

# MAINE STATE LEGISLATURE

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**LEGISLATIVE RECORD**

OF THE

***One Hundred and Eighth  
Legislature***

OF THE

STATE OF MAINE

**1978**

**Second Regular Session**

January 4, 1978 — April 6, 1978

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**Senate Confirmation Session**

June 14, 1978

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September 6, 1978 — September 15, 1978

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APPENDIX

## HOUSE

Wednesday, February 8, 1978

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

Prayer by Father James P. Brewer of St. Mary's Catholic Church, Augusta.

Father BREWER: Heavenly Father, we call to mind the words of Your Son, Jesus. "Whenever two or three are gathered together in Thy name, there am I in their midst." We believe that you are present here in these chambers as we pause to ask your blessings on this day as it unfolds before us. We ask you to give us the strength and courage to carry out the responsibility that has been entrusted to us by your people. Let it be ever present in our hearts and minds that we are merely human beings carrying out our human tasks for the benefit of all the people of this state. Help us to focus our attention on the issues at hand and not on other's personalities. We ask you to guide us in seeking out social justice for all.

Father, there are times when things will not go our own way, so give us the humility to approach the other side and seek out a working compromise that is fair and just. Guide us in trying to ensure that all your people may have the best opportunity to grow and develop physically, intellectually and spiritually as you want them to. Help us so that your great human body may take shape. Help us personally to take part in this work, even if it is only to contribute a word to a discussion or perhaps to do even more if you wish it, for we are your instruments on this earth.

Lord, although our day will be filled with many projects, tasks and discussions, we probably might not find the time to stop and talk with you, so we dedicate all our work to your greater honor and glory, for we accomplish nothing without the power of your spirit.

As the Christian world today begins the penitential season of Lent in preparation of the Easter event, help each one of us to recall to mind that we are dust and unto dust we shall return. Let this season bring us closer to you. Increase our faith and love so that we may know your divine Son better and serve him ever more faithfully. We present our prayer to you from whom all good things come.

Amen.

The journal of yesterday was read and approved.

#### Papers from the Senate

The following Joint Order, an Expression of Legislative Sentiment recognizing that:

May O. Hadlock, a beloved resident of Parsonfield, has attained the 100th anniversary of her birth. (S. P. 693)

Came from the Senate read and passed.

In the House, the Order was read and passed in concurrence.

#### Non-Concurrent Matter Later Today Assigned

Bill, "An Act to Clarify and Limit the Authority of Municipalities to Establish Shellfish Conservation Programs and to License and Regulate the Taking of Shellfish" (H. P. 715) (L. D. 851) which was passed to be engrossed as amended by Committee Amendment "C" (H-989) as amended by House Amendment "A" (H-993) thereto in the House on February 2.

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

In the House: On motion of Mr. Tierney of Lisbon Falls, tabled pending further consideration and later today assigned.

#### Orders

##### Tabled and Assigned

On motion of Mr. Biron of Lewiston, the following Joint Resolution: (H. P. 2086)

Joint Resolution Declaring Opposition to the

Proposed Production of a Film Contrary to the Spirit of Religious Toleration.

Whereas, it has come to the attention of the Legislature that a British filmmaker is planning to make a film on the life of Jesus which has been characterized by many as "blasphemous" and "sacrilegious;" and

Whereas, it has further come to the attention of the Legislature that production of this film has been halted in Denmark, Sweden, France and Italy in response to an immense public outcry in those countries; and

Whereas, it now appears that this filmmaker intends to produce this film in the United States and that he claims to have financial backing in this country for doing so; now, therefore, be it

RESOLVED: That we the members of the 108th Legislature assembled in the Second Regular Session, do hereby, on behalf of the citizens of Maine, declare that we are opposed to the making of any film in this country which defames the religious tenets of beliefs of any religious group; and be it further

RESOLVED: That we declare that films of this type are contrary to the spirit of peaceful exercise of religion and of religious toleration which have characterized our country since its inception; and be it further

RESOLVED: That, upon passage in concurrence, the Secretary of State shall make available to the public suitable copies of this resolution.

The Resolution was read.

The SPEAKER: The Chair recognizes the gentleman from Orono, Mr. Davies.

Mr. DAVIES: Mr. Speaker, I would pose a question to the Chair whether this Resolution is properly before this body pursuant to Article 1, Section 3 and Section 4 of the Maine Constitution?

Whereupon, on motion of Mr. Tierney of Lisbon Falls, tabled pending a ruling from the Chair and tomorrow assigned.

A Joint Resolution (H. P. 2087) in memory of Arlo T. Bates of Calais, a devoted member of that community

Presented by Mr. Gillis of Calais. (Cosponsor: Mr. Pearson of Old Town)

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

On motion of Mr. Nadeau of Sanford, it was ORDERED, that Sandra K. Prescott of Hampden be excused for the duration of her illness.

#### House Reports of Committees

##### Leave to Withdraw

Mr. Curran from the Committee on State Government on Bill, "An Act to Amend the Maine Administrative Procedure Act" (H. P. 1948) (L. D. 2027) reporting "Leave to Withdraw"

Report was read and accepted and sent up for concurrence.

##### Divided Report

Majority Report of the Committee on Taxation on Bill, "An Act to Require Certain Out-of-State Sellers to Register under the Maine Sales and Use Tax Law" (H. P. 1883) (L. D. 1937) reporting "Ought to Pass" in New Draft (H. P. 2084) (L. D. 2134)

Report was signed by the following members:

Mr. Martin of Aroostook, Mr. Wyman of Washington, Mr. Jackson of Cumberland — of the Senate.

Mr. Maxwell of Jay, Mr. Carter of Bangor, Mrs. Post of Owls Head, Mrs. Chonko of Topsham, Mr. Carey of Waterville, Mr. Cox of Brewer, Mr. Teague of Fairfield, Mr. Immonen of West Paris, Mr. Twitchell of Norway — 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. Mackel of Wells — of the House.

Reports were read.

The SPEAKER: The Chair recognizes the gentleman from Brewer, Mr. Cox.

Mr. COX: Mr. Speaker, I move that the Majority "Ought to Pass" Report be accepted.

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

Mr. NADEAU: Mr. Speaker, I would like to pose a question to the members of the Taxation Committee. First of all, I would like to know the difference between this bill and the other lovely bill we had. Secondly, how do you propose to administer this bill and, third, how much revenue do you think it is going to bring into the State?

The SPEAKER: The gentleman from Sanford, Mr. Nadeau, has posed a question through the Chair to any member of the Taxation Committee who may care to answer.

The Chair recognizes the gentleman from Bangor, Mr. Carter.

Mr. CARTER: Mr. Speaker and Members of the House: What this redraft has done is to narrow the coverage pertaining to the advertising paragraph. The original bill could have been interpreted to include any firm that was advertising in any Maine media. I understand this was not the intent of the drafters of this bill. This Bill makes it clear that only the advertising of tax avoidance would subject a firm to registering under our Maine sales and use tax law.

As to enforcement, I think that this is not a question of enforcing this bill, it is a question of enforcing our present sales and use tax law.

We now have in the Bureau of Taxation probably six or eight people, many of them in York County, whose responsibility is the enforcement of the present sales and use tax law, not only in York County but enforcing for firms that are doing business within the state. Out-of-state firms that are doing business within the state. This is just an extension of the present enforcement procedures.

As to the amount of revenue that will be raised by this change in the law, that is covered in the bill, and as I recall, I think it was \$346,000.

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

Mr. NADEAU: Mr. Speaker, Ladies and Gentlemen of the House: I thank the good gentleman for his explanation, but as in the previous bill, I see this as a harassment of York County residents. I don't know who put this in or why, I just see it as a big hassle. I hope those tax people come down and go into New Hampshire, because I am sure the Governor of New Hampshire, good old Mr. Thomason, is going to have State Troopers from New Hampshire there arresting Maine tax people.

I can't go along with this bill; therefore, I move the indefinite postponement of this bill and all of its accompanying papers.

The SPEAKER: The gentleman from Sanford, Mr. Nadeau, moves the indefinite postponement of this Bill and all its accompanying papers.

The Chair recognizes the gentleman from South Berwick, Mr. Goodwin.

Mr. GOODWIN: Mr. Speaker, Men and Women of the House: I still have the same questions I did before when this came out. One question that I would like to have answered. When I read Item 8 on the bill here advertising tax avoidance, does this mean that if a New Hampshire concern runs an advertisement over a New Hampshire radio station in Dover or Portsmouth, New Hampshire, and advertises that New Hampshire does not have a sales tax so come to New Hampshire and buy, does this mean that that business would come under — I would like to ask Mr. Carter how he proposes that the Department of Taxation would get at that type of business?

The SPEAKER: The gentleman from South Berwick, Mr. Goodwin, has posed a question

through the Chair to anyone who may care to answer.

The Chair recognizes the gentleman from Bangor, Mr. Carter.

Mr. CARTER: Mr. Speaker and Members of the House: I think the gentleman is correct in that type of advertising he mentions, in other words, come to New Hampshire to avoid a sales tax, I think that is the intent of the bill, that this would subject that firm to registration under our Maine sales and use tax law. As to just how this would be enforced, that is a problem for our Attorney General.

But to me, the most important paragraph of this bill is the paragraph which would extend the jurisdiction of the State of Maine to those firms who are delivering with their own vehicles into the State of Maine. The advertising provision may or may not be effective, but in my opinion, it wouldn't do any harm, except possibly it could upset Governor Meldrin Thomson and the members of the New Hampshire legislature.

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

Mr. VALENTINE: Mr. Speaker, Men and Women of the House: I think Mr. Carter has answered part of one of my questions when he indicated that no one has figured out how the enforcement part of this is going to be handled, that is the Attorney General's problem, and I am not so sure about passing legislation without having determined how we are going to enforce that particular piece of legislation.

I think a couple of things to keep in mind are, it sounds as though it is directed to York County residents vis-a-vis their purchases in New Hampshire. Where I live in the Town of York, our advertising for products comes not only from New Hampshire, it also comes from Massachusetts, and I can even pick up Rhode Island radio stations down there. I just see this as creating a real bucket of worms as far as enforcement is concerned, because it would end up being, even those maybe not by intent but in fact, sort of a discriminatory enforcement. I have no idea how you are going to get the other states to comply with this, and I don't think Mr. Carter or anyone else does, and probably it won't end up changing anything so I probably shouldn't get too terribly excited about it.

I would just like to make just one comment in terms of the sentiments of the people in my area, for what that is worth, and that is, this weekend I received a call from a fellow who was calling actually about the clam bill. While we were discussing that piece of legislation, we were talking about the time factor up here and I indicated that there were not very many bills put into this session, it was limited to probably a couple hundred bills, and this gentleman's comment to me was, even a couple hundred bills appeared to be too many based on the nature of the bills submitted and the one he referred to specifically was this particular law. He said it was the most foolish thing he had ever heard of in his life.

The SPEAKER: The Chair recognizes the gentlewoman from Owls Head, Mrs. Post.

Mrs. POST: Mr. Speaker, Men and Women of the House: I want to point out that the Attorney General's Office, at least the Assistant Attorney General who is assigned to Taxation, did help in redrafting this particular bill.

Essentially what Section 8 does is, it states that you can't have misleading advertising. When I say misleading advertising, we are talking about the kind of advertisement which is in the Maine Press, it comes over Maine radios, where they say "If you come to New Hampshire, you can avoid paying a sales tax." I think we have all seen that either with automobiles or other large appliances, or even "Come to Newington Mall and you can avoid a sales tax." That is misleading in that, yes, the Maine residents may not have to pay the 5 percent sales tax if he goes down and buys an automobile, but when he brings it back to Maine, he

is liable for the 5 percent use tax. So for a Maine resident to go out of state and buy a large piece of equipment and come back into the state, their liability for that sales tax is the same.

So what Paragraph 8 is trying to do is to say that when you have advertising that specifically is misleading in that it says if you come to New Hampshire you don't have to pay a 5 percent tax, when you have that kind of advertising take place, then the seller has to register with the Department of Taxation.

I think Paragraph 9 is also important. We have worked with the Department of Taxation, we have worked with the Attorney General's Office, they think this is something they can enforce and they told us it is a tool that they need to have. I think that we should give it to them, and I would ask you to vote against indefinite postponement.

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

Mr. MORTON: Mr. Speaker, I have a question I would like to address to anybody who would like to answer it. I certainly understand Section 8 of this newly drafted bill, and I feel as though that was the intent of the original legislation.

This Paragraph 9 has me confused a great deal. I am not sure exactly what it is talking about, but I would like to cite an example and ask anyone who can answer it what the answer is.

The large automobile corporations, of course, advertise in the state in almost all the media and they also deliver the bulk of their products, new cars and trucks, by means of their own employees or agents. I just wonder does that mean that the General Motors Corporation, Ford Motor Corporation and all of them are going to have to pay a Maine sales tax on all the advertising they place in all the newspapers and on the radios in the State of Maine?

The SPEAKER: The gentleman from Farmington, Mr. Morton, has posed a question through the Chair to anyone who may care to answer if they so desire.

The Chair recognizes the gentleman from Bangor, Mr. Carter.

Mr. CARTER: Mr. Speaker, Ladies and Gentlemen of the House: In answer to the gentleman's question, as far as I know there is no sales tax on advertising, if that was his question. I believe what this paragraph does is say that every seller of tangible personal property who maintains the continuing presence of a non-soliciting employee within the state, and I guess this was the phrase that he was referring to, this refers, as it has been explained to me, to a resident serviceman or service personnel who are residing within the state.

In the past, of course, the presence of resident salesmen within the state has subjected the out-of-state company to the two registrations under our Maine sales and use tax law. This merely extends that coverage to those companies that have resident servicemen in the area and, of course, the rest of the Paragraph 9 refers to those companies that are making deliveries of property directly into the state with their own vehicles. Not by common carrier but with their own vehicles. To me, this probably is the easiest aspect of enforcement here. If they are delivering with their own trucks, of course we would have no problem enforcing this phase of the law.

I would just like to comment a bit on the question of harassment. As long as the sales and use tax law is on the books, our people in the Bureau of Taxation have a moral and a legal responsibility to enforce that law. There are two ways to enforce it — one, on an individual basis, to go after the people who have made purchases in New Hampshire and brought merchandise back to the State of Maine. This is done by examining conditional sales agreements which are on record, billing, permits and any other leads that they might have.

To me, this constitutes harassment. The other means of enforcement is to ensure or to enlist the corporation either voluntary or involuntary of the firms that are making these sales. If a sales tax is collected at the source, this does eliminate the harassment of the individual Maine people who are making these purchases.

Just one other point. This in no way affects this bill of the status of an individual who drives to New Hampshire or to Massachusetts or to New York and buys merchandise, a suit of clothes, a pair of shoes or whatever — this does not affect that status of that individual. That individual is supposed to report a use tax on such purchases.

I understand that there is only on individual in the State of Maine that is filing a use tax return and reporting such purchases but the Department of Taxation is not attempting to enforce the use tax on these small purchases.

The SPEAKER: The Chair recognizes the gentleman from South Berwick, Mr. Goodwin.

Mr. GOODWIN: Mr. Speaker, Men and Women of the House: I guess my position on this bill is I really do not care if it passes one way or the other because I do not think it is going to make any difference myself.

The only real question I have is the fact that we are appropriating \$17,000 to establish one more person and probably a couple more in the next couple of years to do something which is almost unworkable. I cannot imagine, in my mind, how the Attorney General's Office — and I have dealt with the people in the Bureau of Taxation before and I have not been too impressed at times, but I cannot imagine how they expect that they are going to be able to go into New Hampshire and get somebody that has been advertising over a New Hampshire radio station or New Hampshire papers saying, "Come to New Hampshire, we do not have a sales tax" expect them to register and to pay the sales tax or collect the Maine sales tax.

As far as advertising in Maine, all I see happening is that they stop saying "Come to New Hampshire, we do not have a sales tax." I submit to you that probably 99 percent of the people in southern Maine are smart enough to realize that from the beginning and are not going to have to be told that in advertising anyway, so it is not going to make any difference.

I do have one little concern, and I am hoping that the Taxation Committee and the Attorney General are clear on this, but on Item 9, I am wondering if that is going to mean that if you have a person who works for a company in New Hampshire and lives in Maine, which probably about 50 to 75 percent of my residents do, if some way or sometime they are going to be considered under this law and all of a sudden get hit with having to I don't know what would happen, but the way this reads of maintaining the continuing presence of a non-soliciting employee, somehow, it seems to me that somewhere down the line the Department of Taxation could say to someone who happens to live in Maine and works in New Hampshire, you will fall under this, I just cannot see how this is going to work and I think it is a waste of \$17,000 and a waste of the Taxation Department's time. For that reason, I am going to vote for indefinite postponement.

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

Mr. WOOD: Mr. Speaker, I would like to pose a question through the Chair. I think it was Representative Post, who made the statement that if a company falsely advertises, all they would have to do is register with the state and they could continue to falsely advertise, that seems a strange logic. I thought we had false advertising deceptive practices on the books now and we are encouraging New Hampshire people to falsely advertise saying that this is all right, all you have to do is register to do it?

The SPEAKER: The gentleman from Sanford, Mr. Wood, has posed a question through

the Chair to the gentlewoman from Owls Head, Mrs. Post, who may answer if she so desires.

The Chair recognizes the gentlewoman from Owls Head, Mrs. Post.

Mrs. POST: Mr. Speaker, Ladies and Gentlemen of the House: What I said was, when people who are doing this kind of advertising do register, then the Department of Taxation can then either make sure that they collect the use tax when people go buy their automobiles or buy some of the other larger pieces of equipment. Automobiles are really not that much of a problem because of the registration laws, but we can do away with some of the advantage that the New Hampshire people have in making these kinds of advertisements.

This bill does not change the tax liability of Maine citizens. Anyone who has to pay sales tax now would continue to pay sales tax. Anyone who pays use tax would continue to pay that. What this does is protect some of the businesses along the border of the State of Maine from unfair competition. It makes it very clear of what your liability is and it would just make sure that the Department of Taxation has a tool that they need to try to make sure that the companies which are coming in from out-of-state, these are not Maine companies, collect the sales tax and make that revenue available to the State of Maine. We are just asking that out-of-state companies be put in the same kind of position that our own Maine companies are as far as collecting sales and use tax.

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

Mr. JACKSON: Mr. Speaker, Ladies and Gentlemen of the House: This has a strange resemblance to a debate that we had here a number of years ago when Maine people were buying liquor at the New Hampshire store and the Maine State Police, I believe, sent people over to stop them and radio back so the State Police could stop them when they came across the border to pay the tax on the liquor. I think we are building the same kind of a snafu on this.

If you look under Section 18 "while implies a sales tax advantage to potential purchases in this state," I wonder if the Newington Mall, when the corporation of the mall puts an ad in and somehow implies a sales tax advantage, whether everyone in that mall that has a store there is consenting by this to open their books to the State of Maine. I think there would be a good question there and I have a feeling the first time the State of Maine went over that the good Governor of New Hampshire would be waiting with his state troopers and would get more, I would say, political furor out of this whole thing than anything else we could possibly give him.

I think it is unenforceable. We have TV stations that have their antennas in New Hampshire and their offices in Maine. The question of implied tax advantage I do not think is definable and I think we are really opening a can of worms, as someone has already said.

The SPEAKER: The Chair recognizes the gentleman from Eliot, Mr. McPherson.

Mr. McPHERSON: Mr. Speaker, Ladies and Gentlemen of the House: In replying to my good friend, Mr. Carter, he mentioned upsetting the New Hampshire legislature and the Governor. I think we should remember that a year ago we passed legislation to pay back money to the people of the State of Maine because of the State of New Hampshire retaliating against our income tax bill.

I would just like to point out that there are a number of Maine businessmen along the New Hampshire border who I am afraid are going to get hurt when New Hampshire, all of a sudden, decides to retaliate. These are the people you are going to hurt.

I agree with the gentleman from South Berwick, Mr. Goodwin that the \$17,000 expense to enforce this is just a waste of money.

The SPEAKER: The Chair recognizes the

gentleman from York, Mr. Valentine.

Mr. VALENTINE: Mr. Speaker, Men and Women of the House: I probably have a hypothetical question and maybe Mr. Carter or Mrs. Post could answer the question for me.

If a New Hampshire company in the State of New Hampshire — say a firm at the Newington Mall were to advertise over a Portsmouth radio station to the citizens of New Hampshire primarily, "come to your Newington Mall and purchase such and such, we have lots of ample parking and there is no sales tax" — that broadcast is going to run into Maine and Massachusetts but it may be an effort to encourage people from New Hampshire not to go to Maine and not to go to Massachusetts, a way of reminding them that there is no sales tax in their home state and that they should make their purchases there, would that, in fact, make that particular firm subject to this proposed legislation?

The SPEAKER: The gentleman from York, Mr. Valentine, has posed a question through the Chair to the gentlewoman from Owls Head, Mrs. Post, who may respond if she so desires.

The Chair recognizes the gentlewoman from Owls Head, Mrs. Post.

Mrs. POST: Mr. Speaker, Ladies and Gentlemen of the House: I think that Section 8 says that the sales tax advantage which is referred to has to be specifically for Maine potential purchases or the potential purchases in this state, so the advertising has to be directed to Maine residents.

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

Mrs. KANY: Mr. Speaker, Members of the House: If this is, indeed, directed just specifically to Maine, then I would suggest an amendment in which the word Maine is written out in Section 1, Subsection 8, because the way I read it is that all catalogues would be included and that would certainly be almost impossible to enforce and any catalogue would have a state — let's say that it is mailed out of Chicago or somewhere and that Illinois sales tax would have to be collected if mailed over the state line — something to this effect. So if you really want it to just read Maine, I would certainly suggest an amendment to that effect. It is not clear now and I, too, believe it is unenforceable and does not just relate to New Hampshire border towns.

The SPEAKER: The Chair recognizes the gentlewoman from Owls Head, Mrs. Post.

Mrs. POST: Mr. Speaker, Men and Women of the House: I would simply remind you and the gentlewoman from Waterville that all we have to do is vote "no" on indefinite postponement and accept the "Ought to Pass" Report and when the bill is in second reading, it would be in a position to amend it if she so desires.

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

Mr. NADEAU: Mr. Speaker, Ladies and Gentlemen of the House: Just on a little lighter note, I would suggest to the Committee on Taxation, why not take that so-called "\$40 million surplus" and remove the sales tax and we will not have to worry about it.

The SPEAKER: The Chair recognizes the gentleman from Wells, Mr. Mackel.

Mr. MACKEL: Mr. Speaker, Ladies and Gentlemen of the House: I think that that is a very fine suggestion made by Mr. Nadeau.

I would like to add a couple of points. First of all, judging from the debate that has taken place on this bill, I think, basically, it is a useless bill. It certainly is an unenforceable bill and an ambiguous bill, as demonstrated by the many questions that have been asked and which have not been answered properly. No one seems to know how this particular piece of legislation would work. This is a bureaucratic bill. It originated within the Bureau of Taxation and I would suggest that it is certainly not an emergency measure and I do not think it should be before this body at this time.

I hope that you will indefinitely postpone it.

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

Mr. CARTER: Mr. Speaker, Ladies and Gentlemen of the House: There still seems to be a great deal of confusion about this bill, which to me seems to be a fairly simple bill. What it really does is merely extend the jurisdiction of the State of Maine to certain additional terms to out-of-state firms who are doing business within the state. I think what is particularly important is paragraph 9 of the bill which would extend the jurisdiction of the state and require registration of those firms that are delivering within the state with their own vehicles. For example, I understand that there is a furniture company in Portsmouth that is delivering all over York County and to me, this represents unfair competition to the merchants within York County and I see no problem of enforcement as far as this is concerned. If these company trucks are delivering within Maine, certainly if we have to do so, these trucks could be seized so there is absolutely no problem of enforcement as far as this is concerned.

As far as mail order catalogues are concerned, I would point out that because Sears Roebuck has places of business in Maine, they have to register under our law and they do collect sales tax on any merchandise shipped from their mail order catalogue. Compared with that, there is the situation of National Bella Hess, they do not have any places of business in Maine and therefore they do not register and any merchandise purchased by a resident of Maine and shipped into Maine from National Bella Hess is not subject to them, to the sales tax.

The SPEAKER: The Chair recognizes the gentleman from So. Berwick, Mr. Goodwin.

Mr. GOODWIN: Mr. Speaker, I have one more question. I am under the impression and I guess I am wrong after reading this No. 9, that a person now who has a business in New Hampshire that delivers a product into Maine, has to collect a sales tax. I have been involved in some businesses working in New Hampshire and have done this when delivering products in Maine and I would like to check on this — is this the case now and if so, why do we need Section 9?

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

The Chair recognizes the gentleman from Bangor, Mr. Carter.

Mr. CARTER: Mr. Speaker, Ladies and Gentlemen of the House: Under the present law, the mere fact that deliveries are made into the State of Maine by an out-of-state company with their own vehicles, this does not subject that company in itself to registration under the Maine Sales and Use Tax Law.

The SPEAKER: The Chair will order a vote. The pending question before the House is the motion of the gentleman from Sanford, Mr. Nadeau, that this bill and all its accompanying papers be indefinitely postponed. Those in favor will vote yes; those opposed will vote no. A vote of the House was taken.

Mr. Nadeau of Sanford requested a roll call.

The SPEAKER: For the Chair to order a roll call, it must have the expressed desire of more than 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 obviously 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 pending question before the House is the motion of the gentleman from Sanford, Mr. Nadeau, that this Bill and all its accompanying papers be indefinitely postponed. Those in favor will vote yes; those opposed will vote no.

## ROLL CALL

YEAS: Berry, Berube, Biron, Brown, K. L.; Brown, K. C.; Bunker, Carroll, Conners, Connolly, Cote, Cunningham, Curran, Dexter, Diamond, Dow, Dudley, Durgin, Dutremble, Garsoe, Goodwin, H.; Gray, Green, Hall, Hickey, Jackson, Jacques, Jalbert, Jensen, Kane, Kany, Kilcoyne, Lizotte, Locke, Lunt, MacEachern, Mackern, Mackel, Marshall, Martin, A.; Masterton, McHenry, McMahon, McPherson, Moody, Morton, Nadeau, Palmer; Paul, Pearson, Perkins, Peterson, Plourde, Raymond, Smith, Spencer, Stover, Strout, Stubbs, Talbot, Theriault, Truman, Valentine, Wilfong, Wood, Wyman.

NAYS: Aloupis, Ault, Austin, Bachrach, Bagley, Beaulieu, Benoit, Blodgett, Boudreau, A.; Brenerman, Burns, Carter, D.; Carter, F.; Chonko, Churchill, Clark, Cox, Davies, Drinkwater, Fenlason, Flanagan, Fowlie, Gill, Gillis, Gould, Greenlaw, Henderson, Higgins, Howe, Hughes, Hunter, Hutchings, Immonen, Joyce, Kelleher, Laffin, Lewis, Littlefield, Lougee, Lynch, Mahany, Masterman, Maxwell, McBreairty, McKean, Mitchell, Nelson, M.; Nelson, N.; Norris, Peltier, Post, Quinn, Rideout, Rollins, Sewall, Shute, Silsby, Sprowl, Tarbell, Tarr, Teague, Tierney, Torrey, Tozier, Trafton, Twitchell, Violette, Whittemore

ABSENT: Bennett, Birt, P.; Boudreau, Bustin, Carey, Carrier, Devoe, Elias, K.; Goodwin, Hobbins, Huber, Kerry, LaPlante, Mills, Najarian, Peakes, Prescott, Tyndale

Yes, 64; No, 68; Absent, 18.

The SPEAKER: Sixty-four having voted in the affirmative and sixty-eight in the negative, with eighter being absent, the motion did not prevail.

Thereupon, the Majority "Ought to Pass" Report was accepted, the New Draft read once and assigned for Second Reading tomorrow.

## Consent Calendar

## First Day

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

(S. P. 642) (L. D. 2009) Bill "An Act to Require Compensation of State Agencies in Compiling Labor and Industrial Statistics for the Bureau of Labor" — Committee on Labor reporting "Ought to Pass" as amended by Committee Amendment "A" (S-454)

No objections being noted, the above item was ordered to appear on the Consent Calendar of February 9, under listing of the Second Day.

## Consent Calendar

## Second Day

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

(H. P. 2007) (L. D. 2084) Bill "An Act Relating to Inspection of Dams" (C. "A" H-1015)

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

## Orders of the Day

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

Bill, "An Act to Amend the Crime of Assault on a Law Enforcement Officer" (S. P. 661) (L. D. 2032) (C. "A" S-444)

Tabled — February 7, 1978 by Mr. Tierney of Lisbon Falls.

Pending — Passage to be Engrossed.

Thereupon, the Bill was passed to be engrossed as amended in concurrence.

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

Bill, "An Act to Clarify the Law Concerning the Posting of Bonds by Electric Companies with the Department of Environmental Protection for Certain Licenses or Permits"

(H. P. 1925) (L. D. 1986) — In House, Passed

to be Engrossed as Amended by Committee Amendment "A" (H-986) on January 31 — In Senate, Passed to be Engrossed as Amended by Committee Amendment "A" (H-986) as Amended by Senate Amendment "A" (S-452) thereto.

Tabled — February 7, 1978 by Mr. Garsoe of Cumberland.

Pending — Motion of Mr. Blodgett of Waldoboro that the House Insist.

Thereupon, the House voted to insist.

## House at Ease

Called to order by the Speaker.

## Off Record Remarks

On Motion of Mr. Tierney of Lisbon Falls, Recessed until 11:15 a.m.

## After Recess

11:15 A.M.

The House was called to order by the Speaker.

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

Bill, "An Act to Establish and Apply a Policy on the Classification of Major Policy-influencing Positions Below the Head of State Department and Agencies" (H. P. 2051) (L. D. 2111) (H. "A" H-995) (H. "B" H-1002)

Tabled — February 7, 1978 by Mr. Greenlaw of Stonington.

Pending — Passage to be Engrossed.

Mr. Curran of South Portland offered House Amendment "E" and moved its adoption.

House Amendment "E" (H-1016) was read by the Clerk and adopted.

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

Mr. BIRT: Mr. Speaker and Members of the House: Due to the changes in lettering, I have had an amendment prepared, but not being able to know just exactly where it is going to fall into the structure of this, it left me in the position of not being able to have my amendment today. It is available for offering right now, but it may not be properly numbered because of the change — if I can offer it now and it will be proper, okay; if not, I may prefer to have it tabled for one day.

Whereupon, Mr. Birt of East Millinocket offered House Amendment "D" and moved its adoption. House Amendment "D" (H-1006) was read by the Clerk and adopted.

The Bill was passed to be engrossed as amended by House Amendments "A", "B", "D", "E" and sent up for concurrence.

By unanimous consent, ordered sent forthwith to the Senate.

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

## Consent Calendar

## First Day

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

(H. P. 1916) (L. D. 1977) Bill "An Act Appropriating Funds to Construct an Access Road to the Phase 2 Housing Project on the Penobscot Tribal Reservation" — Committee on Transportation reporting "Ought to Pass" as amended by Committee Amendment "A" (H-1018)

No objection being noted, the above item was ordered to appear on the Consent Calendar of February 9, under listing of the Second Day.

## Passed to Be Enacted

## Emergency Measure

"An Act to Enable the Purchase and Administering of Barbiturates for the Euthanasia of Pets and Animals" (S. P. 617) (L. D. 1905) (H. "A" H-1008; C. "A" S-445)

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

The SPEAKER: The Chair recognizes the gentleman from Winthrop, Mr. Bagley.

Mr. BAGLEY: Mr. Speaker and Members of the House: I had called to my attention last night that this bill permits the purchase of drugs by people who are under no control whatsoever and that the veterinarians, not that they want to have the business, they are not worried about losing the business because it doesn't amount to much, but they are upset because they think it is going to put drugs into the hands of people who are not properly protected. The man told me that there were several states that have laws similar to this but in every case they have safeguards, they have committees to study this and to keep track of the drugs, to check them. The veterinarians are very worried about the thing, are afraid it will cause the drugs to fall into the hands of the wrong people.

I don't know anymore about it than that, but it seems to me it might be important enough so it ought to be tabled for one day so we can check it out.

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

Mr. LAFFIN: Mr. Speaker, Ladies and Gentlemen of the House: The situation that has arisen to inform the House of how this all came about, as you can remember, when this body outlawed the decompressing chamber, we had to come up with something that would help these shelters. If we didn't, we would put them out of business. Consequently, the Westbrook Shelter would handle more barbiturates in one month than a veterinarian would use in his entire lifetime.

We have gone by the federal rules. The Department of Agriculture — the drugs are going to be locked in a vault that meets the requirements of the federal standards. They are going to be handled and be responsible for by the shelter. I can certainly understand why the veterinarians would be opposed to it because, you see, when you have to put an animal away and the shelters have no means to do it, it has to be done by, under the present law, a veterinarian. Consequently, he does not work for nothing.

In the testimony and the records that we have, it varies from \$7 in the Town of Bar Harbor, or Boothbay, or wherever she was from, up to as much as \$35 for each animal.

You know that shelters, and especially the one in Westbrook which destroys over 5,000 animals a year, could certainly not afford that and, consequently, the thirteen communities that we service in Cumberland County would be bankrupt, would be right out of business.

As far as the barbiturates themselves, the Department of Agriculture, who has no objection to it, are going by the guidelines laid down by the federal people. The barbiturates are going to be under lock and key, so to speak, in a vault, and I see no reason this morning to stop this. We need it; the shelters need this law because you put them in this position in the first place when you believed all the lies about popping eyes and everything. So now we have got to come to some conclusion to rectify the mistake that this legislature made. I certainly see no reason whatsoever to hold up on this, push it out, and I hope for the passage this morning.

The SPEAKER: The Chair recognizes the gentleman from Poland, Mr. Torrey.

Mr. TORREY: Mr. Speaker and Members of the House: In addition to the remarks of the good gentleman from Westbrook, Mr. Laffin, I would reiterate that Committee Amendment "A" does spell out that the purchase, possession and administration is in accordance with rules and regulations promulgated by the Commissioner of Agriculture and meet federal drug enforcement standards. So I feel we have looked at this and are taking the right course. It is going to have proper supervision.

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

Mr. KELLEHER: Mr. Speaker, I would just like to pose a question to any member of the

committee that has heard it. Were the veterinarians themselves represented at the hearing? Did they raise any objections?

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

The Chair recognizes the gentleman from Easton, Mr. Mahany.

Mr. MAHANY: Mr. Speaker and Members of the House: I would like to point out that this bill had a good hearing. It was represented by several different people. The veterinarians did have somebody there to have input. The Department of Agriculture was well represented by Mr. Stanley Brown who would be in charge of this, and we had no great opposition in the discussing of it from anybody. I think the veterinarians had ample time to make their opposition known.

The SPEAKER: The pending question is on passage to be enacted. This being an emergency measure, it requires a two-thirds vote of all the members elected to the House. All those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

118 having voted in the affirmative and 6 having voted in the negative, the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

#### Passed to Be Enacted

"An Act to Amend the Maine Potato Branding Law" (H. P. 1896) (L. D. 1953) (C. "A" H-998)

"An Act to Simplify Notice Procedures Required in Workmen's Compensation Cases" (S. P. 645) (L. D. 2012)

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 Chair laid before the House the following matter:

Bill "An Act to Clarify and Limit the Authority of Municipalities to Establish Shellfish Conservation Programs and to License and Regulate the Taking of Shellfish" (H. P. 715) (L. D. 851) which was tabled earlier in the day and later today assigned pending further consideration.

On motion of Mrs. Post of Owls Head, the House voted to insist.

By unanimous consent, ordered sent forthwith to the Senate.

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

Mr. HENDERSON: Mr. Speaker, I would like to move that we reconsider our action of earlier in the day whereby Bill "An Act to Amend the Crime of Assault on a Law Enforcement Officer," Senate Paper (661, L. D. 2032), was passed to be engrossed as amended by Committee Amendment "A" (S-444)

The SPEAKER: The gentleman from Bangor, Mr. Henderson, moves that we reconsider our action whereby (L. D. 2032) was passed to be engrossed.

The gentleman may proceed.

Mr. HENDERSON: Mr. Speaker, Ladies and Gentlemen of the House: This bill has been going through without any discussion and that has concerned me to quite a great degree, and I would hope and am sure that the committee members would be able to explain the reason for the committee amendment.

My father has been a sheriff for 21 years in Somerset County and he is the kind of guy who can talk a person out of a handgun or a shotgun or a difficult situation and was very infrequently assaulted upon, but when he was, these people really went after him because there was no other way to do it. That is why the nature of the bill as it was seemed to me to be an excellent idea, that we ought to develop respect for law enforcement officers and if the people they

are trying to apprehend in the course of their duty assault them and really go out of their way to do a job on them, there ought to be severe punishment for that. However, the committee amendment says, "Anyone who, among other things, knowingly causes bodily injury to a law enforcement officer." One thing I would like to know is what bodily injury might mean, but if you knowingly scratch the guy or something like that, you are liable apparently for a Class C crime.

I know many arguments have been made in the past about the question of the training of various police officers, and it does seem, in my experience and I think maybe you might agree, that some police officers are not well trained and are not in control of their own emotions many times when they have to be in a difficult situation and either incite or invite a kind of violence upon themselves that other well trained police forces and officers do not. I am wondering if this committee amendment is really going a bit too far in the direction which I think we should go, but is it really allowing an out for untrained officers who anytime a drunk takes a swing at him is all of a sudden liable for a Class C crime if he lands one and blackens the guy's eye.

I would hope that we could reconsider engrossment, which is the pending motion, and then either indefinitely postpone the committee amendment or possibly other people will have improving amendments.

The SPEAKER: The Chair recognizes the gentleman from Kennebunk, Mr. McMahon.

Mr. McMAHON: Mr. Speaker, Ladies and Gentlemen of the House: I rise to support the gentleman's motion. I also certainly support the bill but have questions about the committee amendment. I am having prepared an amendment to the committee amendment that will allow us to discuss what some of these questions might be tomorrow. Only the fact that I was not able to leave my yard for most of the day yesterday prevented me from having the amendment ready today. It is being drafted now and it will be before you tomorrow if you accept the gentleman's motion. I urge you to do so.

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

Mr. BIRON: Mr. Speaker and Members of the House: Speaking, I think, on behalf of the committee, in answer to Mr. Henderson's question as to why the language knowingly was put into the legislation, I supported the putting in of that. As a matter of fact, it was put in at my request only because under the bill as it was proposed to the committee, the language "knowingly" was not in the bill. I think it is important for a person on the street that he knowingly knows that he is assaulting a police officer. Obviously, if it is an undercover agent and he is sitting in a bar and the person has no knowledge at all that he is an officer and there is a fistfight and that person steps in and doesn't identify himself and the person takes a swing at him, I think it is important that the person who is the officer lets the people know that he is. Therefore, the language "knowingly" has to be put in. That is the reason for it. I hope that answers your question.

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

Mr. HOWE: Mr. Speaker and Members of the House: I, for one, support the language that the committee added, but I also think that some of the language they took out should have remained in there dealing with some sort of medical documentation of the injury so that somebody isn't facing, I guess, a five year sentence, or at least a Class C crime, as opposed to the present Class D crime for a scratch on the officer's chin. I hope we do hold the bill up just long enough so the gentleman from Kennebunk can prepare an amendment which I think would do essentially that.

On motion of Mr. Garsoe of Cumberland,

tabled pending the motion of Mr. Henderson of Bangor to reconsider and tomorrow assigned.

(Off Record Remarks)

On motion of Mr. Tarbell of Bangor,  
Adjourned until nine-thirty tomorrow morning.