

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

Seventy-Second Legislature

OF THE

STATE OF MAINE.

1905.

SENATE.

Thursday, March 2, 1905.

Senate called to order by the President.

Prayer by Rev. Mr. Wight of Hallowell.

Journal of yesterday read and approved.

Papers from the House disposed of in concurrence.

On motion by Mr. Clark of Hancock, "Petition of E. G. Tilley and 29 others of Ashland for an amendment to the constitution so that wild lands may be taxed at the average rate of municipal taxation"; also, petition of F. P. Washburn and 19 others of Perry; also, petition of James W. Pottle and others of Perry, both relating to the same matter were tabled.

Petition of E. S. Dixon and 12 others against the repeal of what was formerly chapter 6, section 28, Statutes of Maine, now section 25 of chapter 9; came from the House with the endorsement by that branch "Ordered placed on file." On motion by Mr. Staples of Knox the Senate non-concurred with the House, and on further motion by the same Senator the same was referred to the committee on taxation.

House Bills Read and Assigned.

An act to amend section 97, chapter 15 of the Revised Statutes of 1903, relating to schooling of children in unorganized townships. (House amendment A adopted in concurrence.)

An act to extend the powers granted the St. John Lumber Company by chapter 201 of the private and special laws of 1903. On motion by Mr. Shaw of Sagadahoc, the bill took its second reading, under suspension of the rules, and was passed to be engrossed.

An act to set off part of Plantation No. 7 and annex it to the town of Gouldsboro. (House amendment A adopted in concurrence.)

Mr. Tupper of Lincoln presented Remonstrance of J. R. MacDougall and 106 others, against passage of bill, an act relating to a free bridge across the Sheepscoot river, which was referred to the committee on ways and bridges.

Mr. Potter of Cumberland, presented Petition of D. A. Tuttle and others in

relation to labelling of proprietary medicines. The same was referred to the committee on temperance.

Orders.

On motion by Mr. Allen of York, it was: Ordered, the House concurring, that all committees, except the committee on appropriations and financial affairs, make their final reports, on or before Friday, March 11, 1905.

Read and Assigned.

Resolve in aid of navigation on Moosehead lake.

Resolve in aid of navigation on Schoodic Grand lake.

Reports of Committees.

Mr. POTTER of Cumberland: Mr. President, I am directed by the committee on State printing to report to the Senate two bills. One of them is a bill which originated, I understand, in the Council, and proposes to confer on the Governor and Council discretion as to the volume of printing to be done under that section. It relates to the minor printing of the departments. I do not understand that there is likely to be any opposition to this bill; and as to this bill, I move that the report of the committee be accepted; the same being bill, "An act to amend section 26 of chapter 3 of the Revised Statutes, in relation to printing of the different department."

The report of the committee was accepted, and the bill was read and assigned.

Mr. POTTER of Cumberland: Mr. President, I have another bill from the same committee, which proposes important amendments to sections 24 and 25 of chapter 3 of the Revised Statutes, in relation to the volume of printing. It recommends, in a great many cases a reduction in the maximum number of reports permitted to be printed, as the law now is. It also includes a very important amendment suggested to the committee by the State librarian, and there are some other changes in sections 24 and 25 that are important and perhaps debatable. As to this report, Mr. President, and this bill, I move that the same be tabled for printing.

Mr. Potter for the committee on judiciary, on report of the commission-

ers on uniform laws for the State, reported that the same be placed on file. Report accepted.

Mr. Tartre of the committee on railroads and expresses, on bill, "An act to incorporate the Bangor and Northern Maine Shore Line Railway," reported same ought not to pass. Report accepted.

Mr. Pierce, for the committee on legal affairs, on bill, "An act to impose an excise tax on the business of selling, giving and delivering trading stamps, checks, coupons and similar devices in connection with the sale of articles," reported same ought not to pass. Report accepted.

Mr. Shackford for the committee on sea and shore fisheries, on Petition of C. B. Plummer and 26 others of Addison, praying that the taking of smelts from the waters of Pleasant river may be prohibited from the first day of April to the first day of October, each year; reported that the petitioners have leave to withdraw. Report accepted.

Mr. Potter for the committee on judiciary, on bill, "An act to prohibit the sales of merchandise in bulk, in fraud of creditors," reported same in new draft, under same title and that it ought to pass. Report accepted.

Mr. Allen for the committee on judiciary, on bill, "An act to extend the powers of the Bangor Theological Seminary," reported that same ought to pass. Report accepted.

Mr. Irving for the committee on railroads and expresses, on bill, "an act to amend chapter 175 of the private and special laws of 1903 in relation to the Atlantic Shore Line Railway," reported same in new draft, under same title, and that it ought to pass. Report accepted.

Mr. Tartre, for the same committee, on bill, "an act to incorporate the Bangor and Northern Railroad Company, reported same in new draft under same title, and that it ought to pass. Report accepted.

Mr. Plummer for the committee on Telegraphs and Expresses, on bill, "an act to incorporate the Harmony and Wellington Telephone Company," reported that the same ought to pass. Report accepted.

Mr. Plummer for the same com-

mittee, on bill, "an act to incorporate the St. Francis Telephone Company," reported that the same ought to pass. Report accepted.

Mr. Plummer for the same committee, on bill, "an act to incorporate the Eagle Lake Telephone Company," reported that the same ought to pass. Report accepted.

Mr. Shaw for the same committee, on bill, "an act to extend the charter of the Patten Telegraph and Telephone Company," reported that the same ought to pass. Report accepted.

Mr. Bailey for the committee on ways and bridges, on "Resolve in favor of the town of Fort Kent in the county of Aroostook, and to aid in building a bridge across Fish River in the town of Fort Kent," reported same ought to pass. Report accepted.

Mr. Morse, for the committee on Military Affairs, on "resolve in favor of Bath military and naval orphan asylum," reported same ought to pass. Report accepted.

The committee on temperance, on bill, "an act to provide for the better enforcement of the law against the manufacture and sale of intoxicating liquors," submitted two several reports. Report "A" on said bill being that the same ought to pass in new draft; signed by Messrs Pike, Mills and Brown on the part of the Senate and Howes and Irving on the part of the House. Report "B" on said bill "ought not to pass" was signed by Messrs. Hutchins, O'Brien, Downs, Leighton and Sanborn on the part of the House. On motion by Mr. Mills of Hancock both reports were tabled for printing, and Wednesday next assigned for their consideration.

The following bills, petitions, etc., were presented, received under suspension of the rules.

By Mr. Philoon of Androscoggin: Petition of W. H. Dixon and 49 others of Lewiston for the proper labelling of proprietary medicines containing alcohol and narcotic drugs.

Also petition of N. E. Cushing and 20 others of Minot and Auburn, for same. Both these petitions were referred to the committee on temperance.

Mr. Mills of Hancock, presented bill,

“an act to amend paragraph 20, section 1, chapter 116 of the Revised Statutes, in relation to the salary of the commissioner of sea and shore fisheries. The same was referred to the committee on salaries.

Passed to be Engrossed.

An act providing penalties for non-feasance of duty of sheriffs, deputy sheriffs and county attorneys.

An act to amend an act to incorporate the Kennebec Water District.

Resolve in favor of the early York deeds.

An act to extend the charter of the Norridgewock Bridge proprietors, and to authorize the town of Norridgewock to take and purchase the property of the same.

An act relating to the appointment of an inspector of milk and vinegar in the city of Portland.

An act to amend chapter 75 of the special laws of 1876, as amended by chapter 18 of the private and special laws of 1878, entitled an act creating the South Paris Village Corporation.

An act to amend an act to incorporate the Phillips Village Corporation.

An act granting additional powers to the Sebec Power Co.

An act to amend the charter of the George A. Young Co.

An act to legalize the construction and maintenance of a wharf into the tide waters of Casco Bay in the town of Falmouth, Maine.

An act to regulate the licensing of inn-holders and victuallers of the city of Portland.

Resolve in favor of the Castine Normal School.

An act to renew and extend the charter of the Boothbay Harbor Banking Co.

An act to extend the charter of the City Trust Company of Bangor, Maine.

An act to amend and extend the charter of the Sanford Trust Co.

An act to amend section 76 of chapter 48 of the Revised Statutes, relating to loan and building associations.

An act to extend the charter of the Somerset Trust Co.

An act to incorporate the Oxford Trust Co., to be located at Fryeburg, Maine.

An act to incorporate the Lincoln Trust Co., to be located at Lincoln, Maine.

An act to incorporate the Kenduskeag Trust Co., to be located at Bangor, Maine.

An act to incorporate the Newport Trust Co., to be located at Newport, Maine.

An act to incorporate the Belfast Banking Co., to be located at Belfast, Maine.

An act in relation to the lands reserved for public uses in the Plantation of Pleasant Ridge.

Resolve authorizing the land agents to sell certain public lots in St. Francis Plantation in Aroostook county.

Resolve in favor of the re-establishment where necessary of the boundaries of the lots reserved for public uses in the several plantations and unincorporated places.

Resolve in favor of repairing bridge across the St. Croix river near Squirrel Pond in Baileyville.

An act to prohibit fishing in the tributaries to Little Sebago lake in Gray, Raymond and Windham, Cumberland county.

An act for the protection of gray squirrels upon a certain territory in Fryeburg, Oxford county.

An act to regulate fishing in Marble Brook, Marble Pond, Chase Brook, or Blackstone Brook, in Piscataquis county, and Bolt Brook in Somerset county.

An act to prohibit ice fishing in Hancock pond in the town of Embden and Plantation of Lexington, Somerset county.

An act to regulate fishing in Lake Webb, Franklin county.

An act to permit ice fishing in Half Moon Pond, in the county of Oxford, and to permit fishing for pickerel through the ice in Jenne Pond, so called, in Mexico and Carthage, partly in Oxford and partly in Franklin counties.

An act to prohibit fishing in Branch and Meadow Brooks in Thomaston and Rockland.

An act to regulate fishing in South Boundary Pond, Little Northwest Pond, Massachusetts Bog, in Franklin county.

An act to prohibit ice fishing in Narraguagus Lake, so called, in Hancock county.

An act to amend section 50 of chapter 41 of the Revised Statutes, relating to the alewife fishery in the Pemaquid river.

Resolve in favor of the town of Machias.

An act to amend the charter of the city of Rockland.

Certain bills came up on their passage to be enacted, and certain resolves on their final passage; and the same were tabled on motion by Mr. Putnam of Aroostook.

Mr. PUTNAM of Aroostook: Mr. President: I will say in explanation of the foregoing action that, and perhaps some of you may be aware of the fact, the Governor of our State left the city yesterday to go to Washington, to be gone at least three days. During his absence these bills on their passage to be enacted, and these resolves on their final passage cannot be signed by him. It is the practice of our courteous secretary of the Senate to present these resolves and bills as soon as the same are passed, to the Governor for his approval. This cannot be done until his return. To simplify matters and to assist the secretary in his work, and to provide against any possible contingency, I have moved that these bills and resolves be tabled. As soon as the Governor returns, I will have them taken from the table and put upon their passage.

The PRESIDENT: The Chair will state that there is one of these bills, namely: "An Act to amend the charter of the city of Rockland", which it is necessary to have go into effect in order that it may be used at their city election; and those in favor of the bill propose that it be at once forwarded to Washington there to receive the Governor's signature. Will the senator from Aroostook withdraw his motion so far as it relates to that bill?

Mr. Putnam thereupon withdrew his motion with relation to the said bill, and the same was passed to be enacted.

On motion by Mr. Morse of Waldo, the rules were suspended, and the following order received a passage, namely: Ordered, the House concurring, that the Act for the protection of deer in the counties of Knox, Kennebec, Lincoln and Waldo, be taken from the files and referred to

the committee on inland fisheries and game.

Orders of the Day.

Mr. POTTER of Cumberland: Mr. President, I would like to ask the senator from Hancock, Mr. Clark, through the Chair, whether it would be agreeable to him to take up the manslaughter bill, and assign it for consideration some convenient time next week.

Mr. CLARK of Hancock: It would be perfectly agreeable, Mr. President, to have it brought up next Wednesday morning for disposition.

The PRESIDENT: Does the Chair understand the senator from Hancock that it may be taken up for consideration or assignment that day?

Mr. CLARK: For whatever action may be necessary; I don't know yet what will be done—either recommitted to the committee or argued on that day. It will be taken up and disposed of.

The PRESIDENT: That is, taken up for consideration. The senator from Hancock says he will take it from the table Wednesday of next week.

Mr. POTTER of Cumberland: Now if the senator from Hancock, or any other senator, proposes to amend the pending amendment, or make any motion adverse to it, I should be glad for one to have notice of it today, or when convenient, so we may know in advance what question is to be considered.

Mr. CLARK: I can simply say I shall ask to table it, but what action will be taken on it I am unable to state at this time. If any amendment be proposed I will notify the senator from Cumberland the earliest date I receive it.

Mr. POTTER: Mr. President, at the request of one of the senators from Penobscot, and with the consent, as I understand, of members of the Senate interested in the insurance bill, I move that the Senate take up for consideration now House document No. 28, relating to the University of Maine and the pending amendment.

The motion prevailed, and Resolve in favor of the trustees of the University of Maine was taken from the table.

The PRESIDENT: The question is upon the adoption of Senate amendment A.

Mr. POTTER of Cumberland: Mr. President: I should be glad if I could be relieved of the discussion of this question today, as I hardly feel able to make a

speech; but I will endeavor—as I have agreed with the senator from Penobscot to take the matter up today—to say as briefly as I can what I wish to present in regard to the amendment.

In the first place, I propose to state to the Senate my general point of view in regard to the University of Maine, and I will endeavor before I get through to connect the general question with the special one which is before the Senate.

During something less than 40 years the University of Maine has received, or will have received at the close of this year, in round numbers \$600,000 from the State of Maine, and during the past 10 years it has received more than a quarter of a million dollars from the State treasury. During that time no other college in Maine has received anything from the State, except the special appropriation for Colby two years ago, and the special appropriation which Bates College is likely to receive this year. Last year the University of Maine received \$90,000, and more, from the general government and the State government, including the income on the land fund received from the general government. And during that time no other college in Maine received a dollar from the State treasury.

I do not altogether object to that discrimination in favor of the University of Maine. Its comparative youth, and the special work it is doing for the State, justify special favors from the State. My objection is on the general ground that the University of Maine has been allowed to expand its sphere and compete with the other colleges of the State in their own field, and to do so on the basis of a nominal tuition.

The land grant colleges of the West have been allowed to cover, so far as they have wished to do, the general curriculum of an American university. The land grant colleges of the East have not as a rule been allowed to do that. The agricultural institutions of Massachusetts, of Rhode Island, of Connecticut and of New Hampshire, confine themselves to the agricultural, mechanical and technical courses; they give the degree of bachelor of science, but they do not give the degree of bachelor of arts. The Institute of Technology, which is for Massachusetts what the University of Maine ought to be for this State, does not give the degree, and never gave it, of bachelor of arts.

The University of Maine, I say, has been allowed at the expense of the State to invade the sphere of the older colleges, established before it was established, occupying a ground which they are themselves able to cover. This has not only been done at the expense of the State treasury, but it has been done on the basis of a nominal tuition. Bowdoin College charges a tuition of \$75 a year; Colby charges \$60; Bates charges \$50. The Legislature of this State in 1897 required the University of Maine to charge tuition, but the tuition it charges is \$30, which is less than half of the average tuition of the other colleges of the State.

I had occasion when a senior at Bowdoin to look into the question of how much each boy there paid toward the expense of his college education, and I found that the student there paying the whole tuition, his room rent and other charges and receiving no help from the college, paid only about one-third the cost of his education by the college. If that is true, and the tuition charged is \$75, the tuition charge of \$30 is certainly a nominal tuition.

The agricultural students in the University of Maine pay no tuition at all. I don't object to that. Maine students who cannot pay tuition can give notes, and I assume they are properly secured. If so, I do not object to that. I do object on general grounds to the invasion by the University of Maine of the field of the other colleges, at the expense of the State, on the basis of a nominal tuition.

The point of view of the State in regard to that is this: If the State of Maine is to support the University of Maine, so far as support is necessary outside of the support of the general government, it will cost more to do that if the university is allowed to enter the curriculum of the American university in full, and will lead to the support of the other colleges.

Now, this is my general point. But I am not now antagonizing this resolve on that ground. The investigation which I have suggested as to the relation between the State and the university will determine whether or not these notions of mine are well founded. If not, I hope to be willing to change my mind in regard to them.

But coming now to the special question before the Senate. It appears that the university not only receives large gener-

al and special appropriations from the State—its catalogs, its reports, its bulletins, its circulars—and its printing generally.

Now, my first proposition in relation to the matter of printing is this, that everything which the University of Maine receives from the State should be in the form of a definite and fixed appropriation. The people of Maine, and the Legislature of Maine, are entitled to know what it costs to support the University of Maine. I submit that to the Senate as a business proposition, that we are entitled to know how much we pay for the support of that important institution.

Possibly it would cost less to do the printing for the University if it was done within definite and circumscribed appropriations, instead of allowing the University to have carte blanche in the printing of anything it wants to.

Now the next proposition which I submit to the Senate is,—that the people of Maine and the Legislature of Maine do not know, as a matter of fact, what it costs to do this printing. I endeavored to find out as a member of the committee on State Printing from the State Printer, what it cost for 1904 to do the printing for the University. The printer was unable to state at that time. I asked him to look it up. He took several days, and was then unable to answer the question—how much it cost to do the printing for 1904. I told him, as he was busy on legislative work, to drop it, and not pursue the inquiry any further. I then asked the State Treasurer how much it cost. He told me he had no account with the University of Maine, and that it was impossible to ascertain. The president of the University testified as a witness before the Committee on State Printing. I asked him this question—"Do you know the total cost to the State of the printing for the University during the year 1904?" Answer: "I never had any cause to inquire into the cost. We had made a request upon the Governor and Council for the number desired, and received permission and ordered it." The distinguished president of the University also testified that he ordered 1500 reports for

the University without obtaining the prior consent of the Governor and Council. The statute expressly says that the number of reports shall not exceed 1500, and that the number to be printed shall be determined by the Governor and Council. That rule was not considered by the president.

President Fellows has been connected with the University but a short time; he had not the slightest intention of violating any law of the State, but under the rule as it has been established he should not have gotten the impression that he could order catalogs and reports to any limit. There is no member of the Senate, and no man within the sound of my voice, who can tell me now, or who can find out in 48 hours—and I do not except the Senator from Penobscot—how much it cost the State of Maine to do the printing for the University of Maine during the year 1904.

Now another thing. What is true of the year 1904 is true of the year 1905. The University requested the Governor and Council within a few weeks for permission in general terms, without limit, to print at the expense of the State catalogs, reports, bulletins, etc. That request came to the Council in January. A member of the Council endeavored to ascertain from the University, and from the State Printer, what it would cost to do the work for 1905; but it has been impossible for the Council up to the present time to ascertain that fact, and the request of the University is now held up in the Council on that account.

I remind the Senate that the University of Maine, although a state institution, and to a certain extent entitled as a matter of fairness and justice to special favors from the State, as I admit, is, nevertheless, not a department of the State government in the sense in which the insurance is, or the bank examiner's department, or the agricultural department. The printing for those departments must necessarily be done by the State. The University of Maine is one of the four great higher institutions of learning in the State; it receives a large income from the general government; it re-

ceives tuition; it receives general and special appropriations from the State. What it does receive from the State should be confined to these general and special definite appropriations, and out of those appropriations should be defrayed the expense of printing, just as much as for heating and lighting, or for anything else.

Now, I wish to submit to the Senate another proposition. I say that the Legislature and the people of this State have not known the fact that the University of Maine was having its printing done at the expense of the State. It is true that the university is permitted by Section 24, Chapter 3, of the Revised Statutes, to have 1500 reports printed at the expense of the State. That chapter is one which is rarely referred to; lawyers do not have to examine it once in 10 years in their practice. That fact has been hidden in the statutes, and has been unknown to the people and the Legislature. Two years ago when the figures were stated in the House, showing how much the University of Maine had received from the State, no mention was made of the matter of State printing; in my opinion it was not known to the Legislature. As a matter of experiment I inquired yesterday of the three members of this body who represent the Senate on the committee of education. I asked those three senators whether any of them knew the fact when the hearing was held before the education committee, and when this resolve was unanimously recommended; I asked them whether they knew at that time that the University of Maine was having its printing done at the expense of the State. I thought I could guess fairly well what the answer would be. No member of the committee knew the fact. That is not in the slightest degree a reflection upon those three senators, for what is true of those three men is true of this body. I doubt whether there were two senators, excepting the senator from Penobscot, Mr. Stetson, who knew the fact at the opening of this session, that the University of Maine was having its general printing done at the expense of the State. It had been supposed that the aid received by the university from the State was confined, as it should be confined, to general and definite and specific appropriations.

Now, Mr. President, if that law permit-

ing the university to have its printing done in this way is to be changed, it should be changed with full notice. I think, and I ought to say now, that probably when the law was enacted it was enacted with full notice. I do not wish to be understood that it was surreptitiously placed in the law without the knowledge of the Legislature of 1895 or 1897; that could hardly be. At any rate, if that law were to be changed now, it should be done on notice, and I therefore inform the Senate now that the bill which I introduced this morning to amend Sections 24 and 25 of Chapter 3 of the Revised Statutes as a partial report of the committee on State printing, contains a recommendation of that committee that the provision in behalf of the University of Maine be stricken from the statutes—for the reasons which I state, and for other reasons which I need not state.

That proposition was unanimously reported from the committee. If it is necessary to increase the appropriation in behalf of the University of Maine to cover its printing bills, whatever they are, let it be done, but let it be done in the form of a definite and specific appropriation, so that we shall know what the university costs the State.

If my amendment were to be adopted by the Senate and the House it would result, I suppose, in a saving to the State during the years 1905 and 1906 of \$3000 or \$4000, and it would be necessary, I suppose, for the university to get along and pay its printing bills out of the \$80,000 or \$90,000 which it receives from the general government and the State, and the tuitions it gets from its students.

I wish to make this suggestion, and here is where I connect—if I do at all—this special question before the Senate with the general proposition which I first discussed.

If the University of Maine should find that it needed for its ordinary disbursements the \$80,000 or \$90,000 which it will receive as I have stated, and finds it difficult on its present income to pay for the printing unless the State pays for it—I would suggest that if the tuition charge were increased by as much as \$5, and were made \$35 instead of \$30, the tuition charge of the university would not then cease to be a nominal charge; but the increase would enable the university to pay for its printing, and the tuition charge would

come up a little nearer to the standard of the tuition charge of the other colleges of the State.

Now there are other important matters yet to be discussed by the Senate this morning, and I do not wish to exaggerate the importance of this one, or to take too much time in regard to it. I have stated as briefly as I could, and as fairly as I am able to do, the reason why I submit as a business proposition that the support which the University of Maine receives from the State should be in the form of a definite and fixed appropriation. I wish, however, before I close to make a sharp distinction between the University of Maine proper and the Agricultural Experiment Station. I am greatly indebted to the director of the Experiment Station for some valuable information which he gave me yesterday, or the day before. I understood, and I state the facts as briefly as I can possibly do, that the argument I have just submitted applies to the University of Maine proper. It is the University of Maine proper which has received this \$600,000, not the Experiment Station; it is the University of Maine proper which received the \$90,000 last year, and not the Experiment Station—the latter receives no part of that money.

I am informed by the director, Mr. Woods, that if this resolve has a passage no part of the \$24,000 will go to the Experiment Station. The station receives \$15,000 from the general government, and needs, as Mr. Woods tells me, every dollar of it for the important investigations and analyses that are made by that institution for the leading industry of the State, which is, of course, the agricultural industry. Practically the only aid which the Experiment Station receives from the State, except the matter of fees from fertilizers, etc., is in the form of State printing. If that State printing is taken away from the Experiment Station, as I now understand the fact, the important work of that institution will be to that extent crippled. Mr. Woods does not know, and the State printer does not know, and I doubt if anyone here does know—what it costs to do that printing. It is probably over a thousand dollars a year; it may be \$1500 a year.

Now, the day before yesterday, in conference with Mr. Woods, I drew a resolve in favor of the Experiment Station, which

I promised him I would offer here in case my amendment should happen to pass the Senate. I will read this resolve: "Resolved, that the sum of \$2000, or so much thereof as may be necessary, be and is hereby appropriated from the appropriation for State printing to defray the expense of printing the bulletins and other publications of the Maine Agricultural Experiment Station for the years 1905 and 1906, subject to the provisions of Chapter 25 of Section 3 of the Revised Statutes."

That resolve is on the supposition that \$1000 a year will cover the cost of printing for the Experiment Station. If this resolve should pass it would not take a dollar out of the State treasury, that is not already appropriated; it would appropriate a sum not exceeding \$2000 from the \$35,000 already appropriated. It would give the Experiment Station the printing which it has now, but it would give it to it within definite limits, so that it should not exceed \$2000; and it would place the expenditure of that sum where it belongs, within the discretion of the Governor and Council, instead of being discretionary, as now, with the institution itself.

It would, therefore, as a business proposition, and from the standpoint of the State, be better than it is now; it now being on the same indefinite plane as the printing for the university.

Since drafting this resolve with Mr. Woods, I have received a long letter from him, suggesting some alterations in it—suggesting a different method somewhat of getting at the result, and that he now thinks it would cost more to do the printing than he thought the day before yesterday, and that I make some changes in this resolve.

I have decided not to do that. I will submit this resolve in the form in which I have drafted it, provided my amendment passes the Senate; and my idea would be to have the resolve referred to the committee on agriculture, and have a hearing at which Mr. Woods can be present, and then have it redrafted, if necessary, make the amount larger, if necessary, and put on another basis if necessary to accomplish the general proposition.

I offer this as evidence of good faith as to my desire to continue the support to the Experiment Station, which I assume is properly granted to it.

Now, Mr. President, without delaying the Senate further, I submit on the question of my amendment and the general question, the facts and reasons I have stated to the candid consideration of the Senate.

Mr. IRVING of Aroostook: Mr. President, it is not my purpose at this time to enter into a discussion of this question, as I am convinced that others will take the matter up and handle it as it should be. But, as a member of the committee to which this resolve was referred, in justice to myself and to the members of that committee, I desire to very briefly review the history of that resolve, and submit the facts upon which that committee reached its decision on the question. Notwithstanding the fact that notice of the hearing was published for two weeks in the dailies of our State, no one appeared before the committee in opposition to the resolve. The officers of the college appeared and presented their claim in the language of the statement of facts. When the present income of the university was first appropriated by the Legislature, there were 256 students in attendance upon the institution. The members rapidly increased and consequently, expenses also. What was reasonably sufficient, has ceased to be so. The number of students is now 558, more than 300 in excess of those in attendance when the present income was fixed. The situation has been met by the most rigid economy, by curtailing the purchase of much-needed supplies, books, etc., and latterly by diminishing the amount of much-needed repairs. Upon that statement of facts, the officers of the college rested its case; and your committee recognizing in their argument the fulfillment in part, and in excess of the expectation of the State when they created that institution, regarded that argument the strongest conceivable argument for the granting of that resolve; and without haste, but deliberately, honestly considering it from all sides of the question, unanimously voted "ought to pass," and so reported the resolve to the House. On Feb. 2, this resolve was tabled in the House and for three weeks it remained in that state of repose, until under the

pressure of more than three-quarters of the members of the House, it was sent upon its passage, without a dissenting vote or voice. It has survived the smothering process and is now before us to be amended, if possible, beyond all usefulness to the institution for which it was intended. It was the opinion, sir, of your committee, that this appropriation was necessary, and it was also their opinion, if you refuse to grant it, that you deprive the officers of that institution of the only means by which it is able to keep up its present high standard of efficiency. I do not wish at this time to take advantage of the courtesy of the gentleman, the senator from Penobscot, Mr. Stetson, who waived his rights to allow me to defend the position of the committee on this measure, by entering into any part of the discussion that he is, I believe, amply prepared to set before you; but I do wish in advance to heartily concur with him in the position he takes that this amendment is not germane to the subject; and if an investigation is to be started in the several institutions of our State as to the amount and the extent of the expenditure by the State in the departments by the several institutions, it is decidedly unfair to pick out this university and cause it to suffer and that if such an investigation is started, it should be done under a general act by which all should be treated alike. I believe that to pass this amendment would be legislative discrimination against one of the institutions of our State and one that I believe the greatest number of people in the State have the highest admiration for of any institution that the State has ever created; and I ask, and move you, sir, that, when the vote be taken upon this subject, it be taken by a yea and nay vote.

Mr. GARDNER of Penobscot: Mr. President: I wish to say not a word in regard to any of the technical points which may be under discussion, but I wish to show what the university is doing and to speak with reference to a suggestion which was made in regard to the matter of tuition. I submit, first, that there is but one University of Maine. It is located in the central part of the State, where it accommo-

dates our people more than any other college in the State. It is the poor man's college; and I say that the suggestion that the tuition in this institution should be increased, is wrong, and I will state briefly a few reasons why it is wrong. This touches me in a tender spot, and appeals directly to the interests of my constituents. I live in a farming and lumbering section, where the people are not wealthy, and they have not been there long, but many of the boys there, who otherwise would be deprived of a college education, do go to the University of Maine; and I know that a great many boys who leave my town to go there would be unable to attend that institution if the tuition were placed as the senator suggested at the same sum as that charged by other institutions. Many a boy in my location could not go to Bowdoin, could not go to Colby, for the reason that he is located a long distance from those institutions, and the matter of tuition would seriously affect him. I speak of the poor boys, the farmers' boys, and those who are struggling to educate themselves; and I think that any suggestion that may be entertained in connection with this matter, that the tuition be increased is not to be thought of for a moment; and I am surprised that the senator suggests that in order to pay for some printing which is necessary for this institution that we call upon those poor boys to pay it, with all due respect to the senator, and I trust he will pardon an allusion. In our country we have an expression which covers suggestions of this kind. I will repeat it. It seems to me that to attack this institution generally on this matter of printing is "small potatoes." It is a matter, as I understand it, of less than \$2000; and the general trend of the senator's remarks is an attack upon the institution and a criticism because it comes in competition with the other colleges. Let me repeat. This is a poor man's college. It is an institution for the poor boy, for the farmer's boy and the boy from the frontier section. It is located in the central part of the State where it convenes more nearly than any other institution, that class of boys. I know a great many boys who

go there who can hardly afford to have decent clothes to wear, who are struggling along to get an education. Many of these boys have gone from this State and are a credit to the State. Many are getting into occupations that they never would dream of getting into if it had not been for the University of Maine. I hope no suggestion will ever be entertained by this Legislature to increase the tuition for those boys.

Mr. STETSON of Penobscot: Mr. President: When this matter was brought up for discussion, it was not thought that more than 15 or 20 minutes would be taken; and I realize that the Senators are interested in another question which is to follow this one. Not for a moment, Mr. President, and Brother Senators, do I wish to assume that the Honorable Senator from Cumberland, who comes from the town of Brunswick, and from beneath the shadows of the elms of Bowdoin College, of which he is an honored graduate, is biased in the slightest degree in his attempt to put a rider on the bill for an appropriation for the University of Maine specializing and pointing out that as one of the institutions of the State, and the only one at the present time that he attacks, and he says they must pay their printing. The laws of 1895, Chapter 73 specifically states that of the reports of the Maine State College it shall have so many hundred annual copies; and, as the Senator himself has stated, in Chapter three of the Revised Statutes, it specifically states that the bulletin for the college, for the experimental station shall be paid for by the State. He attempts to assume that, when these laws were passed, the members of the Legislature had no knowledge that they were on the books. He attempts to assume that if appropriations were given the University of Maine, that the members on the committee, or the members of the Legislature, did not understand that the printing was done by the State, as it was for other institutions and other departments of the State; and I say here that it is not fair—it is not right, nor is it just to individualize one institution, where all should be taken and acted upon collectively. He made here the broad as-

sertion that the State of Maine had appropriated a large sum of money toward the maintenance and development of this institution, which, as you all know is doing a grand work for the poor boys of the State of Maine; but, fellow Senators, he did not tell you, that the total appropriations from the State of Maine, no matter how large they are, are the smallest as compared with those of any State in the Union for this particular purpose. He did not state to you that two States, with about the same population as the State of Maine, are appropriating this year and last year \$200,000, to educate the boys and girls you educate, educating them for industrial pursuits in their states, educating them so that they become Captains of Industry; educating them so that they will develop our State, and the industries that are seeking expansion throughout the State. He says we do teach Latin and Greek; and we do. Do we have to? A man who is to have a technical education must know Latin and Greek to some extent. He did not state that the cost of Latin and Greek is paid out of the appropriation from the National Government. One word more, and I will close. You are all familiar with the Morrill Act which created this institution. You are all familiar with the State's obligations which they assumed when, under the provisions of that Act, the institution was created. Those obligations were large, and everyone in the State of Maine realized their extent. There is no one today who is not willing to carry out faithfully the trust and obligations of the State of this fair institution located in the center of our State.

I hope the motion of the Senator from Cumberland will not prevail.

Mr. POTTER of Cumberland. Mr. President: just a word or two. I do not desire to rehearse the argument which I have made, or reply in detail to the Senators who have followed me.

The Senator from Penobscot has just made a statement which I have not time to look into, but I am very certain he is wrong in saying that the instruction in Latin and Greek which is given in the University of Maine is paid for by the appropriation from the

general government. It is my recollection, and I shall expect to find on looking the matter up, that the general government prevents the University from applying a single dollar of its appropriation to instruction in Latin and Greek. I did examine that question two years ago, and found that to be the fact. The general government puts the stress and emphasis in the Morrill Act, and in subsequent Acts, upon the agricultural, mechanical and technical courses and does not, as I recollect, allow that a dollar of its appropriation shall be applied to instruction in Latin and Greek.

I did not suggest, as my friend, the Senator from Penobscot, has seemed to assume that the tuition charge of the University of Maine should be raised to the level of the other colleges. I was suggesting that the tuition of \$30 a year is a nominal charge. It does not probably pay one-eighth of the expense of educating the boys at the University of Maine. The charges in Colby, Bates and Bowdoin average a little more than \$60. I was suggesting that if the charge at the University of Maine were increased from \$30 to \$35 it would still be practically a nominal charge, and still the additional amount received by the University would enable it to pay its printing bills.

Now, Mr. Stetson has been kind enough to say he didn't suppose my connection with Bowdoin would prejudice me in this matter. I hope it does not. It is my duty here as a senator to look to the interests of the State. It is the duty of all of us to see that the University of Maine should have what President Roosevelt would call a "square deal," neither more nor less. If I am prejudiced, it is unconscious; and whether my speech a few moments ago was a partisan one, the Senate can judge. I reciprocate the courtesy of my friends, the senator from Penobscot, and I assume with entire good faith that the fact that he is the treasurer of the University of Maine does not prejudice him in this discussion. I have no doubt that he is striving to do his duty here as a senator of this State, and I say that in entire good faith.

Mr. President, I move that when the vote upon this matter be taken, it be taken by Yeas and Nays.

Mr. PIKE of Washington: Mr. President, may I ask that the amendment be read?

THE PRESIDENT: The senator from Cumberland, Senator Potter, offers the following amendment to be added to the

Resolve "Provided, that during the years 1905 and 1906 no printing for the university shall be paid for by the State." The question is upon the adoption of the amendment. Those in favor will vote Yea, those opposed, Nay.

Those voting Yea were Messrs. Allen, Ayer, Brown, Clark, Morse, Potter, Sturgis (7). Those voting Nay were Messrs. Bailey, Curtis, Gardner, Irving, Knowlton, Mills, Owen, Philoon, Pierce, Pike, Plummer, Putnam, Shackford, Shaw, Simpson, Staples, Stetson, Tartre, Tupper (39).

So the motion to amend was lost.

Mr. PHILLOON of Androscoggin: Mr. President: I did not understand the question, and did not vote understandingly. May I have a restatement of the question, and the privilege of changing my vote?

The President restated the question, whereupon Mr. Philoon changed his vote from Yea to Nay, as appears above.

Mr. Putnam for a like reason requested permission, and also changed his vote from Yea to Nay.

On motion by Mr. Stetson of Penobscot, the bill took its second reading, and was passed to be engrossed.

On motion by Mr. Stetson of Penobscot, the majority report of the committee on mercantile affairs and insurance, "ought to pass" and the minority report of the same committee, "ought to pass in new draft," on bill, "An Act to establish a law uniform with other states relative to insurance policies," was taken from the table.

The pending question being upon the acceptance of the majority report.

Mr. Stetson of Penobscot, moved that the minority report be substituted for the majority report.

Mr. STELSON of Penobscot: Mr. President: When the vote is taken, I move that it be taken by a Yea and Nay vote.

In taking that position, I will not detain the Senate any longer than I can help. I know that there are many to speak on this matter. I feel very earnestly in regard to it, but I will endeavor not to burden you and weary you with my remarks. I will endeavor in as short a time as possible to explain to you the reasons that led four of your committee to report ought not to pass on the pending bill. If you will examine Senate Doc. 113, you will see that those of us who signed the minority report reported "ought to pass in new draft." If you will examine the two bills you will discover that both reports recommend certain features of the bill, but that the minority report simply strikes out that section referring to arbitration in the Main standard policy, the committee agreeing entirely upon the other suggestions of the bill. This brings the question under discussion down to the one fact, whether we shall have an arbitration clause in a Main standard policy, or whether we shall have a right of appeal to the courts for trial on the question of damage. This is a similar bill to the one that was introduced by Senator Clark at the last session, which was referred to the committee on mercantile affairs and insurance. It was unanimously reported back by that committee to the Senate and in the Senate, by a vote of

17 to 10, it was defeated. At that time the principal question under discussion—I will say, one of the principal questions under discussion—was the constitutionality of the act. After the defeat of the bill the senator from Hancock passed an order requiring of the court an interpretation of its constitutionality. The court reported that the law was constitutional. Therefore, the question at the present time is simply one of arbitration; and I am going to assume that the senator from Hancock will attempt to inform you that a great injustice is being done to the people of the State of Maine. In an academic way he will attempt to argue to you the injustice to the people of our State. He will theorize on the beauties of trial by jury. He will theorize, as the professors in our colleges have done, and in a measure are doing today, on the questions of free trade vs. protection, when we all know, when we glance over this magnificent country and hear the hums of industry in every little hamlet of this great country, that the question of protection and practical illustrations of the workings of the law are better than the mere fact of theorizing. I am going to assume that the senator from Hancock, and I catch the eye of the smiling senator from Knox, and I am also going to include him in the same remark—that neither of these distinguished senators for a moment wish to press this bill from sordid motives. They do not wish to get the insured into the offices of lawyers; and, Mr. President, I repeat, I believe the gentlemen are honest. How can I help taking such a position when I recall the many times during this session that the distinguished senator from Knox has stood upon the floor pleading for the rights of the common people? Please do not misunderstand what I mean. I believe that they are thoroughly right in taking the position from honest conviction; but the questions resolves itself into one of theory vs. practice. We can all theorize, but we all know that many times when you come down to the actual working of a law, that the cold hard facts of business experience do not carry out the theories that we entertained in the earlier stages. A meeting of the committee was held on this question, at this session. It was advertized extensively over the State of Maine; and who appeared in favor of the bill? There were three lawyers, but I have not told you who appeared against the bill. I have not told you of all the letters, the petitions and telegrams that were filed with this committee. I have not told you of the Grangers and the mutual insurance companies which appeared before us, but when I hold in my hand letters, petitions and telegrams from over 900 of the solid, practical business men of the State of Maine, asking you and I to repeal the arbitration clause, will they have any weight with the intelligent men of the Senate? Are you in your vote to show to these men of Maine who carry a great amount of insurance in our State, that they do not know what they are talking about? Are you, by your vote, going to say: We know better than you what you want? No! I believe every intelligent man in the Senate when his vote is

recorded will record it in sympathy with this protest which has been entered here from the business men of our State. Did I speak of the mutual insurance companies and the three Grange companies? Many of them were represented at that meeting. They are the men that the senator from Knox wishes to protect—the people of our State who have the small policies, the people who—the gentleman on the other side will argue—need the protection more than the business men with their corporations and varied interests. They will argue that the business man and his large amount of insurance will get good terms from the insurance companies, but that the farmer and the Granger and the mechanic, men who perhaps have not as much influence have but small policies, and that they are the men whom the insurance companies are going to browbeat. Those 48 companies came to that committee, and they said: Leave the law as it is. Why, my friends, do you realize that those 48 companies carry over \$30,000,000 insurance last year, and the expense of maintaining those companies was \$13,994, being only \$292 to a company in the question of salaries? Those are the companies that are sailing close to the wind. They are the companies which are economical. They are the companies which are protecting the farmer and the Granger. They are the companies which are insuring farmers and Grangers who cannot get insured in some of the larger companies that come into our State seeking business, and when they come before this committee and ask us in no uncertain terms to leave the law as it is, that they were satisfied with it. I could do no more than to say: "I believe you are right. You have investigated this matter and you have a right to stand before this committee and to state that you have knowledge of what you ask." I assume that the petitions and requests of the Grangers of our State should be respected.

Do you realize that in the 1298 losses by fire last year that were adjusted by insurance in the 11 foreign companies that did business in our State, only 4 1-3 per cent. were adjusted by arbitration? The other 96 per cent. was amicably settled between the companies and the insured, and we are bound to believe they were settled amicably to the insured. And more than that, in no one case did these companies assert their right of carrying to court any part of it bearing upon the matter.

Is not that a good showing for the law in our State, and is it not right to let well enough alone? This law was passed under the influence and recommendation of one of the strongest and ablest lawyers in the State of Maine, when he occupied the highest chair in our State—Governor Cleaves. In 1895 he recommended in his inaugural that we should adopt a standard policy providing for an arbitration clause. He realized, as any of you will if you will look back to the history of 1894 of the number of contested cases that were in our courts, that something had to be done to protect the people of our State from spending the large amount they would receive from their policies in pro-

tecting their rights in the courts. He urged, and it was through his instrumentality that this law was passed.

It was also urged in the inaugural addresses of Governor Powers and Governor Hill. They realized as well as Governor Cleaves the satisfactory way in which the law was working. The law was copied after the Massachusetts act of 1887, and in Massachusetts but once, and that in 1900, was an attempt made to remove the arbitration clause; and on that the committee reported "ought not to pass."

In our own States two attempts prior to the present one have been made, one in 1901 and another in 1903. In both cases your committees reported "ought not to pass," and I believe the intelligent, sober second thought of the present senators will be that the present bill in regard to the arbitration clause "ought not to pass."

Now there are two matters that I want to impress upon your minds, for, Mr. President and senators, I am willing to assume that any man who attends this hearing here today, with his mind in a receptive mood to receive the argument which if honestly given may change his mind from what he previously thought was an honest interpretation of the law, but what his vote will be what it should be; and if I in my feeble way can instruct or impart to any senator here present any thoughts in regard to the arbitration law which he has not realized, I should claim it was his privilege to reconsider any action, or any assurance he may have given any fellow senator in regard to what way he would vote upon this question when it came up for adjustment.

Bearing that in mind I wish to impress upon your minds two facts; and if I cannot prove their truth I do not ask your support for the minority report. One is that the insured will get his money, and do so quicker under the arbitration clause in the Maine standard policy than he would if he had the right of trial by jury. The other is that the insured pays a less premium under the present law than he would if he had the right to go to the courts. These are two questions that vitally affect the people of our State.

You all know that when the farmer or the business man has a fire loss the first thing he wants is to adjust his insurance policies. He wants to get on his feet. He wants the money that is rightly his to build his little farm or to buy a new stock of goods.

Now if you gave the insured the right to trial by jury I doubt if there is a fair-minded man here present within the hearing of my voice but will say that if that man goes to the courts there will be in many cases delay—in many cases the matter will be carried to the law court—in many cases the payment will be deferred longer than it would be under the arbitration clause, wherein it is provided that the man must receive his money within 60 days from the filing of his proof of loss.

In regard to the question of increased cost of premium you can realize that if

a man goes to the courts he must obtain a lawyer to protect his interests. Necessarily it makes expense to him. Necessarily the insurance companies must protect their rights. They have to employ counsel. It makes a cost to the company, and the company must reimburse itself in some way, and the only way is to increase the rate of premium. And more than that, if you allow the people of the State of Maine to go to court for a trial on the amount of damage you will have more dishonest men—you will have more of these mysterious fires. It is human nature. You all know and can realize that a jury of 12 men are more inclined to favor the individual as against the corporation, and the man who has the dishonest or unjust claim is one who seeks the court, making expense to the company, and the man who carries honest insurance in the State of Maine has got to pay for that cost if you compel the insured to have a trial by jury, and relieve him from the right of trial by arbitration.

In recording your votes I want you to bear in mind these two facts, and that they are facts. I have investigated them. I have asked people all over the State of Maine. I have asked our merchants and business men who have settled their cases by arbitration; and I firmly believe, as I stand here today, that the insured will not get his money so quickly, and that the insured will pay a higher premium if you relieve him from the rights of arbitration. The senators who will answer me on the other side will argue that the present law of arbitration has many great, shining and alarming faults. Was there ever a law enacted in the State of Maine or anywhere else in which faults might not be found, especially where it effects, as it does in this case, the people of the whole State?

I know that they will argue that the insurance companies have rights to appeal to the courts which the insured do not have under our present law, and I am going to say that I stand with them on both feet. They are going to argue that the adjusters appointed by the insurance companies are men interested in the companies; they are men chosen all over the State of Maine—what they in their testimony before the committee called "ringers"—men hired by the companies to go around and reduce the amount of the award in favor of the company. And they are right in a measure; there have been cases where injustice has been done to the assured, but not many. You will always find one or two black sheep in the large flock, and therefore no law but may have its leaks and its faults.

But they will also say to you that this law is unjust in other ways, but I will not stop to enumerate them. I want at the present time to call your strenuous attention to what I propose to do if by your verdict you accept the minority report, which in my opinion is an honest one, that the arbitration clause does not work any injustice to the people of our State—that it is right—that it is just, and I believe it works a greater benefit than any law which allows them to have wrangles in the courts. I am not reflect-

ing upon the lawyers in any way. I do not wish to be understood as saying that I think the lawyers are not honest—not for one moment; they are the theorizers. I want to stand here representing the practical men of the State, who have insurance, who buy policies, who have losses, and as representing the views of 900 people here before this committee who ask us not to make a change. I represent the people of the State when I am backed up by that number of requests.

There are faults in the law, and I have drawn here a new arbitration clause, which compels insurance companies in the State of Maine to pay all the costs if they go to arbitration. Today it is divided, and they will argue on the other side that injustice has been done, and it has in individual cases; but should this act pass it will compel the insurance companies to pay the total cost of arbitration. This act provides that the board shall be made up of disinterested men, and that was not, Mr. President, in the act which is now in force. The present act provides that a man may be appointed from anywhere over the State of Maine, that an adjuster or a "ringer" may come from Augusta into Somerset county or York county, or Aroostook—while this act that I ask your consideration of provides that the adjuster shall be appointed from the county in which the fire occurs. I think in the act which I hold in my hand I have answered all, and can answer all the objections that were raised at the hearing before this committee.

Now, my two points are these—in support of the minority report signed by four out of the 10, I believe it is for the best interests of the people of the State of Maine, and if by your vote you accept the passage of that act in the new draft, I will agree to immediately present this act which has been drawn up by one of the prominent lawyers of the State, and examined by several. They are heartily in sympathy with the provision of this act.

They tell me and others of the committee who signed the minority report that the arbitration clause is an advantage to the people, and they are against the disadvantage of trial by jury. They say that I have covered in this act all the provisions which the lawyers in the past and at the present time are objecting to. I am not going to detain you longer. Simply vote yes on the pending question, and give the people of the State of Maine through your committee a right to present an act which repeals the blemishes in the present law.

Mr. CLARK of Hancock: I would like to ask the gentleman from Penobscot if he will permit me a question.

Mr. STETSON: I should be pleased to hear the question.

Mr. CLARK: Did you furnish me with a copy of your amendment that you proposed to make to this bill?

Mr. STETSON: I have done so. That is a copy which I interlined in pencil. If you will read the interlining it will give you the exact copy of it.

Mr. CLARK: You hold in your hand a verbatim copy of the one I have?

Mr. STETSON: Certainly.

Mr. CLARK: Will you read the part that compels arbitration on the part of the insurance company?

Mr. STETSON: Yes, with pleasure. The present act provides that insurance companies may arbitrate. If the senator will examine the fourth line, near the end, where it says "Insurance companies shall arbitrate." It leaves them no discretion. They must do it; and the lawyers I have asked to examine that, tell me that the bill compels the insurance companies to arbitrate.

Mr. CLARK: Will the senator permit one more question?

Mr. STETSON: Certainly.

Mr. CLARK: Suppose a company simply sits down, and will not do anything, when directed to arbitrate, what would be your remedy?

Mr. STETSON: They would have to arbitrate.

Mr. CLARK: You can take your horse to water, but how are you going to make him drink?

Mr. STETSON: I think there is a way to make them arbitrate. Of course there are many laws we pass it is difficult to enforce.

Mr. CLARK: You mean that you would have to go to law to enforce your right?

Mr. STETSON: If the companies do not wish to arbitrate it should be made compulsory for them to do so.

Mr. CLARK: That leaves the law exactly as it is now.

Mr. STETSON: No, sir. It is not "may;" I have made it "shall."

Mr. SHAW of Sagadahoc: Mr. President: Being the only member on the part of the Senate who signed the majority report, I wish to offer my reasons in a general way in support of the position which I took. I will not go into detail, but leave it for those better able to do that.

I wish to state first that I have no criticism whatever to make against any insurance company doing business in this State; I believe and am satisfied that the people who control and manage those companies are honorable men, as honorable as any doing business within our State.

I did not arrive at the conclusion which I did arrive at in signing this majority report from any personal experience that I have ever had with the insurance companies. They have always treated me very fairly; in fact, I have had but very little dealings with them in regard to losses, and I have been engaged in active business since 1878. I will say in the last 15 years the company of which I am a member has averaged to carry from \$200,000 to \$250,000 of fire insurance in and out of the State, and I do not remember of but two losses that we have ever had—one of \$500, which was settled—a total loss; and another one of very little less than \$200 or \$300. I am not quite sure, so I cannot speak from personal experience.

One reason why I am opposed to the law as it is, is the manner of selecting the arbitrators. It does not seem to me to be fair. You all know what it is; it is not necessary to go into the details regarding that. I think if it had been pro-

vided that they might have been named by one of the judges of the supreme court it might have been better, and perhaps this question would not have been before us today.

My principal reason for objecting to the present law is that it excludes the insured from the right of trial by jury. I cannot understand why these particular corporations should be given this right, and all other corporations or persons doing business within this State should not have a similar right.

I will venture to say that if we shall pass a similar law to that enjoyed by the insurance companies, giving the steam railroads, the street railways, and all manufacturing corporations in the State, and individuals doing business there—giving them this same right, I think then this matter would not be enforced.

They say that the principal reason and the principal good that this does is that it protects the companies against the dishonest insurer. Now we have to meet that same proposition in railroad companies and manufacturing corporations; we have dishonest claimants in cases of accidents on steam railroads and street railways—and manufacturing corporations the same thing. I think that it is the small insurer who is the most injured in this case. They are not situated as to cope with the large insurance companies, and they are practically forced to settle from necessity. The larger insurers do not seem to have that same difficulty that the smaller insurers have.

In the committee there appeared representatives from the Grange insurance companies, and they objected to the passage of the present bill before us; but it seems to me it is hardly necessary to give that matter very much attention. The Grange is a secret organization in this State, composed of as honorable gentlemen as we have in our whole State; there is no question about that, and they stick together as close as any brothers who were ever born, or any family in this State. There is no question about that.

They can arbitrate just the same if this law passes. I have no doubt but what they have dishonest insured, the same as we have in all secret organizations—dishonest members; but you can feel sure that if an honest member of that organization or association meets with a loss, and it should be left to arbitration, and they should undertake to beat that honest member—they would rise up in a body and see to it that he was treated as he should be. So I think it is hardly necessary to consider their objection.

I have been told—in fact, I think the largest insurer in Sagadahoc county called me up on the telephone the day of the hearing, and urged very strongly that I use my influence against the passage of this pending bill. The only reason he could give, or did give, me was that he felt satisfied the rates would be increased, and many of the companies would perhaps withdraw from the State, and it would be impossible for them to place their insurance, which is a very large amount.

I do not believe that to be the case. We all know that they had more or less trouble in New Hampshire when the laws were changed there in regard to insurance, many of them withdrawing from the state. Perhaps they will from the State of Maine, but I do not believe it. But if they should, I believe we have men in the State of Maine who are sufficiently interested in the industries of Maine and the properties here, who will organize companies and attempt to do the business as it seems to me it should be done. I do not think we need fear that question.

Now, it would seem out of place for me to offer any suggestions to the gentlemen who control and manage the insurance companies, I not having had experience in that. I will, however, give my opinion of one part of it, that I think it will cost the insurance companies a large amount of money, and also has a tendency to make rates higher. I don't understand why an insurance company should not exercise the same degree of care in insuring property that the savings bank would exercise in loaning money on the same real estate. I believe that if the agents of the insurance companies were obliged to go and inspect properties before they wrote the insurance, and it was the rule to take not over 60 or 70 per cent. of the fair value, that they would not have so many dishonest insurers, and they would not have so much property to pay for. Now that may be all wrong, but it seems to me that it would be a good business proposition.

Again, as regards the matter of arbitration or settlement in case this bill should pass. I do not see why it should not be arbitrated justly—while the insured would not get their money just as quick if the insurance companies were satisfied it was an honest loss, they certainly would save a large amount of money to have it arbitrated; and the parties in interest would agree on how the arbitrators should be selected—but not by the present system, which seems to be entirely unfair.

Mr. CLARK of Hancock: Mr. President: The hour is late, and I will detain you but a short time. A large majority of this Senate have already made up their minds how they will vote upon this question, and what I may say upon the matter will have but little weight. But, sirs, I think I would be derelict in my duty if I did not express to you my opinion, and give you the results of such experience in the matter as I may have.

For one moment I am going into the discussion of this question. I have been told by some practical gentlemen, who thoroughly understand the matter, and while I cannot be able to cover the point, I will do the best I can to explain the present standing of the law upon this subject. The law which was enacted in 1895, which is embodied in every insurance policy, is substantially the same as the one I have here in my hand—in what is known as the standard insurance policy. Among other provisions is that of arbitration, and if you have a fire you are compelled by that policy, which you have accepted, and by the statute to arbitrate

your loss. Three men are chosen by you, and three by the insurance company. They submit their three men to you and you choose one. You submit your three to them, and they choose one, and you have two arbitrators. Then if they do not agree upon a third they call upon the insurance commissioner of the State, and he chooses a third; and thus you have your three arbitrators. This is one of the principal features of contention between the insurance people and the insured, whom I am trying to represent on the floor of this Senate.

Now that is only one of the rights and privileges granted to them by the act of 1895. By that act, ingeniously and carefully framed by the master hand of some great man they wiped out from the statute books of this State what had been the statute law for 40 years previous to 1895, and what had been the common law from the time of separation from our mother state in 1820.

At one stroke the Legislature wiped out that entire law, and today no lawyer, however great he may be, or however well versed he may be in insurance, or its laws, can advise a client wisely what the law is on fire insurance today.

For instance, here is a fair sample of what was grasped at in that act of 1895. By the law previous to that time the statute had given you a reasonable time after your fire to prove your loss to the insurance companies, yet by this act they sweep that from us and say we must do it forthwith.

Again, the people of the State, if they could go into an insurance office and qualify and show them they were financially and personally responsible, they could obtain a license to do an insurance business, but they so carefully guarded the situation, in order to make it constitutional, that they took that right—one of the rights that had been given to the people, from them, and said that a business involving such issues should be carried on only by duly incorporated insurance companies, the object of that being to make this act constitutional which they passed.

The law courts held this act constitutional, because when an insurance company was affected it was only a corporation, a creature of the State, existing under our laws, and it made no difference, although it affected all the citizens of the State on the other side. Had they left that proposition as it was previous to 1895 there would have been no possible doubt that the law was unconstitutional.

As I say, a master hand did the work, and he did a good job; he took from the people that right, and he took from them a respectable time in which to prove their losses.

Mr. STETSON: We had a respectable time provided for, but that has been repealed.

Mr. CLARK: I am coming to that question, if the gentleman will sit down. I knew that would trouble his conscience very much.

Two years ago on the floor of this Senate we had a similar discussion to that of today. I introduced the same bill, and

it came back with the unanimous report "ought not to pass." On that committee the gentleman was chairman, and he labored with that committee as he has here today. I want to ask in fairness today why he does not make the same report, and stick to it? He knows it is necessary to lighten that ship to save her, or lose the ship, cargo and all.

He stands here today and says that in justice and equity to our citizens he cannot carry the whole of that, and he has got to lighten the ship. Why didn't he two years ago make such a recommendation as chairman of that committee, instead of waiting until this late day? The majority report, in my opinion, makes a sufficient argument in this matter.

The matter was represented on both sides before this committee by one or two men in the interests of the citizens of the State, while the insurance companies were represented by the strongest and ablest attorneys that money could get; and with all the influence they were able to bring to bear upon that committee they only succeeded in pulling out a minority report. They insisted upon a minority report. I say that the majority report stands today for more than any argument that can be put up against it. If six men were honest and fair-minded enough to stand the pressure put upon them, I say that the report is of more value than anything else. These gentlemen are entitled to the greatest credit; I know something about it, and I know something of the influence of insurance people in this state, and the means they will take to get legislation. I know that two years ago when this matter came up on first reading, and we voted "ought to pass" on the same bill, and the next morning on the second reading I know the influence brought to bear upon the members to change their votes—and I know the insinuations made to members here, and which have been made again at this time. But we have a Senate that will not shift their vote this time, but will be guided by the majority report, coming out as it has.

You say this is not a fair way to adjust claims. I do not know that the jury system of this State is perfect; I am not going to espouse the jury system as being above any other means, because I do not know; but from the time of our very first jurisprudence in this country, which was adopted from England, and which has been found through all time to be the only method which has given satisfaction down to the present—I say if it is a good system let us adopt it; if it is a bad system let us abolish it, and have equal rights for all, and have no special privileges.

Ten years ago the Legislature of this State passed an act in which it appointed a committee consisting of three gentlemen appointed by the Governor, which was called a commission on uniformity of law. Appointed on that commission was the Hon. Frank Higgins, a member of the House this year, the Hon. Charles Libbey, who has served as president of this august body, and the Hon. H. E. Hamlin, attorney general of this State. This commission met the commissioners

of other states of the Union, and went over the advisability of making our laws uniform. They have met with the commissioners of 34 states, and they have agreed unanimously that this form of arbitration takes away from the people one of its inherent rights, one of its most valuable rights, and that it is unfair and unjust legislation. We have so recommended to you, and coupled with the recommendation of the majority report of the committee on mercantile affairs and insurance I think we should pay some little attention and be guided by it.

Mr. Libbey who comes here as the official of this State appeared before the committee without pay or rewards, or even expenses. He came here twice this winter, and once or twice two years ago, and advocated the abolishing of this statute. I appeared in my feeble way and protested against the continuance of this standard form of insurance policy. I would like to ask what motives I have, unless to see that justice and equality is done to all men. Mr. Libbey advocated as I did in his capacity of commissioner of insurance.

Let us see for a moment how this law works. Heretofore, before my brother got his amendment which he proposed to offer, if you had a fire you notified an agent and he sent to you into your county, to use his own terms—"ringers," in other words three men whom they sent, paid by the insurance company, and known to be its representatives, whose business it was to act as professional arbitrators in all cases. This I know, because I have seen them and acted with them. They came to your town, and you of course thinking that they were acting fairly appointed some honorable business man who was acquainted with values in your town, and you presumed you were going to get a fair award from that.

A gentleman from Old Town the other day said that a "ringer" and my good honest man went up and started to measure the size of a building that had burned, in order to estimate the number of square feet. He said he had an insurance policy of \$1800 and that he offered to settle for \$1400, but they would not give him any settlement; but they brought in an award of \$700, and the insured said "See how I have been treated in this matter," and he sent for his good honest man and asked how he ever came to give his neighbor such an award as that. His reply was that figuring at one dollar per square foot it came to that. Upon a measurement it was found to figure almost twice as much as had been put down by the "ringer." He asked him who held the tape, and his honest friend replied "The gentleman they sent down from Waterville." They had figured this man down from \$1800 to \$700 by simply holding the tape measure themselves. It is an example of the fair and honorable methods of arriving at an adjustment under the present insurance laws.

I might go on and give you numerous instances of a similar character. I certainly must go into the ludicrous idea or attitude that the gentleman has taken in regard to this amendment.

Referring to the master hand that framed that amendment I would like to have had him here upon the floor of the Senate to explain it, and show wherein it amended the present law.

Mr. STETSON: The master hand that framed that law is the Granger lawyer from Somerset county, the Hon. E. R. Merrill of the House.

Mr. CLARK: The master hand that framed that amendment never changed the existing law one iota. The gentleman says he has changed the word from may to shall, but a reading of the policy will show it exactly as you have it in yours. If not, I am grossly wrong. I do not care who drew that bill, it was drawn with a wicked and malicious intention to deceive this Legislature. I do not accuse the gentleman from Penobscot of putting up this job, but I was told last night in the best of good faith, and I had presumed that the bill compelled arbitration by the insurance companies as well as by the insured. That bill takes away nothing; it adds neither to, nor detracts anything from, the present statute. It is like throwing a chip into the bean soup; it will do no harm nor no good as to the present mode of payment.

Now, gentlemen, in our earnestness and zeal in looking after our own rights, and as attorneys in espousing the cause of our clients, sometimes we do not do what we might possibly do under similar circumstances, and give absolute justice to all mankind; and in choosing your arbitrators under this rule you are liable to choose some friend who will assist you in this matter. But in the selection of a jury it is done under the guidance of the highest tribunal in the State; every man not qualified is weeded out. Every man who is biased is taken from the jury. They take the matter under consideration, and advise you as to your rights. Their opinion in the case is advisory only, because the court if it sees fit may set the verdict aside and grant a new trial; and there is no time during the history of any causes that it is not being conducted and controlled by the law court of the State.

How different it is in the trial of a matter before arbitrators. What a difference there is in their judgment. If they are intentionally fraudulent there is no appeal—no redress—you are bound hand and foot by what they award you. No man had ever criticised a decision of that court, and thought intentionally in his own heart that they had acted wrongly, because that court, gentlemen, is blind to every consideration except the merits and justice of the controversy before it. It will neither take from nor give to citizens and rights they are entitled to under the statutes. And, sirs, if you give these insurance people this valuable right which they ask for, I expect at the next Legislature to find every corporation scheming and asking for similar legislation. Let us be consistent, because it pays in the long run, and if we grant it to these people let us go the whole length and grant it to all corporations, that they may have the entire right to take away from the people the only safeguard and protec-

tion they have for their lives and property—the right of trial by jury, given to them by the constitution of the United States.

One word in closing—I wish to say in all fairness it is our duty to stand by the people in this matter. The gentleman from Bangor comes in here with a few petitions. He can get those in one ward alone down in the city where he lives. He comes in with three of four little petitions with the names of 900 people, and he says they represent the entire State of Maine. They took two weeks to get up those petitions and that is all the showing they are able to make. If I had had charge of those petitions I would have swallowed them rather than have shown the few there are there.

Mr. GARDNER of Penobscot: Mr. President: I do not wish to take up the time of the Senate, but I have been on the anxious seat, and am willing to vote according to my convictions. The senator from Hancock is somewhat of a nervous temperament, and perhaps is troubled with a rush of blood to the head. He has made charges in regard to my colleague that I cannot but resent. I think it is going too far when he accuses any senator with attempting to maliciously deceive the Senate. I have known my colleague for many years, and I know that whatever action he takes is upon his best judgment, and I challenge the gentleman's statement that my colleague would attempt to maliciously deceive this Legislature, and I say it is wrong to make such a charge on the floor of this Senate.

Mr. CLARK: If the gentleman had kept his ears open he would have heard me say expressly that I made no accusation against him; he is only the Oliver Twist, and Fagin is behind him.

Mr. GARDNER: I think that allusion is also out of character.

The question being put the yeas and nays were called for and ordered. The vote being had resulted as follows:

Those voting Yea were Messrs. Plummer, Stetson and Tarte (3).

Those voting Nay were Messrs. Allen, Ayer, Brown, Clark, Gardner, Irving, Knowlton, Mills, Morse, Philoon, Pierce, Pike, Potter, Putnam, Shackford, Shaw, Sirapson, Staples, Sturgis, Tupper (20).

The following pairs were announced, namely: Mr. Owen with Mr. Haselton; Mr. Bartlett with Mr. Bailey.

So the motion to substitute the minority report for the majority report was lost.

The question being upon the adoption of the majority report "ought to pass," the report was accepted.

On motion by Mr. Clark of Hancock, the bill was amended by adding the words: "This Act shall not apply to life insurance companies."

On further motion by the same senator the bill took its several readings under suspension of the rules and was passed to be engrossed as amended.

The same senator thereupon moved that the vote whereby the bill was passed to be engrossed be reconsidered.

Mr. GARDNER: Mr. President: May I rise to a point of dignity of this Senate? I think this matter could be left over

night. I trust the gentleman will not make such a motion. I think the senators of the Maine Senate can be left over night, and be safe from action of these insurance companies. Does the gentleman insist that we have this nailed down, for fear of the Senate's future action?

Mr. CLARK: I think the gentleman's remarks are as much out of order as any of mine can be. I make no imputation against any senator on this floor. He knows that I would not; and if I have I wish to apologize most sincerely. This is only a customary and ordinary motion.

Mr. STETSON of Penobscot: I thank the gentleman—

Mr. CLARK: This matter has been before the Legislature the entire winter, and the gentleman from Penobscot certainly knows it is a customary motion.

The question being put upon the motion of the senator from Hancock to reconsider, the motion was lost.

Report of committee on shore fisheries "ought to pass" on bill relating to the codification of sea and shore fisheries laws, was on motion of Mr. Tupper of Lincoln, taken from the table.

Mr. TUPPER of Lincoln: Mr. President, this matter has had no public hearing, and no notice of hearing has ever been published. The matter came into the Senate last Thursday. I tabled the matter at that time for the reason that I thought it should go to one of the legal committees, to determine whether or not these statutes needed revising. Parties interested came to me and told me it would take a week for notice of a hearing to be published, and it was so late in the session that they did not like the delay to have it referred to some other committee. I consented to have it referred to the fisheries committee, taking the matter from the table and allowing it to go on. I supposed, being a member of the fisheries committee, I could at least get a minority report if it went before our committee. It seems this bill went last Thursday to the fisheries committee, and for some reason or other was acted upon instead of having notice published and a time appointed for a hearing.

The chairman of the committee, Senator Shackford, informed me that he supposed notice had been given. All I want in this case is to have it referred back to the committee so that hearing may be had. It is my opinion that it is not necessary to revise these laws. I have had considerable practice under the fisheries laws for the past 15 years. Four years ago a commissioner was appointed to revise these laws, and there was \$500 expended. Frank L. Staples of Bath, revised them. Two years ago they were again revised, with the whole statutes, and it seems to me we ought to pass at least one Legislature without an entire general revision of these laws. If there were any reason for a revision I should not object to it, but I think it is a matter on which there should be a public hearing. I move that the matter be recommitted for a hearing.

Mr. SIMPSON of York: Mr. President, this matter, the report, was presented on the recommendation of Mr. Nickerson.

The time is getting very short. We have

got to have this revision, and I would like to have a vote taken on this matter of the acceptance of the report. I realize that they were revised two years ago, but it is impossible to send the Revised Statutes to the fishermen along this coast. The idea was to have a book similar to this, so that there would be no excuse for their breaking any of the laws.

Mr. TUPPER: If this is a matter simply of printing, the act should have called for printing and not for a general revision.

Mr. SIMPSON: I think it was only a few days ago that an order was put in by Senator Stetson, revising the laws relating to inland fisheries and game, which passed this Senate. The committee on shore fisheries is simply asking for the same.

Mr. PIKE of Washington: Mr. President, I would like to inquire if there was an advertised hearing.

Mr. SHACKFORD of Washington: Mr. President, I supposed there was an advertised hearing until I was informed otherwise.

Mr. TUPPER: There was no hearing. The matter was acted on the very day it was referred to the committee by this Senate.

Mr. SHACKFORD: I supposed it was merely a matter of printing the laws which should be changed at this session, so that a copy of the laws could be put into the hands of all people interested.

The question being put, the motion to recommit prevailed. Six voted in opposition, and seven in favor of recommitment.

On motion by Mr. Pike of Washington, the Senate adjourned, to meet on Friday, March 3, 1905, at 10 o'clock in the forenoon.