

# MAINE STATE LEGISLATURE

The following document is provided by the  
**LAW AND LEGISLATIVE DIGITAL LIBRARY**  
at the Maine State Law and Legislative Reference Library  
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied  
(searchable text may contain some errors and/or omissions)

LEGISLATIVE RECORD

OF THE

# Ninetieth Legislature

OF THE

STATE OF MAINE



1941

KENNEBEC JOURNAL COMPANY

AUGUSTA, MAINE

**HOUSE**

Monday, April 7, 1941.

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

Prayer by the Rev. Mr. Hazelton of Carmel.

Journal of the previous session read and approved.

**Senate Reports  
Ought Not to Pass**

From the Senate:

Report of the Committee on Pensions reporting "Ought not to pass" on Bill "An Act relating to a Retirement Pension for Frank P. Washburn of Perry" (S. P. 70)

Came from the Senate, read and accepted.

In the House:

The SPEAKER: The Chair recognizes the gentleman from Calais, Mr. Murchie.

Mr. MURCHIE: Mr. Speaker and Ladies and Gentlemen of the House: I would not have been surprised if some member of this committee should have reported in this way on this bill, but I am amazed to think that every member of the committee would bring in a report of this kind, having to do with a man who has given twenty years of service to the State of Maine in the capacity of Commissioner of Agriculture, and who has not only done that but has given other years of his service to the Legislature. With the thought that I would like to consult the committee and get some of their angles on this matter, I am going to ask that this bill be laid on the table.

The SPEAKER: The gentleman from Calais, Mr. Murchie, moves that the report and accompanying papers lie on the table pending acceptance of the "Ought not to pass" report. Is this the pleasure of the House?

The motion prevailed and the "Ought not to pass" report of the committee was tabled pending acceptance in concurrence.

Report of the Committee on Pensions reporting "Ought not to pass" on Bill "An Act providing for Pensions for Certain County Officers and Employees" (S. P. 48) (L. D. 23)

Report of the Committee on Taxation reporting same on Bill "An Act relating to the Exceptions of

the Taxation of Personal Estate" (S. P. 388) (L. D. 653)

Came from the Senate, read and accepted.

In the House, were read and accepted in concurrence.

Final Report of the Committee on Counties.

Final Report of the Committee on Mines and Mining.

Final Report of the Committee on State Lands and Forest Preservation.

Came from the Senate read and accepted.

In the House, were read and accepted in concurrence.

**Senate Bills and Resolve in First Reading**

Bill "An Act to Incorporate the Carmel School District" (S. P. 515) (L. D. 1092)

Bill "An Act relating to the Teachers' Retirement System" (S. P. 396) (L. D. 633)

Bill "An Act relating to Veterinary Surgeons" (S. P. 106) (L. D. 147)

Bill "An Act to Apportion Representatives to Congress" (S. P. 528) (L. D. 1091)

Resolve Dividing the State into Senatorial Districts" (S. P. 526) (L. D. 1093)

Bills were read twice, the Resolve read once, and tomorrow assigned.

**Senate Divided Reports  
Tabled**

From the Senate:

Majority Report of the Committee on Legal Affairs reporting "Ought not to pass" on Bill "An Act relating to Payment of Accounts to the State" (S. P. 46) (L. D. 22)

Report was signed by the following members:

Messrs. MORSE of Waldo  
DOW of Oxford

—of the Senate.

SYLVIA of Danforth  
SHESONG of Portland

DWINAL of Camden

LaFLEUR of Portland

DONAHUE of Biddeford

—of the House.

Minority Report of same Committee reporting "Ought to pass" on same Bill.

Report was signed by the following members:

Messrs. SANBORN of Cumberland  
—of the Senate.

SOUTHARD of Augusta  
SLOSBERG of Gardiner  
—of the House.

Came from the Senate with the Minority Report accepted and the Bill passed to be engrossed as amended by Senate Amendment "A"

(In the House, on motion by Mr. Slosberg of Gardiner, the two Reports with accompanying papers, tabled pending acceptance of either Report.)

#### Senate Insisting—Conference Asked

Bill "An Act Creating a Department of Motor Vehicles" (S. P. 77) (L. D. 45) on which the House accepted the Minority Report of the Committee on Motor Vehicles reporting "Ought not to pass" on April 4th in non-concurrence.

Came from the Senate with that body insisting on its former action whereby the Majority Report of the Committee reporting "Ought to pass" was accepted and the Bill passed to be engrossed, and asking for a Committee of Conference, and with the following Conferees appointed on its part:

Mr. ELLIOT of Knox  
Miss LAUGHLIN of Cumberland  
Mr. LIBBY of Cumberland  
In the House:

The SPEAKER: The Chair recognizes the gentleman from Calais, Mr. Murchie.

Mr. MURCHIE: I move you, Mr. Speaker, that the House insist on its former action and join in a Committee of Conference.

The SPEAKER: The gentleman from Calais, Mr. Murchie, moves that the House insist on its former action and join in a Committee of Conference. Is this the pleasure of the House?

The motion prevailed, and the Chair appointed as Conferees on the part of the House:

Messrs. MURCHIE of Calais  
WESTON of Farmingdale.  
BREWSTER of Presque Isle

#### House Reports of Committees Ought to Pass in New Draft

Mr. Cross from the Committee on Ways and Bridges on Bill "An Act Authorizing a Bond Issue for the Building and Rebuilding of Bridges for Military Purposes on State Highways of Military Importance" (H. P. 691) (L. D. 246) reported same in a new draft (H. P. 1902) under

title of "An Act Authorizing a Bond Issue for the Building, Rebuilding and Strengthening of Bridges for Military Purposes on the Highways of the State of Military Importance" and that it "Ought to pass"

Report was read and accepted and the new draft ordered printed under the Joint Rules.

#### First Reading of Printed Bills and Resolves

Bill "An Act Declaring Municipal Airports to be Agencies of the State" (H. P. 1418) (L. D. 727)

Bill "An Act Creating the Maine Turnpike Authority" (H. P. 1601) (L. D. 917)

Bill "An Act relating to Caucuses in the city of Waterville" (H. P. 1856) (L. D. 1118)

Bill "An Act relating to Mines and Minerals" (H. P. 1895) (L. D. 1119)

Bill "An Act relating to the Taking and Sale of Clams in the town of Scarborough" (H. P. 1896) (L. D. 1120)

Bill "An Act relating to the Taking and Sale of Clams in the town of Kennebunkport" (H. P. 1897) (L. D. 1121)

Bill "An Act relating to the Taking and Sale of Clams in the town of Kennebunk" (H. P. 1898) (L. D. 1122)

Bill "An Act relating to the Taking and Sale of Clams in Certain Cumberland County Towns" (H. P. 1899) (L. D. 1123)

Resolve for the Laying of the County Taxes for the year nineteen hundred forty-one (H. P. 1900) (L. D. 1124)

Resolve for the Laying of the County Taxes for the year nineteen hundred forty-two (H. P. 1901) (L. D. 1125)

Bills were read twice, Resolves read once and tomorrow assigned.

#### Amended Bill

Bill "An Act relating to the Time of Opening and Closing of Polls" (H. P. 1152) (L. D. 452)

Bill was read once and tomorrow assigned.

#### Passed to Be Engrossed

Bill "An Act Authorizing the Registration of Motor Vehicles Operated by Governmental Agencies" (S. P. 386) (L. D. 632)

Bill "An Act relating to Notifications by Dealers to Secretary of State of Transfer of Motor Vehicles" (S. P. 452) (L. D. 898)

**Bill Tabled**

Bill "An Act relating to Licenses and Permits for Outdoor Advertising" (H. P. 1153) (L. D. 357)

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

Bill "An Act relating to Teachers' Retirement System" (H. P. 1187) (L. D. 482)

Bill "An Act Concerning the Teachers' Retirement System" (H. P. 1247) (L. D. 529)

Bill "An Act Levying a Use Fuel Tax" (H. P. 1479) (L. D. 602)

Bill "An Act to Define Internal Combustion Engine Fuel" (H. P. 1483) (L. D. 610)

Bill "An Act relating to Registration of Motor Vehicles and Trailers" (H. P. 1891) (L. D. 1106)

Bill "An Act relating to the Safety on Highways" (H. P. 1892) (L. D. 1107)

Bill "An Act relating to Farm Tractor Trailers" (H. P. 1893) (L. D. 1108)

Bill "An Act to Encourage Safety on School Buses" (H. P. 1894) (L. D. 1109)

Resolve for the Purchase of One Hundred Copies of "Sesquicentennial History of Greene" (H. P. 105) (L. D. 1111)

Resolve to Repeal a Resolve providing for a State Pension for Elizabeth McNaughton of Bangor (H. P. 107) (L. D. 1112)

Resolve in favor of the town of Farmington (H. P. 924) (L. D. 1110)

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

**Amended Bill and Resolves**

Bill "An Act relating to Registration Number Plates for Use on Motor Vehicles" (S. P. 450) (L. D. 899)

**Resolve Tabled**

Resolve for the Purchase of Two Hundred Fifty Copies of "The Old Man of the 103rd" (H. P. 1184) (L. D. 1113)

(Was reported by the Committee on Bills in the Third Reading, read the second time, and on motion by Mr. McGillicuddy of Houlton, tabled pending passage to be engrossed)

Resolve proposing an Amendment to the Constitution to Provide for an Adjustment of Real Estate Taxation (H. P. 1391) (L. D. 769)

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

**Orders of The Day**

The SPEAKER: Under Orders of the Day, the Chair lays before the House the first tabled and today assigned matter, Senate Report "Ought to pass in new draft" of the Committee on Labor, on Bill "An Act Relating to Hours of Employment." (S. P. 524) (L. D. 1085) tabled by the gentleman from South Portland, Mr. Gowell, on April 5th, pending acceptance in concurrence; and the Chair recognizes that gentleman.

On motion by Mr. Gowell, the "Ought to pass in new draft" report of the committee was accepted, and the bill was given its two several readings, and assigned for third reading tomorrow morning.

On motion by Mr. Southard of Augusta, the House voted to reconsider its action whereby the bill was assigned for third reading tomorrow morning; and on further motion by the same gentleman, the bill was tabled pending assignment for third reading.

On motion by Mr. McGlaulin, of Portland, the House voted to take from the table the twenty-fifth tabled and unassigned matter, Majority Report "Ought to pass" and Minority Report "Ought not to pass," of the Committee on Federal Relations, on Resolution Proposing an Amendment to the Constitution of the United States Relative to Taxes on Income, Inheritance and Gifts (H. P. 466) (L. D. 202), tabled by that gentleman on April 5th, pending the motion of that gentleman, that the Majority Report "Ought to Pass" be accepted.

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

Mr. MCGLAULIN: Mr. Speaker, inasmuch as it has been called to my attention by at least six members of this House that they were unable to hear what I had to say regarding this measure on Friday last, I ask the indulgence of this House while I recapitulate my argument briefly, so that you may understand what we are voting upon.

I called your attention to the fact that if two-thirds of the Legisla-

tures of this country send resolutions like this one to Congress, Congress is compelled to call a Constitutional Convention, for the purpose of submitting such a measure for the consideration of the states. When passed by two-thirds of the states, it becomes a part of the Constitution.

I pointed out to you further that three states have passed this resolution. It is now being considered by seventeen other states, and preparations are being made to have it introduced when the Legislatures meet in eighteen other states.

What the bill undertakes to do is to put a ceiling on the amount the government can tax incomes, estates and gifts. It sets that ceiling at twenty-five per cent in any one year.

Right here I want to say that somebody may ask why I object to a ceiling on real estate and ask for a ceiling on income taxes. That is easy to answer. I did not object to a ceiling on real estate. What I did object to was the failure to provide a substitute. No such condition exists here.

Taxes from incomes are comparatively new in this country. Prior to a few years ago the Government got its taxes in other ways — from tariffs, from stamp taxes, from tobacco, from liquor taxes, and so forth. So there is no parallel there.

What is the occasion for wanting this law passed? The answer is that it is due to the fact that at the present time the high bracket for income taxes is 81.1 per cent and the high bracket for inheritance taxes is 77 percent.

I also tried to point out to you at least three objections to the law as it stands today.

The first one was because the states have just as much right to assess inheritance taxes and estate taxes and gift taxes as does the nation. Those who have that income or inheritance live in the states. The Government should not, in any case, take more than one-half, because, when they do, they are depriving the states of their power of taxation. Then when both the government and the states are taxing, they should not take it all. They should leave something to the man himself.

The second point that I would call to your attention is that there is a point beyond which it is not econ-

omy to tax. I told you that some economists have concluded that twenty-five per cent on incomes brings in a greater amount of revenue than a larger rate. I pointed out to you, in 1926, the rate was reduced from 46 per cent to 25 per cent. In 1928, under that law, this country took in \$275,000,000 more dollars than they did before.

Along this line I want to quote from two or three economists.

The Democratic Floor Leader in Congress said: "The higher the tax, the higher the price and the fewer the sales—the fewer the sales, the smaller the national income."

Coming to the point I mentioned, President Wilson stated: "There is a point at which, in peace time, high rates of income and profit taxes discourage energy, and remove the incentive to new enterprise."

President Coolidge said: "Experience does not show that the higher rate produces the larger revenue. Experience shows it is all the other way."

An illustration is given in the case of the Ford plant. Ford, in the manufacture of automobiles, would have made more money on a single car, if he had charged \$2500 for a car. He made less on a single car at \$700 or \$800. But he made more money in the end, because he sold more cars, going in one year as high as \$1,700,000. That is exactly the point I am trying to make.

If you have a lower tax rate, within reason, there are more men who will get an income on which to pay, and you will get not less tax but more.

I also quote another statement from President Coolidge: "The experience of the Treasury Department and the opinion of the best experts place the rate which will collect the most from the people of great wealth—thus giving the largest relief to the people of moderate wealth—at not over twenty-five percent."

Now, the third objection to the present law is that it discourages private enterprise. I pointed out to you Friday that in the past eight years we have had unemployment up to about ten million persons. Up to 1940, when the war broke out—the Government did everything that it could to help remedy that situation but it failed to do so. Therefore, it is evident that if this problem can be solved at all, it has got to be

solved by private enterprise. It is to encourage private enterprise that this bill is introduced.

Now, it is perfectly evident that men who have money to invest, if they are going to take the chance of losing it by bad investment on the one hand, and take the chance of the Government taking it all away from them on the other hand, that it does not encourage investment.

The final point that I tried to make here on Friday was this. From the conditions in the world today, with the loss of houses, the loss of ships, the loss of mills, the loss of planes, and so forth, these will have to be replaced. We are going to need more commercial airplanes. The inventive genius of the country will require more enterprises.

I also might say that during the depression there has been a falling behind in great volume of varying industries in this country. We have the material; we have the men; we have the money. That is the great opportunity for America.

This is not a war-time measure. It is looking ahead into the future and trying to pave the way so that when that great opportunity comes, we will be prepared to meet it.

I thank you for listening to me twice. I am so sorry that it was necessary.

The SPEAKER: The Chair recognizes the gentleman from Auburn, Mr. Conant.

Mr. CONANT: Mr. Speaker and Members of the House: At the very outset, I would like to make it clear that this is not an issue which can be considered either of a party or political nature.

To substantiate that proposition, I bring to your attention that while this measure has been before the people for several years, the Republican program for 1940 made no mention of it. The Democratic program the same year made no mention of it. There was nothing in the famous Frank report, which said anything about this issue whatsoever.

As a matter of fact, this is a matter completely divorced from the political sphere and, instead, relates to a fundamental concept of constitutional law.

It was only after I had made a very exhaustive study of the great amount of material that was presented before our Committee, and

some independent research, that I saw fit to sign the Minority Report in this matter.

At the very outset I checked back on constitutional law principles in some of the leading cases, to refresh my recollection as to why there was a Sixteenth Amendment. My recollection, after looking over some of these cases, and a Congressional Digest of that time, showed me that this Sixteenth Amendment came about only because in 1894 an Act was passed by the Congress of the United States which levied a tax, an income tax, upon certain real and personal property.

The case was brought before the United States Supreme Court. The United States Supreme Court held that that Act was unconstitutional, not because the Congress did not have a right to tax incomes, but instead, because this particular tax conflicted with another article of the Constitution, and there should have been an apportionment among the several states.

I am not going to ask you to take my version of this matter as final here. I desire to read this sentence, in the case of Kirbargh-Empire Co. vs. Bowers, 275 U. S., a case decided in 1924. I will read you only one sentence, the first sentence. "The effect of the Sixteenth Amendment was not to grant power to Congress to tax incomes, because that power it always had."

Now, without more ado, we find that the Congress of the United States has had an inherent power, since the inception of our form of government of the United States, to tax incomes.

Now, under this measure which has been presented by the gentleman from Portland, Mr. McGlauffin, we would put a ceiling on their power. After these one hundred and fifty years or more that we have had this form of government, we now, under the terms of this measure, would put a restriction and ceiling of twenty-five percent upon income taxes.

We are, in effect, throwing out an indictment against the Congress of the United States, and we are saying to them—if we pass this measure—we are saying, "While we can see that for many years you have been competent in some matters of taxation, and we concede in most other matters you have been fairly competent, the time has at last come

when we find it necessary to divorce some of that power from you. We do not think that you are doing right. What is more important, we believe that something else is so completely true, accurate and correct, we are going to change this phase of constitutional law and the Constitution, once and for all. We are going to rectify all that."

The political parties did not consider it important enough to mention in their various platforms but we are going to do something about it,—this Taxpayers Association, which is presenting this measure.

Now, I believe that the principal reason that this measure has been introduced, after listening to the matter as presented to the committee, and after deliberating somewhat myself, that this measure was introduced so that in the future the practice now adopted by the Congress would be impossible in two particular lines. As the gentleman from Portland (Mr. McGlauffin) has stated, the facts and figures show that there are taxes up to 80 per cent in the line of excess profits taxation; also in certain brackets of inheritance taxation.

I agree with the gentleman from Portland (Mr. McGlauffin) that such a tax may be found by those who come after we are gone—and perhaps even in the next two decades—to have been perhaps, a practice not entirely fair. Experience may show, as a matter of fact, that taxation to that extent is completely undesirable.

I do not believe that because such a situation may exist which may not be entirely correct in certain instances, that the people—or you as their Representatives—should take upon yourselves now the responsibility of changing the Constitution or practice that has been established, the power which Congress has had for one hundred and fifty years.

I would like to have this group ask themselves one question. The proponents of this measure have not told us how much money the United States Government has raised by the excess profits tax and the inheritance tax in this high percentage in certain brackets. I am going to ask you who would pay the amount which is raised at the pres-

ent time as the result of that particular line of taxation, if by constitutional amendment, the restriction, as is introduced in this bill, were placed in effect. It certainly would take out of the picture completely one of those doctrines that many economists believe to be a fundamental one. To be fair, a tax must be borne in a large measure by those who have the ability to pay.

I am not going to make extended remarks, as have been presented by the proponents of this measure, but I am going to leave this thought with this Legislature this afternoon.

The days ahead are bound to be very trying. No one can tell what problems will arise. No one can tell all the measures of taxation it may be necessary to adopt, in addition to those which we have at the present time, irrespective of war needs, because we are not in war at the present time. There has been no declaration of war, although economists will tell us that we have been in the war for several months. The emergency does not exist now that this bill states must exist before the twenty-five per cent restriction be taken off. The entire matter of the future is bound to be in a state of flux. I do not believe that this is the proper time and I do not believe that a sufficient case has been shown to us for this group to take upon its shoulders an action of this type, which would divorce, as I have stated before, a power from the Congress of the United States which has existed for one hundred and fifty years.

Mr. McGLAUFFLIN: Mr. Speaker, I would like to answer one question that the gentleman has asked.

The SPEAKER: The gentleman from Portland, Mr. McGlauffin, asks consent of the House to address the House a third time. Is there objection? The Chair hears no objection and the gentleman may proceed.

Mr. McGLAUFFLIN: Mr. Speaker, I have before me a long list of the large taxpayers, what they pay, and I will give you a summary of it. The taxpayers in the list that I hold in my hand paid in 1939 two billion, sixty-five million and some odd thousand dollars in taxes, and they received for themselves one billion, seven hundred and sixty thousand.



In other words, they paid more for taxes than they got out of their business.

The SPEAKER: The question before the House is on the motion of the gentleman from Portland, Mr. McGlauffin, that the majority report, "Ought to pass" be accepted. The Chair recognizes the gentleman from Livermore Falls, Mr. Grua.

Mr. GRUA: Mr. Speaker and Ladies and Gentlemen of the House: As a signer of the majority committee report I think I ought to give you my reasons for signing it.

We went over this matter rather carefully in the committee and we considered all the implications and we heard the proponents and we heard the opponents.

To dispose of one of the arguments made by my brother, the gentleman from Auburn, Mr. Conant, I would ask you why it would seem to be necessary to pass a constitutional amendment giving the power to Congress to levy income taxes if they already had that power?

In giving them that power in this Sixteenth Amendment, I think it is, we did not feel it necessary to limit the amount that they could tax. This present amendment is designed for the purpose of limiting the total amount of income taxes that can be levied by the United States Government.

Perhaps to make this clear it might be well to consider the two distinct philosophies of government that exist in the United States. One is a philosophy dependent for its existence upon private initiative, private capital, private property, known as the profit system or the Capitalistic system; the other is the Socialistic doctrine, having for its purpose the idea of socializing industry and having it taken over by the government to be run for the people.

In the hands of some future government at Washington, just what sort of a government we may have after this present emergency is over we do not know, but if, perchance, we should receive such a government at the head of our affairs in Washington that was decidedly socialistic, under the present set-up with such an amendment as this, they can tax to death every form of private enterprise by corporation or individual; they can simply tax it out of existence.

As the gentleman from Portland (Mr. McGlauffin) has already told

you, they are taking now from some of the corporations to the extent of 86.9 per cent of their income. 86.9 per cent is the figure given by the gentleman from Portland, Mr. McGlauffin. They are taking on certain inheritances 77 per cent; they are taking on excess profit taxes from the corporations 50 per cent, the ordinary corporation tax being 27 per cent.

Do we want to leave in the hands of the national government this unrestricted power to change the whole set-up of our national economy, to change it so that we may have a socialistic state like they have in Russia rather than the state of private initiative that we have in this country? That is one of the reasons I endorse and endorse heartily this amendment.

The second reason I endorse this amendment is this: Whatever taxes the United States government levies against incomes or inheritances or gifts or whatever it may be, to that extent they are taking away from the several states the right to tax on the same items for the benefit of the state.

Let me give you one illustration: We are considering additional taxes on gasoline. Why are we hesitating to put them on? Because the United States government has already put on gasoline about all the tax it will stand. That is what has happened to gasoline, and the State of Maine cannot tax it for what they would like to tax it because the Federal government has stepped in ahead of them. Now if we take out also the power to tax inheritances—we are taxing them to a certain extent in Maine today, but if the Federal government raises the tax a little higher there will be nothing else for us to tax. If they raise the tax a little higher on corporation excess profits, there will be no profits left for us to tax. Are we willing to turn over to the Federal government the right to tax everything so we cannot tax anything? If we are going to give any relief to real estate, to property owners, if we are going to change our system of taxation at all, we have got to have something to tax instead of real estate. This would take away the right to tax income, gifts, excess profits or inheritances. That is my second reason why I feel very decidedly that the State should retain in its own hands the right to tax

these profits. It was never intended to give to the national government *carte blanche* power to tax as much as it pleases. It never occurred to us that taxes such as this would be levied upon the income of the people of this great country of ours.

My third reason for signing this report was that we have seen in actual operation what the result is of taxing the excess profits and undivided profits of corporation to such an extent they have been wiped out of existence.

Why is it that unemployment has dragged on and on in the United States and we have lagged so far behind other countries in recovery from the depression? I can tell you one reason: Corporations have no money to expand their business because they have had it all taken away from them; the United States Government is taking all their surplus and undivided profits. What have they left with which to buy new and modern machinery and with which to build new plants and expand? Ladies and Gentlemen of the House: How long do you think any business man will stay in business if he makes no profit and the government steps in and takes away every dollar that he makes? Just how long do you think he will stay in business. Would you be encouraged to start a new business under this set-up? I say it is time that we paused and considered whether this country is tending. If we are going to have a government that is going to survive, if our capitalistic system is going to survive, it is time that we did something about it and prevented the socialistic crowd or the communistic crowd from going into Washington and doing away with it. I agree with the gentleman from Auburn, Mr. Conant, that this is not aimed at the government at Washington; but the past few years have pointed out to us the dangers involved and the necessity for us doing something and doing it right away.

You will notice as you read the bill that in event of a national emergency the national government, by three-quarters vote of Congress, can suspend the operation of this law. Now does that leave them in a bad place and where they cannot do anything about it? The bill itself says they may. Isn't that all the power they need? Why should we

give them that power to tax us to death in peace time?

I do not wish to burden you with any lengthy discussion of this matter, but I do feel you ought to get the point of view our committee had in passing this legislation. While ordinarily opposed to regulations to Congress or anything of that kind, we do feel that here is something that merits our own careful attention. I earnestly hope that the House will sustain the motion of the gentleman from Portland, Mr. McLaughlin, for the acceptance of the majority report, "Ought to pass."

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

Mr. LEAVITT: Mr. Speaker, the gentleman from Portland, Mr. McLaughlin, brought out in his argument in favor of this bill that two billions were now being borne by these excess profits taxpayers and if this bill were passed that could be eliminated. That two billion dollars would have to be raised by income taxes from other people. There are less than twenty million income taxes paid in the United States at the present time, and if there were just twenty million it would mean that every person paying an income tax would have to pay an extra hundred dollars to make up for the loss occasioned by the passage of this amendment. In other words, we are shifting the tax burden from the people who can better afford to pay it to the people all over the country who are paying an income tax but perhaps can not afford it anywhere near as easily as those in the larger income brackets. I think we have something very serious to think of here, and I am against the passage of this Resolution.

The SPEAKER: The Chair recognizes the gentleman from Calais, Mr. Murchie.

Mr. MURCHIE: Mr. Speaker, it was not my intention, Ladies and Gentlemen of the House, to come in on a matter of this kind, because I think the average member here would say I was talking about something I did not know anything about. I have listened to three legal gentlemen and one layman. Now I am just going to try in about one minute to give you the conclusion I have come to on this whether it is right or wrong.

The point is that the system we have been carrying along is more or less a system of taxation and nothing else. It seems to me the adoption of this Resolution would mean by and by we would take some of the idle money out of the banks and we could approach the difficulties of the Nation by stimulating industry rather than taxation.

Here is what I have concluded: The first purpose of the Resolution is by amending the Federal Constitution to deprive the Federal government of the power to destroy the American private enterprise system through unsound and confiscatory taxation and by stimulating industry through tax revision to put back to work in private employment the millions of unemployed in this country.

My thought is that adoption of the proposed amendment will remove one of the principal obstacles to the investment of private funds in productive enterprise. Billions of dollars are lying idle in the banks, which, if we put to work, would give employment to the great masses of unemployed and restore the country to full prosperity.

Our American system is worth saving. This may be our last chance to save it. Let us act perhaps before it is too late and get something of this kind started now.

The SPEAKER: The Chair recognizes the gentleman from Auburn, Mr. Conant.

Mr. CONANT: Mr. Speaker and Members of the Ninetieth Legislature: In listening to the arguments as presented by the various gentlemen who represent the proponents of this measure, I find I have not clearly made the point I attempted to make when I told you that to pass this measure would be taking from Congress the power which they always have had. I think possibly I will go a bit further along this particular line because I want to clear that point up. It is a legal proposition. I do not think anyone here will attempt to rebut the statement I have to make along those lines. I am going to quote to you from the Kirbargh-Empire Co. vs. Bowers, 275 U. S. 170, which case was decided in 1924. I submit to the ladies and gentlemen of this House here this afternoon that inasmuch as that decision was made in 1924 which was several years prior to the episode of the nine old men,

that even the most conservative of my legal brethren here will probably consider it pretty good law.

The Court said: "The effect of the Sixteenth Amendment was not to grant power to Congress to tax incomes because that power it always had, but merely removed the necessity for apportionment among states of taxes on incomes."

Now this amendment was passed in 1913 by the Congress of the United States to clear up just one matter. The only reason that 1894 act was unconstitutional was that there was no provision in the act whereby there could be apportionment among the several states. That is the reason that act was held unconstitutional.

Now my brother, the gentleman from Farmington, Mr. Grua, has said, "Let us retain here this power." Now we are retaining it, if my interpretation of this legal matter is accurate at all. We are taking from Congress something that for over 150 years has belonged to them. Now when we are thinking of saving the American Democracy, let us also take into consideration the proposition that we are divorcing by this measure an inherent power they always have had.

There is also another matter I would like to bring to your attention and that is that while it seems to be the consensus of opinion of many speakers here this afternoon that some of these tax problems and measures of taxation are not entirely right, the important phase of this matter is this: This is a mandatory twenty-five per cent ceiling; it has got to stop there unless we have a national disaster under the terms of this measure here. It says:

"The limitations upon the rates of said taxes contained in sections 2 and 3 shall, however, be subject to the qualification that in the event of a war in which the United States is engaged creating a grave national emergency requiring such action to avoid national disaster, the congress by a vote of three-fourths of each house may for a period not exceeding one year increase beyond the limits above prescribed the maximum rate of any such tax upon income subsequently accruing or received or with respect to subsequent devolutions or transfers of property, with like power, while the United States is actively engaged in such war, to repeat such action as often as such emergency may require."

That is pretty general anyway, the way that is written, even though I have to take issue with some of the finest legal talent of the Taxpayers Association of the United States.

I submit, because we have a national situation such as we have at the present time, and since we do not know what the future holds for us, this is no time to put restrictions on income taxes, which the gentleman from Livermore Falls, Mr. Grua, last week in his argument, said was the fairest tax there is. I say this is no time to put restrictions upon the Congress of the United States.

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

Mr. HINCKLEY: Mr. Speaker and Members of the House: I would like to take up about two minutes of your time to explain my position.

I have tried to consider this matter very fairly, and I have come to the conclusion I cannot possibly go along with the majority report of this committee.

First of all, I think it is foolish to try to send Memorials to Congress. We have tried that before and they have laughed at us.

It has been said if two-thirds of the states pass the Memorial, Congress cannot laugh at us because they would have to call a convention. That may be true. The question is: Can you get two-thirds of the United States to do that? I do not believe you can.

I also believe we have in Congress Representatives who are able to do their work just as well as we are able to do it for them, and I for one am not going to try to dictate to them what they should do.

My second reason is that if you take the taxes away from the big fellows who are able to pay, then the little fellows like you and me have got to make it up. There is no getting away from that proposition so far as I can see. Someone has got to pay the bills, and if the big fellow who can afford to does not pay, someone else will have to pay.

I would like to say just a word in regard to that sheet that was presented. I wish for one that my name were on there. I wish that I could pay two billion to the United States government and have

nearly two billion left. Just think that over.

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

Mr. SOUTHARD: Mr. Speaker, I think we can rely upon the political acumen of the United States Congress not to tax the poor man too much.

It strikes me that the danger of this proposal, more or less, is in Section 4,—in case the United States is engaged in the war and is faced with a national emergency, they can raise the income tax. I do not know but what there will be fighting all the time, if they can tax incomes more than twenty-five per cent. (Laughter)

The SPEAKER: The question before the House is on the motion of the gentleman from Portland, Mr. McGlaflin, that the majority report "Ought to pass" be accepted.

The Chair recognizes the gentleman from China, Mr. Fuller.

Mr. FULLER: Mr. Speaker and Members of the House: As a signer of the Majority Report on this measure, I want to state that with the majority of that committee, I felt similar to what Mr. Grua has stated. I also agree with a few of the other members that had the same thought as stated by the gentleman from Calais, Mr. Murchie.

I hope that the motion of the gentleman from Portland (Mr. McGlaflin) prevails.

Mr. LAMBERT of Lewiston: Mr. Speaker, I ask for a division.

The SPEAKER: The gentleman from Lewiston, Mr. Lambert, asks for a division.

The question before the House is on the motion of the gentleman from Portland, Mr. McGlaflin, that the House accept the majority report, "Ought to pass". All those in favor of the motion of the gentleman from Portland, Mr. McGlaflin, that the House accept the majority report "Ought to pass" will rise and stand in their places until counted and the monitors have made and returned the count.

A division of the House was had. Forty-two having voted in the affirmative and 65 in the negative, the motion did not prevail.

On motion by Mr. Conant of Auburn, the minority report "Ought not to pass" was accepted and sent up for concurrence.

On motion by the gentleman from Eagle Lake, Mr. Brown, the House voted to take from the table the sixth tabled and unassigned matter, House Report "Ought not to pass" of the Committee on Claims on Resolve in favor of L. U. Klein, of Eagle Lake. (H. P. 14) tabled by that gentleman on April 1st pending acceptance.

The SPEAKER: The Chair recognizes the gentleman from Eagle Lake, Mr. Brown.

Mr. BROWN: Mr. Speaker and Members of the House: I am going to try to explain to you in regard to this claim.

Mr. L. U. Klein is a business man in Eagle Lake and this is a claim for pauper supplies furnished to the Plantation of Winterville which is not a town and which does not appropriate money for public schools. These supplies were all furnished to State paupers.

I came in here in 1939 with this claim, and I was told that Mr. Klein never got any orders to deliver the goods by the first selectman in Winterville. I came back in 1939 with the same claim. I found out after I went home that the first selectman had given orders to Mr. Klein to deliver these goods. I found the selectman was up in Bingham, working for the Augusta Lumber Company, and I paid ten dollars out of my own pocket to get this man down here before the committee, and he assured the committee that he did give the order to Mr. Klein to furnish these goods to paupers.

Then after a while the opponents told me there was another objection to this matter that they had found out and that was that these people that Mr. Klein had said he had delivered the goods to had said they never had got them.

Now you know just as well as I do that a man who is a pauper will never admit he is a pauper. I do not know how they found out. I suppose it was some guesswork.

When I found this out I went down to the Welfare Department in the "cheese factory" so-called, down here, and I went to see Mr. Webber. They told me he was the man who came before the committee and questioned about this. Mr. Webber told me he had no objection. I had the itemized bills of the persons who got these goods, which showed the goods delivered to those

persons. I said to him, "If you say any of those people are not paupers we will pull those out." He says, "I have no objection at all. It is up to the Claims Committee to report this out "Ought to pass" or not."

Now Mr. Klein never got his payment. If I thought he had got his payment I would not be here asking for it. I think this bill has merit, and I believe Mr. Klein had these on his books, because he brought in itemized bills for these supplies furnished paupers. I really believe this is a good claim, and, if you think this is a good claim, I ask that you stand with me. If you think I am here trying to put something over on you, you can vote against me. That is the best I can do for Mr. Klein.

The SPEAKER: Does the gentleman from Eagle Lake wish to make a motion?

Mr. BROWN: Mr. Speaker, I move that the Resolve be substituted for the report of the committee.

The SPEAKER: The gentleman from Eagle Lake, Mr. Brown, moves that the Resolve be substituted for the "Ought not to pass" report of the Committee.

The Chair recognizes the gentleman from North Berwick, Mr. Welch.

Mr. WELCH: Mr. Speaker and Members of the House: The Claims Committee have heard this sixth unassigned matter, and have given it careful consideration.

I want to read to you a letter addressed to Mr. Leadbetter.

"On November 17th, 1939, Mr. Klein came to this office with the following affidavits from Zephirin Boutot, Donat H. Pelletier, David Daigle, Paul Berube, Theophile Bouchard, Donald J. Pelletier, Jack Soucy and Wilbert Soucy:

"The same form and wording was used in all cases. I did not see these affidavits myself as I was out of town on that day, but on November 18th, I wrote Mr. Klein the reason why these particular bills were turned down in the following words:

'In the case of Zephirin Boutot, in December, 1937, he was employed on WPA and was not receiving any direct relief.

'In the case of Donat H. Pelletier, we paid a clothing bill at Tucker's store during the same period you

claim that he had clothing from your store.

'In the case of David Daigle, he was employed on WPA and we paid for clothing from Mr. Markee in Winterville.

'Paul Berube was privately employed and was not receiving any kind of aid.

'Theophile Bouchard was given supplementary aid which did not include clothing.

'Donald J. Pelletier only receives medical aid. His compensation checks provide for the support of his family in all other matters.

'Jack Soucy was not in need of aid and cannot be considered eligible for direct relief as of October, 1937. This also applies for Wilbert Soucy.'

'Now you will note that his inquiry was about fewer accounts than is shown on our previous record. These last accounts amount to \$110.95.

'Our case histories show many other reasons why we should not pay these bills. All these items were discussed with Mr. Wood, and every case where a reasonable doubt could be raised was paid; the only bills not paid were where the case worker had quoted a direct statement from the people that they had not received clothing. Jack Soucy and Wilbert Soucy are Edwin's brothers so we do not have a statement from them that they had not received the clothing, but the circumstances were such that Mrs. Ouellette felt justified in raising a doubt that the clothing was ever received. In all these cases it appears that there was no need at that time.

'Mr. Edwin Soucie was operated on Saturday for acute appendicitis and I understand that he has developed ether pneumonia. From this you can judge that he would not be in condition to make any kind of statement and he might not be able to make a statement for some time.

'What actually happened will probably never be determined with absolute certainty. I do not think the State should pay these accounts.

(Signed) J. W. PARENT"

I move the acceptance of the "Ought not to pass" report.

The SPEAKER: The question before the House is on the motion of the gentleman from Eagle Lake, Mr. Brown, that the bill be substituted for the "Ought not to pass" report

of the committee. The Chair recognizes the gentleman from Eagle Lake, Mr. Brown.

Mr. BROWN: Mr. Speaker and Members of the House: All those statements do not say that Mr. Klein got his pay. The goods were delivered. As I understand it, some of these people are now on relief and are furnished supplies by the State. Mr. Klein claims he delivered the goods. I went down to the Welfare Department and asked Mr. Webber and everyone around there and they told me they had no objection to this. Why does this come up at this time? Do you suppose that Mr. Klein would be asking for this for two or three years if he had gotten his due? I say to you, members, Mr. Klein never got his pay for those goods. I cannot see why there is this objection, and I cannot see why he did not come to me when I had this bill in here. I could not find anybody who objected to it.

I will say this: If you do not give Mr. Klein his pay he has no other way to get it, because he cannot sue the State. He cannot get it any other way. If he could, I would not be here asking for this pay for Mr. Klein. I leave it up to you, gentlemen.

The SPEAKER: The Chair recognizes the gentleman from Rockland, Mr. Jones.

Mr. JONES: Mr. Speaker, I would like to ask through the Chair how much the amount of this bill is.

The SPEAKER: The Chair recognizes the gentleman from Freeport, Mr. Patterson.

Mr. PATTERSON: Mr. Speaker, I will say we went over that very thoroughly and the way we understood it and had it explained to us was that it was brought in a second time. There have been a lot of them brought in the second, third and fourth time. We could not find out where we could possibly pay that bill under the circumstances from the evidence that we had before us.

The SPEAKER: The question before the House is on the motion of the gentleman from Eagle Lake, Mr. Brown, that the resolve be substituted for the "Ought not to pass" report of the committee. Is the House ready for the question?

The Chair recognizes the gentleman from Winslow, Mr. Belanger.

Mr. BELANGER: Mr. Speaker, I think the gentleman from Rockland, Mr. Jones, asked a question

through the Chair. I would like to answer that question. From the letter the gentleman has in his hands there, I would say that the amount is \$209.15.

The SPEAKER: If there is no objection, the Clerk will read the resolve.

(Resolve read by the Clerk)

The SPEAKER: The question before the House is on the motion of the gentleman from Eagle Lake, Mr. Brown, that the resolve be substituted for the "Ought not to pass" report of the committee. Is the House ready for the question? As many as are in favor of the motion of the gentleman from Eagle Lake, Mr. Brown, that the resolve be substituted for the "Ought not to pass" report of the committee will say aye; those opposed no.

A viva voce vote being doubted, A division of the House was had.

Forty-five having voted in the affirmative and 60 in the negative, the motion to substitute the resolve for the "Ought not to pass" report did not prevail.

On motion by Mr. Welch of North Berwick, the "Ought not to pass" report of the committee, was accepted and sent up for concurrence.

On motion by the gentleman from Gardiner, Mr. Slosberg, the House voted to take from the table the twenty-fourth tabled and unassigned matter, House Report "Ought to pass with Committee Amendment "A" of the Committee on Temperance on Bill "An Act Relating to the Sale of Malt Liquors to Minors" (H. P. 1286) (L. D. 562) tabled by that gentleman on April 5th pending acceptance; and on further motion by the same gentleman, the report of the committee was accepted.

On motion by Miss Deering of Bath, the House voted to reconsider its action of April 5th whereby it accepted the Minority Report "Ought not to pass" of the Committee on Judiciary on Bill "An Act

to Prohibit Certain Political Activities" (H. P. 1580) (L. D. 931).

The SPEAKER: The question before the House is on the acceptance of the minority report "Ought not to pass" on Bill "An Act to Prohibit Certain Political Activities" (H. P. 1580) (L. D. 931)

On motion by Mr. McGillicuddy of Houlton, the report, together with the bill, was tabled pending acceptance.

Miss CLOUGH of Bangor: Mr. Speaker, I move that House Rule 25 be suspended for the remainder of today's session.

The SPEAKER: The gentlewoman from Bangor, Miss Clough, moves that House Rule 25 be suspended for the remainder of today's session. All those in favor of the motion of the gentlewoman from Bangor, Miss Clough, will say aye; those opposed no.

A viva voce vote being taken, the motion prevailed.

On motion by the gentleman from Portland, Mr. LaFleur, the House voted to take from the table the eleventh tabled and unassigned matter, House Amendment "A" to Bill "An Act to Provide for the Surrender by the Ogunquit Beach District of its Organization." (H. P. 1181) (L. D. 479) tabled by that gentleman on April 3rd pending adoption; and on further motion by the same gentleman, House Amendment "A" was adopted and tomorrow was assigned for third reading of the bill.

The SPEAKER: The House is proceeding under Orders of the Day. If there are no further matters to come before the House, the Clerk will read the notices.

On motion by Mr. Pierce of Bucksport.

Adjourned until ten o'clock tomorrow morning.