

## JOURNAL OF THE SENATE

Saturday, June 19, 1965

The Senate was called to order by the President at 11:00 A.M. The following Senators were recorded present:

Mr. President	Daniel	Johns	Price
Askew	Davis	Johnson (19th)	Roberts
Barber	Dressler	Johnson (6th)	Ryan
Barron	Edwards	McCarty	Spottswood
Bronson	Friday	McDonald	Stratton
Carlton	Gautier	McLaughlin	Tapper
Carraway	Gibson	Mapoles	Thomas
Clarke	Griffin	Mathews	Usher
Cleveland	Haverfield	Melton	Whitaker
Covington	Henderson	Pearce	Williams
Cross	Hollahan	Pope	Young

44. A quorum present.

Prayer by Senator L. K. Edwards, Jr., of the Twentieth Senatorial District:

Our Father we come to thee this morning, confessing our sins before men and asking thy forgiveness. We pray for mercy and ask that you lead, guide, direct and care for us and use us for thy honor and glory and for the benefit of our fellowmen. We pray for peace on earth, good will toward men everywhere. We especially ask that you be with our country, our state and our people. We ask you, O Lord, to accept our thanks for life itself, for friends, for loved ones, food and shelter. Be with us, guide us and protect us now and forever more. Amen.

The reading of the Journal was dispensed with.

The Journal of June 18 was corrected and approved.

## ENGROSSING REPORT

Your Engrossing Clerk to whom was referred—

CS for SB 10-X(65) with 10 amendments

— reports that the Senate amendments have been incorporated and the bill is returned herewith.

EDWIN G. FRASER  
Secretary of the Senate

The bill was placed on the Calendar of Bills on Third Reading.

Senator Mathews requested the President to have the Reading Clerk read a motion on the correction of the Journal of the Senate of June 18.

The President, before recognizing Senator Mathews for the reading of the motion, read to the Senate the report of the Special Parliamentary Committee prepared pursuant to Senate Rule 78, then ruled that Committee Substitute for SB 10-X(65) had been engrossed and was on third reading.

At the request of the President the report of the Special Parliamentary Committee was spread on the Journal as follows:

*Honorable James E. Connor*  
*President of the Senate*

June 18, 1965

*Sir:*

Your Special Parliamentary Committee has researched the question presented to it by you, which question was:

Does Committee Substitute for Senate Bill 10-X(65) which was read the second time by title in the Senate at its regular session on June 18 and amended, go over on third reading for the session of June 19, 1965; and what effect does the adjournment without a motion to adopt an amendment being acted upon have on said amendment?

Section XXXVII of Jefferson's Manual provides, *inter alia*, that when a question is interrupted by a vote of adjournment it is removed from before the House and does not stand ipso

facto before them at their next meeting, but must come forward in the usual way.

Under this provision of Jefferson's Manual the motion to adopt the amendment not having been acted upon, it is therefore removed from before the House by the question of adjournment having been decided by the Chair on a point of order so raised. The amendments must therefore come forward in the usual way, which under the rules of the Senate is by unanimous consent, the said bill having been read the second time, and the second legislative day having passed and the third legislative day having arrived, thereby placing said bill on third reading

Respectfully submitted,  
Dewey M. Johnson  
Chairman, Committee on Rules and Calendar  
Edwin G. Fraser  
Secretary of the Senate  
Charles Tom Henderson  
Assistant Attorney General

Senator Mathews renewed his request for reading of a motion on the correction of the Journal of the Senate of June 18, and the President directed the Reading Clerk to read the motion which motion was as follows:

## MOTION

TO CORRECT THE JOURNAL OF THE SENATE FOR THE MEETING OF JUNE 18, 1965, SENATOR FRIDAY, SENATOR CLEVELAND AND SENATOR MATHEWS MOVE THAT THE JOURNAL OF THE SENATE FOR JUNE 18 1965, BE CORRECTED BY THE MAKING OF THE FOLLOWING DELETIONS AND INSERTIONS:

(1) Page 17—strike the following “on substitute motion on Senator Mathews, it was agreed that the Senate resume consideration of the pending amendment upon reconvening.”

(2) Page 19—strike the following “The President declares the Senate in informal recess at 12:20 p.m. The Senate reconvened at 12:50 p.m.”.

(3) Page 19—strike “CS for SB 10-X(65) was ordered engrossed.”

John E. Mathews, Jr.  
Elmer Friday  
A. J. Ryan, Jr.  
Tom Whitaker, Jr.  
E. W. Gautier  
J. Emory Cross  
Mack N. Cleveland, Jr.

A brief in support of the motion by Senator Mathews and others, at the direction of the President was read as follows:

## BRIEF IN SUPPORT OF MOTION TO CORRECT JOURNAL

To the President of the Senate:

This brief is submitted in accordance with accepted parliamentary practices and the rules of this Senate to assist the President and the members of the Senate in the consideration of the motion to correct the Senate Journal for June 18, 1965.

On second reading Senate Bill 10-X, and Committee Substitute for Senate Bill 10-X. The Committee Substitute was read the first time by title, was thereafter substituted for Senate Bill 10-X and Senate Bill 10-X was laid on the table (see Senate Journal, Friday, June 18, page 15). Thereafter, Senator Williams moved the rules be waived and the Committee Substitute for 10-X be read a second time by title which motion carried. Ten amendments were then offered consecutively and adopted by voice vote.

Senator Askew with 22 other senators offered an amendment (page 16 Senate Journal). Senator Askew then moved the

adoption of the amendment (page 17 Senate Journal). Senator Johnson then offered a substitute motion which he withdrew. Following parliamentary discussions and suggestions, the President of the Senate declared an informal recess until 10:45 A.M. When the Senate reconvened, a series of 5 amendments to the amendment of Senator Askew and others were offered and defeated on roll call votes (Senate Journal, pages 18 and 19). Thereafter, a motion by Senator Mathews to extend the hour of adjournment until final action on the Committee Substitute was defeated.

Senator Mathews then moved that the Senate hold an afternoon session pursuant to Senate Rule 14. Senator Tapper raised a point of order that the motion would be a waiver of the rules and required a two-thirds vote. A special parliamentary committee was appointed pursuant to Senate Rule 78. The President declared an informal recess of 10 minutes for the committee to consider the question. The committee was out of the Chamber for thirty minutes. The Senate did not reconvene until 12:50 P.M. or 10 minutes before the time of adjournment. The parliamentary committee recommended that the motion made by Senator Mathews would require a two-thirds vote.

Senator Mathews then moved that the rules be waived and the Senate hold an afternoon session which motion was defeated.

Senator Tapper was then recognized on a point of special privilege. Senator Tapper approached the well and began to speak against the amendment offered by Senator Askew and others.

Senator Askew then was recognized for a parliamentary inquiry (with Senator Tapper stating from the well that he was yielding for the purpose of a parliamentary inquiry only).

Senator Askew asked the President if it were not correct that the amendment offered by Askew and others would be on second reading with pending amendment on the reconvening of the Senate on June 19 at the hour of 11:00 A.M. Senator Johnson, chairman of the Rules, then read from Jefferson's Manual, Section XXXVII, page 232, Section 483, concerning co-existing questions. Before a ruling by the Chair on answer to the parliamentary inquiry, Senator Tapper and Senator Pearce insisted on a point of order that the hour of adjournment had arrived. The President then ruled the point well taken and "that the hour of adjournment has arrived."

Throughout the vote of the amendments to the amendment offered by Askew and others and the motion with reference to an afternoon session, a clear majority was demonstrated in favor of Askew's amendment, the vote being 25-19 against changing the amendment and for an afternoon session. After all amendments to the amendment had been considered, the opponents to the amendment clearly indicated their reliance on the passage of time until 1:00 P.M. by direct reference to intent. The proponents to the amendment clearly indicated they would take what time was necessary for full debate by showing their willingness to work both Friday afternoon and Saturday.

The portion of Paragraph 483, Section XXXVII, read by Senator Johnson is as follows:

It may be asked whether the House can be in possession of two motions or propositions at the same time? so that, one of them being decided, the other goes to question without being moved anew? The answer must be special. When a question is interrupted by a vote of adjournment, it is thereby removed from before the House, and does not stand ipso facto before them at their next meeting, but must come forward in the usual way.

The section quoted by Senator Johnson is not applicable to the factual situation that occurred and exists with reference to Committee Substitute for Senate Bill 10-X. The point that a motion to adjourn upon which a vote was taken created a situation of co-existing questions which had the effect of killing the pending amendment could not be pertinent because no motion to adjourn was made nor was any roll call vote taken on such a motion to adjourn. As reflected by the Senate Journal, adjournment was pursuant to a point of order that the time of adjournment had arrived. Thus the Senate never indicated by roll call vote any reluctance or unwillingness to continue consideration of the pending amendment under unfinished business pursuant to Rule 17 on the reconvening of the Senate at 11:00 a.m. on June 19.

Identical situations occurred during the regular 1965 session

of the legislature in the Senate. Two which are clearly in point and reflected by the records of this body as printed in the Senate Journal concern Senate Joint Resolution No. 848 and the Committee Substitute for Senate Joint Resolution No. 848 and Senate Bill 514.

The motions and the action with reference to Senate Joint Resolution No. 848 is found in the Senate Journal of May 14 and May 17. After the Committee Substitute had been adopted and read the second time by title, a number of amendments were offered, some of which were adopted, and at the time of adjournment, which was accomplished by motion to adjourn made by Senator Johnson, an amendment offered by Senator Mathews was under consideration. It will be recalled that while Senator Mathews was speaking on the amendment, Senator Melton had a heart attack.

On the following Monday when the Senate reconvened at 2:00 p.m., the Committee Substitute was again taken up and the amendment offered by Senator Mathews was defeated. Subsequent to this, a number of amendments were offered and defeated and one amendment offered by Senator Tapper was adopted. Motion was then made by Senator Williams to place Committee Substitute on third reading and final passage, and the Committee Substitute was passed.

On Senate Bill 514, the Senate Journals and calendars from May 13 through May 19 reflect that though amended on second reading, said bill was carried over from day to day on unfinished business and specifically carried over with a pending amendment. It is further noted that it was carried over when adjournment occurred pursuant to a point of order, whereas in the case of Committee Substitute for Senate Joint Resolution No. 848 the adjournment occurred on motion.

An interpretation of Rule 39 requiring that any bill on second reading which had been amended would go to the engrossing room and be placed on third reading automatically if adjournment occurred during consideration of a pending amendment would have the effect of nullifying any opportunity for placing more than one amendment on a bill on second reading if the opponents desired to utilize their full time on speaking until the hour of adjournment had arrived.

It is therefore respectfully submitted that the Motions to Correct the Journal are necessary and must be carried if the journal is to accurately reflect the proceedings which occurred in the Senate and the correct status of Committee Substitute for Senate Bill 10-X with pending amendment. Clearly, Committee Substitute for Senate Bill 10-X is on second reading with a pending amendment and should be carried on the calendar under unfinished business.

Respectfully submitted,  
Elmer O. Friday, Jr.  
John E. Mathews, Jr.  
E. W. Gautier  
A. J. Ryan, Jr.  
Mack N. Cleveland, Jr.

Senator Tapper raised a point of order as to the motion, which was not ruled upon; but the President did rule that the motion was out of order.

The motion of Senator Johnson (6th) that the rules be waived and when the Senate adjourns at this Session it adjourn to reconvene at 4:00 P.M. June 21, 1965, failed of adoption. The vote was:

Yeas—25.

Barber	Davis	McDonald	Stratton
Barron	Edwards	McLaughlin	Tapper
Bronson	Gautier	Mapoles	Usher
Carlton	Griffin	Melton	Williams
Carraway	Haverfield	Pearce	
Clarke	Johns	Roberts	
Covington	Johnson (6th)	Spottswood	

Nays—19.

Mr. President	Dressler	Johnson (19th)	Ryan
Askew	Friday	McCarty	Thomas
Cleveland	Gibson	Mathews	Whitaker
Cross	Henderson	Pope	Young
Daniel	Hollahan	Price	

Senator Johnson (6th) suggested to the President that a Committee composed of four members of the Senate from the Majority Bloc and four members of the Senate from the Minor-

ity Bloc, be appointed to endeavor to work out a compromise proposal in the stalemate on the reapportionment issue before the Senate.

**Senator Williams presiding.**

The President announced the appointment of Senators Askew, Carlton, Pope, Friday, Mathews, Johnson (6th), Williams,

Usher, Tapper and Davis as a Committee to attempt to bring out a compromise plan of reapportionment.

**The President presiding.**

The hour of adjournment having arrived, a point of order was called and the Senate stood adjourned at 1:00 P.M. until 11:00 A.M., June 21, 1965, pursuant to Senate Rule 14.