

MAINE STATE LEGISLATURE

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Legislative Record

OF THE

Seventy-Fourth Legislature

OF THE

STATE OF MAINE

1909

ERRATA:

**The following errata are
inserted because one or more pages
in this session day have errors
noticed and corrected here.**

ERRATA.

Page 39, for Long Monson Pond read Long Mousam Pond.

94, after the words "Probation Officers" omit the words "relating to State Detectives."

105, 302, 316 and 333, for State Prison read State pension.

118, 146, 165 and 170, for supplementary associations read supplementary assessments.

168, for Coolidge River read Cambridge River.

174, for \$50 read \$50,000.

182, for Oakland read Oakfield.

185, for Rines road read Kineo road.

219, for Mineral Spring Co. read Merrill Springer Co.

226, for investigation of vital statistics read registration of vital statistics.

243, for town of South Portland read town of Southport.

309, for town of Wales read town of Wells.

325, for foreigners read coroners.

343, for Bed Cambridge River read Dead Cambridge River.

360, for boys read buoys.

377, for Corners Knob read Conary's Nub.

377, 462, 496, for Prescott read Trescott.

379, for Pittsburg read Phippsburg.

462, 496, for Chronological read Pomological.

494, for Township E read Township 2.

510, 538, for Central Railroad Co. read Jonesport Central Railroad Co.

520, for Penobscot Electric Co. read Penobscot Bay Electric Co.

525, for Colcord read Concord.

544, 556, for town of Brewer read town of Bremen.

551, 587, for Monmouth Ridge Sanitary Association read Monmouth Ridge Cemetery Association.

646, for Androscoggin Valley Company read Androscoggin Valley Railroad Company.

648, for Central Fire Insurance Co. read Central Maine Fire Insurance Co.

654, 670, for Jimmy pond read Jimmy brook.

655, 671, for Straw's Island read Swan's Island.

667, for transmitted in Maine read transacted in Maine.

677, 698, for municipal court in town of Portland read municipal court in town of Farmington.

687, for Trusett read trustee.

700, for pension members of Building Commission read pension members of Fire Department.

788, for Howard read Howland.

835, for Chapter 138 of the Public Laws of 1905 read Chapter 138 of the Public Laws of 1895.

844, for bridges of municipal officers read duties of municipal officers.

928, for identifying animals read identifying criminals.

974, for Herbert A. Bradford read Herbert A. Lombard.

1022, for Stonington Trust Company read Stonington Water Company.

1064, for Biddeford read Portland.

1244, for Daniel's Pond read Donnell's Pond.

1275, for Acatus Lake read Nicaeous Lake.

1313, for establish read abolish.

SENATE.

Friday, April 2, 1909.

Senate called to order by the President.

Prayer by Rev. Mr. Hope of Augusta.

Journal of the previous session read and approved.

The order relating to the appointment of a joint committee of the Senate and House with relation to investigating the system of committee hearing advertisements, was indefinitely postponed in concurrence.

An Act conditionally repealing Chapter 92 of the Public Laws of 1905, relating to the better enforcement of the laws against the sale of intoxicating liquors. (On motion by Mr. Hastings of Oxford, the Senate concurred with the House in the indefinite postponement of this bill.)

An Act to incorporate the Milo Water District. (On motion by Mr. Knowlton of Piscataquis, the Senate concurred with the House in the indefinite postponement of this bill.)

An Act in relation to the collection of taxes by the State officials and the payment of same to the State Treasurer. (This bill was by the Senate passed to be engrossed. By the House it was passed to be engrossed as amended by House Amendment A. On motion by Mr. Milliken of Aroostook, the Senate voted to reconsider the vote whereby the bill was passed to be engrossed. On further motion by the same Senator, House Amendment A was adopted in concurrence and the bill as amended was passed to be engrossed.)

The majority report from the Committee on Judiciary, on bill "An Act to provide for the nomination of candidates of political parties by primary elections," that same "ought not to pass," and the minority report A from the same Committee on same bill, submitting same in new draft, under same title, and minority report B, from the same committee on the same bill, that it "ought to pass," came from the House with the majority report accepted.

Mr. MILLIKEN of Aroostook: Mr. President: I do not as a rule advocate

the reference of matters to the next Legislature. This is a matter, however, on which it seems to me that action may as well be taken. I think most of us will agree with the majority of the committee on this bill, that it ought not to pass. Perhaps we would not be willing to say that we felt any action should be taken on this subject. I was, of course, too late in the session to agree upon anything or to devise any suitable bill. I wish to say that I have consulted with members of the committee and, with their approval, I move that the bill and the report be referred to the next Legislature.

Mr. LOONEY of Cumberland: Mr. President: I signed one of the minority reports, of which there are two, one by Mr. Davis and the other by myself. I believe in the principle of the bill which the minority members recommended, but I realize that, practically speaking, there is no possible chance of securing favorable action by this Legislature, and especially in view of the action of the House. I think the best thing to be done under the circumstances, is to refer the bill, as suggested by the senator from Aroostook, to the next Legislature.

Mr. HASTINGS of Oxford: Mr. President: That disposition of the matter is agreeable to me. I think if the committee could have made a unanimous report of the matter to the next Legislature, it could have been done so in the beginning, but we could not agree and so there was a divided report.

The question being put upon the motion of the senator from Aroostook, Mr. Milliken, that the bill with the accompanying reports, be referred to the next Legislature, the motion prevailed.

Reports of Committees.

Mr. Irving, for the committee on temperance, on "Remonstrance against resubmission and petitions in favor of the Hastings bill, so-called," reported that the same be placed on file.

The following committees submitted their final reports:

Committee on temperance.

Committee on railroads and expresses,

Committee on commerce.

Passed To Be Enacted.

"An Act in relation to the Limington Public Cemetery Association."

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

"An Act to amend Section 11 of Chapter 8 of the Revised Statutes, relating to the duties of State assessors."

"An Act for the propagation of shell-fish on the coast of Maine."

"An Act to amend Section 41 of Chapter 9 of the Revised Statutes, as amended by Chapter 63, Section 1, of the Public Laws of 1905, relating to the collection and payment of county taxes by the State treasurer."

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

"An Act to amend Section 15 of Chapter 4 of the Revised Statutes, relating to the election of road commissioner."

"An Act prohibiting the depositing of sawdust and other mill waste in Jackson mill stream and Joe Weeks' mill stream, in Lincoln county."

"An Act to prohibit the taking of scallops in Pennamaquan and Cobscook bays, from April 1 to October 1 of each year."

"An Act to provide for the uniform grading, packing and branding of apples." (On motion by Mr. Shaw of Kennebec, this bill was tabled).

Finally Passed.

"Resolve in favor of payment to the Central Maine Fair Association, of the balance appropriated by Chapter 79 of the Resolves of 1907."

"Resolve in favor of the clerk and stenographer of the committee on mercantile affairs and insurance, and of the committee on telegraphs and telephones."

"Resolve in favor of secretary of committee on State School for Boys, and committee on public health."

"Resolve in favor of the clerk to the committee on education."

"Resolve in favor of clerk to the committee on labor."

"Resolve in favor of clerk to the committee on ways and bridges."

"Resolve in favor of the messenger of the committee on railroads and expresses."

An Act to authorize cities and towns to permit the use of lunch wagons on public ways. (This bill came up on its passage to be enacted, whereupon Mr. Staples of Knox moved that the bill be indefinitely postponed).

Mr. STAPLES of Knox: Mr. President: Upon that matter there were two reports, a minority and a majority report. The minority report was signed by myself and Senator Hamilton, upon the ground that we believed that the city of Portland, to which this bill referred, should not be used for any other purposes than those designated by the statutes, and, for that reason, we made a minority report. And, after a great deal of discussion, while the majority report was signed by eight and the minority report by two, I move at this time, believing that public streets of a city ought not to be used for that purpose any more than the purpose of one who wants to sell clothing or anything else upon the streets, or for any purposes other than those designated by the statutes, that the bill be indefinitely postponed.

Mr. KNOWLTON of Piscataquis: Mr. President: I can see no reason whatever for taking that action in regard to this matter. Everybody present, who has any knowledge of Portland or cities of that size, knows that it occurs very frequently at night that a man wants to get something to eat and the only way to get it is either to go into a restaurant, or get it from the street carts. A good many restaurants, especially at night, are places one does not want to go into, and when they do go there, they are liable to get that which they wish they had not partaken of. These lunch carts as they are conducted in a city are specimens of utter neatness. The food is well cooked and well prepared, and the wagons are conducted in such a way as to be inviting. I can see no reason whatever if the city of Portland wants to have lunch carts, why we in Augusta, or anybody, should object to it. This puts it entirely in the hands of the authori-

ties in Portland, and, if they do not want it passed, they need not license the lunch wagons, and, if they do, why should they not license them. It seems that it is none of our affair, except to give them that privilege.

Certainly, my experience in three or four instances has shown me that the lunch cart would be a fine thing. I remember one night I was at Old Town about 11 o'clock, and I could not get anything to eat at the hotel, and I went to a restaurant. I ate something there compounded of various ingredients—I know not what, but I knew that the stuff I ate should never have gone into the stomach of either man or ostrich. If they had had a lunch cart there, I should have gone to it that night.

Mr. GOWELL of York: Mr. President, this bill was referred to the committee on legal affairs. At the hearing the proponents of the bill presented a petition, signed by 800 people of the city of Portland, asking that this bill be passed giving the city authority to permit the use of lunch carts in the public streets. It seems that lunch carts have been licensed by the city authorities for several years, but there has been some question as to whether or not the city authorities have a right to grant such a license without legislative enactment. The petition was supported by about 50 letters from leading citizens and taxpayers, and from the evidence presented at the hearing it seems that the lunch carts have been conducted in a creditable way and have given good service to the people. I think the people who signed the petition were mostly railroad men, who work a portion of the night and find it very convenient to patronize the carts. It seems that the people engaged in that business have expended considerable money in fitting up the carts and for the paraphernalia necessary to conduct the business, and they ask to have their business protected.

The opponents of the bill were mostly people engaged in the restaurant business, who claimed that the competition from those carts was unfair, and it appeared that the patrons of the carts would not in many instances patronize the restaurants.

I am not surprised that the question of constitutionality should be raised, because I think very few questions have been brought before this Legislature at this session where that question has not been raised. A majority of the committee thought that this would simply give the cities and towns of the State legal authority to manage the affairs of the town. I hope the majority report of the committee will be sustained.

Mr. STAPLES of Knox: Mr. President, it is true that the members who signed the minority report did consider whether the city of Portland had any right to license these parties to use the streets of Portland for this purpose. I still have great doubts about it, and I think some others have.

There is another side to this question in regard to the injury it might do to one side or the other. They have good restaurants in the city of Portland, open until 12 o'clock or as late as a man ought to be out at any rate, where anybody can get a good lunch. There is no question about that. These restaurants have expended large sums of money and paid large rents and paid taxes in the city of Portland, and their owners are among the best citizens of that city. Now, if a man pays \$1500 a year rent, his water rates, his gas bill and electric light bill, he should have some protection. By this bill these lunch carts pay but a small amount of taxes and can operate against this other man to his detriment. The citizens who are in that business should be protected. They hire their stores, pay their rent and their taxes and then have a lunch cart in their vicinity, which pays but a very small tax. It seems to me that it is an injury to the restaurant keepers. I have no interest in it myself. I believe it to be right, outside of the liquor question that has been developed in this case.

When the motion is taken, I ask that the vote be by the yeas and nays.

Mr. LOONEY of Cumberland: Mr. President, I do not know as I can add anything to what has been so well and ably said by the Senator from Knox and the senator from York. Generally speaking, unless I have very strong and decided convictions against a measure, I believe in supporting the

report of the majority. The committee listened attentively, I presume, to all of the evidence on both sides of this question, and, having heard the testimony and having read the petitions, after due deliberation expressed it as their opinion and honest conviction that this bill should pass.

Personally, having lived in Portland all my life, being born and brought up there, and knowing for the last 10 or 15 years just what a factor these lunch carts are in the community, I will say, with due deliberation, that in my judgment they promote sobriety and temperance. They act as a magnet to draw young people and people who desire lunches from places not too respectable.

Now this matter I think can be safely left with the municipal officers of Portland. I understand by the terms of this bill, it is for the municipal officers of the city of Portland to decide whether these lunch carts shall exist in the city and whether or not they shall receive a license. Why not leave it with the municipal officers in the city or town where they desire to establish these.

My friend from Knox has, in a great many of the very able, eloquent and learned speeches which he has delivered here this winter, with which he has edified and elevated our understandings, urged repeatedly, time and time again, that we ought, in matters of this kind, to follow the principle of home rule. That has been the burden of his song, and yet, he comes up here now and makes an argument diametrically opposite from that which he has been making throughout the entire session. I say, gentlemen, we can safely leave this with the local authorities of each city and town in the State.

Mr. HAMILTON of York: Mr. President and Gentlemen of the Senate: I can see but one reason why this motion should not prevail, which is the reason of my friend, the senator from Piscataquis county. Although he is a very scientific man and knows all about the human system, yet, when he goes into Portland at 11 o'clock, I submit, Mr. President, if he wants a lunch and don't know where to get it, whether he is in a normal condition.

Now, I signed the minority report. This bill does not apply to Portland any more than to any other place in the State. I know that the real estate people of Portland have awakened to the fact that it is an unfair thing for a lunch cart to be in a city where there are very fine lunch rooms and where they are paying a large amount for rent and help and all that sort of thing. I know that these saloons and lunch carts are very handy for people at 11 o'clock at night when they are sometimes in such a condition that they cannot tell what kinds of things they eat. They are very handy and convenient.

But, I say that this bill is against the laws of the State, and the cities now granting a license will not have any more authority to grant them when this bill passes than they now have, because it goes into the question of right of eminent domain, and nobody understands that they can grant a right in this way, as the bill contemplates. If you grant this, you might go on and have everything licensed in the middle of the street. Another thing is that, if you grant such a license and an injury occurs, the city is responsible, and every city must make up for any damage that occurs which grows of their being licensed by the city. The cities are able to license them under this bill, but they would have no more rights under the passage of this bill than without it. It seems to be a sort of legislation which is not called for and that is why I signed the minority report.

Mr. GOWELL of York: Mr. President: Possibly, the lunch carts might be a nuisance in Biddeford, and still, they might be a benefit in the city of Portland and other cities of the State. The provisions of this bill permit a man to be granted a license with the consent of abutting owners. In these cities where the fee is owned by the cities and towns, I believe we can safely leave this matter to the municipal authorities, wherever the bill is sought to be applied.

Mr. HAMILTON of York: I would say in reference to that, that from where my colleague has his office, they do not need any lunch carts, as his

office is right on the bank of the river and New Hampshire is beyond.

The question being put upon the motion to indefinitely postpone, the yeas and nays were ordered, and the vote being had resulted as follows: Those voting yea were: Messrs. Hamilton, Howes, Macomber, Mullen, Osgood, Reynolds, Shaw, Staples (8). Those voting nay were: Messrs. Baxter, Boynton, Donigan, Emery, Gowell, Hastings, Irving, Kellogg, Knowlton, Looney, Lowe, Milliken, Minott, Smith, Warren, Wheeler, Wyman (17).

So the motion to indefinitely postpone was lost.

The committee on appropriations and financial affairs, on order making up the payrolls of the Senate and House submitted the payroll of the House. (On motion by Mr. Milliken of Aroostook, the report was accepted; and, on his further motion, under suspension of the rules, the resolve took its several readings and was passed to be engrossed).

The same committee submitted bill, "An Act to appropriate moneys for the expenditures of government for the year 1909," and that it ought to pass. (The report was accepted, and on motion by Mr. Milliken of Aroostook, under suspension of the rules, the bill took its several readings and was passed to be engrossed).

Orders of the Day.

On motion by Mr. Donigan of Somerset, bill, "An Act to amend Section 21 of Chapter 32 of the Revised Statutes, relating to hunting on Sunday," was taken from the table.

Mr. DONIGAN of Somerset: Mr. President: I desire to read the following amendment: "Sunday is a close time on which it is not lawful to hunt, kill or destroy game or birds of any kind, or any wild animals, except such wild animals and birds as may be found destroying property in the immediate vicinity of one's dwelling house or place of abode, or shoot at marks, or otherwise discharge firearms, except in defence of life or property, under fine of not exceeding \$20 and costs, for each offence."

This bill and this amendment were indefinitely postponed, and I under-

stand that someone who was interested came here and asked to have it resubmitted and it was considered, and this amendment was added to the bill.

It seems to me that it is highly unfair that we cannot kill anything on our farms if it is in the immediate vicinity of our homes. I have a farm seven miles from my place and I intend to stay on that place there, and it seems to me that if I go there and find crows on there, it would be fair for me to have a right to shoot them. Under this bill a man cannot go and kill them on Sunday. It seems to me unfair. Nobody observes Sunday more than I do. Every Sunday that I go home there are people who come to my house and ask me to go to my store and sell something, but I do not believe in it, but I believe that people ought to have the right, if not in the immediate vicinity of their homes, to kill anything that destroys property. I think if we had taken up other matters at the first of the session, instead of these petty laws, and made laws more for the State of Maine, it would have been better for the State. I hope this bill will be indefinitely postponed.

Mr. MILLIKEN of Aroostook: Mr. President, I agree entirely with the senator from Somerset that if everybody was as careful in the observance of the Sunday law, we should have no need for the provisions of this bill and it would be entirely unnecessary; but I want to say that the bill in its present form does not wholly protect the hunting of game on Sunday and the fish and game commissioners, or anyone who knows about the conditions under which game is hunted now, know that the present law, providing that Sunday shall be a close time, is an absolute and utter farce. The reason for that is, that unless you can absolutely be in the woods and see a man shoot a deer on Sunday, you cannot prove that he killed the deer on that day, or that he killed him in close time. Anybody, who lives in my section of the county, knows that fellows go out into the woods on Sunday and, when the game warden inquires about any shooting he may have heard, they claim that it was done on Monday morning. I think that Mr. Carleton is

absolutely right in regard to what he says about this—that we either want to fish or cut bait—either that Sunday shall be an open season on which to hunt game or that we shall pass this bill which has been agreed on, by those interested as a reasonable restriction and a reasonable bill, and which tends to the enforcement of the present law.

The objection advanced by the Senator from Somerset that he may want to go on a farm, seven miles away, and shoot crows, is a pretty far-fetched one and should not stand in the way of this bill, which is really important. I hope the motion of the senator from Somerset will not prevail.

Mr. Donigan thereupon moved that when the vote be taken it be taken by the yeas and nays.

Mr. HILL of Penobscot: Mr. President, while I believe in enforcing the Sunday law, I do not believe that we want to put ourselves in the hands of a lot of game wardens who are floating around through the country. I have a camp 10 miles from where I live, and around the lake there are eight or 10 other camps, and Sundays we go in there with the children. It is about all the time they have to go, and they will shoot at marks on Sundays. If some game warden should happen to be there, he can take them up and fine them \$20. I do not believe that we want to pass any such law as this, and I hope the motion of the senator from Somerset will prevail.

Mr. REYNOLDS of Kennebec: Mr. President, I think it is a good thing that we observe all the laws on Sunday, but it seems too bad, as this man says, I live in a place where there is a good deal of travel on Sunday and there may be from 30 to 50 men about there and about everyone that goes out on Sunday takes their gun along. There is quite a lot of game there and it seems to me that these men ought to have the right to carry guns, if nothing more. I understand the Senator's bill is much different from that and I think we ought always to consider that, for there are a lot of men who work for from 75 cents to \$1.50 a day who think more of

a skunk they might shoot than we would of a \$50 bill. I think they ought to have a right to carry their gun if they cannot use it.

Mr. MILLIKEN of Aroostook: Mr. President, the senator from Kennebec has taken precisely the position I have taken. There is no reason why anybody should pass a bill unless he wants to take the position that he is in favor of the law against enforcement. The fact that these men want to take their guns out in the woods, because there is game there, on Sundays, is precisely the thing at which this is aimed. So far as the senator from Penobscot is concerned, he knows as well as I do that the campers on the shores of Shin pond may want to shoot at marks occasionally on Sundays, but that is not a thing that is necessary to their happiness or which is a hardship if they are prohibited. But the fact is, that there is no Sunday which goes by in the open season for game, but game is shot around Shin pond and every other place of that kind, and if you inquire into it they will say they were shooting at a mark and you cannot prove the contrary unless you are in the woods. I am going to say that in many localities in the game section of the State, there is more game killed on Sundays by residents of the State than is killed on week days by the non-residents.

Now if we are going to have any Sunday law which shall make it a close time, we need a provision by which it can be enforced, as this Sunday shooting makes these laws a farce more than anything else. This bill is entirely reasonable and it is no hardship to anybody who wants to obey the law and I hope it will pass.

Mr. STAPLES of Knox: Mr. President: There is nobody in this Senate but who believes in obeying the Sabbath and keeping the Sabbath, and we all agree to believe, as citizens of this State, that it is a good thing, but we have on our statute books a sufficient law to protect just what this bill is designed to protect. I believe that it should not become a law to encumber our statutes, because the law upon them today is ample and complete and sufficient to keep anybody from violat-

ing the Sunday law. They have no right, of course, to do certain things. The statute has provided a penalty for it, and now to put this upon somebody as a burden seems to me to encumber the statutes and to be a foolish one. I am surprised at the foolish laws which we are asked as legislators to vote for. You curtail the rights of everybody. I am frank to say that in the city of Biddeford, and in the city of Portland, where you have large manufacturing factories and where the poor man works from Monday morning to Saturday night, if he wants to take his gun and go into the woods on Sunday, I am not going to be so puritanical as to say he shall not do it. Are you going to take away all the rights that a man has. As one senator said, we shall have to have a law bye and bye to be able to be safe to go out doors, if we keep on with this ridiculous, humbugery class of legislation. If we are sent here to curtail the rights of the people, we are sent in vain. I hope the motion to indefinitely postpone will be sustained.

Mr. DONIGAN of Somerset: Mr. President: It seems to me that there are so many of these petty measures brought up, and especially by the senator from Aroostook—it seems as though if we had adjourned two weeks after this Legislature had met, it would be a good thing for the people of the State of Maine, and, with all due respect to the senator from Aroostook, I think he has more of these petty measures and foolish measures to the square inch than any other man in the State of Maine. I hope we do not pass this law. I heard Mr. Talmage lecture in Boston, and he said there was no harm in going boating, riding, and he went on to state a number of things in which there was no harm, and I think that he was liberal, and I hope that Mr. Talmage is as good as a good many of these senators.

Mr. MILLIKEN of Aroostook: Mr. President: I hope the senator will not call this bill my pet measure. Do not let that be said about it. The suggestion of the senator from Somerset that we should have adjourned about two weeks after the Legislature met, would no doubt appeal to many of the people

of the State as being a wise thing to do, but, if we had done so, we should have been deprived of the great privilege of hearing Senator Donigan's defence of his pet measure, the bridge bill.

The PRESIDENT: This bill was passed by the Senate to be engrossed as amended by House Amendment A. By the House it was passed to be engrossed by House Amendment A and House Amendment B. There is no motion pending before the Senate.

Mr. DONIGAN of Somerset: I move that the bill with the amendments be indefinitely postponed, and on that motion I ask that the yeas and nays be ordered.

The question being put, the yeas and nays were ordered, and the vote being had resulted as follows: Those voting yea were Messrs. Baxter, Colcord, Donigan, Emery, Hamiltan, Kellogg, Looney, Lowe, Macomber, Minott, Mullen, Osgood, Reynolds, Staples, (14). Those voting nay were Messrs. Boynton, Eaton, Gowell, Hastings, Howes, Irving, Knowlton, Milliken, Shaw, Smith, Warren, Wheeler, Wyman, (13).

So the motion that the bill be indefinitely postponed prevailed.

On motion by Mr. Minott of Sagadahoc, bill, "An Act to amend Chapter 251 of the Public Laws of 1907, entitled 'An Act for the better protection of alewives and sturgeon in the various rivers of Maine,'" was taken from the table.

Mr. MINOTT of Sagadahoc: Mr. President, in relation to this bill. I should like to make a statement. There seem to be various laws on the statute books at the present time in relation to this matter. We have a law at the present time, the law of 1878, Chapter 57, "An Act for the protection of sturgeon in the waters of the Kennebec river and its tributaries."

"Section 1. There shall be a close time for sturgeons, from the first to the 13th day of June, inclusive, of each year, during which no sturgeon shall be killed or taken in any manner, in any of the waters of Kennebec river and its tributaries, under a penalty of not more than fifty nor less than ten dollars for each offence, and a further

penalty of ten dollars for each sturgeon so killed or taken."

We have also the law of 1907, Section 5 of Chapter 251, in which it states: "It shall be unlawful for any person to fish for, take, catch or kill any sturgeon in the Kennebec river or its tributaries and Merrymeeting bay between June 15 and March first."

House Document No. 671, of the present Legislature, reported by the committee on sea and shore fisheries, at Section 2, reads: "There shall be a close time on sturgeon from July first to December first of each year, during which time no sturgeon shall be fished for or killed, and no sturgeon less than five feet in length shall at any time be sold or offered for sale, under a penalty of five dollars for each sturgeon unlawfully taken or offered for sale. All fines and penalties under this section may be recovered by complaint or indictment."

I think we ought to have a statement from the chairman of the committee on sea and shore fisheries, who was also chairman at the session two years ago when the law of 1907 was enacted, in which a close time was made from June 15 to March 1 two years ago; and then I would like to know the reason why the close time was made from July 1 to December 1 in the bill that was reported at the present session; and also I would like to understand about the present close time that is made in this bill; and I should like to ask the question through the Chair, if the senator is willing to be interrogated.

Mr. WYMAN of Washington: Mr. President, having had the wild cat and the bear bounty bill and others of that sort on my mind, I think I shall have to refer to some other senator.

The PRESIDENT: There is no motion pending before the Senate.

Mr. MINOTT of Sagadahoc: Mr. President, so far as this matter goes, I do not care to take the time of the Senate, but it seems as though, where we have two laws at the present time on our books, this bill is hardly drawn as it ought to be, and I move that it be indefinitely postponed.

The question being upon the motion

to indefinitely postpone the bill, the motion prevailed.

Mr. Eaton of Washington presented and moved the passage of the following order under suspension of the rules:

STATE OF MAINE.

In the Senate, March 30, 1909.

Ordered, That the justices of the supreme judicial court are hereby respectfully requested to give to the Senate on or before April 1, 1910, at which time the tax bill for 1910 goes into effect, according to the provisions of the Constitution in this behalf, their opinion on the following questions:

Would the act entitled "An Act relating to the common school fund and means providing for an distributing the same," whereby a tax of one mill is assessed upon all the property of the State and distributed by the treasurer of the State to the several cities, towns and plantations according to the valuation thereof, and a true copy of said bill is hereunto annexed, if the same should become a law, be in violation of the Constitution of the State of Maine?

Mr. EATON of Washington: Mr. President: I would say in explanation of this order, that the order is an important one, and, as the best lawyers of our State differ as to the constitutionality of this act, it seemed only fitting that this important matter should be referred to the supreme court. If the court brings in a decision, it saves the State annoyance and expense. I hope that the order may have a passage.

Mr. WHEELER of Cumberland: Mr. President: The Constitution provides that the Governor and Council, the Senate or the House of Representatives, may require the opinion of the justices of the supreme court upon any important question of law and upon a solemn occasion. There is no question that the matter presented and embodied in the bill which has passed this Legislature is an important question of law, but I dissent very much from the view of the senator from Washington, that this is a solemn occasion. It is true that it is for the Legislature to determine whether an occasion is solemn, but it seems to me

that we should not upon the situation which we now find to exist trouble the supreme court with an investigation and a report upon this matter. The bill has already passed both branches of the Legislature and, I believe, has received the signature of the Governor. The Legislature is about to adjourn. We cannot possibly receive a report from the supreme court before adjournment.

A few years ago a matter was presented to the supreme court, which did not reach them until after adjournment. The court answered that question. It was in 1903, the Legislature having adjourned to meet in September, 1903, and the courts stated that they made an answer because the Legislature would reconvene in September and might act upon that report at that time. But this Legislature will adjourn without day; and, while the Governor would have the power to call us together upon an extraordinary session, it is not such a possibility or probability as would justify us in passing this order.

I do not believe that the interests affected by the bill we have passed would ever question in court the constitutionality of that measure. The amount of tax imposed is not greater than the representatives of the wild land interests consented to in the public hearing on these bills. The matter of distribution does not in any way affect their rights and is of no concern to them whatever. I cannot see any business advantage or interest to the wild land owners of the State in the carrying of this question to the courts.

If the matter is to be decided by the court, it ought to be decided in the regular course of legal procedure. The wild land owners who resist the payment of the tax should be represented by their counsel and the State of Maine should be represented by the attorney-general. Both sides can then present their arguments and the court can pass upon the matter with the assistance and the aid which they will receive from the investigations, the research and the arguments of counsel, both for the State and for the wild land owners.

As I say, I do not believe that the

wild land owners themselves would ever question the constitutionality of this measure. They cannot afford to do so, and, as I have suggested, the rate is not more than they have assented to and the distribution does not concern them. And just as sure as this measure should be declared unconstitutional by the courts, the next Legislature would pass a resolve amending the Constitution; and, as a result of that, the wild land owners, instead of paying a tax of one and one-half mills, would pay a tax ten times greater. I believe they realize that, and that they do not wish to press this matter to the court on their own move, but they ask the Legislature to do what they themselves would be unwilling to do, and very naturally unwilling to do. I do not believe it is a solemn occasion. I will not believe any occasion exists to present this matter to the courts to have them determine, without any arguments, either for or against the measure, or in accordance with their own views, or as a result of their own unaided investigation. I believe the Legislature ought not to submit any matter to the court in the absence of argument, except upon a most solemn occasion and under the most extraordinary circumstances. I do not believe that either the occasion or the circumstances at this time require it, and, for one, I should object to the passage of the order introduced by the senator from Washington.

Mr. HAMILTON of York: Mr. President: I do not desire to make any speech upon this matter, and whether or not it is for the interests of the wild land owners to carry this matter before the courts is not of any consequence to us, or to the Grangers and the people of the State. I state emphatically that if we can raise the money for school purposes, it cannot be distributed in the manner that this bill has provided. Every town in this State has a right to know whether that is constitutional or not, and whether they can take the money which has to go to the schools and distribute it according to the valuation or according to scholars.

That is the question which agitates me and the question which has agitated

the people, and it has agitated us a good deal. We feel on that question that our rights have been invaded.

For a long time this money was distributed under the Constitution as we understand it, and we believe that a fusion ought to be made, and no matter whether the scholars are found in Portland or Aroostook, or wherever they may be found, we believe that it is wrong. It was said that they needed a higher culture in the cities, such as Portland and Bangor, than we need in the country, and that it cost more. We do not believe that is the import of that section in the constitution. This involves a change in the whole thing, and we don't know where we can go unless we go to the supreme court; and this order is for that purpose—not for or against the wild lands—we don't care anything about that—but when we pay our taxes for school purposes we want to know whether it shall be distributed according to the way this bill distributes it, or whether it shall be distributed as we say, according to law, and that is according to scholars, no matter where they are found, whether in my town or in the city of Portland, or in Aroostook county—not according to valuation—and that is the great question which is agitating this State today and will agitate more and more as it wears along, as sure as there is a Heaven. I say that we have a right to ask the supreme court, which is capable of discussing it. They do not need the aid of lawyers to discuss a constitutional question. They are capable of deciding this question and it is a proper order which he has put in, that the court should be asked to state to the people of the State of Maine—the working people—the men that have scholars in the State of Maine—whether this is correct or not—whether it is constitutional or not, or whether not only this year we have to submit to it, but in the years as they roll along we shall have to submit to it. We want to know now, so as to know what position to take. There is to be an election and we want to understand our position, and we are going to understand our position.

Mr. WHEELER of Cumberland: Mr.

President: I think very much of the argument of the Senator from York might more properly have been made at the time this bill was under consideration.

The Senator states that the court does not need the assistance of lawyers in considering a constitutional question, and that it does not want their assistance. I fear that the Senator from York has not carefully read the opinions which the court has rendered to legislative inquiry. I do not think there has been a single opinion, during the last ten years at least, in which the court has not emphatically protested against these inquiries. They have expressly stated in every case that it is very difficult for them to determine a case without the assistance and investigation of counsel on both sides—that it is from the conflict of the opposing counsel that the court is able to see the light of truth. He is not correct in his statement as to the attitude of the court.

I am not going to argue the constitutionality of this measure. In fact, I am going to be frank with the Senate and say that I have some doubt about it myself; but I have yielded to attorneys who are much better able to decide the constitutionality of that matter than I myself, and I may say to the Senate that attorneys affected by this bill, after full and careful investigation and study, are coming around to the conclusion that it is absolutely constitutional; and those attorneys would not have the courage or the time to present this matter themselves to the court. The Constitution of the State makes it the duty of the Legislature to require all the towns—not the unorganized townships, but the organized cities and towns—to provide for the education of the scholars of the State. Is it not reasonable that the State, placing this duty on the towns under the Constitution, may relieve the towns upon whom the duty is placed, bear a certain part of the expenses which they otherwise would be obliged to assume? I can see no reason for the passage of this order at the present time.

Mr. HAMILTON of York: Mr. President: In the case in 1872, no attorneys

appeared and I do not know of any case where they did, that affected the public rights in the State of Maine. If a question should come up before the court upon any particular subject which would affect the rights of individuals and the public, you would see a vast difference. Then it would be heard about from attorneys on both sides. But you understand this affects the rights of the people of the State, and being a right of the people of the State, that provision in the constitution—whether you call it a solemn occasion or not—I say it is a solemn occasion whether you call it that or not—they have a right to ask the court and the court will grant their opinion—not by argument of lawyers, by any manner of means, but so that the people could go before them—not paid attorneys, but anybody can go there. See the unreasonableness of this proposition. It is for the people to go before the court—not the attorneys. The attorneys may differ, and the senator from Cumberland says that he don't know what the attorneys are going to say about it. But we want to know whether it is correct or not, so that we may know what position we shall take in the future. I say that the people want it, and that the constitution is open to them to go to the court and the court is presumed to be capable of understanding the situation and of giving their opinion as they did in 1872, without a hearing from any attorneys—and that is the provision of the constitution, that we may go just as is requested in this order introduced by the senator from Washington, Mr. Eaton.

That is the position which I take. I take no position here as a lawyer, because I am not a practicing lawyer, but I have some ideas of common sense, and I have some idea when I read the Constitution what it means, and nobody wants a lawyer to interpret the Ten Commandments, because we can read them and so can anybody read that constitutional provision, and they will put their own name to it, and the Constitution has said that the Legislature might ask their opinion.

President: If I remember right, in the last Legislature, we submitted to the supreme court a question of whether you could control the cutting of logs on wild lands and the court made their answer a long time after the Legislature adjourned. It seemed to me that this matter is a much more solemn occasion than that was. As far as the one and one-half mills is concerned, as mentioned by the senator from Cumberland, Mr. Wheeler, and the wild lands people objecting to it, I have never heard that they did object to the one and one-half mills, but it was the manner of assessing it; and if the State can apply that to wild lands, why are they not liable to change it in the future to other property in some way. I hope the order will have a passage.

The yeas and nays were called for and the question being upon the passage of the order, the vote thereon resulted as follows: Those voting yea were Messrs. Colcord, Eaton, Gowell, Hamilton, Hastings, Howes, Irving, Kellogg, Knowlton, Milliken, Smith, Wyman—12. Those voting nay were Messrs. Baxter, Boynton, Donigan, Looney, Lowe, Macomber, Minott, Mullen, Osgood, Reynolds, Shaw, Warren, Wheeler—13.

So the motion was lost.

On motion by Mr. Baxter of Cumberland, bill "An Act relating to the employment of labor," was taken from the table and on his further motion was passed to be enacted.

On motion by Mr. Milliken of Aroostook, bill, "An Act to provide for the purchase of supplies by the State through a system of competitive bids," was taken from the table.

Mr. MILLIKEN of Aroostook: Mr. President: I want to say that this is a matter about which I think there is no disagreement as to the principle involved, that is, as to the application of some system of competitive bids in the purchase of State supplies. But, through a misunderstanding between the committee and myself, partly due to the fact that another similar bill, which covers only buildings, which has been reported by another committee, it is too late to do anything about it at this ses-

Mr. WYMAN of Washington: Mr.

sion. I therefore move that it be referred to the next Legislature.

The motion prevailed.

On motion by Mr. Looney of Cumberland, bill relating to fishing in Royal's river was taken from the table. The same senator offered Senate Amendment A and moved its adoption.

Mr. LOONEY of Cumberland: Mr. President: I will say, calling your attention to this amendment, that it was prepared this morning by Mr. Carleton, the commissioner of inland fisheries and game, and it is at his request that I offer it. He says that subsequent reflection and investigation has convinced him that it is absolutely essential that an amendment of this kind shall be adopted.

Mr. MACOMBER of Kennebec: Mr. President: It seems to me this is purely a personal matter between some individual and a representative in the other branch of this Legislature, and it is a thing this Legislature ought not to meddle with. It was stated here the other day that the State had put fish into this river, and that the bill, as originally drawn, was on a line with other similar rivers. And now, just for the purpose of humiliating the representative from Yarmouth, this is offered. I do not think it ought to be. That is all there is in this amendment and I hope the Senate will stand by its original action.

Mr. WARREN of Cumberland: Mr. President: I have no reason to think that this matter was not properly advertised, but it is evident that it did not come to the notice of some of the people of Yarmouth who are interested in the matter. It is very doubtful whether proper action has been taken. It seems to be something like this, that a considerable quantity of trout have been put into the waters of Royal's river, and that a considerably larger number are going to be put in if the conditions are good. This river runs from the dam at Yarmouth, slack water back for as much as 5 miles, when it becomes a quick water, and water that is suitable for trout. The dead water contains we are told, many pickerel and bass, and they are in the habit of fishing for eels there, and it would not be a good place for trout, and that the trout would be

quickly destroyed. And while in the original bill, as already passed, some of the tributaries are excepted from this prohibition of fishing, this amendment which Senator Looney has introduced simply excepts this slack water from which these fish may be caught and in which the trout will stand no chance. There is a difference of opinion about the matter, but I believe that the bill as it is passed covers too much ground, and that this exception ought to be made.

Mr. MACOMBER of Kennebec: Mr. President: As I understand it, the bill itself practically only left the river open to the town of Yarmouth. I hold in my hands a petition signed by more than 70 taxpayers, and I think they are all from Yarmouth, and they are protesting against the action as contemplated by this amendment.

Mr. WARREN of Cumberland: Mr. President: If the exception already made and the exception which is proposed both prevailed, there will still be left a larger part of the river which will be closed to fishing under the bill.

Mr. LOONEY of Cumberland: Mr. President: I am very much surprised that the Senator from Kennebec should impugn the motives of myself or other Senators who favor this amendment. The basis of his objection to it is on personal grounds. I have always noticed that when men have no argument, they usually resort to a so-called argument of that kind. Now I state in this Senate, and I state it in the presence of the Commissioner of Inland Fisheries and Game, that the Senator from Yarmouth was interviewed or interviewed him yesterday, and that the Commissioner of Inland Fisheries and Game told him, just as he told another Senator, that the people thought the best interests of the public absolutely demanded the adoption of this amendment, and that the representative from Yarmouth put an amendment of this kind in this morning himself. That is all there is to it. I have no personal interest in the matter whatever. But, the simple answer is that some of the most influential and best citizens of Yarmouth desire it, and what they say is endorsed by the convictions and the decided opin-

ion of the Commissioner of Inland Fisheries and Game. I have no doubt the representative from Yarmouth, after subsequent reflection and the Senator from Kennebec, after subsequent reflection, although he knows nothing about the matter that is coming up here,—he is simply the mouthpiece of the representative of Yarmouth, and he does not know anything about what he is talking about.

Mr. MACOMBER of Kennebec: Mr. President: It is very possible that I do not know what I am talking about, but I do know something about the condition there in Royal's river. I do not impugn the motive of the Senator from Cumberland or of any other Senator. It is entirely proper that these matters should come in here, but I say—or what I undertake to say—in the first place, is that I do not believe that this Senate should go to meddling in the matter, which is purely local—a local quarrel down in Yarmouth—and that is what we are trying to settle.

Mr. WARREN of Cumberland: Mr. President: It seems to me this is not so very local and it seems to me it is a Cumberland county matter.

Mr. LOONEY of Cumberland moved that the Senate reconsider its vote whereby the act was passed to be engrossed. On this motion the yeas and nays were called for and ordered.

Mr. BAXTER of Cumberland: Mr. President: I should like to say to the Senate that this river is entirely within the limits of Cumberland county, and the four senators from Cumberland are in entire accord on this matter. We do not take sides on any personal questions between the representative from Yarmouth and his townspeople. We simply think this is a wise amendment to make to this bill. The river is in our county and the four senators from Cumberland agree, and I should not suppose that the senators from other counties would care to go against the unanimous wishes of our delegation. It is not a large matter, but being in accord in Cumberland county, we would like to see it go the right way.

Mr. REYNOLDS of Kennebec: Mr. President: I will admit it is a bad business to interfere with the Portland or

the Cumberland delegation. This bill was thrashed out two afternoons before our committee. I heard the evidence before the committee. We postponed it for a week. The other side came and they had a regular love feast at the last of it and agreed to this bill. I do not see what has come up within the last two days to cause so much argument on this matter. It seems to me that the report of the committee should be sustained.

The question being put, the yeas and nays were ordered, and the vote being had thereon resulted as follows: Those voting yea were: Messrs. Baxter, Boynton, Gowell, Kellogg, Looney, Shaw, Warren, Wheeler (3). Those voting nay were: Messrs. Hamilton, Hastings, Macomber, Milliken, Minott, Osgood, Reynolds, Staples, Wyman (9).

So the motion was lost.

Mr. Looney of Cumberland thereupon moved that the bill be put upon its passage to be enacted.

The motion prevailed and the bill was passed to be enacted.

On motion by Mr. Warren of Cumberland, the Senate voted to reconsider the vote whereby the Senate voted to adhere in its action in reference to Senate Document No. 445, "An Act to exempt growing white pine from taxation."

The PRESIDENT: In this matter, the House passed this bill to be engrossed. The House voted to indefinitely postpone. The Senate voted to adhere to its former action, and the Senator from Cumberland, Mr. Warren, now moves to reconsider the vote whereby the Senate voted to adhere.

The motion prevailed, and, on further motion by the same Senator, the Senate voted to non-concur with the House in the indefinite postponement of the bill and to ask for a committee of conference.

On motion by Mr. Shaw of Kennebec, bill "An Act to provide for the uniform grading, packing and branding of apples," was laid on the table.

'An Act to incorporate the Steuben Railroad Company.' (This bill took its first reading, and, under suspension of the rules, took its second reading and was passed to be engrossed.)

On motion by Mr. Hastings of Oxford, the Senate took a recess.

11.45 A. M.

Senate called to order by the President.

The Committee on Mines and Mining submitted their final report, which was accepted.

On motion by Mr. Shaw of Kennebec, bill "An Act to provide for the uniform grading, packing and branding of apples," was taken from the table. On further motion by the same senator, the Senate voted to reconsider the vote whereby the bill was passed to be engrossed. On his further motion, Senate Amendment A was adopted and the bill as amended by Senate Amendment A was passed to be engrossed.

On motion by Mr. Hastings of Oxford, the Senate took a recess until 3.00 o'clock P. M.

Afternoon Session.

Friday, April 2, 3 o'clock P. M.

Senate called to order by the President.

An Act additional to Chapter 193 of the Public Laws of 1909, relating to the Maine Forestry District. (On motion by Mr. Baxter of Cumberland, under suspension of the rules, this bill took its several readings and was passed to be engrossed.)

Mr. OSGOOD of Androscoggin: Mr. President: I rise to a question of personal privilege. I send you sir, by our honored messenger who has served this Senate for more than 31 years, a little bunch of 30 roses. The roses are red, the vase is green; and so, dear Mr. President, may there ever remain in your heart green recollection of the affection in which you are held by your colleagues, and may all your paths through life, which please God may be long and useful, be paths of peace, contentment and happiness, o'er-spread with beautiful roses.

We met here, Mr. President, on the sixth day of January, many of us as strangers; and, when we part, we shall all part, I believe, as friends; and I hope that He who marks even the fall of the sparrow may have you, and you, fellow senators, in His love and kindly care for evermore.

Mr. President: I hope that the waves of prosperity may ever beat around you; I hope that the Sun of Righteousness may shine around your handsome head, I hope that the gates of Peace, Plenty, Honor and Happiness may always be open to you, and yours; that no sorrow may disturb your days, or any strife attend your nights; but at the pillow of peace kiss your cheek, the pleasures of imagination attend your dreams. And, dear Mr. President, when length of years makes you tired of these earthly toils, and the curtain of Death gently closes around the last sleep of your existence, I hope that angels may attend, and take care that the expiring lamp of Life receive not one rude blast to hasten its extinction. (Applause.)

On Presentation of a Watch to the President.

Mr. WHEELER of Cumberland: Mr. President: It is my pleasing privilege, at the request and in behalf of the members of this body over whom you have presided with so much patience, fairness and courtesy, to present you this small token of our friendship and esteem. This ceremony is not a perfunctory compliance with custom, but is rather the natural and necessary expression of our heart-felt emotions.

The position you have occupied is one of great responsibility, dignity and honor, and we trust it may be the door through which you may pass to wider paths of usefulness and to more extensive fields of service to the State.

Your duties have been arduous and exacting, but in their performance you have merited and received our warmest praise and admiration. In all the difficulties and perplexities of our legislative work we have received the benefit of your wide experience, your sound judgment and your splendid ability. We have made constant and wearisome calls upon your patience and your strength, and to all of our demands you have responded with unfailing good nature, with generous assistance, with unceasing kindness.

Our labors here are now drawing to an end. In a few hours more the delightful associations of this Chamber will be forever dissolved; but, Mr. President,

in whatever direction future events may lead you, you will never get beyond the limits of our friendship and our devotion; and may this simple gift be to you the constant message of our gratitude for your kindness and your courtesy to us, and of our warm regard and friendship for you.

It is our earnest prayer that all of your remaining years upon this earth may be filled with happiness unalloyed, and that you may continually receive the unmeasured blessings of Almighty God. (Applause.)

Mr. STAPLES of Knox: Mr. President: There is always a tinge of sadness that surrounds us upon occasions like this. I should be recreant to my feelings if I did not, at this time, second the remarks that have been made by the honorable senator from Cumberland. I feel that I voice the feelings of the majority and of the minority of this Senate in seconding what the senator from Cumberland has said.

I am aware that we have had differences of opinion upon a great many subjects; but while we have had those differences, we have ever had unbiased, unprejudiced, fair and impartial judgment and fair treatment at the hands of our President.

I am aware that we may differ. I am aware that many of us are politically divergent, but I rejoice that in our beautiful form of government, the fairness, the generosity, the impartial rulings of him who has presided at this session, has been such as to win the approbation of every member of this Senate. That is the thing that gratifies us—that however much we may differ politically, there is a principle in our institutions recognized by our President which has led him to be fair and loyal to the minority as well as to the majority.

For that reason it gives me great pleasure in behalf of the minority of this Senate to tender him our heart-felt thanks for his impartiality, and for the fairness with which he has guided us in the work of this session.

We may not all meet again. Probably we shall not, but we shall carry home with us a feeling of good fellowship, and of gratitude for the just administra-

tion of our President. While we may have differences yet there is an eternal principle of fairness which we all recognize in its tendency to reconcile those differences, I wish good will and good fellowship to every man in this Senate. As we go down the declivity of life let us remember the grand principle that frankness and impartiality are the true spirit of manhood.

I am one who believes that, if I should not again meet you on the material side of life, when our labors on earth are ended, I shall meet you upon that other shore, the spiritual side of life. We shall never forget it, and I only hope that, should I pass over before some of you, leaving some still behind, that when I bid them good-night, I shall bid others of you good-morning, on the other side.

Mr. SHAW of Kennebec: Mr. President: It is with feelings of joy and sadness that the closing hours of this session draw near—joy because we are soon to return to our firesides and our advocations—sadness because we know we shall never meet again as we have met here at this session.

It is one of the proudest privileges of my life that I was permitted to be a member of this Senate of the year 1909. Your high sense of justice, duty and absolute impartiality has had much to do with our pleasant relations this winter, and, although we are soon to part, I know that the friendships here formed will stand as long as life shall last; and I know, on my errands of mercy, that I shall think of each of you; and my earnest wish is that time will deal lightly with each of you, and that you may be permitted many more years to spend at your homes, and your towns and for the good of the whole State of Maine. (Applause.)

The PRESIDENT: Fellow Senators: I cannot fitly express my appreciation of this beautiful gift. I shall prize it among my most cherished possessions. It is a more beautiful watch than I have ever owned, or ever expected to possess. But, beautiful and costly as it is, it is a bauble of little worth when compared with the value to me of the memories that it will bring back, and friendships made and strengthened that it will

recall. I have been deeply touched by the eloquent words of the senator from Androscoggin, the senator from Cumberland, the senator from Kennebec and the senator from Knox; and if I could feel that what they have said of me were merited, I should be proud indeed.

My service here during this session has impressed upon my mind a thought which has often come to me, as I doubt not it has come to you all, that the things about which men disagree are superficial and temporal, while the things about which all good men agree are fundamental and eternal. Think, if you please, of the man who differs from you most widely—in politics, in religion, or on social questions—and even that man agrees with you in more things, and far more important things than he disagrees with you about. Our differences are like waves upon the surface of a mighty sea; we perceive their undulations, and we hear their dashings, while the great, deep currents of concordant moral political and religious conviction flow on, invisible, silently, resistlessly.

In political matters you have considered the interests of your respective parties. In sectional matters you have not been unmindful of the wishes of your immediate constituents. Thus temporary divergence has been caused; but the star to which your faces have ever been turned, towards which each and all have constantly striven is the welfare of our beloved State.

At the beginning of this session I said to you that I should need—that I should confidently expect your forbearance and your assistance. I have received every day, and every hour that this Senate has been in session, your forbearance and your assistance; and I have received more; I have received constant kindness, unflinching courtesy.

It is unlikely that we shall ever all meet together again, on earth; but, until life's final adjournment—until Death's gavel falls, I shall remember—gratefully remember—proudly remember this Senate, and all its officers and all its members. (Applause.)

On motion by Mr. Wheeler of Cumberland, the Senate took a recess of 15 minutes.

At the close of recess the Senate was called to order by the President.

"An Act for the assessment of a State tax for the year 1909, amounting to the sum of \$1,286,651.55." (On motion by Mr. Osgood of Androscoggin, under suspension of the rules, this bill took its two several readings and was passed to be engrossed.)

An Act for the assessment of a State tax for the year 1910, amounting to the sum of \$2,143,156.47. (On motion by Mr. Osgood of Androscoggin, under suspension of the rules, this bill took its two several readings and was passed to be engrossed.)

An Act to establish the Kingman Municipal Court. (The House having voted to non-concur with the Senate in the indefinite postponement of this bill, on motion by Mr. Mullen of Penobscot the Senate voted to recede and concur with the House.)

An Act to exempt growing white pine from taxation. (On this bill the House having voted to adhere, and also having declined to join a committee of conference, on motion by Mr. Warren of Cumberland, the Senate voted to adhere to its former action.)

An Act to amend Section 55 of Chapter 88 of the Revised Statutes, relating to trustee process. (On this bill, the House having adopted House Amendment "A" and having thereafter voted to indefinitely postpone, on motion by Mr. Hamilton of York, the Senate voted to insist and to request a committee of conference.)

On the foregoing matter the President appointed as a committee of conference on the part of the Senate, Messrs. Hamilton of York, Baxter of Cumberland and Milliken of Aroostook.

An Act relative to the Pangor and Brewer highway bridge: (This bill came from the House, by that branch referred to the next Legislature. (On motion by Mr. Mullen of Penobscot, the Senate voted to concur with the House.)

An Act to amend Chapter 40 of the Revised Statutes, and Chapter 46 of the Public Laws of 1907, relating to the employment of minors in manufacturing and mechanical establishments in this State. (In the House this was passed to

be engrossed as amended by House Amendment A.) On motion by Mr. Looney of Cumberland, the Senate voted to reconsider the vote whereby the bill was passed to be engrossed. On further motion by the same senator House Amendment A was adopted in concurrence and the bill, as amended, was passed to be engrossed.

An Act to amend Chapter 166 of the Public Laws of 1907, entitled, An Act for the better collection of taxes. (This bill was, by the Senate, passed to be engrossed as amended by Senate Amendment "A." By the House the bill was indefinitely postponed.)

Mr. BAXTER of Cumberland: Mr. President: I did not understand whether the amendment or the bill itself had been indefinitely postponed. Will the Chair kindly inform me.

The PRESIDENT: The House endorsement is "House voted to indefinitely postpone the bill."

Mr. WHEELER of Cumberland: Mr. President: I feel there must be some misunderstanding on the part of the House. I think the bill could not have been explained to the House; and I therefore move that the Senate insist, and ask for a committee of conference. The bill is simply to correct a clerical error in an existing law.

The PRESIDENT: The Chair informs the Senator from Cumberland that the bill seems to have been postponed on the motion of Mr. Pattangall.

Thereupon Mr. Wheeler withdrew his motion; and on his further motion the bill was laid on the table.

An Act to amend Section 9 of Chapter 92 of the Public Laws of 1901 providing for the better enforcement of the laws against the sale and manufacture of intoxicating liquors. (In the House the bill was substituted for the report "ought not to pass." The House thereupon adopted House Amendment "A," and the bill as amended was by that branch passed to be engrossed.)

Mr. STAPLES of Knox: Mr. President: The amendment does not change the objection that I have to the original bill. As I understand the original bill, it provides that the Sturgis deputies shall be

paid by the county; and if paid by the State they are then to be collected from the county.

The bill also provides, I believe, that deputies may be sent to cities and towns upon request. Now in my county where there are 16 towns, if they send a deputy to Rockland, why should the county be obliged to pay the bill, or each town its proportional part of the bill? Two Sturgis deputies live in my county. There is nothing to prevent these men from going up and down the street once or twice a day and whether they do anything else or not, sending in a bill of \$1500 apiece and expenses, and the towns in the county would have to contribute in the payment of the bill. I do not know of any reason why that burden should be put upon the towns in which the deputies do nothing towards enforcing the law, and we have no occasion to have the officers in those towns. And I see no reason why the towns of Androscoggin county should pay the bills of deputies for their work in Lewiston and Auburn.

In fish and game matters, if the local officers do not enforce the law and the State officers are called upon to act, they don't ask the county to pay the bill—the State pays it.

I move that this whole matter be indefinitely postponed.

Mr. HAMILTON of York: Mr. President: I suppose the sheriff of Knox county is elected by the county, and not by the towns; and I think it is eminently fair that Knox county should pay the bills if the sheriff neglects his duty in enforcing the law. If the law is enforced in Knox county, the Governor is not going to send deputies there. You cannot in criminal matters except one town, or another town. In our county we do not have to have the deputies. The sheriffs enforce the law, and there is no necessity for the Sturgis deputies; and there will be no necessity for them in Knox county if the sheriff there enforces the law. If he neglects it, I see no reason why the county should not pay for it, the same as any other criminal expenses.

Mr. STAPLES of Knox: Mr. President:

Here is a matter of State history of which I advise the senator from York. I wish to say that the sheriff of Knox county has enforced the law as well as any sheriff in any county in the State. I do know, as a matter of State history, that the county attorney of York county begged the Governor to keep his Sturgis deputies in there; and he declined to do it. You might tell the reason for that if you want to. Now who is going to say that the sheriff of Knox county does not enforce the law?

I say to you, sir, that in Knox county we have sheriffs and a county attorney who enforce the law, and yet two Sturgis deputies have been there for the last two years.

Now Mr. President, I am willing and we have got to submit to the Sturgis deputies for the next two years, and submit to this iniquitous, infamous Sturgis Commission.

I hope we will not have any more drastic measures upon this drastic, infamous Sturgis law. It is infamous, and the people of Maine will declare it infamous at the next election.

Mr. HAMILTON: Mr. President: I would not give the speech of the senator from Knox the dignity of a reply, because of his personal reference to York county. I know all about York county; and there was a time when the law was not enforced in Biddeford. The county attorney would not have the Sturgis deputies, and after a conference at Augusta, he put his deputies out, and enforced the law there strictly. Knox county is in the State of Maine. It is part and parcel of it, and if it is good for the law to be enforced in the State it is good for it to be enforced in Knox county. Why don't you enforce it there?

Mr. STAPLES: We do in our county.

Mr. HAMILTON: Who is a better judge of the condition there than the people?

God pity a county that has the kind of a county attorney you have there. You are in the State of Maine, and you are not going to be permitted to be lawless in Knox county because you are part and parcel of the State of Maine, and we do not propose to have the law stultified by its non-enforcement in York county.

Mr. STAPLES: Mr. President: I am surprised at the remarks of the Senator from York. His county of York has been infamous as to its non-enforcement of the liquor law. You know, if you know anything about Knox county that the county attorney of Knox county has paid more money into the county treasury by the enforcement of the liquor law than any county attorney of a county having a like population in the State; and when you say that the county attorney of Knox county and the sheriff of that county have not done their duty, it is an infamous libel upon those men. We have Sturgis deputies there who have not made a seizure for months. Knox county is one of the best governed counties in the State. York county is not to be compared with it in that respect. The sheriff of Knox and all his deputies are Democrats; and they have enforced the law so well that we haven't a hotel in Knox county that sells liquor, or an open saloon there. Dare you tell me you can say as much for York county?

You may go on with this drastic law-making, but I am going to tell you that there is a God in Israel. When you say the sheriff of Knox county is not doing his duty, you don't know what you are talking about.

You go on and put this law in Knox county and the other counties, and you are but putting one more nail in the political coffin you are building.

The question being put upon the motion to indefinitely postpone, the yeas and nays were ordered; and the vote being had, resulted as follows: Those voting yea were: Messrs. Gowell, Kellogg, Lowe, Mullen, Osgood, Staples, (6). Those voting nay were: Messrs. Baxter, Boynton, Colcord, Donigan, Eaton, Emery, Hamilton, Hastings, Howes, Irving, Knowlton, Looney, Macomber, Milliken, Minott, Reynolds, Shaw, Smith, Warren, Wheeler, Wyman (21). So the motion was lost.

Thereupon, on motion by Mr. Hamilton of York the Senate voted that the bill be substituted for the report, in concurrence with the House. On his further motion House Amendment A was adopted in concurrence, and the bill as amended took its several readings and was passed to be engrossed.

An Act to extend the open season on deer in the towns of Unity and Burnham in the county of Waldo. (On this bill the committee of conference reported that they could not agree. The report was accepted. On this matter the House having voted to adhere, on motion by Mr. Hastings of Oxford the Senate also voted to adhere.)

On motion by Mr. Wheeler of Cumberland, bill, "An Act to amend Chapter 166 of the Public Laws of 1907, entitled An Act for the better collection of taxes," was taken from the table. On further motion by the same senator the Senate voted to concur with the House in the indefinite postponement of the bill.

"An Act in relation to possession under defective proceedings in eminent domain." (On motion by Mr. Milliken of Aroostook House Amendment A was adopted in concurrence, and on his further motion under suspension of the rules the bill took its several readings and was passed to be engrossed.

Report of the Committee on Railroads and Expresses "ought to pass" on bill, "An Act to amend Section 1 of Chapter 52 of the Revised Statutes relating to management and operation of steam railroads," came from the House, in that branch the bill being indefinitely postponed. On motion by Mr. Emery of Franklin the Senate voted to concur with the House.

"Resolve in favor of DeForest Keyes," (This resolve came from the House accompanied by a message from the Governor with his veto of said resolve.)

Mr. HASTINGS of Oxford: Mr. President: Having done what I considered my duty in reference to this resolve, both in the committee and in open Senate, I have no further motion to make. It is in the hands of the Senate, and whatever the Senate agrees to do with it will be agreeable to me.

The PRESIDENT: The constitutional provision with reference to this matter is this: Section 2, Article IV, part third: "Every bill or resolution having the force of law, to which the concurrence of both houses may be necessary, except on a question of adjournment, which shall have passed both houses, shall be presented to the Governor, and if he

approve, he shall sign it; if not, he shall return it with his objections to the house in which it shall have originated, which shall enter the objections at large on its journals, and proceed to reconsider it. If after such reconsideration, two-thirds of that house shall agree to pass it, it shall be sent together with the objections to the other house, by which it shall be reconsidered, and, if approved by two-thirds of that house, it shall have the same effect as if it had been signed by the Governor; but in all such cases, the votes of both houses shall be taken by yeas and nays, and the names of the persons voting for and against the bill or resolution, shall be entered on the journals of both houses respectively." It is claimed by some, but it is not the opinion of the Chair, as at present advised, that it is necessary and that the Constitution requires that we should not proceed to reconsider it and take a ye and nay vote on it unless it is desired to pass it over the Governor's veto. It is claimed by others, that in any event it is required that we should take a ye and nay vote after it is returned by the Governor. As there may be some doubt about it, the Chair inclines to take the safer view, and asks that the yeas and nays be called.

The question is: Shall this resolve pass, notwithstanding the objection of the Governor.

Mr. MACOMBER of Kennebec: Mr. President: I would like to inquire what, if any action has been taken in the House.

The PRESIDENT: The endorsement shows that in the House it failed of a passage over the Governor's veto. It does not appear what the vote was.

The question being put, the yeas and nays were ordered; and the vote being had resulted as follows: Those voting ye were Messrs. Baxter, Hamilton, Hastings, Reynolds, Warren (5). Those voting nay were Messrs. Boynton, Colcord, Donigan, Eaton, Emery, Gowell, Howes, Irving, Kellogg, Knowlton, Looney, Lowe, Macomber, Milliken, Minott, Mullen, Osgood, Shaw, Smith, Staples, Wheeler, Wyman (22). So the resolve failed of a passage.

Resolve in favor of Herbert L. Kimball.

(This resolve came from the House accompanied by a message from the Governor with his veto of said resolve.)

The PRESIDENT: The pending question is: Shall this resolve receive a passage notwithstanding the objection of the Governor.

The question being put, the yeas and nays were ordered, and the vote being had resulted as follows: Those voting yea were Messrs. Baxter, Hastings, Reynolds (3). Those voting nay were Messrs. Boynton, Colcord, Donigan, Eaton, Emery, Gowell, Hamilton, Howes, Irving, Kellogg, Knowlton, Loney, Lowe, Macomber, Milliken, Minott, Mullen, Osgood, Shaw, Smith, Staples, Warren, Wheeler, Wyman (24).

So the resolve failed of a passage.

An Act to repeal Chapter 138 of the Public Laws of 1895 relating to Commission on Uniformity of Laws. (This bill having been by the House indefinitely postponed, on motion by Mr. Hamilton of York the Senate voted to reconsider the vote whereby the bill was passed to be engrossed, and on his further motion the bill was indefinitely postponed in concurrence.

An Act to provide for the payment of salaries and mileage of members and officers, and other expenses incident to the 74th Legislature. (This bill having been reported by the Committee on Appropriations and Financial Affairs "ought to pass," the report was accepted, and, on motion by Mr. Hastings of Oxford, under suspension of the rules, the bill took its several readings and was passed to be engrossed.

Passed to be Enacted.

An Act to amend Section 1, Chapter 136 of the Revised Statutes relating to sentence in criminal cases.

An Act to amend Section 47 of Chapter 29 of the Revised Statutes, A. D. 1903, relating to jail sentences for maintaining a liquor nuisance.

An Act to correct an error in a resolve granting the county taxes for the years 1909 and 1910. (This bill contained the emergency clause. Twenty-five senators voted in favor of its passage and there were no votes opposed.)

An Act additional to Chapter 193 of the Public Laws of 1909, relating to the Maine Forestry District. (This bill contained the emergency clause. Twenty-four senators voted in favor of its passage and there were no votes opposed.)

Mr. Warren of Cumberland presented memorial in favor of pending tariff bill presented by the Ways and Means Committee in Congress, and moved that the same be placed on file.

Mr. WARREN of Cumberland: Mr. President: It may seem rather late in the day to introduce this memorial, but I do it for the purpose of better explaining my position in regard to the matter, and the position of some of those who voted with me.

(The memorial was read by the secretary.)

Mr. WARREN: Mr. President: In moving that this memorial be placed on file, I recognize that it is an unusual motion; but I do it because the passage of this here would be discordant with the memorial which we have recently passed; and I have no disposition to put the Senate in an inconsistent position by passing two measures that are discordant with each other; and certainly we could not get action on it in the House. I present it in order the better to explain my own position in regard to this matter, for I do not feel quite satisfied with the way in which it was left.

I supposed when the former memorial was passed that it would come back again to the Senate, and that there might be an opportunity to meet it here. But it seemed that the memorial passed the Senate, and then the House, and then went to the Governor and was engrossed without coming back here. I wish to say that this memorial was prompted, as we know, by a telegram from Senator Hale, and that telegram, I understand, has been followed by others urging more immediate action, as this was needed. In taking this action the Legislature has practically acted according to the Republican platform. In seeming to vote with those who are not members of the Republican party, I claim that I have been nearer to the Republican platform

than the others; and that those who have voted with me have not in any way voted themselves out of that party. We all know that the Republican platform is for the revision of the tariff. We all know that a session of Congress has been called, and is now in session with this thing in view. In preparation for this, the Ways and Means Committee have been for a long time preparing the bill—I do not know for how long a time, but in November last, but prior to the session of Congress just closed, the Ways and Means Committee held extensive hearings in the preparation of a bill. I attended one of those hearings in the interests of free coal. I want to say that what I saw there much increased my respect for that committee and for the work they were doing. The hearing began at 9 o'clock and lasted until 1 o'clock, when there was a recess, and again from 8 o'clock until midnight, 13 hours. They had been doing that all that week, the week preceding and the week following, and I do not know how many other weeks; and during that 13 hours the larger number of that committee were present and attending to their duties. Every person that had anything to present was heard, either in writing or verbally, and everything in writing was carefully considered; and the words of every person were put in print and sent to them for correction or revision before they were finally recorded. Everything was done with the utmost care. There was no effort on the part of that committee to affect a witness one way or the other. It was perfectly fair. They were questioned sharply but no one was put in an embarrassing position and the effort was to get at the truth in regard to their particular industry. I knew that this question of coal would come up before the end of the day. I sat there during the whole evening. Coal was not reached until 11.30 Saturday night. There was, of course, no action taken in the brief time that was recorded to any person. Now that is all a matter of record, and the record was obtained with the utmost care.

This simply indicates the care this committee has taken in making this bill. The chairman, Mr. Payne, occupies the

Chair which on the former occasion was occupied by Nelson Dingley. I do not know whether he is as good or as able a man as Dingley was, or not, but he seemed to me to be an able man, and one who wishes to do the fair thing. I regret that we have not a New England man, a member from Maine, in that chair, but that is not now our lot. The New England members are McCall of Massachusetts and Hill of Connecticut—both of whom are good men. The duty put upon this committee is a large one—the revising of the tariff lessening the duty on steel, and it provides an adequate remedy. The work that they have done is easily comparable with that of our own committee in the care which they have given to the subject. The book brought forth with the bill is now beyond consideration. That bill reduces the duty on lumber, on pulp and on paper, not in accordance with the Republican platform. In regard to this matter of pulp and paper, there was—as some of you may remember, something like a year ago a great cry in the county in regard to the high price of paper—the exorbitant price. The publishers brought this matter up. There was a great deal of interest in it, and a special committee was appointed, the chairman of which is Mr. Mann of Illinois, who was given this subject of pulp and paper and wood and for this purpose and very thoroughly canvassed in every State in the Union. They visited the mills and they visited the forests, and interviewed men in all lines in connection with that matter, and they have issued their report. There are something like 40 numbers—some of them as large as these tax documents which I have here. Their reports will make several volumes. This matter is in the hands of this committee, and what I say is this, that we ought to stand by that committee as Republicans, that, in taking the action which we have at the dictation of Senator Hale, we are going outside and trying to break down a bill which I believe will do New England men more good than will be done if it is broken up, and then comes the scramble for what we can get. I believe that, in retaining the duty on lumber, on pulp and on paper we will be giving

away a lot of other things that may be worth more. I say again, this lumber should be free. This bill does not make it free, but a duty of \$2 a thousand on this rough lumber is made. The duty on pulp is lowered and the duty on paper is lowered. There should be a duty on paper, and this bill leaves it there. I believe the bill is just and right and good and as a Republican and a citizen of Maine, I believe in standing by the report of the committee; and that is just what I want to do by this memorial which I have presented here. I believe that the action we have taken is extreme. It has not been independent, it has been political—it has been at the dictation of some one. If Senator Hale had asked us for advice in the matter, it would have been another thing. He did not do that. He asked us to do this particular thing; and he did it to help him in breaking down the bill which has been presented.

I was present in the House last night when this matter went through the House, and there was a good deal of talk about the ruinous and suicidal conditions that would exist if this bill passed. Now I do not believe that any of us will have to move out of the State of Maine if the bill now before Congress passes without amendment—I think that we will go on our way as before. I will say that one objection made by the Representative from Auburn in the House was this, that the industry in his particular town was boots and shoes, and by singling out this one particular thing of wood pulp and paper, he was afraid it would work against the shoe industry, against wood. I have followed this matter in our papers, and find there all the time talk about the keeping up free ice, and keeping up the duty on lumber, and all that sort of thing. I believe we ought to stand by the report of that committee. It is our committee as Republicans. We feel here that we ought to stand by a unanimous report of a committee which has given careful and thoughtful attention to a matter; and that we ought not to amend that report or change it unless there are very good reasons for so doing; and when we

amend it we amend it with care, in order that we may not break down its integrity. I do not wish to destroy the main proposition; and that is exactly the case that is now before us. I will say, however, having stated my position that I have nothing further to say, and I only ask that this matter be placed on file.

Mr. EATON of Washington: Mr. President: I rise to a statement made by the senator from Cumberland. I introduced the memorial in the morning. The telegram was received that afternoon. I had never heard that Senator Hale asked for such a memorial, so that the memorial was introduced without invitation by him. The memorial passed the Senate and passed overwhelmingly in the House. I hope the Memorial now before you will not pass, as it will nullify the memorial we have already sent to Congress.

Mr. WARREN: Mr. President: I will accept the explanation made by Senator Eaton. I had understood him to say that Senator Hale had asked for this action. I must have been mistaken.

Mr. EATON: Mr. President: I will say further to the senator from Cumberland that I stated, at that time, that I was very thankful I had anticipated Senator Hale's telegram and had sent the memorial before receiving the telegram asking me to do so.

Mr. WARREN: Mr. President: I accept the explanation of the senator from Washington. I did myself introduce a memorial in regard to free coal at that time and the matter was still before the committee, and if it had gone forward promptly, it would have reached that committee, no doubt, before they had reported their bill. As a matter of fact it has taken an unusual time in getting through, and has very recently gone forward and goes through after the bill has been reported. As a matter of fact, coal has been put on the free list—that is, reciprocally—that is free coal from Canada if Canada receives free coal from us, as it probably will.

The question being upon the motion that the memorial be placed on file, the motion prevailed.

A recess was here taken.

6.10 P. M.

Senate called to order by the President.

The conference committee on bill, "An Act to amend Section 55 of Chapter 88 of the Revised Statutes relating to trustee process," reported that House Amendment A be adopted by the Senate; and that the House then concur with the Senate, and that the bill, as amended by House Amendment A be passed to be engrossed. The report of the conference committee was accepted, and on motion by Mr. Hamilton of York the Senate voted to reconsider the vote whereby the bill was passed to be engrossed, and on his further motion, House Amendment A was adopted and the bill as amended was passed to be engrossed.

The conference committee on disagreeing action on bill, "An Act to authorize the construction and maintenance of a highway in the tide waters of York county, reported that the Committee on Legal Affairs and the Committee on Ways and Bridges having made their final report, and the question under consideration being reference to committee, that they recommend that the papers be placed on file.

The report was accepted and on motion by Mr. Macomber of Kennebec the papers were placed on file.

Mr. OSGOOD of Androscoggin: Mr. President: I would inquire of the Chair, what is the present condition of the trustee bill.

The PRESIDENT: House Amendment A having been recommended to be adopted by the conference committee, and the same having been adopted, the bill has passed to be engrossed as amended by House Amendment A.

Mr. OSGOOD: Mr. President: I would ask if there is a minority report.

The PRESIDENT: There is no minority report.

Mr. OSGOOD: I am informed, Mr. President, by a member of the conference committee that he submitted, or intended to submit a minority report. I am going to say that there is a great objection on the part of some of the senators to the passage of this bill. I am opposed to all of its provisions. I am opposed to it as it regards both debtor

and creditor, particularly in small places. I therefore move that we reconsider the vote whereby the bill has passed to be engrossed.

Mr. Looney of Cumberland called for the yeas and nays.

Mr. BAXTER of Cumberland: Mr. President: I think the remarks of Senator Osgood call for explanation in regard to committee on conference. Under joint rule No. 13, there is no provision made for a minority report of a committee of conference. (The senator thereupon read Rule 13). It is too late to discuss the merits of this bill at the present time, and I shall refrain from doing so.

Mr. OSGOOD of Androscoggin: Mr. President: I desire to say, in answer to the senator from Cumberland, that perhaps the senators do not understand the position that the bill is in, that the bill has been through the House and there have been three roll-calls upon it. A roll call last night gave a vote of 59 to 58. This morning that bill, by a majority of nine was indefinitely postponed. This afternoon it was for the third time reconsidered, and I want to say that the committee of conference was made up, while I have no doubt in the interest of fairness—of those who were friends to the measure; and the one minority member of that committee reported his decision to me, and knows of the statement I have made; and I am very glad the yeas and nays are called for.

Mr. HAMILTON of York: Mr. President: This bill came before the Legal Affairs Committee and it had two several hearings. People were here from different parts of the State, and the bill with the amendment was unanimously reported. It was passed to be engrossed by the Senate, and went to the House, and now comes back here in the way which has been stated. I do not understand that a discussion on the merits is in order, but that we have passed that stage.

The PRESIDENT: The pending question is upon the motion of Senator Osgood that the vote whereby the bill was passed to be engrossed be reconsidered. Upon that motion the Chair understands that the question is open to discussion upon its merits.

Mr. HAMILTON of York: Mr. President: The reason for this bill is evidently fair both to the employer and employee. It exempts a man for one month's wages. Under the old bill, his wages up to the last cent could be taken by trustee process, if it was thought necessary. Now, this bill exempts, for necessities as well as for any other matter, \$10.00 for one month previous. We consider the proposition of the bill was a fair one and so considering it, we reported it. The bill for trustee process came in before we had this assignment for wages. Now, a man who wishes to trust a party usually trusts him upon his honesty and because he knows him, and when he trusts him in that way, he can go in with a trustee process and take the last cent he has got. Now the assignment comes in, and a man who wishes to trust another, to make himself secure, takes his assignment for wages and gets something out of it. Now, as it stands on a process of \$10.00, he won't get anything.

Another thing about this matter is that there is a certain amount of property exempt. He may have a pair of horses and buy his grain of a man, and if he don't pay for it, his team is exempt and all his working rigging is exempt, and under the statute you can arrange it so that there will be about \$200.00 exempt. Now a laboring man who has nothing but his labor, why shouldn't he be exempt for enough to take care of his family for the time being. It is on the line of exemption. Now is a poor debtor's disclosure, if he has wages due him for one month, that is exempt and he should have something exempted to live upon. That seems to be right and proper.

People came in here at the hearing from different places in the county and came from Lewiston, and the fact appeared that these bills are picked up by lawyers—I do not mean to say, because they are lawyers, that they are dishonest and that they are shysters—but they are picked up and trustees are made, and if it is a woman that works in a mill, she has got to have something to support herself and her children, and if it is a man he may be in the same condition. So she will pay a dollar or

two; then it goes on to the next month, and she is trustee again, and the next month trustee again, and each month she pays a little in.

Now I know that in one case I settled a bill that amounted to \$34.00, and the woman had paid \$36.00 on that bill, and still \$34.00 was due. There was just enough to pay the lawyer's fees, what he took each month, and so it was repeated. And it appears there were a great many of these lawyers in Lewiston who went around picking up these bills and making it a matter of business.

The bill in the House was discussed and discussed, and here again discussed by this conference committee. Five of them were in favor of this bill as it is now with the amendment which has been adopted. It has been discussed carefully, and not only in the interest of the laborer, but of the employer. Both sides are protected by the assignment.

The pending question being upon the motion that the vote whereby the bill was passed to be engrossed be reconsidered, the yeas and nays were ordered, and the vote being has resulted as follows. Those voting yea were Messrs. Boynton, Donigan, Emery, Hastings, Howes, Kellogg, Macomber, Osgood, Shaw, Smith, Wyman (11). Those voting nay were Messrs. Baxter, Colcord, Eaton, Gowell, Hamilton, Irving, Knowlton, Looney, Lowe, Milliken, Minott, Mullen, Reynolds (13).

So the motion was lost.

Passed to be Enacted.

An Act to amend Chapter 15 of the Revised Statutes in relation to education.

An Act to amend Section 89 of Chapter 4 of the Revised Statutes relating to the right to take land for parks, squares and public libraries.

An Act amendatory to Chapter 17 of the Revised Statutes relating to the practice of medicine, surgery and dentistry.

An Act to amend Section 51 of Chapter 79 of the Revised Statutes relating to the appointment of auditors, surveyors and referees in vacation.

An Act to make uniform the standard

relating to the percentage of alcohol in intoxicating liquors.

An Act to establish a standard unit of measure and a standard size of can for the sale of milk and cream and to regulate the sanitary conditions under which milk and cream shall be handled.

An Act to amend the charter of the Augusta Water District.

An Act to prohibit trout fishing in Kay Brook, sometimes called Bog brook, and its tributaries in the town of Lebanon, York county.

An Act to prohibit trout fishing in Goding Brook so-called, and its tributaries in the towns of Lebanon and Acton in York county.

An Act to permit certain plantations to assume the maintenance of their roads and bridges.

An Act to incorporate the Cherryfield and Beddington Telephone Company.

An Act relating to the choice of assessors in towns.

Finally Passed.

Resolve in favor of Eddie McCormick of South Bancroft, Maine.

Resolve in favor of John Good of Benedicta, Maine.

Resolve in favor of the clerk to the Committee on Claims.

Resolve in favor of clerk, stenographer and messenger to the Committee on Appropriations and Financial Affairs.

Resolve to amend Chapter 194 of the Resolves of 1893 as amended by Chapter 155 of the Resolves of 1905, relating to industrial exhibits of the Maine State Agricultural Society.

Resolve for the appointment of delegates to the Conference of the International Tax Association.

Resolve in favor of the clerk and stenographer to the Committee on Insane Hospitals, and School for Feeble Minded.

Passed to be Enacted.

An Act to amend Chapter 9 of the Revised Statutes relating to the assessment of taxes on land in places not incorporated.

An Act to amend a resolve for the preservation of the archives of the State of Maine, approved by the Governor, March 19, 1909.

An Act to prohibit corporations from transmitting electric power beyond the confines of the State.

An Act to regulate the use of joint poles in the public streets by electrical companies.

An Act relating to the reconstruction of Portland Bridge.

On motion by Mr. Hastings of Oxford, the Senate took a recess until 8.30 P. M.

8.30 o'clock P. M.

Senate called to order by the President.

An Act to amend Section 1 of Chapter 136 of the Revised Statutes relating to sentence in criminal cases:

(The foregoing bill was returned to the Senate with the following communication:)

STATE OF MAINE.

Executive Department.

To the Honorable Senate:

I have examined Senate bill entitled "An Act in amendment of Section 1 of Chapter 136 of the Revised Statutes, relating to sentence in criminal cases; and respectfully return the same herewith without my approval.

This bill seeks to deprive our courts of a certain discretionary power in imposing sentence in criminal cases which has existed in principle since the early history of jurisprudence in this State.

While our Constitution declares that "all power is inherent in the people" and that "they have therefore an unalienable and indefeasable right to institute government, and to alter, reform or totally change the same when their safety and happiness require it," yet the same fundamental law has also declared that the powers of government shall be divided into three distinct departments, legislative, executive and judicial. In our State the functions of the judicial department arise from a peculiar, delicate and intricate admixture of the principles of the common law with the mandates of the Legislature.

To obtain the best results those principles and mandates should show proper regard each for the other. Judicial discretion, with certain limits, is one of the foundation stones of the Temple of Justice. To remove discretionary power from the judiciary in many cases might work hardship or even cruelty. The

wise, upright judge has before him all the facts and circumstances in each case; and he should, in my opinion, be allowed a certain range of discretion in forming his judgments, unless flagrant abuses of that power arise.

The history of the judiciary system in this State and the character of the present incumbents thereof are such as to lead me to the conclusion that the act under consideration, so broad in application and so sweeping in its possible results is unwise.

I therefore respectfully decline to sign the bill.

(Signed) BERT M. FERNALD.

Governor of the State of Maine.

Dated April 2, 1909.

The foregoing communication was read by the secretary.

Mr. MILLIKEN of Aroostook: Mr. President: It has been my belief throughout the session of the Legislature that we have laid upon us two duties: First, to see to it that the business of this State is conducted on business principles in every particular; that the money raised by taxation should be equitably raised and that the distribution of that money by appropriations should be in those channels that would return the greatest good to the greatest part of the people of the State. Our other duty has been, as it seemed to me, to do honestly and fearlessly whatever seemed to us to be wise and would tend to enforce strictly the prohibitory law. Whatever I have done here I have tried to do along these lines. I voted for this bill because I believed and I believe now it would help the enforcement of the prohibitory law. Toward any man who believes the opposite I have the utmost charity. If any man voted against the bill believing that it would tend to the better enforcement of the prohibitory law, I can only yield to him the best opportunity for judgment that I ask for myself. Toward any man who votes or believes that the bill ought not to pass, I have no such charity. I do not believe in considering politics in this action. I believe and have believed that the only thing to do is to do whatever seems to be the plain thing for the enforcement of the law. With that fact in

mind, I voted for the law and I cannot find my judgment altered in any respect and I feel that I must vote for it now.

The PRESIDENT: The pending question is, shall this bill become a law notwithstanding the objections of the Governor? The vote upon this question should be taken by the yeas and nays.

The question being put, a yea and nay vote was had and resulted as follows: Those voting yea were Messrs. Boynton, Donigan, Hastings, Howes, Irving, Milliken, Minott, Reynolds, Smith, (9). Those voting nay were Messrs. Baxter, Eaton, Emery, Gowell, Hamilton, Looney, Lowe, Macomber, Mullen, Osgood, Shaw, Warren, Wheeler, Wyman (14).

So it was not voted that the bill should become a law notwithstanding the objection of the Governor.

Resolve in favor of the town of Old Orchard for receipt of State treasurer of State tax to be given on valuation of the town at one hundred thousand dollars.

The PRESIDENT: In this matter, the Governor returned the bill with his objection. The motion was made to indefinitely postpone. The Chair sustained the motion to indefinitely postpone and the motion was carried. The chair believed then and believes now that that was the proper motion and the proper action. However, there is some question about it. Some doubts have been raised about it. In the other branch, they do not so regard it. For that reason I shall ask that the vote whereby we indefinitely postponed, be reconsidered, and that the vote be taken by the yeas and nays upon the question whether this bill shall become a law notwithstanding the objection of the Governor, thus conforming with the practice which prevailed in the practice of the other branch and which the officer of the other branch thinks the proper and the only proper procedure.

Thereupon upon motion by Mr. Hamilton of York, the Senate voted to reconsider the vote whereby the bill was indefinitely postponed.

The PRESIDENT: The pending question is now, shall this bill become a law notwithstanding the objection of the Governor? The Chair understands that another bill has taken its place, so that the friends of the measure do not ask that it be passed over the Governor's

veto. This action is one taken that the practice in both Houses shall be harmonious.

The pending question being, shall this bill become a law notwithstanding the objection of the Governor; a yea and nay vote was taken and resulted as follows: Those voting nay were Messrs. Baxter, Boynton, Colcord, Donigan, Eaton, Emery, Gowell, Hamilton, Hastings, Howes, Irving, Looney, Lowe, Macomber, Milliken, Minott, Mullen, Osgood, Reynolds, Shaw, Smith, Warren, Wheeler, Wyman, (24); no senator voting yea.

So it was not voted that the bill become a law notwithstanding the Governor's objection.

A recess of 15 minutes was here taken.

After Recess.

The Senate was called to order by the President.

On motion by Mr. Irving of Aroostook, House Document No. 760, "An Act to establish liquor agencies" was taken from the table. On further motion by the same senator the Senate voted to adhere to its former action whereby the Senate voted to indefinitely postpone the bill.

Passed to be Enacted.

An Act for the assessment of a State tax for the year 1910, amounting to the sum of \$2,143,156.47.

An Act to regulate the purchase and sale of intoxicating liquors by State Liquor Commissioner and town liquor agents.

An Act to incorporate the Steuben Railway Company.

An Act to amend Section 22 of Chapter 32 of the Revised Statutes as amended by Section 5 of Chapter 132 of the Public Laws of 1905, relating to payment of damage done to growing crops by deer.

An Act to amend Section 47 of Chapter 41 of the Revised Statutes relating to fish weirs in the Kennebec river.

An Act in relation to possession under defective proceedings in eminent domain.

An Act to amend Section 38 of Chapter 29 of the Revised Statutes of the State of Maine, relative to persons travelling from place to place, carrying or offering for sale intoxicating liquors.

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

An Act to provide a bounty on bears in Washington and Hancock counties.

An Act to amend Section 23 of Chapter 114 of the Revised Statutes as amended by Chapter 2 of the Laws of 1907 relating to poor debtors.

Finally Passed.

Resolve in favor of E. E. Chase, Jr.

Resolve to amend Chapter 126 of the Resolves of 1905, as amended by Chapter 79 of the Resolves of 1907 relating to Central Maine Fair Association.

Resolve on the payroll of the House.

Resolve on the payroll of the Senate.

Resolve in favor of the town of Old Orchard.

Resolve providing for the preservation of regimental rolls in the office of the adjutant general.

Resolve in favor of Fred W. Lee.

Resolve in favor of L. S. Sanborn.

The following acts contained the emergency clause:

An Act to appropriate moneys for the expenditures of government for the year 1909. (22 senators voted in favor of its passage and there were no votes opposed.)

An Act for the assessment of a State tax for the year 1909 amounting to the sum of \$1,286,651.55. (22 senators voted in favor of its passage and there were no votes opposed.)

Passed to be Enacted.

An Act to amend Section 55 of Chapter 88 of the Revised Statutes relating to trustee process.

An Act in relation to the collection of fees by State officials and the payment of same to the State treasurer.

An Act to provide for the uniform grading, packing and branding of apples.

An Act to provide for the payment of salaries and mileage of members and officers and for other expenditures incident to the 74th Legislature.

An Act to amend Section 5 and to repeal Section 9 of Chapter 2 of the Public Laws of 1905 providing for the better enforcement of the laws against the manufacture and sale of intoxicating liquors.

An Act to incorporate the Fire Insurance Company of Portland, Maine.

ployment of minors in manufacturing or mechanical establishments in this State.

An Act to amend Chapter 40 of the Revised Statutes and Chapter 46 of the Public Laws of 1907 relating to the employment of minors in manufacturing or mechanical establishments in this State.

On motion by Mr. Hastings of Oxford, the Senate adjourned.