

MAINE STATE LEGISLATURE

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Legislative Record

OF THE

Seventy-Fourth Legislature

OF THE

STATE OF MAINE

1909

HOUSE.

Tuesday, March 23, 1909.

Prayer by Senator Knowlton of Piscataquis county.

Journal of yesterday read and approved.

Papers from the Senate disposed of in concurrence.

The following order came from the Senate:

Ordered, The House concurring, that a special joint committee consisting of two members of the Senate and three members of the House be appointed to consider the advisability of changing the present laws relating to the organization of corporations in this State, and report to the next Legislature by bill or otherwise.

On motion of Mr. Rounds of Portland this order was tabled pending its passage in concurrence.

Resolve in favor of H. M. Sewall, came from the Senate passed to be engrossed under a suspension of the rules. (Tabled on motion of Mr. Hersey of Houlton.)

An Act additional to Chapter 71 of the Public Laws of 1909 entitled "An Act for the improvement of free High schools approved March 15, 1909," came from the Senate passed to be engrossed under a suspension of the rules. (Tabled on motion of Mr. Wing of Kingfield.)

Senate Bills on First Reading.

An Act to amend Chapter 174 of the Public Laws of 1905 relating to the compensation of sheriffs.

An Act to repeal a part of Section 1 of Chapter 116 of the Revised Statutes, relating to the salary of officers of the Insane hospital at Augusta.

An Act to amend Private and Special Laws of 1901, Chapter 401, Section 2 relating to the taking of smelts in Pleasant river in Washington county.

Resolve in favor of Lowell E. Bailey.

An Act to amend Chapter 4, Section 43, Revised Statutes, relating to duties of town clerks.

An Act to amend Chapter 42 of the Public Laws of 1907, relating to "Prevention of desertion and non-support of families."

An Act to provide for the better collection of inheritance taxes.

An Act to amend Chapter 30 of the Revised Statutes relating to apothecaries and the sale of poisons, came from the Senate recommitted to he committee on legal affairs.

On motion of Mr. Rounds of Portland the House concurred with the Senate in its action.

Majority and minority reports of the committee on agriculture to which was referred Resolve in favor of Lowell E. Bailey, came from the Senate, the majority reporting "ought to pass in new draft, the minority reporting "ought not to pass," the majority report accepted in that branch and the resolve read twice and passed to be engrossed.

On motion of Mr. Cousins of Standish the majority report was adopted in concurrence.

The resolve then received its first reading and was assigned for tomorrow morning.

Majority and minority reports of the Portland delegation to which was referred bill, An Act to amend the Private and Special Laws pertaining to the appointments to the police department of the city of Portland, the majority reporting "ought to pass," the minority reporting "ought not to pass," the majority report having been accepted in the Senate and the bill passed to be engrossed.

Mr. Beyer of Portland moved that the minority report be accepted.

Mr. ROUNDS of Portland: Mr. Speaker, for years our appointments were made at every municipal election and the result of the system was that the way the police department wanted the city elections to go, they went. The matter got so bad that people came to Augusta and asked to have the police department taken out of politics and the Legislature acquiesced and took the control of it out of politics. This is a bill to further that idea—and to say that every year the man who has charge does not have to fight for his appointment. Now the man who has charge of it has to fight for his appointment every time and he does not dare to look after men as he should if he was appointed regularly. Therefore I move that the majority report have a passage.

Mr. BIGELOW of Portland: Mr.

Speaker, the bill provides that the chief of police of Portland shall be appointed for life, by legislative enactment that he shall be given a permanent appointment. I object to it on principle and because I do not believe the people of Portland want it; therefore I hope that the minority report will be accepted.

Mr. MARSHALL of Portland: Mr. Speaker, I came in at a late hour but I understood there were to be some amendments offered which might be satisfactory to all parties and I move that the matter lie on the table and be assigned for tomorrow for further consideration.

The motion was agreed to.

Majority and minority reports of the Portland delegation, to which was referred An Act to make permanent the tenure of office of the city electrician of Portland, the majority reporting "ought to pass," the minority reporting "ought not to pass," came from the Senate the majority report accepted and the bill passed to be engrossed.

On motion of Mr. Davies of Yarmouth the reports were tabled and assigned for tomorrow.

Majority and minority reports of the Portland delegation, to which was referred An Act amending Section 1 of Chapter 350 of the Private and Special Laws of 1907 relating to the time of service of the members of the fire department of the city of Portland, the majority reporting "ought to pass" in a new draft, the minority reporting "ought not to pass," came from the Senate the majority report accepted and the bill passed to be engrossed.

On motion of Mr. Davies of Yarmouth the reports were tabled and assigned for tomorrow.

From the Senate: An Act to authorize the city of Portland to acquire property and to issue its bonds and notes for municipal purposes.

Mr. Rounds of Portland offered House Amendment A by adding the following section: "Section 5. This act shall be void unless the inhabitants of the city of Portland at legal ward meetings called for that purpose by a written vote determine to adopt the same, and the qualified voters of the city shall be

called upon to give in their votes on the acceptance of the act at meetings in the several wards duly warned by the mayor and aldermen to be held on the day of the next municipal election, and thereupon the same proceedings shall be had respecting the sorting, counting, declaring and recording the returns of the said votes as is provided at the election of mayor, and the board of mayor and aldermen shall within three days meet together and examine and compare the returns of ward officers, and if it appears that a majority of all the votes given on the question of its acceptance are in favor thereof the mayor shall forthwith make proclamation of the fact, and thereupon the act shall take effect.

Mr. MARSHALL of Portland: Mr. Speaker, I hope the amendment will be rejected. This is a matter which is of vital importance to the city of Portland, it has been considered by its city government, and the present bill as drawn meets the approval of that city, and I believe it also meets the approval of the great body of the citizens of Portland. I will not at this time go into the history of his matter, but to show you the feeling at least of some members of the city government and of the mayor and of the committee on finance I will read the following:

"Portland, Maine, March 15, 1909.

"At a meeting of the Finance Committee, held this date it was,

"RESOLVED, That the following bill, now before the Legislature meets with the full approval of this committee, for the following reasons: (1st clause) The old way of giving by special authority to the City of Portland the right to purchase and hold real and personal property for municipal purposes not exceeding certain limits, was in vogue before the creation of the 5 per cent. constitutional debt limit. With the establishment of the constitutional debt limit these old special acts fell into obscurity. Any restrictions which they may impose should have been removed many years ago; there is no reason why any restriction not inconsistent with the constitution should be placed upon the City of Portland, in distinction from every other city of the State, and to the unnecessary raising of technical and disturbing

questions in the city's debt funding operations.

"(2nd clause) Because of the existence in the city charter of these old restrictions now sought to be removed, and also in order to avoid any complications over the Ogdensburg, R. R. aid debts all bonds and notes of the City of Portland outstanding to and including March 1, 1909 should be ratified.

"(3rd clause) Inasmuch as the authority of the city to hold its Ogdensburg stock came primarily from the authority to issue the municipal railroad aid 6's which matured Sept. 1, 1907, and were taken care of temporarily with two year notes, the city should have reaffirmed its authority to hold in whole or in part this stock, if it so desires; as otherwise questions may arise to complicate its refunding operations in providing for the large issue, September 1, 1909."

"The bill is as follows:

"Section 1. The city of Portland shall have power to purchase and hold such real and personal property, in addition to that now held, as its city council may find necessary for municipal purposes and to issue its bonds and notes therefor, and to fund and refund any part or all thereof.

"Section 2. All notes, bonds and mayor's warrants of the city of Portland outstanding upon and including March 1, 1908, are hereby declared valid and legal and the city may from time to time fund and refund any part or all thereof.

"Section 3. The shares of stock of the Portland and Ogdensburg Railroad Co. now owned by the city of Portland may continue to be held by said city or disposed of for the use and benefit of said city in any manner not contrary to any obligations which may be found to exist respecting the holding of said stock.

"Section 4. All acts and parts of acts inconsistent herewith are hereby repealed."

"This committee therefore wishes to go on record that the foregoing bill has been carefully drawn with its full knowledge and co-operation, and is deemed necessary to enable the city of Portland to fund and refund its present

or future debts without the possibility of quibble hereafter over technical points to the needless disturbance of the city's credit and its ability to obtain at all times the largest possible interests rates; and it is therefore the committee's hope that the bill may pass without any alterations. (Signed' Adam P. Leighton, Charles P. Flagg, Clarence H. Lane, James A. Cunningham, Finance Committee of the City of Portland."

I will also read the following letter:
Office of City Treasurer and Collector,
Portland, Maine.

March 16, 1909.

Mr. Frank D. Marshall,
House of Representatives,
Augusta, Maine.

Dear Sir—I have before me a copy of the resolution and recommendation passed by the committee on finance, upon what is known as the Marshall bill, now before the Legislature.

I wish to say that I heartily approve and endorse this resolution. I see no good reason why the city of Portland should be restricted in holding real or personal property in any amount except as provided under the 5 per cent. debt limit in the Constitution.

I trust that the legislators will see this in the light as set forth by the resolution, and give you their hearty support in seeking the passage of this bill.

Yours respectfully,
(Signed) SAMUEL S. GILBERT,
City Treasurer and Collector.

I will state for the further information of the House that there is now on the Statute an old law of 1875 which restricts the holding of property by the city of Portland to \$200,000 in addition to that then held by the city. That limit of course has become obsolete, has been many, many times exceeded, but it was resurrected last year and called to the attention of certain bond men when the city sought to make a bond issue of \$140,000 for the completion of a school building began some years ago, and of course that objection being raised the bond issue fell through; therefore the city of Portland for all purposes of issuing bonds is absolutely up against this \$200,000 limitation. We cannot build our

City hall, we cannot build a central fire station, we cannot build a police station, we cannot build our school-houses, we cannot go forward unless we have these limitations removed. No money can be appropriated by the city of Portland today except by a vote of two-thirds of the members of the city council. It seems to me this is purely a local matter which should and may safely be left in the hands of the city authorities. If this goes to a referendum it means that this year the city hall will not be built; and I am informed that the gentleman from Portland (Mr. Rounds) has expressed a desire that the City hall should not be built this year. I think the citizens of Portland who have approved the building of the City hall where it is now proposed to be built, want to see this matter go forward without delay. I hope the motion of the gentleman will not prevail. And I further call attention to Section 21 of the Constitutional Amendment adopted last September which says: "The city council of any city may establish the initiative and referendum for the electors of such city in regard to its municipal affairs, provided that the ordinance establishing and providing the method of exercising such initiative and referendum shall not take effect until ratified by vote of a majority of the electors of said city, voting thereon at a municipal election." The gentleman from Portland has not seen fit to proceed in the regular constitutional channel. I raise the point as to the constitutional right to single out this particular case. This is not a uniform method.

For these and various other reasons I hope that the motion will not prevail and that the amendment will be rejected.

Mr. ROUNDS of Portland: Mr. Speaker, the gentleman has referred to the finance committee of the city of Portland and what they want, but he has not said anything about the taxpayers who have got to pay the bills. He has only just cited a few office-holders who would like a nice handsome office to occupy and a \$2,000,000 building that it is proposed to erect if they can only get started so they won't get stopped by a referendum. I

hold in my hand a certified copy of the famous town meeting called in Portland when they tried to stop the chairman of the finance committee from building such a building as he would like, and I will read from the proceedings of that meeting to which over 1200 people turned out in one of the worst storms that occurred last year—turned out to show their condemnation of what the chairman of this finance committee was trying to do. I will read the resolutions that were passed in that town meeting. The first resolution was by Horace H. Shaw, long remembered as one of the largest manufacturers of shoes in Portland, who moved its adoption, the motion being seconded by Liberty B. Dennett:

"Resolved, That we, the citizens of Portland, in town meeting assembled, hereby advise the mayor and city council of the city of Portland to make use of the present site for the city building."

That, gentlemen, was when he was trying to put that city building on a park on which we had been trying for thirty years to grow trees, and he would have them cut down to put that building there and erect a monument to Andrew P. Leighton.

The second resolution: "After discussion the resolution was adopted by rising vote. George W. Seiders presented the following resolution and moved its adoption, which motion was duly seconded: 'Resolved, that we, the citizens of Portland, in town meeting assembled, hereby instruct the city council of the city of Portland that they restore the present building using the remaining walls so far as they are sound and suitable.' A motion, made by Liberty B. Dennett and seconded by Frederick W. Hinckley, to lay the resolution on the table, pending discussion of a subsequent question, was put and declared lost. The motion of Mr. Seiders, to adopt the pending resolution, was carried by rising vote, and the resolution declared adopted."

Now, gentlemen, there were over 1200 people at that town meeting who voted and they knew what they were talking about. They came from four and five

miles to that meeting in one of the worst storms of the year, and they condemned the action of that finance committee at that time. Now all we ask is to have the referendum attached to this matter. I want to show you the city hall as it looks—over one-third larger than the old building as the outlines show, with the county court rooms and offices taken out, with the electric appliance station taken out, and still they want to build a building over one-third larger. You have been haggling this winter over \$350,000 to enlarge this State House; but, gentlemen, here is one city that is within \$150,000 of her debt limit today and you are trying to give her authority, or to give two or three men authority, to go ahead and build this proposed building without a referendum to the people. I think with the referendum passed by such an overwhelming majority last September, that the people would like to have something to say on this subject.

I add here the opinions of some dozen or fifteen of some of the most prominent men of Portland, and the most of them condemn the proposition; some favor it. I will read both sides.

Variety of Opinions Expressed About City Hall.

Many citizens gave a public expression of their views yesterday on the proposed City hall plans. Among them were the following:

LYMAN H. NELSON.

"The effort to reproduce history in the design for the City building is to my mind a failure and I must say that I am very much disappointed in the result of the architects' work. A little while ago we heard a great deal about a civic center for Portland, about the harmonious construction and grouping of public buildings, a thing of course to be desired. But have those who advocated such a plan forgotten and abandoned it altogether? Do they forget that the city is to take the central fire station lot as a public park and that all of the buildings now on it will be removed and that there will be an open space in front of the City hall with a view of the two new buildings now being erected or to be erected

across this square? The buildings being erected are of an entirely different type from that proposed for the City building. They are entirely out of harmony with the design for the City hall and the contrast will be so great that it will be painful. Have you tried taking away the cupola of the building which is proposed by placing your hand over it? Try it and you will see that what remains is merely the average college dormitory, scores of which can be seen all over New England. I do not question the interior arrangements of the building which is proposed but I am grievously disappointed in the exterior and in the type proposed. It seems to me that we could do much better than this. My observation is that people generally do not approve of the design."

GEORGE H. SMITH.

"At first I didn't like it, I am frank to confess, but it looks better to me every time I look at it. Of course the newspaper reproduction of the design is not satisfactory and gives but an inadequate idea of the proposed structure. The design certainly grows on you as you study it and I believe that it would be a building which Portland would be proud of."

ALBERT W. LITTLEFIELD.

"I haven't talked with many people about it and I may be alone in my view of the matter, but I really like the design. At first glance I didn't like it at all and then after a little study it began to please me, and I think that such a building would be a great ornament to Portland. I make no pretension of knowing anything about architecture, but, like others, when I see any building which I like I form an opinion about it although to tell just how it may please me might be difficult."

HON. E. C. REYNOLDS.

"I like the plan. I like colonial architecture and the design is a fine example of it."

WALTER COREY.

"I feel the same as many others in regard to the plans. I like them very much and I do not believe that the people appreciate them as they should. In my opinion the proposed building would be in keeping with Portland's associations.

It would be unique and that is what we want."

FREDERICK R. FAY.

"I should have been pleased if we could have had the dome restored, but if that is not possible I am satisfied with the plan as recommended. It seems to me to be dignified in its simplicity and pleasing in its general effect. The mayor, city clerk, city treasurer, water board, the two branches of the city government and the department of public works and the other city departments have all been amply provided for. Another thing that occurs to me very forcibly is that the plans give us the possibility of a great auditorium, large enough to accommodate the music festival."

ROBERT T. WHITEHOUSE.

"I regret to say that I was much disappointed in the design for City hall. I can see no logical or rational basis for the combination of the colonial and Italian style of architecture for a municipal building. If we are to yield to purely sentimental considerations it seems to me that we would do better work to hark back to the type of the old country court or city building which was burned in 1858, somewhat embellished and enlarged but of that same general type. The design which has been submitted looks to me like the old wood cuts we see so often in the older books of French market places or prisons. It is not attractive to the eye and we sacrifice so much dignity, so much of the imposing character which we are led to expect of such a structure for pure sentiment that it does not strike me as worth while. I have no doubt the commission has worked faithfully over this important matter and that they have obtained admirable arrangements for the interior and that the plans solve many of the important questions which must be considered, such as light and utilization of the lot on which the building is to be re-erected; but I regret to say that I don't like it, and further than this I will say that I have failed to find anyone who does."

I can show you some 50 or 60 on that same line in the different papers that were put in.

But I will say this: Section 2 of the bill says: "Section 2. All notes, bonds

and mayor's warrants of the city of Portland outstanding upon, and including March 1, 1909, are hereby declared valid and legal, and said city may from time to time fund and refund any part or all thereof." Who is there that would pass such a law as that not knowing what bonds are out of the city of Portland, not knowing what notes or what warrants the mayor might have signed? After I raised this objection I understand they have been hurrying and scurrying to try to find out what the amount of the bonds and the notes was, and a little later I suppose you will hear what was done, but it was through discussion that this came about and when we started in with this bill nobody knew, and I have not seen the papers today, but I understand they were sent to counsel a few days ago to be presented here when I made this objection, but they did not give me a copy but they have turned it in to some other gentleman because I wanted it.

Now is there anything wrong in letting the citizens decide whether they want a \$2,000,000 building or whether they want a building something like the cost of the old one which cost \$340,000 in 1858 and which we were all proud of and which was remodelled in 1866 and 1867 at a cost of \$370,000, thereby making a little over \$700,000 in all? But we have at the present time our large financial concerns stating that the building when completed will cost \$2,000,000. When an institution like the Casco National Bank sends through this State a circular claiming that it will cost \$2,000,000 and the Maine Savings Bank sending out the same circular, it looks to me that those financial men are better able to decide as to the cost than any member of the Legislature that comes here from Portland.

Mr. MARSHALL: Mr. Speaker, just a word in reply. The gentleman says that we do not know the amount of bonds outstanding. A copy of that was sent in and was on file at the hearing. I have in my hand a certified copy under oath of the city treasurer giving in detail all the bonds outstanding. That is all a matter of public record. It shows a total of \$2,-

764,746. As to the city hall costing \$2,000,000, that is all aside from the issue at present. The estimates as to the city hall are right around \$900,000. I have the authority to make the statement from the mayor that plans will not be accepted which call for an outlay in excess of that sum, \$900,000. He speaks of advertising matter. I believe I saw some sort of a circular sent out as advertising circulars are sent out stating that the city hall was a \$2,000,000 hall. I don't think those parties in the city of Portland who are responsible for its government are going upon advertising matter sent out by any individual. I will not discuss the plans only to say that they have been unanimously adopted by the city council.

The gentleman referred to a certain town meeting. He started to read the record. I supposed he was going to finish. Since he did not do so I will read a little where he left off. "Edgar E. Rounds presented, and addressed the meeting in favor of the following resolution: 'Resolve, further, that we, the citizens of Portland, in town meeting assembled, hereby appoint a committee of seven citizens of Portland, whose duty it shall be to advise the city council in regard to the parts of the present city building that are suitable to be used in the erection of a new city building.' Edward W. Murphy suggested that the resolution be amended so as to read 'a committee of nine citizens, one from each ward,' instead of a committee of seven. Mr. Rounds declined to accept the suggestion in full Edward W. Murphy moved that the resolution be amended by substituting the word 'nine' for the word 'seven,' so that the proposed committee should be composed of nine citizens. The vote on the amendment was 184 in favor and 85 opposed, and the amendment was declared adopted. The resolution as amended being read by the moderator the discussion was resumed, the meeting being addressed by Lewis A. Goudy. A rising vote being taken the resolution was declared to have failed of a passage."

From that point on the gentleman from Portland (Mr. Rounds) who, as I understand it, was to be a member

of the committee to assist in building the city hall—from that point on, I say, the gentleman from Portland seems to have been opposed to the present city hall arrangements. Now **this is a local matter**; it does not concern the State at large but it is a matter of vital importance to the city of Portland. In closing I will quote one newspaper, from the Portland Evening Express of March 22: "The bill as drawn is calculated to meet the situation exactly. Amendments without the advice of lawyers who have made a study of the situation would be dangerous to the best interests of the city inasmuch as they might defeat the very purpose which the bill is calculated to achieve."

Mr. ROUNDS: Mr. Speaker: I was not going to refer to late editorials because I see that the man who wrote them is in the room, but since the gentleman has referred to them I would like to say a few words and explain perhaps how that editorial happened to be in the paper at this present time instigated by the friends of the proposed city building. Last Saturday I received a telephone from the mayor saying, "Edgar, you won't put on any amendments? This is the first time I have ever asked you for a personal favor." He asked me that so he could build that big monument for himself at the expense of the citizens of Portland. Ard last week when the committee on estimates met that man said that "some folks are getting too fresh," and he would stop a contract that was made by the city government of Portland with myself for 20 years. Now that was a direct threat to me if I should dare to come up here and vote according to my convictions. Now when I got it from two sources right after that meeting I merely said, "Wait till I get home." When I got home I received a letter from the mayor asking me to bring my contract to his office as they could not find that they had any contract with me. When the bank opened yesterday morning at 8 o'clock I went to the bank and took that contract out and carried it down to the mayor, and he said, "Let me have that contract, will you, Rounds?" I said,

"No, sir, I will not." (Laughter and applause).

"I will carry that contract back to the men who loaned me the money in order that they might have water on Peak's Island." I carried it back to the bank and I said, "Gentlemen, if you want him to have a copy of that you may let him have it. It is your money that you have loaned me; now you can do as you have a mind to." And you can see the underhand business to build that monument for that man. He does not want the people of Portland to have a chance to vote on it. In a similar manner he has had his agents all out to try to stop the citizens of Portland from building Portland bridge because he wants to build it himself and have his name on it as erected by the votes of Mayor Adam P. Leighton. (Laughter). Now, gentlemen, in all fairness if the gentleman or any gentleman from Portland or anywhere else wishes to amend that so it can be completed more quickly I will consent to the amendment, but let the citizens of Portland decide whether they want a city building of that magnitude. I have on my desk an estimate of the cost of this proposed building. It raises about \$115,000 a year for that particular monument for the mayor of Portland. Now do the citizens of Portland want to pay one-ninth of all the taxes of the city of Portland for a monument to go down into history for him? Give them a chance to vote on this, that is all I ask. This is the picture of the proposed building (showing). It looks more like a factory or a tobacco warehouse in Virginia than it does like a city building for Portland. (Laughter). And still you are putting \$2,000,000 into it, and the gentleman cannot deny that the Casco National Bank and the Maine Savings Bank have put that matter out as a \$2,000,000 building and we have only got \$150,000 to start with. We found out how it works in the case of the county court house. They came here and got a matter of \$600,000. Two years later they came here for \$200,000 more. We had \$127,000 in the treasury when we started, and today there is a bill for \$150,000 more to finish that building and is it civic pride that we

want to consider or the people who pay the taxes? Only 1500 people in the city of Portland pay over \$50 in taxes. Over 50,000 people are paying less than \$50 and they have to scrape and scrub to get along and pay their taxes. Now will you give those people one chance to vote on this question and not throw them down so that they shall make a monument for this one man?

Mr. BIGELOW of Portland: Mr. Speaker: I rise merely to call attention to this fact, that my colleague from Portland is very anxious to have a referendum on this very simple matter but he has expressed no such desire upon the other bills which are pending before this Legislature, appointing nearly all the officials of Portland to office, and a greater part of them are Republicans. Now this matter has been thrashed out in Portland. It is an old story there. The people passed upon it at the last municipal election, practically, and gave to the present mayor of Portland the largest majority that any candidate ever received. It was practically an endorsement of his plan of building the city building. I hope the amendment will be rejected.

The question being on the adoption of House Amendment A the amendment was adopted.

Mr. Marshall called for a division.

Mr. ROUNDS: Mr. Speaker, I think it is too late to call for a division after the vote has been declared.

Mr. MARSHALL: Mr. Speaker, I will say that I misunderstood the announcement of the vote by the Chair.

The SPEAKER: The Chair will read Rule 39: "When a vote having been declared by the Speaker, is doubted, the members for and against the question, when called on by the Speaker, shall rise and stand until they are counted and the vote made certain without further debate." The gentleman from Portland (Mr. Marshall) doubts the declaration of the vote. The Chair declared that the vote was carried and the gentleman from Portland reasonably, it seemed to the Chair called for a division.

A division was had and 70 voted in the affirmative and 32 in the negative. So the amendment was adopted.

The bill then received its two readings as amended and was assigned for tomorrow morning.

An Act to provide for a bounty on wild cats, came from the Senate passed to be engrossed in that branch as amended by Senate Amendment A.

On motion of Mr. Davies of Yarmouth the votes were reconsidered whereby the bill was passed to be enacted and passed to be engrossed, and on further motion by Mr. Davies the bill was tabled.

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

Judiciary.

By Mr. Redlon of Portland: Petition to amend Article 9 of the Constitution relating to taxation; petition for same signed by Liverty B. Dennett.

Appropriations and Financial Affairs.

By Mr. Chase of Sebec: Resolve in favor of the clerk and stenographer to the committee on State lands and State roads.

By Mr. Davies of Yarmouth: Resolve in favor of the official reporter of the House.

By Mr. Kavanaugh of Portland: Resolve laying a tax on the counties of the State for the years 1909 and 1910.

Reports of Committees.

Mr. Bigney from the committee on interior waters reported "ought to pass" on bill, An Act to prevent noise from motor boats on Moosehead lake. (Bill tabled pending printing under joint rules on motion of Mr. Bigney.

Mr. McLain from the committee on mercantile affairs and insurance reported "ought to pass" on bill, An Act to incorporate Machegonne Insurance Company.

Mr. Boynton from same committee reported same on bill in new draft, An Act to incorporate the fire insurance company of Portland.

The reports were accepted and the bills and resolves ordered printed under joint rules.

Passed To Be Engrossed.

An Act to authorize the removal of bodies of deceased persons from an old abandoned cemetery in the town of

Lisbond to Lisbon cemetery, so-called, in said town.

An Act to prevent the desecration of the 30th day of May, commonly known as Memorial day, and providing penalty for violation.

An Act to amend Section 6 of Chapter 80 of the Revised Statutes, relating to the designation of the clerk of county commissioners.

An Act to extend the charter of the Weld Water Co.

An Act authorizing trial justices to issue warrants for offenses committed in Biddeford, in the county of York.

An Act in relation to the Limington Public Cemetery Corporation.

An Act to prohibit certain persons from advertising as State detectives.

An Act to regulate the dumping of waste material within the limits of any public way.

An Act to authorize the appointment of deputy sealers of weights and measures.

An Act to make valid the doings of certain municipal and administrative officers of the city of Eastport.

An Act to amend Section 38 of Chapter 28, relating to buildings.

An Act to amend Paragraph V of Section 4 of Chapter 109 of the Revised Statutes of Maine, relating to depositions.

An Act to amend Section 72 of Chapter 4 of the Revised Statutes relating to towns.

An Act to authorize the town of Southport to build and maintain a wharf or public landing on the easterly shore of Dog Fish Head, in the town of Southport.

An Act relating to the solemnization of marriages.

An Act to amend Section 12 of Chapter 126 of the Revised Statutes, as amended by Chapter 105 of the Public Laws of 1905, relating to gambling devices.

An Act in amendment of Section 16 of Chapter 440 of the Private and Special Laws of 1901, in regard to the establishment of the municipal court of Pittsfield.

An Act to authorize the city of Gardiner in the county of Kennebec and State of Maine, to create a sinking

fund for the purpose of paying the bonded debt of said city.

An Act to amend Section 78 of Chapter 3 of the Revised Statutes, in relation to appeal from county commissioners. (Tabled pending third reading and especially assigned for Wednesday on motion of Mr. Frost of Lewiston).

An Act to incorporate the Maine Collateral Loan Co.

An Act to amend Chapter 522 of the Laws of 1897, establishing the Sanford municipal court.

An Act to amend Section 13 of Chapter 77 making certain the rights of a widow or widower in case of waiver of the provision of the will of the deceased husband or wife.

An Act to amend Section 8 of Chapter 117 of the Revised Statutes, as amended by Section 1 of Chapter 59 of the Public Laws of 1905, relating to fees of constables in serving venires.

An Act to amend Section 10 of Chapter 249 of the Private and Special Laws of 1905, entitled "An Act to authorize the Maine & New Brunswick Electrical Power Co., Ltd., of New Brunswick, to exercise certain powers in this State."

An Act to amend Chapter 198 of the Private and Special Laws of 1907 relating to records of real estate in the county of Waldo.

An Act to amend Chapter 93, Section 55 of the Revised Statutes of Maine relating to liens for pressing hay.

An Act to amend Section 5 of Chapter 79 of the Revised Statutes relating to the signing of writs and other papers by deputy clerks of court.

An Act to incorporate the Gregory Sanatorium.

An Act to amend Section 5 of Chapter 44 of the Public Laws of 1907 to provide for the care and education of the feeble minded.

An Act to amend Chapter 31 of the Private and Special Laws of 1905, entitled "An Act to authorize the Houlton Water Co. to generate, sell and distribute electricity."

An Act to amend and extend the charter of the Westbrook Gas Co.

An Act to create a board of trustees for the Sullivan-Franklin bridge.

An Act concerning the protection of

children and defining certain acts which shall be considered as causing, encouraging or contributing to the delinquency or distress of infants.

An Act to grant additional powers to the Rangeley Light & Power Company.

An Act to amend Section 22 of the Revised Statutes of the year of our Lord 1903, relating to jail sentence for maintaining a liquor nuisance.

An Act to prohibit the throwing of sawdust and other mill waste into Ferguson stream in the town of Wellington in the county of Piscataquis and the town of Cambridge in the county of Somerset.

An Act to amend Section 44 of Chapter 41 of the Revised Statutes, relating to the taking of smelts.

An Act to amend Sections 52, 53 and 59 of Chapter 7 of the Revised Statutes, relating to forest commissioner and protection of forests.

An Act to incorporate the North Jay Electric Company.

An Act to create a charter for the city of Rockland. (Tabled pending third reading and especially assigned for Thursday of this week on motion of Mr. Packard of Rockport).

An Act to incorporate the Stratton Water Company.

Resolve for renewal of insurance policies on State property.

Resolve relating to the purchase of a photograph of General Joshua L. Chamberlain and an oil portrait of Governor Alonzo Garcelon, to be hung in the State House.

Resolve urging action of the United States in removing the hulk of the battleship Maine from Havana harbor and the decent burial of the 63 bodies of American seamen therein contained.

Resolve in favor of county commissioners of Franklin county for permanent improvements on road in Jerusalem and Crocker townships.

Resolve in favor of aiding the building of a bridge in the town of Franklin, Hancock county.

Resolve in favor of navigation on Levy, Long and Big lakes.

Resolve for State school for Boys.

Bill to amend Portland Water District charter.

Bill about Supreme Court records.

Bill about payment of public officers' salaries.

Passed To Be Enacted.

An Act to incorporate the Brewer Water Company.

An Act to amend Section 89 of Chapter four of the Revised Statutes, relating to taking land for certain municipal purposes.

An Act to amend Chapter 34 of the Public Laws of 1909, relating to the protection of trees and shrubs from the introduction and ravages of dangerous insects and diseases.

An Act to prohibit the use of boats or launches of any kind propelled by steam, naphtha, gasoline or electricity, or any other mode than the ordinary sail boat or row boat in chasing, hunting or gunning any sea birds or other water fowl in the inland waters of the State.

An Act amending and extending the provisions of Chapter 375, of the Private and Special Laws of 1905 entitled "An Act to authorize the town of Castine to construct for itself and for persons and corporations a system of water works in said town."

Finally Passed.

Resolve in favor of screening Taylor Lake in Androscoggin county.

Resolve in favor of building bridges on the road as travelled from the North East Carry on the West Branch of the Penobscot river to Chesuncook Lake.

Orders of the Day.

Special assignment: An Act to amend Chapter 8 of the Revised Statutes relating to the Board of State Assessors.

On motion of Mr. Redlon of Portland, the vote was reconsidered whereby this bill was passed to be enacted, and on further motion by the same gentleman the vote was reconsidered whereby the bill was passed to be engrossed.

Mr. Redlon then offered House Amendment A by striking out the words "two thousand" in the 15th line and inserting in place thereof the words "fifteen hundred."

Mr. PATTANGALL of Waterville: Mr. Speaker, the bill to which the amendment is offered, it seems to me,

is an enlargement of the duties of the Board of State Assessors; it was recommended by the State Tax Commission, and their recommendation also was that a salary of \$2500 be given the State assessors instead of \$1500 because of the greatly enlarged duties put upon them. The tax committee after going over the matter carefully recommended the increase of only \$500 in the salary to be made to each of the members of the board. Now, if the gentlemen of the House have read that bill they will see that it compels the State assessors to give their every day attention to the tax business of the State. They are authorized to do what they never have been authorized to do before, and that is to go to each locality, examine the local assessments and re-arrange the matter in detail, whenever they deem it necessary to do so, and an appeal from their decision lying to the courts, of course, just as it does now from the board of local assessors. I am not in favor of raising salaries as a general proposition, but when we say to the Board of State Assessors that they must do somewhere near three times the work that they were elected to do, when we enlarge their duties so enormously as has been suggested by the bills which have been introduced into this Legislature by saying that they must make assessments of all the steam and electric property in the State, I think there is good cause for giving them at least two thousand dollars a year, and I hope the amendment will not prevail.

Mr. REDLON: Mr. Speaker, this amendment is in line with the recommendations of the Governor as presented to this House through his letter to the gentleman from Augusta (Mr. Burleigh). The gentleman from Waterville has stated that this requires the constant attendance of the State assessors every day upon their duties in connection with the Board of State Assessors, which is true. But I wish to read the Act under which they have been working and see if there is any difference between that and the one under which they are working today. Section 10 of the law in regard to their duties says: "The Board of State Assessors shall be held to a constant at-

tendance upon the duties of their office." That, to my mind, means what it says, that the Board of State Assessors shall be constant in their duties, which means attending to them every day, instead of giving about six months of their time as they have been doing in the past. Another part of their duties is stated in Section 14, which is as follows: "The Board of State Assessors shall investigate and examine into the system and method of taxation of other states, and also make careful and constant inquiry into the practical operation and effect of the laws of this State, in comparison with the laws of other states, with the view of ascertaining wherein the tax laws of this State are defective, inefficient, inoperative or inequitable. They shall biennially incorporate the result of their investigation and inquiry in their report made prior to each legislative session, and recommend therein such modifications, changes and additions in the tax laws of this State as may seem advisable or necessary to secure a more just and equitable system of taxation."

Now, Mr. Speaker, I have been unable to find in any of the reports of the State assessors that I have read anything that would comply with that. It has been suggested that perhaps part of the duties of the tax commission, which cost the State something like \$25,000, might well have been done under this law by the board of State assessors. The sum of \$1500 does not represent all they get. It is \$1500 and expenses, and the matter of expenses means coming to and going from the office of the board here at Augusta; so that I claim that \$1500 and expenses hires a pretty good man. These are the gentlemen also who, when a proposition was put in appropriating \$5000 a year for the purpose of cruising the wild lands of the State with an idea of getting at approximately their value, stated before the committee they did not think they could spend \$5000 in a year. \$5000 would have been about 100 days work for eight men. I am satisfied and I believe, and I hope the House will agree with me, that \$1500 and expenses is enough to pay the State board of as-

sessors; and I hope the amendment will prevail.

The question being on the adoption of the amendment—

The amendment was adopted.

The bill was then passed to be engrossed as amended.

Mr. ROBBINS of Fort Kent: Mr. Speaker, I have been requested to ask the permission of the House to take up House Document No. 612, out of its regular order on the calendar assigned for today, and I would like to take it up at this time. I move that the House now proceed to the consideration of House Document No. 612, An Act relating to portable or movable sawmills in cities and incorporated towns.

The motion was agreed to.

Mr. ROBBINS: No., Mr. Speaker, after tabling this matter the other day I want to say to the members of the House that the first question asked me was, at whose solicitation I had tabled this bill. I say to the members of the House now that I did not table it at the solicitation of anybody. After reading the bill and hearing the argument made the other day in favor of the bill I thought that I saw in this bill a matter of gross injustice being done to a certain legitimate business in the State, and a matter that will in some way effect certain persons in my district and I thought it my duty to have the matter laid upon the table, and I want to take up with you a few facts in relation to the bill at this time.

The bill asks that in incorporated towns and cities that whoever operates portable mills must first apply to the municipal officers of the town or city for a license so to do, and must also give a bond, so that should a fire start from this mill or any damage from it be done that the bond will be holden for that damage, provided of course that the owner of the mill is not worth the amount of damage done. Throughout the State in the organized towns and cities, which are the only ones called for in this bill, the lumber has nearly all been cut away. We find located in the shire towns, or in the larger towns, and all these incorporated towns and cities the large saw mills of the State. They have prac-

tically cleared away from all the incorporated towns and cities all the lumber, excepting, I might say, on the outskirts of those incorporated towns, or on the back ends of some of the farmers' lots where there may be some small lots of lumber left. They have been left there undoubtedly because they are located in such places that the cost of conducting these logs to the large saw mills is so great that the stumpage left for the farmer who has these logs upon his land would not amount to anything. People who have these logs on the back end of their farms, or in small lots on the outskirts of these incorporated towns and cities are employing the portable saw mill to saw them up, thereby increasing their stumpage, where if they were obliged to take them to the large saw mills the stumpage wouldn't amount to anything, and in that way the cost of manufacturing is greatly reduced for the farmer, representing a great benefit from the logs which they have right on the back end of their lot. There are a lot of these portable saw mills in this State, and while the gentleman the other day stated that the larger part of them come from New Hampshire and Vermont, I think you all know there are a great many owned right here in this State and controlled by men who are residents of this State.

Now, Mr. Speaker, these mills are employing about 1200 men, and they are paying out a lot of money and doing a lot of good to the State. The objections which have been offered to allowing these mills to operate—the only objection offered is that they endanger the surrounding property, and that fire might start from the mills. They would lead you to believe that certain parties had taken out into these little lots of lumber infernal machines, going off and leaving them so that they would burn up the whole country. Now, I think if we look at the matter in the right way we will see this is not true. Instead of taking anything into the woods that is in any way incurring danger by fire, what are they doing? A crew of 20 men go out into the woods with the portable saw mill when they commence to manufacture this lumber. As soon as possible this lumber is sawed and piled up around the mill, and you

can easily see that the men who own that mill are as much interested in the protection of that property there and the surrounding property from fire as the man who owns the adjacent timber. All they have in the world is at stake in that little mill, and of course it is for their benefit to see that no fire starts. Every night before they go to bed everything around the mill that is likely to get afire is thoroughly wet down. In dry times when there is more liability of fire, watchmen have been hired to watch the thing all night and see that no fire started, and yet they would try to make you believe they are all anxious to burn you and your property up. Other than that I don't know what their object is. It cannot be the men who own the large mills in the shire towns and in the larger towns of the State would be narrow enough to want to manufacture the last stick of lumber in those towns and in the vicinity of those mills so that the men who own the stumpage would not get a cent out of it. It can't be that the lawyers want to get the job of making out the bonds every time those portable mills move from one lot of lumber to another. But I have in mind a friend of mine—I don't wish to call any names, but I could put my hand upon him now if I wanted to—but he said he had studied this bill and his mind was made up in regard to it. I asked him why he thought this bill should pass, and I said to him that I believed he must be interested in saw mills, and he says "I have one of the largest mills in our section." Then I went a little further and I says "I believe you are looking for a chance to make out some of these bonds," and he says "Of course I am; I am a lawyer." Of course he is a seatmate of mine, and for that reason I don't care to call his name. (Laughter.)

The result of this bill if it passes will be to simply put the portable mill out of operation. You can easily see what it will do to the man who owns a little portable mill when he goes on to a little back lot to cut up some lumber. He has been obliged to get you and certain other of his friends to sign a bond for him, and he wants to move a mile or so on to another lot, and he has to go and get a lawyer to make out a long paper. You can see the in-

convenience of it yourselves. I claim it is putting a restriction on a legitimate business that is not placed on any other business in this State. It doesn't say that if the owner or operator of these portable mills through neglect should cause any fire, but no matter how careful they may be, should a fire start they have got to pay the damage.

It has been pointed out that one objection is that these men are not men of means that they should be legislated against; that the owners of the larger mills are well able to pay any damage that might be occasioned by a fire, unless it can be proved that the fire starts accidentally, but that if it can be proven that the fire starts through some neglect on the part of that large mill owner you might collect damages. I say that the chances for a fire with a portable mill are very small. There are 20 able bodied men with every portable mill, and if a fire should break out all the owner or operator has in the world is invested in that little mill and is at stake. Don't you think he is going to use caution and care to see that a fire does not start? And passing this operator don't you think we are putting restrictions on these men and driving out of business a legitimate class of business and putting restrictions on them that are not on any other class of business in the State; and therefore I move that the bill be indefinitely postponed.

Mr. BLAKE of Monmouth: Mr. Speaker, the facts are so different as far as my observation has gone from what has been stated by the gentleman from Fort Kent who has discussed this matter that I cannot refrain from saying something upon the other side. In the first place, there are hundreds of these portable mills scattered all over our State. There is hardly a wood lot in the State that has been safe from the effort to place in the wood lots these portable mills, and a large number of the men who manage these portable mills are irresponsible men, men without caution, and many of them men without a great degree of care. For instance, in my own section within about one year three portable mills have been burned. They are one of the greatest menaces to the

wood lands of our State. Instead of being a benefit to the State, they are an unmitigated curse. They are destroying the little timber that is left. Look at any of these towns scattered through this section of the western part of the State, and you will see these wood lots being cut over by the men who go into these towns and cut off the lumber and leave nothing. Taxes have been lost to the towns and we are wasting property that ought to be preserved. As I understand it, this bill does not state that a bond shall be given, but that it "may" be demanded. If it is proper that they shall give a bond they ought to be obliged to give a bond. If property is destroyed or liable to be destroyed by their means, and as I have stated three of these mills have burned within a period of a year in my section, and that shows there is some danger of property being destroyed by these portable mills,—and more than that, the irresponsible character of a larger number of these portable mill owners—or perhaps not the owners, but the men who operate the mills, many of them, makes it absolutely necessary for the protection of what few forests we have left in this part of the State, and the farmers who own the adjacent property, that they shall in some way be prevented.

Mr. ROBBINS: Mr. Speaker: I don't think we have any right to try and make the farmer or anyone else who has a woodlot preserve it if he wants to get what there is in it and the money out of it. I don't think the State has any right to ask them to preserve it for beauty or for taxes. I think it is a privilege they have if they wish to have it saved up into lumber to have that done. Out of all the fires we have had from portable sawmills I think there is only one instance that you can show me where any of the adjacent wood land has been burned. I didn't see any. I have never heard any great cry being made about the danger from the portable mills until now. I don't see in what other way these people who own these lots so far removed from the large mills are going to have their lumber manufactured if they don't have it done by means of these portable mills.

Mr. PETERS of Ellsworth: Mr.

Speaker: I doubt if the members of the House understand thoroughly the scope of the bill which is proposed. I confess I only read it this morning, but I see that there is an inherent objection to the bill, to my mind, in that it authorizes the municipal officers of a town to require a license from the owners that operate such portable mills—authorizing, I should say, the municipal officers to require a bond from the owners and operators of these portable mills conditioned for the payment of all damages sustained by fire in consequence of the operation of such mill. I do not think that is a happy expression to carry out the ideas of the friends of the bill. As I understood the gentleman from Standish (Mr. Collins) in the matter of this bill, that he feared that the irresponsible operators setting up these mills might be the cause, through their carelessness and negligence of damage to surrounding property, and that there was no protection now from that carelessness, and that this bill was designed to give the owners of timber in the vicinity some adequate protection against the carelessness of those irresponsible operators. Now, if that is so, the bill should be amended, I think, by adding the word "negligent" after the words "of the," so that it would read "in consequence of the negligent operation of such mills;" because now the way the bill is worded, the selectmen may require the operator to give a bond to pay damages sustained by anybody on account of the accidental destruction by fire of the mill, on account of its being struck by lightning or any action by which fire is communicated to the surrounding property, regardless of any carelessness or negligence of the owner of the mill. It certainly is not fair to the people who operate these mills so to require that they may be required to give such a bond as this because they never could give it. Nobody would ever sign a bond for an owner of a mill with the condition of the bond that he should pay the damage that arises or that would be caused on account of the operation of his mill, because he might in the exercise of the best care and judgment, he might have his mill burn up and other prop-

erty also might burn up, and there might be \$10,000 or \$20,000 of damage and that alone might prevent anybody signing a bond.

Mr. Speaker, in my judgment the matter should lie upon the table and an amendment should be proposed whereby the scope of the bill might be slightly changed. As to the other provisions of the bill, that in regard to the license, I think that is all right. I think it is proper that the operators should get a license, because if he goes into a town he ought to be as much required to get a license as a stationary saw mill; and I move that this bill lie upon the table and be assigned for tomorrow, with the idea of offering an amendment.

Mr. COUSENS of Standish: I should like to ask the gentleman from Ellsworth a question. Would you oppose parties furnishing any sureties that after the selectmen make an investigation, or the municipal officers, and finding that they were irresponsible—would you oppose a bill to make them all responsible in some way or use some precaution in erecting the mill and clearing up around it so that the danger from fire might be reduced to a minimum?

Mr. PETERS: I think that may be taken care of in two ways. First, by requiring the license to start with; and, in the second place, by requiring that they should give a bond and that they should pay any damage caused by their negligence and their carelessness. If they failed to take all precaution, then they should be liable on the bond.

Mr. COUSINS: Wouldn't it impose quite a burden if a fire should occur and burn up that mill and should burn up property in the vicinity if there was proof that it originated in that mill and they had to pay damages?

Mr. PETERS: Yes.

Mr. COUSINS: Wouldn't it impose almost an impossibility to prove that they didn't use reasonable precaution? Wouldn't that cut everything that would be effectual out, when you have to go to court and prove that this man did not use all the precaution that was reasonable? It looks to me as

though you are cutting out a very essential part of this bill.

Mr. PETERS: I think no man would be held accountable for his negligence until that negligence is proven. I think it is a first principle of law that a man claiming damage of another must lay the foundation of his case and show by sustaining the burden of proof that that person was negligent and careless. That is the way the law reads.

Mr. COUSINS: Mr. Speaker—

The SPEAKER: Let the House understand that the gentleman from Ellsworth (Mr. Peters) has made a motion that this bill be laid upon the table and specially assigned for tomorrow morning. The motion itself is undebatable, excepting so far as relating to the time for its consideration, and if the gentlemen wish to speak upon the merits of the matter they must discuss it by unanimous consent of the House. The Chair will recognize the gentleman from Standish.

Mr. COUSINS: I ask the unanimous consent of the House to present a few words in regard to this matter at this time.

The SPEAKER: The gentleman from Standish may proceed.

Mr. COUSINS: Mr. Speaker and gentlemen, the gentleman from Fort Kent (Mr. Robbins) in starting his remarks stated that these men must give a bond. Anyone looking over this bill will see that that is not a fact. The bill states that the municipal officers "may" require. Now, there is quite a difference between a command and an entreaty. One commands that they shall do a certain thing, and another is left discretionary with the municipal officers of the town. I contend that in a large number of cases it will not be necessary for them to furnish a bond. I contend that probably three-quarters of the men who are operating these mills may be responsible, and they have to assuage the responsibility under the present law, and therefore, if the municipal officers find that these parties have property back of them they are relieved, and it will be entirely unnecessary to require a bond from them; and then again, six months of

the year when the snow is on the ground it will be unnecessary to require a bond because the damage from fire would be reduced to a very small percentage, and for that reason it would be unnecessary. But I do feel that the people in the vicinity of where these mills are being operated, and where their property is being placed in danger, that there should be some means adopted to demand that these people who are operating such a mill should use all reasonable precautions against fire which might occur.

The report of the State land agent is that there have been 98,691 acres of land burned over in this State during the last year, and that there was a damage of \$361,790. He told me that this was one of the worst and most serious troubles we have. He feels that we should use every precaution we can in this way to protect our forests. The men who are operating these mills in most cases were strangers, and it should be the duty of our municipal officers to make some inquiry in regard to these men, something about their history, whether they are responsible or reliable and whether they would use reasonable precautions, and if they should be requested to do that, and what is the unreasonableness of this request that they should use all reasonable efforts to that end?

Now, in regard to the matter of piling lumber up around the mills, I don't think but very few of the operators of these mills but what would have that lumber insured just as soon as it is sawed and could carry an insurance on it which will indemnify them against any losses which might occur, or nearly all. On the other hand, I think it should be a condition, for these mills cannot get their growing timber insured, and they are assuming all the responsibility, and provided they can get it insured. I should have the right when a mill is located near me and my property is endangered, and then I should go to the insurance company and pay them a hundred dollars or more for protection on my property and for his interest. I admit everything the gentleman from Fort Kent has said in regard to the increased value of the lumber in the rural districts, and I say there is no doubt about

that. But it does seem to me an absurd proposition that the portable mill owners will go out of business on account of this provision. I can't see any reason why this bill should not be passed, and the property in the vicinity of where these mills are being operated be protected. In regard to the bonds, as I have stated, in a great many cases it will not be required. I think this amendment would impose a burden, it seems to me, that it would be impossible to prove that these men did use precaution. It would be of no use to have a law passed from which you never could get any damage after the property is burned up. I feel at the present time that this amendment would practically spoil the effect of the bill.

The SPEAKER: The question is upon the motion of the gentleman from Ellsworth, that the consideration of this bill be postponed until tomorrow.

Mr. COUSINS: Mr. Speaker I would call for a division of the House upon the question.

The motion was agreed to.

A division being had, 42 voted in the affirmative and 58 in the negative, so the motion to postpone further consideration until tomorrow was lost.

The SPEAKER: The question reverts upon the motion of the gentleman from Fort Kent, that the bill be indefinitely postponed.

Mr. CHASE of York: Mr. Speaker, I have no particular interest in the question of portable mills, although I suppose that no man has said more against them than I have. I love the pine forests of Maine and always did, and probably always shall and hate to see them destroyed; but that is simply an opinion of my own, and when we find a matter of that kind put up against the welfare of our own neighbors we have to let that go. There is but one thing about it, the bill seems to apply simply to the incorporated towns; it does not apply to the cities, although the cities are named in it, because they don't have any portable saw mills. Now, the fact in regard to the portable saw mill is this: In the county of York a great deal of the property of the people consists of tracts of land, woodland or timberland

as it is now called which may be utilized in only one way, and that is by means of the portable mill. Were it not for the portable saw mills the people who own those lands would not be able to get hardly anything for them or for the growth upon it; but with the coming of the portable saw mill those lands have increased in value from 30 per cent. to 50 per cent., and in some cases even more than that, so that those lands which a few years ago, 10 years ago, could hardly be sold for anything are now quick assets, as quick and as reliable as a United States government 5 per cent. bond. I have known as several instances in the town of York where the woodland, or, as they call it now, the timberland, which a few years ago could not be sold for anything—in the last year I have known them to be sold at good prices. I know of one instance where a tract of land 10 years ago would not have brought over \$5000 and last year it was sold for \$12,000. The old gentleman who owned it received from that woodland a competence which will last him his lifetime; and that is only one instance. The county of York is full of instances of that kind. There have been many similar instances in the town of York. Now, if you pass this bill it will take away that property as a quick asset. The misfortune of that bill will fall particularly on the country people of York county, and I have no doubt but what it will affect others in the same way, but I speak more particularly of York county because I know something about the conditions in that county; and I know particularly about the town of York. As I have said, I hate to see the forests disappear, but I know they will disappear in time; it is bound to come, and I believe it is wrong for us to pass any law which will decrease the value of the property of many of our country people anywhere from 30 to 40 or even 50 per cent. A question has arisen in my mind in regard to the bond matter, as to who it will run to, and what shall it cover. Supposing a man owns a track of land of 10 acres, and he sells it. Now, shall this man give a bond to the man who buys it? And how far shall the property reach that he covers with this bond. These questions have come up to my mind, and

I think they are pertinent. You might compela man to give a bond for five times the amount of the value of the property he is worth, and the result of that would be that he would go out of business.

So I say, aside from that matter of the portable mill you must look at the matter from the standpoint of the farmer, the country residents of the counties of our State, and as I say, I am speaking more particularly of York county, and it seems to me that you are absolutely taking away from the value of the property, the real estate in York county, at least from 25 per cent. to 40 per cent. if this bill is passed.

Mr. HANSON of Lyman: Mr. Speaker, I call for the previous question.

The SPEAKER: In order to authorize the Chair to submit the previous question it must be seconded by at least one-third of the members of the House.

The motion was agreed to.

The SPEAKER: The question is now, shall the main question be put to the House.

The motion was agreed to.

Mr. Varney of Lebanon, moved that the yeas and nays be called.

The motion was agreed to.

The SPEAKER: The question is upon the indefinite postponement of the bill, on motion of the gentleman from Fort Kent, Mr. Robbins. As many as are in favor of postponing this bill indefinitely will when their names are called answer yes; those opposed will answer no. The Clerk will call the roll.

YEA:—Andrews, Bartlett of Elliot, Bartlett of Stoneham, Bemis, Bigney, Blanchard, Bradford, Bragdon, Burleigh, Burse of Pittsfield, Bussell, Charles, Chase of York, Cole, Cook, Cooldge, Couture, Day, Donnell, Dufour, Dunn, Edwards, Emery, Farnham, Fortier, Frost, Gilbert, Hannaford, Hanson, Harmon, Harris, Havey, Hersey, Higgins, Hill, Hines, Hodgkins of Damariscotta, Hodgkins of Temple, Holt, Jordan, Joy, Kavanough, Kelley, Lane, Libby, Lord, Ludgate, Mace, Mercier, Merrifield, Merrill of Bluehill, Merrill of Durham, Montgomery, Moulton, Orff, Packard, Pattangall, Patterson, Paul, Pelletier, Perry, Peters, Pike, Pinkham, Redlon, Richardson, Robbins, Rounds, Sawyer, Slsby, Sleeper, Smith of Berwick, Smith of Biddeford, Spear of South

Portland, Spear of Warren, Stackpole, Stetson, Stover, Thompson, Thurlough, Trickey, Varney, Weld, White of Columbia—34.

NAY:—Allen of Jonesboro, Beals, Bisbee, Blake, Bogue, Bourassa, Buswell, Campbell of Cherryfield, Campbell of Kingman, Chase of Sebec, Conners, Cousins, Doble, Duncan, Ferguson, Harriman, Hussey, Lombard, Marshall, Miller, Millett, Morse, Nelson, Patten, Quinn, Sanborn, Smith of Andover, Snow of Brunswick, Strickland, Trafton, Trimble, Whitthouse, Whitney, Wing of Auburn, Wing of Kingfield—35.

ABSENT:—Additon, Allen of Richmond, Bearce of Eddington, Beyer, Bigelow, Bowley, Clark, Colby, Cummings, Davies, Dorr, Drake, Grant, Hall, Hamlin, Harrington, Hyde, Jones, Lambert, McLain, Moore, Nickerson, Porter, Pressley, Putnam, Ross, Snow of Scarboro, Stanley, Tibbetts, True, White of Wayne—31.

Special Assignment: Report of committee on legal affairs, to which was referred Bill conferring upon married women the right to enter into partnership with their husbands reporting the same "ought to pass."

Mr. HERSEY of Houlton: Mr. Speaker, I don't know what evidence appeared before the committee on legal affairs that caused them to bring in the report of the majority in favor of this bill. By the common law a married woman cannot enter into partnership with her husband. Wherever that law has been changed by statute it has worked disastrously to the relations of husband and wife. It practically destroys the peace and quietness and the efficiency of the domestic life. Many states that have enacted the law have later repealed it. In this State of Maine we have gone to a great extent in giving to a married woman nearly every right to which she is entitled, except the right of the ballot. I am one of those who believe she should have the right of the ballot; but I do oppose the idea of her forming a partnership with her husband in business affairs. There is a partnership between husband and wife, one of the oldest and most sacred, but it is not a partnership for the conduct of this world's business as partners, with all its rights and duties and liabilities. The moment we give to the married woman the right to form a partnership, that very moment the peace and efficiency of the

marriage relation and the domestic relation is gone forever.

The woman in the household frequently protects the household against the contracts made by the husband with the world at large in its business, saves to herself and children a little property in her own name, and this bill would endanger all that. The husband could easily induce the wife to enter into a partnership with him in conducting mercantile affairs, and commerce and trade, and the little property is gone. She stands by the side of her husband in the bankruptcy courts, being sued with him, and this would give the right to him to sue her and also he be sued by her. Today the husband and wife in this State cannot sue each other; it is something that protects the marriage relations; it is a good law. But if you pass this bill and let open that door under the partnership relations between partners there may be suits brought against them for an accounting, bills in equity maintained. Are you going to have these matters in court between husband and wife? The supreme court of Massachusetts on the question of whether the wife and husband can maintain a partnership under the statute, held that they could not. It is necessary to have a bill like this before you can allow them to do it, and the comments of the court in that case which are very brief, sufficiently settle this question in my mind, and I will read to you from the supreme court of Massachusetts, in the case of Lord vs. Parker, 5 Allen 130, what that court thought of the idea of making the wife and the husband partners in business. The Court said:

"If she could contract with her husband, it would seem to follow that she could sue him and be sued by him. How such suits could be conducted, with the incidents in respect to discovery, the right of parties to testify, and to call the opposite party as a witness, without interfering with the rule as to private communications between the husband and wife, it is not easy to perceive; and the consequences which would follow in respect to process for the enforcement of rights fixed by a judgment, arrest, imprisonment,

charges of fraud, proceedings in insolvency under the insolvent laws, and the like, are not of a character to be readily reconciled with the marital relation."

And it seems to me, Gentlemen of the House, that we ought to indefinitely postpone such legislation as this, and I therefore move, Mr. Speaker, that this bill be indefinitely postponed.

The motion was agreed to.

Special assignment: Majority and minority reports of committee on legal affairs to which was referred Bill to provide for the attorney general and assistant attorney general to take charge of the legal prosecution upon failure or refusal of the county attorney to perform his duty, reporting "ought to pass" and "ought not to pass."

Mr. Marshall of Portland moved that the report of the majority ought not to pass be accepted.

The motion was agreed to.

Special assignment: Majority and minority reports of committee on telegraphs and telephones, to which was referred the bill to protect the rights of holders of preferred stock of telephone companies, majority reporting "ought not to pass" and minority reporting "ought to pass."

On motion of Mr. Smith of Biddeford both reports were laid upon the table and consideration of same postponed until tomorrow morning.

Special assignment: Majority and minority reports of the Portland delegation to which was referred bill to make permanent the tenure of service of the janitors and engineers of the public buildings of the city of Portland, majority reporting "ought not to pass," and minority reporting "ought to pass."

The pending question being acceptance of either report,—

Mr. Rounds of Portland moved that the report of the majority be accepted.

The motion was agreed to.

Special assignment: Majority and minority reports of committee on legal affairs to which was referred bill to authorize cities and towns to permit the use of lunch wagons on public ways, majority reporting "ought to

pass" and minority reporting "ought not to pass."

Then pending question being the acceptance of either report—

Mr. Pike of Eastport moved that the report of the majority be accepted.

The motion was agreed to.

De Forrest Keyes.

Special assignment: Resolve in favor of DeForrest Keyes.

Mr. PATTANGALL of Waterville: Mr. Speaker, I dislike to tire the House at this late hour by even brief remarks with regard to this or any other matter, but the matter is too important I think to pass over without a word, and if the House will bear with me I will explain as briefly as I can the reasons which I have for making a motion to indefinitely postpone consideration of this resolve.

This resolve takes from the treasury of the State of Maine \$18,000 at the present time. It has been reported, it is true, favorably by the majority of the judiciary committee, and therefore comes to the House in good standing. Nevertheless, I believe, there are sound reasons which will appeal to all of us why this resolve should not pass. In the first place, to take money out of the State treasury there should be either legal grounds for the payment or strong moral grounds. I take it that nobody has ever argued that the State of Maine legally owed DeForrest Keyes anything. You are all familiar with the story of the attempted purchase of State lands by DeForrest Keyes. It has been told to all of you so many times during the session that I should waste time by rehearsing it, but in a sentence it is this: Some years ago, in 1902 I think, a gentleman came here from Buffalo, attracted by the advertisement of tax sales of wild lands through Maine, and bought from the State whatever claim the State had on certain timberland; he could buy nothing else, for the State had nothing else to sell. He took no warranty deed, took no guarantee of title; he took a quit-claim deed, a tax title from the State of Maine to various properties, and he knew it when he took it unless he was an absolute imbecile, for no business man buying property, capable of buy-

ing property ever mistook a tax deed for a warranty deed or believed that ever in a tax deed lay a guaranteed title. Now, I say that on that bare statement, and that cannot be gainsaid by anybody. That bare statement establishes the proposition that DeForrest Keyes had no legal claim against the State of Maine, and I never have heard it argued that he did have a legal claim against the State of Maine for one dollar. If I am right in that statement, then he has only a claim to recover the money from the State (through us, and there is no court to which he can go except the General Court, the Legislature. He must recover it through us if through anybody, but the only claim is that it is a moral claim and that has been urged upon this Legislature and was urged upon the committee.

Now, let us discuss that matter a moment. If DeForrest Keyes has any moral claim against the State of Maine it is not for \$18,000. If we morally owe him anything we owe him every cent which he has lost—we owe him his principal and his interest and the costs of collection. If you put this claim on a moral basis you have got to place that man where he was when he started; you have got to give him the \$18,000 and six years' interest and the costs of collection, which I assume would be somewhat large if the bill was itemized. You have got to go back to the fight which he made four years ago before this Legislature when he brought his claim in here, claiming a moral claim against the State then, and the Legislature at that time unanimously turned him down; you have got to take that expense into consideration; you have got to take the fight of two years ago when the committee on judiciary, of which the gentleman from Yarmouth (Mr. Davies) and the gentleman from Camden (Mr. Montgomery) of the present judiciary committee were members, heard his case and saw no merit in it; came to the Legislature and was defeated, and it was so well known that I am not revealing any confidence when I say that had the Legislature of 1907 not defeated it the veto of Governor Cobb would have appeared upon the resolve. You have got to take the expenses of that fight, because if you are going to

give it on a moral ground it is not barely his principal that is due him but it is every dollar that the State of Maine has cost him that is due him.

Let me go a little further. If this money is morally due to DeForrest Keyes you ought to appoint a committee of this Legislature to go to your State treasurer's office and go back to the year 1820 and find out how much more of a moral debt the State of Maine owes to men who sought to get land through tax titles and who failed to get the land. If we owe him morally, we owe every other man a moral debt who bought a tax title from the State of Maine and who did not get his land. If we are going to become such extreme moralists that we are going to pay out money from the State's treasury without any legal right and simply because somebody put it in there, then we had better go a little further; we had better go back to our homes and go through our town and city records and our county records and see how many men through Maine bought tax titles from the various cities and towns and counties and got nothing for their money and pay them back. We would be saddled with this case for a precedent, we would be saddling a debt on the State of Maine, on the people of the State of Maine and on the various municipalities. But is there morally anything due to DeForrest Keyes. Is there morally anything due anybody who buys a tax title and fails to get the land covered by the tax? Why is it? What did DeForrest Keyes think he was buying? He thought he was buying somebody's land, didn't he? He thought that somebody by negligent or accidental omission or some other cause had failed to pay the State tax of three mills on the dollar, and he came down here from Buffalo, New York, for the purpose of buying somebody's land through the State treasurer at three mills on the dollar's worth. He put up \$25,000 to buy a million dollars' worth of property. That is just what he did. Suppose his titles had been good; suppose that young man had succeeded in getting that million dollars' worth of property, where would the moral claim of the poor fellow who lost his property by forfeiture come? I say, where would that come in? Do you think that attorneys for DeForrest

Keyes would have advised him in this way: That they would have said to him, "Young man, you have got a million dollars out of somebody. Now, morally, you owe it to them and we will get together and hunt up the fellows who lost their land through forfeiture and repay them full value, a hundred cents on the dollar." I don't believe they would advocate it, and no man would advocate such a course.

He came down here to buy tax titles and he got what he bought; he got nothing else; he had the right to nothing else. It is said in the brief which has been passed about the House, and a copy of which I have here, that the treasurer did wrong in making out too many deeds, that he made out 316 deeds when he ought to have made out only one. I say, if the then treasurer of State owes DeForrest Keyes anything, then Oramandel Smith, who was treasurer of State, can settle with him. I am not going to vote \$18,000 out of the treasury of the State of Maine because the treasurer made too many deeds. It is said that the State had no title to this land. Of course it did not have. It had what it deeded to him, whatever claim it did have in the land. It claimed to have no title. There can be no misrepresentation in a tax deed if an intelligent man reads it. Over and over again have clients of mine and clients of every lawyer in this House brought to us tax deeds given by municipalities where they have bought in land for the taxes, and asked us what they were worth, and every lawyer in this House knows what we have told them, that they were practically worth nothing, excepting that the man holding the tax deed had a color of title and had created a cloud upon the title of somebody else which called upon them to redeem it from him.

Now this young man put up \$25,000 to win a million, and he failed to win; and now his attorneys say and a portion of the judiciary, give him back his money. My friends, if you should establish that rule I will get in all the tax titles that are offered for sale in the whole State of Maine next year. If they prove good, I get the land and double my money twenty times; if they prove bad I get my money back. Isn't

that a good nice sound business proposition? De Forrest Keyes was playing what? If his money belongs back to him he wasn't playing \$25,000 against a million. That is a pretty good proposition, isn't it? If he won he got a million; if he lost he got his money back. Is there any moral ground on which a man who seeks to absorb another's property for forfeiture of taxes and fails should be given back his money? Then what do you come to? If this claim stands on neither legal or moral grounds it must stand on some other, that is, if it stands at all. It is simply this, that this young man came down here with \$25,000 in his pocket to speculate in State of Maine lands and failed in the speculation. Now, that might have touched him. I am not as sympathetic and soft hearted as some men, but I might be touched with sympathy, if I felt that there was the slightest possibility that even a small amount of that money would ever reach that poor deluded young man's pocket. (Laughter). But without casting and reflection upon anybody or intending to say anything unkind to anybody or transcending in the slightest way the courtesy of debate, I will say that there is no man in this House who is familiar with the doings of the Legislature for the last two weeks that has any idea that De Forrest Keyes will ever get a very large amount of this appropriation. I have been somewhat in doubt during the past ten days as to who and what DeForrest Keyes was; whether he was a myth, an individual, a co-partnership or a stock company, and it has come to me during the last 48 hours in studying the subject with some care that he must have been incorporated, and that various gentlemen scattered through the State of Maine must have purchased stock in the corporation; for since I tabled this resolve I have been besought by every friend I ever had in the State of Maine to the bell boys at the hotel, to "for-Heaven's-sake let the DeForrest Keyes appropriation alone because we are going to get something out of it if it passes." (Applause).

I never have seen and never expect to see a better organized and more barefaced raid on the State treasury than

is represented and carried on by the stockholders of the DeForrest Keyes Corporation, Limited. (Laughter). I have no doubt in regard to the absolute integrity and intelligence of your Governor—our Governor. I haven't any doubt but if that resolve through the action of this House and the Senate should reach the Executive Chamber that one man who cannot be seduced by honeyed words through friendship to do that which he believes to be wrong will so arrange it that the \$18,900 which we are asked to contribute for the benefit of our friends about the State House will be vetoed. I have no question about it, for I know that the man who stands for real economy, and whom some members of this House have tried to assist in that direction, is not going to be satisfied with chopping off five hundred dollars from a State official's salary and the same morning pass a matter carrying \$18,000 which goes into the hands of gentlemen who are interested in carrying out the moral welfare of the State of Maine in this direction.

Now, what do you do? If you pass this resolve and allow the stockholders in the DeForrest Keyes Company to declare a dividend this year, next year the Legislature meets and a claim for interest comes in; and I want to ask any man in this House if DeForrest Keyes is entitled to the principal, then why in the name of Heaven isn't he entitled to the interest? If he gets his principal he ought to have his interest, and the next Legislature two years from now can declare another dividend. In the meantime the stock will be sold freely on the curb as it has been sold about the State House here this winter.

Now, going further; I say when you open that door you open it to every one of the 300 claims which may be made up tomorrow down in the treasurer's office. Why, DeForrest Keyes has been here three times. Who ever saw before the resolve in favor of Herbert T. Kimball? That is a new one that comes in this year, and it comes like the Keyes case, and four years from now a third dividend and a more substantial one can be declared on that stock when these other claims are dug up in the treasurer's office and brought before you. I

have had passed to me, as I suppose all of you have—and I cast no reflection upon the gentleman who passed these things around because I love the lobby and would not do anything to injure the feelings of the lobby, I don't believe in that—I should hate to see the leading men in the State of Maine going around these corridors with a badge marked "DeForrest Keyes claim against the State of Maine." I don't like it. I like to talk with them all, and I expect to join them sometime when the time comes that I can't get votes enough to come here to the House. But, as I say, there has been passed around a typewritten statement gotten up by some of the gentlemen, saying that there are only \$3000 more than can be gotten from the State of Maine anyway if we do let the DeForrest Keyes claim in and thus open the door. I say to you that a State official who examined into the matter carefully has informed me within four hours that he has calculated up 238 such claims in the treasurer's office, and has not gone clear back yet. Now, I don't know what each one of these amount to, but I say that if you pay one of them you ought to pay them all, and if there is any reason for paying the principal you should also pay the interest, you should pay the cost, you should pay the expenses, and if they have a moral claim against the State beginning back in 1820 every other fellow will appear and make his claims. It has been said that he didn't get much of anything. Of course he didn't get much of anything. It has also been said that some of the land was under water, and I want to speak about the argument. Some of it was under water! Why, good heavens, if you bought a timberland township anywhere in the State of Maine some of your land would be under water. Of course it is. There isn't one of the timberland townships but what has a pond in it. It has also been said that the descriptions were defective. Couldn't he read? He was 23 years old, and to be sure he was young; but he had in someway acquired \$25,000 and he comes down here into Maine and I suppose he could read his deeds and tell something about the descriptions. They say it was

wrong and that in the descriptions the State was not telling him anything and that by the descriptions he could not locate anything. For heaven's sake, didn't he know it when he read that deed? He knew that there was a tax that somebody inside of a year in order to clear up the cloud on the title which he had put upon it by buying the tax deed would come to him and pay him his money, and 10 per cent. or even 20 per cent. interest that the State allowed. I say, gentlemen of the House, he took his chance, and if they redeemed the amount he got his money and got his interest, and if they did not redeem it he got his land, and he got it for three mills on the dollar, and he only had one chance out of 333 times to break even. I don't believe in it and I think it is a bad precedent and it is a bad bill, and I am going to tell you that I think it is a pretty bad proposition when a great many of the members of this House are asked to vote upon a bill not because it is meritorious but because it is going to help a friend who is engaged as attorney in the matter. I have a good many friends among the attorneys who are engaged in this measure, as many as any member of this House, but out of friendship I shall not vote to take \$18,000 from the treasury of the State of Maine and pay it to somebody. It is possible that the amount that may filter through to DeForrest Keyes may give him enough to pay his car fares down here to Augusta at the times when he has appeared before the committee and I hope the resolve will be indefinitely postponed. (Applause).

Mr. BURLEIGH of Augusta: Mr. Speaker: I wish to correct two or three suggestions of the gentleman from Waterville. It was suggested that he would offer to buy all the tax titles in this State next year if he could have an assurance that he could get his land or his money back. Unfortunately for the gentleman's offer the State of Maine has gone out of the business of offering these tax titles for sale, largely as I believe because of this very case that we are now discussing. The State could not honestly continue in that business and is not continuing in that business today. In-

stead of offering these worthless tax titles to the public for sale, knowing that in the face of repeated decisions of our supreme court they were absolutely worthless, that no man had a possible chance to gain any land under the decisions of our court, the State discontinued that dishonest business and it provides that they shall be bid in by the land agent for the inhabitants of the State of Maine. The gentleman suggested that DeForrest Keyes would come here next year with a claim for interest. If the gentleman had read the resolve he would not have made the suggestion. The resolve expressly provides that all claims of every kind shall be relinquished in the deed of release by Mr. Keyes before he gets a cent for this claim. The gentleman says that there is another claim, a small claim of Mr. Kimball which appears here for the first time. The gentleman is incorrect in that statement because the Kimball claim appeared in 1905 I think, at least it did in 1907 in connection with the Keyes claim, and it has been presented to this Legislature and the previous Legislature in connection with the Keyes claim; it stands on the same ground.

Now as a member of the judiciary committee I took occasion to look into the previous history of this case. Every word of the testimony before the judiciary committee of 1905 was reported and was in typewritten form, some 84 pages. I took the time to go through all the State treasurer's record and examined somewhat into the decisions of the court. I started in with a prejudice against this claim. I have since come to this conclusion, that there is only one issue in this case and that is an issue of simple honesty. The subsidiary issues which the gentleman from Waterville has raised, the issue of speculation on the young man's part and other issues, the issue of the young man's negligence in not consulting a Maine attorney, his negligence in disregarding the warnings of the State treasurer—admitting every one of these propositions you cannot get rid of the proposition of simple honesty on the part of the State of Maine. When DeForrest Keyes paid that mon-

ey he did not have any chance to get any land. Why? The deeds that were given to him were absolutely waste paper and could not have been anything else. Why? Under the system of tax sales which prevailed at that time the State assessors first made up their descriptions of the land, they were reported to the Legislature, the Legislature passed the tax act. That tax act was published in the papers so as to give tax owners a chance to come in and pay their taxes, and this was the way in which they were paid and this was the method then in vogue by which these subsequent tax sales were made. The State treasurer was bound to take the description furnished him by the assessors. He could not tell where the property was situated. As far back as the case of Adams vs. Larrabee, 46 Maine, 516, our court decided that a State tax sale was absolutely void because from the descriptions no man could tell where the land was. In the 60th Maine Page 270, Griffin vs. Creppin, the court say, "Number 8, S. D. gives no satisfactory information. The description thus given is too vague to pass any title. So in the case of the Skowhegan Savings Bank vs. Parsons, 86 Maine, 514. Similar descriptions were held absolutely void in the case of Millett vs. Mullen, 95 Maine, Page 400, decided the very year before Mr. Keyes made this purchase from the State, our court reviewed all the tax titles and held a similar description absolutely void. So that year after year the State of Maine was offering for sale, in the face of decision after decision of the supreme court running over a period of three or four decades, something for sale which did not exist and which our court had repeatedly said did not exist; and under those conditions Mr. Keyes came to the State of Maine in response to an advertisement issued by the State treasurer pursuant to the law which said in substance that under the Statute he would at the State treasurer's office sell and convey by deed to the highest bidder all the interest of the State in the titles to the land thereafter described. "All the interest of the State in the tracts of land thereafter describ-

ed." What did Mr. Keyes in New York have a right to assume that that meant? He took the defects of title, undoubtedly, but he had a right to assume that that were some tracts of land to be sold and that he could rely on the published statements of State officials. It was the fault of the law, the fault of the system, not the fault of the State treasurer. But he had a right to assume that there was something for sale there. When our court had said repeatedly that there was nothing there for sale, that the State had nothing, the State should have enacted proper legislation and should never have invited the public to bid on a thing which did not exist under the opinion of the court.

There is a question in my mind whether these lands were ever forfeited to the State at all. It is my opinion as a lawyer that they were never forfeited, so that the mention in the notice that this was a tax sale of lands which had been forfeited to the State is erroneous. I do not think that precise question has been determined in our State. But it is certainly true that whether forfeited or not the notice was a notice of a sale of lands which did not amount to anything, which was absolutely void, which could not possibly convey a title. Now in 1905 and in 1907 and at this present session of the Legislature, as a result I believe of that very Keyes case, we have inaugurated a system of getting at a description of these lands; we have discussed this morning a similar proposition whereby the assessor can get a description of the land so that when the State of Maine puts up these tax titles for sale they will at least have a description which will offer something for sale; and they were honest enough in 1907, not having any such description, to discontinue this fraudulent practice of inviting the public to bid on a thing which the court said did not exist, and we are now taking a step through this course of legislation in 1905 and 1907 and 1909 to arrive at a point where we can get assurance that will mean something and that will give a man at least a chance.

It was argued before the committee

that a large portion of the money which Mr. Keyes paid went to the county because the State was simply collecting county taxes for the county, and therefore it was claimed that his claim was against the county and not against the State. The answer to that is obvious. The wrong was the wrong of the State of Maine in its lack of legislation, in its complete defiance of the decisions of the courts in not enacting some proper legislation; the wrong was in the method, in the State's system of legislation. The county was not responsible for that; therefore the State is the sole responsible party and should pay the bill.

As to the question of precedent, in the first place this does not create a precedent. If you examine the various resolves in the history of this case you will find that there are various precedents where the State has refunded money under circumstances more or less similar. The gentleman thinks that this will open a wide door. I have had the matter investigated in the State treasurer's department. Mr. Wiswell of that department, at my request, went back to the very first tax sale that the State ever made and took off the figures of all the tax sales from 1854. I think it was when the system went into operation to the present time, including the Keyes tax case. He found that from 1854 until 1906 inclusive, the total amount of tax sales was \$60,330.28. He found during the same period the total amount that had been redeemed from those tax sales was \$13,415.59. He stated to me that in his judgment it would be a conservative estimate to say that \$10,000 of that \$13,000 should be offset against the \$60,000, that is to say, that the other \$3000 represented interest. Deducting the amount of the Keyes claim that would leave you as the total outstanding liabilities of this State, if you call them such, from all the land sales that were ever made, some \$32,000; and I say to you, gentlemen, that if it is right to pay DeForrest Keyes, or if any other man in the past can show a case, can prove his case, that the State of Maine should pay the \$32,000, because it is a question of honesty. Now out

of that \$32,000 the possible amount, as a matter of probability there will be a very small portion indeed. I understand that in the last 27 years the total amount would be \$6510.25, that in the last 20 years the total amount less redemption would be \$5220.84. I do not care if that whole \$32,000 is to be paid by the State at some future time. We must pay it if we are convinced that the State of Maine in order to maintain its own honor must pay it.

The State has this young man's money. I don't care whether he has been negligent, whether he has refused warnings, he certainly did not intend to make the State a present of his money. I have not much sympathy with him. I think likely he came here largely as a matter of speculation. I am not looking at that phase of the question. The question is as to the attitude of the State of Maine. Whether he was a speculator, whether he was negligent, whether he was foolish, is aside from the question. The fact is the State has got this money and has never given him any equivalent for it. We are holding it dishonestly as I believe. Will the people of the State of Maine want you to keep the money? I don't think they will. I don't think you ought to keep it, and I hope the motion to indefinitely postpone will not prevail.

Mr. DAVIES of Yarmouth: Mr. Speaker, I shall detain the House but a moment. The gentleman from Waterville saw fit to say something about me and my consideration of the case when this matter was before the Legislature a couple of years ago and it seems fitting that I should tell just what my position was at that time. I think the gentleman from Waterville is in error in that he said that I examined the case and saw no merit in it. As a matter of fact the matter was referred to this Legislature for final consideration and no final judgment was passed upon the case in the last Legislature. At that time in the committee I made a statement that I believed Mr. Keyes should have his money, and I think one or two members of the committee in the last Legislature also made that statement; but the time was getting short and we thought

it was a matter that ought to be threshed out in the House and that the representatives should very generally understand what the circumstances were; so it was agreed by the committee that it should be referred to this Legislature.

Now I did not quite understand from the gentleman from Augusta (Mr. Burleigh) just what the State treasurer advertised, but my recollection was this, "the following titles have been forfeited to the State for unpaid taxes." That was the advertisement to which Mr. Keyes responded and came here for the purpose of buying these tax titles, and was he justified in doing it? Is there anything about that advertisement which would put him upon inquiry that there was some defect in the description? "The following titles have been forfeited to the State for unpaid taxes." It always takes two or more people to enter into a gamble. One man cannot do it alone; he must have some one else. Now are we going to put the State of Maine in a position as gambling with Mr. Keyes from New York state? That is the question we are obliged to answer here. Never mind about what Mr. Keyes' opinion might be. The question is, shall the State of Maine be honest in this matter. We have got \$18,000 down stairs in the treasurer's department which was paid by that young man for which he has received nothing, and the attorney general told us when he defended the case that he bought a chance. I do not think that the State of Maine should be in the chance business. I believe it should give value received for every single dollar which is paid into its treasury. I think the only fitting thing for this House to do is to see that that sum of money is returned to him.

I believe the gentleman from Waterville took occasion to say something about what Governor Fernald would do. I do not believe there is present any one who can conjecture what the Governor's attitude might be, and until something has been heard directly from him I think it is entirely unnecessary and rather untimely to bring the Executive department into this discussion.

Mr. HERSEY of Houlton: Mr. Speaker, I think perhaps that all the members of this House have not read an editorial statement in the issue of February 23rd of the Waterville Sentinel. I will read it:

"MR. KEYES' PETITION.

"Once more has DeForrest of Oneonto, New York, submitted his petition to the Maine Legislature for reimbursement of funds invested in worthless tax deed titles in 1902. The case possesses some peculiar features, serious as well as comical.

"This man Keyes inherited some money which he described to invest in some undertaking which would return generous dividends. He was not entirely ignorant of the rules of business as he held a responsible position in a local bank and it was due somewhat to his bank position that he learned of profits accruing from investments in wild lands in New York and Pennsylvania. Some well meaning friend who knew of Mr. Keyes' desire to buy up tax titles, sent the gentleman one of the advertisements issued by the State treasurer of Maine in which a vast area of wild land was advertised for sale and bids were called for. The advertisement did not state that no such lands as were described existed and that in return for a bogus deal any man's good money would be taken and he might later whistle for his value received.

"Mr. Keyes paid his \$18,000 into the Maine State treasury and was given a lot of deeds, duly made out at big expense which Mr. Keyes was invited to defray. The whole business was transacted under the great seal of the State of Maine and with great observance to legal requirements.

"An innocent man came in Maine to buy what the State advertised for sale and he was buncoed. The State slipped its hands into his pocket, took away his fortune and gave him in return a package of sawdust. He cannot bring suit. He must depend upon the justice of the Legislature to make the matter right. For the third time he has journeyed with his attorney from New York to Augusta to have his cause plead before the committee on judiciary. Twice has this young New Yorker been

denied what is so plainly his right or rather what would be defined as his right were his claim against an individual on the same grounds instead of against the State.

"There is no denying that his money was received by State Treasurer Smith. There is no denying that Keyes thought he had a very good thing and there were many reasons why he should expect a square deal instead of the raw hold-up which was practiced upon him. It was on one side the old case of a fool and his money soon parting, but the investment was made with a sovereign State as a party to the transaction. On the other hand it was the State which practiced the delusion upon a clean gentleman who did not believe there was any ground for doubting the reliability of the State of Maine.

"In the name of all decency and fairness and equity, the money which was obtained from Mr. Keyes by the State under what so closely looks like plain bunco steering should be returned to him. The people of Maine are honest enough to approve such a disposition of the claim."

Gentlemen, if an individual had done what the State of Maine did to this young man somebody might call it sharp practice, somebody might call it dishonest. The State of Maine cannot afford to be accused of sharp practices, it cannot afford to be disgraced, because the disgrace of the State of Maine is a disgrace upon every individual in the State of Maine. The hands of the State of Maine, Mr. Speaker, are dirty today. Let us wash them.

Mr. PATTANGALL: Mr. Speaker, just a word. If there is involved in this case nothing but a question of simple honesty and no legal question, will some gentleman explain to me why it was sent, instead of to the committee on claims, to the highest legal committee in the House, the busiest committee in the House and the one committee from whose ranks could be recruited four or five men who could debate this question on the floor of this House?

Mr. DAVIES: Mr. Speaker—

Mr. PATTANGALL: I have the floor at this time.

The SPEAKER: The gentleman refuses to yield.

Mr. PATTANGALL: I say that the sending of this resolve to any committee except the committee on claims, unless there was some legal question involved, was of itself something that should have caused the committee, every member of it and all the members of the Legislature, to scrutinize it with care. If nothing was involved but a question of simple honesty, what was the judiciary committee of 1905 doing and of what kind of men was it composed when it turned down this resolve? Is this the first honest judiciary committee that has been empaneled in this House? If it was a question of simple honesty and nothing else, why did the gentleman from Yarmouth and his associates on the judiciary committee two years ago not pass it instead of referring it to the next Legislature? I supposed they reported against it; the gentleman corrects me and I admit the error for I was not a member of that Legislature. But I say now if nothing was involved but a question of simple honesty, why did you refer it to the next Legislature? Was not your committee capable in 1907 of deciding questions of simple honesty? Did it take six years for the State of Maine to assemble the men as a judiciary committee who were capable of deciding questions of simple honesty, and then were unable to unanimously report this resolve, for one member of that committee at least has not agreed to the proposition? Is there a man in this House, lawyer or layman, who will say that he will go home and advise the selectmen of his town or the municipal officers of his city to pay back to everybody who has bought a tax title for 20 years from that town the money which went into the town treasury? Is there one of you who will do it? Will the gentleman from Augusta advise the treasurer of the city of Augusta to make good every tax sale made by this city? Will the gentleman from Yarmouth advise the town of Yarmouth to do it? I think not. It is easier to vote money from the treasury of the State than from the treasury of a municipality which comes nearer home to the taxpayer.

The gentleman says it takes two men to gamble and the State of Maine ought

not to gamble. Every tax sale advertised by every town in Maine is an invitation to some purchaser to come along and speculate or gamble in tax titles. The State of Maine had a law which was of such a nature that it could convey no title under a tax deed. Is there a town in Maine that conducts its affairs so it can convey a title by a tax deed? I know of none. And yet he would say that those towns were indulging in immoral acts when they advertised land for forfeiture of taxes, and were doing a sensible thing if they refunded to the purchaser the money. No like proposition was ever put up to a municipality or to a county; and wherein do the morals of the State differ from the morals of your city and your town? We are all one people. The good name of Waterville and Houlton are as dear to the gentleman from Houlton and to me as the good name of the State of Maine; and it seems to me a strange position that we should adopt one code of morals for our municipalities and another code for our State government. For I say there is not a man in the House who would say that he would advise municipalities to go back over their records and make good the money which they had received for tax titles which had failed to convey the land the man was supposed to buy. We can go back of 1874, far back, and find Maine selling land for tax titles. In almost every lawsuit that crops up regarding timber land we find a tax title claim and everywhere we find them defective in towns and counties, and it is a blessing under God that they are defective, otherwise many a man would lose his land for which he paid a hundred cents to some money shark chasing around trying to buy them for from three mills on the dollar to two cents under a tax sale. There is involved in this case a question of simple honesty, honesty to ourselves, honesty to the State of Maine; and we owe the State the duty, we owe ourselves the duty, that we should keep in the State treasury the money which legally went there and which until the year 1909 no legislative committee ever discovered went there wrongfully.

Mr. BURLEIGH: Mr. Speaker, just one word in answer to the gentleman from Waterville, that there is a simi-

lar question presented. I claim that the State and the State alone is responsible for that system of legislation and that system of tax sales which render it possible to perpetrate this wrong which has been committed. The municipality in its own tax sales is not responsible for the legislation under which those tax sales are made. They take their legislation from the State, and just the same DeForrest Keyes could reasonably be expected to take his chances on the error of the State of Maine. But the difficulty here was that by the State's own law or lack of law this whole wrong arose. The situation is absolutely different. It is the State's own fault, and I think any legal man will bear me out in this statement, and the fact that our supreme court has decided that in the case of a municipality a man cannot recover in an action at law, he cannot recover from the municipality in the case of a defective tax title for which he has paid his money, and any man who bids at a municipal tax sale bids with that decision before him; he takes that chance, and the court has so decided; whereas the State of Maine has decided by a series of resolves if you will follow them up that the man does not take that chance in a situation like the present one. That is the distinction, gentlemen, and I think it is a fair one.

Mr. DAVIES: Mr. Speaker, I would like to inquire of the gentleman from Waterville if it is his opinion, providing this transaction had happened between individuals, there would have been any redress?

Mr. PATTANGALL: In my opinion if one individual buys of another by quitclaim deed a piece of land, an action against the other individual to recover money as of warranty would fail. I don't know just how an individual could sell a tax title.

Mr. DAVIES: Assuming that in place of the State there was an individual, and this precise situation had happened, do you consider there would have been no remedy between them?

Mr. PATTANGALL: Certainly not.

Mr. DAVIES: I differ with the gentleman from Waterville on that point, and in reply to what he says as to the

measure being referred to the judiciary committee, if you will permit me to say a word. When this Legislature was convened there was found in the files of the judiciary committee various matters, and among them this resolve in favor of DeForrest Keyes. A representative of Mr. Keyes came to the committee the first day that we were in session and requested or suggested that the matter be referred to the committee on claims. He was told that we would take the matter under advisement and would advise him later in the day; and the judiciary committee decided to hear this matter itself. So much for the reply to the gentleman from Waterville as to why the committee on claims did not give his matter attention. I believe he also inquired as to why it was not reported favorable before. The reason that it was not reported favorably before was, inadvertently or otherwise, it went to the latter part of the session and we found that we could not agree in regard to the matter. My recollection is that there were three or four at that time who were in favor of reporting favorably upon the resolve and the remainder of the committee were opposed to it, and it was suggested by somebody that it be referred to this Legislature as there did not seem to be time at that stage of the session when the matter could properly be considered.

Now, as to the town of Yarmouth I have this to say: If the town of Yarmouth has any money that belongs to anyone I think the sooner the town of Yarmouth pays it the better for every citizen in that town; and I think precisely the same thing in regard to the State of Maine, if the State of Maine has got \$18,000 that belongs to Mr. DeForrest Keyes I think the sooner we reimburse Mr. Keyes for the sum of money which he has left in our State treasury for which we have given him absolutely nothing, I think that that moment it will be so much better for the history of the State of Maine.

Mr. Peters of Ellsworth, demanded the previous question.

The motion was agreed to.

The SPEAKER: Shall the main question be now put?

Mr. PATTANGALL: Mr. Speaker, I move that when the vote be taken it be taken by the yeas and nays.

The motion was agreed to.

The SPEAKER: The question is upon the motion of the gentleman from Water-ville to indefinitely postpone this resolve. Upon that question the yeas and nays have been ordered. All those in favor of the postponement of this resolve indefinitely will, when their names are called, answer yes; those opposed will answer no. The clerk will call the roll.

YEA:—Blanchard, Burse of Pittsfield, Campbell of Kingman, Colby, Conners, Cook, Doble, Farnham, Fortier, Hines, Mace, Mercier, Miller, Montgomery, Nelson, Orff, Packard, Pattangall, Patten, Patterson, Pelletier, Pike, Quinn, Richardson, Robbins, Sleeper, Smith of Andover, Spear of Warren, Stetson, Strickland, Thompson, Thurlough, Weld, Wing of Kingfield—34.

NAY:—Allen of Jonesboro, Andrews, Bartlett of Eliot, Bartlett of Stoneham, Beals, Bemis, Beyer, Bigelow, Bigney, Bisbee, Bogue, Bowley, Bradford, Burleigh, Bussell, Buswell, Campbell of Cher-

ryfield, Charles, Chase of Sebec, Cole, Coolidge, Cousins, Davies, Day, Donnell, Dufour, Duncan, Dunn, Emery, Ferguson, Frost, Gilbert, Grant, Hannaford, Hanson, Harriman, Harris, Havey, Higgins, Hodgkins of Temple, Holt, Hussey, Jordan, Joy, Kavanough, Kelley, Lane, Libby, Lombard, Lord, Merrifield, Merrill of Bluehill, Merrill of Durham, Morse, Paul, Perry, Peters, Redlon, Rounds, Sanborn, Sawyer, Silsby, Smith of Berwick, Smith of Biddeford, Spear of South Portland, Stackpole, Tibbetts, Trafton, Trimble, True, Varney, White of Columbia, Whitehouse—74.

ABSENT:—Additon, Allen of Richmond, Bearce of Eddington, Blake, Bourassa, Bragdon, Chase of York, Clark, Couture, Cummings, Dorr, Drake, Edwards, Hall, Hamlin, Harmon, Harrington, Hill, Hodgkins of Damariscotta, Hyde, Jones, Lambert, Ludgate, Marshall, McLain, Millett, Moore, Moulton, Nickerson, Pinkham, Porter, Pressley, Putnam, Ross, Snow of Brunswick, Snow of Scarborough, Stanley, Stover, Trickey, White of Wayne, Whitney, Wing of Auburn—42.

So the motion to indefinitely postpone was lost.

The resolve then received its second reading and was passed to be engrossed.

On motion of Mr. Spear of South Portland, Adjourned.