

MAINE STATE LEGISLATURE

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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

Tuesday, April 3, 1979

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

Prayer by Pastor Andries Mare of the Calvary Baptist Church, Newport.

Pastor MARE: O gracious, heavenly Father, we thank you this morning for this privilege to gather here in the early morning in this very important place of our state, where these we have elected and you have chosen, we believe, to carry on the business of our state shall meet today to deliberate on the business such as pertinent to our state. We do pray this morning that indeed you shall give to them wisdom, that you shall give to them that joy, that desire to serve in this capacity as you want them to. We thank you for them.

We thank you for the long hours, we thank you for their distinct different personalities, yet all blending together to come up with a formula that is workable and that is desirable for our state. Indeed, Father, we are in debt to them and we would pray that you will bless this day, make this day a day when much can be accomplished. Give them a unity of spirit, a sense of direction, and we pray that we shall be responsible to you. We thank you, Father, for every blessing that you have showered upon us this day and on our state and on our country. May we always be mindful of the privileges that we have and indeed we thank you that we still have this privilege of standing before you this morning to acknowledge you and to implore your help. Father, we pray that you shall answer in these treacherous days when threats from every corner seem to be upon us. Bless this day abundantly, for we ask it in the matchless name of Jesus Christ. Our Lord, Amen.

The journal of yesterday was read and approved.

Papers from the Senate

Bill, "An Act Relating to the Protection of Ground Water" (S. P. 468) (L. D. 1479)

Came from the Senate referred to the Committee on Energy and Natural Resources and ordered printed.

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

Bill, "An Act to Relocate the Head of Tide on the Penobscot River for the Protection of Atlantic Salmon" (S. P. 481) (L. D. 1483)

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

In the House, referred to the Committee on Fisheries and Wildlife in concurrence.

Bill, "An Act to Place an Annual Limit on Capital Expenditures Approved in Accordance with the Provisions of the Maine Certificate of Need Act of 1978" (S. P. 477) (L. D. 1474)

Came from the Senate referred to the Committee on Health and Institutional Services and ordered printed.

In the House, was referred to the Committee on Health and Institutional Services in concurrence.

Bill, "An Act to Insure that Informed Consent is Obtained before an Elective Abortion is Performed" (S. P. 484) (L. D. 1482)

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.

Bill, "An Act to Provide for a Decision by Municipal Electors on Municipal Spending Limits" (S. P. 483) (L. D. 1481)

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

In the House, was referred to the Committee

on Local and County Government in concurrence.

Bill, "An Act Concerning the Salary of Attorney General" (S. P. 482) (L. D. 1484)

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

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

Reports of Committees**Leave to Withdraw**

Report of the Committee on Taxation reporting "Leave to Withdraw" on Bill "An Act to Provide Service Charges on Tax Exempt Property of the State of Maine" (S. P. 149) (L. D. 331)

Report of the Committee on Fisheries and Wildlife reporting "Leave to Withdraw" on Bill "An Act to Decrease from 18 Inches to 16 Inches the Length Limit on Togue which may be taken from Moosehead Lake" (S. P. 111) (L. D. 203)

Came from the Senate with the Reports read and accepted in the House, the Reports were read and accepted in concurrence.

Ought to Pass**Amended in Senate**

Report of the Committee on Aging, Retirement and Veterans reporting "Ought to Pass" on Bill "An Act to Eliminate the Dependency Disqualification for Persons Receiving Survivor's Benefits from the State Retirement System" (S. P. 203) (L. D. 535)

Came from the Senate with the Report read and accepted and the Bill passed to be engrossed as amended by Senate Amendment "A" (S-79)

In the House, the Report was read and accepted in concurrence and the Bill read once. Senate Amendment "A" was read by the Clerk and adopted in concurrence and the bill assigned for second reading tomorrow.

Divided Report

Majority Report of the Committee on Legal Affairs reporting "Ought Not to Pass" on Bill "An Act to Permit Liquor Sales on Election Day" (S. P. 240) (L. D. 689)

Report was signed by the following members:

Mr. SHUTE of Waldo — of the Senate.

Mr. CALL of Lewiston

Miss GAVETT of Orono

Mr. DUDLEY of Enfield

Ms. BROWN of Gorham

Messrs. McSWEENEY of Old Orchard Beach

STOVER of West Bath

VIOLETTE of Van Buren — of the House.

Minority Report of the same Committee reporting "Ought to Pass" and amended by Committee Amendment "A" (S-76) on same Bill.

Report was signed by the following members:

Messrs. COTE of Androscoggin

FARLEY of York — of the Senate.

Messrs. DELLERT of Gardiner

MAXWELL of Jay

SOULAS of Bangor — of the House.

Came from the Senate with the Majority "Ought Not to Pass" Report read and accepted.

In the House: Reports were read.

The SPEAKER: The Chair recognizes the gentleman from Van Buren, Mr. Violette.

Mr. VIOLETTE: Mr. Speaker, I move acceptance of the Majority "Ought Not to Pass" Report in concurrence.

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

Mr. SOULAS: Mr. Speaker, Men and Women of the House: I would ask for a division on this.

This bill before you is to allow people to indulge in intoxicating liquor on election day. We know that this bill has been before us many times and for some reason or other has not received acceptance, but let's face it. This bill was passed in 1933, and I think that the law since that time, and the whole general principle of everything that we are doing today was changed. So, why don't we update and get in line with the rest of the county and have drinking on election day, which I don't think is going to change one vote anyway, and I hope you will vote against the motion of "ought not to pass."

The SPEAKER: The pending question is on the motion of Mr. Violette of Van Buren that the Majority "Ought Not to Pass" Report be accepted in concurrence. All those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.
83 having voted in the affirmative and 14 having voted in the negative, the motion did prevail.

Divided Report

Majority Report of the Committee on Legal Affairs reporting "Leave to Withdraw" on Bill "An Act Making it Unlawful for Any Person to Manufacture, Sell or Offer for Sale or Exchange any Product which Seeks to Imitate an Alcoholic Beverage by Looks, Taste and Smell, Excluding Certain Products" (S. P. 269) (L. D. 810)

Report was signed by the following members:

Mr. SHUTE of Waldo

Mr. FARLEY of York — of the Senate.

Mr. DUDLEY of Enfield

Mr. McSWEENEY of Old Orchard Beach

Mr. DELLERT of Gardiner

Miss GAVETT of Orono

Mr. CALL of Lewiston

Mr. VIOLETTE of Van Buren

Mr. STOVER of Bangor

Ms. BROWN of Gorham — of the House.

Minority Report of the same Committee reporting "Ought Not to Pass" on same Bill.

Report was signed by the following member:

Mr. COTE of Androscoggin — of the Senate.

Came from the Senate with the Majority "Leave to Withdraw" Report read and accepted.

In the House: Reports were read.

On Motion of Mr. Violette of Van Buren, the Majority "Leave to Withdraw" Report was accepted in concurrence.

**Non-Concurrent Matter
Later Today Assigned**

Bill, "An Act to Increase the Surplus Account of the Kennebec Sanitary Treatment District" (H. P. 223) (L. D. 271) which was passed to be engrossed as amended by House Amendments "A" (H-145) and "B" (H-149) in the House on March 30, 1979.

Came from the Senate with bill and accompanying papers Indefinitely Postponed in non-concurrence.

In the House: Mr. Boudreau of Waterville moved that the House recede and concur.

On Motion of Mr. Tierney of Lisbon Falls, tabled pending the motion of Mr. Boudreau of Waterville to recede and concur and later today assigned.

Non-Concurrent Matter

Bill, "An Act to Clarify Transfers from County Jails to the Correctional Facilities" (H. P. 1123) (L. D. 1393) on which the House insisted on its former action whereby the Bill was referred to the Joint Select Committee on Correctional Institutions in the House on March 30, 1979.

Came from the Senate with that Body having adhered to its former action whereby the Bill was referred to the Committee on Health and

Institutional Services in nonconcurrency.

In the House: The House voted to recede and concur.

Petitions, Bills and Resolves Requiring Reference

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

Local and County Government

Bill "An Act Regarding Laws Relating to Town Lines" (H. P. 1281) (Presented by Ms. Brown of Gorham) (Approved for introduction by a Majority of the Legislative Council pursuant to Joint Rule 27)

(Ordered Printed)

Sent up for concurrence.

Energy and Natural Resources

Bill "An Act to Make Allocations from the Maine Coastal Protection Fund for the Fiscal Years Ending June 30, 1980 and June 30, 1981" (Emergency) (H. P. 1282) (Presented by Mr. Blodgett of Waldoboro)

Committee on Marine Resources was suggested.

On Motion of Mr. Fowlie of Rockland, was referred to the Committee on Energy and Natural Resources, ordered printed and sent up for concurrence.

Orders

On motion of Mr. Blodgett of Waldoboro, the following Joint Order: (H. P. 1283)

WHEREAS, Boundary disputes and other disputes concerning land constitute a large portion of the litigation heard in Maine courts; and

WHEREAS, the existence of a specialized court system to deal with land disputes may facilitate speedy resolution of these disputes while reducing the pressing load on other courts in Maine; and

WHEREAS, it is necessary to determine if the establishment of a Maine Land Court would be beneficial in helping to accomplish these goals; now, therefore, be it

ORDERED, the Senate concurring, that the Joint Standing Committee on Judiciary shall study the feasibility of establishing a land court in Maine; and be it further

ORDERED, that the committee shall complete this study no later than 90 days prior to the First Regular Session of the 110th Legislature and submit to the Legislative Council within the same time period its findings and recommendations, including copies of any recommended legislation in final draft form; and be it further

ORDERED, upon passage in concurrence, that a suitable copy of this Order shall be forwarded to members of the committee.

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

An Expression of Legislative Sentiment (H. P. 1284) recognizing that:

The Panthers of Medomak Valley High School have won the Western Maine Class B Boys' Basketball Championship

Presented by Mr. Blodgett of Waldoboro.

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

A Joint Resolution (H. P. 1285) in memory of Edward W. Freeman of Damariscotta, a leader in promoting Maine's Major Natural Resource - her forest

Presented by Mr. Blodgett of Waldoboro (Co-sponsor: Mrs. Sewall of Newcastle)

This Resolution was read and adopted and sent up for concurrence.

On Motion of Mr. Cox of Brewer the following order:

ORDERED, that Representative Nancy Masterton of Cape Elizabeth be excused April 2, April 3 and April 4, 1979 for personal reasons:

AN BE IT FURTHER ORDERED, that Representative Sylvia Lund of Augusta be excused April 3 and April 4, 1979 for personal reasons.

House Reports of Committees Leave to Withdraw

Majority Report of the Committee on Legal Affairs reporting "Leave to Withdraw" on Bill, "An Act Relating to the Issuance of Licenses to Carry Concealed Weapons" (H. P. 442) (L. D. 559)

Report was signed by the following members:

Messrs. SHUTE of Waldo
FARLEY of York

— of the Senate.

Messrs. DELLERT of Gardiner
VIOLETTE of Van Buren
MAXWELL of Jay
McSWEENEY of Old Orchard Beach
STOVER of West Bath
DUDLEY of Enfield

— of the House.

Minority Report of the same Committee reporting "Ought Not to Pass" on Same Bill.

Report was signed by the following members:

Mr. COTE of Androscoggin

— of the Senate

Mr. CALL of Lewiston
Miss GAVETT of Orono
Mr. SOULAS of Bangor
Ms. BROWN of Gorham

— of the House.

Reports were read.

The SPEAKER: The Chair recognizes the gentleman from Van Buren, Mr. Violette.

Mr. VIOLETTE: Mr. Speaker, I move the acceptance of the Majority "Leave to Withdraw" Report.

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

Mr. SOULAS: Mr. Speaker, Men and Women of the House: I rise to oppose the motion to withdraw for the following reasons: I wasn't going to speak on this bill but I had some afterthoughts about it today and the reasons are very, very important to me and I hope they are going to be important to you people in the House.

Probably a thought is going through your minds as to why would anyone oppose this motion. The majority report is to withdraw and the minority report is "Ought Not to Pass". It is a nothing decision. The bill is dead no matter what action is taken here today. In a sense this is true. However, there is something here in the concept of this bill appearing here before us in this House, and that concept is, do you or do you not want gun control?

When this bill first appeared before you in this House, after it had its hearing, it came out with the unanimous "Ought Not to Pass" Report from our committee. At the acceptance, it was upheld and returned to our committee. It has received two additional discussions and two additional votes. After all this, it now appears in this form. I am very suspicious, that a great deal of lobbying was done for this bill.

Now, let me tell you what happened when this bill first had its hearing. The hearing began at 1:30 in the afternoon and we listened to the proponents for three full hours. After we heard one opponent, the sponsor asked us to accept a leave to withdraw. Now, I am not against having anyone come to our committee and ask for a leave to withdraw, but after sitting through a three and a half hour discussion, I feel that something should be said more than just that.

The opponent made such a great presentation on how the bill was drawn up poorly and that it could not accomplish one blessed thing; however, after he completed his presentation, I asked the opponent one question: If the bill was drawn up properly and placed in its proper order, which could very easily be done by the

committee, is such a bill necessary? His answer was "No". This gentleman was Mr. Dick Jones, a former member of the Maine State Police with over 25 years of experience.

I would say, that if you accept a report to withdraw, in a sense you are saying to accept the concept of gun control, and all you want to do is give the sponsors an opportunity to draw up the bill properly and bring it back again in the special session.

I, for one, want to go on record for not favoring any type of gun control for the State of Maine. For this reason, I will now move that this bill and all its accompanying papers be indefinitely postponed, and when the vote is taken, I ask for a roll call.

The SPEAKER: The Chair recognizes the gentleman from Westbrook, Mr. Laffin.

Mr. LAFFIN: Mr. Speaker, Ladies and Gentlemen of the House: First of all I would like to explain a couple of things about this bill, as long as we are going to debate this morning. I have never seen a report come in like this report. I have talked to a lot of people in this House and they have never seen it. Usually, the sponsor of a bill is given the courtesy to withdraw a bill. In certain cases they are, but not too often.

First of all, I would like to respond to the good gentleman that just spoke. I was asked by the State Police to sponsor this bill, and I did. This is not a gun control bill. I have been in this legislature and I have voted continuously and I have spoken continuously against any form of gun control. This bill was a concealed weapons bill, and there is a big difference. The people didn't even understand this bill, and the gentleman that just spoke said "after one opponent," but he failed to mention that opponent of the bill went through the bill line item by line item. He took longer than the people that supported this bill.

I think that what we have here today is a question of whether I, as a representative, was given the courtesy to withdraw the bill in good intention and not my motive of putting a bill in like this again. If the gentleman was there when I withdrew the bill, I further stated that if there was a problem, the people in the National Rifle Association and SAM, which is a sportsman's alliance, they should get together with the State Police and come up with a bill, and they agreed.

There was no lobbying done on anyone to push this bill. If there was any lobbying, believe me, it was against the bill, and I can vouch for that. I talked to the people who were opposed to my bill in the hallway, and when I got done explaining to them, then they understood that this was not a gun control bill, had nothing to do whatsoever with gun control. All it was was a concealed weapon for people walking the streets with a gun hidden on them. It had nothing to do with hunting, nothing to do with fishing, and nothing to do with people in the back woods that walk the woods and the trails and wanted to carry a sidearm.

But, you know, many times people see things as they want to see it. To give you a perfect point of this, we had a hearing the other day on abortion and a woman got up and said abortions are not murder, and she was a lawyer. So you can see how we see things as we want to see them.

I asked the committee in good faith to give me a leave to withdraw. They refused and that is their prerogative, and I have no qualms about that whatsoever. If they didn't want to give me that respect, fine and good, there will be another day coming when I am on a committee, and I have a very good memory on things that I want to remember.

This morning I just asked my very good friend from the other side of the room, Mr. Maxwell, from our Committee on Judiciary, if he would accept a leave to withdraw; we gave him that courtesy. The committee charged me with that yesterday, I fulfilled that this morn-

ing and he accepted. Now, we could have said to Mr. Maxwell, we are not going to give you that, but we showed him the respect that he is entitled to as a member of this House.

I don't care personally, it doesn't bother me one bit. I know this bill, I know what it is and I know what it did and what it does, and I know the people that are opposed to it don't understand the bill and I accept that, too. That is why I withdrew it. All I am asking here this morning, as long as it is here for debate and I wasn't even going to speak on it, because I had more important business on the telephone, outside talking, but when I heard the debate on this, my bills I always defend and I will always defend a bill when I really, truly believe in it and I am defending it today. I am asking as long as it is in the position that it is in and I have never seen one and the only person that I didn't talk to was the dean of the House, and he would have certainly told me that he had never seen one like this, but I am sure, an "Ought not to pass" and "Leave to Withdraw" Report. The Speaker of the House, who has been here many years, has seen something like this, but I never have.

As long as we have gone this far with the bill, if the members of this House don't want to give me the courtesy to have a Leave to Withdraw, when I give my word to the members of this House I keep my word. This bill will not come back in the next session, which is in January, or if I should happen to be here any other session, which I won't be, if I should be, it will not be put in again. Therefore I am asking the members of this House, as long as we have gone this far, to grant me a Leave to Withdraw, if that is possible under this type of a setup that we have and I am not even sure that is legal at this time.

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 desiring a roll call vote will vote yes; those opposed will vote no.

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

The SPEAKER: The pending question is on the motion of the gentleman from Bangor, Mr. Soulas, that the House indefinitely postpone the bill and all accompanying papers. All in favor of that motion will vote yes; those opposed will vote no.

ROLL CALL

YEA — Aloupis, Barry, Berube, Birt, Boudreaux, Brown, A.; Brown, D.; Brown, K.L.; Brown K.C.; Bunker, Call, Churchill, Cunningham, Damren, Garsoe, Gavett, Gillis, Gowen, Huber, Hutchings, Kany, Lancaster, Leighton, Leonard, Lewis, Lougee, Masterman, Maxwell, McHenry, Michael, Nelson, A.; Norris, Peltier, Peterson, Prescott, Reeves, J.; Rolde, Roope, Sewall, Silsby, Soulas, Sprowl, Tarbell, Whittemore.

NAY — Austin, Bachrach, Baker, Beaulieu, Benoit, Blodgett, Boudreau, Bowden, Brannigan, Brenerman, Brodeur, Carter, F.; Chonko, Cloutier, Conary, Connolly, Cox, Curtis, Davies, Davis, Dellert, Dexter, Dow, Drinkwater, Dudley, Dutremble, D.; Dutremble L.; Elias, Fenlason, Fillmore, Fowlie, Gould, Gray, Gwadosky, Hall, Hanson, Hickey, Higgins, Hobbins, Hunter, Immonen, Jackson, Jacques, E.; Jacques, P.; Jalbert, Joyce, Kane, Kiesman, Laffin, LaPlante, Lizotte, Locke, Lowe, MacBride, MacEachern, Mahany, Marshall, Martin, A.; Matthews, McKean, McPherson, McSweeney, Mitchell, Nadeau, Nelson, M.; Nelson, N.; Paradis, Paul, Payne, Pearson, Post, Rollins, Sherburne, Simon, Small, Smith, Stetson, Stover, Sudley, Theriault, Tierney, Tozier, Tuttle, Twitchell, Vincent, Violette, Wentworth, Wood, Wyman.

ABSENT — Berry, Carrier, Carroll, Carter D., Diamond, Doukas, Howe, Hughes, Kelle-

er, Lund, Masterton, McMahon, Morton, Reeves, P.; Strout, Vose.

Yes, 44; No, 90; Absent, 16.

The SPEAKER: Forty-four having voted in the affirmative and ninety in the negative, with sixteen being absent, the motion does not prevail.

Mr. Laffin of Westbrook requested a roll call vote on the motion to accept the "Leave to Withdraw" Report.

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 desiring a roll call vote will vote yes; those opposed will vote no.

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

The SPEAKER: The pending question is on the motion of the gentleman from Van Buren, Mr. Violette, that the House accept the Majority "Leave to Withdraw" Report. All in favor of that motion will vote yes; those opposed will vote no.

ROLL CALL

YEA — Aloupis, Austin, Bachrach, Baker, Beaulieu, Benoit, Berube, Birt, Blodgett, Boudreaux, Boudreau, Bowden, Brannigan, Brenerman, Brodeur, Brown, A.; Brown, D.; Brown, K.L.; Brown, K.C.; Bunker, Call, Carroll, Carter, F.; Chonko, Churchill, Cloutier, Conary, Connolly, Cox, Cunningham, Curtis, Damren, Davies, Davis, Dellert, Dexter, Doukas, Dow, Drinkwater, Dudley, Dutremble, D.; Dutremble, L.; Elias, Fenlason, Fillmore, Fowlie, Garsoe, Gavett, Gould, Gowen, Gray, Gwadosky, Hall, Hanson, Hickery, Higgins, Hobbins, Howe, Huber, Hunter, Hutchings, Immonen, Jackson, Jacques, E.; Jacques, P.; Jalbert, Joyce, Kane, Kany, Kiesman, Laffin, Lancaster, LaPlante, Leighton, Leonard, Lewis, Lizotte, Locke, Lougee, Lowe, MacBride, MacEachern, Mahany, Marshall, Martin, A.; Matthews, Maxwell, McHenry, McKean, McPherson, McSweeney, Michael, Mitchell, Nadeau, Nelson, M.; Nelson, N.; Paradis, Paul, Payne, Pearson, Peltier, Post, Prescott, Reeves, J.; Rolde, Rollins, Roope, Sewall, Sherburne, Silsby, Simon, Small Smith, Soulas, Sprowl, Stetson, Stover, Studley, Tarbell, Theriault, Tierney, Torrey, Tozier, Tuttle, Twitchell, Vincent, Violette, Wentworth, Whittemore, Wood, Wyman.

NAY — Barry, Gillis, Masterman, Nelson, A.; Norris, Peterson.

ABSENT — Berry, Carrier, Carter, D.; Diamond, Hughes, Kelleher, Lund, Masterton, McMahon, Morton, Reeves, P.; Strout, Vose.

Yes, 131; No, 6; Absent, 13.

The SPEAKER: One Hundred thirty-one having voted in the affirmative and six in the negative, with thirteen being absent, the motion does prevail.

Sent up for concurrence.

Divided Report

Majority Report of the Committee on Legal Affairs reporting "Ought to Pass" on Bill, "An Act Concerning Issuance and Renewals of Liquor Licenses" (H. P. 316) (L. D. 382)

Report was signed by the following members:

Messrs. SHUTE of Waldo
FARLEY of York

— of the Senate.

Messrs. DELLERT of Gardiner
MAXWELL of Jay
SOULAS of Bangor
DUDLEY of Enfield

Miss GAVETT of Orono

— of the House.

Minority Report of the same Committee reporting "Ought Not to Pass" on same Bill.

Report was signed by the following members:
Mr. COTE of Androscoggin

— of the Senate

Messrs. CALL of Lewiston
VIOLETTE of Van Buren
Ms. BROWN of Gorham
Messrs. MCSWEENEY of Old Orchard Beach
STOVER of West Bath

— of the House.

Reports were read.
On Motion of Mr. Violette of Van Buren, the Minority "Ought Not to Pass" Report was accepted and sent up for concurrence.

Divided Report

Majority Report of the Committee on Legal Affairs reporting "Ought to Pass" on Bill "An Act to Prohibit the Possession of Manufactured Items the Serial Numbers of Which Have Been Altered" (H. P. 470) (L. D. 598)

Report was signed by the following members:

Messrs. SHUTE of Waldo
FARLEY of York

— of the Senate.

Messrs. DUDLEY of Enfield
VIOLETTE of Van Buren
STOVER of West Bath
MCSWEENEY of Old Orchard Beach
DELLERT of Gardiner

Miss GAVETT of Orono

Messrs. CALL of Lewiston
MAXWELL of Jay
SOULAS of Bangor

Ms. BROWN of Gorham

— of the House.

Minority Report of the Same Committee reporting "Ought Not to Pass" on same Bill.

Report was signed by the following member:
Mr. COTE of Androscoggin

— of the Senate.

Reports were read.
On Motion of Mr. Violette of Van Buren, the Majority "Ought to Pass" Report was accepted, the Bill read once and assigned for second reading tomorrow.

Divided Report

Majority Report of the Committee on Labor reporting "Ought to Pass" as amended by Committee Amendment "A" (H-157) on Bill "An Act to Relate the Qualifying Wage Levels for Unemployment Compensation to the Average Weekly Wage" (H. P. 437) (L. D. 554)

Report was signed by the following members:

Messrs. SUTTON of Oxford
LOVELL of York

— of the Senate.

Messrs. FILLMORE of Freeport
WYMAN of Pittsfield
DEXTER of Kingfield

Mrs. MARTIN of Brunswick
Mrs. BEAULIEU of Portland

Mr. BAKER of Portland
Mr. CUNNINGHAM of New Gloucester

Mrs. LEWIS of Auburn
Mr. TUTTLE of Sanford

— of the House.

Minority Report of the same committee reporting "Ought Not to Pass" on same Bill.

Report was signed by the following members:

Mr. PRAY of Penobscot

— of the Senate.

Mr. McHENRY of Madawaska

— of the House.

Reports were read.
On Motion of Mr. Wyman of Pittsfield, the Majority "Ought to Pass" Report was accepted and the bill read once. Committee Amendment "A" (H-157) was read by the Clerk and adopted and the bill assigned for second reading tomorrow.

Divided Report

Majority Report of the Committee on Labor reporting "Ought to Pass" as amended by Committee Amendment "A" (H-160) on Bill "An Act Relating to Negotiations Involving

State Employees under the Labor Laws" (H. P. 246) (L. D. 291)

Report was signed by the following members:

Messrs. SUTTON of Oxford
LOVELL of York
PRAY of Penobscot — of the Senate.

Messrs. FILLMORE of Freeport
DEXTER of Kingfield
Mrs. MARTIN of Brunswick
Mrs. BEAULIEU of Portland
Mr. CUNNINGHAM of New Gloucester
Mr. WYMAN of Pittsfield
Mrs. LEWIS of Auburn
Mr. TUTTLE of Sanford — of the House.

Minority Report of the same Committee reporting "Ought Not to Pass" on same Bill.

Report was signed by the following members:

Messrs. McHENRY of Madawaska
BAKER of Portland — of the House.

Reports were read.

On motion of Mr. Wyman of Pittsfield, the Majority "Ought to Pass" Report was accepted and the Bill read once. Committee Amendment "A" (H-160) was read by the Clerk and adopted and the Bill assigned for second reading tomorrow.

Divided Report

Majority Report of the Committee on Labor reporting "Ought Not to Pass" on Bill "An Act to Provide Time for the Employee and Employer to Consider Payment of Compensation by Agreement" (H. P. 141) (L. D. 161)

Report was signed by the following members:

Mr. PRAY of Penobscot — of the Senate.
Messrs. WYMAN of Pittsfield
McHENRY of Madawaska
BAKER of Portland
Mrs. MARTIN of Brunswick
Mrs. BEAULIEU of Portland
Mr. TUTTLE of Sanford — of the House.

Minority Report of the same Committee reporting "Ought to Pass" as amended by Committee Amendment "A" (H-158) on same Bill.

Report was signed by the following members:

Messrs. LOVELL of York
SUTTON of Oxford — of the Senate.
Messrs. FILLMORE of Freeport
DEXTER of Kingfield
CUNNINGHAM of New Gloucester
Mrs. LEWIS of Auburn — of the House.

Reports were read.

On Motion of Mr. Wyman of Pittsfield, the Majority "Ought Not to Pass" Report was accepted and sent up for concurrence.

Divided Report

Majority Report of the Committee on Labor reporting "Ought Not to Pass" on Bill "An Act to Amend the Workers' Compensation Laws" (H. P. 312) (L. D. 428)

Report was signed by the following members:

Mr. PRAY of Penobscot — of the Senate.
Messrs. WYMAN of Pittsfield
McHENRY of Madawaska
BAKER of Portland
Mrs. MARTIN of Brunswick
Mrs. BEAULIEU of Portland
Mr. TUTTLE of Sanford — of the House.

Minority Report of the same Committee reporting "Ought to Pass" as amended by Committee Amendment "A" (H-159) on same Bill.

Report was signed by the following members:

Messrs. SUTTON of Oxford
LOVELL of York — of the Senate.

Messrs. FILLMORE of Freeport
DEXTER of Kingfield
CUNNINGHAM of New Gloucester
Mrs. LEWIS of Auburn — of the House.

Reports were read.

The SPEAKER: The Chair recognizes the gentleman from Pittsfield, Mr. Wyman.

Mr. WYMAN: Mr. Speaker, I move acceptance of the "Ought Not to Pass" Report.

The SPEAKER: The gentleman from Pittsfield, Mr. Wyman moves that the Majority "Ought Not to Pass" Report be accepted.

The Chair recognizes the gentleman from New Gloucester, Mr. Cunningham.

Mr. CUNNINGHAM: Mr. Speaker, Ladies and Gentlemen of the House: I would urge that we vote against the pending motion to accept the "ought not to pass" report and instead accept the "ought to pass" report.

This bill has been watered down considerably from the original bill that was introduced, which was far too ambitious. What we are trying to do here is to provide that an employer cannot be required to pay attorney's fees unless the lawyers have been denied by the commission. The trouble with a lot of the litigation, labor litigation now under the current law is that everyone knows that an attorney is going to be paid by the employer. There is no provision, as in other law cases, where an employer or the prevailing party would receive its just due and the losing party pay its way.

We have amended the bill so that the commission may assess the employer a reasonable attorney's fee to be paid to the employee's attorney whenever the employee prevails on a petition for award, petition for further compensation, petition for medical expenses and all other employee petitions, or whenever the employee successfully defends in whole or in part petitions filed by the employer. In other words, if the employer is filing against the employee and the employer prevails, then the commission may award the attorney's fee be paid by the employer.

In the current law, the employer would have to pay the witness fees of any witnesses that would have to be brought during the litigation. What we are attempting to do is try to reduce the expensive costs of litigation and to improve the quality of representation that an employee can receive. We feel that an employee would receive a better kind of representation if the person representing the employee, that is the attorney representing the employee, had to fight a little bit to win his case. As it is under current law, all he has to do to keep collecting fees is to keep stalling, litigating, carrying it around in court, and whether he wins or loses, he gets paid. Of course, if he loses, the employee loses. Currently, the employee stands a very small chance of ever winning, but if the attorney would have to fight for his fees and have to prevail in order to get his fees, then we feel he would be a better fighter, have something to fight for.

This is what we attempted to do in the amended version of this L.D. I would urge that we vote against the pending motion so that the amended version can be accepted.

The SPEAKER: The Chair recognizes the gentleman from Pittsfield, Mr. Wyman.

Mr. WYMAN: Mr. Speaker, Ladies and Gentlemen of the House: you will notice the amendment to this particular L.D. 428, it has a filing number of H-159. I think the important section of this particular amendment is found in the first part of Section 110, 'witness and attorneys fees,' where it says the commission or commissioner may assess the employer a reasonable attorney's fee to be paid to the employee's attorney whenever, and only whenever, the employee prevails on a petition

for award, petition for further compensation, petition for medical expenses and all other employee petitions, or whenever and only whenever the employee successfully defends in whole or in part petitions filed by the employer.

Under our current workers' compensation law, the employer bears what I believe and what the majority of the committee believes a rightful responsibility in paying attorneys' fees when an injured employee contests a case before the workers' compensation commission.

We have achieved over a good number of years a finely tuned and finely honed balance in our workers' compensation statutes. They are very complicated, they are very complex, but I think what we need and what I hope you will remember today is, this amendment strikes at the very heart of the employees' rights under the law.

Mr. Cunningham stated that he believes that this amendment will improve the quality of legal counsel for the employee, but certainly I can envision many cases, many instances, when an employee will not be financially solvent, especially after having sustained an injury on the job and having been out of work for perhaps a considerable period of time before this case is ever heard before the commission and may not be in a position to secure the best legal counsel I think in most cases, and I am sure that you will agree, the employer is usually in a much better position to sustain legal costs than an injured employee. This particular amendment tilts our delicate balance away from the employee toward the employer, and I hope for that reason that you will support the Majority "Ought Not to Pass" Report.

The SPEAKER: The Chair recognizes the gentleman from Auburn, Mrs. Lewis.

Mrs. LEWIS: Mr. Speaker, Ladies and Gentlemen of the House: I would remind you that this fee that we are talking about is probably about \$30. It is only a fee to determine whether or not the employee has a case that he wants to take against the employer. It is just to find out. If it is found that he does in fact have a case, then it is paid for him. If it is found that he doesn't have a case, then he pays it himself, but it is not a large fee that we are talking about.

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

Mr. CUNNINGHAM: Mr. Speaker, Ladies and Gentlemen of the House: I do agree with the gentleman from Pittsfield that we should have the best legal counsel possible for the employee, and I would tend to maintain that the best possible legal counsel is that when the attorney feels he has a good, strong case and he knows that he has got a good chance of winning the case and he can work for it and he has something to work for, not that he is just going to sit there in a chair and accept a legal fee for a long litigation.

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

Mr. BAKER: Mr. Speaker, Ladies and Gentlemen of the House: This bill and this amendment was brought before us in an attempt to provide a reform for the workers' compensation law.

I agree, we should have reform of the workers' compensation law, it is badly in need of reform, but this amendment does not do that. This amendment does not do that at all. This amendment is weighted heavily against an employee's right to be able to obtain legal counsel. Now, 90 percent of the cases that are found by the workers' compensation commission are found in favor of the employee. I realize this is 'no-fault' insurance we are talking about. That is a majority of the cases. If you enact this, what you are going to do is intimidate employees from justly filing for their due rights.

Mr. Speaker, I move that this bill and all its accompanying papers be indefinitely postponed and I would request the vote be taken by the yeas and nays.

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 desiring a roll call vote will vote yes; those opposed will vote no.

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

The SPEAKER: The pending question is on the motion of the gentleman from Portland, Mr. Baker, that this Bill and all its accompanying papers be indefinitely postponed. All those in favor will vote yes; those opposed will vote no.

The Chair recognizes the gentleman from Kingfield, Mr. Dexter.

Mr. DEXTER: Mr. Speaker, I request permission to pair my vote with Representative Diamond. If he were here, he would be voting yea and if I were voting, I would be voting nay.

ROLL CALL

YEA — Bachrach, Baker, Barry, Beaulieu, Benoit, Berry, Berube, Blodgett, Brannigan, Brennerman, Brodeur, Brown, K.C.; Call, Carroll, Chonko, Churchill, Cloutier, Connolly, Cox, Davies, Dow, Dutremble, D.; Dutremble L.; Elias, Fowlie, Gwadosky, Hall, Hickey, Hobbins, Howe, Hughes, Jacques, E.; Jacques, P.; Jalbert, Joyce, Kane, Kany, Laffin, LaPlante, Lizotte, Locke, MacEachern, Mahany, Martin, A.; McHenry, McSweeney, Michael, Mitchell, Nadeau, Nelson, M.; Nelson, N.; Paradis, Paul, Pearson, Post, Prescott, Reeves, P.; Rolde, Simon, Soulas, Theriault, Tuttle, Twitchell, Vincent, Violette, Wood, Wyman, The Speaker.

NAY — Aloupis, Austin, Birt, Bordeaux, Boudreau, Bowden, Brown, A.; Brown, D.; Brown, K.L.; Bunker, Carter, F.; Canary, Cunningham, Curtis, Damren, Davis, Dellert, Dexter, Drinkwater, Dudley, Fillmore, Garsoe, Gavett, Gillis, Gould, Gowen, Gray, Hanson, Huber, Hunter, Hutchings, Immonen, Jackson, Kiesman, Lancaster, Leighton, Leonard, Lewis, Lowe, MacBride, Marshall, Masterman, Matthews, McMahon, McPherson, Morton, Nelson, A.; Norris, Payne, Peltier, Peterson, Reeves, J.; Rollins, Roope, Sewall, Sherburne, Silsby, Small, Smith, Sprowl, Stetson, Stover, Studley, Tarbell, Torrey, Wentworth, Whittemore.

ABSENT — Birt, Carrier, Carter, D.; Doukas, Fenlason, Kelleher, Lougee, Lund, Masterton, Strout, Tierney, Tozier, Vose.

PAIRED — Dexter-Diamond; Yes, 67; No, 69; Absent, 13; Paired, 2.

The SPEAKER: Sixty-seven having voted in the affirmative and sixty-nine in the negative, with thirteen being absent and two paired, the motion did not prevail.

The SPEAKER: The Chair will order a vote. The pending question is on the motion of the gentleman from Pittsfield, Mr. Wyman, that the Majority "Ought Not to Pass" Report be accepted. All those in favor will vote yes; those opposed will vote no.

A vote of the House was taken. Whereupon, Mr. Garsoe of Cumberland requested a roll call vote.

The SPEAKER: For the Chair to order a roll call, it must have the expressed desire of one-fifth of the members present and voting. All those desiring a roll call 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 Pittsfield, Mr. Wyman, that the Majority "Ought Not to Pass" Report be accepted. All those in favor will vote yes; those opposed will vote no.

ROLL CALL

YEA — Bachrach, Baker, Barry, Beaulieu, Benoit, Berry, Berube, Blodgett, Boudreau,

Brannigan, Brennerman, Brodeur, Brown, A.; Brown, K.C.; Call, Carroll, Chonko, Churchill, Cloutier, Connolly, Cox, Davies, Doukas, Dow, Dutremble, D.; Dutremble L.; Elias, Fowlie, Gwadosky, Hall, Hickey, Hobbins, Howe, Hughes, Jacques, E.; Jacques, P.; Jalbert, Joyce, Kane, Kany, Laffin, LaPlante, Lizotte, Locke, MacEachern, Mahany, Martin, A.; Maxwell, McHenry, McKean, McSweeney, Michael, Mitchell, Nadeau, Nelson, M.; Nelson, N.; Paradis, Paul, Pearson, Post, Prescott, Reeves, P.; Rolde, Simon, Soulas, Theriault, Tuttle, Twitchell, Vincent, Violette, Wood, Wyman, The Speaker.

NAY — Aloupis, Austin, Birt, Bordeaux, Bowden, Brown, D.; Brown, K.L.; Bunker, Carter, F.; Canary, Cunningham, Curtis, Damren, Davis, Dellert, Dexter, Drinkwater, Dudley, Fillmore, Garsoe, Gavett, Gillis, Gould, Gowen, Gray, Hanson, Huber, Hunter, Hutchings, Immonen, Jackson, Kiesman, Lancaster, Leighton, Leonard, Lewis, Lowe, MacBride, Marshall, Masterman, Matthews, McMahon, McPherson, Morton, Nelson, A.; Norris, Payne, Peltier, Peterson, Reeves, J.; Rollins, Roope, Sewall, Sherburne, Silsby, Small, Smith, Sprowl, Stetson, Stover, Studley, Tarbell, Torrey, Wentworth, Whittemore.

ABSENT — Carrier, Carter, D.; Diamond, Fenlason, Kelleher, Lougee, Lund, Masterton, Strout, Tierney, Tozier, Vose.

Yes, 73; No, 66; Absent, 12.

The SPEAKER: Seventy-three having voted in the affirmative and sixty-six in the negative, with twelve being absent, the motion does prevail.

The Chair recognizes the gentleman from Lewiston, Mr. Jalbert.

Mr. JALBERT: Mr. Speaker, having voted on the prevailing side, I now move we reconsider our action whereby we accepted the Majority "Ought Not to Pass" Report.

The SPEAKER: The gentleman from Lewiston, Mr. Jalbert, moves that we reconsider our action whereby the Majority "Ought Not to Pass" Report was accepted. All those in favor will say yes; those opposed will say no.

A Viva Voce Vote being taken, the motion did not prevail.

Sent up for concurrence.

Divided Report

Seven Members of the Committee on Labor on Bill "An Act to Provide an Effective Penalty under the Labor Laws for Violation of the Statute Requiring a Written Statement of Reason for Termination of Employment" (H. P. 176) (L. D. 210) report in Report "A" that the same "Ought to Pass" as amended by Committee Amendment "A" (H-161)

Report was signed by the following members:

Mr. PRAY of Penobscot — of the Senate.

Messrs. WYMAN of Pittsfield

BAKER of Portland

Mrs. BEAULIEU of Portland

Mrs. MARTIN of Brunswick

Mr. McHENRY of Madawaska

Mr. TUTTLE of Sanford

— of the House.

Five members of the same Committee on same bill report in Report "B" that the same "Ought to Pass" as amended by Committee Amendment "B" (H-162)

Report was signed by the following members:

Messrs. LOVELL of York

SUTTON of Oxford

— of the Senate.

Messrs. CUNNINGHAM of New Gloucester

FILLMORE of Freeport

DEXTER of Kingfield

— of the House.

One Member of the same Committee on same bill reports in Report "C" that the same "Ought Not to Pass"

Report was signed by the following member:
Mrs. LEWIS of Auburn — of the House.

Reports were read.

The SPEAKER: The Chair recognizes the gentleman from Pittsfield, Mr. Wyman.

Mr. WYMAN: Mr. Speaker, I move that the House accept Report A.

The SPEAKER: The Chair recognizes the gentleman from Millinocket, Mr. Marshall.

Mr. MARSHALL: Mr. Speaker, I see an awful lot of gavels going down here today, and I would appreciate it if some of the members on this committee would explain some of the options that are open to the rest of the members of the House.

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

The Chair recognizes the gentleman from Pittsfield, Mr. Wyman.

Mr. WYMAN: Mr. Speaker, Ladies and Gentlemen of the House: I will be glad to explain the difference between these two amendments. I believe the position of the gentledady from Auburn is self-evident.

First of all, let me say before I explain the two reports that under the current law there are absolutely no penalties provided for this particular crime. It is a crime not to provide a written notification when an employee has requested it of an employer. Under this amendment, he will have 15 days — under both amendments 15 days — to respond to an employee's request for a written reason as to his termination. It is in the law now; there are just no penalties. I believe this is the only labor law that I have seen and been informed of the bureau where there are no effective penalties.

Report A will provide for a penalty of \$50 for each day that the statute is violated; the total forfeiture shall not exceed \$500. In the original bill, there was no cap on the amount of a fine. The amendment did place a cap on the fine, no more than \$500.

This is an employer who without good cause failed to satisfy this request. The language 'without good cause' was placed in the amendment to protect the employer who may have a legitimate reason why he has not responded to an employee's request for a written reason as to his termination. I hope we all realize what a simple procedure this would be for any employer to provide a terminated employee with reasons why he is terminating him. That is all we are asking for and it does not appear to me or to the majority of the committee to be an unreasonable request.

I hope, because Report A is a very reasonable approach in its amended form, that you will support it.

The SPEAKER: The Chair recognizes the gentleman from Kingfield, Mr. Dexter.

Mr. DEXTER: Mr. Speaker, Men and Women of the House: I have remained seated here today and listened to a lot of half truths, but it is about time that we got the record clear.

I hope you vote against Report A, because it is mandatory, it says 'shall'. In Report B, which I happen to support, Committee Amendment "B", if an employer fails to satisfy this request within 15 days of receiving it — 'may'. That goes along with our Chief Executive. If you remember right, on a bill of mine, 'may' be subject to a forfeiture of not less than \$50 nor more than \$500.

Let's get on the right track here. Let's defeat this pending motion and accept Report "B" with Committee Amendment "B".

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

Mr. CUNNINGHAM: Mr. Speaker, Ladies and Gentlemen of the House: I concur with remarks of the gentleman from Kingfield. I also concur with the remarks of the gentleman

from Pittsfield. The gentleman from Pittsfield said we should be reasonable but, Report "B" is far more reasonable. So, if we are going to be reasonable, let's really be reasonable about it.

Generally speaking, when you go to court and you have litigation, there is a forfeiture that you may face and it is up to the judge as to how much you would face within the limit.

In Report "A", as the gentleman from Kingfield, suggested it is mandatory, there is not much choice, it is kind of cut and dried. Let's not keep these things cut and dried, let's be reasonable about it. Let's be reasonable and go along with Report "B," be reasonable as the gentleman from Pittsfield has already suggested.

The SPEAKER: The Chair recognizes the gentleman from Auburn, Mrs. Lewis.

Mrs. LEWIS: Mr. Speaker, Ladies and Gentlemen of the House: I would just remind you people that this is a civil violation we are talking about and not a criminal offense. However, what it refers to is, that if an employee is fired, that he can ask his employer to give written reason why he was fired. If the employer does not give that written reason presently, the employer is committing an act of civil violation and he is subject to whatever fine the judge cares to impose: but it is a contempt of court. To say that there presently isn't any kind of a fine or anything that can be done against the employer, is wrong, because there certainly is. Contempt of court is a very serious offense.

The reason I signed the "Ought Not to Pass" is, that I feel that the judges in our state are perfectly able to decide what kind of a fine to impose on such an offense as this and that we, as a legislator, don't have to be telling them exactly how much they should charge.

The SPEAKER: The Chair recognizes the gentleman from Woolwich, Mr. Leonard.

Mr. LEONARD: Mr. Speaker, Ladies and Gentlemen of the House: I just have one brief statement. It seems strange that now we put this type of legislation on the statutes and that we, in fact, allow the employer to demand the same of an employee. It is too bad that we have to always look at the employee who runs around from job to job and never really giving a notice or giving a reason why he has terminated his employment. It seems like we are a little lopsided in our legislation.

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

Mr. JALBERT: Mr. Speaker, Ladies and Gentlemen of the House: I would like to ask the good gentleman from Woolwich, whom I like very much, he is a fine young man, if he ever heard of an employee firing an employer?

The SPEAKER: The gentleman from Lewiston, Mr. Jalbert, posed a question through the Chair to the gentleman from Woolwich, Mr. Leonard, who may answer if he so desires.

The Chair recognizes that gentleman.

Mr. LEONARD: Mr. Speaker, Ladies and Gentlemen of the House: In my business, Mr. Jalbert, as just a matter of record, my father is here from Florida for a wedding and we were talking this morning and he said, "Do you see Mr. Jalbert very often?" I said, "Well, quit often, but as we all know, Mr. Jalbert has been ill." He said, "Well, he used to be an employee of mine when he was at Bath Iron Works back in the war." To my knowledge, my dad didn't fire Mr. Jalbert, I think he quit, without good reason I hope.

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

Mr. JALBERT: Mr. Speaker, Ladies and Gentlemen of the House: I am delighted at the question. You can bet your rubber boots I quit. When I was promoted and told I couldn't be a member of the union any longer, I quit, left permanently.

The SPEAKER: The pending question is on the motion of the gentleman from Pittsfield, Mr. Wyman, that the House accept Report "A". All those in favor of that motion will vote

yes; those opposed will vote no.

A vote of the House was taken.

Mr. Wyman of Pittsfield requested a roll call on the motion to accept Report "A".

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 desiring a roll call vote will vote yes; those opposed will vote no.

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

The SPEAKER: The Chair recognizes the gentleman from Pittsfield, Mr. Wyman.

Mr. WYMAN: Mr. Speaker, Ladies and Gentlemen of the House: I will not be long except to ask you before you vote on this to look at H-161, Committee Amendment "A" and Committee Amendment "B".

First of all, let me say that there are no fines or penalties for this statute under the current law.

Secondly, I wish to point out in response to what Mr. Dexter said earlier, unless you will be misinformed, the word "shall" is to out-labor statute, this would be making an exception. If we adopt Committee Amendment "B" with the word "may", it will be the first time that we have adopted may in our labor statutes. I want you to notice that and take very careful note of it.

Thirdly, Mr. Cunningham has pointed out we ought to be reasonable. I think that is probably the only point where we agree. We disagree on what is the reasonable approach. Now, our amendment, Committee Amendment "A", if you will take a very careful look at it, you will notice the words, "an employer who without good cause."

You look at Mr. Cunningham's amendment, and I would pose a question through the Chair to Mr. Cunningham, if he would care to answer. Where in his amendment is the businessman, the employer, protected with the wording, "without good cause?"

Our amendment protects him and I would like to see where he is protected in the other amendment.

The SPEAKER: The gentleman from Pittsfield, Mr. Wyman, posed a question through the Chair to the gentleman from New Gloucester, Mr. Cunningham, who may answer if he so desires.

The Chair recognizes that gentleman.

Mr. CUNNINGHAM: Mr. Speaker, Ladies and Gentlemen of the House: You don't need all these blankets of protection. The employer is not looking for security blankets. All he wants is a reasonable assessment of what the forfeiture will be and take his chances in the litigation.

A few moments ago, the gentleman from Pittsfield said that this was the only place in the labor law where there weren't any penalties. However, I think that not too many hours ago, he presented a bill with about eight different sections in it where he wanted to add some penalties. Perhaps he is going to carry this reasonableness to even further extremes.

The employer is not looking for a security blanket, he doesn't need a lot of verbiage in the laws. All he needs is the opportunity to defend himself, to go to the courts and take his chances with the judges, and the judges may assess a forfeiture within the boundaries of 50 or whatever the boundaries are in the bill. That is all it is. I call that reasonable.

The SPEAKER: The Chair recognizes the gentleman from Madawaska, Mr. McHenry.

Mr. McHENRY: Mr. Speaker, Ladies and Gentlemen of the House: The reason for asking for a written reason for termination is because if a person is terminated, he is told, we are overstaffed, we have too many people, you are laid off. He doesn't tell you right out that you

are fired because you didn't want to do such and such or so and so a thing.

I saw it happen to a lady up home. She was told that she was let go because he was over-staffed and then he reported to the unemployment that he fired that woman because she didn't want to work on the night shift. That is the reason why we want the employee to receive a written statement as to why he or she has been fired, so they don't report to the unemployment another reason that what they told the person that has been fired or terminated.

The SPEAKER: The Chair recognizes the gentleman from Waterville, Mr. Boudreau.

Mr. BOUDREAU: Mr. Speaker, Ladies and Gentlemen of the House: May I pose two quick questions to the Chair?

I would like to ask the chairman of the Labor Committee, if the present law requires a written statement, first of all. If someone is terminated, is a written statement required? Secondly, if an employer is found guilty, can the judge fine that employer or use a sanction against the employer at his discretion? If so, why do we need either of these two amendments?

The SPEAKER: The gentleman from Waterville, Mr. Boudreau, posed a question through the Chair to the Chairman of the Labor Committee, who may answer if he so desires.

The Chair recognizes the gentleman from Pittsfield, Mr. Wyman.

Mr. WYMAN: Mr. Speaker, Ladies and Gentlemen of the House: In response to the gentleman's question from Waterville, the first answer is yes. The law does currently require a written notification when the employee has requested it. However, there is no provision for a fifteen day grace period for the employer. Our bill provides that. So, actually our bill is being more lenient toward the employer than the current law in that particular respect.

As far as the employee, I believe the second question regards the employee's rights now to seek remedy under the current law. He would have to go to court at his own expense to remedy under the current law.

The SPEAKER: The Chair recognizes the gentleman from Waterville, Mr. Boudreau.

Mr. BOUDREAU: Mr. Speaker, Ladies and Gentlemen of the House: Both of these amendments talk about the employer paying a fine. Why would the employee be treated any differently? He would still have to go to court. It doesn't talk about the employee, it talks about the employer. If the employee wanted to bring action, what would the employee have to do, even if we passed either of these amendments?

The SPEAKER: The gentleman from Waterville, Mr. Boudreau, posed an additional question to the gentleman from Pittsfield, Mr. Wyman, who may answer if he so desires.

The Chair recognizes that gentleman.

Mr. WYMAN: Mr. Speaker, Ladies and Gentlemen of the House: In response to the gentleman's inquiry, I would just say that, under the current law, as I understand it, the employee would be required to seek a contempt of court citation in the court. It would be a lot more likely, seems to me, just using a little bit of common sense, that that would happen in most instances where there was no penalty. The idea, the concept of the penalty, and I stated this on the record many times, and I shall reiterate it, partially is to serve as a deterrent.

Mr. Lovejoy, told us that on more than one occasion he has an employer call him and say, "is it against the law to do such" and Mr. Lovejoy responds, "yes it is." The question will come back to, "what is the penalty if you violate the law?" The answer, there is none. I think it speaks for itself and I hope we will support Committee Amendment "A".

The SPEAKER: The Chair recognizes the gentleman from Auburn, Mrs. Lewis.

Mrs. LEWIS: Mr. Speaker, Ladies and Gentlemen of the House: I do feel I should clarify

something here. The employee is not going to get either a fine as prescribed in this bill, if this should become law, nor any kind of a fine that the judge might decide should be imposed without going to court. The Bureau of Labor does not enforce this law. If the employee has asked for a written request as to why he has been fired, and he doesn't get it, he can call the Bureau of Labor if he wants to and ask what he should do. The Bureau of Labor then, according to Mr. Lovejoy, would call the employer and say to the employer, the law requires you to do this. Now, if you don't, you are going to be in contempt of court. That is what he can do right now.

If we should pass this bill, the same thing would happen and the employee could then call the Bureau of Labor. Mr. Lovejoy would say, the employer has got to pay a fine, \$50 for each day that the written request isn't given. In neither case does it go to the employee, it goes to the state. There certainly is a penalty now, the penalty might even be worse than the contempt of court. What this bill does is just add some numbers to the Maine statutes that I don't really think are necessary, that is why I signed "Ought Not to Pass".

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

Mr. NADEAU: Mr. Speaker, Ladies and Gentlemen of the House: I am feeling a bit under the weather today so if I am a little shaky you will have to bear with me.

When I first introduced this piece of legislation — I am the sponsor — I had no idea that it would receive so much attention. I found a statute on the books with no effective penalty; to me, this is incredibly inconsistent, so I introduced a piece of legislation that would provide for an effective penalty. I see no good in a law which has no penalty.

I also discussed this bill with the Bureau of Labor, of course, in the beginning stages, and they are fully supportive of the intentions of this bill because, obviously, as my good friend Representative Wyman has mentioned, it can act as a deterrent and the Bureau of Labor can enforce this, using this penalty as the deterrent. Without it, it is extremely difficult.

The good gentleman from Woolwich, Mr. Leonard, mentioned that this type of legislation is in the statutes, and he is right, I fully agree with him. If, indeed, it is in the statutes, as I said, it should have an effective penalty to go along with it.

I would also concur with the comments from my good friend, the gentleman from Pittsfield, Mr. Wyman. I felt that I should not debate this particular piece today, being the sponsor, because of my condition, but I felt that I should get up and say a few words and urge you to treat this legislation kindly. All it does is simply correct what I feel was an inconsistency when this law was originally passed.

The SPEAKER: The Chair recognizes the gentleman from Madawaska, Mr. McHenry.

Mr. MCHENRY: Mr. Speaker, Ladies and Gentlemen of the House: I beg to differ with the good lady from Auburn, Mrs. Lewis. When Mr. Lovejoy calls the employer and says, you have to give him a written reason, he is not in contempt of court. The state has to go through the expense of bringing that employer to court before he is in contempt of court, and he has to refuse the judge.

The SPEAKER: The pending question is on the motion of the gentleman from Pittsfield, Mr. Wyman, that the House accept Report A, "Ought to Pass."

The Chair recognizes the gentleman from Dexter, Mr. Sherburne.

Mr. SHERBURNE: Mr. Speaker, I would like to pair my vote with the gentleman from Windham, Mr. Diamond. If Mr. Diamond were here, he would be voting yes; and I would be voting no.

The SPEAKER: A roll call has been ordered. The pending question is on the motion of the

gentleman from Pittsfield, Mr. Wyman, that the House accept Report A, "Ought to Pass." Those in favor will vote yes; those opposed will vote no.

ROLL CALL

YEA — Bachrach, Baker, Beaulieu, Benoit, Berry, Berube, Blodgett, Brannigan, Brenerman, Brodeur, Brown, A., Brown, K. C., Call, Carroll, Chonko, Churchill, Cloutier, Connolly, Cox, Davies, Doukas, Dow, Dutremble, D., Dutremble, L., Elias, Fenlason, Fowlie, Gillis, Gowen, Gwadosky, Hall, Hickey, Hobbins, Howe, Hughes, Jacques, E., Jacques, P., Jalbert, Joyce, Kane, Kany, Laffin, LaPlante, Lizotte, Locke, MacEachern, Mahany, Martin, A., Maxwell, McHenry, McKean, McMahon, McSweeney, Michael, Mitchell, Nadeau, Nelson, N., Paradis, Paul, Pearson, Post, Prescott, Reeves, P., Rolde, Silsby, Simon, Soulas, Theriault, Tierney, Tuttle, Vincent, Violette, Whittemore, Wood, Wyman, The Speaker.

NAY — Alopis, Austin, Barry, Birt, Bordaudeau, Boudreau, Bowden, Brown, D., Brown, K. L., Bunker, Carter, F., Conary, Cunningham, Curtis, Damren, Davies, Davis, Dellert, Dexter, Drinkwater, Dudley, Fillmore, Garsoe, Gavett, Gould, Gray, Hanson, Higgins, Huber, Hunter, Hutchings, Immonen, Jackson, Kiesman, Lancaster, Leighton, Leonard, Lewis, Lowe, MacBride, Marshall, Masterman, Matthews, McPherson, Morton, Nelson, A., Nelson, M., Norris, Payne, Peltier, Peterson, Reeves, J., Rollins, Roope, Sewall, Small, Smith, Sprowl, Stetson, Stover, Studley, Tarbell, Torrey, Tozier, Twitchell, Wentworth.

ABSENT — Carrier, Carter, D., Kelleher, Lougee, Lund, Masterton, Strout, Vose.

Paired — Diamond — Sherburne.

Yes, 76; No, 65; Absent, 8; Paired, 2.

The SPEAKER: Seventy-six having voted in the affirmative and sixty-five in the negative with eight being absent and two paired, the motion does prevail.

The Bill was read once. Committee Amendment "A" (H-161) was read by the Clerk and adopted and the Bill assigned for second reading tomorrow.

The SPEAKER: The Chair recognizes the gentleman from Cumberland, Mr. Garsoe.

Mr. GARSOE: Mr. Speaker, is the House in possession of L. D. 161, Bill "An Act to Provide Time for the Employee and Employer to Consider Payment of Compensation by Agreement?"

The SPEAKER: The Chair would answer in the affirmative.

Mr. GARSOE: Mr. Speaker, having voted on the prevailing side, I now move that the House reconsider its action whereby it accepted the "Ought Not to Pass" Report.

Mr. Speaker, Ladies and Gentlemen of the House: I am going to be very brief on this. What caught my attention of this little jewel was that I believe we are becoming a litigated society. I think we have such a profusion of attorneys that just as a natural consequence we find ourselves being more and more forced into litigation. Inasmuch as workmen's compensation was the original no-fault insurance approach, I just want to call your attention to this legislation as being a sensible approach to letting it function the way it was originally envisioned.

As I see this bill, it merely says that if the employee and the employer can get together to resolve a situation, that the employer need not fear the intrusion of an attorney with its attendant fees and contentious atmosphere.

I would hope you would reconsider whereby this was cut off and give it a chance to go ahead.

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

Mr. CUNNINGHAM: Mr. Speaker, Ladies and Gentlemen of the House: The gentleman

from Cumberland did point out one very important reason why we should reconsider, but there is also another one.

In L. D. 161, there is an important line which is a protection to the employee. Usually, when you have a workmen's compensation situation, an employee needs to receive some income. He might be injured and out of work. He needs to receive some income right away.

L. D. 161 would allow an employer to continue his salary, continue his pay, or to make some kind of a compensation to the employee during this interim period while we are setting up this adversary proceedings, for example. Without this act by the employer being considered an admission that the injury is compensable, under the current law, if an employer during this period of time by giving him a continuation of his pay, he is admitting that he is at fault under the present law. That is one of the reasons why employees suffer a period when they don't have any compensation coming in until the litigation takes place. So, we feel that under L. D. 161, we could allow this compensation to start right away, right after injury, without prejudicing the employer's position in any future litigation.

If you are really concerned about the employee who needs help and you are concerned about giving him help when he needs the help, not a half year later or two years later, after the attorneys have collected all their fees and so forth, then you will reconsider this legislation and you will allow it to go on its way because it is a good piece of legislation and it should not die.

The SPEAKER: The Chair recognizes the gentleman from Pittsfield, Mr. Wyman.

Mr. WYMAN: Mr. Speaker, Ladies and Gentlemen of the House: This bill, in its original form, was a very poor piece of legislation. In its amended form, it takes on a rather quixotic nature in that it is both a dangerous piece of legislation and quite unnecessary.

I share with the gentleman from Cumberland, my good friend the floor leader, a concern that we ought not to become over-litigated and the workmen's compensation system ought to run as smoothly, as effectively and as efficiently as we can possibly make it. We will be supporting legislation and the Labor Committee has already supported legislation which will help arrive at this very important and noteworthy goal.

However, before you vote to reconsider, I hope you will make careful note of what this particular amendment will do. Under the current law, an employee who is injured has the right to seek legal counsel and knows that the employer will pay for that legal counsel from day one of the injury. The purpose of the amendment is to say that at least for the first ten days, the employee, if he decides to seek legal counsel, must do so at his own expense. If he can't afford it, then he won't do it, he won't have any legal counsel the first ten days.

Then there is a part of this bill that provides for a 40-day cooling off period, for lack of a better term, I will describe it as such and during that particular time, the employer may voluntarily pay compensation, may enter into an agreement with the employee.

Here is the ludicrous part of this bill. The proponents of this legislation say it is very important to avoid over-litigation but what the amendment does is say that before the employee enters into an agreement voluntarily with the employer, the employer must pay for the employee to have an attorney to advise him on whether or not he should enter into the agreement. There is nothing that could be any more inconsistent or apparently hypocritical than this particular amendment.

If we say that an attorney is not necessary, then why have we amended it to say that before an employee enters into an agreement with the employer on a volunteer basis, the employer must allow the employee to have legal counsel

at the employer's expense? It seems to me that we are not really doing too much with this legislation as far as really getting at the meat of the problem, as the supporters of this bill envision.

What we are doing, however, is telling the employee that for the first ten days and perhaps for 40 days after that, the employee will not be able to have the advantage, as he now does under the current law, to seek legal counsel.

In regards to the gentleman's point from New Gloucester that we ought to allow an employer to make a payment to the employee in workmen's compensation cases without the fear that it is going to be an admission of liability under the law, I will say to him and you, ladies and gentlemen, that the Labor Committee has reported out unanimously a bill which will deal with this specific problem Mr. Cunningham has pointed out, because we all agree that if an employer decides to pay an employee compensation, then he ought to be permitted to do so without any sort of fear of repercussion that he is going to be held liable before an actual determination is made.

The gentleman from Bangor, Mr. Tarbell, has sponsored a bill. The name of it is to permit the payment of worker's compensation to be non-prejudicial. That bill received a unanimous report and it deals with the problem that this bill attempts to deal with. So, it seems to me that that becomes a moot point. Really the point is this: do you believe that an employee ought to have his rights protected under the law or do you believe in the name of efficiency that the employee should be stripped of his rights under the law?

I will close by telling you this—as much as efficiency is a very important goal and objective, it ought not to take precedence over the protection of individual rights. The late President Harry Truman once said, "If we truly want efficiency, then we should go to the Soviet Union."

I hope you will oppose the motion to reconsider.

When the vote is taken, I request that it be taken by the yeas and nays.

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

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

The SPEAKER: The Chair recognizes the gentleman from Freeport, Mr. Fillmore.

Mr. FILLMORE: Mr. Speaker, I would like to pose a question through the Chair to the Chairman of the Labor Committee or any members that voted on the majority side.

First, I would like to read from the memorandum from James A. McKenna, and I would like to refer to Section F, which says, "within 60 days after notice, an employer must file with the commission either an agreement for payment of compensation or the carrier must file a denial giving valid reasons, making a copy of the denial available to the employee and advising the claimant of his right to petition the commission for a hearing."

My question is, why should an employee hire a lawyer before the 60-day period and what would the lawyer do?

The SPEAKER: The gentleman from Freeport, Mr. Fillmore, has posed a question through the Chair to anyone who may respond if they so desire.

The Chair recognizes the gentleman from Pittsfield, Mr. Wyman.

Mr. WYMAN: Mr. Speaker, Ladies and Gentlemen of the House: In answer to the gentleman from Freeport's question, I believe it is the philosophy and the firm conviction of the people who signed out this majority report,

that the employee ought to have the right to seek legal counsel at any particular time. What the attorney will do, Mr. Fillmore, is very simple. The attorney will advise the affected employee of his rights.

The SPEAKER: The Chair recognizes the gentleman from Freeport, Mr. Fillmore.

Mr. FILLMORE: Mr. Speaker, Ladies and Gentlemen of the House: The purpose of the bill is to do away with too much litigation and too many lawyers' fees. The employee may hire a lawyer before the 60 day period and he can do nothing because the employer is not required to either vote for the employee or against him. In fact, this bill makes the time that the employer must make the decision 20 days quicker. Under the bill, the employer must decide whether he will pay or not pay within 40 days. Under the present law, it is 60 days. We gain 20 days.

It also gives the employer a chance to make a payment to the employee. The big problem, in the hearing, was that many people said they hadn't been paid for months and so forth. This gives the employee a chance to receive payment when the going is tough. I assume, that is, everybody who has read the bill will realize that it saves both the employer and the employee.

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

Mr. TARBELL: Mr. Speaker and Members of the House: I think it is unfortunate that the House chairman has chosen to characterize this bill as he has.

The first thing that happens when an accident occurs and the employer runs to his attorney and the employee runs to his attorney, is you set up an adversarial position and adversarial contacts right off the bat.

What the bill is trying to promote is to avoid an adversarial context and contest immediately, to allow for some kind of informal resolution. Then, at such time that agreement may be entered into, that is a legal document and it makes sense for both parties to consult an attorney and to check over the language of the legal agreement and make sure that their interests are being protected. This is all the bill does.

The SPEAKER: The Chair recognizes the gentleman from Madawaska, Mr. McHenry.

Mr. MCHENRY: Mr. Speaker, Ladies and Gentlemen of the House: What this bill does is it gives the employer and his lawyer and it takes the employee, who is standing in front of them and that employee is afraid of losing his wages, he is afraid of losing his job and he is injured, and what happens, he will sign anything to make sure he gets money and food on the table for his kids.

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

Mr. BAKER: Mr. Speaker, Ladies and Gentlemen of the House: I am really sorry that I have to rise because I really hate to bring in something that ever happened in my personal life on this issue but I am afraid I must. You see my finger right here? All right, it is not exactly like this one over here. It was dislocated in an accident on a work place. Okay? Way over \$700 worth of medical fees. Now, after that accident happened, I wanted to seek some advice and I needed that advice because I was working for a fly-by-night outfit. All right? I had to get that advice and if I was intimidated I had a friend say, don't file, don't do that, you might lose your job. Well, that is what they said. So, I did get advice, ladies and gentlemen. I needed that advice, to know what to do, so I might be able to get compensated for that injury. Now, the story as it happens to turn out, ladies and gentlemen, that the company was not paying into the Workmen's Compensation fund and went bankrupt. So, I paid out of the pocket.

I submit to you, ladies and gentlemen, that when an employee is injured on the job, he

should be able to get the advice he needs, promptly. I don't like to set up advisory relationships with my employer. No, I don't, I like to work in cooperation with my employer, but it was absolutely necessary.

I said earlier that this system is in bad need of reform. I agree, I tried to get our committee to study it. I will be very willing to vote for any kind of reform that is going to help reduce costs for employers but not this piece of legislation, ladies and gentlemen, not this piece of legislation.

The SPEAKER: A roll call has been ordered. The pending question is on the motion of the gentleman from Cumberland, Mr. Garsoe, that the House reconsider its action whereby the "Ought Not to Pass" Report was accepted. All in favor of that motion will vote yes; those opposed will vote no.

ROLL CALL

YEA — Aloupis, Austin, Bordeaux, Boudreau, Bowden, Brown, D.; Brown, K. L.; Bunker, Carter, F.; Conary, Cunningham, Damren, Davis, Dellert, Dexter, Drinkwater, Dudley, Fenlason, Fillmore, Garsoe, Gavett, Gould, Gowen, Gray, Hanson, Higgins, Huber, Hunter, Hutchings, Immonen, Jackson, Kiesman, Lancaster, Leighton, Leonard, Lewis, Lougee, Lowe, MacBride, Marshall, Masterman, Matthews, McMahon, McPherson, Morton, Nelson, A.; Payne, Peltier, Peterson, Post, Reeves, J.; Rollins, Roope, Sewall, Sherburne, Silsby, Small, Smith, Soulas, Sprowl, Stover, Studley, Tarbell, Torrey, Tozier, Wentworth, Whittemore.

NAY — Bachrach, Baker, Barry, Beaulieu, Benoit, Berry, Berube, Birt, Blodgett, Brannigan, Brenerman, Brodeur, Brown, A.; Brown, K. C.; Call, Carroll, Chonko, Churchill, Cloutier, Connolly, Cox, Curtis, Davies, Doukas, Dow, Dutremble, D.; Dutremble, L.; Elias, Fowlie, Gwadnosky, Hall, Hickey, Howe, Hughes, Jacques, E.; Jacques, P.; Jalbert, Joyce, Kane, Kany, Laffin, LaPlante, Lizotte, Locke, MacEachern, Mahany, Martin, A.; Maxwell, McHenry, McKean, McSweeney, Michael, Mitchell, Nadeau, Nelson, M.; Nelson, N.; Norris, Paradis, Paul, Pearson, Prescott, Reeves, P.; Rolde, Simon, Stetson, Theriault, Tuttle, Twitchell, Vincent, Violette, Wood, Wyman, The Speaker.

ABSENT — Carrier, Carter, D.; Diamond, Gillis, Hobbins, Kelleher, Lund, Masterton, Strout, Tierney, Vose.

Yes, 67; No, 73; Absent, 11.

The SPEAKER: Sixty-seven having voted in the affirmative and seventy-three in the negative with eleven being absent, the motion did not prevail.

Consent Calendar

Second Day

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

(H. P. 208) (L. D. 257) Bill "An Act Concerning the Maine Property Insurance Cancellation Control Act" (C. "A" H-148)

(H. P. 827) (L. D. 1025) Bill "An Act Concerning the Governor and Council of the Penobscot Indian Tribe" (C. "A" H-154)

(S. P. 45) (L. D. 76) Bill "An Act Relating to the Limitation on the Amount of Dependents Group Life Insurance Which May be Issued" (H. P. 119) (L. D. 129) Bill "An Act Concerning Cruelty to Animals" (C. "A" H-152)

(H. P. 77) (L. D. 85) Bill "An Act Concerning Euthanasia of a Sick or Injured Dog Brought to a Veterinarian to a Humane Society or to a Shelter" (C. "A" H-153)

(H. P. 343) (L. D. 442) Bill "An Act to Extend the Time in which Appeals from Deputies' Decisions may be Taken in Unemployment Compensation Cases" (C. "A" H-156)

(H. P. 559) (L. D. 706) RESOLVE, to Repeal Certain Provisions Requiring the Construction of Fishway on the Dam Obstructing the Kennebec River at Augusta

(H. P. 397) (L. D. 504) Bill "An Act Concerning Workers' Compensation for Fire Personnel".

(H. P. 420) (L. D. 533) Bill "An Act Relating to Interest on Benefits under the Workers' Compensation Act".

(H. P. 571) (L. D. 719) Bill "An Act to Include the Cost of Processing and Collecting Real Estate Tax Liens Within the Amount of the Lien Itself" (C. "A" H-155).

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

The SPEAKER: The Chair would ask the Sergeant-at-Arms to escort the gentleman from Madison, Mr. Elias, to the rostrum to act as Speaker pro tem.

Thereupon, Mr. Elias, assumed the Chair as Speaker pro tem, and Speaker Martin retired from the Hall.

Second Reader

Tabled and Assigned

Bill "An Act Releasing to the City of Bangor the State's Interests in a Portion of the Bed of the Penobscot River" (H. P. 528) (L. D. 650)

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

On motion of Mr. Cox of Brewer, tabled pending passage to be engrossed and specially assigned for Thursday, April 5.

Passed to be Engrossed

Bill "An Act Extending the Time for Apportionment of County Taxes from March to March, April or May in the Year 1979" (Emergency) (H. P. 1275) (L. D. 1478)

Was reported by the Committee on Bills in the Second Reading, read the second time, passed to be engrossed and sent up for concurrence.

Second Reader

Tabled and Assigned

Bill "An Act to Clarify the Application of Military Service Credits to Retirement Benefits for Policemen, Firemen, Local District Employees, Sheriffs and Full-time Deputy Sheriffs" (S. P. 147) (L. D. 324) (S. "A" S-72 to C. "A" S-57)

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

The SPEAKER pro tem: The Chair recognizes the gentleman from Lewiston, Mr. Jalbert.

Mr. JALBERT: Mr. Speaker, Ladies and Gentlemen of the House: I would like to ask any member or anyone who can answer, just what good does this bill do for the firemen, policemen, the district employees, the sheriffs or the full-time deputy sheriffs?

The SPEAKER pro tem: The Chair recognizes the gentleman from Limerick, Mr. Carroll.

Mr. CARROLL: Mr. Speaker, Ladies and Gentlemen of the House: As near as I can determine, this does exactly zero. It doesn't do anything for anybody.

The SPEAKER pro tem: The Chair recognizes the gentleman from Lewiston, Mr. Jalbert.

Mr. JALBERT: Mr. Speaker, I move this bill and all its accompanying papers be indefinitely postponed and I ask for a roll call.

The SPEAKER pro tem: 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 desiring a roll call vote will vote yes; those opposed will vote no.

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

The SPEAKER pro tem: The pending question is on the motion of the gentleman from Lewiston, Mr. Jalbert, that this bill and all accompanying papers be indefinitely postponed.

All in favor of the motion will vote yes; those opposed will vote no.

ROLL CALL

YEA — Aloupis, Austin, Bachrach, Baker, Barry, Beaulieu, Benoit, Berry, Berube, Birt, Bordeaux, Boudreau, Bowden, Brannigan, Brennerman, Brown, A.; Brown, D.; Brown, K. L.; Brown, K. C.; Bunker, Call, Carroll, Carter, F.; Chonko, Churchill, Cloutier, Conary, Connolly, Cox, Cunningham, Curtis, Davies, Davis, Dellert, Doukas, Dow, Dudley, Dutremble, D.; Dutremble, L.; Fenlason, Fillmore, Fowlie, Garsoe, Gavett, Gillis, Gould, Gray, Gwadodsky, Hall, Hickey, Higgins, Hobbins, Howe, Hughes, Hutchings, Immonen, Jackson, Jalbert, Joyce, Kane, Kany, Laffin, LaPlante, Leighton, Leonard, Lewis, Lizotte, Locke, Lougee, MacBride, MacEachern, Mahany, Marshall, Martin, A.; Masterman, Maxwell, McHenry, McKean, McMahon, McPherson, McSweeney, Mitchell, Morton, Nadeau, Nelson, A.; Nelson, M.; Nelson, N.; Paradis, Payne, Pearson, Peterson, Post, Prescott, Reeves, J.; Reeves, P.; Rolde, Roope, Sewall, Sherburne, Simon, Small, Soulas, Sprowl, Stetson, Stover, Studley, Tarbell, Theriault, Tierney, Torrey, Tuttle, Twitchell, Vincent, Violette, Wentworth, Whittemore, Wood, Wyman.

NAY — Blodgett, Brodeur, Damren, Dexter, Drinkwater, Hanson, Hunter, Jacques, E.; Kiesman, Lancaster, Lowe, Matthews, Paul, Rollins, Silsby.

ABSENT — Carrier, Carter, D.; Diamond, Elias, Gowen, Huber, Jacques, P.; Kelleher, Lund, Masterton, Michael, Norris, Peltier, Smith, Strout, Tozier, Vose, Mr. Speaker.

Yes, 115; No, 15; Absent, 18.

The SPEAKER pro tem: One hundred fifteen having voted in the affirmative and fifteen in the negative, with eighteen being absent, the motion does prevail.

The Chair recognizes the gentleman from Lewiston, Mr. Jalbert.

Mr. JALBERT: Mr. Speaker, Ladies and Gentlemen of the House: Having voted on the prevailing side, I now move we reconsider and hope you vote against me.

The SPEAKER pro tem: The Chair recognizes the gentlewoman from Portland, Mrs. Nelson.

Mrs. NELSON: Mr. Speaker, Ladies and Gentlemen of the House: I would like to perhaps explain this bill, tell exactly what it does. This amendment clarifies the bill by clearly creating an option, an option for local district constituting the substances by clearly creating an option, an option for local districts constituting the substance of the bill. The option is to grant special retirees credit for military service such that benefits are increased and minimum service is not shortened — local option.

The SPEAKER pro tem: The Chair recognizes the gentleman from Cumberland, Mr. Garsoe.

Mr. GARSOE: Mr. Speaker, I move this item be tabled for one legislative day pending the motion for reconsideration.

Whereupon, Mrs. Beaulieu of Portland requested a vote.

Whereupon, Mr. Jalbert of Lewiston requested a roll call vote.

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

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

The SPEAKER pro tem: The pending question is on the motion of the gentleman from Cumberland, Mr. Garsoe, that this matter be tabled pending the motion of Mr. Jalbert of Lewiston to reconsider and tomorrow assigned. All those in favor will vote yes; those opposed will vote no.

ROLL CALL

YEA — Aloupis, Austin, Berube, Blodgett, Bordeaux, Boudreau, Bowden, Brennerman, Brodeur, Brown, D.; Brown, K. L.; Bunker, Carter, F.; Churchill, Conary, Cunningham, Damren, Davis, Dellert, Dexter, Dow, Drinkwater, Dudley, Dutremble, L.; Fenlason, Fillmore, Garsoe, Gavett, Gillis, Gould, Gray, Hanson, Higgins, Howe, Hunter, Hutchings, Immonen, Jackson, Joyce, Kane, Kiesman, Laffin, Lancaster, Leighton, Leonard, Lewis, Lougee, Lowe, MacBride, MacEachern, Mahany, Marshall, Masterman, Matthews, Maxwell, McMahon, McPherson, McSweeney, Morton, Nelson, A.; Nelson, M.; Paul, Payne, Peterson, Post, Reeves, J.; Rollins, Roope, Sewall, Sherburne, Silsby, Small, Sprowl, Stetson, Stover, Studley, Tarbell, Torrey, Twitchell, Wentworth, Whittemore.

NAY — Bachrach, Baker, Barry, Beaulieu, Benoit, Berry, Brannigan, Brown, A.; Brown, K. C.; Call, Carroll, Chonko, Cloutier, Connolly, Cox, Curtis, Davies, Doukas, Dutremble, D.; Fowlie, Gwadodsky, Hickey, Hughes, Jacques, E.; Jacques, P.; Jalbert, Kany, LaPlante, Locke, Martin, A.; McHenry, McKean, Mitchell, Nadeau, Nelson, N.; Paradis, Pearson, Prescott, Reeves, P.; Rolde, Simon, Soulas, Theriault, Tierney, Tuttle, Vincent, Violette, Wood, Wyman.

ABSENT — Birt, Carrier, Carter, D.; Diamond, Elias, Gowen, Hall, Hobbins, Huber, Kelleher, Lizotte, Lund, Masterton, Michael, Norris, Peltier, Smith, Strout, Tozier, Vose, The Speaker.

Yes, 81; No, 49; Absent, 21.

The SPEAKER pro tem: Eighty-one having voted in the affirmative and forty-nine in the negative, with twenty-one being absent, the motion does prevail.

Passed to Be Engrossed

Amended Bill

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) (H. "B" H-151 to S. "A" S-51)

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

Passed to Be Enacted

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

Enactor

Reconsidered

An Act to Amend the Requirements for Registration of Professional Foresters (H. P. 82) (L. D. 93) (S. "A" S-65)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed.

On motion of Miss Brown of Bethel, under suspension of the rules, the House reconsidered its action whereby the Bill was passed to be engrossed.

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

The same gentlewoman offered House Amendment "A" to Senate Amendment "A" and moved its adoption.

House Amendment "A" to Senate Amendment "A" (H-167) was read by the Clerk and adopted.

Senate Amendment "A" as amended by House Amendment "A" thereto was adopted in non-concurrence.

The Bill was passed to be engrossed as amended in non-concurrence and sent up for concurrence.

An Act Relating to Revisions of the Occupational Safety and Health Statute and to Conform the Occupational Safety and Health Rules and Regulations to Federal Requirements (H. P. 309) (L. D. 427) (C. "A" H-129)

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

Enactor

Tabled and Assigned

An Act to Exempt part-time Musicians from the Unemployment Compensation Tax (H. P. 311) (L. D. 407)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed.

On motion of Mr. Vincent of Portland, tabled pending passage to be enacted and specially assigned for Thursday, April 5.

Enactor

Tabled and Assigned

An Act to Facilitate the Treatment of Minors for Alcohol and Drug Abuse Problems (H. P. 592) (L. D. 736)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed.

On motion of Mrs. Berube of Lewiston, tabled pending passage to be enacted tomorrow assigned.

Orders of the Day

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

House Report — "Ought to Pass" — Committee on Labor on Bill, "An Act to Make the Voluntary Payment of Workers' Compensation Nonprejudicial" (H. P. 417) (L. D. 542)

Tabled—April 2, 1979 by Mr. Wyman of Pittsfield.

Pending—Acceptance of the Committee Report.

Thereupon, on motion of Mr. Wyman of Pittsfield, retabled pending acceptance of the Committee Report and tomorrow assigned.

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

Bill, "An Act to Limit Additional Retirement Benefits under the Maine State Retirement System" (H. P. 331) (L. D. 430)

Tabled—April 2, 1979 by Mr. Tierney of Lisbon.

Pending—Adoption of Committee Amendment "A" (H-137)

Thereupon, Committee Amendment "A" was adopted and the Bill assigned for second reading tomorrow.

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

Bill "An Act to Establish the Maine Judicial Retirement System" (S. P. 452) (L. D. 1450)

— In Senate. Referred to Committee on Judiciary on March 22, 1979

Tabled—April 2, 1979 by Mr. Theriault of Rumford.

Pending—Reference in concurrence.

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

The Chair laid before the House the following matter:

Bill "An Act to Increase the Surplus Account of the Kennebec Sanitary Treatment District" (H. P. 223) (L. D. 271) which was tabled earlier in the day pending the motion of Mr. Boudreau of Waterville to recede and concur.

On motion of Mrs. Mitchell of Vassalboro, retabled pending the motion of Mr. Boudreau of Waterville to recede and concur and tomorrow assigned.

(Off Record Remarks)

On motion of Mrs. Kany of Waterville, the

Following Joint Order: (H. P. 1286) (Cosponsor: Senator Ault of Kennebec)

WHEREAS, the offices of justice of the peace and notary public exist; and

WHEREAS, a notary may do anything that a justice of the peace is authorized to do and is authorized to perform other acts; and

WHEREAS, a notary public is appointed by the Secretary of State and a justice of the peace is appointed by the Governor; and

WHEREAS, the similar but different responsibilities and different appointing procedures may result in confusion, inconvenience and cost to the public; now, therefore be it

ORDERED, the Senate concurring, that the Joint Standing Committee on State Government study the feasibility of combining these offices and, if it is feasible, recommend the administrative and statutory changes necessary to accomplish the combination; and be it further

ORDERED, that the Secretary of State and any other State officers and agencies provide whatever assistance is requested by the committee; and be it further

ORDERED, that the committee shall complete this study and submit it to the Legislature not later than January 15, 1980, including copies of any recommended legislation in final draft form; and be it further

ORDERED, upon passage in concurrence, that a suitable copy of this Order shall be forwarded to members of the committee.

The Order was received out of order by unanimous consent, read and passed and sent up for concurrence.

(Off Record Remarks)

On motion of Mr. Nelson of New Sweden, adjourned until nine-thirty tomorrow morning.