

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

*One Hundred and Fifth
Legislature*

OF THE

STATE OF MAINE

Volume II

May 5, 1971 to June 15, 1971

KENNEBEC JOURNAL
AUGUSTA, MAINE

SENATE

Friday, May 28, 1971

Senate called to order by the President.

Prayer by The Honorable Ronald L. Kellam of Portland.

Reading of the Journal of yesterday.

Joint Order

Out of Order and Under Suspension of the Rules:

On motion by Mr. Hoffses of Knox,

ORDERED, the House concurring, that when the House and Senate adjourn, they adjourn to Tuesday, June 1, at 10 o'clock in the morning. (S. P. 608)

Which was Read and Passed.

Sent down forthwith for concurrence.

Reconsidered Matter

On motion by Mr. Katz of Kennebec, the Senate voted to reconsider its action of yesterday whereby Bill, "An Act Relating to Legislative Counsel or Agents" was Passed to be Engrossed.

On further motion by the same Senator, the Senate voted to reconsider its action whereby Senate Amendment "A" was Adopted and subsequently Senate Amendment "A" was Indefinitely Postponed and the Bill Passed to be Engrossed.

The **PRESIDENT**: The Senator has the floor.

Mr. KATZ: Mr. President and Members of the Senate. We now find ourselves exactly where we were yesterday, in non-concurrence with the House. The basic question is as it has been. It is unchanged by all the confusion of debate at the other end of the corridor.

The question is, stated as simply and clearly as I can, whether the public has a right to know. It has nothing to do with whether members of the lobby are our lifetime friends and are men held in high regard both here and in their communities. Nor has it anything to do with the depth of knowledge that they possess and their ability to help us in the legislative process.

We call them the third house. We like them and, up to a point,

we share a community of interest. Their employers are well aware of the tremendous influence on the future well-being of their companies and their organizations the action of the legislature can have.

This session the sums of money spent by special interest groups to influence the course of legislation in this chamber most assuredly exceeds the combined salaries of all 32 members of the Senate by a country mile.

No parliamentary maneuvering can obscure the simple question: Does the public have a right to know the nature of the price the special interest groups are spending to influence the course of your vote? The Senate consistently has said yes.

In making a motion to adhere, the nature of this motion must force the attention of the other body to a simple answer, either yes or no. There is no middle course now and no crippling amendments possible.

The bipartisan leadership of the Senate has consistently said yes. The bipartisan floor leadership of the other body has also courageously said yes.

This bill came out of a subcommittee of the Legislative Research Committee of the 104th Legislature. As Chairman, I served with the following men: Senator Armand Duquette, Senator Kenneth MacLeod, Representative Harrison Richardson, Representative Louis Jalbert, Representative David Kennedy, Representative Emilien Levesque.

The report that recommends this very bill be enacted bears the names on the cover of these very men. Both the Senate President and myself, the only two hold-overs in the Senate, have supported this report from the start. The two members from the other body who are hold-overs have not been supportive of the report that bears their names.

The "compromise" course they apparently support is a compromise in the very worst sense of the word. They would limit the view of the public to the very tip of the iceberg and say, in effect, that if you have seen the tip of the iceberg you have seen it all.

The 105th Legislature has not had very many moments of glory. We are a legislature which is, to a great degree, taking a respite from the turbulence of the 103rd and 104th.

The state won't bleed to death if this L. D. is defeated. Its future in the other body is vague and uncertain. Perhaps though, by making this clearcut decision, one way or another, we can get a better understanding as to what kind of a legislature the 105th is. I move that the Senate adhere.

The PRESIDENT: The Senator from Kennebec, Senator Katz, moves that the Senate adhere.

The Chair recognizes the Senator from Knox, Senator Hoffses.

Mr. HOFFSES of Knox: Mr. President and Members of the Senate: As I listened to the eloquence with which the distinguished gentleman from Kennebec delivered this message, one very simple thought comes to mind: He made reference to a country mile. I was born in the country and basically I still live in the country. I wonder if the distinguished gentleman would care to give us the distance of a country mile?

The PRESIDENT: Is it now the pleasure of the Senate that the Senate adhere?

The motion prevailed.

Thereupon, on further motion by Mr. Katz of Kennebec, and under suspension of the rules, sent down forthwith for concurrence.

Papers from the House Non-concurrent Matter

Joint Order (S. P. 600) relative to Department of Health and Welfare adopting rules and regulations.

In the Senate May 21, 1971, Read and Passed.

Comes from the House, Indefinitely Postponed, in non-concurrence.

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

Mrs. CARSWELL of Cumberland: Mr. President and Members of the Senate: I was really not surprised about the action taken in the other branch on this order, however, I was quite disappointed.

Immediately following the action I filed a complaint with the Attorney General's Department against the Health and Welfare Department wherein the department is guilty of failure to uphold the laws which relate to it, namely, Title 22, Subsection 42, and Title 22, Subsection 47. Hilltop Home operator Leo Gaudreau of Warren also signed this complaint.

I am disturbed over the fact that Dr. Fisher of the Health and Welfare Department has neglected to adhere to the laws under which his department is regulated. Mr. Gaudreau is disturbed over the fact that he has a licensed home caring for mentally retarded children from Bangor State Hospital and Pineland Hospital and Training Center. He says that present circumstances leave him in confusion and uncertainty. He wants to expand and initiate new programs, and his expansion will probably be over \$20,000. He is working with the Bureau of Mental Retardation.

Now, when the Health and Welfare Department neglects to carry out the letter of the law this affects many other departments. I say that the matter is now in the hands of the Attorney General and I expect immediate action, therefore, I will not ask for a committee of conference but will ask for the resignation of Dr. Fisher if he is found guilty of malfeasance or non-feasance. I think it is about time that the legislature makes sure that the laws that we place on the books are put into effect by the department heads. I think this is a direct way of getting the message across, so I now move that we recede and concur with the House.

The PRESIDENT: The Senator from Cumberland, Senator Carswell, moves that the Senate recede and concur with the House.

The Chair recognizes the Senator from Kennebec, Senator Chick.

Mr. CHICK of Kennebec: Mr. President and Members of the Senate: I voted with the Senator from Cumberland, Senator Carswell, on this in the first place and I want to commend her for her interest in this field. I do feel that in the reorganization bills that are coming up there is one thing

that I think somewhere along the line should be taken care of, and that is when we have rules and regulations from any department, I don't care if it is Agriculture or Health and Welfare, they should be published according to law. I know that for many years I worked in one department and we religiously tried to comply with the law in publishing all rules and regulations so they were available to the public. So I just simply wanted to say that I commend the Senator for her interest in this field.

The PRESIDENT: Is it now the pleasure of the Senate to recede and concur with the House?

The motion prevailed.

Non-concurrent Matter

Bill, "An Act to Provide Loans to Encourage the Practice of Family Medicine to Assist in Maintaining the Health of Maine Residents." (H. P. 577) (L. D. 772)

In the Senate May 25, 1971, Passed to be Engrossed as Amended by Committee Amendment "A" (H-265), in concurrence.

Comes from the House, Passed to be Engrossed as Amended by Committee Amendment "A" and House Amendment "A" (H-374) in non-concurrence.

On motion by Mr. Graham of Cumberland the Senate voted to Recede and Concur.

Non-concurrent Matter

Bill, "An Act to Improve the Procedure for Correcting Vital Statistics." (H. P. 1311) (L. D. 1719)

In the Senate May 18, 1971, Passed to be Enacted.

Comes from the House, Enactment reconsidered and the Bill Passed to be Engrossed as Amended by House Amendment "B" (H-365), in non-concurrence.

On motion by Mr. Hichens of York, the Senate voted to Recede and Concur.

Joint Order

ORDERED, the Senate concurring, that the Joint Standing Committee on Legal Affairs is directed to report out a bill which will relate to qualifications of

municipal law enforcement officers. (H. P. 1370)

Comes from the House, Read and Passed.

Which was Read and Passed in concurrence.

Joint Order

ORDERED, the Senate concurring, that the Joint Standing Committee on Appropriations and Financial Affairs is directed to report out a bill which will relate to benefits payable to recipients of old age assistance and aid to the blind to be adjusted by reason of increases in Social Security payments. (H. P. 1369)

Comes from the House, Read and Passed.

Which was Read.

On motion by Mr. Berry of Cumberland, tabled and Tomorrow Assigned, pending Passage.

On the disagreeing action of the two branches of the Legislature on Bill, "An Act Relating to Voluntary Surgery at Public Expense for Qualifying Parents", (H. P. 928) (L. D. 1282), the President appointed on the part of the Senate the following Conferees:

Senators:

TANOUS of Penobscot
CARSWELL

of Cumberland

VIOLETTE of Aroostook

(Off Record Remarks)

Communications

STATE OF MAINE
House of Representatives
Office of the Clerk
Augusta, Maine

Hon. Harry N. Starbranch
Secretary of the Senate
105th Legislature

Sir:

The Speaker today appointed the following Committees of Conference on the disagreeing action of the two branches of the Legislature on:

Bill "An Act Permitting the Liquor Commission to Issue Liquor Licenses to Public Golf Courses" (S. P. 450) (L. D. 1296)

Messrs. GOOD of Westfield
STILLINGS of Berwick
KELLEHER of Bangor

Bill "An Act relating to Voluntary Surgery at Public Expense for

Qualifying Parents" (H. P. 928) (L. D. 1282)

Mrs. CUMMINGS of Newport
McCORMICK of Union
COTTRELL of Portland

Bill "An Act relating to Membership on Board of Registration for Professional Engineers" (H. P. 1322) (L. D. 1734)

Messrs. McNALLY of Ellsworth
NORRIS of Brewer
CAREY of Waterville

Bill, "An Act relating to Licenses and Fees under the Dog Laws" (H. P. 1321) (L. D. 1733)

Messrs. KELLEY of Southport
EVANS of Freedom
MANCHESTER

of Mechanic Falls

Bill "An Act relating to Forestry Cutting Practices for the Protection of Rivers, Streams and Lakes" (H. P. 682) (L. D. 919)

Messrs. DYAR of Strong
SUSI of Pittsfield
Mrs. GOODWIN of Bath

Bill, "An Act relating to Applicability of Workmen's Compensation Law to Employers of One or More Employees" (H. P. 601) (L. D. 803)

Messrs. FINEMORE

of Bridgewater
McNALLY of Ellsworth
BUSTIN of Augusta

Bill "An Act Providing for a Declaration of Policy Concerning the State's Environment" (H. P. 1301) (L. D. 1706)

Messrs. BRAGDON of Perham
STILLINGS of Berwick
COONEY of Webster

Respectfully,

Signed:

BERTHA W. JOHNSON
Clerk of the House

Which was Read and Ordered
Placed on File.

Orders

On motion by Mr. Shute of Franklin,

ORDERED, that the House concurring, that the Legislative Research Committee is directed to study the subject matter of the following bills: "An Act Extending Collective Bargaining Rights to Public Higher Education Personnel", Senate Paper No. 447, Legislative Document No. 1337; "An Act Providing Collective Bargaining Rights for Employees

of the State and the University of Maine", House Paper No. 1119, Legislative Document No. 1590; and "An Act Granting State Employees and Employers the Right to Collective Bargaining", House Paper No. 1160, Legislative Document No. 1610, in order to determine and develop, if possible, by consultation with experts in public labor relations law and such public hearings as it deems appropriate, necessary amendments to existing Municipal Public Employees Labor Relations Law as provided in chapter 424 of the public laws of 1969 and later amendments to bring all public employees in Maine currently under the jurisdiction of the State, under one comprehensive public labor relations law; and be it further

ORDERED, that the State Department of Labor and Industry be directed to provide the Committee with such technical advice and assistance as the Committee feels necessary or appropriate to carry out the purposes of this Order; and be it further

ORDERED, that the Committee be authorized to employ professional and clerical assistance within the limits of funds provided; and be it further

ORDERED, that there is appropriated to the Committee from the Legislative Account the sum of \$2,000 to carry out the purposes of this Order; and be it further

ORDERED, that the Committee report its findings at the next special or regular session of the Legislature; and be it further

ORDERED, that upon joint passage a copy of this Order be transmitted forthwith to said department as notice of the pending study. (S. P. 611)

Which was Read.

On motion by Mr. Berry of Cumberland, placed on the Special Legislative Research Table.

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 Providing for State Supervision of the Construction and Safety of Dams and Reservoirs." (H. P. 857) (L. D. 1136)

Bill, "An Act Imposing a Head Tax." (H. P. 975) (L. D. 1336)

Bill, "An Act Establishing a State Board of Regional Assessment." (H. P. 1081) (L. D. 1496)

RESOLUTION, Proposing a n Amendment to the Constitution, to Improve the Administration of Justice by Permitting Enabling Legislation Creating Six-man Juries in the District Court for Trials of Civil Cases and Certain Criminal Cases. (H. P. 993) (L. D. 1355)

Leave to Withdraw

The Committee on Natural Resources on, Bill, "An Act Prohibiting Dumping Grounds on Banks of Rivers, Lakes and Estuaries." (H. P. 608) (L. D. 819)

Reported that the same be granted Leave to Withdraw.

The Committee on Natural Resources on, Bill, "An Act Repealing the Law Relating to Mixing Zones in Discharging Waste in Waters." (H. P. 717) (L. D. 962)

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 Natural Resources on, Bill, "An Act to Revise Laws Relating to Outdoor Advertising." (H. P. 605) (L. D. 807)

Reported that the same Ought to Pass.

The Committee on Appropriations and Financial Affairs on, Bill, "An Act Relating to Aid to Municipalities for Outdoor Recreational Facilities." (H. P. 1109) (L. D. 1514)

Reported that the same Ought to Pass.

The Committee on Labor on, Bill, "An Act Relating to Transfer to Suitable Work During Rehabilitation or Treatment Under Workmen's Compensation Law." (H. P. 1121) (L. D. 1540)

Reported that the same Ought to Pass.

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

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

Ought to Pass — As Amended

The Committee on Appropriations and Financial Affairs on, Bill, "An Act to Authorize Bond Issue in the Amount of \$5,215,000 for the Construction and Improvement of Facilities for the Treatment and Care of the Mentally Ill, Mentally Retarded and the Youthful and Adult Offender at our Mental Health and Corrections Institutions." (H. P. 177) (L. D. 235)

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-351).

The Committee on Labor on, Bill, "An Act Relating to Disqualification for Benefits under Employment Security Law for Certain Elderly Employees." (H. P. 773) (L. D. 1039)

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-353).

The Committee on Judiciary on, Bill, "An Act Relating to Validation of Certain Instruments and Recording of Plats of Subdivisions of Land in Municipalities." (H. P. 1028) (L. D. 1415)

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-352).

Come from the House, the reports Read and Accepted and the Bills Passed to be Engrossed as Amended by Committee Amendment "A".

Which reports were Read and Accepted in concurrence and the Bills Read Once. Committee Amendments "A" were Read and Adopted in concurrence and the Bills, as Amended, Tomorrow Assigned for Second Reading.

Ought to Pass in New Draft

The Committee on Labor on, Bill, "An Act Relating to Claims for Benefits under the Employment Security Law." (H. P. 598) (L. D. 793)

Reported that the same Ought to Pass in New Draft Under Same Title. (H. P. 1364) (L. D. 1781)

The Committee on Labor on, Bill, "An Act Relating to Benefits Erroneously Received under Employment Security Law." (H. P. 770) (L. D. 1036)

Reported that the same Ought to Pass in New Draft Under Same Title. (H. P. 1365) (L. D. 1782)

(On motion by Mr. Katz of Kennebec, tabled until later in today's session.)

The Committee on Labor on, Bill, "An Act Relating to Workmen's Compensation Pending a Review of Incapacity." (H. P. 888) (L. D. 1209)

Reported that the same Ought to Pass in New Draft Under Same Title. (H. P. 1366) (L. D. 1783)

The Committee on Judiciary on, Bill, "An Act Relating to Liens for Labor and Supplying Equipment." (H. P. 964) (L. D. 1325)

Reported that the same Ought to Pass in New Draft Under Same Title. (H. P. 1367) (L. D. 1784)

The Committee on State Government on, Bill, "An Act to Regulate Industrialized Housing under the Maine State Housing Authority." (H. P. 827) (L. D. 1118)

Reported that the same Ought to Pass in New Draft Under Same Title. (H. P. 1345) (L. D. 1764)

Come from the House, the reports Read and Accepted and the Bills, in New Draft, Passed to be Engrossed.

Which reports were Read and, except for the tabled matter, Accepted in concurrence, the Bills in New Draft Read Once and Tomorrow Assigned for Second Reading.

The Committee on Agriculture on, Bill, "An Act Relating to Sale of Pet Animals from Kennels and Pet Shops." (H. P. 394) (L. D. 580)

Reported that the same Ought to Pass in New Draft Under New Title: "An Act Relating to Boarding Kennels and Pet Shops" (H. P. 1336) (L. D. 1752)

Comes from the House, the report Read and Accepted and the Bill in New Draft Passed to be Engrossed as Amended by House Amendment "A" (H-363).

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

Divided Report

The Majority of the Committee on Labor on, Bill, "An Act Relating to Compensation for Minors Delivering Newspaper Supplements." (H. P. 994) (L. D. 1356)

Reported that the same Ought Not to Pass.

Signed:

Senators:

TANOUS of Penobscot
LEVINE of Kennebec
MARCOTTE of York

Representatives:

BUSTIN of Augusta
LINCOLN of Bethel
LEE of Albion
BEDARD of Saco
GOOD of Westfield

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

Signed:

Representatives:

ROLLINS of Dixfield
SIMPSON of Millinocket
GENEST of Waterville
KELLEY of Machias

Comes from the House, the Minority Ought to Pass report Read and Accepted and the Bill Passed to be Engrossed as Amended by House Amendment "A" (H-359) and House Amendment "B" (H-360).

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

Sent down for concurrence.

Divided Report

The Majority of the Committee on Legal Affairs on, Bill, "An Act to Make Municipal Planning Legislation Consistent with Home Rule." (H. P. 967) (L. D. 1327)

Reported that the same Ought to Pass in New Draft Under Same Title. (H. P. 1338) (L. D. 1754)

Signed:

Senators:

QUINN of Penobscot

CLIFFORD

of Androscoggin

KELLAM of Cumberland

Representatives:

CURTIS of Bowdoinham

SILVERMAN of Calais

SMITH of Dover-Foxcroft

CROSBY of Kennebunk

NORRIS of Brewer

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

Signed:

Representatives:

COTE of Lewiston

BRAWN of Oakland

FECTEAU of Biddeford

Comes from the House, the Majority Ought to Pass in New Draft report Read and Accepted and the Bill, in New Draft, Passed to be Engrossed as Amended by House Amendment "A" (H-331) and House Amendment "B" (H-357).

Which reports were Read, the Majority Ought to Pass in New Draft Report of the Committee Accepted in concurrence, and the Bill Read Once.

House Amendments "A" and "B" were Read and Adopted in concurrence and subsequently the Bill in New Draft Tomorrow Assigned for Second Reading.

Divided Report

The Majority of the Committee on Legal Affairs 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)

Reported that the same Ought Not to Pass.

Signed:

Senators:

QUINN of Penobscot

KELLAM of Cumberland

Representatives:

FECTEAU of Biddeford

EMERY of Rockland

SILVERMAN of Calais

BRAWN of Oakland

CURTIS of Bowdoinham

CROSBY of Kennebunk

COTE of Lewiston

The Minority of the same Committee on the same subject matter

reported that the same Ought to Pass in New Draft Under New Title: "Resolution, Proposing an Amendment to the Constitution Providing for Regulation of Municipal Borrowing by the Legislature." (H. P. 1041) (L. D. 1099)

Signed:

Senator:

CLIFFORD

of Androscoggin

Representatives:

NORRIS of Brewer

SMITH of Dover-Foxcroft

Comes from the House, the Minority Ought to Pass in New Draft report Read and Accepted and the Resolution, in New Draft, 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.

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

Mr. CLIFFORD of Androscoggin: Mr. President and Members of the Senate: I ask for a division on this and I hope that you would vote against the acceptance of the Majority Report.

L. D. 1099 has been before this body before. This bill got its start originally as L.D. 123, which was a proposed proposal to change the Constitution to raise the debt limit of a municipality from seven and one-half percent to fifteen percent. It originally went before the State Government Committee, and it was this committee that redrafted the bill into its present form, which is L.D. 1099. If you will recall, back during the month of March this was debated fairly thoroughly, at which time this body voted 18 to 12 for the passage of L.D. 1099.

In my opinion, this resolution attempts to regulate the municipal debt. There is written in the Constitution of the State of Maine that no municipality can go into debt any more than seven and one-half percent of its assessed valuation, and you will remember that I felt, in my opinion, that this was not an effective way to regulate municipal debt because of the many, many quasi-municipal districts that have been created to circumvent this seven and one-half percent debt limit. I think if you

will look at your own communities, you will see that you either have a water district, a school district, a sewer district, or some sort of a recreation district or an airport authority, and most of these have sprung up as a result of circumventing the constitutional debt limit which is at the present time seven and one-half percent.

Now, L. D. 1099 would put this question out to the voters in the November 1971 election, and it would give them the option to eliminate this provision from the constitution or not. This is all that this bill asks for.

Now, many communities around this state have already exceeded this seven and one-half percent. Any small town that is a member of a SAD district can borrow up to seven and one-half percent of its assessed valuation and, in addition thereto, can indebt itself up to twelve and one-half percent through the SAD district so that in some communities they have the ability or the authority to go as high as twenty percent through this device known as the quasi-municipal district. Now, I say this is not effective limitation, if that is what you want. The intent of the Constitution is not being carried out.

In my view, L. D. 1099 will at least regulate debt limits to some extent, and we propose to do this at the 106th Legislature. And it would be my thinking that when the 106th Legislature meets, if I were to take part in the proceedings of that body, it would be my thinking then to take into consideration how much an individual town or how much an individual city or municipality has indebted itself already, and then set a ceiling in the light of how many districts have been created within that town and how far the town has already been authorized to go, as far as the debt limit is concerned. If you will note in L. D. 1099, on the second page, just before the last paragraph there is the sentence—and I will read it: "The Governor shall forthwith make known the fact by his proclamation, and the amendment shall become effective at such time as laws enacted by the legislature regulating municipal debt limit

power shall become effective." Thus purpose of this phrase is simply this: that should the people of the State of Maine pass this resolution and change the Constitution and eliminate the seven and one-half percent debt limit, there would be an interim period between November and the time the next legislature meets, and the purpose of this clause is to maintain that seven and one-half percent debt limit until the 106th Legislature met and until they took action. I believe that wording accomplishes that fact. I know the last time I spoke, the last time that this bill came to the floor of the Senate, that this was one of the main objections, what would happen during that interim period. Assuming that the people of the state did vote to eliminate the seven and one-half percent debt limit, what would happen in the interim? Would the towns go hog wild? I say that they are prevented from doing anything because of this sentence in the proposed resolution.

So, in conclusion, I would like to leave this thought with you: that we don't have effective regulation now, and I say the only way that we are going to get it is to make this thing flexible and to leave it with the next legislature.

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

Mr. Quinn of Penobscot then moved that the Resolution be tabled and Tomorrow Assigned, pending the motion by that same Senator to Accept the Majority Ought Not to Pass Report of the Committee.

On motion by Mr. Clifford of Androscoggin, a division was had. Eleven Senators having voted in the affirmative, and eleven Senators having voted in the negative, the tabling motion did not prevail.

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

Mr. KATZ of Kennebec: Mr. President and Members of the Senate: We have debated this at such length both times that might I suggest to the proponents of both points of view that this would be an ideal vehicle to change the present constitutional restriction from

seven and one-half percent of local valuation to seven and one-half percent of state valuation. That in itself would make a very, very substantial improvement in the confusion around the state.

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

Mr. KELLAM of Cumberland: Mr. President and Members of the Senate: I feel I ought to say something about this bill. I personally feel that the debt limit is a very important aspect of the control of municipal government, and I don't feel that the legislature should abandon its position on this matter.

If we change the Constitution by taking out this limit we are going to be flooded, according to what I gather from what the good Senator Clifford has to say on the matter, we will be flooded with requests by various communities relative to their debt limit, if in fact we are to act upon each town separately and determine what their particular debt is, and the various authorities and districts that might also have some debt limit that has something to do with the same town. I think the difficulty here is, if there be one, that many communities have refused to revalue their properties in the light of what the values actually are and consequently, this does hold down their borrowing capacity to some extent. I don't feel that we should aid and abet such action. If a particular community is valued at sixty percent of real value, and they wish to borrow more money, they can very well meet that problem if in fact they do have a very serious need for borrowing money. They could just revalue the town in the light of what the values actually are and thereby increase their borrowing capacity.

I know myself in the City of Portland, in looking at the budget, I have just a copy of the gross figures, and the debt service in Portland this year is two million dollars, something like twenty percent more than it was last year. I think two million dollars is a lot of money to spend on debt service. In the non-school budget the total amount is fourteen and a half million, so this is about fifteen per-

cent of the budget. I myself oppose relinquishing the constitutional change that they cannot go beyond the seven and one-half percent of the valuation.

I would say that there is some merit to the suggestions of Senator Katz. Of course we would have to take into consideration, if we did do that, the fact that the state valuations are stated on a half rate. So, I would suppose what he means is to increase it to a certain percentage of what the state valuation is. Something along this line I would possibly have some kind thought toward.

I feel myself we have talked about this, we have talked about it and talked about it, and you just can't keep these people from coming back because the way to look good this year on a municipal budget is to stall off the inevitable and borrow funds instead of raising the taxes. I feel that the city government should stand up and do what they need to do, and not just try to push off the inevitable to a future generation or a future year. Therefore, I very much oppose making any change in the Constitution at this time and I, of course, support Senator Quinn.

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

Mr. KATZ of Kennebec: Mr. President and Members of the Senate: If the motion of doing something along the lines of state valuation does seem acceptable, might I suggest that the Senator from Penobscot, Senator Quinn, might consider withdrawing his motion to accept the Ought Not to Pass Report, substitute the bill for the report, and let's give it one reading, and then the next legislative day we can consider what amendment we might make to bring in state valuation with the blessings of all of us.

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

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

The PRESIDENT: A division has been requested.

The Chair recognizes the Senator from Kennebec, Senator Katz.

Mr. KATZ of Kennebec: Mr. President, I notice the Senator from Penobscot nodding his head as if in agreement with my suggestion that perhaps he would withdraw his motion and substitute the bill for the report.

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

Mr. QUINN of Penobscot: Mr. President, I am agreeable to that as it will give us some time to get this thing straightened out.

The PRESIDENT: The Chair understands that the Senator from Penobscot, Senator Quinn, withdraws his motion to accept the Majority Ought Not to Pass Report of the Committee.

The Chair recognizes the Senator from Cumberland, Senator Kellam.

Mr. KELLAM of Cumberland: Mr. President, if in fact the good Senator from Penobscot, does withdraw his motion I would like to make the same motion.

The PRESIDENT: The Senator from Cumberland, Senator Kellam, now moves that the Senate accept the Majority Ought Not to Pass Report of the Committee.

The Chair recognizes the Senator from Androscoggin, Senator Clifford.

Mr. CLIFFORD of Androscoggin: Mr. President, I would like to ask for a division on Senator Kellam's motion.

The PRESIDENT: A division has been requested.

The Chair recognizes the Senator from Kennebec, Senator Katz.

Mr. KATZ of Kennebec: Mr. President, might I point out to the Senate that if the Senate has any desire to do anything at all in this range, without really committing itself, it will vote against the motion to accept the Ought Not to Pass Report.

The PRESIDENT: As many Senators as are in favor of the motion of the Senator from Cumberland, Senator Kellam, that the Senate accept the Majority Ought Not to Pass Report of the Committee will please rise and remain standing until counted.

A division was had. Four Senators having voted in the affirmative, and twenty Senators having

voted in the negative, the motion to accept the Majority Ought Not to Pass Report of the Committee did not prevail.

Mr. Katz of Kennebec then moved that the Bill be Substituted for the Committee Report.

On motion by Mr. Clifford of Androscoggin, a division was had. Eleven Senators having voted in the affirmative, and fourteen Senators having voted in the negative, the motion to Substitute the Bill for the Committee Report did not prevail.

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

Divided Report

The Majority of the Committee on Judiciary on, Resolution, Proposing an Amendment to the Constitution Classifying Certain Bailable Offenses. (H. P. 852) (L. D. 1165)

Reported that the same Ought Not to Pass.

Signed:

Senators:

TANOUS of Penobscot
QUINN of Penobscot
HARDING of Aroostook

Representatives:

HEWES

of Cape Elizabeth
LUND of Augusta
WHEELER of Portland
HENLEY of Norway
PAGE of Fryeburg
CARRIER of Westbrook
ORESTIS of Lewiston
KELLEY of Caribou

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

Signed:

Representatives:

BAKER of Orrington
WHITE of Guilford

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

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

Mr. Katz of Kennebec moved that the Senate reconsider its action whereby the Majority Ought Not to Pass Report of the Committee was Accepted.

The same Senator then moved that the Resolution be tabled and Tomorrow Assigned, pending the motion by that same Senator to reconsider.

On motion by Mr. Berry of Cumberland, a division was had. Fifteen Senators having voted in the affirmative, and ten Senators having voted in the negative, the motion to table prevailed.

Senate

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

Bill, "An Act to Create the State Central Data Processing Commission." (S. P. 164) (L. D. 486)

Sent to the House.

Ought to Pass - As Amended

Mr. Graham for the Committee on Natural Resources on, Bill, "An Act Empowering the Environmental Improvement Commission to Conduct Studies Relating to Noise Pollution." (S. P. 407) (L. D. 1223)

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (S-220).

Mr. Tanous for the Committee on Labor on, Bill, "An Act Relating to Examinations for Certain Occupations by Graduates of Maine Vocational Technical Institutes." (S. P. 193) (L. D. 554)

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (S-222).

Which reports were Read and Accepted and the Bills Read Once. Committee Amendments "A" were Read and Adopted and the Bills, as Amended, Tomorrow Assigned for Second Reading.

Ought to Pass in New Draft

Mr. Wyman for the Committee on State Government on, Bill, "An Act to Lower the Voting Age for Biennial Elections of the Penobscot Indians." (S. P. 365) (L. D. 1104)

Reported that the same Ought to Pass in New Draft Under New Title: "An Act Relating to Indian Tribal Meeting on Proposed Legislation and Lowering the Voting Age for Biennial Elections." (S. P. 609) (L. D. 1787)

Which report was Read and Accepted, the Bill in New Draft Read Once and Tomorrow Assigned for Second Reading.

Divided Report

The Majority of the Committee on Natural Resources on, Bill, "An Act Revising the Maine Land Use Regulation Commission Law." (S. P. 485) (L. D. 1503)

Reported that the same Ought to Pass in New Draft Under Same Title. (S. P. 610) (L. D. 1788)

Signed:

Senators:

SCHULTEN of Sagadahoc
VIOLETTE of Aroostook
GRAHAM of Cumberland

Representatives:

WHITSON of Portland
SMITH of Waterville
CURRAN of Bangor
BROWN of York
CUMMINGS of Newport
MacLEOD of Bar Harbor

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

Signed:

Representatives:

HARDY of Hope
HERRICK of Harmony
KILROY of Portland
AULT of Wayne

Which reports were Read.

Mr. Schulten of Sagadahoc moved that the Senate Accept the Majority Ought to Pass Report of the Committee.

Mr. Anderson of Hancock then moved that the Bill be tabled and specially assigned for June 2, 1971, pending the motion by Mr. Schulten of Sagadahoc to Accept the Majority Ought to Pass Report of the Committee.

On motion by Mr. Berry of Cumberland, a division was had. Nine Senators having voted in the affirmative, and seventeen Senators having voted in the negative, the motion to table did not prevail.

Thereupon, the Majority Ought to Pass in New Draft Report of

the Committee was Accepted, the bill Read Once and Tomorrow Assigned for Second Reading.

Divided Report

The Majority of the Committee on Natural Resources on, Bill, "An Act to Encourage Aquaculture in Maine's Marine Waters." (S. P. 408) (L. D. 1242)

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (S-221).

Signed:

Senators:

SCHULTEN of Sagadahoc
VIOLETTE of Aroostook

Representatives:

CUMMINGS of Newport
KILROY of Portland
HARDY of Hope
BROWN of York
HERRICK of Harmony
WHITSON of Portland
SMITH of Waterville
AULT of Wayne

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

Signed:

Senator:

GRAHAM of Cumberland

Representative:

MacLEOD of Bar Harbor
Which reports were Read.

On motion by Mr. Schulten of Sagadahoc, the Majority Ought to Pass as Amended Report of the Committee was Accepted and the Bill Read Once.

Committee Amendment "A" was Read.

Thereupon, on motion by Mr. Graham of Cumberland, tabled and Tomorrow Assigned, pending adoption of Senate Amendment "A".

Second Readers

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

House

Bill, "An Act Relating to the Conduct of Hearings Required by the State's Environmental Laws." (H. P. 1246) (L. D. 1555)

(On motion by Mr. Berry of Cumberland, tabled and Tomorrow Assigned pending passage to be Engrossed.

Bill, "An Act Relating to Standards for Electrical Installations and Electrical Equipment for

Mobile Homes." (H. P. 1334) (L. D. 1748)

Which were Read a Second Time and, except for the tabled matter, Passed to be Engrossed in concurrence.

Bill, "An Act Permitting Indian Homes to be Licensed as Foster Homes." (H. P. 1358) (L. D. 1774)

Which was Read a Second Time.

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

Mr. TANOUS of Penobscot: Mr. President, may I inquire of the Chair which report the House accepted on this bill?

The PRESIDENT: The Chair would inform the Senator that the House accepted the Ought to Pass in New Draft Minority Report, L. D. 1725, and the Bill was passed to be engrossed.

Mr. TANOUS: Mr. President, would that be 1775 as it appears?

The PRESIDENT: 1775.

Mr. TANOUS: This would make us in non-concurrence with the House?

The PRESIDENT: The Senator is correct.

Mr. TANOUS: Mr. President, I move that L. D. 1774 be indefinitely postponed.

The PRESIDENT: The Senator from Penobscot, Senator Tanous, moves that L. D. 1774, Bill, "An Act Permitting Indian Homes to be Licensed as Foster Homes", be indefinitely postponed.

The Chair recognizes the Senator from York, Senator Hichens.

Mr. HICHENS of York: Mr. President, I ask for a division.

The PRESIDENT: A division had been requested.

The Chair recognizes the Senator from Penobscot, Senator Tanous.

Mr. TANOUS of Penobscot: Mr. President and Members of the Senate: Just a moment of explanation on these two bills, Madam Senator and fellow Senators: L. D. 1774 is a short bill, which is the one we accepted here yesterday, and apparently this would permit these foster homes to be able to take care of the Indian children, so to speak, off reservation, under the supervision of the Health and Welfare Department. Meanwhile the L. D. 1775 would permit licensing of

these foster homes on the Indian reservations themselves, and I would feel that we would be better off with 1775 report rather than 1774 principally because these children would be left in the environment which they are accustomed to.

Now, it is difficult for us to visualize the taking of a child out of his home and putting him into another home which is not conducive to his environment that he is familiar with. Rather than doing this, I think it would be better to leave him in the environment which he is familiar with, and I am sure you are familiar with many, many problems that a child in his tender years can encounter if he is not in an environment which would be most acceptable not only perhaps to him but to those that are around him. A child of tender years of this nature can easily acquire an inferiority complex which would be years before he could overcome. I certainly think that in the best interest of these children they should be permitted to remain in the environment which they are accustomed to. For these reasons, I would like to see the enactment of 1775 and move this matter along.

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

Mr. HICHENS of York: Mr. President and Members of the Senate: I would like to briefly read 1774 which we adopted yesterday. "Indian reservations. Subsection 1 shall also apply to homes or day care facilities located upon Indian reservations. The department shall consider for licensure such facilities as are recommended by the Governor and tribal council of the reservations on which they are located." Under the statement of fact it says "At the present time there are no licensed boarding homes for children or day care facilities on the Indian reservations. The homes that have come to the Attention of the Department of Health and Welfare for licensure have not met minimum standards." The department feels that the licensing standards are very minimal. They cannot be lowered for Indian children because this

would be a discrimination against the Indian child to his own detriment. The department acknowledges the importance of cultural considerations, and is willing to work with the tribal council in any attempts to bring homes up to minimal standards.

We had a very extensive hearing on this L. D. before the Health and Institutional Services Committee. In fact in the newspaper report the day following the heading was that the Indians with the help of the Institutional Services Committee climbed all over the Health and Welfare Department. In a sense this was true. A member of the licensing division of the Health and Welfare Department, a new member, really took it that day, because the Indians under the supervision of—I don't mention names, but people who are concerned with disturbing the Indians and keeping them aroused climbed over this woman, and I as chairman of the committee could not see any way to prevent the questions that were asked and could not help the lady when she was not able to answer some of them. I did find out later that there was a member of the Health and Welfare Department that was there that could have answered these questions, but when I spoke to the aforementioned Dr. Fisher, who has been praised and chastized also this morning, he said it was good experience for the lady to take a beating like that. I did not agree with his statement but, nevertheless, she took it. I received a letter from Governor Ronco of the Penobscot Tribe, which is the tribe that was well represented that day, and I would like to read that letter, having had permission from him to do so.

"I am writing to you concerning the bill to inform you that the governor and council of the Penobscot Tribe did not sponsor or approve it. We have a law which states: 'The Tribal Governor shall call a general meeting of the tribe for the purpose of affirming or rejecting legislative proposals prepared by the tribal governor and council for submission to the state legislature.' I feel, as the governor, that without proper introduction of

any bill through the governing body of the tribe it should be opposed. At the hearing in Augusta it was brought out by the proponents that the Health and Welfare Department would have no part in determining the placing of Indian children. At this point I want to go on record as supporting the views of Mrs. Ann Caldwell in her remarks opposing the matter. The decision would allow the licensing of homes which might not pass minimum fire and care standards, and thus would discriminate against Indian children by not affording them the same protection white foster children get. Several members of the tribe have picketed the Health and Welfare Department in Bangor. This has caused quite a bit of concern among my people since these actions reflect on the minority of my tribe. I feel that this demonstration was not called for." And his letter goes on to explain about that demonstration. "In my opinion and the opinion of our health officer in our district, we wonder how a license could be granted to a home such as has been recommended on the Penobscot Reservation. One issue that has been brought out in this bill in regards to foster homes is the remark of Louis Doyle, a former Director of Indian Affairs. His feelings were that the Health and Welfare Department is bent on total assimilation of Indians into the white population of the state. I am wondering how Mr. Doyle and others who have spent so little time among the Indians know so much of our desires. It is my opinion that the majority of the people on my reservation look forward to educating their children and encouraging them to seek positions off our reservation, since there are no opportunities and progressive future here. At this time I will close, knowing that I protected the truth in the best interest of my people. Signed, Governor Francis Ronco, Penobscot Tribe of Indians." Last week, following the drafting of both of these L. D.'s, 1774 and 1775, the Health and Institutional Services Committee took a trip to visit the reservation at Old Town. We saw the house which has been rejected by the

Health and Welfare Department. It was a home which had windows out on the second floor with deer skins hanging from that window, and we were told by one of the neighbors that they had seen rats going up and down that deer skin within the last two or three days previous to our visit. We understood that there was only one toilet in that home in which sixteen people had lived. So, as a result, our committee came back, we took a vote and the majority came out with 1774, leaving the discretion up to the Health and Welfare Department where I believe it should be.

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

Mrs. CARSWELL of Cumberland: Mr. President and Members of the Senate: I am always as pleased to admit I am wrong as I like to fight for what I think is right. And I feel that the Senate Chairman of the Health and Institutional Services Committee has given us a much better explanation than what we had yesterday. I made quite a speech in opposition to his motion yesterday. But I feel if Governor Ronco has sent this letter to the legislature, and does not want the proposal which I and Senator Tanous have been supporting, then I certainly don't want to force it on them. I withdraw any remarks that I have made and support Senator Hichens.

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

Mr. TANOUS of Penobscot: Mr. President, I withdraw my motion.

The PRESIDENT: The Senator from Penobscot, Senator Tanous, withdraws his motion to indefinitely postpone this L. D. 1774. Is it now the pleasure of the Senate that this bill be passed to be engrossed in non-concurrence?

Thereupon, the Bill was Passed to be Engrossed in non-concurrence.

Sent down for concurrence.

House - As Amended

Bill, "An Act Relating to the Payment of Dues to Grower Organizations by Handlers and Processors of Farm Products." (H. P. 927) (L. D. 1281)

Which was Read a Second Time.

On motion by Mr. Violette of Aroostook, tabled and Tomorrow Assigned, pending Passage to be Engrossed.

Senate

Bill, "An Act Relating to Public Intoxication." (S. P. 607) (L. D. 1786)

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

Sent down for concurrence.

Senate - As Amended

Bill, "An Act Relating to Oral Settlements or Releases from Injured Persons Confined to Hospitals." (S. P. 251) (L. D. 758)

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

Sent down for concurrence.

Enactors

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

An Act Expanding the Definition of "Mentally Ill Individual" to Permit Hospitalization of Persons Suffering from the Effects of the Use of Drugs. (S. P. 596) (L. D. 1758)

An Act Permitting the Establishment of a Pleasant Point Passamaquoddy School Committee. (H. P. 433) (L. D. 568)

An Act Relating to Tax Sheltered Annuities. (H. P. 699) (L. D. 942)

An Act Revising the Provisions of the Maine Meat Inspection Act Relating to Custom Slaughtering Operations. (H. P. 862) (L. D. 1189)

An Act Relating to Late Filing of Answers to Petition for Award under Workmen's Compensation Law. (H. P. 889) (L. D. 1210)

An Act Relating to Prerequisites of Insurance of Mortgages by Industrial Building Authority and Municipal Securities Approval Board. (H. P. 895) (L. D. 1215)

An Act To Extend Period When Incapacity Results under Occupational Disease Law. (H. P. 1030) (L. D. 1417)

An Act Regulating the Application of Pesticides in Water. (H. P. 1126) (L. D. 1544)

An Act Relating to Compensation to Municipal Tree Wardens. (H. P. 1166) (L. D. 1620)

An Act to Repeal a Restriction on Municipal Investments. (H. P. 1167) (L. D. 1621)

An Act Establishing the Maine Commission on Drug Abuse. (H. P. 1179) (L. D. 1629)

An Act to Create a Commission to Prepare a Revision of the Insurance Laws Relating to Delinquent Insurers. (H. P. 1228) (L. D. 1497)

(On motion by Mr. Sewall of Penobscot, placed on the Special Appropriations Table.)

An Act Relating to Taxation of Buildings on Leased Land in Unorganized Territory. (H. P. 1339) (L. D. 1755)

(On motion by Mr. Katz of Kennebec, temporarily set aside.)

An Act Relating to Time of Sending County Estimates to Secretary of State and Municipalities. (H. P. 1343) (L. D. 1762)

An Act Providing for Full-time Offices for Registration and Licenses for Operation of Motor Vehicles. (H. P. 1346) (L. D. 1765)

(On motion by Mr. Greeley of Waldo, placed on the Special Highway Appropriations Table.)

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

The President laid before the Senate the matter set aside at the request of Mr. Katz of Kennebec: An Act Relating to Taxation of Buildings on Leased Land in Unorganized Territory. (H. P. 1339) (L. D. 1755)

The PRESIDENT: The Chair recognizes the same Senator.

MR. KATZ: Mr. President and Members of the Senate: I saw this bill for the first time this morning, L. D. 1755. It came out of the Committee on Taxation and it seems to put certain camping buildings under the personal property classification for purposes of taxation. On the face of it the bill does not have very much to commend it. And superficially, at any rate, it seems to give a free ride unnecessarily to certain types of camp owners. Perhaps only to get a reasonable explanation and to attract the attention of the sup-

porters I will move the bill be indefinitely postponed.

The PRESIDENT: The Senator from Kennebec, Senator Katz, moves that L. D. 1755, An Act Relating to Taxation of Buildings on Leased Land in Unorganized Territory, be indefinitely postponed.

The Chair recognizes the Senator from Penobscot, Senator Tanous.

Thereupon, on motion by Mr. Tanous of Penobscot, tabled and Tomorrow Assigned, pending the motion by Mr. Katz of Kennebec to Indefinitely Postpone.

Emergency

An Act Increasing Indebtedness of Ellsworth School District. (H. P. 1316) (L. D. 1731)

This being an emergency measure and having received the affirmative votes of 26 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.

Orders of the Day

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

HOUSE REPORT — Ought to Pass in New Draft (H. P. 1340) (L. D. 1752) from the Committee on Appropriations and Financial Affairs on Bill, "An Act Relating to Cost of School Construction for State Aid." (H. P. 223) (L. D. 305)

Tabled — May 26, 1971 by Senator Dunn of Oxford.

Pending — Acceptance of Report.

On motion by Mr. Dunn of Oxford, retabled and Tomorrow Assigned pending Acceptance of the Committee Report.

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

Bill, "An Act Relating to the Powers and Duties of the Environmental Improvement Commission" (H. P. 1352) (L. D. 1768)

Tabled — May 27, 1971 by Senator Berry of Cumberland.

Pending — Passage to be Engrossed.

Thereupon, the Bill was Passed to be Engrossed in concurrence.

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

Bill, "An Act to Conform Maine's Corporation Law to the Internal Revenue Code to Permit Tax Exempt Status under Federal Law for Certain Corporations." (S. P. 279) (L. D. 813)

Thereupon, the Bill was Passed to be Enacted and, having been signed by the President, was by the Secretary presented to the Governor for his approval.

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

Bill, "An Act Providing for a Feasibility Study for High Speed Rail Service for Maine." (H. P. 1206) (L. D. 1652)

Tabled — May 27, 1971 by Senator Violette of Aroostook.

Pending — Passage to be Engrossed.

On motion by Mr. Berry of Cumberland, retabled and Tomorrow Assigned, pending Passage to be Engrossed.

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

Bill, "An Act to Appropriate the Amount of \$1,440,000 for Parking Garage Facility for the Capitol Complex at Augusta." (H. P. 1341) (L. D. 1760)

Tabled — May 27, 1971 by Senator Katz of Kennebec.

Pending — Passage to be Engrossed.

On motion by Mr. Katz of Kennebec, retabled and Tomorrow Assigned, pending Passage to be Engrossed.

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

Bill, "An Act Relating to Benefits Erroneously Received under Employment Security Law". (H. P. 770) (L. D. 1036)

Pending — Acceptance of the Committee Report.

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

Mr. KATZ of Kennebec: Mr. President and Members of the Sen-

ate: I have some misgivings about this and I would like some explanation. What this bill does, in effect, is say that a recipient of unemployment insurance receives erroneously an amount of money in excess of what he should have received and there is no fraud involved, that he is permitted to keep it. On the face of it, this sounds like we are matching wits with a computer. If he calls it to the attention of the authorities of course he must reimburse it. On the other hand, if two months later the authorities find out about it, and he has held on to it, presumably he can be forgiven for the overpayment. I am sure there are merits and good intentions behind the bill, but it seems to be a case of being a little bit free with tax money.

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

Mr. TANOUS of Penobscot: Mr. President and Members of the Senate: In explanation of the questions raised by Senator Katz of Kennebec, under the present law, and it remains to be the present law, anyone that has received any benefits erroneously has to reimburse the Unemployment Security Division, or the Maine Employment Security Division rather. If they refuse to do so, of course, they can be sued in a civil action to be reimbursed any amounts paid to them erroneously.

Now, under the present law, in certain instances it has created undue hardship upon certain people, especially if they are living from hand to mouth. Now, we have added a section in there, and what we have done is added a clause which provides that the commission can review any overpayment and if there is no fraud or misrepresentation or willful non-disclosure, and also that the recipient was without fault and without knowledge of having received an overpayment, the commission could then review this and, in good conscience and equity, I suppose, the commission could wave the reimbursement clause of this section. This is all that it does. It certainly doesn't change the law to any degree. It merely gives the commis-

sioner, when he doesn't find fraud, misrepresentation, or willful knowledge of having received an overpayment, and I would assume he would take into consideration the financial status of the individual, he could then forgive any overpayment which he has received.

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

Mr. MINKOWSKY of Androscoggin: Mr. President and Members of the Senate: From the explanation that I have received from Senator Tanous, it is my understanding that the commissioner is presently using this course of action to forgive those he refers to as living from hand to mouth. Actually, on that particular basis, I think this is a useless piece of legislation.

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

Mr. TANOUS of Penobscot: Mr. President and Members of the Senate: In further explanation, if there is fraud or misrepresentation involved he may not forgive the amount that is overpaid. So if there is any fraud or misrepresentation, or knowledge of having received an overpayment, my understanding would be he would not be able to forgive the individual in this instance, whereby under present law he could if he so desired.

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

Mr. MINKOWSKY of Androscoggin: Mr. President and Members of the Senate: He still refers to the classification of a person who lives from hand to mouth and has deliberately misconstrued or has received fraudulently checks. I think they should be equally punished as anybody else would be. I just don't see this exception to the law as Senator Tanous has proposed.

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

Mr. BERRY of Cumberland: Mr. President and Members of the Senate: I would pose a situation to Senator Tanous from Penobscot that I think is really what we are talking about here. Presumably

when you get an unemployment check, which is what we are talking about, and all of a sudden you get a job and you keep on getting an unemployment check, and you are getting a salary check in your new job, is it being proposed here that we shouldn't ask the recipient of the unemployment check after he gets the job to pay back the money.

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

Mr. TANOUS of Penobscot: Mr. President and Members of the Senate: Like Senator Berry from Cumberland has pointed out, when an individual finds a job, I assume that these individuals don't go back and sign up for unemployment. But under our present law an individual may be partially employed and still can draw compensation, or unemployment benefits rather, because there is a mathematical computation that they use and he can draw a percentage over and above what he has earned. I don't believe that an individual, if he did willfully sign up for unemployment while he was employed, under this certainly he would not be given any benefits for having received any unemployment benefits. I think it rather limits him now. Under the old law this could still be considered and he could still be forgiven for this, but under this if he has fraudulently or in any way misrepresented anything to the Unemployment Commission, if he has received funds fraudulently, or if he has received overpayment because of willful misrepresentation or willful nondisclosure, he would not be forgiven any amount he has received, so frankly this is a lawyers' bill. I think it is a good bill and I certainly don't see why all these questions are raised, but I don't mind answering them.

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

Mr. CLIFFORD of Androscoggin: Mr. President and Members of the Senate: I also would like to pose a question through the Chair. I wonder if the Committee on Labor received an opinion from the Attorney General's Office in

regards to this bill? I have recently run across an opinion from the justices wherein the gist of the opinion given was that the state is obligated under a legal obligation, but not under a moral obligation. I wonder if someone on the Labor Committee would care to comment.

The PRESIDENT: The Senator from Androscoggin, Senator Clifford, has posed a question through the Chair which any Senator may answer if he so desires.

The Chair recognizes the Senator from Cumberland, Senator Berry.

Mr. BERRY of Cumberland: Mr. President and Members of the Senate: At the risk of being redundant, I am going to rephrase my question to Senator Tanous because I don't think he even approached answering it. If a person is getting an unemployment check because he is unemployed, and he gets a job, and through no fault of his own he continues to get the unemployment checks and he cashes them, would this legislation permit him to keep the money and not pay it back?

The PRESIDENT: The Senator from Cumberland, Senator Berry, has posed a question through the Chair to the Senator from Penobscot, Senator Tanous, may answer if he desires.

The Chair recognizes the Senator from Kennebec, Senator Levine.

Mr. LEVINE of Kennebec: Mr. President, in answer to the good Senator Berry, under this bill he would have to repay it.

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

Mr. MOORE of Cumberland: Mr. President and Members of the Senate: There is one thing that concerns me about this type of legislation. If we should pass this, I can see in two years from now those receiving welfare checks will be asking for the same thing, that if they can receive some welfare checks after they are not supposed to, or whatever, they would be entitled to keep them. Under the welfare situation, over in the treasurer's office, we find thousands and thousands of dollars of returned checks over there where the Health and Welfare

Department has continued to send pension and welfare checks to recipients that have been dead for years and they can't seem to stop it. I don't like this type of legislation at all.

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

Mr. LEVINE of Kennebec: Mr. President and Members of the Senate: What this bill really does, it wasn't a labor bill, it was an industry bill. What this bill really does, the way it is now, in most cases, if somebody receives a check, I think they will let them hold it. And under this bill here I think they will have to return the checks back unless they find out by some way or other that the man doesn't have any money or he didn't get only one check. But if a man keeps on getting four or five checks, under this bill he will definitely have to give it back. Under the old system he didn't have to.

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

Mr. Minkowsky of Androscoggin: Mr. President and Members of the Senate: I don't know if I understand this clearly or getting more bewildered in reference to it. But basically, from the observations I make from the comments from Senator Levine and from the questions from Senator Berry, which Senator Tanous hasn't really clarified, in getting back to the person who lives from hand to mouth, if he is not of sufficient ability to repay these, what do we do at that particular point? I would like to pose that question through the Chair, Mr. President?

The PRESIDENT: The Senator from Androscoggin, Senator Minkowsky, has posed a question through the Chair which the Senator from Penobscot may answer if he desires.

The Chair recognizes the Senator from Penobscot, Senator Tanous.

Mr. TANOUS of Penobscot: Mr. President, I assume under our

present law, he would be put in jail, or could be at least.

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

Mr. DANTON of York: Mr. President and Members of the Senate: When you draw unemployment checks and you go to sign up for them, I am quite sure they ask you three questions. One is: are you presently employed? Two: are you able to work? Are you not sick? They have a series of questions. So, if anyone was working I am quite sure that they wouldn't answer these questions and violate the law and endanger themselves of getting into trouble. I know they ask questions when they go to receive these unemployment checks, when they go to sign up for them.

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

Mr. LEVINE of Kennebec: Mr. President and Members of the Senate: Under this law such a person would have to turn the money back.

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

Mr. KATZ of Kennebec: Mr. President, I am satisfied with the answers that I have gotten, and I move the pending question.

The PRESIDENT: As many Senators as are in favor of accepting the Ought to Pass in New Draft Report of the Committee will please say "Yes"; those opposed "No."

A viva voce vote being taken, the motion prevailed.

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

(Off Record Remarks)

The Adjournment Order having been returned from the House, Read and Passed in concurrence, on motion by Mr. Hoffses of Knox, Adjourned until June 1, 1971, at 10 o'clock in the morning.