

MAINE STATE LEGISLATURE

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Legislative Record

OF THE

Eighty-Ninth Legislature

OF THE

STATE OF MAINE

1939

KENNEBEC JOURNAL COMPANY
AUGUSTA, MAINE

SENATE

Wednesday, April 19, 1939.

The Senate was called to order by the President.

Prayer by the Rev. Cymbrid Hughes of Augusta.

Journal of yesterday, read and approved.

From the House, the following Joint Order:

ORDERED, the Senate concurring, that (H. P. 1449) (L. D. 626) Bill "An Act Amending the Old Age Assistance Law Relating to Funeral Expenses" be recalled to the House from the Governor. (H. P. 2246)

Comes from the House, read and passed.

In the Senate, read and passed in concurrence.

Bill "An Act Providing for Joint Financial Participation between the State and its Municipalities." (S. P. 687) (L. D. 1202)

(In the Senate on April 18, passed to be engrossed.)

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

In the Senate, on motion by Mr. Friend of Somerset, the Senate voted to reconsider its former action taken on April 18th whereby the bill was passed to be engrossed; on further motion by the same Senator House Amendment A was read and adopted in concurrence.

Mr. FRIEND of Somerset.: Mr. President, I now move that the bill be passed to be engrossed as amended by House Amendment A.

Mr. HILL of Cumberland: Mr. President, for the purpose of obtaining information on this measure I would like to ask, through the Chair, of the Senator from Somerset, Senator Friend.

The PRESIDENT: The Senator from Cumberland, Senator Hill would ask a question through the Chair, of the Senator from Somerset, Senator Friend, and that Senator may answer if he so wishes.

Mr. HILL: Mr. President, will the Senator from Somerset kindly inform the Senate as to whether or not from his study of this measure this bill is in any wise dependent upon a bond issue.

Mr. FRIEND: Mr. President in answer to that question I would say

that in my opinion the bond issue is connected in no way with this bill.

Mr. HILL: Mr. President, will the Senator also kindly inform us whether or not the \$800,000 that this bill proposes to distribute to the cities and towns from highway funds is to be replaced in any manner, directly or indirectly, from the bond issue?

Mr. FRIEND: Mr. President, in answer to the question I will say that the \$800,000 will be coming entirely out of the general highway fund. Several months ago I talked the bond issue around the legislature mentioning the nine million dollars. That figure was mentioned before I had any idea that this \$800,000 was being taken out of the general highway fund. Now, as far as I know that nine million dollar figure that we had talked about before I knew anything about this \$800,000 will not be increased so I don't see how this bond issue will have anything to do with the \$800,000.

Mr. HILL: Mr. President, I thank the Senator for the information he has given us and in view of the assurance given by the Senator, as Chairman of the Committee on Ways and Bridges, I am in accord with this measure.

Miss LAUGHLIN: Mr. President, through the Chair, may I ask a question of the Senator from Somerset, simply for information? Is this \$800,000 to be distributed among all the municipalities or is it to be at the discretion of the Highway Commission which they might distribute to some and not to others?

Mr. FRIEND: In answer to that question I will say that the \$800,000 will be distributed among all the towns, cities and plantations in an amount equal to what they pay in of the twenty-five percent participation in old age assistance.

The PRESIDENT: The question before the Senate is on the passage of the bill to be engrossed as amended by House Amendment A.

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

House Committee Reports

The Committee on Claims on "Resolve in Favor of H. L. Bruen of Roadfield," (H. P. 1274) reported the same in a new draft (H. P. 2240) (L. D. 1197) under the same title and that it ought to pass.

The same Committee on "Resolve in Favor of Joseph Michaud of Berwick," (H. P. 236) reported the same in a new draft (H. P. 2241) (L. D. 1195) under the same title and that it ought to pass.

The same Committee on "Resolve in Favor of Edith Given of Windsor," (H. P. 460) reported the same in a new draft (H. P. 2242) (L. D. 1196) under the same title and that it ought to pass.

The same Committee on "Resolve in Favor of Elvin Silsby, of Aurora," (H. P. 1482) reported the same in a new draft (H. P. 2243) (L. D. 1198) under the same title and that it ought to pass.

The same Committee on the following Resolves:

"Resolve Granting a Bonus to Certain Maine Veterans of the World War." (H. P. 1546) (L. D. 667)

"Resolve in Favor of Frank C. McIntyre of Lawrence Station, Charlotte County, New Brunswick." (S. P. 53)

"Resolve Granting a Bonus to Albert Arthur Pouliotte." (S. P. 249) (L. D. 449)

"Resolve Granting a Bonus for Guy F. Merrill of Portland." (H. P. 982)

"Resolve in Favor of David W. Patterson, of the Mars Hill." (H. P. 369)

"Resolve in Favor of Lewis V. Seavey of Columbia, Maine." (H. P. 991)

"Resolve in Favor of William B. Chandler, of Columbia, Maine." (H. P. 990)

"Resolve in Favor of Louis N. Violet, of Hartland." (H. P. 232)

Reported the same in a Consolidated Resolve (H. P. 2244) (L. D. 1199) under a new title, "Resolve Granting a Bonus to Certain Maine Veterans of the World War," and that it ought to pass.

The Committee on Library on "Resolve for the Purchase of A History of Education in Maine," (H. P. 511) (L. D. 1200) reported that the same ought to pass.

Which reports were severally read and accepted in concurrence, and under suspension of the rules the resolves were given their two several readings and passed to be engrossed in currence.

Senate Committee Reports

Mr. Hill from the Committee on Labor on bill "An Act to Diminish Labor Disputes Affecting the Public

Welfare; and to create a Labor Relations Commission," (S. P. 387) (L. D. 829) reported that the same ought not to pass.

The same Senator from the same Committee on bill "An Act to Protect the Right of Employees to Organize and to Bargain Collectively and Creating a Labor Relations Board," (S. P. 34) (L. D. 26) reported that the same ought not to pass.

Which reports were severally read and accepted.

Sent down for concurrence.

Report "A" from the Committee on Labor on bill "An Act Relating to Labor Relations," (S. P. 417) (L. D. 993) reported that the same ought to pass.

(signed) Senator: Chase of Washington and Representatives: Preble of Millinocket, Marshall of Auburn.

Report "B" from the same Committee on the same subject matter reported that the same "Ought not to Pass.

(signed) Representatives: Miller of Bath and Arzonico of Yarmouth.

Report "C" from the same Committee on the same subject matter reported the same in a new draft (S. P. 689) under the same title and that it ought to pass.

(signed) Senator: Hill of Cumberland and Representatives: Howes of Charleston, Clough of Bangor and Slosberg of Gardiner.

Mr. HILL of Cumberland: Mr. President, for many weeks, the Committee on Labor has had under consideration the three labor relations bills referred to this legislature. During that period many and divergent views have been expressed to the committee and different schools of thought appear to have developed as to what form, if any, the resolution should take. Under these circumstances and in view of the platform declarations of both political parties the committee deemed it its duty to submit three reports for the purpose of laying before the legislature the three proposals which seemed to have the greatest measure of support. To make possible a thorough consideration of these three proposals we have submitted Report A which is a full fledged labor relations bill, Report C a considerably modified and simplified measure, and Report B "Ought Not to Pass".

Mr. WORTHEN of Penobscot: Mr.

President, in view of the remarks just made by the Senator from Cumberland, Senator Hill, it seems to me that due to the fact that the three bills, as I understand, have been to the Labor Committee and I understand the representatives of the C. I. O. could not agree on certain bills and the group representing the American Federation of Labor could not agree and in view of the fact that this proposition is somewhat uncertain in Washington, I move that we accept Report B.

Mr. CHAMBERLAIN: Mr. President, the fact that both parties recommended that something be done along these lines as the Senator from Cumberland, Senator Hill has told you and as it seems to me right that Labor should have some opportunity to express itself, and recognizing that a strong labor union has had opportunity to raise prices for the labor they have to sell and had an opportunity to lessen the hours they may work, recognizing that, I still want to say that labor unions can in no way whatsoever create a job but working together as best they can and as best they know how, I believe that this legislature should give them the right to have this labor relations act and I trust the motion of the Senator from Penobscot, Senator Worthen will not prevail.

Mr. SPEAR of Cumberland: Mr. President, I ask for a division.

A division of the Senate was had. Eighteen having voted in the affirmative and eleven opposed, the "Ought Not to Pass" report was accepted.

Passed to be Engrossed

Bill "An Act Relating to the Salary of the Recorder of the Northern Cumberland Municipal Court." (H. P. 687) (L. D. 260)

Bill "An Act Assenting to the Provisions of the Act of Congress entitled 'An Act to Provide that the United States shall aid the States in Wildlife-restoration projects, and for other purposes.'" (H. P. 1590) (L. D. 909)

"Resolve Permitting Examination of Alden Ulmer and Arthur Andrews by Embalming Board." (H. P. 2155) (L. D. 1132)

(On motion by Mr. Hill of Cumberland, tabled pending second reading.)

Bill "An Act to Protect the Industry of Packing of Fish and Fish

Products and to Establish a Minimum Wage for Women and Minors Employed Therein." (H. P. 2231) (L. D. 1181)

Miss Laughlin of Cumberland offered the following amendment and moved its adoption:—

"Senate Amendment A to Legislative Document 1181. Amend said bill by striking out the words 'women and minors' wherever they appear in the said bill and substituting therefor the word 'persons.'"

Miss LAUGHLIN: Mr. President, I have nothing to add to what I said yesterday except that to that extent it will make the bill conform to the federal Wage and Hour Act which applies to all persons employed.

Mr. HILL of Cumberland: Mr. President, it is my understanding that the amendment if adopted practically nullifies the purpose of the bill. It is my understanding that the bill was placed in the form it is in by reason of the fact that there have been certain judicial decisions upholding such measures with respect to women and minors but there has been no judicial decision upholding the constitutionality of the federal Wage and Hour Act as applied to all purposes. I move therefore, that the amendment be indefinitely postponed.

Miss LAUGHLIN: Mr. President, it is true, as the Senator says, that there has been no Supreme Court decision saying that such a provision is not constitutional and in view of the passage by Congress of the Federal Wage and Hour Act which is in force, unless there should be a Supreme Court decision adversely, which there has not been, I think this amendment should pass in conformity with the national legislation.

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

Mr. CHASE of Washington: Mr. President, I hope the amendment will not be adopted.

A division of the Senate was had. Twenty-four having voted in the affirmative and three opposed, Senate Amendment A was not adopted.

Thereupon, the bill was given its second reading and passed to be engrossed in concurrence.

"Resolve in Favor of Robert E. Wright of Rock City, Delmar, New York." (H. P. 2236) (L. D. 1187)

Bill "An Act to Provide for Tax

Equalization." (H. P. 2237) (L. D. 1188)

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

Bill "An Act Relating to Interest on Small Loans." (S. P. 665) (L. D. 1194)

Bill "An Act Relating to Registration of Veterans' Graves." (S. P. 686) (L. D. 1203)

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

Sent down for concurrence.

Passed to be Enacted

An Act to Establish an Unpaid Commission to Facilitate the Co-operation of this State with Other States. (S. P. 110) (L. D. 78)

An Act Relating to State Aid for Academies. (S. P. 130) (L. D. 780)

An Act Relating to Aid to Libraries. Expenses of State Historian. Topographic Mapping and Abolishment of Grade Crossings. (S. P. 131) (L. D. 115)

An Act Amending the Law Relating to the Installation of Pick Clocks in Textile Factories. (S. P. 151) (L. D. 124)

Mr. HILL of Cumberland: Mr. President, for the purpose of presenting an amendment which I am told is acceptable to both proponents and opponents of this measure and in order to eliminate some measure of the difficulty with the bill I move that the rules be suspended and that the Senate reconsider its former action whereby the bill was passed to be engrossed.

The motion prevailed and thereupon the Senator from Cumberland, Senator Hill presented the following amendment and moved its adoption:

"Senate Amendment A. Amend said bill by striking out in the 10th line of the second paragraph thereof the words 'and the price per' and in the 12th line of said paragraph, strike out the words 'pick per inch'."

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

Sent down for concurrence.

An Act Relating to the Payment of Alimony. (S. P. 365) (L. D. 803)

An Act Permitting Blood Grouping Tests in Bastardy Proceedings. (S. P. 378) (L. D. 811)

An Act Relating to Emergency Aid in Certain Organized and Unorganized Territory. (S. P. 628) (L. D. 1142)

An Act Relating to the Administration of Old Age Assistance Law. (S. P. 644) (L. D. 1148)

An Act Relating to Jurisdiction Over Lands Ceded to the United States. (S. P. 659) (L. D. 1159)

An Act Relating to Medical Examiners and Their Duties. (H. P. 29) (L. D. 22)

An Act Relating to Compensation of the Register of Probate of York County. (H. P. 941) (L. D. 369)

An Act to Amend the Law Relative to Commitment of the Insane. (H. P. 1325) (L. D. 546)

An Act Relating to Financial Responsibility. (H. P. 1424) (L. D. 608)

An Act Amending the Law Relating to Embalmers and Funeral Directors. (H. P. 1666) (L. D. 856)

An Act Relating to the Registration and Licensing of Dogs and to the Duties of the Sheep Specialist. (H. P. 2054) (L. D. 1090)

An Act Regulating Automobile Finance Business. (H. P. 2124) (L. D. 1112)

An Act Relative to Exemption from Registration Fees of Certain Vehicles Owned by Non-residents. (H. P. 2131) (L. D. 1118)

An Act Relating to the Department of Sea and Shore Fisheries. (H. P. 2202) (L. D. 1147)

An Act Relating to Protection of Trees, Shrubs, and Nursery Stock. (H. P. 2205) (L. D. 1154)

An Act Relating to Child Welfare. (H. P. 2206) (L. D. 1151)

An Act Relating to Arrests. (H. P. 2207) (L. D. 1150)

An Act Relating to Complaint in Cases of Neglect to Children. (H. P. 2208) (L. D. 1149)

An Act Relating to Civil Actions for Death. (H. P. 2214) (L. D. 1152)

An Act Relating to the State Police. (H. P. 2215) (L. D. 1153)

An Act Relating to Jury Commissioners. (H. P. 2201) (L. D. 1146)

Mr. TOMPKINS of Aroostook: Mr. President, I move that this bill be laid upon the table. I will take it up later in this session today.

Thereupon, the bill was laid upon the table pending passage to be enacted.

Finally Passed

Resolve Relative to the Purchase of Land Adjoining Land of the State Military Department at Au-

gusta, known as Camp Keyes. (S. P. 539) (L. D. 1157)

Resolve Appropriating Money for Study and Control of the Fruit or Blueberry Fly in Maine. (S. P. 642) (L. D. 1157)

Resolve Creating a Recess Committee on Motor Vehicle Legislation. (H. P. 1699) (L. D. 928)

Emergency Measure (Out of Order)

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

The Committee on Engrossed Bills reported as truly and strictly engrossed the following Bill:

Bill "An Act Providing for Joint Financial Participation between the State and Its Municipalities." (S. P. 687) (L. D. 1202)

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

Orders of the Day

Mr. WORTHEN of Penobscot: Mr. President, I would like to inquire if the Joint Order which was passed yesterday in regard to investigating records of state owned lands is in the possession of the Senate?

The PRESIDENT: The Chair will report that the Order is in the possession of the Senate.

Thereupon, upon motion by Mr. Worthen of Penobscot the Senate voted to reconsider its action of yesterday whereby the Joint Order received a passage.

The Secretary read the Order.

Mr. WORTHEN: Mr. President, the Committee on State Lands and Forest Preservation had a bill presented to them in regard to establishing a land agent. I think probably one of the purposes of the land agent would be to make this investigation. The committee reported unanimously not in favor of the bill and the matter was killed in both branches and since this is really a supplement to that bill I move that it be indefinitely postponed.

Thereupon, the Joint Order was indefinitely postponed in non-concurrence.

Sent down for concurrence.

Mr. THATCHER of Penobscot: Mr. President, I would like to move that Legislative Document 1075, An

Act to Permit the Topographic Mapping of Maine in Cooperation With the United States Geological Survey, which was earlier recalled from the Governor on Joint Order pending amendment of a related bill, be now returned by the Secretary to the Governor for his consideration.

The motion prevailed.

The President laid before the Senate the first tabled matter especially assigned for today, An Act Relating to Holidays, House Paper 1430 Legislative Document 631 tabled by Mr. Cony of Kennebec on April 13 pending motion to indefinitely postpone Senate Amendment B.

Mr. CONY: Mr. President, I have no remarks to make at this time. If this motion to indefinitely postpone is not carried, I shall later offer an amendment on which I shall speak.

Mr. TOMPKINS of Aroostook: Mr. President, I would like to have Senate Amendment B read again.

The Secretary read Senate Amendment B.

The PRESIDENT: The question before the Senate is on the indefinite postponement of Senate Amendment B.

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

Mr. SANBORN: Mr. President, I think I see possibilities of action here which we might regret. Reduced to its simplest terms a bill has been presented for our consideration which would place the observance of certain holidays on Monday. We may well be divided in our views as to whether such action would be or would not be proper. Now I can see the propriety of an amendment which eliminates from that bill some of our holidays which it is desired to have still remaining as in the past but it is obvious that if we by such an amendment delete each of the holidays enumerated in the original bill we might just as well kill the bill outright.

As to the amendment which has just been read I question whether any one of us now can tell what would be the effect of it when enacted and written into our statutes. If anyone can he is either far more acute in his mentality than I am or else he has devoted considerable time to its study. I think it would be very injudicious for us to add this amendment until we know what

its effect would be. I still think, as I undertook to suggest indirectly yesterday, that we should confine ourselves to one of two courses, rather, one of three courses: Either pass the act, delete if you wish one or possibly two of the holidays, or if you go beyond that, kill the whole bill. If we confine ourselves to that course we will save time and save the embarrassment of having enacted some legislation that we would be ashamed to look in the face.

I hope that the motion to indefinitely postpone this amendment will prevail.

The **PRESIDENT**: The question before the Senate is on the motion to indefinitely postpone Senate Amendment B and the Senator from Cumberland, Senator Chamberlain has asked for a division.

A division of the Senate was had.

Twenty-three having voted in the affirmative and one opposed, Senate Amendment B was indefinitely postponed.

The **PRESIDENT**: The question now before the Senate is on the second reading of the bill.

Mr. **CONY**: Mr. President, I wish to offer an amendment, Senate Amendment C, and move its adoption.

The Secretary read Senate Amendment C:—

Senate Amendment C to (H. P. 1430) (L. D. 631) bill "An Act Relating to Holidays. Amend said bill by striking out in the 10th and 11th lines of Sec. 1 the following: 'the last Monday of May in each year,' and inserting in place thereof, 'May thirtieth of each year';

And further amend said bill by striking out in the 8th line of Sec. 2 the following: 'last Monday in May,' and inserting in place thereof, 'May 30';

And further amend said bill by striking out in the 8th and 9th lines of Sec. 3, the following: 'last Monday of May,' and inserting in place thereof, 'the thirtieth day of May';

And further amend said bill by striking out in the 9th and 10th lines of Sec. 4, the following: 'last Monday in May,' and inserting in place thereof 'the 30th day of May';

And further amend said bill by striking out in the 8th line of Sec. 5, the following: 'last Monday of May' and inserting in place thereof, 'the thirtieth day of May.'"

Mr. **CONY**: Mr. President, the amendment I have just undertaken

to offer, while the language may be a bit confusing to the members, is intended to simply make a correction for the preservation of Memorial Day in the various lines to which reference is made. It is simply all the proposition I had to offer. I realize, as perhaps every Senator realizes, we are somewhat embarrassed over this matter which some think was rather trivial, and which was referred to among ourselves in a more or less jocular way. I think the situation we find ourselves in is due to our desire, I might say, to pay tribute to a splendid member of the other house of this legislature. He is a splendid man, a splendid, promising young man, and is zealous in this matter and it certainly has had its appeal to us older ones; and it is proper to say perhaps in these closing days, that the interest and zeal and cooperation of the young men of this legislature has been an inspiration to us all. I really believe that this session is outstanding in the history of legislatures of Maine, where there has been a spirit of cooperation and united efforts for the welfare of our state. I do not know a single man, and I doubt if any member does, who has sought in these halls this year to build himself up by seeking front pages of the newspaper. I think it will be regarded and considered a most remarkable legislature and it has been so commented upon and the young men have had their splendid part in it. We have heard nothing of "Young Turks" and "Old Guards" in this legislature. We have been shoulder to shoulder in the name of the commonwealth.

Now, I am offering an amendment to apply to only one day. I have very specific reasons in my own case, because I was brought up at the knee of a man who wore a blue uniform. I had an uncle who had a commission and who carried a sword and wore a blue uniform. My great uncle was the governor of this commonwealth in the Civil War. I say this in no spirit of pride. I say it with humbleness and I would feel derelict to my duty in the Senate and the background of sacred memories, did I not raise my voice here and now for the sacredness of Memorial Day.

In yonder hall just out here is the Hall of Flags, "simple flags, tattered and torn and hanging in rags". Among those flags are the flags of the 21st Maine, and there

is a stain of red on the white, and my father told me it was the blood of a comrade who was shot down carrying that flag.

I wonder if we all know the history of Memorial Day as we should. I wonder if we all know that two years after the close of the war, some dear sons and ladies in the town of Columbus, Mississippi, scattered flowers upon the graves of unknown men, some of whom wore the blue and some wore the grey. There grew out of that a sympathy and understanding which swept through the north. "Perhaps that did more to alleviate the spirit of hatred", it was so written by Chauncey M. Depew, "than any one single thing."

Two years later General John A. Logan, the first commander of the Grand Army of the Republic, issued his famous General Order, No. II. I will ask the indulgence of the Senate that I may read just two or three sentences of that general order. He says: "The 30th day of May, 1868, is designated for the purpose of strewing with flowers or otherwise decorating the graves of comrades who died in defense of their country during the late rebellion, and whose bodies now lie in almost every city, village and hamlet churchyard in the land. In this observance no form of ceremony is prescribed, but Posts and comrades will in their own way arrange such fitting services and testimonials of respect as circumstances may permit. Let no vandalism of avarice or neglect, no ravages of time, testify to the present or to the coming generations that we have forgotten as a people the cost of a free and undivided republic. If other eyes grow dull and other hands slack, and other hearts cold in the solemn trust, ours shall keep it will as long as the light and warmth of life remain to us."

That general order number two has been read on May 30th from pulpit and rostrum and at the base of monuments where names of the men who served are carved in eternal granite, and in God's Acres all over this country; not once, not a hundred times, but thousands of times in the seventy-five years since that order was issued; read with Lincoln's Address at Gettysburg. Those are the two basic things of the observance of Memorial Day. Shall we cast those lightly aside? Someone said that Memorial Day

is the only day that is not truly a holiday, that it is true to its etymologist meaning, a holy day, of which one writer says, "The All Saints Day for the men who served their country."

Now, Mr. President, I dislike to take the time of the Senate in these closing days but 73,000 men went out of this state at a time when its population was less than it is today and that was the next to the last volunteer army that this country will ever see. Those men were volunteers. We sent out a General Chamberlain, the hero of Little Round Top, who afterwards became governor of this state and the president of Bowdoin College. Maine sent out its General O. O. Howard from the little town of Leeds who afterward made a name for himself in the uplifting of the colored race and who lost his arm in the service, who headed the parade in Washington, D. C., with an empty sleeve when President Taft was inaugurated in his uniform of blue.

I wonder if we are considering those. Another man I would like to mention, Colonel C. W. Tilden, born in Castine who lived in the little city of Hallowell, who was captured three times, his regiment annihilated at Gettysburg so there was only a handful of men left and the flag of his regiment was torn to shreds and the shreds placed over the breasts of men that it shouldn't be captured. That is a literally true historic fact, because not so many years ago in the city of Gardiner that story was told and a man in the audience stood up in a blue uniform and said, "That is true, here is a piece of that flag."

I am very sure that if those 73,000 men were among us every single voice of theirs would be raised to say it is a holy day. As to the other holidays of the year, I should say that Armistice Day was a day of victory, a celebration by us of victory. Were I a Legion man I would think of it perhaps in that sense. Christmas day is a day of victory. But Memorial Day is a day of flowers and if the state of Maine has travelled so far and so fast—and I won't say upward—that it can forget these things in a desire to have an extra holiday on a Monday, I say it is a sorry day for our people and our nation and I pity the people who forget its past and its tradition.

I think the people of Maine and the members of this legislature have

labored tremendously to preserve the traditions of Maine, to hold fast to simple truths.

Mr. President, I will not burden the Senate any more. I am going to close with the last verse on the bronze tablet downstairs in this state house:

"Nothing but flags—yet we hold our breath,

And gaze with awe at those types of death:

Nothing but flags, yet the thought will come,

The heart must pray though the lips be dumb:

They are sacred, pure and we see no stain

On those dear loved flags at home again;

Baptized in blood, our purest, best, Tattered and torn they're now at rest."

Mr. President, I ask the members of this Senate to protect Memorial Day.

Mr. CHAMBERLAIN: Mr. President and members of the Senate, I desire to second the motion of the Senator from Kennebec, Senator Cony. We who are older can send our minds directly back almost to the Civil War and its close. If he had relatives in that war, so did I, and one of the things that came to my mind more than anything else was lilacs on Memorial Day, and the amendment offered by Senator Cony takes us along the right road and if what he has said is true, and it is true, we can go back a little further than that in the history of this nation and connect ourselves directly with the Revolutionary War. And in that connection I will say that is the 19th day of April. I trust that the members of this Senate, after the adoption of this amendment will consider seriously the adoption of a further amendment that we may keep the traditions of the past history of this nation.

Mr. OWEN of Kennebec: Mr. President, I do not rise in any sense to oppose the remarks of my colleague from Kennebec, Senator Cony, but I do wish to say just a word in defense, perhaps, of the committee which unanimously reported this bill "Ought to Pass," merely by saying that the motives which prompted this "Ought to Pass" report were exactly the same as the motives of those people who have presented the amendments, which are that the holidays could

be more fittingly and sacredly observed on Monday than they could on some other day of the week. However, I have no wish to oppose the amendment that has been offered.

Mr. WORTHEN of Penobscot: Mr. President, being a world war veteran myself I have a little interest in this measure and I wish to submit the sentiments of one patriotic organization in the state, which I will quote: "Maine Sons of Union Veterans of the Civil War went on record today as opposed to a bill which would change the date of Memorial Day observance along with certain other holidays. Henry Towle of Portland, commander of the patriotic group, wrote Governor Lewis O. Barrows that a change in Memorial Day observance would 'show but little respect' for Civil War veterans and asked the Chief Executive to veto the bill should it pass."

I have also contacted the several Posts of the American Legion throughout the state and they are, I think practically unanimously against this bill, particularly with reference to Memorial Day and Armistice Day. I heard quite a group of veterans yesterday in consultation, probably fifteen or twenty scattered through the state and some outside of the state, and they thought this bill entirely out of reason.

Another point I wish to bring out that I haven't heard brought out yet is that at the time we adopted daylight saving it created a lot of confusion throughout the state. I believe that if we adopt this measure it will create confusion not only in our state but out of the state. If we adopt a law here that does not conform to the laws of our neighboring states it seems to me it will lead to more or less confusion.

I hope that this amendment will be adopted, and I also hope the bill will be indefinitely postponed.

Miss LAUGHLIN of Cumberland: Mr. President, it seems to me that if any member of this Senate has ever gone down into the corridor below us and has seen the glass cases with the flags riddled by shot and shell and has ever read the statement that in the presence of those battleflags a respectful silence is requested, they will certainly be in favor of this amendment and for the retention of Memorial Day as it has been and is observed in

all those states which join in the defense of this nation and carried those flags.

The PRESIDENT: The question is on the motion of the Senator from Kennebec, Senator Cony, that Senate Amendment C be adopted.

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

A division of the Senate was had.

Twenty-eight having voted in the affirmative and none opposed, Senate Amendment C was adopted.

Mr. SPEAR: Mr. President, I move that the bill be indefinitely postponed and I ask for a division.

Mr. OSGOOD of Oxford: Mr. President, there have been so many changes in these amendments that I don't know just now how many holidays there are left in the bill.

Miss LAUGHLIN: Mr. President, if the people of this state did ever realize that such a bill was before this legislature or with any idea that we would take it seriously there would have been such opposition to this bill that no member of the Senate would dream of voting for it. Senator Worthen has read resolutions of the Sons of Veterans. Up until yesterday they didn't know that this bill was before the legislature and when it was referred to me that they might not know it, I called them up and they immediately got busy all over this state in protest. They had never known nor realized until then that such a bill was before the legislature.

Others have come to me over the week end and said, "My people never considered that this would be taken seriously." So I hope the motion to indefinitely postpone will prevail.

Mr. CHAMBERLAIN: Mr. President, having adopted Senate Amendment C. There is left in the bill Washington's birthday, Patriots' Day which is the 19th of April—that is today, and Columbus Day. The members of the Senate when they first entered this Chamber assumed it a considerable honor to become a member of the Senate and I certainly feel that the people of this state will find us a little dishonored if we adopt this measure, and I trust that the motion to indefinitely postpone will prevail.

Mr. HILL: Mr. President, the Senator from Penobscot has pointed out that as a result of the amendments already adopted there are left only three holidays in this bill and I will say that if the motion for indefinite

postponement does not prevail, I propose to offer an additional amendment which would eliminate Washington's birthday. My colleague the Senator from Cumberland, Senator Sanborn, in speaking yesterday afternoon on this same measure referred, as the Senate will recall to the tail of a dog and that carried my mind back to the days when I was an under graduate student at Bowdoin College, to the class room where a certain measure was being discussed and where a very apt illustration was made by the professor. The professor inquired of me as to how many legs a sheep has counting its tail as one and I answered that the sheep would have five legs counting its tail as one. "Oh no, Mr. Hill," said the professor, "the sheep has but four legs. Counting its tail as one, does not make it one." So I say, Mr. President, that if under this bill the Monday following Washington's birthday should be regarded as a holiday, I say that General Washington was born on the 22nd day of February and if the following Monday falls on the 25th that calling the 25th of February Washington's birthday will not make it Washington's birthday.

So I agree with the sentiments expressed by the Senator from Kennebec, Senator Cony in his esteem and respect for the gentleman who is the sponsor of this measure and I concur also with his very splendid remarks relative to Memorial Day.

In order that further time may not be consumed I am not going to present Senate Amendment D relative to Washington's birthday unless the pending motion for indefinite postponement is defeated. I hope, Mr. President that the motion to indefinitely postpone this bill will prevail.

Mr. BURNS of Aroostook: Mr. President, this morning before entering the Chamber, I had a conference with the sponsor of this measure and he told me that if the Senate decided to adopt the amendment which would delete Memorial Day that he had no further desire to press the passage of this bill. I think he saw as we do that the same sentiments that have been expressed so eloquently by the Senator from Kennebec, Senator Cony in relation to Memorial Day will likewise apply to Washington's birthday and to Patriots Day. I think that this gesture on the part of the sponsor of this measure

should be regarded as a sportsmanlike gesture on his part and in the further realization that he finds himself much in the same position that General Lee did at Appomattox.

The **PRESIDENT**: The question before the Senate is on the motion to indefinitely postpone the bill and a division is asked.

A division of the Senate was had.

Twenty-six having voted in the affirmative and one opposed, the bill was indefinitely postponed in non-concurrence.

Sent down for concurrence.

The President laid before the Senate, An Act in Regard to New Trials on the Ground of Newly Discovered Evidence (S. P. 650) (L. D. 1158) tabled on April 18th by Mr. Tompkins of Aroostook, pending second reading.

MR. TOMPKINS: Mr. President, to bring this matter before this body, I move the indefinite postponement of this bill. This bill provides that "In criminal cases tried in the superior court, motions for new trials on the ground of newly discovered evidence, or for any other cause, except a motion to set aside a verdict as against law or the evidence, may be filed with the clerk at any time after as well as before judgment, and before or after the adjournment of the term at which judgment is rendered; but such motions may be filed after judgment only with the consent of a justice of the superior court upon good cause shown". It also provides that "The evidence in support thereof, or in rebuttal or impeachment, shall be taken within such time and in such manner as the court, or any justice thereof in vacation, shall order, and shall be certified to the law court for determination." The bill further provides that "This act shall apply to cases in which judgment has already been rendered as well as shall be rendered hereafter."

The object of the prosecution and administration of the criminal law is usually to banish crime, deter crime, to punish the criminal and to protect the state. The Anglo-Saxon law which is the law we know, has been very lenient toward the criminal. In the first place, he has the presumption of innocence when he is tried. In the second place, the jury must be convinced be-

yond a reasonable doubt of his guilt. Under the Bill of Rights in our Constitution, both state and federal, the accused has the right to be heard by himself and his counsel. This is a right which, up to a few years ago as far as the life of nations is concerned, he did not have. He has the right to demand the nature and cause of the accusation, and have a copy thereof. He has the right to be confronted by the witness against him. Under that right are capital cases and felonies. He has the right to have a list of witnesses presented to him before trial. He has also the further right to have, at the expense of the state, compulsory attendance of witnesses, and if he is not able to hire counsel, the court, at the expense of the state, will appoint counsel for him. It seems to me that this bill, if enacted into law, will create great confusion in the administration of the criminal law. A case will never be closed. It will be the avenue of injustice to the public. It will be the open door to perjury and chicanery. Twenty years or fifty years after a case has been finally decided, it is possible under this proposed law to get a new trial. To me, such a law is only a holiday for crime.

MR. BURNS of Aroostook: Mr. President, in opposition to the remarks of the Senator from Aroostook, Senator Tompkins, in the indefinite postponement of this bill, I wish to bring to the attention of the Senate that this matter was given a very thorough and conscientious study by each and every member of the Judiciary Committee of this legislature. The bill, when first presented, contained some provisions which to the committee appeared imperfect, and a new draft or committee change was arranged to meet these objections. Not only at the first instance did the committee notice certain technical objections in the bill, but the first impression of the committee was very antagonistic to the measure because it seemed to them that it was an effort to open up one single case which everyone on the committee felt should be considered ancient history. The committee was prejudiced against the bill for these two reasons, and when it was first discussed the consensus of opinion was that the bill ought not to pass. Subsequently, the proponents of that measure requested a second hearing before the Committee on Judi-

ciary, and at that time with the proposed changes incorporated, the committee listened to a very splendid exposition of the legal principles involved in this bill by a former Chief Justice of the Maine Supreme Judicial Court. I refer to Chief Justice Pattangall, who has a national reputation for his knowledge of the law and for the soundness of his judgment. We listened to him, spellbound, for perhaps 20 or 25 minutes when, without reference to any notes, he told us the history of this legislation and the principle of law which is involved in this bill. Among other things, he pointed out to us that there is no remedy for a man who is innocent and who has been convicted and where newly discovered evidence is found thereafter he can appeal to the court and by the production of this unassailable newly found evidence, proving his innocence, can he secure relief under the present laws of the state of Maine.

The committee felt we were dealing with principles of law and not with individual cases. We felt it was our duty to correct any condition of the law in the state of Maine which would not permit an innocent man to prove his innocence by the production of newly discovered evidence by the time of the adjournment of the term at which he was found guilty. It was brought out at this hearing that in civil cases involving possibly the paltry sum of \$10.00, a review can be obtained after a diverse decision. It was pointed out further that in divorce cases where decree had been granted or a denial for divorce, within two years the case would be opened on a rehearing. It did not seem to us fair and just that this avenue which is open in civil matters should be denied to men where his right of liberty was at stake.

My colleague, Senator Tompkins, in his discussion of this matter said it was the purpose of the prosecution and enforcement of the criminal law to punish the criminal and to protect the public. I do not apprehend that is the purpose of the criminal law. My apprehension is that it is the intent of the criminal law to promote justice. It is as much the duty of the courts of this state to protect the innocent as to inflict punishment upon those guilty of crime. We are dealing here with a man who has been un-

justly convicted and who can prove that proposition by the production of newly discovered evidence which was not considered at the time of the trial. We all know that such conditions do arise. We know that the newspapers occasionally bring to the attention of the people that men have been unjustly convicted and that their innocence has later been established by the production of newly discovered evidence. If you have any doubt about it, all you have to do is examine the law reports of this state or any other state and you find innocent men have occasionally been unjustly convicted.

Another matter which appealed to the Committee on Judiciary, as it related to this new bill, was the safeguards that had been set forth in the bill to prevent any miscarriage of justice and bring about the discharge of a man guilty of a crime. One of the provisions is that before the law court may consider the newly discovered evidence, the petitioner must appear before one of the judges of the superior court, after adjournment, and by competent evidence satisfy that judge that a miscarriage of justice has taken place or at least satisfy him to the extent where there is considerable doubt in his mind as to the correctness of the jury's verdict.

We, who practice law, know that would be a most difficult point to argue. We know that when we appear before this judge in behalf of this petition, that the prosecution is against us, that he will oppose our petition. However, we do know the judges of this court are fair and they are zealous in their efforts to protect the public and they are zealous in their efforts to see that no miscarriage of justice has taken place. After full hearing before this judge, if this single judge decides to report the case to the law court, then he so orders.

We have gone only half the way in our effort to remedy what we claim to be a situation that should be corrected. In addition to convincing the justice of the superior court, we must go before the Supreme Judicial Court, the law court of the State of Maine, and there argue our case on the transcript of the evidence which has been newly discovered. These judges, before rendering a decision, will have an

opportunity of hearing the objections of the prosecuting attorney or the attorney general, and I say to you that before a law court would authorize a new trial on newly discovered evidence, the evidence offered must be overwhelmingly in support of the petitioner.

It has been said when an injustice of this nature has taken place and it can be shown by competent evidence to the Governor and Council that an innocent man has been unjustly convicted, a pardon will be granted. The reply to that is that a pardon does not carry with it in the public mind that the one who receives the pardon is pardoned because he has been unjustly convicted. An innocent man who wishes to protect his name can gain no satisfaction in that respect by receiving a pardon from the Governor and Council.

These are the reasons that influenced the members of the Judiciary Committee to report out this bill unanimously that it ought to pass.

Miss LAUGHLIN of Cumberland: Mr. President, just one word. As the Senator from Aroostook, Senator Burns, has said, the original draft of this bill was most objectionable and it was redrafted under the circumstances which he relates. I want to add only this, that it applies only to criminal cases and not to civil. In order for a matter to be even brought up, the motion must be filed after judgment, only with the consent of a justice of the superior court upon good cause shown. It seems to me that would put around this all the safeguards possible, "only with the consent of a justice of the superior court upon good cause shown," but it does offer a means by which a person unjustly convicted of a crime may have that matter brought up on the ground of newly discovered evidence and be declared innocent instead of having a pardon, which is the favor of the Executive to a guilty person. I once did meet a man who had served ten years on an unjust sentence. I suppose it must have been second degree murder because it was in the state of Pennsylvania, although it might have been first degree, and he had a commutation of sentence. Newly discovered evidence proved he was innocent. The only remedy was a pardon as it would have been for a guilty person. With these safeguards which have been recited, it seems to me a man should have a

new trial for newly discovered evidence after it has been presented sufficiently for a justice of the superior court to give his consent to the filing of the motion.

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

Mr. TOMPKINS: Mr. President, it is not entirely clear what a person convicted now has this right to file this motion for a new trial after judgment. I refer to the case of State vs. Verrill in 54 Maine where there was a motion for a new trial and the court said, Dickerson being the justice, and speaking of civil cases he said, "If a new trial may be granted for these causes," and that was newly discovered evidence, "in civil suits, where the verdict is predicated upon a mere preponderance of evidence, and affects only the property or the reputation of a jury, shall a new trial be refused, under the same circumstances, in a criminal case, where the law presumes that the accused is innocent, until every reasonable doubt of his guilt is removed, and the verdict deprives him of his personal liberty, or even of life itself? How, too, can the Court stand acquitted before the tribunal of conscience in refusing to grant a new trial, and in pronouncing the extreme sentence of the law, when, if the accused were sued in an action at law, it would be authorized to allow him to retry his case. The law, in its humanity, guards the personal liberty and life of the citizen with its protecting shield, as well as his property and reputation. Indeed, the more serious the consequences of a verdict are to a party, the greater the necessity that a discretionary power should be reserved in the Court to give him an opportunity to retry his case, when, from some irregularity in the proceedings at the trial, or some mistake, or perjury of the witnesses, or newly discovered evidence, there is probable ground for apprehension that the verdict is wrong. The principles which regulate judicial discretion in granting new trials are substantially the same in criminal as they are in civil cases."

The same justice in the same opinion says this, "Who would expect that the Governor would throw open the door of mercy to the prisoner after the Court had closed the temple of justice against him? It will be time enough to ask a pardon of the Executive when the prisoner has no longer a right to

demand justice of the Court. God grant that until that point shall have been reached, no citizen of Maine may be compelled to beg for mercy of the Executive."

Mr. BURNS: Mr. President, if I understand the purport of the remarks of the Senator from Aroostook, Senator Tompkins, he maintains that there is sufficient law in the State of Maine today without the passage of this legislation to bring about the relief which is sought through this bill and he quotes to you a decision from the Supreme Judicial Court. The decision which he reads from, I believe is of much earlier origin than the one from which I will quote shortly to you, showing through a decision of the court, that the Supreme Judicial Court, the Law Court of the State of Maine, does not have the right which we undertake to confer upon it in this particular bill. I think the lawyers of the Senate know that the law court of this state is a creature of statute. It can assume jurisdiction only in such cases over which the legislature decides to give them jurisdiction. We were told by the learned chief justice to whom I referred earlier in my remarks, that there is no relief for the purpose sought here in this bill, and that without the amendment to the laws an innocent man, on the discovery of newly discovered evidence, had no recourse to the court after the adjournment of the terms at which he was convicted unless, of course, and this is a legal proposition and I do not want to embark upon it, unless during the term, the attorney filed a motion on the general grounds. Obviously he would not do it if he knew nothing of the newly discovered evidence and we all know it might not appear until several months later and after adjournment of the term. It seems to me the decision of the Judiciary Committee, ten lawyers who heard the proposition, who were at first prejudiced and later heard it elucidated upon by Chief Justice Pattangall, was the right decision as far as this legislation is concerned.

I have made the statement that the law court does not have jurisdiction over cases where newly discovered evidence does not appear before the adjournment of the court at which term the accused was convicted, and to support my contention, I read over the opinion of the Supreme Judicial Court of the State of Maine which was written by

Chief Justice Cornish, in 119 Maine at Page 14. To support my remarks and the remarks made by Chief Justice Pattangall, I will read from this opinion: "But our Law Court is not a court of common law jurisdiction, and therefore has no inherent power to grant new trials. It is purely a creature of statute and as such can hear and determine only those matters authorized by statute and brought to it through the statutory course of procedure. It follows that the Law Court has no common law jurisdiction over this motion from the court at nisi prius." You won't find in the cases mentioned here, giving the law court jurisdiction, jurisdiction in a case where newly discovered evidence is found following the adjournment of the term at which the accused was convicted. I quote: "Cases in which there are motions for new trials upon evidence reported by the Justice; questions of law arising on reports of cases; bills of exceptions; agreed statements of facts; cases civil or criminal, presenting a question of law; all questions arising in equity cases; motions to dissolve injunctions issued after notice and hearing or continued after hearing; questions arising on writs of habeas corpus, mandamus and certiorari, when the facts are agreed on, or are ascertained and reported by a Justice."

There is not enumerated there any case where newly discovered evidence in a criminal case is found. That decision was subsequently confirmed in 132 Maine, Page 102. It says here that the motion "not having been filed until after the mandate of the appellate court had finally ended the original case, the motion was too late." If I interpret that "too late" correctly it means that unless the motion for new trial is filed at the term at which the respondent was convicted, it comes too late. "A revocation of the conviction and sentence would have been in a court having no jurisdiction." The law court held they had no jurisdiction in cases of newly discovered evidence following the adjournment of the term in which the respondent was found guilty.

Mr. CONY of Kennebec: Mr. President, may I ask the indulgence of the Senate once again this morning. The thing that bothers me in this proposed bill is whether we are not again dealing with the case in Oxford County, known as the Car-

rol case. The last paragraph of the bill would seem to indicate that. It reads, "This act shall apply to cases in which judgment has already been rendered as well as shall be rendered hereafter". That matter has been before this Senate before. I am not saying there might not be some merit in the proposition of the splendid Judiciary Committee, but my impression is that those interested in this bill before the committee were those interested in the Carroll case. We say "newly discovered evidence". How do these things work out as a matter of practice? A man is convicted. Time goes on. It appears the state is wrong. The county attorney perhaps dies and another man takes his place, and he doesn't have the same interest. Perhaps some of the witnesses have died. I do not believe the county attorney would be so zealous, especially in a case where the interest had died down in the community. In the state we have a parole system. They are paroled out and commit crimes again. Why? Because those in the first instance have lost interest in the course of time. I do not want to intrude my views upon this too much. The safety of the criminal law is in safety and not when the door is ajar. If a man convicted can feel that maybe he is not convicted and that acquittal is superior to conviction in the first instance, it is very debatable. This state has got along pretty well, I believe, down through the years until this particular case comes on the front pages. There seems to be a disposition to present upon this legislature in some way, if not directly then in sheep's clothing. I simply say this to inform the Senate that I shall support the motion of the Senator from Aroostook, Senator Tompkins.

Mr. BURNS: Mr. President, I say this, at the expense of being repetitious, the committee when first hearing this matter thought it was reverberations of the Carroll case, thinking that it might be the only motive for the passage of this resolution. They took the same stand the distinguished Senator from Kennebec, Senator Cony took, but when we found out later that there was an underlying principle of justice involved, we felt it was our duty to consider that, regardless of the particular case involved.

It has been inferred here that those who favored the measure were

those interested in the Carroll case. It has not come to my attention that Chief Justice Pattangall was retained or has been retained as counsel in this particular case so that objection does not stand. It has been further objected here that evidence will get cold, that witnesses may die on one side or another. I say to you any such contingency as this is protected by the fact that you must convince not only the superior court judge of the merit of your case, but also the Supreme Judicial Court, and it is something that they should certainly consider, namely that witnesses may have died and evidence may have grown cold.

Mr. MARDEN of Kennebec: Mr. President, I rise purely to speak on a matter of fairness to the measure. This document, L. D. 1158 in new draft was originally L. D. 439 which was introduced by me at the request of Harvey D. Eaton, dean of attorneys in Kennebec County. I feel I may safely say that no particular case was in Mr. Eaton's mind when the original bill was prepared and when he requested me to introduce it.

The PRESIDENT: The question is on the motion to indefinitely postpone, and a division has been asked.

A division of the Senate was had. Ten having voted in the affirmative and eighteen opposed, the motion to indefinitely postpone did not prevail.

Thereupon, on motion by Miss Laughlin, the bill was given its second reading and passed to be engrossed.

Sent down for concurrence.

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

The Committee on Appropriations and Financial Affairs on bill "An Act Relating to the Advisory Committee on Budget," (H. P. 1537) (L. D. 905) reported that leave be granted to withdraw.

Which report was read and accepted in concurrence.

Senate Committee Reports

Out of order and under suspension of the rules:

Mr. Osgood from the Committee of Agriculture in behalf of that committee submitted its Final Report.

Miss Laughlin from the Commit-

tee on Judiciary in behalf of that committee submitted its Final Report.

Which reports were severally read and accepted.

Sent down for concurrence.

The Committee of Conference on the disagreeing action of the two branches of the Legislature on "Resolve Relating to Reimbursement of Licensees Whose Licenses Become Inoperative Before the End of the License Period," (H. P. 2127) (L. D. 1161) reported that the Senate recede and concur with the House in accepting the Minority Report, "Ought Not to Pass."

Which report was read and accepted and the Senate voted to recede and concur with the House in the acceptance of the minority report "Ought Not to Pass."

The PRESIDENT: At this time the Chair will appoint the members on the part of the Senate of the Committee of Conference on Memorial to Franklin Delano Roosevelt President of the United States requesting federal prosecution of certain persons.

The President appointed as members of such committee on the part of the Senate, Senator Laughlin of Cumberland, Hill of Cumberland, Marden of Kennebec.

The PRESIDENT: At this time the Chair will appoint the members on the part of the Senate of the Committee of Conference on bill, An Act Relating to Registration and Operation of Motor Vehicles by Non-Residents.

The President appointed as members of such committee on the part of the Senate, Senators Beckett of Washington, Osgood of Oxford, Elliott of Knox.

On motion by Mr. Spear of Cumberland

Recessed until two o'clock this afternoon.

After Recess

The Senate was called to order by the President.

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

The Committee on Engrossed Bills, reported as truly and strictly engrossed, the following Bills and Resolves:

Bill "An Act to Amend the Workmen's Compensation Act." (S. P. 660) (L. D. 1160)

Bill "An Act to Provide Moral Instruction for Children in Connection with the Public Schools." (H. P. 1312) (L. D. 535)

(On motion by Mr. Boothby tabled pending passage to be enacted.)

Bill "An Act Relating to Giving False Alarm of Fire." (H. P. 1328) (L. D. 528)

Bill "An Act Relating to the Retirement of the 1936-1937 Deficit." (H. P. 1535) (L. D. 682)

Bill "An Act Relating to Voters in Civilian Conservation Corps Camps." (H. P. 1623) (L. D. 716)

Bill "An Act Relating to the Use of the State Seal." (H. P. 2223) (L. D. 1165)

Bill "An Act Relating to the Compensation of the National Guard." (H. P. 2227) (L. D. 1169)

Bill "An Act Relating to Prenatal Examination." (H. P. 2230) (L. D. 1170)

Bill "An Act Relating to the Expenditure of Highway Funds." (H. P. 2234) (L. D. 1179)

"Resolve, Providing for a State Pension for Artell Cookson, of New-castle." (H. P. 2225) (L. D. 1167)

"Resolve, in Favor of the Towns of Machiasport and East Machias." (H. P. 2235) (L. D. 1178)

Emergency Measures (Out of Order)

Bill "An Act Relating to the Interstate Bridge Authority for the Portsmouth-Kittery Bridge and Approaches Thereto." (H. P. 1594) (L. D. 693)

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

Bill "An Act Amending the Unemployment Compensation Law Relative to Railway Employment." (H. P. 2221) (L. D. 1163)

Which bill being an emergency measure and having received the affirmative vote of 27 members of the Senate and none opposed, was passed to be enacted.

Bill "An Act Appropriating Moneys for Anticipated Overdrafts in the Department of Health and Welfare." (H. P. 2222) (L. D. 1164)

Which bill being an emergency measure, and having received the

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

**Memorial
(Out of Order)**

Out of order and under suspension of the rules Mr. Hill of Cumberland presented Memorial to Congress Relating to Tariff Preferentials and Canadian Subsidies Adversely Affecting the Port of Portland and other Atlantic Seaports. (S. P. 690)

Mr. HILL of Cumberland: Mr. President, this Memorial was delivered to me with the request that it be presented to the Eighty-ninth legislature. It comes, I understand, under the auspices of the Cumberland County Council of the American Legion. For a number of years the Port of Portland has been beset by a combination of adverse conditions some of which are economic, some of which are geographical and some of which are of a political nature. We of Portland and South Portland seek to adopt any proper means to restore to that port its former prestige as a shipping center. In order to return work to the hands, wages to the pockets and bread to the families of the longshoremen and other marine workers of that vicinity and to restore prosperity to the many types of business connected either directly or indirectly with maritime activity. Looking toward that end we believe one proper and necessary step is the elimination of great trade barriers and political discrimination now operating to the detriment of Portland commerce.

Mr. President, in the interest of the many families dependent either entirely or to some degree on ocean-going commerce through the port of Portland, I present this Memorial and urge its adoption by the Senate.

Thereupon, the Memorial was adopted.

Sent down for concurrence.

On motion by Mr. Tompkins of Aroostook, the Senate voted to take from the table bill, An Act Relating to Jury Commissioners (H. P. 2201) (L. D. 1146) tabled by that Senator earlier in today's session pending passage to be enacted.

Mr. TOMPKINS of Aroostook: Mr. President, I tabled this bill this morning for this purpose, that the bill provides for the appointment of

jury commissioners from among the residents of the respective counties as heretofore provided only those who do not hold state or county office. It comes to me that that would take in justices of the peace and notary publics also. It might take in people holding commissions, honorary or carrying no emolument from the state. It might even take in members of the National Guard. So I talked with one of the members of the Judiciary Committee in regard to the amendment and I now yield to the Senator from Aroostook, Senator Burns.

Mr. BURNS: Mr. President, I subscribe to all the statements that the Senator from Aroostook has made here and in the discussion that we had in relation to this bill he pointed out to me his objections—and they are real objections—and to meet these objections I prepared an amendment which I will offer at this time and move its adoption.

The PRESIDENT: Will the Senator first move reconsideration of the engrossing.

Mr. BURNS: Mr. President, I move that the Senate reconsider its former action whereby the bill was passed to be engrossed.

The motion prevailed.

Mr. BURNS: Mr. President, I now offer Senate Amendment A and move its adoption—

Senate Amendment "A" to H. P. 2201, L. D. 1146, Bill, "An Act Relating to Jury Commissioners."

Amend said Bill by inserting in the 3rd paragraph thereof after the word "held" the word "a", and inserting after the word "office" at the end of the 1st sentence in the 3rd paragraph of said Bill the following: "for which they receive a salary from the state or county."

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

Sent down for concurrence.

At this point the President announced the appointment of members on the part of the Senate for the Committee of Conference on bill An Act Relating to Incurable Insanity as a Ground for Divorce (L. D. 1172):—Senators Laughlin of Cumberland, Owen of Kennebec, Burns of Aroostook.

On motion by Miss Laughlin of Cumberland, the Senate voted to take from the table Senate Report

from the Committee on Library "Ought Not to Pass" on Resolve for the Purchase of 'Vital Statistics of Georgetown' (S. P. 286) (L. D. 436), tabled by that Senator on April 18th pending acceptance of the report; and on further motion by the same Senator, the "Ought Not to Pass" report was accepted.

On motion by Miss Laughlin of Cumberland, the Senate voted to take from the table bill, An Act Relating to the Practice of Optometry (H. P. 1465) (L. D. 600) tabled by that Senator on April 12th pending passage to be engrossed.

Miss LAUGHLIN of Cumberland: Mr. President, I move that this bill be indefinitely postponed. In connection with my motion I will say that I do not know of any bill that has come before this legislature that sounds any more ridiculous than the first part of this bill, which is that any person who shall receive a certificate of registration or license to practice optometry in the state of Maine as heretofore provided shall not assign, lease, sub-let, give or grant unto any person, and so forth, the right or privilege to practice optometry. Now, I would like to know how on earth anybody could assign, or lease or sub-let the right to practice optometry. It is to my mind foolishness. So the first part of it would simply make ridiculous any legislature that would pass it. Of course that is not the fault of the bill.

The further part in substance is that no person who has passed an examination and has been properly licensed to practice optometry as a competent optometrist can practice in any way except, apparently, in his own office. I do not see what difference it makes if a person is properly registered and is competent—and he must be to receive a license—whether it makes a difference whether he measures your eyes for glasses in a store run by somebody else who perhaps pays him a salary, or whether he rents the store next door on his own hook and proceeds to practise optometry there.

It has been said that he sells glasses at the place he is employed. Well, he also does that where he practises. I don't know of anyone who practises optometry who does not sell glasses in connection with it. It seems to me that the one

thing we need to protect the public is to know that the person who practices optometry is competent. So long as he is licensed and has passed an examination and is perfectly competent, that is what we require.

Very often someone starting out in the practice of optometry cannot start out and afford to own his own office. He may need to be employed on a salary but the one thing that we are interested in is whether he is qualified through examination and license. That is full protection to the people.

I don't know anything I can add to this. This is what the Republican Governor of Oregon, Governor Charles A. Sprague said in vetoing a bill like this. He speaks of the optometrist and these objections and he says: "The optometrist is also the vendor of merchandise in the form of glasses, and the latter element is emphasized to such a degree as to make optometry quite as much a business as a profession. Such being the case the prohibition of corporate practice by properly licensed persons does not seem to be warranted."

That is exactly what I am trying to show, that if he is properly licensed he sells glasses. It is entirely different from an oculist who can examine your eyes and diagnose conditions of the eye. The optometrist measures your eyes for certain defects, not in any sense as an oculist examines you and determines whether there is a disease of the eye or whether the condition of the eye indicates a physical condition which is responsible for the condition of that eye. He simply measures for certain things and as the Governor of Oregon says, he sells glasses, he is a merchandiser. Is it any worse for him to measure eyes where somebody else sells glasses than it is to measure eyes where he sells glasses? That is all there is to that.

It seems to me also that it is a restriction which is not right. Under the constitutional law it says: "The legislature cannot forbid any person or class of persons from engaging in a lawful business, nor can it deprive any citizen of his right to pursue a calling, occupation or business not necessarily injurious to the community, who is willing to comply with all reasonable regulation imposed upon it."

Of course he must prove himself competent. A little further, under Section 251 in the volume relating to constitutional law regarding coroners it says: "The right to follow any of the common occupations of life is one of the fundamental rights of citizenship. A person's business, occupation or calling is at the same time 'property' within the meaning of the constitutional provisions as to due process of law." Of course we have the right to regulate by making them take an examination in any occupation where the public may be injured by an incompetent person. That is covered by the law. Nobody can practise optometry without having passed the examination and being properly licensed to qualify. So I say, what difference does it make whether he practices downstairs where some firm by which he is employed has an office or whether he practises upstairs.

It seems to me it is a most unwarranted interference with the practise of optometry by a person duly qualified, and I hope that this bill with its silly first provision about sub-letting the right to practice optometry will be indefinitely postponed.

Mr. OWEN of Kennebec: Mr. President, I arise to oppose the motion of the able Senator from Cumberland, Senator Laughlin. As chairman of the Public Health Committee, I think it is only right that I should tell the Senate the experiences of the Public Health Committee. At the time the hearing was held there was a very full attendance of the committee, a very complete hearing and a very able lawyer spoke for the proponents and two able lawyers spoke for the opponents of the measure, and the committee considered the arguments and the merits of the bill very seriously. We were not blessed with legal talent on our committee and so we called in what we considered good authority, legally, and were informed as to the legal aspects of the bill and we reported "ought to pass" unanimously on the measure and the report was accepted unanimously in the other branch. The reason it was mentioned was because it was brought to the attention of the committee that certain optometrists leased their services to others who are not qualified to carry on such a business and they sell glasses to the public for fifty cents a week or some such

a matter and because the health of the public was endangered by this practice, for that reason the matter was referred to the Public Health Committee and we reported it unanimously, as I said before.

The PRESIDENT: The question is on the indefinite postponement of the bill and the Senator from Cumberland, Senator Spear, asks for a division.

A division of the Senate was had.

Six having voted in the affirmative and twenty-two opposed, the motion to indefinitely postpone did not prevail.

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

On motion by Mr. Tompkins of Aroostook, the Senate voted to take from the table, Senate Report from the Committee on Agriculture "Ought Not to Pass" on Bill, An Act Repealing the Law Relating to Appropriation of Money for Poultry Improvement (S. P. 560) (L. D. 1089), tabled by that Senator on April 7th pending acceptance of the report; and on further motion by the same Senator, the "ought not to pass" report of the committee was accepted.

Sent down for concurrence.

On motion by Mr. Tompkins of Aroostook, the Senate voted to take from the table, An Act Relating to Licenses for Operation of Retail Stores (H. P. 2217) (L. D. 1156), tabled by that Senator on April 17th pending consideration.

Mr. TOMPKINS: Mr. President, I now move the Senate recede and concur with the House. I may say, Mr. President, that all of the wars of the republic have been reviewed in this Senate this winter except the war of 1812, and I wish briefly to speak of one instance in that war. It happened at the battle of Lake Erie when Captain Lawrence's ship was sinking and he was dying on the deck. He said to his crew, "Don't give up the ship." My understanding is that this bill has been amended and the rates have been reduced so that they are \$3.00 to \$50.00 now. Some members of this body expressed the opinion that the original rates were too high, so I think these rates have been reduced sufficiently to satisfy the most fastidious. I ask for a division when the vote is taken.

Mr. FINDLEN of Aroostook: Mr.

President, I hope the motion of the Senator from Aroostook, Senator Tompkins, will not prevail. I do not think we need to go into the discussion of this measure any further. I expressed myself upon this subject at some considerable length, and the case has gotten now to a sort of spite case. The only reason for this amendment is to get some type of law upon the books with reference to chain stores. As I said, we have gone into the merits and demerits of this bill sufficiently, and I hope that the motion of Senator Tompkins does not prevail. I ask for a division.

THE PRESIDENT: The question is on the motion of the Senator from Aroostook, Senator Tompkins, that the Senate recede and concur with the House in the adoption of House Amendment "A". A division has been asked.

A division of the Senate was had.

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

Thereupon, on motion by Mr. Findlen of Aroostook, the bill was indefinitely postponed in non-concurrence.

Committee Reports (Out of Order)

Mr. Cony from the Committee on Taxation on Bill "An Act Imposing a Tax upon the Transfer of Certain Property," (S. P. 428) (L. D. 972) reported that the same ought not to pass.

Mr. Tompkins, Mr. Wentworth and Mr. Friend from the Committees on Taxation, Appropriations and Financial Affairs, and Pensions, Jointly, on Bill "An Act Providing for Contributions by Towns for Old Age Assistance," (S. P. 339) (L. D. 975) reported that the same ought not to pass, as covered by other legislation.

Mr. Tompkins from the Committee on Taxation in behalf of that Committee submitted its Final Report.

Which reports were severally read and accepted.

Sent down for concurrence.

The Committee of Conference on the disagreeing action of the two branches of the Legislature on bill "An Act Repealing the Law Relating to the Board of Barber Examiner."

(H. P. 1198) (L. D. 474) reported that they are unable to agree.

Which report was read and accepted in concurrence.

On motion by Mr. Hill of Cumberland, the Senate voted to take from the table, An Act Relating to State Owned Automobiles (H. P. 1656) (L. D. 712), tabled by that Senator on February 16th pending reference.

MR. HILL: Mr. President, inasmuch as the purpose that lay behind this bill has been taken care of by other legislation that has been enacted, and in view of the fact I understand its disposition to be acceptable to the sponsor of the bill, I move that leave be granted to withdraw in non-concurrence.

The motion prevailed, and leave was granted to withdraw, in non-concurrence.

Sent down for concurrence.

On motion by Miss Laughlin of Cumberland, the Senate voted to take from the table, House Report from the Committee on Sea and Shore Fisheries "Ought to Pass in New Draft" on An Act Relating to a Bounty on Seals (H. P. 1205) (L. D. 459), tabled by that Senator on April 14th pending acceptance of the report in concurrence.

MISS LAUGHLIN: Mr. President, I am not prepared to move the acceptance of the report because it seems the purpose of this bill or the statement is that seals injure certain fish and that, therefore, for the protection of those fish injured they should have a bounty on seals. I really do not believe in paying out the state's money to men to protect their own property. However, I am not prepared to move the acceptance of the report and I am not going to attempt to interfere with the passing of the bill. I therefore yield to the chairman of the committee on Sea and Shore Fisheries, Senator Lewis.

MR. LEWIS of Lincoln: Mr. President and Members of the Senate, I would like to say a few words in regard to the hearing we had on this bill before the Committee on Sea and Shore Fisheries. We had about 50 people in favor of the bill and none opposed. Those who spoke in favor of the bill were mostly fishermen. The fishermen told the committee that the seals destroyed their nets, drove the herring out

of their traps and if they did not have protection, they would have to go out of business. I have a lot more minutes, Mr. President, but I do not believe I will take time to read them. I will say that at the present time they have a \$1.00 bounty on seals in Washington and Hancock County. It has been very satisfactory, so the fishermen and sardine packers in those two counties tell me. All the fishermen want is a chance to make an honest living. They do not want to go on relief. I will make the motion that we accept the "ought to pass" report.

Thereupon, the report of the committee was accepted in concurrence, and under suspension of the rules, the bill was given its two several readings and passed to be engrossed in concurrence.

On motion by Mr. Chamberlain of Penobscot, the Senate voted to take from the table, House Report from the Committee on Appropriations and Financial Affairs "Ought to Pass" on An Act Providing for Clerical Employees for Legislative Joint Committees (H. P. 1985) (L. D. 1054), tabled by that Senator on April 5th pending acceptance of the report.

Mr. CHAMBERLAIN: Mr. President, I now move the acceptance of the report for the purpose of making another motion shortly afterwards.

Thereupon, the report of the committee was accepted in non-concurrence, and the bill was given its first reading.

Upon motion by Mr. Chamberlain, the bill was indefinitely postponed, in concurrence.

Mr. HILL of Cumberland: Mr. President, for the purpose of offering an amendment which I overlooked a few moments ago, I move the Senate reconsider its former action whereby, An Act Relating to the Practice of Optometry (H. P. 1465) (L. D. 600) was passed to be engrossed.

The PRESIDENT: The Chair will state that the bill will be recalled from the Executive Department. Will the Senator defer?

Mr. HILL: Yes, Mr. President.

On motion by Mr. Spear of Cumberland, the Senate voted to take from the table, House Report from

the Committee on Taxation "Ought Not to Pass" on An Act Increasing the Gasoline Tax to Provide Old Age Pensions (H. P. 786) (L. D. 302) tabled by that Senator on March 17th pending acceptance of the report; and on further motion by the same Senator, the report of the committee was accepted in concurrence.

On motion by Mr. Spear of Cumberland, the Senate voted to take from the table, House Report from the Committee on Taxation; Majority Report "Ought Not to Pass"; Minority Report "Ought to Pass" on bill, An Act Reducing Registration Fees of Motor Vehicles and Increasing the Gasoline Tax, and Increasing the Allotment of Highway Funds to the Municipalities (H. P. 1800) (L. D. 968) tabled by that Senator on April 6th pending acceptance of either report; and on further motion by the same Senator, the majority report "ought not to pass" was accepted in concurrence.

On motion by Mr. Wentworth of York, the Senate voted to take from the table, An Act Relating to Election of Commissioners of Police in Sanford (H. P. 1981) (L. D. 1051) tabled by that Senator on April 13th pending consideration; and that Senator yielded to the Senator from York, Senator Boothby.

Mr. BOOTHBY: Mr. President, I appreciate the courtesy of the Senator from York, Senator Wentworth, and I ask that the Senate indefinitely postpone this bill. I so move.

The motion prevailed, and the bill was indefinitely postponed in non-concurrence.

Sent down for concurrence.

The PRESIDENT: At this time the Chair will recognize the Senator from Cumberland, Senator Hill and inform him that Legislative Document 600, An Act Relating to the Practice of Optometry, is in the possession of the Senate.

Thereupon, on motion by Mr. Hill of Cumberland, the Senate voted to reconsider its action taken earlier in today's session whereby bill, An Act Relating to the Practice of Optometry (L. D. 600) was passed to be engrossed; and that Senator presented Senate Amendment A and moved its adoption:

"Senate Amendment A to Legislative Document 600, bill, An Act Relating to the Practice of Optom-

etry. Amend said act by inserting at the end thereof the following words: "The provisions of this act shall not apply to any optometrist who prior to the effective date of this act was employed by any person, firm, association, co-partnership or corporation, regardless of whether or not such person, firm, association, co-partnership or corporation is a licensed optometrist."

Mr. HILL of Cumberland: Mr. President, in presenting this amendment it seems to me that it would be a fair and proper thing to exclude from the provisions of the act those who are already in some contractual occupation as to the retention of services and to make the act applicable hereafter, and that is the purpose of the amendment.

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

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

A division of the Senate was had.

Eight having voted in the affirmative and seventeen opposed, Senate Amendment A was not adopted.

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

On motion by Mr. Harkins of Androscoggin, the Senate voted to take from the table House Report from the Committee on Salaries and Fees "Ought to Pass in new draft under new title" as "An Act Relating to the County Commissioners of Androscoggin County" (H. P. 2061) on bill, An Act Relating to the Compensation of the County Commissioners of Androscoggin County (L. D. 890) tabled by that Senator on April 12th pending acceptance of the report; and on further motion by the same Senator the report was accepted in concurrence and the bill in new draft was given its first reading.

House Amendment A was read and adopted in concurrence.

Mr. HARKINS of Androscoggin: Mr. President, I wish to present an amendment and in explanation of it I wish to say that under the present set-up in the county of Androscoggin the Chairman receives \$2,000 a year and the other two members \$750 a year apiece and we think it is rather unfair that one should receive so much and the others so little and the three of them do about the same work. Therefore, I offer Senate Amendment A which will readjust salaries:

"Senate Amendment A to bill An Act Relating to the County Commissioners of Androscoggin County. Amend said bill by striking out at the end of said bill the underlined words as follows: 'except that in Androscoggin County the member whose term soonest expires shall be chairman,' and inserting in place thereof the following: 'the Chairman shall receive a salary of \$1500 a year and the other members shall receive a salary of \$1000 a year.'"

Mr. SPEAR of Cumberland: Mr. President, in defense of the action of the Committee on Salaries and Fees, I wish to say a few words. It is with a great deal of reluctance that I oppose the Senator from Androscoggin, Senator Harkins. He has been a useful and helpful member of that committee. A great many times he has gone along with me when he could have done otherwise.

The only reason I rise to explain is because the councillor in the district in which Androscoggin County is contained spoke to me about this bill. There is a difference in political faith in these commissioners. Some are republicans and some are democrats. It was the opinion of some of the members of the committee that to rotate the chairmanship would be better than to change the salaries and that is what the councillor asked me to speak on. So that the report of the committee to the effect that the membership rotates rather than to have the salaries changed and that is the reason that I am speaking against the amendment.

I hope the motion of the Senator from Androscoggin (Senator Harkins) will not prevail and I ask for a division.

Mr. BOUCHER of Androscoggin: Mr. President, I would like to say a word on this question. I don't see why Androscoggin County should be singled out amongst the other counties. In this bill there is only the mention of Androscoggin County. No other county is affected by this measure and I ask the members in this Senate to give us fair play and justice. We are willing to do our share. We are willing to equalize all salaries but we are not willing to be singled out and have done to us what is not done to the other counties, so I ask the members of the Senate to give fair play when they vote on the question.

The PRESIDENT: The question before the Senate is on the motion of the Senator from Androscoggin, Senator Harkins, that Senate Amendment A be adopted and a division is asked.

A division of the Senate was had. Twenty having voted in the affirmative and two opposed, Senate Amendment A was adopted.

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

Sent down for concurrence.

Mr. CHAMBERLAIN of Penobscot: Mr. President, earlier in today's session the Senate passed an order recalling from the office of the Governor, Legislative Document 626.

The PRESIDENT: The Chair will inform the Senator that in accordance with the Joint Order it is the understanding of the Chair that the bill has gone to the House and is being acted upon there now.

Mr. CHAMBERLAIN: Then, Mr. President, I will ask if it may not be acted upon here later.

The PRESIDENT: The Chair will inform the Senator that he is correct.

On motion by Mr. Boucher of Androscoggin, the Senate voted to take from the table An Act Relating to Requisites for Old Age Assistance (H. P. 286) (L. D. 91) tabled by that Senator on April 12, pending passage to be engrossed in concurrence.

Mr. BOUCHER: Mr. President, I had tabled this matter with the intention of offering an amendment. Since it has been tabled however, a new bill has gone through, Legislative Document 1202, which has changed the old features of this bill as far as my amendment is concerned. I have talked with Senator Burns of Aroostook and he had an amendment prepared which I think will take care of this situation very nicely and at this time I will yield to that Senator.

Mr. BURNS: Mr. President, I have prepared an amendment which I will have read at this time with relation to this matter, Legislative Document 91 and will later move its adoption:—

"Senate Amendment A to H. P. No. 286, L. D. 91 An Act relating to

the Requisites for Old Age Assistance. Amend said act by adding at the end thereof after the words: '(g) is a citizen of the United States' the following: "Provided, however, that any applicant who meets the other requirements of this section shall not be barred from receiving such old age assistance because of the fact that he is not a citizen of the United States if the city, town or plantation of his residence shall in writing notify the department of health and welfare that said city, town or plantation is willing and able to pay to the state such sums as will be necessary to reimburse the state for its entire share of the assistance granted to said applicant; and shall thereafter pay monthly to the state the amount of any sums contributed by the state for old age assistance for said applicant. The municipal officers of cities, towns and plantations are hereby authorized and directed to make such payments out of any funds which have been appropriated by said cities, towns and plantations for the purposes of relief of destitute persons."

Mr. BURNS: Mr. President, I move the adoption of Senate Amendment A to Legislative Document 91 and in explanation of my motion I will bring to the attention of the Senate, that through the enactment of Legislative Document 91 without this amendment there will be removed from the old age assistance roles of the state of Maine, eight hundred aliens who have heretofore received old age assistance. The purpose of this amendment is to bring about an assumption by the federal government of the fifty percent allotment which they make in cases where the total amount is not over thirty dollars so that the cities and towns affected by this bill will have their financial burden reduced to the extent of fifty percent.

I think, from a thorough study of this proposed amendment that the members of the Senate will agree that no additional financial burden will result to the state. The bill is so worded that the interests of the state of Maine in carrying out the policy of Legislative Document 91, which has been indorsed by the special committee, will not violate the theory and the policy which this committee has adopted and which through one or two read-

ings of this bill has become the adopted policy of this legislature.

What I am trying to point out here is that if I understand this amendment correctly I do not feel that the members of the special committee would object to it. I say this not only because of the language of the amendment itself but I have been told that others who are interested in this bill besides myself have gone to some of the members of the special committee and have talked over with them the effect of this amendment and they have reported back to me that the members of the special committee, or at least some of them, see no objection in the amendment which I am offering.

I think all of you are aware of the fact that should Legislative Document 91 be enacted without any amendment that eight hundred aliens of the state of Maine who are now receiving old age assistance from the state and the federal government would be removed from the roles and that the burden of supporting these former pensioners would be assumed by the various towns and cities of the state. I feel that that would result in a heavy expense to those cities and towns and I know that in some instances the cities and towns could not themselves bear this new expense and that relief would have to be afforded them if it could be so arranged through the Emergency Relief Aid operated by the State.

The amendment means simply this, that the funds that have been received heretofore by these aliens from the federal government will be continued to be received by them although the state will not contribute its share of fifty per cent for that purpose. The amendment provides that any sums of money which the state uses to match the federal funds shall not in the final analysis be borne by the state of Maine but that the state of Maine shall be reimbursed by the various cities and towns that are affected thereby.

In these various cities and towns where aliens reside and in order to receive the continued federal allotments the cities and towns will enter into an arrangement with the state of Maine whereby any sums the state of Maine raises to meet the federal sums shall be returned to the state and the

cities and towns thereby reimburse the state.

So I repeat that the state of Maine, if I understand the provisions of this bill correctly, will not suffer any financial loss should the proposed amendment be enacted. The average cost of old age pensions in the state of Maine, by quick figuring, is approximately twenty dollars. The state contributes ten dollars of the average twenty dollar payment and the federal government contributes the other ten dollars. Now, if eight hundred aliens who have been receiving old age assistance are taken from the roles and the federal government heretofore has contributed ten dollars to each of these cases, unless something is done to relieve the situation, there would be a loss to the state of Maine of \$80,000.

It is the desire of the proponents of this amendment to continue to receive this \$80,000 within all the counties of the state with the understanding, of course, and the amendment so provides, that the state of Maine will not be called upon to participate or be obliged to bear any of this expense. The people of Aroostook County I know are essentially interested in a matter of this nature because it would bring into the towns, federal funds which otherwise would not be received. Information has been furnished to me showing that at the present time there are 1246 people over 65 years of age receiving old age assistance in Aroostook County.

I am further informed that 211 of these are aliens. If the average cost is twenty dollars and if we can continue to receive one-half of that from the federal government this would be at the rate of \$120 a year. And it is the purpose of this amendment to continue to receive \$120 for each one of these 211 cases of aliens in Aroostook County.

Now, when you multiply each of the 211 which I have mentioned by the sum of \$120 you can see that the County of Aroostook, by quick multiplication, is affected to the extent of \$23,320. That is the amount that the federal government has heretofore contributed to alien old age pensioners residing in Aroostook County.

In the town of Houlton there are 75 people receiving old age assistance, 14 of whom are aliens. Multiply 14 by 120 and you get \$1680. This is the amount of money that

if this amendment becomes a law will be saved to the town of Houlton which otherwise they would be deprived of if Legislative Document 91 was passed without the amendment. This is on a yearly basis over a period of years and you can see that the town of Houlton would be naturally interested as would Aroostook County in the passage of the bill as amended.

The point may be raised that in our zeal and in our efforts to protect the financial interests of Aroostook County we have prepared an amendment which might not be acceptable to the federal authorities in Washington. This matter was taken up by one of the higher officials in the Public Health and Welfare Department and he was of the opinion that the federal government in Washington would not object to any such provisions. Of course, I cannot speak for them. I see no harm however in undertaking to bring about this saving and should the federal authorities in Washington object to the measure there would be no harm done.

I sincerely hope that the amendment which I have offered will be adopted.

Mr. BECKETT of Washington: Mr. President, as a representative from the county which geographically joins Canada at New Brunswick, Canada, I can see that the passage of this amendment would help us materially there. In checking over the figures, I find over twenty per cent of the pensioners in the old age assistance residing in Calais are aliens, and I further find if the entire cost of the aliens were turned back to the state it would cost us between five and six thousand dollars per year. In this amendment, you can see we would be saved at least half of that expense without affecting the state.

There is one further point about this that I think I should bring out and that is that this amendment would prevent pauperization of quite a few recipient aliens in our community. As I look over the situation at home, I can see quite a few of our recipients have been residents for nearly 40 years. They have brought up their families and they are American citizens. The immigration laws were not strict when they came over and they were not naturalized and have not become citizens. They have brought up good

families and some of the boys fought in the last war. I recall one instance of a man and his wife who are over 80 years of age. I feel if they were forced from this old age assistance roll and forced to become pauperized it would kill them. Both have been well respected citizens for years. The man worked as long as he was able, working in one of the establishments in the town. He accumulated a little money and after he was forced to withdraw from work because of old age, they lived for a period of time on what money he had accumulated. The money played out but he didn't ask for public charity, and would not accept it. He and his wife lived for quite a time in straitened circumstances. It is a wonder they existed at all. Finally we got old age assistance just before the period that they would have had to go on the town for pauper support.

I really feel that we, as representatives, in the legislature of Maine do not want to pauperize these desirable citizens if there is any way to help them. In bringing this humane appeal to you, I sincerely hope the amendment offered by the Senator from Aroostook, Senator Burns, will be adopted.

Mr. BOUCHER of Androscoggin: Mr. President, I am wholeheartedly in favor of the amendment offered by Senator Burns. I have looked up figures in Androscoggin County. I find at this time there are 101 aliens receiving assistance and 102 pending, making a total of 203 in Androscoggin County that unless this amendment goes through will be deprived. In the city of Lewiston there are 81 receiving aid and 69 pending, making a total of 150.

Under the law we enacted this morning whereby this money will be available through the transfer from the highway fund to the cities and the cities to pay back the same amount to old age assistance, I find that the city of Lewiston will be paying \$45,000 which is a great deal more than 150 amount to. Figuring on the basis of \$10 a month, it will amount to about \$18,000 whereas the city of Lewiston will pay \$45,000 a year. Even on that basis alone, I think this amendment should be adopted.

I know, having had experience as an alderman in my city, that it costs a great deal more than \$10.00 a month to take care of anybody in

the welfare department, so it will be a saving to the city of Lewiston and the county of Androscoggin, and I think it will be also to the State of Maine, if this amendment goes through and is adopted.

Mr. WENTWORTH of York: Mr. President, from merely listening to this amendment, I sort of favor it, but I feel there are many members here who do not fully understand the amendment. I certainly do not, and I move it lie on the table pending adoption so we can have a chance to look it over further.

The motion prevailed and the bill and amendment were laid upon the table pending adoption of Senate Amendment "A."

The PRESIDENT: Is there further business to come before the Senate?

On motion by Mr. Spear of Cumberland

Recessed until four o'clock this afternoon.

After Recess

The Senate was called to order by the President.

Mr. CONY of Kennebec: Mr. President, I arise to inquire if L. D. 837, An Act Relating to Exemption from Taxation is in the possession of the Senate.

The PRESIDENT: The Chair would inform the Senator that the bill is in possession of the Senate.

Thereupon, upon motion by Mr. Cony, the Senate voted to reconsider its action, under suspension of the rules, whereby on April 6th it accepted the "ought not to pass" report of the committee; and on further motion by the same Senator, the bill was substituted for the report, and given its first reading.

Mr. Cony presented Senate Amendment "A" and moved its adoption:

"Senate Amendment A to L. D. 837, An Act Relating to Exemptions from Taxation. Amend said bill by striking out all after the enacting clause thereof and substituting in place thereof the following: 'Town of Chelsea Compensated. The treasurer of state shall reimburse the town of Chelsea for the amount of taxes lost by said town in each fiscal year in excess of two per cent of the total tax levy, due to the ex-

emption from taxation of veterans' property. This amount shall be determined and paid each year at the time the town of Chelsea pays its state tax.'"

Miss LAUGHLIN of Cumberland: Mr. President, I move this be laid on the table so we can look the amendment over. If we are going to change a matter we disposed of on April 6th, I would like to see what it is and why we should go way back to that.

The motion prevailed, and the bill was laid upon the table pending adoption of Senate Amendment "A."

On motion by Miss Laughlin of Cumberland, the Senate voted to take from the table, Senate Report from the Committee on Judiciary, Report "A" Ought to Pass in a New Draft (S. P. 677); Report "B" Ought Not to Pass on bill, An Act Relating to Exceptions of Persons Entitled to Parole (S. P. 30) (L. D. 10), tabled by that Senator on April 13th pending acceptance of either report.

Miss LAUGHLIN: Mr. President, this was an evenly divided report, and I move we adopt Report "A," Ought to Pass in New Draft.

Mr. HILL of Cumberland: Mr. President, I hope the motion of Senator Laughlin for the acceptance of the report, "Ought to Pass in New Draft" will prevail.

Thereupon Report "A," Ought to Pass in New Draft was accepted, and the bill was laid upon the table for printing under the joint rules.

On motion by Mr. Cony of Kennebec, the Senate voted to take from the table, Resolve Relating to the Use of Public Funds Advanced to Fishermen's Relief Corporation, and Maine Coast Fisheries, Incorporated for Relief of Needy Fishermen in Maine, (S. P. 680) (L. D. 1191), tabled by that Senator on April 14th pending first reading; and on further motion by the same Senator, under suspension of the rules the resolve was given its two several readings and passed to be engrossed.

Sent down for concurrence.

On motion by Mr. Owen of Kennebec, the Senate voted to reconsider its action whereby An Act Relating to Prenatal Examinations (H. P. 2230) (L. D. 1170) was passed to be enacted, and on further motion by the same Senator, the Senate reconsidered its action whereby the bill was passed to be engrossed.

Mr. Owen presented Senate Amendment "A" and moved its adoption:

"Senate Amendment 'A' to L. D. 1170, Bill, An Act Relating to Prenatal Examinations. Amend said bill by adding in section four thereof after the last word of section 4, 'and no civil action shall be maintainable for failure to comply with this act.'"

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

Sent down for concurrence.

On motion by Mr. Wentworth of York, the Senate voted to take from the table, House Report from the Committee on Legal Affairs, "Ought Not to Pass" on An Act to Provide a Police Commission for the City of Biddeford (H. P. 1163) (L. D. 482) tabled by that Senator on April 7th pending acceptance of the report in concurrence.

Mr. WENTWORTH: Mr. President, I move to substitute the bill for the report and I wish to state at this time that this bill has the unanimous approval of the York County delegation, Republicans of the city of Biddeford and many Democrats.

Thereupon, the bill was substituted for the report, and under suspension of the rules the bill was given its two several readings and passed to be engrossed in non-concurrence.

Sent down for concurrence.

On motion by Miss Laughlin of Cumberland, the Senate voted to take from the table, Resolve Creating a Recess Committee on Wage and Hour Legislation (S. P. 684) tabled by that Senator on April 17th pending second reading; and the same Senator presented Senate Amendment "A" and moved its adoption:

"Senate Amendment 'A' to S. P. 684, Resolve Creating a Recess Committee on Wage and Hour Legislation. Amend said resolve by striking out in the first paragraph thereof the figure '3' and inserting in place thereof the figure '2.'"

Senate Amendment "A" was adopted, and the resolve was given its second reading and passed to be engrossed.

Sent down for concurrence.

Mr. CHAMBERLAIN of Penob-

scot: Mr. President, we still have to indefinitely postpone Legislative Document 626 if we are in position to do so.

The PRESIDENT: The Chair did not understand the question.

Mr. CHAMBERLAIN: Mr. President, it will be remembered that this morning the Senate passed an order recalling from the Governor Legislative Document 626 which had been passed to be engrossed. I have been told it went to the House.

The PRESIDENT: The Chair will inform the Senator that the bill will be promptly taken up as soon as it is received from the House.

On motion by Mr. Spear of Cumberland, the Senate voted to take from the table, An Act Providing for the Publication of an Annual Statement of the Financial Condition of the State by the State Controller (S. P. 618) (L. D. 1116), tabled by that Senator on April 13th pending consideration; and on further motion by the same Senator, the Senate voted under suspension of the rules, to reconsider its action, whereby the bill was passed to be engrossed.

Mr. SPEAR: Mr. President, I am offering an amendment and in looking it over I find there is a typographical error. It is a six-column and not a sixth of a newspaper page. The expense, as some of you may know, is under \$5,000 a year. It seems to some of us that the citizens of the state are entitled to a financial statement. I present Senate Amendment "A" and move its adoption:—

"Senate Amendment "A" to L. D. 1116, An Act Providing for the Publication of an Annual Statement of the Financial Condition of the State by the State Controller. Amend said bill by striking out all of Section 2 thereof and inserting in place thereof the following: 'Section 2. Publication. The Controller shall publish such report on or before August 25 of each year in all daily newspapers and in all weekly newspapers published in the state which are entered as second class matter with the United States Post Office Department and which are published regularly at least 52 times a year. Section 3. Newspaper space required. Such published report shall not require newspaper space in excess of a six column page or its equivalent.'"

Mr. BURNS of Aroostook: Mr. President, I want to go on record in favor of the adoption of this amendment. There are a number of reasons that could be given but I wish to give only one. I have heard from a number of my constituents on the proposition set forth in this bill, that is, whether we should continue to publish some sort of statement of the state of Maine, and these citizens are anxious that this procedure continue. Other reasons, as I said, could be advanced in support of this measure, but I will not undertake to enumerate them.

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

Sent down for concurrence.

On motion by Mr. Spear of Cumberland, the Senate voted to take from the table, Senate Report from the Committee on Judiciary, "Ought Not to Pass" on An Act Relating to Bond Issue for Construction, Improvement and Equipment of State Buildings (S. P. 397) (L. D. 805) tabled by that Senator on April 3rd pending acceptance of the report.

Mr. SPEAR: Mr. President, I move we substitute the bill for the report and I would like to offer the reasons why. In talking with many of the members of the Senate, it seems the consensus of opinion is that this bond issue should be sent to the people for their approval or disapproval. If it is not sent to the people within a few months of when the bond issue matter is referred to them it will be several years before the buildings could be completed, provided the people approved the bond issue. It would take at least two years from this time before they would be available if the bond issue is approved. I therefore move we substitute the bill for the report and hope the motion will prevail.

Thereupon, the bill was substituted for the report, and under suspension of the rules was given its two several readings and passed to be engrossed.

Sent down for concurrence.

On motion by Mr. Spear of Cumberland, the Senate voted to take from the table, Senate Report from the Committee on Judiciary, "Ought Not to Pass" on An Act to Provide

for Issuance of State of Maine Improvement Bonds (S. P. 380) (L. D. 804), tabled by that Senator on April 3rd pending acceptance of the report.

Mr. SPEAR: Mr. President, I move this bill be substituted for the report and I hope my motion will prevail. In explanation, may I say that this provides for issuing of bonds, provided the people approve the bond issue.

Thereupon, the bill was substituted for the report, and under suspension of the rules was given its two several readings and passed to be engrossed.

Sent down for concurrence.

On motion by Mr. Spear of Cumberland

Recessed until the sound of the gavel.

After Recess

The Senate was called to order by the President.

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

Bill "An Act Amending the Old Age Assistance Law Relating to Funeral Expenses." (H. P. 1449) (L. D. 626)

(In the Senate on April 6, passed to be engrossed in concurrence.)

Comes from the House, having been recalled from the Governor by Joint Order, passage to be enacted reconsidered, under suspension of the rules, and the bill indefinitely postponed in non-concurrence.

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

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

Bill "An Act Relating to the County Commissioners of Androscoggin County." (H. P. 2061) (L. D. 1097)

(In the Senate on April 19 passed to be engrossed as amended by House Amendment "A" and as amended by Senate Amendment "A" in non-concurrence.)

Comes from the House, that Body having insisted on its former action of April 11, whereby the bill as amended by House Amendment "A" was passed to be engrossed, and asking for a Committee of Conference,

the Speaker having appointed as members of such committee on the part of the House:

Representatives: Goss of Poland, Pratt of Turner, Winslow of Auburn.

In the Senate, on motion by Mr. Spear of Cumberland, that Body voted to insist and join with the House in a Committee of Conference and the President appointed as members of such committee on the part of the Senate, Senators Findlen of Aroostook, Worthen of Penobscot, Harkins of Androscoggin.

On motion by Miss Laughlin of Cumberland, the Senate voted to take from the table, bill An Act Relating to Exemption from Taxation (L. D. 837) tabled earlier in today's session pending adoption of Senate Amendment A; and on further motion by the same Senator, Senate Amendment A was adopted and under suspension of the rules, the bill was given its two several readings and passed to be engrossed in non-concurrence.

Sent down for concurrence.

Passed to Be Enacted

Out of order and under suspension of the rules:

An Act Relating to the Port of Northeast Harbor Authority. (S. P. 261) (L. D. 445)

An Act Relating to the Making of Certain Reports by State Officers. (S. P. 376) (L. D. 794)

An Act Relating to the State Police. (S. P. 625) (L. D. 1177)

An Act Relating to the Commitment of the Insane; Penalty for False Testimony. (S. P. 667) (L. D. 1173)

An Act Relating to Alimony. (S. P. 668) (L. D. 1174)

Resolve in Favor of the Maine Division of the Women's Field Army of the American Society for Control of Cancer. (S. P. 665) (L. D. 1171)

Resolve Providing Pensions for Certain Soldiers and Sailors and Dependents. (S. P. 670) (L. D. 1176)

An Act Authorizing Peabody Law School to Confer Degrees. (H. P. 6) (L. D. 13)

An Act Relating to Salaries in Certain Counties. (H. P. 2073) (L. D. 1100)

An Act Relative to Closed time on Deer. (H. P. 2099) (L. D. 1102)

An Act Relating to Advertising Liquor, Malt Liquor, Wines and Spirits. (H. P. 2166) (L. D. 1135)

An Act Relating to the Commitment of Juvenile Delinquents. (H. P. 2170) (L. D. 1138)

An Act Relating to Penalty for Operating Motor Vehicle While Under the Influence of Intoxicating Liquor or Drug. (H. P. 2224) (L. D. 1166)

Resolve Providing for a State Pension for Grace E. Dunn of Portland. (H. P. 1095) (L. D. 1185)

On motion by Mr. Boucher of Androscoggin, the Senate voted to take from the table, An Act Relating to the Publication of Legal Notices, Legal Advertising and Other Matter Required by Law to be Published in a Newspaper (H. P. 2226) (L. D. 1168) tabled by that Senator on April 18th pending second reading.

On further motion by the same Senator, the Senate voted to reconsider its action whereby Senate Amendment A was adopted.

The same Senator presented Senate Amendment A to Senate Amendment A and moved its adoption:—

"Senate Amendment A to Senate Amendment A to Legislative Document 1168, bill, An Act Relating to the Publication of Legal Notices, Legal Advertising and Other Matter Required by Law to be Published in a Newspaper. Amend said amendment by striking out in the 7th and 8th lines of said amendment the words 'must be printed in the English language.'"

Mr. BOUCHER: Mr. President, in moving the adoption of Senate Amendment A to Senate Amendment A I wish to say that my reason for this is that I know of only four other newspapers in the whole state of Maine that are not published in English. Those four newspapers are published in French. I don't know of any other newspaper published in any other language.

Now these French papers are one daily paper published in Lewiston, one weekly paper in Waterville, one other in Biddeford, and one weekly in Sanford. Those papers receive a lot of legal notices, especially the daily in Lewiston, from the city of Lewiston and from other sources, which are printed in English in that paper. Those same matters are also printed in other English printed newspapers in the city of Lewiston and elsewhere. Although the Senator from Aroostook has pointed out that the law of Massachusetts is that it

is illegal, I have also looked up that law and found that other states have said that it is not illegal and that on that same page he quoted in regard to the Massachusetts law I believe that this phrase in there is discriminatory against four newspapers in the state of Maine. And again in the name of justice and fair play, I ask that this amendment be adopted.

Mr. HARKINS: Mr. President, supporting the amendment offered by Senator Boucher, for the same reasons he has already expressed, I think according to our state constitution and Declaration of Rights it says that no law shall be enacted restraining or restricting the press and I feel that the press in this instance would be restricted. It does not say that the press shall be published in the English language or in the French language and I feel that it would be an injustice not to adopt this.

Mr. SPEAR of Cumberland: Mr. President, I ask for a division.

Mr. BURNS of Aroostook: Mr. President, the Senator from Androscoggin, Senator Boucher, has brought out the fact that other courts have held differently from the Massachusetts court in holding that a legal notice although written in English, if printed in a French newspaper is declared legal. I agree with him that there are other courts that take a contrary view to that of the Massachusetts court but most of us in the legal profession know that the tendency of the Maine court is to follow the Massachusetts decisions when they appear to be sound and can be reconciled with our own statutory law and the judicial precedents of our court.

I am inclined to think that the state of Maine court would be more likely to follow the Massachusetts court in holding these notices illegal than they would the other authorities. Since this bill was tabled yesterday I have had some talk with Senator Boucher and I found out that his objection was what he has undertaken to promote through the offering of Senate Amendment A to Senate Amendment A and with that information at hand I went to the proponents of this measure, or their representatives, and I speak now of the association of daily newspapers in the state and the association of weekly newspapers in the state, and their representatives informed me that

they would oppose very much the adoption of such an amendment as has been offered here by the Senator from Androscoggin, Senator Boucher. I do not wish to go into detail further in regard to this matter as it has been thoroughly discussed, especially yesterday, and I hope that the motion of the Senator from Androscoggin, Senator Boucher does not prevail.

Mr. BOUCHER: Mr. President, I am very thankful to Senator Burns for bringing out the fact that the newspaper associations are against my amendment. He had told that to me privately but I didn't want to violate his confidence. Now that he has brought it out I want to point out to this Senate that in that case the other newspapers are trying to deprive four French newspapers of their fair share of trade in business and I think that is unfair. Another point he has brought out is the fact that this has been declared illegal in Massachusetts, but he has not quoted one case where it has ever been declared illegal in the state of Maine and on that basis I say it is unfair to take the action of the courts in Massachusetts to draft our laws in Maine.

The PRESIDENT: The question before the Senate is on the adoption of Senate Amendment A to Senate Amendment A and a division is asked.

A division of the Senate was had.

Ten having voted in the affirmative and fifteen opposed, Senate Amendment A to Senate Amendment A was not adopted.

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

Sent down for concurrence.

On motion by Mr. Osgood of Oxford the Senate voted to take from the table House Report from the Committee on Motor Vehicles "Ought Not to Pass" on bill An Act Exempting from the Payment of Excise Taxes, Residents of States which grant Reciprocal Privileges to Residents of this State (H. P. 1442) (L. D. 622) tabled by that Senator on April 12th pending acceptance of the report.

Mr. OSGOOD: Mr. President, I move to substitute the bill for the report.

Mr. SPEAR of Cumberland: Mr. President, I ask for a division.

Mr. OSGOOD: Mr. President, to go into the history of this case a little I imagine most everyone is familiar with it. In the past the state had an excise tax on the trucks going into New Hampshire and other states and also on trucks entering this state. Two years ago, the legislature of New Hampshire increased their excise tax to equal half the registration paid by non-resident trucks licensing their trucks in New Hampshire. This bill is to exempt the payment of an excise tax on trucks from other states granting this state a like privilege. Our trucks pay from two dollars to ten dollars taxes more to other states than this state receives. For example, a truck licensed in Maine, going into New York would pay an excise tax in New Hampshire, one in Massachusetts, and one in New York because the state of Maine does grant reciprocity on excise taxes. All states north of Georgia on the seaboard, approximately thirty states in the Union, grant reciprocity to states that charge no excise tax.

This repeal of the excise tax would not benefit entirely the trucking industry because that only refers to about forty percent of the trucks licensed in the state of Maine. There are about 43,000 trucks that were registered in Maine in 1938. Thirty percent of those trucks are farm owned trucks. Others are owned by manufacturers and dealers, those engaged in the canning industry and those engaged in lumbering and pulpwood operations. The question has been raised as to whether this double taxation is constitutional or not and I may say that I hope within the near future that if this bill is not repealed it will be brought before the court and a verdict rendered. The question may arise as to the revenue that the state of Maine might lose and I will say in answer to that that the motor vehicles operating in this state already pay into the state of Maine a number of thousands of dollars. We have repealed that clause and added an extra five percent to the registration fee which will net to the state \$154,000 and other bills have been passed by the Motor Vehicle Committee which will at least raise \$300,000 more and I feel that it is no more than fair that this excise tax be repealed and we should reciprocate with other states.

Mr. SANBORN of Cumberland: Mr. President, the reasons given by Senator Osgood for the passage of this bill, or the substitution of the bill for the report are to my mind quite convincing and I won't attempt to repeat them but I think it is only fair that one or two other considerations should be adduced. We should remember there was no such thing until a short time ago. There was quite a shortage on April 1st of automobiles throughout the state of Maine. To make sure automobiles paid their share, the excise tax law was passed, and in other words that excise tax, it occurs to me, is a form of property tax. It is not a license fee. It is in lieu of the ordinary tax on that particular piece of property. That being the case, I can see no reason why residents of Massachusetts or Missouri who happen to drive their vehicles in this state should pay a property tax. In other words, as it stands today it is in the nature of a trade barrier. Trade barriers, I think, are obnoxious to us all. I think in view of the fact that the net result of our legislation is a very substantial increase of amounts to be received for the state from trucking industries, I think we may very well forego what small amount might be received by the present situation, remembering to forego it we are saving our own truck owners very large amounts they are now obliged to pay, and give this bill passage.

Miss LAUGHLIN of Cumberland: Mr. President, we have indefinitely postponed Legislative Document 1175; and I am informed that the loss of revenue to the state, by the passage of this bill would be some \$33,000 which is quite a little sum since we are cutting down everywhere on very important matters.

Two years ago we did pass a law making the exemption within 15 miles of the border of this state where a similar exemption was given in the other state with reference to franchise taxes, but this, as stated by the Senator from Cumberland, Senator Sanborn, is a property tax and cannot, of course, be levied unless it is in a sense, property. We have a great many trucks here in the state of Maine which are used here but are owned by non-resident corporations but they are really used in the state of Maine and should be subject to the property tax just as much as the warehouse

inventory of that corporation. It doesn't seem to me it is any time to forego some \$33,000 and I am therefore opposed to substituting the bill for the report. I hope the report "ought not to pass" will be accepted.

The PRESIDENT: The question is on the motion of the Senator from Oxford, Senator Osgood, that the bill be substituted for the report, and the Chair understands the Senator from Cumberland, Senator Spear, asks for a division.

A division of the Senate was had.

Nine having voted in the affirmative and fourteen opposed, the motion to substitute the bill for the report did not prevail.

Thereupon, on motion by Miss Laughlin, the report of the committee, "Ought Not to Pass" was accepted in concurrence.

On motion by Mr. Boucher of Androscoggin, the Senate voted to take from the table, House Report from the Committee on Legal Affairs, Majority Report "Ought to Pass", Minority Report, "Ought Not to Pass" on Bill, An Act Relating to Elections in the City of Biddeford, (H. P. 1162) (L. D. 481) tabled by that Senator on April 13th pending first reading; and on further motion by the same Senator, the bill was given its first reading.

Thereupon, Mr. Boucher presented Senate Amendment "A" and moved its adoption:—

"Senate Amendment A to H. P. 1162, L. D. 481, Bill, An Act Relating to Elections in the City of Biddeford.

Amend said bill by adding at the end thereof the following section:

Sec. 3. Referendum. This act shall be submitted for the approval or rejection to the qualified voters of the city of Biddeford at a special election held for the purpose, or at any regular election, held before January 1, 1941, and warrants shall be issued for such election in the manner now provided by law for holding municipal elections, notifying and warning the qualified voters of said city to meet in the several ward rooms of said city, there to cast their ballots concerning the acceptance of this act. The vote shall be taken by ballot at said election in answer to the question: "Shall an act passed by the legislature in the year 1939, entitled 'An Act relating to Elections in the City of Biddeford' be accepted?" which question

shall be printed on the official ballots and at said election the voters of said city in favor of accepting the act shall vote "Yes" and those opposed shall vote "No." Otherwise said ballots shall be in the form provided by law when a constitutional amendment is submitted to the vote of the people. The provisions of the law relating to the preparation of voting lists for municipal elections shall apply to such election and said election shall in all other respects be conducted according to law, and the results thereof shall be determined in the manner now provided by law for the determination of the election for mayor. If a majority of the valid votes cast as aforesaid shall be in favor of accepting the same, then this act shall forthwith take effect as herein provided. So much of this act as authorizes the submission of this act to the voters of Biddeford shall take effect as provided in the constitution, but it shall not take further effect unless adopted by said voters as hereinbefore provided."

Mr. WENTWORTH of York: Mr. President, I arise in opposition to this amendment and hope it will not be adopted.

Mr. BOUCHER: Mr. President, I am wondering if this is my lucky day or not. So far the score stands one to one. I am going to make the same appeal, Mr. President, that I have made before. All these things I have had tabled were tabled on the same basis, political basis. One half of the minority party is going to express an opinion here tonight. I maintain that this is a matter for the citizens of Biddeford to decide and not this legislature. I maintain that those who reside in Biddeford should know how they want to be governed. I maintain that they should have the full say of it and we should not cram down their throat something they do not desire. I say that the only fair thing is to give them a chance to express their opinion, and that is the meaning of this amendment. It is a referendum to the city of Biddeford to find out whether or not they want this bill to go into effect. I notice the report on this was divided. I also notice that this bill was presented by request, by a member of the majority party from another city. There must be a reason somewhere for trying to push this thing through without a referendum.

So I again, Mr. President, appeal

to the fairmindedness of this Senate to adopt this amendment, giving a referendum to the citizens of Biddeford. I wonder how other Senators would feel if they were members of a minority party and some of us tried to inject some law whereby their towns would be deprived of their rights. I do not believe they would approve of any such thing. In all fairness, I ask them to take the same attitude on this.

Mr. HARKINS of Androscoggin: Mr. President, I suppose I am the other half of the Minority party the Senator from Androscoggin, Senator Boucher, referred to. I simply arise to say that I hope the amendment will be adopted.

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

Mr. BOOTHBY of York: Mr.

President, as a Senator from York County, in which Biddeford is located, I am against this amendment.

The PRESIDENT: The question is on the adoption of Senate Amendment "A" and the Senator from Cumberland, Senator Spear, has asked for a division.

A division of the Senate was had.

Two having voted in the affirmative and eighteen opposed, the motion to adopt Senate Amendment "A" did not prevail.

Thereupon, under suspension of the rules, the bill was given its two several readings and passed to be engrossed in concurrence.

On motion by Mr. Spear of Cumberland

Adjourned until tomorrow morning at ten o'clock.