

MAINE STATE LEGISLATURE

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Legislative Record

of the

Seventy-Third Legislature

of the

State of Maine.

1907.

SENATE.

Wednesday, March 13, 1907.

Senate caller to order by the President.

Prayer by Rev. Mr. Harding of Hal-
lowell.

Journal of the previous session read
and approved.

Papers from the House disposed of
in concurrence.

An Act to authorize and empower
the city of Oldtown to own, maintain
and operate a lighting, heating and
power plant, was returned from the
House, that branch non-concurring
with the action of the Senate in the
indefinite postponement of the bill and
asking for a committee of conference.

On motion by Mr. Parkhurst of
Penobscot the Senate voted to join the
committee of conference and the
President stated that he would later
announce the committee of conference
on the part of the Senate.

House Bills Read and Assigned.

An Act in relation to the Springvale
Library Association.

An Act to amend Section 63 of Chap-
ter 15 of the Revised Statutes, relating
to tuition in High schools.

An Act to prohibit the issuance and
acceptance of free transportation by
State officials over steam and other
railways.

An Act to regulate ice fishing in
Lake Annabessacook in the county of
Kennebec.

An Act additional to Chapter 242 of
the Private and Special Laws of 1895,
entitled "An Act to incorporate the city
of South Portland."

An Act to amend the charter of the
Ossipee Valley Telegraph and Tele-
phone Company.

An Act to amend Chapter 64 of the
Private and Special Laws of 1899, as
amended by Chapter 472 of the Private
and Special Laws of 1901, and by Chap-
ter 48 of the Private and Special Laws
of 1903, and by Chapter 205 of the
Private and Special Laws of 1905, re-
lating to the Wilson Stream Dam Com-
pany.

An Act additional to and amendatory
of Chapter 29 of the Private and

Special Laws of 1887, entitled, "An Act
to incorporate the Kennebec Light and
Heat Company."

An Act amending Chapter 164 of the
Public Laws of 1905, relating to loca-
tion and assessment of damages for
property taken for public uses.

An Act to extend the rights, powers
and privileges of the Brownville and
Williamsburg Water Company.

An Act to authorize the issue of
bonds on the serial payment plan.

An Act amendatory of Sections 67
and 68 of Chapter 79 of the Revised
Statutes relating to the reporter of
decisions.

An Act to amend Chapter 315 of the
Private and Special Laws of 1903, en-
titled "An Act to incorporate the
Madumkeunk Dam and Improvement
Company."

An Act to prevent the unlawful di-
version of water.

An Act to amend Section 9, Chapter
27, Revised Statutes, relating to pau-
pers, their settlement and support.

An Act to provide for information to
the Board of State Assessors relating
to transfers of wild lands.

An Act authorizing the construction
of a wharf into the tide waters of
Jerico Bay, in Deer Isle, Hancock
county.

An Act to enable the town of Dan-
forth to purchase the stock or fran-
chises of the Danforth Water Com-
pany or any part thereof.

An Act to incorporate the Wells
Electric Light and Power Company.

An Act to repeal Chapter 366 of the
Private and Special Laws of 1903, re-
lating to fire wardens in the town of
Eucksport.

An Act to amend Chapter 202 of the
Private and Special Laws of 1895, re-
lative to charter of the Fort Kent Tele-
phone Company.

An Act to change the name of the
Deaconess Home Association of Ban-
gor, Maine.

An Act to make valid the acts of the
Lewiston, Greene and Monmouth Tele-
phone Company.

An Act to amend the charter of the
city of Rockland, and to make legal
and valid permits for wharves in tide
waters.

An Act to incorporate the Vassalborough Electric Light and Power Company.

An Act to amend Section 1 of Chapter 143 of the Private and Special Laws of 1905, entitled "An Act to amend Section 1 of Chapter 89 of the Private and Special Laws of 1903, entitled 'An Act to authorize the Penobscot Chemical Fibre Company to make, generate, use, transmit and sell electricity.'"

An Act to provide a salary for the judge of the municipal court of Dexter.

An Act creating the Fort Kent Village Corporation.

An Act to authorize the construction and maintenance of a wharf into the tide waters of Casco Bay on Orr's Island in the town of Harpswell, Maine.

An Act to amend Section 1 of Chapter 75 of the Revised Statutes in relation to the ownership of down timber and bark.

An Act to incorporate the Princeton and Grand Lake Stream Steamboat Company.

An Act creating the office of probation officer for the city of Westbrook.

An Act to amend Section 13 of Chapter 4 of the Revised Statutes, relating to election of road commissioners.

An Act to amend Section 81 of Chapter 15 of the Revised Statutes relating to State aid for academies.

An Act to amend Section 44 of Chapter 40 of the Revised Statutes, relating to sanitary conditions of factories, workshops, mines and quarries.

An Act to incorporate the Kingman Developing Company.

An Act in relation to employment agencies.

An Act to extend the charter of the Bluehill and Bucksport Electric Railway Company.

Resolve in favor of E. J. Crosby, secretary of the Committee on Agriculture.

Resolve in favor of Elmira H. Dunbar of Cherryfield.

An Act to authorize Somerset Railway Company to issue additional stock.

Resolve in favor of the Norcross Transportation Company to aid in the erection of buoys as guides to naviga-

tion in North Twin Lake and adjacent thoroughfares.

Resolve in favor of Benjamin F. Brown.

Resolve in favor of Daniel R. Palmer of Buckfield.

Resolve to provide for repairs of road leading from Roach river to the Grant farm.

An Act to amend and extend the Milbridge and Cherryfield Street Railway charter.

Resolve in favor of the town of Mariaville.

Resolve in favor of Dana L. Theriault to reimburse him for expenses incurred in contested election in Fort Kent Class.

An Act to authorize the Sebecook and Moosehead Railroad Company to extend its line to Elliottsville Plantation and to Albion.

An Act to amend Section 76 and Section 80 of Chapter 15 of the Revised Statutes relating to State aid to academies.

An Act to incorporate the Northern Railway of Maine.

Resolve in aid of navigation on Schoodic Grand Lake.

Resolve in aid of repairs of road leading from Northwest Carry on Moosehead Lake to the Pittston farm on the West Branch of the Penobscot river.

An Act relating to coroners' inquests in case of fatal accidents on railroads.

An Act to authorize the Atlantic Shore Line Railway to discontinue operations of its ferry across the Piscataqua River in certain instances.

Resolve, in favor of Limerick Academy.

An Act to amend Section 7 of Chapter 30 of the Revised Statutes relating to the registration of apothecaries.

An Act to set off a part of the town of Steuben in the county of Washington and annex the same to the town of Milbridge in said county. (This was passed by the Senate to be engrossed, was returned from the House with House amendment A by that branch adopted and as amended passed to be engrossed. On motion by Mr. Wyman of Washington the vote whereby this bill was passed to be engrossed, was

reconsidered and on further motion by the same senator House amendment A was adopted in concurrence, and as amended the same was passed by the Senate to be engrossed.

On motion by Mr. Simpson of York the following resolves were tabled. Severally pending the acceptance of the reports.

Resolve in favor of building a bridge in the town of Forest City.

Resolve in favor of the town of Howland for the purpose of repairing bridge across the Piscataquis river.

Resolve in favor of the city of Gardiner and town of Randolph.

Resolve in favor of the town of Frenchville, in the county of Aroostook, to assist in building a road in said town.

Resolve in favor of the town of Bingham.

Resolve in favor of the towns of Howland and Enfield for the purpose of repairing bridge across the Penobscot river.

Resolve in favor of the town of Howland for purpose of repairing bridge across Seboice river.

Resodve providing for assistance in rebuilding the East Branch bridge in the town of Oakfield.

Resolve in favor of inhabitants of Whitneyville.

Resolve in favor of the town of Trescott.

The address for the removal of H. J. Chapman of Bangor came from the House adopted by that branch. On motion of Mr. Parkhurst of Penobscot the resolution was adopted in concurrence.

Mr. PARKHURST of Penobscot—Mr. President in behalf of Judge Chapman, who welcomes this investigation I have made this motion.

The following bills, petitions and so forth were presented and referred.

Legal Affairs.

By Mr. Mills of Hancock—Bill, An Act to amend Chapter 125 of the Public Laws of 1905, relating to the recording of plans in registries of deeds in the several counties.

By Mr. Staples of Knox—Bill, An

Act to amend Section 1 of Chapter 145 of the Revised Statutes, relating to pensions.

Appropriations and Financial Affairs.

By Mr. Page of Somerset—Petition of the Sorosis Club of Madison.

Also—Petition of H. C. Robertson and 6 others of St. Albans, each for an appropriation for a State of Maine exhibit at the Jamestown Exposition, and the reproduction of the home of Longfellow as the Maine State building.

Mr. Deasy of Hancock—Remonstrances of E. Y. Leland and 2 others;

Also—Remonstrances of E. B. Salisbury and 61 others, of O. D. Wentworth and 17 others, of Herbert Dodge and 37 others; of M. S. Arey and 40 others; of Roswell Leland and 39 others; of N. M. Clark and 43 others; of Orlando Ash and 41 others all of Eden severally against the removal of the State capital from Augusta to Portland.

By Mr. Hastings of Oxford—Remonstrances of A. E. Herrick and 16 others of Bethel, against the duplication by the University of Maine, at the expense of the State, of the liberal arts courses.

The foregoing were placed on file.

Read and Assigned.

An Act amendatory of Chapter 164 of the Private and Special Laws of 1903 entitled "An Act to enable the Presque Isle Water Company to issue bonds to pay, retire and cancel its outstanding bonds."

An Act to extend the charter of the Union Light and Power Company.

An Act to enable the town of Presque Isle to purchase the stock or franchises of the Presque Isle Water Company or any part thereof.

An Act to regulate the taking of white perch in Lake Sebasticook, in the town of Newport, county of Penobscot, and in its tributaries.

An Act regulating the time of service of members of fire department of the city of Portland.

Resolve in favor of Freedom Academy.

Resolve to appropriate \$500 to screen Snow pond, or Messalonskee lake, so called, in the county of Kennebec.

Reports of Committees.

Mr. Wyman for the committee on shore fisheries on petition of W. B. Colwell and others praying that there be a close time on lobsters within certain limits, reported Bill, "An Act establishing a close time on lobsters in the bays of the towns of Addison, Mil-bridge, Steuben and Gouldsboro. Reported same ought to pass.

Mr. Merrill for the committee on mercantile affairs and insurance on Bill, "An Act to amend Chapter 49 of the Revised Statutes relating to life insurance," reported that same ought to pass.

Mr. Mills for the committee on legal affairs on Bill, "An Act for the better preservation of plans of cities, towns and plantations," reported same ought to pass.

Mr. Hastings for the committee on judiciary on Bill, "An Act to amend Section 1 of Chapter 55 of the Revised Statutes relating to telegraph and telephone companies, gas and electric light and power companies," reported same ought to pass.

Mr. Mills for the committee on legal affairs on Bill, "An Act to amend Chapter 97 of the Public Laws of 1903, relating to compensation of selectmen," reported same ought to pass.

Mr. Staples for the committee on legal affairs on Bill, "An Act relating to sea and shore fisheries, warden service," reported same ought not to pass.

Mr. Bailey for the committee on pensions, on resolve in favor of Henrietta M. Hodgdon," reported same ought not to pass.

The foregoing reports were accepted and bill reported ought to pass were tabled for printing under the joint rules.

Passed to Be Enacted.

An Act to amend Section 21 of Chapter 6 of the Revised Statutes, relating to the filling of vacancies in the office of ballot clerks.

An Act additional to Chapter 174 of the Private and Special Laws of 1903, relating to the West Branch Driving and Reservoir Dam Co.

An Act to incorporate the investment Trust Co.

An Act to incorporate the Stonington Water Co.

An Act to incorporate the Knox Trust Co.

An Act to amend the charter of the United States Trust Co.

An Act to authorize the building of piers each side of the draw in the Rumford's Island bridge in the town of Bristol.

An Act to set off the real estate of Mary E. Warren from the town of Brownfield and annex it to the town of Denmark.

An Act to confer additional powers on the Duplex Roller Bushing Co., a corporation organized under the general laws of the State of Maine.

An Act to empower the Benvenue Granite Co. to erect and maintain wharves and docks on the shores of Crotch Island and Green Head in the town of Stonington.

Finally Passed.

Resolve in favor of the Maine State prison.

Resolve in favor of the city of Augusta.

Resolve in favor of the Farmington State Normal school.

Resolve in favor of the Aroostook State Normal school.

Resolve in favor of the town of Topsfield in Washington county.

Resolve in favor of the town of Newport, county of Penobscot and State of Maine.

Resolve to provide a commission to inquire into the present system of assessing and collecting taxes, and, if possible, to provide for a better and more complete system of assessment and collection and report to the Governor and Council.

Orders of the Day.

On motion by Mr. Brown of Kennebec Senate Document No. 198 "Resolve to ascertain the will of the people as to resubmitting the 26th amendment of the Constitution relating to the prohibition of the manufacture and sale of intoxicating liquors," was taken from the table. On further motion by the same senator this bill was re-

ferred to the Committee on Temperance.

On further motion by the same senator Senate Document No. 206 "An Act to provide for a systematic enforcement of the laws of the State prohibiting the sale of intoxicating liquors," was taken from the table, and on his further motion was referred to the same committee.

On motion by Mr. Sewall of Sagadahoc the majority report "ought not to pass" and the minority report "ought to pass" on Bill, relating to protection of shell fish within the town of Yarmouth, county of Cumberland were taken from the table. Mr. Merrill of Cumberland moved that the same be retabled and Tuesday March 19th assigned for their consideration.

Mr. DEASY of Hancock: Mr. President, I do not think this bill ought to be tabled. I hope the senator from Cumberland will not press his motion.

This bill was introduced to this Legislature on the first of January, or early in January. It was printed on the 25th of January, it has been upon our desks for about two months in a printed form. It is very simple in its provisions. If we have not had time for an examination of this question in the last two months, certainly there will not be time for much examination during the next two weeks. I hope his motion will not prevail.

Mr. MERRILL of Cumberland: Mr. President, I would simply say that I ask this as a matter of courtesy. Whether or not it has been before this body for two months, it has been my fault if I have not understood it. The reason why I ask for this action is that it affects three towns in Cumberland county. There has always been a great deal of trouble as to the laws governing the rights on these flats. It has been told me within two days that the matter had been amicably arranged by the party and I so understood it; and let the matter drop, thinking that, when it came up today, it would go in its regular order, and that that would be the end of it. Last night I was informed that there was some misunderstanding about the bill; and I was asked to

look into it; and I should like to have the privilege to do it.

The question being put the motion was lost and the President declared the bill in order for consideration.

Mr. WYMAN of Washington: Mr. President, this matter came before the fisheries committee, and it seems to have agitated the citizens of the towns of Yarmouth and Cumberland as to the digging of clams, and when they should dig them. The town of Yarmouth formerly consisted of what is known as the town of Harpswell, Freeport, Yarmouth, North Yarmouth and Cumberland. When those towns were divided in 1821, the law said that they should own the clam flats "in common and undivided." It said that their rights should be equal. In 1805 there was a general law passed.—(The senator here quoted Section 3 of the Laws of 1805).

Harpswell, some years ago, came to the Legislature and secured a law to apply to that town.

The law of 1905 is identical with the law which governs all the other towns. At the present time, the town of Harpswell, and the town of Freeport, (which was originally a part of the town of Yarmouth) is subject to a general law of the State.

Now Yarmouth came before our committee and asked for a more special law. The committee voted nine to one against that because the town of Yarmouth asked for a law to apply to that town which would still retain the flats of Cumberland or a half interest in their flats. Upon that ground the committee reported. Since that I understand there has been an amendment to this bill in the House, which I wish the secretary would read.

(The secretary thereupon read House amendment A.)

Mr. WYMAN: I would say, Mr. President, that, before the committee, as far as we could judge by the witnesses, in allowing Yarmouth this privilege it showed that the flats would be equally divided between Yarmouth, North Yarmouth and Cumberland. Since the hearing I have received from the selectmen of the town of Yarmouth a petition regarding this matter. (The senator herewith read

the petition.) In speaking for the committee I want to say that this amendment wipes out any objections which I had to the bill as the same was presented to the committee. I therefore move that the minority report be adopted, in concurrence with the House or that the minority be substituted for the majority report.

Mr. MERRILL of Cumberland: Mr. President I should like to ask in just what form the matter comes from the House.

The PRESIDENT: The two reports came from the House with a minority report "ought to pass" substituted for the majority report "ought not to pass."

The secretary here read the House amendment which was adopted in the House after the substitution of the minority report for the majority reports in the House, the bill as amended having been passed to be engrossed.

The bill thereupon took its first reading in the Senate and on motion by Mr. Hastings of Oxford the bill took its second reading under the suspension of the rules, and was passed to be engrossed. (Mr. Merrill interposed an objection and moved that the reports be tabled.) The motion was lost.

On motion by Mr. Libby of Waldo Senate Document No. 236 was taken from the table the same being "An Act to amend Sections three, four, five and nine of Chapter 17 of the Public Laws of 1905, relating to veterinary surgeons." On further motion by the same senator the bill took its second reading and was passed to be engrossed.

Mr. DEASY of Hancock: Moved the adoption, out of order, of the following: Ordered, that the committee on Judiciary inquire into the constitutionality and expediency of enacting a law providing for a tax upon land on unincorporated places to be applied for the preservation and protection of forests in such unincorporated places and report by bill or otherwise.

On motion by Mr. Stearns of Penobscot there was taken from the table the report of the committee on education upon order relating to investigation of State superintendent of schools

being Senate Document No. 155, and on further motion by the same senator the report was accepted.

On motion by Mr. Simpson of York, House Document No. 369, "An Act to incorporate the Penobscot Electric Power and Telephone Company" was taken from the table. On motion by senator Barrows of Penobscot Senate Amendment A was adopted. As amended the bill took its second reading and was passed to be engrossed.

On motion of Senator Clarke of Lincoln "Report "A" of committee on public buildings and grounds on order relating to removal of seat of government, submitting a bill; report "B" of the same committee, on same order, that legislation is inexpedient" was taken from the table.

Mr. CLARKE of Lincoln: Mr. President: The provisions of this measure have been so fully discussed, both among the members of the Legislature and in the public press, the proposition which it embodies, namely the removal of our seat of government from Augusta to the city of Portland, has been in the public mind so long, and the facts and figures in connection with the entire matter have been laid before each one of us so often that anything approaching a lengthy or elaborate discussion at this time would seem to be unnecessary.

The facts which constitute the basis of the report signed by four other members of the committee on public buildings and grounds and myself were, as you know, stated in the form of a memorandum and submitted to the Legislature, together with the removal bill. These facts are so obvious, their successful refutations so entirely out of the question, and are all so familiar to the members of this body, that I shall not inflict a rehearsal of them upon you.

The Governor, in his message, referred in unmistakable terms to the unfitness, sanitary and otherwise, and the utter inadequacy of the offices and rooms of many of the State departments and strongly recommended the adoption of some remedy at this ses-

sion. Had the question of capital removal not arisen the committee to have been consistent with decency and a proper regard for the dignity of the State and the proper transaction of its growing business, departmental and legislative, would have been obliged to report to this Legislature a recommendation for an appropriation to cover the cost of a complete renovation of this building and in addition, the erection of a separate building for the accommodation of the State officials.

While that part of the Governor's message to which I have referred, was under consideration together with a joint order directing us to inquire into the expediency of a removal of the capital, the citizens of Portland, recognizing the benefit that would result to her if the State House were erected within the limits of their city,—realizing that a removal should take place, if at all, before the State had incurred further expense in repairs upon this building, and believing that such a change would be equally advantageous to the State, submitted an offer with that end in view, which after mature deliberation, we have incorporated into a bill and turned over to you for your consideration.

This is supposed to be, and I believe is, a deliberative body, and as such it is our first duty, in preparing to make such an important decision as that which we shall soon be called upon to render; to shake off all influences arising from personal friendship for citizens living in one city or the other, divorce ourselves from the prejudice incidental to our respective geographical locations, in fact rid ourselves of every selfish personal consideration and register our votes in favor of that action which in our judgment will most effectively promote the best interests of our beloved State and lead ultimately to the most desirable results for her entire citizenship.

This is a matter which concerns and ought to interest every person in this commonwealth and most certainly we should not permit it to be degraded to the level of an unfriendly controversy

between the inhabitants of any two of her cities.

Reduced to its lowest terms Portland's offer is to furnish the site for a capitol and \$750,000 to be expended in its erection. The remainder of the cost of construction conservatively estimated to be about \$800,000 and limited to that sum, payable in four annual instalments by the terms of this bill, would have to be borne by the State. Had our committee been allowed to exercise its judgment freely, I believe that it would have accepted unambiguously Portland's extremely liberal offer. You are all aware of the fact that thousands of petitions whose captions were composed of a series of misrepresentations and gloomy forebodings have been circulated throughout the State, and that every kind of political device, reinforced by a loud and prolonged howl of economy, has been employed to prevent us from decided this matter in a judicial manner strictly upon its merits.

Every remonstrance referred to our committee against the acceptance of Portland's offer is an exact duplicate of the one which I hold in my hand and which I will now read— — —

"To the Honorable Senate and House of Representatives:

"The Undersigned taxpayers of the town of _____ respectively and earnestly remonstrate against the State Capital removal. It would involve a large and unwarranted expenditure of money, increase the burden of taxation, stop the movement for good roads, deny the insane, the blind and the feeble-minded, the relief they need and mortgage for years the resources of the State actually needed for its development and growth."

Under the terms of this bill, and at the suggestion and earnest request of Portland representatives, the acceptance or rejection of its provisions is left wholly to the voters of the entire State, and we say that it is not fair for this Legislature to take the position that the people have already spoken, when the only evidence to that effect lies in these remonstrances all of which contain unmistakable proof

of a common authorship and were obviously obtained upon a gross misstatement of facts.

All that the reception of so many petitions of that character can possibly indicate to my mind is the fact that a great many people have been misinformed and are acting under a misapprehension regarding the terms of the proposed legislation.

One of the claims made at the time of the hearing by attorneys for the opposition was to the effect that, even though this bill were enacted into law by the Legislature, together with an act to authorize the city of Portland to raise by taxation the amount of money required to enable her to fulfill the terms of her offer to the State, the city could be enjoined and prevented from thus taxing her citizens; and that the court would declare the latter act to be unconstitutional.

The part of our constitution with which it conflicts, as they say, is that provision which requires that "all taxes upon real estate assessed by authority of this State shall be apportioned and assessed equally." and in support of their contention they cite the case of *Dyar vs. Farmington Village Corporation*, 70 Me., 515.

A careful examination of the facts that case has shown your committee that they were different from, and by no means analagous to, those which form the basis of the question likely to be raised by the passage of this measure.

The point decided by that case is that the Legislature cannot authorize a village corporation (or city) to levy a local tax upon a portion of its real estate for a public purpose, leaving the remainder exempt.

An analogous situation would arise if the proposed enabling act were to authorize Portland to raise the sum required by the terms of this bill by taxing that part of the real estate only which is situated near the proposed location of a new capitol building.

Mr. HESELTON: May I ask the senator from Lincoln if his analogy would not apply, if the city was used as a unit in connection with the State?

Mr. CLARKE: The city is the natural unit of the State—established by law. To divide that unit into other units is an entirely different proposition.

Bearing on this question, I wish to read a passage from Cooley, which deals directly with the proposition involved here:

"Overlying districts. Even when the purpose for which a tax is demanded pertains to the State at large, or to one of its divisions, so that a general levy throughout the State or such division is essential, there may be peculiar reasons why a part of the general public who are concerned in the purpose should bear a proportion of the burden greater than that which should be borne by the others. A pertinent illustration might perhaps be the case of a tax for the construction of a State capitol. It would be clear, we should say, that such a tax should be spread over the State at large, because the purpose is a State purpose, and every individual in the State is directly interested in its accomplishment. But it is also apparent that the people and the property at the place where the structure is proposed to be constructed would receive special and probably very great benefits in consequence of the construction, beyond what they would receive in common with all others. The fact is often recognized in the voluntary contributions which are made by the people to secure the location and construction of State buildings at the place where they reside or own property; and the question then arises whether these peculiar benefits may not constitute a basis for special taxation. To make them such it would be necessary there should be two taxing districts; the one embracing the whole State, and the other embracing only the district which, in the opinion of the Legislature, was so peculiarly benefited as to justify an exceptional burden upon its people and property. In such a case the people within the minor district, which is also embraced within the larger district, would contribute twice to the same burden; but this, though apparently a violation of the principles

of taxation, is not so in fact, if the establishment of the minor district has only equality and justice in view, and if each taxpayers, though called upon, is by the two assessments only required to pay what, as between himself and the rest of the State, has found to be his just proportion of a burden, which, though general in its nature, distributes its benefits unequally."

If this bill passes and the question referred to above, I shall not be apprehensive over the result of its examination by the courts of this State.

As a basis for determining the probable cost of a capitol your committee depended to some extent upon the information obtained relative to the expense of construction of the new state house at Jackson, Miss., pictures and descriptions of which have already been placed upon your desks.

The entire cost of that building, including furnishings, was \$1,093,641. According to the estimates of reliable architects, that building could be reproduced here, using native granite instead of Indiana limestone, taking into consideration the difference in the cost of labor, for about \$200,000 additional.

Mr. HESELTON: Will the senator from Lincoln give the name of the contractor or architect whom he is quoting?

Mr. CLARKE: The information was obtained from architects in Portland whom I shall quote later on, who claim to have knowledge of the fact.

Mr. HESELTON: Is the senator from Lincoln reading from an editorial of some Portland paper or from some authority which gives these estimates?

Mr. CLARKE: I am reading from neither. I am basing my remarks upon the official descriptions of the building, taken from the *Inland Architect and News Record*.

"The following official description of the building is taken from the *Inland Architect and News Record* under date of October, 1903:

Description of Building.

This Capital building at Jackson, Miss., emphasizes the advent of prosperity and modern progress in the

South, and its educational mission will be far-reaching in its salutary effects upon future buildings throughout the Southern states.

The foundations are of cement concrete, on the concrete rests the base stones of Georgia granite, and up from the granite base rears the graceful porticos, colonnades and domes to a height of 135 feet, carried out in the Renaissance style with bright gray Bedford stone from the noted old Hoosier quarry.

The cost of the building, including steam heating plant, power plant, furniture, electric and gas light fixtures, architect's fees and other expenses, was \$1,093,641. Wells Brothers Co. of Chicago were the general contractors.

The design and arrangement of this Capital building was carried out by the architect to furnish accommodations of due dignity and convenience for the legislative, executive and judicial branches of the state government. The building was designed to give architectural prominence and expression to this trinity of objects and functions. To provide a building that would meet these requirements and be well lighted and aired from the exterior, the plan must be on the order of wings and pavilions. The simpler and more direct design and elegance of proportion are preserved. A capital of all buildings, should be strikingly massive, grand, noble—typifying the power, honor, stability and superiority of the government over all individuals, corporate or other institutions whatsoever in the state.

In this design the legislative halls are admirably placed on the same floor, well separated, and at the same time in easy communication with each other when necessary. The principal committee rooms of the two houses are also convenient to each other.

The chief executive or governor's offices are located in the center pavilion just off the rotunda, while the supreme court is on the floor below, occupying the pavilion beneath the Senate chamber, well and quietly separated from the legislative neighborhood.

The library, which is very large and needs ample accommodations, is symmetrically located at the opposite end

of the same floor. All the rooms throughout the building are lighted by outside windows, and very little sky light or floor light will be needed other than the proper dome illumination of the legislative halls.

The rotunda is simple, broad and effective, and is distinctly the natural center of departure from all parts of the building, connecting therewith by direct and handsome corridors which give fine vistas through the building. Private corridors to committee rooms have been provided.

On the whole the design presents the true triple scheme for a Capitol building, with the Senate and House at either end and the Executive in the center.

The general scheme of decorations and finish of the interior has been worked out in keeping with the quiet dignity of the exterior. Of fireproof construction, steel skeleton type, with cement concrete arches sprung between the steel beams, on which rests and hides all that which is so necessary to the safety of a building, are the rich marbles, mosaics and ornamentations.

The main vestibule is built entirely of blue Vermont marble on a base of black Belgian. The main rotunda is of Italian marble with trimmings of jet black marble and friezes and columns of scagliola, leading the eye to the lofty dome of pure white in ornamental stucco work. This dome is supported at four points on massive piers with rich marble niches, designed as receptacles for statuary, developing into massive free columns in the second story to the frieze line of the dome. The treatment of main corridors on this floor leading to the east and west wings is a continuation of the Italian marble walls of main rotunda with bronze trimmed pilasters terminating in monumental marble entrances to the supreme court and library with columns supporting rich pediments. The supreme court has the walls lined with scagliola and all woodwork and furniture is of black walnut.

The two legislative chambers, which are located in the two extreme points of the second story, are built up of marble and scagliola, both with rich

domed ceilings of oxidized copper, stucco and stained glass.

One of the richest rooms in the building is the governor's reception room, in the central part of the second story, under the main portico. It is in pure French Renaissance and lacks but color to make it one of the most beautiful and successful interior decorations.

The ground story has a marble floor and a wainscoting of cream tiles and contains a handsome circular room at the east end, designed for a "Hall of History"; in close proximity we find a very prettily decorated room set aside for the permanent home for the Daughters of the Confederacy. At a corresponding point in the west end is found a semi-circular room large enough for small public gatherings or conventions.

The general contractors, the Wells Brothers Co., agreed to complete the building in 31 months. The actual work was commenced on the building in March, 1901, and completed by the contractors in July, 1903, well within the contract time.

Portland asks you this question, Would not this magnificent building which has just been described and which, as has been fairly proven, can be erected for the sum named by the committee on public buildings and grounds in its divided report to the Senate, or one similar to it, a better proposition for the State of Maine, than this old and poorly arranged affair, which is almost incapable of renovation even at a great expense?

The strongest argument against a change in the seat of government is undoubtedly based upon sentimental considerations. This old State House has a large number of historical associations. Many of Maine's greatest and most illustrious sons received their early training in its legislative hall; many of our most memorable events have transpired within the walls; while the very fact that it is so old is enough in itself to inspire us with a feeling of veneration and makes us hesitate to take the step which we are now contemplating.

There is another side to this question, however.

Our official records and the historic

collections of the State, whose value is not to be estimated in money and whose destruction would be a public calamity, are at the present time constantly exposed to the risk of destruction by fire, the danger from that source being so great, in the opinion of the Governor and Council, as to warrant the maintenance of insurance to the amount of \$500,000 at a yearly cost of \$1500.

Those records and collections contain the history of our State, and the proofs of its accuracy, together with the story of the lives of her great men, and without them the precious associations connected with this structure would become but dim and shadowy memories.

A rational and well directed sentiment would seem to indicate the necessity of their preservation in a fire-proof capitol, ample for their reception and calculated to completely insure their permanent safety.

In fact, any argument of a sentimental character that may be raised in opposition to a removal, such as is proposed in the bill before us, can be easily met by others of a similar nature; and in the last analysis, although worthy of respect, are not entitled to enough weight to warrant us in allowing them to stand in the way of the future progress and development of the State.

Portland's proposition, if accepted, will enable us to erect, without materially increasing the burden of taxation, a beautiful State House in a city as well calculated as any in the world to meet the requirements of legislatures, and the people who are obliged to attend them and visit the Capitol on business.

She will give our successors in office the glad hand of friendship and hospitality. Her proud, aristocratic four hundred is a myth and the expression a mere figure of speech, intended, no doubt, by the gentlemen who have employed it, to create prejudice in their minds, but, in reality, merely proving their lack of information regarding the people of our metropolis.

They are as democratic as are the

people in any city or town in this or any other state, and the stranger among them is as freely received and as welcome as in any place that I have ever visited; while the comfort and convenience afforded by her extensive hotel system and transportation facilities, will cause succeeding legislators, if this bill is passed, to bestow upon all of us showers of fervent and heart-felt blessings.

Portland is not one of those cities in which,—to use the words of Augusta's eloquent and distinguished citizen who appeared in her behalf—wealth has accumulated to such an extent that her men have decayed; in fact she is so far from having entered upon that stage of her existence that anyone who has spent even the shortest period of time within her limits, must have come in contact with the obvious and overwhelming proofs to the contrary, and every member of this body cannot be unaware of the fact that in a great many respects the Forest city is universally regarded as one of the very best, if not absolutely the finest from a residential standpoint, upon the American continent.

She has made a splendidly generous offer; not to us; not to the members of this Legislature. She has not even asked that we assume the responsibility of accepting it at her hands; she has asked us merely to act as the instrumentality through which the entire people may by their votes indicate their will relative to this important matter.

There is not a senator present who can fail to recognize the fact that there are in the city of Portland alone, not to mention the rest of county of Cumberland and that of York, thousands of voters in excess of the number required in order to conform to the terms of either of the referendum bills which will shortly be favorably reported and given to us for our consideration.

What reasonable excuse can any one of us who believes in the principles embodied in the referendum give for his refusal to permit the offer of this great municipality to go to the people, to whom it has been made?

Mr. President and fellow senators, I appeal to your sense of fairness, your

good judgement and to your consistency, firmly believing that a thoughtful and impartial considerations of its merits must logically impel you to cast your vote in support of this measure.

Mr. HESELTON of Kennebec:

Governor Cobb in his inaugural address called attention to what he deemed a need of the State—"the creation or lease of an office building in this city for State purposes" to relieve the congestion in the capitol. This suggestion was immediately seized upon by certain Portland gentlemen, in and out of the Legislature, as a lever to pry up the foundations of our State capitol and raze it to the ground and at the same time build in their city a new State capitol which should add to the beauty and resources of that already wealthy city. Accordingly an innocent order was introduced by the Senator from Lincoln, representing one of our smaller and rural counties, inquiring into the "expediency of changing the State capital" and referred to the committee on public buildings, of which the author of the order was a member and a senator from Cumberland County, from the City of Portland, the chairman.

To those outside of the Legislature and immediate acquaintance of the senator from Lincoln, whose term has just ended as Governor's councillor for the second district, which embraced Kennebec County, his order might seem to have been in harmony with Governor Cobb's intended suggestion, and to have voiced the sentiment of a rural county which was bound to Kennebec County by some ties of political affiliation because it was a part of the same councillor district. Rightly or wrongly we commend the loyalty of the citizens of the State to State issues, congressional districts to matters beneficial to persons and towns in those districts, cities or towns; cities and counties to the benefits of those localities and, in a way, we look for the same loyalty from the men of councillor districts to the measures benefiting those districts, especially if they have enjoyed the honor of representing those districts. So I say when the Senator from Lincoln introduced this order, coming freshly from the Governor's council and our councillor district, and reflecting, as the order does upon the interests of Kennebec County, the citizens of this State

might well wonder if it was not a reflection of the executive wish, and those of the good people of the County of Lincoln, our confreres of the second councillor district. If so, then the suggestion of the order would carry great weight, because no one would attribute to Governor Cobb a desire to place upon the citizens of this State such a great burden of taxation, as this measure proposes, without cogent reasons, and no one would expect our associates in Lincoln County to strike a Kennebec County's pride and glory, her State capitol, unless obliged to do so by necessity. The apparent reasons of the Senator's act disappear when the true causes are presented.

Governor Cobb spoke in his message for a relief of the over-crowded condition of the State departments by lease, or construction of an office building—a method employed in other states and in our national capitol itself, to relieve similar conditions—and thus avoid the present enlargement of our capitol. He said that to enlarge the State House would be unwise and I believe it is fair to assume, with his intimate knowledge of the great needs of our State for the uses of money in the development of public works, the unwisdom of such a course impressed him only because of our duty to expend the public income for development and not for adornment.

Had Governor Cobb meant that we should pour millions into the lap of Portland for her adornment, he would have said so; if he advocated a new State House, he would have said so—for we all know he has the courage of his convictions and never employs anyone to express his views on important public measures.

The answer to the second proposition, that the desires of our friends from Lincoln County are reflected in the covert meaning of this order—which is simply to change the capital to Portland—is well answered by the remonstrances from Lincoln County which are on file in this State House against the proposed measure.

The true reason of the authorship is too well understood by the Legislators to need comment. It may not be so well known to the State at large and for that reason alone I refer to it briefly. Lincoln County has sent to our senate a

young man of exceptional ability, one who has had rare good fortune in his political aspirations, but whose business interests, whose professional work as a lawyer, and whose home, other than for political purposes, is in Portland. Under these conditions would you expect him to do otherwise than to assist Portland's ambitions and lend his authorship to this order, with all the benefits that might accrue to Portland indirectly from his recent connection with the Governor's Council, and his coming to the senate from the rural county of Lincoln? However much he may misrepresent his constituents in this matter, he undoubtedly lives up to the fullest measure of his personal interest as a lawyer and citizen of Portland, and his order is thus localized in its origination to Portland influence and does not voice the Governor's opinion or that of Lincoln County. More than this, you can see from this analysis that two of the members of this committee on Public Buildings, before whom this great public measure came, were really Portland citizens, with the interests of Portland at heart, and a third member who signed the report with them was from Cumberland County—from the town of Brunswick—a significant fact when we ask who are the parties interested in this controversy.

The order directed the committee to inquire into the "expediency" of changing the capital. What inquiry was made? Did the committee, or that part of the committee which condemned the building upon inspection, go to the City of Bangor, which is nearer the center of population of our State today than Portland, and look over that beautiful city for an available site; did they go to Lewiston, or Auburn to investigate their advantages for a new location; did they advertise for bids of what these cities would give in competition with Portland for this prize? No, they simply brought into the hearing the Portland "gold-brick-bid," backed by a brilliant array of Portland's professional and business men who with one voice paraded the wealth and resources of their native city, and the limitations, not only of the present capital, but every other place in comparison with rich and beautiful Portland. After the hearing Portland alone was visited. Since that hearing, in the

face of the most pronounced opposition to the movement that any measure ever had, the only talk by the advocates of a change has been Portland, Portland. Will not these facts indicate to the people of the State what we all know, that this is a movement of the city and citizens of Portland alone, and not inspired or advocated by any other part of our State? The case is Portland against the State of Maine and the interests of the State of Maine.

In all requests for private or special legislation we have invariably asked what is the reason for the change demanded, and does it conflict with the interests of others and, if it does, whose interests are paramount, those of the petitioners or those of the remonstrants. Should not the same inquiry be made here and, if we discover here only the selfish motive of a locality striving for local improvement and advancement at the expense, in whole or in part, of the State, should not we apply the same rule of conduct which in similar cases has been applied in the committee rooms and on the floor of the Legislature of turning the petitioners away? It seems a most fair and just decision if the petitioner has abundance of personal resources to look after its own embellishment, and the remonstrants, who are to be levied upon, are in great need of every cent of income they can raise for the necessities of life.

What are the arguments in favor of a new and modern State house,—such as would meet the fastidious taste of wealthy Portland? It is argued that this building is old, antiquated and unsuited to modern conditions, the hotel accommodations are limited; the prices of board high, and above all these complaints Portland wants the prize and is willing to pay something for it. This building is old and its antiquity is one of its most cherished assets with all of our citizens except the get-rich-quick class and the purse proud land owner of a would be metropolis who sees in every public building erected near his estates more value to his property without expense, because the people must pay for them. It has for all these years furnished all needful conveniences to do legislative work and now only requires a few

additional offices to take care of the entire executive and legislative machinery of the State—offices which could be hired yearly for a few hundred dollars or constructed for a few thousand dollars. The legislatures before this one contained good men, intelligent legislators, and they did their work fairly well. Like the members of this Legislature for four days during the first six or eight weeks they averaged about three hours daily in the State House, and for the remainder of the session averaged four or five hours daily during four days each week, or a eighth hours a day, the average legislator will play statesman for twenty-four days every two years. Now is it not a serious hardship that the present Legislature should be crowded a few times during these few days in the committee room, where they struggle so hard to get? Must not this condition appeal to the rank and file of our citizens whose earnest solicitations, and aggressive support forced us here so much against our wishes, and make them solicitous that future statesmen, whom they coerce to represent them, should have a palace to live in on Munjoy Hill with marble floors and stately columns, with frescoed walls and perfumed air, and above all, where they could rest from their labors in Jefferson theatre or by hob-nobbing with Portland's select four hundred? In all probability the voters who would pay for that palace would say "if you do not care to go to the capitol at Augusta, you can stay at home and we will try and fill your place; we had much rather use the money necessary to thus beautify Portland, in building good roads and taking over the public bridges; in improving the opportunities of educating our youth and building up the other institutions of our State." The hotel accommodations may be limited yet no legislator ever went unhoused or unfed who was sent here. On special occasions those who have come here to do business before the Legislature may have been inconvenienced, but the occasions are few and rare, and because these few have been inconvenienced can any one assume that the mass of voters in this State will authorize the building of a new State house in Portland? Why even there at times the hotels are crowded and probably you on those occasions

have been obliged to sleep on a cot and pay for a room as I and other citizens have. Those conditions might occur there again and even during a session of the Legislature. The rates at any hotel are always regulated by the trade. Portland landlords, like Augusta landlords are in the hotel business for what they can make and while human nature remains unchanged hotel charges will depend upon the opportunity the proprietor has for securing his rates whether the hotel is in Augusta or Portland. Such arguments as antiquated structure and limited hotel accommodations may appeal to the fastidious and wealthy Portland, but can never change capitals or build capitols; it may appeal to some member of the Legislature, who finds his salary too small to pay his expenses, but it will never appeal to his constituents from whom he begged the privilege of coming here. The salary would be just as small in Portland and expenses would consume it just as fast. There will be no free beds or lunch counters in this imaginary palace costing \$4,000,000.00. You cannot feed upon its beauties or conveniences, nor can you sleep in its committee rooms or offices.

If these arguments for building a new capitol were meritorious and not fanciful, would they not conflict with greater and paramount interests of the State? The State's resources as gauged by its expected income will be fully absorbed by the appropriations for the next two years—indeed, some of the most important measures, such as good roads and public ownership of bridges, have been curtailed because we could not afford to meet them fully and any expenditure by the State for a new capitol must be met by a direct tax upon the property of the State. What matters it, if the tax is spread over four years at the rate of \$125,000 per year, or that through the apparent generosity of the City of Portland it is to be limited to \$500,000—an amount that is entirely unsettled because we have no plans of the beautiful structure. The whole cost of the building must be paid by the property owners of this State. Every worthy object for the State must await that payment. Good roads must grow at a snail's pace; bridges must be built and cared for by the municipality; public charity and ad-

vanced education must pay tribute to Portland's adornment and not to public necessity. Where are the greater and paramount interests, with Portland or the State of Maine?

More than all this, who will bear the burden of this taxation for Portland's glorification, will it be the wealth of her citizens, whose money is invested in stocks, bonds and industrial corporations which today conceal millions of dollars from taxation, or on the farmer whose property is open to the assessor and collector, not alone for a tax for every public work owned by the State, but also for those public works which today are foisted upon the municipality by the State, such as highways and bridges, and which the municipality is obliged to construct and maintain for the benefit of all. The public highways and bridges are public works and should in all fairness and justice be assumed and maintained at the State's expense, so that the farmer and the residents of our smaller towns might use their money for local improvements. But no, this must not be. The State must turn away from justice, abandon this structure which represents \$1,000,000 of her citizens' money and impose further burdens upon their over-taxed municipalities to adorn the City of Portland.

The consideration of this subject would be less galling to the farmers and the residents of our rural towns and cities had the proposition of Portland been more public spirited in regard to these public utilities at this session of the legislature. Through her representatives before the committees of this legislature and as far as any of these measures have been considered by either branch, she has joined every interest to antagonize any effort made which favored the equalization of taxation and a fair and equitable assumption on her part of her share of the burden. When the question came up before the committee for a mill tax to aid in general education, she was here joining hands with the wild land interests to obstruct the proposed legislation; when good roads were considered under the Sargent bill, she was represented by her mayor and the same allies to antagonize that measure; when the bridge bill was up in the house, its

chief opposition came from Portland representatives because the State would not assume the magnificent structure Portland is now building in her harbor and thus dissipate all the funds necessary for the repair and maintenance of the bridges to be taken over by that legislation and on the same measure the senators from Cumberland County unanimously voted against the same bill and the Chairman of the Committee on Public Buildings, for fear that the senators might change their minds and grant to the people of the State this equitable measure, suggested and urged the reconsideration of that vote, and then voted against reconsideration so not only to kill the proposed legislation but bury it for this session; and when the plan was proposed to make the counties assume and maintain the paupers of the State, Portland was present in the committee room in force because she might be assessed for maintaining the poor outside of her own jurisdiction, and one of the chief arguments advanced against this particular legislation by the same lawyer, who so energetically managed the "Capital" hearing before the Committee on Public Buildings and has since that hearing lead the lobby organized for the measure, was that Bowdoin Medical School would have no pauper corpses to dissect. Is there need of comment upon the extremes of argument her advocates will employ to save Portland from doing anything which she should for the remainder of the State?

Here is a portrait of proud and wealthy Portland painted from her own acts. How generous with the State's funds when her adornment is in question, how selfish and parsimonious when the State's needs are considered.

Doesn't this great interest in the public welfare for a new State capitol, in the health and convenience of the legislators, and in the needs of the people who go to the capital to do business, simply mask her concentrated selfishness, disclosed by her attitude towards these other great public measures?

The public measures meant education, convenience in travel and lessening of taxation to these municipalities scattered over the broad territory of Maine, but this measure, reduced to its final analy-

sis, means a beautiful public structure for a wealthy city and the delay or abandonment of good roads in any extended form, the continued care and construction of bridges by municipalities for public use, the continuance of education in its present primitive way in rural places and with all an increase of taxation to the tune of \$125,000 per year,—the promoters say for four years, but who can tell for how many years? We have no plans, no estimates, only a few pictures from the South or West of capitols built there out of some material, no one says what that material is, or by what class of labor constructed:

Mr. CLARKE—May I inform the senator from Kennebec that the capital to which I have referred is made of Indiana limestone.

Mr. HESELTON—How can you compare that with State of Maine granite?

Mr. CLARKE—I simply said that two architects in Portland have compared that with State of Maine granite and have said that the difference in cost would not exceed \$100,000 and would probably be less than that amount.

Mr. HESELTON—Right here—and the opportunity might honorably be taken by me, I think, to make this statement openly and publicly to the Senate—when the senator from Lincoln uses the name of John Calvin Stevens, I wish to say that in his office I personally saw a sketch which he had made of a proposed capital in Portland; and from his own lips I received the announcement that any capital of that or a similar design would cost, above ground, from two to three millions of dollars—and if it were not so, with the knowledge that I believe the gentlemen from Portland have of Mr. Stevens' ideas of such a structure as they hope for—with that knowledge in their possession, which I believe they possess, they would have produced his estimate before this committee.

They did not wish for the State of Maine to know the cost of this proposed capital—they preferred to produce pictures from newspapers. They did not tell us the character or elaborateness of the construction of their proposed work. They did not tell us about the material that would go into the work. They did not show us the interior of the capital

or its specifications. They simply read from news columns—and they want the State of Maine to register a vote today upon such an issue as that, upon such flimsy testimony.

No one gives the details of the interior. Why are we to be committed to this, Portland's scheme, in this undeveloped form? Has it ever occurred in the construction of a public building that when that structure has once been commenced and progressed beyond the contemplated expense, funds are then easily procured because no state which once commences a public building of this kind can abandon the project partially completed. Do you imagine this fact has escaped the notice or consideration of the astute gentlemen who are foisting this scheme upon the State? Do you doubt but what they have privately considered that when once this building is "staked out", then there is no turning backward, and if the "funding scheme" should be passed by this legislature and assume the form of a "gold-brick", that the State itself would continue and complete the structure? Do you have any doubt but what they think, if by this attractive suggestion of thousands to be presented to the State, they can induce the citizens of this State to commit themselves to this great scheme and there should be a failure on their part to produce the money, even then they will carry out their plans by drawing upon the State for the full expense of this structure? They know full well now that the court will prevent the payment of a single dollar by the city of Portland,—then why press the proposition except for the purpose which I suggest?

Every step thus far taken by the projectors of this scheme has been based upon glittering generalities. In the first instance they had their mayor read with becoming unction the vote of the city government that it would pledge \$500,000 towards this proposed structure, if the legislature would grant them an enabling act so to do. Then as now, they had no plans of the structure, and no estimates of the cost; all they presented to the committee was the picture of some structure in a southern state, built from some material,—no one could tell what,

--and by some kind of labor, no one could tell how cheap; and this trap they baited by what I have termed the "gold-brick." Now, was this a "gold-brick"?

The money offer involved double taxation; it was unconstitutional according to the decisions of the courts of our State, and the fulfillment of the plan, even if they had ever proposed to carry it out, would have been enjoined by the court.

The constitution of our State provides in Section 8 of article IX "all tax upon real and personal estate assessed by authority of this State shall be apportioned and assessed equally according to the just value thereof." This language is different from that of all the states, hence the decisions in regard to power of taxation in other states have no force in Maine.

As determining the legality of this first proposition of Portland and whether it was a "gold-brick" bid for the capital, the leading case in point in Maine is *Dyar vs. Farmington Village Corporation* where the principle is clearly laid down: that all taxation must be apportioned and assessed equally; that one portion of a taxing district cannot be taxed while another is exempt, and that any law which attempts, under the guise of local assessments, to make one person, or a given number of persons, pay a revenue for the public at large is not an exercise of taxing power, but an act of confiscation. The case decides that the same piece of property cannot be taxed by two taxing powers for the same purpose.

In *Perkins vs. Inhabitants of Milford*, 59 Maine 318, the court says, looking at another phase of the question, "the constitution gives no authority to raise money to give away, if it did all protection to property would cease."

This interpretation of the Maine Constitution has never been overruled or questioned by the Court, and the principle involved is sustained in other states where the provision of the constitution with relation to taxation is similar.

Where there is no provision of constitution regulating the equality of taxation, or where the provision is different from that of Maine different rules obtain with relation to objects for which taxes may be levied.

The principle that taxes must be assessed equally and that the same person, and the same property cannot be taxed for the same purpose by two different taxing authorities, and that no particular portion of a state can be taxed more than another portion for the same purpose is sustained in the following cases:

In Ohio the constitution provides that the Legislature shall establish laws for the taxing by uniform rule all moneys, credits, etc., the obligation upon it is to secure equality and uniformity by taxation on all taxable property. This has been construed by the Court in *Wasson vs. Commissioners*, 49 Ohio 622; 17 L. R. A. 795, the case of an agricultural experiment station; *Hubbard vs. Fitzsimmons*, 57 Ohio State 436; *Daniels vs. City of Columbus*, 53 Ohio State 658, case of state armories; also 9 Ohio, C. C. 619. The right to assess anything but a state tax was denied.

In Indiana the constitution requires uniformity and equality of taxation, and the Court held in *Jackson County vs. Shields* 155 Ind. 604 that a special tax on the part of a county on account of the re-location of the county seat is illegal; that the county tax must be uniform throughout the county, and the tax must be uniform throughout the state, overruling a former decision, 147 Ind. 476.

In Illinois the constitution provides "the assembly shall provide for levying taxes by valuation so that every person and corporation shall pay a tax in proportion to the value of its property." In construing this the Court held in *Livingston County vs. Werden*, 63 Ill. 427 that a tax on Livingston County on account of a location of a reform school was illegal, and that bonds issued for the purpose of raising money for such object were void, and in referring to the offer made with the intent to obtain the location of the school, just as Portland has offered half a million dollars to obtain the location of a new State House the Court said, "an offer to receive a donation for a particular locality to secure its location seems inconsistent and degrading to a state boasting of its sovereignty, its worth and its unbounded resources. This species of legislation has

not reflected honor upon the state nor should it."

This case may seem to be apparently overruled by *Livingston County vs. Darlington*, 101 U. S. 407, but on careful examination it will be seen that after the decision in 64 Ill. it appeared that the County had issued its bonds which had passed into the hands of innocent holders for value, that the school had been built and was in operation, and that the Legislature passed an act providing that the County might levy a tax to pay the bonds so issued, and the United States court held that this was not an *ex post facto* law, that it enabled the county to carry an obligation which, while not legal was morally just and proper, and that the new legislation was valid.

In Florida in the case of a state armory the Court held in *Milton vs. Dickinson* 60 L. R. A. 539 that tax can only be imposed at a uniform and equal rate throughout the state, and one county cannot be burdened to the exclusion of others, and by way of illustration the opinion states "no doubt the location of the capital at Tallahassee is beneficial in many ways to the people of that state and it is greatly to the welfare and prosperity of the state and county and I apprehend it would not be maintained by anyone that the Legislature could compel that city or county to pay for the improvements now being made upon the capitol."

In Arkansas the constitution provides that tax must be levied at a uniform rate on all taxable property, and the Court held in *Hutchinson vs. Ozak County Land Company*, 57 Ark. 554, that a greater tax on one part of a county than another for the establishment of a Court was illegal.

There are cases apparently to the contrary but when carefully considered sustain this rule of law.

Merrick vs. Inhabitants of Amherst, 12 Allen 500. This is the case cited by Judge Mattocks in support of the Potland contention. The constitution of Massachusetts rule of taxation differs from the constitution of Maine. While Maine provides for equal taxation, Massachusetts provides only for "reasonable and proportional tax," and the Court said that

it was proper for the legislature to assess taxes to raise money in any particular town or section "which may reasonably be expected to derive more peculiar or special advantages, not enjoyed by other portions of the state to the same degree." The whole reasoning of the case being that such assessment is reasonable and proportional because such district enjoys these extraordinary advantages.

If the constitution of Massachusetts had provided that taxes should be levied equally according to the just value of the property assessed the reasoning of the Court would not apply, and the decisions must have been different.

In New York the Court held in *Gordon vs. Cornes*, 47 N. Y. 608, that an act authorizing a village to raise money for the establishment of a State Normal School was valid. The Court had no doubt of the correctness of the general proposition that tax should be assessed equally, but said there was no provision of the constitution preventing the Legislature from authorizing the assessment and expressly says that "the constitution of some of our sister states contain special provisions designed to guard against an inequitable exercise of this power and secure equality in the distribution of public burdens, but in this state such restraint has not been deemed necessary."

In Pennsylvania the Court held in *Kirby vs. Shaw*, 19 Pa. State 258, special taxation of the county seat for erecting a Court House and Jail was legal on the express grounds that there was no provision of the constitution requiring equality of taxation, and the legislature was the sole judge of what constituted equality.

In Wisconsin, *Lund vs. Chippewa County*, 33 Wis. 640, 34 L. R. A. 131, special taxation for the establishment of a home for the feeble minded was declared legal. The constitution provides "the rule of taxation shall be uniform, and tax shall be levied upon such property as the Legislature shall prescribe." The Court held that this meant that the state tax should be levied on the state, the county tax on the county and the city tax on the city, and the rule was not broken because any city or county raises special tax for local purposes. The Court finds

that while the home for feeble minded is a public institution there are so many local benefits springing from its location that it can properly be called a local purpose.

These are practically the only cases where the question has been discussed in the various states.

Judge Mattocks for the City of Portland quoted Cooley on Taxation as authority for her right to give the money, but had he turned to page 230 of the same author he would have found this language, "for a single locality to assume to tax itself, or if a state were to undertake to tax it for the construction of a state work or the erection of a state building, no one would hesitate for a moment in saying there was no such right, and there could be none as long as taxation by the fundamental law is required to be laid by fixed rules not subject to the caprice of legislative bodies."

As previously stated an analysis of all the cases holding that such taxation is legal and constitutional shows that they are based upon provisions of the constitution differing essentially from the constitution of Maine, or upon the fact that there is no prohibition whatever in the constitution, and also shows that where ever the constitution of any state provides, as does that of Maine, for the equal assessment according to the just value of the property, the Courts have decided that such taxation is unconstitutional and accordingly if the enabling act was passed by the legislature granting to the City of Portland to pay out of its city treasury any part of \$50,000, it would be in-operative because unconstitutional and the attempt to carry such legislation into effect would be enjoined upon a petition to our Supreme Court. This rule is settled in Maine.

This view of the law is not fanciful and limited to the attorneys interested for Augusta in this matter. It is too well established to have escaped the notice of the distinguished lawyers and eminent jurists who live in the city of Portland. It's effect was evaded by Judge Mattocks at the hearing before the committee by the suggestion, "the courts will take care of that, and no one will be hurt if the court decides that the offer made by Portland in the first instance

was illegal." This position taken by the distinguished judge was simply a confession that this offer was a "gold-brick" and an avoidance of its effects. It strikes me that it can be fairly assumed that it was a bait to toll on the credulous people of the State so that the beginning of this structure might be made and then they would realize the actual cost, but too late. Once have the building "staked out," then these gentlemen knew that they could induce the State of Maine to construct it. They surely appreciate the fact, if the citizens of the State of Maine were once committed to this enterprise, then no matter if the courts did enjoin them from paying this \$500,000, they could possibly justify the trick by plausible statements such as—they had done their best; they had got legislative authority; they intended to carry this legislative authority in execution, but they were prevented by the courts of the State; it was not their fault but their misfortune, and the State of Maine could not consistently go back upon the suggestion of its citizens to erect this capitol to protect its future legislators and to adorn this beautiful city because of the miscarriage of their proposed generosity. The result would be accomplished; what would it matter if the people did pay for the structure, and the construction of good roads and the advancement of education were arrested—the people would soon forget.

This is a picture of Portland's first appearance in this Legislature before the Committee on Public Buildings asking for legislation to change the capital, holding in one hand the picture of a Southern capitol and in the other, the "gold-brick" in the shape of the vote of the City Government, illegal on its face.

Now by the proposed act which is presented by five members of the committee on Public Buildings, two of whom are in reality citizens of Portland, and one a citizen of the County of Cumberland, we have a new line of proposals, but embracing in one proposition all that Portland expects to do, "furnish the lot for the site of this capitol and in addition thereto pay \$50,000 for the use of the State in excavating and grading of said lot and in the construction and equipment of the capitol thereon." She has

until the first day of November 1907 to make good her proposition, but in the meantime she desired the approval of the majority of our citizens on the first Monday of June 1907 through a special election called and held for the purpose of a vote on this question. She argues again that if she does not raise the \$750,000, then no one will be hurt, because the commissioners appointed under this act will be prohibited from taking any action towards building this capitol.

Upon promises, not upon conditions,—an offer based upon promises not even backed by a legal enabling act authorizing them to pay one cent, the State of Maine is to be forced into a political struggle and obliged to go to the great expense of a political election for the purpose of seeing whether it will be committed to this scheme instituted and promoted by a few prominent citizens of this great city of Portland, no doubt believing that induced by this hope of getting so many thousands of dollars out of the city of Portland, the voters of the State would commit themselves to this scheme and thus two years hence, failing to carry out the plan of this bill, and at the same time obstructing the lease or construction of any suitable offices here for the State's use, they would make a long stride towards fixing better terms with less palpable "gold-bricks" to offer two years hence.

And not alone in this way is there an evident design through the careful wording of this act to take advantage of the voters credulity. It is deceptive as to the proposed cost. Their own witnesses testified at the hearing before the committee, that a capitol without the land would cost at least \$2,000,000. Their attorney then figuring from what he supposed was the cost of the capitol in St. Paul, Minnesota, had to admit it would be nearly \$2,500,000, and now this bill without proof, without estimates or plans builds up an imaginary capitol at half that cost. Where did they get their figures? Nowhere. They simply put them on paper without the aid of architect or contractor to deceive the voter here and possibly later at a June election. Every one knows that with the present prices of labor and material a new building would cost nearly \$4,000,000

Why were these absurdly small estimates based upon no evidence or authority, used? Does it not justify the conclusion that the makers of this act thought, if they could only get a favorable consideration of this scheme and the building started, they were safe, no matter what the future expense was? Is there doubt in your minds that the bill was drawn to deceive?

Again the bill cunningly provides by its last section that it goes into effect at once for the appointment of commissioners, that the part allowing the erection of a new building goes into effect when Portland pays in her money, but the provision that the seat of government shall go to Portland on Jan. 1st, 1910 has no condition to it. Under the last section that goes into effect at once, no matter how the people vote.

Mr. CLARKE—Query, has the senator noticed section 5, the first line of which says: "This act shall in no effect be in force or effect except to authorize the appointment of a commissioner or commissioners, as provided in the section as to holding special elections," etc. The act itself is an entirety; and you cannot single out section 2 as a separate part and maintain that it can go into effect until the provisions of the whole bill have been complied with.

Mr. HESELTON—I have carefully and prayerfully thought over the whole bill; and I will submit to the judgment of any intelligent man this proposition: Does not the bill contain exactly what I said? It has different sections which provide for different contingencies, variously concealed in those sections; but it provides that the seat of government shall go to Portland on January 1st, 1910, and that is a condition which the senator from Lincoln cannot find.

Mr. CLARKE—Is not that a part of the whole act?

Mr. HESELTON—Undoubtedly. But it is a condition that controls that part of the act.

Mr. CLARKE—Does not the previous section provide that no part of the act shall go into effect except upon certain conditions?

Mr. HESELTON—I haven't the bill in front of me and cannot answer the senator correctly.

Mr. CLARKE—Read the bill and see.

Mr. HESELTON—I shall have to or ask the man who drew it. I will leave it to the Senate to say if it does not amount to what I say.

Mr. CLARKE—That is what I have been trying to draw from you.

Mr. HESELTON—Let me repeat: The provision that the seat of government shall go to Portland on Jan. 1st, 1910, has no condition to it. Under the last section that goes into effect at once, no matter how the people vote.

A favorable vote in June then means success to the scheme of changing the capital to portland whether the "gold-brick" is called a "gold-brick" or not, and whether the \$750,000 is raised or not. Can't it be asked fairly and conservatively, is there any part of this bill that is honestly drawn.

Further, these resourceful gentlemen the agitators of this scheme and authors of this bill, have baited their trap with a theoretical and fair proposition, but in reality a delusion and a snare. I refer to the proposed referendum of this measure to the people.

Consider a moment what caused this agitation. It was through an order introduced by a Portland citizen. There was no movement from any section of the State prompting this action,—not even from Portland itself. It was thrust upon the attention of the Legislature through no petitions; it was aroused by no public complaints of the press, or of the legislators themselves. It was purely a personal act of a few individuals, and by them, and by the press of their city, it was forced upon the attention of this Legislature, and every means known to man, to arouse feeling and create prejudice has been resorted to by its advocates with the members of this legislation to bring it to this present crisis. This work has received the feeble indorsement of 103 petitions, from five different counties—Androscoggin, Cumberland, Sagadahoc, Washington and York—signed by only 6526 petitioners.

How many petitions from Androscoggin? Three. Signed by one hundred and eight individuals.

How many came from Cumberland? Fifty-seven, signed by only 5198.

Sagadahoc presented one petition sign-

ed by twenty-three individuals. Washington presented seven signed by 232 individuals. York presented 35 signed by 888 individuals.

These show the result of the agitation which has been raised in the State of Maine in favor of this scheme and how large has been the indorsement of the order of the senator from Lincoln county, from the county which he on this question so effectively misrepresents.

Mr. CLARKE—Were they voters?

Mr. HESELTON—I presume they were.

Mr. CLARKE—May I inform the senator from Kennebec that I have received but one communication from my county in regard to this matter; and that communication was prompted by a petition sent down to a particular man with a request to circulate it; and that he was misled by the caption of that petition to which I have already called your attention. That does not seem to be a very strong remonstrance on the part of the people of Lincoln county in regard to my attitude on this question.

Mr. HESELTON—I accept, and believe the statement of the senator to be absolutely correct. I do know, however, that before this Legislature there are thirty-seven remonstrances from the county of Lincoln; but it is possible that those remonstrants may have preferred to have their remonstrances go through friendly hands or through the hands of those people whom they thought would more closely represent their ideas.

In the meantime from every section of this State have come the protests of the people embodied in six hundred remonstrances signed by forty thousand four hundred and twenty-nine citizens of this State,—yes, and from every county in the State, condemning this proposed legislation.

The most zealous advocate of the so called referendum never contemplated the use of that measure under such conditions. The referendum which is embodied in the law before this Legislature is so intimately connected with the idea of the initiative by the people that it is impossible to disassociate the one from the other. It presupposes a petition by the people for some specified legislation, not the forcing upon the people a vote

concerning a subject in which they have manifested no interest:

Reduced to its last analysis, the use of the referendum in such measures as the one before us would authorize any individual to announce to the Legislature his desire for certain legislation, and if he found that his wish was to be denied then he would simply suggest the reference of the measure to the people of the State. To give a concrete illustration, if the senator from Piscataquis should feel that the removal of the insane asylum in Bangor would be beneficial to his town or county, he would simply file in the Legislature an order of inquiry into the expedience of such action, and then, scenting impending defeat, would tack onto this proposed legislation the referendum to the people. If by arousing prejudice against the city of Bangor, he could get the support of a majority of the Legislature to grant him this favor, then the people would be obliged to go to the annoyance and great expense of an election.

Carried to its logical conclusion, such procedure would mean that the Legislature of this State would be an unnecessary assembly, and there would be no need of a State House for any legislators. An office building for the convenience of the office holders of this State would be all that would be required. This idea is so at variance with the principle of the initiative and referendum that it seems to require no argument to show its inherent weakness, although it presents the plausible inquiry, "Are you afraid of the people?"

To procure legislation under the initiative and referendum, which will be passed at this Legislature, it will be necessary for a certain per cent of the voters of this State to make a demand through petitions. No such action was ever taken on the pending question, but we are asked to shirk our responsibilities as legislators simply to gratify the ambition of Portland. As has been well said, "the bill should be defeated where it originated, in the Legislature; it did not originate with the people and they should not be bothered with it."

By yielding to this plausible request of the agitators of this measure, the Legislature forces upon the citizens of this

State an expense of not less than \$75,000 for an election in June,—a month when the citizens of Portland can readily attend to business of this kind, but a month when the rural section of this State is employed in their spring farming; and, when you consider that the bulk of the opposition, crystallized in these forty thousand four hundred and twenty-nine remonstrances, has come from the rural section where the great burden of the taxation would be borne if this scheme materializes, is it not a safe and fair conjecture that this month has been wisely selected so as to benefit thickly settled Portland and put to a great disadvantage the rural part of the State?

Further and more unjustly, as it seems to me, this unusual referendum would force a campaign upon the people of this State, in which Portland with her great wealth would practically be arrayed against the city of Augusta, limited in resources, but practically representing in this matter the people of the State. Would it be fair? Should Portland be authorized under all these circumstances to so misuse the very theory of the initiative and referendum?

The sincerity of the Portland advocates of this referendum is well illustrated by the arbitrary course which they meto out to local opposition to this measure and shout down a local referendum.

On Monday, March 4th, the Board of Trade of Portland held a mass meeting to forward the purposes of this movement. A report of that meeting was quite fully given in the Portland Daily Press, but was "edited" out of the other Portland papers so that the outer world would not know of any opposition that there appeared.

I wish to read from the Portland Daily Press's report:—

"When Mr. Goudy had finished (and I shall later refer to what Mr. Goudy said) Mr. Cummings arose to speak again. A clapping was started and this was kept up for two or three minutes. (The reason appears later which was evidently anticipated by this assembly of fair minded men.) It looked as if the crowd was trying to show its unwillingness to hear Mr. Cummings but Mr. Cook rapped for order and Mr. Cummings said:

"I would like to ask if the gentlemen who favor a vote of the people of the State would stand for a vote of the people of Portland on the \$750,000 and site part of the argument."

"Mr. Wish said: 'There is not time for such a thing.' Mr. Cummings: 'I am afraid you are not sincere, Mr. Wish.'

"Mr. Wish (rising and speaking hotly): 'I am sincere.'

"Mr. Cummings: 'I did not mean exactly that, Mr. Wish. I meant that I did not think you would favor such a thing if there was time.'

"About a dozen ring leaders shouted, 'We would.'

"'Then why don't you?' said Mr. Cummings.

"'There isn't time,' fairly shouted more than half the assembled men and the 'conflab' was over."

Mr. CLARKE—Will the senator permit me to interrupt him again? Considering the time at which that meeting was held, would you not agree with the unanimous opinion expressed there—with the exception of that one man—that there was no time in which to have a referendum on that particular question?

Mr. HESELTON—I will state in reply to the gentleman from Portland, what is apparent to every man in the State of Maine, whether he is on his side or on my side of this question: That the city of Portland which is so compactly located could within two or three weeks have held an election and secured an expression of the sentiment of her citizens on that question far better than the great State of Maine, spread out as it is over such a wide territory, could possibly answer this, the referendum which you are trying to force upon us in June.

From this extract it is apparent that the referendum which Mr. Cummings desired to have attached to the project of giving \$750,000 to this enterprise was reviled and hooted down by the advocates of this bill, and yet these same gentlemen wish to force upon the State of Maine that which they were unwilling to allow to the citizens of Portland. Does not this instance illumine the fair mindedness which they have exercised in this whole matter, and their honest concern for an expression of the people's wishes

through referendum? Or does it appeal to you as a reason why Portland should have the privilege of forcing upon Augusta the great expense of this campaign and upon the rural sections of our State the taxes for this special election, when from the number of petitions on file here you can full gauge the wishes and sentiments of those people, unless perchance you may regard the remonstrants in the same insolent and supercilious way in which Mr. L. A. Goudy referred to them in this same Portland mass meeting?

I again read from the report of the meeting in the Portland Daily Press:—

"L. A. Goudy said he wished to be put on record as being in favor of the project. He denounced the Grange for taking the action it had in not favoring the change of capital. He said that he was a member of the Grange and that it was composed mostly of women and children. There were not fifteen thousand voters belonging to the organization. The 60,000 signatures of remonstrants against removal were for the most part not voters but minors and women. He said that the members of the Grange were good enough fellows but they were being misled in this matter. He was wildly applauded at the close of his remarks."

Mr. Goudy is well known to us all. His great knowledge and large store of information on all public questions has enlightened many of the people of Maine on more than one occasion, and the members of this Legislature, many times at the present session, but this particular information will undoubtedly be received with great surprise, not only by the members of this Legislature, but by the Grange itself. It may furnish to us the reasons why Portland, wrapped up in the pride of her own greatness and wealth, is so steadfastly opposed to any legislation at this session of Legislature looking towards equalization of taxation asked for by these patrons of industry. They do not view with alarm the 15,000 voters in these rural counties, and they do not care for the opinions of these women and children toiling there. There is little wonder then, that these remarks of L. A. Goudy were wildly applauded in the meeting or that statements, like those which I have quoted and which you and I know are groundless, there met warm

approval for the purpose of frowning down opposition which there appeared, or that the suggestion of referendum was hooted down, which is so plausibly presented here to secure your votes to force this measure to public election, and thus pit wealthy Portland against Augusta. Does it not furnish reasons for us to return the same treatment to Portland which she has meted out to her citizens?

Finally, in reviewing the whole question, where does justice lie in this case, of Portland against the State of Maine; where are the paramount interests, for Portland or for the State of Maine?

The case now rests with us, the Senators of this State and the first arbiters of this important legislation. The importance of our decision cannot be over estimated. Mindful of the responsibility resting upon us I cannot but feel that we will decide unbiased by prejudice or uninfluenced by chimerical promises, promises, with the interest of the State and the majority of its citizens at heart, and that that decision will be right—right for us, right for Portland, right for the State and right for those who are now or who shall hereafter be citizens of the State of Maine.

Mr. STAPLES of Knox—Mr. Chairman. I did not intend to discuss this question but I simply desire to define my position. I have no comments to make upon the great men who have graced the halls of legislation from Cumberland county whose services belong to every county of the State, and I recognize the part which Kennebec county has played.

But there is but one question before the Senate which I regard as important, that is the referendum. I believe that should be left with them. It is a great question and standing here today I feel that Cumberland county having offered a million and a half of dollars has a right to the ballot of the State.

I do not know how I may vote upon this question when it comes to referendum; but I do know how I will vote on the pending question, because I can trust this matter to the people of the State. Upon this question I shall vote yea whatever I may vote in June or in December.

Mr. MERRILL of Cumberland—Mr. President, I will not detain you but for a

few moments in reply to some of the remarks made by the senator from Kennebec. This is no unseemly scramble on the part of the citizens of Portland as he seems to think, asking for legislative action to move the seat of government from Augusta to Portland. It is, as far as we are concerned, a simple business proposition. What is that proposition? It is this: That the citizens of Portland offer to the State of Maine \$750,000 and a site for the State House, provided that State House is built in Portland.

What is the basis of that offer? Gentlemen, there is nobody within the sound of my voice—and I have listened to the arguments before the committee and to the argument of the senator from Kennebec—who will deny that the present facilities of this State House are grossly inadequate or that the State of Maine has outgrown them.

In addition to that, there has been a feeling (and you need not refer to the petitions to ascertain that feeling) that the accommodations afforded by Augusta to the citizens of the State attendant upon the Legislature are not what they should be.

Now, gentlemen, what are the arguments which have been adduced? Has there been a single argument showing that that basis is wrong? Not one; but on the other hand we hear the word "gold brick," and that the citizens of Portland cannot raise this money if they want to do so. I do not come here to apologize for the citizens of Portland. We have passed through fire and we have been devastated by railroads; but, gentlemen, up to the present time we have paid our bills, and we are not in the habit of asking for things the liability for which we will not meet. The senator from Kennebec has done simply one thing. He has argued on this proposition as if the question was before the judiciary committee, whether that committee authorized an enabling act such as the city of Portland has asked for. Look at the bill in all fairness, what does it provide? It provides that if the citizens of Portland shall before November 1st, 1907, pay to the State treasurer \$750,000 and shall give a deed for a site for a State House, the act shall go into effect.

Right here the senator makes a technical objection. He says that this bill is keenly drafted. Gentlemen, as far as I am concerned that bill means just exactly what it says. There is no design in it beyond its plain expression. We are not in the habit of doing business in any other way. We will agree to any way you may wish—that this act shall not take effect as to the moving of the seat of government to Portland unless the people vote and the citizens of Portland pay to the State the money in accordance with the terms and meaning of the law. We will agree to it in any way which the senator can suggest.

Now as to the constitutionality of whether or not Portland may raise the money. I have to say that the city of Portland has assets and we have a borrowing capacity of a million and a half in round numbers. We will raise the money if we have to raise it by private subscription or by any other method. All we ask is that you give us a chance, and you shall not need to spring constitutional points upon us.

The senator says that the referendum is made and that it is without an initiative; but, gentlemen, it is the only way which we knew of to accomplish this thing during a session of the Legislature. We are willing to leave it to the people if the people of the State of Maine fairly and frankly say they do not want this capital to go to Portland and that they want it to remain in the city of Augusta, we shall be perfectly satisfied; but we believe that we are within our rights in asking that the people shall vote upon it.

Another argument against this is that the State of Maine cannot afford it. Senators, the State of Maine can build this capital within the figures which we name. They say: Why don't you come here with plans and show us what it will cost? That was, in the time we had, an impossibility; but what do we do in this bill? We protect the people of Maine by leaving the matter entirely in the hands of the citizens of the State who are appointed in the way suggested by the bill, and who shall say what plan shall be accepted and determine the cost. As to that, we in Portland have nothing to say.

The senator from Kennebec speaks of

this measure as a reflection upon the Governor because the Governor had recommended an additional building for officers. I had supposed that this bill would be subject to the Governor's approval. He may approve it or not, and we are perfectly willing to give him the chance to do so.

Mr. HESLTON—Mr. President, I hope the senator will allow me to correct his misunderstanding of my statement. I simply said that this did not reflect, nor have we a right to assume that this reflected upon the executive wish. I do not say that this bill which you have offered or which anyone has offered reflects upon the Governor in any way.

Mr. MERRILL—We certainly had no intention to reflect upon the Governor in any way, but I thought you stated so.

Gentlemen, we do not wish to stir up any feeling in this matter, but we come to you straight out with our proposition. We mean what we say. We do not ask you to adopt it if it is against your judgment; but we cannot see how anybody can oppose us when he stops to think that it is the people in the end who must decide.

I might call attention to several things to the present State House accommodations. I am not going to say anything on that score. I simply say that this is a straight business proposition. I ask you to look at it as you would look at a business proposition, and then decide.

Mr. PARKHURST of Penobscot: Mr. President: The question upon which we are about to vote is of vital importance to the future of the State of Maine. Its determination is pregnant with things of the future.

If the question, as it was brought to us originally, bore solely upon the removal of the State House, we might determine that, in one brief service here, were we competent to judge whether we would disturb the established order of things for nearly a century; but, before the issue was fairly joined we were offered in place of the proposition to remove the Capitol, the proposition of the referendum. There was brought to us, under the guise of consulting the people, a bill, and in that bill, a suggestion that the

people were to pass upon the question of the removal of the Capitol.

What is that referendum? Does it accord with what we expect to find in a referendum. If the question is of consequence—if it is to be determined seriously, it must be divided into two propositions: First, do the people of the State of Maine want to remove this Capitol; second, where do they wish to put it when they remove it?

The referendum offers no choice on these questions. It says to us: Will you remove this Capitol to Portland? It does not ask us: Will you discontinue the Capitol at Augusta; and will you remove it?—and then accord to us—the right that we have—to determine where we shall move it.

I submit, Mr. President, it is not a question of what Augusta may desire, or what Portland may want. It is a question of what is best for the interests of the State of which we are proud to be citizens. In this referendum we find another proposition which carries with it an important submittal—a submittal to the people at that time of year when there is little likelihood of the rural communities voting fully upon it, and we find this significant provision that the majority of this vote shall determine this question under a majority of the votes. We know that it is the intention of Portland and Cumberland county, if this referendum is adopted, and if this particular measure is voted, to have a canvass of the State of Maine. I myself, in my own city, was told by a resident of Portland that they would carry this referendum and that they had a hundred thousand dollars to spend in the State of Maine to enforce its acceptance by the people. If it is to be considered—if it is of the gravity that I believe it is, it should not be adopted unless a majority of the voters accept it; and it should be voted for at a general election when the voters do come out, and when we may have a full and fair expression upon the subject.

I appeal to you, Mr. President, and to you, fellow senators, to vote upon this matter so as to serve what you believe to be the best interests of the State.

I move that, when the vote is taken, it be by the yeas and nays.

On motion by Mr. Parkhurst of Penobscot the yeas and nays were called for and ordered, and the question being put on the motion of Senator Clarke of Lincoln that Senate report "A" be accepted, the vote was had, resulting as follows: Those voting yea were Messrs. Clarke, Curtis, Deasy, Foss, Garcelon, Irving, Merrill, Philoon, Proctor, Sewall, Simpson, Staples, Tartre, Theriault, Wyman (15). Those voting nay were Messrs. Ayer, Bailey, Barrows, Brown, Eaton, Hastings, Heselton, Houston, Libby, Mills, Page, Parkhurst, Putnam, Rice, Stearns (15). The President thereupon requested that the secretary call the roll of the President, and the same being called Mr. Allen voted yea.

So the report "A" was accepted.

On motion of Mr. Proctor of Cumberland the Senate adjourned.