

MAINE STATE LEGISLATURE

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Legislative Record

OF THE

Eighty-Sixth Legislature

OF THE

STATE OF MAINE

Special Session, December 4, 1933

KENNEBEC JOURNAL COMPANY
AUGUSTA, MAINE

HOUSE

Tuesday, December 19, 1933.

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

Prayer by the Rev. H. W. Brown of Gardiner.

Journal of the previous session read and approved.

From the Senate: Final report of the committee on

Temperance

Mercantile Affairs and Insurance Comes from the Senate, read and accepted.

In the House, read and accepted in concurrence.

Report of Committee

Mr. Hussey from the Committee on Appropriations and Financial Affairs on bill an act providing flexibility in the handling of State revenue and expenditures during the period of the present State cash stringency (H. P. 89) (L. D. 112) reported ought not to pass as subject matter is covered in another bill.

Report read and accepted and sent up for concurrence.

Passed to be Enacted

(H. P. 156) (L. D. 199) An act regulating the sale of spirituous and vinous liquors for medicinal and mechanical purposes and the arts.

Mr. FARRIS of Augusta: Mr. Speaker, I move that we reconsider our action whereby this bill was passed to be engrossed.

A viva voce vote being doubted,

A division of the House was had.

Sixty-nine voting the affirmative and 12 in the negative, the motion to reconsider the action of the House whereby this bill was passed to be engrossed prevailed.

The SPEAKER: The Chair recognizes the gentleman from Augusta, Mr. Farris.

Mr. Farris offered House Amendment D as follows:

House Amendment D to H. P. 156, L. D. 199, bill an act regulating the sale of spirituous and vinous liquors for medicinal and mechanical purposes and the arts.

Amend said bill by striking out the emergency preamble therein and substituting therefor the following emergency preamble:

“EMERGENCY PREAMBLE.

Whereas, there are now no laws providing for sale and keeping for sale of liquors, not including cider, for medicinal and mechanical purposes and the arts in accordance with the provisions of Article XXVI of the Constitution of the State of Maine; and

Whereas, this is hereby declared to be an emergency to enable manufacturers, hospitals, sanatoriums, home for the aged, practising physicians and individuals who need intoxicating liquors for medicinal and mechanical purposes and the arts wherein the purchase, transportation, sale and keeping for sale is now prohibited by law.

Whereas, manufacturers, hospitals, sanatoriums, home for the aged, practising physicians and individuals who are in need of intoxicating liquors for medicinal and mechanical purposes and the arts are precluded from obtaining intoxicating liquors through interstate commerce under Chapter 90, known as the Webb-Kenyon Act, and Section 5 of Chapter 162 known as the Reed Amendment of the United States Statutes which provide that shipments of intoxicating liquors in interstate commerce for any purpose are prohibited in a state where prohibited by law of the state, unless an Act is enacted to permit the transportation into the state, sale and keeping for sale of liquor for medicinal and mechanical purposes and the arts,

Whereas, an emergency exists within the meaning of Section 16 of Article XXXI of the Constitution of the State of Maine, and immediately necessary for the preservation of the public peace, health and safety, now therefore

Be it enacted by the People of the State of Maine, as follows:”

The SPEAKER: The Chair recognizes the gentleman from Augusta, Mr. Farris.

Mr. FARRIS: Mr. Speaker, I ask unanimous consent of the House to withdraw House Amendment D.

The SPEAKER: Is there any objection on the part of the House to the gentleman from Augusta, Mr. Farris, withdrawing House Amendment D? The Chair hearing none rules that unanimous consent has been granted.

House Amendment D was withdrawn.

Mr. FARRIS: Mr. Speaker, I

move that we recess for ten minutes.

A viva voce vote being taken, the motion prevailed and the House recessed.

After Recess

The SPEAKER: The gentleman from Augusta, Mr. Farris, now offers House Amendment E.

House Amendment "E" to H. P. 156, L. D. 199, bill an act regulating the sale of spiritous and vinous liquors for medicinal and mechanical purposes and the arts.

Amend said bill by striking out the emergency preamble therein and substituting therefor the following emergency preamble:

"EMERGENCY PREAMBLE. Whereas, there are now no laws providing for sale and keeping for sale of liquors, not including cider, for medicinal and mechanical purposes and the arts in accordance with the provisions of Article XXVI of the Constitution of the State of Maine; and

Whereas, manufacturers, hospitals, sanatoriums, homes for the aged, practising physicians and individuals are in need of intoxicating liquors for medicinal and mechanical purposes and the arts and the purchase, transportation, sale and keeping for sale is now prohibited by law; and

Whereas, manufacturers, hospitals, sanatoriums, homes for the aged, practising physicians and individuals who are in need of intoxicating liquors for medicinal and mechanical purposes and the arts are prohibited from obtaining intoxicating liquors through interstate commerce under Chapter 90, known as the Webb-Kenyon Act, and Section 5 of Chapter 162, known as the Reed Amendment of the United States Statutes, which provide that shipments of intoxicating liquors in interstate commerce for any purpose are prohibited in a state where prohibited by law of the state, unless an Act is enacted to permit the transportation into the state, sale and keeping for sale of liquor for medicinal and mechanical purposes and the arts; and

Whereas, in the judgment of this Legislature the facts hereinbefore set forth create an emergency, within the meaning of Article XXXI, Section 16 of the Constitution of Maine, and require the following legislation as immediately

necessary for the preservation of the public peace, health and safety, now therefore,"

The SPEAKER: The pending question is the adoption of House Amendment E, offered by the gentleman from Augusta, Mr. Farris, which amendment the Clerk just read.

Mr. HILL of South Portland: Mr. Speaker, I should like to inquire through the Chair of the gentleman from Augusta (Mr. Farris) whether it would not be possible for our hospitals and the other institutions referred to in the proposed amendment to obtain alcohol and liquors containing alcohol for medicinal purpose and for mechanical purposes under the terms of the Webb-Kenyon Act and the Reed Amendment if Legislative Document 107, which has been passed to be enacted in both branches of this Legislature were to be signed by his Excellency, the Governor?

The SPEAKER: The gentleman from South Portland, Mr. Hill, asks a question of the gentleman from Augusta, Mr. Farris, which question the gentleman from Augusta may answer if he desires.

Mr. FARRIS: I can answer the question of the gentleman from South Portland (Mr. Hill). It would be legal under the Webb-Kenyon Act if L. D. 107 was enacted, but in its present status it has not become a law of this State, and that is the reason for the preamble at this time.

The SPEAKER: Is the House ready for the question? The question is the motion of the gentleman from Augusta, Mr. Farris, that House Amendment E be adopted. All those in favor will say aye, contrary minded no.

A viva voce vote being taken, the motion prevailed.

Mr. Bennett of Presque Isle offered House Amendment F to L. D. 199, and moved its adoption.

"House Amendment F to H. P. 156, L. D. 199, entitled an act regulating the sale of spirituous and vinous liquors for medicinal and mechanical purposes and the arts.

'Amend said bill by adding after Section 19 thereof the following section:

'Section 19-A. Expiration of licenses. All licenses issued under this act shall expire at 12.00 P. M. on the second Monday of September, 1934, providing that the 26th

amendment to the Constitution is not accepted by the people.”

The SPEAKER: The Chair rules that the amendment in its present wording is not in order, and suggests that the gentleman withdraw it and confer with the member from Portland, Miss Laughlin, or some other attorney, to get it in proper form.

The Chair understands the gentleman from Presque Isle, Dr. Bennett, asks unanimous consent of the House to withdraw his motion.

Mr. BENNETT: Mr. Speaker, that might be all so, but I doubt it.

The SPEAKER: The amendment reads as follows, the last few words of it: “provided that the 26th amendment to the Constitution is not accepted by the people,” and the 26th amendment to the Constitution was adopted in 1880. (Laughter)

The Chair rules that the amendment is now not in proper form, and the Chair understands that the gentleman from Presque Isle, Dr. Bennett, to clear the record, asks unanimous consent of the House for permission to withdraw it. Hearing no objection, the Chair rules that permission to withdraw it has been granted and will of course entertain it at any time when it is properly worded.

Mr. BENNETT: Mr. Speaker, I would just like to read to the members of the Eighty-sixth Legislature, an amendment here that I have drawn up. More for educational purposes, I think, than anything else.

“Amend said bill by adding at the end thereof the following:

“Whereas, many communicable diseases are not reported to the proper authorities; and

Whereas, it is probable that many persons having such diseases will be forced to report them to the drug stores for the purpose of obtaining medicine; and

Whereas, it is important that these diseases be known to comply with our statutes and to protect the health of other citizens; and

Whereas, in the judgment of the legislature these facts create an emergency within the meaning of section 16 of article XXXI of the constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety, now, therefore

Be it enacted by the People of the State of Maine, as follows:

‘All drug stores dispensing medicinal liquor shall keep a book and list therein the name of the person procuring medicinal liquor and the name of the disease that the person is suffering from.’ (Laughter and applause)

Mr. Speaker, now don't you see that a man could go in and say “Mr. Druggist, I think I am going to have smallpox, and I want some liquor.” He can buy a quart and go home. Maybe he has smallpox, and he goes home, and before any of the authorities, health officers, or any physicians know it he is well broken out and perhaps is beyond control. Don't you see the menace this thing is going to be to the public? They may have scarlet fever, measles, or anything else. He makes his own diagnosis and sometimes he may be right, and sometimes the disease may spread and lots of people die by the reason of the diagnosis that man has made and from the remedy he has bought to cure himself. I think it is hardly fair to the public to have such a bill as this. I have another amendment—

The SPEAKER: Does the Chair understand that the gentleman from Presque Isle offers that as an amendment?

Mr. BENNETT: No, I am reading that and talking for educational purposes? (Laughter)

The SPEAKER: The Chair will permit any member to offer any amendment but cannot permit any more talk when there is nothing before the House to be acted upon.

Mr. BENNETT: May I invoke personal privilege?

The SPEAKER: You may. The gentleman rises to a point of personal privilege.

Mr. BENNETT: Thank you, Mr. Speaker. I want to read another amendment.

The SPEAKER: Just a moment! Do you want to talk on some matter of personal privilege?

Mr. BENNETT: I won't say anything about an amendment. (Laughter) I will just read it. In order to make it seem right—

The SPEAKER: The Chair must rule that the gentleman is entirely out of order. The Chair will give any opportunity for any member to rise to any question of personal privilege, but nothing beyond that.

Mr. BENNETT: Then I cannot read any of these? (Laughter)

The SPEAKER: The Chair will rule that if you wish to offer any of them as an amendment, the Chair will be glad to entertain them.

Mr. BENNETT: All right, I will offer an amendment. (Laughter)

The SPEAKER: The gentleman from Presque Isle, Mr. Bennett, offers House Amendment G to H. D. 199, which amendment the Clerk will now read.

House Amendment G to H. P. 156, L. D. 199, entitled an act regulating the sale of spirituous and vinous liquors for medicinal and mechanical purposes and the arts: Amend said bill by adding at the end thereof, the following:

"Whereas this act has not left sufficient provision to insure the comfort and protection of the patrons of drug stores and

Whereas, pleasant memories of the past should be revived to insure proper medicinal results, and

Whereas, in the judgment of the Legislature these facts create an emergency within the meaning of Section 16 of Article XXXI of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety:

Now therefore, be it enacted by the people of the State of Maine as follows, that all drug stores vending medicinal, mechanical and artistic liquors shall provide a brass foot rail for each counter so used, to be of sufficient body and strength to support a foot of any size and to be at least six inches above the floor level and six inches away from the base of the counter".

The SPEAKER: The Chair rules that this amendment is not in proper order, is frivolous and rules it out. (Applause)

Mr. PLOUFF of Dexter: Mr. Speaker, this is the third week that we have been assembled here. Our time is precious and this is too serious a matter for us to offer such nonsenses as we are having to listen to now. (Applause)

The SPEAKER: The pending question is the passage of this bill to be engrossed as amended by the several amendments which have been offered.

Mr. BENNETT: Mr. Speaker, I now offer House Amendment H and move its adoption.

The SPEAKER: The Clerk will read the amendment, and the Chair understands that this is in substance the amendment which he offered under the heading of House Amendment F and which has been corrected at the suggestion of the Chair.

House Amendment H to H. P. 156, L. D. 199, entitled an act regulating the sale of spirituous and vinous liquors for medicinal and mechanical purposes and the arts.

Amend said bill by inserting after Sec. 19 of said bill a new section to be known as Sec. 19a, which said section shall read as follows:

"Sec. 19a: All licenses issued under this act shall expire at 12 P. M. on the second Monday of September, 1934, providing that the Twenty-sixth Amendment to the Constitution is not repealed by the people."

The SPEAKER: Does the gentleman from Presque Isle desire to speak on the amendment?

Mr. BENNETT: No, I do not.

On motion by Mr. Farris, a viva voce vote being taken, House Amendment H was indefinitely postponed.

The SPEAKER: The present status of this bill is as follows: The bill has been amended by House Amendment A, as amended by House Amendment A, and by House Amendment B, and by House Amendment E in non-concurrence. Is it now the pleasure of the House that this bill as so amended be passed to be engrossed?

A viva voce vote being taken, the House voted to pass the bill to be engrossed as so amended.

House at Ease

The SPEAKER: Is it now the pleasure of the House to take up out of order a bill on its passage to be enacted?

S. P. 65, L. D. 169: An act providing flexibility in the handling of State revenues and expenditures during the period of the present State cash stringency.

On motion by Mr. Farris of Augusta, the bill was tabled, pending passage to be enacted.

Mr. FARRIS of Augusta: Mr. Speaker, I move that we recess until four o'clock, owing to the fact

that engrossing has to be done and the bill which we just sent to the Senate will not be engrossed, with all its amendments, until nearly four o'clock. If you want to come in here and wait from two to four that is all right with me; but that is why I make the above motion. Just as soon as we recess we will go down stairs and eat.

A viva voce vote being taken, the House recessed until 4 P. M.

Afternoon Session—4 P. M.

The Speaker in the Chair.

The SPEAKER: For the information of the members, L. D. 199, the Druggists' bill, to which we attached an amendment this morning, has not yet come back from the engrossing department. It was debated so long in the Senate that its engrossing has been delayed. The House has before it on the table the so-called Flexibility bill, and the Chair understands that the gentleman from Augusta, Mr. Farris, moves that it be taken from the table.

The motion prevailed.

The SPEAKER: The Chair recognizes the gentleman from Augusta, Mr. Farris. The pending question is the passage of the bill to be enacted.

Mr. FARRIS: Mr. Speaker, and members of the House: As you know, a program has been outlined by the committees on Appropriations and Financial Affairs and Taxation. The first item on their program was the continuation of the Flexibility Act to July 1, 1934, and L. D. 169 is the bill which provides for extending the Flexibility Act which was passed last March in this Legislature, which act expires January 1, 1934. It seems necessary to the State officials, the Controller and the Budget officer, to continue on it to balance the budget and to replace various funds which have been taken from the appropriations from the different departments to carry on the legitimate expenses of the State, to carry on the payrolls and the institutions. For that reason I now move that it be passed to be enacted.

The SPEAKER: The pending question is the motion of the gentleman from Augusta, Mr. Farris, that L. D. 169, an act providing flexibility in the handling of State revenues and expenditures during the period of the present State cash

stringency, be passed to be enacted, it having had its several readings in the House and Senate and having been passed to be engrossed in both bodies. Is there any further discussion? The bill is an emergency bill and on its passage to be enacted requires the affirmative vote of two-thirds the entire elected membership of the House.

Mr. FERNALD: Mr. Speaker, for fifteen days we have been here and for fifteen days we have had our eyes on the most flexible political football that has been in the possession of the House of Representatives for a number of years. Finally, by proper manipulation and by a literal starving of the membership of the Legislature, and with the same promises that the noble experiment would work that were made in March, 1933, we are again, for the second time, to face the issue; and I trust that the powers that be that are manipulating this, if they find that I in any way have offered an argument that may sway the minds of a few of you, if they find again that the flexible football is slipping they will at least let the members vote on it and not table it again.

Flexibility! Easily bent! Legislature easily broke! An examination of the Constitutional provision, and an examination into the history, the Constitutional history of Maine, is rather enlightening if we again can look to the Constitution without holding our noses or closing our eyes and vote to maintain it.

"Article III. The powers of this government shall be divided into three distinct departments, the Legislative, Executive and Judicial. No person or persons, belonging to one of these departments, shall exercise any of the powers properly belonging to either of the others, except in the cases herein expressly directed or permitted." I believe we have heard that before today, but an examination of the debate that took place in the State of Maine 1819, at the time our Constitution, the fundamental law under which we believe that today we are acting, will show that when we came in the Constitutional Convention to that section of the Constitution that I have just quoted, that the delegates elected by the people of the District of Maine, then a part of Massachusetts, voted that this article of the Constitution that is

now on our Statute books—I do not mean Statute books—but now a part of our fundamental Constitution,—that this article that I have just read you was passed to become a part of our fundamental law back in 1819 without debate; and, gentlemen, you are willing to disregard a fundamental precept, not only of our State Constitution but of our United States Constitution, because we are headed home.

Now this is not the first Legislature that has ever met, and this is not the first Legislature that was ever headed home, and this is not the first Legislature that has been held up, temporarily at least, by what some might consider a fillibuster.

Now let's look into the Record. The year 1919; the month January; the day the 2nd; the place Augusta; the room right here. The topic under discussion, His Excellency, the Governor, Carl Milliken, presented his inaugural address. War, suffering, the same situation, the same motives that are motivating you today were present then. Governor Milliken said: "Broadly speaking about three quarters of our people are paying taxes enough but the other twenty-five percent, including the largest holders of intangible personal property, are bearing far less than their proper share of the common good; in fact, intangible property probably to the value of several hundred of millions of dollars escapes direct taxation by the State and municipal authorities. Several years ago the people adopted an amendment to the Constitution for the express purpose of permitting legislative action to correct this inequality. I renew my recommendations of two years ago that a law be passed providing for the separate classification of intangible personal property for purposes of taxation."

There was applause and the Governor and his suite passed from the room. Applause from whom? Some of you men can see it, some of you men can visualize it. There was Rounds of Portland, there was Donald Garcelon of Auburn, there was Jim Perkins of Boothbay Harbor, there was our present colleague Leathers of Hermon, there was Artemas Weatherbee of Lincoln, there was Bill Owen of Milo and Clyde Smith of Skowhegan and Harold Murchie of Calais, Irving Case of Lubec, Frank Washburn of Perry, Harmon Allen of Sanford. Our

Clerk was Clyde Chapman and our Official Reporter the same congenial and even - tempered Cecil Clay. There was also Mr. Pike of Eastport, Mr. O'Leary of Bangor and Mr. Berry of Waterville. There was another that was there, the representative from Lewiston, Louis J. Brann. Now what does all that mean? April 4th, in the same Legislature, Mr. Hinckley of South Portland inquired "What constitutes a State? Men who their duties know but know their rights, and knowing dare maintain." It seems that at that session of the Legislature there was several armories under discussion, and Mr. O'Leary, Mr. Pike and the representative from Lewiston were fearful that perhaps the Governor, then Carl Milliken, who had the bill on his desk might veto it. That was the situation, and how like the present situation that confronts us right here today. I think it will be hard to parallel two other sessions of the Legislature. Mr. Bragdon of Perham said, following the address by the Representative from Lewiston, "Mr. Speaker,"—and the Speaker at the time was none other than Frank Farrington of Augusta—"I have listened with a great deal of interest to the touching remarks of our democratic brethren; but the thing that appeals to me most that I have come in contact with recently is that beautiful little song that has been so touchingly rendered by the Bull Alley Glee Club. I have begun to realize the importance of the words of the song, 'I want to get back home where I can earn some dough.'" How characteristically similar the two situations! And, gentlemen and lady members, that was fourteen years ago. We all feel the same way, we all want to go home, but did we have the same feeling about going home and about giving up our legislative responsibilities and legislative duties prior to the September election that we have now after having been elected? We were seeking the office, we were seeking the responsibility, and shall we fail that responsibility, shall we fail that oath of office that we took of our own free will and accord in this building in January, 1933? Shall we further discredit the Constitution of the United States? We cannot fail. Party honesty is party expediency, and what is best for the country or for the State is best for the party. He serves his party

best who serves his country best, and I say to you, gentlemen and lady members who are working for two dollars a day that the reward of our duty is the power to fulfill another duty.

In January, 1933, there were some estimates presented to us on the budget, and, finally, after about eleven months, the information has leaked out that the estimates were \$600,000 short. Of course, speaking in thousands of dollars is just chicken feed with us because we have been thinking in the past of millions; but, nevertheless, if I may express \$600,000 in millions, I would say it is slightly over a half a million. Then we came here and we floundered for three months, and finally, March 30th, according to the Record, our distinguished Governor spoke to us and asked us to pass the so-called Flexibility Law, Page 961 of the Record, which would balance the budget. Now the Record shows, and you know and I know that the balanced budget did not come through and there was a deficit of \$585,030, which, expressed in millions is about a half million dollars.

Our memories are short but the Record is complete; the Record is written, the Record is printed and you can read it any time you want to, and I make this statement realizing that it is a broad statement, that you can read every material statement in the Record as printed in 1933 in March appertaining to the so-called Flexibility bill,—read every material statement and analyze it and you will find that every material promise made in support of the Flexibility bill was never made good or never came true. Now that is something to think about. Now the wheel horses get up and they will make the same statement that they made in March, 1933, that we are going to balance the budget and that we are going to save the State and that it is either Flexibility or ruin; that we are going to close up the insane asylum, that we are going to fire everybody in the State House, and all this and all that. Calamity, calamity, calamity! Now this isn't true and you know it and I know it.

They say here in the bill, in the emergency preamble, and I won't burden you with reading that, but they say that the sources of revenue are insufficient. But what did

we do? We set up a financial dictatorship under the Flexibility that cost us \$18,000. We have appropriated further under L. D. 200, \$517,360. Right here somebody says "Where are you going to get the money?" We have another situation that we are going to pass through next month,—and I don't like to be prophesying all the time but somebody has got to look ahead a little bit. We are going to have some bank failures in Maine in January or February and where are you fellows going to be? You are going to have some bank failures in Maine in January and February why? Because we did not stay here last March and straighten this situation out and put our House in order, assume our responsibility, pass some revenue bills and go home.

Now this committee that we had the other night the Sabbath committee (Laughter). They tell you privately that they never seriously intended to make those recommendations. Oh, no, nothing serious about them at all! I think what we should have done was adjourn for a week and let the committee stay out and then come back and let them show us how to run the State without any money at all. Because if they could knock off \$1,600,000 in ten minutes, give them three or four hours and it would be perpetual motion without money. (Laughter.) My good friend, the junior member from Augusta, was much wrought up because this committee of seven went out and undertook to do something, feeling that a committee of twenty-five of which he was a member was better qualified. I think he was right but I still think that a committee of 151 members of the Legislature is still better qualified. Of course the senior member from Augusta, according to the Record, was unwilling to stand for the extension of the Flexibility Bill beyond December, 1933: but he has changed his mind. He has also changed his mind recently on the same measure because I think that he was trying to tell us when he was urging in favor of his amendment that, if his amendment did not go through, he would move the indefinite postponement of the whole bill; but he has evidently had another change of heart.

I was also interested in our distinguished floor leader in his attempt to procure medicinal liquor

for his constituents when he voted with the majority in favor of the medicinal liquor bill which, at the time he voted for it, did not provide for a single drop of liquor to anybody in the State of Maine. It is just another characteristic example among many of our present leadership. (Laughter.)

Now getting back to the constitutional aspect! We have been here fifteen days. We have known about this Flexibility Bill for nine months, and you know and I know that if the bill was constitutional they would have been willing and would have, without our asking them to do it, gone to the Supreme Court and asked as to the constitutionality of it. They have had nine months, and if they did not want to do that, they could have probably gotten a ruling by the Attorney General on it. As a matter of fact, if they have any serious contentions as to its constitutionality they could go and get an opinion from the Attorney General within a reasonable time because, gentlemen and lady members, we are not going to adjourn before supper. (Laughter.)

The trouble with this flexibility situation is just this: We went home in March when we should have stayed here. We passed the measures on to the people for the people to vote on, but about the time that the matter went before the people, our distinguished leader, who happens to be of the opposite political faith than myself, was struck with rumphobia, and since he could not see the need of the bond issue, the tax on intangibles or the revenue measures presented, he failed to go to the people, and if Governor Brann had gone to the people in September and advocated the portion of his program in which he believed in two radio broadcasts, one from Portland and one from Bangor, you would not have heard anything about this Flexibility Bill because we would be having some revenue coming into the State. We would have been able to borrow two million dollars as a debt limit.

In closing, never before in the history of Maine was there such an opportunity offered for the liberals and the conservatives to unite and put over a program that protected the interests of the conservatives and the interests of the minority and still gave to the liberals things

that they are after, the things that they stand for. The liberals are interested in having tax reform, tax changes, the burden of taxation shifted. The conservatives are here asking for a return to constitutional government, a return to the government of our forefathers, a return to the government to which we were elected as members, and that is our program. If you members stick by me as opposed to the Flexibility Bill, within forty-eight hours we will have relief, we will have reform, we will have a new deal and we will have government of the people, by the people and for the people under the Constitution of Maine.

Now before I sit down may I say that I hope no man or no woman votes against this measure because of any personal pledge whatsoever given to me at any time in regard to this proposition. You are all free human beings, twenty-one and white, and you still have a right to declare your sovereignty. It is time the Legislature of Maine asserted itself so that it may get the respect that it deserves from the Governor, from the Governor's Council, and from the people of Maine; and the only way that you will get that respect and return legislative responsible government to Maine is by asserting yourselves and freeing yourselves of an entangling alliances and say "I am the master of my soul, and I assert myself here as an elected official of the State of Maine and as a Representative of my community." I thank you.

Mr. ASHBY of Fort Fairfield: Mr. Speaker and members of the Legislature: I regret that I have not the flowery eloquence of the silver-tongued orator from Winterport, but, as an independent, I propose to hew to the line and call a spade a spade, which I have not heard done in this Legislature this session.

Late in September I received a communication from the Governor and a summons to attend this Legislature in which was set forth the purposes of calling this session. Among the rest, if I remember it right—I do not remember the exact language but it was to the effect that we were to provide sufficient revenue to carry on the State government; and I think most of the legislators have attended this session with the idea that that was to be done. Imagine my surprise, then, when on introducing a tax measure and discussing it with some of the

members of the taxation committee, I was told in the very early part of this session that not one single tax measure would be reported out ought to pass. I was further astounded the other day when the able floor leader here tacitly admitted that it was foreordained that no tax measures were to be passed by this legislature.

Now the tax committee allowed tax hearings to be advertised at the expense of the people. They allowed printing of bills to be done. They allowed the people of the State to spend good money to come here and attend tax hearings, knowing at the same time that the accused was decided guilty before his trial. Now if that is not treason to the people that sent you down here then there is no such word in the dictionary to define it, and it seems to me we are breaking faith with the people of Maine who have looked to us for nearly three weeks to devise some measures of taxation whereby the State could go on and function. Now we pass the flexibility bill and return home leaving the situation exactly as we found it. They tell us to wait until the taxation committee reports and to come back in February, providing we do come back. We have no assurance that the recommendations of that committee are going to meet with the approval of a majority of this Legislature. As a matter of fact we have had taxation committees before that were to revise the taxes, and, as a rule, they have reported to put a little more tax on the little fellow but let the big fellow get by. That has been true and is true now. For instance, in the intangible laws, while fifty percent of the wealth of this State is in intangible property, the owners of that intangible property are paying about three percent while the owners of the farm, the home and the shop are paying ninety-seven. As long as human nature is the same, as long as money can influence, as long as political patronage can influence, can we expect the report to be any different than it has been in the past. As a matter of fact to use a vulgar expression, we have been suckers here. We have been the goats that have pulled the political chestnuts out of the fire for some gentleman who is trying to pave his way to the Governor's Chair or some other high political position. Are we going to keep on doing that, or are

we going to assert ourselves as free men, and enact some legislation that will be constructive before we leave. I thank you. (Applause)

The SPEAKER: The Chair recognizes the gentleman from Biddeford, Mr. Stern.

Mr. STERN of Biddeford: Mr. Speaker and members of the House: I suppose you all have heard the way our Speaker has introduced me to you as the gentleman from Biddeford, but it is by title only. I was not here last spring when you adjourned. To my sorrow I had to leave four days before the adjournment of the last session. I don't know what I would have done had this bill come up when I was present, the bill which gives this right to the Governor and Council. When I heard that some rights were given to the Governor and Council, some powers, I did not know what powers they were. I did not know even the name until I came to this session and found out that it is what you call the flexibility bill. I now know at least the name of it but God bless me if I would have known it before.

Now my friends correct me if I am wrong. I have been in this country for more than thirty years, and I have read American history. I know when the first settlers came to this country. Some of them had to leave their homes and countries and a majority of them were seeking political and religious liberty; so they came here. They went through all sorts of struggles. They banded together and they built little schools and little churches. They developed our national life. They smiled and they cried. They brought up their children and they kissed them and they punished them. This has continued for two hundred years. They established a government, they went through a revolution. The Boston Tea Party was the last straw that broke the camel's back. They said to England "We want to live our own life, we want to maintain our own affairs. We want to do what we think is best for us." And they fought and won. This has been so for two hundred years more or less until we come to the present time in this year of 1933 when the descendants of these early pioneers are here assembled in these halls. We should go forward and we should go under the State constitution, under its fundamentality. Do not for-

get, my friends, that this is not a liquor matter. People drink with a permit and they are going to drink without a permit. Some are fighting for it and some are fighting against it. These things that we are doing tonight are fundamentals. Now I came over to this country because I had learned about the institutions founded by your great grandfathers. I left my country when I was a child of fifteen. I was in jail in my own country because I wanted this liberty that your ancestors gave you. I prayed for the liberty which we have here. And do you think for a moment that I could come in and vote away the rights of the people and give them to somebody else a group a minority, or whatever you may call it. As I say, for thirty-six years I have believed in democracy and a fair distribution of wealth. Therefore I come here today and vote with you on the assumption that a group of seven or eight men can do the job better than we can? Can a man run away from the views of thirty-six years which he has paid so dearly for. My friends, what you are doing tonight proves that democracy is a fallacy, and proves that the great stream of dictatorship has also affected us and we cannot deny it. With all our talk here and with all our economic struggle. I am telling you if you are able to go to Russia you would find that they are starving there, and the same is true in Germany and Italy. I am against any form of dictatorship whether it be red, blue, brown or black. The fact is that America is still America. We have just as many professors, we have just as much intellectuality as we ever had. At least that is my view. I am reminding you that you are giving away things which it is not necessary to do. Could you tell me where is the emergency? Two weeks we have been here and why have not those gentlemen on the committee on Taxation brought in to this House their report? What right have they to put it off?

My wife called me up yesterday afternoon and she cried twenty minutes. She said "What have you got to do with the Republicans and Democrats when they are fighting?" (Laughter) She said "Do you want to close up the State House?" What would I answer? Why have not the gentlemen of the Taxation committee — and I have the right to ask you for my

people elected me to come here— why haven't they reported out the same as the other committees?

Members, I want you to know that we have eighteen cases in the Pension committee of starving people, children, and veterans of the Civil War, 70 and 80 years old. We had the money, Mr. Leadbetter told me that he had the money but that we did not have time enough to look after these cases because we were in such a hurry to go home Saturday; but we are still here. What right have they to come in here and prevent us from doing our duty by these unfortunate people and say that we must refer it to the next Legislature? Why do we not stand up like men and do our duty? If there is anything I can do, why don't you give me a chance? Who cares for the two dollars a day? We are willing to stay here two weeks more if necessary. I will even go with you in shorts. Why not decide things as men? That is why I am elected and that is why I am here. Who is favoring that legislation anyhow? I have nothing against the Governor and I appreciate that he is elected and I have the fullest respect for him both as a man and as Governor; and I may say the same as to the Council.

I made an investigation of some of the Departments. Some of the departments and some of the institutions, I suppose will have to close their doors. Who is it that is trying to drive us home and in the meantime trying to starve us to death here? You members have stayed here two weeks and you can stay another three days. Let us bring out all the measure there are. Let us act like men and do the best we can. We will not gain anything by running away from the situation. Why give flexibility to anybody? I do not like to mention flexibility. Flexibility cuts the highway workers from \$2.80 to \$2.25. I met a man from one of our institutions recently who said that they would have to put their inmates on bread and water. Now if a responsible man tells me that our institutions on flexibility are living on bread and water I know that it is true.

My friends I do not propose to take a step backward. With the wall behind me I will not vote to give away this right. I will vote against it. And I do not believe

there is any man who can do better than that.

I appeal to you as children of the early pioneers, as Americans. Do not take a step toward Fascism, do not take a step toward Hitlerism. We can settle it right here and I hope, my friends, that you will see it as I do. I cannot see it in any other way. It makes no difference whether we are Democrats or Republicans. I believe in the democracy of civilization and that is my stand. I thank you. (Applause)

Mr. PIPER of Bangor: Mr. Speaker, we have been here for some time, and a goodly portion of that time this Legislature has spent in considering private pension bills, fish and game laws, and other miscellaneous matters not really connected with this Special Session of the Legislature. Any man had a right to introduce a pension bill if he wanted to; I do not question that right. Any man had a right to introduce any fish and game bill that he wanted to, and I do not question that right. Even if some of our friends from the interior chose to introduce a bear bill, they would have had a right to do that.

Much has been said about a lack of program; much has been said about the wastefulness of the Governor's Council. It has been charged here that we have wasted \$18,000 this year on the Governor's Council. Now if any man in the House has any right to cast reflection upon the Governor's Council, I believe I have, but I do not want to do it. (Laughter and applause) The whole trouble is the failure of the payment of taxes that belong to the State (applause). If taxes had been paid, there would have been no difficulty. Not only were the direct State taxes not paid, but the shrinkage in indirect taxes was unlooked for and unexpected. That was the condition that confronted us. We knew it if we had read the papers before we came over here. It was announced last year, before the election, that the condition of the State was precarious on account of the non-payment of taxes. They had a Budget Committee that worked days, nights and Sundays here. My esteemed friend from Portland, Mr. Carleton, was a member of it. It had in the conferences Governor Gardiner, who was then in office, the Governor-Elect, Governor Brann, Mr. Viles of the Senate and

a number of other men whose integrity and honor nobody can question. They worked faithfully and they submitted a Budget report replete with figures and facts and we had it before us. We did not shirk our duty. We knew that the condition of the State depended largely upon the payment of these taxes that were long overdue. Estimates were formulated, estimates for the Controller, by the Budget Officer,—and let me say here that they are faithful, hard-working officials and men of ability.

Now we were called together in special session to take care of the situation and it was up to us to define a program. The Governor came in here and delivered his message. He told us the need and did not infringe upon the legislative functions of this Legislature, but left it to us to meet the requirements. I attended the joint meetings of the Financial Affairs and Taxation committees several sessions and we went over the situation. Various tax bills were introduced, and any man had a right to introduce a tax bill here just as he had a right to introduce a fish and game bill. Those bills have to be referred to a committee and we had to advertise hearings. We had those hearings and they were largely attended and the voice of the hearing was unanimously in favor of no additional taxes at this time. The people of the States are taxed more than they can bear. Some would levy a tax upon them. My friend from Fort Fairfield (Mr. Ashby) speaks of the intangible tax. That went to the people last September and was defeated by an overwhelming vote.

Now here are these figures of the budget for 1929 and 1931 and the cost of the Council. The cost of the Council for 1929 was \$19,279.04 and in 1931 it was \$19,285.31, a difference of six dollars. Now where is there any scandal about the Governor's Council, I would like to know, when their expenses this year are \$17,000 for eleven months?

We decided upon a program and you have carried that program through here with the exception of the enactment of the Flexibility law and the enactment of some law that would provide a revenue of about \$400,000. First there was the passage of legislation to enforce State rights in the collection of direct taxes from municipalities. Such a measure as the Weeks' bill

which provides that in the event any city or town is six months' delinquent in the payment of taxes, the State may make an audit and investigation, and, if conditions warrant, may place a Finance Commission over the affairs of the town until such time as it is able to pay its bills. We have passed that. That has been enacted and signed by the Governor. That enables the State to step in and get its share of the tax. A further bill would be the placing of interest on delinquent taxes due the State at six per cent. You have passed that bill and that has been enacted and signed by the Governor. So much for that.

Now what is the next thing to do? Transfer all accumulated funds, amounting to \$400,000, in the Motor Transporting Equipment account. You have passed that and that has been signed by the Governor, providing that funds collected by State licensing boards for licenses for 1934 and 1935 coming in later shall be available for this year. That has gone through.

On the basis of five months' collections in inheritance taxes, it would appear that this tax would exceed the estimated revenue of \$175,000.

We have taken into account in the program the enlargement of the present Recess Tax Commission by legislative order, authorizing an immediate study of all tax laws and allocation to the same, and to report to the Governor and Council as near February 10th as possible. That has been passed and we have gotten that out of the way. Now this special Tax Commission is to report on or before February 20th. For forty-four years we have had reports of Tax Commissions, Tax Commissions and Tax Commissions. They have gone into the taxation question and discussed it from every angle and they have submitted their conclusions and recommendations. Every Tax Commission report has come to a regular session of the Legislature gummied up by Fish and Game laws, pension laws and special road laws, and all of the other stuff that comes into a regular session of the Legislature; so the report of the Tax Commission has gone unnoticed and without effect. Now we are to have a Tax Commission to report on or before February 20th. It is a part of the program that this Legislature shall meet after that and formulate or

adopt tax laws that will be in effect before the town meetings are held in March. It is believed and hoped that through the recommendations of this Tax Commission some way will be found, some legislation will go into effect, that will relieve the real estate owner of so much taxes, lighten his burden. I do not know as the present system of this State will be continued. It seems to be archaic and old. Other states have put into effect other systems which seem to have worked out beneficially for all. Let us hope that this new Tax Commission will report something of that kind here and then we can meet, discuss it fairly, leaving our personal prejudices, our bigotry and our partisanship at home. We won't think of it as the tail to any political kite but as citizens of the State of Maine, doing our duty, and we can achieve something for the good of Maine that will go down in history as the greatest achievement ever brought about by any Legislature. That is the program, and it has gone through with the exception of the enactment of the Flexibility Law and the passage of some bill that will produce a revenue estimated at \$400,000. We have got to those two last items here today. Now if you do not pass the Flexibility Law, the State Controller, the Budget Officer, the State Treasurer all say that after January first they will stop the payment of bills. This is to give them the right to pay the operating expenses of the State of Maine. Can we not trust our elected officials to do a duty as important and solemn as that?

Much has been said about the Constitution. When some man has a poor reason for anything, he always brings up the Constitution, pleads the Constitution. Now the Constitution is the fundamental law of our State; but as the gentleman from Winterport (Mr. Fernald) says, we are the legislative branch. We make laws and the executive branch carries them out. We do not pay any money. We raise and appropriate money but the executive branch of the government looks after the payment of expenses. We authorize them to make payment of bills. That is what we are doing here now, that is what we did last March. Why can we not do it again? Talk about constitutionality! Has any man here who doubted the constitutionality last winter raised any question for the Supreme Court to decide? If they believed that the

law is not constitutional, why haven't they got us decisions to that effect? Why don't they get a decision now? I believe that the Act is constitutional. Why should I ask the Supreme Court to render a decision, I would like to know, and in view of the fact that there is no decision passed down showing that this Flexibility Act is unconstitutional, I take it for granted that it is, and I take it for granted that it is my duty to support it and to assist to the best of my ability the duly elected officers in the executive branch of this government to transact business honorably and respectably, to take care of the poor, to take care of the necessary functions, to take care of the feeble minded and to take care of the patients in our insane asylums. Do you want to stop the payment of those bills? If you do not pass this Flexibility Law it is incumbent upon the people in the other end of the building to return from the first moneys that come in here the payments to those various funds from which they appropriated money, I have been told that. You have tied the hands of the executive department, the executive officers of this State, if you do not pass this Flexibility bill. I can conceive of no reason why we should not assist in carrying on the government. That is what I am elected to do.

Mr. MACK of Veazie: Mr. Speaker, I believe I was sent to Augusta as a member of this Legislature because the folks back home thought that probably I possessed something of business judgment; and in that light I would like to consider myself as a director of a corporation, the stockholders of which are the constituents of the towns that I represent. I believe those constituents expect me to use what little business judgment they thought I possessed when they sent me down here.

I do not mind saying that I was disappointed when I came to this session of the Legislature and found that there was no program outlined upon which we, as members of the Legislature, could act intelligently. So, as a director in this great corporation of the State of Maine, I presume that the proper business procedure would be to form some kind of a program upon which the rest of the directors of this corporation could act intelligently, and, when that program was formed,

bring it back to the directors of the corporation and act upon it at that time.

Now I cannot help but believe that any fair-minded person would understand that for this Legislature to bring out, for instance, an intangible tax law, to enact such a law in the face of the vote we had last September, would be directly violating the confidence that the people have in us. I cannot help but believe that those of you who have had communication with the folks back home about a sales tax would certainly understand that there is some disagreement as to its advisability at this time. I cannot help but believe that any of you would not want to see anyone pass an income tax which would have to be so hastily formed and upon which we would have no more time to act than we would have at the present time. I cannot help but believe that any tax levying measure at this time, in the line of any of the three that I have spoken of, would merely constitute a coat of paint on the rotten understructure of our present tax system.

Now I would like to be business-like about this thing. I am not one who is interested in the political aspects of this proposition. I am not interested in a single thing about the proposition that does not appeal to me from a strictly business standpoint. I would have liked to have had a program here when I got here but I found none. I would like to have had sufficient time to turn around in order to see that a program is formulated. Another six months of this proposition is not going to hurt us any. If we do not accept it, I have no fear of going into a receivership; but I do just believe this one thing, that the expedient for the stockholders of the corporation of the State of Maine to do is to give ourselves sufficient time to turn around; get some program formulated, get some people into the State of Maine, then, with those whom we have here at the present time, they can advise us correctly and we can then come down here and enact something that will be a business-like procedure. (Applause)

Mr. CARLETON of Portland: Mr. Speaker, this puts me in mind of something like a Brain Trust that they have in Washington, full of theories but no business. I find that in business for the last year we have

all been through a crisis and it has been hard to do business and plan ahead as we thought, and we have had to do a great many things to balance our own budgets in business. Now I think that the State of Maine has done well under this budget as we have been carrying it along; and I as a business man am honest in saying that I hope that this Flexibility bill will go through and that you will listen to men, not myself, but others who think that this Flexibility bill is the best thing for the State of Maine, and not listen to men who are erratic. It makes me think of a building that is being torn down near my store, where men are working with pick-axes, crowbars and shovels and tearing down; but there is not one there who can build up and that is the great trouble in this House. There are people here who have the tools with which to tear down but none with which to build up. I trust that this Flexibility bill will go through. I believe it is workable or I should not support it.

Mr. TILLSON of Belgrade: Mr. Speaker, I move for a roll call.

The SPEAKER: The gentleman from Belgrade, Mr. Tillson, moves that when the vote is taken on the pending question, it be taken by the yeas and nays. The yea and nay vote will be ordered if one-fifth of the members so signify. All those in favor of the vote being taken by the yeas and nays will rise and stand until counted and the monitors will make and return the count.

A division of the House being had, and a sufficient number obviously having arisen, the roll call was ordered.

The SPEAKER: The pending question now is the motion made by the gentleman from Augusta, Mr. Farris, that L. D. 169, the so-called Flexibility bill, be passed to be enacted. This is an emergency measure and requires the affirmative vote of two-thirds the entire elected membership of the House. Is the House ready for the question? The members will keep in mind the rule about remaining in their seats until the roll has been taken, tabulated and announced.

Mr. SCATES of Westbrook: Mr. Speaker, will you kindly state the question again?

The SPEAKER: The Chair has been requested to state the situation again. This bill, L. D. 169, an

act providing flexibility in the handling of State revenues and expenditures during the period of the present State cash stringency, has received its several readings in the House and Senate, been passed to be engrossed in both bodies, has been reported by the committee on engrossed bills as truly and strictly engrossed, and the pending question now is the motion made by the gentleman from Augusta, Mr. Farris, that it be passed to be enacted. This requires the affirmative vote of two-thirds the entire elected membership of this House. The Clerk will call the roll.

YEA — Allison, Audet, Bailey, Whitefield; Bartlett, Belanger, Berry, Berwick, Boyle, Breen, Bucknam, Burgess, Burns, Bushey, Bussey, Carleton, Carswell, Carter, Chase, Baring, Chase, Sebec; Collins, Cook, Deering, Devereux, Dow, Portland; Drisko, Dunn, Duquette, Eastman, Eldridge, Farris, Fenlason, Flanders, Fogg, Rockland; Forgue, Lewiston; Fowles, Friend, Gallagher, Goodwin, Graves, Gray, Gross, Hall, Ham, Hamel, George; Hamel, Napoleon; Hancock, Haskell, Hastings, Hescocck, Hobbs, Hussey, Jones, Knight, Labbee, Lancaster, Leathers, Lebel, Lewis, Lindsey, Littlefield, Alfred; Littlefield, Bluchill; Lord, Luce, Mace, Mack, Mason, Mechanic Falls; Mason, Raymond; Mayers, McKinney, Michaud, Morin, Nevers, Newcomb, O'Connor, Peacock, Piper, Plouff, Plummer, Quine, Rand, Rea, Richardson, Rush, Russ, Sargent, Scates, Shaw, Smith, Masardis; Smith, Orono; Smith, Vinalhaven; Soper, Sterling, Stover, Thomas, Thompson, Thurston, Tompkins, Bridgewater; Tompkins, Houlton; Tupper, Viles, Walker, Rockport, Wallingford, Ward, Harrison; Ward, Thorndike; Webber, Wentworth, White, Whitney, Whitten, Williams, Wright, Young—112 yeas.

NAY—Ashby, Bailey, Woolwich; Bennett, Blanchard, Chase, Limington; Clarke, Cobb, Crowell, Dow, Livermore; Fernald, Goudy, Haggett, Hanson, Hawkes, Hill, Hills, Holden, Laughlin, MacPherson, Martin, Norris, Oliver, Osgood, Rounds, Sanborn, Baldwin; Sanborn, Weld; Sprague, Stern, Tillson, Walker, Rockland—30 no.

ABSENT—Carignan, Clement, Gagnon, Raymond, Ryder.—5 absent.

One hundred and twelve having voted in the affirmative and 30 in the negative, and five being absent, 112 being more than two-thirds of the entire membership of the House, the bill was passed to be enacted. (Applause)

The SPEAKER: Is it now the

pleasure of the House to take up out of order on its passage to be enacted, H. P. 156, L. D. 199, an act regulating the sale of spirituous and vinous liquors for medicinal and mechanical purposes and the arts? Does the House wish to discuss the matter at this time or take it up later? The Chair recognizes the member from Portland, Miss Laughlin.

Miss LAUGHLIN of Portland: Mr. Speaker, at the present moment—of course the Governor is acting—there is no law in the State of Maine to permit transportation of intoxicating liquors for any purpose whatsoever. Since the bill passed at the regular session there has been invoked upon it the referendum, therefore it is in full force and effect at the present time.

This Legislature has enacted, and there is before the Governor at this time a bill which does provide for transportation of intoxicating liquors for medicinal purposes, mechanical purposes and for use in the arts. The Governor of this State, by a stroke of the pen, can make it perfectly legal in this State to transport liquor for medicinal purposes, mechanical purposes and for the arts, and, furthermore, for one's own use. The only ban remaining, if that bill is signed by the Governor, is against the transportation of liquor for the purposes of sale, and of course against the sale of intoxicating liquor for beverage purposes.

As I said, the Governor of the State by the mere signing of his name, can, in one minute from this time, instantly make it perfectly legal for every hospital in this State to buy and import whatever liquor it needs for medicinal purposes, perfectly legal, and he can make it perfectly legal in one minute for all the manufacturers of extracts to buy and import all they need for extracts, perfectly legal in one minute for any concern to buy and import whatever it needs for mechanical purposes and for any artist to do the same, and furthermore, as I said, for any person who does not intend to sell the liquor to bring in and transport liquor.

Now it is argued by some, and there is some point to it, that under the referendum Section 3 of Chapter 137, properly known as the Weatherbee bill, passed by this Legislature and held up by referendum, that under the Supreme Court de-

cision on that situation that we cannot in any way touch the matter of transportation. Of course that bill, as I said, is still law.

Some further argue that we cannot affect the matter of transportation control by that bill. If that is so, then no law that can be passed by this special session can make it legal to transport liquor for any purpose, therefore, if we cannot modify it in any way, there is no sense in passing this bill. I do not agree with that position, but if that is not so and we can by legislation at this special session, in spite of the situation on the referendum, legislate in regard to the transportation of intoxicating liquor we can do no more in this so-called druggists' bill than we have already done it under L. D. 107. If we cannot modify transportation, as I said, we cannot do it in any bill. If we can modify transportation, we have already done it, so there is no need of this bill for transporting of liquor for medicinal purposes and mechanical purposes and the arts.

Under the terms, as I said, of L. D. 107, we have enacted legislation simply putting the ban on the transportation of liquor for the purposes of sale, so that any manufacturer who wants to use it can bring it in, any doctor on private prescription can bring it in, any hospital, any manufacturer, and for mechanical uses. So long as the law remains as it does at this moment, they cannot change the law and send it in, because if our law is against it the Webb-Kenyon Act forbids it.

But, as I said, we have already, so far as the Legislature can act, have changed the law of Maine and made it possible for hospitals and manufacturing concerns, and institutions and manufacturers of extracts to bring in liquor for their purposes. So we have taken care of that under L. D. 107.

There is absolutely no object and no reason for the passage of this so-called druggists' bill except for other purposes than the bringing in and transporting of intoxicating liquor for other purposes than for medicinal purposes or mechanical purposes or for use in the arts, that it is not the purpose of this bill to bring about merely the fact that we may have intoxicating liquor for medicinal purposes or mechanical purposes and the use in the arts, as evidenced by the bill itself.

The bill itself makes the provis-

ion that any city or town can by vote forbid the sale of any liquor by drug stores except on prescription. That is, any town or city can forbid the sale of liquor in drug stores for any other purpose than medicinal purposes, showing that the provision is plainly that unless these towns act the purpose of this bill is to have liquor sold in drug stores for other than medicinal purposes, in other words, for beverage purposes, which is in violation of the Constitution of the State of Maine, in effect to nullify it.

Now if I believed in the use of intoxicating liquor and the sale of it as much as the wettest wet in this Legislature, if I was as wet as the wettest wet, I would oppose this law as being a nullification of the Constitution of Maine, and a disgrace to the State. I have some respect for my oath of office here, in spite of what the gentleman from Bangor (Mr. Piper) has said about this talk about constitutionality, and I have sworn, as every member in this House has sworn, to support the Constitution of the State of Maine, and the State of Maine at the present time prohibits the sale of intoxicating liquors except for medicinal and mechanical purposes and for use in the arts, and we have already modified the law to make that possible.

Some argument, as I said, was made here on the amendment, which was known as Amendment C, which substituted for this bill a proviso for the sale of liquor for medicinal purposes on prescription of physicians, which would bring in more revenue than this bill brings in for all liquor sold for legitimate purposes, that is for medicinal purposes that it is claimed to be sold for, because it raised the profit for all liquors sold by drug stores and made exactly the same provision for license fee. So if revenue is the purpose, then that Amendment C, offered as a substitute for this bill, provided more than this bill does.

So it cannot be it was for revenue that the people want this. As I said, those who objected because they did not want physicians giving prescriptions, can find all the reasons for this in this bill, because by vote of any town we may make the law what Amendment C was, saying medicinal liquor on prescription. So every argument they have against it applies to this bill.

One further thing. This bill does not provide for any purchase and bringing into this State of intoxicating liquor by hospitals nor by manufacturers of extracts nor by manufacturing concerns for use for mechanical purposes and in the arts. If you will look at Section 18 of the bill, it provides for what liquor can be transported, for those purposes and for no other. They are two; that the manufacturer can bring it in to sell the wholesaler who can have it transported to the retailer; so the only two things that this bill permits is for the wholesaler to transport from the manufacturer and for the retailer to transport it from the wholesaler. The manufacturer of extracts is not a wholesaler or a retailer under this bill. He will be obliged to buy from the wholesaler. The hospital is not a wholesaler or retailer, therefore under this bill our hospitals will be obliged to buy from the retail drug store or wholesale drug store. So while L. D. 107 does provide for that, the advocates of this bill say this bill does not provide for it. It provides simply for the wholesaler to buy it and sell it, and for the retailer to buy it from him and sell it.

So there can be only one reason for this bill, and that is the camouflage and hypocrisy of calling it for medicinal and mechanical purposes, and that its real purpose is not for that at all, because we already have sufficient legislation for everything else, medicinal and mechanical, providing the Governor will sign it. The Legislature has done everything they can. Now let the Governor answer the question whether he wants liquor in this State for medicinal or mechanical purposes or whether just for booze. The Legislature has acted. We do not need to do anything more.

It has been argued, I think, when this bill was put up the other day, that one great object of it was to get rid of the bootlegger. I know only one way to get rid of the bootlegger, and that is the way the Mayor of Reno described. Set a barrel of whisky on every corner and let everybody drink. There is no other way, because we have tried every possible restriction and we have had the bootlegger always, from 1792 on when we put the revenue tax on, moonshiners who would not even pay the revenue tax when there was no other restriction.

In fact, to have a licensed store, whether a drug store or tavern or

saloon, any kind of a licensed place where liquor can be sold legally, is a protection to the bootlegger. If I am in a city where it is absolutely forbidden to sell liquor for beverage purposes and I see a drunken man, I know he got it at an illicit place which it is easy to search out, but if I am in a place where they have saloons and I see a drunken man, my assumption is he obtained it perfectly legally. So the saloon is a protection for the bootlegger and makes it harder to find him.

We have got some facts. Fortunately we have had two investigations by Congress, by the judiciary committee of the United States Senate. They made the brewers and liquor dealers bring in their private correspondence and bring in their books, and they proved from the books of the brewers and liquor dealers and from their correspondence many things on this line, and how they were running the illicit places themselves, some of them; and in that investigation some evidence was brought out, and one of the interesting pieces of evidence was a letter from the President of the Liquor Dealers' Association of Pittsburg, saying that they were calling upon Mayor McKee of Pittsburg to suppress the 2000 illegal places in Pittsburg. That was before we had any 18th Amendment. I can show you many other states where the same thing came up, from my own experience. Very few of you, I imagine, have lived in a wet State. I have lived as many years of my mature life in other States as I have in the State of Maine, and I know the conditions in States where we have the licensed saloon, and I remember distinctly in 1915, when I was living in San Francisco, that the liquor dealers and saloon keepers put up a plea to the Governor to shut up the illegal places. They said, "We are paying a license, and we want the other fellows who are selling liquor to pay a license, for our protection." They said, "There are 1500 in San Francisco, and we want them shut up." I could bring you evidence of conditions in Philadelphia, Cleveland, Cincinnati, where the liquor dealers themselves asked to have the speakeasies shut up so as to save their revenue.

They talk about keeping out the bootleggers, but this is the best way to let them in, because as I say, now when we see anybody drunk we know they have gotten it from the

bootlegger, but if you allow them to go and buy it anywhere, you do not know whether they got it from the bootlegger or from a legal place.

As I said in the beginning, if our object is to get medicinal liquor and liquor for use in the mechanical arts there is no necessity for this bill. We have provided for that in L. D. 107. Some of them say the Governor is going to veto it. All right. I say it lies with the Governor of this State to answer to the people if he refuses to permit medicinal liquor or liquor for the arts. The Legislature did its duty in that line and provided for it, and we won't have to wait one minute if the Governor will carry out his part to make it legal to bring in liquors of that sort.

As I say, this is a camouflage for the sale of liquor for beverage purposes, because they do not need it for medicinal liquor. I am not willing to go before the country and say that the State of Maine, which has hitherto stood for high principles and high purposes and for devotion to law and order, has passed a bill which in effect is a nullification of its own constitution. Of course I have the opinion that on attack it would not stand, because it is so manifestly attempting to do what the constitution forbids, but I would hate to have this Legislature on record as attempting to hypocrite and trying to nullify the Constitution of this State.

Mr. PLUMMER of Portland: Mr. Speaker and members of the Legislature, I promise you that I won't take much time. First I want to say that this proposition is not a new one. I have lived long enough to see every plan and every proposition tried out in Maine, and I have seen it voted out by the people almost unanimously.

Now this is nothing new; we have had similar liquor legislation laws before. I am just going to call your attention to one thing. We are voting a monopoly, we are placing the sale of intoxicating liquor completely in one class, and one of the smallest classes of business men in any of our towns, for in most of our towns we have one, two or three druggists, and we are going to give them a monopoly. Now I ask you to think it over. It is quite a proposition. The gentleman from Hallowell, Mr. Mayers, tells me there are two druggists in his town, and this would allow two druggists

to handle all the liquor in that town.

A gentleman a minute ago said you could trust the druggists. I hold in my hand the New York Herald of December 15th, just nine days after the law was repealed and before only a very small number of them—I don't think it is the druggists, but a small number of those who were to be licensed were then licensed. I will just read a few lines. The party that I quote is Dr. Shirley W. Wynne. This is what it says in the headlines: "Wynne Threatens Whisky Embargo to Raise Quality. Wynne demands labels tell ingredients after finding artificial color in 'medical' liquor." "Distillers get ten-day notice; Theofel pays personal call on head of City A. B. C. Board." "The Board of Health, at a special meeting yesterday afternoon, adopted an amendment to the sanitary code to compel distillers to specify on their labels the ingredients that go into every bottle of liquor offered for sale in New York City." That is just nine days after the law was repealed. "That price alone is not a criterion of quality was indicated by comparative tests, in which \$1.50 a pint whisky made a better showing than a \$1.90 grade."

Now can we trust the druggist? Within nine days after the law was repealed in New York they had to call a meeting. We will let that drop.

I never was solicited by any bootlegger to buy any liquor, in fact I never knew of a man who was a bootlegger.

Now every one of us here in this Legislature have taken a solemn oath to stand by all the laws and the Constitution. Now I have a perfect right to assume that no member of this Legislature ever purchased anything from a bootlegger. (Laughter) Now, confidentially, I just want to say one word. From some conversation I heard up around the hotel, I think I have a perfect right to assume that my presumption is not correct. (Laughter)

I have but very little more to say. I just want to speak about these classifications and show you what a road is laid out for the sale of intoxicating liquors: "It shall be unlawful to transport alcohol, whisky, rum, gin, brandy or wine within the state, other than for the purposes hereinafter mentioned * * *

It shall be lawful for manufacturers of spirituous liquors and wines to ship by common carrier said liquors or wines into the state to any duly licensed wholesaler within the state. It shall be lawful for any duly licensed wholesaler to transport and deliver to any duly licensed retailer spirituous liquors or wines. It shall be lawful for the purchaser of spirituous liquors or wines for his own medicinal or mechanical purposes or the arts, or that of his family, to carry in his possession said spirituous liquors or wines from place to place within the State."

There are two roads laid out, and every other road is closed.

Now I want to be a prophet, and I want to speak of the revenue. I have not heard anyone suggest it, but let me tell you so far as the revenue is concerned, if this law goes into force in Maine the gasoline tax will drop off 25 per cent.

I will make another statement, which I feel I can back up, and that is if this law goes into effect your liability insurance on your cars will cost you more than 25 per cent higher, for Maine is one of the safest states in which to drive an automobile. Vermont is in the same class, and every other state in New England is higher. If you were driving a light car in Massachusetts, it would cost you twice as much, and Vermont is the only other state in New England that takes the same class as Maine. New Hampshire has raised their rate since the beer bill, and if this bill passes the rates on your insurance will surely be higher.

Mr. CROWELL of Weston: Mr. Speaker, it was during the great World War, out in the wild, barren wastes of No Man's Land, that an old stub of a tree stood. Just a few months previous to the time of which I speak it was a thing of beauty, and the toiling peasant as he passed that way stopped for rest, and as the breeze went among its branches it cooled the parched brow of the weary toiler. But today the tree is barren, the leaves and the branches have been removed by shot and shell, and there it stands, hideous out there in the waste between the two opposing armies.

One night, under the cover of darkness, an army removed that tree and put in its place an exact duplicate made of pulp by the cunning devices of men. They so camouflaged the stub that the opposing

army had no idea of what was hiding therein. But inside that stub was stationed a soldier, in his hand a telephone, to that telephone was connected a wire, stretched out to his comrades in the trenches in the rear.

When the morning sun came from behind the eastern hills the army of the enemy was surprised to see that the marksmanship of their opponents had become more efficient, because those rifle-holders and those who handled the machine guns were directed by someone who knew whereof he spoke. While the bullets sang the song of death, the one who directed the fire was camouflaged, his purposes were not known.

I can see hovering in the distance a sinister hand trying to move us as checkers on the checkerboard of life for its own selfish purposes. Everything it touches it camouflages by its own cunning devices and the expenditures of large sums of money that it may deceive the people and accomplish its own selfish purposes, and that purpose is to heap unto itself riches at the expense of broken manhood and womanhood, and the suffering of little children.

We see written upon that hand with letters that are indelible and cannot be covered by cunning devices of the camouflage, alcoholic interest.

At five minutes of twelve last Saturday night, I told the membership of this House that from a hasty reading of L. D. 199, it looked to me like a scheme to set up a low license saloon, and a more careful scrutiny of the intervening time and events that have taken place have only deepened my early convictions. We have been told repeatedly for the last two weeks that all that was wanted was a chance to buy alcoholic liquors for medicinal and mechanical purposes and the arts, but when on Monday afternoon we refused to enact L. D. 201, we told the citizens of this State we were only camouflaging the real issue. Again I will say the revenue clause is only a camouflage, and many honest friends of mine are using it in all sincerity because they are accepting camouflage propaganda without careful study of the facts.

Mr. Speaker, were I so disposed, I could use the valuable time of this House telling you of the fallacy of filling our coffers with alcoholic revenue, but my remarks will be cov-

ered by minutes, not hours. It is a well established fact that for every dollar of rum revenue that comes to us it takes three or more dollars to care for the product of the drink that has been sold. We may temporarily relieve in part the tax burden of our Pine Tree State by this kind of revenue, but by so doing we are only increasing the burden of future years. Some other legislature will have to appropriate large sums of money for our welfare department, enlarging of our jails, homes for feeble-minded and insane hospitals, and we will find that if we use this kind of revenue, we are, to use a homely expression, jumping from the frying pan into the fire, and the wrecks that we leave along life's pathway, destitute children, broken homes, and forlorn womanhood, we shall have to answer for in so far as our vote and influence have been a contributing factor.

It has been a pleasure for me to be a member of the 86th Legislature and the many friendships I have formed will add joy to all the years I may live, and I know that this fine body of outstanding citizens of the Pine Tree State will never vote to bring sorrow or heartache to any who dwell within her borders. I do not believe that all of the camouflaging which has been done will fool enough of the membership of this House so that L. D. 199 will be placed upon our statute books.

Mr. WALKER of Rockport: Mr. Speaker, we have just been talking about the flexibility bill. Do we realize that this will be a far more flexible bill than has ever been passed here? Let us consider this well. If this bill is passed, it will surprise you how this bill will fail.

Mr. MAYERS of Hallowell: Mr. Speaker, I did not intend to say anything in regard to this bill. A great deal has been said pro and con, but today out here in the corridor an incident occurred which makes me feel that in justice to myself and my constituents I must say something.

For 28 or 29 years I have been engaged in the transportation business, and during that long period of service I have come in contact with intoxicating liquors to a great extent. I have come in contact with bootleggers. I know who they are. They do not fool me. But today in the lobby of this State House there have been two bootleggers whom I know to be bootleggers, and they

will not deny it, who have been here lobbying for this bill.

Now if this bill will do away with bootleggers, do you suppose those men are going to come here and lobby for it? You know they would not. And yet you hear them say that this is a medicinal bill. You know better. You know it is a beverage bill, and you know these bootleggers will be able to get bootleg liquor in the same way under this bill, because there is nothing that will stop them from getting it if they can find a drug-store that will sell it to them. And from my knowledge of the past—I think my friend Mr. Oliver will agree with me—the drug stores were nothing else but dram shops. I have been in there and bought liquor of them, and I have not had to tell them it was for medicinal purposes. And it will be the same if you pass this bill. You won't have to go into the drug store and tell them you want it for medicinal purposes. You can go in there and tell them you are going out in the woods gunning and may be sick, or that you are going fishing and may be sick, and you want something to take along with you in case you get into trouble.

I do not believe that this is the kind of a bill that the citizens of Maine want. I know it is not the kind of a bill that druggists down in my town want. It is not the bill that Lewis Barrows came up here and advocated at all. He said if you want a druggists' bill and want the druggists to handle it, we want to draw the bill ourselves. They brought that bill in and you turned it down. This is not the same bill at all. I do not believe that the majority of the druggists in this State want any such a bill as this, and I hope when this bill comes to a vote that you will vote it down.

(Applause)

The SPEAKER: The pending question is the passage of the bill to be enacted.

Miss LAUGHLIN of Portland: Mr. Speaker, I move when the vote is taken that it be taken by the yeas and nays.

The SPEAKER: The member from Portland, Miss Laughlin, moves that when the vote is taken that it be taken by the yeas and nays. The vote will be so taken if one-fifth of the members so vote.

All those in favor of the motion of the member from Portland, Miss Laughlin, that when the vote is taken it be taken by the yeas and

nays, will rise and stand in their places until counted and the monitors make and return a count.

A division was had.

The SPEAKER: More than one-fifth having arisen, the yeas and nays are ordered.

If you will be quiet just a moment, I will state the situation again. The pending question is the passage to be enacted of Legislative Document 199, an act regulating the sale of spirituous and vinous liquors, for medicinal and mechanical purposes and the arts. This bill has had its several readings in the House and passed to be engrossed, its readings in the Senate and passed to be engrossed, and has been reported by the committee on engrossed bills as truly and strictly engrossed. This bill carries the emergency clause, and on its passage to be enacted requires the affirmative vote of two-thirds of the entire membership of the House. Are there any further questions?

The members will remember to remain in their seats until the result of the vote has been tabulated and announced. The Clerk will call the roll.

Mr. SCATES of Westbrook: Mr. Speaker, what is the motion?

The SPEAKER: The motion is the passage to be enacted of the bill. A vote of yes is in favor of its passage, a vote of no is against. Are there any further questions? The Clerk will call the roll.

YEA—Allison, Ashby, Audet, Bailey, Whitefield; Belanger, Berry, Berwick, Bovle, Breen, Burgess, Burns, Bushey, Bussey, Carleton, Carwell, Carter, Chase, Baring; Collins, Cook, Devereux, Drisko, Dunn, Duquette, Eastman, Eldridge, Farris, Fenlason, Flanders, Forgue, Lewiston; Friend, Goodwin, Grav, Gross, Hall, Hamel, George; Hamel, Napoleon; Hancock, Hanson, Haskell, Hastings, Hescocock, Hobbs, Hussey, Jones, Knight, Labbee, Lancaster, Leathers, Lebel, Lewis, Lindsev, Littlefield, Alfred; Littlefield, Bluehill; Mace, Mack, Mason, Raymond; McKinney, Michaud, Morin, Nevers, Newcomb, O'Connor, Osgood, Piper, Plouff, Quine, Rand, Rea, Richardson, Rounds, Rush, Sargent, Scates, Shaw, Smith, Masardis; Smith, Orono; Smith, Vinalhaven; Soper, Sprague, Sterling, Stern, Thompson, Thurston, Tupper, Viles, Ward, Harrison; Ward, Thorndike; Wentworth, Whitney, Whitten, Young.—91 yeas.

NAY—Bailey, Woolwich; Bartlett, Bennett, Blanchard, Bucknam, Chase, Limington; Chase, Sebec; Clarke, Clement, Cobb, Crowell, Deering,

Dow, Livermore; Dow, Portland; Fernald, Fogg, Rockland; Fowles, Gallagher, Goudy, Graves, Haggett, Ham, Hawkes, Hill, Hills, Holden, Laughlin, Lord, Luce, MacPherson, Martin, Mason, Mechanic Falls; Mayers, Norris, Oliver, Peacock, Plummer, Russ, Sanborn, Baldwin; Sanborn, Weid; Stover, Thomas, Tillson, Tompkins, Bridgewater; Tompkins, Houlton; Walker, Rockland; Walker, Rockport; Wallingford, Webber, White, Williams, Wright.—52 no.

ABSENT—Carignan, Gagnon, Raymond, Ryder.—4 absent.

The SPEAKER: Ninety-one having voted in the affirmative and fifty-two in the negative, and four being absent, and ninety-one not being two-thirds of the entire elective membership of the House, the bill fails of enactment.

(Applause)

Mr. FARRIS of Augusta: Mr. Speaker, I want to say to the members of the House that we only have on the table some committee reports, and after supper we will have some payroll resolves we will want to take up. The Senate has recessed until eight o'clock, and I now move that we recess until eight o'clock this evening.

The SPEAKER: The Chair hopes that every member will be back here tonight. It is expected there will be some communications from His Excellency, and other important matters may come up this evening.

On motion by Mr. Farris of Augusta, the House recessed until 8.00 P. M.

Evening Session Reports of Committees

Mr. Mack of Veazie from the committee on Taxation reported ought not to pass on bill an act to impose a sales tax. H. P. 123, L. D. 132, together with remonstrances against the same, S. P. 29, S. P. 64, H. P. 133, H. P. 139, H. P. 140.

Mr. BAILEY of Woolwich: Mr. Speaker and ladies and gentlemen of the 86th Legislature, in speaking on the sales tax, I do so fully realizing the impossibility of passing any legislation of this type at this session of the Legislature. I realize fully that no tax measure can be in any way popular. In presenting this bill I did so for one reason, and for that reason I wish to make a simple statement.

This special session has missed and evaded the real underlying principle and demand for new tax

measures; it has looked simply to the immediate results in taking care of the State's financial problems for six months.

The real problem is one which faces the people themselves in their inability to meet the taxes assessed on their real estate at the present time. This assessment and tax burden is of such proportions that it has driven the value of real property far below its actual worth; excessive real estate taxes have placed such a burden on real estate that it is practically impossible for any individual to sell a piece of property at a fair price.

For these reasons I introduced this Sales Tax measure, solely for the purpose of placing before the Legislature a bill that would produce revenue in sufficient amount so that the excessive burden placed on the real estate owners of this State might to some degree be relieved, and through the relief of that burden increase the sale value of real estate in an endeavor to bring back a fair and reasonable valuation on the property which is the main value of wealth of this State.

Notwithstanding the fact the report of the committee on taxation is against the bill which I presented, I firmly believe each member of the committee has given this matter very careful consideration. Under the circumstances, Mr. Speaker, I move that we accept the report of the committee.

Report was accepted and sent up for concurrence.

Mr. Mack from the committee on Taxation reported ought not to pass on bill an act establishing a low rate tax on intangible personal property in accordance with Constitutional Amendment permitting the same. (H. P. 81) (L. D. 87)

Mr. Blanchard of Wilton reported ought not to pass on bill an act providing for the levying, collecting and paying of an income tax on individuals, fixing penalties for the violation thereof, and providing for the manner of filing returns of income and the fee to be paid therefor. (H. P. 134) (L. D. 137)

Same gentleman from same committee reported same on resolve proposing an Amendment to the Constitution relative to the authority of the Legislature to impose a tax on incomes. (H. P. 130) (L. D. 135)

Reports read and accepted and sent up for concurrence.

Majority report of the Committee

on Appropriations and Financial Affairs on bill an act creating a State Lottery Commission" (H. P. 4) (L. D. 19) reported ought not to pass.

Report was signed by the following members:

Messrs. VILES of Kennebec
COOPER of Waldo
of the Senate
FENLASON of No. Anson
CARLETON of Portland
TUPPER of Calais
HUSSEY of Augusta
of the House

Minority report of same Committee on same bill reporting same in a new draft, under same title (H. P. 157) and that it ought to pass.

Messrs. ROBIE of Cumberland
of the Senate
THOMPSON of Belfast
of the House

Mr. BELANGER of Winslow: Mr. Speaker, I am not prepared to argue the merits of this bill here at this late hour, but I want to move the acceptance of the minority report.

The SPEAKER: The gentleman from Winslow, Mr. Belanger, moves acceptance of the minority report—

Mr. MACK of Veazie: Mr. Speaker, might I ask what is the minority report?

The SPEAKER: The minority report is cught to pass in a new draft. The gentleman from Winslow, Mr. Belanger, moves the acceptance of the minority report, ought to pass in a new draft.

Mr. FENLASON of North Anson: Mr. Speaker, I move that the bill lie on the table until later in the session.

The SPEAKER: The gentleman from North Anson, Mr. Fenlason, moves that the bill and reports lie on the table. All those in favor will say aye, contrary minded no.

A viva voce vote being taken, the motion failed of passage.

The SPEAKER: The question reverts to the motion of the gentleman from Winslow, Mr. Belanger, that the minority report of the committee, which was ought to pass in a new draft, be accepted.

Mr. ROUNDS of Portland: Mr. Speaker, I move you that the majority report be accepted.

The SPEAKER: The motion is not in order at this time.

Mr. ROUNDS: I know I am not in order now, Mr. Speaker, but I will be some time.

The SPEAKER: The pending question is the motion of the gentle-

man from Winslow, Mr. Belanger, that the House accept the minority report of the committee, which is ought to pass in a new draft. All those in favor will say aye, contrary-minded no.

A viva voce vote being doubted, a division was had.

Fifty-five having voted in the affirmative and fifty-eight in the negative, the motion failed of passage.

The SPEAKER: The Chair understands that the gentleman from Portland, Mr. Rounds, moves that the House accept the majority report of the committee which was ought not to pass. All those in favor will say aye, contrary-minded no.

The SPEAKER: It is a vote.

Mr. CLARKE of Cooper: Mr. Speaker, I am sorry to say I do not think the question was fully understood in the first place.

On motion by Mr. Farris of Augusta, it was voted to take from the table order tabled by that gentleman on December 18th, pending passage relative to the recall of bills from the committee on Taxation.

Mr. FARRIS: Mr. Speaker, I yield to the gentleman from Cooper, Mr. Clarke.

Mr. CLARKE: Mr. Speaker and members of the Legislature. I introduced the order in the hope of facilitating the work of the Legislature and also to test out the honorable members of the House. Some of the members of the House were discussing the matter, and the subject of the discussion was this: Were the committees of the House the servants of the House or the masters of it? Well, you can judge from what has happened is the answer to that. I never shall forget the loving care and solicitude with which our Honorable Floor Leader, the gentleman from Augusta, Mr. Farris, has cared for my orders. I trust that some time in the future I may fittingly repay him for it. Now, under the circumstances, I see nothing to do but move the indefinite postponement of the order.

The order was indefinitely postponed.

On motion by Mr. Farris of Augusta, it was voted to take from the table the order requesting the return of the lottery bill to the House from the committee on Appropriations and Financial Affairs.

Mr. FARRIS: I also yield to the gentleman from Cooper, Mr. Clarke.

On motion by Mr. Cooper, the order was indefinitely postponed.

On motion by Mr. Hussey of Augusta it was voted to take from the table, House report of the Committee on Temperance, reporting on Legislative Document 133, an act to promote temperance in the use of alcoholic beverages, and to control, license and regulate the manufacture, transportation, possession, purchase and sale of alcoholic beverages and alcohol within the State and providing for local option in cities and towns, the report of the Committee being ought not to pass.

Mr. HUSSEY of Augusta: Mr. Speaker, I move to substitute the bill for the report, in order that I may get this referred to the next Legislature.

The SPEAKER: The gentleman from Augusta, Mr. Hussey, moves that the bill be substituted for the report.

Miss LAUGHLIN: Mr. Speaker, in view of the fact that the Supreme Court in one of its opinions has definitely said that it would be unconstitutional to pass a law to take effect if and when the 26th Amendment was repealed, it seems to me to be a little absurd for this House to vote to substitute the bill for the report. The Supreme Court has said it was unconstitutional.

Mr. HUSSEY: Mr. Speaker and members of the Legislature, we have had handed down to us a report from the law court. Of course none of us wish to differ with our law court, but yet there may be a little opinion in our own minds whether time may change the present opinion. It has been known to have done so before. I do not see any hurt in having this Legislature refer it to the next session of the Legislature. It is doing no harm.

The general committee appointed by the Governor put in a lot of time on it. The gentleman from Portland, Mr. Verrill, did most of the work on it, and I would like to see him get the privilege of having this brought before the next session. I think it is not in any way asking too much of this body. I hope that the members will support me in my motion.

The SPEAKER: The Chair would like to inquire of the gentleman if by the next session he means the 87th Legislature, or a possible special session of this Legislature?

Mr. HUSSEY: Possible special session.

The SPEAKER: You mean the next special or regular session.

Mr. HUSSEY: Yes, Mr. Speaker.

Miss LAUGHLIN: I have now found the legislative document which states the opinion of the Supreme Court. It is L. D. 186.

The question was: "Is it within the power of the Legislature to pass an act authorizing the sale of beverages contrary to the express provision of the Constitution as it now stands. * * * If such an enactment is not within the power of the Legislature, is it within the power of the Legislature to pass an enabling act submitting to the electors for their adoption or rejection, concurrently with their adoption or rejection of a Constitutional Amendment which will eliminate the prohibition against such legislation, a similar act to be effective only in case both Act and Amendment are so adopted?" The answer of the Court was as follows: "Unless and until changed by formal amendment, present provisions of the Constitution bind not only the Legislature but the people. This question is therefore answered in the negative."

The SPEAKER: The pending question is the motion of the gentleman from Augusta, Mr. Hussey, that the bill be substituted for the report of the Committee. All those in favor will say aye, contrary-minded no.

A viva voce vote being taken, the motion prevailed, and on further motion by the same gentleman the report of the committee was referred to the next regular or special session of the Legislature.

The SPEAKER: There is nothing more before the House at this time until some additional papers come from the Senate or from His Excellency, the Governor. The House will therefore be at recess until summoned by the gong.

(Recess)

After Recess

The SPEAKER: The Chair recognizes the gentleman from Cooper, Mr. Clarke.

Mr. CLARKE: Mr. Speaker, I move that the House reconsider its action taken earlier in the evening whereby the majority report, ought not to pass, of the committee on Appropriations and Financial Affairs on bill an act creating a State Lottery Commission.

The SPEAKER: In the House

earlier this evening there came the majority and minority reports of the committee on Financial Affairs on L. D. 19, an act creating a State Lottery Commission, the majority report being out not to pass and the minority report ought to pass in new draft. The House accepted the majority report ought not to pass by a close margin. The gentleman from Cooper, Mr. Clarke, now moves that the House reconsider its action whereby the majority report, ought not to pass, was accepted. The Chair recognizes the gentleman from Brewer, Mr. Sargent.

Mr. SARGENT: Mr. Speaker, I yield to the gentleman from Cooper, Mr. Clarke.

The SPEAKER: How did the gentleman from Cooper, Mr. Clarke, vote?

Mr. COOPER: I voted for it.

Mr. SARGENT: I wish to know if the gentleman is in a position to make the motion to reconsider.

Mr. CLARKE: I think that as I voted for the majority report, which was accepted here, that I have the right to move to reconsider. That is as I understand it.

Mr. SOPER of Newport: Mr. Speaker, may I inquire whether, if a person did not vote on it, he would have the right to make that motion?

The SPEAKER: It did not go to a roll call, it was just a voice vote; and if the gentleman from Cooper, Mr. Clarke, voted the way he states, he has a right to reconsider and the Chair so rules.

Mr. FENLASON of No. Anson: Mr. Speaker, do I understand that the gentleman from Cooper cannot vote?

The SPEAKER: I ruled that he could make the motion, and the Chair recognizes the gentleman from Cooper, Mr. Clarke.

Mr. CLARKE: Mr. Speaker, I move that the House reconsider its action taken earlier in the evening whereby it refused to accept the minority report, ought to pass, in new draft of the committee on Financial Affairs and Appropriations on bill an act creating a State Lottery Commission, H. P. 4, L. D. 19.

Mr. FENLASON: Mr. Speaker, do I understand that the Senate has adjourned. The Senate has adjourned until ten o'clock tomorrow morning.

Mr. FENLASON: Then I would table this until tomorrow morning.

A viva voce vote being taken, the motion to table failed of passage.

The SPEAKER: The pending motion is the motion of the gentleman from Cooper, Mr. Clarke, that the House reconsider its action taken earlier in the evening whereby it refused to accept the minority report of the committee, which was ought to pass in new draft. All those in favor of this motion will say aye, contrary minded no.

A viva voce vote being taken, the motion to reconsider prevailed.

Mr. CLARKE: Mr. Speaker, I move that the House accept the minority report of the committee which was ought to pass in new draft.

A viva voce vote being taken, the motion prevailed and the new draft was tabled for printing under the Joint rules.

Mr. CARSWELL: Mr. Speaker, I move that the House adjourn.

The SPEAKER: Will the gentleman withdraw his motion as the gentleman from Fort Fairfield, Mr. Ashby, has something he desires to offer.

Mr. ASHBY of Fort Fairfield: Mr. Speaker, I move that we reconsider our action of Saturday, the 16th, whereby we voted to indefinitely postpone the expense bill.

(Laughter and applause)

The SPEAKER: If the House desires to act upon that motion tonight, it will be necessary for the Clerk to bring the papers back into the House. They are now in the files, and that can be accomplished only by an order, which must be a joint order.

Mr. ASHBY: Well, Mr. Speaker, I simply want to vote to reconsider the action of the House.

The SPEAKER: That would be proper if the papers were here. The matter has been filed away now. If the gentleman desires to present an order recalling the papers to the House, the Clerk will assist the gentleman in preparing an order. The present motion is out of order.

Mr. ASHBY: My object in doing this was that I was going to move to insist and ask for a committee of conference.

The SPEAKER: The Chair cannot help what you are going to do. You cannot do anything until we get the papers back. The Clerk will help you get the papers back if you will be patient. (Laughter)

Mr. Ashby of Fort Fairfield presented the following order, out of order, and moved its passage:

Ordered, the Senate concurring,

that the Joint Order relative to reimbursing members not exceeding three dollars per day for expenses while attending the present special session of the Legislature be recalled from the legislative files to the House.

A viva voce vote being taken, the order received passage and was sent up for concurrence.

The SPEAKER: For the information of the House and the gentle-

man from Fort Fairfield, Mr. Ashby, no further action can be taken on that order until the Senate has concurred in the adoption of this order and we have the papers back.

The SPEAKER: Do you wish to renew your motion, Mr. Carswell?

On motion by Mr. Carswell of Gorham,

Adjourned until 11 o'clock tomorrow morning.