

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

Seventy-First Legislature

OF THE

STATE OF MAINE.

1903.

SENATE.

Tuesday, March 10, 1903.

Senate met according to adjournment, and was called to order by the President.

Prayer by the Rev. Miss Atkinson of Augusta.

Journal of the previous session read and approved.

Papers from the House disposed of in concurrence.

Read and Assigned.

An Act to extend the charter of the Strong Water Company.

An Act to amend the charter of the Sanford Light and Water Company and to consolidate the Springvale Aqueduct Water Company and Butler Springs Water Company.

An Act to regulate the practice of embalming and transportation of dead bodies of persons who have died of infectious diseases.

An Act to amend Section 16 of Chapter 72 of the Revised Statutes relating to suits on probate bond.

An Act relating to the Fryeburg Electric Light Company.

An Act to incorporate the Hancock Water, Light and Power Company.

An Act to consolidate Atlantic Shore Line Railway, Sanford and Cape Porpoise Railway Company, Mousam River Railroad and Sanford Power Company. (House amendment A adopted in concurrence).

An Act to incorporate the Libby Meadow Brook Dam Company.

An Act to incorporate the Round Pond Improvement Company.

Resolve in favor of Lee Normal Academy. Recommended to the Committee on Education, in concurrence.

An Act to establish a law uniform with other states, relative to insurance policies.

The following bills, petitions, etc., were presented and referred:

Legal Affairs.

By Mr. Burleigh of Aroostook, An Act to change the time of holding the sessions of the county commissioners of Aroostook county.

Interior Waters.

By Mr. Pierce of Aroostook, Petition of Louis Cormier for charter of mill at Grand Isle.

Ways and Bridges.

By Mr. Titcomb of York: Bill, An Act to improve the condition of roads.

Reports of Committees.

Mr. Wing for the Committee on Judiciary, on Bill, An Act to amend Section 4 of Chapter 162 of the Public Laws of 1895 in relation to State tax sales, reported same be referred to the next Legislature. Report accepted.

The Committee on Mines and Mining, on Resolve providing for a topographical and geological survey for the years 1903-1904, and for extending its work in hydrography, reported ought to pass. Report accepted. Under Rule 18 referred to the Committee on Appropriations and Financial Affairs.

Mr. Burns for the Committee on Judiciary, on Bill, An Act to establish a law uniform with other states relative to insurance policies, reported same ought not to pass.

Mr. CLARK of Hancock: Mr. President, I move that the bill be substituted for the report. I presume that the gentlemen who will try to sustain this report are as willing to take this matter up at the present time as at any time.

This bill was introduced in the first part of the session, which abolished the right to arbitrate insurance losses upon our statute books. Since 1895 it has been what is known as the standard form of insurance. I have framed a bill which is before the Committee on Mercantile Affairs and Insurance, which gives the right of trial by jury. That bill has been heard by that committee, and they have voted unanimously that it ought not to pass; and I have now made the motion that the bill be substituted for the report. Since our State has been a state, set off from Massachusetts, we have always been entitled to right of trial by jury, in every case; and in no single instance has that right ever been taken away from us, until 1895, until the bill of 1895 was reported by the Committee on Mercantile Affairs and Insurance.

Two years ago this session of the Legislature an order was introduced authorizing the Governor of this State to appoint three commissioners who should be designated as commissioners on uniformity of laws. Thirty-five other states in the Union took similar action. It is a well known fact that the laws in a great many states are so radically different that it was thought wise to see if in certain laws all states would not agree, for example: In the State of Maine the statute does not provide capital punishment for murder, while right across the line of the State, perhaps murder may be committed and within ten feet of the one in Maine, and the culprit in that case is hanged. Then again, a man in the State of Maine may lose his house by conflagration and when he comes to adjust the amount of his loss, he is denied the right of trial by jury, while his neighbor ten feet away in New Hampshire is given that right. Hence, the necessity of having all laws uniform throughout the Union. The Governor of this State appointed as members of that commission Hon. Charles Libby of Portland, Hon. Frank Higgins of Limerick, Hon. Hannibal Hamlin of Ellsworth, all of these gentlemen having previously been members of this august body; and two of them its president. The finger of suspicion has never been pointed at the honesty, integrity or professional standing of any of these gentlemen. Our commissioners met the commissioners of the other thirty-five states, and without exception, the commissioners from thirty-five states decided that the standard form of insurance policy, which is in vogue in our State, was unwise legislation, and not only unwise legislation but unconstitutional. Yet this fundamental principle has been set at naught by the act of 1895 which leaves no choice to the insured as to whether he will accept a policy depriving him of a jury and other important rights which have been secured to him in the past; for Section 1 of this act ingeniously provides that "no insurance company shall issue fire insurance policies on property in this State, other than those of the standard form hereinafter set forth." The insured can accept this policy or none at

all. No voluntary waiver of a constitutional right is here involved, as no choice in the form of insurance is presented. The constitutionality of such a statute may well be questioned.

Fire insurance companies are the only corporations who have received the exceptional favor at the hands of the Legislature of being exempted from the constitutional provision as to jury trials in "civil suits" so far as questions of damages are concerned, although other corporations would doubtless gladly participate in the exemption.

It will be noticed however that the Act of 1895 does not deprive the insurance companies of recourse to the courts and the protection of a jury trial on any issue which they may set up as a cause for avoiding the policy, whether it be a violation of some formal provision of the policy not contributing to the loss, or an allegation of fraudulent conduct on the part of the insured.

In view of these facts the Commissioners on Uniformity of Laws deem some remedial legislation necessary to meet the unusual exemptions which insurance companies have secured for themselves in Maine and other states, and after a careful consideration of the matter have reported the above act which restores certain rights of the insured but is not as broad as the legislation which existed in this State prior to 1895. I mention this report because it is obvious to me that it is entitled to great weight, much more so than the committee's report on mercantile affairs and insurance, as they are lawyers, who could pass on the constitutionality of this act, and they have declared in explicit and clear terms that this act is unconstitutional.

I say that any legislation which deprives the people of one of the greatest rights that our forefathers bled, fought and died for, is unconstitutional, and certainly the noblest heritage of a free people is the right to trial by jury. This Legislature in 1895 by one stroke of its pen, obliterated from our laws all of the innumerable decisions from 1819 to that date. If, sirs, a man wants to waive his constitutional pro-

tection, it is possible for him to do it, and that's why the insurance people say that the standard form of insurance policy is constitutional; but in this case, this is an express statute and not a contract, which takes away that right of trial. Is there any lawyer within the sound of my voice, who would not say that to deprive a man of the right to trial by jury on an insurance policy by a statute which simply said, no person shall have the right to trial by jury on a fire insurance policy but will be obliged to arbitrate if he had a loss. Now, certainly that statute would be unconstitutional, and what can make the difference when the effect of the present statute is exactly the same.

The language used by the Supreme court of this State, in *Davis vs. Auld*, reported in the 96 Maine report, page 567, is as follows, and I quote, "The constitution is always the fundamental law and is read into every statute. Whatever right to a jury trial is given by the constitution exists under every statute and will be fully accorded by the court, whatever the language of the statute. Any statute denying such rights, whether in terms or by implication, will be so far refused judicial cognizance. I say it is our duty in the face and eyes of the opinion of these commissioners together with this dictum, I have read, to pause before we leap, and not pass a law similar to the hawkers' and pedlars' law, that has been three times declared unconstitutional. Now, sirs, they say that this method of adjusting the loss is fair; I stand ready to make good the assertion that the privilege has been abused. The method of selecting these three referees, is as follows: You give notice to the insurance company, in writing, your desire to arbitrate, together with the names of three disinterested persons; they return you a list of three men, you choose one from their list and they chose one from yours, and those two choose a third. Now if the insurance company do not care to arbitrate, but prefer a trial by jury, they reserve the right to that trial, depriving you of your constitutional right, while they expressly reserve it, yet say they are

fair. My attention has been called recently to a case where the attorney acting in behalf of the insurance company, after receiving notice from the insured and his list of the referees, appointed as "three disinterested men to act for the company," the law student in his office, the insurance agent and the special agent of that company, and yet we are told that this is fair. It is nothing more or less than sand-bagging process under the guise of legislation.

The Insurance Commissioner of this State has been fit to impugn the motives of the legal profession for attacking this law. I will not impugn his motives, but simply say in passing, that when the head of a state department so forgets himself as to refer to the committee on mercantile affairs and insurance as his committee, then, sirs, his motives are as plain to be seen "so that those that run may read." The insurance people are not only able to bring a powerful lobby into power, but the office of insurance commissioner to act upon this Legislature. Too much power is dangerous. Power may justly be compared to a great river, while kept within its bounds it is both beautiful and useful, but when it overflows its banks it is too impetuous to be stemmed; it bears down on all before it and brings destruction and desolation wherever it courses.

These insurance companies are not using good judgment in this matter. In fact, they have completely lost their heads, thinking that if they are compelled to decide all losses by a jury that their business is ruined, which to my mind, is a piece of sheer nonsense. Because these companies have flourished in using that system fairly well and have been able not only to pay their president's salaries as large as the President of the United States and their directors and other officer's salaries in proportion but have been able to lay up millions of surplus, and I wish to quote from the last report of the insurance commissioner, Mr. Carr: The Aetna Fire Insurance Company has a capitalization of \$4,000,000, surplus \$5,661; Boston Insurance Company, capitalization of \$1,000,000, surplus \$1,711,927; Continental Fire In-

insurance Company, a capitalization of \$1,000,000, surplus \$4,901,328; German American Insurance Company, a capitalization of \$1,000,000, surplus \$4,495,000; Hartford Fire Insurance Company a capitalization of \$1,250,000, surplus \$3,025,593 and all of these millions of surplus have been accumulated where the jury system was in vogue. Now, as I have said, it seems that they have completely lost their heads when they say that they cannot do business at a profit and settle their losses by trial by jury. They have become childish about this matter, not using a calm, cool and deliberate judgment which men of business affairs ordinarily use about their business.

They remind me very much of my childhood days when my mother would rock me to sleep and place me in my little cot in a dark room; I would wake up and become frightened, imagining I could hear strange noises and sounds which, of course, were only imaginary. Now the insurance companies of this State have been rocked tenderly to sleep by the insurance commissioner, placed upon their bed of eider-down, tucked in closely and tenderly with the standard form of insurance policies; all at once they awake, become nervous and fretful and imaginary visions appear before their eyes and they see peculiar things. "They see them in the corner, they see them at the door, they see them standing in the middle of the floor; they see them walking around, so softly and so creepy like, they never make a sound; some as black as ink, others white, but the color makes no difference when they see things at night."

Now, gentlemen, as sure as the sun rises, if you vote to retain this standard form of insurance policy, you will regret it. It is an old saying that "chickens will come home to roost" and if some of you do not meet with losses by conflagration, it will be strange, then, sirs, you will find the insurance people clubbing you into submission and making you settle in accordance with their notions of fairness and justice and you will have no right to submit our dispute to the judgment of a jury but are tied hand and foot. This brings to my mind a saying of

the Immortal Brutus; who, looking upon the creatures of Caesar who were a very great people, "Romans," said Brutus, "if I may call you such, consider well what you are doing, remember that you are assisting Caesar to forge a chain which some day he will make you, yourselves, wear."

Mr. STAPLES of Knox:—Mr. President, I have listened with a great deal of pleasure to my distinguished friend, the Senator from Hancock, and I find we are living in an age of improvement. When we commenced the session, it was 30 to 1; now the 30 is at least reduced by one. This is a grave question; and I wish to discuss it as such. It is a question which affects every property holder in the State of Maine. It strikes at the very foundation of our form of Government. From the time the Government was founded down to the present time we have boasted that we have one of the grandest governments upon the face of the earth. I know of no principle involved in our form of government so sacred to the American people as the right of trial by jury; and when anyone undertakes to take away that right, he makes an attack upon the fundamental principle and palladium of our liberties. I am not surprised that the Insurance Commissioner should take hold of this matter, but I am surprised that the committee should report unanimously against it. I know some of the members of that committee; I have confidence in them as independent men; and therefore I am surprised that the Insurance Commissioner of this State should come in eclipse over them. Can it be possible that a man on that committee who would be a candidate for representative to Congress, would vote to do away with that right; and go home to his people and ask them to vote for him, Can it be possible that a man who would be a candidate for Governor, and accept the support of the people of this State, would vote against giving the right of having your matters presented to a jury of your peers? I think it is the most important question that has come before the Legislature, or which will come before it. Trial by jury is the protection of the poor man. Will you take away that right simply in the

interests of the Insurance Companies of the State of Maine. Under the Maine Standard policy the Insurance Companies reserve the right to go to a jury but deny that right to the insured. A poor man has an insurance of \$700 on his house. In case of loss, he is obliged to arbitrate; he has no money to go to law. The Insurance Company has an expert, they always take charge of that class of men, there are three men appointed. The insured appoints one, and the Insurance Company appoints one and those two so appointed, choose a third. Nine times, out of ten, in my experience, the Insurance Company gets the best of it. The poor man is obliged to take whatever they say, he has no appeal from it. Even if his property is worth \$800 and the commissioner brings in \$700 or \$500, he is obliged to take it, he has no redress before a jury. I say it is wrong. It does not seem possible to me that there is a man upon this floor who would vote for it. Thirty-five states in the Union, by their commissioners, have agreed upon a uniformity of law in regard to insurance companies.

I have a great respect for the committee appointed two years ago, the Hon. Hannibal Hamlin, the Hon. Charles E. Libby, and the other gentleman. They are men of high standing. Either one of them is able to grace the Supreme Judicial Court bench of the State. They had no interest in this matter except to give the people of the State of Maine their views upon it, and what do they say. They declare that the law is unconstitutional, and they believe the Courts of this State would so decide it, if it ever came before them. For thirty years, up to 1895, we lived and prospered. The insurance companies lived and prospered, they built up colossal fortunes under the policy, and I can do no better than to read from the report of the commissioners on uniformity of laws.

"The most extraordinary feature of the act of 1895 is that it expressly deprives all insurers of the right to trial by jury on the most important question that ordinarily arises under fire insurance policies, namely, the extent of loss or damage suffered by the insured. This is effected by the following provisions of the policy: "In cases of loss

under this policy and a failure of the parties to agree as to the amount of loss, it is mutually agreed that the amount of such loss shall be referred to three disinterested men, the company and the insured each choosing one out of the three persons to be named by the other, and the third being selected by the two so chosen; the award in writing by a majority of the referees shall be conclusive and final upon the parties as to the amount of loss or damage, and such reference unless waived by the parties, shall be a condition precedent to any right of action in law or equity to recover for such loss; but no person shall be chosen to act as referee, against the objection of either party, who has acted in a like capacity within four months."

How ineffectual the provision that "no person shall be chosen to act as referee, against the objection of either party, who has acted in like capacity within four months" would be against the evils of partisan referees, any one having experience in insurance cases can readily appreciate. Article I, Section 20 of the Constitution of this State provides that "in all civil suits, and in all controversies concerning property, the parties shall have a right to trial by jury except in cases where it has heretofore been otherwise practiced." Yet this fundamental principle has been set at naught by the act of 1895 which leaves no choice to the assured as to whether he will accept a policy depriving him of a jury trial and other important rights which have been secured to him in the past; for Section 1 of this act ingeniously provides that "no insurance company shall issue fire insurance policies on property in this State, other than those of the standard form herein set forth." The assured can accept this policy or none at all. No voluntary waiver of a constitutional right is here involved, as no choice in the form of insurance is presented. The constitutionality of such a statute may well be questioned.

I say frankly and fairly that Samuel W. Carr, the insurance commissioner of this State, ever since I have been a member of this Legislature, has handled two-thirds of the committee on insurance, and makes it his boast

upon the floor of this Senate, calling them his committee, as he did two years ago, and has done in the presence of members of this Senate since this bill was introduced into the Senate of Maine.

The insured can accept this policy or none at all, there is no remedy. Is that class legislation? Do you believe in it? Or, would you wipe it from the statute books and let the law remain as it was for thirty-five years in this State.

I am glad that there is no political sentiment in this. Let us act for the interest of our constituents. I appeal to you, fellow senators in behalf of our great declaration and bill of rights, the safeguard of the American citizen from the time of the Declaration of Independence. It was a crime against the people of this State, when in 1895 that bill was passed. Let us repeal it. I regard it as a vital question; and I hope you will agree with me fellow senators that we are doing no injury to the fire insurance companies in taking such action. The right of trial by jury is the only safeguard of the liberties of the people.

Mr. WING of Androscoggin: Mr. President, it was not my purpose to make any remarks on this question, but I certainly hope that the unanimous report of our committee on insurance will be accepted. The Senate will remember that there are three Senators whose names go on that report, and they are gentlemen—they are good business men. They have taken and assumed the responsibility of their action, and they bring in a report here based upon their business judgment and such information as has come to their attention; and the Senate is now asked to accept it. I may have been particularly favored in my life, but I have never seen, nor met, these grave abuses in a business way which are charged upon the insurance companies. I have found in the practice of my profession for 35 years—and I have had a considerable number of cases with insurance companies—that the insurance company is as anxious to pay an honest loss as it is to obtain insurance at the start. I have had my property burnt, and I have settled with the ad-

justers under these standard policies; and I believe it is a wise piece of legislation—a good contract for the insured, making certain and speedy settlement of the loss in order that the insured may obtain exactly what belongs to him, and to go along about his business fully indemnified. It must be an evident proposition to everyone, that you cannot make a contract by legislation. You cannot say, by an Act of the Legislature that an insurance company shall make this contract, or that contract. You cannot say to an insurance company: You must have your capital at the risk of fire in Maine under certain conditions. Our attention has been called, by our Governor, who is regarded as a very capable business man—to this question of insurance. In his address he calls the attention of the Legislature to this fact—that “there is not a single stock fire insurance company organized under the laws of Maine which is doing business in the State at the present time, our fire underwriting being largely done by foreign corporations. Nineteen companies, with capital aggregating \$4,500,000 withdrew from the State in 1901, and it is now impossible to secure adequate insurance in licensed companies. It is unwise to impose upon these corporations unnecessary or burdensome restrictions, which must either force them to withdraw from the State, or charge increased premiums for insurance.” That is the candid statement of one of the most candid men that ever graced the chair of the Governor of the State. Now, gentlemen, a contract is made, of insurance; and, as I stated before, I believe that the standard policy provides for a speedy and satisfactory adjustment of the loss. It has been on our books for eight years; and it certainly is not so glaringly unconstitutional as it has been represented, for its constitutionality or its lack of constitutionality has never been invoked. The court, in eight years, has never been called upon to pass upon the question, and matters have been litigated, forcibly and ably. Gentlemen learned in the law have had contests over the policy and over settlement of

losses, where the parties could not agree with the under-writers. Such a man as Judge Foster—who, perhaps, will insist upon the rights of his client as long and as far as any attorney in the State, in very extensive litigation in our county did not invoke the constitutionality of the law; and, so far as the adjustment of losses is concerned, it is safer and cheaper and more satisfactory than it was under the old system; and I hope, as a business proposition that the unanimous report of this committee will be accepted, and accepted as, I believe, entitled to the respect of the Senators in this Legislature.

Mr. STETSON of Penobscot: Mr. President and Gentlemen: I have listened with much attention to the speeches of the two distinguished lawyers, who are members of this honorable body, who claim that the rights of the people are taken away, and that they do not speak from selfish interests, but only for the dear common people, who need a guardian to look after their interests.

If you will recall, we had a little difference some weeks ago, as to the proper committee, to which these two bills, now under discussion should be referred, and this honorable body, decided that they should be referred to the committee on mercantile affairs and insurance, as the proper committee, and not to a legal one, believing as you did, that a committee composed of practical business men, who were conversant with the business life of our State, were competent to decide on the merits of the matter.

You were assured, that the members of that committee, would listen to the arguments to be made on both sides, without prejudice or favor, and that should legal questions arise, they would seek the advice of legal committees or capable lawyers.

The hearing was duly advertised, largely attended and prominent men appeared for and against the bills. The members of the committee had ample opportunity, each for himself, to decide whether, the repeal of the present law, which gives us the Maine Standard policy with arbitration, instead of a trial by jury, was for the

best interests of the people of our State.

After a free and frank discussion of the matter, the committee by a unanimous report, have decided that the interests of the people, are better protected, that losses are more satisfactorily adjusted, under the present law than under the old law, which is essentially, what these bills provide, should you in your judgment decide not to accept the report of the committee.

I will endeavor to reply in as few words as possible, to the arguments advanced by the two senators, who have spoken, and endeavor to inform you in my limited way, of the reasons, that decided the committee to report, "ought not to pass," on these two bills, which are now under discussion.

I assure you that the star spangled banner will not be waived, nor will I appeal to your feelings for the poor people of our State, who my colleagues claim, should have ample opportunity to enter the lawyers offices and have their fire losses adjusted.

This is a business proposition and not one of sentiment, for either the assured or the lawyer.

The laws of our State are supposed to be made in the interests of the people, and when a law has been found to work to their disadvantage, it is the duty of the Legislature to remedy the evil.

In 1894, the last year under the old law, there was more litigation in the settlement of fire losses than in any previous two years. The lawyers were reaping a harvest, the assured was paying the fiddler, and complaints were heard on every side of the difficulty of settling losses. What was the result?

The passage in 1895 of a law which gave us the present standard policy and one which I will show you, is working to the satisfaction of the common people of our State, if not the lawyers.

The law, is an exact copy of the Massachusetts law, which was passed in 1887, and in Massachusetts for the past ten years, there has only been 146 losses settled by arbitration, as I am informed, the other thousands of losses, being settled to the satisfaction of the

assured, without recourse to arbitration.

When the law was passed in 1895, it was bitterly opposed by the insurance companies, who claimed that they would withdraw from the State. What is the result today?

The insurance companies are doing business at the old stand and I believe the people of our State, are getting better and quicker returns for their premiums, than under the old law.

Do the people rise in their might and demand a change? No. The hearing was widely advertised and only lawyers appeared in the interest of the dear people, not one business man, farmer or laborer, came before the committee to claim that their interests were not protected.

Now the lawyers claim, that the law is unconstitutional and that we are taking away the rights of the people to have a trial by jury, and they have appealed to your feelings, not to deprive any man of the pleasure of knowing what it costs to go to law.

The question of constitutionality is one for the courts and not the Legislature to decide, for corporations are creatures for the Legislature and the Legislature has the right to prescribe the form of contract. If the lawyers want more business, and think this law is unconstitutional, why in Heaven's sake, have they not taken a case to the Supreme court, and get a decision in their favor?

They have had over seven years to prove their assertion, and still all they do, is to keep on talking.

I have consulted several prominent lawyers, one of whom was a member of the commission, who recommends this change, and they all state that they have serious doubts if the court would decide it unconstitutional, and especially when we have such high authority as Judge Foster, who is quoted as saying that he has no doubt the law is constitutional, do you blame the lawyers for waiting seven years, and still not pressing for a decision, but only talking.

Governor Cleaves in his message recommended a change and the insurance commissioner, under the advice of Governor Cleaves, had the law

passed, and our present honored Governor, in his last message, recommended that this Legislature make haste slowly in changing our present form of policy. The question of damage is the only one which is referred to arbitration, all others are for the courts to decide, and is it not better to have a tribunal of three skilled men to decide on the amount of loss, than to leave it to a jury, who may be made up of men not familiar with such matters.

If the assured has an honest claim, he need not fear to leave the question of damages to three men, who are skilled in the business, for the insurance companies desire to continue to do business in our State and from what I have ascertained from talking with business men in my own city, find they are always more than willing to adjust on a liberal basis. If the assured is dishonest, it gives the adjuster an opportunity to reduce dishonest claims to a more reasonable basis, and whatever keeps down dishonest losses, will tend to make lower rates for honest people. The present law prevents litigation in dishonest cases, which is better for the people and for the companies.

Laws are not perfect, neither are lawyers, and when you get a law, such as our present insurance one, which accomplishes the greatest good for the greatest number, then I say, let well enough alone.

I said the lawyers were the only ones who appeared in favor of a change, but I have not told you, who appeared to ask the committee not to make any change, and they were many, both in person and by letters.

The representative of a large foreign fire insurance company, who could withdraw his business at any time.

The agents, from all over our State, who I believe from my own personal experience, are most strongly disposed to favor the assured in settling a loss, rather than the companies, for if I did not think my agent looked after my interest, I would try others.

The Grange insurance companies, of which there are 35 to 40 in our State, had representatives present, asking us not to make any change, and these are

the small mutual companies of our State, who today are carrying the farm risks, and are close to the people, besides doing business on a very low cost of expenses, living close to the wind and they cannot afford to hire lawyers.

Also letters from business men all over our State, saying they were satisfied with the present law and asking that we make no change, and last but not least, the statements of the insurance commissioner, that in his opinion, the present law was the best that could be had, to protect the interests of the people, both from the lawyers and from the insurance companies. Right here I want to say a few words in commendation of our present insurance commissioner, for I believe him an honest, capable man, and one who has the best interests of the department at heart. A man thoroughly conversant with the needs of his department and one who has not attempted in the slightest degree, to bias the opinion of any member of the committee. He was elected to protect the people and not the insurance companies and it is his duty to inform the committee on all matters relating to his department.

I claim it was his right and duty to give the committee the best of his experience and knowledge, and thereby enable the committee to act intelligently.

Your committee after careful consideration, are led to believe that the present law, is of great benefit to the people, as they realize that the assured gets a satisfactory settlement in nearly all cases, and what is of the greatest importance, prompt payment, so that he can at once resume business, rather than wait many months for his money at the end of a law suit.

Since Massachusetts passed her bill in 1837, but one attempt has been made by the lawyers to make a change and that was in 1900 and they voted, "ought not to pass."

In our own State an attempt was made in 1901 and the legislature sustained the vote of the committee, which was "ought not to pass." and I believe you will make no mistake, if you accept the unanimous report of your

committee, which was "ought not to pass."

Mr. STAPLES of Knox: Mr President The Senator from Penobscot seems to think that this bill is in the interest of the legal fraternity. The lawyers of this State only ask that this bill be repealed, not because they do not get all the business that they want, but they do it simply because they believe that the law acts detrimentally to the interests of the common men. I have no doubt the Senator From Penobscot would have no trouble in case of loss by fire, in view of his distinguished standing in his community and his great financial ability. No insurance company would undertake to make trouble with him. He is not in the class of men, Mr. President that the inequity of this bill affects. It is the poor farmer, the man without his business ability is the one the Insurance Company take advantage of.

He says that insurance companies, if they cannot have this clause retained, and the law stand upon the statute books, will go out of the State. When any corporation, whether it be insurance, or whatever it may be, makes a contract with me; and says to me: If you claim the right of trial by jury to settle any matters, that may come up in that contract, I will go out of the State; I will say,—let him go. I don't want to make any contract with an insurance company that takes away that right. It is a fraud upon me when they undertake it, and they know when they undertake it, they propose to take advantage of the poor man. I don't know what the Senate may do about this matter, but, as a Senator has quoted judge Foster, I wish to be pardoned also for quoting him. I know he said to me, and I have his letter, writing to me as he did some two months ago, strongly in favor of the repeal of this law; declaring it to be an iniquity.

The people are long-suffering—but I tell you when the old farmer of the State of Maine, the mechanic or any of the common men of the State of Maine find that the Maine Senate—the Maine Legislature has taken away the only safeguard the constitution has given us, you will hear a rumble going on from one end of this State to the other;

and the places that know those men who may vote for it, will know them no more.

Mr. STETSON of Penobscot: Mr. President, if I may be pardoned for a moment, I would like to say that I claim that this committee represented the common people, as well as the Democratic Senator from Knox. Thirty-five or forty grange insurance companies appeared before our committee. No class is more attached to the common people of our State than they. They asked us to leave the law as it was. Why did they ask it? They said they were carrying the other companies very close to the wind—that they were insuring the poor farmer and mechanic, a class the other companies would not take—that they were charging a small premium, and the officers were receiving small salaries; that if this law were changed, litigation would come to the front—they would have to hire attorneys, and their rates would go up, and therefore they could not protect the common people.

Mr. STAPLES of Knox: Mr. President, in regard to the rates, the Senator intimates that the rates are lower under the Maine standard policy. The rates are almost double what they were prior to 1895. I deny that the grange is not in favor of the abolishment of this policy. I do know that in every county in this State, almost every Pomona grange has resolved time and time again that they are in favor of the repeal of the Maine Standard policy. I deny that those two insurance companies represent the sentiment of the grange. They represent the sentiment of the insurance commissioner who owns them body and soul, politics and religion.

Mr. GOODWIN of Somerset: Mr. President, I did not intend to say anything on this subject; and I hardly feel able on account of physical exhaustion, to say anything now; but I do want to add my voice to the voice of the gentleman who has spoken before me, in behalf of the repeal of this law. I feel that it is the greatest and most iniquitous—the most crying shame, that ever has existed in this State, to deprive the people of the State of the right of trial by jury. I do not know

how it is that this committee came to the unanimous decision to report against this proposition. They say they stand here as representatives of the people's plan. The Senator from Penobscot, the Senator from Franklin, the Senator from Cumberland. The Senator from Cumberland is the general agent of the New York Life Insurance Company, the Senator from Penobscot is president and director of the Marine Insurance Company. That, Mr. President, may explain some of the reasons why this committee is unanimous against this bill. The people of this State are crying out for redress. They are all honorable gentlemen—they may be upright and honorable gentlemen—but their interests are identified with those of the insurance companies; and for that reason, Mr. President, I believe, their report is unanimous against this bill; and the Senators should take this into consideration.

When you strike out this arbitration clause, it does not do away with arbitration, anybody can arbitrate, at any time. If you have a loss, you can select your representative, just the same as you could under this clause. The only thing that this Maine Standard policy requires is that you must arbitrate, and must be deprived of right of trial by jury. You cannot act voluntarily, but you are required to arbitrate. The Maine Standard policy has a saving clause for itself, a method by which the companies can protect their own interests, in which they say: You must demand arbitration, submit to arbitration, you are deprived of the right of trial by jury; and that is their position here today. It is not the interest of the people of this State that the senators represent who made this unanimous report. It was not the people of the State of Maine who appeared before that committee at its hearing. Not a single interest vital to the people of the State of Maine was represented, but from Massachusetts and New York came down these representatives of great corporations and they demanded that we keep this arbitration clause in our statute books. The lawyers who appeared upon the other side did not appear as lawyers. Every other lawyer

who appeared there had some individual case or grievance and appeared as attorney for himself or for his clients, the people of the State of Maine. I am just as much of a crank, if you so choose to call it, as the senator from Knox on this question, and if you want the question to be submitted fairly and squarely and to vote to deprive the people of the right of jury trial, you have got it here now once and for all. I hope when the vote is taken on this question, it may be taken by yeas and nays, and I move that it be so taken, in order that the people of the State of Maine may know where their senators stand upon this question.

Mr. BURNS of Cumberland: Mr. President, the senator from Somerset wishes to know why the committee reported unanimously on this bill, ought not to pass. For one I can tell him. Who petitioned for repeal of this law? Was there a single individual outside of the lawyers in the State of Maine? If so, I did not know it. There has not to my knowledge been a single person who has petitioned for the change of this law. During the past eight years, I have traveled in every county in the State of Maine; and as this subject had been previously agitated, I have taken considerable pains to make inquiry as to whether the law was working satisfactorily or not. With the exception of perhaps half a dozen lawyers and one newspaper correspondent, I have never found any person to raise an objection to this law. They are satisfied with it.

The gentleman has referred to me as general agent of the New York Life. That is true. This bill, however, does not affect me at all, because the New York Life Insurance Company issues policies that are incontestable from the date of issue, so that it does not affect my business in one way or the other. I have no interest in fire insurance except to buy a policy; so that if the gentleman from Somerset wants to buy a policy with no arbitration or litigation, he should buy it from the New York Life.

Mr. GOODWIN of Somerset: I shall do so because there is no arbitration.

Mr. BURNS of Cumberland: Except from the Senator from Knox I have

never heard the honesty or the integrity of our insurance commissioner called in question. If he is such a man as is described by the Senator from Knox, he should be removed at once, and if there is not an honest man in the Republican party I will advise them to go to Knox county and secure the Senator from Knox to fill the place.

Mr. CLARK of Hancock: Mr. President, I am surprised that the Senator from Penobscot takes the position he does. He says that the people of this State ask for this matter to be retained upon the statute books. The committee seized the bill by force from the Committee on Judiciary to which it was sent for the purpose of testing its constitutionality; the Senator from Penobscot himself, personally made a canvas upon this floor and asked that it be taken to the Committee on Insurance. I do not always take stock in what I hear in private. But the gentleman from Penobscot, Mr. Stetson, told me in private that he thought this statute should be abolished; and he should probably so report. I am surprised at the position of the Senator from Androscoggin, Mr. Wing, who says, "It is a speedy and satisfactory method of adjusting a loss." Why, gentlemen, that is what they say in the South when they hang a negro. That is their excuse. They ask to be let alone. That is all Jeff Davis asked for. I am not speaking in the interest of the legal profession, or in the interest of getting more business, but I am speaking in the interests of poor men, because the test of strength of a chain is its weakest link. The test of any legislation is its effect upon the poorest citizen who invokes protection.

Mr. GARDNER of Penobscot: Mr. President, I do not propose to take the time of the Senate in discussion of this matter. One feature of it appeals to me. So long as it is the policy of this State to appoint on joint standing committees men of intimate knowledge of the subjects to be treated in such committees, I hope the assumption will not gain ground that the members of such committees will not be able to rise above their self interest sufficiently to give an unbiassed judgment on any matter before them; and I hope

any senator who has intimated such an idea will qualify his remarks so that that idea will not gain ground through mistake.

The question being put upon the motion of Mr. Clark, to substitute the bill for the report of the committee, the yeas and nays were ordered.

Those voting yea were Messrs. Alden, Buck, Burleigh, Clark, Dudley, Goodwin, Guernsey, Maddocks, Pierce, Pike, Rankin, Staples of Knox (12).

Those voting nay were Messrs. Burns, Currier, Gardner, Philbrook, Staples of Cumberland, Stetson, Titcomb, Wilson and Wing (9).

So the motion prevailed, and the bill was substituted for the report of the committee.

The bill thereupon took its first reading and was assigned for a second reading.

Mr. Burns, for the committee on mercantile affairs and insurance, on bill, An Act to amend Section 1, Chapter 18, of the Public Laws of 1895, relating to insurance, reported same ought not to pass. Report accepted.

Mr. Guernsey for the committee on judiciary on bill, An Act to regulate the appointment of constables by the city council of Portland, reported ought to pass. Report accepted. Bill tabled for printing under joint rules.

Passed to Be Engrossed.

An Act relating to the taking of black bass in certain lakes in Kennebec and Somerset counties and also Sabattus pond in Androscoggin county, as amended by Chapter 287 of the Public Laws of 1891.

An Act to incorporate the City Trust Company of Bangor, Maine.

An Act to amend Section 2 of Chapter 56 of the Private and Special Laws of 1895, relative to the water supply of Boothbay Harbor.

An Act to correct an error, and repeal an act approved, Feb. 11, 1903, relating to migratory fish.

An Act to authorize the navigation, by steam, of Eagle lake and the connecting lakes, in the county of Aroostook.

An Act to protect the waters of Lake Auburn.

Resolve in favor of the committee on revision of the statutes.

An Act to construe and continue in force Chapter 106 of the Private and Special Laws of 1891, relating to the election of a school committee, and superintendent of schools, for the town of Skowhegan.

An Act to extend the time during which the tolls granted to the Bangor Bridge Company shall continue.

On motion of Mr. Gardner of Penobscot, bill, An Act to extend the charter of the Maine Water and Electric Power Company, was re-committed to the committee on interior waters.

Passed to be Enacted.

An Act to provide in part for the expenditures of government for the year 1903.

An Act to incorporate the executive committee of Huntoon Hill Grange, No. 398, Patrons of Husbandry.

An Act concerning the Auburn Free Public Library.

An Act to provide blanks, books and stationery for the Dover municipal court.

An Act to prevent injuries to books and works of art.

An Act to authorize municipalities to make contracts for water, gas and light.

An Act to grant testimonials of honorable service to soldiers who served in the war with Spain.

An Act to amend resolve in favor of the town of Sanford.

An Act to consolidate and amend Chapter 177 of the Special Laws of 1887, and all acts additional thereto and amendatory thereof, relating to the Old Town municipal court.

An Act to amend the charter of the Farmington Village Corporation.

An Act to extend the charter of the Bluehill Water Company.

An Act to repeal Section 16 of Chapter 78 of the Revised Statutes, relating to duties of county commissioners.

An Act to amend the charter of the president and trustees of Colby College.

An Act to incorporate the Liberty Water Company.

An Act to repeal Sections 7, 8, 9 and 10 of Chapter 61 of the Revised Statutes relating to the rights of married women.

An Act to amend Chapter 194 of the Public Laws of 1901, entitled "An Act additional to Chapter 29 of the Revised Statutes, relating to bowling alleys."

An Act to incorporate the Tyngstown Water Company.

An Act to amend Chapter 175 of the Private and Special Laws of 1887, entitled "An Act to incorporate the Androscoggin Valley Agricultural Society."

An Act to amend Chapter 285 of the Public Laws of 1901 entitled "An Act providing for State roads and for the improvement thereof."

An Act to amend Chapter 227 of the Private and Special Laws of 1880, entitled "An Act to supply the people of Houlton with pure water, as amended by Chapter 497 of the Private and Special Laws of 1889.

An Act to amend the charter of the city Auburn and to provide for a board of public works.

An Act relating to the jurisdiction of the municipal court of the city of Biddeford.

An Act to incorporate the Maine Midland Railroad Company.

An Act for the better protection of youth. (Tabled by Mr. Thornton of Ashland, pending its passage to be enacted).

An Act to extend the charter of the Old Orchard Trust and Banking Company.

An Act to extend the charter of the Granite Trust Company.

An Act to amend an act entitled "An Act to authorize the opening of a second channel of Mousam river."

An Act relating to the salary of the sheriff of the county of Aroostook and fixing the same at \$500 a year.

An Act establishing the salary of the county attorney for the county of Kennebec.

An Act for the better protection of deer in the county of York.

An Act establishing the salary of the county attorney for the county of York.

An Act to authorize Washington county to sell its stock in the Washington County Railroad Company, and authorizing the sale or lease of said railroad.

An Act to amend Chapter 145 of the Private and Special Laws of 1887, entitled "An Act to provide sewerage in the town of Houlton.

An Act to provide for the recording of plans.

An Act to relieve the town of Boothbay Harbor from the duty of building, repairing or maintaining roads, streets or ways on the Isle of Springs.

An Act to amend Section 3 of Chapter 216 of the Public Laws of 1893, relating to the conveyance of scholars and to the maintenance of schools.

An Act to amend Section 3 of Chapter 80 of the Public Laws of 1899, relating to the election of officers and the filling of vacancies occurring in the office of truant officer.

An Act to amend Chapter 130 of the Private Laws of 1866, entitled "An Act to incorporate the Sebec Dam Company," as amended by Section 6 of Chapter 26 of the Private and Special Laws of 1899.

An Act to amend Chapter 284 of the Public Laws in 1901, relating to sea and shore fisheries.

Orders of the Day.

Bill, An Act to amend the charter of the Baskahegan Dam Company, came up by special assignment.

On motion by Mr. Stetson of Penobscot, the bill was tabled and assigned for special consideration, tomorrow.

On motion by Mr. Wilson of Washington, Senate Document No. 165, relating to destruction of fish in Eastern Penobscot river in the town of Orland, was taken from the table; and on further motion by the same senator was recommitted to the committee on shore fisheries.

On motion by Senator Clark of Hancock, the following bills were taken from the table, and on further motion of the same senator the same was passed to be enacted.

Bill, to relieve Boothbay Harbor from maintaining ways on Isle of Springs.

Bill, relating to Sebec Dam Company.

Bill, relating to conveyance of scholars and maintenance of public schools.

Bill, relating to sea and shore fisheries.

Bill, relating to truant officers.

Bill, to provide for recording plans.

Bill, to amend laws providing for sewerage in town of Houlton.

Bill, to authorize Washington county to sell stock, and authorizing lease Washington County Railroad.

On motion by Mr. Goodwin of Somerset, bill, An Act relating to taking of black bass in certain lakes in Kennebec, Somerset and Androscoggin counties, was taken from the table, and on further motion by the same senator the same was passed to be engrossed.

On motion by Mr. Wing of Androscoggin, The Senate adjourned, to meet on Wednesday, March 11, 1903, at 10 o'clock A. M.