

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

Seventy-Eighth Legislature

OF THE

STATE OF MAINE

1917

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SENATE

Friday, March 23, 1917.

Senate called to order by the president.

Prayer by Rev. E. S. Philbrook of Augusta.

Journal of previous session read and approved.

On motion by Mr. Ames of Washington the rules were suspended and that senator presented the following order:

Ordered, the House concurring, that when the Senate and House adjourn they adjourn to meet Monday, March 26, at 10 o'clock in the forenoon.

On further motion by the same senator the order was passed and sent down for concurrence.

(Subsequently the Senate concurred in an amendment adopted by the House so that the order read "adjourn to meet Saturday, March 24, at 9 o'clock in the forenoon.")

Papers from the House disposed of in concurrence.

From the House: An Act to amend Paragraph 15, Section 45, Chapter 117 of the Revised Statutes, relating to clerk hire in the office of the register of deeds of Waldo county.

In the House the bill was substituted for the report of the committee, ought not to pass.

In the Senate the report of the committee was accepted in non-concurrence.

In the House that body insisted upon its former action and asked for a committee of conference which was appointed.

Mr. GRANT of Cumberland: Mr. President, I move that the Senate adhere to its former action.

The motion was agreed to.

From the House: An Act to make legal and valid the annual town meeting of the town of Clifton, in the county of Penobscot, held March 19, 1917.

In the House this bill was received under suspension of the rules, and without

reference to a committee was read three times and passed to be engrossed.

On motion by Mr. Gillin of Penobscot the bill was received under suspension of the rules.

On further motion by the same senator the bill was read twice and passed to be engrossed.

House Bills in First Reading.

H. D. 45. An Act to provide for the improvement and certification of seed produced in the State.

H. D. 119. An Act to provide for conducting scientific investigations bearing upon the agriculture of Aroostook county.

An Act to amend Section 4 of Chapter 110 of the Public Laws of 1909, as amended by Section 11 of Chapter 40 of the Public Laws of 1911, relating to damage done to domestic animals by wild animals or dogs. (Indefinitely postponed in concurrence with the House, on motion by Mr. Davies of Cumberland.)

House 620. An Act to appropriate moneys received by the treasurer of State and credited by him to the public administrator's fund.

House 621. An Act to incorporate Maine Fire Insurance Company.

House 616. An Act amending Section 124 of Chapter 87 of the Revised Statutes relating to competency of witnesses in court.

House 614. An Act confirming the official acts of the officers of the Plantation of Chapman, acting as officers of the town of Chapman, and of the proceedings of the special town meeting of the inhabitants of the town of Chapman held Dec. 27, 1915.

House 605. An Act to define certain terms used in Section 58, Chapter 64, Revised Statutes, in relation to licensing children's homes and maternity hospitals.

House 607. An Act to amend Section 1 of Chapter 141 of the Private and Special Laws of 1887, entitled "An Act to amend An Act creating the Phillips Corporation."

House 608. Resolve in favor of Otto Nelson.

House 609. Resolve reimbursing the town of Presque Isle on account of a certain pauper.

House 610. Resolve in favor of Fred

R. Smith of Pittsfield for expenses incurred as a member of the hospital trustees in investigating conditions at the Augusta State hospital in 1913.

House 611. Resolve for laying the county taxes for the year 1918.

House 623. Resolve for the payment of expenses of last sickness and burial of Allan Shenneck, formerly a private Co. L, Maine Infantry, N. G. S. M.

House 569. An Act to amend Chapter 213 of the Private and Special Laws of 1915, relative to the granting of licenses for certain businesses and purposes by the municipal officers of the city of Portland.

From the House: Report A and B of the committee on education on An Act to provide for the distribution of State school funds available for support of the common schools.

Report A, ought to pass.

Report B, ought not to pass.

Mr. RICKER of Hancock: Mr. President, I move that these reports be tabled pending acceptance of either. I will assign the day later under orders of the day for their consideration.

The motion was agreed to.

From the House: An Act to fix the salary of the clerk of courts of the county of Lincoln, reported by the committee on salaries and fees, ought not to pass.

On motion by Mr. Butler of Knox, tabled pending acceptance of the report in concurrence.

From the House: Report of the committee on salaries and fees, ought not to pass, on An Act to amend Section 1, of Chapter 204 of the Public Laws of 1915, relating to the salaries of the registers of probate in Piscataquis county.

In the House the bill was substituted for the report, read three times under suspension of the rules and passed to be engrossed.

On motion by Mr. Grant of Cumberland, the Senate non-concurred with the House in substituting the bill for the report.

On further motion by the same sen-

ator the report of the committee was accepted in non-concurrence.

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

Appropriations and Financial Affairs

By Mr. Butler of Franklin: Resolve in favor of George T. Hinchliffe for services as clerk and stenographer of the committee on labor.

The PRESIDENT: For the interest of the senators at this critical time, the Chair has just received a communication: A private at Fort Williams, Portland harbor, this morning discovered two strange men, who had some way passed the heavy guard and were near the big guns. He attempted to detain them and they shot him and escaped.

Bills in First Reading

S. D. 376. An Act to amend Sections 20 and 21, Chapter 8 of the Revised Statutes, relating to lands reserved for public uses.

S. D. 377. An Act to extend the time within which the provisions of Chapter 186 of the Private and Special Laws of 1915, providing for re-organization or consolidation of the railroad companies constituting the Boston & Maine Railroad system, may be exercised.

S. D. 378. An Act to amend Chapter 25 of the Revised Statutes relating to State and State-aid highways, and to provide a mill tax fund for their construction.

S. D. 379. An Act to amend Chapter 452 of the Private and Special Laws of 1897, relating to the trustees of the fund for the support of the Episcopate of the Protestant Episcopal church in the diocese of Maine.

S. D. 380. An Act to amend Section 3, Chapter 21 of the Revised Statutes.

S. D. 381. An Act to incorporate the Investment Insurance and Guaranty Company.

S. D. 382. An Act to authorize the construction of a weir in the tide-waters of Little Machias Bay in the town of Cutler.

S. D. 383. An Act for the control of the White Pine Blister Rust and other fungous and insect pests.

S. D. 384. An Act to amend Section 1 of Chapter 11 of the Revised Statutes of Maine, relating to the collection of taxes and the commitment of poll taxes in incorporated places.

Reports of Committees

Mr. CHICK from the committee on claims, on Resolve in favor of Mrs. Mabel G. Sanborn of Augusta, for money expended in favor of Kate C. Robbins, a State pensioner, now deceased, reported same ought to pass.

Mr. DAVIES from the committee on judiciary, An Act to amend Chapter 76 of the Revised Statutes of 1916, relating to sales of real estate by license of court (Senate No. 110), submitted same in a new draft under the same title, and that it ought to pass.

Mr. DEERING from the same committee, on An Act to prevent public discrimination by reason of religious creed at places of public accommodation, resort or amusement (Senate No. 192), submitted same in a new draft under the same title, and that it ought to pass.

Mr. WOOD from the committee of legal affairs, on An Act in relation to the duties of county attorneys (Senate No. 15), submitted the same in a new draft, under the same title, and that it ought to pass.

Mr. WOOD from the same committee on An Act to correct typographical errors in Section 116 of Chapter 7 of the Revised Statutes, relating to illegal voting (Senate No. 294), reported that same ought to pass. (On motion by Mr. Wood of Hancock, read first time under suspension of the rules.)

Mr. WOOD from the same committee, on An Act to grant a new charter to the city of Auburn, Androscoggin county, State of Maine (Senate No. 194), submitted the same in a new draft, under title of "An Act to grant a new charter to the city of Auburn," and that it ought to pass.

Mr. HASTINGS of Androscoggin: Mr. President, this resolve carries with

it a referendum to the people and makes it necessary before its adoption to have a vote by the people. I move that 2000 copies be printed in order that the people may know what they are voting on.

Mr. Marshall from the same committee, on An Act to amend Section 23 of Chapter 26 of the Revised Statutes, fixing a fee for motor cars registering in neutral automobile zones (Senate No. 197), submitted the same in a new draft, under title of "An Act to amend Section 36 of Chapter 26 of the Revised Statutes, fixing a fee for motor cars registering in neutral automobile zones," and that it ought to pass.

Mr. Bartlett from the committee on mercantile affairs and insurance, on An Act relating to term of office of insurance commissioner, submitted the same in a new draft, under the same title, and that it ought to pass.

Mr. Fulton from the committee on public health, on An Act to create a State department of health (Senate No. 212), submitted the same in a new draft, under title of "An Act to create a State department of health, and to amend the public health laws," and that it ought to pass.

(On motion by Mr. Fulton of Aroostook 500 additional copies ordered printed.)

Mr. Conant from the committee on salaries and fees, on An Act to amend the Revised Statutes, Chapter 117, Section 16, relating to the State treasurer, reported that the same ought to pass.

Mr. Hastings from the same committee, on An Act to amend Section 29 of Chapter 117 of the Revised Statutes, relating to department of education, submitted same in a new draft, under the same title, and that it ought to pass.

Mr. Grant from the same committee, on An Act to fix the time of payment of salaries of county officials' (Senate No. 307), reported same ought to pass.

(Read first time under suspension of the rules on motion by Mr. Peterson of Aroostook.)

Mr. Grant from the same committee, on An Act to amend Chapter 117 of the Revised Statutes, relating to the salary

of county attorney and of assistant county attorney for Cumberland county and to provide clerk hire therefor, submitted the same in a new draft, under the same title, and that it ought to pass.

Mr. Conant from the same committee, on An Act to amend Section 32 of Chapter 117 of the Revised Statutes, relating to the salary of the clerk of the board of State assessors, reported same ought to pass.

Mr. Peacock from the committee on sea and shore fisheries, on An Act amending Section 17 of Chapter 45 of the Revised Statutes for granting lobster licenses (Senate No. 272), submitted the same in a new draft under the same title and that it ought to pass.

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

Mr. Merrill from the committee on taxation, An Act to secure information relating to the yearly cut of timber from the wild land townships, (Senate No. 208), reported that the same ought to pass. (Read first time under suspension of the rules on motion by Mr. Ames of Washington.)

A majority of the committee on judiciary on bill An Act for the enforcement of liens on watches, clocks and jewelry, for labor and material furnished in making and repairing same, (Senate No. 224), reported that the same ought to pass.

(Signed) Hutchins, Barnes, Dearth, Farrington, Deering, Gillin, Cole.

A minority of the same committee on the same bill, reported that the same ought not to pass.

(Signed) Baxter, Davies, Gurney.

(Tabled on motion by Mr. Butler of Knox, pending acceptance of either report.)

Report "A" from the committee on judiciary on An Act to provide for the establishment of district infirmaries and to repeal Sections 15, 16 and 17, Revised Statutes, (Senate No. 241), and An Act to repeal so much of Chapter 21 of the Revised Statutes of 1916 and

any Act amendatory thereof, as authorize the cities and towns of the State to maintain almshouses, workhouses or houses of correction and to provide for the establishment of district infirmaries in lieu thereof, (Senate No. 21), that the new draft (Senate No. 241), ought to pass.

(Signed) Deering, Dearth, Cole, Baxter, Gurney.

Report "B" from the same committee on the same bills, that the same ought not to pass.

(Signed) Davies, Gillin, Farrington, Hutchins, Barnes.

On motion by Mr. Gillin of Penobscot, tabled pending acceptance of either report, and assigned for consideration Thursday of next week.

The PRESIDENT: The Chair will inform the senator that this bill will come up Wednesday automatically.

(Upon the request of Mr. Davies of Cumberland, the Chair read the reports.)

Mr. DAVIES: I am quite aware of the fact that both of the distinguished senators desire to address the Senate at great length on this matter, and I would like to inquire when the bill was assigned for consideration.

The PRESIDENT: The bill is tabled and will come up automatically Wednesday.

Mr. GILLIN: Mr. President, I wish to inform the distinguished senator that I simply signed the report with him. I expect to vote with him after he has made the lengthy and elaborate speech.

Mr. DAVIES: Mr. President, this is the first time I have ever known Senator Gillin to dodge a question when it was put up to him. He signed the report on the same basis and same understanding as everybody else.

Mr. GILLIN: Mr. President, but not with the understanding that I was to participate.

A majority of the committee on judiciary on bill "An Act in addition to Sections 44, 45, 46 and 47, Chapter 86, Revised Statutes of 1916, relating to attachment

of property mortgaged or pledged" (Senate No. 202), reported that the same ought to pass.

(Signed) Davies, Deering, Dearth, Cole, Farrington, Barnes, Gurney, Baxter, Hutchins.

A minority of the same committee on the same bill reported that the same ought not to pass.

(Signed) Gillin.

On motion by Mr. Deering of York the majority report of the committee was accepted.

On further motion by the same senator the bill was given its first reading.

A majority of the committee on judiciary on bill "An Act to make uniform the law of negotiable instruments" (Senate No. 82), reported that the same ought not to pass.

(Signed) Barnes, Farrington, Cole, Davies, Hutchins, Gurney, Baxter.

A minority of the same committee on the same bill reported that the same ought to pass.

(Signed) Gillin, Deering, Dearth.

Mr. DAVIES of Cumberland: Mr. President, I move the adoption of the majority report.

Mr. GILLIN of Penobscot: Mr. President: The subject matter, brother senators, for which the distinguished senator from Cumberland moves the adoption of the majority report, is an act relating to the uniformity of bills and notes—is that not the title, Mr. President?

The PRESIDENT: An Act to make uniform the law of negotiable instruments.

Mr. GILLIN: I did not expect the matter would come up this morning, but it is as well to take it up and dispose of it now as later.

I will say, first, that the act which the minority report asks to pass, and the majority report asks not to pass, has been discussed by three, and not less than two lawyers from practically every state in the Union, where the commissioners on the uniformity of laws meet. As one of those commissioners, four

years ago, representing the State of Maine, I met with the commissioners at Montreal, and as the measure then was I opposed it, not knowing what its action might be on the decisions of our own court. Since that time, certain revisions in certain of its provisions have been made and endorsed by the American Bar Association, and endorsed by the three commissioners from each state in the Union. As I understand it, and we have a distinguished senator here who is president of a bank, the banking associations of the entire Nation have also endorsed it. Forty-six states in the Union have already adopted it—

Mr. DAVIES of Cumberland: Forty-two.

Mr. GILLIN: It was forty-six the last hearing—that was the statement.

Mr. DEERING of York: Forty-four.

Mr. GILLIN: Then they had one—making forty-five—by a telegram that came in before us, a telegram that day that another state had come in, making forty-five—if we adopt it, it makes forty-six—it is either forty-five or forty-six that have adopted this uniform law.

Now, my fellow senators, what is the purpose, what is the object, for which the commissioners are appointed by each state—three from your own—on the question of uniform statutory laws throughout the Nation? It is simply this, that in these matters pertaining to negotiable instruments, from one end of the Nation to the other you may have the same uniform law.

Now then, there is one thing, to which I wish to specially call the attention of the senators, particularly the attorneys in the Senate who have to deal with these matters. There is, in so far as I have been able to ascertain from the most pains-taking and careful examination, not a provision in the law that conflicts with the decisions of the state of Maine except in one particular. And I specially and particularly call the attention of every senator engaged in any kind of business that takes notes in this state, to that particular feature of this bill.

As every lawyer knows, and as most business men know, the Supreme Court of the State of Maine has declared that

when you take a note where A signs it upon the face of the note and B signs it upon the back of the note before it is delivered, that the party signing on the back is not an endorser but an original promissor. That is the law of negotiable instruments in the State of Maine as applicable to that kind of a note delivered in that manner, as I understand the law. Now then, I wish to ask the attorneys here, and I also wish to ask the business men in this Senate this question: How did that question come up? This is how it came up. Everybody in the State of Maine who does business knows that when a man places his name upon the back of a note he is supposed to be an endorser, and the law of the state and the statutory law requires that he have different notice. Different rules of law in the state of Maine, it will be admitted by any distinguished senator in this body, apply than to the original promissor. The original promissor's liability is always fixed and always certain. That of the man whose name appears upon the back of the note is not always fixed, and not always certain, unless they give the notice which the statute of the state says they ought to give him.

Therefore you take a note after it is due, and on the back of that note my name appears. The man who holds the note tells you that I signed it before it was given to the party who took it. Under the law that makes me an original promissor. That is elementary law in the state of Maine. I am good. The man who signs the face of the note is no good. But you, relying upon me, take that note. When you come to sue me as an original promissor, I say I am an endorser; I haven't got the notice which the statute of the state and the law of the state says I ought to have, and I bring you into court and you have a trial over it.

Now, then, the one law that this bill on negotiable instruments changes in the State of Maine, as I understand it, is that particular law, and it makes it absolutely sure and certain for everybody that the man whose name is on the back of the note is an endorser, and the man whose name is on the face of the note is an original promissor.

Is that, my fellow senators, such

an innovation of the law of the state of Maine as to require you to vote against this negotiable instrument law—taking for granted the statement of the distinguished senator who has signed the majority report, ought not to pass—is that such a criticism of it as should make it invalid, when, as he says, 42 states in the Union have already adopted it? When the most distinguished lawyers in New York, Massachusetts, Pennsylvania, Wisconsin and the great states of the Union, whose decisions are recognized by the great lawyers of the United States as standing co-equal with any up to the Supreme Court of the United States, the great state of Massachusetts, and the great law-givers of the State of Maine following the decisions of the court of Massachusetts—leaving my simple, humble endorsement as one of the commissioners of your state out of the question,—is the action of those lawyers in those great states not to be taken under advisement in an instrument of this kind that has been adopted by 42 states in the Union, passed upon by the three commissioners from each state, every single feature and every single measure in the bill?

So far as I am individually concerned, fellow senators, I do not care a jot or tittle which way this law of negotiable instruments goes, except that it go in the way that it shall be for the greatest benefit of all the people of the State of Maine, and I believe that is to accept the minority report, a motion which I will make, Mr. President, in favor of the minority report that the negotiable instrument law ought to pass, and, as I understand it, put 46 states in the Union with one single law known from one end of your entire country to the other; so that if you take a note of a man in New York, you will know that every man whose name appears upon the back is an endorser, and every man whose name appears upon the face is a maker. I believe that if this negotiable instrument law ought not to pass, that standing in the presence of the Bar Association of the State of Maine a majority of

the lawyers would be in favor of putting the statute upon your statute books, irrespective of the question of this negotiable instrument law, that a man whose name appears upon the back of a note is an endorser, and those who appear upon the face of it are makers, thus wiping out the opportunities, my fellow senators, of allowing men to come into court and say "I signed on the back as an endorser and not as an original maker" and raising those questions in your state.

I will say to you, that with my distinguished colleague from Portland, four years ago, in the presence of two commissioners—and three commissioners from some—from every state in the Union, I heard this analyzed, because I attacked it item by item in order to see that it did not conflict with the recorded decisions of the supreme court of the state of Maine. I have been unable, from an examination which I have given it here, to find that it is in conflict with a single decision of the state of Maine, excepting the case which I have taken up, excepting the case which I have analyzed. The same analysis that I make of it to you I would not fear to make of it to the supreme court of the state, because I have heard the greatest justice who ever presided over the supreme court in the state of Maine, in charging the jury to say that the law ought to be changed, where a question of fact was submitted to a jury as to whether a responsible man who was on the back of the note had signed his name there before the note was put in circulation,—so that these questions of fact could no longer be raised.

I ask you, then, my fellow senators, is it a good law? Has it got sufficient endorsement?? Is that of 42 states, as the distinguished senator from Cumberland says, some endorsement. Endorsed by the lawyers of those 42 states. I say 45 states, and this one makes 46. Has it not been under sufficient examination?

It is not a new departure. It is the fixed, solemn law of 45 states of the Union.

In closing, my fellow senators, what is the object of these acts that are going upon your statute books? For what purpose does the State of Maine and the other states of the Union, under the act which creates the commission, send the representatives of the bar of your state to meet their brother attorneys in solemn consultation? The cause is not far to seek. It is to make the statutory laws of the entire nation uniform; so that the lawyer who leaves the precincts of the state of Maine in its far eastern boundary and goes to the Golden Gate, knows the law of California, the law of Michigan, the law of New York and the law of Massachusetts the same as he knows the law of his own state, fixed, certain, as the great inflexible, intangible principles of the common law itself that every lawyer is presumed to know. That is the object and that is the purpose of it. And whether this bill passes this legislature or not, I deem it my duty and also my privilege to state to the lawyers, the distinguished senators who represent the law and the distinguished senators who represent the business interests of this great state here congregated together, the object and the purpose of these uniform laws.

Let me give you a simple illustration. You have a uniform check law passing through. A man comes down from New York; he passes a check in a hotel in Bar Harbor; he passes a check in Bangor; he passes a check in Augusta and has no funds behind them. The very minute that the check is produced before a lawyer in either place he tells him the law of the State of New York, of the State of Massachusetts, or whatever State he comes from, makes it *prima facie* a crime for him to do it, and when presented up there under their laws you need not take depositions, you need not go there to testify, until he shows that he had money in the bank to meet it. That is one of your uniform laws. When it goes through your State it will be in thirty-two States in the Union.

Finally and in conclusion, I am one of those men who adhere with the greatest strictness to the grand prin-

ciples of the common law that has stood the test of time for 2000 years, depending upon the will, the integrity and the intelligence of the people. Defined by no written code, claiming no divine origin, it has swept the world wherever the intelligence of the Anglo-Saxon people has ruled. I love its principles. It has lived through the chaos and destruction of governments. It has lived through religious rancour, and everything else that has divided men, and it is still with us, as virile, as powerful, as it was the day that its first elementary principles emanated from the brain of our crude and barbarous ancestors on the island of Great Britain. I hate to depart from the benign shadows of its great influence. But we have to do it. Our laws are made, our statutes are tested, our constitutions are tested, our every act is tested by the great fundamental principles of the Anglo Saxon law. This is a departure. But what kind of a departure. This is no new scheme. This is an act which for years, six long years, has been analyzed by admittedly the best lawyers within the realm of this great nation, congregated together for the purpose; recognized by the legislatures of forty-five states, and now a law upon their statute books, almost as uniform—and that is why I call your attention to the common law—lacking two States in the Union of being as uniform as the great intangible principles of the common law itself. Is that not an endorsement, Mr. President and fellow senators? And this law will take the man who loves the principles of the common law, as every lawyer does, and lead him to believe that the time is coming in this nation, when your statutory laws on marriage and divorce, on every great thing that pertains to the public well being, will become uniform law like the shining principles of the common law, which is always uniform and extending its benign hand over the liberties and the rights of all the people. That is why I advocate these uniform laws to be placed upon your statute books.

I have given you, my fellow senators, this morning unexpectedly, the simple reasons locked up within my brain, why this should become a law placed

upon the statute books of your State. And as against the argument of distinguished senators and lawyers who may oppose it, I hurl into their face 148 lawyers in solemn conclave analyzing it; the act of forty-six States—forty-five States in the Union, and the fact that it is reasonable in its every feature, and the fact that the only objectionable feature of it that I can see corrects the manner in which notes should be given within the precincts of your State, so no litigation can ever be had as to who is an endorser or who is a maker.

Mr. President and fellow senators, do with it as you will. I have simply laid before you in my simple way, what I regard as the benefits of this law, why it ought to be enacted, its purpose, and its scope, and I thank you.

Mr. President, I forgot to make my motion—I move that the minority report of the committee be accepted for the majority report.

Mr. DAVIES of Cumberland: Mr. President, I can express my views on this subject very briefly. The first legislation proposed in the Maine Legislature on the subject of uniformity of laws came in 1907. Since that time at every successive legislature we have had various laws offered for consideration which dealt with the uniformity of law.

Until the present session none of those laws have been adopted. At this session has come the first one to the Governor for his signature, and I am assured that he intends to sign it. It is a measure which provides for uniformity of law in relation to checks.

Second, the committee on judiciary has reported ought to pass on a law which provides for the uniformity of law relating to ware house receipts. The same committee has reported ought to pass on a law which provides for uniformity of law on bills of lading in this State.

I am inclined to think, if my opinion is worth anything at all, that those three measures will become law during this session of the legislature.

I am opposed to the law which provides for the uniformity of law on negotiable instruments, and for this reason

on: It has failed to accomplish the purposes for which it has been enacted in the 45 various States. That is the reason.

First, the judges in those various states have held diametrically opposed opinions on precisely the same facts. That is true, is it not?

Mr. GILLIN: Mr. President, I admit it.

Mr. DAVIES: Mr. President, may I make that a subject of repeated remarks? Instead of getting uniformity of law you are getting confusion. In the states of Ohio, Wisconsin and Minnesota confusion has wrought her masterpiece on the subject of the law relating to uniformity of negotiable instruments.

Second, I am opposed to it, Mr. President, because in one-half in this marked percentage of states in which they adopted it, they have amended it. Where do you get uniformity there, will somebody please tell me?

It is absolutely impossible, Mr. President, to enact in the various states of the country uniformity of law and have it practicable and workable which touches the question of negotiable instruments. That is the reason why I am opposed to it.

May I repeat what I said in the form of a question, how can you get uniformity of law if the judges of the highest courts in the various states where the so-called uniformity of law has been adopted hold diametrically opposed opinions on the same statement of facts?

Senator Gillin says that you know what the law is in all of the states of the Union. Now the last word on a law comes from the court. On the one statement of facts in Ohio, the highest court says one thing, and on the same statement of facts in Wisconsin the highest court in that state says another.

Pray tell me how you are going to know what the law is on the subject of negotiable instruments in those states until you have made an examination and study of the opinions of those courts?

Our law on this question, Mr. President, as you well know, is well settled. It is a law that has filtered down through the ages and has been decreed to be wise by use and experience. That

is our law. Are we going to entirely set aside all the adjudicated cases in our reports on the subject of negotiable instruments, and write on the statute books a so-called uniform law that has been interpreted differently, the same law, in different states?

That, Mr. President and gentlemen, is precisely the question as I view it, that is offered here in this bill.

Mr. GILLIN: Mr. President, I am somewhat surprised at the criticism which is offered from such a distinguished lawyer as the senator from Cumberland. He says this cannot be a uniform law because different judges of different states have rendered different decisions on the same state of facts. Has the distinguished lawyer forgotten the fact that the greatest court in all the world, as we recognize it to be, has but recently, so recently that the thoughts which emanated through the finger tips with the pen are still hot and still ringing in the very ears of the distinguished senators, where on the same state of facts five judges declared the Adamson law constitutional and four declared it unconstitutional.

Mr. DAVIES: But, Bro. Gillin, this comes before forty-five.

Mr. GILLIN: Has the learned gentleman forgotten that in his own state in twenty-seven different cases now on the books, on the same state of facts, that the court has decided different ways? I know he has not forgotten, because he has counted those cases the same as I have and they have tumbled each other over.

The law, the statutory law is still uniform, notwithstanding what different lawyers say about it. It is a uniform act notwithstanding what the distinguished senator from Cumberland says about it on his side, and notwithstanding what a humble attorney says about it on my side. And if we were in a court, my fellow senators, you could easily see that there would be a dissenting opinion as to whether this law was good or bad. But that does not take away from it its uniformity by any manner of means. And that has not retarded forty-five states in the Union from putting it on their statute books.

And now I am going to give him the

whole answer to his proposition. Every lawyer knows, no one better than the distinguished lawyer from Cumberland, that when we find a decision in a court that is contrary to certain facts and principles, that the next thing we do is to go to work and find the decision of other courts upon the same state of facts and put them up to our court, and our court will always follow the majority opinion that is the best reasoned out, and that is the common law. So that if the states of Wisconsin and Ohio and Michigan have decided differently on the same facts about that uniform law that is now on forty-five statute books, when you get enough decisions of courts, we have got enough lawyers like the distinguished senator from Cumberland who will look up the great majority of the decisions that are based upon the essence of human reason which is considered the common law, and then the courts throughout the Nation will make the act uniform. It is first the act of the Legislature to place upon the statute books a law, and under the disposition of the vast intelligence which God Almighty implanted in the brains of the founders of the Nation and of the states, they leave it to the supreme courts to say whether it was a good or a bad law. Put it upon your statute books, let your courts pass upon it, and then your common law will surely make it uniform through the entire Nation. I submit that before you legal members of this body, before you business members of this body, that the fact that the court of Wisconsin and the court of Michigan and some other court have not agreed upon the facts should not bear with you one jot or tittle, when you know that forty-five states under the regime of great lawyers in all those states have placed this upon the statute books of their states. And I submit that when they tell about conflicting opinions of different states on the same facts, they don't want to forget the dissenting opinion which rang in our ears so recently, where they just got away by a hair's breadth—four to five.

Now in conclusion: If this is the only criticism that the distinguished counsel can make relative to this uniform law which has been placed upon the statute books of the forty-five states in the name of high heaven, because two

or three courts in two or three states of the forty-five have happened to disagree upon the interpretation of certain of its clauses, is that going to deter us, if the law is a good one to be placed upon our statute books? Pardon me, Mr. President and fellow senators: I felt in justice to the lawyers present and to you, fellow senators, that I ought to analyze the criticism which has been put up as to the divisibility of courts on questions on the same kind of facts put up to them.

Now the Adamson law is a national law on a nation's statute books, and four justices of the supreme court, or the court of last resort, say the law is one way, and the other five say it is the other way. And if you put this uniform law on the State of Maine's books, it may be that some great justice of the supreme court of your State may interpret the clause that will cause the nation to follow him. It will not be the first time in the history of the State of Maine that a great lawyer sitting upon the bench of the court of the State of Maine has changed the law of the English speaking people the world around. The great Chief Justice John Appleton changed the law, in two particulars, of the great English speaking people of the world, wherever the Stars and Stripes sweep the sea in unison with the Union Jack. He was a Maine man. He was of the Maine court. Do not be frightened to put it on your books. It has had the best analysis, and the greatest lawyers of the different courts will see to its uniformity. It must be worked out. I submit that the very fact that forty-five states have endorsed this law, and the only criticism made by my distinguished fellow Senator from Cumberland to you is that courts have interpreted differently the same statement of facts, ought in itself to cause you to vote to place it upon the statute books of your State.

I again thank you, Mr. President and fellow Senators.

Mr. DAVIES: Mr. President, if I may have just a word at the present time. I only want to say that another criticism was that it did not accomplish its purpose because it had been amend-

ed in almost half the states which have adopted it, therefore there could be no uniformity if different amendments in the different states had been adopted—in one-half the states which had adopted it.

Mr. DEERING of York: Mr. President and Senators, I must necessarily be brief upon this subject because after the distinguished gentleman from Penobscot and the distinguished gentleman from Cumberland have argued a case, I feel that about all the ideas and about all the words in connection with that subject have been used. And while I will try not to use the ideas a second time, I will be obliged to use some of the words that they have used.

(Laughter and applause.)

There is no doubt, gentlemen of the Senate, about the reliability of the source of this law. Nobody in this Senate or in the State questions the authority of the American Bar Association, or the Association of American Bankers, of Alaska, the Philippine and Hawaiian Islands and of the District of Columbia also—nobody questions that great body of men who are selected by every state in the Union to meet in various places every year to discuss and propose right laws which shall make the statutes of the different states more uniform in their application to the different subjects to which they apply.

Now leaving out the reliability of the authority, because I believe you are all convinced of that, I want to pass on to a more practical subject in which you men are interested. I believe you want to know, Senators, what good this law is going to do you. I do not believe there are 10 men in this Senate, outside of perhaps the members of the judiciary committee, who have read the 53 pages that constitute this law, and I do not see how the members of this Senate can act intelligently upon these 53 pages unless they have told to them some of the things that are contained therein.

Now in order to take a concrete example and to show you, gentlemen, how this particular law applies to you, without perhaps dwelling particularly

upon the disagreement of courts, because I know, and the gentlemen from Penobscot and Cumberland know, that the supreme court of this nation has been divided upon the Adamson law. They were divided five to four upon the Bidwell law in which they decided the constitution followed the flag or did not follow the flag, according to the way you read it. They were divided upon the most important divorce law, decided in a case between New York and Connecticut, and they have been divided on very many cases. And further, I want to say, gentlemen, that it makes no difference whether laws have been amended or not in regard to their uniformity, because in different places, in different states—for instance, perhaps the law in Pennsylvania might require some little different amendment than in Maine, but still the bulk of the law remains uniform. Nobody ever saw a law passed in any state which was new but what sooner or later—most always sooner, was amended by some particular thing which applied to that particular state.

Now gentlemen, if any of you will take up the Revised Statutes of 1916, to which there is no index—but if there was one you couldn't find a chapter in that book that referred to negotiable instruments or bills and notes. This law is going to write a chapter in that book that refers to bills and notes. The first section of the law gives a definition of what a negotiable instrument is. I want to read it to you, to show you how plain this is going to be when you get this law adopted and put into the statute books as a separate chapter in your own laws. It says:

"An instrument to be negotiable must conform to the following requirements:

(1.) It must be in writing and signed by the maker or drawer;

(2.) Must contain an unconditional promise or order to pay a sum certain in money;

(3.) Must be payable on demand, or at a fixed or determinable future time;

(4.) Must be payable to order or to bearer; and

(5.) Where the instrument is addressed to a drawee, he must be named

or otherwise indicated therein with reasonable certainty."

Gentlemen, you have not a law book in the State of Maine, either the statutes or the decisions, in one book, that will give you so much information in regard to the law of negotiable instruments as these first four or five lines that I have read to you. There is no one book in the State of Maine that contains these five definitions that I have read to you. That starts the law.

Now to go further. I will not read it all, but I will tell you I am going to quote enough of it to show you how you can use it. On page 4 of the law, section 6:

"The validity and negotiable character of an instrument are not affected by the fact that:—

- (1.) It is not dated; or
- (2.) Does not specify the value given, or that any value has been given therefor; or
- (3.) Does not specify the place where it is drawn or the place where it is payable; or
- (4.) Bears a seal; or
- (5.) Designates a particular kind of current money in which payment is to be made."

Gentlemen, that is section 6 of this uniform negotiable instrument law. And again I wish to repeat that there is not one single book in the State of Maine which contains as much information in regard to negotiable instruments as that particular section 6, in the Revised Statutes, when we get it passed into the Revised Statutes.

On page 6 there is section 12. I want to ask how many members of the Senate, or how many people within the sound of my voice, know whether a promissory note is good or bad if it is ante-dated or post-dated. I doubt if every member of the Senate knows it. I didn't know it myself until I read this section. Gentlemen you can search the law books of the State of Maine—you have got to get Savage's digest or Lawrence's digest, and you have got to know from that digest and whatever you can find out what the law is, unless you have a set of Maine reports that cost \$450, in order to find the law. But here in four lines is a little bit of a section that tells you what the valid-

ity of a note is when it is post-dated or ante-dated:

"Sec. 12.—(ANTE-DATED and POST-DATED.) The instrument is not valid for the reason only that it is ante-dated or post-dated, provided this is not done for an illegal or fraudulent purpose. The person to whom an instrument so dated is delivered acquires the title thereto as of the date of delivery."

Gentlemen, there are five lines on Page 6 in this uniform negotiable instrument law that explains more than two days' search of the common mind could in the law books of the State of Maine to discover whether he had a good note or a bad note because it bore perhaps an ante-date or a post-date.

Section 17. I do not think many people know whether a note is good or bad if the language in it is ambiguous. But if you have a copy of the Revised Statutes with you, after we pass this law, you can look at section 17. You will see, "where the language of the instrument is ambiguous or there are omissions therein, the following rules of construction apply." I do not care to read them all because there are seven of them and they are pretty long; but I will say in regard to them, that when they are strictly considered they are absolutely intelligible and applicable to all the conditions in the State of Maine.

Another thing that most people do not know about notes. Does anybody here know what the effect of an endorsement on a note is by an infant or a corporation? I think you would have some difficulty finding it in Savage's digest or Lawrence's, or the Maine Reports. Section 22 of the law says:

"The indorsement or assignment of the instrument by a corporation or by an infant passes the property therein, notwithstanding that from want of capacity the corporation or infant may incur no liability thereon."

It would be impossible for me in the brief time which I have to cite to you the various important matters which are contained in these 53 pages. I have understood from Brother Gillin that this particular uniform piece of legislation changes the laws of our state in only one important particular.

Mr. GILLIN: That is all.

Mr. DEERING: And I am convinced from what little search I have made that it is true. That is in regard to where a person's name is put upon the note on the back of it before delivery. Now it makes him a co-maker. This law makes that man an endorser. It makes it very plain so that he who runs may read; when they find out that a man's name is on the back of a note he is an endorser, as the word endorser means, and when his name is on the front of a note he is a maker.

Now, gentlemen, perhaps a practical illustration of how this might work: If some senator here should receive a note when he was out in New York state selling lumber, and perhaps it was signed by two people, perhaps it might be signed on the front by one and on the back by another, and he came back to the state of Maine, and he would take that note to his lawyer because it hadn't been met at maturity,—all the lawyer would have to do to advise his client upon that note, if we adopt this act, would be to look in our own books and find out what the law was, if New York and Maine had both adopted this uniform law, and he could advise his client from his own office without any difficulty whatever.

I do not desire to take the time of the Senate, because, as I said in the beginning, the matter has been very thoroughly covered, and I simply wished to give you those few examples of the benefits that this law is going to give the merchants and the banks of the state of Maine, and to assure you that all through these 53 pages are similar benefits which I do not care to read to you on account of the lack of time. But I want you to take my word for it that they are contained in this law, and the law protects the rights of all persons who are in business in the state, and it certainly would not have been accepted by 44 or 45 or 46 other states and investigated by all these various associations and placed upon the books unless it were a safe law for us to adopt.

Mr. MERRILL of Somerset: Mr. President and fellow Senators, I ask but a very few minutes of your time, but during the life and history of our State the present law has existed upon our statute books, and from the first volume of the Maine Reports down to the 113th,—I believe that is the last,—contained a history of contention by the parties interested in negotiable instruments and promissory notes. There have been a great many, yea hundreds of cases decided bearing entirely upon the question of the negotiability and liability of the signers of those notes, both on their face and on their back.

Now the law is well settled in this State. It has cost this State many thousands of dollars to place those decisions upon the Maine Reports, in order to give to the people of the State of Maine knowledge of what the law is.

Now that is worth a good deal. The law has been settled as the statutes now are and as the common law now is. You put a new law onto the statute books of the State of Maine, which contains 51 or 52 pages, my learned brother says, and you have got to settle the questions that will arise under that law, and it will be years and years and years before the questions are all settled that will be raised under that new law.

It is taking a step which does away with the value of all the legal fights on negotiable instruments from the foundation of this state until today, and that is a very serious proposition.

Now the learned senator of York, says that all there is to do is for anybody who wants to find out, who has taken a note in the state of New York, all he has to do is to find out the law in Maine. He goes to his lawyer and all the lawyer has to do is to find out whether the Maine and the New York law is on the same basis. If it is he gives him the law. If it is not, he gives him the law. The most unsafe thing for any business man to do who is not learned in the law is to undertake to open the statutes and read what the law is and follow his judgment as to the law.

There is not a lawyer in this chamber but know that is true. If they would all

start on their business and start without any legal advice at all, we lawyers would be busy in six months so that we would have to get more help in our offices. The good business man, the safe business man, is the man who has found out what his legal rights are from his legal adviser and has not undertaken to run on his own judgment by taking the statute law himself.

The act here today, of 52 pages, and Senator Deering said that he did not think ten members in this chamber has read it at all, and I do not believe five of us have read it.

I want to ask you, fellow senators, I want you to help to keep and maintain the law as it is, as it has been decided and has been worked out by the brains of the court of the State of Maine for the last one hundred years. You will make no mistake.

The senator from Cumberland, Senator Davies, states that in 1907, the first uniformity law act came to this Legislature. It came before that, for I helped to turn it down in 1905. It is the same thing and it has been boiling all the time. I say to you, fellow Senators, that is a bad law for the State of Maine. You are undoing what we have been one hundred years in doing. Keep to the good old way, and not because Massachusetts, or even 45 other states, have gone wrong, is no reason why we should.

Take the divorce bill law, which has been often cited, that if there was uniformity of the divorce law throughout the states there would not be this cutting back and forth and going from one state to another to get a divorce. The minute you change the law and get 45 different states with the law the very next session of the Legislature there will be amendment to it, and each amendment will be different from the other. It will be the same here.

I hope, fellow senators, that the majority report, I believe it is, will prevail.

Mr. DEERING of York: Just a word, Mr. President in answer to some things the Senator from Somerset said.

It is true that we have been one hundred years in law suits in the State of Maine in deciding cases about negotiable instruments. Every one of the 114 reports that we have of decisions in the

State of Maine are full of troubles about negotiable instruments. I believe right here today with these lawyers in this Senate if they took one hundred years more they could never learn the law that is expressed in those 114 reports.

This particular bill codifies a law and brings it down to the law of every other state, with the exception of one important particular, and that is well expressed and understood. I think the argument of the senator from Somerset fails when he says we should not adopt this law because of lapse of time that we have not had it.

Mr. WOOD of Hancock, Mr. President and senators, I will promise not to break out and make any speech, but I wish to say a word as a lawyer, not on the judiciary committee, but one in a humble way who has tried to practise law and who believes that the minority report should be adopted.

I heard my colleague say that somebody was a robber, because I showed him what I had written down, that he had not and would not change the law of the State of Maine by adopting this bill, but we would simply codify it, and the distinguished senator from York took the very words I had written down, and I shall corroborate his remarks in that respect.

We are not changing the law that has been established for one hundred years, fellow Senators, men who are business men, we are simply putting them into a code where every man can find what the law is. It has only been changed in one important respect, as was stated, and if Senator Gillin stated that you want to believe him, for he certainly belongs to my school of preparedness, if any lawyer in the State of Maine does, and I would believe him without looking into the report at all.

I want to speak not only as a lawyer, but for a business man whose letter reached me this morning, a man formerly a member of the House from an adjoining town to Augusta, Thomas Searles, now cashier of the First National Bank of Bar Harbor. He writes me: "Dear Mr. Wood: I understand that a bill is again in the legislature providing for some change in the negotiable law to conform to a uniform law adopted by a large majority of the

other States. This may be one of those changes that keep the printers and lawyers busy keeping up with the new laws, but it has appealed to me as a move along progressive lines, and also would place us in unison with nearly all the rest of the Union. I am not urging the passage of this law at all, as it does not appear to me to be in the least vital, but in a way desirable."

Now I believe that is true of the thing that it simplifies the law that we already have, and as the distinguished Senator from York has already said, lawyers and laymen and everybody else will know where to find it. I certainly believe that it is a step in the right direction.

When 148 of the best lawyers of the United States have got together in solemn conclave and have discussed this and have reported it to their brothers of the law, without hope of reward or being paid for it, but because it is a step forward to put their profession on a high plane, I believe it should carry very great weight. It has been adopted in 45 states and every lawyer knows the importance of having a large number of precedents back of it, and if you adopt this into the Maine Statutes you will have 46 States, and instead of having the opinions of the law court of Maine to back you up, you will have the opinions of 46 different States to back you up. I believe it is a step in the right direction and am heartily in favor of it.

Mr. DAVIES of Cumberland: Mr. President, I will say that what the gentleman has said is precisely what you do not have, the opinion of the courts of 45 different States, for they have held diametrically opposed positions on the same statement of facts. Which one will you follow? I ask you that question, are you going to follow the Iowa Court or the Oregon and Wisconsin, or the Minnesota Court?

He struck the nail precisely on the head before he sat down. Where is the uniformity of the law if you do not know which side to follow?

This statute that is proposed here, Mr. President, must be judicially construed before we know what it means. It must be judicially construed before

we know what those 53 pages mean. In the meantime will someone tell me which side we are going to follow in their opinions until that time as to what the law means? I wonder which?

On the question of uniformity are we not writing into the statute books a law that will make us a good deal more trouble than we have had before? The Senator from Somerset well said that the law is well settled in this State. It is very generally known by everybody what it is. It is a law that has come down to us from use and experience, and while perhaps there is no single volume that contains all the law, why should you expect that there should be one single volume that contains all the law in the matter of negotiable instruments, when it takes various volumes to contain the law on other subjects? Is that an argument?

It seems to me that we are only going to breed confusion, and are going to write in to our statute books a law that must be interpreted by the court, and until it is interpreted, despite the fact that it is called a uniform law we cannot tell positively what that law means. Is that desirable?

Mr. GILLIN: Mr. President, answering the distinguished Senator from Cumberland, he has not cited to this Senate the name of a single case. Now I will tell him that the only case they disagreed on on this uniformity of law was in the Indiana and Oregon cases. If you know of any others while I am standing will you tell me the names of the cases?

But that is not all. In answer to him, I wish to say to you and to the lawyers of the State of Maine that they codified every single decision in your State except one, and that the distinguished lawyer and Senator from Hancock has got exactly what was done. They took every single decision in Massachusetts and in Maine, and they codified them, so that the criticisms of not finding the law, you are finding what has been read by my distinguished colleague and the Senator from Hancock, an exact codification of every decision on every case in the State of Maine except one, and that I have explained.

Mr. DAVIES: Mr. President, I only want a word more. I am extremely glad that the Senator from Penobscot, Senator Gillin, admitted that the States of Oregon and Indiana have not held in conformity on the same statement of facts. He will bear me out, and Senator Deering will in this statement that when the distinguished gentlemen came down from Massachusetts for the purpose of advocating this law, I said to him "Is it not true that in the States of Wisconsin and Minnesota they have held differently on the same statement of facts?" and he said, "I believe they have."

The PRESIDENT: The pending question is on the motion of Senator Davies that the Senate adopt the majority report of the committee, ought not to pass.

Mr. GILLIN: Mr. President, I move that the vote be taken by a rising vote.

The motion was agreed to and eight Senators voting in the affirmative and 18 in the negative the motion was lost.

On further motion by Senator Gillin the report of the minority of the committee, ought to pass, was accepted.

The bill was then given its first reading.

Mr. AMES of Washington: Mr. President, I rise for a personal reason. I am suddenly called home and would like to be excused until Tuesday morning, and as an act of senatorial courtesy I would like to have House Bill 131 laid on the table until I return Tuesday morning.

Mr. RICKER of Hancock: Mr. President, I had previously had a conversation with the senator from Washington about this matter, and I understand that he has to go home; but I feel that we are getting at such a place that there should be no material delay in the discussion of bills that is possible.

I have even offered to pair with Senator Ames so that the bill may be taken up today. I am going to vote for Report B, and I understand he will vote for Report A.

Mr. HIGGINS of Penobscot: Mr. President, the senator from Washington is called home on account of death and it

seems to me that we ought to extend every courtesy to him, and I trust his request will be complied with and that we may take up this matter next Tuesday or Wednesday.

Mr. WALKER: Mr. President, it seems to me the request is very reasonable, and the question to be considered is of such far-reaching interest to the State of Maine that nothing will be lost by granting this request.

Mr. DAVIES of Cumberland: Mr. President, I move that the request of the Senator be granted.

Mr. RICKER: Mr. President, I do not wish to be unreasonable in the matter. I did not understand that the Senator was called home by death. I am perfectly willing that the request should be granted. I simply thought the matter should be disposed of.

I move to take from the table the report of the committee on education in regard to the school fund.

The motion was agreed to and on further motion by the same Senator the report was assigned for consideration next Tuesday.

Mr. HIGGINS of Penobscot: Mr. President, I would like the unanimous consent to introduce a joint resolution, and when the title is read by our President, I will say by way of explanation that you will be very glad to grant unanimous consent to its introduction, and send it down for concurrence.

Last night, at the very last of the evening your and my attention was called to a fire alarm, and in a few moments we saw the flames leaping from the State hospital, and many rushed to the rescue with the prayer on their lips that they hoped the unfortunate inmates would not suffer in the great calamity of the occasion. We are thankful that that prayer was answered and none of the unfortunate inmates were lost in the flames.

Many of us noticed by the papers this morning, and by personal observation the heroic work done by the attendants and those in charge of the institution. I am sure it makes us swell with pride to know that we have employees in our State institutions, men who are willing

to give all their time and service at all times within reason, and that we are glad to acknowledge our indebtedness to those gallant men and women, I offer this resolution at this time.

The rules were suspended and the resolution was received and read.

Joint resolution thanking the employees and attendants of the Augusta State hospital.

"Resolved, that the thanks of the Legislature be extended to the employees and attendants of the Augusta State hospital for the great efficiency used by them at last night's fire at the Harlow building of the State hospital."

Passed and sent down for concurrence.

The PRESIDENT: The adjournment order has come back from the House amended by striking out the words "Monday, March 26 at 10 o'clock in the forenoon," and inserting the words, "Saturday, March 24 at 9 o'clock in the forenoon."

Mr. DEERING of York: Mr. President, I move that we concur with the House in the passage of this order.

Mr. BUTLER of Knox: Mr. President may I inquire in regard to the adjournment order, whether it is the plan to have a session Monday forenoon?

The PRESIDENT: I think not.

Mr. BUTLER: Nor Monday afternoon?

The PRESIDENT: I think not.

A majority of the committee on legal affairs on bill "An Act to amend Section 16 of Chapter 84 of the Revised Statutes of 1916, relative to the tenure of office of county attorney," (Senate No. 16), reported that the same ought to pass.

(Signed) Merrill, Wood, Marshall, Conary, Chaplin, Anderson, Buzzell, Garcelon, Brewster.

A minority of the same committee on the same bill reported that the same ought not to pass.

Signed) Murray.

(Tabled pending acceptance of either report on motion by Mr. Walker of Somerset.)

Mr. Davies from the committee on judiciary, on An Act to provide for local licenses for hawkers and peddlers, (Senate No. 144), reported that the same ought not to pass.

Mr. Hastings from the committee on salaries and fees, on An Act to provide clerk hire for the register of probate in Aroostook county, reported that the same ought not to pass.

Mr. Hastings from the same committee, on An Act to provide for the payment of travelling expenses of registers of probate when attending terms of court in places other than county seat (Senate No. 231), reported that the same ought not to pass.

The reports were accepted and sent down for concurrence.

Final Reports

Mr. Ames from the committee on State lands and forest preservation, submitted its final report.

Mr. Butler from the committee on public utilities, submitted its final report.

Mr. Googin from the committee on claims, submitted its final report.

Passed to be Engrossed

H. D. 270. An Act to amend the charter of the city of Augusta, relative to police.

H. D. 277. An Act to amend Chapter 244 entitled An Act to provide a charter for the city of Gardiner, of the Private and Special Laws of 1913.

H. D. 367. An Act to amend Section 1 of Chapter 138 of the Revised Statutes, providing for the payment by the county of expenses incurred by county attorneys.

H. D. 368. An Act in relation to vacancies in public office.

H. D. 411. An Act to amend Section 1 of Chapter 113 of the Revised Statutes, relating to the election of county treasurers.

H. D. 546. An Act to amend the charter of the York Beach Village Corporation.

H. D. 567. An Act to enable the town of Princeton to supply electricity and water.

H. D. 571. An Act additional to Chapter 53 of the Revised Statutes, relating to the payment of benefits.

H. D. 572. An Act to extend the charter of the Livermore & Augusta Railway Co.

H. D. 573. An Act to extend the charter of the Casco Bay Water Co.

H. D. 574. An Act to amend Section 65 of Chapter 126 of the Revised Statutes, relating to the appointment of cruelty officers.

H. D. 577. An Act to amend Section 17 of Chapter 145 of the Revised Statutes, relating to the examination and commitment of persons to insane hospitals.

H. D. 579. An Act to incorporate the Independence Developing Company of Kingman.

(Tabled by Mr. Lord of York, pending passage to be engrossed.)

H. D. 581. An Act to enable the register of deeds of Cumberland county to procure durable copies of plans recorded in Cumberland county registry.

H. D. 582. An Act to change the name of the Unitarian church of Augusta, Maine.

H. D. 583. An Act respecting removal of filth from docks in the city of Portland.

H. D. 588. An Act to amend Section 28 and 29 of Chapter 55 of the Revised Statutes, relating to notice by public utilities of changes in rates.

H. D. 589. An Act to amend Section 17 of Chapter 12 of the Revised Statutes, providing for notice by register of deeds to municipal officers of real estate transfers.

H. D. 591. An Act in addition to Section 13 of Chapter 14, Revised Statutes relating to adoptions in the Penobscot Tribe of Indians.

H. D. 592. An Act to incorporate the Musquacook Stream Dam & Improvement Company.

H. D. 593. An Act to incorporate the Mattakeunk Stream Dam & Improvement Company

H. D. 594. An Act to amend Section 82 of Chapter 115 of the Revised Statutes, relating to support of debtors in jail.

H. D., 595, An act authorizing the maintenance of a bridge between the mill and storehouse by Worumbo Manufacturing Co., Lisbon Falls., Me.

H. D., 598, An act to amend Section 81 of Chapter 4 of the Revised Statutes, relating to assistance to towns in establishing free public libraries.

H. D., 599, An act to amend Section 75 of Chapter 4 of the Revised Statutes, relating to free public libraries.

H. D., 600, An act to amend Section 82 of Chapter 4 of the Revised Statutes, relating to instruction of librarians.

H. D., 601, An act to authorize the erection and maintenance of a bridge across that part of the Aroostook river known as the back channel.

H. D., 602, An act to establish a legislative reference bureau in the state library.

H. D., 613, Resolve in favor of several academies, institutes, seminaries and colleges, for maintenance and for repairs and improvements.

(In the House, House Amendment A was adopted. In the Senate Mr. Walker of Somerset offered Senate Amendment A. On motion by Mr. Higgins pending acceptance of either amendment the bill and amendments were tabled).

H. D. 624. An Act relating to insurance rates and providing for approval of the same by the insurance commissioner before promulgation and use.

S. D. 368. An Act to provide State aid for the construction of highways extending continuously through three or more towns.

S. D. 369. An Act to amend Section 16 of Chapter 59 of the Revised Statutes, relating to compensation of inspectors of steamboats.

S. D. 370. Resolve in favor of the Trull Hospital Aid Association for the care, support, medical or surgical treatment of indigent persons.

S. D. 371. An Act to amend Section 1 of Chapter 34 of the Revised Statutes, providing for the appointment of a deputy commissioner of agriculture.

S. D. 373. Resolve authorizing the treasurer of State to reissue matured State highway bonds.

S. D. 374. An Act authorizing the municipal officers of the town of Machias to close a bridge over tidewater.

On motion by Mr. Bartlett of Kennebec, under suspension of the rules it was

Ordered, that 500 additional copies of S. D. 378, An Act to amend Chapter 25 of the Revised Statutes, relating to State and State-aid highways, and to provide a mill tax for construction, be printed.

Passed to Be Enacted

An Act to amend Chapter 147 of the Revised Statutes, relating to the State Board of Charities and Corrections.

An Act to amend Section 19 of Chapter 117 of the Revised Statutes, relating to the banking department.

An Act to amend Section 176 of Chapter 16 of the Revised Statutes, relating to the appropriation for teachers' pensions.

An Act to amend Chapter 215 of the Private and Special Laws of 1867, and authorizing the city of Saco to provide, equip and maintain a hospital.

Finally Passed

Resolve, in favor of the University of Maine, for the purpose of refunding a certain unnegotiable registered bond of the State of Maine.

Resolve, providing for the payment for steel filing equipment in the office of the secretary of the State.

Mr. FULTON of Aroostook: I move that this bill be indefinitely postponed, and in explanation I would say that this motion is made by agreement with the parties who presented the resolve, and that the bill for which it was to provide will be paid out of the contingent fund by the State.

The motion was agreed to and the bill was indefinitely postponed.

Resolve, in favor of the reformatory for women for maintenance and other purposes for the years 1917 and 1918.

Resolve for the purpose of operating the fish hatcheries and feeding stations for fish, for the protection of fish, game and birds, and for printing the report of the commissioners of inland fisheries and game, and other expenses incident to the administration of the department of inland fisheries and game.

Resolve, appropriating money for necessary repairs on the State armory at Portland.

Resolve making an appropriation for the purchase of steel lockers for National Guard armories.

An Act to amend Chapter 218 of the Private and Special Laws of 1911, entitled An Act to supply the town of North Haven with pure water.

This bill carrying an emergency clause, required a two-thirds vote of the senators elected on its passage to be enacted.

A rising vote was had and 24 senators voting in the affirmative and none opposed, the bill was passed to be enacted.

Resolve for the laying of county taxes for the year 1917.

This resolve carrying an emergency clause required a two-thirds vote of the senators elected on its final passage.

A rising vote was had and 25 senators voting in the affirmative and none opposed, the resolve was finally passed.

From the House: An Act amending Section 10 of Chapter 129 of the Revised Statutes, relating to malicious mischiefs and trespasses.

In the House this bill was received under suspension of the rules, and without reference to a committee, was read three times and passed to be engrossed.

Mr. DAVIES of Cumberland: Mr. President, I move that the rules be suspended and the bill received.

In explanation I will say I find that it relates to malicious mischiefs and has grown out of the war situation as it presents itself at the present time. The act imposes a serious penalty for the destruction of conduits and the pollution of water and like crimes.

The motion was agreed to and the bill was received.

Mr. DAVIES: I move that the rules be suspended and the bill receive its several readings at this time.

Mr. DEERING: Mr. President, may I inquire if the bill is very long?

The PRESIDENT: It is not very long.

Mr. DEERING: Mr. President, I would like to have it read.

(The President read the bill.)

The bill was then read twice and on further motion by the same senator was passed to be engrossed in concurrence.

From the House: An Act to prevent injuries to property used for public purposes, and amending Section 29 of Chapter 129 of the Revised Statutes.

(The President read parts of the bill.)

On motion by Mr. Davies of Cumberland, under suspension of the rules the bill was received, and on further motion by the same senator was read twice and passed to be engrossed in concurrence.

From the House: An Act to amend Section 1 of Chapter 120 of the Revised Statutes, relating to offences against public health, safety and policy.

On motion by Mr. Deering of York, under suspension of the rules the bill was received and on further motion by the same senator under suspension of the rules, was read twice and passed to be engrossed in concurrence.

Mr. BARTLETT of Kennebec: Mr. President, I understand that the House has adjourned until 2 o'clock this afternoon, and as it is getting so late, although I am ready to take up the matter, I move that the Senate take a recess until 2 o'clock this afternoon.

Mr. STANLEY of Oxford: Mr. President, I will ask the Senator to hold his motion for a moment and allow me to take up H. D. 323 before we adjourn.

I move that H. D. 323 be taken from the table.

The motion was agreed to, and on further motion by the same senator the bill, An Act to amend Section 21 of Chapter 49 of the Revised Statutes, relating to regulations for employment of minors between 14 and 16 years old, was read the second time and passed to be engrossed.

At this point a recess was taken, on the motion of Senator Bartlett, until 2 o'clock this afternoon.

After Recess.

Senate called to order by the President.

Orders of the Day.

The PRESIDENT: Under orders of the day the first assigned for consideration is the majority report, ought not to pass, and minority report, ought to pass, from the committee on mercantile affairs and insurance, on an act relating to the construction of chimneys. S. D. 230.

Mr. BARTLETT of Kennebec: Mr. President and gentlemen, I move that the minority report of this committee, ought to pass, on this bill be accepted. And in view of the great number of words we have had this morning, I shall try to be as brief as possible in saying a few things in regard to this.

This bill is S. D. 230, and without reading the bill I will endeavor to explain in regard to it. While this is not a redraft, it is in effect a redraft of a bill that I think was Senate No. 13 which was presented early in the session, had a hearing before the committee, and drew out many objections to some features of it. The matter was then taken up by several members of the committee, and this bill, which was a redraft, was suggested to the committee, and instead of reporting it back to be printed in new draft, it was put in as an entirely new bill, and the other bill has already been reported, ought not to pass.

Now this bill provides that no chimney can be constructed in any building designed for permanent or all the year occupancy, or located within 50 feet of an adjacent building, which does not have either a double brick wall, or a brick or stone chimney with a flue lining. And the size of the flue is given as 6 in. by 8 in., which is the standard size in which flue linings are constructed—that is, they are constructed larger, but that is the smallest size. It also provides that they can be constructed of stone or reinforced concrete; that they shall have a clean out near the base—it does not specify any particular kind—and that the thimble shall be constructed of iron or cement, without designating any particular construction. It provides that where it is not practi-

cable—there is an error in the printing of the section—provides that where the more substantial foundation cannot be provided, that the base of the chimney may be placed in an occupied room on the first floor within the building, provided it is substantially supported on a base built of not less than four courses of solid brick and cement mortar, or the base may be constructed of stone or reinforced concrete if of the same size. There is a misprint of the punctuation in that sentence, which divides the sentence wrong, different from the intention of the bill. But that provides, where it is impracticable, it has not got to be built to the ground, but can be supported in the way which I have just read.

It also provides that no woodwork shall come within two inches of the chimney. This act does not apply to any building used exclusively for manufacturing purposes, and with the first clause makes it apply only to buildings used for permanent all the year occupancy. It eliminates its application to any temporary structures such as contractors' buildings that are working on a job, such as summer dwellings unless they are within 50 feet of another building, lumber camps, or anything of that nature.

I believe that this re-draft eliminates all the objections that were made in the committee to the original bill. At the time of the second hearing I was not present in the committee, but I understand the only objection that was raised was by somebody that it might defeat building.

This form of chimney is the practical way that chimneys should be constructed. I do not believe there is a member of this Senate who would be willing, if they were to build a dwelling for their own occupancy, or any building for their own occupancy, to construct a chimney in any different way than this. I do not believe that they would wish to do it. I certainly would not want to have a dwelling that I lived in and slept in that did not have a chimney as safe as this. In the course of my business inspect-

ing chimneys of house under construction work. I have felt that in my own case I would not consider the building because it seemed as though people who built chimneys in that way were flying in the face of Providence, and it was only a question of a short time at least when with the single brick construction they were using it was bound to lead to trouble.

It seems to me that this legislation is not legislation directly for insurance companies, but that it is legislation for the protection of the State, and for the protection of the property of the State and for the protection of the lives of the State. I do not believe that people should work or sleep in buildings where chimneys are constructed in any other way. It seems that it is an act of progressive legislation. I have got from the insurance commissioner's office a memorandum of the chimney fires that have been reported in a number of years, and I will say that in the number of fires reported in the last, probably, ten years, an average of 20 per cent of the fires are fires caused by defective chimneys, or chimney fires, and that the loss has been something like 12 per cent on an average.

The fire loss is a thing that is averaged over all—perhaps every city in the State has paid its proportion of loss for bad construction, loss for construction of chimneys built otherwise than by this law. I have here a clipping from an editorial in one of the newspapers which was published soon after the first act was presented, and I just want to read a few words of the argument that they give here. It is headed "A Sensible Measure." "The defective chimney is one of the chief causes of fires. It costs little more to build a good chimney than to build a poor one. And a chimney should serve only the purpose of making it practicable to have a fire inside the house. It should not serve also to spread that fire through the structure and reduce it to ashes. There is one thing which the American public ought to keep constantly in mind in connection with the staggering losses due to fires in the United

States. The thing is that the public pays the bills. The greater the fire losses, the greater necessarily are the insurance rates. Insurance against fire serves to diffuse the losses among the people." Again, a little further down. "It is merely a requirement that chimneys shall be properly constructed. It is a requirement which most people are willing to meet without the compulsion of the law, and it is a requirement that other people should be made to live up to."

The argument might be used, if it is said that this was in favor of insurance companies, that insurance companies have an opportunity to inspect all this property and to ascertain whether the chimneys and other things are right, and not to insure it otherwise. I have had a good deal of that work to do in the last twenty years, and I will say to you, gentlemen, that after a house is built, after the studding and the lathing and the plastering is in, it is a pretty difficult thing a great many times to inspect that dwelling. You can't get to the chimney directly, to find out really how the chimney is constructed. It is in a hidden place, in the back of a closet or some other place where it cannot be reached. So that even with an inspection of dwellings it is almost impossible to get at them after they are built.

The cost of construction is little more if it is done at the time it is built. This bill does not provide that you have got to reconstruct any chimney that is in effect today. It simply provides this for new construction and for reconstruction when some changes are made. It seems to me that it is a bill along the line of right legislation and one that the Legislature would do well to enact into law. Many of our cities have by their building codes enacted something very similar to apply within certain limits in those towns.

I hope that the Senate will agree with me in the adoption of the minority report.

Mr. GILLIN of Penobscot: Mr. President, may I ask if I do not appear upon the majority report as against this measure?

The PRESIDENT: You do.

Mr. GILLIN: I think, in fairness to Senator Bartlett, that I ought to state my position. The original bill which came in had very many objectionable features which have been eliminated in this bill. But those features of the bill, I will frankly state to my brother senators, prejudiced me against the present measure, without giving it the due consideration which the bill is entitled to. Therefore, after signing the majority report against it, ought not to pass, I have gone over this measure with great care, and I am satisfied that the minority report, ought to pass, ought to have the approval of the Senate.

There is something in the bill that the distinguished senator from Aroostook has called my attention to, that I didn't like this morning. I re-read the bill and took it down to the house in order to study it over in order that I might be fair in the matter. It is after the eighth line: "No wood casing, furring or other wood work shall be placed in, against or within two inches of chimney except that wood mantles, floors and baseboards, when protected by asbestos or other fire resisting material may come in contact with plaster covering chimney or flue. All wood beams shall be trimmed away from chimneys." I can only say as to that, that I am in great doubt about that. I think that in all the other parts of the bill I would agree with Senator Bartlett that it is a good law, notwithstanding my signing the majority report against it, for I wish to state to my brother senators that the features of the other bill, some of them were very objectionable—they applied to logging camps, they applied to your summer residences and your little buildings built along the lakes, etc.,—so that it really prejudiced me against any measure coming along those lines. If that last measure there is agreeable to the other senators, I will shift from the majority report and support the measure with the minority report, because I think in fairness, after studying it out and finding what Senator Bartlett has had eliminated from the other bill, I should now state my reason to make it more clear. The reason that I concur with him now is this: That Bro. Bartlett has eliminated from this bill every single feature of the other bill to which I objected. Therefore it would be un-

fair for me to do otherwise, having evidently been prejudiced—and I will frankly state that to the senators, and I wish to place myself right: I didn't vote on reason, I voted on prejudice, because I was so prejudiced against the former bill I didn't give this the examination I ought to. And I think in fairness to Senator Bartlett that I will support the measure with him, calling the attention of the other senators to that clause in the bill. I do not know how that would affect the other members of the Senate.

Mr. MERRILL of Somerset: Mr. President, the senator from Penobscot rather objects to the last provisions in this bill, that the woodwork shall not come within two inches of the brickwork of the chimney, except the mantle, baseboards and floor, and they to be lined with asbestos.

Now that is one of the very most important features, according to my mind, that there is in the bill. In the case of a chimney burning out and getting very hot, if the woodwork comes nearer than two inches you are almost sure to get a fire. Whereas if it is kept away at least two inches at all times it don't get charred from year to year. Anybody that has ever torn down old chimneys, or torn down and repaired houses and built them over—I have done it to a great extent for the last forty years—knows that you will always find around the chimneys, where there never has been any fire,—you will sometimes find the wood that comes near the chimneys almost charcoal. That particular feature of the bill is the very feature that it is important to have retained. The object of the bill, of course, is not any more for the benefit of the insurance company than it is for the benefit of the insured, and not only the insured but the adjoining neighbors. If there is a rattle-trap chimney next to my house, and that house is burned in consequence of that poor chimney, my house is jeopardized, and so along the street. The object is not only the protection of the house itself, the protection of the insured, but the protection of the neighbor, where the poor chimney exists. It is a very important measure. While I have studied the bill very carefully, I never have had occasion to say

anything about it. But I know all of its provisions and I think it is a thing that should be adopted.

Mr. GILLIN: Mr. President, I wish to thank the Senator. His explanation wipes out of my mind every single objection I have to it.

Mr. RICKER of Hancock: Mr. President, I am totally ignorant of insurance laws in every way, and merely for the fact of asking the question, and I should like to ask further in regard to the statement where it says "this act shall not apply to building used exclusively for manufacturing purposes." Why should it exclude those buildings unless there is some act that takes care of the manufacturing establishments.

Mr. BARTLETT of Kennebec: Mr. President, I would say in explanation that there was more or less objection before the committee from certain manufacturers to the first part of the bill. In connection with that I would say that there were many objections to the first bill, which was sent to me from outside the State, and while I was in sympathy with the bill I thought it should be very radically amended before it was passed, and we got together on this plan. The large manufacturers, practically all to which it would apply, really are complying with this law at the present time. In the first bill they had two objections, one the clause that said the matter of smoke flues were prohibited, and they did not know whether it applied to an outside flue or a stove pipe inside.

There is a class of small manufacturers, like small lumbermen, which I for one felt it might be exceedingly distasteful to. I think almost all classes of manufacturers, possibly, are complying with this bill, and to not inconvenience the small manufacturers it was thought best to put this clause in. It can be amended.

Mr. GRANT of Cumberland: Mr. President, I would like to ask Senator Bartlett a question, what provision there is for the enforcement of this law if we pass it?

Mr. BARTLETT: Mr. President, for the information of the Senator from Cumberland I will say that the last clause says that it shall be the duty of the municipal officers to enforce or cause to be enforced the provisions of this act. That was put on.

Mr. GRANT: But no penalty?

Mr. BARTLETT: No penalty. There is another thing I should have said before that bears I think directly on this case, and that is the methods of the insurance companies in the manner of their rating of buildings, have within the last five years been requiring strictly good material in the construction of chimneys. And in many classes of risks in the schedules there are certain charges made on chimneys not properly erected. Chimneys constructed in this way would eliminate that cost, and it was along the line of what the insurance companies are trying to work out in the way of construction. In chimneys of this kind, of single brick there would be an increased cost.

Mr. MERRILL: In other words, it increases the cost of the insurance.

Mr. BARTLETT: Yes.

Mr. DEERING of York: Mr. President, I would like to ask the Senator from Kennebec why he strikes out "chimneys may be built of tile"? I understand tile is used, and in fact have used it in building chimneys. I see if the law becomes effective that there is no provision for using tile.

Mr. BARTLETT: I will say that it is struck out because I do not consider a tile chimney is a good chimney. The position of the insurance companies would be that in the year around building they would not insure the building anyway. And in connection with other risks the rates would be practically doubled with a tile chimney to what they would be without it.

The plain tile used, as referred to, is a manufactured tile, and the glazing frequently holds it together until the material substance is ready to crumble. I heard of an instance a few days ago where some insurance inspector spoke

to a man who had a tile chimney and endeavored to get him to remove it. And the man explained that it was absolutely safe and all right and he took a cane or stick he had and gave it a little tap and the whole chimney fell to pieces.

A tile chimney in a building that is occupied all the year around will disintegrate, and it does not show it until it is all ready to go to pieces, for the outside covering holds it together, and the effect of the heat on the inside and the cold on the outside during the winter period, is such that it seems to have an effect right where the tile chimney comes from the heat to the cold, and we do not know how weak the tile is until some day it collapses.

Mr. WOOD of Hancock: Mr. President, I would like to ask the senator from Kennebec, Senator Bartlett, if the law is not for better protection against fire? And if it is whether we are excluding these buildings used for manufacturing purposes simply because some manufacturers come here and lobby and try to prevent us from passing such legislation. If it is good for the buildings, and I believe it is and agree with the idea of the bill, it does not seem to me that it will do the State of Maine any harm if it was amended by cutting that out, "used exclusively for manufacturing purposes." If we are to be held up and can't pass this because any class of people are coming here and say if you try to pass this we will fight you, I say let's fight it. If your building is used for manufacturing purposes and has a lot of employees, and is liable to get afire, it seems to me that is just the class of people we ought to protect. I believe in cutting that out and passing the bill just as we think it ought to be passed. If I am right in the idea I should like to have the Senator tell me why this should not apply to any class of buildings?

Mr. BARTLETT: Mr. President, I don't like to talk all the time, but I will say I do not know of any reason why it was cut out. There was quite an outside objection before the committee from various manufacturers, although it seemed to affect a small percentage in buildings

used for manufacturing purposes exclusively, and it would not affect buildings used in part for manufacturing. If it is wise I certainly have no objection to the bill being amended when it comes to the amendable stage.

I move that we adopt the minority report of the committee on mercantile affairs and insurance on this bill, which is, ought to pass.

A viva voce vote being taken the motion was adopted.

On further motion by the same Senator the bill was given its first reading.

An Act to amend Section 21 of Chapter 49 of the Revised Statutes, relating to the regulations for employment of minors between 14 and 16 years old. (H. D. 323.)

On motion by Mr. Deering of York, this bill was passed to be engrossed as amended by House Amendment A.

H. D. 495. Resolve in favor of Joseph H. Underwood.

Mr. CHICK of Kennebec: Mr. President, I will say that when this resolve came back from the committee on claims and the report of the committee was accepted and the bill was ordered printed under the joint rules, the statement of facts did not accompany the resolve to the printer, and consequently has not been printed. I would like to ask if the statement of facts accompanies the resolve at the present time?

The PRESIDENT: The original resolve carried a statement of facts written out in long hand and is attached to the original resolve.

Mr. CHICK: Mr. President, when this matter came up in the House that body adopted Amendment A which I would like to have read.

The PRESIDENT: "House amendment A. Amend H. D. 495. Resolve in favor of Joseph Underwood, by striking out all of same and substituting therefor the following: 'Resolved that there be and hereby is appropriated the sum of \$100 to be paid to Joseph H. Under-

wood of Fayette to reimburse him for certain expenses and loss received in obeying the orders of the Sanitary Live Stock Commissioner.' "

This amendment was adopted in the House and sent to the Senate for concurrence after the bill was engrossed.

Mr. CHICK: Mr. President, the amendment as adopted by the House means practically the same thing as the original resolve, only a little more mild in phraseology.

I will say that Mr. Underwood is one of the oldest and largest breeders of pure bred stock which we have in the State. I am told from his neighbors that he is a man of absolute integrity. I have even been told by the oldest member of this present legislature, who has known Mr. Underwood for a great many years, that he is absolutely square in all his dealings and that his word is absolutely reliable.

It has been Mr. Underwood's custom to exhibit at the various fairs within and without the State for a great many years, and wherever his herds have been in competition with other herds he has been able to procure his proportional part of premiums.

In addition to this he has made a great many sales at fancy prices.

In 1915 he prepared his herd for exhibition at some of the fairs in the State, and had entered them for premiums. His entrance fee having been paid his herd was shipped first to Waterville, and in getting his herd there, as I understand it one of his most valuable cows became injured and aborted on the fair grounds at Waterville. In the presence of other breeders who had stock entered in competition with Mr. Underwood, a complaint was made to the live stock sanitary commissioner that Mr. Underwood's herd had contagious abortion and Mr. Bearce went to Waterville, talked with some of the exhibitors there, went to Mr. Underwood and ordered him to remove his herd. Mr. Underwood felt that the herd had not been properly examined to determine whether it was infected or not, and he made a protest to that effect. And so the object of this resolve is to reimburse, to some extent, Mr. Underwood for some of the

expenditures that he had been to in connection with this matter, to determine whether his herd was infected or not.

I have here a copy of the order which was given to one of the railroad officials at Waterville, which reads as follows:

"I hereby notify you that the herd consisting of 11 Jerseys and 17 Herefords, owned by J. H. Underwood, are infected with the disease known as contagious and infectious abortion. This may be your authority to accept their transportation to Readfield only."

This was the order from the live stock sanitary commissioner to the railroad company in connection with the transportation of the stock. This order was dated September 3. I also have a copy of a letter written by Mr. Underwood to the live stock sanitary commissioner asking if the embargo placed upon his herd at that time was still in force, and I also have the reply to that letter from the live stock sanitary commissioner which reads as follows:

"Augusta, Maine, September 15, 1915. Mr. J. H. Underwood, Kent's Hill. Dear Sir: Yours received and carefully noted. In reply will say that I have not released the order given to the Maine Central Railroad concerning the shipment of your herd of cattle, but will gladly do so if you will show me any reason for so doing. I intend to recall the order after the exhibitions are over. In the meantime if I can assist you in any way I will be very glad to do so. Very truly, Boyden Bearce."

I also have a copy of a letter written by Mr. Underwood to the live stock sanitary commissioner, making complaint that his herd has not been properly examined to determine whether they are infected or not. And in that letter he offers to place any information that he possibly can, or any information which he has, at the disposal of the live stock sanitary commissioner, that would enable him, even, to determine. I also have a letter here dated October 15, and will read just a statement. It is from the sanitary commissioner: "I have notified the freight agent at Waterville and at

Readfield* to release the embargo upon your herd and to allow you to ship your cattle at your pleasure."

Not having succeeded in getting the herd examined he wrote again and said that Mr. Whittier of Bowdoin College examined the herd to determine whether they were infected or not. He was so satisfied that the department was not going to take any action to determine more fully whether his herd was infected or not, and he had cultures taken and sent to Dr. Russell at the University of Maine. He is connected with the department of veterinary science there and as I understand has been there for something like 28 years. I have a letter here which Mr. Underwood received from Dr. Russell saying that after making an examination from the cultures sent he was unable to detect any infection.

I have another letter here of November 25, 1915, which Mr. Underwood wrote to the live stock sanitary commissioner in which he notifies the live stock sanitary commissioner of the progress that is being made in the examination which Dr. Whittier of Bowdoin is conducting, and he asks Mr. Bearce if the State will not reimburse him for the expenditure, and to that he replied:

"Augusta, Maine, February 26, 1916. Mr. J. H. Underwood, Kent's Hill. Dear Sir: Your letter received and contents noted. I do not consider that the State is responsible for any investigations you are conducting in your herd of cattle. I have ordered none and see no reason why the State should pay for a private investigation."

I will say that Mr. Underwood continually tried to have this herd examined by the State department, and was unable to get a thorough examination.

As I understand it Mr. Underwood had already negotiated the sale of one of the cattle that he shipped to Waterville, and had made a party outside the State a price of \$500. This was a fancy cow and the party that wished to purchase it wanted it for show purposes. I have two letters here written by that party stating that he should have bought the cow had he been able

to move it, but because of the embargo placed on the herd for six weeks Mr. Underwood was unable to deliver the cow.

Now it was thought that he had been placed to considerable expense. His herd had been entered for the fair at Lewiston. His entrance had been paid, and it was felt by the committee that Mr. Underwood under the circumstances was entitled to some reimbursement. So I wish to make the motion that this resolve be passed to be engrossed as amended.

Mr. DEERING of York: Mr. President, I do not desire at this time to pose as an expert on this particular disease, and I wish to announce to the Senate that I have resigned as counsel to the live stock sanitary commissioner.

But I have not changed my mind any in regard to the merits of this case. This is a matter that concerned the public health, and I do not understand that any person, any official, rather, who puts into force any of the authority which he has to preserve the public health against any other person, that the one against whom the order is issued can collect any money if he suffers any damage therefor.

Now it appears that whether or not these experts found disease amongst those cattle, there certainly were five cows of them that were known about. It seems to me with five cows with this disease amongst this herd of cattle, that they had reason to expect that these cattle had the disease. If they had reason to believe that the cattle had the disease complained of it was absolutely proper for them, for the protection and health and safety of others and of their own exhibits, to make whatever protest they saw fit against these cattle going to Lewiston to exhibit with them there.

I understand further that the sanitary commissioner ordered Mr. Underwood to go home with his herd and he would not go. In order to enforce that order the sanitary commissioner notified the Maine Central Railroad to take his herd only as far as Readfield, where he lived, and no further.

Of course he had paid his entrance

fees, and I have no doubt he is a very good exhibitor and intends to do what is right. When any State officer issues orders against any person or community, or any herd of cattle, which orders are only made for the preservation of the public health, when that person suffers damage he cannot come to the State and collect damage therefor.

Mr. GOOGIN of Androscoggin: Mr. President and Senators, I have not heard Senator Deering make any remark or show any proof whereby Sanitary Commissioner Bearce has any evidence as far as the veterinary surgeon or the veterinary doctors are concerned to show that these cows are infected. If there were five cows among the herd that were infected it was not told to us at our hearing. They only had one cow and they called it contagious abortion. They did not examine the cattle, but took a veterinary and walked by the shed and said they had contagious abortion and could go back to Readfield.

If the sanitary commissioner had gone to the cattle, or had had any cultures from the cattle examined, it would seem to me to be an entirely different proposition.

He had no proof, and he did not take the trouble to go to Mr. Underwood's home after the cattle had been sent home after he had written to him to come.

He didn't take the trouble to send a veterinary there to examine those cattle.

It seems to me a dangerous precedent if the sanitary commissioner can go to a fair and send a herd of cattle home because it is a good herd of cattle, and the majority of the exhibitors there do not want to compete for the blue ribbons with this herd of cattle.

In deliberating on the question the committee on claims did not intend to censure the sanitary commissioner but we did feel that he was a little hurried and that Mr. Underwood had been to considerable expense, not only in not being allowed to go to Lewiston, but had taken pains to send cultures to Bowdoin and to the University of Maine.

It seems strange if Dr. Russell or the teacher of bacteriology at the University

of Maine would come to Augusta and testify for Mr. Underwood, if there was any doubt about that, and Dr. Russell said he felt sure the cattle were not infected, and he appeared in behalf of Mr. Underwood and tried to influence the committee to pay Mr. Underwood the \$300 he asked.

As far as the legal phase of it is concerned I took pains to consult the attorney general as I have in all cases and he said in regard to this resolve if the committee on claims was satisfied that the action of the sanitary commissioner in this matter was unjustified and that by reason of such conduct Mr. Underwood was compelled to make expenditures for examination by Dr. Whittier or others, it would be proper to reimburse Mr. Underwood to that extent.

The committee felt that the sanitary commissioner was not justified, as he did not prove to the satisfaction of anybody or himself whether or not these cattle were infected.

I move you, Mr. President, and Senators, that the report of the committee be accepted.

Mr. MERRILL: Mr. President, it seems to me the true idea of whether we should or should not accept the report, or pay this man this money, is an important question, much more than the amount of money involved. The State of Maine in order to preserve and keep from disease the various herds of cattle has passed a law here that they will pay not exceeding \$75 a head for grade stock, and I think it is \$100 to be the limit on pure bloods, and they spend thousands of dollars. They go around examining stock, test it, kill it, and then from the State treasury return to the owners of that infected stock, for tuberculosis for instance, thousands and thousands of dollars.

The disease that is spoken of here as infectious abortion is perfectly well known to every stock raiser and every stock breeder, and if you have one cow in your tie-up that aborts, your whole stock, your whole tie-up, from 25 to 100, they all are liable to abort. I had it once in my own herd. Now then the question comes up here, when this man

is taking those cows from his farm to exhibit in a public exhibition where there are thousands and thousands of dollars' worth of pure bred and fine stock, and admitted that this disease is very contagious, and he is notified by the sanitary commissioner to take his stock away, that it is infected, whether it is infected or not, I submit to you, fellow senators, what is the duty of that man? Supposing it is an open question, and take it just as my friend from Androscoggin says, not having proof absolutely that it is infected, what would be the duty of a man to do with a stock that was said to be or thought to be infected, and liable to infect the whole stock on the fair-ground? Now what would be his duty? Wouldn't it be fair to take that stock and get right out of the way and be on the safe side? Isn't safety the first thing there, and wasn't it his duty to do the thing that was safe for these other men that were showing their stock? He was asked to do it. He wouldn't do it, and they went to the railroad and they had to notify the railroad that they would hold them liable if they shipped the stock anywhere except to Readfield where it belonged. Now that man would be liable if he took those cattle home and sold them to you or to me and he didn't disclose the fact that they had that disease. And if you and I bought them, perhaps thoroughbreds, and the head of our herd was used on them and the head of the herd became infected, what would be the result? Every one of your herd would not only be liable but very liable to become infected. It is the most pernicious thing to do, to pay this bill, and I hope, fellow senators, that you will see that it does not pass.

Mr. GOOGIN: Mr. President, may I say one word more? As far as the disease is concerned, it was brought out in the testimony that there are conflicting opinions among veterinarians. It is hard to determine. And it being such a delicate question, it seems to me if the sanitary commissioner had done all he could to determine whether these cows were infected or not and then sent them home that there would be some argument not to pay this bill. But the sanitary com-

missioner, as I have said before, did nothing and would do nothing only order this man to go home, and the man naturally was mad and asked him to have a veterinary examine his cattle. He would not do it. The only thing he did was to walk by the shed and say, yes, these cattle were infected. It was brought out in the testimony that the veterinarians disagreed. I asked Bearce at the hearing if he had enough law to run his department. If he had had enough law and he had taken the pains, he would have satisfied Mr. Underwood, and Mr. Underwood I feel sure would have gone home without any complaint whatsoever. But he wouldn't even do his duty. I thank you.

The pending question being on the motion of the senator from York, Senator Deering, that the resolve be indefinitely postponed, a rising vote was had, and 12 senators voting in the affirmative and 10 in the negative, the motion was carried and the resolve was indefinitely postponed.

Mr. HOLT of Cumberland: Mr. President, I move to take from the table, H. D. 544, An Act to authorize the town of Yarmouth to supply gas and electricity.

The motion was agreed to.

Mr. HOLT: Mr. President, I offer Senate amendment A to H. D. 544 and move its adoption. I would say that it is acceptable to the proponent of the bill, who is a member of the House, I will say nothing more unless someone wishes for further explanation.

Mr. DAVIES of Cumberland: Mr. President, this Yarmouth matter has been in charge of William H. Rowe of Yarmouth, in the House, and I would like to ask the Senator from Cumberland, Senator Holt, if the amendment as proposed by him is acceptable to Mr. Rowe.

Mr. HOLT: Mr. President, I will answer the Senator. I have taken up the amendment with Representative Rowe and it is entirely acceptable to him.

The pending question being the

adoption of Senate Amendment A to H. D. 544, the amendment was adopted.

On further motion by the same Senator the bill was passed to be engrossed as amended.

On motion by Mr. Gordon of York, S. D. 347, An Act relating to the bond holders of the Sanford and Cape Porpoise Railway Company and the Atlantic Shore Railway, was taken from the table, and on further motion by the same Senator was passed to be engrossed.

On motion by Mr. Lord of York, H. D. 423, Resolve for an amendment to the constitution in regard to apportionment of representatives in accordance with population, was taken from the table, and on further motion by the same Senator was passed to be engrossed in concurrence.

Mr. HOLT of Cumberland: Mr. President, I move that the rules be suspended in order that I may introduce at this time a resolve in favor of the city of Brewer for reimbursement of money paid out for dependent members of families of soldiers of the National Guard while in service on the Mexican border. This is a matter already covered by the committee on military affairs and this resolve is introduced that this time as a formal matter to make the record correct.

The motion was agreed to and the resolve was received.

On further motion by the same Senator the resolve was referred to the committee on military affairs.

Mr. CONANT of Waldo: Mr. President, I would like to ask if the secretary has in his possession S. D. 328?

The PRESIDENT: It is in the possession of the Senate.

On motion by Mr. Conant the vote was reconsidered whereby tomorrow morning was assigned for the second reading of this bill, and on further motion by the same Senator, the bill was tabled.

On motion by Mr. Deering of York, H. D. 562, Resolve in favor of Ernest E. Graffam of Poland, was taken from the table, and on further motion by the same Senator was passed to be engrossed in concurrence.

On motion by Mr. Ricker of Hancock, S. D. 340, An Act to amend Section 76 of Chapter 4 of the Revised Statutes, relating to any town raising

money to secure free use of library, in adjoining town, was taken from the table, and on further motion by the same Senator was passed to be engrossed in concurrence.

On motion by Mr. Fulton of Aroostook,

Adjourned, until tomorrow morning at 9 o'clock.