

March 2, 1972

(Start Belt #1)

SENATOR CARPENTER: A point of order, Mr. President. On a motion I made yesterday pertaining to an appropriation for the Railway Commission on the roll call vote had twenty-one votes. I was in somewhat of a quandry whether or not the ruling was correct and I made some investigation, I don't know if that is the right word, research, and I find that the courts have said as I understand it that twenty-one votes on Select File is sufficient. And the only controlling factor is the number of votes a bill gets on Final Reading. I would like to ask the Clerk, for example, on the point of order and I bring it up because the Journal is not correct because a roll call vote was asked, and a roll call vote was not printed in the Journal so I was wondering if the Clerk or the presiding officer would care to expand on the point of order.

PRESIDENT: Mr. Clerk, do you have some further information?

CLERK: In regard to the roll call vote not being verified, it has been our policy in the past to verify the vote by setting it out only if a roll call vote and a record vote were both included. This morning I talked with Mr. Warner, chairman of the Rules committee, we agreed that perhaps it was a desirable policy to pursue to set it out anytime a roll call vote was requested. Accordingly the Journal will be corrected to reflect the verified vote found on page 989.

SENATOR CARPENTER: Now, on the matter of the twenty-one votes, the Chair originally ruled that the amendment had been adopted.

CLERK: On that point, Senator, the Lieutenant Governor Marsh called me this morning and visited with me about it and after that phone call I talked with Mr. Vitimas, the Deputy Attorney General, who informed me that in his opinion there was no problem, that after the Supreme Court case coming out involving the budget bill in 1969, the Supreme Court said that the only thing they would look at was the final vote on the Final Reading for an appropriations bill.

SENATOR CARPENTER: Well, then for example, based upon that and based upon the court ruling would it be the opinion of the Chair and I think you ought to consult with the Clerk that the twenty-one votes was sufficient to adopt the amendments to the budget?

PRESIDENT: The Chair recognizes Senator Warner, chairman of the Rules Committee.

SENATOR WARNER: Mr. President, I don't find it right at the moment but as I recall there is a rule indicating that should an error be made by the Chair in a ruling but if there is not objection and if there has been intervening business before the question is raised that then that error is assumed to be correct and the action was valid. If any objection on a procedural ... in other words has to be made at the time of the action, I believe. I can't find it right now but I am sure it is in here. In other words, the action yesterday in my opinion was valid under the rules because no objection was raised at the time.

PRESIDENT: Well, the Chair would rule that according to