

# MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

# Ninetieth Legislature

OF THE

STATE OF MAINE



1941

KENNEBEC JOURNAL COMPANY

AUGUSTA, MAINE

**HOUSE**

Friday, April 11, 1941.

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

Prayer by the Rev. Mr. Winn of Falmouth.

Journal of the previous session read and approved.

**Senate Reports****Conference Committee Reports**

From the Senate:

Report of the Committee of Conference on the disagreeing action of the two branches of the Legislature on Bill "An Act Creating a Department of Motor Vehicles" (S. P. 77) (L. D. 45) reporting that the Committee is unable to agree.

(Signed)

Messrs. ELLIOT of Knox  
LIBBY of Cumberland

Miss LAUGHLIN  
of Cumberland

—Committee on part of Senate.

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

—Committee on part of House.

Report of the Committee of Conference on the disagreeing action of the two branches of the Legislature on Bill "An Act to Provide Better Government for the town of Bar Harbor" (H. P. 645) (L. D. 281) reporting that the Committee is unable to agree.

(Signed)

Messrs. HODGKINS of Hancock  
SANBORN of Cumberland  
DOW of Oxford

—Committee on part of Senate.

MacLEOD of Bar Harbor  
SHESONG of Portland  
HANOLD of Standish

—Committee on part of House.

Came from the Senate read and accepted.

In the House, read and accepted in concurrence.

**Ought Not To Pass**

Report of the Committee on Claims reporting "Ought not to pass" on Resolve Reimbursing town of Dover-Foxcroft for Pauper Expense (S. P. 228)

Report of the Committee on Ways and Bridges reporting same on Resolve Proposing an Amendment to the Constitution to Provide that all Revenue Accruing from Motor Ve-

hicle Registration, Operators' Licenses, Motor Vehicle Fuel Excise Taxes and any other Special Charges or Taxes on the Operation of Motor Vehicles shall be used Solely for Highway and Bridge Construction Maintenance and Supervision (S. P. 100) (L. D. 101)

Came from the Senate, read and accepted.

In the House, were read and accepted in concurrence.

**Final Reports**

Final Report of the Committee on Interior Waters.

Final Report of the Committee on Military Affairs.

Final Report of the Committee on Motor Vehicles.

Final Report of the Committee on State Sanatoriums.

Came from the Senate, read and accepted.

In the House, were read and accepted in concurrence.

**Senate Report — New Bill Ought To Pass**

From the Senate:

The Committee on Appropriations and Financial Affairs, acting under authority of Joint Order, H. P. 1618, reporting a Bill under the title of "An Act Making Certain Welfare Appropriations 'Carrying Accounts'" (S. P. 544) (L. D. 1128) and that it "Ought to pass".

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

In the House, Report was read and accepted in concurrence and the Bill was read twice and assigned for third reading the next legislative day.

**Senate Divided Reports**

From the Senate:

Majority Report of the Committee on Judiciary on Bill "An Act relating to Compensation of Justices upon Retirement" (S. P. 315) (L. D. 821) reporting same in a new draft (S. P. 547) (L. D. 1129) under same title and that it "Ought to pass".

Report was signed by the following members:

Miss LAUGHLIN

of Cumberland  
Messrs. HARVEY of York

FARRIS of Kennebec

—of the Senate.

HINCKLEY

of So. Portland

GRUA of Livermore Falls

WILLIAMS of Bethel

—of the House.

Minority Report of same Committee reporting "Ought not to pass" on same Bill.

Report was signed by the following members:

Messrs. PAYSON of Portland  
MILLS of Farmington  
McGLAUF LIN

of Portland  
BRIGGS of Hampden

— of the House.

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

In the House:

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

Mr. McGLAUF LIN: Mr. Speaker, I wish the privilege of facing the House.

The SPEAKER: The gentleman may have that privilege.

Mr. McGLAUF LIN: Mr. Speaker, before beginning this debate I would like to pay my respect to this Speaker and to this House.

Mr. Speaker, I want to say to you that I think you have made a most excellent speaker. I had the privilege of associating with you in the Judiciary Committee for a period of four years where you made one splendid legislator. I compliment you on your success. (Applause).

Members of the House: We are approaching the end of the session. This has been my third term in this House. I have met some splendid men and women in that time, but I have never served in a Legislature where I felt there was a finer bunch of men and women than there are in this Legislature today. I like every last one of you. I admire your independence. I like your sense of fair play. I have never taken the slightest offense at any man or woman voting against a matter that I have advocated. I give you credit for having the same motives that I have, to try, as you see it, to work for the best interests of the State of Maine.

When I crack down on Mayo Payson, George Grua, Peter Mills, George Hinckley — I mention those particularly because I have to hit them oftener than the others—there is nothing personal in the matter at all. We are the best of friends. I admire every one of them.

Now I do not want to see this Legislature pass out foolish legislation. That leads me to a discussion of the bill before you. Perhaps no other man in the Legislature is so

familiar with the history that leads up to this act as I am.

In 1909 the Legislature, during Fernald's administration, passed an Act providing that when justices of the Superior or Supreme Court retired they were to receive half pay, one-half of their salary for the rest of their lives.

In 1911 the Democrats carried this State and Governor Plaisted was elected. At that time all the justices of the Supreme Court were Republicans except one, George Bird was a Democrat.

Now this is the way they played politics in those days. Some of the brilliant Democrats in power wanted to get rid of some of the older justices on the Supreme Court who were Republicans, so they passed a law that when justices reached the age of seventy years they could have one year in which to retire, and, if they retired they were to receive, as the act then was, half pay for the rest of their lives. But if they saw fit to stay on and complete their term then they got no retirement fee.

Judge Peabody died in 1911 and a Democrat was appointed in his place. Judge Emery saw fit to retire and another Democrat was appointed in his place. The two Democrats were Justice Haley and Justice Hanson, making three Democrats at that time.

Later the law was changed as to the amount these justices were to receive. I think the law reads now that they get three-quarters of their pay.

Now this was the situation. When a justice reached the age of seventy-one the statute provided that if he retired when he reached the age of seventy and before he was seventy-one the State of Maine would pay him for the rest of his life three-quarters of the salary he was then getting. That was a contract by the State. The State makes this offer. If the justice accepts, then he has fulfilled his part of the contract and, for the rest of his life, he can receive that salary and that payment, and nothing that this Legislature can do can prevent that being carried out.

Coming down a little further, Justice William R. Pattangall, after a long and varied political career was appointed a Justice of the Supreme Judicial Court. In the course of time he became Chief Jus-

tice. The Chief Justice of our Supreme Court gets a salary of \$9000 a year. Having reached the age of seventy and before he was seventy-one, he saw fit to take advantage of the provisions of the statute and to retire. That entitled him to three-quarters compensation for the rest of his life, regardless of whether he ever did anything more or not.

Now it so happens that Chief Justice Pattangall had in the course of his career been a criminal lawyer, and a great criminal lawyer, as well as a civil lawyer. When he retired from the bench, he decided, having mental and physical vigor enough to do so, to again enter the practice of law, the only field in which he was trained and qualified.

Other justices had retired before and gone into the practice of law. Nobody objected. Justice Deasey, for instance, retired on retirement pay and built up a considerable fortune after his retirement at Bar Harbor, and nobody objected in any way.

But it so happened that we were unfortunate enough to have a robbery or embezzlement up here in the State of Maine, and you know that the embezzler was brought before the court, and, acting along the line in which he had been trained, Justice Pattangall and his partner, Mr. Goodspeed, were employed to defend Mr. Runnells. He did not successfully defend him. Mr. Runnells was found guilty and punished. But, because of prejudice that is bound to come, there immediately went over this State a considerable criticism of Mr. Pattangall because he had defended Runnells when the State of Maine was a party to the case. If they had not had Pattangall then they would have had somebody else. But that did not seem to make any difference; the prejudice was there.

That resulted directly or indirectly in a bill being introduced in this Legislature that is still on the table, tabled by the gentleman from Anson, Mr. Fenlason. That provided that if a retired justice should take a case against the State of Maine or, I think it said any subdivision thereof, he was to lose his retirement pay.

That matter was presented to the Judiciary Committee and every last member of that Judiciary Committee found that that bill was uncon-

stitutional, positively and without question it was unconstitutional, because, as I have stated to you, it was a contract with the State of Maine which the State had to carry out. But the prejudice remains, and the brilliant Chairman of our Committee thought that it would be a good idea to fix it so that this could not happen in the future, hence the bill before you this morning with the amendment.

Now why is this bill absurd and ridiculous? I will tell you. Now the original bill was a general act introduced in this Legislature aimed at—get this—just one man. That is a novelty, to have a general law passed to get at just one man. They found that the law was unconstitutional and they could not get at that one man.

Now what do they propose in this bill? They ask this Legislature to pass an act that does not apply to a single individual in this world. Do you get the point? There is not anybody in the State of Maine that is affected by this act, not one.

Let me go a step further. I know all the members of the Supreme Court and the Superior Court of Maine. I do not know of a single one of them that is a criminal lawyer, therefore there is not any probability that there will be another justice that could be affected by this law during the life of any judge on the bench.

Now this Legislature has passed out some pretty wise legislation, I think. I think it has done a whale of a job, to express my opinion up to now. Now are we going at this time to pass legislation to affect the future, so far in the future that none of us can say where it is going to start, just to carry out the whim of somebody who has not had the judgment to think the thing through?

Why I have taken all this time to explain this matter to you is just this: I like this Legislature. I do not want you to pass legislation that can be pointed out for years as one of the most ridiculous things that ever happened in a Legislature, providing for something fifty years ahead when nobody knows what the conditions will be at that time. I therefore move for the acceptance of the minority report.

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

Mr. HINCKLEY: Mr. Speaker, I presume I was qualified under that remark as one who is not able to think through on a matter, but I think I have tried to think this matter through.

Now it makes no difference to me how you vote on it. I have no personal interest whatever, and I shall gladly abide by the decision of the members of this House. But I think the other side should be stated, so that you may get the picture so far as I am able to point out to you the purpose of this legislation.

Now it is true that undoubtedly in the first place legislation of this kind was aimed at one man in the State of Maine. Whether it was justified or not, I am not here to say. For the present purpose that is not debatable so far as I am concerned.

We have in this House at the present time before this Legislature two bills designed to correct a certain situation. One of these bills has been referred to, the one introduced by the gentleman from Anson, Mr. Fenlason, providing that no judge who receives his compensation upon retirement by way of a pension shall be able to practice law. That has clearly been pointed out by the gentleman from Portland (Mr. McGlauffin) as unconstitutional. It is, however, still before us. The other bill that was presented provides in the new draft that a justice upon retirement shall not receive his compensation in the way of a pension if he takes cases in which the State is involved. That, however, provides that it shall not take effect until ninety days after the adjournment of this Legislature. Now that is designed to get around the constitutionality of the provision.

As has been said, if the State makes a contract with a judge already serving, he is entitled to his pension and you cannot take it away from him. This, however, applies only to future appointments.

Now where there is smoke there is fire, and you know as well as I do, thinking about this calmly and without prejudice, that there is in the State of Maine at the present time a decided feeling against the Judiciary. Now I do not think that is a healthy situation, and if the members of this Legislature can prevent it I think they ought to do it.

I have no prejudice against the judiciary. I admire them. But I think it is our duty to make the people of the State of Maine feel likewise. But I know there is a prejudice. There is a feeling. I do not care how it has arisen; the situation exists and I think we ought to correct it.

Now as has been said, it does not apply to this man perhaps who was the cause of all the agitation, because he is entitled to his pension anyway; but it does take care of the future.

It is also my firm conviction that no judge who is getting a liberal pension should be able to take cases where the State is an adverse party. I do not believe that he has any moral right to take pay from the State and then turn around and bite the hand that feeds him. That is my position. I say it calmly, without any prejudice whatever. I believe you are entitled to know the facts, and if there is any way we can correct the situation that exists in the State of Maine now I think we ought to do it. I think this bill will do it, because it is designed to do that very thing.

The SPEAKER: The Chair recognizes the gentleman from Farmington, Mr. Mills.

Mr. MILLS: Mr. Speaker, I am most happy this morning to find myself in accord with the gentleman from Portland, Mr. McGlauffin. We feel, I think, generally, the members of the bar, that there is nothing bad about taking a case to defend a criminal. When a man is accused of crime the State has just as much interest in seeing that man gets justice as in seeing that there is a conviction. It is an old saying that it is better for nine guilty men to go free than it is for one innocent person to be convicted. I think that is rather basic in our law, that when a man defends a criminal he is not offending the State and he is not doing something for which the people of the State should be aroused against him.

You recall back in the days of the American Revolution there was a terrible massacre in Boston, and a number of citizens were killed by British soldiers. Feeling was running very high. The best lawyer on the side of the patriots was John Adams, who later became President of the United States. The night after the massacre, the soldiers who had shot and killed these Boston

citizens were arrested and charged with murder. The Captain of the British guard came to John Adams and asked him to defend those men. You can readily see the position he was placed in. Of course he knew the stand he had taken in accepting employment to defend those fellows would be used against him. But he did not hesitate a minute, because he knew those men had a right before the bar of justice. Due to his talents, they were acquitted and public opinion later on turned in his favor and his acts were approved.

I say the State of Maine is just as much interested in seeing that men get proper defense as in seeing they are properly prosecuted. The State's primary interest is justice. In many states they provide for that by appointing defenders. You know in this State that when a man is too poor to have any defense the State provides it for him, and in a capital case or murder case they pay those lawyers for assuming that defense.

I do not believe that we should say that for all time these men who are coming down from the bench should be disbarred in part, because I think the State is vitally interested in seeing that everyone has adequate defense.

The SPEAKER: The question before the House is on the motion of the gentleman from Portland, Mr. M. Glauflin, that the House accept the minority "Ought not to pass" report. The Chair recognizes the gentleman from Livermore Falls, Mr. Grua.

Mr. GRUA: Mr. Speaker and Members of the House: I want to point out what really is at issue here, so that you may have it clearly before you in making your decision.

It has already been stated, and I want to restate it, that this only applies to judges that may hereafter be appointed. If we pass this law, it gives ample notice to any lawyer who may aspire to the judicial robes that if he does accept that office he takes it with the limitation that when he retires if he prefers to continue to act as a lawyer in defense of criminals where the State is a party he will lose his compensation.

Now he takes that with his eyes open. There can be no objection, as

I see it, on the part of anyone, that if a man steps into an office knowing the conditions that he takes the office upon, there can be no objection to putting those conditions on as we are doing now.

I fully agree with the honorable gentleman from Portland, Mr. Mc-Glauflin, that this does not apply to any persons existing now; but we may have some appointed in the near future to whom it may apply.

Now we may call this compensation, we may call it a pension or call it what you will. It is received by these judges at the hands of the State of Maine; they are therefore being paid by the State of Maine and they are receiving their compensation from the State of Maine. It is an odd situation if the men that you hire can turn around and, while they are in your pay, work against you.

Not many years ago we did pass a law whereby we said that no judge of a municipal court should be allowed to appear against the State of Maine in the defense of any criminal in any other court, either municipal, superior or what not. We passed such a law and it is on the statute books. The judges of our municipal courts may not do that today. How much more reason then, ladies and gentlemen of the House, to prevent judges of our higher courts going into the lower courts or any of our courts and using the influence that they have built up as a judge to overawe that court and induce a judgment in favor of their client.

Rightly or wrongly, our people feel that these judges who have retired from the bench have an unwarranted influence over other courts and other judges that they have acquired by reason of their position as a justice of one of the courts of this land. Therefore, the people feel that it is unfair for them to step in there and use that influence possibly to get a criminal acquitted, possibly in order to earn a bigger fee. I think whether that prejudice is right or wrong that now is the time to pass legislation so that there can be no question of that in the future.

Please notice that under this provision the justice may still practice law in all its branches; he may still appear against towns or municipalities, he can appear against everything except the State of

Maine which pays him his compensation. Is that too much of a restriction to put on beforehand, before he is even appointed?

Now I do not want to argue this at length. I feel that rightly or wrongly the people of this State have acquired a prejudice against our judges doing this sort of thing. I feel our courts should be beyond suspicion; I feel our courts should be as near to the point of giving divine justice as any institution we can produce. Anything that militates against the dignity and honor and confidence of the public in our courts is to be deprecated. Anything that we can do that will add to that dignity and respect on the part of the public, I believe we should do. I believe that our courts should be removed from this criticism. I fully agree with what has been said about the high character of our judges. I doubt if this would ever be called into action in many cases. If so, what is the harm in putting it on our books so that we may in the future avoid the criticism that we have heard of some of the judges of our courts?

I am very heartily in favor of this bill. I believe the judges of our courts, if we could get their honest opinion, would be in favor of it. I hope very much the motion of the gentleman from Portland, Mr. McGlauffin, does not prevail.

The SPEAKER: The question before the House is on the motion of the gentleman from Portland, Mr. McGlauffin, that the House accept the minority "Ought not to pass" report.

All those in favor of the motion of the gentleman from Portland, Mr. McGlauffin, that the House accept the minority "Ought not to pass" report will say aye; those opposed no.

A viva voce vote being taken, the motion to accept the minority "Ought not to pass" report did not prevail.

On motion by the gentleman from South Portland, Mr. Hinckley, the House voted to accept the majority "Ought to pass in new draft" report of the committee, and the bill was given its two several readings and assigned for third reading on the next legislative day.

On motion by the gentlewoman from Bangor, Miss Clough, House Rule 25 was suspended for the remainder of today's session, to permit smoking.

### Senate Divided Reports

From the Senate:

Majority Report of the Committee on Judiciary on Resolve proposing Amendments to the Constitution Repealing the Constitutional Provisions relating to the Office of Treasurer of State and Ratifying and Approving a Legislative Enabling Act providing for Appointment of the Treasurer upon Approval of this Resolve (S P. 75) (L. D. 49) reporting same in a new draft (S. P. 546) (L. D. 1130) under title of "Resolve proposing an Amendment to the Constitution to Provide for Appointment of the Treasurer of State by the Governor and Council" and that it "Ought to pass"

Report was signed by the following members:

Miss LAUGHLIN of Cumberland  
Messrs. FARRIS of Kennebec  
HARVEY of York

—of the Senate.

PAYSON of Portland  
BRIGGS of Hampden  
HINCKLEY of So. Portland  
MILLS of Farmington  
GRUA of Livermore Falls

—of the House.

Minority Report of same Committee reporting "Ought not to pass" on same Resolve.

Report was signed by the following members:

Messrs. WILLIAMS of Bethel  
McGLAUFFLIN of Portland

—of the House.

Came from the Senate with the Majority Report accepted and the Resolve passed to be engrossed.

In the House:

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

Mr. McGLAUFFLIN: Mr. Speaker, again I would like the privilege of facing the House.

The SPEAKER: The gentleman may have the privilege.

Mr. McGLAUFFLIN: Mr. Speaker and Members of the House: I am not talking to you just for the sake of hearing myself talk. I am obliged, because of my situation on these committees, to explain to you my position.

I have already discussed this matter of changing the Constitution. This particular bill requires a little further explanation because this is the bill that started all the trouble. Again I have got to go back just a little to review what lead up to this situation.



Last year, early in the Spring the State of Maine was suddenly shocked to find that a large sum of money had been embezzled from the State. It stirred up everybody. The Governor was very much perturbed. I have no doubt he was in a very hard situation, but, whether wisely or unwisely, he thought it was a good plan to get rid of a lot of State officials. Therefore he asked for the resignation of Mr. Hayford, the State Auditor, one of the most honest men who ever filled that office, a man who had been misled and duped, a man who did not have the facilities to make the investigation that is required, but who, so far as he was able to investigate, did so honestly and found nothing out of the way. I want to say right here that it was not until the State of Maine had spent thousands of dollars that they were able to find it out either. At any rate, Mr. Hayford was asked to resign and he did resign.

The Governor also asked the Deputy Treasurer to resign, Mr. Winship. A fairer, squarer, finer, better man never walked in this State House than that same Mr. Winship. I admired him greatly. When he came to the hearing he took upon his shoulders the whole blame of having cashed some checks that he should not have cashed when he was duped and misled by that man Runnells. That killed Mr. Winship.

Then there was another man, the Commissioner of Finance, Mr. Owen. He did not have one single thing to do with the matter, excepting that on the advice of the Governor, years before, that Commissioner had appointed Mr. Runnells.

The Governor was not satisfied with that. He asked Belmont Smith to resign. Belmont Smith did not have one single thing to do with any part of that transaction, and, therefore, he refused to resign.

Now, the law was that the Governor and Council could have removed Mr. Smith for cause, but they did not have cause, and so the matter was referred to the Special Session of the Legislature, of which I was a member.

The agitation about the situation up here at Augusta stirred up the people of the State of Maine to such an extent that I, for one, was greatly alarmed, for fear that this Legislature, when it met, would do a great injustice.

I was concerned—and I want to tell you all in this House I heard man after man say, "Turn him out. Turn everybody out." They did not ask for cause. They were ready to fire anybody—everybody—just to satisfy the people back home.

But in the course of time, the Members of that Legislature were big enough and sensible enough to see the danger of that brand on them, and they got down to some common sense.

On the floor of this House, I defended Belmont Smith, not because I had the slightest interest in Belmont Smith, as such, but I saw that there was an attempt to railroad an innocent man.

I want to tell you now that when the charges were presented against him in this House, they were not charges having anything to do with the Runnells affair in particular. They went out of the way to find all kinds of picayune things, in order that they might prejudice that Legislature.

The result was that both the Senate and the House cleared Mr. Smith.

Now, why I am telling you this is because some of the members of this House have been very set on getting rid of Mr. Smith. Why,—I cannot tell you, but that was the situation. The next thing we knew they brought in this Legislature a bill—this bill was one practically like it. We discussed the matter in the Special Session of the Legislature. I opposed it and the Legislature stood by me and we killed that bill.

The next thing I heard was that they were going to do it through this Legislature, if they could not through the other. That is what they are attempting to do now.

Every objection that I raised in my speech on Constitutional affairs applies to his case. I say that it applies most particularly to this case, for, as I have already pointed out to you, in Vermont, Massachusetts, Rhode Island and Connecticut, under the Constitution, the Treasurer is elected by the people; and in Maine and New Hampshire he is appointed by the Legislature, and there is a reason for that. It is, as I pointed out the other day, because the Treasurer is responsible to the people and to the Legislature, and to them alone I say that I do

not believe that any Governor should have any control over a State Treasurer. I cannot possibly conceive any policy that any Governor could have that should give him control over the Treasurer.

Now, the Code Committee advocated a similar measure but not exactly this one. They had a plan, and this was introduced in the Legislature, again before the Judiciary Committee. They had a plan that went with this, to have a law that a Finance Committee was to be set up, and the Finance Committee was to choose the Treasurer.

I want to say that that was worse than this is. And the reason was that you would have had the Finance Committee controlling the Treasurer, and if you happened to get another Runnells in the State House, what that Board could do to loot this State would make the recent case look like penny-ante. (Laughter)

I want to show you another absurd thing about it. Under their provision, they were going to submit this Constitution to the people of Maine, and in that submission, the people were going to ratify the law that was proposed, and the people had no opportunity to know what the law was, unless they read it in the newspapers, because none of them was submitted to them. They were supposed to vote on something that they did not know a thing about, and could not know a thing about, and ratify it.

That matter was submitted to the Justices of the Court, and, as you know, they rendered the opinion that that kind of procedure was unconstitutional.

Well, when they could not get that thing through, then they advanced another scheme,—and this is it.

One argument put up was that taking this away from the Legislature, and letting a Treasurer be appointed some other way, would take the matter out of politics.

What do you want to take it out of politics for? You and I are elected by politics. The Governor is elected by politics. The Treasurers of State and Attorney Generals we have had since the State was formed, got their jobs through politics. We have not suffered greatly from it.

Then they said that you would

get a better man. I have pointed out to you the kind of men we have had for Secretary of State and the kind of men we have had for Attorney General. I do not see where you are going to get any better men.

Well, here is their argument,—if you had the Governor select him, he could investigate him and might pick out a better man. I want to say to you that when 184 members of this Legislature pass judgment on a man, somebody has looked him over.

I do not think that it is necessary for me to argue this matter any longer. I pointed out to you how this changes a precedent of one hundred and twenty years, not only in the State of Maine, but of all New England, and puts the matter into a place of experimentation.

I know that a Governor suggested such a move. I do not want any Governor appointing any Treasurer of this State.

I move, Mr. Speaker, that the Minority Report "Ought not to pass" be accepted.

**THE SPEAKER:** The Chair recognizes the gentleman from Portland, Mr. Payson.

**MR. PAYSON:** Mr. Speaker and Members of the House: It will be necessary for me to speak a little longer than usual, because, first, I must clear up the confusion that my brother has created.

He has said that this was an attempt to get one man, for personal reasons—Belmont Smith.

Belmont Smith, Mr. Winship, or Mr. Runnells have absolutely nothing to do with this case, or with the recommendation of the Committee or with my sponsorship of this bill. If you want proof of that, you go back to the record of the Special Session of last summer, and you will find that I did more to exonerate Belmont Smith than did my Brother McGlauffin, because I sat on the Legal Affairs Committee, to which the case was referred first, and we came out with a Majority Report that charges ought not to be preferred. Then I voted in the House, as my Brother McGlauffin did, against charges against Belmont Smith. So the personal angle of this thing is entirely exploded.

Now, my Brother McGlauffin has taken up some more of your time speaking about a bill which is not even before you. What you have before you is a Constitutional re-

solve that would allow the State Treasurer to be appointed by the Governor, with the advice and consent of the Council.

Now, the bare bone of this case is just as simple, and ridiculously simple, as this. The State Treasurer is elected by the Legislature for a two year term and he cannot hold office for more than six consecutive years. He is paid a salary of \$3,000 a year. Now, what good, outstanding business man would give up his office, as he would have to, and come down here and work for the State of Maine six years, and then have to step out and try to re-establish himself in any type of work or business? He could not do it. You know very well that no one could do it.

You have fixed up a political sinecure to take care of a good old political wheel horse, and, to prove that case up to the hilt, your State Treasurer gets \$3,000 and you pay the Deputy \$4,000, to do the work.

Now, I believe that if this Constitutional resolve were adopted, if the Governor appointed the State Treasurer, you would have a State Treasurer paid a salary of \$4,000 or \$4,200—whatever the Deputy now gets—and he would do the work and you could get rid of the title of Deputy, and get rid of that salary.

That is the bare bone; that is the whole proposition in words of one syllable.

I hope that the motion of the gentleman from Portland does not prevail.

The SPEAKER: The Chair recognizes the gentleman from Bethel, Mr. Williams.

Mr. WILLIAMS: Mr. Speaker and Members of the House: For a long time I have sat in this Body and heard remarks made about the Code Committee, some of which I think were not justified, but in this case I think I can see some inconsistencies in the stand taken by that Committee.

They have told us arbitrarily that the power of the Council should be curtailed, and there has been a great deal of agitation to curtail the power of the Council.

Now, they propose a bill where the Governor and Council can appoint a Treasurer of State, to serve without any tenure of office whatsoever.

They say that no man would come here to serve who had a business at home, under the present

set-up, because he might feel, at the end of two years that he would be turned out of office.

I submit that under this bill it says "appointed for three years or at the pleasure of the Governor and Council". He may be here only six months, and then, if his actions are not satisfactory to them, he may be removed at the end of three months.

Now, I do not believe that you are going to get any more efficient man under this set-up, where he may be removed at the end of three months, than under the set-up where he is elected for two years, and cannot be removed except of misfeasance or malfeasance in office.

During the recesses of the Legislature, as we all know, the sole control which the Legislature has over the administrative affairs of the State of Maine is through the officials which they chose.

Most of the administrative officials are now appointed by the Governor and Council, and during a period of two years, while the Legislature is at recess, they have absolute control, because the Legislature cannot assemble itself.

Under this proposed bill, you would take away one of those offices through which the Legislature does have some control over the administration of State affairs.

I personally feel that with the present set-up, with the Governor appointing such administrative officials as the Public Utilities Commission, the Commissioner of Inland Fisheries and Game, the Commissioner of Sea and Shore Fisheries and these other administrative officials, that that is sufficient power for any Governor and Council to have, and I feel that the Legislature should retain to itself some power during the period when we are recessed and not turn all the power over to the Chief Executive of our State.

The SPEAKER: The question before the House is on the motion of the gentleman from Portland, Mr. McGlauffin, that the House accept the minority "Ought not to pass" report.

The Chair recognizes the gentleman from Rockland, Mr. Sleeper.

Mr. SLEEPER: Mr. Speaker and Members of the House: Very early in this session I made a solemn promise that I would not speak or attempt to speak on any question that I did not know anything about. I like to speak as well as a lot of

other people here, and I am not the least bit bashful about it, but I had solemnly pledged myself that on questions that did not involve anything I was directly interested in I would not speak.

To further explain the reason for my speaking here, I will say that when Governor Sewall gave us his splendid inaugural address at the first of this session I was the only member of the House, I believe, who offered any adverse comment on his talk. I did so because I did not think the Governor should have the appointment of these offices. I might just as well tell you where I stand. But I did not include the Treasurer's office in that comment.

I sat here all through the special sessions, and as a personal friend of Belmont Smith I was very much interested in getting him clear of any blame in connection with the Runnells situation. It was very apparent to me, while I have not a legal mind, that we have not any State Treasurer in the real sense of the word under the Code set-up adopted under Governor Gardiner.

It was a pitiful thing seeing a man who was Treasurer of State being blamed for something done by his subordinate who was really his superior officer. Under the present set-up the Treasurer is not the real Treasurer. The real financial head of the State is the Commissioner of Finance, and his duties had been usurped and taken over by the Controller. The real head of the financial situation of the State in the last few years had been Mr. Runnells, and it was a pitiful thing for me to see a fine man like Belmont Smith blamed for something he had no control over. I made up my mind right there that if the Treasurer could not be Treasurer of State that the office should be abolished.

Be that as it may, I am very much opposed to the appointment of the Secretary of State by the Governor and Council, and I am opposed to the appointment of the Attorney General by the Governor and Council. But I really think the Governor and Council, because of the financial set-up of the State Treasurer has a very close connection with the State Treasurer, and I really think the law ought to be cleared up. As it now stands, the Governor and Council do control the financial policy of the State, because they control the appoint-

ment of the Commissioner of Finance and the Controller and the Budget Officer. The office of Treasurer is just a hollow title.

Bear in mind that I have no prejudice against Belmont Smith. But he is now serving his third term and he is not eligible for reelection. But I do hope, in deference to this splendid Code Committee, which has tried so hard to offer new suggestions in the set-up of our government, I sincerely hope for the benefit of the financial policy of our State these things will be put on a sound basis.

I hope the motion of the gentleman from Portland, Mr. Payson, does not prevail. If it should—and I hope it does not—I hope that we will at least amend the present statute to make our Treasurer a real Treasurer. As it stands now he is a subordinate officer to the Commissioner of Finance, and it certainly ought to be made an appointive job.

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

Mr. MCGLAUFLIN: Mr. Speaker, I want to answer the arguments of both of the last gentlemen in just a word.

The gentleman from Portland, Mr. Payson, says that the Treasurer does not get pay enough. All you have got to do is to have this Legislature change the pay. You have not got to change the Constitution to do that. Mr. Sleeper says that his duties are such that they are not what they should be. Then let this Legislature change the duties. There is the answer to both those arguments.

The SPEAKER: The Chair recognizes the gentleman from Unity, Mr. Farwell.

Mr. FARWELL: Mr. Speaker and Members of the Ninetieth Legislature: Unlike my friend, the gentleman from Portland, Mr. McGlaufflin, due to the acceptance of the recommendations of the Code Committee that you have accepted so far I do believe I am talking just to hear myself talk.

In answer to the gentleman from Bethel, Mr. Williams, I will say that the Code Committee has never recommended that the Governor's Council be taken out from the okeying of the head of any department in the State of Maine. We have recommended that they be taken

out from the okeying of ten-dollar-a-week clerks but not department heads.

During the financial difficulty that we had during the past year it was decided that perhaps a close study of the administrative program of the State might be useful, and it was found that we should probably start in the Treasurer's office where some of the trouble seemed to have started.

A close study of that office showed us that there was absolutely no responsibility placed in that office, and when we attempted to place the responsibility the buck was passed so far down there that it was lost in the shuffle. I indulge in no personalities; it was not the fault of the personnel of the State Treasurer's office; it was the fault of a custom of one hundred and fifty years which we cannot change because it is in the statutes.

Now I ask you: Is that good business. You saw what happened last year; you saw the inefficiency; you heard the charges that were made. I still say it was not the fault of the personnel but the fault of the set-up of years past.

We have had a State Treasurer for one hundred and twenty years who has done absolutely nothing but sign his own checks. The responsibility of this office lies entirely upon the Assistant Treasurer. If that is true and you want economy, why do you not get rid of your State Treasurer and get a Treasurer in there who will do the work, instead of paying some old party warhorse a salary for sitting down there and looking wise and getting elected every two years?

It is not the fault of the State Treasurer that he does it. It has been going on for a hundred and twenty years, and you cannot change it in a minute. When the Code was adopted it said he should be appointed by the Commissioner of Finance. The Code Committee never determined to set up a finance committee to appoint a treasurer. We did not offer a single bill as to how he should be appointed; we offered only to the Legislature a Constitutional Resolve that it should be sent to the people to determine whether or not the people were satisfied with the present set-up in the Treasurer's office. If I am not mistaken, you now have before you a resolve to change the Constitution, if the

people see fit, so that they may get service and eliminate some of the waste and inefficiency that has been in the State Treasurer's office.

The SPEAKER: The Chair recognizes the gentleman from Bethel, Mr. Williams.

Mr. WILLIAMS: There have been some very interesting arguments proposed here since I last stood up, one of them being that they wanted to get a Treasurer who would really function. It is interesting for me to know that one of the arguments presented is that the Treasurer has gradually been having his power taken away from him, which is true. That was not the intention under the original Constitution. It was that he should function and be a Treasurer with power. The final climax of that taking away of power came when the Code was adopted. Under that Code they did take away practically all this power and they created a Commissioner of Finance under which the State Controller was to be the czar and in which he was to be independent of politics—and he was; in fact he was independent of all control. I do not think that is what we want.

The SPEAKER: The question before the House is on the motion of the gentleman from Portland, Mr. McGlauffin, that the House accept the minority, "Ought not to pass" report. All those in favor of the motion of the gentleman from Portland, Mr. McGlauffin, that the House accept the minority "Ought not to pass" report will say aye; those opposed no.

A viva voce vote being doubted,

A division of the House was had.

Eighty-four having voted in the affirmative and 32 in the negative, the motion prevailed and the minority report "Ought not to pass" was accepted in non-concurrence and sent up for concurrence.

#### Senate Divided Reports

Majority Report of the Committee on Judiciary reporting "Ought not to pass" on Bill "An Act to Aid and Protect Crop Mortgages" (S. P. 310) (L. D. 517)

Report was signed by the following members:

Messrs. PAYSON of Portland  
McGLAUFFLIN of Portland  
GRUA of Livermore Falls  
WILLIAMS of Bethel  
MILLS of Farmington  
HINCKLEY of So. Portland  
—of the House.

Minority Report of same Committee on same Bill reporting "Ought to pass" as amended by Committee Amendment "A" submitted therewith.

Report was signed by the following members:

Miss LAUGHLIN of Cumberland  
Messrs. FARRIS of Kennebec  
HARVEY of York

—of the Senate.

Came from the Senate with the Majority Report accepted.

In the House:

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

Mr. HINCKLEY: Mr. Speaker, I move that the House accept the "Ought not to pass" report.

The SPEAKER: The gentleman from Portland, Mr. Hinckley, moves that the House accept the majority "Ought not to pass" report. The Chair recognizes the gentleman from Presque Isle, Mr. Brewer.

Mr. BREWER: Mr. Speaker, I will say that I am opposed to Legislative Document 517 for the simple reason that I believe that under the present set-up we have amply taken care of any situation that may arise.

To those of you who are not familiar with this set-up of crop mortgages, I will say they have become an instrument of protection for the man that had failed and believed that another man might make good. In other words, by taking a crop mortgage the under-dog was protected to a certain point that he might continue his efforts to come back financially, unmolested by a flock of creditors. I believe that they should be so protected in Maine, including the potato buyer and the starch factory.

As I say, anybody interested is able to obtain a list of any of these men that have crop mortgages.

Under this bill anybody that transports any vegetables over fifteen miles will be compelled to file a statement with the town treasurer as to who owned it and what not, and in a good many cases people in the potato industry are fifty or sixty miles apart. I believe it would be a great deal of bother. As I say, I do not believe the people want it, and I agree with Mr. Hinckley that it ought not to pass.

The SPEAKER: The Chair recognizes the gentleman from Monticello, Mr. Good.

Mr. GOOD: Mr. Speaker, I would just like to point out one or two things in regard to this bill. It says: "Any person, firm or corporation owning or operating, or causing to be operated any motor vehicle". Then down further it says, "to points within or without the State which are more than 15 miles from the point where such goods are loaded to the motor vehicle, and whether or not for further transportation by rail or water, shall make out and sign, or cause to be made out and signed, in triplicate, a manifest for such goods."

In other words, up in our country practically every farmer has potatoes and men are going around to buy potatoes. It does not make any difference whether they have got a crop mortgage or have not got a crop mortgage, it does not separate it. It says, "Any person, firm or corporation owning or operating, or causing to be operated any motor vehicle." If Mayor Lambert comes up and buys a load of potatoes he has got to make out three manifests and has got to file one with the man he buys from, got to retain one himself, and has got to go and look up the town clerk and file one with the town clerk. If he cannot find the town clerk he has got to file one with the County Commissioners. Whether a man has ten thousand barrels or only twenty-five or fifty barrels, ever time he takes a load of potatoes over fifteen miles he has got to file this with the town clerk. If the town clerk is not home there is a penalty for going by his office and he lays himself liable to a fine.

Those people who raise certified seed potatoes cannot take a load of certified seed over fifteen miles without filling out three manifests. When we are in a hurry in the fall of the year we do not want too much red tape.

I do not think we need the legislation. The men that have not got the crop mortgages are punished the same as those that have. Therefore I hope that the motion of the gentleman from South Portland, Mr. Hinckley, will prevail.

The SPEAKER: The question before the House is on the motion of the gentleman from South Portland, Mr. Hinckley, that the House accept the "Ought not to pass" report of the committee. As many as are in favor of the motion of the gen-

tleman from South Portland, Mr. Hinkley, that the House accept the majority "Ought not to pass" report of the committee will say aye; those opposed no.

A viva voce vote being taken, the motion prevailed and the majority "Ought not to pass" report of the Committee was accepted and sent up for concurrence.

#### Ought to Pass in New Draft — Amended

From the Senate:

Report of the Committee on Public Health on Bill "An Act relating to the Practice of Chiropractic" (S. P. 410) (L. D. 635) reporting same in a new draft (S. P. 482) (L. D. 1068) under same title and that it "Ought to pass"

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

In the House:

The SPEAKER: The Chair recognizes the gentlewoman from Bath, Miss Deering.

Miss DEERING: Mr. Speaker, I move that we indefinitely postpone Senate Amendment "A". My reasons for doing this are—

The SPEAKER: The Chair will have to inform the gentlewoman from Bath that a motion to indefinitely postpone Senate Amendment "A" is not in order until after the bill has been received and Senate Amendment "A" is before the House.

Thereupon the House voted to accept the report of the committee.

The SPEAKER: The Chair recognizes the gentleman from Farmington, Mr. Mills.

Mr. MILLS: Mr. Speaker, I move that this matter lie on the table and be specially assigned for tomorrow morning.

As many as are in favor of the motion of the gentleman from Farmington, Mr. Mills, will say aye; those opposed no.

A viva voce vote being taken, the motion to table did not prevail.

The bill was then given its two several readings. Senate Amendment "A" was read by the Clerk as follows:

Senate Amendment "A" to S. P. 482, L. D. 1068, Bill, "An Act Relating to the Practice of Chiropractic."

Amend the second paragraph of section 2 of said act by striking out in the 4th line of said paragraph

the words "by hand" and inserting the words 'by hand only' before the word "without" in the 6th line of said paragraph.

The SPEAKER: The Chair recognizes the gentlewoman from Bath, Miss Deering.

Miss DEERING: Mr. Speaker, I now move that we indefinitely postpone Senate Amendment "A."

My reasons for doing it are that in 1917 the Osteopathic Board of Registration established that osteopathy was a method for treatment of disease by hand only. In 1923 they tried to include treatment of disease by use of surgical instruments when necessary, and in 1925 they were given that privilege.

Now the chiropractors ask to treat disease with the use of surgical instruments. Their Board was established in 1933. They have a four-year course which is held up to 7,478 hours.

Chiropractic has grown and developed the same as osteopathy and the medical profession have. There are many people in the State who are firm believers in chiropractic treatment.

No people outside of the profession appeared in opposition to this measure. The osteopaths themselves have said that so far as they were concerned this bill was perfectly all right. In talking with the medical men, they said it was all right.

Mr. Speaker, I move the indefinite postponement of Senate Amendment "A".

The SPEAKER: The gentlewoman from Bath, Miss Deering, moves that the House indefinitely postpone Senate Amendment "A". The Chair recognizes the gentleman from Rome, Mr. Downs.

Mr. DOWNS: Mr. Speaker and members of the House: As one of the Committee on Public Health who attended the hearing and heard the evidence both pro and con on this matter, I want to state just a few facts for your consideration.

I think I remarked to you, as you may recall, the other day, that the Committee on Public Health do not disagree, consequently there was a unanimous report of the Committee on Public Health that this bill in the new draft, without Senate Amendment "A" naturally, should have a passage.

I do not think that any one particular bill was heard in the committee to which we gave the same amount of time and attention that we did to this particular bill.

Now I hold no brief for the chiropractors or the osteopaths, but it did seem to me that the things which the chiropractors requested in this bill were only in accordance with justness and fairness, and I believe that is a basic principle of all legislation, consequently your committee reported unanimously "Ought to pass".

This amendment, reduced to its simplest terms, would put the chiropractic bill right exactly where it started. They would be just as well off if this bill had never been introduced in the Legislature.

For those reasons and those reasons alone, purely on the ground of fairness, I trust that the motion of the lady from Bath, Miss Deering, will prevail.

The SPEAKER: The Chair recognizes the gentleman from Monticello, Mr. Good.

Mr. GOOD: Mr. Speaker, I am a little concerned about this matter. You remember two years ago we had a bill here in regard to chiropractic. I have great regard for these men because I know some of them in person. I do not think there has been a more discriminatory thing come into this House than this amendment on this bill. It does not look fair; it does not look reasonable. Some osteopathic doctor is evidently trying to limit the scope of the chiropractors.

A few years ago the osteopathic doctors asked for that privilege of minor surgery and the use of drugs. Now the chiropractic doctors are asking for the privilege of using the electrical machines they have on hand.

I have here in my hand a statement from one of the doctors in Bangor, a chiropractic doctor, who says that the electrical equipment he has in his office today cost him \$10,610; and here we want to restrict them from the use of it. It does not look reasonable; it does not look fair. We have a doctor in same equipment, Dr. Foster. No finer man ever walked on shoe leather.

This bill was before the committee twice and twice they brought out that unanimous report "Ought to pass".

These electrical machines have been used in some cases twenty-one years. This doctor told me that he had this equipment when he first started twenty-one years ago.

This situation has already been explained to you by the gentleman from Bath, Miss Deering. I hope the motion of the gentleman from Bath to indefinitely postpone this amendment will prevail.

The SPEAKER: The Chair recognizes the gentleman from Lewiston, Mr. Lambert.

Mr. LAMBERT: Mr. Speaker and Members of the House: I was not a member of the Public Health Committee, but I will tell you I was very much interested in this bill through a very good friend of mine who is a chiropractor. He called my attention to the opposition to the plan that the chiropractors are offering the Legislature this year.

I attended the first hearing they had on this bill, although I did not say anything. I let the doctors and chiropractors and osteopaths battle it out there by themselves. I know that the committee gave it a good hearing which was well attended. Two or three days later my friend came up to me and he said, "Somebody has spoken to the committee and there is going to be another hearing." So I went to the other hearing. I thought it was quite strange, but the committee apparently wanted to know more about it, and they asked questions of the various opponents. I was in the museum or in the hallway outside the door when each and every one were called by the committee, who were having an executive session. So it is my firm belief that the committee has given this matter very careful consideration, even more than most of the other committees have on other bills.

After it came out of committee it came out unanimously "Ought to pass". This amendment now comes before you this morning changing the entire idea and the entire wish of the chiropractors.

I believe in one thing and I think most of you men believe the same, that within the scope of doing business in a competitive way we ought to live and let live, and if the chiropractors of the State of Maine wish to use electrical machines, which is not a serious thing—and they are not asking to enter any hospitals,



but are only asking for the privilege the osteopaths have—I think they should be allowed to do so, and I think we should give it to them. I am most heartily in favor of the motion of the gentleman from Bath, Miss Deering, that this amendment be indefinitely postponed.

The SPEAKER: The question before the House is on the motion of the gentleman from Bath, Miss Deering, that Senate Amendment "A" be indefinitely postponed. All those in favor of the motion of the gentleman from Bath, Miss Deering, that Senate Amendment "A" be indefinitely postponed will say aye; those opposed no.

A viva voce vote being taken, the motion prevailed and Senate Amendment "A" was indefinitely postponed in non-concurrence, and the bill was assigned for third reading on the next legislative day.

#### Non-Concurrent Matter

From the Senate:

Bill "An Act relating to the Time of Opening and Closing of Polls" (H. P. 1152) (L. D. 452) which was passed to be engrossed in the House on April 8th as amended by House Amendment "B".

Came from the Senate, the bill indefinitely postponed in non-concurrence.

In the House:

The House voted to recede from its action whereby it passed this bill to be engrossed as amended House Amendment "B" and concurred with the Senate in the indefinite postponement of the bill.

#### Non-Concurrent Matter

From the Senate:

Bill "An Act to Prohibit Certain Political Activities" (H. P. 1580) (L. D. 931) on which the House accepted the Minority Report of the Committee reporting "Ought not to pass" on April 9th.

Came from the Senate with the Majority Report reporting "Ought to pass" as amended by Committee Amendment "A" accepted in non-concurrence and the Bill passed to be engrossed as amended by Committee Amendment "A".

In the House:

The SPEAKER: The Chair recognizes the gentleman from Houlton, Mr. McGillicuddy.

Mr. MCGILLICUDDY: Mr. Speaker, I move that the House adhere.

The SPEAKER: The gentleman from Houlton, Mr. McGillicuddy, moves that the House adhere. Is this the pleasure of the House?

The motion prevailed.

The SPEAKER: The Clerk has in his possession an additional paper from the Senate which does not appear on the printed calendar.

From the Senate: The following Order:

ORDERED, the House concurring, that when the Senate and House adjourn, they adjourn to meet on Monday, April 14th, at four o'clock in the afternoon (S. P. 554)

Came from the Senate, in that body read and passed.

In the House:

The SPEAKER: The Chair wishes to state that in the opinion of the Chair, if the members of the House are willing to stay this afternoon in session, that the House will not be materially delayed in final adjournment by not holding a session tomorrow morning.

On the other hand, the Chair wishes to impress upon the members that unless they do stay this afternoon until the House adjourns, it may materially affect the final date of adjournment of this Legislature.

Is it the pleasure of the House that this order receive a passage in concurrence? All those in favor of this order receiving a passage in concurrence will say aye; those opposed no.

A viva voce vote being taken, the order received passage in concurrence.

The SPEAKER: At this time the Chair invites the gentleman from Rockland, Mr. Sleeper, to the Chair and designates him as Speaker pro tem of the House.

The Sergeant of Arms then conducted the gentleman from Rockland, Mr. Sleeper, to the Speaker's desk, amid the applause of the House, Speaker Varney retiring.

#### House Reports of Committees Placed On File

Mr. Slosberg from the Committee on Legal Affairs on the following petitions in favor of H. P. 1442, L. D. 756, Act Legalizing Beano as a Means of Raising Funds by Churches, Charitable and Patriotic Organizations, etc., and H. P. 1680 and H. P. 1648, reporting that they be placed on file.

Same gentleman from same Committee reported same on Petition in favor of L. D. 950, Bill "An Act relating to Caucasuses in the city of Waterville" H. P. 1801.

Reports were read and accepted and sent up for concurrence.

#### Ought Not to Pass

Mr. Eddy from the Committee on Claims reported "Ought not to pass" on Resolve to reimburse the city of Portland for the Support of Raymond Brockett and Wife (H. P. 775)

Same gentleman from same Committee reported same on Resolve in favor of the town of Dedham (H. P. 602)

Mr. Patterson from same Committee reported same on Resolve in favor of the town of Houlton to reimburse for the Support of Earl J. Ritchie (H. P. 589)

Same gentleman from same Committee reported same on Resolve to reimburse the city of Portland for the Support of George W. Thurlow and his wife (H. P. 779)

Mr. Babin from the Committee on Indian Affairs reported same on Bill "An Act relating to Adoption of Persons into Penobscot Tribe of Indians" (H. P. 467) (L. D. 203)

Mr. Hall from same Committee reported same on Bill An Act relating to Holding of Certain Tribal Offices by Indians (H. P. 415)

Mr. Briggs from the Committee on Judiciary reported same on Bill "An Act relating to Municipal Courts in Juvenile Delinquencies" (H. P. 1396) (L. D. 774)

Reports were read and accepted and sent up for concurrence.

#### Ought to Pass in New Draft

Mr. Patterson from the Committee on Claims on Resolve in favor of Joseph L. Perry of Rumford (H. P. 238) reported same in a new draft (H. P. 1913) under same title and that it "Ought to pass"

Mr. Sylvia from the Committee on Indian Affairs on Bill "An Act relating to the Passamaquoddy Tribe of Indians" (H. P. 1354) (L. D. 807) reported same in a new draft (H. P. 1914) under same title and that it "Ought to pass"

Mr. Mills from the Committee on Judiciary on Bill "An Act relating to the Adoption of Children" (H. P. 1520) (L. D. 860) reported same in a new draft (H. P. 1915) under same title and that it "Ought to pass"

Mr. LaFleur from the Committee on Public Utilities on Bill "An Act to Incorporate the Wilton Water District" (H. P. 1196) (L. D. 490) reported same in a new draft (H. P. 1916) under same title and that it "Ought to pass"

Reports were read and accepted and the new drafts ordered printed under the Joint Rules.

#### Divided Reports

Report A of the Committee on Taxation on Bill "An Act Exempting Homesteads from Taxation" (H. P. 1558) (L. D. 827) reporting same in a new draft "A" under title of "An Act providing for Funds for Old Age Assistance and Homestead Taxation Relief, and Imposing a Consumer's Tax therefor" (H. P. 1917) and that it "Ought to pass"

Report was signed by the following members:

Messrs. CHAMBERLAIN of Penobscot

—of the Senate.

WORTH of Stockson Springs

TCZIER of Fairfield

MORRISON of Winter Harbor

DORSEY of Fort Fairfield

—of the House.

Report B of same Committee reporting "Ought not to pass" on same bill.

Report was signed by the following members:

Messrs. FELLOWS of Kennebec

BOOTHBY of York

—of the Senate.

WARREN of Westbrook

—of the House.

Report C of same Committee on same Bill reporting same in a new draft "B" under title of "An Act providing for Funds for Old Age Assistance and Homestead Taxation Relief, and Imposing a Gross Sales Tax therefor" (H. P. 1918) and that it "Ought to pass"

Report was signed by the following members:

Messrs. RICHARDSON of Strong

JORDAN of Saco

—of the House.

On motion by the gentleman from Winter Harbor, Mr. Morrison, the several reports, with accompanying papers, were tabled, pending acceptance of either report.

On motion by the gentleman from Portland, Mr. Payson, 1000 copies of the new drafts ordered printed.

**Ought to Pass**

Mr. Bragdon from the Committee on Claims reported "Ought to pass" on Resolve to Reimburse Aroostook Central Institute for Tuition owed by the town of Blaine (H. P. 585)

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

Mr. Babin from the Committee on Indian Affairs reported "Ought to pass" on Bill "An Act relating to Tuition for Indian Scholars in Elementary Schools of Old Town" (H. P. 297) (L. D. 107)

Mr. Hall from same Committee reported same on Bill "An Act relating to Representation of Indian Tribes at the Legislature" (H. P. 1352) (L. D. 805)

Mr. McFadden from same Committee reported same on Bill "An Act relating to the Penobscot and Passamaquoddy Tribes of Indians" (H. P. 1353) (L. D. 806)

Mr. Sylvia from same Committee reported same on Bill "An Act relating to Health Officers for Penobscot Tribe of Indians" (H. P. 1349) (L. D. 802)

Same gentleman from same Committee reported same on Bill "An Act relating to the Penobscot Tribe of Indians" (H. P. 1351) (L. D. 804)

Same gentleman from same Committee reported same on Bill "An Act relating to Schools at Pleasant Point and Peter Dana's Point" (H. P. 1350) (L. D. 803)

Reports were read and accepted.

**First Reading of Printed Bills**

Bill "An Act to Provide for the Speedy and Inexpensive Adjudication of Small Claims" (H. P. 1517) (L. D. 858)

Bill "An Act to Incorporate the Ellsworth School District" (H. P. 1589) (L. D. 911)

Bill "An Act relating to Taxation of Shore Property in Wild Lands" (H. P. 1599) (L. D. 924)

Bills read twice and assigned the next legislative day.

**Bill Tabled**

Bill "An Act relating to Licensing of Dogs" (H. P. 1911) (L. D. 1144) (Bill had its first reading, and on motion by Mr. Slosberg of Gardiner, tabled pending second reading)

Bill "An Act relating to Lobster Fishing Licenses" (H. P. 1912) (L. D. 1143)

Resolve in favor of the towns in the Hancock-Sullivan Bridge District" (H. P. 1222) (L. D. 439)

Bills were read twice, Resolve read once, and assigned the next legislative day.

**First Reading of Printed Bills With Committee Amendment**

Bill "An Act relating to Transportation of Lobsters" (H. P. 1556) (L. D. 847)

Bill was read twice.

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

Committee Amendment "A" to H. P. 1556, L. D. 847 Bill, "An Act Relating to Transportation of Lobsters".

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

**'Sec. 4. African crawfish, regulation of sale of.** No person, firm or corporation shall sell or transport for sale within the state African crawfish, so-called in any form. Any person, firm or corporation who violates any of the provisions of this section shall be punished by a fine of not less than \$50 nor more than \$1000.'

Committee Amendment "A" was then adopted and the Bill was assigned for third reading the next legislative day.

At this point the gentleman from Rockland, Mr. Sleeper, was conducted by the Sergeant at Arms to his seat on the floor of the House, amid the applause of the members.

Speaker Varney was then conducted by the Sergeant at Arms to the Chair, amid the applause of the House.

The SPEAKER: The Chair notes the presence in the hall of the House the Senior Senator from Maine, the Honorable Wallace White, and requests the Sergeant at Arms to conduct him to a seat at the Speaker's left.

Thereupon, the Honorable Wallace White was conducted to a seat at the left of Speaker Varney's desk, amid the applause of the House, the members rising.

**Passed To Be Engrossed**

Bill "An Act to Provide for Re-issuance of State Highway Bonds" (S. P. 542) (L. D. 1126)

Bill "An Act Permitting Lebanon to Apply for Aid under the Bridge Act" (H. P. 480) (L. D. 214)

Bill "An Act relating to Lobster Truckmen's Licenses" (H. P. 1555) (L. D. 846)

Bill "An Act relating to Gathering Kelp" (H. P. 1557) (L. D. 848)

Bill "An Act Incorporating the Maine Vocational School" (H. P. 1867) (L. D. 1079)

Bill "An Act relating to Penalties for Violation of Ordinances of the city of Bath" (H. P. 1903) (L. D. 1134)

Bill "An Act relating to the Taking and Sale of Clams in the town of Woolwich" (H. P. 1906) (L. D. 1137)

Bill "An Act to Authorize the city of Bangor to Remove the Remains in a Burying Ground in Hampden" (H. P. 1908) (L. D. 1139)

Resolve in favor of the town of Charleston (H. P. 516) (L. D. 1142)

Resolve Authorizing the Improvement of Fort Knox Reservation (H. P. 1889) (L. D. 1086)

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

Resolve relating to Fishing in Penobscot Bay (H. P. 1905) (L. D. 1136)

The SPEAKER: The Chair recognizes the gentleman from Warren, Mr. Starrett.

Mr. STARRETT: Mr. Speaker, this resolve before you, relating to fishing in Penobscot Bay, is practically a State-wide bill. It imposes a regulation on Georges River, and after conferring with the proponents of the bill, they informed me it was not their intention that any regulation of this kind should be put on Georges River.

After conferring with members of the Sea and Shore Fisheries Committee, they are willing to accept an amendment, which I offer at this time, and move its adoption.

The SPEAKER: The gentleman from Warren, Mr. Starrett, offers House Amendment "A" and moves its adoption. The Clerk will read the amendment.

House Amendment "A" to H. P. 1905, L. D. 1136, entitled: "Resolve Relating to Fishing in Penobscot Bay."

Amend said Resolve by striking out in the 24th, 25th and 26th lines of said resolve the following: ", and no individual shall take more than 1/2 bushel of smelts within a period of 24 hours with dip-net".

House Amendment "A" was then adopted, and the Resolve had its second reading and was passed to be engrossed and sent up for concurrence.

### Passed To Be Engrossed

(Continued)

Resolve in favor of the town of St. George (H. P. 1907) (L. D. 1138)

Resolve in favor of the city of Rockland (H. P. 1909) (L. D. 1140)

Resolve in favor of the town of North Haven (H. P. 1910) (L. D. 1141)

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

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

Mr. PAYSON: Mr. Speaker, I move that the House recess until two o'clock this afternoon.

The SPEAKER: The gentleman from Portland, Mr. Payson, moves that the House do now adjourn until two o'clock this afternoon. Is this the pleasure of the House?

The motion prevailed and the House so adjourned.

### AFTERNOON SESSION, 2 P. M.

#### Passed To Be Enacted

An Act relating to Pauper Settlements (S. P. 93) (L. D. 99)

An Act relating to Commitment of Feeble-minded Juvenile Delinquents (S. P. 534) (L. D. 1097)

An Act relating to Surety Bonds (S. P. 535) (L. D. 1098)

An Act relating to Reserved Number Plates (S. P. 536) (L. D. 1099)

An Act pertaining to the Regulation of Smelt Fishing (S. P. 541) (L. D. 1116)

An Act to Provide for the Surrender by the Ogunquit Beach District of its Organization (H. P. 1181) (L. D. 479)

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

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

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

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

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

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

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

Resolve to Repeal a Resolve pro-

viding for a State Pension for Bessie King (S. P. 401) (L. D. 1105)

Resolve to Repeal a Resolve providing for a State Pension for Mary A. Moulton (S. P. 402) (L. D. 1104)

Resolve to Repeal a Resolve providing for a State Pension for Johanna T. Kelleher (S. P. 403) (L. D. 1103)

Resolve to Repeal a Resolve providing for a State Pension for Amelia Rittal (S. P. 404) (L. D. 1102)

Resolve to Repeal a Resolve providing for a State Pension for Lot Edmund Whitman (S. P. 405) (L. D. 1100)

Resolve to Repeal a Resolve providing for a State Pension for Mary Kane (S. P. 469) (L. D. 1101)

Were reported by the Committee on Engrossed Bills as truly and strictly engrossed, Bills passed to be enacted, Resolves finally passed, all signed by the Speaker and sent to the Senate.

#### Orders Of The Day

The SPEAKER: Under Orders of the Day the Chair lays before the House the first matter of unfinished business, House Report "Ought to pass" with Committee Amendment 'A' of the Committee on State Lands and Forest Preservation on Bill, "An Act Approving the Purchase of Lamoine Coal Depot," (H. P. 446) (L. D. 185) tabled by the gentleman from Long Island Plantation, Mr. Teel, on April 4th pending acceptance; and the Chair recognizes the gentleman from Long Island Plantation, Mr. Teel.

On motion by Mr. Teel, the House voted to accept the report of the committee "Ought to pass" with Committee Amendment 'A'.

The Chair lays before the House the second matter of unfinished business, Bill "An Act Relating to Patriotic Observances in Schools," (H. P. 1573) (L. D. 922) tabled by the gentleman from South Portland, Mr. Hinckley, on April 4th pending second reading; and the Chair recognizes that gentleman.

Mr. HINCKLEY: Mr. Speaker, I move that this bill be indefinitely postponed.

I will say to the Members of the House that I was sound asleep the other day, when the bill was substituted for the report. I did not know anything about the motion until after it was acted upon. That is not your fault, but mine.

I notice that when this came out,

it was the unanimous report of the Committee on Education that the bill ought not to pass. That was a unanimous report.

Now, of course, I know the House takes great delight in upsetting reports of committees, but I wish that you would try to confine that to the Judiciary Committee, and not pick upon some other committee. We are able and willing to stand any abuse that you want to heap upon us, but I think that when the other committees report, that we ought to give them somewhat better consideration.

Now, I want to read the names of the Committee on Education: Senators Sanborn, Hodgkins and Bishop; and the Members of the House—Pratt, Grady, Worth, Robie, Deering, Hamilton and Small.

Now, I think you will have to agree with me that that Committee is composed of intelligent men and women, and that any action they take,—especially when it is a unanimous report—should be given very careful consideration before it is upset.

Now, I realize that it is easy for my opponents to get up here and wave the flag, and make all kinds of patriotic speeches, Fourth of July orations, and things of that kind, but it is my opinion that they have absolutely no place in an argument of this kind. That is easy to do. It is sometimes hard to go against an argument of this kind, but I believe this bill should be considered as carefully by you today as though you were sitting down in your own home and deciding upon it.

I am going to try to discuss it fairly and impartially, and, as I said this morning, on another matter, if you go against me, it makes no difference to me. I am just as friendly as ever, because I believe this House is the jury to try this case, and after you hear all the arguments, it is for you to decide. I shall abide gladly by the decision.

Let me say, first, that it is my firm conviction that you cannot legislate patriotism. That has been tried before and it cannot be done. If a person is patriotic, it is because there is something inside of him. It is an inspiration that he has, welling up within him and it must find expression one way or another. But this State, or any other state, cannot tell me that I have got to be patriotic. It cannot tell me that I

have got to salute a flag or pledge allegiance to a flag.

Now, I am perfectly willing to do that; but there are some organizations that do not want to do it.

I do not think any Member of this House would object to doing that thing.

I am not connected with any organization or society that objects to this thing, because I have no patience with them whatever; but it is a matter of religious preference and conviction with a certain class of people in our State.

Now, we do not attempt to tell the Quakers, which is a religious organization, that they have to bear arms, because their religion tells them that they ought not to bear arms. Our Federal government, in trying to induct people into the service, excludes Quakers and other conscientious objectors.

I do not see why any particular society, just because it happens to be small in numbers, should be on a different footing.

I think that we ought to be magnanimous enough to say to a society which believes absolutely that it should not salute the flag and pledge allegiance, "You have a right to that belief. That is a religious conviction. I do not care what your particular religious conviction is. You have a right to it, and I have a right to mine."

As I have said, I have no patience with them. I do not think that they are right. I think they are wrong. But it is not for me to say that they are wrong, because, in this country, we have a right to religious freedom. I believe if we take away that right, that we are doing a great injustice to a certain part of our population.

Now, take this situation: There is a boy in school whose parents have told him not to salute the flag or pledge allegiance to the flag, and he does not do it. The teacher says, "Johnnie, you have got to salute the flag!" What happens? Johnnie does not salute the flag, because his parents have told him not to, and he is going to obey his parents. It makes no difference whether you pass a law here or whether the teacher tells him to do it. He is not going to do it.

Now, if an issue is made of that thing in the school, it is going to cause a mild insurrection in it, because some child might say, "Johnnie is not saluting the flag;

and I am not, either; I am going to stay with Johnnie."

We have in South Portland at least one family belonging to this school, and that pupil does not salute the flag, and they do not make an issue of it. That boy stands up, the same as all the other boys and girls in the school when the salute is made. When the pledge of allegiance is made, he stands at respectful attention, with his hands at his side. No one pays any attention to him, because they do not make an issue of it.

Are you going to make him a better citizen because you say, "You have got to salute the flag"? Are you going to legislate patriotism into that boy? Of course you cannot do it. The trouble lies entirely with the parents. I say that if you do not teach a boy patriotism in some other way than by force, you are going to make that boy grow up to be absolutely unpatriotic. Now, that is my firm conviction.

We have had a bill in this Legislature which would compel the Communists to be left off of the ballot, and the Committee reported it out "Ought not to pass". That has been accepted by this House. The reason for that was that we did not believe that you should try to force something onto the Communist party, just because you did not agree with the Communist party. We believed that if you tried to do that, you would stir them up and make them a thousand times worse.

Now, that is my feeling in regard to this bill. Let sleeping dogs lie; and so long as they are not insurrectionists, why bother with them? They will die out in time.

But were you to make an issue of it, you are heaping coals on the fire—that is all. I think we ought to leave it alone.

Let me say further, this bill picks the school children only in the public schools. Why confine it to the public schools? Are the children in private schools any more patriotic, that they do not need instruction? If you are going to pick on children, then pick on all of them. Let me go further. Why pick on children at all? Why not pass a law that every time we come into the House in the morning that we should salute the flag there and pledge allegiance? Perhaps we do not do that because most of us do not know the pledge of allegiance.

(Laughter) It might be a good idea if we did learn it.

As I say, there is no logical distinction between making us do it, and making the children in the public schools do it. We ought to be patriotic. We ought to know the pledge of allegiance, if we are patriotic. Then why do we not salute the flag? You do not think that it is needful. That is why we do not do it.

Why not make every employee in the State House, when he comes in in the morning, line up out here, and have the Governor lead them in a pledge of allegiance and a salute to the flag. Is there any more reason why they should not do it? They certainly ought to be as patriotic as the school children. We ought to get an expression from them, showing that they are patriotic. That is what this bill would do.

But I do not believe that you can make a person salute the flag and make him take the pledge of allegiance and make him patriotic. It just is not done that way.

Now, let me refer to the bill itself, and I wish you would read it: "All pupils in public schools shall recite the pledge of allegiance to the flag of the United States, and render the salute to said flag."

Now, I asked my brother, the gentleman from Gardiner, Mr. Slosberg, some time ago, if he wrote that bill. I knew he was a good lawyer, and I asked him that question. He said, "No, I did not write that bill." Well, I knew that before he told me. I assume his stenographer wrote it, because no lawyer in the State of Maine ever wrote a bill like that.

It has no penalty. What if Johnnie says, "I will not salute the flag." What are you going to do about it? You cannot do anything. You cannot fine him. You cannot expel him. You cannot punish his parents. You simply have got to leave Johnnie alone, that is all. It does not define any time for saluting or pledging allegiance. If the teacher says, "Johnnie, I want you to pledge allegiance to the flag this morning," Johnnie may say, "I did that at home, this morning." What is she going to do? She cannot do anything, because it does not say when he shall salute the flag. It does not say that he has got to do it every morning, or five

times a week, or only during school hours, or during the school year, or when. He may salute the flag once in ten years, and I will defy anyone to say that he has not complied with that law that you are trying to put on the statute books. It is so ridiculous that it seems hardly necessary for me to argue this at all. I cannot understand how anyone should try to introduce a bill like this, with any expectation of its passage.

The Committee on Education must have had that thing in mind. They must have known that it is unenforceable and ridiculous. I think the Members of this House have got sense enough to say that they do not think a bill like that should have a passage.

Let me say this one thing in conclusion: The Supreme Court of the United States has already said that the school boards throughout the country have charge of a matter of this kind. There is no need of this legislation. Every school board in the State has a right to make a rule of this kind, if it sees fit. Now, that will be absolutely uncontradicted, because that is the law of the land at the present time.

We have only one case in this State at the present time, where a child has been kept away from school because he would not salute the flag. That has caused trouble in that school, and they have petitioned the State Department here to correct it. But the State Department is helpless. It is a matter entirely for the School Committee of any particular town. That is where it belongs. They have the law in their hands now. Do not put on the statute books something which is absolutely foolish and ridiculous.

The SPEAKER: The question before the House is on the motion of the gentleman from South Portland, Mr. Hinckley, that this bill be indefinitely postponed.

The Chair recognizes the gentleman from Whitefield, Mrs. Grady.

Mrs. GRADY: Mr. Speaker and Members of the House: Being a member of the Educational Committee, I rise to defend our "Ought not to pass" report.

Because of that report you may be led to believe that we do not believe in saluting the flag. That is not true. We believe very definitely in saluting the flag, because we are

patriotic citizens, but can we legislate patriotism?

I have rather a ridiculous comparison here to make, and I hope you will realize the sense in which I present it. It would be ridiculous to pass a law that every member of this House must bow their head during the prayer. Of course we do that as a matter of good manners and of showing reverence, but I would question the difference in the inner feelings of those people who bow their head and those who do not. One's mind could wander to other things than the prayer, as well with the head bowed as with it upright, and one with head upright can concentrate and feel the religious sentiment just as deeply as one with the head bowed.

In a democracy, it seems to me that patriotism must be kept inspirational. Have we not seen what happened in the totalitarian states of the foreign countries? Patriotism was legislated there.

I believe that a teacher can explain easily the story of our country, and what the flag stands for, in such a way that the child would be eager to salute it. Just remember that children in school like to do what the other children are doing. Those children like to salute the flag, unless some older person has told them not to do it, and there the seed of dissension is sown. Therefore, the older mind is to blame, and not the child.

I, for one, would still rather see the flag salute brought about by inspiration rather than imperialism.

The SPEAKER: The Chair recognizes the gentleman from Farmington, Mr. Mills.

Mr. MILLS: Mr. Speaker and Members of the House: I think I am somewhat of an authority on saluting. In 1937 I traveled through Italy and Germany,—and had occasion to observe the salute in that country.

I came to the conclusion, from my own experience, on being forced to salute more or less myself while I was over there, that it did not make so much difference what the outward manifestation was,—that the real thing was what was in your mind.

It occurred to me, when I first entered Germany, going down the highway on a bicycle. I had an American flag flying on the side of the bike. I overhauled a hay

rack. I was going along at a pretty good clip. There were a couple of fellows up on the load of hay. One man looked out and saw the American flag. This was the first time that I ran into the German salute. He raised his hand, like that, and said "Heil Hitler!" I looked back at him and said "Heil Roosevelt!" (Laughter)

After a few days I found that the social pressure in Germany was considerable to salute. If you went into a butcher shop or a bakery shop, the butcher or baker would hold his hand up in a salute and say "Heil Hitler!" I would not answer at first, because I felt more or less offended. After a while I began to feel everyone you had conversation with would say in more or less of a syncopated way with a slight wave of the hand at the side, "Heil Hitler".

I began to be afraid, after hearing so much of that, that I would be saying it also. I tried to think of a way out. I did not want to come back to this country and have on my conscience the fact that I had raised my hand and said "Heil Hitler!" So I thought of this phrase, which really indicated what was in my mind. It missed their connotation or I might probably still be in Germany. It does go to show that it is what is in your mind that really counts. Whenever they raised their hands in their salute and said to me "Heil Hitler!" I would say "To Hell with Hitler." (Laughter and applause)

The SPEAKER: The Chair recognizes the gentleman from Gardiner, Mr. Slosberg.

Mr. SLOSBERG: Mr. Speaker and Members of this House: I do not believe that I have voted with the majority members on any bill that has been before the Legislature this year, and I think that I ought to continue my good work. (Laughter)

I would like to reply to the gentleman from South Portland, (Mr. Hinkley) on his argument.

He feels that those groups should have the right to religious freedom; that they should have a right to salute the flag, or not, as they see fit.

Now, I do not have any quarrel with that line of reasoning at all.

But I wonder how the Members of this House felt the day before, when they passed the compulsory vaccination bill.



My Brother, the gentleman from Portland, Mr. Hinckley, also thought it might be a good idea to have the children salute the flag, and perhaps, the State employees, and perhaps us. Frankly, if he drafted an amendment to that effect, I would be glad to go along with it.

There is such a law as this in Massachusetts today, and it has been held to be Constitutional.

The penalty that would go along with this bill, as I understand, would be the expulsion of a child from school, if he or she refused to salute the flag.

Now, I do not want to make any patriotic speech and I do not want to wave any flag. It seems to me that the issue in the bill is simply this—whether we do, or do not, believe in the compulsory flag salute. I, for one, do.

Therefore, I hope that the motion of the gentleman from South Portland (Mr. Hinckley) does not prevail.

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

Mr. BELANGER: Mr. Speaker and Members of the House: Sometimes we talk out of turn, but now I think I am not talking out of turn, when I make some remarks about this flag.

I do want to say that I think a good deal of that flag. I was born under that flag. I went to school under that flag. We have schools that educate children under that flag. And I think that if there is anybody in this great United States who does not want a child to salute that flag, the quicker we get them out of the country the better.

We had a few scattered ones in my city—the city of Biddeford. They started something, and we did not wait for the law. We took it in our own hands. Perhaps, under the law, we should not have done it, but we did. We drove them all out of town. We have not been bothered with them any more.

I think that everybody in the United States should salute that flag. If there is anyone who does not want to salute it, they have no right to be here, and the quicker we get rid of such people, the better off we are.

The SPEAKER: The Chair recognizes the gentleman from Monticello, Mr. Good.

Mr. GOOD: Mr. Speaker, I feel this afternoon as though I owe an apology to this House, for patiently listening to me as much as they have during this session. This probably will be the last session that I will speak in this House—in this room anyway.

I feel that this is a time, if there ever was a time in the history of the United States of America when people should recognize the emblem of our country, it is today.

I noticed, in the speech of the gentleman from South Portland (Mr. Hinckley), a few moments ago, that he said he did not think it was fair to compel children to salute the flag. However, yesterday, or the day before yesterday, he thought it was fair to compel children to be vaccinated.

I feel like this—that the children of today are going to be the voters of the future. They are going to be the boys and girls who are going to tell us what to do. They are the boys and girls who are going to vote to amend the Constitution, if it is amended.

We, today, are trying to locate the people who are not loyal to our country. It is not because we want to place any hardship on the boys and girls who go to school. That is not the reason.

But it would be an easy matter to locate the man or woman who was not loyal to this country, if some child of seven, eight or nine years old would not salute the flag. It would be a very easy matter to locate the ones that were not loyal to our country.

Our Stars and Stripes stand for government of the people and by the people.

It may be well to know the significance of the Stars and Stripes—it is the emblem of liberty and union. It is something that we love and respect.

The first thing we notice, when we come into this House, is the Stars and Stripes. We look, and there is the flag standing there.

It is no effort for men to salute the flag. I love to salute it. I do not mean to worship it. I mean to salute it and recognize it.

When I go down, and go out into the corridor on the second floor, and look at the flags that men carried in battle and which came home spattered with blood,—I think that if there is anyone in the United

States of America that does not have patriotism enough to salute that flag, it is time to ask him to go where they do not have to.

You know who the people are who do not want to salute the flag, as well as I do. Practically the only people that we have had to oppose anything like saluting the flag have been the Communists. They have come in here and said to us, "I belong to the Communist party. I refuse to salute the flag."

You can look all over the country and see what the C. I. O. is doing. You can reckon the Communist in with the C. I. O. That is where our trouble is. There is a lot of talk about Germany. I am not so scared about Germany, in Germany, as I am scared of Germany in the United States of America.

Think of the boys and girls in the World War, when they bid good-bye to their fathers and mothers, and went out and gave themselves to their country, that we might have freedom. The first thing we saw, coming down the road, was the Stars and Stripes, leading those boys.

The other day, when the boys left Augusta, I stood down by the station, and saw them coming around the corner, from across the bridge, with the Stars and Stripes. I am proud of the Stars and Stripes, gentlemen.

I had two brothers who served in the World War. I have got three boys who will probably serve in this war, if it continues.

I believe that this is a step forward. Suppose we never make a boy or girl salute the flag? It looks to me as if we're telling the people of the United States of America that we had no confidence in the Stars and Stripes.

I do not believe that we are going to tear down any morals. I believe that we are going to stand by, and that we expect them to stand by.

I cannot conceive of a man objecting to this. It is inconsistent, after the way some of them voted the other day.

I hold no grievance against this Honorable Committee. I think that it is one of the finest committees we have got in this House. But the very best people in America make mistakes. They do not do it intentionally.

I want to quote to you this afternoon something that I got down the other day in the corridor,—which was written by Moses Owen. Maybe you have already read it.

"Nothing but flags—but simple flags, Tattered and torn and hanging in rags;

And we walk beneath them with careless tread,

Nor think of the hosts of mighty dead,

That have marched beneath them in days gone by,

With a burning cheek and a kindling eye,

And have bathed their folds with their young life's tide,

And, dying, blessed them, and, blessing, died.

Nothing but flags—yet methinks, at night

They tell each other their tales of fright;

And dim spectres come and their thin arms twine,

Round each standard torn as they stand in line!

As the word is given—they charge! They form!

And the dim hall rings with the battle's storm!

And once again through the smoke and strife,

Those colors lead to a nation's life.

Nothing but flags—yet they're bathed with tears,

They tell of triumphs, of hopes, of fears;

Of a mother's prayers, of a boy away,

Of a serpent crushed, of the coming day!

Silent, they speak, and the tear will start

As we stand beneath them with throbbing heart,

And think of those who are ne'er forgot,

Their flags come home—why come they not?

Nothing but flags—yet we hold our breath,

And gaze with awe at those types of death!

Nothing but flags, yet the thought will come,

The heart must pray though the lips be dumb!

They are sacred, pure, and we see no stain

On those dear loved flags at home again;

Baptized in blood, our purest, best, Tattered and torn, they're now at rest."

I do not believe that there is a man or woman in this State House today that wants to go on record as stating that they are not willing to see that everyone salutes the flag.

I hope that the motion of the gentleman from South Portland, Mr. Hinckley, does not prevail.

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

Mr. ROLLINS: Mr. Speaker and Members of the House: I never thought that I would have to speak on this, but I have listened to the arguments here, and I have not seen a Veteran on his feet.

I feel that I have a right to speak on this. I went to France with the first American unit. I feel that patriotism is something within a man's breast; that you cannot legislate it into him.

Gentleman, consider well your situation. Think of France. Think of Germany. Think of other foreign countries. Think of the blitzkreigs. What if it comes here? It may not come until the next generation. It may come before.

But if you force everybody to salute the flag, you do not know the loyal man from the other. But you will soon know the fellow who is not loyal, if he does not salute that flag.

I hope the motion of the gentleman from South Portland (Mr. Hinckley) prevails.

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

Mr. GRUA: Mr. Speaker and Members of the House: I just want to say a word about this. I do not think any of us have any quarrel with the motives back of this bill. We all agree that it is very desirable. The only question we have at all is—will it obtain the ends that the proponents seek? Will it obtain that loyalty that they are trying to instill in the children?

It seems to me that the only question is on the advisability of this mode of procedure.

I do not believe that it is necessary in Maine. I have heard very little about any trouble in the schools in regard to getting the children to salute the flag.

We all know that children like to do what the majority do. It is very difficult when you are a child in school to be among the minority. If the majority of the children are obeying the teacher's instructions to salute the flag, I think you will find that almost every child will be glad to join in, unless, as it has been stated here, he is positively forbidden to do so by his parents. And if he is forbidden, and the teacher takes no note of him, he will begin to wonder whether his parents are right or whether the teacher is right. While, if you make an issue of it, he is going to be loyal to his parents.

I think, therefore, that the chances are that we would get a good deal more loyalty among the coming generation if we did not force this issue of saluting the flag, and compelling them to do so. Because what you do under force, is not very effective.

You know the old saying,—“A man convinced against his will,—if of the same opinion still.” It also holds true of children, as well as older people.

I think it is much better to leave this optional, and just pass it over. After all, these children are not the ones to blame. It is their parents who are to blame. What we want to try to do is to make these children into better citizens. It may be too late to do much about the parents, but we have the children before us.

I believe that a teacher who has the welfare of her pupils at heart, who is conscientiously trying to lead them into ways that are patriotic, will be better able to instill into them a love of country, so that they will gladly salute the flag, rather than to put this sort of a law on the statute books, that she is compelled to enforce it, no matter how badly it may effect the discipline of the school.

I certainly hope that we will not do the children of minorities who are against this the injustice of enforcing this, because I believe that we are going to frustrate the very thing that we so much desire.

I hope the motion of the gentleman from South Portland, Mr. Hinckley, prevails.

The SPEAKER: The Chair recognizes the gentleman from Thomaston, Mr. Smith.

Mr. SMITH: I ask for a division on this, Mr. Speaker.

The SPEAKER: The Chair recognizes the gentleman from Lewiston, Mr. Lambert.

Mr. LAMBERT: Mr. Speaker, I want my vote to go on record. I ask for a roll call.

The SPEAKER: The gentleman from Lewiston, Mr. Lambert, requests a roll call.

The Chair recognizes the gentleman from Lincoln, Mr. Lane.

Mr. LANE: Mr. Speaker and Members of the House: I am a member of that organization — the American Legion. We want to keep America American, by educating for democracy. We believe in America and believe in its democratic form of government. We believe in its ideals and in its opportunities. We believe in its destiny. But we cannot keep America in the American way unless we have a good citizenship;—an honest, intelligent and informed people, and a general acceptance of the individual responsibilities that such a citizenship entails.

Youth must be grounded in the fundamental principles of personal and national behavior.

I fought for that flag, and I bled for that flag. I do not believe that any person who would object to this simple gesture of respect to that flag deserves the protection of that flag.

The SPEAKER: The question before the House is on the motion of the gentleman from South Portland, Mr. Hinckley.

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

Mr. HINCKLEY: Mr. Speaker, may I say just another word, —in answer first, to the remarks of the gentleman from Monticello, Mr. Good.

I, too, have seen those flags down there, and I have just as much respect for them as the gentleman from Monticello. Every one here has the same respect.

My folks fought under those flags that are downstairs there now. Those men never took an oath of allegiance and the citizens of the country at that time never took an oath of allegiance to the flag, when they were in school, or after they were outside of the school; and I doubt if they ever saluted the flag.

I know, even as recently as when I was a boy, there was no salute to

the flag and we never heard of the pledge of allegiance. That is only of recent origin,—I think since the World War.

So do you say that the men in the Civil War and the people who stood behind the men in the Civil War, and the men that fought in the Spanish American War, who went to war when I was a boy, are any less patriotic than we are today? They never saluted the flag, until they were in the army, in my opinion, because I, as a boy, never saw anyone salute the flag. That is something of recent origin.

Now, I do not say that it is not a good thing. I think it is. I think it is fine to salute the flag, but we are not any more patriotic just because we express it, as has been said before. That comes from within, and, if we do not get the inspiration, we simply do not salute.

I would like to have you, again, just look at the bill before you vote. If you can really say that that bill, as written, should have a passage in this House, then I will not say anything more.

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

Mr. PATTERSON: Mr. Speaker, and Members of the House: I do not know how much the gentleman from South Portland (Mr. Hinckley) knows about this matter of saluting the flag, in other days.

My father was four years under that flag. He never had any use for anybody that would not salute that flag. I have got that inculcated into my system.

I belong to the Sons of Veterans. I had two nephews in the World War.

They should feel disappointed, and I think my friends would, if I did not say anything in regard to this proposition. I think it is time that we should show a lot that are inside our State at the present time that this House is in sympathy and would support saluting the flag.

I believe that we should go on record in favor of saluting the flag, and I believe that we will. I do not know what we may be heading for, if we do not stop these subversive elements. I think that we might as well have it known at the present time. I think that this Legislature will feel that I am right. Just consider how this thing grew in France, through the subversive elements. It

grew there until France was tipped over, from the inside. I do not believe that we should be tipped over from the inside in Maine.

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

Mr. LEAVITT: Mr. Speaker and Members of the House: This discussion has come to the flag-waving arguments—the idea of who is patriotic and who is not. I believe that every person here is patriotic and that everybody here wants to do what is best for this State, in regard to whether we should salute this flag or not.

The point I want to bring out is this: Do we want to do it the German way or do we want to do it the American, democratic way?

The American, democratic way says we shall educate our children to love this country, and that we shall educate them to respect our flag and the things that it stands for. When we have educated them to do that, they will salute the flag voluntarily, and we will not have to pass any laws in this State House to make them do it.

I hope that the motion of the gentleman from South Portland, Mr. Hinckley, will prevail.

The SPEAKER: The Chair recognizes the gentleman from Monticello, Mr. Good.

Mr. GOOD: Mr. Speaker and Members of the House: I would like to point out one argument that the gentleman from South Portland, Mr. Hinckley, raised. He said some of the older men—he might have mentioned his father—did not have to salute the flag and did not have to pledge allegiance to the United States of America.

Well, we did not ride in an automobile forty years ago. We hardly saw airplanes until ten years ago. We did not have C. I. O. strikes forty years ago. We did not have Communists coming in and telling us what to do, either, forty years ago.

We have got to the place where we have got to show where we stand and for what we stand.

It is not that we want to compel some boy or girl to salute that flag. It is because we are in strenuous times, and people are telling us what to do.

I think that it is time when the American people told the people who are bound and determined to tear

down our government what we intend to do.

The SPEAKER: The Chair recognizes the gentlewoman from Bath, Miss Deering.

Miss DEERING: Mr. Speaker and Members of the House: I have not fought for the flag. I have not bled for the flag. But I do feel sure that my time is coming, and I have been registered for it for three years.

I was one of the Committee who voted out "Ought not to pass" on this compulsory salute to the flag.

I feel that as long as we sit here in this State House—and allow an alleged Communist in this State, who is very proud of the fact that he is a Communist—that as long as we stand here and sit here, and say, "Let him go, he will not do any harm," but we will take that man's children in school and stand them up against a wall and say to them, "You salute that flag"—and let the father or parents go—I think that we are starting in the wrong place.

I do not see any reason for causing a child in school mental anguish, and physical anguish, perhaps, when we send them home—when we sit here, day after day, with that flag in front of us, and never once have we had a public salute to the flag.

I approved of the compulsory vaccination bill the other day, because vaccination has been proved an aid in the prevention of small pox, but the salute has not proved to be an aid to lack of patriotism.

The SPEAKER: The question before the House is on the motion of the gentleman from South Portland, Mr. Hinckley, that the bill be indefinitely postponed. The gentleman from Lewiston, Mr. Lambert, requests that when the vote be taken, it be taken by the yeas and nays. Under the Constitution the vote shall be taken by the yeas and nays upon the request of one-fifth of the members present.

All those in favor of the vote being taken by the yeas and nays will rise and stand in their places until counted and the monitors have made and returned the count.

A division of the House was had.

The SPEAKER: Obviously less than one-fifth of the members having arisen, the yeas and nays are not ordered.

The question before the House is on the motion of the gentleman from South Portland, Mr. Hinckley,

that the bill be indefinitely postponed. All those in favor of the indefinite postponement of the bill will rise and stand in their places until counted and the monitors have made and returned the count.

A division of the House was had. Sixty-six having voted in the affirmative and 35 in the negative, the motion prevailed and the bill was indefinitely postponed and sent up for concurrence.

The Chair lays before the House the third matter of unfinished business, Bill "An Act to Incorporate the Patten School District." (S. P. 525) (L. D. 1089) tabled by the gentleman from Portland, Mr. LaFleur, on April 4th pending third reading. The Chair recognizes the gentleman from Stacyville Plantation, Mr. Estabrook.

Mr. ESTABROOK: Mr. Speaker, Mr. LaFleur came to me after the morning session and said if the House would accept House Amendment "A" this bill would be perfectly satisfactory to him.

The SPEAKER: The gentleman from Stacyville Plantation, Mr. Estabrook, presents House Amendment "A" and moves its adoption. The Clerk will read the Amendment.

House Amendment "A" to S. P. 525, L. D. 1089, Bill "An Act to Incorporate the Patten School District."

Amend said bill by striking out in the first line of Section 7 thereof the words "when approved" and substituting in place thereof the following: '90 days after the adjournment of this Legislature.'

The SPEAKER: The amendment will lie on the table for reproduction under the joint rules.

The Chair lays before the House the fourth matter of unfinished business, An Act Providing for the Sale of Liquor at Wholesale Prices by the State Liquor Commission to Persons Licensed to Sell Liquor to be Consumed on the Premises." (S. P. 517) (L. D. 1066) tabled by the gentleman from South Portland, Mr. Gowell, on April 4th pending passage to be enacted; and the Chair recognizes that gentleman.

Mr. GOWELL: Mr. Speaker and members of the House: Since the inception of the Liquor Commission, possibly eight or nine years ago, there has been a ten per cent discount allowed on sales of liquor to

hotels, which, at the present time, amounts to about \$50,000. It seems this arbitrary allowance of ten per cent was established in order to generally compensate for the estimated saving made by the State due to the fact that the hotels paid their own handling and trucking expense.

We all realize that the approximate figure of \$50,000 is quite a lot in excess of the actual saving to the state and apparently not entirely in accord with the intent set forth by the members of the first Liquor Commission.

Upon investigating this New Draft, L. D. 1066, I find that the Controller will interpret this bill by calculating the actual saving to the State, strike an average and distribute an equal percentage of discount to each of the hotels.

We have every confidence in Mr. Rodgers, and I firmly believe that the discount to be allowed will be materially less than the present ten per cent, thereby increasing the revenue to the Liquor Commission and to the State. Therefore, Mr. Speaker, I move the passage of this bill to be enacted and sent up for concurrence.

Thereupon the bill was passed to be enacted.

The Chair lays before the House the fifth matter of unfinished business, Majority Report "Ought not to pass" and Minority Report "Ought to pass" of the Committee on Judiciary on Bill "An Act Relating to Levy upon Shares of Stock." (H. P. 1426) (L. D. 590), both reports tabled by the gentleman from Augusta, Mr. Southard, on April 5th, pending acceptance of either report; and the Chair recognizes the gentleman from Augusta, Mr. Southard.

Mr. SOUTHARD: Mr. Speaker and Members of the House: I shall forego the pleasure of discussing the question of majority and minority reports and confine my remarks to explaining my reasons for introducing this legislation. This matter may not seem very important to you, but I assure you that it may involve property worth hundreds of thousands of dollars. It involves shares of stock in corporations.

Now as to stock certificates, they represent an interest in business to businessmen; they represent dividends and income to widows and orphans; they represent an opportunity for profit to a speculator; but

to a lawyer they sometimes represent a headache, and this bill is intended to be a legislative aspirin.

Under our present statute a stock certificate is sort of a hybrid. It represents an interest in a Maine corporation, and, for some purposes that interest is where the stock certificate is and for other purposes it is where the main office of the corporation is, and, for still other purposes it is where the corporation does business.

By Section 43 of Chapter 56 of the Revised Statutes a stock certificate may be transferred by endorsement and delivery. Before that statute was passed it was transferred by entry upon the stock record book of the corporation. At common law that stock certificate, or interest in a corporation, could not be attached and a creditor could not get at it to satisfy a judgment.

By virtue of Section 28 of Chapter 95 of the Revised Statutes it can be attached by leaving an attested copy of the writ with the clerk, cashier or treasurer of the company. The defendant may not know anything about the attachment for several months. At the present time that is still true, the defendant may not know about the attachment for a matter of several months, and yet it may be transferred by endorsement under Section 43 of Chapter 26.

Then you have this situation: A stock certificate issued to Mr. A. who owns it, and transferred by a perfectly valid transfer to Mr. B. At the same time Mr. C. attaches that stock certificate in an action against Mr. A., and he is entitled levy upon it, and it may eventually belong to Mr. C. The corporation is absolutely without fault and has got to issue the extra stock certificate. I can assure you they cannot do that, or else section 43 controls. Of course the first one to get there gets the certificate. Each of those things could happen, and the corporation may not be able to protect itself at all. There is no provision for intervention. A bill of interpleader might not lie if both transfers are good. As a matter of practice the corporation usually protects itself by taking a bond. In any event they may be subjected to a good deal of expense and trouble and they may move out of the State on account of that. In that case the State of Maine, which enjoys the benefits of a good many

large corporations doing business in other states, will lose their taxes.

I won't go into any more of the law in regard to stock transfers under our statutes, but that is the general situation. Our transfer statute is inconsistent with our attachment statute. This bill seeks to avoid that by preserving the present method of simple, easy, cheap, fast attachment of corporate stock by stating that before a levy on stock may be enforced the certificate must actually be seized by the creditor. Until it is seized the stock certificate may be transferred by endorsement and delivery.

I think that approach is sound, for the reason it carries out the rather clear intent of Section 43 that stock certificates be practically negotiable.

Mr. Speaker, I move the acceptance of the minority report, "Ought to pass".

The SPEAKER: The gentleman from Augusta, Mr. Southard, moves that the House accept the minority report "Ought to pass". The question before the House is on the motion of the gentleman from Augusta, Mr. Southard, that the House accept the minority report "Ought to pass". Is this the pleasure of the House?

All those in favor of the motion of the gentleman from Augusta, Mr. Southard, that the House accept the minority report "Ought to pass" will say aye; those opposed no.

A viva voce vote being taken, the motion did not prevail.

On motion by Mr. McGlauffin of Portland, the majority report, "Ought not to pass" was accepted and sent up for concurrence.

The Chair lays before the House the first tabled and today especially assigned matter, Bill "An Act Relating to Arrests in Criminal Cases" (S. P. 365) (L. D. 678) tabled by the gentleman from Auburn, Mr. Conant, on April 10th, pending third reading; and the Chair recognizes that gentleman.

Mr. CONANT: Mr. Speaker and Fellow Members of the Ninetieth Legislature: It was not until I had discussed this matter quite thoroughly with a large number of persons who were present at the time this measure was before this House that I decided to take any definite step in the matter of the indefinite postponement of this measure.

I will state at the very outset that

this is a matter which is personally very dear to me, but that is not the reason I rise to my feet to address this assemblage.

When I first discussed this matter with the members of the committee who signed the majority report I asked them if they would please give me some additional reasons why they voted this measure out of the committee "Ought to pass".

One of the outstanding reasons which was advanced to me was that in view of the present emergency, the impending crisis, in view of the fact that it was not only likely but that it was probable that there would be some sabotage in this State, that there should be certain restrictions taken from the law of arrest as it now exists. I desire to present to this House the matter of L. D. 675, Sections 7 and 8, which is, of course An Act Enacting the Sabotage Prevention Act. Section 7 and Section 8 I think take away those objections which many persons have to the present law of arrest.

The hypothetical situation was presented to me that if a person was hanging around a factory or within the confines of that factory and he was a suspicious looking character, that there certainly should be something done to the law of arrest whereby that person might not only be asked questions but might be searched, because he might have some infernal machine in his pocket.

I submit Section 7 and Section 8 take care of that situation completely. I do not think there is any definite reason at the present time why we should enlarge the scope of the law of arrests as it exists.

I would like to have the House bear with me a very few moments while I go back with them over the history of the law of arrest and the matter of civil liberties in general.

One of the outstanding matters that humans have held dear to their hearts throughout the history of the entire world, and which is made manifest by the Magna Charta and other English laws subsequent to the signing of the Magna Charta, and a matter which is incorporated in the Bill of Rights of our Constitution, is the matter of civil liberties and the matter of personal liberties. That is the reason why we have the constitutional provision we have regarding the matter

of habeas corpus and why there are so many cases before the Supreme Court of the United States, not only in the last few years but throughout the entire history of this nation.

I would like to have you bear with me while I compare Section 1 of this act which is before you, relating to arrests in criminal cases, with the laws which actually exist.

My Brother Williams, in presenting this matter to you last week, ably took care of the entire subject, but I would like to have you compare item for item this proposed legislation and the law as it does exist.

Section 1 of this proposed act states:

"A peace officer may detain any person abroad whom he has reason to suspect is committing, has committed or is about to commit a crime, and may demand of him his name, address, business abroad and whither he is going; and any such person who fails to identify himself and explain his actions to the satisfaction of such peace officer may be further detained and further questioned and investigated by any peace officer; provided, in no case shall the total period of such detention exceed 2 hours, and such detention shall not be recorded as an arrest in any official record. At the end of any such detention period the person so detained shall be released unless arrested and charged with a crime."

So far as the law which exists at the present time, I would like to read to you a short paragraph taken from the outstanding authority on the law of arrest, and I refer you to Vorhees on Arrest, Section Edition, Page 105, in which it is stated concerning the powers of a police officer. I quote:

"A police officer has a right to make inquiry in a proper manner of any one upon the public streets at a late hour, as to his identity and the occasion of his presence, if the surrounding circumstances are such as to indicate to a reasonable man that the public safety demands such identification."

Now it is obvious in the very face of that analysis that the proposed bill here would enlarge the scope so that the officer might become very meddlesome concerning almost any matter that came to his attention in the daytime as well as in the nighttime.



During the evening hours he already, under the law of arrest, has a right to question a person who is acting suspiciously.

I fail to see where the proponents of the measure on the floor of this House presented any valid reason why this scope should be as large as it is under the terms of this act.

I would like to compare with you Section 2 of this act with the law as it is at the present time.

I quote from the bill:

"A peace officer may search for a dangerous weapon any person he is questioning or about to question concerning any crime or suspected crime, whenever he reasonably believes that he is in danger from such person carrying such weapon, and if such person is carrying a dangerous weapon, such officer may take and keep it until the completion of such questioning, when he shall either return it or arrest such person."

From the same text I quote the law as it exists:

"Except in self-protection, an officer has no right to search a person and seize anything upon him unless he has first arrested him."

Now this proposed act again increases the legitimate scope with regard to the matter of searches. Without any arrest an overzealous police officer can search anyone, and this matter is practically a blank check to the overzealous police officer.

If my good friend, Charlie Dwinal, was going home from the debate on the Lottery Bill and was stopped by a police officer who desired to search him, my friend Charlie Dwinal might find himself in a pretty serious situation if on his person he had Exhibits A., B. and C. concerning the lottery. (Laughter)

There is another section of this bill that bothers me a great deal, and I simply want to submit the matter to this Legislature. I quote from Section 5(a):

"A peace officer may without a warrant arrest a person for a misdemeanor, whenever:

"(a) The officer has reasonable ground to believe that a misdemeanor has been or is being committed in his presence and that the person to be arrested has committed or is committing it."

Now under the law that exists at

the present time no police officer may arrest a citizen without a warrant before he so arrests

I want to submit to you a hypothetical situation which can very easily occur and I will preface my statement with a definition of terms. Of course it is common knowledge that a felony is a crime which may be punished by incarceration in State's prison. Any other crime is a misdemeanor. No matter what you are alleged to have done, if it is a misdemeanor under the terms of this proposed act, a policeman or any police officer can arrest you without the authority of a warrant.

Now for the hypothetical situation. If someone simply states to a police officer that you have committed some minor misdemeanor, without taking oath that is the situation, in some of your smaller municipalities here there is absolutely no reason why a police officer can not come down and arrest you and take you down to jail, and the next morning if it is found that you were not guilty you can go and brag to your friends at home and say, "I was found not guilty."

Now you have been inconvenienced, and under the terms of this act no action for false imprisonment or false arrest lies against the arresting officer. You have been damaged a great deal, no matter how well you argue to your friends and professional acquaintances that there was absolutely no merit to the arrest. You cannot, under the terms of this act here, go after the police officer who had you in court and who was unable to sustain in the court the allegation made against you.

I won't go further into the bill because there are other important matters here. I think I have brought out enough to show you some of the abuses that can and will exist under the terms of this proposed enactment.

Some of my very best friends are police officers and serve in similar capacities in public service. I would hold a brief for them as a group under almost all circumstances; but, in my experience—and I think it is the experience of some members of this House—almost every law enforcement body has at least one overzealous officer who takes his authority much too seriously.

Under the terms of this act here you are practically giving such an

overzealous police officer a blank check to go out every time they see a suspicious person and pick them up for almost everything and there is no legal liability under the terms of this act, no matter how much they embarrass or injure the person so arrested.

Now I am not going to wave any flag this afternoon; I am not going to tell you that if this measure passes we may well have a Gestapo in the United States; but I submit to you that this is a matter which should be close to every member of the House because it does take from the people a matter which has been dear to the hearts of all men from the beginning of time, and that is the matter of their civil liberties. I trust you will think this matter over before you vote against the motion which I now make, that this bill be indefinitely postponed.

The SPEAKER: The gentleman from Auburn, Mr. Conant, moves that this bill be indefinitely postponed. The Chair recognizes the gentleman from South Portland, Mr. Hinckley.

Mr. HINCKLEY: Mr. Speaker, I am very sorry I have to get up again today because I thought I had finished.

A few days ago this House passed this bill by a very large majority. It was reported out by the committee nine to one, and they had a very good reason for making that report and I believe the House had good reason for accepting that report. It seems too bad that we have to argue these things over a second time. Nevertheless inasmuch as the motion for indefinite postponement has been made and I made one of the arguments the other day, it really becomes my duty to say a few words more.

Let me speak first in regard to the last argument that the gentleman from Auburn (Mr. Conant) has made, and that is in regard to overzealous police officers. Now there may be overzealous police officers but I believe they are very few and far between. We have police officers in the State of Maine who are conscientious and trying to do their duty, and those are the officers we are trying to protect. If an officer is overzealous, then there is a remedy and we have not got to worry about it. But I think the time has come when we should look to the safety of the people of this State

rather than any morbid sentiment for any particular individual who may be accused of crime. I do not want to hurt any individual, but I believe, as I said the other day, there are times when the duty to the State is paramount to the right of any suspected individual.

Something has been said about arresting without a warrant. This does provide for that. Let me point out to you at the present time if a person is suspected of having committed a misdemeanor and a warrant is issued by the court, that warrant stays there until a police officer is able to get the warrant and go and find the man. Now the police officer that has the warrant may not be within five or ten miles of the man and some other police officer may be right in the vicinity. He might have the man directly in front of him but he could not lift his hand to take that man to the police station. Think of that situation. That situation exists at the present time. You have got to have a warrant before you can arrest a man for a misdemeanor. Is that a matter of safety for the people of the State?

Let me point out further: As the law is at the present time, if a police officer finds a man drunk on the street, lying in the gutter or in the middle of the road, he takes his chances on whether or not he arrests that man. If he arrests him, takes him to the police station and allows him to sober up and does not present him in court in the morning or get a release from the man so he will not be subject to false arrest, then that drunk has an action against the officer. Can you imagine a situation like that existing in our State? That is a fact at the present time. He cannot arrest a man even to protect his life—and the man might be lying in the middle of the road—unless he presents him in court.

Now you know and I know that officers do not always present drunks in court. If they did, the court room would be full of them. The officer simply takes him, allows him to sober up, and lets him go. I say that is fairer to the State and fairer to the individual.

As was pointed out here the other day, at the present time if you suspect a man has a gun on his person you do not have the right to lay a finger on that man unless you ar-

rest him and take him to the police station. You do not have any reason whatever to arrest him because you have no charge against him, but you have got to wait and ask the man if he has a gun. If he has a gun, of course you can arrest him, but if you just suspect him you have got to wait until the man draws the gun on you before you as an officer can lift a finger. Is that not an impossible situation?

I say that is what this bill is trying to correct. I believe the members of the House when they heard the arguments the other day were satisfied they were doing the right thing, and I hope they will vote right this time. I hope the motion of the gentleman from Auburn, Mr. Conant, will not prevail.

The SPEAKER: The Chair recognizes the gentleman from Turner, Mr. Pratt.

Mr. PRATT: Mr. Speaker, I wonder if the members of the House did just understand the other day when they voted; I wonder if the members of the House realized they were voting away some of the liberties that they have?

You might get up some Sunday morning and decide you want to go up to Boston to a baseball game, and you might have some neighbor living near you with whom you were not on the best of terms, and he might tell the officer to hold you up. Take that into consideration, gentlemen. You have got laws enough on the books today to protect officers. Before you vote again consider it well.

The SPEAKER: The Chair recognizes the gentleman from Camden, Mr. Dwinal.

Mr. DWINAL: Mr. Speaker, the other day I voted with the majority. I have since read the bill over and have come to realize that every citizen of Maine would be absolutely under control or at the mercy of the whim of any police officer that might be around.

Perhaps the city members do not come up against the problem we have in the smaller towns. In the city you have trained officers, but in the country I have seen instances where we have overzealous constables or police officers, and under this bill, if they wished to, they could haul you in and keep you two or three hours. You would be absolutely at their mercy. And you know in a small town you simply

need to be arrested; you do not need to be tried or proven guilty; if you are just arrested your reputation is as bad as if you were guilty. I want to go along today with the motion of the gentleman from Auburn, Mr. Conant.

The SPEAKER: The Chair recognizes the gentleman from Rome, Mr. Downs.

Mr. DOWNS: Mr. Speaker and Members of the House: I remember in my old English book there used to be some lines reading something like this: "Who shall decide when doctors disagree?" This is not a case of doctors disagreeing but is evidently a case of the members of the legal profession disagreeing. Now I do not see anything I can do as a layman but take the middle road. I would like to tell you what a few of my reactions are relative to this particular bill.

It seems to me from reading the bill that it is one of the most vicious things that has been presented to this Legislature.

Now Section 1 provides that a peace officer may detain any person abroad whom he has reason to suspect is committing, has committed or is about to commit a crime and may demand of him his name, business abroad and whither he is going, not only in the nighttime but in the daytime.

Now it is pretty hard to determine the workings of the human brain and it is pretty hard to determine the thought that goes through the officer's mind, and it might be possible that we might run up against an officer some day who had the power and authority under this law to detain you and I for two hours, and then if we could satisfy him that we were law-abiding citizens and did not intend to rob anybody or commit murder or some other crime he might be persuaded to let us go.

Going further along in the bill, in Section 8 we find that a peace officer may without having a warrant, without having any authority, or without having a warrant in his possession, arrest any person.

Now I think the gentleman from Auburn, Mr. Conant, has read you the old law or the law under which we live, which throws about the common citizen the mantle of protection to which he is entitled, and the same mantle of protection which I believe this bill intends to tear asunder.

I believe it is well within our scope and that we should carefully consider this matter and not sacrifice our rights which we have recognized as fair for generations. There is ample law to apprehend any man who is guilty or might be guilty of a crime.

It may be argued to you that this is an emergency and we need this thing. If so, I want to remind you that a short time ago this House passed a sabotage act which entirely takes care of any conditions which might arise. I hope the motion of the gentleman from Auburn, Mr. Conant, prevails.

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

Mr. BROWN: Mr. Speaker, I have been waiting to hear from some of the Lady Members of this House on this matter. They have not spoken for themselves, therefore I want to speak for them.

What would happen if your wife or my wife or your daughter happened to be out on the street at night and one of these overzealous officers should decide she ought to be searched? He has authority to search her from her Easter bonnet to her step-ins. I am certainly against it. (Laughter)

The SPEAKER: The question before the House is on the motion of the gentleman from Auburn, Mr. Conant, that this bill be indefinitely postponed. The Chair recognizes the gentleman from Auburn, Mr. Conant.

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

The SPEAKER: The question before the House is on the motion of the gentleman from Auburn, Mr. Conant, that this bill be indefinitely postponed. The Chair recognizes the gentleman from Portland, Mr. McGlaulin.

Mr. McGLAULIN: Mr. Speaker, inasmuch as there is to be a division and I have got to stand, I want to say that I signed the majority report chiefly because it was a measure recommended by a board that is trying to get uniform laws; but, since I have heard the discussion in this House, I can assure you I know an argument when I hear one and I am going to change my vote on this matter. I want you to know it before I stand up.

The SPEAKER: The question before the House is on the motion

of the gentleman from Auburn, Mr. Conant, that this bill be indefinitely postponed. All those in favor of the motion for indefinite postponement of this bill 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. Ninety-four having voted in the affirmative and 3 in the negative, the motion prevailed, and the bill was indefinitely postponed in non-concurrence and sent up for concurrence.

The Chair lays before the House the second tabled and today assigned matter, Bill "An Act to Aid Agriculture by Providing for the Organization of Rural Electrification Cooperatives." (H. P. 350) (L. D. 137) tabled by the gentleman from Strong, Mr. Richardson, on April 10th, pending third reading; and the Chair recognizes that gentleman.

On motion by Mr. Richardson, the bill was given its third reading, passed to be engrossed and sent up for concurrence.

The Chair lays before the House the third tabled and specially assigned matter, Bill "An Act Relating to Speed Regulations" (H. P. 1552) (L. D. 843), tabled by the gentleman from Perham, Mr. Bragdon, pending its second reading; and the Chair recognizes that gentleman.

Mr. BRAGDON: Mr. Speaker and Members of the House: It is getting very late in the day and very late in the week, and I know that we are all getting bored in listening to so much oratory.

I am going to confine my objections to this bill in just as few words as I possibly can.

In taking my position, I hope that it will not appear to anyone that I am attempting to oppose any legislation which makes for greater safety upon our highways. That is the last thing that I wish to do.

I wish also to say that I have the highest regard for the members of the Motor Vehicle Committee, who have had this matter under consideration.

I fear, however, that they may not have given this matter all the consideration it deserves. This bill seeks to establish a maximum speed limit on our highways of fifty-five miles an hour. It is to be on the open road and under the most ideal driving conditions.

Now, under the present law, we have no speed limit. The law simply says that after you exceed forty-five miles an hour—or any speed in excess of the limit established by law—which is forty-five miles an hour, it shall be prima facie evidence that the speed is not reasonable and proper, as defined in subsection A of this section."

In other words, after you have exceeded forty-five miles an hour, under the present law, it is more or less up to you to prove that you were exercising due caution.

Under the proposed law, it seeks to establish a maximum of fifty-five miles an hour. All that an officer would have to do would be to prove that you were exceeding that speed limit. In other words, if he took you into court, he has not even got to prove that you were careless or reckless. There would be nothing a Judge could do but to find you guilty.

Now, I am not going to attempt to say which I consider the better law.

My position is simply this: If I felt that the majority of the citizens of Maine, in the interest of greater safety, were demanding the passage of such a law, and that they were willing to abide by it, and that it was the intention of the enforcement officers to enforce it, I would be for it 100 per cent. I would expect to temper my driving accordingly.

On the other hand, I would not want to consent to the passage of a law which, I believe, ninety per cent of our citizens would violate within a week after it became effective. I might say, possibly, that some of the members of this House might violate it.

I cannot help feeling that a good test of this law, or any bill, is whether or not it is a bill which the public demands.

I think, perhaps, some of you will recall that two years ago we passed the so-called "Title Law," thinking that it was a good bill. In the summer, after the people had a chance to express their views on it, we came back here and repealed it.

Before you vote on this bill, I hope you will take into consideration how the people back home think in regard to it; and consider whether you think they are willing to temper their driving to fifty-five miles an hour. If they do not, they

will be violators of the automobile law and subject to arrest by any police officer.

I personally do not believe that the motorists of Maine are willing to abide by such a law.

For that reason, I move the indefinite postponement of this bill.

The SPEAKER: The gentleman from Perham, Mr. Bragdon, moves that this bill be indefinitely postponed.

The Chair recognizes the gentleman from Brunswick, Miss Bangs.

Miss BANGS: Mr. Speaker, may I face the hall of the House?

The SPEAKER: The gentlewoman may have that privilege.

Miss BANGS: Fellow Members of this Legislature: When I came to the Legislature, I was petrified at the very thought of making my maiden plunge into the icy cold waters of oratory. In fact, I wanted an excuse for not speaking. I vowed that I would not speak until I had a burning message. So each time I have had the urge to speak, I would excuse myself from the ordeal on the ground that the message was not quite hot enough, until I found that I had made a grave mistake in not defending a unanimous committee report.

So, benefiting from my mistake, I made my first plunge the other day, and now I am making another plunge to support another unanimous report. By the looks of the Motor Vehicle matters that are tabled, I may be plunging from the high diving board many times. (Laughter)

All I can say is that if you people will just hang onto your seats and stick with me, I will swim like the devil, and trust I will make the shore. (Laughter)

Now, this is a matter of safety regulation. This is a bill presented by the State Highway Police, and is a safety measure. We must more or less bear in mind that most of the other New England States have safety regulations. If you have driven in any of those other states, you know that they are enforced.

At the present time, as the gentleman from Perham, Mr. Bragdon, has stated, we have no speed regulations. If you go over forty-five miles an hour and have an accident, then the officer can perhaps arrest you—or he can if he can prove negligence or recklessness.

This bill proposes to set a ceiling

of fifty-five miles an hour on speed. Bear in mind that with an officer that there is a margin of allowance. No officer is going to arrest you if you are going fifty-six, fifty-seven or fifty-eight, or probably up to sixty miles an hour, unless there absolutely is a cause why, and absolutely you are reckless, but he does have the right under this law.

Now, I have a few statements from the State Police which I should like to review with you.

They have determined that fifty-five miles an hour is the maximum speed that is safe on 90% of our highways, due to their construction.

They have determined that the reaction time is an important factor, this being the time actually consumed between the instant the driver's eye flashes to his brain the signal "stop" and the moment he applies his foot to the brake. On the average this time is  $\frac{3}{4}$  of a second. At 55 miles per hour,—combining the distance traveled before the brake can be applied and the distance to stop after the brake is applied, at a speed of fifty-five miles per hour a car will travel approximately 225 feet. Therefore, a car traveling in excess of 55 miles per hour is partially out of control on a large percentage of our highways.

Now, the sight distance on many of our highways is such that it is unsafe to travel in excess of fifty-five miles per hour. A car should not be operated faster than the operator can stop in his sight distance, and at night there is much danger of over-driving the lights, if anyone is going in excess of fifty-five miles per hour.

If we have a maximum speed of fifty-five miles per hour, which is considered a safe speed, and are able to hold the flow of traffic to that speed, there will be much less passing, and whenever one car passes another, there is that one more chance for an accident.

It is determined that the average driver operates between fifty and fifty-five miles per hour. A maximum speed of fifty-five miles per hour will be an advantage to the enforcement officers, in that they will be able to eliminate that small percentage of drivers who exceed the normal speed of traffic.

Now, if this proposal goes through, the Highway Police have a plan to zone all the highways in the State.

That I think will be a very worthwhile purpose in the State and will lead to safety on our highways.

Just bear in mind that this fifty-five miles an hour speed limit does give you some allowance, so that probably the actual maximum would be sixty miles per hour.

Now, in closing, I will say that, personally, my conscience tells me that when I drive over fifty-five miles an hour, I am endangering my own life and the lives of others. In case I do not take heed of my own conscience, I am willing, personally, to be disciplined by State laws.

I will say again, personally, that I think fifty-five miles an hour is a reasonable and sufficient speed. I would like to have this speed enforced, so that I, myself, will not be obliged to have the matter brought home to me because of some accident, and possibly an injury—or loss of life.

This matter is now up to you. If you—like me—are willing to be disciplined by this State law, and if you feel that your people back home are ready and willing to be disciplined, then I would recommend to you not to favor the motion of the gentleman from Perham, Mr. Bragdon, but to go along with the unanimous report of the Committee.

The SPEAKER: The question before the House is on the motion of the gentleman from Perham, Mr. Bragdon, that this bill be indefinitely postponed.

The Chair recognizes the gentleman from Yarmouth, Mr. Arzonico.

Mr. ARZONICO: Mr. Speaker, I hesitate a little bit to speak against the gentlewoman from Brunswick, Miss Bangs, but her remarks have worried me just a little on this particular bill.

I want to explain, first, that I am not a fast driver on the highway. I do not recollect ever having exceeded fifty miles an hour. But her remarks led me to believe that, although this bill puts a ceiling on the speed limit, she also, in practically the same breath, led me to believe that we have a leeway on that ceiling, up to probably fifty-eight or sixty miles.

Now, my contention is simply this, that if we have this ceiling of fifty-five miles, and you exceed that by one mile—or, in other words, if you are going fifty-six miles an hour, that you are right then and there breaking a law, regardless of what

the Highway Police might think, or the surrounding circumstances at the time. You were going fifty-six miles per hour, and you have broken the law.

Now, I cannot conceive of a police officer, knowingly—when we pass a bill putting a ceiling of fifty-five miles per hour on drivers—then permitting them to go fifty-eight or sixty miles an hour.

I would like to have that cleared up.

The SPEAKER: The Chair recognizes the gentleman from Caswell Plantation, Mr. Phair.

Mr. PHAIR: Mr. Speaker and Members of the House: I believe that driving a car is a matter of judgment.

It may be that driving twenty-five miles an hour is too fast, and there are conditions when one should not drive more than twenty-five miles an hour. Then there are times when it is safe to drive much faster. They build speed into cars nowadays, and I do not believe that we should pass laws that people are bound to break. There are conditions under which a man may drive a car fifty-five miles per hour. Possibly he is taking a chance on his own life, but—since cars are made to go 100 miles per hour—if conditions are right—a man with good judgment may drive that fast.

I hope the motion of the gentleman from Perham, Mr. Bragdon, prevails.

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

Miss BANGS: Mr. Speaker, I would like to make a few more remarks to perhaps clarify the problem of the gentleman from Yarmouth, Mr. Arzonico.

I had intended to make it clear that the ceiling would be absolutely fifty-five miles per hour. You could be arrested at anything in excess of that speed.

Because so many people are so afraid that they are going to be deprived of the privilege of going any faster than that, I just wanted to bring out the fact it is optional with the officers—that is, if they clocked you at fifty-seven, the chances are that they would not take you into court. So that you people who want to speed would be given that little leeway. But as far as the law enforcement is concerned, fifty-five miles an hour would be “tops.”

In answer to the remarks of the gentleman from Caswell Plantation, Mr. Phair, I would simply say that even though our cars are made to travel one hundred miles an hour, I personally do not think that we should endanger other people's lives by traveling as fast—or anywhere near as fast—as our cars are built to go, because, as I stated earlier, our highways are not built to accommodate the speed.

The SPEAKER: The Chair recognizes the gentleman from Yarmouth, Mr. Arzonico.

Mr. ARZONICO: Mr. Speaker, I want to apologize for getting up again today, but that explanation did not clear up the doubts in my mind.

If I were arrested—or at least stopped—for going fifty-six miles an hour, I would expect under this law to be arrested, and rightfully so.

If, on the other hand, I were going sixty miles an hour, and I passed a Highway Policeman, and he did not stop me, then I would figure that I could always exceed the fifty-five mile limit, provided I was a careful, fast driver.

Now, I cannot agree with the gentlewoman from Brunswick, Miss Bangs, that laws of this kind here can have any leeway.

If we are going to leave it to the discretion of the policemen, then we do not know, and cannot satisfy ourselves where we are driving on the highway, whether we have a law or not. I would just as soon not have any, and take a chance of being arrested at any speed I was going.

I hope that the motion for indefinite postponement prevails.

Mr. SPEAKER: The Chair recognizes the gentleman from Bar Harbor, Mr. McLeod.

Mr. McLEOD: Mr. Speaker and Members of the House: I just rise to support my committee-woman, Miss Bangs, on the “Ought to pass” report of this committee on this bill.

I do not think the gentleman from Yarmouth (Mr. Arzonico) needs to worry much about being arrested at fifty-six miles an hour, because he has just stated that he never drives that fast.

Why we decided that fifty-five miles an hour was just about the speed that was fast enough to drive, was because we knew that everybody was breaking the speed limit of forty-five miles an hour, today. So

it seemed advisable to raise it to the speed most consistent with what most everyone drives on our highways.

That was the reason for voting as we did on this measure.

I hope the motion of the gentleman to indefinitely postpone does not prevail.

The SPEAKER: The Chair recognizes the gentleman from Perham, Mr. Bragdon.

Mr. BRAGDON: Mr. Speaker, I just want to take issue with the gentleman from Bar Harbor, Mr. MacLeod. He says at the present time we have a speed limit of forty-five miles per hour. I question that.

The law simply says that if you exceed forty-five miles an hour, it is up to you to prove that you are driving carefully. It does not say that you could not go seventy or one hundred miles an hour.

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

Mr. PATTERSON: Mr. Speaker and Members of the House: I will say that in New Hampshire it is forty-five miles an hour. Mr. Goodwin, of Massachusetts, has passed it down to fifty miles an hour. He believes that most accidents are caused by a higher rate of speed, so it has been cut down to fifty miles an hour in Massachusetts.

I believe that if a man with experience, like Mr. Goodwin, is of that opinion, that if we have fifty-five miles an hour, perhaps we will save a lot of trouble and a lot of people from getting hurt.

The SPEAKER: The Chair recognizes the gentleman from Wilton, Mr. Hall.

Mr. HALL: Mr. Speaker and Members of the House: I do not think anyone has got sick of hearing me speak on the floor of the House. (Laughter) I also hesitated to speak, as did the lady member.

But has anyone stopped to think that if we have a speed limit of fifty-five miles an hour, and if we go over that, the State Police have a right to arrest us for anything more than that. Why will we not all be driving in behind these big trucks? These trucks could be traveling above that rate of speed. And what about the busses? They have to make a certain time on the road.

I was in Boston one night and started driving home after dark. One of those big busses went by

me. I said, "I will follow those tail-lights on this bus, if it is the last thing I ever do." So I followed those tail-lights, but of course he got to Portland long before I did. So I do not see but what we will be behind the trucks and busses.

The SPEAKER: The Chair recognizes the gentleman from Gardiner, Mr. Slosberg.

Mr. SLOSBERG: Mr. Speaker and Members of the House: I personally would like to see a speed limit of fifty-five miles an hour in the State of Maine. I have no objection to that at all.

But I do object to allowing a police officer to make the decision.

The amendment that is going to be offered to this bill, as I understand it, would leave the discretion in the hands of the Court. If anyone exceeds the speed limit of fifty-five miles, it is only prima facie evidence that the man was exceeding the speed limit. If it were reasonable under those circumstances, the court would find him not guilty.

If we do not have it as prima facie evidence, the police officer could arrest us and take us into Court, and, from what experience I have had in connection with the average citizen's testimony against that of a police officer, it does not amount to a great deal.

I certainly go along with the gentleman from Perham, Mr. Bragdon.

The SPEAKER: The question before the House is on the motion of the gentleman from Perham, Mr. Bragdon, that this bill be indefinitely postponed.

All those in favor of the motion of the gentleman from Perham, Mr. Bragdon, that the bill be indefinitely postponed, will say aye; those opposed no.

A viva voce vote being taken, the motion prevailed, and the bill was indefinitely postponed.

The Chair lays before the House the fourth tabled and especially assigned matter, Report A, "Ought to pass" as Amended by Committee Amendment "A"—and Report B—"Ought not to pass"—of the Committee on Judiciary, on Bill "An Act Relating to Attachment of Shares of Stock." (H. P. 1427) (L. D. 591), both reports tabled by the gentleman from Augusta, Mr. Southard, on April 10th, pending acceptance of either report.

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



Mr. SOUTHARD: Mr. Speaker and Members of the House: This bill should have exactly the same treatment that was accorded to Bill "An Act Relating to Levy Upon Shares of Stock."

I, therefore, move the adoption of Report B—"Ought not to pass."

The SPEAKER: The gentleman from Augusta, Mr. Southard, moves that the House accept the Minority Report B, "Ought not to pass."

Is this the pleasure of the House? The motion prevailed and the Minority Report "Ought not to pass" of the committee was accepted, and sent up for concurrence.

The Chair lays before the House the fifth tabled and especially assigned matter—House Report—Be Referred to the Committee on Taxation,—of the Committee on Motor Vehicles, on Bill "An Act Exempting Farm Tractors from Registration Fees." (H. P. 1458) (L. D. 628) tabled by the gentleman from Denmark, Mr. Rankin, on April 10th, pending acceptance.

The Chair recognizes the gentleman from Chapman, Mr. Welch.

Mr. WELCH: Mr. Speaker and Members of the House: I want to thank the gentleman from Denmark, Mr. Rankin, for tabling this in my absence yesterday.

I have made up my mind that there must be something wrong with this bill, rather than the proponent of it, and, with a little explanation I want to try and blame it on the bill, rather than the proponent.

I want to explain the bill a little, so that I can justify somewhat my action in putting the bill in, and cluttering up the calendar with it.

I think there is nothing in the State today more complicated than the taxation of farm tractors.

First, the law says that they are taxable as personal property, and there is no law to excuse a Selectman from not assessing them on April 1st. Then they are classed as motor vehicles and must be licensed to go on the highways and have to pay an excise tax.

So, in order not to have double taxation, we have got to evade the personal property tax.

To complicate things a little more, two years ago, and I think it was justly done—we passed a bill which allowed farmers to operate a tractor on a highway adjoining their farm.

And if, as has happened once in this State last summer, a fellow owning a farm adjoining the highway, for a distance of a mile or so was operating his tractor on the highway, and during the summer he sold a building lot about half way across his farm, and someone met him driving to that building lot, and he was taken into court.

There are about 2700 farm tractors being registered in the office of the Secretary of State. The farmers of the State are paying in about five and one-half thousand dollars to the office of the Secretary of State, which amount is merely going toward creating jobs, in that it costs us about that much to register them.

I will say, in that connection, that with our volume of passenger cars and trucks it costs us \$1.05, and it might cost \$2.00 on tractors.

I am not going to take up too much time on the merits of this case, as it was reported "Ought not to pass" by the Committee, without me even appearing before them. They generously allowed me to recommit it, which I did, and then it was reported to the Committee on Taxation, I think, on April 4th.

The reason that I tabled it, was because I thought that the Committee on Taxation had enough on their hands at that time, and I felt that the Motor Vehicle Committee might have referred it to the Judiciary, and then I would have gotten a divided report. (Laughter)

With these two explanations, I hope the Members of the Legislature will realize that there was a reason for my putting in a bill of this nature. Many of the tractors of \$1800 value today are getting by on a \$2.00 excise tax, whereas the farmer, with horses to do the same amount of work, is paying \$30.00 or \$40.00.

I now move that the bill be indefinitely postponed.

The SPEAKER: The gentleman from Chapman, Mr. Welch, moves that the report of the committee and the accompanying bill be indefinitely postponed. Is this the pleasure of the House?

The motion prevailed and the bill and report were indefinitely postponed and sent up for concurrence.

On motion by the gentleman from Waterville, Mr. Poulin, the House voted to take from the table the thirteenth tabled and unassigned

matter, Resolve for the Laying of the County Taxes for the Year Nineteen Hundred Forty-one. (H. P. 1900) (L. D. 1124) tabled by that gentleman on April 8th, pending second reading.

Mr. McNamara of Winthrop, offered House Amendment "A" and moved its adoption.

House Amendment "A" to H. P. 1900, L. D. 1124, Resolve for the Laying of the County Taxes for the year nineteen hundred forty-one.

Amend said resolve by striking out the figures "\$107,875.00" opposite "Kennebec" and inserting in place thereof the figures '\$73,975.00'.

House Amendment "A" was adopted and the Resolve was given its second reading.

Mr. Williams of Clifton, offered House Amendment "B" and moved its adoption.

House Amendment "B" to H. P. 1900, L. D. 1124, Resolve, for the Laying of the County Taxes for the Year Nineteen Hundred Forty-one.

Amend said resolve by striking out the figures "140,723.00" where they appear opposite the word "Penobscot", and inserting the following figures in place thereof '130,723.00.'

House Amendment "B" was adopted and the resolve was passed to be engrossed as amended and sent up for concurrence.

On motion by Mr. Poulin of Waterville, the House voted to take from the table the fourteenth unassigned matter, Resolve for the Laying of the County Taxes for the Year Nineteen Hundred Forty-two, (H. P. 1901) (L. D. 1125) tabled by that gentleman on April 8th, pending second reading.

Mr. McNamara of Winthrop offered House Amendment "A" and moved its adoption.

House Amendment "A" to H. P. 1901, L. D. 1125, Resolve for the Laying of the County Taxes for the Year Nineteen Hundred Forty-two.

Amend said resolve by striking out the figures "\$107,875.00" opposite "Kennebec" and inserting in place thereof the figures '\$73,975.00'.

House Amendment "A" was adopted.

Mr. Williams of Clifton, offered House Amendment "B" and moved its adoption.

House Amendment "B" to H. P. 1901, L. D. 1125, Resolve, for the Laying of the County Taxes for the Year Nineteen Hundred Forty-two.

Amend said resolve by striking out the figures "140,723.00" where they appear opposite the word "Penobscot", and inserting the following figures in place thereof '130,723.00.'

House Amendment "B" was adopted, and the resolve was given its second reading, passed to be engrossed as amended and sent up for concurrence.

On motion by the gentleman from Chapman, Mr. Welch, the House voted to take from the table the twentieth tabled and unassigned matter, Committee Amendment "A" to Bill "An Act to Provide a Jointly Contributory Retirement System for State Employees Except Teachers." (H. P. 1783) (L. D. 1033) tabled by that gentleman on April 10th, pending adoption.

On further motion by the same gentleman, Committee Amendment "A" was adopted and the bill assigned for third reading on the next legislative day.

On motion by the gentleman from Augusta, Mr. Southard, the House voted to take from the table the fifteenth tabled and unassigned matter, Senate Report "Ought to Pass" of the Committee on Reapportionment on Resolve to Apportion One Hundred and Fifty-one Representatives Among the Several Counties, Cities, Towns, Plantations and Classes in the State of Maine. (S. P. 533) (L. D. 1096) tabled by that gentleman on April 9th, pending acceptance in concurrence.

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

Mr. SOUTHARD: Mr. Speaker and Members of the House: On the first Wednesday of January of this year you and I stood in our places and took two solemn oaths. We took a solemn oath to support the Constitution of this State so long as we should continue citizens thereof; and we took a solemn oath that we would faithfully discharge the duties incumbent upon us.

Not a single member among us took that public obligation with his tongue in his cheek. Not a single member among us made that binding declaration with his fingers crossed. Not a single member among us is an atheist.

Shortly after embarking upon our duties, we passed an order giving each new member of this House a

copy of the Revised Statutes. On pages 16 through 52 of that volume is printed our Constitution. Every member among us is bound to know and follow the Constitution of Maine. Yet what happens? What do we do? How do we act? Do we accept the expressed will of the people of this State? Do we pay the slightest attention to the document we have sworn to uphold?

Ladies and Gentlemen, I speak to you representing 9,680 people. Save for my colleague from Augusta, Mr. Cross, I represent more people than any representative to this Legislature, except those members from the city of Portland—and they bear their heavier burden only by reason of express constitutional provision. When I speak to you, I speak for more people than any one of you; and I am glad to do it. The time has come when someone has got to speak for them, or their individual voices will fade away in silence. I speak for nearly ten thousand people; some of you speak for barely a quarter of that. But my vote for ten thousand citizens of Maine counts one, just as does the vote of you who represent twenty-five hundred.

Now, Ladies and Gentlemen, one hundred and twenty-two years ago on October 21, 1819, in the meeting house of the First Parish in Portland, at the Convention which drew up our Constitution, a member of that Constitutional Convention addressed himself to the problem of representation. He came from a small town, Mercer; his name was Nahum Baldwin. Said he:

“Gentlemen who have spent the greater part of their lives in study, and especially the study of elocution, and that on purpose to enable them to shine in courts, will generally settle in cities of populous places; the reason is, money is always scarce in those new settlements; there is nothing to induce men of great abilities, especially men of great acquired abilities, to settle in new and thinly inhabited places: money is the lure.

“Now, Sir, I have said it, and am bold to say it again, that one gentleman from Portland has more influence in this Convention, than the whole delegation from Somerset County, which is twenty-nine members. The reason is obvious. The members from country places are mostly farmers; and they will gen-

erally sit from one end of the session to the other without saying a word. Where there is an assemblage of the most brilliant talents and literary accomplishments from all parts of the State, the farmer is loth to expose his ignorance and weakness, and hazard being made the butt of ridicule for his blunders and every-day language. And if now and then one dares to venture out, and blunder in his home-made, every-day, farmer dialect, his only security is confidence. If he has plenty of brass, and a good share of common sense, he may possibly jog on, and hold up his end tolerably well, in a ludicrous manner; but such instances are rare. For the most part (and I repeat it with confidence) one man who is master of all the alluring, persuasive, and insinuating charms of eloquence, will carry more sway in a legislative body than thirty silent members from the country.”

Now, Sirs, I deny that the powers of eloquence are twice those of votes; I deny that any one gentleman from Portland has any more influence than the delegation from Somerset. I deny that gentlemen who spend their lives in study on purpose to enable them to shine in courts settle in cities; and I say that they could not be elected to this House if they did settle there. I deny that cities must rely upon debate for their representation; I assert that they are entitled to constitutional representation in this House.

I have the support of the Constitution, which the Convention of which the gentleman from Mercer, Mr. Baldwin, was a member produced — and which Constitution, by the way, Mr. Baldwin did not see fit to sign. I have the support of the Constitution which was accepted by the people; under which this state grew in population, in riches, in civilization, in stature, in influence, until at the turn of the century we were the most powerful state in national politics. I have the support of the Constitution which I — and you — are sworn to support.

Let me read you from that Constitution as it now reads. Section 2 of Article IV, Part First, as amended:

“The house of representatives shall consist of one hundred and fifty-one members to be elected by

the qualified electors, and to hold their office two years from the day next preceding the biennial meeting of the legislature. The legislature shall within every period of at most ten years, and at least five, cause the number of inhabitants of the state to be ascertained, exclusive of foreigners not naturalized and Indians not taxed. The number of representatives shall, at the several periods of making such enumeration, be fixed and apportioned among the several counties, as near as may be according to the number of inhabitants, having regard to the relative increase of population."

I repeat the last sentence — "The number of representatives shall, at the several periods of making such enumeration, be fixed and apportioned among the several counties, as near as may be, according to the number of inhabitants, having regard to the relative increase of population."

This particular section of our Constitution has been amended three times — once by the Fourth Amendment in 1841; once by the Twenty-third in 1879; once by the Twenty-fifth in 1880; and in every case the provision that the number of representatives should be apportioned among the counties according to the number of inhabitants has remained unchanged. The people have voted directly upon it three times. It is their will. It has been their will for one hundred and twenty years. Babies have been born under it; counties created under it; towns deorganized under it; Governors elected under it; and you were elected under it; you swore to carry out your duty under it.

Now there is another provision of the Constitution that bears upon this matter — Section 3 of Article IV, Part First. That section, as amended by the Fourth and Thirty-ninth Amendments, now reads as follows:

"Sec. 3. Each town having fifteen hundred inhabitants, may elect one representative; each town having three thousand seven hundred and fifty may elect two; each town having six thousand seven hundred and fifty may elect three; each town having ten thousand five hundred may elect four; each town having fifteen thousand may elect five; each town having twenty thousand two hundred and fifty may elect six; each town having twenty-six thousand two hundred and fifty

may elect seven; but no town shall ever be entitled to more than seven representatives; except that in the event of the merger of towns or cities, the new town or city shall be allowed the combined representation of the former units; and towns and plantations duly organized, not having fifteen hundred inhabitants shall be classed as conveniently as may be into districts containing that number, and so as not to divide towns, and each such district may elect one representative; and when on this apportionment the number of representatives shall be two hundred, a different apportionment shall take place upon the above principle; and in case the fifteen hundred shall be too large or too small to apportion all the representatives to any county, it shall be so increased or diminished as to give the number of representatives according to the above rule and proportion; and whenever any town or towns, plantation or plantations not entitled to elect a representative shall determine against the classification with any other town or plantation, the legislature may, at each apportionment of representatives on the application of such town or plantation, authorize it to elect a representative for such portion of time and such periods, as shall be equal to its portion of representation; and the right of representation so established, shall not be altered until the next general apportionment."

This has to be construed with Sec. 2. Now where are there inconsistencies? There are inconsistencies in two places. The first is that it speaks of apportionment according to a table until the number of representatives shall be two hundred. That was a mistake. The original Constitution set the number of representatives at between 100 and 200. The Fourth amendment set it at 151, and section 2 now states that it shall be 151. Until the passage of the Thirty-ninth Amendment, both sections 2 and 3 agreed; but when the Thirty-ninth Amendment was drafted, it copied the original provision, by an evident error. In view of the plain language of section 2, stating that the number of representatives shall be 151, and in view of the history of section 3, I am reasonably sure that section 2 controls.

The other inconsistency between section 2 and section 3 is that while

section 2 apportion the representatives according to the population of the several counties, section 3 denies that any town or city may have more than seven representatives. That raises the question, "May the apportionment among the counties be made giving consideration to the fact that no town may have more than seven representatives?" Does the Constitution require that the other towns of a county be given added representation at the expense of a big city, or does it mean that that added representation is to go to the rest of the State? There is argument both ways; but I feel that construing those two sections together, the representatives over seven that that city might be otherwise entitled to, may go to the rest of the State, and not only to that county.

As a matter of fact, I do not care how that inconsistency is resolved. In either case, the provisions of the Constitution are not being carried out.

I speak for 9680 people. They are entitled to adequate representation. On an average, every 5,610 inhabitants should have one representative. I represent 4,000 forgotten men.

Kennebec County is entitled to fourteen representatives; it is entitled to fourteen representatives whether the rest of Cumberland County represent Portland or not. Augusta is entitled to three representatives. For the last twenty years, Augusta has been the second fastest growing city in Maine; and we still have inadequate representation. Auburn has 443 more population and one more representative; Biddeford has 430 more population and one more representative; South Portland has 3,579 less population and one more representative; Westbrook has 8,273 less population and the same representation; Brunswick has 12,367 less population and the same representation; Bath has 9,128 less population and the same representation; Rockland has 10,461 less population and the same representation; the Rumford district has 7,918 less population and the same representation. The city of Augusta has a population greater than the entire county of Sagadahoc, greater than the entire county of Piscataquis; it lacks 550 of that of Franklin; it lacks 1800 of that of Waldo; and each of these counties sends

twice the representation to this House that Augusta does. Is that a division according to the number of inhabitants? Does that remotely follow the principles of section 3 of Part First, Article IV of our Constitution? Has there been even the slightest attempt to follow the Constitution in this reapportionment? I do not assert that those are over-represented; I assert that Augusta is under-represented. I ask only that Augusta be given its fair share.

It had been my intention to introduce into this House an order, asking for the opinion of the Justices in an effort to point out unmistakable to this Legislature its duty. I shall not do so. I have confidence that the members of this House sincerely took their oath of office. I have confidence that this House will obey the supreme law of this State. And I am also mindful that this session, like all good things, should come to an end some time.

I might make an emotional appeal. I have used the legal approach, the constitutional approach and the mathematical approach. I might make an emotional appeal and tell you about taxation without representation, about workers without any say at all in government; and if I had spent my life in study purposely to enable me to shine in court, I could. But I will not. I will not say a word about James Otis, who insisted that representation was a prerequisite of taxation, and died insane. I will not talk about the rights for which our Revolutionary forefathers, and our Maine ancestors beyond their share, fought, and bled, and suffered and died. I will not suggest that the trans-Appalachian states separated from their mother-states because they were not given representation equal to their population. I will not suggest that a major reason for the separation of Maine from Massachusetts was denial of representation to many Maine communities in the Massachusetts House. I will not suggest the civil turmoil into which England was plunged because of the inequitable representation of many communities in Parliament. I will not even suggest that the working people of Augusta are just as much entitled to representation as the working people of any other community. We are entitled to

treatment similar to that accorded the people of every other community in this State; we are entitled to representation reasonably comparable to our number; we are entitled to votes in this House on a basis roughly equal to the votes of the rest of the State.

Ladies and Gentlemen, the Constitution is clear in its mandate; no reason exists, legally, or politically, or emotionally, or practically, why that Constitution should not be obeyed. The Committee on Reapportionment has failed, failed abysmally, to perform its duties.

Mr. Speaker, I move that this report and accompanying bill be re-committed to the Committee on Reapportionment with instructions to make the reapportionment in conformity to the Constitution. Members of the House, I rely upon you to carry out the oath of your office.

The SPEAKER: Will the gentleman kindly reduce his motion to writing as it carries an instruction with it.

The gentleman from Augusta, Mr. Southard, moves that this report and accompanying bill be re-committed to the Committee on Reapportionment with instructions to make the reapportionment in conformity to the Constitution.

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

Mr. LEAVITT: Mr. Speaker and Members of the Ninetieth Legislature: As the only member of the committee that disagrees with the report put out by the Committee on Reapportionment, I would like to give one or two facts which Mr. Southard has omitted in his talk.

When I went on that committee of course I was just a freshman down here, and I was a little bit naive perhaps. I read the Constitution and the United States Census figures, and I worked out what I thought was a reapportionment according to the Constitution and the figures of population.

When I got into the committee, I found out perhaps that did not have anything to do with it at all, but that it was up to the committee to do just as they pleased. What was a little thing like the Constitution among friends?

But I still insist, and I suppose I make more or less of a pest of myself for doing it, that the Constitution calls for apportionment according to population, and I also

believe that the only way we have to ascertain the population is by taking these census figures which are supposed to be accurate. Figuring on this basis, and as checked by two or three other people, Androscoggin now asks for 13 and gets 13. Aroostook now has 16 and should have 17. Cumberland, which now has 24 should have 26. Franklin, which now has 4 should have 3. Hancock, which now has 6 still keeps 6. Kennebec, which now has 18 should have 14. Knox, which now has 6 should have 5. Lincoln, which has 3 still keeps 3. Oxford, which has 8 still keeps 8. Penobscot, which now has 17 still keeps 17. Piscataquis which now has 4 will have 3. Somerset with 7 will keep 7. Waldo, with 4 will still have 4. Washington County with 8 should be reduced to 7; and York County with 14 will go to 15.

Now that is mathematics.

I have been told that I should keep quiet and should not say anything about this. Perhaps that is true.

I have been told that Cumberland County was the great big octopus, grabbing and squeezing the life-blood out of the smaller towns.

I said, "Now, if that is what I am doing, it is the first time it has ever been done, and I will keep quiet, because certainly I am no Shylock. I do not want the pound of flesh, and we certainly do not want to make Cumberland County any more unpopular in this body than it is at the present time."

But, in going through the records, I find there has not been one time, with the exception of 1881—and that was corrected in 1883—when they discovered the error of their way, and caught up with themselves—there has not been one period through the whole history except that one lapse, where there has not been a change of representation in this House. But the Committee you have appointed this year decided it would do nothing.

They have told me if they can find interpretations that they will take members from Cumberland County, if they can keep under the Constitution. But I say we should live up to the Constitution.

Now, going back through the years, you will find that in 1831 there was a shift of 43 members in the House. They added forty-three members and in three counties they lost one. The next year there was a

shift of twenty-five plus and eleven minus. The next year they took 50 away. The next year they made a shift of 29 plus and 28 were taken away.

Next year there were four added to some counties and four taken away from others. The next year it was five plus and five minus. The next year it was five plus and five minus. The next year it was four plus and four minus. The next year three plus and three minus; the next year five plus and five minus, and ten years ago it was only one plus and one minus.

But the average has been five; and what I believe is the Constitutional requirement at this time calls for five.

I have had some mimeographed papers made out which I think show exactly what I am talking about.

I have said all that I think is necessary for me to say, and now we will let the opponents start in and talk against Cumberland County.

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

Mr. **JACOBS**: Mr. Speaker, I feel that every man and woman here understood, when they took the oath of office to uphold the Constitution of the United States, and the Constitution of the State of Maine, that it was a serious matter.

I want to go on record as saying that I believe, as a member of this Reapportionment Committee, that I am within the constitutional rights of an individual, when I express my opinion in regard to the reapportionment of Maine.

This committee—perhaps you do not all understand how many it is composed of—is a committee of twenty-three, composed of sixteen members of the House, one from each county, one member from each Councillor District, who are Senators.

We have had several meetings with regard to reapportionment and the representation of Maine in this body.

The law reads plainly that this reapportionment shall be made, or apportionment shall be made "as near as may be,"—and that covers quite a lot of territory.

Cumberland County is asking for two more members in this House, and to take away from two counties of this State one member from each county, which they cannot afford to

lose. They wish to take one from Washington, which only has eight representatives in this body. They wish to take one from Sagadahoc, which only has four, while Cumberland County has twenty-four.

Penobscot County can come into this Legislature and ask for more representation. The population in Penobscot County has increased far more in the past ten years than in Cumberland County, by at least five thousand people.

Penobscot County's increase has been 15,000 in the last ten years; York County has increased 10,000 in the last ten years; Cumberland County has increased 12,000 in the last ten years; and we have heard from Kennebec County today—they have increased 7,000.

Let me inject a little thing here. If it had not been for seven members of this Legislature thirty-four years ago, this State House would have been in Portland today, and perhaps Augusta would not have had more than one Representative in this present body. But the State House is here, and we are glad to have it here. I think any man would be proud to represent 9,000 people. I am proud to represent 6,000 people. I think Mr. Leavitt is proud to represent 11,000 people. But the Reapportionment Committee felt that, as near as maybe, there should be a change.

We did not want to rob Washington County of one of their representatives; we did not want to take away from Sagadahoc County one of their Representatives. We felt that it was fair and right that this apportionment should be as it is, and, consequently, twenty-one voted in favor of keeping it as it is and two against, and those two came from Cumberland County. I feel that they have been fairly dealt with, and if you, in your good judgment, feel that this committee of twenty-three — twenty-one against two—are wrong, vote as you see fit.

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

Mr. **SLEEPER**: Mr. Speaker and Members of the House: I want to add my few words as a member of this "Un-Constitutional Committee." (Laughter)

There are several ways of reading the Constitution. Every time I think of the Constitution, I think of the election of 1936, between Landon

and Roosevelt, when Senator Borah said: "Landon offered the people the Constitution but Roosevelt offered them common sense and bread—and you cannot eat the Constitution." (Laughter)

Now, the way this committee looked upon this, we wanted to be fair to every county and every district. I would like to inform the gentleman from Augusta, Mr. Southard, that Cumberland County has a population of 146,000 and they have 24 Representatives, because the Constitution expressly states that the magnificent city of Portland is to be limited to seven. South Portland should have four members, but I heard no mention made of extra representatives from South Portland.

It might be interesting to some of you Representatives to know that Portland—up until the last two apportionment meetings—has been able to put over this idea that the rest of the counties should have the Representatives which Cumberland does not have.

In Cumberland County, in Class 28, a man represents 3400 people; in Class 30 he represents 3300; in Class 33, a man represents 2700; in Class 34, he represents 3800; in Class 36, 2800 people; Class 37, 2800 people.

The average for the state is 4500, approximately, and even in poor little Knox County, our average is around 4100, and they want to take away a Representative from there. And, good God, if Cumberland County is given two more Representatives, some of these sections will not have enough to act as pall bearers at the funeral. (Laughter)

Now, the same thing applies, but not to any such extent, to Kennebec County, but the Kennebec County members were satisfied with it as it was. There are several sections in Kennebec County, where a man represents less than 3500.

Washington, Knox and Sagadahoc Counties are the ones most likely to lose; and a Representative in those counties represents 4500 or more people.

We were only trying to do this fairly. It is Mr. Southard's penalty for living in a large city.

This argument is not a new one. The City of Boston consists of approximately one-fifth of the population of Massachusetts, yet they have only 19 members out of the

250 in the House. The City of New York, the largest city in the world, represents approximately three-fifths of the population of New York State, and they have less than six per cent of the people in the New York Assembly. The same thing is true in every state; there is always a tendency to keep the proportion of large cities down. Manchester, New Hampshire, which represents possibly a quarter of the population of New Hampshire, even in that large House of 486 people, Manchester is confined to twenty odd members in that House.

We are only trying to be fair to the smaller counties. If you want to fight this thing out, perhaps the Senate is not set up right. The Upper House consists of Representatives from geographical districts and some of the larger districts put through the idea in this State that Senators should be upon a proportional basis.

Now, Knox County has one senator, and Cumberland has four. There are, of course, exceptions, but the upper body of every branch of government always consists of Representatives from geographical districts.

For example, the City of New York, with its millions of population, has only two senators.

By geographical districts, Senators should come, and by the other method, members of the House should come. I have shown you that in every state big towns are held down, in order not to form these blocks, which are so dangerous.

So I sincerely trust that this House will not lengthen this session by recommitting something to this committee, which is going to come out the same way—twenty-one to two, and I hope that this House will support me when I make the suggestion that this bill should be recommitted to the "Committee on Bills to be Indefinitely Postponed." (Laughter)

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

Mr. RANKIN: Mr. Speaker and Members of the House: I am somewhat tempted to take the role of appeaser, but I think that I shall not.

I sympathize with the spirit of the remarks just made by the gentleman from Rockland, Mr. Sleeper.



But I think that a mild aspersion has been cast upon Cumberland County, which I do not think is quite deserved.

The delegates from Cumberland County had two meetings—and I think those present will bear me out when I say that there was no suggestion made of asking that Cumberland County have two more representatives—no such a suggestion was attempted to be carried out.

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

Mr. **JACOBS**: Mr. Speaker, I would say in answer to the last gentleman, that the Committee on Reapportionment were asked, and urged—and almost demanded — on this proposition, that they have two more—even so far that they wanted to carry it to the Supreme Court for their decision.

But, on more mature judgment, those who advocated that withdrew their objection and let this pass along.

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

Mr. **LEAVITT**: Mr. Speaker and Members of the House: There has been, so far as I know, little or no demand by Cumberland County that anybody be given anything, or that anything be taken away from other counties.

The two members on the committee from Cumberland County simply insisted that the Constitution be carried out.—the provisions of the Constitution.

They further suggested that, if the people on that Committee did not like the situation, they would be perfectly willing to sit down, and see if we could revise it some way that they would like it.

We took an oath—at least I did—and I believe it is something that I should take more or less seriously—that I would do things according to the Constitution. My interpretation of the Constitution is that the representation should be as I have pointed out.

Now, if this body believes that the Constitution is being carried out by disregarding my views, it is perfectly all right with me.

The **SPEAKER**: The Chair recognizes the gentleman from Phippsburg, Mr. McIntire.

Mr. **MCINTIRE**: Mr. Speaker, as the member from Sagadahoc on this

Committee, according to the sheet which has just been put on our desk, you will see that Sagadahoc had four Representatives.

Ten years ago, they took one away, and they will take another one away, and continue to take them away, and it will not be long before Sagadahoc will not have any Representatives at all in this House. Sagadahoc has gained 2,000 in population since that time they took that one away. If Sagadahoc should lose one now,—ten years ago it should have lost two instead of one, and in Sagadahoc, the City of Bath alone has gained a thousand in population, and will probably continue to gain in the next few years. I cannot see, under the basis of that population given in this last census, why there should be any change in distribution of the Members of this House.

The **SPEAKER**: The question before the House is on the motion of the gentleman from Augusta, Mr. Southard, that this report and accompanying bill be recommitted to the Committee on Reapportionment, with instructions to make the reapportionment in conformity with the Constitution.

The Chair recognizes the gentleman from Waterboro, Mr. Roberts.

Mr. **ROBERTS**: Mr. Speaker and Members of the House: Inasmuch as I believe that this is of interest to every Representative here, I move, as there are so many absent, to table this matter.

The **SPEAKER**: The gentleman from Waterboro, Mr. Roberts, moves that this matter lie on the table, pending the motion of the gentleman from Augusta, Mr. Southard.

As many as are in favor of the motion of the gentleman from Waterboro, Mr. Roberts, that this matter lie on the table, will say aye; those opposed no.

A viva voce vote being taken, the motion to table did not prevail.

The **SPEAKER**: The question before the House is on the motion of the gentleman from Augusta, Mr. Southard, that this report and accompanying bill be recommitted to the Committee on Reapportionment with instructions to make the reapportionment in conformity to the Constitution.

The Chair recognizes the gentleman from Augusta, Mr. Cross.

Mr. **CROSS**: Mr. Speaker and Members of the House: I trust you

will bear with me because I doubt if you can all hear me. I have been very useless this last two weeks because this cold has kept me in my seat, and I hoped that the session would finish and I could remain there. However, I must, as our able floor leader has said, rise to a principle.

We have heard a great deal about this grand document, our Constitution; in fact, the last few days it seems perhaps we have heard very little else.

Now I heartily agree with my brother member in principle in what he has said regarding this resolve. I shall stand with him in principle, because he told me last week there really has been very little good to the City of Augusta in sending two votes up here, because he has always been on one side of the fence and I have been on the other. So, as a matter of principle, I shall support the other member from Augusta on his motion, but I hope his motion fails (Laughter)

The SPEAKER: The question before the House is on the motion of the gentleman from Augusta, Mr. Southard, that this report and accompanying bill be recommitted to the Committee on Reapportionment with instructions to make the reapportionment in conformity to the Constitution.

As many as are in favor of the motion of the gentleman from Augusta, Mr. Southard, that this report and accompanying bill be recommitted to the Committee on Reapportionment with instructions to make the reapportionment in conformity to the Constitution will say aye; those opposed no.

A viva voce vote being taken, the motion did not prevail.

The SPEAKER: The question before the House is on the acceptance of the "Ought to pass" report of the committee. Is it the pleasure of the House that the "Ought to pass" report of the committee be accepted?

The motion prevailed and the "Ought to pass" report of the committee was accepted, and the resolve was given its first reading.

The SPEAKER: What time will the House assign for the second reading of this resolve?

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

Mr. LEAVITT: Mr. Speaker, may I ask if amendments can go in at this time?

The SPEAKER: The Chair will inform the gentleman that amendments can be offered at this time or can be offered on the second reading of this resolve.

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

House Amendment "A" to S. P. 533, L. D. 1096, Resolve to Apportion One Hundred and Fifty-one Representatives Among the Several Counties, Cities, Towns, Plantations and Classes in the State of Maine.

Amend said Resolve by striking out all of the 4th paragraph and insert in place thereof the following:

**'The County of Cumberland shall choose 24 representatives** to be apportioned as follows: Portland, 7 representatives; Westbrook, 2 representatives; South Portland, 3 representatives; Brunswick, 2 representatives; Gorham, 1 representative; Bridgton, 1 representative; Pownal and Freeport, 1 representative; Cumberland and Falmouth, 1 representative; Scarborough and Cape Elizabeth, 1 representative; Sebago, Baldwin and Standish, 1 representative; Harrison, Otisfield and Windham, 1 representative; Gray, Raymond and New Gloucester, 1 representative; Harpswell, Casco, and Naples, 1 representative; Yarmouth and North Yarmouth, 1 representative.'

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

Mr. SLEEPER: Mr. Speaker, I want to say to the friends that we in the smaller counties have no objections to these amendments as they are things that are strictly county affairs and have to do with the district and county interests.

While I am on my feet, I wish to say I bear no personal feeling toward Mr. Leavitt, and if I was in Cumberland County I would fight just as hard. I wish to thank this House for being fair to these smaller counties. I am sure that is true in all bodies. I thank the members of this House, and I hope there are no hard feelings.

The SPEAKER: The question before the House is on the adoption of House Amendment "A". The Chair recognizes the gentleman from Augusta, Mr. Southard.

Mr. SOUTHARD: Mr. Speaker, while the explaining period is on I want to thank the House for the superiority of the debate over the vote, and the ballot over the debate.

The SPEAKER: Is it the pleasure of the House that House Amendment "A" be adopted?

Thereupon House Amendment "A" was adopted.

Mr. McIntire of Phippsburg offered House Amendment "B" and moved its adoption.

House Amendment "B" to S. P. 533, L. D. 1096, Resolve to Apportion One Hundred and Fifty-one Representatives Among the Several Counties, Cities, Towns, Plantations and Classes in the State of Maine.

Amend that paragraph of the resolve apportioning the representatives for Sagadahoc County by striking out the word "Perkins" after the word "Arrowisic" and inserting the word "Perkins" after the word "Georgetown".

House Amendment "B" was then adopted.

The gentleman from Clifton, Mr. Williams, thereupon offered House Amendment "C" and moved its adoption.

House Amendment "C" to S. P. 533, L. D. 1096, Resolve to Apportion One Hundred and Fifty-one Representatives Among the Several Counties, Cities, Towns, Plantations and Classes in the State of Maine.

Amend that paragraph of the resolve which apportions the representatives to the County of Penobscot by striking out the letter "A" in the last line and inserting in place thereof the figure "8".

Thereupon House Amendment "C" was adopted.

Mr. McFadden of Pembroke offered House Amendment "D" and moved its adoption.

House Amendment "D" to S. P. 533, L. D. 1096, Resolve, to Apportion One Hundred and Fifty-one Representatives Among the Several Counties, Cities, Towns, Plantations and Classes in the State of Maine.

Amend that paragraph of the resolve which apportions the representatives to the County of Washington by striking out from the 9th line thereof the phrase "No. 18 E. D. unorganized".

House Amendment "D" was adopted, and the resolve was assigned for second reading on the next legislative day.

On motion by the gentleman from Falmouth, Mr. Dow, the House voted

to take from the table the eighth tabled and unassigned matter, House Report—"Ought not to pass, covered by other legislation"—of the Committee on Sea and Shore Fisheries on Bill "An Act to Regulate the Shipment of Shellfish" (H. P. 865) (L. D. 351), tabled by that gentleman on April 8th, pending acceptance; and the Chair recognizes that gentleman.

Mr. DOW: Mr. Speaker and Members of the House: In delaying this report and attempting to argue it, I have been accused of being stubborn and unreasonable. There have been many occasions recently when the whole Legislature has been stubborn. There have been various suggestions made.

I will say that I will make my remarks as brief as possible. I shall not attempt to argue this from certain—you might say—legal angles, but it is not from any attempt to avoid them. After I have finished, if any member wants to bring in any other angles, I am perfectly willing to discuss them.

Having hunted, chased, and killed, and had in possession, claims for the last twenty-five years, I think I can qualify as an expert on them. (Laughter)

I wish to substitute the bill for the report, and the reason for that,—the report said that this was covered by other legislation. It is right.

But that is the trouble. It is so well covered by other legislation that the people living in coast towns have not been able to legally take clams for the last two years. If they were taken there, they were taken by evading the wardens.

Under section 52, of the Public Laws of 1933, chapter 2, says that the Commissioner of Sea and Shore Fisheries and the Commissioner of Agriculture, or either of them, are hereby empowered to prohibit the digging of clams, quahogs or mussels for any purpose in certain flats and on certain shores. Whenever they find by examination that such flats and shores are contaminated or polluted, and when clams, quahogs or mussels dug from such contaminated areas are not in conformity with regulations promulgated by the Commissioner of Sea and Shore Fisheries and the Commissioner of Agriculture, or either of them, and the regulations and standards of purity established by

the United States Public Health Service and not acceptable for shipment in interstate commerce.

What we seek to accomplish is simply this—to amend the present law under which by proclamation about 4 miles of Falmouth shores are closed to the taking of clams for any purpose.

This means that we who are residents of Falmouth, and this applies equally to any coast town which has prohibited areas,—and I will say right here that in a proclamation by the Commissioner of Sea and Shore Fisheries and the Commissioner of Agriculture dated October 30, 1939 there are 40 such areas, all the way from Kittery to Castine, which are prohibited from taking clams for our own use, and why? Because we are told that this is necessary in order to comply with the Federal health laws.

I say to you members of this House that this simple amendment of our own law still leaves it in full force insofar as it applies to interstate shipment and that is the only way in which the Federal government is interested.

We contend that if this bill is adopted Sections 52-53-60 will still meet all the requirements of the United States Public Health Service and we who live in the towns affected will not be prohibited from taking clams for our own use.

One of the objections to this bill is that it takes away some of the authority now vested in the Commissioner. It does and it should. No Commissioner should have the authority to make or repeal laws at will. The Commissioner's job should be executive not legislative.

Clams are an important source of food for many of our families on the coast.

They are there in abundance and we say that our people should be allowed to use them.

I have been accused of being stubborn and unreasonable, because I could not agree to the report of this bill. With the reason given for the report "Covered by other legislation", I must agree. In fact, the situation is so thoroughly covered by other legislation that for the past two or three years we have been deprived of the privilege of digging the clams on our own shores for our own use.

In order to be as brief as possible, I shall try to confine my remarks to the merits of this bill.

I have tried to be fair and hope you see it the same way.

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

The Chair recognizes the gentleman from Scarborough, Mr. Baker.

Mr. BAKER: Mr. Speaker, the committee, in reporting "Ought not to pass as covered by other legislation," had no other choice.

Mr. Dow is asking you to amend a law required by the United States Public Health Service.

If you pass this bill, you will come in direct conflict with the Federal government,—and not only open up polluted areas in the Town of Falmouth, but in the whole State.

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

Mr. DOW: Mr. Speaker and Members of the House: I tried to point out that what we are amending—or seeking to amend—is not the Federal law—it is a State law. It still leaves it complying with the Federal regulations so far as interstate shipments go, which are the only ones that the Federal government is interested in under the law.

The SPEAKER: The Chair recognizes the gentleman from Scarborough, Mr. Baker.

Mr. BAKER: Mr. Speaker, I hope that the motion of the gentleman from Falmouth, Mr. Dow, does not prevail.

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

Mr. HINCKLEY: Mr. Speaker, I thought that I was all through talking today, but I am afraid of this measure, very seriously afraid of it, because I think that it is simply a health measure, as we have it at the present time, and this will throw completely aside all matters of health that the statute now provides for.

I think it is very dangerous to have this bill passed.

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

Mr. PAYSON: Mr. Speaker, I move that the House do now adjourn.

The SPEAKER: The gentleman from Portland, Mr. Payson, moves

that the House do now adjourn. Is this the pleasure of the House?

The motion prevailed, and the House adjourned until Monday, April 14th, at four o'clock in the afternoon.