

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

Friday, April 25, 1941.

The Senate was called to order by the President.

Prayer by the Reverend L. L. Dunn of Gardiner.

Journal of yesterday read and approved.

The PRESIDENT: the Senate is now proceeding under orders of the day.

Orders of the Day

Mr. LIBBY of Cumberland: Mr. President, I would like to inquire of the Chair whether Legislative Document 1161, An Act Relating to the Manufacture and Sale of Cider, is in the possession of the Senate?

The PRESIDENT: The Chair will inform the Senator from Cumberland, Senator Libby, that the document is in the files and will be brought forthwith to the Chair.

The Chair now recognizes the Senator from Cumberland, Senator Libby.

Mr. LIBBY: Mr. President, I move that the Senate reconsider its action of yesterday whereby it voted to adhere to its previous action. I now yield to the Senator from York, Senator Batchelder.

Mr. BATCHELDER of York: Mr. President, I might say in relation to this particular bill that one of the objections to it has been the fact that cider might be dispensed in beer parlors. I understand that if this bill should receive passage an amendment will be submitted on that so that it will be fully under the control of the Liquor Commission, so that cider will not be sold in beer parlors. I think in view of that fact the situation in regard to this measure is considerably changed.

Senator Findlen spoke the other day saying that he considered this more or less of a temperance measure and that cider is now being bootlegged.

I believe that is true and I think that under this measure we will have some control over that. I trust that the motion to reconsider will prevail.

Mr. STILPHEN of Lincoln: Mr. President, I have been asked several times why I opposed this bill, and whether I was working for Frederick Smith or some of those men who

have been here this session but I want to say that he has never mentioned this bill to me. I will tell you, however, who has mentioned it to me. It is the WCTU, a little unit in my town, and I believe they are going down the line all the way for you and me and for our children and I don't believe you think it is a temperance measure and that the WCTU will come in here and vouch for it.

I hope the motion to reconsider does not prevail.

Mr. FRIEND of Somerset: Mr. President, I would like to ask a question of the Senator from York, Senator Batchelder, through the Chair.

The PRESIDENT: The Senator may ask his question through the Chair, of the Senator from York, Senator Batchelder, who may reply if he desires.

Mr. FRIEND: Mr. President, I would like to ask the Senator, where and by whom the cider would be sold and if this amendment which he speaks of passes, what the initial cost would be to the state if this bill goes through.

Mr. BATCHELDER: Mr. President, I might say that under this particular measure it would be sold in the state liquor stores the same as other liquors and wines are sold. I believe the bill provides that the proceeds of the sale would be divided, 40% of the revenue going to the state, 40% to the apple growers and 20% to be retained by the people that manufacture the cider.

We are seeking various ways for new revenues and I believe that under this particular bill the 40% which would accrue to the state will give considerable revenue to the state.

Does that answer the Senator's question?

Mr. FRIEND: I would just like to know, Mr. President, what the initial cost to the state would be before any revenue comes in?

Mr. BATCHELDER: In answer to that question, Mr. President, if the bill is enacted I believe it would be up to the commission — I don't know what the actual expense would be but I don't believe it would be any great expense. I believe that under the set-up of the bill it says it could be not to exceed \$100,000 which could be used out of the liquor money and I think of course the

liquor commission would actually see that they did not expend a great deal of money until they saw whether the thing was actually working out or not.

Mr. STILPHEN: Mr. President, when the vote is taken I would like to have it taken by a roll call.

The PRESIDENT: To order a roll call the affirmative vote of one-fifth of the membership of the Senate is required. Is the Senate ready for the question?

A division of the Senate was had. Obviously more than one-fifth of the membership having risen, the Yeas and Nays were ordered.

The PRESIDENT: The question now before the Senate is on the motion of the Senator from Cumberland, Senator Libby, that the Senate reconsider its action of yesterday whereby the Senate voted to adhere to its former action in indefinitely postponing the bill. Is the Senate ready for the question? The Secretary will call the roll.

The Secretary called the roll:

YEA: Senators Batchelder, Boothby, Boucher, Bridges, Chamberlain, Chase, Dorr, Dow of Franklin, Dow of Oxford, Elliot, Emery, Farris, Fellows, Findlen, Friend, Harvey, Harkins, Haskell, Hildreth, Libby, Melvin, Morse, Snow, Townsend—24.

NAY: Senators Bate, Bishop, Brown, Hinman, Laughlin, Sanborn, Stilphen, Tompkins—8.

ABSENT: Senator Hodgkins—1.

Twenty-four having voted in the affirmative and eight opposed, the motion to reconsider the vote to adhere prevailed.

Mr. BATCHELDER: Mr. President, I now move that the Senate reconsider its action of yesterday, whereby it failed to accept the report of the conference committee that the Senate recede and concur with the House in substituting the bill for the report.

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

A division of the Senate was had. Twenty-two having voted in the affirmative and seven opposed, the motion to reconsider the action of yesterday on the report of the conference committee prevailed.

Thereupon, on motion by Mr. Batchelder of York, the Senate voted to accept the report of the Conference Committee.

On further motion by the same Senator, the Senate then voted to

reconsider its former action whereby the bill was indefinitely postponed in non-concurrence.

Mr. BATCHELDER: Mr. President, I now move that the Senate recede and concur with the House in substituting the bill for the report.

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

A division of the Senate was had. Twenty-three having voted in the affirmative and eight opposed, the motion to recede and concur prevailed.

Thereupon, under suspension of the rules the bill was given its two several readings.

Mr. BATE: Mr. President, I desire now to offer Senate Amendment A to House Amendment A to Legislative Document 1161 and move its adoption.

The PRESIDENT: Will the Senator defer his motion until House Amendment A has been read and acted upon?

Mr. BATE: I withdraw my motion for the present, Mr. President.

The Secretary read House Amendment A.

Mr. CHAMBERLAIN: Mr. President, I would like to ask a question of the Senator from Kennebec, Senator Bate, through the Chair.

The PRESIDENT: The Senator may ask his question through the Chair and the Senator from Kennebec, Senator Bate may answer if he wishes.

Mr. CHAMBERLAIN: I would like to ask if the words 'hard cider' would have any relation to a person in the country having an orchard who might wish to make sweet cider, that is, cider with no alcoholic contents. Can people who have apples and a cider press make sweet cider that has no alcoholic content? Do the words 'hard cider' in the amendment have any relation or play any part in it?

Mr. BATE: In reply to the Senator, Mr. President, I will say that I understand it has not.

Thereupon, by a viva voce vote, House Amendment A was adopted.

Mr. BATE: Mr. President, I now renew my previous motion.

The PRESIDENT: The Senator from Kennebec, Mr. Bate, offers Senate Amendment A to House Amendment A and moves its adoption.

The Secretary read the amendment.

"Senate Amendment A to House Amendment A. Amend said amendment by striking out Section 6 thereof and inserting in place thereof the following Section: 'Sec. 6. Cider. How sold. The Commission may sell such hard cider in the same manner that it is now authorized to sell wines and liquors.'"

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

Sent down for concurrence.

From the House, out of order and under suspension of the rules:

Passed to be Enacted

Bill "An Act Relating to Payment of Accounts to the State." (S. P. 46) (L. D. 22)

Bill "An Act Relating to the Parole Board." (S. P. 372) (L. D. 688)

Bill "An Act to Prevent Fraudulent Advertising." (S. P. 567) (L. D. 1169)

Bill "An Act Approving the Purchase of Lamoine Coal Depot." H. P. 446) (L. D. 185)

Bill "An Act Amending the Gasoline Tax Act." (H. P. 1239) (L. D. 500)

Finally Passed

"Resolve, Dividing the State into Executive Councillor Districts." (S. P. 527) (L. D. 1090)

"Resolve, Authorizing the Purchase of Property for the State." (S. P. 558) (L. D. 1160)

"Resolve, Providing for the Revision of the Statutes." (S. P. 561) (L. D. 1163)

"Resolve, Permitting the Use of the Eastern State Normal School Plant as a Nautical Training School." (S. P. 566) (L. D. 1168)

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

From the House:

The Committee of Conference on the disagreeing action of the two branches of the Legislature, on Bill "An Act Relating to the Personnel Law," (H. P. 1445) (L. D. 795) had the same under consideration,

and ask leave to report that they are unable to agree.

Comes from the House, the report read and accepted.

In the Senate, the report was read and accepted in concurrence.

From the House:

The Committee of Conference, on the disagreeing action of the two branches of the Legislature on Bill "An Act Relating to Licenses and Permits for Outdoor Advertising," (H. P. 1153) (L. D. 357) have had the same under consideration and ask leave to report that the Committee is unable to agree.

Comes from the House, the report read and accepted.

In the Senate, the report was read and accepted in concurrence.

From the House:

The Committee of Conference on the disagreeing action of the two branches of the Legislature, on Bill "An Act Relating to the Practice of Chiropractic," (S. P. 482) (L. D. 1068) have had the same under consideration, and ask leave to report that the Committee recommends that both branches recede from their former action and that said act, in a new draft submitted herewith, "Ought to Pass."

Comes from the House, the report read and accepted, and the bill in new draft (H. P. 1933) (L. D. 1174) passed to be engrossed.

In the Senate, on motion by Miss Laughlin of Cumberland, the report was read and accepted in concurrence and the new draft substituted for the bill, thereupon, the new draft was given its two several readings under suspension of the rules, and passed to be engrossed in concurrence.

From the House:

The Majority of the Committee on Legal Affairs on Bill "An Act to Provide a Pension for Members of the Police Department of the City of Auburn," (H. P. 1169) (L. D. 468) reported the same in a new draft (H. P. 1931) (L. D. 1170) under the same title, and that it ought to pass.

(signed) Senators:

SANBORN of Cumberland
MORSE of Waldo
DOW of Oxford

Representatives:

SLOSBERG of Gardiner
DONAHUE of Biddeford
DWINAL of Camden

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

(signed)

Representatives:

SOUTHARD of Augusta
SYLVIA of Danforth
SHESONG of Portland
LaFLEUR of Portland

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

In the Senate, on motion by Mr. Sanborn of Cumberland the Majority Report "Ought to Pass" was accepted in concurrence and the bill was given its first reading; House Amendment A was read and adopted in concurrence and 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 Legal Affairs on Bill "An Act to Provide for a Pension for Members of the Fire Department of the City of Auburn," (H. P. 1170) (L. D. 469) reported the same in a new draft (H. P. 1930) (L. D. 1171) under the same title, and that it ought to pass.

(signed)

Senators:

SANBORN of Cumberland
MORSE of Waldo
DOW of Oxford

Representatives:

DWINAL of Camden
SLOSBERG of Gardiner
DONAHUE of Biddeford

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

(signed)

Representatives:

SOUTHARD of Augusta
SYLVIA of Danforth
SHESONG of Portland
LaFLEUR of Portland

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

In the Senate, on motion by Mr. Sanborn of Cumberland, the Majority Report "Ought to Pass" was accepted in concurrence and the bill was given its first reading; House Amendment A was read and adopted and under suspension of the rules, the bill as so amended was passed to be engrossed in concurrence.

Senate Committee Reports Final Reports

Miss Laughlin from the Committee on Judiciary submitted its Final Report.

Mr. Chamberlain from the Committee on Taxation submitted its Final Report.

Which reports were severally read and accepted.

Sent down for concurrence.

Ought Not to Pass

Mr. Bate from the Committee on Pensions on Bill "An Act Providing for Pensions for Certain County Officers and Employees," (S. P. 397) (L. D. 634) reported that the same ought not to pass.

Which report was read and accepted.

Sent down for concurrence.

Conference Committee Reports

The Committee of Conference on the disagreeing action of the two branches of the Legislature on (S. P. 524) (L. D. 1085) Bill, "An Act Relating to Hours of Employment," have had the same under consideration and ask leave to report that the Committee is unable to agree.

Which report was read and accepted.

Sent down for concurrence.

The Committee of Conference on the disagreeing action of the two branches of the Legislature on Bill "An Act Relating to Powers and Duties of the State Personnel Board," (S. P. 316) (L. D. 521) have had the same under consideration and ask leave to report that the Committee is unable to agree.

Which report was read and accepted.

Sent down for concurrence.

The Committee on Appropriations and Financial Affairs on Bill "An Act Providing for Joint Financial

Participation between the State and its Municipalities," (H. P. 1109) (L. D. 367) reported that the same ought to pass as amended by Committee Amendment "A" submitted herewith.

On motion by Mr. Sanborn of Cumberland the bill was laid upon the table pending acceptance of the report and especially assigned for later in the day.

The Committee on Taxation on Bill "An Act for the Assessment of a State Tax for the Year 1941 and for the Year 1942." (H. P. 1704) (L. D. 1027) reported that the same ought to pass as amended by Committee Amendment "A" submitted herewith.

Which report was read and accepted in concurrence, and the bill read once; Committee Amendment "A" was read and adopted in concurrence, and under suspension of the rules, the bill as amended was read a second time and passed to be engrossed in concurrence.

On motion by Mr. Friend of Somerset

Recessed until two o'clock this afternoon.

After Recess

The Senate was called to order by the President.

Committee Reports

Out of Order

Mr. Friend from the Committee on Pensions submitted its Final Report.

Which report was read and accepted.

Sent down for concurrence.

Conference Committee Reports

Out of Order

The Committee of Conference on the disagreeing action of the two branches of the Legislature on (S. P. 246) (L. D. 403) Bill "An Act Relating to the Administration of State Institutions," have had the same under consideration, and ask leave to report that the House receded from its former action whereby it accepted the Minority Report (Ought Not to Pass) of the Committee on Judiciary and concur with the Senate in the acceptance of the Majority Report (Ought to Pass in New Draft) (S. P. 565) (L. D. 1167) and pass the Bill to be engrossed.

Which report was read and accepted in concurrence.

From the House, out of order and under suspension of the rules:

Bill "An Act Creating a Tax on Cigarettes." (H. P. 1925) (L. D. 1164)

(In the Senate, on April 24th passed to be engrossed as amended by Senate Amendment "A" in non-concurrence.)

Comes from the House, passed to be engrossed as amended by Senate Amendment "A," as amended by House Amendment "B" thereto, in non-concurrence.

In the Senate, that Body voted to reconsider its action of April 24th whereby the bill was passed to be engrossed as amended by Senate Amendment A in non-concurrence.

Thereupon, House Amendment B to Senate Amendment A was read:

Mr. CHAMBERLAIN of Penobscot: Mr. President and members of the Senate, as Chairman of the Taxation Committee, I feel it is incumbent upon me to say a few words to you. The Committee has had a rather difficult time in considering the many bills that were before them. It gave much consideration to them, collectively and individually and as we felt from time to time we passed them out to the legislature either to be passed or not to be passed, leaving the legislature itself to determine what was the wise thing to do.

Eventually we passed out the so-called "Cigarette Tax" bill and you have recently gone through the experience of amending the bill as reported by the committee and substituting a definite plan or method of collecting the tax. It is not the best bill that a legislature or that this legislature can enact, at least in my estimation, and also in the estimation of some members of the Taxation Committee. But it is before us. It has been adopted by both branches and now it appears with an emergency amendment.

Yesterday I had something to say about confessions and again I must say something to you on that line. The emergency part of the Constitution is very emphatic in the use of words and equally emphatic in the phrases that those words go to make up and I want to read it to you:

"An Emergency bill shall include only such measures as are immediately necessary" immediately ne-

cessary "for the preservation of the public peace, health and safety." I do not believe that this bill before us comes under that clause, just as I believe that many other bills that are passed here with an Emergency, do not come under that clause. But the latitude of words, the meaning of words is so broad that each individual must decide for himself as to whether this bill does come under this clause of the Constitution. But, believing as I do that this bill does not come under that clause even though it is well written and you have heard it read and have it on your desks, I do feel that I must use the latitude that is given to each member of this Senate and, in spite of my belief, the exigency of the occasion is so great that I believe the Senate must pass this bill with this emergency amendment.

It is not ideal, but the cause that prompts the bill, as is so well worded in the amendment, makes me feel that I must vote for the amendment and the good Lord measure my soul for doing so.

Mr. ELLIOT of Knox: Mr. President, I move the adoption of House Amendment B to Senate Amendment A and I ask that when the vote is taken, it be taken by the Yeas and Nays.

Mr. LIBBY of Cumberland: Mr. President, opposing the adoption of this amendment, may I first read a little more from Article 31: "unless in case of emergency—which with the facts constituting the emergency shall be expressed in the preamble of the act—the legislature shall by a vote of 2-3 of all the members elected to each house otherwise direct." So, this act does not take effect for ninety days unless the legislature by a 2-3 vote says otherwise. "An emergency bill shall include only such measures as are immediately necessary for the preservation of the public peace, health and safety." Now let me read to you what Noah Webster says about an emergency: "An unforeseen combination of circumstances which calls for immediate action."

We have had a waiting list on old age pensions ever since Governor Brann was in office. It has been accumulating for years and I would like to have anybody in this Senate tell me what has happened on April 25, 1941 which has been unforeseen. This thing has been foreseen for years. "An unforeseen combination

of circumstances." We have been in session here since January 1st and after more than 3½ months of deliberation we have suddenly discovered, in the House of Representatives that there has an emergency arisen today, an emergency which, as my good friend the Senator from Penobscot, Senator Chamberlain, in the Senate said the other day, is rather fictitious.

I have just heard somebody say, "Why, the emergency is that the state hasn't any money." Well, if that is true a good many individuals here are in a state of perpetual emergency. There are two other matters which I think much more nearly approximate emergencies than the pending amendment. The first one is the number of recipients and applicants on the waiting list that should not be there. We have a law on the statute books that applicants who have relatives within a certain degree who are able to contribute to their assistance shall not receive the assistance from these public monies.

The department has said that they have never been able to do much with that law because it didn't have any teeth. We have passed an enactment which does have some teeth and they can do something with that. If the investigators in the department will put in their time eliminating unworthy persons from that list, we will save some money. Public money saving they are not much interested in, but the day we had the hearing before the Committee on Salaries and Fees everyone was there with their little note books and could tell you how much it cost them to run their automobiles and how much the great state of Maine was cheating them on mileage. Another point, as the Senator from Androscoggin, Senator Boucher pointed out, let's have a little economy in state government. I get in here around 9:30 in the morning from Portland and often stop in the lunch room down stairs to get a cup of coffee and the place is crowded with state house employees getting their breakfasts. If I stop in there when I come in for an afternoon session at 3:30. I find them there having tea and crumpets. I suppose they are there discussing the affairs of state and wondering what the fool legislature is going to do. How many of you would stand for your employees go-

ing out for breakfast at 9:30, and dropping out during the day and having coffee and cakes?

I will not burden you with an extended argument this afternoon. We passed on the merits of the bill and it is over and done with, and for my final argument, let me present to you the bill, itself. I call attention to section 20 on the last page, commencing with the 5th line, "provided, further, that at such time as federal legislation, and enforcement of such legislation, makes it unnecessary for the state of Maine to provide for the payment of old age assistance"—if that happened the emergency has ended, as written in this amendment? It is the end? Oh, no. "The revenue derived from the tax herein imposed shall be segregated and held for the purpose of providing for the reduction of the tax on real estate at the discretion of the next ensuing legislature." When the emergency defined in this amendment ends, your tax goes on and leaves the gravy for the next legislature to parcel out where it will.

If this is an emergency—well, as I say, we have passed this bill. We have knocked the cigarette smoker down by passing it, and now let's not jump on him with both feet and deprive him of his constitutional right of appeal to the electorate of Maine to review our decision. It just isn't fair.

Mr. HILDRETH of Cumberland: Mr. President, I would like to read a short part of a memorandum that was prepared by the Finance Commissioner for the executive meeting of the Appropriations Committee this morning. After setting up certain figures he comes to the nub of the problem in this language: "If no emergency clause is enacted this would result in a loss of approximately \$120,000, which would care for about 900 old age assistance cases so that we would have to assume that if the bills mentioned were passed, that for the first year of the biennium we would be able to provide for only 13,400 cases, or about 400 more than we are at the present time. In the event that no emergency provision were added, we would be in the position, providing a referendum were invoked, whereby at least three and a half months' revenues would be lost, or approximately \$400,000. This would provide for about 3,100 cases, and these cases would have to be

eliminated during the first year's operation of the Old Age Assistance program, and this computation is on the basis that the referendum would be approved by the people.

"If the referendum vote were against the tax measure, then the only monies that would be available for Old Age Assistance would be \$565,000, the amount that would be appropriated from general funds, and this amount is only sufficient to care for approximately 4,000 Old Age Assistance cases, meaning that 9,000 cases would have to be eliminated immediately from the rolls.

"If the emergency, however, were enacted, not only would the program be assured of fulfillment on the basis of 14,300 cases for the first year, but it would likewise be possible to add approximately 1,400 additional cases, or a total of 15,700 during the first year."

A similar statement of the second year of the biennium could be made but I won't bore you with any more figures. He concludes: "From this it should be apparent that the Old Age Assistance program that has never been financed on a sound and stable basis would, in effect, be nearly wiped out unless the Legislature should place an Emergency on both the cigarette tax, if enacted, and the liquor tax, for in this way—and this way alone—can you be assured that when you leave this legislature that the program you have worked for can be faithfully fulfilled. We have every reason to believe that if no Emergency is attached, a referendum would be sought, and history of votes on tax measures usually results in the defeat of the measure passed, on the premise that the people desire the service but are reluctant to vote a tax in order to support that service."

Now, let me ask the members of this Senate, if they were one of 3,100 cases that would be immediately dropped if a referendum were initiated, if they were one of the 9,000 cases that would be immediately dropped if the referendum killed the cigarette bill, would not they think this was an emergency of the highest order?

Let me ask the members of the Senate if they were a town manager or first selectman of a town and they had this load dumped upon them because the state had failed to provide the wherewithal to meet

these obligations, would not they say it was an emergency of the first order? I do not think there is a question in anyone's mind on that score.

What would be the situation provided the cigarette tax were killed by chance, by the referendum? We would be back here struggling as we have struggled for the last four months, and we would try to pass another tax and would go through exactly the same procedure.

We are now, today, this afternoon, on the verge for the first time, of meeting obligations under the old age assistance law. We should not let this opportunity slip from our hands. It will be back around our necks more pressing than ever unless we take care of it here today.

I want to admit, as one who has had some legal training and who practices law, that a strict construction of this emergency language in the Constitution would give any lawyer pause, but it seems to me we have got to face realities and actualities, and if you will recall the history of measure after measure, bill after bill and act after act, which was put through under this emergency clause, you will find we have a precedent, almost one might say a hallowed precedent, which confronts us today in referring to that emergency language.

In these tense moments, the closing moments of this legislature, I hope, it might not be amiss to relieve the tenseness by repeating a story I heard last night, which seemed to me rather apt in applying to this emergency language. Some of you heard it last night and can tell it better than I can tell it, but the implication is obvious. It seems that a few years ago there was a livery stable man who had an attendant and he came down to work one morning and he found his attendant was looking very woe-ful, sad and forlorn. "What is the matter, Joe? What is the matter?" "Oh, my wife she is so nervous, so sick, she won't even let me make love to her any more." "That is too bad, Joe, she will be better in a couple of days." But she didn't get better and every morning when the boss came to work he would find that Joe was feeling just as mournful as he did that first morning. The boss was going away for a couple of days business trip so he

left Joe some medicine. He said, "Joe, this medicine will cure anything. Give your wife some of this." So Joe thanked him. When the boss came back he found Joe whistling and singing at his work. He said, "Well, Joe, that is fine. I take it the medicine worked." Joe said, "It was wonderful, Boss." "Then," said the boss, "you ought to write a testimonial telling what it did for your wife." "What do you mean, testimonial?" "Well, write something so they will know how much the medicine helped your wife." So Joe wrote a letter of testimonial, which read something like this: "My wife was so nervous and upset that I could not make love to her, but after taking a bottle of your medicine, anybody can make love to her."

That is the history of our Emergency act today. We are confronted with an emergency that is very real.

Mr. HINMAN of Somerset: Mr. President, I can at least be consistent, and having been opposed to the enactment of this measure but being convinced that the will of the majority should prevail, I am no longer concerned in the merits or demerits of a cigarette tax and although the Senator from Penobscot, Senator Chamberlain and the Senator from Cumberland, Senator Libby, were on opposite sides of the question and they have both taken the same viewpoints about the emergency clause, I am willing to admit that in my opinion, there is ample occasion for the proper use of an emergency clause on this measure so far as the need of the funds is concerned. However, I am again called upon to weigh the need of those funds and the obligation of the state of Maine to produce those funds in an orderly manner as fast as they choose to take on obligations which use the funds but I do not think they have any right to put us in the predicament of needing an emergency measure. But I am willing to grant an emergency measure may be in order from the angle of needing the money. I still say to you that if there was any cause for the refusal of a cigarette tax, there is many times more cause and necessity for giving the citizens of this state an opportunity to reject it if they want to.

I want to read to you again from the sheet which the Senator from Cumberland, Senator Libby, used a

few minutes ago. "From this it should be apparent that the old age program that has never been financed on a sound and stable basis would, in effect, be nearly wiped out unless the Legislature should place an Emergency on both the cigarette tax, if enacted, and the liquor tax, for in this way—and this way alone—can you be assured that when you leave this legislature that the program you have worked for can be faithfully fulfilled." This is the part I want to call especially to your attention: "We have every reason to believe that if no Emergency is attached, a referendum would be sought, and history of votes on tax measures usually results in the defeat of the measure passed, on the premise that the people desire the service but are reluctant to vote a tax in order to support that service."

You may recall that yesterday our able Senator from Kennebec, Senator Bate, in speaking here reminded us that we had a mandate from the people "and they don't want it." That was what he told us. If we have a right to consider a mandate from the people to this extent certainly those people have a right to issue that mandate.

I submit to you if we cannot find a tax measure that is worthy enough to take it to the citizens of this state to get their approval, we had better find some other way to get the money.

Mr. BRIDGES of Washington: Mr. President, I rise to second the motion as made by the Senator from Knox County, Senator Elliot, that we accept this amendment.

I have heard so many definitions of emergency since the discussion began, that it seems to me that I shall have to decide for myself whether an emergency exists.

If I should take a trip into a foreign country, thinking that I had \$400,000 in my pocket and find out that I had missed the proper pair of pants and was in the hole about one-half million, I would think that an emergency existed.

When this administration came into office, we had been told by the retiring governor that we had an unexpended balance of \$400,000 in the Treasury and when we looked into the figures we were actually confronted by nearly a half million deficit. That creates an emergency, for if we had the \$400,-

000 perhaps we could carry on with the old age assistance until this bill might go to a referendum and be favorably passed. But we don't have that \$400,000. It has gone—with the wind.

Now we are under the immediate necessity of getting the money, and this amendment B is the vehicle that we want to ride along with. I believe I have said once before in this Chamber that I propose to vote for the broadest-based tax. Perhaps that tax, the sales tax with the homestead exemption and the provision for old age assistance which it embodied is beyond repair but not being able to get a whole loaf, I am satisfied to take a half loaf because this bill proposes to take care of the very same class of people as the other bill proposed to take care of.

If I were not quite sure that an emergency existed, I am not going to worry about fine-spun legal definitions while the old folks are going over the hills to the poor house or being carried out to lie in paupers' graves. They are our people. They are the backbone of the State. They made the roads, picked the rocks, they tore down the forests and built the homes. Shame on anybody that will see those people suffer because they cannot quite agree on what an emergency is.

Discuss emergency while people starve? It may be that while we knew that some people were in want, we were still of the number of those who having eyes could see not and having ears could hear not the real heartfelt complaint of our people.

It is just recently that we have awakened to the tremendous need of thousands of our aged poor and when I have gone to their homes and seen the barn hinges off and the doors falling away and the lintels dropping down and the top of the stove so burned out that it had dropped in and they have to put a brick under it to hold it up, when I have seen those conditions the words of Bobby Burns come back to me: "Old age and want, that ill-matched pair."

Let me show you a picture. It is hard to do it for truly, words cannot describe the distress of our aged poor nor limner transfer to canvas the awful tragedy of their plight. I went into a home not long ago where the old gentleman was sleep-

ing on a couch made of box boards, for a mattress he had an old horse blanket and over him was an old laprobe. And the front of the heater-stove had burned out and a dust-pan had been flattened out and put in for a front and was held in place by a brick. Why, then, do we sit here and talk about what constitutes an emergency when there are thousands of homes just like that?

He married when young and took his young wife to that home. He worked for a generation, almost two generations. I have been to his place early in the morning when the goddess of the dawn was just pulling aside the curtain of the east and ushering in the eager god of day. I have been to his home when they sat there as the day died out of the sky. And now, in their seventies—you should go into that home.

They want this relief. They need it. And they are just typical of thousands of others. And I am not going to sit here and quibble about an emergency, when such people are suffering. Who says there is an emergency? We do, the sovereign legislature of the state of Maine, in the paper before us, say that certain things constitute an emergency. What power is there to say that they do not? And the emergency is this, we must create the legislation now, right now, to take care of a need which may be just a step beyond. We tie on an emergency preamble to build a school over in Carmel. The children are going to school, the building won't be completed until the fall, but we must tie on the emergency preamble so that they can begin to build now.

This emergency is to begin to collect now so we can pay the need as it comes along. I wouldn't feel that I had performed my duty to the poor people of this state unless I supported this amendment, Mr. President, and I shall not let the door of this state house close upon me until we pass this or some other legislation to relieve the suffering of the poor of this state. And any Senator who goes through that door without so doing will, next June or September, go through another door to political oblivion.

I am not going to vote to blacken and blister and burn the lives of those aged poor, those needy poor. I am going to vote, and I am asking you fellow Senators to vote with me, so that we can paint into the

sad and pallid cheeks of those aged people, some roses of hope and of happiness.

Mr. LIBBY: Mr. President, I should say off-hand that if the Senator from Washington wore those trousers for a period of five years they should have become a habit and not an emergency.

Now, I will stay here just as long as the Senator from Washington in order to pass a fair, just and equitable tax to take care of old age assistance. My colleague from Cumberland has asked, "How do you suppose one of those old persons would feel if this measure fails and they don't get their money?" My answer to that is that they will probably feel just the same as the cigarette smoker will feel when he pays his taxes of two or four cents a day over the counter to pay for old age assistance while your pipe smokers and cigar smokers and non-smokers go on their way tax-less and rejoicing.

The PRESIDENT: The question before the Senate is on the adoption of House Amendment B to Senate Amendment A and the Senator from Knox, Senator Elliot has asked for the Yeas and Nays. To order the Yeas and Nays, the affirmative vote of one-fifth of the membership of the Senate is required. Is the Senate ready for the question?

A division of the Senate was had. Obviously more than one-fifth having risen, the Yeas and Nays were ordered.

The Secretary called the roll.

YEA: Senators Bate, Bishop, Boothby, Bridges, Chamberlain, Chase, Dorr, Dow of Franklin, Dow of Oxford, Elliot, Emery, Farris, Fellows, Findlen, Friend, Harvey, Harkins, Haskell, Hildreth, Laughlin, Melvin, Morse, Stilphen, Snow, Tompkins—25.

NAY: Senators Batchelder, Boucher, Brown, Hinman, Libby, Sanborn—6.

ABSENT: Senator Hodgkins.

EXCUSED: Senator Townsend.

Twenty-five having voted in the affirmative and six opposed, House Amendment B to Senate Amendment A was adopted in concurrence.

Thereupon, the bill as amended by Senate Amendment A as amended by House Amendment B thereto, was passed to be engrossed in concurrence.

On motion by Mr. Sanborn of Cumberland, the Senate voted to take from the table bill, An Act Providing for Joint Financial Participation Between the State and its Municipalities (H. P. 1109) (L. D. 367) tabled by that Senator earlier in today's session pending acceptance of the committee report and on further motion by the same Senator under suspension of the rules, the bill was given its two several readings, Committee Amendment A was read and adopted in concurrence, and the bill as so amended was passed to be engrossed in concurrence.

On motion by Mr. Elliot of Knox, the Senate voted to take from the table bill An Act to Appropriate Monies for the Expenditures of State Government and for Other Purposes for the Fiscal Years Ending June 30, 1942 and June 30, 1943 tabled by that Senator on April 22nd pending passage to be engrossed; and that Senator yielded to the Senator from Washington, Senator Chase.

Thereupon, Mr. Chase of Washington presented Senate Amendment D.

Mr. CHASE: Mr. President, I move the adoption of Senate Amendment D and may I say in support of that motion that this simply brings the figures in the appropriation bill up to date.

The Secretary read Senate Amendment D: "Senate Amendment D to S. P. 488, L. D. 1014"; bill, An Act to Appropriate Monies for the Expenditures of State Government and for Other Purposes for the Fiscal Years Ending June 30, 1942 and June 30, 1943.

Amend said bill by striking out in the first and second columns of figures, the figures '120,000.00' where they appear opposite the words 'Support of dependent soldiers, sailors' under the heading of 'Health and Welfare Department', and inserting in the first column the figures '115,000.00', and inserting in the second column the figures '114,000.00'; and by striking out the figures in the first and second columns '2,275,000.00' where they appear opposite the words 'Old Age Assistance' and inserting in the first column the figures '565,000.00' and inserting in the second column the figures '79,000.00'.

Further amend said bill by correcting the figures opposite 'Total Health and Welfare' to correspond with the changes made herein.

Further amend said bill by striking out the figures '13,000.00' in the first and second columns opposite the words 'Departmental operations' where they appear under the heading of 'Institutional Service, Department of', and inserting in place thereof the figures '19,600.00'.

Further amend said bill by striking out the figures '200,000.00' where they appear opposite the words 'Prison, Maine State' under the heading of 'Institutions', and inserting in place thereof the figures '194,000.00'; and by correcting the figures opposite the words "Total institutions" to correspond with this correction.

Further amend said bill by correcting the figures opposite the words "Total all appropriations" to correspond with the changes made herein.

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

Sent down for concurrence.

From the House, out of order and under suspension of the rules:

Bill "An Act Relating to the Inheritance Tax Law." (H. P. 1285) (L. D. 551)

(In the Senate, on April 24th, passed to be engrossed as amended by Senate Amendment A as amended by House Amendment A thereto in non-concurrence.)

Comes from the House, passed to be engrossed as amended by Senate Amendment A and as amended by House Amendment A in non-concurrence.

Miss LAUGHLIN of Cumberland: Mr. President, I move that the Senate insist on its former action and ask for a committee of conference. I know it is late for a committee of conference but I think it can be done and I certainly would not be willing to move to adhere so I ask that we insist and ask for a committee of conference.

Mr. LIBBY of Cumberland: Mr. President, I move that the Senate recede from its former action and concur with the House.

Miss LAUGHLIN: Mr. President, I wish to oppose that motion. We discussed that pretty thoroughly.

And as to the question on these small legacies I might say that if there were time I wish every member of the Senate could go and talk to the inheritance tax appraiser who says this House amendment A is wrong and ought to be defeated. It isn't on the proper principle and, when I said I had made a motion to indefinitely postpone it he said that was what should have been done but we didn't do it and so I offered this amendment on the small legacy. We have discussed it twice here and the Senate passed that and therefore I trust that we will not recede and that that motion will be defeated and at least have a committee of conference.

Mr. LIBBY: Mr. President, the information that comes from the inheritance tax office is that the Senate Amendment, taking one month as a typical month would make a difference by lessening the estimated income for a month of \$17,928.56. And during the period of 12 months there would be a loss in estimated revenue of \$215,142 and that would throw the administration all out of kilter on this.

Miss LAUGHLIN: Mr. President, he informs me that is not an indication of what 12 months would be. He said they took some months at random. He also said it is assumed there would be gifts and so forth that would have to be reckoned with. We discussed diminishing returns and as far as those figures are concerned we cannot accept them as evidence for a year.

Furthermore, as I said yesterday there will be nothing coming in from that for fifteen months anyway because it will take three months for the bill to become effective and it takes a year to settle an estate of anyone who dies. So I don't think that cuts much of a figure on the question of raising money.

The PRESIDENT: The question before the Senate is on the motion of the Senator from Cumberland, Senator Libby, that the Senate recede from its former position and concur with the House.

Miss LAUGHLIN: Mr. President, I ask for a division.

A division of the Senate was had.

Eleven having voted in the affirmative and fourteen opposed, the motion to recede and concur did not prevail.

Thereupon, on motion by Miss Laughlin of Cumberland, the Senate voted to insist on its former action and ask for a Committee of Conference.

Subsequently the President appointed as Senate members of such committee:

Senators:

LAUGHLIN of Cumberland
BROWN of Aroostook
STILPHEN of Lincoln

From the House:

The Committee of Conference on the disagreeing action of the two branches of the Legislature, on (H. P. 830) (L. D. 344) Bill "An Act to Assist Rural Sanitation Activities," have had the same under consideration and ask leave to report that the House recede from its former action whereby it passed the bill to be engrossed as amended by House Amendment "C", and indefinitely postpone House Amendment "C" and adopt Conference Committee Amendment "A" and pass the bill to be engrossed as amended by Conference Committee Amendment "A";

and that the Senate recede from its former action whereby it passed the bill to be engrossed as amended by Senate Amendment "A" in non-concurrence and indefinitely postpone Senate Amendment "A" and adopt Conference Committee Amendment "A."

Comes from the House, report read and accepted, and the bill passed to be engrossed as amended by Conference Committee "A", as amended by House Amendment "A" thereto in non-concurrence.

In the Senate, that Body voted to recede from its former action whereby the bill was passed to be engrossed as amended by Senate Amendment A, and Senate Amendment A was indefinitely postponed.

Conference Committee Amendment A was read and adopted in concurrence.

House Amendment A to Conference Committee Amendment A was read.

Mr. CHAMBERLAIN of Penobscot: Mr. President, the conference committee recommended the adoption of the conference committee amendment, which seemed to please all the conferees and was satisfactory, as far as it could be made so. And then in comes House Amendment A to the Conference Commit-

tee Amendment A. You have just heard it read. I will read it again.

(The Senator read the amendment.)

Now, in talking with some of the members of the House and finding that this applies only to Portland and that the city of Lewiston, the city of Auburn, the city of Bangor would be left entirely out, it seems to me that by accepting this we would seriously alter the recommendations of the conference committee. And again talking with some of the members of the House yesterday they said, "If you don't like it send it back." I move, Mr. President, that House Amendment A to Conference Committee Amendment A be indefinitely postponed.

A viva voce vote being had, the motion prevailed.

Thereupon, the bill as amended by Conference Committee Amendment A was passed to be engrossed in non-concurrence.

Sent down for concurrence.

From the House:

The Committee of Conference on the disagreeing action of the two branches of the Legislature on (H. P. 246) (L. D. 85) Bill "An Act Recreating the Bureau of State Institutions," have had the same under consideration and ask leave to report that the Committee is unable to agree.

Comes from the House, report read and accepted.

In the Senate, the report was read and accepted in concurrence.

From the House:

Bill "An Act Relating to the Manufacture and Sale of Cider." (H. P. 1560) (L. D. 849)

(In Senate on April 25th bill substituted for the report and passed to be engrossed as amended by House Amendment "A" as amended by Senate Amendment "A" thereto in non-concurrence.)

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

In the Senate, on motion by Mr. Batchelder of York that Body voted to recede and concur with the House in the indefinite postponement of the bill.

From the House:

The Committee on Ways and Bridges on bill "An Act Relieving

Towns from Certain Maintenance Costs on Roads," (H. P. 451) (L. D. 189) reported the same in a new draft (H. P. 1936) (L. D. 1176) under the same title, and that it ought to pass.

Comes from the House, report accepted, and the bill passed to be engrossed as amended by House Amendments "C", "D" and "E."

In the Senate, the report of the committee was accepted in concurrence and the bill was given its first reading.

House Amendment C was read:

Mr. HINMAN of Somerset: Mr. President, if I understand correctly this is amendment C to L. D. 1176 and this is taking care of an appropriation and I am at a loss to know when the appropriation has been made.

Mr. FRIEND of Somerset: Mr. President, in answer to the question of the Senator, I will say that the appropriation was made in House Amendment D.

Mr. HINMAN: May I ask, Mr. President, if we have adopted House Amendment D?

The PRESIDENT: The Chair will inform the Senator that House Amendment D has not been adopted by the Senate.

Mr. HINMAN: So, Mr. President, I am at a loss to know why we are disposing of funds that we haven't yet raised.

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

Mr. FRIEND: Mr. President, I would like to explain this bill at this time. This is the original Holman bill in new draft which provides for the state taking over various charges against the towns; that is, payments that the towns had to make for road maintenance, bridge maintenance and snow removal, and to relieve the towns of these charges by the state highway department taking them over.

In doing this it relieves the towns and cities of the state of Maine to the amount of \$932,000 a year in real estate taxes. These services that the state will take over would be maintenance on state highways and snow removal which now costs the towns \$100 a mile and which would be taken over by the state, which two services would amount to \$272,000 saving to the towns and cities.

The bill also provides the taking over by the state of the maintenance of the state aid highways which would save a town \$30 a mile on such highways or \$150,000 a year to all towns and cities, and provides for the state taking over the entire maintenance of third class roads, which would be a saving to the town of \$300,000 a year and provide that the state shall take over the maintenance cost of bridges built under the bridge act which is a saving of \$100 a year, totaling \$932,000.

Now, all the saving to the towns and cities would be to help and benefit the cities but would also benefit the small towns more than the cities because they have a small valuation to place a tax on and have many miles of roads and high rates.

In some towns it would reduce the tax by as high as eight or ten mills. In many of the small towns it would reduce the tax by at least four mills.

Now, there has been a great effort made and many members of the legislature both in the House and in the Senate have been trying in some way to reduce real estate taxation. In this they have been unsuccessful so far and this bill provides about the last resort to those gentlemen in reducing real estate taxation.

They have shown a lot of strength in this legislature and I think that their efforts should be recognized and I am strongly in sympathy with the idea of reducing real estate taxation in the small towns on the farm and on the homes and on general real estate.

This bill would be financed by what is contained, if I may explain it at this time, in House Amendment D which provides a tax on gasoline of one-half cent. This tax would be running about two years whereas the Holman bill would only be effective one year and there would be some more money raised by the tax than what the expense of the Holman bill would be, and House Amendment C provides that the money produced by the tax would go into the general highway fund.

Following the next biennium there wouldn't be quite enough raised by the half cent tax to take care of the \$932,000 annual expenditures of the highway department by the Holman bill. So then there would be no surplus.

Now, House Amendment E provides a new title for the bill. I thoroughly believe that this legislature, before it adjourns, should provide some relief although this may be somewhat small, but to the small towns it is large, to the farmers and home owners and all other real estate. I very much hope that this bill will obtain passage.

Mr. HINMAN of Somerset: Mr. President, I am a hundred percent in sympathy with the Holman bill. I think it is a proper activity of the state. I think it is just an ordinary procedure that the state should assume these liabilities. It is done in other states and I think it is within their province to have it definitely designated, if necessary, that it shall be a state activity.

But my point is that we are not discussing merits of the Holman bill. We have had offered an amendment which disposes of an appropriation that we have not yet made and it just seems to me that we are assuming a whole lot when we do that. I will rise to a point of order, if necessary. I don't think it is relevant to the question under consideration.

Mr. BROWN of Aroostook: Mr. President, as I have on two occasions talked at length on the necessity of relieving real estate from taxation and you members have gone along very nicely with me and listened to me and given me your approval, I know I ought not to talk longer about the necessity for relief of real estate.

To my mind it is one of the things it is very necessary for us to do. If we go away without passing this bill, then you have done nothing to relieve the tax upon homes and farms of the people of the state of Maine. This does not go as far as I would like to have it go but it is a long step in the right direction. It is taking over by the state the maintaining of roads, which should have been theirs, or at least since the days of improved roads.

One of the reasons for high taxes in our towns, especially the small towns, as has been brought out by the Senator from Somerset, Senator Friend, is because of the high tax which it is necessary to put upon real estate in order to maintain roads.

You probably all understand that when a state road is built through a town, even though the town had no particular need for it, but simply because it happened to be a through way and as you people needed a road to get from one city to another, that town was immediately saddled for the cost of \$100 a mile, \$60 per mile for summer maintenance and \$40 for snow breaking. You all want snow breaking but in many cases it is a burden which cannot be carried by people who own real estate in the town. It is a burden which could properly be borne by the state and it is one of the largest activities which the state proposes to take over under this bill. The same thing applies to other roads. I am not going into it all because the Senator from Somerset, Senator Friend has explained the different costs and one is maintenance of bridges built under the Bridge Act. Under the Bridge Act, the town, county and state contribute to the building. The state has the most money in it. After it is built, it is turned over to the town to maintain. Some do not require much maintenance. Some do require repainting and perhaps because the town cannot afford to repaint it, it goes without painting and deteriorates. The same is true of planking and tar on bridges and it should be furnished by the state. So on through the list.

As a member of the committee on Ways and Bridges, we have gone into this very thoroughly and we can find no place in our program where we can finance any of these, or any appreciable amount of it without seriously hampering maintenance and construction of roads in the state of Maine. You understand, the cost of maintenance is going up. I understand the cost of tar on roads in Maine this year has gone up \$290,000 on account of the rise in prices of tar since we came here in January. The cost of maintenance is going up because of the increased cost of labor this summer.

There is no way you can provide these activities and relieve the burden upon taxpayers unless you provide the revenue to do it with. This is the purpose of the amendment which is proposed here, providing for one-half cent increase in the gasoline tax.

Now, this is a just measure, one that I believe every man who be-

lieves the tax on real estate should be relieved, who honestly thinks that and wants to go back to the people and say, "We have done a good job and we have taken care of old age and have relieved to some extent the tax upon your real estate." I believe every member of this Senate is in favor of it. I know you are in favor of relief on homes, and I might say while the other branch didn't seem to agree with my method, they almost un-animously favored this method, and so I believe this is the method we should adopt.

I do not need to say anything about the gasoline tax. You know what it is. Not like the sales tax which I advocated, which took from everybody, this takes only from the people who use the roads to help pay for the roads, which is a proper place for it. As you all know, the gasoline companies can jack the price of gasoline up a cent or half a cent, or drop it, any time they see fit. I buy considerable gasoline for use on my farm. I have a 500 gallon tank. So far as I know, there has been no increase in tax recently, but the price I have to pay for gas fluctuates every time it is brought to me. It varies two-tenths, three-tenths—sometimes a quarter of a cent—and the same is true of oil, and I have to pay it. If gasoline companies have to juggle the price up as they do, I do not think any of us will notice the difference of one-half cent a gallon tax.

I certainly hope the members of this branch of the legislature will decide to do a good deed for the people back home and relieve real estate taxes, by the passage of this measure.

Mr. HINMAN of Somerset: Mr. President, I am sorry I am not capable of making myself understood. I do not understand we are arguing the merits or demerits of the Holman bill or the gasoline tax. We have here an amendment which disposes of revenue we have not yet got. I do not understand how we can take that action.

The PRESIDENT: The Chair will state for the information of the Senator from Somerset, Senator Hinman, that we followed the endorsement on the papers that came from the House. It would appear that House Amendment "D" was adopted first, but they were taken up

alphabetically, in the order received—C, D, and E. As House Amendment "D" was adopted first, it might be considered now. The Secretary will read House Amendment "D".

The Secretary read House Amendment "D".

Mr. LIBBY of Cumberland: Mr. President, I desire to make the following point of order under Rule 11, that the pending amendment is not germane to the bill.

The PRESIDENT: The Chair will rule the point of order taken by the Senator from Cumberland, Senator Libby, is well taken, and the amendment is not germane to the bill.

Thereupon, on motion by Mr. Brown of Aroostook, the bill and amendments were laid upon the table pending consideration, and especially assigned for later in today's session.

From the House:

The Committee on Pensions on Bill "An Act Relating to Pensions of State Employees" (H. P. 1275) (L. D. 545) reported the same in a new draft (H. P. 1935) (L. D. 1175) under the same title, and that it ought to pass.

Comes from the House, report read and accepted and the bill passed to be engrossed.

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 read a second time.

Mr. ELLIOT of Knox: Mr. President, for the purpose of preparing an amendment I move this bill be laid upon the table pending passage to be engrossed, until later in today's session.

The motion to table prevailed.

From the House, out of order and under suspension of the rules.

The Committee of Conference on the disagreeing action of the two branches of the Legislature, on H. P. 1283) (L. D. 549) Bill "An Act Conferring Jurisdiction of the Public Utilities Commission over Vessels or Boats Propelled by other Motive Power than Steam," have had the same under consideration, and ask leave to report that the committee is unable to agree.

Comes from the House, report read and accepted.

In the Senate, the report was read and accepted in concurrence.

Senate Committee Reports Out of Order

Mr. Chase from the Committee on Appropriations and Financial Affairs submitted its Final Report.

Mr. Sanborn from the Committee on Education submitted its Final Report.

Mr. Chase from the Committee on Labor submitted its Final Report.

Which reports were severally read and accepted.

Sent down for concurrence.

On motion by Mr. Friend of Somerset,

Recessed until this evening at eight o'clock.

After Recess

The Senate was called to order by the President.

From the House, out of order and under suspension of the rules:

Passed to be Enacted

Bill "An Act Relating to Labor Relations in the State of Maine." (S. P. 562) (L. D. 1162)

Bill "An Act to Provide a Pension for Members of the Police and Fire Departments of the City of Waterville." (H. P. 831) (L. D. 345)

Bill "An Act Relative to the Employment of Females in Executive, Administrative, Professional or Supervisory Capacities and as Personal Office Assistants." (H. P. 1235) (L. D. 497)

Bill "An Act Relating to the Salary of the Attorney General." (H. P. 1464) (L. D. 740)

Bill "An Act to Provide for the Appointment of a Board of Commissioners of Fire Department for the City of Gardiner." (H. P. 1585) (L. D. 919)

Finally Passed

"Resolve Providing Pensions for Soldiers and Sailors and Dependents and Other Needy Persons." (S. P. 545) (L. D. 1131)

"Resolve in Favor of Several Academies, Institutes and Seminars." (H. P. 1927) (L. D. 1165)

**Order
Out of Order**

On motion by Mr. Harvey of York, out of order and under suspension of the rules, it was

ORDERED, the House concurring, that the Legal Affairs Committee room, being Room numbered 83, be reserved for the Committee on Revision of the Statutes and the Revisor of Statutes during the preparation of the Revision of the Statutes.

Sent down for concurrence.

Mr. BROWN of Aroostook: Mr. President, I would like to inquire through the Chair if Legislative Document 615, bill An Act Imposing an Additional Gasoline Tax is now in the possession of the Senate?

The **PRESIDENT**: The Chair will inform the Senate that the bill is in the possession of the Senate.

Mr. BROWN: Mr. President, I move that the Senate reconsider its action whereby we voted to adhere to our former action whereby we accepted the "Ought Not to Pass" report of the Committee on Taxation.

This is for the purpose of passing the gasoline tax for the purpose of taking care of the various activities under the Holman bill, so-called. We thought best at this time to do this. And I am therefore asking that you people who are in favor of the Holman bill and of the activities which we will take over by the Holman bill, which we have explained here before, will vote to reconsider our previous action.

Mr. LIBBY of Cumberland: Mr. President, may I inquire of the Chair whether there is any limit on the number of times we can reconsider? I think we have already voted once on the reconsideration of this.

The **PRESIDENT**: The Chair will inform the Senator from Cumberland. Senator Libby, that the motion before the Senate is to reconsider our previous vote to adhere.

Mr. FINDLEN: Mr. President, when the vote is taken I move that it be taken by the Yeas and Nays.

Mr. HINMAN: Mr. President, we have had the gas tax with us and we have disposed of it once, 27 to 4, I believe. We have had it back with us once more and we have had a conference committee and when that conference committee didn't bring

in the report that was pleasing to at least a part of this group we had a second conference committee and yesterday we disposed of their action. I don't know whether there is any limit of fairness in how far we should carry matters of this kind.

The Senator from Aroostook, Senator Brown said that as we were in favor of the Holman bill, we should bring this gas tax back. I have said here before, and I say it again now that I am in favor of the Holman bill, but I think it is most unfair to attempt to bring it back in this way or in any other way as long as you are going to link up a gas tax with it. And although I would like to be courteous in the matter of reconsideration, under all the conditions, I must say that I hope the motion will not prevail.

The **PRESIDENT**: The question before the Senate is on the motion of the Senator from Aroostook, Senator Brown, that the Senate reconsider its former action of yesterday whereby it was voted to adhere. The Senator from Aroostook, Senator Findlen, has asked for the Yeas and Nays. To order the Yeas and Nays the affirmative vote of one-fifth of the Senate membership is necessary. Is the Senate ready for the question?

A division of the Senate was had.

Obviously more than one-fifth of the membership having risen, the Yeas and Nays were ordered.

Mr. SANBORN of Cumberland: Mr. President, before the vote is taken, I would like to say a few words on the matter before this Body. In arriving at my own conclusions I have undertaken to balance certainties against uncertainties. On the side of certainties, I feel convinced that if we take action which results in the enactment of a statute increasing the gas tax we shall be confronted with a wave of protest from thousands of motorists and those who operate trucks, who feel decidedly adverse to any increase in the gas tax, which is not absolutely necessary. That, I regard as a certainty and it has much weight with me.

On the side of the uncertainties, in the first place I will say at the outset that I have no quarrel with the so-called Holman bill. I sympathize with its purpose. I would welcome relief to the real estate taxpayer but I am by no means certain that such relief may not well be

afforded within an increase in the gas tax. I am by no means certain that the friends of the real estate taxpayer have not had it in their power during this session, that it might not be possible even now so to arrange matters that this reduction could be financed by the Highway Department without crippling or seriously handicapping their program. I believe that such might be done and I think it ought to be done. Again, if we go ahead and do pass this measure, increasing the gas tax, I am still uncertain whether it will afford relief to the real estate taxpayer that is so much talked about and held up to us as such an inducement. In the first place, any relief that the real estate taxpayer may receive in reduced taxes must be offset by the additional sums he will be required to pay in the increase in his gas tax. When you offset one against the other, I fancy the relief may not in fact, be so great.

Another uncertainty appeals even more strongly to me, that is an uncertainty growing out of a certainty, a certainty as to human nature. We all know how human nature operates, and I am going to suggest this, and I am going to predict that if this campaign is carried through, that in many towns where they realize, if they do realize, that they are having a great relief and they are having a great reduction in their tax burden growing out of this Holman act, I am going to predict that they will immediately turn their minds to some things they thought they would like to have in the way of luxuries. They will find other ways and if they have been accustomed to a 48 cent rate and this reduces it to a 42 cent rate, they will say, "We can have so and so and can spend this money in other ways," so they won't be one cent better off.

When I balance this certainty against all these uncertainties I am frank to say I do not feel like lending my vote to any increase in the gas tax, sympathetic as I am toward the real estate taxpayer, and I am one of them, myself.

Mr. FINDLEN of Aroostook: Mr. President, this is the last chance, it seems to me, for small towns and property owners in small towns to hope to get any relief. I can very well remember when we plowed our roads with horses. I have taken the

contract to plow four miles of roads for \$125. Before that I have seen it plowed for \$80, and that was the day, folks, of prosperity.

The gas people came along and they said, "Let us plow the winter roads and let the gas tax pay for it. Increase the tax by one mill and it will take care of the problem." So now it costs us to plow roads, \$100 a mile—that is the town's part. The towns cannot afford it, folks, they cannot afford to put that amount of money into winter breaking. Of course it takes care of winter breaking on the state highway, but the town will still have a tremendous amount of roads to break after they have had that relief. We come to the legislature each session and we get little pieces of road through the country under state highway specifications and then they are left without any protection whatever. We believe this maintenance will help out the small towns to a tremendous degree. It will help out my little town to the extent of about \$4200. It will help numerous other towns, all the towns in the state, in fact.

It seems to me we small town people who have been attempting to haul our produce to market through the mud, have contributed considerably to you folks who live in the cities who travel on concrete roads all the year round. Here is your chance to give us a break. It is a chance to pay us, who have helped you build your fine roads. You cannot build a wall around your city—but if you do—the country folks are going to do something to protect themselves, it seems to me. You owe something to us. We have gone along with you these years and I think it is your turn to help us, and here is your chance to do it and I hope you folks come with us this time.

Mr. LIBBY of Cumberland: Mr. President, may I inquire of the Chair concerning the vote where we voted 27 to 4? Wasn't that the vote on the original bill to increase the gasoline tax? The thing bothering me is this, we voted one day 27 to 4, as I remember it against increasing the gas tax one-half cent. We then had a vote to reconsider, which, as I recall we voted down 16 to 14. Now, I think that was on this same bill.

The PRESIDENT: According to the records of the Secretary, we did

not vote to reconsider our action whereby we accepted the Ought Not to Pass report. We voted yesterday on the acceptance of the conference committee report. The conference committee report was rejected, and then a motion was made and carried that the Senate adhere. The motion now before the Senate is reconsideration of that vote whereby we voted to adhere. Is that plain to the Senator? Is the Senate ready for the question?

The Secretary will call the roll.

The Secretary called the roll:

YEA: Senators: Batchelder, Bishop, Boothby, Bridges, Brown, Chamberlain, Chase, Dorr, Dow of Oxford, Emery, Finden, Friend, Harvey, Haskell, Hildreth, Laughlin, Morse, Stilphen, Snow, Tompkins, Townsend—20.

NAY: Senators Bate, Boucher, Elliot, Fellows, Harvey, Harkins, Hinman, Libby, Melvin, Sanborn—10.

ABSENT: Senators Dow of Franklin, Farris, Hodgkins—3.

Twenty having voted in the affirmative and ten opposed the motion to reconsider the former vote to adhere prevailed.

Miss LAUGHLIN of Cumberland: Mr. President, I move that the Senate reconsider its action of yesterday whereby it failed to accept the report of the conference committee.

Mr. FRIEND of Somerset: Mr. President, I ask for a division.

The PRESIDENT: The question before the Senate is on the motion of the Senator from Cumberland, Senator Laughlin, that the Senate reconsider its former action whereby it failed to accept the conference committee report. The report of the committee of conference was that the Senate recede from its former action whereby it accepted the "Ought Not to Pass" report of the Committee on Taxation and that the Senate substitute the bill for the report, adopt Committee Amendment A and pass the bill to be engrossed as amended by Committee Amendment A. A division has been asked for.

A division of the Senate was had.

Nineteen having voted in the affirmative and ten opposed, the motion to reconsider the vote whereby the Senate failed to accept the conference committee report, prevailed.

Thereupon, on motion by Miss Laughlin of Cumberland, a viva

voce being had, the report of the committee of conference was accepted, and on further motion by the same Senator, by viva voce vote, the Senate voted to recede from its former action whereby the report of the committee on Taxation "Ought Not to Pass" was accepted.

Miss LAUGHLIN: Mr. President, I now move that the bill be substituted for the report.

The PRESIDENT: The Senator from Cumberland, Senator Laughlin moves that the bill be substituted for the report. Is the Senate ready for the question?

Mr. HILDRETH of Cumberland: No, Mr. President, I am not ready for the question. I have been chasing along here on parliamentary question after parliamentary question and I am sick of talking about the gasoline tax. I would like to hear the Holman bill talked about for a few minutes and get that settled before I finally vote on the gasoline tax. If this means we are voting for a gasoline tax at this moment, I do not want to vote for it. I want to be sure of that question. I am perfectly willing to keep this gasoline tax question alive until the Holman bill is settled but I do not understand these tactics and the gasoline bill coming before us now. I am wholly in favor of the Holman bill and then I am willing to debate the question of whether the gasoline tax is necessary in order to support the Holman bill.

And so, Mr. President, I would like to make a parliamentary inquiry. Does this substitution of the bill for the report constitute a new set-up and mean that we would be voting in favor of the passage of a gasoline tax apart from the bill that came to us from the House, which was the Holman bill, for an amendment for a gasoline tax?

The PRESIDENT: The Chair will inform the Senator that this bill is no part of the Holman bill. This bill that we are talking about now originally provided for an increase of one cent on the gasoline tax. The bill as it now stands provides for an increase of one cent on the gasoline tax. The Committee Amendment provides for an increase of one-half cent on the gasoline tax.

Mr. HILDRETH: Mr. President, if this motion is going to be voted on now, I would certainly vote

against it. I do not want to kill the Holman bill. I would suggest that the proponents who are so vitally interested in this Holman bill, if they want to get some votes that they might not otherwise get, table this motion until that Holman bill is settled. I will not vote for this present motion.

Mr. CHAMBERLAIN of Penobscot: Mr. President, the bill which is before us to be substituted for the report is the bill sent by the Taxation Committee to the Legislature "Ought Not to Pass" carrying this increase of one cent tax on gasoline. As I remember it, the money was to be turned into the general highway fund. The amendment that was offered was to reduce that to a half cent and as I understand it, that amendment carried something about the Holman bill.

I haven't the bill before me and if that is so I would like to have that amendment read at this time.

The Secretary read Committee Amendment A to House Paper 1475, Legislative Document 615, bill, An Act Imposing an Additional Gasoline Tax.

The SECRETARY: In the House, on April 24th, the amendment was read and adopted.

Mr. BRIDGES of Washington: Mr. President, it has been said that God moves in a mysterious way, his wonders to perform. And likewise the legislature. Now, I am in somewhat the same mental state as the Senator from Cumberland, Senator Hildreth, and I would like to know this: I voted against the one-half cent tax before, because I hadn't then heard about the Holman bill. I am going to vote against this one-half cent tax unless I do hear something about the Holman bill. It is about time, it seems to me, Mr. President, that we put our cards upon the table so that we will know what we are voting for. If this one-half cent increase is for the purpose of the Holman bill and if that bill is going to be introduced anew I would like to know it. I want to know where I am going before I drift any further on the waves of this debate.

Mr. FRIEND of Somerset: Mr. President, I would like to say that the only reason for this one-half cent gas tax is to finance the Holman bill. And that those interest-

ed in the passage of the Holman bill had much rather that the gas be hooked up with it but we ran into some parliamentary trouble earlier in the day which delayed it.

Another thing is that it wouldn't seem to me to be very good business to pass the Holman bill first, calling for an expense of \$932,000 before you know that you have the money to finance it with and that is why we are trying to get the gas tax along up to the engrossing stage so that it will be reasonable to expect that we would have some money and then we can either amend this bill with the Holman bill, or to that effect, or pass the Holman bill separately. But I do think we should know that we have the money to finance the bill before we pass the Holman bill. I think it is good business.

Mr. HILDRETH: Mr. President, I shall have to disagree with the Senator from Somerset, Senator Friend. I do not believe in appropriating money until I know what I am appropriating it for, and if the bill is satisfactory, which I have every reason to believe it is, we can pass the bill and then if we cannot find the money to support that bill we can kill the bill. But I certainly do not believe in appropriating money until I know what I am appropriating it for. And therefore I agree with Senator Bridges and let's hear from the Holman bill and hold up this debate on the gasoline tax.

Mr. BRIDGES: Mr. President, I don't wholly agree with the remarks of Senator Hildreth. I am willing to go along with this increase if I can receive assurance from the majority leader that the Holman bill is to be introduced tonight or before this legislature adjourns; and in case the Holman bill is not passed, we can then restore this one half cent increase in gas tax.

Mr. BROWN of Aroostook: Mr. President, I might say that the Holman bill is already introduced and is laying on the table but because of the objection that the gas tax wasn't germane to the Holman bill and that they couldn't go along together and we could not prepare a satisfactory amendment so that it could, we took the other course of bringing the gas tax in and if this gas tax is passed it will be passed for the purpose of taking care of the Holman bill.

I don't agree entirely with Senator Hildreth that he doesn't want to raise any money until we know what we are going to do with it. It is just as foolish to pass the Holman bill having no money to take care of it because it is impossible to take care of the Holman bill without the passage of this gas tax. So if you don't want any of this, kill the gas tax, but if you do, pass this gasoline tax and the minute it passes we will take up the Holman bill. I assure you of that.

Miss LAUGHLIN: Mr. President, the motion is not that this bill be enacted but of course before we can put the committee amendment on it or bring it forward at all, we must substitute the bill for the report. Then we can subject it to amendment. We are not sitting here to-night enacting it. We can indefinitely postpone it at any time, if we are not satisfied that it is to finance the Holman bill but we can't do anything with it unless we substitute the bill for the report.

The PRESIDENT: The question before the Senate is on the motion of the Senator from Cumberland, Senator Laughlin, that the bill be substituted for the report. Is the Senate ready for the question?

A viva voce vote being had, the bill was substituted for the report.

Miss LAUGHLIN: Now, Mr. President, I move that the bill be given its first reading, the purpose being that we will then be free to amend it and then we can stop there or go to second reading if we please.

A viva voce vote being had, the bill was given its first reading.

On further motion by the same Senator, a viva voce vote being had, Committee Amendment A was adopted in concurrence, and under suspension of the rules, the bill as so amended was given its second reading.

Thereupon, on further motion by the same Senator, the bill as amended by Committee Amendment A was laid upon the table pending passage to be engrossed.

Mr. BROWN: Mr. President, as the Holman bill is now on the table and as it is necessary to make some amendments to it, I would ask for a short recess until we can prepare them.

After Recess

The Senate was called to order by the President.

Passed to Be Enacted (Out of Order)

Bill "An Act Relating to Automobile Junk Yards." (S. P. 539) (L. D. 1117)

Bill "An Act Relating to Taxes Upon Wines and Spirits." (H. P. 1474) (L. D. 607)

Bill "An Act to Provide a Pension for Members of the Fire Department of the City of Auburn." (H. P. 1930) (L. D. 1171)

Bill "An Act to Provide for Members of the Police Department of the City of Auburn." (H. P. 1931) (L. D. 1170)

Bill "An Act Relating to the Practice of Chiropractic." (H. P. 1933) (L. D. 1174)

Bill "An Act Relating to Applications for Old Age Assistance." (H. P. 1109) (L. D. 367)

From the House, out of order and under suspension of the rules:

Emergency Measures

Bill "An Act Making Supplemental Appropriation for Overdrafts Already Incurred Due to Insufficient Appropriations and Anticipated Overdrafts and Other Obligations for Which no Legislative Appropriations have Been Made." (S. P. 568) (L. D. 1172)

Which bill being an emergency measure, and having received the affirmative vote of 26 members of the Senate and none opposed, was passed to be enacted.

Bill "An Act for the Assessment of a State Tax for the Year Nineteen Hundred Forty-one and for the Year Nineteen Hundred and Forty-two." (H. P. 1704) (L. D. 1027)

Which bill being an emergency measure, and having received the affirmative vote of 26 members of the Senate and none opposed, was passed to be enacted.

Bill "An Act Creating a Tax on Cigarettes." (H. P. 1925) (L. D. 1164)

Which bill being an emergency measure, and having received the affirmative vote of 25 members of the Senate and none opposed, was passed to be enacted.

On motion by Mr. Brown of Aroostook, the Senate voted to take from the table bill An Act Relieving Towns from Certain Maintenance Costs on Roads (L. D. 1176) tabled by that Senator earlier in today's session pending consideration.

Mr. BROWN: Mr. President, I now move the indefinite postponement of House Amendment C. I might say that Amendments C, D, and E are the gas tax which we attempted to connect up with the Holman bill.

The motion prevailed and House Amendment C was indefinitely postponed in non-concurrence.

On further motion by the same Senator, House Amendment D was indefinitely postponed in non-concurrence.

On further motion by the same Senator, House Amendment E was indefinitely postponed in non-concurrence.

Thereupon, on further motion by the same Senator, under suspension of the rules, the bill was given its second reading and passed to be engrossed in non-concurrence.

Sent down for concurrence.

On motion by Miss Laughlin of Cumberland, the Senate voted to take from the table, bill An Act Imposing an Additional Gasoline Tax (L. D. 615) tabled by that Senator earlier in today's session pending passage to be engrossed as amended by Committee Amendment A in concurrence; and on further motion by the same Senator, by

viva voce vote, the bill as amended by Committee Amendment A was passed to be engrossed in concurrence.

House Committee Reports

(Out of Order)

Ought Not to Pass

The Committee on Education on Bill "An Act Relating to Apportionment of School Funds," (H. P. 461) (L. D. 199) reported that the same ought not to pass.

Which report was read and accepted in concurrence.

Ought to Pass

The Committee on Appropriations and Financial Affairs acting under authority of Joint Order (H. P. 1618) reported Bill "An Act Making Supplemental Appropriations for the Expenditures of State Government and for Other Purposes for the Fiscal Years Ending June 30, 1942 and June 30, 1943," (H. P. 1937) and that the same ought to pass.

Comes from the House, report read and accepted, and the bill passed to be engrossed.

In the Senate, the report was read and accepted in concurrence and the bill was given its first reading.

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

On motion by Mr. Friend of Somerset

Adjourned until tomorrow morning at nine o'clock.