

# 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 21, 1945.

The Senate was called to order by the President.

Prayer by the Reverend Weston Holman of Hallowell.

Journal of yesterday read and approved.

Mr. MORRILL of Cumberland: Mr. President, out of order, and with the unanimous consent of the members, if there be no objection, I would like to address the Senate briefly.

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

Mr. MORRILL: Mr. President and gentlemen, I feel moved to explain the somewhat colorful display on your desks this morning and to explain that this is not only the first day of spring, but quite a festive day for Cumberland County. We have taken it upon ourselves to invite the Governor and Council, the members of the legislature and the department heads and their wives to a dance tonight and we feel it a privilege to entertain you in this way.

For some reason I was elected a committee of one by the delegation to see if I could find a product which was native to Cumberland County. Why, I don't know. After much deliberation and thought, it came to my mind that oven baked beans might fit into that picture. I feel apologetic that we do not have three cans of beans on your desks this morning instead of one. Mr. John Baxter of H. C. Baxter and Bros. and Mr. Soule of the Monmouth Canning Company found themselves in the embarrassing position of not having baked beans on hand and I mention them in order that they may not feel slighted.

During the past few weeks, members of our delegation and other members of the legislature have received apples, well-polished, and potatoes dug with a will and purpose, and we have survived the winter. The vitamins, carbohydrates and starches in these products have kept up our strength and I hope that now that spring

has finally come, these beans will carry you through to the end of the session. However, to assure the success of our measure, we thought it would be wise to give you a little something else, so we added a jar of corn relish which we believe is native to Cumberland County. We hope you will enjoy it. Thank you.

## House Committee Reports

The Committee on Agriculture on Bill "An Act to Provide a Tonnage Tax on Commercial Fertilizer," (H. P. 1116) (L. D. 668) reported the same in a new draft (H. P. 1338) (L. D. 989) under the same title, and that it ought to pass.

Comes from the House, the report read and accepted, and the bill read twice, and subsequently recommitted to the Committee on Agriculture.

In the Senate, recommitted to the Committee on Agriculture in concurrence.

The Committee on Sea and Shore Fisheries on Bill "An Act Relating to Bounty on Seals," (H. P. 1218) (L. D. 768) reported the same in a new draft (H. P. 1337) (L. D. 986) under the same title, and that it ought to pass.

Comes from the House, report read and accepted, and the bill in new draft recommitted to the Committee on Sea and Shore Fisheries.

In the Senate, on motion by Mr. Noyes of Hancock, recommitted to the Committee on Sea and Shore Fisheries in concurrence.

The Committee on Military Affairs on "Resolve in Favor of the National Guard Association," (H. P. 1087) (L. D. 777) reported that the same ought to pass.

The Committee on Public Utilities on Bill "An Act to Incorporate the Clinton Water District," (H. P. 671) (L. D. 321) reported that the same ought to pass.

The same Committee on Bill "An Act to Extend the Charter of the Patten Water and Power Company," (H. P. 1217) (L. D. 767) reported that the same ought to pass.

The Committee on State Lands and Forest Preservation on "Resolve Authorizing the Forest Commissioner to Convey Certain Interest of the State in Lands in Oxford County to Fred L. Edwards, of Bethel,"

(H. P. 1007) (L. D. 555) reported that the same ought to pass.

(On motion by Mr. Sterling of Somerset, tabled pending assignment for second reading.)

The same Committee on Bill "An Act Relating to the Prevention of Forest Fires," (H. P. 1006) (L. D. 552) reported that the same ought to pass.

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

The same Committee on "Resolve Authorizing the Forest Commissioner to Convey Certain Interest of the State in Lands in Oxford County to Harland B. Kimball, of West Bethel," (H. P. 742) (L. D. 410) reported that the same ought to pass.

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

Thereupon, Mr. Sterling of Somerset offered Senate Amendment A and moved its adoption:

"Senate Amendment A to H. P. 742, L. D. 410, Amend said Resolve by adding at the end thereof before the period, the following: 'for the sum of \$187.72.'"

Which amendment was adopted, the resolve read once and tomorrow assigned for second reading.

The same Committee on "Resolve Authorizing Conveyance of the Interest of the State in Certain Land in Albany Township," (H. P. 1097) (L. D. 784) reported that the same ought to pass.

(On motion by Mr. Sterling of Somerset tabled pending consideration of the report.)

The same Committee on "Resolve Authorizing the Forest Commissioner to Convey Certain Interest of the State in Lands in Piscataquis County to Bertha M. Blanchard of Greenville," (H. P. 1294) (L. D. 940) reported that the same ought to pass.

The Committee on Ways and Bridges on "Bill "An Act Permitting the Highway Commission to Provide for Proper Traffic Control Signals, etc.," (H. P. 872) (L. D. 514) reported that the same ought to pass.

The same Committee on Bill "An Act Relating to Returns by Highway Commission to Municipal Officers," (H. P. 864) (L. D. 517) re-

ported that the same ought to pass.

The same Committee on Bill "An Act Relating to Assessments in De-organized Towns in re Highways," (H. P. 865) (L. D. 518) reported that the same ought to pass.

The same Committee on Bill "An Act Permitting Assessment of Taxes in Towns for Highway Purposes," (H. P. 866) (L. D. 519) reported that the same ought to pass.

The same Committee on Bill "An Act Providing for Installation of Certain Culverts on Highways," (H. P. 868) (L. D. 511) reported that the same ought to pass.

The same Committee on Bill "An Act Relating to Roads in Indian Township," (H. P. 869) (L. D. 520) reported that the same ought to pass.

The same Committee on Bill "An Act Relating to Using Bond Issue Funds to Match Federal Funds for Highway and Bridge Projects," (H. P. 870) (L. D. 512) reported that the same ought to pass.

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

The Committee on Sea and Shore Fisheries on "Resolve Relating to Dipping of Alewives in Machias River," (H. P. 1005) (L. D. 554) reported the same in a new draft (H. P. 1336) (L. D. 987) 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 State Lands and Forest Preservation on Bill "An Act Authorizing the Conveyance of 'Greenleaf Cemetery Lot' to the 'Milton Plantation Cemetery Association'," (H. P. 21) (L. D. 10) reported that the same ought to pass as amended by Committee Amendment "A."

The Committee on Agriculture on Bill "An Act Imposing a Tax on Sweet Corn for the Suppression of the European Corn Borer," (H. P. 1135) (L. D. 693) reported that the same ought to pass as amended by Committee Amendment "A."

The Committee on Legal Affairs on Bill "An Act Relating to Acquiring of Wharf by City of Rock-

land," (H. P. 1080) (L. D. 773) reported that the same ought to pass as amended by Committee Amendment "A."

Which reports were severally read and adopted in concurrence, and the bills read once; Committee Amendments "A" were read and adopted in concurrence; and the bills as amended were tomorrow assigned for second reading.

The Committee on Ways and Bridges on Bill "An Act Authorizing the Highway Commission to Enter upon Lands for Certain Purposes," (H. P. 873) (L. D. 521) reported that the same ought to pass as amended by Committee Amendment "A."

(On motion by Mr. Dow of Oxford tabled pending assignment for second reading.)

**Communication:**

State of Maine  
House of Representatives  
Office of the Clerk  
Augusta

March 20, 1945.

Honorable Chester T. Winslow,  
Secretary of the Senate,  
of the 92nd Legislature.  
Sir:

The House today receded and concurred with the Senate in passing to be engrossed without amendment;

"Resolve Authorizing Kennebec Towage Company to Bring Suit at Law Against the State of Maine." (H. P. 331) (L. D. 146)

Respectfully,

HARVEY R. PEASE

Clerk of the House.

Which communication was read and ordered placed on file.

**First Reading of a Printed Bill**

Bill "An Act Relating to Diverting Water by Canals for Mills." (S. P. 387) (L. D. 988)

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

**Senate Committee Reports**

Mr. Clements from the Committee on State Lands and Forest Preservation on "Resolve Providing for a Special Interim Commission for the Study of Growing Wood and Timber and Measures to Conserve

and Increase the Forest and Water Resources of the State," (S. P. 294) (L. D. 717) reported that the same ought not to pass.

On motion by Mr. Morrill of Cumberland, tabled pending consideration of the report.

Mr. Townsend from the Committee on Public Health on Bill "An Act Relating to the Registration of Nurses," (S. P. 80) (L. D. 74) 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 A to S. P. 80, L. D. 74, bill An Act Relating to the Registration of Nurses.

"Amend said bill by striking out the underlined word 'and' in the 7th line of section 10 thereof."

Which amendment was adopted and the bill as so amended tomorrow assigned for second reading.

**Passed to be Engrossed**

Bill "An Act Relating to Ferry Between Indian Island and Old Town." (H. P. 319) (L. D. 141)

Bill "An Act Authorizing the Governor to Appoint Special Officers to Enforce Police Regulations Among the Indian Tribes of the State." (H. P. 320) (L. D. 142)

Bill "An Act Relating to Insurance for Children by Fraternal Beneficiary Societies." (H. P. 341) (L. D. 119)

Bill "An Act Amending the Unemployment Compensation Law as to Charges Against Employers' Experience Rating Records." (H. P. 948) (L. D. 604)

Bill "An Act Amending the Unemployment Compensation Law as to Filing Pay Roll Reports and Penalty." (H. P. 949) (L. D. 605)

Bill, An Act Amending the Unemployment Compensation Act as to Employer's Experience Rating Classification (H. P. 950) (L. D. 606)

Bill "An Act Amending the Unemployment Compensation Act as to Employer Coverage." (H. P. 1242) (L. D. 866)

(On motion by Mr. Boucher of Androscoggin, tabled pending passage to be engrossed in concurrence.)

Bill "An Act Relating to the Audit of the Department of Education and the Teachers' Retirement System." (S. P. 193) (L. D. 488)

Bill "An Act to Accomplish Conformity to State School Building Standards." (S. P. 197) (L. D. 487)

Bill "An Act Relating to Preference in State Employment for Veterans." (S. P. 249) (L. D. 635)

(On motion by Miss Clough of Penobscot, tabled pending passage to be engrossed)

Bill "An Act Relating to Compromise of Claims." (S. P. 385) (L. D. 985)

Bill "An Act Relating to Animal Husbandry." (S. P. 233) (L. D. 651)

(On motion by Mr. Cross of Kennebec, tabled pending passage to be engrossed.)

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

Sent down for concurrence.

#### Orders of the Day

The President laid before the Senate, bill An Act Relating to Re-enactment of Law Dealing with Un-expanded Appropriations (S. P. 190) (L. D. 491), which had been recalled from the Governor.

Upon motion by Mr. Owen of Kennebec, under suspension of the rules, the Senate voted to reconsider its former action whereby the bill was passed to be enacted, and upon further motion by the same Senator, the Senate voted to reconsider its action whereby the bill was passed to be engrossed.

Thereupon, on motion by the same Senator, the bill was laid upon the table pending passage to be engrossed.

Mr. WELCH of Aroostook: Mr. President, I would like to inquire if Legislative Document No. 901, An Act to Increase State Aid to Towns for the Support of Schools to Establish Minimum Salaries for Teachers, is in the possession of the Senate?

The PRESIDENT: The Chair will state that Legislative Document No. 901 is in the possession of the Senate, having been held by the request of the Senator from Aroostook, Senator Welch, for reconsideration.

Thereupon, on motion by Mr. Welch of Aroostook, the Senate voted to reconsider its action whereby the bill was passed to be engrossed; and that Senator offered Senate Amendment "A" and moved its adoption:

"Senate Amendment 'A' to H. P. 1268, L. D. 901, Bill, An Act to In-

crease State Aid to Towns for the Support of Schools to Establish Minimum Salaries for Teachers. Amend said bill by inserting after the figures '204' and before the period, in the 27th line thereof (30th line of the bill as printed), the following words: ' provided, however, that no town shall be apportioned more than \$100 for any teaching position for which the town pays an annual salary of less than \$1,000.'"

Upon motion by Mr. Noyes of Hancock, the bill was laid upon the table pending adoption of Senate Amendment "A".

Upon motion by Mr. Boucher of Androscoggin, the Senate voted to take from the table, Bill, An Act to Regulate the Practice of Architecture and to Create a Board to Provide for Examination and Registration of Architects (S. P. 103) (L. D. 178) tabled by that Senator on March 1st pending passage to be engrossed.

Mr. BOUCHER of Androscoggin: Mr. President, I now yield to the Senator from Cumberland, Senator Leavitt, who, I understand will offer an amendment on this.

Mr. LEAVITT of Cumberland: Mr. President, there has been a great deal of discussion on this bill and to meet some of the objections which have been voiced, a very extensive amendment has been drawn and I move that Senate Amendment "A" be adopted, but prior to its adoption I would like to have it printed or reproduced and placed on the desks of the members so that they can see exactly what the purpose of the amendment is.

Thereupon, that Senator presented Senate Amendment "A"; and on motion by the same Senator the bill and amendment were laid upon the table pending adoption of the amendment; printing of the amendment ordered.

Upon motion by Mr. Brown of Aroostook, the Senate voted to take from the table, Bill, An Act Relating to Transfer of Inmates from the Reformatory for Men to the State Prison and the State School for Boys (S. P. 139) (L. D. 344) tabled by that Senator on March 16th pending acceptance of the Majority Report.

Mr. BROWN of Aroostook: Mr. President, for the benefit of those

not here Friday I would say we started a discussion on this bill, and the acceptance of the report, but owing to the fact there were so many absent I had the matter tabled. Since that time I have given the matter a little thought and I am opposed to the adoption of the majority report, "Ought to Pass". I recognize fully the good motives which are behind this bill and those motives will be explained to you, I am certain, but it seems to me this bill is setting a very dangerous precedent. It proposes, in effect, that after having been sentenced to the Reformatory, the person in charge of that Reformatory shall have the right to send him to State Prison without any further hearing or without any further legal proceedings. Not being a lawyer, I can not go into all the ramifications that may arise from this situation but it seems to me it is over-riding or over-ruling or setting aside the verdict of a judge.

They will tell you some hardened criminals get into the State Reformatory and the superintendent has no method of dealing with them and if they are incorrigible he should have the right to send them the State Prison. It was also argued the other day that the judge had no right to take into consideration the past record of a man and past convictions were not taken into consideration and sometimes men with prison records were sent to the State Reformatory.

I believe it is a regular method of legal procedure that during a trial before a jury no evidence is allowed which is not pertinent to the case which has to do with the past record of the criminal, but having been found guilty the judge has almost every latitude you can imagine as to making sentence, both as to length of time the criminal shall serve, and also whether he shall go to the Reformatory or the State Prison, and before passing sentence it is the customary procedure in all cases to ask the defendant what he has to say for himself and usually his attorney, who may have been appointed to represent him, makes a plea in his behalf for mercy, and usually the State's attorney is asked if he has anything to say, and he very properly puts before the judge the record of the man and the judge does take it into consideration in passing the verdict.

There is a vast difference be-

tween sending to the Reformatory and to State's Prison. The reformatory is just what it means—a corrective institution, attempting to reform the inmate, and the superintendent in charge very humanly likes to make a good record for his institution. They say there is nothing they can do in the reformatory to curb their inmates but I think we recently constructed two cells for the purpose of locking up incorrigible inmates, and it seems to me in dealing with this class, as in your home towns and in schools, a certain amount of discipline is necessary and it can not be run the same as you would a Sunday school where everything is all sunshine and light and good moral habits are encouraged. I contend the superintendent of the institution has the right to lock the person up and if he continues to be incorrigible, keep him locked up.

If you give this power to the superintendent of the Reformatory he may immediately—it doesn't say any length of time he has to be there to prove he is incorrigible—but if he doesn't like his looks when he first enters the institution—and many boys and men feel they have been more or less wronged and will be belligerent—he can immediately send him to State's prison, which is a direct overriding of the judge's sentence; and I do not believe any man in any institution should have the right to overthrow the sentence of the judge or set aside the sentence imposed by the judge. It seems to me we are opening up a very dangerous matter here and I think we should give it careful consideration.

If you had a man as head of the institution who wanted to make a good record for himself, and also if you had a man who was inclined to be on the lazy side, he might get rid of all the men under his charge and send them to State Prison. It seems to me if wrong is being done under the present procedure, there should be a way, and I believe there is a way, of petitioning the judge or some judge for a change in sentence. I do not think this is good legislation and I do not think it should pass.

Mr. LEAVITT of Cumberland: Mr. President, I hesitate to get up again today but it seems that several matters I am interested in are coming off the table in quick succession. I am not trying to im-

pose myself nor do I think that I am the only person here who can speak, but this bill was given to me by the Commissioner of Institutions after the committee, of which I am a member, visited the institution and talked the matter over very carefully with the superintendent, and this bill was considered very carefully before it was presented.

Senator Brown of Aroostook just stated there should be some way to handle this situation. I think he admits there is a situation there that should be handled. The only excuse "I feel you should do this thing but I do not care for the method which you take" has killed more legislation than any other excuse in the world. This apparently is the only solution to the situation. It is adopted by the federal government and they transfer prisoners from one institution to another with regard to whether they are incorrigibles or otherwise. A great many states have this law.

The Senator from Aroostook, Senator Brown, states that this commissioner or this superintendent, to make a good record for himself, might want to transfer a boy who he felt was a little bit incorrigible, to State's prison. I know this is not the reason for the bill. He is not trying to make a good record, but he is trying to run the reformatory. He is trying to run an institution where the boys can be improved. At the present moment at this reformatory, unless the matter has been corrected very recently, we have a man who has served a complete sentence at McNeil, which is the second most severe reformatory or jail of the federal government, Alcatraz being first in order. This man being so incorrigible at McNeil, they sent him to a psychopathic hospital in Ohio, where he finally finished his sentence. Subsequently he was back up here on a simple charge and was sent to the reformatory. This man is not an incorrigible prisoner. He is not striking every guard he sees and not disobeying rules and regulations to a certain extent, but how can you reform a group of boys 17, 18 and 19 years old when you have among them a man who has had experience in a federal penitentiary and other state penitentiaries who knows all the rules and can teach these boys how to be hardened criminals when they come out? A man like that is a psychological

danger to every boy in that reformatory.

Since the present superintendent has been in the reformatory, five years, there have been six cases he would have liked to invoke this particular rule on, or this particular piece of legislation which we are now trying to pass. Only one of these six men was transferred and he was transferred because he struck one of the officers at the reformatory and the law now allows the transfer of men if they strike the officers. The other five men served sentences at the reformatory and went back into civil life and those five men now have been picked up and are in Thomaston because of the fact they were the type of men who apparently have criminal tendencies and they were men who should never be allowed in the reformatory and would not have been if the judge had known of the type of men that he was sentencing.

This is a good law, I believe, and I do hope it passes, and I believe if the Senator from Aroostook, Senator Brown, had spent much time at the institution and knew its operation, he would agree with me in this.

**THE PRESIDENT:** The question before the Senate is on the motion of the Senator from Penobscot, Senator Clough, to adopt the majority "ought to pass" report of the committee.

**Mr. DOW of Oxford:** Mr. President and Members of the Senate, when this bill came up last Friday the Senator from Aroostook, Senator Brown moved, because there were a number of absentees, that it be left until this week. At that time I explained why I signed the minority report and the reasons I gave are contained in the remarks just made by the Senator from Aroostook, Senator Brown. I wanted to make those remarks so the Senators would know what happened and why I signed the minority report. Senator Brown has pretty well covered the objections I had to the bill when I signed the minority report.

**Miss CLOUGH of Pennobscot:** Mr. President and Members of the Senate, I tried briefly last Friday to cover the merits of the bill and I shall be happy, with your indulgence, to go over it again because I believe it is a good bill and I want to do all in my power to help it to pass.



The present law provides that incorrigible inmates of the Reformatory can be sentenced to the Maine State Prison. After a complaint is filed before a Municipal Court in Cumberland County, the inmate is bound over to the next term of Superior Court, and he pleads guilty or is found guilty of being an incorrigible. It is a very cumbersome process.

The proposed law would permit the direct transfer of an incorrigible inmate from the Reformatory to the Prison upon the recommendation of the Superintendent with the approval of the Commissioner of Institutional Service. It would be employed only, I believe, with the greatest discretion.

Philosophically, the difference between the present and the proposed law is worth noting. Under the present law the conviction in the Superior Court is for a felony and the sentence is to the State Prison. The inmate is being punished because he is incorrigible. Under the proposed law the sentence remains the same—the change is in custody and not in criminal status. I think it is a very important point. It is a disciplinary thing. The incorrigible is transferred to the State Prison not as punishment but for his own protection, the good of the majority of the Reformatory population and eventually the good of society in general. Now, the thought behind the transfer law is not punishment, but placement in an institution better equipped and designed to handle a special type of inmate. Incorrigibility is not a crime and should not be treated as such within an institution; it is a problem of placement.

Transfer between institutions is an integral part of the Federal prison system. For incorrigibles or dangerous men sent to its various prisons by the Federal Courts the Federal Prison system maintains Alcatraz, a purely transfer prison to which no person is sentenced. While Alcatraz is the final place of detention for the incorrigible in the Federal system the transfer principle works throughout the system. We don't have exact information as to how many states have legislation similar to this but I dare say a preponderant number have it. I told you the other day of those I knew about, which are Connecticut, Kansas, Massachusetts, Minnesota, New York, Ohio, Rhode

Island, Wisconsin, Wyoming and I believe several others.

Now, as has been pointed out today, the State of Maine maintains two institutions for the confinement of adult males. They are the State Prison and the State Reformatory for Men. By design and in their programs they vary in many respects. The Prison is a standard custodial institution, the Reformatory an open type medium security correctional institution, non-regimented, unwalled, without cells save for isolation, and with an unarmed personnel. There is only one other reformatory of this type in the country at the present time. The job of the superintendent and officials is to train and rehabilitate the men sent there for correction. The Reformatory receives males between the ages of 16 and 36 for felonies, misdemeanors and by transfer from the State School for Boys. We discovered some 69% of the inmates are received from Superior Courts for crimes for which they could have been sent to the State Prison. Many of the misdemeanor commitments have previous felony convictions and occasionally an inmate is committed who has previously been an inmate of a State or Federal penitentiary. Within the past five years the most glaring example of misplacement of a felon was in the case of a 33 year old sodomist who had served a five year sentence in a Federal penitentiary for sodomy and upon conviction for the same offense in Maine was sentenced to the Reformatory. Needless to say this man was out of place in an open type, dormitory system, yet he had to be held for lack of any law which would permit his removal to a custodial institution.

The proposed law would permit transfer of inmates of the above description, of which there have been several in the past five years. It would enable the Superintendent and the Department to properly place the purely custodial, incorrigible Reformatory inmate in our only State institution of maximum custody—the State Prison.

To maintain the Reformatory principle an open-type medium security program must be maintained for all the inmates; it can not be a prison and a reformatory. The quick removal of the incorrigible or the strictly custodial case is the only known method whereby mo-

rale can be maintained on a Reformatory level.

The proposed law is designed to answer two actual cases now puzzling the administration. On March 15, 1945 two inmates ran away from their farm jobs and were apprehended in Portland within seven hours and returned to the institution and placed in isolation. They must serve additional time for their escape. They now insist that they will not serve it, they will not work, and that they will cause all the trouble they can while at the institution. The problem is simply this. Prior to escape the men maintained good conduct records. This is their first term in a State institution and they are there for misdemeanors.

If, after their period of isolation, these men can behave themselves under our system and participate in our program they should remain in the Reformatory, but if, because of their mentality and perennality defects they become constant escape risks, refuse to work and are abusive to officers and inmates they should be transferred to the Prison for their own good and for the protection of the community.

As for the second part of the bill, which I didn't go into the other day, it would permit that inmates of the reformatory be sent to the State School for Boys or transferred to that school under certain circumstances. I want to say this. It may be necessary to transfer boys from the Reformatory to the State School for Boys where they may continue their school work which otherwise would be interrupted.

I have gone into the bill at some length. I believe it is a good bill, as I have said. I believe we should uphold those we have given the responsibility of carrying out that program which the people of Maine intend in the training and rehabilitation of those sentenced to the Reformatory.

I hope my motion to adopt the majority report of the committee, "Ought to Pass" will prevail, for the reasons I have tried to state.

Mr. SMITH of Knox: Mr. President, when the vote is taken I ask for a division.

Mr. DUNBAR of Washington: Mr. President and members of the Senate, being the other lawyer on the Judiciary Committee who signed the Majority Report "Ought to pass," I feel that perhaps I should

say just a word as to why I signed that report. If you will notice the title of this bill, you will see that it relates to the incorrigible inmates of the Reformatory for Men, giving to the superintendent, or whatever his title may be, of that institution the right to transfer men who get into that institution who shouldn't be there, or if they can't handle them there, as I understand it. I have only been at the institution once but I believe it is more like a farm than a penal institution. It is open and any inmate can walk away at any time he wants to provided some guard does not see and intercept him. The purpose of sending men to the institution, as I understand it, is to try if possible, if there is any good left in the persons, to reform them so they may become good citizens and if they are sent to an institution of this kind and disobey the rules or they cannot properly handle them in the institution, if they are running away, if they are beating up the guards, you are certainly not reforming them.

In addition to that they are not a good influence for the other inmates there who perhaps would like to be reformed, and it is for that reason that the superintendent of this institution would like to have the right to transfer to the State Prison such types of men.

Now as Senator Brown has pointed out, he believes it to be true but it isn't true — not that he intends to make a mis-statement of fact but he, not being a lawyer, doesn't spend the greater part of his time in court — there are many men who come before the judge of the court who are not represented by counsel. Usually that type of person, if they are represented by counsel, it is a case where the judge appoints some attorney to represent them free of charge, which we have to do in many of our counties. So it is possible for that type of man who is not represented by counsel not to give the true facts to the Court. He may be a bad scamp who has come in to the state from outside of our state where we have no knowledge of what he has done before, and he doesn't tell the Judge what the true circumstances are and whether or not he has a prison record, and he looks pretty good and he knows how to talk and has had the experience, and he fools the Judge and the Judge thinks there may be something to him and so he gives him a chance by send-

ing him, not to the State Prison but to a reformatory, and then when he gets down there he has the experience of a man who has been to the State Prison and knows what to do and he starts in undermining the morale of the institution.

Now, as Senator Clough has said, they can go before a municipal court in Portland, enter a complaint and when the next term of Court meets, get an indictment, and if he is convicted or pleads guilty he is sent to the State Prison. But that all takes time and during that time he is upsetting the morale of the institution. He is either leaving it or beating up the guards or doing something else, and he is the boss, he has taken charge, and you have got to wait until Court meets to take care of such a person as that.

That is what led me to believe that this was a good bill and I don't believe the institution as it is now being run will want to send anybody to Thomaston if there is any chance of reforming him at the institution, and if he behaves himself. I think the situation has changed considerably at the Reformatory since the new management has come in but I have seen prisoners come before a Judge, even persons that I had represented, and they have asked the Judge as part of the trade for pleading guilty, they say to their attorney, "Yes, I will plead guilty but for heaven's sake don't let the Judge send me to the Reformatory; I want to go to the State Prison."

I know there are lawyers who have had that experience and I know that Senator Dow will agree with me on that. I have represented men before Court who have made that request of me. That is not true at the present time. So it is not the fear of degradation, so to speak, that is to be considered in sending a man from the reformatory to the State Prison. You are only getting him into an institution where he can be handled and handled properly and, as has been said, we have the right of transfer in our federal government and we have it in many states, and I see no reason why we shouldn't have it here. We ought to have it here.

It may interest you to know, no one has brought up the point, but at the present time we already have on our statute books the right to transfer boys from the State School for Boys to the Reformatory for

Men. I don't know when that law was passed but that is the law of this State and we haven't heard of that right being abused. That is, in the case of boys who couldn't be properly taken care of and who were of the proper age, over seventeen, where they ought to go and get some better training, a little more restraint on them, where they could be handled, and they have been transferred to the Reformatory for Men. That is the law now.

It is true, as Senator Clough has stated, that sometimes you get a boy in the Reformatory who is, as I understand she states from sixteen to thirty-six years of age—I thought it was sixteen to thirty-seven but I may be wrong—if such a boy gets in there, sixteen years of age, and is sentenced, there is no opportunity for schooling in that institution, but down at the State School for Boys, as I understand it, they run a school, maintaining it up through the eighth grade and if you get a boy like that there is the chance to give him some schooling. This bill gives the superintendent of the Reformatory the right to transfer such a boy down to the State School for Boys where he can receive some education.

Now if we are going to start in babying these men who are committing crimes, if we say to them, "We are going to protect you and we are going to baby you and we are not going to let you be transferred from one institution to another where you would be corrected," then I don't believe the State of Maine is standing up to its motto that we now have. I can't see any harm that could be done by this bill. It is a good bill. It is a correctional bill. It gives an inmate a chance to try and make something of himself.

I feel that the Majority Report of the committee, which I believe was seven to three, ought to be adopted.

**The PRESIDENT:** The question before the Senate is on the motion of the Senator from Penobscot, Senator Clough, that the Senate adopt the Majority Report of the committee "Ought to pass."

**Mr. BROWN:** Mr. President, I hesitate to speak a second time on this especially as it has been covered by such a distinguished member of the Bar, but the more they argue for this, the more plain it becomes that there is a distinct difference between the State Reformatory for

Men and the State Prison, and therefore the more certain I am in my own mind that no superintendent of an institution ought to be given the right to override the decision of the judge. It is of course true, and I was aware of the fact, that a great many men are tried without the benefit of counsel but the state's attorney is there and it is his business, I believe, to give the judge any facts he knows about these men and their previous record.

There seems to be a slight discrepancy between the arguments of Senator Dunbar and Senator Clough, in that Senator Dunbar stated that if they beat up the guards nothing could be done about it, while Senator Clough distinctly said that that was the only count on which they could be transferred to the State Prison. So that isn't true, if I take the word of Senator Clough, that they can beat up the guards and still remain an inmate there. So there seems to be quite a difference of opinion.

My idea would be that we need a little more discipline in the Reformatory for Men and that the head of that institution be given the right, if he hasn't got it already, on these incorrigibles, to place them in confinement until they are willing to behave themselves or until such time as they can get an order of transfer from a municipal judge.

I don't like to make laws for particular cases and they have only mentioned five cases which they call to mind during the past several years. Neither do I like the idea of too much following of federal legislation. There are a lot of things on the books in Washington that I wouldn't like to see on the books in Maine. In the first place I didn't know that we had a national reformatory. A man is sent to the penitentiary and if he becomes incorrigible and they cannot handle him properly he may be sent to Alcatraz where there is no chance of escape, but it is the same degree of punishment all the way along. Neither do I believe necessarily in following the other states. It is like "keeping ahead of the Joneses". I don't believe we should adopt the law just because other states have done so. Their whole set-up may be different. To my mind this is a question of changing the decisions of our Court and if you are going to commence to tear down the Court you are going to tear down the au-

thority of the judges and if you are going to change the sentences of our judges and send men to institutions to which they have not been sentenced, then it can go a great deal further before we get through. Therefore, I hope that the Majority Report "Ought to pass" will not be adopted.

Mr. GOOD of Aroostook: Mr. President, I did not intend to say anything on this measure but I am convinced there must be some good in every man and the Judge must have noticed that when he sends a man to the reformatory. I understand the Judge has the last word. He is the man that does the sentencing. He is the one who sends a man to the Reformatory.

Now if this bill passes, it leaves it entirely to the discretion of the superintendent of that reformatory. It looks to me as though we are trying to streamline things in this day. It is the day to streamline things anyhow. I cannot help but think that as our forefathers made this law they must have taken it under careful consideration and have felt that if a man were placed in a reformatory and he was a man who couldn't be controlled in that reformatory, then they could make an appeal and that man had a chance to be heard. But if I understand this bill, he hasn't any chance whatever; it is left entirely to the discretion of the superintendent and he can send him to State Prison.

Now, I can't believe that you are going to improve the good of any man, if there is any, by sending him to State Prison. I believe we should give the man a break, give him a chance, and when he comes out if then he continues to commit depredations, his record will be such that he will go to State Prison. If this bill is passed why couldn't they send a man from State Prison, who has a good record, back to the Reformatory? That would be just as fair, to my mind.

I feel we are hurrying this legislation that we have before us here, or streamlining it and getting into the same groove that we are running in other affairs at an awful rate, and I think this is a good time to sit down for a few moments and consider these things, and I think that is just what we are doing now.

I would like to speak of something the President of the Senate said to me when I first became a

legislator. I know he will pardon me for telling it. He said that good legislation is when men will get together and debate it and get at the different angles of it. I heartily agree with that statement and I have found it very profitable. I hope the motion of the Senator from Penobscot, (Senator Clough) does not prevail.

Mr. CROSS of Kennebec: Mr. President and members of the Senate, I am somewhat puzzled, as a layman, thinking that as Senator Brown said, there are two interpretations of this bill and I would like to ask through the Chair of either of the lawyers on the Judiciary Committee if they can tell the Senate which is right. Are we to assume that a prisoner at the Reformatory can spend his time beating up the guards or can we assume that if he does he goes to the State Prison?

The PRESIDENT: The Senate hears the question asked by the Senator from Kennebec, Senator Cross, and any member who wishes may reply.

The question before the Senate is on the motion of the Senator from Penobscot, Senator Clough that the Senate adopt the Majority Report "Ought to Pass" of the Committee on Judiciary. A division of the Senate has been asked. Is the Senate ready for the question?

A division of the Senate was had. Sixteen having voted in the affirmative and fourteen opposed, the Majority Report of the Committee "Ought to Pass" was adopted.

Thereupon, the bill was given its first reading and tomorrow assigned for second reading.

On motion by Mr. Welch of Aroostook

Adjourned until tomorrow morning at ten o'clock.