

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, March 22, 1973

Senate called to order by the President.

Prayer by the Rev. Warren Benner of Gardiner.

Reading of the Journal of yesterday.

Joint Order

Out of Order and Under Suspension of the Rules:

On motion by Mr. Sewall of Penobscot,

ORDERED, the House concurring, that when the Senate and House adjourn, they adjourn to Monday, March 26, at 10 o'clock in the morning. (S. P. 449)

Which was Read and Passed.

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

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

Bill, "An Act Relating to the Uniform Motor Vehicle Accident Reparations Act." (S. P. 419) (L. D. 1425)

In the Senate March 7, 1973, referred to the Committee on Judiciary.

Comes from the House, referred to the Committee on Business Legislation, in non-concurrence.

Thereupon, the Senate voted to Recede and Concur.

Non-concurrent Matter

Resolution, Proposing an Amendment to the Constitution to Permit Appointment of Judges of Probate. (S. P. 292) (L. D. 839)

In the Senate March 19, 1973, Passed to be Engrossed as Amended by Committee Amendment "A" (S-34).

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

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

Mr. TANOUS: Mr. President and Members of the Senate: We have had quite a few probate bills presented to this legislature this year, and in Judiciary we have a bill in there requesting a study of our whole probate structure in the State of Maine. It is hoped that

unless probate bills are of urgent necessity that perhaps we might defer any action in the area of probate bills until we might have a very comprehensive study on our entire probate procedure. With this in mind, I would like to move that we recede and concur with the House.

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

The Chair recognizes the Senator from Cumberland, Senator Brennan.

Mr. BRENNAN: Mr. President and Members of the Senate: This legislation is just designed to correct some constitutional problems that we have in reference to making the judges of probate appointed. Unless we pass this, we cannot have a situation where the legislature can pass legislation so that they can be appointed.

Four years ago the legislature passed a resolution calling for the appointment of the judges of probate, but they didn't do a complete job. However, that was approved at referendum by the people. But this must be followed up to create enabling legislation so that if what Senator Tanous is talking about is passed, or if the legislature is interested in it, so that we can pass it. Unless we pass this we won't be able to do anything about it because it is tied up right now with the elective process. So I hope you would vote against that motion to recede and concur.

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

Thereupon, on motion by Mr. Berry of Cumberland, tabled and Specially Assigned for March 27, 1973, pending the motion by Mr. Tanous of Penobscot that the Senate Recede and Concur.

Non-concurrent Matter

Bill, "An Act Authorizing Piscataquis County to Collect and Dispose of Solid Waste on a Regional Basis." (S. P. 270) (L. D. 795)

In the Senate March 14, 1973, Passed to be Engrossed.

Comes from the House, Passed to be Engrossed as Amended by

House Amendment "A" (H-106) as Amended by House Amendment "A" Thereto (H-118), in non-concurrence.

Thereupon, the Senate voted to Recede and Concur.

Non-concurrent Matter

Bill, "An Act Relating to Fees for Forest Lands and Wild Lands Posted Against Trespass." (H. P. 58) (L. D. 70)

In the Senate March 13, 1973, the Majority Ought Not to Pass report Read and Accepted, in non-concurrence.

Comes from the House, the Bill Passed to be Engrossed as Amended by House Amendment "C" (H-113), in non-concurrence.

Mr. Berry of Cumberland moved that the Senate Adhere.

Mr. Brennan of Cumberland then moved that the Senate Recede and Concur.

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

Mr. BERRY: Mr. President, it is my understanding that there is a House amendment on this bill, and my inquiry to the Chair in this connection, Mr. President, would be: would the Chair rule that the amendment is germane?

The PRESIDENT: Senate Rule 11 states "No motion or proposition on a subject different from that under consideration shall be admitted under color of amendment; nor shall an amendment proposing to ingraft a general provision of law upon a private bill be in order; nor any amendment beyond the second degree."

On Page 113 of Mason's Rules, Section 127: "It is a breach of order in debate to notice what had been said on the same subject matter in the other house, or the particular vote or majorities on it there, because the opinion of each house should be independent and not influenced by the proceedings of the other."

The subject matter was ruled germane in the House of Representatives by the Speaker yesterday. I would rule today, because it is a completely different title and deals with completely different subject matter, that it would not be germane.

The Chair recognizes the Senator from Cumberland, Senator Berry.

Mr. BERRY: Mr. President, I now move that the Senate adhere.

The PRESIDENT: The Chair would inform the Senator that the motion is out of order. The motion before the Senate is the motion to recede and concur.

The Chair recognizes the Senator from York, Senator Danton.

Mr. Danton of York then moved that the Bill be tabled and Tomorrow Assigned, pending the motion by Mr. Brennan of Cumberland that the Senate Recede and Concur.

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

Mr. BERRY: Mr. President, may I make another parliamentary inquiry: If the Chair has ruled that the amendment is not germane, is not the motion to recede and concur out of order?

The PRESIDENT: The Chair would answer in the affirmative. Since the Chair has ruled, subject to appeal to the body, that the matter is not germane, the motion to recede and concur is not in order.

The Chair recognizes the Senator from Cumberland, Senator Berry.

Mr. Berry of Cumberland then moved that the Senate Adhere.

Thereupon, on motion by Mr. Brennan of Cumberland, tabled and Tomorrow Assigned, pending the motion by Mr. Berry of Cumberland that the Senate Adhere.

House Papers

Bills today received from the House requiring Reference to Committees were acted upon in concurrence.

Communications

STATE OF MAINE

House of Representatives
Augusta, Maine 04330

March 21, 1973

Hon. Harry N. Starbranch
Secretary of the Senate
106th Legislature
Dear Mr. Secretary:

The House today voted to Adhere to its action whereby it Indefinitely Postponed, in non-concurrence, on March 13, Bill "An Act Relating to Effective Date of Salary In-

creases of County Officers" (H. P. 210) (L. D. 283).

Respectfully,

Signed:

E. LOUISE LINCOLN
Clerk

House of Representatives

Which was Read and Ordered
Placed on File.

March 22, 1973

To the Members of the 106th
Legislature:

The Standing Committee on Health and Institutional Services of the 105th Legislature was directed by Joint Order S. P. 615 of the 105th Legislature and Joint Order S. P. 776 of the Special Session of the 105th Legislature to study, review and analyze the operations, personnel, practices and procedures of the Department of Mental Health and Corrections and the Department of Health and Welfare as they pertain to State institutions to ascertain that Department appropriations are being administered in an effective and productive manner for the welfare of the citizens of the State of Maine.

The Committee has inquired at great length into those matters referred to it and has the honor to submit herewith its report to the 106th Legislature as charged.

The Committee wishes to acknowledge its appreciation for the cooperation and services rendered by the many individuals who have appeared before it to assist in its study.

The Committee sincerely hopes that the findings and recommendations herein contained will be of benefit to members of the 106th Legislature and the public at large.

Respectfully submitted,

Signed:

WALTER W. HICHENS
Chairman
Health and Institutional
Services Committee
(S. P. 494)

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

Sent down for concurrence.

STATE OF MAINE

Senate Chamber

President's Office

Augusta, Maine 04330

March 22, 1973

The Honorable

Harry N. Starbranch

Secretary of the Senate

106th Legislature

Dear Mr. Secretary:

Pursuant to House Paper 665, I hereby appoint Diane Linscott of Bangor, Betty Robinson of Orono, and Jane Tukey of Bangor to the Legislative Compensation Commission as the three Public Members on the part of the Senate.

Sincerely,

Signed:

KENNETH P. MacLEOD

President of the Senate

Which was Read and Ordered
Placed on File.

Senate Papers

Education

Mr. Speers of Kennebec presented Bill, "An Act Relating to Use of Fire Resistant Materials in Construction of School Buildings." (S. P. 479)

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

Sent down for concurrence.

Election Laws

Mr. Speers of Kennebec presented Bill, "An Act Determining Position of Names of Candidates on Primary and Election Ballots." (S. P. 480)

The same Senator presented Bill, "An Act Relating to Time of Holding a Municipal Caucus Prior to a State Convention." (S. P. 481)

Which were referred to the Committee on Election Laws and Ordered Printed.

Sent down for concurrence.

Judiciary

Mr. Speers of Kennebec presented Bill, "An Act Providing for Nonsmoking Areas in State Buildings." (S. P. 482)

The same Senator presented Bill, "An Act Relating to the Deletion of an Exemption under the Unfair Trade Practices Act." (S. P. 483)

The same Senator presented Bill, "An Act Relating to Rules

and Regulations Promulgated under the Unfair Trade Practices Act." (S. P. 484)

The same Senator presented Bill, "An Act Relating to Waiver by Consumer under Unfair Trade Practices Act." (S. P. 485)

The same Senator presented Bill, "An Act Relating to Assurances of Discontinuance under the Unfair Trade Practices Act." (S. P. 486)

The same Senator presented Bill, "An Act Revising the Laws Governing Admission to Mental Health Facilities." (S. P. 487)

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

Sent down for concurrence.

Legal Affairs

Mr. Speers of Kennebec presented Bill, "An Act Relating to Mobile Home Parks." (S. P. 488)

The same Senator presented Resolve, Designating Seaplane Base on Lake Maranacook, Town of Winthrop, as "Richard D. Varney Seaplane Base." (S. P. 489)

Mr. Aldrich of Oxford presented Bill, "An Act to Clarify Zoning Enabling Legislation." (S. P. 490)

The same Senator presented Bill, "An Act to Clarify Municipal Home Rule Procedures." (S. P. 491)

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

Sent down for concurrence.

State Government

Mr. Speers of Kennebec presented Resolution, Proposing an Amendment to the Constitution Changing the Tenure of Office of Senators to Four-year Terms. (S. P. 492)

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

Sent down for concurrence.

Reconsidered Matters

Business Legislation

On motion by Mr. Berry of Cumberland, the Senate voted to Reconsider its action whereby the following were Referred to the Committee on Judiciary and Ordered Printed:

Bill, "An Act Relating to the Deletion of an Exemption under the Unfair Trade Practices Act."

(S. P. 483)

Bill, "An Act Relating to Rules and Regulations Promulgated under the Unfair Trade Practices Act." (S. P. 484)

Bill, "An Act Relating to Waiver by Consumer under Unfair Trade Practices Act." (S. P. 485)

Bill, "An Act Relating to Assurances of Discontinuance under the Unfair Trade Practices Act." (S. P. 486)

On further motion by the same Senator, referred to the Committee on Business Legislation and Ordered Printed.

Sent down for concurrence.

Committee Reports

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 Amend the Eating and Lodging Recreational Place Licensing Law." (H. P. 327) (L. D. 445)

Leave to Withdraw

The Committee on Health and Institutional Services on Bill, "An Act Relating to Reimbursement to Municipalities for Aid to the Aged, Blind or Disabled." (H. P. 853) (L. D. 1138)

Reported that the same be granted Leave to Withdraw.

Comes from the House, the report Read and Accepted.

Which report was Read and Accepted in concurrence.

Leave to Withdraw — Covered by Other Legislation

The Committee on County Government on Bill, "An Act Increasing Compensation of Full-time Deputy Sheriffs in all Counties." (H. P. 415) (L. D. 564)

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

Comes from the House, the Bill Recommended to the Committee on County Government.

Which report was Read and Accepted in non-concurrence.

Sent down for concurrence.

Change of Reference

The Committee on Appropriations and Financial Affairs on Bill,

"An Act Relating to Salaries of County Attorneys and Assistant County Attorneys." (H. P. 964) (L. D. 1285)

Reported that the same be referred to the Committee on State Government.

Comes from the House, the report Read and Accepted.

Which report was Read and Accepted, and the Bill referred to the Committee on State Government in concurrence.

Ought to Pass

The Committee on Business Legislation on Bill, "An Act Providing for Temporary License as Insurance Adjuster." (H. P. 778) (L. D. 1010)

Reported that the same Ought to Pass.

The Committee on Business Legislation on Bill, "An Act Defining Life Agent under Insurance Laws." (H. P. 690) (L. D. 897)

Reported that the same Ought to Pass.

Come from the House, the Bills Passed to be Engrossed.

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

The Committee on Public Utilities on Bill, "An Act Increasing Number of Trustees of Belfast Water District." (H. P. 410) (L. D. 559)

Reported that the same Ought to Pass.

Comes from the House, the Bill Passed to be Engrossed as Amended by House Amendment "A" (H-110).

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

Ought to Pass — As Amended

The Committee on Education on Bill, "An Act Providing for Mandatory Retirement for Teachers." (H. P. 834) (L. D. 1093)

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-111).

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

Which report was Read.

The PRESIDENT: Is it the pleasure of the Senate to accept the Ought to Pass as Amended Report of the Committee in concurrence?

The Chair recognizes the Senator from Kennebec, Senator Speers.

Mr. SPEERS: Mr. President, I would like to pose a request through the Chair to any member of the Education Committee who might explain the purpose of this bill.

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

The Chair recognizes the Senator from Androscoggin, Senator Minkowsky.

Mr. MINKOWSKY: Mr. President and Members of the Senate: This particular bill, in essence, had a very comprehensive hearing and there was no objection to the mandatory retirement of teachers at age 65 with five one-year renewable contracts. It even had the endorsement, as I see here, of the MTA's Executive Secretary, the endorsement of the Commissioner of Education, and the endorsement of the National Education Association's Regional Director, Charles Sanders.

We changed it through a n amendment by striking out the word "mandatory" and made the effective date in 1976, Mr. President. This is a mechanism to leave it up to the various school boards and the Commissioner of Education to retire teachers with their full benefits.

This is a similar bill to the one I introduced two years ago, and I think the only factor that frightened people was the word "mandatory", so this is one reason why we deleted it.

It would leave the evaluation of the teachers' productivity up to the local school board or the Department of Education after age 65, based on an evaluation of the individual's productivity on the job.

It also would allow new teachers being trained in our various state teachers colleges to come into effect and to replace them.

The committee voted unanimously on this particular bill, and I believe the representative who introduced the measure is a retired school teacher and spoke very highly that this would really serve the best interests of the elderly teachers in the State of Maine.

The PRESIDENT: Is it the pleasure of the Senate to accept the Ought to Pass as Amended Report of the Committee in concurrence?

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

Ought to Pass in New Draft

The Committee on Business Legislation on Bill, "An Act Repealing Multiple Licensing of Life and Health Insurance Agents." (H. P. 536) (L. D. 718)

Reported that the same Ought to Pass in New Draft under New Title: "An Act Repealing Notice Provision for Multiple Licensing of Life and Health Insurance Agents." (H. P. 1198) (L. D. 1484)

Comes from the House, the Bill in New Draft Passed to be Engrossed.

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

The Committee on Education on Bill, "An Act Regarding the Membership of School Committees and Boards of School Directors." (H. P. 324) (L. D. 442)

Reported that the same Ought to Pass in New Draft under Same Title (H. P. 1163) (L. D. 1375)

Comes from the House, the Bill in New Draft Passed to be Engrossed as Amended by House Amendment "C" (H-116).

Which report was Read and Accepted in concurrence and the Bill Read Once. House Amendment

"C" was Read and Adopted in concurrence and the Bill, as Amended, Tomorrow Assigned for Second Reading.

Divided Report

The Majority of the Committee on State Government on Bill, "An Act Changing the Names of Certain State Institutions." (H. P. 362) (L. D. 477)

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-96).

Signed:

Senators:

SPEERS of Kennebec

WYMAN of Washington

CLIFFORD

of Androscoggin

Representatives:

FARNHAM of Hampden

CROMMETT

of Millinocket

BUSTIN of Augusta

GOODWIN of Bath

CURTIS of Orono

NAJARIAN of Portland

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

Signed:

Representatives:

SILVERMAN of Calais

COONEY of Sabattus

SNOWE of Auburn

STILLINGS of Berwick

Comes from the House, the Majority report Read and Accepted and the Bill Passed to be Engrossed as Amended by Committee Amendment "A" (H-96).

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

Divided Report

The Majority of the Committee on Education on Bill, "An Act to Authorize Alternate School Directors at School Administrative District No. 72." (H. P. 769) (L. D. 1003)

Reported that the same Ought to Pass.

Signed:

Senators:

KATZ of Kennebec

MINKOWSKY

of Androscoggin

Representatives:

LEWIS of Auburn

BITHER of Houlton

TYNDALE

of Kennebunkport

LAWRY of Fairfield

LYNCH

of Livermore Falls

GAHAGAN of Caribou

FERRIS of Waterville

MURRAY of Bangor

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

Signed:

Senator:

OLFENE of Androscoggin

Representatives:

LaCHARITE of Brunswick

LeBLANC of Van Buren

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

Which reports were Read.

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

Mr. MINKOWSKY: Mr. President and Members of the Senate: This particular bill here really only applies to one particular school administrative district, namely: District 72 in Fryeburg, Maine, and the general thrust of the bill simply allows alternates to serve on the school board in the absence of regular members. This seems to be a singular problem in that particular area, and the majority of the Committee was in concurrence that we should allow this deference to this particular school administrative district.

The PRESIDENT: Is it now the pleasure of the Senate to accept the Majority Ought to Pass Report of the Committee in concurrence?

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

Senate

Ought to Pass — As Amended

Mr. Hichens for the Committee on Health and Institutional Services on Bill, "An Act to Exempt Methods of Payment for Laboratory Services Provided to Persons Outside of the State." (S. P. 242) (L. D. 693)

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (S-42).

Which report was Read.

On motion by Mr. Berry of Cumberland, tabled and Specially Assigned for March 27, 1973, pending Acceptance of the Committee Report.

The same Senator for the Committee on Health and Institutional Services on Bill, "An Act Relating to Inspection and Licensing of Residential Facilities for the Care, Treatment or Rehabilitation of Drug or Alcohol Users." (S. P. 256) (L. D. 753)

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (S-43).

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

Ought to Pass in New Draft

Mrs. Cummings for the Committee on Natural Resources on Bill, "An Act to Include Operators of Industrial Wastewater Treatment Plants in the Operator Certification Program." (S. P. 223) (L. D. 658)

Reported that the same Ought to Pass in New Draft under Same Title: (S. P. 478) (L. D. 1534)

Mr. Cianchette for the Committee on Election Laws on Bill, "An Act to Revise the Election Laws." (S. P. 206) (L. D. 556)

Reported that the same Ought to Pass in New Draft under Same Title (S. P. 493) (L. D. 1535)

Which reports were Read and Accepted, the Bills 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 to Specify the Date for Closing

of Open Burning Dumps in Maine.”
(S. P. 288) (L. D. 835)

Reported that the same Ought to Pass as Amended by Committee Amendment “A” (S-41).

Signed:

Senators:

SCHULTEN of Sagadahoc
CUMMINGS of Penobscot
MARCOTTE of York

Representatives:

BERUBE of Lewiston
MacLEOD of Bar Harbor
PALMER of Nobleboro
CURRAN of Bangor
HERRICK of Harmony

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

Signed:

Representatives:

PETERSON of Windham
SMITH of Exeter
BRIGGS of Caribou
HUBER of Falmouth
ROLDE of York

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

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

Second Readers

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

House

Resolve, to Reimburse Mount Hope Cemetery Corporation of Bangor for Property Damage by Highway Maintenance. (H. P. 226) (L. D. 366)

Resolve, to Reimburse William Fitzgerald of Madison for Well Damage by Highway Maintenance. (H. P. 254) (L. D. 368)

Resolve, to Reimburse Blain Crabtree of Cherryfield for Property Damage by Highway Construction. (H. P. 262) (L. D. 369)

Bill, “An Act Relating to Age for Operation of Vehicles on Special Registration Permits.” (H. P. 263) (L. D. 370)

Resolve, to Reimburse Otis Smith of Kittery for Motor Vehicle Damage Due to Highway Maintenance. (H. P. 398) (L. D.

527)

Bill, “An Act Relating to the Design of Buildings Constructed by the State or Political Subdivisions.” (H. P. 494) (L. D. 648)

(On motion by Mr. Berry of Cumberland, tabled and Specially Assigned for March 27, 1973, pending Passage to be Engrossed.)

Resolve, in Favor of South Berwick Emergency Ambulance and Rescue, Inc. (H. P. 548) (L. D. 729)

Bill, “An Act to Increase Payments to Forestry Department for Forest Fire Protection in Indian Township.” (H. P. 569) (L. D. 748)

Bill, “An Act Relating to Use of Vending Machines on Sundays.” (H. P. 693) (L. D. 900)

Bill, “An Act Clarifying the Tuition Equalization Fund for Maine Students Entering Maine Private Colleges.” (H. P. 696) (L. D. 902)

Resolve, to Reimburse Alden V. Cole of LaGrange for Loss of Beehives by Bear. (H. P. 719) (L. D. 925)

Resolve, to Reimburse David Erwin of Corinna for Property Damages Caused by State Ward. (H. P. 728) (L. D. 934)

Bill, “An Act Relating to Definition of Retail Sale under Sales and Use Tax Law.” (H. P. 802) (L. D. 1061)

Bill, “An Act Relating to Removal of Dilapidated Wharves or Piers.” (H. P. 1190) (L. D. 1456)

Resolution, Proposing an Amendment to the Constitution Pledging Credit of the State for Revenue Bonds to be Issued by the Maine School Building Authority for Public and Private Institutions of Higher Education and for Public Post-Secondary Business, Trade, Vocational and Technical Schools. (H. P. 391) (L. D. 520)

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

House — As Amended

Resolve, to Reimburse Mrs. Hilma Webster of Vinalhaven for Damage to Property by Highway Construction. (H. P. 247) (L. D. 367)

Resolve, Proposing Study of Feasibility of Establishing State Park Facilities within Penobscot County. (H. P. 316) (L. D. 434)

Bill, "An Act Relating to Credit for Confinement within County Jail Prior to Sentencing." (H. P. 433) (L. D. 582)

Bill, "An Act Creating the Monson Utilities District." (H. P. 479) (L. D. 630)

Resolve, to Reimburse Woodrow Bakeman of Castine for Property Damage by Highway Construction. (H. P. 532) (L. D. 714)

Bill, "An Act Relating to the Rendering of Treatment and Services to Minors for Drug Abuse without Parental Consent." (H. P. 163) (L. D. 205)

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

Bill, "An Act Reimbursing Teachers for Professional Credits." (H. P. 838) (L. D. 1112)

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

Sent down for concurrence.

Senate

Bill, "An Act to Clarify the Purpose of the Committee on Maine Public Broadcasting." (S. P. 467) (L. D. 1426)

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

Sent down for concurrence.

Enactors

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

An Act to Establish a Bureau of Property Taxation Within the Department of Finance and Administration. (S. P. 56) (L. D. 163)

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

An Act Providing for Municipal Coordinator for Election Division of the Department of the Secretary of State. (S. P. 151) (L. D. 385)

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

An Act Relating to Purchase of Back Service Credits for Local Participating Districts and Indi-

vidual Employees under Maine State Retirement System. (S. P. 183) (L. D. 491)

(On motion by Mr. Berry of Cumberland, Tabled and Tomorrow Assigned pending Enactment.)

An Act Repealing Certain Provisions of the Legal Fence Law. (S. P. 245) (L. D. 696)

An Act Creating S a g a d a h o c County Commissioner Districts. (H. P. 89) (L. D. 109)

An Act Relating to Permits to Practice Hairdressing and Beauty Culture. (H. P. 312) (L. D. 414)

An Act Relating to Permits for State Entry of Animals and Birds. (H. P. 331) (L. D. 449)

An Act Including Representatives of a Council of Governments under State Retirement System. (H. P. 430) (L. D. 579)

An Act Repealing the Law Requiring Municipalities to Remove Worthless Trees within the Limits of Ways and Streets. (H. P. 491) (L. D. 645)

An Act Providing Fire Protection, Dump Services and Cemetery Maintenance in Certain Unorganized Territory of Piscataquis County. (H. P. 638) (L. D. 853)

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.

Resolve, Appropriating Funds to Prevent Sawdust Pollution at South Branch Lake and Saponac Pond in Penobscot County. (H. P. 722) (L. D. 928)

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

Emergency

An Act Authorizing Deficiency Appropriation to the Department of the Attorney General for the Present Fiscal Year. (S. P. 267) (L. D. 825)

(On motion by Mr. Sewall of Penobscot, tabled and Tomorrow Assigned, pending Enactment.)

Emergency

An Act Relating to the Taking of Alewives in the Salmon Falls and Great Works Rivers, York County. (H. P. 147) (L. D. 180)

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:

House Report — from the Committee on Taxation Bill, "An Act Relating to Due Date for Payment of Inheritance Taxes." (H. P. 15) (L. D. 15) Ought to Pass in New Draft. (H. P. 1144) (L. D. 1337)

Tabled — March 19, 1973 by Senator Clifford of Androscoggin.

Pending — Acceptance of Report.

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

Mr. CLIFFORD: Mr. President and Members of the Senate: This bill changes the due date for inheritance taxes from 15 months from the date of death, which is the present law, to nine months from the date of death — not from the date of appointment; from the date of death.

When a person dies and there is an estate, there is an appointment of an executor or an administrator, and that takes some time. Sometimes, especially if there is a will contest, it takes up to two, three or four months.

The avowed purpose of the bill is to bring the nine-months date in line with the due date of the federal estate tax, which has been recently changed. But, Mr. President, not only is there no need to bring this date in line with the federal estate tax, but in fact it should not be brought in line because under the Maine inheritance tax there is a credit given for the amount of state tax paid. So there should be a different date for the due date of the Maine inheritance tax from the due date of the federal estate tax.

As I recall, Mr. President, it seems to me that the real reason that the federal date was changed was to bring in line some extra

revenues for a one-year period, a one fiscal year period, so that the federal budget deficit would be lower in that particular year.

It is my understanding that the Department did not sponsor the bill and has no opinion one way or the other. For these reasons, Mr. President, I would move the indefinite postponement of this bill.

The PRESIDENT: The Senator from Androscoggin, Senator Clifford, now moves that Bill, "An Act Relating to Due Date for Payment of Inheritance Taxes", (H. P. 1144) (L. D. 1337), be indefinitely postponed. Is this the pleasure of the Senate?

The motion prevailed.

Sent down for concurrence.

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

Joint Order Relative to Mental Health and Corrections — Hospital Administrators. (S. P. 475)

Tabled — March 21, 1973 by Senator Hichens of York.

Pending — Passage.

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

Mr. HICHENS: Mr. President and Members of the Senate: I draw your attention to the report of the Health and Institutional Services Committee placed on your desks this morning, and would read a portion of the report as printed on page 7. "The Statutes should be amended to provide that after policy is established by the administration of the Department of Mental Health and Corrections, it will be carried out by the various superintendents, who should have discretion to implement the policy in the manner which they think best. There has been considerable acrimony over the "dismissal" of the superintendents of Pineland Hospital and Training Center and Augusta State Hospital. Legislation was passed during the regular session of the 105th Legislature which, in effect, allowed the administration of the Department of Mental Health and Corrections to work its own will on the institutions and to dismiss the superintendents of these institutions. Because of the

shoddy tactics used to slip a bill through the Legislature, and poor administration by the passing of personnel laws, the Department is deeply involved in an unnecessary lawsuit over the dismissal of Dr. Peter Bowman."

It is quite coincidental that the order before us was printed in yesterday's Senate Calendar at the same time this report was ready to be placed before you. Possibly the Senator from Penobscot, Senator Tanous, was influenced somewhat through his brother's power of ESP.

Regardless, as we consider this order today we read that the intent of the law passed in the 105th Legislature was not the same as the actions carried out by the Commissioner of Mental Health and Corrections, but such is the case with so many laws passed in the legislature. Intent is not always interpreted in the same way by parties involved.

The disturbing part of the whole matter is that the 105th Legislature in its haste to pass the law did not stop to consider the thoughts and motives of the Commissioner and played right into his hands.

The original bill, L. D. 1490, sponsored by the former Senator from Cumberland, was heard by the Appropriations Committee, which in the beginning, in my opinion, was the wrong committee assigned. The committee felt that the bill should be rewritten, perhaps at the suggestion of the sponsor, and for some reason requested the Commissioner to do the rewriting for them. By word of a member of the Mental Health and Corrections Department, the Commissioner rewrote the bill to satisfy his own motives and it was reprinted as L. D. 1726, submitted without further hearing or consideration to the Senate, and in blind faith in the committee's decision, both branches of the legislature passed it and sent it to the Governor's desk.

It was at this point that I started to receive telephone calls from several parts of the state and was informed of the true intent of the bill. In desperation, I went to the Governor's office, only to discover

that he was out of State for a few days. The House Chairman of the Health and Institutional Services Committee and I drew up orders to be read in both houses requesting the recall of the L. D. from the Governor's desk. Feeling that I was trying to undermine her efforts, the sponsor later admitted that she too had not realized the consequences of passage of the bill and persuaded enough Senators to overrule my request for the recall.

The House Chairman did not present the order in the other body as she was assured by the Minority Leader of that body that he would have the bill held on the Governor's desk until the legislature reconvened the following week so that the problem could be discussed. With that in mind, we returned to our homes for the weekend confident that the matter could be straightened out.

Upon our return the following week, we discovered that upon the Governor's return on a Sunday evening that he had immediately signed the bill into law, even though upon the word of the Minority Leader he had been informed of the request for its holding. The results of this action are manifested in the need for this order this afternoon.

Since the dismissal of the superintendent at Pineland there has been constant disruption at this institution, along with the other problems that have presented themselves, and the patients at Pineland have suffered as a result. I am not standing here this afternoon saying that Dr. Bowman should never have been replaced. Eighteen years in one institution may have been long enough for one superintendent, and the reactions of the Dr. in retaliation toward the Department have not been for the best, in my opinion. But I am stating here this afternoon that the methods used to get rid of the doctor were as shoddy as methods could be, and the blame lies upon everyone that had any part in it whatsoever. Here we have the head of a department who uses the legislature to satisfy his own crafty desires and yet states, as you read in this report before you on page 5, "The

Legislature has no right to interfere with administration and executive policy." These are the dire circumstances. When the Governor of the State publicly praises the actions of said administrator whenever he is criticized, I begin to wonder.

I now move passage of this order, and trust that through the whole sordid mess we may have learned a very important lesson. Thank you.

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

On motion by Mr. Berry of Cumberland, recessed until the sound of the bell.

(After Recess)

Called to order by the President.

The PRESIDENT: The pending question before the Senate is the passage of Joint Order relative to Mental Health and Corrections — Hospital Administrators (S. P. 475).

The Chair recognizes the Senator from Cumberland, Senator Brennan.

Mr. BRENNAN: Mr. President and Members of the Senate: This order we are concerned with asks us to talk about the legislative intent of the last session. Furthermore, there are two suits presently pending in reference to this matter: one in the federal courts under the Civil Rights Act, and one in the state court dealing with employees' appeal. Frankly, it has always been a mystery to me how one divines legislative intent, but any record that the 105th made that would be helpful in reference to legislative intent died with the 105th December 31, 1972.

This is the 106th Legislature, with substantially different membership. I don't believe that Senator Roberts, Senator Cox, Senator Graffam, myself, and approximately nine others were in the last session of the legislature, so if we pass this order it will be absolutely meaningless. Whatever the intent of the last session was, it ended at that time, and this is a matter that is now in the hands of the courts. On that basis, I say this order is

meaningless and move that it be indefinitely postponed.

The PRESIDENT: The Senator from Cumberland, Senator Brennan, now moves that Joint Order (S. P. 475) be indefinitely postponed.

The Chair recognizes the Senator from Penobscot, Senator Tanous.

Mr. TANOUS: Mr. President and Members of the Senate: I would urge you to vote against the motion of my good friend, Senator Brennan from Cumberland, to indefinitely postpone this order.

I am in complete disagreement, as two lawyers many times are in opinions. I have done a little research in this particular area and the Maine Legislature is a body of lawmakers, regardless of whether they meet as members in the 104th, 105th, or 106th. We are a continuing lawmaking body. It is called a Maine Legislature. It is not a particular year that you serve or any particular law that you passed in any particular year. We are a continuing lawmaking body as a Maine Legislature and, therefore, we can constitutionally enact legislation to clear up any confusion that may have been caused by any existing legislation on the books.

It is my feeling by this particular order to show that it was not the legislative intent that we deprive any state employee of their personnel law rights, and that is all that this order does. We enacted legislation which changed the character of certain jobs and removed them from the classified section of our law to the unclassified. Therefore, by doing this we deprived certain people of their rights under the personnel law. It is my feeling that we should not deprive anyone of their rights under a particular law by merely enactment of legislation, and it is my feeling that it was not the intention of the legislature to do this.

As I have said, I have done some research and my opinion is, after doing this research and talking with several other lawyers, that this is constitutional. I realize that other lawyers feel differently about it. I feel that in the essence of

good judgment and fair play we should pass this particular order and vote against my good friend Senator Brennan's motion.

The Constitution of the State of Maine further states that no legislature will pass any law that will deprive people of their rights, property rights or legal rights, in the sense that they then have. These people have rights under the Personnel Law, and I don't see why the legislature should enact legislation to take away these rights. I don't think it was our intention to do so. I would ask that you join me in defeating his motion and vote favorably towards the order. Thank you.

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

Mr. BRENNAN: Mr. President and Members of the Senate: Again, very briefly, I am not very happy with the law that was passed last year, and the appropriate procedure is to introduce a new bill and try to change that law. For anyone to really say that this session of the legislature, composed of thirteen different Senators that were not even in this body last time, can go on record as saying what the intent of the last session of the legislature was is beyond me. I have talked to an awful lot of lawyers, and I didn't have to talk to too many about it; I think it is absolutely clear that we are in no position whatsoever to reflect the intent of the last session of the legislature. I think that is absolutely clear. So I would again urge you very strongly to indefinitely postpone this measure.

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

Mr. BERRY: Mr. President and Members of the Senate: I would support the viewpoint of Senator Brennan of Cumberland. I, from its inception, did not like the language of the order which said that the 106th was saying what the 105th thought. As a matter of fact, if I were to repeat here in the Senate what I thought the sentiment of the 105th was, it would

certainly not go very well with Senator Tanous. I think we all knew what we were doing at the 105th, and I think it would be a mistake for us to try to put words into a couple of lawsuits right now. It might even prejudice the person involved. So, I would support the viewpoint and hope you vote for his motion.

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

Mr. MINKOWSKY: Mr. President and Members of the Senate: If we are a lawmaking body, as clearly indicated by the Senator from Penobscot, Senator Tanous, then I sincerely believe this should have been introduced as a bill and be subjected to a public hearing, instead of trying to put it through as an order.

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

Mr. SPEERS: Mr. President and Members of the Senate: It concerns me greatly that there are now pending two lawsuits having to do with this very matter, and that should this order pass there would be another question before the courts as to whether or not the 106th could express the legislative intent of the 105th. I, therefore, would support the motion to indefinitely postpone.

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

Mr. CONLEY: Mr. President and Members of the Senate: I don't believe that anyone can really add any information to the order that is before us. I recall back in the last session of the legislature when the bill was before the Appropriations Committee and when the bill was passed, and the bill just came through both branches without a word being murmured regarding it. I don't see how we can possibly add anything to give any sort of support to the order that is presently before us.

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

Mr. CLIFFORD: Mr. President and Members of the Senate: I would just like to reiterate what my colleague from Androscoggin,

Senator Minkowsky, said: there is a difference between a resolution and a law. If this legislature is dissatisfied with the law passed by the 105th Legislature, then they can change it, but they have to change it by changing the statute and they have to change it after a public hearing. This is absolutely meaningless; I think it will merely throw confusion into a situation which is confused enough already, especially where people's rights are affected and in litigation in the court system. I would urge that you support the motion of the Senator from Cumberland, Senator Brennan, to indefinitely postpone. Thank you.

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

Mr. TANOUS: Mr. President and Members of the Senate: I am firmly convinced that this legislature is a body. It doesn't matter who was serving here two years ago; we are not individual members as a legislature. It is a body in itself, it is a Maine Legislature, and there is no question in my mind but that a Maine Legislature can pass a resolve or legislation with the specific intent in this particular order. There is no question in my mind about this. We

act as a legislature; not as individual members who were members at a particular session. We act as a body. I hope that you will join me to defeat the motion to indefinitely postpone and pass favorably on the order.

The PRESIDENT: The pending question before the Senate is the motion of the Senator from Cumberland, Senator Brennan, that Joint Order Relative to Mental Health and Corrections —Hospital Administrators, (S. P. 475), be indefinitely postponed.

The Chair will order a division. As many Senators as are in favor of the motion to indefinitely postpone this order will please rise and remain standing until counted. Those opposed will please rise and remain standing until counted.

A division was had. Twenty-two Senators having voted in the affirmative, and eight Senators having voted in the negative, the Joint Order was Indefinitely Postponed.

(Off Record Remarks)

The Adjournment Order having been returned from the House Read and Passed in concurrence, on motion by Mr. Sewall of Penobscot, adjourned until Monday, March 26, 1973, at ten o'clock in the morning.