arrangement he might have made with the committee. He may have heard from home. He may have changed his mind. Circumstances may have changed. I have not to answer for his personal actions. I do not make any apologies for any man, except to say that I think it is a matter that is worthy of the consideration of this Senate.

If the ban upon automobiles is to be removed and they are to go into Bar Harbor this season, then it seems to me we should make it so that automobiles should come without any restriction or hamper whatever.

You and I may talk about the God given privilege of the referendum, but the God given right is made up of three-cent purchases of votes. Many times it is a God given power wielded by the wealthy for their own benefit. When it is invoked by the honest people in an honest cause it is something to rejoice in. When the referendum is invoked in a dishonest cause, it is something to be feared. The best law may be abused, and the worst law may work out for a good purpose.

I do not believe, if this emergency clause is passed, that any man will be injured or any man's oath violated. While I would not take my views from the body at the other end of the State House, yet when they pass a matter unanimously, I think it is worthy of our respectful consideration, as was this matter.

Mr. President, I believe we can honestly vote for this measure, believing we are honestly improving the prosperity of the State of Maine; believing that this village at Bar Harbor is entitled to some rights, and to know where its rights are. Their peace is certainly at stake, if no one's else is.

There is no emergency, there is no referendum, there is nothing that can be invoked that will affect all alike. There is always an interested party and there is always a disinterested party. Every tax payer, and every

guest going to Bar Harbor wants to know his rights and have them established. Every person in the State of Maine, who is dependent directly or indirectly upon the summer business, is interested in this measure, for when you open a matter like this in Bar Harbor, you are opening it equally to the people in other parts of the State where these people journey through. Their needs will be supplied and every place where they stop will be materially benefitted and improved, and someone will be enriched.

Mr. PATTEN of Hancock: Mr. President, it seems necessary in this case that I should say a few words here, today, especially after the very eloquent words from the senator from Aroostook, in which he refers to the parties engaged in an agreement about these matters.

I will state to you, gentlemen, that I am supposed to be interested one way and another in this amendment, in this referendum. I am supposed to be understood and known to be in favor of it, and I will state to you my individual position in it and the part I have played in it. Early in the session I introduced into this body an Act relating to automobiles in Bar Harbor. I appeared before the committee advocating a substitute for that bill. A bill of my own draft and the bill of the Representative from Eden varied a little. They both had the object of repeal of automobile legislation for the town of Eden. I was interrogated by the chairman of the judiciary committee relative to the emergency clause and then stated my position upon it. The senator from Aroostook propounded to me the question as to whether I thought the peace, health and safety of the State was involved in this matter, and I replied in the affirmative to the best of my ability.

Since that time no member of the committee has consulted me or called me into conference, and when the senator said the parties interested were called in, I know not whom he means. He does not mean me. I was never interviewed by the committee while it had this matter under consideration. I made no agreement myself,

and neither do I believe the Representative from Eden has made an agreement, because the proponents of this bill are not the representative from Eden or the senator from Hancock county, but they are the people of Eden and no one else.

To illustrate to you and show you why the Representative from Eden could not in this case make this agreement, I will read a brief letter received by me. I find that the Representative from Eden has received the same letter.

Bar Harbor, Me., March 10, 1913.

Hon. J. H. Patten,  
Augusta, Maine.

Dear Sir:

We desire to call your attention to the bill now pending before the State of Maine Legislature for the repeal of the law or laws, excluding automobiles from the Town of Eden, with the Emergency Clause attached.

As the town, at a special town meeting held for the purpose, and at which there was a large representation of voters, passed a vote by a majority of two to one, for the repeal of these laws, and by a practically unanimous vote, expressed its wish to have the Emergency Clause attached, the undersigned officials of the town of Eden, believe it to be our duty to call your attention to these facts, and request you to do all that lies in your power to secure the passage of this bill with the Emergency Clause attached.

Some of the reasons why the town desires to have this bill passed, and passed to take effect at once, are:—

1st. It is important that our summer colony may know at the earliest possible date whether or not they may have the privilege of using automobiles here the coming season; if they feel that they are to be the expense of bringing both horses and automobiles, it would tend to keep them away.

2nd. The months of March, April and May is the renting season during which cottages usually for rent are leased to new parties for the coming season, and unless proposed renters may know absolutely whether they may use autos or not, it will de-



crease the number of cottages that will be rented very materially.

3rd. In order to take care of the automobiles which will surely come during the season, it is absolutely necessary that people who are to build public garages, and all who would build private garages, or remodel their present stables, should know as soon as possible, so that this building or remodelling should be completed before the season is on.

4th. And most important for the safety of all, automobiles should be admitted at once in order that our local people may have time to learn how to drive and handle the automobile and in order that the local horses may have time to become accustomed to them before the rush of the season is on and thus obviate very materially the liability of accidents.

Trusting that you will do all in your power to assist us in our needs in this matter we beg to remain

Very respectfully yours,

FRANK E. WALLS.

JAMES W. SILK,

ORIENT E. BREWER,

Selectmen of Eden.

CHARLES F. PAINE,

Treasurer of Eden.

With that instruction, I leave to you the question of whether or not the representative from Eden could or would make any trade or any agreement whereby he would agree to support or accept this bill without the emergency.

In that letter you will notice some of the reasons given why we ask for this special legislation. I want to call your attention to one fact, that there is in the little village of Bar Harbor a little over a mile away, 900 school children. Probably three-fourths of them never saw an automobile or one in motion. Our people are all that way. We are unaccustomed to the use of them and desire to have them come as soon as possible before the season is over. Ninety days from the close of this Legislature brings us up to July 1st, almost the height of our season. I submit to the gentlemen of the Senate that is an extremely poor time to open up the roads and streets of Bar Harbor to automobiles. Our horses

are also unaccustomed to them. All of these things I beg you to take into consideration, and I want to ask you if you will just for a moment think of all the things in which the emergency clause has been used and see if in your honest opinion this is a trivial matter when compared with others.

I do not know how many emergency bills have passed this House. I remember two. One to feed the fish in the fish hatcheries of our State. I will not criticise it, gentlemen, but I ask you, are the little baby fishes, the little minnows in the hatcheries of our State of more consequence than the babies on the streets of Bar Harbor? I would ask you, did any of you see the senator from Aroostook vote against this? By any stretch of imagination if this law regarding feeding the fish, had been enacted without the emergency clause, would the fish have suffered? By any stretch of your imagination, would the peace, safety or health of the State have been endangered in any way? If you confine this question to the exact meaning limiting it to the peace, safety and health of the State, I submit to you that since the adoption of the Constitution, there has never been a case that warranted that clause. In the Legislature of 1911 this Act was passed with an emergency clause: An Act to consolidate and revise the military laws of the State of Maine. Here is the preamble: Whereas, certain changes in the military laws are necessary in order to render more efficient the acting militia in the State of Maine, therefore in the judgment of the Legislature the measure therein proposed is immediately necessary for the preservation of the peace, safety and health of the State. That must have been another Aroostook war that we were preparing for. There is no record to show that the gentleman voted against that or that he voted against feeding the fish in the hatcheries.

Then we have passed an emergency clause on the act to destroy the brown tail moths in Maine. I submit to you if the brown tail moths are left to travel for 10 years, they will not do more harm than the failure to pass this emergency

clause. It is true the automobiles leave a golden stream after they cross the line until they get back. Every place where they stop gets it, as contributed to by these people whom we hope to have here in abundance. I am glad of that. Get all you can, for I assure you that when they get to Bar Harbor we have the reputation of taking from them what little is left with as little pain as can any people in the United States. (Laughter.)

Here is another law of 1911. Did the distinguished senator vote against it? "An Act to provide for a close time on scallops." Here is another: "An Act providing for the permanent improvement of highway in 1911." And "An Act in relation to telephone companies." We had telephone and telegraph companies long before we had automobiles.

The town of Eden it has been said represents a valuation of nearly \$7,000,000. This gave Hancock county in taxes in 1912 \$84,000 and more than one-third came from the little town of Eden; and from that island on Mt. Desert came almost one-half. We exact more than 46 per cent. of the taxes for Hancock county from that little island.

So that you see that the interests of Bar Harbor alone are not at stake here. The State of Maine receives some benefit. If we have been on the wrong road and are now on the right road, the State of Maine will directly and indirectly receive its just share of this prosperity. I may weary you with this Bar Harbor question and consume a large part of the time of this Senate but I will tell you upon my honor if we receive what I believe we will receive this time, we will come here no more, and the honk of the Bar Harbor automobile will never be heard in the Legislature of Maine again. This is our last call. It is what is right. We come to you because we can go nowhere else. This Legislature is the judge. It is within the province of this Legislature to say what is for the peace, safety and health of Maine. What the Legislature says is the court of last resort. We ask you to help us. I hope that the motion of the senator from Aroostook will not prevail.

I yield in reverence to the

Constitution to no man. It does not need for every man to be learned in the judiciary to honor and respect the Constitution of Maine. I would no more come here nor would my people who are as good people as there are on earth, come here and ask this Legislature to make a football of the Constitution of Maine. We ask this in the name of the welfare of the State of Maine and especially the welfare of the town of Eden. I trust you will give us what we wish. (Applause.)

Mr. RICHMOND of Kennebec: Mr. President, you know the good book says that "Many are called but few are chosen." Bar Harbor seems to be the chosen place and has been for 10 years. Every year they come here with an automobile bill and they all believe it is a good place to keep them out of. It seems they have had them long enough down there so that they realize they do not need them any more. It seems that we might let this clause go so that when a doctor visits a patient he would not have to stop and hire a horse. It seems to me if a man started out in a hurry for a doctor to attend a sick person that he would have to stop outside the town and could not get in. I had an experience like that the other day. Two doctors were called. One had a horse, the other an automobile, and then they had to hire another man with an automobile to attend the man who had the horse. I telephoned down to my wife to find if it was alright and she said "Yes but I guess it will cost \$25." I said "Well, we can fix that all right."

Bar Harbor wants to get ready for the summer and it is right they should. If we make a little mistake in letting this pass, it is not something that has not been done before.

Mr. WING of Franklin: Mr. President, I move the adoption of House Amendment A.

The PRESIDENT: The Chair will state that while a motion to concur would take precedence in the case of disagreeing action, the Chair will state that the motion of the senator cannot be entertained.

Mr. BAILEY of Penobscot: Mr. President, the people of my county, or at least in Bangor, where I reside, are very much interested in this matter. They do not look at it in a small, narrow way that it will benefit Bar Harbor, Northeast or Southwest Harbor alone but that it will benefit the whole State of Maine.

There is a broader and wider significance to this referendum asked here than the senator from Aroostook would allow us to believe. There are only certain ways in which we can obtain our just share of the money of this county, and it comes about in this manner. If you think of the money that has been accumulated or made in your city or locality, you will find that it all came through the development of the natural resources of our State. The senator from Aroostook may deal a little with the grocer or the butcher but the money which makes for the prosperity, which makes for the general welfare and building up of this State comes by the exchange of commodities which are taken from our soil or which are the natural resources in exchange for things in other parts of the country.

Take Penobscot county, all the accumulated wealth or nearly all comes from the product of the forests, lumber and pulp. Take Senator Mansfield's county. In his district there was some lumber but the largest interest of the people on the coast is the fishing industry, and the people in his district get their money and get their living from catching fish, and canning them, perhaps, and they are sold in other parts of the country.

Take Senator Morey's county. The prosperity and the happiness of his community depend upon the magnificent water falls nature so kindly placed there. Without them do you suppose Lewiston would be the manufacturing place it is today? Certainly not. Take the senator from Knox. The Almighty placed rocks there which can be used for the uplift and comfort of men—the lime rock—and it has made Camden and Rockland.

We have certain natural resources in this State, which no man can gainsay, and as said by the senator is worth \$20,000,000 to the state and has made Maine a summer resort. The natural resources

of this State are the means by which the people of this State can demand of other states of this Union a certain proportion of the wealth of this country.

The senator from Hancock spoke of the fish and game interests. It was not that we passed that emergency clause to feed the fish, for Senator Allen knows and every man here knows that the industry is important to the welfare of this State. It induces people to come into this State with their money and spend it in this State for the benefit and prosperity of the State, and therefore to protect that industry and in order to help foster that industry, we were willing to put on that clause.

In this case these people of Bar Harbor are much interested. If it were only that I could not vote for this bill at all, I could not justify myself, but it is because Bar Harbor is known as a summer resort all over this country, probably the most noted place on the Atlantic coast. We want to build it up, and I believe this emergency clause is necessary, after hearing the arguments, and that is why I am willing to stand for it, not because it helps Bar Harbor alone, but because it helps the whole State of Maine.

Mr. PATTEN: Mr. President, I ask that when the vote is taken, it be taken by the yeas and nays.

A sufficient number having arisen, the yeas and nays were ordered.

Mr. STEARNS of Oxford: Mr. President, I do not intend to take up very much of the time of the Senate in discussing this matter, this morning. I feel perhaps I might add just a word in support of the position of the senator from Aroostook.

The hearing upon this matter was in the Hall of the House of Representatives, and it was given a careful hearing. The proponents of the measure were represented by able counsel. The able gentleman from Augusta who appeared there for the proponents, after suggesting at different times the question of the emergency clause, was asked particularly in regard to his attitude in regard to that question, and when pressed he did not then before that

committee undertake to argue that as a matter of law, he believed that the judiciary committee would be justified in reporting a bill with that emergency clause upon it, with the idea of sustaining it under the Constitution of the State of Maine.

Now, Mr. President, that is not all. Counsel for the proponents did not seriously contend for this proposition. After having heard it the committee departed a little from their usual course, and understanding that the Speaker of the House had some information upon this proposition and the committee desiring to have all the information possible, and understanding that he would be pleased to present his views, asked him to appear before them before they made a final report. He appeared before the committee and gave us some information we were glad to consider. An able lawyer is the Speaker of the House of Representatives. He did not suggest that we had any business to attach an emergency clause to this measure. Do you not suppose if he believed that we could do it properly, if he believed that the judiciary committee acting as they should act, would vote for that clause upon that bill, do you not suppose he would have urged it? But not a word.

Gentlemen have made able arguments here upon certain lines. They have made able arguments for the admission of automobiles into Bar Harbor, and that we grant, but I am surprised that gentlemen of the judicial learning of those gentlemen who have spoken here, this morning, should suggest that the Constitution of Maine is elastic enough to admit of the interpretation which they suggest.

I cannot believe that we have a right to take into consideration under the terms of the Constitution the business affairs of those people up in Bar Harbor. They have been here, year after year and year after year, with their troubles and we have born with them. They say now if we will grant this that it is the last time they will come to us. But, fellow senators, I would expect them, after we have granted this emergency clause to ask us for an

appropriation to enforce their by-laws against fast driving in Bar Harbor. I see no reason why they cannot as reasonably expect us to do that.

Speaking about agreements, the committee did not understand that there had been any hard and fast agreement with any gentleman before that committee, but it understands that the proponents were well satisfied with the report of that committee, and did understand that the senator from Hancock was supposed to be well satisfied with the report of the committee on judiciary.

I feel that it is not necessary for us to urge this upon you as the report of the judiciary committee. It seems to me that it is a plain matter of right and wrong. What should we do under these circumstances? Should we vitiate the Constitution of the State of Maine to accommodate the people of Bar Harbor? The people of Maine believe today that they have a law which provides for the referendum and the people's veto. What are the people going to say when they find that any little trivial matter of legislation in which a few people imagine their affairs are of more importance than anything else in the State of Maine that the Legislature of Maine will stultify the Constitution and allow them to tack on an emergency clause? Would they not lose their confidence in the Legislature? I do not consider that this Senate will take such action. I believe we should take such action here this morning that gentlemen who have been pleased to characterize this body as the tomb of the Egyptian mummies will see that we have not yet become so ossified that we cannot tell right from wrong.

Mr. HERSEY of Arooktook: Mr. President, I think that the argument has wandered from the question at issue. We ought not to be discussing for one moment, this morning, whether automobiles should go into Bar Harbor or not. This is not the question. It was a doubtful question with our committee. The town meeting decided they should come in by a small majority. They admitted that the great mass of summer visitors or non-residents did not want them. Therefore from the situation and with that doubt in our minds, we gave the benefit of the doubt to the residents and gave them what

they desired. Whether this Legislature will adopt this legislation, I do not know. The question now is, shall we put this emergency clause on to this matter, after Bar Harbor has been for two sessions in the Legislature, two sessions to keep it out, then a session to put it in. They cannot wait 90 days after all these years, and bring here as a reason that they fear the people will not be willing to consent to that legislation.

I say, Mr. President, there is no more solemn matter before the Legislature of Maine than the idea that you want to foreclose on the people. There is no more solemn matter than when the senator from Hancock referred to matters in the Legislature and said they were doubtful because under the emergency and says that you passed those and now you should pass this.

If you in the Senate, this morning, agree to this emergency, what will happen, tomorrow morning? Some member of this Legislature will rise in his place and put the referendum on every little matter, and if he does he has just as much right to demand it as Bar Harbor has.

Talk about automobiles coming from Boston and New York and sprinkling gold all along the way to Bar Harbor as the reason for you and me to take the Constitution of Maine and tear it in shreds and trample it under our feet and say to the people of Maine: "What do we care for you, we can foreclose you at the ballot box."

In 90 days Bar Harbor will be getting the stream of gold. The summer residents who bring in the stream of gold do not want automobiles, and you know it. They come to Bar Harbor just the same in the next 90 days as they will if you make this an emergency. Do you not see what you are doing when you try to twist the Constitution out of its place and defy the people, in order to please the people of Bar Harbor?

The poison chalice will come back to your lips and tomorrow the senator from York and the senator from Hancock will stand in their places and will plead with you and me to keep the

emergency clause off from something else.

I have no interest in this matter. I am not from Bar Harbor. I have no letters from hostlers here telling me how to vote. I represent the people of the State of Maine. I say to you, Mr. President, if you enact such legislation into law, you will hear from the people of Maine and you will hear good and loud. They won't have such things as this done with impunity. The laws of the State of Maine must be preserved.

Mr. COLE: Mr. President, I do not intend to take but a moment of the time of the Senate, but I believe there are 31 honest men in this Senate and I believe that every measure that comes into this Senate we are capable of considering, and if this Legislature wishes to enact one law, today, that is no reason why any other law that has an emergency clause on it should be considered. The senator classes us with a lot of school children and because we go one way, today, we must go the same way tomorrow. I say to the senator from Aroostook that his people may stand by him having no interest in the summer business, but when he comes to York county, he will find a solid rock of people there standing firmly against his aspirations. The people down there are interested in the summer business and believe that this emergency question is well worth our consideration. I believe this Legislature is not made up of infants, but has the right to interpret the Constitution for itself and enact such laws as it thinks right and the Constitution give it the right to enact. This emergency clause is within the power of the Legislature. Shall we enact it or not? If this matter is worthy of enactment under the emergency clause, we can do it and wholly within our rights, and no man can criticize us for doing it.

So far as an elastic Constitution is concerned many people have followed the banner of a great man who said "What is the Constitution among friends?" I do not follow that banner, but I believe the Constitution is for the State of Maine, and that the Constitution should be interpreted for

the people of the State of Maine, and when it stands in the way of progress, it is time that it be changed. I do not believe in this case we are changing a single thing in the Constitution but in fact that we are carrying out its provisions.

Mr. PATTEN: Mr. President, the name of the distinguished Speaker of the House of Representatives has been brought into this discussion. He is capable of arguing his own case here, but I want to say to you if you have any doubt that the Speaker of the House of Representatives is in favor of this emergency I wish you would ask him. He is deeply interested and is one of the largest taxpayers in the town of Eden. He has told some that it is the province of the Legislature to fix the time and that is all the measure asks for.

The PRESIDENT: The Chair will state the parliamentary situation. This bill came from the House upon the question of the adoption of the amendment in concurrence. In the absence of a motion made by any senator that would be the pending question. It was netirely competent for any senator to make a motion to indefinitely postpone or the motion which the senator made. That motion being made, the motion of the senator from Franklin could not be entertained. The question is upon the motion of the senator from Aroostook that the Senate non-concur with the House.

The yeas and nays having been ordered, the secretary called the roll. Those voting yea were: Messrs. Dutton, Hersey, Richardson, Smith Stearns—5. Those voting nay were: Messrs. Allan, Allen, Bailey, Boynton, Burleigh, Chase, Clark, Colby, Cole, Conant, Emery, Flaherty, Hagerthy, Hastings, Jilson, Mansfield, Maxwell, Morey, Moulton, Murphy, Packard, Patten, Reynolds, Walker, Wing—25.

Five having voted in the affirmative and 25 having voted in the negative, the motion of the senator to non concur with the House was lost.

The pending question being the first reading of the bill as amended, the bill was given its first reading.

On motion by Mr. Patten of Hancock, the rules were suspended and the bill was given its second reading and was passed to be engrossed.

On motion by Mr. Packard of Knox, Senate Document 460, 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. Colby of Somerset, Senate Document 233, An Act to amend Section 62 of Chapter 7 of the Revised Statutes providing that railroad companies shall screen windows of smoking cars, was taken from the table.

On motion by same senator, Senate Amendment A was adopted.

And on further motion by the same senator, the bill was given its second reading as amended and was passed to be engrossed.

On motion by Mr. Richardson of Penobscot, House Document 433, Resolve in favor of the Penobscot tribe of Indians, was taken from the table.

On motion by the same senator, Senate Amendment A was adopted.

The resolve as amended was then given its first reading.

On motion by Mr. Hersey of Aroostook, House Document 403, an Act to amend Section 38 of Chapter 47 of the Revised Statutes, relative to giving notice of the time and place of sale of shares of stock in corporations to pay assessments, was taken from the table.

On motion by the same senator, Senate Amendment A was adopted.

On further motion by the same senator, the bill, as amended was given its second reading and was passed to be engrossed.

On motion by Mr. Murphy of Cumberland, Senate Document 459, an Act to prohibit the use of common drinking cups, was taken from the table, and on further motion by the same senator, was referred to the committee on public health in concurrence.

On motion by Mr. Wing of Frank-

fin, House Document 329, an Act to amend Section 3 of Chapter 162 of the Public Laws of 1905, entitled "An Act enlarging the duties and fixing the compensation of the attorney general, was taken from the table.

On motion by Mr. Cole of York, the bill was tabled pending first reading.

Mr. ALLEN of Kennebec: Mr. President, I would like at this time to introduce an order in connection with the State School for Boys and the Industrial School for Girls. I move that the rules be suspended and that I be allowed to present this order, out of order.

The motion was agreed to, and the order was read by the President as follows:

Ordered, that whereas the 76th Legislature has had under consideration various proposals relating to extensions of the scope, work and equipment of the State School for Boys at South Portland and the Industrial School for Girls at Hallowell, and for the establishment of a reformatory for women, therefore,

Ordered, the House concurring, that a special committee of five consisting of two on the part of the Senate and three on the part of the House to serve without pay be appointed to investigate these several proposals and report to the next Legislature by bill or otherwise.

Mr. ALLEN: Mr. President, having listened so long to the arguments pro and con in regard to automobiles, I feel as though I had wheels in my head and probably the senators feel the same. Therefore I will take but a minute of your time.

The joint committee in behalf of these institutions I will say, the State School for Boys and the Industrial School for Girls, have had the different matters under consideration in connection with these institutions, and I think I can safely say that every member has tried fairly and squarely to do his duty and to do it as far as possible under the circumstances. In going over the ground in connection with this and looking into some requests made for some additions to these two institutions, the committee was not satisfied to the extent that they felt like making appropriations necessary, not but what some of these requests are essential and should be made, but it was a question in the minds of the committee if the time had arrived, or if the

officials of these institutions, and by the way, I cast no reflections on the officials, because we speak and think of them in the highest terms—whether or not these matters have been considered thoroughly enough to know just what is best for the institutions, and in considering these matters we found that especially the institution for girls at Hallowell needs quite a number of changes. It is necessary to the benefit of those girls and not having sufficient time to look into those matters in detail, the committee have thought it for the best interests of the State and these institutions that a committee be appointed in connection with the officials to take this matter up, and study it thoroughly.

Some of these wants from the State School for Girls were temporary improvements, and we felt they should be something permanent. We feel that not only what the trustees ask for down there should be granted, but even more. I will say that in the last part of this order after it was understood that a unanimous vote of our committee for this recommendation, the fact being learned outside, it was suggested that this could call for a reformatory for women to be put in with this order, not being probable at this session to establish and comply with the recommendations of this act, that this reformatory for women be placed in connection with these other institutions for this committee to thoroughly investigate and report to the next Legislature their recommendations for these different institutions.

And I would say, Mr. President, that in coming to these conclusions it was the unanimous feeling of our committee after giving it long consideration, and I will say further that there is nothing political in this. If you see fit to pass the order, I recommend that the members be selected from both parties and make it non-political. In doing this the committee is doing what it thinks is for the best. They have all considered the subject thoroughly, and I myself think there is a chance for great improvement in these institutions.

If a committee could assist the present officials in bringing it about at the next session the appropriations can be made. I think this is for the best interests of all concerned. I hope the order will have a passage.

Mr. DUTTON of Kennebec: Mr. President, it strikes me that this is a very important matter and that we ought to have some little time to consider it. I do not think it would be to the disadvantage of the order, or to my colleague, to have the matter lie on the table and let us all consider it.

Mr. ALLEN: Mr. President, that is satisfactory to me.

On motion by Mr. Dutton, the order was tabled.

On motion by Mr. Flaherty of Cumberland,

Adjourned until tomorrow morning at half past nine o'clock.