

# MAINE STATE LEGISLATURE

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Legislative Record

OF THE

Eighty-Third Legislature

OF THE

STATE OF MAINE

1927

KENNEBEC JOURNAL COMPANY  
AUGUSTA, MAINE

**SENATE**

Thursday, April 7, 1927.

Senate called to order by the President.

Prayer by the Rev. E. W. Brown of Gardiner.

Journals of April 5th and April 6th read and approved.

Papers from the House disposed of in concurrence.

From the House: An Act to amend an Act to abolish the Board of Public Works of the city of Lewiston and to provide a Highway Commission (H. D. 469).

(In the Senate, April 1, new draft passed to be engrossed in non-concurrence.)

In the House, that branch voted to insist on its former action whereby it substituted the original bill for the report and passed it to be engrossed, and asked for a Committee of Conference, the Speaker having appointed as House members of such a Committee: Messrs. Belleau of Lewiston, Brown of Bethel, and Thurston of Appleton.

In the Senate:

Mr. HOLMES of Androscoggin: I move, Mr. President, that the Senate insist and join in a committee of conference.

The motion prevailed.

The PRESIDENT: The Chair appoints as members of the Committee of Conference on the part of the Senate the Senator from Androscoggin, Senator Holmes, the Senator from Lincoln, Senator Bond, and the Senator from Piscataquis, Senator Crafts.

The following resolves were received and on recommendation by the committee on reference of bills were referred to the following committee:

**Appropriations and Financial Affairs**  
By Mr. Speirs of Cumberland, Resolve in favor of George M. Day, Clerk to the Committee on Education. (S. P. 619)

By Mr. Foster of Kennebec, Resolve in favor of Earle R. Hayes, for services as Clerk of Committee on Banks and Banking, 83rd Legislature. (S. P. 615)

By Mr. Miner of Washington, Resolve in favor of Ellis F. Baker for

services as Clerk for the Committee on Indian Affairs. (S. P. 616)

**Bills in First Reading**

An Act Increasing the Allowance for Clerk Hire in the Office of the Register of Deeds in the County of Aroostook, Northern District. (S. D. 337)

An Act to Increase the Salary of the Register of Deeds in the County of Aroostook, Northern District. (S. D. 338)

An Act to Increase the Salary of the Register of Deeds in Franklin County. (S. D. 339)

An Act to Increase the Salaries of the Clerks in the Office of the Clerk of Courts, the Register of Probate and the Register of Deeds for Sagadahoc County. (S. D. 340)

An Act Relating to the Clerk Hire in the Office of the Probate Court in Knox County. (S. D. 341)

An Act Relative to an Increase in the Salary of the Judge of the Houlton Municipal Court. (S. D. 342)

An Act to Provide for the Safety of Life and Property and to Create a Board of Boiler Rules which shall Formulate Rules and Regulations for the safe Construction, use and Operation of Steam Boilers; to Provide for the Enforcement of the Rules and Regulations of the Board of Boiler Rules; to Provide for the Inspection of Steam Boilers and the Fees to be Charged therefor; and to Provide a Penalty for the Violation of the Provisions of this Act. (S. D. 343)

Resolve in favor of Murtagh Hughes of Bangor, to reimburse him for loss sustained in construction of State Highway at Edgecomb, Maine. (S. D. 344)

Resolve to reimburse the town of Phippsburg for expenses incurred in fighting forest fires by the State Militia. (S. D. 345)

An Act relating to the trapping of fur-bearing animals. (S. D. 346)

An Act relating to Advertising Signs upon Public Highways. (S. D. 347)

An Act Relating to Recording of Instruments and Conveyances. (S. D. 348)

An Act Relating to Consent Required to be Given in Adoption of Children. (S. D. 349)

An Act relating to Clerk Hire in the office of Register of Deeds, Southern District of Aroostook County. (S. D. 350)

An Act to amend section 40 of chapter 117 of the Revised Statutes, as amended, relating to the salary of the clerks of the Supreme Judicial Court. (S. D. 351)

An Act to increase the amount to be paid for clerk hire in the office of the Clerk of Courts in the County of Cumberland. (S. D. 352)

An Act relating to the salary of the Clerk and Deputy Clerk of Courts in Cumberland County. (S. D. 353)

An Act relating to increase in Clerk hire in the office of Register of Deeds. in Franklin County. (S. D. 354)

An Act relating to clerk hire in the office of register of probate for Franklin County. (S. D. 355)

An Act relating to the salary of the Judge of Probate of Knox County. (S. D. 356)

An Act for the preservation, perpetuation and increase of the forests of the State of Maine. (S. D. 357)

(On motion by Mr. Granville of York, tabled pending second reading.)

Resolve providing for the construction of an International Bridge over St. John River between the Town of Fort Kent, Aroostook County, Maine, and the Parish of St. Francis, Madawaska County, New Brunswick. (S. D. 358)

An Act to Regulate Camping within the Limits of Game Preserves, or Sanctuaries. (S. D. 359)

Resolve to Pay Certain Deficiencies. (S. D. 360)

An Act relating to apothecaries and the sale of poisons. (S. D. 361)

An Act to ratify, affirm and make valid, certain doings of the City Council of the City of Bath. (S. D. 362)

An Act to render unlawful all disturbances to the reception of radio waves used for radiotelephony. (S. D. 363)

An Act to amend Section 2, Chapter 44 of the Public Laws of 1917, relating to proposed changes in freight rates. (S. D. 364)

An Act to amend Section 3 of Chapter 203 of the Public Laws of 1925 relating to the use of the proceeds of bonds authorized to be issues by said Chapter for State highways and bridges. (S. D. 365)

#### Reports of Committees

Mr. Foster, from the Committee on Appropriations and Financial Affairs, on Resolve in favor of the Maine Historical Society (S. P. 436) reported that the same ought not to pass.

The report was read and accepted.

Mr. Holmes, from the Committee on Legal Affairs, on bill An Act relating to pecuniary interest of public officers in public contracts (S. D. 192) reported that the same ought not to pass.

(On motion by Mr. Slocum of Cumberland, tabled pending acceptance of the report.)

The majority of the Committee on Judiciary, on bill An Act relating to the practice of osteopathy (S. D. 143) reported the same in a new draft, under the same title (S. P. 617) and that it ought to pass.

(Signed)

CARTER  
MAHER  
WING of Kingfield  
PATTERSON  
ALDRICH  
WING of Auburn  
BARTLETT

The minority of the same Committee, on the same subject matter, report that the same ought not to pass.

(Signed)

DUDLEY  
OAKES  
HALE

(On motion by Mr. Foster of Kennebec, the bill and reports were tabled and a new draft ordered printed.)

Mr. Harriman, from the Committee on Claims, on Resolve in favor of the Bath Water District, a Public Municipal Corporation located at Bath, in the County of Sagadahoc (S. P. 212) reported the same in a new draft, under the same title (S. P. 618) and that it ought to pass.

(On motion by Mr. Smith of Somerset, the resolve and report were tabled and a new draft ordered printed.)

Mr. Holmes, from the Committee on Legal Affairs, on bill An Act to establish small claims procedure (S. D. 74) reported that the same ought to pass.

(On motion by Mr. Holmes of Androscoggin, under suspension of the rules, the bill was given its two several readings.)

Mr. HOLMES of Androscoggin: Mr. President, I now offer Senate Amendment A and move its adoption.

The Secretary read the amendment as follows:—

“Senate Amendment A to Senate Document 74:

Amend Senate Document 74 by

striking out the words 'thirty-five dollars' in the tenth line of Section one and substituting in place thereof, the words 'twenty dollars' and by inserting after the word 'income' in the sixth line of Section seven, the following words 'which shall not be less than the amount now allowed by law'."

Thereupon, Senate Amendment A was adopted and on further motion by Mr. Holmes of Androscoggin the bill as so amended was passed to be engrossed.

Mr. Foster, from the Committee on Banks and Banking, submitted its final report.

Mr. Buzzell, from the Committee on Towns, submitted its final report.

The reports were severally read and accepted.

#### Finally Passed

Resolve, in favor of the South Kennebec Agricultural Society. (H. D. 333.)

#### Orders of the Day

On motion by Mr. Holmes of Androscoggin, unanimous consent was given to the suspension of the following order passed March 10th, 1927: "Ordered, that the President lay before the Senate on Wednesday of each week all matters on the calendar that day which have been previously tabled and assigned."

The PRESIDENT: The Chair will explain that we are now under Orders of the Day and those matters which appear on the calendar do not now automatically come from the calendar, we having suspended the order by unanimous consent, but any member may take from the calendar anything which he or she desires and the Chair earnestly hopes that an effort will be made to clear the calendar of all matters possible in order that we may pass along to the printer all routine business.

Mr. HOLMES of Androscoggin: Mr. President, I think that I can clear the calendar to quite a considerable extent.

On motion by Mr. Holmes of Androscoggin, the Senate voted to take from the table, House report from Committee on Salaries and Fees "ought not to pass" on Resolve in favor of Somerset Academy for

maintenance (H. P. 470) tabled on April 5th by that senator pending acceptance of the report and on further motion by the same senator the resolve was substituted for the report.

Thereupon, on further motion by the same senator, under suspension of the rules the resolve was given its two several readings and was passed to be engrossed.

On motion by Mr. Holmes of Androscoggin, the Senate voted to take from the table, Resolve in favor of Olmsted Brothers, Landscape Architects (H. D. 547) tabled on April 5th., by that senator pending passage to be engrossed and on further motion by the same senator the resolve was passed to be engrossed.

On motion by Mr. Holmes of Androscoggin, the Senate voted to take from the table, An Act relating to clerk hire in office of register of probate, Penobscot county (H. D. 550), tabled on April 5th. by that senator pending passage to be engrossed and on further motion by the same senator the bill was passed to be engrossed.

On motion by Mr. Holmes of Androscoggin, the Senate voted to take from the table, An Act relative to clerk hire in office of register of deeds, Penobscot county (H. D. 545), tabled on April 5th by that senator pending passage to be engrossed and on further motion by the same senator the bill was passed to be engrossed.

On motion by Mr. Holmes of Androscoggin, the Senate voted to take from the table, An Act to increase salary of clerk of courts, Franklin county (S. D. 328), tabled on April 5th by that senator pending passage to be engrossed and on further motion by the same senator the bill was passed to be engrossed.

On motion by Mr. Holmes of Androscoggin, the Senate voted to take from the table, An Act relating to salary of register of probate, Franklin county, (S. D. 329) tabled on April 5th by that senator pending passage to be engrossed and on further motion by the same senator the bill was passed to be engrossed.

On motion by Mr. Holmes of Androscoggin, the Senate voted to take from the table, An Act relative to salary of clerk of courts, Knox county (S. D. 330) tabled on April 5th by that senator pending passage to be engrossed and on further motion by the same senator the bill was passed to be engrossed.

On motion by Mr. Holmes of Androscoggin, the Senate voted to take from the table, An Act to increase salary of county attorney, Sagadahoc county (S. D. 331) tabled on April 5th by that senator pending passage to be engrossed and on further motion by the same senator the bill was passed to be engrossed.

On motion by Mr. Holmes of Androscoggin, the Senate voted to take from the table, An Act relating to salary of treasurer, Knox county (S. D. 332) tabled on April 5th by that senator pending passage to be engrossed and on further motion by the same senator the bill was passed to be engrossed.

On motion by Mr. Holmes of Androscoggin, the Senate voted to take from the table, An Act relating to salary of register of deeds, Sagadahoc county (S. D. 333) tabled on April 5th by that senator pending passage to be engrossed and on further motion by the same senator the bill was passed to be engrossed.

On motion by Mr. Holmes of Androscoggin, the Senate voted to take from the table, An Act to increase salary of register of deeds, Oxford county (H. D. 516) tabled on April 5th by that senator pending enactment and on further motion by the same senator the bill was passed to be enacted.

The PRESIDENT: The Chair wishes to ask the Senator from Androscoggin, Senator Holmes, if it is his intention to take the several other enactments off the table at this time?

Mr. HOLMES of Androscoggin: It is Mr. President.

The PRESIDENT: The Chair will state that while it is not good parliamentary procedure to take more

than one matter off the table at one time, the Chair believes that we may properly do so and then pass them under one motion and the Chair will allow the Senator from Androscoggin, Senator Holmes, to take these several enactments from the table at one time and then will pass them together.

Thereupon, on motion by Mr. Holmes of Androscoggin, the Senate voted to take from the table the following bills:

An Act to increase the salary of the clerk of courts in Oxford county (H. D. 519) tabled on April 5th by the same senator pending passage to be enacted.

An Act relative to clerk hire in the office of Clerk of courts, Penobscot county (H. D. 521) tabled on April 5th by the same senator pending passage to be enacted.

An Act relating to salary of county attorney, Oxford county (H. D. 522) tabled on April 5th by the same senator pending passage to be enacted.

An Act relating to clerk hire in registry of deed, Oxford county (H. D. 523) tabled on April 5th by the same senator pending passage to be enacted.

An Act to increase the salary of the county treasurer, Oxford county (H. D. 524) tabled on April 5th by the same senator pending passage to be enacted.

Thereupon, on further motion by the same senator the foregoing bills were passed to be enacted.

On motion by Mrs. Allen of Penobscot, the Senate voted to take from the table, An Act to prohibit trapping of muskrats in Ward Stream in the towns of Newburg, Hermon and Hampden (H. D. 530) tabled on April 5th by that senator pending passage to be enacted; and on further motion by the same senator the bill was passed to be enacted.

On motion by Mr. Douglas of Hancock, the Senate voted to take from the table, Senate report from the joint committee on Ways and Bridges and Taxation "ought not to pass" on An Act to exempt from all gasoline tax motor boats, tractors and machinery (S. D. 197) tabled on

April 5th by that senator pending the acceptance of the report.

Mr. DOUGLAS of Hancock: I yield to the Senator from Cumberland, Senator Speirs.

Thereupon, on motion by Mr. Speirs of Cumberland that senator was given unanimous consent to withdraw the bill, its subject matter having been taken care of in another measure.

On motion by Mr. Nickerson of Waldo, the Senate voted to take from the table, Senate report from the Committee on Salaries and Fees "ought to pass" in new draft on An Act relating to the salary of the register of deeds, Waldo county (S. P. 257), tabled on April 1st by that senator pending acceptance of the report.

Mr. NICKERSON of Waldo: Mr. President, I now move that this bill be indefinitely postponed and will say briefly that at a meeting of the entire delegation of Waldo county that delegation voted unanimously against this increase in salary.

The motion to indefinitely postpone prevailed.

On motion by Mr. Smith of Somerset, the Senate voted to take from the table, House report from the Committee on Claims "ought not to pass" on Resolve in favor of Fred A. Budge (H. P. 550) tabled on April 15h by that senator pending acceptance of the report; and on further motion by the same senator the report was accepted.

On motion by Mr. Nickerson of Waldo, the Senate voted to take from the table, Senate report from the Committee on Salaries and Fees "ought to pass" on An Act to increase the clerk hire in the registry of deeds, Waldo county (S. P. 256) tabled on April 4th by that senator pending acceptance of the report; and on further motion by the same senator the bill was indefinitely postponed.

On motion by Mr. Harriman of Kennebec, the Senate voted to take from the table, Resolve to reimburse the town of Prentiss for poultry killed by dogs and wild animals (H. D. 456) tabled on April 1st by that senator pending final passage.

Mr. SMITH of Somerset: Mr.

President, I move that this matter be retabled. I have discovered some further evidence in this matter since talking with the Senator from Kennebec, Senator Harriman.

The motion to retable prevailed.

On motion by Mr. Spear of Cumberland the Senate voted to take from the table, Senate order relative to investigation of primary elections (S. D. 279) tabled on April 4th by that Senator pending motion to reconsider.

Mr. SPEAR of Cumberland: Mr. President, I hope that the motion to reconsider will not prevail. I have voted here during this session to protect hedgehogs. I have voted to change the name of Tunk Pond to Tunk Lake. I have voted to call the chickadee the State bird. I have voted to protect yellow-legs but I believe that clean primaries and clean elections will be one of the principle issues in the coming campaign and I want this order that we have passed to stand. I hope that this motion to reconsider will not prevail.

Mr. CASE of Washington: Mr. President, I know there is not a member of this Senate but who wants to see clean elections and clean primaries, but I cannot help feeling that this order is entirely unnecessary at this time and I hope that my motion to reconsider will prevail.

Thereupon, on motion by Mr. Spear of Cumberland a yea and nay vote was ordered.

The PRESIDENT: The Chair will state for the benefit of the senators that the question is on the motion of the Senator from Washington, Senator Case, that we reconsider the vote whereby we passed this order. A vote of "yes" is to reconsider. A vote "no" is against reconsideration. Is there any senator who does not understand? The Secretary will call the roll.

The Secretary called the roll.

Those voting "yes" were Senators Bragdon, Buzzell, Case, Crafts, Douglas, Dunbar, Dwinal, Granville, Lord, Miner, Mitchell, Morrison Nickerson, Perkins, Pinkham, Roberts—16.

Those voting "no" were Senators Allen, Foster, Harriman, Holmes, Maher, Oakes, Smith, Slocum, Spear, Speirs—10.

Absent: Senator Drake and Senator Woods.

The PRESIDENT: Sixteen senators having voted in the affirmative and 10 in the negative, the motion to reconsider prevailed.

Mr. CASE: Mr. President, I now move that this order be indefinitely postponed.

Mr. SPEAR: Mr. President, I move that it be retabled.

The PRESIDENT: The senator from Cumberland, Senator Spear, moves that the order be retabled, the pending question being the motion of the senator from Washington, Senator Case, that the order be indefinitely postponed. Is this the pleasure of the Senate?

A viva voce vote being doubted

A division of the Senate was had

Eight senators having voted in the affirmative and 16 in the negative, the motion to table failed of passage.

The PRESIDENT: The question is now automatically on the motion of the senator from Washington, Senator Case, that the order be indefinitely postponed. Is this the pleasure of the Senate?

The motion to indefinitely postpone prevailed.

On motion by Mr. Holmes of Androscoggin, the Senate voted to take from the table an act relating to amendment of criminal process (S. D. 32), tabled on March 30th by that senator pending passage to be enacted.

Mr. HOLMES of Androscoggin: Mr. President, I move that the bill be now indefinitely postponed and I will state my reasons. This is, I think, the only one of the famous bills of the famous recess committee which has come to us alive—the only one that I recall, at any rate—and I have felt that it would be just as well for this one also to go into innocuous desuetude along with the rest. I do not believe that it will make a good law. It is very short and you will see—probably you all know the point now but I will call your attention to it—you will see that it adds to Section 13 of Chapter 133 of the Revised Statutes the following words: "Any complaint, indictment or other criminal process for any offense except for a capital or infamous crime may be amended in matters of substance provided the nature of the charge is not thereby changed." The law, as you will see by reading the whole of the section, already provided for the amendment of indictments, complaints and other criminal process in matter of form but had never provided such a new departure as to al-

low amendments in matters of substance.

(At this point Senator Morrison of Franklin assumed the chair.)

The law that we work under now is not the creation of the Maine Legislature but it is the very ancient doctrine and practice of the common law that has come down to us through our ancestors, not for generations but for centuries, and it is sanctified by the experience of mankind worked out slowly through those many centuries—and now a radical departure is proposed! Perhaps the proponents, if any, will reply that amendments in matters of substance are allowed in some other states, to which I would say, Yes, but also in some other states they have code systems of pleading and therefore it is not a fair analogy. We in this State have followed the common law, with but few changes made by our Legislature, since 1820. Usually such changes have been made in the direction of simplification and in the direction of meeting changed conditions of life as civilization has changed as, for instance, when we entered the age of steel and, again, when we entered the age of electricity, but so far as the written pleadings go by which a man is put upon trial for a crime, the Legislature of Maine in its wisdom has never before seen fit to propose seriously that the safeguards which have been placed about the citizen, when he is brought before the bar and charged with a crime, should be abolished or let down.

That the doctrine that every man is presumed to be innocent until proven guilty beyond a reasonable doubt, that every man shall know the nature and cause of the charge against him and be entitled to have compulsory process to produce witnesses and be entitled to defend himself by himself or counsel learned in the law, at his choice; those doctrines are so firmly a part of our law—and by law I mean our custom which has become part of the bone and sinew of our civilization—that when the Constitution of the United States was drafted and later when the Constitution of Maine was drafted those doctrines were incorporated into what was called the Bill of Rights without question. But I might say that in the constitutional convention that drafted the United States Constitution, as we read in the debates, it was assumed that those doctrines were so thoroughly a



part of our law and our customs that some claimed it was not even necessary to state them in the Constitution of the United States and, as you will remember, the Constitution went first to the states without the first ten amendments and they were put in afterwards.

(At this point the President resumed the Chair.)

Now, this bill, where the constitution says that the defendant shall be notified of the nature and cause of the charge, drops out the word "cause." Perhaps the word "cause" is redundant anyway. The bill says the nature of the charge is not to be changed. That is to say, a man shall not be charged with the crime of driving an automobile while under the influence of intoxicating liquor and then suddenly, after the trial begins, find the State moving and the judge allowing the charge to be changed to assault and battery. But outside of that and outside of trials or cases of murder and infamous crime this law, if passed, will permit county attorneys to do almost anything on earth. It might better be entitled a bill to allow blacksmiths to be elected county attorneys because of this law, if it becomes a law, no county attorney need have any legal education. All that he needs to have will be a rule of thumb knowledge of how to try a case. He need not know the law in regard to the drafting of the indictments which the grand jury has voted to present because he can, in his haste or carelessness or ignorance, have a man indicted for larceny by saying that John Jones is a thief and stole some money from John Smith, and John Jones is then brought to the bar and he will say through his counsel, "I want to be informed how much money I stole," because it will make a difference in the sentence for one thing and for another the information is necessary, and "I want to know the date when the State says I stole this money and I want to know the place where I am supposed to have stolen this money." Well, the county attorney may then move to amend by inserting that the amount of money stolen was thirty dollars lawful currency of the United States and state the time and the place but as the trial proceeds the State's evidence may turn out to prove some other amount of money or some other time. Well, under this law the county attorney can move again to change the

amount of money and to change the time. Or, we will say that the grand jury has indicted a man for driving a motor vehicle while under the influence of intoxicating liquors and has stated in the indictment that the offense took place on April 6th. That is the information they have given to the defendant. Then the defendant claims that he is innocent—and perhaps he is, we never know—and he prepares a defense and brings witnesses to prove an alibi, perhaps, to show that he was not driving an automobile on April 6th and after the evidence is nearly all in the county attorney says to the presiding judge, "Oh, we made a mistake; it should have been April 5th" or perhaps April 1st. Now, if the judge is a broad minded man of course he will not allow the county attorney to make the amendment and the trial to proceed but if he allows him to make the amendment the case will be continued to the next term and at the next term if the presiding judge is indulgent enough to the lazy and inefficient county attorney the defendant again may be put to expense by another proposed change in the indictment and perhaps the case put off for another term.

If county attorneys are trained in the law as all lawyers are supposed to be and if the people of their counties are reasonably careful in the choice of county attorneys they need no such law as this in order to perform their duties.

Now, I presume that the thought that was in the minds of the proponents of this measure was the thought of a crime wave, perhaps, or the public criticism that we read in the newspapers and magazines at times of the inefficiency of the court or that something ought to be done to stop these men from using guns and from committing all kinds of crimes in different parts of the states. Well, at least we in Maine are not a very criminal people and that is not a very pressing problem in Maine but if in our wisdom we think that we can help the cause of law enforcement in Chicago or San Francisco or even the Quaker State of Philadelphia by passing a law in Maine, why, all right. Only, let us pass one that will reach the cause of the trouble and not one that would have nothing to do with it. Of course, men like Chief Justice Taft are on record in regard to the slowness of the courts and the disgrace of our criminal procedure

in the United States. The American Bar Association is on record to the same effect and it is a general complaint and we will all endorse it but let us try to reach such a just cause of complaint by laws to that purpose, as, for instance, laws to speed up the trial of cases, laws to give a speedy trial to a man after he is arrested instead of keeping him under bail or perhaps in jail for months waiting for a grand jury to sit, and other laws looking in that direction rather than laws which, if anything, will have the effect of delaying the procedure and delaying the cause of speedy trials as this would, in my opinion. The effect of this law, to my mind, is not to reach the purpose which I believe probably was in the minds of the proponents—a very good purpose—and I therefore move, Mr. President, that it be indefinitely postponed.

Mr. OAKES of Cumberland: Mr. President, and Members of the Senate, at the last session of the legislature, two years ago, a recess committee was chosen to consider revising the court system and making suggestions as to amendments. Aside from the speaker this was an eminent group of lawyers as could be gathered together, I think, in this State of Maine and they worked very hard on the problems which were presented to them.

Several suggestions were made, originally announced by the Chief Justice in a talk to the Maine Bar Association along the first part of the legislative period.

This poor little amendment seems to be the only survivor that has run the gauntlet of the Judiciary Committee and the House and Senate and I hope it will be saved, at least as a memento of the work of this committee.

The committee was faced with a large number of ideas, representing the wish of the people today to get away from red tape and technicalities of criminal procedure. Many of the ideas were very radical and were therefore eliminated by the committee. Two ideas were finally tentatively agreed to; this was one, and the other was the provision that the county Attorney in a criminal case may comment on the failure of the accused to testify in the argument of the county attorney.

The latter amendment, we did not consider wise to put in although there is a large demand for it in the pop-

ular desire to eliminate technicalities in legal procedure. This amendment, we felt was safe and sound and it was presented to the Judiciary Committee in the bill and the Judiciary Committee unanimously reported it back to the House and Senate.

My brother has fairly stated the amendment. Under the present law, in cases of crimes less than the serious crimes, or felonies, amendments can be made as to matters of form. As to the more serious crimes, the indictments must stand as they are presented by the County Attorney.

As to the less serious crimes, I say they can be amended as to matters of form and this amendment provides that they may be amended in matters of substance with this provision—and this is a saving clause, which protects any man in his rights—"provided the nature of the charge is not thereby changed."

In other words, when a man goes into court he is presented with the charge against him. He must know the nature of the charge from the procedure and if the nature of the charge is changed, this amendment would not apply and if in any way the nature of the complaint should be changed and the nature of the charge not changed in such a manner that he would be surprised it is fundamental law in our procedure that he would be given continuance and protection in every way by the court, I think we of this Senate are absolutely justified in relying upon the wisdom of our courts in protecting a man in every way.

It was suggested that if a surprise appeared and a man asked for continuance, he might be subject to another amendment and another amendment and be put in continued jeopardy. I think we can rely upon the judgment of our courts to protect a man of any continued harassment that would be brought about in such a way.

I hope that the motion to indefinitely postpone will not prevail.

The PRESIDENT: The question is on the motion of the Senator from Androscoggin, Senator Holmes, that Senate Document 32, An Act relating to amendment of criminal process, be indefinitely postponed.

Mr. HOLMES of Androscoggin: Mr. President, I ask for a division of the Senate.

The PRESIDENT: A division is asked for. As many as favor indefinite postponement, upon the motion by the Senator from Androscoggin, Senator Holmes, will rise and stand in their places until counted, and then those opposed will rise.

A division of the Senate was had. Three senators having voted in the affirmative and twenty in the negative, the motion to indefinitely postpone failed of passage.

The PRESIDENT: The question is automatically, unless another motion is made, upon enactment.

Thereupon, the bill was passed to be enacted.

#### Passed to be Enacted

(Out of order and under suspension of the rules).

An Act providing for the upkeep and maintenance of the bridge across Sheepscoot River, between Wiscasset and Edgcomb (S. D. 313).

On motion by Mr. Granville of York, the Senate unanimously voted to allow those matters which were tabled and assigned for today to lay upon the table until the Senate by a majority vote shall take them from the table.

On motion by Mr. Maher of Kennebec, that Senator was granted unanimous consent to introduce out of order and under suspension of the rules:

Resolution relative to the American Legion Pilgrimage to France (S. P. 620), and the Secretary read the resolution.

Mr. MAHER: Mr. President, I can think of no more fitting occasion for the passage of a resolution of this nature, which may be somewhat long, but the spirit of which is that it is the sentiment of this legislature that those holding subordinate positions in this state or subdivisions thereof shall, if possible, be given leave of absence without fear of losing their employment, and the same with reference to corporations, parallel to the act of Congress.

Today is the tenth anniversary of the actual entrance of this nation into the World War and I move the adoption of the resolution and that the same be sent to the House for concurrent action.

Mr. SLOCUM of Cumberland: Mr.

President, I wish to second the motion and say that I heartily endorse the sentiments of this resolve introduced by the Senator from Kennebec, Senator Maher.

Thereupon the resolution was unanimously adopted by a rising vote.

On motion by Mr. Granville of York, recessed until five o'clock this afternoon.

#### After Recess

Senate called to order by the President.

Additional papers from the House, out of order and under suspension of the rules, disposed of in concurrence.

From the House: An Act relating to Pensions for the Blind. (H. D. 518).

(In the Senate, April 5, indefinitely postponed in non-concurrence.)

In the House, that branch voted to insist on its former action whereby the bill was passed to be engrossed, and ask for a Committee of Conference, the Speaker having appointed as House members of such a committee: Messrs. Bissett of Portland, Brown of Bethel, Bailey of Harmony.

In the Senate, on motion by Mr. Spear of Cumberland the Senate voted to adhere to its former action whereby the bill was indefinitely postponed in non-concurrence.

From the House: An Act to regulate ice fishing in the Belgrade Chain of Lakes, so-called, in the counties of Kennebec and Somerset. (H. D. 216).

(In the Senate, April 5th, report "A" of the Committee on Inland Fisheries and Game, reporting "ought not to pass" accepted.)

In the House, that branch voted to insist on its former action whereby it accepted report "B", "ought to pass", and asked for a Committee of Conference, the Speaker having appointed as House members of such a Committee: Messrs. Wyman of Sidney, Cyr of Waterville and Church of Hallowell.

In the Senate, on motion by Mr.

Crafts of Piscataquis, the Senate voted to adhere to its former action whereby it accepted report "A", "ought not to pass".

#### House Bills in First Reading

An act to create a fish and game sanctuary within the limits of property of the Dover-Foxcroft Water District, in the town of Guilford, county of Piscataquis (H. D. 193).

(Under suspension of the rules the bill also received its second reading and was passed to be engrossed.)

An act to provide for compensation of justices of the superior courts (H. D. 551).

(On motion by Mr. Bragdon of Aroostook, the bill was tabled pending first reading.)

An act in relation to the building and lot of land in Bangor known as Bangor State Arsenal, being public land and owned by the State (H. D. 389).

(Under suspension of the rules, the bill was also given its second reading and passed to be engrossed.)

The following resolves were received, out of order and under suspension of the rules, and on recommendation by the committee on reference of bills were referred to the following committee:

#### Appropriations and Financial Affairs

By Mr. Crafts of Piscataquis, resolve in favor of Joseph B. Campbell, clerk to the committee on interior waters (S. P. 621).

By Mr. Slocum of Cumberland, resolve in favor of Francis J. Cayouette as clerk and stenographer of federal relations committee (S. P. 622).

By Mr. Smith of Somerset, resolve in favor of the clerk of the committee on claims (S. P. 623).

By Mr. Foster of Kennebec, resolve on the pay roll of the Senate of the 33rd Legislature (S. P. 624).

By Mr. Roberts of York, resolve in favor of Lawrence P. Barton (S. P. 625).

#### Reports of Committees

Mr. Buzzell, from the Committee on Agriculture, on bill An Act to amend Sections 20 and 22 of Chapter 37, Revised Statutes, relating to the capacity of milk bottles and jars (S. D. 150) reported the same in a new draft, under the same title (S. P. 627) and that it ought to pass.

Mr. Lord, from the Committee on Inland Fisheries and Game, on Re-

solve in favor of a feeding station at the outlet of Sebago Lake (S. P. 247) reported the same in a new draft, under the title of Resolve in favor of a feeding station for fish at the outlet of Sebago Lake, in the county of Cumberland (S. P. 628) and that it ought to pass.

Mr. Crafts, from the same Committee, on Resolve for screening Embden Pond (S. P. 333); Swan Pond (S. P. 148); Kennebunk Pond (S. P. 147); Damariscotta Lake (S. P. 172); Stetson Pond (H. P. 717); Outlet of Pannamaquam Lake (H. P. 856); Musquash Lake (H. P. 855); Three Mile Pond (H. P. 593); Biscay Pond (H. P. 592); Sabattus Pond (H. P. 272); Mattamiscontis Lake (H. P. 107); Echo Lake (H. P. 32); and Resolve in favor of screening Wilson Lake (S. P. 240), reported the same in a new draft, under the title of Resolve for screening certain lakes and ponds in the State (S. P. 629) and that it ought to pass.

Mr. Oakes, from the Committee on Judiciary, on bill An Act relating to primary elections (S. D. 228) reported the same in a new draft, under the same title (S. P. 626) and that it ought to pass.

The reports were severally read and accepted and were laid on the table to be printed under the joint rules.

The majority of the Committee on Inland Fisheries and Game, on bill An Act relating to hunting and fishing licenses (S. D. 220) reported the same in a new draft, under the same title (S. P. 630) and that it ought to pass.

(Signed) CRAFTS  
LORD  
DRAKE  
KINSMAN  
FLINT  
WOOD

The minority of the same Committee, on the same subject matter, reported that the same ought not to pass.

(Signed) BUKER  
STONE  
MACKINNON  
STORM

Mr. CRAFTS of Piscataquis: Mr. President, I move that we accept the majority report "ought to pass."

Mr. SMITH of Somerset: Mr. President, I move that the bill and reports be tabled.

The PRESIDENT: The Senator

from Somerset, Senator Smith, moves that the bill and reports be tabled, the pending question being the acceptance of the majority report "ought to pass."

The motion to table prevailed.

Mr. Slocum, from the Committee on Federal Relations, submitted its final report.

Mr. Granville, from the Committee on Public Utilities, submitted its final report.

Mr. Roberts, from the Committee on Taxation, submitted its final report.

They were severally read and accepted.

#### Passed to be Enacted

An Act to incorporate the Marshall Dam and Improvement Company. (S. D. 117.)

An Act to prevent the improper use of the words "Trust Company." (S. D. 231.)

An Act relating to the salary of the Commissioner of Agriculture. (S. D. 256.)

An Act relating to Indian tribes. (S. D. 301.)

An Act relative to the use of funds of Indian tribes. (S. D. 302.)

An Act to amend Chapter One Hundred and Twenty of the private and special laws of Eighteen Hundred and Ninety-nine, establishing the Livermore Falls Municipal court, as amended by Chapter Thirty-four of the private and special laws of Nineteen Hundred and Nineteen. (S. D. 306.)

An Act relating to the apportionment among towns of the third class highway funds. (S. D. 310.)

An Act to increase the amount to be paid for clerk hire in the office of the clerk of courts of Piscataquis county. (S. D. 311.)

An Act relating to the salary of the clerk of courts of Piscataquis county. (S. D. 312.)

An Act to incorporate the Bangor Bridge District. (S. D. 317.)

An Act to accept the Provisions of the Act of the Congress of the United States, Approved November 23, 1921, as Amended and Approved January 22, 1927, Entitled An Act for the Promotion of the Welfare and Hygiene of Maternity and Infancy and for Other Purposes. (H. D. 310)

An Act to enable Trust Compan-

ies to discontinue branches or agencies. (H. D. 549)

#### Finally Passed

Resolve in favor of Arthur L. Thayer of Bangor, for use of his private car while chairman of the Maine Industrial Accident Commission. (S. D. 71)

Resolve in favor of V. E. Cunningham of Milford, compensating him for damage to apple trees by deer. (S. D. 303)

Resolve in favor of the Town of Anson. (S. D. 304)

Resolve in favor of Dr. A. J. Bradbury of Old Town, compensating him for damage to apple trees by deer. (S. D. 305)

Resolve to aid in rebuilding the road in Township No. 10, Hancock County. (S. D. 308)

Resolve appropriating money to aid in building a highway from Eustis in Franklin County to the boundary line between the State of Maine and the Dominion of Canada, at a place near the village of Woburn, in said Canada. (S. P. 585)

(On motion by Mr. Morrison of Franklin, tabled pending final passage and tomorrow assigned.)

Resolve in favor of the Town of Castine, for reimbursement of money paid out for the care of State paupers. (H. D. 546)

#### Orders of the Day

On motion by Mr. Spear of Cumberland, the Senate voted to take from the table, Senate Report from Committee on Legal Affairs, "ought not to pass" on An Act relating to apothecaries and sale of poisons, (S. D. 155), tabled by that Senator on April 5th pending acceptance of report.

Mr. SPEAR of Cumberland: Mr. President, I now yield to the Senator from Franklin, Senator Morrison.

Mr. MORRISON of Franklin: Mr. President, I move that the report of the committee, "ought not to pass" be accepted.

The motion to accept the "ought not to pass" report prevailed.

On motion by Mr. Drake of Sagadahoc, the Senate voted to take from the table, Senate Report from the Committee on Legal Affairs, "ought not to pass" on An Act authorizing

transfer of real estate used as ferry land at Bath, (S. D. 100), tabled by that Senator on March 30th pending acceptance of report.

Mr. DRAKE of Sagadahoc: Mr. President, I now yield to the Senator from Franklin, Senator Morrison.

Mr. MORRISON of Franklin: Mr. President and Members of the Senate: This is an act authorizing the transfer of real estate used as a ferry landing at Bath and it was considered by the Legal Affairs committee, and without prejudice on the part of the committee, it was thought better to report this out "ought not to pass" and that perhaps the matter might be presented to some subsequent legislature after the Bath bridge was completed and that it would be better for all concerned, so I move that the report of the committee "ought not to pass" be accepted.

The motion to accept the "ought not to pass" report prevailed.

On motion by Mr. Drake of Sagadahoc, the Senate voted to take from the table Senate report from the committee on legal affairs, "ought not to pass," on an act authorizing the transfer of real estate used as a ferry landing at Woolwich (S. D. 217), tabled by that senator on April 1st pending acceptance of report.

Mr. DRAKE of Sagadahoc: Mr. President, I now yield to the senator from Sagadahoc, Senator Morrison.

Mr. MORRISON of Franklin: For the same reason, Mr. President, I move the report of the committee "ought not to pass" be accepted.

The motion to accept the "ought not to pass" report prevailed.

On motion by Mr. Harriman of Kennebec

Adjourned until tomorrow morning at ten o'clock.