

MAINE STATE LEGISLATURE

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Legislative Record

OF THE

One Hundred and Seventh Legislature

(First Special Session)

OF THE

STATE OF MAINE

1976

KENNEBEC JOURNAL
AUGUSTA, MAINE

HOUSE

Monday, March 1, 1976

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

Prayer by Father James Morrison of Old Orchard Beach.

The members stood at attention during the playing of the National Anthem by the Skowhegan Area High School Band.

The journal of the previous session was read and approved.

Papers from the Senate

Committee on Judiciary to which was referred the study relative to Expungement of Records, pursuant to S. P. 583 of the 107th Legislature, have had the same under consideration, and ask leave to submit its findings and to report that the accompanying Bill "An Act Repealing the Expungement Law and Providing for the Control of Access to and Disclosure of Criminal History Record Information" (S. P. 730) (L. D. 2273) be referred to this Committee for public hearing and printed pursuant to Joint Rule 3.

Came from the Senate with the Report read and accepted, the Bill referred to the Committee on Judiciary and ordered printed.

In the House, the Report was read and accepted, the Bill referred to the Committee on Judiciary in concurrence.

Messages and Documents

The following Communication: (H. P. 2130)

February 25, 1976

Legislative Council
107th Legislature
State House
Augusta, Maine 04333
Gentlemen:

In accordance with H. P. 1739, directing the Committee on Local and County Government to study "An Act to Incorporate Frye Island Village Corporation", L. D. 1652, we enclose herein the final report and implementing legislation of the Committee.

Respectfully submitted,

Signed: PHILLIP C. JACKSON
Senator

Signed: C. EVERETT DAM
Representative

The Communication was read and with accompanying papers ordered placed on file and sent up for concurrence.

Petitions, Bills and Resolves Requiring Reference

The following Bills were received and, upon recommendation of the Committee on Reference of Bills, were referred to the following Committee:

Judiciary

Bill "An Act Relating to Conflicts of Interest in Offices Subject to Legislative Confirmation" (H. P. 2127) (Presented by Mrs. Kany of Waterville)
(Ordered Printed)
Sent up for concurrence.

Bill "An Act to Repeal the Prohibition in the Criminal Statutes against Marathon Dances and Walkathons" (Emergency) (H. P. 2132) (Presented by Mr. Talbot of Portland) (Approved for Introduction by a Majority of the Committee on Reference of Bills pursuant to Joint Order S. P. 635, as amended)

Committee on Reference of Bills suggested the Committee on Judiciary.

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

Mr. TALBOT: Mr. Speaker, Ladies and Gentlemen of the House: Most of you are wondering what this is doing on your calendar and how it got there. I will try to explain just that in the next few minutes.

First of all, there is a law on our books under Title 17 of our Maine Revised Statutes that prohibits walkathons or marathons in this state. What has happened is that this legislature passed in the criminal code a bill to repeal that, so in a sense, it already has been passed. What happened was that the Maine Chapter of the Epilepsy Foundation is sponsoring a marathon dance in Lewiston, which will take place on March 5 because March 5 the criminal code would have taken place. But this legislature, during the first of the special session postponed the criminal code until April 1. Therefore, the dance marathon that was going to take place in Lewiston on March 5 is in violation of the law, and the Chief of Police in Lewiston is saying now, because they are in violation of the law, they can't hold that. The publicity, TV spots, news coverage and all of that has gone out to the press, to the newspaper, to radio and TV stations.

This is an emergency piece of legislation to repeal a statute that has already been repealed in the criminal code. But because we have postponed that criminal code another month, we have to go this route.

If there are any questions, I would be glad to answer them.

Thereupon, under suspension of the rules, the Bill was given its two readings, passed to be engrossed without reference to committee and sent up for concurrence.

By unanimous consent, ordered sent forthwith.

Study Report

Joint Select Committee on County Government

Mr. Dam from the Joint Select Committee on County Government to which was referred the study relative to Proper Role and Authority of County Government in this State, pursuant to H. P. 1670 of the 107th Legislature, have had the same under consideration, and ask leave to submit its findings and to report that the accompanying Bill "An Act to Give Counties Power to Assess and Collect Their Own Taxes" (H. P. 2128) (L. D. 2275) be referred to the Committee on Local and County Government for public hearing and printed pursuant to Joint Rule 3.

Report was read and accepted, the Bill referred to the Committee on Local and County Government, ordered printed and sent up for concurrence.

Study Report Judiciary

Mrs. Miskavage from the Committee on Judiciary to which was referred the study relative to Mechanics Liens, pursuant to H. P. 1752 of the 107th Legislature, have had the same under consideration, and ask leave to submit its findings and to report that the accompanying Bill "An Act to Protect Owners and Bona Fide Purchasers of Real Property from Unrecorded Mechanics' Liens and to Protect Them from Double Payment to Contractors and Subcontractors" (H. P. 2126) (L. D. 2274) be referred to this Committee for public hearing and printed pursuant to Joint Rule 3.

Report was read and accepted, the Bill referred to the Committee on Judiciary, ordered printed and sent up for concurrence.

Study Report Legislative Council

Mr. Palmer from the Legislative Council to which was referred the study relevant to the University of Maine budget, pursuant to H. P. 1492 of the 107th Legislature, have had the same under consideration, and ask leave to submit its findings and to report that the accompanying Bill "An Act Making Additional Appropriations for the University of Maine for the Fiscal Year Ending June 30, 1977" (Emergency) (H. P. 2129) (L. D. 2276) be referred to the Committee on Appropriations and Financial Affairs for public hearing and printed pursuant to Joint Rule 3.

Report was read and accepted, the Bill referred to the Committee on Appropriations and Financial Affairs, ordered printed and sent up for concurrence.

Study Report Marine Resources

Mr. Greenlaw from the Committee on Marine Resources to which was referred the study relative to "An Act Concerning Shellfish Licensing" pursuant to H. P. 1759, of the 107th Legislature have had the same under consideration, and ask leave to submit its findings and to report that the accompanying Bill "An Act Concerning Shellfish Licensing" (H. P. 2131) (L. D. 2277) be referred to this Committee for public hearing and printed pursuant to Joint Rule 3.

Report was read and accepted, the Bill referred to the Committee on Marine Resources, ordered printed and sent up for concurrence.

Orders

Mrs. Clark of Freeport presented the following Joint Order and moved its passage: (H. P. 2133)

WHEREAS, The Legislature has learned of the Outstanding Achievement and Exceptional Accomplishment of Freeport High School Girls Basketball Team State of Maine Class C Champions 1976 "The Flying Falcons"

We the Members of the House of Representatives and Senate do hereby Order that our congratulations and acknowledgement be extended; and further

Order and direct, while duly assembled in session at the Capitol in Augusta, under the Constitution and Laws of the State of Maine, that this official expression of pride be sent forthwith on behalf of the Legislature and the people of the State of Maine.

The Order was read and passed and sent up for concurrence.

House Reports of Committees Divided Report Tabled and Assigned

Majority of the Committee on State Government on Resolution, Proposing an Amendment to the Constitution to Permit the Governor to Veto Items Contained in Bills Appropriating Money" (H. P. 1981) (L. D. 2170) reporting "Ought to Pass" as amended by Committee Amendment "A" (H-941)

Report was signed by the following members:

- Messrs. GRAHAM of Cumberland
- WYMAN of Washington
- of the Senate.
- Mrs. KANY of Waterville
- Messrs. COONEY of Sabattus
- WAGNER of Orono
- PELOSI of Portland
- QUINN of Gorham
- of the House.

Minority Report of the same Committee reporting "Ought to Pass" as amended by Committee Amendment "B" (H-942) on the same Resolution.

Report was signed by the following members:

Mr. CURTIS of Penobscot
— of the Senate.
Mrs. SNOWE of Auburn
Messrs. FARNHAM of Hampden
LEWIN of Augusta
CARPENTER of Houlton
STUBBS of Hallowell
— of the House.

Reports were read.

Mr. Cooney of Sabattus moved the House accept the Majority "Ought to pass" Report.

On further motion of the same gentleman, tabled pending his motion to accept the Majority Report and tomorrow assigned.

Consent Calendar First Day

In accordance with House Rule 49-A, the following item appeared on the Consent Calendar for the First Day:

Bill "An Act Relating to Notifying Municipalities of Recipients of Public Assistance" — Committee on Health and Institutional Services reporting "Ought to Pass" as amended by Committee Amendment "A" (H-940) (H. P. 1894) (L. D. 2074)

No objection being noted, the above item was ordered to appear on the Consent Calendar of March 2, under listing of the Second Day.

Consent Calendar Second Day

In accordance with House Rule 49-A, the following items appeared on the Consent Calendar for the Second Day:

Bill "An Act to Classify the Positions of Director of Program Review and Evaluation in the Department of Audit, Director of Fraud Investigation in the Department of Audit, and of Employees of the Fraud Investigation Division in the Department of Audit" (C. "A" H-936) (H. P. 1992) (L. D. 2174)

Bill, "An Act to Remove the Vassalboro Sanitary District from the Kennebec Sanitary District Before the Kennebec District Issues Bonds this Spring" (C. "A" H-937) (H. P. 2035) (L. D. 2208)

Bill "An Act Concerning the Charter of the Orono-Veazie Water District" (C. "A" S-413) (S. P. 648) (L. D. 2058)

Bill "An Act to Clarify Certain Provisions of the Newport Water District Charter" (C. "A" S-411) (C. "B" S-412) (S. P. 667) (L. D. 2119)

No objections having been noted at the end of the Second Legislative Day, the above items were passed to be engrossed in concurrence and passed to be engrossed and sent up for concurrence.

Second Reader Tabled and Assigned

Bill "An Act to Establish a Single Maine Estate Tax Based Upon a Percentage of Federal Taxable Estate" (H. P. 1951) (L. D. 2142)

Was reported by the Committee on Bills in the Second Reading and read the second time.

The SPEAKER: The Chair recognizes the gentleman from Poland, Mr. Torrey.

Mr. TORREY: Mr. Speaker, Ladies and Gentlemen of the House: I realize that what I have to say won't change the status of this bill at all, but I feel that I would like to make a few statements as to my opinion

of it. I recognize that the majority of the committee go along with this bill and that they are all respected and have a good record of good judgment and intelligence.

The three areas I oppose this bill on, it does increase the taxpayer increase and the other method, as I understand it, the state absorbed the brunt of the tax and under this new system — excuse me, it is just the other way around. Under the other system, it was divided up among the heirs and they paid a tax on their share. Under this bill, the tax would be levied against the entire estate so that there might be more dollars of tax amount from the estate. The other one is, under the law that we passed this last regular session, it eliminates the exemption of insurance proceeds against the state. That also changes the amount that the heirs might receive.

Mrs. Berry of Madison requested a vote on passage to be engrossed.

The SPEAKER: The pending question is on passage to be engrossed. All those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

Thereupon, Mr. Norris of Brewer requested a roll call vote.

The SPEAKER: For the Chair to order a roll call, it must have the expressed desire of one fifth of the members present and voting. All those desiring a roll call vote will vote yes; those opposed will vote no.

A vote of the House was taken, and more than one fifth of the members present having expressed a desire for a roll call, a roll call was ordered.

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

Mr. NORRIS: Mr. Speaker, I would pose a question to the good gentleman. Did I understand correctly, that the insurance proceeds now would be fully taxable and is this similar to the same type of debate and the same type of bill that we had in the regular session where they wanted to lower the amount of tax on insurance inheritance — that is, that they wanted to decrease the amount of money that you would collect taxes on? If he could answer that, I would appreciate it. As I remember, we had considerable debate during the regular session on this particular item as it attempted to deal with inheritance.

The SPEAKER: The gentleman from Brewer, Mr. Norris, has posed a question through the Chair to anyone who may care to answer.

The Chair recognizes the gentleman from Farmington, Mr. Morton.

Mr. MORTON: Mr. Speaker, the answer to the gentleman's question, I think has to be in the negative, because it isn't the same kind of a bill at all. However, the insurance proceeds will be taxed, as Mr. Torrey said.

Now, I think before you use that as criteria for voting for or against this bill, you perhaps should be entitled to a little explanation. There hasn't been any here on the floor, although I assumed that most folks were familiar with it.

This particular bill here is the first one that you have seen on the floor which implements a recommendation of the Tax Policy Committee. This particular bill was a concrete recommendation in the so-called administrative area of the Tax Policy Committee. What it does, it removes the State of Maine from the inheritance tax area, so-called, and puts us in the estate tax area.

As you are probably aware, the inheritance tax is taxed against the beneficiary of an estate, wives, children,

nieces, nephews, whoever are beneficiaries of an estate have to pay a tax on the proceeds of the estate; whereas in the federal system, the estate itself pays the tax prior to the distribution. So that is what this does.

Number one, the Tax Policy Committee did not feel that this was a measure which should create more or less revenue for the State of Maine.

If you will notice the fiscal note, the fiscal note points out that this bill is designed, and I did not set up the rate tables but very competent people did, this bill is designed to bring in exactly the same amount of money, and the way they use it, the amount of revenue would be approximately equal and would be accrued under the present inheritance and state tax.

The idea was not to shift the revenues around in any way as far as the total amount coming to the state from this particular source, which are, in effect, death taxes. We are talking now about death taxes. What is the story? Approximately 10,000 people pass away in the State of Maine each year. Of those 10,000, at the present time, about 6,500 returns are received by our Taxation Department on inheritance taxes. Of those 6,500 returns only about 3,500 result in a tax being necessary.

With this bill and shifting it to the estate tax, the number of returns that would be received is cut down from 6,500 to approximately 1,500. The number of returns which would end up paying a tax is reduced to about 750. So, you are reducing the number of taxpayers from 3,500 down to 750. Obviously, those 750 will have to pay more money than the 3,500 would individually, because you are still going to raise the same amount of money. But, who are these 750? These 750 are the largest estates that are handled in the State of Maine each year.

I am sure many of you are not familiar with probating estates, you are not lawyers, although many lay people do get the opportunity sometimes to be an executor of an estate and they begin to learn a little bit about it. But, basically, what this does is put us on the piggy backing on the federal system so that the federal growth estate will be the determining factor. That will be the first number, the number at the top of the page. The involvement in arriving at this figure will devolve on the federal people, and this means the valuing of estates, the valuing of stock in estates and the valuing of real estate, setting up the values of estate.

I would like to point out to you that you set down just a small column of figures, starting out with like \$130,000 at the top and let's assume that that is the gross federal estate, then you have let's assume \$10,000 worth of expenses, these include the funeral expenses, etc. You subtract those out because you don't have to pay a tax on them and you come down to \$120,000, which we will call the adjusted gross estate. If you are a married person, your spouse is entitled to a marital deduction, which averages out to about 50 percent of the estate or, in other words, half of the \$120,000, which would be \$60,000. Above that line now, you go down to \$60,000, these figures are all coming from the federal figures. Below the line, the State of Maine controls it.

Now, the federal law calls for a \$60,000 exemption and the Maine law, this bill right here, calls for \$60,000 exemption and the only reason we use \$60,000 is because that was the present one, that is the federal

exemption. That figure is in the power of this legislature to change, keep the same, raise or lower. So any control of the exemptions is still with this legislature. But there is a \$60,000 exemption so you subtract \$60,000 from sixty and you get zero and, therefore, with the example that I have shown you, this particular type of tax with \$130,000 gross federal estate would result in a zero tax as far as Maine taxpayers are concerned. I only give you this example to show you the level at which this thing would start for people with a wife or a husband or a beneficiary of an estate.

I hope you all realize that these 750 taxable estates in excess of the \$120,000 or \$130,000, or in excess of the \$60,000 exemption, whatever it comes down to, would only be 750 compared to the 6,500 returns in the 3500 taxable estates we have now.

In those 3500 taxable estates, there are many cases where small bequests are taxed, a widow, a niece or nephew, a cousin, these all have to pay their share of the Maine inheritance tax under present law and it is because these will be eliminated that we get one of the bonuses of this bill — and I would like to talk about the bonuses along the end of my conversation. One of the big bonuses, because we will not be handling so many and because certain portions of the work will be done by the federal people, the estate tax department in the State of Maine can be reduced by five people. You don't get too many bills in here which create that possibility, but that is exactly what the state people tell me.

There are other technical questions that somebody may want to raise but, basically, this does take a lot of people off the rolls of the death taxes. It puts them on the folks who have larger estates and takes the smaller taxpayers off the rolls.

It was the recommendation of the Tax Policy Committee — I think this was one of the few that we were unanimous on. I believe it is the right way to go. If you have any questions, I would be glad to try to answer them.

The SPEAKER: The Chair recognizes the gentleman from Hampden, Mr. Farnham.

Mr. FARNHAM: Mr. Speaker, I have a question, if anyone can answer it. It is my understanding that if the life insurance has a designated named beneficiary that it would not become part of the estate but if the insurance leaves payable to the estate, then it would be taxable and I would like to know whether I am right or wrong?

The SPEAKER: The Chair recognizes the gentleman from Bridgewater, Mr. Finemore.

Mr. FINEMORE: Mr. Speaker, Ladies and Gentlemen of the House: I would like to answer that question. That is partly true what he says, but if the spouse pays the insurance herself on her husband, it automatically becomes hers. Of course, if it isn't made payable to the estate, it is taxable.

I am glad that the gentleman from Farmington, Mr. Morton, has done his studies. The other day I asked him in hearing what he knew about this bill and he said he did not understand it very well. I find this morning he has done a wonderful job. I mean that seriously, he has done a wonderful job on the bill. But did you ever see anything — we had five employees cut out? I would rather think that they would add five.

Another thing, if you have over \$60,000, that exemption they tell about, I might say

that I wasn't going to speak on this bill until it came back, I had hoped that the Senate might possibly kill it —

The SPEAKER: The gentleman may not refer to the other body.

Mr. FINEMORE: Mr. Speaker, excuse me, sir. Anyway, if you are lucky enough to have 7, 8 or 10 children, you can give that much away anyway, you wouldn't have to pay any taxes to the state or anywhere else.

I talked with Mr. Halperin of the Tax Department on this and he doesn't say one way or the other whether it will help or decrease it anyway. He is kind of on the fence, so to speak, like a lot of people we know of who stay on the fence and whichever way it goes, they put one foot down on one side and one the other. Well, that seems to be his attitude on this bill.

I find that if you do have a \$60,000 taxable estate, it starts at \$3,450 and 10 percent of any money from there up to \$100,000. If you had a \$60,000 estate or a \$120,000 and take out the \$60,000 and leave \$60,000, as it is taxable under this bill and you still give it away if you have children enough and a lot of them do.

I don't think this bill is going to help us any. I did send this bill to a lawyer to have it gone over but he has never answered me yet. Maybe I will have it by the time this bill comes back from the other body and we will know more about it. I would like to have someone go over it a little more closer and find out the ins and outs but I do hate to see — this is like the income tax bill, they claim that a few are going to pay it and I think probably that is right. Well, this one, they have cut it down so that only 750 in the State of Maine are going to pay any amount and I think that is hitting pretty hard.

I think the only way to do today is to put your estate in trust and you give it away gradually over a period of time and then they can't get any tax. I think that is the proper way to do it.

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

Mr. PERKINS: Mr. Speaker, Ladies and Gentlemen of the House: I am not entirely certain of the merits of the bill. Certainly the concept is good in my mind. However, I am concerned on Page 7 where it refers to the returns that must be filed. I am wondering if there hasn't been a mistake or an oversight in failing to include an administrator who must file a return. In law we have that very technical term executor applied to those cases where there is a will. However, if there is no will, then an administrator is appointed and we have only required under this bill, as I see it, an executor to file a return. Consequently, we would be cutting out a good portion of the estates that would ever have to file. I think it should be included.

The SPEAKER: The Chair recognizes the gentleman from Hampden, Mr. Farnham.

Mr. FARNHAM: Mr. Speaker, Ladies and Gentlemen of the House: I think we made some changes last year and I think we are jumping to conclusions now and I hope you do not vote to pass this bill.

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

Mr. NORRIS: Mr. Speaker, Ladies and Gentlemen of the House: Very briefly, listening to the fine job that Representative Morton did, and I am sure he understands it, but this looks to me like another major tax transfer, even if it is a death tax. Actually, what we are doing is again making a major change in taxes this

morning by aligning with the federal government and I think it is a big question. I think it is another move, and we know that a lot of us are accepting the fact that we are going to have to put a greater burden on a few in some of the funding this session. I would feel that this would be a major that could be better addressed in the next regular session of the legislature when we go into the finer ramifications of tax shifts and a broader based tax. So I would hope that you would vote against the engrossment of this bill today.

The SPEAKER: The Chair recognizes the gentleman from Lewiston, Mr. Cote.

Mr. COTE: Mr. Speaker, Ladies and Gentlemen of the House: As you all know, there is a committee now in operation that is studying the uniform laws, probate laws, and I know that at one or two of our meetings, because I happen to be a member of that committee, we have addressed this subject to a certain extent. I am wondering if it is a little bit premature at this time to have this bill before this House.

I know there will be some recommendations from the committee coming at the next session of the legislature. They have been working on this for two years and we are going to come out with uniform probate laws and I think this subject will be addressed at that time. I just want to tell the House what is going on in this committee to a certain extent and probably this bill is a little bit premature at this time.

The SPEAKER: The Chair recognizes the gentleman from Farmington, Mr. Morton.

Mr. MORTON: Mr. Speaker, Ladies and Gentlemen of the House: I would like to address myself to one or two of the comments that were made. First, to the most recent one, the gentleman from Lewiston, Mr. Cote, it would be my thinking and I think I am correct in this, this would have nothing to do with probate law, as such. This is a tax matter we are talking about here and how the State of Maine assesses its taxes. The probate would take over based on how the law was regardless, and probate law itself, which I am sure is being addressed, and rightfully so, would not have any bearing on this particular bill.

The gentleman from Bridgewater, Mr. Finemore, was correct in saying that you can avoid having your insurance taxed in various ways. Of course, one of the common ones is to make sure that the beneficiary of the policy is the owner of the policy. I know this is something that is relatively new and perhaps not too common but it is being done more and more in estate planning that the beneficiary is the owner and hence would not have to include this in the decedent's estate.

The gentleman from Bridgewater attacked me a little unfairly because he pointed out that he didn't think that Mr. Halperin indicated that there was any reduction in force in the Taxation Department. I went to the Taxation Department and Mr. Halperin is the man that I contacted. Mr. Halperin said "the man you want to talk to is Mr. Tardiff, he is the expert in this area." He took me into Mr. Tardiff's office and Mr. Tardiff explained to me very carefully and clearly why they would be able to reduce their rolls. He said, among other things, the numbers that I gave you earlier are about the number of returns they would have to work with and I am sure that all of us, even the gentleman from Bridgewater, can

appreciate the difference between handling 6,500 pieces of paper and 1,500 pieces of paper or 3,500 that you have to work on and 750 you have to work on, that is one difference.

There are other differences. Mr. Tardiff was very careful to point out to me that, under the present law for the State of Maine, it is very difficult to train people; it is quite a process, because the Maine inheritance tax has different rates for different kinds of decedents and the amount of training for these people is difficult, they have quite a turnover, whereas, under this law, the federal field examiners review the chosen estates and their results are available to our people.

The question of valuating estates, which gets into pretty complicated areas sometimes, valuating very valuable property in other parts of the country, different kinds of property which we don't even have in the State of Maine, which we don't even have the technical expertise to value properly in the State of Maine, would be available to us as a result of these federal examiners and then we get their figures, so there are many good technical reasons.

Ladies and gentlemen, I do not think it is in error to say unequivocally that this would result in the reduction of 4 to 5 people in the Taxation Department to handle estate taxes, that is what Mr. Tardiff told me.

I think it comes down to the same thing we are talking about with the other bills we have before us — if you want to relieve the small recipient of estates, the small beneficiary of death benefits, you want to relieve the person who gets the \$3,500, if you want to relieve the person who is a recipient of a \$25,000 house and not a nickel in the bank or any other place and no income to even pay for the support of that house, if you want to relieve these kind of people from that hassle of inheritance taxes, then vote for this bill. If you are concerned for the fat cats who pass on \$150,000 \$250,000 or a half million dollars, then don't vote for this bill. It just comes down to that, plus the better administration, the more efficient way of handling it. I don't think there is any question how you are going to vote.

The SPEAKER: The Chair recognizes the gentleman from Bridgewater, Mr. Finemore.

Mr. FINEMORE: Mr. Speaker, Ladies and Gentlemen of the House: I am very sorry if he thought I criticized him because I did not, I gave him a compliment, I thought, because he did a good job on the bill. And as far as the five are concerned, that is right, they told me there would be five but I have never yet seen a place where they have taken five out is what I meant, and I still don't believe it would happen.

Now, to go on with the fat cats. I wonder how they consider the fat cats got their money, they got it paying taxes because you sure as the world never got rich if you didn't pay taxes and you pay a lot of them. But this bill as it goes along down here, to someone who leaves \$100,000 or \$250,000, if you are going to use this bill, you pay \$7,450 plus 10 percent over the first \$100,000. \$100,000 today is not a big estate, it used to be but it is not anymore, especially in the State of Maine. You are getting a lot of money coming in here now, more than you used to, and I don't think it is fair to pick them and take away what you can give to the children of any one. I am not speaking for myself by any means, because I don't have that kind of money but when you get

up in there, I tell you right now, with every other tax, it takes a lot of it. And I hope this morning, I didn't say it before because I wasn't going to try to tell people how to vote, but now, after hearing a little more white-wash on this bill, I think probably we ought to vote against it and get rid of it until, like Mr. Cote has said, put it in the next session. We had one in the last session and one in this one and it doesn't seem hardly the way to run our state by changing the estate tax every year.

The SPEAKER: The Chair recognizes the gentleman from Yarmouth, Mr. Jackson.

Mr. JACKSON: Mr. Speaker, Ladies and Gentlemen of the House: Getting away from fat cats, thin cats, scrawny cats, etc., there is something I would like to look into a little more here and that is the life insurance angle. We seem to be saying that if you are planning your estate right now and you want to put a policy in the name of the beneficiary and do various other things, you can come out very nicely without paying any tax on it. I think the question still is here or hasn't really been answered that we faced before, what about the man who bought his life insurance as an estate planning measure for his family and has contributed to it over the years, 20 years ago, 30 years ago, before he could see this coming and he has put a lot of money into it and he has paid his premiums monthly or what have you and suddenly the rules are being changed on him. He can't suddenly change the policy over and put it into the name of the beneficiary or something like that. What he has built for all these years, he is finding that the state is reaching out its hand and taking a large part of it in estate taxes. Maybe, he doesn't have much money in the bank, but maybe this the way he planned to take care of his family in the long run, when he is gone, and I would like to hear more about this.

The SPEAKER: The Chair recognizes the gentleman from Lewiston, Mr. Cote.

Mr. COTE: Mr. Speaker, Ladies and Gentlemen of the House: The gentleman from Farmington, Mr. Morton, said it didn't have anything to do with the probate laws but I say it has a lot to do with it. The degree or level of taxation places the burden squarely on the shoulders of probate court. I know we addressed this in our committee meetings. We felt all along that many times the widow was left without anything. So I know this has been addressed at our meetings and it will be addressed some more. I still feel that this bill is a little bit premature and we should put it off to the next session.

The SPEAKER: The Chair recognizes the gentlewoman from Auburn, Mrs. Snowe.

Mrs. SNOWE: Mr. Speaker, the question I am raising in this bill is under the provision of insufficient assessment. It allows the assessor to determine the assessment for three years after the return was filed, and I think if this bill is reducing the number of people who are being affected, I think we could expedite matters and do it within a three-year period.

Mr. Finemore of Bridgewater was granted permission to speak a third time.

Mr. FINEMORE: Mr. Speaker, Ladies and Gentlemen of the House: To go a little deeper on life insurance, back in 1941, there were a lot of people my age who bought life insurance for protection of their families and bought it with the understanding there would be no income tax on any gain on that policy over and above the original cost of the policy. Well,

people who had those policies, along in the fifties they changed the law to anything over and above the payment of the actual policy. In other words, if you had double indemnity, that double indemnity is taken completely off the cost. If you cash in that policy, it has an income tax, not even on a long-term gain but on a short-term gain. That is the way income tax is worked out.

You pay money for insurance, it is money that you have already paid the income tax on. Whether you buy a \$50,000 policy to go to your wife or the family, you have already paid the tax on that. A single premium, you paid it right in one lump, if it was spread out over a period of time, you paid it over a period of time. Now you come along with one like this, with a deal like this or like the one they changed last year, and you pass away, your family has to pay an inheritance tax on it. How many times has that already been taxed? That is the third time. That is the third time that a tax has been paid on that money you are trying to save for your family.

If you want that this morning, to pay that, you simply go along with that, \$50,000, or whatever it happens to be, and you are paying the third tax on it. I think this is going a little too far.

Mr. Morton of Farmington was granted permission to speak a third time.

Mr. MORTON: Mr. Speaker, Ladies and Gentlemen of the House: I would just like to short answer the gentleman from Yarmouth: The fact is that these changes can be made by the owner of the policy by making a gift of the policy to the beneficiary if he chooses to at any time he has taken out the policy. So, the answer is that this can be handled, it has been done in the estate planning for many people, it is being done constantly under the laws that the federal government has promulgated. This seems to be one of the better ways to go.

The gentleman from Bridgewater is very, very up on these things. He knows a great deal about income taxes and estate taxes and many other things, and I don't blame him for having objections, but these are the problems and the life insurance question, I think, was adequately answered by what I just said. This can be done, but if there is a technical question, which I did not understand the question of the lady from Auburn, and if she has a technical question which may require a few different words in the bill, I would be very happy to have the bill tabled and have it straightened out.

The SPEAKER: The Chair recognizes the gentlewoman from Auburn, Mrs. Snowe.

Mrs. SNOWE: Mr. Speaker, I move this item lie on the table for two legislative days.

The SPEAKER: The Chair will order a vote. The pending question is on the motion of the gentlewoman from Auburn, Mrs. Snowe, that this Bill be tabled pending passage to be engrossed and specially assigned for Wednesday, March 3. All in favor of that motion will vote yes; those opposed will vote no.

A vote of the House was taken.

92 having voted in the affirmative and 25 having voted in the negative, the motion did prevail.

Passed to Be Enacted Emergency Measure

An Act to Include Mail Order Merchants and Creditors Under the Maine Consumer Credit Code (H. P. 1973) (L. D. 2162) (C. "A" H-922)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure, and a two-thirds vote of all the members elected to the House being necessary, a total was taken. 118 voted in favor of same and none against, and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

Passed to Be Enacted

An Act Authorizing Central Maine General Hospital, a Corporation with a School of Nursing, to Confer Associate in Applied Science Degrees in Nursing (H. P. 1964) (L. D. 2153) (C. "A" H-924)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed, passed to be enacted, signed by the Speaker and sent to the Senate.

Orders of the Day

The Chair laid before the House the first tabled and today assigned matter:

An Act to Establish Assessments upon Certain Public Utilities and to Authorize Use of the Funds Generated by those Assessments to Pay Certain Expenses of the Public Utilities Commission (H. P. 1910) (L. D. 2097)

Tabled — February 27 by Mr. Kelleher of Bangor

Pending — Reconsideration. (Returned by the Governor without his approval)

On motion of Mr. Kelleher of Bangor, tabled pending reconsideration and tomorrow assigned.

The Chair laid before the House the second tabled and today assigned matter:

An Act Relating to the Right of Rescission Under the Truth-in-Lending Act (S. P. 711) (L. D. 2234) — In the Senate, Passed to be Engrossed. — In the House, Passed to be Engrossed in concurrence.

Tabled — February 27 by Mr. Palmer of Nobleboro.

Pending — Motion of Mr. Connolly of Portland to indefinitely postpone.

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

Mr. CONNOLLY: Mr. Speaker and Members of the House: I thought on Friday this bill had been tabled for two days, but I guess it was only tabled for one. I am going to talk with John Quinn from the Consumer Protection Division this afternoon, and I would hope that someone might table this for one more day.

Thereupon, on motion of Mrs. Najarian of Portland, tabled pending the motion of Mr. Connolly of Portland to indefinitely postpone and tomorrow assigned.

On motion of Mr. Bustin of Augusta, the House reconsidered its action whereby Bill "An Act to Change the Statutory Qualifications and Salary Limit for Director of Personnel," House Paper 1937, L. D. 2125 was passed to be engrossed as amended by Committee Amendment "A" and House Amendment "A".

On further motion of the same gentleman, under suspension of the rules, the House reconsidered its action whereby Committee Amendment "A" was adopted.

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

Mr. BUSTIN: Mr. Speaker, Ladies and Gentlemen of the House: To begin with, I would like to move the indefinite postponement of Committee Amendment "A" and then I would like to ask you to find a couple pieces of paper in all the material we have on our desks — one is the L. D.,

which is 2125, the Committee Amendment which I am moving for indefinite postponement is filing number H-931, it is pink, and then the blue one, which is filing number H-938, which was House Amendment "A".

The SPEAKER: The gentleman from Augusta, Mr. Bustin, moves the indefinite postponement of Committee Amendment "A".

The gentleman may proceed.

Mr. BUSTIN: Mr. Speaker and Members of the House: This L. D. is entitled "An Act to Change the Statutory Qualifications and Salary Limit." Under statutory qualifications, the intent is to remove from the statute that part which says that the Director of Personnel must be experienced in public personnel administration on the merit basis. I don't have any problem with that. That is the issue of statutory qualifications. Then the bill purports to discuss the salary limit on the position of Director of Personnel, and I think Mr. Farnham's amendment on the last legislative day, which is the blue one, H-938, takes care of that nicely. What was proposed originally was an open-ended salary and now it is back where it should be.

What bothers me is that nowhere in any statement of fact on the Committee Amendment or on the L. D. does it say that we are talking about a change in the method of appointment of the Director of Personnel. Turn, please, to the pink one. "Section 2. 5 MRSA, Subsection 631 is repealed." That is where it says that the Director of Personnel is appointed by the Personnel Board. Three or four lines down in the pink one, the one we adopted on the last legislative day, it says "After consultation with the Personnel Board, the Governor shall appoint the Director of Personnel who shall serve a term coterminous with that of the Governor or until his successor has been appointed and qualified." That seems to me to be a pretty major issue in a pretty minor bill.

I don't think we need in this state to have the Director of Personnel be a political appointment. This would politicize the personnel system. Civil service should be free of politics. I would hope that the House would concur in this very basic philosophy and vote to indefinitely postpone Committee Amendment "A" and then pass the bill.

The SPEAKER: The Chair recognizes the gentleman from Hampden, Mr. Farnham.

Mr. FARNHAM: Mr. Speaker, Ladies and Gentlemen of the House: I don't think I have too much quarrel with the remarks of the gentleman from Augusta, Mr. Bustin, but I would remind you that coming before you shortly is L. D. 2166. In there is another clause which would be effective on January 1, 1977, which says that the Director of Personnel will be subject to confirmation by the Joint Standing Committee on State Government and then, of course, by the Senate.

We have had a problem with this bill. We finally came out with a unanimous report. The state has been without a personnel director for six months. The big block in getting a personnel director is because the law as it now stands says that he must have merit rating experience, or experience in civil service. This we are deleting so that the man can be one who may have had experience in civil service, he may have had only experience with private industry, or he could have had experience in both cases.

There is also a problem on the salary

level as it now exists. This bill does not change that salary level, but in one of the appropriation bills, there is a salary increase for all of these people, commissioners, deputies and so forth, and we believe that with that, when that bill is finally passed, they will be able to select a personnel director.

Now, much is made about the power of the Personnel Board. The Personnel Board now basically consists of people appointed by the present Governor and they are very apt to go along with what the Governor wants, regardless.

We have had a problem; here is our chance to solve it. It was a unanimous committee report and I urge you to disregard the motion of the gentleman from Augusta, Mr. Bustin.

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

Mr. BUSTIN: Mr. Speaker, Ladies and Gentlemen of the House: I would point out to you that the remarks of my good friend from Hampden, Mr. Farnham, did not flow at all to the issue which I raised, which is the point of the gubernatorial appointment of personnel board. I already said I agree with the other matters that he discussed.

I served with other members of this body on the Joint Special Select Committee on Government Reorganization in the last legislative session, and at that time we made many, many moves to give the Governor more authority and more power, coterminous terms, being able to appoint the department heads. At no time did we consider making the Governor have the power of appointing the chief of the personnel system. This is a civil service system, and once you start having the Governor make the appointments, you are asking for a free reign of politics through the whole thing. I think that is bad and I hope you will indefinitely postpone this amendment, then we will pass the bill and do the other things that the gentleman from Hampden wants to do.

The SPEAKER: The pending question is on the motion of the gentleman from Augusta, Mr. Bustin, that Committee Amendment "A" be indefinitely postponed. All in favor of that motion will vote yes; those opposed will vote no.

A vote of the House was taken.

80 having voted in the affirmative and 38 having voted in the negative, the motion did prevail.

Thereupon, the Bill was passed to be engrossed as amended by House Amendment "A" and sent up for concurrence.

On motion of Mr. Rolde of York, the House reconsidered its action whereby it voted to insist on its action whereby Bill "An Act to Improve Solid Waste Management in the State," House Paper 2089, L. D. 2248, was referred to the Committee on Natural Resources.

On further motion of the same gentleman, tabled pending the motion to insist and tomorrow assigned.

On motion of Mr. Rolde of York, the House reconsidered its action whereby it voted to insist on its action whereby Bill "An Act to Improve Solid Waste Management," House Paper 2090, L. D. 2249, was referred to the Committee on Natural Resources.

On further motion of the same gentleman, tabled pending the motion to insist and tomorrow assigned.

On motion of Mr. Rolde of York, the

House reconsidered its action whereby it voted to insist on its action whereby Bill, "An Act to Provide Funding for Action on Solid Waste and Litter," House Paper 2091, L. D. 2250, was referred to the Committee on Natural Resources.

On further motion of the same gentleman, tabled pending the motion to insist and tomorrow assigned.

(Off Record Remarks)

On motion of Mr. Laffin of Westbrook, Adjourned until ten o'clock tomorrow morning.