

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

*One Hundred and Third
Legislature*

OF THE

STATE OF MAINE

Volume III

June 16 to July 8, 1967

Index

1st Special Session

October 2 and October 3, 1967

2nd Special Session

January 9 to January 26, 1968

**KENNEBEC JOURNAL
AUGUSTA, MAINE**

SENATE

Wednesday, January 17, 1968

Senate called to order by the President.

Prayer by the Rev. Roland S. Lord of Ellsworth.

Reading of the Journal of yesterday.

Orders

Mr. Good of Cumberland presented the following order and moved its passage:

ORDERED, the House concurring, that the Legislative Research Committee is directed to study the subject matter of the following Bills: "An Act Establishing the Municipal Public Employees Labor Relations Law", Legislative Document No. 1797 and "An Act Providing for Dealings Between Local Education Boards and Associations Representing Teachers", Legislative Document 1865, introduced at the second special session of the 103rd Legislature, to determine whether the best interests of the State would be served by the enactment of such legislation; and be it further.

ORDERED, that the Committee report its findings and recommendations to the 104th Legislature; and be it further

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

ORDERED, that there is appropriated to the committee from legislative appropriations the sum of \$2,500 to carry out the purposes of this Order. (S. P. 808)

Which was Read.

(On motion by Mr. Johnson of Somerset, placed on the Special Legislative Research Table.)

Mr. Berry of Cumberland presented the following order and moved its passage:

ORDERED, that the Senate of the 103rd Legislature on behalf of the State of Maine extends to the officers and men of the United States Coast Guard Cutter BARATARIA the grateful appreciation of the people of the State of Maine on the occasion of

the completion of their tour of duty in Vietnam and their return to their home port of Portland;

Many of the personnel of the BARATARIA have families and close ties to our State but every member has the affection and respect of Maine people for a job well done in the defense of freedom far from their home shores; And be it further

ORDERED that an attested copy of this order be forwarded to the Commanding Officer, South Portland Coast Guard Base for transmittal to the officers and men of the BARATARIA.

Which was Read and Passed.

**Reports of Committees
House****Ought Not to Pass**

The Committee on Appropriations and Financial Affairs on Bill, "An Act Reactivating the Governor's Committee on Children and Youth." (H. P. 1300) (L. D. 1829)

Reported that the same Ought Not to Pass.

Comes from the House, Bill substituted for the report and the Bill Passed to be Engrossed as amended by House Amendment "A" (H-511)

Which report was read.

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

Mr. BERRY of Cumberland: Mr. President and Members of the Senate: The bill as reported out originally by the Appropriations Committee had a larger appropriation than that covered by Amendment H-511. Accordingly, I would move that the bill be substituted for the report in concurrence.

The PRESIDENT: The Senator from Cumberland, Senator Berry, moves that the Senate now substitute the bill for the Ought Not to Pass Report of the Committee. Is this the pleasure of the Senate?

The motion prevailed and the bill was Read Once. House Amendment "A", Filing No. H-511, was read by the Secretary and adopted and, under suspension of the rules, the bill, as amended, was given its Second Reading and Passed to be Engrossed in concurrence.

Referred to the 104th Legislature The Committee on Labor on Bill, "An Act Establishing the Municipal Public Employees Labor Relations Law." (H. P. 1291) (L. D. 1797)

Reported that the same should be referred to the next Legislature.

Comes from the House, report Read and Accepted.

Which report was read.

The PRESIDENT: Is it the pleasure of the Senate that this bill be referred to the next Legislature?

The Chair recognizes the Senator from Cumberland, Senator Good.

Mr. GOOD of Cumberland: Mr. President and Members of the Senate: I believe a word of explanation would be in order at this time.

There are two bills before this Special Session of the Legislature having to do with public employees, their right to organize but not to strike, and to bargain with their employers. The two bills are reaching for opposite objectives. The bill under consideration at the moment, being L. D. 1797, was a bill reported out by the Legislative Research Committee, and would include all municipal employees, firemen, teachers and other municipal employees. The other bill which is on the docket this morning, and which has a similar recommendation by the Committee on Labor, is Item 6-4, and pertains only to the teachers. Apparently the teachers of this State are opposed to being included in a blanket bill encompassing all municipal employees. The firemen already have a law permitting them to bargain with the municipalities, and they are the only group apparently that have a law on the books today.

At the hearing I asked the committee clerk to get as large a room as we possibly could for the hearing, but there were no more than 45 that attended the hearing. I had a feeling, after talking with Senator Katz after the hearing, that as a result of the hearing the teachers felt that they should have an opportunity for rebuttal. Well, in a special session there isn't an opportunity to do all that you would like to do with a bill.

Barnett Shur, the Corporation Counsel for the City of Portland,

commended the Legislative Research Committee on the bill that they reported out but, nevertheless, he found considerable areas in the bill that he felt needed refinement before it was reported out.

The attitude at the hearing seemed to be that we do need this type of legislation. I am sure that the Labor Committee feels that we need this type of legislation. But it is not so urgent that a fully refined bill should not be turned out, since so many people are involved. Many of those appearing at the hearing said "Well, we take no stand on either of the bills because we haven't had time to read them." For instance, the representative of the firemen said that he represented 4,000 firemen in the State and they were taking no stand on either bill since they hadn't had time to read the bills but that, if we did anything, not to disturb the firemen's law which, of course, is included in the Legislative Research bill.

Mrs. June Gridley, a former chairman of the school committee in Portland, who opposed both bills on the grounds that there needed to be more discussion and more refinement of the bills, said that they had had two years of controversy in Portland due to the poor wording of their agreement that they now have in Portland. The situation in Portland has been pretty well defined now and solved. The teachers in Portland have agreed with the school board in Portland, irrespective of the action of this Legislature, to continue under their present agreement in Portland until June of 1968, and at that time to write a new agreement.

In view of the fact that this is a special session — if it had been a regular session I am sure that we could turn out a bill, one bill — but in view of the fact that there was considerable controversy concerning both bills, that they felt there was some refinement that should be made, many people didn't have a chance to study the bills, although the teachers were well represented by Dr. Marvin — I don't know of any teachers who

were at the hearing — we reluctantly made the decision to refer the bills to the Legislative Research Committee, both of them, with a small appropriation so that, if the Committee needed to, they could hire expert legal counsel to smooth out the wording. Therefore, I hope that the pending motion prevails.

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

Mr. KATZ of Kennebec: Mr. President and Members of the Senate: I subscribe to the remarks of the Chairman of the Committee on Labor. We have a vacuum in the State that is going to carry over for eighteen months, and I thought perhaps I would read to the Senate the reason for the vacuum. We have been presuming in this State that there is a right on the part of teachers to organize and to bargain or to enter into discussions and enter into contracts with the State with their local boards of education. I think the problem is pointed out very clearly in a letter from the Department of the Attorney General, dated yesterday. I will read you just the first statement: "I have examined the statutes of the State of Maine, more specifically Titles 20 and 26 of the Maine Revised Statutes, and conclude that there is presently no legislation authorizing public school teachers to organize into bargaining groups regarding conditions of their employment."

I share too Senator Good's feeling of regret that at a special session a problem as important as this just doesn't have enough time for solution. I do hope that the relationship between teachers and local boards remains a typical cordial relationship for the next eighteen months, upon the assurance that the Legislature at that time will act.

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

Mr. GOOD of Cumberland: Mr. President and Members of the Senate: In reference to the communication from the Attorney General that Senator Katz has just made reference to, that doesn't contain any new information. It

has been known all along that there is nothing on the statutes which authorizes the teachers to organize. Neither is there anything that says they can't. Thank you.

The PRESIDENT: Is it now the pleasure of the Senate that this bill be referred to the next Legislature?

Thereupon, the Committee Report that the bill be referred to the next Legislature was accepted in concurrence.

Senate Leave to Withdraw

Mr. Wyman for the Committee on State Government on Bill, "An Act to Permit Limited Leasing by the State of Maine Harvesting Rights to Marine Algae." (S. P. 782) (L. D. 1854)

Reported that the same should be granted Leave to Withdraw - covered by other legislation.

Which was Read and Accepted. Sent down for concurrence.

Mrs. Sproul for the Committee on Towns and Counties on Resolve, Correcting an Error in the York County Taxes for the Year Nineteen Hundred Sixty-Eight. (S. P. 769) (L. D. 1826)

Reported that the same should be granted leave to withdraw.

Which was Read and Accepted. Sent down for concurrence.

Referred to the 104th Legislature

Mr. Good for the Committee on Labor on Bill, "An Act Providing for Dealings between Local Education Boards and Associations Representing Teachers." (S. P. 785) (L. D. 1865)

Reported that the same should be referred to the 104th Legislature.

Which was Read and Accepted. Sent down for concurrence.

Enactors

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

An Act to Reclassify Certain Tidal Waters of Hancock County. (H. P. 1274) (L. D. 1780)

Which was Passed to be Enacted and, having been signed by the President, was by the Secretary

presented to the Governor for his approval.

Emergency

An Act to Incorporate the Town of Harmony School District. (H. P. 1256) (L. D. 1762)

Votes 28

Emergency

An Act to Reconstitute School Administrative Districts Nos. 60, 64, 65 and 66. (H. P. 1257) (L. D. 1763)

Votes 29

Emergency

An Act Creating a New Charter for the Town of Fairfield. (H. P. 1271) (L. D. 1777)

Votes 31

Emergency

An Act Creating the Harrison - North Bridgton Area Water District. (H. P. 1294) (L. D. 1800)

Votes 30

Emergency

An Act Continuing the Committee on Aging. (H. P. 1301) (L. D. 1830)

(On motion by Mr. Berry of Cumberland, placed on the Special Appropriations Table.)

Emergency

An Act to Incorporate the Town of Litchfield School District. (H. P. 1317) (L. D. 1860)

Votes 31

Emergency

An Act Clarifying the Establishment of Hospital Administrative District No. 1 in Penobscot County. (H. P. 1324) (L. D. 1869)

Votes 31

These six Bills, being emergency measures and having received the affirmative votes as indicated, were Passed to be Enacted and, having been signed by the President, were by the Secretary presented to the Governor for his approval.

An Act Relating to Payment for Blood tests in the District Court. (S. P. 764) (L. D. 1821)

Comes from the House Passed to be Engrossed in concurrence, but having failed of enactment.

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

Mr. BECKETT of Washington: Mr. President, I move that Item 8-9, L. D. 1821 and any accompanying papers be indefinitely postponed.

The PRESIDENT: The Senator from Washington, Senator Beckett, now moves that item 8-9 and accompanying papers be indefinitely postponed.

The Chair recognizes the Senator from Kennebec, Senator Lund.

Mr. LUND of Kennebec: Mr. President and Members of the Senate, I rise in opposition to the pending motion for indefinite postponement.

This Legislation, which had the unanimous support of the Judiciary Committee, was prompted by the problem which has arisen in the district courts as a result of a change which was written into the law at the regular session. Previous to the regular session, and for as long as I can remember, at least, blood tests were paid for by the county. This was a simple procedure under which the county attorney would check the blood tests and see if they were proper, certify them, and the County Commissioners would pay for them. This was borne as a portion of the law enforcement expense of the county. As a result of the fact that the district court has been producing a profit — if that is the proper word for operating at something that is other than a deficit, the fines have exceeded the expenses and the district court has been operating on a surplus — as a result of this there have been various efforts to dig into this surplus to pay for various expenses, and the bill that passed the regular session was a result of that effort. I think, when we passed this at the regular session, we did not have in mind the fact that after the expenses of the district court have been paid, this surplus is paid over to the counties, according to a formula, so that the counties receive all of the so-called profits, if you will, of the District Court System. So, for every blood test which is paid for by the dis-

trict court, that amount of money will not remain as profits, and the amount that the counties later receive will be reduced by that amount.

So, whether this bill passes or not, in the long run the counties are going to be in the same position. The difficulty comes, however, in that the district court has a serious problem in determining whether certain blood tests should be paid. The District Court has no direct connection with the county attorney's office, and is not in the position to know whether a blood test which did not result in a case going to court, whether that is a proper blood test or not. Some serious administrative problems have resulted in the district court, and I think the Judiciary Committee agrees that the district court should not be in the position of having to investigate the propriety of blood test expenses. This was the reason that it had the unanimous support of Judiciary, and I hope you will vote in opposition to the motion for indefinite postponement. I request a division.

The PRESIDENT: The pending question is the motion of the Senator from Washington, Senator Beckett, that this bill be indefinitely postponed. The Senator from Kennebec, Senator Lund, has moved that the vote be taken by a division.

The Chair recognizes the Senator from Washington, Senator Beckett.

Mr. BECKETT of Washington: Mr. President and Members of the Senate: I am at a loss to understand why a bill which was passed in the regular session — and this happens to be a bill that I did present — was heard before this very same Judiciary Committee and came out with a unanimous Ought to Pass report that this expense be borne by the district court. Only a few months later, I still again can't understand how, this got into the special session. I thought these were emergency bills, and I can't see the emergency in repealing a bill that has only been in effect two or three months. It doesn't seem to me its worth has been determined in that short a time.

The good Senator from Kennebec said that they didn't realize at this original meeting that these expenses, with this money going back, that this would cut down on the expenses that would be returned to the counties. As I remember the hearing at the regular session, that was well worked out as one opponent to the bill brought up that very thing. There is a small amount of money that comes back to the counties and the district court is apparently a business venture, although a very respected attorney, elderly attorney, informed me one time that the reason for the courts was to dispense justice and not to be a profit-making outfit.

This money that comes back comes back in proportion to the population. The small counties that don't have any population don't get a great deal back.

Harry Baulch, the Clerk of Courts of Aroostook County, was down here at one of the hearings, and he had facts and figures which I wish I had with me. These figures developed that, even though they had received money back from the district court, just the maintenance of the district courts in Aroostook County was in excess of what they received back in the amount, I think, of twenty three or twenty four thousand dollars. This did not include any expense of the sheriff's department, which is paid for by the county, in making arrests, or for drunken drivers who were fined \$200. or \$150. and didn't pay their fines and were placed in jail for ninety days or six months at the expense of the county. There is a great deal beyond this small return that comes back that the county has to pay for.

Another bill was presented in the regular session relating to compensation for certain municipal officers who appear in district court. This again has been presented by the same Senator from Kennebec as No. 1811 in this special session. He doesn't ask that those be paid for out of county funds, but that they simply be changed from the district court fund to the general fund. Now, this money that these officers receive

from the general fund, which is the district court fund now is going to cut down the amount that is returned to the county. There doesn't seem to be any concern about that.

There are other bills that have appeared before the committees to raise these judges salaries to quite fantastic amounts. These raises also reduce the amount of money that is returned to the counties. There doesn't seem to be any concern about that. There is nothing in here about repealing that bill. The only thing they seem to be picking on is this very small amount that is paid for the blood analysis.

In my county the blood analysis is in Orono at the University of Maine. There is the doctor's first charge in the jail, then you have to have an officer's day's pay and his mileage, and it amounts to quite a lot for the county. Now, if this man is found guilty and pays \$200.00 the district court takes the entire \$200.00. They pay nothing back to the county. They don't share any of the expense.

The district court has caused the counties to spend large amounts of money to make courtrooms that are suitable for them. Apparently the old municipal courtrooms that served for so many years weren't adequate for the district court, and some counties have had to build new buildings.

I think another thing that might have prompted this L. D. 1821 is the fact that the implied consent bill may pass, which makes compulsory blood tests, and it will involve a lot more expense. This seems to be an attempt to get this back onto the counties so when the implied consent bill comes along, with compulsory blood tests, they will be hooked with that additional expense. I trust my motion to indefinitely postpone will prevail, and when the vote is taken I ask that it be taken by the "Yeas" and "Nays."

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

Mr. MILLS of Franklin: Mr. President and Members of the Senate: Coming from the Committee, it did consider this bill, and con-

sidered the other bill which was before us of a contrary nature at the last session. I should point out that I agree entirely that this is a small amount. As far as the amount is concerned, it is small, and the monetary considerations are not those that prompted the Committee to make the report that it did.

The Committee was influenced very much, and persuasively so, and properly so, I submit, by the chief administrative officer of the District Court System, Chief Judge Chapman, who represented to us that this act that we had passed, and we had acted on favorably before, was impossible of administration; that these blood tests are taken completely out of control of the district court. The district court has no knowledge of when and where they are taken. There are many blood tests taken that do not materialize in court action, and these they are called upon to pay. What it amounts to is an impossible administrative situation. It means that the district court is put over into the law enforcement field, the administration of law enforcement, where it shouldn't be, and it wasn't the simple thing to handle that we in the Committee thought it was when we originally endorsed this measure.

I agree with a good many of the things my colleague from Washington County has mentioned. The District Court System has been an additional expense, but I would want to point out that these new buildings that are being built return a rental to the counties, and I don't believe that they result currently in a net expense to the counties. I believe that the rentals which have been agreed upon, or they should have agreed upon rentals with the county commissioners of an adequate amount, take care of those costs. But I do agree with him that there are many expenses here that the county government has had to undertake as a result of this system. But the system as a whole, the district court system, was heralded from one end of the country to the other as a great improvement over the administra-

tion of justice. If there is anything that government functions for, it is for the good, proper and decent administration of justice. Justice Tom Clark of the United States Supreme Court went out of his way to compliment Maine on the very forward step that it had taken in instituting this system. It is true that it has fallen upon the taxpayers to undertake some additional expense on account of it, but it has been a great improvement. I am not here to say that it is perfect because I have in mind quite a few more improvements that should be made in it, and I think some of the things that are going on in the district court weren't intended in the first place and could be improved, but by and large it is a step forward.

This action of our Committee was taken because the man in charge of administration of that court system said it was impossible to administer. We took his word for it and we believe him, and we believe that we were right in recommending this action that we took. Thank you.

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

Mr. BARNES of Aroostook: Mr. President and Members of the Senate: I didn't intend to speak on this issue, but sitting here and listening to the debate I felt compelled to say a word or two. First of all, I am surprised that all the members of the Judiciary Committee unanimously agreed. I think that is unusual.

I believe, in view of the fact that the district court collects this revenue, that they should be obligated to pay for these blood tests, and I support the position of the good Senator from Washington, Senator Beckett.

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

Mr. ROSS of Piscataquis: Mr. President and Members of the Senate: I heard "implied consent" mentioned again and, to the best of my knowledge, it is resting in the Judiciary Committee where it reposed for quite a spell during the regular session.

Just to put the record straight, the word "blood test" has been used several times. The implied consent bill, while it is not my bill this time, does not call for a blood test; just a breath test. I wanted to get the record straight.

The PRESIDENT: The pending question is the motion of the Senator from Washington, Senator Beckett, that the bill be indefinitely postponed.

The Chair recognizes the Senator from Cumberland, Senator Berry.

Mr. BERRY of Cumberland: Mr. President and Members of the Senate: I am neither a member of the law profession nor am I an experienced county official as several of the previous speakers are, but I would wholeheartedly support the position of Senator Beckett.

The problem of administration, because the district court cannot separate blood tests of the people who end up in court from the blood tests of people who never get to court, seems to me begs the question. Everybody who has a blood test is headed for court and, accordingly, the court should pay the charge.

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

Mr. WYMAN of Washington: Mr. President and Members of the Senate: I want to rise too in support of the motion by my colleague, Senator Beckett. I was in favor of defeating this bill and after hearing the debate on it I am still more strongly in favor. The good Senator has been a County Commissioner from Washington County for thirty years, and I don't think there is anybody that knows and understands county government any better than he does.

Furthermore, I have noticed that a great many of these State officials, when they have any kind of a new burden thrown on them, protest and say it is unworkable. We have just heard this on a boat tax bill we had in Taxation, and immediately they throw up their hands before the bill has even been tried and say it is unworkable. I don't have very much sympathy with that argument. I think, as the good Senator from Cumberland

Senator Berry, says, "that begs the question." So, I hope the motion of the Senator from Washington, Senator Beckett, may prevail.

The PRESIDENT: Is the Senate ready for the question?

The Chair recognizes the Senator from Knox, Senator Hoffses.

Mr. HOFFSES of Knox: Mr. President and Members of the Senate: I would only rise to make note of what the good Senator from Franklin said when he commented that Justice Clark made special note of the District Court System in the State of Maine. We hear repeated remarks that the State of Maine is last in this, last in that, next to the last in something else. This apparently is one thing that we are one of the first in, and I would like this Senate to take note of that, and I would like to be on record as favoring the motion of the good Senator from Washington, Senator Beckett, for the indefinite postponement of this bill.

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

Mr. FARLEY of York: Mr. President and Members of the Senate: I am going to support Senator Beckett from Washington County and also the members of the County Commissioners in York County, which is made up of two Democrats and one Republican.

I was here when the order was passed relative to the district court. When the district court was passed later I was not here. But it seems now that the district court, from what our county commissioners tell us, that we are increasing and increasing our court cases in York County, mostly all from appeal cases appealed from the district courts.

Before the district court went into effect in the State of Maine we, as the City of Biddeford, paid about a \$34,000 county tax. Our tax today is clean up to \$60,000. So, you see, that tax that we pay is not educational money, but is a property tax that we have to pay to the county.

There seems to be a lot of difference, from some of the testimony that I heard when I was here last, from just what the dis-

trict courts were going to do in the State of Maine. I don't believe, in honesty, to a great many down my way that they have perfectly satisfied the people up in that section. There is too much going back into the high court in Alfred. I don't believe our November Term has ended yet. If you read the papers, a great many of them are appeal cases, traffic violations, or this and that or something else. I heartily favor the motion of the Senator from Washington County and, on the strength of the County Commissioners of York County, I am going to vote with him.

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

Mr. STERN of Penobscot: Mr. President and Members of the Senate: I am happy to say that in Penobscot County we have little, if any, of the problems that the other counties have. We have very few people charged with driving under the influence, and those that are charged with that offense have the education and the ability to refuse to take the blood test when it is offered, so we don't have that problem. But, in deference to the poor counties, and apparently those people that are boasting of the prevalence of that type of an offense, I feel that I will have to support them, so I will support Senator Beckett and the poorer counties in our State.

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

Mr. MILLS of Franklin: Mr. President, if Senator Lund and I ever could sense impending defeat we certainly sense it now. The only thing I want to ask as a favor here is that you don't bother with a roll call. I don't see any point in humiliating us that far. Just stand up and let us stand alone.

The PRESIDENT: Is the Senate ready for the question? The pending question is on the motion of the Senator from Washington, Senator Beckett, that this bill be indefinitely postponed. Unless the Senator from Washington, Senator Beckett, wishes to withdraw his request for the "Yeas" and "Nays", the "Yeas" and "Nays" will be entertained if there be at

least one-fifth of the Senators indicating that desire.

The Chair recognizes the Senator from Washington, Senator Beckett.

Mr. BECKETT of Washington: Mr. President, I feel fairly secure now and I will withdraw my motion for the "Yeas" and "Nays."

The PRESIDENT: The Senator from Kennebec, Senator Lund, has requested that the vote be taken by a division.

As many as are in favor of the indefinite postponement of the bill will stand and remain standing until counted. Those opposed?

A division was had. 25 Senators having voted in the affirmative, and six Senators having voted in the negative, the motion to indefinitely postpone the bill and accompanying papers prevailed.

Orders of the Day

The President laid before the Senate the first tabled and today assigned matter, (S. P. 805) Joint Order — Relative to Removal of tolls from Bangor - Brewer bridge.

Tabled — January 16, 1968 by Senator Ferguson of Oxford.

Pending — Passage.

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

Mr. MacLEOD of Penobscot: Mr. President and Members of the Senate: The Senator from Franklin, Senator Mills, began to get a feeling about a bill a few minutes ago after listening to some debate here in this body. I have been getting a feeling about this order of mine too from many sources in the last several hours, and I realize what kind of a fate it would suffer. So, I would move for the indefinite postponement of this order, and I would hope to have before this body this afternoon a chance to vote on removal of the tolls from the Bangor-Brewer bridge, but using a different and more appropriate vehicle.

I might add, while I am up here, that I would hope that on the next item on the table, which I tabled yesterday, the Senate would vote for this item because the need for this bridge has been proven and it should be built. The people should have another opportunity to

express their wishes on it in the next Fall election. I would hope also that when we finally leave here and adjourn this Special Session that there will be no tolls on any bridges within our State borders. Thank you.

The PRESIDENT: The Senator from Penobscot, Senator MacLeod, now moves that this joint order be indefinitely postponed. Is this the pleasure of the Senate?

The motion prevailed and the Joint Order was indefinitely postponed.

The President laid before the Senate the second tabled and today assigned matter, (H. P. 1305) (L. D. 1834) Bill, "An Act to Authorize the Construction of a Bridge Across the Androscoggin River between the Cities of Auburn and Lewiston."

Tabled — January 16, 1968 by Senator MacLeod of Penobscot.

Pending — Enactment.

(On motion by Mr. Berry of Cumberland, placed on the Special Appropriations Table)

On motion by Mr. Ross of Piscataquis,

Recessed until four o'clock this afternoon.

After Recess

Called to order by the President.

Additional Papers From the House

Out of order and under suspension of the rules, the President laid the following matters before the Senate:

House Papers

Non-concurrent matter

Bill, "An Act Relating to Loans for Maine Students in Higher Education." (S. P. 779) (L. D. 1851)

In Senate, January 12, Passed to be Engrossed As Amended by Senate Amendment "A" (S-338).

Comes from the House, Passed to be Engrossed as amended by Senate Amendment "A" and House Amendment "A" (H-515 in non-concurrence.

In Senate, voted to Recede and Concur.

**Reports of Committees
Leave to Withdraw**

The Committee on State Government on Bill, "An Act Increasing Compensation of Bank Commissioner." (H. P. 1281) (L. D. 1787)

Reported that the same should be granted Leave to Withdraw - covered by other legislation.

Comes from the House, report Read and Accepted.

Which report was Read and Accepted in concurrence.

Ought Not to Pass

The Committee on Taxation on Bill, "An Act Relating to the Taxation of Certain Housing." (H. P. 1321) (L. D. 1864)

Reportd that the same Ought not to Pass.

Comes from the House, report Read and Accepted.

Which report was Read and Accepted in concurrence.

Ought to Pass

The Committee on State Government - pursuant to Joint Order H. P. 1323 on Bill, "An Act Relating to Housing and Meal Expenses for Legislators." (H. P. 1326) (L. D. 1871)

Reported that the same Ought to Pass.

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

Which report was Read and Accepted and the bill Read Once. Thereupon, under suspension of the rules, the bill was given its Second Reading and Passed to be Engrossed in concurrence.

**Senate
Ought to Pass**

Mr. Mills for the Committee on Judiciary on Resolve, Proposing a Constitutional Amendment to Correct Inconsistency in Election of Judges of Probate. (S. P. 780) (L. D. 1852)

Reports that the same Ought to Pass.

Which was Read and Accepted and the resolve Read Once. Thereupon, under suspension of the rules, the resolve was given its Second Reading and Passed to be Engrossed.

Sent down for concurrence.

Communications

Out of order and under suspension of the rules, the following communications were laid before the Senate:

Department of
Economic Development
Augusta, Maine

January 15, 1968

Honorable Kenneth M. Curtis
Governor, State of Maine
Members of the 103rd
Maine Legislature

The Programs and events reported herein took place, with the exception of the last two and one-half months of the calendar year, under the departmental administration of Standish K. Bachman. Therefore, the major portion of this report, in effect, is his, in absentia.

This edition of the Annual Report of the Department of Economic Development covers two different calendar periods. The financial report is based on a fiscal year of July 1, 1966 through June 30, 1967. The activities report covers the calendar year of January 1, 1967 through December 31, 1967.

It is my intent that the next Annual Report shall coincide with the financial section in all respects.

Respectfully,
JAMES K. KEEFE,
Commissioner

(S. P. 809)

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

State of Maine
Supreme Judicial Court
Augusta, Maine

January 16, 1968

Hon. Jerrold B. Speers
Secretary of the Senate
State House
Augusta, Maine
Dear Mr. Speers:

There is enclosed the Answer of the Justices to the Question of January 15, 1968 relative to "An Act Providing for Appointment of Judges and Registers of Probate." (L. D. No. 1801)

Respectfully yours,
ROBERT B. WILLIAMSON

Enclosure

Answer of the Justices

To the Honorable Senate
of the State of Maine:

In compliance with the provisions of Section 3 of Article VI of the Constitution of Maine, we, the undersigned **J u s t i c e s** of the Supreme Judicial Court, have the honor to submit the following answer to the question propounded on January 15, 1968.

QUESTION (1): If L. D. 1852 is enacted by the Legislature, is it necessary that it be approved by the people before L. D. 1801 may be enacted, in view of the fact that the people in referendum repealed Article VI, Section 6, of the Constitution, and that the provision relating to judges of probate, appearing in Article V, Part 1, Section 8, has not been repealed?

ANSWER: We answer in the affirmative with respect to Section 1. An analogous situation was considered in Opinion of the Justices 137 Me. 350,351, wherein the following question was asked:

“Where the Constitution provides for the tenure of office, qualifications, and mode of election of a State officer but contains no express prohibition of legislation with regard to such tenure, qualifications or election, would it be a constitutional exercise of the legislative power to pass, concurrently with a resolve proposing an amendment to the constitution removing therefrom the provisions relative to the election, tenure of office and qualifications of such officer, an act providing a different mode of election and a different tenure of office, which act is not to become effective until and unless such resolve is adopted by the people?

In answer to that question the Court expressed the opinion that the constitutional provision there under consideration, and to which Section 8, Part First of Article V is analogous, prevents the enactment of legislation providing for the appointment of Judges of Probate “even conditionally” until the inhibiting clause of the Constitution is repealed. Opinion of the Justices 137 Me. 350, 353.

We deem it appropriate with reference to Section 2 of L. D.

1801, relating to the appointment of Registers of Probate, to state our opinion that legislation to this effect may properly be enacted without change in the Constitution.

With the repeal of the constitutional provision for the election of Registers of Probate (Article VI, Section 6) there remains no constitutional prohibition limiting the power of the Legislature to provide for the office of Register of Probate in such manner and on such terms as it may enact. *Ross v. Hanson*, (Me.) 227 A. 2d. 606. The office of Register of Probate does not fall within the classification of “judicial officers” who must be nominated and appointed by the Governor under Article V, Part First, Section 8 of the Constitution.

Should the Legislature see fit to provide for the appointment of Registers of Probate, we suggest that the intent of the Legislature be made clear with respect to the effect on present incumbents.

Dated at Augusta, Maine, this sixteenth day of January, 1968.

Respectfully submitted:

ROBERT B. WILLIAMSON
DONALD W. WEBBER
WALTER M. TAPLEY, JR.
HAROLD C. MARDEN
ARMAND A. DUFRESNE, JR.
RANDOLPH A. WEATHERBEE

Which was Read and Ordered
Placed on File.

Enactors

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

An Act Creating the Corinth Utilities District. S. P. 786) (L. D. 1866)

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

Emergency

An Act Validating the Moscow Water District. (S. P. 747) (L. D. 1805)

30 votes.

Emergency

An Act Relating to Vacancies in the Office of State Senator. (S. P. 750) (L. D. 1808)

31 votes.

These two Bills, being emergency measures and having received the affirmative votes as indicated, were Passed to be Enacted and,

having been signed by the President, were by the Secretary presented to the Governor for his approval.

On motion by Mr. Ross of Piscataquis,

Adjourned until ten o'clock tomorrow morning.