

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

LEGISLATIVE RECORD

OF THE

***One Hundred and Ninth
Legislature***

OF THE

STATE OF MAINE

Volume I

FIRST REGULAR SESSION

January 3, 1979 to May 4, 1979

HOUSE

Thursday, March 29, 1979

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

Prayer by Elder Gary Wilson of the Reorganized Church of Jesus Christ of Latter Day Saints, Brooklyn.

Elder WILSON: Our Father, who art in heaven, in the quietness of this building that has been built and dedicated to the governing of the people of the State of Maine, we raise our voice to Thee, a voice of thanks, our God, for the opportunity to live in a land where the voice and vote of the people count. We are very grateful, our Father, this morning for the heritage of those who have gone before us, for the strong government that they have left for us to protect and defend, and I pray that that might be our strongest desires today, to be of service to Thee by being the very best legislators that we possibly can.

Our Father, I would hold up before Thee this assembly, the individuals in it, the problems that they find within their personal lives as well as their professional lives. I would ask Thee to bless each one of them that they may have the courage of their convictions to stand tall and be counted for that which they truly believe in. Bless the entire legislative body that they may, as they vote, do the things that are best for the State of Maine. Be with the Speaker, that his intelligence may govern this body and bless us all, we pray, in the wonderful name of our Lord and Savior, Jesus Christ. Amen.

The journal of yesterday was read and approved.

Papers from the Senate

The following Communication:

THE SENATE OF MAINE

Augusta

March 28, 1979

The Honorable Edwin H. Pert

Clerk of the House

109th Legislature

Augusta, Maine 04333

Dear Clerk Pert:

The Senate today voted to Adhere to its former action whereby it Failed to Enact, Bill, "An Act to Increase Penalties for Violation of the Statutes Concerning Minimum Wages", (S. P. 82) (L. D. 155).

Respectfully,

S/MAY M. ROSS

Secretary of the Senate

The Communication was read and ordered placed on file.

The Following Joint Order, An Expression of Legislative Sentiment recognizing that:

Allie Ryan of Brooksville is the recipient of the Jefferson Award (S. P. 480)

Came from the Senate Read and Passed.

The Order was read and passed in concurrence.

Bill "An Act to Provide an Elderly Home Heating and Cooking Fuels Program" (Emergency) (S. P. 431) (L. D. 1382)

Bill "An Act Appropriating Funds for Abortion Procedures for Persons Otherwise Eligible under Medicaid and to Effect Substantial Savings in the Costs of Government Services." (S. P. 464) (L. D. 1410)

RESOLVE, to Determine the Feasibility of using Mountaintop Pond for a State Park for the Greater Bangor-Brewer Area (S. P. 472) (L. D. 1411)

Came from the Senate referred to the Committee on Appropriations and Financial Affairs and ordered printed.

In the House, were referred to the Committee on Appropriations and Financial Affairs in concurrence.

Later Today Assigned

Bill "An Act to Amend the Unit Ownership Act" (S. P. 429) (L. D. 1377)

Came from the Senate referred to the Committee on Business Legislation, ordered printed and sent up for concurrence.

In the House, on motion of Mr. Howe of South Portland, tabled pending reference in concurrence and later today assigned.

Bill "An Act to Establish the Physical Therapist Practice Act" (S. P. 428) (L. D. 1378)

Bill "An Act Relating to the Licensing of Auctioneers" (S. P. 430) (L. D. 1379)

Bill "An Act to Increase Real Estate Broker and Salesmen License and Examination Fees and to Eliminate Ambiguities" (S. P. 443) (L. D. 1381)

Bill "An Act Concerning the Licensing of Wholesale Used Vehicle Dealers" (S. P. 435) (L. D. 1384)

Came from the Senate referred to the Committee on Business Legislation and ordered printed.

In the House, were referred to the Committee on Business Legislation in concurrence.

Bill "An Act to Clarify the Consent Requirements for Adoptions" (S. P. 455) (L. D. 1385)

Came from the Senate referred to the Committee on Judiciary and ordered printed.

In the House, was referred to the Committee on Judiciary in concurrence.

RESOLUTION. Proposing an Amendment to the Constitution of Maine to Permit the Governor to Veto or Reduce Appropriations in Bills and to Permit the Legislature to Override that Veto or Reduction (S. P. 457) (L. D. 1386)

Came from the Senate referred to the Committee on State Government and ordered printed.

In the House, referred to the Committee on State Government in concurrence.

Reports of Committees

Leave to Withdraw

Report of the Committee on Education reporting "Leave to Withdraw" on Bill "An Act to Recognize the Rights of Students to a Free Public Education" (S. P. 298) (L. D. 898)

Report of the Committee on Education reporting "Leave to Withdraw" on Bill "An Act to Provide Guidelines for Teachers or other Persons who use Force to Punish Students" (S. P. 301) (L. D. 899)

Came from the Senate with the reports read and accepted.

In the House, the Reports were read and accepted in concurrence

Divided Report

Tabled and Assigned

Majority Report of the Committee on Labor reporting "Ought to Pass" on Bill "An Act to Encourage Retraining of Handicapped Workers" (S. P. 164) (L. D. 368)

Report was signed by the following members:

Mr. PRAY of Penobscot

— of the Senate

Mr. McHENRY of Madawaska

Mrs. MARTIN of Brunswick

Mrs. BEAULIEU of Portland

Messrs. TUTTLE of Sanford

BAKER of Portland

WYMAN of Pittsfield

— of the House

Minority Report of the same committee reporting "Ought to Pass" as amended by Committee Amendment "A" (S-55) on same Bill.

Report was signed by the following members:

Messrs. SUTTON of Oxford

LOVELL of York

— of the Senate

Messrs. CUNNINGHAM of New Gloucester

FILLMORE of Freeport

DEXTER of Kingfield

Mrs. LEWIS of Auburn

— of the House

Came from the Senate with the Minority "Ought to Pass" accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (S-55)

In the House: Reports were read.

The SPEAKER: The Chair recognizes the gentleman from Sanford, Mr. Tuttle.

Mr. TUTTLE: Mr. Speaker, I move we accept the Majority "Ought to Pass" Report.

Whereupon, on motion of Mrs. Mitchell of Vassalboro, tabled pending the motion of Mr. Tuttle of Sanford to accept the Majority Report in nonconcurrence and tomorrow assigned.

Divided Report

Tabled and Assigned

Seven Members of the Committee on Labor on Bill "An Act Relating to Occupational Loss of Hearing" (S. P. 199) (L. D. 495) report in Report "A" the same "Ought to Pass" as amended by Committee Amendment "A" (S-58)

Report was signed by the following members:

Mr. PRAY of Penobscot

— of the Senate

Mr. McHENRY of Madawaska

Mrs. MARTIN of Brunswick

Mr. BAKER of Portland

Mrs. BEAULIEU of Portland

Messrs. TUTTLE of Sanford

WYMAN of Pittsfield

— of the House

Four Members of the same Committee on same Bill report in Report "B" that the same "Ought Not to Pass"

Report was signed by the following members:

Messrs. CUNNINGHAM of New Gloucester

FILLMORE of Freeport

DEXTER of Kingfield

Mrs. LEWIS of Auburn

— of the House

Two members of the same Committee on same Bill report in Report "C" that the same "Ought to Pass" as amended by Committee Amendment "B" (S-59)

Report was signed by the following members:

Messrs. SUTTON of Oxford

LOVELL of York

— of the Senate

Came from the Senate with Report "C" read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "B" (S-59)

In the House: Reports were read.

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

Mr. BAKER: Mr. Speaker, I move that we accept Report A "Ought to Pass."

The SPEAKER: The Chair recognizes the gentleman from Bangor, Mr. Tarbell.

Mr. TARBELL: Mr. Speaker, could we have an explanation from members of the Committee as to the distinctions between Reports A, B and C?

The SPEAKER: The Gentleman from Bangor, Mr. Tarbell, has posed a question through the chair to any member who may care to answer.

The Chair recognizes the gentleman from Portland, Mr. Baker.

Mr. BAKER: Mr. Speaker, Ladies and Gentlemen of the House: This bill which deals with occupational loss of hearing was an attempt to raise the — I wish I had this thing with me. They made a change in the bill and what happens is that — you will have to excuse me, ladies and gentlemen, I wasn't really prepared to deal with the issue this morning. I think what I would like to do is table it for one legislative day, so I can come in and be prepared. Normally, I don't like to do this, but I feel I must. So, I would like to move that we table this for one legislative day, and I will be more than happy

to bring all the notes and other items necessary to explain the differences in this report.

The SPEAKER: The Chair recognizes the gentleman from Saco, Mr. Hobbins.

Mr. HOBBS: Mr. Speaker, I move we table this one legislative day.

The SPEAKER: The Chair recognizes the gentleman from New Gloucester Mr. Cunningham.

Mr. CUNNINGHAM: Mr. Speaker, I request a division on that.

The SPEAKER: The pending question is on the motion of the gentleman from Saco, Mr. Hobbins, that this matter be tabled one legislative day. All in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

Mr. Dexter of Kingfield requested a roll call vote.

The SPEAKER: A roll call has been requested. 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 in favor of a roll call 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 pending question is on the motion of the gentleman from Saco, Mr. Hobbins, that this bill be tabled pending the motion of Mr. Baker of Portland to accept Report A in non-concurrence and tomorrow assigned. All those in favor will vote yes; those opposed will vote no.

ROLL CALL

YEA — Baker, Barry, Beaulieu, Benoit, Berry, Berube, Blodgett, Bordeaux, Boudreau, Bowden, Brodeur, Brown, A., Carrier, Carter, D., Chonko, Churchill, Conary, Connolly, Cox, Curtis, Davies, Davis, Diamond, Doukas, Dutremble, D., Dutremble, L., Elias, Fenlason, Fowle, Gould, Gowen, Gwadosky, Hall, Hanson, Hickey, Hobbins, Howe, Hughes, Jackson, Jacques, P., Joyce, Kane, Kany, Kelleher, Kiesman, Laffin, Lancaster, LaPlante, Locke, MacEacher, Mahany, Martin, A., Masterton, Maxwell, McKean, McMahon, McPherson, McSweeney, Michael, Mitchell, Nadeau, Nelson, M., Nelson, N., Paul, Prescott, Reeves, J. Reeves, P., Rolde, Rollins, Sherburne, Silsby, Simon, Soulas, Sprowl, Studley, Theriault, Tozier, Tuttle, Twitchell, Vose, Wentworth, Whittemore, Wood.

NAY — Aloupis, Austin, Brown, D., Brown, K. L., Bunker, Call, Carter, F., Cunningham, Damren, Dellert, Dexter, Drinkwater, Dudley, Fillmore, Gavett, Higgins, Hunter, Hutchings, Immonen, Leighton, Leonard, Lewis, Lougee, Lowe, Lund, MacBride, Matthews, McHenry, Morton, Nelson, A., Payne, Peltier, Peterson, Roope, Sewall, Smith, Stetson, Stover, Strout, Tarbell, Torrey, Vincent.

ABSENT — Bachrach, Birt, Carroll, Cloutier, Dow, Garsoe, Gillis, Gray, Huber, Jacques, E., Jalbert, Lizotte, Marshall, Masterman, Norris, Paradis, Pearson, Post, Small, Tierney, Violette, Wyman.

Yes, 83; No, 42; Absent, 25.

The SPEAKER: Eighty-three having voted in the affirmative and forty-two in the negative, with twenty-five being absent, the motion does prevail.

Non-Concurrent Matter Later Today Assigned

Bill "An Act to Create a Special Commission on State Mandates Imposed on Local Units" (H. P. 1083) (L. D. 1350) which was referred to the Committee on Local and County Government in the House on March 20, 1979.

Came from the Senate referred to the Committee on State Government in non-concurrence.

In the House: On motion of Mrs. Kany of Waterville, tabled pending further consideration and later today assigned.

Non-Concurrent Matter Later Today Assigned

Bill "An Act to Amend the Requirements for Registration of Professional Foresters" (H. P. 82) (L. D. 93) which was passed to be engrossed as amended by Committee Amendment "A" (H-102) and House AMENDMENT "A" (H-123) in the House on March 22, 1979.

Came from the Senate passed to be engrossed as amended by Senate Amendment "A" (S-65) in non-concurrence.

In the House:

The SPEAKER: The Chair recognizes the gentleman from York, Mr. Rolde.

Mr. ROLDE: Mr. Speaker, I move the House recede and concur.

Whereupon, on motion of Miss Brown of Bethel, tabled pending the motion of Mr. Rolde of York to recede and concur and later today assigned.

Non-Concurrent Matter

Bill "An Act to Adjust Unemployment Benefits for Employees on Layoff who are Temporarily Recalled to Work by their Regular Employer" (H. P. 219) (L. D. 267) which was recommitted to the Committee on Labor in the House on March 22, 1979.

Came from the Senate with Bill and accompanying Papers Indefinitely Postponed in non-concurrence.

In the House: The House voted to recede and concur. (Later Reconsidered)

Non-Concurrent Matter Tabled Unassigned

Bill "An Act to Allow State Championship Athletic Teams and Athletes the Right to Participate in New England Championship Events in Competition" (Emergency) (H. P. 901) (L. D. 1117) which was passed to be enacted in the House on March 27, 1979.

Came from the Senate, Failing of Passage to be Enacted in non-concurrence.

In the House: On motion of Mrs. Mitchell of Vassalboro, tabled unassigned pending further consideration.

Messages and Documents

The following Communication: (S. P. 479)

STATE OF MAINE

Senate Chamber

President's Office

Augusta, Maine

March 27, 1979

Honorable James McBrearty

Honorable William Blodgett

Chairmen, Energy and Natural Resources

State House

Augusta, Maine 04333

Please be advised that Governor Joseph E. Brennan is nominating Maynard F. Marsh of Gorham and Lionel C. Ferland of Poland to serve on the Board of Environmental Protection.

These nominations will require review by the Joint Standing Committee on Energy and Natural Resources and confirmation by the Senate.

Sincerely,

S/ JOSEPH SEWALL

President of the Senate

S/ JOHN L. MARTIN

Speaker of the House

Came from the Senate Read and Referred to the Committee on Energy and Natural Resources.

In the House, was read and referred to the Committee on Energy and Natural Resources in concurrence.

Petitions, Bills and Resolves

Requiring Reference

The following Bills were received and referred to the following Committees:

Aging, Retirement and Veterans

Bill "An Act to Protect the Retirement Benefits of Employees and Former Employees of the Greater Portland Public Development

Commission" (H. P. 1252) (Presented by Mr. Howe of South Portland)

(Ordered Printed)

Sent up for concurrence.

Energy and Natural Resources

Bill "An Act to Consolidate Aquatic Pesticide Permits into One Agency" (H. P. 1253) (Presented by Mr. Michael of Auburn)

(Ordered Printed)

Sent up for concurrence.

Tabled and Assigned

Bill "An Act to Coordinate, Effectively Utilize and Comprehensively Plan the Service Needs of Maine's Children and Families by Establishing a Maine Council of Families and Children, County Councils on Families and Children and a State Office for Children and Families" (H. P. 1254) (Presented by Mr. Kelleher of Bangor)

Committee on Health and Institutional Services was suggested.

On motion of Mrs. Prescott of Hampden, tabled pending reference and tomorrow assigned.

Health and Institutional Services

Bill "An Act to Require the Department of Human Services to Provide Services Equally to Intact Families" (H. P. 1255) (Presented by Mr. Brodeur of Auburn)

(Ordered Printed)

Sent up for concurrence.

Judiciary

Bill "An Act to Provide for Ancillary Complaints in Second Offense Operating under the Influence Cases" (H. P. 1256) (Presented by Mr. Tarbell of Bangor)

Bill "An Act to Provide a Mandatory Fine of \$250 for Persons Convicted of Operating a Motor Vehicle under the Influence of Alcohol or Drugs" (H. P. 1257) (Presented by Mr. Higgins of Scarborough)

(Ordered Printed)

Sent up for concurrence.

Labor

Bill "An Act to Create a Presumption Concerning Asbestosis Under the Workers' Compensation Act" (H. P. 1258) (Presented by Mr. Davies of Orono)

Bill "An Act to Exclude Chainsaw and Skidder Allowances in the Computation of an Employee's Average Weekly Wage Under the Workers' Compensation Act" (H. P. 1259) (Presented by Mr. Hall of Sangerville)

Bill "An Act to Improve the Administration of the Second Injury Fund under the Workers' Compensation Laws" (H. P. 1260) (Presented by Mr. Tierney of Lisbon)

(Ordered Printed)

Sent up for concurrence.

Taxation

Bill "An Act to Remove Wallgrass Plantation from the Maine Forestry District" (Emergency) (H. P. 1261) (Presented by Mr. Barry of Fort Kent)

Bill "An Act Concerning Fuel Tax Collection Procedures" (H. P. 1262) (Presented by Mr. Smith of Mars Hill) (Cosponsors: Mr. McKean of Limestone, Mr. Leonard of Woolwich, and Mr. Brenerman of Portland)

(Ordered Printed)

Sent up for concurrence.

Orders

On motion of Mr. Cox of Brewer, it was Ordered:

ORDERED, That Representative Louis Jalbert of Lewiston be excused March 28, 1979 for the duration of his illness.

House Reports of Committees

Ought Not to Pass

Ms. Benoit from the Committee on Election

Laws on RESOLVE, Proposing an Amendment to the Constitution of Maine to Provide for gubernatorial Run-off Elections (H. P. 239) (L. D. 384) reporting "Ought Not to Pass"

Was placed in the Legislative files without further action pursuant to Joint Rule 22, and sent up for concurrence.

Consent Calendar First Day

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

(H. P. 576) (L. D. 724) Bill "An Act to Provide for Marking of the Trans-Maine Highway" Committee on Transportation reporting "Ought to Pass" as amended by Committee Amendment "A" (H-140)

(S. P. 122) (L. D. 231) Bill "An Act Concerning Dismissal of Municipal Police Chiefs" Committee on Local and County Government reporting "Ought to Pass"

No objections being noted, the above items were ordered to appear on the Consent Calendar of March 30, under listing of Second Day.

Consent Calendar Second Day

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

(H. P. 637) (L. D. 788) Bill "An Act to Prohibit Vehicles from Passing School Buses on School Property while Buses are Receiving or Discharging Students"

(H. P. 331) (L. D. 430) Bill "An Act to Limit Additional Retirement Benefits under the Maine State Retirement System" (C. "A" H-137) (Later Reconsidered)

(H. P. 498) (L. D. 622) Bill "An Act Regulating Hunting with Muzzle-loading Rifles" (C. "A" H-138) (Later Reconsidered)

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

Passed to Be Engrossed Amended Bills

Bill "An Act to Amend the Workers' Compensation Statute to Provide for Podiatric Services" (S. P. 151) (L. D. 328) (C. "A" S-56)

Was reported by the Committee on Bills in the Second Reading, read the second time, passed to be engrossed as amended in concurrence.

Second Reader Tabled and Assigned

Bill "An Act Relating to the Advisory Board to the Firemen's Training Program of the Department of Educational and Cultural Services" (H. P. 173) (L. D. 223) (C. "A" H-132)

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

On motion of Mr. Connolly of Portland, tabled pending passage to be engrossed as amended and specially assigned for Monday, April 2.

Passed to Be Engrossed Emergency Measure

An Act to Increase Salaries of County Officers (H. P. 201) (L. D. 227) (H. "B" H-57; H. "C" H-58; H. "D" H-75 and S. "A" S-53 to C. "A" H-44)

Was reported to 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 3 against, and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

Emergency Measure

An Act for Per Diem Compensation for Active Retired Judges (H. P. 375) (L. D. 485)

(C. "A" H-110)

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. 106 voted in favor of same and 18 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 the Public Utilities Commission to Use a Modified Procedure in Uncontested Cases Relating to the Assignment and Transfer of Special or Charter Bus Licenses (S. P. 113) (L. D. 207)

"An Act Making Minor Revisions in the Aeronautics Law" (H. P. 166) (L. D. 198) (C. "A" H-120)

An Act Relating to Constables and Special Police Officers (H. P. 250) (L. D. 295) (C. "A" H-113)

An Act Concerning the Investigation and Invalidity of Indian Tribal Elections (H. P. 388) (L. D. 498)

An Act Concerning Notice Provisions for Penobscot Indian Tribal Elections (H. P. 389) (L. D. 525)

An Act Concerning Fines Resulting from Fish and Game Violations on Land of the Penobscot Indians (H. P. 392) (L. D. 541) (C. "A" H-114)

An Act Relating to Fatal Motor Vehicle Accidents (H. P. 495) (L. D. 572) (H. "A" H-107)

An Act to Clarify Sex Discrimination in the Maine Human Rights Act (H. P. 548) (L. D. 679) (C. "A" H-115)

Were 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:

Resolve, for Laying of the County Taxes and Authorizing Expenditures of Knox County for the Year 1979 (Emergency) (H. P. 1008) (L. D. 1170)

— In House, House Reconsidered Failing of Final Passage on March 27, 1979.

Tabled—March 27, 1979 by Mr. Gray of Rockland.

Pending—Final Passage.

The SPEAKER: This being an emergency measure, it requires a two-thirds vote of all the members elected to the House. All those in favor of this Resolve being finally passed will vote yes; those opposed will vote no.

A vote of the House was taken.

126 having voted in the affirmative and 6 having voted in the negative, the Resolve was finally passed.

Signed by the Speaker and sent to the Senate.

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

Bill, "An Act to Limit the Number and Location of Agency Stores under the Statutes Relating to Alcoholic Beverages" (S. P. 217) (L. D. 602)

Tabled—March 28, 1979 by Mr. Marshall of Millinocket.

Pending—Adoption of Senate Amendment "A" (S-51)

On motion of Mr. Tarbell of Bangor, retabled pending Adoption of Senate Amendment "A" and later today assigned.

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

Bill, "An Act to Amend the Representation of Towns on Community Schools Districts" (S. P. 93) (L. D. 179)

— In House, Passed to be Engrossed as Amended by House Amendment "A" (H-116) on March 21, 1979.

— In Senate, Passed to be Engrossed as

Amended by Committee Amendment "A" (S-33) as Amended by Senate Amendment "B" (S-60) thereto on March 27, 1979.

Tabled—March 28, 1979 by Mr. Connolly of Portland.

Pending—Further Consideration.

On motion of Mr. Connolly of Portland, tabled pending further consideration and later today assigned.

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

Bill, "An Act to Increase the Surplus Account of the Kennebec Sanitary Treatment District" (H. P. 233) (L. D. 271)

Tabled—March 28, 1979 by Mr. Tierney of Lisbon.

Pending—Passage to be Engrossed.

On motion of Mr. Davies of Orono, retabled pending passage to be engrossed and tomorrow assigned.

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

An Act to Provide for Art in Public Buildings and Other Facilities (H. P. 1071) (L. D. 1224)

Tabled—March 28, 1979 by Mr. Garsoe of Cumberland.

Pending—Motion of Mr. Kelleher of Bangor to Reconsider Indefinite Postponement of Bill and all Accompanying papers.

The SPEAKER: The Chair recognizes the gentlewoman from Vassalboro, Mrs. Mitchell. Mrs. MITCHELL: Mr. Speaker, the sponsors of this bill and people very interested in it have tried to come up with an amendment that would take care of the objections that were raised on the floor. Because the amendment is not ready, I would ask someone to table this bill for two days, until we are ready.

Whereupon, on motion of Mr. LaPlante of Sabattus, retabled pending the motion of Mr. Kelleher of Bangor to reconsider indefinite postponement and specially assigned for Monday, April 2.

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

Bill, "An Act to Exempt Certain Transportation Statutes from the Administrative Procedure Act" (Emergency) (S. P. 445) (L. D. 1365)

— In Senate, Referred to Committee on State Government.

Tabled—March 28, 1979 by Mr. Carroll of Limerick.

Pending—Reference in concurrence.

Thereupon, the Bill was referred to the Committee on State Government in concurrence.

Reference was made to (H. P. 155) (L. D. 194) Bill "An Act to Provide for a Student Member of the Board of Trustees of the University of Maine"

In reference to the action of the House on Wednesday, March 21, 1979 whereby it insisted and asked for a Committee of Conference, the Chair appointed the following members on the part of the House as Conferees:

Mr. HUGHES of Auburn
Mr. TARBELL of Bangor
Mr. DAVIES of Orono

The Chair laid before the House the following matter:

Bill "An Act to Amend the Unit Ownership Act" (S. P. 429) (L. D. 1377) which was tabled earlier in the day pending reference in concurrence.

Thereupon, the Bill was referred to the Committee on Business Legislation in concurrence.

The Chair laid before the House the following matter:

Bill "An Act to Create a Special Commission on State Mandates Imposed on Local Units" (H. P. 1083) (L. D. 1350) (Referred to the Committee on Local and County Government in the House on March 20.) (In Senate, referred to the

(Committee on State Government in non-concurrence.)

Tabled earlier in the day and later today assigned pending further consideration.

Thereupon, on motion of Mr. LaPlante of Sabattus, the House voted to insist.

The Chair laid before the House the following matter:

Bill "An Act to Amend the Requirements for Registration of Professional Foresters" (H. P. 82) (L. D. 93) which was tabled earlier in the day pending further consideration.

On motion of Mr. Tarbell of Bangor, retabled pending further consideration and later today assigned.

The Chair laid before the House the following matter:

Bill "An Act to Limit the Number and Location of Agency Stores under the Statutes Relating to Alcoholic Beverages" (S. P. 217) (L. D. 602) which was tabled earlier in the day pending adoption of Senate Amendment "A".

On motion of Mr. Violette of Van Buren, retabled pending adoption of Senate Amendment "A" and specially assigned for Monday, April 2.

The Chair laid before the House the following matter:

Bill "An Act to Amend the Requirements for Registration of Professional Foresters" (H. P. 82) (L. D. 93) which was tabled earlier in the day pending the motion of Mr. Rolde of York to recede and concur.

(In House: Passed to be engrossed as amended by Committee Amendment "A" (H-123) (In senate: Passed to be engrossed as amended by Senate Amendment "A" (S-65) in non-concurrence.)

The SPEAKER: The Chair recognizes the gentlewoman from Bethel, Miss Brown.

Miss BROWN: Mr. Speaker, Ladies and Gentlemen of the House: First, I would like to explain why I signed the "Ought Not to Pass" Report and then ask for a division on this.

This legislation, I feel, is not needed in the State of Maine. The forestry industry isn't as such that we need registered foresters. We haven't developed to that point; the industry doesn't need it.

In the amendment, part of the reason it got held up this morning was that I wanted to make sure that nothing else got added into it. Part of what I don't like in the grandfathering clause is that you have to have five foresters approve you and then you can be grandfathered in and registered. I think this is going to cause a lot of problems, I don't think they can be implemented that easy and I don't think we need it at this time.

I would appreciate your support on a division.

The SPEAKER: The Chair recognizes the gentleman from York, Mr. Rolde.

Mr. ROLDE: Mr. Speaker, Ladies and Gentlemen of the House: I explained this bill the other day and I am sure you have probably forgotten, but I would like to emphasize again why this bill is here and what it deals with.

First of all, in response to the gentlelady from Bethel, Miss Brown, the state already has a Board of Registration for Professional Foresters. This was established by the previous legislature. It was a bill put in by the then representative from Nobleboro, Linwood Palmer. The reason for this bill today is that at that time there was an exemption made for certain foresters within the state; they were foresters that worked within industry, so as a practical matter, something like about three quarters of the foresters in the state were required to be registered and licensed and one quarter weren't. As it happened, many of those that weren't required to be licensed actually did become licensed because they felt that would help their professional standing.

This bill simply removes the exemption and applies the rules fairly to all foresters in the state.

The amendments were proposed by the board itself, they were put on by the committee. Some of them I will go through. One, for example, is to make sure that this board has nothing to do with forest practices, because that was not the intention of the board when it was first set up. But that is now put into the law, made very clear, that this board has no jurisdiction whatsoever over forest practices.

The amendment that I put on the other day also would include state foresters, that they would have to be registered. The grandfather clause is to allow those people, who have been practicing, a means for becoming licensed without those people, who have been practicing, a means for becoming licensed without having to take an examination, so that is basically all that this bill does. The reason we have a new Senate Amendment was a technical problem to put all the amendments together.

I want to emphasize again that this board is in place, it was put in place by the previous legislature but it exempted some of the foresters. This bill merely puts them all in and treats every forester fairly. The American Forestry Association has overwhelmingly backed this bill, the board is in favor of it and I hope you will vote to recede and concur with the Senate.

The SPEAKER: The Chair recognizes the gentleman from Enfield, Mr. Dudley.

Mr. DUDLEY: Mr. Speaker, Ladies and Gentlemen of the House: This exemption was left out by the previous legislature for a reason. They realized that it couldn't be passed without the exemption, so to get their foot in the door, they passed it. Now, they are back one session later to close the gap and force people to do things they might not want to. I am against this type of legislation, whether it be in forestry or any other thing. I didn't come down here to force people to do anything.

In other words, if they want to be a registered forester, good, they have plenty of opportunity to be one. But, there may be quite a few that don't want to be registered in the forestry area and if they work for the state and they passed the exam and are doing the job, I see no reason why they must be.

So, I hope we do not use this previous legislature's action and make them license foresters, an argument to make them force some of them to do something they don't want to. So, I hope we still leave this exemption as we did in the previous legislature. It was left so they would get their foot in the door. I hope we still leave it the way it is.

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

Mr. HOWE: Mr. Speaker and Members of the House: This legislation came to the Committee on Business Legislation as does just about any bill dealing with the licensing of any occupation. The question of licensing occupations is an interesting one and not always an easy one. In my two years plus on the committee, I have opposed every piece of legislation which has come in proposing to license a new occupation for the first time and I consider myself conservative on the issue of occupational licensing.

The foresters have been licensed or required to be registered, with a certain exception, for some time now. Had I been in the legislature, when that legislation first came through, I don't know what my position would have been on it. My position now is that if there is a rationale that the previous session of the legislature found for requiring most foresters to be registered, then I think they all ought to be.

The gentlewoman from Bethel says she does not think that the forestry profession is well enough developed to require registration. My thought on that is that the forest industry in Maine is a very well developed industry and one of our largest and the industry, which deals

with the single most valuable resource in the state, our forest products. I think because of that we have to insure that those products are managed the best possible way.

Now, for those of you who may want an opportunity to put it to the paper companies, unfortunately for you, this is not the opportunity because the legislation is being supported and urged by foresters employed by some of the largest landowners in the state, including employees of the Joseph Sewall Company, the Diamond International and Seven Islands Land Company.

One of the reasons the paper companies are not concerned with this legislation is because we have made it very clear that the Board of Registration of Foresters is not going to promulgate rules and regulations on the practice of forestry. This board is not going to tell them how to conduct their business, after all, because the Department of Conservation already has that authority and that is where it ought to lie. What the board does do is to make a determination as to who is qualified to be a forester in the first place. I think that is a legitimate function.

The business about the grandfathering seems to me is appropriate. I am concerned when we grandfather any group of citizens without taking any look whatsoever at their qualifications. Some of the present foresters had to take an exam to get their license. What we are saying here is that we are not going to require the people who have been working in the profession and operating under the exemption to actually go and take the exam, but if they can't find five of their colleagues who are willing to say that they are competent and proficient in their work, then they won't qualify for the registration.

The large majority of all of those people, who qualify under the exemption, and therefore, do not need to be registered, have registered. And they want to be sure that the remainder of their colleagues are registered and competent to work in this profession. I think this is entirely reasonable legislation and there was simply no opposition to it and we have looked at it for quite some time. I hope you will support it.

The SPEAKER: The Chair recognizes the gentlewoman from Bethel, Miss Brown.

Miss BROWN: Mr. Speaker, Ladies and Gentlemen of the House: Forestry in the state has developed and is a wonderful resource but we are a state that has traditionally encouraged people to go into the field and learn things, and learn from experience. This bill doesn't change that that much, but what it does change is part of the concept that everyone is going to have to be licensed and we don't need that here.

One thing, when I was out campaigning, was that, day after day, many constituents said to me, "cut the red tape and don't create all the hassles." This bill is another fine example of that.

The SPEAKER: The Chair recognizes the gentleman from Sangerville, Mr. Hall.

Mr. HALL: Mr. Speaker, Ladies and Gentlemen of the House: I was the co-sponsor of this. It came about because a problem which they have now is part of them are licensed and part of them aren't. Now, a professional forester is when he goes in to look at your wood, he has to work under certain specifications by either ASCF or regulations set down by the state. Now, this is where the problem came when you are allowing part of them to be that and the other not to be. From the input we got at the hearing, the whole general concept of the regulations that they have to go by was readily accepted by all of those that this pertained to. We found no one in opposition to this whatsoever.

Miss Brown of Bethel was granted permission to address the House a third time.

Miss BROWN: Mr. Speaker, I would like to pose a question through the Chair to the gentleman from York, Mr. Rolde.

What will licensing to improve the industry, through this bill?

The SPEAKER: Miss Brown of Bethel posed a question through the Chair to the gentleman from York, Mr. Rolde, who may answer if he so desires.

The Chair recognizes that gentleman.

Mr. ROLDE: Mr. Speaker, Ladies and Gentlemen of the House: Probably the gentlelady should address that question to the former member from Nobleboro, Mr. Palmer, who put in the original bill to license foresters.

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

Mr. MORTON: Mr. Speaker, I would like to pose a question through the Chair.

My question is, are there persons in the State of Maine, who are setting themselves out as foresters, who are not subject to any regulation or control of any kind?

The SPEAKER: The Gentleman from Farmington, Mr. Morton, posed a question through the Chair to any member who may respond if they so desire.

The Chair recognizes the gentleman from York, Mr. Rolde.

Mr. ROLDE: Mr. Speaker and Members of the House: The answer is yes.

The SPEAKER: The pending question is on the motion of the gentleman from York, Mr. Rolde, that the House recede and concur. All in favor of that motion will vote yes; those opposed will vote no.

A vote of the House was taken.

Miss Brown of Bethel requested a roll call vote.

The SPEAKER: A roll call has been requested. 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 in favor of a roll call will vote yes; those opposed will vote no.

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

The SPEAKER: The Chair recognizes the gentleman from Enfield, Mr. Dudley.

Mr. DUDLEY: Mr. Speaker and Members of the House: Very, very briefly, when we pass laws of this nature, we have a reason for it. These people that are not registered foresters are causing a damage to the state forest or there is a reason for it.

Now, I would like to ask the people that sponsored this bill, the people that support it, whereabouts in this state are they damaging our forest or where has the damage occurred or what creates the need for something like this? I mean if there is a need, maybe, you can sell something like this to me.

I come from a very forested area and there is no need for it there. Certainly there wouldn't be any need for the City of Portland or the City of Augusta. So where is the need for these registered people that have to be registered and are these other people causing a lot of damage to our forests or is it because we need some more personnel hired by the state. Our former governor left and said, we could get rid of up to 700 and the state would function. But, there seem to be a lot of people here that would like to have more people on the state payroll and that is against my grain. So, if there is a need, it hasn't been created by anyone that spoke so far this morning.

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

Mr. JACKSON: Mr. Speaker, Ladies and Gentlemen of the House: As has been said, I think the Business Legislation Committee and certainly I am very critical of any bill that brings a group in and sets them aside, as a bill like this does. In this case we found the need. There are millions of dollars in forest products in this state. The people who are dealing in those and are doing the work in the woods should know and should have some training so

they know what to expect and they have a background in it. I think this bill is a good bill.

I would ask the Clerk if he would please read the Committee Report.

Thereupon the Committee Report was read by the Clerk.

The SPEAKER: The Chair recognizes the gentleman from Sangerville, Mr. Hall.

Mr. HALL: Mr. Speaker, Ladies and Gentlemen of the House: Just to answer my good friend Mr. Dudley, I, too, felt the same way about the arborists being licensed in this state. If you are going to have one, you must have them all licensed.

The SPEAKER: A roll call has been ordered. The pending question is on the motion of the gentleman from York, Mr. Rolde, that the House recede and concur.

The SPEAKER: The Chair recognizes the gentleman from Biddeford, Mr. D. Dutremble.

Mr. D. DUTREMBLE: Mr. Speaker, I would like to pair my vote with the gentleman from Lewiston, Mr. Jalbert. If Mr. Jalbert was here, he would be voting yes; and I would be voting no.

ROLL CALL

YEA — Alopis, Baker, Beaulieu, Benoit, Berube, Blodgett, Boudreau, Brodeur, Brown, A., Brown, D., Brown, K. C., Carrier, Carter, D., Chonko, Churchill Cloutier, Conary, Connolly, Cox, Damren, Davies, Davis, Dellert, Dexter, Diamond, Doukas, Dow, Fenlason, Fillmore, Fowlie, Gavett, Gowen, Gwadosky, Hall, Hickey, Howe, Huber, Hughes, Jackson, Jacques, E., Jacques, P., Joyce, Kane, Lewis, Lizotte, Locke, Lund, MacEachern, Mahany, Masterton, McHenry, McKean, McMahon, McSweeney, Michael, Mitchell, Morton, Nelson, M., Nelson, N., Norris, Paradis, Paul, Payne, Post, Prescott, Reeves, P., Rolde, Simon, Soulas, Sprowl, Stetson, Theriault, Torry, Tozier, Tuttle, Vincent, Violette, Vose, Whittemore, Wood.

NAY — Austin, Barry, Berry, Bordeaux, Bowden, Brown, K. L., Bunker, Call, Carroll, Carter, F., Cunningham, Drinkwater, Dudley, Dutremble, L., Gould, Hanson, Higgins, Hunter, Hutchings, Immonen, Kany, Kelleher, Kiesman, Laffin, LaPlante, Leighton, Leonard, Lougee, Lowe, MacBride, Masterman, Matthews, McPherson, Nadeau, Nelson, A., Peltier, Peterson, Reeves, J., Rollins, Roope, Sewall, Sherburne, Silsby, Small, Smith, Stover, Strout, Studley, Tarbell, Twitchell, Wentworth.

ABSENT — Birt, Brennerman, Elias, Garsoe, Gillis, Gray, Hobbins, Lancaster, Marshall, Martin, A., Maxwell, Pearson, Tierney, Wyman.

PAIRED — Dutremble D., Jalbert.

Yes, 81; No, 52; Absent, 15, Paired, 2.

The SPEAKER: Eighty-one having voted in the affirmative and fifty-two in the negative, with fifteen being absent and two paired, the motion does prevail.

The Chair laid before the House the following matter:

Bill "An Act to Amend the Representation of Towns on Community Schools Districts" (S. P. 93) (L. D. 179) which was tabled earlier in the day and later today assigned, pending further amendment by House Amendment "A" (H-116) (In Senate: Passed to be Engrossed as amended by Committee Amendment "A" (S-33) as amended by Senate Amendment "B" (S-60) thereto in non-concurrence.

On Motion of Mr. Connolly of Portland, the House receded from its action whereby the Bill was passed to be engrossed.

On further motion of the same gentleman, the House receded from its action whereby House Amendment "A" was adopted, and on motion of the same gentleman, the Amendment was indefinitely postponed.

Senate Amendment "B" to Committee Amendment "A" was read by the Clerk.

On motion of Mr. Connolly of Portland,

Senate Amendment "B" to Committee Amendment "A" was indefinitely postponed in non-concurrence.

The same gentleman offered House Amendment "A" to Committee Amendment "A" and moved its adoption.

House Amendment "A" to Committee Amendment "A" (H-144) was read by the Clerk and adopted.

Committee Amendment "A" as Amended by House Amendment "A" thereto was adopted in non-concurrence.

The Bill was passed to be engrossed as amended by Committee Amendment "A" as amended by House Amendment "A" thereto in non-concurrence and sent up for concurrence.

On motion of Mrs. Nelson of Portland, the House reconsidered its action of earlier in the day whereby Bill "An Act to Limit Additional Retirement Benefits under the Maine State Retirement System (H. P. 331) (L. D. 430) (C "A" H-137) was passed to be engrossed pursuant to the Consent Calendar rules.

Thereupon, the Report was accepted and the Bill read once. Committee Amendment "A" (H-137) was read by the Clerk.

On motion of Mrs. Nelson of Portland tabled pending adoption of Committee Amendment "A" and especially assigned for Monday, April 2.

On motion of Mr. Silsby of Ellsworth, the House reconsidered its action of earlier in the day whereby Bill "An Act Regulating Hunting with Muzzle-Loading Rifles" (H. P. 498) (L. D. 622) (C "A" H-138) was passed to be engrossed pursuant to the Consent Calendar rules.

The SPEAKER: The Chair recognizes the gentleman from Ellsworth, Mr. Silsby.

Mr. SILSBY: Mr. Speaker, Ladies and Gentlemen of the House: I have some concerns about this legislation and it slipped by me this morning. I don't have any real opposition to the measure but I would like to have the committee debate it or respond to a few of the questions that I have.

The biggest question I have is that this would be an exception to carrying a loaded weapon in a motor vehicle. The only exceptions I know of at this time are people who have concealed weapon permits and the law enforcement officers. I know probably the position will be taken that this is not a loaded firearm in that the percussion cap or flint is not in place, but I think when we are dealing with such a sensitive substance as black powder, we should really be concerned about the danger of explosion.

When I was looking this Committee Amendment over, I was thinking to myself, if several people were riding down the road with a couple of muzzle-loaders in there, which are longer than conventional rifles in most cases, and they have it all charged and have the ball in place, the window down and they are sitting there smoking— all it takes is one spark to touch the flash hole, or they call it touch-hole sometimes, and you could have that weapon discharged. That is my biggest concern. I am not sure whether these weapons will be used in deer hunting or not at this time.

Another question I have is, if they were to be used in deer hunting, I think it might be a competitive advantage over a man with regular rifle who has to insert a cartridge in the chamber and all the fellow with a muzzle-loader has to do is put the cap on and fire. So, I would like to have the committee explain some of these things to me if they wouldn't mind.

The SPEAKER: The gentleman from Ellsworth, Mr. Silsby, has posed a question through the Chair to any member who may care to answer.

The Chair recognizes the gentleman from West Gardiner, Mr. Dow.

Mr. DOW: Mr. Speaker, Ladies and Gentlemen of the House: The gentleman took me a little off guard this morning, but I will try to

answer his questions the best I can.

Then, if he needs some further information, I will get it for him.

My understanding is, right now, that there isn't any way that law enforcement officers can tell, there isn't any law on the books that regulates what constitutes a loaded rifle in this muzzle-loading firearm, so it was their intention to tighten it up, to give it some rules and regulations.

We had a lengthy hearing on it, we had a lot of people there that were much more familiar with these muzzle-loaders than I am, and they are the ones that came up with this amendment that we have, H-138. It was their intent that it would put something in the law that does show what is a muzzle-loader, and both the department and all of the people that operate these things say that this is as safe as it can possibly be and they were in favor of this amendment as it was written. That is why we had a unanimous report from the committee. If he needs any more information, maybe somebody could table it for a day and we can discuss it with somebody more knowledgeable than I am on the subject.

Thereupon, the Report was accepted and the Bill read once. Committee Amendment "A" (H-138) was read by the Clerk and adopted and the Bill assigned for second reading tomorrow.

The following paper appearing on Supplement No. 1 was taken up out of order by unanimous consent:

Bill "An Act to Fund and Implement Agreements Between the State and The Maine State Employees Association and to Fund and Implement Benefits for Managerial and Other Employees of the Executive Branch Excluded from Coverage Under the State Employees Labor Relations Act" (Emergency) (H. P. 1263) (Presented by Mr. Pearson of Old Town) (Cosponsor: Mr. Morton of Farmington)

Was referred to the Committee on Appropriations and Financial Affairs, ordered printed and sent up for concurrence.

By unanimous consent, ordered sent forthwith to the Senate.

(Off Record Remarks)

On motion of Mr. McHenry of Madawaska, the House reconsidered its action of earlier in the day whereby the House voted to recede and concur on Bill "An Act to Adjust Unemployment Benefits for Employees on Layoff who are Temporarily Recalled to Work by their Regular Employer" (H. P. 219) (L. D. 267)

On motion of the same gentleman, the House voted to insist on its action whereby the Bill was recommitted to the Committee on Labor.

Mr. Laffin of Westbrook was granted unanimous consent to address the House.

Mr. LAFFIN: Mr. Speaker, Ladies and Gentlemen of the House: A month ago yesterday, I stood on the floor of this House and I criticized the Governor of the State for several actions. Two of the actions I still hold true today; nevertheless, on the pay raise, I am very pleased that an agreement has been reached. This morning, I want to compliment the Governor and his team that worked so hard to finally, after 18 months, bring this before this body.

Sometimes we get upset with many things and we do get frustrated, but I felt today would be a proper and opportune time to compliment the Governor of this State and the people that worked so hard to bring this about.

(Off Record Remarks)

On motion of Mr. Rolde of York, adjourned until twelve o'clock noon tomorrow.