

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD
OF THE
Ninety-first Legislature
OF THE
STATE OF MAINE



1943

KENNEBEC JOURNAL COMPANY
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HOUSE

Thursday, February 18, 1943

The House met according to adjournment and was called to order by the Speaker.

Prayer by the Rev. Mr. Riedel of Augusta.

Journal of the previous session read and approved.

Papers from the Senate

From the Senate: Resolve in favor of the Central Maine General Hospital of Lewiston (S. P. 350)

Came from the Senate, referred to the Committee on Appropriations and Financial Affairs.

In the House, referred to the Committee on Appropriations and Financial Affairs in concurrence.

From the Senate: Resolve in favor of Joseph Cote of Sanford (S. P. 351)

Came from the Senate, referred to the Committee on Claims.

In the House, referred to the Committee on Claims in concurrence.

From the Senate: Resolve providing for a State Pension for Frederic C. Chandler of Bath (S. P. 363)

Resolve providing for an Increase in State Pension for Elson Harford of Richmond (S. P. 364)

Came from the Senate referred to the Committee on Pensions.

In the House, referred to the Committee on Pensions in concurrence.

From the Senate: Resolve relating to Fire Protection for Baxter State Park (S. P. 377)

Came from the Senate, referred to the Committee on State Lands and Forest Preservation.

In the House, referred to the Committee on State Lands and Forest Preservation in concurrence.

From the Senate: Resolve Proposing an Amendment to the Constitution to Limit to Highway Purposes the use of Revenues Derived from the Taxation of Vehicles used on the Public Highways, and Fuels used for Propulsion of such Vehicles (S. P. 233) (L. D. 339)

Resolve in favor of the town of Alexander (S. P. 379)

Resolve in favor of Allagash Plantation (S. P. 380)

Resolve in favor of the town of New Limerick (S. P. 381)

Resolve in favor of Allagash Plantation (S. P. 382)

Resolve in favor of the town of Bancroft (S. P. 383)

Resolve in favor of the town of Mexico (S. P. 384)

Resolve in favor of the town of Monticello (S. P. 385)

Came from the Senate, referred to the Committee on Ways and Bridges.

In the House, referred to the Committee on Ways and Bridges in concurrence.

Senate Reports of Committees Ought to Pass

Report of the Committee on Appropriations and Financial Affairs reporting "Ought to pass" on Bill "An Act relating to the Report of the State Auditor" (S. P. 184) (L. D. 270)

Report of the Committee on Inland Fisheries and Game reporting same on Bill "An Act relating to Trapping Season for Muskrats" (S. P. 68) (L. D. 4)

Came from the Senate the Reports read and accepted and the Bills passed to be engrossed.

In the House, Reports read and accepted in concurrence, the Bills were read twice and tomorrow assigned.

Reports Tabled

Report of the Committee on Judiciary reporting "Ought to pass" on Bill "An Act Defining the Word 'Teacher' under Teachers' Pensions" (S. P. 144) (L. D. 146)

(On motion by Mr. Webber of Mapleton, tabled pending acceptance of Committee Report)

Report of the Committee on Legal Affairs reporting "Ought to pass" on Bill "An Act to provide for Post War planning" (S. P. 178) (L. D. 242)

The SPEAKER: The Chair recognizes the gentleman from Augusta, Mr. Cross.

Mr. CROSS: Mr. Speaker and Members of the House: I am going to take upon my shoulders the duty that sometimes devolves upon the elder members. I do not like to take it away from them, but I think that we should have one thing brought before us in connection with this bill and other bills and that is, the well-known honeymoon season

is over, with the exception of possibly a few of our members (Laughter), and a bill that requires a great deal of thought and involves a great deal of money should not be considered too hastily.

Now, the other body under this roof to which we do not refer, has seen fit to pass this down to us without debate. I like the member who put this in. I respect his abilities very highly. I like the fundamental purpose of this bill. I think we want a post-war planning fund for post-war activities, but I think it involves a million dollars, which is a lot of money for this State, and I feel that I am not altogether satisfied with the method which is to be used in the allocation of these funds, and, to allow the members to consider this bill, and to allow myself to consider a possible amendment, I ask, Mr. Speaker, that this bill and the accompanying report lie on the table pending acceptance of the Committee Report.

The SPEAKER: The gentleman from Augusta, Mr. Cross, moves that the "Ought to Pass" Report of the Committee on Legal Affairs on Bill "An Act to Provide for Post War Planning" (S. P. 178) (L. D. 242) lie on the table pending acceptance of Committee Report. Is this the pleasure of the House?

Thereupon, the motion prevailed, and the Report, with accompanying papers, was tabled pending acceptance of Committee Report in concurrence.

Senate Reports of Committees (Cont'd)

Ought to Pass

Report of the Committee on Motor Vehicles reporting "Ought to pass" on Bill "An Act relating to Registration of Trucks" (S. P. 134) (L. D. 96)

Report of the Committee on State Lands and Forest Preservation reporting same on Resolve Authorizing the Forest Commissioner to Grant Permits for Setting and Maintaining Poles and Wires on the Public Lot in Caratunk Plantation (S. P. 168) (L. D. 182)

Report of same Committee reporting same on Bill "An Act relating to White Mountain National Forest" (S. P. 167) (L. D. 181)

Came from the Senate, the Reports read and accepted and the Bills and Resolve passed to be engrossed.

In the House, Reports read and accepted in concurrence, the Bills read twice, the Resolve read once, and tomorrow assigned.

Non-Concurrent Matter

From the Senate: Bill "An Act relating to the Appropriation for and Assistance to the Maine Maritime Academy" (H. P. 188) (L. D. 128) which was passed to be engrossed in the House on February 12th, as amended by Committee Amendment "A".

Came from the Senate, passed to be engrossed as amended by Committee Amendment "A" and Senate Amendment "A" in non-concurrence.

In the House, on motion by Mr. Leavitt of Portland, the House voted to reconsider its action where-by it passed this Bill to be engrossed as amended by Committee Amendment "A".

Senate Amendment "A" read by the Clerk as follows:

Senate Amendment "A" to H. P. 188, L. D. 128, Bill "An Act Relating to the Appropriation for and Assistance to the Maine Maritime Academy."

Amend said bill by striking out all of that part designated "Sec. 4." of section 1 thereof, and substituting in place thereof the following:

'Sec. 4. State aid. In addition to the income provided by the provisions of section 3, there is hereby appropriated the sum of \$100,000 biennially from such sums as shall be appropriated biennially for the operation of the school the treasurer of state or his successor shall, upon the request of the trustees, make advances grants for the such operation of the school not to exceed \$50,000 per annum to the treasurer of the school, who shall give bond in an amount to be set by the governor and council, but not less than \$15,000 with sureties approved by the governor and council, for its proper disbursement.'

Thereupon, on further motion by the gentleman from Portland, Mr. Leavitt, Senate Amendment "A" was adopted, and the bill, as amended by Committee Amendment "A" and Senate Amendment "A" was passed to be engrossed in concurrence.

Bills and Resolves Requiring Reference

The following Bills and Resolves,

which were transmitted by the Revisor of Statutes pursuant to Joint Order S. P. 310, were received, and upon recommendation of the Committee on Reference of Bills, were referred to the following Committees:

Appropriations and Financial Affairs

Resolve to Assist in the Publication of "Woody Plants in Maine" (H. P. 1173) (Presented by Mr. Goldsmith of Orono)
(Ordered printed)
Sent up for concurrence.

Education

Resolve relating to Teacher's Pension for Eva W. Dow, of Belfast (H. P. 1174) (Presented by Mr. Coombs of Belfast)

Resolve relating to Teacher's Pension for Charles Phillips of Orrington (H. P. 1175) (Presented by Mr. Williams of Clifton)
Sent up for concurrence.

Inland Fisheries and Game

Bill "An Act relating to Open Season on Moose" (H. P. 1176) (Presented by Mr. Smith of Thomaston)

(Ordered printed)
Sent up for concurrence.

Judiciary

Bill "An Act relating to Payments to Franklin County Law Library" (H. P. 1177) (Presented by Mr. Crosby of Farmington)

(Ordered printed)
Bill "An Act Penalizing Certain Activities relating to Rationed Commodities in Time of War" (H. P. 1178) (Presented by Mr. Sleeper of Rockland)

(Ordered printed)
Sent up for concurrence.

Legal Affairs

Bill "An Act to Regulate the Practice of Architecture and to Create a Board to Provide for the Examination and Registration of Architects" (H. P. 1179) (Presented by Mr. Cross of Augusta by request)

(Ordered printed)
Sent up for concurrence.

Mercantile Affairs and Insurance

Bill "An Act relating to Limitation of Rights to Issue Life Insurance Policies" (H. P. 1180) (Presented by Mr. Williams of Auburn)

(Ordered printed)
Sent up for concurrence.

Military Affairs

Bill "An Act relating to Employees in Military Service" (H. P. 1181)

(Presented by Mr. Sayward of Kennebunk)

(Ordered printed)
Sent up for concurrence.

Motor Vehicles

Bill 'An Act relating to Rebate of Registration Fees on Motor Vehicles Owned by Men in Armed Services, or Confiscated by the Federal Government' (H. P. 1182) (Presented by Mr. Hutchins of Bangor)

(Ordered printed)
Sent up for concurrence.

Pensions

Resolve providing for a State Pension for Guy Babb of Hudson (H. P. 1183) (Presented by Mr. Osgood of Bradford)

(Ordered printed)
Sent up for concurrence.

Public Utilities

Bill "An Act providing for Inspection of Gas and Electric Meters" (H. P. 1184) (Presented by Mr. Poulin of Rumford)

(Ordered printed)
Sent up for concurrence.

Salaries and Fees

Bill "An Act relating to the Salary of the Treasurer of State" (H. P. 1185) (Presented by Mr. Marsans of Monmouth)

(Ordered printed)
Bill "An Act relating to Automobile Travel by State Employees" (H. P. 1186) (Presented by Mr. Poulin of Rumford)

(Ordered printed)
Bill "An Act relating to Fees of Sheriffs and their Deputies" (H. P. 1187) (Presented by Mr. Sleeper of Rockland)

(Ordered printed)
Sent up for concurrence.

Sea and Shore Fisheries

Resolve relating to Dredging Quahaugs in Maquoit Bay (H. P. 1188) (Presented by Mr. Brown of Brunswick)

(Ordered printed)
Resolve relating to the Dipping of Alewives in Machias River (H. P. 1189) (Presented by Mr. Small of E. Machias)

(Ordered printed)
Sent up for concurrence.

State Lands and Forest Preservation

Resolve Authorizing the Commissioner of Institutional Service to Transfer Certain Land (H. P. 1190)

(Presented by Mr. Pottle of Otisfield)

(Ordered printed)
Sent up for concurrence.

Ways and Bridges

Resolve in favor of the town of Pembroke (H. P. 1191) (Presented by Mr. McFadden of Pembroke)

Resolve in favor of the town of Wade (H. P. 1192) (Presented by Mr. Webber of Mapleton)

Resolve in favor of Hamlin Plantation (H. P. 1193) (Presented by Mr. Wright of Limestone)

Resolve in favor of the town of Limestone (H. P. 1194) (Presented by same gentleman)

Sent up for concurrence.

Welfare

Bill "An Act relating to Appropriations for Private and Public Hospitals for Medical Treatment" (H. P. 1195) (Presented by Mr. Sayward of Kennebunk)

(Ordered printed)

Bill "An Act relating to Appropriations for Private and Public Hospitals for Medical and Surgical Treatment" (H. P. 1196) (Presented by Mr. Sleeper of Rockland)

(Ordered printed)

Sent up for concurrence)

Orders

On motion by Mr. Downs of Rome, it was

ORDERED, that Mrs. Leidy of Fort Kent, be excused from attendance for the remainder of the week because of business.

On motion by Mr. Longstaff of Crystal, Rule 25 was suspended for the remainder of today's session, in order to permit smoking.

House Reports of Committees Inexpedient

Mr. Bartlett from the Committee on Legal Affairs on Bill "An Act relating to the town of Athens" (H. P. 337) (L. D. 210) reported that legislation thereon is inexpedient.

Report was read and accepted and sent up for concurrence.

Ought Not To Pass

Mr. Donahue from the Committee on Legal Affairs reported "Ought not to pass" on Bill "An Act relating to Rules and Regulations of the State Racing Commission" (H. P. 460) (L. D. 262)

Report was read and accepted and sent up for concurrence.

Reports Tabled

Mr. Donahue from the Committee on Legal Affairs reported "Ought not to pass on Bill "An Act relating to Tax Abatements" (H. P. 191) (L. L. 138)

(On motion by Mr. Usher of Gorham, tabled pending acceptance of Committee Report.)

Mr. Ward from the Committee on Legal Affairs reported "Ought not to pass" on Bill "An Act relating to the Assessment of Taxes on Real Estate" (H. P. 324) (L. D. 221)

(On motion by Mr. Blake of Dexter, tabled pending acceptance of Committee Report)

Mr. Ward from the Committee on Legal Affairs reported "Ought not to pass" on Bill "An Act relating to the Disposition of Tax Acquired Property" (H. P. 566) (L. D. 315)

Report was read and accepted and sent up for concurrence.

Ought to Pass in New Draft

Mr. Anderson from the Committee on Legal Affairs on Bill "An Act relating to the Abatement of Taxes" (H. P. 253) (L. D. 191) reported same in a new draft (H. P. 1172) under same title and that it "Ought to pass"

Report was read and accepted and the new draft ordered printed under the Joint Rules.

Ought To Pass

Mr. Haskell from the Committee on Legal Affairs reported "Ought to pass" on Bill "An Act relative to Racing Commission (H. P. 338) (L. D. 222)

Mr. Sichel from same Committee reported same on Bill "An Act relating to the Rules and Regulations of State Racing Commission" (H. P. 339) (L. D. 209)

Reports read and accepted.

Ought to Pass With Committee Amendment

Mr. Payson from same Committee on Bill "An Act relating to Notices to the State in Actions by Towns in Pauper Cases" (H. P. 189) (L. D. 139) reported "Ought to pass" as amended by Committee Amendment "A" submitted therewith.

Report read and accepted.

First Reading of Printed Bill and Resolve

Bill "An Act relating to Convention of Town Assessors" (H. P. 164) (L. D. 117)

Resolve providing for Better Protection to Shellfish within the Limits of the Town of Brunswick (H. P. 208) (L. D. 132)

Bill was read twice, Resolve read once, and tomorrow assigned.

Passed to Be Engrossed

Bill "An Act relating to Repayments of Municipalities from Appropriations of the Public Utilities Commission" (S. P. 147) (L. D. 149)

Was reported by the Committee on Bills in the Third Reading, read the third time, passed to be engrossed and sent to the Senate.

Bill Tabled

Bill "An Act relating to Itinerant Vendors" (S. P. 308) (L. D. 429)

(Was reported by the Committee on Bills in the Third Reading, and on motion by Mr. Cross of Augusta, tabled pending third reading)

Passed to Be Engrossed (Cont'd)

Bill "An Act Permitting Short Period Registration of Trucks" (H. P. 37) (L. D. 27)

Bill "An Act to Authorize Stacyville Plantation to Withdraw from the Maine Forestry District" (H. P. 121) (L. D. 65)

Bill "An Act relative to Game Preserve in York County" (H. P. 179) (L. D. 135)

Bill "An Act providing for Transfer of Property to State of Maine by the Maine Maritime Academy on Dissolution" (H. P. 210) (L. D. 142)

Bill "An Act relating to Payment of Costs of Suspending Open Season for Hunting and Fishing" (H. P. 265) (L. D. 172)

Bill "An Act Prohibiting Trapping in Certain Territory" (H. P. 312) (L. D. 226)

Bill "An Act relative to Fox Hunting in York County" (H. P. 316) (L. D. 224)

Bill "An Act relating to Trapping in Unorganized Territory" (H. P. 979) (L. D. 549)

Were reported by the Committee on Bills in the Third Reading, read the third time, passed to be engrossed and sent to the Senate.

Amended Bills

Bill "An Act relating to Bounty on Bobcats, etc." (S. P. 43) (L. D. 428)

Was reported by the Committee on Bills in the Third Reading, read the third time, passed to be en-

grossed as amended and sent to the Senate.

Amended Bills Tabled

Bill "An Act Granting Prior Service to Stenographers of the Former Superior Court" (H. P. 93) (L. D. 81)

(Was reported by the Committee on Bills in the Third Reading, and on motion by Mr. Payson of Portland, tabled pending third reading)

Bill "An Act relating to Membership and Creditable Service in the Jointly-Contributory Retirement System for State Employees, Except Teachers" (H. P. 15) (L. D. 20)

(Was reported by the Committee on Bills in the Third Reading, and on motion by Mr. Payson of Portland, tabled pending third reading)

Passed to be Enacted

Emergency Measure

An Act to Amend the Charter of the town of Fort Fairfield (H. P. 100) (L. D. 60)

The SPEAKER: This bill, having had its three several readings in the House, and having been passed to be engrossed, having had its two several readings in the Senate and having been passed to be engrossed, and having been reported by the Committee on Engrossed Bills as truly and strictly engrossed, is it now the pleasure of the House that it pass to be enacted?

This being an emergency measure, under the Constitution it requires for its passage the affirmative vote of two-thirds of the entire elected membership of this House. All those in favor of the passage of this Bill to be enacted will rise and stand in their places until counted, and the monitors have made and returned the count.

A division of the House was had. One hundred and thirty-six having voted in the affirmative and none in the negative, 136 being more than two-thirds of the entire elected membership of the House the Bill was passed to be enacted and signed by the Speaker, and on motion by Mr. Dorsey of Fort Fairfield, the Bill was sent forthwith to the Senate.

Orders of the Day

On motion by Mr. Doughty of Gray, the House voted to take from the table the eighth unassigned matter, Bill "An Act Relating to the

Pennell Institute in the Town of Gray" (H. P. 1132) (L. D. 553) tabled by that gentleman on February 17th pending reference; and on further motion by the same gentleman the Bill was referred to the Committee on Judiciary and sent up for concurrence.

On motion by Mr. Hawes of Vassalboro, the House voted to take from the table the seventh unassigned matter, Bill "An Act to Abolish the Old Age Assistance Commission." (H. P. 1110) (L. D. 552) tabled by that gentleman on February 17th pending reference; and on further motion by the same gentleman the Bill was referred to the Committee on Welfare and sent up for concurrence.

On motion by Mr. Marsans of Monmouth, the House voted to take from the table the ninth unassigned matter, House Report "Ought not to pass" of the Committee on Inland Fisheries and Game on Resolve Closing Cobbossee Stream and Tributaries to Muskrat Trapping (H. P. 321) tabled by that gentleman on February 17th, pending acceptance of Report; and on further motion by the same gentleman the Report, with accompanying papers, was re-committed to the Committee on Inland Fisheries and Game and sent up for concurrence.

On motion by Mr. Downs of Rome, the House voted to take from the table the fifth unassigned matter, Bill "An Act Relative to Licensing Dealers in Livestock" (H. P. 1067) (L. D. 554) tabled by that gentleman on February 17th, pending reference; and on further motion by the same gentleman the Bill was referred to the Committee on Agriculture and sent up for concurrence.

On motion by Mr. Southard of Bangor, the House voted to take from the table the sixth unassigned matter, Bill "An Act to Provide for Education of Orphans of Veterans" (H. P. 1097) (L. D. 551), tabled by that gentleman on February 17th, pending reference; and on further motion by the same gentleman the Bill was referred to the Committee on Military Affairs and sent up for concurrence.

On motion by Mr. Payson of Port-

land, the House voted to take from the table the second unassigned matter, Bill "An Act to Aid the prosecution of the War by Providing for the Creation of Local Agencies to Cooperate with the Federal Government in Making Housing Available for Persons Engaged in War Industries and Activities and by Granting Certain Powers to Public Bodies" (H. P. 23) (L. D. 9), which was indefinitely postponed in the House on February 10th, and tabled by Mr. Payson on February 11th, pending the motion of the gentleman from Livermore Falls, Mr. Grua, to reconsider the indefinite postponement of the Bill.

The SPEAKER: The Chair recognizes the gentleman from Portland, Mr. Payson.

Mr. PAYSON: Mr. Speaker, before the motion to reconsider the action of the House, whereby this bill was indefinitely postponed, is put, I would like to explain what I have in mind, if you will grant me this reconsideration.

I suggested to the House, when I laid this matter on the table, that I would prepare amendments, one of which would make this bill applicable only to the cities and larger places in the State of Maine, and the second amendment would specifically state that the authority created hereunder would not have any authority to pledge the credit of the municipality in which it is created.

One of the members of this House has raised the question as to the constitutionality of this bill. In order that these amendments may have proper consideration, and that consideration may be given to the constitutional question, if you reconsider your action, I shall then move for the recommitment of this bill to the Committee on Legal Affairs, composed of attorneys, where all these matters may be given careful study and attention before this question is brought before the House.

I therefore hope that the motion of the gentleman from Livermore Falls, Mr. Grua, that the House reconsider its action whereby it voted to indefinitely postpone the bill, will prevail.

The SPEAKER: The question before the House is on the motion of the gentleman from Livermore Falls (Mr. Grua) for reconsideration.

The Chair recognizes the gentle-

man from Boothbay Harbor, Mr. Perkins.

Mr. PERKINS: Mr. Speaker, I have listened to the remarks of the gentleman from Portland, Mr. Payson. The question before the House at this time is upon the motion of the gentleman from Livermore Falls, Mr. Grua, to reconsider the action of the House whereby this bill was indefinitely postponed. The method pursued to obtain a reconsideration is the old one—by suggesting an amendment.

Now, I propose this morning briefly to discuss these proposed amendments, because, Mr. Speaker and Members of the House, if this bill were a bad bill last week, it is a bad bill now, and it would be of little use to reconsider and recommit the bill. Upon this vote the members of the House are going to determine the action of this House on many other bills, and when a motion for reconsideration is pending, the burden upon those asking for a reconsideration is much greater than in other things, because, after some debate, this House has already determined that this bill was a bad bill and should be indefinitely postponed.

Now, in regard to these two amendments: the first one, the gentleman from Portland (Mr. Payson) states is to limit this bill to cities and towns of more than ten thousand inhabitants. That is the same thing, the principle is the same—it differs in degree a little but not in kind. The second amendment is to put in a statement that the Authority shall have no authority to pledge the credit of the City of Portland; and the third is the constitutionality.

If I were to draft a bill for the city of Portland at the present time, I think I would like to refer to Chapter 54 of the Public Laws of 1935, a bill already passed by this Legislature, which contains ample authority for almost everything, and could be made applicable to the present emergency, perhaps with a slight amendment, and that is entitled: "An Act Creating the Portland Public Development Commission." I am reliably informed that that bill was introduced in the Legislature of 1935 at the request of the gentleman from Portland, Mr. Leavitt.

These amendments, Mr. Speaker and Members of the House, do not

take care of the bad features of this bill. If you pass this bill with these amendments, and they do not like the amendments, they can come back here two years from now, and ask to have the amendments stricken off. Now, what happens? They come back in two years and put in a little amendment here, a bill amending a certain chapter by striking out the words "over ten thousand." Nobody in the next House will pay any attention to it, and it will slide right through, and you get the same legislation that was bad last week two years from now, or some other time. I want to say to you that this bill, if it was bad a week ago, is bad now.

I discussed somewhat the matter of the policy of the passage of such an act as this a week ago, but that is not my real point. That is bad enough; it is bad law; but my real point, Mr. Speaker and Members of the House, is that this Legislature, under the Constitution of this State, has absolutely no authority to pass any such law. I want to discuss that proposition briefly with you here this morning, because that is a serious proposition, and all I can say to you is that we are here, as the Governor said in his message, as trustees. They are fighting a terrific battle this morning in Tunisia. The boys in my town who voted for me are on that battlefield, and the only reason I am here in this Legislature at this time is to make some contribution to keep those things as they were—the fundamental law, the liberties of our people, for which those boys today are fighting and dying. If I raise my voice in this House at all, it will be in defense of the common law of this State and of its Constitution, and I want to discuss that proposition with you briefly. The fight might just as well start here.

Mr. Speaker, up to 1875 in this State every corporation was organized by a special act of this Legislature. Now, that is an important statement, because with that statement starts my entire argument, and I would direct the attention of the members of this House to the thirty-seven volumes of American Jurisprudence, at page 626. I want to read just one statement that will save a great deal of time, and it is this: "Originally the power to create municipal corpor-

ations was always exercised by special act." Now, what does our Constitution say? This Constitutional amendment was adopted in 1875 and is as follows. It is Article IV, Part Third, Section 14: "Corporations shall be formed under general laws, and shall not be created by special acts of the Legislature, except for municipal purposes, and in cases where the objects of the corporation cannot otherwise be attained"—shall be formed under the general laws except for municipal purposes. In other words when that constitutional amendment was adopted, it authorized the creation of corporations under the general law, except those for municipal purposes, and they were left by that constitutional amendment just where they were before. They must be created by special act of the Legislature, and that is what I am contending for here. You can amend this bill and make it ten thousand or any other figure, and you can put in an amendment so that it does not pledge the credit of a municipality, or anything else, but if you attempt to pass an act of this Legislature for a municipal corporation that contains more than one town or city, you violate that Constitution which all of us have held up our right hands to support.

Another thing—there has not been a municipal corporation created in this State, or attempted to be created under or by a general law. All your Port Authorities, village corporations, sewer districts, have all been brought in here by special act. And that is all I am asking now for the City of Portland to do. If they want something for their own benefit, if it is a good thing for them—I disagree with them on that point but that is their business—I want them to put a bill in this Legislature creating that corporation by special act and not by a general law, which is in violation of the fundamental law of this State. That is about all I want to say, Mr. Speaker and Members of this House, but under that Constitutional amendment there are just two questions as far as this bill is concerned: Is it a municipal corporation? I say that it is. Is the law by which it is being attempted to be created a general law? I also think that question should be answered in the affirmative. If so, this act, no mat-

ter how much you may amend it, is an attempt to pass an unconstitutional law, and for that reason, Mr. Speaker and Members of the House, I am opposed to it. I think they should proceed in the right way, and I hope that upon the pending question you will vote "No."

The SPEAKER: The Chair recognizes the gentleman from Mapleton, Mr. Webber.

Mr. WEBBER: Mr. Speaker, I lay no claim to any extended legal knowledge, but I am in sympathy with the wishes of the previous speaker, the gentleman from Boothbay Harbor, Mr. Perkins, that the constitutional rights of the citizens of the State and the communities should be preserved. It seems to me that the purpose for which this bill was introduced was to preserve to municipalities their constitutional rights. It was intimated that if the question came up as to whether or not the Federal government should desire it, this seizure would be made regardless of rights, and I believe the purpose in presenting this bill is to guard those rights.

I hope the motion of the gentleman from Livermore Falls, Mr. Grua, will prevail.

The SPEAKER: The Chair recognizes the gentleman from Portland, Mr. Payson.

Mr. PAYSON: Mr. Speaker and Members of the House: You can see from the proposed motion that I had hoped that the question of constitutionality might be referred back to a committee composed of attorneys. I know how confusing and difficult it is even for attorneys to pass on constitutional questions. I know very little about constitutional law myself, and I can realize how confused you ladies and gentlemen must be on arguments of this sort. Now that the gentleman from Boothbay Harbor (Mr. Perkins) has raised the question, I would like to tell you a little bit about this constitutional amendment. Back in the sixties and seventies, as he said, everything was done by Private and Special Act, all sorts of corporations were formed and given all sorts of cock-eyed powers. The Governor at that time got perturbed about it, and he wrote a message to that Legislature, and they paid no attention to it. He was re-elected and wrote another message to the next Legisla-

ture, and they adopted this constitutional amendment here. Now, what he was saying was this, "You have been doing too much by way of creating corporations under Private and Special Law. Now, fix it so that mostly you have your corporations formed under the general statute." There never was any intention in that constitutional amendment to make it compulsory to have municipal corporations formed under Private and Special Act. As a matter of fact, the tendency in those days, if you look into the history of this thing, was to prohibit their being formed under Private and Special Act. The State of Pennsylvania had such a mess over a City Hall that they passed a constitutional amendment especially prohibiting Private and Special Acts so far as municipal corporations were concerned. But our constitutional amendment simply intended to take most of this stuff, so that it could not be done under Private and Special Acts, and it was intended to put most corporations under the general law. There always was power to form corporations under the general law, so that this is an exception and it is not exclusive in my opinion. I have asked several lawyers of my acquaintance and in whose judgment I have great confidence to read this constitutional amendment, and tell me what they thought, and they all say the same thing, "You can form a corporation under the general law if you want to, but if you do not want to and have some special reason why it should be formed under the Private and Special law, then you can do that." That is what this constitutional amendment means to them.

I contend further that this is not a municipal corporation; it is a public body corporate, but it has not the powers of a municipal corporation. If this act is unconstitutional, then about half of Chapter 5 of the Public Laws of this State under which most of your plantations are incorporated is also unconstitutional, and it has been on your books I do not know how many years and a great many of your plantations in the State of Maine are formed under this general law—Chapter 5, Sections 192 through 195.

I am not so much worried about the constitutionality or unconstitutionality of this bill, but I do think that it is a perfectly fair and rea-

sonable proposition for this Legislature to permit a legal committee composed of lawyers to work on that question.

The gentleman from Boothbay Harbor (Mr. Perkins) says that this is a bad bill, and that the House voted it down because it was a bad bill. Of course I disagree with him. The only reason that this bill is back in here bothering you and taking up your time is because so many of you members here were kind enough to come to me and say, "If you will get our towns out of this picture, so that we are not concerned with it, we do not care. We had just as soon you had the bill." If it had not been for that, I never would have bothered with it. I do not quarrel with decisions of the Legislature, once they are made, but when so many members said they would change their vote on the bill, I did want the bill for the places that needed it, and I did ask the gentleman from Livermore Falls (Mr. Grua) to move reconsideration and he told me yesterday that the amendments which I proposed met his objections, and I therefore hope that the motion of the gentleman from Livermore Falls (Mr. Grua) will prevail.

The SPEAKER: The Chair recognizes the gentleman from Presque Isle, Mr. Brewer.

Mr. BREWER: Mr. Speaker, the gentleman from Boothbay Harbor, Mr. Perkins, has told you that this is a bad bill. I am not a lawyer, and I would not be qualified to speak from that angle too much, but I do know that there are other localities that after this war are going to have considerable property they will have to dispose of. The community which I represent happens to come in that category.

As I understand this bill, it is merely an enabling act, whereby they can take over this property and dispose of it, which under no set-up I know of today they can legally do. Of course, if you are opposed to a bill, the first thing to do is to tear it to pieces and distort it. I believe there is an old saying, "The Devil can quote the scripture to suit his own purposes." I say that applies to this bill, and I do hope, where this is only an enabling act, that the motion of the gentleman from Livermore Falls (Mr. Grua) prevails.

The SPEAKER: The question before the House is on the motion of the gentleman from Livermore

Falls, Mr. Grua, that the House reconsider its action whereby it indefinitely postponed this bill on February 10th.

The Chair recognizes the gentleman from Brunswick, Miss Bangs.

Miss BANGS: Mr. Speaker, may I have the privilege of facing the assembly?

The SPEAKER: Off the record, it is rather hard for the Speaker to have you turn the other way (Laughter) — but you have the Speaker's permission.

Miss BANGS: Thank you, Mr. Speaker.

Mr. Speaker and Members of the House: I hope you will bear with me. I have a cold, but I do want to put in my two cents' worth at this time. I have always found that I disagree with Mr. Perkins on his theory that what is a bad thing last week is still a bad thing this week. I would say that I have always found that if I have a cavity this week, I can go and have it fixed next week, and it has been remedied. Now, I do not intend to discuss the constitutionality of this proposition. I would simply say that I do feel that in many places in the State of Maine this bill may be of value, and I do not think that it should necessarily be so that every community will have to come back into the Legislature and have a Special Act. Now, I do not know whether this bill is going to be anything that is going to be beneficial to Brunswick. Brunswick is a defense area, but I do say that should it be something that Brunswick needs, I hope we have that power to use it. It is only an enabling act. It does leave the towns and municipalities with local control, home rule. They can decide for themselves whether or not they need this proposition. If Portland is the only community in the State of Maine that needs it, then Portland is the only one that will have it. If Brunswick needs it, then we have that privilege and we can use it. If Bath needs it, or Houlton or Presque Isle, or any of these places which are in defense areas need it, I can see no harm in recommitting this bill to the Committee on Legal Affairs, allow that Committee of ten good lawyers to sit and discuss that bill, discuss the constitutionality, and, if it still is bad, they can come back and tell the members of this House that it is bad, and, if it is

good, and the cavity has been remedied, they will come back and tell us so.

I do sincerely hope that the members of this House will give this bill its proper consideration, and that the motion of the gentleman from Livermore Falls, Mr. Grua, will prevail. Thank you.

The SPEAKER: The question before the House is on the motion of the gentleman from Livermore Falls, Mr. Grua, that the House reconsider its action whereby it voted on February 10th to indefinitely postpone Bill "An Act to Aid the Prosecution of the War by Providing for the Creation of Local Agencies to Cooperate with the Federal Government in Making Housing Available for Persons Engaged in War Industries and Activities and by Granting Certain Powers to Public Bodies." (H. P. 23) (L. D. 9)

The Chair recognizes the gentleman from Portland, Mr. Leavitt.

Mr. LEAVITT: Mr. Speaker, I think the points have been well covered, and I am in favor of the motion of the gentleman from Livermore Falls, Mr. Grua. My name has been injected into the discussion, and I wanted to make it clear that I was for the bill that Mr. Payson has presented.

The SPEAKER: The question before the House is on the motion of the gentleman from Livermore Falls, Mr. Grua, that the House reconsider its action of February 10th, whereby it voted to indefinitely postpone this bill, L. D. 9.

The Chair recognizes the gentleman from Presque Isle, Mr. Brewer.

Mr. BREWER: Mr. Speaker, I ask for a division of the House.

The SPEAKER: The gentleman from Presque Isle, Mr. Brewer, asks for a division. All those in favor of the motion of the gentleman from Livermore Falls, Mr. Grua, that the House reconsider its action of February 10th, whereby it voted to indefinitely postpone L. D. 9, will rise and stand in their places until counted and the monitors have made and returned the count.

A division of the House was had. One hundred and six having voted in the affirmative and one in the negative, the motion prevailed; and on motion by Mr. Payson of Portland, the bill was recommitted to the Committee on Legal Affairs and sent up for concurrence.

On motion by Mr. Dow of Fal-mouth, the House voted to take from

the table the eleventh unassigned matter, Bill "An Act Relating to Credit for Excise Tax Paid" (H. P. 268) (L. D. 194), tabled by that gentleman on February 17th, pending second reading; and on further motion by the same gentleman the bill was given its second reading.

Mr. Dow then offered House Amendment "A" and moved its adoption.

House Amendment "A" read by the Clerk as follows:

House Amendment "A" to H. P. 268, L. D. 194, Bill, "An Act Relating to Credit for Excise Tax Paid".

Amend said Bill by adding at the end of the 1st sentence of the 2nd paragraph thereof the following underlined words: **'Provided, however, that only one such credit shall be allowed in any one calendar year.'**

Thereupon, House Amendment "A" was adopted and the Bill was assigned for third reading tomorrow morning.

On motion of Mr. Grua of Livermore Falls, the House voted to take from the table the twelfth unassigned matter, Bill "An Act Relating to Active Retired Justices of the Supreme Judicial and Superior Courts (H. P. 19) (L. D. 24), tabled by that gentleman on February 17th, pending adoption of Committee Amendment "A"; and on further motion by the same gentleman Committee Amendment "A" was indefinitely postponed.

Mr. Grua then offered House Amendment A and moved its adoption.

House Amendment "A" read by the Clerk as follows:

House Amendment "A" to H. P. 19, L. D. 24, Bill "An Act Relating to Active Retired Justices of the Supreme Judicial and Superior Courts."

Amend said bill by striking out in the paragraph beginning "Sec. 76" in the 10th line from the last the words 'or of the superior court'.

House Amendment "A" was adopted, and tomorrow assigned for third reading of the bill.

The SPEAKER: The House is proceeding under Orders of the Day.

On motion by Miss Deering of Bath, the House voted to take from the table the fourth unassigned matter, Bill "An Act Relating to the Bath Municipal Court" (H. P. 249) (L. D. 165) tabled by that gentleman on February 16th, pending first reading; and on further motion by the same member the bill was recommitted to the Committee on Judiciary and sent up for concurrence.

The SPEAKER: The House is proceeding under Orders of the Day.

If there is nothing further to come before the House, the Clerk will read the notices.

On motion by Mr. Goldsmith of Orono,

Adjourned until ten o'clock tomorrow morning.