

MAINE STATE LEGISLATURE

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Legislative Record

OF THE

Eighty-First Legislature

OF THE

STATE OF MAINE

1923

KENNEBEC JOURNAL COMPANY
AUGUSTA, MAINE

SENATE

Tuesday, March 27, 1923

Senate called to order by the President.

Prayer by the Rev. A. F. Walch of Augusta.

Journal of previous session read and approved.

Mr. SPEIRS of Cumberland: I will say that tomorrow morning there will be 110 scholars from Westbrook visit the Senate. If the Senate could meet one hour later, so that they could see the session start, I should be pleased, but I do not want to delay the Senate.

Mr. HINCKLEY of Cumberland: Mr. President, I move, out of courtesy to the senator from Cumberland, that when we adjourn we adjourn until 10 o'clock tomorrow morning.

The motion was agreed to.

Mr. BREWSTER of Cumberland: Mr. President, I move that the Senate take a recess to take appropriate action in regard to the picture of the late Governor Parkhurst.

The motion was agreed to, and the Senators repaired to the corridor, and met the members of the House, when the picture of the late Governor Parkhurst was unveiled.

Upon the return of the Senators to their Chamber the Senate was called to order by the President.

Papers from the House disposed of in concurrence.

From the House: An Act to amend Chapter 83 of the Public Laws of 1923, relating to close time on scallops, for the purpose of correcting a clerical error.

In the House received under suspension of the time limit order and under further suspension of the rules given its several readings and passed to be engrossed.

In the Senate received under suspension of the rules, and under further suspension of the rules read twice and passed to be engrossed in concurrence.

From the House: H. D. 406, An Act to establish the Mt. Katahdin State Park.

In the House the report of the committee on State lands and forest

preservation, ought not to pass, was accepted.

In the Senate, on motion by Mr. Brewster of Cumberland, tabled and specially assigned for tomorrow morning, pending the acceptance of the report of the committee.

From the House: The majority of the committee on judiciary, on An Act to amend Section 2 of Chapter 32 of the Revised Statutes, relating to traveling circuses (House Doc. No. 152), reported the same in a new draft, under the same title (House Doc. No. 384), and that it ought to pass.

(Signed)

Messrs. HINCKLEY
NICHOLS
ARCHIBALD
HUSSEY
SAUNDERS
WEEKS
WING
BUZZELL
GARDINER

The minority of the same committee, on the same subject matter, reported that the same ought not to pass.

(Signed)

MAHER

In the House the majority report was accepted.

In the Senate, on motion by Mr. Hinckley of Cumberland, the majority report was accepted, and the bill in new draft, H. D. 384, was given its first reading.

House Bills in First Reading

House 442: Resolve, authorizing the Attorney General to procure pictures of former Attorney Generals and appropriating money therefor.

House 426: Resolve, appropriating money for the repair of the historic block house at the junction of the St. John river and the Fish river at Fort Kent.

House 443: An Act to amend Section 67 of Chapter 82 of the Public Laws of 1919, in relation to the Attorney General.

House 264: An Act to amend Section 56 of Chapter 188 of the Public Laws of 1917 relating to the time of electing superintendents of schools in towns comprising school unions.

House 449: An Act to incorporate the Union Ferry Company.

House 441: An Act to amend Section 30 of Chapter 64 of the Revised Statutes, relating to the issuing of

burial and transportation permits by sub-registrars.

House 448: An Act to amend the charter of the City of Hallowell, relative to the appointment of the city marshal and street commissioner.

H. 447. An Act to enable the town of Kennebunk to purchase an existing private sewer or drain.

H. 437. An Act to authorize the city of Lewiston to issue bonds for the construction of school houses in the city of Lewiston.

H. 445. An Act additional to and amendatory of Chapter 211 of the Public Laws of Maine for 1921, relating to lights on motor vehicles.

H. 446. An Act relating to the incorporation of the Androscoggin and Kennebec Railway Company, and the issue of stock by it.

H. 440. An Act to incorporate the North Orrington Cemetery Improvement Association.

H. 380. An Act to provide for the licensing, inspection and regulation of hotels and private lodging houses.

(House Amendment A adopted in concurrence).

H. 165. Resolve to increase the pension of Lester Patten of Hermon.

H. 166. Resolve in favor of State pension for Levi Holden.

H. 167. Resolve to increase the State pension of Charles D. Preble of Kittery.

H. 177. Resolve providing for State pension for Mary A. Grant of Etna.

H. 178. Resolve in favor of Mary E. Ames of Stockton Springs for State pension.

H. 179. Resolve in favor of Mary S. Hillman for State pension.

H. 439. An Act to amend Sections 6, 9 and 17 of Chapter 78 of the Public Laws of 1921 relating to auxiliary State forests.

H. 322. An Act to amend Section 9 of Chapter 10 of the Revised Statutes relative to real estate where taxed.

H. 438. An Act for expediting highway and bridge construction work under legislative appropriations.

From the House: The committee on legal affairs, on Resolve authorizing Michael Burns to bring a suit at law against the State of Maine, reported that the same be referred to the committee on judiciary

In the House the report of the bill was indefinitely postponed.

In the Senate, on motion by Mr. Hinckley of Cumberland, the report and bill were indefinitely postponed in concurrence.

Bill An Act to repeal Chapter 183 of the Public Laws of 1919 entitled "An Act to assist in the commercial utilization of dog fish." (House Doc. No. 347.

By the House the bill was indefinitely postponed and by the Senate passed to be engrossed in non-concurrence.

It now comes back from the House, that branch insisting upon their former action and asking for a committee of conference, the Speaker having named as House members on such a committee

Messrs. ROGERS of Rockland
LAMSON of South Portland
DOUGLAS of Lamoine

Mr. WILSON of Aroostook: Mr. President, I do not know that this motion would be in order now, but I wish to make it, if it is, that the Senate concur with the House in indefinite postponement of the bill. I will explain my reason. This came before the agricultural committee. No one appeared for or against it. We found it was a law passed several years ago for the utilization of dogfish for fertilizer, and the State was recommended to vote an appropriation to be expended for that use. It was never done, and somebody, I think it came from the Cole committee, suggested that the law be repealed. It is nothing that anybody appears to be particularly interested in, interested enough to appear for or against it. So if the motion would be in order, I move that we concur with the House in indefinite postponement of the bill.

Mr. HINCKLEY of Cumberland: Mr. President, may I inquire if I understand correctly that this is a bill providing for the repeal of that particular law, inasmuch as it is practically obsolete?

Mr. WILSON: Yes, sir.

Mr. HINCKLEY: And the Senate has voted in favor of repealing the law and the House to indefinitely postpone, which would leave the law on the statute books, if I understand it, and it seems to me that we should insist and ask for a committee of conference, in order to repeal the law.

The PRESIDENT: The motion of the senator from Aroostook, Mr. Wilson, to recede and concur, takes precedence.

A viva voce vote was had and the

Chair being in doubt a division was had.

Nine senators voting in the affirmative and 16 in the negative, the motion was lost, and the question then recurred to the motion of the senator from Cumberland, that the Senate insist upon its former action and join a committee of conference.

The motion was agreed to and the Chair subsequently appointed as such committee on the part of the Senate:

Messrs. HINCKLEY of Cumberland,
EMERY of Washington,
BUZZELL of Waldo.

The PRESIDENT: The Chair at this time will appoint on the part of the Senate as members of the conference committee on the disagreeing action of the two branches on the bill in regard to the salary of the treasurer of Androscoggin county:

Messrs. MORNEAU of Androscoggin,
HINCKLEY of Cumberland,
SMITH of Somerset.

From the House: Resolve in favor of Northern Maine Sanatorium at Presque Isle, Aroostook county for personal services, maintenance, repairs and improvements. (Senate Doc. No. 245).

This resolve was passed to be engrossed by the Senate in concurrence with the House.

It now comes from the House that branch having reconsidered their former action in passing the resolve to be engrossed and adopted House Amendment "A."

Mr. EATON of Oxford: Mr. President, I understand that no change has been made in the amount of the resolve, and the purpose of the amendment is to make the fund not a continuing fund.

(The Chair read the amendment.)

On motion by Mr. Eaton, the vote was reconsidered whereby this resolve was passed to be engrossed, and House Amendment A was adopted in concurrence and the bill as amended by House Amendment A was passed to be engrossed.

Appropriations and Financial Affairs

The following resolve was presented and was referred to the committee on appropriations and financial affairs.

By Mr. Eaton of Oxford: Resolve on the pay roll of the Senate of the 81st Legislature.

Reports of Committees

Mr. Allen from the committee to consider the Cole report, on An Act relating to the government of State institutions (Senate Doc. No. 119), reported that the same ought not to pass.

Mr. Brewster from the committee on legal affairs, on An Act to amend Chapter 37 of the Private and Special Laws of 1917, relating to a police commissioner for the city of Lewiston (Senate Doc. No. 59), reported that legislation thereon is inexpedient as the same subject matter is covered in another bill.

The reports were accepted and sent down for concurrence.

Mr. Allen from the committee to consider the Cole report, on An Act to constitute the State superintendent of schools a member, ex-officio, of the board of trustees of the University of Maine, reported that the same ought to pass.

The same senator from the same committee, on An Act to encourage and provide for a system of uniform accounting in cities, towns and village corporations (Senate Doc. No. 89), reported that the same ought to pass.

The reports were accepted and tabled for printing under the joint rules.

Report "A" from the joint committees on public utilities and ways and bridges, on An Act to provide for building a bridge across the Kennebec river between the city of Bath and the town of Woolwich (Senate Doc. No. 29), reporting the same in a new draft, under the same title, and that it ought to pass.

(Signed) Messrs. ADAMS
CARLTON
BARTLETT
SMITH
STORY
BECKETT
DUNN
STEVENS
DRAKE

Report "B" from the same committees, on the same subject matter, reporting that it ought not to pass.

(Signed) Messrs. SPENCER
BLAISDELL
DUNBAR
HEAL
KEEF
LUDGATE
KEENE
HODGKINS
GRANVILLE

On motion by Mr. Wadsworth of

Kennebec, tabled pending the acceptance of either report and especially assigned for tomorrow morning.

CARLTON
BARTLETT
SMITH
DUNBAR
DUNN
STORY

Report "A" from the joint committees on public utilities and ways and bridges, on resolve amending Article IX of the Constitution, increasing the amount of bonds to be issued for the purpose of building bridge across the Kennebec river between the city of Bath and the town of Woolwich (Senate Doc. No. 30), reporting the same in a new draft, under the same title, and that it ought to pass. (Signed) Messrs. CARLTON

BARTLETT
DRAKE
BECKETT
STORY
STEVENS
DUNN
ADAMS
SMITH

Report "B" from the same committees, on the same subject matter, reporting that the same ought not to pass.

(Signed) Messrs. SPENCER
BLAISDELL
DUNBAR
HEAL
KEEF
LUDGATE
HODGKINS
GRANVILLE
KEENE

On motion by Mr. Clark of Lincoln, tabled pending acceptance of either report and especially assigned for tomorrow morning.

The majority of the joint committees on public utilities and ways and bridges, on An Act to incorporate the Maine Kennebec Bridge (Senate Doc. No. 72), reported the same in a new draft, under the same title, and that it ought to pass.

(Signed) Messrs. SPENCER
BLAISDELL
LUDGATE
HEAL
KEEF
KEENE
HODGKINS
GRANVILLE
BECKETT

The minority of the same committees, on the same subject matter, reported that the same ought not to pass.

(Signed) Messrs. ADAMS
STEVENS

On motion by Mr. Carlton of Sagadahoc, tabled pending acceptance of either report and 500 copies of this bill, S. D. 72, and S. D. 30, ordered printed.

Passed to Be Engrossed

House 374: Resolve, in favor of the Bath Military and Naval Orphan Asylum.

House 432: Resolve, in favor of several academies, institutes, seminaries and colleges for maintenance, repairs and improvements.

House 433: An Act to incorporate the North Village Water Company.

House 435: An Act to amend Section 7 of Chapter 293 of the Public Laws of 1917, relating to the director of the sea and shore fisheries.

Senate 186: An Act for the better protection of banks in particular transactions.

Senate 270: An Act to amend Chapter 38 of the Public Laws of 1919, relating to retiring and pensioning employees of the State.

Senate 271: An Act to regulate the use of aircraft.

Senate 272: An Act to amend Section 35 of Chapter 72 of the Revised Statutes, as amended, relating to adoption.

Senate 273: Resolve, to appropriate money to pay for egg lobsters purchased in 1922.

Senate 274: Resolve, appropriating money to purchase and install a new engine in the State Boat "Pauline."

Senate 276: An Act to amend Section 33 of Chapter 127 of the Revised Statutes, relating to the disposal of intoxicating liquors declared forfeited.

Senate 277: Resolve, appropriating money for continuance of White Pine Blister Rust Control.

Senate 278: Resolve, providing a State pension for Mrs. Cora V. Swift of Portland.

Senate 279: Resolve, making an appropriation for the construction of a new building at the Northern Maine Sanatorium, Presque Isle, Aroostook county, and for the purchase of equipment therefor, and for maintenance.

Senate 280: An Act to establish a

ferry across Somes Sound between Southwest Harbor and Northeast Harbor.

Senate 281: An Act to amend Chapter 84 of the Private and Special Laws of 1919, entitled An Act to provide for the building of public wharves and for the establishment of adequate port facilities and for the advancement of commerce, as amended by Chapter 123 of the Private and Special Laws of the Special Session of 1919.

(On motion by Mr. Eaton of Oxford, tabled pending passage to be engrossed and especially assigned for tomorrow.)

Senate 282: An Act to change the name of Number Twenty-one Plantation, in Hancock county, to Osborn Plantation.

Senate 283: An Act to amend Sections 20, 27 and 28 of Chapter 127 of the Revised Statutes, as amended by Chapter 291 of the Public Laws of 1917, relating to intoxicating liquors.

Passed to Be Enacted

An Act to amend Section 44 of Chapter 117 of the Revised Statutes, as amended by Chapter 167 of the Public Laws of 1914, 259 and 260 of the Public Laws of 1919, and Chapter 219 of the Public Laws of 1921, relating to salary of county treasurer of Lincoln and Hancock counties.

An Act relating to the expenditures of the Department of Public Schools.

An Act to amend Sections 1 and 5 of Chapter 169 of the Public Laws of 1919, as amended by Chapter 183 of the Public Laws of 1921, relating to the support of dependents of soldiers, sailors and marines.

An Act to amend the purpose of the Maine Institution for the Blind.

An Act to incorporate the City of Brewer High School District.

An Act to amend Section 10 of Chapter 64 of the Revised Statutes, relating to marriage.

(On motion by Mr. Brewster of Cumberland, tabled, "to be taken up not later than tomorrow.")

An Act to amend Chapter 222 of the Public Laws of Nineteen Hundred and Nineteen, relating to fees of constables.

An Act to amend Section 44 of Chapter 117 of the Revised Statutes, as amended by Chapter 219 of the Public Laws of 1921, relating to the salary of the treasurer of York county.

An Act to amend Section 40 of Chapter 117 of the Revised Statutes, as amended by Chapter 219 of the Public Laws of 1921, increasing the salary of the clerk of judicial courts in the county of Sagadahoc.

An Act to amend Paragraph 2 of Section 45 of Chapter 117 of the Revised Statutes, as amended by Chapter 153 of the Public Laws of 1917 and by Chapter 219 of the Public Laws of 1921, relating to clerk hire in the Androscoggin county registry of deeds.

An Act to amend Section 43 of Chapter 117 of the Revised Statutes, as amended by Chapter 214 of the Public Laws of 1919, and by Chapter 219 of the Public Laws of 1921, increasing the salary of the register of deeds in the county of Sagadahoc.

An Act to amend Section 44 of Chapters 117 of the Revised Statutes, as amended, relating to the salary of the county treasurer of Hancock county.

An Act to amend Section 37 of Chapter 117 of the Revised Statutes, as amended by Section 1 of Chapter 194 of the Public Laws of 1917 and by Chapter 214 of the Public Laws of 1919 and by Chapter 219 of the Public Laws of 1921, relating to the salary of county attorney of Lincoln county.

An Act authorizing the city of Portland to construct a fire station upon public grounds.

An Act to amend Section 41 of Chapter 117 of the Revised Statutes, as amended by Chapter 214 of the Public Laws of 1919, and by Chapter 219 of the Public Laws of 1921, relating to salary of sheriff of Aroostook county.

An Act to amend Section 42 of Chapter 117 of the Revised Statutes, as amended by Chapter 173 of the Public Laws of 1917, and by Chapters 214 and 241 of the Public Laws of 1919, and by Chapter 219 of the Public Laws of 1921, relating to salaries and expenses of county commissioners.

An Act to amend Sections 19, 21 and 22 of Chapter 18 of the Revised Statutes as amended by Chapter 148 of the Public Laws of 1917, relating to the Board of Registration of Nurses.

An Act relating to improvements on Nash Stream and the East and West branches thereof in Coplin Plantation, and in the township of Redington in the county of Franklin.

An Act to amend Section 58 of Chapter 4 of the Revised Statutes, relating to the purposes for which cities and towns may raise money.

An Act in relation to employes and

office expenses of the department of the Attorney General.

An Act to amend Section 25 of Chapter 124 of the Revised Statutes, relating to penalty for falsely assuming to be an officer.

Finally Passed

Resolve, providing a State pension for Frank A. Choate of Montville.

Resolve, in favor of Nancy T. Morrill of Madison, for State pension.

Resolve, in favor of Central Maine Sanatorium for personal services, maintenance, repairs and equipment.

Resolve, in favor of Western Maine Sanatorium for personal services, maintenance, repairs and equipment.

Resolve, in favor of Miss Edith L. Soule, repealing Chapter 26, Resolves of 1923.

Orders of the Day

The PRESIDENT: This brings us to the matters specially assigned for today.

Mr. WADSWORTH of Kennebec: Mr. President, I move that we take up out of order a matter that was tabled by me yesterday in regard to the veto message of the Governor on bill, An Act to amend Chapter 206 of the Private and Special Laws of 1907, relating to the West Branch Driving and Reservoir Company, H. D. No. 227.

The PRESIDENT: If there is no objection on the part of the Senate this matter may be taken up out of order. If there is any objection made the Chair will have to rule against this coming out of order. Without objection, the Chair will recognize the senator from Kennebec, Mr. Wadsworth.

Mr. WADSWORTH: I tabled this, Mr. President, in order that I might inform myself a little better in regard to the provisions of the act. I have looked into the matter to some extent and have found the facts to be these, as far as I have been able to learn them:

The charter was granted to this company some years ago, in 1907 I think, to build a dam at Ripogenus falls. The dam was built to a certain height specified in the charter I think. At the present time they have procured the land, the property over which the flowage would extend, so that it will not interfere with any other individual or any other company, and the damage will wholly be their own. They ask to raise this dam some four feet. That is to gain

more storage of water. I see no reason why we should not grant them this right. If we do not grant them this right we will be delaying and hindering the development of industries on the Penobscot river.

After my investigations I have decided that this bill should pass notwithstanding the objections of the Governor. I shall so vote.

I yield the floor to the senator from Oxford, Mr. Eaton.

Mr. EATON: Mr. President, I desire to give a little further information in reference to this matter than has been included in the remarks made by the senator from Kennebec, Senator Wadsworth.

The West Branch Driving and Reservoir Dam Company was chartered under the provisions of Chapter 174 of the Private and Special Laws of 1902. It has imposed upon it various duties and obligations pertaining to the driving of logs within its chartered territories. It has the right to store water. Under the provisions of the original act, so long as there shall be any stored water in its system, two thousand cubic feet per second must, throughout the year, be discharged down the West Branch of the Penobscot river.

Under the provisions of Chapter 206 of the Private and Special Laws of 1907, the company was authorized and empowered to rebuild and raise its dam at Ripogenus Falls, or to build and maintain a new dam at said falls, to such a height as would raise the water four and one-half feet above the maximum level of the surface of Chesuncook Lake as flowed by the Chesuncook Dam. This right was granted both for the purpose of facilitating the driving of logs and lumber and for storing water for the use of any mills which might use the West Branch water. This amendment carried provisions for taking land, if necessary, and for compensation to be paid for flowing out of any water power belonging to private individuals below Chesuncook Dam or below the dam authorized by that act.

Under the authority of this amendment, a new concrete dam has been constructed and maintained at Ripogenus. All damages occasioned by flowage from that dam have long since been paid and compensation has been made for any water powers flowed out by the building of that dam. The capacity of the reservoir

is approximately twenty-five billion cubic feet. The present flowage is about thirty-eight square miles. The drainage basin comprises about 1500 square miles. Under the provisions of Chapter 94 of the Private and Special Laws of 1917 the West Branch Company was authorized to sell or lease its stored water to the Great Northern Paper Company, without right however, to the West Branch Company to divest itself of water or rights necessary to perform the public duties imposed on it by its charter. This amendment carried the further provision that whenever the State should determine to take over the rights and property of the West Branch Company in order to maintain and operate a system of water storage it could do so without obligation to compensate the West Branch Company for the right and franchise granted by that Act.

Under normal conditions, this reservoir has been sufficient for the operation of the Great Northern Paper Company's mills throughout the year. During the present season, there has been a serious water shortage. This condition, whenever it happens, is serious not only for the Great Northern Paper Company, but for all industries upon the Penobscot River. During most seasons, the present reservoir will fill to the prescribed height, and under the present limitation of the charter, additional water has been required to be spilled and wasted. This waste water, if held, would be sufficient to bridge over a subsequent year, like the year 1922, when the reservoir fails to fill.

Under these circumstances, House Document No. 227 was presented to this Legislature. The sole effect of this act is to permit the West Branch Company to hold water on its dam to a height four feet higher than is available under the provisions of the amendment of 1907. This will allow about five billion feet more stored water. Hearing was had upon the bill before the committee on Interior Waters, and the purpose and intention thereof fully explained. No opposition was offered, the bill was favorably reported. It subsequently passed through both branches of the Legislature without opposition. It was presented to the Governor, and by him vetoed. It would almost seem that there must have been a misunderstanding on the part of the latter of the real effect and purpose of the bill. In his veto message, he

states that "the bill gives the right to take and flow out any water power belonging to private individuals below Chesuncook Dam or below the dam authorized by this act." He further states, that the franchise is very similar to that asked for by the Kennebec Storage Reservoir Company, and that the reasons for refusing the latter apply with equal force to this act. As a matter of fact, the rights to flow out any other powers were granted in 1907. Such powers will not be flowed out by the operations permitted under this present amendment. Neither is the franchise here sought similar to that asked by the Kennebec Storage Reservoir Company. In the latter case, a new system is to be constructed and a public lot or lots are to be taken for a dam site. In this case the proponents simply ask the right to hold a larger quantity of water on the present existing lawfully constructed dam. Every inch of land to be affected by the new flowage has been purchased outright, or bargained for for compensation satisfactory to the various land owners. The new flowage will amount to twenty-nine hundred acres, and of this, the Great Northern Paper Company is the owner of eleven hundred acres. No person or individual below the dam can be damaged because under the provisions of the original act, it will still be necessary to allow to flow down the West Branch continuously the minimum of two thousand cubic feet per second. As a matter of fact, every enterprise below, including the Bangor Railway and Electric Company, a public service corporation, will be benefitted without any expense to them whatever. The four additional feet will be held back by flash boards on the dam as now constructed. No new construction will be necessary whatever.

Fellow senators, I trust that this may become a law notwithstanding the objections of the Governor.

Mr. HINCKLEY of Cumberland: Mr. President, in a word, as I understand this situation, in 1907, some sixteen years ago, this Legislature granted to the West Branch Drilling and Reservoir Company franchise rights for the purpose of building a dam and erecting a reservoir at the head waters of the Penobscot. These rights were exercised by them. They have been exercised by them continually since that time. By no stretch of the imagination, or inter-

pretation of the law as it is at the present time, or if the Constitution was amended along the lines suggested in a constitutional resolve before this present Legislature, would the State have any right to take these franchise rights away from this corporation which had been already granted. So that under no circumstances could the State interfere with these franchises which have been granted in this particular case.

And now this company which has developed that great reservoir is asking this Legislature solely for the right to raise their dam four feet, so that their own land may be flowed, not interfering with the land of any other person, and it is inconceivable to me, gentlemen, that any objection could be raised to this. A further development, a greater development in the interests of the industry in the Penobscot valley which cannot, as I have suggested, by any stretch of the imagination, ever be exercised by the State of Maine under any circumstances.

I certainly hope that this will become a law notwithstanding the objections of the Governor.

Mr. BREWSTER of Cumberland: Mr. President, it may be necessary and proper for me to explain why I shall vote against this measure. The clearness with which the others have advanced their reasons for supporting it leaves it embarrassing almost to one who votes "no."

I visited this region some two or three years after this original charter was granted, at the head waters of the Chesuncook, and I do not hesitate to say that any man who went there and saw the havoc which had been wrought in that very beautiful section of our State by the creation of this reservoir would pause a long time before he would extend rights further to companies who would so defy the dictates of common decency as to ruin one of the most valuable assets in this State, its natural scenery. I may seem merely an idealist in advocating this view. However, I am very happy to say that it is shared by one who is probably the ablest corporation lawyer in this State and the head of one of our public utilities, who believes that our natural scenery in this State is not only one of our greatest assets but one of our greatest natural assets and one of our greatest commercial assets. And until this company is

ready to do what mere common decency would require in removing those trees before it creates those great forest graveyards that disfigure the headwaters of the Penobscot, I do not feel that we are obliged in considering what is primarily their selfish interests, to go further in granting them extensions of their right when by a very moderate expenditure of money they could take care of that. I visited this region again two years ago at Ripogenus where the dam was erected, and in the upper waters of the Chesuncook, and the condition is certainly a very deplorable one to one who appreciates what is one of our greatest assets.

The PRESIDENT: The bill under consideration is an Act to amend chapter 206 of the private and special laws of 1907, relating to the West Branch Driving and Reservoir Company, and the question before the Senate is whether or not this bill shall become a law notwithstanding the objections of the Governor. Those who wish to pass the bill in spite of the objections of the Governor will vote "yes," those who wish to sustain the veto of the Governor will vote "no."

The secretary called the roll. Those voting "yes" were Messrs. Adams, Allen, Bemis, Buzzell, Carleton, Cram, Croxford, Eaton, Emery, Farrington, Hinckley, Hussey, Kirschner, Morison, Morneau, Philips, Powers, Putnam, Ryder, Sargent, Smith, Speirs, Stevens, Trefethen, Wadsworth, Wilson.—26. Those voting "no" were Messrs. Brewster, Clark, Spencer.—3. Absentees, Bailey, Elliot.

Twenty-six senators voting in the affirmative and three in the negative, the bill was passed to be enacted notwithstanding the objections of the Governor.

The PRESIDENT: This brings us to the special assignments. The first matter is S. D. No. 252, Resolve making appropriations for the Passamaquoddy tribe of Indians for the years July 1st, 1923, to June 30th, 1925, and the Chair will recognize the senator from Oxford, Mr. Eaton.

Mr. EATON: Mr. President, I move that the bill be passed to be engrossed.

The motion was agreed to.

The PRESIDENT: The next matter

in order is S. D. 257, Resolve in favor of the Penobscot tribe of Indians for the general care, maintenance and education thereof, and the Chair recognizes the senator from Oxford, Mr. Eaton.

Mr. EATON: Mr. President, I move that the bill be passed to be engrossed.

The motion was agreed to.

The PRESIDENT: The next matter in order is the Senate report of the joint committee on judiciary and interior waters (ought not to pass) on Resolve proposing an amendment to the Constitution of the State of Maine authorizing the conservation, storage and control of the waters within the State, S. D. No. 107, and the Chair recognizes the senator from Cumberland, Mr. Brewster.

Mr. BREWSTER: Mr. President, I wish to move to substitute the resolve for the report, and say that in 1919 the supreme court of this State held, in answer to questions by the Legislature of that year, that it was not constitutional for the State to itself create storage basins for the benefit of powers down the stream, and as a corollary of that proposition that it was not constitutional for the State to grant such rights of storage to private individuals or corporations for the benefit of powers down the stream.

The result of that situation is that water storage which is, as I think we have all agreed in this Senate, the key to the future prosperity of this State in a large part, cannot now be constitutionally created unless we shall evade the plain constitutional provisions by some subterfuge of log driving or other means. As a consequence it has been rather the general opinion of attorneys and others interested in water power development that some such amendment as this should be adopted, and it was for that purpose that this was introduced. It does present two questions, one of whether the State shall have the authority to do it, and the other of whether the State shall have the authority to grant private individuals or corporations the right to do it.

It would not seem unreasonable that since it is necessary to amend the Constitution in order to enable the State to give the right of way, that it might at the same time possess itself of this right to be exercised in the discretion of future Legislatures. And that is the

exact scope of this amendment. The exact phraseology of the amendment is found in Senate 107 and is as follows:

"The conservation, storage, and control by the State or by a duly authorized public district or districts thereof or other agency, public or private, of the waters within the State are paramount public uses and for the benefit of the people of the state; and the legislature may provide for the same and may provide for the assessment or collection of a reasonable charge therefor upon the lands, property and water-powers which shall or may be benefited thereby."

The powers of this amendment have been substantially endorsed by the Maine Water Power Commission in its report and in its statement before the committee. It has been endorsed almost in substance by some of the leading counsel for water power companies in this State as being a change it might be very desirable to make. The only phraseology to which any particular question has been made is in regard to the words "a reasonable charge therefor upon the lands, property, and water powers which shall or may be benefited thereby." The design of those words "a reasonable charge" was to provide in place of the words which had been suggested by the water power interests, those words being "at cost"—"at cost." The thought of the difficulty with those words "at cost" was that it would be very difficult to define and lay down the exact cost as apportioned between the different powers developed and undeveloped down the stream, and that the words "a reasonable charge" would be words which would be susceptible of judicial construction and give a certain latitude in interpretation and avoid the very complicated constitutional questions that you often get into if you tie your proposition down too close. On the other hand, those words would certainly not permit the water power owners down the stream, developed or undeveloped, to be charged an unreasonable or an extortionate price for the development which might result. And I am very sure that they would share and join in the desirability of such an amendment if they were not afraid that it might also involve some interest by the State in such developments and the possible advantages accruing therefrom. I am not one personally who believes in the direct revenues which should accrue from any such proposition, as I believe the benefits should rather come from the development

which would result, and that if simply reasonable charges are assessed upon the power owners down the stream, they may share, and the State may share in the prosperity resulting therefrom.

There has been at various times in this session a suggestion from very responsible sources that this amendment might be permitted to pass in connection with the Kennebec reservoir charter. I have never felt that it was proper or wise to consider those two propositions together, as it seems to me that they had substantially different considerations applying to them, and that each one must stand or fall on its own merits. It has been suggested very recently in connection with the very formidable, very unusual report of this committee, rather a round-robin by which all of the members of the committee except two, I believe, of the twenty men composing the committee signed the report—it was suggested that this was done in order that all of them might formally be upon record as to their position in this matter, and that it might not be suggested that some members, while they were not in sympathy with this, were not yet ready to sign a minority report, perhaps that would dignify the subject too much. I felt rather flattered than otherwise by their giving this such an unusual attention. It was suggested that if it had not been for the contemplated referendum in relation to the Kennebec Reservoir Company, that it might have been wise to submit this amendment, as it seems to be generally agreed that there are at least very substantial opinions among the people supporting each view upon this matter, as to what shall or shall not be done, and that perhaps after the long discussion of this matter before the public some form of referendum might be desirable. But it was suggested that in view of the contemplated referendum on the Kennebec Reservoir it was not now necessary to have this.

I would point out two objections to that feature: First, that this proposed resolve provides a referendum for September, 1923, and it has been suggested in the daily press that many people were very desirous of securing an early referendum upon this water power question, and I would commend this resolve to you as designed to accomplish that referendum which seems so eagerly to be sought. This would afford a fair presentation of this question, and I

am sure we could all rest in confidence that the people would consider and decide it properly.

As another consideration why the suggestion of delay in this amendment while the Kennebec charter is being voted upon by the people in case we shall come to such consideration, that the most material consideration in connection with this amendment and in connection with the water power question in general before the people is the desirability of early action. I think I have heard that stressed more than any other consideration that has operated to move the minds of disinterested people in this matter, that early action is desirable. If this amendment is submitted, the opportunity will be presented for the people at an early date to pass upon this matter and to decide as to whether or not they believe the powers of the State should be enlarged to this extent. Otherwise we shall face the problem inevitably in the next two years, that the most substantial reason which may be urged in connection with the water power development in this State will be that it is only possible to secure early action in the matter by means of private charters, and that therefore we must grant private charters because we have no power or authority under our Constitution to develop or consider the development in any other way.

For these reasons I would ask you to consider very seriously whether it may not be wise to submit this constitutional amendment to the people at this time, as the thing in which there are very large numbers of people interested and as a measure designed to present the question fairly for the consideration of the people and accomplish an early decision, which is what we all most desire.

Mr. HINCKLEY of Cumberland: Mr. President, I am glad at this time to concur in those sound words of our Governor as voiced in his veto message on the Kennebec Reservoir bill, to the effect that if the Legislature passed that bill over his veto then this question would be settled at least during the lifetime of the members of this Legislature. That was his position, and we joined issue on it and almost unanimously both branches of this Legislature said that this question was settled, that the State of Maine did not want to go into the water power business, and having taken that position it

certainly would not be consistent for us to say to the people of the State of Maine, as we must say if we pass this resolve, that we recommend to the people of the State of Maine the passage of a constitutional resolve looking forward to the time when the Legislature at some future time will put the State of Maine into the water power business. We certainly cannot consistently vote in favor of this resolve under those circumstances.

The President: The question before the Senate is on the motion by the senator from Cumberland, Mr. Brewster, that the resolve be substituted for the adverse committee report, "ought not to pass."

Mr. BREWSTER: Mr. President, I ask that the roll be called that all senators may put themselves on record as the committees on judiciary and interior waters have recorded themselves.

A sufficient number arising the secretary called the roll. Those voting "yes" were Messrs. Brewster, Clark, Cram, Speirs—4. Those voting "no" were Messrs. Adams, Allen, Bemis, Buzzell, Carlton, Croxford, Eaton, Emery, Farrington, Hinckley, Hussey, Morison, Morneau, Phillips, Powers, Putnam, Ryder, Sargent, Smith, Spencer, Stevens, Trefethen, Wadsworth, Wilson—24 Absentees, Messrs. Bailey, Elliot, Kirschner.

Four senators voting in the affirmative and twenty-four in the negative the motion to substitute the resolve for the report was lost.

On motion by Mr. Eaton, of Oxford, the report of the committee, "ought not to pass" was accepted.

The PRESIDENT: The next matter in order is the veto message of the Governor on the Resolve in favor of Warren Prouty, Senate Document 211, and the Chair recognizes the senator from Cumberland, Mr. Hinckley.

Mr. HINCKLEY: Mr. President and Senators, I have been asked by my colleague of the judiciary committee, which reported this resolve unanimously, to explain it to the members of the Senate, knowing that you have not had the opportunity of hearing the evidence and understanding it as the committee on judiciary had that opportunity.

To go back two years, at that time a resolve was presented to the Leg-

islature authorizing the sum of ten thousand dollars to be paid the Austin Jones Company on account of the destruction of buildings and the property therein, as the result of a fire set by an inmate of the Insane Hospital at Bangor, who had been paroled by the officials of the hospital.

The evidence, or at least evidence at that time was presented before the judiciary committee, and the committee was divided in the matter. Some members of the committee believed that sufficient evidence had been presented to warrant the State of Maine in passing such a resolve. Other members of the committee felt that sufficient evidence had not been presented. A resolve was finally passed by the Legislature appropriating the sum of ten thousand dollars to take care of this matter and settle it in full. This was recommended at that time, as I understand by the attorney general. The Governor of the State at that time vetoed this resolve and he was sustained by the Legislature, but during that session a resolve was passed giving the right to the Austin Jones Company to bring a suit at law against the State of Maine, and giving to the plaintiff in that case all of the rights, or all the rights given to individuals in suits at law, or between individuals at suits at law.

Now I want just for a moment, to take up the veto message on this particular bill. This bill is in the form of a resolve appropriating five thousand dollars to pay for the destruction of another set of buildings owned by one Prouty. Five thousand dollars!

Perhaps before I take this matter up, however, it would be well to call your attention to the fact that on the Austin Jones matter, under which the Legislature gave the right to bring suit, a suit was brought and over twenty thousand dollars was recovered and finally paid by the State of Maine. Whereas, had the original resolve been adopted and accepted by the State of Maine, ten thousand dollars, or less than one-half would have settled the claim.

Referring to this veto message—"During the last hours of the session,"—referring to the Austin Jones matter,—"when affairs were in the usual confused state, another resolve was introduced and passed, and under it permission was given the

Jones Company to bring legal action against the State of Maine. This resolve contained an unusual clause that escaped the attention both of the attorney general and of the Chief Executive."

"I feel confident it was not the intention of the 80th Legislature to establish any such precedent as the Jones case, and if this Legislature gives Prouty a right to sue the State under the unusual conditions the verdict of the supreme court will then furnish a precedent that future legislatures can rely upon."

This unusual condition referred to in the veto message is giving the right to a person, when the right is granted by the Legislature to sue the State, to have the rules of evidence determined the same as in a suit between individuals. In other words, in a case of negligence, such as we find here, the party given the right to bring suit would have the right of recovering if negligence of the defendant was found by a jury and later sustained by the law court. That is the unusual condition.

Now I say to you, gentlemen, as a matter of law, if Austin Jones, or Prouty in this case, were given the right to bring suit against the State of Maine without the "unusual" condition that is spoken of, any lawyer knows, and any member of the bar should know, that it is absolutely useless; that no recovery could be made. And it is my position, and it was my position at that time, that if the right to sue were given by this State, that right to sue should carry with it something more than the bare right, knowing under that right alone no action could be maintained. That is only common honesty, and I believe in common honesty.

Now gentlemen, the committee on judiciary considered this matter very seriously and very conscientiously, and we endeavored to get at the matter from every angle. We sent for the attorney general of the State and for the trustees of the Insane Hospital

I want to read to you, for I had the stenographer of the judiciary committee take it down, the statement of the attorney general as given to the committee. And the question before our committee was whether we should give the right to bring suit, or whether we should pass a resolve on a compromise and get this matter out of the way, as we finally believed, at one-half the cost

it would be if we gave the right to bring suit, as was done two years ago.

The attorney general said this, and I am quoting his exact words: "I think you all understand perfectly well that I have no authority to agree to any compromise. I assumed authority in the celebrated Jones case"—he assumed authority and recommended ten thousand dollars which was rejected, and the State paid over twenty thousand dollars—"I went before the Governor, and the Governor and Council and advised a compromise,—so I have no power whatever. My duty is to prosecute if any suit is brought. This is, as you know, the second case of this kind which was brought before the court on a resolve. I went to Bangor and denied liability and negligence, but the issue of facts were all decided against the State. The court sustained practically all the findings of facts by the jury, but the court cut the verdict \$5000. It cost the State \$20,400 to pay it."

"This Prouty resolve was a part of the same transaction. I talked it over with the trustees, and this is the advice I gave the trustees, that in my opinion if a resolve was passed authorizing Prouty to sue the State that he would recover on the same statement of facts, and they might as well adjust it here without litigation as to have it go before a court, for in my opinion if it went to court it would cost many thousands of dollars more. It would cost about twelve thousand dollars and I got them to say they would take about half of it. After I talked it over with the trustees we thought it was only right that we should submit it to the Governor. We told him about it and he expressed himself something like this:

'I don't think we should compromise anything. I think there was something wrong with the resolve, and we better have a resolve that would give them a right to sue, and you go over and fight.'

That is his advice when the attorney general tells us in so many words if he goes over and fights this matter it is his judgment, having the same matter that has been already determined by the court on the question of negligence, it is his belief that the State will be obliged to pay at least twelve thousand dollars, and the judiciary got these parties to come and they agreed to accept five thousand dollars.

Mr. Field of the trustees said: "This matter was not brought up before the full board of trustees at that time. They knew that the matter was to come up, and they asked Mr. Smith and myself to go up to the attorney general's office and see if we could not arrive at some compromise.

"We arrived at a compromise of \$5600, and we thought it ought to be settled for that.

"In fairness to the Governor, I don't think we explained it to him as clearly as we should. It was all new to me at that time. It was my understanding that we did not remember or did not bring it to the Governor's attention that there had been any negligence shown. I understand now that that was very clearly proven, that there was a certain amount of negligence. I believe that if the Governor had understood he would have at that time accepted the compromise, and I am under the impression now that if a resolve is reported out now that it would meet with the Governor's approval.

"I don't think we presented the case to him properly. It was certainly the opinion of the trustees that it was the wise thing to do, to accept settlement."

Now then, as to whether the Legislature knew what they were doing two years ago, or as to whether this matter was put over on the Legislature by somebody, I have here the Legislative Record of two years ago. I had the honor at that time to be a member of the House, and I spoke on this matter. I was opposed to the resolve at that time appropriating a certain amount of money, for I did not believe that negligence had been shown. The inference is here that it was put over, by allowing negligence of the trustees or of the officials of the institution, to determine the case. That was the question, whether or not negligence could be shown as part of the case. Now let us see whether negligence was discussed at that time and whether the Legislature had the information. On page 642 of the Legislative Record, I quote from remarks I made at that time: "Was it negligence on the part of the hospital authorities to allow him to go home?" That was the question, and we did not believe there was sufficient evidence to warrant us in finding negligence.

"Another set of buildings was

burned"—referring to this same matter—"and they will be in here. They are entitled to it if the Jones Company is entitled to it." And that was called specifically to the attention of the Legislature at that time. If the Jones Company was entitled to recover there was another party who was entitled to recover. Again: "If the hospital authorities were negligent, that is one thing; but a court of law is the place to establish that and we believe that we were fair, we believe we were generous, we believe we were right, we believe we were best protecting the interests of this State whom we are here to serve by giving these people the right under the law at the present time to bring a suit against the State; but we say to them you charge that the hospital authorities were negligent. If that is true, we will give you the right to go into a court at law and bring your action there, and if you can prove in a court of law that the hospital authorities were negligent, then you have a right to recover."

That was our position then, and they went in there under that law and they proved to the satisfaction of the jury, and they proved to the satisfaction of the full bench of the supreme court of Maine that there was negligence, and the verdict was sustained.

Now these questions in that particular case have been settled and the negligence of the State has been established. I say to you, gentlemen, it will be unfair and unjust, having those questions already established by a court of law, to permit the Austin Jones Company to recover, and say to his neighbor "Your buildings were burned at the same time and by the same person and under the same negligence, but you cannot recover." It certainly would be unwise for the State of Maine and this Legislature, under these circumstances to allow suit to be brought when the attorney general says that more than twice the amount would be recovered than this Legislature can settle for.

I do not believe in putting this off. I believe in settling our honest bills, even though it does cost us five thousand dollars. I hope this resolve will be passed notwithstanding the objections of the Governor.

Mr. WADSWORTH of Kennebec: Mr. President, I would like to inquire through the Chair if this resolve calls for \$5000 or \$5600?

The PRESIDENT: The senator from Cumberland may reply through the Chair

Mr. HINCKLEY: Pardon, Mr. President, I am mistaken, this resolve calls for \$5600 and that was just called to my attention. I had in mind \$5000. I am glad to make the correction.

The PRESIDENT: The question before the Senate is, Shall this Resolve in favor of Warren Prouty become law notwithstanding the objections of the Governor?

The secretary called the roll. Those voting "yes" were Messrs. Adams, Bemis, Buzzell, Carlton, Clark, Cram, Croxford, Eaton, Emery, Farrington, Hinckley, Hussey, Morison, Morneau, Phillips, Powers, Ryder, Sargent, Smith, Wadsworth, Wilson—21. Those voting "no" were Messrs. Allen, Brewster, Kirschner, Putnam, Speirs, Spencer, Stevens, Trefethen—8. Absentees, Messrs. Bailey, Elliot.

Twenty-one senators voting in the affirmative and eight voting in the negative the resolve was finally passed notwithstanding the objections of the Governor.

The PRESIDENT: This brings us to the orders of the day.

Mr. BREWSTER of Cumberland: Mr. President, I move to take from the table House report of the committee on public health (ought to pass) on bill An Act to amend chapter 41 of the public laws of 1919, relating to marriage of persons affected with syphilis, H. D. No. 117.

The motion was agreed to.

Mr. BREWSTER: I move that we indefinitely postpone the bill.

Mr. CROXFORD of Penobscot: Mr. President, gentlemen of the Senate: This bill was carefully prepared, and prepared under the supervision of the attorney general. A similar bill passed the House two years ago and was defeated here in the Senate. There have been many objections brought here relative to this bill, but I cannot see how any man who has the love of humanity at heart and the future welfare of the children of the State of Maine at heart, can oppose this bill. This bill was designed and constructed in the spirit of right,—nothing wrong about it. It is to protect something that cannot protect itself, an unborn child, the sweetest thing that God ever gave us. Seventeen per cent. of your insanity across the river here is caused

by syphilis. Sixty-four cases down the river here in one of your schools are under observation of syphilis, and your reformatory at Skowhegan is reeking with it. And yet we go on year after year and allow Tom, Dick and Harry to marry, and you have made no provisions whatever to stop them. Why, it is a shame that the human race has not had as much consideration in breeding as the animal kingdom has. There is no scientific thing about it. There is nothing whatever done to protect those that cannot protect themselves.

The matter was discussed pretty thoroughly in this Senate two years ago, and one of the members who opposed this bill had a daughter. She went away to school, and she came back and she said to her father, "I will tell you this, Dad, the man that marries me will give me a clean bill of health." And then he asked her for information and she told him what she knew. And so it is. I could tell you many, many stories in regard to what syphilis has done, and what is being done in our community.

I would like to ask you, gentlemen, would you do anything if there was a leper stalking forth in the State House today, or on the streets? What provisions have we made to take care of leprosy? Are we not segregating them? Are we not confining them? And would we consider that we were safe in not doing it? But yet, gentlemen, I say to you that syphilis is much more dangerous.

I sincerely hope, gentlemen, that you will consider this bill on its merits. I may never come back to these halls to help legislate in my humble way. I am interested in this bill, vitally interested in it, because I am interested in humanity, and I am interested in children, and I am interested in anything that makes us a better race of people, and I can leave no better thought with you than these lines that come to me, in my humble effort to do something for humanity.

An old man going along the highway
Came at the even, cold and gray,
To a chasm vast and deep and wide;
The old man crossed in the twilight
dim

The sullen stream had no fear for him,
But he paused when safe on the other
side

And built a bridge to span the tide.
"Good friend," said a fellow pilgrim
there,

"You are wasting your time in build-
ing there;

Your journey will end with the ending
day

And you never again will pass this way."

The builder lifted his old, gray head: "Good friend, in the path I have come There followeth after me today, A youth whose feet must pass this way."

This chasm that has been as naught to me

To this fair-haired youth may a pitfall be,

My friend, I am building this bridge for him."

Mr. HINCKLEY of Cumberland: Mr. President, inasmuch as there is a good deal of misunderstanding in regard to this bill, and I found two or three senators last night who said they had not read it and had a misconception of it, I want to read the one material change in this bill from the law as it is at the present time, and it is in section four which provides that "the clerk of every city, town or plantation shall deliver to every applicant for a certificate for a license to marry, a blank form printed in duplicate, in which each party to an intended marriage shall make affirmation, or oath before a person qualified to receive the same, that he or she, is free from infection with" these diseases. That is the only material change in the law.

Now think of it, gentlemen. Before a policy of life insurance is issued to you or me or any person, you must make oath to this same thing. Life insurance companies require it. But the contract of marriage is not considered sacred enough, and the results flowing from that contract of marriage are not considered important enough by the Legislature of the State of Maine to make it imperative that any young man or any young woman before they contract marriage should make an affidavit that they are not infected with this dread infectious disease. It is understood, I know, by many members of this Legislature, and it has been talked frequently about, that this bill provided that before any person could get married must go to a physician and be examined by that physician and have a certificate from him. That is the provision in the law at the present time and incorporated here in regard and respect to those who have had that disease—it provides that any person who has had either of these diseases must present a certificate from a physician to the effect that they have been cured of that disease. Certainly there is nothing radical or unreasonable in that. If a person has the disease

he should be cured before contracting marriage. But those who have never contracted the disease and are free from it, simply an affidavit from them as they make in any insurance application, that they are free from the disease.

I say these words, having in mind our insane hospitals, our school for feeble-minded, and the thousands, the tens of thousands of boys and girls who are already in this world as cripples, and the millions who will come after us into the world as cripples if we do not give them some protection. I ask you, gentlemen, as men fair-minded, broad-minded, in the name of Heaven do something for the future generations at this Legislature.

Mr. BREWSTER: Mr. President, I think every one of us must agree with what the senator from Penobscot has said regarding the desirability of doing everything within our power to check the spread of these diseases. The question which we have is whether or not this step is designed to contribute in any material way to the solution of that difficulty. The present law prohibits the marriage of persons afflicted with these diseases. The only change which this makes, as the senator from Cumberland has pointed out, is requiring an affidavit from every applicant for a marriage certificate that they are free from the disease, which does not seem to me to give any material assistance: it simply means that they are not violating the existing law, and if they were I do not think they would hesitate to file an affidavit that they were not.

It does make one change in Section 5 where they provide that "When residents of this State with intent to evade the provisions of the preceding sections of this chapter, and to return and reside here, go into another state or country, and there have their marriage solemnized and afterwards return and reside here, such marriage is void in this State."

That seems to me carrying the provisions of this act to a very serious extent, and very serious consequences in voiding marriages the legality of which cannot be known for an indefinite time.

The provisions seem very burdensome and very little designed to assist in the solution of what is unquestionably a serious matter, and for that reason I oppose it.

Mr. HINCKLEY: Mr. President, may I read from the present statute, section 10, chapter 64: "When residents of this state, with intent to evade the provisions of sections one, two and three of this chapter, and to return and reside here, go into another state or country, and there have their marriage solemnized, and afterwards return and reside here, such marriage is void in this State."

It has been the law for many, many years applicable to this, to protect the provisions of the marriage law.

Mr. BREWSTER: That, Mr. President, is a provision of the statutes referring to marriages within certain degrees, and I cannot conceive that any individual would ever be in ignorance as to his relatives or as to the prohibition of his marriage within those degrees. He also has some reasonable cause to know what the situation is. It does not seem to me that that very long-standing provision of both our law and our natural law against marriage within the prohibited degrees of relationship can be used as an argument for supporting what is a very great extension of this proposition, a situation where one of the parties may be absolutely innocent in contracting a marriage in some other state, and yet find later that the other party so contracted with intention to evade—if they should ever go to the trouble of going to another state to evade, that then that marriage should be void.

Mr. HINCKLEY: May I ask the senator if that is the only provision included in the statute?

Mr. BREWSTER: The other two provisions are in relation to insane persons and idiots, and I should say that a person contracting marriage should know whether it was with an insane person or an idiot. The only other provision relates to polygamy. In that instance if you marry a person and are committing polygamy the marriage would be void.

Mr. SPENCER: Mr. President, members of the Legislature: I have always been opposed to the spirit of this law, and although I was a member of the Legislature two years ago I was then opposed to it. I think the proper title for it now, as it should have been then, is an act to prevent marriage. I do not see where the State can get any relief through legislation against those natural forces that are found in men.

If parties desire to contract for marriage it is considered to be a moral feature—it is considered that it is better for people to live together in domestic relations which are legitimate than those which are illegitimate. For that reason this very bill, and the one which preceded it, are contrary to public policy. In the first place it is my belief, and I have had experiences as town clerk for many years and lived near the New Hampshire line, that if you want to find the records of your marriages of the people in Maine you will have to go into New Hampshire, you will have to go into New Brunswick, where the conditions are more favorable. If that in itself is any reason why the motion should prevail, I simply present it for your consideration.

And the other one which to my mind is more important than all others is that it will be productive of more illegitimate offspring than any other bill you could pass.

Mr. HINCKLEY: Mr. President, I move that the vote be taken by yeas and nays.

A sufficient number not arising the yeas and nays were not ordered.

The PRESIDENT: The question before the Senate is on the motion of the senator from Cumberland, Mr. Brewster, that the bill and report be indefinitely postponed.

A viva voce vote was held and the Chair being in doubt a division was had. Eighteen senators voted in favor of the motion and ten opposed the motion was adopted and the bill and report were indefinitely postponed.

Mr. WILSON of Aroostook: Mr. President, at this time I ask the indulgence of the Senate to introduce a bill under suspension of the order limiting the time for the introduction of acts, and I will explain the situation. In a town in Aroostook county, the town of Ashland, they posted a warrant for a town meeting yesterday and through the neglect or incompetency of the constable who posted the warrant he failed to attest the posted warrant, and therefore they could not have their meeting, and in order to do so this season they have to have this special act go through the Legislature to be held in April. It is strictly an emergency act for the town of Ashland, and I ask the indulgence of the Senate at this time for a suspension of the rules.

Mr. HINCKLEY of Cumberland: Mr. President, I oppose these matters consistently, but I want to say about this case, I have looked into this carefully and I am absolutely convinced that it is impossible for this town to hold a town meeting this year to elect officers, to appropriate money, to do business during the year, and it seems to be an absolute necessity that this bill be accepted, and I certainly feel under the conditions that it should be by unanimous consent.

Unanimous consent was given by the Senate to the introduction of this bill at this time, and on further motion by Mr. Wilson of Aroostook, the bill was given its two readings under suspension of the rules and passed to be engrossed without reference to a committee.

Mr. SPEIRS of Cumberland: Mr. President, in the last few weeks the clerk of courts of Cumberland county has been sick and there was no one authorized to sign the legal documents necessary to be signed. I wish to introduce an amendment that that can be done during sickness, and ask permission to introduce this under suspension of the order.

Mr. HINCKLEY of Cumberland: Mr. President, I do not feel that this is an emergency such as is contemplated. I took the matter up with our clerk of courts yesterday and I told him that I did not believe it was a matter that the door should be opened for at this time because there are dozens upon dozens of matters just as meritorious held by the members of this Senate and the House, and I believe if we open the door to a matter of this kind we certainly will be in trouble. Personally I must object to opening the door at this time, and personally I hope the Senate will not do it.

Mr. SPEIRS: Mr. President, if this is not done and the clerk of courts should be sick the legal business would have to be at a standstill until he got well and signed the papers that needed his signature.

Mr. HINCKLEY: Gentlemen, we have gotten along for a hundred years. We have gotten by in some way and we can get along for another two years. I am as much interested in the court as anyone.

The PRESIDENT: All those in favor of suspension of the time limit order and the reception of this bill, will rise and stand until counted.

Two senators voting in favor of suspension of the order and 24 opposed, the bill was not received by the Senate.

Mr. BREWSTER of Cumberland: Mr. President, I move we take from the table the act tabled by me this morning on its passage to be enacted in relation to marriage.

The motion was agreed to and the senator then yielded to the senator from Aroostook, Mr. Powers.

Mr. POWERS: Mr. President, I move indefinite postponement of this bill.

Mr. HINCKLEY of Cumberland: Mr. President, may this bill be read? It is a short bill, I think.

(Act to amend Section 10, Chapter 64 of the Revised Statutes, relating to marriage, as read.)

Mr. HINCKLEY: Mr. President, that is simply extending the provision of our marriage law in Section 10 to the effect that any person who leaves our State for the intent of evading our marriage laws, that their marriage will not be legal. We have marriage laws in this State, and if our citizens are not ready and willing to comply with them, we should have some statute that will protect our State in those cases, and it seems to me only fair and just to extend this provision of our marriage law.

Mr. BREWSTER: Mr. President, I think it is fair to state that the provisions of Section 1 of Chapter 41 are the provisions which we have already voted on, or substantially, this morning in the previous vote, those provisions relating to marriage of persons who have contracted certain diseases, so that we have almost exactly the same question presented.

The PRESIDENT: The question is on the motion of the senator from Aroostook, Mr. Powers, that the bill be indefinitely postponed.

The motion was agreed to and the bill was indefinitely postponed by a viva voce vote.

The PRESIDENT: The Chair will state that the bill introduced by the Senator from Cumberland, Mr. Speirs, An Act to amend Section 89 of Chapter 82 of the Revised Statutes, relating to deputy clerks, would naturally under the terms of the order be referred to the next Legislature, unless the senator wishes to withdraw the bill.

With the unanimous consent of the Senate, the bill was withdrawn by the senator from Cumberland, Mr. Speirs.

On motion by Mr. Smith of Somerset,

Adjourned until tomorrow morning at ten o'clock.