LEGISLATIVE RECORD

OF THE

One Hundred and Tenth Legislature

OF THE

STATE OF MAINE

Volume II
FIRST REGULAR SESSION
MAY 4, 1981 to JUNE 19, 1981
INDEX

FIRST SPECIAL SESSION
AUGUST 3, 1981
INDEX

FIRST CONFIRMATION SESSION
AUGUST 28, 1981
INDEX

SECOND SPECIAL SESSION
SEPTEMBER 25, 1981
INDEX

THIRD SPECIAL SESSION
DECEMBER 9, 1981
INDEX
Friday, May 8, 1981

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

Prayer by Father Thomas Joyce of St. Mary's Catholic Church, Augusta.

The journal of yesterday was read and approved.

Papers from the Senate
Reports of Committees
Leave to withdraw


Came from the Senate with the Report read and accepted.

In the House, the Report was read and accepted in concurrence.

Orders

On motion of Representative McSweeney of Old Orchard Beach, House Joint Rule 22 ORDERED, that Representative Warren F. Studley of Berwick be excused the week of May 11 through 15 for personal reasons.

Special Sentiment Calendar

In accordance with House Rule 56, the following items (Expressions of Legislative Sentiment):

Recognizing: Those senior high school students, who are recipients of the DAR Good Citizenship Award, selected by faculty and fellow seniors, for excellence in leadership, service, dependability and patriotism.

Marilyn Burton, language arts teacher, Southern Aroostook Community School District, who has been awarded the 1981 Honor medal of the Maine Teachers Association; (H.P. 144) by Representative Smith of Island Falls. (Cosponsors: Senator Carpenter of Aroostook)

Norm Palmer of Bangor, who is retiring after 25 years of coaching and dedication to the youth of the greater Bangor area; (H.P. 144) by Representative Diamond of Bangor. (Cosponsors: Representatives Kelleher of Bangor. Aroostook of Bangor and Tarbell of Bangor)

There being no objection, these items were considered passed in concurrence or sent up for concurrence.

House Reports of Committees
Ought Not to Pass

Representative Day from the Committee on Taxation on Bill “An Act to Repeal the Confinement of the Real Estate Transfer Tax” (H. P. 675) (L.D. 779) reporting “Ought Not to Pass”.

Representative Brown from the Committee on Taxation on Bill “An Act to Amend the Motor Vehicle Excise Tax Law to Provide for Certain Reimbursements” (H.P. 1025) (L.D. 1255) reporting “Ought Not to Pass”.

Representative Kilcoyne from the Committee on Taxation on Bill “An Act to Conform the Existing Sales Tax Exemption for 750 Kilowatts to Patterns of Usage” (H.P. 1239) (L.D. 1464) reporting “Ought Not to Pass”.

Representative Beaulieu from the Committee on Labor on Bill “An Act to Provide for the Protection of the Pension Rights of Injured Maine Workers” (H.P. 1397) (L.D. 1353) reporting “Leave to Withdraw”.

Representative Paul from the Committee on Fisheries and Wildlife on Bill “An Act to Prohibit the Taking of Live Fish and to Establish Penalties for such Importation” (H.P. 1310) (L.D. 1518) reporting “Leave to Withdraw”.

Representative Diamond from the Committee on Education and Natural Resources on Bill “An Act to Establish a Licensing Fund in Order to Expedite the Processing of ApplicationsFiled with the Department of Environmental Protection” (H.P. 1364) (L.D. 1549) reporting “Leave to Withdraw”.

Representative Hall from the Committee on Energy and Natural Resources on Bill “An Act to Create the Nuclear Activity Consent Law” (H.R. 121) (L.D. 1238) reporting “Leave to Withdraw”.

Representative Austin from the Committee on Energy and Natural Resources on Bill “An Act to Require Manufacturers of Fuel Cells to Locate in Maine” (H.P. 1315) (L.D. 1519) reporting “Leave to Withdraw”.

Representative Michel from the Committee on Energy and Natural Resources on Bill “An Act to Permit Applicants for Waste Disposal Licenses to Request Hearings Therefore Before the Board” (H.P. 1440) (L.D. 1519) reporting “Leave to Withdraw”.

Representative Carrier from the Committee on Judiciary on Bill “An Act to Prohibit Housing Discrimination Against Pregnant Women” (H.P. 1333) (L.D. 1458) reporting “Leave to Withdraw”.

Reports were read and accepted and sent up for concurrence.

Ought to Pass in New Draft


Report was read and accepted, the New Draft read once and assigned for second reading on Monday, May 11.

Ought to Pass in New Final


Report was read and accepted, the New Final Draft read once and assigned for second reading on Monday, May 11.

Legislative Record — House, May 8, 1981

99/1
Gentlemen of the House: I would like to address the question which was raised by the Assistant Minority Leader. The individual who was bailed will have to appear in court before the district court judge. At that particular time, as in almost every case of a criminal nature, the court will ask the individual whether or not he or she is indigent and if they are, counsel will be provided. If, in fact, it is determined, if the individual is not indigent, then the court at that time can determine that accused has sufficient means to pay that fee and that no additional costs will be imposed under the provisions of Subsection B of the bill to imburse the district court for the amount of the commissioner’s fee.

I do not see a particular problem with that particular inquiry made at the district court level by the district court judge, and if, in fact, that person is found to have enough money to pay that fee, I am sure the court will extract that money from that individual.

The SPEAKER: The Chair recognizes the gentleman from Newport, Mr. Reeves.

Mr. Reeves: Mr. Speaker, Ladies and Gentlemen of the House: I do not wish to continue this debate this morning or keep you here unnecessarily. I do have two problems with this bill. The first one is that the accused individual is not release on his personal recognizance or on execution of an unsecured bond, the judge or the bail commissioner must state in writing why the person was not allowed to be released. I submit to you that this is going to create more paper work and I believe that paper costs money and time.

My second objection is that this bill has been expressed a few times previously — that in the case of an indigent, the bail commissioner’s fee would be paid by the district court if the person was able to pay the bail fee. I don’t see a particular problem with that. I have no problem with the current bail commissioner setting up for saving money in county jails or police lockups, I can assure you that there are very few people in this state that are going to remain locked up overnight for two or three days for a $10 or $15 surety fee.

I can’t believe that there are many out there that can’t, suppose they don’t have it in their pocket, but with a couple of telephone calls, they can get a relative or a friend who will be there and have the bail commissioner’s fee and this individual is going to be released. I can’t believe that the counties are going to save a lot of money by putting people in jail when it is not cost effective.

Mr. Speaker, I move that this bill and all its accompanying papers be indefinitely postponed and when the vote is taken, I would ask for the yeas and nays.

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

Mr. Benoit: Mr. Speaker, Men and Women of the House: I will be very brief. I think Mr. Reeves has given you an excellent reason for voting for this bill. I asked that question — how many times under the circumstances that the accused individual is not indigent, and the answer has consistently been that there are not that many, but those few people that cannot pay it should not be forced to spend the night in jail because they are too poor. That is an excellent reason for voting for the bill.

If there were to be a fiscal note it would probably be very low, but I believe the reason why there isn’t one is because it will be offset by the lack of funds that will be needed to keep that person in jail overnight.

As for Subsection Section C, it isn’t terribly important. It may be to others, the other section that Mr. Reeves objected to, and perhaps if it is very important to other people that it not be there, we could let this bill go to second reading and that could be amended out.

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

Mr. Joyce: Thank you, Mr. Speaker. I have a few comments to make about the bill. As Speaker Wright indicated, this bill, as I see it, is going to remove the incentive from the criminal branch and our judicial system is having already answered. I think it is a good bill and I think it will be of service to the police and the district judges that will be present, once called upon, to appear before the court at that time for arraignment.

What this bill will do is, it will say that no person may be denied release on personal recognizance or on an unsecured or secured appearance bond on the basis of his inability to pay the bail commissioner’s fee.

The SPEAKER: The Chair recognizes the gentleman from Augusta, Ms. Lund.

Ms. Lund: Mr. Speaker, Men and Women of the House: I have no problem with the bill with the bill up until the last part of it. If you look at the bill, the first section is, I guess, what the good gentleman from Saco has said; however, the last section, Section 4, says that if the accused does not have money to pay the bail commissioner, and that is the $10 or the $15 fee, whichever day it is, then the sheriff or the judge at that time can determine that the accused individual has sufficient means to pay the bail commissioner for the amount of the fee and that person would be requiring under the state millions but it may save the state a significant sum and it is simply a just bill.

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

Mr. Tarbell: Mr. Speaker, Ladies and Gentlemen of the House: I appreciate the explanations in the brief debate thus far on this bill.

I don’t have any problem with this bill except the one point that is bothering me, and that is, if someone is arrested and goes to the police station and should be released that night, and they do not have the $15 to pay a bail commissioner’s fee, I can’t believe that there are many out there that can’t, suppose they don’t have it in their pocket, but with a couple of telephone calls, they can get a relative or a friend who will be there and have the bail commissioner’s fee and this individual is going to be released. I can’t believe that the counties are going to save a lot of money by putting people in jail when it is not cost effective.

Mr. Speaker, I move that this bill and all its accompanying papers be indefinitely postponed and when the vote is taken, I would ask for the yeas and nays.
Mr. JOYCE. Mr. Speaker, Ladies and Gentlemen of the House: I rise to ask you not to vote for indefinite postponement of this bill. This is a bill that is long overdue. This is a bill that has been before the Legislature only once. It was accompanied by its patron and the person inconvenienced, it would be too many.

Those jails are not nice. Over my 27 years of locking people up, it would bother me especially on those long weekends. Yes, those people who drink a little and get involved with the law because of their association with sneaky Pete, it is rather sad when you have them in a cell and you know that that was for the benefit of the bill.
lowing items appeared on the Consent Calendar for the Second Day.

(S.P. 397) (L.D. 1190) Bill "An Act to Require that Industry Wide Taxes be Levied only after Approval of the Pseudos for the Persons who would be Required to Pay the Tax" (C. "A" S-169)

(S.P. 485) (L.D. 1387) Bill "An Act to Provide for Identifying Natural, Nomination, Food Products Sold in the State" (C. "A" S-174)

No objections being noted at the end of the Second Legislative Day, the above items were consented to and engrossed as amended in concurrence.

(S.P. 382) (L.D. 1160) Bill "An Act to Increase the Compensation Paid to Judges and Justices" (C. "A" H-176)

On the objection of Mrs. Martin of Brunswick, was removed from the Consent Calendar. Thereupon, the Report was accepted and the Bill read once. Committee Amendment "A" (S-176) was read by the Clerk and adopted and the Bill assigned for second reading the next legislative day.

(S.P. 259) (L.D. 741) Bill "An Act Withdrawing School Administrative District No. 62 from Participation in Vocational Region No. 10" (C. "A" S-175)

(S.P. 402) (L.D. 1194) Bill "An Act to Ensure that the Proceeds for the Arbitration of Classification and Allocation Determinations in State Employee Collective Bargaining Agreements is not Inconsistent with the Personnel Law" (C. "A" S-173)

(H.P. 255) (L.D. 271) Bill "An Act to Amend the Waldoboro Sewer District Charter" (C. "H" H-311)

(H.P. 1041) (L.D. 1260) Bill "An Act to Amend the Charters of the Mars Hill Utility District and the Rumford Water District" (C. "A" H-310)

(H.P. 1048) (L.D. 1197) Bill "An Act to Increase Certain Fees under the Funeral Directors and Embalmers Law" (C. "A" H-314)

(H.P. 1089) (L.D. 1265) Bill "An Act Concerning Review of Fees for Providers under the Medical Assistance Program" (C. "A" H-322)

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

(H.P. 995) (L.D. 1183) Bill "An Act to Allow the Board of Environmental Protection to Authorize and Pay for Oil Spill Damage Studies" (C. "A" H-321)

On the objection of Mr. Hall of Sangerville, was removed from the Consent Calendar. Thereupon, the Report was accepted and the bill read once. Committee Amendment "A" (H-321) was read by the Clerk.

Mr. Hall of Sangerville offered House Amendment "A" to Committee Amendment "A" and moved its adoption.

House Amendment "A" to Committee Amendment "A" (H-336) was read by the Clerk and adopted.

Committee Amendment "A" as amended by House Amendment "A" thereto was adopted. The Bill was assigned for second reading the next legislative day.

(H.P. 946) (L.D. 1122) Bill "An Act to Amend an Existing Law pertaining to Conversion of Seasonal Residences in Shoreland Areas" (C. "A" H-320)

(H.P. 1386) (L.D. 1563) RESOLVE. Reimburse the Town of Madison under the Maine Pure Food Tax Law" (C. "A" H-318)

There being no objections at the end of the Second Legislative Day, the House Papers were passed to be engrossed and sent up for concurrence.

Passed to Be Engrossed Bill "An Act to Provide for an Offset for Holiday Pay under the Employment Security Law" (H.P. 679) (L.D. 1046)

Without presentation of Bills in the Second Reading and read the second time.

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

Mr. BAKER: Mr. Speaker, Ladies and Gentlemen of the House: Very many people get up and apologize for rising. I only apologize for not getting up more often.

When we walked in yesterday evening, I am afraid there was lot of confusion, a lot of acrimony thrown about this House floor. I would simply like to point out a few things about this particular piece of legislation, because I would like to clear the air.

The issue of offset or holiday pay on the surface, I think, appears to be rather good. We are all concerned about the unemployment compensation fund. I would like to make a comparison of the cost savings on this bill with another method.

This bill has been reported to save somewhere between $62,000 or 144,000 from the dedicated unemployment compensation fund. There is no on that.

The other day, I believe the good gentleman from Scarborough, Mr. Higgins, made references to the fact that there is confusion, that perhaps the committee was designed to confuse the issue and that it did nothing. That, I believe, is simply not true.

A comparison on this particular bill over the dedicated amount of unemployment, it is estimated the defeated committee report did say $31,720, according to the Legislative Finance Office. There is no reference to admit, but I believe that it would have accomplished somewhat similar what the sponsor of the bill attempted to do. There would have been a difference. That different what an unemployed worker would have gotten a few extra dollars in his or her pocket.

I sincerely believe, ladies and gentleman of the House, we have a difference of opinion, which is perfectly legitimate, that holiday pay should not be treated the same as earned wages. Holiday pay, in many cases, is a negotiated component of a collective bargaining agreement. The most likely holiday period which individuals might work part of the week and then be laid off for the remaining portion, holidays, are considered to be such days as the 4th of July, Christmas.

The primary effect of this L.D. would reduce the weekly benefit amount for partial unemployment payable to the claimant by the amount of holiday pay received. The amount of holiday pay received by the claimant during the week of unemployment is not known based on the estimated statewide weekly wage. In calculating the weekly benefit amount, it would be $231.51, assuming a 5 day week or a 48 hour work week.

Essentially, I feel that if this bill passes, it will be an accomplished problem it attempts to do. This is what we tried to address last night, and for this reason I hope we—at this time I would like to make the motion that we indefinitely postpone this bill and all its accompanying papers.

The SPEAKER: The gentleman from Sanford, Mr. Tuttle, moves that this Bill and all its accompanying papers be indefinitely post­poned.

Mr. TUTTLE: Mr. Speaker, Ladies and Gentlemen of the House: First, I would ask for a roll call on that motion, and then I would hope that you would go along with the Speaker's motion, obviously, since Mr. Hall is the sponsor of this motion or compensation from the National Guard, but I won't make that kind of a motion or offer those kinds of amendments.

I guess it displeases me very much that a constant amount of unemployment compensation bills that flow through this body are all aimed at taking something away from the employee, something away from the worker. That displeases me.

We had an opportunity, I believe, to enact this particular piece of legislation last night, and I hoped today, after the going around the house, that we wouldn't have to come back to it again today.

It seems plain enough to me. Despite the fact that others here have called it a confusing bill, it really is not. What we are talking about here is eliminating an inequity in the unemployment compensation fund and eliminating what I call an unfairness to other employees who choose to work the holiday, to the employer who has to pay the employee's holiday pay.

Mr. HIGGINS: Mr. Speaker, Ladies and Gentlemen of the House: First, I would ask for a roll call on that motion, and then I would hope that you would go along with it, obviously, since it is my bill. We debated it at great length last night, and I hoped today, after the going around three or four times on the same issue, that we wouldn't have to come back to it again today.

It seems plain enough to me. Despite the fact that others here have called it a confusing bill, it really is not. What we are talking about here is eliminating an inequity in the unemployment compensation fund and eliminating what I call an unfairness to other employees who choose to work the holiday, to the employer who has to pay the employee's holiday pay.

Mr. BAKER: Mr. Speaker, I think today we have to simply had to clear the air and let this body know what anyone else is going to do, but I know what anyone else is going to do, and I simply had to clear the air and let this body know that there is no difference, I admit, but I believe that there is a little difference. That difference what an unemployed worker would have gotten a few extra dollars in his or her pocket.

I sincerely believe, ladies and gentleman of the House, we have a difference of opinion, which is perfectly legitimate, that holiday pay should not be treated the same as earned wages. Holiday pay, in many cases, is a negotiated component of a collective bargaining agreement. The most likely holiday period which individuals might work part of the week and then be laid off for the remaining portion, holidays, are considered to be such days as the 4th of July, Christmas.

The primary effect of this L.D. would reduce the weekly benefit amount for partial unemployment payable to the claimant by the amount of holiday pay received. The amount of holiday pay received by the claimant during the week of unemployment is not known based on the estimated statewide weekly wage. In calculating the weekly benefit amount, it would be $231.51, assuming a 5 day week or a 48 hour work week.

Essentially, I feel that if this bill passes, it will be an accomplished problem this attempts to do. This is what we tried to address last night, and for this reason I hope we— at this time I would like to make the motion that we indefinitely postpone this bill and all its accompanying papers.

The SPEAKER: The gentleman from Sanford, Mr. Tuttle, moves that this Bill and all its accompanying papers be indefinitely postponed.

Mr. TUTTLE: Mr. Speaker, Ladies and Gentlemen of the House: First, I would ask for a roll call on that motion, and then I would hope that you would go along with the Speaker's motion, obviously, since Mr. Hall is the sponsor of this motion.
The SPEAKER: The Chair recognizes the gentleman from Sanford, Mr. Tuttle.

Mr. Tuttle: Mr. Speaker, Men and Women of the House: I wasn’t going to speak on this twice, but after listening to the gentleman’s response on the other side of the aisle—always interesting, I must say—on the Labor Committee, that traditionally we have bills of this nature that come before us. They attempt to solve the problem by complicating the issue even further. I feel that this bill is a prime example of that.

Yesterday, I offered an amendment to this bill that would have struck a compromise for both sides. It was said that it would have watered it down and would have made the legislation ineffective. On the contrary, if the amendment were adopted, it would have addressed the issue of the fact that only one bill was supposed to have addressed it. It would have de­duced one fifth of that person’s weekly un­employment benefit while allowing him holiday pay if it was negotiated in the contract prior to the layoff.

It has also been mentioned that if this bill passed in its present form, it may give an em­ployer the opportunity of paying less money for pay­­s­ificant time worked. That is questionable, and I feel that most employers in the state could or would not use it if the law were passed. So I feel that according to the nature of this legis­lature to accept a change, without knowing the substance and the base, as this legislation does, some would say that every little bit helps and as much of this nature is needed, but I would respond in saying that it is because of the piecemeal approach that we are in the situation that we are in with the present unemployment fund.

As most of you are aware, there was a bill before us the other day, a bill sponsored by Mr. Swazy of Bucksport, that would have addressed benefits to the families of the area of $18.1 million. Unfortunately, neither side supported it and the bill died.

Assuming that bills of this nature will solve the problem of paying less money, I wonder if you think the workers’ compensation fund is in difficulty. Wait until we come back here in the 111th Legislature, wait and see what this present unemployment fund looks like just because of bills like this. It fragments and dilutes the issue, and because of that, I hope you will indefinitely postpone this bill.

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

Miss Lewis: Mr. Speaker, Ladies and Gen­tlemen of the House: I want just to brieﬂy remind everyone in this body that holiday pay is not mandated by law. It is a fringe bene­fit. However, when holiday pay is given, it is counted as wages for purposes of unemployment. We have pointed out that it is only fair to fellow employees who work that day to be counted as wages for the purposes of the unemploy­ment fund.

We have also pointed out that it is only fair to fellow employees who work that day and aren’t laid off, that only to make fairness in the system, this should not be allowed to continue. So I urge you to vote against indefinite postpone­ment.

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

Mr. McHenry: Mr. Speaker, Ladies and Gentlemen of the House: I want to clarify one thing first. The amendment that the gentleman was talking about, it is as chairman of bills in the second reading, it is not a personal amend­­ment.

The holiday pay is considered wages, but I assure you, when the employer files for his income tax, the holiday pay is considered wages. There’s no big difference. I don’t think you get the same tax break on a bonus as you do on wages.

I also want to tell the House that if you insist on passing this, I assure you that the organized labor will work their way around it. I, for one, would say, before you ever lay off an employee, we will lay off one of our representatives. I think all his benefits coming to him before you lay him off. Therefore, we will just walk around it and the poor people that are not represented by labor will have it.

The SPEAKER: A roll call has been requested.

For the Chair to order a roll call, it must have the expressed desire of one third 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 third of the members present expressed a desire for a roll call, a roll call was ordered.

The SPEAKER: The Chair recognizes the gentleman from Scarborough, Mr. Higgins.

Mr. Higgins: Mr. Speaker, Ladies and Gen­tlemen of the House: I want to respond only to two comments from the gentleman from San­ford, Mr. Tuttle.

Number one, this bill does not fragment the existing law, it makes it consistent, it is as simple as that. If you work a holiday now and you are paid for it by an employer, it is deducted from your unemployment benefits. If you get paid for it by an employer, it is de­duced from your unemployment benefits. If you get paid because of an agreement that you have with your employer that he will pay you for a holiday, it is not. The law is inconsistent. The gentleman from Madawaska is indicating to you that may happen. But even if it does, it isn’t going to be the way we want it.

The other comment that I recent somehow is the bill is going to hurt the integrity of the unemployment fund. Quite the contrary. It should be obvious that if it saves money and it is consistent, it is not bills like that that make the unemployment fund and the laws surrounding it complicated. It is because we aren’t con­sistent.

I hope you would go against the motion to indefinitely postpone this bill.

The SPEAKER: The Chair recognizes the gentleman from Brunswick, Mrs. Martin.

Mrs. Martin: Mr. Speaker, Ladies and Gentlemen of the House: You know how I have been employed as a waitress and worked in the mill and so forth. And I thought it would be a great idea if we people here would vote to give these people a gift for the 4th of July and Christmas and Labor.

The SPEAKER: A roll call has been ordered. The pending question is on the motion of the gentleman from Sanford, Mr. Tuttle, that this bill and all its accompanying papers be indefin­itely postponed. All those in favor will vote yes; those opposed will vote no.

ROLL CALL

Yes 54, No 87, Absent 9, Vacant 1

The SPEAKER: The Chair recognizes the gentleman from Scarborough, Mr. Higgins.

Mr. Higgins: Mr. Speaker, Ladies and Gentlemen of the House: I want to indicate that this bill would be engrossed as amended and sent up for concurrence.

The House Amendment “A” (H-543) was read by the Clerk and adopted.

The bill was passed to be engrossed as amended and sent up for concurrence.

Amended Bills

Bill “An Act to Eliminate the Disincentive for Aid to Families with Dependent Children Recipients to Find Employment” (H. P. 947) (L. D. 1122) (C. “A”)

Bill “An Act to Permit the Publication of the Names of Juveniles in Connection with Arrests and Court Appearances” (H. P. 742) (L. D. 880) (C. “A”)

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

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

Finally Passed

Constitutional Amendment

RESOLUTION, Proposing an Amendment to the Constitution of the State of Maine, and Constitutional Provisions Relating to Consolidating Initiative and Referendum Elections to Dates of the Next General Election (H. P. 1112) (L. D. 1317) (C. “A” H-283)

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

The SPEAKER: The Chair recognizes the gentleman from Brownville, Mr. Kilcoyne.

Mrs. Kany: Mr. Speaker and Members of the House: Before we enact this constitutional amendment, I have been asked to speak to it. I remember that Representative Morton always used to ask that constitutional amendments be spoken to on the floor of the House so that people definitely will understand the serious­ness of amending the Constitution. It was asked yesterday if I would explain this particular amendment.

Last session, we substantially changed our Constitution. We changed the people’s legislative power. We outlined a direct initiative and the people’s veto and we consolidated the election date, something that everyone throughout the state, almost, seemed to be quite pleased with. But something had not occurred and it is being addressed in this particular constitutional
amendment.

What we are doing, really, is to limit the time in which a signature is valid. In other words, unless the citizens sign the referendum language today, there could be a signature which was placed on a petition 20 or 30 years ago and that signature would still be valid unless we do amend the Constitution. So we are basically having inserted language which would say the date each signature was made should be written next to the signature on the petition, and no signature older than one year from the date written on the petition shall be valid.

I hope that we do enact this constitutional amendment today.

The SPEAKER: The Chair recognizes the gentleman from Scarborough, Mr. Higgins.

Mr. HIGGINS: Mr. Speaker, I would like to pose two questions, if I could, to the good chair of any committee present.

My second question is, how will this affect, if at all, the other constitutional amendment which we changed recently relative to having our referendum questions in a statewide manner? Will there be any problem in a time-wise in having those done within a year from the date?

The SPEAKER: The Chair recognizes the gentlewoman from Waterville, Mrs. Kany.

Mrs. KANY: Mr. Speaker and Members of the House: There will be no effect whatsoever on the other provisions that we changed in the Constitution utilizing initiative and referenda and the people's veto. So, it will not affect dates whatsoever regarding statewide elections.

The date and the length of time will be directly related to individual signatures and will not be on the petition itself. As I mentioned earlier, the date each signature was made shall be written next to the signature on the petition, so it is that which would be invalid after a period of one year. For instance, if you had many signatures on a petition and some of them were less than one year old, they would not be invalid.

The SPEAKER: The Chair recognizes the gentleman from Canton, Mr. McCollister.

Mr. Mccollister: Mr. Speaker, I would like to direct a question. How will this affect present petition drives? Signatures that have been taken for the last year and not yet presented?

The SPEAKER: The Chair recognizes the gentleman from Waterville, Mrs. Kany.

Mrs. KANY: Mr. Speaker, if this constitutional amendment is first adopted by us and then adopted by the voters next November, then, at that time, it would be going into effect.

The SPEAKER: The pending question is on final passage. This being a Constitutional Amendment, a two-thirds vote of the House is necessary. All those in favor of this Resolution being read and accepted, will vote yes; those opposed will vote no.

A vote of the House was taken. 119 having voted in the affirmative and 3 having voted in the negative, the Resolution was finally passed, signed by the Speaker and sent to the Senate.

Passed to Be Enacted

An Act to Make Changes in the Kennebec Water District Charter (S. P. 207) (L. D. 572) (H. "A"-296) to C. "A"-S-133

An Act to Amend the Department of Health Care Services (S. P. 303) (L. D. 847) (H. "A"-263) to C. "A"-S-105

An Act to Provide a One Month Grace Period for Inoperable Motor Vehicle Registrations (S. P. 356) (L. D. 1031) H. "A"-286

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

Failed of Enactment

An Act to Provide a Right-of-Way to Pedestrians Against Drivers Entering Private Ways (S. P. 457) (L. D. 1306)

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.

The following papers appearing on Supplement No. 2 were taken up out of order by unanimous consent:

Leaves to Withdraw

Report of the Committee on Education reporting "Leave to Withdraw" on Bill 'An Act Repealing Formulas for Adjusting Below and Above Average Per Pupil Operating Costs used in Computing the State-local Allocation" 'S. P. 1010' (L. D. 1206)" (C. "A"-H-276)

An Act to Limit Liability Regarding Donations to Federal Banks. (H. P. 1010) (L. D. 1206) (H. "C"-246)

An Act to Enable Continuation of the Highway Safety Defense Driver Program through an Increase in Student Registration Fees. (H. P. 1535) (L. D. 1539)

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

The following papers appearing on Supplement No. 2 were taken up out of order by unanimous consent:

Leave to Withdraw

Report of the Committee on Education reporting "Leave to Withdraw" on Bill 'An Act Repealing Formulas for Adjusting Below and Above Average Per Pupil Operating Costs used in Computing the State-local Allocation" 'S. P. 59' (L. D. 85)

Passed to Be Enacted

Emergency Measure

An Act to Regulate Motorized Bicycles (H. P. 906) (L. D. 1073) (C. "A"-H-287)

The Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure and a two-thirds vote of all the members elected to the House being necessary, a total was taken. 112 voted in favor of same and nine against, and ac-cordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.
The following papers appearing on Supplement No. 4 were taken up out of order by unanimous consent:

Divided Report

Majority Report of the Committee on Agriculture reporting "Ought to Pass" as amended by Committee Amendment "A" (S-170) on Bill "An Act to Provide Loans for Family Farms" (S. P. 470) (L. D. 1396)
Report was signed by the following members:
Senators:
HICHENS of York
SHUTE of Waldoborough's
WOOD of York — of the Senate.
Representatives:
MCOLLISTER of Canton
LOCKE of Sebec
MICHAEL of Auburn
LISNIK of Presque Isle
SMITH of Island Falls
MAHANY of Easton
SHERBURNES of Dexter
CALLAHAN of Mechanic Falls

Minority Report of the same Committee reporting "Ought Not to Pass" on same Bill.
Report was signed by the following members:
Senators:
Representatives:

The following papers appearing on Supplement No. 5 were taken up out of order by unanimous consent:

Consent Calendar

First Day

(S. P. 403) (L. D. 1280) Bill "An Act to Authorize Revenue Bond Financing for the Agricultural and Fishing Industries" — Committee on State Government reporting "Ought to Pass" (S. P. 481) (L. D. 1364) Bill "An Act to Amend the Definition of Home Improvement Note Set Forth in the Maine Housing Authorities Act" — Committee on State Government reporting "Ought to Pass" as amended by Committee Amendment "A" (S-180)
No objections being noted, the above items were ordered to appear on the Consent Calendar of May 11, under listing of Second Day.

(H. P. 912) (L. D. 1078) Bill "An Act Authorizing and Directing the Bureau of Mental Health to Enhance and Protect the Rights of Recipients of Mental Health Services" — Committee on Health and Institutional Services reporting "Ought to Pass" as amended by Committee Amendment "A" (H-339)
On the objection of Mr. Brodeur of Auburn, was removed from the Consent Calendar.

The SPEAKER: The Chair recognizes the gentleman from Saco, Mr. Hobbins.
Mr. HOBBINS: Mr. Speaker, I move acceptance of the Majority "Ought Not to Pass" Report in concurrence.
On motion of Mr. Joyce of Portland, tabled pending the motion of Mr. Hobbins of Saco to accept the Minority Report in concurrence and specially assigned for Monday, May 11, the Bill was read once. Under suspension of the rules, the Bill was read the second time, passed to be engrossed in concurrence.

The following paper appearing on Supplement No. 7 was taken up out of order by unanimous consent:

Passed to Be Enacted

An Act to Regulate the Taking of Mahogany Quahogs (H. P. 17) (L. D. 11) (C-"A")
Was reported by the Committee on Enrolled Bills as truly and strictly engrossed, passed to be enacted, signed by the Speaker and sent to the Senate.

Orders of the Day

The Chair laid before the House the first tabled and today assigned matter:
SENATE REPORT—"Ought to Pass" as Amended by Committee Amendment "A" (S-146) — Committee on Agriculture on Bill "An Act to Clarify the Definition of Commercial Applicator in the Maine Pesticides Control Act of 1975" (S. P. 373) (L. D. 1115)
In Senate, Passed to be Engrossed as Amended by Committee Amendment "A" (S-143) as Amended by Senate Amendment "A" (S-172) thereto.
Tabled—May 6 by Representative Mahany of Easton.
Pending—Acceptance of Committee Report.
On motion of Mr. Mahany of Easton, retabled pending acceptance of the Committee Report and specially assigned for Monday, May 11.

The Chair laid before the House the second tabled and today assigned matter:
Bill "An Act to Authorize the Extension of Old Orchard Pier" (S. P. 476) (L. D. 1339)
Tabled—May 7 by Representative Hobbins of Saco.
Pending—Acceptance of Committee Report.
Thereupon, the Report was accepted and the Bill read once. Under suspension of the rules, the Bill was read the second time, passed to be engrossed in concurrence.

The Chair laid before the House the third tabled and today assigned matter:
Bill "An Act to Coordinate Agriculture and Energy Related Activities in State Government" (H. P. 618) (L. D. 753)
Tabled—May 7 by Representative Sherburne of Dexter.
Pending—Passage to be Engrossed.
On motion of Mr. Michael of Auburn, tabled pending passage to be engrossed and specially assigned for Tuesday, May 12.

The Chair laid before the House the fourth tabled and today assigned matter:
Bill "An Act to Clarify the Inland Fisheries and Wildlife Laws of Maine" (H. P. 1423) (L. D. 1577) (H-"A")
Tabled—May 7 by Representative Diamond of Windham.
Pending—Passage to be Engrossed.
Mr. MacEachern of Lincoln offered House Amendment "B" and moved its adoption.
House Amendment "B" (H-340) was read by the Clerk and adopted.
The Bill was passed to be engrossed as amended by House Amendment "A" and House Amendment "B" and sent up for concurrence.

The Chair laid before the House the fifth tabled and today assigned matter:
Bill "An Act Relating to Periodic Justification of Departments and Agencies of State Government under the Maine Sunset Law" (Emergency) (H. P. 1411) (L. D. 1576) (H-"B")
Tabled—May 7 by Representative Berube of Lewiston.
Pending—Adoption of House Amendment "A" (H-1077)
The SPEAKER: The Chair recognizes the gentleman from Lewiston, Mrs. Berube.

Mrs. BERUBE: Mr. Speaker and Members of the House,

"A" (H-358) was read by the Clerk and adopted and the Bill assigned for second reading the next legislative day.
of the House: Although the sunset report has been out since January and the revised draft, which is basically the same thing, has been out for a week, there apparently seems to be some concerns still raised and a lot of people are saying they don’t know what is in the bill, so I will ask that perhaps someone would table it for one day only and hopefully I, this weekend, those of you who have some valid concerns and questions can contact members of the committee who will be delighted to give you the true facts.

Thereupon, on motion of Mr. Diamond of Windham, tabled pending adoption of House Amendment ‘A’ and specially assigned for Monday, May 11.

The SPEAKER: The Chair recognizes the gentleman from Wilton, Mr. Armstrong.

Mr. ARMSTRONG: Mr. Speaker, I would like to adjourn the House in possession of House Paper 1046, L. D. 1259. Bill ‘An Act to Provide a Referendum to Abolish County Government and Authorize Re-assignment of its Functions and Duties to Appropriate State and Municipal Departments and Agencies’.

The SPEAKER: The Chair would answer in the affirmative and 57 having been held the request of the gentleman from Wilton.

Mr. ARMSTRONG: Mr. Speaker, I move that we reconsider our action whereby this Bill was tabled pending the motion to table. Those of you in favor will vote yes; those opposed will vote no.

A vote of the House was taken, 54 having voted in the affirmative and 57 having voted in the negative, the motion did not prevail.

The SPEAKER: The Chair recognizes the gentleman from Winslow, Mr. Carter.

Mr. CARTER: Mr. Speaker, Ladies and Gentlemen of the House: We have a very good debate on this bill yesterday. Nothing has come to light that would change my mind on May 7. I would further move that this item be tabled for two legislative days.

Whereupon, Mr. Carter of Winslow requested a division of the question.

The SPEAKER: The pending question is on the motion of the gentleman from Wilton, Mr. Armstrong, that this be tabled for two legislative days pending the motion to table.

Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken, 54 having voted in the affirmative and 57 having voted in the negative, the motion did not prevail.

The SPEAKER: The Chair recognizes the gentleman from Wilton, Mr. Armstrong.

Mr. ARMSTRONG: Mr. Speaker, Men and Women of the House: I know this is late in the week and late in the day, so I hope what I had to say could have been postponed until the first of the week.

My reasons for holding this bill are several. First of all, I was one of the signers of the Majority ‘Ought Not to Pass’ Report. Secondly, I have never heard that I am an unashamed supporter of county government and as such I felt that I must speak on this bill. I also believe that some of you good people here in the Legislature may have been persuaded by the arguments that we have heard here the last several days. My reasons for holding this bill are several.

The same differentials usually hold true in comparing other county salaries with state salaries at all levels. So what you can do, you can take your present county budgets that you are living on right at this moment and just the first year tack on 25 to 30 percent more just to bring the salaries in line when the state takes over the function of running the sheriff departments. I am sure that there is going to have to be a significant salary adjustment just in that one area.

The good gentleman from Wilton, Mr. Armstrong, makes arguments that are internally consistent. It would be wrong to hire a prosecutor to test a case. I would urge all my friends here in the Legislature to defeat this bill is the real loss of local control over the function. We have hired the county government functions and the undeniable fact that if we are, in fact, concerned about costs, this is not the way to go. Let me tell you, for example, and I have many but I will keep it to one. For instance, compare county sheriffs’ salaries with those of other law enforcement officials. County sheriffs, 14,750 per year statewide. Municipal police chiefs average 18,140. State troopers average $16,400; state coroners, $17,900; state police sergeants $16,900. When the state takes over the function of running the sheriff departments, I am sure that there is going to have to be a significant salary adjustment just in that one area.

To give the Legislature, I realize the Legislative Research Committee had hired a firm or an individual to conduct this study to determine the feasibility of doing away with the law enforcement, and they recommended that it would be done. I would urge all my friends here in the Legislature to defeat this bill.

Maudie gets there, the commissioners, at least the common can expect to be charged for. And that is supposed to take care of both Lincoln and Sagadahoc counties.

The good gentleman also makes assumptions that the present candidates are questionable. I think it is preposterous to take out a campaign for county attorney any more. He is elected and if there are some problems, we are going to take care of both Lincoln and Sagadahoc counties.

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make sure that they get a lot more law enforcement and more justice than we ever had before, but it is hard for me to see it.

I have been in office all my life. I guess I have been running for something since the time I was 25 years old, and I feel that the fact I was elected made me a lot more responsive to the electorate.

I was the tax collector and treasurer of my town for 21 years, and once a year they had a chance to go in and evaluate me, decide whether or not I was doing a good job or not, and I am sure, because I knew that, I was a little more sympathetic, a little more considerate, more polite, more responsive to their needs. But when we do away with county government, I would be the first one to tell you that it is not perfect, we are not going to have an elected register of probate, we are going to have another bureaucrat. I don't know what they are going to do with the sheriff or how they are going to elect the electorate to make a roll call vote will vote yes. Those opposed will vote no.

Mr. TARBEIL. Mr. Speaker, I request leave of the House to pair with the gentleman from Dexter, Representative Sherburne. If he were here, he would be voting yes; I would be voting no.

ROLL CALL


PAIRED — Damren-Hunter; Sherburne-Tarbell.

Yes, 55; No, 77; Absent, 16; Paired, 4; Vacant, 1.

The SPEAKER: Fifty-three having voted in the affirmative and seventy-seven in the negative, with sixteen being absent and four paired, the motion to reconsider does not prevail.

Sent up for concurrence.

(Off Record)

The following papers appearing on Supplement No. 8 were taken up out of order by unanimous consent:

Bill "An Act Establishing a Voluntary Income Protection Program for Shellfish Harvesters" (H. P. 1450) (Presented by Representative Crowley of Stockton Springs) (Cosponsor: Senators Brown of Washington and Perkins of Hancock) (Submitted by the Department of Marine Resources pursuant to Joint Rule 24)

The Speaker referred to the Committee on Marine Resources, ordered printed and sent up for concurrence.

By unanimous consent, ordered sent forthwith to the Senate.

Bill, "An Act to Create an Excise Tax on Mining Companies and to Amend the Statutes on Mining on State Lands." (H. P. 1488) (Presented by Representative Post of Owl's Head) (Cosponsors: Representatives Mitchell of Vassalboro, Masterman of Milo and Senator Violette of Aroostook) (Governor's Bill)

RESOLUTION, Proposing an Amendment to the Constitution of Maine to Amend the Provisions Requiring the State to Reimburse Municipalities and Counties for Losses Caused by Property Tax Revenues and Credits Enacted after April 1, 1978 (H. P. 1449) (Presented by Representative Post of Owl's Head) (Cosponsors: Representatives Mitchell and Master-