

# MAINE STATE LEGISLATURE

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**LEGISLATIVE RECORD**

OF THE

***One Hundred and Ninth  
Legislature***

OF THE

**STATE OF MAINE**

**Volume I**

**FIRST REGULAR SESSION**

**January 3, 1979 to May 4, 1979**

## HOUSE

Tuesday, March 13, 1979

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

Prayer by the Reverend Jeffrey Clark of the Victory Baptist Church, North Monmouth.

Rev. CLARK: I would like to share a scripture with you before we bow our heads in prayer.

Listen also that in the last times, perilous times shall come, for men shall be lovers of their own selves, coveters, boasters, proud, blasphemous, disobedient to parents, unthankful, unholy, without natural affection, truth breakers, false accusers, fierce, despisers of those that are good, traitors, high minded, lovers of pleasures more than lovers of God, having the form of godliness but denying the power thereof.

The book of James says, "If any man lacketh wisdom, let him ask God, who giveth to all men liberally."

Let us pray. Father, we thank you, Lord, that you do love us so much. God, we come to you this morning seeking wisdom for the decisions that must be made today not only in our private lives but also in the political lives and in the life of this state. God, you have entrusted these men with a great responsibility. Lord, I trust you to meet the need of every heart here today, in Jesus name. Amen.

The journal of yesterday was read and approved.

(Off Record Remarks)

On motion of Mr. Brown of Livermore Falls, Recessed until the sound of the gong.

## After Recess

11:05 a.m.

The House was called to order by the Speaker.

Under suspension of the rules, the following matter was taken up out of order by unanimous consent:

Bill "An Act to Establish a Moratorium on Issuing Commercial Fishing Licenses" (Emergency) (H. P. 941) (Presented by Mr. Fowlie of Rockland) (Approved for Introduction by a Majority of the Legislative Council pursuant to Joint Rule 27)

Thereupon, under suspension of the rules, the bill was read twice, passed to be engrossed without reference to any committee and sent up for concurrence.

By unanimous consent, ordered sent forthwith to the Senate.

## Order Out of Order

An Expression of Legislative Sentiment (H. P. 967) recognizing that:

The Bucksport Golden Bucks, coached by Jerry Kane, have won the Eastern Maine and State of Maine Class B Basketball Championship for the academic year 1979

Presented by Mr. Churchill of Orland (Cosponsor: Senator Emerson of Penobscot)

The Order was received out of order by unanimous consent and read.

The SPEAKER: The Chair recognizes the gentleman from Orland, Mr. Churchill.

Mr. CHURCHILL: Mr. Speaker, Ladies and Gentlemen of the House: I personally want to congratulate the Bucksport Golden Bucks and also their coach, who did an outstanding coaching job, Jerry Kane and her assistant, Robert Mercier. The outstanding players which brought this honor home once again were Keith Ogden, Captain, Wayne Michaud, Dennis Hopkins, Dan Wentworth, Dave Delaite, Jerry Kane, Jr., Don McAllian, Jeff Ayre, Jim Beagle, Paul Hopkins, Jeff Carmichael, Joey Macomber, Brian Taylor, Don Eldridge, Rusty Kenney, Jerry Wilson, and also their manage-

rs, Alan Snowman, Brian Labrie, Mike Harmon and Beverly Kane.

I certainly hope that you will extend a hearty welcome and congratulations also to these people for an outstanding job. (Applause)

The SPEAKER: The Chair recognizes the gentleman from Waldoboro, Mr. Blodgett.

Mr. BLODGETT: Mr. Speaker, Ladies and Gentlemen of the House: I would congratulate the Golden Bucks on behalf of the Golden Panthers of Medomak Valley and wish you good luck in the coming season.

Thereupon, the Order received passage and was sent up for concurrence.

By unanimous consent, ordered sent forthwith to the Senate.

## Papers from the Senate

Bill "An Act to Regulate Commercial White-water Outfitters" (S. P. 348) (L. D. 1094)

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

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

Bill "An Act Relating to the Basic Monthly Charge of Electric Utilities" (S. P. 349) (L. D. 1095)

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

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

## Non-Concurrent Matter

Bill "An Act Concerning Group Medical Coverage for Families of Disabled Employees" (H. P. 822) (L. D. 1022) which was referred to the Committee on Labor in the House on March 5, 1979.

Came from the Senate referred to the Committee on Business Legislation in non-concurrence.

In the House: On motion of Mr. Wyman of Pittsfield, the House voted to recede and concur.

Non-Concurrent Matter  
Tabled and Assigned

Bill "An Act to Revise the Service Charge for Local Vehicle Registration Agents" (H. P. 147) (L. D. 150) which was passed to be engrossed as amended by Committee Amendment "A" (H-54) in the House on March 7, 1979.

Came from the Senate passed to be engrossed as amended by Committee Amendment "A" (H-54) as amended by Senate Amendment "A" (S-34) thereto in non-concurrence.

In the House:

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

Mr. GARSOE: Mr. Speaker, I rise on a point of parliamentary inquiry. On February 23, this House rejected, by a vote of 88 to 49, a device that would have authorized the Secretary of State to charge 25 cents for notifying us when our licenses were due to expire.

I find this morning that attached as Senate Amendment "A", under filing S-34, the identical language practically as what this body rejected on the 23rd, and I question its propriety.

The SPEAKER: The Chair would advise the gentleman from Cumberland, Mr. Garsoe, and members of the House that the amendment proposed by a member of the other body is, in fact, quite similar to the L. D. 50 that was defeated in both bodies. As a result of that, the Chair has to look at the pending rules dealing with that issue, which, of course, under that basis would be Joint Rule 4.

Joint Rule 4 specifically says: "When any measure shall be finally rejected, it shall not be revived except by reconsideration; and no measure containing the same subject matter shall be introduced during the session unless three days' notice is given to the House of which the mover is a member."

Based on this, the Chair is not in a position to determine what action took place in the other body. Since the amendment has been placed by the other body, it can only be assumed that the rules have been followed. The Chair would therefore have to rule that the amendment, even though questionable, based on Joint Rule 4, the Chair is not in a position to rule that the amendment is not properly before this body and as a result, the Chair would have to allow Senate Amendment "A" to Committee Amendment "A" to proceed in the normal fashion.

The gentleman may proceed.

Mr. GARSOE: Mr. Speaker, I would raise a point of further inquiry. On the specific matter of germaneness, this bill, L. D. 150, deals with the local registration agents in the municipalities. The amendment, aside from its faultiness, I believe, having been rejected by this body, now transfers its attention to the Secretary of State. I would respectfully challenge its germaneness on that.

The SPEAKER: The gentleman from Cumberland, Mr. Garsoe, has posed a legitimate point which the Chair, at this time, is not prepared to respond to and would have to determine that.

Thereupon, pursuant to House Rule 1, tabled pending a ruling by the Chair and tomorrow assigned.

## Non-Concurrent Matter

Bill "An Act to Increase Salaries of County Officers" (H. P. 201) (L. D. 227) which was passed to be engrossed as amended by Committee Amendment "A" (H-44) as amended by House Amendments "B" (H-57), "C" (H-58), and "D" (H-75) thereto and House Amendment "A" (H-46) in the House on March 8, 1979.

Came from the Senate passed to be engrossed as amended by Committee Amendment "A" (H-44) as amended by House Amendments "B" (H-57), "C" (H-58) and "D" (H-75) thereto in non-concurrence.

In the House:

The SPEAKER: The Chair recognizes the gentleman from Sabattus, Mr. LaPlante.

Mr. LaPLANTE: Mr. Speaker, Ladies and Gentlemen of the House: This bill was passed without objections in this House. I would move that we adhere.

The SPEAKER: The gentleman from Sabattus, Mr. LaPlante, moves that the House adhere.

The Chair recognizes the gentlewoman from Newcastle, Mrs. Sewall.

Mrs. SEWALL: Mr. Speaker, Men and Women of the House: The only amendment that the other body disagreed with was one which did not raise the county officers' salary but actually left it as it was, the same as it was last year, and reduced it from the bill. I would ask if the amendment is germane.

The SPEAKER: The Chair would advise the gentlewoman that the Chair can no longer rule on the germaneness since the amendment was adopted in this body, and germaneness questions can only be entertained at the time of introduction. The gentlewoman may proceed.

Mrs. SEWALL: Mr. Speaker, I move that we recede and concur and would speak to my motion.

The SPEAKER: The gentlewoman from Newcastle, Mrs. Sewall, moves that the House recede and concur.

The gentlewoman may proceed.

Mrs. SEWALL: Mr. Speaker and Members of the House: This amendment that was put on in my one day of absence deals with the salary of the registrar of probate. It deals only with that person's salary. It is really a personal matter within the county delegation. Five of the six members of the county delegation voted to give this person a 7 percent raise.

I understand there might be personal problems with this particular individual, but it is an elected office and I suppose that anyone could run against him if they chose.

I would hope that this county matter which was decided by the delegation would be left that way, in other words, that we do not put on House Amendment "A" which reduces the salary of the registrar of probate.

The SPEAKER: The Chair recognizes the gentleman from Waldoboro, Mr. Blodgett.

Mr. BLODGETT: Mr. Speaker, Ladies and Gentlemen of the House: I did put on this amendment, as I have felt very strongly about the annual increases in county salaries. I think that we should start considering holding these down to a reasonable amount.

While I am not opposed to full-time people being paid a full-time salary, I am opposed to certain officers within the county or any others which are a very, very part-time operation and yet are being paid on a full-time basis.

In this particular situation, there certainly is nothing personal at all, but if you happen to look at the other salaries for the registrar of probate, you will find that the Lincoln County proposal is a thousand dollars more than anyone else. We are talking about the small counties where the gentleman in this particular case is receiving \$8,800 and wants to get \$9,400. He spends approximately two hours a day or less, during the lunch hour, working there, and it is not an inconvenience for him to go. I don't think he is being poorly paid. I think the taxpayers of our counties, Lincoln County in this particular case, should be respected and their interests should be respected, and these salaries being increased every year is against their interest.

I would urge you to stick to our original proposal and vote to adhere to our position.

The SPEAKER: The Chair recognizes the gentleman from Newcastle, Mrs. Sewall.

Mrs. SEWALL: Mr. Speaker, Men and Women of the House: I would hope we would stay with the original proposal. The bill, as it came out of the committee, this amendment was not on it when it came out and the delegation did not vote in this manner.

The SPEAKER: The Chair will order a vote. All those in favor of the motion of the gentleman from Newcastle, Mrs. Sewall, that the House recede and concur will vote yes; those opposed will vote no.

A vote of the House was taken.

Whereupon, Mr. Blodgett of Waldoboro requested a roll call vote.

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

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

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

#### ROLL CALL

YE — Aloupis, Austin, Birt, Blodgett, Boudreau, Bowden, Brown, A.; Brown, D.; Brown, K. L.; Call, Carter, F.; Conary, Cunningham, Damren, Davis, Dexter, Drinkwater, Fenlason, Fillmore, Garsoe, Gavett, Gillis, Gould, Gowen, Gray, Hanson, Higgins, Huber, Hughes, Hunter, Immonen, Jackson, Kiesman, Laffin, Lancaster, Leighton, Leonard, Lewis, Lougee, Lowe, Lund, MacBride, Marshall, Masterman, Masterton, Matthews, Maxwell, McKean, McMahon, McPherson, Morton, Nelson, A.; Norris, Payne, Peltier, Peterson, Reeves, J.; Rollins, Roope, Sewall, Sherburne, Silsby, Small, Smith, Soulas, Sprowl, Stetson, Stover, Studley, Tarbell, Torrey, Wentworth, Whittemore.

NAY — Bachrach, Baker, Barry, Beaulieu, Benoit, Berube, Blodgett, Brannigan, Brodeur, Brown, K. C.; Bunker, Carrier, Carroll, Carter, D.; Chonko, Cloutier, Connolly, Cox,

Curtis, Davies, Diamond, Doukas, Dudley, Dutremble, D.; Dutremble, L.; Fowlie, Gwadosky, Hall, Hickey, Hobbins, Howe, Jacques, E.; Jacques, P.; Jalbert, Joyce, Kane, Kany, Kelleher, LaPlante, Lizotte, Locke, MacEachern, Mahany, Martin, A.; McHenry, McSweeney, Michael, Mitchell, Nadeau, Nelson, M.; Nelson, N.; Paradis, Paul, Pearson, Post, Prescott, Reeves, P.; Rolde, Simon, Theriault, Tierney, Tozier, Tuttle, Twitchell, Vincent, Violette, Vose, Wood, Wyman.

ABSENT — Berry, Brennerman, Churchill, Dellert, Dow, Elias, Hutchings, Strout.

Yes, 73; No, 69; Absent, 8.

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

#### Messages and Documents

The following Communication: (S. P. 368)

STATE OF MAINE

Senate Chamber

President's Office

Augusta, Maine 04333

March 9, 1979

Honorable John Chapman

Honorable Robert Howe

Chairmen, Business Legislation Committee

State House

Augusta, Maine 04333

Please be advised that Governor Joseph E. Brennan is nominating Gordon L. Weil of Harpswell to serve as Commissioner of Business Regulation.

Pursuant to Title 10, MRSA, Section 8001, this nomination will require review by the Joint Standing Committee on Business Legislation and confirmation by the Senate.

Sincerely

S/JOSEPH SEWALL

President of the Senate

S/JOHN MARTIN

Speaker of the House

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

In the House, was read and referred to the Committee on Business Legislation in concurrence.

The following Communication: (H. P. 968)

State of Maine

OFFICE OF THE GOVERNOR

Augusta, Maine

March 12, 1979

To: The Honorable Members of the Senate and House of the 109th Maine Legislature:

I am returning without my signature and approval H. P. 5, L. D. 11, AN ACT to Prohibit Smoking at Public Meetings.

After long and serious consideration of the strong and persuasive arguments on both sides of this issue, I have decided that this legislation represents in part an unwarranted intrusion into the affairs of local government.

There is no question that smoking is harmful to health and that the tobacco smoke of others is a nuisance to nonsmokers. However, this problem can often be controlled by common courtesy and mutual agreement.

Many county and local officials, mayors, city councilors, boards of aldermen and other officials have communicated their concern to me over this legislation. To them, L. D. 11 is one more example of Augusta trying to tell communities how to run their affairs. I share their concern with the erosion of local control. In this case, I believe that the conduct of individuals at local meetings is more properly regulated by local officials and local regulations.

In addition, I foresee problems of selective enforcement of the law as well as cases in which the law might not be enforceable. This type of enforcement breeds and fosters disrespect for the law.

At the same time, I commend the Legislature for its concern that public policy be con-

sistent with the best interests of public health. It should be noted, however, that nothing in my decision prevents local officials from taking action to prohibit smoking at their own meetings. This being the case, I believe my overriding concern should be to allow the decision to be left properly to the authority of the appropriate jurisdiction.

For my part, I am now exploring the possibility of an executive order to implement the intent of this legislation at the state level.

I am respectfully requesting that you sustain my veto of this measure.

Very truly yours,

S/JOSEPH E. BRENNAN

Governor

The Communication was read and ordered placed on file.

The SPEAKER: The pending question is, shall Bill "An Act to Prohibit Smoking at Public Meetings," House Paper 5, L. D. 11, become law notwithstanding the objections of the Governor?

The Chair recognizes the gentlewoman from Hampden, Mrs. Prescott.

Mrs. PRESCOTT: Mr. Speaker, Ladies and Gentlemen of the House: I don't want to kill this bill this morning. I want to keep it alive so that we can do something to address the question, the serious health question that is before us and we felt as a committee was addressed in this bill.

Smoke is more than a nuisance to others. It is dangerous. The legislature has acted in this position and in the public's best interest, we feel. The facts are known and I feel that this House and the other body has debated the question quite well.

We all know at what a large percent our young people today take tobacco and after tobacco go to "pot". Nothing will change if we don't seek to change this policy. We have, I feel, both the rights and the responsibilities to limit the places where smoking is permitted. Local officials are not addressing this question.

I would like to ask that you recommit this bill to the Committee on Health and Institutional Services, and before you do that, you are going to have to sustain the Governor's veto. At this time, I would like to ask the House to follow me and sustain the veto of the Governor so that we can address the question further by keeping the bill alive and recommitting it to the committee.

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

Mr. DEXTER: Mr. Speaker, Ladies and Gentlemen of the House: When I came here as a Freshman, the first time I heard some of this debate I jumped to my feet with anger, and when I sat down, my good friend from Dixfield, Mr. Rollins, said never, never rise in anger. Today, I do not rise in anger; I am quite sad and disappointed. I guess I misplaced my faith, but I hope I haven't misplaced my faith here in this body, this body that is close to the people, close to the rights of the people, and I am sure I haven't.

In the veto message, one problem that the Governor sees is selective enforcement. I supposed we did that now. If someone throws a bottle out of the car, he is a litterer and we select him to go to court and he pays a fine; if he goes down the road 80 miles an hour, he is a speeder. We select him to go to court and pay a fine. I could go on and on and on but there is no point in it.

As far as taking away local control, I dare say that if we wanted to go through the statutes, we could spend the next six months looking at bills that we, the people here present, have sponsored to take away local control.

If you had a meeting, we will say that there are a dozen of us meeting, and a person comes in in a wheelchair, there is not much room there, what do you do? You immediately make room for that handicapped person. You go

overboard to see that that person is able to take part in the proceedings. I doubt that there is anyone here who would refuse a person like that a part in those proceedings. If there is anyone here, I would like to have them signify by raising their right hand—seeing no one, I would assume that a person with a respiratory ailment that came into this same meeting would get the same treatment.

Nowhere in this bill have I attempted to take away rights of the smoker whatsoever. I am not going to say anymore on this subject. It has been debated and debated and debated. I would just ask this body once more to face the truth.

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

**MR. KELLEHER:** Mr. Speaker, Ladies and Gentlemen of the House: I think Mr. Dexter's remarks and comments to face the truth and to face reality is what has projected us all to be here this morning.

My reason for opposing Mr. Dexter's bill is not so much the reason that the bill is before us today in the veto message. I have been, in the ten years that I have been in this body, consistent in supporting positions of not mandating anything under municipalities, the towns or anyone else. In other words, as Mr. Dudley likes to put it, if there is one thing the people in Maine want, that is less government and less regulations, and I wish I was able to give you his gestures as delightful as they are.

If you look at the bill, and I am sure we all have, there is no reason in the world why our local government agencies cannot themselves write a rule or initiate a position before a meeting in objecting to smoking, any board or commission of any state agencies or authority, the board of trustees of the University of Maine and any of its committees and its subcommittees, the administrative council at the University of Maine, the board of trustees of the Maine Maritime and any of its committees and its subcommittees, any boards, commissions, agencies, authorities of any county, municipality, school districts or any other political or administrative subdivision.

I can appreciate the position that Mr. Dexter is in this morning.

I applaud the Health and Institutional Services Committee to make public awareness of what a discomfort it is for public smoking, but I think that decision should be left up to the individual governmental agencies and entities that operate within the State of Maine. It is not necessary for us in state government to be mandating other governmental agencies our position on public smoking. It is offensive. It is offensive in this body, we do not allow it, but we ourselves make that rule. We have adopted it and we support it.

There are a number of individuals who have contacted me, and I am sure they have you, today let the local municipalities, the local school boards, the local governments handle this problem.

I would hope that this House would sustain the Governor's veto message. I appreciate the comments made by Mrs. Prescott and the intentions of recommitting this bill back to her committee. I personally have some reservations about it, but I certainly would support the bill going back.

The bill, as it is written right now as far as enforcement is concerned, I think is impossible to enforce.

I would hope that the House would sustain the Governor's veto.

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

**MR. HALL:** Mr. Speaker, Ladies and Gentlemen of the House: Mr. Dexter, I am very sorry that I have to speak in the affirmative today, but I would just like to read to you people of the 28 town reports that I have gotten in the last five years. Article 26 — to see if the town of Detroit will ban smoking at all town meetings. The vote was taken, 36 were in favor

of banning the smoking and 31 were against it. I saw some of the ones that were smoking vote in favor of not allowing smoking anymore. But the point was, they did it themselves. I sat on the sideline and asked one of the people—I said, and this is not the first time I had asked this question because I had just come from another town meeting in Palmyra where they were smoking in the town meeting—I asked the gentleman beside of me, what do you think of the bill? He said, I think it has good merit but let us decide that here at home. Don't mandate any more from where you are. You have done it enough to us already. That is the position that I feel is very strong.

**THE SPEAKER:** The Chair recognizes the gentleman from Auburn, Mr. Brodeur.

**MR. BRODEUR:** Mr. Speaker, Ladies and Gentlemen of the House: I would hope that the people who voted to pass this bill would vote to override today. The reason that I urge you to do that is that this is a public health matter. It is a matter where we have given the town meetings, public proceedings, we have given to them the mandate that they operate under the "right to know," where we as citizens have a right to know how they operate, what they say, what happens in those proceedings. In my situation, where I have numerous allergies and a history of asthma, that right to know is denied, that right to participate is denied unless I subject myself to the adverse conditions of which smoking gives to me.

If we are going to exercise our responsibility as citizens, then we must have the responsibility given to us without having to have an adverse situation in which our right to clean air is violated.

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

**MR. JOYCE:** Mr. Speaker, Ladies and Gentlemen of the House: Yesterday I did not know how I would vote if a veto came, but after reading the Governor's message, I feel that it is a sincere message. It recalled to my mind all the heavy work that I did since last session and the only time I worked was every morning when I would rise between four and six a. m. and head over to a home where the Governor-to-be slept. But before I left my home, I had a ritual of spraying out my car so those dirty cigar odors would not be inhaled by your next Governor. I would drive the Governor-to-be to many points in the state but I would not smoke during that day out of the respect I held for a non-smoker, Governor-to-be or not. Yes, daily I heard that yell, "You tell em Joe." When I read this letter from the Governor today, I felt "Joe certainly told them how it is"—a very valid letter.

I urge you to support and sustain the Governor's veto.

**THE SPEAKER:** The Chair recognizes the gentleman from Dixfield, Mr. Rollins.

**MR. ROLLINS:** Mr. Speaker, Ladies and Gentlemen of the House: If all the people in the State of Maine were as compassionate as our friend from Portland, Mr. Joyce, we wouldn't need this bill, but they aren't. We have people that could care less whether they blew smoke in my face or not and that is what this bill addresses.

I hope that you will vote to override the Governor's veto this morning.

**THE SPEAKER:** The Chair recognizes the gentleman from Old Town, Mr. Gould.

**MR. GOULD:** Mr. Speaker, Ladies and Gentlemen of the House: If there is anyone in this body that should be in favor of this bill, it is I, because with a nose as big as mine, I inhale twice as much pollution as anyone else in here and I guarantee that no one else in this room can make that statement. However, I believe in home rule, and this will come as no surprise to Mr. Dexter, because I told him the other day that I was going to recommend him to be the ambassador to the Bermuda Triangle.

**THE SPEAKER:** The Chair recognizes the gentleman from So. Portland, Mr. Howe.

**MR. HOWE:** Mr. Speaker and Members of the House: It occurs to me that the non-smokers of Maine may have wished that Representative Joyce had continued to smoke those cigars for, had he done that, it might just have been enough to get the Governor to sign the bill.

**THE SPEAKER:** The Chair recognizes the gentleman from Hampden, Mrs. Prescott.

**MRS. PRESCOTT:** Mr. Speaker, Ladies and Gentlemen of the House: I ask for your support twice this morning. First of all, I ask you to support me in sustaining the Governor's veto. That will put us into a position of being able to recommit this bill and keeping this bill alive. The second support I will be asking for, in hopes that we do sustain the veto, is for you to vote to recommit this bill to the committee so that we can keep this bill alive, so that we can address the objections of the Governor, the local control objections can be addressed. All I am asking for is the opportunity to send it back to the committee so that we can give it the opportunity to address it.

**THE SPEAKER:** The pending question is, shall Bill "An Act to Prohibit Smoking at Public Meetings," House Paper 5, L. D. 11, become law notwithstanding the objections of the Governor? Those in favor will vote yes; those opposed will vote no.

#### ROLL CALL

**YEA—**Bachrach, Baker, Barry, Berube, Birt, Blodgett, Boudreau, Bowden, Brodeur, Brown, A.; Brown, D.; Brown, K. C.; Carter, D.; Carter, F.; Conary, Cox, Curtis, Damren, Davies, Davis, Dexter, Diamond, Doukas, Drinkwater, Dutremble, D.; Dutremble, L.; Fillmore, Gavett, Gray, Gwadosky, Hanson, Higgins, Hobbins, Howe, Hughes, Hunter, Immonen, Jackson, Jacques, E.; Jacques, P.; Kany, Kiesman, Laffin, Lancaster, LaPlante, Leighton, Leonard, Lewis, Lizotte, Locke, Lougee, Lund, Marshall, Martin, A.; Masterman, Matthews, Maxwell, McMahon, McPherson, Mitchell, Morton, Nelson, M.; Norris, Payne, Pearson, Post, Reeves, J.; Reeves, P.; Rolde, Rollins, Sewall, Sherburne, Small, Stover, Tarbell, Torrey, Twitchell, Vincent, Wentworth, Wood, Wyman.

**NAY—**Aloupis, Austin, Beaulieu, Benoit, Bordeaux, Brannigan, Brown, K. L.; Bunker, Call, Carrier, Carroll, Chonko, Churchill, Cloutier, Connolly, Cunningham, Dudley, Fenlason, Fowle, Garsoe, Gillis, Gould, Gowen, Hall, Hickey, Huber, Jalbert, Joyce, Kane, Kelleher, Lowe, MacBride, MacEachern, Mahany, Masterton, McHenry, McKean, McSweeney, Michael, Nadeau, Nelson, A.; Nelson, N.; Paradis, Paul, Peltier, Peterson, Prescott, Roope, Silsby, Simon, Smith, Soulas, Sprowl, Stetson, Studley, Theriault, Tierney, Tozier, Tuttle, Violette, Vose, Whittemore, The Speaker.

**ABSENT—**Berry, Brennerman, Dellert, Dow, Elias, Hutchings, Strout.

Yes, 81; No, 63; Absent, 7.

**THE SPEAKER:** Eighty-one having voted in the affirmative and sixty-three in the negative, with seven being absent, the veto is sustained.

The Chair recognizes the gentleman from Hampden, Mrs. Prescott.

**MRS. PRESCOTT:** Mr. Speaker, Ladies and Gentlemen of the House: Thank you for sustaining the Governor's veto.

I would move that this bill and all its accompanying papers be recommitment to the Committee on Health and Institutional Services.

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

**MR. GARSOE:** Mr. Speaker, Ladies and Gentlemen of the House: A point of inquiry. Would the Chair instruct me on the background of this action?

**THE SPEAKER:** The Chair would answer in the affirmative. The Constitution specifically requires that only one vote may be taken at the time of the bill coming from the Governor and that is as to whether or not the bill shall become enacted over the objections of the Gov-

ernor.

Over the years, the legislature also has developed a method to handle a situation where a majority but not two-thirds wishes to deal with an issue and has created House Rule 51, under which basis the legislature is in a position to refer the entire subject matter to a committee, and if the committee should agree, it can then come back out with another bill. The Chair would point out that this can only be done, of course, with the concurrence of the other body and may not be done without that action. There has been a number of bases under which that has occurred in the past.

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

Mr. GARSOE: Mr. Speaker, truly, because I am inquiring so only — the last sentence in Rule 51 says, "No other question — and I assume this means other than the veto — "shall apply to any bills" and this is the basis of my confusion, I guess, that I evidently misread that.

The SPEAKER: The issue deals with the reference to the committee after, and keep in mind that that motion would not have been in order prior but is in order and can only be done in conjunction with the other body.

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

Mr. JALBERT: Mr. Speaker, an inquiry. Of course, the same thing pertains as far as the other branch is concerned?

The SPEAKER: The Chair would answer in the affirmative.

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

Mr. BIRT: Mr. Speaker, I guess I am still a little confused. Trying to look that up, I do find there is a reference to House Rule 51. Is that in the Joint Rules, or what position will the Senate be in if . . . ?

The SPEAKER: The Chair would advise the gentleman that there is a similar reference to it in Senate rules which would be carried under that basis.

The SPEAKER: The pending question is on the motion of the gentlewoman from Hampden, Mrs. Prescott, that this Bill be recommitted to the Committee on Health and Institutional Services. All those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

103 having voted in the affirmative and 24 having voted in the negative, the motion did prevail.

Sent up for concurrence.

#### **Petitions, Bills and Resolves Requiring Reference**

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

##### **Aging, Retirement and Veterans**

Bill "An Act to Extend World War Assistance to Single Veterans" (H. P. 942) (Presented by Mr. Theriault of Rumford)

Bill "An Act to Revise the Service Requirements for Maine Veterans to Determine Eligibility for Veterans Benefits" (H. P. 943) (Presented by Mr. Theriault of Rumford) (Ordered Printed)

Sent up for concurrence.

##### **Appropriations and Financial Affairs**

Bill "An Act to Assist in the Use of Foreign Trade Zones" (Emergency) (H. P. 944) (Presented by Mr. D. Carter of Winslow) (Cosponsor: Mr. Kelleher of Bangor) (Ordered Printed)

Sent up for concurrence.

Bill "An Act Establishing a Procedure Under the Education Statutes for Withdrawal of a Municipality From a Vocational Region" (H. P. 945) (Presented by Mr. Wood of Sanford)

Bill "An Act to Permit Sorority Houses at University of Maine Campuses" (H. P. 946) (Presented by Mr. Tarbell of Bangor) (Cospon-

sors: Miss Gavett of Orono and Miss Brown of Bethel)

Bill "An Act Concerning State Reimbursement for Private School Transportation" (H. P. 947) (Presented by Mr. Kelleher of Bangor) (Ordered Printed)

Sent up for concurrence.

##### **Election Laws**

Bill "An Act to Provide that the Recall Petitions for Municipal Officers May Be Circulated" (H. P. 949) (Presented by Mr. Vincent of Portland)

Bill "An Act to Revise Certain Duties of the Commission on Governmental Ethics and Election Practices" (H. P. 950) (Presented by Mr. Birt of East Millinocket) (Ordered Printed)

Sent up for concurrence.

##### **Energy and Natural Resources**

Bill "An Act to Establish a Solid Waste Management Subsidy for Municipalities" (H. P. 948) (Presented by Mr. Blodgett of Waldoboro) (Ordered Printed)

Sent up for concurrence.

##### **Health and Institutional Services**

Bill "An Act to Require a Study of a Single State Source for Funding and Reporting by Residential Programs for Youth" (H. P. 951) (Presented by Mr. Brannigan of Portland) (Ordered Printed)

Sent up for concurrence.

##### **Judiciary**

Bill "An Act Concerning Reimbursement of Law Enforcement Officers for Off-duty Time Required for Criminal Prosecution" (H. P. 952) (Presented by Mr. Hickey of Augusta) (Ordered Printed)

Sent up for concurrence.

##### **Later Today Assigned**

Bill "An Act to Exempt Teacher Certification Records from the Freedom of Access Statutes" (H. P. 953) (Presented by Mrs. Gowen of Standish) (Cosponsor: Mr. Leighton of Harrison)

Committee on Judiciary was suggested.

On motion of Mr. Diamond of Windham, tabled pending reference and later today assigned.

##### **Judiciary cont'd.**

Bill "An Act Regarding Abuse and Neglect Custody, Proceedings and Termination of Parental Rights" (H. P. 954) (Presented by Mrs. Kany of Waterville) (Cosponsors: Mrs. Sewall of Newcastle and Mrs. Nelson of Portland) (Ordered Printed)

Sent up for concurrence.

##### **Labor**

Bill "An Act to Amend the Employment Security Law Relating to Termination of Coverage" (Emergency) (H. P. 955) (Presented by Mr. Baker of Portland)

Bill "An Act to Require Premium Impact Statements for Certain Workers' Compensation Legislation" (H. P. 956) (Presented by Mr. Wyman of Pittsfield) (Cosponsors: Mr. Nadeau of Lewiston, Mr. Fillmore of Freeport, and Mr. Birt of East Millinocket) (Ordered Printed)

Sent up for concurrence.

##### **Legal Affairs**

Bill "An Act to Amend the Authority Granted to Municipalities to Enact Police Power Ordinances" (H. P. 957) (Presented by Mrs. Beaulieu of Portland)

Bill "An Act Providing for the Fee for Examination by the Office of State Fire Marshal of Plans for the Construction of Hotels or Motels with 2 or More Stories" (H. P. 958) (Presented by Miss Gavett of Orono) (Ordered Printed)

Sent up for concurrence.

##### **Marine Resources**

Bill "An Act to Increase Lobster Fishing License Fees and Establish a Lobster Advisory Council" (H. P. 959) (Presented by Mr. Jackson of Yarmouth) (Cosponsor: Mr. Bowden of Brooklin) (Ordered Printed)

Sent up for concurrence.

##### **Public Utilities**

Bill "An Act to Exempt Farmland from Sewer Assessments When the Land Receives no benefit from this Construction" (H. P. 960) (Presented by Mr. Torrey of Poland)

Bill "An Act to Abolish the Fuel Adjustment Clause" (H. P. 961) (Presented by Mr. Laffin of Westbrook) (Ordered Printed)

Sent up for concurrence.

##### **State Government**

Bill "An Act to Create an Office of Housing Affairs" (H. P. 962) (Presented by Mr. Connolly of Portland) (Ordered Printed)

Sent up for concurrence.

##### **Transportation**

Bill "An Act to Authorize a Bond Issue in the Amount of \$526,000 for Expansion and Improvement of the Sanford Municipal Airport" (H. P. 963) (Presented by Mr. Tuttle of Sanford) (Cosponsors: Mr. Carroll of Limerick, Mr. Wood of Sanford, and Mr. McMahon of Kennebunk) (Ordered Printed)

Sent up for concurrence.

##### **Business Legislation**

Bill "An Act to Correct Certain Abuses in the Motor Vehicle Repair Business" (H. P. 964) (Presented by Mr. Brannigan of Portland)

Committee on Transportation was suggested.

On motion of Mr. Carroll of Limerick, was referred to the Committee on Business Legislation, ordered printed and sent up for concurrence.

Bill "An Act Regulating Motor Vehicle Repairs" (H. P. 965) (Presented by Mr. Vincent of Portland)

Committee on Transportation was suggested.

On motion of Mr. Carroll of Limerick, was referred to the Committee on Business Legislation, ordered printed and sent up for concurrence.

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

#### **Passed to Be Enacted Emergency Measure**

An Act to Establish a Moratorium on Issuing Commercial Fishing Licenses (H. P. 941) (L. D. 1096)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure and a two-thirds vote of all the members elected to the House being necessary, a total was taken. 119 voted in favor of same and none against, and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

By unanimous consent, ordered sent forthwith.

#### **Study Report — The Joint Select Committee to Study the Vocational-technical Institute and the Maine School of Practical Nursing**

Mr. Connolly from The Joint Select Committee to Study the Vocational-technical Institute and the Maine School of Practical Nursing to which was referred the Study Relative to the Vocational-Technical Institutes and the Maine

School of Practical Nursing, pursuant to H. P. 2281 of the 108th Legislature have had the same under consideration and ask leave to submit its findings and to report that the accompanying Bill, An Act Relating to the Vocational-technical Institutes (H. P. 966) (L. D. 1097) be referred to the Committee on Education for public hearing and printed pursuant to Joint Rule 17.

Report was read and accepted, the Bill referred to the Committee on Education, ordered printed and sent up for concurrence.

#### House Reports of Committees Divided Report

Seven Members of the Committee on Judiciary on Bill "An Act to Establish more Convenient Hours to Permit Easier Access to Small Claims Court" (H. P. 302) (L. D. 397) report in Report "A" that the same "Ought Not to Pass"

Report was signed by the following members:

Messrs. DEVOE of Penobscot  
COLLINS of Knox

— of the Senate.

Mrs. SEWALL of Newcastle  
Messrs. JOYCE of Portland  
GRAY of Rockland  
STETSON of Wiscasset  
SILSBY of Ellsworth

— of the House.

Three Members of the same Committee on same Bill reports in Report "B" that the same "Ought to Pass" as amended by Committee Amendment "A" (H-85)

Report was signed by the following members:

Mrs. TRAFTON of Androscoggin

— of the Senate.

Messrs. SIMON of Lewiston  
HOBBINS of Saco

— of the House.

Two Members of the same Committee on same Bill reports in Report "C" that the same "Ought to Pass" as amended by Committee Amendment "B" (H-86)

Report was signed by the following members:

Mr. Carrier of Westbrook and Mr. Laffin of Westbrook — of the House.

Reports were read.

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

Mr. CARRIER: Mr. Speaker, I move that we accept Report C.

The SPEAKER: The gentleman from Westbrook, Mr. Carrier, moves that Report C be accepted.

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

Mr. JOYCE: Mr. Speaker, Ladies and Gentlemen of the House: Report C is at the bottom of the totem pole, so I urge that you take a look at what the majority of the committees wants, an "ought not to pass" on this bill.

I had a few doubts as to how this bill should be handled. When I looked into it, I found I had more doubts as to why this bill was ever presented.

Yesterday morning, we listened as the Chief Judge explained the busy schedule of the Supreme Judicial Court. In about three quarters of the way through that report, he had a sentence in there about a current study that is on under the direction of Judge Sidney Wernick. He heads the committee. This is a study and review on the small claims court.

The Supreme Court had been studying this with their committee for the past year. So, after listening to the chief's speech, I left and went out to the Speaker's Office and I talked with Judge Wernick, a highly respected member of the bench. I asked him about the small claims court. I told him how I opposed this bill that wanted to open the court either one hour in the evening or three hours in the evening.

Now, Judge Danton, the Chief of the District

Court, has this authority now to open the courts day and night. He is the administrator of that court, and that is the court that handles the small claims.

At the committee hearing, I explained my visits to that court, about the problems that they have, and that the bill was only a bandaids approach. But you know, even in this bill, they put the bandaids in the wrong location. They didn't put it on one of the problems that they are having, they put it on something out in the back yard.

What this boils down to, my opposition to the present motion is, why are we going to decide a policy here, and it is a policy of management, why aren't we waiting for this committee that we authorized through the courts to bring back their report that Judge Wernick told me would be back near the first of April of this year?

I urge that you defeat the motion before us and then we can get on to the majority report. I will make a motion at that time for you.

The SPEAKER: The Chair recognizes the gentleman from Lisbon Falls, Mr. Tierney.

Mr. TIERNEY: Mr. Speaker Men and Women of the House: I would like to say that I am just speaking in my individual capacity because I have some experience in this area. I would just like to say that I have looked over committee reports, and I think Report C is just fine. I think it is a good idea.

The small claims court is a court of the people. It is where you can go without lawyers and have your disputes settled in a timely fashion. All this bill says is that a few district court judges are going to have to work at least one night a month to keep the court open for three hours. A lot of us around here have to work nights to keep body and soul together, and I don't see any problem with making a few judges go down there and work evenings too. I think it is a good idea. Report A is lesser, it is smaller, it is cheaper, and I want to have at least three hours a month to take care of those problems.

If you want to take care of problems in an informal way or if you want to save your people some money, want to save them some legal fees, want to take care of items quickly and easily and have a court available for all the people and for the working people who have to work days and can't take a day off to go down to court and do it themselves, I will tell you, Report C is the way to go. I think it is a good idea and I like it, and I am pleased to support the two gentlemen from Westbrook here this morning.

The SPEAKER: The Chair will order a vote. The pending question is on the motion of the gentleman from Westbrook, Mr. Carrier, that Report C be accepted. All those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

Whereupon, Mr. Joyce of Portland requested a roll call vote.

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

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

The SPEAKER: The pending question is on the motion of the gentleman from Westbrook, Mr. Carrier, that Report C be accepted. All those in favor will vote yes; those opposed will vote no.

#### ROLL CALL

YEA—Bachrach, Baker, Barry, Beaulieu, Benoit, Berube, Bowden, Brannigan, Brodeur, Brown, A.; Brown, K. C.; Carrier, Carter, D.; Chonko, Churchill, Cloutier, Connolly, Cox, Cunningham, Curtis, Davies, Davis, Diamond, Doukas, Dudley, Dutremble, D.; Fenlason, Fillmore, Fowlie, Gillis, Gowen, Gwadosky, Hall, Hanson, Hickey, Hobbins, Howe, Hughes,

Immonen, Jackson, Jacques, E.; Jacques, P.; Jalbert, Kany, Kelleher, Kiesman, Laffin, LaPlante, Lizotte, Locke, Lowe, MacEachern, Mahany, Martin, A.; Maxwell, McHenry, McKean, McMahon, Michael, Mitchell, Nadeau, Nelson, M.; Nelson, N.; Paradis, Paul, Pearson, Post, Prescott, Reeves, P.; Rolde, Sherburne, Tierney, Tozier, Tuttle, Twitchell, Vincent, Violette, Vose, Wood, Wyman, The Speaker.

NAY—Aloupis, Austin, Birt, Bordeaux, Brown, D.; Brown, K. L.; Bunker, Call, Damren, Drinkwater, Garsoe, Gavett, Gould, Gray, Higgins, Huber, Hunter, Joyce, Leighton, Leonard, Lewis, Lougee, Lund, MacBride, Marshall, Masterman, Masterton, Matthews, McSweeney, Morton, Nelson, A.; Payne, Peltier, Reeves, J. Rollins, Roope, Sewall, Silsby, Small, Stetson, Stover, Tarbell, Torrey, Wentworth, Whittemore.

ABSENT—Berry, Blodgett, Boudreau, Brennerman, Carroll, Carter, F.; Conary, Dellert, Dexter, Dow, Dutremble, L.; Elias, Hutchings, Kane, Lancaster, McPherson, Norris, Peterson, Simon, Smith, Soulas, Sprowl, Strout, Studley, Theriault.

Yes, 81; No, 45; Absent, 25.

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

Thereupon, the Bill was read once. Committee Amendment "B" (H-86) was read by the Clerk and adopted and the Bill assigned for second reading tomorrow.

#### Divided Report Tabled and Assigned

Majority Report of the Committee on Education reporting "Ought Not to Pass" on Bill "An Act to Provide for a Student Member of the Board of Trustees of the University of Maine" (H. P. 155) (L. D. 194)

Report was signed by the following members:

Mrs. GILL of Cumberland  
Mr. TROTZKY of Penobscot

— of the Senate.

Mrs. LEWIS of Auburn  
Mrs. GOWEN of Standish  
Messrs. LEIGHTON of Harrison  
FENLASON of Danforth  
BIRT of East Millinocket

— of the House.

Minority Report of the same Committee reporting "Ought to Pass" as amended by Committee Amendment "A" (H-88) on same Bill.

Report was signed by the following members:

Mr. MINKOWSKY of Androscoggin

— of the Senate.

Messrs. ROLDE of York  
CONNOLLY of Portland  
Mrs. BEAULIEU of Portland  
Mrs. LOCKE of Sebec  
Mr. DAVIS of Monmouth

— of the House.

Reports were read.

On motion of Mr. Tierney of Lisbon Falls, tabled pending acceptance of either Report and tomorrow assigned.

#### Consent Calendar First Day

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

(H. P. 361) (L. D. 470) Bill "An Act to Permit Participating Local Districts of the Maine State Retirement System to Discontinue Special Retirement Benefits Prospectively" Committee on Aging, Retirement and Veterans reporting "Ought to Pass"

(S. P. 104) (L. D. 201) Bill "An Act Relating to Filing Abstracts of Divorce Decrees with Registry of Deeds" Committee on Judiciary reporting "Ought to Pass" as amended by Committee Amendment "A" (S-28)



(S. P. 194) (L. D. 461) Bill "An Act Providing Funds for Young Women's Christian Association Fair Harbor Shelter in Portland" Committee on Appropriations and Financial Affairs reporting "Ought to Pass" as amended by Committee Amendment "A" (S-27)

(S. P. 155) (L. D. 330) Bill "An Act to Amend the Safe Drinking Water Act" Committee on Judiciary reporting "Ought to Pass"

(S. P. 154) (L. D. 372) Bill "An Act Relating to Certification of Plumbing Inspectors" Committee on Energy and Natural Resources reporting "Ought to Pass"

No objections being noted, the above items were ordered to appear on the Consent Calendar of March 14, under listing of Second Day.

#### Consent Calendar

##### Second Day

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

(H. P. 403) (L. D. 523) Bill "An Act to Create a State Compensation Commission"

(H. P. 129) (L. D. 140) Bill "An Act Amending Certain Laws Relating to the Packing of Sardines" (C. "A" H-81)

(H. P. 182) (L. D. 232) Bill "An Act to Amend the Duties of the Commissioner of Education Relating to Bilingual Education" (C. "A" H-87)

(S. P. 144) (L. D. 320) Bill "An Act Relating to the Court of Probate of Aroostook County"

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

#### Passed to Be Engrossed

##### Amended Bills

Bill "An Act to Repeal the Tax on Marine Worms" (H. P. 62) (L. D. 70) (C. "A" H-82)

Bill "An Act Raising the Amount of the Homestead Exemption in Attachment and Bankruptcy Proceedings" (H. P. 419) (L. D. 532) (C. "A" H-79)

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.

#### Passed to Be Enacted

##### Emergency Measure

An Act to Allow the Trustees of the Portland Ministry at Large to Seek Changes in its Articles of Incorporation (H. P. 253) (L. D. 298)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure and a two-thirds vote of all the members elected to the House being necessary, a total was taken. 113 voted in favor of same and one against, and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

#### Emergency Measure

An Act Relating to the Fiscal Year of Hospital Administrative District No. 4 in Piscataquis, Somerset and Penobscot Counties (H. P. 337) (L. D. 436)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure and a two-thirds vote of all the members elected to the House being necessary, a total was taken, 107 voted in favor of same and none against, and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

#### Passed to Be Enacted

An Act Relating to Supplemental Assess under the Taxation Statutes. (S. P. 68) (L. D. 105) (H. "A" H-66 to C. "A" S-19)

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.

An Act to Increase Penalties for Violation of the Statutes Concerning Minimum Wages (S. P. 82) (L. D. 155)

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

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

Mrs. LEWIS: Mr. Speaker, Ladies and Gentlemen of the House: This is a bill that we debated to some extent the other day. I maintain that the bill is absolutely unnecessary. I don't understand why bills such as these are coming into this session. I guess I would have to relate it to almost a slave master mentality that would say that during the days of slavery in our country when a young black man was entering his manhood, he was taken by his master and beaten unmercifully, not because he had done anything wrong but just to remind him who was boss. This strikes me as the same kind of thing.

I checked with the department and there were no violations whatsoever in 1978 of anybody who was violating paying the minimum wage. In 1977, there were three violations. Those three had to do with people who were ignorant of the law.

I dare say, if we were to ask everybody in this body today what the minimum wage is at this moment, everybody wouldn't know because it keeps changing and it is no reflection on anybody, but it is just that the minimum wage keeps changing and it is difficult for people to keep up, especially small business people, with what it is.

If we had no violations in 1978, I fail to see why we have to increase the penalty. There is a penalty right now. Right now if that minimum wage is not paid by an employer to an employee, he is fined, the employer is fined a minimum of \$50 or a maximum of \$200, and the difference between what the minimum wage is and what the employer was paying, that difference is paid double to the employee. I think that apparently is doing the trick, because, as I say, there are no violations. Why we would increase the violation from \$300 to \$1,000 is totally beyond me, and I would suggest that this bill should be indefinitely postponed, and so I move.

The SPEAKER: The gentlewoman from Auburn, Mrs. Lewis, moves that this bill and all its accompanying papers be indefinitely postponed.

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

Mr. JALBERT: Mr. Speaker, just to refresh my memory, could I ask what the report of the committee was?

The SPEAKER: The Chair would advise the gentleman that it was unanimous.

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

Mr. WYMAN: Mr. Speaker, Ladies and Gentlemen of the House: We have this bill once more before us. I believe that I have made the points quite clear in the past on the feeling of the committee.

Mrs. Lewis is only partially correct when she points out, and she accurately does, that there were no prosecutions during 1978. Mrs. Lewis told the committee that she didn't feel that there were any employers which were violating these laws and therefore it was not necessary to have any penalties on them because there were no violations being committed. If the gentlewoman from Auburn or any other member of this distinguished and august body believes that to be the case, then they must be related somewhat to Alice in Wonderland and they must still believe in the tooth fairy and fairy godmother, because this does not comply or match up at all with the facts of the matter, and Mrs. Lewis, I am sure, is well aware of that.

On June 9, 1977, there was one prosecution with a \$100 fine. September 12, 1977, one prosecution continued indefinitely without penalty.

On November 22, 1977, there was one prosecution with a \$50 fine.

Mrs. Lewis is correct, indeed, when she states that in 1978 there were no prosecutions on minimum wage. However, she failed to mention that from July 1, 1977 through June 30, 1978, there were 105 employers found not paying the minimum wage and 154 employers in this state were not paying overtime. Mrs. Lewis did not mention that fact. She also did not mention the fact that today, at some point today, I don't know exactly what time, in District Court in the State of Maine in Portland, the Assistant Director of the Bureau of Labor will be testifying against a company that has committed 151 violations of labor law in this state — 151 — and that is just in one county. There are other counties where this same company has also committed these violations. It is a major company and it has broken the law at least this many times. We don't know how many more because that information was not yet available, but there are going to be prosecutions in other counties as well.

You know, I am getting a little tired, quite frankly, of trying to defend something which is perfectly logical when I haven't heard Mrs. Lewis or anyone else offer one reason, one substantive reason, why we should not increase the penalties to provide for a deterrent.

We talk about protecting the small businessman, and I guess that is the thing that I keep hearing, that we want to protect the small businessman and these penalties are somehow going to oppress the small businessman. Well, first of all, as Mrs. Lewis pointed out, in 1978 there were no violations, so no businessman was affected by the law. It wouldn't have made any difference what the penalties were, no one was affected.

These penalties only go into place on the lawbreaker, someone who has broken the law, not an innocent businessman. If we are really interested in protecting the honest businessman, then we will increase these penalties, because how can the honest businessman compete with a crook? That is the question. If a competitor of this small businessman is breaking the law and finding ways to cut here and cut there, it is to put his honest competitor at a disadvantage and I don't think we ought to be sanctioning that. If we are really concerned about protecting the businessman who wants to try his very best to obey the law and comply with the statutes, then we will make these penalties so they are an effective deterrent, and I am sure that we all believe in the effectiveness of deterrents.

Mr. Speaker, I ask that when this vote is taken, it be taken by the yeas and nays.

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

Mr. LEONARD: Mr. Speaker, Ladies and Gentlemen of the House: The gentleman from Pittsfield, Mr. Wyman, is a very persuasive speaker; however, I honestly feel that he has a slight lack in his ability to relate to the business community in this state. And while his legislation, this legislation, at least, that he supports is supposedly going out to protect business, I think, in fact, it is going out with a power to destroy.

We have to keep in mind that a majority of businesses in the State of Maine are small businesses, people with a minimal amount of expertise, with a high rate of failure, and very vulnerable to what this state, the federal government, and what other companies for that matter, can do to them to undermine their ability to continue.

The statute, as we have it right now, calls for a fine of \$50 to \$200, but we keep failing to mention, and Mrs. Lewis alluded to it, that in the event an employer is found guilty of paying less than the minimum wage, he has to award the employee twice the difference that he has underpaid that employee for whatever length of time the employee has been underpaid. That



can amount to a considerable sum of money, and I alluded to an example the other day that if an employer underpaid his employee 50 cents an hour for a period of a year's time, that fine, on top of what the employee was due in terms of wages lost, was also due a fine of over a thousand dollars, and that is a substantial sum of money.

The point is that small businessmen in this state do not have the high powered lawyers, they do not have the resources to gather the expertise that can go into the statutes of the State of Maine and determine what the procedures are to follow, what the fines are in the event those procedures are not followed; in effect, what the consequences will be in the event they violate a well-intentioned law.

I think we have to keep that in mind, that the small employers do not have that expertise, and while they don't have it, let's be compassionate on them and if we are going to go after the big people, as Mr. Wyman was referring to, then let's do it some other way.

I hope that you will support the motion to indefinitely postpone.

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

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

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

YEA—Aloupis, Austin, Bordeaux, Bowden, Brown, A., Brown, D., Bunker, Conary, Damren, Davis, Dexter, Drinkwater, Dudley, Fenlason, Garsoe, Gavett, Gould, Gray, Higgins, Huber, Hunter, Immonen, Jackson, Kiesman, Lancaster, Leighton, Leonard, Lewis, Lougee, Lowe, Lund, MacBride, Masterman, Masterton, Matthews, Maxwell, Morton, Payne, Peltier, Reeves, J., Rollins, Roope, Sewall, Sherburne, Silsby, Small, Smith, Stover, Studley, Tarbell, Torrey, Wentworth, Whittemore.

NAY—Bachrach, Baker, Barry, Beaulieu, Benoit, Berube, Birt, Blodgett, Boudreau, Brannigan, Brodeur, Brown, K. C., Call, Carter, D., Chonko, Churchill, Cloutier, Connolly, Cox, Cunningham, Curtis, Davies, Diamond, Doukas, Dutremble, D., Dutremble, L., Fillmore, Fowlie, Gillis, Gwadosky, Hall, Hanson, Hickey, Hobbins, Howe, Hughes, Jacques, E., Jacques, P., Jalbert, Kane, Kany, Laffin, LaPlante, Lizotte, Locke, MacEachern, Mahany, Marshall, Martin, A., McHenry, McKean, McMahon, McSweeney, Michael, Mitchell, Nadeau, Nelson, M., Nelson, N., Norris, Paradis, Paul, Pearson, Post, Prescott, Reeves, P., Rolde, Soulas, Theriault, Tierney, Tozier, Tuttle, Twitchell, Vincent, Violette, Vose, Wood, Wyman, The Speaker.

ABSENT—Berry, Brenerman, Brown, K. L., Carrier, Carroll, Carter, P., Dellert, Dow, Elias, Gowen, Hutchings, Joyce, Kelleher, McPherson, Nelson, A., Peterson, Simon, Sprowl, Stetson, Strout.

Yes, 53; No, 78; Absent, 20.

The SPEAKER: Fifty-three having voted in the affirmative and seventy-eight in the negative, with twenty being absent, the motion does not prevail.

Thereupon, the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

An Act to Increase the Compensation for Atlantic Sea Run Salmon Commission Members to \$25 a Day (S. P. 120) (L. D. 229) (C. "A" S-24)

An Act to Increase the Certification Fees for Geologists (S. P. 133) (L. D. 310)

An Act Concerning the Maine Property Insurance Cancellation Control Act and to Make Nonpayment to an Agent Equivalent to Nonpayment to the Insurer (S. P. 171) (L. D. 371)

An Act Increasing the Number of Laymen on the Judicial Council (S. P. 191) (L. D. 458)

An Act Relating to Eating, Lodging and Recreational Places Licensing Law (H. P. 9) (L. D. 18) (C. "A" H-51)

An Act to Authorize the Lease of Mental Health and Corrections' Facilities by other Agencies (H. P. 179) (L. D. 220) (C. "A" H-50)

An Act to Specifically Define what Constitutes a Law Enforcement Officer's Signal to a Motorist to Stop (H. P. 189) (L. D. 239)

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.

(Off Record Remarks)

On motion of Mrs. Mitchell of Vassalboro, Adjourned until nine-thirty o'clock tomorrow morning.