

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

One Hundred and Sixth

Legislature

OF THE

STATE OF MAINE

1973

KENNEBEC JOURNAL
AUGUSTA, MAINE

SENATE

Thursday, February 22, 1973

Senate called to order by the President.

Prayer by the Rev. Bruce W. Meyer of Augusta.

Reading of the Journal of yesterday.

**Papers from the House
Non-concurrent Matter**

Joint Order (S. P. 254) Relative to Legislative Finance Officer be authorized to approve the expenses of his office and accounts for payment.

In the Senate February 8, 1973, Read and Passed.

Comes from the House, Read and Passed as Amended by House Amendment "A" (H-44) in non-concurrence.

Thereupon, the Senate voted to Recede and Concur.

Bill, "An Act Providing Complimentary Hunting Licenses to Maine Residents over 70 Years of Age." (S. P. 1) (L. D. 28)

In the Senate February 13, 1973, Passed to be Engrossed as Amended by Committee Amendment "A" (S-10).

Comes from the House, Passed to be Engrossed, in non-concurrence.

Thereupon, on motion by Mr. Anderson of Hancock, the Senate voted to Insist.

Joint Orders

WHEREAS, the struggle for womens rights spans a period of approximately 90 years and is now a popular widespread movement; and

WHEREAS, Susan B. Anthony founded this movement which has led to the womens rights of this century and is considered the "mother of us all;" and

WHEREAS, the 15th day of February, 1973, marks the anniversary of this illustrious feminist's birth; now, therefore, be it

ORDERED, the Senate concurring, that We, the Members of the 106th Legislature of the State of Maine now assembled, take this opportunity to acknowledge the anniversary of this national leader's birth and her life's work

and great humanitarian efforts which have attributed much to raise the economic, legal and political status of women all over America; and be it further

ORDERED, that a suitable copy of this order be immediately transmitted to the Freeport Womens Guild and the National Organization of Women by the Secretary of the Senate in recognition of the occasion. (H. P. 758)

Comes from the House, Read and Passed as Amended by House Amendment "A" (H-45).

Which was Read and Passed as Amended by House Amendment "A" in concurrence.

WHEREAS, the Lewiston Daily Sun has faithfully provided daily news coverage in Androscoggin, Oxford, Franklin and adjacent counties for over 80 years; and

WHEREAS, the paper was founded by Mr. George W. Wood, a lawyer, librarian and teacher on February 20, 1893 in Lewiston; and

WHEREAS, after many years of fierce competition the Sun acquired the earlier Journal in 1923 which together have a combined circulation of 48,250 daily papers; and

WHEREAS, the paper employs 180 proud people who are conspicuously dedicated to the art of their profession; and

WHEREAS, February 20, 1973 marks the eightieth anniversary of this rich heritage and founding; now, therefore, be it

ORDERED, the Senate concurring, that the Members of the Senate and House of Representatives of the 106th Legislature now assembled, pause in our deliberations to congratulate the owners, officers and staff of the Lewiston Daily Sun and Evening Journal on this, the eightieth anniversary of its founding and express our hope that its long and dedicated life of public service will continue to endure for many years to come; and be it further

ORDERED, that a suitable copy of this order be immediately transmitted to the Russell H. Costello family, publishers and staff in honor of this occasion. (H. P. 825)

Comes from the House, Read and Passed.

Which was Read and Passed in concurrence.

House Papers

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

Bill, "An Act Relating to Discrimination Against Persons Who Refuse to Perform or Assist Abortions." (H. P. 739) (L. D. 952)

Bill, "An Act Relating to Immunity of Persons or Hospitals Refusing to Perform or Assist in Abortions." (H. P. 740) (L. D. 953)

Come from the House referred to the Committee on Judiciary and Ordered Printed.

Mr. Hichens of York moved that the above two bills be referred to the Committee on Health and Institutional Services in non-concurrence.

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

Mr. SPEERS: Mr. President, I would oppose the motion to refer these two bills to the Committee on Health and Institutional Services. Matters of abortion are utmost matters of judicial determination and I feel that they are correctly referred to the Committee on Judiciary.

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

Thereupon, on motion by Mr. Berry of Cumberland, tabled and Tomorrow Assigned, pending the motion by Mr. Hichens of York that the bills be referred to the Committee on Health and Institutional Services in non-concurrence.

Communications

STATE OF MAINE

Bureau of Public Improvements
Augusta, Maine 04330

February 21, 1973

To the Senate and House of Representatives of the One-Hundred and Sixth Legislature

In accordance with the provisions of Title 5, Section 1742, Maine Revised Statutes Annotated, we are submitting herewith the Status of Capital Improvement Projects Including cash expenditures through June 30, 1972.

Signed:

Respectfully,

NIRAN C. BATES

Director

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

STATE OF MAINE

Maine Education Council

February 21, 1973

The Honorable Harry N. Starbranch

Secretary of the Senate

State House

Augusta, Maine 04330

Dear Mr. Starbranch:

Please accept forty copies of "Financing Higher Education Facilities Through the Maine School Building Authority", a report prepared by the Maine Education Council for the 106th Legislature as ordered by H. P. 1294.

For the Maine Education Council,
Signed:

LINCOLN T. FISH

Chairman

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

Senate Papers

Mr. Richardson of Cumberland presented the following Joint Resolution and moved its adoption:

STATE OF MAINE

In the Year of Our Lord One Thousand Nine Hundred and Seventy-Three

Joint Resolution Memorializing the President and Congress of the United States to Withhold all Reconstruction Aid to North Viet Nam until a full accounting of POW's and MIA's has been made.

WE, your Memorialists, the Senate and House of Representatives of the State of Maine in the One Hundred and Sixth Legislative Session assembled, most respectfully present and petition the President and Congress of the United States, as follows:

WHEREAS, the North Vietnamese and their allies have not as agreed, satisfactorily accounted for all prisoners of war or persons missing in action; and

WHEREAS, the recent list of 555 prisoners of war released by North

Viet Nam in response to agreement, does not include names of 56 known prisoners of war and is considered no more accurate than their earlier lists; and

WHEREAS, the United States Government has received the names of only 7 of 317 servicemen known to be missing in Laos; and

WHEREAS, the tragedy of leaving American prisoners behind previously experienced in Korea must not be repeated; and

WHEREAS, approximately 1,400 families must not be abandoned to live in torturous anxiety as to the whereabouts of their loved ones; now, therefore, be it

RESOLVED: That we, your Memorialists, respectfully recommend and urge the President and Congress of the United States to consider the feeling of this State expressed in the foregoing preamble as well as those of the Nation and to do everything within their power to withhold allocation of any funds for reconstruction of North Viet Nam until a satisfactory and complete accounting of all prisoners of war and persons missing in action has been made; and be it further

RESOLVED: That the Secretary of State be directed to transmit forthwith suitable copies of this Memorial to the President of the United States, to the Speaker of the House of Representatives and the President of the Senate of the United States Congress and to the Members of said Senate and House of Representatives from the State of Maine. (S. P. 340)

Which was Read.

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

Mr. RICHARDSON: Mr. President and Members of the Senate: By asking that further reading be suspended I did not mean to suggest that you should not read the resolution memorializing Congress, and I hope that you will read it.

I am well aware that many of you have reservations about resolutions memorializing Congress in general, and perhaps this one in particular. I am one of the first to say that quite frequently our memorials to Congress border on the ludicrous. We have

memorialized Congress to do everything from A to Z.

Today I ask the Senate of the State of Maine to memorialize Congress and ask that no federal monies be appropriated by the Congress or approved for spending by the Administration unless and until the North Vietnamese have complied with the agreements that they made as part of the ceasefire, as part of ending American troop involvement in South Vietnam, and as part of what is hoped to be a lasting peace.

The list of 555 prisoners of war provided to us by the North Vietnamese does not list 56 prisoners of war that we know, through photographic and other documented evidence, to have been captured. I think we must insist on an accounting. Only seven missing in action men are listed in Laos, but we have missed and cannot account for 317.

In Korea the State Department, through the United States and allied intelligence sources, is still unable to satisfactorily account for 389 missing in action from what they used to call the "Korean Police Action."

There is no intention on my part of in any way being critical, either expressly or by implication, of the efforts of the Administration to bring this war to a close, or at least to bring American involvement in Indochina to a close.

The resolution is very similar to one that was adopted by this Senate on June 9, 1971, apparently without a dissenting vote, not one, and that resolution, Members of the Senate, passed in this Senate on June 9, 1971, asked that the Congress of the United States take all possible steps to gain the release of names, addresses, and state of health of every captive American, repatriate or move to a neutral country all sick and wounded prisoners, permit the International Red Cross or some other humanitarian organization to monitor the prison camps and help minister to the needs of the captives, to ask that the North Vietnamese abide by the Geneva Convention which they had signed in compliance with, I believe, minimal standards of moral

decency. Now, that is exactly what this resolution is about today. I hope that it is not political; it is not intended to be a partisan issue. I think that we are simply asking the Congress to cooperate with us and assist us in bringing about an accounting for these men, including POW's and MIA's.

The issue of whether or not this resolution goes far enough is immaterial. Whether you or I think that the Administration ought to spend any money to rehabilitate North Vietnam is not the issue. The issue here is solely and simply one of we, as the Senate of the State of Maine, adopting a joint resolution asking the Congress to insist that the North Vietnamese comply with their solemn obligations.

I do not mean to make this unnecessarily dramatic, and I am not going to ask these people to stand because I think to do so would be perhaps embarrassing to them, but I do want to tell you that present in the Senate Chamber with us today are Mrs. Donna Darcy and her children, Wendy, Bruce, and Edward, Jr. They are all of Gorham, Maine and are the wife and children of Air Force Senior Master Sergeant Edward Darcy, missing in action December 29, 1967. Also present with us in the Senate Chamber today are Stephen, Mark, Cheryl, and Lisa, brothers and sisters of Navy Lieutenant, Jr. Grade, Terrence Hammond, missing in action since January 1, 1968. There are also present with us representatives of various veterans' organizations here in Maine who continue to hold their concern for what I believe again, and I insist, is compliance with minimal standards of human decency to meet our commitment to those people who in fact did serve and are there. I don't think that we should allow the tragic uncertainty of life or death to continue any longer than is absolutely necessary.

Mr. President, I urge adoption of the resolution.

THE PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Brennan.

MR. BRENNAN: Mr. President and Members of the Senate: I

would agree with the Senator from Cumberland, Senator Richardson, that this is certainly not a partisan nor a political issue.

I personally very much oppose any aid to North Vietnam whatsoever until there is a satisfactory accounting for American prisoners and those who are missing in action. And I am sure every reasonable person, not only in this body but in the House, in the Congress, and in the Administration would probably take that same position until there is a satisfactory accounting.

I think one of the questions here is: Is this a legitimate question or issue before this body? Are we in a position and should we discuss foreign policy here? It is my understanding that two years ago a resolution was introduced by Senator Graham from Freeport, and that resolution was memorializing Congress to restore peace and prosperity to the United States by ending the Vietnam War. That resolution, I understand, was defeated and many distinguished members of this present Senate spoke against it, including Senator Berry, Senator Anderson, and Senator Shute. I think their position essentially was that this was not the proper forum for foreign policy.

I also feel that in memorializing Congress, and I truly hope that this will have some effect, but I think over the last several years the President of the United States has not listened to Congress one bit in foreign affairs, and I think in the last few months there is some serious question as to whether or not the President of the United States listens to Congress in domestic affairs. I hope in my heart that this resolution will do some good. I will support it. I do feel though, frankly, it is not something properly to be discussed in this body. I do think it probably doesn't go far enough if we are going to have such a resolution. This is a country that has spent \$130 billion to decimate Indochina. I do think we have some moral responsibility over there to assist in rebuilding that place, but I do agree, and I think it is frankly part of the protocols that were

signed by Dr. Kissinger, that there would be no aid to rebuild North Vietnam until there is a satisfactory accounting. So I will support the resolution itself.

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

Mr. BERRY: Mr. President and Members of the Senate: I am speaking as a member of this body and not in my official capacity as Majority Floor Leader.

I am opposed to the resolution on the grounds that this is not the body to handle the details that are best left to the Chief Executive. And as Senator Brennan has pointed out, my stand is consistent as it was two years ago.

I agree with the principles that are laid out in the proposal of the Senator from Cumberland, Senator Richardson. I would invite to your attention that the President of the United States has successfully brought the war to a conclusion; that he did it notwithstanding the non-passage of the memorial two years ago that Senator Brennan refers to. I would invite your attention to the fact that the Chief Executive of this country has recently been re-elected by the largest majority of electoral votes in the history of this country. I would invite your attention to the fact that this indicates that we, the people of the United States, have tremendous trust and confidence in the way that the President of the United States has been conducting the affairs of this country, particularly in the subject at hand, the Vietnam War and the mechanics of drawing it now to an ultimate successful, peaceful conclusion.

I am voting against this because of these reasons, and I am sure that every member of this body is going to vote on his own conscience the way he wants to and for no political or extraneous reasons.

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

Mr. RICHARDSON: Mr. President and Members of the Senate: I am, first of all, delighted to hear our distinguished Majority Floor Leader indicate that he is not

speaking as the Majority Floor Leader; I was concerned for a moment that he might be. The Senator's sense of history is somewhat inaccurate. On June 9, 1971 this Senate adopted without a dissenting vote a resolution memorializing Congress, a substantial portion of which I read to you. The Senator was presumably present in the Senate when that was adopted, and I find nothing in the record to suggest that there was any dissent or any concern about foreign policy.

The resolution which is before you today does not criticize the Administration. And since the issue has been brought up, I will say that I am one of those who feels that the President of the United States, despite the tiresome and persistent partisan criticism of members of the Senate, withstood extreme vilification and harassment in the press over a protracted period of many, many months and has succeeded, at least to some extent, in effecting a withdrawal of American ground forces from Indochina. I am proud of the fact that he did that, and I am not attempting to be critical of him.

We have memorialized everything from potato queens to potato bugs, and I honestly see no valid objection to our memorializing Congress in this case, and we are in nowise interfering in the congressional deliberative process.

Mr. President, when the vote is taken, I request that it be taken by the yeas and nays.

The PRESIDENT: A roll call has been requested.

The Chair recognizes the Senator from Kennebec, Senator Joly.

Mr. JOLY: Mr. President and Members of the Senate: I rise to concur with the remarks of the Senator from Cumberland, Senator Berry.

As Reverend Meyer said in his fine prayer this morning, we are entrusted with the cares and concerns of our state. The return of our prisoners of war is the responsibility of our President and Congress. Thus far an admirable job has been done, and I am confident it will be continued. I will vote against this resolution.

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

Mr. **KATZ**: Mr. President and Members of the Senate: I am amongst those who wish that the efforts of this Senate could be directed towards domestic concerns, but in the past we have had expressions of conscience emanate from this body, and one of those expressions of conscience came through Senator Graham's memorial last session, which I supported.

I am confident that little we say or do here is going to have any influence on the international or national scene, but I do feel that this Senate is a vehicle for an expression of compassion for the problems facing those still missing in action and still unaccounted for. And on the basis of an expression of compassion on the part of the State of Maine, I urge your support of this resolution.

The **PRESIDENT**: Is the Senate ready for the question? The pending question before the Senate is the adoption of Joint Resolution, Senate Paper 340, Item 3-1 on your advance journal and calendar. A roll call has been requested. In order for the Chair to order a roll call, it requires the affirmative vote of at least 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 adoption of Joint Resolution, Senate Paper 340, Item 3-1 on your advance journal and calendar. A "Yes" vote will be in favor of the adoption of the resolution; a "No" vote will be opposed.

The Secretary will call the roll.

ROLL CALL

YEAS: Senators Aldrich, Brennan, Clifford, Conley, Cox, Cummings, Cyr, Danton, Fortier, Graffam, Greeley, Katz, Kelley, Marcotte, Minkowsky, Morrell, Olfe, Peabody, Richardson, Roberts, Schulten, Sewall, Speers, Wyman, and President MacLeod.

NAYS: Senators Anderson, Berry, Cianchette, Hichens, Huber, Joly, and Shute.

ABSENT: Senator Tanous.

A roll call was had, Twenty-five Senators having voted in the affirmative, and seven Senators having voted in the negative, with one Senator absent, the Joint Resolution was Adopted.

Sent down for concurrence.

Appropriations and Financial Affairs

Mr. Joly of Kennebec presented Bill, "An Act Appropriating Funds to Department of the Attorney General to Print Reports of Two Attorneys General." (S. P. 335)

Mr. Kelley of Aroostook presented Bill, "An Act Increasing Salaries of County Attorney and Assistant County Attorney of Aroostook County." (S. P. 336)

Which were referred to the Committee on Appropriations and Financial Affairs and Ordered Printed.

Sent down for concurrence.

Business Legislation

Mr. Cox of Penobscot presented Bill, "An Act Relating to Credit Unions." (S. P. 337)

Which was referred to the Committee on Business Legislation and Ordered Printed.

Sent down for concurrence.

Education

Mr. Conley of Cumberland presented Bill, "An Act to Permit the State Board of Education to Reimburse the City of Portland for School Construction." (S. P. 338)

Which was referred to the Committee on Education and Ordered Printed.

Sent down for concurrence.

Health and Institutional Services

Mr. Greeley of Waldo presented Resolve, Relating to Immediate Payment of Boarding Home Funds. (S. P. 339)

Which was referred to the Committee on Health and Institutional Services and Ordered Printed.

Sent down for concurrence.

Judiciary

Mr. Clifford of Androscoggin presented Bill, "An Act Relating to Imposition of Sentence to the State Prison." (S. P. 341)

Mr. Richardson of Cumberland presented Bill, "An Act Relating to Comparative Negligence in Civil Cases." (S. P. 342)

The same Senator presented Bill, "An Act Relating to Warranties on Consumer Goods and Services." (S. P. 343)

Mr. Clifford of Androscoggin presented Bill, "An Act to Authorize Issuance of Warrant for Administrative Searches." (S. P. 344)

The same Senator presented Bill, "An Act Pertaining to Unlicensed Dogs." (S. P. 345)

Which were referred to the Committee on Judiciary and Ordered Printed.

Sent down for concurrence.

Labor

Mr. Richardson of Cumberland presented Bill, "An Act Requiring Employers to Coordinate with Other Parties Providing Vocational Rehabilitation Services to Injured Employees." (S. P. 347)

Which was referred to the Committee on Labor and Ordered Printed.

Sent down for concurrence.

Legal Affairs

Mr. Conley of Cumberland presented Bill, "An Act to Authorize Municipalities to Contract with an Urban Renewal Authority for Services." (S. P. 348)

Which was referred to the Committee on Legal Affairs and Ordered Printed.

Sent down for concurrence.

State Government

Mr. Aldrich of Oxford presented Bill, "An Act to Create the Department of Business Regulation." (S. P. 350)

Which was referred to the Committee on State Government and Ordered Printed.

Sent down for concurrence.

Transportation

Mr. Morrell of Cumberland presented Bill, "An Act Relating to Movement of Oversize Loads on Highways." (S. P. 351)

Which was referred to the Committee on Transportation and Ordered Printed.

Sent down for concurrence.

Veterans and Retirement

Mr. Shute of Franklin presented Bill, "An Act Providing Minimum Retirement Benefits for Certain Teachers." (S. P. 353)

Which was referred to the Committee on Veterans and Retirement and Ordered Printed.

Sent down for concurrence.

Committee Reports

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 Repealing Poll Tax Receipt Requirement for Motor Vehicle and Fish and Game Licenses." (H. P. 31) (L. D. 38)

Bill, "An Act Providing for Payment of One Hundred Percent of Health Insurance Plans for State Employees." (H. P. 440) (L. D. 589)

Leave to Withdraw

The Committee on Labor on Bill, "An Act Relating to Minimum Wages and Overtime." (H. P. 112) (L. D. 132)

Reported that the same be granted Leave to Withdraw.

The Committee on Election Laws on Bill, "An Act Relating to Obtaining Absentee Ballot When Voter Will Be Absent from the Municipality." (H. P. 270) (L. D. 377)

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.

Leave to Withdraw — Covered by Other Legislation

The Committee on Taxation on Bill, "An Act Repealing the Poll Tax." (H. P. 36) (L. D. 43)

Reported that the same be granted Leave to Withdraw, Covered by Other Legislation.

The Committee on Taxation on Bill, "An Act to Repeal the Poll Tax." (H. P. 44) (L. D. 51)

Reported that the same be granted Leave to Withdraw, Covered by Other Legislation.

Come from the House, the reports Read and Accepted.

Which reports were Read and Accepted in concurrence.

The Committee on Taxation on Bill, "An Act Repealing the Poll Tax." (H. P. 79) (L. D. 92)

Reported that the same be granted Leave to Withdraw, Covered by Other Legislation.

Comes from the House, the report Read and Accepted.

The PRESIDENT: Is it the pleasure of the Senate to accept the Leave to Withdraw Report of the Committee in concurrence?

The Chair recognizes the Senator from Kennebec, Senator Speers.

Mr. SPEERS: Mr. President, I would address a question through the Chair: I wonder if the Chairman of the Taxation Committee might enlighten the Senate as to the other legislation and when it may be expected.

The PRESIDENT: The Senator from Kennebec, Senator Speers, has posed a question through the Chair which the Senator from Washington, Senator Wyman, may answer if he desires.

The Chair recognizes the Senator from Washington, Senator Wyman.

Mr. WYMAN: Mr. President and Members of the Senate: We have another bill which will repeal the poll tax. We have an emergency preamble being prepared for it and, hopefully, it will pass that way in order not to cause confusion. But if it doesn't pass with an emergency preamble, we intend to try to take the emergency preamble off and have it effective in 1974 rather than right in the middle of the year.

The PRESIDENT: Is it now the pleasure of the Senate to accept the Leave to Withdraw Report of the Committee in concurrence?

Thereupon, the Leave to Withdraw Report of the Committee on Taxation was Accepted in concurrence.

Ought to Pass

The Committee on Legal Affairs on Resolve, to Reimburse Norman W. Ahlholm of Warren for Loss of Beehives. (H. P. 294) (L. D. 398)

Reported that the same Ought to Pass.

The Committee on Legal Affairs on Bill, "An Act Relating to Issuance of Temporary Notes by Hospital Administrative District No. 1 in Penobscot County." (H. P. 307) (L. D. 409)

Reported that the same Ought to Pass.

Come from the House, the Resolve and Bill Passed to be Engrossed.

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

Ought to Pass — As Amended

The Committee on Transportation on Bill, "An Act Relating to Lights and Reflectors on Bicycles." (H. P. 96) (L. D. 117)

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-34).

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.

Senate Ought to Pass

Mr. Anderson for the Committee on Public Utilities on Bill, "An Act to Amend the Charter of the Andover Water District." (S. P. 210) (L. D. 554)

Reported that the same Ought to Pass.

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

Second Readers

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

House

Resolution, Proposing an Amendment to the Constitution Reducing Residence Requirement for Voting to Thirty Days. (H. P. 9) (L. D. 9)

Bill, "An Act Permitting the Commissioners of Franklin County to Transfer Bridge Account Moneys." (H. P. 209) (L. D. 282)

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

Bill, "An Act Relating to Possession of Firearm During Open Season on Deer after Deer Registered." (H. P. 159) (L. D. 201)

Which was Read a Second Time.

Mr. Anderson of Hancock then presented Senate Amendment "A" and moved its Adoption.

Senate Amendment "A", Filing No. S-17, was Read.

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

The Chair recognizes the Senator from Androscoggin, Senator Minkowsky.

Mr. MINKOWSKY: Mr. President, prior to the adoption of this amendment, could we get a status report as to the disposition of this particular bill as it was acted upon in the other body? I was led to believe that this bill was defeated in the other branch, and I just wanted to be sure this was a correct evaluation.

The PRESIDENT: The Senator is correct. This bill was indefinitely postponed in the House of Representatives and the Senate is in non-concurrence at the present time.

The Chair recognizes the same Senator.

Mr. MINKOWSKY: Mr. President, a question if I may: Is it proper to amend a bill that has been indefinitely postponed in the House?

The PRESIDENT: It is proper to amend the bill. This body can take its own action in non-concurrence with the other body, which is what is happening at the present time.

Is it now the pleasure of the Senate to adopt Senate Amendment "A"?

The motion prevailed.

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

Sent down for concurrence.

House — As Amended

Bill, "An Act Relating to Assistance to Blind Persons in Marking Absentee Ballots." (H. P. 42) (L. D. 49)

Bill, "An Act Revising the Boiler Law to Include Certain Pressure Vessels." (H. P. 164) (L. D. 206)

Bill, "An Act Relating to Inspection Methods and Frequencies of Steel Hot Water Heating Boilers." (H. P. 179) (L. D. 221)

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

Senate — As Amended

Bill, "An Act Relating to Reports of Continuous Revision by Director of Legislative Research." (S. P. 92) (L. D. 238)

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 Relating to Duties of School Committees Concerning Persons not Immunized Against Certain Diseases. (S. P. 88) (L. D. 234)

An Act Relating to Sale of Certain Publication of Department of Inland Fisheries and Game. (S. P. 113) (L. D. 258)

An Act Relating to Use of Name "The State of Maine Marching Ambassadors," (H. P. 20) (L. D. 20)

An Act Repealing the Prohibition Against Mobile Home Sales on Sunday. (H. P. 39) (L. D. 46)

(On motion by Mr. Hichens of York, temporarily set aside.)

An Act Relating to Penalty for Not Having a License Issued under Fish and Game Laws. (H. P. 185) (L. D. 227)

An Act Relating to Designation of an Official in Absence or Disability of Town Manager. (H. P. 198) (L. D. 271)

An Act Changing the Name of the Research and Education Trust. (H. P. 200) (L. D. 273)

Which, except for the matter set aside, 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 by Mr. Hichens of York: An Act Repealing the Prohibition Against Mobile Home Sales on Sunday (H. P. 39) (L. D. 46).

The same Senator then moved that the Bill and all accompanying papers be Indefinitely Postponed.

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

Mr. JOLY: Mr. President and Members of the Senate: I would oppose Senator Hichens's motion. When the Sunday Blue Laws were first enacted about six or eight years ago I don't believe we had the mobile homes in the State of Maine as we have them today. Today a young couple upon getting married go out to look at a home, and they are just as likely to look at mobile homes as they are at regular homes. The majority of our committee felt that this was discrimination and that mobile home sales on Sunday should be allowed as much as the sale of regular homes, and for that reason I hope that you would oppose the motion of Senator Hichens.

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

Mr. HICHENS: Mr. President and Members of the Senate: A few years ago there was one day of the week that was set aside for a time of rest and worship. Down through the years, as the Senator from Kennebec has mentioned, the Blue Laws were changed somewhat, but there were many different businesses and events which still were not allowed on Sunday.

During my tenure as a legislator I have seen the door continually opened: first, through the Sunday sale of liquor in restaurants, and so forth; then Sunday racing at Scarborough Downs with the accompanying gambling; then proposals for Sunday hunting, which have been defeated down through the years; a proposal two years ago for the opening of our big department and grocery stores, which the proprietors and owners

came and defeated themselves in committee; the automobile sales, which is prohibited on Sundays, and has not been revived to have that part of it added to our Sunday sale things; and then this year, besides this bill, another one on hunting of deer, another one on hunting of rabbits on Sunday, Sunday sale of beer and wines, and the use of vending machines on Sunday. We go on and on and on.

I feel, gentlemen and lady Senator, it is time to close the door and keep some sanctity in this one day of the week.

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

Mr. SPEERS: Mr. President and Members of the Senate: I too would definitely oppose the motion by the Senator from York, Senator Hichens. The incidence of mobile home sales in this state, the vastly increasing number of mobile home sales in this state, indicate that it certainly is one answer to the housing problem that faces the State of Maine. I think also it is usual that it is the lower income individual who is likely to be looking for a mobile home. These are the individuals who are unable to take an afternoon off from work or a day off from work to go and look for a mobile home, and this would mean, if this bill were indefinitely postponed, that they would have only one day a week in which they could look for a mobile home. I think they should have the entire weekend to be free to do that.

The PRESIDENT: Is the Senate ready for the question? The pending question is the motion of the Senator from York, Senator Hichens, that Bill, An Act Repealing the Prohibition Against Mobile Home Sales on Sunday, be indefinitely postponed. The Chair will order a division. As many Senators as are in favor of the motion of the Senator from York, Senator Hichens, that this bill be indefinitely postponed will please rise and remain standing until counted. Those opposed will please rise and remain standing until counted.

A division was had. Eight Senators having voted in the

affirmative, and 20 Senators having voted in the negative, the motion did not prevail.

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.

Emergency

Resolve, Authorizing the Carrying Forward of Appropriation to Aid in Construction of Swimming Pool at Pineland Hospital and Training Center. (H. P. 269) (L. D. 376)

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

Emergency

An Act to Authorize the Construction of a Bridge Across Cowseagan Narrows, Back River, Between the Towns of Westport and Wiscasset. (S. P. 118) (L. D. 263)

This being an emergency measure and having received the affirmative votes of 28 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:

Bill, "An Act Exempting Fuels Used to Burn Blueberry Fields from the Sales Tax." (H. P. 86) (L. D. 106)

Tabled — February 20, 1973 by Senator Conley of Cumberland.

Pending — Enactment.

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

Mr. WYMAN: Mr. President and Members of the Senate: As you obviously know, I grow blueberries and I therefore ask to be excused from voting.

The PRESIDENT: The Senator from Washington, Senator Wyman, asks to be excused from voting. Is this the pleasure of the Senate?

Mr. Wyman of Washington was then granted leave to be excused from voting.

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

Mr. CONLEY: Mr. President and Members of the Senate: L. D. 106 would exempt sales of all fuels used in burning blueberry fields from the state sales tax. It is estimated that it would cost the state approximately \$20,000 to \$22,000 a biennium.

This proposal is a classic example of what former Assistant Secretary Treasurer, Stanley Surrey, called a "Tax Expenditure." In other words, by creating this special exception for a particular taxed item, the state is saying that it is willing to contribute what otherwise normally would be considered tax revenue in a private enterprise. Ordinarily, the government should not be giving one penny in subsidy, which is what a tax expenditure really is, to a private enterprise without a very good reason, for private businesses are expected to compete with each other on an equal basis and not to improve their competitive position with donations from the taxpayers.

In basic economic terms, that is exactly what this bill proposes — either that other taxpayers pay more or that government spend less — so as to give the blueberry industry the benefit of funds other types of businesses are required to pay for in public services.

There is no good reason for giving this kind of subsidy to the detriment of other taxpayers similarly situated. Right now the statute provides that fuel and electricity consumed in the process of manufacturing shall not be exempted from the sales tax for any industry. This rule was upheld by the Supreme Court in the Hudson Pulp and Paper Corporation verses Johnson, when referring specifically to where the fuel burned up in a foundry was subject to the sales tax.

When the legislature last enacted exemptions on products used in agricultural production, they exempted sales of seed, feed, hormones and various insecticides, but not fuel. The real issue here is whether all fuels and all electri-

city purchased for the purpose of producing other goods for sale should be exempted from the sales tax. If that is the policy we want, we can see its advantage; exempting goods used in various stages of production from taxation would hopefully lower the cost to the ultimate consumer, but there is no compelling reason to single blueberry growers out for special treatment. Such exemptions would have their disadvantages as well: there would obviously be a problem in controlling the exemption, and fuel and electricity could easily be converted from the intended exempt use to use entirely for the consumer.

The revenue loss from equitable treatment of all such fuels and power would obviously be far greater than \$20,000 that we speak of. Yet this is the logical and fair extension of the proponents' reasoning.

If there are to be further extensions of the sales tax exemptions, they should be for the benefit of consumers and not corporations. For example, it is far fairer to exempt a universal necessity like clothing than a commercial venture. Exemptions for consumers are generally exemptions for necessities. Corporations already get a tax break in that they can deduct the costs of production such as their blueberry fuel from their income taxes. Unlike consumers, businesses can pass on the cost of taxes through increased prices to the purchaser, so that the business does not suffer by the imposition of this tax unless the demand for the product is insufficient to maintain the cost of production, plus taxes, plus profit.

First, I should point out that the principles of tax equity are at stake here, whether the bill is merely a foot in the door for requests for much more extensive exemptions for businesses or whether it is fair for the state to subsidize this industry to the extent of expending a single cent. And secondly, while \$20,000 is, of course, relatively insignificant in our budget of about \$545,000,000 for the biennium, still, from another equally valid perspective, this money could be very well used for

any other type of services for the people of this state such as the elderly or the poor.

It should be observed too that the blueberry industry is already in a special tax position in that in the 105th Legislature a bill was enacted for a special tax to promote research and development of the industry. The question inevitably rises as to whether it was the intent of the blueberry interests to endure a special tax for a special purpose beneficial to their particular interests for a two-year period in the hope that after those two years they would get an exemption offsetting their special tax. The effect of such a move, of course, is to finance their special research and merchandizing out of the general fund.

Mr. President and Members of the Senate: I have spoken to many people and particularly people from Aroostook County, where they say the exemption does now exist on the books for the purpose of potato growers. But also in my research I have found that today fuels are not used for the purpose of burning in the growing of potatoes, but today they are using mostly chemicals. So what we are looking at really is the possibility that in the next session or the next special session we will find before us another bill asking for the exemption of chemicals for the purpose of potato growers. So at this time, Mr. President, I see no valid reason for the enactment of this bill and I move its indefinite postponement.

The PRESIDENT: The Senator from Cumberland, Senator Conley, now moves that Bill, "An Act Exempting Fuel Used to Burn Blueberry Fields from the Sales Tax", House Paper 86, Legislative Document 106, be indefinitely postponed.

The Chair recognizes the Senator from York, Senator Marcotte.

Mr. MARCOTTE: Mr. President and Members of the Senate: Less than a week ago this body elected not to contribute to the erosion of our sales tax. I am referring, namely, to the clothing exemption that we did not pass. I would urge that we remain consistent and sup-

port the motion of Senator Conley. When the vote is taken I would request that it be taken by the yeas and nays.

The PRESIDENT: A roll call has been requested.

The Chair recognizes the Senator from Penobscot, Senator Sewall.

Mr. SEWALL: Mr. President, could I have a reading on the committee report?

The PRESIDENT: The Secretary will give the report.

The SECRETARY: The committee report was unanimous ought to pass.

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

Mr. CONLEY: Mr. President, may I ask for the signatures of the ought to pass report on the bill please?

The PRESIDENT: The signature is Louis Finemore for the committee.

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

Mr. WYMAN: Mr. President, I didn't intend to get into this, but this report was passed around and I did not sign it, but obviously let the report go as unanimous.

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

Mr. COX: Mr. President and Members of the Senate: As a member of the Taxation Committee, I heard the arguments in favor of the exemption of the blueberry tax. One major argument was that the facilities for handling the potatoes were tax exempt because it did help in the growth of the potato. We had material submitted by the University of Maine to show that the same applied to blueberries, and that it was discriminatory against the blueberry growers where the potato people did have an advantage. There was a great deal of testimony given by some small blueberry growers showing that they used gas and oil in this type of operation. For that reason mainly I supported that vote, and the whole committee felt that way. Thank you.

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

Mr. CONLEY: Mr. President and Members of the Senate: I also spoke with the Senator from Penobscot, Senator Cox, relative to this bill and, as he has stated, the reason that he signed the bill and some members of the committee did was because of the advantage that the potato growers had. Since that time I have learned from many of the potato growers in Aroostook County that no longer today do they use fuels for the purpose of burning; they now use other chemicals, and those chemicals are not exempted under the sales tax law today.

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

Mr. COX: Mr. President and Members of the Senate: They still continue to use fuels in Aroostook County on potatoes. There has been a great deal of research done with the University of Maine, and there is a national paper presented on this type of study being presented this week in St. Louis for the potato growers in the United States showing that fuels do help in the potato process.

The PRESIDENT: The Chair recognizes the Senator from Oxford, Senator Fortier.

Mr. FORTIER: Mr. President and Members of the Senate: It seems to me that the debate on this bill is getting around the word "consistent" and when are we and when are we not consistent. I think it has been definitely established that there is some oil used in the potato fields, but there are also a lot of insecticides which are exempt which are used to help the growth of potatoes and to help the growth of a great many other ingredients of farm products. When we talk about consistency and exception, it seems to me that the exception has been made in this case, and the bill was intended to correct that inconsistency.

One other expression employed by my good friend, Senator Conley, was that we were "inserting a wedge" possibly. We probably are inserting a wedge if we do not exempt this item, which is a comparatively small one considering our overall budget. Where are we going to draw the line in future

legislatures? In other words, are we going back and tax all insecticides? Are we going to tax seed? Are we going to tax everything that helps in the growth of a product? This, my friends, is what we are opening the door for, and I think that this is the time to slam the door by closing out these inconsistencies that now exist, and I hope you will vote against the motion to indefinitely postpone.

The PRESIDENT: Is the Senate ready for the question?

The Chair recognizes the Senator from Aroostook, Senator Cyr.

Mr. CYR: Mr. President and Members of the Senate: I didn't intend to get into this debate but it seems as though there are quite a few remarks that have been addressed to the potato industry and, coming from that industry and from the rural area, I think I would like to express opinion in regards to this.

I am opposed to the motion that is now before us, and the reason for it is that this industry, as was mentioned in the debate, has been left out so far from these exemptions. They mention that the potato industry is exempted on this fuel for top-killing. It is true that the exemption does exist. However, very little fuel is being used for top-killing now, but we do use a lot of chemicals and these chemicals are exempted. Now, we have to look at it from the standpoint that all farm supplies are exempted now on the books from the sales tax, and I would fight, I would fight very strenuously, an attempt to remove that exemption because in agriculture today the cost of production is so high that in many cases farmers cannot recover their cost of production. We have seen farmers going out of business. In my own county we have seen farmers drop from 3500 to less than 1200. Now, if we were to add this cost onto the cost that they are now having to face, I am sure that the mortality would still be even higher. They also have exemption on gasoline. They have to file an application for the gas tax which is used on the farms, which is only fair and just because that is not being used on road construction.

Now, coming back to this exemption here in this bill that we are talking about, I am afraid that this may open the door, or a lot of individuals may want to come in and shut the door on these exemptions.

Now, one of the main reasons why these exemptions were granted at the beginning is that this is a material which is being used in the production of a product and the product — of course, in this case it is an agricultural product and therefore is not subject to sales tax — but there are many exemptions on supplies being used for the production of the final product on which the tax is being charged. So actually, if you want to look for this from the real standpoint, you are charging a double tax to these individuals, because if they have to pay a tax on the fuel that they are using for this product, and then there is a tax which is charged on the product, you are actually practicing double taxation. So, for that reason, I will vote against the motion that is presently before the Senate.

The PRESIDENT: Is the Senate ready for the question?

The Chair recognizes the Senator from Cumberland, Senator Richardson.

Mr. RICHARDSON: Very briefly, Mr. President and Members of the Senate: I find it somewhat amazing that only a few days ago we were talking about removing the sales tax from clothing, and we were very concerned about the fact that we were not acting responsibly because we were not funding through some alternative package that was before us the revenue loss. I would immediately concede that the amount of revenue loss involved is totally a different proposition here than it was there, but I do not subscribe to the proposition that consistency is always the hobgoblin of little minds.

I very reluctantly am going to vote against this because I think it is bad legislative procedure to attempt to piecemeal structure our tax exemption system. I think we should review the whole issue of tax exemptions, of which industries

we are attempting to encourage and what activities we are attempting to encourage. I don't see any replacement for the lost revenue here, and I cannot in good conscience with any sense of consistency vote for this legislation. Therefore, I intend to vote for the motion to indefinitely postpone.

The PRESIDENT: Is the Senate ready for the question? The pending question before the Senate is the motion of the Senator from Cumberland, Senator Conley, that Bill, "An Act Exempting Fuel Used to Burn Blueberry Fields from the Sales Tax", be indefinitely postponed.

A roll call has been requested. Under the Constitution, in order for the Chair to order a roll call, it requires the affirmative vote of at least 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 before the Senate is the motion of the Senator from Cumberland, Senator Conley, that Bill, "An Act Exempting Fuels Used to Burn Blueberry Fields from the Sales Tax", 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 Aldrich, Brennan, Cianchette, Clifford, Conley, Danton, Katz, Marcotte, Minkowsky, Richardson, Schulten, Sewall, Shute, and President MacLeod.

NAYS: Senators Anderson, Berry, Cox, Cummings, Cyr, Fortier, Graffam, Greeley, Hichens, Huber, Joly, Kelley, Morrell, Olfene, Peabody, Roberts, and Speers.

ABSENT: Senator Tanous.

A roll call was had. 14 Senators having voted in the affirmative, and 17 Senators having voted in the negative, with one Senator absent and one not voting, the motion did not prevail.

Thereupon, on motion by Mr. Sewall of Penobscot, placed on the Special Appropriations Table.

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

Bill, "An Act to Provide for Nomination of the Commissioner of Educational and Cultural Services by the State Board of Education." (H. P. 654) (L. D. 868)

Tabled — February 21, 1973 by Senator Minkowsky of Androscoggin.

Pending — Motion by Senator Berry of Cumberland to Reconsider Reference. (Referred to the Committee on Education).

Mr. Berry of Cumberland then moved the pending question.

Thereupon, the Senate voted to reconsider its action whereby the Bill was Referred to the Committee on Education in non-concurrence.

On further motion by the same Senator, referred to the Committee on State Government in non-concurrence and Ordered Printed.

Sent down for concurrence.

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

Bill, "An Act Revising the Laws Relating to School Buses." (S. P. 307)

Tabled — February 21, 1973 by Senator Minkowsky of Androscoggin.

Pending — Motion by Senator Hichens of York to Refer to Committee on Transportation. (Committee on Reference of Bills suggests Reference to the Committee on Education).

Thereupon, the Bill was Referred to the Committee on Transportation and Ordered Printed.

Sent down for concurrence.

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

Bill, "An Act Providing Funds for a Fine Arts Building for the University of Maine at Portland-Gorham." (H. P. 610) (L. D. 808)

Tabled — February 21, 1973 by Senator Sewall of Penobscot.

Pending — Motion of Senator Katz of Kennebec to Reconsider

Reference. (Referred to the Committee on Appropriations and Financial Affairs).

On motion by Mr. Sewall of Penobscot, retabled and Tomorrow Assigned, pending the motion of Mr. Katz of Kennebec to Reconsider.

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

Bill, "An Act Relating to Apportionment of Cost of Reconstruction of Railroad Grade Separation Structures on Non-federal Aid-State Aid Highways." (S. P. 136) (L. D. 348)

Tabled — February 21, 1973 by Senator Cianchette of Somerset.

Pending — Passage to be Engrossed.

Mr. Cianchette of Somerset then moved the pending question.

Thereupon, the Bill was Passed to be Engrossed.

Sent down for concurrence.

The PRESIDENT: The Chair would like to remind the Maine Senate of its longstanding history of enjoying a fine reputation as far as decorum and conduct of its affairs is concerned. It has come to the attention of the Chair this week that there have been some instances where this decorum has not been all that it should be. The Chair has had a couple of complaints from fellow Senators. I would like to ask the Senators and those in the audience that when they have a conversation to conduct that they not conduct it standing in the rear of the Senate Chamber. Either go outside in the hallway or converse quietly at the rear of the Chamber or at the side of the Chamber, but not three or four grouped together in the rear of the Chamber talking.

On motion by Mr. Sewall of Penobscot,

Adjourned until ten o'clock tomorrow morning.