

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD
OF THE
Ninety-first Legislature
OF THE
STATE OF MAINE



1943

KENNEBEC JOURNAL COMPANY
AUGUSTA, MAINE

HOUSE

Wednesday, March 10, 1943.

The House met according to adjournment and was called to order by the Speaker.

Prayer by the Rev. Dr. Drumm of Augusta.

Journal of the previous session read and approved.

**Papers from the Senate
Senate Reports of Committees
Ought Not to Pass**

Report of the Committee on Motor Vehicles reporting "Ought not to pass" on Bill "An Act relating to Operation of Motor Vehicles on Down Grades" (S. P. 325) (L. D. 528)

Report of same Committee reporting same on Bill "An Act relating to the Registration of Motor Vehicles Used by Fire Departments" (S. P. 409) (L. D. 702)

Came from the Senate, read and accepted.

In the House, read and accepted in concurrence.

Refer to Committee on Claims

Report of the Committee on Appropriations and Financial Affairs on Resolve in favor of the Central Maine General Hospital of Lewiston (S. P. 350) reporting that it be referred to the Committee on Claims.

Came from the Senate the Report read and accepted and the Resolve referred to the Committee on Claims.

In the House, Report was read and accepted in concurrence and the Resolve referred to the Committee on Claims in concurrence.

Ought to Pass

Report of the Committee on Legal Affairs reporting "Ought to pass" on Bill "An Act relating to the Termination of Organization of Towns or Plantations" (S. P. 360) (L. D. 642)

Came from the Senate the Report read and accepted and the Bill passed to be engrossed.

In the House, Report was read and accepted in concurrence and the Bill read twice and tomorrow assigned.

**Ought to Pass with Committee
Amendment**

Report of the Committee on Mercantile Affairs and Insurance on Bill "An Act relating to Proposed Standard Valuation Law" (S. P. 133) (L. D. 95) reporting "Ought to pass" as amended by Committee Amendment "A" submitted therewith.

Came from the Senate, the Report read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A".

In the House, Report read and accepted in concurrence and the Bill was read twice.

Committee Amendment "A" read by the Clerk as follows:

Committee Amendment "A" to S. P. 133, L. D. 95, Bill "An Act Relating to Proposed Standard Valuation Law."

Amend said bill by changing the date "1944" in the 4th line of section 8 thereof to '1946'.

Further amend said bill by deleting all after the date "1944" in the 4th line of section 8 thereof, and inserting in place thereof a period.

Committee Amendment "A" was adopted and tomorrow was assigned for third reading of the Bill.

Report of the Committee on Mercantile Affairs and Insurance on Bill "An Act relating to Proposed Standard Non-forfeiture Law" (S. P. 132) (L. D. 94)

Came from the Senate the Report read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A".

In the House, Report read and accepted in concurrence and the Bill was read twice.

Committee Amendment "A" read by the Clerk as follows:

Committee Amendment "A" to S. P. 132, L. D. 94, Bill "An Act Relating to Proposed Standard Non-forfeiture Law."

Amend said bill by changing the date "1944" in the 4th line of section 8 thereof to '1946'.

Further amend said bill by deleting all after the date "1944" in the 4th line of section 8 thereof, and inserting in place thereof a period.

Thereupon, Committee Amendment "A" was adopted and tomorrow assigned for third reading of the Bill.

Orders

Mr. Downs of Rome, presented the following Order and moved its passage:

ORDERED, that Mr. Dutton of Bingham, be excused from attendance because of illness.

The SPEAKER: The Chair recognizes the gentleman from Skowhegan, Mr. Savage.

Mr. SAVAGE: Mr. Speaker, I would like to inform the members of the House that last Friday Mr. Dutton had a slight shock, and he has had to go home. He will be incapacitated for three or four weeks, and I move you, Sir, that the Clerk of the House be instructed to send flowers to Representative Dutton.

The SPEAKER: Is it the pleasure of the House that the Order receive passage?

Thereupon, the Order received passage, and on motion by Mr. Savage, the Clerk of the House was instructed to send flowers to the Representative from Bingham, Mr. Dutton.

On motion by Mrs. Leidy of Fort Kent, House Rule 25 was suspended for the remainder of today's session, in order to permit smoking. (Applause)

House Reports of Committees Leave to Withdraw

Mr. Marsans from the Committee on Education on Resolve granting Teacher's Pension to Lynne M. Ellingwood of Hermon (H. P. 1219) reported leave to withdraw.

Mr. Davis from the Committee on Inland Fisheries and Game reported same on Resolve Regulating Fishing in Howard Pond (H. P. 1102)

Mr. Williams from the Committee on Judiciary reported same on Bill "An Act relating to the Financing of Public Works" (H. P. 1111) (L. D. 576)

Mr. Bartlett from the Committee on Legal Affairs reported same on Bill "An Act relating to the Imposing of Taxes, etc. in the city of Portland" (H. P. 758) (L. D. 406)

Mr. Leathers from the Committee on Pensions reported same on Resolve providing for a State Pension for Louis P. Libby, of Charleston (H. P. 570)

Mr. Stephenson from the Committee on Public Health reported same on Bill "An Act relating to Beauty Culture Apprentices" (H. P. 1154) (L. D. 609)

Reports were read and accepted and sent up for concurrence.

Ought not to Pass

Mr. Keller from the Committee on Counties reported "Ought not to pass" on Bill "An Act relating to the Matron of Kennebec County Jail" (H. P. 448) (L. D. 244)

Mr. Smith from the Committee on Inland Fisheries and Game reported same on Bill "An Act relating to Open Season on Moose" (H. P. 1176) (L. D. 654)

Mr. Grua from the Committee on Judiciary reported same on Bill "An Act relating to Settlement and Support of Paupers" (H. P. 1114) (L. D. 579)

Reports were read and accepted and sent up for concurrence.

Report Tabled

Mr. Robinson from same Committee reported same on Bill "An Act relating to Execution of Sentences" (H. P. 1112) (L. D. 577)

(On motion by Miss Deering of Bath, the Report, together with the Bill, was tabled pending acceptance of Committee Report)

Mr. MacLeod from the Committee on Motor Vehicles reported "Ought not to pass" on Bill "An Act relating to Rebate of Registration Fees on Motor Vehicles Owned by Men in Armed Services, or Confiscated by the Federal Government" (H. P. 1182) (L. D. 660)

Mr. Goldsmith from the Committee on Salaries and Fees reported same on Bill "An Act Increasing the Salary of the Sheriff of Lincoln County" (H. P. 469) (L. D. 252)

Mr. Smith from same Committee reported same on Bill "An Act Increasing the Compensation of the Judge of Probate of Knox County" (H. P. 599) (L. D. 355)

Same gentleman from same Committee reported same on Bill "An Act relating to the Salary of the Recorder of Rockland Municipal Court" (H. P. 575) (L. D. 342)

Reports were read and accepted and sent up for concurrence.

Ought to Pass

Report Tabled

Mr. Goldsmith from the Committee on Salaries and Fees reported "Ought to pass" on Bill "An Act relating to the Salary of the Judge of the Lincoln Municipal Court" (H. P. 206) (L. D. 141)

(On motion by Mr. Denny of Damariscotta, the Report, together with the Bill, was tabled pending acceptance of Committee Report)

Mr. Goldsmith from the Committee on Salaries and Fees reported "Ought to pass" on Bill "An Act Granting Increase in Salary to County Commissioners of Washington County" (H. P. 830) (L. D. 397)

Report was read and accepted.

Ought to Pass With Committee Amendment

Report Tabled

Mr. Goldsmith from the Committee on Salaries and Fees on Bill "An Act relating to Compensation of Judge of Probate of Lincoln County" (H. P. 264) (L. D. 169) reported "Ought to pass" as amended by Committee Amendment "A" submitted therewith.

(On motion by Mr. Denny of Damariscotta, the Report, together with the Bill, was tabled pending acceptance of Committee Report)

Mr. Jones from the Committee on Salaries and Fees on Bill "An Act to Increase the Salary of the Register of Deeds of Washington County" (H. P. 824) (L. D. 382) reported "Ought to pass" as amended by Committee Amendment "A" submitted therewith.

Mr. Smith from same Committee on Bill "An Act relating to the Salary of the Register of Deeds for Knox County" (H. P. 577) (L. D. 344) reported "Ought to pass" as amended by Committee Amendment "A" submitted therewith.

Same gentleman from same Committee on Bill "An Act Increasing the Compensation for Clerk of Courts in Knox County" (H. P. 580) (L. D. 347) reported "Ought to pass" as amended by Committee Amendment "A" submitted therewith.

Same gentleman from same Committee on Bill "An Act Increasing the Salary of the Sheriff of Knox County" (H. P. 581) (L. D. 348) reported "Ought to pass" as amended by Committee Amendment "A" submitted therewith.

Reports were read and accepted.

First Reading of Printed Bills

Bill "An Act to Repeal the Act Creating the Bethel Village Corporation" (H. P. 1261) (L. D. 764)

Bill "An Act to amend the Charter of the city of Auburn" (H. P. 759) (L. D. 429)

Bill "An Act relating to Limitation of Use of Vehicles Under Dealers' Registration" (H. P. 960) (L. D. 497)

Bills were read twice and tomorrow assigned.

First Reading of Printed Bills with Committee Amendment

Bill "An Act Permitting Members of the Armed Forces to Retain Motor Vehicle Operators' Licenses Without Paying Additional Fees" (H. P. 109) (L. D. 69)

Bill had its two several readings. Committee Amendment "A" read by the Clerk as follows:

Committee Amendment "A" to H. P. 109, L. D. 69, Bill "An Act Permitting Members of the Armed Forces to Retain Motor Vehicle Operators' Licenses Without Paying Additional Fee."

Amend said Bill by adding a new paragraph before the Emergency Clause thereof to read as follows:

'This act shall remain in force only for the duration of the war and 6 months thereafter.'

Committee Amendment "A" was adopted and the Bill was assigned for third reading tomorrow morning.

Passed to be Engrossed

Bill "An Act to Provide General Public Health Services" (S. P. 234) (L. D. 337)

Bill "An Act to Control and Eradicate Venereal Diseases" (S. P. 235) (L. D. 338)

Bill "An Act relating to Annual Registration of Osteopathic Physicians" (S. P. 303) (L. D. 433)

Bill "An Act relating to Disposal of Poll-taxes Paid by Electors in Unorganized Territory" (S. P. 340) (L. D. 514)

Bill "An Act relating to Emergency Municipal Finance Board" (S. P. 341) (L. D. 515)

Were reported by the Committee on Bills in the Third Reading, read the third time, all passed to be engrossed and sent to the Senate.

Bill Amended

Bill "An Act relating to the Furnishing of Lists of Wild Lands for Taxation Purposes" (H. P. 102) (L. D. 85)

Was reported by the Committee on Bills in the Third Reading.

Mr. Rollins of Greenville, offered House Amendment "A" and moved its adoption.

House Amendment "A" read by the Clerk as follows:

House Amendment "A" to H. P. 102, L. D. 85, Bill "An Act relating to the Furnishing of Lists of Wild Lands for Taxation Purposes".

Amend said Bill by changing the underlined word "may" in the fifteenth line of the paragraph beginning "Sec. 9" thereof to 'shall'.

House Amendment "A" was adopted, the Bill had its third reading, was passed to be engrossed and sent to the Senate.

Bill Tabled

Bill "An Act relating to Town Reports" (H. P. 809) (L. D. 465)

(Was reported by the Committee on Bills in the Third Reading, and on motion by Mr. Vickery of Pittsfield, tabled pending third reading)

Passed to be Engrossed (Cont'd)

Bill "An Act relating to Hunting Rabbits in Oxford County" (H. P. 1099) (L. D. 569)

Bill "An Act relating to Trial Terms of the Superior Court in Aroostook County" (H. P. 1107) (L. D. 573)

Bill "An Act relating to Enforcing Orders for Payment of Alimony, Support Money and Counsel Fees in Divorce Actions" (H. P. 1108) (L. D. 574)

Bill "An Act relating to Marriage Certificates" (H. P. 1120) (L. D. 585)

Bill "An Act Authorizing the Issuance of Free Fishing Licenses for Soldiers and Sailors" (H. P. 1256) (L. D. 758)

Bill "An Act relating to Search for Lost Persons" (H. P. 1257) (L. D. 759)

Bill "An Act relating to Temporary Insurance Agency Licenses" (H. P. 1258) (L. D. 760)

Bill "An Act relating to Charges for Examinations of Foreign Insurance Companies" (H. P. 1259) (L. D. 761)

Resolve in favor of the Maine Historical Society (S. P. 91) (L. D. 751)

Resolve relating to Ice Fishing in Dyer's Long Pond, in Jefferson (H. P. 784) (L. D. 762)

Were reported by the Committee on Bills in the Third Reading, Bills read the third time, Resolves read the second time, all passed to be engrossed and sent to the Senate.

Amended Bills

Bill "An Act relating to Examination and Registration of Osteopathic Physicians" (S. P. 304) (L. D. 432)

Bill "An Act relating to Aroostook County Law Library" (H. P. 786) (L. D. 415)

Bill "An Act to Authorize the Charging Off of Uncollectable Accounts Due Counties" (H. P. 1103) (L. D. 572)

Bill "An Act relating to Apportionment to Towns for Teaching Positions" (H. P. 238) (L. D. 186)

Were reported by the Committee on Bills in the Third Reading, read the third time, passed to be engrossed as amended and sent to the Senate.

Emergency Enactor

Tabled

An Act to Enable Towns to Obtain State Aid in Securing Public Health Nursing Service (H. P. 341) (L. D. 203)

(Was reported by the Committee on Engrossed Bills as truly and strictly engrossed, and on motion by Mr. Rollins of Greenville, tabled pending passage to be enacted)

Passed to be Enacted

An Act relating to the South Portland Municipal Court (S. P. 57) (L. D. 50)

An Act in relation to Fees of Referees (S. P. 121) (L. D. 153)

An Act relating to Salary of Treasurer of Oxford County (S. P. 149) (L. D. 184)

An Act relating to Swan Island Game Preserve, Game Farm, and Game Management Area (S. P. 160) (L. D. 176)

An Act relating to the Salary of the Clerk of the Lewiston Municipal Court (S. P. 179) (L. D. 239)

An Act relating to Conditions in Passing Vehicles on the Road (S. P. 299) (L. D. 438)

An Act relating to Penalties of Motor Vehicle Violations (S. P. 300) (L. D. 436)

An Act to Amend the Workmen's Compensation Act relative to Artificial Physical Aids and Medical Services (S. P. 335) (L. D. 509)

An Act to Make Uniform the Costs in Trial Justice Courts (S. P. 337) (L. D. 511)

An Act relating to the Recording and Copying of Public Documents (S. P. 413) (L. D. 706)

An Act to Repeal the Incorporation of the Madison Village Corporation (H. P. 139) (L. D. 110)

An Act relating to Shippers of Potatoes (H. P. 163) (L. D. 118)

An Act relating to the Sale of Oils (H. P. 181) (L. D. 126)

An Act relating to Notices to the State in Actions by Towns in Pauper Cases (H. P. 189) (L. D. 139)

An Act relating to Expenses of Quarantine (H. P. 255) (L. D. 139)

An Act to Amend the Charter of the Kennebec Water District (H. P. 468) (L. D. 250)

An Act relating to the Stipend for Agricultural Societies During the War Emergency (H. P. 522) (L. D. 316)

An Act relating to Desertion and Non-support of Families (H. P. 548) (L. D. 291)

An Act relating to the Board of Trustees of the Jointly-Contributory Retirement System (H. P. 552) (L. D. 287)

An Act to Provide a Lien for Sewer Rates for the Houlton Water Company (H. P. 557) (L. D. 296)

An Act to Amend the Charter of the city of Bangor (H. P. 563) (L. D. 313)

An Act concerning Listing of Dogs by Assessors (H. P. 801) (L. D. 383)

An Act to Regulate the Sale and Packing of Sardines during the Present Emergency (H. P. 834) (L. D. 400)

An Act relating to Mortgage Loans of Savings Banks (H. P. 932) (L. D. 485)

An Act relating to the Voting Districts in the town of Harpswell (H. P. 1236) (L. D. 728)

An Act relating to Insurance Agents and Brokers (H. P. 1237) (L. D. 727)

Finally Passed

Resolve relating to Fishing for Smelts in Waters of Androscoggin Watershed (H. P. 180) (L. D. 726)

Resolve relating to Close Time on Lobsters in Certain Waters (H. P. 602) (L. D. 354)

Were reported by the Committee on Engrossed Bills as truly and

strictly engrossed, Bills passed to be enacted, Resolves finally passed, all signed by the Speaker and sent to the Senate.

The SPEAKER: The Chair notes in the hall the presence of the Honorable George D. Varney, Speaker of the Ninetieth Legislature, and requests the Sergeant-at-Arms to conduct him to the rostrum.

Thereupon, the Honorable George D. Varney was escorted by the Sergeant-at-Arms to a seat at the left of Speaker Richardson, amid the applause of the House, the members rising.

Orders of the Day

On motion by Mr. Tuttle of Pownal, the House voted to take from the table the twenty-second tabled and unassigned matter, "An Act Amending the Old Age Assistance Law" (S. P. 71) (L. D. 6) tabled by that gentleman on March 4th, pending enactment.

Thereupon, the Bill was passed to be enacted and sent to the Senate.

On motion by Mr. Dow of Fal-mouth, the House voted to take from the table the twenty-fourth tabled and unassigned matter, Bill "An Act Relating to Sale and Use of Fireworks" (H. P. 802) (L. D. 384), tabled by that gentleman on March 5th, pending assignment for third reading.

The SPEAKER: The Chair recognizes the gentleman from Fal-mouth, Mr. Dow.

Mr. DOW: Mr. Speaker and Members of the House: Way back in the horse and buggy days, I was a small boy. I very much enjoyed fireworks, particularly on the 4th of July. We would save up our pennies for months in advance; and I presume the boys and girls of today enjoy them as much as I did then.

This particular bill in Section 1 defines the term "fireworks" and it seems to me to be an all-inclusive definition, including all fireworks and some things that are not fireworks.

Two years ago there was a similar bill introduced under the title of Legislative Document 35. In that Bill, Section 7, it was provided, and I quote: "Use of chlorate of potash, etc. regulated. It shall be

unlawful to carry for sale any tablet or pill containing chlorate of potash, sulphur or charcoal, or to sell any device known to the trade as cane, or to place the same upon the rail of any electric car track or steam car track."

I do not know what the device known to the trade as cane is, but I started on sort of a fishing expedition. I wanted to find out why tablets were included in a fireworks bill, and I objected to that section before the committee. I did not get any bite, but the committee reported the bill "Ought not to pass."

Then, in this present session, the same bill appeared under the title of Legislative Document 36, containing the same wording and again I objected; and I did not get any results that time but the bill was reported "Ought not to pass."

Now, we get this bill, numbered Legislative Document 384. This has a sentence at the end of section one which is worded slightly different but has practically the same effect. Section 2 prohibits the sale of any fireworks, with certain exceptions. I guess that Section 3 is not important, because it does not seem to be included in the text. Section 4 allows manufacturers to manufacture and wholesalers and dealers to continue to deal in and freely sell ammunition. It strikes me they never have been prohibited from doing those things. Section 5 requires a bond or an indemnity insurance policy. And sections 6, 7, 8, and 9 go on in the same category.

Now, what seems to be the substance of this bill? It seems to me that you find it in Section 2, lines four and five: ". . . the insurance commissioner shall have power to adopt rules and regulations for granting of permits for supervised public displays . . ." Then, in lines fourteen and fifteen: "Application for permits shall be made in writing at least 5 days in advance of the date of the display, through the head of the fire department of a municipality if there is one; otherwise, the municipal officers of the municipality in which the display is to be held

Then, in Section 5, a bond is required or an indemnity insurance policy. The only result I got from the fishing expedition in any way as an explanation of why tablets should

be included in a fireworks bill was the answer that it was copied from the bill of some other states and, presumably, must be ideal. That is not sufficient reason for me, and if that sentence should be included, there must be some reason why someone is so insistent on it as to bring it before this assembly a third time; and if they cannot or do not care to explain the reason for it, it should not be there.

There is some indefinable odor about this bill and it smells to me like an insurance racket.

I move that the bill be indefinitely postponed

The SPEAKER: The Chair recognizes the gentlewoman from Bangor, Miss Clough.

Miss CLOUGH: Mr. Speaker and Members of the House: I regret exceedingly that I was unable to hear all of the argument of the gentleman from Falmouth (Mr. Dow) because I think he is a very sincere man, and he sincerely appeared before the committee and opposed this bill. He objected primarily to the term "tablets or any other substance. if you will refer to Legislative Document 384 you will see that it contains the provision: ". . . any fireworks containing any explosive or flammable compound, or any tablets or other device containing any explosive substance" I want to come back to that later

I will say now that I welcome the opportunity to defend this bill, which comes in at the second time at the request of the people of the State of Maine. I know of no better type of legislation than that which springs from a request of the people of Maine, from all parts of the State. It came from parents, who are exercised about the large number of injuries to the children of the State of Maine. I say children, because statistics have shown that 90 per cent of all the injuries accruing to the people of the State of Maine accrued to children under fifteen years of age. It came, members, from doctors; it came from hospitals; it came from humane societies; it came from municipal officers, and from fire chiefs; it came from the people of Maine and from all parts of the State of Maine

When I came down to the Legislature last session, I was interested to discover that there was a bill already introduced in the Legislature,

because I had intended to introduce such a bill I supported the bill. I think those of you who were at the hearing on that bill recognized that this was an agitation for the people of Maine to do something to stop the use and abuse of fireworks in the State of Maine. We are one of the 30 States which permit local option in the control and regulation of the sale and use of fireworks, but despite that we have not shown any appreciable reduction of the hazards or injuries, when in the incomplete figures that I obtained from the State Department of Health, we discover that in 1936 there were 697 injuries; in 1937 there were 1,101 injuries; and in 1939 there were 565 injuries. These are incomplete figures, because, of course, I learned most of the injuries are treated by the out-patient department of the hospital, which keeps no record. In those years there were 2 deaths each year due to tetanus; in 1940, there were no deaths about which we know.

Now, as to the property damage. I have some statistics here which were presented to the committee. In the years 1934 to 1939 there were 168 fires caused by fireworks, involving property value of \$816,056; and a damage of \$22,447.57. Further than that, there is the expense to the towns, which of course, again, is an incomplete record. Money expended by cities and towns for anti-toxin which is administered on the 4th of July for injuries caused by fireworks is as follows: Bangor, my city, for five years, from 1936 to 1940, spent \$1,000 for such anti-toxin; Bar Harbor, \$60.00; Lewiston, \$114.75; Portland, \$372.33; Waterville, \$150.00; and so forth. These, again, are incomplete records. Well, we had these ordinances; but yet we had these fires, we had these injuries, and we had this property damage, and we had this expense, and it was plain to see that it did not do very much good to restrict the size and the type of the fireworks, because it would be almost impossible to police that sort of restriction. You could not tell how many grades of powder and how forceful the type of ammunition in the fireworks would be, because it is almost impossible to police that sort of restriction; and it does not do much good to have local ordinances, because, as you know, they could very easily bootleg all of the materials from outside sections into

the town where they have the ordinance restriction. And so, because there seems to be a trend in other states to get such legislation, it seemed wisest to have state-wide legislation, which prohibited the sale and use of fireworks except under carefully supervised conditions. That is where the fairs and associations or other groups of organizations go before the permit authority in the town and ask for a permit to put on such a display, and show themselves qualified to do so, putting up a bond to cover any damages or an indemnity insurance policy. Usually the managers of State fairs do have such an identical policy to cover the risk they take at that time to property and life.

Now, we are not without precedent as to this type of legislation. I am not one of those persons allergic to legislation passed by other states, but fortunately we know what this type of legislation is doing in other states. In the year in which we had the eleven hundred odd injuries in the State of Maine by the abuse of fireworks, the State of Pennsylvania showed a reduction of injuries from 1702 to 85—deaths from 6 to 0—and you compare the population of the State of Pennsylvania with the population of the State of Maine. The people of the State of Pennsylvania were so exercised over 1702 injuries, and six deaths, that they decided to do something about it.

They accepted the model bill upon which this bill is drawn, which has been promulgated by the National Fire Protection Association. They adopted this bill and it is now in operation, and they reduced the number of injuries next year from 1702 to 85, and the number of deaths from six to none.

New York has a similar bill. This bill was largely copied from the New York bill, because that bill seemed to include all of the things that we needed here in the State of Maine. It also incorporated some suggestions which were made at the last session of the Legislature when this bill came up for hearing. New York, New Jersey, Michigan, Iowa, Pennsylvania, Utah, Delaware, Indiana, West Virginia and Ohio have such a law. Rhode Island has recently passed such a law. They have all been able to show immediate reduction in the injuries and in the deaths.

Now, there was some opposition to this bill when it first came in, I think some valid opposition, and one objection was that the bill was inadequate. I think it was in some respect. We have attempted to correct those matters. I believe they are now corrected.

One objection was that the bill was so broad in scope it would not permit a man to shoot a skunk in his hen-coop. That objection has been specifically cared for in the section which permits any person to sell ammunition for revolvers or pistols of any kind, or rifles or shot-guns or other arms, and so forth.

This bill will also permit what I call the legitimate use of fireworks; that is fireworks for the purpose of signaling or illumination by railroads or transportation agencies or the sale or use of blank cartridges for a show or theater or for signal or ceremonial or for athletic or sporting events, or for the use of military organizations. It would also permit the wholesaling of fireworks; sending out from the State of Maine in wholesale business fireworks that might be used in other states for legitimate business, where the law did not exist.

Now, as you know, the picture has changed. For the purposes of the war emergency, an Executive Order was put out, prohibiting the use or sale of fireworks for the duration, and the people of Maine, knowing themselves protected now, realize, too, that the time will come when that order will terminate and they want something in place of that order which will do some of the things they want done, and restrict the sale and use and abuse of fireworks in the State of Maine.

I am not going to say very much more, except this: I want to ask this Honorable Body—Do we hold life so cheaply today by reason of what is going on in the world that we cannot now take cognizance of the lives of our people, and of the fingers and eyes and lives of the children of the State whom we are trying to protect? Do we not owe to them that which we promised to them in our Constitution—safety, security and happiness?

Now to come back to the definition about which I said I would speak. If you want a longer definition, if you want a more inclusive definition, I can give you that. The New York law goes into it very

much more deeply than we do, but to avoid having to take around a chemist, it seemed wisest to include everything that might be construed as a firework, no matter what it is for. That is the reason for the tablet being included; I have seen tablets and I have set off tablets that were highly explosive and highly injurious. If you will turn to your definition you will see in this all-inclusive definition that there is one governing clause: "...or articles prepared for the purpose of producing a visible or an audible effect by combustion, explosion, deflagration or detonation," and under that comes the "tablet"—if there is a tablet which is produced for the purpose of producing a visible or an audible effect by combustion, explosion, deflagration or detonation, that constitutes a firework in my opinion. That is the reason that I tried to explain to the gentleman from Falmouth, Mr. Dow, why that all-inclusive permit which we think we need for the purpose of defining fireworks is contained in this bill.

I sincerely hope, Mr. Speaker and Members of the House, that the motion of the gentleman from Falmouth (Mr. Dow) to indefinitely postpone this bill, will not prevail.

The SPEAKER: The question before the House is on the motion of the gentleman from Falmouth, Mr. Dow, that L. D. 384, Bill "An Act Relating to Sale and Use of Fireworks" be indefinitely postponed.

The Chair recognizes the gentleman from Falmouth, Mr. Dow.

Mr. DOW: Mr. Speaker and Members of the House: I do not think "tablets" are mentioned in these previous bills involving the explosive features. You probably all know that chlorate of potash tablets are used as annoyers on railroad tracks. You know what sulphur and charcoal tablets are, and, while they may contain an infinitesimal amount of the substances that may be used in explosives, they are not in any way dangerous in themselves.

Now, to quote again from that bill, it provides: "The insurance commissioner shall have power to adopt rules and regulations for the granting of permits. Applications for permits shall be made in writing at least five days in advance, and in lieu of bond the municipal officers may accept an indemnity insurance policy."

This legislation, in my opinion, is for the insurance companies and not for the people of Maine.

The SPEAKER: The Chair recognizes the gentleman from Mapleton, Mr. Webber.

Mr. WEBBER: Mr. Speaker, for more than fifty years I have carried around on my farm gunpowder and various kinds of explosives. This seems to be, as I look back upon the years, the action of a normal boy, to have a cannon or some explosive device. I wished to make it go off, and it didn't go off just as it should, so I took a fuse and put it right close up to the place where the powder was. The result was that instead of going out the muzzle it came back and entered my thumb. I think all through these years I have retained my sympathy for boys and girls who desire fireworks, but I think in this emergency we can dispense with the use of fireworks. We may have a few fireworks from now on in the House, but there will be no casualties. I hope this bill is going to prevail, because I think we can afford to give up some of the excitement and pleasure derived from fireworks in the interests of safety. Therefore I hope that the motion of my good friend, the gentleman from Falmouth, Mr. Dow, will not prevail.

The SPEAKER: The Chair recognizes the gentleman from Portland, Mr. Bartlett.

Mr. BARTLETT: Mr. Speaker and Members of the House: As a member of the committee before which this bill was heard, I wish to make just a few brief remarks in defense of the bill.

First of all, I might say I have a small boy at home. Having been a small boy once myself, I anticipate that I shall have difficulty looking that small boy in the eye if he finds out what I have been up to up here in Augusta; but, in taking the position I do, I do so with the hope that if this legislation is enacted I shall continue to enjoy the privilege of looking that small boy in both eyes for many years to come, and that I will see there some glint of recognition.

I might say that the objections of the gentleman from Falmouth (Mr. Dow) were very carefully considered by the committee. It is the feeling of your committee that nothing in the language of this act will interfere in any way with the

sale of tablets for purposes such as he has referred to.

In closing, I might say that I find myself tremendously unimpressed with the gentleman's assertion that a device designed for the protection of life and property is an insurance racket, and I wish to impress upon you that the gentleman's motion must not prevail.

The SPEAKER: The question before the House is on the motion of the gentleman from Falmouth, Mr. Dow that Legislative Document 384, Bill "An Act Relating to Sale and Use of Fireworks" be indefinitely postponed.

The Chair recognizes the gentleman from Bangor, Miss Clough.

Miss CLOUGH: Mr. Speaker, when the vote is taken I move it be taken by a division.

The SPEAKER: The gentlewoman from Bangor, Miss Clough, asks for a division.

The Chair recognizes the gentleman from Bath, Miss Deering.

Miss DEERING: Mr. Speaker, I rather hesitate to go against the members who have so ably defended this bill today. We had a bill pertaining to fireworks presented in that unmentionable other body which apparently would have handled this situation.

Fireworks are definitely out for the duration of the war. No one knows how long that will be. I grant you this bill has been in this Legislature, I understand, three times. I missed the first time. I was here the second time and very definitely opposed it. At that time some phases were subtracted from it. It is here for the third time, and I think it should come in another time with a few more subtractions. When you have phases in a bill that the proponents will not explain to you and say why they are included, I think you should rather hesitate in going along with them. I feel that if a person really has something for the good of all the people they should be able to explain every word and every part of the punctuation in it, and until such time as any of the proponents of this bill can go along and explain to me the absolute necessity of every single part of the bill I feel I owe it to the people whom I try to represent to oppose that bill. That is the stand I have taken, and, when the division is had, I sincerely hope that the motion to indefinitely postpone

the bill will be carefully considered by all.

The SPEAKER: The Chair recognizes the gentleman from Weston, Mr. Bubar.

Mr. BUBAR: Mr. Speaker, I hesitate to inject myself into this argument this morning, but, following the line of reasoning that has been used here, I would feel that someone maybe should present a bill restricting the use of automobiles and trucks, because we realize there are hundreds of people who are operating these potential engines of destruction on the highways today, and every year we have hundreds of accidents in the State of Maine and a great many lives are lost whether people are operating automobiles and trucks or not, because pedestrians along the highways are being injured by these same machines. I would just like to say this: If any city or town in the State of Maine would like to have a measure similar to this in their town records, they, I believe, are at liberty to pass ordinances to that effect, and they should do that rather than try to force it upon the whole State of Maine under the so-called emergency that some people feel exists. There are those who will like to celebrate in the old-fashioned way, the same as they sometimes like to celebrate with their automobiles. They get hit with their automobiles. I know mine acts up once in a while, but, nevertheless, I have not done away with my automobile yet. Some of the towns especially those places which are thickly settled, I realize are faced with some difficulties on or around the Fourth of July, but I would just like to say they are at liberty to pass ordinances controlling the situation. I would suggest they let the rest of our towns alone. I am willing to go along with the gentleman from Falmouth (Mr. Dow).

The SPEAKER: The question before the House is on the motion of the gentleman from Falmouth, Mr. Dow that this bill be indefinitely postponed. The gentlewoman from Bangor, Miss Clough, has asked for a division

All those in favor of the motion of the gentleman from Falmouth, Mr. Dow that Bill "An Act Relating to Sale and use of Fireworks" (H. P. 802) (L. D. 384) be indefinitely postponed will rise and stand in

their places until counted and the monitors have made and returned the count

A division of the House was had.

Fifty-four having voted in the affirmative and 65 in the negative the motion to indefinitely postpone did not prevail.

The SPEAKER: The Chair recognizes the gentleman from Falmouth, Mr. Dow

Mr. DOW: Mr. Speaker, is an amendment in order at this time?

The SPEAKER: It is.

Mr. Dow thereupon offered House Amendment "A" and moved its adoption

House Amendment "A" was read by the Clerk as follows:

House Amendment "A" to H. P. 802, L. D. 384, Bill "An Act Relating to Sale and Use of Fireworks."

Amend said Bill by deleting from the end of Section 1 thereof the following: ", or any tablets or other device containing any explosive substance".

Thereupon, on motion by Miss Clough, House Amendment "A," with accompanying papers, was tabled pending adoption.

On motion by Mr. Denny of Damariscotta, the House voted to take from the table the first tabled and unassigned matter, Bill "An Act to Exempt the National Audubon Society and Its Properties" (H. P. 583), tabled by that gentleman on February 4th, pending reference.

The SPEAKER: The Chair recognizes the gentleman from Damariscotta, Mr. Denny.

Mr. DENNY: Mr. Speaker and Members of the House: Several members of the House I know have been asked to support this measure when it came up for a hearing. In fairness to them, it seems to me only proper for me to say that yesterday afternoon I received a request from the National Audubon Society that I withdraw this bill. Therefore, I ask leave to withdraw.

The SPEAKER: The gentleman from Damariscotta, Mr. Denny, asks leave to withdraw. Is this the pleasure of the House?

The motion prevailed and the bill was withdrawn.

The SPEAKER: The Chair would remind the House that in debate it is absolutely essential that you speak so that members in all sections of the Chamber may hear you. Some members have come to me on previous days and made it plain that they were not hearing all that is taking place in debate.

We expect those who are here as spectators to cooperate in the matter by refraining from moving about and from conversation.

On motion by Mr. Bartlett of Portland, the House voted to take from the table the twentieth tabled and unassigned matter, House Report "Ought not to pass" of the Committee on Legal Affairs on Bill "An Act Relating to Powers of Constables" (H. P. 952) (L. D. 493) tabled by that gentleman on March 4th pending acceptance of Report; and on further motion by the same gentleman the "Ought not to pass" Report of the Committee was accepted and sent up for concurrence.

On motion by Mr. Baker of Scarborough, the House voted to take from the table the tenth tabled and unassigned matter, House Report "Ought not to pass" of the Committee on Judiciary on Bill "An Act Relating to the Reciprocal Enforcement of Violations of Fishing Laws in Boundary Waters Between Maine and New Hampshire" (H. P. 590) (L. D. 373) tabled by that gentleman on March 3rd, pending acceptance of Report; and on further motion by the same gentleman the Bill was recommitted to the Committee on Judiciary and sent up for concurrence.

Passed to Be Enacted Emergency Measure

The SPEAKER: The Chair recognizes the gentleman from Greenville, Mr. Rollins.

Mr. ROLLINS: Mr. Speaker, I move to take from the table "An Act to Enable Towns to Obtain State Aid in Securing Public Health Nursing Service" (H. P. 341) (L. D. 203), tabled by me this morning.

The SPEAKER: The gentleman from Greenville, Mr. Rollins, moves that the House take from the table "An Act to Enable Towns to Ob-

tain State Aid in Securing Public Health Nursing Service" (H. P. 341) (L. D. 203) tabled by him earlier this morning. Is this the pleasure of the House?

The motion prevailed.

Mr. ROLLINS: Mr. Speaker, I now move that this Bill be enacted.

The SPEAKER: The gentleman from Greenville, Mr. Rollins, moves that the Bill be enacted. This Bill, having had its three several readings in the House, and having been passed to be engrossed, having had its two several readings in the Senate and having been passed to be engrossed, and having been reported by the Committee on Engrossed Bills as truly and strictly engrossed, is it now the pleasure of the House that it pass to be enacted?

This being an emergency measure, under the Constitution it requires for its passage the affirmative vote of two-thirds of the entire elected membership of this House. All those in favor of the passage of this Bill to be enacted will rise and stand in their places until counted, and the monitors have made and returned the count.

A division of the House was had. One hundred and thirty-three having voted in the affirmative and none in the negative, 133 being more than two-thirds of the entire elected membership of the House, the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

On motion by Mr. Maxwell of Bangor, the House voted to take from the table the second tabled and unassigned matter, Report "A" of the Committee on Judiciary "Ought to pass" and Report "B" of the same Committee "Ought not to pass" on Bill "An Act Relating to Incurable Insanity as a Cause for which a Divorce may be Granted" (H. P. 185) (L. D. 124) tabled by that gentleman on February 16th, pending acceptance of either report.

The SPEAKER: The Chair recognizes the gentleman from Bangor, Mr. Maxwell.

Mr. MAXWELL: Mr. Speaker, I move that Report "A" of the Judiciary Committee "Ought to pass" be accepted.

The SPEAKER: The gentleman from Bangor, Mr. Maxwell, moves acceptance of Report "A" "Ought to Pass."

The Chair recognizes the gentleman from Bangor, Mr. Maxwell.

Mr. MAXWELL: Mr. Speaker, this bill was introduced by me as a result of observations which I have made in my practice for some few years. From information I have received from brother attorneys and others, I believed there was a gap in our jurisprudence that ought to be filled, and therefore this bill was drawn up I believe with as much care as it is humanly possible, to surround it with the safeguards which are needed to protect the unfortunate person who is termed the libelee. I am going to take up a few moments and employ that time in explaining this bill as I understand it and what I believe it would do if it were enacted into law.

In the first place, the bill provides in substance that a person against whom a divorce is sought, who is termed the libelee, must have been proven to have been an inmate, as the bill recites, of a State Hospital or a recognized institution or hospital for insane persons of this or any other state or territory of this country. That confinement must be for a period of at least five years next prior to the time of the commencement of the divorce proceedings. I do not believe I could make that any clearer as to what degree of proof is required to give the Court jurisdiction in that instance.

Now I might pause here a moment and make a suggestion that came to me last week. I confess it is a matter which has caused me some concern, not in regard to the State of Maine or the institutions of the State of Maine, but of other states. As you will observe, this bill provides that a person confined because of insanity in an institution of a sister state or territory—and that clause which states "or recognized institution or hospital for insane persons" bothered me considerably, and that thought stimulated the drafting of an amendment by one gentleman who discussed the matter with me last night. That was one reason for not taking the matter off the table last week, because I wanted to give that due reflection after talking with him. I want to say here that I believe that part of the bill ought to be stricken out. I am not concerned about private institutions that are recognized by the state or licensed by the State of Maine. So far as I can discover—and I am reliably in-

formed that this is true—there is only one, and I happen to know the proprietor of that institution, a gentleman of the highest integrity, so I have no fear of any door being opened to fraud as far as the State of Maine is concerned. Outside of the state, however, not knowing anything about private institutions in the larger cities, I do fear it might possibly open the door for non-residents to commit fraud. Of course I have attempted, and those who assisted me in attempting to draw this bill have tried to eliminate as much as is humanly possible any opening to any fraudulent proceedings; so at the proper time I will offer an amendment, which you will find under filing No. 54, which strikes out that part of the bill which has to do with private institutions, although it is not worded in that manner, so that the bill if it were finally enacted, would only provide for those who have been confined in state hospitals such as the Bangor State Hospital and the Augusta State Hospital, which are public institutions. So much for that.

Now the next safeguard put in the bill is important in that it deals with the degree of proof which is required to convince the judge, or as it says in the bill, the court, that the insanity of this libelee is incurable. In substance, it provides that the court must find beyond a reasonable doubt that the insanity of the libelee is incurable. Now reasonable doubt has been defined many times in criminal cases, and my purpose in inserting that in the bill, and the purpose of those who assisted me, was that after considerable discussion we believed that the degree of proof in a case of this sort ought to be greater than in the ordinary divorce case, which merely requires what they term in the law a fair preponderance of the evidence, which means only the bearing down of the scales so that if they tip ever so slightly in favor of the party he will receive his divorce. Reasonable doubt, without going into an extended definition, really means that the Court, after hearing the evidence produced, must be satisfied to a moral certainty that the libelee's insanity is incurable.

Now the next provision of the bill is that the libellant, who is the party seeking a divorce, must have been a resident of the State of Maine for

five consecutive years prior to the time the divorce proceedings are commenced. Now the purpose of that is to open the door to those who are in good faith but who are non-residents and who desire to take advantage of this law and have a good and proper cause, but to prevent any person from another state or territory, or perhaps a country, from coming into this state and, after a short residence, taking advantage of this law. We believed that five years was a sufficient length of time to insure good faith on the part of the libelant, and therefore that clause was put in there requiring them to prove that fact of residence here in good faith for a period of five years.

Now the next safeguard which the bill provides is in regard to property rights, so as to remove any incentive for any fraud to obtain a divorce and obtain the other party's property. So the bill simply provides this: that the property rights of the libelee, that is the party against whom the divorce is sought, shall not be affected one way or another. It merely frees the husband or the wife, as the case may be, from the restraint of the marital tie. Then there is a further provision in regard to the support of the libelee in the hospital or elsewhere, wherever he happens to be at that time, which I believed was fair. In the case of the State Hospital, I do not believe the State should be burdened with the support of that party when the husband or wife as the case may be, who happens to be the libelant obtains the divorce. That burden should still rest upon the libelant, provided, of course, he is able to do so, and provided further that the libelee has not sufficient property for this purpose. Then there is a further provision in regard to custody of children, which is self-explanatory.

Now one of the important matters in this bill which we have attempted to safeguard is the matter of notice to the libelee. The last paragraph of the bill provides that after filing of the libel in court that service—and that means service by a proper officer, a sheriff or deputy sheriff, as provided in other divorce cases—shall be made by an attested copy of the libel and served on the libelee, on the guardian for the libelee, who is a guardian duly appointed by the probate court, or, if there is no guardian, or he fails to appear, then

the Court will appoint what is known as a guardian ad litem; that is to say the judge will select some prominent person to look after the interests and look after the defense and the affairs of the libelee during court proceedings and see that the rights of the libelee are fully protected.

Now another thought occurred to me which stimulated the drafting of another amendment, in regard to the further protection of the libelee, and I will therefore offer another amendment at the proper time, which you will find under filing No. 53, which provides as follows: "Upon motion of such guardian"—that means the guardian appointed regularly by the probate court or the guardian ad litem appointed by the Court before whom divorce proceedings are pending—"the court or any justice thereof in vacation may appoint an attorney-at-law to appear and act for the libelee and the guardian in such divorce proceedings and may order the libelant who is receiving the divorce to pay to such attorney-at-law a reasonable sum for his services." That means that if the guardian, whoever he happens to be, desires to have the advice and assistance of counsel he may apply to the Court and the Court will appoint undoubtedly an attorney of his own choosing and order the libelant to pay for his services.

I believe I have covered the provisions of this bill as it stands before you, and I doubt if I can add anything further to the description of it than I have already told you.

Now there are, I might say, much to my surprisc—in the words of my colleague, Mr. Sleeper—I am astonished to learn the number of states that have adopted grounds for divorce such as this. Before the Judiciary Committee, one person who appeared stated there were fifteen states, and, not having looked it up at the time, I was somewhat surprised as I thought there were only about ten; but in studying the matter further, I have looked in the book and find there are twenty-five states, or, more properly speaking, twenty-four states and Alaska, which have adopted a proceeding of this sort I might say that in this book here I discovered a synopsis of the laws of each of the states, and there are none of them that can compare in strength as far as

safeguards are concerned with this bill which is proposed here. I am not going to discuss the laws of these other states as I believe there is another gentleman who is going to take up that matter, a gentleman who has studied into it, and he will give you that information so that you may observe as to what other states—I might say the majority of them—do about the matter.

There is one more matter I wish to call to your attention, and that is in line with what I am telling you. As I believe I stated before, my sole purpose in addressing you was to explain the terms of that bill so that you might have a clear understanding of just how far we were going and what attempts had been made to safeguard the rights of the libelee.

Now the question may come to your mind as to what diseases would lead to incurable insanity and I am going to speak very briefly on that angle. The information I am giving you is the result of a talk I have had with those who are familiar with that sort of disease, that is diseases of the brain, as they call them, and I have a list of them here. First are the mental diseases due to syphilis; second, mental diseases due to intoxicants such as alcohol and other drugs; third, mental diseases due to brain injury; fourth, mental diseases such as manic depressive psychosis and dementia praecox; and, fifth, mental diseases caused by senile changes or destruction of brain cells due to age and hardening of the arteries of the brain. Now I do not mean to say these experts if I may term them in that manner, would advise that a person afflicted with these brain diseases could not be cured. I do not mean to convey that impression at all. But they did tell me if there was no marked improvement, or, more properly speaking, a decline either gradual or otherwise within five years, the chances are ninety-nine out of a hundred that the case was incurable. They advised me that they might be cured and show signs of improvement which would lead to being cured in the course of two or three or perhaps four years, but at the end of five years they were pretty sure that it was incurable. That applies to these particular diseases. However, I was also advised that if there was a case, which would be very rare, of any person

who recovered after five years, that is to say when they showed no improvement during the first five years, and the libelant and the libelee, or the husband and wife, as the case may be, went back and lived together and had children, there was danger that it might show up sometime in the future in those children.

Now I believe I have covered all I wanted to say in regard to this bill. I am going to ask you to vote for my motion, the acceptance of Committee Report "A" "Ought to Pass."

The SPEAKER: The Chair recognizes the gentlewoman from Brunswick, Miss Bangs.

Miss BANGS: Mr. Speaker, I hope that I am not presuming on your good nature and generosity when I once more ask you for permission to face the House.

The SPEAKER: I am resigned to that fate. (Laughter) You have my permission.

Miss BANGS: Mr. Speaker, and Fellow Members of the House: The gentleman from Bangor, Mr. Maxwell, has very ably explained this bill regarding incurable insanity as grounds for divorce and I am still against it.

Now, this is a proposition which may sound unimportant to many of you, and it is not a measure that the State is either going to rise or fall upon. No one's political career is either going to be made or broken because of it, but it is important, because we are here to do that which we think is honest and fair and square. This is not a legal proposition. I am not talking from a legal standpoint. It is a proposition that every one of you can decide equally as well as a lawyer and that every one of you has got to decide. I am speaking because I am against the principle of it. It is that type of measure, the effect of which we will never know unless it is put in the statutes; we will never know what it could do, or the harm which it could do. If you put it on the statute books, the harm may be done before we can get back to repeal it. There are good arguments both ways, but as a member of the Committee on Judiciary I signed the "Ought not to pass" report, and for three very definite reasons. I have always understood that a chain is only as strong as its weakest link, and I feel that this chain has many weak links,—too many weak links for this state to participate in.

The gentleman from Bangor, Mr. Maxwell, has told you that other states have it as a ground for divorce. I am not saying that those states, perhaps, are not right, but I still do not think that Maine is justified in accepting it as a ground for divorce, as a matter of principle. I am not afraid that it will not accomplish certain things. I know that there are many cases where people perhaps are justified in asking for a divorce, but I am afraid of the abuses to which this type of measure will be put.

The first reason that I am against the bill is because two years ago, when I came here to the House, I had been approached by a woman whose husband is in an institution. She felt that she should have grounds for divorce. Knowing the circumstance, I was inclined to believe that she did have grounds for divorce, until I attended the hearing, at which time I became thoroughly persuaded that she had no grounds for a divorce, and that insanity should not be a grounds in the State of Maine. It was the doctors themselves, the eminent psychiatrists in the State of Maine, who appeared before that Committee and stated that they themselves did not know when a condition was incurable; that individual cases reacted individually, and why is it not so? It is so in all medical science. How many times have you members of the House perhaps experienced when a person is given up by the doctors and the doctors offer no hope,—and then the person recovers? Just last week I heard of a case where an eminent doctor in Portland declared that a woman had six months to live; a doctor in Brunswick declared that she had six weeks to live; and she died in five days. With all due respect to the medical profession, they do make mistakes, and they admit it, and if they cannot tell, then who are we to judge?

That point is important — that there can be no such thing as incurable insanity, and particularly in the light of medical science today, with therapy, brain surgery and sulfa drugs, doing the things that they are doing, what is incurable today is curable tomorrow.

In substantiation of my proposition there. I recently had a part in a legal proposition, whereby a woman was committed to an institution over three years ago. There

was produced in Probate Court a letter from the Superintendent of that institution, declaring that that woman was incurably insane. She remained in the institution over three years. She reacted favorably, she is out, and she is back home, managing her home and her family. I thought that I was going to have a difficult time in proving to the Judge that the woman no longer needed a guardian, and, much to my astonishment, the Judge waved it aside, and he said: "Why, that very often happens. People are declared incurable. They are cured. She is cured, is she not? All right. That is all there is to it." Three months—three years—five years—we still do not know; and so, because the doctors are unable to determine that, I think that is one definitely good reason.

Now, my second definite good reason: I never had the privilege of taking that vow, but as I remember it, it says: "For better or for worse." Now, this is one of the types of cases where it is for the worse. Someone, perhaps, has bitten off more than they can chew, but I think that they should stick by their guns. You may say to me, "You are against all divorce." To which I say definitely, "No." There are many cases where the only solution is divorce. You may say that under our divorce laws that it is easy to get a divorce. Perhaps so, but I would remind you that in all other grounds for divorce there are two fundamental differences, and one of those differences is that the person against whom the divorce is sought has a right to defend himself, and an insane person cannot defend himself. Perhaps this proposition of a guardian sweetens it up a bit, but I do not think that I would want my guardian to determine whether my husband should get a divorce from me. I think that is an important thing,—when a person is deprived of his defense, when in all other grounds for divorce he is served, for the purpose of coming in and showing cause whether or not the other person is justified in asking for that divorce. There is another phrase, as I remember it, in the marriage vows, and that is "in sickness and in health." Insanity is a mental sickness. If we are going to allow mental sickness as a grounds for a divorce, why not allow physical disability? Why not allow paralysis, and people who have

been bedridden for years? To which you may say, "Oh, but there is companionship there." I say to you that there are many times when a person has been sick for many years and is nervous, irritable and neurotic, where there is far from any companionship.

And that leads me to my third important reason for not indorsing this bill, and that is that all other grounds for divorce are based on misbehavior and misconduct, and not misfortune. I would personally hate to see this Legislature go down on record as commercializing on a poor person's misfortune.

I feel strongly that this bill ought not to pass, and, as you are considering this, please bear in mind those three things. What is incurable insanity? Can the doctors tell us what is incurable insanity? Can they, or do they, ever make mistakes? Secondly, there is no defense for that person. Thirdly, it is commercializing on someone's misfortune; and so my better judgment and my conscience tell me that this is the type of legislation which tends to kick a poor fellow when he is down.

I do hope that the motion of the gentleman from Bangor, Mr. Maxwell, may not prevail. I thank you.

The SPEAKER: The question before the House is on the motion of the gentleman from Bangor, Mr. Maxwell, that Report "A", "Ought to pass" be accepted.

The Chair recognizes the gentleman from Brewer Mr. Robinson.

Mr. ROBINSON: Mr. Speaker and Fellow Members: I should be lax indeed in my duty to you as a member of your Judiciary Committee, if I did not give you my reasons for supporting the "Ought to pass" report on this measure. It pains me deeply to disagree with my sister of the Bar (Miss Bangs) who has so eloquently argued her side of this matter. As has been stated by my colleague, the gentleman from Bangor, Mr. Maxwell, I do wish to bring to your attention in this matter some definite facts which have influenced me, and which make very clear in my mind that this bill should receive passage.

The decisions of all of us who sit on committees must be governed and must be made by the information that we receive. In this particular hearing, as I remember it, there was but one opponent. Other members,

as well as myself, have studied very deeply into this matter. In doing so I wish to bring some of this information to your attention, so that you can base your judgment on some of the facts which came to our attention. I am quoting now from a copy of the "American Family Laws" which is a well-known legal book, and which takes up the different states which have passed this sort of a law. We find in all, as my colleague has suggested, twenty-four states and the Territory of Alaska that have a law of this nature in some form. Alabama has this law. Originally they had twenty successive years of confinement before grounds could be granted; that has been reduced by subsequent amendment to five years, the same as our proposed law. Colorado had a law providing that it must be five years prior to the commencement of the action. Connecticut has this law,—five years of confinement next preceding the suit. Georgia for mental incapacity; Hawaii, incurable insanity—3 years of insanity prior to libel; Idaho, six years of confinement next preceding suit; Minnesota, ten years of confinement; Mississippi at the time of marriage; Nevada, two years of insanity prior to action; North Dakota, five years; Oregon, five years; Pennsylvania, ten years; South Dakota, five years; Texas, five years; Utah, five years; Washington, five years; Wyoming, five years.

In addition to these different states, later, in this same book, Alaska, Delaware, Indiana, Kansas, Mississippi, Montana, New Mexico, and much to my surprise, Vermont—all of these states have this thing worked out on practically the same time limit.

My sister the gentlewoman from Brunswick, Miss Bangs, has suggested to you that in this question of sickness and health, the marriage vow we have taken, a vow which because of this mental sickness, we should accept as perhaps in the realm or any other type of sickness.

I quote now from Dr. Alfred Gordon, who is a world renowned psychiatrist. He says, "Mental disease alters or abolishes the normal personality and therein precisely lies the fundamental difference between it and other disorders." That perhaps is the reason why so many states have said that the mental sickness is so much different than other sicknesses.

I was much impressed by one person who gave evidence before our Committee for the passage of this bill. He is a member of this Legislature but not of this body. He violently opposed this bill, I believe, during the last session; and this session he is for the bill. He told us there of an actual case that had come to his attention, where a young man was left with two children—his wife unfortunately was confined to an asylum. The man was unable to place these children in the proper home surroundings, and placed them in several different homes. They were sent from one place to another, with the result that they were very poorly brought up, and did not have the benefit of home influences. If, as I believe, is true, and as I am sure that you do, that our homes are the foundation of our nation, then surely something that strikes at the home, or, on the other side, something that will rebuild that home, that will make those children have better home influences and settle perhaps to some degree this tragedy that has come into the home, it is progressive and does help to rebuild the nation itself.

I am sure that every member of this Committee—both for and against—is working in the unselfish interest of the people of the State of Maine. This measure, which has come before this Legislature before—that fact itself seems to me is evidence of a constantly recurring demand for this thing. It is our duty to pass such legislation and to give a remedy to these people. I hope that the motion of the gentleman from Bangor, Mr. Maxwell, will prevail.

The SPEAKER: The Chair recognizes the gentleman from Boothbay Harbor, Mr. Perkins.

Mr. PERKINS: Mr. Speaker and Members of the House: I feel perhaps I should say a word in explanation of the position which I have taken. I signed the Report "B" "Ought not to Pass." I can add very little to the splendid address by the gentlewoman from Brunswick, Miss Bangs, who has stated my position much better than I can.

Of course marriage is considered in two aspects: as a sacrament and as a contract. As a member of the bar, I have approached this problem upon the question of contract. Two people take their solemn vow, "in

sickness or in health, for better or for worse." When the occasion arises for divorce in a family there are several causes: adultery, cruel and abusive treatment, extreme cruelty. What do we attorneys say in the libel we draw? We say: "The libellant has been mindful of his marriage obligations and faithful to them, but the libelee has been unmindful of the same." We say that they are guilty of adultery; that they are guilty of gross and confirmed habits of intoxication; that they are guilty of cruel and abusive treatment or of extreme cruelty.

Now marriage, Mr. Speaker and Members of the House, is a contract, and I am unable to bring myself to a point where I can support a law which permits the setting aside of a contract which perhaps neither party, or at least the libelee, has not broken. I cannot bring myself to a point where I can do that. I cannot say she is guilty of anything. The best I can say is that she has been unfortunate. And, Mr. Speaker and Members of the House, I do not see how I can bring myself to vote for a bill that will permit a man because his wife may be unfortunate, who has borne him children, to permit him to set that contract aside when she is not at fault. All I can say is: What manner of man is he? I hope the motion of the gentleman from Bangor, Mr. Maxwell, will not prevail.

The SPEAKER: The Chair recognizes the gentleman from Mapleton, Mr. Webber.

Mr. WEBBER: Mr. Speaker and Members of the House: I think it will not be out of place to mention that the other day I read a little something about the customs of the marriage ceremony in the countries of South America. It seems that the bride-to-be prepares a meal for the groom-to-be; they partake of it together and that constitutes the marriage ceremony. That may be a good custom, but there are some of us who do enter into a solemn obligation and we pledge our troth to the one we have chosen, and I believe we should choose very carefully. There is a gentleman on my right here who is having his first year in this experience, and there is a gentleman on my left who is having his second half century, and there are some of us between. We wish we all might be happy in this, because that is the purpose of the institution

Now it seems to me that a man who has in good faith taken a partner, and where they have lived together through many years, if misfortune overtakes a person it does not seem to me correct in carrying out the spirit of the agreement or contract which has been made to permit separation because of that misfortune. I think a person who is confined in a state hospital or who goes to a state hospital for treatment ought to have no more stigma attached to him than one who goes to a general hospital. I believe that is true, because in the human heart there is the desire to help others. No marriage is true when the partners do not have in mind each other's interest.

One matter which has not been mentioned is this: I believe in many cases where a separation is sought the fault is not on the part of the one against whom the action is taken, but in some cases insanity or some other disease or affliction that comes upon one partner is caused by the other partner. Is that justice, for the person who has caused the misfortune to take steps to be relieved of his responsibility if his own heart does not already cause him to adhere to the contract? I believe that if a person has made a mistake and thinks he would be happier if he made a change he ought to be man enough, if the circumstances are not intolerable, to stick by his agreement, and if we all keep that in our minds and hearts I think we will be much happier. I hope the motion of the gentleman from Bangor, Mr. Maxwell, will not prevail.

THE SPEAKER: The question before the House is on the motion of the gentleman from Bangor, Mr. Maxwell, that Report "A," "Ought to pass" be adopted.

The Chair recognizes the gentleman from Houlton, Mr. Barnes.

MR. BARNES: Mr. Speaker, I know, because I have talked with a great many members of this assembly, that there are men and women sitting here this morning who have serious doubts in their minds as to which way they will vote on the measure that is now before us. At this time I want to caution the members of the House not to get hysterical about this matter. The duties and obligations of men and women who have taken the marriage vow are the same in all

cases. There are cases in law, and there is a cause for divorce in our statutes, that I believe the gentleman from Brunswick (Miss Bangs) knows about, which does not involve any fault on the part of the parties—and that is a divorce on the grounds of impotence.

Now, those who are against this measure have expressed a great many reasons therefor. One of the commonest reasons is that we do not like to see a cause for divorce on our statute books where it involves no fault of the party against whom the divorce is sought. I say to you, Ladies and Gentlemen of this House, that divorce is not a punishment for a fault. When a person goes into court asking for a divorce, they do so on the ground that, due to circumstances that have arisen in their married life, the parties can no longer live together. We do not have any cause for divorce in the State of Maine on the ground of mental cruelty. In this State it has to be such actual, physical cruelty that it is not any longer safe for the life or health of the person seeking the divorce for them to live together in the relationship of man and wife.

It has been said, and properly said, that marriage is one of the most important institutions that we have in this country, and there are many sides to marriage, and the ideal marriage is a happy home as far as the husband and wife are concerned, I say to you, Ladies and Gentlemen of this House,—who once before today have had to act on a measure that does not very seriously concern you but which does concern children,—that there is another side to marriage, and that side is for the protection of the children who live in the home. I am sorry that my brother, the gentleman from Bangor, Mr. Maxwell did not recite to you an instance of which he knows, where there was no doubt about the fact that insanity was incurable, and yet the home was broken up. I believe, in this case, the wife was in the hospital for the insane, and the children were battered about hither and yon, and did not have any real home or any real mother. I say to you that the great tragedy coming from incurable insanity cannot be alleviated by stating that the husband and wife must remain tied to the marriage contract, when there is no hope of family home or life;

and if the mar. in that instance were free to find some good woman and remarry, who would make him a good wife, and be a good mother to his small children, that it would be a worthy thing.

Now, I say to you that once the mind is gone, and a person becomes incurably insane, so far as the home and the marriage is concerned, it is almost the equivalent of the death of that party. For that reason, I am in favor of this bill, which has received most careful consideration, which has been drawn carefully, and twice amended since it was put into the hopper of this House.

How can we be sure of the fact that a person is incurably insane? My sister (Miss Bangs) when she arose to speak cited the instance of a case where the medical experts who were called could not say—and I say to you that is not an argument against this bill, because there is written in this bill the provision that incurable insanity must be established beyond a reasonable doubt. Now in ordinary divorce cases, only so much evidence has to be produced as will tip the scales of justice ever so slightly—or evidence slightly in favor of the person seeking the divorce. If that is established, the person is entitled to a divorce; but in this case it must be established beyond a reasonable doubt. I operated against that rule for six years, when I represented the State of Maine as State's Attorney for the County of Aroostook, and I found out, early in my experience there, that when a defendant charged with a crime comes into court, he is clothed with the white robe of innocence, which remains with him and protects him, until the State has proven beyond a reasonable doubt his guilt. I say to you that under this bill there is a presumption of sanity which stays with, and clothes and protects the party, until the other party has produced evidence beyond a reasonable doubt. In that connection, it might interest the members of this House to know that within the last three years one of the Justices of the Superior Court in the State of Maine addressed a Service Club in Houlton. He has been a member of the Bar of this State for more than forty years; he was County Attorney for six years; and he served on the Superior Bench for more than eleven years; and when he was not serving as County Attor-

ney and a member of the Bench, he was one of those attorneys who was always actively engaged in the trial of causes before the courts, both civil and criminal: he made the flat statement that in all of his experience he had never known of an innocent person being convicted in the courts of this State. I say that the same rule—requiring proof beyond a reasonable doubt—exists in this bill: and therefore, once given the fact of incurable insanity, and once admitting that that is for the best interests of the people of the State as a cause for divorce, I say to you that we have thrown enough protection around the person who is alleged to be insane, so that fact can be established. In that connection I will say another thing. Laymen, particularly, assume in ordinary cases of divorce that they are heard by a single Justice, and, without saying they would not be properly heard, and usually properly decided by a single Justice, I would call to your attention the fact that in every divorce case it is possible to have a jury trial, a trial by twelve men and women, just such as you are who are sitting here today, to listen to the evidence and determine the facts of insanity.

I think that this is a good bill. If I did not think so, I would not be standing here arguing it to you. If we can in some way alleviate the tragedy of broken homes by reason of incurable insanity, I think we should follow along with the other twenty-two states, I believe it is, in this country, and pass this bill.

I therefore hope that the motion of the gentleman from Bangor (Mr. Maxwell) will prevail.

The SPEAKER: The Chair recognizes the gentleman from Bridgton, Mr. Rankin.

Mr. RANKIN: Mr. Speaker and Members of the House: I read the other day there is more violent difference of opinion about incurable insanity as a cause of divorce than about any other cause. I think perhaps that is natural. I have not seen any signs of violent eruption here this morning. I think there will be none. Nevertheless, I admit I feel very strongly about this matter. I feel strongly about it chiefly on the ground which was advanced by the gentlewoman from Brunswick (Miss Bangs). I was glad that she placed this matter upon the moral basis, because I judge

from one or two things that have been said to me that she assumed, for obvious reasons, that I would argue this matter from this point of view, and I shall in part. I should like also to sustain the statement she made that all of us are capable of arguing it upon this moral basis. It does not require legal acumen; it requires simply common humanity. On the other hand, someone said to me the other day he did not think very much of the moral grounds of this; it was a matter of happiness. I believe there are grounds for divorce, but I do not believe this is one of them. Someone said also he was not capable of arguing the matter of moral grounds. When a man tells you he is not capable of arguing a question of law, that may be correct, but on the question of moral grounds that is not an expression of modesty. What he is trying to get over to you is that he is an exceedingly clever fellow. It is a sort of a self-deprecating egotism I might say.

Now there has been an interesting history of this matter of incurable insanity as a grounds for divorce. I wish we might have had more argument about this bill instead of about these safeguards. There has been very little said about the argument for incurable insanity. I hope that it will be kept in mind that those who are opposing this measure have some interest in safeguards, but our chief interest is in alleged incurable insanity—and the word “alleged,” underlined, is not a ground for divorce.

I say this matter has had an interesting history in this state. It was brought up two years ago, and it was not even discussed in the House. The bill failed of passage four years ago and failed of passage six years ago. That is not the whole story. I have before me an interesting article. Perhaps some of you read it. It appeared in the Lewiston Journal just one month ago, February 10th. I assume it was written by the staff writer of the Lewiston Journal. It states something I wish to say better than I can state it.

We had a law declaring that incurable insanity is a cause for divorce. It was passed in 1907 and it remained upon the statute books until 1913. I am going to read only part of this article, although I should like to read all of it. The article is substantially correct, al-

though technically there are one or two errors in it, as I have learned from conversation with people in Augusta. The article states:

“Insanity was once a ground for divorce in Maine, so that the bill introduced in the House recently by Representative James D. Maxwell of Bangor adding mental illness to the other general grounds for the annulment of marriages was not new any more than a similar bill rejected by the Legislature a few years ago.” I think that was four and six years ago. I am skipping part of the article. It continues: “When the members of that Legislature learned the truth they went sour in a big way, as the action at the next session proved.” That was at the session of the Legislature that repealed the former bill. “At that time there was a man living here in Augusta, who held a county job, though afterwards he was connected with the State government. Neither of these jobs were what are known as big ones, nor did they make him prominent.

They did bring him in contact with many men. He was likeable and so had many friends. He was married, but the wife’s mind failed. She had to be confined to the State Hospital here for a number of years, all the rest of her life.” That is an error. “It was well established that her case was incurable. People pitied both of them and so, when the idea was suggested that some plan ought to be arranged that he might secure a divorce, the few who heard of it, unthinkingly, agreed.”

“A bill was prepared by some very clever persons and, with a decidedly misleading title, it was introduced in the Legislature. It attracted no great amount of attention and went through with no bother. Even the hearing before the committee was very perfunctory.”

“Those who knew what the bill meant didn’t get excited because it was their understanding that the real reason why it was desired to enable this man to secure a divorce from his wife who had gone insane was so he could be relieved from some of the expense of supporting her putting the burden on the State and city. They had no objection to that.”

“Before the next session, however, the man had secured his divorce and was married again.” Skipping a little of the article, it continues: “As

a prominent judge once said, commenting on this law, 'Why should insanity be a ground for divorce any more than tuberculosis or cancer?'"

It was said a little while ago that incurable insanity is much like death. Just what that means I do not know. But in the hearing a member of the committee, a learned member and a good friend of mine, said "Incurable insanity is the same as death." Well, I was not able to combat that at the time, but I looked the matter up and I found absolutely no argument in favor of such a position. There was formerly, in English and American common law, what was known as "civil death." Civil death involves total extinction of civil rights. That has faded away. We on more humanitarian grounds in this country and in England say that the only case of civil death is the case of a man who is a traitor to his country. It has been admitted here that civil death does not apply in this case.

My friend, the gentleman from Bangor, Mr Maxwell, used this expression more than once: "Against whom?" In other words, the bill for divorce is against some person who has rights. Even a murderer has rights; he can make his will. He has many rights, and so has an insane person. In other words, a person who is insane is more like a minor than like one who is civilly dead.

The matter of insanity as an incurable disease has been brought up. I infer that the gentlemen who have spoken on this matter have not looked thoroughly into recent developments. The thing is on a different ground today than it was a few years ago. In the city of Vienna, which is in frightful condition now but which was formerly the medical center of the world, Professor Jaeger has been making tremendous advances. It has been said here this morning that paresis is incurable. Professor Jaeger took a number of cases and two-thirds of them were cured. I read in one authority on mental diseases that any person who had dementia praecox was one of the most unfortunate of human beings, but a recent medical authority says that is no longer the case. There is another mental disease with a long name—schizophrenia—split personality. Medical authorities are now telling us it is by no means incurable. Some of the psychotherapists have said

the results in recent years are astounding. Another authority calls them miraculous, and still another authority has said we are going to empty many of our wards. Another authority says already families are being reunited. So it seems to me that this bill which has already had three strikes called on it, ought to be put out.

The head of our hospital across the way here said to me—and he authorized me to quote him—I hope the gentleman from Houlton, Mr. Barnes, will pardon me, because he seemed to know about this matter—but Dr. Tyson said he didn't know there were any incurable diseases. He said other interesting things I would like to quote. I am going to quote one of them. He spoke of two kinds of mental diseases. He said there may be the case of a person who is lucid much of the time and whose insanity may be of a very mild type, and he goes on for a long distance. I used to know of a man who was in that condition. His name was Adams, and he was the brother of John Adams. "But, finally," Dr. Tyson says, "a person of that type may be completely cured. On the other hand, there may be a person very positively insane, sometimes violently so, and yet after being in that condition for ten years he may be suddenly cured." It seems to me those cases are very interesting. The methods of cure are very startling and surprising. Some psychotherapists give patients a mental shock or they use that remedy which is so widely used nowadays, sulfanilamide, or they produce almost perpetual sleep for a period of three weeks, and a person awakes with his mind made over.

Another authority says in spite of all these difficulties the next decade will show much greater advances. He says, "We do not know much yet about the nature of mental disease, but, when we do find that, we are learning fast and we will get remarkable results and the thing will move very rapidly."

Now to speak briefly about the moral side of the matter. Laws of different states have been quoted to us, and I will admit, and we all know as a matter of fact that the tendency of course is towards ease of divorce. But is that a good tendency? We have eight causes for divorce in this state. I think one or two of them are bad causes. If I

were revising all of the laws, I would make one or two other things causes for divorce. But the fact we have eight causes for divorce does not make valid this cause for divorce, although that was argued in that committee hearing. One member of the legal profession named some of these causes for divorce, and he said, "We have these causes, and this one is just as good as the others." It seems to me that we should not argue these other points in discussing this one. Each of these arguments should stand upon its own basis. There is not one member of this House who would not agree with me that the tendency towards ease of divorce in this country is not a good tendency but that it is an evil tendency. I confess I have been amazed since I have lived in Maine at the ease of divorce. One man who has not lived in this state as long as I have—and I have lived here fifteen years—a man of distinction, said he never lived in any place where divorce was so easy as in the State of Maine. Is that tendency a good tendency or a tendency we had better put a stop to if we can?

Now I quite agree with the gentleman from Houlton, Mr. Barnes, in saying that the family is a splendid institution. I should like to go further and say that, in spite of its defects and in spite of other things that are happening to us, that the family has been for a thousand years on the whole the most sensible human institution. And the chief consideration in this matter of divorce of course is the interest of the children. That has been argued as a cause for divorce. Well, I cannot agree. Suppose your father got a divorce from your mother—how would you feel about it? Do we believe, as has been stated that if a divorce is secured under these circumstances and there are children that a second marriage is likely to prove successful and happy? I think the chances are very greatly against it. I would not want to revive the stepmother joke, because I had a good stepmother, but I should say in a case like that, if there were a stepmother the chances would be greatly against happiness in that family. A member of this Legislature said to me she would lose very much of the respect for her father if her father secured a divorce under these circumstances

Did you ever read that novel by the brilliant novelist Edith Wharton entitled "The Children?" I advise you to read it I am going to use the illustration of a man who is unknown to you but whom I know very well, a very splendid gentleman of distinction. His wife is in an insane asylum He is a graduate of Harvard University I have heard people say he was the finest gentleman they ever knew Now he remains loyal to this woman; he goes to see her whenever he can; sometimes he is able to take her out riding. Now what if he should get a divorce. It is believed she is incurably insane. By the way, we do not deny there are cases of incurable insanity. There are incurable cases of measles and influenza But what we are saying is that you do not know whether a case is incurable or not, but even if it were incurable I should be against it. But suppose this friend of mine got a divorce and was married again—we would all agree the insanity of his wife is a great tragedy, but there would be a second tragedy, and that would be his second marriage, and he would lose most of the respect he has now, and he is a splendid gentleman

There are many causes of insanity, especially in the case of women—and I am arguing on the supposition that the supposedly incurable insane person is a woman—and some of these causes would be true in the case of a man. Among such causes are the strain of domestic life, worry, financial and mental strains, difficulties of one kind or another. Those are about the most common causes of insanity. Supposing a woman goes insane for these reasons, what would you think of a man who would not bear his share of the burden in a case like that? I should say for one thing it would not be sportsmanship. I happen to know of a certain writer who has passed away who spoke of another writer friend of his as a "thoroughbred." It so happened this thoroughbred got a divorce from his wife under circumstances similar to that envisaged here, and yet his friend and my friend spoke of him as a thoroughbred. I venture to say he was more nearly like a skunk than a thoroughbred.

I am nearly through. I want to refer again to the matter of safeguards. We have heard chiefly about the safeguards. I think my friend, the gentleman from Bangor, Mr.

Maxwell, devoted about a minute to the merits of the bill, but he had very much to say about safeguards; and after a whole month on safeguards he is not satisfied that the bill has all the safeguards it should have. He spoke about improving the bill. I do not know of any bill that has come before us that has any greater need of improvement than this bill. We are not primarily interested in safeguards. All the safeguards in the world will not make the bill a respectable bill, not one of them. I believe it is a sordid business and that you will not make it respectable by building up safeguards. The bill could not last if it was brought in here this morning, although it has been in here for about a month. I hope you will pardon a trivial little story. I went to the theatre once and saw the play *Maytime*, where a young flapper married an old man who could hardly stand on his feet. She carried him home and had difficulty in getting him home, and she said "Gee, I hope he lasts till I get him home anyway." (Laughter)

This bill with all its improvements still needs revamping and all your safeguards will not change the fundamental character of this bill. I remind the members of the House that the burden of proof is upon the affirmative side of this question, and, with one more thing, I am going to close. I have had the pleasure of talking with perhaps a score of women. They have come to me because they heard in some way or another that I was interested in this matter. A score of women have come to me and spoken about their interest in this bill. They are strongly opposed to it, and all of them have said they were opposed to it. Now I am willing to trust the intuition of women in this matter. I think we as chivalrous gentlemen ought to be willing to say that if the women are opposed to this bill we are opposed to it. We have heard something about intuition in regard to that insane man over in Germany. I do not take any stock in that. But when the women almost without exception are opposed to a bill like this we are safe in being with them in opposing it also. Therefore I am hoping that the motion of the gentleman from Bangor, Mr. Maxwell, will not prevail.

The SPEAKER: The Chair recognizes the gentleman from Livermore Falls, Mr. Grua.

Mr. GRUA: Mr. Speaker and Members of the House: As a member of the Judiciary Committee, I want to just give you my reasons for supporting this measure, in signing the "Ought to pass" report.

I realize that the hour is getting late, and we have had a great deal of argument on this bill. It may seem to some of you that it is not very important, but it is important to those few people in this State of ours who are afflicted by this sort of circumstance. I grant that we are, to a large extent, accustomed to think of divorce as being granted for the fault of the other party. However, as has been pointed out here in one case, it has been granted where there was not any fault. I can point out another case, that when a man is committed to life imprisonment, while it is a crime against the State, it is not a crime against his marriage partner, and still the marriage is annulled by his commitment to prison. If a man is absent from the State for seven years, he is presumed to be dead. We have numerous cases of that kind.

I fear that we are inclined, perhaps, to give too much emphasis to the party at fault, and not to considering the rights of the innocent party. Before going into that, I would like to answer the suggestion about this being a contract, and that, therefore, it should be lived up to. Any lawyer will tell you that if for any reason the other party is unable to fulfill his end of the contract, it relieves the other contracting party from fulfilling it. The contract is mutual. After a wife has become incurably insane she is no longer able to act as a wife in any capacity; she is out of the picture. Of course, it is extremely unfortunate, but that does not help the innocent party any. We must also consider the party who is not at fault, the innocent party who is seeking to have a home of his own.

Now, this bill has been assailed because it might induce some person to put his wife in the insane hospital in order to obtain a divorce. I submit that is rather foolish because he would have to keep her there for five years, and take a chance that he would be able to convince the court beyond a reasonable doubt that she was incurably insane. Who is going to do that, when he can get a divorce on almost any grounds before any

court, or, if he has got a thousand dollars, he can go to Reno and get it; and under recent decisions of our United States Court, we have to recognize a divorce granted in any state according to the laws of that state. I submit to you that is not sensible; a man is not going to do that; I think that is beside the point.

It has been argued to you that several bills of this kind have been turned down. Has anybody told you that a bill like this has been turned down; that a bill requiring five years has been turned down; that a bill requiring proof beyond a reasonable doubt has been turned down? I submit to you there has been no suggestion that that was contained in those bills, and I voted against some of those bills myself. In those bills, insanity as a simple cause of divorce is too broad. But here we have got a bill where the court has to be convinced beyond a reasonable doubt that this is incurable. So all of these arguments about incurability being the cause of divorce are beside the issue. As has been said, if the court is in doubt, he can have a jury listen to the evidence. Every possible protection that I can see that can be put into this bill, is in there, along with the suggested amendments. I cannot see how a party can be injured by this bill.

Now, it is argued that very few people are affected. Ladies and Gentlemen, when we become representatives, in my opinion, we represent all of our constituents, not only the Democrats who elected us, but the Republicans; and all religions, not just Catholics, not just Protestants, not just Jews, but we represent them all; and every one of our constituents is just as much entitled to our honest endeavor as the majority. We have no right because we are in a majority to inflict our opinions on a poor miserable minority and say they must suffer just because we do not like the idea. If they have got a right, we should protect that right in my opinion, unless it is dangerous to the State of Maine to do so. Now, I stand by that, in all of my conduct in this Legislature, that we ought not to pass bills unless they are required. On the other hand, we ought not to refuse to grant relief, unless granting such relief is going to be clearly detrimental to the people of the State of Maine.

Now, examining this matter of divorce from the point of view of the people of the State of Maine, if the party in the hospital is incurably insane, then they do not know anything about what is happening, they do not know they have got a husband for instance, and they do not know they have got children; they do not know anything about it. Now, is it more for the interests of the State of Maine that that person without any—we will call them a person, but they are really just a shell of what they used to be—is it more to the interest of the State of Maine to protect them in this rite which we call marriage, which is no marriage any longer so far as they are concerned; or is it more important to the people of the State of Maine that this husband, who through no fault of his own, is deprived of the companionship of a good woman, whose children are deprived of a mother to look after them and bring them up as god-fearing and respectable citizens? Which is more important, that he should be able to establish a home, and be a good reliable citizen; have his children about him; and live his own life, or to protect this person who is put here in the hospital, who knows nothing about it, and cares nothing about it. I venture to say that in 99 cases out of a hundred if that insane person could have a lucid interval, and know the situation that her husband was in, that she would advise him to go and get a good wife to take care of the children. I say that, and I believe that, and I think you will agree with me that would probably be the case.

Now, we oftentimes feel that we know what is right for all the people of the world—but I submit to you simply because we are representatives here, it does not give us any god-given right to determine—whatever our peculiar views on any particular subject may be—that they should be imposed on the world at large. Other people may have other views. They may be entitled to them; they may have the right to them.

Now, we do not all believe that marriage is such a sacred thing that under no circumstances should it be broken. We do not all believe that it is necessary that a man should sacrifice all the rest of his life, that he should sacrifice the welfare of his children, and give up his home, all for the sake of maintaining this beautiful ideal of being loyal to the

person to whom he has pledged his loyalty. Of course, it is a beautiful ideal, but Ladies and Gentlemen, it is easy, very easy, to get far away from it and get up into the clouds of sentimentality; but let us come down to a practical basis, on the floor, where we are. We are human beings. We all have our desires, likes and dislikes and what not.

There is a man whom I know about, who has got four little children; he was married early; his wife went into an insane hospital when she was only barely twenty years old. She has been there now over five years. What is he doing? He is trying to get housekeeper after housekeeper to take care of his children. It is costing him a large amount of money; he has not the money to go to Reno to get a divorce. He has to take care of his children. What other alternative has he got? You know how difficult it is to get housekeepers. A good woman wants a home of her own. She does not want to be a housekeeper, forever, for somebody else. So he has to try to get along with housekeepers who may have little interest in his children and who may be more or less drunkards, or what not, and have them bring up his children, or else he has got to give his children over to the State of Maine, and let them be adopted. He says to us, "Mister, I like my children; I love them. I want to bring them up in my home; I want a good wife to let them become god-fearing children; I would like to have a good home, just as you have got, Mister." Are we going to say to him, "No, no. We will not recognize that. We cannot permit that." I say to you that no woman is going to be divorced unless the Judge is satisfied beyond a reasonable doubt that she is incurably insane; and if she is incurably insane, so far as her husband is concerned, he might just as well be hitched to a corpse of some kind. She is no good to him. She cannot possibly perform her duties as a mother; she cannot possibly perform her duties as a wife, or give the companionship to which he is entitled.

Now, this is a serious matter to the people who are affected, and I do not think that we ought to pass it over lightly. Most of these things that I had in mind to say have already been said to you, but I want to call to your attention again that the way that this is hedged around —

five years of incurable insanity, proved beyond a reasonable doubt to the Judge that it is incurable; if it is not incurable, they do not get the divorce; and then a lawyer appointed at the expense of the petitioner to take care of every possible right of the libelee; and, furthermore, to remove any temptation from a man to get a divorce from his wife to share in her property, he gets nothing of her property; all he is asking from you is the privilege of living an honest life by marrying a good woman to bring up his own children. Now there are many good women who cry their hearts out because they have not any children of their own who would like to have a child to cherish and fondle and take care of. Many good women like to marry a man and take care of his children. They do not want to be his housekeeper forever.

Now, it has been suggested here in numerous cases that we ought to consider this as a sacred thing; that these people have entered into a sacred relation. Suppose they have? It is intended to be a mutual relation, where each performs his duty, and I say to you that even the Bible itself recognizes the fact that it is for the best interests of society that men and women should live together — "male and female, made He them." In another place it says, in substance, that it is not well for a man to live alone; and again, it says, "Be ye therefore fruitful; multiply and possess the earth." And so we have the various statements in the Bible to that same effect, recognizing the fact that marriage and home are the foundation of the state.

All we are asking in this bill is not that every person should get a divorce but those who wish it, against whose belief it is not contrary, those people who find themselves in this peculiar and difficult situation, that those people should be permitted to get a divorce. Now, we may say to them, "It is nothing to us; this is the law; we are sorry for you." I say to you that we cannot sidestep the responsibility. If we vote "No" on this bill we are in effect saying to those people, "We cannot help you; we submit it is best for you to stay where you are."

I say to you, Ladies and Gentleman, it would be very unfortunate, in my opinion, if we failed to pass this law. I believe it has the en-

dorsement of the most of the people who have given this sort of thing a careful study; and I can see no harm in it; and I am just as jealous of protecting the interests of this unfortunate person who is insane as anybody else.

Now, there is just one more thought that I would like to give you. Suppose a person who had been in the hospital five years as incurably insane was let out. How many men do you think would be willing to trust that wife with their children, after she was let out? Just how would you feel to have a person that had been in the insane hospital completely insane for five years, come out and live in your home? I, for one, would hate to see her left alone with my children, and I believe that would be the feeling of almost every man, after a wife had been for a period of five years in an insane hospital.

I sincerely hope that the motion of the gentleman from Bangor, Mr. Maxwell that this "Ought to pass" report be accepted will be given your serious consideration.

The SPEAKER: The Chair recognizes the gentleman from Gray, Mr. Doughty

Mr. DOUGHTY: Mr. Speaker, I move the previous question.

The SPEAKER: The gentleman from Gray, Mr. Doughty, moves the previous question. In order for the Chair to entertain the motion for the previous question it requires the consent of one-third of the members present. All those in favor of the Chair entertaining the motion for the previous question will rise and stand in their places until counted and the monitors have made and returned the count.

A division of the House was had.

The SPEAKER: Obviously more than one-third of the members present having arisen, the previous question is ordered. The question before the House is: Shall the main question be put now? The Chair will remind the members that they are privileged to speak on this question five minutes.

The Chair recognizes the gentleman from Mapleton, Mr. Webber.

Mr. WEBBER: Mr. Speaker and Members of the House: The gentleman from Livermore Falls, Mr. Grua, has quoted from the Bible, a very reliable book—

The SPEAKER: The Chair would remind the gentleman from Mapleton, Mr. Webber, that he is to speak on the question of whether the main question shall be put now and may not debate the question itself.

Mr. WEBBER: Well, Mr. Speaker, I would say some of us had not finished our thought. Is that debatable? We wish further to express our views.

The SPEAKER: The Chair will state that is very true. The Chair would even entertain a motion at this time to table if further consideration is desired.

Mr. WEBBER: Mr. Speaker, may I ask that when the main question is voted on that we may have the yeas and nays?

The SPEAKER: That will be noted.

The question before the House is: Shall the main question be put now?

The Chair recognizes the gentleman from Bangor, Mr. Maxwell.

Mr. MAXWELL: Mr. Speaker, I would ask for a division.

The SPEAKER: The gentleman from Bangor, Mr. Maxwell, asks for a division.

All those in favor of the main question being put now will rise and stand in their places until counted and the monitors have made and returned the count.

A division of the House was had. One hundred and two having voted in the affirmative and none in the negative, the previous question was ordered.

Mr. SPEAKER: Under the Constitution, in order for the roll call to be demanded requires the consent of one-fifth of the members of the House. All those in favor of taking the vote by roll call will rise and stand in their places until counted and the monitors have made and returned the count.

A division of the House was had.

The SPEAKER: Obviously less than one-fifth of the members having arisen, the motion fails of passage.

The question before the House is on the motion of the gentleman from Bangor, Mr. Maxwell, that Report "A" "Ought to Pass" be accepted.

Mr. MAXWELL: Mr. Speaker, I ask for a division.

The SPEAKER: The gentleman from Bangor, Mr. Maxwell, asks for a division.

All those in favor of the motion of the gentleman from Bangor, Mr. Maxwell, that Report "A" Ought to Pass" be accepted will rise and stand in their places until counted and the monitors have made and returned the count.

A division of the House was had. Sixty-five having voted in the affirmative and 62 in the negative, the motion prevailed and Report "A" "Ought to Pass" was accepted.

The SPEAKER: The House is proceeding under Orders of the Day. The Chair recognizes the gentleman from Gray, Mr. Doughty.

Mr. DOUGHTY: Mr. Speaker, in view of the lateness of the hour, I move we adjourn.

The SPEAKER: The Chair would like to state it has been a pleasure for us to have the presence of the Speaker of the 90th Legislature. Those of you who served in that body recognize the fine service he gave, and it is truly a privilege to have him back with us, and his interest has been shown by the fact he has been willing to give up his noon hour in order to be with us. I am glad you are here, George. (Applause, members rising)

On motion by Mr. Doughty of Gray.

Adjourned until ten o'clock tomorrow morning.