

MAINE STATE LEGISLATURE

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Legislative Record

OF THE

Eighty-Eighth Legislature

OF THE

STATE OF MAINE

1937

KENNEBEC JOURNAL COMPANY
AUGUSTA, MAINE

SENATE

Friday, April 16, 1937.

Senate called to order by the President.

Prayer by the Reverend L. E. Stiles of Hallowell.

Journal of yesterday, read and approved.

From the House:

"Resolve in Favor of Guy M. Babcock of West Gardiner." (H. P. 1842) (L. D. 1001)

(In Senate on April 13th passed to be engrossed.)

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

In the Senate, under suspension of the rules, that Body voted to reconsider its former action taken on April 13th whereby the resolve was passed to be engrossed; House Amendment "A" was read and adopted in concurrence, and the resolve as amended by House Amendment "A" was passed to be engrossed in concurrence.

From the House:

Bill "An Act Relating to Hunting While Intoxicated or Under the Influence of Drugs." (H. P. 1707) (L. D. 832)

(In Senate, on April 9th, passed to be engrossed as amended by Senate Amendment "A" in non-concurrence.)

Comes from the House, Senate Amendment "A" indefinitely postponed, and the bill passed to be engrossed in non-concurrence.

In the Senate:

Mr. TOMPKINS of Aroostook: Mr. President, I move that we recede and concur with the House.

Mr. WILLEY of Cumberland: Mr. President, earlier in the session I called attention to this measure which had to do with hunting while intoxicated or under the influence of drugs. I talked with one of the members of the committee that reported this measure out and he said he couldn't see any value to the measure, and I gathered from what he said that he thought it was silly legislation, and it is silly legislation. I put an amendment on it that perhaps helped it somewhat but it is my opinion that it is a very silly piece of legislation to put through here and ought not to pass and I

move the indefinite postponement of the measure as amended by Senate Amendment "A".

Mr. TOMPKINS: Mr. President, if the Senators will turn to Legislative Document 832, I don't consider it silly but I do consider it a very simple piece of legislation. It is simply that while hunting, if one is intoxicated or under the influence of drugs he loses his license for a year on the first conviction and for two years on the second conviction, and so forth. We thought in our committee that possibly it might help in avoiding several of these unnecessary killings and shootings during the hunting season and that it would have a good influence on the whole. I am not going to take up any time on it this morning, but it is a very simple piece of legislation.

Mr. WORTHEN of Penobscot: Mr. President, I believe this bill was presented before the Committee on Inland Fish and Game although I agree that the bill is not a strong bill we thought that perhaps some good could be derived from it. To those who care to hunt deep in the woods, I doubt very much if this bill would amount to a great deal but there is a class of week-end hunters that go out on the nearby highways, park their cars and are out for a good time along with their hunting, and we did feel that perhaps in those cases it might be helpful to the warden in checking some of the rough type of hunters. For that reason, feeling that there might be some good in this measure, we reported it out favorably.

Mr. WILLEY: Mr. President, I think to admit that a piece of legislation is weak and that there is a remote possibility that it might do some good is every reason in the world why this Senate should indefinitely postpone that type of legislation. We should only adopt such legislation as is needed in the state of Maine. We shouldn't adopt legislation because we think it might perhaps help someone on the highway, a state policeman, or a warden or somebody. We should adopt bills for fundamental laws, and I can say, regardless of how the vote may go, that this is silly legislation when we have already got on our statute books ample provision for the Fish and Game Commissioner to revoke licenses for violations such as hunting with a

car while under the influence of intoxicating liquors, for instance. We have plenty of law for that. This has just been suggested, in my opinion, by the whim or fancy of one or two people. There is no need of it. I don't think that anyone in the Senate or House can show any demand for this type of legislation.

The PRESIDENT: The pending question is on the motion of the Senator from Cumberland, Senator Willey, that the bill be indefinitely postponed. Is the Senate ready for the question?

Thereupon, the bill was indefinitely postponed.

From the House:

House Report of the Committee on Conference on bill "An Act Relating to Terms and Salaries of City of Lewiston Officials," (S. P. 457) (L. D. 850) reported that both branches recede from their former action and pass the bill to be engrossed as amended by House Amendment "B" submitted herewith.

In the House, the report of the Committee accepted and the bill passed to be engrossed as amended by House Amendment "B" in non-concurrence.

In the Senate, the report of the Committee on Conference was accepted, and under suspension of the rules, that Body voted to reconsider its former action whereby the bill was passed to be engrossed. House Amendment "B" was read and adopted in concurrence and the bill as amended by House Amendment "B" passed to be engrossed in concurrence.

From the House:

Miss Laughlin from the Committee on Judiciary on bill "An Act Relating to Outdoor Advertising," (S. P. 277) (L. D. 494) reported that the same ought to pass.

(In Senate on April 12th, bill and report indefinitely postponed.)

Comes from the House, report read and accepted and the bill passed to be engrossed in non-concurrence.

In the Senate, on motion by Mr. Friend of Somerset, that Body voted to insist on its former action whereby the bill was indefinitely postponed and ask for a Committee of Conference; and the President appointed as members of such com-

mittee on the part of the Senate, Senators Friend of Somerset, Fortin of Androscoggin, Laughlin of Cumberland.

Sent down for concurrence.

From the House:

Mr. MacKinnon from the Committee on Inland Fisheries and Game on bill "An Act Relating to Bounty on Porcupines and Hedgehogs," (S. P. 172) (L. D. 260) reported that the same ought not to pass.

In Senate on April 9th bill substituted for the report, and passed to be engrossed as amended by Senate Amendment "A".

Comes from the House, report accepted in non-concurrence.

In the Senate:

Mr. WILLEY: Mr. President, I move that the Senate recede and concur with the House.

Thereupon, on motion by Mr. Hussey of Kennebec the bill was laid upon the table pending motion to recede and concur, and this afternoon assigned.

From the House:

The Committee on Legal Affairs on bill "An Act Relating to Elections in the City of Biddeford," (H. P. 1107) (L. D. 362) reported the same in a new draft (H. P. 1850) (L. D. 1012) under the same title and that it ought to pass.

Comes from the House passed to be engrossed as amended by House Amendment "A".

In the Senate, on motion by Miss Martin of Penobscot, the bill was laid upon the table pending acceptance of the report in concurrence, and this afternoon assigned.

From the House:

The Committee on Temperance on bill "An Act as to the Importation of Intoxicating Liquors Other than those Consigned to Wholesale Malt Liquor Licensees; Emergency," (H. P. 1465) (L. D. 685) reported the same in a new draft (H. P. 1847) (L. D. 998) under the same title, and that it ought to pass.

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

In the Senate:

Mr. MARDEN of Kennebec: Mr. President, on this measure, as well as one or two other similar measures coming from the House, several amendments are proposed and I will

therefore move that this matter be laid upon the table until a later session.

Thereupon, the bill was laid upon the table pending acceptance of the report in concurrence.

From the House:

The same Committee on bill "An Act Relating to the Transportation of Intoxicating Liquor," (H. P. 1602) (L. D. 664) reported the same in a new draft (H. P. 1846) (L. D. 997) under the same title, and that it ought to pass.

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

In the Senate, on motion by Mr. Marden of Kennebec, the bill was laid upon the table pending acceptance of the report in concurrence.

From the House:

The majority of the Committee on Sea and Shore Fisheries on bill "An Act Relating to Shipping Clams Beyond the Borders of the State," (H. P. 1575) (L. D. 716) reported that the same ought to pass.

(Signed)

Lewis of Lincoln
Norwood of Southwest Har-
bor
Sleeper of Rockland
Barter of Stonington
Pike of Lubec
Melanson of Cherryfield

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

(Signed)

Wentworth of York
Sewall of Sagadahoc
Prince of Harpswell
Richardson of South Port-
land

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

In the Senate:

Mr. WENTWORTH of York: Mr. President, I move that the minority report "Ought Not to Pass" be accepted.

It wouldn't be a real Maine legislative session unless we had some scrap over some of the products of the sea. This morning the subject matter is the lowly clam instead of the delicious crustacean the lobster. This bill, of course, is a very discriminatory bill as it legislates against one side in favor of the other. It is purely and simply a can-

ner's bill, or otherwise known as processors. The idea is to prohibit the shipping of clams out of the state in the summer months. Well, what is going to happen? If we prohibit the shipping of clams that puts the shippers out of business and kills what competition there may be between the shippers and the canners. Well, that works against the diggers who receive a small price for the clams at best. I think at the present time they are receiving somewhere around sixty cents a bushel and if there is anyone in this Senate can go out and dig three bushels he is a good man and has a better back than I think he has—better than mine anyway this morning.

Now, the shippers do not build up their entire business by handling only clams. In other words they handle other things besides clams. If you take this business away from them they are going to lose this other business too, so that reflects back on other lines later connected with the fisheries. This bill really is a wolf in sheep's clothing. It is under the guise of conservation. Now, we have a conservation measure connected with clams, the so-called "two-inch" measure, and if the canners would enforce that they would have conservation, but they take clams down pretty nearly as small as squash seed so that it keeps clams down pretty small in the eastern part of the state where they want this bill. About a month ago I went over the clam flats down in Scarborough. I found down there that the clams are seeded in there so thick that there is practically nothing else but clam holes on those flats down there, and I am not exaggerating that a bit.

If you know anything about clams you must know that the flats have to be dug over in the summer in order for the clams to grow to the best advantage. If they don't do that they are just buying themselves out. Now, my colleague, here, Senator Sewall, has something to say on this, so I will just say that I hope the minority report is accepted.

Mr. SEWALL of Sagadahoc: Mr. President, as another member who signed the minority report I want to make my position clear on this matter. As some of you may well imagine, there is a great deal about digging clams that I don't know and, mindful of that lack of knowledge on my part, when this bill

came up I went to one of our selectmen of the town in my county most affected by the provisions of this act and asked his opinion and he pled with me to please try and keep the territory open. He brought forth the thought that there was a considerable group in that district who were making their living by digging these clams, that most of them in that district during the summer seemed to naturally find their markets out of the state. That it was a necessary and desirable economic function of the community, that if you close the flats many of these men would come back on the town and the expenses of the town therefore would, of course, tend to rise. To make doubly sure that this was the opinion of that district I then called up the chairman of the selectmen who confirmed the opinion of the first one with whom I talked, so I felt that I should, in justice to those men, give them expression up here.

Now, in the consideration of this matter in the committee it seemed obvious to me that we were all lining up respectively in accordance with the economic situations of our particular territories. In other words, York, Cumberland, and Sagadahoc seemed to fall within that district which naturally was nearer the border and was therefore naturally more interested in the shipping business. Whereas, as you get up into the state farther, farther away from the border, the canning industry seemed to prevail, and whereas I don't resist or resent in any way those farther up in Maine wanting to protect their particular economy, and I don't think they resist my trying to protect the economy of my district, it seemed, nevertheless, that I should give whatever I could to the expression of my local people.

Now, there was one suggestion made that I felt at first might offer a solution and I believe it was formerly offered as an amendment in the other body and that amendment suggested that we divide the territory so that each could have what they wanted. Unfortunately, that idea didn't seem to prevail and inasmuch as we can't seem to divide this pie up I feel quite strongly that the territory should be open, and I hope that the motion of the Senator from York prevails.

Mr. BECKETT of Washington:
Mr. President, as Senator Sewall

and Senator Wentworth have said, this matter is perhaps more or less sectional in interest, but in this case, however, I feel that the sectional interest for the state in the eastern part of the counties outweighs the interest in the western part of the counties and inasmuch as the distinguished Senator from York has stated that this is purely a packers bill I would like to point out to the Senate that at the hearing the main interest in the bill seemed to be, as far as numbers were concerned, from the diggers themselves coming from Washington county, I do not know that clams are of vital interest to the whole eastern coast and I do feel that clams should be protected and my main interest is the conservation effect of this measure. Now, perhaps, most of us know a little about clams but the facts in connection with clam propagation are that the spawning season is in the summer time. In Massachusetts it is from June 1st to August 31st. In Maine the season runs a little later.

Now, speaking of clams, it takes about two or three years for a clam to attain the two inch growth which is the legal length for the taking of clams in the State of Maine. The important feature of clams, perhaps, as far as the edibility is concerned, is that 34.55 per cent of clams by weight are edible wherein oysters are 13.4 per cent edible by weight. It is a sea product which plays a vital part in the culinary attempts of a great summer resort and a great many home cooks.

Now, as far as the western part of the county is concerned, as near as I could find out the main interest there is from the shipping and I do know that the shippers are coming in from the western counties and cleaning out the clams from the eastern counties and of course they are doing that at a time when the clams are in the spawning season and when they are attaining their largest growth. I might point out that a clam attains 88% of his growth during the summer months and that to me is mostly why the clams should be protected.

There is a little difference of opinion among the members of the delegations of the various counties. I have checked up with some of the representatives and I find that in Cumberland, for instance, the in-

terest from Yarmouth, Freeport, Brunswick and Falmouth is decidedly for this conservation measure. I will admit that those in the western part of Cumberland County and on the two extreme ends of the county, I might say, are interested in leaving the territory open for the summer months. I also understand that there is a little difference of opinion in Sagadahoc County itself. I have talked with the representative from Bath and he tells me he is very strongly interested in this conservation measure as a state wide measure.

Senator Wentworth, or Senator Sewall, I am not sure which, spoke about the value of the clam digging to Maine in the summer time. Now, our experience in the committee is that the digging of the clams is most valuable to the men in the winter time. In the summer time it is comparatively easy for a man to get a job. In the winter time, in the eastern counties there is nothing to do so the men go out and dig clams and they get a good compensation for it. It is difficult, perhaps, for a greenhorn to dig clams but a man who knows the business can make a very good living at it. In talking with the first selectman at Harrington he told me their relief problem had been largely solved because of the open season as those men ordinarily on relief were digging clams. He further stated as an illustration that one man and his two older sons had been making from five to ten dollars a day all winter in digging clams and he says that a man can earn a good day's pay digging clams.

Of course, in those counties where they can clams this winter digging is of particular interest or particular value because the men not only dig the clams but the women and older grown-up children in the family work in the clam factories during the summer time so they not only receive compensation for digging but they also receive labor compensation and it really helps the counties a great deal.

Now, after all, we are interested in Maine particularly and it seems to me that we should conserve whatever we have here, and I think it is a fair proposition from the delegation of the eastern counties to ask the members of the Senate to stay with them in a conservation

measure which really is of state wide benefit. I feel that the unanimous opinion of the eastern coastal counties is that we should have this conservation measure and I think that there is a difference of opinion in the western counties.

I have checked on this matter with the department which would have to enforce this measure and they are decidedly for a state wide conservation.

They are particularly afraid of a divided bill which would exempt the two counties and leave the others open, that it would be a very difficult matter of law enforcement. Of course, there is bootlegging in the clam industry as well as anything else and inasmuch as that department has to certify that all clams either shucked or packed which go out of the state have been dug in territories which are free from river pollution and so forth, it would be rather difficult to take care of the inspection and see that the proper certification was carried out.

There has been a great deal of talk about clams. There has been talk of clam cultivation and that sort of thing, but I don't think there is any need of bringing it out here. Just in brief in connection with that, those places where clams cultivation is carried out have been in areas where they have smoothed the flats and where it has been practical to go in and dig up these flats and plant clams. In Maine most of our coastal territories are rough and the seeding proposition would be very expensive and practically impossible to police the flats after that was carried out.

I sincerely hope that the motion of the Senator from York, Senator Wentworth, will not prevail.

Mr. SEWALL: Mr. President, from the standpoint of conservation it doesn't seem to me to make very much difference whether you dig all the clams in the summer or all of them in the winter. In other words, when the boys really go into a flat they come pretty near to turning the whole thing over and cleaning it out. That is the way they do down our way. Really, if you want to conserve the clams it seems to me that we should bend every effort to try and bring some real life into the two inch law which is on the books today and if we can only do that, that would seem to be the per-

fect conservation measure. In other words, possibly it is good, as the Senator from York, Senator Wentworth, brought out, to turn the flats over during the summer. It may even increase the growth, but provided you leave your clams that are less than two inches and take only those that are ready for market, then I don't see that you do any harm by digging in any season.

Massachusetts was mentioned, and I understand that Massachusetts has no closed season. Possibly I am incorrect on that but I think they keep open the year round. Probably, however, they enforce their two inch law, or whatever law they have, much more strictly. In the matter of this canning of clams it seems to me that your cannery must eventually go into the clam farming business, the same way that manufacturing plants of other products solve their purchasing problems. In other words, if a man has a plant he must have a known supply to use in it and in order to do that he must seed in the spring, as I believe, and harvest in the winter. It seems to me that is a pretty good idea and I know there is one man in Brunswick, a Mr. Rogers, who has been very much interested in this situation for a long time and has tried to develop it and has, I believe, finally gotten consent to go ahead. It seems to me that that is the way to really bring the natural wealth of our clam flats back.

In other words, let us really try to enforce the two inch law and encourage clam farming, and I believe we will get greater wealth from our clam flats.

Mr. WILLEY: Mr. President, I didn't intend to speak on this but Senator Beckett referred to Cumberland County and I want to say that for the first time during this session, except on the motion to adjourn, I agree with the Senator from York, Senator Wentworth. He is absolutely right in this matter only I don't think he has gone far enough. I think his motion should have been to indefinitely postpone this matter.

Now, the conservation of clams is not effected by closing the summer season of three months. If you want to conserve the clams you have got to dig your flats over. I have dug clams up in Senator Beckett's county and I have visited the canning factory down in Jones-

port and I never saw so many clams in my life as I did on the St. Croix River. You can dig half a bushel up there in little or no time. I say "little or no time." It would take me about an hour.

Now, a man who goes out with his rubber boots today and gets down and digs, mind you, he can only dig on the tide and so he has three hours on the tide and it is a darn good man who can dig two barrels of clams on a tide. Now, for that two barrels of clams he would get fifty cents a bushel. That is what he gets now for his clams. If there is a shortage of clams I would like to ask the Senate why it is that the price is only 50 cents a bushel. As a matter of fact, there is no shortage of clams but this measure is intended not only to create a monopoly for the cannery but to guarantee them a supply brought to their doors at their price. I believe the enactment of this measure would work the greatest hardship on the poor man who is digging clams that we possibly could legislate because he would be at the mercy of the cannery for whatever price they wanted to pay and it is my guess they wouldn't give 25 cents a barrel unless they had a competitive market. The enactment of this bill restricts the market and makes the clam digger entirely subject to the cannery. It eliminates competition. It should be defeated by the unanimous vote of this Senate.

Miss MARTIN: Mr. President, may I ask a question through the Chair of the Senator from Washington, Senator Beckett?

The PRESIDENT: The Senator may ask her question through the Chair and the Senator from Washington, Senator Beckett may answer if he desires.

Miss MARTIN: Mr. President, I think in his speech in favor of the majority report Senator Beckett made the statement that the women and children got work during the summer in the canning factories. Now, if this bill is passed does it mean that the cannery will have their factories running in the summer and that clams will be dug to supply the cannery and yet they can not ship them out of the state?

Mr. BECKETT: Mr. President, if I made reference to running in the summer time it was an error. Of course they run in the winter time when the clams are being dug. The point is if the supply of clams is

exhausted in the summer time of course there aren't as many clams to put up in the winter time and it decreases the amount of work.

In connection with that I might say that in most of the canning plants in the past for a number of years back it was usually the custom to shut off the diggers for a period of two or three weeks until the factory caught up. In other words, they were getting more clams than they needed. Now, at the present time it is necessary to shut down the plant because of the scarcity of clams due to the shrinkage and I feel that part of the shrinkage is due to the fact that they are taking so many of the clams in the summer when they are growing. As far as the scarcity of supply is concerned I would like further to state that a number of seasons ago the price on clams was 25 cents a bushel, and with 25 cents a bushel a man could make as much a day as he can at 60 cents a barrel which is the going price in our section. I think that in itself shows that our clam supply has been, up to the present time depleted to a large extent.

Mr. WENTWORTH: Mr. President, Senator Beckett made mention of the amount of money that could be earned by clam diggers down in his territory. Now, if that is so I don't think their clams are getting depleted down there. If they could dig as many as that down my way the boys down there would think they were going places.

Now it is a fact that the clams are coming back in Massachusetts, and Massachusetts is willing to take this business if you take it away from the shippers out of this state.

As I see it, this Senate has two questions to decide. If you believe that this is entirely a conservation measure, all right. On the other hand, if you believe it is just a canners bill you can look at it in the light of whether it is a canners bill to kill off competition from shippers out of the state so they may have their own way. Those are the two questions.

Mr. LEWIS of Lincoln: Mr. President, we had a hearing on this bill and a large attendance and people from all over the state. We had clammers with their rubber boots on and they talked on this measure and there were 60 appeared for this bill and 15 in opposition. It is a purely conservative measure. That

was brought out there. The idea is to conserve the clam. Now I come from Lincoln County and I can throw a stone from my house onto the clam flats and they come down in trucks and dig these clams up and take them out of the state.

As I understand this bill it is not a canners bill. It is a conservation bill, and I hope we won't lose sight of that. It was brought out at the hearing that the spawning season of the clams is in the summer time and if you are going to take these clams in the spawning season you are not going to have any for use in the winter time. The way I look at this, members of the Senate, is that if the clams are exterminated, so are the canners and so are the shippers. We can not consider one particular group of people. It is for all the people of Maine that I am working, not for any special group.

We had a bill before us in committee to give \$12,000 for the conservation of clams, \$1500 for each of the eight counties affected for the cultivation of clams and we took it up with the Appropriation Committee and they said we ought to have it but the way things were at the present time they thought we ought to wait a couple of years. They thought we ought to have it as the clam industry is being killed out and we will not have any clams and we will have to go back the same as we did on the lobsters. On the changing of the legal length of lobsters they cut it down and they got it so small that they had to bring in a bill asking for \$20,000 for rearing stations to bring back our lobsters, and if we continue to allow the canners to take the clams out of the state we have got to have money appropriated in this legislature during the next few years to try to conserve our clams.

The PRESIDENT: The question before the Senate is on the motion of the Senator from York, Senator Wentworth, that the "Ought Not to Pass" report of the committee be accepted in non-concurrence.

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

A division of the Senate was had. Thirteen having voted in the affirmative and nineteen opposed, the motion did not prevail.

Thereupon, on motion by Mr. Beckett of Washington, the majority report of the committee "Ought to Pass" was accepted in concurrence,

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

First Reading of Printed Bills

"Resolve in Favor of Several Academies, Institutes and Seminaries." (S. P. 514) (L. D. 1046)

Which resolve was read once, and under suspension of the rules read a second time and passed to be engrossed.

Sent down for concurrence.

Bill, "An Act Relating to Local Option Provisions." (S. P. 515) (L. D. 1045)

(On motion by Mr. Marden of Kennebec, tabled pending second reading and this afternoon assigned.)

Passed to be Enacted

"An Act Relating to the Support of Paupers." (S. P. 342) (L. D. 613)
 "An Act to Validate the Acts of the County Commissioners of the County of Oxford." (H. P. 76) (L. D. 32)

"An Act Relating to the Maintenance of the Androscoggin Lake Dam." (H. P. 615) (L. D. 187)

"An Act Relating to Lobster Fishermen's Licenses." (H. P. 1572) (L. D. 624)

"An Act to Enlarge and Define the Powers of the Androscoggin and Kennebec Railway Company." (H. P. 1695) (L. D. 824)

"An Act to Provide for the Surrender by Town of Somerville of its Organization." (H. P. 1748) (L. D. 855)

"An Act Relating to Apothecaries and the Sale of Poisons." (H. P. 1787) (L. D. 914)

"An Act Relating to Weekly Payment of Wages." (H. P. 1823) (L. D. 977)

"An Act Relating to Consolidation of Corporations." (H. P. 1832) (L. D. 985)

"An Act Relating to the Registration of Stone-Crushers, Well-Drillers, Steam Shovels, Graders, Rollers and Wood-Sawing Outfits." (H. P. 1833) (L. D. 983)

"An Act Relating to Aid to Libraries, Expenses of State Historian, Topographic Mapping, and Abolishment of Grade Crossings." (S. P. 494) (L. D. 995)

"An Act Relating to Dealers in Junk." (H. P. 1834) (L. D. 984)

"An Act to Provide for Licenses for Outdoor Advertising." (H. P. 1835) (L. D. 987)

"An Act Relating to Automobile Junk Yards." (H. P. 1845) (L. D. 996)

"An Act Regulating Sale of Liquor Near National Homes." (H. P. 1849) (L. D. 1008)

"An Act Relating to the Extension of the Jurisdiction of Municipal Courts in Certain Cases." (H. P. 1851) (L. D. 1007)

Finally Passed

"Resolve in Favor of Stanley Gerrow, of Bangor." (S. P. 500) (L. D. 994)

"Resolve Creating a Recess Committee on Labor Relations." (S. P. 502) (L. D. 1028)

"Resolve in Favor of L. D. Chandler of Boston, Massachusetts." (H. P. 343) (L. D. 1006)

"Resolve in Favor of Harry C. Austin & Co., Ellsworth, for Burial Expenses of Mark Arsenault, Having no Known Settlement in the State." (H. P. 802) (L. D. 1005)

"Resolve Relating to Taking of Shellfish and Worms within the Limits of the Towns of Yarmouth, North Yarmouth and Cumberland." (H. P. 1181) (L. D. 437)

"Resolve, Bonus Granted to John Charles Maher of Old Town." (H. P. 1487) (L. D. 1003)

"Resolve Relating to State Prisons." (H. P. 1837) (L. D. 990)

"Resolve Providing Pensions for Certain Soldiers and Sailors and Dependents." (H. P. 1839) (L. D. 988)

"Resolve in Favor of Henry E. Redmond of Solon." (H. P. 1841) (L. D. 1002)

"Resolve to Reimburse the Town of Benton, for Burial Expenses of J. Wilkes Hall, a Veteran of the Civil War." (H. P. 1843) (L. D. 1000)

"Resolve Reimbursing the Town of Stonington for Support of Harry Taylor." (H. P. 1844) (L. D. 999)

Order

(Out of Order)

Joint Order from the House, recalling (H. P. 1415) (L. D. 603) bill "An Act Relating to Bastard Children," from the legislative files to the House. (H. P. 1880)

Comes from the House, read and passed.

In the Senate, read and passed in concurrence.

Orders of the Day

On motion by Mr. Marden of Kennebec, the Senate voted to take from the table, bill, An Act Relating to the Charter of the City of Waterville, (S. P. 249) (L. D. 780), tabled by that Senator on April 14th pending passage to be enacted; and on further motion by the same Senator, the bill was passed to be enacted, in concurrence.

On motion by Mr. Osgood of Oxford, the Senate voted to take from the table, Senate Report from the Committee on Judiciary, "Ought Not to Pass" on an Act Relating to the Registration and Operation of Motor Vehicles by Non-residents, (S. P. 236) (L. D. 381), tabled by that Senator on March 26th pending acceptance of the report; and on further motion by the same Senator, the report was accepted.

Sent down for concurrence.

On motion by Mr. Osgood of Oxford, the Senate voted to take from the table, Senate Report from the Committee on Judiciary, "Ought Not to Pass" on bill, An Act Relating to Exemption of Motor Trucks from Registration, (S. P. 332) (L. D. 596), tabled by that Senator on March 5th pending acceptance of the report; and on further motion by the same Senator, the bill was substituted for the report.

Thereupon, Mr. Osgood offered Senate Amendment "A" and moved its adoption:

Senate Amendment "A" to S. P. 332, L. D. 596.—An Act Relating to Exemption of Motor Trucks from Registration. "Amend said bill by striking out in the second paragraph thereof the figures '1' and '1 1/2' and substituting in place thereof the figure '3'."

Mr. OSGOOD: Mr. President, in explanation of this amendment: The original bill would allow Maine trucks of any tonnage to go into New Hampshire, and New Hampshire trucks of any tonnage to come into Maine. At the present time we allow New Hampshire trucks registered for one and a half tons, and New Hampshire allows Maine trucks registered for one and a half tons, to come in without being registered. This amendment would raise the tonnage to three tons, provided New Hampshire passes a similar law, and at the present time they have a com-

plete reciprocity bill, which I understand will go through the legislature and which I understand has passed the House of Representatives. This amendment would allow them to come in only for a limit of 15 miles. On the border of Oxford and York counties, the farmers, merchants, coal dealers, etc. have to go back and forth from one State to another and with a ton and a half limit they are either overloaded, if they load what they should haul, or they have to buy a license in the state in which they go. I have talked with some of the members of the Judiciary Committee and they seem to be not opposed to this amendment. I hope the amendment will be adopted.

Miss LAUGHLIN of Cumberland: Mr. President, as a member of the Judiciary Committee, which made that report, I have been talking with the Senator from Oxford, Senator Osgood, about this amendment and if I may, I would like to ask him a question through the Chair.

The PRESIDENT: The Senator may ask the question through the Chair of the Senator from Oxford, Senator Osgood, and that Senator may reply if he so desires.

Miss LAUGHLIN: Mr. President, as I understand it, you stated that sometimes to go from one point in Maine to another point in Maine, you have to go into New Hampshire?

Mr. OSGOOD: That is right.

Miss LAUGHLIN: At the present time, unless you change the law, you have to have a license and the act limits it to within 15 miles of the border?

Mr. OSGOOD: Fifteen miles of the border. That is right.

Miss LAUGHLIN: And most of the trucks are now three ton instead of one and a half ton?

Mr. OSGOOD: No. I think most of them are probably two or two and a half, and a number are three ton trucks.

Miss LAUGHLIN: Mr. President, just for information—I, of course, agreed with this report and signed it but I am supporting the amendment as it seems sufficiently restricted in that they do not go more than 15 miles from the border of the State and the situation is such as Senator Osgood has explained, that in order to get products from one point in Maine to another point in Maine they are obliged, by the highways, to go into the State of

New Hampshire, and with this bill or with the law as it is now, they are obliged to pay in New Hampshire, a license fee. The law permits trucks of one and a half tons and so this merely extends the privilege to trucks of three tons, which are becoming more common in the transfer of products. For that reason, I am glad to support the amendment of Senator Osgood.

Mr. OSGOOD: Mr. President, I might add further that a good many of these trucks are at present registered at one and a half tons as they have had the privilege of going across the border the 15 mile limit. If this is changed to three ton trucks, they would so register them and it would mean additional revenue for the state. They keep them registered at one and a half tons for the privilege of going across the border.

Thereupon, Senate Amendment "A" was adopted, and under suspension of the rules, the bill as so amended was given its two several readings and passed to be engrossed.

The PRESIDENT: The Chair recognizes in the Senate Chamber, a former Governor of the State of Maine, now Congressman from the Third District, Congressman Ralph O. Brewster, and will ask the Sergeant at Arms to escort Congressman Brewster to the rostrum.

The Sergeant at Arms escorted Congressman Brewster to the rostrum, amidst the applause of the Senate, the members rising.

On motion by Miss Laughlin of Cumberland, the Senate voted to take from the table, Senate Report from the Committee on Ways and Bridges, "Ought Not to Pass" on Bill, An Act Relating to the General Highway Fund and Defining Highway (S. P. 301) (L. D. 497), tabled by that Senator on April 15th pending acceptance of the report.

Miss LAUGHLIN: Mr. President, I move the bill be substituted for the report and in support of that motion, I would like to make a few remarks. I am very sorry that this bill comes before the Senate so late in the session as it proposes a new policy in relation to highway funds and I should have liked to have had it reported so it could have been on the table for at least a week so that there would have been

time for study and consideration by the members of the Senate.

I wish you would turn to the bill, No. 497. Every person who acts with deliberate judgment and a sense of responsibility, needs time, as I recognize, to consider and to debate in his own mind an unfamiliar proposition. The first reaction, of the solid citizens, at least, is against anything new and for things as they are. I remember a very delightful play which I saw some years ago, "Bunty Pulls the Strings". One remark I considered very profound was, "Anything new is scandalous." Most people haven't the idea as strong as that, but I have found, myself, that the first reaction against something new is opposition to it, until it can be studied. That is why I am sorry there was not time for the members of the Senate to become familiar with this bill and make deliberate judgment. Because this was reported out so late, there is no time now for such study and deliberation. Nevertheless, I would like to put before the Senate some propositions for this bill and why it should be enacted into law.

Up to the legislative session of 1935 this policy had been adopted by 29 states, more than a majority of the states in the Union and that was an increase by seven over the number of states that had adopted it up to 1933. That is, the legislatures of 1935, seven of them, adopted this policy. The policy may be stated in the following words which appear in the Municipal Report of 1936. This is a report from the Association and is "An Authoritative Resume of Activities and Statistical Data of American Cities." I will read page 369 which expresses it probably better than I would express it myself: "In recent years the municipalities have demanded a share of this tax," that is referring to receipts from automobiles, "on the ground that their expenditures for streets and local highways benefit the motor vehicle owners." This is in effect this policy. Now if we turn to this bill which is 497 we will see that those are the provisions of the bill, namely that the streets of the cities should be included in the term, highway.

Up to the present time we have no definition in our statute of what it is. We legislate about highways and about the highway fund but

have never defined what it is. So it is important to define the highway not only for the purposes of this bill but for other laws which we may make dealing with highways. This bill provides that we should class as highways the roads and streets and avenues traveled by vehicles in towns and cities as well as those outside the cities and towns. Then the bill further provides that we shall make a classification and include that in the term highway. A portion of the funds which are received from automobile licenses and gas taxes and which are paid to the citizens of the towns and cities, that a certain portion should be returned to them for the maintenance of their streets and highways. I have put in this bill 20% and I will show a little later that it is only a small proportion of what they pay, but inasmuch as we will get an approval of 5% for back roads, which I expect will pass, I would be very glad to change to 15%.

The other states which have this have various ways of deciding what proportion goes to the towns. Some put it on a population basis, and some put it on this and on that. After studying them all, it seemed to me the proposals of this bill were fairest, one half should be based on mileage, which is rather for the benefit of small places because mileage is greater in proportion to population than in the larger places, and half the amount returned on the basis of the number of licensed motor vehicles. That of course would even it up for the cities since they pay more and have more registered vehicles, so it would seem to balance it between the towns and the small towns and the cities.

Of course the streets in the towns and cities and their maintenance in proper condition is as vital to the convenience and comfort of automobile drivers as the roads outside the cities. That is a self evident proposition. If they are blocked by snow in winter and the motorist can not get out and get on other highways, the towns and cities have to remove it. They have to repair the holes and ruts, and we know these holes and ruts are just as disastrous to the automobile driver and the springs of his car as if it happened outside the city. It seems to me to be unfair and illogical and unsound to exclude the towns and cities, which get a large share of the

money from the gas tax, from any share in the receipts. As I say, the roads over which the automobiles travel and over which they must travel are just as much for the benefit of the automobiles as are the highways outside the towns and cities. Now shall they continue to be maintained out of the general property tax as they are now? Shall these roads to which the towns and cities contribute receive the entire amount? That is the question. Shall they receive every cent or shall other roads and streets receive part of it? We adopted an initiative bill in September saying there was to be no diversion of highway funds. The question is, what should be included in highways and roads? I say the roads in the towns and cities as well as those outside should be included of course, as I say, this bill would clarify it by defining which are highways.

The argument has been that the automobiles pay for the highways and therefore every cent should go to highways. The moment we include the towns and cities nothing could be further from the truth. They do not pay for the highways. The moment we realize the automobiles use the streets in the towns and cities as well as those outside and they are being paid for out of general property tax—good old general property tax, that is supporting everything they can't get money any other way for—We realize what it is being used for. Let's consider for the moment what proportion of highway measurements the general property tax pays. Unless you have looked into it, I think every member of the Senate will be surprised as I was to know the towns and cities are paying more into the funds received from automobile licenses than all that is—I mean they are paying more for the maintenance of streets for the benefit of automobiles, far more than has come from license fees and gas taxes. In other words, the general property tax is carrying over half the burden.

I have figures here of all the highway expenditures from 1913 to 1935, which was the last figures they had. We will see who paid. In those years the receipts from gas tax and from auto license fees amounted to \$81,000,000.00. The amount paid directly into the highway fund for use outside was \$27,000,000.00—no it was \$15,000,000.00 direct. The amount

paid for maintenance of streets and highways within the towns amounted to about \$80,000,000.00. I will have to quote my figures again. I was correct in the first place. The amount paid directly to the highway fund is \$27,000,000.00 plus. The amount spent on the streets within the towns and cities is \$80,000,000.00. Consequently the towns and cities out of general property tax have contributed \$17,000,000.00 to the highways which the autos use as must the \$81,000,000.00 coming from the gas tax and licenses. The federal government has contributed \$13,000,000.00. If we do a little arithmetic we will find the towns and cities pay in the maintenance of the general highway and their own streets approximately 33% more for the maintenance of roads used by automobiles than is paid by all the money received through automobile license fees and the gas taxes. Now should they not receive from the money which they contribute in license fees and gas taxes some proportion of that money which they contribute, for the maintenance of their streets, streets which they maintain for the benefit of the automobile drivers, or should every cent be spent as it is now for the maintenance of roads in other localities? As I have already said 29 states now say they should, because they woke up to the fact that streets are not being maintained from those fees. They know they are being maintained from receipts from the property tax. It seems to me this is a case where 29 states have every element of fairness and logic. This bill provides 20%, although I am perfectly willing to make it 15% since we are putting through the bill for 5% for back roads.

To go back to the figures a moment, I will refer to Portland because I think it is illustrative. This isn't especially for the benefit of Portland but will apply to every town and city in the State. I want to say right here that although I did not ask him to come in there appeared before the committee the City Solicitor of Bangor to support unqualifiedly this bill because it would mean to every town and city the return of some of their money. I am illustrating by Portland. The city of Portland last year, a year ago, year ending 1935 not 1936, spent for snow removal \$74,000.00. For whose benefit was that? Do you

think that the automobiles benefited by that? Not only those right in the city of Portland but also those in the outlying districts. They received from the highway fund \$1977.00 for snow removal. The City of Portland spent in that year more for maintaining traffic lights alone than the entire sum received from the highway fund. Something like \$12,000.00 they paid for traffic lights. The total amount they got from the highway fund for everything was \$9,000.00. Portland spent to construct highways which the automobiles used \$328,728.00 plus for maintaining and constructing streets which are used for motor traffic and the total amount received from the highway fund was \$9,000.00. In other words, Portland spent \$319,000.00 on streets for the benefit of automobile traffic more than it received back and in like proportion the amount being spent. It is true of every other town and city in this state. They are paying in to the general property tax. They have of course been contributing in equal amounts to the license fees and to the gas taxes. As I said, even unto this bill, the general property tax would still be paying 33% for the maintenance of all highways, 33% more than the autos are paying 33% more than all payments by the license fees and gas tax. This is not a diversion of the highway fund. It is returning to the towns and cities a portion of what they contribute through auto licenses and gas tax to construct and maintain highways for the use of the automobile.

I have already spoken of this as the basis. If we allocate at the basis the bill provides it would be equal to a tax of 3 mills on general property. The property tax could be reduced that much or the money could be spent otherwise. If you make it 15%, in view of using 5% on back roads, the amount returned would equal 2 mills on the general property tax. In other words, by receiving a portion, less than half of what they are paying, less than half of what they are paying into this sum, getting back less than half, they would be able to meet in large part the increase in taxation for old age pensions and for schools without increasing the tax. Or they could lower the tax, of course.

There used to be an advertisement we saw all along the highways advertising a certain kind of flour. It used to say, "Eventually, why not

now?" Eventually Maine is coming to this plan as every other state is coming to it. Seven came in the last legislation so we have a majority. Eventually we will have to come to it in order that we may get on to a sound basis the funds coming from auto licenses and licenses fees coming from towns and cities as well. I repeat on this, as the advertisement for flour said, eventually, why not now?

Mr. FRIEND of Somerset: Mr. President, I wish to oppose the motion of Senator Laughlin, her motion to substitute the bill for the report. Ten counties in the state of Maine are represented on the Ways and Bridges Committee. That committee carefully considered all the facts brought out at the hearing and passed out a unanimous report, ought not to pass, on the bill. The bill is a very dangerous one and very far reaching. In the first place, it takes \$1,800,000.00 from the general highway fund which amounts to \$9,000,000.00. There are charges against the highway fund, certain charges, which must be met. The first charge is some \$2,550,000.00 a year to take care of bond maturities and interest on bonds. The money from those bonds when issued went into the State Highway System of the State, which benefited the cities much more than the small towns. Back when they were raised, \$15,000,000.00, raised in 1929, it was more a city bill against small towns. The small towns after a long fight gave in on the proposition with the understanding that after the main arteries had been built, and they have been pretty well built now, then the small towns would come in for their share of the money. I will say more on this later. \$2,500,000.00 to take care of bonds and maturities. The fixed charge against the fund is approximately \$3,500,000.00 a year to take care of maintenance of all highways, state highways, State Aid and third-class etc. The state takes care of practically all maintenance charges on State Highways, which as I say, benefits the cities much more than a small town. A great many small towns have no state highways or federal highways which come through them. The remainder of the \$9,000,000.00 with the exception of \$1,700,000.00 which goes to secondary roads of the state goes to match federal funds. \$1,200,000.00 is set up to match \$1,090,000.00

of federal funds under the Hayden-Cartwright Act. There are also other amounts that the state must match dollar for dollar. After these matters are taken care of only a small proportion of the fund is left for secondary roads to take care of small towns.

The fund is \$1,700,000.00 which goes to state aid, third-class, road resolve, and rural roads. This secondary road money to go to small towns has been greatly cut down during the years. Up to 1934 the amount of state aid roads, those feeding into the trunk line was about \$2,700,000.00. Under the general highway bill this year it has been reduced to just \$600,000.00 owing to the greatly increased charges, increased maintenance charges, etc., to take out of the fund.

Why I have made these figures and exhibit is because if this bill was allowed, taking a \$1,800,000.00 out of the general fund it would absolutely mean the entire and complete elimination of state aid road money, third-class and road resolve money of \$150,000.00 a year and rural road money which amounts to \$200,000.00 which the rural people have been fighting ten years to get and which this year for the first time the committee saw fit to allow. This bill would mean the total elimination of all that secondary road money. This bill in my opinion, is primarily a city bill.

Through the years since 1909 men experienced in road matters from all over the state have come in here and succeeded in building up a system of laws which take care of the state aid and third-class roads. The cities have a large valuation which can be taxed to build outside roads, what few country roads there are in them. The small towns have nearly as much secondary roads and back roads as does the city but has a very small valuation upon which to tax to get the money to build the roads. With this bill the state aid and third-class and road resolve money would be entirely cut out. Under this bill also the money which the cities would be getting would be more than they get now and actually that would be taken from the towns which have a small valuation, large road mileages, etc. Three of the cities in the state of Maine which have $1\frac{1}{2}\%$ of the road mileage of the State would receive under this bill \$1,800,000.00, 10% of

the money. They have 1½% of the roads but would receive 10% of the money.

Something has been said about how much the City of Portland pays back to the state in gas tax money and how little they receive. In 1936 the city of Portland received under the highway fund \$86,000.00, in 1935 approximately \$64,000.00, bridge construction money \$50,000.00 in 1934. In the last two years out of excise tax money which automobiles pay and which goes into the treasury of the town or city, the city of Portland out of excise taxes has received \$223,000.00, so the automobiles are paying something toward the building of streets in the towns and cities. The city of Portland has received \$955,330.68 in state-aid money.

The Maine Automobile Association is against this bill. There has been no formal action on the part of the directors but informally they have talked it over and are unanimously against the bill. This bill calls for returning 20% of the gas and registration money to the towns and cities. This money is returned to the various treasuries and it says in the bill that it shall be spent on the highways but there has been no department set up to administer this money, no state department set up to see that this money is actually spent on the roads. There is no question but what in a good many cases the money would actually never be spent on the roads and there is no question but if this bill passed there would in a very short time be an investigation by the Federal Bureau of Public Roads into the matter and the state would stand an excellent chance of being refused a considerable proportion of the federal aid which it now obtains.

To get to the bill: This act re-classifies public ways by adding one new class which is "Highways Incorporated in Cities and Towns." This includes the city streets. It requires that 20% of the total highway fund of over \$9,000,000.00 shall be paid over to the treasurer of each city and town for the construction, care and maintenance of the highways therein. This 20% is determined as follows: One half on the basis of mileage in the town as compared with the apportionment of total mileage in the state; one half on the basis of licensed motor vehicles in the city or town as com-

pared with the total registration of such vehicles in the state.

This segregation and apportionment shall be calculated and made by the State Highway Commission. Thus the duties of the Commission are reduced to mere figuring and could be made equally well by the Comptroller or anybody. Nothing is left to the good judgment or discretion of the State Highway Commission.

Finally, but not least important, it is provided in Section 6 that all acts and parts of act in conflict with any provision of this act are repealed. It is always dangerous to enact such a general repealing clause in a new law, of the character of this bill unless and until it is made very certain that other provisions of statute are not affected, or if so, how.

This short Section 6 may throw a large part of Chapter 28 of the Revised Statute, relating to highways and bridges into confusion and uncertainty, although not so intended by the author of the bill. The bill obscures and may fundamentally restrict and limit the powers, duties and control of the State Highway Commission. In many respects, it puts them back to the years 1907 and 1909, when the state had only one State Highway Commissioner whose duties were limited and where the moneys appropriated were largely spent by local authorities in a wasteful and often unscientific manner.

The bill would take away from the State Highway Commission much, and in some instances, all of the control now vested in the Commission under the following Sections of Chapter 28, the present highway law: Section 8, Relative to direction of State and state-aid highways; Section 9, Relative to maintenance of State highways; Section 11, The power of the Commission as to letting of contracts and supervision thereof; Section 13, As to the use of bond money in compact sections of towns; Section 18, As to maintenance of state-aid highways under the direction and control of the Commission. More than a dozen other sections would be affected or made subject to dual control. These sections relate mainly to state-aid and manner of apportionment and expenditure of the funds allotted. In fact, it is not clear that under this proposed act the Highway Commission would

have any effective control over the large sums of money apportioned and given over to the towns under this act.

What else does this bill do beyond the very obvious fact that about \$1,800,000.00 annually must be paid from time to time to the treasurer of each city and town? What becomes of this money? It has gone from the State Highway Department. It has gone out of the State Treasurer's hands. It has been sent to the treasurers of 450 cities and towns. By whom is it to be expended, and where and how? For city streets, for bridges, which are part of public ways, for new roads, for rural roads, must it be for continuous work to connect one town road with the road in another road, or may it be on a dead end road? Who has the controlling voice in the matter? At least, the town has gotten the money. What surveys, what type of construction, what specifications, what kind of contracts if any? What assurance or obligation in the bill that a city or town will spend any or all of this 20% for highway purposes? No forfeiture or penalty is provided for failure. Does it mean possible and probably diversion? If so, does it not endanger receipts of federal aid under the new Hayden-Cartwright Act? Massachusetts has been threatened with this law since the hearing on this bill. To the everlasting of the State of Maine, through its Highway Commission, this state has always maintained itself in position to be entitled to, and has received, its full allotment of federal aid. Such aid is now extended to be available to rural roads. But the requirements are specific, there must be control through authorities. In my opinion, the passage of this bill would endanger or curtail such federal grants.

All these queries and objection are aside from the question of whether 20% is a fair distribution to one town or to one city, and is not an unfair distribution to an adjoining town. It is a hit and miss proposition without the checks and controls necessary for the proper and economical expenditure of money, either by the state or by the municipalities. Some towns are equipped to spend this money, others are not. In any way you interpret this bill it is a step backward and a weakening of the system of

centralized expert control, now placed in the State Highway Commission, over the public ways of the state, and their systematic development and maintenance.

I would like to say now if there is any question of any unfairness in the way that the highway moneys have been distributed through the years on which the general highway fund practically falls for the coming two years there is a bill on the floor of this legislature called "Highway Planning", a survey bill which goes into all the matters of highways very scientifically. If there is any wrong distribution of the highway money in this state that complete survey will prove it and after the survey is completed, which will be in about a year provided this bill passes which is now on the floor, from then on there will be certainly equal and just distribution of road moneys.

As stated at the outset, the bill requires 20% of the entire general highway fund—20% of over \$9,000,000—to be given over to the town treasurers. The general highway fund includes moneys required to meet highway bond requirements; also for motor vehicle registration; also for state police; also for administering the gas tax, and lawful refunds thereunder. You can not seriously think of taking 20% out of these items, which aggregate \$7,500,000. That means you must take the 20% out of the remainder of the general fund which is approximately \$1,700,000. You must take \$1,800,000 out of \$1,700,000 which consists of the allotment for special resolves; for the construction of state aid highways; for the construction of third class highways, and rural roads.

In conclusion, the whole effect of this bill if enacted, would be to retard, disorganize and cripple the progress of highway development and the laws, and the administration of those laws, which we have built up for carrying on this great and highly important branch of state government.

I hope that the motion of the Senator from Cumberland, Senator Laughlin, to substitute the bill for the report, does not prevail.

MISS LAUGHLIN: Mr. President, the Senator from Somerset, Senator Friend has given us a recital of how the money is paid out. He has failed to explain or justify why those who pay 53% of that money

should get nothing. We can read the highway bill and know its explanation. The principle here is, why we should contribute 53% of it and get nothing. He says it is a city bill. Well, I would consider that pretty complimentary in that they come here and say that we ask back less than half of what we pay. The other parts of the state can have more than half of what we pay for their benefit and we ask back only one half. That is a pretty philanthropic attitude, I would say.

He says it takes away the power of the commission. Well, they wouldn't have, I suppose, supervision over the city streets but it doesn't take away their power. Section Four gives them the power to apportion the money and they have to pay it into the treasury of the town or city, and I imagine that the city and town officials probably spend the money on their own streets as well as the highway commission could spend it, and for that matter I don't believe we would find a little bit of concrete between two patches of mud as we do sometimes find on the highways. Perhaps it might be spent a little better than before.

He says it will endanger federal grants. Well, it hasn't endangered them in 29 states so I don't believe it is going to endanger them in this state. Under the bill the money must be used for the construction and maintenance of highways within the towns and cities. The federal funds are based on it being used for the highways and, as I say, there are 29 states who have not endangered those funds so perhaps we might look to facts and not to prophecies. He says it will. As a matter of fact it hasn't. So it just comes to this question, they are paying in 53% of the money used and they are getting none of it back.

Well, Portland got \$9,000 when it spent \$328,000 and besides that, as I said, paid into this fund in proportion, so the cities and towns all together have paid more than 53% of all the money used on the highways from the years 1913 to 1935 according to the figures in the comptroller's office which have nothing to do with the city figures. They have paid in 53% all these years and have received practically nothing. The question here is of getting on to a sound basis. I don't

know how you can say, "Go on and pay 53% and get none of it and we won't allow you any possibility of getting any of it because we plan to spend it another way." That is what it amounts to.

It seems to me this is a case where we should get a little fairness and that the towns and cities shouldn't pay 53% to be spent by the Highway Commission on other localities where they get nothing. So if we are going to get this on a sound basis we should begin to make this allocation to the towns and cities who are putting up the money.

Mr. FRIEND: Mr. President, as far as Portland not getting as much money out of this fund as they paid in, there has been at least \$20,000,000 spent on the trunk lines of the Maine State Highway System leading to and from the city of Portland which enables the people of the state of Maine to very readily get into Portland to shop there and do business. It is wonderfully helpful to the city of Portland and would be to any town which had it.

As I said before, there are a great many small towns which have no state highway within miles of them and yet those people personally and individually are paying just as much gas tax and registration fees as the people in the cities who are receiving the full benefit of all this state highway money which is raised by bonds and aid from the federal government.

As regards prophecy on the attitude that the Federal Bureau of Public Roads might take in case this bill went through, I would say that the bill says that this money shall be spent on the highways or projects or maintenance of same. But there is nothing in the bill that says who is going to say whether or not it is spent on the highways and projects and the minute the federal government saw that, they would take steps to find out whether it was spent on the highways and projects in the various towns, and I believe sincerely that in many cases with the conditions that many towns are in that some of this money would not go into the highways. That would very seriously endanger our receiving federal aid.

Mr. ASHBY: Mr. President, as a member of the Ways and Bridges Committee I would like to protest against the lady from Cumberland's motion. There is no necessity for me to say much because I think

Senator Friend has said enough to show you just what this bill would do to the state of Maine.

In the first place, you might just as well junk your Highway Commission if you pass this bill because we would have no use for it. Now, Senator Laughlin seems to have her eyes fixed very intently on Portland. For quite a long time the people of Cumberland County have assumed that they were the state of Maine and Portland has always assumed that it was Cumberland County. Now, we will suppose that we give Portland her 20% and eliminate all our state aid, our third class, our especial resolve and most of our Maine roads. Portland would be isolated. Perhaps that is what they want. I don't know. They seem to be sufficient unto themselves. But there has been a lot of talk about the tourists coming into the state. I wonder what the tourists would do if they got to Portland and then found that all roads ceased. Of course, the roads between there and the New Hampshire line would be eliminated, too, and I don't know as they could get to Portland. But in any case I don't think it is going to take much argument to convince this legislature that this is one bill that would repeal practically all the highway laws of Maine. I hope that Senator Laughlin's motion will not prevail and I don't believe it will.

MR. FRIEND: Mr. President, I move that the bill be indefinitely postponed, and when the vote is taken I ask for a division.

MISS LAUGHLIN: Mr. President, it won't make any particular difference in the result, of course, but the Senator from Somerset, (Senator Friend) can hardly be in order because we have not substituted the bill yet. That is the motion before this Senate, that we substitute the bill for the report.

Senator Ashby talks about Portland. As I said at the beginning I simply took the figures from Portland as illustrations. This bill doesn't apply to Portland any more than any other city or town that is big enough to build its own streets, except in proportion to what Portland is paying. This is not a bill for Portland. This is a bill for every town and city in the state, that they can get back some of what they pay and that they shouldn't continue to pay for all the rest of the state.

I don't wonder that the Senator from Aroostook wants it because it means simply that the towns and cities are going to pay for all the outside roads and get nothing.

Senator Friend talks about the highways in and out of Portland. I think it is equally true that they would have some difficulty if the towns and cities didn't maintain their roads. They wouldn't get on to the highways at all in that case and if the towns and cities, including Portland, don't keep their roads in condition to be traveled on and spend money on them it would be pretty difficult. So it is six of one and half a dozen of the other. The people from Portland couldn't get to Skowhegan, of course, unless there was a road, and that would be a terrible calamity, but it is equally true that nobody could get from one place to another without maintaining the streets in the towns and cities.

It just figures down to this, whether the towns and cities are to continue to pay 53% of the maintenance of roads used by automobiles, and get nothing. Certainly it is contrary to every principle of fairness and it doesn't apply to Portland, as I said, any more than to any other town or city.

I forgot to mention it before, but the Senator from Somerset, said he thought the members of the Automobile Association were unanimously opposed. I wonder that he had any time to come to this Senate if he spoke with the 12,000 members of the Automobile Association. The attorney for that association appeared before the Judiciary Committee on one occasion to express the views of the Automobile Association and we asked him how many members he had. I don't remember the exact figures but it was around 19,000. "But with that many members," we said, "you didn't take a poll of them, did you?" "Oh, no." "Well, how did you find out their position?" "Well, they directed us to vote." "How many were present at the meeting when this came up?" Well, he thought about thirty persons. So that is the representation of the Automobile Association; a meeting with thirty persons, and I cannot accept that that is the opinion of the 19,000 or the 12,000 members that Senator Friend said are unanimously against this bill.

MR. WORTHEN of Penobscot: Mr. President, I had the privilege two

years ago of serving on the Ways and Bridges Committee and at that time Senator Friend was Chairman of the committee and I will say that I regard his opinion on highway matters very highly. I know that he has made a study of highway matters and I feel that the members of the Senate can depend upon the remarks he has made here today. And whether this is a city bill or not I believe that the prosperity of the cities depends very largely on the rural towns.

Mr. SEWALL of Sagadahoc: Listening to this discussion, Mr. President, it really seems to me that there is much that is inherently sound in the argument of the Senator from Cumberland. However, as I view this bill, what it proposes to do is to lift from real estate part of the burden which it is now carrying in connection with highways, and place that burden on the automobile where, in my humble opinion, it rightfully belongs.

Now, earlier in the session I had occasion to investigate and secure figures as to the total road expenditures in Maine during the last twenty years or so. I think the figures were from 1913 to date. And it appears from that—and before I mention these figures I want to say that doubtless they are not absolutely accurate but I believe they are within ten percent because there are many faculties involved—but it appears from that, that there have been somewhere around \$300,000,000 spent on our highways since 1913, of which the automobile, through gas tax, license fees, fines, and so forth, has contributed \$100,000,000. In other words, \$200,000,000 of the three spent has been paid by real estate. I think we all agree that anything we can do which will tend to relieve that burden, shift that burden onto other shoulders that can better bear it, is a desirable advancement. And this is an opportunity to do that.

Now, the difficulties in the bill are perfectly obvious. It will undoubtedly, if passed, dislocate and cause a major problem in the highway fund, but if we accept the principle that the automobile should bear a little more of the present burden of roads that is now being born by real estate, then it seems to me that the answer is that we are not raising enough money for highways and possibly we should raise more, and if we pass this bill I am

pretty sure that the Highway Department and its interest in highways will and can find ways of replenishing that fund and thus enable the operation of this bill, which is fair, as witnessed by the fact that many states have done it, and which is practical, as witnessed by the same fact, because these other states have not lost their federal funds because of that.

I believe you will find the Highway Department can find their way clear to recommend ways of raising this additional fund and they can keep their present activities going and the towns and cities, and the real estate owner, will get the break that he deserves.

Miss LAUGHLIN: Mr. President, if this is a fair and sound policy and I don't think anybody can produce any argument against it, that people who are paying out the money should get some benefit from it and should not pay it out solely for the benefit of other persons, and if it upsets the highway plan, it seems to me it is time for those making the highway plan to be able to see something a little different from what they have been seeing all these years. If it upsets something, that is no reason why it shouldn't be effected. Because it upsets their business is no reason to enact this measure. Because it upset the business of some ferryman was no reason why we should not build a bridge. That is no reason why we should keep on in the same old way and not try a newer and better way.

Mr. ASHBY: One would gather from all the talk of the Senators from Cumberland and Sagadahoc counties that the cities were the only ones that paid real estate taxes or property taxes to maintain their roads. Every town in this state is taxing itself to maintain its back roads, which represent the back streets of the cities, these roads for which we never get one cent of state money.

Now, as Senator Friend has said, Senator Laughlin says that she objects for one person paying out money to benefit some other place or person. This state has paid, as Senator Friend pointed out, over twenty million dollars in order that Portland may have people come there to spend their money. And as far as the various back streets in Portland are concerned, that the average tourist has never seen and never will see, I think in some of

them, as I have been there and seen them, a man could take his chair and sit down in the middle of the street all day and he wouldn't be driven out.

Senator Laughlin said that she didn't mean Portland; she just happened to take those figures to base her argument on. I wish she had taken Fort Fairfield. It might be better. But some way or other she just happened to stumble on Portland. I don't know why. Probably it was an accident. Now, we in the rural communities believe that when we build a road to Portland—naturally all roads lead to Portland as they used to lead to Rome—when we build roads leading to Portland that we are benefiting Portland to a much greater extent than though they had 20% of this money and as Senator Friend has pointed out this money is to be put into these towns without any highway supervision whatever, and as I remarked before, you might just as well junk your Highway Commission, if you are going to take the highway funds out of their jurisdiction. And it would also blow up the whole highway system. We would have to begin all over again and set up a new highway system, because every dollar is accounted for, as Senator Friend pointed out.

Now, if the proponents of this bill are going to talk on it I wish they wouldn't talk along lines that wouldn't point out only desirable things from their point of view but would point out things as they really exist today and things that we cannot get away from for a generation.

The PRESIDENT: The Chair will rule that the motion of the Senator from Somerset, Senator Friend, has precedence over the motion of the Senator from Cumberland, Senator Laughlin, so the pending question is on the motion of the Senator from Somerset, Senator Friend, that the bill be indefinitely postponed, and that Senator has asked for a division.

A division of the Senate was had.

Twenty-four having voted in the affirmative and seven opposed, the bill was indefinitely postponed.

Sent down for concurrence.

(At this point the Honorable Ralph O. Brewster, retired from the Senate Chamber, amidst the applause of the Senate, the members rising.

The PRESIDENT: The Senate is proceeding under Orders of the Day.

On motion by Mr. Cook of Somerset,

Recessed until four o'clock this afternoon.

After Recess

The Senate was called to order by the President.

The PRESIDENT: The Senate will take a recess in order that the Republican members may meet in the Judiciary room for a caucus, after which they will return and proceed with the afternoon session. If there is no objection the Senate will proceed forthwith to the Judiciary room for the purpose of holding a caucus.

After Recess

The Senate was called to order by the President.

Additional House Paper, out of order and under suspension of the rules:

House Report of the Committee of Conference on bill "An Act to Provide for Old Age Assistance," (H. P. 1863) (L. D. 1029) reported that both branches of the Legislature recede from their positions and that House Amendment "C" be adopted, and the bill passed to be engrossed as amended by House Amendments "A", "B" and "C", the effect of this action being to provide an appropriation of \$1,500,000 for the fiscal year ending June 30th, 1938, and \$2,000,000 for the fiscal year ending June 30th, 1939.

Comes from the House, report read and accepted, and the bill as amended by House Amendments "A", "B" and "C" passed to be engrossed in non-concurrence.

In the Senate, the report was read and accepted in concurrence and the bill was given its first reading. House Amendment "C" was read and adopted in concurrence. Under suspension of the rules, the bill was given its second reading.

Thereupon, on motion by Mr. Friend of Somerset, the bill was laid upon the table as amended by House Amendment "C" pending passage to be engrossed.

Thereupon, on motion by Mr. Friend of Somerset, the Senate voted to take from the table the bill just tabled, L. D. 1029.

Mr. FRIEND: Mr. President, I move that Senate Amendment "A" be indefinitely postponed, and this

was the amendment that placed the amount at \$1,400,000.

Thereupon, the Senate voted to reconsider its former action whereby the bill was passed to be engrossed, and Senate Amendment "A" was indefinitely postponed.

On further motion by the same Senator the bill as amended by House Amendments "A", "B", and "C" was laid upon the table pending passage to be engrossed.

Additional papers from the House, out of order and under suspension of the rules, disposed of in concurrence.

House Bills and Resolves in First Reading

(Out of Order)

"An Act to Permit Loan and Building Associations to Consolidate or Transfer Assets." (H. P. 1484) (L. D. 562)

"Resolve to Reimburse the Town of Rome for Burial Expenses of Lester A. Brown, a Veteran of the Spanish War." (H. P. 653) (L. D. 1038)

"An Act Relating to Support of Dependents of Soldiers, Sailors, and Marines of the World War." (H. P. 1286) (L. D. 466) in new draft (H. P. 1822) (L. D. 1039)

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

From the House:

The Committee on Ways and Bridges, on bill "An Act Relating to Apportionment of Motor Vehicle Registration Fees Paid by Inhabitants of North Haven and Vinalhaven." (H. P. 711) (L. D. 232) reported that the same ought not to pass.

Comes from the House, the bill substituted for the report, and passed to be engrossed.

In the Senate:

Miss LAUGHLIN of Cumberland: Mr. President, I move that we concur with the House in the substitution of the bill for the report.

Mr. FRIEND of Somerset: Mr. President, I move that the bill be laid upon the table.

A viva voce vote being had, the Chair was in doubt.

A division of the Senate was had. Ten having voted in the affirma-

tive and thirteen opposed, the motion to table did not prevail.

The PRESIDENT: The pending question is now upon the motion of the Senator from Cumberland, Senator Laughlin, that the bill be substituted for the report.

Mr. FRIEND of Somerset: Mr. President, I wish to oppose the motion of the Senator from Cumberland, Senator Laughlin, that the bill be substituted for the report. This bill is in relation to the towns of Vinalhaven and North Haven. If it went through, it would give to those towns, which are island towns located about fifteen miles off the coast, the right to have 75% of the money that they pay into the General Highway fund, 15% of the registration money which they pay into the Highway fund, refunded to the town. If this were done it would be a very bad precedent and it would be allowing them something that is allowed no other town or island in the state of Maine. The town of Vinalhaven already gets back from the General Highway fund in the form of state aid, third class and special resolve money, \$3,879 a year, which averages up pretty well, considering the population and what they pay in, with other towns in the state.

Now, if this were allowed these particular towns there would be other islands, not quite so far off the coast, asking the same favor. Some of these islands are located not more than a quarter or a half or a mile from the coast, and they now have ferry or bridge accommodations for which the charges range from fifty cents to two dollars. The cry from these towns would be that they are not able to use the highways on the mainland and so they should be allowed the same favor. But if we allow this to go through there will be a lot of other islands asking for the same thing.

Therefore, I wish to oppose the motion which the Senator made to substitute the bill for the report and I hope that the report of the Committee "ought not to pass" will be accepted.

Mr. BURKETT of Knox: Mr. President, I hope that the bill will be substituted for the report in concurrence with the House. This is a peculiar situation that they have over there and the Senator from Somerset says it would be establishing a bad precedent. I don't think so because I don't think you can

find another island in the state of Maine with like circumstances. To be sure, they have had some little money from their special resolves the same as other towns, but otherwise they have to take care of their own roads and they don't have the pleasure of riding over any of the cement roads and as a rule when an automobile goes on that island it is there to stay and never gets back onto the mainland. If a man out there wants to take his automobile off the island he has to pay \$15 and not very many people can do that. On the other hand, most of these other islands that Senator Friend has spoken of have some means of getting their cars off the island by means of ferries or bridges and I fail to see where there would be any island in the state of Maine with similar circumstances to this. I really think in justice to the people of Vinalhaven and North Haven that they should have some of this money returned to them. I hope the Senate will concur with the House in the substitution of the bill for the report.

Miss LAUGHLIN of Cumberland: Mr. President, these two towns never use any roads except the roads on their own island and the only other place that could possibly be compared to them is Swans Island, so it isn't setting any precedent if we pass this measure. I think it is only fair that Vinalhaven and North Haven should have three-fourths of what they pay returned.

Mr. GRAVES of Hancock: The Senator is correct, Mr. President, so far, when she quotes Swans Island as being one other island but there are several other small islands in my county of Hancock with a smaller number of automobiles which have only the privilege of using their own island roads so that a large number of those people are forced to keep their automobiles on the mainland and use them from there. We went into this matter and on the face of it, it had merit but we felt, as the Senator from Somerset has stated, that the question of precedent was too large to let this bill go through. The question might come up, for instance, of towns in Aroostook County which are not able to use their cars on the roads in the winter time on account of the snow not being ploughed from the roads and they might come down and ask for compensation. There were numerous

other things that we were vague about on account of lack of definite information and so we felt that we should pass this bill out "ought not to pass".

Mr. BURKETT of Knox: Mr. President, speaking about the small islands of Maine such as Swans Island and other small islands, where there is only, perhaps, one truck and a very few cars, comparison of them with Vinalhaven would be insignificant because Vinalhaven is much larger than any of the others. I think this is a fair bill.

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

A viva voce vote being doubted, a division of the Senate was had.

Seventeen having voted in the affirmative and twelve opposed, the bill was substituted for the report.

Thereupon, on further motion by the same Senator, under suspension of the rules the bill was given its two several readings and passed to be engrossed in concurrence.

From the House:

The majority of the Committee on Judiciary, out of order and under suspension of the rules, on bill, "An Act Amending the Law relating to Unemployment Compensation" (H. P. 1519) (L. D. 729) reported the same in a new draft (H. P. 1869) (L. D. 1034) under the same title and that it ought to pass.

(Signed)

Wiley of Cumberland
Laughlin of Cumberland
Philbrick of Cape Elizabeth
Hinckley of South Portland
McGlauffin of Portland
Weatherbee of Lincoln
Thorne of Madison
Varney of Berwick
Bird of Rockland

The minority of the same committee on the same subject matter reported that the same ought not to pass.

(Signed)

Fernald of Waldo

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

In the Senate:

Mr. WILEY of Cumberland: Mr. President, I move the adoption of the majority report and in so doing want to explain why I happened to

have signed the majority report. I have not changed my opinion since I was a member of the House and voted against this state adopting this type of legislation because I felt it was unsound and unconstitutional. I think the Senator from Waldo, Senator Fernald, and myself were the only two of the joint committee on Labor and Judiciary who took that position at that time. I am informed today that the Circuit Court in the First District has held that a portion of the unemployment, Social Security Act is unconstitutional and it is my opinion that this act will also be held unconstitutional. But in view of the fact that the state has adopted this law and in view of the fact that certain amendments were necessary to make it workable, I agreed with the proposition of making this law workable for the state now that it is adopted, but I still do not agree with the principle.

Mr. FERNALD of Waldo: Mr. President, I still feel the same way as I did last December when we were told on this proposition from Washington, in considering a 42 page bill, that if we changed a period or a comma that it would not be acceptable in Washington. Well, apparently there are other people in Washington or on their way to Washington who feel the same way about it. This bill we passed last December in special session. The ink on the same was no more than dry before they came in January to ask for 10 pages more of amendments.

Now I think in view of the language and feeling of the Circuit Court of Appeals of the First District in their decision this afternoon, or today, holding it unconstitutional, that we might as well proceed cautiously and not unnecessarily clutter up the statute books with laws that will eventually have to be eradicated. Now this employment commission is evidently going along all right and they will probably go along all right until the special session of this legislature or until the regular session of the next legislature; and I think to pass this law, this amendment, in the face of this statement by the Court, I think it is poor legislation. I think we might just as well proceed cautiously and just see where we are going, because you have got to back up the whole way anyway.

The United States Court of Appeals today rules unconstitutional both the Unemployment Insurance Tax Provision and the Old Age Assistance Provision of the Social Security Act. Two of the three Justices held the provisions illegal. Both provisions had been challenged by George P. Davis, a public utility stock holder. Judge Scott Wilson who is from Maine and James M. Morton, Jr., who I think is from Massachusetts, held the provisions unconstitutional. Judge George H. Bingham, who I understand is a New-Dealer, handed down a dissenting opinion in both instances. The Court in ruling the Unemployment Insurance Tax unconstitutional said: "The issue is not what powers Congress ought to have to meet conditions as viewed by the Executive and Legislative branches of the Government, but what powers are vested in Congress under the Constitution. The Supreme Court through a long series of opinions has defined those powers and the limitations upon them. If the Constitution as construed through the years requires amendments to meet new conditions the way is provided therein."

The Court in ruling the Old Age Assistance Provision of the Act unconstitutional said: "The recent legislation of the so-called National Recovery Act, the Agricultural Adjustment Act, The Guffey Coal Act, The Railroad Retirement Act and the Child Labor Act all remind us that unless the Courts are continually on guard to preserve the dual form of our Government as founded by our forefathers the States will indeed become mere 'geographical sub-divisions of our national domain.' "

And I think that we as members of the legislature want to be consistently on our guard and I think that the provisions of this decision that we haven't had an opportunity to study, pertaining to old age assistance should be given some consideration by this legislature before we, in our haste to get home, superimpose upon a tax-over-burdened public, sales taxes and income taxes that you know and I know can never be repealed once they are superimposed upon our people.

Now, here is an opportunity. This decision is a milestone. It is history-making. We might as well think the thing over and think the thing through. It may be that we

don't need all this money that we have been talking about. It may be that in providing for old age assistance we should set up our own system, a system that if set up in this state of our own making, without the dangle of money from Washington held up in front of us, would be different, because a system of old age assistance set up in the state of Maine by Maine people and made for Maine people to meet the needs of Maine people, would certainly be administered differently, organized differently and the responsibility would be different, because in Maine I still think that we are still going to stick to the old form of local self government and local responsibility.

So, bearing that in mind, and especially the decision that we have had called to our attention, it may be well for this legislature to act cautiously and in not too much haste, because in haste, gentlemen and lady members of the Senate, there is much waste, and we already have too much waste in our Maine government today. And consequently I am opposed to a further extension of amendments to a bill that is already under a black cloud of unconstitutionality, and I think we should proceed very cautiously.

Mr. WILLEY: Mr. President, the measure appears here having been changed since it was left in the Judiciary room. I move that the matter be recommitted to the Judiciary Committee. The measure has been altered and I therefore move that it be recommitted in order that it may come back to this legislature in the form in which it was sent to the Judiciary Committee and so that if possible we may find out who has tampered with the bill.

The PRESIDENT: The Senator from Cumberland, Senator Willey, moves that the bill be recommitted to the Committee on Judiciary in non-concurrence. Is this the pleasure of the Senate?

The motion to recommit prevailed.

Order (Out of Order)

From the House:
Joint Order relative to committing to the Committee on Taxation (H. P. 1921) (L. D. 955) bill "An Act to Guarantee a Minimum Educational Program and to Provide for the Equalization of Educational

Opportunity for the Youth of the State of Maine," (H. P. 1863) (L. D. 1029) Bill "An Act to Provide for Old Age Assistance, with instructions to report a consolidation on same. (H. P. 1881)

In the House, the order read and passed.

In the Senate, read and passed in concurrence.

Passed to be Enacted

(Out of Order)

An Act relating to Malt Liquors (S. P. No. 479) (L. D. No. 900)

An Act relating to the Calais School District (S. P. No. 507) (L. D. No. 1026)

An Act relating to Pauper Settlements (H. P. No. 1545) (L. D. No. 629)

An Act relating to the Knox Arboretum (H. P. No. 1697) (L. D. No. 989)

An Act relating to Payment of Damages Done by Dogs or Wild Animals and to the Registration and Licensing of Dogs (H. P. No. 1853) (L. D. No. 1023)

Finally Passed

(Out of Order)

Resolve in favor of Harold L. Wentworth of Cornish (H. P. No. 1271) (L. D. No. 1022)

Resolve in favor of the town of Eddington (H. P. No. 1854) (L. D. No. 1015)

Resolve in favor of Henry L. Martin of Boston, Massachusetts (H. P. No. 1855) (L. D. No. 1016)

Resolve in favor of John Ruggles of Carmel (H. P. No. 1856) (L. D. No. 1017)

Resolve in favor of Rowland Batchelder of Augusta (H. P. No. 1857) (L. D. No. 1018)

Resolve in favor of Charles E. Taylor of Freeport (H. P. No. 1858) (L. D. No. 1019)

Resolve in favor of Enos G. Lambert of Freeport (H. P. No. 1859) (L. D. No. 1020)

Resolve authorizing the Sale of State's Interest in Certain Lands (H. P. No. 1860) (L. D. No. 1021)

Resolve relating to the Taking of Clams in Bar Harbor and Lamoine (H. P. No. 1861) (L. D. No. 1027)

On motion by Mr. Fernald of Waldo the Senate voted to take from the table Joint Order Relating to Educational Program and Old Age Assistance, tabled by that Sen-

ator on April 13th pending passage; and on further motion by the same Senator the order was indefinitely postponed.

Sent down for concurrence.

Mr. FERNALD: Mr. President may I inquire whether Senate Paper 332, Legislative Document 596, which we disposed of this morning, is still in the possession of the Senate?

The PRESIDENT: The bill is still in the possession of the Senate, it being An Act Relating to Exemption of Motor Trucks from Registration.

Mr. FERNALD: I am going to ask, Mr. President, that the bill be indefinitely postponed and I would like to ask the Secretary to read the report of the Committee on that bill.

The Secretary read the report of the Committee on Judiciary, "Ought Not to Pass."

Mr. FERNALD: Mr. President, the Senate will remember that this morning the bill was substituted for the report on motion by the Senator from Oxford, Senator Osgood, who then offered Senate Amendment A, and if you will turn to the House amendment on that you will see that the House amendment would change in the third from the last line, the letters "one and one-half" to "one-third."

Now, it had been so long since we had heard anything about this bill, which was tabled on March 5th, that I had forgotten all about it so I took the bill and the amendment down to the office of the Secretary of State and asked the clerk to hold the matter up and also asked him what the effect would be on state finance. Well, the Secretary of State—if I am quoting him correctly, and I am trying to, because it doesn't affect me particularly—says there might be two interpretations put upon the bill. If we interpret it the way I think Senator Osgood wants us to interpret it, it would cost the state of Maine approximately \$33,000 to pass this act. Now, if we interpret it as he said it might be interpreted, as a state-wide proposition, we might lose as high as \$100,000 and I got from the conversation of the Secretary of State that it would also complicate matters in the department.

Now, here it is and you have a motion on it before you and you can vote any way you want to. My mo-

tion is to indefinitely postpone it and if you do that you will uphold the unanimous decision of the Judiciary Committee which carefully considered the measure and heard both sides. There it is. It is immaterial to me, but you can save at least \$33,000 and perhaps \$100,000.

Miss LAUGHLIN of Cumberland: Mr. President we have had several of these bills before the Judiciary Committee and I am in some doubt whether the figures that the Senator from Waldo, Senator Fernald, has heard would apply to this particular bill. We reported adversely on a number of them which all meant that if they passed they would take quite a little bit of money from the departments and I am rather inclined to think that the figures do not apply to this bill. For that reason I would move—what is the motion, Mr. President?

The PRESIDENT: The motion before the Senate is to indefinitely postpone, made by the Senator from Waldo, Senator Fernald. If the Senator from Cumberland, Senator Laughlin, wishes, she may make a motion to lay the bill on the table. The motion now before the Senate is to indefinitely postpone. This morning the bill was passed to be engrossed.

Miss LAUGHLIN: Very well, then, Mr. President, I move that the bill be laid upon the table until tomorrow morning. I would like to check up and see if the figures apply to this bill. I do not think they do.

Mr. WILLEY of Cumberland: Mr. President, I am of the opinion that the Senator from Waldo, Senator Fernald, is correct about the amount of loss to the state if this bill passes and I think it should be left on the table until we can be sure about it.

Thereupon the bill was laid upon the table pending the motion by the Senator from Waldo, Senator Fernald, to indefinitely postpone.

Order

(Out of Order)

Mr. Willey of Cumberland presented the following order, out of order, and moved its passage: "Ordered, that Legislative Document numbered 1034, An Act Amending the Law Relating to Unemployment Compensation and all accompanying reports be forthwith delivered by the Secretary of the Senate to the Governor's office to be locked

up in the vault until called for by order of the Judiciary Committee."

Mr. WILLEY: Mr. President, in explanation I want to say that I cast no reflection on any of the officers or the Clerk of the House, nor upon our very splendid Secretary. I feel that the matter is sufficiently serious to make it worth while to relieve them of any responsibility. The additions to the report are made in what appears to be a woman's handwriting and I think the matter is sufficiently serious that it be attended to so that we may find out just who has tampered with this bill.

Mr. WALSH of Androscoggin: Mr. President, I move we adjourn until ten o'clock tomorrow morning.

A viva voce vote being doubted, a division of the Senate was had. Five having voted in the affirmative and twenty-two opposed, the motion to adjourn did not prevail.

The PRESIDENT: The pending question is on the passage of the order introduced by the Senator from Cumberland, Senator Willey.

A viva voce vote being taken,

The motion did not prevail, and the order failed of passage.

Mr. WENTWORTH of York: Mr. President, I wish to move that the Senate reconsider its action taken earlier in today's session whereby bill, An Act Relating to the Shipping of Clams Beyond the Borders of the State, Legislative Document 716, was passed to be engrossed.

Mr. BECKETT of Washington: Mr. President, I dislike to be discourteous in a matter of this nature calling for reconsideration of a bill for the purpose of offering an amendment but I do feel that in this particular case there is, perhaps, jeopardy to those people who are really attempting to take care of some conservation measure for the state. As I understand it, the amendment about to be offered is simply in the nature of an amendment which has already been offered in the House and which was lost because members from the two counties involved spoke against it. My feeling in the matter is not one of antagonism but is only that the proper procedure would be to introduce the amendment in the House rather than in the Senate, and I wish to oppose the motion of the Senator from York.

Mr. WENTWORTH: Mr. President, I desire to offer this amendment in the Senate, and as to the amendment being offered in the House I will say that it has a 50% batting average down there either way because it passed once and then was defeated once.

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

The PRESIDENT: The question is on the motion of the Senator from York, Senator Wentworth, that the Senate reconsider its former action whereby the bill was passed to be engrossed, and the Senator from Washington, Senator Beckett, has asked for a division.

A division of the Senate was had.

Twelve having voted in the affirmative and sixteen opposed the motion to reconsider did not prevail.

On motion by Miss Martin of Penobscot, the Senate voted to take from the table Report of the Committee on Legal Affairs on bill, "An Act Relating to Elections in the City of Biddeford" (H. P. 1107) (L. D. 362) reporting the same in a new draft (H. P. 1850) (L. D. 1012) under the same title and that it ought to pass, which came from the House earlier in today's session passed to be engrossed as amended by House Amendment "A" and was tabled by that Senator pending acceptance of the report.

Thereupon, on motion by the same Senator, the report of the Committee "Ought to Pass in New Draft" was accepted and under suspension of the rules the bill was given its second reading. House Amendment "A" was read.

Mr. MARDEN of Kennebec: Mr. President, I move that House Amendment "A" be indefinitely postponed in non-concurrence.

Mr. FORTIN of Androscoggin: Mr. President, I am not prepared to speak on this amendment. I am somewhat surprised that the Senator from Kennebec, Senator Marden, who lives in Waterville would ask that House Amendment "A" be indefinitely postponed. That amendment, in all fairness, is just the people of Biddeford asking the right to govern themselves.

A few moments ago the Senator from Waldo, Senator Fernald, said that our government was formed upon local self-government. Were those just idle words? I would be a mighty happy just now to be a

member of the majority of this legislature and to have the pleasure of telling the democratic city of Biddeford that they might run their own city and then that when they get so that they can't we would call upon the state.

Really, it should be unnecessary for me to represent the city of Biddeford and I do it in a spirit of fair play, that is all. They have no one here to represent themselves and I do not think it is right for the Senator from Hancock County or the Senator from Arrostook County to tell Biddeford, or the people of Biddeford how they shall run their own city election. I don't believe it is fair and I don't think we have the right to do it. Supposing that two years from now the majority in the legislature was the other way. How would you like it—may I put it that way—if bills of this nature came in to make the people of your town vote differently from the way they wanted to vote. It is true that Biddeford is a democratic majority city but this amendment, members of the Senate, is not fair and it was defeated in the House by an overwhelming vote. I think it was an admirable thing to see a certain representative tell the legislature that the people of Biddeford could run their own city. If this amendment goes back to the House it will be defeated again. I don't believe we should play with these things. They are serious to the people of Biddeford.

Now, I only say these few words in a spirit of fairness. If this bill is defeated again in the House what are we in the Senate going to look like? The lower House believes in fair play, so let us be fair. I hope the motion of the Senator from Kennebec will not prevail.

The PRESIDENT: The pending question is on the indefinite postponement of House Amendment "A" in non-concurrence with the House. Is the Senate ready for the question?

A viva voce vote being doubted, A division of the Senate was had. Nineteen having voted in the affirmative and five opposed, House Amendment "A" was indefinitely postponed in non-concurrence.

Thereupon, the bill was passed to be engrossed in non-concurrence.

Sent down for concurrence.

On motion by Mr. Cook of Somerset,

Recessed until this evening at eight o'clock.

After Recess

The Senate was called to order by the President.

On motion by Mr. Hussey of Kennebec, the Senate voted to take from the table, bill, An Act Relating to Agricultural Societies, (S. P. 493) (L. D. 1031), tabled by that Senator on April 14th pending first reading; and on further motion by the same Senator the bill was given its first reading.

Thereupon the same Senator offered Senate Amendment "A" and moved its adoption:—

"Senate Amendment 'A'. Amend said Act by striking out the words 'section one' and further amend said Act by striking out everything after the second paragraph thereof."

Mr. HUSSEY: Mr. President and Members of the Senate, this amendment which I am offering is one which I believe, through the oversight on the part of the Committee on Agriculture they left on. As you notice this bill calls for an appropriation of \$15,000 to be deducted from the income received from pari-mutuel racing or betting. I object very strenuously to this deduction of \$15,000 from this revenue and in trying to support my facts I will show you that from the small sum we receive from pari-mutuel betting the Agricultural Societies are receiving twice as much as we are. Yet they feel that they are not receiving enough and they are trying to deduct \$15,000 from what the State would receive.

During the period from June 22 to October 31, 1936 the State received the sum of \$43,632.61 as their part from pari-mutuel betting which was a 3½% commission on the amount played at the races. Now the fairs at that time received the sum of \$81,611.79 which was 6½%. Now on top of that they received a breakage of 1% which totaled \$10,332.80, making a grand total of \$91,943 and some odd cents. This bill, as I stated, is asking that the State take from their profits of \$43,000, \$15,000 and adding it to the stipend which would go back to the agricultural societies. I really believe this is going a little too far.

Two years ago when we—I won't say we because I didn't vote with it—when the pari-mutuel bill was put through the proponents of the

bill contended that here was a proposition that would benefit the state, the state primarily and then secondarily, the fairs would get a benefit by receiving a 6½% return and then they would gain a much better gate receipt in that the attraction which the pari-mutuel would offer to certain people in the state would return a greater receipt in their income for their fair period. It certainly worked out to their benefit. Now on top of this, there is a statute on the books whereby the agricultural societies receive \$12,000 as fair stipends which is split up among the fairs of the State and which is paid out in premiums.

I might also state that previous to four years ago they received \$32,000 but the Legislature four years ago decided, in their wisdom, that agricultural fairs, so-called, were not doing all that the name implied in that they were getting to be more or less of a horse race or a place to go and see some good shows and get some ice-cream and lemonade, and so they in their wisdom cut the stipend from \$32,000 to \$16,000. They felt they were justified in doing that and that \$16,000 is split up among the fairs as a stipend over a period of one year. I sincerely believe that they are getting more than they ever did before and here they are back here asking for another slice out of the general funds of the state. We have some very wonderful fairs in our state. They are ably represented here in the Senate tonight and I am going to allow them to try to present the facts as to why they deserve this \$15,000. I yield to the Senator from Oxford, Senator Osgood.

Mr. OSGOOD of Oxford: Mr. President, I move the indefinite postponement of the amendment. Senator Hussey thinks that four years ago the Legislature in their wisdom saw fit to cut the stipend from \$32,000 to \$16,000. I was on the Agricultural Committee at the time and the State was in such financial circumstances that we deemed it advisable to go along with other state activities and cut the stipend from 4c to 2c a head on the population of the State, which gave us \$16,000. Since that time we have run on a \$16,000 appropriation. The understanding at the time the pari-mutuel bill was passed was that the fairs should benefit from the enactment of that

fund. We feel only fair in asking at this time that our stipend be restored to the place it was in 1933. Therefore we have asked \$15,000 which it has been estimated will be realized from the pari-mutuel for the benefit of agricultural societies.

Mr. HUSSEY: Mr. President, I would like to ask the Senator from Oxford, Senator Osgood, a question through the Chair.

The PRESIDENT: The Senator may ask his question and that Senator may reply if he so desires.

Mr. HUSSEY: Senator Osgood, this \$91,000 the fairs over the State have received has been quite a benefit?

Mr. OSGOOD: We didn't actually receive the \$91,000. That allows 6½% plus breakage. We received a net of perhaps 4½%.

Mr. HUSSEY: You received it and paid it out?

Mr. OSGOOD: Paid it out for help.

Mr. HUSSEY: But you had hold of it for a time? That 4½% net, Senator Osgood, is more than the state is receiving. The state is receiving 3½% and the fair is receiving 4½% and the State's 3½% is used to police the fair grounds and audit your books and pay for some plainclothes men around in the crowd to see that the pick-pockets don't relieve you of any of your loose cash, and doesn't it also kind of check up on the horses to see that they are not doped, and isn't it all taken out of the 3½%?

Mr. OSGOOD: No, I do not think it is. We pay for the plainclothes men and I understand they are paid out of general funds.

Mr. HUSSEY: I can say that 3½%, some of it goes to pay for plainclothes men according to the reports of the commission. It also pays for auditing your books on this pari-mutuel. So when the State goes ahead and puts on this pari-mutuel betting for the benefit of the fairs in order to draw a bigger crowd and help out in this respect, the fairs get twice as much whether net or gross, either way, it will work out the same, they will receive twice as much as the State receives. I cannot see why the fairs should come back and ask for \$15,000 over what the State receives. Now of the \$43,000 received for the State, expenses were practically between \$16,000 and \$18,000 over a period of a year. Deduct it from the \$43,000

and it leaves the State a net profit of about \$25,000.

Now here is a proposition the state is overseeing, and doing a great benefit to the fairs and they are only receiving \$25,000 as a revenue return and yet the fairs seem to contend that we should even give back some of the \$25,000 leaving only a net profit to the State for overseeing and putting on our statute books the pari-mutuel benefits. I just want to stress that two years ago they came in and said, "Oh, the state will reap I don't know how many thousand dollars out of pari-mutuel benefits. It is a great revenue producing bill." And here it is. If they should go on with their bill here it would reduce us down to practically \$10,000. I trust the motion of Senator Osgood will not prevail.

Mr. FRIEND of Somerset: Mr. President, in answer to the Senator from Kennebec, Mr. Hussey, a conservative estimate of what the profits on pari-mutuels will be is at least \$50,000 the coming summer. As I understand it, possibly \$10,000 will be set up, a limit of \$12,000 set up to take care of the Racing Commission. Otherwise, it will be the total expense so far as the State is concerned in connection with pari-mutuel, which will leave, if we estimate the income correctly, a profit to the State of about \$38,000. Now it is plain and no doubt the figures are right that the income to the fairs in 1936 from pari-mutuel was 6½% or some \$91,000. The cost of running the mutuels comes out of the fairs which brings the net profit to the fairs about 5% instead of 6½%. Skowhegan Fair, I know, made a little less than \$5,000 on pari-mutuels last year. The purses were \$12,500 alone and the horses which raced brought in \$5,000 income. In addition to that were large expenditures for judges, starters, and building the stables and a lot of other expenses; so whereas the State last year cleared at \$25,000 out of mutuel, the \$91,000 which the fairs received out of mutuels was not all clear to them. In fact, the expense of obtaining that \$91,000 was more to the fairs than the \$91,000. Just for Skowhegan alone our income was \$4700 or \$4800, yet purses alone, which was not all the cost, was \$12,500.

Now in 1933 the prime idea of the legislature was to cut everyone

just as it has been in this legislature to find some way of increasing the taxes to take care of pensions and schools. The idea in a session of 1933 was to cut. I think every one of the departments was cut, but the cut was just a suspension of two years, except in the case of the stipends to fairs. That cut was a 50% cut, not a 10 or 15% cut like other departments had, but a 50% cut, and it was not a suspension for two years. In other words, when the legislature of 1935 came in it didn't choose to do anything about the cuts made in 1933, so all other departments immediately went back and obtained the same income they received prior to 1933. With the fairs it was different than that because the cut was not a suspension for two years and the cut still exists of 50%. All they ask now is that the amount which the fairs received in stipends prior to 1933 be returned to them, they having gone four years with the 50% cut. Now all of this stipend money goes to the fairs as aid to enable them to pay as large premium on fruits, flowers, vegetables, live-stock, horse-pulling, etc., as it is possible for them to pay. The more we get from the State the more we can pay in premiums to all those who exhibit. There are thousands of exhibitors in the various fairs in the State of Maine. The fairs as a rule match whatever stipend they receive at least dollar for dollar and some fairs more than that, so that any increase in the stipend which we receive would not necessarily be only a benefit to the fairs but would be just so much money the fairs would be able to return to the exhibitors which is composed mainly of the agricultural element. That is the part in the fairs that has been allowed to go down and the main reason that the fairs have had tough going up to the last year or two and have gone in debt and on account of receiving the 50% cut in stipend have found it necessary to reduce the premiums they offer. That is the reason some of the fairs are just beginning to revive the interest in agriculture events which was the very basis of the fairs that you never forget. I hope that the amendment which Senator Hussey has offered will not be adopted.

Mr. WILLEY of Cumberland: Mr. President, this measure strikes rather closely to my heart, as I introduced the pari-mutuel bill in

the last legislature. I want to read the purpose of the introduction of the act in the records of the 1935 legislature and call your attention to the fact that at no time did any of the proponents of this measure hold out that it would yield the State one copper. The only purpose for which it was introduced and the sole purpose was to aid the agricultural fairs. I will read you from page 765 of the Legislative Record of 1935: "Now this bill is designed purely and simply for the relief of our State and County Fair Associations, in order that they can continue to operate and stimulate the raising of live stock and domestic and agricultural products." That is the only reason that the bill was introduced in the last legislature, and it was introduced for no other purpose. It was not intended that it would yield any great amount of revenue to the State. It was debated by many of those who opposed the bill that it would cost the State money and therefore they could not vote for it. We had some trouble telling them it would be self-supporting and would help maintain in existence one of the greatest institutions of our State, an institution which has done so much to relieve our rural people from the humble situations in which they originally lived. Any man has but to go to our State Library and ask for what books may be had in Agricultural Associations and find the greatest writers of our State and he will find that these institutions have done more to promote interest in our rural State than any one institution. Here tonight we hear a man say he will cut those institutions, those institutions that encouraged the boys to stay on the farm and raise horses and take them to the agricultural shows and get a prize, the institution that puts every member of the family in competition with every member of every other family. We have seen the mothers take their canning there and the little girls with their sewing and embroidery there and it teaches our people to be self-supporting.

In so far as the Senator from Kennebec, Senator Hussey, confined himself to the facts concerning the income of this law I have no concern, but when it was held out to this Senate that it would be revenue producing, it is not in accordance with the record.

There is another thing I said, I said it would bring back the glory it once had when it bred and trained the finest race horses in America. It is doing that. I said it would offer entertainment to the people of Maine and their guests. It is doing that. It brought people from all over America to Old Orchard last year to see the finest horses in the world race. And it has paid its own way. It has yielded nearly \$70,000 to the Maine State Treasury and it has helped in some way to relieve the aggravated condition under which the agricultural associations were operating. And mind you, these agricultural associations had paid out premiums so long they had mortgaged their fair grounds. Men in the communities had endorsed notes for the agricultural association until they could not longer continue to pay premiums to those who would raise fine products and those who would show fine cattle and horses. Our agricultural associations would not have been able to continue because the State could not have continued to support them. It could not have continued to offer the necessary stipends that were required. Now we have a measure here and the fairs are supporting themselves. They can again offer to pay the premiums they used to offer, premiums which helped to develop the agricultural districts of Maine. Certainly I am sure the amendment the Senator from Kennebec, Senator Hussey, has offered will not prevail because we cannot tear down those institutions which have meant so much to us. We must instead give them some of the money they earn to help pay it back to the farmers of the rural districts of Maine, to encourage the raising of fine live stock, fine horses, and keep them on the farms instead of taking them into the city and putting them on relief.

Mr. BURKETT of Knox: Mr. President, I am not an officer of any agricultural society and I am not pleading in their behalf but merely in the way of encouraging industry in my own county. I hate to disagree with my friend Senator Hussey because I have been with him in about everything else this winter but I am sorry that he has taken the attitude that he has in regard to these fairs. He says the State has received \$40,000 from these fairs. When these appropria-

tions were decreased a few years ago the stipends of the agricultural societies were cut 50% and it has never been replaced. About all the other appropriations which were cut have been put back this winter to the original standard except this one.

In relation to the pari-mutuel fairs, I think I have attended nearly every fair in the state this year and in every one I have attended the officials of the fair have told me that they have never seen a fair before where there has been so little drunkenness. That is from a moral standpoint. Now from a practical standpoint, my little fair in Knox County has increased its attendance over 100% and filled its grand stands full every day of the whole three days where they only used to be able to fill them one day. They paid out 100% more in premiums this year than they did before pari-mutuel to people bringing in cattle and poultry and such things and those premiums go back to the farmer and it seems to me it would be penny-wise and pound foolish to cut out this \$15,000. We all agree that nearly every other agricultural society in the state of Maine was on its last legs until this pari-mutuel started and brought with it better premiums so that more people would bring their stock to the fairs and get the premiums whereas before that they would bring their cattle and then couldn't get the premium if the cattle had won. Most every agricultural society in this state is now paying their premiums in full and nearly all of them have increased them and I think it is awfully foolish to cut out this fifteen thousand dollars for the benefit of agricultural society. If you are going to cut every other department 10% I would be willing to cut this down 10% but I hate to see you increase everything else and then cut this out.

Mr. HUSSEY: Mr. President, if I may have permission to speak a second time I will say that I have to contradict my good friend, Senator Burkett when he says that we have received \$30,000 besides the \$40,000—if that is what he said.

Mr. BURKETT: No, I said you received an amount of \$40,000.

Mr. HUSSEY: The state received \$43,000 as their 3½% division of the profits. The state fairs received 6½% plus the breakage which was about 1%, which equals 7½%. The

state received 3½%; the fairs 7½%. Now, with that 3½%—I hope the Senate will pardon me if I repeat—of that 3½% which totals in money \$43,000, between \$16,000 and \$18,000 was used for carrying on these pari-mutuel races so that netted them about \$25,000 profit. Now the fairs, as I said, received 7½% which equals about \$91,000 and I take the word of these officials of the state fairs, Senator Osgood and Senator Friend, and, of course, Senator Burkett who is a past officer of one of the fairs—I would take their word for it that they use some of that money to carry on these pari-mutuel but of course I wouldn't admit that they used more than \$10,000 and I don't think they would claim that. We have a net of \$25,000 and they have a net of \$80,000 and yet they would like to take away \$15,000 from our \$25,000 and build their \$80,000 up to \$95,000. That isn't fair.

I don't blame you gentlemen who have spoken here—Senator Willey knows this racing game—and I don't blame you for sticking up for the fairs but here we are taking the state's money and if Senator Fernald were here he could tell you just how many old age assistance pensions that would take care of; I can't blame you, as I say, for sticking up for it but to get down to business here is a chance to save \$15,000 for the state. If you had gone at it in the right way and taken the statute on the books which gives you at the present time 2 cents per capita—that is per head, or whatever you want to call it—which will go to these agricultural fairs and let it be distributed among them for the benefit of the fairs in the form of stipends, that would have been a good bill to present to the House and the Senate and they could have acted on it with a lot of reason, but now here you come and say just because the state is making a little money on something you want to take it away, most of it. You have gone at it the wrong way. As I said, four years ago whether we were on an economic tack at that time or whether we in our wisdom cut that down because we felt the agricultural fairs weren't doing as much towards agriculture as they had over a period of 25 years, I don't know, but I think you will all admit that 25 years ago the agricultural fairs were doing twice or three times as much

for the agricultural people of the state as they are now.

Now, I will go a little deeper into this. Two years ago, the Pomological Society came down here and they said, "We aren't getting quite the breaks that we should at these fairs. They think a lot about this horse racing and the midway and the various things like that and they like to show these groups of horses doing tricks and so on around there." And they said, "We would like to separate ourselves and set up shows for ourselves and we would like to have a certain amount to put out in premiums to those showing the best goods." Well, the legislature and the Committee on Agriculture, thought that was a nice thing so we suggested that they set up \$2500 and the legislature said, "We will agree with the Agricultural Committee and allow them \$2500." Now, this year the Androscoggin Poultry Association, or some similar association like that came before the Committee on Agriculture and asked for \$2800. They said they would like to get away from these agricultural fairs and they thought they weren't getting justice from them and attention wasn't being given them in the showing of their prize poultry and so forth. And the Agricultural Committee recommended that \$2800 be set up for them. That is just a form of stipend. There is over \$5,000 in the last four years for premiums to be paid to the agricultural people if they will carry on these shows. Now I think that is all right. I had nothing to say against these appropriations as set up for these two associations that I have mentioned. I really believe they can do better alone. Those interested are coming to these fairs, if they are interested in poultry and they come from all over the state.

But when the officers of these fairs come down here and say they want \$15,000 more to help maintain their fairs, which in many cases are owned by individuals or corporations, I think the state has gone far enough. These fairs are coming back. The one at Androscoggin under the able management of our honorable Senator from Somerset, Senator Friend, is back on its feet and they are building new buildings out of the profits they make up there and Senator Burkett has just told us that his fair over there has increased 100%. That shows that

they are back on their feet. I haven't heard Senator Osgood tell us anything about his fair but I know if he conducts it, it must be conducted in a very able manner and it is surely a financial success.

Now I don't see any reason why they should come down here for more money. They aren't coming down here and admitting that they can't run these fairs and that they need more money to keep going, not such capable business men as we have here. It is really a business proposition. Now you are getting along all right. It is just an easy way to attempt to get \$15,000 but really you should be fair and you know that these pari mutuel races, or betting, is bringing to you a much larger attendance and the state, through its representatives put it on the statute for you to help you, as Senator Willey has said. Now, be fair with them and give them a break, give them all the profit they deserve. Take your share, which is the giant's share as you know, and we aren't quarreling about that, but give us just $3\frac{1}{2}\%$ and be satisfied with the $7\frac{1}{2}\%$.

Mr. BURKETT: Mr. President, that is a very good argument for the pari mutuel as far as increasing the attendance. Senator Hussey says, "We have given the fairs \$90,000." Who is "we"? Pari mutuel. They are the ones that have given the fairs \$90,000. Now he gets up and wants pari mutuel, because it is a success and has paid its own way promoting the fairs and has made some money, he wants them to give that money to the state and that is the only organization that is already giving the state something for nothing. And all I say is that they want to be restored back to where they were before they got the original cut.

Mr. FORTIN: Mr. President and members of the Senate, it seems to me that I was one of the bad boys two years ago who was the sponsor of the pari mutuel bill. I have been trying to get in touch with Charlie Proctor this afternoon and I can't find him. It seems to me that the legislature in 1935 gave the agricultural societies something they never had before. If you aren't satisfied with half the hog, don't try to take it all. You talk about stipends. The stipends, it seems to me come from the Agricultural Department and it pays you for the effort you have put into your fairs

for the exhibition of fruit and cows and other live stock. If the fairs during the depression couldn't permit you to exhibit those things which would give you that stipend, that isn't the fault of pari mutuel. The pari mutuel brought into the state last year, as Senator Hussey so ably told you, a very, very good profit. They also gave the fairs a more substantial profit and I believe it is unfair, in view of the fact that this pari mutuel has only been in effect for a year or two, to come here and ask the state of Maine that is responsible for the bookkeeping and administration and everything, ask them to take from their \$43,632.61 this \$15,000. I believe it is unfair and I hope that the motion of Senator Hussey will prevail.

Mr. OSGOOD of Oxford: Mr. President, this bill was introduced into this legislature the very first of the session. The Agricultural Committee had a hearing on it largely attended and as far as I remember no one opposed the bill, and in behalf of that committee which put out a unanimous report I hope my motion prevails.

Mr. HUSSEY: Mr. President, I will take just a minute more if I may have the privilege, to talk about the whole bill. We haven't talked yet about the whole of it. The first part of it makes clear that the Agricultural Association conducting pari mutuel betting will come under our state stipend law. Now, that is one thing that the fair people were interested in. They wanted to participate in the \$16,000 already set up and they came down and in order to clarify the law, in order that there wouldn't be any legal tangle as regards the division of the \$16,000 which they get, besides what they get from the pari mutuel. They had a bill put in and this is part of it that they come under, Chapter 130 of the Public Laws of 1935. Well, that part of the law is all right and I think anybody appearing for the bill probably would be glad to go along with them but if they had known all the facts concerning the money end of this they certainly wouldn't have been in favor of allotting them \$15,000 more.

Mr. FRIEND of Somerset: Mr. President, the Senator from Kennebec, Senator Hussey, spoke about the great profit that the fairs have been making. Now, I would hate to

tell the Senator just how much all these fairs owe. There are one or two in good shape but I would hate to tell the bad condition the rest of the fairs are in. I wonder if there is any way, Senator, that we could hook this thing up with the Augusta Airport?

Well, it comes down to this, that the state stipend was cut 50% in 1933. We are asking this \$15,000 because we would like to get back what we had before up to 1933. It seems to me when you can increase the Maine Development 100% practically, or around \$100,000, and the University of Maine \$110,000 that you could at least allow the fairs to have what they had prior to 1933. I can't see the fairness or justice, Senator, in your argument.

Mr. FORTIN: Mr. President, if I may say another word, Senator Willey of Cumberland, this afternoon, introduced an order about putting a bill that came from the Judiciary Committee into the Governor's safe, and before I got up to speak about this somebody stole my notes and I have just found them. I was in doubt whether to blame Senator Fernald or Senator Friend but I just found them on my desk so now I can talk intelligently.

I don't believe this pari mutuel allowance under this bill has anything to do with airports. I think Senator Friend is lacking a little sportsmanship there. In defense of Senator Hussey's argument, as I said before if you can't get half of the thing don't try to get it all. You have had more than half the hog. Why do you want the whole hog? You are going to spoil the pari mutuel bill. I am telling you. We had a hard time and had to compromise between the lottery bill and the pari mutuel. Now you have more than half of it and I think it is unfair to ask for any more. I think if you will delay this part of the bill for another couple of years you will be justified in coming back here later.

Here is another point that was brought out, and I received some good advice on it. It was that any member of the Senate was not allowed to vote on any measure wherein he was interested financially or otherwise.

Mr. WILLEY: Mr. President, if the Senator's last remark is right there will be thirty-three members of the Senate who won't vote on this tax measure.

Mr. ASHBY: Mr. President, I rise for information. Some bright man in the House has named this Chamber the Cave of the Winds. I am willing to agree with him. They have been talking here for an hour and they have been saying the same thing over and over again. Is it parliamentary to ask for the previous question?

The PRESIDENT: The pending question is on the motion of the Senator from Oxford, Senator Osgood, that Senate Amendment "A" to An Act Relating to Agricultural Societies, Legislative Document 1031, be indefinitely postponed. Is the Senate ready for the question?

A viva voce vote being doubted

A division of the Senate was had.

Sixteen having voted in the affirmative and ten opposed, Senate Amendment "A" was indefinitely postponed.

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

Sent down for concurrence.

Mr. HUSSEY of Kennebec: Mr. President, Senator Ashby informed us that if we didn't take off these tabled matters by tonight he would take them off in the morning.

Thereupon, on motion by Mr. Hussey of Kennebec, the Senate voted to take from the table An Act Relating to the Rules and Regulations of the State Racing Commission (H. P. 223) (L. D. 712), tabled by that Senator on April 7th pending passage to be enacted.

Mr. FRIEND of Somerset: Mr. President, I would like to ask the Senator from Kennebec, Senator Hussey a question.

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

Mr. FRIEND: Is this the bill that has come out in new draft to have the three man commission?

Mr. HUSSEY: No, this is the bill regarding the Old Orchard meet.

Mr. WILLEY: Mr. President, may I ask the Senator from Kennebec, Senator Hussey a question through the Chair?

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

Mr. WILLEY: Do I understand by that, that the new draft will not be introduced? I ask the question because the same provisions are included in the new draft.

Mr. HUSSEY: I might state, Mr. President, that coming out from the Appropriations Committee there will be a bill that only regards the amount set up for use by the Racing Commission.

Mr. WILLEY: I thank the Senator.

Thereupon, on motion by Mr. Hussey of Kennebec, the bill was passed to be enacted.

On motion by Mr. Spear of Cumberland, 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 April 14th pending adoption of Senate Amendment "A" to House Amendment "A"; and on further motion by the same Senator Senate Amendment "A" to House Amendment "A" was adopted.

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

Sent down for concurrence.

On motion by Mr. Hussey of Kennebec, the Senate voted to take from the table An Act Relative to the Racing Commission (S. P. 187) (L. D. 250) tabled by that Senator on April 14th pending passage to be enacted.

Thereupon, on motion by Mr. Willey of Cumberland, the bill was retabled pending passage to be enacted.

On motion by Mr. Marden of Kennebec, the Senate voted to take from the table, bill, An Act to Regulate and Restrain the Manufacture, Sale, Transportation, Importation, Traffic in and Use of Liquor, Malt Liquor, Wine and Spirits and to Increase the Fees for Licenses. (S. P. 598) (L. D. 1032), tabled by that Senator on April 14 pending second reading; and that Senator yielded to Mr. Worthen of Penobscot.

Mr. Worthen of Penobscot offered Senate Amendment "B" and moved its adoption.

Senate Amendment "B" to S. P. 508, L. D. 1032, "Amend said bill by inserting at the end of the first sentence in the second paragraph after the enacting clause thereof the following words: 'provided, however, that any person holding a license at the time of the effective date of this act and who has received his first citizenship papers shall be entitled to a license; and provided further, that in case such person is denied his final citizenship papers, his license shall be revoked.'"

Mr. WORTHEN: Mr. President, I will say that the Senate members of the Temperance Committee and all those directly interested in the bill approved this amendment.

Senate Amendment "B" was adopted.

Thereupon Mr. Worthen of Penobscot offered Senate Amendment "C" and moved its adoption.

Senate Amendment "C" to S. P. 508, L. D. 1032. "Amend said bill by striking out all of section 7 thereof."

Mr. WORTHEN: Mr. President, I understand the Senate members of the same committee are also in favor of this amendment. This amendment eliminates section 7 entirely. The provisions under section 7 are provided for by rules and regulations of the liquor commission.

Thereupon Senate Amendment "C" was adopted and the bill was given its second reading and passed to be engrossed as amended by Senate Amendments "B" and "C".

Sent down for concurrence.

On motion by Mr. Willey of Cumberland the Senate voted to take from the table bill, An Act Relative to the Racing Commission (S. P. 187) (L. D. 250) Tabled by that Senator earlier in today's session pending passage to be enacted; and on further motion by the same Senator the bill was passed to be enacted.

On motion by Mr. Marden of Kennebec the Senate voted to take from the table bill, An Act Relating to Local Option Provisions (S. P. 515) (L. D. 1045) tabled by that Senator earlier in today's session pending second reading.

Thereupon Mr. Marden of Kennebec offered Senate Amendment "A" and moved its adoption.

Senate Amendment A to S. P. 515, L. D. 1045, "An Act Relating to Local Option Provisions.

"Amend said bill by striking out the sixth and seventh paragraphs thereof and inserting in the place thereof the following:

"If a majority of the votes cast in a city or town in answer to question (3) are in the affirmative, the commission may issue licenses for the sale of malt liquor therein to be consumed on the premises subject to all provisions of law, provided, however, that not more than 1 license for the sale of malt liquor to be consumed on the premises where sold shall be issued for each 1000 population, said population to be determined by the last Federal census. Provided, however, that any town shall be entitled to 1 such license and provided further that the state liquor commission may in its discretion issue short term malt liquor licenses to places of business in summer resorts to meet the demand of seasonal population.

"If a majority of the votes cast in a city or town in answer to question (4) are in the affirmative, the commission may issue licenses for the sale of malt liquor therein not to be consumed on the premises subject to all provisions of law, provided, however, that not more than 1 license for the sale of malt liquor not to be consumed on the premises where sold shall be issued for each 1000 population, said population to be determined by the last Federal census. Provided, however, that any town shall be entitled to 1 such license and provided further that the state liquor commission may in its discretion issue short term malt liquor licenses to places of business in summer resorts to meet the demand of seasonal population."

On motion by Mr. Fortin of Androscoggin the bill was laid upon the table pending adoption of Senate Amendment "A", and tomorrow assigned.

On motion by Mr. Beckett of Washington the Senate voted to take from the table bill, An Act Relative to Pensions of State Employees (S. P. 133) (L. D. 169) tabled by that Senator on April 13 pending motion to insist and ask for a committee of conference.

Mr. BECKETT: Mr. President, after discussion with interested parties I find it is a little late to ask for a committee of conference and

I therefore move this bill be indefinitely postponed.

The motion prevailed and the bill was indefinitely postponed.

Sent down for concurrence.

Mr. ASHBY of Aroostook: Mr. President, I would like to ask the lady member from Cumberland, Miss Laughlin, a question through the Chair.

The PRESIDENT: The Senator may do so, and Senator Laughlin may reply if she so desires.

Mr. ASHBY: Is there any particular reason that you have for retaining the seventh tabled matter on the table?

Miss LAUGHLIN: Yes, I have a reason for leaving it on until tomorrow.

Mr. ASHBY: Thank you.

On motion by Mr. Goudy of Cumberland,

Adjourned until tomorrow morning at 10 o'clock.