

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

Ninety-Second Legislature

OF THE

STATE OF MAINE

1945

DAILY KENNEBEC JOURNAL

AUGUSTA, MAINE

SENATE

Wednesday, March 7, 1945.

The Senate was called to order by the President.

Prayer by the Reverend Douglas H. Robbins of Augusta.

Journal of yesterday read and approved.

From the House:

The Committee on State Lands and Forest Preservation on "Resolve Authorizing the Forest Commissioner to Convey Certain Land to Herbert R. Dow, of Argyle," (H. P. 859) (L. D. 516) reported that the same ought not to pass.

Comes from the House recommended to the Committee on State Lands and Forest Preservation.

In the Senate, on motion by Mr. Sterling of Somerset, the Resolve was recommended to the Committee on State Lands and Forest Preservation in concurrence.

House Committee Reports

The Committee on Judiciary on Bill "An Act Relating to Employees in Military or Naval or Merchant Marine Service," (H. P. 810) (L. D. 503) reported that the same ought not to pass.

In the House the report was read and adopted.

In the Senate, on motion by Mr. Leavitt of Cumberland, the report and accompanying papers were laid upon the table pending adoption in concurrence.

The Committee on Inland Fisheries and Game on "Resolve Opening Androscoggin Watershed and Tributaries to Smelt Fishing," (H. P. 694) (L. D. 311) reported that the same ought to pass.

The same Committee on "Resolve Regulating Fishing in Pleasant Pond," (H. P. 509) (L. D. 249) reported that the same ought to pass.

The Committee on Judiciary on Bill "An Act Relating to Changes Under the Public Utility Holding Company Act Approved by Court of Competent Jurisdiction," (H. P. 245) (L. D. 93) reported that the same ought to pass.

The Committee on Legal Affairs on Bill "An Act to Amend the Charter of the City of Saco by Providing for the Appointment of

a Civil Service Commission," (H. P. 653) (L. D. 301) reported that the same ought to pass.

Which reports were read and adopted in concurrence, the bills and resolves read once and tomorrow assigned for second reading.

The same Committee on Bill "An Act to Repeal the Pension Law for Police in the Town of Houlton," (H. P. 826) (L. D. 441) reported that the same ought to pass.

Which report was read and adopted in concurrence and the bill was given its first reading.

Thereupon, on motion by Mr. Brown of Aroostook, under suspension of the rules, the bill was given its second reading and passed to be engrossed.

Sent down for concurrence.

The Committee on Judiciary on Bill "An Act Relating to the Solemnizing of Marriages," (H. P. 821) (L. D. 425) reported the same in a new draft (H. P. 1320) (L. D. 966) under the same title, and that it ought to pass.

Which report was read and adopted in concurrence, the bill in new draft read once, and tomorrow assigned for second reading.

The Committee on Legal Affairs on Bill "An Act Creating the Passamaquoddy District Authority," (H. P. 1200) (L. D. 759) reported that the same ought to pass as amended by Committee Amendment "A".

Which report was read and adopted in concurrence and the bill was given its first reading; Committee Amendment A was read and on motion by Mr. Brown of Aroostook, the report and accompanying papers were laid upon the table pending adoption of Committee Amendment A in concurrence.

The Committee on Legal Affairs on Bill "An Act Authorizing the Town of Mount Desert to Improve the Port of Northeast Harbor and Facilities," (H. P. 339) (L. D. 152) reported that the same ought to pass as amended by Committee Amendment "A".

Which report was read and adopted in concurrence and the bill read once; Committee Amendment A was read and adopted in concurrence, and the bill as so amended, tomorrow assigned for second reading.

First Reading of a Printed Bill

Bill "An Act Relating to Town Reports." (S. P. 375) (L. D. 969)

Which bill was read once and tomorrow assigned for second reading.

Senate Committee Reports

Mr. McKusick from the Committee on Pensions on Bill "An Act Relating to Old Age Assistance," (S. P. 331) (L. D. 820) reported that the same be referred to the Committee on Welfare.

Which report was read and adopted.

Sent down for concurrence.

Mr. Gould from the Committee on Legal Affairs on bill "An Act Relating to Police Pensions in the City of Portland" (S. P. 178) (L. D. 384), reported that the same ought not to pass.

Which report was read and adopted.

Sent down for concurrence.

The same Senator from the same Committee on bill "An Act Relating to Powers of the Police Department of the City of Lewiston" (S. P. 252) (L. D. 632) reported that the same ought to pass.

Which report was read and adopted, the bill read once and tomorrow assigned for second reading.

Mr. Batchelder from the same Committee on bill "An Act to Amend the Houlton Town Manager Form of Government Act" (S. P. 180) (L. D. 382), reported that the same ought to pass as amended by Committee Amendment A.

Which report was read and adopted and the bill read once. Committee Amendment A was read.

"Committee Amendment to L. D. 382, bill, An Act to Amend the Houlton Town Manager Form of Government Act.

"Amend said bill by striking out all of Section 3 thereof and inserting in place thereof a new section 3 to read as follows:

'Sec. 3. P. & S. L. 1939., C. 3, Sec. 6, amended. Section 6 of Chapter 3 of the Private and Special Laws of 1939 as amended is hereby further amended by adding thereto the following: The councillors shall have the power to enact such ordi-

nances as are authorized by Chapter 80 of the revised statutes. Such ordinances may be ordained under such rules of procedure as the voters of the town of Houlton may legally adopt."

Committee Amendment A was adopted and on motion by Mr. Brown of Aroostook, the rules were suspended and the bill was given its second reading and passed to be engrossed.

Sent forthwith to the House.

Passed To Be Engrossed

Bill "An Act Relating to Interest Payments by Counties on Lost Heir Funds, So-Called." (H. P. 1063) (L. D. 660)

Bill "An Act Relating to Proxies." (H. P. 1185) (L. D. 746)

Bill "An Act Relating to Speed Limit on Bridges." (H. P. 1205) (L. D. 706)

Bill "An Act Relating to Inspection of Motor Vehicles." (H. P. 1207) (L. D. 708)

Bill "An Act Relating to Adoption of Children." (H. P. 820) (L. D. 424)

"Resolve Relating to Sale and Distribution of Index to Private and Special Laws." (H. P. 962) (L. D. 587)

Bill "An Act Relating to Witnesses Summoned to Appear Before the State Liquor Commission." (H. P. 1071) (L. D. 804)

Which bills and resolve were severally read a second time and passed to be engrossed in concurrence.

Bill "An Act Authorizing Savings Banks, Loan and Building Associations and Trust Companies to Make Mortgage Loans Under the Servicemen's Readjustment Act of 1944." (S. P. 47) (L. D. 11)

Bill "An Act Relating to Recording of Certificates of Incorporation." (S. P. 138) (L. D. 343)

Bill "An Act Relating to Re-enactment of Law Dealing with Unexpended Appropriations." (S. P. 190) (L. D. 491)

Bill "An Act Relating to Admission to Practice Law." (S. P. 201) (L. D. 483)

Bill "An Act to Promote Proper Recording and Education Concerning Vital Statistics." (S. P. 117) (L. D. 226)

Which bills were severally read a second time and passed to be engrossed.

Sent down for concurrence.

Orders of the Day

Mr. NOYES of Hancock: Mr. President, I ask unanimous consent to address the Senate, very briefly.

The PRESIDENT: The Senator from Hancock, Senator Noyes, asks unanimous consent to address the Senate briefly. Is there any objection? The Chair hears no objection and the Senator may proceed briefly.

Mr. NOYES: Mr. President I would like to speak for just a minute about these amendments that we find being read by the Secretary. This is all very nice and I understand that in the past we have been fortunate enough to have members of this Senate who have been able, after an amendment was read, to stand up and quote that amendment, but I frankly admit that I cannot do it.

Now, we have House Amendments which are necessary and Senate Amendments which are necessary, but in the last few sessions of the legislature, I have noticed an increase in the Committee Amendments. We had a good example here today, one in which the amendment was so long that it seemed out of place to ask the Secretary to go through the motions of reading it. We wouldn't know what it was about after he had read it anyway.

Now, I consider that if I am voting on a bill I would like to know what the bill is. In other words when a bill comes before us I would like to know whether or not there is any material change in the bill.

I would hope that hereafter we find more new drafts on our desks rather than these Committee Amendments. I thank you very much.

The PRESIDENT: The Senate is proceeding under Orders of the Day.

On motion by Mr. Brown of Arcostook, the Senate voted to take from the table bill, An Act Creating the Greater Portland Public Development Commission (S. P. 323) (L. D. 828), tabled by that Senator on March 2 pending adoption of Committee Amendment A.

Mr. BROWN of Arcostook: Mr. President, I tabled this bill, as I gave notice at the time, for the

purpose of attempting to find out what the meaning of the bill is. A great many bills are introduced into this legislature with the very best intentions on the part of the introducer—and I know that this is such a bill, that the man who introduced it has the very best intentions in the world—but there is an old saying that the road to hell is paved with good intentions; in other words, that good intentions do not always lead where they are intended to lead.

I have no objection to Portland governing itself, or doing almost anything it wishes to do down there, but I do not believe that the state of Maine should be gobbled up by the Port of Portland and it seems to me that this is a strange piece of legislation, and a poor piece of legislation, so far as the state is concerned. I am puzzled by it. I will read to you parts of the bill. I find that many times we do not read bills, we simply listen to the arguments, which may be pertinent to the bill or not but we listen to the arguments and vote in favor of what we think is the best argument. I think the same holds true in committees, that many times the committee does not thoroughly read and digest the bill and thoroughly understand it and vote in favor of the one who puts up the best argument.

The bill starts in by saying: "There is hereby created a 'Greater Portland Public Development Commission' which shall be a body corporate and politic, having the same rights, privileges and powers as have corporations organized under the general law, in addition, and except insofar as inconsistent with the powers herein enumerated, with the right to adopt a common seal and to establish by-laws and regulations for the management of its affairs not repugnant to its charter and the laws of this state, and with its principal place of business located in greater Portland"

That would lead us to believe that they are going to organize a corporation, both corporate and politic, to be governed by a board of directors, but the title of the bill would lead us to think that it is a commission that is to be appointed.

Now, as to the powers of this corporation: "The said corporation shall have the power to operate any business or facility which shall be

for the common good of greater Portland in the opinion of the directors." Now, I never heard before of the granting of any such sweeping powers in my life to any five men. As you will note, the commission is appointed by the Governor and Council which commission can do anything in the city of Portland, or greater Portland, that in the judgment of those five men may be for the good of the city of Portland. I would be afraid to take home to my people any such bill. We have a war plant up there and I understand the good intention of this bill is to provide a method whereby at some time in the future it would be possible to take over some wharves in Portland, but we have a war industry in Caribou; we have a dehydrating plant which I maintain that after the war is over will be one of the war relics which will be left and if I went home and said to my people, "This is all fixed up, the Governor is going to appoint a commission of the citizens of this town to take this over and they are going to run it in accordance with their own judgment." I can hear some of them saying, "Are we going to have a chance to vote on it?" "Oh no, the legislature votes on it but there is no referendum in this bill." It is not like a charter which gives the people a chance to vote. The people have no chance to vote on it and so I say, "No, we don't have a chance to vote on it, the legislature has voted it and the Governor is going to appoint a commission of the people here in town and they are going to run it. They can run a potato business or a starch factory or a barber shop or any other business they see fit and we have nothing to say about it."

"Well, what are we going to do about the men who are going to manage it?"

"Nothing, the bill says the Governor shall appoint five men who shall be residents of that place, and there is nothing said about their qualifications, whether they shall be attorneys, business men, or what."

"Well, doesn't the town authority have anything to do with it?"

"No, the bill says that they shall 'consult', but I understand the amendment takes that off; they don't even have to consult with the town authorities."

Well, gentlemen, about that time, I would think that if I put such a piece of legislation over for the town of Caribou, I could never expect to run successfully for the Senate again. It seems to me that such a sweeping bill, regardless of the intention, goes far beyond any powers which this legislature should grant. I don't know why the state should legislate for the appointment of any such commission for any such purpose as that. We have too many commissions now. We don't want the state mingling in town or city affairs, if you please. Let the cities and towns manage their own affairs.

"Said corporation shall be managed by a board of five directors." Now they are directors, not a commission. The Governor appoints five directors, not holding any stock or being financially interested in any way; simply appointees by the Governor. "For a term of five years, except that in the first appointment, one director shall be appointed for one year, one for two years, one for three years, one for four years, and one for five years. Such directors shall elect or appoint such officers and agents as they shall determine are necessary for the transaction of the business of the corporation."

I can imagine when the Governor has appointed the first five and they say to him, "What are we going to do," he will say, "Well, go back home and do anything you wish, do anything you think is for the good of Portland; you won't have any interference from the town officials or anyone else, but you go down there and do what you think best for the city of Portland."

"The said corporation shall have the power to borrow money and issue notes, bonds, or other evidences of indebtedness, and secure the payment thereof by mortgage, pledge or assignment of its property, including any revenues derived therefrom or from the use thereof, but said corporation shall not have power to pledge the credit of any other than its own organization."

It is just a question that arises in my mind there as to whether, if this legislature passes this bill which provides for a Governor-appointed commission and the state appoints such a commission of five directors which is later a corporation and they do incur a debt and later on there is a loss, whether the state is not morally obligated,

even if they do disclaim any liability at the time. If we should pass this bill and the commission which later becomes a corporation should engage in the business of buying and selling and leasing of property and running whatever business in their judgment was to the best advantage of the city and if they should make a hundred thousand dollars and the next legislature, or some future legislature should dissolve it, as they would have a right to do if we set it up, what would become of the assets? Naturally they would revert to the state of Maine. And if that is the case isn't it also true that any debt that they might incur or any loss that they might have, that we also would be at least morally responsible and they would be coming before the legislature and asking the state to cover that indebtedness.

"The corporation shall have power to fix and receive by private contract or regularly established fees, revenue for the use, occupation or enjoyment of any of its property, and shall devote the same exclusively to the management, repair, replacement, construction, and reconstruction, purchase and general development of its property within the scope of its powers as herein defined, and shall render an account thereof annually to the Governor and Council."

Now, there is nothing said as to how much of that can be devoted to management. There is nothing said as to who is going to pay the bills. In talking this over with the introducer of this bill I understood there was no money involved. Is this commission going to serve for nothing, and if it isn't who is going to pay them? Evidently they expect to do some business. Otherwise why organize and make all these plans? There is nothing said as to who is going to pay their fees. They have a right to set their own fees or pay their own salaries and expenses. They report to the Governor and Council once a year. There is nothing said as to what authority the Governor and Council shall have over that commission, having once appointed it.

It seems to me, gentlemen, that that is the meaning of the bill. I have never seen one like it in the legislature even asking for such power, and I move that the bill be indefinitely postponed.

Mr. LEAVITT of Cumberland: Mr. President, I think we have seen in the last few minutes how a mountain can be built out of a mole-hill. We have tried to explain to the Senator from Aroostook, Senator Brown, that this bill is drawn for one purpose only. As everybody knows, the shipyards in the city of Portland are owned by the United States Maritime Commission or under lease by them. The procedure which is going to be adopted, or at least has been outlined by the Surplus Commodities Commission is that in the event that they find one of these yards or both of these yards surplus commodities there are three steps. First, any other government agency such as the Army or Navy can have them free. Second, if a state or city or municipality or quasi municipal corporation such as this one which we are trying to form wishes to take over the property they may do so under certain stipulations. The third is that the property must go at auction to the highest bidder.

It is conceivable that at the time the Maritime Commission finds this shipyard and the other facilities which are connected with it become a surplus commodity, that there will be nobody in the United States that wants to bid that yard in or the other facilities. The highest bidder that can be found may be somebody that wants what is there simply for junk. If it could be preserved and held intact for perhaps only a period of a year or two years it might be converted into a plant where we could have payrolls of five or six or seven thousand people which would be coming from the entire state of Maine as well as in Portland.

Last summer Ralph Brewster—or Owen Brewster—made several speeches throughout the State and when he was in Portland he told us about this proposition and he said what we should have was a quasi-municipal corporation set up in this state to take care of this situation.

Although my friend, the Senator from Aroostook, Senator Brown, has never seen any legislation comparable to this, the legislature of 1935 passed a bill almost identically like it, which I drew myself, with the help of Mr. Linnell, called the Portland Public Development Commission." There are reasons

why if we should have a post-war depression ten years from now, the Portland Public Development Commission could be used as it is. We came within an ace of getting six million dollars to build a civic recreation center in the city of Portland. Probably it was my own fault we didn't get the money because it was available, but we arrived about three days after the money was gone because of Maine's slowness and perhaps my own slowness. Anyway, we didn't get there quick enough.

Instead of taking that bill and revising it and changing the name to the Greater Portland Public Development Commission, we decided to put in a twin bill which is called the Greater Portland Public Development Commission.

In going into the dangers of this bill, I am reminded of a society not too long ago which went to the Coca Cola Company and tried to stop them from putting out such an obnoxious drink. They said there were drugs in it and all such things as that, and the Coca Cola Company made this statement, that there was as much hell in that bottle of coca cola as they could put in and make a profit and sell for five cents, which would not be much as drugs are so high.

There is no danger in this because there is no money attached to it. These five directors will serve for nothing because there are still some public spirited people in the city of Portland and South Portland. These men will serve for nothing and they will do nothing until after they have consulted necessarily with chambers of commerce, leading business men and city councils and other people who would be interested in such a venture. It simply is an organ which will allow the federal government to recognize it in allowing them to take over these properties.

Now gentlemen, if this is as dangerous as our friend from Aroostook, Senator Brown, makes out, I certainly do not want the bill to pass. But I have been advised by the legal gentlemen of our committee—of course, we will admit there are not too many lawyers in there and they have had to depend on some crackpots like myself—but nevertheless I have been advised by other lawyers even outside of the committee, that they can not find anything in here that is dangerous, and I certainly hope

that the motion of the Senator from Aroostook, Senator Brown, will not prevail.

The PRESIDENT: The question before the Senate is on the motion of the Senator from Aroostook, Senator Brown, that this bill be indefinitely postponed.

Mr. BROWN: Mr. President, as I sat here listening to the Senator from Cumberland, Senator Leavitt, whom I said in the first place, I credited with the best of intentions, I am reminded of the story of the little boy at his father's funeral. The man who had died had been a bad man and abused his family and licked his wife and got drunk and had not provided for his children, but as his family sat before the coffin and listened to the great words of praise from the minister who eulogized on and on concerning the virtues of the deceased, the widow said to the little boy, "Look in that coffin and see if that is your papa in there."

All I am asking is that you read the bill. I am not concerned primarily as to whether they intend to use any of these powers, but the powers are in there just as I have read them. If it is simply to do as Senator Leavitt has said, and I believe he is right as to his intention, why is it necessary to give this unlimited power to the city of Portland? Why can not they set up a commission or department themselves? Why does this board have to be appointed by the Governor? If they do not expect to use money why are they given that power to borrow money?

It is not the intention I am quarreling with, but it is the way it is set up and we are asked to pass this bill.

If, in 1939 they passed a similar one, I think it was my first term and I was a greenhorn in the House and didn't know much about what it was about, and I am going to say probably someone slipped it over on them.

I am not objecting to their having a corporation in Portland to do these things but I object to the way it is set up and the powers it grants.

The PRESIDENT: The question before the Senate is on the motion of the Senator from Aroostook, Senator Brown, that the bill be indefinitely postponed.

Mr. LEAVITT: Mr. President, I am wondering if the Senator from

Aroostook, Senator Brown, who is making objection, would be willing to have this bill recommitted to the Committee on Legal Affairs or even to the Judiciary Committee where they have more lawyers, and have it amended so that some of the objections which he is so afraid of, can be eliminated.

This bill is a very serious matter and we must have this legislation if things come about so that this large piece of property should be thrown on the market in Portland.

Besides reading the bill, if the Senator from Aroostook, Senator Brown, has read some editorials in the Portland papers and various articles, he will find the people in Portland want this piece of legislation. They feel it is very forward-looking and realize it is necessary. Senator Brown says he doubts if he could be re-elected in Aroostook if this passes. I am wondering if I can be re-elected if it doesn't, although I am not worrying about that particular thing for if I don't get elected it will be all right and perhaps the Senate will be better off.

This bill is a good one. I am not staking my reputation on it by any means, but I want to see it passed. If we can recommit it so Senator Brown's objections, and the objections of any other members of the Senate may be overcome, I am perfectly willing to have it done.

The amendment which was struck out I believe contained words which I thought would be better in there than out, but the legal fraternity and my own committee thought they were superfluous and took them out. I am willing they should go back, and willing to do any other thing that will guarantee that we shall do nothing that is illegitimate or illegal.

Before a vote is taken, I would like to ask Senator Brown, through the Chair, if he would be willing to consider such a proposition.

Mr. BROWN: Mr. President, I do say in reply to the Senator from Cumberland, Senator Leavitt, that of course I am willing to have this bill recommitted. I am not here to kill a bill the city of Portland wants, but I do oppose it in this form. If they can take it and can work out a bill that will accomplish their purpose without the objections which I have, I will withdraw my motion to indefinitely

postpone the bill,—if that is the proper motion. If we did indefinitely postpone it, it would put it beyond the possibility of amendment.

The PRESIDENT: The Chair will state it will be in order for the Senator to ask to withdraw his motion, if he cares to.

Mr. BROWN: Mr. President, I ask leave to withdraw my motion to indefinitely postpone this bill.

Thereupon, permission was granted Senator Brown to withdraw the motion to indefinitely postpone the bill, in non-concurrence.

Mr. DOW of Oxford: Mr. President, the Senator from Cumberland, Senator Leavitt, paid the Judiciary Committee a compliment by wanting to send this bill to the Judiciary Committee. I wish to say we will take anything that is sent to us but I want to call the Senators' attention to the fact that we are meeting after this morning's session trying to arrange hearings not later than August 15th so we can get home by Labor Day. They should bear this in mind if they send this bill to the Committee on Judiciary.

The PRESIDENT: The pending question is on the adoption of Committee Amendment "A" in concurrence.

Upon motion by Mr. Brown of Aroostook, the bill was laid upon the table pending adoption of Committee Amendment "A" in concurrence, and tomorrow assigned.

On motion by Mr. Brown of Aroostook, the Senate voted to take from the table, Resolve Authorizing Kennebec Towage Company to Bring Suit at Law against the State of Maine (H. P. 331) (L. D. 146), tabled by that Senator on March 2nd pending consideration.

Mr. BROWN of Aroostook: Mr. President, it would seem that I am opposed to about everything here in the legislature, and it reminds me when I first came to the legislature my predecessor told me if I voted against every measure that came before the legislature, I would be right half of the time, which perhaps would be a better average than I would make if I picked out several bills.

This bill authorizing the Kennebec Towage Company to bring suit at law against the State of Maine—I am not going to argue against it so much because if the people of

this legislature think they want them to do it or it would be a proper thing to do, I am not entirely opposed to it, but I am opposed to House Amendment "A".

In the first place, on general principles I am opposed to the bill allowing the Kennebec Towage Company to sue the State of Maine. A great many people throughout the State—I won't say legislators—do not understand perhaps this matter of procedure necessary to go through in order for any company to sue the State of Maine. Very properly you can not sue the State of Maine unless you gain permission from the legislature, otherwise the State would be involved in suits of all kinds, asking all kinds of damages. The legislature has set up a Claims Committee and anyone having a grievance against the State of Maine, in which they think they have been damaged, may come before that committee and they have all right to an unbiased hearing and can call as many witnesses as they want to and take all the time they need to lay their case before the committee. I think in the years I have been in the legislature we have had very fair Claims Committees. In many cases they have been generous, in my judgment, which may not be good as I didn't sit on the committee,—but sometimes I have thought their allowance was excessive.

This comes before the Claims Committee, made up of ten men and they listen fairly and honestly and they decide, and the legislature follows their recommendations. In two previous sessions they considered they didn't have a case and they threw it out. In this case they now come to the legislature and ask permission to sue the State.

This was a case where the tow-boat going down the river ran into an abutment in a bridge. Those abutments were properly there. In the first place they had to be approved and located by the War Department in Washington because there is a bridge across the tide-water of a navigable stream, and the tow-boat ran against the abutment and the tow-boat was sunk, and they claim the State is liable.

To my mind I would compare it to driving on the highway in my automobile and when I came to an overpass, through some fault of

mine or carelessness I misjudged the nearness of the abutment and ran into the overpass and stove up my car and then asked the State to pay for it because the abutment was there.

This would allow the setting up of a precedent. In all the years I have been in the legislature we have not permitted a company to sue the State, and rarely is it done. We have another bill coming along in which another company is asking permission to sue the State; and I am wondering if we are going to make the actions of the Claims Committee null and void by allowing persons who have been turned down by the Committee to sue the State and thereby incur expense to the State in defending the suit and possibly do an injury to the person bringing the suit because they have had to pay more lawyers and court fees and then in the end, be thrown out.

I am especially opposed to House Amendment "A". That amendment provides if they recover from the State, which I do not think there is much chance but that is neither here nor there, it shall be taken from the Highway Department. Be that as it may, we have a Constitutional amendment which especially provides certain things the money can be paid for, the money for gasoline, and those certain things are incorporated in the bill. Any payment for any other purpose which is not incorporated in the bill is a diversion of highway funds, and I wonder what position they would be in if they sued and recovered and then demanded of the Highway Department that they pay the bills and the Highway Department said, "We can not pay because there is a Constitutional amendment which says we can not use it for that purpose."

I am going to first move the indefinite postponement of the bill. If you don't accept my motion and you think the company should be given the right to sue, I am not going to feel bad. If you turn down my motion to indefinitely postpone, I will make a motion which will attempt to throw out House Amendment "A".

THE PRESIDENT: The Chair will state for the information of the Senate that the bill was passed to be engrossed in both branches, and comes from the House, they having

reconsidered their action whereby it was passed to be engrossed, and adopted House Amendment "A" and passed to be engrossed in non-concurrence.

Mr. BISHOP of Sagadahoc: Mr. President, I would like to feel that we still live within a democracy. I have no particular interest in this measure but if this law is such that a person who feels he has a just claim is not permitted to press that claim then we are setting up something of a closed shop. Now whether or not this case has merit I am not arguing but I feel that if they feel that they have a case and they want to go to the extent of trying that case, they should have a right to do so. And if our Claims Committee, made up of able gentlemen I will agree, were not in a position to properly judge the case, have made a decision with which the person concerned is not satisfied, I believe he has a right to further action. I hope the motion of the Senator from Aroostook (Senator Brown) does not prevail.

Mr. DOW of Oxford: Mr. President and members of the Senate, this bill was heard before the Judiciary Committee and we spent considerable time on it. I think the situation that existed the day this accident took place was clearly explained to us. I agree with what my good friend, Senator Brown says, that they have been before the Claims committee on two separate occasions. Probably that is correct. I think the Judiciary Committee decided in this particular case, rightly or wrongly—that is for you to decide—that here was a company which is a reputable, tax-paying company, composed of citizens of the state of Maine, who feel that they have been hurt. They cast no reflections on any committee that they have appeared before, but having appeared before one of the two courts from which they might get help and not having obtained it they still feel there is another court to which they may appeal and if their appeal before that court is turned down I don't know where they can go, but they do seem to want the right to appear before that court.

Not speaking for the Judiciary Committee but for myself, it seems to me that this is a fair point of view, to allow these people to come before the other court, present their case and see whether they were

wrong, or whether they were right and if they were right whether they are entitled to damages.

I think the testimony before the Committee would not substantiate the parallel that Senator Brown offered where he talked about driving through an overpass and hitting one of the abutments because in this particular case, if my memory is correct, the particular obstruction they met with that day was under the water. We did ask in the committee if that man had made that run before and they said that he had, two years as Mate and one year as Captain but that he was relying on certain markers showing the safe passage and one of those having been moved he got over beyond the place that was supposed to be safe, having failed to find the marker in the water, and this accident occurred.

I have the feeling that had not this House Amendment to take the money of any recovery from the general highway fund been put on, I have a feeling that if it hadn't been put on there would be no objection to allowing these people to go to court.

Now, it seems to me it is rather a trivial matter to stop these people from going to court because you question as to who is going to pay the bill. I don't care where the money comes from, if they are entitled to it and the Court says so, but I agree with Senator Brown in that I don't think the money should come from the highway fund and the committee did not report it out that way but I don't like to see the bill turned down just because of that.

I make these remarks to explain the action of the committee in reporting the bill as they did and I hope the motion does not prevail. If the Senator gets around to making his motion on the amendment he and I will be together on it.

The PRESIDENT: The question before the Senate is on the motion of the Senator from Aroostook, Senator Brown, that the resolve be indefinitely postponed.

Mr. LEAVITT of Cumberland: Mr. President, I dislike to rise again this morning but I agree with Senator Brown that the amendment shouldn't be on the bill but I also want to call to the attention of the Senate that the Admiralty Law is not the same as the laws that rule the road such as the "horse and

buggy laws." The Admiralty Law is an entirely different field and the ruling in Admiralty Law in this case might give an entirely different interpretation than that which the Claims committee in this legislature, composed of laymen, would give. I do hope that the Kennebec Towing Company, in which I have no interest whatever, will be given the right to sue and I hope that the motion of the Senator from Aroostook (Senator Brown) does not prevail.

The PRESIDENT: The question before the Senate is on the motion of the Senator from Aroostook, Senator Brown that this resolve be indefinitely postponed.

A viva voce vote being had,

The motion to indefinitely postpone did not prevail.

Mr. BROWN: Mr. President, I am not greatly disappointed over that vote. I am particularly concerned about the amendment and as we pass the bill to be engrossed without the amendment I move that we insist on our former action and ask for a Committee of Conference.

The motion to insist prevailed.

From the House, out of order and under suspension of the rules:

The Committee on Legal Affairs on Bill "An Act to Provide a Town Manager Form of Government for the Town of Van Buren," (H. P. 529) (L. D. 210) reported that the same ought to pass.

The same Committee on Bill "An Act to Provide a Town Council and Manager Form of Government for the Town of Fort Kent, in the County of Aroostook," (H. P. 655) (L. D. 265) reported that the same ought to pass.

The same Committee on Bill "An Act to Amend the Charter of the Town of Fort Fairfield," (H. P. 732) (L. D. 401) reported that the same ought to pass.

Which reports were severally read and adopted in concurrence and the bills read once.

Thereupon, the rules were suspended and the bills were severally read a second time and passed to be engrossed.

Sent down for concurrence.

On motion by Mr. McKusick of Piscataquis

Adjourned until tomorrow morning at ten o'clock.