

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

One Hundred and Fifth

Legislature

OF THE

STATE OF MAINE

1971

KENNEBEC JOURNAL
AUGUSTA, MAINE

SENATE

Wednesday, March 31, 1971

Senate called to order by the President.

Prayer by Monsignor Thomas M. Nelligan of Augusta.

Reading of the Journal of yesterday.

Out of order and under suspension of the rules, the Senate voted to take up the following:

Divided Report

The Majority of the Committee on Judiciary on, Bill, "An Act Repealing the Maine Income Tax Law." (I. B. 1) (L. D. 1536) considered the petitions and asks leave to report that 814 petitions were filed with the Secretary of State on February 18, 1971 at 11:00 a.m., containing 41,348 signatures; that 801 petitions are in the form required by Article IV, Part Third, Section 18 and Section 20 of the Constitution and that said petitions contain the valid signatures of 36,775 electors; that the Committee found 13 invalid petitions and also found 4,573 invalid signatures.

The Committee further reports that the petitions and signatures contained therein are valid and sufficient in number and that said bill is properly initiated for the Legislature under the provisions of Article IV, Part Third, Section 18 of the Constitution, and that said bill be referred to the Committee on Taxation.

Signed:

Senators:

TANOUS of Penobscot

QUINN of Penobscot

Representatives:

HENLEY of Norway

PAGE of Fryeburg

WHITE of Guilford

BAKER of Orrington

LUND of Augusta

CARRIER of Westbrook

HEWES

of Cape Elizabeth

WHEELER of Portland

The Minority of the same Committee on the same subject matter reported that they do not have sufficient knowledge and information upon which to form a belief as to the validity and sufficiency of the signatures on the petition.

Signed:

Senator:

HARDING of Aroostook

Representatives:

KELLEY of Caribou

ORESTIS of Lewiston

Which reports were Read.

The PRESIDENT: The Chair recognizes the Senator from Aroostook, Senator Harding.

Mr. HARDING of Aroostook: Mr. President and Members of the Senate: As one of the signators of the Minority Report, I think it is appropriate that I explain to the Senate the basis of that report.

First of all, I do want to say that every member of the committee, and I am sure every member of this legislature, wants the people of Maine to vote on any issue on which the required number of signatures have been gathered on initiative or a referendum. There should be no question on that particular point.

On these petitions, however, that were submitted, I do understand from the Secretary of State and from the Attorney General that a review of them had been made. They had been checked out to see what on the face of them might be invalid. And I would concur that the Secretary of State and the Attorney General had fulfilled their responsibilities in this regard. However, on any matter which we are going to ask the people of Maine to vote upon, I believe that they should know and be assured that the public has had a chance to investigate the matter, to look over the petitions to make sure that the law had been complied with.

Now, as far as the Judiciary Committee is concerned, I speak for myself, and I think this is true with all other members of the Committee, I had not had the opportunity to examine a single one of these petitions prior to the hearing. It was only after the hearing that we were permitted to examine these petitions.

It seemed to me that the public has a right to believe that the Judiciary Committee, as a committee of this legislature, did examine these petitions, and also that they made them available to the public to examine. So my

position on the Judiciary Committee was that we ought to have these petitions duplicated and have them available, these duplicated signatures on the petitions, available in some room in this state house so that every member of this legislature, if he desired to do so, could go and check over the signatures and the petitions from his area. If there were found by that fact, or by the press printing the names of the circulators and the signators, then the committee could consider those irregularities. But it troubles me very deeply that even this very small thing to protect the public, this very small measure, was not taken. I think this sets a very bad precedent for this legislature. So this is why we signed this Minority Report. I would tell this body here that we do strongly suspect that these petitions are valid, that they do have enough signatures, and that they were properly circulated. I do say we strongly suspect, but no member of the committee had sufficient information, however, to form that belief, in my opinion, to certify it to this legislature, and this is the basis of the Minority Report which we have signed.

The PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Berry.

Mr. BERRY of Cumberland: Mr. President and Members of the Senate: I note from the distribution of the signers of the two reports that this is a non-partisan matter, and I notice that Senator Harding went out of his way to say that he does not expect there is any problem with the signatures.

I would point out to the Senator and all those who do wish to inspect the petitions that these petitions will be on file in the Secretary of State's office, and they are available for inspection by those who wish.

Now, as to the position of the members of the committee and the members of the legislature on the actual validity of the petitions themselves, which means the signatures on the petitions, I would point out to you what is printed on each petition. It says that the verifying petitioner, amongst other things, must verify that the signatures of all petitioners are original

and authentic and make oath accordingly. Now, every one of these petitions has been sworn to by the circulator that these are the facts.

Then the town clerk takes the petition and this is what happens: each town or city clerk must personally sign a certificate appended to the petition specifying that each name on the petition appeared on the voting list of his town or city as qualified to vote for governor. Now this is done by two people, there is an oath involved, and certainly this is adequate reliance to place upon the validity of the petition, so it seems to me we can be assured that these petitions and the signatures are in order.

The PRESIDENT: The Chair recognizes the Senator from Penobscot, Senator Tanous.

Mr. TANOUS of Penobscot: Mr. President and Members of the Senate: I want to thank my friend, Senator Berry from Cumberland, for defending the Majority Report of the Judiciary Committee. I think that perhaps he misunderstood me when he asked me if I was going to stand up to say something about the matter, and perhaps that is why he did get up.

I do want to speak in behalf of what the Judiciary Committee did as well as pertaining to the remarks made by Senator Harding from Aroostook, also a member of the Judiciary Committee.

Now, when this particular initiated referendum was sent to the Judiciary Committee to determine the validity of the signatures and the number of petitions, and also to determine if there was a sufficient number of signatures as required by the constitution, to determine the validity of these signatures, and to report back to the Senate, I immediately held an executive committee meeting of the Judiciary Committee. We discussed this particular initiated referendum which was sent to our committee, and I received a unanimous vote from the Judiciary Committee to authorize the Secretary of State's Office to examine the various petitions, to examine the signatures on these petitions, and to report back to the Judiciary Committee the total number of petitions that had been filed and

the total number of valid petitions. We also asked them to report back to us the total number of signatures filed, as well as the total apparent number of valid signatures. Now, this was a unanimous vote of the Judiciary Committee, and this letter was forwarded, signed by myself as Chairman, to Joseph Edgar, our Secretary of State, and we asked him to perform this task for us.

Now, his department is well trained and has done this time and time again, examining ballots and petitions, and we felt that he and his department would certainly have the necessary time that would be necessary to tabulate these various petitions, to examine them, and then to report back to the Judiciary Committee. This was done. And after the report was submitted by Mr. Edgar at the public hearing of the Judiciary Committee, it wasn't until then that all of a sudden there were objections made to the procedure which we had unanimously agreed to follow. They were no requests prior to this time to examine these petitions or the signatures. All of these requests came after we had had the public hearing, during or after the public hearing. I had had one request the evening before the public hearing for examination of these petitions.

Now it is my feeling that while these petitions are in the hands of the Judiciary Committee, under our custody and control in order that we may examine them, that only the members of the committee shall be authorized to examine the petitions. We are charged with preserving and protecting the rights of the people of the State of Maine.

An initiated referendum is the last right that the people of the State of Maine have to question the acts and doings of the legislature. This is the last avenue open to them. And I feel, as Chairman of the Judiciary Committee, as a member of the Senate and as a citizen of the State, that we should bend over backwards to protect this last right that the people of the State of Maine have; that we should not unduly or in any way attempt to abort the Constitution of the State of Maine. If we do,

especially in this particular instance, this particular initiated referendum, if we attempt in any way to abort the intentions of the constitution, to try to squash the rights of the people, to try to delay it by extensive examination of the petitions without sufficient reason, it is my feeling that the people of the State of Maine, when this referendum does reach them to vote upon the same, that they will let us know their answer as to how they feel the legislature should act.

Let us not anger the public by trying to take away from them their last visible right of questioning the acts and doings of this legislature. So I ask all of you to support the report of the Judiciary Committee and vote to accept the Majority Report. Thank you.

The PRESIDENT: The Chair recognizes the Senator from Aroostook, Senator Harding.

Mr. HARDING of Aroostook: Mr. President and Members of the Senate: I agree wholeheartedly that if these petitions are submitted and they are correct that they should be submitted to the people, so there is no quarrel which I would have with the Senator from Penobscot, Senator Tanous.

I would tell the members though of one particular problem which has not been investigated, which nobody has even attempted to find an answer to. For example, these petitions have to be, as the Senator from Cumberland, Senator Berry, has mentioned, whoever circulates them has to sign under oath that he knows that those were the signatures of the persons who signed the petitions. It is not enough for him, under the Supreme Court rulings, to say "Joe told me the signature is correct." He must know of his own personal knowledge that this is the signature.

As an example of the cursory examination that we made, in one city 1,561 signatures were certified to be the originals by one circulator. This committee didn't even ask that circulator if in fact she was familiar with these signatures. These signatures were gathered by using over 200, I think it was 232, different petitions that this circulator had used to gather these signatures. So it isn't a question

of thwarting the will. If the fact is that these signatures are here, and the circulator did not know that those were the original signatures, then we do not have a valid petition before us. And my only suggestion to this Senate is that we have certain responsibilities, not only to the ten per cent that signed the petitions, but to the other ninety per cent that did not sign the petitions. They have certain rights also.

My suggestion to you is that this Judiciary Committee, which committee I respect very much, did not exercise its responsibilities as I feel that it should in investigating this matter so that this legislature could really say to the people of Maine "These are valid. They are valid signatures, this is a proper initiative, and you will vote on it." This is all that I ask, that we assure ourselves on that point, and I feel that we have not done so. And I would move that the Senate accept the Minority Report of the Committee, and this would enable us in a very short time to duplicate these signatures to make them available so that the press and the public will have a chance to look at them. It seems to me this is little enough, and this will take probably a couple of days.

The PRESIDENT: The Senator from Aroostook, Senator Harding, moves that the Senate accept the Minority Report of the Committee on Judiciary on Initiated Bill, "An Act Repealing the 'Maine Income Tax Law.'"

The Chair recognizes the Senator from Kennebec, Senator Katz.

Mr. KATZ of Kennebec: Mr. President and Members of the Senate: My presumption is and will continue to be that these signatures are valid, and I will not participate in any charade that seeks to actually review the entire petition process.

I will not support any shenanigans such as putting out alternate questions before the voters, and I will not support any artificial posture that gives any voters the impression that the Maine Legislature is wiggling and trying to dodge the obvious desire of the people for an opportunity to vote on the income tax. Consequently,

I will vote against the motion to accept the Minority Report, and I request a roll call.

The PRESIDENT: A roll call has been requested.

The Chair recognizes the Senator from Aroostook, Senator Violette.

Mr. VIOLETTE of Aroostook: Mr. President and Members of the Senate: I would concur with the remarks made by the Senator from Aroostook, Senator Harding.

Without in any way trying to take a position that this matter should not go out to the people or make any attempt to thwart the will of the people to vote on this, I think that some opportunity should have been given to responsible parties, parties who are interested, to examine these petitions. We allow this as a matter of course on nomination papers which are filed for candidates. Responsible parties are given the opportunity to look at them. And the responsibility of the Secretary of State in checking out these names that are on nomination papers, and such as are on this initiated referendum certainly remain within a limited scope. I expressed to the Chairman of the Judiciary Committee prior to the hearing, I mean just very calmly, I hope, expressed to him my views that some opportunity should be given to responsible people, certainly to members of the legislature, to look at these petitions, to examine them, without in any way wishing to impede the will of the people. I am somewhat sorry that this opportunity was not accorded to us.

I would support the motion of the Senator from Aroostook, Senator Harding, hopefully and calmly, without in any way impeding the progress of this referendum through this legislature, that we ought to have the opportunity, we should have had the opportunity, to look at them prior to reporting out this report.

The PRESIDENT: The Chair would like to make clear the motion that is before the body. The motion is the motion of the Senator from Penobscot, Senator Tanous, that the Senate accept the Majority Ought to Pass Report of the Committee. The Chair was in error

when it stated the motion of the Senator from Aroostook, Senator Harding. That motion would have to be disposed of before the motion of the Senator from Aroostook would take precedence.

The Chair recognizes the Senator from Cumberland, Senator Conley.

Mr. CONLEY of Cumberland: Mr. President and Members of the Senate: I honestly feel that we are certainly involved in a very, very serious matter as to the initiation of a petition referendum to the public.

I think the good Senator from Aroostook, Senator Harding, clearly stated that the other ninety per cent of the population which had not signed the petitions certainly deserved to be protected.

Now, it wasn't too long ago, in fact, back in the last general election, when a candidate seeking to run for governor had also filed petitions before the Secretary of State's office that were accepted and allegedly proven valid. Yet, upon public inspection, after dossiers were circulated throughout many of our cities, we found out that many of these people had never signed these petitions.

I can't help but concur with the Senator from Aroostook, Senator Harding, that I believe we should protect the rights - we are talking about \$61 million worth of services for the people of the State of Maine, and I think we should be very, very careful and scrutinize these petitions to make sure that they are truly valid before we give just a blanket O.K. on the reception of these things and sending the thing back out to referendum.

The PRESIDENT: The Chair recognizes the Senator from Penobscot, Senator Tanous.

Mr. TANOUS of Penobscot: Mr. President and Members of the Senate: I rise again to answer the last three speakers.

First of all, as to the position of the Senator from Cumberland, Senator Conley, those of you who were here at the last session will remember that he had a particular bill before the Legal Affairs Committee sending a particular question to the people of Portland at that time. I think the majority of the Senators were against sending

this question to the people of Portland because they felt that the question was not necessary to be sent to the people of Portland, and Senator Conley at that time strongly spoke in favor of sending the question to the people. Let the people decide. Well, I think the moral is the same in this particular instance. The people have used one of the constitutional provisions provided for them, and that is the right of petition to question the acts and doings of the legislature.

Now it matters not what the contents of our acts and doings were, the principle involved here is the fact that they have the right. Now, are we afraid, are we saying in fact that the ten per cent that did petition the legislature, that by their mere petitioning - and let's say that if they were not sufficient - are we now saying that we are taking away the rights of ninety per cent of the people, as Senator Harding and Senator Violette from Aroostook have proposed? I say that we are not. I say that we are granting one hundred per cent of our citizens the right to vote on what appears to be a valid question presented to us.

Furthermore, Senator Harding of Aroostook and Senator Violette of Aroostook are both attorneys, and I remind them that in the rules of evidence when anything is presented on its face value, and it appears to be valid in every respect, that the same is valid evidence, and shall stand until somebody has rebutted the presumption of validity. And there is a presumption of validity. Once these petitions have been submitted in proper form, and have met the requirements of law, then they are valid on the face of them. And until we receive evidence contrary to this, then these remain valid petitions. Now, do they suggest as attorneys that we seek out and ferret out some irregularities where there are none apparent?

We had a public hearing and we asked the people of the State of Maine to attend this public hearing and tell the Judiciary Committee and the legislature whether there are irregularities or were irregularities in getting the signatures on these petitions. I submit

to you that two people appeared at this particular hearing to tell us of rumors of possible irregularities from rumors that they had heard. We checked out both of these rumors and both of them proved to be invalid. Now these were the only two areas where we had heard about irregularities and they were both checked out. I have heard of no other irregularities.

To fulfill the will of Senator Harding of Aroostook to really investigate each and every signature on the 40,000 odd signatures presented to us, if we are to ask every single individual to appear before our committee, then we as a committee would be wilfully depriving the people of the State of Maine of their right granted to them under the constitution. And I say that we would be aborting the intent of the constitution, we would be depriving the people of this state of their right granted to them by our forefathers if we were to fulfill his will. And how long would it take us to examine 40,000 people, to subpoena them before us? Six months perhaps, and we would by delay, by devious means, thwart the intent of the constitution; we would deprive the people of their rights. And I humbly pray to each and every one of you that we never resort to this on this particular issue or any other, because we are here to serve the people and not to use devious means not to serve them. Thank you.

The PRESIDENT: The Chair recognizes the Senator from Franklin, Senator Shute.

Mr. SHUTE of Franklin: Mr. President and Members of the Senate: I rise at this time to take issue with some of the remarks that have been made by the Senator from Cumberland, Senator Conley, regarding the petitions and the third - party effort by the candidate who opposed Governor Curtis last year. These were not ruled invalid.

You will recall that there is a provision in Title 21 which permits a person to challenge the nomination petitions of a person running in a primary election or, in this instance, a third - party candidate. These petitions were presented

within the time limit to the Secretary of State. They were examined and were deemed valid by the men of the Attorney General's Department. They were examined by the Chairman of the Democratic Committee and those associated with him, the petitions were duplicated by the committee and examined by members of the committee, and a handwriting expert was employed to check out some of the signatures, all of which was done in the confines of the Deputy Secretary of State's office.

After checking these petitions, through effective communication between the Chairman of the Democratic Party and the third - party challenger, the third - party challenger withdrew from the race. As a result of his withdrawal there was no third - party candidacy, and the ballots were printed with the two candidates, the two major candidates, on the ballot.

So I would like to correct any misimpression, any wrong impression, which Senator Conley may have left with you.

I suggest, Mr. President and Members of the Senate, that this may be purely a dress rehearsal for another initiative which is coming before us shortly.

The PRESIDENT: Is the Senate ready for the question? The pending question before the Senate is the motion of the Senator from Penobscot, Senator Tanous, that the Senate accept the Majority Report of the Committee on Judiciary on Bill, "An Act Repealing the 'Maine Income Tax Law,'" Initiated Bill No. 1. A roll call has been requested.

In order for the Chair to order a roll call, it requires the affirmative vote of one - fifth of those Senators present and voting. Will all those Senators in favor of ordering a roll call please rise and remain standing until counted? Obviously more than one - fifth having arisen, a roll call is ordered.

The Chair will state the question once more. The pending question before the Senate is the motion of the Senator from Penobscot, Senator Tanous, that the Senate accept the Majority Report of the Committee on Judiciary on Bill,

"An Act Repealing the Maine Income Tax Law." A "Yes" vote will be in favor of accepting the Majority Report; a "No" vote will be opposed.

The secretary will call the roll.

ROLL CALL

YEAS: Senators Anderson, Bernard, Berry, Chick, Danton, Dunn, Fortier, Greeley, Hichens, Hoffses, Johnson, Katz, Levine, Martin, Moore, Peabody, Quinn, Schulten, Sewall, Shute, Tanous, Wyman and President MacLeod.

NAYS: Senators Carswell, Clifford, Conley, Graham, Harding, Kellam, Marcotte, Minkowsky and Violette.

A roll call was had. Twenty-three Senators having voted in the affirmative, and nine Senators having voted in the negative, the Majority Report of the Committee was Accepted.

Thereupon, on motion by Mr. Berry of Cumberland, the petitions were ordered placed on file with the Secretary of State and the Bill Referred to the Committee on Taxation with 3,000 copies Ordered Printed.

Under suspension of the rules, sent down forthwith for concurrence.

Out of order and under the suspension of the rules, the Senate voted to take up the following:

Papers From the House House Papers

Resolve, for Laying of the County Taxes for the Years Nineteen Hundred and Seventy - one and Nineteen Hundred and Seventy - two. (H. P. 1233) (L. D. 1520)

Comes from the House, referred to the Committee on County Government and Ordered Printed.

Which was referred to the Committee on County Government and Ordered Printed in concurrence.

Non-concurrent Matter

Bill, "An Act Relating to Ice Fishing in the Allagash Waterway." (S. P. 176) (L. D. 528)

In the Senate March 25, 1971, the Majority Ought to Pass report Read and Accepted and subsequently the Bill was Passed to be Engrossed.

Comes from the House, the Minority Ought Not to Pass report

Read and Accepted, in non - concurrence.

On motion by Mr. Hoffses of Knox, the Senate voted to Recede and Concur.

Non-concurrent Matter

Bill, "An Act Concerning Minimum Salaries for Teachers." (S. P. 516) (L. D. 1401)

In the Senate March 24, 1971, The Minority Ought to Pass in New Draft report (S. P. 517) (L. D. 1402) Read and Accepted and subsequently the Bill, in New Draft, was Passed to be Engrossed.

Comes from the House, the Majority Ought to Pass in New Draft report (S. P. 516) (L. D. 1401) Read and Accepted and subsequently the Bill, in new Draft, was Passed to be Engrossed, in non - concurrence.

The PRESIDENT: The Chair recognizes the Senator from Kennebec, Senator Katz.

Mr. KATZ of Kennebec: Mr. President and Members of the Senate: I would like very briefly to clarify the position the Senate took.

The Senate the other day effectively took all mention of a step program and teachers' salaries out of existing law. The two paragraphs that remained in the report that the Senate accepted are part of existing law, and it is that part I want to explain to you so you will understand. The very brief bill that the Senate accepted was existing law just reproduced on the Minority Report.

Mr. President, I move that the Senate insist.

The PRESIDENT: The Senator from Kennebec, Senator Katz, moves that the Senate insist. Is this the pleasure of the Senate?

The motion prevailed.

House Papers

Bills and Resolution today received from the House requiring Reference to Committees were acted upon in concurrence, except for the following:

Bill, "An Act to Authorize a Food Stamp Program in Somerset County." (H. P. 1087) (L. D. 1476)

Comes from the House referred to the Committee on County Government and Ordered Printed.

On motion by Mr. Minkowsky of Androscoggin, referred to the Com-

mittee on Health and Institutional Services in non - concurrence.

Sent down or concurrence.

Bill, "An Act Relating to Address of Grantees on Deeds and Affixation of Real Estate Transfer Tax Stamps." (H. P. 1088) (L. D. 1477)

Comes from the House referred to the Committee on County Government and Ordered Printed.

On motion by Mr. Harding of Aroostook, referred to the Committee on Judiciary in non - concurrence.

Sent down for concurrence.

Bill, "An Act Relating to Mass Gatherings." (H. P. 1090) (L. D. 1479)

Comes from the House referred to the Committee on Health and Institutional Services and Ordered Printed.

On motion by Mr. Harding of Aroostook tabled and Tomorrow Assigned, pending Reference to Committee.

The PRESIDENT: The Chair is very pleased to note the presence in the Senate Chamber this morning of a very distinguished lady of Maine, Mrs. Doris Isaacson, who is President of the Maine League of Historical Societies and also Editor of "Maine a Guide Down East," which the legislature authorized publication of in 1969.

She has also been very active as a member of the Sesquicentennial Commission.

I would like to ask the Senator from Cumberland, Senator Berry, if he would escort Mrs. Isaacson to the rostrum for any remarks she might care to make.

Thereupon, Senator Berry of Cumberland escorted Mrs. Isaacson to the rostrum where she addressed the Senate as follows:

Mrs. ISAACSON: Mr. President and Members of the Senate: I appreciate the honor and privilege of coming before you this morning, especially since I was once a member of the press corps here. That time is so long gone that it is practically beyond the memory of man, so I will hasten right on to the business at hand.

Many of you were members of the 104th Legislature that with the State Sesquicentennial Commission

made possible the publication of a unique work that hopefully will be valuable and useful over many years for our citizens and visitors, institutions and students.

I use the word "unique" not only because it is the only compendium of its kind on the State of Maine, but also, and more importantly, because it is the cooperative effort of more than eighty citizens from our sixteen counties.

I am referring to the 708 - page volume "Maine a Guide Down East", which I am happy to tell you is in circulation as of today in an edition of 10,000 copies. At \$6.50 a copy it is priced only to cover costs in order to make it available to as many of our citizens as possible, the money from the sale being returned to the state's general fund.

The book, with more than 250 illustrations, is designed as a comprehensive introduction to Maine and its people, a valid portrayal of our state today against the background of our historic heritage. It has been compiled by the Maine League of Historical Societies and Museums as a contribution to Maine's Sesquicentennial. The book is a revision, an updating and amplification of the 1937 Federal Writers Project volume of the same title which, though long outdated, has been used as a reference work for many years.

It so happens that the state director of the original project survived that ordeal to edit the new work. It has been two years in preparation, the material contributed by professionals in the many fields relating to our state's diverse background: historians, individuals from our state departments, our institutions of higher learning, and many others. In the results of their work I trust you will feel that your commitment has been honored.

This truly cooperative work on the part of Maine citizens, and you as their elected representatives, surely is an expression of regard for our State of Maine, a regard expressed as follows back in 1839 by Mark Langdon Hill, one of our earliest congressmen: "The State of Maine, as she is and ought to be, ample in territory, rich in

resources, abundant in agricultural, commercial and manufacturing facilities with an increasing hearty, industrious and intelligent population; may her destiny be worthy of the Maine State in the far east."

I thank you for this opportunity to publicly acknowledge the generosity of all who have participated in the production of this volume. And, Mr. President, it is my pleasure to present you with a first copy of "Maine a Guide Down East."

Thereupon, Senator Berry escorted Mrs. Isaacson from the rostrum to a seat in the rear of the Chamber amid the applause of the Senate, the members rising.

Communications

Capitol Planning Commission
State Office Building
Augusta, Maine 04330

March 29, 1971

Governor Kenneth M. Curtis
and Members of
The 105th Legislature

The Capitol Planning Commission has been continually studying various aspects of the Capitol Complex Area Master Plan. One of the more critical areas involves the lack of adequate parking facilities within the Complex Area to serve the general public, the Legislature, and the State employees.

In an effort to present meaningful recommendations to the Executive and Legislative branches of government regarding the parking situation, the Commission retained the services of Frank Grad & Sons, Architects, to prepare a study of parking facilities within the Capitol Complex Area here in Augusta. Frank Grad & Sons were the consultants engaged by the Commission for the preparation of the original Master Plan for the area, which was presented to and accepted by the 104th Legislature.

This Study is now completed and is being presented to you for your consideration at this time. The Capitol Planning Commission earnestly requests your support in

implementing the recommendations of this Study.

Sincerely yours,
RODNEY W. ROSS
Chairman
(S. P. 526)

Which was Read and with accompanying papers Ordered Placed on File.

Sent down for concurrence.

Senate Papers State Government

Mr. Moore of Cumberland presented, Bill, "An Act Relating to Probation of Juveniles in Cumberland County." (S. P. 525) (L. D. 1565)

(Approved by a Majority of the Committee on Reference of Bills pursuant to Joint Rule No. 10).

On motion by Mr. Johnson of Somerset, Referred to the Committee on Judiciary and Ordered Printed.

Sent down for concurrence.

Committee Reports House

The following Ought Not to Pass reports shall be placed in the legislative files without further action pursuant to Rule 17-A of the Joint Rules:

Bill, "An Act Relating to Hours of Business of Liquor Licensees on Election Days." (H. P. 358) (L. D. 466)

Bill, "An Act Relating to Business Days and Hours for Sale of Liquors." (H. P. 817) (L. D. 1090)

Leave to Withdraw

The Committee on Taxation on, Bill, "An Act Repealing the Poll Tax." (H. P. 123) (L. D. 167)

Reported that the same be granted Leave to Withdraw.

The Committee on State Government on, Bill, "An Act Exempting Certain Ferries from Pilot Fees for the Port of Portland." (H. P. 133) (L. D. 188)

Reported that the same be granted Leave to Withdraw.

The Committee on Taxation on, Bill, "An Act to Abolish the Poll Tax." (H. P. 161) (L. D. 215)

Reported that the same be granted Leave to Withdraw.

The Committee on Liquor Control on, Bill, "An Act Relating to Entertainment for Class A

Restaurants under Liquor Law." (H. P. 784) (L. D. 1060)

Reported that the same be granted Leave to Withdraw.

Come from the House, the reports Read and Accepted.

Which reports were Read and Accepted in concurrence.

Ought to Pass

The Committee on Appropriations and Financial Affairs on, Resolve, Reimbursing Mars Hill Utility District for Bonds Issued for Sewer Construction. (H. P. 89) (L. D. 133)

Reported that the same Ought to Pass.

The Committee on Taxation on, Bill, "An Act Increasing Tax on Commercial Fertilizers." (H. P. 279) (L. D. 368)

Reported that the same Ought to Pass.

The Committee on Health and Institutional Services on, Bill, "An Act Relating to Definition of Dental Hygienist and Dental Auxiliaries." (H. P. 563) (L. D. 739)

Reported that the same Ought to Pass.

The Committee on Public Utilities on, Bill, "An Act to Enable the Town of Cape Elizabeth to Establish Sewer Service Charges." (H. P. 632) (L. D. 862)

Reported that the same Ought to Pass.

The Committee on Business Legislation on, Bill, "An Act Relating to Cancellation, Nonrenewal and Certain Changes of Automobile Insurance Because of Age." (H. P. 664) (L. D. 893)

Reported that the same Ought to Pass.

The Committee on Education on, Bill, "An Act to Revise the Laws Relating to Authority for Granting Degrees and to Approval of Degree-granting Institutions." (H. P. 706) (L. D. 949)

Reported that the same Ought to Pass.

The Committee on Business Legislation on, Bill, "An Act Authorizing Savings Banks to Issue Mortgage-backed Securities Guaranteed by the United States." (H. P. 733) (L. D. 995)

Reported that the same Ought to Pass.

The Committee on Public Utilities on,

Bill, "An Act Relating to Compensation of Trustees of the Rumford Water District." (H. P. 750) (L. D. 1019)

Reported that the same Ought to Pass.

The Committee on Health and Institutional Services on,

Bill, "An Act to Authorize a Food Stamp Program in Kennebec County." (H. P. 767) (L. D. 1033)

Reported that the same Ought to Pass.

Come from the House, the reports Read and Accepted and the Bills and Resolve Passed to be Engrossed.

Which reports were Read and Accepted in concurrence, the Bills and Resolve Read Once and Tomorrow Assigned for Second Reading.

Ought to Pass — As Amended

The Committee on Agriculture on,

Bill, "An Act to Clarify the Laws Relating to Milk and Milk Products." (H. P. 377) (L. D. 492)

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-80).

Comes from the House, the report Read and Accepted and the Bill Passed to be Engrossed as Amended by Committee Amendment "A".

Which report was Read and Accepted in concurrence and the Bill Read Once. Committee Amendment "A" was Read and Adopted in concurrence and the Bill, as Amended, Tomorrow Assigned for Second Reading.

Ought to Pass in New Draft

The Committee on Education on, Bill, "An Act Relating to Eligibility for Public and Compulsory Education." (H. P. 259) (L. D. 341)

Reported that the same Ought to Pass in New Draft Under New Title: "An Act Relating to Age for Compulsory Education." (H. P. 1219) (L. D. 1410).

Comes from the House, the report Read and Accepted and the Bill in New Draft Passed to be Engrossed.

Which report was Read and Accepted in concurrence, the Bill in

New Draft Read Once and Tomorrow Assigned for Second Reading.

Divided Report

The Majority of the Committee on State Government on

Bill, "An Act Relating to Accrued Sick Leave of State Employees." (H. P. 362) (L. D. 469)

Reported that the same Ought Not to Pass.

Signed:

Senators:

JOHNSON of Somerset

WYMAN of Washington

CLIFFORD

of Androscoggin

Representatives:

DONAGHY of Lubec

MARSTALLER

of Freeport

STILLINGS of Berwick

CURTIS of Orono

HODGDON of Kittery

The Minority of the same Committee on the same subject matter reported that the same Ought to Pass.

Signed:

Representatives:

GOODWIN of Bath

COONEY of Webster

FARRINGTON

of Old Orchard Beach

STARBIRD

of Kingman Township

Comes from the House, the Majority Ought Not to Pass report Read and Accepted.

Which reports were Read, and the Majority Ought not to Pass Report of the Committee Accepted in concurrence.

Divided Report

The Majority of the Committee on Taxation on,

Bill, "An Act Providing Income Tax Deduction for Child Care Services Necessary to Allow a Parent to be Gainfully Employed." (H. P. 614) (L. D. 825)

Reported that the same Ought Not to Pass.

Signed:

Senators:

WYMAN of Washington

HICHENS of York

Representatives:

FINEMORE

of Bridgewater

TRASK of Milo

CYR of Madawaska

COTTRELL of Portland

MORRELL of Brunswick

COLLINS of Caribou

ROSS of Bath

DAM of Skowhegan

The Minority of the same Committee on the same subject matter reported that the same Ought to Pass.

Signed:

Representatives:

DRIGOTAS of Auburn

McCLOSKEY of Bangor

Comes from the House, the Majority Ought Not to Pass report Read and Accepted.

Which reports were Read and the Majority Ought Not to Pass Report of the Committee Accepted in concurrence.

Divided Report

The Majority of the Committee on Judiciary on, Bill, "An Act Providing for Immunity to Licensed Ambulance Service Personnel in Emergency Cases." (H. P. 130) (L. D. 185)

Reported that the same Ought Not to Pass.

Signed:

Senators:

TANOUS of Penobscot

HARDING of Aroostook

QUINN of Penobscot

Representatives:

HENLEY of Norway

ORESTIS of Lewiston

WHEELER of Portland

KELLEY of Caribou

BAKER of Orrington

CARRIER of Westbrook

The Minority of the same Committee on the same subject matter reported that the same Ought to Pass.

Signed:

Representatives:

LUND of Augusta

HEWES

of Cape Elizabeth

PAGE of Fryeburg

WHITE of Guilford

Comes from the House, the Minority Ought to Pass report Read and Accepted and the Bill Passed to be Engrossed.

Which reports were Read.

Mr. Quinn of Penobscot then moved that the Senate accept the Majority Ought Not to Pass Report of the Committee.

Thereupon, on motion by Mr. Moore of Cumberland, tabled and specially assigned for April 6, 1971, pending the motion by Mr. Quinn of Penobscot to accept the Majority Ought Not to Pass Report of the Committee.

Divided Report

The Majority of the Committee on Health and Institutional Services on, Bill, "An Act Relating to Out-of-state Ambulance Services and Eliminating Fees for Ambulance Personnel." (H. P. 592) (L. D. 787)

Reported that the same Ought to Pass.

Signed:

Senators:

HICHENS of York

MINKOWSKY

of Androscoggin

GREELEY of Waldo

Representatives:

LESSARD of Lisbon

PAYSON of Falmouth

LEWIS of Bristol

DYAR of Strong

McCORMICK of Union

CLEMENTE of Portland

CUMMINGS of Newport

BERRY of Madison

DOYLE of Bangor

The Minority of the same Committee on the same subject matter reported that the same Ought Not to Pass.

Signed:

Representative:

SANTORO of Portland

Comes from the House, the Majority Ought to Pass report Read and Accepted and the Bill Passed to be Engrossed.

Which reports were Read and the Majority Ought to Pass Report of the Committee Accepted in concurrence.

Thereupon, the Bill was Read Once and Tomorrow Assigned for Second Reading.

Divided Report

The Majority of the Committee on State Government on, Bill, "An Act Providing Longevity Provisions for State Employees." (H. P. 660) (L. D. 890)

Reported that the same Ought Not to Pass.

Signed:

Senators:

WYMAN of Washington

CLIFFORD

of Androscoggin

Representatives:

HODGDON of Kittery

COONEY of Webster

CURTIS of Orono

STILLINGS of Berwick

DONAGHY of Lubec

MARSTALLER

of Freeport

FARRINGTON

of Old Orchard Beach

The Minority of the same Committee on the same subject matter reported that the same Ought to Pass.

Signed:

Senator:

JOHNSON of Somerset

Representatives:

GOODWIN of Bath

STARBIRD

of Kingman Township

Comes from the House, the Majority Ought Not to Pass report Read and Accepted.

Which reports were Read and the Majority Ought Not to Pass Report of the Committee Accepted in concurrence.

Divided Report

The Majority of the Committee on Education on, Bill, "An Act Providing for Mandatory Retirement for Teachers." (S. P. 305) (L. D. 899)

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (S-49).

Signed:

Senators:

KATZ of Kennebec

MINKOWSKY

of Androscoggin

CHICK of Kennebec

Representatives:

HASKELL of Houlton

WOODBURY of Gray

SIMPSON of Standish

LAWRY of Fairfield

LYNCH

of Livermore Falls

BITHER of Houlton

MURRAY of Bangor

The Minority of the same Committee on the same subject matter reported that the same Ought Not to Pass.

Signed:

Representatives:

MILLETT of Dixmont

LUCAS of Portland

TYNDALE

of Kennebunkport

Which reports were Read, the Majority Ought to Pass as Amended Report of the Committee Accepted, and the Bill Read Once.

Committee Amendment "A" was Read and Adopted and the Bill, as Amended, Tomorrow Assigned for Second Reading.

Out of order and under suspension of the rules, the Senate voted to take up the following:

Committee Reports

House

Ought to Pass

The Committee on County Government on,

Resolve, for Laying of the County Taxes for the Years Nineteen Hundred and Seventy-one and Nineteen Hundred and Seventy-two, (H. P. 1233) (L. D. 1520)

Reports that the same Ought to Pass.

Comes from the House, the report Read and Accepted and the Bill Passed to be Engrossed.

Which report was Read and Accepted in concurrence and the Resolve Read Once.

Under suspension of the rules, the Resolve was then given its Second Reading and Passed to be Engrossed in concurrence.

Thereupon, under further suspension of the rules, sent forthwith to the Engrossing Department.

Second Readers

The Committee on Bills in the Second Reading reported the following:

House

Bill, "An Act Making Additional Appropriations for the Expenditures of State Government and for Other Purposes for the Fiscal Year Ending June 30, 1971." (H. P. 1217) (L. D. 1408)

Bill, "An Act Relating to Retirement of Police Officers and Fire Fighters." (H. P. 1226) (L. D. 1432)

Bill, "An Act Permitting Port Authority to Operate Certain Charter Service in Addition to Maine

State Ferry Service." (H. P. 1227) (L. D. 1433)

Which were Read a Second Time and Passed to be Engrossed in concurrence.

Bill, "An Act Relating to Use of Lights While Locating or Taking Raccoon Found by a Dog." (H. P. 527) (L. D. 689)

Which was Read a Second Time and Passed to be Engrossed in non-concurrence.

Sent down for concurrence.

Bill, "An Act Relating to Switch Targets under Railroad Law." (H. P. 1213) (L. D. 1310)

On motion by Mr. Levine of Kennebec, the Senate voted to reconsider its action of yesterday whereby the Bill was given its First Reading.

The same Senator then moved that the Senate Reconsider its action of yesterday whereby it accepted the Minority Ought to Pass in New Draft Report of the Committee.

The PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Berry.

Mr. BERRY of Cumberland: Mr. President, I would oppose the reconsideration motion. I think the item was fully debated, and I hope everybody would oppose this motion.

The PRESIDENT: The Chair recognizes the Senator from Penobscot, Senator Tanous.

On motion by Mr. Tanous of Penobscot, a division was had. Sixteen Senators having voted in the affirmative, and fourteen Senators having voted in the negative, the motion prevailed.

Thereupon, the Majority Ought to Pass as Amended Report of the Committee was Accepted in concurrence and the Bill Read Once. Committee Amendment "A" was Read and Adopted in concurrence and the Bill, as Amended, Tomorrow Assigned for Second Reading.

House — As Amended

Bill, "An Act to Repeal the Requirement That the Boundary Lines of Voting Districts in Municipal Elections Follow Streets." (H. P. 765) (L. D. 1031)

Which was Read a Second Time and Passed to be Engrossed, as Amended, in concurrence.

Bill, "An Act Authorizing Use of Name Maine School of Underwater Diving." (S. P. 320) (L. D. 934)

Which was Read a Second Time and Passed to be Engrossed.

Sent down for concurrence.

Bill, "An Act Relating to Temporary Loans by the State." (S. P. 489) (L. D. 1381)

Which was Read a Second Time. Mr. Berry of Cumberland then presented Senate Amendment "A" and moved its Adoption.

Senate Amendment "A", Filing No. S-56, was Read and Adopted and the Bill, as Amended, Passed to be Engrossed.

Sent down for concurrence.

Senate — As Amended

Bill, "An Act Relating to School Construction Aid." (S. P. 152) (L. D. 421)

Which was Read a Second Time.

On motion by Mr. Dunn of Oxford, tabled and specially assigned for April 7, 1971, pending Passage to be Engrossed.

Enactors

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

An Act Exempting Kents Hill School from the Maine State Retirement System. (S. P. 244) (L. D. 705)

An Act to Limit the Taking of Smelts in the Eastern River in the Town of Dresden to Hook and Line. (H. P. 413) (L. D. 540)

An Act Upgrading the Classification of Certain Waters of the State. (H. P. 500) (L. D. 646)

An Act Relating to Transfer of Liquor License When There Is a Change in Minority Ownership. (H. P. 747) (L. D. 1008)

An Act Relating to Trustees and Executive Committee of Lincoln Academy. (H. P. 803) (L. D. 1076)

An Act Increasing Indebtedness of Boothbay Harbor Sewer District. (H. P. 1214) (L. D. 1332)

(On motion by Mr. Schulten of Sagadahoc, tabled and specially assigned for April 7, 1971, pending Enactment.)

Which, except for the tabled matter, were Passed to be Enacted and, having been signed by the President, were by the Secretary presented to the Governor for his approval.

Emergency

An Act Relating to Interest Limitations in Community School Districts. (H. P. 701) (L. D. 944)

This being an emergency measure and having received the affirmative votes of 32 members of the Senate, was Passed to be Enacted and, having been signed by the President, was by the Secretary presented to the Governor for his approval.

(Off Record Remarks)

The PRESIDENT: The Chair recognizes the Senator from Piscataquis, Senator Martin.

Mr. MARTIN of Piscataquis: Mr. President, is the Senate in possession of Bill, "An Act to Eliminate Moose River from the Maine Forestry District"? (H. P. 141) (L. D. 196)

The PRESIDENT: The Chair would answer in the affirmative, the paper having been held at the request of the Senator.

Mr. MARTIN: Mr. President, I would like to make a few comments on this bill, and would hope that someone who voted on the affirmative side yesterday would make a motion for reconsideration. I have an amendment that I would like to prepare and introduce tomorrow on this L. D.

The PRESIDENT: The Chair recognizes the Senator from York, Senator Marcotte.

Mr. Marcotte of York then moved that the Senate Reconsider its action of yesterday whereby the Majority Ought Not to Pass Report of the Committee was Accepted.

Thereupon, on motion by Mr. Wyman of Washington, tabled until later in today's session, pending the motion by Mr. Marcotte of York to Reconsider.

Orders of the Day

The President laid before the Senate the first tabled and specially assigned matter:

HOUSE REPORT — from the Committee on State Government on Resolution, Proposing an Amendment to the Constitution Raising the Municipal Debt Limit from Seven and One-half to Fifteen Percent (H. P. 83) (L. D. 123) Ought to Pass in New Draft with New Title, Resolution, Proposing an Amendment to the Constitution Providing for Regulation of Municipal Borrowing by the Legislature. (H. P. 1041) (L. D. 1099)

Tabled — March 19, 1971 by Senator Quinn of Penobscot.

Pending — Acceptance of Report.

The President: The Chair recognizes the Senator from Penobscot, Senator Quinn.

Mr. QUINN of Penobscot: Mr. President and Members of the Senate: The Maine Constitution, Article IX, Section 15, provides as follows: "No city or town shall hereafter create any debt or liability, which singly or in the aggregate with previous debts or liabilities, shall exceed seven and one-half percent of the last regular valuation of said city or town; provided, however, that the adoption of this article shall not be construed as applying to any fund received in trust by said city or town, nor to any loan for the purpose of renewing existing loans or for war, or to temporary loans to be paid out of money raised by taxation, during the year in which they are made."

In the 105th Legislature a bill was introduced known as L.D. 123. This bill would propose an amendment to the constitution, which provision I just read, raising the municipal debt limit from seven and one-half to fifteen percent. That bill was referred to the Committee on State Government. They considered the bill, the Committee on State Government, and they came out with a redraft, and that redraft was L.D. 1099. That provided for the repeal, for the repeal, of this constitutional debt limit and provided that the matter be referred to the legislature and let the legislature decide on future appropriations in each of the communities.

I oppose this, and I oppose it because it is not for the best interest of our citizens, our taxpayers, our property owners, who are saddled with debt now way beyond what they can properly handle.

Now, this matter has been before the Maine Law Court, and the Maine Law Court stated the purpose of the constitutional debt limit provision is to prevent the abuse of municipal credit which might result in ruinous taxation, and to protect taxpayers and their property. An action cannot be maintained against a town on any of its indebtedness which falls within the constitutional prohibition, not withstanding the debt may have been incurred for a most worthy cause under urgent and pressing necessity. The validity of a municipal debt upon which an action is brought, so far as limitation of indebtedness is concerned, must be determined as of the time when the debt was incurred. Consequently, if we repeal this constitutional debt limit, we would be doing our constituents a disservice.

Therefore, I move that L. D. 1099 and all of its accompanying papers be indefinitely postponed.

The PRESIDENT: The Senator from Penobscot, Senator Quinn, moves that Legislative Document 1099, and accompanying papers be indefinitely postponed.

The Chair recognizes the Senator from Androscoggin, Senator Clifford.

Mr. CLIFFORD of Androscoggin: Mr. President and Members of the Senate: I would like to oppose Senator Quinn's motion and I would request a division.

First of all, I would like it to be known that this redraft on L. D. 1099 came out of committee unanimous Ought to Pass. This naturally should not be considered conclusive, but I think it should carry some weight.

The original bill, which was L. D. 123, was sponsored by a Representative from Cape Elizabeth. The original bill asks that the municipal debt limit, or the constitutional restriction on it, be

raised from seven and one-half per cent to fifteen per cent. The hearing was held before the State Government Committee some time ago. It was a rather lengthy hearing and there were several people testifying before us at that time.

The history of the thing is very simple. Many of the towns over the past twenty years and many of the municipalities, cities and towns, have approached their borrowing capacity, the constitutional debt limit of seven and one-half per cent. These cities and towns, finding themselves in this circumstance, devised a method whereby they circumvented the impact of this seven and one-half per cent debt limit. What they did was simply this: They created districts. They created water districts and the water districts borrowed money. The only authority that the water district needed was to come before this legislature and borrow enough money to meet their needs. After the water districts were created there came sewer districts and after the sewer districts, school districts. Now we have recreational districts, and you will have more in the future as long as this restriction is on municipal borrowing.

In most cases these districts were created for one reason and for one reason only. This was to circumvent the seven and one-half per cent constitutional borrowing limit that Senator Quinn spoke of earlier in Article IX, Section 15. These districts that have been created have been challenged. They have been challenged as long ago as 1901 and as late as 1958, and they have been challenged at least five times in the Maine Law Court. The Maine Supreme Court has consistently said that the limitation, the seven and one-half per cent limitation on municipal borrowing, does not apply to these quasi-municipal bodies. So when you say that there is a ceiling on municipal borrowing you are just fooling yourself. There is none, because the law has been circumvented by the device known as the water districts, sewer districts, school districts, and these other quasi-municipal bodies that have

been created specifically for this purpose.

The issue here is not whether you are going to liberalize and allow the cities to borrow more money; that has already been done by these quasi-municipal bodies. As far as I can see, the issue here is: are you going to look at the problem straight on and try to intelligently solve the problem, or are you going to sweep it under the rug and pretend that there is no problem? I say that the only effective means by which you are going to do anything with this problem is by allowing the legislature to regulate municipal debt. If you are going to leave it as it is, what you have got is a very inflexible rule that is going to remain in the constitution as a seven and one-half per cent limit on municipal borrowing. If you are going to look up to the problem, if you are going to look at the problem straight on and attempt to solve it, the legislature has got to be involved. And you have got to give the power to the legislature to regulate municipal debt. I say that this is the first step. This L.D. 1099 is the step toward allowing the legislature to regulate it.

I also would suggest that these quasi-municipal bodies are not a desirable thing in the municipalities and the towns. There are numerous things wrong with them. The municipality in most instances, or generally speaking, can borrow at a lower rate of interest than can, say, a water district. Frequently, with the lower rate, they can save anywhere from a quarter to one-half a per cent on the lower rate of interest.

At the present time there is nothing that would require, for example, a sewer district in registering the amount of indebtedness they would have with any body here in Augusta. A municipality is required by law to register the amount of their indebtedness with the state auditor here in Augusta. What you have is a hodgepodge of municipal indebtedness without even really realizing it, and your indebtedness is in the quasi-municipal bodies, as I mentioned earlier. Really there is no way to

regulate this except through the legislature now. Why not be realistic and face up to the problem, and give it to the legislature where they can have the needed flexibility to regulate it realistically? Thank you.

The PRESIDENT: The Chair recognizes the Senator from Kennebec, Senator Levine.

Mr. LEVINE of Kennebec: Mr. President and Members of the Senate: I wholeheartedly agree with the Senator from Penobscot Senator Quinn. There is no need to raise the debt limit. I feel that if we raise the debt limit, what is going to happen—we are human beings—and all of us know if we have a little money in our pocket we are going to spend it. The first thing you know you are going to give a chance to the municipalities to spend more. The people that are paying rent will have to pay higher rent. Then the municipalities will come to the legislature and ask for relief. We will have to pass taxes to give them some relief for the monies they spent that maybe they shouldn't have spent. We will be accused by the people who vote for us as being spenders for putting new taxes on them. So I think it is a poor measure.

Now, I would like to answer the good Senator from Androscoggin, Senator Clifford. As far as the borrowing capacities of cities and districts, I am on the Waterville Sewer District, and we borrow money cheaper than the City of Waterville. It is a funny case. I don't know why, but we borrowed money just a while ago for two and a quarter per cent from the Federal Trust Company of Waterville. The City of Waterville paid two and three-quarters, I think.

So the issue is: are we going to let municipalities spend money that maybe they shouldn't, spend money on things maybe at times they could get by without? If we do it, the burden is going to end up on the small taxpayer, the man that is paying rent, and the man that can't afford it. So I would like the Senate to go along with the good Senator from Penobscot, Senator Quinn.

The PRESIDENT: The Chair recognizes the Senator from Androscoggin, Senator Clifford.

Mr. CLIFFORD of Androscoggin: Mr. President, if I haven't requested a division, I do so now.

The PRESIDENT: A division has been requested.

The Chair recognizes the Senator from Somerset, Senator Johnson.

Mr. JOHNSON of Somerset: Mr. President and Members of the Senate: I think that Senator Clifford has really adequately explained this bill. We have heard it in committee, and we realize that many of these places, including the city where the good Senator Levine comes from, Waterville, they are all crying for an increase in their debt limits.

This bill proposes a more effective and realistic approach to the program of legislative control of municipal debt. I think that the bill, as it was presented, raises it to fifteen percent. But, as the good Senator from Penobscot, Senator Quinn, says, he dislikes seeing these cities and towns increase their debt, and so forth and so on, but what he really failed to mention, I think, Senator Clifford did, that Article IV of the Maine Constitution limits the municipal debt to seven per cent. As Senator Clifford also said, that their interpretation is held to a series of cases that such limitation on indebtedness does not apply to all of these special districts, so you have got some towns and cities, instead of having seven and one-half percent, they might have twenty-five, thirty-five or forty percent. And it would seem to me that this bill would be the first step in regulating this municipal debt that we are perturbed and worried about. If we don't take this step, as the good Senator says, it is going to be greater hodgepodge than we have today. I would think that possibly somewhere along the line, if this passes, and the legislature does take this over, then there could be some percentage of valuation of a city or town that would be used as a debt limit. I am not sure, but this is the first step to straighten out this — and I can say it is a mess. I hope that the motion of the good

Senator from Penobscot does not prevail.

The PRESIDENT: The Chair recognizes the Senator from Penobscot, Senator Quinn.

Mr. QUINN of Penobscot: Mr. President and Members of the Senate: Under the constitution debt limit the municipalities are limited at the present time to seven and one-half percent of their current valuation. Now in most municipalities that item is changing. They are having re-evaluations and all of that to give them more money to work with. It is true that they have been circumventing it to some degree by these districts but, nevertheless, if we leave that debt limit on there we are at least giving our property owners and taxpayers some protection, because if they are sued for an amount over the debt limit it is an illegal contract and can't be collected. They can't turn around and levy an execution on your property or my property and sell it to satisfy their execution. But if you take the debt limit off, you are leaving it wide open so that they can do it.

The PRESIDENT: The Chair recognizes the Senator from Kennebec, Senator Katz.

Mr. KATZ of Kennebec: Mr. President and Members of the Senate: I am sure that a statutory limitation would probably be just as controlling in case of an action. The thing that bothers me about the Maine Constitution now is that it's completely phony on two counts. It is phony because the seven and one-half percent pertains to local valuation.

I want you to know I have been sitting on the Committee on Education now for years watching the wheeling and dealing of local communities whose local valuation bears absolutely no resemblance to reality. They will come in and take the time of you and they will take the time of me creating fictitious coterminous school districts in order so that the local assessors will be able to retain all of their local little deals that they have accumulated over the years. So they will ask us to create this monstrous, fictitious school district, as opposed to school administrative districts, just to increase the bor-

rowing capacity to build the school that they could have built by readjusting the local valuation in many cases.

I think the present constitutional restriction is phony and dangerous in that it prevents us really from ever getting a clear picture of how much I, as one property owner in the City of Augusta, am indebted for the school district, if we had one, for the sewer district, for the water district, and for local borrowing. None of us know what the total obligations of each of us are, and it is because of the restrictive influence of the Maine Constitution that we have resorted to all of these false avenues and these phony deals. I really feel that we would be accomplishing that which the Senator from Penobscot, Senator Quinn, really wants if we take this restriction out of the Constitution and face it up as a single package by statute.

The PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Berry.

Mr. BERRY of Cumberland: Mr. President and Members of the Senate: I have listened to Senator Clifford and to Senator Katz, the Senator from Androscoggin and the Senator from Kennebec, and I think that they are unintentionally thinking that this legislation is going to do what they would like to see done, and I call your attention to the legislation. The legislation does nothing but say that the legislature shall provide for the regulation of municipal borrowing; that is all it does.

How is the legislature going to provide for the regulation of municipal borrowing? What magic formula, what means is the next session going to use to straighten out these so-called problems?

When we look at the original L. D. 123, we see what was intended to be done, and that was to raise the debt limit. Now if these two gentlemen suggest that the solution to the problem is that the next session of the legislature will raise the debt limit, I hold out to you, Mr. President and Members of the Senate, that this isn't going to improve the thing; it is going to compound it, because you are not

doing what these gentlemen say needs to be done.

Now, let me discuss that aspect of the matter with you. What is wrong? Senator Katz, the Senator from Kennebec, of course, sees this from an education standpoint. Senator Clifford from Androscoggin has said that the devices of districts are just that; they are devices to evade the financial facts of life. I respectfully think in this he possibly may not be completely correct. I do think that districts are formed perhaps from time to time in an attempt to overcome a limiting debt ceiling which is a problem.

On the other hand, we do know that many, many schools districts, for example, are formed because they are logical, geographical areas for school districts to operate within. This isn't done in any attempt to evade limitations on debt. I know, for instance, that sewer districts and water districts have been formed with an attempt to clean up a particular operating situation. A community that has let either of these systems go down hill through improper operation or generally poor management, then in desperation the people of the community have formed a water or a sewer district, above all with a group of trustees dedicated and capable of managing it.

Now, such a district is provided by law, and we should not interfere with it. I invite your attention to the fact that the proposed law in L. D. 1099 conceivably could open up a Pandora's box in the regulation of such districts.

Now, in addition to water and sewer districts we have certain municipalities that occur to mind that are in the electric operating business. They do this through the stock ownership of some companies and they operate quite properly as municipal corporations. They stand and rise on their own feet, their bonds are sold as bonds of the electric operation and they are backed by the revenue and the property behind it. This isn't done in any attempt to evade or to play with figures.

We have parking districts. I know several parking districts that were formed, not in an attempt

to overcome the limitations of law, but rather to solve a particular local problem. You have local people run their own parking district as a separate entity from the town. These are reasons primarily that we do have districts, and we do not want to interfere with them.

Let me throw out to you, if you are considering running again for the legislature, that if this were to be passed you would have before you all sorts of problems and no guidelines to solve them by. The legislature would be asked to do what? Are we going to regulate how much a sewer district can issue? Are we going to regulate what the municipal borrowing limit is? I say to you that I think this will be an extremely difficult thing to do. I think that the issue should be faced squarely, and that is on either the raising of the debt limit or maintaining it where it is.

Past generations have solved the problem by raising the debt limit. I think this is the neatest, legal way to do it. I don't believe we should do it by trying to do it this other way, and I don't mean to impugn the motives of anybody who is supporting this legislation. I do feel that we have here something perhaps far more basic and significant than on the surface it might appear. Until we come up with a better solution, I would urge you to support the position of Senator Quinn from Penobscot.

The PRESIDENT: The Chair recognizes the Senator from Androscoggin, Senator Clifford.

Mr. CLIFFORD of Androscoggin: Mr. President and Members of the Senate: Senator Berry suggests that there might be a gap created here, and perhaps he is right. Assuming that this went out to referendum, assuming that this body adopted this resolution, and it went out to referendum in the November of 1971 election, and the people in the State of Maine voted to eliminate this constitutional debt limit, then there would be a gap until the 196th Legislature met. You do have this situation. You have no effective limit now, as far as I can see, because of the districts, because of the quasi-municipal bodies that have been formed to circumvent

the constitutional limit, so really what have you got to lose?

You do have this safeguard, the bonding companies are not going to lend money to a municipality if that bonding company doesn't feel the town does not have the ability to pay the money back. These people are not stupid. They are hardheaded businessmen and they are not going to lend all kinds of money where there is no chance of any return. So, you do have that safeguard. I suggest this is the first step, a necessary step toward the effective regulation of municipal debt. Thank you.

The PRESIDENT: The Chair recognizes the Senator from Penobscot, Senator Quinn.

Mr. QUINN of Penobscot: Mr. President, I move when the vote is taken, it be taken by the yeas and nays.

The PRESIDENT: A roll call has been requested. Is the Senate ready for the question?

The Chair recognizes the Senator from Penobscot, Senator Tanous.

Mr. TANOUS of Penobscot: Mr. President and Members of the Senate: I don't want to belabor this point, but I have had some conversation with some municipal officers throughout the state, and apparently we do have a real problem on this limitation debt limit being at seven and one-half percent. I am wondering whether at this time we might not, instead of indefinitely postponing this bill and all its papers, that we might instead substitute the bill for the report and move the matter along with the first reading and perhaps put in an amendment, and rather than fifteen percent we might agree on an area around ten or eleven percent to solve the problem of some of our municipalities in the State of Maine who are presently experiencing problems in borrowing. I think this method that we have before us is a lengthy method by which to perhaps finally accomplish something but temporarily I feel that maybe we should give them the ability to borrow for their needs at this time. I am wondering if this might not be agreeable to some of the people on the other side of the picture? Thank you.

The PRESIDENT: The Chair recognizes the Senator from Kennebec, Senator Levine.

Mr. LEVINE of Kennebec: Mr. President and Members of the Senate: The good Senator from Somerset just mentioned a while ago that the people in Waterville are crying for more money. I live in Waterville, I pay taxes in Waterville, and I don't know of anyone in Waterville that would like to raise the debt limits. I don't think it would be half of one-percent of the people there—I don't think they want to put any more burdens on themselves. There is no problem in the state as far as the municipalities are concerned. The only thing that is urgent in the state, and has been for the last year or two, are the sewerage districts. The sewerage districts now, under the new concept, the state won't let any city or town to get a loan to build their own sewerage district and to get federal and state help that amounts to eighty-five percent. Then they have to form sewerage districts. To form a sewerage district they have to come before us in the legislature. I don't see any need whatsoever of raising the debt limit to spend more money and tax the people.

The PRESIDENT: Is the Senate ready for the question? The pending question before the Senate is the motion of the Senator from Penobscot, Senator Quinn, that the Ought to Pass in New Draft, with New Title, Resolution, Proposing an Amendment to the Constitution Providing for Regulation of Municipal Borrowing by the Legislature, (H. P. 1041) (L. D. 1099) be indefinitely postponed. A roll call has been requested. In order for the Chair to order a roll call it requires the affirmative vote of one-fifth of those Senators present and voting. Will all those Senators in favor of ordering a roll call please rise and remain standing until counted? Obviously more than one-fifth having arisen, a roll call is ordered.

The pending question is the motion of the Senator from Penobscot, Senator Quinn that the Ought to Pass in New Draft Report of the Committee on Resolution, Proposing an Amendment to the Constitution Providing for Regulation of

Municipal Borrowing by the Legislature (H. P. 1041) (L. D. 1099), be indefinitely postponed. A Yes vote will be in favor of Indefinite Postponement; a "No" vote will be opposed.

The Secretary will call the roll.

ROLL CALL

YEAS: Senators Anderson, Bernard, Berry, Dunn, Graham, Greeley, Hoffses, Kellam, Levine, Moore, Peabody, and Quinn.

NAYS: Senators Carswell, Chick, Clifford, Conley, Fortier, Harding, Hichens, Johnson, Katz, Marcotte, Martin, Minkowsky, Sewall, Shute, Tanous, Violette, Wyman, and President MacLeod.

ABSENT: Senators Danton and Schulten.

A roll call was had. Twelve Senators having voted in the affirmative, and sixteen Senators having voted in the negative, with two Senators absent, the motion did not prevail.

Thereupon the Ought to Pass in New Draft Report of the Committee was Accepted, the Resolution Read Once and Tomorrow Assigned for Second Reading.

The President laid before the Senate the second tabled and specially assigned matter:

Bill, "An Act Relating to Trespass on Certain State Institutions." (H. P. 1084) (L. D. 1150)

Tabled — March 24, 1971 by Senator Conley of Cumberland.

Pending — Passage to be Engrossed.

Mr. KELLAM of Cumberland then presented Senate Amendment "B" and moved its Adoption.

Senate Amendment "B", Filing No. S-54, was Read.

The PRESIDENT: The Chair recognizes the same Senator.

Mr. KELLAM: Mr. President and Members of the Senate: The amendment that I proposed is contained in the legislative document which I have presented to the body, but since we do have this particular bill before us dealing with the same subject matter, it seemed to me, and I discussed this with the Judiciary Committee, that it would be more sensible to just offer an amendment to the existing L.D.

The present situation is that we do have laws relative to trespass on state institutions and the L. D. 1150 has to do with trespass at the University of Maine, and I wish to add to that category buildings, public buildings or municipalities and school administrative districts.

The PRESIDENT: Is it now the pleasure of the Senate to adopt Senate Amendment "B"?

Thereupon, Senate Amendment "B" was Adopted and the Bill, as Amended, Passed to be Engrossed in non-concurrence.

Sent down for concurrence.

The President laid before the Senate the third tabled and specially assigned matter:

SENATE REPORT — Ought to Pass as Amended by Committee Amendment 'A' Filing S-46 from the Committee on Transportation on Bill, "An Act Relating to the Color of School Buses no Longer Used for School Purposes." (S. P. 201) (L. D. 643)

Tabled — March 26, 1971 by Senator Hichens of York.

Pending — Acceptance of Report.

The Ought to Pass, as Amended, Report of the Committee was Accepted and the Bill Read Once.

Committee Amendment "A" was Read.

Mr. Hichens of York then presented Senate Amendment "A" to Committee Amendment "A" and moved its Adoption.

Senate Amendment "A", Filing No. S-51, to Committee Amendment "A" was Read and Adopted and Committee Amendment "A" as Amended by Senate Amendment "A" thereto was Adopted, and the Bill, as Amended, Tomorrow Assigned for Second Reading.

The President laid before the Senate the fourth tabled and specially assigned matter:

SENATE REPORTS — from the Committee on State Government on Bill, "An Act Relating to Disposition of Portion of Fees Collected by Maine State Park and Recreation Commission." (S. P. 20) (L. D. 48) Majority Report, Ought Not to Pass; Minority Report, Ought to Pass with Com-

mittee Amendment 'A' — Filing S-26.

Tabled — March 26, 1971 by Senator Moore of Cumberland.

Pending — Acceptance of Either Report.

On motion by Mr. Johnson of Somerset, retabled and specially assigned for April 2, 1971, pending Acceptance of Either Report.

The President laid before the Senate the fifth tabled and specially assigned matter:

Bill, "An Act Limiting the Amount of Money Spent by Candidates Seeking Political Office." (S. P. 398) (L. D. 1011)

Tabled — March 26, 1971 by Senator Shute of Franklin.

Pending — Adoption of Senate Amendment "A" — Filing S-34.

Senate Amendment "A" was then Adopted.

Thereupon, Mr. Levine of Kennebec presented Senate Amendment "C" and moved its Adoption.

Senate Amendment "C", Filing No. S-57, was Read and Adopted, and the Bill, as Amended, Passed to be Engrossed.

Sent down for concurrence.

The President laid before the Senate the sixth tabled and specially assigned matter:

JOINT ORDER — Relative to Joint Select Committee of Inquiry be Appointed to Study, Review and Analyze the Department of Mental Health and Corrections. (S. P. 528)

Tabled — March 26, 1971 by Senator Hichens of York.

Pending — Passage.

The PRESIDENT: The Chair recognizes the Senator from York, Senator Hichens.

Mr. HICHENS of York: Mr. President and Members of the Senate: I rise rather reluctantly to speak on this resolution presented to us today.

When the original resolution was presented by the Senator from Cumberland, I reacted to it quite negatively. I did not feel her accusations against the Commissioner of Mental Health and Corrections was justified, nor a special committee to investigate the Mental Health and Corrections Department, necessary at a cost of \$5,000. The Commissioner, after less than two

years in his present position has, in my opinion, made decisive improvements in the department, especially in the appointments of a Director of Retardation Problems and the Corrections Division. A change of supervisors at Bangor State Hospital has meant a vast improvement there. After talking with the Commissioner for over three hours, I felt that his outlook for future changes were progressive also in many cases.

The Baumgarten Report recommendations have been adopted in many cases, per the latest survey taken February 4, 1971.

The Legislative Committee on Health and Institutional Services are people who on the most part requested membership on this committee because they were interested in the welfare of Maine's people and the institutions of the State. As a committee we have visited six institutions already, and plan to visit the others in the near future. I believed and I still do believe that this committee is capable of doing the job requested in that resolve.

In the committees' visit to the institutions we found everything in apple pie order, and that is one of the things that troubled several of us. Everything looked too good. In my talks with the Commissioner and employees of some of these institutions, I learned that there are problems, some very serious, that should be corrected. I was told by one employee that the \$5,000 requested could be better used for changes and salaries at the State Hospital than for a study of conditions. In a television interview, I expressed these opinions. Following that interview, I have had several telephone calls and letters urging the investigation of the hospitals and the department by a select committee.

Now we have a new resolution much more moderate than the first, yet calling for a study by a special committee, and allowing \$5,000 for expenses incurred. As I have seen the bills piling up before the legislative committee in recent hearings, and the deliberations over these bills in executive session, I have come to the con-

clusion that the added burden of investigations such as called for in this resolution is a heavy one, although in time it might be handled successfully.

However, this resolution before us calls for a report to the 105th Legislature which sets a figurative time limit and calls for outside professional consultants. Thus a special committee with the monies to work with is undoubtedly necessary to carry out the purposes of this resolution before us. Therefore, with these thoughts in mind I reluctantly move that this resolution be accepted and a committee be appointed forthwith.

The PRESIDENT: Is it now the pleasure of the Senate that this order receive passage?

The Chair recognizes the Senator from Cumberland, Senator Carswell.

Mrs. CARSWELL of Cumberland: Mr. President and Members of the Senate: I am pleased that the good Senator has changed his opinion about the need for an order. I would just like to briefly state that I do feel that the Department of Mental Health and Corrections has been going through a very slow but orderly process of change through the years. I have been a member of a team which has helped this slow orderly process of change. Many of the changes that have been made have not come from the initiative of the department. Many changes have been made in the leadership of the department. Many changes have been made in the personnel of the hospitals that are involved.

I would like to say again that I am very pleased that the Senator has changed his mind, because I feel that this now is a new step, this is another step, for new orderly change. This is about the fifth major step that I have participated in with a team of people who have been concerned about these conditions. Thank you.

The PRESIDENT: Is it now the pleasure of the Senate that this order receive passage?

The Chair recognizes the Senator from Cumberland, Senator Conley.

Mr. CONLEY of Cumberland: Mr. President and Members of the Senate: I am not opposed to this order that is before us this morning, but I do think that we, as members of the Senate, and members of this legislature, should carefully scrutinize the budget requests that have been made by the Department of Mental Health and Corrections. For example, the Governor and Council had to recently appropriate enough money for fifty-five employees over at the Augusta State Hospital just so that it could come in line with the accreditation of the Federal Government.

When Mr. Kearns, the Commissioner of the Department, came before the Appropriations Committee, I recall asking him one question in respect to the feeding of patients and what the cost was to the State of Maine at Augusta State Hospital, and what the national average was? I believe that the Commissioner said that it was either sixty-two cents or seventy-two cents a day, I believe that is was sixty-two cents, a day per patient and he feels that in order to provide adequate meals for these patients, the legislature should at least appropriate up to a dollar a day per patient, and that is in all institutions.

So, I think what we are going to find out really, when this report is finally terminated, is that the baby or the buck is going to be passed back to us. If we are going to have these institutions operating in a smooth and accurate way, then it is going to mean that we are going to have to sit down and come up with more dollars and cents to help solve the problem.

The PRESIDENT: Is it now the pleasure of the Senate that this order receive passage?

The Joint Order was then Passed and sent down for concurrence.

Thereupon, the President appointed on the part of the Senate to the Joint Select Committee: Senators HICHENS of York
SHUTE of Franklin
CARSWELL

of Cumberland

The President laid before the Senate the seventh tabled and specially assigned matter:

Bill, "An Act Relating to Service Retirement of Liquor Inspectors." (S. P. 245) (L. D. 706)

Tabled — March 26, 1971 by Senator Tanous of Penobscot.

Pending — Passage to be Engrossed.

On motion by Mr. Tanous of Penobscot, and under suspension of the rules the Senate voted to reconsider its previous action whereby it Adopted Committee Amendment "A".

On further motion by the same Senator, the Senate voted to Indefinitely Postpone Committee Amendment "A".

The same Senator then presented Senate Amendment "A" and moved its Adoption.

Senate Amendment "A", Filing No. S-52, was Read and Adopted, and the Bill, as Amended, Passed to be Engrossed.

Sent down for concurrence.

The President laid before the Senate the eighth tabled and specially assigned matter:

SENATE REPORT — from the Committee on State Government on Bill, "An Act Relating to Payment of Expenses of Supreme Judicial Court and the Superior Court by the State. (S. P. 104) (L. D. 266). Ought to Pass in New Draft under same Title (S. P. 524) (L. D. 1519).

Tabled — March 30, 1971 by Senator Johnson of Somerset.

Pending — Acceptance of Report.

Thereupon, the Ought to Pass, in New Draft Report of the Committee was Accepted, the Bill Read Once and Tomorrow Assigned for Second Reading.

The President laid before the Senate the matter tabled earlier in today's session by Mr. Wyman of Washington:

Bill, "An Act to Eliminate Moose River from the Maine Forestry District", (H. P. 141) (L. D. 196).

Pending — the motion by Mr. Marcotte of York to reconsider.

The PRESIDENT: The Chair recognizes the Senator from Washington, Senator Wyman.

Mr. WYMAN of Washington: Mr. President and Members of the Senate: I rise in opposition to this motion and I hope that the Senate is consistent with their vote of yesterday and will oppose the motion and vote against it.

The PRESIDENT: Is the Senate ready for the question?

The Chair recognizes the Senator from Piscataquis, Senator Martin.

Mr. MARTIN of Piscataquis: Mr. President and Members of the Senate: In support of the motion to reconsider, I would like to inform the Senate that I would tomorrow introduce an amendment that would exempt buildings and dams from the Forestry District Tax. I feel that there is a discrimination here, the buildings within the Forestry District are not getting the protection. Forestry District Tax was started away back in 1909 with the intent and purpose of protecting the forest within our state.

I strongly believe in the Forestry District Tax but I oppose the discriminatory method in which the funds are raised. It might be interesting for the Senate members to know that the dam in 1970 in one township has paid over \$60,000 to this Forestry District Tax, and this, in truth, is passed on to the users of power. So actually we are all concerned. I maintain that this tax is needed. However, the ones that are using this service, should be paying the tax. So, I would strongly support the motion for reconsideration, so I will have a chance to present my amendment.

The PRESIDENT: Is the Senate ready for the question? The pending question before the Senate is the motion of the Senator from York, Senator Marcotte, that the Senate reconsider its action on Bill, "An Act to Eliminate Moose River from the Maine Forestry District".

The Chair recognizes the Senator from Franklin, Senator Shute.

Thereupon, on motion by Mr. Shute of Franklin, retabled and Tomorrow Assigned, pending the motion by Mr. Marcotte of York to Reconsider.

(Off Record Remarks)

On motion by Mr. Hoffses of Knox, Adjourned until 9 o'clock tomorrow morning.