Legislative Record

OF THE

Eighty-Third Legislature

OF THE

STATE OF MAINE

1927

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SENATE

Thursday, January 13, 1927.

Senate called to order by the President.

Prayer by Rev. Carl N. Garland of Augusta.

Journal of previous session read and approved.

On motion by Mr. Perkins of Penobscot, it was

Ordered, the House concurring, that when the Senate and House adjourn, they adjourn to meet Tuesday afternoon, January 18th at 4.30 o'clock.

Sent down for concurrence.

Subsequently the foregoing order came back from the House read and passed in concurrence.

Committee Reports

From the House: Report of Recess Committee on Courts and Court Procedure, as follows:

Report of Recess Committee on Courts and Court Procedure

To the Honorable Senate and House of Representatives:

The Recess Committee authorized by order of the 82nd Legislature to make a survey of our courts and report what changes, if any, would be desirable in our present system of courts and judicial procedure to secure greater efficiency, beg leave to submit the following report:

The following is the text of the order creating the Committee:

Ordered, the Senate concurring, that a recess committee, to consist of the Chief Justice of the Supreme Judicial Court, one member appointed by the Governor, two members appointed by the President of the Senate and three members appointed by the Speaker of the House, be named whose duty it shall be to consider the advisability of any additional courts, or a combination of the existing courts, having in view the expedition of court procedure, and to consider in connection with the above the advisability of an appellate court of law, a combination of the various superior courts of the state and the unifying of jurisdiction of procedure in the various inferior courts.

It is further ordered that said committee shall report, with its recommendations, to the Eighty Third Legislature.

It is further ordered that any vacancies in said committee shall be filled by the Governor.

In pursuance of the above order, the Governor appointed as a member of the Committee Hon. William B. Skelton of Lewiston; the President of the Senate appointed Hon. Benedict F. Maher of Augusta and Hon. J. Blaine Morrison of Phillips; and the Speaker of the House appointed Hon. Albert M. Spear of Augusta, Edgar M. Simpson, Esq., of Bangor and Raymond M. Oakes, Esq., of Portland.

Following their appointment, the Committee met and organized with the selection of Chief Justice Scott Wilson as Chairman and Raymond M. Oakes, Esq., as Secretary.

With a view to first obtaining the sentiment of the Bar throughout the state and to some extent the viewpoint of the average lay, or business man, the Committee sent to many of the leading lawyers in various parts of the state requests for their views as to any lack in our judicial procedure or present system of courts and for suggested changes to secure greater efficiency and more speedy and certain justice; members of the Committee, also as opportunities presented, conferred with business men to obtain their viewpoint as to any lack in the administration of justice under our present system.

The Committee, composed in part of members of the Bar, of experience in the trial of cases, both at law and in equity, and in part of members of the Bench, also drew upon their own personal experience after making a survey of our present system of courts and a comparison with the systems in operation in other states. Communications and suggestions also have been received from members or representatives of the various courts.

The Committee, without funds, and made up as it is of men without leisure time, has nevertheless held numerous meetings and made as complete a survey of our entire judicial system as time and opportunity has permitted.

At the outset, for the benefit of the lay members of your Honorable Bodies, the distinction between the law and equity jurisdiction of the court should be clearly drawn, as the growing importance of the equity work must be emphasized in considering any changes or needed

changes in our courts. The work on the law side is familiar to the public and done chiefly in term time with a jury as the trier of facts; the equity work is practically all done by a judge sitting without a jury, or in chambers, where he has the entire responsibility. The Court is always open to the suitor in equity. In the more populous centers, it has already overshadowed in importance the work of the trial courts. Larger amounts are involved. It is not unusual for hundreds of thousands and even millions of dollars to be involved in suits in equity. The winding up of insolvent banks, the foreclosure of trust mortgages of railroads and other public utilities, the construction of wills, the issuing of injunctions, and all judiciary relations, and many other important questions are cognizant by a single judge sitting in equity.

Present Courts

Our courts as at present constituted are made up: first, of a Supreme Court, composed of a Chief Justice, and seven Associate Justices doing appellate, trial and equity work; of local Superior Courts in the four most populous counties, doing only trial work, and, except in a few matters having equal or concurrent jurisdiction with the Supreme Judicial Court in their respective counties, but without equity powers, and created from time to time to afford local relief to the Supreme Judicial Court from trial work; Probate Courts in the several counties originally created for the settlement of estates and the appointment of guardians, but more recently given equity powers as to the interpretation of wills, though seldom invoked, and jurisdiction over the care and custody of children when the parents have separated; municipal or police courts, and trial justices for the disposition of civil matters involving small amounts and the hearing of complaints of violation of the criminal laws,—some local, some of county wide jurisdiction and some confined to districts composed of several towns, but with little uniformity in jurisdiction.

History of Courts

The origin and history of these several courts and a survey of their relations to each other discloses that they hardly merit the application of the term, "judicial system," in that they were not created at one time as a single coordinate system, but, to a large extent are the result of additions from time to time to meet some local demand or to afford relief to the Supreme Judicial Court

The Constitution of the state provides that the judicial power of the state shall be vested in a Supreme Judicial Court and such other courts as the Legislature may establish.

At the organization of the state government, there was created in addition to a Supreme Judicial Court, the membership of which was fixed at three, a Circuit Court of Common Pleas; Probate Courts in the several counties, and Justices of the Peace having certain judicial powers in small matters, now exercised by trial justices.

The Supreme Court acted both as an appellate and a trial court, while the Circuit Court of Common Pleas, afterward designated as the Court of Common Pleas, acted solely as a trial court, with practically the same jurisdiction as our present Superior Courts, except that it extended to every county.

In 1825, police or municipal courts were created in Portland, Bath, and Bangor with jurisdiction extending over the entire respective counties of Cumberland, Lincoln, and Penobscot.

In 1839, for some reason the Court of Common Pleas was abolished and the state was divided into three districts, and courts termed District Courts with the same jurisdiction as the Court of Common Pleas for each district were created. These courts lasted until 1852, when the District Courts were abolished and the Supreme Court was increased to eight members and took over all the trial work.

But the entire work, both appellate and at nisi prius in course of time became too onerous for the Supreme Court alone, and in 1868, a Superior Court with concurrent jurisdiction at law in most matters, was created in Cumberland County; and in 1878 a similar Court was created in Kennebec County, in 1917, in Androscoggin County and in 1919, in Penobscot County. The Supreme Judicial Court still holds trial terms in each of these counties, but its work has been very materially lessened. It still has exclusive juris-

diction in these counties in certain matters like actions involving title to, or interests in real estate, probate appeals, and, of course, all matters in equity. The Superior Courts are strictly local courts. The judges sit in their own court, except that, under certain conditions, the Chief Justice may assign a Superior Court judge in one county to sit in another.

In the meantime, municipal or police courts, and district courts, so-called, have increased in number, and in many instances with enlarged jurisdiction, both as to territory and amounts involved in civil actions, either to meet some local demand or to relieve the higher courts and to secure more speedy determination of small matters; and trial justices have taken over the judicial powers of the old Justice of the Peace.

Civil Procedure

A survey of the practical working of the several courts discloses no serious ground of complaint on the law side as to the manner in which civil cases are disposed of in the trial courts. While our civil procedure is based on the common law, technical objections are not favored. The technicalities of the common law pleading have been largely abolished and amendments in all civil actions are freely allowed.

In general, so far as the fixed terms permit, hearings can be had whenever the parties themselves are ready. The only matter to which your attention need be directed is to the unequal and onerous burden now imposed on the Judge of the Superior Court of Cumberland County as compared with that of the other Superior Courts. The Judge of the Superior Court in that county holds nine terms each year which cover nearly ten months of almost continuous sessions. While under the statute a Superior Court judge, or an active retired judge of one of the Superior Courts, may be assigned to assist the Judge in Cumberland County when necessary,—which is occasionally done,—the Judge of that court is not of the temperament that calls for aid simply for the purpose of equalizing his labors with others, but only when he feels that the interests of litigants and the public require it.

Criminal Procedure

In the disposition of criminal matters, there is more ground for complaint. Technicalities in criminal procedure still prevail. Means of securing delays are numerous. The constitutional safe guards established by our forefathers to make personal liberty secure and protect the innocent against unfounded accusations and unjust punishments are too often, by skillful and resourceful attorneys, turned into almost invulnerable defences to save the guilty from his just deserts.

Defective complaints and indictments are amendable only in matters of form. Advantage of defects plainly apparent, when pointed out, may be taken under a motion in arrest of judgment made after verdict of guilty, and the state put to the expense of a second indictment and trial with the conseque delay of justice, which generally is in interest of the guilty respondent.

Though a respondent may sit silent throughout the trial, the state's attorney may not even comment on his failure to take the witness stand, and the Court is obliged to instruct the jury that he is presumed to be innocent and that the fact that he does not tell his story must not in the minds of the jury be permitted to weigh against him. His silence out of court in the face of statements imputing guilt may be shown as evidence of his guilt, but his silence before the jury is now excluded from their consideration.

The demand for reform in criminal procedure is widespread, some of it, no doubt, hysterical, the unreasoning demand of the mob for vengeance and swift punishment; but thinking men, students of the law, conservative in judgment, are recommending certain changes in our criminal procedure to prevent unnecessary delay and the frustration of justice through technicalities.

Further survey also discloses that in five counties, and one, the large and growing county of Aroostook, and which has a large criminal docket, only two terms a year are held, at which persons accused of crime can be tried. A person accused of an offense committed in May must, in Aroostook County, wait until November before even a grand jury sits to inquire into the charge, and in the ordinary course of events

until December before he can have a trial before a jury to determine his guilt or innocence. If he can not obtain bail, he must lie in jail even though a grand jury might eventually find no bill or a traverse jury find that he was not guilty. In Piscataquis, Hancock, Lincoln, and Washington counties, six months elapses between terms at which criminal cases can be heard. Every person accused of crime is entitled by the constitution to a speedy trial; and surely the public interest is not served by such delays in administering justice.

Municipal and District Courts

In the municipal and district courts, there is a confusing lack of uniformity in jurisdiction and in some instances overlapping jurisdiction may at times well cause friction. There seems to be no good reason why two courts of this grade should have concurrent jurisdiction in the same territory. Where it exists, one or the other court could as well be dispensed with and one court do the work with less expense. Trial justices should not hear cases in a jurisdiction covered by a municipal or district court. It may be essential that they should be continued in large districts covered by a district or municipal court to issue warrants on complaints to be made returnable in all cases before the municipal or district courts.

Equity Work

The marked increase in the work of the Supreme Judicial Court sitting in equity is yearly imposing a greater and greater burden on the Justices of that court located in the populous centers. This burden has already become so heavy in certain sections as to seriously interfere with the full performance of the appellate duties of the local judges.

Few members of the Bar, even, realize the rapid increase of the work in this branch of the law during the last twenty-five years, and, of necessity, how unevenly the burden rests under our present system of courts. During the first five years of our existence as a state, there were only five cases enterd in court in Cumberland County on the equity side, and the jurisdiction of the Court was limited to a few subjects. Its jurisdiction was gradually extended, but it was not until over fifty years later, in 1874, that the Supreme Judicial Court was given full equity powers.

Even then it was infrequently resorted to. From 1885 to 1890 an average of only thirty-five causes in equity were annually entered in Cumberland County. From 1895 to 1900, they increased to an average of sixty-five per year, while in the last five years there was a yearly average of one hundred and ninety-seven entries in this county alone. The total causes in equity entered in the last three years in Cumberland and York counties nearly, if not quite, equal the total of the entries in all the other fourteen counties during the same period. The very large proportion of the equity work is in the counties of Androscoggin, Cumberland, Kennebec, Penobscot, and York. This burden has doubled in the entire state, and in Cumberland County has nearly trebled in the last two decades.

In one respect, equity work is of necessity largely local. The cases that can be disposed of at a single hearing are few. Attorneys naturally desire to take them up before a local Justice who is easily accessible and have him continue throughout the case. From one to —perhaps in receiverships—twenty-five or more interlocutory decrees may be required in a single proceeding in equity. For this reason it is not always practical to call in non-resident Justices from a distance to hear causes in equity, and it is generally essential that the Judge first hearing the cause should continue throughout.

Appellate Work

All things considered, the appellate work of the Court so far has been kept up without unreasonable delay. It, however, requires uninterrupted opportunity for study and thought, and constant interruptions for equity work render it extremely difficult to do satisfactory opinion work. Any unusual delays in the appellate work may generally be accounted for by some temporary conditions. At least the greater part of it is due to the system under which the members of the Court perform their appellate duties. So far as disposing of the appellate work is concerned, there are virtually but two law terms a year: the June terms, one of which always extends well into July, and the December term. Approximately one

hundred cases are argued at the June terms and fifty in December.

A law case is not, however, finally disposed of when argued, or even at the consultation which always follows. Nor can the fifteen or more cases falling to each Judge in June all be decided at once. Each must be taken in its turn and examined with care. The opinion written must then go the rounds to all the other Judges sitting at the arguments for examination and concurrence. A Judge who writes twenty-five opinions during a year has one hundred and twenty-five more of his associates' to examine for concurrence. A disagreement necessitates the opinion going back to the writer and if he still adheres to his opinion, it must again go the rounds to each Justce for concurrence, and perhaps be held for a final consultation before it is disposed of. Delays of six months or even more in some of the appellate cases, therefore, can not be prevented under the present system of what in effect are two law terms a year.

Personnel of Courts

As to the personnel of the courts, little comment is required. The character and integrity of the Maine Courts have never been questioned. The standing of its Judges in the past has been second to none. It is, however, becoming increasingly difficult to prevail upon men in the larger cities where the burden of the equity work now falls heaviest, who are qualified to sit in the highest courts, to abandon the practice of the law, which under modern conditions offers so much greater financial returns than a position on the Bench.

Jury System

Next to a high standard of the Judges as to ability and integrity is the quality of jurors. Under our system of jurisprudence, the jury becomes a part of the Court and an extremely important part. As sole triers of the facts, it is upon their judgment and capacity to weight evidence that the quality of much of the justice meted out in trial courts depends.

Under the present method of selecting jurors, the names of outstanding business men of wide experience seldom, if ever, appear on the jury lists. The lists in the several towns are supposed to contain the names of those of sound judgment, well informed, and of approved integrity. In some manner the names of many of the best qualified to serve fail to appear, or, if drawn, are not returned to court. If perchance a man of large business affairs is drawn, or even a foreman in his employ, the Court immediately is requested to excuse because of business inconvenience. Few business men ever think of so adjusting their affairs that once in three years they may discharge this important duty of citizenship, yet they are the first and loudest in their complaint against the jury system.

Clerk of Courts

The office of the clerk of courts is also of great importance in promoting the efficiency of the courts. Upon his accuracy and fidelity may depend the rights and property of litigants. Frequent changes in this office does not work for efficiency. Experience here is an invaluable asset. The important records of our courts should not be subject to the vicissitudes of partisan or primary politics.

Recommendations

From this survey, a majority of the Committee join in making the following recommendations:

First: That the statute now preventing the jury from considering the fact that a respondent in a criminal case does not take the stand as evidence of his guilt should be repealed.

Second: That all criminal processes for offense below the grade of infamous crimes within the meaning of the Constitution be made subject to amendment in matters of substance as well as form, provided the nature of the charge is not thereby changed, and the rights of the accused in case of surprise are properly safeguarded.

Third: That a commission, appointed by the Court, be created in each county to make up jury lists of persons most fitted to perform jury duty in the several towns and when requested by the clerk of courts or the Justice presiding at any term of court held in the county to notify the requested number of jurymen to report at such terms for jury duty, dividing the number as near as may be among the several towns according to population. Increased compensation commensurate with the increase in expenses while on duty should also be considered.

Fourth: That the clerk of courts

in the several counties at the expiration of the present term of those now in office be thereafter appointed by the Court for a term of four years, subject to removal by any Justice of the Court at any time for good cause shown.

Fifth: To lighten the burden on the trial courts and with a view to centering in one court all matters relating to guardians, the care and custody and support of children, divorce and annullment of marriage, that original and exclusive jurisdiction of the custody, care, and support of children and of wives where the husband refuses to support them without just cause—except in matters criminal in their nature—of divorce and annullment of marriage be vested in the Probate Courts with a right of appeal to the Superior Court next to be held in the county, to be heard de novo in the appellate court. The Committee further recommends that a constitutional amendment be proposed provided for the appointment of Probate Judges from members of the Bar by the Chief Executive as other judicial officers are appointed and qualified.

Sixth: That the jurisdiction of the municipal and district courts be made as near uniform as possible and the district system, already in operation in several counties, be extended until each county be divided into districts with a judge of ability to preside, with a view to abolishing conflicting jurisdictions of inferior courts, and to dispensing with a municipal court where a district court may properly include territory now divided between two or more municipal courts.

That the powers of trial justices located within the jurisdiction of any municipal or district court be limited to the issuing of warrants returnable to such courts, and in no instance shall they issue a warrant where one has been refused on the same state of facts by a judge of a muncipal or district court having jurisdiction.

Seventh: To relieve the Supreme Judicial Court of a portion of the trial work, thus affording more time for equity and law work and for more frequent law terms, that the local Superior Courts be abolished and a Superior or Circuit Court of general jurisdiction be created to hold terms in the counties of Androscoggin, Aroostook, Cumberland, Kennebec, Penobscot, and York, and to have equal concurrent jurisdiction with the Supreme Judicial Court in all matters in law, including appeals from County Commissioners, municipal officers, and Boards of Assessors, and in the several counties above named exclusive jurisdiction in all probate appeals. The Supreme Judicial Court to retain exclusive jurisdiction in the issuing of writs of prohibition, quo warranto, writs of error and of certiorari.

The Superior or Circuit Court to consist of five judges appointed as provided in the Constitution.

The Supreme Judicial Court to hold no terms in either of the above named counties but to hold the jury terms in all the other counties as formerly.

Five terms of the Law Court to be held at stated intervals to afford more speedy disposition of law cases.

The records and all cases pending in the Supreme Judicial Court in the counties of Androscoggin, Aroostook, Cumberland, Kennebec, Penobscot and York to be transferred to the Superior or Circuit Court docket in the several counties, and there be heard and determined as though they thereafter originated in that court.

As the appellate work increases, it may become necessary to extend further the exclusive jurisdiction of the Superior or Circuit Court until it shall do all of the trial work and the Supreme J icial Court shall do only appellate and equity work. The Committee do not, however, favor a separate appellate court at present.

Respectfully submitted,
SCOTT WILSON,
Chairman for the Committee.

In the House: Referred to the Committee on Judiciary.

In the Senate. Referred to the same committee in concurrence.

Mr. OAKES of Cumberland: Mr. President, I have here in my hand the address of Chief Justice Wilson made before the Bar Association yesterday afternoon which covers in a large extent the ground covered by the report ,and at the request of the Bar Association I move that 1,000 copies of each be printed.

The motion prevailed.

Efficiency in Our Courts

(By Chief Justice Scott Wilson)

A few years ago, the present Chief Justice of our Federal Supreme Court, whose words always find receptive ears, made a remark that at the time attracted nation wide attention and has been made the subject of frequent comment and discussion in the press. As a result, the average citizen may be pardoned for drawing the conclusion that the little girl's definition of a Court House as "a place where they dispense with Justice," entitled her to at least a "passing mark;" and that the courts of this country, as compared with those of England at present, are not functioning efficiently, due either to archaic rules of procedure or from lack of businesslike methods of administration.

Public attention has also been focused on our courts through reports of recent surveys by agents or committees representing Foundations, so-called, and financed by the wealth of well known men, and of committees of various organizations devoted to reforming the social order, commissioned to investigate the so-called "crime wave" that is alleged to have been sweeping over the country since the Great War, leaving in its wake a record of unpunished assaults, robberies, and murders that is unparalleled in the history of the nation; and also by reason of the delays that have resulted in the final disposition of certain cases which have been prominently featured in the news columns of the public press.

The law or rules governing the procedure in our courts has likewise of late been the subject of much study and consideration in several of the states by what are termed Judicial Councils and of discussion in Law Periodicals and by men eminent in our profession at meetings of Bar Associations both local and National.

It is for these reasons and because our own Legislature at its last session, too, authorized the appointment of a Recess Committee to investigate conditions in our own State, the report of which Committee has today been filed with the present Legislature, and of which Committee I had the honor, or misfortune, to be Chairman, that I selected the topic announced as an appropriate subject for the consideration of your Association at this time.

In view of the wide spread public interest that has been aroused in the question of whether our courts are functioning as efficiently as they should, it seemed that the Bar of this State could do well to examine its own house with an open mind and see if any of the criticism of the courts, that is, at least, half formed in the public mind, if not openly expressed, is in any degree merited of the courts of our State, and if so, to what exent, and what, if any, remedies can be suggested.

There is no occasion for Bench or Bar to fear sincere, constructive criticism that is the result of understanding of actual conditions. The law is no secret cult, nor the rules of procedure any mysterious ritual from a knowledge of, or the reasons for which, the public should be excluded. Nor have the courts or the rules of procedure any of the quality or sacredness that is profaned by frank discussion or honest criticism under proper conditions and for proper purposes.

Every lawyer appreciates full well that the law is not an exact science, that the Bench is not infallible, nor the Bar perfect, and that clients and witnesses are not always truthful. The human element is so prominent in the administration of Justice that we can only hope to approach exact Justice. It is no Utopia in which we live, and we must content with something short of perfection.

True, there must be stability in the law, and the procedure in the courts must be orderly. Changes either in the law or in the rules of procedure upon which the rights of persons and property depend must be made with deliberation and without haste. The Courts should not be weathercocks that respond to every popular breeze, yet cessante ratione legis, cessat ipsa lex, the reason of the law ceasing, the law itself ceases also.

A system of jurisprudence is a living organism that must from time to time slough off dead matter to give place to the new that changed conditions require, a sine qua non of its continued existence. When rules of procedure no longer promote justice, or unreasonably delay it, they should be abandoned or modified.

What does efficiency in our courts

imply? Courts are the means employed by organized society to administer Justice between its members or between society and its members. In a certain sense, they are business institutions, the purpose of which should be to give the people the rights which the facts entitle them to and with the least expenditure of time and money. While abstract Justice can not be attained, it must be the goal of those whose duty it is to preside over our courts or in any way to participate therein. Justice, of which there is no "virtue so truly great and Godlike", to serve its purpose must be even handed, certain, and available to all without unreasonable delay.

How is this efficiency to be secured? First, there must, of course, be conscientious, open-minded Judges, "learned in the law" to preside and hold the scales with an even hand, and also competent jurors to determine the facts. Courts must be accessible at all reasonable times. The proceedings must be orderly and according to established rules designed on the civil side to clearly define the issues or matters in dispute, without needless technicalities in matter of form, and ensure the disposition of the subject in dispute upon its merits; and on the criminal side to protect the innocent against unjust accusations and to provide the accused with sufficient notice of the nature of the offense with which he is charged to furnish him with reasonable opportunity to meet the charge, and while safeguarding the innocent against unjust punishment, should not afford the guilty opportunity to escape just punishment through mere technicalities.

How are Maine courts meeting these requirements? While the administration of Justice in this state is in general not open to the current criticisms as to unreasonable delays, there are delays that could be avoided. There is a lack of opportunity to secure a speedy trial in some of our counties; there is delay in disposing of the appellate work; there are unequal burdens imposed upon some of the Judges under our system of courts. There are flaws that can be pointed out in our procedure, especially on the criminal side, that too often allow the guilty to escape punishment.

To bring into clearer relief some of these defects, let us review briefly the system of courts under which we are operating.

First, and, of course, of prime importance is the Supreme Judicial Court created under the Constitution which acts not only as an appellate court, a trial court, and a court of chancery, but also as the Supreme Court of Probate.

In addition, we have Superior Courts in the four most populous counties created from time to time to relieve the Supreme Court of some of the trial work. These are local courts with concurrent jurisdiction with the Supreme Court in most matters in law, except real actions, complaints for flowage and certain appeals, but with no equity powers not even to hear a case begun at law in that court if at any time an equitable defense is pleaded.

Courts of Probate were established in each county originally for the settlement of estates and appointment of guardians and the supervision of wards, but now given equity powers as to the construction of wills, though seldom invoked, and jurisdiction over the care and custody of children where the parents have separated.

And finally municipal or police and district courts, and trial justices for the disposition of civil cases involving small amounts, the enforcement of municipal by-laws, and the disposition of minor offenses and for hearing and holding to bail in cases requiring investigation by a grand jury.

And before proceeding further, it may be well to briefly outline the work on the equity side and the important place it is now occupying in the administration of Justice. Few members of the Bar even realize the increase in the work in this branch of the law, or of necessity how unevenly the burden of it rests under our present system.

The equity powers of the Court, or of the Chancellors originally were merely to supply a lack in the law, but it now overshadows in importance the work of the trial courts, both as to the subject matters over which it takes jurisdiction, and the amounts involved.

During the first five years of our existence as a state, there were only five cases entered on the equity side in Cumberland County, then, as now, the most populous county in the state. The equity jurisdiction of the Court was then limited to but few subjects. Its jurisdiction was gradually extended, but it was not until 1874, over fifty years later, that the Supreme Court was given full equity powers.

Even then, it was infrequently resorted to. From 1885 to 1890, there was only an annual average of thirty-five cases entered in Cumberland County on the equity side. From 1895 to 1900, it increased to a yearly average of sixty-five; but during the last five years, there has been an average of one hundred and ninety-seven complaints in equity filed each year in that county alone.

Throughout the entire state, the work in this branch of practice has at least doubled in the past two decades, while in Cumberland County, it has nearly trebled. The very large part of this work, at least two-thirds, is in the more populous counties of Androscoggin, Cumberland, Kennebec, Penobscot, and York, and the entries on the equity side in the counties of Cumberland and York during the past three years have nearly, if not quite, equalled the total of all the entries in the other fourteen counties.

Equity work, in one sense, is of necessity largely local. The cases in equity that can be disposed of at a single hearing are probably in the minority. Counsel naturally prefer to take them up before a local Justice who is readily accessible, and who can hear all interlocutory matters up to the final decree. From one—and in receiverships—to twenty-five or more interlocutory decrees may be required in a single cause. It is for this reason that it is not always practical to call in non-resident Justices from a distance to sit in equity to relieve local Judges, as it is generally essential that the Justice first acting in the cause should continue throughout. The equity work in a given county thus of necessity falls almost entirely on the resident Justice, if there be one, if not, on the most convenient one.

With this brief review, we may now consider wherein our courts or our rules of procedure are lacking in any essentials that make for efficiency. As to the ability of the Judges, it would not become me to say more than that in the past, the Maine Bench has ranked high in comparison with those of other states. It is however, becoming more and more difficult to induce attorneys in the more populous centers and where the burden of equity work bears the heaviest, to accept a place on the Supreme Bench. The practice of law under modern conditions offers so much greater financial returns than a position on the Bench. We all recognize, I think, that the salaries paid other professional public officials and especially managers and heads of private enterprises is out of proportion, in comparison with the importance of the work involved, with the salaries paid to the Judges of our courts.

There seems to be a prevailing notion among some people that a position on the Bench is sought after as a desirable place in which to spend one's declining years in restful peace and quiet. If any attorney in recent years has accepted a position on the Supreme Bench with that in view, he was soon disillusioned, if he did his full share of the work.

Next in importance to ability and integrity in our Judges is the quality of jurors. Under our system of jurisprudence, the jury becomes a part of the Court, and I need not add, an important part. As triers of facts, it is upon their sound judgment and capacity to weigh evidence that the quality of the Justice meted out in the trial courts depend.

Under the present system of obtaining jurors, the names of outstanding business men, especially in our cities, seldom, if ever appear in the jury lists. The lists in the several cities and towns are supposed to contain the names of those of sound judgment, well informed and of approved integrity. In some manner the names of many of those best qualified to serve fail to appear, or if drawn, are not returned to court. Generally speaking, the competent juror must be a busy man; but if perchance a man of large business affairs is drawn, or even a foreman in his employ, he immediately has some one plead with the Court to excuse him, often with the remark that there are plenty of men with nothing to do who are willing to serve, as though the village loafer would make as good a juryman as a man qualified to manage a business or the successful farmer. Few business men ever think of so adjusting their business that once in three years they may discharge this important duty of citizenship; yet if they have a case to be tried, they are one of the first and the loudest in their complaints against the jury system. I do not wish to be understood as in any way criticizing those who do serve. In general, they do their work conscientiously and

well, but our jury service could be improved if more care were taken, and under a different system, in making up the jury lists and in drawing jurymen for service.

As to the accessibility of our courts and the opportunity for speedy hearings, while the door of the Court sitting in chancery is always open to the suitor in equity, trials at law can be heard only in term time, which are definitely fixed, and which in this State are usually reduced to a minimum for economy's sake. In four counties only two trial terms are held each year; and in the great and growing county of Aroostook while four civil terms are held, only two terms are open to the person accused of crime at which he may have his guilt or innocence determined. An offense committed in this county in May, the suspected person, if arrested, must wait until November before the case can be even investigated by a grand jury, and until December before he can have a trial. If he can obtain bail, he will be released from arrest, if not, he must lie in jail awaiting trial, though a grand jury find no bill, or the traverse jury find him not guilty. In Hancock, Lincoln, Piscataquis, and Washington counties, the terms of the trial court are six months apart. If the people are satisfied with the arrangement, the Judges of the Court perhaps ought not to complain. It should, however, be taken into account that in this State our sparsely settled conditions in many counties do not warrant our trial courts to be open at all times and such delays in the disposition of cases as result from these conditions is not the fault of the Court. In general, so far as the fixed terms permit, whenever the parties are ready for a hearing, their case can be heard. If the parties are ready, there is no difficulty, so far as the Court is concerned, in obtaining a hearing at the term at which a case is entered.

As to the rules governing the procedure in civil cases, there is now little real cause for complaint. While our pleadings are based on the common law principles, technicalities are not favored and amendments are freely allowed. Specifications as to the grounds of action or of defense where they do not sufficiently appear in the declaration or plea may be required. If failure of Justice results on the civil side from defective pleadings, it is usually the fault of the attorney who has failed to acquaint himself with the law applicable to the facts in his case or with the simplest rules of pleading. The tendency undoubtedly, is to still further simplify the rules of pleading in civil cases, but it may be a question whether if carried too far, it does not cultivate and encourage looseness in statement of the grounds of action, and may result in more delay from surprise and consequent continuances. Cases thrown out of Court for defective pleading, if there is a good cause of action, are the exception, as an amendment will usually cure the defect.

The experiments of summary and declaratory judgments and of disclosure and discovery are now being tried out in England and in many of the states here, and with results, especially in the larger cities, said to be gratifying to both bar and litigants.

On the criminal side, however, there is, I believe, ground for complaint. Too often persons charged with crime escape the penalities of the law through some technicality in pleading or by availing themselves of the constitutional safeguards designed for the protection of the innocent. Means of securing delays in criminal cases are numerous. Criminal processes are amendable only in matters of form. Advantages of defects, plainly apparent when pointed out, unless cured by verdict, may be taken advantage of on motion in arrest of judgment after a verdict of guilty, and the State be put to the expense of a second indictment and trial with the consequent delay which is always regarded as in favor of the accused.

A respondent in a criminal case may sit silent throughout his trial, and the jury may not consider his failure to take the stand in his own behalf as any evidence of his guilt or the State's counsel comment on his failure to do so. The Court is obliged to instruct the jury that he is presumed to be innocent and the fact that he does not take the stand must not in the minds of the jury be permitted to weigh against him. His silence out of Court in the face of statements imputing guilt may be shown as evidence of his guilt, but

his silence before the jury, when he, above all persons, might explain inculpating testimony, is excluded from their consideration.

It is urged that to permit the jury to consider the fact that a respondent did not take the stand in his own behalf as evidence against him would in effect compel him, in case he did not see fit to take the stand, to give evidence against himself, but our Court has held otherwise, State v. Cleaves, 59 M ., 298; or that it would compel him to take the stand and commit perjury. Not so, if he is innocent. If guilty, he suffers no injustice thereby.

With the Judge under our statute unable to assist the jury by commenting upon the weight of the evidence, as an English judge may do, a presiding Justice in our Court must in a measure, unless he violates the spirit of the statutory inhibition, sit impotent and watch a game played, in which he is no more than an umpire to see that it is played according to rule, and in which the punishment of outraged womanhood, or the safety of human life may be the stake.

The repeal of the statute prohibiting the jury from treating a respondent's failure to take the stand as evidence against him has been recommended by the Recess Committee as well as the enactment of a statute authorizing amendments of complaints, and indictments for offenses below those of infamous crimes within the meaning of the Constitution, being a matter within the control of the Legislature in which it is not restricted by the Constitution, provided the nature of the offense charged is not changed by the amendment and the rights of a respondent are properly safeguarded by continuance, if necessary.

It must be admitted that there are delays in the appellate work. Cases tried in October or November seldom get before the appellate court until the following June, and at least six months elapse after argument before some of the cases can be decided. But, except for conditions that are temporary, such delay is due to the system of courts under which we labor, though it is true that the increase in the equity work in certain sections is making it more and more difficult to keep up with the appellate work.

At present, what in effect are two terms of the appellate court are held each year, the June terms extending well into July and a December term. A Judge sitting at the June terms may take home fifteen or more cases. If he completes them all by the sitting of the December Term with his usual quota of trial terms and equity work, the litigants, or one of them, may be deemed fortunate. The appellate work requires uninterrupted opportunity for study and thought. Frequent interruptions for equity or other work in chambers is not conducive to satisfactory opinion work.

A law case according to the practice in this state is not disposed of when argued, or even at the consultation which follows. The views expressed at consultation based on the arguments of counsel are often changed by a study of the case. Nor can fifteen cases be decided all at once. Each must take its turn. An opinion when drawn must go the rounds of all the other Justices sitting at the argument for examination and concurrence. A Judge who writes twenty-five opinions in a year has one hundered and twenty-five of his associates' to examine for concurrence. Notwithstanding errors may sometimes appear in the opinions of the court, the examination for concurrence is not regarded by the members as a mere perfunctory labor. So-called dissenting notes are more or less frequent, necessitating the opinion going back to the writer, and if he still adheres to the opinion, of it again going the rounds together with the note for consideration. In its course, it is quite likely to gather additional notes which may necessitate its being held for further consultation, all of which with Judges separated in some case by many miles, takes a toll of time. Delays of six months and more in some cases can not be prevented under present conditions with only what are in effect two law terms per year and the appellate Judges also compelled to do both trial and equity work as well.

If earlier decisions are desired in the appellate work, and it is desirable, the trial work now performed by the Supreme Court must be lessened by extending the jurisdiction of the Superior Courts or creating a trial court, the Judges of which shall go on the circuit and do a greater part of the trial work than is now done by the local Superior Courts, and by providing for more frequent terms of the Law Courts.

The Bar also could probably hasten the appellate work and shorten the time between the trial and final decision, if they would be prepared to argue their cases at law whenever possible at the first term of the appellate court next following the term at which they were tried. Some of the delay between trial below and the decision of the appellate court is caused by counsel failing to order testimony transcribed at once or neglecting the appellate work for some more pressing matters in their office or in the trial courts. The appellate work should be given the first place on the attorney's docket, as the Bench, as far as possible, gives it the right of way over all other work.

I have not considered the work of the municipal or district courts. If there is inefficiency here, it is either due to too many courts withoverlapping jurisdiction and with trial justices also acting within the same territory. A revision of the courts of this grade establishing uniformity of jurisdiction and eventually extending the district system now already established in several counties would undoubtedly work more satisfactory results.

From this survey, I think we may fairly conclude that the inefficiency of our courts does not suffer materially from the personnel of its Judges, and that a change in our system of selecting jurors would place the machinery of the courts on as high a plane for rendering public service as we can hope for; that while there may be some grounds on which our civil procedure might be found to be wanting, if subjected to the strain imposed on the courts in the larger centers, yet under the conditions in this state it serves its purpose quite as well as a less rigid system, at least, I feel sure that any injustice that can be placed at the door of the rules of procedure is exceedingly rare in civil actions; that some reforms in our criminal procedure should be effected. There seems to be no sound reason under proper safeguards why amendments should not be allowed in criminal as well as civil proceedings, if justice is the goal of all judicial proceedings.

Constitutional provisions will not permit drastic changes, but there appears to be no good reason why amendments in all criminal processes for offenses below the grade of infamous crimes even in matters of substance may not be permitted. Complaints are ordinarily under oath and indictments found by a grand jury which is sworn, but where the proceedings by complaint or the indictment is entirely under the control of the Legislature, there appears to be no sound reason why it may not regulate the requirements of either both as to forms of substance.

It further appears that any delay in obtaining hearings and in final disposition of cases on appeal is chiefly due to the present system of courts and the arrangement of the fixed terms, and that the relief of the Supreme Court Judges from a part of the trial work and an increase in the number of terms in some of the counties at which criminal cases could be heard and also of the terms of the Law Court would remove most, if not all, delays which under the conditions existing in our state might be termed unreasonable; and with the same purpose in view that the recommendation by the Recess Committee that the Probate Court be given exclusive jurisdiction over children and the marital relation, but with a right of appeal to be heard de novo is also entitled to the careful consideration of the Bar. It would relieve the trial courts of labor that can as well be performed by another court and would center in out court the jurisdiction of all kindred matters, a part of which is under certain conditions now vested in four courts of different grades.

There is one other branch of the Court which also vitally affects its efficiency, namely, the Bar. It is not my purpose to criticise, but in closing to point out how much the efficiency of our courts depend upon the cooperation and fidelity of the members of the Bar. It has been said that much of the credit ascribed to the great Chief Justice Marshall and his associates for the constructive work they did in the early days of our nation in interpreting the Constitution was due to the masterly presentation of the great questions that came before them by the Randolps, Wirt, Martin, Ingersoll, Cushing, Webster, and Pinkney, and the other great advocates of those days.

Destroy the good repute of the Bar, and you undermine the public confidence in the courts. In the preamble of the Code of Professional Ethics drafted by a Committee of the Ameri-

can Bar Association as a model for state and local Bar Associations to follow, one finds these pregnant words:

"In America where the stability of Courts and of all departments of government rests on the approval of the people, it is peculiarly essential that the system for establishing and dispensing justice be developed to a high point of efficiency and so maintained that the public shall have absolute confidence in the integrity and impartiality of its administration. The future of the Republic to a great extent, depends upon the maintenance of justice pure and unsullied. It can not be so maintained unless the conduct and motives of the members of our profession are such as to merit the approval of all just men."

The legal profession did not originate nor has it continued to exist solely because it afforded an opportunity for gain to its members. The fees exacted by the profession in the larger cities outside our state sometime seems to deserve the censure which the covetousness and avarice of the scribes drew down upon their heads from the Master two thousand years ago. "Woe unto you, ye lawyers, for ye lade men with burdens grievous to be borne."

Speaking now as a member of the profession, and not from the Bench, I wonder at times if we are not in danger of losing sight of the fact that the practice of law is a profession and not a business; whether there is not a growing tendency to commercialize the law, to view it as any other business enterprise rather than a public service.

The duties and obligations of a member of our profession are threefold: the duty as an officer of the court: "to conduct himself within the office of an attorney according to the best of his knowledge and discretion and with all good fidelity to the courts as to his clients;" to the public as a member of a profession holding himself out as learned in the law and worthy of trust; and third to his clients by reason of the confidential nature of their relation. While in theory there is no conflict between these threefold obligations, in practice, the pathway of duty is not always clear between what a client conceives that his interests require and an attorney's duty as an officer of the Court. There is no profession or calling in which the responsibilities of its members are greater or in which greater temptations to depart from the paths of honorable conduct are placed in the way of the young and inexperienced.

The Bar of Maine as a rule has been free from those whose conduct has reflected discredit upon the profession; but instances have occurred, and transgressions of what are ordinarily considered good professional conduct are still occurring, some of minor importance and others that should require action, though I have no doubt that many of the petty violations of the standards of professional conduct are due rather to ignorance of what good professional conduct requires than to any great moral turpitude. A laxness in overlooking minor offense, however, may result in more serious violations.

History also teaches us that the profession is not beyond the reach of popular disapproval, unless it keeps its house in order and lives up to the principles it proclaims. The uprisings of Wat Tyler and Jack Cade were in part protests against the rapacity and chicanery of the lawyers of those days in their dealing with the people, as was Shay's Rebellion in Massachusetts three centuries and more later. Cade declared in one of his proclamations that "the law serveth naught else in these days but for to do wrong," and a pamphleteer in the days of Shay wrote of that "dangerous, pernicious order of lawyers and their malpractices and extravagant fees." Shakespeare expresses in Henry VI the spirit of Cade's time in a dialogue between Cade and a tradesman.

Dick the Butcher: "The first thing we do, let's kill all the lawyers."

Cade: "That I mean to do. Is not this a lamentable thing that the skin of the innocent lamb should be made into parchment and when scribbled o'er should undo a man?"

I do not intend to suggest that the Bar of today is in any such state of disrepute in the popular mind as in the days of Cade or of Shay. We have travelled far since then. Today the great majority of our profession without public acclaim are day in and day out faithfully fulfilling with scrupulous fidelity the great trust imposed in them by their clients. The most sacred confidences are confided to them without a thought of abuse; funds and property of great value are

often entrusted to their care without any receipt or surety other than their standing as members of our great profession. Notwithstanding the many jests at the expense of the profession, it is the fidelity of the great majority that passes unnoticed, and the occasional departure from the standards of honorable conduct which attract attention.

It is a source of regret, however, that we have to admit that there are still members of the profession who have apparently given little thought to their obligations as officers of the Court or that they were engaged in the performance of a public service; who have sought admission to the Bar either as an avenue to political preferment or an anticipation of easy financial reward, and whose sense of professional duty has become dulled by avarice, or who have prostituted their professional talents to the base uses of aiding and abetting those who prey upon the frailities of human nature, those parasites and vultures of society, who reap profits from violations of the law.

As an aid and guide for the younger members of the profession, may I not suggest that this Association adopt a written code of ethics and recommend its adoption by every county association in the state. So far as I know, there is only the merest skeleton of what might be termed a code of ethics adopted by any of the local associations, and such, as there are, are not readily accessible to the young attorney.

The Bar of Maine is surely second to none in its spirit, its aims and its ideals. Only through action by this association can this spirit and ideals be expressed. Shall we not then put the standards of conduct of our profession into a written code which will embody the spirit of the oath administered upon admission to the bar, and say to every applicant for admission: "There are the standards to which we expect you to conform if you enter the profession. If your purpose in applying for admission does not square with these rules, it is no place for you."

The day is also here when the public interests and the interests of our profession demand higher qualifications for its members as ministers of justice, a broader basis in educational qualifications, stronger moral character, and better preparation in knowledge of the law.

It is, therefore, eminently fitting not only that the doors of the Temple of Justice should always swing readily open to the demand of the suitor whether high or low, rich or poor, that no man should be "delayed for lucre or malice," or unreasonably delayed for any cause, that substance and not form determine his rights, and that a proper degree of ceremony and dignity should accompany the administration of justice, but that those engaged in its service should so conduct themselves as to entitle them at all times to the respect and confidence of the public which in the final analysis they serve, and should be fully qualified to fulfill the high trust which they assume.

The following communication was received:

STATE OF MAINE
Office of the Governor
Augusta
January 13, 1927.

To the Honorable Senate and House of Representatives of the Eighty-third Legislature:

There is submitted herewith the report of the Committee on the Budget duly prepared in accordance with the directions of the Legislature of the State of Maine.

RALPH O .BREWSTER,
Chairman,
ELBERT D. HAYFORD,
Secretary,
WILLIAM L. BONNEY,
HERBERT E. WADSWORTH,
EDWARD L. WHITE.

To the Honorable Senate and House of Representatives of the 83rd Legislature:

The Legislature has provided that the Governor, State Auditor, State Treasurer, and the Chairmen on the part of the Senate and the House of the Committee on Appropriations and Financial Affairs of the Maine Legislature shall act as a committee on the budget. In accordance with the provisions of this act and the practices of the last few years the committee on the budget have held hearings in Presque Isle, Bangor, Portland, Lewiston and Augusta at which oral presentation was made of the needs for the several departments and institutions of the State supplementing the written estimates which had been filed on forms provided by the committee in accordance with the law.

The estimates of the state departments for 1928 call for $7,023,951.33 and for 1929 $7,169,951.33. For state institutions for the same periods there is asked a total of $2,507,127.12 for 1928 and $2,145,289.32 for 1929. This includes requests for new construction.

The private institutions which have heretofore received state aid have filed requests for $1,125,919.16 in 1928 and $992,748.76 in 1929.

These estimates and requests show a total for 1928 of $10,656,997.61 and for 1929 $10,307,989.41.

Revenues for various sources other than direct taxation were estimated by the committee at the sum of $4,757,900.00 for 1928 and $4,757,900.00 for 1929.

This would leave a balance of $5,899,097.61 to be raised in the first year of the biennial period and $5,550,089.41 in the second year by direct taxation.

On the new state valuation of $724,938,300.00 this would require a tax rate of 8½ mills in 1928 and 8 mills in 1929 or an increase of more than ten per cent.

This compares with estimates and requests filed two years ago with the budget committee which would have required a direct tax for each year of 11½ mills. This indicates a changed attitude of mind on the part of the several departments and institutions, and undoubtedly reflects the changed thought of the public regarding economy in the conduct of public affairs. It means, however, that it is considerably more difficult to make substantial reductions without getting very close to the irreducible minimum without which the State housekeeping could not be carried on.

The budget committee have sought to draw a happy line between a policy of parsimony that is not prudent and any suggestion of extravagance which might add to the very considerable burdens now being borne by the taxpayers of the State

The report makes provision that it is believed will be sufficient to carry on all the activities which the State has now assumed but it does not contemplate their expansion since it is not believed it would be good judgment at this time.

Following the practice of the budget committee in recent years no recommendation has been made regarding private institutions. A tabulation of their requests is, however, filed together with the appropriations that have been made for the past two years.

The report of the budget committee would require a total of $8,499,265.51 for 1928 and $8,702,815.51 for 1929. If the Legislature were to add the amount appropriated for private institutions in each of the last two fiscal periods there would then be required a total of $9,246,633.27 and $9,450,183.27

These estimates both of revenues and appropriations are based upon existing provisions of law except in one instance. They are concerned to only a limited extent with the highway program of the State since that is largely financed from specially provided funds including the payment of interest and maturities upon the bond issues of recent years.

The State debt outside the highway and bridge bond issues is being steadily reduced. $350,000.00 each year is being paid upon the War Loans and these will be entirely retired in 1932 with the exception of an issue of $500,000.00 due in 1937. Under existing legislation $98,000.00 has already been set aside for the issue of 1937 and more than $100,000.00 will be set aside during this fiscal year, $400,000.00 additional would be provided during the next two years from direct taxation upon the citizens of our State, or $100,000.00 more than will be needed to retire the entire issue at maturity.

There seems no warrant for such an excessive provision of a sinking fund so far in advance of the maturity of these bonds. In 1932 the annual payments from direct taxation of $350,000.00 for the War Loan bonds will cease. From that time on the citizens will need to provide in direct taxation for the retirement of only $115,000.00 each year upon an issue of $1,150,000.00 maturing in the next ten years. If $50,000.00 is provided each year for the War Loan bonds maturing in 1937 it would seem to distribute equitably the burden of their retirement without placing the entire load upon the citizens of the State in the next two years. The burden of the taxpayers will also be progressively lightened by very material reductions in the amount of interest payments.

There has been accumulated in the past two years a surplus of more than $1,000,000.00 in cash. This is practically sufficient to retire the entire State debt not provided for by special funds. There seems no warrant to impose this burden upon the Treasury at this time when the retirement of

our debt is proceeding in such a satisfactory way.

$400,000.00 has been withdrawn from cash during the past year and invested in obligations of the State. This will protect these funds from possible disbursement during any temporary stringency in cash.

It is the considered recommendation of the budget committee that appropriate legislation be enacted to use the existing surplus for reduction of taxation during the next two years. This is the most practicable way of giving to every citizen of Maine his proper share of this fund.

No recommendation has been made as to the new construction at the various institutions of the State but it seems possible to provide adequately for all of the pressing needs in construction, and yet under the report of the budget committee fix the state tax at 5 mills for 1928 and 6 mills for 1929. This means a total for the next two years of 11 mills as contrasted with 14 mills for the two preceding years or a reduction of more than twenty per cent.

Respectfully submitted,
RALPH O. BREWSTER,
ELBERT R. HAYFORD,
WILLIAM L. BONNEY,
HERBERT E. WADSWORTH,
EDWARD L. WHITE,
Committee on Budget.

Augusta, Maine,
January 12, 1927.

The above report was read and ordered placed on file.

Sent down for concurrence.

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

Education

By Mr. Oakes of Cumberland: Resolve in favor of trustees of North Yarmouth Academy. (S. P. 1)

Maine Publicity

By Mr. Spear of Cumberland: Resolve to Appropriate Money for Compiling and Advertising the Agricultural, Industrial and Recreational Resources of the State. (S. P. 2)

The PRESIDENT: The Committee on Reference of Bills suggests that this resolve be referred to the Committee on Maine Publicity.

Is this the pleasure of the Senate?

Mr. FOSTER of Kennebec: Mr. President, I rise for information. Which resolve was that?

The PRESIDENT: A resolve introduced by the senator from Cumberland, Senator Spear, which refers to compiling and advertising the agricultural, industrial and recreational resources of the State. The Chair will state for the benefit of the senator from Kennebec ,Senator Foster, that this resolve is of the same nature as the resolve which was introduced two years ago which deals with publicity for Maine, and the Committee on Reference of Bills suggests that this be referred to the Committee on Maine Publicity.

Mr. FOSTER: That is the report of the Committee on Reference?

The PRESIDENT: That is the suggestion of the Committee on Reference.

Mr. FOSTER: Well, I move that the matter be tabled.

The PRESIDENT: The senator from Kennebec, Senator Foster, moves that the reference of the resolve introduced by the senator from Cumberland, Senator Spear, pertaining to compiling and advertising the agricultural, industrial and recreational resources of the State, be tabled pending reference to the committee. Is this the pleasure of the Senate?

The motion prevailed.

Committee Reports

Mr. MAHER, from the Senate committee on Senatorial Vote on order of the Senate calling for a report on the vote for senators for the political years of 1927 and 1928, reported that a complete tabulation of the senatorial votes is too bulky for the files and is on file in the office of the Secretary of State for the inspection and examination of the senators.

Read and accepted and placed on file.

Mr. FOSTER, from the Committee on Appropriations and Financial Affairs, to which was referred the bonds of the Treasurer of State, one bond to the sum of seventy-five thousand dollars with the Employers' Liability Assurance Corporation, Ltd., of Great Britain and Ireland as surety, and one bond in the sum of seventy-five thousand dollars with the Century Indemnity Company as surety, both bonds having been approved by the Attorney General as to matter of legal form, reported that the same be approved and placed on file with the Secretary of State.

Read and accepted and sent down for concurrence.

The PRESIDENT: The Senate will take a short recess.

After Recess

On motion by Mr. Foster of Kennebec the Resolve pertaining to Compiling and Advertising the Agricultural, Industrial and Recreational Resources of the State, tabled by that gentleman earlier in the session ,was taken from the table ,and on further motion by the same gentleman was referred to the Committee on Maine Publicity. (500 copies ordered printed)

On motion by Mr. Douglas of Hancock the rules were suspended and that gentleman introduced Resolve, Appropriating Money for the Compilation and Publication of Data Concerning the Resources of the State, and on further motion by the same gentleman the resolve was referred to the Committee on Maine Publicity. (500 copies ordered printed)

The PRESIDENT: Is there any other business to come before the Senate?

On motion by Mr. Drake of Sagadahoc, adjourned until next Tuesday afternoon, January 18th, at 4.30 o'clock.