

MAINE STATE LEGISLATURE

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Legislative Record

OF THE

Seventy-Fourth Legislature

OF THE

STATE OF MAINE

1909

SENATE.

Tuesday, March 23, 1909.

Senate called to order by the President.

Prayer by Rev. Mr. Turner of Hallowell.

Journal of the previous session read and approved.

Papers from the House disposed of in concurrence.

"An Act to provide for a bounty on bears in Washington county." (This bill, passed by the House to be engrossed, was by the Senate indefinitely postponed. The House insists and asks for a committee on conference. On motion by Mr. Wyman of Washington, the Senate voted to insist and to join the committee of conference).

An Act regulating the taking of eels in Taunton bay, town of Franklin. (This bill, passed to be engrossed by the Senate, was by the House indefinitely postponed. On motion by Mr. Eaton of Washington, the Senate voted to recede and concur with the House in the indefinite postponement of the bill).

House Bills Read and Assigned.

Bill, An Act to provide for the taxation of the property of the Madison Village Corporation, located in the towns of Norridgewock and Starks. (This bill came from the House indefinitely postponed. On motion by Mr. Howes of Somerset, the Senate concurred with the House in the indefinite postponement of the bill).

Resolve, in favor of I. F. Getchell. (On motion by Mr. Hastings of Oxford, this bill took its second reading under suspension of the rules and was passed to be engrossed).

An Act to abolish Rines Hill grade crossing in Augusta, Me. (On motion by Mr. Mullen of Penobscot, this bill took its second reading under suspension of the rules and was passed to be engrossed).

An Act organizing the Oquossoc Railway Co. (On motion by Mr. Emery of Franklin, under suspension of the rules, the bill took its second reading and was passed to be engrossed).

An Act to amend Chapter 48, Section 23, of the Revised Statutes, relating to

investments of savings banks. (On motion by Mr. Macomber of Kennebec, under suspension of the rules, the bill took its second reading and was passed to be engrossed).

Resolve that the land agent be authorized to convey to Joseph C. Harmon of Stonington, Hancock county, Me., Three Bush Island. (On motion by Mr. Howes of Somerset, under suspension of the rules, the bill took its second reading and was passed to be engrossed).

Resolve authorizing the land agent to release the interest of the State in the Islet called Turnip Island in Bristol, in Lincoln county. (On motion by Mr. Boynton of Lincoln, under suspension of the rules, the bill took its second reading and was passed to be engrossed).

Resolve in favor of the town of Norridgewock to aid in getting a free bridge. (On motion by Mr. Donigan of Somerset, under suspension of the rules, the bill took its second reading and was passed to be engrossed).

Resolve in favor of the town of Addison. (On motion by Mr. Wyman of Washington, under suspension of the rules, the bill took its second reading and was passed to be engrossed).

Resolve in favor of the town of Jonesboro. (On motion by Mr. Eaton of Washington, under suspension of the rules, the bill took its second reading and was passed to be engrossed).

Resolve in favor of the town of Bingham. (On motion by Mr. Howes of Somerset, under suspension of the rules, the bill took its second reading and was passed to be engrossed).

Resolve in favor of the towns of Enfield and Howland. (House Amendment A adopted in concurrence. On motion by Mr. Irving of Aroostook, under suspension of the rules, the bill as amended took its second reading and was passed to be engrossed).

An Act to provide for ice fishing in Great Embden pond, in the town of Embden, in Somerset county. (On motion by Mr. Donigan of Somerset, under suspension of the rules, the bill took its second reading and was passed to be engrossed).

An Act to regulate fishing in Webb's river and tributaries in Franklin coun-

ty. (On motion by Mr. Emery of Franklin, under suspension of the rules, the bill took its second reading and was passed to be engrossed.)

An Act to amend Chapter 264 of the Private and Special Laws of 1905, relating to fishing in Thompson pond. (On motion by Mr. Wheeler of Cumberland, under suspension of the rules, the bill took its second reading and was passed to be engrossed.)

An Act to regulate the hunting of deer in the towns of Camden, Rockport and Hope, in Knox county, and in the towns of Lincolnville and Searsmont in Waldo county. (On motion by Mr. Colcord of Waldo under suspension of the rules, the bill took its second reading and was passed to be engrossed.)

An Act to amend Section 47 of Chapter 41 of the Revised Statutes. (On motion by Mr. Walker of Hancock, this bill was tabled pending its second reading.)

An Act to amend Sections 58 and 59 of Chapter 9 of the Revised Statutes regarding roads in unincorporated townships. (On motion by Mr. Wheeler of Cumberland, under suspension of the rules, the bill took its second reading and was passed to be engrossed.)

An Act to amend Section 32 of Chapter 8 of the Revised Statutes as amended by Chapter 156 of the Public Laws of 1907, relating to excise tax on palace or other cars, for which extra compensation is charged for riding therein. (On motion by Mr. Mullen of Penobscot, under suspension of the rules, the bill took its second reading and was passed to be engrossed.)

An Act to change the name and enlarge the powers of the municipal court of Skowhegan. (On motion by Mr. Howes of Somerset, under suspension of the rules, the bill took its second reading and was passed to be engrossed.)

"An Act to authorize the city of Portland to provide for the appointment of a deputy and district chief of its fire department." (On motion by Mr. Warren of Cumberland, under suspension of the rules, the bill took its second reading and was passed to be engrossed.)

Senate Paper.

Mr. Shaw of Kennebec presented "Resolve in favor of L. A. Davis for services as clerk of the committee on Public buildings and grounds; also for services to the committee on public health;" and on his motion the same was referred to the committee on appropriations and financial affairs.

Passed To Be Engrossed.

An Act to amend Chapter 83 of the Public Laws of 1905, relating to contagious diseases among cattle.

An Act to amend Sections 35, 37 and 41 of Chapter 8 of the Revised Statutes relating to taxation of telephone and telegraph companies.

An Act to amend Sections 42 and 44 of Chapter 8 of the Revised Statutes as amended by Chapter 167 of the Public Laws of 1907 relating to taxation of express companies.

An Act to prohibit gas companies in the cities of Bangor and Brewer from charging meter rents.

An Act to incorporate the Farmington Falls Water Co.

Resolve in favor of committee on bills in third reading, for clerical assistance.

Resolve in favor of the University of Maine.

Resolve for the maintenance of State bridges located in the city of Old Town and the town of Milford.

Resolve in favor of the secretary of State.

An Act to establish the Old Orchard Park System.

An Act to authorize courts to suspend or continue for sentence on probation, and to provide for the appointment of probation officers.

Resolve in favor of Jefferson C. Smith of Waterville, Maine, State secretary of the Young Men's Christian Association.

An Act to amend Section 19 of Chapter 57 of the Revised Statutes relating to towns receiving devises and gifts for public libraries.

An Act to amend Section 13 of Chapter 131 of the Revised Statutes, relating to detectives.

An Act relating to the Bodwell Water Power Company, of Old Town Maine.

An Act to amend Chapter 401 of Private and Special Laws of 1889 relating to Waterville Trust Company.

An Act relating to inspectors of meters.

An Act to amend Section 1 of Chapter 169 of the Special Laws of 1903 relating to the Young Women's Christian Association of Portland.

An Act to amend an act authorizing the county commissioners of Cumberland county to erect a county building in Portland.

An Act to amend the charter of the city of Augusta with reference to the Augusta municipal court.

An Act to amend Section 47 of Chapter 29 of the Revised Statutes, in relation to the possession of liquors.

An Act to amend Section 17 of Chapter 30 of the Revised Statutes relating to the sale of poisons.

An Act authorizing George R. Ketchum, his heirs and assigns, to erect and maintain a dam across Big Machias stream on lots numbered 55 and 56 in the town of Ashland and to maintain piers and booms in Big Machias stream in the town of Ashland and in Garfield Plantation.

Resolve in favor of Susan Baker.

An Act to regulate fishing in the Bagaduce river and its tributaries in the towns of Castine, Penobscot and Brooksville in the county of Hancock.

An Act to further define and enlarge the duties of the commissioner of the bureau of industrial and labor statistics.

An Act to amend Sections 69 and 70 of Chapter 8 of the Revised Statutes relating to taxation of collateral inheritances. (On motion by Mr. Baxter of Cumberland, this bill was tabled pending its passage to be engrossed.)

An Act to exempt growing white pine from taxation. (On motion by Mr. Shaw of Kennebec, this bill was tabled pending its second reading.)

An Act amendatory to Chapter 17 of the Revised Statutes relating to the practice of medicine, surgery and dentistry. (On motion by Mr. Macomber of Kennebec, under suspension of the rules, this bill never having been referred to a committee, the bill took its second reading and was passed to be engrossed.)

An Act to abolish the common council and increase the membership of the board of aldermen of the city of Portland, with referendum attached. (On motion by Mr. Baxter of Cumberland, this bill was tabled pending its second reading.)

An Act for the licensing of dogs and for the better protection of sheep. (On motion by Mr. Looney of Cumberland, this bill was tabled pending its second reading.)

An Act to authorize the Rangeley Lakes Steamboat Co. to maintain wharves in the Rangeley lake. (On motion by Mr. Osgood of Androscoggin, Senate Amendment A was adopted; and on his further motion the bill as amended took its second reading and was passed to be engrossed.)

An Act relating to free transportation. (On motion by Mr. Baxter of Cumberland, Senate Amendment A was adopted; and the bill as amended took its second reading. On motion by Mr. Wheeler of Cumberland, the bill was tabled pending its passage to be engrossed.)

An Act to revive Chapter 138 of the Public Laws of 1895. (On motion by Mr. Baxter of Cumberland, this bill was tabled pending its second reading.)

An Act to incorporate the Suburban Water District of Farmington, Maine. (On motion by Mr. Hastings of Oxford, this bill was tabled pending its second reading.)

Resolve in favor of F. H. Hoar, special messenger to the Speaker of the House. (On motion by Mr. Milliken of Aroostook, this resolve was tabled pending its second reading.)

An Act to amend Chapter 140 of the Revised Statutes relating to coroners' inquests and the appointment of medical examiners. (On motion by Mr. Gowell of York, this bill was tabled pending its second reading.)

An Act creating the Maine Forestry District and to provide for protection against forest fires therein. (On motion by Mr. Wheeler of Cumberland, this bill was tabled pending its passage to be engrossed.)

An Act to amend Section 44 of Chapter 9 of the Revised Statutes, as amended by Chapter 174 of the Public Laws of 1907, relating to the assess-

ment and collection of taxes on lands in places not incorporated. (On motion by Mr. Wheeler of Cumberland, this bill was tabled pending its second reading.)

An Act relating to collection of State, county and district taxes. (On motion by Mr. Wheeler of Cumberland, this bill was tabled pending its second reading.)

Passed To Be Enacted.

An Act to incorporate the town of Portage Lake.

An Act relating to the Richmond Electric Co.

An Act to regulate fishing in Taylor pond, in Auburn, Androscoggin county.

An Act to amend An Act entitled "An Act to incorporate the city of Gardiner."

An Act to extend the rights, powers and privileges of the Milo Water Co.

An Act authorizing George F. L'Abbee of Eagle Lake plantation to maintain a dam in Wallagrass river.

An Act to extend and amend the charter of the Municipal Light & Power Co.

An Act to amend Chapter 79 of the Private and Special Laws of 1905, relating to fishing in Great brook and tributaries in Oxford county.

An Act to amend Section 48 of Chapter 51 of the Revised Statutes, relating to the expenditures by the railroad commissioners.

An Act to regulate fishing in Bog brook, so called, and Deer or Bog pond, so called, in the township of Lowelltown, in Franklin county.

An Act to amend Section 25 of Chapter 129 of the Revised Statutes, relating to the sale or use of cigarettes.

An Act additional to Section 42, and amendatory to Section 44 of Chapter 15 of the Revised Statutes, relating to appropriations in aid of school superintendents.

An Act to make valid the organization of the Rice Public Library of Kittery, Maine, organized under Chapter 57 of the Revised Statutes in the year 1903.

An Act to regulate fishing in Parker pond, so called, and tributaries, in the towns of Mount Vernon, Vienna and Fayette in Kennebec county, and in the town of Chesterville in Franklin county.

An Act to make valid the organization of the Monument or Memorial Association, in Elliot, Maine, organized under Chapter 57 of the Revised Statutes, November 9, 1905.

An Act to amend the charter of the city of Belfast.

An Act to create a recorder of the Westbrook municipal court.

An Act to incorporate the Barrows Falls Light and Power Company.

An Act relating to police court of the city of Belfast.

An Act to amend the charter of the city of Auburn.

An Act authorizing the plantation of Monhegan to issue bonds to raise money to pay the cost of building a town landing.

An Act to amend Section 13 of Chapter 15 of the Revised Statutes, relating to public schools.

An Act to regulate the taking of alewives in Patten Pond stream, in the town of Surrey, Hancock county, Maine.

An Act to amend Chapter 183 of the Public Laws of 1907, relating to the time of payment of members of the government.

An Act to amend Section 60 of Chapter 4 of the Revised Statutes, relating to dangerous or vicious dogs.

An Act additional to Chapter 49 of the Revised Statutes, relating to securities deposited with the treasurer of State by insurance companies.

An Act to regulate fishing in Mousam Long pond, so called, in the towns of Shapleigh and Acton, in York county.

An Act to regulate fishing for black bass, white perch and smelts in the Belgrade chain of lakes, so called, in the counties of Kennebec and Somerset.

An Act to make valid the doings of the town of Bristol, in the county of Lincoln.

An Act to regulate the taking of fish in certain waters in Somerset county and in the northern part of Franklin county.

An Act to extend the time in which the Van Buren Sewerage Company is authorized to organize and commence business.

An Act authorizing and empowering George F. L. Albee of Eagle Lake plantation, county of Aroostook, to erect and maintain piers, piles and booms in the Fish river.

An Act to authorize the Van Buren Water District to issue bonds.

An Act relating to the powers of the board of prison and jail inspectors.

An Act to amend Section 11 of Chapter 39 of the Revised Statutes relating to the sale of milk.

An Act to incorporate the Union Cemetery Improvement Co.

An Act to incorporate the North-eastern Insurance Co.

An Act to amend the charter of the city of Westbrook.

An Act to prohibit the use of firearms fitted with any device to deaden the sound of explosion.

An Act authorizing the Maine Missionary Society to change its corporate name.

An Act to amend Section 1 of Chapter 171 of the Public Laws of 1907 relating to the State superintendent of Public schools.

An Act regulating fishing in Medomack river and its tributaries in the towns of Union, Washington, Appleton and Liberty.

An Act to provide for a close time on deer on Cross island and on Scotch island, in Washington county.

An Act to authorize the town of Van Buren to issue bonds.

An Act to amend Chapter 88 of the Public Laws of 1907 entitled "An Act to encourage the compiling and teaching of local history and local geography in the public schools.

An Act for the prevention of tuberculosis among cattle.

An Act to amend Specification 10 of Section 6 of Chapter 9 of the Revised Statutes relating to the exemption from taxation of lands set apart for the production of parent trees, as amended by Chapter 169 of the Public Laws of 1907.

An Act to authorize Androscoggin county to issue bonds to enable it to build an addition to the county jail and for other purposes.

An Act to amend Sections 40, 41 and 44 and 45 of Chapter 15 of the Revised Statutes relating to the union of two or more towns for the employment of a superintendent of schools.

An Act relating to the issuance of capias by magistrates.

An Act to authorize and empower Joseph Dresser to remove the remains of certain deceased persons from his farm in Cape Elizabeth to the public cemetery.

An Act to incorporate the Brewer Water District.

An Act to amend An Act entitled "An Act to incorporate the city of Old Town."

An Act in relation to political caucuses in the city of Old Town.

An Act relative to the catching of smelts in Damariscotta river, bays and tributaries.

An Act in addition to Chapter 19 of the Revised Statutes relating to contagious diseases among cattle.

An Act to amend Section 19 of Chapter 15 of the Revised Statutes relating to the purchase of second-hand school books for schools.

An Act to correct an error in the engrossing of a bill entitled "An Act to provide for the compensation of justices of the supreme judicial court who shall resign after 10 years' service at the age of 70 years, approved March 11, 1909.

An Act to ratify, confirm and make valid the organization of the Mexico Water Co., and authorize it to issue bonds to extend its plant.

An Act relating to the transportation of animals.

An Act relating to frivolous exceptions.

An Act to establish the Kingman municipal court.

An Act relating to the probate records of Cumberland county.

An Act establishing rules and regulations for Portland harbor.

An Act to extend the charter of the Kittery Electric Light Co.

An Act to amend the charter of the Messalonskee Electric Co.

An Act to create a cemetery corporation for the city of Rockland.

An Act for the protection of deer in Cumberland county.

An Act to incorporate the Belfast & Liberty Electric Railroad Co. (Tabled pending its passage to be enacted on motion by Mr. Morse of Belfast.)

An Act to amend Paragraph 5 of Section 30 of Chapter 18 of the Revised

Statutes relating to bylaws of local Boards of Health.

An Act amendatory of Section 20 of Chapter 30 of the Revised Statutes relating to poisoning animals.

An Act to regulate fishing in Indian River stream, so-called.

Finally Passed.

Resolve in favor of the town of Smyrna, appropriating \$258.64 to reimburse the town of Smyrna for money paid out on account of State paupers.

Resolve in favor of the town of Perham.

Resolve in favor of the town of Dexter.

Resolve in favor of the town of Denysville.

Resolve in favor of the town of South Berwick. (Tabled pending its final passage on motion of Mr. Sleeper of South Berwick.)

Resolve in favor of the town of Rangeley.

Resolve in favor of the county of Penobscot.

Resolve in favor of State aid for the support of Eastport bridge.

Resolve in favor of the town of Island Falls, in the county of Aroostook in aid of building a bridge across the West Branch of the Mattawamkeag reaver.

Resolve in favor of screen at the outlet of Messalonskee lake or Snow pond, so-called, in Kennebec county.

Resolve in favor of the county commissioners of Franklin county for repair and permanent improvement of road from Madrid line through Letter E plantation and Sandy River plantation.

Resolve in aid of building a highway bridge across the Kennebec river between the towns of Fairfield and Benton in the counties of Somerset and Kennebec.

Resolve in favor of roads in Indian township.

Resolve in favor of the town of Edington.

Resolve in favor of the town of Rome.

Resolve in favor of Jerry Rhoades.

Resolve in favor of aid in navigation of the Lower lakes.

Resolve in favor of the Western State Normal School.

Resolve in favor of the towns of Solon and Embden, in Somerset county.

Resolve in favor of screening Worthley pond, so-called, in the town of Peru, Oxford county.

Resolve in favor of screening Estes lake, so-called, situated partly in the town of Sanford and partly in the town of Alfred, York county.

Resolve in favor of screening Toddy pond, in the town of Orland, in Hancock county.

Resolve in favor of the town of Dresden in aid of the repair and maintenance of bridges.

Resolve in favor of the town of Edmunds and Dennysville in the county of Washington.

Resolve in favor of screening Spring River lake situated partly in Washington county and partly in Hancock county.

Resolve, in favor of a fish hatchery in Washington county.

Resolve, in favor of the Farmington State Normal school.

Resolve, in favor of the Northern Telegraph Co.

Resolve, in favor of the town of Hodgdon, Aroostook county.

Resolve, in favor of Kingman, in the county of Penobscot, and Frenchville, in the county of Aroostook.

Resolve, in favor of repairing the road between Patten and Trout Brook farm, in Penobscot county.

Resolve, in favor of the town of Marion.

Resolve, in favor of the town of Belmont.

Resolve, in favor of Adelbert F. Williams.

Resolve, in favor of the town of Mt. Chase.

Resolve, in favor of the town of Dexter.

Resolve, in favor of the town of Millinocket.

Resolve, in favor of the town of Nobleboro.

Resolve, in favor of Alexis O. Robbins to reimburse him for expenses incurred in contested election in Fort Kent class.

Resolve, in favor of Macwahoc plan-

tation for \$100 on account of State road constructed in the year 1907.

Resolve, in favor of the town of Frenchville for \$141.75 to be paid to the town of Frenchville on account of State road constructed in 1908.

An Act authorizing and empowering Albert C. Page and Roger G. Leonard to erect and maintain a boom and piers in the Passadumkeag river. (On motion by Mr. Milliken of Aroostook this bill was tabled pending its passage to be enacted.)

An Act to amend Section 3 of Chapter 29 of the Revised Statutes as amended by Chapter 40 of the Public Laws of 1905, relating to the sale of milk and cream. (On motion by Mr. Macomber of Kennebec this bill was tabled pending its passage to be enacted.)

Resolve in favor of the town of Old Orchard for receipt of State treasurer for State tax to be given said town on a valuation of \$100,000. (On motion by Mr. Macomber of Kennebec this resolve was tabled pending its final passage.

Orders of the Day.

On motion by Mr. Theriault of Aroostook Senate Document No. 445, "An Act to divide the town of York, and establish the town of Yorktown," was taken from the table.

The same senator further moved that the minority report be accepted.

Mr. KELLOGG of Penobscot: Mr. President, being on the committee on towns and having sat for about seven hours listening to the evidence which was given in this case, I would like to review it just a little.

I would say in the first place that the committee on towns have had several propositions like this before them this year. The first was to divide the town of Kennebunk and to make the town of Arundel. We heard the evidence through for five or six hours, and finally voted that it ought not to pass. They did have some grounds for a division.

Next came the act to set off from the town of Cushing, in Knox county, Fred Thornton, with his polls and estate, and annex the same to the town of Thomaston. That was heard through, and while the committee thought there were not any grounds for division, they voted four for and four against. The chairman cast

the deciding vote, deciding that he should be set apart.

Third was the act to set off certain lands in the town of Denmark and annex same to the town of Brownville. This case was on the same lines and the committee reported "ought not to pass." The chairman took no action.

The fourth was an act to set off certain lands in the town of Berwick and annex same to the town of South Berwick. Let me say on this proposition that this hearing lasted somewhere about five hours, and Senators Gowell and Smith were both there and opposed this division. It looked at one time as though there would be some ground for that division; but when it came to a final hearing the committee decided that there was no ground for a division.

The next case was this proposition to divide the town of York and establish the town of Yorktown.

Now at the hearing the petitioners had for witnesses J. C. Stewart, E. S. Marshall, J. W. Simpson and one or two others resident property owners. They also had two non-resident property owners. The claim of the resident property owners why there should be a division was that the seashore section could not get sufficient appropriations for improvements. One of the non-residents favored the division because he could not have trees set out along the road and sidewalks built to the golf links; the other could not tell why he wanted the town divided. I presume he had not been told what to say by the petitioners. However, he thought the town should be divided.

Now, the opponents to the division had for witnesses the chairman of the county commissioners, the three selectmen of the town, two of whom with the county commissioner live below the proposed dividing line. They also had eight or 10 other witnesses, all of whom were business men and who are interested in the welfare of the town. All but two of these live south of the line by which it is proposed to divide the town of York. There was a remonstrance against the proposed division signed by 382 persons, two-thirds of which live south of the line.

Now, what are some of the facts brought out at the hearing, which lasted from 4 P. M. to 10.30 P. M.?

First, the town has a valuation of \$2,500,000. By the proposed division the new town would take \$2,130,000, leaving \$370,000 in the old part. There would be about 180 voters left in the old town and right around 600 in the new. High school, two graded schools, town farm, town hall, postoffice, all the hydrant service, which the town has paid for. The town has appropriated \$8000 annually for ways and bridges, 20 per cent. of which has been paid to the two village corporations. They have appropriated \$5000 for sewers, \$200 for sewer survey, \$225 for sidewalks survey, water for all street sprinkling paid for by the town. For the past two years the town has paid \$500 for teams to sprinkle the streets in the lower part of the town. The town records show that over \$100,000 has been expended in the south part of this town in the last 10 years, and where there are three voters in this section to one in the upper part of the town they ought to be able to have anything they are willing to be taxed for.

Let me say right here that this street sprinkling goes into the little corporation. A part of the town paid \$500 for teams to sprinkle the streets in this lower part of the town. The town records show that over a hundred thousand dollars has been expended in the south part of this town in the last 10 years, while there are three voters in this section of the town, to one in the upper part, who have any improvements, they are to be taxed.

Let me say that I have been informed this morning, and I think quite well informed, that this measure is being taken on party lines. They have undertaken to bring politics into it, the same as they would in the matter of the removal of the county seat of York county some time ago.

The new part of this bill which has been printed here, does not materially change the situation. All of these petitioners, the selectmen, and all these town buildings and everything comes below this new proposed line; and as I said in the start, it does not look to me to be good policy for the senators of York county to be here advocating a division of this town, when they were on this very floor opposed to the division of the town of South Berwick, or to the taking of a part of the town

of Berwick and giving it to the town of South Berwick.

Now let me say that, at the close of this hearing, which lasted five or six hours, it was proposed to take a straw ballot. Such a ballot was taken and the vote was seven opposed, and one, the chairman of the committee, voted that the division should be made. At that time, after this straw ballot was taken, it was proposed that we make that vote final, but out of courtesy to Mr. Wing, who was on that committee, and he said that he had promised some of the proponents of this division that, if the vote was against the division, he would have it laid on the table for a few days—and I presume that why they wanted that done was so they could work other laws through—I presume in the last two or three weeks there have been two or three of these gentlemen on the floor of this Senate from sunrise to dark—the hearing was postponed until Tuesday, and at the time the final vote was taken, it was just the same as it was on the straw ballot, seven voting that it ought not to pass and one voting that it ought to pass.

I am not personally interested in this matter; and I presume people will say that I ought not to be on the floor of the Senate opposing a matter which the senators from York county are after; but I think, if any of you will take this matter home, you would not like to have three or four men step in and undertake to divide your town. When the petitioners came in, all they could bring was 49 petitioners and a few letters from some non-resident owners, out of the State. And let me say that most of those letters which they put into the case, were letters in answer to a circular letter of the proponents which was sent out to the non-resident owners. Some of those letters say that they do not understand much about this, but if you people think a division is necessary, we presume it is and will stand by it.

I hope, gentlemen of the Senate, that you will sustain the report of the majority of this committee.

Mr. HAMILTON of York: Mr. President: This is the first I have heard that this was a political meas-

ure. Certainly I am well acquainted with the town and know that there are Democrats and Republicans, both for and against this division; and I have never heard that there is any politics in it whatever. I do not believe there is any politics in it. If there is, the senator who has just spoken has brought the politics in. I certainly have friends who are strong and active Republicans, who are opposed to this division; and equally, as well, I have friends in the Republican party that are in favor. Neither of them came to me or have spoken to me of political issues; and I repeat, if there is any politics in it, he has brought them in, because none have come in in York county, in reference to the division of this town.

The senator has talked about the hearings before the different committees, and the different times, and the hearings that he has given to the different towns, and the results of those hearings. I suppose that each town that has come before this committee for division, has come upon facts which they have represented to the committee—each different—each had its virtues and its desires made necessary; and they have come before the committee to represent those towns in that manner; but that has nothing to do with this town whatever.

I was opposed to the first bill which they heard. I was opposed to the division line which was first introduced here in the Senate and referred to their committee. Since then an amendment, as you will see by looking at your record, has been made which wonderfully changes it; and I will call each of the senators' attention to the new draft, put in as an amendment, which changes the line and also changes the name of the new town. It makes a vast sight of difference compared with the plan first drawn. In the old bill, the line was through the center of the town, leaving the whole of the rural district in one town and all of the beach district, or the village part, in the other town.

By the new draft the line goes a part of the way across the town but not in the direction which the old line made—not in the same place, and fol-

lows the river to Cape Nedick and then to the sea and along the shore to Kittery, and then by Kittery to its place of beginning, and contains a vastly different territory.

Let us see how this town stands, as it is now before you under the new draft. The town of York has a valuation of \$2,393,338. As it stands now, the resident real estate is \$1,074,408 and the non-resident is \$1,031,435. So you see that in this new town, which is called for by the bill which is now before you, that the non-resident valuation is about equal to the resident valuation. Under this division, the new town is a seashore town. Their interests are different from the interests of the rural districts, vastly different. As you all understand, they want a great deal done and they are willing to pay for what they want done.

I wish to go a little further. There are in this town two village corporations and they both come within the town that is described in this new plan. There is the corporation at York Harbor Village, \$748,505. The resident is \$359,880. That is the new village corporation which is in this new town. The non-resident is \$388,625—the non-resident is larger than the resident population; and in the York Beach Village, another village corporation, within this same boundary, the resident valuation is \$136,425, and the non-resident valuation is \$225,343.

The total valuation of the town, as I said before, is \$2,393,388 and the village corporation is \$1,110,273, and the estimated value of all other property within those villages is only \$200,000.

Now mark. The town rate is 19.50. The Harbor Village corporation is 2.30, making in their rate of taxation 21.80. The beach tax on the corporation is 3.75, and that makes it a little over 22 cents on the hundred, taxation.

You see by this that these village corporations which he has talked about—I won't say that he has made a mistake in saying that they have paid for the sprinkling—the village corporation has paid the whole expense.

You see the non-residents own in this town that is now asked by this bill—this new town—that they own as

much, if not more than the residents—more than the residents, considerable; and that they pay a great deal more tax in those corporations, in proportion, than they do in the rural part of the town.

I said, in the beginning, that we were all opposed to the division of the town, as it was at the hearing here. We were opposed to it because we thought it was not fair; but when this proposition comes in, we regard it as eminently fair and for the interests of both sides. They cannot get along well together. In the division of the new town, the new town takes all the bridges. They have a bridge over there that cost them \$50,000 and that bridge is not paid for. That bridge has caused a great deal of trouble and has been in law for two or three years and is in law now, and the United States has taken a hand in it; and it is open now for the passage of vessels through the draw, but it is not open to the travel of the town. Now this new town proposes to take that bridge and pay for it. What else does it propose? They have a nice High school, and it is true that the High school comes within the boundaries of the new town; but they propose in this new bill to give them the same use of the High school and its funds that the new town has. They propose in this new bill that the school boards of the two towns shall control and manage the High school as it is called, the same as it has been; and they propose further that all of the indebtedness of the town shall be divided according to the amount of the valuation made this year; and that in the division of all of this, that the county commissioners, who as he stated live there, shall live up to it—to take care of its own poor and the taxes are to be collected and they are to be divided after payment of what they appropriate. It is an eminently fair proposition. I have been acquainted with this town and its surroundings and location all the days of my life and I know the trouble they have had there. Their interests are not identical. These people who come there for summer resort are worth their millions and they want many improvements. They do

not care how many improvements are made or how much it costs, but they want the money which they give to be laid out in improvements there, while those in the rural districts are opposed to this, so that their interests have not been identical. Their interests have been diverse and they have been always in trouble; and now it has come to this, that they ask for a division which I believe is eminently fair and should be granted.

They live in a part of the town that is not developed, as a part which they ask to be set off. They do not take off of the town, they take off the bridges—they take about all the roads—all the main travelled roads; and they ask for nothing but what is fair.

I have letters here but will not take your time to read them. Many of the homes they build there are elegant, others not so much so. Nature has provided them with the finest location in the State and there is nothing to hinder them, but they cannot and will not come there and will not build, unless they can have some assurance and some certainty that their money is to be expended to beautify the town and to add to its valuation. It is now at a standstill for just that reason. There has been no development in the southern part of the town for two or three years. These letters which I have indicate that these men will not come there or put their money in there unless they can be assured that they can have the improvements which their money would bring. They do not care how much it costs.

I know we had a great deal of trouble in setting off Old Orchard, for a long while, but finally Old Orchard was set off and it was a great thing for the city of Saco and for the town of Old Orchard. As soon as it was set off, Old Orchard began to boom and built up millions of dollars' worth of property there, which I am sorry to say was burned down a year ago last summer.

Now if you divide this town as it is indicated in this new draft, those people who live next to the seashore in those summer residences will certainly boom that town and you will find it one of the most elegant places to

live in in the State. We welcome them there, to invest their money. We want it and we need it; and we need to increase the valuation of the town and that is why I am interested and why every York county senator is interested that they should have it where they can go ahead and not be handicapped.

I believe, too, that it is for the interest of the rural part of the town. They enjoy all the conveniences of the town and they are to have the use of the school with the town, and are to have all its privileges. They are to divide the town's indebtedness in proportion to the valuation, and, of course, the larger part will come in the new town, as now called for.

In the interests of progress, I say that this is a fair bill and one that ought to pass. I believe it is for the interests of the rural part of the town because they have all the advantages of a market. It is not a line—it is an imaginary line—not a line they cannot cross, and every farmer knows that he is more prosperous and that his farm is worth more in a place where there are consumers and where he will have a market.

I will not detain you longer in this matter. I wish you would examine the plans and read the letters and petitions that I have here; and you will say with me that this is a fair act. It will be an absolute benefit to the rural part of the town and will give them one of the best markets in the world.

Mr. KELLOGG of Penobscot: Mr. President, We have listened to the very able argument of the senator from York and he is on a committee here which has had several hearings before it this winter—the committee on towns—and they have tried to decide cases according to the evidence, and I presume his committee has done the same. We have heard this case and we voted seven to one that the division ought not to be. If this is a good fair proposition, why not have another hearing on it, and give the people of this town a chance to come up here and say whether they want this division on this new-proposed line. I do not believe the senator from York, or any other senator, wants his town divided on the say-so of two or three

men, and without having a chance to have a hearing on it. I would advocate that, if this division is wanted, we have another hearing.

What senator is there here who wants to go into another town and pay his taxes towards a High school maintenance? Do not we want our High schools in our own town? Is that a fair proposition? The senator says that these people are willing to pay all the tax they can and that they want to pay the tax, and then in the very next word he says that this village corporation taxes them one tax and the town another. What consistency is there in that? He speaks about the bridge. Why isn't the bridge paid for? Here are gentlemen sitting right along here who have paid money to the town treasurer of York, and there have been hearings before the bridge committee and there is litigation down there, five or six cases on this bridge matter. Why not let this town of York be as it is until this bridge matter is settled. What do we know as to what they are doing to get into when you divide this town, or how these litigations are going to be settled. Senators, I hope you will stand by the majority report of this committee.

Mr. HAMILTON: Mr. President, In reference to the bridge matter, I want to say, as I stated, there are many lawsuits upon that bridge and it is costing somebody a good deal of money and the towns will have to pay it in the end, in my judgment. The new town proposes to pay the \$50,000 and they do not ask them to pay a cent towards it.

Now about the schoolhouse. The schoolhouse sits very near the line of those two towns. The division of this town did not move that schoolhouse. It still remains there and they have their rights, by this bill, to that schoolhouse, the same as the new town has. The new town will pay the larger part of the taxes for that schoolhouse and for its support. So that is eminently fair and there is nothing that they can complain about. There is not a thing in this new bill that they can complain about, because they have everything they want and everything they ask for. We leave them a large part

of our seashore that is undeveloped, some of the most beautiful places there are in the State of Maine, where the electric road runs right through as it does through the part which is to be set off.

Now understand me, these two corporations were organized there for self-defence and these two organizations pay out their money and in addition they have to pay out 19 per cent. for the general tax; and that money they think should be used down where the village corporation is. The village corporation has done all the sprinkling and made all the improvements and the town has made none. They have made appropriations and they have gone somewhere else; and that is the trouble.

I repeat again that these men that come there and bring their money to build their homes, care nothing about how much tax they pay if they can have their homes beautified and made pleasant.

Mr. GOWELL of York: Mr. President: I do not propose to discuss the merits of this question at this time, but I wish to deny one statement made by Senator Kellogg. I believe he said that the senators from York county were down here working on this measure; and I wish to say, as far as I am personally concerned, that I have not worked either for or against the measure. It is true I was opposed to the division of Berwick, because of the conditions that existed in that town; but I will say that I have not tried to influence any senator in regard to this matter. I have simply answered questions, if any were asked of me, about the case, as I understood the facts to be. I think it may be in justice to myself proper to make this statement.

The question being put upon the motion by Mr. Theriault of Aroostook, that the minority report be substituted for the majority report, the yeas and nays were called for and ordered, and the vote being had resulted as follows: Those voting yea were Messrs. Baxter, Boynton, Eaton, Emery, Gowell, Hamilton, Hastings, Irving, Knowlton, Looney, Lowe, Macomber, Milliken, Minott, Mullen, Osgood,

Reynolds, Shaw, Smith, Staples, Theriault Warren, Wheeler, Wyman, (24). Those voting nay were Messrs. Donigan, Hill, Howes, Kellogg, Walker (5).

So the motion prevailed. The same senator thereupon moved that the bill take its several readings and passed to be engrossed.

The bill was read once, and, pending its second reading, on motion by Mr. Hamilton of York, was amended by the adoption of Senate Amendment A.

Thereupon the bill took its second reading and was passed to be engrossed, as amended.

On motion by Mr. Hastings of Oxford, Senate Document No. 365, "An Act in amendment of Section 1 of Chapter 136 of the Revised Statutes relating to sentence in criminal cases," was taken from the table.

The same senator further moved that the bill take its second reading and passed to be engrossed.

Mr. STAPLES of Knox: Mr. President: As I understand this bill, it takes the discretion from the court in this class of criminal cases. I do not rise here to oppose this bill because it gives jail sentences to those who sell intoxicating liquors. That is a matter which I do not care to discuss, because I do not stand here to defend them against jail sentences; but it seems strange to me that we should discriminate in that class of cases and take from the court its discretion in this class of cases where we do not in other cases. I believe it is not in the interest of the enforcement of the prohibitory liquor law to take all the discretion away from the court, because I can conceive that it would be hard work to convict any person before the jury where there were jail sentences and the court had no discretion. There never was any class of cases in the whole calendar of crime but what some person seemingly was a harder criminal than others—that is to say, in cases of larceny and of arson, and in other cases, discretion has always been lodged with the court as to how long, or what the sentence should be. If a person were convicted of being a hardened rum seller, the court would know what to do. If a person has just

commenced—it might be his first offence—it might be some woman who had sold a little rum to get bread for her children and the court has no discretion, but must send her to jail.

I think it is an insult to the supreme court of Maine. I am willing that you should pass this law if you wish to do so, but I stand here to defend the judiciary of Maine against our saying to them, we do not dare to trust you. That is what you virtually say to every judge upon the bench of Maine, and a higher class of men never wore the ermine than the judges of the State of Maine. They are above reproach. You can trust them with jurisdiction in these cases and they ought to have it as they have it in all other cases.

That is all I have to say. I shall vote against this bill for that reason, otherwise I should let the promoters of that bill add another fire to those that have been burning for years.

Mr. HASTINGS of Oxford: Mr. President: This bill is very simple and is well understood by the members of the Senate, I think. It has been discussed here all winter, pro and con, and I am very certain that every senator is as ready to vote at the present time as he would be after a long discussion. For my own part, I am ready to vote now and to trust to the judgment of the Senate.

No reflection whatever was intended to be made upon any member of the supreme court when I introduced the bill. But I want to touch upon that briefly. The supreme court of this State at the present time are giving sentence just exactly as laid down in the statutes, and they have no trouble with the juries convicting. Of course, another objection is that the first offender ought to be shown some leniency. Gentlemen of the Senate, the first offender, in 99 cases out of a 100, is an old offender who has just been caught. I myself think that he ought to have the penalty now laid down in the statute when he is first brought up.

There is another question, and that is about trusting the supreme court. There is no reflection upon them. They do not so consider it. They have been consulted and they have said just what

they want; and they desire to be relieved of this great pressure which is brought to bear upon them every time they go into a nullification county.

With this simple answer to the senator from Knox, I am ready to vote.

Mr. STAPLES: I wish to say, Mr. President, that I too have consulted some of the judges of the supreme court, and they differ from what my brother has said. I move that when the vote is taken, it be taken by the yeas and nays.

The PRESIDENT: The pending question is upon the motion of the senator from Oxford that the bill be given its second reading. The Chair will state that the bill has not been committed to the committee on bills in second reading, and there is no report of the committee on bills in second reading accompanying the papers; and in order to have the bill take its second reading at the present time, the rules must be suspended.

Mr. HASTINGS of Oxford: I move, Mr. President, that the rules be suspended and that the bill be given its second reading at the present time without reference to the committee on bills in second reading.

The question being put upon the motion to suspend the rules, the motion prevailed.

The pending question being upon the motion that the bill take its second reading at the present time and passed to be engrossed, the yeas and nays having been called for and ordered, the vote being had, resulted as follows: Those voting yea were: Messrs. Boynton, Colcord, Donigan, Eaton, Gowell, Hamilton, Hastings, Howes, Irving, Knowlton, Macomber, Minott, Osgood, Reynolds, Shaw, Smith, Theriault, Walker, Wyman (20). Those voting nay were: Messrs. Baxter, Hill, Kellogg, Looney, Mullen, Staples, Warren, Wheeler (8).

So the motion prevailed and the bill took its second reading and was passed to be engrossed.

On motion by Mr. Staples of Knox, "Majority report, legal affairs committee, ought not to pass, on bill 'An Act to protect the State of Maine against paying judgments obtained against officers when the supreme court of Maine

has declared the officers in the exercise of their duties are trespassers and have been guilty of torts in the exercise of their duties" also "Minority report of the same committee, on same bill, ought to pass," were taken from the table.

The same senator further moved that the minority report "ought to pass" be substituted for the majority report.

Mr. STAPLES of Knox: Mr. President: This is something that has grown out of a rum case, and after the last vote which has just been taken, depriving the judges of discretion in those cases, I feel but little courage to argue this case, although I think it one of the most important, and one involving the rights of every man, woman and child in the State of Maine.

It is a case where the Sturgis Commission, in the city of Lewiston, imagining that in a certain dwelling house liquor might be secreted somewhere, went there with a warrant and virtually demolished every room on the lower floor of that house, and made it untenable, so that the man and his family had to move out.

I do not care to discuss that case excepting as it bears upon this bill. The man brought an action against two Sturgis deputies, after the house had been demolished, and he obtained a verdict at the second trial of about \$400 with costs, and the Sturgis deputies' bill, including their attorney, amounted to between \$900 and \$1000. The supreme court of Maine had rendered this decision against these deputies that they had acted outrageously and beyond the scope of the authority conferred upon them by the statutes of the State. I will read the law court decision. The case was carried to the law court and a majority of the judges of our court decided that these men acted wantonly and beyond the scope of their authority in the case. The rescript is by the chief justice of the State of Maine.

1. The constitutional guaranty that "the people shall be secure in their persons, houses, papers and possessions from all unreasonable searches and seizures," is a restraint upon offi-

cers executing a search warrant as well as upon magistrates issuing it.

2. While officers in executing a warrant to search a dwelling house occupied by a family, may, and should, search thoroughly in every part of the house where there is reason to believe the object searched for may be found, they should also be considerate of the comfort and convenience of the occupants and be careful to injure the house or furniture no more than reasonably necessary.

3. When officers searching a dwelling house for intoxicating liquors have no reason to believe that such liquors are concealed within the walls or partitions of the house, but desire to ascertain whether any pipes leading to some receptacle for liquors, are concealed there, their sounding and even probing of the walls and partitions for that purpose should be done with as little damage as possible.

4. When officers for the purpose only of ascertaining whether such pipes are concealed within the walls and partitions of a dwelling, make use of an axe, a pickaxe and crowbar, and tear out the paper, plaster and laths entirely around the walls of every room on the first floor of a dwelling house for a width generally of from two to four feet, leaving the debris on the floors and carpets of the rooms, they act unreasonably, do unnecessary damage and thereby exceed their authority and become liable to the owner therefor.

Now I know that an officer has a right, in a reasonable way, to search a dwelling house, but I do not believe that they have a right to take crowbars and axes and pickaxes and demolish a house, as one of the men said before our committee, that he believed an officer had a right to raze a house to the ground in searching for liquors. I do not believe it and the court says they have no right to do it. I believe that you believe in the constitutional guaranty that every man should be safe in his person and property against unwarrantable interference or seizure. If a crime is committed, an officer has a right to do certain things, but he has no right in any case whatever to tear

down and destroy a man's house in order to carry out his purpose. My belief is that the State should not pay these bills when the supreme court has declared that they have acted unreasonably and in a manner which made them liable. I do not believe that the State should not pay the bills when the officers are forced to destroy some property in their search. I have no objection to that, but I say that when the supreme court of Maine says that a man has acted unreasonably and exceeded his authority, that then the State should not be called upon to pay the bills as they were in this case. There should be a restraint upon the officers, and I know of no better restraint than to say to them, if you exceed your authority, the State will not pay your bills; and if you leave this matter open in this way, any officer, whether he be drunk or sober, whether a Sturgis deputy or anybody else, can come into a man's house with a warrant and destroy it because he has no responsibility, and he says, if they sue him, the State will pay my expenses, and whatever is found against me the State will step up and pay and furnish me an attorney to defend me in that case.

I do not believe the Senate will vote for it. I think it is wrong and unsafe for the inhabitants of this State to have such a ruling made as was made in this case. I do not believe they should have a license to do as they please in such a matter as this.

Mr. GOWELL, of York: Mr. President, I presume that all matters which come before the Legislature have some merit, and perhaps it is fair to say that all have a certain mission to perform, and I believe that this bill under consideration has already fulfilled its mission and perhaps it may be unnecessary at this time to ask this Legislature to have it become a law, for I believe it has given the senator from Knox an excellent opportunity to once more pay his respects to the Sturgis Commission—

Mr. STAPLES: I shall once more, too.

Mr. GOWELL: I will briefly state the facts as they appeared before the committee on legal affairs. If I am correct-

ly informed, the bill was drafted by the senator from Knox. He was the only gentleman who appeared before the committee in its behalf and some appeared in opposition. I think the senator has substantially stated the facts correctly, but there are always two sides to every question and I think there may be another side to this case which some of the senators have not heard.

It seems that there was a place in the vicinity of Lewiston in the county of Androscoggin which was reputed to be a nuisance; and in that place liquor was frequently sold; and it was a place of resort which rendered it liable under the nuisance law. It seems that officers had frequently been in the place and were unable to find any liquor, but from the appearance of the premises and the people that were constantly going in and out of the place, they had every reason to believe that liquor was secreted within the building. They also had reason to believe that it was secreted somewhere within the walls and that it was in some way attached to certain gas fixtures within the building. It was on one of these occasions when the officers entered the building armed with a warrant, that the damage to which the senator has referred. I believe that they were unable to find any liquor at that time and as he said, they did considerable damage to the building; but the case was near the line. Suit was brought against the officers and the first trial resulted in a disagreement, and at the second trial the owners of the building procured a verdict.

Now, the committee did not see any call for legislation at this time and they deemed it inexpedient. It has been the policy of this State for almost a century to leave certain business interests of the State to the discretion of the Governor and Council, and the Governor and Council acting within their discretion, saw fit to pay this judgment. The bill, as I understand it, was paid by Governor Cobb and his Council during the last year; and I think we all agree that Governor Cobb acts wisely and well and in a dignified way in matters pertaining to the interest and welfare of the State. I

think that the senator from Knox has too much pride and love for his native State to ask this Legislature to pass a bill prohibiting the State from paying an honest claim and it would seem entirely useless to ask the Legislature to pass a bill prohibiting the State from paying an illegal claim; and I hope the motion of the senator from Knox will not prevail.

Mr. STAPLES: Mr. President, the senator from York does not seem to understand my position in this case. I have not said a word against the State paying that bill. It was paid upon the recommendation of the Sturgis Commission by the State of Maine. I am not attacking the payment of that bill, but I say, don't do so any more. My position is this, that if a man comes in and tears down your house, whether he is searching for rum or stolen goods, that the State of Maine, and the supreme court upholds my contention, should not pay away the people's money for careless offenders who take the law into their own hands. That is my bill exactly. I have nothing to say against Governor Cobb and I am not saying anything against that claim. I believe that the taxpayers and law-abiding citizens will stand by me to have such a law put upon the statute books that your home and mine will be protected against drunken officers, it may be, who come into my house and destroy it, knowing that they have no responsibility and that the State of Maine will pay the bills for their State officers. I am sure that the Sturgis deputies, whoever they may be, if I am at home and they come into my house, they will want to appeal to the law themselves.

The pending question being upon the motion to substitute the minority report "ought to pass" for the majority report "ought not to pass" the yeas and nays were called for and ordered, and the vote being had resulted as follows: Those voting yea were Messrs. Boynton, Donigan, Hill, Kellogg, Looney, Mullen, Osgood, Staples, Warren (9). Those voting nay were Messrs. Baxter, Colcord, Eaton, Gowell, Hastings, Howes, Knowlton, Macomber, Milliken, Minott, Reynolds, Shaw,

Smith, Theriault, Walker, Wheeler, Wyman (17).

Mr. Kellogg of Penobscot requested that his vote be recorded yes, he having voted no unintentionally.

So the motion was lost.

Thereupon the majority report was accepted.

On motion by Mr. Milliken of Aroostook, House Document No. 607, "An Act relating to the Shawmut Manufacturing Co." was taken from the table, together with majority and minority reports accompanying same.

The same senator further moved that the minority report be substituted for the majority report.

Mr. Milliken of Aroostook: Mr. President and Gentlemen of the Senate, this is a question of a charter to be granted to the Shawmut Manufacturing Co. If you will kindly refer in your folders to House Document 607, you will notice that the difference between the minority and majority report is simply the last six lines of Section 1; in other words, the question which divides the committee is not the question of whether the Shawmut Manufacturing Co. should be given a charter to raise their dam, but the question is, how much of a charter should be given to them. The committee is agreed, and there is no objection on the part of any member of the committee, to granting the Shawmut Manufacturing Co. all the rights that the State can reasonably grant in this matter. There is no desire on the part of any member of the committee to hinder development or discourage capital, or to discourage this particular enterprise which is important to the people of Fairfield and important to the people of the State. But the question which divides the committee is, whether this particular clause of the proposed charter can reasonably be granted.

I ask the Senate to bear with me while I state as briefly and as clearly as I can the precise situation and the precise defect of the charter.

The Shawmut Manufacturing Co. is a private corporation, engaged in the manufacture of pulp and also in the manufacture of lumber, at Shawmut, on the Kennebec river. It has a dam

across that river now at a height of about 12 feet. That dam was erected in the first place under the general mill act, and has been raised at least once, possibly twice, under the general provisions of that act, until now it has reached the height of 12 feet. There is no natural storage basin. It is a dam in the river itself that is in precisely the same situation as any other dam would be under those conditions, that is, with no natural pond or no natural lake. Above the Shawmut Manufacturing Co's. location, about five miles, is a small stream—relatively small, that comes into the Kennebec river; and on that stream is located the Canaan Power Co. That company has, in the first place, a charter giving them the right to build a dam, a certain location and river privilege on that stream. That dam has been built and there is there a sawmill and a grist mill. The present height of that dam is about 12 feet. The power, as at present developed in that location, has not proved profitable. The company has got into difficulties financially; and, as I understand it, it is practically in the hands of the bondholders. The company had under consideration, and has had since 1904, the further development of that power, both by raising the height of their dam, which they have a right to do under their charter, and by carrying a canal below their dam, across a strip of land which they own, at a level of about 10 feet below the present dam, there being that amount of fall in the river, below their dam.

This Canaan Power Co. originally was a private corporation, but in 1907 it was granted a right to sell or distribute electricity in a certain area immediately surrounding their plant; and they are now a quasi-public corporation. That is the situation on the river at present. Now I ask your attention briefly to the proposed change. The Shawmut Manufacturing Co. ask the privilege of raising its dam seven feet above the present level. That will give them an increased horse-power of about 2000, the flow of the river of that plant being about 4000 cubic feet per second. It is proposed if this change is made, to increase the plant and en-

gage in the manufacture of pulp and paper on a larger scale. The effect upon the river above, of course, will be a good deal of territory that is now not flowed. Elaborate plans were represented before the committee as to what the flowage would be, but they did not in fact show precisely what the flowage would be, because it appeared in evidence that those plans had been made to show the level of the proposed top of the new dam—the exact level, but it appeared that the actual flowage would be anywhere from four to 10 feet above that level of the dam, according to the height of the water on the dam and the amount of backwater that accumulated up the river.

Now it is not claimed—or this is not denied by anybody—that they had a right, under the present mill acts, to raise their present dam. The only purpose of this charter, so far as giving them a right is concerned, would be to fix the height of the dam, because under the act, a jury would have a right to limit the height. The height being considered in respect to the proposed dam will flow a good deal of territory, flowing the County road, at some seasons of the year to a depth of from six to 10 feet. That is not in controversy in this particular matter, because that is taken care of under the general law.

The proposed raising of this dam by the Shawmut Co. will, however, flow out the undeveloped water privilege and power privilege of the Canaan Power Co., that portion of it which is below their present dam. It is on that point that the committee divided; and on that point I wish to submit what the present law is, what the present rights are, and the question of whether or not the Legislature can reasonably give to the Shawmut Manufacturing Co. new rights, as against the Canaan Power Co. That is the only question in this case.

The law at present as outlined in what is known as the mill act, Chapter 94 of the Revised Statutes, is very plain on the question of the comparative rights of mill owners. In the first place, the right to flow land will not vest in any owner under the common

law below any land except his own, but under the mill act, upon the theory that it is for the public good that power shall be developed, mill owners have been given the right and do have it, to place a dam across a stream to flow land not their own for the purpose of manufacturing or using the water power. That right does not give the mill owner any title to the land. There is one important exception, however, to that right, and that is that it must be exercised subject to any other rights existing on the same stream. And that has been very clearly outlined in the decision of the court to which I wish to call your attention.

With your permission, I will read a part of the decision that applies to this existing right. It is a decision given by Chief Justice Emery in 1901 in the case of the National Fibre Board Co. vs. the Lewiston & Auburn Electric Light Co., 95 Me., 318.

"At common law no person could maintain a dam, even upon his own land, and thereby flow water back upon the lands of riparian owners above. By our "Mill Act," R. S., Ch. 92, any person may build upon his own land across a non-navigable stream a water-mill and dams to raise a head of water for working it, and may thereby flow back the water of the stream upon the lands above as high and as far as he deems necessary for the profitable working of his mill, subject only to the conditions and restrictions named in the act itself. The land owners must submit to the flowage, and content themselves with the pecuniary compensation to be obtained through proceedings provided by the statute. Such mill owner can also in the same way increase the height of his dam and the extent of the flowage from time to time as the exigencies of his business may seem to him to require, he making increased compensation for the increased flowage.

But there is one important and absolute exception to the above named statutory right to retard the natural flow of a stream. "No such dam shall be erected (or canal constructed) to the injury of any mill (or canal) lawfully existing on the same stream." Section 2 of "Mill Act," R. S., Ch. 92.

It follows, as a corollary, that when a second mill has been built above the flowage of the first and older mill and dam, such flowage cannot be increased by raising the dam or by other appliances, so as to lessen the original efficiency of the mill above. Whatever the greater age of his mill, the right of a mill owner to increase his head of water ceases when the flowage begins to injure the operation of a mill, however new, if already lawfully erected before the injurious flow began. So long, however, as the additional flowage does not reach up so far as to injuriously effect some mill by that time lawfully erected, the right to increase the flowage is unlimited except as limited by the statute itself. This increase can be effected by raising the height of the solid dam, by the use of flash-boards, or by other appliances. The owners of unoccupied water powers, or mill sites, must submit to have them flowed out and made useless, and must content themselves with the statutory compensation. When, however, a mill is once lawfully erected above him, the lower mill owner is then limited to such flowage as he has made or appropriated before the upper mill was built.

In other words, a mill owner can at any time appropriate for raising and maintaining a head of water for working his mill so much space in the river valley as has not already been appropriated by some other mill owner for his own mill. This appropriation, however, must be actual to become a right. It cannot be by mere proclamation, nor even by merely marking limits. There must be an actual occupation of the space by a head or pond of water raised by dams actually constructed of the requisite height and efficiency to raise such head."

The law is then, in brief, that the owner who develops the privilege first has a right to it. The bearing upon this case is simply this: This part of the privilege at present below the dam of the Canaan Power Co. is not developed. Plans had been made and had been under the consideration of the company, and later under consideration by the bondholders for the purchase of extra flowage rights, and to

rights of flowage above for the sake of developing these powers; and you can readily see that there is a good deal of difference between a power of 25 feet and of 12 feet for a head.

I want to call your attention for a moment to the clause that is under dispute, "But the said Shawmut Manufacturing Co. shall not be restrained or prevented from the prosecution and completion of the work of rebuilding or raising its dam by reason of the owner or owners of any such power or dam site beginning to develop or build upon the same after the passage of this act by this Legislature."

In its first form in which it was presented to the committee was in the form of prohibiting the owners of an undeveloped water power from beginning to develop after the passage of this act for a period of three years. The effect of the two propositions is the same, as I think you will see, only in different language. Here is where the minority of the committee disagree with the majority. We are asked in this clause of this charter to say, practically, to the Canaan Power Co.: You shall not develop the rest of your privilege until after the Shawmut Manufacturing Co. has made their development. In other words, you must sell that part of your privilege and take what some jury will give you for it. The reason that the Shawmut people ask it is that, owing to the nature of the case if the two concerns start to make their developments at the same time, the Canaan Power Co. have the less work to do and can get the job completed sooner, and therefore, under the general provisions of the "Mill Act," restrain the Shawmut Co. from making those developments, and increasing the height of the water.

On this question, first, I want to deal with the general proposition put up to you by counsel, I have no doubt that it has been put up to the committee—that is, that it is a pity to allow a great development like this to be impeded by a relatively small interest on this little stream—that it is a pity to allow an expenditure of two million dollars for a pulp mill and a development of 2000 horsepower, which is worth \$66,000 a year, to be held up and impeded

by a relatively small right on this little stream. We all of us agree to that—that it is for the common interest to have this great development made. I haven't any objection to that, nor has any member of the committee; but I want to call your attention to the precise thing we are asked to do in this case, to make that development possible. We are asked to give the Shawmut Manufacturing Co., a private corporation, the right of eminent domain so far as that portion of the property of the Canaan Co. is concerned, which is below their present dam. It is not in controversy that the Canaan Co. have this right. There is some question as to the ownership on different sides of the stream. The shore people assume this right because asked to be restrained, and ask that you shall sell that part of your privilege. That involves the question, under what circumstances is the Legislature authorized to say to one corporation, you corporation, you may take the property of another corporation and the damage shall be appraised, assessed and awarded by machinery applied to it. Under what circumstances have we a right to say that? The question has been very carefully covered by decisions of the court and I want to read an extract from an opinion of the court in the case of *Brown vs. Gerald*, 100 Me., Page 360, opinion by Mr. Justice Savage:

"The private property of one cannot constitutionally be taken by another under the sanction of legislative authority, without the consent of the owner, except for public uses, and then only in case of public exigency."

"A public use such as justifies the taking of private property against the will of the owner cannot rest merely upon public benefit or public interest, or great public utility. It implies a possession, occupation and enjoyment of the property taken by the public at large, or by public agencies. That only can be considered a public use where the government is supplying its own needs, or is furnishing facilities for its citizens in regard to those matters of public necessity, convenience of welfare which on account of their peculiar character and the difficulty or im-

possibility of making provisions from them otherwise, it is alike proper, useful and needful for the government to provide."

Now remember this Shawmut Manufacturing Co. is a private corporation. It has, under the general law, the right to flow back of its dam on the general proposition that "public use" within the meaning of this decision requires that that general power shall be given. It has not, under the general law, the right to take property under eminent domain, except in this way, for this public use. And by this clause we undertake to give this Shawmut Manufacturing Co. that right as against the Canaan Power Co.

Now the important thing in this whole discussion is not the case of the Canaan Power Co. or the case of the Shawmut Manufacturing Co., it is the principle at stake. It is the general principle that is at stake, the question of whether the Legislature shall undertake to do this thing. At the outset, when this suggestion is made, we are met with this objection: when the suggestion is made that these owners shall be cut out on the ground that we have no right to it, we are met with the objection that if the Legislature has no right to do it and the matter is unconstitutional, it will be taken care of by the courts. I do not undertake to pass upon the unconstitutionality of this proposition, but I say this, if we believe it to be contrary to the spirit of the Constitution, and something the Legislature has no right to do, but in this particular instance the question whether it is unconstitutional or not is material to this extent. You must remember that the Shawmut Manufacturing Co. needs on this matter, in order to gain adverse rights against the Canaan Power Co., delay; and that is all they need. All they need is delay on the question long enough to make their development; and even if the matter should be held to be unconstitutional and be contested and thrown out, the delay would be accomplished in the meantime.

On the question of the actual condition of these two companies, I want to say a word. The Shawmut people pro-

pose to make a development amounting to two million dollars. The dam would only cost about two hundred thousand. They propose to build an addition to their mill and they propose to gain by this dam two thousand extra horsepower. The Canaan Power Co. have given an option on the right that is in controversy for the sum of \$12,000.

Now the whole question between the minority and majority report is simply this, whether the Legislature shall undertake this doubtful and, as it seems to me, unconstitutional—whether the Legislature shall pass this doubtful and unconstitutional provision for the sake of saving the Shawmut Manufacturing Company the difference between the price asked by the Canaan Power Company and what they think they might get under an award.

I want to call your attention to another thing. I said the effect of this was just the same as the other provision which prohibits the Canaan Power Company from making this development; because, in the first place, the bill provides for compensation for the undeveloped site. Suppose they begin construction. They face the possibility of having nothing allowed them for an undeveloped site. It seems to me there is another question; under the law as it is now, this charter as it is now, providing the majority report is accepted, the Shawmut people would be restrained or precluded in the prosecution of the plan. It means they must not develop it, as I look at it. It means that if they develop it they shall not be allowed anything except for the original undeveloped dam site. This involves in other words, the very important question of the comparative rights of owners of water powers. It involves the important question, under what circumstances the Legislature has the right to give a corporation a right of eminent domain to take the property of another and allow compensation to be determined by award. The view of the minority committee is that while they have no objections to the development—while they wish to encourage in every reasonable way this particular development and all such develop-

ments, that this is a dangerous precedent and something we ought not to do the circumstances of the case being as they are, and that a payment of \$12,000 that is asked will be a small matter to stand in the way and will not stand in the way of such a large development.

Mr. WARREN of Cumberland: Mr. President: As representing the majority report, I wish to defend that report as against the very able argument that has been made by Senator Milliken in favor of the minority report. In doing this, I admit that it is a legal question; and I labor under the disability of not being a lawyer, but must state the thing according to the facts as I see them.

This is one of the most important questions that has come before us this winter, relating to our interior waters. I have entire respect for the position which Senator Milliken occupies. I do not differ with him in regard to the statement of facts, which statement I do not need to repeat except to a small extent perhaps as it appeals to me. Here is the question of a larger development of the Kennebec river which is to come about by raising a dam already 12 feet in height another seven feet, and flowing it out of that seven feet may cover by it more or less. This as has been stated could be done under the common law except as to the limit of height, and except for this one question of its interfering with the rights of the Canaan Power Company. The rights of all parties along the river in regard to flowage will be amply taken care of under the common law. They appeared before the committee, and as was quite natural protested against the raising of this dam, but the raising of this dam is a very proper thing if we are to conserve our water power. It is one of the things that ought to be done and it can be done only in this way.

Here is seven feet of the flow of the Kennebec river that is unutilized. It could not be developed independently. Of course, another dam could be built above the Shawmut dam, raising the river to the height of seven feet, but a seven foot fall is very unsatisfactory and 12 foot fall is unsatisfactory for

the modern uses of a water power. Again, a water power with its 12 feet fall would be inadequate for a mill which the owners would like to build. It develops about 3000-horsepower with a 12 feet fall, and if the dam can be raised the other seven feet, giving 19 feet, it would increase the horsepower to 5000, being an increment of 2000-horsepower. It cannot be done in any other way. Two thousand horsepower, if we are to conserve our water power is no unimportant matter. The general average flow of the Kennebec river will presumably be increased in the years to come and the amount of water power gathered will be somewhat more than that. How much that 2000-horsepower is worth to the State now it is not easy to state. It is quite natural to compute our water powers in terms of coal, and that will be done more and more in the future. A horsepower is worth, according to the common use of steam, not less than 10 tons of coal per horsepower per year; so that 2000-horsepower would be equivalent to 20,000 tons of coal. We are apt to think of our water powers as coal savers. That is just what they are. They are perpetual coal miners, and it might be suggested that by the waste of water power like this, we are suffering a loss to the State of Maine of 20,000 tons of coal per year. This ought not to be done unless there are good reasons for it.

The matter of flowage, as I state, is amply taken care of under the common law, except so far as the question of this Canaan Power Company is concerned. This is situated upon a side stream coming from the east, having a drainage area of about 75 square miles and a small pondage. Its total value, under the normal flow, would be less than nine horse-power per foot of fall. There is a development belonging to this same Canaan Power Company, I understand, further up the river, and then one near the point at which we come in contact, having about a 10-foot fall, and below this there is another fall of about nine feet which is unutilized, which was not taken in in the former developments of this power, which was some time ago, nor has it been taken

in during the contemplated improvement of it, which I think Senator Milliken stated was in 1904, when they obtained the charter. They have not taken it,—they have not utilized it. The raising of this Shawmut Dam would flood this to the extent of something like five feet, taking perhaps half of it. I readily admit, that in taking a half, they may as well take the whole, for if it is doubtful whether they can afford to develop for the whole, they certainly could not develop for a half. And so they are developing the water power to the extent of taking the whole of this undeveloped power. Now this power, if we take the whole of it as nine feet, and nine horse-power per foot, makes 81 horse-power that will go to waste in not conserving the 2000 horse-power that comes into the Kennebec River.

Might does not make right. A large power ought not to stand in the way of the development of a smaller one, and yet with our knowledge of water powers, we very well know that the day of the small water power has gone by. In the early days of the country they needed to develop these little powers because they did not require much power and they needed them to grind the grist, and to saw the lumber, and for other domestic uses, and all that sort of thing; but that thing is done more largely by steam now, with greater economy, and a sawmill may be set up in the immediate vicinity of awater power and run by steam. It is only in the larger way that water power is valuable, and I know as well as I know anything that it will not pay to develop that water power.

It is perhaps not in the business of the legislative department, but I think it may, in its judgment, say that here is an impracticable scheme,—that it would not pay to use that. I know well enough that that water power never would be developed on its merits. If it is to be developed at all, it will be developed to hold up against this larger development, and in shutting this off, as we undertake to do by this statute, we simply hold them up from doing something which ought not to be done. We do not deprive them of any moral right which they have. We do not deprive them of any right to make money, for it

would be a financial risk and loss, rather than a financial benefit, for then to do this thing. It does not seem to me that we are exceeding our rights in saying to these people, you have had this property all the time, long enough to enable you to develop it. We granted you in the year 1904 a charter to extend your rights so you could develop electricity somewhere within your region, but in the five years that have elapsed you have not taken advantage of that charter and now comes in a larger company which wants to do a larger thing and to do it more immediately, and you shall not stand in their way. If you had wanted to improve this, you should have done it. You have had ample time. You could only do it by our granting to you a right of eminent domain, and that right you have not exercised, and consequently we recall it and give it to this larger company who propose to do something; and if they do not do something in the next five years, we will again I believe have a right to deprive them of their charter and give it to someone who would act.

So far as the constitutional question is concerned, I have to say only this, I do not know whether it is constitutional or not. I am not a lawyer, much less a constitutional lawyer, and we here in the Legislature have not come in sight of this question of the Constitution. If we do the thing that is not constitutional, as Senator Milliken has already said, the courts will decide against us, and we have done nothing. If we do not do things right, we do nothing at all, and so our judges and our courts are there to protect the State against the possible unconstitutional acts of the Legislature. Now I have great respect for our Constitution. I would not be one to take away at all from its dignity or its character. I admit that we make a too common use of it and that we put some things into it that ought to be left out, and that we do not treat it with respect enough. But yet, our Constitution is made largely to protect us against the unwisdom of the future—is it not? And in doing this, does it not sometimes hinder us from taking advantage of the wisdom of the future? Our Constitution is not a God to stand off from

and to be worshipped. With all its dignity, it is not our master. It is our servant. We cannot help sometimes coming in contact with it, as we move along in this matter. New occasions bring new duties. Time makes ancient good uncouth even in the development of water powers; and it seems to me it is not strange that we should as a Legislature, in our laws, sometimes close the distance, and because the Constitution ought to have a wide gap between it and the statutes, I suppose in theory, and I do not think it strange, that we should even close and narrow that gap, and sometime—to use a common expression—butt up against the Constitution pretty closely. It is not the thing to condemn our action because we love the Constitution but do not overrate it and that is a question for the courts to decide.

In taking the action which the majority committee have taken here, they only say to these people, you have not taken advantage of the rights which belonged to you. We do not believe that you can take advantage of them with profit to yourself. We do not believe that you will take advantage of them, it will only be because of your ability to exact terms from this other company. Nevertheless, we will leave that question to be decided by the courts, as it must be if it is not decided by compromise. We only say to you that you shall not have the right which you otherwise might have to hold up this company and prevent its action.

As Senator Milliken has already said, here is a large water power development, involving a new dam and it would take one or two years to do this. The little one above could be developed within two or three months and they could absolutely hold up the development of this lower power. Would that be right? Would that be in the interest of the State? Would it be good policy? I imagine that Senator Milliken would say it would not be good policy but, are we doing wrong? We are doing this Canaan Power Co. any moral wrong. We are not depriving them of any financial interest or any advantage they might have. We are only holding them up from the

possible exercise of a legal right. We are to my own mind somewhat defining more closely this question of the right of eminent domain. I understand that it is not without precedent, that a similar case has occurred in a development on the Penobscot river, where like action was taken by the Legislature. I cannot quote it in detail, but that it has not been held to be unconstitutional, I am not at all too sure about that. Our action in this case may serve to better define the law than it now stands.

I hope, gentlemen, that the vote to substitute the minority for the majority report will not prevail.

Mr. MILLIKEN of Aroostook: Mr. President: I think I know of the Penobscot river case which the senator refers to, and I suspect that I voted for it in the committee and in the Legislature. But it differs from this in the important particular that, while it flowed out unused water power, it did not provide that the rights of the dam builders should not be restrained by the development of the water power, there being no provision forbidding a future development, if they saw fit to make it.

I want to say further that there are, in my opinion, scores of cases of this precise nature that depend in some sense upon the action of this Legislature on this case. I know of one case where the further development of a power is sought on a river, which depends on this bill.

And remember this, that this has nothing to do with the question of undeveloped water power. If they do not develop it the Shawmut Co. has no reason to ask for this provision. It is precisely because the Shawmut people think they intend to develop it that they ask for this clause.

On the question, why they have not developed it, I think I have made plain that the present power is worthless and the present company has failed in trying to develop it. And if the proposed plant is to go there, they must have this extra development and the bondholders have invested money in good faith for the storage rights above that dam for the purpose of making

that development, and the charter for electricity was not granted until 1907. Prior to that, in 1904, they did not have a charter to distribute electricity.

We have invested several thousand dollars in settling damage claims for flowage. Practically all of these have been settled except one or two. The larger ones have been adjusted. And the question of whether its development is going to be held up is simply a question of whether the proposed development of 2000 horsepower will be held up by its promoters on account of the payment of \$12,000 to this Canaan Power Co.

I do not know what the Canaan Power Co. rights are. Nobody but the law court could probably decide it. But I am very clear about this, that this Legislature has no right to diminish the property of the Canaan Power Co., whatever the value may be. They have no right to do anything that will decrease the value of that property one dollar, whatever it is. This may be illustrated precisely by the situation that exists when I, or anybody in the lumber business, go to a place to establish a mill. And it has been within my experience to get to this place where there was nothing but a river or farms, used for farming purposes, and when you try to get an option on those farms, you cannot get the owners to say what they will take. His farm is not worth any more to him for any other purpose than it was before, but he has found that you want it and he charges you more for the property than he would have done if he had not known that you wanted it. We do not know in this Legislature what the existing rights of these parties are. We cannot give the Shawmut Manufacturing Co. any additional right as against the Canaan Co. We cannot take away something from the Canaan Power Co. And it is on that proposition that the minority committee have reported cutting out this one clause from the bill. I would ask when the vote is taken that it be taken by the yeas and nays.

Mr. WARREN: Mr. President, One word more I would like to say in regard to this illustration which the senator from Aroostook has made in

regard to the purchase of land, because to my mind it is not quite parallel to this case. As I understand it, a man does not hold the right to develop a water power by the same title by which he holds his land. As I understand it this Canaan Power Co. can develop this lower nine feet only by right of eminent domain, which has been granted by the State in the statute.

Mr. MILLIKEN: Will the senator yield for a moment. The land on which the canal is to be made is held now in fee by the Canaan Power Co. The Shawmut Manufacturing Co. owns the other side of the stream a part of the distance, but there is no question about the ownership of the land on which the canal is to be built and development made.

Mr. WARREN: Mr. President: There is no difference between us on the statement of facts. They will, however, under the act, which is a part of our water development acts—I do not know by what name to call it—they will take the water away from the other side of the river, a thing they would not have a right to do under the common law, if it were not for this law enlarging the scope of the right of eminent domain by the State in the development of water powers.

I wish to say in regard to the matter of agreement as to the price, it is I understand—it has been stated—I suppose it is true—that the Power Company have given the Shawmut Manufacturing Company an option on property at the price of \$12,500. I do not believe myself that will stand in the way of this development, if the bill is turned down. It is a question in my mind whether it was good policy for the Company to come here to save that \$12,500, but I do say that this Company coming into the State with a proposition to spend two million dollars to build a pulp and paper mill, does not like to be held up at the beginning of their work with something of this kind. They think that the Company coming in here has money to burn. No one likes to pay more than he ought for a thing; and if we have the right, we ought to prevent a company like that being put into the hands

of men who will hold them up without due reason.

Mr. DONIGAN of Somerset: Mr. President: Although I have lived over 40 miles from the place where this proposed dam is to be built, it is in my county and I take great interest in this mill being built. If \$200,000 is going to be expended there, and I understand it will build up the village of Fairfield and bring over two thousand more people there, I think this small concern, the Canaan Water Power Co. should not keep them back. I understand that the Canaan Power Co. have failed up two or three times and they are not in position to build anything there, even if the Shawmut Co. does not take them as they mention. I believe it is simply a holdup. Fairfield is one of the towns that has had the hardest luck within eight or 10 years of any town in the State of Maine. They have had gold bricks thrown at them and the village was partly burned up and the mills burned up, and it seems as though we ought to take hold and give this company a chance to develop there. I think we should sustain the committee's report.

Mr. SHAW of Kennebec: Mr. President: It is not my purpose to weary the Senate at this time with any extended argument on this matter. I will simply say that this proposition of the Shawmut Manufacturing Co. to raise the dam seven feet and to spend between two and three million dollars means very much to Fairfield and the surrounding sections. It is a large amount of money and it will call for a great amount of labor to construct the plant. It will increase the population of Shawmut and will help that section very much. As to the Canaan Power Co., that is located in my town. I know the circumstances well. They have a little mill there and have been doing a little lumbering operation. They cut and log on that stream. They have taken the machinery out of the mill. It is run down and practically worthless. They bought that privilege, I understand, for \$1,050 and I have heard it reported they had asked this Shawmut Manufacturing Co. as high as \$5000 for this privilege. You can see very readily they have a little

hold over this Shawmut Manufacturing Co. I hope that the motion of the senator from Aroostook will not prevail, because I believe the majority committee is right and I believe this company should have the privilege granted to them. I believe they would pay to the Canaan Power Co. every dollar the property is worth and more; and I believe such an enterprise coming into the State of Maine should not be hindered.

The PRESIDENT: The matter under consideration is the act relating to the Shawmut Manufacturing Co. Upon this two reports are presented and both reports are accompanied by a bill. The difference between the two bills has been clearly stated by the senators who have spoken. The pending question is upon the motion of the senator from Aroostook, Mr. Milliken, to substitute the minority report "ought to pass" upon a bill accompanying such report, for the majority report, which also reports a bill in a different form.

The yeas and nays were called for and order and the vote being had, resulted as follows: Those voting yea were: Messrs. Keillogg, Milliken (2). Those voting nay were: Messrs. Baxter, Boynton, Colcord, Donigan, Eaton, Emery, Gowell, Hastings, Hill, Howes, Irving, Knowlton, Looney, Macomber, Minott, Mullen, Osgood, Reynolds, Shaw, Smith, Staples, Theriault, Walker, Warren, Wheeler, Wyman (26).

So the motion was lost.

Thereupon the majority report was accepted, and on motion by Mr. Howes of Somerset, under suspension of the rules, the bill took its two several readings and was passed to be engrossed.

On motion by Mr. Mullen of Penobscot House Amendment No. 650, "An Act to amend the charter of the city of Old Town, and provide for a referendum of the legal voters of the city of Old Town," was taken from the table; on further motion by the same senator the bill took its second reading, under suspension of the rules, and was passed to be engrossed.

Mr. WHEELER of Cumberland: Mr. President, I desire the consent of the Senate to introduce at this time a bill relating to the collection and payment of county taxes by the State treasurer; and

if I am permitted to introduce the bill I shall then move that it take its several readings and pass to be engrossed at this time without reference to a committee. I will say that this bill has just been handed to me by the State auditor, prepared by him with the approval of the State treasurer for the purpose of providing a more business-like administration of their offices. Under the present law the county commissioners of counties in which there are wild lands report the wild lands, certifying the amount to the State treasurer, and the tax is then collected. Under the procedure which prevails at present the State credits and pays to the county the amount of the assessments regardless as to the question of whether the taxes are collected or not. At any rate the payments are made by an appropriation which depends upon an estimate made by the State auditor and State treasurer. This bill merely provides that the State will pay to the county the amount of such taxes when the taxes have been collected by the State. I desire, therefore, that I may be permitted to introduce the bill at this time.

Thereupon bill "An Act to amend Chapter 41 of the Revised Statutes as amended by the Public Laws of 1905, relating to the collection and payment of county taxes by the State treasurer," was read by the secretary of the Senate, and, under suspension of the rules, took its two several readings without reference to a committee and was passed to be engrossed.

On motion by Mr. Staples of Knox House Document No. 537, "An Act to amend Paragraph 20 of Section 1 of Chapter 116 of the Revised Statutes of 1903 as amended by Chapter 120 of the Public Laws of 1905, relating to sea and shore fisheries," was taken from the table; and on his further motion the bill took its second reading under suspension of the rules, without reference to a committee, and was passed to be engrossed.

On motion by Mr. Mullen of Penobscot the Senate reconsidered its vote whereby it passed to be engrossed Bill "An Act to amend Section 41 of Chapter 9 of the Revised Statutes," and on further motion by the same senator the bill was laid on the table.

On motion by Mr. Macomber of Kennebec Senate Document No. 440, "An Act to provide for the transfer of patients in insane hospitals to the Maine School for Feeble Minded," was taken from the table. On further motion by the same senator Senate Amendment A was adopted; and on his further motion, under suspension of the rules, the bill took its second reading without reference to a committee and was passed to be engrossed.

On motion by Mr. Hastings of Oxford, under suspension of the rules, "Resolve in favor of plantation of Magalloway in Oxford county," was received; and on his further motion took its two several readings, without reference to a committee, and was passed to be engrossed.

On motion by Mr. Warren of Cumberland Senate Document 439 was taken from the table, and on his further motion Senate Amendment A was adopted and the resolve, namely: "Resolve in favor of free coal," under suspension of the rules, took its second reading without reference to a committee and was passed to be engrossed.

On motion by Mr. Baxter of Cumberland House Document No. 435, "An Act to authorize the city of Portland to retire and pension members of its fire department," was taken from the table; and on his further motion the vote was reconsidered whereby the bill was passed to be engrossed. On further motion by the same senator Senate Amendment A was adopted and the bill as amended was passed to be engrossed.

On further motion by the same senator, "Report of the committee on military affairs," "ought not to pass," on "Resolve for commissioner officers providing for full dress uniform," was taken from the table; and on his further motion the report was accepted.

On motion by Mr. Gowell of York Senate Document No. 437, "Resolve to aid in the extension of the Kineo road from the Smith farm to the Northeast Carry," was taken from the table; and on his further motion the resolve took its second reading and was passed to be engrossed.

On motion by Mr. Reynolds of Kennebec the Senate adjourned.