

# MAINE STATE LEGISLATURE

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Legislative Record

OF THE

Eighty-Seventh Legislature

OF THE

STATE OF MAINE

1935

KENNEBEC JOURNAL COMPANY  
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**SENATE**

Wednesday, February 27, 1935

Senate called to order by the President.

Prayer by the Rev. Tom Ackley of Gardiner.

Journal of yesterday, read and approved.

From the House:

Joint order, relative to filing of a weekly report by Committee Clerks, by the Secretary of the Senate and Clerk of the House, regarding the number of bills and resolves referred to their committees. (H. P. 1488)

In Senate, February 26th, indefinitely postponed in non-concurrence.

In the House, that body insisting on its former action whereby the order was passed, and asking for a committee of conference, the Speaker having appointed on the part of the House the following members:

Messrs. Hill of South Portland  
Ellis of Rangeley  
Scates of Westbrook

In the Senate, on motion by Mr. Burkett of Cumberland, that body voted to insist on its former action and join the House in the committee of conference; and the President appointed as members on the part of the Senate:

Senators Schnurle of Cumberland  
Blaisdell of Hancock  
Thatcher of Penobscot

**House Bills in First Reading**

"Resolve in favor of Roscoe L. York, of Medway, Maine," (H. P. 1440) (L. D. 647)

"Resolve relating to fishing in Greenlaw Brook," (H. P. 570) (L. D. 651)

"An act relating to the Ogunquit Beach District," (H. P. 1130) (L. D. 329)

"An act relating to enforcement of tax liens," (H. P. 693) (L. D. 224)

"An act relating to State Highway Police," (H. P. 1219) (L. D. 447)

"An act relating to exemptions of estates from taxation," (H. P. 1161) (L. D. 376)

**Orders**

On motion by Mr. Ashby of Arrostook, it was

ORDERED, that five hundred

copies of the report from the Department of Public Health, relating to cosmetics, their ingredients and approximate cost, be printed.

**First Reading of Printed Bills**

Bill "An act to repeal incorporating the town of Concord," (S. P. 164) (L. D. 658)

(On motion by Mr. Blaisdell of Hancock, tabled pending first reading)

Bill "An act relating to temporary loans by county commissioners." (S. P. 458) (L. D. 657)

**Reports of Committees**

Miss Martin from the Committee on Legal Affairs on Bill "An act relating to licensing of certain machines," (S. P. 419) (L. D. 531) reported that the same be referred to the Committee on Taxation.

Sent down for concurrence.

Mr. Fernald from the Committee on Judiciary on Bill "An act relating to European corn borer," (S. P. 378) reported that the same ought to pass.

Mr. Blaisdell from the Committee on Legal Affairs on Bill "An Act to incorporate the Bethel Library Association," (S. P. 293) reported that the same ought to pass.

Which reports were severally read and accepted and the bills laid upon the table for printing under joint rules.

**Passed to be Engrossed**

Bill "An act relating to hunting rabbits," (H. P. 559) (L. D. 155)

Bill "An act relative to incorporating the Master, Wardens and Members of the Grand Lodge of Maine," (S. P. 455) (L. D. 654)

Bill "An act relating to incorporation of officers and members of the Grand Royal Arch Chapter of Maine," (S. P. 451) (L. D. 652)

Sent down for concurrence.

**Orders of the Day**

On motion by Mr. Fernald of Waldo, the Senate voted to take from the table, Communication from the Attorney General relative to the meaning of the word "session" as used in Chap. 125, Sec. 2 of the Revised Statutes, tabled by that Senator on February 26th pending consideration; and on further motion by the same Senator the communication was placed on file.

On motion by Mr. Fernald of Waldo, the Senate voted to take from the table, Senate Report from the Committee on Judiciary, Majority Report "Ought Not to Pass", Minority Report "Ought to Pass", on bill, An Act relating to the Appointment of the Attorney General (S. P. 245) (L. D. 207), tabled by that Senator on February 22nd pending acceptance of either report.

Mr. FERNALD of Waldo: Mr. President, yesterday in the Senate we discussed this matter quite thoroughly and since we are more or less in accord that the matter should not be carried any further in this session of the Legislature, I move the acceptance of the Majority Report "Ought Not to Pass".

Thereupon, the Majority Report "Ought Not to Pass" was accepted. Sent down for concurrence.

On motion by Mr. Fernald of Waldo, the Senate voted to take from the table, Senate Report from the Committee on Judiciary, Majority Report "Ought Not to Pass", Minority Report "Ought to Pass", on bill, An Act relating to Clerks of Courts (S. P. 136) (L. D. 52), tabled by that Senator on February 22nd pending acceptance of either report.

Mr. FERNALD of Waldo: Mr. President, I now move the acceptance of the Minority Report "Ought to Pass." And, members of the Senate, this bill that we have for discussion today is Legislative Document Number 52, relative to Clerks of Courts. Under our present set-up Clerks of Courts in Maine are elected by the people for a term of four years. Under this bill before you this morning it is proposed that the Clerks of Courts should be appointed by the Supreme Judicial Court and should serve at the pleasure of the Court. I may say to the Senate that I am going to speak very briefly on this matter and I trust that when I say briefly it will be different than the brief address that Judge Deering gave before the Judiciary Committee yesterday which consumed two hours. I will promise you that my remarks this morning will not take two hours.

I have thought that at this time it would not be out of place to state the practice of some of the other states in regard to the appointment of Clerks of Courts and I find that in twenty-six jurisdic-

tions in the United States the Clerks of Courts are appointed by the Supreme Judicial Court to serve at the pleasure of the Court and those states are Arizona, California, Colorado, Connecticut, Florida, Idaho, Louisiana, Michigan, Missouri, New Hampshire, New Mexico, North Dakota, Ohio, Oregon, Pennsylvania, South Dakota, Utah, Vermont, Virginia, Washington, West Virginia, Wisconsin, Wyoming, United States District Courts, United States Circuit Courts and the United States Supreme Court. That is in twenty-six jurisdictions and that is the procedure that I would have you follow in this state. I find also that there are five more jurisdictions that say they will have the Clerks of Courts appointed by the Supreme Court but they limit the appointment to a term of years; Alabama six years, North Carolina eight years, South Carolina four years, Tennessee three years and Texas two years.

Now, in three states we have appointment by the Governor; Arkansas, Delaware for four years and New Jersey for five years. Then I find that there are thirteen states including the State of Maine that have election by the people; Georgia, Illinois for six years, Indiana for four years, Kentucky, Maine for four years, Maryland and Massachusetts for six years, and Minnesota, Mississippi, Montana and Nevada for four years each. Then there is New York, for three years and Oklahoma, for four years. And I find one state, evidently a state that is seeking to be advertised, that has the election of the Clerks of Courts by the Legislature, and that is Rhode Island, for a period of two years. I also believe that it is our practice here in Maine, upon the death of the Clerk of Courts to have the appointment made by the Supreme Court. So you will see that out of some fifty-one jurisdictions we have some thirty-one jurisdictions making their appointments through the Supreme Judicial Courts.

Now, in a discussion such as this somebody will doubtless get up and say that there has been no demand for this bill. I will point out that at the hearing before the committee the President of the Clerk of Courts Association of Maine appeared in favor of this bill and I have with me letters favoring this bill from the Clerk

of the Clerks in Cumberland County, the Clerk of Courts of Sagadahoc County, Lincoln County, Franklin County, Somerset County, Piscataquis County, Knox County, Penobscot County; and the Clerk of Courts of Oxford County told me personally that he favored the bill. And I also have a letter from the Clerk of Courts of Kennebec County favoring the bill, and letters from the Clerks of Courts of Aroostook and Hancock Counties. In Waldo County the Clerk of Courts had just assumed office and he was not willing to commit himself. The Clerk of Courts of Washington County made no reply, as I understood he had just assumed office, nor did the Clerk of Courts from York County or the Clerk of Courts from Androscoggin County, who had just assumed office. But the fact remains that the Clerks of Courts Association of Maine favors this proposition and ten of the Clerks of Courts have sent me letters commending the measure. And I think that some of the reasons that these Clerks of Courts gave are important. Here is one from the Clerk of Courts of Kennebec County in which she says in part, "I am heartily in favor of such a bill and believe that it should pass. It is not an office that should be considered in politics, I think, and I so judge from a good many years experience with the procedure of courts and the Clerk's duties."

I have also a letter from the Clerk of Courts in Bangor which says in part, "This seems to have the right ring to it," and he appeared here in favor of the bill. The Clerk of Courts of Knox County, Milton M. Griffin, said, "The courts are a separate part of our state government. The Clerks of Courts are an important part of that branch. The justices with whom the clerks have the most business should have some say as to who those clerks shall be. It is highly important that efficient men be in those positions. If these officers are left to the whims of politics, it is possible that very unsatisfactory persons would be filling the offices. The work is highly technical and it seems to me that the justices should be satisfied with the incumbents of the Clerks of offices. If the Court has the appointing and removal power it seems that the business of the courts would be conducted in a highly sat-

isfactory manner. The chiefs of many other parts of our state government have the privilege of picking their own help, the Adjutant General, the Secretary of State, the State Highway Commission, the Commission of Inland Fish and Game and many others, so why shouldn't the Courts have this same privilege?" Rather a convincing letter.

Here is one from the Clerk of Courts at Dover-Foxcroft, in which he says, "It ought to be enacted but has been tried several times before." Here is another letter from the Clerk of Courts of Franklin County: "Yours containing Act relative to Clerks of Courts, received. I am very strongly in favor of the passage of this Act. The duties of Clerks of Courts are almost wholly ministerial. He has little administrative discretion, and therefore, it matters very little what his political preferences are, as he has little to do directly with the people. He deals mostly with lawyers and judges. It is an office where experience renders him peculiarly fitted for special expert service. It should be removed from the danger of political accidents, although personally I have no complaint, having been elected to the office by the people of Franklin County, eleven different times. An efficient, experienced Clerk is a great help to the Court. Around his office revolves the whole civic organization of the County. Applying to this office the same rules of business sense we would apply to an office of a business corporation with a capitalization of \$20,000,000, which is approximately the valuation of Franklin County, the Clerk ought not to be menaced with being turned out simply because some other unfitted and inexperienced politician wants it. I earnestly hope this Bill will pass."

The Clerk of Courts of Lincoln County wrote as follows: "This seems to be all right and certainly has my approval and support, but I have my doubts about its getting by the Committee." I think I agree with him now. I have a letter from Sagadahoc County, Bath, Maine: "I received a copy of Senate document No. 52 relating to the appointment of Clerks of Courts, which you so kindly sent me, and would say that I believe this Act to be for the best interest of the Courts for the State of Maine. You no doubt are entirely familiar with

the facts that in thirty-eight states of the Union, as well as in all of the Courts of the United States, that Clerks are now appointed, either by the Governor or the Courts. There can be no sound argument against this practice, it seems to me, but I have grave doubt that you will be able to accomplish anything along this line with a Maine Legislature. The same, or a similar act has been presented several times during the past twenty-five years, while I have been Clerk of Courts in Sagadahoc County, but the political side of the question has always prevailed. I believe that it is safe to say that all of the Judges of both the Superior and Supreme Judicial Courts would favor this act."

Now here is a letter in opposition from my good friend Mr. Mahoney down in Ellsworth who is, I believe, a member of the Republican State Committee from Hancock County or has been for a long time: "This is an old story. I have not favored it in the past and I do not favor it now." And nobody expected that he would. Here is one from Skowhegan, the Clerk of Courts in Somerset County: "I beg to say that I am very much in favor of a bill providing for the appointment of Clerks by the Court. I believe the Clerk's office should be entirely divorced from politics." And, lady and gentlemen, allow me to point out right here that the only argument by the opposition to this bill is that it will take from the political machine, Republican or Democrat or what have you, one more man to go out and work on election day. Now I think that is a poor argument to present to the people of Maine because as a matter of fact if we divorce this office from politics we take from the Democrats the same advantage that we do from the Republicans, whereas in the final analysis we give to the State of Maine a better and more independent judicial system, and after all what is there left in our system of government today if it is not a bulwark that has been set up to protect our rights as personified by the Courts? What have we left in this country today as far as Democratic government is concerned if we cast aside our Courts; and I believe it is our duty to maintain the dignity and the independence of the Court just as far as possible.

Continuing with this letter from

Somerset County: "And that the Court should be allowed the privilege of appointing its own Clerk, as is done in all the Federal courts and in many of the state courts. I have grave doubts, however, about a bill of this nature passing the Legislature." Another doubting Thomas. "Similar bills have been before the Legislature several times during the past thirty years. Once or twice they received the approval of the Judiciary Committee, only to be defeated in either House or Senate. On one or two occasions the Clerks have been active in securing the passage of such a bill, and a few years ago it was sponsored by the Maine Bar Association and a committee appointed to act before the Legislature. I think our Somerset delegation has always favored the passage of this bill but I do not know just how our present delegation stands." We will know shortly.

Here is a letter from Androscoggin County by a man of considerable experience in the office who completed his term of office January 1st. He was replaced by a deserving Democrat, I believe. He says: "I am just in receipt of your letter to 'The Clerk of Courts,' with copy of the bill providing for the appointment of clerks instead of their election. I was Clerk of Courts of Androscoggin County in 1903-4-5-6; 1919-20-1-2; 1927-8-9-30-1-2-3-4, and Deputy Clerk in 1923-4-5-6, and during all those 20 years, and indeed also in the 12 years from 1907 to 1919 that I was out of office, I did everything I could think of to secure an act for the appointment of the Clerks, but without success. My general interest in the subject is just as great as it ever was. I have always believed that Clerks should never be elected, as it too often happens that men utterly unqualified for what is an extremely technical office, are elected, when they could never have been appointed. I do not know that there is anything I can do for the bill, but you can quote me as decidedly in favor of it at least. John L. Reade, Androscoggin County, Lewiston, Maine."

And in closing, members of the Senate, I know of only one argument that the opposition can present to this, and that is the political one, and if we want to continue deciding questions on a political basis that is your right and that is your privilege, but I

believe that it is time that we as members of the Senate began to face public matters, not as political questions but as public questions.

I hope that my motion for the acceptance of the Minority Report "ought to pass" will prevail, and I ask for a division when the vote is taken, Mr. President.

Mr. BURKETT of Cumberland: Mr. President, I hesitated to rise. I was hoping that someone else would get up and speak on this. This is another one of the divided reports from the Committee on Judiciary, and, as the Senator from Waldo said in his apology for the bill, no one appeared for it except the Clerks of Courts directly interested and their association. The bill has been before the Legislature, I think, in all the three previous sessions which I have attended. If I were a Clerk of Courts I would be for it myself but I cannot bring myself to believe that we have been seriously injured in this state or have done any great violence to the judicial system by electing our Clerks of Courts. The office of Clerk of Courts, is an important one, but it requires no knowledge of the law, no judicial experience, not even a judicial temperament. One of the letters that the Senator from Waldo, Senator Fernald, read was from the Clerk of Courts in a county not my own county whom I have known, previous to his election, for a long time and I don't believe he had ever been in a court in his life previous to his election. He had no training in the law not even any training in bookkeeping, yet he was elected and made one of the most efficient and popular Clerks in the State of Maine, and has filled that office with great credit. I think a Clerk of Courts, a good Clerk of Courts, is a man who has a pleasant personality, who has the ability to meet people with whom he comes in contact, and most of his duties are assisting or coming in contact and doing business with laymen in the court and assisting litigants, which requires judgment and courtesy and other attributes which have been very generally possessed by the Clerks in this State.

And so, I am not in favor of having our Clerks appointed by the Supreme Judicial Court to serve at the pleasure of the Court and I believe that until such time as the State gets ready to adopt the

bureaucratic system towards which this and the other bills that have been introduced by the Senator from Waldo (Senator Fernald) are apparently heading, that we should continue to elect our Clerks of Courts as we have in the past. They should seek nominating and election the same as other officers. There is no more reason for having a Clerk of Courts appointed by the Supreme Court than there is County Attorneys or Judges of Probate. I trust the motion of the Senator from Waldo, Senator Fernald, does not prevail.

The PRESIDENT: Is the Senate ready for the question? The question is on the motion of the Senator from Waldo, Senator Fernald, that the Minority Report "Ought to Pass" on An Act relating to Clerks of Courts, be accepted, and the Senator from Waldo, Senator Fernald, asks for a division.

A division of the Senate was had. Four having voted in the affirmative and twenty-two opposed the motion to accept the Minority Report "Ought to Pass" did not prevail.

Thereupon, on motion by Mr. Burkett of Cumberland the Majority Report "Ought Not to Pass" was accepted.

Sent down for concurrence.

On motion by Mr. Harmon of Hancock, the Senate voted to take from the table, Bill, An Act relating to the sale of intoxicating liquors (H. P. 688) (L. D. 232), tabled by that Senator on February 22nd pending first reading.

Thereupon the same Senator offered Senate Amendment "A" and moved its adoption: "Senate Amendment 'A' to Legislative Document 232, entitled, An Act relating to the sale of intoxicating liquors. Amend said bill by striking out in the second sentence thereof after the words 'determined and audited' the words 'shall become general revenue of the State,' and inserting in place thereof the following words, 'shall be credited to the Old Age Pension Fund and used for the purpose of carrying out the provisions of Chapter 267 of the Public Laws of 1933.'"

Mr. HARMON of Hancock: Mr. President, we have on our statute books at this time an old age pension law, which is inoperative owing to the fact that there are no funds provided to carry out the provisions of this act. It is, I understand, a

well known fact that it is proposed by the federal government that a fund be set up for old age pensions which, if it is passed, is to be matched by the states. There is no fund at this time in the State of Maine set up to meet this government fund if it is passed. It is, I understand, the consensus of opinion that the fund which will be set up will amount to at least \$15.00 a month, by the government. It seems to me that we should provide a fund with which we can meet this government fund so that it will not be lost to the state.

The merits and demerits of the old age pension law have been thoroughly discussed. We could use all the talking that goes on here in the Senate on the merits of the old age pension law. The fact remains that our legislature has passed such a law and put it on our statute books and the old people of the state who are infirm and unable to take care of themselves are looking forward, and have been looking forward to the state providing some fund whereby this old age pension law may become operative. I will say that only yesterday I had a letter from an old lady approximately 70 years old, written at the request of her mother who is 95 years old. That is only one case, but undoubtedly as chairman of the Pension Committee I have received more letters than perhaps any other senator owing to that fact that I was chairman of that committee. I have received hundreds of letters from people who are aged and through one cause or another they have lost the little store they have laid up against old age in some cases, and they plead to have the old age pension law put in operation. The cases which have come to my attention are pitiful, to say the least, and I believe that we, in this legislature, are almost duty bound, if it is possible, to provide some fund whereby this old age pension bill may become operative, especially in view of the fact where it is almost a foregone conclusion that the federal government will set up such a fund which must be met by the state.

I will say further that if I understand correctly, two years ago it was in the platform of both parties that an old age pension bill should be passed and it was understood that it should be put in operation.

At the time the bill was passed two years ago we did not feel that we could at that time, take the funds from the general fund of the state to put this bill in operation.

Now, we have a fund which has come to us, and the state of Maine has never received one penny from such a source in the past 75 years. This fund, the profits from the sale of liquor,—although some may say "I do not wish to use that particular fund",—the fact remains there is such a fund and the State of Maine is in the liquor business, and I can conceive of no better use for this money than to put in operation our old age pension fund.

The old age pension bill, as it stands on the books, calls for one dollar a day. There is in committee now a bill to amend the old age pension law, and I believe that it will be amended so that the fund, instead of being \$1.00 a day can be changed to fifty cents a day, which would amount to \$15.00 a month; so that we could take that fund of \$15.00 a month to match the \$15.00 a month which undoubtedly will be appropriated by the federal government. It seems to me this is the only place we can set up a fund to meet that of the federal government, which will undoubtedly be made. If we go out of this legislature without setting up a fund to match that of the federal government I believe we shall be making a grave mistake.

Our Governor has advocated and has for the last two years, as everyone in this legislature knows, advocated the setting up of a fund to take care of the old age pension law. Now, we are dangling that law before aged people of the state and they are looking forward today to the law becoming operative and I believe we should use that money for that purpose.

It isn't any use for me to go into this in detail about the old age pension law and how it is operated in other states, but I will say that in 28 states of the United States there is an old age pension law in operation, and in two of our territories. In five of those states the old age pension limit is 65 years which is the same as ours. The average span of human life in 1850 was 39 years and today, according to this report, the average span has reached 60 years. In this age, mechanical age we will say, where mills and factories are running to



high speed, it has become more hard for an aged person to get a position and hold it. So for that reason and for reasons that have come about in the closing of banks—as in the case of the woman of 95 and her daughter who always taught school who is around 70, their little farm is gone, but they didn't want me to mention their names, and I won't, because they did not want to feel that they were forced to ask for assistance,—but I believe, as I said before, that this legislature after passing that bill two years ago virtually promised almost the first funds that should come up should be used for this purpose, and with our governor advocating it, as you know, there is no better purpose than to use it for operating our old age pension law.

Mr. President, I will ask when this vote is taken, if there is opposition to this amendment, that the vote be taken by yeas and nays.

Mr. TOMPKINS of Aroostook: Mr. President, I am very sorry that this old age pension bill has come up at this time in this particular way. I am for an old age pension. I think every member of this legislature is for some form of a sensible old age pension. I shall not go into details of the old age pension at this time because it is not necessary and not the question before us at this time, but I want the old age pension to be taken care of with some different kind of funds than with the revenue from the sale of liquor.

Now the liquor situation in the State of Maine and throughout the country is not in satisfactory condition at the present time. Automobiles, rum and old age pensions never have been and never will be companions. I believe there will come a day when the voters in our state and country will probably want to close up the liquor stores, and when that day comes I, for one, do not want the old age pensions hitched to the liquor revenue, for obvious reasons.

I say it is not a satisfactory manner to provide the funds. Let's come out in the open like men and find some revenue or some money with which to pay the old age pension. It is evident that we must have a broader basis of taxation and it must be done before we leave the present legislature.

It has already been said that the

federal government will probably pass an old age pension bill and will provide some money with which to take care of it, and of course, it will be up to us, as a state, to provide our part and we can do it from other sources. I think these two propositions should be kept separate as they are now, and Mr. President, I hope the motion by the Senator from Hancock, Senator Harmon, will not prevail.

Mr. BURKETT of Cumberland: Mr. President, anything I may have to say here should not be interpreted in any way as opposing the old age pension law. I heartily agree with everything the Senator from Aroostook, Senator Tompkins, has said about the merits of an old age pension bill, and I believe we must ultimately meet the problem. I know that some of my fellow senators and representatives in the House last session will testify to the help I gave in passing this bill through the Legislature, and I hope we can find some funds to set the system up. I call your attention, though, to the last paragraph of the bill we now have in effect. Section 25 of Chapter 267 of the Public Laws of 1933 reads as follows: "This act shall not become operative until the Governor and Council can find ways and means to arrange for the finances necessary to carry out the provisions of this bill, and report thereon to the Eighty-seventh legislature." If I read the provisions of the bill correctly, unless the governor and council during this present session find some method of financing old age pensions and make a report to that effect to the present legislature, the present bill does not become operative and passes out of the statutes. So that unless there is money enough in this liquor fund and unless the Governor and Council find there is enough, it seems to me a very speculative system of providing money in view of the uncertainty of the amount of liquor which will be sold and the amount of profit which will be realized; and if there is not a sufficient amount, then the bill becomes inoperative. And, if you take the funds from the sale of liquor and earmark them for that purpose and the Governor and Council did not find there was money enough from that and other sources to set up the old age system we would be in an embarrassing position. I have said

and I reiterate that I am very clear in my own mind that it would be a dangerous thing to do at this time.

Mr. WINN of Androscoggin: Mr. President, I am like some of the rest of the senators, heartily in favor of an old age pension and I assure you that I am confident this session of the legislature will set up something that will be in a true sense, an old age pension, and I do not care now to discuss this, but I believe that there will be no harm in setting aside funds from whatever source it may come in. We never question where money comes from when we put it in use. If we did, we would be in a terrible turmoil. I can not see any harm really, in favoring the amendment of the Senator from Hancock, Senator Harmon, and I assure you that I am heartily in accord with the proposition of earmarking some funds here to make sure that when we retire from here we retire with provisions made for caring for the old age pension fund, and I hope it will be more liberal than the one we have at the present time.

Mr. BURKETT of Knox: Mr. President, I am very much opposed to any appropriation that will increase our state tax, which we would have to do under our regular set-up. Now, I understand that the liquor sales have already reached nearly half a million dollars. According to the set-up of the liquor bill that money is supposed to go to the general fund. Now, if you make an appropriation for an old age pension it must come out of the general fund and I cannot see where, as the Senator from Aroostook, Senator Tompkins, says, we are making money from the sale of liquor in that case to provide for an old age pension. I favor the amendment offered by the Senator from Hancock, Senator Harmon. I am in favor first of paying the costs of the present liquor stores and possibly providing for new stores and the payment of their expenses and after that of the profits going to provide for an old age pension and taking care of the most deserving cases. As a member of the Pension Committee, if you had seen the letters which came into the committee you would agree with me that certainly this money should help take care of some of those cases. If I were an aged person applying for a pension I would not object to being paid out of any fund or any

profits that might accrue from any department.

Mr. BODGE of Kennebec: Mr. President, I feel that I must take a little exception from the remarks made by the Senator from Androscoggin (Senator Winn) in that there can be no question in the minds of the people—perhaps I don't quote him just right but I think I got the idea—as to the source from whence we derive the money for an old age pension. I am confident, from letters that I have received and from conversation that I have had with a considerable number of old people who are entitled to be recipients of the benefit of the old age pension, should the funds be found, that a great many of them would object to feeling that this money came to them through the sale of liquor.

Now, I believe that those of you who have been acquainted with me for a time will agree that I am not a ramrod along these lines. I believe that the use of liquor by individuals is not a crime if it is used in a proper manner but I do believe that there are hundreds of people who would be entitled to an old age pension under any plan that we may adopt, who would feel that they should not be compelled to receive that assistance through the sale of liquor; and I certainly hope that the motion of the Senator from Hancock (Senator Harmon) will not prevail.

Mr. CARLL of York: Mr. President, I don't see much reason in arguing about the source of the money. Under Senator Harmon's bill the State pensioners would be taking the rum straight and on the other hand if the money went into the general fund and was appropriated out of that they would get rum and water. The liquor would be in there no matter which way they got it.

I am obliged to vote against Senator Harmon's amendment on the general principle that I do not believe in ear-marking any money for anything and I wish all the earmarked funds of the State of Maine could be thrown back into the general fund for the Committee on Appropriations to award as the conditions seemed to warrant.

Mr. WINN: Mr. President, I do not care to make many remarks but I will say that I have, as I presume the rest of the Senators have, done quite a lot of business from time to time and I don't believe there is any Senator here who ever, when someone was coming up and tendering

him United States currency for payment of a bill, ever questioned very seriously as to where the money came from. We are all quite anxious to collect our bills and we have quite a lot of difficulty in doing that, and that is what I meant in my remarks.

Mr. ASHBY of Aroostook: Mr. President, I favor Senator Harmon's amendment for this reason, that my observation has been that no matter what the source of revenue that went into the general fund it usually has gone down the same old rat hole, and the more revenue that is put into the general fund the more it seems to cost to run the government. I disagree with the Senator from York, Senator Carll, to the effect that if you do not ear-mark certain appropriations for certain things it goes into the same old rat hole and we are no better off. Consequently I sincerely favor Senator Harmon's amendment.

In regard to the remarks of Senator Carll, I think he made a very appropriate remark when he said that it does not make any difference where this money goes. Whether we set up an Old Age Pension Fund or put the money into the general fund they are going to get their liquor in there just the same, and you know a piece of bread to a person who is hungry would taste just as good whether it is bought from the sale of liquor or twenty-cent potatoes.

Miss MARTIN of Penobscot: Mr. President, I too want to go on record as favoring the Old Age Pension, but I do not feel it advisable to ear-mark funds that would be insufficient to finance it, and having served as Secretary of the Recess Committee on Old Age Pensions I feel very strongly that the Liquor Commission cannot produce revenue enough to finance this bill. If it does not, we will be met with the situation of having a few people receive the pension and all the rest being out of it and having the benefit of righteous indignation to back them up in their cause. If we set up this fund we are going to have difficulty in setting anything else aside to meet it. Personally I would favor defeating this amendment and procuring sufficient funds from wherever we can get them to finance it in the proper fashion.

Mr. ASHBY: Mr. President, although it disagrees with me to disagree with the lady from Bangor (Senator Martin) and the distinguished Senator from Cumber-

land (Senator Burkett) I do not believe anybody knows just what revenue might be derived from the sale of liquor provided we had stores enough. I know every one of them is running over-time and I don't believe anybody is competent at this time to say what that revenue might be if we had a sufficient number of stores running at full capacity. It seems to me it is borrowing trouble when you commence to worry for fear the fund is not going to be adequate because we had no reason to believe that this revenue from the sale of liquor could not be doubled very easily if we had enough stores and gave the people a chance to buy. It is worth taking a chance on, I believe, because I cannot see anything from the general fund that is now or ever will be sufficient to take care of an old age pension unless it is ear-marked in some way like this. This makes a beginning anyway.

Mr. BURKETT of Cumberland: Mr. President, the last speaker says he does not agree with me and then he states facts which I think if he were to consider the matter seriously from the point of view I am trying to explain would cause him to agree. If I were assured that there would be plenty of money derived from these sales and that the Governor and Council would so find and report, as they are required to do under Chapter 267 of the Laws of 1933 in order to make the bill operative, I should certainly vote for this amendment, but if we set aside and ear-mark these funds and they are insufficient and then the Governor and Council do not find some more funds to go with them we are in the very anomalous situation of having these funds ear-marked for a purpose for which they cannot be used. That is my objection.

Mr. BURKETT of Knox: Mr. President, I believe it is better to have half a loaf than no loaf at all. Certainly we can have half a loaf at least, if we use these funds for the old age pensions. There has now been nearly half a million dollars worth sold. The possibility of 20% profit would give \$10,000, and in my opinion, that would be better than making a direct appropriation by the State. If there isn't it is certainly easier to find sources of revenue to make up the deficiency than to get the whole amount. I am in favor of it.

Mr. HARMON: Mr. President, if I may read a few figures which I have, it might be of interest to the Senators. In the first place, I wish to say in reply to the Senator from Cumberland, Senator Burkett, relative to the operation of the old age pension fund. It is so provided that when the Governor and Council shall find ways and means of financing the old age pension, if we earmark this money and it is sufficient, (I think I can show how it will be sufficient for this purpose) then the Governor and Council will have found ways and means from the fact that the Legislature has earmarked and provided the money.

Now, as regards the amount it will take to finance the old age pension law; I have taken from the 28 states who have the same age limit of 65 that the Maine law calls for and have made an average, taking the average of those of the age of 65, according to the report estimated in 1934. In 1850 in the United States 2.4% of the total population was 65 years and over. At this time, it is estimated it is running close to 5% or a little over. Now, that amount, in the State of Maine, would amount to 40,000. Now of that 40,000, taking five states who have had an old age pension law in operation, and taking the number of pension age who have applied for pensions in those five states, that it is a fraction less than 8% of those who are of the pension age who have actually applied for pensions, and through the period they have been in operation, it brings the number to 3200. Taking 3200 which is the average of the five states which have this bill in operation, that would amount to a little over \$540,000.00 for the State's fund.

Now, speaking about the source of money, I do wish to speak on that for just a minute. I know there is some sentiment mixed up in that question. If the profits from liquor stores are turned into the general fund of the state, by the same token that it would contaminate the pension fund, it would contaminate the whole fund of our State of Maine.

I know, and partially agree with some of the Senators in regard to the sentiment of using liquor money for the old age pension money, but as I said before, if it

goes into the fund of the State and if it is good enough to go into the fund of the State of Maine, I say it is good enough to go in and put in operation our old age pension law; and furthermore, I believe it is very important that we should be in a position to meet the money that will be undoubtedly appropriated by the federal government which must be matched by money from the state to put in operation the old age pension law.

Now, I have no question in my mind but income from the sale of liquor in the State of Maine, as it is coming now, and they have many expenditures which have to be taken out of profits at this time and used for expenses which will not be recurrent, that is, will not occur again.

I believe if our liquor stores are operated on a sound business basis there will not only be enough to take care of every old age pension bill that will come in, but a surplus besides; for as it looks now, we will have way over a million dollars to go into some fund and it does seem to me that the pleas and cries of the people who are destitute, the aged over our state, certainly should be considered, and I want to also say that through my campaign last fall I talked with a great many people. I suppose I have had at least 200 come to my office seeking old age pensions, knowing the bill was passed, but not knowing a fund had not been set up; and to those people I have said that I did not doubt but that this new source of revenue which has been voted by the people of Maine now that the state is in the liquor business, would be earmarked to put in operation the old age pension law. I know that in a few cases sometimes they would say, as the Senator from Kennebec, Senator Bodge, has said, but after considering and checking over the situation, they would all agree that if the State of Maine had to receive the income which we have, they could see of no better use it could be put to than to put in operation the old age pension law.

The PRESIDENT: The Senator from Hancock, Senator Harmon, moves that when the vote is taken it be taken by Yeas and Nays. As many as are in favor of the vote being taken by the Yeas and Nays will rise.

A sufficient number having arisen the Yeas and Nays were ordered.

The PRESIDENT: The question is on the motion of the Senator from Hancock, Senator Harmon, that Senate Amendment "A" to An Act Relating to the Sale of Intoxicating Liquors (H. P. 688) (L. D. 232) be adopted. Those in favor of the adoption of the amendment will answer Yes when their names are called. Those opposed to the adoption of the amendment will answer No when their names are called. The Secretary will call the roll.

The Secretary called the roll.

YEAS: Senators Ashby, Billings, Bissett, Burkett of Knox, Fernald of York, Harmon, Jackson, McDonald, Winn, Worcester—10.

NAYS: Senators Blaisdell, Blanchard, Bodge, Burkett of Cumberland, Burns, Carrl, Cowan, Fernald of Waldo, Goodwin, Haskell, Hathaway, Hussey, Martin, Pillsbury, Potter, Schnurle, Thatcher, Tompkins—18.

ABSENT: Senators Bartlett, Friend, Pinansky—3.

The PRESIDENT: Ten having voted in the affirmative and eighteen in the negative the amendment is not adopted.

Thereupon, the bill was given its first reading and tomorrow assigned.

Mr. HUSSEY of Kennebec: Mr. President, I wish to rise to a point of special privilege.

The PRESIDENT: The Senator will state the point of special privilege.

Mr. HUSSEY: Mr. President, it is to explain certain acts which I believe I shall be compelled to commit in the next two weeks.

The PRESIDENT: The Senator may proceed.

Mr. HUSSEY: There are before the various committees of this legislature resolves and acts totaling over two and three quarters millions of dollars. This is in addition to our general appropriation bill of funds going to our institutions and general expenses of over \$9,000,000, not taking into consideration such funds as are allocated to the Highway Department and subsidiaries. This two and three quarters million dollars does not represent in any way any money which you may in the future set up for old age pensions. This two and three quarters million dollars, as I have stated, is not included in any budget recommendations. This sum of money represents the same amount of your tax on real estate which the citizens

of Maine are paying at the present time, namely 7 1-4 mills.

Now, if these acts and resolves are to be passed, over and above the budget recommendations, that would move your mill tax on real estate property in the State of Maine up to 15 mills. I know that you, as legislators, as citizens and taxpayers of this state are not in favor of raising your mill tax to that figure. As this legislature has progressed along its way, new revenue has not been forthcoming and your committees which have these special resolves and acts before them sooner or later are bound to report out from your committees such resolves or acts either in favor or against and I feel at this time that we should all look at the picture right face to and not be too hasty in sending out appropriations without due regard to our state mill tax.

The budget was made up with a recommendation of a mill tax of 7 1-4 mills, and certain other recommendations such as asking for the revenue from the sale of liquor, which we set up in our budget as approximately \$550,000 for the next ensuing year, also asking for a reduction in state aid to academies, also asking for the suspension of our mill tax on highways, also asking for suspension of bounties on porcupine, also asking for a certain reduction in our University of Maine tax, I feel that we should not be too hasty in tacking onto our general appropriation any amount of money.

If you will closely go over the budget you will see that we have asked for certain sums of money in order to balance this budget. This is in addition to our seven and a quarter mill tax which we have been carrying for the last two years and which we want to carry along for the next two years. We don't want to add to that mill tax and it is only through your efforts that we will be able to keep this within bounds. As these bills and resolves come in to the Senate I am going to ask that I be given a little extra aid and assistance in that I may want that these resolves be tabled for a certain length of time in order that we may all determine where the money is coming from. I feel sure that before this Legislature adjourns we can take care of some of them but we have got to give them time, study and thought before we can pick out those which

are the more necessary and as they come in I hope you will bear with me in any effort I may make in keeping these appropriations within our general budget as set down at the present time. I thank you.

The PRESIDENT: The Chair trusts that the Senators will give the remarks made by the Senator from Kennebec, Senator Hussey, serious consideration.

(Emergency Measure)

"An Act Authorizing the Town of Bar Harbor to Erect and Maintain a Municipal Wharf or Pier." (H. P. 595) (L. D. 159)

Which bill being an emergency

measure, and having received the affirmative vote of 28 members of the Senate and none opposed, was passed to be enacted.

(Emergency Measure)

"An Act to Create a Milk Control Board." (H. P. 1414) (L. D. 632)

Which bill being an emergency measure, and having received the affirmative vote of 28 members of the Senate and none opposed, was passed to be enacted.

On motion by Mr. Carl of York, Adjourned, until tomorrow morning at ten o'clock.