

# MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

Seventy-Eighth Legislature

OF THE

STATE OF MAINE

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1917

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AUGUSTA  
KENNEBEC JOURNAL PRINT  
1916

### HOUSE.

Wednesday, February 28, 1917.

The House met according to adjournment and was called to order by the Speaker.

Prayer by the Rev. Mr. Hatch of Augusta.

Journal of previous session read and approved.

Papers from the Senate disposed of in concurrence.

From the Senate: An Act to incorporate the York Beach Chamber of Commerce.

In the House, this bill was received under a suspension of the rules and referred to the committee on legal affairs.

In the Senate, referred to the next Legislature, in non-concurrence.

On motion by Mr. Barnes of Houlton, the House voted to recede and concur with the Senate in referring the bill to the next Legislature.

From the Senate: An Act to incorporate the Peat Powder Producing Company.

In the House, this bill was received under a suspension of the rules and referred to the committee on legal affairs.

In the Senate, the bill was referred to the next Legislature in non-concurrence.

Mr. DUTTON of Bingham: Mr. Speaker, I think it would be wiser in matters that we do not approve of in this Legislature to move their indefinite postponement, rather than refer them to the next Legislature, and I would move that this matter be indefinitely postponed.

The SPEAKER: The Chair would inform the gentleman from Bingham, Mr. Dutton, that the only action competent for the House on matters of concurrence is either to concur, non-concur, recede or insist.

Mr. DUTTON: I move that we insist on our action.

Mr. BARNES of Houlton: Mr. Speaker, our attention has been called by the mentor of the present Legislature to a rule that we adopted January 18, 1917, which reads in part "that all such petitions and bills presented after that date, be referred to the next Legislature;" and, if in order, I move that we recede and concur with the Senate.

The SPEAKER: The motion is in order.

Mr. COLE of Eliot: Mr. Speaker, I believe it is unwise for this Legislature to stand arbitrarily upon any rule. I understand that there must be some limit to the time of private legislation, and I understand that the House and Senate must act together, concurrently in matters; but I know there are occasions when it becomes almost absolutely necessary for some member of the House or Senate to put in a bill for private legislation after the time limit has expired. In my own experience in this Legislature, there came to me two years ago a request from a section of the State to put in a bill to form a lighting district. That came along the last weeks in March. Now here were the circumstances. There had been lights provided by the town for a summer resort—a part of that town. At the annual meeting in March, which came the second or third Monday, the town voted down an appropriation for lights. Unless those people could get to the Legislature and get a lighting district, two or three thousand people at a summer resort would have been entirely without lights for the summer months. The business of that locality would have been practically killed, lawlessness would have abounded and injustice would have been done. Under a suspension of the rules, I introduced a bill, a lighting district was formed, and those people were served. That is one illustration of what has happened in my own experience, and I have known of many others. Two, or four, years ago, a bequest was made to a town in this State of some money for a public library. It did not get into the Legislature in time to be acted up-

on within the limit of time allowed, and a bill was permitted to be introduced in order that it might be accepted according to its provisions. Now if that had had to go over two years, it would have been an injustice to the people referring it to the Legislature, and it seems to me an unwise thing for this Legislature, or either branch of it, to insist that it will stand arbitrarily upon a rule which it has made itself in order to facilitate its business. There may be cases that ought to go through here. Many so-called private measures are public measures in effect. They may affect the whole community, or something of that kind, and I should be very sorry to see this Legislature take such action as would bar any man who has a meritorious bill from putting it in here and having it considered by this Legislature. I therefore hope that the motion will not prevail, but that some action will be taken to see if we cannot agree with the Senate to let these one or two bills come in. No injustice will be done; nobody is here with a pocketful of them. We have done what we wanted to, we have hung up these private bills and now if somebody has a bill which he would like to put through here and have a hearing on, I believe it is only fair and just to that member that his constituents should be served. People generally do not understand the rules of the Legislature; they suppose that a member is here and can do anything at any time while the Legislature is in session. Many men do not prepare these things and the member is not responsible because the bills have not come to him, but he is held responsible if he does not attempt to do something for his people; and, if he goes back home and says "I could not do a thing for you" then the people will say "What is the use of sending that man to the Legislature, he couldn't help us any", and he is unable to explain why the Legislature turned him down because they do not understand it, not knowing the machinery in motion here.

Mr. SNOW of Mars Hill: I second the motion of the gentleman from Houlton (Mr. Barnes). I have had bills and resolves come to me, or re-

solves, after the time limit has expired which I have absolutely refused to put in. Two years ago I had one and it laid over until this Legislature before it was introduced. I think the motion of the gentleman from Houlton should prevail.

Mr. LARRABEE of Bath: Mr. Speaker, I do not agree with the gentleman that has just spoken. We are here to represent the people, and it is no particular class of people, but all the people of our State. There is no reason why, if any community should desire any piece of legislation, we should not accede and let it come before the House simply because a set of men say that we shall not go by a certain day, thus shutting out the people of our State from any legislation that may be worthy of them. There is no reason why we should not as a body accede to their desire and pass any bill, or at least let it come before us, so that we can decide what is best. I would say that I am in favor of letting any ordinary resolution come along and be heard by this House and not stand by any ironclad rule that may have been adopted.

The SPEAKER. The question before the House, gentlemen, is this: Shall the House recede and concur with the Senate in referring this bill to the next Legislature? Are you ready for the question?

Mr. COLE: Mr. Speaker, I call for the yeas and nays.

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

(At this point Mr. Baxter of Portland, assumed the Chair.)

The SPEAKER pro tem: The question before the House is whether or not the House will recede and concur with the Senate in regard to an Act to incorporate the Peat Powder Producing Company. This act was introduced out of order in the House and was sent to the Senate. The Senate non-concurred with the House. The question now before us is as to our action in regard to the non-concurrence of the Senate. The clerk will call the names of the members, and as their names are

called, those who are in favor of the motion of the gentleman from Houlton, Mr. Earnes, will answer yes, and those opposed no. The clerk will call the roll.

YEA—Albert, Alden Allan, Portland; Allen, Sanford; Ames, Anderson, Andrews, Norway; Andrews, Warren; Averill, Babb, Barnes, Baxter, Bowman, Detroit; Bragdon, Brewster, Brown, Bussabargar, Buzzell, Cates, Charles, Clark, Harrison; Clarke, Randolph; Clement, Clifford, Coffin, Cole, Etna; Conary, Cummings, Cushman, Daigle, New Canada Pl.; Daigle, Wallagrass; Day, Dearth, Driscoll, Drisko, Eaton, Farrington, Flint, Frost, Gannett, Garcelon, Greenlaw, Hall, Hammond, Hart, Hartwell, Hill, Hooper, Howard, Hutchins, Jenkins, Jennings, Jordan, Cumberland, Leavitt, Lenfest, Lyford, McNally, Merrill, Morison, Newcomb, Nicholas, O'Connell, Packard, Newburgh; Pendexter, Phillips, Powers, Ranney, Richards, Rowe, Russell, Sawyer, Eden; Snow, Mars Hill; Speirs, Stearns, Stanley, Stubbs, Turner, Tuttle, Wagg, Washburn, Watts, Williams, Wilson.

NAY—Berry, Besse, Billings, Bolduc, Boman, Vinalhaven; Boynton, Brackett, Chaplin, Bridgton; Clason, Cole, Eliot; Crediford, Descoteaux, Dow, Dutton, Ellis, Gardiner; Ellis, York; Emerson, Fletcher, Goldthwait, Grant, Hanson, Harman, Harris, Holley, Holt, Gouldsboro; Holt, Skowhegan; Hunt, Jordan, Baileyville; Kneeland, Knight, Largay, Larrabee, Lawrence, Lewis, Libby, Longley, Meserve, Messer, Morin, Murphy, Murray, Packard, Rockland; Pattee, Picher, Purington, Redman, Reed, Rounds, Ryder, Sawyer, Madison; Sisson, Snow, Bluehill; Tate, Watson, Welch, Webb.

ABSENT—Burbank, Chaplin, South Portland; Corliss, Fleming, Gurney, Holbrook, King, Langley, Levesque, Mutty, Neilon,

Yes, 83.

No, 56.

Absent, 11.

Eighty-three having voted in the affirmative and 56 in the negative.

The motion of the gentleman from Houlton, Mr. Barnes, prevailed.

(Speaker Bonney resumes the Chair.)

From the Senate: Resolve in favor of the town of Solon to repair Robin Hill, in said town.

In the House received under suspension of the rules and referred to the committee on ways and bridges.

In the Senate, referred to the next Legislature in non-concurrence.

On motion by Mr. Buzzell of Belfast, the House voted to recede and concur with the Senate.

#### Senate Bills on First Reading.

Senate 90. An Act to amend Section 35 of Chapter 68 of the Revised Statutes of 1916, relating to powers of special administrators.

Senate 220. An Act relating to reserves of fire and marine insurance companies.

Senate 216. An Act relating to insurance agents and brokers.

Senate 67. An Act to incorporate the Cumberland Bar Association.

Senate 52. Resolve proposing an amendment to the Constitution of the State of Maine, relative to the tenure of office of sheriffs.

Senate 219. Resolve in favor of the Board of Registration of Medicine.

From the Senate: Senate report of the committee on public utilities, reporting "ought to pass" on bill, An Act to enlarge the powers of the Western Maine Power Company.

Tabled on motion by Mr. Gannett of Augusta, pending acceptance of the report in concurrence.

From the Senate: An Act to amend Section 2 of Chapter 40 of the Revised Statutes, relating to the business of dealing in securities, came from the Senate received under a suspension of the rules and referred to the committee on banks and banking and 500 copies ordered printed, sent down for concurrence.

The SPEAKER: The Chair calls attention of the House to the fact that this was received in the Senate under suspension of the rules, but is in no sense a private or special bill. To receive it under suspension of the rules, will hasten the business of the legislature.

On motion by Mr. Speirs of Westbrook, the House concurred in the action of the Senate and referred the bill to the committee on banks and banking in concurrence.

From the Senate: Ordered, the House concurring, that the Governor be requested to return to the legislature for further consideration, bill, An Act making it unlawful to give checks or drafts on banks where the maker has not sufficient funds or credit to pay the same, and providing a penalty therefor.

In the Senate, read and passed and sent down for concurrence.

On motion by Mr. Hall of Wilton, the House voted to concur with the Senate in the passage of the order.

From the Senate: Senate report of the committee on inland fisheries and game on bill, An Act to amend Section 27 of Chapter 33 of the Revised Statutes of 1916, relating to the taking of suckers, eels, hornpouts, etc. (Senate No. 41), reporting the same in a new draft preventing the issuance of exclusive territory permits on the Machias river, and that the same will be incorporated in the revised code of inland fish and game laws which will be reported later.

In the Senate, read and accepted.

The House voted to concur with the Senate in accepting the report of the committee.

From the Senate: Report of the committee on inland fisheries and game on petition of E. I. Herrick and others for regulation of fishing in Ross Pond in the town of Rangeley, reporting that the same be placed on file as the subject matter will be incorporated in the revised code of inland fish and game laws which will be reported later.

In the Senate, read and accepted.

The House voted to concur with the Senate in accepting the report.

From the Senate: Report of committee on inland fisheries and game on petition of F. C. Palmer and 34 others of Porter and Hiram, relating to ice fishing in certain ponds in Hiram and Porter, reporting same be placed on file as the subject matter will be incorporated in the revised code of inland fish and game laws.

In the Senate, read and accepted.

The House voted to concur with the Senate in accepting the report.

The following bills and petitions were presented, and on recommendation of the committee on reference of bills, were referred to the following committees:

#### Agriculture

By Mr. Hart of Holden: An Act to amend Chapter 35, Sections 10, 17 and 18, Revised Statutes of 1916, relative to the importation of horses and cattle and also to the testing of pure blooded cattle to be sold for breeding purposes. (500 copies ordered printed.)

By the same gentleman: An Act to amend Chapter 35, Section 12, Revised Statutes of 1916, relative to dairy, breeding and show cattle. (1000 copies ordered printed.)

By the same gentleman: An Act to amend Chapter 35, Section 9, Revised Statutes of 1916, relative to cattle shipped from Maine to Brighton, Massachusetts.

#### Inland Fisheries and Game

By Mr. Holley of North Anson: Petition of M. C. Burbank and 55 others in favor of amending Section 46, Chapter 33, of the Revised Statutes of 1916, relating to the trapping of fur-bearing animals.

By the same gentleman: Petition of W. S. Jones and 33 others in favor of the repeal of the Sunday hunting law.

By Mr. Corliss of Bath: Remonstrance of Charles W. Harrison of Bath, and others, against repealing Sunday hunting law.

By Mr. Williams of Auburn: Remonstrance of John F. Clothey and others against same; also remonstrance of A. T. Salley and others against same.

By Mr. Morison of Corinth: Remonstrance of H. McLellan and 61 others of Charlestown, Maine, against same.

By Mr. Lawrence of Fairfield: Remonstrance of F. E. Norwell and 40 others against same.

By Mr. Hutchins of Mexico: Re-

monstrance of A. H. Jordan and 17 others against same.

By Mr. Webb of Cherryfield: Remonstrance of Albert H. Willey and 40 others of Cherryfield, against same.

#### Judiciary.

By Mr. Baxter of Portland: An Act to prevent cruelty to animals in the sale and transportation thereof. (500 copies ordered printed.)

By the same gentleman: An Act to create a Board of Commissioners of Sea and Shore Fisheries. (1500 copies ordered printed.)

By Mr. Purington of Mechanic Falls: An Act to amend Section 10 of Chapter 102 of the Revised Statutes, providing for the discharge from imprisonment. (500 copies ordered printed.)

By Mr. Gurney of Portland: An Act to create a Commission of Sea and Shore Fisheries. (1000 copies ordered printed.)

By Mr. Barnes of Houlton: An Act to amend Chapter 82 Section 72, Revised Statutes, relating to appropriations. (500 copies ordered printed.)

By Mr. Baxter of Portland: An Act to amend Chapter 82, Section 72, Revised Statutes of 1916, relating to appropriation of Attorney General.

By Mr. Emerson of Lewiston: Remonstrance of Charles Roy and 27 others against the passage of the Lewiston Police Commission bill unless it contains the referendum clause; also remonstrance of Joseph Delorne and 62 others against same; also remonstrance of Joseph Levesque and 8 others against same.

#### Legal Affairs

By Mr. Anderson of Portland: An Act to amend Sections 4, 5 and 7 of Chapter 95 of the Revised Statutes of Maine, in relation to mortgages of real estate. (500 copies ordered printed.)

By Mr. Allan of Portland: An Act to amend Section 82 of Chapter 115 of the Revised Statutes of Maine, 1916, relating to support of debtors in jail. (500 copies ordered printed.)

By Mr. Brewster of Portland: Resolve proposing amendment to Section 3, Article 4, of the Constitution, in regard to apportionment of representatives in

accordance with population. (1000 copies ordered printed.)

By the same gentleman: Resolve proposing an amendment to Section 5, Article 4, of the Constitution, allowing absent voting. (500 copies ordered printed.)

By Mr. Baxter of Portland: An Act relating to competency of witnesses.

#### Mercantile Affairs and Insurance.

By Mr. Cummings of Hebron: An Act relating to guaranty capital of mutual insurance companies. (500 copies ordered printed.)

#### Military Affairs.

By Mr. Allan of Portland: An Act to prevent discrimination against soldiers and sailors in the service of the United States, or State of Maine, on account of their uniform. (1000 copies ordered printed.)

#### Pensions.

By Mr. Messer of Union: Petition of H. L. Grinnell and 29 others of Union in favor of granting a State pension to Winifred Whitney of Union, a dependent daughter of a deceased soldier.

#### Salaries and Fees.

By Mr. Baxter of Portland: An Act to amend Chapter 117, Section 18 of the Revised Statutes of 1916, relating to the insurance department.

By Mr. Barnes of Houlton: An Act to amend Chapter 59, Section 16 of the Revised Statutes of 1916, relating to compensation of steamboat inspectors.

#### Sea and Shore Fisheries.

By Mr. Webb of Cherryfield: Remonstrance of Seth Yeaton and 46 others of Milbridge against any change in present lobster law.

#### First Reading of Printed Bills and Resolves.

House 406. An Act to amend Sections 7, 33 and 35 of Chapter 25 of the Revised Statutes, relating to funds for State highways.

House 402. An Act to extend the charter of the Washington County Light and Power Company.

House 404. An Act to amend Section 57, Chapter 55 of the Revised

Statutes, to authorize revision of the decree of the railroad commissioners.

House 407. An Act to amend Section 8, Chapter 58, of the Revised Statutes, relating to approval of location of street railroads.

House 403. An Act to authorize the public utilities commission to investigate any proposed changes in the rates of any public utility and to suspend the same pending investigation.

House 405. An Act to extend the charter of the Rumford Falls and Bethel Street Railway.

House 401. Resolve to provide for the appointment of a commission to perfect plans for the celebration of Maine's Centennial and Three Hundredth Anniversary of the Landing of the Pilgrims.

**Passed to Be Engrossed.**

Senate 205. An Act to amend Section 10 of Chapter 117 of the Revised Statutes, relating to stenographers of the supreme judicial court.

Senate 58. An Act to amend Chapter 396 of the Private and Special Laws of 1909, authorizing the construction of a bridge across Ogunquit river in the town of Wells.

Senate 158. An Act to provide a penalty for evading taxicab and public automobile fares.

Senate 208. An Act to secure information relating to the yearly cut of timber from the wild land townships.

(Tabled by Mr. Lawrence of Fairfield, pending third reading.)

Senate 204. Resolve for the indexing of the documents filed by the legislatures of Maine since 1820, now in the office of the secretary of the Senate.

Senate 206. Resolve in favor of the Maine School for Feeble Minded for maintenance and other purposes for the years 1917 and 1918.

House 199. An Act to amend Section 107, Chapter 52 of the Revised Statutes, relating to loans by loan and building associations.

House 381. An Act to amend Section 31 of Chapter 3 of the Revised Statutes, so as to provide for a maximum number of annual reports of the public utilities commission.

House 382. An Act additional to Chapter 51 of the Private and Special Laws of 1907, relating to the pollution of the waters of North, or Varnum's pond.

House 384. An Act to extend the charter of the North Bridgton Village Corporation.

House 385. An Act to amend Chapter 132 of the Private and Special Laws of 1913, relating to the ferry between Indian Island, so-called and the city of Old Town.

House 386. An Act to amend Section 28 of Chapter 64 of the Revised Statutes, relating to registration of vital statistics.

House 387. An Act relating to the jurisdiction of the municipal court of Dexter.

House 388. An Act amendatory of the existing law relating to review by the supreme judicial court of certain orders, decrees and decisions of the public utilities commission.

House 389. An Act providing for court jurisdiction in criminal cases originating in Hibbert's Gore.

House 390. An Act to amend Chapter 239 of the Private and Special Laws of 1913, relative to Lincoln municipal court, giving the recorder of said court authority to issue warrants upon complaints for criminal offenses.

House 393. An Act to give more power to the local sealers of weights and measures and their deputies.

House 391. Resolve in favor of Freeman Boynton of Boothbay Harbor, in the county of Lincoln, for refund of money paid in lieu of military service in the late war of the Rebellion.

House 392. Resolve to amend Chapter 32 of the Resolves of 1905, as amended by Chapter 96 of the Resolves of 1909, relating to the authority of the commissioner of agriculture.

Mr. SAWYER of Madison: Mr. Speaker, I move you, if in order, that we reconsider the vote whereby we voted to concur with the Senate in relation to the Resolve for the town of Solon as to its being referred to the next Legislature. If I am in order, I would like to explain in regard to it.



The SPEAKER: The gentleman from Madison, Mr. Sawyer, moves that we reconsider the vote whereby the House receded and concurred with the Senate in referring to the next Legislature the resolve in favor of the town of Solon to repair Robin hill, in said town. This was introduced in the House Friday, under a suspension of the rules, being private legislation. It went to the Senate and they refused to concur, and referred it to the next Legislature. It came back here this morning and the House voted to recede and concur with the Senate in referring it to the next Legislature. The gentleman from Madison, Mr. Sawyer, now moves that we reconsider that vote whereby we receded and concurred with the Senate and do I hear that motion seconded?

The motion was seconded.

A viva voce vote being doubted —

Mr. SAWYER: May I explain this matter before this vote is finally taken?

The SPEAKER: The Chair rules that you may explain.

Mr. SAWYER: I understood, Mr. Speaker, that the rule adopted applies to private and special legislation. Now this is a resolve in favor of the town of Solon for \$300 to assist in repairing a state highway, the town agreeing to raise an equal amount to expend on this road. It came, as the Speaker has stated, late, and was introduced at the time stated by him. It was accepted by the House unanimously and I was led to believe by the vote—encouraged to think by the vote, the yea and nay vote, that there was a strong sentiment in favor of not adhering strictly to the rule. This resolve is not, strictly speaking, a private resolve.

The SPEAKER: The question, gentlemen, is on the vote of the gentleman from Madison, for reconsideration. Is it the pleasure of the House that this vote be reconsidered? Those in favor will say aye, those opposed no.

A viva voce vote being taken,  
The motion was agreed to.

The SPEAKER: The Chair now lays before the House the Resolve in favor

of the town of Solon to repair Robin hill in said town and again states to the House that it comes from the Senate referred to the next Legislature.

Mr. SAWYER: Now, Mr. Speaker, I would say that the little legislative class which I represent has asked really for nothing. One of the three towns has not even asked me for a copy of the Governor's Message. My own town has perhaps one or two resolves it is interested in and this comes from the town of Solon by a former member of this Legislature. I would move that we adhere.

A viva voce vote being taken,  
The motion prevailed.

#### Orders of the Day.

Mr. Baxter of Portland presented out of order, under suspension of the rules, the following order and moved its passage:

"Ordered, that the judiciary committee be allowed the use of the Hall of Representatives for a hearing for this afternoon at 2.30 o'clock."

The SPEAKER: The Chair would inform the gentleman from Portland, Mr. Baxter, that it is informed by the clerk that the hall is given to the committee on temperance for this afternoon.

Mr. BAXTER: Mr. Speaker, I was not aware of that. Of course, I will withdraw the order. It was handed to me with the request that I present it.

Mr. ALLAN of Portland: Mr. Speaker. I was going to say that some conversation has been had between the members of the judiciary committee and the members of the temperance committee in reference to the use of the hall this afternoon, and it was at that time agreed, if it were possible to make the change, that the temperance committee would take the judiciary room and that the judiciary might come in here, it not being known who would have the larger crowd. I think we can arrange it between ourselves.

Order withdrawn.

On motion by Mr. Sawyer of Eden, remonstrance of Charles L. Soper and

eight others against bill. An Act to regulate the sale of milk and cream in the town of Eden, and also remonstrance of J. V. Daney and 11 others against same, having been withdrawn from the committee on agriculture, now with the clerk of the House, were referred to the committee on legal affairs.

Mr. Washburn of Perry presented out of order, under suspension of the rules, the following order and moved its passage: "Ordered, that the use of the hall of Representatives be granted to the committee on education for a public hearing on Thursday afternoon, March 8."

The order received a passage.

On motion by Mr. Emerson of Lewiston, House report of the committee on judiciary, reporting "ought to pass" on bill in new draft entitled "An Act to provide for a police commission for the city of Lewiston and to promote the efficiency of the police department thereof," was taken from the table and, on further motion by the same gentleman, the report was accepted.

Mr. EMERSON: Mr. Speaker, I move the bill now again be tabled, as I wish to give notice to the House that at the proper time I shall propose an amendment.

A viva voce vote being taken,

The motion of the gentleman from Lewiston, Mr. Emerson, that the bill be tabled, was lost, and the bill received its two readings.

Mr. BARNES of Houlton: Mr. Speaker, I move that the rules be suspended and that the bill be given its third reading at this time.

Mr. MURRAY of Bangor: Mr. Speaker, I object to that. That is wholly unfair.

Mr. EMERSON of Lewiston: Mr. Speaker, I think that is railroading it pretty fast.

The pending question being on the motion of the gentleman from Houlton, Mr. Barnes, that the rules be suspended and

the bill given its third reading at the present time,

A viva voce vote being taken,

The motion prevailed and the bill was given its third reading and passed to be engrossed.

The SPEAKER: The Chair lays before the House majority and minority reports from the committee on claims, majority "ought to pass" and minority reporting "ought not to pass," on "Resolve in favor of Michael Burns." The pending question is the acceptance of either report.

Mr. ROUNDS of Portland: Mr. Speaker, when I came to Augusta eight years ago I was against the bill for Michael Burns, and when I came this year I was against it, because I had not heard the evidence. But after hearing the evidence that was brought in before our committee I see no other way to do than to pay a just claim.

The supreme court of the State of Maine has passed on this bill, and the full bench of judges has declared that it was legal for him to be selling this liquor in the original packages and that he had as much right to sell it as had any grocery store to sell groceries in the city of Augusta, or flour, or dry goods.

Now, the evidence before us was that the Governor said he was going to shut up the dirty rum shops. This might have been a dirty rum shop. Of course, while I was not in Augusta at that time, I knew something about the conditions at that time. But the Governor was advised by the attorney general of this State, now deceased, that he had better go slow and that he had no right to touch these goods as the law was at that time. He was so advised by the county attorney of Kennebec county, and it so came out in evidence given by the man himself before the committee at this time, that he had no right to touch these goods. However, he said "I will shut it up," and with the power of the Governor of the State of Maine he took or seized those goods on Water street and carried them up on to State street.

The case was fought through the courts

of Maine, and when they got through the law court of this State ordered the goods returned. Then they hustled around to find those goods and they could not find them. It came out in evidence that they couldn't at that time—and Mr. Michael Burns had to stand the loss of so much goods because they could not be found.

In the meantime the law had been changed, as it has been tinkered with nearly 60 years, and it had made it wrong for him to sell those goods in Maine. He sold what he had left in Massachusetts.

Now the committee on claims, while he claimed in his original bill \$1200 and interest, which brought it up to over \$3000, took into consideration what he had lost either by evaporation or otherwise. I never heard of it evaporating in glass; I have in wood. But this liquor had evaporated in some way on State street, pretty near the Augusta House. I would not state that it evaporated in there, but within three years it evaporated, so that he was put to a loss of some \$300 or \$400, and the interest brings it up to some \$650.

Now the majority of the committee have reported, after hearing the evidence and hearing what the supreme court has said, that we should reimburse Mr. Burns for the amount of money that he actually lost, not through attorney fees, nor in fighting these cases through the courts, but what he actually lost and interest money. Therefore, I rise now in behalf of the majority report in favor of Michael Burns, and I think it ought to pass this House, because it has cost this State in money for printing bills alone four times what it would cost to pay the claim, and, if Michael Burns' bill and the Legislature of Maine keeps on, it will cost as much more. I think it is now time that we settle it once for all, and I move you that the majority report "ought to pass" be accepted.

Mr. BARNES of Houlton: Mr. Speaker, with all due deference to the opinion of the majority for the committee on claims—and I say to you now that no man in the hall of Representatives is more ready to yield to the decision of a committee that I am

on this matter or any other that may come before us when a full hearing has been had—I oppose the acceptance of the majority report.

It was 30 years ago that Michael Burns was a rum-seller in Kennebec county. That is not denied. After the lapse of 30 years, it is amazing how a case can change in its principles, and year after year, and session after session, there has been what lawyers call an ex parte hearing before the committee on claims, that is, a hearing where one side only is presented; and after most of the actors have passed off the stage by the laws of nature and most of the men who had any first-hand knowledge of the case are dead, it is not strange that at an ex parte hearing the proponents can put up a pretty good case.

The gentleman from Portland (Mr. Rounds), representing the majority of the committee on claims and urging the passage of the majority report, is entirely right in saying that this matter went to the courts. He has probably been informed that it went to the courts in some irregular way, for he certainly presents a statement that the matter of the Rumseller Michael Burns as a criminal went to the courts in an irregular fashion.

Now the case is reported in the S21 Maine, and anybody can read it and will discover by reading it that Michael Burns was indicted for an offence against the prohibitory law or for selling liquor under some one of the sections of the statutes, and also for maintaining a nuisance in the city of Augusta. He is in error when he says that the full court agreed in a decision for him.

There is no question, and there has never been any evidence before any legislative committee, but what Michael Burns was a rumseller. He was taking chances in violation of the criminal laws of the State of Maine to make a living, to make a fortune, or to keep out of jail. I do not know which is the chief object of men who continue in that business. He was regularly apprehended and indicted. According to the understanding of the court before whom he was tried, the jury, under instructions of the court, brought in a verdict of guilty against

Mike Burns, and he stood then and there just like any other condemned rumseller, with the presumption of innocence possibly still in his favor—I have often heard that argued. The case was taken to the law court, and it was thoroughly and well tried.

Now he went up on an indictment charging him with a sale, a single sale, as a common seller or something like that, and also for maintaining a liquor nuisance. The law court in its decision, given by the then Chief Justice Peters, decided that on one point the instruction of the presiding justice at nisi prius was wrong.

Michael had taken a great many chances in his life, but at last he decided to bet on a sure thing. He sent to England and bought a lot of goods in small packages and took a chance on selling them in Augusta in the original packages. That was 30 years ago, and nobody, only attorneys of this State, has any recollection of the attempt to defeat the Maine law court law by selling in the original packages.

The court finally decided there was a chance to let Michael out and let him out on the ground that the Maine prohibitory law as it then stood would not forbid the selling of goods in the original package.

Now, those who have been around the courts have no hesitation in agreeing that in all human probability it was decided that Michael Burns was an offender against the laws of the State of Maine by maintaining a liquor nuisance. He has persistently and very skillfully been attempting, through the long lapse of 30 years, to get the State to reimburse him for what, if my brother, the gentleman from Portland, is correct, was a bit of larceny on the part of some of the officials of Kennebec county. Why he should look to the State to reimburse Michael Burns for the evaporation of his imported liquors, if they were purloined by officials of Kennebec county, in whose charge they were, and why that argument should appeal to the committee on claims, is past my understanding.

I stand here and go on record as being against making an attempt to defeat the law court of the State of

Maine a sure thing, when under the procedure of the court, if I am able to read it understandingly, the man may have been found abundantly guilty by the court at nisi prius and in my judgment was only released on what we so commonly term a technicality. I hope the majority report "ought to pass" will fail of a passage.

Mr. ROUNDS of Portland: Mr. Speaker, I would just like to read from *State v. Michael Burns*: (Reading)

"The undisputed facts show that the liquors which the State claims to confiscate, as being in the possession of the respondent Burns for unlawful sale, were imported by him from England, were his property, were in the original and unbroken packages, and in the same condition as when imported; that, at the date of the seizure, he had them in his possession with the intent to sell the same only in such original and unbroken packages, and in the same condition as when imported; and had established himself in a place of business in the city of Augusta for that purpose. The respondent contended that such possession and intent to sell was rightful under the laws of the United States. The court below ruled and decided that it was illegal under the statutes of this State. R. S., C. 27."

This is what the law court says: (Reading) "Held, that the decision of the supreme court of the United States in the case, *Leisy v. Hardin*, on full consideration settles the question, and requires this court, bound on such questions by the law as determined by that court, to reverse the rulings below and sustain the law according to the respondent's contention."

Therefore, I say the supreme court of this State, the highest court we can go to, has reversed the decision of the lower court, and I see no reason why we should set ourselves up higher than the judges who heard this case and say we should not pay a man what rightfully belongs to him.

We have other cases in point: *State v. Robinson*, 49 Maine, 285, decided in 1862. *State v. Blackwell*, 65 Maine, 556, in 1876. *State v. Intoxicating Liquors*, 69 Maine, 524, in 1878.

If the law was not right, they have made it right since then, and the man could not do as he did now, but at that time they had not tinkered the Maine law enough. They have not at the present day. They are still tinkering it, and I expect that as long as it is on the statute books they will tinker it, from now until eternity.

The SPEAKER: The Chair wishes to lay before the House, to make it perhaps clearer, the two reports, Majority Report and Minority Report, the former signed by Messrs. Packard, Snow, Googin, Chick, Rounds, Clifford and Neilon, the latter signed by Messrs. Frost and C. M. Holt, and the question is on the adoption of the majority report.

Mr. LONGLEY of Sidney: Mr. Speaker, as was well stated here, there is but a small amount of first hand knowledge; but I am one of the first hand fellows that was in Augusta nearly every day when this Mike Burns affair was going on. I probably know as much about it as any man here, because I know all the stages of the game, and, more than that, I was the only man that appeared before the committee against this claim of Michael Burns, and I want to say right here, and put myself on record, that I did appear against that claim, and I am here this morning to fight against it and I will show you why. Should I go into the liquor business in the state of Maine in the conditions as they now exist I would take my own chances. Michael Burns came into a prohibition state and started in selling rum. Nobody denies that he did sell it. He sold it in original package and he got by and the court to some extent let him by. Now I won't go on, however, gentlemen, and tell you what evaporated that liquor. I am very glad to say that I did not get any of it, but I think some of it did evaporate. I think quite a lot of it evaporated somewhere in the city of Augusta. I do not question that at all.

Now Mr. Burns comes up at this late day, and he asks the State of Maine to reimburse him. Gentlemen, what

will be the result? Suppose you reimburse Michael Burns! You have got hundreds of just such cases in the State of Maine that will come up at once. I tell you, gentlemen, you are going to be in pretty deep water if you reimburse Michael Burns. Today public sentiment is further along, I am glad to say than it was in 1886 and '87 when this thing occurred. I can remember that very clearly of course. Public sentiment is in a different state and we are all very glad it is. If it had not been in a different state, gentlemen, you could not have elected this House of Representatives; I can tell you that now. This House of Representatives could never have been elected with the conditions that existed in those days; you would not have been here. Radical temperance men did not get any jobs then; we know that. But public sentiment, we are glad to say, is changing. It has been done carefully and correctly and today the State of Maine stands for something more than it did when Michael Burns was selling rum in Maine. The court stands for more than it did then, I will tell you that, and it will take smarter men to get by today than it did in 1886 and '87. We are glad it is so. Now, gentlemen, as a member of the House of Representatives I shall protest against and fight this thing to the bitter end.

The SPEAKER: The question is on the motion of the gentleman from Portland, Mr. Rounds, that the House accept the majority report.

A viva voce vote being doubted,

Mr. Rounds called for the yeas and nays.

Twenty-eight members having arisen, being less than one-fifth of those present, the yeas and nays were not ordered.

The pending question being on the acceptance of either report,

On motion by Mr. Longley of Sidney, that the minority report "ought not to pass" be accepted,

A viva voce vote being taken,

The motion was agreed to and the report was read and accepted and sent up for concurrence.

The SPEAKER: The Chair lays before the House, House Document No. 362, bill, An Act to permit savings banks to invest in certain railroad bonds. The pending question is on the passage to be engrossed. The gentleman from Mechanic Falls, Mr. Purington.

Mr. PURINGTON: Mr. Speaker, the bill was tabled at the request of the bank commissioner on account of some slight defect in it which needed amendment. I now move that it be taken from the table.

The SPEAKER: It is before the House automatically today.

On motion by Mr. Purington the bill was recommitted to the committee on banks and banking for correction.

The SPEAKER: The Chair lays before the House, House Document No. 324, bill, An Act to provide a police board for the city of Waterville, tabled by the gentleman from Waterville, Mr. Berry, the pending question being reference to the committee on legal affairs in concurrence.

On motion by Mr. Berry of Waterville it was voted to concur with the Senate and refer the bill to the committee on legal affairs.

The SPEAKER: The Chair lays before the House, House Reports A and B, from the committee on claims, Report A reporting "ought to pass" and Report B reporting "ought not to pass," on Resolve in favor of N. J. Hanna for services rendered and for money expended while performing his regular duties as a fish warden for the State of Maine, Report A, "ought to pass," being signed by the following members of the committee on claims: Messrs. Rounds, Frost, Packard, Clifford; Report B, reporting "ought not to pass," signed by Messrs. Snow, Googin, Neilon and C. M. Holt, and the question is on the acceptance of either report.

Mr. ROUNDS of Portland: Mr. Speaker, Mr. Hanna was one of the first wardens appointed under the sea and shore fisheries. He has been engaged in the catching of criminals in the lobster business for years; and, as I understand—and

if I am not right I would like to be corrected—the man who was appointed as commissioner of sea and shore fisheries was one of the biggest violators of the law that he had to contend with; and when he came into office he said "Mr. Hanna is the first man I will go after." He did take particular pains to get after that gentleman, and I will show you the first letter that he got as soon as he came into office:

"State of Maine.

"Commissioner of Sea and Shore Fisheries  
"Port Clyde, Me., April 1, 1916.

"Mr. Nathaniel J. Hanna,  
"Monhegan, Maine.

"Dear Sir: Upon receipt of this letter you may kindly lay off for the month of April.

(Signed) "WILLIAM BRENNAN,"  
"Commissioner of Sea and Shore Fisheries."

By that letter he was supposed to lay off for the month of April, and he did so. I think it was the ninth day of April when he received that letter to lay off. He started in on the first day of May to commence his duties again as a fish warden of the State of Maine. Through the month of May he sent in his weekly and daily reports to the commissioner of sea and shore fisheries, and during that time they were received by the commissioner of sea and shore fisheries. He did not get anything back, but he let it go and kept on with his duties as he knew that it took some time to get letters back and forward and he supposed it was mislaid in the mail. So he kept on until the first day of July. On the first day of July, he wrote the auditor, saying that he had not received his pay and wished to know the reason why. As I say, on receipt of the letter from the commissioner of sea and shore fisheries, he laid off for the month of April and commenced his duties again May first as did all other wardens who were laid off at the same time in the same way. At the end of the first week in May, he sent to the commissioner his weekly report, and continued sending weekly reports through the month, and at the end of the month, he sent his monthly statement with his pay and expense voucher. He continued his

work through the month of June and continued to send in his weekly report. At the end of the month of June he learned from the State Auditor that he was laid off permanently and he did no further work.

The records in the office of the commissioner of sea and shore fisheries do not show that he was laid off in any manner excepting as shown in that letter of April first. The present commissioner wrote Mr. Brennan, after this resolve was introduced, to ascertain if anything was due Mr. Hanna. He replied that he laid Hanna off in April, but that Mr. Hanna continued to work and send in weekly reports, which he threw in the waste basket.

Mr. Hanna makes no claim for compensation or expenses while he was laid off, but his services and expenses after that time had expired he would like to be reimbursed for—not only for what he has asked for, but he paid out of his own pocket money that he had advanced the State of Maine to the amount of \$66. I do not see why this great State of Maine, trying to protect the lobsters that are here, and having hearings where they have to use the hall of the House of Representatives, should not pay a fish warden for the time he has been in service. He has paid into the State treasury in the last 21 years \$13,000, and there is still pending in the courts of Maine enough to make more than three times the amount of the bill that Mr. Hanna at the present time has asked for. I move you that Report A, "ought to pass," should be accepted.

The SPEAKER: The Chair will say that this resolve carries with it \$192 and the motion of the gentleman from Portland, Mr. Rounds, is that Report A "ought to pass" be accepted.

A viva voce being taken,

The motion prevailed, and Report A was adopted and under the joint rules the resolve was laid on the table for printing.

Mr. Rounds of Portland: Mr. Speaker, I would like to lay before the House, House Document, No. 350, bill, An Act to create a board of prison commissioners, tabled by me Feb. 22, and I would like to have it assigned for tomorrow morning, as I have an amendment to offer. Mr. Baxter being the father of this bill, and not in the House at the present time, I would move you that it be tabled and assigned for tomorrow morning.

The motion was agreed to.

The SPEAKER: The Chair lays before the House, House Document, No. 273, bill, An Act to establish the Presque Isle Municipal court, tabled by the gentleman from Eliot, Mr. Cole, pending its third reading.

On motion by Mr. Cole of Eliot, the bill had its third reading and was passed to be engrossed.

On motion by Mr. Billings of North Berwick,

Adjourned until 10 o'clock tomorrow morning.