

MAINE STATE LEGISLATURE

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Legislative Record

OF THE

Eighty-Fourth Legislature

OF THE

STATE OF MAINE

1929

KENNEBEC JOURNAL COMPANY
AUGUSTA, MAINE

ERRATA:

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

ERRORS IN LEGISLATIVE RECORD 1929

Which Might Confuse One Consulting the Index

- Page 25 The name of the joint committee on School for Feeble Minded was changed in 1927 to Pownal State School. The old name appears on this page, but no other in 1929 Record.
- Page 114 Mr. Aldrich of Topsham introduced the last two acts in column two.
- Page 108 Mr. Littlefield of York introduced the resolve in first paragraph, column one, and Mr. Mitchell of Aroostook the last resolve in column one. In column two the words "Judiciary Committee" should be inserted before S. P. 143.
- Page 115 An act to incorporate the town of Rumford School District (H. P. 422) should appear as being referred to Committee on Legal Affairs instead of Pensions, column one.
- Page 128 Mr. Burkett of Union introduced last resolve in column one (H. P. 577).
- Page 133 Petitions in favor of Barber bill (S. Papers 218-226) should be referred to Judiciary instead of Legal Affairs, column two.
- Page 139 H. P. 709 by Mr. Merrill of Dover-Foxcroft is a resolve in favor of Dover-Foxcroft.
- Page 165 Remonstrance introduced by Mrs. Allen in first paragraph, column two, does not state against what bill remonstrance is made.
- Page 189 Remonstrance in column two against Basic Science Bill should be under Judiciary instead of Education.
- Page 568 Second column says Act to provide for inspection of gasoline was reported in new draft under same title. Title was changed (see page 586, S. P. 718).
- Page 667 Order that Senator Carlton's remarks before committee be printed in Record. They never were so printed.
- Page 756 Last paragraph, first column, Androscoggin should read Aroostook.
- Resolves in favor of following academies were introduced at various times, but do not appear in Record again. Senate Journal shows they were all reported ought not to pass:—Aroostook Central Institute, Higgins Classical Institute, Lee Academy, Monson Academy, Monmouth Academy, Oak Grove Academy, Patten Academy, Pennell Institute, Ricker Classical Institute, Washington Academy, Berwick Academy, Bridgewater Classical Academy, Wiscasset Academy, Cherryfield Academy, Robert W. Traip Academy.
- Resolve in favor of town of Stonington (H. P. 1601) introduced on page 322, column one, does not appear again. Senate Journal shows it was reported ought not to pass.
- Record does not show that report of Budget Committee was submitted to legislature, although corrections to it were.
- Act relative to close time on moose (H. P. 1279 and H. P. 1657) introduced page 244 does not make final appearance. This is not an error of Record, but of Committee on Revision of Statutes, which did not report it out.

SENATE

Thursday, March 28, 1929.

Senate called to order by the President.

Prayer by the Rev. Henry E. Dunnack of Augusta.

Journal of previous session read and approved.

From the House: Bill an act relative to the extermination of mosquitoes (H. P. 1638) (H. D. 662) which was passed to be engrossed in the Senate March 26th.

Comes from the House, passed to be engrossed as amended by House Amendment A in non-concurrence.

In the Senate, on motion by Mrs. Pinkham of Aroostook, that body voted to reconsider its action whereby this bill was passed to be engrossed, House Amendment A was read and adopted in concurrence and the bill as so amended was passed to be engrossed in concurrence.

From the House: Resolve in favor of the towns of Gardiner and Randolph (H. P. 533) (H. D. 679) which was passed to be engrossed in the Senate March 25th.

Comes from the House, passed to be engrossed as amended by House Amendment A in non-concurrence.

In the Senate, that body voted to reconsider its action whereby this resolve was passed to be engrossed, House Amendment A was read and adopted in concurrence, and the resolve as so amended was passed to be engrossed in concurrence.

From the House: Resolve in favor of the trustees of the bridge between East Machias and Machiasport (H. P. 192) (H. D. 676) which was passed to be engrossed in the Senate March 25th.

Comes from the House, passed to be engrossed as amended by House Amendment A in non-concurrence.

In the Senate, that body voted to reconsider its action whereby this resolve was passed to be engrossed, House Amendment A was read and adopted in concurrence, and the resolve as so amended was passed to be engrossed in concurrence.

From the House: Resolve in favor of the town of Fort Fairfield (H. P. 481) (H. D. 678) which was

passed to be engrossed in the Senate March 25th.

Comes from the House, passed to be engrossed as amended by House Amendment A in non-concurrence.

In the Senate, that body voted to reconsider its action whereby this resolve was passed to be engrossed, House Amendment A was read and adopted in concurrence, and the resolve as so amended was passed to be engrossed in concurrence.

From the House: Report of the Committee on Claims, on resolve to reimburse the town of Benton for expenses of a person in quarantine (H. P. 657) (H. D. 198) reporting that the same ought not to pass.

Comes from the House, that branch having substituted the resolve for the report and having passed the resolve to be engrossed.

In the Senate, on motion by Mr. Weatherbee of Penobscot, the resolve was substituted for the report in concurrence, the resolve received its first reading and tomorrow assigned for second reading.

Papers from the House disposed of in concurrence.

From the House: Report of the Committee on Legal Affairs, on bill an act relating to finger prints and photographs of criminals (H. P. 1471) (H. D. 513) reporting that the same ought not to pass.

Comes from the House, recommended to the Committee on Legal Affairs.

In the Senate, on motion by Mr. Crosby of Penobscot, tabled pending consideration.

From the House: Report "A" of the Committee on Judiciary, on bill an act to regulate the occupation of hairdressers and cosmetologists to register and license persons engaged in such occupation, and to create a Board of Hairdressers and Cosmetologists (H. P. 1020) (H. D. 327) reporting that the same ought not to pass.

(Signed) ALDRICH
HOLMAN
WEEKS
McCART
FARRIS

Report "B" of the same committee, on the same subject matter, reporting the same in a new draft, under the same title (H. P. 1679)

(H. D. 740) and that it ought to pass.

(Signed) OAKES
MARTIN
WING
LAUGHLIN
WILLIAMSON

Comes from the House indefinitely postponed.

In the Senate:

Mr. SLOCUM of Cumberland: Mr. President, I move that we accept Report "B" "ought to pass in a new draft". This measure is a health measure. There have been a number of instances where citizens of the State of Maine have been injured by improper and inexperienced operators in beauty parlors and this measure is to attempt in a small way to regulate the operations of beauty culturists so that there will be less likelihood of injury to the health of the citizens who patronize beauty parlors.

Mr. OAKES of Cumberland: Mr. President, I understand the gentleman from Cumberland is to bring in an amendment to the Barbers' Bill which will make it satisfactory and I would think that this bill could await the suggestions that are brought in regarding the Barbers' Bill. I therefore move that it lie on the table.

The PRESIDENT: The Senator from Cumberland, Senator Oakes, moves that the bill and accompanying report lie upon the table, the pending question being the motion of the Senator from Cumberland, Senator Slocum, that Report "B" of the committee be accepted. Is this the pleasure of the Senate?

The motion to table prevailed.

From the House: Report of the majority of the Committee on Judiciary, on bill "An act to consolidate the general superintendence, management and control of the State Prison, the Reformatory for Men and Reformatory for Women under one Board of Trustees, and to provide for the temporary transfer of inmates" (H. P. 1200) (H. D. 393) reporting the same in a new draft, under the same title (H. P. 1675) (H. D. 729) and that it ought to pass.

(Signed) WEEKS
OAKES

MARTIN
WING
FARRIS
McCART
HOLMAN
WILLIAMSON

The minority of the same Committee, on the same subject matter, reporting that the same ought not to pass.

(Signed) LAUGHLIN
ALDRICH

Comes from the House, the majority report "ought to pass in new draft" accepted, and the bill subsequently indefinitely postponed.

In the Senate, on motion by Mr. Greenleaf of Androscoggin, the majority report "ought to pass in new draft" was accepted, the bill received its first reading and tomorrow assigned for second reading in non-concurrence.

From the House: Report of the Committee on Public Utilities, on bill "An act granting the right of eminent domain to electric power companies doing a public utility business" (H. P. 616) (H. D. 182) reporting the same in a new draft, under the same title (H. P. 1644) (H. D. 673) and that it ought to pass.

Comes from the House, report accepted, House Amendment "A" presented and rejected, and the bill passed to be engrossed without amendment.

In the Senate, report read and accepted in concurrence, the bill received its first reading and tomorrow assigned for second reading.

From the House: Report of the Committee on Revision of Statutes, on bill "An act relative to close time on moose" (H. P. 1279) (H. D. 436) reporting the same in a new draft, under the same title (H. P. 1657) (H. D. 688) and that it ought to pass.

Comes from the House, report accepted, and bill subsequently recommitted to the Committee on Revision of Statutes.

In the Senate, on motion by Mr. Weatherbee of Penobscot, the bill was recommitted to the Committee on Revision of the Statutes in concurrence.

House Bill in First Reading

An act to provide for the building of a highway bridge across the Kennebec River between the towns of Richmond and Dresden. (H. P. 1682) (H. D. 741)

The following resolve was received and on recommendation by the committee on reference of bills was referred to the following committee:

Appropriations and Financial Affairs

By Mrs. Allen of Penobscot: Resolve in favor of Josephine B. Marshall for services to the Eighty-fourth Legislature. (S. P. 739.)

Sent down for concurrence.

Orders

Mr. Carlton of Sagadahoc presented the following order and moved its passage.

Ordered, that the remarks of Senator Carlton before the committee at the hearing on bill, "An act for the transportation of surplus power," said remarks appearing on pages one to twenty-five inclusive, of the stenographic record of said hearing, be printed in the Senate proceedings of the Legislative Record.

Mr. CARLTON of Sagadahoc: Mr. President, and members of the Senate, I hardly thought it necessary to go through those arguments again in view of the fact that we had thirty on the committee and the record of that hearing has been printed for all to read who wish. It is getting toward the last of the session and the report is quite long and I thought perhaps the Senate would be willing to vote to have that incorporated in the record. I may speak in rebuttal later on some of the matters but will not do so unless it is necessary.

The order received a passage.

Reports of Committees

Mr. Spear, from the Committee on Appropriations and Financial Affairs, on bill an act relative to payments from state appropriations (S. P. 369) (S. D. 159) reported that the same ought not to pass.

Mr. Harriman, from the Committee on Claims, on resolve in favor of the town of Danforth, for reimbursement. (S. D. 264) (S. D. 134)

reported that the same be referred to the next Legislature.

Mr. Oakes, from the Committee on Judiciary, on bill an act to provide for aid to the dependents of soldiers, sailors and marines, killed or disabled in the World War. (S. P. 624) (S. D. 292) reported that the same ought not to pass, as the same is covered by present legislation.

(On motion by Mr. Oakes of Cumberland, tabled pending acceptance of the report.)

The same Senator, from the Committee on Revision of Statutes, on bill an act to amend and consolidate section 87 of chapter 82 and sections 9 and 10 of chapter 84 of the Revised Statutes relative to Clerks of Court, Deputy Clerks of Court and clerks pro tempore. (S. P. 655) (S. D. 314) reported that the same ought not to pass.

The same Senator, from the same Committee, on bill an act relative to motions to set aside verdicts on report to Law Court. (S. P. 703) (H. D. 711) reported that the same ought not to pass.

The same Senator, from the same Committee, on bill an act relative to the validation of defective deeds and records (S. P. 705) (H. D. 713.) reported that the same ought not to pass.

The same Senator, from the same Committee, on bill an act relative to lien on real estate, for succession taxes (S. P. 708) (H. D. 716) reported that the same ought not to pass.

The same Senator, from the same Committee, on bill an act relative to alimony and other provisions for wife in case of divorce for husband's fault. (S. P. 709) (H. D. 717) reported that the same ought not to pass.

The same Senator, from the same Committee, on bill an act to repeal sections 10, 11 and 12 of chapter 8 of the Revised Statutes relating to the Forestry District. (S. P. 711) (H. D. 719) reported that the same ought not to pass.

Mr. Douglas, from the Committee on Taxation, on bill an act to amend the charter of the Portland Water District. (S. P. 246) (S. D. 106) reported that the same ought not to pass.

(On motion by Mr. Slocum of

Cumberland, tabled pending acceptance of the report.)

The same Senator, from the same Committee, on bill an act relating to the taxation of street railway corporations. (S. P. 605) (S. D. 266) reported that the same ought not to pass.

The reports were severally read and accepted.

Sent down for concurrence.

Report "A" of the Committee on Temperance, on bill "An act to regulate the manufacture and sale of soft drinks, syrups, and non-alcoholic beverages" (S. P. 480) (S. D. 189) reported that the same ought not to pass.

(Signed)

BRAGDON
PERHAM
ALLEN
MINOTT
COMINS

Report "B" of the same Committee, on the same subject matter, reported that the same ought to pass. (Signed)

STURGIS
ANDERSON So. Portland
VOSE
ANDERSON New Sweden
WEBSTER

(On motion by Mr. Bragdon of Aroostock, the bill and accompanying reports were tabled pending acceptance of either report)

The majority of the Committee on Ways and Bridges, on "Resolve proposing an amendment to the Constitution to provide for an additional issue of highway and bridge bonds" (S. P. 166) (S. D. 76) reported the same in a new draft, under the same title (S. P. 740) and that it ought to pass.

(Signed)

BOND
LELAND
MERRILL
JONES
BACHELDER
HAWKES

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

(Signed)

LOWELL
KITCHEN

Mr. DWINAL of Knox: Mr. Pres-

ident, I move the acceptance of the majority report "ought to pass" and that the bill lie upon the table for printing pending the acceptance of the report.

The PRESIDENT: The Senator from Knox, Senator Dwinal, moves that the majority report of the committee "ought to pass" be accepted and that the bill lie upon the table for printing, the pending question being the motion of the Senator from Knox, Senator Dwinal, that the majority report "ought to pass" be accepted.

The motion to table prevailed.

Mr. Harriman from the Committee on Claims, on Resolve in favor of Charles F. Boober of Norway to compensate him for damages sustained in the construction of a certain state aid highway (S. P. 134) (S. D. 62) reported the same in a new draft, under the same title (S. P. 741) and that it ought to pass.

Mr. Oakes from the Committee on Judiciary, on bill An act to provide a uniform motor vehicle code (H. P. 370—1927) reported the same in a new draft, under the title of "An act relating to the use and operation of motor vehicles on the highways" (S. P. 742) and that it ought to pass.

Mr. Murchie from the Committee on Legal Affairs, on bill An act to authorize the County Commissioners for the County of Washington to create a sinking fund for the purpose of retiring bonds issued in accordance with the terms of chapter 88 of the Private and Special Laws of 1927 (S. F. 215) (S. D. 81) reported the same in a new draft, under the same title (S. P. 743) and that it ought to pass.

The reports were severally read and accepted and the bills and resolve laid upon the table for printing under the joint rules.

The same Senator, from the same Committee, on bill An act relating to the acquisition of title to lands of railroad corporations by adverse possession (S. P. 381) (S. D. 162) reported that the same ought to pass.

The report was read and accepted, the bill read once and tomorrow assigned for second reading.

Mr. Noyes from the Committee on Pensions, on Resolve providing for a state pension for Eva J. Rund-

lette of Augusta (S. P. 318) reported that the same ought to pass.

The report was read and accepted and the resolve laid upon the table for printing under the joint rules.

Mr. Weatherbee from the Committee on Public Utilities, on bill An act relating to the supervision, regulation and conduct of the transportation of persons over the public highways of the State of Maine by automobiles, jitney busses and auto stages by the Public Utilities Commission (S. P. 630) (S. D. 278) reported that the same ought to pass.

Mr. Oakes from the Committee on Revision of Statutes, on bill An act to amend chapter 147 of the Revised Statutes relating to the Department of Public Welfare (S. P. 535) (S. D. 212) reported that the same ought to pass.

The same Senator, from the same Committee, on bill An act to amend chapter 76 of the Revised Statutes, as amended, relative to sales of real estate by license of Probate Court (S. P. 599) (S. D. 271) reported that the same ought to pass.

The same Senator, from the same Committee, on bill An act to amend chapter 68 of the Revised Statutes relative to executors and administrators (S. P. 696) (H. D. 704) reported that the same ought to pass.

The same Senator, from the same Committee, on bill An act relative to order of court prohibiting restraint of wife pending libel (S. P. 697) (H. D. 705) reported that the same ought to pass.

The same Senator, from the same Committee, on bill An act to re-enact chapter 132, Public Laws of 1913, relating to the title of islands belonging to the State, repealed through an error by the General Repealing Act of the 1916 Revised Statutes (S. P. 698) (H. D. 706) reported that the same ought to pass.

The same Senator, from the same Committee, on bill An act relative to dissolution of attachments and release of attachments (S. P. 699) (H. D. 707) reported that the same ought to pass.

The same Senator, from the same Committee, on bill An act relative to jurisdiction of prison

commissioners in matter of paroles (S. P. 700) (H. D. 708) reported that the same ought to pass.

The same Senator, from the same Committee, on bill An act relative to State school for girls (S. P. 701) (H. D. 709) reported that the same ought to pass.

The same Senator, from the same Committee, on bill An act relative to historical documents (S. P. 704) (H. D. 712) reported that the same ought to pass.

The same Senator, from the same Committee, on bill An act to repeal section 53 of chapter 127 of the Revised Statutes relative to publication of disposition of appealed cases and indictments in intoxicating liquor prosecutions. (S. P. 706) (H. D. 714) reported that the same ought to pass.

The same Senator, from the same Committee, on bill An act relative to the department of Education (S. P. 707) (H. D. 715) reported that the same ought to pass.

The same Senator, from the same Committee, on bill An act relative to hearings and judgments in vacation (S. P. 710) (H. D. 718) reported that the same ought to pass.

The same Senator, from the same Committee, on bill An act relative to penalty for making false affidavit of application for pension for the blind (S. P. 712) (H. D. 720) reported that the same ought to pass.

The same Senator, from the same Committee, on bill An act relative to the share of a child or his issue having no devise under a will (S. P. 714) (H. D. 722) reported that the same ought to pass.

The same Senator, from the same Committee, on bill An act relative to the sale of intoxicating liquors. Definition (S. P. 715) (H. D. 723) reported that the same ought to pass.

The same Senator, from the same Committee, on bill An act relative to affidavits of plaintiffs in actions in account annexed (S. P. 716) (H. D. 724) reported that the same ought to pass.

The reports were severally read and accepted, the bills each read once and tomorrow assigned for second reading.

Mr. Weatherbee, from the same Committee, on bill An act to amend section 44 of chapter 82 of the Revised Statutes, relative to certificating of cases to the law court (S. P. 600) (S. D. 270) reported the same in a new draft, under the title of An act relative to certificating of cases to the law court (S. P. 744) and that it ought to pass.

Mr. Douglas, from the Committee on Taxation, to which was re-committed bill An act relative to exemption from taxation of estates of veterans (S. P. 18) (S. D. 9), together with new draft of same under the title of An act relating to exemptions from taxation (S. P. 665) (S. D. 327), reported the same in a second new draft, under the title of An act relating to exemptions from taxation (S. P. 745) and that it ought to pass.

The reports were severally read and accepted and the bills laid upon the table for printing under the joint rules.

Passed to be Engrossed

An act relating to mutual insurance risks. (H. P. 328) (H. D. 97)

An act to incorporate the Mexico Water District. (H. P. 332) (H. D. 104)

An act to establish a State Reservation at Fort William Henry at Pemaquid, and for the appointment of commissioners and a custodian for said Reservation. (H. D. 421) (H. D. 134)

An act relating to the Aroostook Mutual Fire Insurance Company. (H. P. 1569) (H. D. 577)

An act relating to the sale of intoxicating liquors. (H. P. 1587) (H. D. 590)

An act relating to county jails. (H. P. 1622) (H. D. 640)

(On motion by Mr. Littlefield of York, tabled pending passage to be engrossed.)

An act relating to a green light on motor vehicles which are seven feet in width or over. (H. P. 1671) (H. D. 725)

(On motion by Mr. Boulter of York, tabled pending second reading)

An act to establish a game sanctuary in the town of Standish, in the county of Cumberland. (H. P. 1672) (H. D. 726)

(On motion by Mr. Spear of Cumberland, tabled pending passage to be engrossed)

An act to amend the act establishing the Caribou Municipal Court and the amendments thereto. (H. P. 1674) (H. D. 728)

An act in relation to the Ellsworth Municipal Court. (H. P. 1676) (H. D. 730)

An act relating to legal holidays. (H. P. 1677) (H. D. 731)

Resolve in favor of the town of Alfred, for reimbursement. (H. P. 1678) (H. D. 734)

An act relating to laying out and assessing damages on State and State Aid highways. (H. P. 1681) (H. D. 733)

An act to increase the salary of the County Commissioners of the county of Washington. (S. P. 157) (S. D. 382)

An act relating to State aid for academies. (S. P. 566) (S. D. 237)

(On motion by Mr. Spear of Cumberland, tabled pending passage to be engrossed)

An act to establish the territorial limits of the South Paris Village Corporation. (S. P. 728) (S. D. 383)

An act to amend section 31 of chapter 117 of the Revised Statutes, relating to salaries of public officers, and compensation of members of the government. (S. P. 729) (S. D. 381)

Passed to be Enacted

An act to incorporate the "New England Finance Corporation." (S. P. 34) (S. D. 312)

An act relating to fees of sheriffs and their deputies. (S. P. 65) (S. D. 36)

(On motion by Mr. Bragdon of Aroostook, tabled pending passage to be enacted)

An act relative to enforcement of motor vehicle laws. (S. P. 593) (S. D. 260)

An act relative to notice on application by municipal officers for appointment of guardians. (S. P. 601) (S. D. 269)

An act relating to the apportionment of State aid to agricultural societies. (H. P. 578) (H. D. 160)

(On motion by Mr. Spear of Cumberland, tabled pending passage to be enacted)

An act relative to the hours of employment of women. (H. P. 1568) (H. D. 603)

Finally Passed

Resolve in favor of the Bangor State Hospital for additional equip-

ment and renovations. (S. P. 47) (S. D. 27)

Resolve in favor of Emmerson J. Hills and Alice S. Hills of Belmont for damages. (S. P. 685) (S. D. 361)

(On motion by Mr. Spear of Cumberland, tabled pending final passage.)

Resolve in favor of Northern Maine Sanatorium for the construction and equipment of a nurses' home. (S. P. 687) (S. D. 358)

Resolve in favor of the town of Kingman. (H. P. 479) (H. D. 677)

Resolve in favor of the town of Dever-Foxcroft. (H. P. 709) (H. D. 680)

Resolve in favor of the town of Medway. (H. P. 915) (H. D. 681)

Resolve providing for a state pension for Anna L. Gagan of Lewiston. (H. P. 1651) (H. D. 683)

Resolve to provide for a state pension for Mary W. Chamberlain of Portland. (H. P. 1652) (H. D. 684)

Resolve in favor of the Penobscot Tribe of Indians for the general care, maintenance, and education thereof. (H. P. 1653) (H. D. 675)

Resolve in favor of Caratunk Plantation. (H. P. 1654) (H. D. 685)

Orders of the Day

The President laid before the Senate, Senate report from the Joint Committee of Public Utilities, Judiciary and Interior Waters, Majority Report, "Ought to Pass," Minority Report, "Ought not to Pass," on act to provide for the exportation of surplus power, (S. D. 44), tabled on March 27th by Mr. Weatherbee of Penobscot, pending acceptance of majority report "ought to pass" and today assigned.

Mr. WEATHERBEE of Penobscot: Mr. President, I move the acceptance of the majority report, and now yield to the Senator from Washington, Senator Murchie.

Mr. MURCHIE of Washington: Mr. President, I regret very much that I cannot adopt the expedient adopted this morning by the Senator from Sagadahoc, Senator Carlton, and have what views I may have on the Power question taken care of by insertion in the record. Unfortunately, I did not express those views at the Power Hearing and the necessity arises of my expressing my views at this time or not at all.

I oppose the motion of the Senator from Penobscot, Senator Weath-

erbee, that the majority report of this committee, "ought to pass" be accepted. I oppose it, I want to say at the outset, with a great deal of reluctance. I am reluctant to oppose it in the first instance because a good deal of the opposition to the passage of this bill is based upon a sentiment with which I have no sympathy whatsoever. I refer to the disposition that has been shown in the corridors and was evident to some extent at the hearing upon the power bills to look with suspicion upon corporations in general, upon public utility corporations in particular and especially upon that group of companies operating in some of the New England States under the guiding hand of Walter S. Wyman of Augusta but under the financial supervision and control of Samuel Insull and son. I want to say at the outset that I have no suspicions and I view with no distrust any corporation or any public utility corporation, and so far from having any such feeling with reference to the Insull organization, I rejoice in the fact that this organization has seen fit to make an investment in the State of Maine. I recognize the value of a great many of the things that the Insull capital has been able to bring about for the State of Maine and my only regret is that we cannot find more men of the same ability and the same financial strength to come to the State of Maine and help us develop our own resources.

It probably is unnecessary for me to say anything with reference to Mr. Wyman. No one who has had the opportunity to observe Mr. Wyman's conduct during the past twenty years, and anyone who has had anything to do with legislative matters has had that opportunity, if he starts without any prejudice against corporations as I do, can do other than recognize that Mr. Wyman has done as much for the development of the State of Maine as any other man of his own or any other time. Personally, I know Mr. Wyman very slightly. I am sorry that I do not know him better. I consider him one of the best citizens of the State of Maine. In an impersonal way, I know him, as every member of this and every preceding legislature for approxi-

mately twenty years has known him, as an operator of a public utility company, as an organizer, as a business executive, and I do not think there can be any doubt in the mind of anyone that as such operator or organizer or business executive he has no peer anywhere in the State of Maine, and Mr. Wyman has surrounded himself in business organizations and legal organizations with the very best citizens of this state. I am reluctant to oppose the bill also because a good many of those people around Mr. Wyman are personal friends of my own, whose friendship I value very highly. I have very many friends in the power game in other parts of the state. I have a good many friends in both branches of this legislature who, with a good faith that is certainly equal to my own, are absolutely in favor of the passage of the Carlton bill. I assume, of course, that my attitude will not in any way, interrupt those friendly relations. I should very much regret it, of course, if such attitude should.

Regardless of all this, I do oppose the passage of the Carlton bill. I oppose it for one reason and one reason only, because I conceive the duty of a member of a legislative body to be to vote in accordance with his own judgment, and in my judgment the Carlton bill, not because it may permit the exportation of power, but because it may permit it under a misunderstanding on the part of the citizens of this State as to what it means, seems to me to be unwise.

With the major question, I am glad to say I am not in opposition to any of the people to whom I have referred. The major question is the question as to whether or not those who favor the export of power have made out a sufficient case to require that, in proper form, we should submit to the people of the State of Maine the problem as to whether or not they will continue the non-export policy which has prevailed for twenty years, or change it. I think that I have previously stated in this body that the burden of proof rests upon the power people to show upon economic grounds why we should change the policy. I want to change that statement now to this extent and this extent only, that I believe

the proponents of export have established a sufficient case to require us to give to the people of the State of Maine the opportunity either to reaffirm or to change the policy.

My only disagreement with the power people is on the issue that this is not a proper way in which to submit that problem. Now in this statement that it is not a proper way, I do not want to be construed as impugning the motives of the framers of the bill, of the Senator from Sagadahoc (Senator Carlton) who introduced it, or the Senator from Somerset (Senator Smith) of two years ago who introduced it, or anyone who is particularly in favor of the passage of the bill or who may vote in favor of the passage of the bill. I regard the Carlton Bill as a natural step on the part of those who advocate the export of power to meet the issue of federal control which the opponents of export raised against it. I have no doubt that it is advanced by them in absolutely good faith as the most probable way in which the danger of federal control may be minimized. I think that I have already gone on record as saying that in my personal view, the question of legal control is one of absolutely no importance. I believe the question now, as I believed before and have so stated, is absolutely and entirely an economic one, that the construction of a transmission line may help or may hurt the State of Maine, but that the benefit, if it is a benefit, will not be lessened in any degree by federal control if it results in federal control, and I believe that the detriment, if it is a detriment will not be lessened by any control that may be reserved if such reservation is possible under the machinery of the Carlton bill.

The issue, as I see it, is not an issue between export and non-export. The issue is an issue between presenting to the people of Maine a confused question or a clean-cut one. As their representatives, it is certainly our duty, if we can, to present to them a clean-cut issue that the results may be in absolute accordance with the will of the majority of the people of the State of Maine.

I base my opposition to the passage of the Carlton bill on four

grounds, the first three of which I expect to demonstrate by the plain declarations of those who appeared at the Power Hearing as proponents of the Carlton bill or by necessary inference from their declarations. Those three points are these:

First, that there is no distinction whatsoever from an economic standpoint between the passage of the Carlton bill and the absolute repeal of the Fernald law.

Second, that there is no distinction whatsoever from a legal standpoint between the passage of the Carlton Bill and the absolute repeal of the Fernald law.

Third, that the Carlton Bill by its necessary implications of legal and economic distinctions between these two methods of approach tends to deceive and will deceive a great many voters in the State of Maine into doing by indirection what they might not intend to do directly.

Finally, as a fourth ground, palpable I think from a reading of the Carlton Bill, that economically it is unwise legislation regardless of the question as to whether or not it might be wise to repeal the Fernald law, and that if such repeal should prove to be unwise that the passage of the Carlton bill would be infinitely worse.

I assume that every member of the Senate has read with considerable care the stenographic report of the public hearing on the water power measures held March 7, 1929, which report has been printed and has been available to members of the Legislature for several weeks.

I think it is evident without argument from any source and so evident as hardly to require that attention should be called to it, that no State regardless of legislation of any kind by its lawmaking body ever has or ever will export from its borders anything except the surplus of any commodity or agency for which no market can be found within its borders. The reason for this rule is ridiculously simple that whether the article is such a commodity as is regularly placed in commerce or an intangible agency such as electricity, the freight involved in transportation from the place of production will always make the home consumption the best place for market and this is true of every measureable commod-

ity of any kind—potatoes, to use the example used two years ago, or coal or gas or oil or anything else, and if it is true of measurable commodities, it is more true of an intangible agency such as electricity where in addition to the freight which in such case would be the capital cost of the transporting structures, there is what the electricity people call transmission losses. Freight and transmission losses are all the assurance that any state will ever need to retain within its borders such electricity as the home market may require.

I think the economic illustration is sufficient to show that there is no distinction between these two methods, but fortunately we do not have to rest on that because I think I can give you the plain, straight declaration of Mr. Wyman and I submit that Mr. Wyman knows more about this problem than any other man in the State of Maine.

If you will refer to Page 59 of the printed report on the Power Hearing, you will find a question which I asked Mr. Wyman in the afternoon session, after a good many gentlemen had asked a good many questions with which I now say and I have always said I have no sympathy. "As a practical matter is it not true that, if you repeal the Fernald law, the companies would export nothing except surplus?" And to that question, Mr. Wyman answered, "I should think so."

The same question came up again in the evening session when Mr. Merrill propounded a question to me after I had advocated the repeal of the Fernald Law as the proper method of the submission of this question. This is found on Pages 105 and 106 of the Power Report. "Mr. Wyman's statement which you refer to (that was the statement I have just quoted) that statement was that even if the Fernald law were repealed it would be nothing but surplus they would export under it, was it not?" to which I answered, "I so understood. That is export under this bill. Doesn't that mean, Brother Merrill, that they would export the same thing under the repealed Fernald law as under the Carlton bill? Do I interpret that answer correctly?" Mr. Merrill replied,

"Yes, You do, only it had not been brought out the only thing they would export under the Fernald law was surplus, and an opposite inference might have been drawn from your statement, although you didn't so mean it."

I submit to you, therefore, that ordinary business judgment, that reasonable interpretation of the Fernald law in the light of well known economic facts; and that the plain, square, clean-cut declarations both of Mr. Wyman and his chief legislative adviser are all to the undoubted effect that the repeal of the Fernald Law and the passage of the Carlton bill are exactly the same, so far as economic results are concerned.

Regardless of that fact, I want to quote to you a statement made by Mr. Merrill at the Power hearing, which you will find on Page 26 of the Power Report, and which lays the foundation in part for the third point which I have made that the Carlton bill by its necessary implications tends to deceive and will deceive the voters. Mr. Merrill at that hearing made the following statement: "This act, as its title shows, the Smith-Carlton bill, is an act to provide for the exportation of surplus power, and surplus power alone," and to quote also a statement made by Mr. Merrill in the brief which he filed with the committee the night of the hearing and which I regret to say was not printed with the report but nine members of this Senate were members of the Committee and if I unintentionally make any misquotations, and I assure you I shall not make any intentionally, some one of those nine men will certainly call attention to it. The second paragraph of the brief opens with these two sentences: "It is to be noted that the Carlton bill is not a substitute for the Fernald law. The Fernald law remains upon the books unmodified and unchanged except as to those who take advantage of the provisions of the Carlton bill.

Now that statement, like the statement made by Mr. Merrill before the Power Committee is literally and absolutely true but the necessary implications of both statements are at variance with the positive statement made by Mr. Wyman and the equally positive statement made by Mr. Merrill that

economically the result on either line of procedure would be the same.

I have said that exactly as there is no distinction from an economic standpoint, so there is no distinction from a legal standpoint, and I have said again that I would demonstrate that fact by the plain declaration of the proponents of this measure. Unfortunately, this is not a proposition that can be demonstrated on grounds of common experience or on other grounds such as are available in considering the economic point but I can at least furnish you with the quotation which I undertook to provide. On Page 58 of the Power Report appears a question asked of Mr. Wyman by the Senator from Cumberland, Senator Oakes: "I would like to ask you one other question along a different line, and I think it not improper to ask it. Did you consult Mr. Hughes regarding the legal effect of the Carlton bill?" and the answer of Mr. Wyman, "I asked him last year to give us an opinion on the Fernald law, and I think perhaps we did ask him first what about the Carlton bill, and I think his reply to that was not an opinion on the Carlton bill, or the Smith bill as it was then, but was to the effect that it depended on the constitutionality of the Fernald law to a large extent." That is the same Fernald Law that so many people tell us is unconstitutional. And Judge Hughes, a former justice of the Supreme Judicial Court of the United States advises the proponents of the measure, whether or not it is constitutional or whether or not it is effective, depends to a large extent upon the constitutionality of the Fernald Law. In other words, the proponents, by their own words say that economically and legally there is no distinction between these two lines of procedure.

I want to quote to you a statement made by Mr. Merrill at the Power Hearing. On Page 29 of the report he makes this statement, "In the preparation of the Smith-Carlton bill the greatest care was taken to assure to the State a constant supply of energy for its present and future demands, and to prevent all danger of Federal control of our local hydro-electric business." The necessary implica-

tion of that statement is that the law was framed and effectively framed to prevent all danger of federal control. Mr. Merrill goes on to say, "of our local hydro-electric business," and so far as control of local hydro-electric business is concerned there is not, of course, now and never was and never will be in the future any danger that the Federal Government will come in to take that control away from us. If that is all the Carlton bill was designed to prevent, I say the time and money and effort spent in its preparation is sheer waste. If, on the other hand, the thing that was proposed was to prevent all danger of Federal control not of our local hydro-electric business but of electricity as an element in interstate commerce after export was commenced, then according to the opinion of Judge Hughes, the effectiveness of the Carlton Bill will depend upon the constitutionality of the Fernald Law.

Mr. Merrill, on Page 31 makes this statement: "Whether the Fernald Law is constitutional or not, the Smith-Carlton bill recognizes that law, and anyone taking advantage of its provisions must obey the Fernald Law unmodified except as to surplus power, so long as he continues to operate under the Smith-Carlton Bill."

That statement is interesting from two standpoints. First, he must obey the law unmodified except as to surplus power. The law doesn't now, and never has meant anything except as it pertains to surplus power. And second, he must obey it so long as he continues to operate under the Smith-Carlton bill. The Carlton bill in Section 10 provides that a corporation may withdraw from the field at any time and upon such withdrawal by the necessary implication of the terms of the act and by the equally necessary implication of Mr. Merrill's statement, the obligation to observe the Fernald law terminates, so far as the contractual relationship with the State of Maine is concerned, immediately upon such withdrawal. Mr. Merrill then goes on to say, "If he ceases to operate under the Smith-Carlton bill, the Fernald Law remains unmodified and unchanged." There

is a change not in the law but in the facts which I think anyone will recognize, that upon withdrawal of the company from its operations under the Fernald Law, not the legal machinery but the structural machinery to make it worth while to test the constitutionality of the Fernald Law will exist, and the issue will be further complicated so far as the Federal courts are concerned by the fact that electricity in large amounts will then have been an element in interstate commerce between Maine and other states for a considerable period of time, which is not the fact today.

Mr. Merrill, in his brief, distinguishes export under the Carlton bill from export of natural gas from West Virginia or other states on the theory that West Virginia started in with unlimited export, whereas Maine will be starting in with export limited to surplus power only. Now I don't think anybody can question but economically the situation is just the same in West Virginia as in Maine. They started to export surplus gas but the Legislature didn't pass an act to call it surplus.

Referring to Mr. Merrill's brief again, on Page 10, he cites the fact of the reliance by opponents of the Carlton Bill on the decision in the West Virginia natural gas cases, and makes this statement, "Opponents of the Carlton bill tell you that you cannot repeal a fact by a law; that interstate shipment of surplus electric energy is interstate commerce. Our opponents tell you that in West Virginia they started to export surplus gas, that later West Virginia attempted to confine interstate shipments of natural gas to surplus and that the Supreme Court of the United States held the State of West Virginia was powerless so to do."

He then says, on Page 11: While "you cannot repeal a fact by a law," may be a catching phrase, I say to you "You cannot start with a false premise of fact and reach a correct conclusion of law."

Now the opponent's statement as Mr. Merrill classes it may be as he says "a catching phrase", and he may have answered it as no doubt he thinks he has with an equally "catching phrase" but I say to you

now that neither in connection with gas or electricity, or rice, or potatoes, or any other commodity of any shape, sort, nature or description has the Supreme Judicial Court of the United States, ever established a distinction of any kind except surplus and some other part of the commodity or element in question. The Supreme Court decision or decisions that a commodity or element is or is not in interstate commerce and I defy anyone to show any decision of that court whereby the State is given the right to divide commodities or elements into surplus and non-surplus. Not to compete with either Mr. Merrill or those he has quoted I say to you not as a "catching phrase" but as a fact, "you cannot hamstring either the Federal court or the Federal constitution with a definition."

As a third point I have stated that the Carlton bill by its necessary implications tends to deceive and will deceive a great number of the voters of the State of Maine.

I think I have covered the details of that objection in large part by my reference to the statements made by the proponents in the hearing and in the submitted brief. It is proper, however, that in addition to those reasons I should call your attention to at least one of the specific conditions of the Carlton bill itself, which in my opinion, is absolutely impossible of application. Section five of the bill or page four of the printed document, lines 27 to 30 contains this statement: "shall issue a permit to the said petitioner authorizing it to sell and deliver to said corporation organized under this act such surplus power and at such rates as the Public Utilities Commission may determine."

The case of Public Utilities Commission of Rhode Island et al vs. Attleboro Steam and Electric Company (reported in the United States report, 273, on page 83) denies absolutely the authority of the Public Utilities Commission of Rhode Island to fix the rate at which electricity should be sold by a utility in Rhode Island to a corporation operating outside the limits of the state. That, as I understand the Carlton bill, is exactly what we are to have here.

In rendering that decision the

court makes certain statements which I want to read to you—not connected statements but taken from different parts of the opinion. Referring to a New York case, "in holding that the New York public service commission might regulate the rate charged to these consumers, the court said that while a state may not 'directly' regulate or burden interstate commerce, it may in some instances,"—note the next words,—“until the subject matter is regulated by Congress, pass laws 'indirectly' affecting such commerce, when needed to protect or regulate matters of local interest.”

Now commenting on a Missouri case, "in holding that the rate which the company charged for the gas sold to the distributing company—those at which these companies sold to the local consumers not being involved—was not subject to regulation by the Public Utilities Commission of Missouri, the court said that, while in the absence of congressional action a state may generally enact laws of internal police, although they have an indirect effect upon interstate commerce, 'the commerce clause of the Constitution, of its own force, restrains the states from imposing direct burdens upon interstate commerce' and a state enactment imposing such a 'direct burden' must fall as being a direct restraint of that which in the absence of federal regulation should be free."

Further on in the opinion the "sale and delivery to the distributing companies was an 'inseparable part of a transaction in interstate commerce—not local but essentially national in character—and enforcement of a selling price in such a transaction places a direct burden upon such commerce inconsistent with that freedom of interstate trade which it was the purpose of the commerce clause to secure and preserve.'"

Again, "it is immaterial that the Narragansett Company is a Rhode Island corporation subject to regulation by the Commission in its local business, or that Rhode Island is the state from which the electric current is transmitted in interstate commerce, and not that in which it is received, as in the Kansas Gas Company case. The forwarding state obviously has no more authority than the receiving state to place a direct burden upon

interstate commerce." Yet the Act states not merely that the company shall sell such surplus power, but it has to sell it at such rates as the Public Utilities Commission may determine.

Again in the three cases *State of Missouri et al vs. Kansas Natural Gas Company*, *Kansas Natural Gas Company vs State of Kansas* and *State of Kansas vs. Central Trust Company of New York et al*, argued and reported together in the 265th United States report on page 298, the square statement is made in the syllabus—"An attempt of a state to fix the rates chargeable in this interstate business is a direct burden on interstate commerce, even in the absence of any regulation of it by Congress."

These three cases involve the same question in a variety of forms; the first where an injunction was sought to restrain the company from increasing its rates without the consent of the Public Utilities Commission in the state of its domicile. This injunction was refused by the United States District Court of Missouri and the Supreme Court affirmed the refusal. In the second case the Supreme Court of Kansas allowed a peremptory mandamus to compel the company to re-establish its former rates and maintain them until otherwise ordered by the Public Utilities Commission, which action was reversed by the United States Supreme Court; and in the third case the refusal of the United States District Court in Kansas to enjoin the collection of increased rates until allowed by the Commission in Kansas was affirmed.

Mr. Justice Sutherland who voiced the opinion of the court, there being no dissenting opinion rendered by any justice used further language, which I wish to quote: "These cases were consolidated for argument. They present for decision the single question whether the business of the *Kansas Natural Gas Company* hereafter called the *Supply Company*, consisting of the transportation of natural gas from one state to another for sale, and its sale and delivery to distributing companies, is interstate commerce free from state interference."

Later on in the opinion, "the business of the *Supply Company*, with an exception not important is wholly interstate. The sales and deliv-

ery are in large quantities not for consumption but for resale to consumers. The question is, therefore, presented in its simplest form, and if the claim of State power be upheld, it is difficult to see how it could be denied in any case of interstate transportation and sale of gas. Both federal courts deny the power. The State court conceded that the business was interstate and subject to federal control, but rested its decision the other way upon the fact that Congress had not acted in the matter and that, in the absence of such action, it was within the regulating power of the state."

Again, "The line of division between cases where, in the absence of congressional action the State is authorized to act, and those where state action is precluded by mere force of the commerce clause of the Constitution, is not always clearly marked. In the absence of Congressional legislation a State may constitutionally impose taxes, enact inspection laws, quarantine laws and, generally, laws of internal police, although they may have an incidental effect upon interstate commerce (citing 191 U. S. 477). But the commerce clause of the Constitution, of its own force, restrains the States from imposing direct burdens upon interstate commerce."

Again, "the contention that, in the public interest, the business is one requiring regulation, need not be challenged. But Congress thus far has not seen fit to regulate it, and its silence, where it has the sole power to speak, is a declaration that that particular commerce shall be free from regulation."

It is worth while in considering it, to note the extent to which the federal courts have gone, although I will concede freely that in many of these declarations the statements are not required in the decision of the case and will have only the force of dicta and not of adjudication, but the language used goes to the extent of even suggesting a denial of the authority of the state to tax structures used in interstate commerce and in this connection it is important to note that under the *Carlton* bill every transmission company, every transmission company organized under the terms of the *Carlton* bill can own no structure of any sort which is not useful

in interstate commerce because the act requires that once the electricity is delivered to the transmission company it cannot be sold within the state but must be transported without, and there sold.

I say to you, therefore, that while the Carlton bill intimates an economic distinction and intimates a legal distinction between the passage of that bill and the repeal of the Fernald law and while it holds forth the direct hope that the Public Utilities Commission of the State of Maine can regulate the price at which the power transmitted beyond the confines of the State is to be sold; that by the direct admission of the proponents, there is no economic distinction, that there is no legal distinction and further that under the authority of decided cases the Public Utilities Commission of the State of Maine can have no right whatsoever, to fix rates or otherwise regulate the business.

Finally I set up as a fourth point that even though the repeal of the Fernald law might be wise, I want to say right now that I am not at all certain that it would be unwise, I am not at all certain that the Fernald law has ever been of any benefit to the State of Maine or that it ever will be of benefit in the future, and I say regardless of the question whether or not that repeal is wise, a passage of this bill is unwise. I want to call your attention to some of the provisions of the Carlton bill. I base my claim that it is unwise legislation not so much because of the terms of the bill as on the points that I have tried to make that necessarily it will confuse and deceive the voters of the State of Maine.

Section one of the act provides the definition of surplus power which briefly, in the case of a public utility company, is the supply available in excess of that required to supply the reasonable demands within the territory which it is authorized to serve. That is all right. And in the case of any other person, firm or corporation, it is the amount available in excess of the amount required to supply all reasonable demands for electric power in the market in Maine available to it. Now the confusion is when a public utility corporation has no market that it is required to serve;

"taking into account in all cases the demands which may be made under the provisions of section 6 of chapter 60 of the Revised Statutes".

Section 6 of chapter 60 of the Revised Statutes says that any corporation organized under the provision of section 6 to 11 of chapter 51, shall have authority to extend its lines to connect with the feed lines of a corporation generating and selling electricity, and such corporation shall be obliged to furnish electricity if requested to the extent of its reasonable capacity; "—and so on." Now that doesn't require that a privately owned dam shall sell its electricity to some other person, firm or corporation, but that a public utility corporation having surplus shall make such a sale.

Section 2 provides for the organization of corporations under the Carlton bill, and provides specifically that a corporation so organized may not own, operate or control any electrical generating plant or electrical company within the definition of the Public Utilities act. It might be worth while to note here that there is no prohibition whatever against the ownership by a generating company or an electrical company of one of the transmission companies to be organized under the act. I submit to you that the gentlemen who control the destinies of this nation down in the Supreme Court of the United States will consider identity of ownership and it won't make any difference whether the transmission company owns the generating plant or the company owning the generating plant owns the transmission line.

Section 4 of the act ties the hands of the transmission companies absolutely so that no current turned into its lines within the borders of the State of Maine shall be sold within the limits of the State but must be exported. In other words section 4, as I see it, makes it impossible that the transmission company shall ever engage in intra-state business but every single part of its charter will be interstate business subject to the control of the Federal Government.

Section 5 contains the Public Utilities Commission regulation provision and makes an additional reference to the service of the peo-

ple in the State of Maine, continuing only so long as the petitioner supplies all demands for electric current in the available market in Maine in the territory in which it is authorized to sell the same including that required to supply other public utilities. In the territory in which the Lockwood mill is authorized to do a public utility business, including that required to supply other public utilities, and not applicable in any way to a private corporation.

I have already taken more time than any one member of this Body should take on this issue but I want to refer very briefly to the brief submitted by Mr. Merrill. The time hasn't been very great and I would not pretend to have been able to make the analysis of his brief and the decisions cited under it that a man ought to make in attempting to discuss it but unfortunately that is all the time that is available. I want to say at the outset that the five men who collaborated in the preparation of this bill, Mr. Merrill, Mr. Skelton, Mr. Perkins, Mr. Pierce and Mr. Verrill, if I have the names correctly, are undoubtedly five of the best legal minds in the State of Maine and I should suppose if authority existed anywhere for the contentions that they raised, that they would have found that authority and cited it to us. I have read as thoroughly as I have been able in the time available, the cases cited in Mr. Merrill's brief, and I do not think it is going too far to say that there isn't a single case that is authority for the essential contention of the Carlton bill. I will refer to one or two of them briefly. Mr. Merrill cites the Dartmouth case and he cites it as authority for this position. "A corporation is an artificial being, invisible, intangible and existing only in contemplation of law. Being the mere creature of law it possesses only those properties which the charter of its creation confers upon it, either expressly or as incidental to its very existence. These powers are supposed best calculated to effect the object for which it was created." Now that is again what the courts call dicta. It is the language used in the case before the court decided that the law of the State of New

Hampshire was unconstitutional as impairing the obligation of contract. In the very nature of things regardless of any language used in the case it cannot be authority for the curtailment by state enactment of any corporate authority. Now how can a case declaring a State law unconstitutional under the contract clause be authority for the contention that a State may divide commodities into surplus and non-surplus and make limited the traditional authority of a corporation to do the business for which it was created.

He cites the Bank of Augusta vs. Earle; Head & Amory vs; The Providence Insurance Company; The Bank of the United States vs. Danbridge; all of which, far from holding the limitations of a State upon a corporation binding, decide actually that whether or not the restrictive terms of a charter render invalid some particular act of the corporation as a matter for decision in the United States Supreme Court by interpretation of the exact terms of the charter, and in no case was the language used in the charter held sufficient to limit or to restrict the authority assumed by the corporation. He cites Oregon Railway and Navigation Company vs. Oregonian Railway Company where the question involved was whether the charter gave to the corporation the right to execute a lease, and the court held that it did not but there is no intimation or suggestion of territorial limitation on authority that they could exact a lease in one state that would not be effective in another. He cites Horn Silver Mining Co. vs. State of New York, and the Home Insurance Co. vs. The People of New York, both of which involved absolutely nothing except the right of the state to tax the corporate creature it had created. He cites Perrine vs. Chesapeake and Delaware Canal Co. where the charter granting the right to collect tolls on the passage of vessels and commodities through a canal was held not to be sufficiently broad to tax passengers.

The Senator from Sagadahoc (Senator Carlton) has by a proper and appropriate order this morning had the remarks made by him at the power hearing written into the

legislative record. I have already said I am sorry I could not do the same thing, and because that has been written into the record I want to refer to one thing; I have regretted all through the power discussion the very fact of which the Senator from Sagadahoc (Senator Carlton) called attention at the power hearing. It was his position, there stated, if I recall correctly, that the question of power export had narrowed down into an issue between the followers of ex-Governor Baxter on the one hand and the followers of Walter S. Wyman, on the other. So far as I am concerned I am not a follower of either and I am sorry to have personalities injected into the case. I have said before and I now repeat that it seems to me it is a most unfortunate thing that the people of the State of Maine cannot approach this problem without any prejudice of any kind against corporations or public utility corporations or individuals who may desire to further the export of electric energy. It seems to me that it is equally unfortunate that the people of the State of Maine cannot approach this problem unbiased against any person who may be opposed to the export of power and I do not think it is at all a question between Mr. Wyman and Mr. Baxter or between the followers of Mr. Wyman and the followers of Mr. Baxter. It is a plain straight simple problem in economics and ought to be so decided.

I believe, as I have said before that the proponents of power export have established a sufficient case before this Legislature to require that we, as members of the Legislature should pass on to the people of the State of Maine the question as to whether or not we should change the present policy. I thoroughly believe as I have stated, in the good faith, the honesty and the sincerity of the framers and the proponents of the Carlton bill. I believe that they are mistaken, not in the object that they seek, but in taking an Act forced upon them a few years ago in opposition of a point that in my opinion is of no importance. I do not think it is material now or ever will be material in the future whether the Federal Government has the power to regulate whatever electric

energy is in interstate commerce between Maine and any other State. What is important is that we submit the problem to the people of the State of Maine in such form that there can be no possible misunderstanding, that every voter of the State of Maine may go to the polls and vote for or against the retention of electric power and know exactly what he is voting for. I am ready today to vote to submit to the people of the State of Maine the outright repeal of the Fernald law and unless some information of which I now have no knowledge can be developed in the meantime, I am inclined to believe with the proponents of export, that power should not longer be retained, but I am not willing to submit to the people of the State of Maine a question which the voting public cannot understand.

Mr. MARTIN of Kennebec: Mr. President, I know that I voice the sentiments of all the members of this Senate when I say that we appreciate the very great care that the distinguished Senator from Washington County, Senator Murchie, has taken in this matter and the splendid presentation of his side of the case, and I know that I can assure him that any friendships have not for a minute been endangered by his position in this matter. We all appreciate his absolute sincerity. I was also glad to hear him say that personalities should be avoided because I have always felt deeply on that matter the same way. I have always felt that Ex-Governor Baxter was absolutely sincere. I have felt that those who opposed him were sincere and I know that those who favor the passage of the Carlton Bill into a law have the same sincerity.

I take it that my brother Murchie's chief objection to this bill, the Carlton Bill, is that it in a way would tend to deceive the voters. That is, that he feels it is a repeal, in effect, of the Fernald Law and not simply the adoption of a new state policy. With him on that I cannot agree at all. There seems to me to be a vast difference between this Carlton Bill and the repeal of the Fernald Law. If the Fernald Law were repealed I would assume that in any case where a public utility corporation was serv-

ing two communities such as Portland and Portsmouth that if there should cease to be sufficient power to serve properly the two communities Maine could not say, "We are sorry, Portsmouth, but we will have to withdraw some of the power." It could only say, "We will pro-rate the power," which is a good deal different than saying, "We will take back the surplus power." Also, if the Fernald Law were repealed there would be nothing to prevent any corporation coming into Maine and organizing in Maine, or any individual, and buying up a power site, developing power and shipping it forthwith outside of the state, nothing to prevent it except, as my brother Murchie has said, the economic standpoint. But we cannot look ahead into the future. There may come a time when it would be of economic advantage to ship direct from Maine and then if the Fernald Law were repealed we would be in danger of having Maine become what those of us who favor the retention of the Fernald Law—and I for one am heartily in favor of the retention of that law—there would be danger of having Maine become what those of us who favor the Fernald Law fear it would become, merely a power station.

The Carlton Bill has received a great deal of study. It was before this Legislature two years ago. It was ably debated in the Senate and in the House. I read the debates, late last evening, and I was impressed, as I always am impressed by the eloquence of the then Senator from Kennebec County, Senator Maher—a wonderful presentation of the case. I also was impressed by the extremely able presentation of his views of the case by the late Senator Charles Carter. It is very fitting, it seems to me, that today in his Senate, we have from Androscoggin County another Senator Carter.

This bill was introduced at this session by a man who believes in building, Senator Carlton of Sagadahoc County, and if we look over those who favor this bill I believe we will find they are in a large part the men and women who are building Maine. The association of industries, employing some 88,000 men and women, are heartily in favor of this bill and I cannot conceive that those great business men

of this state would not see, if it is a fact, that this was an indirect attempt to repeal the Fernald law, because I believe that most men and women in this state favor the retention of the Fernald Law. In addition to that, in connection with this matter it can be said, I think safely, that a large majority of the men and women actively engaged in productive business favor this act and they are not favoring it from any selfish motive but simply because they believe it is for the good of Maine. There is nothing very complicated about this bill. It seems to me it is entirely different from the Fernald Law. You may in one case obtain the same result; for instance, the Central Maine Power Company might be able to only export its surplus even if the Fernald Law were repealed, which is properly so, but just because this was regarding the Central Maine Power Company of which Mr. Wyman spoke it does not mean for a moment that it would apply to all the corporations in the state, and the only way that Maine can be safeguarded, it seems to me, is by the passage of this Carlton Bill.

The economics of this are simple. It simply gives the right to the State of Maine to say to any group of men, "You can form a corporation under certain restrictions." It says to the generating company, "You can petition the Public Utilities Commission and if you have any surplus power you can then deal with a transmission company but you will have to make a contract with the State of Maine that any time there is no surplus power you will stop selling to the transmission company." The transmission company is simply a creature, a corporation, of the State with the right to buy surplus power subject to the permit of the State.

Now, the State of Maine under this proposed law is not trying to regulate what the transmission company shall sell its power for. The Public Utilities Commission will regulate what the surplus power can be sold to the transmission company for, but as far as the State of Maine cares after that the transmission company can sell for any amount, and we say that it is not endeavoring to regulate interstate commerce. There is a further step in this matter, because of those two corporations and that is

the permit and the contract that does not exist in the other cases which my brother Murchie cites, or at least I do not believe it exists there. The reason for this transmission company is not to do away with any danger of interstate commerce. In the West Virginia case, of which my brother Murchie spoke at some length, the Court said of West Virginia that "she permitted the formation under her laws of corporations for the purpose of construction pipe lines from her gas fields into other states and carrying gas into the latter and there selling it. She also permitted corporations of other states to come into her territory for that purpose and she extended to all of these the use of her power of eminent domain in acquiring rights of way for their pipe lines but in no way did she then acquire or assert any power to require that consumers within her limits be preferred over consumers elsewhere." Now, that is just what Maine is doing. It is putting up that restriction at the start. But the Carlton Bill asserts just this right, and that is the difference between the West Virginia case and the Carlton Bill. And incidentally it will be of some interest, I believe, to the members of this Senate to know that within the last two or three days the Legislature of West Virginia has passed a bill similar, I believe, to the Carlton Bill.

Now, my brother Murchie stated that some of the cases stated by Mr. Merrill are not in point. But it is very easy to see why it is difficult to obtain cases exactly in point. It is because in this entire country there isn't a state that has complete restriction upon the export of electrical power, so that necessarily cases involving just the points in this proposed legislation have not come before any courts, and the names of the attorneys whom he mentioned as drawing up this bill are, I believe, a pretty good safeguard to this state. We all know who they are and there isn't a man there who would draw any bill, no matter what compensation he might receive, which he felt would be against the interest of the entire State of Maine. It has been carefully worked out. It has been before the people for two years. It was before the last legislature. And I cannot agree with the Sen-

ator from Washington County (Senator Murchie) that the people of Maine cannot vote intelligently upon this matter. In fact, I have found that it is almost always true that the further away you go from this Capitol you find that men and women give to State matters even greater study than they do when they are nearer and can come here frequently. The man on the farm unquestionably gives to every matter of public interest the most careful study.

I appreciate the attitude which the Senator from Washington (Senator Murchie) takes that the people should not be deceived. They should know exactly what they are voting on and I believe that they do know and will know what they are voting on. Certainly we in this Senate are not deceived. We know that we are voting to allow the export of surplus power, under certain conditions, under a permit, to the transmission company, and that that transmission company shall receive it only so long as there is surplus power. As to a private corporation, I interpret this bill somewhat differently than my brother Murchie. I believe that a private corporation could not sell direct, outside of the state. In Section 1 of the bill it says, "All reasonable demands for electric power in the market in Maine available to it," it can sell, "taking into account in all cases the demands which may be made under the provisions of Section Six of Chapter Sixty of the Revised Statutes." Now, a private corporation would have to obtain a permit from the State of Maine and the Public Utilities Commission would of course look into the matter to see what the demands of the public were in the territory where that private corporation existed before it would allow any export of power.

And what are the reasons for this surplus power being sent out? You have heard them many times. There is no real need to repeat them. But there is, it seems to me, a very real demand for the export of surplus power. An illustration would be the case of a man whose cellar was filled up with newspapers, as is sometimes the case. He has to hire someone to take them away. Certainly if he could have a market for those papers

and sell them it would increase his income and would tend to give him more money to spend on other matters. Now it is exactly the same with surplus power, I believe. In this state at the present time there are over 125 million kilowatt hours of surplus power simply running to waste. They are doing nobody any good. Now, if that power can be sold and something obtained for it—and there ought to be for an amount like that a very substantial amount obtained—then Maine will gain something. There is also in this bill a provision for rural electrification, the spending of at least \$250,000 provided they earn twice that amount, of the gross earnings per year for ten years from a transmission company, and that doesn't mean one company but it means a number of transmission companies. That would be of great benefit to Maine for the electrification of our farms, and that surplus isn't doing anyone the slightest good today. It is being wasted. If that money can come into the state it will do a great deal of good and it will do no one, as far as I can see, any harm in having that money come in. And it does not mean simply the present surplus. It will mean greater and larger development in Maine, the taxing of more property, more property in Maine, more pay rolls, the spending of more money; and of course every dollar that is spent through the working man means benefit to the farmers and to everyone in Maine, directly or indirectly; and no matter where the power stations are built, no matter where the developments are made, developments in one part of Maine mean developments and prosperity to some degree, in all parts of Maine. It will be a step ahead. It will mean that we are leaving the "do nothing" policy for a "do something" policy.

There is no danger of interstate commerce, of the government interfering, we claim, under this bill, and my brother Murchie states that that doesn't worry him particularly. There is no real danger there. The economic argument is all in favor of it. In a bill of this kind, or in any bill I think, we unconsciously think of who has introduced the bill, who the people are that are behind it, and as I have stated, the business men are behind this

bill. It was introduced by a business man with whom I disagree in one thing. At one of the hearings he said that the man who had done the most for Maine was a certain gentleman. I don't agree with him as to the gentleman. I think that the man who has done the most for Maine in the last two years is the man who a number of years ago was born in Dresden, as a boy grew up along the Kennebec River, dreamed of putting a span across that river and two years ago, because of his dream and because of his ambition, spanned that river with the Carlton Bridge, and high upon the roll of honor of men who have done much for the State of Maine should appear, I believe, the name of the Hon. Frank Carlton of Sagadahoc County; and when he sponsors a bill it means a great deal to me. And back of this man is a man interested in this section of Maine, Walter S. Wyman of Augusta. I cannot conceive—and my brother Murchie says that he cannot—and he is a friend of Mr. Wyman's and Mr. Wyman is a friend of his—that Mr. Wyman, a man who has done so much for Maine, a man who started with little, with only a dream, up in Oakland, and who has built and developed Maine as he has, a man who today is really in the position of big business, that such a man would do anything that he considered not for the best interests of Maine. You know the various things he has done for this State. He lives in Augusta, his family is in Augusta, he loves Maine as few men can love a state and there is no man in this state who would be more quick to right any wrong that was being done this State than Walter Wyman; and it would be poor business for him to in any way export surplus power if it was in any way to be detrimental to the State of Maine. And so when I am told that a man like Walter Wyman says this is good legislation and that he favors it I am heartily in accord with it because, as my brother Murchie has said, Walter Wyman probably knows more about this matter than any man in the State of Maine. The question which was asked Mr. Wyman was not—I don't mean to say it was unfair—but I don't think the answer was responsive in the sense that it was complete. I do not believe for

a minute, and I know that the attorneys in this matter do not for a moment admit, that this is virtually a repeal of the Fernald Law. It is not in any sense of the word an attempt to repeal the Fernald Law. Mr. Wyman on record says he doesn't want the Fernald Law repealed. None of the people interested in this matter want it repealed. This is a different proposition altogether.

Now, Senator Murchie, on page 59 of the Water Power Hearing report said, "Mr. Chairman, just one question if I may. As a practical matter is it not true that, if you repeal the Fernald Law, the companies would export nothing except surplus." "I should think so", Mr. Wyman replied. And because of that the Senator infers that that means it is the same thing as repealing the Fernald Law but I don't believe it for a minute and I know Mr. Wyman does not consider this a repeal of the Fernald Law. He didn't mean it that way. He was referring to the particular case of the Central Maine Power Company. He meant that under its charter, even if the Fernald Law were repealed, the Central Maine Power Company could only sell surplus power. But a public corporation could come in here, if the Fernald Law were repealed and sell all the power it had and not be limited to the sale of surplus; and I don't believe that the people of the State of Maine want that to happen. I do not think that was the intent of the question and I don't believe the inference was drawn intentionally because there isn't a fairer man in the State of Maine than my friend from Washington County, Senator Murchie, but it is a good deal like asking a man who never takes a drink, and who is on the witness stand, "Were you intoxicated last night at seven o'clock?" Of course the man will say, "No," but your question leaves the impression, or at least it could be so argued to the jury, that the man might have been intoxicated at six o'clock or at five o'clock. In other words, I believe that if Mr. Wyman had had full opportunity he would have explained the difference between the Fernald Law and the Carlton Bill far better than any other man in the State of Maine could have done. However, he didn't do so and therefore we haven't the value of his remarks.

This bill provides that next September there shall be a referendum. It will be submitted to the people of Maine, if this legislation passes. As I have said before I believe that we can trust the people of Maine, I believe that they are intelligent. In the whole history of Maine I do not believe that upon any issue, at least on any issue of importance if not on any issue, that the people of Maine have ever been deceived. I don't have to say here that the people of Maine are the most intelligent people in this country, because they are, and when this matter goes before them, if it does I feel that they can decide fully as well, if not better than we can.

For twenty years the Fernald Law has been upon the Statutes, passed in 1909, and even then it contemplated that the Legislature might authorize corporations. It is in the expressed language of the statute, and this is simply carrying out what was contemplated at that time. It isn't any fundamental change in state policy. It is just saying to the corporation, "What is wasted you can receive something for instead of letting it go on and be wasted." I don't have to argue the economic advantages along that line because as I understand the Senator from Washington, Senator Murchie, he admits that he is convinced that from an economic standpoint it is advantageous to the State of Maine to allow the export of surplus power and he doesn't know but it might be advantageous to allow the export of all power by the repeal of the Fernald Law, with, of course, the Public Utilities Commission taking care of regular needs.

The hour is fairly late. The brief of my brother Merrill I believe is accurate and complete. The Attleboro case which was referred to as being exactly in point I do not think is entirely in point. As I understand that case there was a public utility in Rhode Island selling to a corporation in Massachusetts under contract and the Public Utilities Commission of Rhode Island endeavored to change the rate which would affect that contract, and the Court ruled that the Public Utilities Commission couldn't do that. But there was not that intermediate step which this Carlton

Bill provides and takes care of and it doesn't seem to me that the cases are exactly in point. I believe it would be almost wise if this could be made a part of the record but it is long to read and I have no doubt can be made available at some later date.

I only wish to add this, that the only disagreement on this matter seems to be not as to whether it would be advantageous to Maine but simply as to whether the people will be befogged. I have never heard that question raised publicly until today. I don't think it was raised two years ago. I don't see the slightest chance of the people being befogged in this matter. I think we can absolutely count upon the people of Maine to vote with their usual high intelligence on this matter and because it is of vital importance, because it means, it seems to me, more prosperity everywhere throughout the state, because it means more homes, happier homes, increased wealth and greater population to this state, I trust that the motion of the Senator from Penobscot (Senator Weatherbee), to accept the majority report will prevail.

Mr. OAKES of Cumberland: Mr. President, I wish to say just a very few words. From what I have heard I have no doubt that the Senate will adopt the Carlton Bill and I don't expect that anything I say will affect the vote of the Senate. I have also been on the minority side of issues before and sometimes I have felt that I was wrong, upon consideration in later years, and sometimes I was glad that I had taken the position that I had. In either event I think that this body recognizes the opinions of the various members, respects those opinions and retains its friendships equally strong regardless of difference.

I introduced two bills, one the so-called Compact Bill, which I think is along the line of thought of some of the more conservative thinkers, and the other the bill for the referendum to the people of the question of the Fernald Law without any other question to be considered, which opens up the entire discussion throughout the State on a clean-cut issue of the re-

tention or repeal of the Fernald Law.

I wish to read a question which was included in a series of questions which I desired to be asked of Mr. Hughes, Charles Evans Hughes, in the order which I introduced in the Senate on February 6th: "Would the terms of the Carlton Bill be legally enforceable so that upon the export of electricity thereunder the State of Maine would not by reason of the Fernald Law relinquish any portion of its control, jurisdiction and regulation over the hydro-electric resources within our borders?" The question was taken from the Republican State platform. At the hearing before the three committees on March 7th Mr. Chase of the House asked me several questions:

"Mr. Chase: Did you attend the Republican state convention? Mr. Oakes: I did. Mr. Chase: Do you recall a great deal of conversation around there at that time that that plank in the platform was an easy way to let Percy Baxter change his mind? Mr. Oakes: I wouldn't want to express it in that language. I think this is a fact, that this plank was forced upon certain interests at the convention by Percy Baxter. Mr. Chase: Then you didn't hear a great deal of conversation around there urging members of the convention to consent to this plank so as to make it easier for Mr. Baxter and his friends to vote for the platform? Mr. Oakes: Well, I think there was a question as to the adoption of the platform without this plank and that Percival Baxter was raising the question in the minds of many people as to the adoption of this platform and this plank was adopted to insure the harmonious passage, if that answers your question. Mr. Chase: Yes, that is as good an answer as I could get." I read these questions and answers to bring to the attention of this body that that plank was inserted in the platform of the Republican party, and as it happens, each one of us is a member of the Republican party. That plank was not inserted as a platitude. That plank was inserted as an issue. That was a definite is-

sue raised by Mr. Baxter, and I too say that although at times I may agree with Mr. Baxter I certainly would not feel in any way that I was a general follower of Mr. Baxter. That plank was inserted by a certain group of the people of this state and on that plank the people of this state voted for the candidates of the Republican party. You were elected on that plank, I was elected on that plank and Governor Gardiner was elected on that plank of the Republican platform. We owe it to the people of the State of Maine to keep our contract as set forth in that plank of the platform which, as I say, was not a platitude but a real issue.

Now then, I feel that we cannot decide whether or not the Carlton Bill conforms to that plank. We can decide whether or not we wish to say to the people, "We will give you a definite issue to vote upon, without our judgment, as to whether you want to change the policy of this state." But the question before us now is whether we wish to decide to pass on the Carlton Law and whether we wish to ask the people to decide the legal question as to whether the Carlton Law answers the proposition set forth in that plank.

My friend from Kennebec said that the people away from Augusta know more than we know here. I submit that the people away from Augusta haven't had an opportunity to study it and to hear the debate and to consider this problem as we have done here. The Senator from Kennebec (Senator Martin) says—I wrote his words down as well as I could remember them afterwards and I think they are approximately correct—"We know that we are providing for the sale of surplus power only and for only so long as such power is surplus." Now, if we know that, I think that ends the issue. I do not agree with my friend who has just spoken, Senator Murchie, that the legal question is not an issue. I think, before we submit this to the people, the legal question is the paramount issue and I wish to quote from the hearing again a question which I asked of Mr. Wyman and the answer which he gave. The first question was quoted by Senator Murchie and there is a

second question which I also wish to quote:

"Senator Oakes: I would like to ask you one other question along a different line and I think it is not improper to ask it. Did you consult Mr. Hughes regarding the legal effect of the Carlton Bill. Mr. Wyman: I asked him last year to give us an opinion on the Fernald Law. I think perhaps we did ask him first about the Carlton Bill, and I think his reply to that was not an opinion on the Carlton Bill, or the Smith Bill as it was then, but was to the effect that it depended on the constitutionality of the Fernald Law to a large extent. That is the impression he gave me. Then I asked him to give me an opinion on the constitutionality of the Fernald Law, and that was in the summer of 1927, I guess, and in the winter of 1928 Mr. Hughes gave me a verbal talk on the constitutionality of the Fernald Law. Senator Oakes: Did he give you any statement that you could quote as to the legal effect of the export of electricity under the Carlton Bill and the retention of control by the State of Maine? Mr. Wyman: I got nothing out of it that I could quote as being his opinion one way or the other. I have recently written him again reminding him that I have not yet received his opinion, and hoping that before he sails to Europe he would give it to us. I would be very glad to show it to you if I ever get it." He has never shown it to me yet.

Now, it may be that the effect of the Carlton Bill does depend upon the effect of the Fernald Law, but we know this, that for twenty years the Fernald Law has been effective. Whether or not it was legally effective may not be an issue before us but if the Carlton Bill is dependent upon the Fernald Law then the question of the legal effect of the Fernald Law would be in a different status and the legal effect of the Carlton Bill would follow the legal effect of the Fernald Law and the question of Federal control would be a question of doubt which I don't know how to answer and which I do not believe the people of the State of Maine today know how to answer. If the members of the Senate do know

the answer I think that you are justified in voting according to your knowledge. If you don't know the answer I do not believe that you are justified in asking the people of the State of Maine to answer that question.

I think, with that question in my mind, I must vote against the Carlton Bill. I think it does not leave a clean-cut issue to submit to the people, according to my knowledge of the legal effect. I think there are enough questions that have been raised as to the legal effect that we would not pass any us all on our guard as to what we should do. I thank you.

Mr. WEATHERBEE: Mr. President, the Senator from Cumberland County, Senator Oakes, has had much to say about the plank of the Republican platform adopted in Bangor at our last state convention and he stated that we are Republicans—every member of the Senate is Republican—and he must follow the binding obligation of that plank. That statement carries some insinuation that there is some apprehension that we are not going to live up to our platform pledges to the people. Now, I would like to ask the Senator a question, if I may, through the Chair.

Mr. OAKES: I will be very glad to answer it if I can, Mr. President.

Mr. WEATHERBEE: I assume, of course, that you are familiar with the plank of which you speak?

The PRESIDENT: The Senator from Cumberland, Senator Oakes, may answer if he desires.

Mr. OAKES: I will say, Mr. President, that I read the plank.

Mr. WEATHERBEE: Will you, then, kindly state to the Senate what that plank provides, in substance?

Mr. OAKES: Well, in substance the last part of the plank—I don't refer to the first part of the plank—I believe there were two portions of it—as I remember, the last part of the plank uses words to the effect that we should not pass any law that would relinquish any portion of the control, jurisdiction, and regulation of the hydro-electric resources within our borders.

Mr. WEATHERBEE: And that is the gentleman's answer. I quite

distinctly, Mr. President, remember the plank in question because I happened to be a member of the Committee upon Resolutions that had the reframing of that particular plank. I recall, as most of you must recall, that this export question had been an unsettled question for many years and at the Bangor convention when that plank was drafted it contained in substance, and in almost the words which I will give to you, the statement that, "The Republican party pledges the next Republican Legislature to make an investigation of the water power question and then to act upon the information thus obtained." That meant an investigation for us to obtain information and then a simple pledge that this Legislature would act upon the information thus obtained, take a stand one way or the other upon this important question. Then the clause to which the gentleman refers and which he does not state quite accurately. It said in substance that in the interim, until the Legislature had investigated and had acted, that the Republican party would adhere to the policy of the Fernald Bill. Now, that is it in substance and almost in language. So that we shall not go back upon any platform pledges, we have made an investigation and we will go back upon that platform pledge if we do not now act upon the information thus obtained.

Mr. HARRIMAN of Kennebec: Mr. President, having represented the Grange as one of its state officers for six years and having travelled more or less over the state and been associated with the rural people, I feel that I want to say just a few words in opposition to the passage of the Carlton Bill. I believe that the rural people of Maine, if they could be convinced that there is a surplus of power, would not object to the exportation of such surplus power at all, but I believe that the rural people feel at this time that they have not got all the facts necessary to convince them that the time is right or that there is any surplus power existing today. I believe that, as the Senator from Cumberland, Senator Oakes, said in regard to the platform of the Republican party, this Legislature cannot pass any resolution inconsistent with that platform until after a thorough inves-

tigation has been made. I do not concede that the committee which reported earlier in the session has made an exhaustive report and obtained all of the facts. There were certain questions propounded to that committee by the Grange which have not been carefully and fully answered, in fact, haven't been answered at all and I want to read a little from the report of this public hearing on the water power measures. This is on page 78 of the report and is part of Mr. Moran's discussion of it during the evening of the session. He is discussing this investigation and the result of the investigation by the committee and the part that I want to refer to is this: "The fourteenth chapter answers questions raised by the Grange. I might add parenthetically that it seems to have answered the harmless ones. On page fifty, question nine: 'Are the rates now paid justified by the actual cost and reasonable profit?' And the answer is: 'This question is beyond the scope of the report.' Why, I have often heard men argue that we have already investigated this question. And here is the investigation upon which we can now go ahead and act: 'This question is beyond the scope of this report.' Why, the consumption in any business depends to a great extent upon the cost, and the cost of electricity affects the consumption, and the consumption affects the production—right around in a circle. And that is why the rate has a lot to do with it. And question eleven: 'The exact amount of capital invested in the hydro-electric power industry of Maine?' A pertinent fact, I submit, in order that we may know, or have some idea, as to the reasonableness or otherwise of the rates charged. And the answer is this: 'Beyond the scope of this report.' And question twelve: 'If electric power is once allowed to go out of the state, can it be recalled,' etc. And the answer again: 'This is beyond the scope of this report.'"

Now, it seems to me that we should have all of those questions, and any others that are vital to the situation, answered or a thorough investigation made, such as in my opinion the Aldrich order in the House would create, and if we have such a thorough investigation I don't see how it can be produced

in here to give this Legislature any time to act upon it.

Having travelled over the state, as I say, I am wondering sometimes how many of the members of this Legislature are actually representing their constituents or if their attitude is somewhat changed or their vote may be changed by conditions that are brought to their attention after they get here to Augusta in the halls of the Legislature and in the halls of the State House, and I am wondering if they are paying any great attention to the wishes of their constituents. Recently I received this lot of remonstrances or petitions against the passage of the so-called Carlton Bill. There are practically two hundred of them with nearly six thousand signatures and they are from the rural people of Maine protesting against the passage of the Carlton Bill until such time as we have had a thorough and impartial investigation.

I realize the hour is late but I want to read a little more of this public hearing report on the export measure because it convinces me that all of the facts have not been obtained. On page 71—and this is from Mr. Moran's address at the evening session—he says: "First, the power listed from twenty-eight states and underneath that 'Maine offers power at lower average cost than any state except South Carolina, Georgia and Alabama.' That report, that information, came from this book right here, 'Central Electric Light and Power Stations, Census of Electrical Industries, Department of Commerce, 1922.' I have that book here to demonstrate this. Why were only twenty-eight states listed? There are forty-eight states in the United States and the figures for the whole forty-eight states are in that book and on the same page where these twenty-eight came from. The report says: 'Maine offers power at a lower average cost than any state except South Carolina, Georgia and Alabama.' The Maine power rate is 1.1 cents. Why didn't the report list Oregon, which has a rate practically the same as Maine's (1.2 cents)? Why not list Utah with a rate exactly the same as Maine's, or Idaho, which has a lower rate than Maine of .9 cents, and why not list Montana, which has the still

cheaper rate of .6 cents? Why did the fact finding committee omit from its list of states all of these states which have a lower rate than Maine, or at least as low? With the United States Department of Commerce Census Bureau as my authority I can state positively that the statement in the report that Maine offers power at a lower average cost than any states except South Carolina, Georgia and Alabama, is incorrect. The comparison for lights is also interesting. Again only twenty-eight states listed. I hope you will pay very careful attention to this most interesting thing in the booklet. Twenty-eight states listed! Maine in those twenty-eight states has twenty-fourth place with 8.4 cents as the average rate for lights in Maine. Again I say, why were only twenty-eight states listed? Why not the entire forty-eight states? Possibly this should receive our consideration. Why wasn't Nebraska listed with a rate of 7.3—less than Maine? Why wasn't Kansas listed with a rate of 6.8 cents? Why wasn't Maryland, with a rate of 5.9 cents? Why didn't they list the District of Columbia which also had a rate of 5.9 cents? Louisiana with a rate of 7.2 was not listed. Why? Why was not Oklahoma listed with a rate of 7.8 cents? Why was not Texas listed with a rate of 7.5 cents or Montana with a rate of 6.9 cents or Idaho with a rate of 5.3 cents? Why wasn't Wyoming with a rate of 7.7 cents, Colorado with 6.5 cents, Utah with a rate of 5.2 cents?" etc.

It seems to me that we have not had as yet a full and impartial investigation of all the facts that are pertinent to the rural people of Maine, who as yet have not got all the electric power they want at a reasonable price. And, as has already been said the Republican party has gone on record as demanding this investigation before we pass any law in regard to exportation of power. I have a copy of the platform of the Republican party here and if necessary I can read into the record the plank on the water power situation. It seems to me that it is surely a point well taken and I for one, Mr. President, shall vote against the passage of the Carlton Bill. And when the

vote is taken I would like to have it taken by the Yeas and Nays.

Mr. OAKES: Mr. President, I wish to say just one word in connection with the statement of my friend from Penobscot (Senator Weatherbee). I think it is entirely superfluous but I want it distinctly understood that I do not indicate in any way that any member of this Senate is intentionally acting contrary to the water power plank in the platform. I merely wish to bring out this point, that the plank is before us and I wish to have us all consider these questions as to whether the Carlton Bill does or does not conform to the plank. I didn't reply immediately because I wished to get a copy of the plank myself in full and I think perhaps it would be well, before we close our discussion, to read the entire plank into the record:

"It is recognized by all that the Water Power question is of vital importance to the State of Maine:

"It is an economic question, and can only be settled after the most careful and impartial consideration:

"We believe that this Convention, assembled for a few brief hours is not in a position to listen to the arguments of all sides or to maturely consider this issue:

"We believe that the Legislature to assemble in 1929, itself, or through some properly constituted agency thereof entrusted with full power, should obtain the facts in regard to Maine Water Powers and promptly legislate in accordance with the facts thus obtained: and

"Therefore, this Convention makes no recommendation on this issue other than, pending an investigation such as is herein outlined, to re-affirm the position already taken by the Republican party of this State and the State should in no wise surrender its control over the Water Power resources within its borders."

Those seem to be the two pertinent points and I think we should have them in mind as we vote, but I am sure that my friend does not feel that in any way I submit a question regarding the motives or the intent in the minds of the members of the Legislature.

Mr. WEATHERBEE: Mr. President, I think the platform states

exactly the position which I took. We were to investigate the facts and then act and in the meantime the Republican party adhered to its traditional stand on the Fernald Law.

Mr. SLOCUM of Cumberland: Mr. President, I have great confidence in the ability of the people of the State of Maine to express themselves correctly on any matter submitted to them but unfortunately there have been so many points brought up with reference to this matter as to whether we should export or not export, the matter as to whether we should repeal the Fernald Law or not, so many figurative red herrings have been dragged across the trail, that even among the members of the Legislature there are a large number who still are in the class known as belonging to the Bewildered Club.

It seems unfair for us to refer this to the people without their having the opportunity to know just what they are voting for. It is interesting that the proponents of the Carlton Bill were very much opposed to a bill which was introduced earlier in the session, an act relating to the publication of impartial statements of any measures of benefit to the people. It is peculiar that they did not want to have impartial statements showing both sides of the question so that the people could understand what they were voting on. I don't believe that the export or non-export of power is a question that will mean development of Maine or non-development of Maine, because transportation is our bete noir. The proponents of the Carlton Bill and the proponents of the Smith Bill seem to have reversed their policy within the past two years. Two years ago the Fernald Law was condemned. Now the Fernald Law is stated to be a very advantageous law by the proponents of similar measures. We know that where there is a surplus of a product the price automatically is driven down. The representatives of Aroostook County particularly feel that in the case of potatoes, but now we are talking about exporting a surplus of hydro-electric power despite the fact that Maine has a relatively high rate for the sale of that

power. It is interesting that the proponents of this measure feel that we can export power to Massachusetts and sell it there when they are able to manufacture it there at a very low rate. Their rate, if I am correctly informed with reference to the manufacture of steam power, is one cent and five mills, while the average for the whole State of Maine for hydro-electric power is one cent and one mill. It would cost considerable to transport hydro-electric power to Massachusetts and they must compete with the power that can be manufactured and is being manufactured there.

I wish I had the ability of the Senator from Washington, Senator Murchie, to express my confidence in the sincerity of the proponents of this measure. I feel that they believe they are right but time will tell as to whether this measure, if it should become a law, will be beneficial and if it is not then the Eighty-fourth Legislature will be in the position of selling our birth right for a mess of pottage, and if it is a success then I am sure Job's words will be reversed: "The Lord gave and Insull hath taken away; blessed be the name of the Lord."

The PRESIDENT: The Senator from Kennebec, Senator Harriman, moves that when the vote is taken it be taken by the Yeas and Nays.

The Yeas and Nays were ordered.

The PRESIDENT: The question before the Senate is on the motion of the Senator from Penobscot, Senator Weatherbee, that the majority report of the committee "ought to pass" be accepted. Those in favor of the motion, which is the acceptance of the majority report "ought to pass," will vote Yes when their names are called. Those opposed to the report will vote No when their names are called. Is the question plain and is the Senate ready? The Secretary will call the roll.

The Secretary called the roll.

YEA—Allen, Bond, Boulter, Campbell, Carlton, Crockett, Crosby, Douglas, Dunbar, Dwinal, Greenleaf, Leland, Martin, Minott, Mitchell, Noyes, Pinkham, Spear, Weeks, Weatherbee, Wheeler—21.

NAY—Bragdon, Carter, Harriman, Littlefield, Murchie, Nickerson, Oakes, Page, Slocum—9.

Twenty-one having voted in the affirmative and nine in the negative, the majority report "ought to pass" was accepted.

Thereupon, the bill received its first reading and was tomorrow assigned for second reading.

The PRESIDENT: There are two other matters assigned for this morning and the Chair lays before the Senate, an act relating to the powers of the State Highway Police (S. D. 365) tabled on March 27th by Mr. Slocum of Cumberland, the pending question being the passage to be engrossed as amended by Senate Amendment A, and today assigned.

Mr. SLOCUM of Cumberland: Mr. President, I wish to offer Senate Amendment B and move its adoption: "Senate Amendment B to Senate Document 365. Amend Senate Document No. 365 by renumbering Section 2 to be Section 3 and adding the following Section: 'Section 2. Section 5 of Chapter 144 of the Public Laws of 1925 is hereby amended by striking out all of said section after the word 'manner' in the fourteenth line of said section and adding the words 'and the Court shall cause to be transmitted said costs forthwith to the Treasurer of State,' so that the last sentence of said section shall read as follows: '—Line 11. Whenever any fines or penalties are imposed by any court in any proceeding in which a member of the State Highway Police is a complainant or a witness said Court may tax costs for such complainant or witness in the usual manner and the Court shall cause to be transmitted said costs forthwith to the Treasurer of State.'"

The change in the present law would be that the costs instead of being transmitted to the police officer and from him to the Chief and from the Chief to the Treasurer of State would be sent by the Court to the Treasurer of State. Furthermore this law has been interpreted that the fines go to the State Treasurer instead of to the county where the offender is prosecuted. The county pays all the costs of running the court, pays the cost of housing the criminal, but the State gets the fine. This would mean that the county would get the fine and the State would get the cost of the officers. I move the adoption of Senate Amendment B.

Mr. MARTIN of Kennebec: Mr.

President, I trust that the motion of the Senator from Cumberland, Senator Slocum, will not prevail. I am sorry to have to oppose this because in the beginning it might have been a wise change but the Judiciary Committee in going over this felt that it was wise to leave the State Highway Police bill, except as to powers, exactly as it was before. I believe any further change would not meet with the approval of the department or with the administration and because of those facts I trust the motion will not prevail.

The PRESIDENT: The question is on the motion of the Senator from Cumberland, Senator Slocum,—

Mr. SLOCUM: Mr. President, I move that this matter be laid upon the table and assigned for tomorrow morning.

Mr. MARTIN: Mr. President, may I ask a question through the Chair?

The PRESIDENT: The Senator may.

Mr. MARTIN: Mr. President, was not this matter tabled yesterday and assigned for today?

The PRESIDENT: The Chair will state that this matter was tabled yesterday by the Senator from Cumberland, Senator Slocum, pending passage to be engrossed as amended by Senate Amendment A, and assigned for today.

Mr. MARTIN: Then, Mr. President, I ask for a division on the motion to table.

The PRESIDENT: The Senator from Kennebec, Senator Martin, asks for a division and the question before the Senate is on the motion of the Senator from Cumberland, Senator Slocum, that the matter be retabled pending the adoption of Senate Amendment B.

A division of the Senate was had and a sufficient number not having risen, the motion to table was lost.

The PRESIDENT: The question now before the Senate is on the adoption of Senate Amendment B.

A viva voce vote was had and the motion to adopt Senate Amendment B was lost.

Thereupon, on motion by Mr. Slocum of Cumberland the bill was passed to be engrossed as amended by Senate Amendment A.

The President laid before the Senate, resolve in favor of the Jackman-Rockwood road, (H. D. 702), tabled on March 27th by Mr. Leland of Pis-

cataquis, pending adoption of Senate Amendment A, and today assigned; and on motion by that Senator, Senate Amendment A was adopted; and the resolve as amended was passed to be engrossed.

Mr. GREENLEAF of Androscoggin: Mr. President, I move that the Senate now adjourn.

Mr. OAKES of Cumberland: Mr. President, I move to take from the

table Senate Paper 667, Senate Document 329.

The PRESIDENT: The Chair will have to state that the Senator from Cumberland, Senator Oakes, is not in order as there is a motion pending to adjourn and that motion is not debatable. The Senator from Androscoggin, Senator Greenleaf, moves that the Senate adjourns until tomorrow morning at ten o'clock.

The motion prevailed.