

# MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

# Ninetieth Legislature

OF THE

STATE OF MAINE



1941

KENNEBEC JOURNAL COMPANY

AUGUSTA, MAINE

**SENATE**

April 14, 1941.

The Senate was called to order by the President.

Prayer by the Reverend J. C. Rice of Hallowell.

Journal of Friday, April 11, 1941, read and approved.

From the House:

Bill "An Act Relating to Arrests in Criminal Cases." (S. P. 365) (L. D. 678)

(In the Senate, on March 31, passed to be engrossed.)

Comes from the House, indefinitely postponed in non-concurrence.

In the Senate, on motion by Mr. Harvey of York, that Body voted to insist on its former action and ask for a Committee of Conference. The President appointed as Senate members of such committee Senators Harvey of York, Laughlin of Cumberland, Farris of Kennebec.

**House Committee Reports  
Placed on File**

The Committee on Legal Affairs on petitions in favor of (H. P. 1442) (L. D. 756) Bill "An Act Legalizing Beano as a Means of Raising Funds by Churches, Charitable and Patriotic Organizations, etc. (H. P. 1648 and 1680) reported that the same be placed on file.

The same Committee on Petition in favor of (L. D. 950) Bill "An Act Relating to Caucuses in the City of Waterville," (H. P. 1801) reported that the same be placed on file.

**Ought Not to Pass**

The Committee on Claims on "Resolve to Reimburse the City of Portland for the Support of Raymond Brockett and Wife," (H. P. 775) reported that the same ought not to pass.

The same Committee on "Resolve in Favor of the Town of Dedham," (H. P. 602) reported that the same ought not to pass.

The same Committee on "Resolve in Favor of the Town of Houlton to Reimburse for the Support of Earl J. Ritchie," (H. P. 589) reported that the same ought not to pass.

The same Committee on "Resolve to Reimburse the City of Portland for the Support of George W. Thurlow, and his Wife," (H. P. 779) reported that the same ought not to pass.

The Committee on Indian Affairs on Bill "An Act Relating to Adoption of Persons into Penobscot Tribe of Indians," (H. P. 467) (L. D. 203) reported that the same ought not to pass.

The same Committee on Bill "An Act Relating to Holding of Certain Tribal Offices by Indians," (H. P. 415) (L. D. 164) reported that the same ought not to pass.

The Committee on Judiciary on Bill "An Act Relating to Municipal Courts Courts in Juvenile Delinquencies," (H. P. 1396) (L. D. 774) reported that the same ought not to pass.

Which reports were severally read and accepted in concurrence.

**Ought to Pass**

The Committee on Legal Affairs on Bill "An Act Incorporating the Maine Vocational School," (H. P. 1867) (L. D. 1079) reported that the same ought to pass.

The same Committee on Bill "An Act Relating to Penalties for Violation of Ordinances of the City of Bath," (H. P. 1167) (L. D. 467) reported the same in a new draft (H. P. 1903) (L. D. 1134) under the same title and that it ought to pass.

The Committee on Public Building and Grounds on "Resolve Authorizing the Improvement of Fort Knox Reservations," (H. P. 675) (L. D. 233) reported the same in a new draft (H. P. 1889) (L. D. 1086) under the same title, and that it ought to pass.

(On motion by Mr. Stilphen of Lincoln, the resolve was laid upon the table pending acceptance of the report in concurrence.)

The Committee on Public Health on Bill "An Act to Authorize the City of Bangor to Remove the Remains in a Burying Ground in Hampden," (H. P. 1190) (L. D. 485) reported the same in a new draft (H. P. 1908) (L. D. 1139) under the same title and that it ought to pass.

The Committee on Sea and Shore Fisheries on "Resolve Relating to the Digging of Clams in the Town of Woolwich," (H. P. 1632) (L. D. 979) reported the same in a new draft (H. P. 1906) (L. D. 1137) under a new title, Bill "An Act Relating to the Taking and Sale of Clams in the Town of Woolwich," and that it ought to pass.

The same Committee on Bill "An Act Relating to Lobster Truckmen's Licenses," (H. P. 1555) (L. D. 846)

reported that the same ought to pass.

The Committee on Ways and Bridges on "Resolve in Favor of the Town of Charleston," (H. P. 561) (L. D. 1142) reported that the same ought to pass.

The same Committee on Bill "An Act Permitting Lebanon to Apply for Aid under the Bridge Act," (H. P. 480) (L. D. 214) reported that the same ought to pass.

The same Committee on "Resolve in Favor of the Town of St. George," (H. P. 968) reported the same in a new draft (H. P. 1907) (L. D. 1138) under the same title and that it ought to pass.

The same Committee on "Resolve in Favor of the City of Rockland," (H. P. 1328) reported the same in a new draft (H. P. 1909) (L. D. 1140) under the same title and that it ought to pass.

The same Committee on "Resolve in Favor of the Town of North Haven," (H. P. 970) reported the same in a new draft (H. P. 1910) (L. D. 1141) under the same title and that it ought to pass.

Which reports were severally read and accepted in concurrence, the bills and resolves read once, and under suspension of the rules read a second time and passed to be engrossed in concurrence.

From the House:

"Resolve for the laying of the County Taxes for the Year Nineteen Hundred Forty-one." (H. P. 1900) (L. D. 1124)

In the House, that Body having accepted the report of the Committee on County Estimates, and under suspension of the rules the resolve having been passed to be engrossed as amended by House Amendments 'A' and 'B', without reference to a committee.

In the Senate, on motion by Mr. Brown of Aroostook, the resolve was laid upon the table pending acceptance of the report.

From the House:

'Resolve for the laying of County Taxes for the Year Nineteen Hundred Forty two.' H. P. 1901) (L. D. 1125)

In the House, that Body accepted the report of the Committee on County Estimates, and under suspension of the rules the resolve was passed to be engrossed as amended

by House Amendments "A" and "B", without reference to a Committee.

In the Senate, on motion by Mr. Brown of Aroostook, the resolve was laid upon the table pending acceptance of the report.

From the House:

The Committee on Motor Vehicles on Bill "An Act Relating to Speed Regulations," (H. P. 1552) (L. D. 843) reported that the same ought to pass.

In the House, the report read and accepted, and subsequently the bill indefinitely postponed.

In the Senate, the report was read and accepted in concurrence, and the bill was given its first reading. Under suspension of the rules the bill was given its second reading and passed to be engrossed in non-concurrence.

Sent down for concurrence.

From the House:

The Committee on Motor Vehicles on Bill "An Act Exempting Farm Tractors from Registration Fees," (H. P. 1458) (L. D. 628) reported that the same be referred to the Committee on Taxation.

In the House, report and bill indefinitely postponed.

In the Senate, on motion by Mr. Friend of Somerset, the Bill was laid upon the table pending acceptance of the report.

From the House:

The Committee on Public Utilities on Bill "An Act to Aid Agriculture by Providing for the Organization of Rural Electrification Cooperatives," (H. P. 350) (L. D. 137) reported that the same ought not to pass.

In the House, the bill substituted for the report, and passed to be engrossed as amended by House Amendment "A".

In the Senate:

Mr. BROWN of Aroostook: Mr. President, I move that we concur with the House and substitute the bill for the report.

Thereupon, on motion by Mr. Libby of Cumberland, the bill was laid upon the table pending motion to substitute the bill for the report.

From the House:

The Committee on Education on Bill "An Act Relating to Patriotic

Observance in Schools," (H. P. 1573) (L. D. 922) reported that the same ought not to pass.

In the House, the bill substituted for the report, and subsequently the bill indefinitely postponed.

In the Senate, on motion by Mr. Sanborn of Cumberland, the bill was indefinitely postponed in concurrence.

From the House:

The Committee on Sea and Shore Fisheries on "Resolve Relating to Fishing in Penobscot Bay," (H. P. 1592) (L. D. 914) reported the same in a new draft (H. P. 1905) (L. D. 1136) under the same title, and that it ought to pass.

In the House, passed to be engrossed as amended by House Amendment "A".

In the Senate, the report was read and accepted in concurrence and the bill was given its first reading; House Amendment A was read and adopted in concurrence and under suspension of the rules, the bill as so amended was given its second reading and passed to be engrossed in concurrence.

From the House:

The Majority 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) reported the same in a new draft (S. P. 546) (L. D. 1130) under a new title, "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.

The Minority of the same Committee on the same subject matter reported that the same ought not to pass.

(In the Senate on April 10th Majority Report read and accepted, and bill passed to be engrossed.)

In the House, the Minority Report read and accepted in non-concurrence.

In the Senate, on motion by Miss Laughlin of Cumberland the bill was laid upon the table pending consideration.

The Majority of the Committee on Sea and Shore Fisheries on Bill

"An Act Relating to Gathering Kelp," (H. P. 1557) (L. D. 848) reported that the same ought to pass.

(Signed) Senator:

HARVEY of York

Representatives:

SMITH of Thomaston

FORHAN of Canton

CLAPP of Brooklin

RACE of Boothbay

TEEL of Long Island Pt.

SAYWARD of Kennebunk

BAKER of Scarborough

The Minority of the same Committee on the same subject matter reported that the same ought not to pass.

(Signed) Senators:

STILPHEN of Lincoln

HODGKINS of Hancock

In the House, the Majority Report read and accepted, and the bill passed to be engrossed.

In the Senate:

Mr. HARVEY of York: Mr. President, I move the acceptance of the Majority Report "Ought to Pass".

Mr. STILPHEN of Lincoln: Mr. President, I move that the bill and both reports be indefinitely postponed and in so doing I am going to state my reasons. This has been a law for something like four years. It was passed through the efforts, I think, of the Maine Development Commission which had induced kelp concerns to come to the state of Maine and set up in the kelp business.

Now, without any reason whatever before our committee, which held two public hearings on this bill, there was no statement that this was damaging anyone whatever but one man that presented this admitted that it was born in his head over night, that this bill should be repealed.

Now, the kelp concerns come into the city of Rockland and have set up their business at an expense of something like \$100,000. I don't believe it is good business on the part of the Maine Development Commission at the gateway of Maine, setting up these concerns in business and then in four years repealing the law and putting them out of business.

I hope, Mr. President, that my motion will prevail.

Mr. HARVEY of York: Mr. President, in the first place this bill affects none of my constituents, none of the constituents other than six men who voted favorably for this

measure. In other words, we have a law in the state of Maine that has given a monopoly to the state, to the Governor and to the Council, to let out square miles east of the Kennebec—which doesn't affect my territory in any way, shape or form, and they have in the past four years, as I understand it, given a thirty year lease of sixty square miles.

Now, very fortunately we have had members of the House who were on that committee who are fishermen and they realize that in the last few years for some unknown reason the eel grass has left our coast and they also realize that the lobsters—here only a short time ago we passed the enacted, a measure allowing \$40,000 for the rearing of lobsters, providing for \$20,000 the first year and \$20,000 the following year, when these lobsters will be liberated because you all know they aren't more than half an inch to an inch long when they are liberated. They must have some protection. The only protection these lobsters could find was the eel grass along the coast. The lobsters will spawn there, shed there and it is their only protection, and these people feel, and I think rightly so, that no person, the Governor and Council should rent out another square mile of privileges, and, when you stop and think of it at \$3.00 a square mile to anybody.

This kelp belongs to the fishermen. It is theirs and why spend thousands of dollars for the propagation of lobsters, for the protection of lobsters, and then tear away the only thing that will help them. That is the way they felt.

Now, I don't know anything about lobsters myself, but we had a forceful argument and it had a great appeal and I think that you men should think of that in the consideration of this measure. As I say, it affects none of my constituents west of the Kennebec, it is all east of the Kennebec and I say I believe that it is about time that we give no further monopolies to anyone on this kelp business and I trust that you will accept the majority report of that committee who gave two days of hearing on this particular matter and who, after careful consideration, have asked you to pass this measure.

Mr. STILPHEN: Mr. President, in answer to the Senator from York,

Senator Harvey, he has tried to bring it out that gathering this kelp was a damage to the lobster business. We all know that if there had been any damage in the last four years they would have filled this state house. Furthermore, if this is repealed they can gather kelp anyway. The law was passed in protection of the kelp business.

Mr. CHAMBERLAIN of Penobscot: Mr. President, through the Chair I would like to ask the Senator from York, Senator Harvey, a question.

The PRESIDENT: The Senator may ask his question, through the Chair, of the Senator from York, Senator Harvey, who may answer if he wishes.

Mr. CHAMBERLAIN: I would like to ask the Senator, is eel grass kelp, and kelp eel grass?

Mr. HARVEY: No, sir, it is neither.

Mr. STILPHEN: Mr. President, when the vote is taken I ask for a division.

The PRESIDENT: The question before the Senate is on the motion of the Senator from Lincoln, Senator Stilphen for the indefinite postponement of the bill and both reports. Is the Senate ready for the question?

A division of the Senate was had. Sixteen having voted in the affirmative and nine opposed, the bill and reports were indefinitely postponed in non-concurrence.

Sent down for concurrence.

The Majority of the Committee on Judiciary on Bill "An Act Relating to Levy upon Shares of Stock," (H. P. 1426) (L. D. 590) reported that the same ought not to pass.

(Signed) Senator:

FARRIS of Kennebec  
Representatives:  
McGLAUFN of Portland  
WILLIAMS of Bethel  
PAYSON of Portland  
BRIGGS of Hampden  
MILLS of Farmington

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

(Signed) Senators:

LAUGHLIN of Cumberland  
HARVEY of York  
Representatives:

HINCKLEY of So. Portland  
GRUA of Livermore Falls

In the House the Majority Report read and accepted.

In the Senate, on motion by Mr. Farris of Kennebec, the Majority Report "Ought not to Pass" was accepted in concurrence by a viva voce vote.

Report "A" from the Committee on Judiciary on Bill "An Act Relating to Attachment of Shares of Stock," (H. P. 1427) (L. D. 591) reported that the same ought to pass as amended by Committee Amendment "A".

(Signed)

Senators:

LAUGHLIN of Cumberland  
FARRIS of Kennebec  
HARVEY of York

Representatives:

HINCKLEY of South Portland

GRUA of Livermore Falls

Report "B" of the same Committee on the same subject matter reported that the same ought not to pass.

(Signed)

Representatives:

MILLS of Farmington  
McGLAUFLIN of Portland  
WILLIAMS of Bethel  
PAYSON of Portland  
BRIGGS of Hampden

In the House, Report "B" read and accepted.

In the Senate, on motion by Mr. Farris of Kennebec, the bill was laid upon the table pending acceptance of either report.

#### First Reading of Printed Bills

Bill "An Act Relating to Cruelty to Animals." (S. P. 352) (L. D. 1148)

Bill "An Act Creating and Establishing a Body Corporate and Politic to be Designated and Known as the Maine State Office Building Authority." (S. P. 553) (L. D. 1149)

Which bills were severally read once and under suspension of the rules, read a second time and passed to be engrossed.

Sent down for concurrence.

#### Passed to be Enacted

An Act relating to Pauper Settlements (S. P. No. 93) (L. D. No. 99)

An Act relating to Commitment of Feeble-minded Juvenile Delinquents (S. P. No. 534) (L. D. No. 1097)

An Act relating to Surety Bonds (S. P. No. 535) (L. D. No. 1098)

An Act relating to Reserved Num-

ber Plates (S. P. No. 536) (L. D. No. 1099)

An Act pertaining to the Regulation of Smelt Fishing (S. P. No. 541) (L. D. No. 1116)

An Act to Provide for the Surrender by the Ogunquit Beach District of its Organization (H. P. No. 1181) (L. D. No. 479)

An Act Declaring Municipal Airports to be Agencies of the State (H. P. No. 1418) (L. D. No. 727)

An Act Levying a Use Fuel Tax (H. P. No. 1479) (L. D. No. 602) (On motion by Mr. Dow the bill was laid upon the table pending passage to be enacted and tomorrow assigned.)

An Act relating to Caucuses in the city of Waterville (H. P. No. 1856) (L. D. No. 1118)

Mr. FELLOWS of Kennebec: Mr. President, I move this bill, L. D. 1118, be indefinitely postponed, and in support of that motion I will make these few brief remarks.

I have been besieged by the citizens of the city of Waterville who are opposing this bill. I am informed that at the hearing on the bill there were but two supporters of it and quite a few against it. It is not a partisan measure. The entire Republican city committee of Waterville were unanimously opposed to the bill and a substantial majority of the Democratic city committee have voted as opposed to it, including such well known men as Leon Tibbetts, James Boyle, Paul Julian, Edmund Sweeney, all Democrats, and Mayor Dundas of Waterville, also a Democrat. From the sentiment that has been expressed to me, I would say that there are but a very few people who are willing to support it and I hope that my motion prevails.

Thereupon, on motion by Mr. Boucher of Androscoggin, the bill was laid upon the table pending motion to indefinitely postpone, and next Wednesday assigned.

An Act relating to Mines and Minerals (H. P. No. 1895) (L. D. No. 1119)

An Act relating to the Taking and Sale of Clams in the town of Scarborough (H. P. No. 1896) (L. D. No. 1120)

An Act relating to the Taking and Sale of Clams in the town of Kennebunkport (H. P. No. 1897) (L. D. No. 1121)

An Act relating to the Taking and Sale of Clams in the town of Kennebunk (H. P. No. 1898) (L. D. No. 1122)

#### Finally Passed

Resolve to Repeal a Resolve providing for a State Pension for Bessie King (S. P. No. 401) (L. D. No. 1105)

Resolve to Repeal a Resolve providing for a State Pension for Mary A. Moulton (S. P. No. 402) (L. D. No. 1104)

Resolve to Repeal a Resolve providing for a State Pension for Johanna T. Kelleher (S. P. No. 403) (L. D. 1103)

Resolve to Repeal a Resolve providing for a State Pension for Amelia Rittal (S. P. 404) (L. D. No. 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)

Bill "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)

(On motion by Mr. Bishop of Sagadahoc, the bill was laid upon the table pending passage to be enacted.)

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

#### Orders of the Day

On motion by Mr. Chamberlain of Penobscot, the Senate voted to take from the table, House Report from the Committee on Taxation, "Ought Not to Pass" on bill An Act Imposing an Additional Gasoline Tax (H. P. 1475) (L. D. 615) tabled by that Senator on April 11th pending acceptance of the report.

Mr. CHAMBERLAIN: Mr. President, I move the report of the committee, "Ought Not to Pass" be accepted.

Mr. FRIEND of Somerset: Mr. President, I simply would like to make a brief explanation as to what the passage of this half-cent gasoline tax would do. This half cent tax would bring in an income of about \$790,000 a year. If this tax should pass the Ways and Bridges committee has a bill in its possession. called the Holman bill, which

with this income provided by the passage of a half cent tax, the Ways and Bridges Committee would report out unanimously "ought to pass" in favor of the Holman bill. If the gas tax does not pass there would be no income provided so that the Ways and Bridges committee could pass favorably on the Holman bill.

What the Holman bill does is relieve the real estate taxpayers of about \$932,000 a year. It does that by the state highway commission taking over maintenance and snow removal costs of state highways, which cost towns \$100 a mile, which would save \$272,000. The bill also provides that the highway department would take over the town's share of maintaining state aid roads which cost the town \$30.00 a mile and would save the towns \$150,000 and it provides that the highway department would take over the cost which the towns now pay for cutting bushes and weeds etc., on the rights of way on all types of highway, state aid, state highways and third class. It also provides the state would take over maintenance charges on third class roads and would save the towns approximately \$260,000. On the bush item the towns would save about \$100,000. Also the highway department would take over the town cost of maintaining bridges under the Bridge Act, which would be \$100,000. The total saving to the town on direct real estate taxation would be a great saving to farmers and others owning real estate would be \$930,000 a year.

Another thing, if this tax did pass it would go along with an emergency on it and that would make the bill in effect two and one-sixth years before the next legislature comes in, which would yield about \$1,700,000 yet the Holman bill would be in effect only one year. So you would collect \$1,700,000 to take care of savings in towns on the Holman bill of \$930,000 which would leave a surplus of some \$800,000 over two years, if this tax goes through.

I just wanted to make that explanation to show what would be the result if the tax did go through. Of course, if it did go through, I understand the state of Maine would be paying a higher gasoline tax than any other New England state and as far as I know, north of the Mason-Dixon line or east of the Mississippi river, which might in-



dicate that automobiles are taxed enough.

I didn't want to take any particular side on this question but did want to give full information to the Senate as to what possibly the income from this tax would be used for.

Mr. CHAMBERLAIN of Penobscot: Mr. President and members of the Senate: In defending the action of the Taxation committee in reporting this bill unanimously "Ought Not to Pass", I would like to say the members of the committee were cognizant of all Senator Friend has spoken of but we did not consider we were in a position to tie it up with any other bill and so we reported it unanimously, "Ought Not to Pass", determining if the legislature thought differently, we would acknowledge at a later time, our error.

Mr. BRIDGES of Washington: Mr. President, I would like to ask the Senator from Somerset, Senator Friend, a question through the Chair.

The PRESIDENT: The Senator may ask his question of the Senator from Somerset, Senator Friend; and that Senator may answer if he wishes.

Mr. BRIDGES: The taxes for 1941 have already been assessed. Now the question is, what will the state do to reimburse the various towns for the money which they have raised and appropriated for the various items enumerated by you, Senator?

Mr. FRIEND: I intended to cover that in my explanation. The passage of the Holman bill would not cover the first fiscal year at all because the towns have had the town meetings covering that and received this money. It would cover only the second year of the next biennium. Yet if the tax did go through it would be in effect 2 1-6 years before the next biennium is over, which I say would yield \$1,700,000 whereas the one year of the Holman bill would cost \$900,000 although the tax yields about \$790,000 a year.

Mr. BRIDGES: May I ask another question, through the Chair?

The PRESIDENT: The Senator may ask a question and that Senator may reply if he wishes.

Mr. BRIDGES: Am I correct now in assuming that if this bill goes through that the tax will be on gasoline imposed this very year?

Mr. FRIEND: In answer to the question of the Senator from Washington, Senator Bridges, if the tax had the emergency clause on it would go into effect at once. As I understand it, the bill has not the emergency clause on it so it would not become effective until 90 days after the close of the legislature unless there is a referendum.

Mr. BRIDGES: And now this question, Mr. Senator, with the permission of the Chair. Assuming this takes effect, the tax on gasoline, 90 days after the adjournment of the legislature, and no referendum is on it, what becomes of the tax money collected for the balance of the year 1941?

Mr. FRIEND: In answer to that question, all of the income from the tax would go into the general highway funds and for that length of time it would be between \$1,500,000 and \$1,600,000.

Mr. BRIDGES: So this saving would not take place until 1942?

Mr. FRIEND: No.

Mr. BROWN of Aroostook: Mr. President, I wish to speak briefly on this matter because there is a tax problem here that has taken the attention of a great many people in the state of Maine during the past year. The association—rural tax association, has made a careful study of rural taxes in the State of Maine, tax on real estate, and tried to provide some method for relieving it and the result of their deliberation was this so-called Holman bill because it was introduced by Mr. Holman. The bill has the endorsement of the Maine State Grange, Maine Farm Bureau and all of the other agricultural associations in the State.

Now, a great many people think the gasoline tax builds all our roads. It does not. About \$4,000,000 of the money used to build roads is taxed directly to real estate. For instance, on every mile of highway which the State Highway Department builds through a small town, any town, that town has to take over maintenance and snow-breaking which amounts to \$100 a year. Then there are other classes of road they have to maintain and maintenance of roads and bridges. So the farmers and home owners are taking out of their pockets about \$4,000,000 a year for the support of highways which should belong and should be paid entirely by people who use the roads. There was a time years ago we

thought real estate should build the roads but with the demand for better roads and stronger bridges and because people from all over the United States are using the roads to truck over them, and because we have to build more expensive roads and because real estate is taxed to a point where they can no longer pay taxes and the farms are being surrendered, someone must pay for the maintenance and the building of roads. So they considered one of the best ways of helping the towns and cities, rural towns especially, was to have the state take over those activities for which the towns are paying. The cost is around \$960,000 a year.

Now this bill was very favorably considered by the committee and we desired to have it passed but unless the money could be provided there was no use in attempting to pass the bill because with the highway program as set up, there was no place where we could take that money without taking it out of maintenance and no one wanted it taken out of maintenance, so for that reason, because it is asked for by all rural associations in the state of Maine and it will be a direct relief to the taxpayers of the state, we approved the bill provided this half-cent tax could go through.

As has been stated, it would be collected two years and two months, 2 1-6 years, and there would be some money left over if we paid for the Holman bill. The Holman bill would be in effect two years only. If it goes on, more money will be necessary to meet it in years to come. It is my thought and of other members that this would help over the start of it and the extra money coming from this half cent gas tax, with other revenues we could take over other activities mentioned in the Holman bill. If we want to build a bridge the town and county help with it but the town has to take over the maintenance, the painting of it and the re-laying of surface; and these are things that should be paid for by the Highway Department and paid for by the gasoline tax, and that is why we advocate extra taxes.

It may be true we are paying more tax than other states but you must remember the State of Maine has as many miles of road as the state of Massachusetts and we have only about the population and wealth of the city of Boston. Therefore, if we

are going to maintain this great system of highways we have got to raise more money from gasoline and it might be also interesting to know while we have the highest tax on gasoline we have also the highest real estate tax of any state in the United States, not just east of the Mississippi, but in the United States. Although the tax on gasoline may be higher, if we can reduce the tax on real estate and get somewhere near other states in the United States, that is something that will offset the argument against the tax on gasoline.

Mr. BISHOP of Sagadahoc: Mr. President, I think gas is now being overtaxed. The wholesale price of gas at the present time is seven cents and the tax is five and a half cents. I am heartily in favor of the Holman bill but there are plenty of other sources from which to derive revenue. In regard to rural towns raising money—my town and other towns have voted to raise money but gave power to the municipal officers to rescind that power if they didn't need it.

Our real estate tax is way above other states. It is highest in New England, highest east of the Mississippi, highest north of the Mason-Dixon line. And so is our gas tax. There are other bills before the Taxation committee and they are taxes that are lower than in other states. For instance, our hard liquor tax is lower than in other states. A ten percent increase in tax on hard liquor will return \$600,000. I believe there is a place where we should attempt to get some of this money. We are one of the few states that has no cigarette tax. That would provide \$1,200,000. Our power companies, wealthy, with a three mill tax would provide \$400,000. That is where we can get money. Let's not tax gasoline any more.

Mr. HINMAN of Somerset: Mr. President, I had hoped that the report of this committee might be more generally defended by those other than myself because I realize it is a natural assumption that I, being a large user of gasoline, speak in my own defense, but I assure you my use of gasoline has no bearing upon anything I may say, or my thoughts on this particular matter. I am interested first, in the fact that if we can raise additional gasoline money and allocate it to some

definite purpose we are starting on the most dangerous kind of legislation that can be enacted and there are states in this Union where as much as three mills taken from gas tax money to support the schools and I submit to you in the face of what I believe is a general feeling, that gas tax money shall not be diverted, and we are diverting just as much in this case as though we added another cent and allocated it to some other state departmental activity. For that reason and only for that reason, I am interested in this measure. I do feel the motorist is paying all the tax he should. When you talk about equitable taxation, I think I can fairly state it must be agreed that gasoline at the present time is bearing its proportionate part of the burden. I have no grievance with the Holman bill or any part thereof. You may bring up many things for which we need money in the State of Maine, worthy causes, but I cannot see why we should increase the gas tax to take care of them. I hope it may be our good judgment and we may support the report of the committee, "Ought Not to Pass."

Mr. DOW of Oxford: Mr. President, I want to say I am opposed to this increase in the gas tax. I am thoroughly in sympathy with a desire on the part of this legislature to reduce real estate taxation but there is one thing I have heard a lot of this winter, and also heard in 1939 and in 1937, and that is that the folks who use the roads ought to pay for them. I believe the statement is fallacious, not correct at all. If a man does not own an automobile but a good road is built around his house, it increases the value of his property and he is benefitted. If he has a good road and it becomes necessary to call a doctor, that doctor can get there much more quickly and that is, of course a benefit. If the man has a horse and wagon he has a chance to haul over the road and has the benefit. If anyone doesn't have an automobile perhaps his neighbor or someone takes him for a ride and he gets the benefit of the good road. I think it is foolish to say that the man who owns an automobile should be the one to pay for the roads. I do not think that is correct at all.

Mr. CHAMBERLAIN: Mr. President, when the vote is taken, I ask for a division.

The PRESIDENT: The question before the Senate is on the motion of the Senator from Penobscot, Senator Chamberlain, that the report of the committee, "Ought Not to Pass" be accepted. That Senator has asked for a division.

A division of the Senate was had. Twenty-seven having voted in the affirmative and three opposed, the "Ought Not to Pass" report was accepted in non-concurrence.

Sent down for concurrence.

On motion by Mr. Friend of Somerset, the Senate voted to take from the table, House Report of the Committee on Motor Vehicles on bill, An Act Exempting Farm Tractors from Registration Fees (H. P. 1458) (L. D. 628) tabled by that Senator earlier in today's session pending acceptance of the report; and on further motion by the same Senator, the bill and report were indefinitely postponed in concurrence.

On motion by Mr. Boucher of Androscoggin, the Senate voted to take from the table, House Report from the Committee on Legal Affairs, Majority Report, "Ought Not to Pass"; Minority Report, "Ought to Pass" on bill, An Act Creating a State Lottery Commission (H. P. 113) (L. D. 61) tabled by that Senator on April 11th pending acceptance of the majority report.

Mr. BOUCHER of Androscoggin: Mr. President and members of the Senate, I would like to move the substitution of the bill for the "Ought Not to Pass" report. In doing this, my reasons are these,—that I don't believe this legislature will pass any tax measure or agree on any tax measure. I believe this is an easy way of getting money for old age assistance. Although the other body has seen fit to turn this down, I believe this should be kept alive until final adjournment of this legislature. I am informed there is a possibility of realizing between a million and a half and two million dollars a year by such a bill. I also know that the money is needed for old age assistance. For that reason, I have made this motion and ask that when the vote is taken there be a division.

The PRESIDENT: The question before the Senate is on the motion of the Senator from Androscoggin, Senator Boucher, that the bill be

substituted for the majority report of the committee, "Ought Not to Pass." That Senator has asked for a division.

A division of the Senate was had. Three having voted in the affirmative and twenty-nine opposed, the motion did not prevail.

Thereupon, the Majority report of the committee, "Ought Not to Pass" was accepted in concurrence.

On motion by Mr. Harvey of York, the Senate voted to take from the table, Senate Report from the Committee on Judiciary; Majority Report "Ought to Pass" as amended by Committee Amendment "A"; Minority Report, "Ought Not to Pass" on bill, An Act Creating a State Board of Eugenics (S. P. 295) (L. D. 528) tabled by that Senator on April 11th pending acceptance of either report.

Mr. HARVEY of York: Mr. President, I move the Minority Report, "Ought Not to Pass" be accepted.

Mr. BISHOP of Sagadahoc: Mr. President, this question of eugenics is a very touchy question. In many places it is still taboo, and although touchy, I feel it is most vitally important to all humanity and because of its touchy nature the average seasoned politician or one who has a political future or one who would like to have, fears to meddle with it. My being a freshman in politics, having had no previous experience, no training, I have meddled with this question.

I would like just briefly to outline my background for having presented this bill to the 90th Legislature. Following my high school days, I taught school in a back woods common school district and there came upon my first experience with case of feeble-mindedness. It was a community where interbreeding and intermarrying had gone on for a long period of time and there I saw people in every state of mentality. Following this teaching experience I went on to the University of Maine.

There I enrolled in the agricultural course and studied animal husbandry. Along with my regular required subjects I took up other elected subjects, advanced mathematics, business English, higher and advanced science which included genetics and eugenics and psychology which is a study of the mind.

After three and a half years of study and by doing all manner of work, I completed my four year course at the University. From there I went out and taught in a secondary high school as teacher and as principal and there again I came upon first-hand experience of the different stages of mentality. The school I happened to be in was fed by five different communities and there, as a teacher and one interested in human nature, I saw the effect of the breeding of five different communities.

Following my high school work, I retired to follow my chosen profession, that of a farmer. That is, the last eight years I have devoted to plant breeding and to the breeding of pure-bred cattle, horses, swine and poultry and I have worked a few experiments in my humble way—just a drop in the bucket as compared to what hundreds of others have done and what has been done in a great many experiment stations. There I have proved to my own satisfaction what can be done with breeding. Millions of dollars have been spent to improve the various families of plants and of animals. In all this time we have been spending millions upon millions to make better breeds of animals and plants; we have done nothing to improve the human race. They have gone unchecked and people have been allowed to marry and remarry with no thought of what the result has been and will be.

This, briefly, has been my training and experience up to January 1, 1941. I don't speak in a biased way because I am a member of a large family and if this law applies to other people, it would apply to my family as well. I am the father of four children. They would be subject to the same treatment if need be. So that brings it up to the time legislature opened. Aside from my major committee, I requested the Committee on Pownal State School and the Committee on State Hospitals. There I have had a chance to study further some of the results of this lack of anything being done to prevent the reproduction of undesirable human beings, human beings who are not able to support themselves, who because of their physical and mental incapacity are unable to enjoy life. I have seen it with first-hand experience, the result of many of those cases. Our committee vis-

ited Pownal State School and it meant much more to me than just a day away, with a fine dinner presented to us and an opportunity to enjoy a fine view and see their fine campus. I was not with the committee all of the time. I wanted to see some of the cases as they were. We went by some of the buildings, not good to look at, but I insisted we go back and visit those buildings and there I saw human beings from the ages of six to sixty in every possible conceivable deformed case you could imagine, some whose bodies had grown in spots, some with a full grown head or some other limb, some unable to speak, never have spoken, and usually of a mentality from three up to not exceeding twelve years—people from the ages of six up through to sixty or more, all herded into a room nowhere near as large as this, perhaps the size of this; some unable to support themselves were tied in chairs; some nearly insane. They had straight jackets or their hands were tied and they were of all manner and form.

I wish every citizen in Maine could visit those places. There would be no question about this eugenics bill.

At Pownal there are 1106 cases. There are 350 on the waiting list. They are all, or the greater majority are of parents who are feeble-minded and their grandparents have been feeble-minded and finally the third and fourth generations are going back to their alma mater. 1106 patients, costing the state of Maine \$361,000 a year. That doesn't include the cost of the buildings or the interest on the investment. They have beautiful buildings and a beautiful campus. That is as it should be, but far better than your children or mine enjoy in their private or public schools. There is no other way out. We have them. 350 on the waiting list and more coming every day and we must take care of them.

At Bangor we found a similar situation but this is a bit different because they are insane. 1,116 patients, costing \$370,000 a year, an average of \$330 more or less per head, per capita. In the Bangor institution 40% of the cases are due to syphilitic parents. 17.6% is due to alcohol. The rest are just chronic insane.

Over here at Augusta we have just

under 1500 patients, costing \$490,900. More are coming every day, crowded, over-crowded, needing more equipment and more buildings. What are we going to do about it? A cost to the State of Maine of \$1,223,301 a year and increasing every year.

If we were going to have a fire we would attempt to remove the cause of the fire. With animals and plants it is somewhat different for if we get an undesirable offspring, it is a very simple matter to dispose of it. With humans we cannot do it. We must provide a place for them and somehow keep them from reproducing their kind. Families on relief, unable to support themselves, reproduce fifty percent faster than do families who support themselves. Families who are producing children, people who are insane or feeble-minded, reproduce twice as fast as normal families. If we were to attempt to put out a fire or prevent a fire we would attempt to remove the cause. So we must attempt to remove future reproduction. It is done by a minor operation known as sterilization. It is a touchy subject but it is one we must face. It is a very simple operation on males and takes fifteen minutes or less. It is hardly necessary for a man to leave his work. It is equivalent to an ordinary appendectomy on females. Every case is 100% effective. There has never been a life lost or a patient who didn't respond 100% to the operation.

The first sterilization law was enacted by Indiana in 1907. California, Connecticut and Washington enacted similar laws in 1909. California, up to the present time has sterilized 14,262 patients.

On your desks, or at least there were on your desks last Saturday, a little pamphlet enclosing a little yellow leaflet that gave a summary of the work done in California. The first 10,000 cases have been very carefully analyzed. At the present time there are 150,000,000 people living under sterilization laws. There are 29 states in the Union that have sterilization laws. Iowa adopted its law in 1911. My bill was drawn much like that one.

I will say at this time that the first five weeks of the legislature I spent Friday, Saturday, Monday and Tuesday in the State Library going over the various laws of the various states, and from that my bill came. I am not trained legally and I need-

ed the advice and support and help of many others and it was granted freely, and I am indebted to them for their help.

At the public hearing a very large group assembled and the hearing took two hours. The proponents used an hour and the opponents used an hour. There were two opponents, one the Communist Gordon from Madison who was opposed to it; and the other was an attorney from Portland, Mr. Francis Sullivan. He had a very well prepared case and he delivered it very ably and following the hearing I talked with him and he said he would promise me a fight. I think he has done it because many of the good people who were at the hearing and volunteered their support have since told me they are not sure they can go along with me. I have no quarrel with anyone. I have no quarrel with any religious group. Mr. Sullivan said he represented 200,000 Catholic people and it is their privilege and their belief and I respect it. Still this problem faces us and I feel there must be something done about it.

To go further, I have not raised my hand in any effort to support this or any bill. I believe there are 184 members of this legislature who are perfectly able to decide for themselves. It is a very touchy subject. It is one that needs a great deal of consideration and thought. It will affect each and every one of us if it becomes a law, therefore I believe it is your duty as legislators to decide for yourselves and I hope you will. I may be all alone, as happened on another bill in this legislature. Be that as it may, I will hold nothing against anyone if you are sincerely opposed to it and I would not for a moment ask you to change your opinion. I have no personal interest in this matter except from a social and economic standpoint which I think is vitally important to each and every one of us.

In this country there are one million feeble-minded persons that require special institutional care. There are six million who are insane or will sometime be inmates of insane institutions—5% of the population and Dr. W. F. Ogburn of the Chicago University states that there are 5% more who have a mental breakdown or who sometime in life will be unable to carry on produc-

tive labor, making it 10% of the population.

The annual cost of feeble-minded and insane institutions is \$173,000,000. I could go on and on. It would be a long, sordid story. I am not going to do it. I hope you will see the facts. I hope you will be honest. I hope you will do what you think best for civilization, and let's try to put out the fire before civilization is lost.

I hope the majority report "Ought to pass" which eight of that committee on Judiciary signed, will be accepted, and when the vote is taken I ask for a division.

Mr. HARVEY of York: Mr. President, at the very outset I want it distinctly understood that I do not in any way question the sincerity of my good friend and my colleague, Senator Bishop. His heart is wrapped up in this subject. He believes in it. The only thing I am afraid of is that he hasn't yet discovered the difference between dealing with cows and swine and cattle, and human beings.

Now, I would like to have every one of you Senators, if you will, place before you L. D. 528. I believe that after I am through you will agree that this is the most vicious, destructive, obnoxious, injurious and pernicious bill that we will have before us during this legislature. Does it serve its purpose? Does it take care of and does it create this great Utopia that my brother would have you think?

Well, in the first section we create a Board of Eugenics; consisting of whom? The superintendent of your Bangor State Hospital, the superintendent of the Augusta State Hospital and the superintendent of the Pownal School. And I will say to you right here and now that during that public hearing that has been mentioned one of the very men who is to become or would become a member of that Board, if this bill meets your favor and is passed, was there at that meeting to speak in opposition to this measure, but he didn't.

And I want you to read Section 2: "Whenever information in writing is given to said Board that any person living in this state is feeble-minded, insane, syphilitic, habitual criminal, moral degenerate, or a sexual pervert",—then a complaint is made and then they take this thing under consideration.

Now I want you to go to Section 10: "Purpose and object sought. Said investigation, findings and orders of said Board shall be made with the purpose in view of securing a betterment of the physical, mental, neural or physical condition of the alleged defective, to protect society from the acts of such defective or from the menace of procreation."

Now, let's get on to that procreation business. I don't know whether my colleague is familiar with the fact that in 1931 the legislature of this state passed an act to regulate the sterilization of inmates in institutions. Let me read it: "Whenever it appears to the medical staff or institutional physician of any institution in this state which has the care or custody of insane or feeble-minded persons that any inmate under the care or custody of such institution would be likely if released without sterilization to produce a child or children who by reason of inheritance would have a tendency to serious mental disease or mental deficiency, said medical staff or institutional physician shall submit to the governing board of such institution a recommendation that a surgical operation be performed upon said patient for the prevention of parenthood."

In this present measure you have included feeble-minded and insane and may I say right now your feeble-minded people are in three classes. You have the idiot from one to four years of age, the imbecile from four to seven and the moron from seven to twelve. Now, if there is any place where that most unfortunate person should be it should be in an institution. Imagine sterilizing an idiot, an imbecile or a moron with that mentality and allowing them to run at large. Do you think that society, just because of the fact that they knew they were sterilized, is going to accept them?

The bill goes on and tells how the hearing is held and concerning the consent and so on, to the point of appealing to the Supreme Judicial Court. Then we come down to the second class, the syphilitic—a vicious word to even have to talk about. We went through that hearing; we had Dr. Kupelian and Dr. Hedin there. They went on and said what a nice thing it was. And when they were asked if that unfortunate dis-

ease was curable, they said yes. And when they were asked whether or not it had any tendency to procreate and give children that shouldn't be desirable, they said no. And they said it should be stricken from this bill.

Imagine some fine young lady obtaining this foul disease from a drinking cup or from something that has nothing to do with anything immoral and who is still able and should be given the God-given right to procreate but because she has this disease she must be sterilized. Oh, no. I don't believe that you men would agree to that. And those cases have happened time and time again. So we can eliminate that.

Then we take the next one, the habitual criminal. Now what in the name of common sense has procreation got to do with an habitual criminal? I would like to have somebody tell me and explain to me so that I can understand it. There is an old saying that once a forger, always a forger. And they spend three-quarters of their lives in jail but they are the smartest men mentally that you can find and strong and healthy physically. Still, you have got to sterilize them so they can't procreate. Take a fellow that has been arrested more than five times for assault and battery and spent the time in jail. Does he procreate a champion boxer? Is there anything at all to menace society in that which he procreates?

You can take the whole of this right down the line and the doctors all agree and all the scientists agree, men who have made a life study of this agree, that sterilization never be resorted to as to such people.

And then we come along to that other classification, the moral degenerate or sexual pervert, and both of the doctors who appeared for this bill agreed that sterilization would have absolutely nothing to do with the children they would bear. It is absolutely environment, allowing themselves to get into the low class of society. Sterilization would have absolutely nothing to do with it.

Now, that gets us down to one more point, and this is the sweet-heart, I think, in Section 7: "If in the judgment of a majority of said Board procreation by such persons would produce a child or children

having an inherited tendency to—epilepsy," then he must be sterilized.

When I attended college there was a young man there who was subject to that sad ailment. I believe that he used to take these fits on an average of once a month. Many times did I assist him when he was taking them. I left college and the next time I saw him was some two years afterwards. He was in an army uniform. You can imagine my surprise, knowing of this ailment that he was subject to and had been suffering from all his life. And my first question to him was, "How did you ever get into the service?" And he said to me, "From the time that I entered the service to this present day, I have never had an epileptic attack."

Now under this bill this man was subject to sterilization. His God-given right to procreate would have been taken away from him. Today he holds one of the finest positions in the middle-west and he has a fine family. What do you say as to that?

And so when you boil everything down, you can throw everything out of the window as far as the provisions of this bill are concerned excepting the feeble-minded and the insane, and as I understand it from Dr. Tyson, even people who are committed for insanity are curable and leave the hospital entirely cured and never come back. But by this bill they must be sterilized. They must have their God-given rights taken away from them. They cannot enjoy the fruit of children and the pleasure and comfort of children in the future. They must have it taken away from them. Oh, this bill is vicious. And I think you men agree with me.

Now, I might go on and mention innumerable cases. You have made this Board, by Section 3, a judicial tribunal. And in Section 10 the bill says "this is not in any manner a punitive measure." Well, my brother says that in fifteen minutes it is all over but as I understand it, in the case of a female it is equivalent to an appendectomy. And if that is over in fifteen minutes and is as easy as that my ideas and conceptions of appendix operations are excluded.

Let us go along. The bill says in Section 13 "if any such person shall not consent, within twenty days from the service of such order upon him, to the performance of such operation, said Board of Eugenics

through its secretary within fifteen days thereafter, or such further time as the court may allow,"—and I don't know what court they are referring to—"shall file a transcript of its proceedings and of its said findings and conclusions—with the Register of the Probate Court." Then in Section 14 it says that after these findings, conclusions and so forth are filed with the Register of Probate he "shall issue a summons directed to such person and deliver the same to the sheriff or to any of his deputies together with a copy of such order prepared and certified by him, and it shall be the duty of said officer to forthwith serve said summons and copy of order upon said person named therein, who shall be required within twenty days after such service upon him, to enter his appearance in writing with the Register of the Probate Court in such case, or by appearing in person before such clerk, who shall thereupon enter the appearance of such person in such proceeding."

Then go down to Section 15: "The issue thereby raised shall be whether the findings and conclusions of said Board shall be confirmed by the Court"—doesn't say what court; we haven't the slightest idea—"and shall be tried in the Superior Court of such county as in equity."

Here is a bill which is going to cause a delinquent or defective to file his answer to the probate court and then by some sleight of hand it is immediately in the Superior Court. Well, that is all right.

Now, in Section 16—and this is the real joke of it—"If the findings and conclusions of the State Board of Eugenics shall be affirmed by the court, the defendant shall be immediately placed in custody by the sheriff of said county, and may be admitted to bail by the court, who shall fix the amount of such bail, and if not so admitted to bail, shall be held until the operation provided in such findings be performed."

Now there is a case where a person is going to be admitted to bail by a court but it doesn't say what court it is returnable to or when it is returnable or to what place it is returnable, and by the fact that he furnishes bail the necessity of sterilization is gone by. The only fellow that is going to be sterilized is the fellow that doesn't furnish bail. That is what you have there. Look the bill over, gentlemen. Have we



any safeguards? Only in this legislature.

For our good Senator and colleague, Senator Townsend, we passed a pre-marital bill—a wonderful thing. They are afraid of these social disease questions. We already have on the statute books of 1933 a law which requires all doctors to report cases to the Health and Welfare organization. And I say to you here and now that if they have those cases presented to them and fail to report them they are subject to a fine of not less than \$200 nor more than \$500 or by imprisonment for not less than three or more than six months or by both fine and imprisonment.

We have a law on our statute books of 1933 which prevents any person who is a syphilitic to remarry. I am wondering if my colleague knows that. What more do you want with that?

So that everything boils itself down to just that one situation of the feeble minded and the insane—and we have ample law to take care of that. There is no question about that.

This measure also makes sanctified guessers of three physicians. Sterilization, consisting of the destruction of the generative power in man or woman is a particular case of mutilation, and you can't get away from it. You take mutilation in its proper sense, denoting the destruction of some part which is necessary for certain functions, the surrender of blood or of small sections of skin would not be mutilation, but you saw one of these limbs off, one of your limbs off, or you take that right to produce and procreate, and you are mutilating. The more important the function so prevented, the worse is the mutilation. What is more important than the right to reproduce?

The worst mutilation could, no doubt, be mutilation of the brain. Probably the next one ought to be sterilization. The fact that it can be carried out in a rather painless manner has nothing to do with this. We hear much of the dignity of the human person. The human person and its sacredness is extolled above all else and certainly with much right though not always without exaggeration. No one can be allowed to deprive a man of those organs of which his body consists and which make possible the various functions of the body.

He enters this life as a person, that is, as one of the most definite beings possible, which by its very existence must be endowed with the most definite right to itself, such as it is, body and soul. Man's right to himself and all parts of himself originates with every individual and is essentially inseparable from him.

For even a man to attempt to destroy himself by committing suicide is a crime under the old common law. Inability to produce—this is by way of diversion—is so recognized in this state that it is one of our causes for divorce—impotency. Is there any question?

Man may mutilate himself or permit a mutilation only, when by sacrificing a part, he can preserve at least a mutilated existence of his person or can greatly improve the conditions of his health.

Man has the sacred obligation to respect the physical personality of his fellow-men. Only when unlawfully attacked, and in defense, may he maim or even kill an aggressor in defense of himself or some important possession, and even in this case only in the very act of aggression. The first purpose of the state is to safeguard the community and those members against injury and on those occasions where the individual would be too weak.

It is therefore evident that the public authority must respect individuals as it finds them, that is, as endowed with all the rights which they have been invested with by their Creator. Among the foremost of these rights is the right to themselves, to the physical integrity of their person. The state is in no way the owner of the bodies of its citizens.

The state may own cows and horses, in its experimental stations, and may subject these animals to any treatment it sees fit. But the state's citizens are not on the same level with the state's cows and horses. Unfortunately, this is the standpoint some legislatures have taken. Whenever a certain measure, in their opinion, is necessary or very useful to the public welfare, a citizen has no right, which the state is bound to respect.

It is different in the case of a convicted criminal. Among the powers given to the public authority by God, is also the right and duty to inflict proper punishment upon violators. The state is not only at liberty, but for the sake of public safe-

ty it is even obliged to inflict a suitable punishment.

Maybe someone will say, "But the state can rightfully take away private property for public uses, and the right of private property too, is a sacred one." I hope that my listeners will at once see the difference. A man's fields and gardens and houses are not himself nor a part of man's personality. He is not born with them as he born with his limbs. They can be separated from him without interfering with his very being, without making him a physical cripple. Moreover, these external possessions can be compensated for by money.

This is expressly recognized by the fifth amendment to the constitution of the United States which says, "Nor shall private property be taken for public uses without just compensation." And this is merely another way of safeguarding private possessions but in this case here, even though under our constitution, under our state rights of eminent domain, we can take private property for public uses, we must compensate for it, yet in this case we take a man's body, and they can say to you that it is not punishment but they do punish and mutilate and I think it is legally wrong, and I think you will agree with me No question. Definitely no question.

I think I could go on here and say a great deal more but I think this is a good time to stop and when I do stop I would like to recite a little ditty. I won't mention the Senator's name but he recited this little ditty and I think it is very well placed and probably I should use it now and stop. It goes like this:

"See the happy moron,  
He doesn't give a damn;  
I wish I was a moron—  
My God! Perhaps I am!"

Gentlemen, this is really a serious matter and I trust that you will accept the minority report.

Mr. CHAMBERLAIN of Penobscot: Mr. President, the lateness of the hour, the able words of the Senator from Sagadahoc, Senator Bishop, and the equally able reply of the Senator from York, Senator Harvey, would almost preclude that anyone say any words in addition.

To me it is a very delicate subject. I am quite sure, as in some court rooms the judge now and

then orders some certain people from the courtroom that perhaps in this case if it were possible to do so, needing only a few men here, we might, by using words of our own that men use sometimes when they are alone, we might very easily settle this question.

It has been said in regard to this bill that there would be opposition from some people through adherence to a particular belief. I think that has nothing whatever to do with this matter and that the bill should be judged wholly and solely by its words. And to me it seems that the pith of it is that we leave to three people the determination of who comes under these several categories and later on we add some other people, judges. They have something to say about it. After they have got all through, after really establishing a criterion by which these people can be measured, they either decide that it shall or shall not be done.

Now it seems to me, taking the first part of this, the feeble-minded and insane—never mind the rest. At this time of year I very often go fishing away down east in Washington county and we leave the car at a home where I am sure many people would measure those inhabitants, both the parents and the children, as feeble-minded.

Certainly they would be feeble-minded compared to the eminence of the members of this Senate. Are they to go through with this process because someone thinks that they ought to? That seems to me perfect folly and then beyond that, I might hazard the assertion that this very body of Senators here, with two or three exceptions, after adjournment, for failure to do this and failure to do that, I have no doubt that half the people in Maine would consider us insane.

By what rule can you measure this thing? How are we going to get at it? Only by leaving it to three people and probably to a judge in addition. It seems to me not only a vicious bill but entirely unnecessary. If we are to perform some kind of operation upon men and women to prevent the procreation of children, admitting for the moment that we might possibly do a little good, are we to still have those people roaming around here? Are we to sterilize those in the hospitals and then let them out? Mere

sterilization is not sufficient, except for procreation. All the rest of it can remain there. This is a delicate matter. It would seem to me that if we are going to pass something of this kind that we should go further than that. And I am going to say these words: Years ago I was on a Board of Assessors. We had to go about inquiring who were voters and also as to who possessed dogs, and we determined from the assertions of the persons we were addressing, and we didn't know ourselves, as to the sex of that dog. And very often we were told that such a dog had been altered. And I say I think we should go a little further than sterilization and alter them entirely and then they wouldn't bother us at all as they go around.

I certainly hope that the bill will not be passed.

Miss LAUGHLIN of Cumberland: Mr. President, as Chairman of the Judiciary Committee which voted that this bill ought to pass, by a vote of eight in favor of passing the bill to two opposed, I think it is incumbent on me to say at least a few words to show that my conception of certain matters about this bill is different from that of the Senator from York, Senator Harvey.

In the first place, the real fundamental and governing part of this bill is Section 7 which is that if in the judgment of a majority of the Board procreation of such a person would produce children that are feeble-minded or degenerate and so forth. That is the crux of this bill, not this mentioned in Section 2 of who might be examined. Furthermore, the Senator from York, Senator Harvey, devoted quite a little time to saying why we shouldn't consider the syphilitic or the sexual pervert, as mentioned in Section 2. Committee Amendment A to this bill eliminates those two. So that everything that the Senator from York (Senator Harvey) said on that subject is entirely out of point because the amendment has taken those two out of the bill. All those who should be reported to the Board—I want to emphasize the difference between Section 2 of persons who are to be reported as possibly among those who would bring into the world children who are degenerates or perverts themselves and Section 1 which says that only those who in the opinion of this Board would

produce degenerate children, feeble-minded and so forth shall be sterilized, so that it comes to the point of protecting society against the increase of that class of persons who are a burden upon society and no joy to themselves, as I can testify from those I have seen.

The Senator from York (Senator Harvey) said that the great thing we should try for is to safeguard the community and of course that is exactly what this bill seeks to do, to safeguard the community from a great influx in another generation of persons who are not only to be a burden economically but are to be dangerous from the fact that they don't fit into the community, being feeble-minded.

Now, we have had considerable experience to know whether it protects the community or not, not only from the twenty-nine states of United States which have bills, not necessarily like this but certainly providing for sterilization of those who are likely to produce this kind of children. We have it from their experience. We know what happens. Any who have studied this know what a terrible burden it is to the community. And we have it in the famous case of the so-called Jutes family who, because of a certain Revolutionary soldier who had illicit relations with a feeble-minded woman started a process by which there has been produced generation after generation of feeble-minded who have caused the country—just that one family—millions of dollars, who have produced criminals of every sort in every generation. Because, as I have said, if a person is feeble-minded he doesn't fit into the community.

We have to support in this country millions who are called unemployable—not unemployed but unemployable—who have not sufficient mentality so that they can support themselves, because they are feeble-minded. They do not fit into the community. And all the statistics show that this class is increasing fifty percent more than the normal people so that in a few generations they will represent the majority—and they vote—and in time morons will control the policies of the country. And statistics show that three-quarters of the feeble-minded in any generation are the children of feeble-minded or degenerate parents. So that if we could start today and

prevent, as this bill provides, the procreation of this class in the next generation we wouldn't have more than a quarter as many feeble-minded as we are going to have if we do not. So that it becomes a question of the continuation of the country and the protection of society.

The Senator from York (Senator Harvey) said they should be in institutions. They should be, but they aren't. It is only a very small percentage of the feeble-minded that are in any institution in this state or in any other state.

So that the statute which he quoted which would permit their sterilization would be a very inefficient thing because it represents only a fraction.

And in answering the Senator from Penobscot (Senator Chamberlain) when he said that the only difference is that they are not able to procreate, that is the difference and the great difference. And the only reason for such a bill as this is not to punish but to see that the next generation will not provide us with millions of feeble-minded who are not happy themselves and who are a tremendous burden upon the community, not only by reason of the cost of their support but from the fact that of course the percentage of crime among them is far greater than among the normal.

These people who have an intelligence of about 12 years old cannot fit into a community of adults. They cannot meet the conditions and that has brought about, as we trace it in this history of the so-called Jutes family—of course that is not the real name of the family but in all social books or treatises they are called that merely to stress this fact—that they produce in every generation an increasing number of feeble-minded who become a burden to the community economically and criminally.

Mr. HARVEY: May I ask Senator Laughlin if when the amendment was made to Section 7, as I understand there was an amendment, did you strike from that "epilepsy"?

Miss LAUGHLIN: "Epilepsy" doesn't appear in section 2. It doesn't provide for reporting epileptics but it does say that if the majority of the board consider that procreation would produce a child having an inherited tendency to be an epileptic. It is still in the bill.

Mr. HARVEY: Mr. President, the Senator has stated that the crux of this bill is Section 7. Section 7 includes the very same things as you will find in Section 2 with the exception that epilepsy is added, which makes the measure even more foolish, in my estimation.

May I simply say one more word. I think the Senators have had given to them pamphlets. I found two on my desk and I think I saw more on other desks. I wish to call attention to the foot-note of the yellow pamphlet if you have one before you. We have been informed that many states have a similar law and especially has California been mentioned. If you will note in the footnote itself, and I quote: "California has had in effect since 1909 a sterilization law applying only to inmates of state institutions." I will also quote from the other pamphlet, the very last paragraph which says, "During the last 30 years, California state institutions have sterilized nearly 14,000 insane and feeble-minded patients." We have the same or similar institution sterilization bill and it has been in effect for the past ten years.

Miss LAUGHLIN: Referring to the law in California—they may have had a bill since 1909 but I know the real beginning of sterilization in California was in 1919 because I drew the bill by which inmates of feeble minded institutions might be sterilized, but at that time we also passed laws for other institutions of \$375,000 in order that the people might be taken care of, as they are not in this state. Furthermore, that 14,000 may have been a hundred or two more than that, but they all have been since 1919 which I know of my own personal knowledge. I might say their law does not provide for the consent of a feeble minded person to such an operation.

Mr. HILDRETH of Cumberland: Mr. President, I want to pay a word of tribute to Senator Bishop, a new member of this Senate, who had the courage to raise a very delicate and difficult and troublesome problem. He has stated his case without rancour, without feeling, and fairly. Early in this season I thought I saw eye to eye with Senator Bishop upon his bill, harking back to immature studies in college. The question to me now is really very simple and can be decided in my own mind, at least, without a lot

of personal feeling. In the first place we have today, which I did not know when I conferred with Senator Bishop, a law which allows sterilization in all institutions or in institutions for insane and feeble minded which are the people we are most anxious to reach under the provisions of this bill. Consequently, they are taken care of.

What is the situation outside of the institutions? If anyone wishes voluntarily to have a member of his family sterilized, it may be done. I want to say right here if I have a defective son and a doctor tells me that he will probably have defective children, I would want my own son sterilized so he would not have inflicted upon him and upon the state, children who are morons. Well, it can be done voluntarily but the only people this bill can possibly reach are the people who would not consent to it voluntarily and if they do not consent to it, what does this bill do? It gives them the right to go first before a board which may decide in favor of sterilization and then goes before a jury, if the person does not want to be sterilized. Now, I ask any member of this Senate if he thinks that 12 people will unanimously agree upon a person once out of a hundred times? In other words, this bill is reduced to an almost ineffective bill and the only way it could be really made thoroughly effective would be to do away with that trial by jury, and I cannot make myself go that far. We would not want to see that done. Therefore it seems to be the whole problem is one of education and not a problem of forcing people to be sterilized. We are not yet ready to trust the other person, whoever he may be, you or the next person, with the power of decision, absolutely, of whether you or I or our children shall be sterilized.

Therefore, I have changed my mind from what I originally felt about this sterilization bill. I still have the utmost respect for Senator Bishop who tackled this problem which in political circles would be called a "red hot" problem, with frankness, even with kindness, charity and fairness.

Mr. BOUCHER of Androscoggin: Mr. President and members of the Senate, we have heard regarding this bill from the one who introduced the bill who seemed to know the question thoroughly. We have

also heard the legal minds on it. At this time I think I would like to interject into this a reaction of a common working man. I have received, all unsolicited, 28 telegrams from citizens of Androscoggin county and 51 telegrams from organizations of Androscoggin county which organizations represent 26,106 members, and also seven letters. At this time I would like to read a few passages from a very few of these telegrams. I have one here that says "The very anti-Christian and vicious bill." This one says, "Why dub Maine citizens with Hitler's laws?" This one here says, "A bill which is opposed to the best medical and economic judgments." This one says, "An un-American attempt to Nazify the constituency of Maine." This one, "Against medical science, natural and Christian ethics. It is a step towards dictatorship."

I have a letter from which I will read two paragraphs: "We believe this bill to be a move to abridge the freedom of human natural laws endowed to us by God, and we are of the unanimous opinion that the state under no circumstances has the right to take such personal and sacred right away from its citizens for any reason whatsoever. The dignity of the human person is still now the property of God only and therefore entirely out of the reach of the legislators whoever they may be. We thank God we live in a free country and not in Germany where all human rights and civil liberties exist no more. We defy anyone to prove successfully that this project of sterilization is correct and that by legislation, reproduction of mentally deficient and important can be stopped. All scientists of today agree on this important question which is relative to heredity alone." Another one here, "Shall humans be classified with animals?" Another one, "A cold-blooded criminal act."

I would like at this time to cite the case of a young boy that I know of in my community who at the age of 7½ years was epileptic. He had attacks for nearly one year fifteen times a day. He was operated on at the Lahey Clinic in Boston and today he is the leader of his class.

Here is another telegram, "Unworthy of the support of any good American."

Heredity has become a terror through superficial diagnoses. Dr. Eder at the Sexual Reform Congress held in London in 1929 expressed

clearly his opinion that sterilization, biologically speaking will not get rid of the unfit, will not lessen the feeble minded in the country to any appreciable extent and may contrariwise reduce the possibilities of the human producing individuals with talent and genius. He added that the doctrine of the all might of inheritance is still proclaimed by the popularizers of biological science, but that the doctrine is gone, since advance in the science of genetics has demonstrated its falsity. Its prevalence was an illustration of the adage or slogan that a little knowledge is a dangerous thing.

As I understand it, this bill was proposed to alleviate the burden cast on the state by institutions for feeble minded. Gentlemen, this is no argument. There are in our institutions patients who will never be able to assume a role in civil life. They must remain in segregation. Why therefore pay an extra charge to have them sterilized. As far as the others go—let us suppose that they are abnormal and irresponsible and that they may be released after being sterilized. But gentlemen, sterilization will not cure said persons. Sterilization will not take away from them the sexual urge. On the contrary they most likely will become sex maniacs due to the fact that sterilization has relieved them from the sanction of nature and then, gentlemen, the morality squads will have plenty on their hands. Said persons, if they are irresponsible—socially speaking—will have to be segregated anew. They eventually will become carriers of venereal diseases and will cause more trouble and will require more attention than before. The theory is economically unsound and ought not to be accepted.

Measure leading to dictatorship. Gentlemen this measure will open an avenue to a form of dictatorship socially unacceptable. It is impossible to define the abnormal or the feeble minded as we can define other patients. The abnormal is always defined not absolutely but in relation with a given milieu or environment. The mentally deficient might pass unnoticed in environments and circumstances where he finds tolerance, assistance comprehension and possibilities of adaptation while his irregularity would emerge abruptly in other circumstances. What rule, what criterion,

what crititude have we to judge of the feeble-mindedness of our fellow members or fellow citizens. This gentlemen will have to be solved if sterilization is to be applied. What abuses—what injustice will this law cause if put into the hands of a Board of Eugenics with medical bias or other prejudices. This bill, by extending unlimited and unrestrained powers to individuals will sow the seeds of dissension and social revolution. Who will suffer? The poor workingman. The workingman with a limited income, a low salary and this, gentlemen, will bring this country in the midst of class trouble, class hatred, religious diversions, at a time when national unity is most desirable. Gentlemen this bill ought not to pass.

It is unchristian and un-American. This country with its Magna Charta is established on Christian principles and on the acknowledgment of the Rights of God over man. The commandment "Thou shalt not kill" includes, I understand that the State might punish criminals, that the State might allow Therapeutic sterilization but I cannot see where the State takes its powers to mutilate innocent citizens for a so-called or a would be financial or economic purpose. Gentlemen, the state is limited in its powers over its citizens. As long as our country remains what it is—a democracy under the stars and stripes—it ought to respect the God given rights of its citizens. Let other nations who worship the purity of the Aryan race—mutilate, sterilize and terrorize their citizens, for utilitarian purposes, but we at least who believe in God, we who believe that the spirit makes a nation strong, let us not forsake our ideals for the sake of doubtful material interests.

Since it is not at all established through science that feeble minded persons will necessarily procreate feeble minded children, since it is not established that the sterilization bill is economically sound, since this sterilization bill will grant unlimited powers to a board who shall not be able to judge adequately of abnormalcy, since this bill is un-American, and gentlemen, for the common good of our nation for interior unity, I conclude that the bill Senate Paper 295, Legislative Document 528 ought not to pass.

Mr. CHAMBERLAIN: Mr. President, the Senator from Cumberland,

Senator Laughlin has said that the unemployable might be feeble-minded. Living not far from where I do is a man who has the care of lawns. There is no question about his being feeble-minded and yet he produced a beautiful daughter, a graduate nurse and of splendid character; but her brother, the son, is a degenerate and a moral pervert and will end far differently than the daughter.

How are we to determine the producing of children? We know of children of parents who haven't the first inkling of feeble-mindedness and yet the parents, judging from their actions, verge far beyond feeble-mindedness.

We can safely leave these things to some other person than ourselves. I know society is menaced in many ways but this is not one of them.

Mr. BISHOP of Sagadahoc: Mr. President and members of the Senate, a great deal has been said about mutilating the human body. I would like to read just a word here in closing this famous debate. "Sterilization is a surgical operation." This is the third paragraph of this pamphlet on your desks. "Which prevents parenthood without in any way or degree unsexing the patient, or impairing his or her health. It merely cuts and seals the tubes through which the germ cells must pass. It is wholly different from the crude and brutal operations of castration and asexualization, performed for the selfish purposes of the perpetrators. Primitive and pagan peoples castrated boys to produce eunuchs. Roman Catholics continued the practice until modern times, to provide male soprano voices for their cathedral choirs. Unlike these practices, modern sterilization is not a mutilation in any sense of the word."

That shows you that ideas change with the times. If there was anybody in this group who was not familiar with this question before the debate, surely they cannot say that now.

The PRESIDENT: The question before the Senate is on the motion of the Senator from York, Senator Harvey, to accept the Minority report, "Ought Not to Pass".

Mr. HARVEY: Mr. President, I ask for a division.

A division of the Senate was had. Twenty-eight having voted in the

affirmative and four opposed, the minority report, "Ought Not to Pass" was accepted.

Sent down for concurrence.

Mr. BISHOP: Mr. President, I think I have now a 100% record. I have presented six bills to this legislature and one by one they have been dropped into the ash can, so I can go home with a 100% record.

On motion by Mr. Libby of Cumberland, the Senate voted to take from the table, bill, An Act Relating to Farm Tractor Trailers (H. P. 1893) (L. D. 1108) tabled by that Senator on April 11th pending passage to be enacted; and on further motion by the same Senator, the Senate voted, under suspension of the rules to reconsider its former action whereby the bill was passed to be engrossed.

Thereupon that Senator presented Senate Amendment "A" and moved its adoption:

"Senate Amendment 'A' to L. D. 1108. Amend said bill by striking out from Section 1 thereof the figure '5' and inserting in place thereof the figure '4'."

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

Sent down for concurrence.

On motion by Mr. Chamberlain of Penobscot, the Senate voted to take from the table, bill, An Act to Provide Higher Standards of Education by Securing to Teachers Greater Permanency of Employment (S. P. 537) (L. D. 1095) tabled by that Senator on April 11th pending adoption of Senate Amendment "A".

Mr. CHAMBERLAIN: Mr. President, the question before the Senate at this time is on the adoption of an amendment offered by Senator Bishop as to what is known as the Teacher Tenure law. The whole effect or principal effect of the amendment which Senator Bishop has offered, is extending to four years instead of three years, wherever the word "three appears in the bill, it is changed to "four". That so seriously affects it at this time, at present it seems to me it never ought to be adopted. If we are going to have the tenure bill, let's have it. If we are not going to have it, let's throw it out, but to extend the time to four years instead of three would practically destroy its good-

ness now. There is a further change. Insert after the word "teachers" in the seventh sentence of section 2. In spite of Senator Bishop's changes from three to four years in the seventh sentence of section 2, the original bill in determining whether or not present teachers—and then he amends it—who have already served four years within the municipality shall require the status of indefinite tenure, the school committee shall adopt the recommendation of the superintendent of schools unless the recommendation is rejected by unanimous vote of the committee. But he says that in spite of it they can put this teacher on tenure. It seems to me the amendment is unnecessary, will do not one particle of good. I trust the Senate will oppose the adoption of the amendment, having voted for the Tenure bill.

Mr. BISHOP: Mr. President, I fear that my colleague, the Senator from Penobscot, is a bit mixed up on this case. One of the main objects of the tenure bill was to get teachers out of politics. As it is, with a three year period of probation, a teacher could go on with the school board members and before she had served three years could be placed on permanent tenure. By serving a fourth year under a different board she can establish, under an impartial or different board, her status and on tenure become so placed.

In regard to this last change, teachers at the present time who have served three or four years in a municipality would automatically go on tenure the next fall, eight or nine new superintendents taking office this summer. They wouldn't be acquainted with those teachers and just as a precautionary measure for these new superintendents it is quite essential that they have a chance to study their teachers, and for that reason only, through his recommendation and by the unani-

mous acceptance of the committee, can a teacher now in a municipality be made permanently on tenure. After the year is over and the thing is under way that will eliminate itself. This is the explanation of the amendment.

The PRESIDENT: The question before the Senate is on the adoption of Senate Amendment A.

Mr. CHAMBERLAIN: Mr. President, again let us have a division.

A division of the Senate was had.

Thirteen having voted in the affirmative and sixteen opposed, Senate Amendment A was not adopted.

Thereupon, under suspension of the rules, the bill was given its second reading and passed to be engrossed.

Sent down for concurrence.

Mr. CHASE of Washington: Mr. President, out of order and under suspension of the rules, I move that we reconsider our former action whereby we accepted the report of the committee "Ought Not to Pass" on bill, An Act Relating to the Salary of the Attorney General, L. D. 740, and may I state that if my motion prevails, I will move to have the bill laid upon the table pending acceptance of the report in order that I may prepare and present an amendment.

Thereupon, under suspension of the rules, the Senate voted to reconsider its former action whereby the report of the committee "Ought Not to Pass" was accepted on bill An Act Relating to the Salary of the Attorney General (L. D. 740) and on further motion by the same Senator, the bill and the report were laid upon the table pending acceptance of the report.

On motion by Mr. Friend of Somerset,

Adjourned until 9:30 o'clock tomorrow morning.