

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

Ninety-Fourth Legislature

OF THE

STATE OF MAINE

1949

DAILY KENNEBEC JOURNAL
AUGUSTA, MAINE

SENATE

Wednesday, April 20, 1949

The Senate was called to order by the President.

Prayer by the Reverend George E. Millard of Hallowell.

Journal of yesterday read and approved.

The PRESIDENT: At this time the Chair notes in the gallery the presence of the Boy Scouts of the City of Brunswick accompanied by their leader Mr. Duquette. We are very glad to have you here and in behalf of the Senate, we welcome you here today.

From the House

The Committee on Legal Affairs on Bill "An Act to Incorporate the Town of Gorham School District," (H. P. 1057) (L. D. 471) reported the same in a new draft (H. P. 2070) (L. D. 1506) under the same title, and that it ought to pass.

Comes from the House, the bill in new draft passed to be engrossed as amended by House Amendment "A".

In the Senate, the report was read and accepted in concurrence and the bill was read once; House Amendment A was read and adopted in concurrence and the bill as so amended was tomorrow assigned for second reading.

House Committee Reports

The Committee on Agriculture on Bill "An Act Relating to the Bee Industry," (H. P. 1361) (L. D. 714) reported that the same ought not to pass.

Comes from the House, recommended to the Committee on Agriculture.

In the Senate, on motion by Mr. Greeley of Waldo, the bill was recommended to the Committee on Agriculture in concurrence.

The Committee on Agriculture on Bill "An Act Imposing a Tax on Apples for Promoting the Use of Maine Apples and Apple Products," (H. P. 1107) (L. D. 533) reported

that leave be granted to withdraw the same.

The same Committee on Bill "An Act Repealing the Law Relating to Milk Control," (H. P. 1337) (L. D. 694) reported that leave be granted to withdraw the same.

The same Committee on Bill "An Act Defining Domestic Animals in the Slaughterhouse Law," (H. P. 1269) (L. D. 653) reported that leave be granted to withdraw the same.

The same Committee on Bill "An Act Relating to Veterinary Surgery," (H. P. 1270) (L. D. 670) reported that the same ought not to pass.

The Committee on Claims on "Resolve in Favor of William Burgess, of New Sharon," (H. P. 1565) reported that the same ought not to pass.

The same Committee on "Resolve in Favor of Walter Pottle of Mattapan, Massachusetts," (H. P. 566) reported that the same ought not to pass.

The same Committee on "Resolve in Favor of Austin A. Towle of Winterport," (H. P. 262) reported that the same ought not to pass.

The same Committee on "Resolve in Favor of Wyman & Simpson, Inc., of Augusta," (H. P. 1028) (L. D. 460) reported that the same ought not to pass.

The same Committee on "Resolve in Favor of Mary E. Mayo of Milo," (H. P. 342) reported that the same ought not to pass.

The same Committee on "Resolve in Favor of Rene LeCroix of Biddeford," (H. P. 1277) reported that the same ought not to pass.

The same Committee on "Resolve in Favor of the George Green Estate," (H. P. 1365) (L. D. 718) reported that the same ought not to pass.

The same Committee on "Resolve in Favor of the Bath Water District," (H. P. 727) (L. D. 283) reported that the same ought not to pass.

The same Committee on "Resolve in Favor of Cassius H. Bridges, of Meddybemps," (H. P. 332) reported that the same ought not to pass.

The same Committee on "Resolve in Favor of Frederick Farnsworth of Rockland," (H. P. 1273) reported that the same ought not to pass.

The same Committee on "Resolve in Favor of James E. Irish & Son, of Hartford," (H. P. 1455) reported that the same ought not to pass.

The same Committee on "Resolve in Favor of Peter T. Benson, of Seawall, Manset," (H. P. 911) reported that the same ought not to pass.

The same Committee on "Resolve in Favor of Gordon Millett of Wilton," (H. P. 979) reported that the same ought not to pass.

The same Committee on "Resolve in Favor of Fred Foy of Montville," (H. P. 903) reported that the same ought not to pass.

The same Committee on "Resolve in Favor of Mildred G. Clerke of Cooper," (H. P. 1370) reported that the same ought not to pass.

The Committee on Judiciary on "Resolve, Proposing an Amendment to the Constitution Empowering the Legislature to Authorize Municipalities to Create Indebtedness in Excess of the Present Limitation on Municipal Indebtedness," (H. P. 1569) (L. D. 883) reported that the same ought not to pass.

The Committee on Legal Affairs on Bill "An Act to Open Meetings of Government of City of Lewiston," (H. P. 997) (L. D. 428) reported that the same ought not to pass.

The same Committee on Bill "An Act to Incorporate the Town of Bay Point," (H. P. 1174) (L. D. 621) reported that the same ought not to pass.

The same Committee on Bill "An Act Relating to Vacancies of Aldermen of the City of Lewiston," (H. P. 998) (L. D. 429) reported that the same ought not to pass.

The Committee on Mercantile Affairs and Insurance on Bill "An Act Relating to National Codes in Fire Prevention," (H. P. 1404) (L. D. 764) reported that leave be granted to withdraw, as it is covered by other legislation.

The Committee on State Lands and Forest Preservation on Bill "An

Act Creating the Office of Fire Service," (H. P. 13) (L. D. 3) reported that leave be granted to withdraw the same.

The Committee on Ways and Bridges on "Resolve to Continue Construction of International Highway," (H. P. 1921) (L. D. 1283) reported that the same ought not to pass.

The same Committee on "Resolve in Favor of the Town of Limestone," (H. P. 607) reported that the same ought not to pass.

The same Committee on "Resolve in Favor of the County of Franklin," (H. P. 1860) (L. D. 1197) reported that the same ought not to pass.

The same Committee on Bill "An Act to Facilitate the Construction and Operation of Additional Sections of the Maine Turnpike," (H. P. 1327) (L. D. 692) reported that the same ought not to pass.

The same Committee on "Resolve in Favor of the Town of Machiasport," (H. P. 1010) reported that the same ought not to pass.

The same Committee on "Resolve Providing Funds to Repair a Portion of U. S. Highway Number One in Aroostook County," (H. P. 1555) (L. D. 873) reported that the same ought not to pass.

The Committee on Welfare on Bill "An Act Relating to Applications for Old Age Assistance," (H. P. 1078) (L. D. 483) reported that the same ought not to pass.

The same Committee on Bill "An Act Relating to Requirements for Old Age Assistance," (H. P. 1820) (L. D. 1136) reported that the same ought not to pass.

(On motion by Mr. Williams of Penobscot, tabled pending consideration of the report.)

Which reports were severally read and accepted in concurrence.

The Committee on Agriculture on Bill "An Act Relating to Exhibits of Agricultural Fair Associations," (H. P. 1267) (L. D. 668) reported that the same ought to pass.

The Committee on Claims on "Resolve in Favor of the Town of Dedham," (H. P. 1467) (L. D. 1518)

reported that the same ought to pass.

The same Committee on "Resolve in Favor of Edward D. McKeon of Kennebunk," (H. P. 1483) (L. D. 1516) reported that the same ought to pass.

The same Committee on "Resolve, to Reimburse the Town of Jefferson," (H. P. 1458) (L. D. 1512) reported that the same ought to pass.

The same Committee on "Resolve in Favor of the Town of Chelsea," (H. P. 542) (L. D. 1519) reported that the same ought to pass.

The same Committee on "Resolve in Favor of Madelyn Ames of East Poland," (H. P. 105) (L. D. 1514) reported that the same ought to pass.

The same Committee on "Resolve in Favor of Caswell Plantation," (H. P. 334) (L. D. 1510) reported that the same ought to pass.

The same Committee on "Resolve in Favor of Caswell Plantation," (H. P. 541) (L. D. 1517) reported that the same ought to pass.

The same Committee on "Resolve in Favor of Herman I. Ham of Madison," (H. P. 636) (L. D. 1513) reported that the same ought to pass.

The same Committee on "Resolve in Favor of Prentiss Plantation," (H. P. 733) (L. D. 1515) reported that the same ought to pass.

The same Committee on "Resolve in Favor of Leslie W. Jones of West Minot," (H. P. 1282) (L. D. 1511) reported that the same ought to pass.

The Committee on Interior Waters on Bill "An Act Relative to Restricting the Use of Power Boats on Portage Lake in the County of Aroostook," (H. P. 1299) (L. D. 681) reported that the same ought to pass.

The Committee on Legal Affairs on Bill "An Act Relating to Participation of Employees of the City of Lewiston in a Contributory Employees' Retirement System," (H. P. 1646) (L. D. 998) reported that the same ought to pass.

The Committee on Ways and Bridges on Bill "An Act Providing for Bridges and Culverts on Certain

Roads," (H. P. 606) (L. D. 187) reported that the same ought to pass.

The same Committee on Bill "An Act Crediting Certain Fees to the General Highway Fund," (H. P. 1894) (L. D. 1222) reported that the same ought to pass.

The same Committee on Bill "An Act Relating to Notice to State Highway Commission in Re. Highway Changes," (H. P. 1893) (L. D. 1221) reported that the same ought to pass.

Which reports were severally read and accepted in concurrence, the bills and resolves read once, and tomorrow assigned for second reading.

The Committee on Interior Waters on Bill "An Act Regulating Boats for Hire on Inland Waters," (H. P. 828) (L. D. 313) reported the same in a new draft (H. P. 2065) (L. D. 1501) under the same title, and that it ought to pass.

Which report was read and accepted in concurrence.

Thereupon, the Senator from Cumberland, Senator Slocum presented Senate Amendment A and moved its adoption.

"Senate Amendment 'A' to H. P. 2065, L. D. 1501, Bill 'An Act Regulating Boats for Hire on Inland Waters.'

Amend said Bill by adding at the end of the 1st paragraph of that part designated 'Sec. 56-B' the following underlined words:

"The owner of such boat or canoe shall keep a record of the names and addresses and automobile registration numbers, if any, of the person or persons to whom such boat or canoe is rented and such other information, including time of renting and returning, as may be required by the commissioner."

Thereupon, on motion by Mr. Ward of Penobscot, the bill and accompanying papers were laid upon the table pending motion by the Senator from Cumberland, Senator Slocum, that Senate Amendment A be adopted.

The Committee on Judiciary to which was recommitted Bill "An

Act Permitting Continuance of Service of State Employees Reaching Seventy Years of Age," (H. P. 1925) (L. D. 1285) reported the same in a new draft (H. P. 2067) (L. D. 1499) under the same title, and that it ought to pass.

The Committee on Legal Affairs on Bill "An Act to Repeal the Charter of the Bay Point Village Corporation," (H. P. 1053) (L. D. 530) reported the same in a new draft (H. P. 2069) (L. D. 1505) under the same title, and that it ought to pass.

The Committee on Ways and Bridges on Bill "An Act Relating to Use of Wires or Cables on State Highways," (H. P. 1754) (L. D. 1098) reported the same in a second new draft (H. P. 2049) (L. D. 1475) under a new title, Bill "An Act Relative to the Construction of Pole and Wire Lines Upon and Along State and State Aid Highways," and that it ought to pass.

Which reports were severally read and accepted in concurrence, the bills in new draft read once and tomorrow assigned for second reading.

The Committee on Claims on "Resolve in Favor of Christopher Hiltun, of Anson," (H. P. 1454) (L. D. 1509) reported that the same ought to pass as amended by Committee Amendment "A" attached herein.

The same Committee on "Resolve in Favor of Kenneth H. Norse, of Gorham," (H. P. 564) (L. D. 1507) reported that the same ought to pass as amended by Committee Amendment "A" attached herein.

The same Committee on "Resolve in Favor of Harold E. Rogers of Brunswick," (H. P. 550) (L. D. 1508) reported that the same ought to pass as amended by Committee Amendment "A" attached herein.

The Committee on Interior Waters on Bill "An Act Permitting the Building of a Wharf for Seaplane Landing at the Southerly End of Portage Lake," (H. P. 1696) (L. D. 1019) reported that the same ought to pass as amended by Committee Amendment "A."

The Committee on Legal Affairs on Bill "An Act Amending the Charter of the City of Calais," (H. P. 1840) (L. D. 1199) reported that the same ought to pass as amended by Committee Amendment "A."

The same Committee on Bill "An Act Relating to Pensions for Members of the Police Department of the City of Lewiston," (H. P. 1998) (L. D. 1381) reported that the same ought to pass as amended by Committee Amendment "A."

The Committee on Sea and Shore Fisheries on Bill "An Act Relating to Quantity in Purchasing Herring," (H. P. 1990) (L. D. 1372) reported that the same ought to pass as amended by Committee Amendment "A."

Which reports were severally read and accepted in concurrence, and the bills read once; Committee Amendments "A" were severally read and adopted in concurrence, and the bills as amended were tomorrow assigned for second reading.

The PRESIDENT: At this time the Chair notes in the Senate, the presence of the former distinguished Senator from Penobscot, and requests the Sergeant-at-Arms to escort Miss Ruth Clough to a position at the right of the Chair.

This was done amidst the applause of the Senate.

The Majority of the Committee on Judiciary on Bill "An Act Relating to Rental for the Western Somerset Municipal Court," (H. P. 1161) (L. D. 613) reported that the same ought to pass.

(signed)
Senators:

BARNES of Aroostook
WARD OF Penobscot
ELA of Somerset

Representatives:

McGLAUFNIN of Portland
BURGESS of Rockland
PAYSON of Union
SILSBY of Aurora
WILLIAMS of Auburn
MUSKIE of Waterville

The Minority of the same Committee on the same subject matter

reported that the same ought not to pass.

(signed)

Representative:

WOODWORTH of Fairfield

Comes from the House, the Majority Report accepted, and the bill passed to be engrossed as amended by House Amendment "A."

In the Senate, on motion by Mr. Ela of Somerset, the Majority Report "Ought to Pass" was accepted and the bill was given its first reading. House Amendment A was read.

Mr. ELA of Somerset: Mr. President, I move that House Amendment A be indefinitely postponed. I would say that the purpose of this bill was to pay \$350 a year rental to the town of Skowhegan for the use of the room in their municipal building. It is a large room and the Court is in session practically continuously throughout the week, four or five days a week usually, and it seemed to be fair that the municipality of Skowhegan should receive recompense for that room.

There is sufficient precedent for that. A long list of towns do receive pay, such as Bangor, Millinocket, Old Town, Lincoln, Newport, Caribou, Fort Fairfield, Northern Aroostook, Presque Isle and Van Buren and some others.

This Court has jurisdiction not only in Skowhegan but by statute also sits in Fairfield, Madison and Bingham. This amendment if accepted would provide \$350 rental to all those places. They meet very infrequently in those places and there have been no requests or demands for rental in those places. In fact in some of them no quarters are offered or used. The purpose of the amendment frankly, is to kill the bill. I think there is merit in the original bill. There would be no merit whatsoever in the amendment which would provide \$350 each to those other towns which don't provide that amount of value.

Thereupon, on motion by Mr. Barnes of Aroostook, the bill and accompanying papers were laid up-

on the table pending motion by the Senator from Somerset, Senator Ela, that House Amendment A be indefinitely postponed.

First Reading of Printed Bills

"Resolve in Favor of the Town of Princeton." (S. P. 456) (L. D. 1520)

"Resolve Authorizing the Deer Isle-Sedgwick Bridge District to Release Certain Rights to Eunice Winslow of Rockland." (S. P. 667) (L. D. 1503)

Bill "An Act Relating to Punishment of Violations of Public Utility Laws." (S. P. 669) (L. D. 1521)

(On motion by Mr. Slocum of Cumberland, tabled pending assignment for second reading.)

"Resolve Proposing an Amendment to the Constitution to Authorize the Issuing of Bonds to be Used for the Purpose of Building Highway or Combination Bridges Authorized by the Legislature." (S. P. 670) (L. D. 1522)

Bill "An Act Relating to Deer Isle-Sedgwick Bridge District." (S. P. 671) (L. D. 1523)

(On motion by Mr. Noyes of Hancock, tabled pending assignment for second reading.)

Which bills and resolves were severally read once and tomorrow assigned for second reading.

Senate Committee Reports

Mr. Smart from the Committee on Claims on "Resolve to Reimburse the City of Gardiner for Sanatorium Treatment of Sylvester Van Sickle and Aid to Dependent Children of Cora Van Sickle." (S. P. 230) (L. D. 280) reported that the same ought not to pass.

Mr. Collins from the Committee on Labor on Bill "An Act Relating to the Weekly Payment of Wages," (S. P. 434) (L. D. 788) reported that the same ought not to pass.

Which reports were severally read and accepted.

Sent down for concurrence.

Mr. Collins from the Committee on Labor on Bill "An Act Relating

to Compensation for Specified Injuries Under the Workmen's Compensation Law," (S. P. 504) (L. D. 1005) reported the same in a new draft (S. P. 673) under the same title and that it ought to pass.

Which report was read and accepted, and the bill in new draft laid upon the table for printing under the joint rules.

Mr. Sleeper from the Committee on Salaries and Fees on Bill "An Act Increasing the Amount Available for Expenses of the Justices of the Supreme Judicial Court," (S. P. 418) (L. D. 511) reported that the same ought to pass.

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

Mr. Varney from the Committee on Claims on "Resolve in Favor of Myrtle Keefe, of Fryeburg," (S. P. 248) reported that the same ought to pass as amended by Committee Amendment "A".

Mr. Smart from the same Committee on "Resolve in Favor of York Electrical Company," (S. P. 570) reported that the same ought to pass as amended by Committee Amendment "A" attached herein.

Which reports were severally read and accepted, and the resolves laid upon the table for printing under the joint rules.

Mr. Varney from the Committee on Counties on Bill "An Act Relating to Number of Medical Examiners in Aroostook County," (S. P. 421) (L. D. 778) reported that the same ought to pass as amended by Committee Amendment "A".

Which report was read and accepted and the bill was given its first reading.

The Secretary read Committee Amendment A:

"Committee Amendment A to L. D. 778. Amend said bill by adding after the figure '5' in the 9th line thereof the underlined word 'each'."

Which amendment was adopted, and the bill as so amended was

tomorrow assigned for second reading.

Mr. Edwards from the Committee on Legal Affairs to which was re-committed Bill "An Act to Incorporate the Town of Norway School District," (S. P. 311) (L. D. 504) reported that the same ought to pass as amended by Committee Amendment "A".

On motion by Mr. Edwards of Oxford, the bill and accompanying papers were laid upon the table pending consideration of the report.

The Majority of the Committee on Salaries and Fees on "Resolve Appropriating Moneys to Continue the Cost of Living Increases of State Employees" (S. P. 382) (L. D. 647) reported the same under a new draft "A" (S. P. 674) under a new title, Bill "An Act to Appropriate Moneys to Continue the Cost of Living Increases of State Employees," and that the same ought to pass.

(signed) Senators:

COLLINS of Aroostook
HASKELL of Penobscot
SLEEPER of Knox

Representatives:

KENT of Randolph
CLAPP of Brooklin
BENNETT of Raymond

The Minority of the same Committee on the same subject matter reported the same under a new draft "B", (S. P. 675) under a new title, Bill "An Act to Appropriate Moneys to Continue the Cost of Living Increases of State Employees" and that it ought to pass.

(signed)

Representatives:

CAMPBELL of Garland
BROWN of Durham
LITTLEFIELD of Kenne-
bunk
MARTIN of Eagle Lake

On motion by Mr. Collins of Aroostook, the Majority Report "Ought to Pass under New Draft A" was accepted and the bill was laid upon the table for printing under the joint rules.

The Majority of the Committee on Salaries and Fees on Bill "An Act Relating to Fees of Deputy Sheriffs," (S. P. 121) (L. D. 142) reported that the same ought not to pass.

(signed)

Senators:

COLLINS of Aroostook
HASKELL of Penobscot
SLEEPER of Knox

Representatives:

CAMPBELL of Garland
BROWN of Durham
BENNETT of Raymond
CLAPP of Brooklin
KENT of Randolph
MARTIN of Eagle Lake

The Minority of the same Committee on the same subject matter reported that the same ought to pass.

(signed)

Representative:

LITTLEFIELD of Kennebunk

Which reports were read, and on motion by Mr. Haskell of Penobscot, the bill and accompanying papers were laid upon the table pending consideration of either report.

Passed to be Engrossed

Bill "An Act Relating to Increase of Salaries of Certain County Officials of Knox County." (H. P. 759) (L. D. 361)

Bill "An Act Relating to Salary of the Judge of the Rockland Municipal Court." (H. P. 856) (L. D. 337)

"Resolve Authorizing the State Plumbers' Examining Board to Issue a License to Philip N. Emmett of Southwest Harbor." (H. P. 1059) (L. D. 473)

Bill "An Act Relating to Grading of Apples." (H. P. 1108) (L. D. 534)

"Resolve Relating to Construction of Airports." (H. P. 1444) (L. D. 802)

Bill "An Act Relating to Sale of Malt Liquor and Vinous Liquor in Restaurants." (H. P. 1547) (L. D. 824)

Bill "An Act Creating the South Berwick Sewer District." (H. P. 1659) (L. D. 967)

Bill "An Act Relating to Salary and Bond of Recorder of the Rock-

land Municipal Court." (H. P. 1704) (L. D. 1024)

Bill "An Act Relating to the Duties of the Insurance Commissioner and State Fire Inspectors." (H. P. 1788) (L. D. 1127)

Bill "An Act to Increase the Salary of the County Attorney of Knox County." (H. P. 1797) (L. D. 1139)

"Resolve Relating to the Use of Seines in Medomak River, Lincoln County." (H. P. 1803) (L. D. 1145)

Bill "An Act Relating to Rules and Regulations of the State Liquor Commission." (H. P. 1857) (L. D. 1194)

Bill "An Act Relating to Elderly Teachers' Pensions." (H. P. 2045) (L. D. 1471)

Bill "An Act Relating to Group Life Insurance." (H. P. 2064) (L. D. 1497)

Which were severally read a second time and passed to be engrossed in concurrence.

Bill "An Act Relating to the Financial Responsibility Law." (H. P. 2027) (L. D. 1416)

Which was read a second time and passed to be engrossed in non-concurrence.

Sent down for concurrence.

Bill "An Act Relating to the Inspection and Regulation of Dog Kennels." (H. P. 1441) (L. D. 832)

Bill "An Act to Regulate Livestock Community or Commission Auctions." (H. P. 1443) (L. D. 877)

Bill "An Act Relating to Aid to Dependent Children." (H. P. 1551) (L. D. 869)

(On motion by Mr. Williams of Penobscot, tabled pending passage to be engrossed.)

Which were severally read a second time and passed to be engrossed, as amended, in concurrence.

Bill "An Act Relating to Unfair Methods of Competition and Practices in the Business of Insurance" (H. P. 1937) (L. D. 1317)

Which was read a second time.

Thereupon, Mr. Bowker of Cum-

berland presented Senate Amendment A and moved its adoption:

"Senate Amendment 'A' to H. P. 1937, L. D. 1317, Bill 'An Act Relating to Unfair Methods of Competition and Practices in the Business of Insurance.'

Amend said Bill by striking out the 1st underlined sentence of that part of said Bill designated 'Sec. 136-A' and inserting in place thereof the following underlined sentence:

'Any person required by an order of the commissioner under section 136 to cease and desist from engaging in any unfair method of competition or any unfair or deceptive act or practice defined in section 133 or whose license has been suspended or revoked may obtain a review of such order or act by filing in the superior court in Kennebec county, in term time or vacation, within 30 days from the date of the service of such order, a written petition praying that the order of the commissioner be set aside.'

Further amend said Bill by striking out the 1st underlined sentence of that part of said Bill designated 'Sec. 136-C' and inserting in place thereof the following underlined sentence:

'If the report of the commissioner does not charge a violation of sections 130 to 136-F, inclusive, then any intervenor in the proceedings may, within 30 days after the service of such report, cause a petition to be filed in the superior court in Kennebec county, in term time or vacation, for a review of such report.'

Which amendment was adopted, and the bill as so amended was passed to be engrossed in non-concurrence.

Sent down for concurrence.

"Resolve Relating to Unexpended Balances for Lobster Rearing Station." (S. P. 88) (L. D. 74)

(On motion by Mr. Ela of Somerset tabled pending passage to be engrossed.)

Bill "An Act Relating to the Re-use of Barrels for Food." (S. P. 443) (L. D. 795)

Which were severally read a second time and passed to be engrossed, as amended.

Sent down for concurrence.

Orders of the Day

On motion by Mr. Slocum of Cumberland, the Senate voted to take from the table bill, An Act Relating to the Military Law (H. P. 1513) (L. D. 891) tabled by that Senator on April 19 pending assignment for second reading; and on further motion by the same Senator, the Senate voted to reconsider its former action whereby it adopted Committee Amendment A.

Thereupon, the same Senator presented Senate Amendment A to Committee Amendment A and moved its adoption:

"Senate Amendment A to Committee Amendment A to L. D. 891. Amend said amendment, in the 7th and 8th lines of that part designated 'Sec. 2' by striking out the words and figures: 'not to exceed 9 in number' and inserting in place thereof the stricken out words and figure 'not to exceed 5 in number.'"

Mr. SLOCUM of Cumberland: Mr. President, this amendment merely changes in the amendment coming from the committee, the number 9 referring to the number of aides that the Governor may appoint to his staff. The present law permits the governor to appoint 'not to exceed 5' aides. The Committee Amendment raised that to nine. I am very sure that if a particular number is included in the bill, a Governor will be asked to appoint whatever number is included by the legislature. I have conferred with our present Governor and I have talked with two previous governors and they feel that the legislature has sufficient confidence in the Chief Executive not abusing the privilege of having the right to appoint as many aides-de-camp as he may desire. If a Governor doesn't want to appoint over five and the legislature says he shall

appoint not to exceed 9, there will be people asking for appointments until that particular number is filled, and some members of the committee felt that we might have a governor some time who would be very foolish and make a joke of aides on the governor's staff. Incidentally I have confidence in the people of the State of Maine to the extent that I am sure they wouldn't elect anyone to that high office who would make a joke of his office.

I further feel that the Governor may want to give a little recognition to some citizen or friend and he may do so by appointing him to his staff. I understand that the reason they increased the number from five to nine was so that a Governor could appoint the State Commander or state head of the various veterans organizations to his staff. It may be of interest to the members of the Senate that it costs the State of Maine nothing to have a man appointed to the governor's staff. In fact, the appointee has to furnish his own uniform. I feel that if this amendment passes it is an act of courtesy and consideration to our Chief Executive at present holding office and to those who will hold that high office in the future.

Mr. BATCHELDER of York: Mr. President, under our present law it calls for the appointment of five aides. I believe it was the intention of the committee that that should be stepped up to number 9 to take care of the various organizations. I don't believe we want to place ourselves in the same position as Kentucky which permits any unlimited number to be appointed to this particular office. Therefore I think the committee felt it should be limited to nine. We recognize that at the present time they do appoint up to five and would appoint up to nine if the law was as this committee recommended this bill to be. I therefore hope that the amendment is not adopted.

The PRESIDENT: The question before the Senate is on the motion of the Senator from Cumberland, Senator Slocum, that the Senate adopt Senate Amendment A to

Committee Amendment A. Is the Senate ready for the question?

A viva voce vote being had, the Chair was in doubt.

A division of the Senate was had.

Five voted in the affirmative and twelve opposed.

Mr. SLOCUM: Mr. President, I rise to a point of order.

The PRESIDENT: The Senator may state his point of order.

Mr. SLOCUM: Mr. President, I believe there were some Senators present and not voting.

The PRESIDENT: The Senator's point is well taken. The Chair would remind the Senators that unless excluded by personal interest, all Senators must vote. May the Chair inquire if the Senator from Cumberland would like to have the vote taken again?

Mr. SLOCUM: I would like to have the vote taken again, Mr. President.

A division of the Senate was had.

Five having voted in the affirmative and twenty opposed, Senate Amendment A to Committee Amendment A was not adopted.

Thereupon, on motion by Mr. Slocum of Cumberland, Committee Amendment A was adopted in concurrence and the bill as amended by Committee Amendment A was tomorrow assigned for second reading.

On motion by Mr. Savage of Somerset, the Senate voted to take from the table bill, An Act to Appropriate Monies for the Expenditures of State Government and for Other Purposes for the Fiscal Years Ending June 30, (S. P. 624) (L. D. 1360) tabled by that Senator on April 13 pending motion by that Senator that the Senate recede from its action whereby the bill was passed to be engrossed.

Thereupon, under suspension of the rules, the Senate voted to recede from its former action whereby the bill was passed to be engrossed and on further motion by the same Senator, the bill was re-committed to the Committee on Appropriations and Financial Affairs.

On motion by the same Senator, the bill was sent forthwith to the House.

On motion by Mr. Hopkins of Kennebec, the Senate voted to take from the table Senate Report from the Committee on Labor—Report A “Ought to Pass”, Report B “Ought Not to Pass” on bill, An Act to Provide Facilities for the Peaceful Settlement of Industrial Disputes Through Mediation (S. P. 191) (L. D. 244) tabled by that Senator on April 18 pending acceptance of either report.

Mr. HOPKINS of Kennebec: Mr. President and members of the Senate, I move the acceptance of Committee Report B “Ought Not to Pass” and I ask for a division when the vote is taken.

In opening the discussion on this measure this morning, I think I might first say that mediation, conciliation and arbitration without the power to make a binding decision and final arbitration with power to make binding decisions on both parties in labor disputes is a process which leads finally to a decision which is judicial in nature.

The decision of a Board sitting in arbitration in a labor dispute, with the power to make binding decisions may be likened to the position of a Court. When labor strife takes place always at the start one party or the other thinks they can win. That is a foregone conclusion. As the process develops, the conciliation effort may fail and lead finally to arbitration and final agreement between the contesting parties, and if they will accept decision of the arbitrator certainly it is a judicial action, and the basic thesis which I am going to develop in suggesting that you consider supporting my motion is that such decision should not be mixed with administrative law.

It is just as improper to mix arbitration under these conditions where decisions are really judicial in nature as it would be to mix administrative law with the work of the Court. That is the basis of

the thesis I want to develop. I suppose it might be well to develop a little information on the whole matter of labor law in this state. Legislating is an avocation with us. We don't work in any phase of the law throughout the year and it is only after studying the basic laws and giving proper consideration to those changes that we are able to properly do our work here.

I want to develop the discussion in four ways. First, I would like to speak a little about the history and origin of this bill and other labor laws which are before us, one of which was on the calendar this morning and others which will be in very soon. Then I would like to point out the nature of the labor laws here in Maine at the present time showing you the administrative laws and the laws which we have for the settlement of labor disputes and the laws dealing with the Maine Board of Arbitration and Conciliation. Then I would like to develop that it is traditional not only in Maine but on a federal level to keep separate administrative laws from the laws dealing with labor disputes. And finally, I would like to take the law which we have before us and show that it violates this traditional practice and would, if passed, result in the destruction or at least the impairment of the service of our impartial administrative Department of Labor and Industry.

We don't have a labor department in Maine or an Industrial department but we have a Department of Labor and Industry which is impartial and administrative in nature. If we place within its jurisdiction the duties of conciliation, mediation and arbitration in labor disputes we shall impair the effectiveness of that department. Last September the Commissioner invited me to call upon her and to discuss with her the proposed labor bills which would be introduced, and it was along toward the end of the year before I got time to do it but I did and this bill

originates with the Commissioner. The bill was first given to an experienced legislator here who has had a number of years of experience which familiarizes him with the subject matter but he didn't wish to sponsor the bill, probably because he was not in sympathy with it although I am not sure about that, and I introduced this bill at the request of the Commissioner.

I was glad to introduce the bill because I think it is our duty as legislators here to take any legislation which any department brings to us and lay it before the legislature without bias, insofar as we are able to control our bias, and present the facts and leave it to the legislature for decision.

Now, what are the labor laws of Maine? Sections One to Nine have to do with the Department of Labor and Industry here in Maine, the organization of the Department, and the next seven sections deal with the State Board of Arbitration and Conciliation. It is a separate department and has no connection with the Department of Labor and Industry whatsoever, and it files special reports with the Governor and Council before July 1st of each year. The next nineteen sections have to do with the labor of women and children, and we are amending some of those sections quite extensively this year. We have a bill which will come in, or perhaps it has already been passed here, dealing with that section of Maine law. Section 36 deals with seats for female employees in mercantile establishments, stores, shops, hotels, restaurants or other places where women or girls are employed. Section 37 deals with custodians of elevators and elevator operators. Sections 38 to 40 have to do with the payment of wages. Section 41 deals with unfair wage agreements, and sections 42 and 43 deal with workmen and contractors doing business within the state. Sections 44 to 50 deal with labels and trademarks of labor unions. Sections 51 to 73 deal with boilers and steam

pressure vessels, which is part of our Department of Labor and Industry and we have an extensive bill on that which will come to you for approval as it has the approval of the committee. Sections 74 to 99 deal with compressed air work. We have one of the most extensive compressed air codes in Maine that you will find anywhere in the country. Section 100 deals with pick clocks which is a phase of speed control in the textile industry. Sections 101 to 115, there is a whole special section dealing with the fish packing industry and sections 116 to 120 deal with the voluntary apprenticeship system. We have an apprentice council in Maine this being outside the Department of Labor and Industry.

Now every section which I mentioned to you except Section 16 which was the Board of Arbitration and Conciliation, and Section 116 to 120 which apply to voluntary apprenticeship system is administrative law and under the supervision of the Commissioner of Labor and Industry and that Commissioner in Maine is a member of the Industrial Accident Commission as you know.

Now the question is, should any state official in his administrative capacity be injected into labor disputes and have charge of labor disputes to the point where that official appoints people who make decisions in labor disputes which are judicial in nature? I think not.

I understand there has been judicial expression of administrative law and the laws dealing with labor disputes on the state level. If you will read the sections which I have enumerated you will find that is true.

Section 202 of the federal code dealing with the labor department reads as follows: "There is hereby created an independent agency to be known as the Federal Mediation and Conciliation Service (herein referred to as the 'Service')". And I think all of you people here, every one of the Senators, are familiar with the head of the federal

conciliation service, and have read about him and know his ability to sit as a conciliator in labor disputes and you probably also know that during the last few months there has been an effort in Washington to remove the conciliation service and make it a separate institution and put it in the Department of Labor; and the head of that service said that if that were done it would destroy the service and he would leave it after all his years of successful conciliation work.

Now, I only want to speak a few minutes on this. I could expand almost every single argument, but I will not do so. Look to the law, if you are interested in L. D. 244. I want to read for you that section which to me means that the Maine Commissioner can inject herself into labor disputes in Maine if this becomes law, whether she is invited to do so, or not.

"Subject to such rules and regulations as he may prescribe, the Commissioner may offer the services of the division in any labor dispute, either upon his own motion or upon the request of one or more of the parties to the dispute."

I think that the only interpretation you make out of that is that the Commissioner can, even though not requested, send conciliators wherever a labor dispute is threatened. Now, if you read further, you will notice that the Commissioner can appoint special mediators. And if you get down to Section 11, you will find that the basic arrangements now set up for mediation and conciliation in Maine are set aside insofar as the state board of arbitration and conciliation is concerned.

You will remember that since we came here recently we have increased the pay of the state board of arbitration and conciliation. I wouldn't contend that there was no need for improvement in the law as regards to the state board of arbitration and conciliation. Perhaps there is. I know they are not used extensively, but perhaps that is a good point in the State of

Maine, that we don't have any great number, although I think you all know that we have had some quite violent labor disputes.

Section 11 in the present law reads, "Whenever it appears to the mayor of a city or the selectmen of a town or any citizen of the state directly involved or about to be involved therein that a strike is seriously threatened, or a strike actually occurs, he or they shall at once notify the state board of arbitration and conciliation and each notification may also be given by the employer or employees actually concerned in the dispute, strike or lockout. If, when such strike is threatened or actually occurs, it appears that as many as ten employees are directly concerned therein, the state board of arbitration and conciliation shall, and in any case may, as soon as may be, communicate with such employer and employees and endeavor by mediation to obtain an amicable settlement or endeavor to persuade such employer and employees to submit the matter in controversy to a local board of arbitration and conciliation or to the state board. The board shall have authority to subpoena either party. If the matter be submitted, and the parties involved in the dispute, strike or lockout, or their proper representatives, agree to abide by the decision of the board to which it is submitted, said board shall investigate such controversy and ascertain which party is mainly responsible or blameworthy for the existence of the same, and the board may make and publish a report finding such cause and assigning such responsibility or blame."

That whole provision is taken out under this bill. In other words, we have changed our whole procedure if this bill is enacted, placing in the hands of the Commissioner the right to, herself, or through her employees of the Commission she may select, inject herself into any labor dispute, whether invited to do so or not by either or both parties. And to proceed on that basis,

you would go through the process of conciliation and eventually of arbitration. Now, under the present conciliation laws, the decisions of the board of arbitration and conciliation are binding on both parties only if they assent. Even under those conditions, they may, under written notice, I think sixty days' written notice dissent from the decision. That is the present law. That is continued here in this bill with the decision being left in the hands of any arbitrators the Commission of Labor may select.

Now, that is the issue of this bill. I point out to you that in my opinion it is not proper to place the conciliation service in the hands of the Department of Labor and Industry, a joint department, an administrative Department, which supervises this whole Section 25 with the exception of the two short sections that I have mentioned to you, and to place that person in such a position as that, because the decisions that are handed down by the people under the Commissioner will be praised or damned. That is the very nature of labor work. Mr. Ching, to be sure, has a high reputation. People respect him in both labor and management. He has established that reputation by long years of faithful service. But don't think for a minute there have not been times when he has not been roundly praised and roundly cursed. To have a Department of Labor and Industry in such a position, the Commissioner would be roundly praised and roundly cursed. And to have that person administering this tremendous amount of, I think, very important law seems to be entirely unsound. I hope that I may have the support of the Senators who think with me in that matter.

Mr. HASKELL of Penobscot: Mr. President and members of the Senate, I had sincerely hoped that unlike the last session, this would be a session wherein the Senator from Kennebec, Senator Hopkins and myself would not involve ourselves in debating many labor bills. Fortu-

nately, those debates have been few. I think I should first recite to the Senate the reasons that I think prompted the Senator from Aroostook, Senator Collins, and myself to sign the ought to pass report on this bill. I think the major reason that we believe in the bill is that we believe in mediation.

Now, the Senator from Kennebec, Senator Hopkins, has injected into his argument, erroneously I think, the arbitration function in labor disputes. This bill deals only with mediation, and in no respect points out any path to arbitration that is final and binding on both parties.

We had an excellent hearing on the bill. The proponents pointed out the value and desirability of mediation as a means of precluding the more serious strike threat that always comes when mediation efforts fail.

Labor relations, basically, are simple. The first step is the meeting between management and labor, and if management and labor do not agree, the next step is mediation. It is provided for in all basic labor contracts. I wish that the issue could be resolved to the question, shall a public authority represented by the state take any initiative in mediation. I think those opposing that law would be standing on weak ground, because more important than the position of labor, and more important than the position of industry is the position of the public. Any effort on the part of government to protect the public right by offering reasonable mediation service ought to be supported.

I have had the good fortune to have some experience in labor relation problems over the last ten years, a substantial part of which was with the War Labor Board. In case after case that unnecessarily reached the arbitration state — and remember during the war we had compulsory arbitration — they reached that state because adequate mediation facilities were not available. Now, what does this bill do? It does the exact same thing that

is going on every month in the State of Maine, and I will recite a particular case as truthfully as I can to you.

The contracts in the company that I work for have calendar contracts and provide for conferences in the Month of November. In our transportation contract, the demands this year were for twenty-five cents. The company's position was for four cents. The company defended its position by pointing out that four cents represented all of the profits in the business. Labor substantiated its position by pointing out cost of living increases that require twenty-five cents. Labor took the natural step and asked for and passed a strike vote. Then labor asked a federal conciliator to come into the picture. The federal conciliator called management and advised us of that request from labor, and noted that not being in interstate commerce he realized he could not come into the picture unless by invitation. Management welcomed him in the picture. I next had a call from our Commissioner of Labor in which she, too, acknowledged she had no statutory right whatsoever to be in the picture, but inquired if we would object if she joined the federal mediator in considering the case. Management of course agreed. She came to Bangor and sat down with the two parties. We presented our arguments. She then met with management in one office and then with labor in another office, and in this particular case thought the viewpoint of management was correct. I am told when she met with labor she pointed out that even though she happened to be mediator without any authority, the position of management was reasonable she thought.

Within twelve hours, the union had voted to accept the contract. It could just as well have been the other way around and management's position been unreasonable. To me, that is an example of the value of mediation, and there is not a single thing in this bill, Sen-

ators, that goes beyond mediation. There is no reference to compulsory and binding arbitration, and if you vote for the motion of the Senator from Kennebec, I believe you are really stating that you do not believe that the state should represent the public interest by offering mediation service.

It is needless for me to point out the type of strike that does affect the public interest, but it is also equally difficult for the Senator, I think, to point out the type of labor dispute that does not need sensible, honest mediation.

When the bill was heard, industry had its good representatives there, and they opposed the bill because they opposed the principle of the public interest being represented in a labor dispute. They held to the rugged theory that it is better in the public interest to let dog eat dog and let the public suffer. I don't hold with that viewpoint. I tried honestly and sincerely to have each of those opponents tell me what type of labor dispute they thought should not be subject to mediation. There may be some type of labor dispute, some incipient trouble, that can lead to a strike or a lockout. So far as I can remember, not one of those persons could point out any type of labor dispute that should not be mediated.

Now, the point has been brought up that this should not be in the Department of Labor and Industry. That point may be well taken and should be supported by those who believe that this is not a Department of Labor and Industry, but a Labor Department. I am not one who believes it. I saw the present Commissioner in action, and saw her support in one particular case the position of management.

The Senator has pointed out the ill effect of a state agency incurring the pleasure or wrath of labor or management, and that I agree with. But I also pointed out that any successful mediator, or any successful arbitrator must in fairness disappoint one side or the other. If that is not in the interest of the public to adjudicate

those things fairly—and remember we are only talking about mediation, not about compulsory and binding and final arbitration; it is only the mediation step—it seems to me that citizens of the State of Maine are best served by having that agency.

Now, the Senator has also pointed out that there is danger in giving to the Commissioner such of these mediation rights as are recited in the bill, but those rights are simply the right to select mediators. Now, I agree that our state board of arbitration and conciliation should be able to handle all mediation cases. But in good mediation or in good conciliation, there should be available to the parties, mediators, or conciliators who are well acquainted with the problem in dispute. We have an excellent board of arbitration and conciliation. But whoever may be on that board, I don't believe that they would have the breadth of experience, or the qualifications to mediate all types of labor disputes.

Again referring to War Labor Board days, we had our own teams that worked on different industries. It happened that some of my assignments included the brass industry, the textile industry, and the fish industry. Others had the truckers; others had the bakeries; others had the department store problem. And in their work, they became experienced with the problems of both management and labor in the factories where they had had that experience. The intent of this bill is to permit the Commissioner to appoint mediators capable of mediating labor disputes in different industries.

Now, to me, the only valid argument against the bill are the few words that provide the "Commissioner may on his own motion inject himself into a dispute." I debated at great length with myself as to whether I would sign a report with an amendment that took that out. And the thing that made me decide I should not do it is again the public interest. Let me recite you a fish case in 1945 where man-

agement locked out after labor had struck and tied up the fish pier in Boston. Under War Labor Board procedures, we did have a right to get into the dispute. We did this and settled the dispute. But there we had a case where both sides had economic reasons—and those economic reasons were that management were so far in excess profits taxes, that they did not care, and labor was so far in the upper brackets of income taxes that they didn't care.

One side wanted to tie up the boats. The other side wanted to go fishing. Again, you see labor disputes in the State of Maine where both sides can say, we do not want to mediate. We will let the public interest go by the board. And the public will suffer. That is the only thing that I think you can present as a valid argument against the bill. And if it is on that issue, and you don't believe that we have the ability in the State of Maine to inject ourselves into labor disputes only when there is substantial public interest involved, it may be well to strike that out. But I believe in view of the fairness and sense which we have got to allocate to those departments here, that section of the law will be used only when there is a real public interest involved, and for that reason I did not sign a committee amendment to take it out. And in debating the bill, I am debating it as it is written. It is certainly in no way, shape or manner a Republican bill, but it is still a bill, I think, that best serves the public interests. It does not confer upon the Commissioner of Labor any judicial right whatsoever. It does not confer any arbitration right whatsoever upon the Commissioner, and ought, in fairness to the public interest where strikes can be harmful and lockouts can be harmful, to be given to the people of the State of Maine.

It is a tool, undoubtedly, that will be used as rarely as the Board of Arbitration and Conciliation is today, but I think it is a progressive bill insofar as the public interest is

concerned. I agree with the Senator that it should have full debate and ought to be decided on the fundamental question of whether you want your state to serve your people in offering mediation only in labor disputes. I thus hope that the majority report, insofar as the Senate is concerned, does prevail.

Mr. COLLINS of Aroostook: Mr. President and members of the Senate, the Senator from Penobscot has so ably presented the worth of this bill and its merits, it leaves very little to be said. However, as a signer of the ought to pass report, I do feel that I wish to express myself in accord with the principles of the bill, in the fact that mediation can be accomplished by it; that it does not carry it to the point of arbitration or compulsory arbitration which I would not be for, and that I see no great disadvantage in the fact that it is to be handled by the Department of Labor and Industry.

I believe that with their power to appoint mediators who would be specialized, perhaps, in the questions that were involved, that the questions could be settled without further trouble, and that it would be in the best interest of the public and of the state. For that reason, I signed the ought to pass report of the committee.

Mr. HOPKINS of Kennebec: Mr. President and members of the Senate, I think that the Senate can well imagine that if any one of us had served as chairman of the committee on labor for three terms, as I have, you would have had representatives of both labor and management say to you, as they have said to me, not very often but occasionally—I think that somebody as the head of the Department of Labor and Industry of Maine ought to come from our ranks and understand our problems better. That is a natural position for anybody to take.

I raise this question. Suppose we were to have a Commissioner of Labor and Industry that was biased for either labor or management, and

that Commissioner had this bill to administer. Do you believe there would ever be, under that condition, any voluntary conciliation and arbitration in Maine through that Department? I think you can well imagine that there would not. Senator Haskell, and I am sure Senator Collins are in complete agreement that mediation and conciliation early in difficulties is desirable. They want a board here in Maine that is responsive to early requests for conciliation by municipal officers, or by the parties in interest, and we want our law to be such as to promote that.

The Senator from Penobscot says this deals only with mediation. I have read to you Section 11 of the present law dealing with the present board of arbitration and conciliation and pointed out to you that that section is deleted under this bill. That deletion takes out the part which says, "The board shall have authority to subpoena either party. If the matter be submitted, and the parties involved in the dispute, strike or lockout, or their proper representatives, agree to abide by the decision of the board to which it is submitted, said board shall investigate such controversy and ascertain which party is mainly responsible or blameworthy for the existence of the same, and the board may make and publish a report finding such cause and assigning such responsibility or blame." That is struck out of the present law. Now, if you will take Section 12 under the present law which is left in and read that, you will find it says as follows: "The board shall hear all persons interested who come before it, advise the respective parties what ought to be done or submitted to by either or both to adjust said controversy, and make a written decision thereof, which shall at once be made public, and shall be open to public inspection, and shall be recorded by the secretary of the board; said decision shall for six months be binding on the parties who join in the agreement as specified in section eleven or until

the expiration of sixty days after either party has given notice to the other in writing of his decision not to be bound thereby; such notice may be given to the employees by posting it in three conspicuous places in the shop, factory, yard or other place where they work."

Now, if that is not arbitration, I don't know it. I think that definitely is arbitration. Here is one section where we have employers and employees dealing with the state board of arbitration and conciliation, and they may assent to the findings of the board but are not required to assent to the findings of the board, and the board may publish a report as to which is blameworthy. That is arbitration and not conciliation. I think that the Senator from Penobscot is very much mistaken when he says this bill does not deal with arbitration. That raised the point, shall the public authority take the initiative in some cases? Certainly, municipal officers, and in some cases the Governor should call on the board of arbitration and conciliation under existing law.

I think you will agree that when labor or management enters into a labor dispute, one party or the other thinks that they are going to win. They don't want conciliation or arbitration, as they think they are going to win. It is only when the tide turns, and it is evident that they may lose, do they want conciliation. If you have a board of conciliation, it wouldn't go into operation too quickly on the average labor dispute. It might on some, but on a lot it would not. Even if he believed in arbitration and the Commissioner of Labor could appoint conciliators and they did immediately rush into a plant where there was a pending labor dispute, I don't believe they could do any work until the contesting parties were willing to have them go to work, and I don't believe that the contesting parties would be willing to have them go to work until the party that was certain they were going to win changed his mind

and thought it would lose. Then, they would want conciliation. Certainly, nobody wants compulsory arbitration. That is one thing that most everybody agrees on—employers, employees and everybody else. The one thing you don't want to set up is compulsory arbitration. I don't think it does much good to set up compulsory conciliation either.

Some reference has been made to those who oppose the public interest. I have never seen anybody for whom I had any very great regard either, from the standpoint of sincerity or ability that put public interest in any labor dispute, or opposed having proper public authorities represent that interest. I think it is accepted on the part of good labor leaders, and on the part of management, at least all of the management that I know, that labor disputes are matters in which the public has an interest and the public is willing to have that interest represented by proper public authority.

I didn't catch all of the Senators words, so I don't know definitely who he referred to as opposing having the public interest represented in labor disputes. But I don't know where it exists. I think this bill ought not to pass, and I hope that my motion may have support.

The PRESIDENT: The question before the Senate is on the motion of the Senator from Kennebec, Senator Hopkins, that the Senate accept Report B "Ought Not to Pass"

A division of the Senate was had. Seventeen having voted in the affirmative and seven opposed, the motion prevailed and Report B "Ought Not to Pass" was accepted.

Sent down for concurrence.

On motion by Mr. Ela of Somerset, the Senate voted to take from the table Resolve Relating to Unexpended Balances for Lobster Rearing Station (S. P. 88) (L. D. 74) tabled by that Senator earlier in today's session pending passage

to be engrossed; and on further motion by the same Senator, the resolve was passed to be engrossed.

Sent down for concurrence.

On motion by Mr. Savage of Somerset, the Senate voted to take from the table bill, An Act Appropriating Moneys for Anticipated Overdrafts in the Department of the Adjutant General Due to Insufficient Appropriations (H. P. 1947) (L. D. 1320) tabled by that Senator on April 4 pending passage to be engrossed; and on further motion by the same Senator, the Senate voted to reconsider its former action whereby it adopted Committee Amendment A.

Mr. SAVAGE of Somerset: Mr. President, I now move the indefinite postponement of Committee Amendment A, and in support of that motion I will say that I have Senate Amendment A which I wish to present.

The motion prevailed and Committee Amendment A was indefinitely postponed.

Thereupon, the same Senator presented Senate Amendment A and moved its adoption:

"Senate Amendment 'A' to H. P. 1947, L. D. 1320, Bill 'An Act Appropriating Moneys for Anticipated Overdrafts in the Department of the Adjutant General Due to Insufficient Appropriations.'

Amend said Bill by striking out all after the words "not otherwise appropriated" in the 5th line and before the "Emergency clause" and inserting in place thereof the following:

Adjutant General, Department of Appropriation 1948-49		
	No.	Amount
Administration	2810	\$20,110
Military fund	2830	10,905
Operation of armories	2850	14,635
Total		\$45,650 "

Mr. SAVAGE of Somerset: Mr. President, I will say in support of that amendment that in making up the budget for this year, the Adjutant General anticipated he

was going to have \$58,600 of federal funds but instead he was cut to \$20,000 and that is all he has received and all he is going to receive and he will be out of funds either the last of this week or the first of next.

Thereupon, Senate Amendment A was adopted and the bill as so amended was passed to be engrossed in non-concurrence.

On motion by Mr. Cobb of Oxford, the Senate voted to take from the table Senate Report "Ought Not to Pass" from the Committee on Ways and Bridges on bill, An Act Providing for Construction of Roadside Picnic Areas (S. P. 589) (L. D. 1247) tabled by that Senator on April 7 pending consideration of the report; and on further motion by the same Senator, the "Ought Not to Pass" report was accepted.

Sent down for concurrence.

On motion by Mr. Knights of York, the Senate voted to take from the table bill, "An Act Relating to Slash, Brush, and Debris Disposal, (H. P. 1991) (L. D. 1376) tabled by that Senator on April 7, pending consideration of Senate Amendment A; and that Senator presented Senate Amendment C and moved its adoption:

"Senate Amendment "C" to H. P. 1991, L. D. 1376, Bill "An Act Relating to Slash, Brush and Debris Disposal."

"Amend said Bill by striking out all of the Title thereof after the words "Relating to Slash" and inserting in place thereof, the following: 'and Brush Disposal'.

"Further amend said Bill by striking out all of the headnote of that part designated "Sec. 68" and inserting in place thereof the following: '**Disposal of slash and brush; penalty**'.

Further amend said Bill by adding after the underlined word "cut" in the 2nd line of subsection I of that part designated "Sec. 68" the underlined word '**hereafter**'

"Further amend said Bill by striking out the underlined word

"debris" in the 4th line of subsection I of that part designated "Sec. 68" and inserting in place thereof the underlined word 'brush'; and in the same line thereof, strike out the underlined words "inflammable material" and insert in place thereof the underlined words 'slash and brush'.

"Further amend said Bill by striking out the underlined figure "100" in the 5th line of subsection I of that part designated "Sec. 68" and inserting in place thereof the underlined figure '50'

"Further amend said Bill by adding after the underlined word "cut" in the 2nd line of subsection II of that part designated "Sec. 68" the underlined word 'hereafter'

"Further amend said Bill by striking out the underlined word "debris" in the 5th line of subsection II of that part designated "Sec. 68" and inserting in place thereof the underlined word 'brush'; and in the 5th and 6th lines thereof, strike out the underlined words "inflammable material" and insert in place thereof the underlined words 'slash and brush'

"Further amend said Bill by striking out all of subsection III of that part designated "Sec. 68" and inserting in place thereof the following underlined subsection:

"**III. Land bordering on another.** Whoever, as stumpage owner, operator, landowner or agent, cuts, causes or permits to cut any forest growth on land which borders forest growth of another within the state outside the limits of the Maine forestry district or within the Maine forestry district which borders property outside shall dispose of the slash and brush in the manner hereinafter described: All slash and brush resulting from such cutting of forest growth shall not remain on the ground within 25 feet of the property line, provided that the commissioner or his own initiative or upon written complaint of another declares that the situation constitutes a fire hazard.'

"Further amend said Bill by inserting after the underlined word "cutting" in the 2nd line of sub-

section IV of that part designated "Sec. 68" the underlined word 'hereafter' ; and in the same line strike out the underlined word "debris" and insert in place thereof the underlined word 'brush'

"Further amend said Bill by adding after the underlined word "cutting" in the 2nd line of subsection V of that part designated "Sec. 68" the underlined word 'hereafter'; and by striking out the underlined word "debris" in the 4th line and inserting in place thereof the underlined word 'brush'; and in the 4th and 5th lines thereof, strike out the underlined words "inflammable material" and insert in place thereof the underlined words 'slash and brush'

"Further amend said Bill by striking out all of subsection VI of that part designated "Sec. 68" and inserting in place thereof the following underlined section:

VI. Manner of removal or disposal. All slash and brush resulting from cutting hereafter of forest growth shall be removed the required distances under the provisions of this section and scattered and not piled in windrows, within 30 days after cutting or 30 days of notification to remove by the forest commissioner or his representatives. Whoever violates any of the provisions of this section shall on conviction be punished by a fine of not exceeding \$100, or by imprisonment for not more than 30 days, or by both such fine and imprisonment. The failure of any person to comply with the provisions of the foregoing sections shall constitute a continuing offense and he shall be subject to the penalties herein provided until he complies therewith.'

"Further amend said Bill by striking out all of the headnote of that part designated "Sec. 68-A" and inserting in place thereof, the following: 'Slash and brush burning permits; penalty'

"Further amend said Bill by striking out the underlined word "debris" in the 3rd line of that part designated "Sec. 68-A."

"Further amend said Bill by striking out all of that part desig-

nated "Sec. 69" and inserting in place thereof, the following:

'Sec. 69. Disposal of slash and brush on construction and maintenance of railroads, highways, electric power, telegraph, telephone or pipe lines; penalty. Slash and brush accumulating by the construction and maintenance of railroads, highways, electric power, telegraph, telephone or pipe lines shall not be left on the ground. Disposal of slash and brush, resulting from the construction and maintenance of railroads, highways, electric power, telegraph, telephone or pipe lines may be done by either hauling away or burning. However, any burning must comply with the provisions of section 68-A governing permits and conditions suitable to burn.

"Any violation of the provisions of this section by the person responsible therefor, or his employer, whether individual, firm or corporation shall be punished by a fine of not more than \$100, or by imprisonment for not more than 30 days, or by both such fine and imprisonment.' "

Mr. ELA of Somerset: Mr. President, I move that reading of the amendment be dispensed with and that the amendment be adopted and printed.

The motion prevailed and Senate Amendment C was adopted and ordered printed.

Thereupon on motion by Mr. Ela of Somerset, Senate Amendment B was indefinitely postponed.

The PRESIDENT: Is it the pleasure of the Senate that the bill be passed to be engrossed as amended by Senate Amendments A and C? It is a vote.

Mr. ELA: Mr. President, may I inquire if Senate Amendment A was adopted? I think it was not.

The PRESIDENT: The Chair will state that the Senator is correct. Senate Amendment B was adopted and subsequently indefinitely postponed. Senate Amendment A was adopted and subsequently reconsidered and is now in the possession of the Senate. What disposal does the Senator wish to make of Senate Amendment A?

Mr. WILLIAMS of Penobscot: Mr. President, I think it is fortunate that we had a lot of material in this bill when we started adding amendments, and there is plenty left. Senate Amendment C covers all that was in Senate Amendment A and I therefore move the indefinite postponement of Senate Amendment A.

Thereupon, the Senate voted to reconsider its former action whereby the bill was passed to be engrossed as amended by Senate Amendments A and C; Senate Amendment A was indefinitely postponed, and the bill as amended by Senate Amendment C was passed to be engrossed in non-concurrence.

Sent down for concurrence.

On motion by Mr. Barnes of Aroostook the Senate voted to take from the table bill, An Act Relative to Night Hunting (H. P. 2029) (L. D. 1422) tabled by that Senator on April 14 pending passage to be enacted.

Mr. BARNES of Aroostook: Mr. President, I am going to move for indefinite postponement of this bill, and I realize full well that I may not get anywhere with my motion. But I would like to bring to the attention of the members of this Senate the reasons for which I make this motion. Two years ago the minimum fine for night hunting was fifty dollars. There were several bills introduced into the Legislature that session relative to increasing the penalties for night hunting, at least one of which was to have a compulsory jail sentence for a first offense. The committee to which the bill was referred two years ago on a similar bill increased the fine from fifty dollars minimum to one hundred dollars, and also provided in the discretion of the Court for a jail sentence for the first offense, and for the second offense the fine was increased from two hundred dollars to four hundred dollars and in the discretion of the Court sixty days in jail additional.

Now, at this session, I realize the Inland Fish and Game Committee has had a tough time with these bills that have been before it this year relative to night hunting. They have had bills that would require, and I think this originally would require, a jail sentence for a first offense, and this bill that is now before us is the result of compromise. I hold no brief for night hunters, particularly those who are engaged in night hunting as a business venture in the illegal shooting and selling of deer. It seems to me, however, that the present law without this amendment is wholly sufficient to put a curb and a brake on night hunting. You can, at the present time, without this law, on properly alleging a second offense for night hunting, give a fine of four hundred dollars, as I understand it, and up to sixty days in jail. And it seems to me that if any court in this state had evidence that a man was in the business of night hunting on a second offense, he would certainly give him that four hundred dollar fine and sixty days in jail, and it seems to me that would put a curb on it and brake on it to a sufficient degree.

I know the citizens in my own town, in my own local fish and game club, the boys in the club almost get into a condition of hysteria when they get to talking about night hunting, and they came down here in force to Augusta, and they besieged Senator Ela's committee demanding these stiff penalties. It used to be in the old days in England that a man could be hanged for stealing a loaf of bread. We have gotten away from that to some degree. If this bill was passed the fine for night hunting would be just double the fine for night hunting, which is double the fine that is imposed for drunken driving. It seems to me this thing has tipped the other way, and that this law wouldn't be wise.

Now, here is my strongest reason for opposing this bill. For a second offense, under this bill, the mini-

mum fine would be four hundred dollars and thirty days in jail, which couldn't be suspended or abated. So that on a second offense, a man would have to go to jail. There is no discretion in the Court. From my sixty years of experience as a prosecuting attorney in Aroostook County, I found that, on a parallel with the drunken driving law, that very seldom if ever was a second offense alleged. And if a second offense were alleged, it was practically impossible to gain a conviction.

You, I believe, have to leave it in the discretion of the Court as to whether a man should go to jail or not for an offense of this kind. We have moved a long way since the early days of this state when citizens of the state could go out at any time of the year and shoot as many deer as they wanted to in the night time, or in the day time. We have had to protect our deer here in the state which are a great attraction for out-of-state hunters to come in here and spend their money. But unfortunately this bill goes a great deal too far.

I have talked it over with our own county attorney this past weekend. I have discussed it with various members of the fish and game club, and when they understood the situation, they, too, felt that this was probably too steep and heavy a penalty. Under this law, if it were passed, a man could be fined eight hundred dollars and given ninety days in jail for going out and shooting a deer at night. As I say, I hold no brief for night hunters, but I think the law as it was passed two years ago is sufficient to curb the practice of night hunting, and I don't believe this is a wise law.

As I said in the beginning, I realize that I may not prevail in this motion against a bill that has come out with a unanimous committee report, but in my own conscience I feel that this is a wrong bill and that we have plenty of law on the books without it. I therefore hope my motion to indefinitely postpone it will prevail.

Mr. BOWKER of Cumberland: Mr. President and Members of the Senate, as a member of the Committee on Inland Fish and Game, I certainly oppose the motion of the Senator from Aroostook, Senator Barnes. This particular bill, I think, is a good bill. I think it is one of the most important bills that we have had before the Committee. We had a good hearing on the bill, and I think the proponents that spoke for the bill, the fish and game associations representing the entire state, really wanted us to come out with a bill that would be much stronger than this one. They really wanted to throw the book at the night hunters. The fish and game associations all over the state are talking conservation. The night hunter, the fellow that goes out night hunting, is really in business and is commercializing on it.

My thinking is that they should get a jail sentence, a mandatory jail sentence on the first offense. I mean, you can't do enough to make them stop this night hunting. Now, we held this bill in committee and some of the members of the committee went over it almost every day for eight or ten weeks and tried to come out with something that everybody could agree on. And this is the final bill. We did feel that on a mandatory jail sentence on the first offense it could be that an innocent party might be sent to jail. We did feel that that should be left up to the discretion of the Court. I really am surprised to think that the Senator hadn't tagged the bill before it came up to final enactment, but I have been waiting with my fingers crossed, hoping it would go along.

The fine of two hundred dollars on the first offense and not more than four hundred, that doesn't mean a thing to these boys that are going out and making a business of this jacking. They will just laugh at the Court, pay the fine, and then start right in the next night again. We feel that the cost is little enough, and that it certainly should be increased to two hundred dollars

and not more than four hundred, and in the discretion of the court a jail sentence on the first offense, and a mandatory jail sentence of thirty days on the second offense.

I certainly hope that the motion of the Senator does not prevail.

Mr. SLOCUM of Cumberland: I hate to disagree with my colleague, the Senator from Cumberland County. There was a bill presented to this Legislature for a mandatory jail sentence for sex crimes. This Senate turned it down. I am very sure that the protection of our young folks from sex maniacs is much more important than protection from those who hunt at night. I believe that the discretion of the Court if it is all right in sex crimes, should be all right in night hunting.

I hope the motion of the Senator from Aroostook prevails.

Mr. BARNES of Aroostook: Mr. President, I want to point out in relation to the remarks that were recorded from the Senator from Cumberland, Senator Bowker, and I want to reiterate that at the present time without this law, a second offender can be punished by a fine of four hundred dollars and sixty days in jail.

Now, I assume that the wardens know pretty well the men who are in the business, and I assume that if a man is brought in one night and goes right out the next night and does this over again, that he would be apprehended and brought in for a second offense. I also have another fear. A few years ago, I was in a case in Aroostook County involving night hunting where a game warden was shot at, and if he hadn't been holding his flashlight in his hand this way, he would have been killed. There was another instance in Aroostook County where a game warden was killed. There is another instance in Aroostook County where a game warden, and one of the finest game wardens we ever had, was hit over the head with a rifle butt and rendered so that the rest of his life he was a hopeless cripple.

Now, if you make this bill into a law, there are going to be more of our good wardens shot at night, because people who have done it before would do almost anything to get away from this proposition of having to go to jail. The law, I repeat, is sufficient in its present form, in my estimation, and I hope my motion does prevail.

Mr. KNIGHTS of York: I have many experiences during my life, and one of those is that I have been a Trial Justice in York County for forty two years, and during that period I have met all of these problems that the Senators have spoken of. And in this slash law that we have just passed this morning, I objected to that, principally, because that law, as it was enacted, would have taken away from judges that one power of discretion.

Now, I am a friend of all the fish and game clubs in my county. In fact, as I told you the other day, I am connected with the Sanford and Springvale Fish and Game Protective Association, one of the largest sportsmen's organizations in New England. They have instructed me to vote for this bill. But I know that those people in York County never sent me to be a Charlie McCarthy. They thought I possessed a little judgment, and I know they want me to use that. We already have on the statute books sufficient to cover the offense in question. You can't sentence a man to thirty days under water, but you can keep him in jail thirty days if you want to under the first offense, and I certainly hope that this motion of the Senator from Aroostook prevails.

Mr. ELA of Somerset: Mr. President, as Senator Bowker has said, probably the night hunting bill was one of the most important bills we had in the Fish and Game Committee, and we certainly did give it our sincere effort and brought out what we thought was the best for the state. The present law, described as adequate, does not work. Definitely, it does not stop violations. There probably were more violations of the night hunting law last fall than

have ever occurred in the history of the state. It was practically a state scandal. There were areas where organized gangs rode the highways; set up road blocks; broke every provision of the law which was on the books. The profits to a violator is tremendous under present conditions. The present fine did not deter him from night hunting. He could I say, in one or two nights earn enough to make up that fine. Groups even organized, insured each other so that if one were caught, the rest would pay his fine. Stiff infractions require stiff penalties. If conditions were normal, I would certainly say this law is too tough. But if we are going to have any semblance of law and order in our game laws, particularly regarding night hunting, we have got to act on this matter.

It is not fair to the hunters who buy licenses and want to go hunting in the fair manner to find the game in particular areas cleaned by the jackers. I know that the complaint is from Aroostook County, particularly. Day after day in our committee hearings we were told that the conditions as far as deer were concerned in Aroostook County were terrible, and the deer population had dropped tremendously. I don't know; it may not be because of night hunting. But at least if conditions in Aroostook County are bad as relating to deer, certainly this would help.

Much has been made of the idea that prosecuting officers might not like so stiff a law. Prosecuting officers never like stiff laws. It is harder to get prosecutions. We grant that. But there is another side. We hire prosecuting officers to do our will. We even hire judges to enforce the law. The big interest is the public interest. If we determine that the present law is not adequate, and that this law which is proposed is proper and adequate, it is then the duty of the enforcement officers to take that law which we give them and enforce it. I don't believe that if we pass this law, the wardens will avoid doing their duty. They are a courageous group, and I

rather believe that if we give them the tool to work with—that is a good stiff law—they will endeavor to enforce it.

Night hunting is something that is not easy to stop. If we get this till, I think a great deal of the trouble will be stopped through fear of being caught. Fines don't seem to do it. Fear of a jail sentence, I think, will do it.

Practically every organization on conservation was in at this hearing. The Senate chamber was crowded. Every section of the state called for a bill much much stiffer than this one. As I recall it, there was little or no opposition. I realize that the Senator from Aroostook has a point that even if nobody appears against a bill, the Committee must guard the interests of those who were not here. Still, I believe that with the present conditions and the scandal of night hunting in its present state that for a time at least this stiff law should be in effect.

Mr. BARNES of Aroostook: I hesitate to get on my feet a third time on this matter, but I just happen to have here a report of Aroostook County for last year, and it includes the report of the Sheriff for the prisoners in jail. Assault and battery is either a felony or a misdemeanor according to the seriousness of it. And of course, a felony is punishable by imprisonment in state prison. I note that he had twelve in for assault and battery. Breaking, entry and larceny, and breaking, entry and larceny in the nighttime are both felonies. And in spite of the fact that a state prison term looms in front of anyone who commits this crime, he had fourteen for one and nineteen for the other. Drunken driving, on the second offense, there is a mandatory jail sentence, and I notice he had sixty-eight in jail for drunken driving last year.

Intoxication carries a mandatory jail sentence after a certain number of offenses, and he had 422 of those. You can't stop a particular crime by imposing a heavy penalty.

I mentioned in my opening remarks that they used to hang men in England for stealing a loaf of bread, and yet they went right on stealing, not those same people, but others were not deterred from it. I realize as prosecuting attorney that it would be most difficult to get a conviction for a second offense if you had a mandatory jail sentence. You can go ahead and get convictions if there is a possibility of jail, and if the man is a bad operator the judge will put him in jail after you convict him. But if you go into court with a mandatory jail sentence, it is a millstone around the prosecuting attorney's neck that will drag him down.

For these reasons, I hope that my motion will still prevail, and I ask for a division.

Mr. ELA of Somerset: I wish to point out to the Senate in case you are not all informed on it, there is no mandatory jail sentence on the first offense. There is on the second offense. And I also wish to point out that I believe that even if you never got a single conviction on the second offense, with the fear of this jail sentence hanging over them, you would stop a great percentage of the violations.

The PRESIDENT: The question before the Senate is on the motion of the Senator from Aroostook, Senator Barnes, that the bill be indefinitely postponed and that Senator has requested a division.

A division of the Senate was had.

Ten having voted in the affirmative and seventeen opposed, the motion did not prevail.

Thereupon, on motion by Mr. Ela of Somerset, the bill was passed to be enacted.

On motion by Mr. Haskell of Penobscot

Recessed until three o'clock this afternoon.

After Recess

The Senate was called to order by the President.

Mr. Allen of Cumberland was granted unanimous consent to address the Senate.

Mr. ALLEN of Cumberland: Mr. President and members of the Senate, it gives me a great deal of pleasure this afternoon to officially read into the record and to call officially to the attention of the legislature an award which has been made and which you have read about in the press. The judges of the National Traffic Safety Contest have voted to this state an award for outstanding achievement in periodical motor vehicle inspection, according to a telegram received by the Governor. The States of Maine, New Jersey and Massachusetts were tied in the vehicle inspection division of a nationwide contest in which all 48 states and the District of Columbia were entered. I feel that with criticism often being leveled at our departments, this is a great tribute to our Secretary of State, Mr. Goss, and his Division of Motor Vehicle Inspectors and to the State Police. They have accomplished, especially in the last year, a great deal of efficiency in a problem which was a major problem in this state. You are aware that two years ago the National Safety Council awarded to the State of Maine a plaque, for the second time in the history of the safety council, for legislation passed under this Motor Vehicle Code so it seems to me that the state should be proud of its Motor Vehicle Division, its Secretary of State and its State Police who are bringing Maine into a place of prominence among all the 48 states. I would like to read at this time, the following telegram received by His Excellency, the Governor of Maine, as follows:

"Judges of National Traffic Safety Contest today voted an award to your state for outstanding achievement in periodical motor vehicle inspection. Our heartiest congratulations to you and your citizens on

this achievement. Confirming letter follows.

(Signed)

Ned H. Dearborn, President
National Safety Council."

I know you are pleased and also proud of your state department which has made this possible and the citizens of the state who have helped in the over-all picture of highway safety which has been one of our main concerns year after year in this state.

On motion by Mr. Sleeper of Knox, the Senate voted to take from the table Senate Report from the Committee on Temperance — Majority Report "Ought to Pass" Minority Report "Ought Not to Pass" on bill An Act Relating to Hours of Sale of Liquor (S. P. 529) (L. D. 1062) tabled by that Senator on April 15 pending acceptance of either report.

Mr. SLEEPER of Knox: Mr. President, if anyone cares to examine the record down in the library they will find that in 1863, 1865 and 1867, Knox County was represented in this Body by Jess Sleeper from South Thomaston, Maine, who happens to have been my grandfather. He was a Democrat, however, and he spent most of his time being a regular party man and running to the Democratic leader for instruction.

I find myself in the same box. Jean Charles Boucher wants this bill recommitted to the Committee on Temperance, and like my grandfather before me, I will take my orders from the leader of the Democratic Party, and I move that this bill be recommitted to the Committee on Temperance.

The motion prevailed and the bill was recommitted to the Committee on Temperance.

Sent down for concurrence.

On motion by Mr. Edwards of Oxford, the Senate voted to take from the table Senate Report "Ought to Pass as Amended by Committee Amendment A" from the Committee on Legal Affairs on bill, An Act to Incorporate the

Town of Norway School District (S. P. 311) (L. D. 504) tabled by that Senator earlier in today's session pending consideration of the report; and on further motion by the same Senator, the report was read and accepted and the bill was read once.

The Secretary read Committee Amendment A:

"Committee Amendment A to L. D. 504. Amend said bill by inserting after the word 'meeting' in the 4th from the last line of Section 9 thereof the following: 'Provided that the total number of votes cast for and against the acceptance of this act at said meeting equals or exceeds 20% of the total vote for all candidates for Governor in said town in the next previous gubernatorial election.'"

Which amendment was adopted and the bill as so amended was tomorrow assigned for second reading.

On motion by Mr. Hopkins of Kennebec, the Senate voted to take from the table Senate Report "Ought Not to Pass" from the Committee on Claims on Resolve in Favor of Chester Blake of Oakland (S. P. 287) tabled by that Senator on April 14 pending consideration of the report.

Thereupon, on motion by Mr. Larrabee of Sagadahoc, the resolve was recommitted to the Committee on Claims.

Sent down for concurrence.

On motion by Mr. Varney of Washington the Senate voted to take from the table bill, An Act Creating the State Board of Education (S. P. 294) (L. D. 488) tabled by that Senator on April 5 pending passage to be engrossed; and that Senator yielded to the Senator from Kennebec, Senator Hopkins.

Mr. Hopkins of Kennebec presented Amendment A and moved its adoption:

"Senate Amendment A to S. P. 294, L. D. 488, Bill An Act Creating the State Board of Education.

Amend said Bill by striking out

the 1st paragraph of that part designated Sec. 1-A and inserting in place thereof the following underlined paragraph:

'Sec. 1-A. State board of education; expense. The board shall consist of 10 members to be appointed as follows: One by the presidents of the liberal arts and teachers' colleges of the state, the appointee not to be an active college president; one by the Maine Municipal Association, the appointee not to be the active president of the association; one by the Maine superintendents' association, the appointee not to be the active president of the association; one by the Maine congress of parents and teachers, the appointee not to be the president of the organization; one by the Maine teachers' association, the appointee not to be the president of the association; and 5 to be appointed by the governor with the advice and consent of the council. The appointees shall take the oath of office prescribed for state officers. The 5 members of the 1st board appointed by the organizations listed in this paragraph shall by lot determine the member to serve for 1 year, 2 years, 3 years, 4 years and 5 years. Of the 5 members appointed by the governor, one shall serve for 1 year, one for 2 years, one for 3 years, one for 4 years and one for 5 years. Regular appointments thereafter shall be for a term of 5 years. The governor and the organizations mentioned in this paragraph shall appoint successors to their first-term appointees to fill unexpired terms or to serve regular terms, these appointments to be in accordance with the provisions for the 1st appointments. Members of the board shall be subject to removal from office by the governor and council for cause.'

Mr. HOPKINS of Kennebec: Mr. President, I think the Senators would like a little information about this amendment and perhaps a little information would be in order. It is obvious in a bill of this kind that it is important that the Board

have proper selection, representative of the citizenry of the state, that it should have some connection with education, that it should not be a Board of Educators.

Senator Varney tabled this measure because he wanted to give thought to the Board, a thing to which I hadn't given as much thought as I might have. The Chairman of the Committee on Education, Senator Varney and myself with the Commissioner met yesterday afternoon and gave considerable thought as to what would constitute a good Board of Education if we were to have one, and this is the result of our conference. You will notice that five different organizations are given the right and obligation to make appointees to this Board and yet we have tied them down so they cannot put on their presidents or other officers. They have to go out and select what they think are proper appointees for the Board and it seems obvious it will save some embarrassment to say that the heads of the various organizations can not have a place on this Board.

The five appointees of the Governor are balanced by those that are not made by the Governor and the succession as you will note gives a good selection on the Board and we think that if we are to have a Board this will give proper balance and good representation.

I hope if any of the Senators want to study into this further they will retable the measure for a day or two after which I would like to see action, or if you are ready to vote on it now, I hope the motion to adopt the amendment will prevail.

The PRESIDENT: The question before the Senate is on the motion of the Senator from Kennebec, Senator Hopkins, to adopt Senate Amendment A.

The motion prevailed, Senate Amendment A was adopted and the bill as so amended was passed to be engrossed.

Sent down for concurrence.

On motion by Mr. Slocum of Cumberland, the Senate voted to take from the table bill, An Act Relating to Pollution of Tidal Waters (H. P. 2054) (L. D. 1483) tabled by that Senator on April 19 pending passage to be engrossed; and that Senator presented Senate Amendment A and moved its adoption:

"Senate Amendment A to L. D. 1483. Amend said bill by striking out after the enacting clause and before the headnote thereof, the following: 'Sec. 1.'

Further amend said bill by striking out all of Section 2 thereof."

Which amendment was adopted and the bill as so amended was passed to be engrossed, in non-concurrence.

Sent down for concurrence.

On motion by Mr. Collins of Aroostook, the Senate voted to take from the table Bill, An Act Relating to Boards of Registration (H. P. 1759) (L. D. 1031) tabled by that Senator on April 5 pending adoption of Senate Amendment A; and on further motion by the same Senator, Senate Amendment A was indefinitely postponed.

The same Senator presented Senate Amendment B and moved its adoption:

"Senate Amendment 'B' to H. P. 1759, L. D. 1031, Bill 'An Act Relating to Boards of Registration.'

Amend said Bill by striking out in the 6th line thereof; and in the the underlined words '**not more than**' in the 6th line thereof; and in the same line strike out the underlined figure '\$2,650' and insert in place thereof the underlined figure '\$2,450'..

Further amend said Bill by striking out the underlined words '**not more than**' in the 7th line thereof.

Further amend said Bill by striking out the underlined figure '\$2,300' in the 8th line thereof and inserting in place thereof the underlined figure '\$2,100'."

Which amendment was adopted, and the bill as amended by Senate

Amendment B was passed to be engrossed in non-concurrence.

Sent down for concurrence.

On motion by Mr. Sleeper of Knox, the Senate voted to take from the table Senate Report "Ought Not to Pass" from the Committee on Sea and Shore Fisheries to make Study of Herring and Means of Avoiding Their Depletion (S. P. 366) (L. D. 583) tabled by that Senator on April 5 pending consideration of the report; and on further motion by the same Senator, the bill was recommitted to the Committee on Sea and Shore Fisheries.

Sent down for concurrence.

On motion by Mr. Ela of Somerset, the Senate voted to take from the table bill, An Act Relating to Roadside Protection (H. P. 1888) (L. D. 1206) tabled by that Senator on March 24 pending passage to be engrossed.

Mr. ELA of Somerset: Mr. President, I now move that this bill be indefinitely postponed. This is Legislative Document 1206 if you care to look it up, and it does this. It states that "no stumpage owner, operator, land-owner or agent shall cut, cause or permit to cut any forest growth within the state except on approval of the forest commissioner or his representatives, within 100 feet of a state highway, state aid road, or within 50 feet of any other public road."

The title of the bill is "Roadside Protection". Now if that refers to protection against fire, the bill is mis-named because we already have a slash law and very well protected with a lengthy amendment which was introduced this morning, so this protection is not aimed against fire. If it is to be forest preservation, it does not go far enough because it stops fifty feet from the regular road, or one hundred feet back from a state or state aid road so it neither can be truthfully called a bill for forest preservation nor a bill for fire protection. What is

it then? I can't see anything else except that it is roadside beautification. And I will grant that it would be nice if we could have a strip alongside of our roads which is protected forever against any cutting except that which the Forest Commissioner or his representative permits.

Now it states further that "The Forest Commissioner may authorize cutting on a partial basis for the removal of mature or injured trees within above roadside areas." That simply means that if a farmer down on some side road wants to cut a little firewood or if he wants to cut a little timber to repair his farm or if he wants to cut some birch to sell to help pay his bills he must first go to the Forest Commissioner or his representatives and get permission to cut any specific, individual tree. I can't for the life of me see how any Forest Commissioner could possibly live with such a bill. I am perfectly sure that if this bill were enacted into law there would be so much remonstrance that it would be removed from the statutes two years hence.

I think I know the temper of the people who live in the rural areas of this state well enough to know that they wouldn't put up with such legislation. There aren't possibly enough representatives available to the Forest Commissioner to take care of it and there would be complete nullification of the law. I feel the public would feel it an invasion of their property rights. You might just as well say that the farmers of Aroostook County shouldn't plant potatoes within fifty or a hundred feet of the road, or that they should plant hollyhocks or something that would look better, or that the citizens in the more thickly inhabited areas should raise grass but should plant geraniums.

To me this is an unnecessary bill, an invasion of the property rights of the land owner who is paying probably from fifteen to fifty cents an acre per year tax on that area

and it is quite a struggle for some of them to maintain their property. I feel that if the slash bill were properly enforced it would do all that is endeavored to be done by this bill. For that reason I hope my motion prevails.

Mr. WILLIAMS of Penobscot: Mr. President, as Chairman of the Committee on State Lands and Forest Preservation I feel that I should support this particular bill. I thought there might be some other member of the committee in the Senate this morning as interested in this particular legislation as I was but I believe Senator Ela has read you the bill. I am sure I cannot explain to you anything but what the bill appears to be upon reading. It is a proposition to beautify our roadsides.

I don't know as it is such a hardship to protect the land along our roadsides. We have always tried to cut such land by selective cutting, which this bill refers to. I don't know whether or not the Forest Commissioner will have a lot of headaches but I wonder if it isn't time that we advertised the beauty of our state, even if we do let ourselves in for headaches trying to keep the roadsides in presentable condition. I know you are all aware of that, as I am, as you drive through our forests in Maine where everything has been cut flat along the roads.

As one member of the committee might like to tell you, in his area they have used bull dozers to push back whatever growth and brush that has been cut. It isn't a very beautiful sight. I am sure visitors to Maine would not want to come here to drive between two brush hedges. If they do, then this bill certainly is not necessary. If we as representatives of the state wish to add something to the beauty of our roadsides by leaving a suitable number of trees along those roads, I believe this is a good bill. I think many of you are aware, as I am, that at the beginning of this session there were a lot of people who had a lot of ideas on what to do with brush, slash and debris. Some

thought that every tree, or all slash and brush in Maine as soon as it was cut should be burned. Others thought it should be dragged off to some distant land. Others thought it should be removed in some mysterious method.

This is not a difficult bill to live up to. It would cause, I am sure, very little difficulty to people who wish to get everything clean cut along the sides of the roads. But if they wish to do a decent job of cutting, I believe no one would have any difficulty living with this bill, so I hope the motion of the Senator from Somerset does not prevail.

Mr. CROSBY of Franklin: Mr. President, I think Senator Williams has covered this subject very well. However, as I recall, in our talking with the Forestry Commissioner, he anticipated some headaches from this bill but thought he could take care of those within reason and as you all know, during the past few years, it has been our practice throughout the State of Maine that they have cut their lumber, particularly along the roadsides, pretty clean and in order to clean up their slash, they have taken bull dozers and taken the small trees and bull-dozed them back and cleaned up that slash, and it has created a great deal of unfavorable comment in the state.

There were a lot of bills proposed which were much more stringent than this one and at the time it was discussed the wild land owners may have felt that they generally lived up to this anyway and they would rather see this on the books than some of the more stringent bills proposed. I think that is one of the reasons why we will have to go along on this bill.

Mr. VARNEY of Washington: Mr. President, I am inclined to agree wholeheartedly with Senator Ela in regard to this matter. While this may be all well and good for the large land owners, yet throughout the rural sections of Maine there are a great many small farmers, people living on small places that could not really be rated as farms,

with their farm woodlots bordering on the road. This would work a great hardship on those people. It would deprive them of getting their living. You take a strip a hundred feet wide and perhaps a quarter of a mile long and it runs into acreage pretty fast and if some of these poor people were deprived of cutting their wood it would work a great hardship on them.

I am not going to make a long speech on this but I want to register my protest to the bill and I hope the motion of Senator Ela will prevail.

Mr. WILLIAMS of Penobscot: Mr. President, I want to call your attention to the fact that this does not deprive any land owner of any appreciable material on his land, under a plan which would allow selective cutting for anything merchantable. I think all the Senators agree that if you cut stuff only four or five or six inches through it would cost money anyway but maybe everybody should have that right.

I believe in the ownership of land. Land is our only renewable natural resource in the State of Maine. It is somewhat of a public trust which you and I as owners of land have, and for that reason I believe it is not depriving them of any right where under this bill they would have a chance to cut anything that was merchantable that would be worth money to them to get. Then, by getting permission to do that, it would save this utter destruction which is going on.

Mr. ELA of Somerset: Mr. President, just one more word. Senator Williams mentioned that the land owner, or farmer would not be deprived of any of his rights. I call attention to the fact that there might be a difference of opinion between the farmer, or woodlot owner, and the Commissioner as to when a tree was mature. As a general thing, the woodlot owner, or farmer, has to sell his product when there is a market, and he can't time it to meet the whims or desires of the Forest Commissioner.

There are about twenty thousand miles of road in this state which you propose to beautify — at whose expense? Not the State's, but the owner who has paid the upkeep of this land for a considerable period of time. There is nothing in the law anywhere that states that the owner of tillage land shall beautify the landscape, and there is nothing in the law anywhere that says the owner of village property shall beautify his lot. Many of them do. Many of the woodlot owners practice selective cutting, and I presume that selective cutting under proper sponsorship will grow. But under this bill, at the land owner's expense, we propose to take away his property rights and invest them with the Forest Commissioner who I am certain can not live with the bill.

The PRESIDENT: The question before the Senate is on the motion of the Senator from Somerset, Senator Ela, that the bill be indefinitely postponed. Is the Senate ready for the question?

A viva voce vote being had, the bill was indefinitely postponed.

On motion by Mr. Ward of Penobscot the Senate voted to take from the table Resolve Proposing an Amendment to the Constitution to Set Forth the Duties of the State and the Towns Towards Education (H. P. 1572) (L. D. 886) tabled on April 15 by that Senator pending final passage.

Mr. WARD of Penobscot: Mr. President and members of the Senate, I wish to speak against the final passage of this particular resolve. I signed an ought not to pass report when this resolve came out of our Committee, and I wish to very briefly give you my reasons for doing it.

At the beginning of this session, we appointed a committee to investigate and to report on the needs of possible revision of the Constitution, and as the result of that, the Committee proposed several changes in our constitution. These matters were all referred to the Ju-

diary Committee. They were all advertised for public hearing, and we were given to understand at the beginning of the session that there was considerable clamor for changes. As these amendments came up for consideration, there was one member of the committee who came and appeared for them. Outside of that, nobody made an appearance either for or against any particular change in the constitution with the exception of this resolve.

When this came up for consideration, the Commissioner of Education appeared, and he suggested, as I recall it, some changes in the phraseology of the particular resolve. In my opinion, there is absolutely no necessity for us to change the present constitutional provision in regard to education. This matter has been in our constitution, so far as I know, ever since the constitution was adopted.

On at least two occasions questions were submitted to our law court in connection with Article 8, and in 1876 the justices rendered an opinion as to just what the Legislature could do and could not do in this regard. And again in later years on a case involving a tax on wild land, the matter was again submitted to the law court, and they rendered their opinion. In both cases, the law court said that the present provision in regard to education does not prohibit the Legislature from assisting cities and towns in any way that they see fit.

I was particularly interested in the case of Sawyer versus Gilmore which was a case decided in 1912. In discussing this matter, the court said, "The phraseology of Section VIII is in itself significant. In the first place only a 'duty' is laid upon the Legislature. The Constitution does not even say that they shall require, but that they are 'authorized' and it is 'their duty to require' the several towns to provide for the support of common schools.

"And in the second place the extent of the requirement is left

wholly to the discretion of the Legislature, because their duty is to require the several towns to make 'suitable' provision. Who is to determine what is suitable? Clearly the Legislature itself. 'Suitable' is an elastic and varying term, dependent upon the necessities of changing times. What the Legislature might deem to be suitable and therefore necessary under some conditions, they might deem unnecessary under others. The amount which the towns ought to raise would depend largely upon the amounts available to them from other sources, and as these other sources increase the local sources can properly diminish."

This proposed constitutional amendment would adopt a lot of new wording. In my opinion, if this Legislature passes this constitutional amendment, and it goes on to the people, and they adopt it, then we will again be faced with cases going to the Law Court to try to find out what the new wording means. The proponent of the measure said that the constitutional amendment was being advanced to have the constitution agree with what we are now doing in respect to education. There is not any question from the decisions of the law court that what we are doing for education at this time is perfectly within the bounds of the constitution. If that were not so, certainly some property owners would have long since contested some of the things which we have been doing. And in my opinion if we pass this constitutional resolve, we are going to be in a state where we do not know, and people will be again going to the law court to advise what we can do. For that reason, because I feel that we have under this settled procedure now, all of the authority that we do need to do the things which we are doing, I am against changing the constitutional provision, because it is hard to tell where the change might ultimately lead us.

Mr. BARNES of Aroostook: Mr. President, may we have the committee amendment read.

The Secretary read the amendment.

Mr. BARNES of Aroostook: Mr. President and members of the Senate, I was one of the members of this constitutional revision committee that was set up at the beginning of the Legislature, and there were a great many proposals presented to this committee for constitutional changes. They have been whittled down to where at the present time they are practically non-existent. This is one of the changes that seemed to the committee to be advisable. It is true that at the hearing the only man who was not a member of the Judiciary Committee who came in and spoke for this was a layman. But if I recall it correctly, there was another resolve presented by Representative Fay that was very much like this one, and at that hearing there were several who appeared in support of it.

Now, I don't believe, myself, that this state would go out of business if this constitutional change were enacted. It so happens that over the last good many years—I don't know when the first equalization bill was passed in this Legislature—but I think it was about ten or twelve years ago, this state embarked upon a program of helping small, poor towns in the way of education by what we call equalization bills.

The Constitution as it now reads does not seem to provide for that assistance, and it may be that through construction by the court it has been held that this equalization feature is allowable. I don't believe there is any decision. I don't believe Senator Ward said there was any decision on that particular language, because I don't believe the question on the equalization bills that have been passed in this Legislature prior to this time have come up to the Law court. It did seem to the Committee, or at least the majority of the Judiciary Committee, and it seemed to the members of this Constitutional Revision Com-

mittee that it would be well to retire this particular article of the Constitution to get it in line with what seems to be the policy of the State of Maine at the present time.

I can see no harm in this change. The wording of it is not involved at all, as you can see if you will refer to L. D. 886. It simply says that the State, the Legislature, may raise by general appropriation an appropriation for the general support of equalization of educational opportunities in the state. And I am hopeful that the measure will receive passage. I am not aware of the motion made by Senator Ward. Probably it was to indefinitely postpone. If that is the motion, I am against it. The pending question is on the final passage of the resolve, the question that was pending at the time it was taken from the table. If that is still the question, I hope that this will receive passage, and I hope that the Members of the Senate will go along with it.

The PRESIDENT: The action before the Senate is on the final passage of the resolve.

Mr. ELA of Somerset: Mr. President, I was one of the members of the committee that heard this bill. It is not involved at all. There is one item I would call to your attention. I think there is a Senate Amendment to the bill which says that the legislature "may encourage" rather than "it shall be the duty of the legislature." Is there a Senate Amendment to that effect? It is a very small item and I think I have stated it as it was.

The PRESIDENT: Does the Senator care to have it read again?

Mr. ELA: No, Mr. President, it is not necessary. It simply states that which we are actually doing now and I see no reason for specifically stating it rather than having to depend on some involved decision of the law court to get the same answer.

Mr. BARNES: Mr. President, I request that the two reports be read, that is, the signers of the two reports.

The Secretary read the reports.

Mr. WARD of Penobscot: Mr. President and members of the Senate, I made no motion in regard to this. I was speaking against the final passage of the measure. It requires a two-thirds vote of the members present to effect final passage of this resolve as it is a constitutional amendment.

The amending of our Constitution, to my way of thinking, is a very serious matter, and I would point out to the Senate that in respect to this particular matter which we have now under consideration, Senate Amendment A was offered and without a word of explanation that committee amendment was adopted under the gavel. I think we should look on this constitutional amendment or any other constitutional amendment as being a very serious proposition.

The Senator from Aroostook made some reference to equalization. In the opinion of the justice, rendered back in 1876 in passing on Article VIII, which was in response to a question, "Has the Legislature authority under the Constitution of this state to assess a general tax upon the property of the state for the purpose of distribution under an act to establish the school mill fund for the support of common schools?"

The courts said that Article VIII has no expressed prohibition against state assistance and the right to supplement a suitable pro-

vision by adding thereto what will make it sufficient is given by Article IV, Par. 3, Sec. I of the Constitution. And in the case of Sawyer versus Gilmore which was decided in 1912, the court held that the fact that this common school fund is distributed to the towns, one-third according to the number of scholars and two-thirds according to the valuation, instead of all according to number of scholars, does not of itself render the act unconstitutional. Inequality of assessment is necessarily fatal, inequality of distribution is not, provided the purpose is for public welfare, and as I have said before, in my opinion there is absolutely no necessity for the passage of this constitutional amendment, and I hope that it will not receive a two-thirds vote of the Senate.

The PRESIDENT: Is the Senate ready for the question? This being a constitutional amendment it requires for its passage a two-thirds affirmative vote of the members present.

A division of the Senate was had.

Thirteen having voted in the affirmative and twelve opposed, thirteen being less than two-thirds of the members present, the resolve failed of final passage.

On motion by Mr. Haskell of Penobscot

Adjourned until tomorrow morning at ten o'clock.