

# MAINE STATE LEGISLATURE

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



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

Legislative Record

OF THE

Eighty-Eighth Legislature

OF THE

STATE OF MAINE

1937

KENNEBEC JOURNAL COMPANY  
AUGUSTA, MAINE

**SENATE**

Thursday, April 1, 1937.

Senate called to order by the President.

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

Journal of yesterday, read and approved.

From the House:

Bill, "An Act Relating to Pauper Settlement" (H. P. 1542) (L. D. 569)

(In the Senate, on March 19th, passed to be engrossed in concurrence.)

Comes from the House, that body, under suspension of the rules having reconsidered its former action whereby the bill was passed to be engrossed, House Amendment "A" having been adopted and the bill as amended by House Amendment "A" passed to be engrossed in non-concurrence.

In the Senate, under suspension of the rules, that body voted to reconsider its former action, taken on March 19th, whereby the bill was passed to be engrossed in concurrence, and House Amendment "A" was read.

Thereupon, on motion by Miss Martin of Penobscot, the bill and the amendment were laid upon the table pending adoption of House Amendment "A" in concurrence.

From the House:

Bill, "An Act Relating to Revocation of Fish and Game Licenses (S. P. 434) (L. D. 829)

(In the Senate, on March 19th, House Amendment "A" adopted in concurrence and the bill as so amended passed to be engrossed in concurrence.)

Comes from the House, that body, under suspension of the rules, having reconsidered its former action whereby the bill was passed to be engrossed as amended by House Amendment "A", House Amendment "B" having been adopted and the bill as amended by House Amendments "A" and "B" passed to be engrossed in non-concurrence.

In the Senate, under suspension of the rules, that body voted to reconsider its former action, taken on March 19th, whereby the bill as amended by House Amendment "A" was passed to be engrossed in concurrence and House Amendment "B" was read.

Thereupon, on motion by Mr. Worthen of Penobscot the bill as amended by House Amendment "A" was laid upon the table pending the adoption of House Amendment "B" in concurrence.

From the House: Joint Order recalling from the Committee on Legal Affairs to the Senate (S. P. 397) (L. D. 735) bill, "An Act Relating to the Police Department of the City of Lewiston" (S. P. 453).

(In the Senate, on March 19th, read and passed.)

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

In the Senate, on motion by Miss Martin of Penobscot, that body voted to recede and concur with the House in the indefinite postponement of the order.

From the House: Bill, "An Act Relating to Vital Statistics" (S. P. 189) (L. D. 288)

(In the Senate, on March 23rd, passed to be engrossed.)

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

In the Senate:

Mr. HUSSEY of Kennebec: Mr. President, I move that we insist upon our former action whereby we passed this bill to be engrossed.

Miss LAUGHLIN of Cumberland: Mr. President, I shall have to oppose that motion. I was about to make a motion to recede and concur. This is a matter of keeping the records of the vital statistics of this state, which is a very important thing. The work under the section—I have just looked it up—is done free. There is no pay for the work. The only thing is that the state will pay for copies to be distributed to the libraries of the different cities and towns. Now, we all know in what bad shape we have kept the records of vital statistics of this state. This is bringing them up to 1892 when we began under a different system. It will mean passing a bill bringing the records up to that date which will improve them historically and in every other way, and the expense is very slight. In fact, it is limited to not more than \$3,000 a year. The work is done free and the only cost is buying these copies of vital statistics to be distributed to the libraries of the towns and cities of this state. It seems to me

that it is something that this state, with the history it has back of it, should do in order to keep these older vital statistics in such shape that these matters can be looked up.

The PRESIDENT: May the Chair inquire of the Senator from Cumberland, Senator Laughlin, whether she wishes to make a motion?

Miss LAUGHLIN: Mr. President, if a motion is in order I will make it now, that we recede and concur.

Mr. HUSSEY: Mr. President, explaining my position on this bill I might state that, just as the Senator from Cumberland, Senator Laughlin has said, we have had a law since 1892 whereby the town officials receive so much per question or per name for all vital statistics since 1892.

Now, since that time there is no doubt that the records of the state are being kept up in very good shape. They are collected here at the state house and, of course, in the various towns and cities. This law is intended to take care of records before that time. Under the present law it is so broad that the people of the state are working under great disadvantage to themselves in that as the law now stands they get the records of a town together and then present them to the legislature and are paid so much per page. Now, all over the state certain people who are interested in vital statistics have started these records and they have gone on the assumption that all they had to do was to come down here and apply for them and they would get paid.

It so happens that in the past, and the same this year, we haven't set up any money to take care of any such thing and I hesitate to have this law on the books and to have these people working on these records and not being able to get paid for them. At any time legislation can come before a legislature asking for appropriations for the vital statistics of Fryeburg, Waterville, Winslow or what-not, and they can be paid for according to what the legislature may deem wise. But if this law is repealed I think it will work a justice upon these people—and when I say "justice" I really use it in the true sense of the word—in that they will not be sailing under some false pretenses or thinking they can come down here and get the money just as soon as they have published these books.

It has been the general understanding, also between them and the library department—Mr. Dunning—that when a certain number of these books had been published such work would stop and the committee which has reviewed these different appropriations every year have worked under that same contention, that we had taken care of those who were generally understood to come under the law.

Therefore, I believe that in justice to them this bill should be enacted into law and that they should make any such claims through future legislation for records of any town or city in which they might want them.

Mr. GOUDY of Cumberland: Mr. President, one of the most important things that I can think of is the duty of the state to maintain a record of vital statistics so as to have a complete record of such matters in this state and it seems to me that it would be a step backward for the state to take any action that would limit that possibility. For instance, I recall that when some of our Maine boys and girls go to other states to teach school, in order to be eligible for the pension that is provided for teachers they have to send in here for certain records and one teacher in Waterbury, Connecticut, has sent here for certain statistics and it is impossible to find them and her right is therefore jeopardized to share in the pension and other things that are provided in the state of Connecticut. Without a means of finding out these different matters it seems to me that you are certainly handicapping the citizens and are taking a step backward. It seems to me that one of the most important things we could have is a complete record of vital statistics and I am heartily in favor of the motion of the Senator from Cumberland, Senator Laughlin.

Miss LAUGHLIN: Mr. President, I have before me the section that is cited to be repealed. This work is being taken over by the Daughters of the American Revolution and it is a great deal of work which they are willing to do free. The state will simply furnish these records and send them out to the libraries.

Quoting from the Revised Statutes, Chapter 4, Section 9, it says: Whenever the record of the births, marriages, and deaths of any town in the state, previous to the year

1892, beginning at the very earliest date, shall be collected from church records, church registers, records of clergymen, family Bibles, public record and other available sources, and shall be printed and verified in the manner required by the standing committee of the Maine historical society, under the editorship of some person selected by said committee, whose services shall be rendered free and without any compensation, and the work shall appear to them to have been prepared with accuracy, the librarian of the state library shall purchase five hundred copies of such record."

It does seem to me that work that is drudgery like that, that is offered free to this state, to compile records of this state which are valuable to the historical societies as well as to individuals, in connection with which the Senator from Cumberland, Senator Goudy, has spoken, that we should at least be willing to accept it and not repeal the section that provides for it.

Mr. HUSSEY: Mr. President, as has been stated before, records of vital statistics of all citizens in the state of Maine since 1892 are being collected in the state of Maine by the cities and towns and in the state through the departments we have here. Now, as regards the records previous to that, if a group of persons or one person gets together such statistics of their time and gets them into proper shape and then introduces a bill and it goes to its proper committee, and if those are in order, if the books and records are worthwhile, there is nothing to hinder the legislature from buying five hundred copies and distributing them.

What I really feel is that the law as set up on the books says that anybody can compile these records and they might put in a year, or two or three years, working on them and then find that they are not in real detail and they would then be rejected by Mr. Dunnack or by this Maine Historical Society which passes on them. My real contention is that they have got all the chance in the world to have them printed and the state will pay for them if they proceed in an orderly fashion. I don't believe the Daughters of the American Revolution have anything to do with this as to saying what shall be published. The Maine Historical Society has

sat as a sort of judgment committee to which these should be presented first.

I trust my motion will prevail because I really think that this is the best and safest way that it can be handled, and that is by taking these books up individually, which they can do by coming before the legislature with the book and ask for the buying of five hundred or more copies, if they desire.

Mr. SEWALL of Sagadahoc: Mr. President, this discussion refreshes my memory a little of two years back on the Appropriations Committee when this same question came up. I think we all want to have proper records of the past and these vital statistics are important. But as I remember it, the difficulty in the present law is that we in fact have empowered an organization, the Maine Historical Society, which is absolutely separate from the state to really contract for the state. In other words, by the approval of this society the state is obligated; and I felt at that time, and I think I still do, that at least the law should be amended so that before a person starts work on vital statistics it should be approved by some department or some organization that belongs to the state, possibly the librarian.

Miss LAUGHLIN: Mr. President, may I ask a question of the Senator from Sagadahoc, Senator Sewall?

The PRESIDENT: The Senator from Cumberland, Senator Laughlin, wishes to ask a question, through the Chair, of the Senator from Sagadahoc, Senator Sewall, which that Senator may answer if he so desires.

Miss LAUGHLIN: Mr. President, does the Senator (Senator Sewall) know of any organization, if we repeal this law, that has any authority to make those investigations?

Mr. SEWALL: I might answer that, Mr. President, that if we repeal it there would be no organization to authorize the work although, of course, the work could be bought by the Librarian under his budget. Now it seems to me much fairer that the person who is undertaking the work should know before-hand that he or she will be able to sell these books, that they will be acceptable to the Librarian.

Miss LAUGHLIN: Mr. President, I will say that they don't sell the

books. There is no pay to anybody. It is merely the cost of printing.

Mr. SEWALL: Well, Mr. President, the state, as I understand it, under the bill does purchase so many copies of the books. Whether the state purchases or the writer sells, I do not know, but it does seem to me that the state purchases the books, so I do believe that if go ahead with it the law at least should be amended so that an outside organization is not in a position of being able to make a contract, or setting up a contract, with the state without the approval of the state. I would like to move that the matter be tabled.

The motion to table prevailed and the bill was laid upon the table pending motion to recede and concur with the House in the indefinite postponement of the bill.

At this point, Mr. Spear of Cumberland, was escorted to the Chair, the President retiring.

Papers from the House disposed of in concurrence.

#### First Reading of Printed Bills

"Resolve Relating to an Investigation of the Pollution of Rivers in the State." (S. P. 456) (L. D. 395)

#### Reports of Committees

Miss Laughlin from the Committee on Judiciary on bill "An Act Relating to Hospital Liens," (S. P. 282) (L. D. 701) reported that the same ought not to pass.

Mr. Fernald from the same Committee on bill "An Act Relating to Terms of Office of State Officials," (S. P. 421) (L. D. 813) reported that the same ought not to pass.

Mr. Kennedy from the Committee on State Lands and Forest Preservation on "Resolve Authorizing the Forest Commissioner to Convey Land in the County of Hancock," (S. P. 368) (L. D. 620) reported that leave be granted to withdraw.

Mr. Cook from the Committee on Education on "Remonstrances against the passing of a bill to make Public School Positions Non-sectarian and Non-political," (S. P. 387) and (S. P. 386) reported that the same be placed on file.

Which reports were severally read and accepted.

Sent down for concurrence.

Mr. Kennedy from the Committee on State Lands and Forest Preservation on "Resolve Defining Rights

of the Forest Commissioner," (S. P. 258) (L. D. 397) reported the same in a new draft (S. P. 482) under a new title, "Resolve Authorizing Sale of Certain Lands to Eugenia A. Powers," and that it ought to pass.

Which report was read and accepted, and the resolve laid upon the table for printing under the joint rules.

Mr. Fernald from the Committee on Judiciary on bill "An Act Providing for the Establishment of a Judicial Council," (S. P. 393) (L. D. 738) reported that the same ought to pass.

Miss Laughlin from the Committee on bill "An Act Relating to Reports of Tax Collectors," (S. P. 61) (L. D. 41) reported that the same ought to pass.

Which reports were severally read and accepted, the bills read once, and tomorrow assigned for second reading.

Mr. Friend from the Committee on Claims on the following Resolves:

S. P. 75 Resolve in Favor of Orris L. Dean, of Derby.

S. P. 98 Resolve in Favor of Davis Stanley, of Northeast Harbor.

S. P. 99 Resolve in Favor of Frank Everett, of East Corinth.

S. P. 127 Resolve in Favor of Cecile V. Smallidge, of Northeast Harbor.

S. P. 128 Resolve in Favor of Ada M. Somes, of Mount Desert.

S. P. 167 Resolve in Favor of Neil J. Murphy, of Lynn, Massachusetts.

S. P. 221 Resolve in Favor of Lawrence I. Morton, of East Union.

H. P. 2 Resolve in Favor of Prince H. Thomas, of Masardis.

H. P. 27 Resolve in Favor of Leon Brown, of Skowhegan.

H. P. 28 Resolve in Favor of Eugene Wakely, of Lisbon Falls.

H. P. 29 Resolve in Favor of John Salisbury of Hampden.

H. P. 69 Resolve in Favor of Theron Ellis, of Rangeley.

H. P. 70 Resolve in Favor of Ilda E. Ross, of Rangeley.

H. P. 71 Resolve in Favor of Harold L. Bliss, of Portland.

H. P. 111 Resolve in Favor of Harland P. Dean, of Belfast.

H. P. 112 Resolve in Favor of John F. Pike, of Waterford.

H. P. 113 Resolve in Favor of Lemuel Rich, of Sebago Lake.

H. P. 173 Resolve in Favor of Arian H. Jones, of Lewiston.

H. P. 177 Resolve in Favor of Morrell Perkins, of Baileyville.

H. P. 179 Resolve in Favor of Ernest Gray, of Ellsworth Falls.

H. P. 180 Resolve in Favor of Paul E. Ayer, of Bangor.

H. P. 182 Resolve in Favor of Millard MacLaughlin, of Bangor.

H. P. 288 Resolve in Favor of George A. Dodge, of Wayne.

H. P. 344 Resolve in Favor of Mark W. Ginn, of Bangor.

H. P. 419 Resolve in Favor of Carol W. Page, of East Livermore.

H. P. 420 Resolve in Favor of L. Edward Bray, of Blanchard.

H. P. 421 Resolve in Favor of Saul T. Hebert, of Dixfield.

H. P. 422 Resolve in Favor of Fred Rowell, of Norway.

H. P. 423 Resolve in Favor of Douglas L. Payson, of Camden.

H. P. 424 Resolve in Favor of Donald B. Smith, of Bucksport.

H. P. 425 Resolve in Favor of Freeman Howard, of East Hiram.

H. P. 429 Resolve in Favor of Frank L. Cunningham, of Burnham.

H. P. 442 Resolve in Favor of Gordon & White Garage Co., of Southwest Harbor.

H. P. 443 Resolve in Favor of John E. Hamblen, of McKinley.

H. P. 444 Resolve in Favor of Felton Kenney, of Southwest Harbor.

H. P. 445 Resolve in Favor of Robert Rich, of McKinley.

H. P. 572 Resolve in Favor of R. K. Lothrop, of Leeds.

H. P. 577 Resolve in Favor of Nelson Mitchel, of Salisbury Cove.

H. P. 578 Resolve in Favor of Lionel Stanley, of Trenton.

H. P. 579 Resolve in Favor of Mary L. Richardson, of McKinley.

H. P. 642 Resolve in Favor of James Carswell, Jr., of Camden.

H. P. 647 Resolve in Favor of Clyde Burgess, of Auburn.

H. P. 654 Resolve in Favor of Clifton S. Humphreys.

H. P. 784 Resolve in Favor of Phillip Fortin, of Hanover.

H. P. 801 Resolve in Favor of D. S. Hussey, of Lewiston.

H. P. 805 Resolve in Favor of William P. Lyons.

H. P. 814 Resolve in Favor of Arnold L. Norton, of Dexter.

H. P. 942 Resolve in Favor of William NN. Harnett, of Cornish.

H. P. 943 Resolve in Favor of John W. Garner, of Kezar Falls.

H. P. 955 Resolve in Favor of Beulah Lyons, of Ellsworth.

H. P. 964 Resolve in Favor of Merrill Seavey, of Bernard.

H. P. 965 Resolve in Favor of Seth Harper, of Seal Cove.

H. P. 970 Resolve in Favor of Charles D. Atherton, of Portland.

H. P. 971 Resolve in Favor of Chaplin Motor Company.

H. P. 1142 Resolve in Favor of Ludger Doiron, of Chisholm, in the Town of Jay.

H. P. 1145 Resolve in Favor of George K. Munsey.

H. P. 1253 Resolve in Favor of Claude J. Klein, of Fort Kent.

H. P. 1335 Resolve in Favor of Orchard Littlefield.

H. P. 1341 Resolve in Favor of Frank T. Addington, of Augusta.

H. P. 1347 Resolve in Favor of John B. Komich.

H. P. 1352 Resolve in Favor of James F. Dunton, of Woolwich.

H. P. 1368 Resolve in Favor of Edwin R. Libby, of Benton.

H. P. 1614 Resolve in Favor of Mrs. George Finley, of Warren.

H. P. 1683 Resolve in Favor of Joe Carney, of Ashland.

reports the same in a consolidated Resolve (S. P. 483) under title of "Resolve Providing for the Payment of Certain Damages Caused by Protected Wild Animals," and that it ought to pass.

Which report was read and accepted, and the resolve, under suspension of the rules, given its two several readings and passed to be engrossed.

Sent down for concurrence.

#### Passed to be Engrossed

Bill "An Act Regarding Penalty for Depositing Poisons with Intent to Kill Animals." (H. P. 1548) (L. D. 683)

Bill "An Act Relating to Transportation of Game." (H. P. 1769) (L. D. 890)

Which bills were read a second time and passed to be engrossed in concurrence.

Bill "An Act Relative to Racing Commission." S. P. 187) (L. D. 250)

Bill "An Act Relating to the Practice of Law." (S. P. 240) (L. D. 387)

Which bills were severally read a second time, and passed to be engrossed.

Sent down for concurrence.

The President resumed the Chair, the Senator from Cumberland, Senator Spear retiring, amidst the applause of the Senate.

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

The Committee on Legal Affairs on bill "An Act Relating to Pawnbrokers and Dealers in Junk and Second Hand Goods," (H. P. 1540) (L. D. 708)

Comes from the House, recommended to the Committee on Legal Affairs.

In the Senate, recommended to the Committee on Legal Affairs in concurrence.

#### Orders of the Day

Miss LAUGHLIN of Cumberland: Mr. President, I move the Senate reconsider its vote of yesterday whereby the report of the committee on Bill, An Act Relating to Support of Dependents of Soldiers, Sailors, and Marines of the World War (H. P. 1286) (L. D. 466), which is Item 21 on yesterday's calendar, was accepted. This report was "ought not to pass". I would like to say my only purpose is that someone, I suppose a member of the Veterans' organization, asked me to put in an amendment to the bill, which he wished to have come up. I do not know as I shall support the amendment when it is in, and I am not clear just what it is, but I think it is changing the residence of persons entitled to support, but in order that they might have a hearing on the amendment. I was glad to put the bill where it could be amended. Therefore, I would move, first, that we reconsider our action whereby we accepted the report of the committee, "ought not to pass" in concurrence with the House.

The motion prevailed, and the Senate voted to reconsider its action of March 31st, whereby the "ought not to pass" report of the Committee on Judiciary was accepted in concurrence.

Miss LAUGHLIN: Mr. President, I now move we substitute the bill for the report, which, of course, will be necessary before any amendment can be offered, and it leaves us open for the facts as they may appear.

Thereupon, the bill was substituted for the report, in non-concurrence, and given its first reading.

Upon motion of Miss Laughlin, the bill was laid upon the table pending second reading.

On motion by Mr. Kennedy of Hancock, the Senate voted to take

from the table, An Act Relating to Mileage Compensation for County Officials (H. P. 1761) (L. D. 871), tabled by that Senator on March 30th pending first reading; and on further motion by the same Senator, the bill was given its first reading and tomorrow assigned for second reading.

On motion by Mr. Ashby of Aroostook, the Senate voted to take from the table, An Act Relating to Prepayment of Excise Tax on Motor Vehicles, (H. P. 877) (L. D. 279), tabled by that Senator on March 19th pending second reading.

Mr. ASHBY of Aroostook: Mr. President and members of the Senate: I presume you are all familiar with this bill. It has been with us for quite a number of years. In the beginning it didn't amount to much. I think in 1932 it amounted to only about \$2300 but it has been increasing by leaps and bounds. Last year it amounted to \$3200, I think, and this year \$4100. If you have noted in the bill, this provides to whom the excise tax on out of state motor trucks and vehicles shall be paid. Hitherto it has been paid to the state, which is the logical place for payment. This bill says it shall be paid to those places where the motor vehicles in question are usually kept. Well now, that again would imply it should be paid to the state because they are usually kept on the road, day and night,—on the highways of the state. I see no good reason why the excise tax on the motor vehicles should not go to the state instead of one or two towns or cities which claim that is where they are usually kept. Naturally, the home location would be in the cities, but I see no reason why one or two cities should scoop the excise tax, which belongs to the State of Maine. They may be kept in Portland or Lewiston, but they are using all the roads in the state from Kittery to Fort Kent. There can be no logical reason advanced why they should not be paid to the state as heretofore paid. I move the indefinite postponement of the bill.

Mr. GOUDY of Cumberland: Mr. President and members of the Senate, I have come to the conclusion that if I attempt often enough I may have the Senate voting with me. There is every reason in the world why Mr. Ashby's motion



should not prevail. This bill before the legislature is a bill which provides that all out of state corporations which pay motor vehicle taxes, shall pay them to the towns and cities where these cars are kept. At the present time the tax is paid to the state.

Now, we will start off with the fundamental principles of taxation on personal property. The tax law of the State of Maine provided that personal property owned by a resident of this state should be paid to the town in which the owner resided, and that personal property owned by a non-resident of this state should be paid to the municipality in which the personal property was located. So that the fundamental principles of law and statute gave the personal property tax to the cities and towns. Now that law has worked out all right until the automobiles came onto our roads. The automobile was taxed as personal property. Some people,—some owners of automobiles—avoided their personal property tax by selling their automobiles along in the middle of the winter and not taking delivery of a new car until after the first of April, so that when the tax assessors in the various towns made their assessment, these people did not own automobiles and so were relieved of paying a tax.

So the legislature of Maine decided some law should be passed to help in the collection of taxes, inasmuch as they were being so successfully evaded. So they passed this excise tax and under this present law.—and I want to place emphasis on that fact—under this present law, for a great many years the tax was paid to the cities and towns without any question. Miss Laughlin tells me it was paid to the cities and towns for six years. Then on account or what was classed an ambiguity of the law, the Attorney General, Clyde Chapman, ruled that the phrase “non-resident” meant non-resident person and foreign corporation. The law as it is written, contained the phrase “non-resident,” and “non-resident” was interpreted by Mr. Chapman to be non-resident corporation as well as person. So this bill adds the word “person” and confines one provision to “a person”, and as far as “a person” is concerned, the bill does not change the law, but it does pro-

vide “that a foreign corporation registering a motor vehicle in this state shall pay to the municipality of the state where said motor vehicle is customarily kept, or if there is no such customary place of keeping, then to the state, the excise tax above provided.”

So Clyde Chapman ruled that on account of the ambiguity of the law he felt the State was entitled to the tax even though the law might be unjust. In interpreting this law he ruled that the Secretary of State should send notices forthwith to the tax collectors of the various cities and towns and notify them to refuse to accept excise taxes on trucks and cars owned by foreign corporations. A bill of equity was brought against Mr. Barrows by the city of South Portland. The cities of Portland and Westbrook intervened and a hearing was held before Judge Thaxter. We all agreed at the time that probably the matter would go to the Law Court and it would be some time before it could be straightened out, and that the proper thing to do would be to introduce a bill in the legislature to clarify the law and the meaning.

As a matter of fact, it might be argued, and has been argued that the law as it is today, entitled the various cities and towns to the excise tax, but on account of ambiguity we all felt,—the attorney general, secretary of state, Judge Thaxter, and all of us—felt it was up to the legislature to clarify the statutes. The money belongs, equitably and legally, to the cities and towns and not to the state. It was paid as a tax on personal property, but on account of confusion that was prevalent, they changed the law so that the tax on automobiles would be obtained in a different manner. The tax belongs to the cities and towns and doesn't belong to the state. It is one of the revenues they have planned on and one of the ways by which they pay their bills.

I say that the bill, in all fairness, and justly, should be passed so as to give to the cities and towns what belongs to them and because there happened to be a loophole in the statute—so-called—I do not think this legislature wants to take advantage of it and demand a pound of flesh. The money belongs to the towns and cities and was being paid to the towns and cities,—and inasmuch as Maine was the state to lead in this, and pass this law, I

think they did a good job to make it as plain as it is,—but on account of this one ambiguity, the attorney general has felt that in his opinion the money should be paid to the state, even though it equitably belongs to the cities and towns. I hope in justice to the cities and towns, the motion of the Senator from Aroostook, Senator Ashby, will not prevail.

Mr. ASHBY: Mr. President, I ask permission to reply to the distinguished Senator from Cumberland, Senator Goudy.

The PRESIDENT: The Senator from Aroostook, Senator Ashby, wishes to reply to the Senator from Cumberland, Senator Goudy. If there is no objection, he may do so.

Mr. ASHBY: Mr. President, I want the Senate to take into consideration, and give me the benefit of that consideration, that it is a hard job for a farmer from up in Aroostook County to get up and argue with such a fluent speaker as the Senator from Cumberland, Senator Goudy.

He (Senator Goudy) has said that this excise tax belongs to the cities and towns, and I beg to differ with him, and so did the attorney general. I believe that these trucks fall in exactly the same place as the rolling stock on a railroad. If we use his argument, all the B. & M. rolling stock—the city of Bangor could collect their tax but since they are not in one place any more than the trucks are, any great length of time, the state has wisely decided that they shall pay the excise tax on the rolling stock to them. These trucks fall in exactly the same place as the rolling stock does of a railroad company. Well Mr. Goudy says and I hate to contradict the gentleman, that it belongs to the cities and towns. I hate to say I contradict him and that he is wrong, but I will say he is mistaken, and it does rightfully belong to the state. I hope my motion will prevail.

Miss LAUGHLIN: Mr. President, after the able speech of the Senator from Cumberland, Senator Goudy, which seemed to set forth the matter very completely, I feel I should, perhaps, just say "Amen" and sit down, but there are one or two things I would like to say. One is, that it is a misnomer to call it an excise tax at all. That is what I think led to the erroneous opinion that it should go to the State. It is

not an excise tax but a personal property tax, and the law should have been so written. Now, I drive nearly every day when I am in Portland, in my automobile, by the warehouse of the Atlantic and Pacific Company, and they have a lot of trucks and automobiles which they keep there. Is there any sense for us to say that they shall pay their tax on inventory, personal property tax, which under our law goes to the city of Portland, and then segregate these trucks, which are personal property, and say, "You pay the tax on them but send it to the state." This applies to any town or city where a non-resident corporation keeps automobiles of any kind, which is personal property, and this amendment provides he shall pay a tax on personal property even though it be an automobile, and he shall pay that tax on personal property to the city or town where it is kept.

The law provides, as Senator Goudy has so ably stated, that a non-resident person who registers a motor vehicle in the state shall pay the tax to the town or city where he temporarily resides. We have non-residents come here and they have personal property here even though they do not have a residence here. We would not think of such a thing as saying, "You pay your tax on personal property to the state." We would not say to a corporation, "You pay your tax on personal property to the state." We would say, "The tax on personal property located in the state should be paid to the town or city in which it is located." This bill just calls it "personal property," and of course, an automobile is personal property. This tax isn't an excise tax. It is a tax on personal property.

Because of the peculiar nature of this property they were able to evade the tax. I was in the legislature when this law was passed. The purpose of changing it was to see that those people paid those taxes on automobiles, and paid them like any other personal property tax. It certainly never entered the head of any member of the legislature that it was for any purpose except to enforce the law on the payment of the tax on automobiles, which is a tax on personal property. That tax should be paid to the town or city the same as any other tax on personal property is paid.

Mr. ASHBY: Mr. President, may I ask a question of the distinguished lady member from Cumberland?

The PRESIDENT: The Senator from Aroostook, Senator Ashby, desires to ask a question through the Chair of the Senator from Cumberland, Senator Laughlin. He may do so, and the Senator may reply if she desires.

Mr. ASHBY: Mr. President, I would like to ask this: If trucks belonging to an oil corporation are considered personal property why should not the rolling stock on a railroad be considered personal property? Why would not President Graham's private car compare favorably in that respect, with an automobile?

Miss LAUGHLIN: Rolling stock of a railroad is personal property but because it is not kept in one spot—it does move—it is rolling stock—it being a public utility the State gets the excise tax—I do not remember whether it is on gross income or net income of the railroads. Any property belonging to the railroads kept in any town or city, as well as real estate, pays the tax to the town or city. If they kept any cars in the town or city so they were located there, they would pay the tax on them to the town or city.

Mr. ASHBY: The trucks of these oil companies are not kept in one town. We find them in Fort Kent and Fort Fairfield staying over night. They are wherever night overtakes them, unless the company compels them, as they sometimes do, to go the whole 24 hours over the State of Maine. The home offices are in some of the cities, but the trucks are not kept there by any means.

Miss LAUGHLIN: Mr. President, I might drive up here in my car and leave it here in Augusta over night but that does not change the fact that it is really kept in Portland. An oil truck might go to Fort Fairfield but doesn't "reside" there, it just stays perhaps over night, and is merely a transient there over night. The place where the tax should be paid is where it is kept most of the time, where repairs are made and where overhauling is done.

Mr. WILEY of Cumberland: Mr. President, I might perhaps attempt to amplify the answer of the Senator from Cumberland, Senator Laughlin, differentiating between the stock, the rolling stock of a rail-

road and an oil company truck, given as an example. There is no piece of rolling stock of a railroad except the engine which has a permanent shelter, where it goes night after night when it has to be taken in out of the weather when its trip has been completed. The only time that rolling stock, with the exception of the engine, has shelter, is when it is taken into the car barns for repairs or to be painted.

Those of us who remember our constitutional law in connection with taxation problems, recall that these cars, railroad cars, are sent across the country. We recall that one railroad interchanges one railroad car of their company for one of another company, and the only way an equitable taxation of that particular rolling stock could be made was by the suggestion made by the Senator from Aroostook, Senator Ashby. That was a condition that existed and which now exists because of the interchanging of the different company railroad cars. But in the case of the automobile trucks that we have in this state, every one of those trucks has a permanent place of abode, so to speak. They have a garage and in most instances, they are at the place of the oil company's site of business. In South Portland they have a tremendous garage where every one of the trucks is put under cover. But in Portland or in Bangor I might say they have no garage where they put the rolling stock of the B. & A. Railroad over night. There is a great distinction. There is no comparison between the railroad and the oil company's big automobile trucks.

If we were to accept his (Senator Ashby's) solution, then we should go one step further and assess and make the personal property tax of all individuals of the State of Maine payable to the State of Maine rather than to the cities and towns where it is located on the first day of April.

I certainly hope the motion of the Senator from Aroostook, Senator Ashby, will not prevail.

Mr. GOUDY: Mr. President, I would like to make one or two more remarks. I should like to point out to the members of the Senate that the purpose, the very purpose of the passage of the act in the first place, was to enable cities and towns to collect taxes on automobiles. It was the reason it was

formulated, the reason it was drawn and the reason it was passed. Because, as I say, it was the first bill of its kind to be passed, there was this little ambiguity, and as I say, they collected the tax six years without any question and then the thing was pointed out to the Attorney General and even though he felt it was unjust and even though he felt the money belonged to the cities and towns as the law was phrased, and even though he disliked to do it, and said so, he felt it was his duty to rule. Under the circumstances, that the money be paid to the state.

This bill had a full and impartial hearing and was reported out by the committee "ought to pass", and has been passed by the House, and I cannot conceive of anybody, unless prejudiced or biased, or unless their home town enters into it, opposing this measure.

Out of fairness to the citizens of our cities and towns, and out of fairness to the taxpayers. I hope the motion of the Senator from Aroostook, Senator Ashby, will not prevail.

Mr. ASHBY: Mr. President, I merely want to call the attention of the Senate to this fact, that the proponents of this bill who have endorsed it up to date, have all come from the city of Portland or its suburbs, where nearly all this tax will be left.

Mr. WILLEY: Mr. President, I ask permission to speak again to answer a question or assertion of the Senator from Aroostook, Senator Ashby.

The PRESIDENT: The Senator from Cumberland, Senator Willey, asks permission to speak again. He may do so, if there is no objection.

Mr. WILLEY: Mr. President, the Senator from Aroostook, Senator Ashby, has called the attention of the Senate to the fact that those who spoke on this bill have come from Cumberland County. I will call his attention to the fact that we pay 10% of the entire tax of the state, and I think perhaps we are entitled to some consideration in this matter.

The PRESIDENT: The question before the Senate is on the motion of the Senator from Aroostook, Senator Ashby, that the bill be indefinitely postponed, in non-concurrence.

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

The PRESIDENT: The Senator from Cumberland, Senator Goudy, asks for a division. Is the Senate ready for the question?

A division of the Senate was had. Eleven having voted in the affirmative and sixteen opposed, the motion to indefinitely postpone in non-concurrence, did not prevail.

Thereupon, on motion by Mr. Goudy of Cumberland, the bill was given its second reading and passed to be engrossed in concurrence.

Miss MARTIN of Penobscot: Mr. President, I wish to ask the unanimous consent of the Senate to introduce a bill out of order and under suspension of the rules, and I will say that this is a bill to amend Section 453 of Chapter 1 of the Public Laws of 1933, entitled, "An Act to Revise the Health and Welfare Law," in regard to admissions to the Pownal State School.

The Pownal State School is now ready to open the new dormitories with a capacity of 320, with a waiting list of about 425. Section 453 of Chapter 1, of the 1933 revision of the Public Laws fixes the order of admission to this school as follows:

"Sec. 453. Order of admittance. Feeble-minded persons shall be admitted to the institution in the following order: 1st, feeble-minded persons who are now in public institutions supported entirely at public expense; 2nd, feeble-minded persons in public institutions not supported as aforesaid; 3rd, feeble-minded persons who are not in any institution of the state, who have no parents, kinsmen, or guardian able to provide for them, or who are committed by a judge of probate; 4th, those residing within the state whose parents, kinsmen, or guardian bound by law to support such persons are able to pay; 5th, persons of other states whose parents, kinsmen, or guardian are willing to pay."

This would mean that all of each group of applicants in numerical order must be admitted before the next group can be touched and so there will be a considerable number in group 4 which will not be reached (there are no applicants in group 5).

In the past few weeks a complete survey of the waiting list has been made by social workers, with the exception of those in State Institu-

tions. This shows clearly that out of 372 investigated, 148 are urgent cases, 69 are borderline, most of whom should be admitted as early as possible, and 118 are doubtful, many of whom may be dropped or kept indefinitely on the waiting list, should this section of the law be repealed and the order of admission left to the Department. There are also 37 names that can be dropped because of death or disappearance.

In addition there are about 40 in State Institutions (Group 1) which must be transferred by commitment.

It would therefore appear the rational procedure would be to repeal or amend this section and give the department the power to admit the urgent and semi-urgent cases of all groups at once, to investigate further the doubtful cases, dropping from the list those who do not need institutional care and keeping the remainder on the waiting list for future admission when there are vacancies or the need of such care becomes evident.

For those reasons I would request unanimous consent to introduce this bill which repeals that Section 1 which I read.

Thereupon, unanimous consent was granted for the introduction of the bill, and out of order and under suspension of the rules the bill was given its two several readings and passed to be engrossed without reference to a committee.

On motion by Mr. Hussey of Kennebec, the Senate voted to take from the table An Act Relating to Bounty on Seals in Hancock and Washington Counties (H. P. 1660) (L. D. 790), tabled by that Senator on March 11th, pending passage to be enacted; and on further motion by the same Senator, under suspension of the rules, the Senate voted to reconsider its former action whereby the bill was passed to be engrossed.

Mr. HUSSEY: Mr. President, I now wish to present the following amendment and move its adoption, and in explanation of same I might say that this was reported out of the committee incorrectly, according to the Chairman and other members of that committee:—

“Senate Amendment A to H. P. 1660, L. D. 790, An Act Relating to Bounty on Seals in Hancock and Washington Counties. Amend said

act by striking out in the first line thereof the words ‘\$2’ and substituting in lieu thereof the words ‘\$1’. Further amend said act by adding thereto the following sentence. For the purpose of this Act there is hereby appropriated from the General Funds the sum of \$1,000 for each of the fiscal years 1937-1938 and 1938-1939.”

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

Sent down for concurrence.

On motion by Mr. Beckett of Washington, the Senate voted to take from the table House Report from the Committee on Interior Waters, “Ought to Pass,” on Resolve Relating to Moosehead Lake (H. P. 666) (L. D. 212) tabled by that Senator on March 4th pending acceptance of the report in concurrence.

Mr. BECKETT of Washington: Mr. President, I will say that when this resolve was reported favorably from the committee it was felt that legislative action would be necessary. While the matter was lying on the table arrangements had been made whereby the matter can be taken care of by the Public utilities Commission in regular procedure. I therefore move the indefinite postponement of this bill.

Thereupon, the bill was indefinitely postponed in non-concurrence.

Sent down for concurrence.

On motion by Mr. Owen of Kennebec the Senate voted to take from the table An Act Relating to the Rules and Regulations of State Racing Commission (H. P. 1535) (L. D. 712), tabled by that Senator on March 26th pending first reading as amended by House Amendment “B”; and that Senator yielded to the Senator from York, Senator Wentworth.

Thereupon, on motion by Mr. Wentworth of York, the bill, as amended by House Amendment “B,” was given its first reading.

The same Senator presented Senate Amendment “A” to House Amendment “B” and moved its adoption:

“Senate Amendment A to House Amendment B to Legislative Document 712, bill, An Act Relating to

the Rules and Regulations of State Racing Commission. Amend said Amendment B by adding thereto the following: 'In the event such a 12-day meeting is held, no further meetings where pari-mutuel betting is permitted shall be allowed during the same calendar year.'

Senate Amendment "A" to House Amendment "B" was adopted; House Amendment "B" as amended by Senate Amendment "A" was adopted; and under suspension of the rules the bill was given its second reading and passed to be engrossed as amended by House Amendment "B" as amended by Senate Amendment "A", in non-concurrence.

Sent down for concurrence.

On motion by Miss Martin of Penobscot the Senate voted to reconsider its former action, taken earlier in today's session, whereby the report of the Committee on Legal Affairs that "Legislation on the same is unnecessary as the subject matter is sufficiently covered by the Joint Order already passed" on "An Act Relating to Coordination of State Inspection Work" (H. P. 1673) (L. D. 895) was accepted in concurrence; and on further motion by the same Senator the bill and the report were laid upon the table pending acceptance of the report in concurrence.

On motion by Mr. Worthen of Penobscot the Senate voted to take from the table House Report from Committee on Inland Fisheries and Game, "Ought to Pass in New Draft" on bill, "An Act Relating to Bounty on Bears" (H. P. 351) (L. D. 106), tabled by that Senator on March 31st pending acceptance of the report in concurrence; and on further motion by the same Senator the report was accepted in concurrence, the bill given its first reading and tomorrow assigned for second reading.

On motion by Miss Martin of Penobscot the Senate voted to take from the table An Act Relating to Registration Fees to be Paid for Motor Vehicles Used for Carrying Passengers for Hire over Regular Routes (H. P. 875) (L. D. 310), tabled by that Senator on March 25th pending adoption of House Amendment "A" in concurrence; and on further motion by the same Sena-

tor House Amendment "A" was read and adopted in concurrence and under suspension of the rules the bill was given its second reading and passed to be engrossed as amended by House Amendment "A" in concurrence.

On motion by Miss Laughlin of Cumberland, the Senate voted to take from the table House Report from the Committee on Judiciary, "Ought Not to Pass," on Resolve Proposing an Amendment to the Constitution Relating to Signers on Referendum Petitions (H. P. 1636) (L. D. 775), tabled by that Senator on March 19th pending motion to accept the report in non-concurrence.

Miss LAUGHLIN of Cumberland: Mr. President, this constitutional amendment proposed is to the effect that there shall be required on referendum petitions 30,000 names. The Judiciary Committee reported the bill unfavorably by unanimous report. In the House the bill was substituted for the report and an amendment was added. The amendment does not change the bill in any way except that it provides that the Governor shall call an election, which provision was left out of the original bill. But in effect what the House has accepted and passed is a bill which requires that for referendum petitions 30,000 names shall be required. Of course, that is equal to repealing, really, the referendum entirely, probably. It is quite true that possibly 10,000 are not sufficient. In my opinion it ought to be put on a percentage basis. However, the only matter before us is whether we shall favor an amendment to the Constitution requiring 30,000 names on a referendum petition. There is no attempt in this bill to change the initiative petition. It still requires only 12,000 names. But under this, it provides that we shall require 30,000 names in order to refer a matter and, as I say, it seems to me that that is prohibitive and really amounts to repealing the referendum in a state of this character where the population is more or less separated.

I don't propose to argue the question but merely to present the facts because I think every member of this Senate is probably quite competent, without any argument whatever, to determine whether he believes that we should require 30,-

000 names on referendum petitions. My motion is that we accept the report of the committee, "Ought Not to Pass," in non-concurrence with the House which has passed the bill.

A viva voce vote being had, the motion prevailed and the "Ought Not to Pass" report of the committee was accepted in non-concurrence.

Sent down for concurrence.

The PRESIDENT: We are proceeding under Orders of the Day. Is there any further business to come before the Senate?

---

On motion by Mr. MacKinnon of Oxford.

Adjourned until tomorrow morning at ten o'clock.